



Report Committee of Adjustment

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

File: A-2022-0257

**Owner/
Applicant:** GURPREET SINGH AND NEHA KALSI

Address: 4 Jemima Road

Ward: 6

Contact: Noel Cubacub, Planner III

Recommendations:

That application A-2022-0257 be refused.

Background:

The Minor Variance application is seeking approval to construct a below 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 below grade entrance. The subject property is part of a subdivision that has not yet been assumed by the City.

It shall be noted that the applicant has submitted a revised drawing showing that the proposed stairs to the below grade entrance will have risers on both sides to allow for access into the rear yard. Should the application be approved conditions of approval to be recommended should use the revised drawing submitted by the applicant in Appendix A.

Existing Zoning:

The property is zoned 'Residential Single Detached F (R1F-9-2452)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance within a required interior side yard whereas the by-law does not permit stairways constructed below established grade within a required interior side yard;

2. To permit an interior side yard setback of 0.09m (0.30 ft.) to a below grade entrance whereas the by-law requires a minimum interior side yard of 1.2m (3.94 ft.);
3. To permit a rear yard setback of 2.06m (6.76 ft.) for a deck off the main floor whereas the by-law requires a minimum rear yard setback of 3.5m (11.48 ft.) to a wood deck off the main floor.

Current Situation:

1. Conforms to the Intent 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). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. The requested variance is considered to maintain the general intent and purpose of the Official Plan.

2. Conforms to the Intent of the Zoning By-law

The property is zoned "Residential Single Detached B (R1B)" according to By-law 270-2004, as amended.

Variance 1 is requested to permit a below grade entrance in the required interior side yard whereas the by-law does not permit a below grade entrance in a required side yard. Variance 2 is requested to permit an interior side yard setback of 0.09m (0.30 ft.) to a below grade entrance whereas the by-law requires a minimum interior side yard of 1.2m (3.94 ft.). The intent of the by-law in prohibiting below grade entrances in the interior side yard is to ensure that sufficient space is maintained to access the rear yard of the property and to ensure proper drainage is maintained between the stairs and the property line. Staff also note that the intent of the by-law in this case is to ensure that there is adequate space to access a side door, without the potential of trespassing on the neighbouring property.

The proposed configuration of the side yard entrance contemplates a below grade landing accessed by two riser steps with a 0.09m (0.30 ft.) interior side yard setback. However, as previously mentioned, the property is located within a subdivision which the City has not yet assumed from the developer. In the case of the subject property, the proposed entrance will occupy all but 0.09m (0.30 ft.) of the interior side yard width which leaves minimal space for the existing side yard swale to be maintained between lots. Staff are concerned over the potential for negative impacts to drainage resulting from the below grade stairway and reduced interior side yard setback. Furthermore, in similar applications on this same street requesting below grade entrances, the developer's engineer has indicated that there are concerns in regards to drainage and grading for the subject property with respect to the proposed variances.

Variance 3 is requested to permit a rear yard setback of 2.06m (6.76 ft.) for a deck off the main floor whereas the by-law requires a minimum rear yard setback of 3.5m (11.48 ft.) to a wood deck off the main floor. The intent of the by-law regulating the rear yard setback

to a wood deck off the main floor is to ensure that adequate amenity space is provided in the rear yard, that the deck will not obstruct the usability of the yard, and that the privacy of adjacent properties is maintained. Considering that this is a proposed deck and that staff have not heard from the developers engineer on whether this could impact some aspect of their development staff are concerned that this could cause negative impacts in relation to the privacy of adjacent homeowners.

Therefore, the variances are not considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The applicant is requesting variances to facilitate the construction of a proposed below grade entrance in the interior side yard between a main wall of the dwelling and the interior lot line. The subject property is located within a recently constructed subdivision which has not yet been assumed by the City. Until the subdivision is assumed, the developer is responsible for ensuring that ongoing requirements of the subdivision under maintenance be respected, including requirements relating to drainage and grading. The proposed below grade entrance could impact the lot grading requirements or drainage in the interior side yard of the subject property for which the developer is currently responsible.

Additionally, variance 3 is requesting relief from the rear yard setbacks to a proposed wood deck. As the City has not heard back from the developer regarding whether or not the owner can conduct these works staff remain concerned that there could be potential negative impacts related to the construction of a wood deck at this time relating to privacy and any work that must be done on the grade to facilitate the construction.

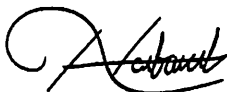
Therefore, the variances are not considered desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1, 2, and 3 are related to the proposed works on the property that involve some element of the grade being affected. Without the appropriate correspondence from the developer's engineer staff maintain that there are concerns related to works related to construction, as well as grading issues that could arise as a result of this minor variance application. The proposed variances do not conform to the general intent of the Zoning By-law and are not desirable for the appropriate development of the subject property.

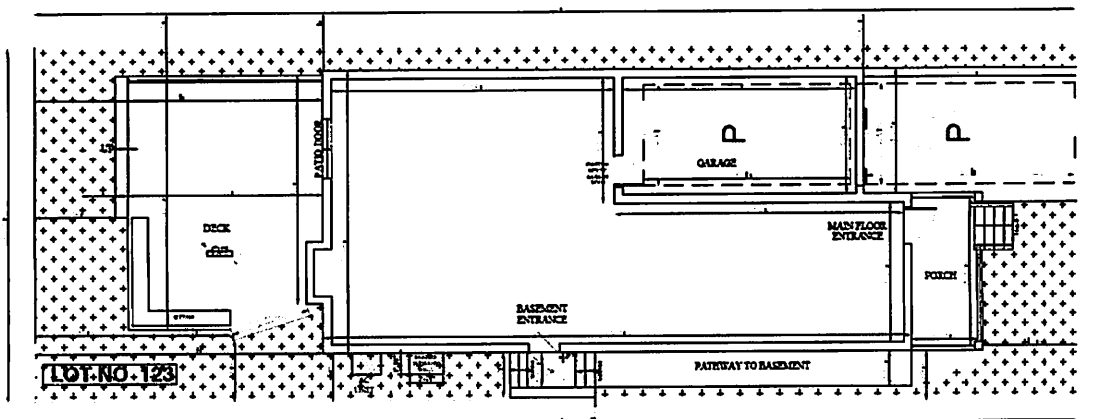
With this information in mind, the variances are not considered minor in nature.

Respectfully Submitted,



Noel Cubacub
Planner III

Appendix A



SITE PLAN
SCALE 3/32"=1'-0"

4 JEMIMA ROAD