

Memorandum to the City of Markham Committee of Adjustment

October 16, 2018

File: A/131/18
Address: 7380 McCowan Rd, Markham
Applicant: Neamsby Investments Inc. (Jessica Byers)
Agent: (none)
Hearing Date: Wednesday October 24, 2018

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

The applicant is requesting relief from the following requirements of By-law 90-81, LC, as amended:

- a) **Amending By-law 25-95, Section 7.28(c)(i):**
a maximum Gross Floor Area of 275 sq. m for all Full Service Restaurants; whereas the By-law permits a maximum Gross Floor Area of 130 sq. m;
- b) **Amending By-law 25-95, Section 7.28(c)(ii):**
a Full Service Restaurant to be located within 7 metres of any residential property line or zone boundary; whereas the By-law requires a minimum distance of 12 metres from any residential property line or zone boundary;
- c) **Amending By-law 294-89, Section 7.22(i):**
a Fast Food or Take-out Restaurant to be located within 7 metres from the south lot line; whereas the by-law requires a minimum distance of 30 metres from the south lot line;

as they relate to a proposed increase in the amount of restaurant use within an existing commercial building.

BACKGROUND

Property Description

The 0.79 ha (1.97 ac) subject property is located at the south-west corner of McCowan Road and Denison Street, approximately one kilometre north of Steeles Avenue. Single detached dwellings are located to the north across Denison Street, to the east across McCowan Road and directly south. To the west is the Armadale Community Centre and Park. There is an existing 1,100 m² (11,840.69 ft²) one storey commercial plaza on the subject property, which contains 11 units including a dental office, restaurant and bank. The site has access to McCowan Road and Denison Street and provides 95 parking spaces.

Proposal

The applicant is requesting relief from the by-law to expand the floor area of the total restaurant use from 130 m² (1,399.31 ft²) to 275 m² (2,960.07 ft²). This will be achieved by adding a restaurant in Unit 8 which is approximately 130.06 m² (1,400 ft²) and currently vacant. The new restaurant will abut the existing restaurant located in Unit 7 which is approximately 144 m² (1,550 ft²).

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property 'Mixed Use Low Rise'. This designation provides for a full range of multi-use, multi-purpose areas that offer a diverse range of relatively small scale retail, service, professional office, community, institutional and recreational uses

serving nearby residents and businesses. Properties within this designation are to provide appropriate buffering where adjacent to 'Residential Low Rise' areas.

Zoning By-Law 90-81

The subject property is zoned LC 'Local Commercial' under By-law 90-81 as amended, which permits banks, financial institutions, personal service shops and, business and professional offices. Under the Amending By-law 25-95 the combined gross floor area of all full service restaurants shall not exceed 130 m² (1,399.31 ft²) and shall not be permitted within 12 m (39.37 ft) of any residential property line or zone boundary. Under amending By-law 294-89 no more than one fast food or take out restaurant shall be permitted on the property. The proposal does not comply with the by-law with respect to the size for all full service restaurants, the location of the proposed full-service restaurant to the residential property line/zone boundary and, the location of a fast food or take-out restaurant to the south lot line.

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, *"the variance is requested to permit a larger restaurant in the development"*.

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the variances required for the proposed development.

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 applicant is requesting relief to permit all restaurant uses on the property to have a combined gross floor area of 275 m² (2,960.07 ft²), whereas the by-law only permits a combined maximum gross floor area of 130 m² (1,399.31 ft²) for all restaurant uses on the site. This represents an increase of approximately 145 m².

There is one other restaurant in the plaza, Unit 7 which has a floor area of approximately 144 m² (1,550 ft²). Staff consider the combined floor area of the two restaurants, which represent approximately 25 percent of the total floor area of the building, to be minor and secondary relative to the size of the commercial plaza and other existing uses. There are no proposed changes to the building exterior or to the site. Further, Zoning has confirmed that the variance will not trigger any parking deficiency. Given this, Staff are of the opinion that the proposed variance is desirable for the appropriate development of the site and meets the general intent of the Official Plan to serve nearby residents and businesses.

Reduced Setback from Residential Properties

The applicant is requesting relief to permit a Full Service Restaurant to be located within 7 metres (22.96 feet) of any residential property line or zone boundary whereas the By-law requires a minimum distance of 12 metres (39.37 feet) from any residential property line or zone boundary. The applicant is also applying to permit a fast food/take-out restaurant to be located within 7

metres (22.96 feet) of the south lot line whereas the by-law requires a minimum distance of 30 metres (98.42 feet) from the south lot line, for future take-out operation within the proposed restaurant.

The applicant is not proposing any external changes to the property and will be using the existing building for the proposed restaurant. There is an existing fence and some mature vegetation which provides screening between the existing commercial building and dwellings to the south of the commercial plaza. Public access to the restaurants and parking are all available at the north-east corner of McCowan Road and Denison Street, away from the existing dwellings to the south. Staff note that the proposed restaurant use may result in an increase in refuse on site and require that the applicant mitigate this by enclosing all waste containers and introduce odour control units. Given that there is existing screening between the commercial plaza and residential developments to the south and, that the operation and public access to the commercial plaza is at the north-east corner of the property, Staff are of the opinion that the requested variance is minor in nature.

