

# Memorandum to the City of Markham Committee of Adjustment

November 06, 2018

**File:** A/121/18  
**Address:** 40 Albert St Markham  
**Applicant:** Rick Gubb  
**Agent:** Gregory Design Group (Russ Gregory)  
**Hearing Date:** Wednesday November 14, 2018

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

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

- a) Infill By-law 99-90, Section 1.2 (vi): a maximum Net Floor Area Ratio of 49 percent, whereas the By-law permits a maximum Net Floor Area Ratio of 45 percent;
- b) Section 11.1: a maximum lot coverage of 36.6 percent, whereas the By-law permits a maximum lot coverage of 35 percent;
- c) Section 11.3 (a) (vi): a minimum setback of 3.2 ft. to any lot line for an accessory building in the rear yard, whereas the By-law requires a minimum 4 ft. setback to any lot line for accessory buildings;
- d) Section 11.3 (a) (i): a maximum detached garage height of 16 ft. (4.9m), whereas the By-law permits a maximum accessory building height of 12 ft. (3.66m);
- e) Section 11.1: a minimum front yard setback of 16.1 ft., whereas the By-law requires a minimum front yard setback of 25 ft. (7.62 m);
- f) Infill By-law 99-90, Section 1.2 (iii): a maximum building depth of 25.25 m; whereas the by-law permits a maximum building depth of 16.80 m;
- h) Section 11.2 (c)(i): a maximum encroachment of 10 ft. into the minimum front yard setback for the front porch and steps, whereas the By-law permits a maximum encroachment of 18 inches;

as it relates to a proposed two-storey addition and detached garage for a residential dwelling.

## BACKGROUND

### Property Description

The subject property is located on the west side of Albert Street in the residential portion of the Markham Village Heritage Conservation District, north of Highway 7 E, and south of Joseph Street (See Location Map Figure 1). The property is occupied by a one storey, 1,177 ft<sup>2</sup>, brick, Regency cottage constructed in 1856 (See photograph of the existing heritage dwelling Figure 2).

### **Proposal**

The owner has submitted a site plan application seeking permission to construct a 313.5m<sup>2</sup> (3,375 ft<sup>2</sup>) two storey addition to the rear of the existing heritage dwelling, as well as a 60.9 m<sup>2</sup> (656 ft<sup>2</sup>) 1 -1/2 storey garage/accessory building at the rear of the lot (See Figure 3- Proposed Site Plan and Building Elevations).

### **Applicant's Stated Reason for Not Complying with Zoning**

The applicant did not provide any reason why they could not comply with the Zoning By-law and wrote the following instead, "For the construction of a new two storey addition and detached garage."

### **Zoning Preliminary Review Has Been Undertaken**

The applicant has confirmed that a Zoning Preliminary Review has been undertaken and assigned the number ZPR 18 248419.

### **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.

#### **Minimum Rear and Side Yard Setback and Maximum Height of an Accessory Building**

The requested variance to permit a minimum side, and rear yard setback of 3.2 ft. whereas the By-law requires a minimum side yard setback of 4 ft. to the side and rear lot line is minor in nature, and does not appear to negatively impact neighbouring property owners. The requested variance to permit a maximum height of 16 ft. (4.9m) for an accessory building whereas the By-law permits a maximum height of 12 ft. (3.66m) for an accessory building can be considered minor in nature and desirable for the appropriate development of the land because the proposed accessory building is designed to resemble the historic urban barns and carriage houses of Markham Village.

#### **Minimum Front Yard Setback and Maximum Encroachment of Front Porch and Steps into the Required Front Yard**

These two requested variances are related to the existing heritage dwelling as constructed 162 years ago. They are minor in nature and desirable because they reflect existing site conditions, which contribute to the the unique historic character of Markham Village.

Maximum Net Floor Area Ratio, Lot Coverage and Building Depth

These three requested variances are related to the proposed addition and accessory building. Staff has reviewed the proposed addition and accessory building and found them to be complementary to the existing heritage dwelling in terms of their form, scale massing, and materials without appearing to negatively impact neighbouring property owners. For these reasons, staff is of the opinion that the requested variances are minor in nature, desirable for the appropriate development of the land, and maintain the intent and purpose of both the City's Official Plan and Zoning By-law, which is to foster compatible development in the City's four heritage conservation districts.

**Urban Design and Engineering**

The City's Urban Design Section and Engineering Department have provided no comments regarding the application.

**Heritage Markham**

Heritage Markham reviewed six of the seven requested variances at their meeting of October 10, 2018 and had no objection to their approval, delegating final review of the application to Heritage Planning staff, provided there were no significant deviations from the plans reviewed that evening. The requested variance seeking approval for a 10 ft. encroachment of the front porch and steps into the required front yard was not identified at the October 10<sup>th</sup> meeting, but given that this variance does not reflect a change to the plans reviewed by the Committee, Staff has taken the position that Heritage Markham would have no objection to this particular variance.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of November 6<sup>th</sup>, 2018. It is noted that additional comments may be received after the writing of the report, and the Secretary-Treasurer will provide comments on this at the meeting.

**CONCLUSION**

It is the opinion of the Planning staff that the requested variances meet the four tests of the Planning Act and can be supported.

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:



Peter Wokral, Heritage Conservation Planner

REVIEWED BY:

A handwritten signature in black ink, appearing to read "Regan Hutcheson", written over a horizontal line.

Regan Hutcheson, Manager of Heritage Planning

File Path: Amanda\File\ 18 246557 \Documents\District Team Comments Memo

FIGURE 1- LOCATION MAP

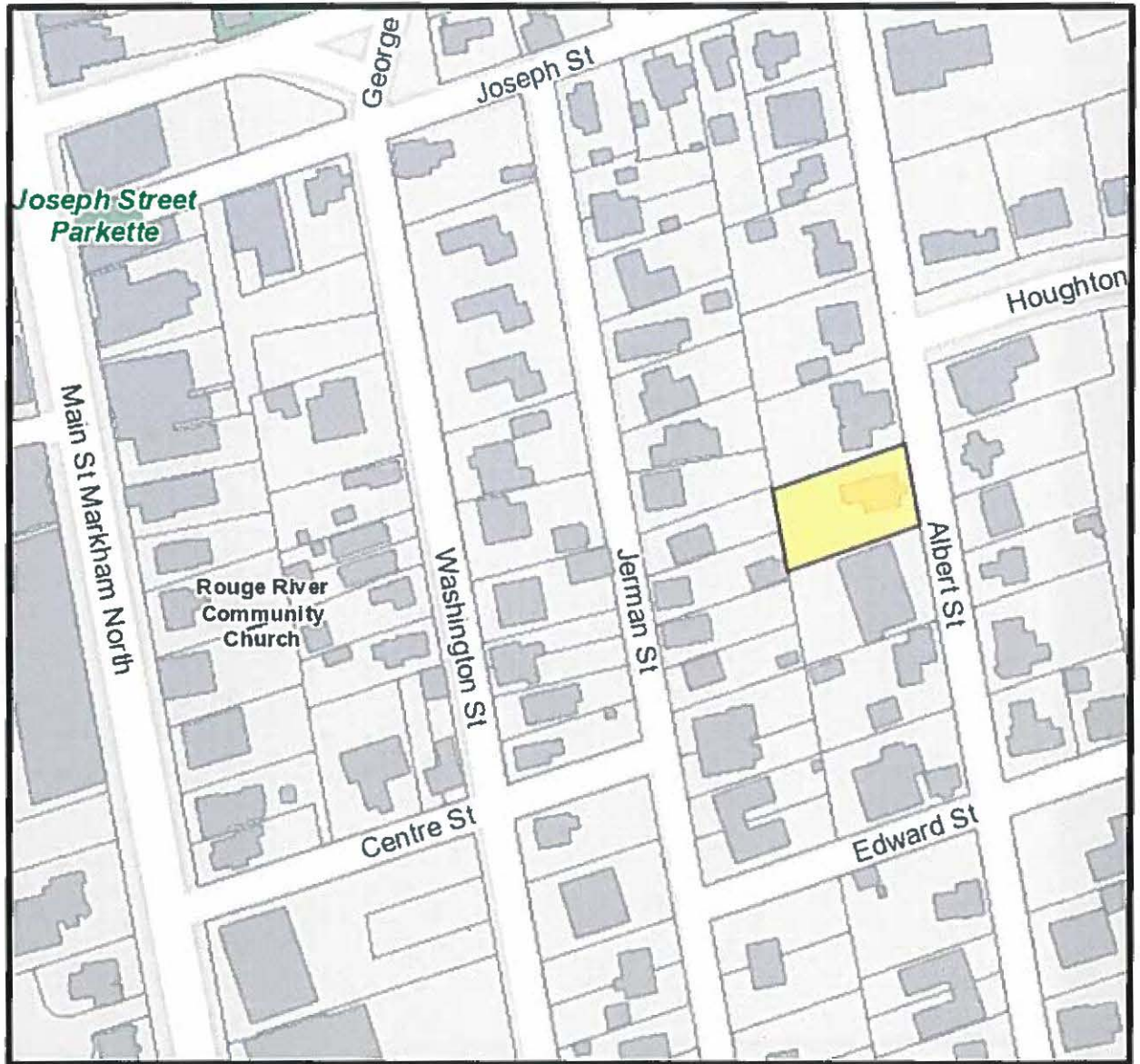


FIGURE 2- PHOTOGRAPH OF THE EXISTING HERITAGE HOUSE



FIGURE 3- SITE PLAN AND ELEVATIONS OF THE PROPOSED ADDITION AND ACCESSORY BUILDING/GARAGE

**SITE PLAN**

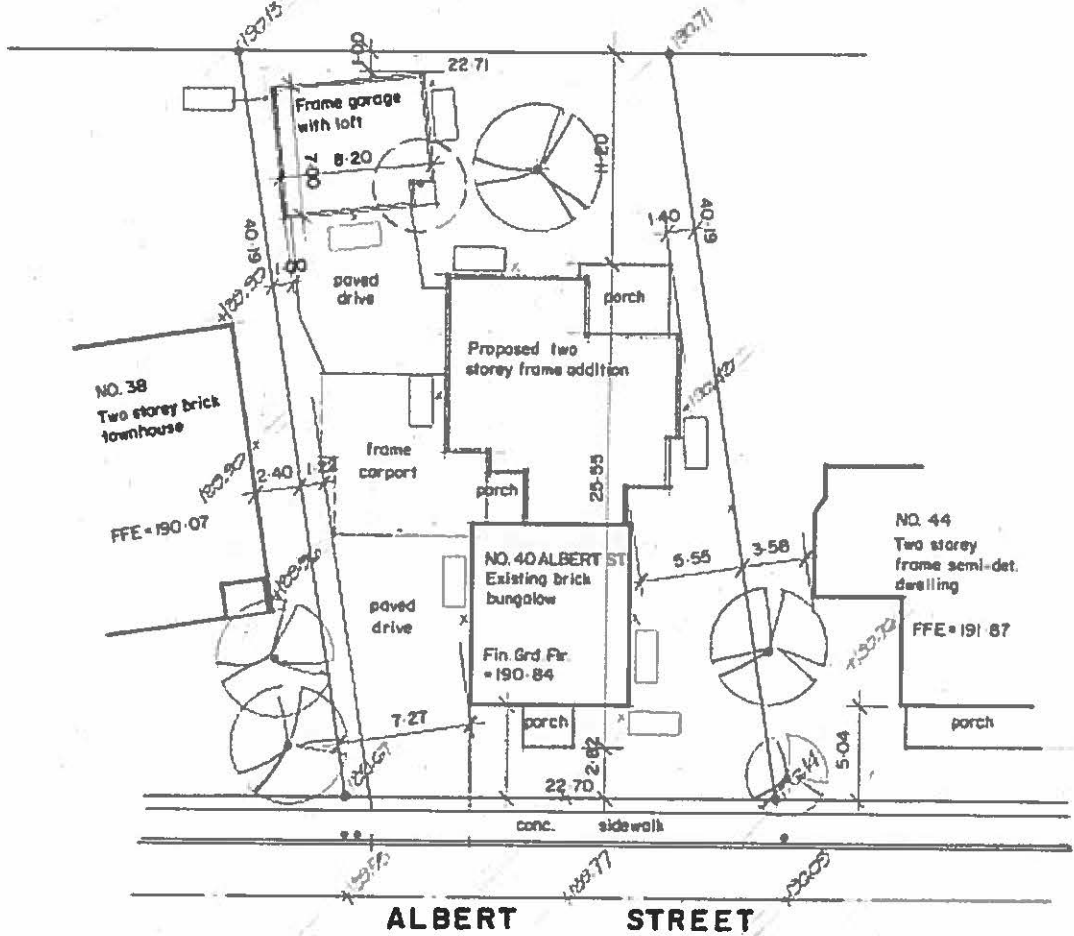
SCALE - 1:200  
 SITE INFORMATION & DATA

