



Report Committee of Adjustment

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

File: A-2022-0258

**Owner/
Applicant:** GAITRIE CHETRAM AND GAUTAM CHETRAM

Address: 52 Mirabell Court

Ward: WARD 3

Contact: Constance Tsang, Planner I

Recommendations:

That application A-2022-0258 is supportable 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 a building permit be obtained for the below grade entrance within sixty (60) days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official;
3. That the below grade entrance shall not be used to access an unregistered second unit;
4. That drainage on adjacent properties shall not be adversely affected; and
5. 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 – Special Section 2670 (R1D - 2570)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade side 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 0.05m (0.16 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 an interior side yard setback of 0.46m (1.51 ft.) to an existing accessory structure whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) to the nearest lot lines for an accessory structure;
4. To permit a driveway width of 5.9m (19.36 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.).

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 Fletcher's Creek South Secondary Plan (Area 24). The Residential designation supports the current use and the variances have no impact within the context of the Official Plan policies.

The nature and extent of the proposed variances, subject to the recommended conditions, maintain the general purpose and intent of the Official Plan.

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

The property is zoned "Residential Single Detached – Special Section 2670 (R1D - 2570)" according to By-law 270-2004, as amended.

Variances 1 is requested to permit a below grade side 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. Variance 2 is requested to permit an interior side yard setback of 0.05m (0.16 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 restricting a below grade entrance in the required rear yard setback and requiring a minimum interior side yard setback is to ensure there is adequate room available to allow for drainage and access to the rear yard. The requested interior side yard setback of 0.05m (0.16 ft.) will allow some level of drainage and there is also some additional permeable landscape features before and after the below grade entrance in the side yard. Further, on the opposite side of the dwelling exists a setback of at least 1.2m (3.94 ft.) which provides sufficient access to the rear yard.

A condition of approval is recommended that the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision to ensure that the size and location of the proposed below grade entrance remain as presented within this application.

Variance 3 is requested to permit an interior side yard setback of 0.46m (1.51 ft.) to an existing accessory structure whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) to the nearest lot lines for an accessory structure. The intent of the by-law in requiring a minimum setback to the nearest lot line is to ensure that sufficient space is maintained for drainage and access to the rear yard. The existing accessory structure has a nominal deficiency in terms of setback and is not anticipated to negatively impact drainage, access to the rear yard, or the provision of rear yard amenity space.

A condition of approval is recommended that the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision so as to not further decrease the setbacks to the lot lines as they relate to the accessory structure.

Variance 4 is requested to permit a driveway width of 5.9m (19.36 ft.) whereas the by-law permits a maximum driveway width of 5.2m (17.06 ft.). The intent of the by-law in regulating the maximum permitted driveway width is to ensure that the driveway does not dominate the front yard landscaped area and that the driveway does not allow an excessive number of vehicles to be parked in front of the dwelling. The driveway currently exists and while larger than permitted in the by-law, is done in a manner that does not negatively impact the streetscape as there is ample room in the front yard for landscaping elements. Additionally, the existing driveway was installed as a decorative extension to the existing dwelling and is contributing positively to the dwelling and streetscaping. The increased driveway width is not anticipated to negatively impact the property or the adjacent properties.

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

Variances 1 and 2 is required to permit a below grade entrance in the interior side yard of the dwelling, and associated stairway leading to the entrance. The location of the below grade entrance does not inhibit access to the rear yard as significant access to the rear yard is provided via the opposite side yard. A condition of approval is recommended that the below-grade entrance not be used to access an unregistered second unit.

Variance 3 relates to the setback of an existing accessory structure (shed) located in the rear yard. A condition of approval is recommended so that drainage on adjacent properties shall not be adversely affected.

Variance 4 is requested to permit an existing driveway width of 5.9m (19.36 ft.) The appearance of the driveway positively contributes to the aesthetic character of the property and streetscape. The driveway has not been built up to the property line and is

not anticipated to result in any negative impacts to pertaining to drainage for the subject or adjacent properties. A condition of approval is recommended so that drainage on adjacent properties shall not be adversely affected.

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

4. Minor in Nature

Variances 1, 2, 3, and 4 all meet the general intent of the Official Plan, the Zoning By-law and can generally be considered desirable and appropriate for the development of the land. The requested variances are also fairly nominal in nature and there are no anticipated negative impacts to the property or adjacent properties.

Subject to the recommended conditions of approval, the variances are considered to be minor in nature.

Respectfully Submitted,

Constance Tsang

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Planner I