Application for Fence Exemption
21 Hawthorne Road

Date: July 17, 2014
To: Etobicoke York Community Council
From: Eletta Purdy, District Manager, Municipal Licensing and Standards
Wards: Ward 4 – Etobicoke Centre
Reference Number: Municipal Licensing and Standards Folder No.13 277492 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 property owner of 21 Hawthorn Road for a Fence Exemption for permission to maintain a fence of mixed solid board and masonry construction in the front yard higher than 1.2 metres (~4 feet) and in the side yard higher than 2.0 metres (~6.5 feet). The fence is in violation of Toronto Municipal Code Chapter 447, Fences.

RECOMMENDATIONS

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

1. Refuse the request for an exemption submitted by the property owner of 21 Hawthorn Road to maintain a solid wood and solid wood and concrete fence having a height of 1.87 metres (6 feet 2 inches) with 2.5 metre (8 feet) high posts in the front yard, on the basis that the enclosure is in violation of the maximum height restriction 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 of 21 Hawthorne Road. The subject fence is located in the front yard of the property. Accordingly, all property owners within a 60 metre radius 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 regarding a solid board and masonry fence installed at the front and side yard of a corner lot on the property at 21 Hawthorne Road was too high. Under City of Toronto Municipal Code, Chapter 447, Fences, when the property is a corner lot, the front yard is the space between the shorter lot line abutting a public highway and the side of the house. (Attachment 2)

Upon investigation, it was determined that the section of fence on the north and east sides of the front yard are approximately 1.8 metres (~6 feet) high and the fence posts are approximately 2.5 metres (~8.2 feet) high. The section of fence on the south side of the front yard includes the combined masonry and solid board fence construction and is approximately 2.5 metres (~8.2 feet) high. The same length of combined construction fencing continues down the south lot line side yard and is approximately 2.1 metres (~7 feet) high. Note that the masonry part of the fence is not considered a retaining wall as the grade on each side is at approximately the same level. (Attachments 3, 4 and 5 (a) and (b))

City of Toronto Municipal Code, Chapter 447, Fences, indicates that fences located in the front yard of residential properties must not exceed 1.2 metres (4 feet) in height. The existing front yard fence is from 0.4 to 1.3 metres (~1.3 feet to ~4.3 feet) too high.

The Municipal Code, Chapter 447, Fences, further indicates that fences located in the side yards, in instances such as this, must not exceed 2.0 metres (~6.5 feet) high. The existing side yard fence is from 0.1 metres (~4 inches) too high.

In response to a Notice of Violation, the property owner of 21 Hawthorne Road submitted an application for a Fence Exemption, to maintain the fence and posts in the front and side yards at the current heights for reasons of privacy, safety, security and aesthetics. (Attachments 6 (a), (b) and (c))
COMMENTS

The subject fence is in violation of City of Toronto Municipal Code Chapter 447, Fences, with respect to height. The fence does not appear to present a safety hazard in relation to any obstruction to the view of the boulevard or roadway.

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

1. When the fence is replaced, it 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 lot showing fence line & dimensions
Attachment 3: Lot plan supplied by applicant
Attachment 4: Fence North East corner with dimensions
Attachment 5 (a): Fence South East corner with dimensions
Attachment 5 (b): Fence South East corner interior
Attachment 6 (a): Fence detail supplied by applicant
Attachment 6 (b): Fence detail supplied by applicant
Attachment 6 (c): Fence detail supplied by applicant
Attachment 1: Notification area
Attachment 2: Aerial Photograph of lot showing fence line & dimensions

Fence Exemption – 21 Hawtorne Road
Attachment 3: Lot plan supplied by applicant
Attachment 4: Fence North East corner with dimensions

1.8 m or ~6 ft

2.5 m or ~8.2 ft
Attachment 5 (a): Fence South East corner with dimensions

Attachment 5 (b): Fence South East corner interior
Attachment 6(a): Fence detail supplied by applicant

Attachment 6(b): Fence detail supplied by applicant
Attachment 6(c): Fence detail supplied by applicant