

# Memorandum to the City of Markham Committee of Adjustment

February 06, 2020

**File:** A/005/20  
**Address:** 121 Alfred Paterson Drive, Markham  
**Applicant:** Ali Ahmed  
**Agent:** (none)  
**Hearing Date:** Wednesday, February 19, 2020

The East Team provides the following comments:

The Applicant is requesting relief from the Residential Two - Special \* 134 (R2-S\*134) zone requirements of By-law 177-96, as amended, as it relates to the proposed accessory dwelling unit in the basement of an existing single detached dwelling on the subject property:

**a) Table A1:**

To permit an accessory basement apartment, whereas an accessory basement apartment is not permitted.

## **BACKGROUND**

### **Property Description**

The 280.19 m<sup>2</sup> (3015.94 ft<sup>2</sup>) subject property is located on the east side of Alfred Paterson Drive, west of Ninth Line and north of Bur Oak Avenue. The subject property is located within an established residential neighbourhood known as the Greensborough community, and comprises two-storey single detached dwellings to the north, south, east and west. The site is developed with an existing two-storey dwelling, which according to building permit records was constructed in 2002. Parking for the existing dwelling is provided in an attached two-car garage and two-car driveway to access Alfred Patterson Drive.

### **Proposal**

The Applicant is proposing a basement apartment unit within the existing dwelling, and has requested a variance to permit this as an additional use. The proposed accessory dwelling unit is shown in Appendix B. The proposed development includes new egress window on the south side of the building and a new enlarged egress window at the rear of the dwelling. No other changes are proposed to the dwelling or the subject property.

### **Provincial Policies**

#### **Strong Communities through Affordable Housing Act - Province of Ontario**

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the *Planning Act* to facilitate the creation of second units by:

- requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

## **Official Plan and Zoning**

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

The 2014 Official Plan designates the subject property 'Residential – Low Rise', which provides for low rise housing forms including single detached dwellings. The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided the exclusive use of such person or persons."

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, Council shall be satisfied an appropriate set of development standards are provided in the zoning by-law including:

- a) The building type in which the secondary suite is contained;
- b) The percentage of the floor area of the building type devoted to the secondary suite;
- c) The number of dwelling units permitted on the same lot
- d) The size of the secondary suite;
- e) The applicable parking standards; and
- f) The external appearance of the main dwelling

The proposed secondary suite is a permitted use in the 2014 Official Plan.

## Zoning By-Law 177-96

The subject property is zoned Residential Two - Special \* 134 (R2-S\*134) under By-law 177-96, as amended which permits single detached dwellings and other forms low rise housing. The By-law permits only one dwelling on a lot, and the applicant has therefore submitted a variance to proposing to permit an accessory unit within the basement of the existing single detached dwelling. Exception 134 provides area specific zone standards to permit public schools in this zone subject to Open Space (OS2) requirements and to provide development standards for residential development.

As part of the City-initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

## **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a Zoning Preliminary Review (ZPR) on December 13, 2019 to confirm the variances required for the proposed development.

## **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.

### Secondary Suites

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite, and do not object to the requested variance to permit an accessory unit in the basement of the existing single detached dwelling.

The proposed basement unit is shown in Appendix 'B'. The basement level also includes an area denoted as an 'owner occupied recreation room' which also includes a wet bar and washroom. The owner should be aware that approval of this variance application only permits one accessory dwelling unit within the basement, and that any additional units are not permitted. The plans also show that the access to the basement unit is proposed to be provided through the main level of the principal dwelling instead of a separate and independent access. The Owner should be aware that should this variance be approved, the proposed unit will be required to comply with Ontario Building Code through the issuance of a building permit and it may be necessary to provide fire rated access through a common hallway or access within the interior of the building, or the construction of an alternate access, such as an exterior stair, that may or may not require additional relief from the zoning by-law through an additional minor variance application.

Prior to occupancy of the accessory dwelling unit, the home is required to be registered as a two-unit house with the City of Markham Fire & Emergency Services Department. Should this application be approved, the Applicant will be required to obtain a building permit to ensure the secondary suite will be in compliance with Building Code and Fire Code regulations.

### **PUBLIC INPUT SUMMARY**

As of February 12, 2020, the City received one letter expressing concerns over the street being overcrowded and busy at times. 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 variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

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 that reads "Justin Mott". The signature is written in a cursive, slightly slanted style.

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Justin Mott, Planner, Zoning and Special Projects

REVIEWED BY:

A handwritten signature in blue ink that reads "Stephen Corr". The signature is written in a cursive, slightly slanted style.

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Stephen Corr, Senior Planner, East District

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**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/005/20**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on January 20, 2020, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:

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Justin Mott, Planner, Zoning and Special Projects