

**Memorandum to the City of Markham Committee of Adjustment**  
June 26, 2019

**File:** A/55/19  
**Address:** 38 Swansea Rd Markham  
**Applicant:** SZR Markham Inc. c/o Sunrise North Senior Living Ltd.  
**Agent:** Candevcon Limited (Erik Mirtsou)  
**Hearing Date:** Wednesday, June 26, 2019

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

The applicant is requesting relief from the following requirements of By-law 122-72, O2 as amended:

- a) **Amending Bylaw 130-1999, Section 1.5.2(iii):** a side yard setback of 4.34 m, whereas the Bylaw requires a minimum of 20 m; as it relates to an existing accessory structure that was built without a permit.

**BACKGROUND**

**Property Description**

The subject property has an area of approximately 0.8 hectares and is municipally known as 38 Swansea Road. The subject site is located at the southwest corner of Deviation Road and Swansea Road, south of Highway 7 East (see Appendix "B"). The property is partially within TRCA's Regulated Area due to the site's proximity to the valley corridor associated with the Rouge River watershed on the opposite side of Highway 7 East.

The property is occupied by an approximately 5,400 m<sup>2</sup> (58,125 ft<sup>2</sup>) seniors residence built in 2002, known as Sunrise of Unionville. Additionally, there is a 26.8 m<sup>2</sup> (288 ft<sup>2</sup>) storage shed in the rear southern parking lot that does not comply with the side yard setback requirement of the zoning by-law. Mature vegetation exists along the perimeter of the property and a retirement residence known as Bethany Manor is located immediately south of the property.

**Proposal**

The applicant is requesting relief to the side yard setback to allow the existing outdoor storage shed to remain in its current location. The applicant is not proposing to build any new structures or modify site access or landscaping as part of this application.

The 3.65 m tall shed contains a sliding garage door and entrance door on the north elevation and is made of prefinished vinyl siding and asphalt shingles. Should relief be granted from the side yard setback requirement of the by-law, the structure's north and south face elevation walls will need to be upgraded to 1-hour fire resistance rated walls to comply with the Ontario Building Code.

## **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 Mid Rise', which provides for a mix of residential and non-residential uses including shared housing. The existing storage shed and retirement residence comply with the Official Plan.

## Zoning By-Law 122-72, as amended by By-law 130-1999

The subject property is zoned O2 under By-law 122-72, as amended by site-specific By-law 130-1999, which permits the retirement residence use. However, the existing outdoor storage shed does not comply with By-law 130-1999 in regards to side yard setback.

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

According to the information provided on the application form, the reason for not complying with Zoning is, *"It is not possible to comply with the minimum side yard setback of the by-law with the current configuration of the existing structure on the lot"*.

## **Zoning Preliminary Review (ZPR) Undertaken**

The owner completed a Zoning Preliminary Review (ZPR) on November 16, 2018 to confirm the variances required for the proposed development.

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## **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.

## **Reduced Side Yard Setback**

The applicant is requesting a minimum side yard setback of 4.34 m for the accessory outdoor storage shed, whereas the by-law requires a minimum side yard setback of 20 m.

Engineering and Urban Design staff have reviewed the application and have no concern with the variance respecting drainage, landscaping, or site access. The Toronto Region Conservation Authority has also reviewed the application and does not oppose the variance. Notwithstanding, Building Department Staff have confirmed that if the variance is approved, the applicant is required to apply for a building permit due to the size of the structure.

Staff note that existing mature landscaping and fence along the southwest portion of the property screens the accessory structure from the retirement residence on the neighbouring property to the south.

#### **PUBLIC INPUT SUMMARY**

No written submissions have been received as of June 18, 2019. 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 to the variance. 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.

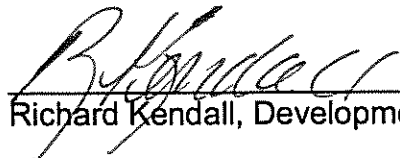
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Luis Juarez, Planner, Central District

REVIEWED BY:



Richard Kendall, Development Manager, Central District

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**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/55/19**

1. That the variances apply only to the existing outdoor storage shed, in substantial conformity with the plan(s) attached as 'Appendix C' to this Staff Report and received by the City of Markham on Wednesday, June 05, 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; and,

CONDITIONS PREPARED BY:



Luis Juarez, Planner, Central District