



## Report Committee of Adjustment

**Filing Date:** September 6, 2022

**Hearing Date:** October 4, 2022

**File:** A-2022-0282

**Owner/  
Applicant:** SHARON BENNETTT & EDGAR BENNETTT

**Address:** 7 FAWSON COVE WAY

**Ward:** WARD 9

**Contact:** Mohammed Jalabi, Assistant Development Planner

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### **Recommendations:**

That application A-2022-0282 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 the owner shall obtain a building permit 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 failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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### **Background:**

The owner is requesting a variance to permit the location of a proposed below grade entrance and exterior side yard setback. It is noted that construction of the below grade entrance has been started without a building permit. Upon site inspection, additional variances were identified relating to an existing accessory structure (Shed).

### Existing Zoning:

The property is zoned 'Residential Extended Zone (R2B-2773)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard;
2. To permit an interior side yard setback of 0.28m (0.92 ft.) to an exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.);
3. To permit an accessory structure (shed) having rear and side yard setbacks of 0.2m (0.66 ft.) whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure to the nearest property lines

**Current Situation:**

1. Maintains the General Intent and Purpose of the Official Plan

The property is designated 'Residential' in the Official Plan and 'Medium Density Residential' in the Springdale Secondary Plan (Area 2). The nature and extent of the proposed 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

Variance 1 is requested to permit an exterior stairway leading to a below grade entrance in the required interior side yard whereas the by-law does not permit an exterior stairway constructed below the established grade in the required interior side yard. Variance 2 is requested to permit an interior side yard setback of 0.28m (0.92 ft.) to the exterior stairway leading to a below grade entrance whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). The intent of the by-law in prohibiting below grade entrances in the required interior side yard, and requiring a minimum amount of interior 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 encroaching into the required interior side yard. The entrance is not expected to impact drainage and the configuration of the entrance landing with steps on either side maintains adequate access to the rear yard. Variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit a accessory structure (shed) having rear and side yard setbacks of 0.2m (0.66 ft.) whereas the by-law requires a minimum setback of 0.6m (1.97 ft.) for an accessory structure to the nearest property lines. The intent of the by-law in regulating minimum setbacks is to ensure that there is adequate room for drainage and maintenance of structures. In this case, the shed generally requires minimal maintenance and drainage in the rear yard does not appear to have been affected by the shed. Based on the roof design of the existing shed, the runoff of water is directed onto

the subject property and should not impact the drainage on adjacent properties. Variance 3 is considered to maintain the general intent and purpose of the Zoning By-law.

### 3. Desirable for the Appropriate Development of the Land

The requested variances are intended to permit a proposed below grade entrance and landing to be situated in the required interior side yard. Given that the owners have begun construction of the below grade entrance, a condition of approval is recommended that the owner shall obtain a building permit 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. Subject to the recommended condition of approval, the variances are considered desirable for the appropriate development of the land as they do not generate negative impacts on-site or off-site.

The third variance is requested to allow an existing accessory structure (Shed) with a rear and side yard setback which does not meet the requirements of the Zoning By-law. Upon conducting a site visit, staff observed that the accessory structure (Shed) does not hinder access nor cause drainage or any other planning concerns. The variance is considered desirable for the appropriate development of the land.

### 4. Minor in Nature

The requested variances pertaining to the proposed below grade entrance are not anticipated to have significant impact on drainage or limit access to the rear of the property. Variances 1 and 2 are deemed minor in nature.

The variance to allow an existing accessory structure (shed) in the rear and side yard does not pose significant drainage or access issues to the subject property or adjacent properties. The requested variance is considered to be minor in nature.

Respectfully Submitted,

*Mohammed Jalabi*

Mohammed Jalabi- Assistant Development Planner