



Report Committee of Adjustment

Filing Date: August 16, 2022
Hearing Date: September 13, 2022
File: A-2022-0268
**Owner/
Applicant:** Mohammed Ilyas / Sami Abu Shanb
Address: 2267 Embleton Road
Ward: 6
Contact: Angelo Ambrico, Principal Planner / Supervisor

Recommendations:

That application A-2022-0268 is supportable, in part, subject to the following conditions being imposed:

1. That the extent of the variances 1 and 5 be limited to that shown on the sketch attached to the Notice of Decision;
 2. That requested Variances 2, 3, and 4, be refused;
 3. That a Site Plan application shall be submitted within 120 days of the Committee's decision and or within an extended period of time as approved by the Director of Development Services;
 4. That the Day Nursery use not be established until such time as the Site Plan has been approved and all related on-site improvements are implemented to the satisfaction of the Director of Development Services;
 5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
-

Background:

The applicant is proposing to construct a two-storey private school and day nursery for students from pre-school to grade eight (8) as well as students in grade nine (9) to grade

twelve (12). In order to facilitate the development, Site Plan approval is required. The minor variance application has been submitted in advance of a formal Site Plan application.

In general, it is recommended that a Site Plan application be submitted prior to the minor variance application in order to understand in greater detail the opportunities and constraints of the subject property as it pertains to the particular proposal. However, it is the applicant and owner's intention to proceed with the minor variance application in advance of the Site Plan application. City staff met with the applicant on Friday September 2, 2022 and advised them of the City's preference to defer the application until the site plan application was submitted and the first round of review comments were received. The applicant's intention remained to proceed with the minor variance application prior to submitting the site plan application. Their rationale is to understand if the day nursery use would be permitted prior to committing resources to the proposed development.

To date, the applicant has submitted a pre-consultation application, which is a requirement in advance of any Site Plan application. The pre-consultation application was reviewed under file number PRE-2022-0045 on April 14, 2022. Comments from internal city departments, the Region of Peel and the Credit Valley Conservation Authority were provided directly to the applicant. The revised plans and drawings pertaining to the pre-consultation application comments have not been reviewed by City staff or external reviewing agencies at this time. City staff remain open to working with the applicant and while staff are not supportive of the setback and landscaping variances at this time, staff do support the proposed day nursery use and height requirements as they have demonstrated compliance with the four tests. Staff do not support the remaining variances as detailed review at the Site Plan stage may result in different variances.

Existing Zoning:

The property is zoned "Residential Hamlet One – RHm1" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a Day Nursery whereas the by-law does not permit the proposed use;
2. To permit 40% of the required front yard to be landscaped open space whereas the by-law requires a minimum 70% of the required front yard to be landscaped open space;
3. To permit a front yard setback of 8.0 metres (22.25 feet) whereas the by-law requires a minimum front yard setback of 12.0 metres (39.37 feet);
4. To permit a side yard setback of 6.0 metres (19.68 feet) whereas the by-law requires a minimum side yard set back of 7.5 metres (24.60 feet); and

5. To permit a building height of 12.0 metres (39.37 feet) whereas the by-law permits a maximum building height of 10.0 metres (32.80 feet).

Current Situation:

1. Conforms to the Intent of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Village Residential' in the Bram West Secondary Plan (Area 40d). The intent of the Village Residential designation is to provide residential uses as well as a variety of uses including convenience commercial and community services to the public. Subject to the recommended conditions of approval, the requested variances including the proposed Day Nursery use are considered to maintain the general intent of the Official Plan.

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

The property is zoned "Residential Hamlet One (RHM1)" according to By-law 270-2004, as amended. The requested variances are in relation to a proposed private school and day nursery.

Variance 1 is requested to permit a day nursery, whereas the By-law does not permit the proposed use. The current designation permits a private school. The proposed development for a private school combined with a day nursery generally conforms to the existing as-of-right use permissions. A condition of approval is recommended that the Day Nursery use not be established until such time as the site plan has been approved and all related on-site improvements are implemented to the satisfaction of the Director of Development Services. Subject to the recommended conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

Variance 5 is requested to permit a building height of 12.0 metres (39.37 feet) whereas the by-law permits a maximum building height of 10.0 metres (32.80 feet). The intent of the by-law in regulating the maximum permitted building height for a property is to ensure that there are no negative massing or shadow impacts on adjacent properties. The proposed building is not anticipated to generate any negative massing impacts on adjacent properties and is proposing an increase of 2 metres. Subject to the recommended conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit 40% of the required front yard to be landscaped open space whereas the by-law requires a minimum 70% of the required front yard to be landscaped open space. The intent of the by-law in requiring a minimum percentage of the front yard to be landscape open space is to ensure that the property has an adequate amount of open/ green space at the front and the area has a consistent streetscape.

Variance 3 is requested to permit a front yard setback of 8.0 metres (22.25 feet) whereas the by-law requires a minimum front yard setback of 12.0 metres (39.37 feet). The intent

of the by-law in requiring a minimum front yard setback is to ensure that sufficient area is provided in the front yard for parking and landscaped area.

Variance 4 is requested to permit a side yard setback of 6.0 metres (19.68 feet) whereas the by-law requires a minimum side yard setback of 7.5 metres (24.60 feet). The intent of the side yard setback is to ensure that sufficient space is maintained for drainage and to ensure that adequate space is provided between neighbouring dwellings.

Based on the drawings, staff are unable to determine the impact of the requested variance since the plans have not been reviewed through the site plan review process. The site plan review process allows the City of Brampton, Credit Valley Conservation Authority, and Region of Peel staff to assess the impacts of a proposed development and provide comments and/or conditions of approval. Staff is of the opinion that the requested variances are premature and should only be evaluated once the site plan application is submitted and comments are received by City staff and external review agencies.

Variances

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit the proposed use of a day nursery, in conjunction with a private school. The proposed development for a private school combined with a day nursery generally conforms to the existing as-of-right use permissions and is not considered to be a sensitive use generating negative impacts to surrounding properties and uses. Subject to the conditions of approval, Variance 1 is considered to be desirable for the appropriate development of land.

Variance 5 is requested to permit a building height of 12.0 metres (39.37 feet) whereas the by-law permits a maximum building height of 10.0 metres (32.80 feet). The applicant is proposing an increase in height of 2.0 metres which is not anticipated to have negative height and massing impacts on adjacent properties. Subject to the conditions of approval, Variance 5 is considered to be desirable for the appropriate development of land.

Variances 2, 3 and 4 are requested to facilitate the detailed design of the proposed private school and day nursery. This proposal has not been formally submitted for a site plan application and staff have been unable to complete their technical review of the proposal. Key site considerations including site access, grading, drainage, storm water management controls, parking configuration, open space and site design have not been reviewed by City of Brampton staff and external commenting agencies. At this time, staff is unable to determine the impact of the proposed variances which may be subject to change throughout the site plan approval review. Variances 2, 3, and 4 are not considered to be desirable for the appropriate development of the land.

Subject to the recommended conditions of approval, Variances 1 and 5 are considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1 and 5 are not anticipated to negatively impact the subject property or adjacent properties and will facilitate the development of the future private school and day nursery. Subject to the recommended conditions of approval, the variances are minor in nature.

Variances 2, 3, and 4 are requested to facilitate the detailed design of the proposed private school and day nursery. Since the proposal has not been formally submitted for a site plan application, staff are unable to complete their technical review of the proposal. 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. Therefore, the variances are not considered minor in nature.

Respectfully Submitted,

Angelo Ambrico

Angelo Ambrico
Principal Planner / Supervisor