

Confidential

Memorandum to Council

Legal and Enforcement Services

Enforcement Services Division



To: Mayor and Members of Council

CC: Francesco Santaguida, Commissioner of
Legal and Enforcement Services/Town
Solicitor

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

From: Andre Gratton, Sr. Manager of Enforcement
Services

Date: June 14, 2024

File #: N/A

Subject: Fence By-law Exemption request for 101
Carnwith Drive West, Brooklin

Staff have received the June 10, 2024, Fence By-law height exemption request of Mark Masri of 101 Carnwith Drive West, Brooklin. The request letter is included as **Attachment 1** to this memorandum. Mr. Masri is requesting a height exemption for his rear yard fence beyond 2.2 metres, or 7 feet 2 inches.

Background

Staff responded to a complaint of an illegally constructed fence in April 2023. Staff educated the property owner on the maximum height restrictions and exemption sections contained within the Town's Fence By-law # 4394-99, as amended (the "**Fence By-law**"). For Mr. Masri's fence, the Fence By-law allows for a fence of no more than 2 metres (6 feet 7 inches) tall.

The Town's Fence By-law also delegates authority to the Commissioner of Legal and Enforcement Services/Town Solicitor to approve exemptions of up to 10% beyond the maximum fence height, or 2.2 metres (7 feet 2 inches). Mr. Masri requested, and was granted, an exemption for his fence by Commissioner Santaguida for a fence of up to 2.2 metres in keeping with the delegated authority. For areas of the fence above 2.2 metres tall, Mr. Masri had until March 4, 2024 to remove those sections of the fence. Mr. Masri did not remove those sections of the fence and has been issued an infraction under the Fence By-law for those areas.

The orientation of 99 and 101 Carnwith Dr. W is odd, where a long-narrow lot was subdivided into two lots, where 99 Carnwith Dr. W is behind the rear yard of 101 Carnwith Dr. W, as shown in Figure 1, below.



Figure 1

Next Steps

Should a Member of Council wish to have this request considered by Council, please contact the Town Clerk or Deputy Town Clerk to have this matter added to a Council or Committee Agenda. If the request is not pulled by Council by July 5, 2024, staff will consider Mr. Masri's request rejected.

Any questions related to this matter may be directed to the Author or the Commissioner of Legal and Enforcement Services/Town Solicitor.

August 26, 2024

Councillor's Steve Yamada & Chris Leahy
The Town of Whitby
575 Rossland Rd E
Whitby, ON

Re: Fence Allowance - 101 Carnwith Drive West, Brooklin

Dear Councillors Yamada & Leahy:

Firstly, thank you in advance for agreeing to review our situation and provide assistance with the matter contained herein.

I am writing to respectfully request an exemption for the height regulation on fencing within our neighbourhood. The peaceable enjoyment of our backyard has been significantly compromised due to several factors; notably vehicular disturbances and an unconventional lot severance that complicates following by-law requirements. It bears mentioning that we have gone through the process of applying for a variance with the Fence Department, however the Commissioner of Legal and Enforcement Services, Mr. Santaguida, was only authorized to grant a height of 7-feet, 2-inches.

Our family values privacy and tranquility, both of which would be jeopardized by the lack of a sufficient barrier. The incessant noise, from regular disturbances/ environmental concerns created by vehicles driving up/down the driveway on the abutting east side and around the back of our property, disrupts our peace and also imposes anxiety-inducing factors on our family. As I'm sure you can appreciate, this anxiety, stemming from the constant intrusion of external disturbances, impacts our quality of life and mental well-being.

Moreover, the unconventional lot severance we have to deal with, due to the abutting property's(99 Carnwith Drive W) front door/windows/driveway looking into our backyard, makes it challenging to adhere to the standard regulations without sacrificing our privacy.

Given these unique circumstances, we implore you to consider granting an exemption to accommodate a fence of 9-feet, 4-inches. Doing so would not only alleviate the disturbances we endure but also enable us to reclaim the peace and privacy essential for our family's well-being.

Thank you kindly,



Mark Masri

