

Memorandum to the City of Markham Committee of Adjustment

March 1st, 2018

File: A/12/18
Address: 587 Highglen Avenue, Markham
Applicant: Sukhwinder Uppal & Sikander Singh
Agent: CANTAM GROUP LTD (YASO SOMALINGAM)
Hearing Date: Wednesday March 14, 2018

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following requirements of By-law 90-81, R9, as amended, to permit:

- a) **Section 5.2.1:**
a secondary suite, whereas the By-law permits no more than one dwelling unit on a lot
- b) **Parking By-law 28-97, Section 6.2.4.2:**
a maximum driveway width of 8.31 m, whereas the By-law permits a maximum driveway width of 7.3 m;
- c) **Parking By-law 28-97, Section 6.2.4.4 a) i):**
a minimum west driveway setback of 0.6 m, whereas the By-law requires a minimum driveway setback of 1.2 m;

as they relate to a proposed basement apartment.

Property Description

The 408.09 m² (4,392.64 ft²) subject property is located on the south side of Highglen Avenue, east of Middlefield Road and south of 14th Avenue. The property is situated within an established residential neighbourhood characterized by two-storey detached dwellings. There is an existing 278.7 m² (3,000 ft²) two-storey detached dwelling on the subject property, which according to assessment records was constructed in 2002. The property currently provides a total of five parking spaces, two in the double-car garage and three on a widened driveway.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The secondary unit would have direct and separate access provided by an existing door on the west side of the building. No changes are being proposed to the exterior of the dwelling or the property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various section of the Ontario 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 Oct 30/15, May 26/16, Mar 10/17, April 21/17, Nov 24/17)

The 2014 Official Plan designates the subject property "Residential – Low Rise", which provides for low rise housing forms including town house 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 for 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, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including: The building type in which the secondary suite is contained;

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

Zoning By-law

The subject property is zoned R9 under By-law 90-81, as amended, which does not permit a secondary suite.

Parking Standards By-law 28-97 and Extended Driveways By-law 2006-96

The existing driveway does not comply with the City's By-laws with respect to driveway setback and driveway width.

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

According to the information provided by the applicant on the application form, *"the variances relate to an existing condition."*

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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 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 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

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the 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 which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

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 therefore have no objections.

Driveway Width and Driveway Setback

Staff typically do not support variances to allow driveway widening on a residential property. Increased hard surface area within the front yard detracts from the visual appearance of the street and reduces the amount of soft landscaping area that provides for the infiltration of rain water. However the City's records show that the driveway was widened prior to the passing of the City's Extended Driveway By-law 2006-96 and staff note many other properties within the immediate vicinity have similar driveway extensions before the by-law was passed in 2006.

Notwithstanding the legal non-conforming status of the driveway, staff acknowledge that the variances do contribute to excessive hard surface area in the front yard. Staff recommend that the Committee should consider public input in reaching a decision and should satisfy themselves whether the variances meet the four tests of the Planning Act.

PUBLIC INPUT SUMMARY

As of February 28th, 2018, no written submissions were received since the application was re-circulated. 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

Staff have no objection to the variance to permit a secondary suite. The secondary suite supports the City's goal of promoting affordable and shared housing opportunities and is consistent with the general policies of the 2014 Official Plan, including the provision of a mix of housing alternatives and affordable housing opportunities. It should be noted that the property would meet the additional parking requirement for the secondary suite even if the driveway has not been widened.

With respect to the variances relating to driveway width and driveway setback, staff recommend that the Committee should satisfy themselves whether they meet the four tests of the Planning Act.

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.

