

Request for a Fence Exemption – Rear Yard 63 Albacore Crescent

Date:	August 6, 2015
To:	Scarborough Community Council
From:	Scott Sullivan, District Manager Municipal Licensing & Standards, Scarborough District
Wards:	Ward 38 – Scarborough Centre
Reference Number:	IBMS No. 15-145890

SUMMARY

This staff report concerns a matter for which the Scarborough Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Council concerning an application by the property owner of 63 Albacore Crescent for a site-specific Fence Exemption, pursuant to Section 447-5.C of Toronto Municipal Code, Chapter 447- Fences. The property owner is seeking Council's permission to install a fence which does not comply with the requirements stipulated by Section 447-3. Swimming pool enclosures.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the Scarborough Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner of 63 Albacore Crescent, for a proposed fence that fails to comply with the provisions of Toronto Municipal Code, Chapter 447, Fences.

OR

2. Grant the application for a fence exemption permit, without conditions, thereby allowing the fence to be constructed as proposed. Direct and require that the installation be maintained in good repair without alteration. Direct and require that at such time as replacement of the fence is required that such installation will comply with Municipal Code Chapter 447, or its successor by-law.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

Municipal Licensing & Standards issued a Notice of Violation to the property owner due to the state of disrepair of the existing swimming pool enclosure. An application for a new swimming pool fence enclosure was subsequently submitted by the owner.

During the examination of application the Building Plans Examiner noted that there were openings (windows) into the Swimming Pool Fence Enclosure through the rear wall of the dwelling.

In order comply with the Municipal Code Chapter Section 447-3. Swimming pool enclosures, a fence would be required to be installed a minimum of 4 feet from the edge of the pool between the rear wall of dwelling wall and the pool.

Since the space between the rear wall of dwelling and the pool is only 5 feet, the property owner has applied to be exempted from this requirement and to use the dwelling wall as part of the pool enclosure.

There are two windows in the dwelling wall with devices that restrict the windows from opening more than 100mm.

As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for Scarborough Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that Scarborough Community Council will consider the application.

ISSUE BACKGROUND

The subject property, 63 Albacore Crescent, is located in Ward 38. It is composed of a detached, single-family residential dwelling.

The Toronto Building Department Municipal Licensing Standards' review of the proposed fence installation has determined that it will not comply with Section 447-3. of the Toronto Municipal Code, Chapter 447- Fences, as detailed in the following chart:

GENERAL LOCATION	SPECIFIC LOCATION	PROPOSED CONSTRUCTION & DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
Rear Yard	Directly behind the west wall of the dwelling.	No fence between pool and dwelling.	Section 447-3 (A)(2) every owner of a swimming pool shall erect and maintain a swimming pool enclosure that: (2) Completely encloses the area in which the swimming pool is located.
Rear Yard	Directly behind the west wall of the dwelling.	Wall is forming part of the Pool Enclosure	Section 447-3 (C)(2) If the wall of any building, or any portion of it, forms part of the pool enclosure, there shall be no access to the enclosed pool area through the wall

The rest of the proposed Pool Enclosure complies with the Municipal Code, Chapter 447- Fences requirements. Note; there is no door on the west wall of the house within the proposed pool enclosure and the windows within the pool enclosure have devices to restrict their opening to 100mm

COMMENTS

While the proposed fence violates Toronto Municipal Code, Chapter 447- Fences requirements with respect to the dwelling wall as part of the Pool Enclosure, it does not contravene any other provisions of the bylaw.

CONTACT

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SIGNATURE

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APPENDICES

Appendix 1 – Location of 63 Alabacore Crescent iView Map

Appendix 2 – Site Plan Submitted by Property Owner

Appendix 3 –Photo of Dwelling Wall

Appendix 4 –Photo of Windows

Appendix 5 – Photo of Distance Between House and pool Edge