



Report Committee of Adjustment

Filing Date: July 22, 2022
Hearing Date: August 23, 2022

Files: A-2022-0230 through to A-2022-0238

**Owner/
Applicant:** NEAMSBY INVESTMENTS INC

Address: Lots 44, 139, 146, 147, 149, 182, 196, and 198, Plan 43M-2103

Ward: WARD 9

Contact: François Hémon-Morneau, Planner III

Recommendations:

That applications A-2022-0230 through to A-2022-0238 are supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the side door not be used as a primary entrance to a registered or unregistered second dwelling unit;
 3. That a clause be provided within the agreement of purchase and sale advising of the variance affecting the property. If the property has already been sold, the applicant shall provide written confirmation to the Secretary-Treasurer that the purchaser(s) of the dwelling have acknowledged and accepted the variance; and,
 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:

Applications for Draft Plan of Subdivision (21T-11006B) and a Zoning By-law Amendment (C04E16.003) were submitted, subsequently approved by the City and now registered to implement the proposed development on the lots subject to these Minor Variance applications. The applicant previously submitted seventy-one (71) Minor Variance applications for various other lots within Plan

43M-2103 which were approved by the Committee of Adjustment at the May 31st, 2022 hearing. The applicant is now requesting a variance for eight (8) separate properties related to the construction of above grade door located in the side yards of future residential dwellings.

The models were designed and approved under the provisions of the old by-law and have since been sold as designed with the 0.6m side yard width. The dwellings were sold prior to the approval of Zoning By-law Amendment 103-2021 which amended Section 10.24 of Zoning By-law 270-2004 regarding at or above grade doors located on a side wall of dwellings. As a result, variances are now required to allow the proposed above grade entrances situated in the interior side yards as was contemplated when the lots were sold.

Existing Zoning:

The property is zoned 'Residential Single Detached F-9 (R1F-9-2368)', *according to By-law 270-2004, as amended.*

Requested Variance:

The applicant is requesting the following variance for applications A-2022-0230 through to A-2022-0238:

1. To permit an above grade door in the side wall where a minimum side yard width of 0.6m is provided extending from the front wall of the dwelling up to the door, whereas the by-law does not permit a door in the side wall unless there is a minimum side yard width of 1.2m extending from the front wall of the dwelling up to and including the door.

Current Situation:

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

The subject property is designated 'Residential' in the Official Plan and 'Low Density' in the Countryside Villages Secondary Plan (Area 48b). The requested variances are of no impact within the context of the policies of the Official Plan. The general intent and purpose of the Official Plan is maintained.

2. **Maintains the General Intent and Purpose of the Zoning By-law**

The variances are required to permit an above grade door in the side wall where a minimum side yard width of 0.6m is provided extending from the front wall of the dwelling up to the door, whereas the by-law does not permit a door in the side wall unless there is a minimum side yard width of 1.2m extending from the front wall of the dwelling up to and including the door. The intent of the By-law in regulating the location of above grade side door entrances is to ensure that there is adequate space to access a side door, without the potential of trespassing on the neighbouring property. The variance relates to proposed side doors located in a side yard for seventy one future residential dwellings.

On May 19th, 2021, City Council approved Zoning By-law Amendment 103-2021 which amended Section 10.24 of Zoning By-law 270-2004 regarding at or above grade doors located on a side wall of dwellings. The Zoning By-law Amendment now ensures that any new above grade door in the side yard is only permitted where there is a minimum interior side yard width of 1.2 metres up to and including

the door, regardless of whether it is used as a primary or secondary entrance for the principal dwelling or used as a primary entrance to a two-unit dwelling.

Prior to the approval of this amendment, the proposed site conditions were considered acceptable and the dwellings were sold with a side door according to approved plans. The proposed side doors no longer conform to the Zoning By-law policies and variances are required in order for building permits to be issued. The proposed side yard setback represents a 0.60m (1.97 ft.) reduction from what the Zoning By-law now requires. No negative impacts are anticipated resulting from the variances. Subject to the recommended conditions of approval, the variances are considered to maintain the general intent and purpose of the Zoning By-law with respect to applications A-2022-0230 through to A-2022-0238.

3. Desirable for the Appropriate Development of the Land

The variances to permit above grade doors in the side wall where a minimum side yard width of 0.6m is provided extending from the front wall of the dwelling up to the door is not anticipated to create negative impacts or alter the functionality of the site. A condition of approval is recommended that the side door not be used as a primary entrance to a registered or unregistered second dwelling unit. A further condition of approval is recommended that a clause be provided within the agreement of purchase and sale advising of the variance affecting the property. If the property has already been sold, the applicant shall provide written confirmation to the Secretary-Treasurer that the purchaser(s) of the dwelling have acknowledged and accepted the variance.

Subject to the recommended conditions of approval, the variances related to applications A-2022-0230 through to A-2022-0238 are considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The variances will facilitate the construction of above grade door in the side wall of seventy-one (71) future single detached dwellings. The dwellings in this subdivision were approved and sold prior to the Zoning By-law change. The variances are now required due to a change in policies surrounding at or above grade doors situated in side yards. Subject to the recommended conditions of approval, the variances are considered minor in nature with respect to applications A-2022-0230 through to A-2022-0238.

Respectfully Submitted,

François Hémon-Morneau

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