



Report Committee of Adjustment

Filing Date: May 8, 2023
Hearing Date: June 20, 2023

File: A-2023-0147

**Owner/
Applicant:** YIHUA SHI

Address: 34 Merganser Crescent

Ward: WARD 3

Contact: Ellis Lewis, Planning Technician

Recommendations:

That application A-2023-0147 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 objects located within the proposed path of travel leading to the below grade entrance be relocated, to ensure the provision of an unencumbered path of travel;
 3. That the applicant obtain a building permit for the below grade entrance within 60 days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official;
 4. That drainage on adjacent properties should not be adversely affected;
 5. The below grade entrance shall not be used to access an unregistered second unit; 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:

Existing Zoning:

The property is zoned 'Residential Single Detached D- Special Section 2570 (R1D-2570)', 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 in the required side yard;
2. To provide a 0.0m interior side yard setback to a below grade entrance whereas the by-law requires a 0.3m (0.98 ft.) setback to the below grade entrance provided the opposite side yard has a minimum setback of 1.2m (3.94 ft.); and
3. To permit a 0.9m (2.95 ft.) unobstructed path of travel to the principal entrance of a second unit whereas the by-law requires a minimum 1.2m (3.94 ft.) unobstructed path of travel to the principal entrance of a second unit.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low and Medium Density Residential' in the Fletchers Creek South Secondary Plan (Area 24). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. The requested 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 an existing below grade entrance in the required interior side yard whereas a below grade entrance is not permitted in the required interior side yard. Variance 2 is requested to allow an interior side yard setback of 0.0 metres to a below grade entrance whereas the by-law requires a side yard setback of 0.3 metres, provided that the opposite side yard has a minimum setback of 1.2 metres. Variance 3 seeks to permit a 0.9 metre unobstructed path of travel to the principal entrance of a second unit whereas the by-law required a minimum setback of 1.2 metres. The intent of the by-law in prohibiting a below grade entrance in the interior side yard and requiring a minimum amount of interior side yard setback is to ensure that sufficient space is provided to allow for drainage, while still allowing access to the rear yard.

A 1.20m (3.93 ft.) side yard setback is provided on the opposite side of the single detached dwelling ensuring that access to the rear yard is maintained. City Engineering Staff have reviewed the proposed development and are satisfied with the application as it does not negatively impact drainage on the subject parcel or abutting property. Staff are also satisfied that the proposed path of travel is sufficient in width to accommodate for everyday and emergency purposes. Subject to the conditions of approval, Variances 1,2 and 3 are considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit a below grade entrance in the side yard whereas this is not permitted in the Zoning By-law. Variance 2 and 3 are requested to permit an interior side yard setback and path of travel that is less than what is required by the Zoning By-law. Conditions of approval are included noting that the below grade entrance shall not be used to access an unregistered second unit and that the path of travel should remain clear in order to avoid any trespassing on abutting property. Staff are of the opinion that the below grade entrance will not generate negative impacts on-site or off-site. Subject to the recommended conditions of approval, Variances 1, 2 and 3 are appropriate for the development of the land.

4. Minor in Nature

The location of the below grade entrance and reduced interior side yard setback are not considered to impact access to the rear yard as residents will not need to encroach on adjacent lots. The rear of the home can be accessed through the opposite side yard as a 1.20m (3.93 ft.) setback is provided. Staff have determined that adequate space is provided to allow for drainage and therefore, should not negatively impact abutting properties. Subject to the recommended conditions of approval, Variances 1, 2 and 3 are considered minor in nature.

Respectfully Submitted,

Ellis Lewis

Ellis Lewis, Planning Technician

Appendix A:

