

# Memorandum to the City of Markham Committee of Adjustment

March 13, 2019

**File:** A/129/17  
**Address:** 1 Markham St. Markham Village  
**Applicant:** Amy & Robert Davidson  
**Agent:** Gregory Design Group (Shane Gregory)  
**Hearing Date:** Wednesday March 27, 2019

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

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

- 1) Amending By-law 99-90, Section 1.2 (vi): a maximum net floor area ratio of 46.90 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;
- 2) Section 11.1: a minimum front yard setback of 4.70 m, whereas the By-law requires a minimum front yard setback of 25 ft. (7.62 m);
- 3) Section 11.1: a minimum rear yard setback of 1.22 m, whereas the By-law requires a minimum rear yard setback of 25 ft. (7.62 m);
- 4) Section 11.2 (c) (i): a maximum stair projection of 36" (0.91m), whereas the By-law permits a maximum projection of 18" (0.45m) into a required yard;

as they relate to a proposed new single detached residential dwelling.

## BACKGROUND

### Property Description

The subject property is located at the west end of Markham Street and is located within the Markham Village Heritage Conservation District (See Figure 1- Location Map).



Figure 1

The property is a wide, shallow lot approximately 39.86m (131 ft.) wide by 19.06m (63 ft.) deep, and is occupied by a one storey single detached dwelling and detached garage constructed in 1950 (See Figure 2- Photograph of the existing dwelling) and is surrounded by single detached dwellings, and Franklin Street Public School to the north.



Figure 2

### Proposal

The applicants propose to demolish the existing dwelling in order to construct a new two storey 318.18 m<sup>2</sup> (3,425 ft<sup>2</sup>) single, detached dwelling with an attached garage for which they have submitted a Site Plan application to the City. (See Figure 3- Rendering of proposed dwelling)



Figure 3

**Official Planning and Zoning**  
**Official Plan 2014**

The City of Markham Official Plan 2014 designates the subject property “Residential – Low Rise” which provides for low-rise housing forms including single detached dwellings and a variety of multiple family dwelling types and accessory buildings. Site-specific policies that apply to this part of Markham Village contained in Section 9.13.4.8 of the Official Plan 2014 limit the building types to single detached and semi-detached dwellings with a maximum height of two storeys.

**Zoning**

The subject property is zoned R2 – Residential under By-law 1229, as amended. The proposed use is permitted under the By-law. This area is also subject to Infill By-law 99-90.

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

According to the information provided by the applicant, the reason for not complying with the applicable zoning By-law provisions are due to the lot configuration and access to the property.

**A Zoning Preliminary Review has been Undertaken**

The applicant applied for a Zoning Preliminary Review ZPR 19 110741 on February 6, 2019.

**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.

**Front and Rear Yard Setbacks and Stair Projection**

The requested front yard setback is minor in nature given that the proposed new house is to be constructed in the same general location as the existing 1950’s dwelling. Although the front yard setback requested by the applicant is 4.70m (15.4 ft.), this represents the distance from the property line to the edge of proposed front veranda, which is a semi-enclosed one storey architectural feature. The solid front wall of the existing structure is located 5.9m (19.4 ft.) from the front property line. The setback of the front wall of the proposed dwelling from the front property line is 7.8m (25.6 ft.) or a difference of 6.2 ft. (1.8m). Given that no other adjoining property shares the same frontage, there is a large school building to the north, and the south side of this section of Markham Street are the backyards of homes fronting Church Street, this difference, and the requested variance is minor in nature.

The requested rear yard setback of 1.22m (4ft.) whereas a setback of 7.62m (25 ft.) is required by the By-law is more problematic because the excavation of the new foundation would negatively impact the health of two trees located on the adjacent property to the west. However, the applicants have obtained the approval of the neighbouring property owner to remove these trees. Given this, the fact that the existing house at 1 Markham Street already has a non-compliant rear yard setback of 2.85m (9'-4"), and the existing house at 15 Franklin Street is located approximately 21.3m (70 ft.) away from the property line, the requested rear yard setback can be considered to be minor in nature.

The requested front and rear yard setbacks are also desirable for the appropriate development of the land, because strict adherence to both the 25 ft. front and rear yard setbacks prescribed by the By-law would only permit a house having a building depth, including any verandas or decks, of 11'-8 ¼" due to the unique configuration and shallow depth of the lot.

The requested variance to permit the proposed stair from the front porch to project 36" into the front yard whereas 18" is permitted is minor in nature given the context of this proposed house.

#### Maximum Net Floor Area Ratio

The requested variance to permit a Maximum Net Floor Area Ratio of 46.9% whereas the By-law permits a Maximum Net Floor Area Ratio of 45% is minor in nature, desirable for the appropriate development of the property, and maintains the general intent of both the City's Official Plan and Zoning By-law because the proposed house is considered to be complementary to the immediate neighbourhood in terms of its scale, massing, form, materials and architectural design.

#### **Engineering and Urban Design**

The City's Engineering Department has provided no comments on the application. The City's Urban Design Section has indicated they have no objection to the requested variances provided that the building footprint of the proposed new house is re-positioned to the south to avoid the tree protection zone for the trees located on the north side of the property, which are to be retained in the future Site Plan agreement.

#### **Heritage Markham**

The Heritage Markham Committee reviewed earlier versions of the Site Plan and Minor Variance applications for 1 Markham Street on February 14, 2018. This earlier house design was produced by a different architectural firm and was for a larger house requiring more variances. Although Heritage Markham did not comment on the requested variances, they indicated general support for the form and massing of the proposed house, provided certain revisions were made to the elevations, and delegated final review of the site plan and variance applications to Heritage Section staff. Given that the newly proposed house is smaller in scale, requires fewer variances of lesser magnitude, and reflects the changes to the elevations recommended by Heritage Markham, Heritage Planning staff did not feel it necessary to have the current application reviewed by Heritage Markham.

## **PUBLIC INPUT SUMMARY**

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No written submissions were received as of March 15, 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.

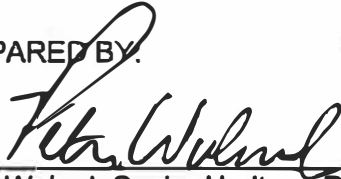
## **CONCLUSION**

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, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Manager of Heritage Planning

File Path: Amanda\File\ 17 174688 \Documents\District Team Comments Memo

**APPENDIX 'A'**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/129/17**

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 elevations attached as 'Appendix B' to this Staff Report and dated February 16, 2019, 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. 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, 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/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
4. That prior to demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Director of Planning and Urban Design or their designate.

CONDITIONS PREPARED BY:



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Peter Wokral, Senior Heritage Planner









