



Report Committee of Adjustment

Filing Date: December 11, 2024

Hearing Date: January 28, 2025

File: A-2024-0453

Owner/

Applicant: Nidhi Ratna Ghimire & Nirmala Ghimire Parajuli

Address: 10 Mirabell Court

Ward: WARD 3

Contact: Courtney Sutherland, Assistant Development Planner

Recommendations:

That application A-2024-0453 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 drainage on adjacent properties should not be adversely affected;
 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; and
 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 Single Detached D Special Section 2570 (R1D-2570)," 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;
2. To permit an interior side yard setback of 0.0 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; and
3. To permit a 0.90 metres 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 1.2 metre 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 and Medium Density Residential' in the Fletchers Creek South Secondary Plan (Area 24).

The subject property is also designated as 'Community Areas' (Schedule 1A – City Structure) and 'Neighbourhoods' (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 are not considered to have significant impacts within the context of the Official Plan. The nature and extent of the requested variances are 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 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. The intent of the by-law in prohibiting an exterior stairway to a below grade entrance in the interior side yard and requiring a minimum amount of interior side yard setback is to ensure that an adequate amount of space is provided to allow for drainage, while still providing access to the rear yard. The below grade entrance will be accessed by a staircase located along the eastern wall of the dwelling. The below grade entrance and associated stairway will result in an exterior side yard setback that does not comply with the by-law; however, the below grade

entrance is not anticipated to limit access to any portion of the property. Subject to the recommended condition of approval, Variance 1 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an interior side yard setback of 0.0 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. The intent of the by-law in prohibiting below grade entrances in the interior side yard where the opposite side yard setback is less than 1.2m (3.94 ft) and where the setback to the stairs is less than 0.3m (0.98 ft) 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. Sufficient space is provided on the western side of the dwelling. The 1.23 metres (4.04 feet) path of travel that abuts this wall allows for access to the rear yard without concern surrounding the trespassing on neighbouring properties. Subject to the recommended conditions of approval, Variance 2 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit a 0.90 metres 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 1.2 metres 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. The proposed path of travel will maintain the minimum 0.86 metres (2.82 feet) Ontario Building Code requirement and sufficient space is also provided on the western side of the dwelling. The opposite side of the dwelling and property accommodates a 1.23 metres (4.04 feet) path of travel which allows for access to the rear yard without concern surrounding the trespassing on neighbouring properties. Subject to the recommended conditions of approval, Variance 3 is considered to maintain the general intent and purpose of the Zoning By-law.

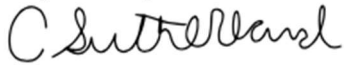
3. Desirable for the Appropriate Development of the Land

Variances 1, 2, and 3 are requested to permit a proposed exterior stairway leading to a below grade entrance in a required side yard, to permit a reduction to the interior side yard setback, and to permit a reduced path of travel of 0.90 metres (2.95 feet). Despite the proposed exterior stairway resulting in a decreased interior side yard setback, staff are satisfied that with the current proposal as an unobstructed path of travel to and from the front and rear yard is provided due to the construction of two step risers on either side of the entrance. Conditions of approval have also been included noting 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 below grade entrance is existing, a 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, Variances 1, 2, and 3 are appropriate for the development of the land.

4. Minor in Nature

The location of the proposed exterior stairway and reduced interior side yard setback are not considered to impact access to the rear yard. The proposed location of the below grade entrance is appropriate given the site context. The requested variances are not anticipated to have significant impact on drainage or limit access to the property due to the site context and proposed stairway configuration. There are no concerns regarding access to the rear yard are anticipated as a path of travel is maintained on the property. Subject to the recommended conditions of approval, the requested variances are deemed minor in nature.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "C. Sutherland", is written over a horizontal line.

Courtney Sutherland, Assistant Development Planner

Appendix 1: Site Photos

