Application for Fence Exemption  
104 Jay Street

Date: April 17, 2014

To: Etobicoke York Community Council

From: Eletta Purdy, District Manager, Municipal Licensing and Standards

Wards: Ward 12, York South - Weston

Reference Number: Municipal Licensing and Standards Folder No. 14-119402 FEN 00 IR

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 owner of 104 Jay Street to maintain a board on board fence higher than 1.2 metres (4 feet) located in the front yard of the property. The fence is in violation of the open-fence construction and height, requirements for fences in a front yard as specified in City of Toronto Municipal Code, Chapter 447, Fences.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Etobicoke York Community Council:

1. Refuse the application for an exemption submitted by the owner of 104 Jay Street, to maintain a non open-fence construction front yard fence higher than 1.2 metres as the proposal does not comply with the provisions of City of Toronto Municipal Code, Chapter 447, Fences.

2. Direct that a second unappealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447, Fences.
Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

An application for a fence exemption was submitted by the property owner. The fence is located at the front yard. Accordingly, all property owners within a 60-metre radius of 104 Jay Street have been notified by the City Clerk's office of the date that the application for exemption will be considered by Etobicoke York Community Council. (Attachment 1)

ISSUE BACKGROUND

A complaint was received that a fence located within the front yard of 104 Jay Street was in violation of Toronto Municipal Code, Chapter 447, Fences.

An inspection conducted by a Municipal Standards Officer revealed the front section of the fence starting at the property line moving towards the house, is 1.45 metres (~4.8 feet) to 1.18 metres (~3.9 feet) high over a span of 2.1 metres (~6.9 feet) and the second section is 1.38 metres (~4.5 feet) to 1.27 metres (~4.2 feet) over the span of 8.45 metres (~27.7 feet). The height decreased from front to rear of each span due to an incline raising the grade of the property at 106 Jay Street. The construction of this fence for 2.4 metres (~7.9 feet) to the property line is solid wooden boards and is within 2.4 metres of the adjacent driveway. (Attachments 2 to 4)

Under the City of Toronto Municipal Code, Chapter 447, Fences, front yard fences must not exceed 1.2 metres (~4 feet) high. Furthermore, the Code requires that any fence within 2.4 metres of a driveway and within 2.4 metres from the property line must be open-fence construction so as not to obstruct the view of the boulevard or highway.

The fence in the first span is 0.25 meter (9.8 inches) above the permitted height to just under the permitted height by 0.02 metres (0.8 inches). The second span is 0.18 metres (7 inches) to 0.07 metres (2.75 inches) over the permitted height. The construction of this fence for 2.4 metres to the property line must be open-fence construction, not solid construction.

As a result of these findings of non-compliance, a Notice of Violation was issued to the property owner.

In response to the Notice, the property owner submitted an application for a Fence Exemption.
COMMENTS

The subject fence is in violation of City of Toronto Municipal Code Chapter 447- Fences, with respect to height and open-fence construction. The fence does not likely present a safety hazard regarding obstructing the view of the boulevard or roadway as there is over 2.4 metres of open-fence construction in the City road allowance from the property line to the roadway. (Attachment 4)

Should the staff recommendation not be accepted and the request by the applicant approved, the following conditions of approval should include:

1. The property owner is required to either obtain an encroachment agreement or carry out the necessary alterations to the fence as required by Transportation Services (Right of Way Management) because of the encroachment on the City road allowance; and

2. When the fence is replaced, any replacement must comply with the City of Toronto Municipal Code, Chapter 447, Fences or its successor by-law.

CONTACT

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SIGNATURE

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

ATTACHMENTS

Attachment 1: Notification area
Attachment 2: Aerial photograph of property lines.
Attachment 3: Site Plan, (as provided by applicant.)
Attachment 4: Photograph of fence at 104 Jay Street
Attachment 1:
Notification Area
Attachment 2
Aerial photograph showing location of property lines, and fence.
Attachment 3:
Site Plan, (as provided by applicant)
Attachment 4: Photograph of fence at 104 Jay Street