



Report Committee of Adjustment

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

File: A-2022-0202

**Owner/
Applicant:** JUAN MANUEL LUCERO

Address: 38 Baccarat Crescent

Ward: WARD 2

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0202 is supportable, 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 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 C (R1C-686)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an open-roofed structure to encroach a maximum of 2.58m (8.46 ft.) into a required rear yard, resulting in a rear yard setback of 4.58m (15.03 ft.) whereas the by-law permits a maximum encroachment of 2.0m (6.56 ft.) into a required rear yard, resulting in a rear yard setback of 5.5m (18.04 ft.);
2. To permit an interior side yard setback of 0.57m (1.87 ft.) to an attached open-roofed structure whereas the by-law requires a minimum interior side yard setback of 0.90m (2.95 ft.);

3. To permit an existing accessory structure having setbacks of 0.30m (0.98 ft.) (2 sheds) and 0.48m (1.57 ft.) (Pergola) to the nearest property lines whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure to the nearest property lines;
4. To permit three (3) accessory structures (2 sheds and a pergola) whereas the by-law permits a maximum of two (2) accessory structures;
5. To permit a combined gross floor area of 25.42 sq. m (262.86 sq. ft.) for three (3) accessory structures whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.) for two (2) accessory structures.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low Density Residential' in the Snelgrove Heart-Lake Secondary Plan (Area 1). 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

Variances for open-roofed structure

Variance 1 is requested to permit an open-roofed structure to encroach a maximum of 2.58m (8.46 ft.) into a required rear yard, resulting in a rear yard setback of 4.58m (15.03 ft.) whereas the by-law permits a maximum encroachment of 2.0m (6.56 ft.) into a required rear yard, resulting in a rear yard setback of 5.5m (18.04 ft.). The intent of the by-law in requiring a minimum rear yard setback is to ensure that sufficient space area is provided for the rear yard amenity area for the property.

Variance 2 is requested to permit an interior side yard setback of 0.57m (1.87 ft.) to an attached open-roofed structure whereas the by-law requires a minimum interior side yard setback of 0.90m (2.95 ft.). The intent of the by-law is to ensure that sufficient space is maintained to access the rear yard of the property and drainage between the structure and the property line.

The variances relate to an existing open-roofed structure located in the rear yard which was constructed without building permits. The open-roofed structure is one-storey in height and the extent of the structure results in a 0.92m (3.01 ft.) rear yard setback reduction and a 0.33m (1.08 ft.) interior side yard setback reduction from what the by-law permits. Given the size of the rear yard and its irregular shape, the location of the open-roofed structure is not considered to limit the amenity area in the rear yard or restrict access to the side lot lines. Furthermore, the structure is constructed with eavestrough ensuring drainage is not adversely impacted. The open-roofed structure is not considered to generate negative impacts on-site or off-site. The requested variances are considered to maintain the general intent and purpose of the Zoning By-law.

Variances for accessory structures (sheds and pergola)

Variance 3 is requested to permit an existing accessory structure having setbacks of 0.30m (0.98 ft.) (2 sheds) and 0.48m (1.57 ft.) (Pergola) to the nearest property lines whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure to the nearest property lines. The intent of the by-law is to ensure that sufficient space is maintained between structures and property lines so that access and drainage not be impacted.

The owners have constructed two sheds located at the far corner of the property with reduced setbacks of 0.30m (0.98 ft.) to the property lines. The location and reduced setback of the sheds are not considered to impact access or drainage on the lot. Furthermore, the sheds are screened by existing vegetation on the lot limiting any visual impacts. The pergola also requires a minor setback reduction of 0.12m (0.39 ft.) to the property line. Given the open style design of the pergola, staff have no concerns over the requested setback decrease as it is not considered to impact drainage or access. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.

Variances for number of accessory structures and total GFA

The fourth variance is requested to permit three (3) accessory structures (2 sheds and a pergola) whereas the by-law permits a maximum of two (2) accessory structures.

The fifth variance is requested to permit a combined gross floor area of 25.42 sq. m (262.86 sq. ft.) for three (3) accessory structures whereas the by-law permits a maximum combined gross floor area of 20 sq. m (215.28 sq. ft.) for two (2) accessory structures.

The intent of the by-law in regulating the maximum permitted gross floor area of an accessory structure, the combined gross floor area, and the total number of accessory structures on a residential property is to ensure that the property is not dominated by structures and that they do not negatively impact the provision of outdoor amenity space or adjacent properties.

The existing open-roofed structure and accessory structures are intended to enhance the outdoor amenity space in the rear yard and to provide for enclosed storage. Combined, the structures result in a 5.42 sq. m (58.34 sq. ft.) increased GFA from what the by-law permits. The structures comply with minimum height requirements and are not anticipated to negatively impact adjacent properties or contribute to a sense that the property is dominated by structures. Additionally, given the size of the rear yard, the three accessory structures are not considered to negatively impact the provision of outdoor amenity space for the property. The requested variances are 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 an open-roofed structure and three accessory structures in the rear yard of the residential property. The subject property is an irregular pie-shaped lot with a large rear yard. Given the size of the lot and rear yard, the

number and overall size of the accessory structures are not anticipated to cause negative visual impacts or contribute to a significant loss of outdoor amenity space. Although setback reductions are requested, the remaining area between structures and property lines is not anticipated to impact drainage or access. Staff do not anticipate negative impacts on-site or off-site. It is advised that the owner obtain a building permit for the open-roofed structure. The variances are considered desirable for the appropriate development of the land.

4. Minor in Nature

The subject property is located within an established residential area of the City with medium sized rear yards. Considering the shape and size of the property, the existing open-roofed structure and accessory structures are not anticipated to detract from access to outdoor amenities or create adverse impacts on-site or off-site. Subject to the recommended conditions of approval, the requested variances are considered to be minor in nature.

Respectfully Submitted,

François Hémon-Morneau

François Hémon-Morneau, Planner III