

Filing Date: August 10, 2022
Hearing Date: September 13, 2022

File: A-2022-0256

**Owner/
Applicant:** PARTHEEPAN DITHENUKA, ARIYARANTNAM PARTHEEPAN,
PARTHEEPAN KOMATHY AND JASINGAM AGENNITH

Address: 4 Henry Moody Drive

Ward: 6

Contact: Noel Cubacub, Planner III

Recommendations:

That application A-2022-0256 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 1 be refused;
3. That the above grade entrance shall not be used as a primary entrance to a second dwelling unit;
4. That a building permit be obtained for the above grade entrance within an acceptable period of time at the discretion of the Chief Building Official;
5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

Background:

The Minor Variance application is seeking approval to construct an above grade entrance with stairs located in the interior side yard of the detached dwelling. Two variances are required to facilitate the construction of the proposed above grade entrance. The subject property is part of a subdivision that has not yet been assumed by the City.

Existing Zoning:

The property is zoned "Residential Single Detached F – Special Section 2452 (R1F-2452)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a 0.67m (2.20 ft.) path of travel leading to a principle entrance for a second unit whereas the by-law requires a minimum unencumbered side yard width of 1.2m (3.94 ft.) be provided as a path of travel from the front yard to the entrance for a second unit.
2. To permit an above grade door in the side wall where a minimum side yard width of 0.67m (2.20 ft.) 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 (3.94 ft.) 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 property is designated 'Residential' in the Official Plan and 'Low / Medium Density Residential' in the Mount Pleasant Secondary Plan (Area 51).

Variance 1 is requested to permit a reduced path of travel to the primary entrance of a registered second unit.

Official Plan Section 4.2.5.6 provides the policies for Additional Residential Units (ARUs). Policy 4.2.5.6.1 (iv) states that "ARUs must be in compliance with the Ontario Building Code and/or Fire Code, Registration By-law, Property Standards By-law, the applicable regulation approved under the Conservation Authorities Act, and other applicable approval requirements."

In this instance, the requested variance would result in non-compliance with the Ontario Building Code. Variance 1 is not considered to maintain the general intent of the Official Plan.

Variance 2 is requested to permit a 0.67m (2.20 ft.) path of travel leading to a principle entrance for a second unit whereas the by-law requires a minimum unencumbered side yard width 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 residential designation supports the current use and Variance 2 is not expected to have any significant impacts within the context of the Official Plan policies.

The nature and extent of Variance 2, subject to the recommended conditions of

approval, maintains the general purpose and intent of the Official Plan.

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

The property is zoned "Residential Single Detached F – Special Section 2452 (R1F-2452)" according to By-law 270-2004, as amended.

Variance 1 is requested to permit a 0.65 metre (2.13 feet) wide path of travel leading from the front wall of the dwelling to the primary entrance for a second unit whereas the by-law requires a path of travel with a minimum width of 1.2 metres (3.94 feet) leading from the front wall of the dwelling to the primary entrance for a second unit

The intent of the By-law in requiring an unobstructed 1.2m (3.94 feet) path of travel to the primary entrance of a second unit 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 requested variance proposes a reduction of 0.53 metres (1.74 feet) to the path of travel which is reflective of the majority of the side yard setback on the property. The proposed reduced path of travel is anticipated to negatively affect the ability access a second unit. In addition, as per the Ontario Building Code (OBC), the proposed primary entrance to the second unit is not sufficient for the required egress path to a public thoroughfare as outlined in the building code to provide sufficient access to the entrance of the second unit. The requested variance is not considered to maintain the general intent of the Zoning By-law.

Variance 2 is requested to facilitate the construction of a side entrance in the interior side yard. 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 a proposed side door located in a side yard of an existing residential dwelling. The proposed door itself will be further setback from the property line as it is located within a cutout of the dwelling unit and is not anticipated to negatively impact the ability to access and be a cause for trespassing on the neighbouring property.

A condition of approval is recommended that the owner apply for a building permit be for the above grade entrance within sixty (60) days of the final date of the Committee's decision so that all work is done in accordance with proper design and building code standards.

Subject to the recommended conditions of approval, the requested variance maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to facilitate the registration of a second unit within the basement of the existing residential dwelling. The proposed is an above grade entrance in the side yard. It shall be noted that as per the Ontario Building Code standards, the proposed above grade entrance would not be sufficient for the required egress path to a public thoroughfare. Additionally, due to the existing northerly dwelling wall effectively

reducing the required path of travel for everyday and emergency use, the variance is not considered to be desirable for the appropriate development of land.

Variance 2 is requested to facilitate the construction of a side entrance in the interior side yard. The construction of this new side entrance would positively impact the dwelling by providing an additional means of egress.

A condition of approval is recommended that the above grade entrance shall not be used as a primary entrance to a second dwelling unit.

Subject to the recommended conditions of approval, the Variance 2 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variance 1 which is requested to facilitate a reduced path of travel restricts the primary access to the second unit for occupants visitors and emergency services. It would also not be deemed acceptable as per the OBC. It has the potential to negatively impact safety for those who use the path as a primary means of access to a second dwelling unit and therefore Variance 1 is not considered minor in nature.

Variance 2 which is requested to facilitate the construction of a side entrance in the interior side yard. If used simply as a means of ingress and egress for the for primary dwelling unit as well as the location of the side entrance within the cut out portion of the northerly dwelling well, the reduced interior side yard setback is not anticipated to negatively impact the subject property or the adjacent property.

Subject to the recommended conditions of approval, Variance 2 is considered minor in nature.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Noel Cubacub', written over a horizontal line.

Noel Cubacub
Planner III