



Report Committee of Adjustment

Filing Date: November 10, 2023

Hearing Date: December 19, 2023

File: A-2023-0355

**Owner/
Applicant:** FARZANA BAGHAM

Address: 72 Circus Crescent

Ward: WARD 6

Contact: Ellis Lewis, Assistant Development Planner

Recommendations:

That application A-2023-0355 be approved, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the below grade entrance shall not be used to access an unregistered second unit;
 3. That drainage on adjacent properties should not be adversely affected;
 4. That the applicant obtain a building permit for the below grade entrance within 60 days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official; and
 5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

The subject property is located within an unassumed subdivision (C02W16.003/21T-16008B). The applicant constructed the side entrance without obtaining Minor Variance approval or Building Permit approval. Upon staff review of the proposed variance, it was determined that there is a catch basin in

the rear yard and a storm sewer pipe located in the interior yard, connecting the catch basin to the Circus Crescent right of way (Appendix A). The abutting neighbour's properties in the rear yard drain into the catch basin located on the subject property. The location of the risers and landing of the below grade entrance are located directly above the storm sewer line. Engineering Staff previously raised concerns surrounding the construction of the risers and landing for the below grade entrance and requested that if approval was given by the Committee, that the applicant provide a closed-circuit television sewer inspection video and a closed-circuit television sewer report of the rear lot catch basin and storm sewer pipe located within the interior side yard. As the previous submission (File # A-2023-0104) was not supportable at the May 9th meeting, the applicant submitted the closed-circuit television footage to City Staff in September 2023 and this was reviewed by Staff with no concerns surrounding damage to the pipe. The applicant submitted a new application for the existing below grade entrance and reduced side yard setback on the subject lot. The Developer's Engineer has stated that they are not opposed to the development as long as the homeowner is aware that they are responsible for any future maintenance of the catch basin and pipe under the side entrance.

Existing Zoning:

The property is zoned 'Residential Single Detached F-Special Section 2888 (R1F-9-2888)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed exterior stairway leading to a below grade entrance in the required side yard, whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard; and
2. To permit an interior side yard setback of 0.12m (0.39 ft) to a proposed exterior stairway leading to a below grade entrance, whereas the by-law requires a minimum setback of 1.2m (3.94 ft).

Current Situation:

1. Maintains the General Intent and Purpose of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Low/Medium Density Residential' in the Mount Pleasant Secondary Plan (Area 51). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. As stated in Official Plan Section 3.2.8.2 (ii), a second unit must comply with the Ontario Building Code and/or Fire Code and Property Standards By-law and other applicable approval requirements.. The requested variances are considered to maintain the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

Variance 1 is requested to permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. Variance 2 is requested to permit an interior side yard setback of 0.12m (0.39 ft) to a proposed exterior stairway leading to a below grade entrance, whereas the by-law requires a minimum setback of 1.2m (3.94 ft). The intent of the by-law in prohibiting below grade entrances in the interior side yard and requiring a minimum interior side yard setback is to ensure that sufficient space is maintained for both drainage purposes and overall access to the rear yard.

The existing below grade entrance includes risers on both sides of the landing to provide a continuous path of travel to the rear yard. The rear yard of the subject property contains a catch basin which will assist in ensuring the subject property does not drain onto the neighbouring property. A condition of approval is also recommended that the below grade entrance shall not be used to access an unregistered second unit and that the applicant shall obtain a building permit within 60 days of the decision of approval. Subject to the recommended conditions of approval, both Variances 1 and 2 maintain the general intent and purpose of the by-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit an exterior stairway that would lead to a below grade entrance. Variance 2 seeks to permit an interior side yard setback that is less than what is required by the Zoning By-law. While full setback requirements of the Zoning By-law are not maintained in this case, the below grade entrance includes two up and down risers which allow for an unobstructed path of travel to the rear yard to be maintained. Staff are satisfied that this path provides suitable access to the rear yard. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit and that the applicant shall obtain a building permit within 60 days of the decision of approval. Subject to the recommended conditions of approval, both Variances 1 and 2 are considered desirable for the appropriate development of the land.

