



## Report Committee of Adjustment

**Filing Date:** February 28, 2023

**Hearing Date:** March 28, 2023

**File:** A-2023-0060

**Owner/  
Applicant:** ASHISH KUMAR AND BHUMIKA MIGLANI

**Address:** 65 Sugarberry Drive

**Ward:** WARD 5

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

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### **Recommendations:**

That application A-2023-0060 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 the proposed fence used to screen the below grade entrance shall be constructed as provided, and shall not be removed or lowered, but may be repaired or replaced when necessary;
  3. That the below grade entrance shall not be used to access an unregistered second unit;
  4. That Variance 3 to permit a driveway width of 5.64m (18.50 ft.) be refused and that the portion of the driveway extension that encroaches within the City's daylight triangle at Sugarberry Drive and Tanasi Road be removed and landscaping be reinstated;
  5. 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 Semi-Detached A (R2A-1308)', 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 flankage lot line.
2. To permit an exterior side yard setback of 2.44m (8.0 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 a driveway width of 5.64m (18.50 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.).

**Current Situation:**

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

The subject lands are designated 'Residential' in the Official Plan and 'Low Density 2' in the Creditvalley Secondary Plan (Area 45). The requested variance is not considered to have significant impacts within 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 Semi-Detached A,' Special Section 1308 (R2A-1308), according to By-law 270-2004, as amended.

Variance 1 is requested to permit a below grade entrance between the main wall of a dwelling and the flankage lot line whereas the by-law prohibits 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 the main wall of a dwelling and the flankage lot line 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 2.44m (8.01 ft.) to a proposed below grade entrance whereas the by-law requires a minimum exterior side yard setback of 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 northern wall of the detached dwelling located on a corner lot. The below grade entrance will be accessed by nine steps leading to a below grade landing and a door. The proposed below grade entrance is not considered to negatively impact the overall streetscape as it will be screened from the streetscape by a proposed fence and will therefore not be visible to the public. A condition of approval is recommended that the proposed fence used to screen the below grade entrance shall be constructed as provided, and shall not be removed or lowered, but may be repaired or replaced when necessary.

Furthermore, the proposed stairway leading to the below grade entrance encroaching into the required exterior side yard is not considered to have a significant impact on drainage and sufficient space of 2.44m (8.01 ft.) is maintained for 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. 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 5.64m (18.50 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.). The intent of the by-law in regulating the maximum permitted driveway width is to ensure that the driveway does not dominate the front yard landscaped area and that the driveway does not allow an excessive number of vehicles to be parked in front of the dwelling.

A portion of the extended driveway encroaches into the City's daylight triangle at the corner of Sugarberry Drive and Tansai Road. The purpose of a daylight triangles is to ensure that vehicular traffic and pedestrians have a clear sightline at an intersection. Planning and Traffic Services staff are concerned that a parked vehicle located on the extended portion of the existing driveway may obstruct visual sightlines at the intersection of Sugarberry Drive and Tansai Road creating safety concerns for pedestrians and vehicles to reverse or enter the extended driveway area within the right of way at a point too close to the intersection. The requested variance to permit an increased driveway width results in the ability for vehicles to be parked in close proximity and partially within the daylight triangle which is contrary to the intent of the by-law and is a safety concern for residents, vehicular drivers and pedestrians. Therefore, staff are of the opinion that Variance 3 is not 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 requested to permit a below grade entrance between the main wall of the dwelling and flankage lot line which will encroach into the exterior side yard setback. 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 portions 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.

Variance 3 is requested to permit the existing site conditions where the driveway has been extended into the projected point of intersection of two streets. The variance would allow vehicles to be parked too close to the point of intersection which generates safety concerns for pedestrians and vehicles. The driveway was extended in a manner that goes beyond the curvature of the street and overlaps into the City's daylight rounding. The portion of the extended driveway encroaching into the City's daylight rounding is to be removed. The City's daylight rounding is to be clear and free of obstructions and have no structure or vegetation exceeding a height of 0.80m (2.62 ft.). The requested variance is not considered desirable for the appropriate development of the land.

### 4. Minor in Nature

Variances 1 and 2 are requested to facilitate a proposed below grade entrance between the main wall of a dwelling and the flankage lot line which will encroach into the exterior side yard setback. Given that the below grade entrance will be screened behind the proposed extension of a fence, staff are satisfied that the existing streetscape will not be negatively impacted. Additionally, the exterior stairway leading to the below grade entrance is not considered to have negative impacts on drainage or limit access to the rear of the property. Subject to the recommended conditions of approval, the requested variance is considered minor in nature.

Variance 3 to permit an increased driveway width encroaches into the City's daylight rounding which is considered to generate negative potential negative impacts relating to visibility sightlines and safety. Variance 3 is not considered to be minor in nature.

Respectfully Submitted,

*Rajvi Patel*

Rajvi Patel, Assistant Development Planner

## Appendix A – Existing Site Conditions

