

Memorandum to the City of Markham Committee of Adjustment

May 24, 2022

File: B/018/20
Address: 36 Washington St. Markham Village
Applicant: Andrea Conlon & Kenneth Vopni
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday June 08, 2022

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

- a) sever and convey a parcel of land with an approximate lot frontage of 7.50 m (24.61 ft) and an approximate lot area of 334 m² (3,595.15 ft²) (Part Two - South);
- b) retain a parcel of land with an approximate lot frontage of 8.20 m (26.9 ft.) and an approximate lot area of 330m² (3,552.09 ft²) (Part One - North).

The purpose of this application is to create a new residential infill lot. Staff note that the notice of hearing indicates the consent would create a new residential/commercial lot. As the zoning only permits residential, the purpose is only to create a new residential lot.

BACKGROUND

Property Description

The 641.6 m² (6,906.1 ft²) subject property is located on the west side of Washington Street, south of Joseph Street and north of Centre Street, one block to the east of the historic commercial buildings of Main Street North (See Location Map-Figure 1). The property is located within an established residential neighbourhood of the Markham Village Heritage Conservation District which is comprised of a mix of one and two-storey, heritage and non-heritage detached dwellings.

There is an existing one and one half storey heritage dwelling on the property which according to assessment records was constructed in 1883. Mature vegetation exists on the property including one large mature walnut tree in the front yard shared with the neighbouring property to the north (See Photograph of the Existing Heritage Dwelling-Figure 2).

Proposal

The owner proposes to sever the property roughly in half along the west-east axis to create a new building lot to the south (Part Two) having a frontage of 7.5m (24.6 ft.) and an approximate lot area of 334 m² (3,595.15 ft²), and a retained lot (Part 1) occupied by the existing heritage dwelling with a frontage of 8.20m (26.9 ft.) and an approximate lot area of 330m² (3,552.09 ft²). Once severed, the property owner proposes to construct a new two storey single detached infill dwelling on the new lot, as well as a detached accessory building which would straddle the property line between the severed and retained lot to provide a garage for both properties (See Proposed Site Plan- Figure 3).

The owner recently obtained the City's approval of a By-law Amendment application (PLAN 21 127477) to delete the former commercial use permissions of the property, permit single detached dwellings, create site specific development standards associated with the retained heritage house, proposed new infill house and detached accessory

building, as well as the size and dimensions of the proposed severed and retained lots (See By-law Amendment 2022-27 Appendix B).

COMMENTS

Official Plan 2014

The subject property is designated as “Mixed Use Heritage Main Street” in the City’s 2014 Official Plan.

Zoning By-law 1229

The subject property was recently rezoned by By-law 2022-27 which changed the zoning designation from Central Commercial (C2) to Residential One (R1) under By-law 1229, as amended. The new site specific zoning By-law only permits the use of single detached dwellings, as well as development standards in support of the applicant’s proposal to construct a new infill dwelling, a shared detached accessory building, and the applied for severance of the existing property.

Consent applications are evaluated in the context of Section 51 (24) of the *Planning Act*, as well as provincial and local land division policies.

LAND DIVISION

In order for land division to occur under the *Planning Act*, the process requires both provincial interests and local planning concerns to be satisfied. In Markham, land division is regulated within a policy-led planning system that consists of a number of inter-related types of legislation and policies, including:

- The Planning Act and the Provincial Policy Statement (PPS)
- Other Provincial Plans (if applicable)
- Markham Official Plan
- Community Improvement Plans (if applicable)
- Local Zoning By-laws
- Site Plan Control Area By-law

a) The Planning Act

The *Planning Act* in Ontario provides the framework for the province’s policy-led planning system. All decisions regarding consent applications must:

- Have regard to criteria listed in subsection 51(24) which relates to the subdivision of land, and includes, but is not limited to:
 - Effect on matters of provincial interest listed in section 2 of the Act;
 - Suitability of the land for the purposes for which it is to be subdivided;
 - Lot dimensions and shapes;
 - Restrictions of the land;
 - Interrelationship with site plan control matters

Each of these criteria is explored below:

Matters of Provincial Interest

The subject property at 36 Washington Street does involve a matter of provincial interest, that being Section 2(c) “the conservation of features of significant architectural, cultural,

historical, archaeological or scientific interest” as the property is occupied by a Type ‘A’ building designated under Part V of the Ontario Heritage Act, as it is within the boundaries of the Markham Village Heritage Conservation District. The proposed severance does not negatively impact the heritage attributes of the existing heritage dwelling and maintains its prominent position relative to the proposed new infill dwelling. The proposed new infill dwelling has been designed in accordance with the policies and guidelines contained in the Markham Village Heritage Conservation District Plan as they apply to new buildings, and is complementary to the scale, form, materials and architectural detailing of surrounding heritage dwellings. The proposed severance also retains the most significant mature vegetation on the property which helps contribute to the historic character of the neighbourhood.

Suitability of the Land for its Intended Use

The property has remained in the existing historic residential use despite having previous commercial use permissions that were recently deleted through the amending By-law 2022-27. The proposed severance and new infill dwelling represent a continuation of the historic residential uses found on this section of Washington Street, and are therefore suitable for the land.

Lot Dimensions and Shapes

The dimensions and shape of the lots resulting from the proposed severance are very similar to the size and dimensions of the lots immediately south of the subject property, which were the subject of a similar Zoning By-law amendment and severance applications in 2006 that facilitated the construction of infill dwellings addressed as 34 and 34A Washington Street. However, adjacent lots to the north and across the street are significantly larger in frontage and area. Ironically, it is both the similarity and differences from adjacent lots that make the proposed severance appropriate as variations in the dimensions and sizes of lots found in the City’s historic neighbourhoods, which have evolved over many decades, are considered to be a significant character defining attribute of these unique areas that differentiate them from the uniformity of more modern developments.

Restrictions on the Land and Interrelationship with Site Plan Control Matters

The restrictions on the subject property relate to the fact that the property is officially designated pursuant to Part V of the *Ontario Heritage Act*. Council has adopted a heritage conservation district plan through a specific by-law. This heritage plan provides policies and design guidelines to guide alterations and development. The owner must obtain a “Heritage Act” permit from the municipality to alter any part of the property, or to erect, demolish or remove any building on the property. Therefore any new development (lot creation and any future buildings) are subject to the restrictions and guidance found in the heritage conservation district plan.

The proposed severance and new infill dwelling maintain the uniqueness of the property within the neighbourhood while reflecting an emerging pattern of development that started with the property to the south in 2006. Because the proposed new infill dwelling is subject to site plan control due to the property being designated under Part V of the Ontario Heritage Act, the resulting dwelling should complement and enhance the existing heritage character of the neighbourhood.

b) Consistency with the Provincial Policy Statement

The Provincial Policy Statement (PPS) 2020 sets the policy foundation for regulating the development and use of land in Ontario. Decisions that affect a planning matter are to be consistent with the Provincial Policy Statement. Section 2.6 of the PPS addresses cultural heritage resources. The policy requires that significant built heritage resources and significant cultural heritage landscapes (a heritage conservation district) shall be conserved, and that Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

The proposed severance, new infill dwelling and accessory building do conserve the unique heritage attributes of the property, and maintain the character of the Markham Village Heritage Conservation District.

c) Conformity with the Official Plan

The Official Plan represents the municipality's chief planning tool to provide direction to approval authorities and the public on local planning matters. The 2014 Official Plan includes applicable policies respecting **infill development** (Section 8.2.3.5) and **heritage conservation** (Section 9.13.4.1 and Sections 4.5.3.9 and 4.5.3.10).

