

**Filing Date:** September 10, 2020

**Hearing Date:** December 1, 2020

**File:** A-2020-0082

**Owner/  
Applicant:** SZPALA AGNIESZKA – ASHRAF ALOGAILI

**Address:** 0 Churchville Road

**Ward:** 6

**Contact:** Shelby Swinfield, Planner I, Development

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**Recommendations:**

That application A-2020-0082 is supportable, 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 Public Notice;
2. That any works on the property shall be completed in accordance with the recommendations set out within the Tree Inventory and Protection Plan prepared by The Urban Arborist, dated November 10, 2020;
3. That the removal of any trees on a shared property line or adjacent property shall require written consent of the adjacent property owner, to the satisfaction of the Director of Development Services;
4. 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 the Churchville Heritage Conservation District, and as such the development of a new dwelling on the property is subject to receiving a Heritage Permit. For this property, the Heritage Permit was approved by City Council on September 16, 2020.

The application was previously deferred by Committee at the hearing of October 20, 2020 to allow the applicant time to prepare a Tree Assessment and clarify their sketch. The applicant has since provided a Tree Assessment to staff and have resolved previous issues with the sketch.

**Existing Zoning:**

The property is zoned "Residential Hamlet Two (RHM2)" according to By-law 270-2004, as amended.

**Requested Variance:**

The applicant is requesting the following variance:

1. To permit an interior side yard setback of 1.2m (3.94 ft.) whereas the by-law requires a minimum interior side yard setback of 7.5m (24.60 ft.).

**Current Situation:**

**1. Conforms to the Intent of the Official Plan**

The property is designated "Village Residential" in the Official Plan and "Churchville Heritage Conservation District" in the Bram West Secondary Plan (Area 40c). The proposed dwelling has been reviewed and approved through the Heritage Permit process. Outside of this approval, the requested variance is not considered to have significant impacts within the context of the Official Plan. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent of the Official Plan.

**2. Conforms to the Intent of the Zoning By-law**

The property is zoned "Residential Hamlet Two (RHM2)" according to By-law 270-2004, as amended. The requested variance is to permit an interior side yard setback of 1.2m (3.94 ft.) whereas the by-law requires a minimum interior side yard setback of 7.5m (24.60 ft.). The intent of the by-law in regulating minimum side yard setback is to ensure that sufficient access is maintained to the rear yard and adequate room is provided for drainage from the dwelling. The proposed reduced side yard setback is not anticipated to negatively impact drainage for the property and is considered to provide sufficient space to access the rear yard. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent of the Zoning By-law.

**3. Desirable for the Appropriate Development of the Land**

The requested variance is to permit a reduced interior side yard setback in conjunction with a proposed dwelling on the currently vacant parcel. As a result of this reduced setback, some mature trees on the property will be impacted and are required to be removed. A condition of approval is recommended that any works on the property shall be completed in accordance with the recommendations set out within the Tree Inventory and Protection Plan prepared by The Urban Arborist, dated November 10, 2020 to ensure that the protection measures outlined within the report are adhered to and the trees can be protected as much as possible.

Further, it has been identified that some of the trees that are required to be removed

may be on shared lot lines or adjacent properties. In this regard, the applicant has obtained written consent from the neighbouring property owner to the north consenting to the removal of the trees. As the owner was not able to obtain written consent as of the time of writing, they have revised their proposal to no longer include the removal of those trees for which they did not obtain consent.

A condition of approval is recommended that the removal of any trees on a shared property line or adjacent property shall require written consent of the adjacent property owner, to the satisfaction of the Director of Development Services to ensure that any removals are consented to. Subject to the recommended conditions of approval, the requested variance is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The requested reduced rear yard setback represents a practical side yard setback given the size of the property. The setback will allow for sufficient room for drainage and access to the rear yard. Subject to the recommended conditions of approval, the requested variance is considered to be minor in nature.

Respectfully Submitted,

*Shelby Swinfield*

Shelby Swinfield, Planner I, Development