AREA OF LOT = 901.7 M<sup>2</sup>  
 AREA OF BUILDINGS = 272.2 + 577.4 = 849.6 M<sup>2</sup>  
 COVERAGE = 94.3%

**NET FLOOR AREA CALCULATION**

$0.171 + 0.01(901.7 - 0.171) \times 0.491 = 777.4 \times 0.491$   
 ALLOWABLE NFA = 380.8 M<sup>2</sup> (42.0%)  
 PROPOSED NFA = 371.0 M<sup>2</sup> (41.0%)

INFORMATION TAKEN FROM  
 SURVEY SHOWING  
 PART I - PLAN OF PART OF LOT 7 - BLOCK 2  
 REGISTERED PLAN 197  
 ZONING - R-77 BY-LAW 229 AS AMENDED







**REAR ELEVATION - WEST**



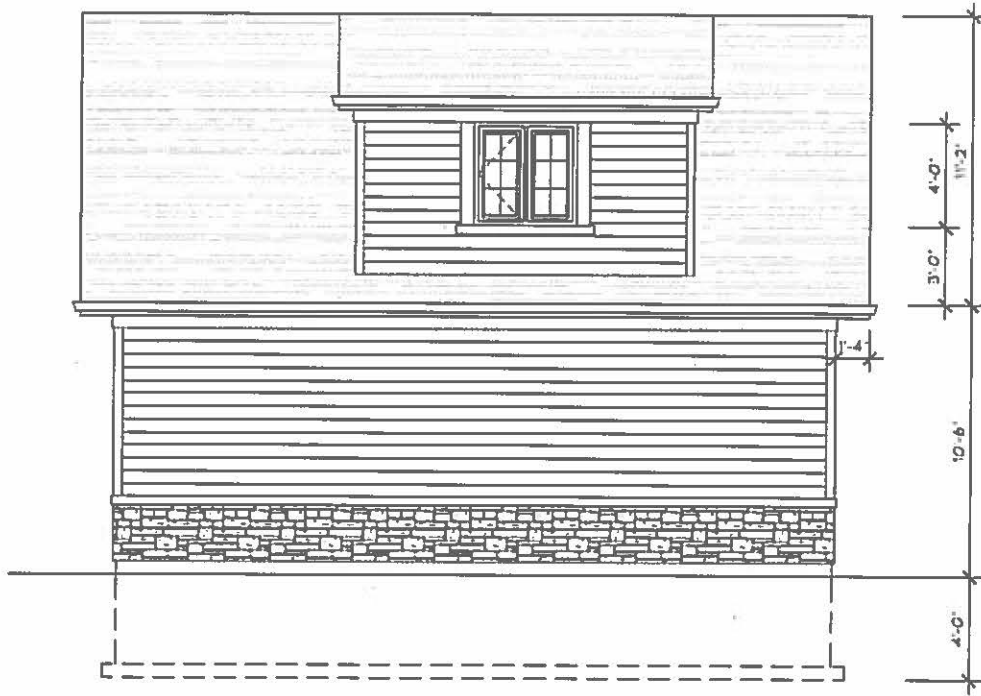
**NORTH SIDE**



FRONT ELEVATION



RIGHT SIDE ELEVATION



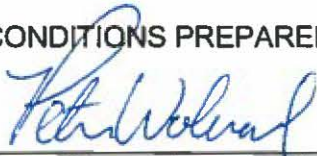
REAR ELEVATION

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/121/18**

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 A' to this Staff Report 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 to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;

CONDITIONS PREPARED BY:



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Peter Wokral, Heritage Conservation Planner