



Report Committee of Adjustment

Filing Date: July 21, 2022
Hearing Date: August 23, 2022

File: A-2022-0226

**Owner/
Applicant:** BHARTENDU CHAUDHARI AND NEETABEN BHARTENDU CHAUDHARI

Address: 83 Aspermont Crescent

Ward: Ward 10

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0226 is supportable in part, subject to the following conditions being imposed:

1. That Variance 3 to permit a 3.7m (12.14 ft.) separation distance between a driveway and the point of intersection of two streets be refused;
 2. That the extent of variances 1 and 2 be limited to that shown on the sketch attached to the Notice of Decision;
 3. That the applicant implement planting to screen the proposed below grade entrance and provide elevations of the staircase railing in a manner satisfactory to the Director of Development Services;
 4. That the below grade entrance shall not be used to access an unregistered second unit;
 5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

Existing Zoning:

The property is zoned 'Residential Semi-Detached E (R2E-7.2)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance between the main wall of a dwelling and the flankage lot line whereas the by-law prohibits below grade entrances between the main wall of a dwelling and a flankage lot line;
2. To permit an exterior side yard setback of 2.2m (7.22 ft.) to a below grade entrance whereas the by-law requires a minimum exterior side yard setback of 3.0m (9.84 ft.);
3. To permit a 3.7m (12.14 ft.) distance between a driveway and the point of intersection of two streets whereas the by-law requires a minimum 6.0m (19.68 ft.) distance between a driveway and projected point of intersection of two streets.

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 1' in the Credit Valley Secondary Plan (Area 45). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested 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 between the main wall of the dwelling and a flankage lot line whereas the by-law prohibits below grade entrances between the main wall of a dwelling and a flankage lot line. The intent of the by-law in prohibiting below grade entrances between the main wall of a dwelling and the flankage lot line is to ensure that sufficient space is maintained for drainage and access to the rear yard and that the below grade entrance does not negatively impact the overall streetscape.

The second variance is requested permit an exterior side yard setback of 2.2m (7.22 ft.) to a below grade entrance 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 in the required interior side yard, and requiring a minimum amount of exterior side yard setback is to ensure that there is adequate room available to allow for drainage and access to the rear yard.

The applicant is proposing to construct a below grade entrance on what is considered to be one of the main walls of the semi-detached dwelling located on a corner lot. The location of the proposed entrance is not anticipated to have significant impact on drainage and sufficient space will be maintained for access to the rear yard. In order to limit potential negative visual impacts to the streetscape, a condition of approval is recommended that the applicant implement planting to screen the proposed below grade entrance and provide elevations of the staircase railing in a manner satisfactory to the Director of Development Services. The applicant has submitted a revised site plan depicting proposed planting of vegetation (Appendix A). Subject to the recommended conditions of approval, the variances are considered to maintain the general intent and purpose of the Zoning By-law.

The third variance is requested to permit a 3.7m (12.14 ft.) distance between a driveway and the point of intersection of two streets whereas the by-law requires a minimum 6.0m (19.68 ft.) distance between a driveway and projected point of intersection of two streets. The intent of the by-law in regulating minimum separation distance is to ensure that a safe visual area is maintained around the intersection, and that cars are not reversing into the right of way at a point too close to an intersection.

While the driveway width maintains the Zoning By-law requirements, the driveway has been extended in a manner that encroaches into the minimum setbacks from the projected point of intersection. Planning and Traffic Services staff are concerned that a parked vehicle located on the extended portion of the driveway may impede visual sightlines at the intersection. Furthermore, there is a safety concern related to the potential for vehicles to reverse or enter the extended driveway area within the right of way at a point too close to the intersection. Cumulatively, the requested variance results in the ability for vehicles to be parked in close proximity to the point of intersection which is contrary to the intent of the by-law. Therefore, it is staff's opinion that 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 first two requested variances are intended to permit a proposed stairway and below grade entrance which will be situated on what is considered the main wall of the semi-detached dwelling located on a corner lot. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. Furthermore, the implementation of vegetation is preferred in this case because the location subject of this proposal in the main wall of the dwelling which is a prominent wall from the street. As such, it is staff's opinion that extending the fence to screen the below grade entrance would have a greater cumulative visual impact. Subject to the recommended conditions of approval, the variances are considered desirable for the appropriate development of the land as they are not anticipated to generate negative impacts on-site or off-site.

A variance is also requested to allow existing site conditions where the driveway has been extended into the projected point of intersection of two streets. The variance would allow vehicles to be parked too close to the point of intersection which may generate safety concerns for pedestrians and vehicles. The driveway was extended in a manner that goes beyond the curvature of the street and overlaps into the daylight rounding. The requested variance is not considered desirable for the appropriate development of the land.

4. Minor in Nature

The first two requested variances are not considered to have significant impact on drainage or limit access to the property. The applicant will be required to demonstrate that the below grade entrance will be screened by the implementation of vegetation. Variances 1 and 2 are deemed minor in nature.

The portion of the driveway located within the projected point of intersection of two streets is considered to generate potential negative impacts relating to visibility sightlines and safety. Variance 3 is not considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

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Appendix A – Revised Site Plan

