

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447-Fences at 281 Oriole Parkway

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| Date: | March 10, 2009 |
| To: | Toronto and East York Community Council |
| From: | Municipal Licensing and Standards, Toronto and East York District |
| Wards: | Ward 22 – St Paul's |
| Reference Number: | IBMS No. 07-147372 |

SUMMARY

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision. The purpose of this report is to consider a request by the owner of 281 Oriole Parkway to be exempted from Chapter 447– Fences, Section 447-3 C 2(a), Access Protection. This section states that, where a wall of a building forms part of a swimming pool enclosure, any access point to the enclosed area in the wall shall, be no closer than 1.2 metres horizontally to the water's edge in the pool and Section 447-3 E (1)(a), Construction Standards, A swimming pool enclosure, including any gate forming part of the enclosure shall, be no closer than 1.2 metres horizontally to the water's edge in the pool.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Toronto and East York Community Council not grant the fence exemption.

Should Community Council grant the exemption to the Fence Bylaw, the following restrictions and safety measures will be installed;

1. All windows being part of the enclosure on the main structure shall have guards permanently installed to prevent the passage of a spherical object having a diameter of more than 100 millimetres.
2. Doors opening above the pool area will be protected by a 1.2 metre guard.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

The Municipal Licensing and Standard Division conducted a route inspection in regards to a Pool Enclosure under construction. It was determined that the required set back horizontally to the waters edge from the wall of the house was less than 1.2 metres. The existing pool was built in May of 2007. At the time the pool was built the pool enclosure, a solid wood fence met all conditions set out in Fence Bylaw, Section 447-3E. The property owners applied for a variance to the Zoning bylaw in August of 2007 to build an addition to the back of the house. The owners received a favourable decision from the Committee of Adjustment in December 2007. The application included site plans and elevations that indicated the existing pool and the location of the addition in relation to the pool. A Building Permit was issued in February 2008 to begin construction. The Minor Variance addressed the setback from the side and south lot lines but did not address the setback from the pool edge to the main building structure, namely the house.

The owner has applied for a exemption to the section of the Fence (Pool Enclosure) Bylaw Ch 447-3 C 2 (a) requiring set backs.

ISSUE BACKGROUND

Municipal Licensing & Standards received an application for exemption from the Fence Bylaw, in response to a routine inspection that found the wall of the building forms part of the pool enclosure. The applicant, despite receiving a Minor Variance to the Zoning Bylaw, 438-86 for setbacks from property lines for the new construction of the main building did not meet the required setback for a pool enclosure.

COMMENTS

The owner is requesting an exemption to the bylaw, has taken precautions to equip and install safety measures of the highest standard to ensure against unauthorized access to the pool area.

CONTACT

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SIGNATURE

Elizabeth Glibbery, Manager
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ATTACHMENTS

1. Photograph of fence