



Report Committee of Adjustment

Filing Date: July 15, 2022
Hearing Date: August 23, 2022

File: A-2022-0213

**Owner/
Applicant:** PRASHANT KUMAR AND PREETI KUMAR

Address: 27 Casper Crescent

Ward: WARD 3

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0213 is supportable in part, subject to the following conditions being imposed:

1. That Variance 4 to permit an existing accessory structure (shed) within a required interior side yard be refused;
2. That the extent of the variances 1, 2, and 3 be limited to that shown on the sketch attached to the Notice of Decision;
3. That the above-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.

Background:

Existing Zoning:

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

Requested Variances:

The applicant is requesting the following variances:

1. To permit an open roofed porch with an interior side yard setback of 0.32m (1.05 ft.) whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.) to the open roofed porch;

2. To permit an above-grade side door having an interior side yard setback of 0.88m (2.89 ft.) whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) from an interior side yard to an above grade door;
3. To permit a 0.88m (2.89 ft.) path of travel leading to a principle entrance for a second unit whereas the by-law requires a minimum unencumbered side yard with of 1.2m (3.94 ft.) be provided as a path of travel from the front yard to the entrance for a second unit;
4. To permit an existing accessory structure (shed) within a required interior side yard whereas the by-law does not permit an accessory structure within a required interior side yard.

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' 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 open roofed porch with an interior side yard setback of 0.32m (1.05 ft.) whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.) to the open roofed porch. The intent of the by-law in requiring minimum 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 open roofed porch structure is located at the rear of the detached dwelling and provides for a covered patio area. The resulting interior side yard setback reduction is not considered to impact drainage or access to the rear yard given that the structure is elevated and constructed with eavestrough. The variance is considered to maintain the general intent and purpose of the Zoning By-law.

The second variance is requested to permit an above-grade side door having an interior side yard setback of 0.88m (2.89 ft.) whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) from an interior side yard to an above grade door. The intent of the by-law in 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 third variance is requested to permit a 0.88m (2.89 ft.) path of travel leading to a principle entrance for a second unit whereas the by-law requires a minimum unencumbered side yard with of 1.2m (3.94 ft.) be provided as a path of travel from the front yard to the entrance for a second unit. The intent of the by-law in requiring a minimum path of travel of no less than 1.2m (3.94 ft.) where access to a second unit is provided through a door located in the side yard or rear yard is to ensure that there is sufficient area to act as the primary access to a second unit for both every day and emergency purposes.

The location of the existing above-grade entrance and resulting setback is not considered to negatively impact drainage or limit access to the rear yard. The remaining 0.88m (2.89 ft.) path of travel is sufficient

to be used as the primary access to a second dwelling unit. The reduced path of travel is not anticipated to significantly limit access to the entrance and is considered to be appropriate for both daily and emergency use. The variances are considered to maintain the general intent and purpose of the Zoning By-law.

The fourth variance is requested to permit an existing accessory structure (shed) within a required interior side yard whereas the by-law does not permit an accessory structure within a required interior side yard. The intent of the by-law in not allowing structures in the required interior side yard is to ensure that there is adequate room available to allow for drainage and access to the rear yard.

The existing shed was constructed in a manner that occupies the entirety of the area between the wall of the dwelling and the side lot line. Staff are not in support of the location of the existing shed as it prevents access to the rear yard on that side of the property. Cumulatively and given that there is a variance to reduce the path of travel to the above-grade entrance, it is not considered appropriate to allow the elimination of access from one side of the property. 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 requested variances are intended to facilitate the creation of a second unit within the basement of the dwelling. The variances will allow an existing above-grade side door and a reduced path of travel to be used as the primary entrance to the second unit. A condition of approval is recommended the above grade entrance shall not be used to access an unregistered second unit. Additional variances are requested relating to an existing open roof porch in the rear yard and a shed in the interior side yard. The location and extent of the open roofed porch is not anticipated to generate negative impacts on-site or off-site. Subject to the recommended condition of approval, the variances are considered desirable for the appropriate development of the land.

The location of the existing shed prevents and limits access to the property to only one side. Given the proposed path of travel reduction, staff are of the opinion that a second access to the rear yard should be maintained. The variance is not considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The first three requested variances are not expected to have significant impact on drainage or limit access to the property. The application seeks to permit the location of an above-grade entrance and path of travel in order to facilitate the creation of a second dwelling unit on the property. An additional variance is sought to permit an existing site condition relating to an open roofed porch. Variances 1, 2, and 3 are deemed minor in nature. The location of the shed is not considered to be appropriate as it prevents access to the rear yard on one side of the property with a reduced path of travel. Variance 4 is not considered to be minor in nature

Respectfully Submitted,

François Hémon-Morneau

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