

335 Burnett Ave - Application for Fence Exemption

Date: March 21, 2024

To: North York Community Council

From: District Manager, Municipal Licensing and Standards, East District

Wards: Ward 18, Willowdale

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 by the owner(s) of 335 Burnett Ave to permit a proposed exemption to various section of the pool enclosure section of the Fence By law 447.

This is contrary to the Toronto Municipal Code, Chapter 447-1.3

RECOMMENDATIONS

The District Manager, Municipal Licensing and Standards, East District recommends that:

1. North York Community Council refuse to grant the application for an exemption permit, by the owner(s) of 335 Burnett Ave to permit a swimming pool enclosure in the rear yard of the property for an enclosure that fails to comply with the provisions of Toronto Municipal Code, Chapter 447, Fences and to direct staff to issue a notice to the property owner to bring the swimming pool enclosure into compliance.

Financial Impact

There is no financial impact anticipated 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 North York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that North York Community Council will consider the application.

Comments

The existing fence violates Toronto Municipal Code, Chapter 447 – Fences requirements:

GENERAL LOCATION	SPECIFIC LOCATION	CONSTRUCTION & DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
Rear Yard	Rear yard east wooden fence panels, one panel south and other north of the chain link panel.	Fence minimum height must be 1.2 meters. Wooden lattice is not an approved material to be considered part of the swimming pool enclosure fence and fence height.	Chapter 447 Section 447-1.3D.(1) The minimum height of a swimming pool enclosure above the highest outside grade within one metre of the enclosure shall comply with the following Table # 2 when measured at any point along the enclosure.
Rear Yard	Rear yard east wooden fence panel north of the chain link panel.	Height of swimming pool enclosure fence exceeds the height permitted by the Bylaw, namely 447-1.2B, Table 1. Namely; Rear yard east wooden fence panel north of the chain link panel.	Chapter 447 Section 447-1.2B Height of swimming pool enclosure fence exceeds the height permitted by the Bylaw

Rear Yard	Rear yard east fence panel, northwest fence panel and north fence panel just east of gate.	A chain-link fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner, cannot be attached with wooden boards as posts and must be well secured at the bottom of the fence.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure and gate made of chain-link material is not constructed in a good workmanlike manner
Rear Yard	Rear yard east chain link fence.	As specified in Table 3, the spacing of posts shall be to a maximum of 2.4 metres. Spacing greater than 2.4 meters and not approved material of posts.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure made of chain link material is constructed with posts spaced in excess of 2.4 metres.
Rear Yard	Rear yard east chain link fence.	As specified in Table 3, the spacing of posts shall be to a maximum of 2.4 metres. Spacing greater than 2.4 meters and not approved material of posts.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure made of chain link material is constructed with posts spaced in excess of 2.4 metres.
Rear Yard	Rear yard east chain link fence.	As specified in Table 3, the gate and end (terminal) posts shall be embedded in a minimum depth of 760 millimetres.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure made of chain-link material has posts embedded less than 760 millimetres below grade.
Rear Yard	Rear yard east fence panel, northwest fence panel and north fence panel just east of gate.	As specified in Table 3, the bottom wire shall be threaded through the mesh and looped and fastened to each post.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure made of chain-link material is constructed with bottom wire not threaded through the mesh and/or securely looped and fastened to each post.

Rear Yard	Rear yard east chain link fence.	As specified in Table 3, the diameter of the top rail and gate frame shall be a minimum standard of 32 millimetres. No top rail at all.	Chapter 447 Section 447-1.3E.(2).(a) Swimming pool enclosure made of chain-link material is constructed with top rail or gate frame diameter less than 32 millimetres.
Rear Yard	Rear yard west fence of 333 Burnett Ave, North York, ON within 1 meter of 335 Burnett ave, North York rear yard east fence swimming pool enclosure. As well as 56A Wentworth Ave, North York, ON rear yard north wooden fence that is shared with 335 Burnett ave, North York, OM.	A wood fence used in a swimming pool enclosure shall be constructed with vertical boards spaced at least 38 millimetres apart where horizontal rails are spaced less than 1.2 metres apart.	Chapter 447 Section 447-1.3E.(2).(b).[1].(b) Wood fence used in a swimming pool enclosure is constructed having spaces between the boards in excess of 38 millimetres where the horizontal rails are spaced less than 1.2 metres apart.
Rear Yard	Rear yard east wooden fence lattice panels. As well as 333 Burnett ave, North York, ON rear yard west wooden fence.	A wood fence used in a swimming pool enclosure shall be constructed with vertical boards shall be at least 19 millimetre by 89 millimetre lumber. Wooden lattice panels do not meet above dimensions.	Chapter 447 Section 447-1.3E.(2).(b).[1].(a) Wood fence used in a swimming pool enclosure is constructed with vertical boards with a minimum dimension of less than 19 millimetres by 89 millimetres.
Rear Yard	Rear yard east chain link fence panel.	Chain link fence must have vertical intermediate posts imbedded underground	Chapter 447 Section 447- 1.3E.(2).(a) Table 3 Swimming pool enclosure made of chain-link material is constructed with intermediate vertical posts 48mm in diameter.
Rear Yard	Rear yard enclosure chain link gate.	Chain link gate must be kept locked at all times except when the enclosed area is in use.	Chapter 447 Section 447- 1.3C.(6).(c){1}{2} Every gate in a swimming pool enclosure shall be self-closing and equipped

			with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least 1.5 metres above grade; and [2] Be kept locked at all times except when the enclosed area is in use.
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The property owner(s) seek this exemption for the owners do not want to disturb neighbours by the removal of existing fences. Fences currently providing privacy for subject lot and other neighbours.

