



Report Committee of Adjustment

Filing Date: May 20, 2022
Hearing Date: August 2, 2022

File: A-2022-0171

**Owner/
Applicant:** PAPENDRA GILL

Address: 23 Fallen Oak Court

Ward: WARD 4

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0171 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 3 to permit 0.0m of permeable landscaping between the driveway and the side lot line be refused;
 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 owners have constructed a below grade entrance in the interior side yard and are proposing to reconfigure the landing and entrance in a manner that complies with the Building Code. Variances are requested to facilitate the location and setbacks of the below grade entrance.

Existing Zoning:

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

Requested Variances:

The applicant is requesting the following variances:

1. To permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard;
2. To permit an interior side yard setback of 0.23m (0.75 ft.) to an exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.);
3. To permit 0.0m of permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping between the driveway and the side lot line.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low and Medium Density Residential' in the Fletcher Creek South Secondary Plan (Area 24). 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 exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard. The second variance is requested to permit an interior side yard setback of 0.23m (0.75 ft.) to an exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). The intent of the by-law in not allowing below grade entrances in the required interior side yard, and requiring a minimum amount of interior side yard setback is to ensure that there is adequate room available to allow for drainage and access to the rear yard.

The existing stairway leading to a below grade entrance is proposed to be reconstructed in a manner that complies with the Building Code. The proposed entrance and associated encroachment into the required interior side yard is not considered to have significant impact on drainage and space maintained for access to the rear yard on the opposite side of the dwelling. The variances are considered to maintain the general intent and purpose of the Zoning By-law.

The third variance is requested to permit 0.0m of permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping between the driveway and the side lot line. The intent of the by-law in requiring a minimum permeable landscaping strip along the interior lot line is to ensure that sufficient space is provided for drainage and that drainage on adjacent properties is not impacted.

The owner has widened the driveway with concrete along the west side of the property which results in the elimination of the permeable landscaping between the driveway and the side lot line. The elimination of permeable landscape strip reduces the capability for appropriate drainage on the property. The removal of the landscaping, combined with the adjacent property's driveway and elimination of permeable landscaping creates an abundance of hard surfacing along the side of the property which

could inhibit proper drainage. 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

Variances 1 and 2 are intended to permit a proposed stairway and below grade entrance which will be situated in the required interior side yard. A condition of approval is recommended the below grade entrance shall not be used to access an unregistered second unit. It is also recommended that the owner shall obtain a building permit for the below grade entrance. Subject to the recommended condition of approval, the variances are considered desirable for the appropriate development of the land as they do not generate negative impacts on-site or off-site.

Variance 3 is intended to allow an existing site condition relating to poured concrete which eliminates permeable soft landscaping between the driveway and the side lot line. The area in question results in a driveway connected to the adjacent properties' driveway. The reduced landscaping along the driveway and the side lot line results in site conditions which may negatively impact drainage on the property. The variance is not considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances are not expected to have significant impact on drainage or limit access to the property given that access is maintained on the opposite site of the dwelling. The application seeks to permit changes that will improve the current below grade entrance to comply with the Building Code. Variances 1 and 2 are deemed minor in nature.

The requested variance to permit the elimination of permeable landscaping represent a substantial change with potential negative drainage impacts and is not considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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