



## Report Committee of Adjustment

**Filing Date:** February 28<sup>th</sup>, 2023  
**Hearing Date:** March 28<sup>th</sup>, 2023

**File:** A-2023-0054

**Owner/  
Applicant:** BHAGYESH KALPITKUMAR PATEL AND ISHITA BHAGYESH PATEL

**Address:** 51 NATHANIEL CRES

**Ward:** WARD 6

**Contact:** Samantha Dela Pena, Assistant Development Planner

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### **Recommendations:**

That application A-2023-0054 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance 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 proposed fence used to screen the below grade entrance shall be constructed as shown on the sketch, shall not be removed or lowered but may be repaired or replaced when necessary, and shall not remove or affect the existing fence on the property; and
  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 Extended Zone Special Section 2774 – (R2B-2774)', according to By-law 270-2004, as amended.

#### Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed below grade entrance between the main wall of a dwelling and the flankage lot line, whereas the by-law does not permit below grade entrances between the main wall of the dwelling and the flankage lot line.

**Current Situation:**

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

The property is designated 'Residential' in the Official Plan and further designated 'Medium Density Residential' in the Bram West Secondary Plan (Area 40c). The requested variance is not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested variance 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 requested variance seeks to permit a proposed below grade entrance between the main wall of a dwelling and the flankage lot line, whereas the by-law does not permit below grade entrances between the main wall of the dwelling and the flankage lot line. 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 proposed stairway leading to the below grade entrance encroaching into the required exterior side yard is not considered to have significant impact on drainage, as adequate landscaping is provided on the front and exterior side yard. Furthermore, a sufficient setback of 3.50m (11.48 ft.) maintains a clear path of travel for access to the rear yard and the proposed fencing surrounding the below grade entrance minimizes any visual impacts to neighbouring properties. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variance is intended to permit a below grade entrance within the exterior side yard. As the applicant is also proposing a wooden fence along the exterior side yard in order to properly screen the below grade entrance, staff do not anticipate any negative visual impacts on either the streetscape or abutting properties. Furthermore, the proposed fence materials will aim to match and connect to the existing wooden fencing leading to the rear yard of the property (see Appendix A). A condition of approval is recommended that the proposed fence used to screen the below grade entrance shall be constructed as shown on the sketch, shall not be removed or lowered but may be repaired or replaced when necessary, and shall not remove or affect the existing fence on the property.

A condition of approval is also recommended that the below grade entrance shall not be used to access an unregistered second unit. Subject to the recommended conditions of approval, the variance is considered desirable for the appropriate development of the land.

#### 4. Minor in Nature

The requested variances for the construction of a below grade entrance is not considered to have significant impact on drainage or limiting access to the property. Furthermore, the below grade entrance is proposed to be screened at the flankage line by wooden fencing of a similar size, height, and material to the existing fence located toward the rear yard and will connect to the existing fence in an aesthetically pleasing manner. The proposed below grade entrance is to be screened in a manner that reduces its impact on neighboring properties and the overall streetscape. As such, the requested variance is deemed minor in nature.

Subject to the recommended conditions of approval, the requested variance is considered to be minor in nature.

Respectfully Submitted,



Samantha Dela Pena, Assistant Development Planner

**Appendix A – Site Visit Photos:**

