



Report Committee of Adjustment

Filing Date: October 28, 2024
Hearing Date: December 10, 2024

File: A-2024-0408

**Owner/
Applicant:** RAJ KISHORE GUPTA & PRIYA GUPTA

Address: 11 Fallen Oak Court

Ward: WARD 4

Contact: Ellis Lewis, Planner I

Recommendations:

That application A-2024-0408 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 approval of variances 1 and 2 be based on the revised wording outlined in the sSaff Report and accurately reflected in the notice of decision;
 3. That the below grade entrance shall not be used to access an unregistered second unit;
 4. That the applicant obtain a building permit for the below grade entrance 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;
 5. That drainage on adjacent properties shall not be adversely affected; and
 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:

Upon further review of the application, following the issuance of public notices, the Zoning, Building, and Planning departments determined that additional measurements needed to be shown on the sketch to verify the setback between the stairway foundation and the property line. Based on this review and receipt of a revised sketch, the wording of the previously identified variance was revised to accurately reflect the figures associated with the proposed exterior stairway.

The originally requested variance, as stated in the public notice, is as follows:

1. To permit an interior side yard setback of 0.23 metres to an existing exterior stairway leading to a below grade entrance, whereas the by-law requires a minimum setback of 0.3 metres 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 1.2 metres (3.94 feet) is provided on the opposite side of the dwelling.

After further review, the following variances are now required:

1. To permit an existing 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; and
2. To permit a 0.00 metre side yard setback to an existing exterior stairway leading to below grade entrance in the required interior side yard on one side and 1.09 metres (3.5 feet) on the other side having a distance of 1.14 metres (3.74 feet) (located on neighbouring property) between detached buildings, whereas the by-law requires a minimum side yard setback of 1.2 metres (3.96 feet) on one side and 0.9 metres (3.5 feet) on the other side, with the minimum distance between detached buildings not to be less than 2.1 metres (6.89 feet).

While there is a discrepancy between the figures stated in the public notice and those in this staff report recommendation, the intent of the application and the associated revised sketch remains largely unchanged as the application also relates to existing site conditions.

Existing Zoning:

The property is zoned 'Residential Single Detach D (R1D)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an existing 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; and
2. To permit a 0.00 metre side yard setback to an existing exterior stairway leading to below grade entrance in the required interior side yard on one side and 1.09 metres (3.5 feet) on the other side having a distance of 1.14 metres (3.74 feet) (located on neighbouring property) between detached buildings, whereas the by-law requires a minimum side yard setback of 1.2 metres (3.96 feet) on one side and 0.9 metres (3.5 feet) on the other side, with the minimum distance between detached buildings not to be less than 2.1 metres (6.89 feet).

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 Residential' in the Fletcher's Creek Secondary Plan (Area 24). The requested variance is not considered to have significant impacts within the context of the Official Plan. As stated in Section 3.2.8.2 (ii) of the City's Official Plan, an additional residential unit must be in compliance with the Ontario Building Code and/or Fire Code and Property Standards By-law and other applicable approval requirements. The requested variances are not considered to have significant impacts within the context of the Official 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

Variance 1 is requested to permit a proposed exterior stairway leading to a below grad 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. Variance 2 is requested to permit a 0.00 metre side yard setback to an existing exterior stairway leading to below grade entrance in the required interior side yard on one side and 1.09 metres (3.5 feet) on the other side having a distance of 1.14 metres (3.74 feet) (located on neighbouring property) between detached buildings, whereas the by-law requires a minimum side yard setback of 1.2 metres (3.96 feet) on one side and 0.9 metres (3.5 feet) on the other side, with the minimum distance between detached buildings not to be less than 2.1 metres (6.89 feet). between detached buildings not to be less than 2.1 metres.

The intent of the by-law in regulating a minimum interior side yard setback to a below grade entrance and stairway is to ensure that an adequate amount of space is provided to allow for drainage, while still permitting access to the rear yard. The applicant has worked with the City to provide an accurate Site Plan (Referenced in Appendix B), which speaks to the foundation wall of the stairway being included in the dimensions that are noted. This would leave a 0.0 metre side yard setback to the stairway. Despite the setback reduction to one side of the property, rear yard access remains feasible as there is a path that is 1.09 metres (3.5 feet) wide on the opposite side of the home. Subject to the conditions of approval, the requested variances are considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variances seek to permit a reduced interior side yard setback distance as a below grade entrance and stairway were constructed. The variance to reduce the setback to the existing exterior

stairway leading to a below grade entrance is not anticipated to negatively affect the subject property or adjacent properties. Conditions of approval are recommended that the below grade entrance shall not be used to access an unregistered second unit and that drainage on the adjacent properties shall not be adversely affected. Given that the entrance is already constructed, a condition of approval is recommended that the applicant obtain a building permit for the below grade entrance 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. Subject to the recommended conditions of approval, the proposed variances are considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances will permit an existing exterior stairway leading to a below grade entrance and reduced side yard setback. These variances are not anticipated to have significant impact on drainage or limit access to the property due to the site context and sitting of the single-detached home. As 0.0 metres of setback will remain on the side where the stairs have been constructed, Staff do not have concerns surrounding access to the rear yard as the opposite side of the property has a 1.09 metres (3.5 feet) setback. Subject to the recommended conditions of approval, the requested variances are deemed minor in nature.

Respectfully Submitted,

Ellis Lewis

Ellis Lewis, Planner I

Appendix A:



Appendix B:

