



Report Committee of Adjustment

Filing Date: May 25, 2022
Hearing Date: August 2, 2022

File: A-2022-0176

**Owner/
Applicant:** Kamaljit Atwal and Navneet Atwal

Address: 10 Bengel Road

Ward: WARD 10

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0176 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 owners shall extend the existing fence to screen the below grade entrance in a manner satisfactory to the Director of Development Services;
 3. That the below grade entrance shall not be used to access an unregistered second unit;
 4. 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 Minor Variance application is seeking approval to construct a below grade entrance with stairs located on what is considered the main wall of the detached dwelling on a corner lot. Two variances are required to facilitate the construction of the proposed below grade entrance. The application was previously deferred at the June 21, 2022 Committee of Adjustment hearing following staff's recommendation. Staff were considering the use of agreement as permitted by Section 45 (9.1 & 9.2) of the *Planning Act* to ensure the long term compliance with the Committee's conditions. The use of an agreement is no longer being contemplated following further discussions with City Legal Services staff.

The owner and applicant has been advised by staff to bring the minor variance application to the present Committee of Adjustment hearing for the Committee's consideration.

Existing Zoning:

The property is zoned 'Residential Single Detached C (R1C-1819)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance located between the main wall of the dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance between the main wall and the flankage lot line;
2. To permit a below grade entrance with an exterior side yard setback of 2.11m (6.92 ft.) whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 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 Residential' in the Vales of Castlemore Secondary Plan (Area 42). 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 applicant is requesting approval for two variances relating to a proposed below grade entrance. The first variance is requested to permit a below grade entrance located between the main wall of the dwelling and the flankage lot line whereas the by-law does not permit a below grade entrance between the main wall and the flankage lot line. The second variance is requested to permit a below grade entrance with an exterior side yard setback of 2.11m (6.92 ft.) whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 ft.). The intent of the by-law in not allowing below grade entrances between the main wall of the dwelling and a flankage lot line, and requiring a minimum amount of exterior side yard setback is to ensure appropriate separation between the building and lot lines and that there is adequate room available to allow for drainage and access to the rear yard.

The single detached dwelling is located at the corner of Bengel Road and Vanwood Crescent. The proposed below grade entrance will be accessed by a staircase located along the northern wall of the dwelling. The below grade entrance and associated stairway will result in a reduced exterior side yard setback of 2.11m (6.92 ft.). The proposed location and reduced front yard setback for the below grade entrance is not anticipated to limit access to any portion of the property as appropriate separation will be maintained. The applicant is also proposing to extend the existing backyard fence in a manner which would screen the below grade entrance. A condition of approval is recommended that the owners shall extend the existing fence to screen the below grade entrance in a manner satisfactory to the Director of Development Services. An additional condition of approval is recommended that the below grade

entrance shall not be used to access an unregistered second unit. Subject to the recommended conditions of approval, the 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 applicant is requesting a variance to facilitate the construction of a proposed below grade entrance between a main wall of the dwelling and a flankage lot line. The configuration of the entrance contemplates a below grade entrance accessed by a staircase along the northern wall of the dwelling. Despite a 0.89m (2.91 ft.) reduction to the exterior side yard setback, staff do not anticipate any negative impacts to drainage or access to portions of the property and consider the location of the below grade entrance appropriate given the site context. The below grade entrance will be screened via an extension to the backyard fence. Subject to the recommended condition of approval, the variances are considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances are not considered to have significant impact on drainage or limiting access to the property. The location of the proposed below grade entrance is appropriate given the site context and location of the dwelling on a corner lot. Variances 1 and 2 are deemed minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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