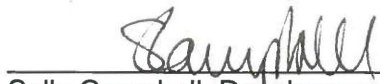
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Carlson Tsang, Planner, Zoning and Special Projects

REVIEWED BY:



Sally Campbell, Development Manager, East District

File Path: Amanda\File\ 17 179753 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/151/17

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 A' to this Staff Report and received on January 19th, 2018, 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, if required by the Chief Building Official, the owner submit 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.
4. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:

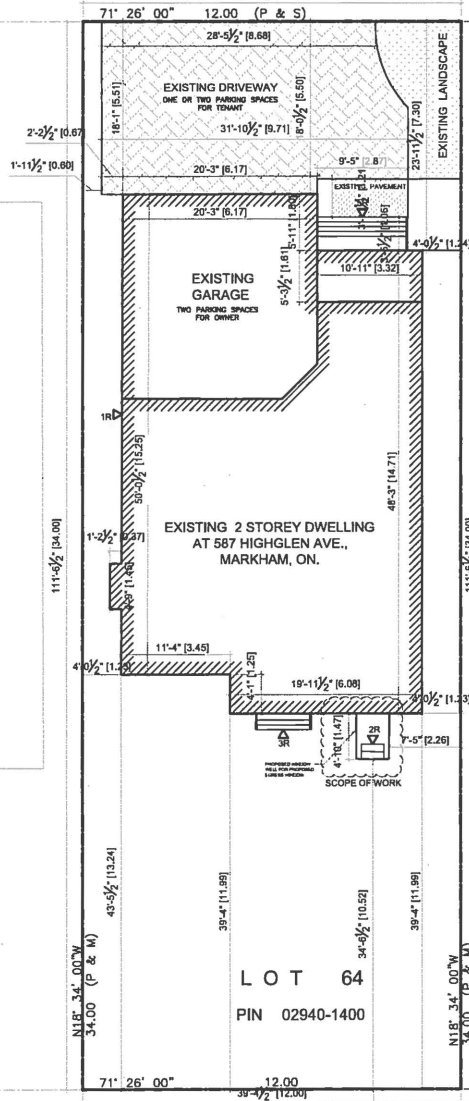


Carlson Tsang, Planner, Zoning and Special Projects

File Path: Amanda\File\ 17 181854 \Documents\District Team Comments Memo

HIGHGLEN AVENUE

(BY REGISTERED PLAN 65M-3513)
39'-4 1/2" (12.00)



SITE PLAN
SCALE: 1:150

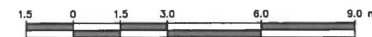
SITE DATA:		
587 HIGHGLEN AVE., MARKHAM ONTARIO		
	EXISTING	PROPOSED
LOT AREA:	408.09 SQ. M.	NO CHANGE
LOT FRONTAGE:	12.00 M	NO CHANGE
BUILDING FOOTPRINT AREA INCLUDING GARAGE AND FRONT PORCH FOUNDATION	147.29 SQ.M.	NO CHANGE
LOT COVERAGE %:	36.09 %	NO CHANGE
FRONT YARD SETBACK:	5.50 M	NO CHANGE
MIN. SIDE YARD [2 STOREY PORTION] RIGHT	1.24 M	NO CHANGE
MIN. SIDE YARD [2 STOREY PORTION] LEFT	1.23 M	NO CHANGE
MIN. REAR YARD SETBACK:	11.99 M	NO CHANGE
GARAGE AREA:	34.86 SQ. M.	NO CHANGE

* CONTRACTOR TO CHECK EXISTING FOOTING SIZES AND BEARING CAPACITY PRIOR TO STARTING WORK

CONTRACTOR TO BE RESPONSIBLE FOR VERIFYING ALL EXISTING CONDITIONS. THE CONTRACTOR SHALL ADVISE THE ENGINEER OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH CONSTRUCTION.

ALL EXISTING GRADES TO BE MAINTAINED.

NO CHANGE IN EXISTING FOOT PRINT AREA.



