

Memorandum to the City of Markham Committee of Adjustment

March 7, 2018

File: A/187/17
Address: 11 Albert St Markham
Applicant: David Johnston Architect Ltd. (David Johnston)
Agent: (none)
Hearing Date: Wednesday March 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) **Section 3.2:**

a secondary suite, whereas the By-law does not permit a secondary suite;

as it relates to a proposed new residential unit in an existing detached garage/accessory building.

BACKGROUND

Property Description

The subject property is located on the east side of Albert Street three properties north of Highway 7 East in a residential neighbourhood of the Markham Village Heritage Conservation District (See Figure 1-Location Map) The property is occupied by a single detached heritage dwelling constructed circa 1865 and a modern detached 1 ½ storey garage/accessory building constructed in 1989, located at the rear of the property. This accessory building actually encroaches 0.24 m on to the neighbouring property to the east, and required a variance which was approved by the Committee of Adjustment in 2001 (A/111/01).

The immediately adjacent properties are occupied by single detached dwellings, and the properties across the street are occupied by semi-detached dwellings. Although the properties to the east at 6090 and 6100 Highway 7 East are zoned residential, a Hold provision was lifted in the year 2000 to permit these properties to be also used commercially as business and professional offices, and they continue to be in commercial use today.

In 2015, the Committee of Adjustment approved an application made by the owners of the neighbouring residential property to the south at 9 Albert Street to permit the second storey of their detached accessory building/garage to be used as a second residential unit on the property.

Proposal

Like the neighbouring property owners to the south, the owners of 11 Albert Street are proposing to convert the second storey to a second residential unit after remodelling the existing garage/ accessory building.

Applicant's Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, relief is requested because the "Second storey of the garage has existed from the past and the owner would like to convert the coach house into a 2nd suite."

Zoning Preliminary Review Has Been Undertaken

The applicant has confirmed that a Zoning Preliminary Review has been undertaken and assigned the number ZPR 17 173514.

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.

In 2011, the *Strong Communities through Affordable Housing Act* amended various sections of the *Ontario Planning Act* to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses as well as in ancillary structures
- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites, are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings".

Since that time, the Residential Low Rise policies of the Official Plan 2014 (partially approved on October 15, May 26, 2016, April 17, 2017 and November 24, 2017) have come into effect.

These policies support Secondary Suites in all 'Residential' designations but define a Secondary Suite as a "second residential unit in a detached house, semi-detached house or rowhouse" but not an accessory building. The Official Plan 2014 also defines a Coach House as a second residential unit above a private garage either in the main building or an accessory building. However, in the Residential Low Rise designation to which the subject property belongs, a Coach House is only permitted above a garage on a laneway.

It appears the intent of limiting Second Suites to Coach Houses located on laneways was to avoid the potential loss of privacy which could result by permitting Second Suites in the second storeys of detached garages/accessory building which are often located as close as 2 feet from the lot lines between properties. The overlook of second suites in accessory buildings located close to property lines could negatively impact the privacy of neighbouring property owners who have come to rely on the minimum rear yard setbacks of 25 feet for dwellings prescribed by the City's Zoning By-laws to protect the privacy of their rear yards.

Although the existing detached accessory building/garage at 11 Albert Street actually encroaches into the rear yard of the neighbouring property to at 6090 Highway 7 East, the applicant proposes to demolish the existing additions to the garage that encroach on the neighbouring property, to create an appropriate four foot rear yard setback that complies with the prescribed setbacks for accessory buildings contained in the By-law. Furthermore, given that the adjacent property at 6090 Hwy. 7 E. is being used for professional offices, the overlook of the proposed second residential unit over the rear yard of 6090 Hwy. 7 E. would not appear to negatively impact the adjacent property owner. The intent of the Official Plan to permit second suites where they do not negatively impact neighbouring property owners would be maintained.

Engineering and Urban Design

The City's Engineering Department and Urban Design Section have not provided any comments regarding the application.

Heritage Markham

Heritage Markham reviewed the application on January 10, 2018 and had no objection to the requested variance from a heritage perspective.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 6, 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 requested variance to permit the creation of a second dwelling unit in the second storey of the existing detached accessory building at 11 Albert Street does not comply with the policies regarding second suites contained in the City's Official Plan 2014, as the existing building does not meet the Official Plan's definition of a Coach House because it is not located on a laneway. Given this, an Official Plan amendment is the more appropriate process for the applicant to obtain approval.

