



Report Committee of Adjustment

Filing Date: June 6, 2024
Hearing Date: September 17, 2024

File: A-2024-0212

**Owner/
Applicant:** **SUNIL BUNGAY & MEENU BUNGAY**

Address: **12 Bernard Avenue**

Ward: WARD 3

Contact: Ellis Lewis, Planner I

Recommendations:

That application A-2024-0212 is supportable in part, subject to the following conditions being imposed:

1. That the extent of variance 3 be limited to that shown on the sketch attached to the Notice of Decision;
 2. That Variance 1 requesting to reduce the interior side yard setback to a garden suite be refused;
 3. That Variance 2 requesting to reduce the separation distance from the principal dwelling to a garden suite be refused;
 4. That Variance 4 requesting to reduce the parking space depth on a residential property be refused;
 5. That Variance 5 requesting to reduce the wide portion of the rear yard to permit the construction of building and structures be refused;
 6. 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 Townhouse A- Special Section 2807 (R3A-2807)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an interior side yard setback of 1.42 metres (4.66 feet) to a garden suite, whereas the by-law requires a minimum interior side yard setback of 1.8 metres (5.9 feet);
2. To permit a separation distance from the principal dwelling of 2.79 metres (9.15 feet) to a garden suite, whereas the by-law requires a minimum separation distance of 3.0 metres (9.84 feet) from a principal dwelling to a garden suite;
3. To permit a driveway width of 5.63 metres (18.47 feet), whereas the by-law permits a maximum driveway width of 5.5 metres (18.04 feet);
4. To permit a parking space depth of 4.9 metres (16.07 feet), whereas the by-law requires a minimum parking space depth of 5.4 metres (17.71 feet); and
5. To permit a minimum 2.5 metre (8.20 foot) wide portion of the rear yard, measured from the rear lot line, to be used as an unoccupied private area of land which is used for the growth, maintenance, conservation of grass, flowers, trees shrubs or similar visual amenities and private recreational purposes, whereas the by-law required a 5.0 metre (8.40 foot) wide portion of the rear yard, measured from the rear lot line, to be used as an unoccupied private area of land which is used for the growth, maintenance, conservation of grass, flowers, trees shrubs or similar visual amenities and private recreational purposes, and no buildings or structures, including swimming pools, decks, patios, sheds and gazebos, paved areas, excavations or grading shall be permitted.

Current Situation:

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

The subject property is designated as 'Community Areas' (Schedule 1A – City Structure) and 'Neighbourhood' (Schedule 2 – Designations) in the Brampton Plan. On May 16th, 2024, the Region of Peel formally issued a notice of approval with modifications for the City of Brampton's new Official Plan, known as the 'Brampton Plan.' The Plan was scheduled to take effect on June 6th, 2024, except for any sections that may be subject to appeal. Schedules 1A and 2 have been appealed on a city-wide basis and therefore the 2006 Official Plan designations are in effect until the appeal is resolved.

The property is designated 'Residential' in the Official Plan and 'Low and Medium Density' in the Fletcher's Creek South Secondary Plan (Area 24). The City of Brampton completed the Policy Review to implement Additional Residential Unit (ARU) policies in the Official Plan and Zoning By-law to conform to Bill 108, and therefore there is a requirement to have three full-sized parking spaces on a site where there are three residential units on a property. In this case, the subject property already contains an additional residential unit within the dwelling. Variances 1, 2, 4, and 5 are needed to facilitate the construction of a new garden suite in the rear yard, which will serve as a third unit. This third unit requires an additional on-site parking space, prompting the request for a reduced parking space depth. With the exception of Variance 3, the requested variances are considered to have impacts within the context of the Official Plan policies and are 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

Variances 1 is requested to permit an interior side yard setback of 1.42 metres (4.66 feet) to a garden suite, whereas the by-law requires a minimum interior side yard setback of 1.8 metres (5.9 feet). Variance 2 is requested to permit a separation distance from the principal dwelling of 2.79 metres (9.15 feet) to a garden suite, whereas the by-law requires a minimum separation distance of 3.0 metres (9.84 feet) from a principal dwelling to a garden suite. Due to the size of the garden suite on the lot where the principal dwelling is a townhouse, Staff have concerns regarding the setback distances that are not maintained. The intent of the by-law in requiring a minimum setback to a garden suite is to ensure that sufficient space is provided for drainage, access, and to ensure that outdoor recreational space is still available in the rear yard of the subject land. In this case, the location and configuration of the garden suite restricts the amount of available amenity space in the rear yard and is considered to lead to the overdevelopment of the lot relative to its size. Given that these minimum standards are not met, Variances 1 and 2 are not considered to maintain the general intent of the Zoning By-law.

Variance 3 is requested to permit a driveway width of 5.63 metres (18.47 feet), whereas the by-law permits a maximum driveway width of 5.5 metres (18.04 feet). 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 to prevent the parking of an excessive number of vehicles in front of the dwelling. With an addition of 0.13 metres (0.43 feet), Staff are of the opinion that the driveway width is not considered to facilitate an excessive number of vehicles being parked in front of the dwelling or significantly impact drainage on the site. Subject to the recommended conditions of approval, Variance 3 maintains the general intent of the Zoning By-Law.

