

**Memorandum to the City of Markham Committee of Adjustment**  
February 2, 2018

**File:** B/29/17, A/153/17 and A/154/17  
**Address:** 3 Ovida Boulevard, Markham  
**Applicant:** 2581795 Ontario Inc. (Gil Schyolar)  
**Agent:** Evans Planning Inc. (Adam Santos)  
**Hearing Date:** Wednesday February 07, 2018

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

**B/29/17**

The applicant is requesting provisional consent to:

- a) sever and convey a 90.7 sq. m (976.3 sq. ft) portion of an existing residential lot with frontage of 3 m (9.8 ft) (Part 2 on the Draft Reference Plan included in Appendix "B") and add it to an existing commercial lot to the north;
- b) retain a parcel of land with an approximate area of 560.1 sq. m (6,028.9 sq. ft) and lot frontage of 18.52 m (60.8 ft) (Part 3 on the Draft Reference Plan included in Appendix "B").

The severed portion of land (Part 2 on the Draft Reference Plan included in Appendix "B") is to be merged with the property to the north in order to provide a landscape open space strip between the existing commercial building and the existing residential lot on Part 3 of the Draft Reference Plan included in Appendix "B."

**A/153/17**

The applicant is requesting relief from the requirements of By-law 1229, as amended, to permit:

a) **Table 11.1:**

to permit a minimum lot area of 560.1 sq. m (6,029 sq. ft); whereas the By-law requires a minimum lot area of 613.2 sq. m (6,600 sq. ft);

as it relates to a proposed residential lot.

**A/154/17**

The applicant is requesting relief from the requirements of By-law 1229, as amended, to permit:

a) **Section 12.5 (c)(ii):**

to permit a minimum landscaped open space strip of 3 m (9.8 ft) in width; whereas the By-law requires a landscaped open space strip of at least 7.62 m (25 ft) in width adjoining the lot line in any side or rear yard that abuts a Residential Zone;

as it relates to an existing commercial lot.

## **BACKGROUND**

### **Property Description**

The proposal is for two properties – 3 Ovida Boulevard (Part 1 on the Draft Reference Plan included in Appendix “B”), and an existing lot to the south of 3 Ovida Boulevard, legally described as Plan 3252 Lot 7 (Parts 2 and 3 on the Draft Reference Plan included in Appendix “B,” hereafter referred to as “Parts 2 and 3”). The subject properties are located on the east side of Ovida Boulevard, south of Highway 7 East and west of Main Street Markham South. The surrounding neighbourhood includes a commercial area to the north and a residential area to the south with a mix of lot sizes.

3 Ovida Boulevard has an approximate area of 783.5 sq. m (8,433.5 sq. ft), frontage of 25.91 m (85 ft) and depth of 30.5 m (100.1 ft). The property contains a two-storey commercial building and associated parking area. Vehicular access is via a paved driveway from Ovida Boulevard.

The existing lot south of 3 Ovida Boulevard (Parts 2 and 3) is zoned for single family residential land uses and has an approximate area of 650.8 sq. m (7,005.2 sq. ft), frontage of 21.52 m (70.6 ft), and depth of 30.5 m (100.1 ft). This property is surrounded by trees and other vegetation. Vehicular access is via a driveway that connects this property to the parking area at 3 Ovida Boulevard. The two lots (3 Ovida Boulevard and the existing residential lot to the south) currently function as one. In 2005, a Zoning By-law Amendment application was approved to allow overflow parking from the medical office located at 3 Ovida Blvd on Parts 2 and 3.

### **Proposal**

The applicant proposes to sever a rectangular portion of the existing residential lot (Part 2) and merge it with 3 Ovida Boulevard. Part 2 is to serve as a landscape open space strip between the existing commercial building at 3 Ovida Boulevard and the retained residential lot on Part 3. The applicant has not submitted any building or development applications to allow the construction of a new house on the retained lot at this time, however, the applicant has provided conceptual plans to demonstrate how a single family dwelling can be accommodated on the remaining residential lot (Part 3) in the future.

The applicant is seeking minor variances to address deficiencies in residential lot area and width of the required landscape open space strip between the existing commercial building and the adjacent residential zone.

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on October 30, 2015, May 26, 2016, March 10, 2017, April 21, 2017 and November 24, 2017)

The Official Plan 2014 designates 3 Ovida Boulevard “Mixed Use Mid Rise,” which provides for institutional, commercial, office and residential land uses. Building heights are intended to range from three to eight storeys, with scale and height transitioning towards adjacent “Residential Low Rise” areas.

Parts 2 and 3 are designated "Residential Low Rise," which provides for low rise housing forms including single detached dwellings. Within "Residential Low Rise" areas, infill development is required to meet the general intent of Section 8.2.3.5 with respect to lot frontage, lot area, height, massing and setbacks in order to ensure that it is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways, and the overall orientation and sizing of new lots within a residential neighbourhood. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

#### Zoning By-law

3 Ovida Boulevard is zoned C3 – Service Commercial under By-law 1229, as amended. Amending By-law 2005-221 limits the permitted uses on that portion of the property to Business Offices, Professional Offices and Clinics, with a maximum gross floor area of 325 sq. m (3,498.3 sq ft). Section 12.5 (c) (ii) of By-law 1229 requires a 7.62-metre landscape open space strip where any lot line in a C3 zone abuts a residential zone. The proposed 3-metre landscape open space strip does not conform to this requirement.

Parts 2 and 3 are zoned R1 – Single Detached Dwelling under By-law 1229, as amended, which permits single detached dwellings. Amending By-law 2005-221 permits the use of the land for parking that is associated with the commercial building at 3 Ovida Boulevard, in addition to the uses permitted by the R1 zoning. Table 11.1 of By-law 1229 requires properties within the R1 zone to have a minimum lot area of 613.2 sq. m (6,600 sq. ft). The retained lot (Part 3) has an area of 560.1 sq. m (6,029 sq. ft), which does not meet this requirement.

Based on the site plan included in Appendix "B," Planning staff have calculated that there should be sufficient number parking spaces to meet the By-law requirements for a medical office building at 3 Ovida Boulevard, however, since no Zoning Preliminary Review has been undertaken for this development as noted below, the By-law requirements have not been verified by the Zoning Department.

#### **Applicant's Stated Reasons for Not Complying**

##### A/153/17

The application form indicates, "It is not possible to comply with the minimum lot area provisions of the City of Markham Residential Infill By-law 1229/99-90 because the proposed 3.0 m lot addition to 3 Ovida Boulevard. The 3.0 m severed parcel (Part 2) which is to be conveyed to 3 Ovida will serve as a Landscape Open Space Strip between the existing two storey medical office building at 3 Ovida Blvd. and a proposed single detached dwelling on the retained lands (Part 3)."

##### A/154/17

The application form indicates, "It is not possible to comply with the minimum landscape strip provisions in Zoning By-law 1229. A 25 ft landscape strip would ultimately eliminate the ability to provide an adequate building envelope on [the residential lot] to south (Part

of Lot 7 [on Plan 3252]). The lot addition of 3.0 m in an associated consent application is to be conveyed to 3 Ovida Blvd for the purposes of landscape strip. Temporary use Zoning By-law 171-2000 established a minimum landscape strip of 1.5 m in 2000. Our application contemplates an increased landscape strip of 3.0 m.”

### **Zoning Preliminary Review Not Undertaken**

The applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. Consequently, it is the applicant's responsibility to ensure that the application has accurately identified all of the variances to the Zoning By-law required for the proposed development. If the variances in the application contain errors, or if the need for additional variances is identified during the building permit review process, further variance applications may be required to address outstanding matters and there will be a delay in application processing.

### **COMMENTS**

The proposed severance facilitates the addition of a rectangular strip of land (the severed parcel) which will be added to 3 Ovida Boulevard and which will function as a landscape strip. It is anticipated that the retained parcel will eventually develop with a single family house.

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.

