



Report Committee of Adjustment

Filing Date: November 8, 2022

Hearing Date: February 14, 2023

File: A-2022-0359

**Owner/
Applicant:** BHAVIN SHAH AND NILAM SHAH / ANTHONY BARTOLLINI

Address: 42 Lyle Way

Ward: WARD 6

Contact: Megan Fernandes, Planning Technician

Recommendations:

That application A-2022-0359 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 4 to permit a driveway width of 15.72m whereas the by-law permits a maximum driveway width of 9.14m (30 ft.) be refused;
 3. 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 F – Special Section 2504 (R1F-14-2504)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an accessory structure (gazebo) having a building height of 3.327m (10.92 ft.) whereas the bylaw permits a maximum building height of 3.0m (9.84 ft.) for an accessory structure;
2. To permit an accessory structure (gazebo) having a gross floor area of 23.78 sq. m (256 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 uncovered pool (hot tub) with a rear yard setback of 0.78m (2.56 ft.) whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the nearest lot lines;
4. To permit a driveway width of 15.72m (51.57 ft.) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.);
5. To permit a recreational facility (sports court) with an interior side yard setback of 0.762m whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the nearest lot lines.

Current Situation:

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

The subject property is designated as 'Northwest Brampton Urban Development Area' in Schedule A of the Official Plan and 'Low Density Residential' in the Huttonville Secondary Plan (Area 29b). The nature and extent of the proposed variances, subject to the recommended conditions of approval, 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 accessory structure (gazebo) having a building height of 3.327m (10.92 ft.) whereas the bylaw permits a maximum building height of 3.0m (9.84 ft.) for an accessory structure. The intent of the By-law in regulating the permitted height of an accessory structure is to ensure that the structure does not have negative massing impacts on adjacent properties.

The height of the accessory structure (gazebo) is proposed to be 0.327 metres (1.07 feet) taller than what the by-law permits. The gazebo is planned to be located at the northwest portion of the property's rear yard and will maintain the appropriate setbacks. The property backs onto vacant lands and the additional height of the gazebo is not anticipated to generate negative visual impacts to adjacent properties. The requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an accessory structure (gazebo) with a gross floor area of 23.78 square metres (256 square feet) whereas no individual accessory structure in excess of 15 square metres (161.46 square feet) for an individual accessory structure. The intent of the by-law in regulating the maximum permitted floor area of an accessory structure is to ensure that the size of the structure does not negatively impact the provision of outdoor amenity space for the property.

The proposed gazebo with a gross floor area of 23.78 square metres (256 square feet) is approximately 8.78 square metres (28.80 square feet) greater than what the by-law permits. As previously stated, the gazebo is planned to be located at the northwest portion of the property's rear yard and will maintain the appropriate setbacks. Given the size of the property, the gross floor area of the structure is not anticipated to negatively impact the outdoor amenity space for the property. The requested variance maintains the general intent and purpose of the Zoning By-law.

Variance 3 is requested to permit an uncovered pool (hot tub) with a rear yard setback of 0.78m whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the nearest lot lines. The intent of the by-law in requiring minimum setbacks from any lot line is to ensure that sufficient space is maintained for drainage and maintenance of the recreational facility.

The uncovered pool or recreational facility (hot tub) is proposed to be located at the northeastern side of the rear yard and requires a variance to allow a reduced setback to the nearest lot lines. A setback reduction of 0.42 metres (2.5 feet) to an uncovered pool or recreational facility. The requested setbacks for the uncovered pool or recreational facility is not anticipated to create negative impact for the drainage for the subject property or the adjacent properties. The existing location of the uncovered pool or recreational facility do not impact the drainage for the property. The requested variance considered to maintain the general intent of the Zoning By-law.

Variance 4 is requested to permit a driveway width of 15.72 metres (51.57 feet) whereas the by-law permits a maximum driveway width of 9.14m (30 ft.) The intent of the by-law in regulating the maximum permitted driveway width is to ensure that the driveway does not dominate the front yard landscaped area and that the driveway does not allow an excessive number of vehicles to be parked in front of the dwelling.

The applicant is proposing an increased driveway width of 15.72 metres (51.57 feet) inclusive of a proposed planter bench and proposed walkway area. There will be no changes in grade along the driveway and walkway surface, the proposed bench will not act as a barrier and is included in the driveway measurement.

