



Report Committee of Adjustment

Filing Date: June 24, 2022
Hearing Date: August 2, 2022

File: A-2022-0201

**Owner/
Applicant:** ATTIA CHEEMA AND MANSUR CHEEMA

Address: 1 Miracle Trail

Ward: WARD 2

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0201 is supportable in part, subject to the following conditions being imposed:

1. That variance 4 to permit a driveway width of 8.1m (26.57 ft.) be refused;
2. That the extent of variances 1, 2, and 3 be limited to that shown on the sketch attached to the Notice of Decision;
3. 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 Single Detached E-15.2 (R1E-15.2-2459)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an existing accessory structure (shed) in the exterior side yard whereas the by-law does not permit accessory structures in the exterior side yard;

2. To permit an existing accessory structure (gazebo) with a gross floor area of 16.47 sq. m (177.28 sq. ft.) whereas the by-law permits a maximum size of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;
3. To permit two (2) accessory structures (gazebo and shed) with a combined gross floor area of 25.71 sq. m (276.74 sq. ft.) whereas the by-law permits two (2) accessory structures with a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.);
4. To permit an existing driveway with of 8.1m (26.57 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.).

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low/Medium Density' in the Mount Pleasant Secondary Plan (Area 51). The nature and extent of the proposed variances are 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 an existing accessory structure (shed) in the exterior side yard whereas the by-law does not permit accessory structures in the exterior side yard. The intent of the by-law in prohibiting accessory structures in the exterior side yard is to ensure that the appearance of the structure does not negatively impact the overall streetscape.

The subject property is a corner lot and the existing shed is located along the southern property line in the rear yard. The shed is appropriately setback and screened by an existing wooden fence. The location and appearance of the accessory structure is not considered to significantly impact the overall streetscape in a negative way. Variance 1 is considered to maintain the general intent and purpose of the Zoning By-law.

The second variance is requested to permit an existing accessory structure (gazebo) with a gross floor area of 16.47 sq. m (177.28 sq. ft.) whereas the by-law permits a maximum size of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The third variance is requested to permit two (2) accessory structures (gazebo and shed) with a combined gross floor area of 25.71 sq. m (276.74 sq. ft.) whereas the by-law permits two (2) accessory structures with a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.). The intent of the by-law in regulating the maximum permitted gross floor area of an accessory structure and the combined gross floor area is to ensure that the property is not dominated by structures and that they do not negatively impact the provision of outdoor amenity space.

The accessory structures (gazebo and shed) are intended to enhance the outdoor amenity space in the rear yard and to provide for enclosed storage. The existing gazebo is 1.47 sq. m (15.82 sq. ft.) larger than what the By-law permits. While the owners are requesting a combined gross floor area for accessory structures that is 5.71 sq. m (61.46 sq. ft.) greater than what the By-law permits, the design and nature of the accessory structures are not anticipated to generate a sense that the property is

dominated by accessory structures. Given the size of the property, the two (2) accessory structures are not considered to negatively impact the provision of outdoor amenity space for the property. Variances 2 and 3 are considered to maintain the general intent and purpose of the Zoning By-law.

The fourth variance is requested to permit an existing driveway with of 8.1m (26.57 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.). 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 existing driveway is 1.39m (4.56 ft.) wider than what the By-law permits. Although the widened portion of the driveway is not considered to negatively impact the amount of landscaping on the corner lot property, it does facilitate the parking of an additional vehicle which is contrary to the intent of the By-law. Furthermore, a portion of the driveway is located outside the bounds of the residential property on city-owned lands. Staff do not support the variance as it would effectively allow existing site conditions that facilitate vehicular movement and parking on property which does not belong to the owners. The variance is not considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The owners are requesting variances to allow existing site conditions relating to a gazebo and shed and to permit a widened driveway. The location of the shed and the size of the gazebo are not considered to cause negative visual impacts or contribute to a significant loss of outdoor amenity space on the property. While the location of the shed is not permitted in the by-law, it maintains minimum setback and height requirements and is located behind an existing fence enclosing the rear yard. It is advised that the owner shall obtain a building permit for the accessory structures. Variances 1, 2, and 3 pertaining to the accessory structures are considered desirable for the appropriate development of the land.

The variance associated with the increase driveway width results in existing site conditions which facilitate the parking of an additional vehicle in front of the dwelling and a substantial amount of hard landscaping at the front of the property. According to internal aerial photographs including overlay of property boundaries (Appendix A), the driveway was expanded beyond the property lines and within the public boulevard lands. The area in which the driveway is widened was intended for landscaped area and a portion of the driveway currently extends beyond the property line. The variance is not considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The subject corner lot property has an existing fenced rear yard where the accessory structures are located. The accessory structures are not considered to detract from access to outdoor amenities or create adverse impacts on-site or off-site. Subject to the recommended conditions of approval, variances 1, 2, and 3 are considered to be minor in nature.

The owners have widened the driveway in a manner that facilitate the parking of an additional vehicle in front of the property. Furthermore, the driveway extension encroaches onto the City Boulevard lands which is not supportable. Variance 4 is not deemed minor in nature.

Respectfully Submitted,

François Hémon-Morneau

François Hémon-Morneau, Planner III

Appendix A

