



CITY OF MARKHAM
Virtual Meeting on Zoom

February 15, 2023
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 3rd regular meeting of the Committee of Adjustment for the year 2023 was held at the time and virtual space above with the following people present:

Arrival Time

Gregory Knight Chair	7:00 pm
Tom Gutfreund	7:00 pm
Arun Prasad	7:00 pm
Kelvin Kwok	7:00 pm
Jeamie Reingold	7:00 pm
Sally Yan	7:00 pm

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Aaron Chau, Development Technician, Zoning and Special Projects
Vrinda Bhardwaj, Development Clerk

Regrets

Patrick Sampson

DISCLOSURE OF INTEREST

None

Minutes: February 1, 2023

THAT the minutes of Meeting No. 2, of the City of Markham Committee of Adjustment, held February 1, 2023 respectively, be:

- a) Approved on February 15, 2023.

Moved By: Arun Prasad
Seconded By: Tom Gutfreund

Carried

NEW BUSINESS:

1. B/026/22

**Owner Name: Flato Upper Markham Village Inc. (Shakir Rehmatullah)
Agent Name: Bousfields Inc. (Ashley Paton)
5474 19th Avenue, Markham
CON 7 PT LOT 31**

The applicant was requesting provisional consent to:

- a) sever and convey a parcel of land having a lot area of 6.48 ha (Part 2);**
- b) sever and convey a parcel of land having a lot area of 25.35 ha (Part 3);**
- c) sever and convey a parcel of land having a lot area of 5.25 ha (Part 4); and**
- d) retain a parcel of land having a lot area of 4.144 ha (Part 1).**

The purpose of this application was to sever the subject lands to be held under separate ownership amongst various parties to facilitate residential development permitted by a Minister's Zoning Order (MZO). This application was related to a Plan of Subdivision (PLAN 22 114368).

The Chair introduced the application.

The agent, Ashley Paton, appeared on behalf of the application. They had read the staff report and agreed with the conditions included in Appendix A of the staff report. The agent confirmed that signs had been posted on the property on January 31, 2023. A presentation was provided and detailed prior planning applications that had previously gone through the complete public process and were approved by Council. It was noted that over 180 conditions of the draft subdivision plan were applied to the property and referenced in conditions 5 and 7 of the staff report. The application for consent was related only to the division of blocks within the draft plan for ownership within the plan of subdivision. The application met the requirements for consent under the *Planning Act* and complied with, in effect, zoning. Therefore, approval of the consent did not impact the conditions of the subdivision plan.

The Committee received five written pieces of correspondence.

Katarzyna Sliwa & Diana Betlej, 77 King St W., representing Dentons, municipal lawyers for the applicant, were in attendance to answer questions.

Johnny Wideman, 1137 McCowan Road, Willowgrove Executive Director, a registered charity, and adjacent property owners to the subject parcel spoke to the application. Johnny Wideman requested confirmation that all conditions of the draft subdivision plan,

including those pertaining to Willowgrove in Section 1 general conditions and Section 13 general conditions 4 and 15 regarding well monitoring, would remain unchanged. Additionally, the reference to Willowgrove lands as future residential was to be amended as reflected in the approved conditions on September 13th, 2022. However, the plans attached to the consent application continued referencing Willowgrove lands as future residential. Finally, as abutting land owners and interested parties, Willowgrove was entitled to receive written notice of hearing 14 days prior to the meeting, and the notice was not given within this time frame, and the City, for the third time failed to meet the legal requirements of the *Planning Act*. Willowgrove remained committed to the process but expressed concerns that the legal requirements regarding notice continued to be missed.

The Chair requested that staff confirm that the Draft Plan of Subdivision conditions related to Willowgrove continued to apply. Greg Whitfield confirmed that the Draft Plan of Subdivision continued unchanged, and the conditions related to the application for consent reference the Draft Plan of Subdivision conditions.

Member Gutfreund requested information regarding the number and designation of dwelling units approved in the Draft Plan of Subdivision.

Member Gutfreund read a statement regarding the development and stated while not having a specific conflict of interest, they noted an inherent bias regarding development within the rural area and protection of lands within the Greenbelt and, in good conscience, could not support the application and would abstain from the vote. The member recognized the property owner's rights to develop the lands according to the rules and regulations of the Province.

