

127 Kilbarry Rd - Application for Fence Exemption

Date: April 10, 2025
To: Toronto and East York Community Council
From: South District Manager, Municipal Licensing and Standards
Ward: 12 – Toronto - St. Paul's

SUMMARY

The Applicant for 127 Kilbarry Rd. has requested Toronto and East York Community Council to exempt their property from the following by-law requirements: City of Toronto Municipal Code Chapter 447-1.3C(1), 1.3C(3), 1.3C(6)(c)[1], and 1.3E(2)(b)[1](d)(b)

447-1.3. Swimming pool enclosures.

- C. *Access protection.*
- (1) *Subject to subsection C(2), a swimming pool enclosure shall be designed and constructed so that all entrances to any buildings are located outside the enclosed area.*
 - (3) *If the wall of any building, or any portion of it, forms part of the pool enclosure, there shall be no access to the enclosed pool area through the wall.*
 - (6) *Every gate in a swimming pool enclosure shall:*
 - (c) *If it is a single gate:*
 - [1] *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*
- E. *Construction standards.*
- (2) *Every fence and gate used in a swimming pool enclosure shall be constructed to the following standards:*
 - (b) *A wood fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows:*
 - [1] *Vertical boards shall be:*
 - [d] *Attached to horizontal rails that are:*
 - b. *Supported on substantial posts that are at least 89mm by 89mm, spaced not more than 2.4 meters apart, securely fastened to the ground and structurally sound.*

The Applicant for 127 Kilbarry Rd. is requesting an exemption for their;

- Existing pool enclosure fence constructed of glass interior fence (4th fence) and wood board on board perimeter fence
- Enclosure violation specific deficiencies:
- All entrances to any building must be located outside the enclosed area.
- No access to the enclosed area through a wall of a building.
- A self-closing and self-latching gate lock to be constructed at 1.2 metres above grade.
- Wood fence shall be constructed in a good workmanlike manner and structurally sound.

Municipal Licensing and Standards Division has inspected the subject property and noted the violations contrary to City of Toronto Municipal Code Chapter 447.

RECOMMENDATIONS

The District Manager, Municipal Licensing and Standards, South District recommends that Toronto and East York Community Council pursuant to City of Toronto Municipal Code Fences Chapter 447-1.5 B.

1. Refuse to grant an exemption to Chapter 447, Fences, to the property owner of 127 Kilbarry Rd., for the existing fence described in the Summary of this report.

FINANCIAL IMPACT

There is no financial impact to the City of Toronto.

DECISION HISTORY

There are no previous Fence Exemption decisions for the property, 127 Kilbarry Rd.

COMMENTS

Municipal Licensing and Standards Inspection Results:

The subject property is located in Ward 12 Toronto - St. Paul's. The existing fence violates the City of Toronto Municipal Code, Chapter 447 – Fences pool enclosure requirements, as seen in the following table:

GENERAL LOCATION	SPECIFIC LOCATION	CONSTRUCTION and DEFICIENCY	BY-LAW SECTION and REQUIREMENT*
Rear Yard	South side of the property	Access to pool enclosed area through an entrance of a building is not protected by a pool enclosure.	Chapter 447 Section 447-1.3C(1): Pool enclosure shall be constructed so that all entrances to any building are located outside the enclosed area.
		Access to pool enclosure area through a portion of a wall is not protected by a pool enclosure.	Chapter 447 Section 1.3C(3): If a wall of any building or any part of it, forms part of the pool enclosure, there shall be no access to the enclosed pool area through the wall.
Side Yard	West side of the property	Gate is not self-closing.	Chapter 447 Section 447-1.3C(6)(c)[1]: Every gate in a swimming pool enclosure shall be self-closing and equipped with a lockable, self-latching device located in the inside near the top of the gate or on the outside at least 1.5 metres above grade.
		Wood fence that forms part of the pool enclosure is not structurally sound.	Chapter 447 Section 447-1.3E(2)(b)[1](d)(b): A wood fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner, securely fastened to the ground, and structurally sound.

