

Filing Date: 10-Feb-2021

Hearing Date: 30-Mar-2021

File: A-2021-0022

**Owner/
Applicant:** Branthaven Queen West Inc./Mark Condello

Address: 1817 Queen Street

Ward: 4

Contact: Kelly Henderson, Development Planner

Recommendations:

That application A-2021-0022 is supportable, subject to the following conditions being imposed:

1. That that extent of the variances be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the owner finalize site plan approval under City File SPA-2020-0036, and post any required financial securities and insurance to the satisfaction of the Director of Development Services;
 3. That unit 70 be required to have a second storey balcony with an area of approximately 15 sq. m. (161.5 sq. ft.);
 4. That unit 69 be required to have a minimum rear yard depth of 5m.(16.4 ft.); 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 Townhouse C Special Section 2940 and 2976 (R3C-2940 and R3C-2976)', according to By-law 270-2004, as amended.

The subject site has a related Site Plan application (SPA-2020-0036) which was submitted on March 2020 in order to facilitate the Local Planning Appeal Tribunal's (LPAT) decision in regards to an Official Plan Amendment and Zoning By-law Amendment application.

The application was previously deferred in order to determine the limits of the environmental features and in order to provide staff time to review a redline revision in regards to the concurrent Draft Plan of Subdivision application.

Requested Variance:

The applicant is requesting the following variances:

1. To permit 0.0 sq. m of rooftop amenity space whereas the by-law requires a minimum of 20.0 sq. m (215 sq. ft.) rooftop amenity area;
2. To permit residential uses to encroach within an Open Space (OS) zone whereas the by-law does not permit residential uses in an Open Space (OS) zone;
3. To permit 11.0 sq. m (118.4 sq. ft.) of landscaped open space in the rear yard whereas the by-law requires a minimum of 19 sq. m of landscaped open space for lands zoned R3C-2976; and,
4. To permit 19 sq. m (204.5 sq. ft.) of landscaped open space in the rear yard whereas the by-law requires a minimum of 22 sq. m (236.8 sq. ft.) of landscaped open space for lands zoned R3C-2940.

Current Situation:

1. Conforms to the Intent of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Residential – Medium Density and 'Open Space – Primary Valleyland' within the Creditvalley Secondary Plan (Area 45). The requested variances are not considered to have significant implications within the context of the Official Plan policies. Furthermore, the Credit Valley Conservation Authority has reviewed the proposed variances and have no concerns and no objection to the application.

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 Townhouse C Special Section 2940 and 2976 (R3C-2940 and R3C-2976)' and Open Space (OS), according to By-law 270-2004, as amended, which permits stacked townhouses and purposes accessory the permitted use.

In regards to the proposed variances, Special Section 2976 only affects units 69 and 70 and requires a minimum landscaped open space of 19 sq. m. (204.5 sq. ft.) and a minimum rooftop amenity space of 20 sq. m. (215.3 sq. ft.) for each unit. Whereas Special Section 2940 applies to the remainder of the properties and requires a minimum landscaped open space of 22 sq. m. (236.8 sq. ft.) and a minimum rear yard setback of 5m (16.4 ft.) for units that do not have a rooftop amenity space having a minimum area of 20 sq. m. (215.3 sq. ft.) or 4 metres (13.1 ft.) minimum rear yard setback for units containing a rooftop amenity space having a minimum area of 20 square metres, provided that at least 50% of the rear main wall shall be setback a minimum of 5m (16.4 ft.) from the rear lot line.

Variance 1 is to permit 0.0 sq. m of rooftop amenity space whereas the by-law requires a minimum of 20.0 sq. m (215 sq. ft.) rooftop amenity area and is only intended for units 69 and 70. The intent of the By-law is to ensure that there is adequate private amenity space for the development. The applicant has indicated in their submission that it is the intent that unit 70 will include a balcony space of 15 square metres (161.5 square feet) on the second floor instead of the required roof top amenity space. Whereas, unit 69 has been configured to include a 5 metres (16 feet) rear yard setback, which if this lot was in the adjacent zone, would no longer require a rooftop amenity space. Staff finds that the proposed variance subject to the conditions meets the general intent of the Zoning By-law, and adequate outdoor amenity space is provided.

Variance 2 is to permit residential uses to encroach within an Open Space (OS) zone whereas the by-law does not permit residential uses in an Open Space (OS) zone. The Open Space zone boundaries are determined through a technical exercise. After the approval of the Zoning By-law it was determined that the boundaries are required to be slightly altered based on new information. In support of this an Environmental Impact Study was completed, which noted that these proposed encroachments would not have any negative impacts on the natural and ecological function of the Open Space Zone. Therefore, subject to the recommended conditions, staff finds that proposed variance 2 meets the general intent of the Zoning By-law.

Variance 3 is to permit 11.0 sq. m of landscaped open space in the rear yard whereas the by-law requires a minimum of 19 sq. m of landscaped open space for lands zoned R3C-2976. The intent of the by-law in requiring a minimum open space landscape strip along all property lines, is to aid in creating a positive visual impact for the property, and avoiding creating a sea of concrete, as well as ensure sufficient amenity space is provided. This proposed variance relates to lots 69 and 70 and is being requested due to the proposed second storey balcony, which will still have space beneath the balcony to provide for a landscaped area, but does not meet the definition as it will be partially covered from the second storey balcony.

Variance 4 is to permit 19 sq. m of landscaped open space in the rear yard whereas the by-law requires a minimum of 22 sq. m of landscaped open space for lands zoned R3C-2940. This variance will impact units 1-68. The intent of the by-law in requiring a minimum open space landscape strip along all property lines, is to aid in creating a positive visual impact for the property, and avoiding creating a sea of concrete. Similar to the above this variance is being requested due to the second storey balcony and any space covered by the canopy is not counted towards the open space landscape calculation.

It is staff's opinion that variance 3 and 4 is technical in nature and there is still sufficient outdoor amenity space and open space area, therefore, subject to the conditions, staff find variances 3 and 4 meet the general intent of the Zoning By-law.

Subject to the recommended conditions, the proposed variances meet the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variances are intended to facilitate a 70 unit townhouse condominium development on the subject property. The proposed development is currently undergoing site plan approval and appears to be maintaining the general configuration of the original proposal. There is still an appropriate amount of amenity/open space landscape areas.

Therefore staff finds that the subject variances are desirable for the appropriate development of the land subject to the recommended conditions.

4. Minor in Nature

The requested variances are only intended for several units on the subject site and as noted above meet the general original configuration of the proposed development. The proposed variances are minor in nature as the general intent of the development is still being maintained. Subject to the recommended conditions of approval, the requested variances are considered to be minor in nature.

Respectfully Submitted,

K Henderson

Kelly Henderson, Development Planner