

Application for Fence Exemption – 312 Morrish Road

Date: December 16, 2022

To: Scarborough Community Council

From: Manager Municipal Licensing & Standards, East District

Wards: Ward 25 – Scarborough Rouge Park

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 consider an application by the owner(s) of 312 Morrish Road to maintain a fence in the front and rear yards on the north side of the property. Currently there is a partially built fence constructed using materials that are not usually intended for use in permanent fencing. Namely; skids being used for a permanent fence. As specified in the Toronto Municipal Code, Chapter 447-1.2 A (5) Restrictions on fences.

A Notice of Violation was issued on Oct 18, 2022.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the Scarborough Community Council:

1. Refuse to grant the application for an exemption permit, by the owner(s) of 312 Morrish Road, to allow them to maintain the wood fence made out of used skids, which does not comply with the Toronto Municipal Code, Chapter 447, Fences, specifically section 447-1.2 A (5) No person shall erect, own or maintain, or cause or permit the erection or maintenance of any fence that uses materials not usually intended for use in permanent fencing, unless specifically permitted by this chapter or another by-law.

OR

2. Grant the application for an exemption permit, by the owner(s) of 312 Morrish Road to allow them to maintain the wood fence made out of used skids. Direct and require that the existing fence be maintained in good repair without alteration. Direct and require that at such time as a replacement of the fence is required that such installation will comply with Municipal Code Chapter 447, Fences or its successor by-law.

FINANCIAL IMPACT

There is no financial impact anticipated in this report.

DECISION HISTORY

As required by Section 447-1.5(B)(1), 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.

COMMENTS

The proposed fence violates Toronto Municipal Code, Chapter 447-1.2 A (5) Restrictions on fences.

GENERAL LOCATION	SPECIFIC LOCATION	CONSTRUCTION & DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
Yards	North Front Yard North Rear Yard	Current Fence is constructed of Used Pallets/Skids	447-1.2 A (5) Restrictions on fences

CONTACT

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SIGNATURE

Terry Karabassis
Manager, Municipal Licensing and Standards, East District

ATTACHMENTS

Attachment 1: iView Map of Property – 312 Morrish Road

Attachment 2: Photo of fence – 312 Morrish Road (Taken by MLS Officer Mike Worth at Time of Inspection) Front Fence (09/2022)

Attachment 3: 2 Photos of Current Rear Fence

Attachment 4: Proposed Location of Fence (Submitted by Owner)

Attachment 5: 2 Photos of Front Fence Information (Submitted by Owner)

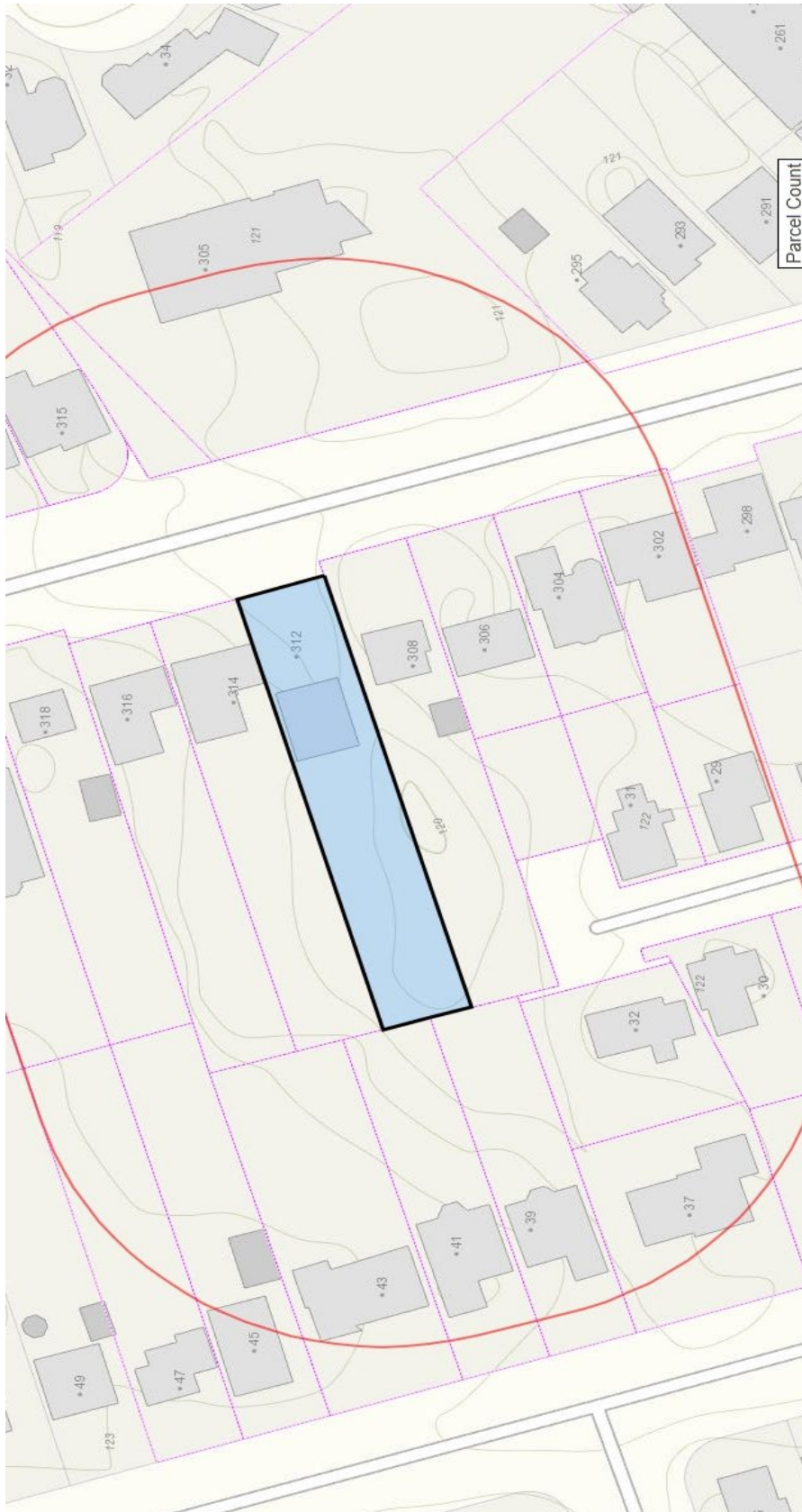
Attachment 6: 2 Photos of Examples of Proposed Fence (Submitted by Owner)

Attachment 7: 2 Photos of Fence (Submitted by Owner)

Attachment 8: 2 Photos of Fence (Submitted by Owner)

Attachment 9: Written Submission from Owner

Attachment 1: IView Map of Property



312 Morrish Road

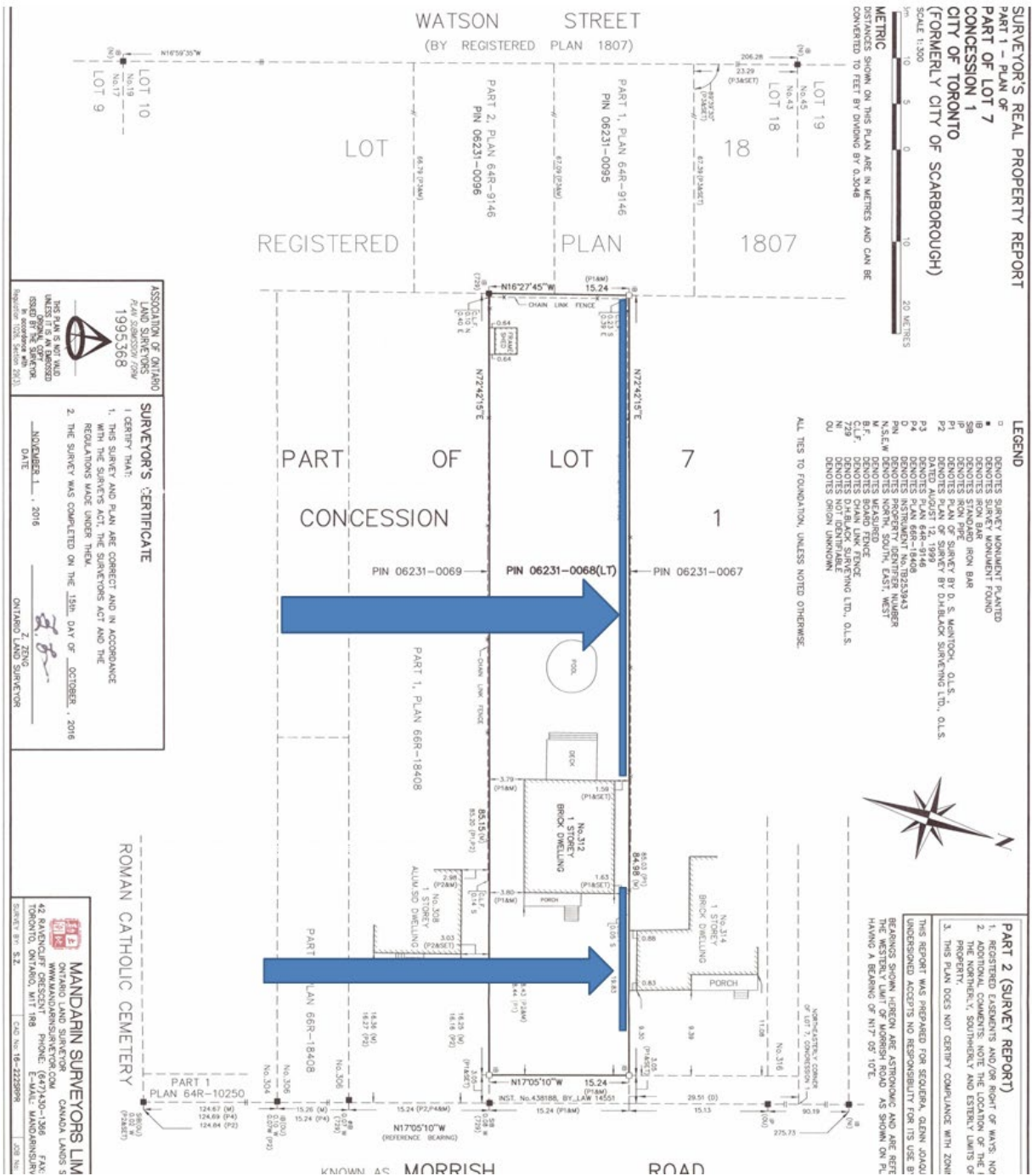
Attachment 2: Photo of fence – 312 Morrish Road (Taken by MLS Officer Mike Worth at Time of Inspection) Front Fence (09/2022)



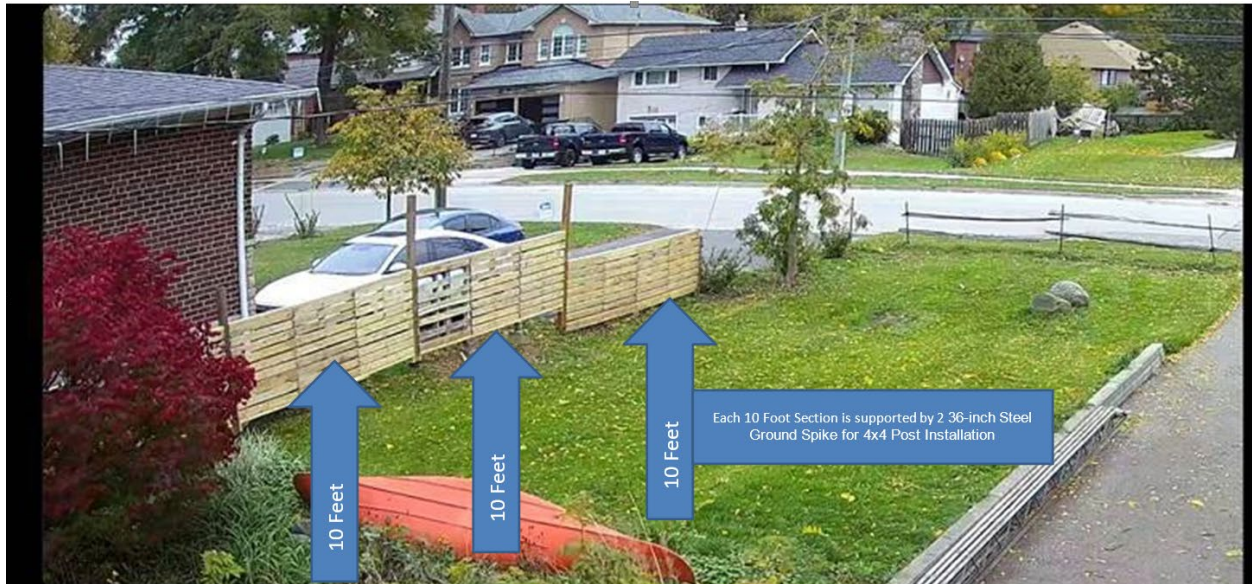
Attachment 3: 2 Photos of Current Rear Fence



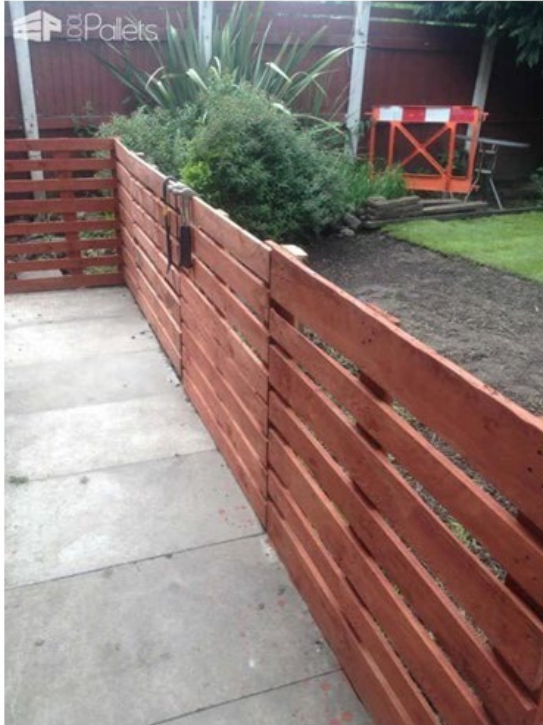
312 Morrish Road



Attachment 5: 2 Photos of Front Fence Information (Submitted be Owner)



Attachment 6: 2 Photos of Examples of Proposed Fence (Submitted by Owner)



Attachment 7: 2 Photos of Fence (Submitted by Owner)



Wood frame made from 2 x 4 wood and then flat wood attached to complete section

Attachment 8: 2 Photos of Fence (Submitted by Owner)



Attachment 9: Written Submission from Owner

Chapter 447, Article 1, Section 1.2A (5) "No person shall erect, own or maintain, or cause or permit the erection or maintenance of any fence that used materials not usually intended for use in permanent fencing, unless specifically permitted by this chapter or another bylaw". Additionally, we reviewed the remainder of the Bylaw focusing on what would constitute a prohibited fence pursuant to sections 1.2(A)(1)-(4), including that a fence is not made of barbed or chicken wire, or sharp material, nor of sheet metal or corrugated metal panels.

In compliance with Chapter 447, the fence we have erected adheres to the criteria highlighted above and detailed in sections 1.2(A)(1)-(5) in that it is not made of any of the prohibited materials, and instead is made of wood material. Please see attached Schedule A for a picture of the wooden fence located on the property at 312 Morrish Road. As you will note, the wood used on the fence was recycled from wooden skids and in no way infringes the By-law. Contrary to the Notice issued by Mr. Worth who himself inserted the words "Namely, skids being used for a permanent fence", the By-law itself does not contain this additional verbiage and makes no reference to wood recycled from skids into a new purpose, as a prohibited material for a fence. In fact, wood, and various types of wood materials, are likely one of the most commonly used materials for fences in the Toronto area. The subjective interpretation and extrapolation of this provision in the by-law by Mr. Worth is beyond the intended meaning and we argue beyond the scope of his authority as an Enforcement Officer. The By-law is written with prescribed language and is not open to individualized and subjective interpretations.

Additionally, we would have expected that the use of the wooden skids as something to be commended and not penalized given the ingenious repurposing of this wood material and creating a new, viable and environmentally- friendly use for it. As you are aware, there are heightened concerns regarding the climate, sustainability and environmental issues that are being tackled at all levels of governments, various organizations and individuals alike. Our fence not only complies with the By-law but also aligns with the City's own environmental efforts including recycling and green programs, wherein the municipal government has implemented "innovative policies and programs" designed to "inspire the community to address climate change and make Toronto one of the most environmentally sustainable cities in the world."

We believe we have adequately demonstrated that the fence erected at 312 Morrish Road, is fully compliant with the By-law and further its repurposing of wood material embraces the City's goal of inspiring its constituents to be environmentally responsible. Based on the above, we respectfully request that the Notice of Violation be rescinded.