SCALE = 1:150

METRIC DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



KEY PLAN



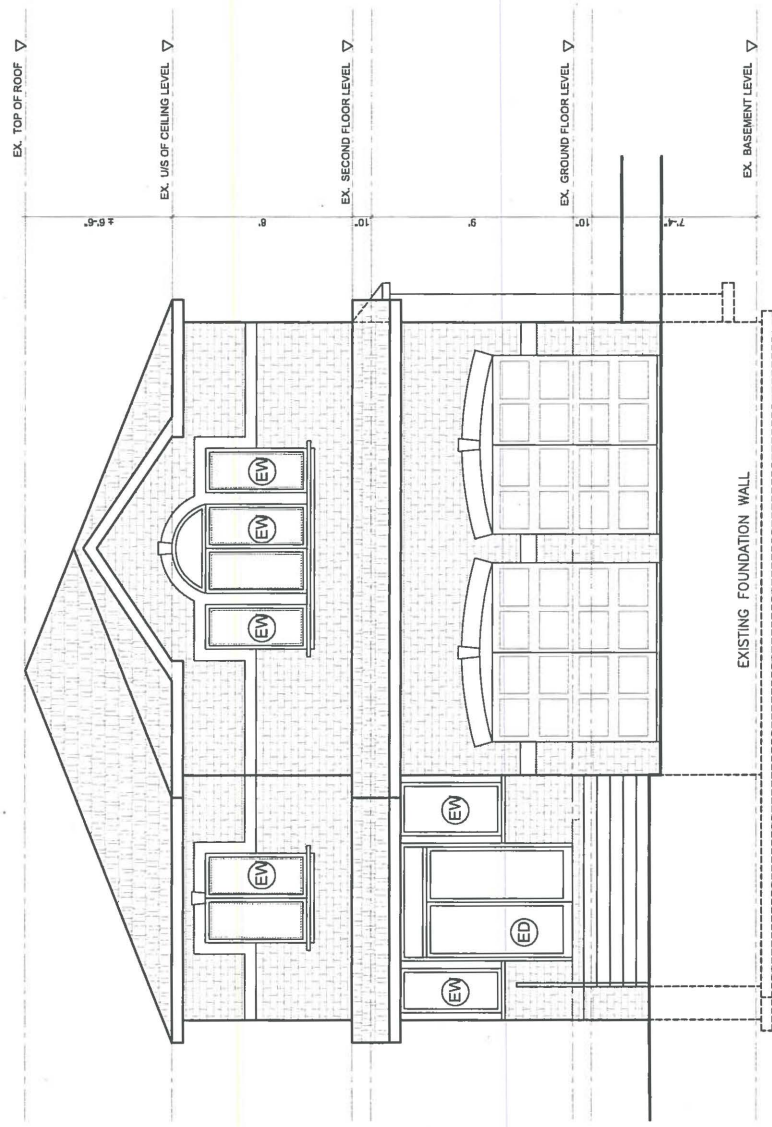
NO.	REVISIONS	DATE
2.	ISSUED FOR CDA	JAN / 18 / 2018
1.	ISSUED FOR BUILDING PERMIT	NOV / 22 / 2017

CONTRACTORS MUST CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND MUST REPORT ANY DISCREPANCIES TO THE DESIGNER BEFORE PROCEEDING WITH CONSTRUCTION.
THIS DRAWING MUST NOT BE USED FOR CONSTRUCTION PURPOSE UNLESS SEALED AND SIGNED BY THE ARCHITECT.
DO NOT SCALE DRAWINGS.

CANTAM
Group Ltd.
PLANNING & BUILDING CONSULTANTS
850 TAPSCOTT RD, UNIT # 51 TORONTO, ON M1X 1N4
TEL: 416-335-3753 • FAX: 416-335-7187 • CELL: 416-854-2485

PROJECT:
PROPOSED FINISHED BASEMENT APARTMENT
TO EXISTING TWO STOREY RESIDENCE
AT 587 HIGHGLEN AVE.
MARKHAM, ON

DRAWN BY: DATE: 27 MARCH 2017 SCALE: AS NOTED DWC: RAJ	CHECKED BY: DATE: CDD: ELLIANE	DRAWING NO. A1
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EXISTING FRONT ELEVATION
SCALE : 3/16"=1'