Infill Development

Section 8.2.3.5 which describes development criteria or infill development in areas designated as "Residential Low Rise" states that Council shall ensure infill development respects and reflects the existing pattern and character of adjacent development by ensuring that the lot frontages and lot areas of the proposed new lots shall be consistent with the sizes of existing lots on both sides of the street on which the property is located. Although the subject property is not designated as "Residential Low Rise" in the City's Official Plan, the intent of the severance is to facilitate a proposed infill dwelling in a neighbourhood that has all the characteristics of the "Residential Low Rise" Official Plan designation. As previously mentioned, varied lot sizes and dimensions are considered to be a character defining aspect of historic neighbourhoods, so the similarity of the proposed lot frontages and lot areas to the lots immediately to the south, as well as the differences of frontage and area to nearby lots is what makes the proposed severance compatible with the surrounding historic context.

Heritage Conservation

The Land Use Objectives described in Section 9.13. 4.1 of the 2014 Official Plan regarding the Markham Village Heritage Centre are to recognize the distinct character of the heritage buildings, historic sites and landscapes of the Markham Village Heritage Centre and to ensure that compatible infill development and redevelopment will have regard for the protection and preservation of heritage buildings, building design, building materials, landscaping and tree preservation.

The proposed severance, restoration of the existing heritage dwelling and proposed new infill dwelling recognize and have regard for the heritage attributes of the property through careful siting, building design, tree preservation and general compliance with the policies and guidelines of the Markham Village Heritage Conservation District Plan.

Heritage Markham reviewed and supported the By-law Amendment application to permit the proposed development and severance of the property on March 9, 2022.

As per the policy adopted by Council regarding when the City will acquire a Heritage Easement Agreement, and the associated Markham Official Plan policy, it is recommended that the City secure a Heritage Easement Agreement as a condition of severance approval to better ensure the protection of the existing heritage dwelling on the retained lot.

d) Compliance with the Zoning By-law

The zoning by-law enables the municipality to implement the vision set out in the Official Plan. It identifies the permitted land uses and the required development standards.

Due to the recent Zoning By-law amendment application, the proposed use of the property and built forms are in compliance with Zoning By-law 1229, as amended by By-law 2022-27, which was recently passed by Council on April 12, 2022.

Therefore, no variances are required to approve the proposed severance, or the conceptual development of the property.

e) Site Plan Control Area By-law

As noted in section a), the property is subject to the City's Site Plan Control By-law to ensure that future development is compatible and addresses City goals and objectives. All properties in heritage conservation district in the City are subject to site plan control and the execution of a Site Plan Agreement, prior to securing a building permit.

Through the Site Plan Control process the architectural design and siting of proposed buildings and other features can be strictly regulated to ensure that any development is compatible with, and complementary to the historic character of the district and surrounding buildings.

CONCLUSION

In concluding that the proposal is appropriate, staff have had regard for the criteria in Section 51 (24) of the Planning Act.

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

PREPARED BY:



Peter Wokral, Planner

REVIEWED BY:



Regan Hutcheson, Development Manager

APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/018/20

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/018/20, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. The Owner shall enter into a Site Plan Control Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design, Director of Operations, and/or the Director of Engineering, or their designates, which Site Plan Control Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Site Plan Control Agreement on title to the Lands. The Site Plan Control Agreement shall specifically provide for matters including but not limited to:
 - a. Entering into a Heritage Conservation Easement Agreement for the existing Heritage Dwelling on the retained lot (Part one);
 - b. Payment of all applicable fees in accordance with the City’s fee by-law;
 - c. Erection and inspection by City staff of tree protection fencing, in accordance with the City’s Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
 - d. Planting of any required replacement trees in accordance with the City’s Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
 - e. Submission of securities respecting any works to be provided in accordance with the Development Agreement;
 - f. Payment of cash-in-lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement. The applicant shall submit an Appraisal report prepared by a member of the Appraisal Institute of Canada in accordance with the City’s terms of reference respecting the proposed new lot, to be reviewed and approved by the City;
 - g. notice that the lands may not be connected to the City’s water system, sewage system and/or drainage system (the “Municipal Services”), and that in order to connect to the Municipal Services, the Owner must submit an application to the City and pay for the connections to the Municipal Services, which shall be installed by the City.

6. Fulfillment of all of the above conditions within two years of the date that notice of the decision was given under Section 53(17) or 53(24) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

CONDITONS PREPARED BY:

A handwritten signature in black ink, appearing to read "Peter Wokral". The signature is written in a cursive, flowing style.

Peter Wokral, Heritage

APPENDIX “B”



By-law 2022-27

A Bylaw to amend By-law 1229, as amended

The Council of The Corporation of the City of Markham hereby enacts as follows:

1. That By-law 1229, as amended, is hereby further amended as it applies to the lands outlined on Schedule ‘A’ as follows:

- 1.1 By rezoning the lands outlined on Schedule ‘A’ attached hereto

from:

Central Commercial Zone (C2) Zone

to:

Residential One Zone (R1) Zone

- 1.2 By adding the following subsections to Section 7 – EXCEPTIONS:


Exception 12.47	Conlon and Vopni 36 Washington	Parent Zone R1
File PLAN 21-127477		Amending By-law 2022-27
Notwithstanding any other provisions of this By-law, the following provisions shall apply to the land denoted on the schedules to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section.		
12.47.1 Additional Permitted Uses		
The following are the only permitted uses:		
a) One (1) ACCESSORY DWELLING UNIT within a SINGLE DETACHED DWELLING		
12.47.2 Special Zone Standards		
The following special zone standards shall apply to Part One:		
a)	Minimum required LOT FRONTAGE – 7.75 m	
b)	Minimum LOT AREA – 342 square metres	
c)	Minimum required SIDE YARD – 1.2 metres	
d)	Minimum required INTERIOR SIDE YARD for a DRIVEWAY – 0.0 m	
e)	Maximum HEIGHT – 10 m	
f)	Maximum number of STOREYS - 3	
g)	Notwithstanding e) above, the maximum GROSS FLOOR AREA for the third STOREY shall be a maximum of 15 square metres	
h)	Maximum BUILDING DEPTH – 18.1 m	
i)	Maximum FLOOR AREA RATIO – 67%	
j)	Minimum setback for an ACCESSORY BUILDING:	
	a) REAR YARD - 0.9 m	
	b) SIDE YARD – 0.0 m	
k)	Maximum HEIGHT for an ACCESSORY BUILDING – 5.2 m	
The following special zone standards shall apply to Part Two:		
a)	Minimum required LOT FRONTAGE – 7.75 m	
b)	Minimum LOT AREA – 313 square metres	
c)	Minimum required front yard – 1.8 m	
d)	Notwithstanding c) above, stairs are permitted to encroach into the required FRONT YARD provided they maintain a 0.1 metre setback to the FRONT YARD	

	b) North – 0.5 m
g)	Minimum required INTERIOR SIDE YARD for a DRIVEWAY – 0.0 m
h)	Maximum BUILDING DEPTH – 19.1 m
i)	Maximum LOT COVERAGE – 46.5%
j)	Maximum FLOOR AREA RATIO – 81 %
k)	Minimum setback for an ACCESSORY BUILDING: c) REAR YARD - 0.9 m d) North SIDE YARD – 1.2 m e) South SIDE YARD – 0.0M
l)	Maximum HEIGHT for an ACCESSORY BUILDING – 5.7 m

Read and first, second and third time and passed on April 12, 2022



Kimberley Kitteringham
City Clerk



Frank Scarpitti
Mayor

FIGURE 1- LOCATION MAP



FIGURE 2- PHOTOGRAPH OF THE EXISTING HERITAGE DWELLING



FIGURE 3- PROPOSED SITE PLAN

