

Memorandum to the City of Markham Committee of Adjustment

March 16, 2023

File: A/241/22
Address: 34 Swansea Road, Markham
Applicant: 209 Design (Dana Evans)
Agent: 209 Design (Dana Evans)
Hearing Date: Wednesday, March 22, 2023

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

The Applicant is requesting relief from the following “Open Space (Special Use (O2))” zone requirements under By-law 122-72, as amended, as it relates to two proposed pavilions. The variances requested are to permit:

a) Amending By-law 120-93, as amended, Section 1.5.2 (iii) and Schedule C:

a minimum side yard setback of 8.76 metres (28.74 ft) for Pavilion #1, whereas the By-law requires a minimum side yard setback of 25 metres (82.02 ft); and

b) Amending By-law 120-93, as amended, Section 1.5.2 (iii) and Schedule C:

a minimum side yard setback of 7.76 metres (25.46 ft) for Pavilion #2, whereas the By-law requires a minimum side yard setback of 25 metres (82.02 ft).

BACKGROUND

Property Description

The 2.17 ha (5.36 acres) subject lands are located on the west side of Swansea Road, generally south side of Highway 7 East, east of Kennedy Road (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are surrounded by established residential neighbourhoods to the south and east. Commercial buildings are located to the north and west of the Subject Lands.

On the Subject Lands there is an existing senior’s residence complex (Bethany Courts and Bethany Lodge), which according to assessment records was constructed in 1996.

Proposal

The Applicant is proposing to construct two new pavilions on the south side of the existing senior’s residence, to provide covered outdoor amenity space for the residents in the existing courtyard (refer to Appendix “B” – Architectural Plans). Pavilion 1 is proposed to be 40.13 m² (431.96 ft²), with a side yard set-back of 8.76 m (28.74 ft). Pavilion 2 is proposed to be 13.4 m² (144.24 ft²), with a side

yard setback of 7.76 m (25.46 ft) (refer to Appendix “B” – Architectural Plans). The two new pavilions are proposed to replace the one existing aging gazebo.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the Subject Lands “Residential Mid Rise”, which are areas planned and developed to provide a modest level of residential intensification in mid-rise buildings adjacent to transit routes along arterial and collector roads. This designation permits a wide range of uses including townhouses, small multiplex buildings, stacked townhouses, and apartment buildings. Section 8.2.4.4 permits a minimum building height of 3 storeys and a maximum building height of 6 storeys in this designation. Planning Staff have had regard for the requirements of the Section 8.2.4.5 Development Criteria in the preparation of the comments provided below.

Zoning By-Law 122-72, as amended (Amending By-law 120-93, as amended)

The Subject Lands are zoned “Open Space (Special Use) (O2)” under By-law 122-72, as further amended on a site specific basis by By-laws 120-93, 110-94 and 2005-153, and permit Home for the Aged, Continuum-of-Care Facility, and Senior Citizen Dwellings. The Amending By-laws introduced site specific development standards, including minimum yard setbacks.

The proposed development does not comply with the Amending By-law requirements with respect to minimum side yard setback.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant completed a Zoning Preliminary Review (ZPR) on June 24, 2022 to confirm 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; and
- d) The general intent and purpose of the Official Plan must be maintained

Reduced Side Yard Setback

The Subject Lands and the alignment of the existing seniors building is irregular in shape, and has a wide variety of side yard setbacks ranging between 5 m (16.40 ft) and 43 m (141.08 ft). The Applicant is requesting relief from the Amending By-law to permit a minimum side yard setback of 8.76 metres (28.74 ft) for Pavilion #1 and 7.76 m (25.46 ft) for Pavilion #2, whereas the by-law requires a minimum side yard setback of 25 m (82.02 ft) in this location.

The requested variances will facilitate the construction of two new pavilions, which will be open air structures with roofs. Staff note that the requested variances are strictly related to the two proposed accessory structures and does not include any expansion of the existing senior's buildings.

