Application for Fence Exemption
395 Caledonia Road

Date: May 28, 2014
To: Etobicoke York Community Council
From: Eletta Purdy, District Manager, Municipal Licensing and Standards
Wards: Ward 17, Etobicoke Centre
Reference Number: Municipal Licensing and Standards, Folder No. 11 254773 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 for a fence exemption of an existing masonry fence erected in the front yard at 395 Caledonia Rd. The portion of the fence subject to Toronto Municipal Code Chapter 447 Fences is approximately 3.1 metres (~10 feet) from the front of the house to the property line and is in violation of the height and construction restrictions of the By-law. The remaining 4.48 meters (15 feet) of fence is located on the City's road allowance and under the jurisdiction of Transportation Services.

RECOMMENDATIONS

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

1. Refuse the request for an exemption submitted by the property owner of 395 Caledonia Rd to maintain the existing masonry fence on the basis that the fence is in violation of Toronto Municipal Code Chapter 447 Fences with respect to the height and construction requirements; and

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 Marcos Limited Building Design Consultants on behalf of the property owners of 395 Caledonia Road regarding a fence erected and located in the front yard. Accordingly, all the property owners within a 60 metre radius of 395 Caledonia Rd 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 (Attachment 1).

ISSUE BACKGROUND

A complaint was received that the masonry fence in the front yard of 395 Caledonia Rd was too high and causing a sightline obstruction to the boulevard and street (Attachment 2).

An inspection conducted by a Municipal Standards Officer revealed that the existing fence consists of masonry walls and a series of pillars surrounding a garden of approximately 21 square metres (~226 sq. feet), over half of which is located on the City's road allowance.

The portion of the fence on private property on the north elevation consists of one pillar at 1.8 meters (~6 feet) in height and a run of approximately 1.8 metres (~5.9 feet) of masonry fence at 1.4 metres (~4.6 feet) high while the portion of the fence on private property on the south elevation and south lot line is immediately adjacent to the driveway at 393 Caledonia Road and consists of two pillars at 1.2 meters (~4 feet) in height and a run of approximately 3.6 metres (~11.8 feet) of masonry fencing at 0.76 metres (~2.5 feet) high (Attachments 3, 4, 5 & 6).

Toronto Municipal Code Chapter 447 Fences (TMC 447) requires front yard fences to not exceed 1.2 meters (four feet) in height. Additionally, any fence within 2.4 meters (7.9 feet) from the front lot line and located with 2.4 meters from any driveway shall be of open-fence construction such as chain link, so as not to obstruct the view of the boulevard or roadway (Attachments 7 & 8).

In accordance with the Fence By-law, the north elevation fence pillar exceeds the maximum height allowable by 0.6 meters (~2 feet) while the masonry fence exceeds the maximum height allowable by 0.2 meters (~7 inches). The fence on the south elevation is non-compliant regarding construction as it causes a sight obstruction to the view of the boulevard and highway. A Notice of Violation was issued to the property owners for non-compliance regarding height and construction under TMC 447.
In response to the Notice of Violation, the property owners had Marcos Limited Building Design Consultants submitted an application for a Fence Exemption on their behalf, on the grounds that the fence is aesthetically pleasing.

**COMMENTS**

The subject fence is in violation of the City of Toronto Municipal Code Chapter 447 Fences, with respect to height and construction.

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

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) due to the encroachment on the City road allowance; and

2. When the fence is replaced, it shall be constructed in compliance with 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: Plan showing properties with 60 meter radius of 395 Caledonia Rd
Attachment 2: Ariel view of 395 Caledonia Rd
Attachment 3: Site Plan of north elevation of fence
Attachment 4: Site Plan of south elevation of fence
Attachment 5: Photograph of south elevation of fence
Attachment 6: Photograph of north elevation of fence
Attachment 7: Full view of 395 Caledonia Rd
Attachment 8: Front view of 395 Caledonia Rd
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Attachment 2: Ariel view of 395 Caledonia Rd
Attachment 3: Site Plan of north elevation of fence
Attachment 4: Site Plan of south elevation of fence
Attachment 5: Photograph of south elevation of fence

Attachment 6: Photograph of north elevation of fence
Photograph 7: Full view of 395 Caledonia Rd

Photograph 8: Front view of 395 Caledonia Rd