

Memorandum to the City of Markham Committee of Adjustment

June 13, 2019

File: A/48/19
Address: 40 Albert St Markham
Applicant: Gregory Design Group (Russ Gregory)
Agent: (none)
Hearing Date: Wednesday June 26, 2019

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

The applicant is requesting relief from the following requirements of By-law 1229, as amended; to permit:

- 1) **Section 11.1: a minimum front yard setback to porch of 3.5m, whereas the By-law requires a minimum front yard setback of 7.5m;**
- 2) **Amending By-law 61-94, Section 1: a minimum south side yard setback of 1.22m, whereas the By-law requires a minimum setback of 1.83m;**
- 3) **Section 11.3 (vi): a minimum garage side and rear yard setback of 0.91m, whereas the By-law requires a minimum of 1.22m;**
- 4) **Parking By-Law 28-97, Section 6.2.4.4: a driveway of 20 inches from the lot line, whereas the By-law requires a driveway to be located not less than 24inches from the lot line;**
- 5) **Table 11.1: a maximum lot coverage of 59.5 percent, whereas the By-law permits a maximum lot coverage of 40 percent for a semi-detached dwelling (pair);**

as it relates to two proposed semi-detached dwellings

BACKGROUND

Property Description

The 901.7m² (9,706 ft²) subject property is located on the west side Albert Street in a residential neighbourhood of the Markham Village Heritage Conservation District (See Location Map – Figure 1). The neighbourhood is predominantly made up of heritage and non-heritage, one and two-storey detached dwellings, but there is a four unit townhouse development immediately to the south, and a semi-detached dwelling immediately to the north. The property is occupied by a modest, one storey, brick Regency cottage constructed in 1856, and the most significant vegetation is in the form of a 33 cm dbh Oak tree located in the rear yard (See Photograph of the Existing Heritage Dwelling – Figure 2).

Proposal

The applicant is proposing to relocate the heritage building slightly to the north and construct a two storey addition to the rear of the existing heritage dwelling. In addition, a new two storey dwelling with an attached one bay garage would be added to the south of the heritage building, creating a semi-detached dwelling.. The semi-detached dwelling which incorporates the existing heritage dwelling is proposed to have a floor area of 2,580

ft², while the entirely new semi-detached dwelling is proposed to have a floor area of 2,920 ft². The proposal also includes a 292.8 ft² detached, one bay, garage in the rear yard to be used by the occupants of the semi-detached dwelling that incorporates the existing heritage dwelling. (See Figures 3 and 4 –Site Plan and Computer Rendering of Proposal).

Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further updated on April 9/18)

The subject property is designated “Residential – Low Rise”, which provides for low rise housing forms including single and semi-detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the ‘Residential – Low Rise’ designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a ‘Residential Low Rise’ area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

Zoning By-Law 1229

The subject property is zoned R2 under By-law 1229, as amended, which permits both single and semi-detached dwellings.

Applicant’s Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *“to construct two new semi-detached dwellings existing bungalow to remain”*.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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 development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance applications may be required to address the non-compliance.

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.

Reduced Front Yard Setback

The requested variance to permit a reduced front yard setback is minor in nature and desirable for the appropriate development of the land because it reflects the approximate historic setback of the heritage dwelling established in 1856, which is to be maintained in

the applicant's proposal involving the relocation of the existing heritage dwelling on a new foundation. By retaining this historic setback, the prominence of the existing heritage dwelling on the site is preserved, as well as the site specific characteristics of this property which contribute to the unique character of the Markham Village Heritage Conservation District.

Reduced Side Yard Setback

The applicant is requesting a minimum south side yard setback of 1.22 m (4 ft.) whereas 1.88m (6ft. is required). One of the character defining aspects of historic neighbourhoods is the often generous separation of buildings in comparison to modern subdivision developments. Reduced side yard setbacks are often not desirable in Heritage Conservation Districts, but there are two factors specific to this site which enable the requested variance to be considered minor in nature. The first is the fact that there is an 8 ft. wide hydro easement on the north side of the townhouse development to the south which when combined with the proposed 4 ft. setback of the semi-detached dwelling creates a separation of 12 ft. between buildings. This 12 ft. separation reflects the distance that would be required by the By-law for adjacent two storey single detached homes, which require minimum side yard setbacks of 6 ft.

The second factor that allows the requested variance to be considered minor in nature, is that most of the massing of the proposed semi-detached house is positioned 5 ft. from the south property line and only a portion of the ground floor is proposed to be setback four feet for the sake of architectural interest.

Reduced Side and Rear Yard Setbacks for a Garage

The requested variances for reduced side and rear yard setbacks for the proposed detached garage in the rear of the property could be considered to be minor in nature but the requested variance to permit a reduced rear yard setback cannot be said to be desirable for the appropriate development of the land because the neighbouring property owners to the west have indicated that they do not support this particular variance. Compliance with the required Rear Yard setback of the By-law will not affect the functionality of the site, and the applicants could consider a reduction in the proposed Lot Coverage of the semi-detached dwelling if they feel that the size of the rear yard is not sufficient.

Reduced Setback for Driveway

The requested variance to permit the driveway to be located 20" from the property line whereas 24" is permitted, is minor in nature and would not appear to negatively impact neighbouring property owners.

Increase in Maximum Lot Coverage

The applicant is requesting relief for a maximum lot coverage of 59 percent, whereas the By-law permits a maximum lot coverage of 40 percent. The proposed lot coverage includes the the proposed porches, verandas and the rear detached garage which are architectural features and forms associated with historic neighbourhoods. It is also noted that if these features were to be removed, the coverage of the proposed dwelling would be approximately 52 percent instead of 59 percent. The requested variance could be considered to be minor in nature because much of the building mass responsible for the increase in coverage is not visible from the public realm, and because the proposed semi-

detached dwellings are immediately adjacent to the four unit townhouse development to the south which is of a comparable architectural scale.

Engineering and Urban Design

The City's Engineering Department and Urban Design Section have not provided any comments on the application.

Heritage Markham

The requested variances were reviewed by the Heritage Markham on June 12, 2019. The Committee did not support the requested variances to permit a reduced south side yard setback of 1.22m and a maximum lot coverage of 59%, but indicated that they had no objection to the requested variance to permit a front yard setback of 3.5m, minimum property line setbacks of 0.91 m for the proposed detached garage, or a minimum setback of 20" for the proposed driveway (See Appendix 'B' – Heritage Markham Extract of June 12, 2019).

PUBLIC INPUT SUMMARY

One written submission was received as of June 20th, 2019 indicating an objection to the proposed setback of the detached garage from the rear property line and requesting that the applicant comply with required setback of the By-law for accessory buildings. Staff also received a form letter supplied by the applicant's agent and signed by a neighbouring property owner indicating their support for the proposed development of the site. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the requested variances to permit a reduced front yard setback for the existing heritage dwelling, a reduced south side yard setback for the semi-detached dwelling, a reduced north side yard setback for the proposed accessory building and a reduced setback for the driveway meet the four tests of the Planning Act.

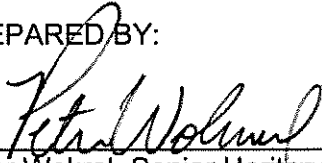
However, the requested variance to permit a maximum lot coverage of 59% does raise some concerns, but could be considered to be minor in nature, and meet the intent and purpose of the Official Plan and By-law, if the semi-detached dwellings are designed to be respectful of the existing heritage dwelling, and to minimize the impact of the increased coverage from the public realm of Albert Street. Whether the variance is desirable for the appropriate development of the land will depend largely on the quality of the architectural design which is to be refined through the Site Plan Approval process.

Based on the feedback provided by the neighbouring property owner to the west, the requested variance to permit a reduced rear yard setback for the detached accessory building does not meet all four tests, namely the test to determine whether the requested variance is desirable for the appropriate development of the land. There is no apparent reason why it is desirable to have a reduced setback for the garage when it can function just as well if it complies with the setbacks prescribed by the By-law.

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:

A handwritten signature in black ink, appearing to read "Peter Wokral", written over a horizontal line.

Peter Wokral, Senior Heritage Planner

REVIEWED BY:

A handwritten signature in black ink, appearing to read "Regan Hutcheson", written over a horizontal line.

Regan Hutcheson, Manager of Heritage Planning

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FIGURE 1 – LOCATION MAP



FIGURE 2 – PHOTOGRAPH OF THE EXISTING HERITAGE DWELLING



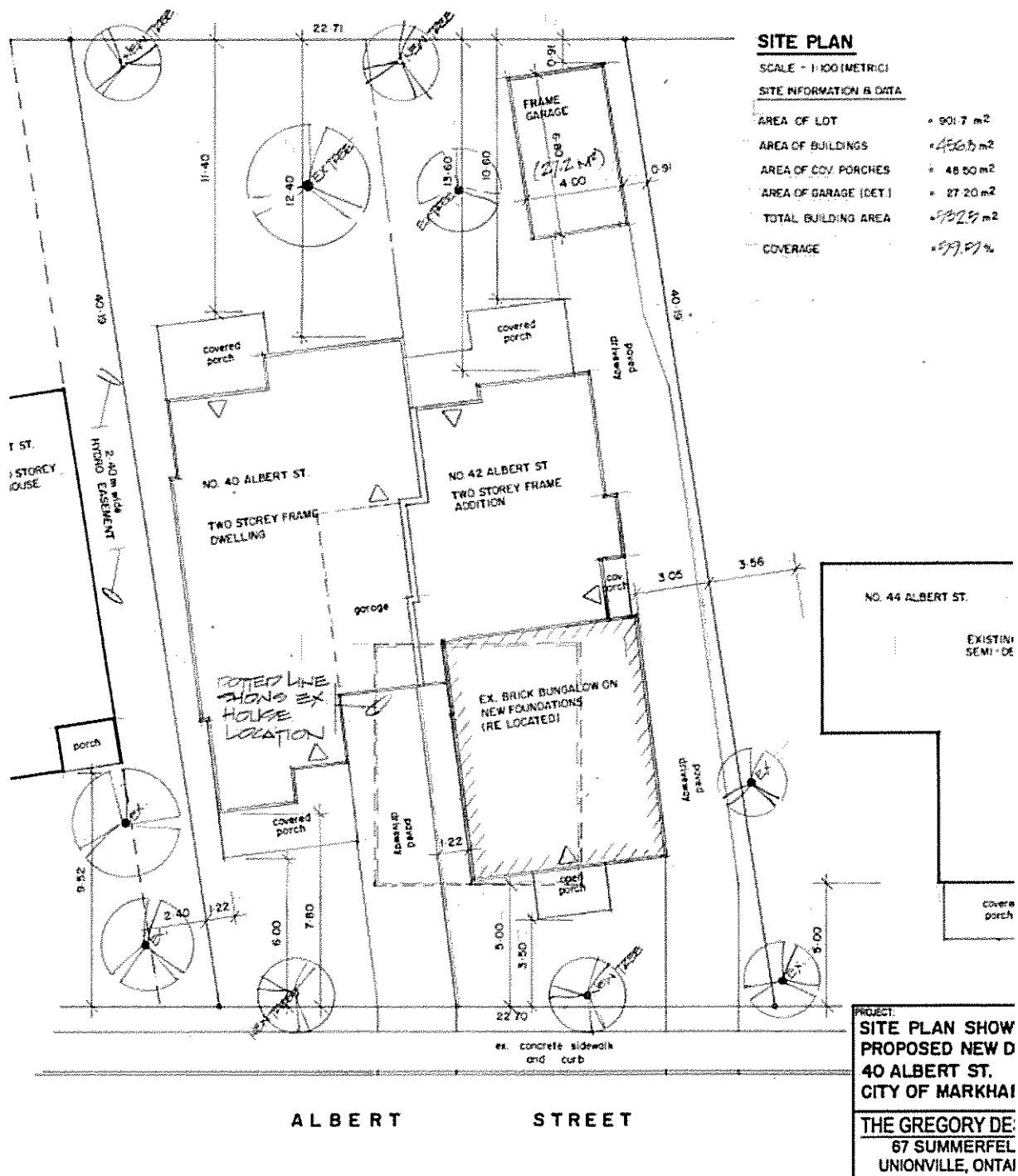


FIGURE 4 – COMPUTER RENDERING OF PROPOSED SEMI-DETACHED DWELLINGS

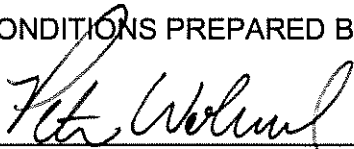


APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/48/19

1. The variances apply only to the proposed development as long as it remains;
2. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;

CONDITIONS PREPARED BY:

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Peter Wokral, Senior Heritage Planner

APPENDIX 'B'- HERITAGE MARKHAM EXTRACT JUNE 10, 2019

HERITAGE MARKHAM EXTRACT

DATE: June 20, 2019

TO: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Senior Heritage Planner
J. Leung, Committee of Adjustment

EXTRACT CONTAINING ITEM #14 OF THE SIXTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON JUNE 12, 2019.

