

**Fence Exemption Request  
27 Alderbrook Drive**

<b>Date:</b>	August 6, 2008
<b>To:</b>	North York Community Council
<b>From:</b>	Director of Building and Deputy Chief Building Official District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 25 – Don Valley West
<b>Reference Number:</b>	IBMS No. 08-160511

**SUMMARY**

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This staff report is about a matter that Community Council has been delegated authority to make a final decision provided that it is not amended so that it varies with City policy or by-law.

The purpose of this report is to submit a follow-up report on item NY17.4 deferred at the North York Community Council meeting of July 7, 2008.

**RECOMMENDATIONS**

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**Toronto Building North York Division and Municipal Licensing & Standards Division, North York District recommends:**

- 1. That this staff report be received for information purposes.**

**FINANCIAL IMPACT**

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There are no financial implications resulting from the adoption of this report.

**ISSUE BACKGROUND**

At its meeting on July 7, 2008, the North York Community Council considered Item NY17.4 which was a fence exemption application report for premises known municipally as 27 Alderbrook Drive. As a result, a motion was passed which:-

- “1. Deferred consideration of the report (June 16, 2008) from the District Manager, Municipal Licensing and Standards, North York District, to its next meeting on September 9, 2008.
2. Requested the District Manager, Municipal Licensing and Standards, North York District, to provide an evaluation of the issue of constructing a pergola to form the top of a fence as well as an evaluation of the wooden section of the side yard fence.
3. Requested the District Manager, Municipal Licensing and Standards, North York District and the Director of Building, North York District, to report on:
  - a. the approved grading, hard surface and retaining walls constructed at 27 Alderbrook Drive, how they relate to what has been requested for approval, and how they were constructed; and
  - b. which City Officials are responsible to monitor construction of retaining walls, grading and fencing on sites such as this, who was monitoring the site at 27 Alderbrook Drive and what notices were issued.”

## **COMMENTS**

While it is difficult to evaluate a structure which has not been constructed, there are a number of evaluation points which staff would have regard to when undertaking a review. Prominent amongst these are the zoning regulations for the property which is zoned R1 under Zoning By-law 7625. It was reported that the block wall forming part of the fence on the south side of the property was intended to form part of a pergola however, it is noted that the block wall is on or very close to the side lot line. This being the case, the use of the wall as part of the pergola would result in a contravention of the set back provisions for accessory structures which require a set back from the property line equal to one half the height of the structure. Measurements taken at the site indicate that the concrete wall ranges in height up to 3.5 metres which would result in a side yard setback requirement of 1.75 metres. The maximum coverage permitted for an accessory building is 5% of the lot area or 93 square metres and it is anticipated that any structure contemplated adjacent to the swimming pool would be considerably less in area.

The applicant has constructed a solid board fence along the south property line in conjunction with the block wall. The officer's notes indicate that the height of this wooden fence varies from 2.25 metres to 2.95 metres while the block wall on the outside is 3.50 metres at its highest point. In terms of complying with the requirements of Chapter 447 (Fences), the heights exceed the permitted 2 metre maximum. The wooden fence and wall however provide an acceptable barrier to prohibit access to the swimming pool area.

Owing to the proximity to the abutting ravine, the property is subject to site plan approval and through that process, a grading plan was developed by the applicant's Surveyor and

reviewed for zoning compliance by the City of Toronto. The approved grading plan does not show any retaining walls existing or proposed on the property and the fences indicated refer to 1.2 metre chain link fences. Provided that fences as constructed are in compliance with Chapter 447, Municipal Licensing and Standards has no interest in the type of fence vis a vis wood verses chain link. The existence of a retaining wall or change in grade will impact the point at which fence height is measured as the average grade in a one metre circumference around the fence posts is used.

City Planning advises that a site plan control application for the subject property was approved on December 20, 2007. The approved site plan does not show either the block or retaining walls. The retaining wall may change the grading and drainage in the ravine protection By-law area and should be reviewed by the Toronto Region Conservation Authority (TRCA) and the Ravine Protection By-law Division. An amended site plan control application may be required. They also note that there is a sanitary sewer easement located in the rear of the subject property which may be impacted by the retaining wall.

Toronto Building rely upon the submission of a “Lot Grading Certificate” from an Ontario land surveyor, an engineer, an architect, a registered landscape architect or a certified member of AATO or OACETT upon completion of the final grades to ensure that the finished grades established are substantially in compliance with the approved lot grading plan and that the water will not accumulate at or near the building and will not adversely affect adjacent properties. As the building permit is not as yet signed off as complete, the lot grading certificate has not yet been submitted.

Retaining walls require building permits in very specific situations as mandated by the Ontario Building Code (OBC). A building permit is required only when the wall is considered a “*designated structure*”. Designated Structures are clearly identified in the OBC. The walls must exceed 1 metre in exposed height and be located adjacent to public property, adjacent to access to a building or adjacent to a private property to which the public is admitted.

The retaining walls on the subject property do not meet the criteria where a building permit would be required. As such, no monitoring took place while the walls were being constructed.

There is also no requirement for monitoring of fence construction and unless a complaint is received, Municipal Licensing and Standards staff will only attend to undertake an inspection where the fence forms part of the swimming pool enclosure.

In the case of 27 Alderbrook Drive, the pool enclosure permit was issued in conjunction with the issuance of a building permit for construction work at the property. As part of the Division’s due diligence, Municipal Licensing and Standards staff visited the property to determine the stage of construction in late April. It was at this point that the fence and wall as constructed was noted.

## **CONTACT**

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## **SIGNATURE**

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North York District