Although a walkway is provided, and a seating area is depicted on the Site Plan, it is staff's opinion that the proposed walkway and seating area are not permanent barriers, nor do they provide any changes in grade to prevent additional cars to be parked in the area. Upon a site visit, staff have observed that the driveway has been expanded to include the concrete pad adjacent to the front porch area (Appendix 1), a car was parked on the concrete pad, tire marks were also present on the grass indicating that the resident accessed the widened portion by driving over the grassed area. Additionally, staff recommend the refusal of the proposed development identified on the Site Plan as: feature wall; interlock curb for flowers; wood feature wall; and galvanized steel privacy fence as they are located within the City's Road Allowances. In this respect the widened area of the driveway undermines the overall intent of the zoning by-law as noted above. As a result, variance 4 is not considered to maintain the general intent and purpose of the Zoning by-law.

Variance 5 is requested to permit a recreational facility (sports court) with an interior side yard setback of 0.762m whereas the by-law requires a minimum setback of 1.2m (3.94 ft.) to the nearest lot lines. The intent of the by-law in requiring minimum setbacks from any lot line is to ensure that sufficient

space is maintained for drainage, access to the interior side and rear yard, and that adjacent properties are not negatively impacted in any way.

The recreational facility (sports court) is proposed to be located at the southeast side of the rear yard and requires a variance to allow a reduced setback to the nearest lot lines. The proposed location of the recreational facility will be situated 0.438 metres (1.43 feet) closer to the side lot line than what the By-Law permits. The proposed sports court will be made up of a hardscaped surface with wrought iron fencing positioned in the area before the court. Given the size of the property, the location of the recreational facility, is not anticipated to impact drainage or significantly impact access to the side yard. No negative impacts to the property or adjacent roadway is expected from the proposed location. The variance 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 facilitate the construction of an accessory structure (gazebo) in the rear yard. The increased height and gross floor area are not anticipated to significantly contribute to generate negative visual impacts, undesirable massing or negatively impact the provision of outdoor amenity space for the property. Subject to the recommend conditions of approval, the proposed variations are considered desirable for appropriate development of the land.

Variance 3 is requested to permit an uncovered pool (hot tub) with a reduced rear yard setback. The proposed location of the uncovered pool or recreational facility does not negatively impact drainage on the property, and compliments the outdoor amenity space. Subject to the recommended conditions of approval, Variance 3 is considered to be desirable for the appropriate development of the land.

Variance 4 for the widening of the driveway to accommodate extra vehicle parking will have negative impacts on streetscape. Upon conducting a site visit, staff observed that a portion of the driveway has already been paved and vehicles can be seen parking on the walkway and driving over grass to access the extended driveway area. The proposed driveway would facilitate an excess number of vehicles to be parked in front of the dwelling. Variance 4 is not desirable for the appropriate development of the land.

Variance 5 is requested to permit a recreational facility to be located within a required interior side yard resulting in a reduced interior side yard setback to the nearest lot lines. The proposed location of the recreational facility is located on the eastern lot line abutting Mississauga Road and is not considered to generate negative on-site or off-site impacts. Subject to the recommended conditions of approval the requested variations are considered desirable for the appropriate development of the land.

4. Minor in Nature

The subject property is located within an established residential area of the City and backs on to vacant lands. The variations requested for the proposed Gazebo and uncovered pool (hot tub) located in the rear yard are not anticipated to detract from access to outdoor amenities or create adverse impacts on-site or off-site. The variance requested for the recreational facility is not considered to have significant

impact on drainage or limit access to side yard of the property. Subject to the recommended conditions of approval, variances 1,2,3 and 5 are considered minor in nature.

Variance 4 requests to permit a proposed total driveway width of 15.72m (51.57 feet) which is 6.58 metres (21.58 feet) greater than what the Zoning by-law permits. The existing extension has facilitated in the parking of an additional vehicle, and the proposed added development will facilitate the parking of additional vehicles in front of the dwelling and will provide an abundance of hardscaping. The requested variance is not considered to be minor in nature.

Respectfully Submitted,
Megan Fernandes
Megan Fernandes, Planning Technician

Appendix 1 – Site Visit Photos

