

Filing Date: September 15, 2020

Hearing Date: October 20, 2020

File: A-2020-0083

**Owner/
Applicant:** ABDI BASHIR HASSAN

Address: 29 Bunchberry Way

Ward: 9

Contact: Shelby Swinfield, Planner I, Development

Recommendations:

That application A-2020-0083 is supportable, in part, subject to the following conditions being imposed:

1. That Variance 4 be refused and the driveway be reinstated to the maximum permitted width of 5.2 metres;
2. That the extent of Variances 1, 2, 3, and 5 be limited to that shown on the sketch attached to the Public Notice;
3. That the curb cut shall not be extended toward the flankage lot line;
4. That drainage from the accessory structure shall flow onto the applicant's property and drainage on adjacent properties shall not be adversely affected;
5. That a building permit be obtained for the below grade entrance within 60 days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official;
6. That the below grade entrance not be used to access an unregistered second unit;
7. That the fence remain in the existing location and height and not be removed or lowered;
8. That failure to comply with and maintain the conditions of the Committee shall

render the approval null and void.

Background:

Existing Zoning:

The property is zoned "Residential Semi-Detached C – Special Section 840 (R2C-840)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance to be located between the main wall of a dwelling and the flankage lot line;
2. To permit an existing accessory structure (shed) having a setback of 0.20m (0.66 ft.) to the side lot line whereas the by-law requires a minimum setback of 0.60m (1.97 ft.) for an accessory structure to the side lot line;
3. To permit an existing accessory structure (shed) having a setback of 0.25m (0.82 ft.) to the rear lot line whereas the by-law requires a minimum setback of 0.60m (1.97 ft.) for an accessory structure to the rear lot line;
4. To permit an existing driveway width of 5.8m (19.03 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.);
5. To permit an existing driveway having a separation distance of 3.0m (9.84 ft.) to the projected point of intersection of two streets whereas the by-law requires a minimum separation distance of 6.0 metres between a driveway and the projected point of intersection of two streets.

Current Situation:

1. Conforms to the Intent of the Official Plan

The property is designated as "Residential" within the Official Plan and "Low Density Residential 1" within the Springdale Secondary Plan (Area 2).

Variances 1, 2, 3, and 5 do not have significant impact within the context of the policies of the Official Plan. Variances 1, 2, 3, and 5 are considered to maintain the general intent of the Official Plan.

Variance 4 relates to the existing driveway on the property. The existing driveway has a width of 5.8m (19.03 ft) whereas the by-law permits a maximum driveway width of 5.2m (17.06ft). The definition of a driveway includes all surfaces capable of being parked upon.

Within the Residential policies of the Official Plan, Section 4.2.1.14 states that driveway design shall relate to lot width and garage width. When a garage is provided, it is considered to assist in providing the required number of parking spaces for the property and the driveway is the logical means to get to the garage. In these instances, the design of the driveway should be sized and configured accordingly and not in a manner so as to be the primary parking space(s). This is related to the design objectives outlined within Section 4.2.7 which aims to avoid the excessive parking of vehicles in the front yard and on driveways, and to promote a driveway design that is complementary to the house and lot size. The driveway design for this property is capable of allowing excessive parking in the front yard on the driveway. Variance 4 does not maintain the general intent of the Official Plan.

2. Conforms to the Intent of the Zoning By-law

Variance 1 is to permit the construction of a below grade entrance within the area of the lot between the main wall of the dwelling and the flankage lot line (or exterior side yard). The intent of the by-law in prohibiting below grade entrances in the exterior side yard is to prevent negative visual impacts to the overall streetscape. The proposed below grade entrance is located within the effective rear yard of the dwelling, and is screened behind the fence surrounding the rear yard. A condition of approval is recommended that the fence shall remain constructed in its current location and height to ensure that the below grade entrance is not visible from the street. Subject to the recommended conditions of approval, the Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variances 2 and 3 are related to an existing accessory structure in the rear yard. The intent of the by-law in regulating required minimum side yard setback for accessory structures is to ensure there is sufficient room for drainage from the accessory structures. The location of the accessory structure is considered to provide enough space for drainage, and subject to the recommended conditions of approval, Variances 2 and 3 are considered to maintain the general intent of the Zoning By-law.

Variance 4 is to permit an existing driveway width of 5.8m (19.03 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.). The intent the by-law of regulating driveway width is to ensure that driveways, and the potential parking of vehicles that driveways can accommodate, does not dominate the streetscape. A maximum driveway width of 5.2m (17.06ft) provides an appropriately sized driveway that leads to the garage, is complementary to the house and lot size, and contributes to providing an aesthetically pleasing public realm. The requested variance to allow an existing driveway width of 5.8m (19.03 ft) is too large relative to the lot width and goes beyond the primary function of the driveway, which is to provide a surface leading to a garage, and provides the opportunity for the parking of extra vehicles in the front yard. Variance 4 is not considered to maintain the general intent of the Zoning By-law.

Variance 5 is to permit an existing driveway having a separation distance of 3.0m (9.84 ft.) to the projected point of intersection of two streets whereas the by-law requires a minimum separation distance of 6.0 metres between a driveway and the projected point of intersection of two streets. The intent of the by-law in regulating this minimum distance is to ensure that a safe visual area is maintained around the intersection, and that cars are not reversing into the right of way at a point too close to an intersection. The driveway for the dwelling has not been extended within the municipal right of way and the location of the driveway entrance is consistent with the original design of the subdivision. A condition of approval is recommended that the curb not be cut any further toward the flankage lot line in order to ensure that vehicles are not entering and leaving the driveway any closer to the intersection than originally designed. Subject to the recommended conditions of approval, Variance 5 is considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 relates to the requested below grade entrance within the exterior side yard of the lot will facilitate the construction of a basement unit within the existing dwelling. The location of the proposed below grade entrance will be screened from view behind the existing fence as it is located in the amenity yard for the property. A condition of approval is recommended that the entrance not be used to access an unregistered second unit to ensure that any second unit within the dwelling is registered and complies with the requirements of the Ontario Building Code. Further, a condition of approval is recommended that a building permit be obtained for the below grade entrance within 60 days of the final date of the Committee's decision to ensure that it is constructed in accordance with the OBC. Subject to the recommended conditions of approval, the Variance 1 is considered to be desirable for the appropriate development of the land.

Variances 2 and 3 relate to an accessory shed in the rear yard. It is not anticipated that the location of this structure will negatively impact drainage on the subject property or those adjacent to it. A condition of approval is recommended that drainage from the accessory structure shall flow onto the applicant's property and drainage on adjacent properties shall not be adversely affected to ensure the current drainage situation is maintained. Subject to the recommended conditions of approval, Variances 2 and 3 are considered to maintain the general intent of the Zoning By-law.

Variance 4 relates to the existing driveway with a width of 5.8m (19.03 ft). One of the key urban design objectives for residential neighbourhoods is to avoid excessive parking of vehicles in the front yard on driveways and promote a driveway design that is complementary to the house and lot size. The existing driveway has the capability for allowing excessive parking in the front yard and upon site inspection the extended portion of the driveway was being used for vehicle parking. Variance 4 is not considered to be desirable for the appropriate development of the land.

Variance 5 is to permit an existing driveway having a separation distance of 3.0m (9.84 ft.) to the projected point of intersection of two streets whereas the by-law requires a

minimum separation distance of 6.0 metres between a driveway and the projected point of intersection of two streets. The intent of this regulation is to ensure safety around intersections as it relates to visibility and the movement of vehicles. In the case of the subject property, the driveway entrance has not been expanded toward the intersection and remains in the configuration of its original design with the subdivision. While it is not clear why this lot is configured in this manner, staff are of the opinion that, provided the driveway curb cut is not further, a sufficient distance is provided between the intersection and the driveway entrance. A condition of approval is recommended that the curb not be cut further toward the flankage lot line to ensure that the driveway entrance does not encroach toward the intersection any further. Subject to the recommended conditions of approval, Variance 5 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variance 1 is to permit a below grade entrance in the exterior side yard proposes to locate the entrance in a location that will not be visible from the streetscape. Subject to the recommended conditions of approval, the requested variance is considered to be minor in nature.

Variances 2 and 3 relate to an existing accessory shed in the rear yard. The requested reduced setbacks of 0.2m (0.66ft) and 0.25m (0.82ft) whereas the by-law requires a minimum setback of 0.6m (1.97ft) are not anticipated to negatively impact drainage for the property or those adjacent to it. Subject to the recommended conditions of approval, Variances 2 and 3 are considered to be minor in nature.

Variance 4 is to permit an existing driveway width of 5.8m (19.03 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.) is an increase that could facilitate the excess parking of vehicles in front of the dwelling. Variance 4 is not considered to be minor in nature.

Variance 5, to permit an existing driveway having a separation distance of 3.0m (9.84 ft.) to the projected point of intersection of two streets whereas the by-law requires a minimum separation distance of 6.0 metres between a driveway and the projected point of intersection of two streets, is not anticipated to negatively impact the circulation or safety of traffic within the intersection or those entering and leaving the driveway for the subject property. Subject to the recommended conditions of approval, Variance 5 is considered to be minor in nature.

Respectfully Submitted,

Shelby Swinfield

Shelby Swinfield, Planner I, Development