



Report Committee of Adjustment

Filing Date: May 2, 2023
Hearing Date: May 30, 2023

File: A-2023-0131

**Owner/
Applicant:** Damary Amaya

Address: 81 Acadian Heights

Ward: 4

Contact: Megan Fernandes, Planning Technican

Recommendations:

That application A-2023-0131 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the above grade entrance shall not be used to access an unregistered second unit;
 3. That the owner shall obtain a building permit for the above grade entrance within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official;
 4. 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 'Single Detached Residential D (R1D)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an above grade door in the side wall where a minimum side yard width of 1.00m (3.28 ft.) is provided extending from the front wall of the dwelling up to and including the door whereas the by-law does not permit a door in the side wall unless there is a minimum side yard width of 1.2m (3.94 ft.) extending from the front wall of the dwelling up to and including the door;
2. To permit a 1.00m (3.28 ft.) path of travel leading to the primary entrance to a second unit whereas the by-law requires an unencumbered side yard width of 1.2m (3.94 ft.) to be provided as a path of travel from the front yard to the entrance to the second unit.

Current Situation:

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

The subject property is designated as 'Residential' in the Official Plan and 'Low and Medium Density – Residential' in the Fletcher's Creek South Secondary Plan (Area 24). The requested variances have no impact within the context of the policies of the Official Plan and Secondary Plan, and maintains 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 above grade door in the side wall where a minimum side yard width of 1.00m (3.28 ft.) is provided extending from the front wall of the dwelling up to and including the door whereas the by-law does not permit a door in the side wall unless there is a minimum side yard width of 1.2m (3.94 ft.) extending from the front wall of the dwelling up to and including the door. Variance 2 is requested to permit a 1.00m (3.28 ft.) path of travel leading to the primary entrance to a second unit whereas the by-law requires an unencumbered side yard width of 1.2m (3.94 ft.) to be provided as a path of travel from the front yard to the entrance to the second unit. The intent of the by-law in requiring a minimum setback of 1.2m (3.94 ft.) from the side yard to an above grade door where access is provided through a door located in the side yard and path of travel leading to a principal entrance for a second unit is to ensure that there is sufficient area to act as the primary access to a second unit for both everyday and emergency purposes.

As per a site visit conducted by Staff, it was determined that a 1.00m (3.28 ft.) side yard width provides sufficient area for access to the rear yard, and access to the secondary unit for both everyday and emergency purposes (see Appendix A). 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, Variances 1 and 2 maintain the general intent and purpose of the by-law.

3. Desirable for the Appropriate Development of the Land

Variances 1 and 2 are intended to permit an above grade entrance within the side yard and to reduce the required minimum path of travel. The above grade door is accessed by one step up leading to the landing and three steps down to the rear yard. Staff do not anticipate any issues in regard to drainage on the subject property and/or negative impacts on the abutting property. Moreover, a sufficient area of 1.20m (3.94 ft) is also provided on the other side of the dwelling, further maintaining access to the rear yard. 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, the proposed variances are desirable for the appropriate development of the land.

4. Minor in Nature

The construction of an above grade entrance with a reduced side yard setback and path of travel are not considered to have significant impact on drainage or limiting access to the property. A condition of approval is recommended that the entrance shall not be used to access an unregistered second unit to ensure that the second unit complies with all Ontario Building Code regulations. Subject to the recommended conditions of approval, the variances are considered minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician

Appendix A – Site Visit Photos

