



The Corporation of the Town of Tecumseh

Planning & Building Services

To: Mayor and Members of Council

From: Brian Hillman, Director Planning & Building Services

Date to Council: April 13, 2021

Report Number: PBS- 2021-15

Subject: Request for Deviation from Fence By-law 2003-57
Caritas Court Homeowners' Association

Recommendations

It is recommended:

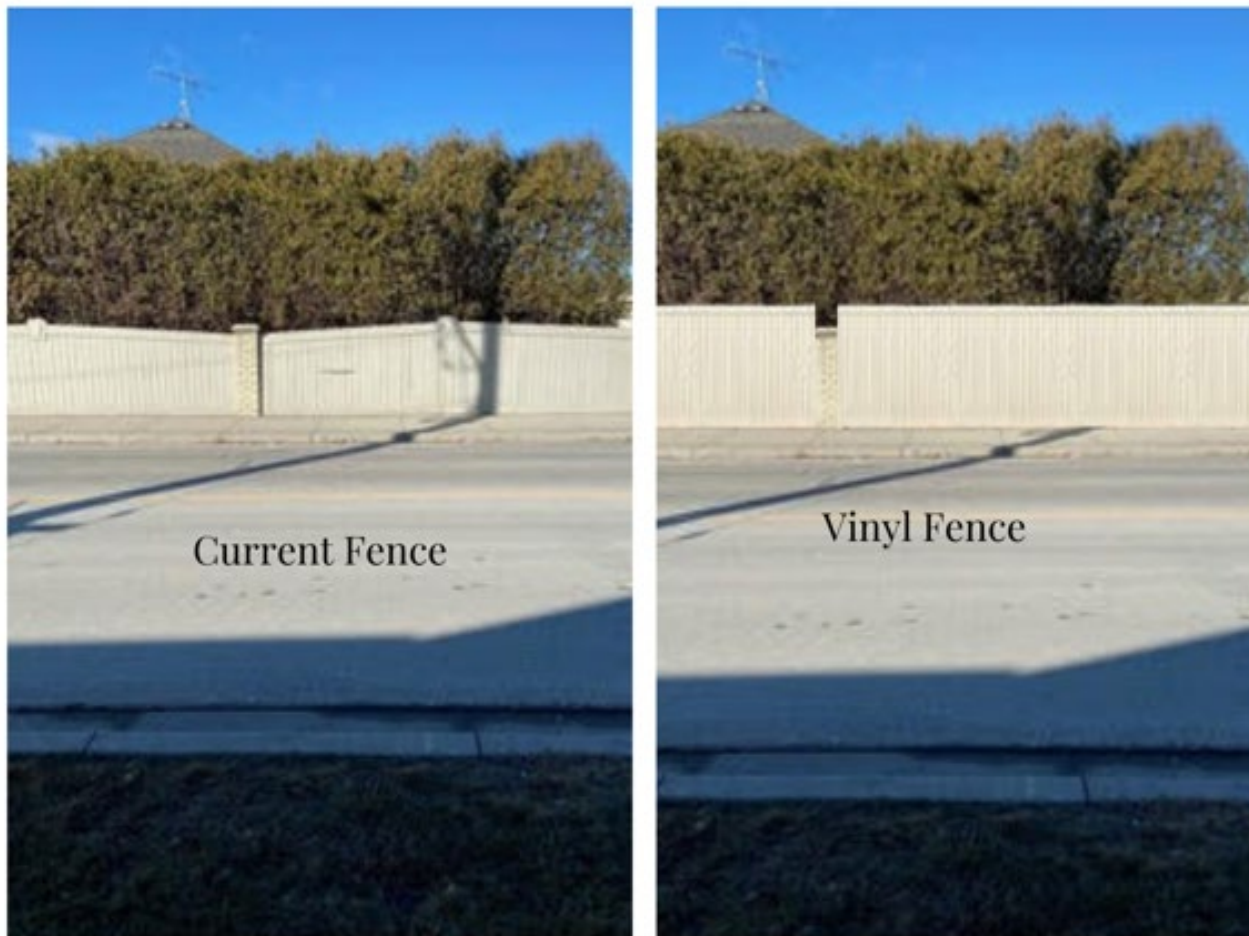
That the request from the Caritas Court Homeowners' Association to permit the replacement of the existing five-foot high wood privacy fence associated with the Caritas Court residential development located along the west side of Brighton Road, with a new vinyl privacy fence having a maximum height of seven feet in the location shown on Attachment 1 of PBS-2021-15, **be approved**.