### **Reduction in Minimum Lot Area**

On the retained lot, the applicant is requesting relief for a minimum lot area of 560.1 sq. m (6,029 sq. ft), whereas the By-law requires a minimum lot area of 613.2 sq. m (6,600 sq. ft). This represents a 53.1 sq. m (571.6 sq. ft) deficiency in lot area. The proposed lot frontage of 18.52 m (60.8 ft) complies with the By-law requirement of 18.3 m (60 ft). Staff are of the opinion that the deficiency in lot area will have no significant impact on the surrounding area, and the applicant has demonstrated that a house of appropriate size with setbacks that comply with zoning requirements can be accommodated on the retained parcel.

### **Landscaped Open Space Strip**

On the remainder of the property, the applicant is requesting relief for a landscaped open space strip of 3 m (9.8 ft) in width, whereas the By-law requires a landscaped open space strip of at least 7.62 m (25 ft) in width. This represents a 4.62 m (15.2 ft) deficiency in width. Given that the landscape open space strip is to buffer the existing commercial building from the residential lot to the south, this deficiency is not expected to impact existing development in the area.

## **PUBLIC INPUT SUMMARY**

As of February 1, 2018, two residents have submitted comments. Concerns were expressed about setting a precedent for development in the area, stating that the lot size is inconsistent with the neighbourhood. Concern was also expressed about contamination of the land from the former gas station site that abuts 3 Ovida Boulevard to the north (5769 Highway 7 East).

Additional information may be received after the writing of this report; the Secretary-Treasurer will provide information on this at the meeting.

## **CONCLUSION**

Staff are of the opinion that the proposal satisfies the requirements of Section 51 (24) and the four tests of Section 45 (1) of the Planning Act and have no objection to approval of the application. It is recommended 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.

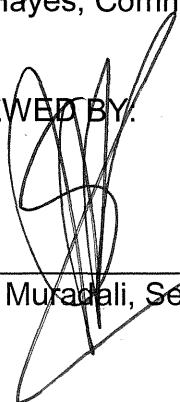
Please see Appendix "A" for conditions to be attached to any approval of the subject applications.

PREPARED BY:



\_\_\_\_\_  
Greg Hayes, Committee of Adjustment Technician, Zoning and Special Projects

REVIEWED BY:



\_\_\_\_\_  
Stacia Muradali, Senior Planner, East District

## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/29/17**

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/29/17, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Subsection 50(3) or 50(5) of the Planning Act shall apply to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
5. Submission of a Solicitor's Certificate certifying that upon registration of the required transfers to effect the severance applied for under File B/29/17, title to Part 2 on the Draft Reference Plan submitted with File B/29/17 will merge with title to the lands to the north municipally known as 3 Ovida Boulevard, and legally described as Part Lot 6 on Plan 3252, all to the satisfaction of the Director of Planning and Urban Design or designate.
6. That the applicant provide confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all the requirements of the applicable Zoning By-law, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate;
7. That the Owner make satisfactory arrangements with the Director of Engineering or their designate, to confirm that there are no existing easements registered on title in favour of the City that will be impacted by the proposed severance 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.
8. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990, c.P.13.

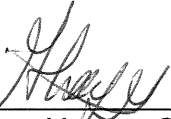
## **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/153/17**

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 Draft Reference Plan attached in 'Appendix B' to this Staff Report and dated October 17, 2017, 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.

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/154/17**

1. That the variances apply only to the subject development and is in substantial conformity with the Draft Reference Plan attached in 'Appendix B' to this Staff Report and dated October 17, 2017, 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.

