



Report Committee of Adjustment

Filing Date: June 24, 2022
Hearing Date: March 28, 2023

File: A-2022-0203

**Owner/
Applicant:** Adai Kalaraj Pothagal, Mario Antony Kuveena Prakasam

Address: 24 Jemima Road

Ward: WARD 6

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0203 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown on the revised 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 failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

Background:

The Minor Variance application is seeking approval to construct a below grade entrance with stairs located in the interior side yard of the detached dwelling. Two variances are required to facilitate the construction of the proposed below grade entrance. The application was previously deferred at the December 6th, 2023 Committee of Adjustment meeting as the subject property was part of a subdivision that had not yet been assumed by the City. City staff are now satisfied that the assumption of subdivision process has sufficiently progressed and is nearing completion for the application to proceed. Further, and upon staff request, the applicant has indicated that they will provide a revised sketch depicting riser steps on either side of the landing facilitating continuous access to the rear yard.

Existing Zoning:

The property is zoned 'Residential Single Detached F (R1F-9-2452)', 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 required interior side yard whereas the by-law does not permit a below grade entrance in a required side yard;
2. To permit an interior side yard setback of 0.0m (0.0 ft.) to a below grade entrance whereas the by-law requires a minimum side yard setback of 1.2m.

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. 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

The first variance is requested to permit a below grade entrance in the required interior side yard whereas the by-law does not permit a below grade entrance in a required side yard. The second variance is requested to permit an interior side yard setback of 0.0m (0.0 ft.) to a below grade entrance whereas the by-law requires a minimum side yard setback of 1.2m. The intent of the by-law in prohibiting below grade entrances in the interior side yard is to ensure that sufficient space is maintained to access the rear yard of the property and to ensure proper drainage is maintained between the stairs and the property line. Staff also note that the intent of the by-law in this case is to ensure that there is adequate space to access a side door, without the potential of trespassing on the neighbouring property.

The proposed stairway leading to a below grade entrance within the required interior side yard is not considered to have significant impact on drainage and the below grade entrance is proposed to be constructed with risers on either side of the landing to provide continuous 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. Variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variances 1 and 2 are intended to permit a below grade entrance within the interior yard. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. Staff do not anticipate any negative impacts to drainage or access to the rear of the property and consider the location of the below grade entrance appropriate given the site context. Subject to the recommended condition of approval, the variance is considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variance for the construction of a below grade entrance are not considered to have significant impact on drainage or limiting access to the property. Variances 1 and 2 are deemed minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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