



Report Committee of Adjustment

Filing Date: December 11th, 2024

Hearing Date: February 25th, 2025

File: A-2024-0478

**Owner/
Applicant:** Syed Ali Badshah Naqvi, Zahra Naqvi
Harjinder Singh/MEM Engineering Inc.

Address: 97 ANTIBES DRIVE

Ward: WARD 5

Contact: Paul Brioux, Assistant Development Planner

Recommendations:

That application A-2024-0478 is supportable in part, subject to the following conditions being imposed:

1. That Variance 1 be refused;
2. That Variance 2 be refused;
3. That Variance 3 be refused;
4. That Variance 4 be refused;
5. That the extent of variance 5 be limited to that shown on the sketch attached to the Notice of Decision;
6. That drainage on adjacent properties shall not be adversely affected;
7. That the below grade entrance shall not be used to access an unregistered second unit;
8. That the applicant obtains a building permit for the existing below grade entrance and proposed open, roofed structure 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;
9. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void

Background:

The owner is requesting variances to permit the location and height of an as-built accessory structure (shed) in the rear yard, an open, roofed structure above an as-built below grade entrance in the side yard, and a proposed above grade entrance on the exterior wall of the attached garage.

Existing Zoning:

The property is zoned 'Residential Single Detached – Special Section 2250 (R1E-2250)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed above grade entrance in a side yard having a minimum width of 0.67 metres extending from the front wall of the dwelling up to the door, whereas the by-law permits an above grade entrance when the side yard within which the door is located has a minimum width of 1.2 metres extending from the front wall of the dwelling up to and including the door;
2. To permit an accessory structure (existing shed) having a setback of 0.12 metres to the rear lot line, whereas the by-law requires a minimum 0.6 metres to the nearest lot line;
3. To permit an accessory structure (existing shed) having a setback of 0.15 metres to the side lot line, whereas the by-law requires a minimum 0.6 metres to the nearest lot line;
4. To permit an accessory structure (existing shed) having a height of 3.1 metres, whereas the by-law permits an accessory structure having a maximum height of 3.0 metres in all other Residential zones; and
5. To permit an existing open, roofed structure in the interior side yard, whereas the by-law does not permit an open, roofed structure in the interior side yard.

Current Situation:

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

The subject property is designated 'Residential' in the Official Plan, and further designated 'Low Density 2' in the Credit Valley Secondary Plan (Area 45A).

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.

Upon staff's review of variance 1, the proposed door on the side wall of the garage and resulting path of travel leading to the primary entrance to a second unit is not sufficient for the required egress path to a public thoroughfare as outlined in the Ontario Building Code. As stated in Official Plan Section 3.2.8.2 (ii), a second unit must be in compliance with the Ontario Building Code and/or Fire Code and Property Standards By-law and other applicable approval requirements. Should the side entrance be used to access an Additional Residential Unit, it would fail to comply with minimum OBC requirements relating to path of travel. Staff are of the opinion that any door located on this side of the dwelling fails to meet everyday and emergency purposes. Therefore, variance 1 does not maintain the intent and purpose of the Official Plan.

Variances 2, 3, and 4, relate to an as-built accessory structure in the rear yard of the property with reduced setback and increased height. The requested variances are not considered to have significant impacts within the context of the Official Plan policies and are considered to maintain the general intent and purpose of the Official Plan.

Variance 5 relates to an existing open, roofed structure in the interior side yard located above an existing below grade entrance. As per the sketch submitted with the application, the applicant proposes to undertake modifications to the open, roofed structure and remove the portion of the roof that extends beyond the stairway and entrance. Once modified, the structure will not overhang and extend over the privacy fence. Subject to the recommended conditions of approval, variance 5 is 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 above grade entrance in a side yard having a minimum width of 0.67 metres extending from the front wall of the dwelling up to the door, whereas the by-law permits an above grade entrance when the side yard within which the door is located has a minimum width of 1.2 metres extending from the front wall of the dwelling up to and including the door. The intent of the by-law in requiring a door to be located on a wall with a minimum 1.2m (3.94 ft.) setback is to ensure that the resulting path of travel area is sufficient to act as the primary access to a second unit and for both everyday and emergency purposes. Furthermore, upon staff's review, a permit would not be issued for a legal second unit given the noncompliance with the requirements of the Ontario Building Code. Staff note that should the committee approve the requested variance, the applicant is to be aware that the proposed above grade door in the side wall will not be permitted as the primary entrance to a secondary unit, an alternate primary entrance to the secondary unit must be provided. The variance does not maintain the general intent and purpose of the Zoning By-law.