City of Toronto Municipal Code Chapter 447 Fences by-law sets out the requirements for Pool Fence Enclosures that must provide adequate barriers to ensure safety for all residents and users, including children and pets. Specifically, Chapter 447 sets out requirements to prevent access to hazardous areas and to withstand environmental pressures, such as wind and snow, to prevent hazards associated with fence failure, emphasizing safety, durability, aesthetics, and compliance with regulations.

The intent behind pool enclosure regulations is to prevent non-swimmers, including young children from gaining unintended access to unsupervised pool areas [\[quoted form 2008 Staff Report\]](#)

May 26 2008 Toronto City Council (LS13.3)

City Council on May 26 and 27, 2008, adopted the following motions:

1. The current provisions in Toronto Municipal Code Chapter 447, Fences with respect to four-sided pool enclosures not be amended to include any alternative safety devices.
2. Individuals be able to request an exemption from the four-sided pool enclosure provision, when it would not be practicable, because of a disability, as defined in the Ontarians with Disabilities Act, of an occupant of the building, to provide access in accordance with the requirements of the by-law.
3. When an exemption is granted, conditions considered appropriate by City Council to prevent a young child gaining access to the pool area unsupervised, be imposed.
4. When the need for an exemption ceases to exist, the pool enclosure be reinstated to comply fully with the provisions of the Chapter.

CONTACT

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SIGNATURE



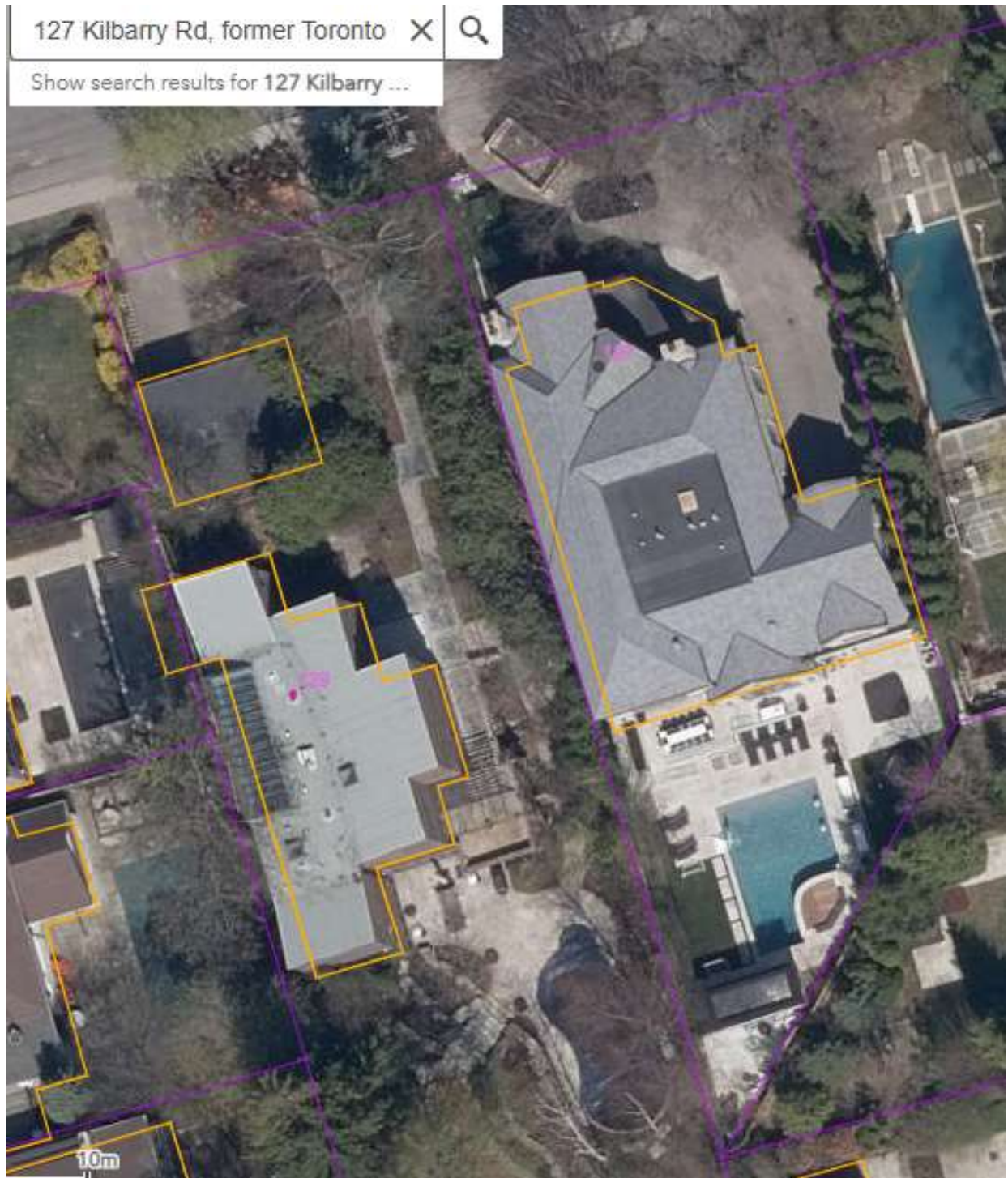
Cameron Culver
South District Manager, Municipal Licensing and Standards

