

Memorandum to the City of Markham Committee of Adjustment

February 01, 2019

File: A/05/19
Address: 175 Main St N Markham
Applicant: Gabriele & Stephen Tar
Agent: Shane Gregory
Hearing Date: Wednesday February 20, 2019

The following comments are provided on behalf of the Heritage Team:

The applicant is requesting relief from the following requirements of By-law 53-94, as amended; to permit:

- a) Amending By-law 53-94, Section 1.2(k): a sign for a business in the front yard, whereas the By-law does not permit a business sign;

as it relates to a home occupation within an existing residential dwelling.

BACKGROUND

Property Description

The subject property is located on the east side of Main Street North, south of Parkway Avenue, within the Markham Village Heritage Conservation District (See Location Map-Figure 1). The property is occupied by a two storey, brick, heritage dwelling constructed in 1903, approximately 180.4 m² (1,942 ft²) in size. In 2017, the City approved the construction of a two storey, 279.5m² (3,005 ft²) addition to the existing heritage house designed to allow the dwelling to be used for a home occupation family real estate business (See Figure 2 - Photograph of the Existing Heritage Dwelling).

Official Plan and Zoning

The subject property is designated as "Residential Low Rise" in the 2014 Official Plan (as partially approved on November 24, 2017 and further updated April 9, 2018) which provides for a wide variety of residential uses.

Section 9.13.4.4 of the 2014 Official Plan also contains site specific policies which permit 175 Main Street North and adjacent residential properties to be used as offices subject to the maximum gross floor area of the office use not exceeding 45% of the total gross floor area of the building.

These policies are intended to permit the conversion of large heritage homes north of the downtown commercial core and south of Bullock Drive and Parkway Avenue to office uses considered to be compatible with the historical residential character of these properties.

The property is designated as R3 (Residential) under By-law 1229, which permits a single detached dwelling and accessory buildings.

Several of the neighbouring heritage properties and dwellings have undertaken zoning by-law amendments to designate them as C4 (Medium Density 1 Housing/Office) to permit office use, and site plan applications to permit the construction of additions and commercial parking lots. The property immediately to the south at 171 Main St. North is being used as a Home Occupation for a Massage Therapist, while the property immediately to the north at 179 Main Street North is being used as an Acupuncture Clinic.

All of the neighbouring properties which have had zoning amendments to permit office uses have erected signs advertising their business in compliance with Section 10.0 of the City's Sign By-law 53-94, which applies to the City's four Heritage Conservation Districts and properties individually designated under Part IV of the Ontario Heritage Act in commercial use.

However, Section 1.2 k) of the City's Home Occupation By-law 53-94 does not permit signs advertising Home Occupation businesses.

In 2014, the massage therapist who occupies the neighboring property to the south at 171 Main Street North was successful in applying to the Committee of Adjustment for a variance to the Home Occupation By-law to permit a sign advertising their business (See Photograph of the sign on the neighbouring property Figure-3).

This variance was supported by Planning Staff and the Committee of Adjustment because the policies of the Markham Main Street Area Secondary Plan OPA 108 in effect at the time, permitted the conversion of 171 Main Street North, and neighbouring properties into office use, and because there were existing signs on neighbouring properties who had already amended the zoning By-law to permit office use.

Had the property been located in an established residential area that did not permit the adjacent properties to be converted to office use, the proposed amendment to the Home Occupation By-law would have not been supported by Planning Staff. Staff's support of the ground sign at 171 Main Street North was also subject to the sign complying with the specifications regarding size, height and illumination contained in Section 10.0 of the City's Sign By-law for Special Sign Districts.

Proposal

The applicant proposes to erect a double sided ground sign on the front lawn of their property advertising their real estate business which complies with Section 10.0 of the City's Sign By-law regarding special sign districts.

Applicant's Stated Reason for Not Complying with Zoning

According to information provided by the applicant, relief is requested "Due to street conditions".

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. Consequently, it is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed sign. If the variances are omitted or contain errors, or if the need for an additional variance application may be required to address outstanding matters, there will be a delay in application processing.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Heritage Markham

Heritage Markham reviewed the requested variance at their meeting of February 13th, 2019 and had no objection.

Urban Design and Engineering

The City's Urban Design Section and Engineering Department provided no comments regarding the application.

Given the immediate context of the property, where several other properties have already been converted to office uses through zoning amendments to implement the policies of the 2014 Official Plan, and the former Markham Main Street Area Secondary Plan (OPA 108, and the potential for this property to do the same, Planning Staff support the requested variance to permit a sign complying with Section 10.0 of the City's Sign By-law advertising the existing Home Occupation real estate business.

PUBLIC INPUT SUMMARY

No written submissions were received as of February 4, 2019. It is noted that additional comments may be received after the writing of the report and the Secretary-Treasurer will provide comments on this at the meeting.

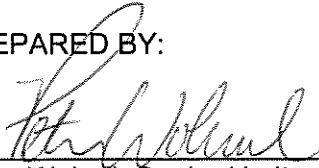
CONCLUSION

It is the opinion of the Planning staff that requested variance to permit a ground sign conforming with Section 10.0 of the City's Sign By-law at 175 Main Street North advertising the Home Occupation real estate business is supportable.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

Handwritten signature of Peter Wokral in black ink.

Peter Wokral, Senior Heritage Planner

REVIEWED BY:

Handwritten signature of Regan Hutcheson in black ink.

Regan Hutcheson, Manager of Heritage Planning

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Figure 1 - Location Map



Figure 2 - Photograph of the Existing Heritage House at 175 Main Street North



Figure 3 - Photograph of Sign Erected on Neighbouring Property at 171 Main Street North



Figure 4 - Proposed Ground Sign for 175 Main Street North

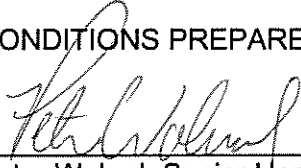


APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/05/19

1. That the owner obtain a Sign Permit from the City's Building Department for the proposed sign.

CONDITIONS PREPARED BY:



Peter Wokral, Senior Heritage Planner