

Memorandum to the City of Markham Committee of Adjustment

July 23, 2018

File: B/36/17, A/137/17
Address: 21 Lanor Court , Markham
Applicant: Samithamby and Shivamthin Harichandran
Agent: QX4 Investments Ltd. - Consulting Services
Hearing Date: Wednesday July 25, 2018

The following updated comments are provided on behalf of the East District:

June 13, 2018 Committee of Adjustment Hearing

Prior to the previous Committee of Adjustment hearing on June 13, 2018, Staff provided a Memorandum regarding the above noted Consent and Variance applications at 21 Lanor Court, including recommended conditions of approval. This Memorandum was dated June 5, 2018 and is attached as Appendix 'A'

At the June 13th Committee of Adjustment hearing, the agent requested the applications be deferred to discuss the recommended conditions further with staff. The Applicants concern related to conditions requiring the removal of the circular driveway on the 'retained' lot, which was requested to provide more greenspace in support of the severance and to provide additional landscaped area around a tree to be replaced.

Following further discussions, the applicant has agreed to remove the circular driveway as requested by staff. Accordingly, there has been no changes to the proposed applications. The staff comments and recommendations provided in memorandum dated June 5, 2018 remain applicable.

PREPARED BY:



Stephen Corr, Senior Planner, East District

REVIEWED BY:



Stacia Muradali, Senior Planner, East District

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June 5, 2018

Files: B/36/17, A/135/17 and A/136/17
Address: 21 Lanor Court, Markham
Applicant: Samithamby and Shivanthini Harichandran
Agent: QX4 Investments Ltd. - Consulting Services
Hearing Date: June 13, 2018

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

Consent Application – B/36/17

The Applicant is requesting provisional consent to sever and convey a parcel of land with an approximate lot area of 516.7 m² (5562 ft²) and an approximate lot frontage of 14.6 m (47.9 ft), while retaining a parcel of land with an approximate area of 665.8 m² (7166.4 ft²) and an approximate lot frontage of 23.3 m (76.4 ft).

Variance Application – A/135/17

To facilitate the proposed severance described above, the Applicant is requesting relief from the requirements of Zoning By-law 90-81, as amended, to permit:

- i) a minimum front yard setback of 6.9 m for the existing dwelling, whereas the By-law requires a minimum front yard setback of 8.0 m;
- ii) a minimum rear yard setback of 6.1 m for the existing dwelling, whereas the By-law requires a minimum rear yard setback of 7.5 m;
- iii) a minimum side yard setback of 1.6 m for the existing dwelling, whereas the By-law requires a minimum side yard setback of 1.8 m; and
- iv) a minimum side yard setback of 0.6 m for the one storey portion of the existing dwelling, whereas the By-law requires a 1.2 m side yard setback for the one storey portion of a dwelling.

These variances relate to the existing dwelling on the 'retained lot'.

Variance Application – A/136/17

Also to facilitate the proposed severance described above, the proponent is requesting relief from the requirements of By-law 90-81, as amended, to permit:

- i) a minimum lot frontage of 14.6 m, whereas the By-law requires a minimum lot frontage of 18 m;
- ii) a minimum lot area of 516.7 m², whereas the By-law requires a minimum lot area of 613 m²;
- iii) a minimum rear yard setback of 6.9 m, whereas the By-law requires a minimum rear yard setback of 7.5 m; and
- iv) a minimum side yard setback of 1.2 m, whereas the By-law requires a minimum side yard setback of 1.8 m.

These variances relate to the 'severed' lot and a proposed dwelling.

BACKGROUND

Property Description

The 1183.2 m² (0.29 ac) subject property is located at the southwest corner of Lanor Court and Boxwood Crescent, which is south of 14th Avenue and west of 9th Line (See Figure 1). The property is developed with an existing two-storey single detached dwelling which has a three-car garage. According to assessment records, the dwelling is 4,370 ft² (406 m²),

including the garage, and was built in 2001. Vehicle access is provided via a circular driveway that accesses Lanor Court.

