



Report Committee of Adjustment

Filing Date: January 19, 2024
Hearing Date: February 20, 2024

File: A-2024-0014

**Owner/
Applicant:** Irfan Muhammad and Alia Arshad Muhammad
Lucid Homes (Parmir Rafiq)

Address: 9182 Heritage Road

Ward: 6

Contact: Megan Fernandes, Assistant Development Planner

Recommendations:

That application A-2024-0014 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 Notice of Decision;
 2. That the applicant submit a Custom Home Architectural Control Review application;
 3. Applicant to contact the City's Forestry Department to review any existing trees effected by the proposed work 'prior to' and as a condition of minor variance/ CofA approval. A tree removal permit will be required;
 4. Prior to the demolition of the home, the Applicant shall provide a Stage 1 Archaeological Assessment and Ministry of Sport, Tourism, Culture letter confirming the Archaeological Assessment report has been entered into the Ontario Public Register of Archaeological reports for all lands within the subject application, and shall mitigate adverse impacts to any significant archaeological resources, found, to the satisfaction of the City and the Ministry of Sport, Tourism and Culture;
 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 applicant is proposing to construct a new two-storey dwelling on the property. The subject lot is considered to have Legal Non-Conforming aspects such as the lot area and width. Variances are requested to bring the current site conditions into compliance and to facilitate the proposed design of the dwelling which will have a greater building height and reduced interior side yard setback.

Existing Zoning:

The property is zoned 'Agricultural (A)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a lot area of 0.345 ha, whereas the by-law permits a minimum lot area of 0.4 ha;
2. To permit a lot width of 38.1 metres, whereas the by-law permits a minimum lot width of 45 metres;
3. To permit an interior side yard setback of 2.21 metres to a proposed two storey dwelling, whereas the by-law requires a minimum side yard setback of 7.5 metres; and
4. To permit a building height to 13.03 metres for the single detached dwelling, whereas the by-law permits a maximum building height of 10.6 metres.

Current Situation:

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

The subject property is designated 'Residential' within the Official Plan and 'Employment Estates' in the Bram West Secondary Plan (Area 40a). The Residential designation permits predominantly residential land uses including a full range of dwelling types ranging from single detached houses to high-rise apartments. Complementary uses, other than Places of Worship, shall be permitted subject to specific Secondary Plan policies or designations, and may include uses permitted in the Commercial and Institutional and Public Uses designations of this plan, such as schools, libraries, parks, community and recreation centres, health centres, day care centres, local retail centre, neighbourhood retail, convenience retail, or highway and service commercial uses as stated in section 4.2.1.1 of the Official Plan.

As stated in section 3.2.18 of the Bram West Secondary Plan, the Employment Estate designation permits permit residential uses and the following 'home-based' and free-standing employment uses: compatible small scale industrial and manufacturing uses; home businesses; home and small scale office uses; convenience retail and service uses including craft shops, studios, galleries, personal service uses, and florists; heritage and tourism related uses, small scale cottage industries, greenhouses, nurseries, garden centres and specialty agricultural uses.

Variance 1 is requested to permit a lot area of 0.345 ha, whereas the by-law permits a minimum lot area of 0.4 ha. Section 3.2.2.0 of the Secondary Plan provides the following direction regarding lot area:

Prior to the provision of full urban services, the creation of new lots will be permitted within the Employment Estates designation. This interim development will be subject to a minimum lot size of 0.4 hectares (1 acre), created by consent or plan of subdivision, in accordance with Part I, Section 5.0 and other relevant policies of the Official Plan, subject to the following:

i) Proposed lots must be logical, compatible with existing surrounding land uses, and have no detrimental impact on the ultimate development pattern of the area.

As stated in the applicant's letter, the intention of this application is to facilitate the development of a new single detached residence on the property. Variance 1 and Variance 2 are existing site conditions, and furthermore staff have evaluated the requested variances as being Legal Non-Conforming. It is the intent of the applicant to bring the current site conditions into compliance.

The requested variances have no impact within the context of the policies of the Official Plan and Secondary Plan, and maintains the general intent and purpose of the Official Plan.

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

The property is zoned 'Agricultural (A)', according to By-law 270-2004, as amended, intended to accommodate agricultural purposes, as well as non-agricultural uses including a single detached dwelling. Through the current application, the owner/applicant are requesting four (4) variances, including two (2) variances to recognize the area and the width of the existing lot and two (2) variances to facilitate the construction of a proposed custom home dwelling.

Variance 1 is requested to permit a lot area of 0.345 ha, whereas the by-law permits a minimum lot area of 0.4 ha. Variance 2 is requested to permit a lot width of 38.1m, whereas the by-law permits a minimum lot width of 45m. The intent of the by-law in regulating the lot area and lot width is to ensure that the lot dimensions are capable of accommodating the intended use or development. As well as to remain consistent with the existing streetscape of the area. In the present context, the existing lot area and width are similar to other lots along this section of Heritage Rd. The lot has accommodated a detached dwelling for several years and is suitable to accommodate the proposed custom house. Subject to the recommend conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit an interior side yard setback of 2.21 metres to a proposed two storey dwelling, whereas the by-law requires a minimum side yard setback of 7.5 metres. The intent of the by-law in regulating the required interior side yard setback to a proposed two storey dwelling is to ensure that sufficient distance is maintained between dwellings, and that the massing of the second storey does not impose upon the adjacent property.

The applicant is requesting to reduce the interior side yard setback on the west side to allow for the new proposed dwelling. Access to the rear yard is maintained as there is adequate room provided to access the rear yard in a continuous path given the size of the subject property. Despite the reduced interior side yard setback, there are no anticipated to be any negative impacts. Furthermore, the requested 2.21m is requested for only a portion of the dwelling whereas the majority of the remaining portions of the dwelling will comply with the existing setback requirements. Subject to the recommended

conditions of approval, variance 3 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 4 is requested to permit a building height to 13.03 metres for the single detached dwelling, whereas the by-law permits a maximum building height of 10.6 metres. The intent of the by-law in regulating the maximum permitted building height for a property is to ensure that there are no negative massing impacts on adjacent properties. Given that the proposed dwelling will be situated on a 0.345 ha, the increase in building height is not anticipated to create any adverse impacts relating to shadowing, privacy, or massing. There are several large coniferous trees which will limit the visual impact of the dwelling's height from the public realm. Subject to the recommended conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variances 1 and 2 are requested to permit a reduced lot width and lot area than what the by-law permits. In review of the application and the requested variances, staff note that the requested variances are existing site conditions and are not the result of any additional planning application (i.e severance or draft plan of subdivision). The intent of the applicant is to bring the property into conformity while proposing a new residential dwelling on the property. The existing site conditions are compatible with the surrounding site context. The requested variances are not considered to have significant impacts on the design of the dwelling given the scale of the overall proposal.

As the intent of the proposal is to demolish the existing house and constructing a new dwelling, the City's Heritage Staff have reviewed the application and provided a condition that the Owner provide an Archaeological Assessment(s) for the property. A condition of approval is recommended that at minimum, a Stage 1 Archaeological Assessment as a condition of approval of the variance. No land alteration may occur without the Stage 1 Archaeological Assessment and any subsequent assessments as required and a letter of Acceptance from the Ministry of Citizenship and Multi-Culturalism indicating that there are no archaeological concerns for the property. If the Stage 1 report recommends further assessment, that will also have to be completed prior to any alterations to the property.

It is noted that the proposed dwelling will also be required to be processed through the Custom Home Architectural review process. Through this review, the City's Urban Design Staff will review the proposed dwelling to ensure it conforms to the architectural style and massing of the surrounding area. An additional condition of approval is provided that the applicant contact the City's Forestry Department to review any existing trees effected by the proposed work. From a preliminary review of the application, a tree removal permit will be required. Subject to the recommended conditions, the proposed variances are desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances will facilitate the construction of a new residential dwelling. The proposed dwelling will not negatively alter the character of the area or create adverse impacts to the adjacent lands. Subject to the recommended conditions of approval, the variance is minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Assistant Development Planner

Appendix A – Site Visit Photos

