



## Report Committee of Adjustment

**Filing Date:** February 6, 2023  
**Hearing Date:** March 28, 2023

**File:** A-2023-0037

**Owner/  
Applicant:** ALWIN ANTONY AND MARINA MARIYACHAN

**Address:** 23 Ferri Crescent

**Ward:** WARD 2

**Contact:** Rajvi Patel, Assistant Development Planner

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### **Recommendations:**

That application A-2023-0037 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 below grade entrance shall not be used to access an unregistered second unit;
  3. That the fence used to screen the below grade entrance shall be maintained as currently constructed, and shall not be removed or lowered, but may be repaired or replaced when necessary;
  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:**

#### Existing Zoning:

The property is zoned 'Residential Single Detached (R1D-238)', according to By-law 270-2004, as amended.

#### Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance in the exterior side yard, whereas the by-law does not permit a below grade entrance in an exterior side yard;
2. To permit an exterior side yard setback of 2.31m (7.58 ft.) to a below grade entrance, whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 ft.);
3. To permit an accessory structure in the exterior side yard having a setback of 0.23m (0.75 ft.) to the flankage lot line whereas the by-law does not permit an accessory structure in an exterior side yard.

**Current Situation:**

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

The subject lands are designated 'Residential' in the Official Plan and 'Medium Density Residential' in the Snelgrove-Heart Lake Secondary Plan (Area 1). The Residential designation supports the current use and the requested variances are not anticipated to have any significant impacts in the context of the Official Plan and Secondary Plan policies, and is considered to maintain the general intent and purpose of the Official Plan.

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

The subject lands are currently zoned 'Residential Single Detached (R1D),' Special Section 238 (R1D-238), according to By-law 270-2004, as amended.

Variance 1 is requested to permit a below grade entrance in the exterior side yard, whereas the by-law does not permit a below grade entrance in an exterior side yard. The intent of the by-law in prohibiting below grade entrances in the exterior side yard is to ensure that the appearance of the below grade entrance does not negatively impact the overall streetscape. Variance 2 is requested to permit an exterior side yard setback of 2.31m (7.58 ft.) to a below grade entrance, whereas the by-law requires 3.0m (9.84 ft.). The intent of the by-law in requiring a minimum exterior side yard setback is to ensure that sufficient space is provided to allow access to the rear yard.

The proposed below grade entrance will be constructed along the western wall of the detached dwelling located on a corner lot. The applicant is proposing the below grade entrance behind an existing fence. As a result, the below grade entrance is not considered to negatively impact the overall streetscape as it will be screened from the streetscape by the fence and not be visible. Furthermore, the below grade entrance encroaching into the required exterior side yard is not considered to have a significant impact on drainage and sufficient space is maintained for access to the rear yard. A condition of approval is recommended that the fence used to screen the below grade entrance shall be maintained as currently constructed, and shall not be removed or lowered, but may be repaired or replaced when necessary. Additionally, the below grade entrance shall not be used to access an unregistered second unit. Subject to the recommended conditions of approval, Variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

Variance 3 is requesting to permit an accessory structure in the exterior side yard having a setback of 0.23m (0.75 ft.) to the flankage lot line whereas the by-law does not permit an accessory structure in an exterior side yard. The intent of the by-law in prohibiting accessory structures in the exterior side yard is to ensure that the appearance of the structure does not negatively impact the overall streetscape.

The subject property is a corner lot and the existing shed is located in the exterior side yard of the lot. The accessory structure is appropriately setback and screened by an existing wooden fence enclosing the rear yard. The location and appearance of the shed is not anticipated to negatively impact the overall streetscape. Variance 3 is considered to maintain the general intent and purpose of the Zoning By-law.

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

Variances 1 and 2 are intended to permit a proposed below grade entrance between the main wall of the dwelling and flankage lot line on a corner lot. The location and configuration of the below grade entrance along the western wall of the dwelling does not impede access to the rear yard and is adequately fenced and screened to the satisfaction of the Planning Department. Subject to the recommended conditions of approval, Variances 1 and 2 are considered desirable and appropriate for the development of the land as it is not anticipated to generate negative impacts to the streetscape.

Variance 3 is requested to permit the location of the existing shed in the rear yard of the residential property. While the location of the accessory structure is not permitted in the by-law, given the large size of the lot, the overall size of the accessory structure is not anticipated to cause negative visual impacts to the streetscape as it will be screened by an existing wooden fence. Variance 3 is considered desirable and appropriate for the development of the land.

### 4. Minor in Nature

Variances 1 and 2 are requested to facilitate the construction of a below grade entrance between the main wall of a dwelling and the flankage lot line. Given the below grade entrance is adequately screened behind an existing fence, staff are satisfied that the existing streetscape will not be negatively impacted. Additionally, the below grade entrance is not considered to have a significant impact on drainage or limit access to the rear of the property. Subject to the recommended conditions of approval, Variances 1 and 2 are considered minor in nature.

Variance 3 is requested to permit the location of the existing accessory structure in the exterior side yard. Considering the size and shape of the property, the accessory structure is not anticipated to cause negative visual impacts or limit the overall provision of amenity space as it is adequately screened from the streetscape. The shed also maintains all other zoning requirements including the size and height of the accessory structure. As a result, no negative impacts are anticipated on-site or off-site. Variance 3 is considered minor in nature.

Respectfully Submitted,

*Rajvi Patel*

Rajvi Patel, Assistant Development Planner

**Appendix A – Existing Site Conditions**

