

Fence fracas could prompt changes to property standards

By Brock Weir

A white picket fence was once the benchmark of the suburban ideal, but a fracas between neighbours over a high wooden fence sitting right on a property line could prompt changes to Town-wide rules.

This week, Council will consider a notice of motion brought forward by Councillor John Abel which directs staff to review Aurora's existing bylaws governing fences and report back with possible changes that would prevent situations where a fence between properties would restrict access to one or both homes.

His motion was promoted by a dispute between neighbours over a residential fence on Wells Street where resident Marnee Buckles says a fence erected right on the property line between her home and their neighbouring property restricts access to the north side of her home and impedes safety.

?Central York Fire Services recommends ?to protect death in the event of a fire, make certain there is an escape plan route for each room in the house and there is an alternate escape route from the window of each room.? Ms. Buckles told Councillors last week, appearing as a delegate to last week's General Committee meeting. ?That is what's stated. I can't. There are three windows I can't get out of.?

The fence erected by her neighbour, she contended, violates several standards and prevents her from maintaining her property. Told that a fence panel, under existing provisions, can be taken out and restored to allow for maintenance work, Ms. Buckles said it should not be her job to ?remove and rebuild? at her own expense every time she has to access her property.

?The fire code says I am not in a safe environment,? she said. ?I can't open up my windows. I need the Town to address this issue and take responsibility for a fence they have approved to date.?

Last Tuesday's meeting was the second time Ms. Buckles had appeared at the podium looking for help on this issue, but there was no help forthcoming at last week's meeting, despite apologies from one Councillor that she is in this present predicament.

?I can't apologise enough for what you have been going through,? Councillor Sandra Humfries told Ms. Buckles. ?It has been a disaster. We've got to get through this. It's not right. You have become very familiar with our bylaws and rules and regulations of home property ownership and I hope we will get to the bottom of this in some way. It's not right.?

Added Councillor Abel: ?I do recall when you were here the last time and did not appreciate the scope and effects of what transpired. The fence is not your responsibility. You have been told to remove it yourself and then replace it, so now it becomes your responsibility, your time and cost. That would require you to be on the property of your neighbour and that, in my mind, puts you at a vulnerable position because now you have to have an understanding with your neighbour exactly what you would be doing.?

While Councillor Abel's motion this week might address future situations, Techa van Leeuwen, Director of Building and Bylaw Services, told Council very little can be done regarding Ms. Buckles' current situation. An investigation by the Town revealed the height of the fence posts were two to four inches above building standards, a situation which Ms. van Leeuwen said the original contractor will rectify, everything else was done by the book.

?This is a difficult situation,? said Ms. van Leeuwen. ?This fence was erected lawfully. In terms of safety and fire escapes and the building code, you only need one exit and that is your front door from a single family dwelling. If there is a second storey there are some provisions around window size. This is not an unsafe situation from an exit situation. In terms of what we can do, there is a notice of motion that was on tonight's agenda to review the fence bylaw going forward. Will it enable us to order the property owner Wells to remove the fence? No, it will not. The Fence has been lawfully erected and a survey was retained for the property line. The stakes are still visible and the fence is on her property.?

A permit for a fence, she added, is not required by the town unless it is a fence for a pool enclosure.

?We do have a bylaw that regulates the height of the fence and, dependent on location, if it is in your front yard, there are different height requirements, commercial vs. residential. Approval from the Town is not required for the erection of a fence. We responded to the complaint of this fence in the fall and that is when we went out and did an inspection and measured the fence.?