



Report Committee of Adjustment

Filing Date: December 9, 2022

Hearing Date: January 24, 2023

File: A-2022-0397

**Owner/
Applicant:** JAGDEV SINGH UPPAL AND KAMALJIT KAUR UPPAL

Address: 49 Eastbrook Way

Ward: WARD 10

Contact: Megan Fernandes, Planning Technician

Recommendations:

That application A-2022-0397 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 2 to permit 0.0m of permeable landscaping along the side property line whereas the by-law requires a minimum 0.6m (1.97 ft.) wide permeable landscape strip between the driveway and the side property line be refused. Staff recommend that a 0.3 m permeable landscaping strip along the west side property line be approved.
 3. That a revised sketch depicting a 0.3m reinstated permeable landscaping along the west side property line be submitted and approved by the Director of Development Services within 60 days of the decision of approval or extended at the discretion of the Director of Development Services;
 4. That the applicant shall obtain a Building permit for the existing deck within 60 days of the decision of approval or extended at the discretion of 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:

Following a staff visit to the subject property, staff viewed an as-built deck located in the rear yard. Although the deck is compliant with the required Zoning By-law setbacks, staff have provided a condition that the applicant obtain a building permit for the deck.

Existing Zoning:

The property is zoned 'Residential Single Detached B Special Section 1675 (R1B-1675)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an existing driveway width of 7.61m (24.97 ft.) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.);
2. To permit 0.0m of permeable landscaping along the side property line whereas the by-law requires a minimum 0.6m (1.97 ft.) wide permeable landscape strip between the driveway and the side property line;
3. To permit an interior side yard setback of 0.14m (0.60 ft.) to a proposed below grade entrance whereas the by-law requires a minimum setback of 0.3m (0.98 ft.) provided that a continuous side yard width of no less than 1.2m (3.94 ft.) is provided on the opposite side of the dwelling.

Current Situation:

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

The subject property is designated as 'Residential' in the Official Plan and Low/Medium Density Residential in the Bram East Secondary Plan (Area 41). The nature and extent of the proposed variances 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 existing driveway width of 7.61m (24.97 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 ensure that the driveway does not dominate the front yard landscaped area and that the driveway does not allow for an excessive number of vehicles to be parked in front of the dwelling.

The existing driveway width is approximately 0.9m (2.97 ft.) wider than what the by-law permits. The increased width is not considered to significantly impact the drainage or access to the property. While the driveway does not maintain the full front yard landscape requirements, the existing condition of the driveway is not out of character for the neighbourhood. As such, the general intent and purpose of the Zoning By-law is maintained.

Variance 2 is requested to permit 0.0m of permeable landscaping along the side property line whereas the by-law requires a minimum 0.6m (1.97 ft.) wide permeable landscape strip between the driveway and the side property line. The intent in requiring a minimum permeable landscape strip abutting the side lot line is to ensure that sufficient space is provided for drainage purposes and that drainage on adjacent properties are not impacted.

The elimination of the permeable landscape strip along the side lot line and cumulative hardscaping on the property creates an abundance of hard surfacing throughout the property which can potentially lead to drainage issues. The variance does not maintain the general intent and purpose of the Zoning By-law. Following a discussion with the applicant, the applicant has agreed to provide a permeable landscape strip of 0.3m (0.98 ft.) to ensure that sufficient space is provided for drainage and that drainage on adjacent properties are not impacted. Subject to the recommended conditions of approval, Variance 2 is not considered to maintain the general intent and purpose of the Zoning by-law.

A condition of approval is recommended that the applicant provide a revised sketch depicting a 0.3m reinstated permeable landscaping along the side property line be submitted and approved by the Director of Development Services.

Variance 3 is requested to permit an interior side yard setback of 0.14m (0.60 ft.) to a proposed below grade entrance whereas the by-law requires a minimum setback of 0.3m (0.98 ft.) provided that a continuous side yard width of no less than 1.2m (3.94 ft.) is provided on the opposite side of the dwelling. The intent of the by-law in prohibiting below grade entrances in the interior side yard where the opposite side yard setback is not less than 1.2m (3.94 ft.) and where the setback to the stairs is less than 0.3m (0.98 ft.) is to ensure that sufficient space is maintained to access the rear yard of the property and that the drainage between the stairs and the property line is not impacted.

The configuration of the below grade entrance contemplates the construction of a stairwell consisting of approximately 8 steps leading to a landing and door accessing the basement. The below grade entrance and stairwell are proposed on the west side of the dwelling. There is an existing entrance to the garage door located along the west wall, additionally there is an existing AC unit proposed to be moved to facilitate the below grade entrance. The requested minimum setback of 0.14m (0.60 ft.) represents a 0.16 (0.52 ft.) reduction from what the by-law requires. The rear yard can be accessed on the opposite side of the dwelling, this setback considered to provide sufficient space to access the rear of the property. Subject to the recommended conditions of approval, 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

Variances 1 is intended to permit an existing driveway width and is not anticipated to have a significant impact on drainage or the streetscape. Subject to the recommended conditions of approval, Variance 1 is considered appropriate development of the land.

Variance 2 is requested to permit 0.0m of permeable landscaping along the side lot lines. In addition to the extended paved driveway surface, a majority of the site is hardscaped which results in the loss of permeability for site drainage. Variance 3 is not considered desirable and appropriate for the development of the land.

Variance 3 requested to permit a below grade entrance and stairwell in the side yard of the property. The stairwell is proposed to consist of 8 steps leading to an entrance located one storey below ground. The setback between the stairs leading to the entrance and the side lot line is considered to be a sufficient distance for proper drainage on the side of the property. Additionally, access to the rear yard along the maintained along the opposite side of the dwelling. Subject to the recommended conditions of approval, Variance 3 is considered appropriate development of the land.

4. Minor in Nature

Variance 1 relating to the increased driveway width is not considered to present negative impacts related to the existing conditions of the driveway. Subject to the recommended conditions of approval, the requested variance 1 is considered to be minor in nature.

Variance 2 regarding the elimination of permeable landscaping represents a substantial change with potential negative drainage impacts as most of the property has hardscaping and is therefore not considered to be minor in nature.

Variance 3 relating to the proposed stairwell and below grade entrance anticipated to provide adequate space between the dwelling and the side property line to provide for adequate access to the rear yard, maintenance, or for drainage purposes. The size and depth of the proposed stairwell is considered desirable and minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician