



STAFF REPORT ACTION REQUIRED

Application for Fence Exemption 21 Canterbury Crescent

Date:	July 28, 2010
To:	Etobicoke York Community Council
From:	Curtis Sealock, District Manager, Municipal Licensing and Standards
Wards:	Ward 4 – Etobicoke Centre
Reference Number:	ML&S Folder Number 10 199487 FEN 00 IR

SUMMARY

This report is in response to an application made by the owners of the property at 21 Canterbury Crescent for a fence exemption to maintain an existing door opening on the east elevation of the house that forms part of the pool enclosure. This is a matter in which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that:

1. Etobicoke York Community Council refuse the application, as the proposed fence does not comply with the provisions of Toronto Municipal Code, Chapter 447, Fences.

Financial Impact

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

ISSUE BACKGROUND

Municipal Licensing and Standards has received a complaint that the fence at the rear of the property, which forms the pool enclosure, is broken. In response to a Notice of Violation issued, the owners proceeded to replace the entire fence, and a Pool Enclosure Permit was obtained to this effect.

It should be noted that there is a sliding glass door on the east wall of the house at the rear that provides direct access into the pool area. While this wall was previously permitted to be used as part of the pool enclosure, it does not comply with the current Fence By-law under Chapter 447 of the Toronto Municipal Code (See Attachment 2).

Subsection 447-3C.(3)(a) of the Chapter states that if the wall of any building, or any portion of it, forms part of the pool enclosure, no entrance shall be permitted to the enclosed pool area through the wall (See Attachment 3).

To maintain direct access through the sliding glass doors into the pool area, the owners submitted an application for a Fence Exemption, on the ground that this condition existed prior to the amendment of the Fence By-law.

COMMENTS

Notwithstanding the owners' plead, the abovementioned provisions of entrance restrictions still apply in this situation where there is a substantial portion of the pool enclosure being demolished or removed, or if it is in such a state of disrepair that it is not practical to repair it [Subsection 447-3C(3.1)].

While the sliding glass door that opens directly into the pool area is equipped with an existing manual bar type locking device at door head level, there is still a safety concern that the door could be left open due to an oversight to allow unattended infants to enter the pool area, as it is not provided with any self-closing and lockable, self-latching devices.

To comply with the current provisions of the Municipal Code Chapter 447, Fences, and yet maintaining the existing sliding glass door entrance, an additional section of open fence construction, with a minimum height of 1.2 metres, equipped with a self closing and lockable self-latching gate, must be installed in such a manner as to prevent direct access from the house into the pool area.

In accordance with Subsection 447-3F(3) of the By-law, exemption to the provisions of Subsection 447-3C(3) shall only be granted if the applicant for the exemption agrees to comply with any conditions imposed by Community Council to prevent a young child from gaining access into the pool area, and the following conditions are recommended:

1. A self-closing, lockable and self-latching gate complying with the By-law requirements shall be installed across the door opening (see Attachment 4), or an automatic self-closing mechanism in compliance with a device similar to the type under Subsections 447-C(5) and (6) be installed on the sliding glass door. Such installations must be tested and approved by the Municipal Standards Officer.
2. The existing perimeter wood fencing and all existing gates in the fencing shall be maintained in good condition and in a manner that they are not climbable and in compliance with the provisions of Toronto Municipal Code, Chapter 447, Fences.
3. The remaining pool enclosure as well as the landscaped garden shall be constructed in accordance with the Toronto Municipal Code, Chapter 447, Fences, and the Ontario Building Code.
4. Window sash control devices shall be installed on all windows in the pool enclosure wall that is less than 1.5 metres above the interior ground floor level, to restrict the window from opening more than 100 millimetres.