As noted previously, the proposed pavilions are replacing a single older gazebo, which could only accommodate 10 people. The Applicant has indicated that the existing gazebo is aging and needs to be replaced. The two proposed pavilions will increase the amount of outdoor covered amenity space available to the senior residents. The Applicant has indicated that Pavilion 1 will accommodate a maximum of 20 people and Pavilion 2 will accommodate a maximum of 7 people.

The two proposed pavilions will be integrated within the existing outdoor amenity space, and will provide its senior residents shelter from the sun while they spend time outdoors with family and friends.

Furthermore, it should be noted that the proposed locations of the two pavilions will not require any of the existing trees to be removed.

Staff are satisfied that the requested variances are appropriate for the lot and are of the opinion that the general intent and purpose of the Official Plan and Zoning By-law is maintained, and have no objections to the requested variances.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 16, 2023. 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 requested variances meet 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:



Bernie Tom, Development Technician, Zoning and Special Projects

REVIEWED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

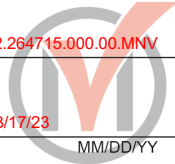
APPENDICIES

Appendix "A" – Aerial Photo

Appendix "B" – Architectural Plans

Appendix "C" – Conditions of Approval

Appendix B



File: 22.264715.000.00.MNV

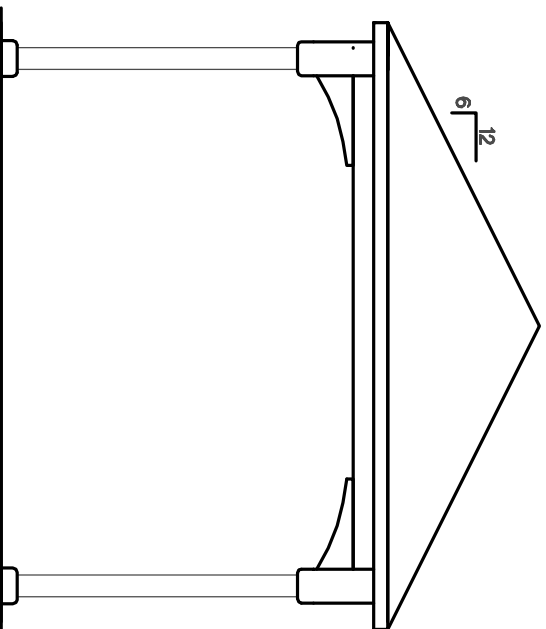
Date: 03/17/23
MM/DD/YY

JOB NUMBER: 191-10

PAGE: 2 OF 13

PROJECT: STANDARD PLANS FOR 12'X12' RECTANGLE PVC PAVILION

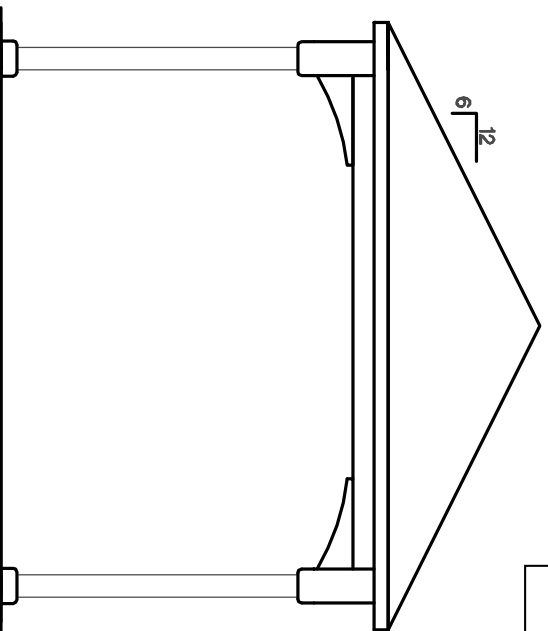
This drawing is the property of County Lane Woodworking, LLC, provided by Timber Tech Engineering, Inc. and reproduction, alteration or use of this drawing without the written consent of County Lane Woodworking, LLC is prohibited. Drawings shall not be scaled to obtain dimensions. The contractors and builders involved on this project shall verify all dimensions and conditions before starting work and any discrepancy shall be reported to the engineer in writing before starting work.



