



Report Committee of Adjustment

Filing Date: December 9, 2022

Hearing Date: January 24, 2023

File: A-2022-0399

**Owner/
Applicant:**

Vince D'Agate and Alessandra Fargione-D'Agate

Address: 32 Highvalley Circle

Ward: WARD 8

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2022-0399 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 accessory structure (existing cabana) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory building shall be limited to the provision of one washroom, sink, and outdoor shower;
 3. That the owner shall obtain a building permit for the accessory structure (cabana) within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official;
 4. That the rear lot catch basin shall be free of debris and drainage unobstructed;
 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 C (R1C-1802)', according to By-law 270-2004, as amended.

Requested Variances:

The applicants are requesting the following variances:

1. To permit an accessory structure (cabana) to include habitable space (installation of a washroom), whereas the by-law does not permit an accessory structure to be used for human habitation;
2. To permit an accessory structure with a gross floor area of 22.4 sq. m (241.11 sq. ft.), whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;
3. To permit an accessory structure having a building height of 3.05 m (10.01 ft.), whereas the by-law permits a maximum building height of 3.0 m (9.84 ft.) for an accessory structure.

Current Situation:

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

The subject lands are designated 'Residential' in the Official Plan and 'Executive Housing,' in Special Policy 4a – McVean Corridor of the Bram East Secondary Plan (Area 41). 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 Single Detached C,' Special Section 1802 (R1C-1802), according to By-law 270-2004, as amended.

Variance 1 is requested to permit an accessory structure (cabana) to include habitable space, whereas the by-law does not permit an accessory structure to be used for human habitation. The intent of the by-law in prohibiting habitable space within accessory structures is to ensure that the structures are not used for human habitation and remain accessory to the primary residential dwelling.

The accessory structure contains plumbing for a powder room and outdoor shower which according to the Zoning By-law, is classified as habitable space within the accessory structure. The cabana is intended to remain accessory to the primary residential dwelling. A condition of approval is recommended that the accessory structure (cabana) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory structure shall be limited to the provision of one washroom, sink and outdoor shower. Subject to the recommended conditions of approval, the requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an accessory structure (shed) with a gross floor area of 22.4 sq. m (241.11 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The intent of the by-law in regulating the maximum permitted gross floor area of an accessory structure is to ensure that the property is not dominated by structures and that they do not negatively impact the provision of outdoor amenity space or adjacent properties.

The accessory structure is intended to enhance the outdoor amenity space in the rear yard and to provide for enclosed storage. While the size of the existing cabana is 7.4 sq. m (79.65 sq. ft.) is larger than what the by-law permits, the size of the property is not anticipated to create unfavourable circumstances that the property is dominated by accessory structures. Given the size of the property, the accessory structures are not considered to negatively impact the provision of outdoor amenity space for the property. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit a building height of 3.05 m (10.01 ft.) for an accessory structure, whereas the by-law permits a maximum building height of 3.0 m (9.84 ft.) for an accessory structure. The intent of the by-law in regulating the permitting height of an accessory structure is to ensure that the structure does not have negative massing impacts on adjacent properties.

The variance is a seeking an additional 0.5m (1.64 ft.) for the accessory structure which is not anticipated to have negative massing impacts. The accessory structure is located on the north-western corner of the property which abuts Cottrelle Boulevard and the rear yard of the adjacent property that has a large lot size. The location of the structure relative to the property and surrounding site context ensures that the increase in height will not generate adverse impacts as it maintains minimum setbacks. The variance does not cause any adverse impacts related to privacy and shadowing and is therefore 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 variances to facilitate the construction of a cabana located in the rear yard of the property. An additional variance is requested to allow plumbing for the powder room in the existing cabana. The subject property is located on a large lot that has sufficient separation between adjacent properties. Given the size of the lot and rear yard, the overall size of the cabana is not anticipated to cause negative visual impacts or limit the overall provision of amenity space. It is noted that the accessory structure will maintain minimum setback requirements. As a result, no negative impacts are anticipated on-site or off-site. A condition of approval is recommended that the owner shall obtain a building permit for the accessory structure within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official. Subject to the recommended conditions of approval, the variances are deemed desirable for the appropriate development of the land.

4. Minor in Nature

The subject lands are located within a residential area with relatively large lot sizes. Considering the size and conditions of the property, the existing accessory structure is not anticipated to detract outdoor amenity space or create adverse impacts on-site or off-site. The location and scale of the accessory structure in relation to the surrounding land context does not generate privacy or shadowing impacts. The cabana enhances the use of outdoor amenity space and is intended to remain accessory to the primary residential dwelling. Subject to the recommended conditions of approval, the requested variance is considered to be minor in nature.

Respectfully Submitted,

Rajvi Patel

Rajvi Patel, Assistant Development Planner

Appendix A – Existing Site Conditions

