

To: Christine Vigneault, Committee of Adjustment Secretary Treasurer
From: Nancy Tuckett, Director of Development Planning
Date: January 30, 2024
Name of Owner: Josephine Grossi
Location: 42 Muzich Place
File No.(s): A022/22

Proposed Variance(s) (By-law 001-2021):

1. To permit a minimum rear yard setback of 1.35 m.
2. To permit a minimum rear yard setback of 0.25 m.
3. To permit a maximum lot coverage of 42.88%.
4. To permit a maximum driveway width of 10.62 m.
5. To permit a minimum front yard landscape requirement of 47%, of which 60% shall be soft landscaping.
6. To permit the portion of the rear yard in excess of 135 m² to be comprised of a minimum of 54% (12.4 m²) of soft landscape.

By-Law Requirement(s) (By-law 001-2021):

1. A minimum rear yard setback of 7.5 m is required.
2. A minimum interior side yard setback of 1.5 m is required.
3. A maximum lot coverage of 40% is permitted.
4. A maximum driveway width of 9.0 m is permitted.
5. Where lot frontage is 12.0 m or greater, the minimum front yard landscape requirement shall be 50%, of which 60% shall be soft landscaping.
6. The portion of the rear yard in excess of 135.0 m² shall be comprised of a minimum 60% soft landscape.

Official Plan:

City of Vaughan Official Plan 2010 ('VOP 2010'): "Low-Rise Residential"

Comments:

The Owner is requesting relief to permit the existing covered patio, driveway, front yard hard landscaping, and rear yard hard landscaping, with the above noted variances. The covered patio is attached to the rear wall of the dwelling where there is a sliding door facilitating access between the main floor of the dwelling and rear yard. The east and west sides of the covered patio are open, and there is a wall with 4 windows on the north side. The structure has a gable roof design with a maximum height of 4.34 m.

The Development Planning Department has no objection to Variance 1 for the reduced rear yard setback for the covered patio. The covered patio is at a slight angle to the rear lot line. As such, the requested relief expands to 2.01 m at its greatest extent. The covered patio's rear wall is screened from the abutting rear yard to the north by an established cedar hedge on the subject property which exceeds the height of the structure. There is sufficient room between the cedar hedge and the rear wall of the covered deck for maintenance access. The Zoning By-law did not intend for an addition to a residential dwelling to project so far into a rear yard. A function of a rear yard is to provide adequate landscaped amenity space. However, the covered patio occupies approximately one third of the width of the rear wall of the dwelling, functioning more as an accessory structure than a proper addition. This leaves sufficient room for landscaped amenity space in the rear yard. As such, the reduced rear yard setback is not anticipated to pose adverse massing impacts to the neighbouring property to the rear, provide an appropriate area for maintenance access, and not significantly impact the function of the landscaped rear yard. The Development Engineering Department has also reviewed the proposal and is satisfied that drainage in the rear yard will be maintained.

The Development Planning Department is not in position to support Variance 2 for the reduced interior side yard setback for the covered patio. The covered patio will contain a tv, fireplace insert, pot light fixtures and heating fixtures and additional electrical outlets.

With these features, the covered patio will have the capability to function as a 3-season lounge area. A function of an interior side yard setback is to restrict the built form's proximity to said lot line to address items such as massing and use. The proximity of the covered patio to the east lot line is anticipated to pose adverse massing and use impacts to the neighboring property. The massing and use aspects will be analyzed separately below.

The combination of structure length, height and proximity to the east side lot line results in a significant amount of massing being imposed upon the neighbouring property. The covered patio complies with the height provisions of the Zoning By-law as it is attached to the primary dwelling and is therefore subject to the height provisions for the primary dwelling. However, when establishing height provisions, the Zoning By-law did not anticipate significant projections into the rear or interior side yards. The proposed covered patio projection into the required interior side yard setback in conjunction with the projection into the required rear yard setback is not appropriate for the size and scale proposed. Spatial separation on its own and/or for the purpose of allowing sufficient area for the establishment of buffering vegetation is required to adequately mitigate the massing impacts. The Zoning By-law identifies an appropriate interior side yard requirement to mitigate the anticipated impacts.

