



Report Committee of Adjustment

Filing Date: June 24, 2022
Hearing Date: December 6, 2022

File: A-2022-0203

**Owner/
Applicant:** Adai Kalaraj Pothagal, Mario Antony Kuveena Prakasam

Address: 24 Jemima Road

Ward: WARD 6

Contact: François Hémon-Morneau, Planner III

Recommendations:

That application A-2022-0203 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. The application was deferred by the Committee of Adjustment at the August 2nd, 2022 hearing to provide additional time for the applicant and City staff to better understand the developer's engineer concerns with the proposal.

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 in the required interior side yard whereas the by-law does not permit a below grade entrance in a required side yard;
2. To permit an interior side yard setback of 0.0m (0.0 ft.) to a below grade entrance whereas the by-law requires a minimum side yard setback of 1.2m.

Current Situation:

1. Maintains the General Intent and Purpose 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. Maintains the General Intent and Purpose of the Zoning By-law

The first variance 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. The second variance is requested to permit an interior side yard setback of 0.0m (0.0 ft.) to a below grade entrance whereas the by-law requires a minimum side yard setback of 1.2m. 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 0.0m (0.0 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 0.0m (0.0 ft.) of the interior side yard width which leaves no 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, 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. 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 a variance 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. The developer's engineer responsible for the subdivision has provided comments on the proposal stating concerns relating to drainage and grading (see Appendix A). 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. Therefore, the variances are not considered desirable for the appropriate development of the land.

4. Minor in Nature

The construction of a below grade entrance between the wall and the interior lot line of the dwelling could result in drainage and grading issues, with the developer's engineer noting such concerns in their response to the proposed 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. Therefore, the variances are not considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

François Hémon-Morneau, Planner III

Appendix A:

Hi Mike,

The proposed side yard entrance is 4 feet wide, which is the entire side yard up to the property line/middle of shared swale. I would not approve this application. It's a split draining lot. If the City approves this entrance the Developer can not be expected to repair any future grading issues on Lots 113/114.

Regards,

Jeff Gillingham, C.E.T, CAN-CISEC

Senior Construction Manager

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