4. Minor in Nature

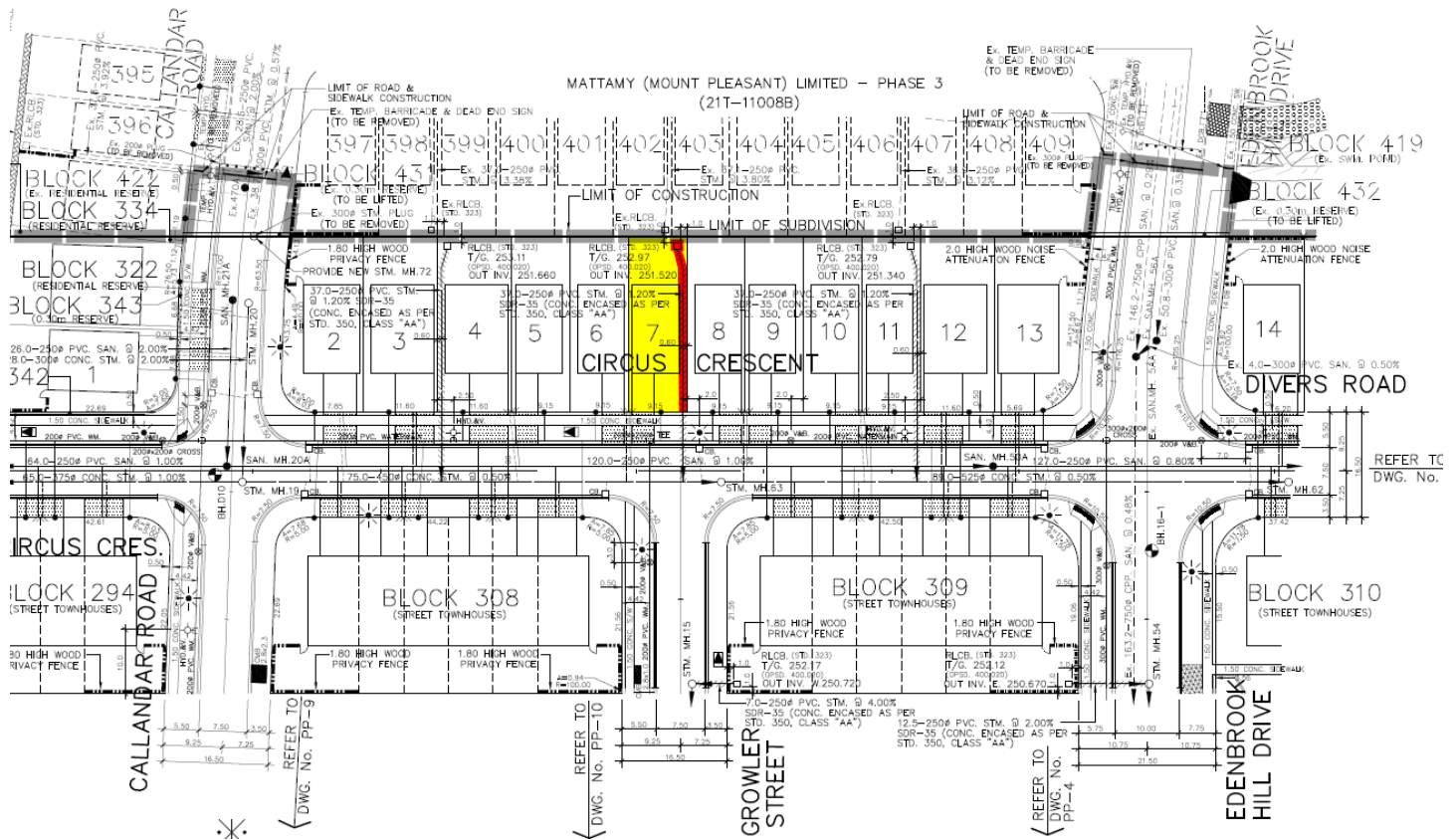
Variance 1 seeks to permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. Variance 2 seeks to decrease the interior side yard setback width. The proposed reduced interior side yard setback to permit a below grade entrance is not considered to impact access to the rear yard or drainage on adjacent properties, as adequate drainage and access to the rear yard can be maintained through the risers. The subject property is located within an unassumed subdivision (C02W16.003/21T-16008B), where the applicant constructed a below grade entrance, risers and landing directly above the storm sewer pipe, without City permission. The applicant provided a closed-circuit television sewer inspection video and a closed-circuit television sewer report of the rear lot catch basin and storm sewer pipe located within the interior side yard. This gave City Staff an opportunity to inspect the storm sewer pipe prior to Building Permit closing. Should there be any damage to the storm sewer line, the applicant/owner will be required to make necessary repairs. Subject to the recommended conditions of approval, Variances 1 and 2 are considered minor in nature.

Respectfully Submitted,

Ellis Lewis

Ellis Lewis, Assistant Development Planner

Appendix A:



Appendix B:

