

Memorandum to the City of Markham Committee of Adjustment

March 2, 2018

Files: B/34/17 & B/35/17
Address: 7605 9th Line, 7597 9th Line & Block 228, Plan 65M-3976 (Ward 7)
Applicant: Ben Quan
Agent: n/a
Hearing Date: March 14, 2018

The following comments are provided on behalf of the East Team in support of the applications for consent:

B/34/17 – 7605 9th Line (see 'Attachment 1')

- a) Sever and convey a parcel of land with an approximate area of 683 m² and lot frontage of 12.29 m (Part 4);
- b) Sever and convey a parcel of land with an approximate area of 683 m² and lot frontage of 12.29 m (Part 3);
- c) Sever and convey a parcel of land with an approximate area of 683 m² and lot frontage of 12.3 m (Part 2);
- d) Retain a parcel of land with an approximate area of 683 m² and lot frontage of 12.3 m (Part 1).

This application is related to consent application B/35/17.

B/35/17 – 7597 9th Line (see 'Attachment 1')

- a) Sever and convey a parcel of land with an approximate area of 524 m² and lot frontage of 15.25 m (Parts 6 & 12);
- b) Sever and convey a parcel of land with an approximate area of 541 m² and lot frontage of 15.25 m (Parts 7 & 11);
- c) Sever and convey a parcel of land with an approximate area of 541 m² and lot frontage of 15.25 m (Parts 8,10 & 14);
- d) Retain a parcel of land with an approximate area of 760 m² and lot frontage of 22.1 m (Parts 5 & 13).

This application is related to consent application B/34/17.

BACKGROUND

The subject properties are located south of 14th Avenue within Box Grove and are located at the northeast corner of 9th Line and Riverwalk Drive. These properties have a combined area of approximately 5,135.15 m² (55,274 ft²). Two single detached dwellings currently exist on the subject properties with one at 7605 9th Line and one at 7597 9th Line. Both dwellings are proposed to be demolished. The subject lands also include Block 228 on Registered Plan 65M-3976, which abuts 7597 9th Line and is a remnant open space parcel running along the north side of Riverwalk Drive. This was created when the Balgreen and Winter Garden Estates subdivisions were approved in 2006.

An application was previously submitted to have the subject properties rezoned from "Single Family Rural Residential (RRH)" under By-law 194-82, as amended and "Open Space One (OS1)" under By-law 177-96, as amended to "Residential Two (R2) (exception 7.587)" under By-law 177-96, as amended. The By-law to have the subject properties rezoned to "Residential Two (R2) (exception 7.587)" under By-law 177-96, as amended was enacted by Council on December 12, 2017 under amending By-law 2017-114, as amended.

Proposal

The applicant is proposing to create a total of eight (8) lots through these consent applications. Through this process, the applicant is intending to construct eight individual single detached dwellings. The proposed lots would have frontages ranging from 12.3 metres to 22.1 metres (40.35 feet to 72.50 feet), depths ranging from 34.4 metres to 55.6 metres (113 feet to 182 feet) and lot areas ranging from 524 m² to 760 m² (5,640 ft² to 8,180 ft²).

The Draft R-Plan (Attachment 1) submitted with the application outlines the proposed configuration of each new lot to be created. The lot frontage, depth and area for each new lot proposed are as follows:

Lot	Parts on Draft R-Plan	Lot Frontage	Lot Depth	Lot Area
1	1	12.3 m	55.6 m	683 m ²
2	2	12.3 m	55.6 m	683 m ²
3	3	12.29 m	55.6 m	683 m ²
4	4	12.29 m	55.6 m	683 m ²
5	5 & 13	22.1 m	34.4 m	760 m ²
6	6 & 12	15.25 m	34.4 m	524 m ²
7	7 & 11	15.25 m	35.5 m	541 m ²
8	8, 10 & 14	15.25 m	35.5 m	541 m ²

Official Plan

The properties are designated 'Residential Low Rise' in the 2014 City of Markham Official Plan (partially approved as of October 29, 2015, May 26, 2016, March 10, 2017, April 21, 2017 and November 24, 2017) (the "2014 OP"), which provides for a variety of low density housing types, including single detached dwellings. The development criteria for infill development in the 2014 OP also applies, which seeks to ensure that infill development respects and reflects the existing pattern and character of adjacent development.

