

**Filing Date:** November 2, 2020

**Hearing Date:** February 16, 2020

**File:** A-2020-0122

**Owner/**

**Applicant:** SANA ISSA AND AMRO HAYEK

**Address:** 42 CACHET COURT

**Ward:** 5

**Contact:** Shelby Swinfield, Planner I

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**Recommendations:**

That application A-2020-0122 is supportable, in part, subject to the following conditions being imposed:

1. That Variance 2 be refused and the required permeable landscape strip shall be reinstated no later than June 1, 2021, to the satisfaction of the Director of Development Services;
  2. That the extent of Variances 1, 3, 4, 5, 6, and 7 be limited to that shown on the sketch attached to the Public Notice;
  3. That the applicant obtain a building permit for the accessory structures 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. 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 the cabana structure shall be of a primarily open style construction and shall not be fully enclosed;
  6. That the rear yard shall be screened from the adjacent side yard and street by a solid wood board fence;
  7. 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 E-15.1 – Special Section 1451 (R1E-15.1-1451)" according to By-law 270-2004, as amended.

**Requested Variances:**

The applicant is requesting the following variances:

1. To permit an existing driveway width of 9.60m (31.50 ft.) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.);
2. To permit 0.0m of permeable landscaping between the driveway and side property line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping along the side lot line;
3. To permit a proposed accessory structure (pool equipment/change room) to be located in the exterior side yard whereas the by-law does not permit an accessory structure to be located in the exterior side yard;
4. To permit an existing accessory structure (cabana) having a height of 3.30m (10.83 ft.) whereas the by-law permits a maximum height of 3.0m (9.84 ft.) for an accessory structure;
5. To permit an existing accessory structure (cabana) with a floor area of 32.34 sq. m (348.1sq. ft.) whereas the by-law permits an individual accessory structure to a maximum floor area of 15 sq. m (161.46 sq. ft.);
6. To permit a combined area of 43.48 sq. m (468 ft.) for two (2) accessory structures (gazebo and shed) whereas the by-law permits a maximum combined area of 20 sq. m (215.28 sq. ft.) for two (2) accessory structures;
7. To permit a swimming pool on a corner lot which extends into the exterior side yard and the defined triangular site line area whereas the by-law does not permit a swimming pool to extend into the exterior side yard or the defined triangular site line area when a corner lot abuts the side yard of an adjacent residential lot having habitable room on the front corner of the ground floor.

**Current Situation:****1. Conforms to the Intent of the Official Plan**

The subject property is designated "Residential" in the Official Plan and "Executive Residential" in the Credit Valley Secondary Plan (Area 45). The requested variances are not considered to have significant impacts within the context of the Official Plan

policies. 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

The property is zoned "Residential Single Detached E-15.1 – Special Section 1451 (R1E-15.1-1451)" according to By-law 270-2004, as amended.

Variance 1 is to permit an existing driveway width of 9.60m (31.50 ft.) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.). The intent of the by-law in regulating the maximum permitted driveway width is to ensure that the driveway does not dominate the front yard landscaped area and that the driveway does not allow an excessive number of vehicles to be parked in front of the dwelling. This increase in driveway width of 0.46m (1.5 ft) is not anticipated to facilitate the parking of an additional vehicle beyond what is facilitated by the permitted driveway width. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variance 2 is to permit 0.0m of permeable landscaping between the driveway and side property line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping along the side lot line. The intent of the by-law in requiring a minimum permeable landscape strip along the interior lot line is to ensure that sufficient space is provided for drainage and that drainage on adjacent properties is not impacted. The requested reduction in permeable landscaped area is anticipated to negatively impact drainage on the property. Variance 2 is not considered to maintain the general intent of the Zoning By-law.

Variance 3 is to permit a proposed accessory structure (pool equipment/change room) to be located in the exterior side yard whereas the by-law does not permit an accessory structure to be located in the exterior side yard. The intent of the by-law in prohibiting accessory structures in the exterior side yard is to ensure that the appearance of the structure does not negatively impact the overall streetscape. In the case of the subject property, the exterior side yard forms part of the outdoor amenity area for the property and is located behind a fence. The structure is therefore not anticipated to negatively impact the streetscape. Subject to the recommended conditions of approval, Variance 3 is considered to maintain the general intent of the Zoning By-law.

Variances 4, 5, and 6 relate to two accessory structures in the functional rear yard of the property.