Background

The Caritas Court subdivision, constructed in the mid 1990s, is a residential development located on the west side of Brighton Road at its intersection with Old Tecumseh Road. At the time the lands were developed, a five-foot high wood privacy fence was constructed along the easterly lot lines that also serve to define the westerly limit of the Brighton Road right-of-way (see Attachment 1 for location of subdivision and fence).

Over time, the fence has deteriorated and, more recently, a traffic accident caused extensive damage to a portion of the fence. As a result, the Caritas Court Homeowners' Association ("Homeowners' Association") has made a formal request to the Town for the replacement of the existing five-foot high wood privacy fence with a new seven-foot high vinyl privacy fence where it abuts Brighton Road (see Figure 1 below). The Homeowners' Association is continuing to consider design options to address the height of the brick fence posts if a seven-foot fence height is approved as the posts are currently 6 feet high.

Figure 1 – Current Wood Fence and Proposed Vinyl Fence Comparison



Comments

The Tecumseh Fence By-law 2003-57 ("Fence By-law") regulates the erection of fences in the Town. For residential zones, such as the Residential Type Three Zone (R3-10) that applies to the Caritas Court subdivision, the Fence By-law establishes a maximum height of six feet, which is less than the seven-foot high fence being proposed. The By-law, however, does permit Council, upon request, to approve fences that otherwise do not comply with the Fence By-law.

The Homeowners' Association is requesting that the new fence be constructed at a height of seven feet in order to provide some additional privacy and attenuation from light and noise generated by the traffic and commercial uses in the vicinity of the Brighton Road and Old Tecumseh Road intersection. Most significantly, the Homeowners' Association has advised that due to increases in traffic levels and general activity in the area over recent years, there has been a perceived corresponding increase in vehicular noise and lighting which has negatively impacted the properties abutting Brighton Road. This has detracted from the enjoyment of their private outdoor rear yards.

The Homeowners' Association has been advised by various fence installation companies that one method to increase noise attenuation would be to increase the height of the fence. It should be noted, however, that a professional opinion by an acoustical engineer has not been provided in order to validate this position.

It was noted by the Homeowners' Association that the fence abutting Brighton Road immediately north of the Caritas Court development is currently at a height of seven feet and this proposal would simply be a continuation of that standard.

Although there is no professional opinion supporting claims of noise attenuation that would result from increasing the fence from the current By-law maximum height of six feet to seven feet, Town Administration does agree that the proposed seven-foot high fence will assist with mitigating the light and privacy issues expressed by the Homeowners' Association. It is acknowledged that the relatively shallow back yards of the Caritas Court dwelling units back upon a busy intersection and area that has had a considerable increase in traffic and activity since the construction of the dwellings.

In addition, it is noted that sound walls professionally designed on the basis of an acoustical study are commonly much higher than seven feet where placed between residential dwellings and a noise generator such as road traffic. Although sensitive to the impact the proposed fence height might have on the streetscape in this vicinity, we believe that it will be a natural extension of the existing seven-foot fence situated to the north, with the vinyl construction being of a suitable and durable design so as not to deter from the public realm.

The Homeowners' Association had originally requested that an eight-foot high fence be permitted, however upon review by Administration and on the basis of the preceding rationale, it was agreed that a seven-foot high fence could more reasonably be supported and recommended for consideration by Council.

On the basis of the preceding, Administration recommends that Council approve the request from the Homeowners' Association to permit the erection of a vinyl privacy fence having a maximum height of seven feet in the location shown on Attachment 1.

Consultations

Public Works & Environmental Services

Financial Implications

None

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Reviewed by:

Mike Voegeli
Manager Building Services & Chief Building Official

Reviewed by:

Phil Bartnik, P.Eng.
Director Public Works & Environmental Services

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Planning & Building Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Property and Fence Location Map