

Filing Date: August 6, 2020
Hearing Date: December 1, 2020

File: A-2020-0057

**Owner/
Applicant:** MARIA FRANCESCA DE PINTO AND CHRISTOPHER EDWARD
ROGACKI

Address: 24 Flavian Crescent

Ward: 8

Contact: Shelby Swinfield, Planner I, Development

Recommendations:

That application A-2020-0057 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 roof drainage from the accessory structure shall flow onto the applicant's property;
 3. That the applicant obtain a building permit for the accessory structure 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;
 4. That drainage on adjacent properties shall not be adversely affected;
 5. That the accessory structure (shed) shall not be used as habitable space;
 6. That the owner finalize site plan approval under City File SPA-2020-0129, and if required, execute a site plan agreement, and post any required financial securities and insurance to the satisfaction of the Director of Development Services;
 7. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:**Existing Zoning:**

The property is zoned "Residential Single Detached (R1B)" according to By-law 270-2004, as amended.

Requested Variance:

The applicant is requesting the following variances:

1. To permit a rear yard setback of 7.8m (25.60 ft.) to a proposed second storey addition whereas the by-law requires a minimum rear yard setback of 8.1m (26.57 ft.);
2. To permit an existing accessory structure (shed) having a gross floor area of 22.9 sq. m (246.50 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;
3. To permit 0.0m setback to an existing play structure (recreational facility) whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the lot line;
4. To permit a 0.0m setback to the eaves on an existing accessory structure whereas the by-law requires a minimum setback of 0.1m (0.33 ft.) or a maximum encroachment of 0.5m (1.64 ft.);
5. To permit an existing fence in the rear yard having a maximum height of 3.05m (10 ft.) whereas the by-law permits a fence in the rear yard to a maximum height of 2m (6.56 ft.).

Current Situation:**1. Conforms to the Intent of the Official Plan**

The property is designated "Residential" within the Official Plan and "Low Density 1 Residential" within the Bramalea Secondary Plan (Area 3). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested variances are 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 Single Detached (R1B)" according to By-law 270-2004, as amended. The requested variances are intended to facilitate a proposed addition to the existing residential dwelling, and to permit existing accessory structures including a shed and play structure in the rear yard.

Variance 1 is to permit a rear yard setback of 7.8m (25.60 ft.) to a proposed second storey addition whereas the by-law requires a minimum rear yard setback of 8.1m (26.57 ft.). The intent of the by-law in requiring a minimum rear yard setback to a second storey addition is to ensure that the massing of the second storey does not negatively impact properties to the rear or negatively impact the provision of outdoor

amenity space for the property. The proposed setback for the second storey is consistent with the setback of the existing first floor of the dwelling and the reduction in rear yard setback is not anticipated to have negative impacts on provision of outdoor amenity space, or create a negative massing situation for the proposed addition. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variances 2 and 4 relate to an existing accessory structure (shed) in the rear yard.

Variance 2 is to permit an existing accessory structure (shed) having a gross floor area of 22.9 sq. m (246.50 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The intent of the by-law in regulating maximum floor area for accessory structures is to ensure that the structure does not dominate the rear yard amenity space and remains ancillary to the primary residential function of the dwelling. The existing oversized accessory structure does not negatively impact the provision of outdoor amenity space and is used for storage accessory to the dwelling. Subject to the recommended conditions of approval, Variance 2 is considered to maintain the general intent of the Zoning By-law.

Variance 4 is to permit a 0.0m setback to the eaves on an existing accessory structure whereas the by-law requires a minimum setback of 0.1m (0.33 ft.) or a maximum encroachment of 0.5m (1.64 ft.). The intent of the by-law in regulating a minimum setback for the eaves of an accessory structure is to ensure drainage from the structure flows onto the subject property and does not impact adjacent properties. In the case of the accessory shed on the subject property, it is outfitted with eaves and drains that direct the drainage onto the applicant's property. Conditions of approval are recommended that drainage flow onto the applicant's property and drainage on adjacent properties shall not be negatively impacted to ensure the situation is continued. Subject to the recommended conditions of approval, Variance 4 is considered to maintain the general intent of the Zoning By-law.

