



## Report Committee of Adjustment

**Filing Date:** March 1, 2023  
**Hearing Date:** March 28, 2023

**File:** A-2023-0061

**Owner/  
Applicant:** MARCIA LAWRENCE / SHIVANG TARIKA

**Address:** 102 Swennen Dr

**Ward:** WARD 1

**Contact:** Megan Fernandes, Planning Technician

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### **Recommendations:**

That application A-2023-0061 is supportable in part, 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 Variance 3 to permit a driveway width of 8.1m (26.57 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.) be refused;
3. That Variance 4 to permit 0.0m permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum 0.6m (1.97 ft.) permeable landscaping between the side lot line and the driveway be refused;
4. That the existing fence remain constructed in its current location and shall not be removed, but maintained as necessary, to ensure that the entrance remains screened from the street;
5. The owner shall obtain a building permit for the existing as- built below grade entrance and as-built overhead 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;
6. That the existing as-built below grade entrance not be used to access an unregistered second unit;
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:**

Planning staff were notified by by-law enforcement that the owner has received enforcement notices regarding the existing driveway. The original submitted application did not contemplate the existing driveway width. Staff notified the Applicant and advised them to provide an updated sketch to include of the driveway width measurement.

**Existing Zoning:**

The property is zoned 'Residential Rural Estate Two (RE2)', according to By-law 270-2004, as amended.

**Requested Variances:**

The applicant is requesting the following variances:

1. To permit a below grade entrance between the main wall of the dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance between the main wall of the dwelling and the flankage lot line;
2. To permit an exterior side yard setback of 2.22m (7.28 ft.) whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 ft.);
3. To permit a driveway width of 8.1m (26.57 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.);
4. To permit 0.0m permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum 0.6m (1.97 ft.) permeable landscaping between the side lot line and the driveway.

**Current Situation:****1. Maintains the General Intent and Purpose of the Official Plan**

The property is designated as 'Residential' in the Official Plan and 'Medium Density Residential' in the Flowertown Secondary Plan (Area 6). 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**

Variance 1 is requested to permit a below grade entrance between the main wall of the dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance between the main wall of the dwelling and the flankage lot line. Variance 2 is requested to permit a exterior side yard

setback of 2.22m (7.28 ft.) whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 ft.). The intent of the by-law in prohibiting below grade entrances between a main wall of the dwelling and the flankage lot line is to ensure that the appearance of the below grade entrance does not negatively impact the overall streetscape. The intent of the by-law in requiring a minimum exterior side yard setback is to ensure that sufficient space is maintained for drainage and access to the rear yard.

The applicant has constructed a below grade entrance on the main wall of a single detached dwelling located on the corner of Swennen Drive and Paul Williams Gate. The location of the below grade entrance is not anticipated to have significant impact on drainage and sufficient space (2.22m) will be maintained for access to the rear yard. Additionally the below grade entrance is located behind a fence and is not visible for the street. A condition of approval is recommended that the fence remain constructed in its current location and shall not be removed, but maintained as necessary, to ensure that the entrance remains screened from the street. 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 requested to permit a driveway width of 8.1m (26.57 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.). Variance 4 is requested to permit 0.0m permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum 0.6m (1.97 ft.) permeable landscaping between the side lot line and the driveway. The intent of the by-law in requiring a minimum permeable landscape strip along the interior lot line is to ensure that sufficient space is provided for drainage and that drainage on adjacent properties is not impacted.

The existing driveway width is approximately 1.39m (4.56 ft.) wider than the by-law permits. The additional width is attributable to the addition of decorative concrete to on either side of the driveway. The widened area on the southwest side of the driveway extends to the side lot line and requires a variance to permit 0.0m of permeable landscaping to the abutting side property line. In this case, the cumulative width of the driveway is sufficient to allow for additional vehicles to be parked side by side across the width of the driveway which is contrary to the by-law. The extent of the driveway along with the elimination of permeable landscape strip along the side lot line, creates an abundance of hard surfacing along the front of the property. Variances 2 and 3 do not 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 an existing below grade entrance in the exterior side yard of the property. The existing exterior side yard setback of 2.22m (7.28 ft.) is 0.78m (2.56 ft.) less than the required 3.0m (9.84 ft.) and provides sufficient access to the rear yard and is not anticipated to negatively impact drainage on the subject property. The entrance is currently located behind the existing fence and therefore screened from the street. Conditions of approval are recommended that the fence remain in its current location to ensure that the below grade entrance is adequately screen from the street view, and that the owner/applicant obtain a Building Permit for the existing door and as-built overhead structure within 60 days or extended at the discretion of the Chief Building Official. A further condition is recommended that the entrance not be used to access an unregistered second unit

to ensure that any second unit within the dwelling has completed the City's registration process. Subject to the recommended conditions of approval, the requested variances are considered to be desirable for the appropriate development of the land.

Two variances are requested to permit an existing driveway width which exceeds the requirements of the Zoning By-law and the elimination of the permeable landscaping along the side lot line. Variances 3 and 4 potential to accommodate an additional vehicle to be parked limiting access to the front of the dwelling. The increased driveway width, results in existing site conditions which present a substantial amount of hardscaping at the front of the property which will have negative impacts on the streetscape. Variances 3 and 4 are not desirable for the appropriate development of the land.

#### 4. Minor in Nature

Subject to the recommended conditions of approval, the requested variance is not considered to have a significant impact to drainage or limit access to the property. Additionally, the as-built below grade entrance will be screened from the public realm as it is located behind an existing fence. Variances 1 and 2 are deemed minor in nature.

Variance 3 and 4 request to permit an existing driveway width of 8.1m (26.57 ft.) which is 1.39m (4.56 ft.) greater than the zoning by-law permits. The existing driveway width and elimination of the permeable landscaping abutting the side lot line have the potential to facilitate the parking of additional vehicles and presents an abundance of hardscaping in front of the dwelling. The requested variances are therefore not considered minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician

## Appendix A – Site Visit Photos



## Appendix B – Aerial Photo

