



## Report Committee of Adjustment

**Filing Date:** September 23, 2021

**Hearing Date:** October 26, 2021

**File:** A-2021-0224

**Owner/  
Applicant:** JAINARINE, VICKRAM, SABITREE AND DEVANIE BALRAM

**Address:** 154 Richvale Drive South

**Ward:** WARD 2

**Contact:** François Hémon-Morneau, Planner I

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### Recommendations:

That application A-2021-0224 is supportable in part, 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 Variance 2 for increased driveway width be refused;
3. That Variance 3 for the reduction of permeable landscaping be refused;
4. That the owner shall obtain a building permit for the existing deck within 60 days of the decision of approval or extended at the discretion of the Chief Building Official.
5. That drainage on adjacent properties not be adversely impacted;
6. 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 a Minor Variance to allow reduced setback to existing rear yard deck that was constructed without a permit. Upon site inspection, additional variances were identified relating to existing conditions of a widened driveway and permeable landscaping between the driveway and the adjacent side property line.

Existing Zoning:

The property is zoned 'Residential Single Detached D (R1D-358)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a rear yard setback of 3.9m (12.80 ft.) to an existing deck whereas the by-law requires a minimum rear yard setback of 7.5m (24.60 ft.);
2. To permit an existing driveway having a width of 8.6m (28.22 ft.) at the widest point whereas the by-law permits a maximum driveway width of 6.71m (22 ft.);
3. To provide between 0.0m and 0.6m of permeable landscaping between the driveway and the adjacent side property line whereas the by-law requires a minimum 0.6m (1.97 ft.) of permeable landscaping between the driveway and the adjacent side property line.

**Current Situation:**

1. Maintains the General Intent and Purpose of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Medium Density Residential' in the Snelgrove Heart-Lake Secondary Plan (Area 1). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

The first variance is requested to permit a rear yard setback of 3.9m (12.80 ft.) to an existing deck whereas the by-law requires a minimum rear yard setback of 7.5m (24.60 ft.). The variance requested is to accommodate an existing deck that is built in the rear yard of the property. The intent of the by-law in requiring minimum setbacks for decks is to ensure sufficient space is provided for drainage.

The existing elevated deck was constructed at the rear of the dwelling. The rear yard setback reduction of 3.6m (11.81 ft.) is not considered to impact drainage on the subject property or adjacent properties. Furthermore, the location and setbacks of the deck does not significantly impact the provision of outdoor amenity space in the rear yard. Subject to conditions of approval, the variance is considered to maintain the general intent and purpose of the Zoning By-law.

The second variance is requested to permit an existing driveway having a width of 8.6m (28.22 ft.) at the widest point whereas the by-law permits a maximum driveway width of 6.71m (22 ft.). The third variance is requested to provide between 0.0m and 0.6m of permeable landscaping between the driveway and the adjacent side property line whereas the by-law requires a minimum 0.6m (1.97 ft.) of permeable landscaping between the driveway and the adjacent side property line. The intent of the

By-law in regulating the maximum permitted driveway width is to ensure that the driveway does not 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 intent of the By-law in requiring a minimum permeable landscape strip between the driveway and the property line is to ensure that sufficient space is provided for drainage and that drainage on adjacent properties is not impacted.

The asphalt driveway was widened on both sides with concrete for a total width of 8.6m (28.22 ft.). Therefore, the existing driveway is 1.89m (6.2 ft.) wider than what the by-law permits. Furthermore, the angled configuration of the widened concrete area leading to the front porch steps reduces the permeable landscaping between the driveway and the adjacent side property line from 0.0m to 0.6m (1.97 ft.). In this case, the additional width allows for several vehicles to be parked side by side across the width of the driveway, which is contrary to the intent of the by-law. The extent of the driveway width combined with the reduction of permeable landscape strip to 0.0m and 0.6m between the driveway and the adjacent side property line, reduces the capability for appropriate drainage on the property. The removal of the landscaping creates an abundance of hard surfacing along the frontage and sides of lot property. The requested variances do not maintain the general intent and purpose of the Zoning By-law.

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

The variances are requested to bring existing site conditions into conformity with the Zoning By-law requirements. The existing conditions of the deck are not considered to pose significant impact with respect to drainage on the property or adjacent properties and does not limit the provision of outdoor amenity space. A condition of approval is recommended that the owner shall obtain a building permit within 60 days of the decision of approval or extended at the discretion of the Chief Building Official. Subject to the recommended condition of approval, the variance is deemed desirable for the appropriate development of the land.

The variances relating to the widening of the driveway and the reduced landscaping along the driveway in order to accommodate extra vehicle parking results in site conditions which may negatively impact drainage on the property and visual character of the streetscape. Variances 2 and 3 are not considered desirable for the appropriate development of the land.

### 4. Minor in Nature

The variances to allow setback for a deck are not considered to contribute to negative on-site or off-site impacts. Subject to the recommended conditions of approval, the requested variance is considered minor in nature.

The requested variances to permit existing driveway width and reduced permeable landscaping represent a substantial change with potential negative impacts which is not considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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