



**STAFF REPORT
ACTION REQUIRED**

**Application for Fence Exemption
559 Delaware Avenue North**

Date:	September 27, 2013
To:	Etobicoke York Community Council
From:	Eletta Purdy, District Manager, Municipal Licensing and Standards
Wards:	Ward 17 Davenport
Reference Number:	Municipal Licensing and Standards Folder No. 12-294463 FEN

SUMMARY

This staff report is in regard to a matter for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to consider an application submitted by the property owner of 559 Delaware Avenue North for a Fence Exemption to maintain two existing board on board wood fences with a lattice top at the rear yard, including a 2.16 metres high fence and a 2.44 metres high gate at the north side, and a 2.08 metres high fence at the south side of the property.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that:

1. Etobicoke York Community Council refuse this request for exemption submitted by the owner of 559 Delaware Avenue North to maintain two existing board on board wood fences with a lattice top at the rear yard, including a 2.16 metres high fence and a 2.44 metres high gate at the north side, and a 2.08 metres high fence at the south side of the property, as the fences, as well as the gate, are in excess of the maximum height of 2.0 metres under Toronto Municipal Code, Chapter 447, Fences, Section 447-2 B, Table 1.

Financial Impact

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

DECISION HISTORY

An application for a fence exemption was submitted by the property owner. The fences are located at the rear yard of 559 Delaware Avenue North. Accordingly the adjoining property owners have been notified by the City Clerk's office of the date that the application for exemption will be considered by the Etobicoke York Community Council.

ISSUE BACKGROUND

In response to a complaint about a fence being too high erected at the rear yard of the property at 559 Delaware Avenue North beside the mutual passageway shared with 561 Delaware Avenue North, an inspection conducted by Municipal Licensing and Standards revealed a 2.16 metres (7 feet 1 inch) high board on board wooden fence, that includes a 0.3 metres (12 inches) lattice on top, together with a 2.44 metres (8 feet) high gate, were constructed at the rear yard at the north side of the property (the "north fence" as shown in Attachments 1, 2 and 3). A Notice of Violation under the City of Toronto Municipal Code, Chapter 447, Fences, was issued to the property owner of 559 Delaware Avenue North, who in turn submitted an application for Fence Exemption.

Inspection further revealed an existing 2.08 metres (6 feet 10 inches) high wooden divisional fence of similar construction located on the property line between 559 and 557 Delaware Avenue North (the "south fence" as shown in Attachments 1 and 4).

COMMENTS

In accordance with the provisions of the City of Toronto Municipal Code, Chapter 447, Fences, Section 447-2B, Table 1, the maximum height of a fence at the rear yard of a single residential property is 2.0 metres. A gate is also defines as a fence in the legislation and as such is subject to the prescribed height restriction.

The fence at the north side was built in excess of the regulated height by 0.16 metres (6½ inches), and the gate is in excess by 0.44 metres (17 inches). The height of the fence at the south side has exceeded the maximum limit by 0.08 metres (3 inches).

Apart from providing privacy and security, the applicant submitted that the fence was installed to stop the dog from jumping over the fence.

Being under joint ownership, the south fence shared between the owners of 557 and 559 Delaware Avenue North is not in dispute, notwithstanding the by-law infraction. It is the north fence facing 561 Delaware Avenue North that becomes the cause of concerns.

There are no traffic sight line issues with both fences.

Should the staff recommendation not be accepted and the request by the applicant be approved, the following condition of approval should include that when the fence is replaced it should be constructed in compliance with TMC Chapter 447 – Fences, or its successor by-law.