CONDITONS PREPARED BY:

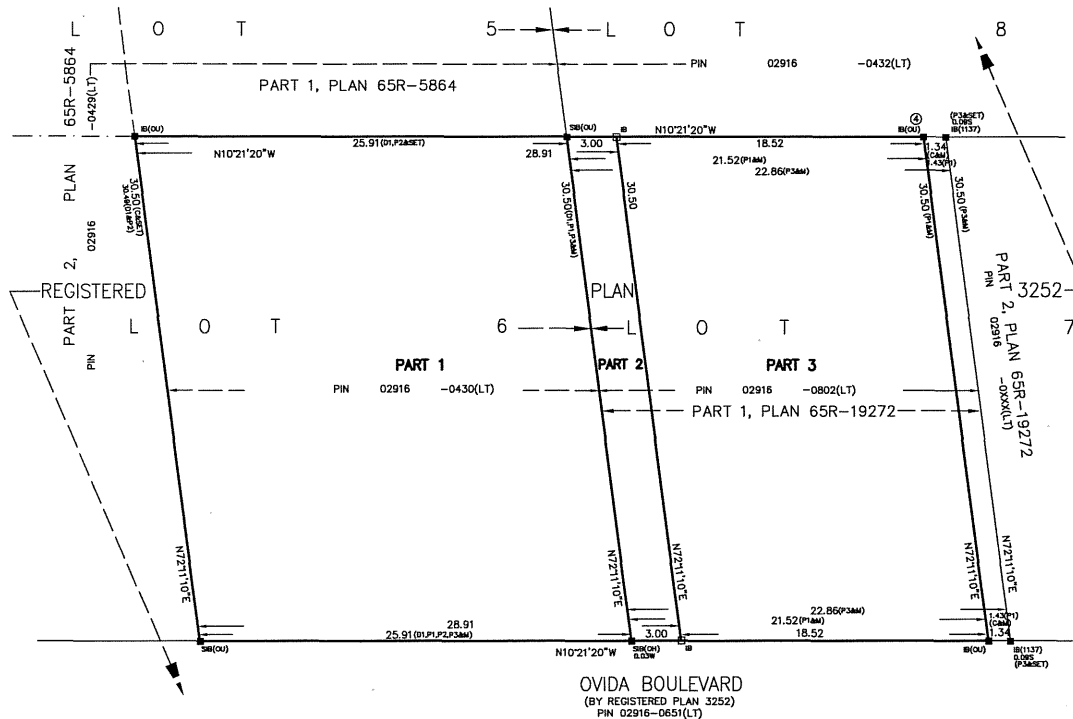


Greg Hayes, Committee of Adjustment Technician, Zoning and Special Projects

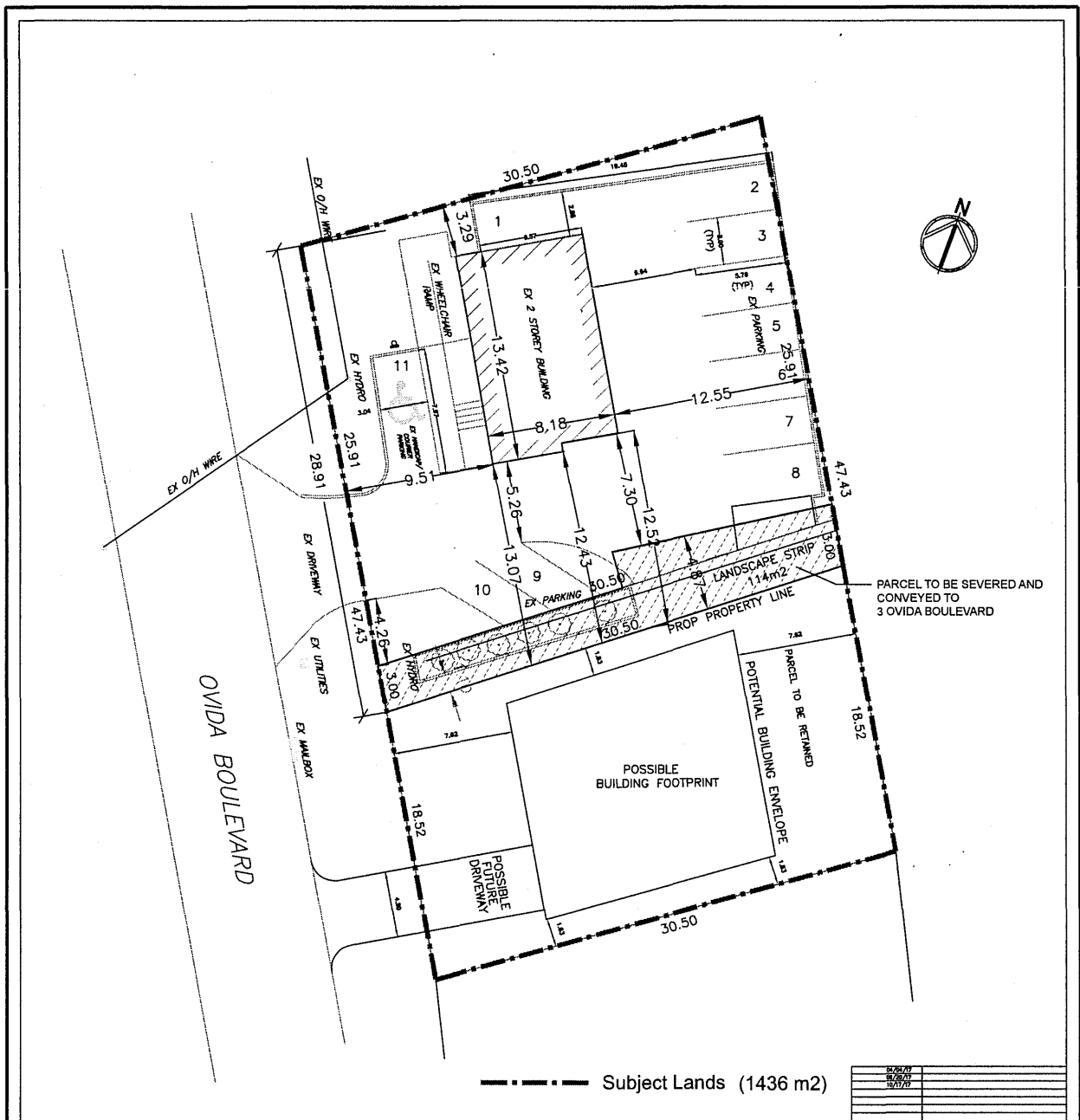


**APPENDIX "B"**  
**PLANS SUBMITTED WITH APPLICATIONS B/29/17, A/153/17 AND A/154/17**

---



JOB No: 17296	FIELD BY: X
FILE: 16-133	DRAWN BY: NATHAN
CAD FILE: 3 OVIDA BOUELVARD	CHECKED BY: VD



#### Site Statistics

3 Ovida Blvd.	
C-3 Zone	Proposed
Gross Floor Area	299m2
Net Floor Area	212m2
Lot Frontage	28.90m
Lot Area	874.2m2

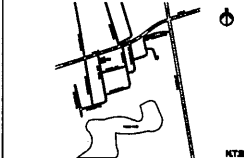
3 Ovida Blvd. - Net Floor Area	
C-3 Zone	Proposed
First floor net floor area	78.41m2
Second floor net floor area	65.58m2
Basement net floor area	68.09m2
Total Net Floor Area	212.08m2

Minimum Parking Space Requirement		Required Parking Spaces	Proposed Parking Spaces	Compliance
Medical Office	1 space per 20m2 of net floor area	11	11	Yes
Detached Dwelling	2 Spaces per dwelling	2	2	Yes

Part of Lot 7 (To be Retained)			
R1 Zone	Zone Performance Standard	Proposed	Compliance
Minimum Lot Frontage	18.3m	18.52m	Yes
Minimum Lot Area	613m2	560.1m2	No
Minimum Front Yard Setback	7.62m	7.62m	Yes
Minimum Side Yard Setback	1.83m	1.83m	Yes
Minimum Rear Yard Setback	7.62m	7.62m	Yes
Maximum Lot Coverage	35%	35%	Yes

Exception Policy "12.5" (c) (ii) - A strip of land of at least 25ft (7.6m) in width adjoining the lot line in said side yard shall be main-lined as landscaped open space

#### KEY MAP



#### LOT SEVERANCE SKETCH

PART OF LOTS 6 AND 7  
REGISTERED PLAN 3252  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK

Scale: 1" = 10m