

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447 – 499 Briar Hill Avenue

Date: February 19, 2025

To: North York Community Council

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

Wards: Ward 08 – 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 advise Community Council concerning an application by the property owner of 499 Briar Hill Avenue for a site-specific Fence Exemption, pursuant to Section 447-1.5(B) of Toronto Municipal Code, Chapter 447 – Fences. The property owner is seeking Community Council's permission to maintain the follow:

1. A gate on the second story deck in the rear of the property that will not comply with the standards stipulated by Section 447-1.3(D)(1). This gate is made from tempered glass and measured at 1.06 m in height.
2. An enclosure from the walkout basement that will not comply with the standards stipulated by section 447-1.3 (E) (1) (b). This enclosure is not located more than one metre away to any external condition that may facilitate climbing.

A Notice of Violation was issued to the property owners on December 6, 2024. The property owner has implemented alternative safety measures, including an enclosure constructed from marine-grade mesh vinyl material. This enclosure, measuring 1.2 meters in height, surrounds the east and south sides of the pool. Additionally, a pool cover, made from heavy-duty vinyl composite, has been installed, covering an area of 26.7 square meters. However, both measures do not comply with the requirements outlined in the Toronto Municipal Code, Chapter 447 – Fences.

RECOMMENDATIONS

The District Manager, Municipal Licensing and Standards, West District recommends that North York Community Council:

1. Refuse the application for a fence exemption for the property owner of 499 Briar Hill Avenue, as the proposed enclosure would fail to comply with the provisions of Toronto Municipal Code, Chapter 447 Fences. Direct that a second notice of

violation to be issued to direct the property owner to bring the enclosure into compliance.

FINANCIAL IMPACT

There is no anticipated Financial Impact from this report.

DECISION HISTORY

The property owner submitted a fence exemption application, in writing, on December 20, 2024, regarding a fence exemption application for an existing pool fence enclosure in accordance with Section 447-1.5(B) of Toronto Municipal Code, Chapter 447-Fences.

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

The subject property, 499 Briar Hill Avenue, and is in Ward 8. The property is a detached residential home.

See the table below for the dimensions of the fence to be maintained.

GENERAL LOCATION	SPECIFIC LOCATION	PROPOSED CONSTRUCTION & DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
Rear Yard	Rear yard second story deck.	Height of the enclosure gate does not comply with the Chapter. Namely, the existing gate is 1.06m.	Chapter 447-1.3D (1) A swimming pool enclosure including any gate shall comply with the minimum height requirement at 1.2m.
Rear Yard	Rear yard enclosure from walkout basement.	Enclosure does not comply with the chapter. Namely, the enclosure is not located more than one meter away to any external condition that may facilitate climbing.	Chapter 447-1.3 E (1) (b) A swimming pool enclosure including any gate shall be no closer than one meter to any external condition that may facilitate climbing.

COMMENTS

On December 20, 2024, property owner at 499 Briar Hill Avenue submitted an application for a fence exemption.

The applicant is requesting approval to maintain a gate, forming part of the pool enclosure, located on the second-story deck at a height of 1.06 meters. Additionally, the applicant seeks permission to maintain a pool enclosure at the walkout of the basement, positioned within one meter of a condition that may facilitate climbing. The exemption is being sought based on the alternative measures the applicant has implemented, which do not comply with the requirements of the bylaw.

*Alternate recommendation is to grant the application for a fence exemption permit (with or without conditions) to the property owners of 499 Briar Hill Avenue, thereby allowing the current enclosure to be maintained. Direct and require that the existing enclosure be maintained in good repair without alteration. At such time as replacement of the 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

Joe Magalhaes
District Manager

ATTACHMENTS

Attachment A – GIS MAP
Attachment B – Photos taken by Supervisor.
Attachment C – Site Plan

Attachment A

GIS MAP



Attachment B

Photo - Rear Yard Second Story Deck Gate



Photo – Rear Yard Enclosure from Walkout Basement.



Photo – Rear Yard Second Story Deck and Basement Walkout



Attachment C Site Plan

