

Memorandum to the City of Markham Committee of Adjustment

September 4, 2018

File: A/122/18
Address: 1 Valleyview Road, Thornhill
Applicant: Neveen Youssef
Agent: Neveen & Emad Youssef
Hearing Date: Wednesday September 12, 2018

The following comments are provided on behalf of the West Team:

The applicant is requesting relief from the following requirements of By-law 72-81, R8 as amended:

a) **Section 5.2.1:**

a secondary suite (basement apartment), whereas the By-law does not permit more than one dwelling per lot; as it relates to an existing basement apartment.

BACKGROUND

Property Description

The 580.68 m² (6250.38 ft²) subject property is located on the south side of Summerdale Drive, east of Leslie Street. The property is developed with a 296.26 m² (3189 ft²) two-storey detached dwelling, which according to assessment records was constructed in 1984. The applicant has not indicated the number of parking spaces provided, additional variances may be required.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposed secondary suite 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 sections 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 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 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

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

Zoning By-law 72-81

The subject property is zoned R8 'Eight Density – Single Family Residential' under By-law 72-81, as amended, which does not permit a secondary suite.

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

According to the information provided by the applicant on the application form, *"Existent basement apt to be turned to a legal apt. R8 zone. Currently the zoning needs a minor zone change to allow that. Need to legalize the apt for rental purpose on Airbnb."*

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 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.

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.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 4, 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

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.

This application is a request to permit a secondary suite on the subject property. The applicant has indicated that they intend to use the second suite as a short term accommodation (ie. Airbnb). In March, 2019, Council amended the City's zoning by-laws and official plan to define a short term accommodation, but not to permit the use within any zone, or within any designation in the official plan. Approval of the proposed secondary suite would not also grant permission for a short term accommodation. Additional applications would be required to bring the short term accommodation use into conformity with the official plan, and zoning by-law.

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:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



David Miller, Development Manager, West District

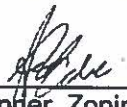
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APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/122/18

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 dated August 16, 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 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.
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:



Aqsa Malik, Planner, Zoning and Special Projects

BUILDING LOCATION SURVEY
LOTS 101, 102, 103, AND 104
PLAN 65M-2082
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

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



RATIO 1 : 300
 0 1 2 3 4 5 10 15 20 metres

STEWART MCKECHNIE SURVEYING LIMITED
 1984



LOT 7 CONCESSION 3

PART 1 64 R - 8473
 INST. NO. 78108 (REMAINDER)

PLAN 65 M - 2144

BLOCK 214 81

BLOCK 186
 (0.30 RESERVE)

BLOCK 185
 (0.30 RESERVE)

DRIVE

SUMMERDALE

GLENDALE ROAD

ROAD

VALLEYVIEW

SURVEYOR'S CERTIFICATE

I CERTIFY THAT :

THE FIELD SURVEY REPRESENTED ON THIS PLAN WAS
 COMPLETED ON THE 10th DAY OF APRIL, 1984

APRIL 22, 1984

DATE

STEWART MCKECHNIE
 ONTARIO LAND SURVEYOR

BEARING NOTE

BEARINGS ARE ASTRONOMIC AND ARE
 REFERRED TO THE EASTERLY LIMIT
 OF VALLEYVIEW ROAD AS SHOWN
 ON PLAN 65M-2082 HAVING A
 BEARING OF N10°02'00"W

LEGEND

□ denotes SET
 ● denotes FOUND
 S.I.B. denotes STANDARD IRON BAR
 I.B. denotes IRON BAR
 S.B. denotes ROUND IRON BAR
 C.D. denotes CUT CROSS
 I.T. denotes IRON TUBE
 P. denotes PLAN 65M-2082
 D1 denotes INST. NO.
 D2 denotes INST. NO.
 D3 denotes INST. NO.
 MEAS. denotes MEASURED
 WIT. denotes WITNESS
 PROR denotes PROPORTIONED

STEWART MCKECHNIE, ONTARIO LAND SURVEYOR

35 KING STREET NORTH
 WATERLOO, ONTARIO
 N2J 2W9
 (517) 886-9486

FILE N° 83-98 PLAN N° AB-97 DRAWN BY : D.C. DATE : APRIL 21, 1984

B+5EMENT APT

(Scale 1 ft/sq)

