



**Report
Committee of Adjustment**

Filing Date: August 6, 2021
Hearing Date: September 14, 2021

File: A-2021-0177

**Owner/
Applicant:** MANSUR SHAH AND MOHSIN SHAH

Address: 6 Everlasting Court

Ward: WARD 10

Contact: François Hémon-Morneau, Planner I

Recommendations:

That application A-2021-0177 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. The applicant submits \$610.00 Variance Residential– Minor review fee to the TRCA as requested in their letter dated September 2, 2021;
 3. That roof drainage from the accessory structure shall be directed onto the subject property and drainage on adjacent properties not be adversely impacted;
 4. That the accessory building (cabana) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory building shall be limited to the provision of one washroom, shower, and sink; 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 is requesting three variances to facilitate the construction of a cabana in the rear yard. Following a site inspection, an additional variance was identified relating to the setback of an existing basketball court in the rear yard.

Existing Zoning:

The property is zoned 'Residential Single Detached F (R1F-13.5)' and 'Open Space (OS-1970)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an individual accessory structure (cabana) with a gross floor area of 47.6 sq. m (512.36 sq. ft.) whereas the by-law permit a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;
2. To permit an accessory structure (cabana) with a height of 3.809m (12.50 ft.) whereas the by-law permits a maximum height of 3.0m (9.84 ft.) for an accessory structure;
3. To permit human habitation (washroom) within the proposed accessory structure (cabana) whereas the by-law does not permit human habitation within an accessory structure;
4. To permit a recreational facility (basketball court) with a setback of 0.99m (3.25 ft.) to the side lot line whereas the by-law permits a minimum setback of 1.2m (3.94 ft.) from any lot line to a recreational facility.

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' in the Bram East Secondary Plan (Area 41). 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 individual accessory structure (cabana) with a gross floor area of 47.6 sq. m (512.36 sq. ft.) whereas the by-law permit a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The intent of the By-law in regulating the maximum permitted gross floor area of an accessory building is to ensure that the size of the structure does not negatively impact the provision of outdoor amenity space for the property.

The variance relates to the proposed cabana with a gross floor area of 47.6 sq. m (512.36 sq. ft.) which is approximately 32.6 sq. m (350.90 sq. ft.) greater than what the by-law permits for an individual accessory structure. The cabana is proposed to be situated at the southeast portion of the property's rear yard with appropriate setbacks. The property is fenced off providing some screening from adjacent properties. In addition to serving as storage for pool equipment, the cabana is proposed to have a washroom to be used in conjunction with the pool. Given the size of the property, the size of the structure is not considered to negatively impact the provision of outdoor amenity space for the property. The requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an accessory structure (cabana) height of 3.809m (12.49 ft.), whereas the by-law permits a maximum accessory structure height of 3m (9.84 ft.). 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 visual massing impacts on adjacent properties.

The height of the cabana is proposed to be 0.809m (2.65 ft.) taller than what the by-law permits. As previously stated, the cabana is planned to be located at the southeast portion of the property's rear yard and will maintain appropriate setbacks. The property backs onto open space and the additional height of the cabana is not anticipated to generate negative visual impacts to adjacent properties. The requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit human habitation (washroom) within the proposed accessory structure (cabana), whereas the by-law does not permit human habitation within an accessory structure. The intent of the by-law in prohibiting habitable space within accessory structures is to ensure that the structures are not used for human habitation and remain accessory to the primary residential dwelling.

The cabana is proposed to contain a washroom, which according to the Zoning By-law, is classified as habitable space within the accessory structure. The cabana is intended to remain accessory to the primary residential dwelling. A condition of approval is recommended that the accessory building (cabana) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory building shall be limited to the provision of one washroom, shower, and sink. Subject to the recommended conditions of approval, the requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 4 is requested permit a recreational facility (basketball court) with a setback of 0.99m to the side lot line, whereas the by-law permits a minimum setback of 1.2m from any lot line to a recreational facility. The intent of the by-law in requiring minimum setbacks from any lot line is to ensure that sufficient space is maintained for drainage, access to the side yard, and that adjacent properties are not negatively impacted in any way.

The existing basketball court is situated 0.21m (0.69 ft.) closer to the side lot line than what the by-law permits. The basketball court is made up of a hardscaped surface with fencing positioned behind the basketball net. Given the size of the property, the location of the recreational facility (basketball court) is not considered to impact drainage or significantly limit access to the side yard. No negative impacts to property or adjacent property is expected from the existing location of the basketball court. 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

The owners are requesting three variances to facilitate the construction of a cabana in the rear yard. Given the size of the property and the context surrounding it, the size, height, and the habitable space contained within the proposed cabana is not anticipated to cause negative visual impacts or contribute to a loss of outdoor amenity space. In order to limit potential impacts to drainage, a condition of approval is recommended that roof drainage from the accessory structure shall be directed onto the subject property and drainage on adjacent properties not be adversely impacted. An

additional variance relating to an existing recreational facility is requested to permit a reduced setback from the side lot line. The location of the basketball court is not considered to generate negative on-site or off-site impacts. Subject to the recommended conditions of approval the requested variances are considered desirable for the appropriate development of the land.

4. Minor in Nature

The subject property is located within a residential area of the City of Brampton that backs onto natural open space. Considering the size of the property, the accessory structure and existing basketball court is not anticipated to detract from access to outdoor amenity space or create adverse impacts on-site or off-site. Subject to the recommended conditions of approval, the requested variances are considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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