



Report Committee of Adjustment

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

File: A-2023-0011

**Owner/
Applicant:** JAYANT PATEL AND HIRAL PATEL

Address: 8414 Creditview Road

Ward: WARD 4

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2023-0011 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 must obtain a Custom House Architectural Control approval before a building permit application be submitted;
 3. That no widening or relocation of the existing driveway onto Creditview Road shall be permitted within the City's right of way;
 4. 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;
 5. That the applicant obtain a tree removal permit or provide tree compensation from the City of Brampton's Urban Forestry department;
 6. That the applicant shall obtain any required approvals or permits and pay all required fees to the satisfaction of the Credit Valley Conservation Authority;
 7. 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 'Agricultural (A)' and 'Floodplain (F)', according to By-law 270-2004, as amended. The proposed minor variances have been reviewed by the Credit Valley Conservation Authority (CVC). The CVC issued permit FF 23/005 on January 26, 2023, for the construction of a single family dwelling and site grading (see Appendix B).

Requested Variances:

The applicant is requesting the following variances:

1. To permit an existing lot area of 0.1621 hectares for non-agricultural purposes, whereas the by-law requires a minimum lot area of 0.4 hectares for non-agricultural purposes;
2. To permit an existing lot width of 30.5m (100.07 ft.) whereas the by-law requires a minimum lot width of 45m (147.64 ft.);
3. To permit an easterly interior side yard setback of 4.51m (14.80 ft.) whereas the by-law requires a minimum interior side yard setback of 7.5m (24.61 ft.);
4. To permit an westerly interior side yard setback of 4.05m (13.28 ft.) whereas the by-law requires a minimum interior side yard setback of 7.5m (24.61 ft.);
5. To permit a rear yard setback 1.28m (4.20 ft.) to a Floodplain Zone, whereas the by-law requires a rear yard setback of 15m (49.21 ft.);
6. To permit a balcony and deck encroachment of 15m (49.21 ft.) into the required rear yard setback, resulting in a rear yard setback of 0.0m to the Floodplain Zone, whereas the by-law permits a maximum balcony and deck encroachment of 3m (9.84 ft.) into the required rear yard, resulting in a rear yard setback of 12m (39.37 ft.);
7. To permit a portion of the balcony (cantilevered) to be located within a Floodplain Zone, whereas the by-law does not permit the balcony to be located within the Floodplain Zone;
8. To permit two existing accessory structures (sheds) to be located within a Floodplain Zone, whereas the by-law does not permit accessory structures within a Floodplain;
9. To permit 62% of the required front yard to be landscaped whereas the by-law requires a minimum required front yard landscaping of 70%.

Current Situation:**1. Maintains the General Intent and Purpose of the Official Plan**

The subject lands are designated 'Open Space' and 'Valleyland/ Watercourse Corridor' in the Official Plan and 'Primary Valleyland' in the Credit Valley Secondary Plan (Area 45). The subject lands are

designated 'Open Space' as per Schedule A of the Official Plan. The City's Open Space System consists of both natural and cultural heritage including public and private open space, valleylands/ watercourse corridors, wetlands and woodlands. One of the objectives of recreational open space policies is to encourage the conservation and incorporation of significant natural heritage features into the recreational open space system and has regard for the long term sustainability of these areas (Section 4.7 h).

Additionally, the subject lands are designated as 'Valleyland/ Watercourse Corridor' as per Schedule D of the Official Plan. The Valleyland/ Watercourse designation is intended for the preservation and conservation of the natural features, functions and linkages. As per Section 4.6.7.1, development is generally prohibited within a valleyland or watercourse corridor, unless it has been demonstrated that there will be no negative impact on the significant natural features and their functions in accordance with the required studies. Section 4.6.13.7 and 4.6.13.8 provides that a buffer of 10m (32.81 ft.) be required to define the limit of development and may be refined based on the results of environmental studies.

The minor variance application has been reviewed by the Credit Valley Conservation Authority (CVC) and confirmed that the proposed variances may proceed as proposed without any adverse impact to the Floodplain or Regulated Area. Moreover, the CVC issued permit FF 23/005 on January 26, 2023, for the construction of a single family dwelling and site grading on the subject property (see Appendix B).

The subject lands are further designated as 'Primary Valleyland' in the Credit Valley Secondary Plan (Area 45). As per Section 5.4.2.1 and 5.4.2.2, lands designated as Primary Valleyland have been identified as having inherent environmental hazards including flood and erosion susceptibility and shall be protected from development and remain primarily in natural state.

