



Report Committee of Adjustment

Filing Date: April 6, 2023

Hearing Date: May 9, 2023

File: A-2023-0097

**Owner/
Applicant:** NACHIKET DEVAL AND TANU MALHOTRA

Address: 32 Fanshawe Drive

Ward: WARD 2

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2023-0097 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 below grade entrance shall not be used to access an unregistered second unit;
3. 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 Townhouse (R3B(1))', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade entrance in a required side yard, whereas the by-law does not permit a below grade entrance to be located in a required side yard;
2. To permit an interior side yard setback of 0.78m (2.56 ft.) to a below grade entrance, whereas the by-law requires a minimum interior side yard setback 1.2m (3.94 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 Snelgrove-Heart Lake Secondary Plan (Area 1). The requested variance is not considered to have significant impacts within 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 Townhouse,' according to By-law 270-2004, as amended.

Variance 1 is requested to permit a below grade entrance in a required side yard whereas the by-law does not permit a below grade entrance in a required side yard. Variance 2 is requested to permit an interior side yard setback of 0.78m (2.56 ft.) to a proposed below grade entrance, whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). The intent of the by-law in prohibiting below grade entrances in the interior side yard is to ensure that sufficient space is maintained to access the rear yard of the property and provide drainage between the stairs and the property line.

The proposed below grade entrance is constructed along the northern wall of the dwelling and is located 0.78m (2.56 ft.) from the interior property line. Despite the reduced interior side yard width, the below grade entrance does not impede access to the rear yard or encroach on to the neighbouring property as it presents a continuous path due to the riser steps on either side. Additionally, the current landscaping on the property is considered to provide adequate drainage. Variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variances 1 and 2 are requested to facilitate the construction of a below grade entrance within the interior side yard. Staff do not anticipate any negative impacts to drainage or access to the rear of the property as a continuous path of travel is provided by the three risers on both sides of the landing. Upon staff visit, it was noted that the proposed below grade entrance may be visible from the street view along Fanshawe Drive due to the lot configuration of the subject property. To reduce the visibility of the below grade entrance, the applicant is proposing landscaping that will extend along the retaining wall of the below grade entrance, extending towards the front of the home, this will provide screening from the neighbouring properties and street. 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 conditions of approval, the variances are considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The proposed location of the below grade entrance and reduced interior side yard setback is not considered to impact access to the rear yard or drainage on adjacent properties. Staff have determined that sufficient space is provided to allow for drainage and access to the rear yard, no negative impacts to drainage or access are anticipated. Subject to the recommended conditions 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