The nature of the covered patio's construction and proximity to the east side lot line results in potential use impacts/conflicts being imposed upon the neighbouring property. The covered patio is a permanent structure containing amenity features which intensify and lengthen its use. The space provides permanent shelter from the elements, and its amenities (pot lights, fireplace, heaters) allow it to function at all times of day across multiple seasons. The application proposes an intensity of use much closer to a side lot line than is permitted. There is insufficient space within the remaining side lot line setback to provide adequate buffering between the use on the subject property and the neighbour's rear yard. Vegetation is present along the shared lot line on the neighbour's property in the form of cedars of various heights and distances from one another. This vegetation does not fully obscure the covered patio as it contains gaps between the trees. The trees are generally not as tall as the cedar hedge along the rear lot line, so the structure is visible over the top of the trees. The City of Vaughan has no control over ensuring the maintenance of these trees in perpetuity. Urban Design staff have reviewed the application and have concerns with the health of the neighbour's vegetation due to their proximity to the structure. Should the Committee elect to approve the application in its entirety, Urban Design staff is requesting the following conditions be included as conditions of approval;

1. That an Arborist Letter confirming if there is any impact to the neighbouring trees to the east be provided to the satisfaction of the Development Planning Department.
2. That a Consent Letter from the neighbouring property to the east regarding the impacts to their trees, if required, be provided to the satisfaction of the Development Planning Department.

As Development Planning does not support Variances 2 and 3, the conditions do not form part of its recommendation.

There is a chain link fence along the east property line, but this does not provide any mitigation measures for the covered patio. The chain link fence could be replaced with a solid fence in the future to provide additional privacy. However, the full mass of the roof would still be visible above the fence line. When covered patio is viewed with a solid, taller fence, this may create the appearance of a continuous wall of built form along most of the length of the rear yard due to its close proximity of 0.25 m to the east lot line. As such, it is staff's opinion that permitting a covered patio of this size within the 1.5 m interior side yard setback is a substantial deviation from the zoning by-law's intent, is not minor in nature, nor desirable and appropriate for the use of the land. There is sufficient space within the rear yard to permit a covered patio compliant with the 1.5 m setback requirement in the Zoning By-law. This would address the massing and use impacts associated with having a large structure that will see active prolonged use near an interior side lot line.

The Development Planning Department is not in position to support Variance 3 for the increase in lot coverage to facilitate the covered patio because it is tied to the footprint sought by Variance 2. The existing dwelling and covered patio have lot coverages of 35.12% and 7.76% respectively. Approximately 1.38% of the total lot coverage is comprised of the portion of the covered patio that is within the required 1.5 m interior side yard setback. The total lot coverage without this portion of the covered patio will be

41.5%, which is closer to the requirement of the Zoning By-law. Any proposal to shift the offending portion of the roof into the remaining rear yard amenity area would be evaluated on its own merits in a revised application. Currently, relief is requested for a building footprint via lot coverage which Development Planning cannot support as shown. The Development Planning Department is not in position to support Variance 3 for the increase in lot coverage as the full extent of the requested relief is not required to facilitate the configuration supported by staff, and it is not known what relief(s) would be required for a reconfigured design.

The Development Planning Department has no objection to Variances 4 and 5 for the increased driveway width and reduction in front yard landscaping. The 10.62 m driveway width is measured at the portion of driveway directly in-front of the dwelling and includes a portion of the front walkway. The driveway measured at the front lot line begins at a width of 9.06 m and flares out as it approaches the front wall of the dwelling to provide for the walkway connecting to the front porch. The proposed driveway will not have adverse impacts to the existing streetscape as the width requiring relief is for the front walkway. The front yard landscaping reduction is partially caused by the shape of the driveway to create this walkway. The reduction is also minor in nature and will not cause adverse impacts to the existing streetscape. The subject property also meets the requirement for 60% of the required front yard landscaping, before the proposed reduction, to be soft landscaping, maintaining a high degree of front yard soft landscaping.

The Development Planning Department has no objection to Variance 6 as the reduction in soft landscaping is minor in nature and will maintain an appropriate balance of soft landscaping to facilitate drainage, reduce urban heat island effects, and facilitate the establishment of vegetation. The Development Engineering Department has also reviewed the proposal and is satisfied that drainage in the rear yard will be maintained.

Accordingly, the Development Planning Department cannot support Variances 2 and 3 and is of the opinion that the proposal is not minor in nature, does not maintain the general intent and purpose of the Zoning By-law, and is not desirable and appropriate for the development of the land.

The Development Planning Department can support Variances 1, 4, 5 and 6 and is of the opinion that the proposal is minor in nature, maintains the general intent and purpose of the Official Plan and Zoning By-law, and is desirable for the appropriate development of the land.

Recommendation:

The Development Planning Department recommends **refusal** of Variances 2 and 3 and **approval** of Variances 1, 4, 5 and 6.

Conditions of Approval:

If the Committee finds merit in the application, the following conditions of approval are recommended:

None

Comments Prepared by:

Joshua Cipolletta, Planner
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