

Memorandum to the City of Markham Committee of Adjustment

June 11, 2018

File: A/52/18
Address: 179 Bay Thorn Drive, Thornhill
Applicant: Massoud Ghahremani
Agent: Georgio Lolos Designs (Georgio Lolos)
Hearing Date: Wednesday June 13, 2018

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 2150 - R3A, as amended:

- a) **Section 6.1:**
a minimum front yard setback of 20 feet; whereas, the by-law permits a minimum front yard setback of 27 feet;
- b) **Section 6.1:**
a minimum southerly side yard setback of 4 feet (cantilevered rear corner portion of the 2nd storey); whereas, the by-law requires a minimum side yard setback of 6 feet;
- c) **Section 6.1:**
a maximum building height of 30 feet; whereas, the by-law permits a maximum building height of 25 feet;
- d) **Section 6.1:**
a maximum lot coverage of 37.8 percent (2,795 ft²); whereas, the by-law permits a maximum lot coverage of 33 1/3percent (2,400 ft²);
- e) **Section 3.7:**
a maximum roof overhang projection of 30" (2'-6") into the required north side yard and 59" (4'-11") into the required front yard; whereas, the by-law permits a maximum roof overhang encroachment is 18" into the required yards;

as they relate to a proposed residential dwelling.

Property Description

The 669.37 m² (7,205 ft²) subject property is located near the bend on Bay Thorn Drive, east of Yonge Street and north of Royal Orchard Boulevard. The surrounding area consists of a mix of one and two-storey detached dwellings originally developed in the 1960s. There is an existing 210.51 m² (2,265.91 ft²) two-storey detached dwelling constructed circa 1968. Mature vegetation exists across the subject property.

Royal Orchard Park and a valley corridor associated with the Don River Watershed are located to the east of the property. There is a public walkway to the north that connects Bay Thorn Drive to Thorny Brae Drive through Royal Orchard Park.

Proposal

The applicant is proposing to demolish the existing house and construct a 361.61 m² (3,892.33 ft²) two storey detached dwelling. Several trees in the rear yard are proposed to be removed. The applicant will be required to work with the City's Tree Preservation Technician to provide tree replacement and/or compensation in accordance with the City's Streetscape Manual prior to the issuance of a building permit.

Official Plan and Zoning

2014 Official Plan (as partially approved on Nov 24/17 and further updated on April 9/18)

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks 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, the width of proposed garages and driveways within a residential neighbourhood. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-Law

The subject property is zoned R4-Single Detached dwelling under By-law 2150, as amended, which permits single detached dwellings. The proposal does not comply with the by-law with respect to front yard setback, side yard setback, building height, lot coverage and roof overhang projection.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the applicant, the variances are required due to the existing lot condition.

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm all the variances required for the proposed development.

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.

Reduced Front Side Yard Setback

The applicant is requesting a minimum front yard setback of 20 ft (6 m), whereas the by-law requires a minimum front yard setback of 27 ft (8.22 m). This represents a reduction of 7 ft (2.13 m) or approximately 25.92 percent from the by-law requirement.

The variance is in part attributed to TRCA's requirement to protect the nature features associated with the valley corridor to the east. TRCA requires a 10 m (32.8 ft) buffer from the physical top of bank (TOB) of the valley corridor. Consequently, the proposed dwelling has been shifted closer to the street to satisfy TRCA's requirements.

The irregular configuration of the property also poses physical constraints for development. Staff are of the opinion that efforts have been made to break down the massing of the building by incorporating articulations in the front wall. The sides of the dwelling meet the front yard setback requirement. The two trees near the garage and the southerly property line will be retained to help provide screening for the home to the south. The north side of the building will also be appropriately screened by the mature trees along the public walkway to the north.

Reduced West Side Yard Setback

The applicant is requesting a minimum south side yard setback of 4 ft (1.21 m) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6 ft (1.82 m). This represents a reduction of 2 ft (0.6 m) or 33.33 percent from the by-law requirement. The variance only applies to a cantilever on the second floor which includes a small area of the washroom in Bedroom #2 (See Appendix B).

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 30 ft (9.14 m), whereas the By-law permits a maximum building height of 25 ft (7.62 m). This represents an increase of 5 ft (1.52 m) or approximately 20% from the by-law requirement.

The variance includes a raised portion at the center of the building above the master bedroom that is approximately 4 ft (1.21 m) higher than the main roof line. The main building is approximately 26 ft (7.92 m) in height. This represents an increase of 1 ft (0.3 m) or approximately 4 percent from the by-law requirement.

Increase in Maximum Lot Coverage

The applicant is requesting relief to increase the maximum lot coverage to 37.8 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent. This represents an increase of approximately 395 m² (4,251.74 ft²) or 16.45% from the by-law requirement. The variance is largely due to the 21.65 m² (233 ft²) covered porch at the rear of the building. Excluding the porch, the building has a lot coverage of approximately 35.55 percent or 238.02 m² (2,562 ft²), which is generally consistent with a couple of new infill homes on the street that have obtained minor variance for similar increases in coverage. Staff recommend that the approval of this variance include a condition that the covered porch and second storey balcony remain unenclosed.

Increase in Roof Overhang Projection

The applicant is requesting relief to permit a maximum roof overhang projection of 30 in (0.762 m) into the required north side yard and 59 in (1.5 m) into the required front yard, whereas the by-law permits a maximum roof overhang encroachment of 18 in (0.46 ft) into any required yards. Both overhang projections are located near the north side of the building adjacent to the public walkway. Staff do not anticipate the variance will result in any adverse impact on neighbouring homes.

TRCA (Toronto and Region Conservation Authority) Comments

The subject property is located within TRCA's regulated area associated with the Don River Watershed. The TRCA is satisfied that the proposed development will be appropriately setback from the Top of Bank of the valley corridor (Appendix C). TRCA has no objection to the approval of this application subject to the applicant obtaining a TRCA permit and remits the TRCA review service fee (See Appendix C).

PUBLIC INPUT SUMMARY

As of June 11th, 2018, the City has received five written letters in support of the application. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance requests meet the four tests of the Planning Act and have no objection.

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.

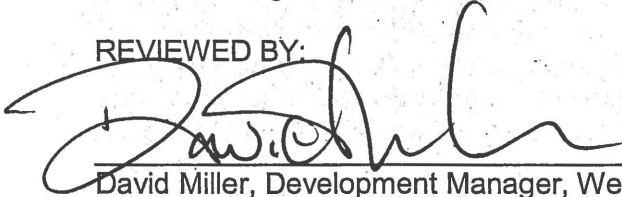
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Carlson Tsang, Planner II, West District

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\ 18 230319 \Documents\District Team Comments Memo

APPENDIX "A"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/52/18

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 B" received on May 14, 2018 to this Staff Report, to the satisfaction of the Director of Planning and Urban Design or designate;
3. That the covered porch on the first floor and the balcony on the second floor remain unenclosed
4. 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 of, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
5. That prior to the commencement of construction or demolition, tree protection be erected around all trees on site, 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.
6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, 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;
7. Submission of a detailed Siting, Lot Grading and Servicing Plan designed and stamped by a Professional Engineer/Ontario Land Surveyor/Landscape Architect satisfactory to the Director of Engineering, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Engineering or designate;
8. That the proposed building elevations/addition be designed and constructed in conformity with the requirements of Markham's Bird Friendly Guidelines 2014, and that architectural plans be submitted to the City demonstrating compliance, to the satisfaction of the Director of Planning and Urban Design or their designate.
9. That the applicant obtains all the necessary permits and/or approval from Toronto and Region Conservation Authority for the proposed development, and that the Secretary-Treasurer receive written confirmation from Toronto and Region Conservation Authority that this condition has been fulfilled to their satisfaction;

PREPARED BY:



Carlson Tsang, Planner II, West District



NO.	REVISIONS	DATE	BY
1	ISSUED FOR I.L.C.		
2	REVISED FOR I.L.C.		
3			
4			
5			
6			
7			
8			
9			
10			

PROFESSIONAL REG. NO.	
PROFESSIONAL REG. NO.	

ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 THIS PLAN IS TO BE USED FOR THE CONSTRUCTION OF THE ABOVE DESCRIBED WORK.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.

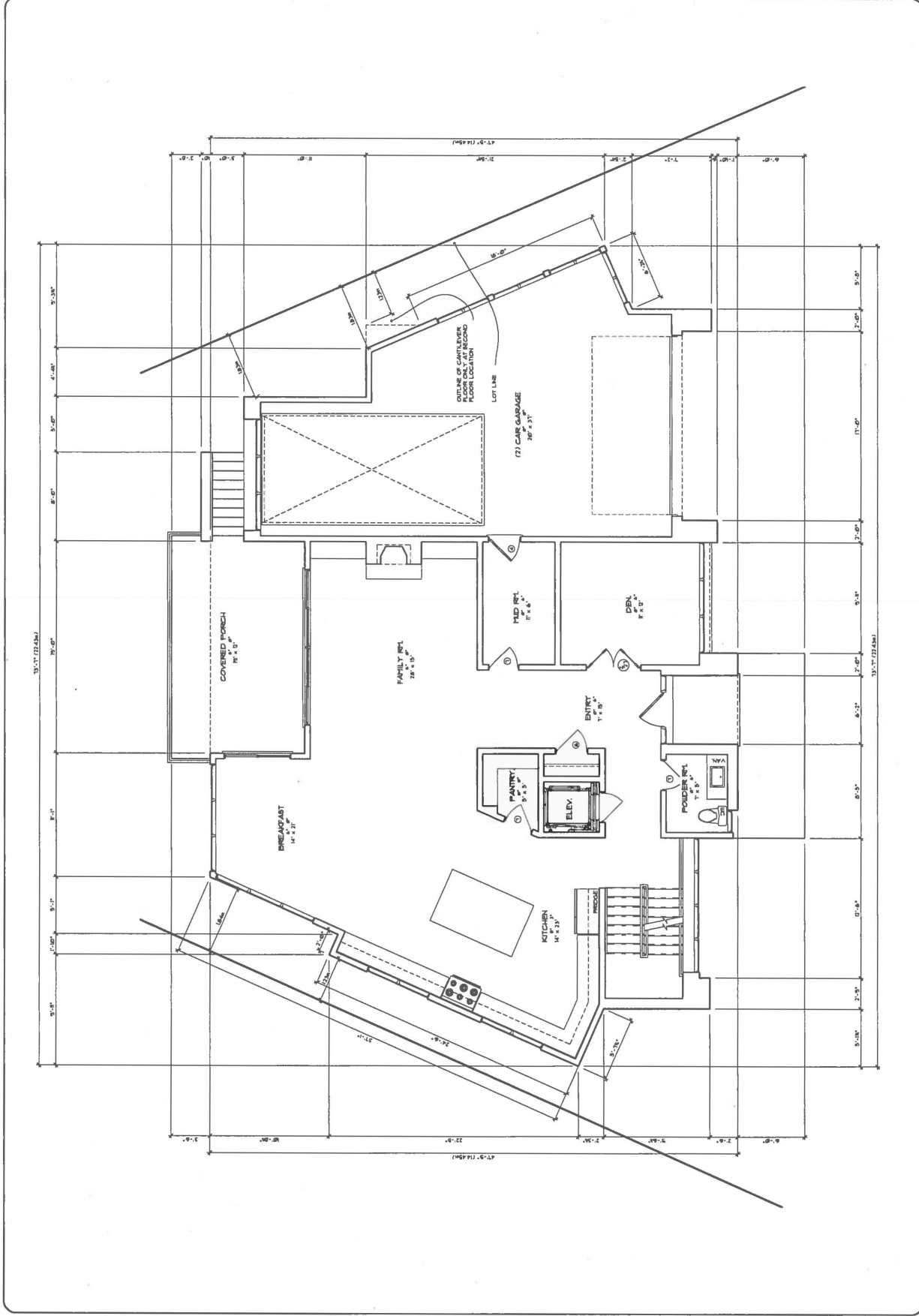
Georgio Lajos
 Architect & Interior Designer

233 BRIMINGTON AVE
 MISSISSAUGA, ONTARIO L4V 1R7
 TEL: (416) 435-5709
 FAX: (416) 435-5711

PROPOSED 2 STOREY DUAL-LEVEL TOWN RESIDENCE
 4175 EAST WILKINSON AVENUE
 MISSISSAUGA, ONTARIO

FIRST FLOOR PLAN

OWNER:	DATE:	PROJECT:	SCALE:
D. POVEDA	OCT. 1, 2011	100' x 150'	1/8" = 1'-0"
CHECKED BY:	DATE:	PROJECT:	SCALE:
A-2			



REVISIONS	
NO.	DATE
1	10/15/11
2	10/20/11
3	11/01/11
4	11/15/11
5	12/01/11
6	12/15/11
7	01/01/12
8	01/15/12
9	02/01/12
10	02/15/12
11	03/01/12
12	03/15/12
13	04/01/12
14	04/15/12
15	05/01/12
16	05/15/12
17	06/01/12
18	06/15/12
19	07/01/12
20	07/15/12
21	08/01/12
22	08/15/12
23	09/01/12
24	09/15/12
25	10/01/12
26	10/15/12
27	11/01/12
28	11/15/12
29	12/01/12
30	12/15/12

PROJECT NO. 11-001
 SHEET NO. 11-001-01
 DATE: 10/15/11

PROJECT NAME: GHAIHEM-TANI RESIDENCE
 ADDRESS: 113 BRUNSON AVE
 CITY: HANCOCK, ONTARIO
 STATE: ONTARIO
 CANADA

ARCHITECT: GEORGIO LOLOS
 113 BRUNSON AVE
 HANCOCK, ONTARIO
 CANADA
 TEL: (416) 434-3198
 FAX: (416) 434-3141

PROPOSED 2 STOREY CHILLING ROOM
 113 BRUNSON AVE
 HANCOCK, ONTARIO
 CANADA

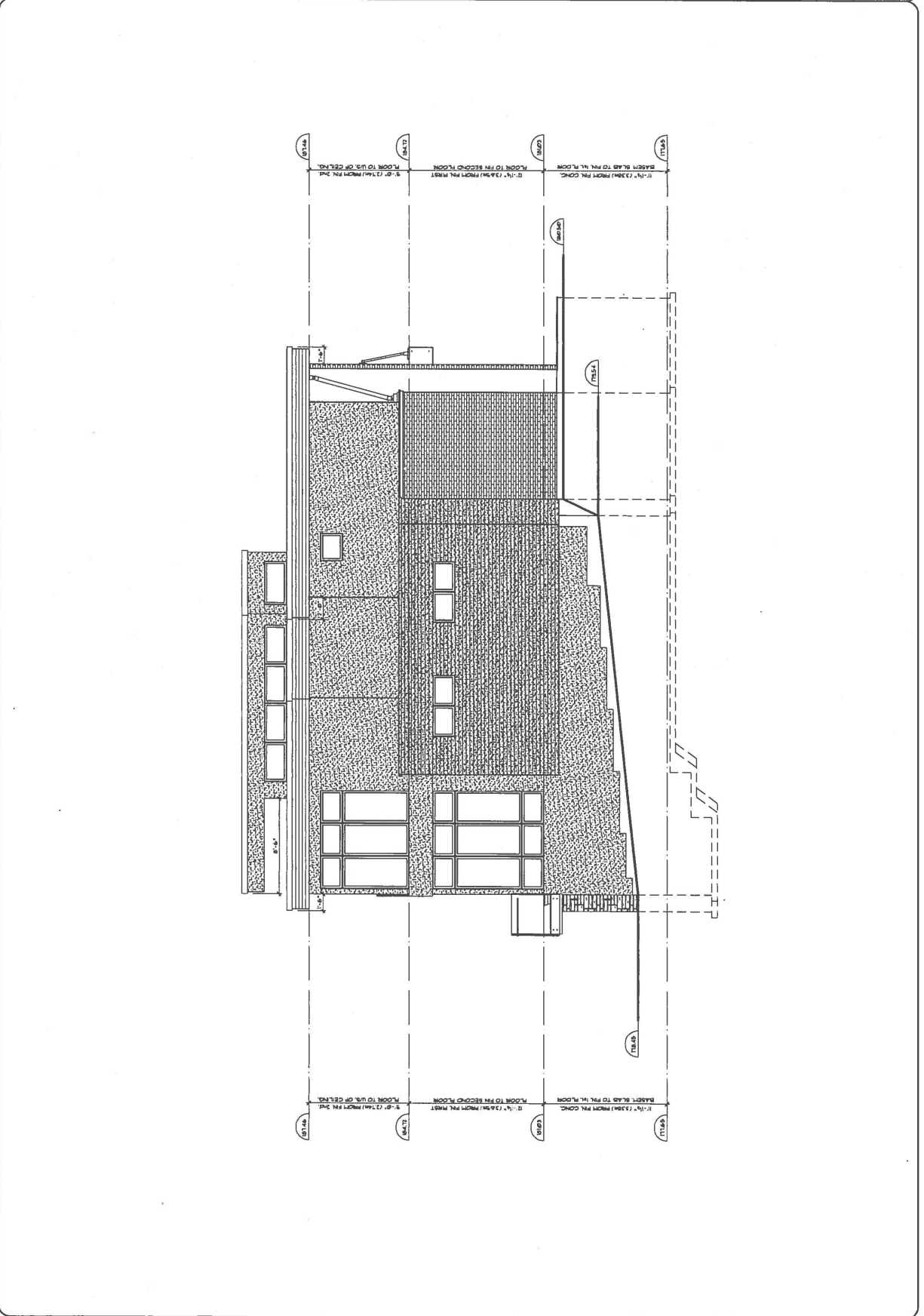
LEFT SIDE ELEVATION

Georgio Lolos
 Architecture & Interiors Design

113 BRUNSON AVE
 HANCOCK, ONTARIO
 CANADA
 TEL: (416) 434-3198
 FAX: (416) 434-3141

PROPOSED 2 STOREY CHILLING ROOM
 113 BRUNSON AVE
 HANCOCK, ONTARIO
 CANADA

DESIGNED BY	DATE	SCALE	SHEET NO.	TOTAL SHEETS
D. POYEDA	OCT. 2011	1/8" = 1'-0"	A-8	12/21



May 22, 2018

CFN: 59072.08
X CFN: 59017.01

BY E-MAIL ONLY

Mr. Justin Leung
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Boulevard
Markham, ON
L3R 9W3

Dear Mr. Leung:

Re: **Variance Application - A/52/18 – Recirculation**
179 Bay Thorn Drive, Markham, ON
Massoud Ghahremani (Owner)
Georgio Lolos Designs (Agent: Georgio Lolos)

This letter will acknowledge receipt of the above noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and provide the following comments.

PURPOSE OF THE APPLICATION

A/52/18

The applicant is requesting relief from the requirements of By-law 2150, as amended, as it relates to a proposed residential dwelling.

Requested Variance(s) to the Zoning By-law:

- a) **Section 6.1:**
A minimum front yard setback of 20 feet; whereas, the by-law permits a minimum front yard setback of 27 feet;
- b) **Section 6.1:**
A minimum southerly side yard setback of 4 feet (cantilevered rear corner portion of the 2nd storey); whereas, the by-law requires a minimum side yard setback of 6 feet;
- c) **Section 6.1:**
A maximum building height of 30 feet; whereas, the by-law permits a maximum building height of 25 feet;
- d) **Section 6.1:**
A maximum lot coverage of 37.8 percent (2,795 sq. ft. +-); whereas, the by-law permits a maximum lot coverage of 33 1/3 percent (2,400 sq. ft.);

e) **Section 3.7:**

A maximum roof overhang projection of 59" (4'-11") into the required front yard; whereas, the by-law permits a maximum roof overhang encroachment is 18" into the required yards;

f) **Section 3.7:**

A maximum roof overhang projection of 30" (2'-6") into the required north side yard; whereas, the by-law permits a maximum roof overhang encroachment is 18" into the required yards.

