Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447 – 86 Kenilworth Ave

Date: April 29, 2016

To: Toronto and East York Community Council

From: Scott Sullivan, District Manager Municipal Licensing & Standards, Scarborough District

Wards: Ward 32 – Beaches-East York

Reference Number: IBMS No. 16-135940 FEN 00 IR

SUMMARY

This staff report concerns a matter for which the Toronto and East York 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 86 Kenilworth Ave 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 allow for the existing fence, which does not comply with maximum fence height restrictions stipulated by Section 447-2 of the bylaw.

The existing wood fence was measured in 3 separate sections. Section 1 along the westerly portion measures approximately 7 feet 3 inches or 2.21 metres in height. Section 2 (middle portion) is approximately 7 feet 5 inches or 2.26 metres in height. Section 3 (section on the deck) is approximately 7 feet 2 inches or 2.18 inches.

The application is based on a complaint that was received and investigated by Municipal Licensing and Standards.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the Toronto and East York Community Council:
1. Refuse to grant the application for an exemption permit, by the property owner of 86 Kenilworth Ave., for a 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 maintained as constructed. Direct and require that the installation be maintained in good repair without alteration. 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

The property owner submitted a fence exemption application, in writing, on March 24, 2016, for a pre-existing fence, in accordance with Section 447-5(C) of Toronto Municipal Code, Chapter 447- Fences, listing "privacy and security from adjoining neighbours and safety from neighbours trespassing and damaging property" as the reasons for the application.

As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for Toronto and East York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that Toronto and East York Community Council will consider the application. (Attachment 10)

ISSUE BACKGROUND

The subject property, 86 Kenilworth Ave., is located in Ward 32. It is a two story semi-detached, residential building.

Municipal Licensing Standards' review of the proposed fence installation has determined that it will not comply with maximum height restrictions for residential fences provided by Section 447-2 of Toronto Municipal Code, Chapter 447- Fences, as detailed in the following chart:
<table>
<thead>
<tr>
<th>GENERAL LOCATION</th>
<th>SPECIFIC LOCATION</th>
<th>PROPOSED CONSTRUCTION &amp; DEFICIENCY</th>
<th>BY-LAW SECTION &amp; REQUIREMENT*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rear Yard</td>
<td>1. Adjacent to North lot line; running east to west (Attachment 6, 7)</td>
<td>1. The fence is divided into 3 sections. All 3 sections exceed height – section 1 is 2.18 m (7ft. 2in) high and 3.78 m (12ft 5in) long. The second section is 2.26 m (7ft. 5in) and 5.38 m (17ft 8in) long. The final section is 2.21 m (7ft 3in) and 8.97 m (29ft 5in) long.</td>
<td>Section 447-2 (B)(1) Maximum height of 2.0 metres, measured at any point along its length, based on the average grade height of the land within 1 metre on either side of the fence</td>
</tr>
</tbody>
</table>

Municipal Licensing Standards' investigated the fence installation and determined that it did not comply with maximum height restrictions for residential fences provided by Section 447-2 of Toronto Municipal Code, Chapter 447- Fences.

**COMMENTS**

While the proposed fence violates Toronto Municipal Code, Chapter 447- Fences with respect to height, it does not appear to contravene any other provisions of the bylaw.

**CONTACT**

Gurminder Purba, Acting Supervisor, Municipal Licensing & Standards Toronto - East York District
Tel. (416) 392-7610
Fax (416) 392-0384
E-mail: gpurba@toronto.ca

**SIGNATURE**

_______________________________
Scott Sullivan, District Manager, Municipal Licensing and Standards Toronto and East York District
The following attachments are included:

Attachment 1-5: Photos of the existing fence (supplied by the home owner)
Attachment 6-7: Photos of the fence (taken by MLS Officer)
Attachment 8: Site plan of the fence (supplied by home owner)
Attachment 9: IView survey of the property
Attachment 10: Notification to neighbours