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Review of fence bylaw triggered after Wells Street property fight

By Brock Weir

It won't solve a problem recently identified to Council by a Wells Street resident who is struggling to access her property after a fence was erected by her neighbour right on their property line, but a review of Aurora's fence bylaws could put a stop to similar issues arising in the future.

Council approved a motion from Councillor John Abel last week which tasks municipal staff with reviewing existing bylaws and drafting possible amendments to prohibit fences being put up in situations that would restrict access to homes or create other safety hazards.

The motion was spurred by a long-standing complaint by Wells Street resident Marnee Buckles who has been looking for help from Council and the Town as a whole in resolving a dispute with her neighbour. Ms. Buckles reiterated her concerns to Council last month, showing how a fence erected by her next door neighbour on the property line restricts access to her home, and even keeps Enbridge workers from being able to access services on the property.

Ms. Buckles, however, was told by staff there was nothing that could be done about the situation as the fence was put up largely in conformity with existing bylaws (the height of some fence posts exceeded heights allowed and will be fixed, said staff) and it would be up to her to shoulder the maintenance and costs of removing and replacing her neighbour's fence panels should the property need to be serviced.

?I think we have identified a gap in our setbacks and unfortunately this is a one-off, but I truly believe the Town should have been made aware of this and might have suggested hinges that were put on panels because that is what the owners said they would do and this all could have been avoided,? said Councillor Abel, speaking in favour of his motion.

These were sentiments largely expressed by the majority of Council as well, but other members threw in a note of caution that a review of existing bylaws, and any changes that might come from it, would not impact this particular situation.

?In hindsight, learning from this situation that is before us [I support the motion] and seeing what can be done going forward,? said Councillor Michael Thompson. ?I think we all struggle with the situation with that particular resident and wish there were some easier solutions at our disposal. We recognize it as a challenging situation, and maybe there are, maybe there aren't.?

Added Councillor Wendy Gaertner: ?It is a very difficult situation and I know staff have been put in difficult positions as well. Anything we could do to help. At the end of the day, it could be a safety issue that they can't get in to do the work they have to do. We have to try and figure this out.?

Also supporting the motion was Councillor Harold Kim who said it was ?disconcerting? to hear Ms. Buckles' ?plight.? Council, he said, was there to be ?problem solvers? and he said he hoped staff could come back with a list of ways to alleviate such issues.

?Obviously [this is] a very unique situation, but obviously we don't know that,? said Councillor Jeff Thom, adding he hoped the report coming back from Council would include a review of properties around Aurora where similar problems could arise. ?I just want to make clear that we won't be retroactively enforcing any new provisions that we come up with. I think we should be clear at the table this is not a solution for [Ms. Buckles'] situation. I think we should be clear because we want to be fair to that resident.?

Staff agreed this was the case, adding the Town will not have the authority to remove a fence that has been lawfully erected.

?It is a very unusual situation and a very unfortunate situation,? Councillor Thom continued.

Mayor Geoff Dawe and Councillor Paul Pirri, however, said they had concerns that Council was responding to what could be a ?one-off? situation with potentially new legislation. Councillor Pirri said it was important to ?exercise prudence? in responding to this, but he looked forward to getting a report back.

?Both neighbours have property rights,? he said.

Added Mayor Dawe: ?History suggests that quite often these are neighbour disputes, so I think maybe you should include mediation in your process. I will be very interested in seeing what staff comes back with, but very often these are neighbour disputes. If there is some way you can address that, that's great, and it certainly would be an interesting service to our residents.?