Zoning

The subject lands are zoned "Residential Two (R2) (exception 7.587)" under By-law 177-96, as amended. This zone category permits single detached dwellings. This zone category requires a minimum lot frontage of 9.0 m (29.5 ft). The zoning designation has no minimum lot area requirement or minimum lot depth requirement. Exception 7.587 outlines that the only use permitted for the subject properties are single detached dwellings.

COMMENTS

Compatibility of Land Severance

Staff is of the opinion that the proposal will be compatible with the immediate area and will result in minimal impacts on surrounding properties and neighbourhood character. As noted earlier in this report, the proposed lots will have frontages ranging from 12.3 metres to 22.1 metres (40.35 feet to 72.50 feet), depths ranging from 34.4 metres to 55.6 metres (113 feet to 182 feet) with lot areas ranging from 524 m² to 760 m² (5,640 ft² to 8,180 ft²). This is consistent with other single detached lots located in the immediate vicinity, including some of the single detached lots located directly to the east which front onto Coakwell Drive, Barter Street and Riverwalk Drive which have an average frontage of 13.80 m (45.27 ft), depth of 33.53 m (110 ft) and lot area of 441.51 square metres (4,752.37 ft²). These properties are also zoned "Residential Two (R2)" under By-law 177-96, as amended.

While the five existing lots abutting the subject properties to the east do have larger frontages on average of approximately 19.69 m (64.60 ft), with average lot depths of 35.22 m (116 ft) and with average lot areas of 643 square metres (6,919.60 ft²) it is considered that the proposed lots are compatible with what exists in the neighbourhood to the east. Again, after reviewing the single detached lots located directly to the south of the subject lands (also zoned "Residential Two (R2)" under By-law 177-96, as amended) that have average frontages of 14.89 m (48.86 ft), depths of 31.06 m (102 ft) and lot areas of 488.20 square metres (5,255 ft²), it is staff's opinion that the proposed lots reflect the pattern of existing surrounding development and is considered to be compatible.

Compatibility with existing dwellings

With respect to building compatibility with the surrounding dwellings in the existing community, building elevations have yet to be formally submitted. The applicant is aware that the dwellings will be required to comply with the approved Architectural Design Guidelines for the Box Grove Community (2004). This will ensure that the principles of ground-related residential development relating to siting, architectural design and landscaping are adhered to. To ensure that the overall design of each dwelling is appropriate and in keeping with the character of the existing neighbourhood, a condition has been added to each approval requiring the applicant to submit siting details including building elevations to be reviewed and approved by planning staff. This condition will need to be cleared by the applicant in order to finalize approval, should the Committee approve both severance applications.

In addition, part of the zoning by-law amendment process which preceded each of these severance applications required the applicant to provide staff with a signed declaration. This declaration stated that the applicant is aware that no applications for minor variance for the subject properties will be permitted within two (2) years of Council enactment of the zoning by-law amendment, without Council authorization of such application. This declaration is applied to all zoning by-law amendment applications in the City. This will help to ensure that the scale of each single detached dwelling including the building footprint and setbacks will conform with the provisions of the "Residential Two (R2)" zone.

Tree Preservation

Staff supports the retention of existing mature trees where possible and have identified areas where trees shall be retained and preserved. However, due to the grade differential along Riverwalk Drive and 7597 9th Line, existing trees on the north side of Riverwalk Drive will need to be removed. Staff have required the owner to submit a tree assessment and preservation plan in accordance with the trees for tomorrow streetscape manual. Where conflicts exist between grading and existing trees, the applicant will be responsible for tree replacement and

compensation as necessary to the satisfaction of the Director of Planning and Urban Design prior to any works on site, including demolition of the existing dwellings.

Parkland Dedication

Parkland Dedication is required in accordance with Parkland Dedication By-law 195-90. The applicant will be required to satisfy parkland dedication for the severed lots through a contribution in the form of cash-in-lieu of parkland, calculated based on an acceptable land appraisal, through a condition of approval.

PUBLIC COMMENT SUMMARY

No written submissions were received as of March 5, 2018. It is noted that additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION:

Staff have had regard for the criteria in Section 51 (24) of the Planning Act and consider that the severance of land as proposed is appropriate and will not result in demonstrable adverse impact on neighbourhood character.

The onus is ultimately on the applicant to demonstrate why they should be granted approval, and how they satisfy the requirements of the Planning Act.

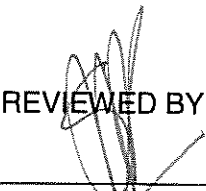
Should the Committee see merit in the applications, staff recommends that the conditions listed in Appendix "A & B" of this report be attached to their approval.

PREPARED BY:



Sean Lapenna, Planner, East District

REVIEWED BY:



Stacia Muradali, Senior Planner, East District

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File Path: Amanda\File\ 17 183083 \Documents\District Team Comments Memo

ATTACHMENTS:

Attachment 1 – Plan of Survey (7605 9th Line, 7597 9th Line & Block 228, Plan 65M-3976)

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE B/34/17

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels;
2. Submission to the Secretary-Treasurer of the required transfers to effect the severance applied for under File B/34/17, 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. The Owner shall enter into a Development Agreement with the City to the satisfaction of the Director of Planning and Urban Design, the City Solicitor, and the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including but not limited to:
 - a. Submission of a Tree Assessment and Preservation Plan prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, to the satisfaction of the Director of Planning and Urban Design or designate;
 - b. Erection and inspection by City staff of tree protection fencing, in accordance with the City's Streetscape Manual (2009), as amended, and the approved Tree Assessment and Preservation Plan to the satisfaction of the Director of Planning and Urban Design or designate;
 - c. Assessment, preservation and canopy replacement compensation and/or fees to be paid to the City if required as they relate to significant existing vegetation, subject to review and approval by the Director of Planning and Urban Design or designate;
 - d. Siting of buildings, garages/driveways, lot grading and servicing plans as they relate to preservation of vegetation and replacement plantings, subject to review and approval by the Director of Planning and Urban Design;
 - e. Payment of any applicable cash-in-lieu of parkland dedication or proof of previous payment or dedication for the additional lot(s) created. An appraisal report of the land value of the property will be required should proof of payment not be provided. The report must be prepared by a member of the Appraisal Institute of Canada, Ontario Association;
 - f. Submission of cost estimates(s) respecting any works required, Letter of Credits required by the City to ensure compliance with any works required, and Urban Design fees in accordance with the City's fee by-law; and,
 - g. Submission of a letter from the consulting architect or designer certifying compliance with the Boxgrove Community Architectural Control Guidelines in accordance with City requirements, to the satisfaction of the Director of Planning and Urban Design or designate;
 - h. Satisfactory arrangements are to be made with the Engineering Department for the installation of approximately 117 m of sanitary sewer and provide financial security, submission of engineering and inspections fees, provide insurance, as required, to the satisfaction of the Director of Engineering;

- i. To pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report, as accepted by the Director of Engineering, should it be determined that improvements to such infrastructure is required to support this development;
 - j. The submission of site servicing, grading, utility, erosion and sediment control plans, and a detailed stormwater management report, to the satisfaction of the Director of Engineering;
 - k. To construct required servicing, grading, utilities and stormwater management for this development, to the satisfaction of the Director of Engineering;
 - l. To construct and/or implement any required excavation, removal, relocation, restoration and/or improvement of any above or below ground municipal services or utilities that may be necessary for this development, to the satisfaction of the Director of Engineering;
 - m. Any applicable Letter of Credits, required by the City, to ensure compliance with any of the proposed works;
 - n. Provision of any other utilities that may be required, or relocated, for the proposed development;
 - o. Payment of any applicable processing fees as identified by the City;
5. Payment of the required Conveyance Fee if necessary, for the creation of the residential lots per City of Markham Fee By-law 211-83, as amended;
6. 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.

APPENDIX "B"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE B/35/17

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels;
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/35/17, 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. The Owner shall enter into a Development Agreement with the City to the satisfaction of the Director of Planning and Urban Design, the City Solicitor, and the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including but not limited to:
 - a. Submission of a Tree Assessment and Preservation Plan prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, to the satisfaction of the Director of Planning and Urban Design or designate;
 - b. Erection and inspection by City staff of tree protection fencing, in accordance with the City's Streetscape Manual (2009), as amended, and the approved Tree Assessment and Preservation Plan to the satisfaction of the Director of Planning and Urban Design or designate;
 - c. Assessment, preservation and canopy replacement compensation and/or fees to be paid to the City if required as they relate to significant existing vegetation, subject to review and approval by the Director of Planning and Urban Design or designate;
 - d. Siting of buildings, garages/driveways, lot grading and servicing plans as they relate to preservation of vegetation and replacement plantings, subject to review and approval by the Director of Planning and Urban Design;
 - e. Payment of any applicable cash-in-lieu of parkland dedication or proof of previous payment or dedication for the additional lot(s) created. An appraisal report of the land value of the property will be required should proof of payment not be provided. The report must be prepared by a member of the Appraisal Institute of Canada, Ontario Association;
 - f. Submission of cost estimates(s) respecting any works required, Letter of Credits required by the City to ensure compliance with any works required, and Urban Design fees in accordance with the City's fee by-law; and,
 - g. Submission of a letter from the consulting architect or designer certifying compliance with the Boxgrove Community Architectural Control Guidelines in accordance with City requirements, to the satisfaction of the Director of Planning and Urban Design or designate;
 - h. To make satisfactory arrangements with the Engineering Department for the installation of approximately 117m of sanitary sewer and provide financial security, submit engineering and inspections fees, provide insurance, as required, to the satisfaction of the Director of Engineering;

- i. To covenant and agree to maintain and keep unencumbered the existing municipal easement over part 1 on Plan 65R-28376 for the purposes of operation and maintenance of the existing storm drainage works including any appurtenances thereto as may be required from time to time in, under and across the lands;
 - j. To pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report, as accepted by the Director of Engineering, should it be determined that improvements to such infrastructure is required to support this development;
 - k. To submit a site servicing, grading, utility, erosion and sediment control plans, and a detailed stormwater management report, to the satisfaction of the Director of Engineering;
 - l. To construct required servicing, grading, utilities and stormwater management for this development, to the satisfaction of the Director of Engineering;
 - m. To construct and/or implement any required excavation, removal, relocation, restoration and/or improvement of any above or below ground municipal services or utilities that may be necessary for this development, to the satisfaction of the Director of Engineering;
 - n. To confirm that the existing 0.3 m reserve along Riverwalk Drive and fronting onto Block 228 on Plan 65M-3976 has been lifted to get access to this development from Riverwalk Drive;
 - o. 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;
 - p. Any applicable Letter of Credits, required by the City, to ensure compliance with any of the proposed works;
 - q. Provision of any other utilities that may be required, or relocated, for the proposed development;
 - r. Payment of any applicable processing fees as identified by the City;
5. Payment of the required Conveyance Fee if necessary for the creation of the residential lots per City of Markham Fee By-law 211-83, as amended;
6. Fulfillment of all of the above conditions within one (1) year of the date that notice of decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990, c.P.13;
7. Certification is to be provided from the Owner's lawyer to the satisfaction of the City Solicitor certifying that the strip of the City owned land (Block 228 on Plan 65M-3976) along Riverwalk Drive and fronting onto 7597 9th line has been obtained by the Developer.

CONDITIONS PREPARED BY:


Sean Lapenna, Planner, East District