Variances 2 is requested to permit an accessory structure (existing shed) having a setback of 0.12 metres to the rear lot line, whereas the by-law requires a minimum 0.6 metres to the nearest lot line. Variance 3 is requested to permit an accessory structure (existing shed) having a setback of 0.15 metres to the side lot line, whereas the by-law requires a minimum 0.6 metres to the nearest lot line.

The intent of the by-law in requiring a minimum setback to an accessory structure is to ensure that sufficient space is provided for drainage and access for maintenance.

Variance 4 is requested to permit an accessory structure (existing shed) having a height of 3.1 metres, whereas the by-law permits an accessory structure having a maximum height of 3.0 metres in all other Residential zones. The intent of the by-law in regulating the permitted height of an accessory structure is to ensure that the structure does not have negative massing impacts on adjacent properties and that the roof design and orientation do not lead to negative impacts such as drainage.

In this case, the shed's roof overhang extends into the adjacent property, negatively impacting drainage by directing runoff over the property line and away from the subject site. Due to these potential adverse effects, Variances 2 and 3 do not align with the general intent and purpose of the zoning by-law as it does not allow sufficient space for drainage to be kept on the subject property. Additionally, the existing shed has a height of 3.1 metres with a peaked roof design. While the requested variance exceeds the permitted height by only 0.1 metres, the overall height of the shed exacerbates runoff issues affecting adjacent properties. The roof appears to overhang on the adjacent property and does not feature eavestrough. Given the structure's massing and its negative impact on drainage, Variance 4 is also not considered to maintain the general intent and purpose of the zoning by-law.

Variance 5 is requested to permit an existing open, roofed structure in the interior side yard, whereas the by-law does not permit an open, roofed structure in the interior side yard. The intent of the by-law in requiring a minimum rear yard setback is to ensure that the adjacent properties are not negatively impacted in terms of privacy, drainage and to ensure that the amenity area in the rear yard is maintained with sufficient space for drainage. According to the sketch submitted with the application, the applicant proposes to modify the open, roofed structure by removing the portion of the roof that extends beyond the stairway and entrance. After these modifications, the structure will no longer overhang or extend beyond the privacy fence. Therefore, the proposed open, roofed structure is not considered to pose negative impacts to adjacent properties. Variance 5 maintains the general intent and purpose of the zoning by-law.

3. Desirable for the Appropriate Development of the Land

The requested first variance is to facilitate an above grade entrance within the side yard having a minimum width of 0.67m extending from the front wall of the dwelling up to the door whereas the by-law permits an above grade entrance when the side yard within which the door is located has a minimum width of 1.2m (3.94 ft.) extending from the front wall of the dwelling up to and including the door. The applicant is to be aware that the proposed above grade door in the side wall will not be permitted to be used as a primary entrance to a secondary dwelling unit and that the applicant must provide an alternate primary entrance to a second dwelling unit, as per the Ontario Building Code (OBC). Staff are of the opinion that any door located on this side of the dwelling fails to meet everyday and emergency purposes due to the reduced setback between it and the property line along the garage only being 0.67m (2.2 ft). The variance is not considered to be desirable for the appropriate development of the land.

Variance 2 and 3 are requested to permit an accessory structure (existing shed) having a setback of 0.12 metres to the rear lot line and 0.15 metres to the side lot line, whereas the by-law requires a

minimum 0.6 metres to the nearest lot line. Variance 4 is requested to permit an accessory structure (existing shed) having a height of 3.1 metres. Staff are of the opinion that the location of the shed and peaked roof design contribute to a situation whereby drainage from the structure occurs on the adjacent property and there is insufficient space for maintenance between it and the property line. Given the associated negative impacts and overhang of the roof on the adjacent property, variances 2, 3, and 4 are not considered to be appropriate for the development of the land.

Variance 5 is requested to permit a modified open, roofed structure in the interior side yard above an existing below grade entrance. Conditions of approval are recommended that the applicant obtains a building permit for the existing below grade entrance and proposed open, roofed structure 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. Staff note that the existing below grade entrance complies with zoning by-law requirements but was constructed without the benefit of building permits. The proposed modified structure is not anticipated to negatively impact drainage or access to the rear yard. Further conditions are recommended that drainage on adjacent properties shall not be adversely affected and that the below grade entrance shall not be used to access an unregistered second unit. Subject to the recommended conditions, variance 5 is considered to be appropriate and desirable for the development of the land.

