

City of Mississauga

Memorandum:

City Department and Agency Comments

Date Finalized: 2021-01-13	File(s): A355.20 Ward: 6
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date: 2021-01-21

Consolidated Recommendation

The City recommends that the application be refused, however, have no objection to variance #2. The applicant may choose to defer the application to verify the requested variances and ensure additional variances are not required.

Application Details

The applicants request the Committee to approve a minor variance to allow the construction of a deck and accessory structure on the subject property proposing:

1. An accessory structure area of 16.8sq.m (approx. 180.8sq.ft) whereas By-law 0225-2007, as amended, permits a maximum accessory structure area of 10.0sq.m (approx. 107.6sq.ft) in this instance;
2. A rear yard measured to a deck of 1.06m (approx. 3.48ft) whereas By-law 0225-2007, as amended, requires a minimum rear yard of 1.50m (approx. 4.92ft) in this instance; and
3. A side yard measured to a deck of 0.10m (approx. 0.32ft) whereas By-law 0225-2007, as amended, requires a minimum side yard of 0.61m (approx. 2.00ft) in this instance.

Amendments

While Planning Staff are not in a position to provide an interpretation of the Zoning By-law; Planning staff advise that variance #3 should be amended as:

3. Interior side yards measured to a deck of 0.0m whereas By-law 0225-2007, as amended, requires a minimum side yard of 0.61m in this instance.

Staff also note that an additional variance is required:

4. An accessory structure setback of 0.0m whereas By-law 0225-207, as amended, requires a minimum setback to interior side lot lines and rear lot line for an accessory structure of 0.61m

Recommended Conditions

Should Committee see merit in the applicant's request, we would recommend that an eavetrough be installed on the accessory structure and the downspout be located such that any drainage is not directed towards the rear, but directed in such a manner to drain towards the side yard drainage swale.

Background

Property Address: 1031 Lucerne Crescent

Mississauga Official Plan

Character Area: Creditview Neighbourhood Character Area
Designation: Residential Low Density II

