Fence Exemption Request
28 Brookview Drive

Date: March 18, 2013
To: North York Community Council
From: District Manager, Municipal Licensing and Standards, North York District
Wards: Ward 15 – Eglinton-Lawrence
Reference Number: IBMS No. 13-120356

SUMMARY

This staff report is about a matter that the Community Council has delegated authority to make a final decision, provided that it is not amended so that it varies with City policy or by-laws. The subject matter is an application for an exemption to Chapter 447 of the Toronto Municipal Code, Fences, to permit fencing in the front, side and rear yard which is in violation of the By-law.

RECOMMENDATIONS

Municipal Licensing and Standards, North York District, recommends that:

1. The North York Community Council refuse the exemption from Chapter 447 – Fences, for the property at 28 Brookview Drive.

FINANCIAL IMPACT

There is no financial impact anticipated in this report

DECISION HISTORY

The owner(s) of 28 Brookview Drive appealed a decision of the Committee of Adjustment for 30 Brookview Drive to the Ontario Municipal Board (OMB) regarding a deck in the rear yard (Attachment 11). After the OMB decision, the owner(s) of 28 Brookview Drive applied for a fence exemption.
ISSUE BACKGROUND

This is a detached home located in the former City of North York (Attachments 1 and 2). The maximum height for a fence in the rear yard is 2 metres. Further, no fence shall, when measured at any point along its length from the average grade level measured perpendicular to and one metre away on either side of the fence, exceed the maximum height pursuant to Section 447-2.B. Chapter 447, Fences, of the Toronto Municipal Code.

The definition of a fence is a barrier, including one used for noise attenuation, or any structure, except the 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 adjoining land and includes any shrub or hedge that has the same effect. This is pursuant to Sections 447-1, Chapter 447, Fences, of the Toronto Municipal Code.

The maximum height for a fence in the front yard is 1.2 metres pursuant to Section 447-2.B. Chapter 447, Fences, of the Toronto Municipal Code.

Any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as to not obstruct the view of the boulevard or highway, pursuant to Section 447-3.C(1) and no vegetation shall be permitted to grow or object permitted to be placed in such a way as to obstruct the view through this area of fence, pursuant to Section 447-3.C.1, both sections of Chapter 447, Fences, of the Toronto Municipal Code.

The maximum height for a fence on an unroofed deck not in a front or flankage yard is 2 metres above the surface of the deck pursuant to Section 447-2.B Chapter 447, Fences, of the Toronto Municipal Code.

The owner proposes to extend the height of the existing boundary fencing by 0.6 metres to an approximate total height of 2.5 metres in the rear and side yard and to 1.8 metres in the front yard. The fence along the north property line bordering 30 Brookview Drive consists of several different sections. In the rear yard and part of the side yard there is a board on board wood fence which is approximately 1.9 metres in height. All of the fence posts in the side and rear yard are approximately 2.13 metres in height exceeding the maximum height for a fence in those locations of 2 metres. In the side yard there is a 6 metre long section of chain link fence that is 1.2 metres in height; it is bordered by a cedar hedge. The cedar hedge is defined as a fence and it ranges in height from 3 to 3.5 metres. In the front yard the fence is 1.2 metres in height consisting of wood and chain link fencing in accordance with the bylaw (Attachments 3, 4, 5, 6 and 7).

COMMENTS

The owner(s) wish to maintain the fence for reasons of privacy. Included with this report is the letter of request, a letter of support from 30 Brookview Drive, the OMB decision and photos taken by the owner(s) (Attachments 9 through 15).
The planted material in the front yard of 28 Brookview Drive is barren of leaves due to the time of year but it may constitute a sight line obstruction during the growing season (Attachment 6). The deck of 30 Brookview Drive has a 2.4 lattice barrier erected on top of the south side of the new deck; the maximum height for a fence from the surface of a deck is 2 metres (Attachment 8).

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

CONTACT
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SIGNATURE

Eletta Purdy, Manager
Municipal Licensing and Standards
North York District

ATTACHMENTS
1. Aerial view of 28 Brookview Drive
2. Survey of 30 Brookview Drive
3. Photo of side yard and hedge
4. Photo of side and rear yard
5. Photo of rear yard
6. Photo of front yard chain-link fence within 2.4 metres of the front lot line
7. Photo of front yard fence
8. Photo of fence on the deck of 30 Brookview Drive
9. Letter of Request from 28 Brookview Drive
10. Letter of support from the owner of 30 Brookview Drive
11. OMB decision - PL120807
12. Photo by owner of rear yard A
13. Photo by owner of rear yard B
14. Photo by owner of rear yard C
15. Photo by owner of rear yard D