REPORT FOR ACTION

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447 – 239 Kenilworth Ave

Date: November 01, 2017
To: Toronto and East York Community Council
From: Joe Magalhaes, District Manager, Municipal Licensing & Standards, Toronto-East York District
Wards: Ward 32 - Beaches - East York

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 239 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.

Three existing wood fences were measured. Fence 1 along the North property line measures approximately 2.2 m (7 ft 2.5 in) in height and 8.7 m (28 ft 6 in) wide. Fence 2 on the East side of the property is approximately 2.84m (9 ft 4 in) in height and 7.37 m(24 ft 2 in) wide. The third fence on the south property line is in compliance with the by-law.

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 239 Kenilworth Ave, for a fence that fails to comply with the provisions of Toronto Municipal Code, Chapter 447, Fences and to issue a second notice to the property owner to bring the fence into compliance.

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 anticipated Financial Impact from this report.

DECISION HISTORY

The property owner submitted a fence exemption application, in writing, on September 27, 2017, in regards to an existing installed fence, in accordance with Section 447-5(C) of Toronto Municipal Code, Chapter 447- Fences, listing "privacy for young children and additional safety for pool" 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.

ISSUE BACKGROUND

The subject property, 239 Kenilworth Ave., is located in Ward 32 - Beaches - East York. The home is a 2 storey, single detached home.

Municipal Licensing Standards' investigated the fence installation and determined that it did not comply with maximum height restrictions for residential fences (see table below) provided by Section 447-2 of Toronto Municipal Code, Chapter 447- Fences.
<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>The north and East property line fences</td>
<td>Fence 1: North property line Height = 2.2 m (7 ft 2.5 in) Width = 8.7 m (28 ft 6 in) Fence 2: East property line Height = 2.84 m (9 ft 4 in) Width = 7.37 m (24 ft 2 in)</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>

**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

Joe Magalhaes, District Manager,
Municipal Licensing and Standards
Toronto - East York District
Attachment 1: iView Map of property – 239 Kenilworth Ave
Attachment 2: Existing fence on North side of property (photo taken facing North East)
Attachment 3: Picture of Rear fence (photo taken facing East)
Attachment 4: Existing fence on South side of property (photo taken facing South)