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Town of Aurora

Committee of the Whole Report

No. CS25-008

Subject: Fence By-law Variance Request

Prepared by: Alexander Wray, Manager of Bylaw Services

Department: Corporate Services

Date: May 13, 2025

Recommendation

1. That Report No. CS25-008 be received; and
2. That a variance to Fence By-law No. 6429-22 to permit an existing non-compliant fence in the rear yard of 39 Hackwood Crescent be denied.

Executive Summary

The purpose of this report is to consider a request from the property owner of 39 Hackwood Crescent to maintain an existing rear yard fence with a maximum height of 3.04 metres. The permitted height in the Town's Fence and Pool Enclosure By-law No. 6429-22 (the "By-law") is 2.0 metres. The existing fence is constructed to provide privacy to the applicant's backyard. If approved, the fence will exceed the permitted height of a rear yard fence by 1.04 metres.

- The requested variance is significant and if granted, it is likely to set a community precedent.
- Historical data indicates that the Town has only received four formal requests for a fence variance in the past.
- If a fence variance at 39 Hackwood Crescent is approved by Council, the approval would require the applicant to obtain a new swimming pool enclosure permit.

Background

The subject property is a single detached dwelling situated in the Bayview Avenue and Stone Road neighbourhood of Ward 4. The dwelling is a pie shaped lot which fronts onto Hackwood Crescent and backs onto single family homes fronting on Stone Road. 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 2.0 metres for a fence in a rear yard of a residential neighbourhood. The existing fence measures between 2.13 to 3.04 metres and exceeds the permitted height. Additionally, the By-law requires a permit for any changes to an approved swimming pool enclosure, which has not been obtained.

The property owner applied for a Fence By-law variance because of a community complaint and the subsequent issuance of an Order to Comply. As part of the variance application, the property owner has submitted signatures of support from three of six abutting properties. Bylaw Services has provided notice to all abutting property owners advising them of the variance request and how they can delegate to Council.

Analysis

The requested variance is significant and if granted, is likely to set a community precedent.

Fencing is a common solution to address privacy, security, and aesthetics. It is also a requirement for properties that contain swimming pools, such as at the requestor’s address. If a variance approval is granted, it is probable that a precedent would be set in the community and may encourage other properties to go through the same process. By permitting the variance both current and future decisions may be viewed as subjective and may diminish the integrity of the Town’s Fence and Pool Enclosure By-law No. 6429-22.

Historical data indicates that the Town has only received four formal requests for a fence variance in the past.

Available historical data indicates that the Town has received four formal fence variance requests. The history of these requests and subsequent Council decisions are illustrated in the below chart. It should be noted that the approved variance for 15516 Leslie Street has since been removed as the lands have been redeveloped.

Year of Request	Report Number	Property Address	Reason for Variance Request	Council Decision
2004	BA04-16	15516 Leslie Street	Dust and Noise mitigation	Approved
2019	CS19-011	203 St. John's Sideroad West	Privacy	Denied
2021	CS21-059	32 Knowles Crescent	Privacy	Denied
2024	CS24-021	241 Holladay Drive	Privacy	Approved

If a fence variance at 39 Hackwood Crescent is approved by Council, the approval would require the applicant to obtain a new swimming pool enclosure permit.

Section 5 of the By-law prescribes standards for swimming pool enclosure permits. One of the prescribed standards requires applicants to notify the Chief Building Official (the "CBO") if there are any changes to an approved enclosure permit. A review of Town records indicates that notification to the CBO of the enclosure changes has not yet occurred. After consulting with the Town's CBO on this variance request, he is not in support of this request.

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 39 Hackwood Crescent, subject to the applicant obtaining a new swimming pool enclosure permit, until such time that the fence requires replacement.

Conclusions

For reasons outlined in this report, staff are recommending the provisions of the Fence and Pool Enclosure By-law No. 6429-22 be upheld and the variance request refused.

Attachments

Attachment 1 – 39 Hackwood Cres Fence

Previous Reports

N/A

Pre-submission Review

Agenda Management Team review on April 24, 2025

Approvals

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

Approved by Doug Nadorozny, Chief Administrative Officer