ATTACHMENTS

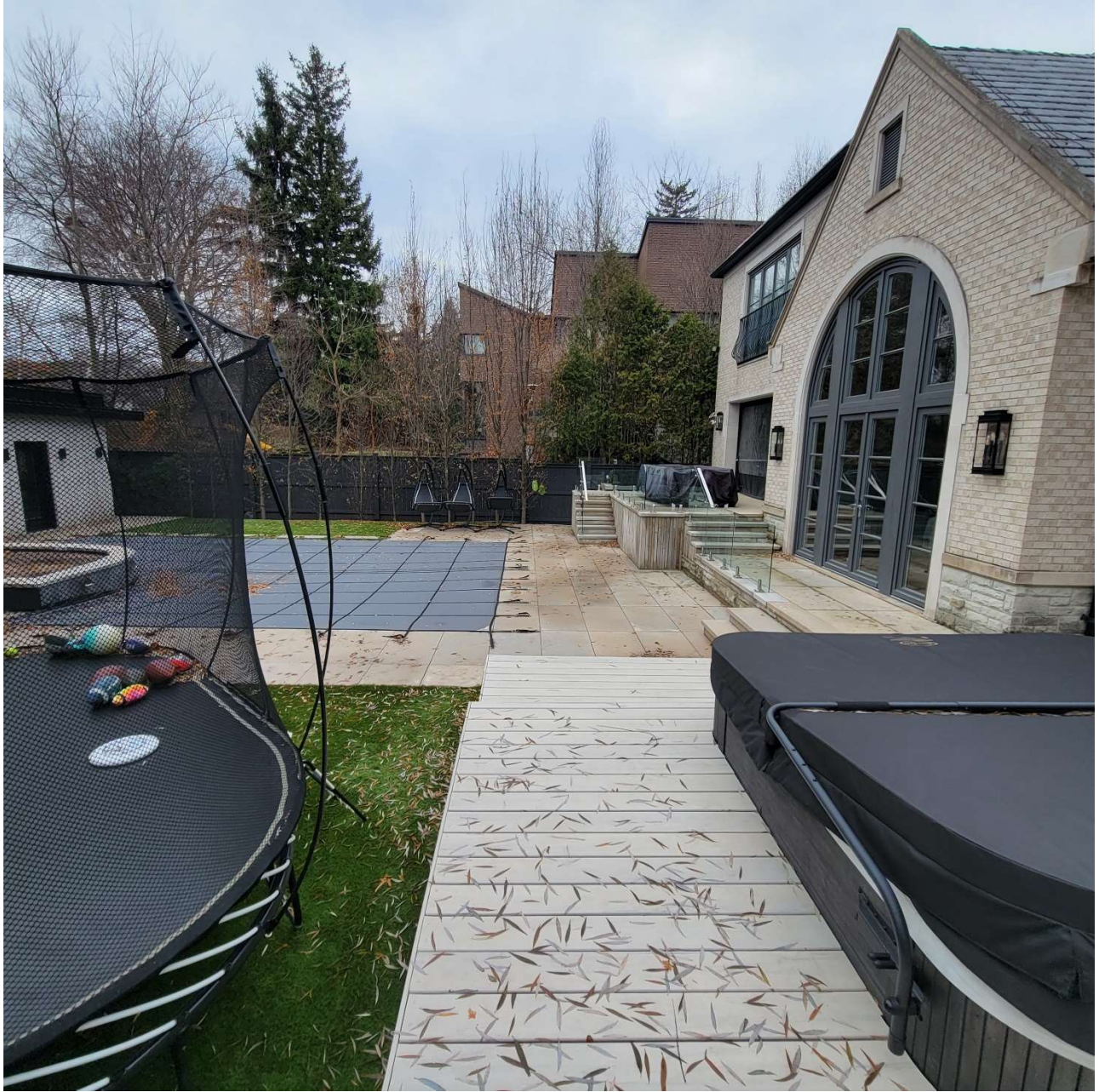
- Attachment 1: Geospatial Information System (GIS) – 127 Kilbarry Rd. – City of Toronto.
- Attachment 2: iView Map, with satellite image, of Property – 127 Kilbarry Rd. – City of Toronto.
- Attachment 3: Officers photo of rear yard from east side of the rear yard.
- Attachment 4: Officers photo of swimming pool.
- Attachment 5: Officers photo of building from pool area, no enclosure between pool and opening on the building.
- Attachment 6: Officers photo of building from pool area, no enclosure between pool and entrances to the building.
- Attachment 7: Officers photo of building from pool area, no enclosure between pool and entrances to the building.
- Attachment 8: Officers photo of existing glass fence, which does not fully enclose the pool area, and is only 92cm in height. Minimum height for pool enclosure is 1.2m.
- Attachment 9: Officers photo of wooden perimeter pool enclosure fence on the east side of property, measured at 1.72m.
- Attachment 10: Officers photo of wooden perimeter pool enclosure fence on the east side of property, measured at 1.72m.
- Attachment 11: Officers photo of wooden gate, that forms part of the pool enclosure, located on the north portion of the west side yard of property, Gate is not self-closing.
- Attachment 12: Officers photo of wooden perimeter pool enclosure fence located in the west side yard. Fence is not maintained in a plumb or structurally sound condition.
- Attachment 13: Officers photo of wooden perimeter pool enclosure fence located in the west side yard. Fence is not maintained in a plumb or structurally sound condition.



