



Report Committee of Adjustment

Filing Date: January 9, 2023
Hearing Date: February 14, 2023

File: A-2023-0007

**Owner/
Applicant:** MANJOT GILL AND AMITJOJ GILL

Address: 1 Wheatberry Crescent

Ward: WARD 9

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2023-0007 be refused.

Background:

The Minor Variance application is seeking approval for an existing below grade entrance located between the main wall of the dwelling and flankage lot line. Two variances are required to facilitate the construction of the below grade entrance. The subject lands are part of a subdivision (File Number: C04E16.002, 21T-10008B) that has not yet been assumed by the City. Regal Crest Homes is responsible for the subdivision and has provided comments stating that they are not in favour of approving the proposed below grade entrance at the subject lands unless it is assumed by the City.

Existing Zoning:

The property is zoned 'Institutional One (I1-2379)', 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 exterior side yard setback of 3.38m (11.09 ft.) to a below grade entrance, whereas the by-law requires 4.5m (14.76 ft.).

3. To permit 0.3m (0.98 ft.) permeable landscaping between the driveway and the side lot line whereas the by-law requires a minimum 0.6m (1.97 ft.) of permeable landscaping between the driveway and the side lot line.

Current Situation:

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

The subject lands are designated 'Residential' in the Official Plan and 'Low Density Residential' in the Countryside Villages Secondary Plan (Area 48b). The requested variances are not anticipated to have any significant impacts within the context of the Official Plan and Secondary 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 subject lands are currently zoned 'Institutional One,' Special Section 2739 (I1-2379), according to By-law 270-2004, as amended.

Variance 1 is requested to permit a below grade entrance 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. 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 the appearance of the below grade entrance does not negatively impact the overall streetscape.

Variance 2 is requested to permit an exterior side yard setback of 3.38m (11.09 ft.) to a below grade entrance, whereas the by-law requires 4.5m (14.76 ft.). The intent of the by-law in requiring a minimum exterior side yard setback is to ensure that sufficient space is provided to allow access to the rear yard.

Variance 3 is requested to permit 0.3m (0.98 ft.) permeable landscape strip whereas the by-law requires a minimum 0.6m (1.97 ft.) permeable landscape strip. The intent of the by-law in requiring a minimum permeable landscape strip is to ensure that sufficient space is provided for drainage and that drainage on adjacent properties is not impacted.

The proposed configuration of the side yard contemplates an existing below grade entrance to be accessed by two steps and a landing with a 3.38m (11.09 ft.) exterior side yard setback. The below grade entrance is constructed along the eastern wall of the detached dwelling located on a corner lot and is screened behind an existing fence. However, as previously mentioned, the subject lands are located within a subdivision (File Number: C04E16.002, 21T-10008B) which the City has not yet assumed from the developer. In the case of the subject property, 3.38m (11.09 ft.) of the exterior side yard is maintained for access to the rear yard. Staff are concerned over the potential negative impacts to drainage resulting from the below grade stairway, reduced exterior side yard setback and reduced permeable landscape strip. Furthermore, the application was circulated to the developer, Regal Crest Homes, their representative informed City staff that they do not support the requested

variances until the subdivision is assumed by the City. Therefore, the variances are not considered to maintain the general intent and purpose of the Zoning By-law.

It should be noted that the existing below grade entrance has been constructed without a building permit. Should the Committee approve the application for a minor variance, staff recommend the following condition of approval: The owner shall obtain a building permit within 60 days of the decision of approval.

3. Desirable for the Appropriate Development of the Land

The requested variances are intended to permit an existing below grade entrance between the main wall of the dwelling and flankage lot line which will encroach into the exterior side yard setback and permit reduced permeable landscaping. The subject lands are located within a recently constructed subdivision which has not yet been assumed by the City. The developer is responsible for the subdivision and has provided comments stating that they are not in favour of approving the proposed below grade entrance at the subject lands unless it is assumed by the City (see Appendix B). The reduced permeable landscaping strip may impact drainage. 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 exterior side lot of the property for which the developer is currently responsible for. Therefore, the variances are not considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances required for the exterior stairway leading to the below grade entrance and reduced permeable landscaping could result in drainage and grading issues, with the developer 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,

Rajvi Patel

Rajvi Patel, Assistant Development Planner

Appendix A – Existing Site Conditions



Appendix B – Correspondence with developer

From: Art [REDACTED]
Sent: 2023/01/17 3:45 PM
To: Levon Fermanian [REDACTED]; Richard Tyler [REDACTED]
Cc: Maxwell, John [REDACTED]
Subject: [EXTERNAL]RE: Re: CofA A-2023-0007 (1 Wheatberry Cres)

Caution: This email originated from outside the organization. Do not click links or open attachments that you do not trust or are not expecting.

Levon
I will not provide our approvals unless the subdivision is assumed by the City



Art Rubino
General Manager
Regal Crest Homes
[REDACTED]

From: Levon Fermanian [REDACTED]
Sent: January-17-23 2:30 PM
To: Art [REDACTED]; Richard Tyler [REDACTED]
Cc: John Maxwell [REDACTED]
Subject: FW: Re: CofA A-2023-0007 (1 Wheatberry Cres)

Hi Art, Richard

As per email below and attached, please provide any comments with regards to applicant's request. Since this is a structural issue not aware of any insurance/Tarion etc?

We don't have an issue as long as they provide proper drainage away from the dwelling and or if there is a drain at the bottom of the steps should be inspected by the City plumbing/building department.

Regards,
Levon