



CITY OF MARKHAM
Virtual Meeting on Zoom

March 8, 2023
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 4th 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
Kelvin Kwok	7:00 pm
Jeamie Reingold	7:00 pm
Sally Yan	7:00 pm
Patrick Sampson	7:00 pm

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

Regrets

Arun Prasad

DISCLOSURE OF INTEREST

None

Minutes: February 15, 2023

THAT the minutes of Meeting No. 3, of the City of Markham Committee of Adjustment, held February 15, 2023 respectively, be:

- a) Approved on March 8, 2023.

Moved By: Patrick Sampson

Seconded By: Sally Yan

Carried

REQUESTS FOR REVISED DECISION

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 a change of conditions for the Decision of the Committee of Adjustment for B/026/22, dated February 15, 2023, that Condition 5 be revised so that it reads as follows:

5. Payment of all applicable fees in accordance with the City's fee by-law.

Conditions 1, 2, 3, 4, 6, 7 and 8 would remain unchanged. The change in conditions does not impact the configuration of the parcels or their intended use.

Greg Whitfield introduced the request indicating the change, and the legal department reviewed the request. It was determined that the conditions did not relate to the severance but rather to the draft plan of subdivision. The conditions of the draft plans of subdivision remained in place. The City of Markham legal staff provided a memo regarding the change to the Committee. A motion was required only to amend the condition.

Member Gutfreund motioned for approval.

**Moved By: Tom Gutfreund
Seconded By: Kelvin Kwok**

The Committee unanimously approved the request for revised conditions.

Resolution Carried

REQUESTS FOR DEFERRAL

1. A/139/22

**Owner Name: Shi Or Bin
Agent Name: Z Square Group (Mengdi Zhen)
170 Krieghoff Avenue, Markham
PLAN 7566 LOT 105**

The applicant was requesting relief from the requirements of By-law 11-72, as amended, to permit:

a) Section 6.1:

a maximum lot coverage of 35.98 percent, whereas the By-law permits a maximum lot coverage of 33 and 1/3 percent;

b) Section 6.1:

a maximum building height of 25 feet and 11.5 inches whereas the By-law permits a maximum building height of 25 feet;

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

Member Kwok motioned for deferral.

Moved By: Kelvin Kwok

Seconded By: Tom Gutfreund

THAT Application No. **A/139/22** be **deferred** sine die.

Resolution Carried

NEW BUSINESS:

1. A/005/23

Owner Name: Suncor Energy Products Inc. (Blaine Culley)

Agent Name: Brutto Consulting (Francesco Fiorani)

7750 McCowan Road, Markham

CON 6 PT LT 5 65R14272 PT 1 65R14126 PTS 6 & 7

The applicant was requesting relief from the requirements of By-law 90-81, as amended, to permit:

a) Amending By-law 369-88, Section 7.17(i)

a Take-Out Restaurant, whereas the By-law does not permit this use.

as it related to a proposed gas station redevelopment.

This application was related to a Site Plan Control Application (File Number: SPC 20 121202) which was being reviewed concurrently.

The Chair introduced the application.

The agent, Francesco Fiorani, appeared on behalf of the application indicating the application met the four tests of the *Planning Act*. The application was for a take-out restaurant use complementary to the gas station, which was permitted in the Official Plan. The proposal was minor, desirable and met the intent of the Official Plan.

Member Gutfreund had no objections to the application and agreed with the staff report. However, the member requested additional information regarding the possibility of future electric charging stations on the site.

Member Kwok confirmed that no parking variance would be required for the proposed use and requested information about traffic flow with consideration of the car wash also located on the site.

Claudio Brutto indicated that the proposed restaurant was take-out only, and the duration of visits would be limited. Therefore, it would not conflict with other uses on the site.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No. **A/005/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

2. A/015/23

Owner Name: Weitzfam Holdings Inc. (Jeremy Weitz)
Agent Name: Glenn Schnarr and Associates
1000 Markland Street, Markham
PLAN 65M4252 BLK PT 106 RP 65R35307 PT 4

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

- a) Parking By-law 28-97, Table B:**
a minimum of 36 parking spaces, whereas a minimum of 59 parking spaces are required.

as it related to the proposed development of a new office and industrial warehouse (SPC 22 257557).

The Chair introduced the application.

The agent, Patrick Pearson of Glen Schnarr and Associates, appeared on behalf of the application. The minor variance request was related to and required for proceeding with a current site plan application. Patrick expressed that the application constituted good

planning, would bring employment uses to the City and met the four tests of the *Planning Act*.

Member Gutfreund requested details regarding the types of products the owner produced and asked if there would be retail sales on site. Additionally, the member asked for information regarding accessible parking and on-street parking. Patrick Pearson indicated that accessible parking would be provided on-site.

Member Reingold asked if a showroom was associated with the proposal, as this use generated additional parking requirements. Patrick Pearson indicated that the use did not include a showroom.

Member Kwok asked if the proposal was designed for an on-site or hybrid workforce. Patrick Pearson indicated that the parking requirements would meet the needs of an on-site workforce.

Member Sampson asked if the parking requirements were tied to the proposed use and what impacts could result if the property changed uses.

Greg Whitfield responded that the variance was tied to the site, not the use. The site plan process determined different parking requirements for different uses. In that case, a new variance might be required.

Patrick Pearson indicated that the current owner had a substantial investment in the property, with long-term use intended. The traffic study looked at similar properties with different uses, and it was determined that parking needs for those sites were similar to this site.

Member Yan indicated that the owners had a significant investment. They had done studies and understood their employees' needs. The member supported the application.

Member Gutfreund asked for clarification regarding the smart commute program.

Patrick Pearson indicated that the program encouraged active transportation; bikes, transit, walking or carpools. The site had both indoor and outdoor bicycle parking proposed.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

The Committee unanimously approved the application.

THAT Application No. **A/005/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/249/22

Owner Name: Nitin Malhotra
Agent Name: n Architecture Inc. (Nitin Malhotra)
9 Hoover Drive, Thornhill
PL M1755 PT LT 273 66R10688 PT 5

The applicant was requesting relief from the requirements of By-law 151-75, as amended, to permit:

a) Section 8.2 (c):

a lot coverage of 37.4 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent;

as it related to an existing enclosed deck.

The Chair introduced the application.

The owner, Nitin Malhotra, appeared on behalf of the application.

The Committee received four written pieces of correspondence.

Member Gutfreund asked if the structure existed.

Nitin Malhotra indicated that the structure was in place at the time of the purchase of the property, and the required variance was identified when a building permit was submitted for internal renovations.

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/249/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. A/242/22

Owner Name: Oxana Mukan
Agent Name: Donya Abasiliasi
36 Jondan Crescent, Thornhill
PLAN M1345 LOT 49

The applicant was requesting relief from the requirements of By-law 2489, as amended, to permit:

- a) **Section 6.1:**
a building height of 29 feet and 6 inches, whereas the By-law permits a maximum height of 25 feet;
- b) **Section 6.1:**
an east side yard setback of 5 feet and west side yard setback of 5 feet and 5 inches, whereas the By-law requires a minimum of 6 feet on each side;
- c) **Section 6.1:**
a lot coverage of 37.2 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent; and
- d) **Section 6.1:**
a front yard setback of 25.5 feet, whereas the By-law requires a minimum front yard setback of 27 feet;

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

The Chair introduced the application.

The agent, Donya Abasiliasi, appeared on behalf of the application and indicated that the height variance related only to the rear of the building regarding the parapets and the other variances were requested to provide additional living space.

The Committee received two written pieces of correspondence.

Nelly and Nicole Celasun of 38 Jondan Crescent, spoke to the Committee regarding the fence, the side yard setback, height and the demolition. Nelly asked if the roof was flat or sloped.

Donya Abasiliasi indicated that the roof would be constructed with a parapet to provide the appearance of a flat roof, but the roof would have a slope and would be constructed with trusses and asphalt shingles.

The Chair indicated that the issues of fencing and demolition were covered under other legislation and were not matters before the Committee.

