

City of Mississauga Department Comments

Date Finalized: 2024-05-08	File(s): A65.24
To: Committee of Adjustment	Ward: 3
From: Committee of Adjustment Coordinator	Meeting date:2024-05-16 1:00:00 PM

Consolidated Recommendation

The City recommends no objection to the application. The applicant may wish to defer the application to ensure the accuracy of the requested variances and that additional variances are not required.

Application Details

The applicant requests the Committee to approve a minor variance to allow below grade stairwells proposing:

1. A rear yard setback to the window well of 5.86m (approx. 19.23ft) whereas By-law 0225-2007, as amended, requires a minimum rear yard setback of 6.30m (approx. 21.00ft) in this instance;
2. An interior south easterly side yard setback to a below grade stairwell of 0.32m (approx. 1.05ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.20m (approx. 3.94ft) in this instance;
3. An interior north westerly side yard setback to a below grade stairwell of 0.36m (approx. 1.21ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.20m (approx. 3.94ft) in this instance; and,
4. An interior north westerly side yard to a porch of 0.36m (approx. 1.21ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.20m (approx. 3.94ft) in this instance.

Background

Property Address: 4296 Claypine Rise

Mississauga Official Plan

Character Area: **Rathwood Neighbourhood**
Designation: **Residential Low Density I**

Zoning By-law 0225-2007

Zoning: R3- Residential

Other Applications: BP 23-9368

Site and Area Context

The subject property is located north-east of the Rathburn Road East and Fieldgate Drive intersection. It currently contains a detached dwelling with an attached garage. The property has a lot area of +/- 587.25m² (6,321.10ft²), characteristic of lots along Claypine Rise. Limited vegetative and landscaping elements are present on the subject property. The surrounding area context is exclusively residential, consisting of detached dwellings. A utility corridor abuts the property to the west.

The applicant is proposing to legalize an existing window well, porch and two below grade stairwell entrances requiring a variance for rear and side yard setbacks.



Comments

Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application of the four tests to this minor variance request are as follows:

The subject property is located in the Rathwood Neighbourhood Character Area and is designated Residential Low Density I in Schedule 10 of the Mississauga Official Plan (MOP). Section 9 of MOP promotes development with appropriate urban form and site design, regulating that such development is compatible with the existing site conditions, the surrounding context, and the landscape of the character area. Staff are of the opinion that the proposal represents compatible development that is in line with the planned character of the area and meets the general intent and purpose of the official plan.

Variance 1 requests a reduced window well setback. The intent of this portion of the by-law is to ensure an appropriate buffer between these elements and lot lines. Staff note there is an adequate buffer maintained between the lot line and window well thereby maintaining an appropriate rear yard amenity area. Staff are satisfied that the window well is appropriately setback from the lot line.

Variances 2, 3 and 4 pertain to reduced side yard setbacks from the existing below grade stairwell and porch on the north-west side of the dwelling and the existing below grade stairwell on the south-east side of the dwelling. The general intent of this portion of the by-law is to ensure that an adequate buffer exists between properties, that access to the rear yard remains unencumbered, and that appropriate drainage can be provided.

Staff note the minor variance application originally came to the Committee of Adjustment on February 1st, 2024. Staff recommended a deferral of the minor variance application as there were initial concerns about the requested variances and the accuracy of the setbacks depicted on the drawings provided. Through correspondence with the applicant's agent and the submission of a revised site plan, staff can confirm that the below grade stairwell and porch have an at-grade side yard setback of 0.9m (2.95ft) on both sides of the dwelling. Additionally, the foundation of the below grade stairwell and porch have a side yard setback of 0.36m (1.18ft) on the south-east side of the dwelling. The foundation of the below grade stairwell on the north-west side of the dwelling has a 0.32m (1.04ft) side yard setback. The applicant's agent stated the discrepancy resulted from the zoning examiner instructing the applicant to apply with the most restrictive side yard setback, which was depicted as the respective 0.36m and 0.32m from the below grade foundations. Staff are satisfied that despite the below grade setbacks being noted as the proposed variances, the at-grade 0.9m side yard setback on both sides of the dwelling ensures an adequate buffer, access to the rear yard remains unencumbered and that appropriate drainage can be provided.

Given the above, Planning staff are of the opinion that application results in orderly development of the subject property and is minor in nature. The proposal conforms to the general intent and purpose of the official plan and zoning by-law.

Comments Prepared by: Daniel Grdasic, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

In our previous comments submitted for the February 1, 2024 hearing, we indicated some concerns with the existing driveway and also with regards to some regrading that would be required in the area of the south-easterly below-grade entrance.

On May 2, 2024, we re-visited the site and are providing some recent photos. With regards to our previous driveway concerns, and as depicted in the attached photos, it is evident that the applicant has removed a significant portion of the driveway, and we now have no objections or concerns with its current configuration.

With regards to our concerns about any regrading in the area of the south easterly below-grade entrance, we have discussed our previous concern with the owner on site and are now satisfied that once the final grading is completed, our drainage-related concern will also be addressed.

In view of the above, we have no further concerns or requirements with the submitted variances.

Comments Prepared by: Tony Iacobucci, T&W Development Engineering







Appendix 2 – Zoning Comments

The Building Department is processing Building Permit application 23-9368. Based on review of the information available in this application, we advise that more information is required in order to verify the accuracy of the requested variance(s) or determine whether additional variance(s) will be required.

Please note that comments reflect those provided through the above application. These comments may no longer be valid should there be changes contained within this Committee of Adjustment application that have not been submitted and reviewed through the application noted above. The applicant must submit any changes and/or updates to information and/or drawings separately through the above application in order to receive updated comments.

Comments Prepared by: Minan Song, Zoning Examiner

Appendix 3 – Parks, Forestry & Environment

The Forestry Section of the Community Services Department has no objections to the above noted minor variance application and advises as follows:

1. No public trees shall be injured or removed. If public tree removal is required, a permit must be issued as per By-law 0020-2022.
2. No private trees shall be injured or removed. If a private tree with a diameter of 15 centimetres or greater on private property is to be injured or destroyed, a permit must be issued as per By-law 0021-2022.
3. Please note if a tree is identified as a shared tree with the adjacent property owner, and the applicant intends to apply for a Tree Removal Permit, written consent must be obtained by both parties.

A Tree Removal Application to Permit the Injury or Destruction of Trees on Public and Private Property can be found at <https://www.mississauga.ca/publication/application-to-permit-the-injury-or-destruction-of-trees-on-public-and-private-property/>.

Should further information be required, please contact Rita Di Michele, By-law Inspector, Community Services Department at 905-615-3200 ext. 5872 or via email rita.dimichele@mississauga.ca.

Comments Prepared by: Rita Di Michele, By-law Inspector

Appendix 4 – Region of Peel

Please apply previous comments.

Comments Prepared by: Petrele Francois, Junior Planner