PUBLIC INPUT SUMMARY

No written submissions were received as of October 16, 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 requests meet 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.

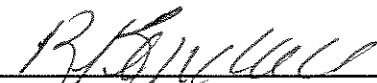
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:




Richard Kendall, Development Manager, Central District
File Path: Amanda\File\ 18 251393 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/131/18

1. The variances only apply to the proposed development as long as it remains;
2. The maximum total gross floor area of all full service restaurants on the subject property is limited to a maximum gross floor area of 275 m² (2,960.07 ft²);
3. That the applicant enclose all waste containers on site, subject to the Satisfaction of the Supervisor of Waste Management Operations or designate;
4. That the applicant install odour control units for the proposed restaurant.

CONDITIONS PREPARED BY:

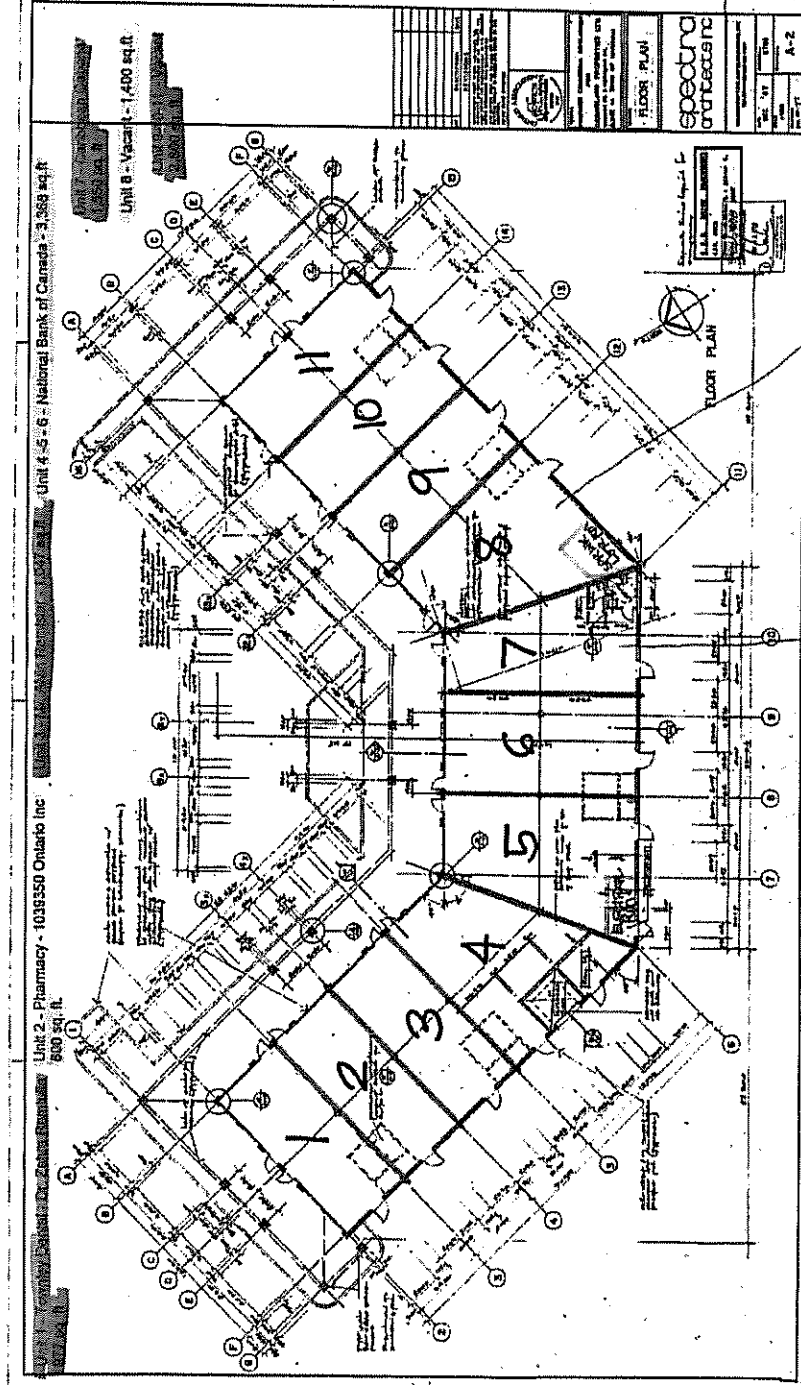


Aqsa Malik, Planner, Zoning and Special Projects

CITY OF MARKHAM
RECEIVED
SEP 26 2016
COMMITTEE OF ADJUSTMENT



CITY OF MARK
RECEIVED
SEP 26 2003
COMMITTEE OF ADJUTANTS
L100311



PROPOSED: FULL-SERVICE
RESTAURANT

EXISTING: FULL-SERVICE
RESTAURANT