

**Filing Date:** September 16, 2020

**Hearing Date:** October 20, 2020

**File:** A-2020-0085

**Owner/  
Applicant:** JUSTIN TRI QUANG LE

**Address:** 7 Bellcrest Road

**Ward:** 4

**Contact:** Shelby Swinfield, Planner I, Development

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**Recommendations:**

That application A-2020-0085 is supportable, in part, subject to the following conditions being imposed:

1. That Variance 5 to permit a 0 metre permeable landscape strip be refused and the required landscaped area shall be reinstated within 90 days of the final date of the Committee's Decision, to the satisfaction of the Director of Development Services;
2. That Variance 4 to permit an extended driveway width be approved to a maximum width of 7.0 metres (22.9 feet);
3. That no whole or part of any vehicle shall be parked upon the extended portion of the driveway at any time;
4. That the extent of the variances be limited to that shown on the sketch attached to the Public Notice;
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 entrance not be used to access an unregistered second unit;
7. That drainage on adjacent properties not be impacted; and
8. 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 F-11.6 – Special Section 2069 (R1F-11.6-2069)" according to By-law 270-2004, as amended.

**Requested Variance:**

The applicant is requesting the following variances:

1. To permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard;
2. To permit an interior side yard setback of 0.18m (0.60 ft.) to the exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 0.6m (1.97 ft.);
3. To permit a combined total of 1.42m (4.66 ft.) of the interior side yards whereas the by-law requires a combined total of the interior side yards on an interior lot of not less than 1.8m (5.90 ft.).
4. To permit an existing driveway width of 7.6m (24.93 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22.0 ft.).
5. To permit a 0.0m permeable landscape strip abutting a property line whereas the by-law requires a minimum 0.60m (1.97 ft.) permeable landscape strip.

**1. Conforms to the Intent of the Official Plan**

The property is designated "Residential" in the Official Plan and "Low Density Residential 1" in the Credit Valley Secondary Plan (Area 45). The requested variances do not have significant implications within the context of the policies of the Official Plan. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent of the Official Plan.

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

Variances 1 and 2 are requested to permit a below grade entrance in the interior side yard and to permit an interior side yard setback of 0.18m (0.6 ft.) 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.). The intent of the by-law in regulating the minimum interior side yard setback to building additions is to ensure that sufficient space is provided for drainage and access to the rear yard.

In the case of the subject property, sufficient access to the rear yard is provided on the opposite side of the dwelling for access to the rear yard. Subject to the recommended conditions of approval, Variances 1 and 2 are considered to maintain the general intent of the Zoning By-law.

Variance 3 is requested to permit a combined total of 1.42m (4.66 ft.) of the interior side yards whereas the by-law requires a combined total of the interior side yards on an interior lot of not less than 1.8m (5.90 ft.). The intent of the by-law in regulating this is to ensure sufficient area is maintained in the side yards to provide adequate dwelling separation. The proposed reduction of side yards is related to the existing below grade entrance and does not negatively impact the spacing between dwellings. Subject to the recommended conditions of approval, Variance 3 is considered to maintain the general intent of the Zoning By-law.

Variances 4 is requested to permit an existing driveway width of 7.6m (24.93 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22.0 ft.). Variance 5 is requested to permit a 0.0m permeable landscape strip abutting a property line whereas the by-law requires a minimum 0.60m (1.97 ft.) permeable landscape strip.

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, and the intention of requiring a 0.6m (1.97 ft.) permeable landscape strip between the driveway and property line is to ensure sufficient area is provided for drainage. There are interlock stones covering the required permeable area of the driveway. As the stones inhibit proper drainage, Variance 5 is not considered to maintain the general intent of the Zoning By-law.

Variance 4, relating to the driveway width is in regard to a portion of the driveway that has interlock stones which are intended to be used as a walkway. A condition of approval is recommended that Variance 4 be approved to a maximum width of 7m (22.9 ft) which will facilitate the removal of the stones within the required permeable area, but allow the walkway portion of the driveway on the other side to remain. A condition of approval is recommended that no part or whole of a vehicle shall be parked upon the extended portion at any time to ensure that the main function remains as a walkway. Subject to the recommended conditions of approval, Variance 4 is considered to maintain the general intent of the Zoning By-law.

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

Variances 1 and 2 relate to an existing below grade entrance within the interior side yard of the dwelling. The enclosure is proposed to be used as an entrance to a second unit within the dwelling. A condition of approval is recommended that the entrance 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. It was determined that this below grade entrance was constructed without a permit, and as such, a condition of approval is recommended that a building permit be obtained within 60 days of the final date of the Committee's decision to ensure that it is brought into conformity with the Ontario Building Code, where and if required. Subject to the recommended conditions of approval, Variances 1 and 2 are considered to be desirable for the appropriate development of the land.

Variance 3 is requested to permit a combined total of 1.42m (4.66 ft.) of the interior side

yards whereas the by-law requires a combined total of the interior side yards on an interior lot of not less than 1.8m (5.90 ft.). The proposed reduced setback will not negatively impact the spacing of dwellings from the streetscape. Subject to the recommended conditions of approval, Variance 3 is considered to be desirable for the appropriate development of the land.

Variances 4 and 5 are related to the existing driveway on the property. The driveway is constructed with paver stones that extend into the required permeable landscape strip adjacent to the driveway. Because those stones inhibit drainage along that side of the property, Variance 4 is not considered to be desirable for the appropriate development of the land.

Variance 5 is to permit an extended driveway width due to paving stones that have been added to the driveway to serve the function of a walkway. These paving stones contribute positively to the aesthetic of the property. A condition of approval is recommended that the variance be approved only in part to allow for the property owner to remove the paving stones within the permeable area, but allow the other walkway portion to remain. 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

Variances 1 and 2 are to permit a below grade entrance within the interior side yard, and to permit an interior side yard setback of 0.18m (0.6 ft.) to an existing below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). The reduction is not anticipated to impact drainage for the property, and access to the rear yard is maintained on the adjacent side of the property. Subject to the recommended conditions of approval, the Variances 1 and 2 are considered to be minor in nature.

Variance 3 is related to reduced side yard setbacks, due to the reduced setback to the below grade entrance. The reduced standard does not negatively impact building spacing and is not detectible from the public realm. Subject to the recommended conditions of approval, Variance 3 is considered to be minor in nature.

Variance 4 is requested to eliminate the required permeable landscape strip adjacent to the driveway. This removal will negatively impact drainage on the property and as such Variance 4 is not considered to be minor in nature.

Variance 5 is requested to permit an extended portion of the driveway, which includes paving stones that are intended to be used as a walkway. A condition of approval is recommended that the Variance only be approved to a maximum of 7m (22.9 ft) to allow the permeable landscape strip to be reinstated while allowing the portion of the pavers intended to be used as a walkway on the other side of the driveway to remain. 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