End Elevation

Scale 1/4" = 1'-0"

E7 Engineering - 705 228 8412 - ckevans@e7.ca
Design of the structure or components indicated
in this document or drawing is certified to comply with the
structural requirements of the Ontario Building Code 2012
for the purpose, locations and/or loads indicated.
Project - **3884**

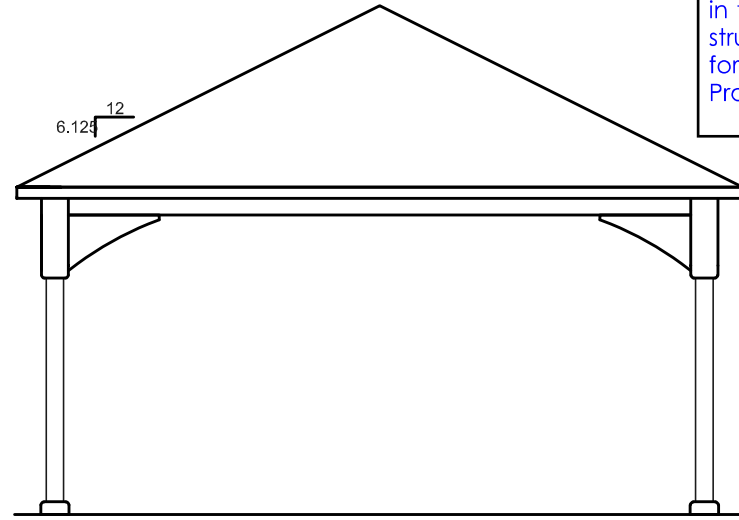


Side Elevation

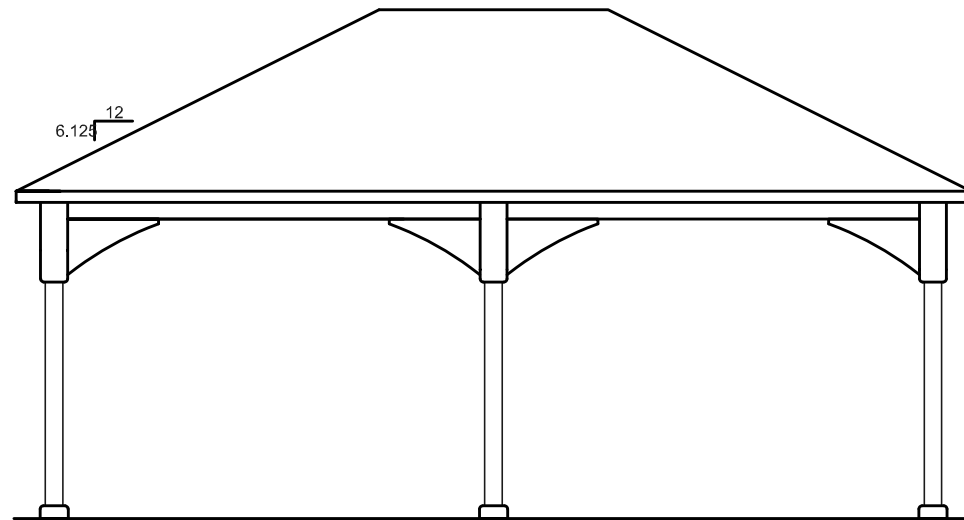
Scale 1/4" = 1'-0"



E7 Engineering - 705 228 8412 - ckevans@e7.ca
Design of the structure or components indicated
in this document or drawing is certified to comply with the
structural requirements of the Ontario Building Code 2012
for the purpose, locations and/or loads indicated.
Project -



End Elevation NTS



Side Elevation NTS

Appendix B

File: 22.264715.000.00.MNV
Date: 03/17/23
MM/DD/YY

APPENDIX “C” – A/241/22 Conditions of Approval

1. The variances apply only to the proposed development as long as it remains; and
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 Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.

CONDITIONS PREPARED BY:



Bernie Tom, Development Technician, Zoning and Special Projects