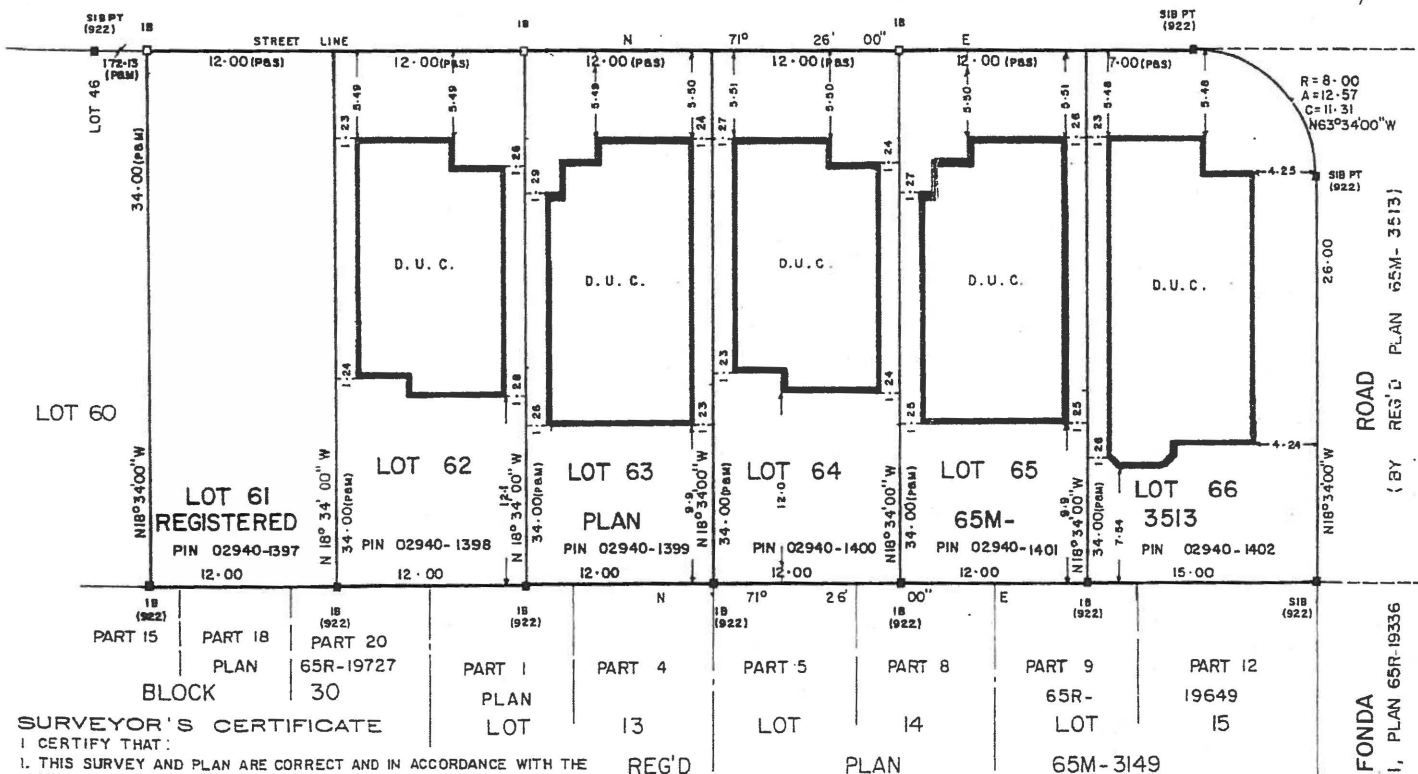
1. ISSUED FOR CDA		JAN / 18 / 2018
1. ISSUED FOR BUILDING PERMIT		NOV / 22 / 2017
NO.	REVISIONS	DATE
<p>CONTRACTORS MUST CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND MUST REPORT ANY DISCREPANCIES TO THE DESIGNER BEFORE PROCEEDING WITH CONSTRUCTION.</p> <p>THIS DRAWING MUST NOT BE USED FOR CONSTRUCTION PURPOSE UNTIL SEALED AND SIGNED BY THE ARCHITECT.</p> <p>DO NOT SCALE DRAWINGS.</p>		
<p>CANTAM Group Ltd.</p> <p>PLANNING & BUILDING CONSULTANTS 859 TAPSCOTT RD. UNIT # 51, TORONTO, ON M1X 1W4 TEL: 416-335-3353 • FAX: 416-335-3957 • CELL: 416-854-2485</p>		
<p>PROJECT: PROPOSED FINISHED BASEMENT APARTMENT TO EXISTING TWO STOREY RESIDENCE AT 587 HIGHGLEN AVE. MARKHAM, ON</p>		
<p>DRAWING: EXISTING GROUND FLOOR PLAN</p>		
DATE: NOV / 18 / 2017		DRAWING NO.
SCALE: AS NOTED		A4
DRN: RAI	CAD: YABO	