Variance 3 is in relation to an existing play structure in the rear yard. The variance is required to permit a 0.0m setback to an existing play structure (recreational facility) whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the lot line. The intent of the by-law in requiring a minimum setback to a recreational facility is to ensure that sufficient room is provided for drainage. Given the elevated nature of the structure, it is not anticipated that the structure will negatively impact drainage. Subject to the recommended conditions of approval, Variance is considered to maintain the general intent of the Zoning By-law.

Variance 5 is to permit an existing fence in the rear yard having a maximum height of 3.05m (10 ft.) whereas the by-law permits a fence in the rear yard to a maximum height of 2m (6.56 ft.). The intent of the by-law in regulating maximum fence height is to ensure that fencing does not create a "fortress-like" enclosure. This variance relates to a small portion of the fence located behind the play structure which provides additional screening for the raised structure. This additional height in this limited area does not

contribute to “fortress-like” massing for the fence and is intended to provide screening. A condition of approval is recommended that the variances be approved only to the extent shown on the sketch attached to the public notice to ensure the fence height is not extended any further past the purpose of screening the structure. Subject to the recommended conditions of approval, Variance 5 is considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit a reduced rear yard setback to a proposed second storey addition. The requested setback is reflective of the setback to the main floor of the dwelling and is not anticipated to create negative impacts on the rear yard space. Further, the addition is subject to a Site Plan Application through which the design will be reviewed to ensure any potential massing impacts are mitigated. A condition of approval is recommended that the owner finalize site plan approval under City File SPA-2020-0129, execute a site plan agreement, and post any required financial securities and insurance to the satisfaction of the Director of Development Services. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variances 2 and 4 relate to an existing shed in the rear yard situated close to, but not attached to, the dwelling.

Variance 2 is requested to permit an increased floor area for the shed of 22.9 sq. m (246.50 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.). The location and size of the shed do not detract from the rear yard amenity space and is intended to be used as extra storage for the dwelling. A condition of approval is recommended that a building permit be obtained for the accessory structure to ensure that the structure has been constructed in accordance with the Ontario Building Code (OBC). Subject to the recommended conditions of approval, Variance 2 is considered to be desirable for the appropriate development of the land.

Variance 4 is to permit a 0m setback between the eaves of the shed and the property line. This particular shed is constructed with eaves and a downspout that direct all the drainage from the roof of the structure onto the subject property so that it does not impact drainage on the adjacent property. Subject to the recommended conditions of approval, Variance 4 is considered to be desirable for the appropriate development of the land.

Variances 3 is related to an existing play structure situated in the rear corner tree of the property. Given the elevated nature of the structure, it presents no concerns with regard to drainage impacts and is considered to be complementary to the outdoor amenity space. Subject to the recommended conditions of approval, Variance 3 is considered to be desirable for the appropriate development of the land.

Variance 5 is to permit a fence height of 3.05m (10 ft.) for a portion of the fence in the

rear yard located behind the play structure. In this case, the extra height is used to screen the play structure from adjacent properties and is not considered to be overbearing in regard to massing or sightlines. Subject to the recommended conditions of approval, Variance 5 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variance 1 is intended to facilitate a second storey addition that will have a setback consistent with the first storey of the dwelling and represents a reduction in setback of only 0.3m (1 ft.). Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variance 2 is to permit an existing oversized accessory structure. The structure is intended to act as accessory storage for the primary residence. A condition of approval is recommended that the structure not be used as habitable space to ensure that its primary function is accessory to the main dwelling. Subject to the recommended conditions of approval, Variance 2 is considered to be minor in nature.

Variance 3 is to permit a 0m setback to an existing play structure in the rear yard. The structure is located in a tree near the property line and its elevated nature does not present any concerns with regard to drainage. Subject to the recommended conditions of approval, Variance 3 is considered to be minor in nature.

Variance 4 is to permit a 0m setback to the eaves of an accessory structure. In the case of this accessory structure, it is outfitted with eaves and a downspout that directs the drainage onto the subject property so it is not adversely impacting the adjacent property. Subject to the recommended conditions of approval, Variance 4 is considered to be minor in nature.

Variance 5 is to permit a portion of fence in the rear yard having a maximum height of 3.05m (10 ft.). This higher portion of the fence is a small portion of the fence around the play structure and is intended to screen the elevated structure. Subject to the recommended conditions of approval, Variance 5 is considered to be minor in nature.

Respectfully Submitted,

Shelby Swinfield

Shelby Swinfield, Planner I, Development