

**Filing Date:** May 23, 2023  
**Hearing Date:** June 20, 2023

**File:** A-2023-0159

**Owner/  
Applicant:** **Antony Maxin and Teresa Francis / Shivang Tarika**

**Address:** **38 Tianalee Crescent**

**Ward:** 6

**Contact:** Megan Fernandes, Planning Technician

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**Recommendations:**

That application A-2023-0159 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 below grade entrance shall not be used to access an unregistered second unit;
  3. That the applicant/owner obtain a building permit for the existing below grade entrance and deck within 60 days of the Committee's decision or extended at the discretion of the chief building official;
  4. That the applicant obtain the required approval(s) for the existing below grade entrance and existing deck from TransCanada Pipelines Limited or their agent; and
  5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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**Background:**

A previous Minor Variance Application A04-213 was submitted by the developer to permit a rear yard setback of 8.77m from the TransCanada Pipeline to the deck was approved by Committee on July 13, 2004 (Appendix A). The previous setback was approved by TransCanada Pipelines on August 6, 2004.

In relation to the current application, Variance 2 contemplates a reduced setback of 6.66m to the TransCanada Pipeline. A condition of approval is recommended that the applicant/owner obtain the required approvals from TransCanada Pipelines Limited or their agent for the requested setback.

Existing Zoning:

The property is zoned 'Residential Street Townhouse B – Special Section 943 (R3B-943)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a below grade stairs to be located 7.45m (24.44 ft.) from the Trans Canada Pipeline right-of-way whereas the by-law requires that no permanent structures shall be located within 10.0m (32.80 ft.) of the limit of the Trans Canada Pipeline right-of-way;
2. To permit an existing deck to be located 6.66m (21.85 ft.) from the Trans Canada Pipeline right-of-way whereas the by-law requires that no permanent structures shall be located within 10.0m (32.80 ft.) of the limit of the Trans Canada Pipeline right-of-way.

**Current Situation:**

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

The property is designated as 'Residential' in the Official Plan and 'Low/Medium Density Residential' in the Fletchers Meadow Secondary Plan (Area 44). The nature and extent of the proposed variances are considered to 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 a below grade stairs to be located 7.45m (24.44 ft.) from the Trans Canada Pipeline right-of-way whereas the by-law requires that no permanent structures shall be located within 10.0m (32.80 ft.) of the limit of the Trans Canada Pipeline right-of-way. Variance 2 is requested to permit an existing deck to be located 6.66m (21.85 ft.) from the Trans Canada Pipeline right-of-way whereas the by-law requires that no permanent structures shall be located within 10.0m (32.80 ft.) of the limit of the Trans Canada Pipeline right-of-way. The intent of the by-law in prohibiting any structure in the TransCanada Pipeline right-of-way is to provide adequate distance from the infrastructure feature and ensure there is no negative impacts to nearby structures and to the pipeline.

The applicant has constructed a below grade entrance and deck encroaching into the required setback to the TransCanada Pipeline. The below grade entrance nor the existing deck are expected to negatively impact the pipeline and adequate distance has been provided from the stairway to the pipeline. Despite the required minimum setback to the pipeline, the location of the existing below grade entrance is appropriate and maintains all other zoning requirements. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit.

Subject to the recommend conditions of approval, 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

The applicant is requesting a variance to permit an existing below grade entrance with a 7.45m (24.44 ft.) setback and an existing deck to be located 6.66m (21.85 ft.) to the TransCanada Pipeline right-of-way. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit. An additional condition is recommended that the owner/agent obtain the required approval(s) from TransCanada Pipelines Limited or their agent. Subject to the recommended condition of approval, variance 1 and 2 are considered desirable for the appropriate development of the land.

### 4. Minor in Nature

The requested variances to permit an existing below grade entrance with a 7.45m (24.44 ft.) and an existing deck with a 6.66m (21.85 ft.) setback to the TransCanada Pipeline right-of-way are not considered to have significant negative impact to the pipeline infrastructure. A condition of approval is recommended that the below grade entrance shall not be used to access an unregistered second unit, and that a building permit be obtained for the existing below grade entrance and deck within 60 days of the Committee's decision or extended at the discretion of the chief building official. Subject to the recommended conditions of approval, the requested variances 1 and 2 are considered minor in nature.

Respectfully Submitted,

*Megan Fernandes*

Megan Fernandes, Planning Technician