

**Application for Fence Exemption
28 Clearside Place**

Date:	October 13, 2011
To:	Etobicoke York Community Council
From:	Curtis Sealock, Manager, Municipal Licensing and Standards
Wards:	Ward 3, Etobicoke Centre
Reference Number:	ML&S Folder Number 11-284441 FEN 00 IR

SUMMARY

This staff report is in response to an application submitted by the owner of 28 Clearside Place for an exemption to the Fence By-law, to maintain an existing row of cedar hedges, defined as a fence in the Toronto Municipal Code, Chapter 447, Fences, in the front yard of her property, for 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 for fence exemption at 28 Clearside Place, as the cedar hedges at the front yard do 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

This is a single family detached residential property located in the Markland Woods Neighbourhood in Ward 3, Etobicoke Centre (Attachment 1).

A complaint was received by 311 Office on August 23, 2011 for a fence being installed at the front yard of 28 Clearside Place in excess of the height permitted under the Fence By-law. Inspection revealed, in addition to the existing cedar trees that are 1.75 metres and 3.0 metres high respectively, a row of cedar trees/hedges (total 9 altogether) of approximately 1.68 metres to 1.75 metres (5 foot 6 inches to 5 foot 9 inches) in height was planted at the front yard adjacent to 26 Clearside Place (Attachments 3, 4 and 5). As hedges are defined as a fence under Chapter 447 of Toronto Municipal Code, which are also subject to the fence height restriction of 1.2 metres (4 feet) at the front yard, a Notice of Violation dated August 29, 2011 was issued to the property owner under the Fence By-law. Upon receipt of the Notice, the owner submitted an application for Fence Exemption to maintain the cedar hedges, on the following grounds:

1. The hedges are installed for privacy;
2. There are similar hedges installed within the neighbourhood;
3. Neighbours across the street, namely residents at 45, 47 and 49 Clearside Place (copies of e-mails from these residents were submitted with the application) are in support of the Fence Exemption Request (see Attachment 1 which shows the location of these properties relative to subject property); and
4. Fence Exemption Request to maintain a hedge at the front yard was approved, subject to conditions, by Etobicoke York Community Council during its meeting held on February 9, 2010 (Item EY34.4: Fence Exemption Request for 156 Wincott Drive.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EY34.4>

COMMENTS

A fence is defined in Chapter 447 of Toronto Municipal Code, Fences, as:

A barrier, including one for noise attenuation, or any structure, except a structural part of a building, that wholly or partially screens from view, encloses or divides a yard or other land, or marks or substantially marks the boundary between the adjoining land, and includes any hedge or shrub that has the same effect.

It should be noted that the four (4) cedars close to the street are effectively trees instead of hedges (at its current state), as they are spaced at approximately 0.6 metres (2 feet) apart. The rest of the cedars, being so close and intertwined together, are considered to be hedges (Attachments 3 and 4). Fences at the front yard, i.e., within the yard area between the main front wall of the building (and not the front wall of the garage) and the lot line abutting the public highway, are subject to a height restriction of 1.2 metres (4 feet).

As there is no driveway in the immediate vicinity of the cedar hedges and they are substantially more than 2.4 metres away from the front lot line, they do not cause any sight line obstruction to pedestrian or vehicular traffic (Attachments 3 and 5). They act as a privacy screen.

Notwithstanding the definition of a fence in the By-law, a hedge is different from a regular wooden or wrought iron fence in that it will continue to grow and require routine maintenance including trimming/pruning.

CONTACT

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SIGNATURE

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

ATTACHMENTS

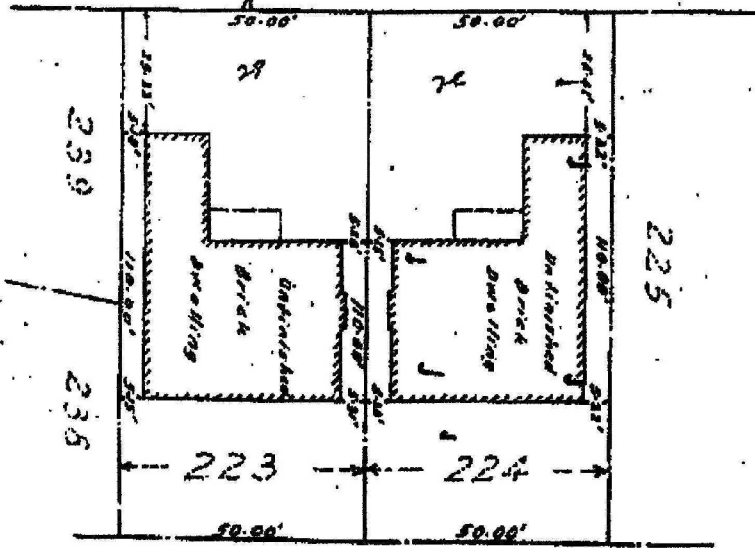
Attachment 1: Location Maps
Attachment 2: Property Survey
Attachment 3: Site Plan
Attachment 4: Detail Plan and Photo showing the Cedars under question
Attachment 5: Before and After Photos showing Front Yards of 26 & 28 Clearside Place



Attachment 1: Location Maps

CLEARSIDE PLACE

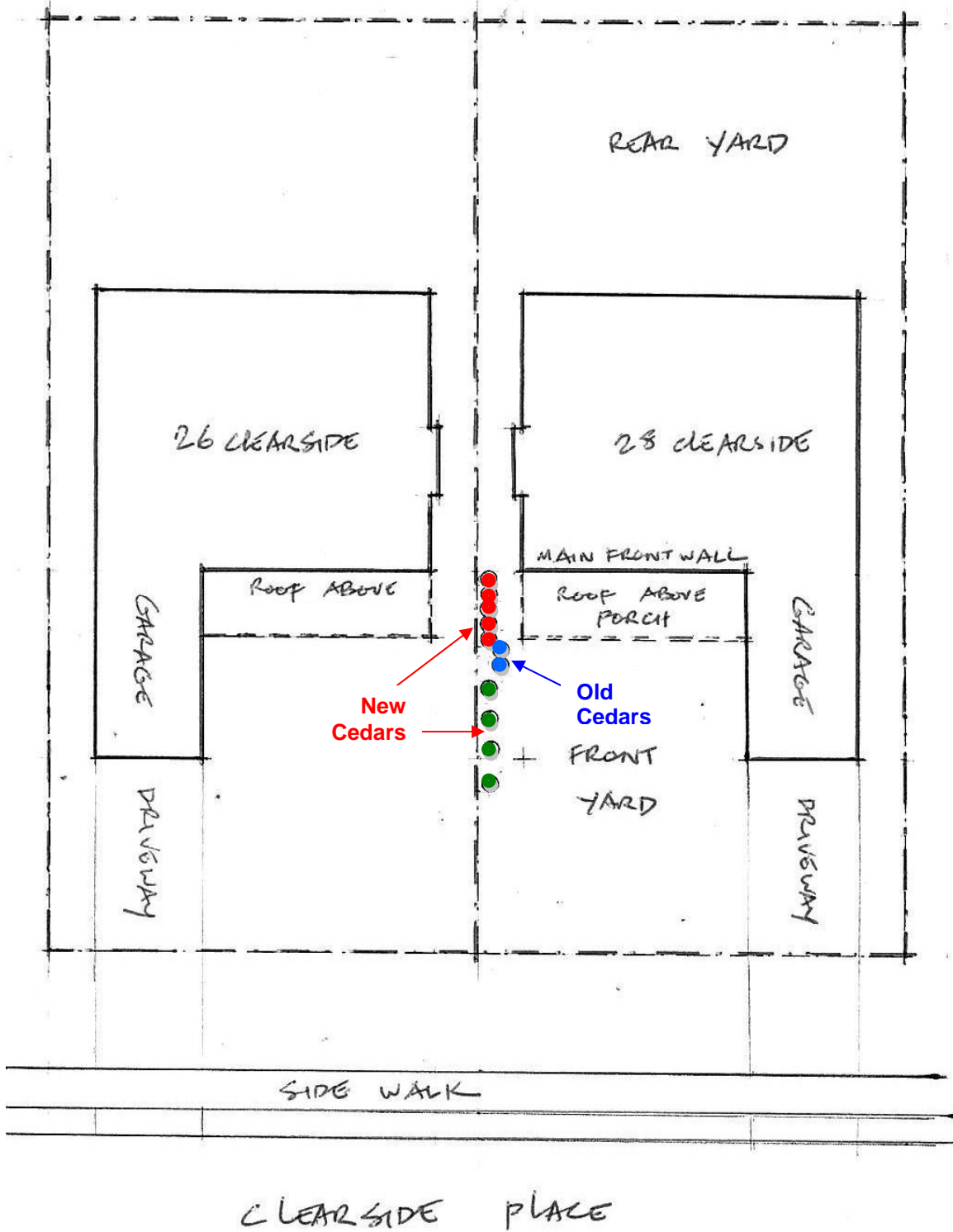
REG. A. 117466



PLAN
 OF LOTS 223 & 224, REG. PLAN M-854
 TWP. OF ETOWA CO. CO.
 SCALE 1"=30'

W. J. Wenz
 24 Western Ave.
 Aurora, Ill. 60010
 Phone 312-252-1524

Attachment 2: Property Survey



Attachment 3: Site Plan



Attachment 4: Detail Plan and Photo showing the Cedars under question



Attachment 5A: Before and after photos showing front yards of 26 & 28 Clearside Place



Attachment 5B: Before and after photos showing front yards of 26 & 28 Clearside Place