

Memorandum to the City of Markham Committee of Adjustment
July 30, 2024

File: A/065/24
Address: 70 Halder Crescent, Markham (the “Subject Lands”)
Agent: Brown & Beattie (Allen Kim)
Hearing Date: Wednesday, August 14, 2024

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

On January 31, 2024, City of Markham Council enacted the Comprehensive Zoning By-law 2024-19 (“By-law 2024-19”). As By-law 2024-19 is currently under appeal with the Ontario Land Tribunal (the “OLT”), any applications under Section 45 of the *Planning Act* that do not benefit from the transition clauses under Section 1.7 of By-law 2024-19 must comply with By-law 2024-19 and any previous By-laws in effect. As such, the Applicant is requesting relief from the “Residential – Established Neighbourhood Low Rise (RES-ENLR)” zone requirements under By-law 2024-19 and the “Semi-detached Residential Zone 4 (RSD4)” requirements under By-law 90-81, as amended, as it relates to the reduction of the minimum length requirements for a parking space in an enclosed garage. The alterations to the garage are associated with the fire damage repairs and interior alterations for the creation of a basement dwelling unit in a single-detached home. The variances requested are to permit:

a) By-law 2024-19, Section 5.2.5:

a minimum length of not less than 4.85 metres for a parking space, whereas the by-law requires a minimum length of not less than 5.8 metres for a parking space;

b) By-law 28-97, Section 6.1.2(b):

a minimum length of not less than 4.85 metres for required parking spaces provided in an enclosed garage, whereas the by-law requires a minimum length of not less than of 5.8 metres for parking spaces provided in an enclosed garage.

BACKGROUND

Property Description

The 311.70 m² (3,355.12 ft²) Subject Lands are located on the west side of Halder Crescent (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey detached dwellings. The Subject Lands are located in the general vicinity of the St. Benedict Catholic Elementary School.

Application History

Staff note that a fire occurred at the Subject Lands on October 23, 2023, and a Building Code Violation notice was issued in April 2024 as it relates to the unregistered accessory apartment in the basement.

Proposal

The Applicant is proposing to perform fire damage repairs and interior alterations for the creation of a basement dwelling unit in a single-detached home (the “proposed development”). To provide a separate side yard entrance for the basement dwelling unit, the Applicant is reconfiguring a new stairwell from the basement that will reduce the length of the private garage (refer to Appendix “B” – Plans). The Applicant is requesting relief from the requirements for the minimum length of a parking space provided in an enclosed garage under By-laws 2024-19 and 28-97, as amended.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the Subject Lands “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Planning Staff had regard for requirements the Official Plan in the preparation of the comments provided below.

Zoning By-Law 90-81, as amended and Parking Standards By-law 28-97 (the “Parking By-law”)

The Subject Lands are zoned RSD4 under By-law 90-81, as amended, which permits single detached dwellings, home occupations and private home daycare. The Parking Standard By-law amends By-law 90-81. The proposed interior alterations do not comply with the standard of the Parking By-law with respect to the minimum length required for parking spaces provided in an enclosed garage. Further details of the parking requirement are provided in the comment section below.

Comprehensive Zoning By-Law 2024-19

The Subject Lands are zoned RES-ENLR under By-law 2024-19, which permits a detached dwelling, home child care, home occupation, and shared housing – small scale. The Applicant is requesting relief from the requirements for the minimum length of a parking space. More details are provided in the comments section below.

Zoning Preliminary Review (“ZPR”) Not Undertaken

The Owner has confirmed that a ZPR has not been conducted. However, the Applicant has received comments from the Building Department through their permit process (Permit No. 24 167646 HP) to confirm the variances required for the proposed development. It must be noted that there remains to be outstanding comments from Zoning Staff for Permit No. 24 167646 HP that the Applicant needs to address. Consequently, it is the Owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for

additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the noncompliance.

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 Parking Space Length in an Enclosed Garage(existing condition)

The Applicant is requesting to legalize the size of the two parking spaces inside the attached garage of the existing dwelling.

The Comprehensive Zoning Bylaw 2024-19 and Parking Standards By-law 28-97, as amended, requires parking spaces in an enclosed garage to have a minimum length of 5.8 m (19.02 ft) while the two subject parking spaces are 4.85 m (15.91 ft) in length. This represents a 0.95 m (3.12 ft) reduction from what the By-law requires.

Transportation Staff have reviewed the variance requests and note that the reduced length of the garage and interior parking spaces can accommodate smaller cars (i.e., Toyota Corolla, Honda Civic, etc.). Planning Staff further note that should the Committee of Adjustment approve the variance requests, the Subject Lands will be able to accommodate the three minimum number of parking spaces (two for the principal dwelling unit and one for the accessory dwelling unit), as required under By-law 28-97.

Given that the proposed changes to the Subject Lands are all interior alterations, there will be no impact on the character of the streetscape. Overall, Staff have no concerns with the proposed variances and are of the opinion that the requests are minor in nature.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 6, 2024. 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 request meets the four tests of the *Planning Act* and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Barton Leung, Senior Planner, Central District

REVIEWED BY:



Melissa Leung, RPP MCIP, Senior Planner, Central District

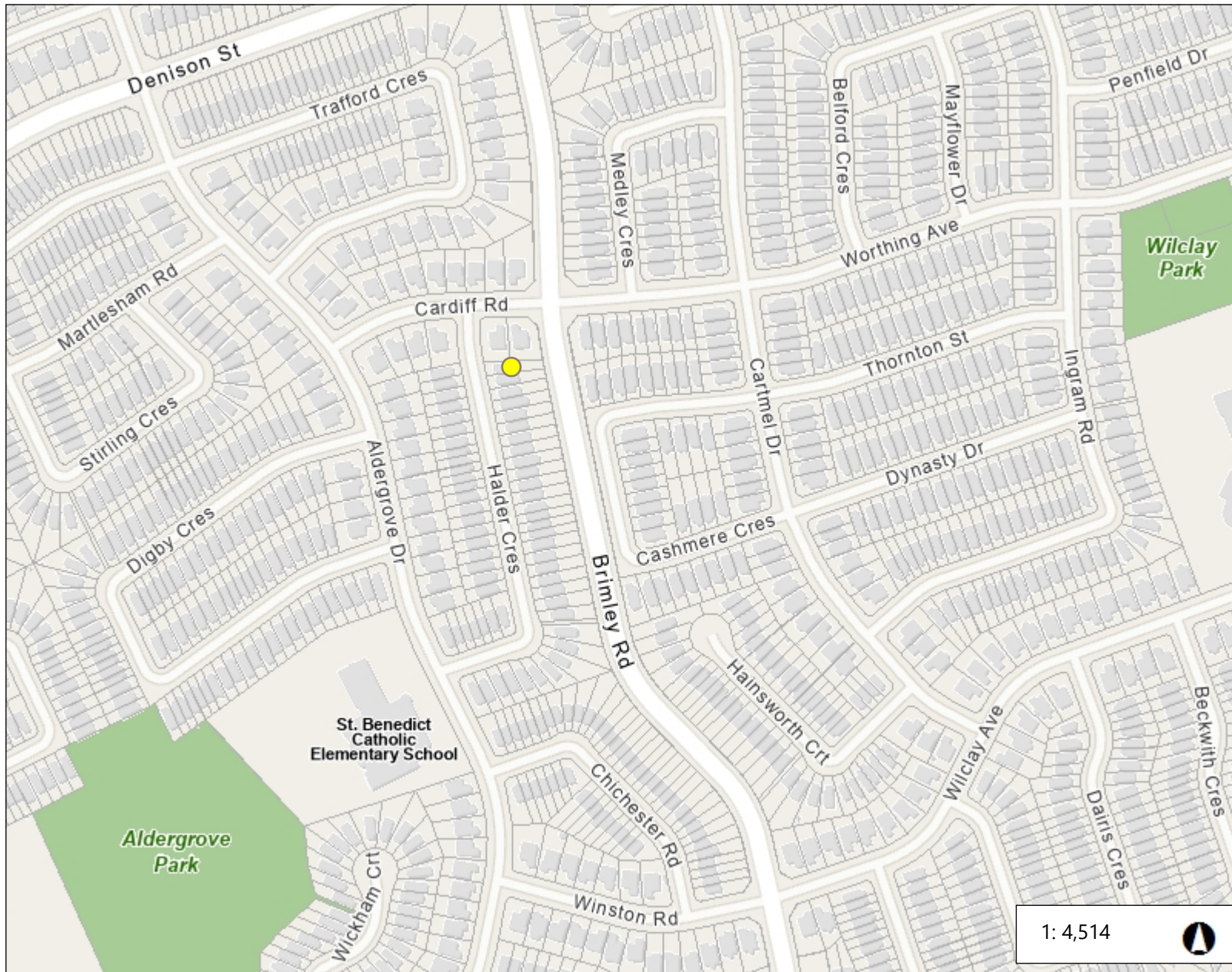
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APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – Conditions

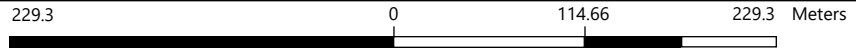


Legend

- Subject Lands
70 Halder Crescent
- Parks

Notes

1:4,514



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

APPENDIX "C"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/065/24

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' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction.

CONDITIONS PREPARED BY:



Barton Leung, Senior Planner, Planning and Urban Design Department