



Report Committee of Adjustment

Filing Date: May 12, 2023
Hearing Date: June 20, 2023

File: A-2023-0151

**Owner/
Applicant:** VAQAR HASAN & MAHIRA VAQAR

Address: 43 Kempsford Crescent

Ward: WARD 6

Contact: Ellis Lewis, Planning Technician

Recommendations:

That application A-2023-0151 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 drainage on adjacent properties should not be adversely affected;
 3. The below grade entrance shall not be used to access an unregistered second unit; and
 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 'Residential Single Detached F-x- Special Section 2214 (R1F-9.0-2214)', 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 the required interior side yard whereas the by-law does not permit a below grade entrance in the required interior side yard; and
2. To permit a 0.03m (0.098 ft.) interior side yard setback to a below grade entrance, with a combined side yard setback of 0.67m (2.20 ft.) whereas the by-law requires a minimum side yard setback of 1.2m (3.94 ft.) on one side provided that the combined total for both interior lots is 1.8m (5.91 ft.).

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Medium Density Residential' in the Mount Pleasant Secondary Plan (Area 51). 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 a 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 0.03 metres to a below grade entrance, with a combined side yard setback of 0.67 metres whereas the by-law requires a side yard setback of 1.2 metres on one side provided that the combined total for both interior lots is 1.8m. 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.

When evaluating whether the location of a below grade entrance and resulting interior side yard setback are appropriate, staff look to ensure that its location will not contribute to trespassing onto adjacent properties. Despite the 0.03 metre setback, the possibility of an encroachment is alleviated as two step risers are provided on both sides of the entrance. A clear path of travel which is 0.64 metres is also available on the opposite side of the property, allowing residents to gain access to the front and rear yard through this walkway. City Engineering Staff have reviewed the proposed development and are satisfied with the proposal as it does not negatively impact drainage on the subject parcel or abutting property. Subject to the 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

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 is requested to permit an interior side yard setback that is less than

what is required by the Zoning By-law. Despite the below grade entrance resulting in a reduced interior setback, Staff are satisfied that with the current proposal as an unobstructed path of travel to and from the front and rear yard is provided due to the construction of two step risers on each side of the entrance. Conditions of approval have also been included noting 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 are appropriate for the development of the land.

4. Minor in Nature

The proposed 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 trespass on abutting property when trying to gain access. Staff have determined that sufficient space is provided to allow for drainage and therefore, should not negatively impact abutting properties. Subject to the recommended conditions of approval, Variances 1 and 2 are considered minor in nature.

Respectfully Submitted,

Ellis Lewis

Ellis Lewis, Planning Technician

Appendix A:

