



Report Committee of Adjustment

Filing Date: September 3, 2021

Hearing Date: October 5, 2021

File: A-2021-0206

Owner/

Applicant: SYED IFTIKHAR HUSSAIN SHAH AND HINA SYED

Address: 27 Longevity Road

Ward: WARD 6

Contact: François Hémon-Morneau, Planner I

Recommendations:

That application A-2021-0205 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown on the sketch attached to the Notice of Decision;
 2. The owner shall obtain a building permit within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official;
 3. 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 Single Detached (R1E-18-2502)', according to By-law 270-2004, as amended.

Requested Variance:

The applicant is requesting the following variance:

1. To permit a deck to encroach into the minimum required rear yard by 4.94m (16.21 ft.), resulting in a rear yard setback of 2.56m (8.39 ft.) whereas the by-law permits a maximum encroachment of 3.0m (9.84 ft.), resulting in a rear yard setback of 4.5m (14.76 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 'Executive Residential' in the Huttonville Secondary Plan (Area 29). 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

The variance is requested to permit a deck to encroach into the minimum required rear yard by 4.94m (16.21 ft.), resulting in a rear yard setback of 2.56m (8.39 ft.) whereas the by-law permits a maximum encroachment of 3.0m (9.84 ft.), resulting in a rear yard setback of 4.5m (14.76 ft.). The intent of the by-law in requiring a minimum rear yard setback is to ensure that sufficient space area is provided for the rear yard amenity area for the property. Additionally, this rear yard setback requirement is put into place to minimize overlook on adjacent properties.

The proposed deck encroachment will be located on the second storey of this building. This means that the deck will not be reducing the amenity area in the rear yard. In fact, the amenity area underneath the deck will remain available for occupants of the dwelling. As such, the proposed deck is not anticipated to negatively impact the rear yard amenity area for the property. The 2.56m (8.39 ft.) resulting setback only applies to the staircase while the remaining main portion of the deck has a setback of 4.04m (13.25 ft.) to the rear lot line. Also, the property backs onto an open space area. Consequently, the deck's ability to allow residents to overlook into adjacent properties is limited and only applies to the neighbouring property to the southwest of the dwelling. Subject to the recommended conditions of approval, the requested 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 variance associated with an existing deck is required to bring the deck to compliance with the by-law. The reduced rear yard setback is not anticipated to negatively impact the rear yard amenity area for the property nor will it unreasonably increase the ability to overlook into adjacent properties' backyards. Subject to the conditions of approval, the requested variance is desirable for the appropriate development of the land.

4. Minor in Nature

The requested variance to permit a reduced rear yard setback is not anticipated to negatively impact the amenity area for the property. A condition of approval is recommended that the extent of the variance be limited to that shown on the sketch attached to the notice of decision to ensure that the setback is consistent with what is presented in this application. Subject to the recommended conditions of approval, the requested variance is considered minor in nature.

Respectfully Submitted,

François Hémond-Morneau

François Hémon-Morneau, Planner I