4. Minor in Nature

Staff recommend that variance 1 to permit a proposed above grade entrance in a side yard having a minimum width of 0.67 metres extending from the wall of the dwelling up to the door be refused. The resulting area between the entrance and the property line is considered to be too narrow to act as an everyday and emergency path of travel and would fail to comply with the minimum requirements of the OBC should it be used for an additional residential unit. The variance is not considered to be minor in nature.

Variances 2, 3, and 4 are expected to negatively impact adjacent properties, as the structures unnecessarily encroach onto neighboring lands due to the overhanging shed roof and increased drainage runoff. Given these negative impacts, Variances 2, 3, and 4 are not considered minor in nature.

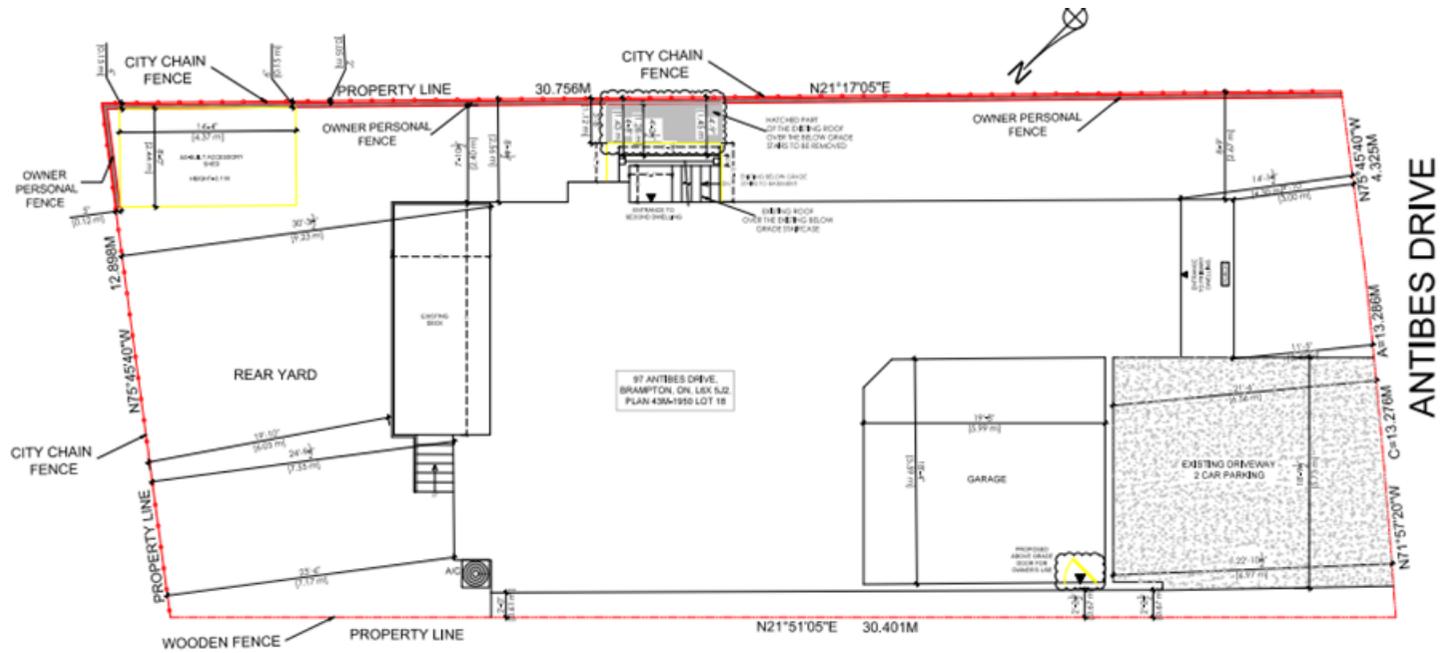
Variance 5 is to permit an open, roofed structure above an existing below grade entrance in the side yard. The structure is stated to be modified from its current conditions and associated building permits will be required. With the proposed modified design, the structure is not anticipated to negatively impact drainage or access on the property. The variance is minor in nature.

Respectfully Submitted,

Paul Brioux

Paul Brioux, Assistant Development Planner

Appendix A:



Appendix B:

