



land use planning
&
development

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By Christine Vigneault at 8:38 am, Jun 21, 2023

June 20, 2023

Committee of Adjustment
City of Vaughan | Office of the City Clerk
2141 Major Mackenzie Dr., Vaughan, ON L6A 1T1

RE: A283/22 (25 Shale Crescent) Planning Justification Letter Addendum

Dear Members of the Committee,

Further to the Planning Justification Letter in support of the proposed development, dated April 25, 2023 and comments received from City Staff, this letter provides a response to Development Planning comments.

I have reviewed the Staff Report provided by City Staff and have had discussions with the Development Planning Department regarding their comments. I agree with their support for the setbacks to an accessory building but disagree with their opinion regarding the required setbacks for the deck.

The Staff Report indicates that there are no similar approvals within the immediate neighbourhood. As stated in the Planning Justification Report, this is not surprising as many homeowners build decks without applying for a building permit or variance. However, there are properties with decks that are similar in size and scale which may not have been approved legally, but still form part of the built form character of the neighbourhood.

The concerns raised by Staff about the setbacks for the deck are listed below.

Amongst other functions, an interior and side yard setback maintains appropriate distance between a lot line and structure and/or building. Three functions of providing this setback are to:

- (1) Provide adequate separation of mass between properties,*
- (2) Provide adequate separation of activity (i.e. use) that is related structure/building use between properties; and*
- (3) Provide adequate space to perform maintenance to the face of the building/structure facing the lot line along with performing maintenance to the lands in between.*

Although, I generally agree with the function of the sideyard setback, I believe it is taken out of context as these functions are intended for buildings not decks. Below is a response to the comments provided by Staff about the three functions.

The Staff report states:

The Development Planning Department is of the opinion that an appropriate distance is not provided between the lot line and the existing deck and that the three listed functions of an interior and side yard setback have not been maintained.

With respect to function 1, the existing deck does not provide adequate separation of mass between properties as the 0.71 m high deck spans nearly the entire depth of the rear yard. The height of the deck elevates the activity and items placed upon it, which has resulted in the installation of a privacy screen on top of it in relation to the side lot line in order to better screen the activity and items visible above the fence.

This evaluation is incorrect for the following reasons:

Massing generally relates to buildings and not small decks. Impacts from massing generally relate to shadow impacts, privacy, and the reasonable enjoyment of a property. None of these impacts are present in this situation. The neighbour to the east has a row of cedars and trees planted along the adjoining yard line which provides significant screening. Further the existing deck includes a wooden decorative screen, which is being used in place of railing along that side, and also provides privacy screening.

This is an existing deck. It would stand to reason that any complaints regarding the massing would have been raised by now. There have been no complaints about the deck; rather the neighbour to the east has signed a letter of support for the minor variance. Clearly, there is no concern about the impact from the massing of the deck and any potential privacy issues. The owner has agreed to increase the sideyard setback to 0.2m which is only 0.4m less than what is permitted in By-law 001-21. This amounts to a difference of just under 16 inches from what is permitted. It is hard to imagine a scenario where an additional setback of 16 inches would make a substantial difference with regards to the impacts of the massing, if any actually existed.

The Staff Report Continues with the following:

With respect to function 2, noise generated from this activity would also be more impactful to the abutting properties due to the proximity of the deck to the lot lines and the elevation of the deck in relation to the nearby fencing. Placing the deck and stairs so close to the side lot line also requires all pedestrians who use the east side yard to pass between the front and rear yards to use the elevated deck to access the rear yard. Additional setback is needed in order to pull the activity away from the lot lines and also provide sufficient space to establish adequate buffering measures, such as screening vegetation.

This analysis is incorrect for the following reasons:

The intent of this by-law is to provide adequate separation of activity between uses, specifically buildings and the associated functions (windows, fans, exhaust). The intended use of the deck is for outdoor amenity space which is permitted in rear yards and there will be little measurable difference between the same activity occurring 16 inches away on a deck or in the same location on the ground. Noise impacts are clearly not an issue as there have been no complaints from the neighbour to the east and they have provided a letter of support for the minor variance. There is no pedestrian access from the front along the east sideyard and no need for screening vegetation as there is already sufficient vegetation planted along the neighbours property. There are cedar trees which occupy the entirety of the space between the deck and rear fence.

The staff report addressed function 3 with the following:

With respect to function 3, a minimum interior side yard of 0.0 metres to the existing uncovered deck and steps is not adequate space to perform maintenance to the side fence or portion of the deck facing the interior lot line, nor is it adequate space to perform maintenance to the lands in between. There are cedar trees which occupy the entirety of the space between the deck and rear fence. A maximum rear yard encroachment that results in a rear yard setback of 1.2 metres is not adequate space to perform maintenance to the south side of the deck or the lands in between.

This analysis is incorrect for the following reasons:

The intent of this function for maintenance to the face of a building/structure functions exactly as it reads. A side yard setback is intended for maintenance to a building/structure, which in the case of a residential neighbourhood means the house, not the deck. The staff report indicates that sufficient space is not provided to maintain the deck. This assumption is incorrect as maintenance can be performed from on top of the deck, just as it would be performed for a part of a deck that is located against the wall of a building. Further, even if this were a valid concern, this would only impact the homeowner and nobody else. It was mentioned in the Staff Report that there is not sufficient space to maintain the fence. Again, this is incorrect as maintenance can occur from the deck. It should also be noted that a fence is an optional addition to a residential dwelling and isn't part of the consideration of sideyard setback as it is located directly on lot line. The 0.2m setback provides enough access for tools and cleaning devices between the deck and the fence which is sufficient room for maintenance. The cedars planted along the rear lot line are accessed daily by the homeowner who walks to the southeast corner of the lot to water and maintain the cedars, clearly there is enough space for maintenance along the rear yard setback as the homeowner walks behind there regularly.

Appropriate Development of Property

The development of the rear yard deck and accessory building is a simple design that maximizes the usable space of the rear yard for outdoor amenity purposes. The accessory building has a height which is reduced from the previous plans and satisfies the comment from Urban Design. The building will not create shadow issues on neighbouring properties and will enhance privacy for adjacent neighbours. Cedars have been planted along the rear lot line to reduce any visual impacts of the accessory structure and provide privacy from the rear yard deck. The neighbour to the west has provided a letter of support for the proposed accessory building.

The rear yard deck extends along the east side of the rear yard. It is a small deck which allows for direct access to the hot tub from the dwelling. Overall, the size of the deck is modest and a letter of support was provided from the neighbour to the east, which shares the lot line affected by the reduced setback. The rear yard encroachment impacts only a small portion of the deck that provides for a sitting area (couch).

Overall, the backyard was designed thoughtfully with functionality and drainage in mind. When walking around the neighbourhood, it can be observed that there are many backyards with similar conditions including the same type of deck and accessory structure locations.

Therefore, the proposed development is appropriate for the subject property and the surrounding neighbourhood.

Is the Variance Minor

The test of whether a variance is minor relates to the impact it might have on adjacent properties.

The variances relating to side yard setback to the east side yard lot line will have no impact as there is a row of tall trees along the property line which provides screening between the two adjacent rear yards. The side yard setback along the west side yard is related to the cabana, which acts as a privacy screen and has enough space to allow for drainage between the neighbouring properties. There are no shadow impacts on adjacent properties and the neighbour to the west has provided a letter of support for the proposed minor variance.

The variances related to the rear yard setback for the deck are minor as they only affect a small portion of the deck. A row of cedars have been planted along the rear property line as a buffer and provide additional privacy. There are no undesirable adverse impacts created by the proposed development on adjacent properties.

Therefore, it is my opinion that the variances are minor.

Conclusion

The proposed application for Minor Variance meets the four tests under the Planning Act and therefore should be approved.

Respectfully submitted by,

MPLAN Inc.

A handwritten signature in cursive script that reads "Joshua Chitiz".

Per: Joshua Chitiz, MCIP, RPP.

June 20, 2023