



Staff Report for Council Meeting

Date of Meeting: July 8, 2020

Report Number: SRCS.20.18

Department: Community Services
Division: Community Standards

Subject: **SRCS-20.18 - Proposed Fence By-law
Amendment - 19 Ava Crescent**

Purpose:

To respond to an application from the owner of 19 Ava Crescent for a site-specific amendment to the Fence By-law No. 140-90.

Recommendations:

- a) That Staff Report SRCS.20.18 be received.
- b) That the request to amend the Fence By-law No. 140-90 (Chapter 973 of the Municipal Code) to permit a 6.0 metre (20 foot) privacy screen in the side yard of 19 Ava Crescent via a site-specific exemption be denied.

Contact Person:

Chris Goode, Community Standards Policy Officer, extension 2416

Tracey Steele, Director of Community Standards, extension 2476

Report Approval:

Submitted by: Darlene Joslin, Commissioner of Community Services

Approved by: Mary-Anne Dempster, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the reports approval are attached.

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Background:

The Fence By-law No. 140-90, as amended (Municipal Code Chapter 973) sets out maximum heights, design criteria, and maintenance standards for pool enclosures, fences, and privacy screens. The purpose of the Fence By-law is to set standards that create a framework for balancing the competing needs of neighboring residents, providing a compromise between aesthetics and functionality.

In late 2019, the owner of 19 Ava Crescent (the “Owner”) erected a privacy screen, made of steel chain link and decorated with artificial vines, in the side yard of 19 Ava Crescent. The City subsequently received a complaint about the privacy screen.

The by-law inspection of 19 Ava Crescent confirmed that the privacy screen in question does not comply with the Fence By-law regulations. The screen is approximately 6.0 metres in height, which exceeds the 2.4 metre privacy screen height limit by approximately 3.6 metres. Additionally, the screen does not comply with the minimum side yard setback of 1.2 metres as it is setback from the side lot line by only 0.5 metres. Pictures of the privacy screen are included in Attachment 1.

As a result of the inspection, a notice was issued to the Owner, requiring that the contravention be remedied. Rather than remove the screen, the Owner has submitted an application requesting that the Fence By-law be amended to provide a site-specific exemption to permit the privacy screen to remain in place.

Discussion

The privacy screen is mounted on a rebar enforced concrete base situated 0.5 metres from the property line. The owner of 19 Ava Crescent was told by their contractor that this method of construction and installation exceeds standard requirements for support of a privacy screen of this height and size.

In the Fence By-law Exemption Application submitted on May 5, 2020, the Owner requests that Council grant relief from the Fence By-law in order to maintain the privacy screen and protect the Owner’s legal right to privacy. The Exemption Application indicates that the privacy screen was erected to protect the peaceful and quiet enjoyment of the family’s home and is specifically intended to provide protection by blocking views to a second storey washroom window.

Since 2010, the City has received eight requests for site-specific amendments to the Fence By-law. Council approved only three of these requests with the most significant exemption granted being in 2010 for a 2.9 metre high arbor structure over a gate. The subject request for a 6.0 metre privacy screen is more than double the height of any other site-specific amendment currently within the Fence By-law. Additionally, and for reference purposes, the subject privacy screen is almost double the permissible height of an accessory structure permitted by zoning applicable to the property.

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The approval of an exemption in this instance would set an undesirable precedent both in terms of excessive height, and the idea that it is acceptable to request permission to legitimize a non-compliant structure after it is constructed in contravention of a by-law. Additionally, there is a viable resolution to the issues identified by the owner of 19 Ava Crescent through the installation and use of blinds or window tinting within the second storey window.

Financial/Staffing/Other Implications:

There are no financial or staffing implications associated with this report.

Relationship to the Strategic Plan:

The recommendation of this report is consistent with the Strategic Plan action item of maintaining a clean and safe community through education, community involvement and enforcement.

Conclusion:

The Richmond Hill Fence By-law aims to provide a balance between the competing needs of neighboring residents via the establishment of standards for fence height and design.

The owner of 19 Ava Crescent erected a 6.0 metre high privacy screen in contravention of the Fence By-law and has requested that an amendment to the by-law be approved to provide a site-specific exemption for the property. The Owner is requesting the exemption on the basis that the screen is necessary to protect the privacy and security of the property.

Staff are recommending denial of the exemption request on the grounds that approving the requested exemption would set an undesirable precedent both in terms of excessive height, and the idea that it is acceptable to request permission after the structure has been construction in violation. Additionally, there are other options available for facilitating privacy including blinds and window tinting.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Attachment 1 - Privacy Screen Pictures

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Report Approval Details

Document Title:	SRCS.20.18 Fence Amendment Request 19 Ava Cresecent.docx
Attachments:	- Att 1 - 19 Ava Cres. Privacy Screen.pdf
Final Approval Date:	Jun 29, 2020

This report and all of its attachments were approved and signed as outlined below:

Tracey Steele - Jun 26, 2020 - 12:10 PM

Darlene Joslin - Jun 29, 2020 - 10:10 AM

Task assigned to MaryAnne Dempster was completed by delegate Kelvin Kwan

Kelvin Kwan, on behalf of MaryAnne Dempster - Jun 29, 2020 - 11:16 AM