



Report Committee of Adjustment

Filing Date: October 12, 2023
Hearing Date: November 14, 2023

File: A-2023-0326

**Owner/
Applicant:** Vishal Anand, Sonal Chaudhary
Shivang Tarika

Address: 80 Donald Stewart Rd.

Ward: Ward 6

Contact: Ben Suchomel, Student Planner

Recommendations:

That application A-2023-0326 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 drainage on adjacent properties should not be adversely affected; 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:

The subject property is located within a recently constructed subdivision which has not yet been assumed by the City. The developer's engineer responsible for the subdivision has provided comments on the proposal stating no concern (see appendix 2). Until the subdivision is assumed, the developer is responsible for ensuring that ongoing requirements of the subdivision under maintenance be respected, including requirements relating to drainage and grading. The proposed (*below grade entrance*)

could impact the lot grading requirements or drainage in the interior side yard of the subject property for which the developer is currently responsible.

Existing Zoning:

The property is zoned 'Residential Single Detached Special Section 2556(R1F-9-2556)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed exterior stairway leading to a below grade entrance in a required interior side yard whereas the by-law does not permit exterior stairways constructed below established grade in the required interior side yard; and
2. To permit an interior side yard setback of 0.05 metres to a (proposed or existing) exterior stairway leading to a below grade entrance, whereas the by-law requires a minimum setback of 0.3 metres to an exterior stairway leading to a below grade entrance in the interior side yard provided that a continuous side yard width of no less than 1.2 metres (3.94 feet.) is provided on the opposite side of the dwelling.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Low/Medium Density' in the Mount Pleasant Secondary Plan (Area 51). The requested variance has 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 a below grade entrance in the required interior side yard whereas the by-law does not permit a below grade entrance in the required side yard. Variance 2 is requested to permit an interior side yard having a setback of 0.05m (0.16 ft.) whereas the by-law requires a minimum interior side yard setback of 1.2m (3.94 ft.). The intent of the by-law in prohibiting a below grade entrance in the interior side yard and requiring a minimum interior side yard setback is to ensure that sufficient space is provided to allow for drainage, while still allowing access to the rear yard and preventing the encroachment on neighbouring property. The subject property is a two-storey detached house with a 1.21m (3.97 ft.) path of travel on the opposite side of the property which would ensure access to the rear yard is maintained. Furthermore, the configuration of the proposed below grade entrance will ensure a continuous path of travel through the interior side yard to the rear yard is provided. Despite the elimination of a setback between the side door entrance and the property line, the design will not facilitate a situation where the homeowners are encouraged to trespass on the neighbouring 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

Variances 1 and 2 are requested to permit a below grade entrance in the interior side yard and to permit a reduction to the interior side yard setback. Despite the proposed below grade entrance resulting in the reduction of the interior side yard setback requirements, Staff are satisfied that the proposal and entrance configuration as an unobstructed path of travel is maintained on the opposite side of the property and on the side of the below grade entrance, limiting opportunity for encroachment on adjacent parcels. 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 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 adjacent lots. The application has been reviewed by Staff and they are of the opinion that neighbouring properties should not be negatively impacted by the proposal. No negative impacts to drainage or access are anticipated. Subject to the recommended conditions of approval, Variances 1 and 2 are considered minor in nature.

Respectfully Submitted,

BSuchomel

Ben Suchomel, Student Planner

Appendix A: Site Visit Photos



Appendix B: Developer Comments

Cc: John Marley <[REDACTED]>; Van Vugt, Robert <[REDACTED]>
Subject: [EXTERNAL]RE: Re: CofA A-2023-0326 (80 Donald Stewart Rd)

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Existing rear lot CB lead on adjacent Lot 15 should not be an issue but they should be aware of it.
Proposed entrance is at swale high point so no drainage concern with zero lot line here.

Thanks,

Trevor Amdt, P. Eng.
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