

# Memorandum to the City of Markham Committee of Adjustment

February 11, 2019

**File:** A/09/19  
**Address:** 80 Allstate Parkway, Markham  
**Applicant:** Keith Segal, Guard Me / 1984427 Ontario Inc.  
**Agent:** Lloyd Segal, De-Zine International Consulting Ltd.  
**Hearing Date:** February 20, 2019

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 165-80, as amended, to permit:

**a) Section 6.4.1 (c)(i):**

one fast food restaurant as an accessory use within an existing office building, whereas the By-law does not permit fast food restaurants within a business office building; as it relates to a proposed fast food restaurant within an existing office building.

## **Property Description**

The 2.08 hectares (5.13 acres) subject property is located on the west side of Allstate Parkway, north of Highway 7 and east of Highway 404. The property is currently occupied by a 3 storey office building with a gross floor area of approximately 4,713 m<sup>2</sup> (50,730 ft<sup>2</sup>). Surrounding area predominately consists of office buildings. Seneca College is located to the south on Highway 7. The rear portion of the property is located within TRCA's regulated area associated with the Beaver Creek to the west.

## **Proposal**

The applicant is requesting relief from the by-law to permit a 286 m<sup>2</sup> (3,078.48 ft<sup>2</sup>) restaurant on the ground floor of the existing office building on site. The main entrance of the restaurant will be located within the office building. The restaurant will have direct access to the exterior of the building through an existing door on the west

## **Official Plan and Zoning**

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

The subject property is designated 'Business Park Employment', which provides for restaurant as an ancillary use provided it does not exceed 15 percent of the total gross floor area of the building and that the access to the ancillary use is integrated within the building. The proposed restaurant meets both requirements.

## **Zoning By-law**

The subject property is zoned 'M.C (100%) – Select Industrial with Limited Commercial' under By-law 165-80, as amended, which permits banks and financial institutions, professional business offices, commercial schools, hotels and motels. Restaurants are allowed as accessory uses only inside hotels and motels. The proposed restaurant is located inside an office building and therefore is not permitted by the zoning by-law.

## **Applicant's Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, *"Proposed restaurant is too large, does not meet requirements."*

### **Zoning Preliminary Review Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been undertaken. 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 development. If the variances in the application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance application(s) may be required to address the outstanding matters and 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.

### **Increase in Maximum Gross Floor Area for Restaurant Use**

The proposed restaurant has a total area of 286 m<sup>2</sup> (3,078.48 ft<sup>2</sup>), which represents approximately 6 percent of the total gross floor area of the office building. This meets the maximum gross floor area requirements in the Official Plan for ancillary uses inside an office building. The entrance of the restaurant is also integrated within the office building as required by the Official Plan. Staff are of the opinion that the proposed restaurant meets the intended function of the property and have no objection to the variance.

### **Toronto and Region Conservation Authority**

Given the no changes are being proposed to the exterior of the building or site, TRCA have no concern with the application.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of February 12<sup>th</sup>, 2018. 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**

Based on the discussion above, staff are of the opinion that the requested variances meet the four tests of the Planning Act. Staff have no objection to the approval of this minor variance application.

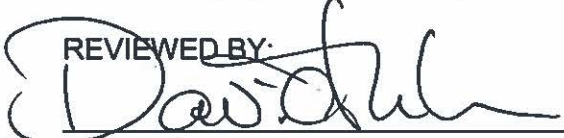
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

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

PREPARED BY:

  
Carlson Tsang, Planner II, West District

REVIEWED BY:

  
David Miller, Manager, West District

**APPENDIX "B"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/09/19**

1. The variances apply only to the proposed development as long as it remains;
2. That the total gross floor area devoted to restaurant uses on the subject lands be limited to a maximum of 290 m<sup>2</sup> (3,121.53 ft<sup>2</sup>)
3. That the Secretary Treasurer receives written confirmation from TRCA that the applicant has remitted the outstanding TRCA Planning Services review fee for this application.

**PREPARED BY:**



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Carlson Tsang, Planner II, West District