APPLICABLE TRCA REGULATIONS AND POLICIES

Ontario Regulation 166/06 (as amended):

The subject property is located partially within TRCA's Regulated Area, as it is traversed by a valley corridor associated with the Don River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place:

- a. straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b. development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. the construction, reconstruction, erection or placing of a building or structure of any kind;
- ii. any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. site grading;
- iv. the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Roles and Responsibilities

TRCA provides our technical review comments through several roles. This includes TRCA's commenting role under the *Planning Act*; the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement, 2005 and 2014; TRCA's Regulatory Authority under Ontario Regulation 166/06 (as amended), Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses; and our Memorandum of Understanding (MOU) with the Region of York, where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.

TRCA strives to ensure consistency between our comments under the *Planning Act* and our comments under the *Conservation Authorities Act*, the proposed development must meet the tests of our Regulation at the time of application. This means that the TRCA must be satisfied that the form of development can satisfy the tests of Ontario Regulation 166/06, as amended, and demonstrate that there will be 'no negative impacts' in order for TRCA staff to support a permit. Details in respect to TRCA's policies can be found in Section 7 and 8 of TRCA's The Living City Policies.

Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP)

The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the "Natural System" as the greater of, but not limited to the following:

- Valley and Stream Corridors: 10 metre buffer from the greater of the long-term stable top of slope (LTSTOS), top of slope (TOS), Regulatory Floodplain, meander belt and any contiguous natural features or areas;
- Woodlands: 10 metre buffer from the dripline and any contiguous natural features or areas;
- Wetlands: 30 metre buffer from Provincially Significant Wetlands (PSWs) and a 10 metre buffer from all other wetlands and any contiguous natural features or areas.

APPLICATION SPECIFIC COMMENTS

Ontario Regulation 166/06, as amended:

The subject property is traversed by a valley corridor associated with the Don River Watershed. To ensure development is appropriately setback from the limit of natural features and their associated hazards, TRCA typically requires a minimum 10 metre (m) buffer, which is considered part of the valley corridor, be established from the greater of the following constraints:

- The physical top of bank (TOB);
- The Regulatory Floodplain (i.e. greater of the Regional Storm or 100 Year Flood event standards);
- The limit of the Long Term Stable Top of Slope (LTSTOS); or,
- The limit of contiguous vegetation associated with the valley corridor.

Please be advised, on March 5, 2018 as part of TRCA's Concept Development Application (CFN 59017.01) process, staff executed a site staking exercise, which defined two components of TRCA's development limits (i.e. the limit of the top of bank and the limit of the contiguous vegetation associated with the valleyland feature traversing the rear portion of the property). On March 21, 2018 TRCA staff received a survey (Prepared by Pearson and Pearson Surveying Limited) which accurately reflected the limits of development delineated at the site staking. Based on the survey and the architectural drawings, it appears as though the two-storey replacement dwelling (approximately 3,892.37 ft²) and covered porch (233.00 ft²) is sited further towards the valley corridor than the existing dwelling. Although the proposed structure is encroaching further to the rear of the property, TRCA's Geotechnical staff are satisfied that the proposed works is appropriately setback approximately 9.5-10 metres from the TOB. As such, staff do not anticipate any slope instability or geotechnical concerns.

Moreover, the TRCA would like to ensure that stormwater runoff entering the valley corridor does not affect the stability of the slope or induce any surficial erosion. To reduce runoff and minimize erosion, please consider incorporating low impact development (LID) measures such as rain barrels, infiltration trenches and rain gardens into the project design.

For information on LID's, please visit the following websites: Chapter 3 of the Grey to Green Residential Guide for LID Measures for your home: <http://www.creditvalleyca.ca/wp-content/uploads/2015/01/Grey-to-Green-Residential-Guide1.pdf> . For details regarding a particular LID design, please refer to <http://www.sustainabletechnologies.ca/wp/>.

