REPORT FOR ACTION

Application for Fence Exemption- 34 Sir Williams Lane

Date: September 27, 2017
To: Etobicoke York Community Council
From: Peter Hardisty, District Manager Municipal Licensing and Standards
Wards: Ward 4 – Etobicoke Centre

SUMMARY

This staff report is in regards 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 owner of 34 Sir Williams Lane to install a rear yard fence, which will form the fourth wall of an enclosure for an existing swimming pool. The proposed fence does not meet all of the requirements specified in City of Toronto Municipal Code, Chapter 447, Fences.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Etobicoke York Community Council give consideration to the exemption application and decide to:

1. Refuse to grant the application for an exemption, by the property owner of 34 Sir Williams Lane, for the rear yard swimming pool enclosure which is constructed without fence posts, contrary to the regulations found in the City of Toronto Municipal Code Chapter 447. Direct that a second un-appealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447, Fences.

   or

2. Grant the application for a fence exemption by the property owner of 34 Sir Williams Lane, without conditions, thereby allowing the rear yard swimming pool enclosure fence, to be installed, as requested. Direct and require that the rear yard fencing be maintained in good repair without alteration. Direct and require that at such time as replacement of the rear yard fencing is required, that such installations will comply fully with Municipal Code Chapter 447, or its successor by-law.
FINANCIAL IMPACT

There is no financial impact anticipated in this report.

DECISION HISTORY

No previous decision history.

COMMENTS

The subject property is single family residential dwelling situated in the Kipling Avenue and Rathburn Road neighbourhood of Ward 4.

The property owner is seeking relief from the by-law regulations to install a rear yard swimming pool enclosure glass fence without fence posts at the North elevation, contrary to Section 447-3 (2)(d)[1] of Chapter 447 of the Toronto Municipal Code.

Municipal Licensing and Standards Division received a formal complaint on or about May 9, 2017 regarding a missing fourth wall on a swimming pool enclosure. The investigating officer noted the absence of the fourth wall which is prohibited. This investigation led to a Notice of Violation dated May 18th, 2017 being issued to the property owner. The property owner at the request of Municipal Licensing and Standards erected a temporary fence enclosure. The property voluntarily applied for a fence exemption on or about June 12, 2017.

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

Municipal Licensing Standards' review of the existing rear yard fence installations – forming the enclosure around the existing swimming pool, has determined that it does not comply with Toronto Municipal Code, Chapter 447- Fences.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>ORIENTATION</th>
<th>DEFICIENCY</th>
<th>BY-LAW SECTION*</th>
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<tr>
<td>Rear Yard/North Elevation</td>
<td>North elevation, Rear yard fence between residential dwelling and swimming pool.</td>
<td>The proposed fence in the rear yard that form the enclosure around an existing swimming pool will be constructed with the absence of posts, which is prohibited materials for any fence.</td>
<td>Section 447-3.(2)(d)[1]</td>
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Horizontal elements shall be supported on substantial posts spaced not more than 2.4m apart and embedded in concrete to a minimum depth of 900mm below grade.

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Records of permits for the swimming pool/enclosure were found from 2014 which indicated a 4” Chain Link Fence between the dwelling and the swimming pool. A Municipal Licensing and Standards Officer confirmed on December 18, 2014 that this fence was in place.

The property owner seeks the exemption to install the rear yard swimming pool enclosure fence primarily for reasons of aesthetics. The owner has advised that he has no young children, exterior gates are locked at all times, and the fence between the swimming pool and the dwelling is unattractive.

We recommend that the rear yard fence be installed so as to fully comply with all provisions of the City of Toronto's Municipal Code, Chapter 447- Fences.

However, should the Committee decide to grant the exemption, such exemption should be subject to the conditions noted in Recommendation # 2.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Aerial Map of 34 Sir Williams Lane
Attachment 2: Site Plan submitted by Applicant
Attachment 3: Temporary Enclosure between swimming pool and dwelling.
Attachment 1: Aerial Map of 34 Sir Williams Lane

Attachment 2: Site Plan submitted by Applicant

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Attachment 3: Temporary Enclosure between swimming pool and dwelling.