

Memorandum to the City of Markham Committee of Adjustment

July 10, 2018

File: A/98/18
Address: 74 Saxony Drive, Markham
Applicant: Mariam Attia
Agent: Samer Ghabbour
Hearing Date: Wednesday July 25, 2018

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

The applicant is requesting relief from the following requirements of By-law 177-96, as amended:

a) Section 6.5:

a secondary dwelling unit in the basement, whereas the By-law permits no more than one dwelling on one lot; as it relates to a proposed basement apartment.

Property Description

The 342.81 m² (3689.98 ft²) subject property is located on the north side of Saxony Drive, south of Major Mackenzie Drive East and east of The Bridle Walk. The property is developed with a 289.3 m² (3114 ft²) dwelling. According to assessment records the dwelling was constructed in 2000. There are 3 parking spaces provided, 1 in the garage and 2 on the private driveway.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposal includes a new egress window at the rear of the building. The access to the proposed secondary suite would be from an existing door on the inside of the building. No other changes are being proposed to the exterior of the dwelling or the property. The by-law requires three parking spaces. The proponent has not requested a variances to reduce the required number of parking spaces.

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 incorporated 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 177-96

The subject property is zoned R2*63 ‘Residential 2’ under By-law 177-96, as amended, which does not permit a secondary suite. Exception 63 provides for specific zone standards and site provisions that do not relate to the proposed development.

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

According to the information provided by the applicant on the application form, *“The new basement suite does not comply with By-Law 177-85 as amended a. section 6.5 To permit secondary dwelling unit in the basement whereas; the By-laws permit no more than one dwelling on one lot. However, I am proposing a finished basement with one bedroom, one bath and kitchen counter including stove for my parents (73 & 71 years old) who are currently living with us in the same dwelling. No extra parking is needed since they don’t drive or have a vehicle.”*

Zoning Preliminary Review (ZPR) 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.

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 July 10, 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.


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
File Path: Amanda\File\ 18 237600 \Documents\District Team Comments Memo

APPENDIX "A"

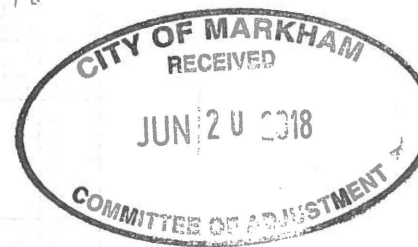
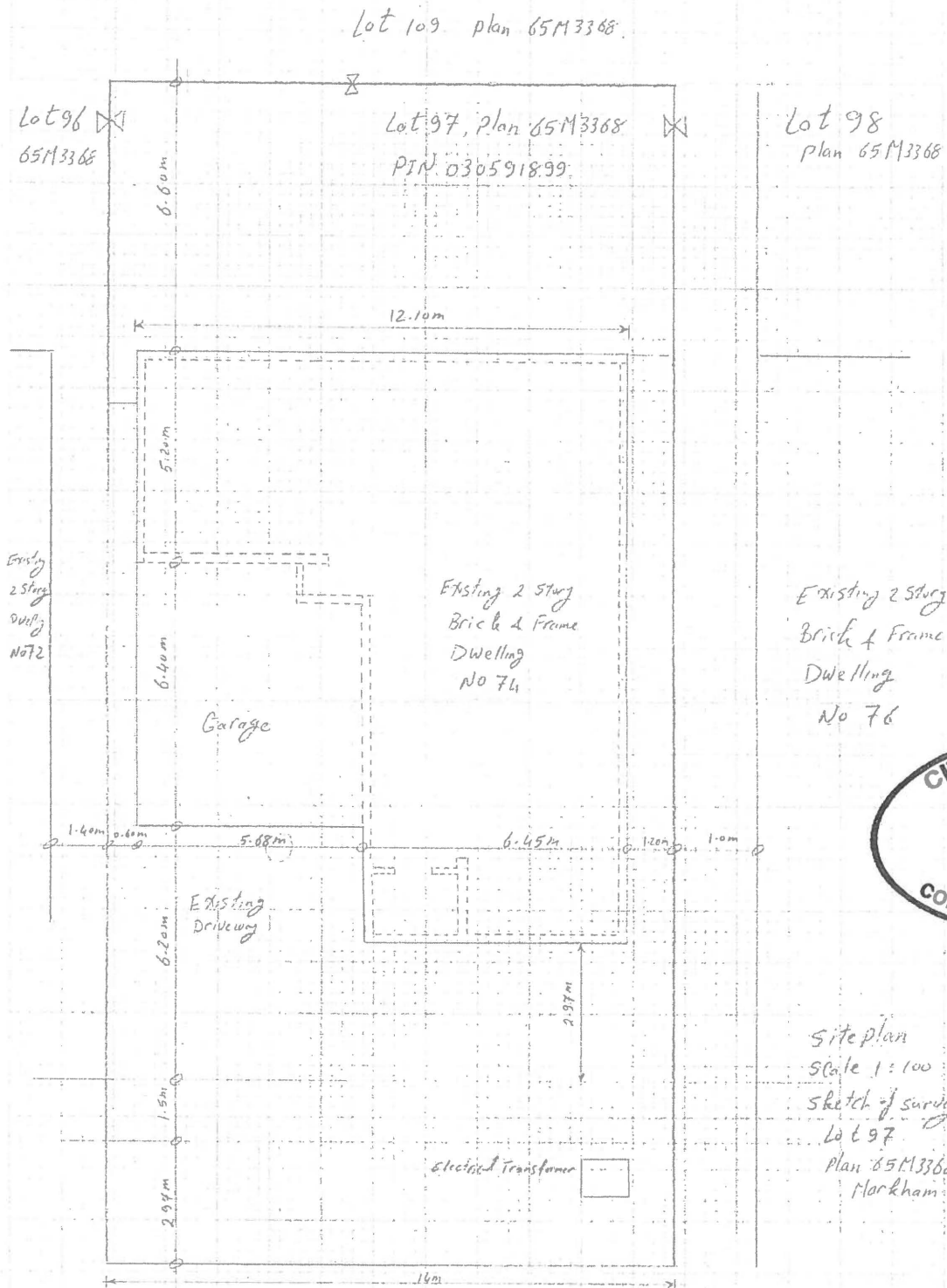
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/98/18