Variance 4 is being requested to permit a parking space depth of 4.9 metres (16.07 feet), whereas the by-law requires a minimum parking space depth of 5.4 metres (17.72 feet). The intent of the By-law in requiring a minimum parking space depth is to ensure that adequate amount of space is provided to accommodate the majority of automobile sizes. The proposed parking space depth reduction to 4.9 metres (16.07 feet) has been reviewed by Traffic Services Staff and is not considered to provide sufficient space for parking. There is a potential that the insufficient depth would lead to vehicle overhang on the City's right-of-way. Additionally, this variance is related to the creation of a third parking space to comply with the by-law's parking requirements, which mandate a third parking space for

properties containing three units. Given these minimum standards, Variance 4 is not considered to maintain the general intent of the Zoning By-law.

Variance 5 is being sought to permit a minimum 2.5 metre (8.20 foot) wide portion of the rear yard, measured from the rear lot line, to be used as an unoccupied private area of land which is used for the growth, maintenance, conservation of grass, flowers, trees shrubs or similar visual amenities and private recreational purposes, whereas the by-law required a 5.0 metre (8.40 foot) wide portion of the rear yard, measured from the rear lot line, to be used as an unoccupied private area of land which is used for the growth, maintenance, conservation of grass, flowers, trees shrubs or similar visual amenities and private recreational purposes, and no buildings or structures, including swimming pools, decks, patios, sheds and gazebos, paved areas, excavations or grading shall be permitted. CVC Staff have reviewed the submission and they are not able to support the current proposal as a 5 metre on-lot setback requirement from the rear lot line was determined appropriate for this area at the time of the residential development. The setback was meant to be free of any buildings and structures. Due to the property's proximity to a floodplain zone and the inability to maintain the required setback, Variance 5 is not considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variances 1, 2 and 5 are requested to reduce the setbacks for a garden suite in the rear yard of the subject property. Staff have reviewed the application and are of the opinion that amenity space in the rear yard would be restricted with the addition of the garden suite and may lead to the overdevelopment of the site. The City's Building Department also have concerns regarding the decreased setback of 2.79 metres (9.15 feet) from the principal dwelling to the garden suite in particular, as this can limit the amount of windows and openings that can be constructed due to the maintenance of privacy. The Building Department has also pointed out that having the residential units near each other can increase the likelihood of a spread of fire from one unit to another, which can prevent the tenant living in the garden suite from exiting the dwelling. Special Section 2807 of the Zoning By-law requires a 5 metre (16.40 feet) setback on-lot buffer from the rear property line to the adjacent floodplain (21T-02003B). This cannot be maintained with the inclusion of the garden suite. Variances 1, 2 and 5 are not considered desirable for the appropriate development of the land.

Variance 3 is requested to permit an existing driveway width which exceeds the requirement that is set out in the Zoning By-law. Although the total width of the driveway does not maintain the maximum requirements of the Zoning By-law, the materials and design uphold a certain aesthetic quality which does not detract from the streetscape and limits the number of vehicles to be parked on the driveway. The expanded driveway will not have a negative impact on the streetscape as permeable landscaping features will remain. Subject to the recommended conditions of approval, Variance 3 is appropriate for the development of the land.

Variance 4 is requested to permit a reduced parking space depth is not considered to be desirable due to the inability for future parking needs on site. While Staff do not have concerns regarding the widening of the driveway that is being requested through Variance 3, the requested parking space depth of 4.9 metres (16.07 feet) will not allow for appropriate function of an extended driveway and vehicles will project into the City's property. Variance 4 is not considered desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1, 2 and 5 seek to reduce setbacks to the side and rear yard, along with decreasing the amount of distance that is required between the principal unit and proposed garden suite. These variances could not be supported as recreational area in the rear yard would be decreased. The garden suite's proximity to a floodplain to the west of the property also limits the sustainable development of an additional residential units on the lot. Given the property's sitting on the lot, Variances 1, 2 and 5 are not considered to be minor in nature and it is recommended that it be refused.

Variances 3 is requested to permit an increased driveway width in the front yard of the dwelling. This variances is not considered to be one that will significantly impact the amount of available outdoor amenity space, permeable landscaping or significantly affect drainage on the subject property or adjacent properties. Due to the size of the concrete addition 0.13 metres (0.43 feet), Variances 3 is considered to be minor in nature.

The applicant is requesting one variance for a reduced parking space depth. The resulting site conditions with a reduced parking depth is considered to negatively impact the function of the designated driveway. As the homeowner already has an additional residential, a total of three full-sized parking spots will be required to support the three dwelling units. Variance 4 is not considered to be minor in nature and it is recommended that it be refused.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Ellis Lewis". The ink is dark and the signature is fluid.

Ellis Lewis, Planner I

Appendix A:



Appendix B:

