



Report Committee of Adjustment

Filing Date: September 6, 2022

Hearing Date: October 4, 2022

File: A-2022-0287

**Owner/
Applicant:** SURESH SHARMA & SUNDEER SEEMA

Address: 33 FOUR SEASONS CIRCLE

Ward: Ward 6

Contact: Mohammed Jalabi-Assistant Development Planner

Recommendations:

That application A-2022-0287 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 to permit a 0.72m (2.36 ft.) path of travel leading to the principal entrance for a second unit be refused;
 3. That the above grade entrance shall not be used as a primary entrance to access an unregistered or registered second unit;
 4. That the owner shall obtain a building permit for the existing side door within 60 days of the decision of approval or as extended by the Chief Building Official;
 5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

Existing Zoning:

The property is zoned 'Residential Single Detached D (R1D-1245)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a 0.72m (2.36 ft.) path of travel leading to the principal 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 existing above grade side door in the side wall where a minimum side yard width of 0.72m (2.36 ft.) is provided extending from the front wall of the dwelling up to and including 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.) setback extending from the front wall of the dwelling up to and including the door;
3. To permit an existing driveway width of 6.99m (22.93 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.);
4. To permit an existing fence in the rear yard having a maximum height of 2.03m (6.66 ft.) whereas the by-law permits a maximum fence height of 2.0m (6.56 ft.).

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 Fletchers Meadow Secondary Plan (Area 44). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested 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 a 0.72m (2.36 ft.) path of travel leading to the principal 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 intent of the by-law in requiring a minimum 1.2m (3.94 ft.) width between the front wall of the dwelling up to and including the door and a minimum path of travel is to ensure that there is sufficient area to act as the primary access to a second unit for both everyday and emergency purposes. A proposed path of travel measuring 0.72m (2.36 ft.) is not found to be reasonable nor adequate to provide safe and easy access for emergency and everyday use. Furthermore, upon discussion with Building's department, staff would not issue a permit for a legal second unit given non-compliance with the minimum requirements of the Ontario Building Code. Variance 1 is not considered to maintain the general intent and purpose of the zoning By-Law.

Variance 2 is requested to permit an existing above grade side door in the side wall where a minimum side yard width of 0.72m (2.36 ft.) is provided extending from the front wall of the dwelling up to and including 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.) setback extending from the front wall of the dwelling up to and including the door. An above grade side door was constructed on the northwestern side wall of the detached dwelling. The entrance is located above grade. The entrance was constructed without obtaining a building permit and was not part of the original design for this building. The location of the entrance is

considered acceptable but not appropriate as the primary entrance to the second dwelling. A condition of approval is recommended that the owner shall obtain a building permit for the existing side door within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official. Variances 2 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit an existing driveway width of 6.99m (22.93 ft.) Whereas the by-law permits a maximum driveway width of 6.71m (22 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 total existing driveway width is approximately 0.28m (0.93ft.) wider than what the by-law permits. This widened area of the driveway is not considered to dominate the front yard nor block access to the front entrance. Subject to the recommended conditions of approval, the requested variance is considered to maintain the general intent of the Zoning By-law.

Variance 4 is requested to permit an existing fence in the rear yard having a maximum height of 2.03m (6.66 ft.) whereas the by-law permits a maximum fence height of 2.0m (6.56 ft.). The current height of the fence is 0.03m (0.10 ft.) larger than the permitted 2.0m (6.56 ft.). Upon conducting a site visit, staff observed that there were no significant impacts to the subject property nor to adjacent property. Variance 4 is considered to maintain the general purpose and intent of the zoning By-Law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is seeking to provide a path of travel to an existing above grade entrance to accommodate a second unit constructed without building permits. This variance is not deemed desirable for the development of the land as it fails to meet the minimum requirements of the Ontario Building Code. The path of travel is not supported by the City's Buildings Division as building permits would not be issued, nor is it considered safe for emergency and everyday use from a Planning perspective.

Variance 2 is to allow the location of an existing entrance with reduced setbacks. A condition of approval is recommended that the above grade entrance shall not be used to access an unregistered or registered second unit and that a building permit be obtained within 60 days of approval. The variance is considered to be desirable for the appropriate development of the land.

Variance 3 is requested to permit an existing driveway width larger than the permitted width. The driveway width is not anticipated to negatively impact access to the rear or front of the property, nor does it significantly impact landscaping and drainage. The existing fence is not considered to harm or impede on subject property or adjacent properties. Subject to the recommended conditions of approval, the variances are not anticipated to generate negative impacts on-site or off-site and can be desirable for the appropriate development of the land.

4. Minor in Nature

Variance 1 is deemed unsafe for emergencies and everyday travel and use and is therefore not considered minor in nature. The existing above grade entrance is not considered to limit access to the property or impact drainage nor is it abnormal for the current circumstances of the neighborhood. Lastly, the widened driveway is not considered to dominate the front yard or impact drainage. Subject to the recommended conditions of approval, the variances are considered to be minor in nature.

Respectfully Submitted,

Mohammed Jalabi

Mohammed Jalabi- Assistant Development Planner