

Filing Date: May 23, 2023

Hearing Date: June 20, 2023

File: A-2023-0158

**Owner/
Applicant:** **Upasana Ahluwalia, Ajit Mohan Ahluwalia
Siddarth Ahluwalia and Saksham Ahluwalia**

Address: **233 Mountainberry Road**

Ward: 10

Contact: Megan Fernandes, Planning Technician

Recommendations:

That application A-2023-0158 is supportable in part, 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 obtain a building permit for the as-built above grade side door within sixty (60) days of the Committee's decision or extended at the discretion of the Chief Building Official;
 4. That variance 4 to permit an existing driveway width of 7.85m (25.75 ft) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.) be refused;
 5. That variance 5 to permit 0m of permeable landscaping adjacent to the side lot line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping adjacent to the side lot line be refused; and,
 6. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

Planning staff were notified by by-law enforcement that the owner has received enforcement notices regarding the existing driveway. The original submitted application did not contemplate the existing driveway width. Staff notified the Applicant and advised them to provide an updated sketch to include of the driveway width measurement

Existing Zoning:

The property is zoned 'Residential Single Detached C – Special Section 542' (R1C-542), according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an as-built above grade side entrance with a side yard setback of 1.05m (3.44 ft) extending from the front wall of the dwelling up to and including the door whereas the by-law only permits an above grade side entrance where the side yard within which the door is located has a minimum width of 1.2m (3.94 ft) up to and including the door;
2. To permit a 1.05m (3.44 ft) path of travel leading to the principal 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;
3. To permit a landing 0.69m (2.27 ft) above grade accessing a principal entrance to a second unit whereas the by-law requires the principal entrance to a second unit be accesses by a landing less than 0.6m (1.97 ft) above ground level;
4. To permit an existing driveway width of 7.85m (25.75 ft) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.); and
5. To permit 0m of permeable landscaping adjacent to the side lot line whereas the by-law requires a minimum of 0.6m (1.97 ft.) of permeable landscaping adjacent to the side lot line.

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 Density Residential 1' and Springdale Secondary Plan (Area 2). Variances 1, 2, 3 and 4 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.

Variance 5 requests to permit 0.0m of permeable landscaping between the driveway and the side lot line. This does not meet the general intent of the Official Plan as it is not in accordance with the Development Design Guidelines which recognizes key elements of design for residential areas. Landscaping is referred to as one of the features that is required.

2. Maintains the General Intent and Purpose of the Zoning By-law

The property is zoned 'Residential Single Detached C – Special Section 542' (R1C-542), according to By-law 270-2004, as amended.

Variance 1 is to permit an as-built above grade side entrance with a side yard setback of 1.05m (3.44 ft) extending from the front wall of the dwelling up to and including the door whereas the by-law only permits an above grade side entrance where the side yard within which the door is located has a minimum width of 1.2m (3.94 ft) up to and including the door. Variance 2 is requested to permit a 1.05m (3.44 ft) path of travel leading to the principal 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 and a minimum path of travel of 1.2m (3.94 ft.) is to ensure that there is sufficient area to act as the primary access to a second unit for both every day and emergency purposes.

An above grade side door was constructed on the northeastern side wall of the dwelling. The entrance was constructed without obtaining building permits and was not part of the original design for this building. In this case, the variance relates to a 0.15m (0.49 ft.) reduction to the side yard and path of travel for the area serving as a walkway to the side entrance. As the side door is located toward the eastern portion of the dwelling abutting the garage, staff are satisfied that both a sufficient path of travel and access to the rear yard are maintained. A condition of approval is also recommended that the above grade entrance shall not be used to access an unregistered second unit and that the owner shall obtain a building permit within 60 days of the decision of approval. Subject to the recommended conditions of approval, variances 1 and 2 maintains the general intent and purpose of the by-law.

Variance 3 is requested to permit a landing 0.69m (2.27 ft) above grade accessing a principal entrance to a second unit whereas the by-law requires the principal entrance to a second unit be accessed by a landing less than 0.6m (1.97 ft) above ground level. The intent of the by-law in requiring a minimum setback to any stairs or landing serving an above grade entrance is to ensure that access to the rear yard can be maintained and sufficient space is provided for drainage.

The variance is requested to facilitate the construction of a landing serving a principle entrance to a second unit. The increase in landing height by approximately 0.09m (0.29 ft.) to the existing landing is a concrete structure is not considered to limit access to the rear yard. Subject to the recommended conditions of approval, the variances 1 and 2 are considered to maintain the general intent and purpose of the Zoning By-law.

Variance 4 is requested to permit an existing driveway width of 7.85m (25.75 ft) whereas the by-law permits a maximum driveway width of 6.71m (22 ft.), Variance 5 is requested to permit 0.0m of permeable landscaping between the driveway and the side lot line, whereas the by-law requires a minimum of 0.6m of permeable landscaping between the driveway and the side lot line. The intent of the by-law in regulating the maximum permitted driveway width and requiring a minimum permeable landscaping is to ensure that is to ensure that the driveway does not dominate the front yard landscaped area, allow an excessive number of vehicles to be parked in front of the dwelling and sufficient space is provided to allow for drainage.

The existing driveway width is approximately 1.14 (3.74 ft.) wider than the by-law permits. The additional width is attributable to the addition of decorative concrete to on either side of the driveway. The widened area on the southwest side of the driveway extends to the side lot line and requires a variance to permit 0.0m of permeable landscaping to the side property line. In this case, the cumulative width of the driveway is sufficient to allow for additional vehicles to be parked side by side across the width of the driveway which is contrary to the by-law. The extent of the driveway along with the elimination of permeable landscape strip along the side lot line, creates an abundance of hard surfacing along the front of the property and facilitates the parking of a vehicle within the walkway leading to the front entrance of the dwelling (Appendix B). Variances 4 and 5 do not 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 an existing above grade door having a reduced inside yard width and a path of travel leading to the principal entrance to a second unit. The reduced width and path of travel extending from the front wall of the dwelling up to the door are not considered to significantly impact everyday use. Subject to the recommended conditions of approval, the variances are not anticipated to generate negative impacts on-site or off-site and are considered to be desirable for the appropriate development of the land.

Two variances are requested to permit an existing driveway width which exceeds the requirements of the Zoning By-law and the elimination of the permeable landscaping along the side lot line. Variances 4 and 5 potential to accommodate an additional vehicle to be parked limiting access to the front of the dwelling. The increased driveway width, results in existing site conditions which present a substantial amount of hardscaping at the front of the property which are considered to have negative visual and functional impacts to the streetscape and property. Variances 4 and 5 are not desirable for the appropriate development of the land.

4. Minor in Nature

The construction of an above grade entrance and landing 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, variances 1, 2 and 3 are considered minor in nature.

Variance 4 and 5 request to permit an existing driveway width of 7.85m (25.75 ft) which is 1.14 (3.74 ft.) greater than the zoning by-law permits. The existing driveway width and elimination of the permeable landscaping abutting the side lot line have the potential to facilitate the parking of additional vehicles and presents an abundance of hardscaping in front of the dwelling. According to aerial photographs of the property, the widened portion of the driveway leading to the front entrance of the dwelling is used as vehicular parking. The requested variances are therefore not considered minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician

Appendix A – Site Visit Photos



Appendix B – Aerial Photograph