14. Site Plan Control Application,
Committee of Adjustment Variance Application,
40 Albert Street, Markham Village Heritage Conservation District,
Proposed Semi-Detached Dwellings and Detached Garage (16.11)
File Number: SPC 19 121293
A/48/19
Extracts: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Senior Heritage Planner
J. Leung, Committee of Adjustment
-

Peter Wokral, Senior Heritage Planner reviewed a revised Site Plan Control Application and Committee of Adjustment Variance Application. The original application was to construct a 313.5m² (3,375 ft²) two storey addition to the existing heritage house, with an attached drive-through carport, as well as a 60.9m² (656 ft²) 1½ storey detached garage/accessory building. The current proposal is for a semi-detached dwelling with a one storey 27.2 m² (292 ft²) detached garage at the rear of the lot. The applicant also proposes to reposition the existing house to provide more space for the proposed semi-detached dwelling and to create a new basement. The proposed semi-detached dwelling and detached garage requires the following variances (as per the applicant's submission):

- a) a minimum front yard setback of 3.5m, whereas the By-law requires a minimum front yard setback of 7.5m;
- b) a minimum south side yard setback of 1.22m, whereas the By-law requires a minimum side yard setback of 1.83m;
- c) a minimum property line setback for an accessory building of 0.91m, whereas the Bylaw requires a minimum property line setback of 1.22m;
- d) A minimum driveway setback of 20 inches from the property line, whereas the Bylaw requires a minimum driveway setback of 24 inches from the property line.

Staff also believe that a maximum lot coverage variance of 59% is required whereas the By-law permits a maximum lot coverage of 40% for a semi-detached dwelling.

The Senior Heritage Planner advised the Committee that although Staff has no objection to the development of a semi-detached building on the property, there are concerns with the proposed

lot coverage which has increased from the 36.6% originally proposed by the applicants when they planned to construct an addition to the existing single detached dwelling, to the 59% lot coverage proposed for the current semi-detached dwellings. He further advised that staff prefer that the heritage building remains on its original foundation/location, but acknowledge that a new basement is needed and that the Committee has supported minor relocations of heritage homes in heritage conservation districts. Staff also believe that the proposed architectural style of the addition to the existing heritage dwelling and proposed semi-detached dwelling could be more sympathetic to the architectural style of the existing heritage dwelling in terms of its scale, massing, windows and architectural detailing.

Mr. Russ Gregory of the Gregory Design Group, representing the applicant, was in attendance and reviewed the proposal and the variances requested by the applicant.

The Committee expressed concerns with respect to the 59% lot coverage which is in excess of the 40% maximum lot coverage permitted by the By-law for a semi-detached dwelling. As well, the Committee expressed concerns with respect to storm water drainage from the property and the loss of overall green space.

Heritage Markham Recommends:

That Heritage Markham has no objection to the development of a semi-detached dwelling provided that the following revisions are made to the proposed plans:

- o That the front yard setback of the proposed new semi-detached building be significantly increased to maintain the prominence of the existing heritage dwelling and the existing greenspace to the south;
- o That the new semi-detached dwelling comply with the 6 ft. south side yard setback prescribed by the By-law, as this will help reduce the proposed lot coverage, and preserve the space between adjacent dwellings, which is a character defining aspect of historic neighbourhoods;
- o That the roof line of the addition to the heritage dwelling and the new semi-detached dwelling be simplified to reflect the hipped roof of the heritage dwelling;
- o That the massing of the proposed addition to the heritage dwelling and proposed new dwelling be simplified and reduced to reflect the massing of the heritage dwelling;
- o That the windows of the proposed new dwelling and addition be more reflective of the proportions and pane divisions of the existing heritage dwelling; and
- o That brick chimneys be re-introduced to the roof line of the heritage dwelling; and,

That Heritage Markham does not support the proposed variance in the maximum lot coverage in support of the proposed semi-detached dwelling and addition to the existing heritage dwelling at 40 Albert Street, but has no objection to the requested variances to permit:

- o a minimum front yard setback of 3.5 m (for the heritage building);
- o a minimum property line setback for an accessory building of 0.91 m; and
- o a minimum driveway setback of 24" from the property line.

CARRIED