Ecology:

TRCA staff note, that the proposed building envelope does encroach within TRCA's 10 metre buffer from the contiguous vegetation associated with the valley corridor. In order to enhance both the stability of the valley slope and provide an net ecological gain to compensate for the disturbance within TRCA's 10 metre buffer, TRCA staff recommends that the applicant explore opportunities onsite to create a small planting buffer located towards the rear of the property. A planting plan will be required as part of the requisite TRCA permit application. Please note, plantings must consist of native, non-invasive species. Additional information regarding appropriate native plant species can be found online at the following websites:

- <http://www.creditvalleyca.ca/wp-content/uploads/2015/05/21310-breeding-birds.pdf>
- http://www.creditvalleyca.ca/wp-content/uploads/2015/11/Woodland-Plants_Landscaping-WEB.pdf

In addition to the above, TRCA Ecology staff request the following:

1. Please indicate any additional amenity space, including hardscaping (i.e. patio) on the site plan.
2. As part of a future TRCA permit application, the full extent of all works (i.e. including grading) should be considered comprehensively to ensure all anticipated works can be accommodated outside of the established development setback.

Erosion and Sediment Controls (ESCs):

To prevent sediment from potentially leaving the subject site and from entering into the valley corridor and the adjacent watercourse, ESCs (i.e. silt fencing) are required. Should you wish to adhere to the above noted comments and proceed with the proposed works, please ensure that all relevant plans/drawings are revised to demonstrate that ESCs in accordance with TRCA's *Erosion and Sediment Control Guideline for Urban Construction, December 2006*. The ESCs should cover the full extent of the construction area associated with the proposed works throughout all phases of construction until the completion of the project. In addition, typical silt fencing details (OPSD 219.130) should be included on all relevant plans/drawings (see: Appendix C [C-26] of TRCA's *Erosion and Sediment Control guidelines for Urban Construction, 2006* – <http://trca.on.ca/dotAsset/40035.pdf>).

Given that the intent of the Minor Variance application is to provide relief from Zoning By-law 2150 to permit relief from a minimum front yard setback, a minimum southerly side yard setback, maximum building height, maximum lot coverage and maximum roof overhang projections on the front/side yards; TRCA staff have no objection to the requested variance(s) as currently submitted. However, as noted, TRCA staff recently reviewed a related application (TRCA Concept Development Application – CFN 59017.01) for a similar development proposal (i.e. construction of a two-storey replacement dwelling) on the subject property. Within our past TRCA correspondence to the applicant (dated March 29, 2018) for the associated application, several recommendations provided by TRCA's Planning and Ecology staff have yet to be addressed. Furthermore, the proposed works require a TRCA permit and it is our expectation that the materials are revised to comply with TRCA's The Living City Policies.

APPLICATION FEE

Please be advised, in addition to TRCA's Regulating responsibilities, TRCA has a role as a commenting agency for *Planning Act* applications circulated by member municipalities to assess whether a proposed development may be impacted by the TRCA. By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services. This application is subject to a \$830.00 review fee (2018 TRCA Planning Fees Schedule – Variance – Standard). The applicant is responsible for fee payment and should forward the fee to this office within 60 days of this letter.

RECOMMENDATION

In light of the information above, TRCA staff have **no objections** to the approval of Minor Variance Application A/52/18 subject to the following conditions being addressed to our satisfaction:

1. The applicant successfully obtains a TRCA permit pursuant to Ontario Regulation 166/06, as amended;
2. The applicant remits the TRCA Review Services fee of \$830.00 within 60 days of this letter.

Please note, the approval of this Minor Variance application does not bind TRCA under the *Conservation Authorities Act* to approve the proposed works identified on the drawings/plans submitted with this application.

I trust these comments are of assistance. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



Aidan Pereira
Planner I, Planning & Development
apereira@trca.on.ca
(416) 661-6600 ext. 5723

AP/as