



Report Committee of Adjustment

Filing Date: February 16, 2023

Hearing Date: March 28, 2023

File: A-2023-0044

Owner/

Applicant: JEFFREY CADENA & ANISHA CADENA/ MAZHAR RAJA

Address: 54 Esker Drive

Ward: WARD 2

Contact: Ellis Lewis, Planning Technician

Recommendations:

That application A-2023-0044 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 obtain a building permit for the deck 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; and
 3. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
-

Background:

Existing Zoning:

The property is zoned 'Residential Single Detached B (2) Special Section 278 (R1B (2)-278)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a deck encroachment of 3.6m (11.81 ft.) into the required rear yard resulting in a 4.37m (14.33 ft.) rear yard setback whereas the by-law permits a maximum encroachment of 3.0m (9.8 ft.) resulting in a rear yard setback of 5.0m (16.40 ft.); and
2. To permit an interior side yard setback of 0.54m (1.77 ft.) to an as-built deck whereas the by-law requires a minimum interior side yard setback of 1.8 m (5.9 ft.) to the second storey.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low Density' in the Snelgrove-Heartlake Secondary Plan (Area 29). 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

Variance 1 requests to permit a deck encroachment of 3.6 metres into the required rear yard resulting in a rear yard setback of 4.37 metres whereas the by-law permits a maximum encroachment of 3.0 metres resulting in a rear yard setback of 5.0 metres. Variance 2 requests to permit an interior side yard setback of 0.54m to an as-built deck whereas the by-law requires a minimum interior side yard setback of 1.8 metres to the second storey. The intent of the by-law in requiring a minimum setbacks is to ensure that sufficient space is provided for the rear yard amenity area on the property, to ensure that space is provided for drainage and to ensure that neighbouring properties are not adversely impacted in terms of sightlines or privacy. The subject property backs onto land designated as Open Space as per the Brampton Official Plan and is also regulated by the Toronto and Region Conservation Authority (referred to as the 'TRCA' hereafter). Given that the property backs onto Open Space and Esker LK Trail, the proposed reduced deck encroachment is not anticipated to adversely impact the land abutting the rear yard. The TRCA have reviewed the proposal and provided a Letter of Approval to construct a non-habitable accessory structure. TRCA staff provided confirmation to City of Brampton Planning Staff, stating that they are satisfied with the proposed development and that the requested variance is not anticipated to negatively impact the abutting watershed. The deck will also contribute to additional amenity space on the subject property, the applicant has advised that by providing an area for passive recreation. City Engineering Staff have also reviewed the proposed development and are satisfied with the application as it does not negatively impact drainage on the subject parcel or abutting property as the remaining 4.37 metres of rear yard setback is sufficient for site drainage purposes.

The interior side yard setback of 0.54 metres is located at approximately the midpoint of the home, due to the pie shaped lot configuration the setback gradually increases away from the lot line in the rear yard. As per the elevation drawings provided by the applicant, the deck is located on posts to accommodate a grade change, the applicant has proposed privacy fencing on the deck structure to adequately screen the deck from neighboring properties.

Subject to the recommended conditions of approval, the variances maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The variances required to facilitate the development of a deck in the rear and side yard of the existing two-storey house are not anticipated to create adverse massing impacts or privacy issues onto abutting properties. Prior to purchasing the house, the applicant made City Staff aware that the deck to the side of the house already existed and they decided to add to it, in order to assist with maneuverability of an aging family member. The subject property is located on a cul-de-sac and the rear yard backs onto an open space area (Esker LK Trail) which is also regulated by the TRCA. Due to the absence of residential homes to the rear of the property, the proposed reduced rear yard setbacks is considered appropriate. Moreover, the configuration of the cul-de-sac resulted in the subject property being further setback than neighboring properties, despite the reduced interior side yard setback the location of the dwelling foot print positions the deck away from the view point of the neighboring property. In addition, the subject property contains a vast amount of landscaping along the rear interior lot lines, providing a naturalized buffer for added privacy.

As previously discussed, the proposal has been reviewed by the TRCA and strict conditions have been outlined in the Letter of Approval. The owner shall ensure that all excess fill that is generated from the construction of the deck will not be stockpiled and/or disposed of within any area that is regulated by the TRCA. The owner is also aware that they shall install effective erosion and sediment control measures prior to the commencement of construction. These measures must be maintained in good working order to the satisfaction of the TRCA. Protection of environmental land is being considered for future use as conditions outline that the owner will be responsible for upgrading sediment and erosion control strategies as site conditions change, in order to prevent sediment releases to the natural environment. The owner is aware that they are also responsible for stabilizing all distributed areas immediately following the completion of work and for the removal/ disposal of sediments controls from the site. With these safeguards in place, protection of the Etobicoke Creek Watershed will be prioritized and closely monitored. Subject to the recommended conditions of approval, the variances are appropriate for the development of the land.

4. Minor in Nature

The requested variance relating to the deck encroaching into the rear yard setback is not anticipated to have any adverse impacts on adjacent properties, drainage on the subject property or impacts on the provision of outdoor amenity space. As the site abuts the Esker LK Trail, there are no properties to the rear of the house that will be impacted and the applicant has said that screens will be added to increase privacy. Once the deck has been completely constructed, there will be 4.37 metres of amenity space and landscaping throughout the rear yard to allow for additional uses. The applicant is aware that the variance is only acceptable for the construction of the deck. Subject to the recommended conditions of approval, these variances are considered minor in nature.

Respectfully Submitted,

Ellis Lewis

Ellis Lewis, Planning Technician

Appendix A:



Appendix B:

[illegible]