Application for Fence Exemption
364 Evans Avenue

Date: May 28, 2014
To: Etobicoke York Community Council
From: Eletta Purdy, District Manager, Municipal Licensing and Standards
Wards: Ward 6 Etobicoke - Lakeshore
Reference Number: Municipal Licensing and Standards Folder # 14 126381 FEN

SUMMARY

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

This staff report is in response to an application submitted by the property owner of 364 Evans Avenue for a fence exemption to erect new fencing and maintain existing fencing composed of corrugated metal, chain link and barbed wire. The existing and proposed fence is in violation of height and construction restrictions set out in the City of Toronto Municipal Code Chapter 447 Fences.

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 364 Evans Avenue to maintain the existing 3.1 metres (~10.1 feet) high corrugated metal fence in the flankage and rear yard and the 1.9 meters (~6 feet) high chain link fence in the front yard as this is in violation of Toronto Municipal Code Chapter 447 Fences with respect to height and construction requirements;

2. Refuse the request for an exemption submitted by the property owner of 364 Evans Avenue for a proposed new 3.1 metres (~10.1 feet) high corrugated metal fencing in the rear yard and the barbed wire on the front yard gate as this is in
violation of Toronto Municipal Code Chapter 447 Fences, with respect to height and construction requirements; and

3. Direct that an 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 fence exemption was submitted by the property owner of 364 Evans Avenue. The fence is located along the perimeter of a property fronted on Evans Avenue and flanked by Kipling Avenue. Accordingly, all property owners within a 60 meter radius of 364 Evans Avenue 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

The subject fence is located at 364 Evans Avenue and owned by R J McCarthy Holding Inc. The site, located within an industrial area is tenanted by ML Lumber and Building Supplies and is being operated as a building supply yard. Upon investigation it was discovered that the property was in contravention of the Zoning By-law due to the open storage of raw materials and setbacks.

The investigation also determined violations to Toronto Municipal Code Chapter 447 Fences (TMC 447). Subsequently, the owners and operators were issued Notices of Violation. The applicant responded by submitting a request for a fence exemption (Attachment 3).

The existing front yard chain link fence is 1.9 meters (~6 feet) high and runs approximately 117 meters (~384 feet), enclosing the front yard while the existing fencing along the west lot line flankage yard is approximately 140 metres (~459 feet) from the front yard to the rear lot line and is composed of two parallel fences, one of chain link material at 1.5 metres (~4.9 feet) high and another of corrugated metal at 3.1 metres (~10.1 feet) high.

Along the north lot line rear yard, the chain link fence is 3.1 meters (10 feet) high and runs approximately 60 meters (~197 feet); the chain link fence along the east lot line rear yard is 1.9 meters (~6 feet) high for approximately 57 meters (~187 feet) from the front yard to the accessory building abutting the east lot line and 2.33 meters (~7.6 feet) high from the north end of the accessory building to the rear lot line for approximately 53 meters (~174 feet) (Attachments 4, 5, 6 and 7).
The proposed new fencing will replace the existing chain link fencing and is 2.5 meters (~8.2 feet) high corrugated metal, running north from the accessory building abutting the east lot line to and along the length of the rear lot line. The proposal also includes a section of 2.5 meters (~8.2 feet) high corrugated metal fencing dissecting the rear yard running between the east and west accessory buildings that abut the east and west lot lines. Additionally, the proposal includes a 1.9 metre (~6 feet) high chain link gate, located adjacent to the front wall of the main building, on the east side, includes an extension of three strands of barbed wire measuring 0.23 metres (~0.75 feet) from the top of the gate to the top strand (Attachments 7, 8, and 9).

The Fence By-law requires that fencing erected in the front yard be maintained at a maximum height of 1.2 metres (~3.9 feet); the existing fencing is 0.7 metres (~2.3 feet) too high. Furthermore, the maximum fencing height permitted on non-residential properties in the flankage and rear yards is 2.5 metres (~8.2 feet); the existing west lot line, flankage yard fencing and the rear lot line and the north section of the east lot line fencing is 0.6 metres (~2 feet) too high.

Furthermore, the use of corrugated metal in the existing fence and proposed fence construction, including the strands of barbed wire located at the top of the proposed front yard gate does not meet the construction and materials requirements of the By-law.

 COMMENTS

The subject fence is in violation of City of Toronto Municipal Code Chapter 447 Fences with respect to height and construction. The applicant has indicated that the fence would provide the property with privacy, safety, noise and dust control.

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

1. When the fence is replaced, it has to comply with the City of Toronto Municipal Code, Chapter 447, Fences or its successor by-law.

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ATTACHMENTS

Attachment 1: Plan showing properties within 60 meter radius of 364 Evans Ave
Attachment 2: Ariel view of 364 Evans Ave
Attachment 3: Site Plan
Attachment 4: Photograph of Fence (view from Kipling Ave and Evans Ave)
Attachment 5: Photograph of west lot line fence (view from Kipling Ave)
Attachment 6: Photograph of east lot line, rear yard fence, north end
Attachment 7: Photograph of east lot line, rear yard fence, south of accessory building
Attachment 8: Fence Elevation – west lot line at flankage yard
Attachment 9: Fence Elevation - running east west between accessory buildings across rear yard
Attachment 10: Fence Elevation showing gate with barbed wire
Attachment 1: Plan showing properties within 60 metre radius of 364 Evans Ave
Attachment 2: Ariel view of 364 Evans Ave

Existing 2.5 metre (8 feet) high corrugated metal fence

Existing 2.3 metre (8 feet) high chain link fence

Existing 3.1 metre (10 feet) high corrugated metal fence

Existing 1.9 metre (6 feet) high chain link fence
Attachment 3: Site Plan
Attachment 4: Photograph of Fence (view from Kipling Ave and Evans Ave)

Attachment 5: Photograph of west lot line fence (view from Kipling Ave)

Fence Exemption Request – 364 Evans Avenue
Attachment 6: Photograph of east lot line, rear yard fence, north end

Attachment 7: Photograph of east lot line, rear yard fence, south of accessory building
Attachment 8: Fence Elevation – west lot line at flankage yard

Attachment 9: Fence Elevation - running east west between accessory buildings across rear yard
Attachment 10: Fence Elevation showing gate with barbed wire