

Request for a Fence Exemption – 232 Old Forest Hill Road Toronto Municipal Code, Chapter 447

Date: April 27, 2022
To: North York Community Council
From: District Manager, Municipal Licensing & Standards, Etobicoke & York District
Wards: Ward 8 - Eglinton-Lawrence

SUMMARY

This staff report concerns a matter for which the North 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 232 Old Forest Hill Road for a site-specific Fence Exemption, pursuant to the Toronto Municipal Code, Chapter 447, "Fences", under subsection 447-1.5B.

This request is in response to a Fence Notice of Violation, issued by Municipal Licensing & Standards, for a fence that does not comply with the standards set out in subsection 447-1.2(C)(1) – Open-Fence Construction Required.

232 Old Forest Hill Road is a residential detached house located on a corner lot in Ward 8.

RECOMMENDATIONS

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

1. Refuse to grant the request of the property owner of 232 Old Forest Hill Road for a site-specific exemption from Toronto Municipal Code, Chapter 447, "Fences", under subsection 447-1.5B, for a fence that that does not comply with the standards set out in subsection 447–1.2(C)(1).

OR

2. Grant the request of the property owner of 232 Old Forest Hill Road for a site-specific exemption from Toronto Municipal Code, Chapter 447, "Fences", under subsection 447-1.5B, for a fence that that does not comply with the standards set out in subsection 447–1.2(C)(1) on the conditions that:

- a. The fence is maintained in good repair, in compliance with Toronto Municipal Code, Chapter 447, "Fences", except for the exemption as granted;
- b. If the fence is replaced, the replacement complies entirely with Toronto Municipal Code, Chapter 447, "Fences", or its successor bylaw; and
- c. Any other conditions as decided by the North York Community Council.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

After receiving a Fence Notice of Violation, dated November 8, 2021, the property owner requested a fence exemption, in writing, on December 1, 2021. The application requests a site specific exemption to be granted, under Toronto Municipal Code, Chapter 447, "Fences", subsection 447-1.5(B), with respect to an existing fence that does not comply with the subsection 447-1.2(C)(1).

As required by subsection 447-1.5(B), Municipal Licensing & Standards has responded to the fence exemption request by preparing this report for the North York Community Council's consideration. The City Clerk has sent all requisite notices of the date that the North York Community Council will consider this request.

COMMENTS

Municipal Licensing and Standards reviewed the proposed application and determined that the existing fence on the private portion of the property does not comply with TMC Chapter 447, subsection 447-1.2(C)(1) – Open-Fence Construction Required.

The table below describes the existing fence and the deficiencies under Toronto Municipal Code, Chapter 447, "Fences":

General Location	Specific Location	Current/ Existing Construction & Deficiency	By-Law Section & Requirement
Rear Yard	East side of the property, adjacent to the driveway of 228 Old Forest Hill Road	The existing fence consists of 7 panels, in which each panel comprises of 11 horizontal wood boards. The first panel is on the City owned portion of the property. The existing fence is within 2.4 metres of the driveway located at 228 Old Forest Hill Road. The existing fence does not consist of open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or street.	Chapter 447– 1.2(C)(1) – Open-Fence Construction Required.

The first panel of the existing fence (closest to the sidewalk) is on the City owned portion of the property and is under the purview of Transportation Services. A referral was made to Transportation Services to address this panel for a sightline violation, as well as the hedge located on the North side of 232 Old Forest Hill Road, abutting the sidewalk.

The existing fence does not consist of open-fence construction for at least 2.4 metres from the lot line at which the driveway begins (approximately 1.5 panels of the fence). As a result, the second and approximately half of the third panel of the fence poses a potential sightline violation. The remainder of the fence on the private portion of the property complies with the provisions of Toronto Municipal Code, Chapter 447, "Fences".

Moreover, in their request for an exemption, the property owner has provided the following information:

- The existing fence provides privacy and security from pedestrians walking by the rear yard and the vehicles attempting to bypass the ongoing construction on Eglinton Ave;
- The existing fence was thought to have been in compliance with TMC Chapter 447 when the fence was constructed in 2020; and
- The existing fence is very common and can similarly be found on other corner lots in the neighbourhood.

The refusal of the request will result in a second Notice of Violation being issued to the property owner requiring compliance with the standards to which the refusal applies.

The grant of the request will result in the cancellation of any Notice of Violation that had been issued to the property owner requiring compliance with the standards covered by the granted exemption.

Lastly, it is important to note that the existing fence does not contravene any other provisions of Toronto Municipal Code, Chapter 447, "Fences".

CONTACT

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ATTACHMENTS

Attachment A – Aerial image of 232 Old Forest Hill Road from iView illustrating the portion of the existing fence on private property subject to the exemption request

Attachment B – Photograph taken of the existing fence from the end of the driveway at 228 Old Forest Hill Road

Attachment C – Photograph taken of the existing fence from 228 Old Forest Hill Road illustrating the section of the fence that contravenes TMC Chapter 447

Attachment D – Photograph taken of the existing fence from the rear yard of 232 Old Forest Hill Road

Attachment E – Photograph provided by the property owner illustrating the traffic on Old Forest Hill Road

Attachment F – Photographs provided by the property owner illustrating other properties in the neighbourhood located on corner lots with similar fences

Attachment A

Aerial image of 232 Old Forest Hill Road from iView illustrating the portion of the existing fence on private property subject to the exemption request



NOTES:

Blue Line – indicates the approximate length and location of the existing fence

Red Line – indicates the portion of the existing fence (on the private portion of the property), which contravenes TMC Chapter 447-1.2(C)(1) - Open-Fence Construction Required

Attachment B

Photograph taken of the existing fence from the end of the driveway at 228 Old Forest Hill Road



NOTES:

The hedge and first panel of the existing fence are located on the City owned portion of the property (referral made to Transportation Services for a potential sightline violation)

Attachment C

Photograph taken of the existing fence from 228 Old Forest Hill Road illustrating the section of the fence that contravenes TMC Chapter 447 – Open-Fence Construction Required



NOTES:

Orange measuring tape – marker to indicate where the City owned portion of the property approximately ends and the private portion begins

Blue Outline – indicates the approximate section of the fence which is on the City owned portion of the property

Red Outline – indicates the approximate section of the fence (which is on the private portion of the property) that contravenes TMC Chapter 447

Attachment D

Photograph taken of the existing fence from the rear yard of 232 Old Forest Hill Road



NOTES:

Panels 4 through 7 do not require open-fence construction and comply with the provisions of TMC Chapter 447

Attachment E

Photograph provided by the property owner illustrating the traffic on Old Forest Hill Road



Attachment F

Photographs provided by the property owner illustrating other properties in the neighbourhood located on corner lots with similar fences

