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Town of Aurora

## Committee of the Whole Report

No. CS24-021

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**Subject:** Fence By-law Variance Request

**Prepared by:** Alexander Wray, Manager of Bylaw Services

**Department:** Corporate Services

**Date:** September 3, 2024

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### Recommendation

1. That Report No. CS24-021 be received; and
2. That a variance to Fence By-law No. 6429-22 to permit the construction of a non-compliant fence in the front yard at 241 Holladay Drive be denied.

### Executive Summary

The purpose of this report is to consider a request from the property owner of 241 Holladay Drive to erect a front yard fence with a maximum height of 1.80 metres. The permitted height in the Town's Fence and Pool Enclosure By-law No. 6429-22 (the "By-law") is 1.2 metres. The proposed fence will serve as an extension of space for the property's side yard, which currently serves as its backyard. If approved, the fence will exceed the permitted height of a front yard fence by 0.60 meters.

- If a variance to the Town's existing By-law is granted, it is likely to set a community precedent.
- Historical data indicates that the Town has only received three formal requests for a fence variance or exemption in the past.

### Background

The subject property is an end unit townhome situated in the Leslie Street and Holladay Drive neighbourhood of Ward 6. The dwelling is a corner lot which fronts onto Holladay Drive. The Fence and Pool Enclosure By-law No. 6429-22, being a By-law to regulate and prescribe the standards for fences and pool enclosures (the "By-law"), permits the

height of 1.2 metres for a fence in a front yard of a residential neighbourhood. The proposed fence will measure a maximum of 1.8 metres in height and exceeds the permitted height. Additionally, the By-law requires front yard fences to be constructed using Open-Fence Construction.

The property owner has proactively contacted the Bylaw Services Division to seek approval for the proposed fence. As part of their application, the property owner has submitted three letters of support from adjacent property owners. Bylaw Services has provided notice to all abutting property owners advising them of the variance request and how they can delegate to Council.

## **Analysis**

**If a variance to the Town's existing By-law is granted, it is likely to set a community precedent.**

Fencing is a common solution to address privacy, security, and aesthetics. A variance to the By-law would set a precedent within the community and may permit other properties to go through the same process. By permitting the variance both current and future decisions may be viewed as subjective and would strongly diminish the integrity of the Town's By-law.

**Historical data indicates that the Town has only received three formal requests for a fence variance or exemption in the past.**

Available historical data indicates that the Town has only received three formal fence exemption requests in the past. Report No. BA05-016 was brought to Council in December 2004 to address noise and dust concerns at 15516 Leslie Street as a result of development on the State Farm/Desjardins lands. This fence has since been removed due to redevelopment on the property. Report No. CS19-011 was brought forth in February 2019 for privacy reasons at 203 St. John's Sideroad West, and in November 2021, Report No. CS21-059 was brought forth for an illegal fence on Knowles Crescent. At the respective Council meetings, Council approved the request for 15516 Leslie Street and refused the requests for the remaining properties.

## **Advisory Committee Review**

Not applicable.

## **Legal Considerations**

In accordance with Section 9 of the By-law, where a proposed fence does not comply with the By-law, the owner may request a variance from any of the applicable provisions of the By-law, including height. Council is the approval authority for all variance requests. Any decision of Council is deemed to be final without any further right of appeal.

If Council approves the variance request, any variance granted is effective and valid until such time as the fence to which the variance applies is substantially replaced or removed entirely, unless otherwise specified by Council as part of its decision.

## **Financial Implications**

There are no financial implications to the Town as a result of this report.

## **Communications Considerations**

There are no communications considerations as a result of this report.

## **Climate Change Considerations**

The items for consideration in this report do not impact climate change.

## **Link to Strategic Plan**

N/A

## **Alternative(s) to the Recommendation**

1. Council approve the applicant's request for a Fence variance at 241 Holladay Drive, until such time that the fence requires replacement.

## **Conclusions**

For reasons outlined in this report, staff are recommending the provisions of the By-law be upheld and the variance request refused.

## **Attachments**

Attachment 1 – Property Photographs

Attachment 2 – Lot Survey

Attachment 3 – Letters of support

## **Previous Reports**

N/A

## **Pre-submission Review**

Agenda Management Team review on August 15, 2024

## **Approvals**

Approved by Patricia De Sario, Director, Corporate Services/Town Solicitor

Approved by Doug Nadorozny, Chief Administrative Officer