Attachment 1: Geospatial Information System (GIS) – 127 Kilbarry Rd. – City of Toronto.



Attachment 2: iView Map, with satellite image, of Property – 127 Kilbarry Rd. – City of Toronto.



Attachment 3: Photograph depicting rear yard facing back of house



Attachment 4: Photograph depicting swimming pool



Attachment 5: Photograph depicting no self closing/self latching gate at top of stairs separating pool enclosure from direct access to the dwelling



Attachment 6: Photograph depicting no self closing/self latching gate at bottom of stairs separating pool enclosure from direct access to the dwelling



Attachment 7: Photograph depicting no self closing/self latching gate at bottom of stairs separating pool enclosure from direct access to the dwelling AND no self closing/self latching gate to restrict access from garage entry



Attachment 8: Photograph depicting existing glass fence, of 0.92 metres in height. Minimum height for pool enclosure is 1.2m.



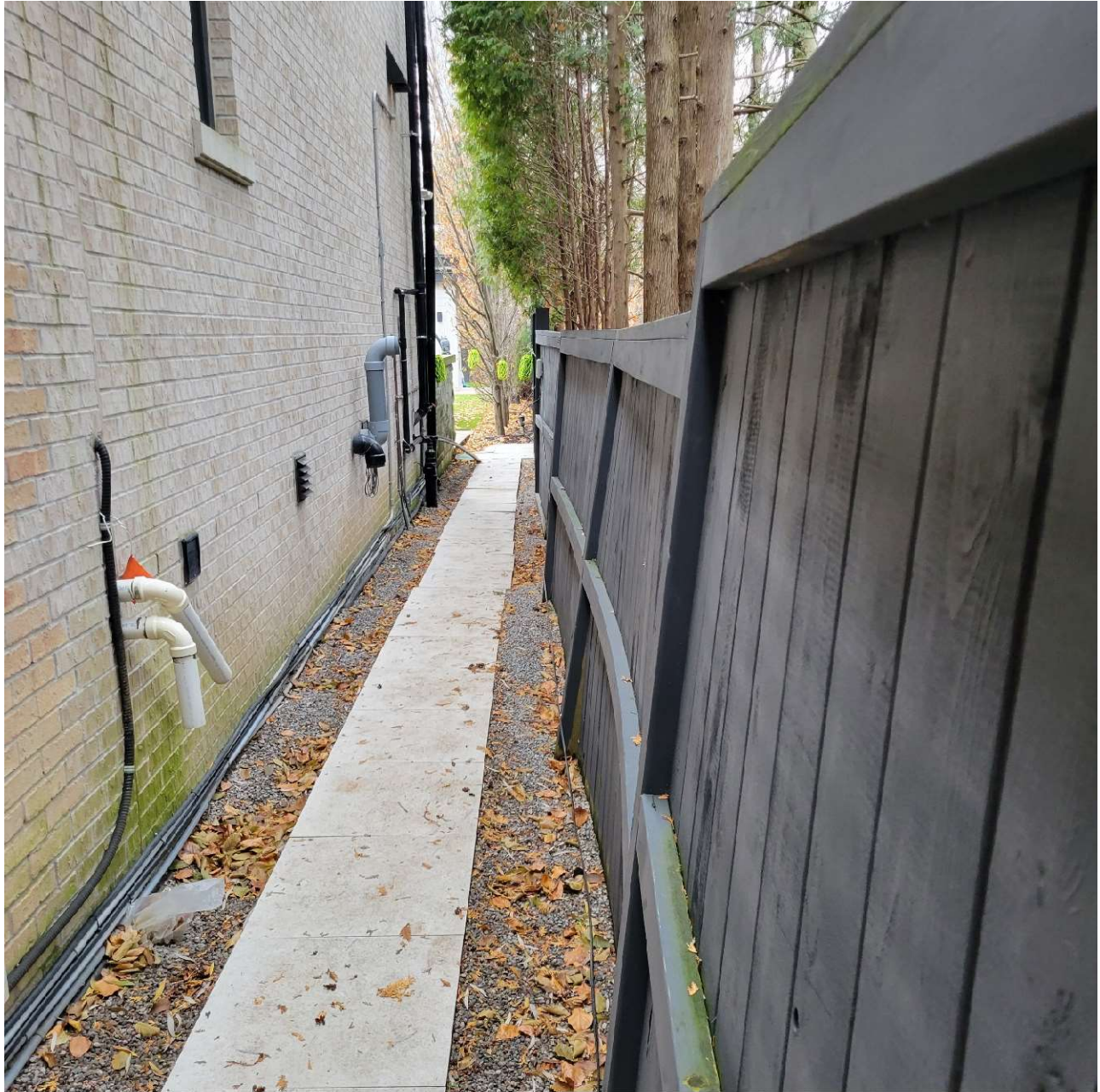
Attachment 9: Photograph depicting wooden perimeter pool enclosure fence on the east side of property, measured at 1.72m.



Attachment 10: Officers photo of wooden perimeter pool enclosure fence on the east side of property, measured at 1.72m.



Attachment 11: Photograph depicting wooden gate, that forms part of the pool enclosure, located at the North West Side yard of property, gate is not self-closing



Attachment 12: Photograph depicting wooden perimeter pool enclosure fence located in the west side yard. Fence is not maintained in a plumb or structurally sound condition.



Attachment 13: Photograph depicting wooden perimeter pool enclosure fence located along west side yard. Fence is not maintained in a plumb or structurally sound condition.