

Memorandum to the City of Markham Committee of Adjustment

June 11, 2020

File: A/053/20
Address: 3 Snowcrest Court – Markham, ON
Applicant: Qiang Sun
Agent: Rachel Y.H. Sun Architect
Hearing Date: Tuesday July 14, 2020

The following comments are provided on behalf of the Central Team. The applicant initially requested relief from the following requirements of the “Third Density – Single Family Residential – Special (R3-S) Zone” under By-law 90-81. The variances requested were as follows:

a) By-law 90-81, 5.2.1:

a second dwelling unit in the basement; whereas the By-law permits no more than one (1) single detached dwelling on one (1) lot;

b) By-law 90-81, Section 6.1.2 (d):

an interior side yard setback of 1.38 m (4.53 ft); whereas the By-law requires minimum interior side yard setback of 1.8 m (5.91 ft); and

c) Parking By-law 28-97, Section 6.1.2:

a parking space in a private garage with dimensions of 2.63 m (8.63 ft) width by 5.35 m (17.55 ft) depth; whereas the By-law permits minimum dimensions of 2.6 m (8.53 ft) width by 5.8 m (19.03 ft) depth.

Staff consulted with the applicant regarding variance c) as stated above. The applicant has since submitted a revised ground floor plan (Appendix “B”). In addition to the enclosed garage, which includes two full size parking spaces, the subject property has a driveway that would allow for more than one full size parking space. This fulfills the Parking By-law requirement of three full size parking spaces in the event of an approval for the requested second dwelling unit. The applicant revised their variance application to omit variance c), and consequently requests relief from the following requirements of the “Third Density – Single Family Residential – Special (R3-S) Zone.” The revised variances are as follows:

a) By-law 90-81, 5.2.1:

a second dwelling unit in the basement; whereas the By-law permits no more than one (1) single detached dwelling on one (1) lot; and

b) By-law 90-81, Section 6.1.2 (d):

an interior side yard setback of 1.38 m (4.53 ft); whereas the By-law requires a minimum interior side yard setback of 1.8 m (5.91 ft).

BACKGROUND

Property Description

The 1,253.40 m² (13,491.49 ft²) subject property is situated on the east side of Snowcrest Court, which is located east of Kennedy Road, north of 14th Avenue and south of Beckenridge Drive. The property is located within an established residential neighbourhood primarily comprised of two-storey detached dwellings. The surrounding

area is predominantly stable, with some examples of additions to existing dwellings. Mature vegetation exists across the property.

Proposal

The applicant is proposing additions at the ground floor and second floor with floor areas of approximately 11.1 m² (119.48 ft²) and 66.3 m² (713.65 ft²), respectively. The additional area on the ground floor is to provide for an expansion of the existing garage to accommodate additional storage space, as shown in Appendix “B”. The second-storey addition, located above the garage, is comprised of two new bedrooms and a new bathroom, as shown on Sheet Number A1.7 (Appendix “B”).

The applicant is also requesting permission for a second dwelling unit in the basement of the existing dwelling. The proposed second dwelling unit would have direct and separate access provided by an existing door and walk-up stairs located at the rear of the dwelling. No other changes are being proposed to the exterior of the dwelling or the property.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. Under this legislation, “second suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the Growth Plan, 2019 requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

Official Plan and Zoning

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single 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.

The 2014 Official Plan (Section 4.1.2.6) contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new permitted single-detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria and standards.

As previously mentioned, the City's Official Plan designates the subject property "Residential Low Rise", which provides for low rise housing forms including single detached dwellings, and secondary suites in accordance with Section 8.13.8. A "Secondary Suite" in the 2014 Official Plan is defined as:

"...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 for the exclusive use of such person or persons."

Section 8.13.8 states:

"That in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for 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."*

Zoning By-Law 90-81

The subject property is zoned "Third Density – Single Family Residential – Special (R3-S) Zone" under By-law 90-81, as amended, which permits one (1) single detached dwelling per lot. The proposed development does not comply with the minimum interior side yard setback along the south side of the dwelling.

Applicant's Stated Reasons for Not Complying with Zoning

According to the information provided by the applicant, the reasons for not complying with zoning are as follows:

- "1. the owner wants to propose a second dwelling unit in the basement;*
- 2. the owner wants to propose a second storey building addition overtop the garage. It is costly to meet the 1.8 m minimum side on the second floor as required by the By-law as a beam would be needed underside within the garage and the owner wants to avoid it."*

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a ZPR to confirm the initial variances required for the proposed development. As previously mentioned, the applicant submitted a revised ground floor plan on May 25, 2020. The applicant has not conducted a ZPR for the revised ground floor plan. Consequently, it is the applicant's responsibility to ensure that the application has accurately identified all the variances to the By-law required for the proposed development. If the variances requested in this application contain errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) 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.

Secondary Suites

The City's Fire and Emergency Services Department has no objections provided the proposed secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit to ensure the secondary suite is in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

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 provides support to achieve its affordable housing target required by the Province. 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 have no objections to the requested variance.

Reduced Side Yard Setback (two-storey portion)

The applicant is requesting a minimum interior side yard setback of 1.38 m (4.53 ft) for the two-storey portion of the dwelling, whereas the By-law requires a minimum side yard setback of 1.8 m (5.92 ft). The Zoning By-law requires a minimum side yard setback of 1.2 m (3.94 ft) for a one storey portion.