Zoning By-law 0225-2007

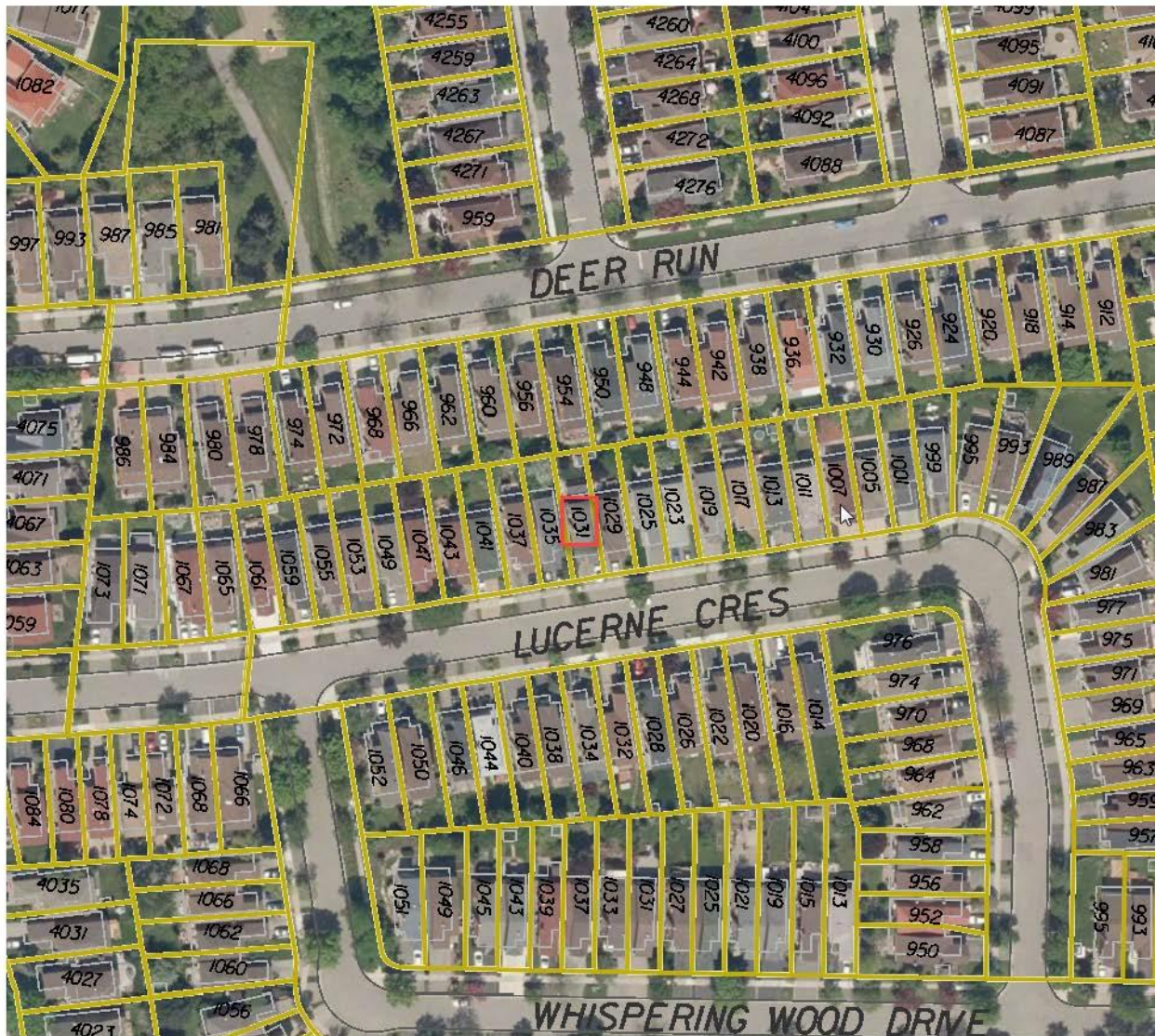
Zoning: RM2-4 - Residential

Other Applications: None

Site and Area Context

The subject property is located within the Creditview Neighbourhood Character Area, north-east of Creditview Rd and Burnhamthorpe Rd W intersection. The property consists of a two-storey detached dwelling with minimal landscape elements present in the front and rear yard. The surrounding neighbourhood consists exclusively of detached dwellings with lot frontages of +/- 7.0m, with minimal vegetative / natural landscaped elements within the front yards.

The subject property is an exterior parcel, with a lot area of +/- 236.17m² and a lot frontage of 7.51+/- m. The applicant is proposing a new deck that encompasses the majority of the rear yard, requiring variances for deck setbacks and area of an accessory structure.



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:

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject property is designated Residential Low Density II in Schedule 10 of the Mississauga Official Plan (MOP) which permits detached, semi-detached and duplex, triplex and other forms of low density dwellings with individual frontages. 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. While Planning Staff are not in a position to provide an interpretation of the Zoning By-law, based on a review of the submitted drawings and on provided site photos, it appears that the variances have been calculated incorrectly and that additional variances will be required. Generally, staff recommend a setback of at least 0.30 m to allow for sufficient drainage and to accommodate a swale, should one be required in the future. Variance #3 proposes a setback that does not maintain the context of the surrounding neighbourhood and may have negative drainage impacts to neighbouring properties. The deck encroaches into each of the required lot line setbacks as low as 0.10m which is a significant deviation from what is required. Staff is of the opinion that variance #1 and # 3 do not maintain the general intent and purpose of the official plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

In the absence of a finalized review by the Zoning Department, the applicant is to be satisfied that the variances requested have been both accurately identified and applied for. Planning Staff echo the Building Department's comments, who are not currently in receipt of any permit applications at this time which would allow for a detailed zoning review of the application. As such, the Building Department is unable to confirm the accuracy of the requested variance(s) or determine whether additional variance(s) may be required.

Variance #1 proposes an accessory structure of 16.8m² whereas 10.0m² is permitted. The intent of the zoning by-law provisions regarding accessory structures is to ensure that the structure is proportional to the lot and dwelling and clearly accessory while not presenting any massing concerns to neighbouring lots. While Planning Staff are not in a position to provide an interpretation of the Zoning By-law a review of the submitted materials presents a discrepancy in measurements of the accessory structures' area and between the accessory structure and lower deck. Staff notes that more information is required to verify the accuracy of the requested variances, and to determine whether additional variance(s) will be required. Planning Staff note that until this additional information is provided, staff is unsure if this proposal meets the general intent and purpose of the zoning by-law.

Variance #2 proposes a rear yard set back of 1.06m whereas 1.50 is permitted. The intent of the zoning by-law is to ensure that an appropriate buffer exists between abutting properties. The proposed rear yard is sufficiently setback from to the neighbouring property and does not pose any unacceptable adverse impact from what the by-law permits. Staff is on the opinion that the variance maintains the general intent and purpose of the by-law.

Variance #3 proposes deficient setbacks measured to the deck from each lot line. The intent of this portion of the by-law is to ensure that an appropriate buffer exists between abutting properties. The proposed setback does not meet the minimum 0.30 m setback generally required by planning staff to accommodate potential drainage needs on the property. Furthermore, deficient setbacks may also cause concerns regarding maintenance, most notably on the easterly property line where a 0.10 m setback is being requested. This is a substantial decrease from the 0.61 m setback required within the by-law. As such, staff is of the opinion that variance #3 does not maintain the general intent and purpose of the by-law.

Is the proposal desirable for the appropriate development of the subject lands and minor in nature?

The setbacks to the existing deck represents a significant deviation from the required setbacks contained within the by-law, which are nearly built at the property line. The proposed deck raises concerns regarding drainage and maintenance due to the minimal setbacks proposed. As such, based on a review of submitted materials Staff is of the opinion that variances #1 and #3 as requested are inaccurate as additional variance(s) may be required. Furthermore, they do not represent orderly development of the lands and are not minor in nature.



Figure 1.



Figure 2.

Conclusion

The City recommends that the application be refused, however, have no objection to variance #2. The applicant may choose to defer the application to verify the requested variances and ensure additional variances are not required.

Comments Prepared by: Brooke Herczeg RPP, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

Enclosed for Committee's information are some photos which depict the deck and accessory structure. We note that the Grading Plan (Plan C-17899) approved for this property under the Plan of Subdivision depicts a rear to front drainage pattern meaning drainage from the rear yard was designed to be directed to the front via side yard swale. Acknowledging that the accessory structure and deck encompasses almost the entire rear yard, we are not able to accurately determine if there has been any drainage impacts on the abutting properties.

What we do note from our site inspection is that the fence height along the westerly side indicates that there is a slope towards the front of the house. We also note that the owner has not implemented the side yard which currently allows for any drainage from the rear yard to be directed towards the front of the house via a functional drainage swale between the properties and this would be in accordance with the Grading Plan C-17899 approved for the subject property.

Should Committee see merit in the applicant's request, we would recommend that an eavetrough be installed on the accessory structure and the downspout be located such that any drainage is not directed towards the rear, but directed in such a manner to drain towards the side yard drainage swale.









Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

The Building Department is not in receipt of any permit applications at this time and the applicant is advised that a zoning review has not been completed. We are unable to confirm the accuracy of the requested variance(s) or determine whether additional variance(s) may be required.

The applicant is advised that a completed zoning review may identify additional instances of zoning non-compliance. The applicant may consider applying for a preliminary zoning review application and submit working drawings for a detailed zoning review to be completed. A minimum of 6-8 weeks will be required to process a preliminary zoning review application depending on the complexity of the proposal and the detail of the information submitted.

Comments Prepared by: Brandon Eidner, Planner in Training, Zoning Examination

Appendix 4 – Heritage

No Heritage Concerns

Comments Prepared by: John Dunlop, Manager

Appendix 5 – Region of Peel Comments

Regional Planning staff have reviewed the applications listed on the January 21st, 2021 Committee of Adjustment Agenda. We have no comments or objections to the following applications:

Deferred Applications: DEF-A-338/20.

Consent Applications: B-1/21, B-2/21.

Minor Variance Applications: A-355/20, A-407/20, A-9/21, A-14/21, A-15/21, A-16/21, A-17/21, A-18/21, A-19/21, A-36/21, A-37/21.

Comments Prepared by: Diana Guida, Junior Planner