



STAFF REPORT ACTION REQUIRED

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447-Fences at 170 Lawlor Avenue

Date:	February 9, 2009
To:	Toronto and East York Community Council
From:	Municipal Licensing and Standards Division, Toronto and East York District
Wards:	Ward 32 – Beaches –East York
Reference Number:	IBMS No. 08-207265

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 applicant, being the property owner is seeking exemption to the provisions of the City of Toronto Municipal Code, Chapter 447 Fences, Section 447-2(B), to permit the existing wooden fence, in the front yard, to exceed the maximum allowable height. The Fence By-law provides that a fence in the front yard area can be constructed to a height of 1.2 metres.

The existing wooden fence in the front yard consists of 3 sections of fencing with 2 sections being situated on private property with a portion of the second section and the entire third section being situated on public road allowance. The sections located on private property are not in compliance with the by-law. In determining fence height where there is a grade change within 1 meter on either side of the subject fence the average height is used as a base for determining overall fence height. In this instance an elevated patio has been constructed to a height of .25 meters therefore the allowable fence height when averaged at ½ of .25 meters equals .125 meters as the base height already above grade that must be factored in when calculating fence height.

The 2 sections of fence on private property consist of one section closest to the house constructed to a height of 1.95 metres with a length of 1.83 metres. The second section out from the house is constructed to a height of 1.65 metres with a length of 1.52 metres. A portion of the second section along with the third section which runs perpendicular to the terminal post of the second section is located entirely on public property.

For purposes of this report the Fence Exemption only applies to the sections or portions located on the private property with the remaining portions located on public property being subject to a report from Transportation Services.

RECOMMENDATIONS

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

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

The Fence By-law provides that a fence in the front yard area can be constructed to a height of 1.2 metres. The front yard fence at the subject property was measured at a height of from 1.95 metres to 1.65 metres which exceeds the maximum height of the Fence By-law.

ISSUE BACKGROUND

The Municipal Licensing and Standards Division received an application for exemption from the Fence by-law, in response to a complaint received about the height of the front yard fence. The stated purpose for maintaining the fence at the current height is to provide privacy, security and aesthetics.

COMMENTS

The City of Toronto Council enacted the amalgamated By-Law 472-2000 on July 6, 2000 to prescribe the height and description of fences on private property and to require owners of privately owned outdoor swimming pools to erect and maintain safety fences and gates around private swimming pools. This By-Law and the amendments are now found in the Toronto Municipal Code, Chapter 447 - Fences. The City of Toronto Municipal Code, Chapter 447 Fences, Section 447-2(B), provides that the maximum permitted height of a fence in the front yard should not exceed 1.2 metres in height.

Should the request for an exemption be approved, a condition of approval should include that when the fence is replaced it should be constructed in compliance with Toronto Municipal Code, Chapter 447-Fences or its successor bylaw.

CONTACT

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SIGNATURE

Elizabeth Glibbery, Manager
Toronto and East York District

ATTACHMENTS

1. Photograph of fence
2. Photograph of fence
3. Photograph of fence