



## Report Committee of Adjustment

**Filing Date:** December 13, 2022

**Hearing Date:** January 24, 2023

**File:** A-2022-0327

**Owner/  
Applicant:** PUSHKAR CHAVAN AND VAISHAKHI CHAVAN

**Address:** 43 Elysian Fields Circle

**Ward:** WARD 6

**Contact:** Megan Fernandes, Planning Technician

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### **Recommendation:**

That application A-2022-0327 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 an above grade side door having an interior side yard setback of 0.66 metres (2.16 feet) be refused;
  3. That Variance 2 to permit a 0.66 metre (2.16 feet) path of travel to a to the primary entrance to a second unit be refused;
  4. That the owner must obtain a Road Occupancy and Access Permit from the City of Brampton's Road Maintenance and Operations Section for any construction of works within the city's road allowances; and
  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:**

This application was deferred from the Committee of Adjustment Hearing scheduled on November 15, 2022. Site visit photos are provided in Appendix 1-4.

### Existing Zoning:

The property is zoned 'Single Detached Residential F (R1F-10.4-2430)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an above grade door in the side wall where a minimum side yard width of 0.66m (2.17 ft.) is provided extending from the front wall of the dwelling up to 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.) extending from the front wall of the dwelling up to and including the door;
2. To permit a 0.66m (2.17 ft.) path of travel leading to a principle 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;
3. To permit a 0.4 metre (1.31 feet) setback to an existing accessory structure (gazebo) whereas the by-law requires a minimum setback of 0.6 metres to the nearest lot lines for an accessory structure;
4. To provide 0.0m (0.00 feet) of permeable landscaping abutting the side property line whereas the by-law requires a minimum 0.60 metres (1.97 feet) wide permeable landscape strip abutting the side property line; and
5. To permit an existing driveway width of 8.56 metres (28.08 feet) whereas the by-law permits a maximum driveway width of 6.71 metres (22 feet).

**Current Situation:**

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

The property is designated as 'Residential' in the Official Plan and 'Low/Medium Density' in the Bram West Secondary Plan (Area 40d).

Variances 1 and 2 are requested to permit an above-grade side door and a reduced path of travel to facilitate the approval of a primary entrance to a second unit.

Official Plan Section 4.2.6. provides the policies for Additional Residential Units (ARUs). Policy 4.2.5.6.1 (iv) states that "ARUs must be in compliance with the Ontario Building Code and/or Fire Code, Registration By-law, Property Standards By-law, the applicable regulation under the Conservation Authorities Act, and other applicable approval requirements."

In this instance, the requested variances would result in non-compliance with the Ontario Building Code. Variance 1 and 2 are not considered to maintain the general intent of the Official Plan.

The proposed extent and nature of Variance 3, 4 and 5 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 an above grade side door having an interior side yard setback of 0.66 metres (2.17 feet) whereas the by-law requires a minimum setback of 1.2 metres (3.94 feet) from an interior side yard to an above grade door. The intent of the By-law in requiring minimum side yard setbacks is to maintain access to the rear of the property, and drainage between the stairs and the property line.

An above grade side door was constructed along the south eastern 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 of the building. The variance represent a 0.55 (1.75 feet) reduction from what the By-law permits in terms of minimum interior side yard setbacks. Upon discussion with the City's Building department, staff noted the objection that the Building Code requires a landing at the top of the stairs servicing the door. Due to the configuration of the property, there is insufficient space to accommodate a landing and stairs to maintain compliance with the Ontario Building Code. The requested variance is not considered to maintain the general intent of the Zoning By-law.

Variance 2 is requested to permit a 0.66 (2.17 feet) path of travel leading to a principle entrance for a second unit whereas the by-law requires a minimum unencumbered side yard width of 1.2 metres (3.93 feet) to be provided as a path of travel from the front yard to the entrance to the second unit. The intent of the By-law in requiring 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.

The proposed path of travel measuring 0.66 metres (2.16 feet) is anticipated to negatively affect the ability to access a second unit. In addition, as per the Ontario Building Code (OBC), the proposed primary entrance to the second unit is not sufficient for the required egress path to a public thoroughfare as outlined in the building code to provide sufficient access to the entrance of the second unit. The requested variance is not considered to maintain the general purpose of the Zoning By-law.

Variance 3 is requested to permit an existing accessory structure (gazebo) having a setback of 0.4 metres (1.31 feet) whereas the By-law requires a minimum setback of 0.6 metres (1.97 feet) 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 the structure.

The existing setback reduction for the gazebo is not considered to be adversely impacting drainage on the property or adjacent properties. The 0.2 metre (0.65 feet) is not considered to limit the access for maintenance of the property. A condition of the approval is recommended that drainage on the adjacent properties shall not be adversely affected. The structure maintains all other Zoning By-law requirements. Variance 3 is considered to maintain the general intent of the Zoning By-law.

Variance 4 is requested to permit an existing driveway width of 8.56 metres (28.08 feet), whereas the By-law permits a maximum driveway width of 6.71 metres (22 feet). Variance 5 is requested to permit a 0.0 metre (0.0 feet) of permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum of 0.6 metres (1.97 feet) of permeable landscaping between the driveway and the side lot line.

The existing driveway width is 1.87m (6.14 feet) wider than what the By-law permits. Furthermore, the applicant is requesting a reduction to the permeable landscaping between the driveway and the side lot line from what the by-law permits. The portions of the existing driveway that were widened consist of interlock concrete and are not considered to significantly impact drainage or contribute to a substantial loss of landscaped open space on the property. While the driveway does not maintain the full front yard requirements, the existing conditions of the driveway is not out of character for the area. The applicant is advised of feedback received from the City's Open Space Department that no further driveway widening towards the northwest of the driveway will be permitted as this will affect the health of the street tree. Subject to the recommended conditions of approval, variances 4 and 5 are considered to maintain the general intent and purpose of the Zoning By-law.

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

Variances 1 and 2 is to permit the location of an existing entrance with reduced setbacks and a reduced path of travel to a second unit. The variances are not deemed desirable for the development of the lands as it fails to meet the minimum requirement of the Ontario Building Code. The path of travel and the current configuration of the as-built side door is not supported by the City's Building Division as building permits would not be issued, nor is it considered safe for emergencies and everyday use from a Planning perspective.

Variance 3 is requested to permit reduced setbacks for the location of an existing gazebo. Despite the setback reduction, the gazebo is not considered to negatively impact access, generate drainage concerns or limit access for maintenance of the property. Subject to the recommended conditions of approval, the requested variance is considered to be desirable for the appropriate development of the land.

Variances 4 and 5 is to permit an existing driveway that was widened to accommodate additional parking maneuverability. The widened driveway and the reduced permeable landscape strip is not out of character when we consider the neighbourhood at large and does not pose any negative impacts. Subject to the recommended conditions of approval, the requested variances are considered to be desirable for the appropriate development of the land.

### 4. Minor in Nature

Variances 1 and 2 are deemed unsafe for emergencies, everyday travel use, and do not meet the minimum Ontario Building Code requirements and are therefore not considered minor in nature.

Variances 3, 4 and 5 relating to the reduced setback to an existing gazebo, increased driveway width and reduced permeable landscaping are not considered to present negative impacts related to the existing conditions of the driveway. Subject to the recommended conditions of approval, the requested variances 4 and 5 are considered to be minor in nature.

Respectfully Submitted,

*Megan Fernandes*

Megan Fernandes, Planning Technician

**Appendix 1**



**Appendix 2**



**Appendix 3**



**Appendix 4**