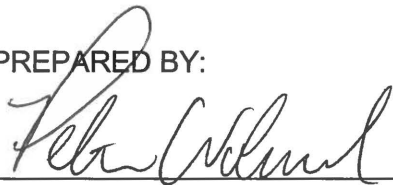
However, it is the opinion of Planning Staff that the proposed second suite maintains the intent of the Official Plan as it applies to Second Suites which is to protect the interests of neighbouring property owners by maintaining the relative privacy of their rear yards.

Should the Committee see merit in the application, planning staff recommends that approval be conditional on the applicant obtaining site plan approval for an architectural design in substantial compliance with the attached drawings dated January 2018.

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:



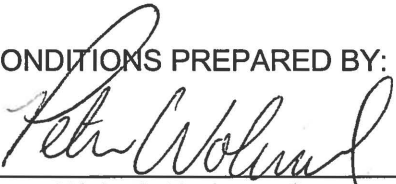
Regan Hutcheson, Manager of Heritage Planning

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/187/17

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 plan(s) attached as 'Figure 2' to this Staff Report and dated January 2018, 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;
4. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:



Peter Wokral, Heritage Conservation Planner

FIGURE 1- LOCATION MAP

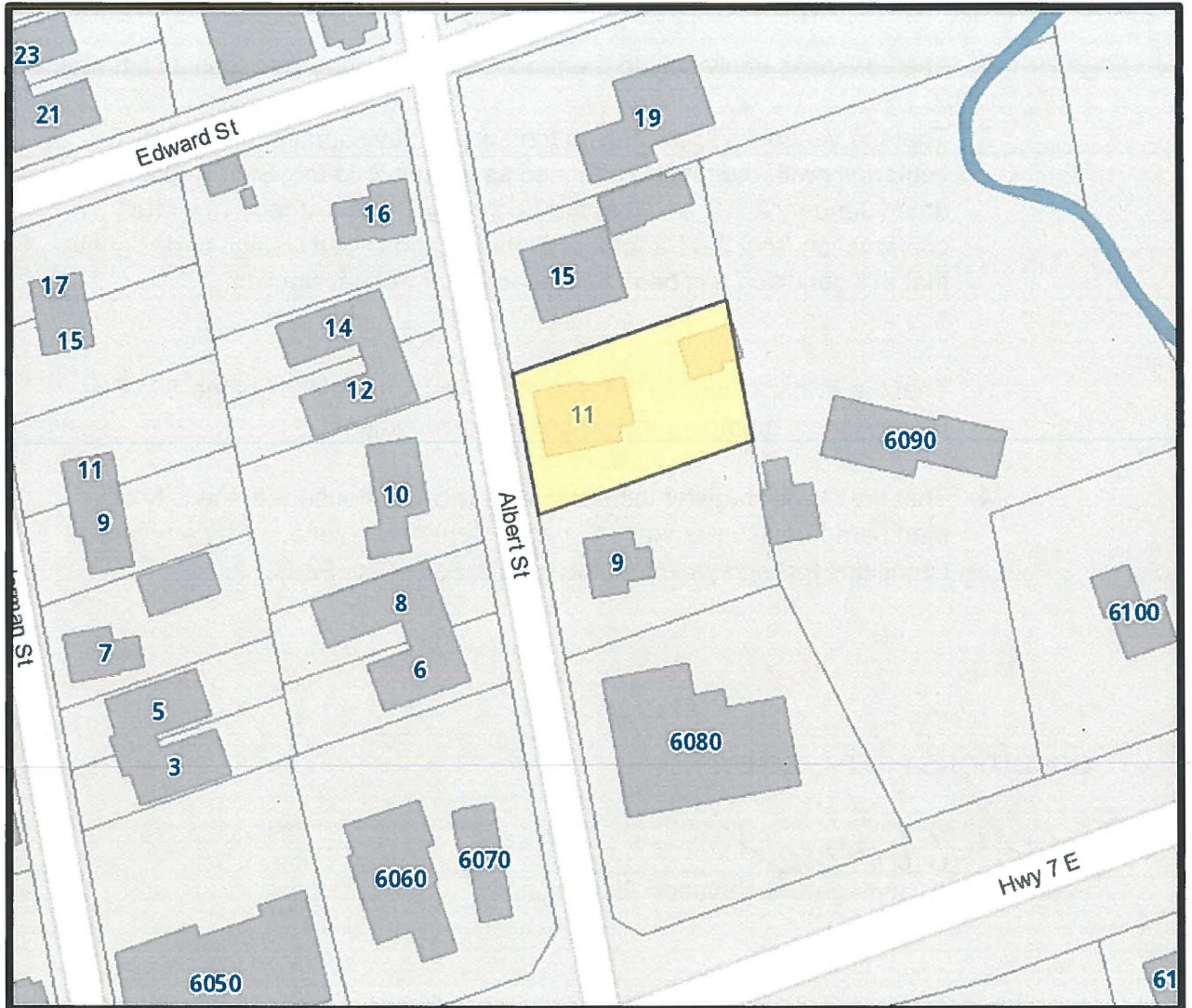
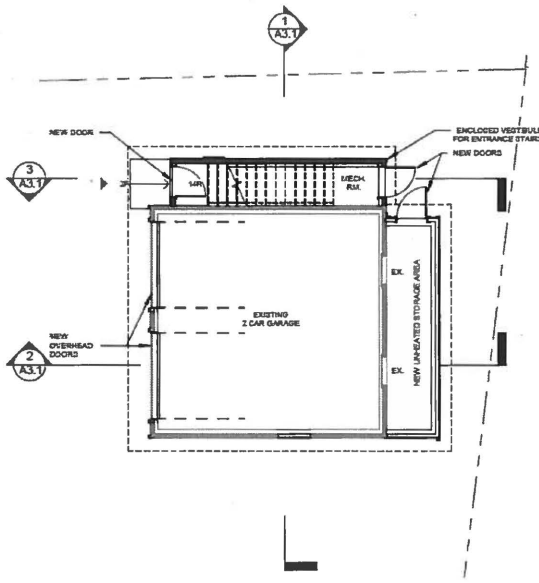
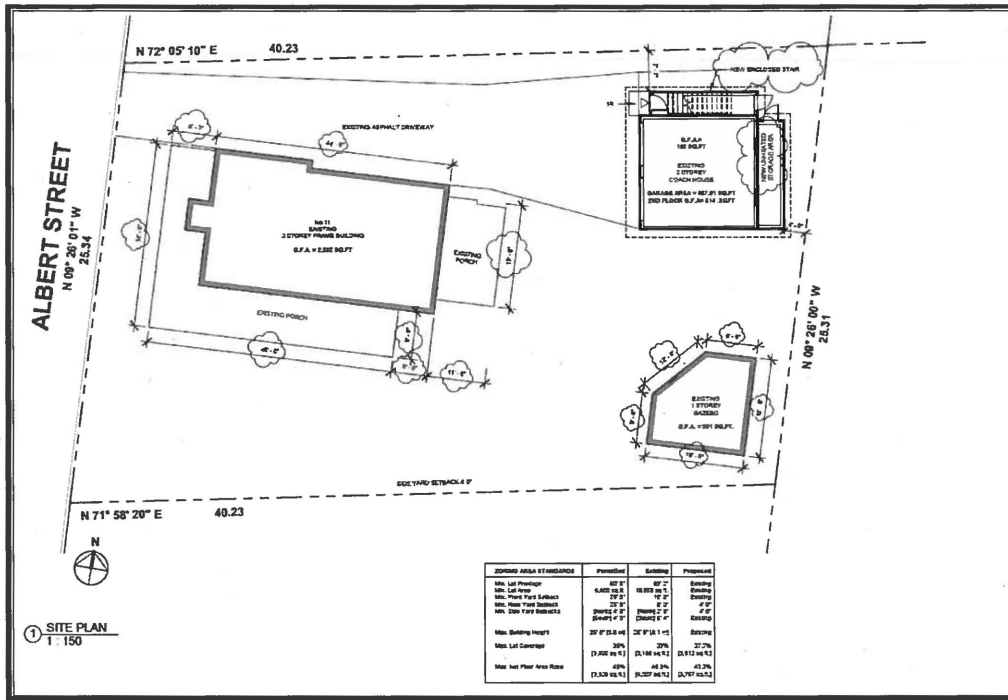
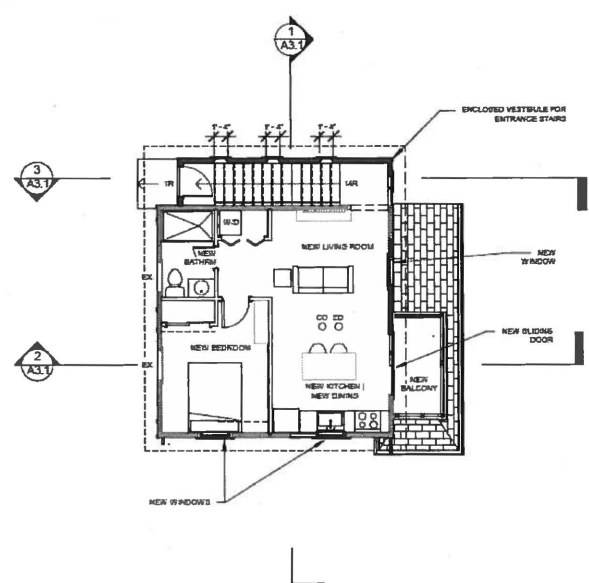


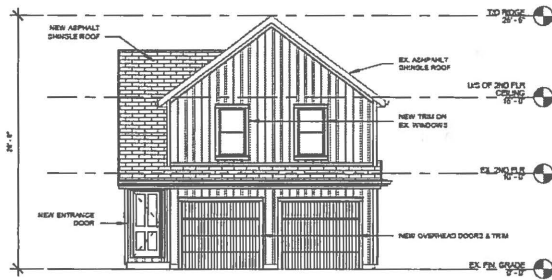
FIGURE 2- Site Plan, Floor Plans, Elevations and Perspective Drawings



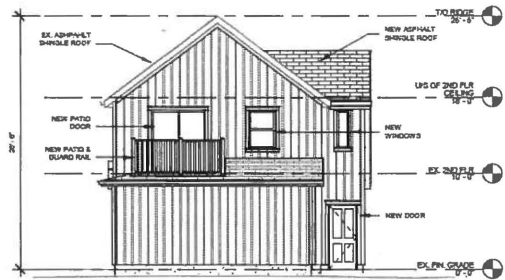
1 NEW - FIN. GRADE
1/8" = 1'-0"



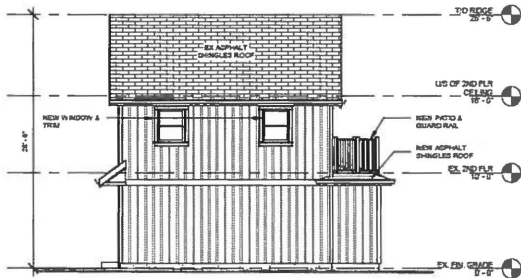
2 NEW - 2ND FLOOR
1/8" = 1'-0"



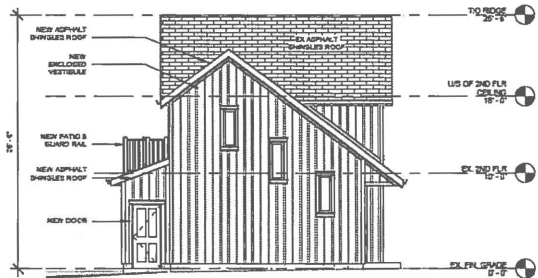
① NEW - WEST ELEVATION
1/8" = 1'-0"



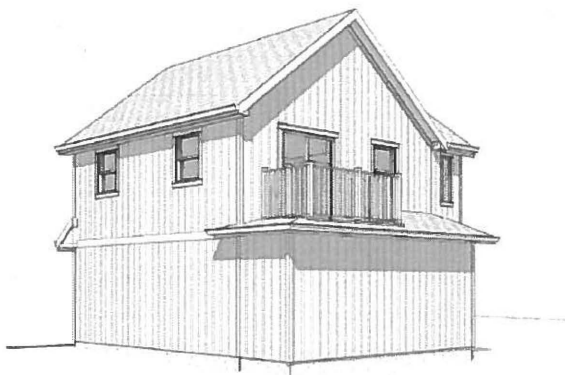
② NEW - EAST ELEVATION
1/8" = 1'-0"



③ NEW - SOUTH ELEVATION
1/8" = 1'-0"



④ NEW - NORTH ELEVATION
1/8" = 1'-0"



② SOUTHEAST PERSPECTIVE



① WESTNORTH PERSPECTIVE



③ SOUTHWEST PERSPECTIVE