



Report Committee of Adjustment

Filing Date: March 22nd, 2024

Hearing Date: April 23rd, 2024

File: A-2024-0079

Owner/

Applicant: VISHAL ANAND & SONAL CHAUDHARY

Address: 80 DONALD STEWART RD

Ward: WARD 6

Contact: Paul Brioux, Assistant Development Planner

Recommendations:

That application A-2024-0079 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 below grade entrance shall not be used to access a registered or unregistered second unit;
 3. That drainage on adjacent properties should not be adversely affected;
 4. That variance 3 be refused; and,
 5. 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 – Special Section 2556 (R1F-2556)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed exterior stairway leading to a below grade entrance in a required side yard, whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard;
2. To permit an interior side yard setback of 0.1m to a proposed exterior stairway leading to a below grade entrance whereas the by-law requires a minimum setback of 0.3m to an exterior stairway leading to a below grade entrance in the interior side yard provided that a continuous side yard width of no less than 1.2m (3.94 ft.) is provided on the opposite side of the dwelling
3. To permit a 0.65m wide pedestrian path of travel leading to the principal entrance of a additional residential unit whereas the by-law requires an unobstructed pedestrian path of travel having a minimum width of 1.2m leading to the principal entrance of an additional residential unit.

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' Mount Pleasant Secondary Plan (Area 51). As stated in Official Plan Section 3.2.8.2(ii), a second unit must comply with the Ontario Building Code and/or Fire Code and Property Standards By-law and other applicable approval requirements. While staff are supportive of the requested variances 1 and 2, it is noted that it will not be suitable for the primary access to a secondary suite if it would fail to meet minimum Ontario Building Code requirements. The requested variances 1 and 2 are not considered to have significant impacts within the context of the Official Plan and maintain the general intent and purpose of the Official Plan. The nature and extent of the variance 3 is contrary to the policies of the Official Plan and not 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 proposed exterior stairway leading to a below grade entrance in a required side yard, whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. The intent of the by-law in requiring a minimum setback to any stairs or landing serving a below grade entrance in the interior side yard is to ensure that access to the rear yard can be maintained. Access to the rear yard is not impacted as access is maintained.

Variance 2 is requested to permit an interior side yard setback of 0.1m to an proposed exterior stairway leading to a below grade entrance, whereas the by-law requires a minimum setback of 0.3m to an exterior stairway leading to a below grade entrance in the interior side yard provided that a continuous side yard width of no less than 1.2m (3.94 ft.) is provided on the opposite side of the dwelling. The intent of the Zoning 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 drainage between the stairs and the property line. The rear yard is still accessible and engineering staff are of the opinion that drainage is not impacted as result of the proposal.

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 0.65m wide pedestrian path of travel leading to the principal entrance of an additional residential unit whereas the by-law requires an unobstructed pedestrian path of travel having a minimum width of 1.2m leading to the principal entrance of an additional residential unit. The intent of the by-law in requiring a minimum path of travel is to ensure that there is sufficient area to act as the primary access to a second unit for both everyday and emergency purposes. A reduction to a 0.65m path of travel would not allow the entrance to be accessed for emergency purposes as it is under the minimum standards as outlined in the Ontario Building Code (OBC). Variance 3 is not considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 and 2 are requested to permit a proposed exterior stairway leading to a below grade entrance in a required side yard and to permit an interior side yard setback of 0.1m to a proposed exterior stairway leading to a below grade entrance. The variances are not anticipated to interfere with access to the rear yard nor negatively impact drainage on adjacent properties.

The requested third variance to facilitate a reduced pedestrian path of travel leading to the principal entrance less than the OBC requirement is not considered to be desirable due to the inability for emergency access to the entrance. Conditions of approval noting that the above grade entrance shall not be used to access a registered or unregistered second unit and that drainage on the adjacent properties shall not be adversely affected have been included. Variance 3 is not considered appropriate for the development of the land.

4. Minor in Nature

The location of the proposed below grade entrance is not considered to impact access to the rear yard and engineering staff are of the opinion that drainage is not impacted as result of the proposal. The requested variance to permit a reduced path of travel to a principal entrance is not considered to be minor in nature and poses risk for emergency access.

Subject to the recommended conditions of approval, Variances 1 and 2 are deemed minor in nature. Variance 3 is not considered to be minor in nature and it is recommended that variance 3 be refused.

Respectfully Submitted,

Paul Brioux

Paul Brioux, Assistant Development Planner

Appendix A:

