

## **Memorandum to the City of Markham Committee of Adjustment**

June 27, 2018

**File:** A/142/16  
**Address:** 30 Colborne St Thornhill  
**Applicant:** Shahram Heidari and Ladislava Stahlova  
**Agent:** David Johnston Architects Ltd.  
**Hearing Date:** Wednesday June 27, 2018

The following comments are provided on behalf of the Heritage Districts Team:

The applicant is requesting relief from the following requirements of By-law 2237, as amended:

a) **Section 4.4.1:**

To permit a portion of a detached garage to be located in the side yard (west), whereas the By-law requires that all accessory buildings which are not part of the main building be erected in the rear yard;

as it relates to a proposed detached garage adjacent to an existing dwelling.

### **BACKGROUND**

#### **Property Description**

The subject property is located within the Thornhill Heritage Conservation District. The property contains a one and a half storey, frame heritage dwelling known as the John Ramsden House, c.1852, with a two storey addition currently under construction.

The lot contains a number of mature trees, and a white picket fence encloses the front yard. The surrounding context is a street of heritage and other older dwellings ranging from one and one and a half storeys to two storeys in height.

The lot frontage is 21.71 metres (71.23 feet); the depth is 94.92 metres (311.42 feet); and the lot area is 2,013.22 square metres (21,670.12 square feet).

#### **Proposal**

The Minor Variance Application is related to Site Plan Control Application SC 17 168354. The application is for a variance to permit the construction of a 42 square metre (425 square feet) two-car garage in a portion of the side yard, in the general location of an older existing frame garage that is proposed to be removed. The proposed new garage complies with the By-law in all other respects. No trees are to be removed as part of the proposed construction. The site plan and elevations are attached as Appendix 'B'. This design is similar to a previous proposal reviewed by staff, Heritage Markham and the Development Services Committee in 2017.

#### **Official Plan and Zoning**

Official Plan 2014 (as partially approved on November 24, 2017 and further updated on April 9, 2018)

The Official Plan 2014 designates the subject property "Residential – Low Rise", which provides for low rise housing forms, including single detached dwellings. The

"Residential – Low Rise" designation is now in force. On these lands, it is the policy of Council to respect the physical character of established neighbourhoods including heritage conservation districts (Policy 8.2.3.1)

#### Zoning By-law

The subject property is zoned R3 – Residential under By-law 2237, as amended, which permits single detached dwellings and accessory buildings. The parent by-law is amended by By-law 61-94 (regarding side yard setbacks), and the Infill By-law 101-90. The proposed development does not comply with Section 4.4.1 of By-law 2237, which requires accessory buildings that are not part of the main building to be located in the rear yard. A variance to the By-law is therefore required to permit the proposed development. A Zoning Preliminary Review was applied for and obtained in 2017, during the review of the overall site plan.

#### **Thornhill Heritage Conservation District Plan**

The John Ramsden House is a Class A Heritage Building within the Thornhill Heritage Conservation District and a major contributing property. A permit is required from the municipality to undertake any alterations to the building or property.

The Thornhill Heritage Conservation District Plan indicates in Section 7.4 Land Severance and Minor Variances that *"Each land division proposal and variance will be evaluated on its own merits and as to its compatibility with the objectives and policies of the District Plan"*.

One of the objectives of the Plan is to guide the design of new development to be sympathetic and compatible with the heritage resources and character of the District while providing for contemporary needs (Policy 2.4.5) and to conserve the heritage value and attributes of a heritage resource when creating any new addition or any related new construction. This proposal will result in a new garage that will be similar to the existing garage and its placement, representing only a minor change to the existing character of the property.

#### **Applicant's Reasons Why it is Not Possible to Comply with the Provisions of the Zoning By-law**

On the application form it is stated "To comply with the By-law a number of trees would have to be cut. Our client does not want to cut any trees on the property."

#### **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.

#### Heritage Markham

Heritage Markham has examined this development concept at a series of meetings, working with the applicant and the architect to refine details and address issues relating

to tree preservation and the treatment of the heritage building. The current proposal for a new detached garage was reviewed by Heritage Markham at the Committee's June 13, 2018 meeting. Heritage Markham has no issues with the location or design of the garage, but does have concerns about how the asphalt paving of the driveway, as shown on the site plan, comes very close to the tree trunks. Heritage Markham members expressed their opinion that permeable paving should be used in place of asphalt, or that the existing gravel surface remain.

#### Engineering

Engineering has no comments or concerns regarding the subject application.

#### Urban Design

Urban Design staff has the following recommendations in the interest of tree preservation:

- Consider using gravel as opposed to asphalt for the driveway in order to reduce impact to the adjacent trees;
- Explore options for the driveway that will have a lower impact on the tree roots, such as Geocells;
- Retain a certified arborist during excavation for the garage to prune roots as needed and to provide documentation that roots have been pruned and existing trees have not been destabilized as a result of excavation.

#### Heritage Planning

When the Site Plan Control application for an addition to the existing heritage dwelling, including a detached garage, was under review by City staff in the fall of 2017, the zoning examiner identified that a variance would be required to permit the proposed garage in the side yard. For the purpose of expediency of approval of the Site Plan Control application for the dwelling, the applicant decided to temporarily remove the garage from the site plan and apply for the required variance at a later date. Construction work on the residential addition is currently underway and the applicant is now ready to apply for the necessary approvals to add the garage back into the project as originally intended.

Since the proposed garage and its location are in keeping with the original plans as they were prior to the removal of the garage to facilitate a faster site plan approval process for the dwelling, staff does not have any issues with its design or placement on the property. If the Committee of Adjustment approves the requested variance, the existing Site Plan approval for the property will need to be amended because the approved drawings from 2017 do not include a garage or conditions connected to its construction.

#### **PUBLIC COMMENT SUMMARY**

As of June 13, 2018, staff has received two written submissions on the Minor Variance application. One of the submissions is from the Society for the Preservation of Historic Thornhill, and the other is from a local resident. The focus of the public submissions is the protection of the mature trees on the property that may be impacted by construction activity or the asphalt paving of the driveway close to the tree trunks.



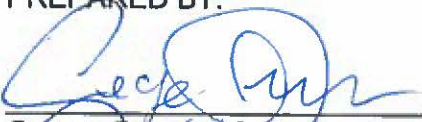
## CONCLUSION

It is the opinion of Planning staff that the requested variance to permit an accessory building in a side yard is supportable and meets the four tests of the Planning Act. The small scale and placement of the proposed garage will be similar to the existing situation. Staff recommend that tree preservation concerns be addressed by including the recommendations of Urban Design staff as conditions of approval.

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:



George Duncan, Senior Heritage Planner

REVIEWED BY:




Regan Hutcheson  
Manager of Heritage Planning

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/142/16**

1. The variance applies only to the proposed development as long as it remains;
2. That the variance for an accessory building in the side yard applies only to the subject development, in substantial conformity with the plans attached as 'Appendix B' to this Staff Report, to the satisfaction of the Director of Planning and Urban Design or designate;
3. That the applicant use surfacing for the driveway that will have a lower impact on the tree roots, such as retaining the existing gravel surface, or using Geocells;
4. That the applicant retain a certified arborist during excavation for the garage to prune roots as needed and to provide documentation that roots have been pruned and existing trees have not been destabilized as a result of excavation;
5. That the applicant receive site plan endorsement for the proposed development, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate;