Municipal Licensing and Standards recommends North York Community Council refuse to grant the application for an exemption by the property owner of 335 Burnett Ave. Should North York Community Council grant the application for a fence exemption, the following recommendation may be adopted, in accordance with Municipal Code Chapter 447:

1. Grant the application for a fence exemption by the property owner 335 Burnett Ave, thereby allowing the proposed pool enclosure to be constructed with a self-closing mechanism on the rear door leading directly into the pool enclosure. At such time as replacement of the pool enclosure is required that such installation will comply with Municipal Code Chapter 447, Fences or its successor by-law.

CONTACT

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SIGNATURE

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List the attachments.

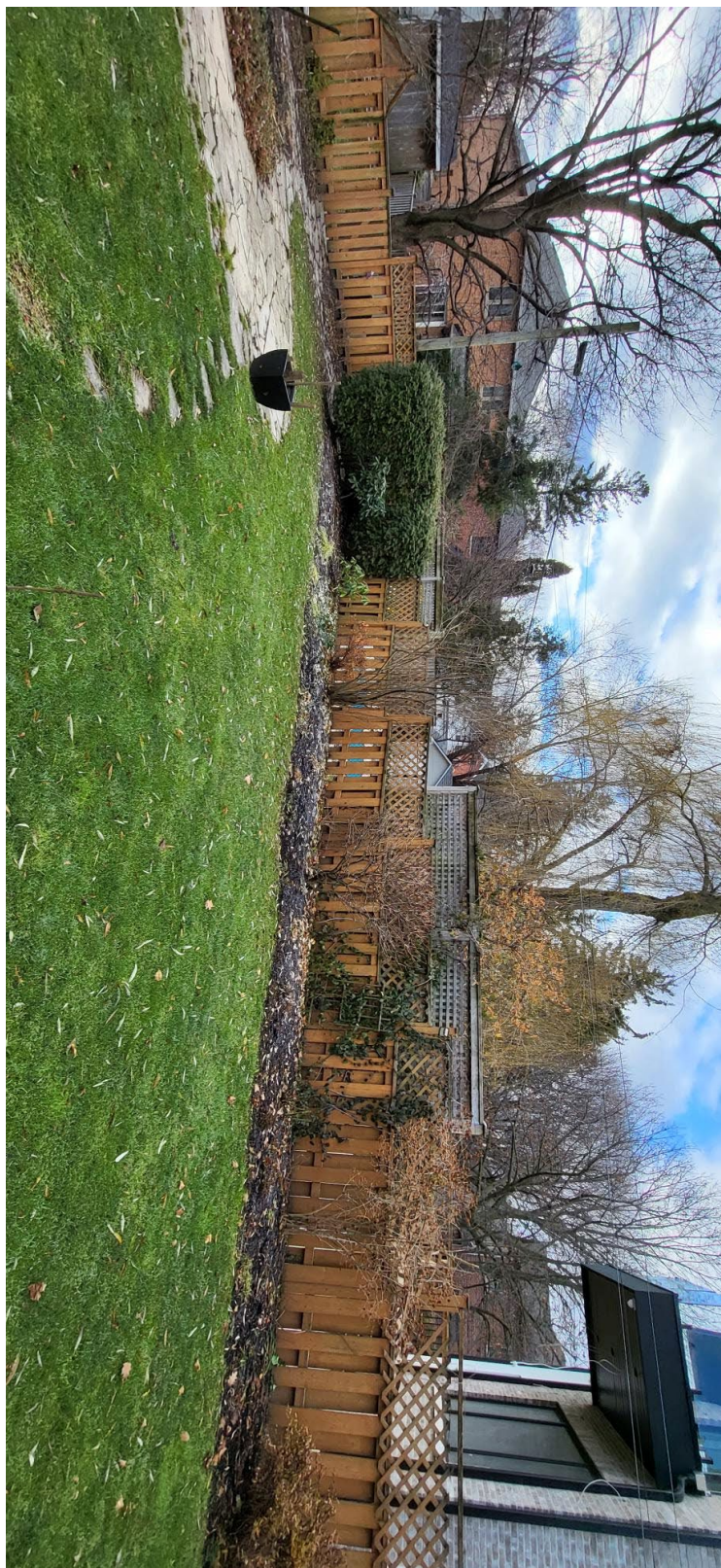
- Attachment 1: iView Map of Property – 335 Burnett Ave - City of Toronto.
- Attachment 2: Officers Photo – West side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave
- Attachment 3: Officers Photo – Closer view of West side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave
- Attachment 4: Officers Photo – South side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave
- Attachment 5: Officers Photo – East side of the property viewing the inside fence of the pool enclosure of 335 Burnett Ave
- Attachment 6: Officers Photo – East side of the property viewing the inside fence of the pool enclosure of 335 Burnett Ave
- Attachment 7: Officers Photo – North side of the property viewing the inside fence gate of the pool enclosure of 335 Burnett Ave

