



Report Committee of Adjustment

Filing Date: December 8, 2022

Hearing Date: January 24, 2023

File: A-2022-0395

**Owner/
Applicant:** Sonal Patel

Address: 142 Brussels Avenue

Ward: WARD 2

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2022-0395 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 applicant implement planting to screen the proposed below grade entrance as shown on the sketch in a manner satisfactory to the Director of Development Services;
 3. That the below grade entrance shall not be used to access an unregistered second unit;
 4. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
-

Background:

Existing Zoning:

The property is zoned 'Residential Street Townhouse B (R3B-1270)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance to be located between the main wall of the dwelling and the flankage lot line, whereas the by-law does not permit a below grade entrance between the main wall of the dwelling and the flankage lot line.
2. To permit an existing fence in the exterior side yard having a height of 2.4m (7.87 ft.), whereas the by-law permits an existing fence to a maximum height of 2.0m (6.56 ft.).

Current Situation:

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

The subject lands are designated 'Residential' in the Official Plan and 'Medium Density Residential' in the Springdale Secondary Plan (Area 2). The Residential designation supports the current use and the requested variances are not anticipated to have any significant impacts in the context of the Official Plan and Secondary Plan policies, and 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 subject lands are currently zoned 'Residential Street Townhouse B,' Special Section 1270 (R3B-1270), according to By-law 270-2004, as amended.

Variance 1 is requested to permit a proposed below grade entrance between the main wall of a dwelling and the flankage lot line whereas the by-law prohibits below grade entrances between the main wall of the dwelling and the flankage lot line. The intent of the by-law in prohibiting below grade entrances between the main wall of a dwelling and the flankage lot line is to ensure that sufficient space is provided to allow for drainage and access to the rear yard and that the appearance of the below grade entrance does not negatively impact the overall streetscape.

The applicant is proposing new landscaping (shrubs) along the access to the below grade entrance which is intended to provide screening. The proposed landscaping (mango tango potentilla) are low-growing shrubs which may not adequately screen the proposed below grade entrance from the streetscape and public. A condition of approval is recommended that the applicant implement planting to screen the proposed below grade entrance as shown on the sketch in a manner satisfactory to the Director of Development Services.

Furthermore, the proposed stairway leading to the below grade entrance encroaching into the required exterior side yard is not considered to have a significant impact on drainage and sufficient space of 3.2m is maintained for access to the rear yard. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. Subject to the recommended condition of approval, Variance 1 maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an existing fence in the exterior side yard having a height of 2.4m (7.87 ft.) whereas the by-law permits an existing fence to a maximum height of 2.0m (6.56 ft.). The intent of the by-law in regulating maximum fence height is to ensure that fences do not create

adverse impacts such as limiting views or excessive shadows to neighbouring properties or adjacent streetscapes.

The owner has installed a 2.4m (7.87 ft.) high privacy fence with lattice which is 0.40m (1.31 ft.) higher than what the by-law permits. The fencing has been installed along a small portion of the side yard on the corner lot to provide screening from the public. The fencing does not create any adverse impacts to the subject lot. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit a below grade entrance between the main wall of the dwelling and flankage lot line which will encroach into the exterior side yard setback. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. Staff do not anticipate any negative impacts to drainage or access to portions of the property and consider the location of the below grade entrance appropriate given the site context. Subject to the recommended condition of approval, the variance is considered desirable for the appropriate development of the land.

Variance 2 is requested to permit the existing fencing to remain and is not considered to alter the character of the property or create any adverse impacts. A condition of approval is recommended that the privacy fence with lattice not be extended further along the existing fence on the property. Subject to the recommended conditions of approval, the variance is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances to permit the below grade entrance and increased fence height are not expected to create adverse impacts related to access, drainage and shadowing on-site or off-site. Subject to the recommended condition of approval, the proposed landscaping would provide screening from the street and public view which would thereby eliminate negative impacts to the streetscape and reduce visibility of the below grade entrance from the public. As a result, the variances are considered minor in nature.

Respectfully Submitted,

Rajvi Patel

Rajvi Patel, Assistant Development Planner

Appendix A – Existing Site Conditions