The surrounding area context comprises single detached dwellings on varying lot sizes and configurations.

Proposal

The Applicant has submitted a consent application to sever the existing lot into two. This will create a new development lot on the 'severed' portion of the subject lands, which is proposed to be developed with a 206.65 m² (2224.4 ft²) dwelling. The proposed dwelling is predominantly a single storey building with the exception of 2nd storey bedroom at the front of the dwelling. The 2nd storey floor space is approximately 46.9 m² (505.6 ft²) in area. Figure 2 shows the severance plan and proposed site plan. Figure 3 shows the 2nd floor plan of the proposed dwelling. Figure 4 shows the front elevation of the proposed dwelling as it would appear from Lanor Court.

To facilitate the severance, a portion of the existing 3-car garage will need to be demolished. Accordingly, the existing dwelling will be modified to have a two car garage. Variance applications have been submitted for both the severed and retained lots, as described above and in the comments section of this memorandum.

COMMENTS

Official Plan

The subject property is designated "Residential – Low Rise" in the 2014 Official Plan, as partially approved on November 24, 2017 and further updated on April 9, 2018 ("2014 Official Plan"), which provides for single detached dwellings.

In considering applications in a 'Residential Low Rise' area, including severances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to lot frontage and lot area to ensure that the development 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, and the overall orientation and sizing of new lots within a residential neighbourhood. Planning staff have had regard for the infill development criteria in the preparation of the comments provided below.

Zoning

The subject property is zoned Third Density – Single Detached Residential (R3) under By-law 90-81, as amended, which permits single detached dwellings. The minimum required lot area is 613 m² (6600 ft²) and the minimum required lot frontage is 18 m (59 ft). The retained lot complies with the minimum lot area and lot frontage requirements. The proponents are requesting variances to reduce the required lot area and lot frontage for the 'severed' parcel in addition to requesting reduced side and rear yards.

On the 'retained' lot variances are requested to reduce the front and rear yard setbacks for the existing dwelling. These are required because approval of the severance changes how the lot frontage and the location of yard setbacks are interpreted in by-law 90-81, as amended. The by-law specifies that the shortest lot line abutting a street is the front lot line on corner lots. The location of yards and associated setbacks are determined by their relation to the front lot line. If the severance is approved, Lanor Court becomes the lot frontage, as it is shorter than the frontage along Boxwood Crescent which is currently the

lot frontage. As such, the east and west yards to the existing dwelling are currently interpreted to be interior and exterior side yards, and comply with the by-law. With the change in how lot frontage will be determined, they will become rear and front yards, respectively. Consequently variances are needed to reflect these existing setbacks. The proponent is requesting reduced side yard setbacks adjacent to the proposed lot line between the 'retained' and 'severed' lots.

Zoning Preliminary Review Not Undertaken

A Zoning Preliminary Review has not been formally conducted for the proposed development. It is the owner's responsibility to ensure that the proposal, including the future and reconfigured homes, comply with all zoning requirements. If any additional variances are identified during the Building Permit review process, the applicant will be required to either modify the proposal or reapply to the Committee of Adjustment to address any non-compliance.

Public Input and Application Resubmission Summary

A community information meeting was held on March 7, 2018 at the Aaniin Community Centre. Approximately 30 residents attended and provided comments, relating to:

- ensuring the architectural style of the proposed dwelling compliments existing homes;
- concerns that the front yard setback for the proposed dwelling will create site line issues with the adjacent homes to the south on Lanor Court; and
- questions relating to planning process and next steps for the applications review and consideration.

In addition to the above, staff requested the size of the 'severed' lot be increased, to better reflect the zoning by-law requirements and to consider relocating the proposed driveway on this lot to preserve an existing Norway maple street tree on Lanour Court.

Architectural Compatibility and Building Setback

On May 17, 2018 the applicant resubmitted their revised proposal to address the comments described above. The resubmission addressed resident comments to reflect a home that is more compatible to the style and massing of existing homes. The revised submission provides a larger front yard setback between Lanor Court and the proposed dwelling to address site line concerns.

Request to increase the size of the Severed Lot

The resubmission addressed staff comments to enlarge the 'severed' lot which the applicant achieved by widening it by 0.6 m (1.98 ft). This resulted in a modest increase to the proposed lot area and lot frontage to 516.7 m² (5562 ft²) and 14.6 m (47.9 ft), respectively. The original submission proposed the severed lot to have a frontage of 14.0 m (45.9 ft) and area of 504.2 m² (5427.2 ft²). With respect to lot frontage staff note that it is determined by measuring the width of the lot from 8.0 m (26.2 ft) back from the street line, as required by By-law 90-81, as amended. This is to accommodate for irregular shaped lots such as pie-shaped lots or corner lots which have reduced street line frontages. On the 'severed' lot, the proposed street line width is wider than what the defined lot frontage is, and is 16.14 m (52.9 ft) wide. Staff also note that homes on Lanor Court, both abutting the site to the south and across the street, are zoned Single Detached Residential (R8) under By-law 90-81, as amended. The zoning for these abutting properties permits smaller lots requiring minimum lot areas of 460 m² (4951.4 ft²) and minimum lot frontages of 13.5 m (44.3 ft). The proposed 'severed' lot is compatible to the

lot pattern of existing properties on both sides of Lanor Court and the associated lot area and lot frontage variances will result in a lot with a similar street frontage.

Preservation of Norway Maple

The resubmission still proposes removal of an existing City owned Norway maple on Lanor Court. Planning and Urban Design staff met with the applicant's consultant on May 30, 2018 to discuss options to preserve this tree in front of the 'severed' lot. Staff suggested modifying the proposed dwelling by flipping the garage and driveway to the north side of the 'severed' lot and by narrowing the driveway within vicinity of this street tree. The applicant's consultant indicated that the house was redesigned to accommodate comments made by the adjacent neighbour to the south, for additional privacy between the two homes, and that this was achieved by placing the garage on the south side of the property. The property owner did not want to consider further redesign of the dwelling.

An arborist report was submitted in support of the applications, identifying this Norway maple as the only tree to be removed to facilitate the severance. The consultant proposed to provide compensation planting at a ratio of 3:1 for the removal of the Norway maple and to replace an existing red oak in front of the 'retained' lot which is identified as being in poor condition in the arborist report.

Comments and Discussion

Consent applications are evaluated in the context Section 51 (24) of the Planning Act. Section 45.1 of the Planning Act outlines four tests that must be met in order for a variance to be granted by the Committee of Adjustment, summarized as follows:

1. The variance must be minor in nature;
2. The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
3. The general intent and purpose of the Zoning By-law must be maintained;
4. The general intent and purpose of the Official Plan must be maintained.

Consent Application B/36/17 and Variances for the 'Severed' Lot A/136/17

The Applicant is requesting provisional consent to sever and convey a parcel of land with an approximate lot area of 516.7 m² (5562 ft²) and an approximate lot frontage of 14.6 m (47.9 ft), while retaining a parcel of land with an approximate area of 665.8 m² (7166.4 ft²) and an approximate lot frontage of 23.3 m (76.4 ft).

The proposed 'retained' lot complies with the minimum lot area and lot frontage requirements for the R3 zone under By-law 90-81, as amended. The proposed 'severed' lot is deficient in both the minimum required lot area and lot frontage, and the following variances are requested to facilitate the severance:

- i) a minimum lot frontage of 14.6 m, whereas the By-law requires a minimum lot frontage of 18 m; and,
- ii) a minimum lot area of 516.7 m², whereas the By-law requires a minimum lot area of 613 m².

Figure 1 shows the subject site and the surrounding area context. The lot pattern of the surrounding area varies and is characterized by a diversity of lot areas, frontages and configurations. It is staffs opinion that the proposed 'severed' and 'retained' lots are compatible to existing lots in the surrounding area and that the creation of a new lot will have minimal impact on the community. Staff recommend approval of the proposed

severance and the requested lot area and lot frontage variances, subject to the conditions provided in Appendix 'A'.

For the new home proposed on the 'severed' lot, the applicant is requesting variances to permit:

- i) a minimum rear yard setback of 6.9 m, whereas the By-law requires a minimum rear yard setback of 7.5 m; and
- ii) a minimum side yard setback of 1.2 m, whereas the By-law requires a minimum side yard setback of 1.8 m.

The rear yard setback variance is applicable to the northwest corner of the proposed dwelling and pertains to a portion to be one-storey in height. The majority of the dwelling will comply with the required rear yard. Staff do not anticipate this requested variance will impact abutting properties and consider it supportable.

By-law 90-81, as amended permits the first storey of a dwelling to have a minimum side yard setback of 1.2 m, but requires storeys above the first storey to have a minimum side yard setback of 1.8 m. As noted, the majority of the dwelling is one storey in height, except for a 2nd storey bedroom at the southeast portion of the building. The requested side yard variance applies to this section of the proposed house only. Staff do not have concern with this requested variance.

To ensure that the variances relate to the dwelling as proposed, particularly as a predominantly one storey building, staff recommend a condition that any approved variances for the 'severed' lot reflect the plans submitted with these applications and shown on Figure 2. Similarly, staff recommend a condition that approval of the requested side yard setback reduction apply to the south side yard only, as reflected on the plans submitted with this application (Figure 2).

Variance Application A/135/17 – 'Retained' Lot, Existing Dwelling

The applicant is requesting the following variances for the 'retained' lot, to permit:

- i) a minimum front yard setback of 6.9 m, whereas the By-law requires a minimum front yard setback of 8.0 m;
- ii) a minimum rear yard setback of 6.1 m, whereas the By-law requires a minimum rear yard setback of 7.5 m;
- iii) a minimum side yard setback of 1.6 m, whereas the By-law requires a minimum side yard setback of 1.8 m; and
- iv) a minimum side yard setback of 0.6 m for the one storey portion of a dwelling, whereas the By-law requires a 1.2 m side yard setback for the one storey portion of a dwelling.

As described in the zoning subsection of the report, the reduced front and rear yard variances relate to the front lot line location, which will become Lanor Court instead of Boxwood Crescent if the severance is approved. Since this is a matter of by-law interpretation rather than changes to the existing building, staff consider these two variances to be technical and will result in no impact to surrounding properties.

The side yard setback variances relate to the separation between the south wall of the existing dwelling and proposed lot line abutting the 'severed' lot. Staff requested the 'severed' lot be widened, which was accommodated by the applicant. This resulted in the need for reduced side yards on the 'retained' lot to accommodate the living space within

the 2-storey portion of the existing dwelling and the modified one-storey, two-car garage. Staff consider these variances appropriate and satisfy the test of the Planning Act. Staff recommend that two conditions be included that requires the applicant to obtain building and/or demolition permits and commence work to remove portions of the existing dwelling/garage on the 'severed' lot in accordance with the site plan shown in Figure 2. This is to ensure that portions of the existing dwelling will not be situated on the 'severed' lot once the severance is finalized, and that the necessary building permits are obtained.

Urban Design Comments

Cash in lieu of parkland dedication is required as a condition of approval of the severance (Appendix 'A'). As noted, staff requested that the existing city owned Norway maple be preserved. However, staff consider that the proposed tree compensation planting, to replace the Norway maple at a ratio of 3:1 and to replace of the red oak in front of the 'retained' lot, is appropriate and aligns with City tree compensation policy. Staff recommend the proposed compensation be included as a condition in any decision to approve the severance. Also, to ensure that the replacement planting of the red oak tree is successful, staff recommend that the existing circular driveway on the 'retained' lot be reconfigured to have only one access to Lanor Court, to provide for additional soft landscaping and increased soil volume to support the replanted tree. This is recommended as a condition should the variance application for the 'retained' lot be approved.

Engineering Comments

The Engineering Department has indicated they have no objections to the proposed applications, subject to the conditions recommended conditions of approval in Appendix 'A'. These conditions require the owner enter into a development agreement with the city, and to confirm there are no existing easements or services that cross the proposed lot lines between the 'severed' and 'retained' lots.

Conclusion


In concluding that the proposal is appropriate, staff have had regard for the criteria in Section 51 (24) of the Planning Act. Staff have also had regard for the criteria in Section 45(1) of the Planning Act in assessing the requested variances for both the 'severed' and 'retained' lots, however note 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 tests of the Planning Act have been met.

Staff recommend approval of consent application B/36/17 and variance applications A/185/17 and A/186/17, subject to the conditions provided in Appendix 'A'

PREPARED BY:


Stephen Corr, Senior Planner, East District

REVIEWED BY:


Stacia Muradali, Senior Planner, East District

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Appendix 'A' – Staff Recommended Committee of Adjustment Conditions

Conditions to be attached to Consent B/36/17

- 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/36/17, 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) Submission of an Appraisal Report prepared by a member of the Appraisal Institute of Canada in accordance with the City's terms of reference respecting the proposed new lot shown as the 'Severed Lot' on the Site Plan submitted with the application; to be reviewed and approved by the City; payment of cash-in-lieu of parkland dedication in accordance with By-law 195-90, as amended, 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.
- 5) Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
- 6) That the Owner submit a Tree preservation plan to the satisfaction of the Director of Planning and Urban Design, providing tree planting at a ratio of 3:1 for replacement of the City owned Norway maple on Lanor Court and replacement of the City owned red Oak on Lanor Court.
- 7) That the owner obtains a demolition and/or a building permit to the satisfaction of the Chief Building Official, or his designate, in relation to the removal of the portion of the existing garage on the proposed severed parcel.
- 8) That after obtaining the permit required in Condition 7, the owner demolishes the portion of the existing garage on the proposed severed parcel to the satisfaction of the Chief Building Official, or his designate.
- 9) 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:
 - i) Payment of all applicable fees in accordance with the City's fee by-law;
 - ii) Erection and inspection by City staff of tree protection fencing, in accordance with the City's Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
 - iii) 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;
 - iv) 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;
 - v) 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;
- vi) 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;
 - vii) Payment of cash-in-lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement, 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;
 - viii) notice that the lands may not be connected to the City's water system, sewage system and/or drainage system (the "Municipal Services"), and that in order to connect to the Municipal Services, the Owner must submit an application to the City and pay for the connections to the Municipal Services, which shall be installed by the City;
 - ix) Make satisfactory arrangements with the Director of Engineering or his or her 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;
 - x) Provide confirmation that any and all existing services for the Retained Lot do not traverse the Severed Lot
 - xi) Submission of securities respecting any works to be provided in accordance with the Development Agreement.
- 10) 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 Variance A/135/17 – 'Retained' Lot

- 1) The variances apply only to the existing 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 'Figure 1' to this Staff Report and dated July 1, 2017 (stamped received by the Committee of Adjustment May 18, 2018).
- 3) That the existing circular driveway be replaced with a driveway that has only one access to Lanor Court to the two-car garage, to the satisfaction of the Director of Planning and Urban Design.

Conditions to be attached to Variance A/136/17 – 'Severed' Lot

- 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 'Figure 1' to this Staff Report and dated July 1, 2017 (stamped received by the Committee of Adjustment May 18, 2018).
- 3) That the requested variance for a side yard reduction only applies to the southerly side yard and only to a portion of the second storey of the proposed dwelling as shown in the plans referenced in condition 2) above.

CONDITONS PREPARED BY:


Stephen Corr, Senior Planner, East District

Figure 1 - Site Location and Area Context

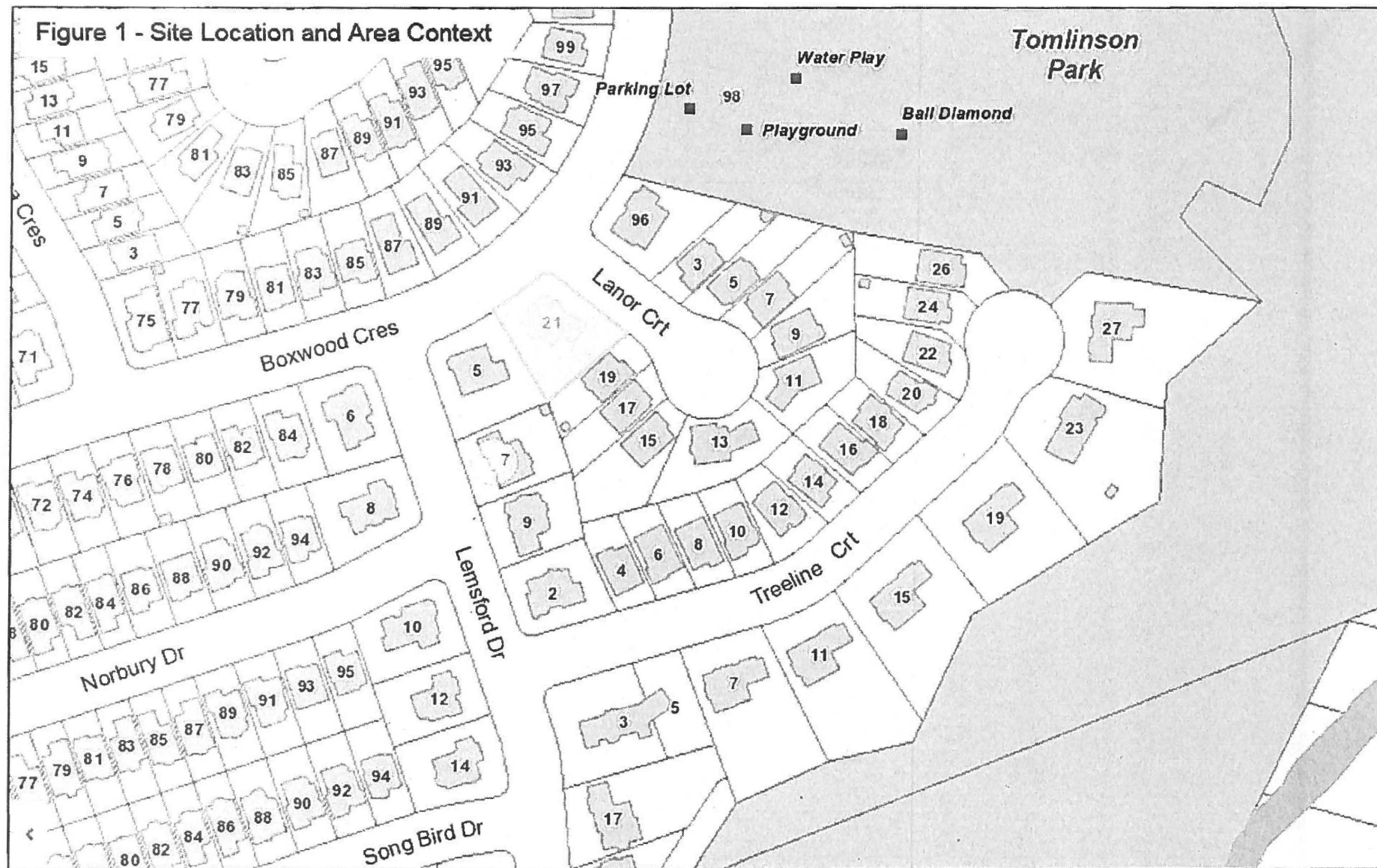


Figure 2 - Site Plan

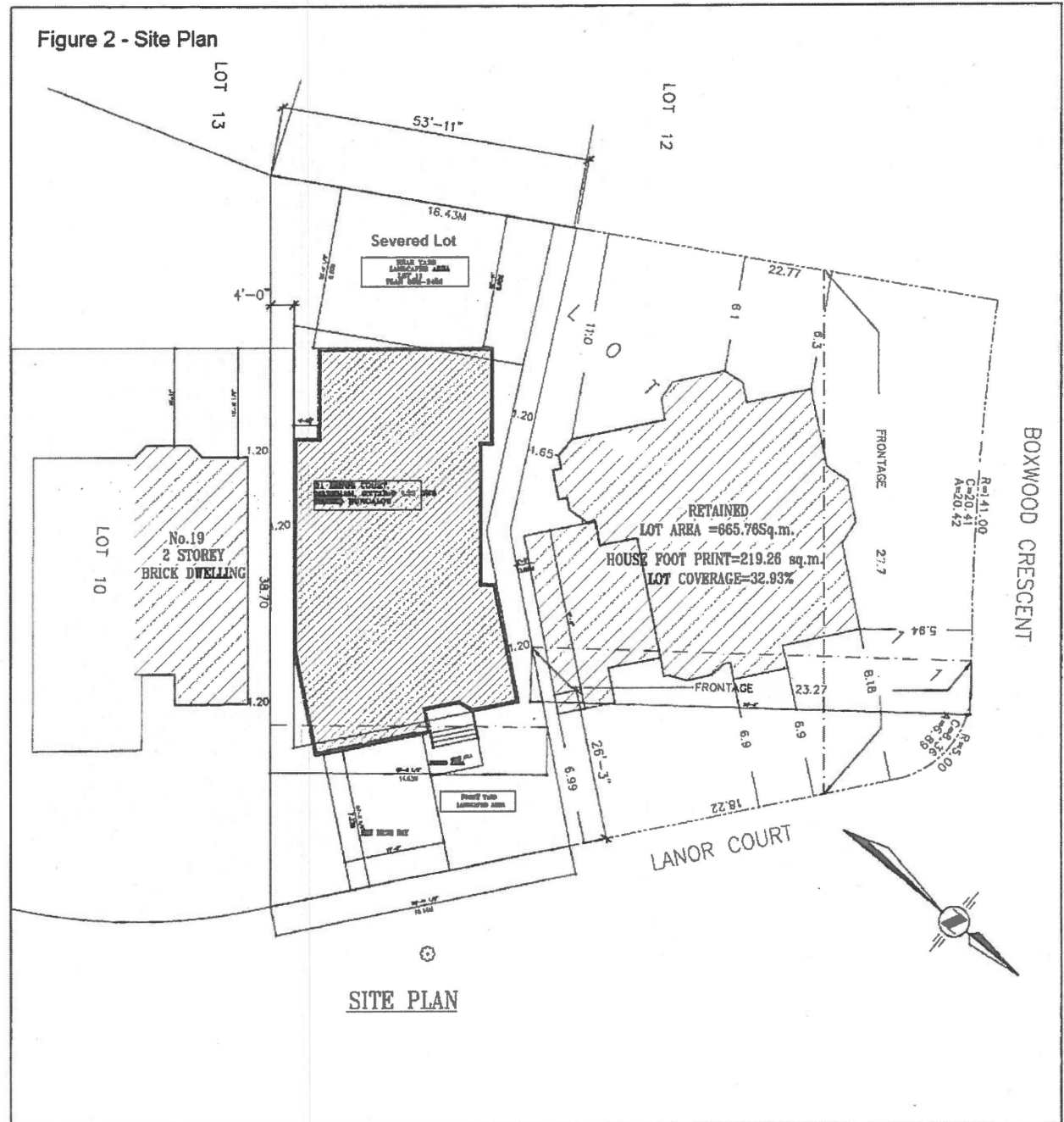


Figure 3 - Second Floor Plan - Proposed Dwelling on 'Severed' Lot

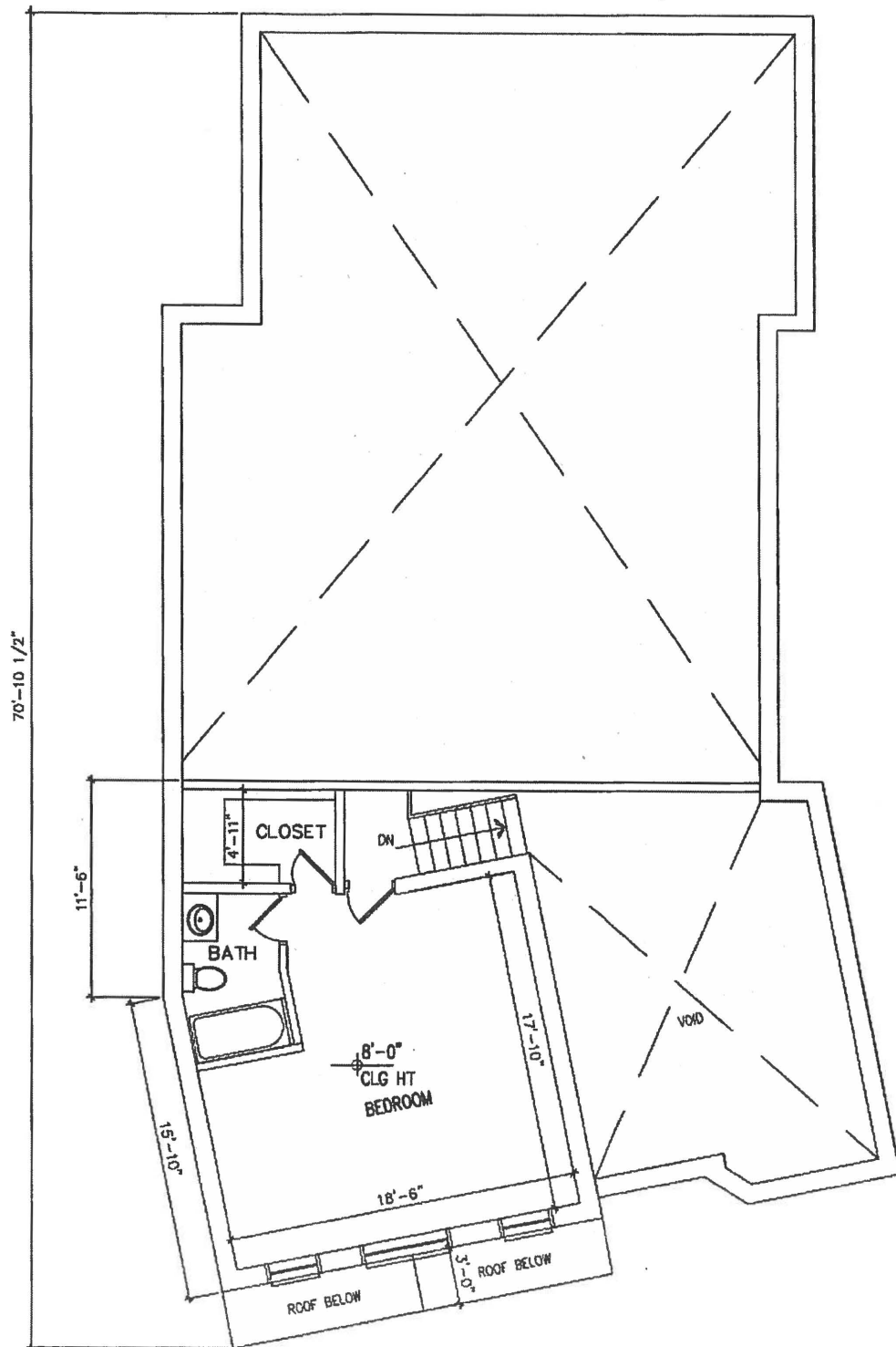


Figure 4 - Front Elevation - Proposed Dwelling
'Severed' Lot