CONTACT

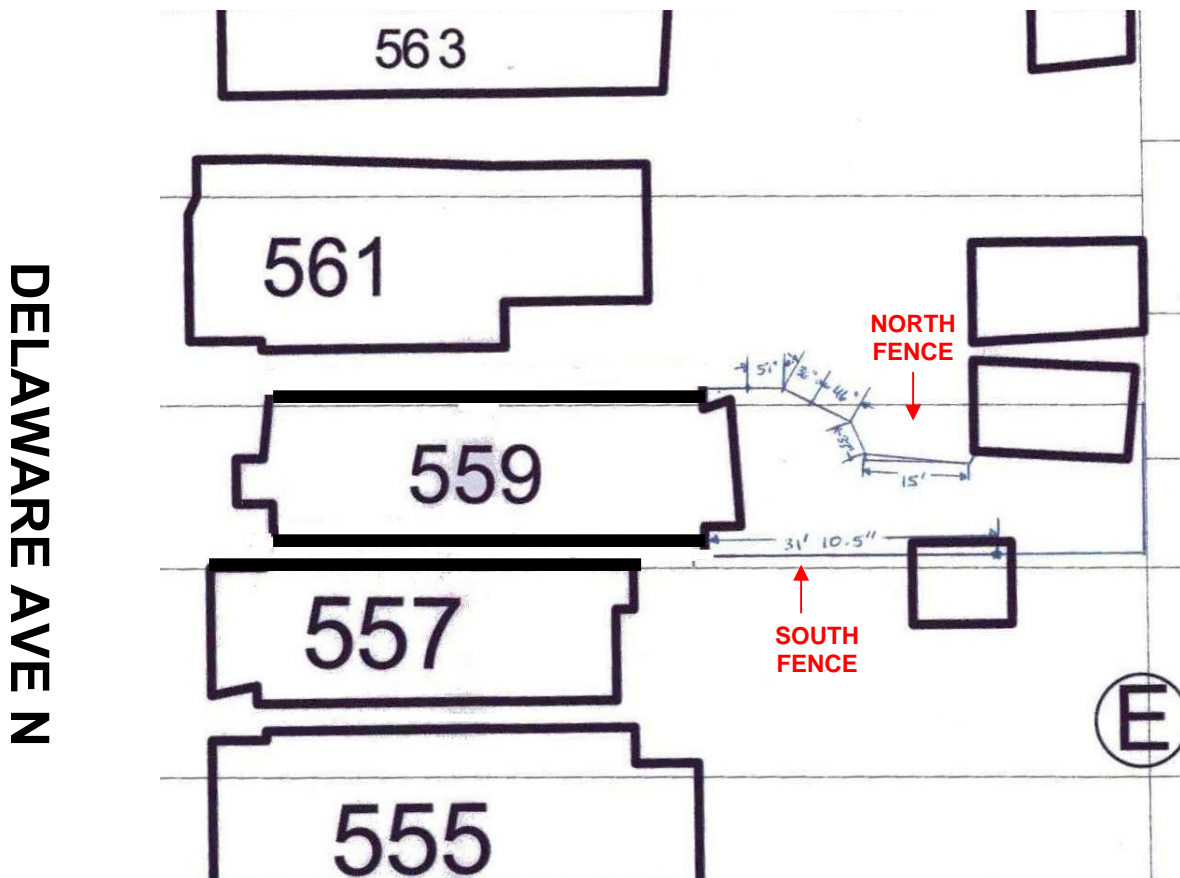
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SIGNATURE

Eletta Purdy, District Manager
Municipal Licensing and Standards
Etobicoke York District

ATTACHMENTS

Attachment 1: Aerial Map and Site Plan
Attachment 2: Mutual passage between 559 and 561 Delaware Ave N and North Fence
Attachment 3: Typical Fence Detail and North Fence at the rear of 559 Delaware Ave N
Attachment 4: Front Elevation and Fence between 557 and 559 Delaware Ave N at rear



Attachment 1: Aerial Map and Site Plan

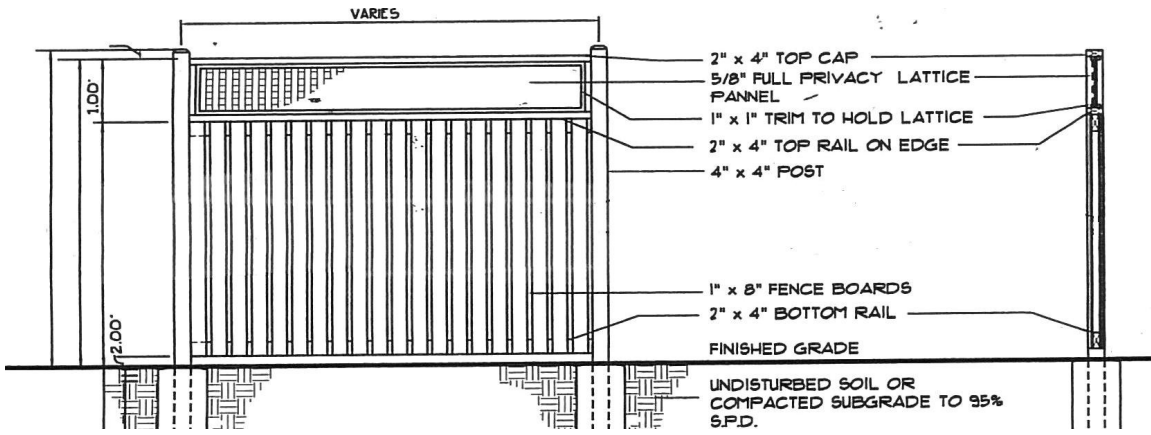
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Attachment 2: Mutual passage between 559 and 561 Delaware Ave N and North Fence



Attachment 3: Typical Fence Detail and North Fence at the rear of 559 Delaware Ave N



Attachment 4: Front Elevation and Fence between 557 and 559 Delaware Ave N at rear