The requested variance only applies to the two-storey portion of the dwelling. The main floor complies with the minimum side yard setback requirement. The two-storey addition is in keeping with the low-rise character of the area. Staff are of the opinion that the proposed variance will not adversely impact neighbouring properties and have no objection to the requested variance.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 11, 2020. 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.

APPLICATION PROCESSING

On June 12, 2020, the Province announced that the emergency regulations relating to *Planning Act* applications will end on June 22, 2020. After June 22, 2020, the procedural requirements (e.g. sending of notices, public meetings, eligibility for appeals to LPAT, etc.) of *Planning Act* applications shall proceed as they did prior to the declaration of the emergency.

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 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.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:

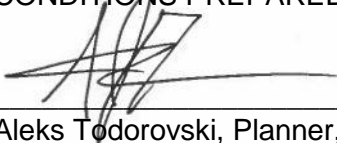


Sabrina Bordone, Senior Planner, Central District

APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/053/20**

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 batch stamped plans attached as Appendix "B" to this Staff Report, 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 prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations.
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks Todorovski', written over a horizontal line.

Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

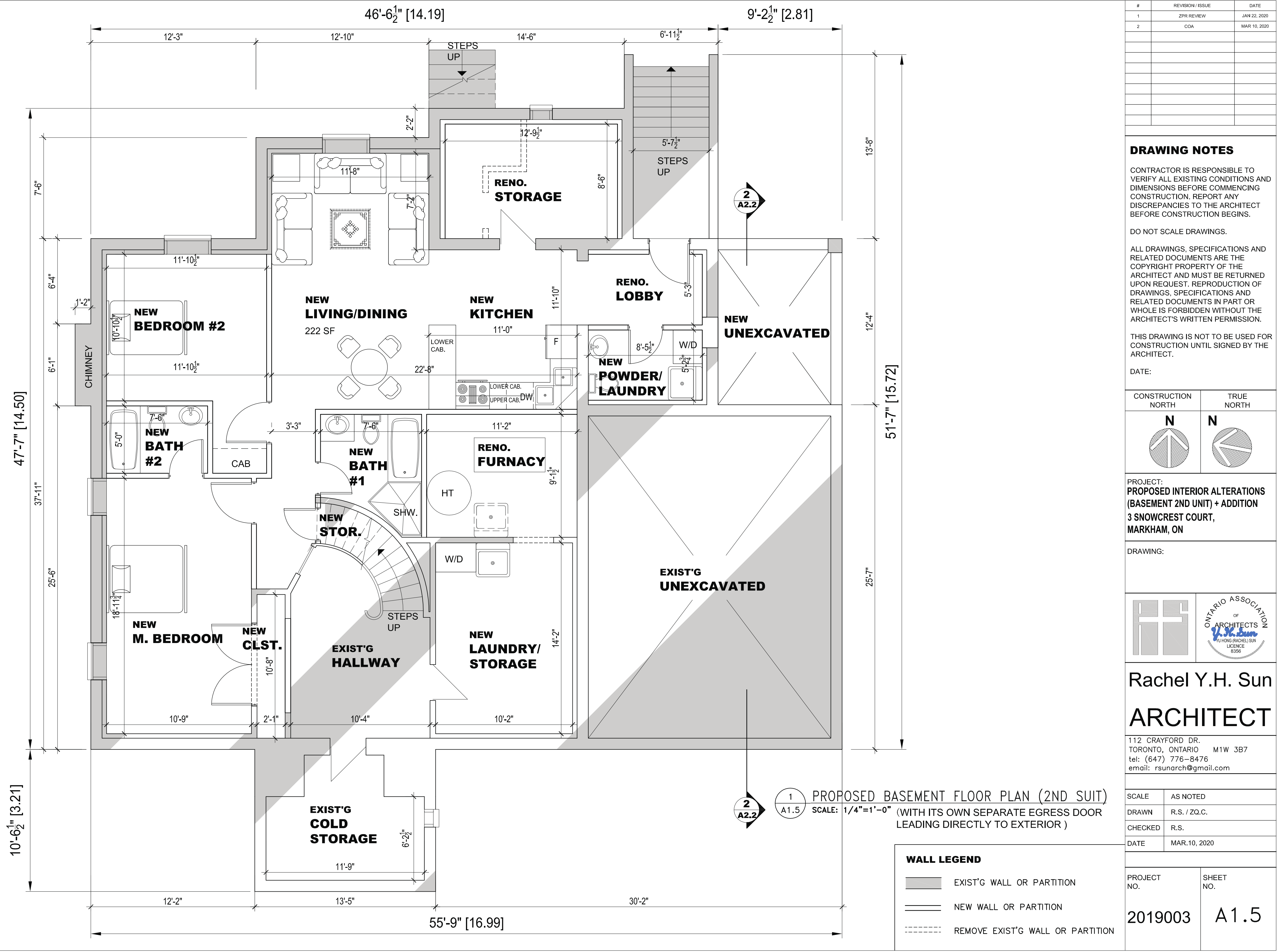
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/053/20



MARKHAM

RECOMMENDED PLANS

File: 20.112394.000.0
0.MNV
Date: 06/29/20



MARKHAM

RECOMMENDED PLANS

File: 20.112394.000.0
0.MNV
Date: 06/29/20

