



Report Committee of Adjustment

Filing Date: November 5, 2024
Hearing Date: December 10, 2024

File: A-2024-0417

**Owner/
Applicant:** Christoper Martin Spencer & Sylan Ros

Address: 23 Oblate Crescent

Ward: 4

Contact: Megan Fernandes, Assistant Development Planner

Recommendations:

That application A-2024-0417 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 above grade entrance shall not be used to access an unregistered second unit;
 3. 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
 4. That drainage on adjacent properties shall not be adversely affected;
 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:

Staff note that the property is subject to enforcement action related to an unregistered or illegal additional residential unit located on the property. Planning Staff note that Notice of Possible By-law Contravention was issued to the property owner in July 2024.

Existing Zoning:

The property is zoned 'Residential Single Detached C – Special Section 1322 (R1C-1322)', according to By-law 270-2004, as amended.

Requested Variance:

The applicant is requesting the following variances:

1. To permit an existing above grade entrance in an interior side yard, used as a principal entrance to a proposed attached ARU, having a height of 0.79 metres to the landing, whereas the by-law requires a maximum height of 0.6 metres to a landing for an above grade entrance, used as a principal entrance to an attached ARU, in a side yard; and
2. To permit an interior side yard setback of 0.35 metres to an existing above grade stair & landing leading to an above grade side entrance, whereas the by-law requires a minimum interior side yard setback of 0.9 metres to any steps or landings for such side entrance.

Current Situation:

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

The subject property is designated as 'Residential' in the Official Plan and 'Low/Medium Density Residential' in the Bram West Secondary Plan (Area 40c).

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.

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 have no impact within the context of the policies of the Official Plan and Secondary Plan and 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 an existing above grade entrance in an interior side yard, used as a principal entrance to a proposed attached ARU, having a height of 0.79 metres to the landing, whereas the by-law requires a maximum height of 0.6 metres to a landing for an above grade entrance, used as a principal entrance to an attached ARU, in a side yard. Variance 2 is requested to permit an interior side yard setback of 0.35 metres to an existing above grade stair & landing leading to an above grade side entrance, whereas the by-law requires a minimum interior side yard setback of 0.9 metres to any steps or landings for such side entrance. The intent of the bylaw in requiring a minimum side yard width to an above grade side entrance and regulating the design is to ensure that sufficient space is provided

to allow for drainage, while still allowing access to the rear yard and preventing the encroachment on neighbouring property.

In the case of the subject property, the subject property is a single detached dwelling situated on a lot with rear yard access provided on one side of the dwelling an existing above grade entrance along the west wall of the dwelling does not impede access to the rear yard. The design of the above grade entrance ensures unimpeded travel to the rear yard with a continuous pathway. The above grade entrance includes three steps at both the front and rear of the landing to provide pedestrian access from the front yard to the rear yard eliminating the need to encroach upon neighboring properties. An above grade side door was constructed on the northeastern side wall of the dwelling. The entrance was constructed without obtaining building permits and was not part of the original design for this building. The requested variance is not anticipated to pose significant concern for the subject property nor adjacent properties and it is not unordinary regarding current neighbourhood developments. Subject to the recommend conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The variances are requested to permit an existing separate entrance for the purpose of creating an additional residential unit. The variance to increase the resulting height of the landing is not anticipated to negatively affect the subject property or adjacent properties. Conditions of approval are recommended that the above 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 above grade entrance is existing, an additional condition 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 variance is considered desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1 and 2 are requested to facilitate the registration of a second unit by allowing the location and setbacks of an existing above grade entrance. The reduced interior side yard setback and increased height of are not considered to significantly limit everyday use and provide sufficient space for emergency responders. Subject to the recommended conditions of approval, the variances are considered to be minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Assistant Development Planner