ATTACHMENTS

Attachment 1: iView Map of Property – 335 Burnett Ave



Attachment 2: Officers Photo – West side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave



Attachment 3: Officers Photo – Closer view of West side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave



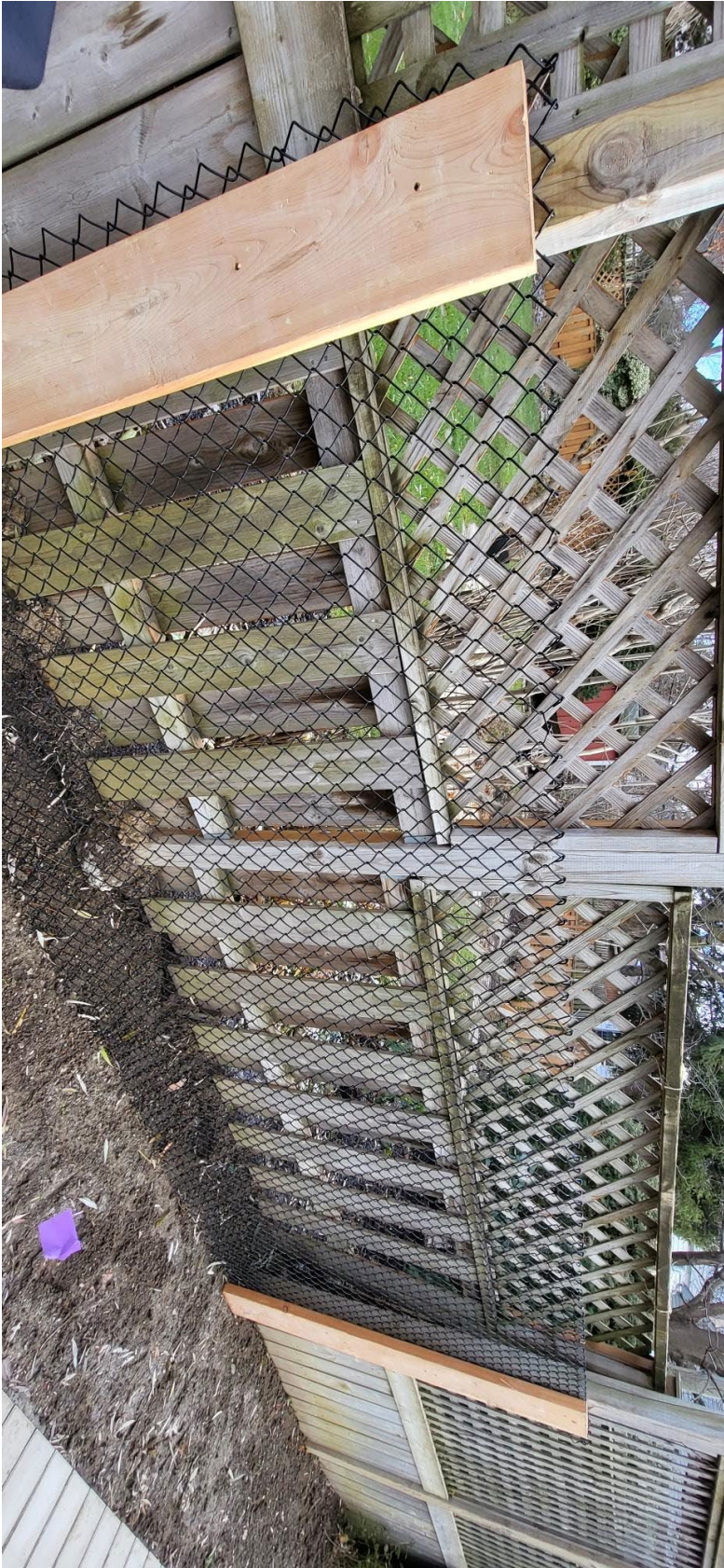
Attachment 4: Officers Photo – South side of the neighbours property viewing the outside of the pool enclosure of 335 Burnett Ave



Attachment 5: Officers Photo – East side of the property viewing the inside fence of the pool enclosure of 335 Burnett Ave



Attachment 6: Officers Photo – East side of the property viewing the inside fence of the pool enclosure of 335 Burnett Ave



Attachment 7: Officers Photo – North side of the property viewing the inside fence gate of the pool enclosure of 335 Burnett Ave

