

Application for Fence Exemption- 361 The West Mall

Date: April 04, 2017
To: Etobicoke York Community Council
From: Kim Kilburn, District Manager Municipal Licensing and Standards
Wards: Ward 3 – Etobicoke Centre

SUMMARY

This staff report is in regards to a matter for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to consider an application submitted by the owner of 361 The West Mall to maintain the existing front yard fencing around a refuse storage area, which does not meet all of the requirements specified in City of Toronto Municipal Code, Chapter 447, Fences.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Etobicoke York Community Council give consideration to the exemption application and decide to:

1. Refuse to grant the application for an exemption, by the property owner of 361 The West Mall, for the existing front yard fencing which will when completed exceed the permitted height, contrary to the regulations found in the City of Toronto Municipal Code Chapter 447. Direct that a second un-appealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447, Fences.

or
2. Grant the application for a fence exemption by the property owner of 361 The West Mall, without conditions, thereby allowing the partially completed front yard fencing, to be completed, as proposed. Direct and require that the front yard fencing be maintained in good repair without alteration. Direct and require that at such time as replacement of the front yard fencing is required that such installations will comply with Municipal Code Chapter 447, or its successor by-law.

FINANCIAL IMPACT

There is no financial impact anticipated in this report.

DECISION HISTORY

No previous decision history.

COMMENTS

The subject property is an residential apartment building situated 2 blocks south of Burnhamthorpe Road and one block west of Highway 427 in Ward 3 (Attachment # 1). The apartment building owners are proposing to erect front yard fencing at the west elevation, to provide screening of the refuse storage area as required by the property standards Order issued by The Municipal Licensing and Standards Division. When completed, the proposed enclosure will exceed the permitted height, contrary to Section 447-3B.(1) of Chapter 447 of the Toronto Municipal Code. An application for a fence exemption was filed on October 5, 2016.

The Municipal Licensing and Standards Division became aware of a fence construction on September 14, 2016. An investigation led to a Notice of Violation dated September 15, 2016 being issued which remains outstanding pending the outcome of this exemption request. The property owner ceased construction of the un-authorized fencing/refuse storage enclosure as directed by the Municipal Licensing and Standards Officer in charge.

As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for Etobicoke York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that the Etobicoke York Community Council will consider the application. Municipal Licensing Standards' review of the partially erected front yard fence installation has determined that it will not comply with Toronto Municipal Code, Chapter 447- Fences.

Deficiencies are noted in the chart below.

LOCATION	ORIENTATION	DEFICIENCY	BY-LAW SECTION*
Front Yard/West Elevation	West elevation fences in the front yard next to the driveway entrance to the lot and in front of underground garage entrance	The wooden fences in the front yard around the garbage containment area will measure approximately 2.0 metres in height at their tallest point, when completed, which exceeds the permitted height for front yard fences. Fences in front yard shall not exceed 1.2 metres in height.	Section 447-2B.(1)

The property owner seeks the exemption to erect and maintain the front yard fences as proposed primarily for reasons of enclosing the garbage containment area. The construction of the garbage containment fencing in the front yard, as proposed, will also confirm/afford compliance with the screening of the garbage containment area requirements pursuant to a Property Standards Order issued and dated July 15, 2016 (Attachments # 2, 3 and 4).

The location of the fencing forming the refuse storage area is next to the main drive aisle into this complex, at the mouth of the entrance to the underground garage structure and in the vicinity of a pedestrian walkway just behind the proposed refuse storage area. A referral to Solid Waste Management/Contracted Services was made and the response indicated that the proposed specifications for the refuse storage area would meet with all the solid waste collection requirements. It was recommended that if this fencing proposal is approved, the installation of a convex mirror and proper signage at the entrance of the underground garage structure should also for part of the approval.

We recommend that the fences be installed so as to comply with all provisions of the City of Toronto's Municipal Code, Chapter 447- Fences.

However, should the Committee decide to grant the exemption, such exemption should be subject to the following conditions:

1. The property owner installs signage to the satisfaction of the Municipal Licensing and Standards Division that alerts vehicles and pedestrians at or near the proposed enclosure, and
2. The property owner install convex mirrors at or near the proposed enclosure to the satisfaction of the Municipal Licensing and Standards Division that will provide a clear view to all of oncoming vehicle or pedestrian traffic, and
3. The property owner install a fence/gate at the end of the walkway behind the proposed enclosure (with a self-closing and self-latching device and signage) at

the west elevation to ensure all pedestrians are aware of potential vehicular traffic from the drive aisle and the underground garage entrance/exit.

CONTACT

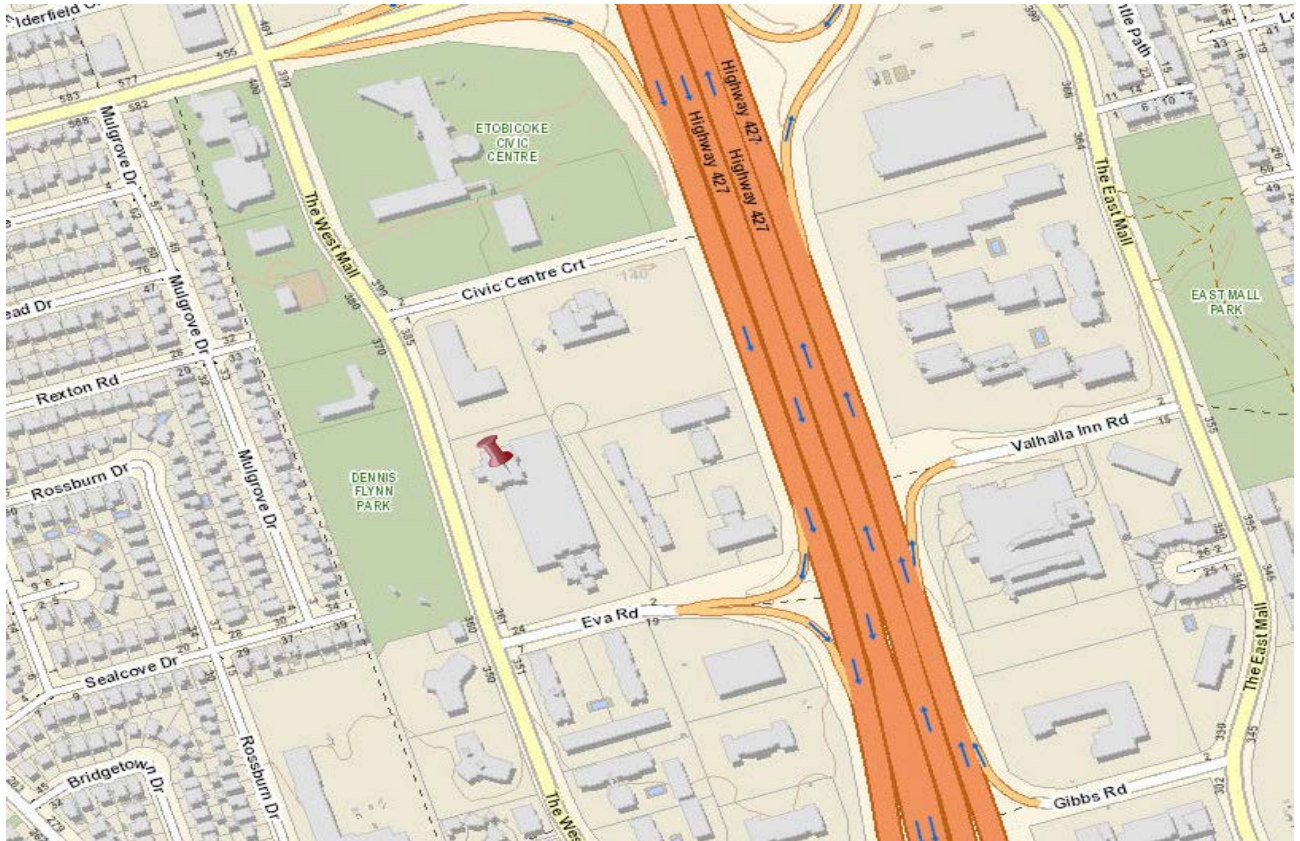
Italo Joe Luzi
Municipal Licensing and Standards
Etobicoke York District
Tel: 416-395-7013 Fax: 416-394-2904
Email: ItaloJoe.Luzi@toronto.ca

SIGNATURE

Kimberley Kilburn, District Manager
Municipal Licensing and Standards
Etobicoke York District
Tel: 416-392-7735 Fax: 416-394-2904
Email: kkilburn@toronto.ca

ATTACHMENTS

- Attachment 1: Aerial Map of 361 The West Mall
- Attachment 2: Site Plan provided by Applicant
- Attachment 3: Photo of the Garbage Containment Area – Front Yard
- Attachment 4: Photo of the Garbage Containment Area – Showing the walkway, entrance to Underground garage and drive aisle



Attachment 1: Aerial Map of 361 The West Mall



Attachment 2: Site Plan provided by Applicant

REV	DESCRIPTION	DATE
0	FOR PERMIT	3-Oct-10
361 THE WEST MALL, TORONTO NEW GARBAGE ENCLOSURE		
SITE PLAN		DWG S101
NTD		



Attachment 3: Photo of the Garbage Containment Area – Front Yard



Attachment 4: Photo of the Garbage Containment Area – Showing the walkway, entrance to Underground garage and drive aisle

Staff Report for action on Fence Exemption – 361 The West Mall