

Filing Date: December 14, 2020

Hearing Date: February 16, 2021

File: A-2020-0149

Owner/

Applicant: **BALVINDER AND JAGDISH KAHLON**

Address: **18 Lone Oak Avenue**

Ward: 7

Contact: Shelby Swinfield, Planner I

Recommendations:

That application A-2020-0149 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(s) and landing (if required) 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 fence remain constructed in its current location and height and shall not be removed or lowered;
4. That the below grade entrance shall not be used to access an unregistered second unit;
5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

Background:

The subject application was previously brought forward to the Committee of Adjustment hearing on January 26, 2021 however no agent or owner was present at the hearing to represent the application and the application was deferred.

Existing Zoning:

The property is zoned "Residential Single Detached B(1) – Special Section 328 (R1B(1)-328)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. 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 in an exterior side yard;
2. To permit an existing accessory structure (shed) having a gross floor area of 16.6 sq. m (178.68 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;
3. To permit a combined gross floor area of 26.6 sq. m (286.32 sq. ft.) for two accessory structures (existing shed and pre-fabricated gazebo) whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.);
4. To permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line;
5. To permit a setback of 0.28m (0.92 ft.) to a stair and landing serving an above grade entrance in the interior side yard whereas the by-law requires a minimum setback of 0.9m (2.95 ft.) to any stairs or landing to an above grade door in the interior side yard.

Current Situation:

1. Conforms to the Intent of the Official Plan

The subject property is designated "Residential" in the Official Plan and "Low Density 1 Residential" in the Bramalea Secondary Plan (Area 3). The requested variances are not considered to have significant context within the policies 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 B(1) – Special Section 328 (R1B(1)-328)" according to By-law 270-2004, as amended. The requested variances are intended to facilitate the construction of a below grade entrance in the exterior side yard of the property, and to allow the existing accessory structures and a landing for an above grade entrance to remain.

Variances 1, 2, and 3 relate to existing accessory structures on the property: a shed and

a frame gazebo on the deck.

Variance 1 is 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 in an 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, it is a corner lot which creates a situation in which a large portion of the exterior side yard is the functional amenity area of the property and has been fenced in. The fence completely screens the accessory structure from view of the street. A condition of approval is recommended that the fence remain constructed in its current location and height and shall not be removed or lowered to ensure the screening remains in place. 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 are to permit an existing accessory structure (shed) having a gross floor area of 16.6 sq. m (178.68 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure and to permit a combined gross floor area of 26.6 sq. m (286.32 sq. ft.) for two accessory structures (existing shed and pre-fabricated gazebo) whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.).

The intent of the by-law in regulating the maximum permitted floor area of a single accessory structure and the total floor area for all accessory structures is to ensure that the size of the structures do not negatively impact the provision of outdoor amenity space for the property. Given the size of the outdoor amenity area for the property, the size of the structures do not present a concern with regard to impacting the provision of amenity space. Subject to the recommended conditions approval, Variances 2 and 3 are considered to maintain the general intent of the Official Plan.

Variance 4 is to permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line. The intent of the by-law in prohibiting below grade entrances between a main wall of the dwelling and the flankage lot line is to ensure that the appearance of the below grade entrance does not negatively impact the overall streetscape. The proposed below grade entrance will be located behind the existing fence and does not present a concern with regard to impacts on the streetscape. A condition of approval is recommended that the fence remain constructed in its current location and height and shall not be removed or lowered to ensure the screening remains in place. 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 a setback of 0.28m (0.92 ft.) to a stair and landing serving an above grade entrance in the interior side yard whereas the by-law requires a minimum setback of 0.9m (2.95 ft.) to any stairs or landing to an above grade door in the interior

side yard. The intent of the by-law in requiring a minimum setback to any stairs or landing serving an above grade entrance in the interior side yard is to ensure that access to the rear yard can be maintained. Given the significant setback on the opposite side of the dwelling, and the access that can be gained through the exterior side yard, the location of the landing does not present concerns with regard to access to the rear yard. Subject to the recommended conditions of approval, Variance 5 is considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variances 1, 2, and 3 relate to existing accessory structures on the property: a shed and a frame gazebo on the deck. The structures subject to the variance are currently existing on the property and contribute positively to the use of the outdoor amenity space, while serving the primary residential function of the property. A condition of approval is recommended that a building permit be obtained for the accessory structures within 60 days of the final date of the Committee's decision to ensure that the structures are in compliance with the Ontario Building Code. Subject to the recommended conditions of approval, Variances 1, 2, and 3, are considered to be desirable for the appropriate development of the land.

Variance 4 relates to a proposed below grade entrance between the dwelling and the flankage lot line. The entrance will be screened from view by the existing fence, and a condition of approval is recommended that the fence not be changed as to retain that screening. Further, a condition of approval is recommended that the entrance not be used to access an unregistered second unit to ensure that any second unit that is constructed is done in accordance with the Ontario Building Code. Subject to the recommended conditions of approval, Variance 4 is considered to be desirable for the appropriate development of the land.

Variance 5 relates to a landing at the above grade door within the interior side yard, on the opposite side of the dwelling from the proposed below grade entrance. This door is not intended to serve a second unit but the primary dwelling unit. Given the access to the rear yard that is provided on the opposite side of the dwelling, the location of the landing does not present concerns with regard to access to the rear yard. A condition of approval is recommended that a building permit be obtained for the landing if required, to ensure that it is constructed in accordance with the Ontario Building Code. Subject to the recommended conditions of approval, Variance 5 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1, 2 and 3 relate to existing accessory structures on the property. The structures do not present any apparent negative impacts with regard to drainage or aesthetic quality of the property, or the provision of outdoor amenity area. Subject to the recommended conditions of approval, Variances 1, 2, and 3 are considered to be minor in nature.

Variance 4 is to permit a below grade entrance between the main wall of the dwelling and the flankage lot line. The location of the entrance will not be visible on the street and is not anticipated to have a major functional impact on the amenity space for the property. Subject to the recommended conditions of approval, Variance 4 is considered to be minor in nature.

Variance 5 is related to stairs and a landing serving an above grade door on the interior side of the dwelling. Given the generous setback on the flankage side of the dwelling, access to the rear yard is not inhibited by the location of the stairs and landing. Subject to the recommended conditions of approval, Variance 5 is considered to be minor in nature.

Respectfully Submitted,

Shelby Swinfield

Shelby Swinfield, Planner I