Member Reingold noted the smaller size of the lot and indicated they saw no need for reduced side yard setbacks. The member indicated the proposed house was large and too close to the property lines.

Member Sampson indicated a very high floor area ratio related to the project, as increased lot coverage due to an increased house footprint contributed to the overall massing of the house. Regarding equitable standards in the City, the requested variances for increased footprints and decreased side yard setback do not create desirable massing on the lot.

Member Yan agreed with their colleagues that there were overall massing issues related to the property. However, the member did not see a justification for the requested lot coverage and did not support the application as presented.

Member Gutfreund also agreed with their colleagues that the applicant had presented a large home on a small lot. The member indicated that they would not support the side yard setbacks and that they should be eliminated to reduce the overall massing of the proposal.

The Chair spoke to the proposal indicating the proposal filled the streetscape canvas, with grade, height, front yard and side yard setbacks. The proposal had requests beyond the standards for height, front yard and side yard setbacks which created considerable massing at the streetscape, overstepping the street's character. The applicant needed to consider changes to the design that would mitigate rather than accentuate the massing. The Chair asked if the applicant wanted a decision or would request a deferral. If a deferral was requested, the applicant needed to consider the reduced yards, which, if removed, would reduce the coverage and the overall massing.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

THAT Application No. **A/242/22** be **deferred** sine die.

Resolution Carried

5. A/250/22

Owner Name: Unionville Home Society (Julie Horne)
Agent Name: Minto Communities Inc. (Anderson Marques)
Anna Russell Way, Markham
PLAN 2886 PT BLK B RP 65R26694 PARTS 1, 2, 5, 8, 9 PT PART 7

The applicant was requesting relief from the requirements of By-law122-72, as amended, to permit:

a) By-law 177-96, Section 7.594.2 (i):

a maximum building height of 12.5 metres and 4 storeys for Multiple Dwellings (Back-to-Back townhouse units), whereas the by-law permits a maximum height of the lesser of 12 metres or 3 storeys.

as it related to Blocks 4-7 (38 residential units) of Multiple Dwellings (Back-to-Back townhouse units) within a proposed 119-unit townhouse development.

The Chair introduced the application.

The agent, Mitchell Robins appeared on behalf of the application. The proposal was related to the Site Plan application for 119 townhomes. The application related to only 38 back-to-back townhomes on the east side of the lot. The Zoning By-law Amendment was approved in 2018, and the variance related to the definition of a storey. The request was related to access to the rooftop terraces, which provided amenity space for the units. The request met the four tests of the *Planning Act*.

The Committee received six written pieces of correspondence.

Cristianne Bergauer-Free 145 Kreighoff Avenue, spoke to the Committee regarding increased density, overbuilding, privacy, traffic flow, and parking and indicated that the proposal did not meet the intent of the Official Plan.

Member Sampson indicated the project had passed through various planning approval in which the neighbourhood concerns were more appropriately addressed. Regarding the minor variance, fourth-storey rooftop amenity spaces were a common design element within the City. Therefore, the request was minor, and they supported the application.

Member Gutfreund expressed that townhomes with rooftop terraces adjacent to small parkettes were a successful design throughout the City. In addition, the application was minor and met the four tests of the *Planning Act*.

Member Reingold stated that Council had approved the zoning for the townhomes. The member indicated that the increase in height was minor, and more extensive terraces on smaller properties provided usable amenity space for residents. Therefore, member Reingold supported the application and motioned for approval with conditions.

Moved By: Jeamie Reingold
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No. **A/250/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

PREVIOUS BUSINESS

6. A/004/22

Owner Name: 2430032 Ontario Inc. (Kathy Zegas)
Agent Name: Gregory Design Group (Shane Gregory)
33 Washington Street, Markham
PL 18 BLK E PT LT 7

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

- a) **Table 11.3(a)(i):**
an accessory building with a height of 12.83 feet, whereas the by-law permits a maximum height of 12 feet;
- b) **Table 11.1:**
a front yard setback of 11.91 feet, whereas the By-law requires a minimum front yard setback of 25.0 feet;
- c) **By-law 99-90, Section 1.2(v):**
a maximum floor area ratio of 53.3 percent, whereas the by-law permits a maximum floor area ratio of 45 percent;
- d) **By-law 99-90, Section 1.2(ii):**
a building depth of 18.83 metres, whereas the by-law permits a maximum building depth of 16.8 metres.

as it related to a proposed single-detached dwelling with detached garage.

The Chair introduced the application.

The agent, Russ Gregory appeared on behalf of the application. The applicant returned to the Committee with a reduced Floor Area Ratio. The proposed house was in line with setbacks on the street and within the area's character. They had modified the proposal to increase the side yard setback to accommodate tree protection measures with a greater tree protection zone and altered the design to reduce the number of windows facing the neighbouring property. The applicants had worked closely with Heritage and Urban Design staff and agreed with the staff report. The property had narrow frontages on two streets. It was designed to fit within the streetscape with a narrower façade and greater depth. The zoning across the street was commercial and reflected a different massing. The house was designed to reflect the varied streetscape, and the floor area ratio was distributed to both the house and garage on the two frontages and was appropriate massing for the lot. Russ expressed that the application met the four tests of the *Planning Act*. It was minor and appropriate development of the property.

The Committee received one written piece of correspondence.

Michael Palmer of 29 Washington Street spoke to the Committee regarding protecting the boundary trees.

Lucia Cha 35 Washington Street, continued to express concerns regarding the abutting side yard setback. Lucia indicated that the properties across the street were not comparable as the zoning differed. Lucia felt the applicant needed to provide adequate reasons for not complying with the development standards.

Russ Gregory indicated that the tree protection would remain in place throughout the development of the property, and there were no plans to remove the boundary tree.

The Chair clarified the Heritage Markham process in relation to the Committee of Adjustment process.

Member Reingold felt the design was appropriate for the area and looked to assess the property based on the context of the property and the surrounding properties. In this instance, the member expressed that the assessment of the requests was not number driven but instead on desirability and compatibility with where the home would be located. Considering the properties across the street as part of the context was essential, even if the zoning was different. Given the parameters of the application, Member Reingold supported the request.

Member Gutfreund noted that when the garage was separated from the house, the floor area ratio for the house was approximately 46 percent which was well within consideration customarily given by the Committee. The member agreed with their colleague that consideration had to be given to the context of the lot within the neighbourhood. Each structure would present different massing on the two frontages. The properties fronting the house and garage provided a unique context and massing. The member expressed that the requests were minor and appropriate development of the property.

Russ Gregory gave further details regarding changes made to the windows.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/004/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

7. A/206/22

Owner Name: Yue Luo
Agent Name: Lumeng Yang
21 Walkerton Drive, Markham
PLAN 7326 LOT 72

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

- a) By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 50 percent, whereas the By-law permits a maximum of 45 percent.

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

The Chair introduced the application.

The agent, Lumeng Yang appeared on behalf of the application and indicated they had reduced the open to below area and the overall floor area ratio.

The Committee received one written piece of correspondence.

Member Gutfreund thanked the applicant for bringing the application in line with Committee comments and motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/206/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

8. A/235/22

Owner Name: Sivalatha Sivasubramaniam
Agent Name: Paar Design Inc. (Nikol Paar)
32 James Speight Road, Markham
PLAN 7980 LOT 67

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

a) 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.

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

The Chair introduced the application.

The agent, Nikol Paar appeared on behalf of the application. They had reduced the open to above areas and the floor area ratio and redesigned the front elevation.

Member Gutfreund commended the applicant for including the committee recommendations in the redesign, indicating it was a good design that would be unique for the area. The member indicated it met the four tests of the *Planning Act* and motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No. **A/235/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Adjournment

Moved by: Tom Gutfreund
Seconded by: Kelvin Kwok

THAT the virtual meeting of the Committee of Adjustment was adjourned at 9:04 pm, and the next regular meeting would be held on March 22, 2023.

CARRIED

Original Signed
March 22, 2023
Secretary-Treasurer
Committee of Adjustment

Original Signed
March 22, 2023
Chair
Committee of Adjustment