

# Memorandum to the City of Markham Committee of Adjustment

October 16, 2019

**File:** A/107/19  
**Address:** 147 Fitzgerald Ave, Markham  
**Applicant:** Mengdi Zhen  
**Agent:** (none)  
**Hearing Date:** Wednesday November 13, 2019

The Central Team provides the comments below. The Applicant requests relief from the following requirements of By-law 11-72, 'Residential' (R4), as amended, as they relate to a proposed residential dwelling:

- a) **Section 6, Schedule B:**  
a maximum lot coverage of 33.6%, whereas the By-law permits a maximum lot coverage of 33.3%;
- b) **Section 6, Schedule B:**  
a minimum side yard setback of 1.22 m (4 ft) for both sides, whereas the By-law permits a minimum side yard setback of 1.82 m (6 ft);
- c) **Section 6, Schedule B:**  
a maximum height of 8.79 m (28.84 ft), whereas the By-law permits a maximum height of 7.62 m (25 ft).

## BACKGROUND

### Property Description

The 580.64 m<sup>2</sup> (6,250 ft<sup>2</sup>) subject property is located on the west side of Champion Road, south of Carlton Road and east of Main Street Unionville, and is within an established residential neighbourhood comprised of detached dwellings. The surrounding area is undergoing a transition with the introduction of new residential infill developments. Mature vegetation exists across the property, including one mature tree in the front yard. There is an existing 169.4 m<sup>2</sup> (1,823 ft<sup>2</sup>) dwelling located on the subject property that was constructed in 1968 according to assessment records.

### Proposal

The Applicant proposes to construct a new two-storey detached dwelling.

### Official Plan and Zoning

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

The subject property is designated "Residential – Low Rise", which permits 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. The criteria ensures development, including infill development, is appropriate for the site and generally consistent with the zoning requirements for the adjacent properties and properties along the same street. This includes the protection of existing trees and vegetation, the appropriateness of the proposed garage and driveway widths, and the overall orientation and size of new lots within a residential neighbourhood.

#### Zoning By-Law 11-72

The subject property is zoned Residential (R4) under By-law 11-72, as amended, which permits a single detached dwelling. The proposed dwelling does not comply with the By-law with respect to maximum lot coverage, minimum side yard setback and maximum height.

#### Varley Village Infill Area

The subject property is within an area of the City where there is a trend to build larger houses. In response to concerns within this trend, a number of residents asked that the City consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee, a Committee of Council, undertook a review of this issue with community consultation, and ultimately recommend that no action be taken on an infill by-law at this time. The Development Services Committee endorsed this position on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law as not adopted, the Committee of Adjustment should be aware of Council's and the community's concerns with regard to variances and maintaining the current standards of the Zoning By-law and consider public input before making a decision.

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

According to the information provided by the applicant, the reason for not complying with Zoning is, "*Custom home requested by owner.*"

#### **Zoning Preliminary Review (ZPR) Not Undertaken**

The Applicant 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 proposal. 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 application(s) may be required to address the non-compliance.

#### **COMMENTS**

The *Planning Act* states that the following 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.

## **Residential – Standard Variances**

### **1. Increase in Maximum Lot Coverage**

The Applicant requests relief for a maximum lot coverage of 33.6%, whereas the By-law permits a maximum coverage of 33.33%. The proposed lot coverage includes the rear covered and unenclosed roof canopy, which adds approximately 5.76 m<sup>2</sup> (62 ft<sup>2</sup>) to the overall building area, or an increased lot coverage of 0.27%. Given the rear covered porch is unenclosed, staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling.

### **2. Reduced Side Yard Setback (two-storey portion)**

The Applicant requests a reduction in the minimum side yard setback (east and west property lines) to 1.22 m (4 ft.) for the two-storey portion of the proposed dwelling, whereas the By-law requires a minimum side yard setback of 1.8 m (6 ft.). The requested variance applies only to the two-storey portion of the building. The ground floor complies with the minimum setback requirement. Engineering staff reviewed the application and have no concern with the variance respecting drainage.

### **3. Increase in Maximum Building Height**

The Applicant requests relief to permit a maximum building height of 8.79m (28.83 ft.), whereas the By-law permits a maximum building height of 7.62m (25 ft.). This represents an increase of 1.17 m (3.83 ft.), which is similar in scale to other infill residential developments in the immediate vicinity and will have minimal impact to the character of the street.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 4<sup>th</sup>, 2019. Staff note 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:

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Justin Mott, Planner, Zoning and Special Projects

REVIEWED BY:

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Stephen Lue, Development Manager, Central District

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## **APPENDIX “A”**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/107/19**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the proposed development on the subject property, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on Thursday, October 31, 2019, 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. 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;
4. 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;
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; and
6. The Applicant and Owner retain the consulting arborist and conduct a by hand dig or non-invasive root trenching exercise (e.g. air spade), to determine the extent of roots on site for tree #2 *Ulmus glabra* at the limits of excavation, for the proposed driveway. Any roots found are to be assessed for structure and health impacts, hand cut only as required, and findings submitted in a report to the satisfaction of the Director of

Operations, or designate. Root trenching must be completed prior to construction and demolition and the tree preserved throughout site works.

CONDITIONS PREPARED BY:

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Justin Mott, Planner, Zoning and Special Projects