Variance 4 is to permit an existing accessory structure (cabana) having a height of 3.30m (10.83 ft.) whereas the by-law permits a maximum height of 3.0m (9.84 ft.) for an accessory structure. 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. In the case of the cabana structure it is setback at least 1.5m (4.9 ft) which is anticipated to mitigate any massing impacts from the extra height

of the structure. 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 an existing accessory structure (cabana) with a floor area of 32.34 sq. m (348.1sq. ft.) whereas the by-law permits an individual accessory structure to a maximum floor are of 15 sq. m (161.46 sq. ft.). Variance 6 is to permit a combined area of 43.48 sq. m (468 ft.) for two (2) accessory structures (gazebo and shed) whereas the by-law permits a maximum combined area of 20 sq. m (215.28 sq. ft.) for two (2) accessory structures

The intent of the by-law in regulating the maximum permitted floor area of an individual accessory structure and the maximum permitted floor area for all permitted accessory structures is to ensure that the size of the structure does not negatively impact the provision of outdoor amenity space for the property. In the case of the subject property the oversized cabana structure is of a primarily open style construction and is used to enhance the use of the outdoor amenity space. The additional accessory structure that forms part of the total floor area is a storage shed that holds pool equipment and a change room. A condition the cabana structure shall be of a primarily open style construction and shall not be fully enclosed to ensure that the structure remains complementary to the use of the outdoor amenity area. Subject to the recommended conditions of approval Variances 5 and 6 are considered to maintain the general intent of the Zoning By-law.

Variance 7 is to permit a swimming pool on a corner lot which extends into the exterior side yard and the defined triangular site line area whereas the by-law does not permit a swimming pool to extend into the exterior side yard or the defined triangular site line area when a corner lot abuts the side yard of an adjacent residential lot having habitable room on the front corner of the ground floor.

The intent of the by-law in regulating the location of a swimming pool in this way is to ensure that any impacts generated from the use of the swimming pool such as noise do not negatively impact the adjacent property. In the case of the subject property, only a portion of the proposed pool encroaches into the prohibited area. It is not anticipated that this encroachment of the pool will have a more significant impact on the adjacent property than if the pool were entirely located within the permitted area of the yard. Subject to the recommended conditions of approval, Variance 7 is considered to maintain the general intent of the Zoning By-law.

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

Variance 1 is to facilitate an extension to the permitted driveway width of 0.46m (1.5 ft) which is not anticipated to facilitate the parking of an additional vehicle, but will allow a hardscaped design that contributes positively to the overall appearance of the property. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variance 2 is requested to permit a 0.0 metre permeable landscape strip between the driveway and the side property line. This reduction is anticipated to have negative impacts on the drainage patterns for the property. Variance 2 is not considered to be desirable for the appropriate development of the land.

Variance 3 is to permit a shed in the exterior side yard of the property. The portion of the exterior side yard where the shed is to be located is in the functional rear yard for the property and is behind a fence, screened from public view. The shed does not have any significant impacts on the streetscape. Subject to the recommended conditions of approval, Variance 3 is considered to be desirable for the appropriate development of the land.

Variance 4 is to permit an increased height for the cabana structure in the rear yard. This structure has a peaked roof and the height is largely related to the design of the structure. The height is not anticipated to have negative impacts from a massing perspective as it relates to adjacent properties. Subject to the recommended conditions of approval, Variance 4 is considered to be desirable for the appropriate development of the land.

Variances 5 and 6 relate to two accessory structures in the rear yard: a shed and a cabana. The cabana structure is largely of an open style construction and enhances the use of the outdoor amenity area. The combined floor area of the two accessory structures does not detract from the provision of outdoor space for the property. Subject to the recommended conditions of approval, Variances 5 and 6 are considered to maintain the general intent of the Zoning By-law.

Variance 7 is to permit a pool in the exterior yard of the corner lot abutting the side yard of another residential property. Only a portion of the pool encroaches into the prohibited area of the yard and it is not anticipated that the encroachment will result in a more significant impact to adjacent properties than if the pool were to be located entirely within the permitted area. Subject to the recommended conditions of approval, Variance 7 is considered to be desirable for the appropriate development of the land.

#### 4. Minor in Nature

Variance 1 represents an increase in permitted driveway width of 0.46m (1.5 ft) which is not capable of parking an extra vehicle and will facilitate an aesthetic improvement to the property. Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variance 2 proposes to remove the required permeable landscape strip adjacent to the driveway. This is anticipated to negatively impact drainage. Variance 2 is not considered to be minor in nature.

Variance 3 is to permit a shed to be located in the exterior side yard of the property which functions as a portion of the rear yard. This structure is not anticipated to have any significant impact on the streetscape. Subject to the recommended conditions of

approval, Variance 3 is considered to be minor in nature.

Variance 4 is to permit an increase in permitted height of 0.3m (1. ft) for the cabana accessory structure. This increase is not anticipated to have negative impacts on the massing of the structure. Subject to the recommended conditions of approval, Variance 4 is considered to be minor in nature.

Variances 5 and 6 relate to the cabana and shed structures in the rear yard. The floor area of the structures, both individually and collectively, do not detract from the provision or use of the outdoor amenity area. Subject to the recommended conditions of approval, Variances 5 and 6 are considered to be minor in nature.

Variance 7 is to permit a portion of the swimming pool to encroach into the exterior side yard of the property, which is a functional part of the rear yard of the property. It is not anticipated that this encroachment will have a more significant impact on adjacent properties than if the pool were located out of the side yard. Subject to the recommended conditions of approval, Variance 7 is considered to be minor in nature.

Respectfully Submitted,

*Shelby Swinfield*

Shelby Swinfield, Planner I