Emma West, Planner with Bousfields, clarified that the lands subject to the Ministers Zoning Order were not included in the Greenbelt. A study conducted for the City of Markham and the Town of Whitchurch-Stouffville had included these lands and other parcels and identified them as part of a contiguous growth settlement area.

The Chair reminded the Committee that the planning matter was the consent to create blocks within a Draft Plan of Subdivision.

Member Yan requested information regarding the phasing plan detailed in the staff report.

Ashley Paton, Bousfields, indicated that the phasing plan had been provided to staff to clarify Phase 1 in relation to a condition for a pumping station. There would be no development of the lands as a result of the application for consent, and all future development was tied to the approved Draft Plan of Subdivision.

Member Yan noted that the property had been subject to multiple reviews and Council approval, and the consent was highly technical to facilitate the ownership issues and

supported the application. It met the criteria of the *Planning Act* and the policies of the Regional and City of Markham Official Plans.

Member Reingold agreed with Member Gutfreund but acknowledged the Chair's direction regarding the nature of the application and understood the reasoning for support of the application.

Member Prasad requested details regarding the provision of open space and parkland dedication in the Draft Plan of Subdivision.

Ashely Paton indicated that the owner had agreed through the parkland dedication conditions to provide lands for parkland and open space within the development.

Member Yan motioned for approval with conditions.

Moved By: Sally Yan

Seconded By: Kelvin Kwok

Opposed: Jeannie Reingold and Tom Gutfreund (abstained)

The majority of the Committee approved the application.

THAT Application No. **B/026/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

The Chair addressed the comments of Johnny Wideman regarding the failure to provide notice within the legislated timeline. The Chair noted that staff and Committee members had spent time and attention before the meeting regarding the operational challenges of providing notice. The Chair indicated that the concerns had been heard and were noted and thanked the delegate for attending the meeting and providing comments in light of the reduced preparation time without the entire notice period.

Johnny Wideman inquired regarding the repercussions of the missing notice, and the Chair indicated that administratively that the Committee was aware of the concerns and would be paying attention to the future processes.

2. A/254/22

Owner Name: Derek Lai

Agent Name: D.L. Engineering Inc. (Yoonkyoung Hong)

12 Quintessa Court, Markham

CON 3 PT LT 20 65R26804 PT 1

The applicant was requesting relief from the requirements of By-law 177-96, as amended, to permit:

a) Table B1:

a front yard setback of 3.0 metres, whereas the By-law requires a minimum front yard setback of 4.5 metres

as it related to a proposed two-storey front addition to an existing two-storey single detached dwelling.

The Chair introduced the application.

The owners, Derek and Winnie Lai, appeared on behalf of the application.

The Committee received five written pieces of correspondence.

Member Gutfreund indicated the proposal used existing infrastructure, was minor and met the four tests of the *Planning Act*.

Member Reingold noted that due to the home's position on the cul-de-sac, the request did not adversely impact neighbouring properties and was a good use of the existing structure.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/254/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/004/23

Owner Name: The Remington Group (Joseph Pavia)
Agent Name: The Remington Group (Joseph Pavia)
Enterprise Boulevard, Markham
CON 5 PT LOT 9 RP 65R26718 PT PART 1

The applicant was requesting relief from the requirements of By-law 2004-196, as amended, to permit:

- a)** a Temporary Commercial Parking Lot, whereas the By-law does not permit this use;

as it related to a proposed temporary parking lot with paid parking spaces;

this application was related to a Site Plan Control Application (File Number: SPC 22 252081) which was being reviewed concurrently.

The Chair introduced the application.

The agent, Joseph Pavia, appeared on behalf of the application and indicated that it was a request for temporary use and the proposal had received Site Plan endorsement on January 6, 2023. Obtaining a minor variance for the use was a condition of the Site Plan. The City would utilize the site to meet its obligations for parking for York University. The site was previously used as a temporary parking lot for the 2015 Pan Am games.

Member Reingold indicated that this was an area of continuous growth in which temporary paid parking would have no adverse impacts and would assist in managing future growth.

Member Yan requested clarification regarding why the use was temporary.

Joseph Pavia indicated that the designation and ultimate use of the property was high-rise residential. Remington was working with the City to provide an interim solution to meet the commitment to provide parking and assist in moving the University development forward. The ultimate long-term parking provision for the University was to be worked out between the City and University. The current commitment was for five years with the potential of an extension.

Member Gutfreund indicated it was an appropriate use and met the four tests of the *Planning Act*.

Member Kwok clarified with the applicant that the use was paid parking and requested clarification regarding the "Hold" designation on the property. Joseph Pavia indicated that the parking lot did not require a building permit, so the "Hold" designation would remain in place.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Kelvin Kwok

The Committee unanimously approved the application.

THAT Application No. **A/004/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. A/262/22

Owner Name: Felicite Dibi
Agent Name: Gregory Design Group (Shane Gregory)
27 Church Street, Markham
PLAN 18 BLK I PT LOT 1

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

- a) **Section 11.2(c)(i):**
a porch with stairs to project 24.4 inches into a required yard, whereas the By-law permits a projection of 18 inches into a required yard;
- b) **Table 11.1:**
a minimum rear yard setback of 23.6 feet, whereas the By-law requires a minimum rear yard setback of 25 feet;
- c) **By-law 99-90, Section 1.2 (ii):**
a maximum building depth of 17.68 metres, whereas the By-law permits a maximum building depth of 16.8 metres; and
- d) **By-law 99-90, Section 1.2(vi):**
a maximum floor area ratio of 54.90 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Russ Gregory, appeared on behalf of the application. Russ noted that staff supported the application except for the floor area ratio, and numerous letters of support from neighbours had been submitted.

The Committee received six written pieces of correspondence.

Jackie and Alan Gardener, 23 Church Street, spoke to the Committee, indicating they were concerned about the proposed size of the house relative to the lot size and increased runoff creating flooding issues on adjacent properties.

Elizabeth Brown, 65 Lincoln Green Drive, the Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association, indicated that the application did not meet the four tests of the *Planning Act*. The request for an increased floor area ratio was higher than could be considered minor, nor was the request desirable for developing a smaller lot, nor did the application meet the intent of the Zoning By-law. Elizabeth noted that the Committee made decisions based on the

merit of each application while considering lot size, thoughtful design, and cumulative effects. However, applicants continue to return to the Committee requesting variances using a justification of previous Committee and OLT decisions based on numbers only.

The Chair indicated that the applicant was required to provide an engineering report for stormwater management. All runoff must be retained on the subject parcel and directed to the street and storm drainage systems. The Chair requested staff provide clarification regarding solutions if the application adversely impacted neighbouring properties.

Greg Whitfield indicated that the application would be subject to reviews before the issuance of a permit. Inspections of the work require compliance with approved plans. If issues were identified the engineering and building department should be contacted to request issues be remedied.

Member Gutfreund noted that the small lot and the proposed home was large and indicated that the floor area ratio should be lowered to fifty percent or less.

Member Reingold indicated that this was a good design for the heritage area. However, it should be smaller as it was on a small lot, and the floor area ratio should be fifty percent or less.

Member Prasad agreed with their colleagues that the floor area ratio should be reduced to fifty percent, and the applicant should reduce the request or defer the application.

Russ Gregory indicated that the proposal had the support of the area residents and Heritage Markham, a grading plan had been submitted, and there would be no damage to the trees. However, the owner required the space to meet their family's needs, and Russ did not agree that the proposal was overbuilding for the lot or that the floor area ratio needed to be reduced.

The Chair noted that the Heritage report supported the design and massing but did not provide direct support for the floor area ratio and instead deferred comment to the Committee of Adjustment. After visiting the site, it was understandable that there would be neighbourhood support based on the current site condition. The design was appropriate, and the numbers would not change the elevations.

Member Prasad would recommend approval if the applicant reduced the floor area ratio to fifty percent, as the other variances were acceptable. However, if the applicant was unwilling change the request, they recommended refusal.

Russ Gregory indicated they would not agree to a reduction of fifty percent floor area ratio.

The Chair asked the application to calculate the open to below space in the house. Russ Gregory indicated it was approximately 40 feet².

Member Prasad motioned for refusal. The motion was defeated.

Member Gutfreund indicated that a motion to defer would be made with an understanding that the Committee was looking to reduce the floor area ratio to fifty percent. If the applicant and Committee could not agree, they were left with a stalemate.

The Chair noted that the motion to refuse had been defeated, and the Committee was left with a motion to approve or defer.

Member Prasad indicated that they had asked the applicant to defer the application earlier in the meeting, and the applicant had not responded.

Member Gutfreund motioned to defer the application.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold
Opposed: Arun Prasad

THAT Application No. **A/262/22** be **deferred** sine die

Resolution Carried

Applications A/182/22, A/185/22 and A/186/22, were heard concurrently, the discussion detailed in A/182/22 reflects the three applications.

5. A/182/22

Owner Name: Jitendra Patel and Pravina Patel
Agent Name: Arc Design Group (Peter Jaruczik)
16 Grandview Boulevard, Markham
PLAN 4365 LOT 9

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

- a) Table 11.1:**
an interior side yard setback of 1.37 metres (4.5 feet), whereas the By-law requires the two-storey portion of a building to be set back 1.83 metres (6 feet);
- b) Amending By-law 99-90, Section 1.2(vi):**
a maximum floor area ratio of 49.95 percent, whereas the By-law permits a maximum floor area ratio of 45 percent; and
- c) Amending By-law 99-90, Section 1.2(ii):**

a maximum depth of 20.98 metres (68.83 feet), whereas the By-law permits a maximum depth of 16.80 metres (55.11 feet);

as it related to a proposed two-storey detached dwelling.

The Chair introduced the application.

The agent, Peter Jaruczik, appeared on behalf of the application. The proposal was for three homes for previously approved lots. The area was undergoing change and was dynamic. The applicants had worked with staff to reduce the floor area ratio to below fifty percent. The depth variance resulted from the front porch and rear covered deck. The building mass met the 16.80 metres, and the requested side yard setback was for the portion of the house that contained the two-storey tower.

The Committee received nine written pieces of correspondence.

Angie Dornai, 17 Riverview Avenue, spoke to the Committee and noted that the applicant worked with the planning staff to reduce the proposal; however, the floor area ratio and side yard setback did not meet the four tests. While the applicant indicated that the variances were requested for only portions of the design they none the less created impacts to the character of the area. In addition, the area was changing due to the pressure of applicants continuing to ask for variances for larger and larger homes.

Tupper Wheatley, 9 Willowgate Drive, gave a brief area history. The infill by-law was established to limit houses from being built out of proportion to the existing housing in the area. Tupper highlighted specific concerns about the size of the proposed houses in relation to the size of the lots, the proposed height, and setbacks. However, as the lots had recent consent approval, any restrictions were a direct result of the previous applications and should not be attributed to the size of the lots.

Elizabeth Brown, 65 Lincoln Green Drive, the Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association, spoke regarding the massing of the proposal and the impacts created not only by the proposed size but also design which was out of character for the area. There was considerable open to below space, and a large unfinished attic over the garage contributing to the overall massing. The proposals did not meet the intent of the Official Plan and Zoning By-law. Elizabeth also clarified that the minor variance applications at 20 and 22 Grandview Avenue were denied, and the homes built on those lots met the development standards.

Jit Patel, the owner, indicated that they did not intend to be contentious with the neighbours and that the proposed homes were similar in size and design to those seen in many Markham neighbourhoods.

Member Gutfreund noted that lot sizes were presented as viable for construction within the development standards at the time of consent. The staff report did not support the

requested floor area ratio or the side yard setback. The member agreed with the staff report, did not support the applications, and noted that the unfinished attic space above the garage significantly contributed to the house's massing.

Member Reingold also noted the consent approvals were granted with good faith that the applicant indicated that the lot sizes were sufficient for houses to be constructed within the by-law standards. The member did not support the requests as the size and massing of the proposed houses were not in keeping with the area and were not desirable.

Member Yan indicated the applicant had not returned with a single request but rather multiple variances for each lot, which added to the scale and massing of the proposals and cumulative impacts for the neighbours. As a result, the member did not support the applications.

Member Prasad asked if the proposed houses could be reduced to meet the by-law standards for floor area ratio.

Peter Jaruczik indicated that the applications could be reduced with regard to all variances except the depth variance.

Member Prasad asked if the applicant wished to defer the application.

The Chair indicated that a deferral was appropriate as the overall massing and design of the homes required further consideration regarding the specific elements of the design that were driving the massing as well features that impacted the desirability of the development in context of the neighbourhood's character.

Member Gutfreund requested clarification that all variances except the depth would be eliminated if the application were deferred and returned to Committee.

The Chair asked the applicant to confirm.

The applicant indicated they could redesign for all elements except the depth and asked if the Committee could move forward with the decision.

Member Gutfreund indicated they were prepared to move for deferral or refusal of all variances and approval of only the depth variance.

After discussion with the Chair and other Committee members, it was determined that the Committee desired to see the revised plans before approving the depth variance and that a deferral was the appropriate motion.

Member Gutfreund motioned for deferral sine die.

Moved By: Tom Gutfreund

Seconded By: Jeamie Reingold

THAT Application No. **A/182/22** be **deferred** sine die.

Resolution Carried

6. A/185/22

Owner Name: Jitendra Patel and Pravina Patel
Agent Name: Arc Design Group (Peter Jaruczik)
16 Grandview Boulevard, Markham
PLAN 4365 LOT 9

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

a) Table 11.1:

A minimum setback 1.37 meters (4.5 feet) to the interior side lot line, whereas the By-law requires a minimum of 1.83 meters (6 feet) for the two-storey portion;

b) Amending By-law 99-90, Section 1.2(i):

A height of 9.92 meters (32.54 feet), whereas the By-law permits a maximum of 9.8 meters (32.15 feet);

c) Amending By-law 99-90, Section 1.2(ii):

a depth of 20.98 meters (68.83 feet) , whereas the Bylaw permits a maximum of 16.8 meters (55.11 feet);

d) Amending By-law 99-90, Section 1.2(vi):

a maximum floor area ratio of 49.95 percent, whereas the By-law permits a maximum of 45 percent;

as it related to a proposed two-storey single detached dwelling.

Member Gutfreund motioned for deferral sine die.

Moved By: Tom Gutfreund

Seconded By: Sally Yan

THAT Application No. **A/185/22** be **deferred** sine die.

Resolution Carried

7. A/186/22

Owner Name: Jitendra Patel and Pravina Patel

Agent Name: Arc Design Group (Peter Jaruczik)
18 Grandview Boulevard, Markham
PLAN 4365 LOT 10

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

- a) **By-law 99-90, Section 1.2(i):**
a height of 10.13 meters, whereas the By-law permits a maximum of 9.8 meters;
- b) **By-law 99-90, Section 1.2 (ii):**
a depth of 17.5 meters, whereas the By-law permits a maximum of 16.8 meters;
and
- c) **By-law 99-90, Section (1.2vi):**
a maximum floor area ratio of 49.99 percent, whereas the By-law permits a maximum of 45 percent;

as it related to a two-storey single detached dwelling.

Member Reingold motioned for deferral sine die.

Moved By: Jeamie Reingold
Seconded By: Tom Gutfreund

THAT Application No. **A/186/22** be **deferred** sine die

Resolution Carried

PREVIOUS BUSINESS

8. A/153/22

Owner Name: Fasheng Zhou
Agent Name: Alit Design (Ali Tanha)
11 Drakefield Road, Markham
PLAN 5880 LOT 56

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

- a) **Amending By-law 99-90, Section 1.2 (ii):**
a maximum building depth of 17.1 metres, whereas the By-law permits a maximum building depth of 16.80 metres;

b) Amending By-law 99-90, Section 1.2 (vi):

a maximum floor area ratio of 50 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Ali Tanha, appeared on behalf of the application and presented the revision noting the massing had been reduced.

The Committee received two written pieces of correspondence.

Tupper Wheatley, 9 Willowgate Drive, spoke to the Committee, indicating they still had some reservations regarding the proposed size of the home. However, the applicants cooperated with the community and the design was fitting for the neighbourhood.

Member Gutfreund appreciated the agent and owner's efforts to listen to the Committee's recommendations and the effort made to respect neighbours' comments.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/153/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Adjournment

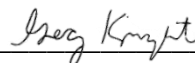
Moved by: Tom Gutfreund
Seconded by: Arun Prasad

THAT the virtual meeting of the Committee of Adjustment was adjourned at 9:18 pm, and the next regular meeting would be held on March 8, 2023.

CARRIED



Secretary-Treasurer
Committee of Adjustment



Chair
Committee of Adjustment