

Filing Date: 07-April-2021

Hearing Date: 20-April-2021

File: A-2021-0069

**Owner/
Applicant:** Noble Prime Solutions Ltd. (c/o Satinder Kaur Bath & Bhumpinder Singh Bath)

Address: 28 Yuile Court, Brampton, Ont

Ward: 4

Contact: Rob Nykyforchyn, Planner 3, Development Services

Recommendation:

That application A-2021-0069 is not supportable.

Background:Existing Zoning:

The property is zoned 'Residential Single Detached C', Section 2744 (R1C-2744), according to By-law 270-2004, as amended.

Requested Variance:

The applicant is requesting the following variance:

1. To permit an existing door on the side wall of the dwelling (proposed to access a second unit) located within 1.18m (3.87 ft.) of the side lot line, whereas the by-law requires a minimum unencumbered side yard width of 1.2 m (3.94 ft.) to be provided as a path of travel from the front yard to the entrance for a second unit.

Current Situation:1. Conforms to the Intent of the Official Plan

The subject property is designated 'Residential' in the Official Plan and 'Low Density Residential' in the Fletchers Creek South Secondary Plan (Area #24).

Section 3.2.8.2 of the Official Plan provides policies relating to Second Units and includes Policy 3.2.8.2 (d) which states *"where an application for a second dwelling unit fails to conform to any of the requirements of the implementing zoning by-law, a zoning by-law amendment shall be required."*

It is noted that this second unit policy was adopted by City Council in 2014 and the intent of this condition was to ensure that a second unit would comply with all of the second unit dwelling zoning requirements, and further that any request to amend the zoning requirements, no matter how minor, would have to be decided by City Council by way of a formal application to amend the zoning by-law.

To date, there has been no formal (rezoning) applications that have been filed with the City. This is likely due to the large financial cost associated with filing an application and the amount of time to complete the process. Applications have been filed with the Committee of Adjustment in an attempt to permit second units in circumstances where the side yard setback of 1.2 metres could not be achieved. In these situations, Planning Staff were not able to support these applications given the strong policy language that was contained within the Official Plan.

In an effort to better align the Official Plan policies with Provincial policy direction encouraging affordable housing and to better promote the registration of second units, the City's Policy Section is preparing a Planning Report recommending that the above noted policy be removed from the Official Plan with the understanding that any zoning shortfalls would be addressed by way of the Committee of Adjustment minor variance application process. This report will be presented to the City's Planning and Development Committee on May 10, 2021 for consideration. If the report recommendations are endorsed and subsequently approved by City Council, then Official Plan policy 3.2.8.2(d) would be deleted. It is noted that the approval of the implementing documents would be subject to a public appeal process, and could be in force by mid-June 2021.

However, until such time as Official Plan policy 3.2.8.2(d) is formally deleted by way of the City's proposed amendment(s), the current policies remain applicable. Therefore, the requested variance does not maintain the intent of the Official Plan.

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

The subject dwelling was supposed to be constructed with a 1.2 metre side yard setback on each side of the building. However, the construction of the building was actually shifted by 2 centimeters closer to the northerly property line resulting in an interior side yard setback of 1.18 metres on one side, and 1.22 metres on the other side. Building permits were issued and the reduced side yard width of the building and the existing door are considered to be a legal non-conforming matter.

The applicant will be seeking permission to allow the existing side door to be used for a second unit. Although the side yard setback to the door is permitted, a variance is required to permit a reduction to the minimum required 1.2m (3.94ft) path of travel that spans between the front wall of the dwelling to the primary doorway leading entrance of the second unit. More specifically, the variance seeks relief of 2 centimeters from the minimum required 1.2m (3.94ft) path of travel.

Section 10.16 (g) of the Zoning By-law states *"where access to a second unit is provided through a door located in the side yard or rear yard, permitted encroachments, structures, utilities, or mechanical equipment shall not be permitted within 1.2 metres of the side lot line for the portion of the side yard between the access and the front wall of the dwelling."*

The requirement for a minimum 1.2m (3.94ft) wide unobstructed path of travel to the second unit is to ensure that there is adequate, unencumbered primary access to the second unit. This access is not only for the safety of the residents and visitors to the second unit, but also for emergency purposes. Planning staff is of the opinion that the proposed 2 centimeter reduction will continue to provide an appropriate path of travel space to access the second unit without compromising safety or emergency access. Subject to the recommended conditions, the variance is considered to maintain the general purpose and intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The variance is sought to facilitate the registration of a second unit within the basement of the existing residential dwelling. The existing doorway to the proposed second unit is located near the front third of the dwelling. This door leads to a laundry room that will be shared between the property owner and the renter of the second unit. This laundry room also has a doorway connection to the garage which can be used as an alternative (path of travel) access route, if larger items need to be transported to the second unit. There will be no physical or visible changes to the side yard or to the outside of the dwelling and as such there are no adverse impacts to the character of the neighbourhood. In addition, the 2 centimeter reduction to the path of travel along the side yard will continue to provide sufficient room to safely gain access to the second unit. As such, the requested variance is considered to be appropriate for the development of the land.

4. Minor in Nature

The existing door, that is proposed to be used for the second unit, is located near the front of the dwelling. The requested variance, for a 2 centimeter reduction from the required minimum 1.2 metre wide path of travel, will not adversely impact the safety or primary access to the second unit for occupants, visitors, and emergency services. The requested variance is considered to be minor in nature.

Respectfully Submitted,

Rob Nykyforchyn

Robert W. Nykyforchyn, RPP, MCIP
Planner 3, Development Services Division