SURVEYOR'S REAL PROPERTY REPORT
PART 1 - PLAN OF
LOTS 62,63,64,65 AND 66
REGISTERED PLAN 65M-3513
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

0 5 10 20 30 METRES

SCALE - 1:300
 ANTON KIKAS LIMITED
 ONTARIO LAND SURVEYORS

HIGHGLEN AVENUE
 (BY REGISTERED PLAN 65M-3513)



METRIC: DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

NOTES:

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF HIGHGLEN AVENUE AS SHOWN ON REGISTERED PLAN 65M-3513 HAVING A BEARING OF N 71° 26' 00" E.

BUILDING TIES SHOWN HEREON ARE TO CONCRETE FOUNDATION UNLESS NOTED OTHERWISE

LEGEND

- DENOTES SURVEY MONUMENT FOUND
- " SURVEY MONUMENT PLANTED
- SIB " STANDARD IRON BAR
- IB " IRON BAR
- (P&S) " REGISTERED PLAN 65M-3513 AND SET
- (P&M) " REGISTERED PLAN 65M-3513 AND MEASURED
- D.U.C. " DWELLING UNDER CONSTRUCTION
- PT " POINT OF TANGENCY
- (922) " SCHAEFFER & DZALDOV O.L.S.

PART 2 - REPORT

THIS PLAN REPRESENTS LOTS DESCRIBED UNDER THE TITLE BLOCK AND SHOWS BOUNDARIES, MONUMENTATION, DWELLINGS UNDER CONSTRUCTION AND RESPECTIVE SET BACKS TOGETHER WITH EASEMENTS/RIGHT-OF-WAYS, IF APPLICABLE. LOCATION OF FENCES IN RELATION TO THE BOUNDARY LINE, IF ANY, ARE SHOWN THEREON.

ASSOCIATION OF ONTARIO LAND SURVEYORS
PLAN SUBMISSION FORM

1358862



THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR in accordance with Regulation 1026, Section 29(3).

LOTS 63, 64 & 65, OCT. 15, 2001

THIS REPORT WAS PREPARED FOR GREAT WEST DEV. AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

NOTE: LOTS 63, 64 AND 65 ADDED OCT. 15, 2001
 © ANTON KIKAS LIMITED

Anton Kikas Limited
 Consulting Engineers
 Ontario Land Surveyors - Planners
 168 Bridgeland Avenue Toronto M6A 1Z4, Tel 787-0303

DRAWN BY: T.V.
 CHECKED BY: T.M./A.K.

JOB NO 01-19-4

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM;

2. THE SURVEY WAS COMPLETED ON THE 12th DAY OF Sept., 2001.

DATE: Sept. 17, 2001.

ANTON KIKAS
 ONTARIO LAND SURVEYOR