

# Memorandum to the City of Markham Committee of Adjustment

August 12, 2019

**File:** A/80/19  
**Address:** 7 Spangler Road, Markham  
**Applicant:** John Fray  
**Agent:** Architect Ravi Doiphode  
**Hearing Date:** Wednesday August 28, 2019

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

The applicant is requesting relief from the following requirements of the 'Fourth Density – Semi-Detached Residential' (RSD4) zone in By-law 90-81, as amended, as it relates to a proposed basement apartment that is under construction.

**a) Section 5.2.1:**

to permit a Secondary Suite, whereas the By-law only permits no more than one (1) semi-detached dwelling on one (1) lot.

## **BACKGROUND**

### **Property Description**

The 319.21 m<sup>2</sup> (3,436 ft<sup>2</sup>) subject property is located on the south side of Spangler Road, which is north of Elson Street and west of Middlefield Road. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached and semi-detached dwellings. There is an existing two-storey semi-detached dwelling on the property, which according to assessment records was constructed in 1987. The existing dwelling has a two-car garage and driveway. Note, the subject dwelling is considered a semi-detached dwelling as its foundation wall is attached to an adjacent dwellings foundation wall. This configuration is permitted in accordance with the applicable 90-81, as amended, zoning by-law and is a common characteristic of the community. The dwelling however visually looks like at detached dwelling above grade.

### **Proposal**

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling as shown in Appendix A. The proposed secondary suite would have direct and separate access provided by a proposed walkout through the garage. No other 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 semi-detached 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:

- a) The building type in which the secondary suite is contained;
- b) The percentage of the floor area of the building type devoted to the secondary suite;
- c) The number of dwelling units permitted on the same lot
- d) The size of the secondary suite;
- e) The applicable parking standards; and
- f) 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 29<sup>th</sup>, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

### Zoning By-Law 90-81

The subject property is zoned 'Fourth Density – Semi Detached Residential' (RSD4) under By-law 90-81, as amended, which permits a semi-detached dwelling. Section 6.5 of the By-law only permits one dwelling on a lot, and the applicant has therefore submitted a variance to permit a secondary suite within the dwelling, which is currently under construction.

### **Zoning Preliminary Review (ZPR) Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However the applicant has received comments from the building department through the building permit review process to confirm the variance 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.

### 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. As noted the proposed access to the basement unit is via stairs within the existing garage. The resultant onsite parking configuration includes room for one parking space within the garage and two spaces on the driveway. Accordingly no reduction to onsite parking requirements is required to facilitate the proposed secondary suite.

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 August 12<sup>th</sup>, 2019. 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. Staff recommend that the Committee consider public input in reaching a decision.

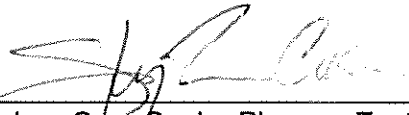
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

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

PREPARED BY:

  
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Aqsa Malik, Planner I, East District

REVIEWED BY:

  
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Stephen Corr, Senior Planner, East District  
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**APPENDIX "B"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/80/19**

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 by the City of Markham on July 30<sup>th</sup>, 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;
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; and
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:

  
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Aqsa Malik, Planner I, East District

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