



## Report Committee of Adjustment

**Filing Date:** June 7, 2021

**Hearing Date:** July 13, 2021

**File:** A-2021-0136

**Owner/  
Applicant:** SAREEN PIYUSH

**Address:** 38 Feeder Street

**Ward:** WARD 6

**Contact:** François Hémon-Morneau, Planner I

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### **Recommendations:**

That application A-2021-0136 is not supportable.

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### **Background:**

The applicant is proposing to construct an exterior stairway leading to a below grade entrance in the required interior side yard. Two variances are required to facilitate the construction of the proposed below grade entrance. The property is located within a subdivision which the City has not yet assumed from the developer. There is currently an easement in place to cover all works not yet assumed by the City, and this easement restricts modifications to all surface drainage.

### Existing Zoning:

The property is zoned 'Residential Single Detached F (R1F-9-2452)', according to By-law 270-2004, as amended.

### Requested Variances:

*The applicant is requesting the following variances:*

1. To permit an interior side yard setback of 0.0m to an exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.);
2. To permit an interior side yard setback of 0.0m (0.0 ft.) to a proposed below grade entrance, resulting in a combined total interior side yard width of 0.63m (2.06 ft) whereas the by-law

requires a minimum of 1.2 metres on one side and 0.6 metres on the other side provided that the combined total of the interior side yards is 1.8 metres.

### **Current Situation:**

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

The subject property is designated 'Residential' in the Official Plan and 'Low Medium Density Residential' in the Mount Pleasant Secondary Plan (Area 51). The nature and extent of the proposed variances, subject to the recommended conditions of approval, 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 an interior side yard setback of 0.0m to an exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). Variance 2 is requested to permit an interior side yard setback of 0.0m (0.0 ft.) to a proposed below grade entrance, resulting in a combined total interior side yard width of 0.63m (2.06 ft) whereas the by-law requires a minimum of 1.2 metres on one side and 0.6 metres on the other side provided that the combined total of the interior side yards is 1.8 metres.

The intent of the By-law in requiring a minimum interior and exterior side yard setback and in prohibiting exterior stairways constructed below established grade in the required interior side yard is to ensure that sufficient space is maintained for drainage, access to the rear yard, and to act as the primary access to a second unit for both every day and emergency purposes. Staff also note that the intent of the By-law in this case is to ensure that there is adequate space to access a side door, without the potential of trespassing on the neighbouring property.

The proposed configuration of the side yard entrance contemplates a below grade landing accessed by three riser steps on either side maintaining access to the rear yard. The width of the proposed below grade stairway is 1.2m which results in an interior side yard setback of 0.0m. As previously mentioned, the property is located within a subdivision which the City has not yet assumed from the developer. There is currently an easement in place to cover all works not yet assumed by the City, and this easement restricts modifications to all surface drainage. In the case of the subject property, the proposed entrance will occupy the entire interior side yard width which leaves no space for the existing side yard swale to be maintained between lots. Staff are concerned over the potential for negative impacts to drainage resulting from the below grade stairway and reduced interior side yard setback. Furthermore, staff anticipate the limitations to the path of travel in providing sufficient space to access the entrance of a second unit without the potential of trespassing on the neighbouring property.

The requested variances are not considered to maintain the general intent and purpose of the Zoning By-law.

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

Variances 1 and 2 relate to a proposed below grade stairway and entrance within the interior side yard of the dwelling. Given the existing easement on title which covers all works not yet assumed by the City, and its' restrictions to any modifications to surface drainage on the property, Staff are concerned over the potential on-site and off-site negative impacts to drainage. Variances 1 and 2 are not considered to be desirable for the appropriate development of the land.

#### 4. Minor in Nature

Variances 1 and 2 are requested to permit a proposed below grade entrance within the interior side yard of the dwelling. The proposed below grade stairway and entrance will occupy the entire interior side yard width which leaves no space for the existing side yard swale to be maintained between lots. The reduced side yard setback and related below grade stairway and entrance is anticipated to impact drainage for the property.

The requested variances are not considered to be minor in nature.

Respectfully Submitted,

*François Hémon-Morneau*

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