CONTACT

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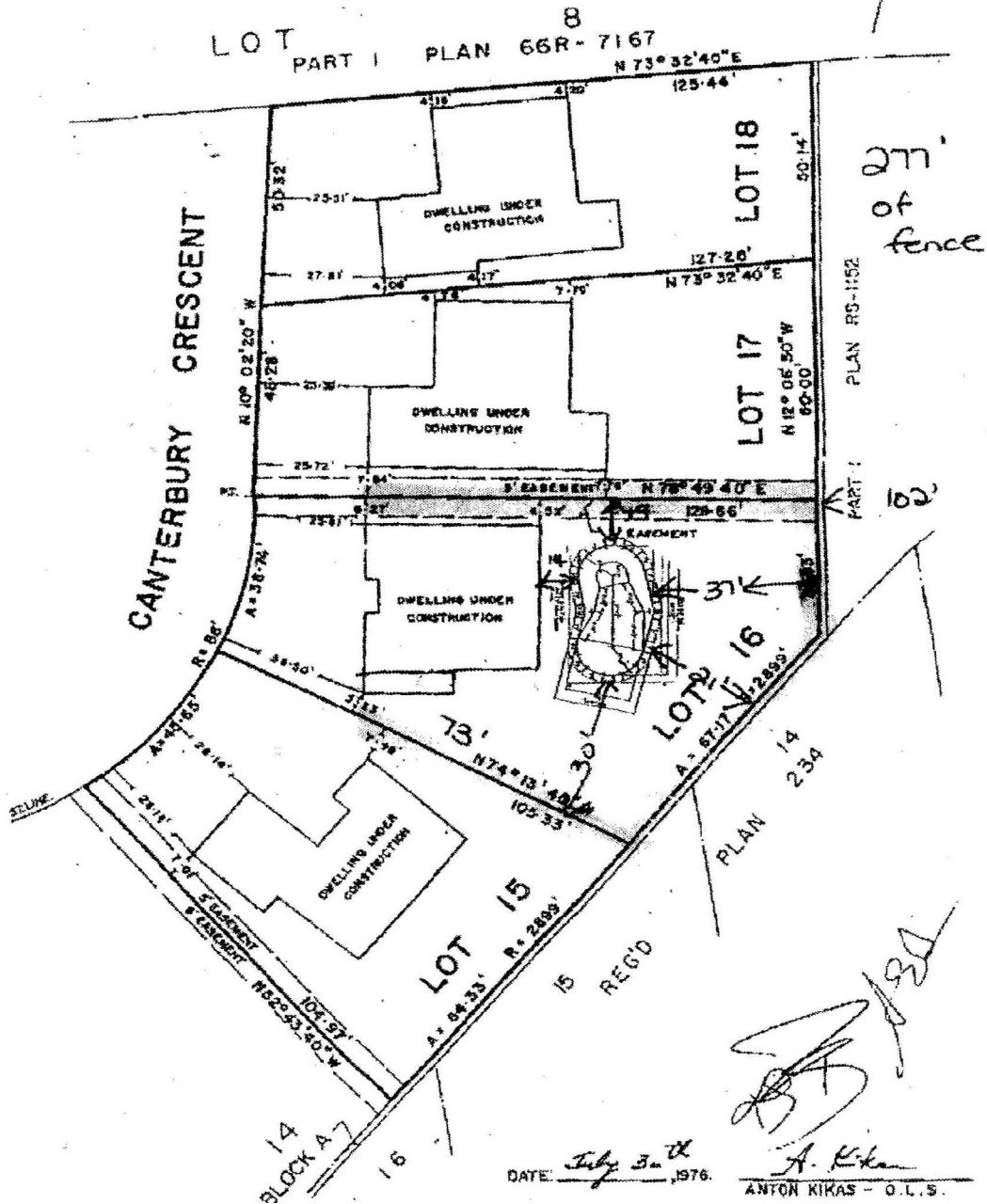
SIGNATURE

Curtis Sealock, District Manager
Municipal Licensing and Standards
Etobicoke York District

ATTACHMENTS

- Attachment 1: Survey/Permit Plan
Attachment 2: Photographs showing the Sliding Glass Door under question
Attachment 3: Examples showing Current Pool Enclosure Requirements
Attachment 4: Proposed Gate across Sliding Door

PLAN SHOWING
 LOTS 15 TO 18 INCL., PLAN M-1550.
 BOROUGH OF ETOBICOKE
 MUNICIPALITY OF METROPOLITAN TORONTO
 SCALE: 1" = 30'



Attachment 1: Survey/Permit Plan



Sliding Glass Door at rear of house leading directly into Pool Area
(Note: Shown with a temporary fence around the pool)

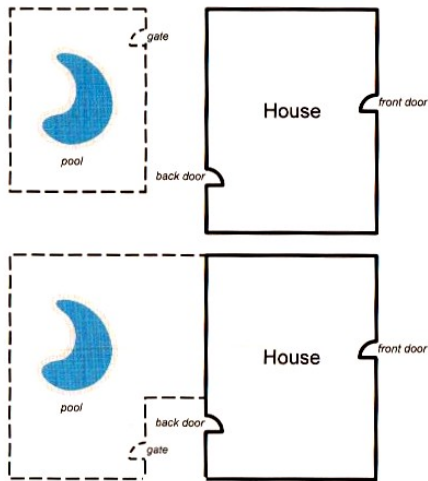


Manual Locking Bar installed internally at door head of the Sliding Glass Door

Attachment 2: Photographs showing the Sliding Glass Door under question



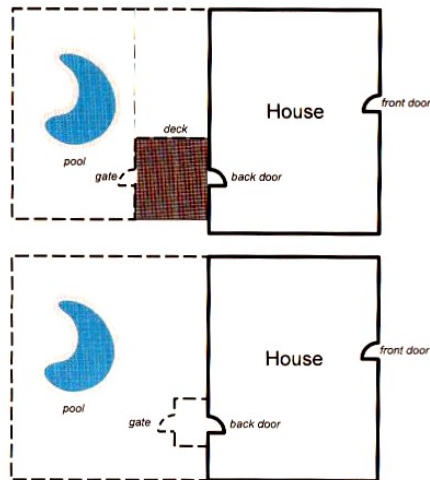
Four-sided pool enclosures...



* Please note that these examples of four-sided fencing are not exhaustive and are provided only for convenience and reference purposes.

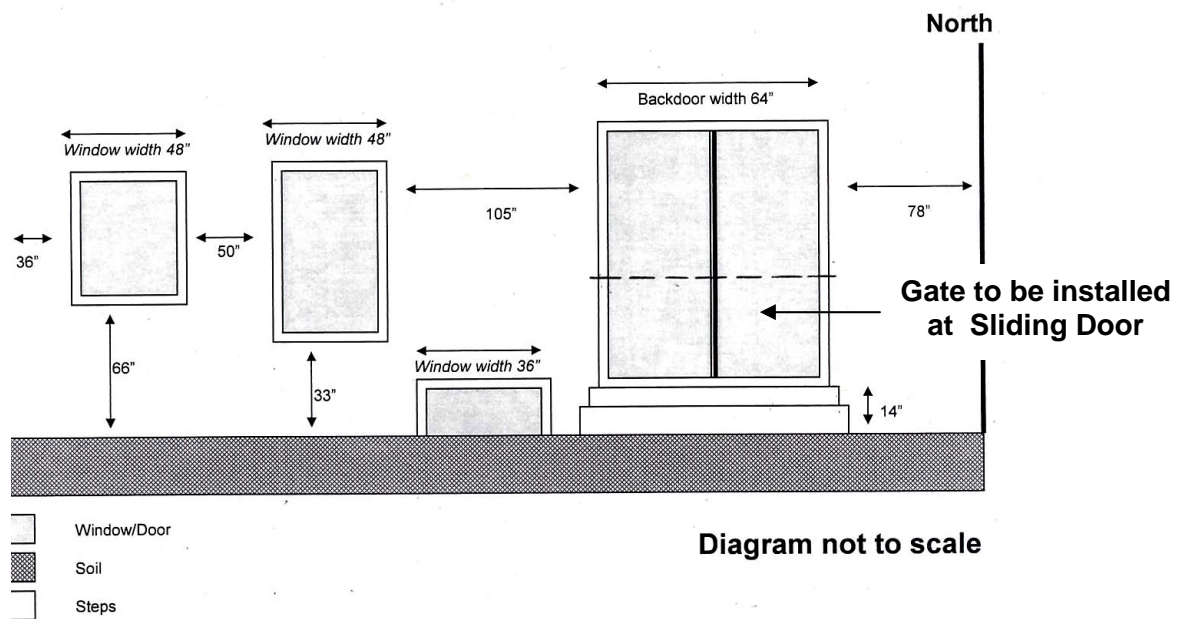
Under recent amendments to Toronto Municipal Code Chapter 447, Fences, "If the wall of any building, or any portion of it, forms part of the pool enclosure:

- (a) no entrance shall be permitted to the enclosed pool area through the wall; and
- (b) no window in the wall which is less than 1.5 metres above floor level shall be capable of being opened more than 100 millimetres unless a guard is permanently installed on the window to prevent the passage of a spherical object having a diameter of more than 100 millimetres through the window."



Attachment 3: Examples showing Current Pool Enclosure Requirements

21 Canterbury Crescent (Back of House)



Attachment 4: Proposed Gate across Sliding Door