

COMMITTEE OF THE WHOLE – JUNE 2, 2009

FENCE HEIGHT EXEMPTION - 99 DAVIDSON DRIVE – WARD 2

Recommendation

The Director of Enforcement Services recommends:

- 1) That the fences height application at 99 Davidson Drive be denied, with the exception of the fencing surrounding the elevated deck.

Economic Impact

Nil

Communication Plan

Not applicable.

Purpose

This report is to provide additional information and a resolution to the Fence Height application at 99 Davidson.

Background - Analysis and Options

The owners of 99 Davidson Drive have applied for a fence height exemption. The matter was deferred pending the resolution of issues with respect to the fencing and grading on the west and east sides of their property. At this point there is no resolution to the concerns at the west side of the property.

Councillor Carella has met with the owners of the property to the east, 91 Davidson Drive, and determined that they have no objection at present to a semi-enclosed deck at the rear of 99 Davidson Drive. They have expressed a concern that any new fence that may run along the common property line may be erected excess of the six feet (6') mandated by the by-law.

They therefore request that any fence not be any higher than six feet (6') above the current grade for the entire length of the abutting property, commencing at the southerly end of the aforementioned deck, and running to the rear property lines fronting onto Wakelin Court.

Relationship to Vaughan Vision 2020

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Conclusion

As there are no resolutions to the outstanding issues to the west, and the fence does not exceed 6' on the east side, the fence height application at 99 Davidson Drive should be denied, except for the fencing around the elevated decking abutting 91 Davidson Drive.

Attachments

1. Letter to the Director of Enforcement Services, from M. De Bartolo and L. Moser, April 16, 2008

Report prepared by:

Tony Thompson

Respectfully submitted,

Tony Thompson
Director of Enforcement Services

Tony Thompson, Director, Enforcement Services
City of Vaughan
2141 Major Mackenzie Drive
Canada, L6A 1T1

April 16, 2008

Dear Tony Thompson,

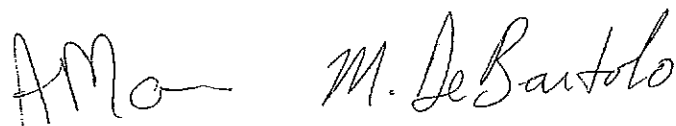
Regarding 99 Davidson Drive's application/request for a fence height exemption (to permit an existing rear yard fence), we (Mike De Bartolo and Annalisa Moser – owners of 91 Davidson Drive) wish to make the following comments:

- 1) At no time prior to the construction of the fence portion, that divides our properties, were we notified of the height or dimensions that we could expect. In fact, no notice was given to us whatsoever that a fence was being erected.
- 2) We feel that the height of this fence is excessive.
- 3) The height is made more excessive due to the fact the fence is built on top of a retaining wall which is already anywhere from 3-6 feet above grade on our side.
- 4) The result is a fence/retaining wall which in some places reaches an incredible 18 feet in height and greatly reduces our late afternoon/early evening light, obstructs our sight line and view of the sky/horizon, restrict the natural flow of air, and creates a boxed-in feel for a large section of our rear yard. The height is so excessive in fact, that it partially obstructs the view from both our deck and study window (they are both on the main floor and we have a walkout basement).
- 5) We feel, for the above-noted reasons, this fence could negatively affect the re-sale value of our home.
- 6) In February 2008 the owner of 99 Davidson Drive approached us regarding an existing gazebo for which he was applying for an exemption/permit/variance as it exceeded both height and proximity (i.e., to the property line) restrictions. While we weren't happy about the height and proximity of the gazebo, in the spirit of neighbourliness we agreed, in writing, to its existence as we did not wish to see our neighbours go through the trouble and expense of modifying it. At that time we took the opportunity to voice our concern regarding what appeared to be a new section of the fence which was in the works (new posts had recently been

erected further down from the existing section of the fence – these posts were also excessively tall –e.g., approximately 8-9 feet and were also on a retaining wall. My neighbour assured us these posts were a “mistake,” that they were at least twice as high as what they should/would be, that most likely the new section would be “open” rather than “solid,” and that before anything was erected we would first be invited over to see the actual size/style/etc. Taking his word at face value, we also clearly indicated that while we felt the existing portion of fence was quite tall/high, we were okay with it (once again, in the spirit of good relations) as long as no new section was added that was of a similar height/style.

- 7) As to the current request for a fence height exemption, our main concern is that no “new” fence (either in progress or planned) is allowed to be added to that which already exists. We fully expect that our neighbour will honour his word and refrain from adding any more fence before consulting with us first, and that every attempt will be made to erect fencing that is mutually satisfactory to both parties. However, what remains problematic for us is that once the City of Vaughan approves a height exemption, then at any time in the future an extension could be legally erected.
- 8) If it is somehow possible for the Committee of the Whole or whomever shall have the final decision to allow the exemption for that portion of the fence which is already 100 percent completed, but deny the exemption for any additional portion (i.e., at the existing height/style/etc.), whether in progress or planned, then we shall honour our word and accept what is already there in accordance with our desire to maintain good relations. If, however, this is not possible; that an exemption is made in general terms and therefore, means 99 Davidson is then free to exercise the option to continue the existing fence the length of the property line at a similar height, in a similar style (i.e., solid- without any light being able to come through), then we must oppose the proposed exemption outright including what already exists, what is in progress, what is planned, and what may be attempted in the future.

Sincerely,

Handwritten signatures of Annalisa Moser and Mike DeBartolo. The signature on the left is 'AMo' and the signature on the right is 'M. DeBartolo'.

Mike DeBartolo/Annalisa Moser – owners of 91 Davidson Drive.
(905) 856-8690