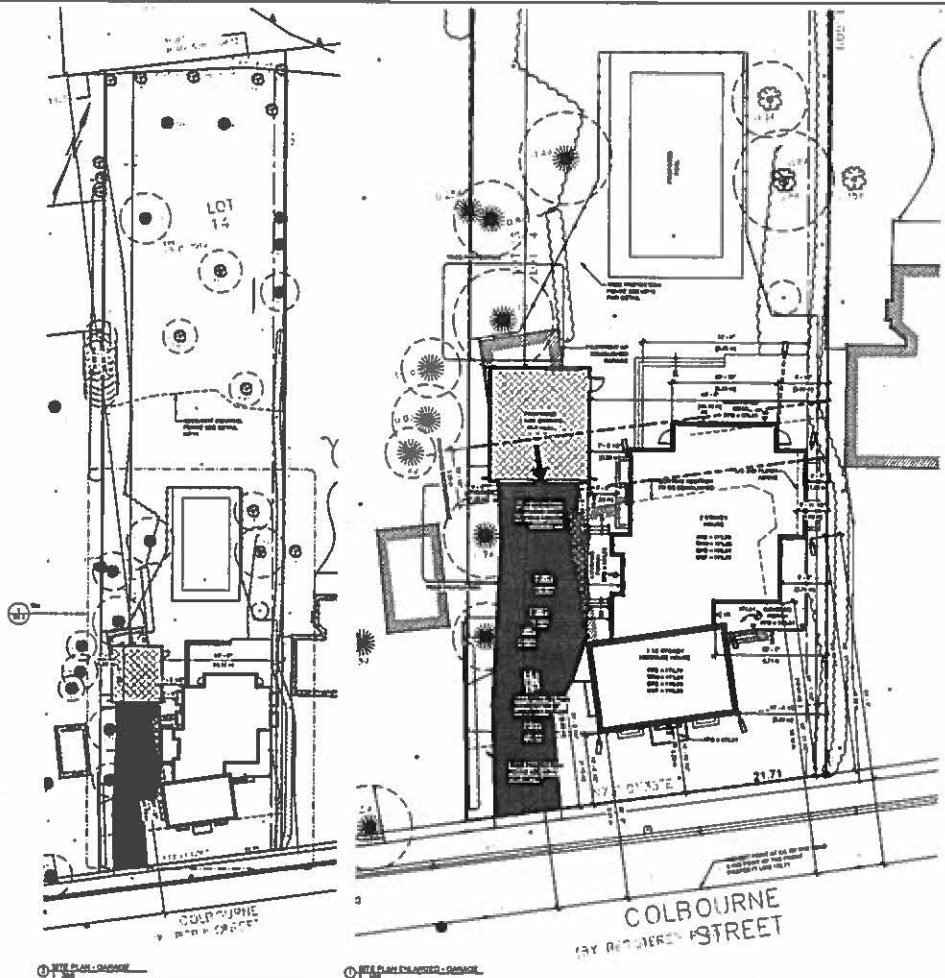
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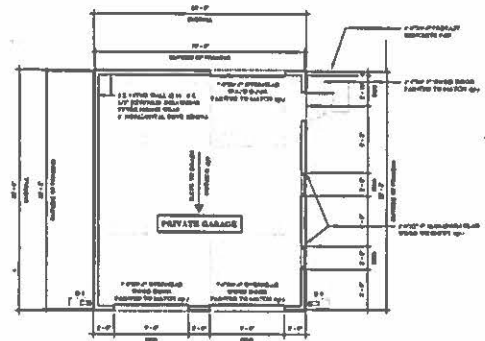
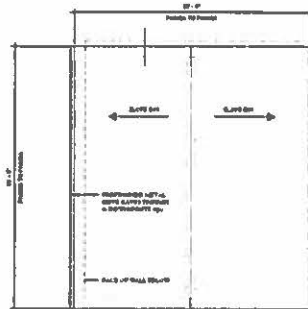
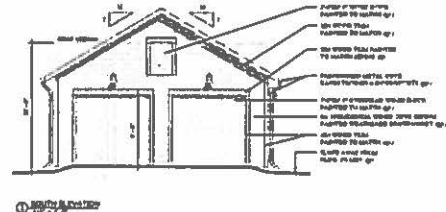
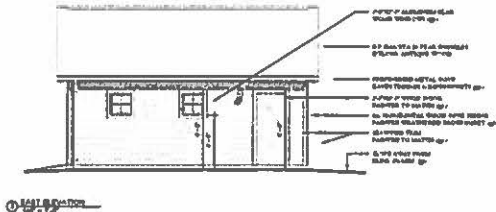
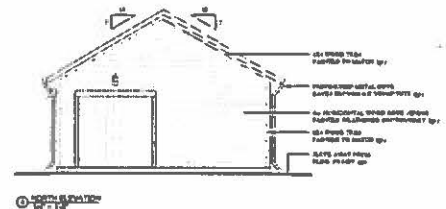
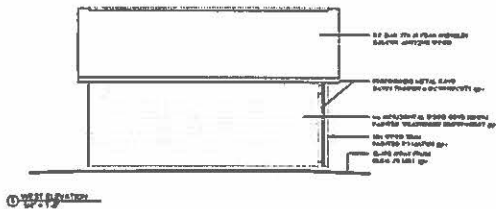
  
George Duncan, Senior Heritage Planner

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**PROPOSED VARIANCE:  
LOCATION OF NEW DETACHED  
GARAGE ENCREACHED  
3.3 m TOWARDS  
FRONT PROPERTY LINE  
FROM THE REAR POINT OF THE  
DWELLING.**

**REASONING:**  
PROTECTION OF EXISTING TREE  
ON PROPERTY.

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Sheet	Date
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HERITAGE DISTRICT OF KANSAS  
**PRIVATE GARAGE**  
 11 CALABASH STREET  
 KANSAS CITY, MISSOURI

DESIGNED BY  
 JOHN YOUNG, ST.  
 ARCHITECT  
 1111 WEST 10TH  
 KANSAS CITY, MO 64105

**Building Permit Application**

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