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 received by the City of Markham on June 20 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



SAXONY DRIVE

Zoning R2*63
Bylaw 177-96

Lot No: Lot 97

Plan No: 65M3368

Lot Area: 343.12 m²

Lot Frontage: 45.93 ft
Lot Depth: 80.38 ft

Building Structure Particulars

- * Ground Floor Area (including garage)
- * Second Floor Area
- * Basement Floor Area
- * Total Gross Floor Area

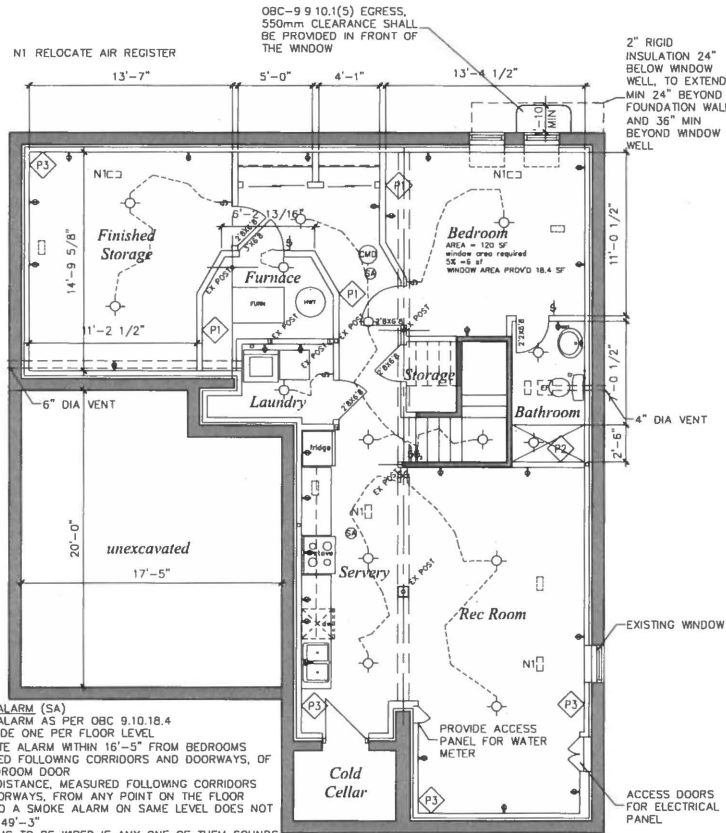
Existing
158 m²
121 m²
- m²
279 m²

Proposed
158 m²
121 m²
89.5 m²
368.5 m²

WALL TYPES:

- P1** TYPICAL PARTITION:
1/2" GYPSUM BOARD ON BOTH SIDES
OF 2X4 WOOD STUDS AT 16" C.C.
- P2** SHOWER PARTITION:
1/2" GYPSUM BOARD SHOWER SIDE
OF 3/8" METAL STUDS AT 16" C.C.
1/2" GYPSUM BOARD ON OTHER SIDE
- P3** BASEMENT PERIMETER WALL:
1/2" GYPSUM BOARD ON 2 1/2" METAL
STUDS AT 16" C.C. C/W 5mil POLY
VAPOUR BARRIER & BATT
INSULATION (R14) & DAMPROOFING
EXISTING FOUNDATION WALL

NOTE:
OBC-9.10.20.1
WINDOW OR ACCESS PANEL NOT LESS
THAN 1100mm HIGH X 550mm WIDE
AND SILL HEIGHT OF NOT MORE THAN
900mm AFF



- SA SMOKE ALARM (SA)**
SMOKE ALARM AS PER OBC 9.10.18.4
- PROVIDE ONE PER FLOOR LEVEL
- LOCATE ALARM WITHIN 16'-5" FROM BEDROOMS
MEASURED FOLLOWING CORRIDORS AND DOORWAYS, OF
THE BEDROOM DOOR
- THE DISTANCE, MEASURED FOLLOWING CORRIDORS
AND DOORWAYS, FROM ANY POINT ON THE FLOOR
LEVEL TO A SMOKE ALARM ON SAME LEVEL DOES NOT
EXCEED 49'-3"
- ALARMS TO BE WIRED IF ANY ONE OF THEM SOUNDS
- CMO CARBON MONOXIDE DETECTOR**
CARBON MONOXIDE DETECTOR (CMD) AS PER OBC
9.33.4.2
- WHERE THERE IS A SOLID FUEL BURNING APPLIANCE
A CMD SHALL BE PROVIDED
- CMD TO BE WIRED SO WHEN ACTIVATED SMOKE
ALARM WILL SOUND



15 JUN 18	RE-ISSUED FOR PERMIT & CONSTRUCTION	Project INTERIOR RENOVATION TO: BASEMENT	Date	MAR 2018
28 MAY 18	ISSUED FOR PERMIT & CONSTRUCTION	74 SAXONY DRIVE MARKHAM, ONTARIO	Scale	1/8"=1'-0"
1 APR 18	ISSUED FOR PERMIT & CONSTRUCTION	Sheet Title BASEMENT PLAN	Drawn By	SAMER
25 MAR 18	ISSUED FOR PERMIT & CONSTRUCTION		Project No.	18-009
Date	Revisions		Drawing No.	A1