The application proposes to facilitate the demolition of the existing dwelling and the construction of a two-storey detached dwelling. A majority of the development will occur outside the regulated floodplain area, the portion of the development within the flood plain is primarily for amenity space such as the outdoor deck area. The proposed development conforms with Section 4.6.13.8 of the City of Brampton Official Plan as the proposed development has been reviewed and permits issued by the Credit Valley Conservation Authority. Subject to the recommended conditions of approval, 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

The subject lands are currently zoned 'Agricultural (A)' and 'Floodplain (F),' according to By-law 270-2004, as amended. A portion of the subject lands are zoned Agricultural which permits agricultural uses and limited non-agricultural uses, including a single detached dwelling. The southern portion of the lands are zoned Floodplain permits conservation areas for the purposes of flood or erosion control which does not permit the development of lands.

Five variances (Variances 1 to 4, Variance 9) are requested within the Agricultural zone of the subject lands and are seeking to continue the use of the lands as a single detached dwelling. The requested

variances are related to the lot area, lot width, interior side yard setbacks, and front yard landscaped area.

Variance 1 is requested to permit an existing lot area of 0.1621 hectares for non-agricultural purposes, whereas the by-law requires a minimum lot area of 0.4 hectares for non-agricultural purposes. Variance 2 is requested to permit an existing lot width of 30.5m (100.07 ft.) whereas the by-law requires a minimum lot width of 45m (147.64 ft.). The intent of the by-law in regulating the lot area and lot width is to ensure that sufficient area is provided on the property for its proposed use, as well as to remain consistent with the existing streetscape of the area.

The Agricultural zone provides for large lot sizes intended to accommodate agricultural uses and operations. The existing property and those surrounding it are primarily residential in nature. In the case of the subject property, the reduced lot width and area are existing conditions which are consistent to the lot dimensions provided in the original survey. The reduction in lot width and area is not considered to alter the use and character of the property as no changes are proposed. Variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

Variances 3 and 4 are requested to permit an interior side yard setback of 4.04m (13.25 ft.) and 4.51m (14.80 ft.) whereas the by-law requires a minimum interior side yard setback of 7.5m (24.61 ft.). The intent of the by-law in requiring a minimum interior side yard setback is to ensure that sufficient access is maintained to the rear yard, adequate room is provided for drainage from the dwelling, and that appropriate separation is provided between the building and lot line.

The variances are required to facilitate the construction of the proposed dwelling. A 3.46m (11.36 ft.) reduction is required on the west interior side yard setback and a 2.99m (9.81 ft.) reduction is required on the east interior side yard setback. Furthermore, the existing dwelling which is proposed for demolition has an interior side yard setback of 5.46m (17.91 ft.) and 5.32m (17.45 ft.). The difference from the setbacks that currently exist and the setbacks that are proposed is minimal. The reduced setbacks are not anticipated to generate negative impacts relating to drainage or access given that sufficient area will be maintained. Furthermore, appropriate separation between the building and adjacent properties will be maintained with no anticipated negative visual or functional impacts. Variances 3 and 4 are considered to maintain the general intent and purpose of the Zoning By-law.

Variance 9 is requested to permit 62% of the required front yard to be landscaped whereas the by-law requires a minimum required front yard landscaping of 70%. The intent of the by-law in requiring a minimum percentage of the front yard to be landscaped open space is to ensure that the property has an adequate amount of open/ green space at the front as well as regulating the driveway width.

Given the size of the lot, the reduced amount of landscaped open space from 70% to 62% is minor and sufficient to provide an adequate amount of green space at the front of the property. Furthermore, the applicant is maintaining the driveway width fronting onto Creditview Road which will not impact the streetscape or the City's Right of Way. Subject to the recommended conditions of approval, the proposed landscaped open space and proposed driveway configuration, Variance 9 is considered to maintain the general intent and purpose of the Zoning By-law.

Four variances (Variances 5 to 8) are requested within the Floodplain zone of the subject lands. The requested variances are related to the rear yard setback, balcony and deck encroachment, and permitting accessory structures.

Variance 5 is requested to permit a rear yard setback of 1.28m (4.20 ft.) to a Floodplain Zone, whereas the by-law requires a rear yard setback of 15m (49.21 ft.). Variance 6 is requested to permit a balcony and deck encroachment of 15m (49.21 ft.) into the required rear yard setback, resulting in a rear yard setback of 0.0m to the Floodplain Zone, whereas the by-law permits a maximum balcony and deck encroachment of 3m (9.84 ft.) into the required rear yard, resulting in a rear yard setback of 12m (39.37 ft.). The intent of the by-law in requiring a minimum setback from a Floodplain zone is to provide adequate buffering to ensure the protection of environmental features and the safety of the occupants in the event of a flood.

The proposed patio which encroaches into the Floodplain zone is considered to have minimal impact to the floodplain lands as the proposed size of the patio is not overly invasive of the lands and create environmental damage or risk flooding to the dwelling. The rear yard setback has been reduced as a result of the proposed use of outdoor amenity space including a balcony, patio and deck which staff do not anticipate cause any negative environmental impacts.

Furthermore, the proposed development has been reviewed by the Credit Valley Conservation Authority (CVC) who do not have any concerns with the proposed development. CVC issued permit FF 23/005 on January 26, 2023, for the construction of a single family dwelling and site grading (see Appendix B). This application is consistent with the issued permit and CVC staff do not have any objections to the approval of the minor variance. Subject to the recommended conditions of approval, Variances 5 and 6 are considered to maintain the general intent and purpose of the Zoning By-law.

Variance 7 is requested to permit a portion of the balcony (cantilevered) to be located within a Floodplain Zone, whereas the by-law does not permit the balcony to be located within the Floodplain Zone. The intent of the by-law in preventing encroachments into Floodplain zones is to ensure that no development takes place within an area that could be susceptible to flooding and mitigate negative environmental impacts to the property.

A cantilevered balcony uses a rigid beam anchored only on one side that eliminates external support such as supporting columns. Given that the balcony will be cantilevered, it is not anticipated to negatively impact the floodplain lands. Subject to the recommended conditions of approval, Variance 7 is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 8 is requested to permit two existing accessory structures (sheds) to be located within a Floodplain Zone, whereas the by-law does not permit accessory structures within a Floodplain. The intent of the by-law in prohibiting accessory structures in the Floodplain zone is to ensure that no development takes place that could create negative environmental impacts.

Given the size, use and location of the accessory structures on the property, the sheds are not considered to create any adverse environmental impact to the floodplain lands. Additionally, the use of the two sheds would be accessory to the dwelling and enhance the use of outdoor amenity space

by providing a delineated area for storage. Variance 8 is considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variations 1 and 2 are requested to permit a reduction in the lot area and lot width. The agricultural zone permits non-agricultural uses which includes a single detached dwelling. The reduced lot area and width are not anticipated to negatively impact the surrounding properties and will continue to be sufficiently sized to accommodate the proposed dwelling. Furthermore, the surrounding area along Creditview Road consists of residential properties on large lots which is in keeping with the characteristics of the neighbourhood. Variations 1 and 2 are desirable for the appropriate development of the land.

Variations 3 and 4 are requested to permit reduced interior side yard setbacks on the east and west of the dwelling. The proposed setbacks maintain sufficient space for drainage and access to the rear yard through a continuous path of travel. The subject property is screened from abutting properties through existing landscaping along the interior property lines, providing a naturalized privacy buffer from the neighbouring properties. Variations 3 and 4 are desirable for the appropriate development of the land.

Variance 9 is to allow a reduction to the amount of landscaped area in the front yard of the property. Given the size of the lot, an adequate amount of landscaping will be provided in the front yard and maintains the relationship of the landscaping to the streetscape. The arborist report submitted by the applicant provides that some trees will be protected or reinstated in the front yard of the property, subject to the recommended conditions of approval. It should be noted that the City-owned trees located in the front yard will not be approved for removal. Variance 9 is considered to be desirable for the appropriate development of the land.

Variations 5 and 6 are requested to permit a reduced rear yard setback and a balcony and deck encroachment. The regulatory floodplain boundary transverses along the rear yard of the subject property. The rear design of the proposed dwelling follows the diagonal floodplain boundary to minimize impact to the regulatory floodplain. Furthermore, the proposed patio that encroaches into the floodplain boundary is not considered to have any adverse impacts as it is a seasonal amenity area. In order to facilitate the development of the dwelling, an arborist report has been submitted which requires the removal of trees. Staff from Forestry and Environmental Planning have provided that City-owned trees will not be approved for removal as they are assets to the City. With regards to the privately owned trees requesting removal, staff recommend that the applicant obtain a tree permit to reduce the impact of tree removal to the urban tree canopy. Subject to the recommended conditions of approval, Variations 5 and 6 are considered to be desirable for the appropriate development of the land.

Variance 7 is requested to permit a cantilevered balcony that would encroach in a Floodplain zone. The cantilevered design of the balcony will result in its construction remaining above grade and not interfering with the designated floodplain area. Variance 7 is considered to be desirable for the appropriate development of the land.

Variance 8 is requested to permit two existing accessory structures (shed) within a Floodplain zone. The size, use, and location of the accessory structures are not anticipated to cause any adverse environmental impacts. The shed will be accessory to the dwelling and enhance the provision of outdoor space. Variance 8 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variances 1 to 4 and 9 are requested to permit a reduction in the lot width, lot area, interior side yard setbacks, and front yard landscaping are to facilitate the construction of a dwelling. The variances are considered to be minor in nature as they are not anticipated to negatively impact the subject property or adjacent properties.

Variances 5, 6, 7, and 8 are requested to permit the reduction of a rear yard setback, balcony and deck encroachment and existing accessory structures within the floodplain boundary. The variance application has also been circulated to the Region of Peel and the Credit Valley Conservation and is considered to be minor in nature. As mentioned earlier in the report, the proposed development has been reviewed by the Credit Valley Conservation Authority (CVC) who do not have any concerns with the proposed development. CVC issued permit FF 23/005 on January 26, 2023, for the construction of a single family dwelling and site grading (see Appendix B). Subject to the recommended conditions of approval as they are not anticipated to cause adverse environmental impacts.

Respectfully Submitted,


Rajvi Patel

Rajvi Patel, Assistant Development Planner

Appendix A – Existing Site Conditions



Appendix B

 **Credit Valley Conservation**
inspired by nature

Credit Valley Conservation Authority

Date of Issuance: January 26, 2023 **PERMIT 23/005**

IN ACCORDANCE WITH:
ONTARIO REGULATION 160/06, PURSUANT TO SECTION 28 OF THE CONSERVATION AUTHORITIES ACT (R.S.O. 1990 Chapter C.27).

PERMISSION HAS BEEN GRANTED TO:

Owner Name: Jayant Patel **Tel:** 416 500-1373
Address: 24 Yonge Garden Cres, Brampton ON L6Y 6A4

Agent Name: Empire Design Company (Peter Vozikas) **Tel:** 416 500-8989
Address: 5 North Ridge Cres, Georgetown ON L7G 6E7

Property Location: 8414 Creditview Road
Part Lot 3, Concession 3 WHS
City of Brampton

This permit is issued for the above noted property for the purpose of:

Development in the Regulated Area for the purpose of constructing a single family dwelling and site grading.


This permit is valid for 2 (two) years and is subject to the following conditions: **Expiry Date: January 26, 2025**

CONDITIONS:

1. That the work be carried out in accordance with the following plans which are marked: **23/005**
 - **Site Plan prepared by MacKay, MacKay and Peters Limited last revised January 23, 2023.**
2. That permission granted herein shall lapse on the above noted expiry date, unless the work for which the permission has been given has been completed. If the work has not been completed by the aforementioned date, this permit is invalid and all on-going and future work must cease and a new application be submitted to the Credit Valley Conservation Authority. New applications will be assessed in accordance with information, policies and practices in place as of the date of receipt of the new submission. What shall be deemed as "complete" is within the sole discretion of the Credit Valley Conservation Authority.
3. That the Credit Valley Conservation Authority be notified 48 hours prior to the commencement of any works and be notified of the completion of the project.
4. That appropriate erosion and sediment control measures must be installed prior to construction and maintained until all disturbed areas have been stabilized.
5. That all disturbed areas be stabilized and restored to existing conditions or better immediately upon completion of the works.

INSPECTIONS MAY BE CARRIED OUT BY CVC STAFF MEMBERS TO ENSURE THAT THE WORK IS UNDERTAKEN AND COMPLETED ACCORDING TO THE APPROVED PLANS.

Be advised that the Credit Valley Conservation Authority may, at any time, withdraw this permission, if, in the opinion of the Authority, the conditions of the permit are not being complied with. This approval does not exempt the property owner/applicant/agent from the provisions of any other Federal, Provincial or Municipal statutes, regulations or by-laws, or any rights under common law.


Regulations Officer

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