



## Report Committee of Adjustment

**Filing Date:** November 23, 2020

**Hearing Date:** January 5, 2021

**File:** A-2020-0137

**Owner/  
Applicant:** MANISH AND NAMRATA KAPOOR

**Address:** 2 January Court

**Ward:** 6

**Contact:** Shelby Swinfield, Planner I, Development

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### **Recommendations:**

That application A-2020-0137 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 Public Notice;
2. That the applicant obtain a building permit for the accessory 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;
3. That the existing gazebo remain of an open style construction and shall not be enclosed;
4. The extended portion of the driveway shall not be parked or driven upon at any time by the whole or a part of a motor vehicle;
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 B – Special Section 2729 (R1B-2729)" according to By-law 270-2004, as amended.

**Requested Variances:**

The applicant is requesting the following variances:

1. To permit a driveway having a width of 10.66m (34.97 ft.) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.);
2. To permit an existing accessory structure (shed) to be located in an exterior side yard whereas the by-law does not permit an accessory structure within an exterior side yard;
3. To permit an existing accessory structure (shed) having a side yard setback of 0.47m (1.54 ft.) and a side yard setback of 0.55m (1.80 ft.) whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure from all nearest property lines;
4. To permit an existing accessory structure (gazebo) having a gross floor area of 18.4 sq. m (198.06 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m. (161.5 sq. ft.) for an individual accessory structure;
5. To permit two (2) existing accessory structures (shed and gazebo) having a combined gross floor area of 26.9 sq. m (289.55 sq. ft.) whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.).

**Current Situation:**

1. Conforms to the Intent of the Official Plan

The property is designated "Residential" in the Official Plan and "Low Medium Density Residential" in the Bram West Secondary Plan (Area 40c). The requested variances are not considered to have significant impacts within the context of the Official Plan. Subject to the recommended conditions of approval, the requested variances are considered to maintain the general intent of the Official Plan.

2. Conforms to the Intent of the Zoning By-law

Variance 1 is to permit a driveway having a width of 10.66m (34.97 ft.) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.). The variance is requested in regard to the existing driveway on the subject property. The intent of the by-law in prescribing a maximum permitted driveway width based on the width of the property is intended to ensure that the main function of the driveway is to provide a path of travel to the garage and maintain the aesthetic quality of the streetscape.

In the case of the subject property, it is located on the corner of January Court and Black Bear Trail. The driveway leads to the dwelling's two car garage, and includes a portion that is intended to be used as a walkway, based on the overall stonework design on the property. A condition of approval is recommended that the extended portion of the driveway shall not be parked or driven upon at any time by the whole or a part of a motor vehicle to ensure that an excessive number of vehicles is not parked on the

driveway. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variances 2 and 3 relate to an existing accessory shed that is located within the defined exterior side yard of the property. Due to the orientation of the property as a corner lot, the exterior side yard also contains the effective "rear yard", including a significant portion of outdoor amenity space for the property.

The intent of the by-law in prohibiting accessory structures in the exterior side yard is to prevent negative visual impacts on the streetscape. In the case of the subject property, the shed is located within the fenced area of the outdoor amenity space and it is not visible from the streetscape. Subject to the recommended conditions of approval, Variance 2 is considered to maintain the general intent of the Zoning By-law.

Variance 3 is to permit an existing accessory structure (shed) having a side yard setback of 0.47m (1.54 ft.) and a side yard setback of 0.55m (1.80 ft.) whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure from all nearest property lines. The intent of the by-law in requiring a minimum setback to all lot lines is to ensure that there is sufficient space provided for drainage from the structure. The existing setback is considered to provide sufficient space for drainage. Subject to the recommended conditions of approval, Variance 3 is considered to maintain the general intent of the Zoning By-law.

Variance 4 is to permit an existing accessory structure (gazebo) having a gross floor area of 18.4 sq. m (198.06 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m. (161.5 sq. ft.) for an individual accessory structure. The intent of the by-law in regulating the maximum permitted floor area of an accessory structure is to ensure that it does not dominate the outdoor amenity space for the property. In the case of this application, the structure is a gazebo that is not enclosed and is used to provide shade and shelter to the amenity area. The structure does not detract from the outdoor amenity space for the property. A condition of approval is recommended that the structure remain unenclosed in order to maintain the current situation. Subject to the recommended conditions of approval, Variance 4 is considered to maintain the general intent of the Zoning By-law.

Variance 5 is to permit two (2) existing accessory structures (shed and gazebo) having a combined gross floor area of 26.9 sq. m (289.55 sq. ft.) whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.), related to the storage shed and the gazebo. The intent of the by-law in regulating the maximum combined floor area of two accessory structures is to ensure that the structures do not dominate the outdoor amenity area for the property. In the case of the subject property, due to the size and nature of the structures, the increased floor area is not considered to detract from the outdoor amenity area. Subject to the recommended conditions of approval, Variance 5 is considered to be minor in nature.

### 3. Desirable for the Appropriate Development of the Land

Variance 1 is to permit an increase in driveway width of 1.52m (4.9 ft) from the permitted 9.14m (30 ft.) for the existing driveway on the property. The design of the driveway includes two decorative lamp posts and a walkway that leads to the main door of the dwelling. A condition of approval is recommended that the extended portion of the driveway shall not be parked or driven upon at any time by the whole or a part of a motor vehicle to ensure that the walkway portion of the driveway is not used to park vehicles. Given the quality of the driveway design, provided it is not filled with an excessive number of vehicles, it contributes positively to the overall aesthetic of the property and streetscape. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variances 2, 3, 4, and 5 relate to two existing accessory structures within the outdoor amenity area of the property. The existing structures do not compromise from the provision of outdoor amenity space, and are intended to be used to enhance the use of the amenity space for the property. Additionally, due to their location within the fenced portion of the property the structures present no concerns with regard to impacts on the streetscape. Given the size of the gazebo structure, it is recommended as a condition of approval that the applicant should obtain a building permit for the structure within 60 days of the final date of the Committee's decision. Subject to the recommended conditions of approval, the requested variances are considered to be desirable for the appropriate development of the land.

### 4. Minor in Nature

Variance 1 is requested with regard to the existing driveway on the property. The driveway is considered to contribute positively to the aesthetic quality of the property, given the overall stone design on the property. Staff recommend as a condition of approval that no vehicles be parked on the extended portion of the driveway to ensure that an excessive number of vehicles are not parked on the driveway. Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variances 2, 3, 4, and 5 are requested with regard to two existing accessory structures on the property. The location of the structures within the fenced portion of the property of these structures does not allow them to impose upon adjacent properties, or present concerns with regard to impacts on the streetscape. Further, drainage on the property is not anticipated to be impacted by these structures. Subject to the recommended conditions of approval, the requested variances are considered to be minor in nature.

Respectfully Submitted,

*Shelby Swinfield*

Shelby Swinfield, Planner I, Development