



Report Committee of Adjustment

Filing Date: June 18, 2021
Hearing Date: August 3, 2021

File: A-2021-0140

**Owner/
Applicant:** MEHBOOB HUSAIN SHAIKH & SHIRINBANU SHAIKH

Address: 41 Loons Call Crescent

Ward: WARD 9

Contact: François Hémon-Morneau, Planner I

Recommendations:

That application A-2021-0140 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 Notice of Decision;
 2. That the below grade entrance shall not be used to access an unregistered second unit;
 3. That drainage on adjacent properties shall not be adversely affected;
 4. That the existing municipal curb depression shall not be widened in the area of the extended driveway width; 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:

The applicant has requested a Minor Variance to facilitate the construction of an entrance accessed by a below grade stairway in the required interior side yard. Upon site inspection, it was identified that an additional variance would be required to permit the existing width of a legal non-conforming driveway.

Existing Zoning:

The property is zoned 'Residential Single Detached D (R1D-759)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an exterior stairway in the required interior side yard having a setback of 0.228m (0.75 ft.) to the side lot line, whereas the by-law permits exterior stairways constructed below the established grade in a required side yard provided that a continuous side yard width of not less than 1.2m (3.94 ft.) is provided on the opposite side and the stairway is setback 0.3m (0.98 ft.) from the side lot line;
2. To increase the width of a legal non-conforming driveway to a proposed maximum width of 6.17m (20.24 ft.) whereas the by-law permits the maintenance of an existing legal non-conforming driveway having a maximum width of 5.78m (18.96 ft.). Note: Current requirements of the Zoning By-law would restrict driveway width to 5.2m (17 ft.).

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 Density Residential' in the Springdale Secondary Plan (Area 2). 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 exterior stairway in the required interior side yard having a setback of 0.228m (0.75 ft.) to the side lot line, whereas the by-law permits exterior stairways constructed below the established grade in a required side yard provided that a continuous side yard width of not less than 1.2m (3.94 ft.) is provided on the opposite side and the stairway is setback 0.3m (0.98 ft.) from the side lot line. The intent of the By-law in requiring a minimum interior side yard setback is to ensure that sufficient space is maintained for drainage and access to the rear yard.

The proposed configuration of the side yard entrance contemplates a below grade landing accessed by four riser steps. An interior side yard setback of 0.228m (0.75 ft.) is proposed between the stairway and property line. Despite the reduced interior side yard setback, the addition of the below grade entrance is not anticipated to negatively impact drainage and access to the rear yard. Primary access to the rear yard is maintained on the north side of the property. Subject to the recommended conditions of approval Variances 1 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 2 is requested to increase the width of a legal non-conforming driveway to a proposed maximum width of 6.17m (20.24 ft.) whereas the by-law permits the maintenance of an existing legal non-conforming driveway having a maximum width of 5.78m (18.96 ft.). The intent of the By-law in regulating the maximum permitted driveway width is to ensure that the driveway does not visually 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.

The existing driveway width is approximately 0.39m (1.28 ft.) wider than what is permitted for the maintenance of an existing legal non-conforming driveway and 0.97m (3.24 ft.) wider than what would be permitted under current requirements of the Zoning By-law. The widened area is comprised of a stone curb on both sides of the driveway and an additional concrete walkway along the northern side of the driveway. While the driveway does not maintain the full front yard landscaping requirements, the existing condition of the driveway is not out of character for the area. In this case, the materials used maintain the spirit and intent of the Zoning By-law by not visually dominating the front yard of the property. Subject to the recommended conditions of approval, the variance is considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 relates to a proposed below grade entrance with a reduced interior side yard setback. A condition of approval is recommended that drainage on adjacent properties shall not be adversely affected and that the below grade entrance shall not be used to access an unregistered second unit to ensure that any second unit on the premises is in accordance with City By-laws and permit requirements. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variance 2 relates to the width of an existing legal non-conforming driveway. The existing condition of the driveway is not out of character for neighbourhood and does not pose negative impacts. In order to reduce the potential for an excessive number of cars to be parked side-by-side, a condition of approval is recommended that the existing municipal curb depression shall not be widened in the area of the extended driveway width. Further, and to minimize the potential for negative impacts to the drainage resulting from the existing stone curb and concrete walkway, a condition of approval is recommended that drainage on adjacent properties shall not be adversely affected. 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

Variances 1 is requested to permit an exterior stairway in the required interior side yard having a setback of 0.228m (0.75 ft.) to the side lot line. The reduced side yard setback and related below grade entrance are not anticipated to impact drainage for the property or limit access to the rear yard. The requested variance, subject to the recommended conditions of approval, is considered to be minor in nature.

Variance 2 is requested to increase the width of a legal non-conforming driveway to a proposed maximum width of 6.17m (20.24 ft.). The driveway is consists of a stone curb on both sides of the driveway and an additional concrete walkway along the northern side of the driveway which is not out of character for the area. In this case, no negative impacts are anticipated from the existing conditions of the driveway. Subject to the recommended conditions of approval, variance 2 is considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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