



CITY OF MARKHAM
Virtual Meeting on Zoom

August 24, 2022
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 15th regular meeting of the Committee of Adjustment for the year 2022 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
Sally Yan	7:00 PM
Jeamie Reingold	7:00 PM

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Trisha Sridharan, Development Technician, Zoning and Special Projects

Regrets

Arun Prasad
Patrick Sampson
Kelvin Kwok

DISCLOSURE OF INTEREST

Minutes: August 10, 2022

THAT the minutes of Meeting No. 14, of the City of Markham Committee of Adjustment, held August 10, 2022, respectively, be:

- a) Approved on August 24, 2022.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

Carried

The Chair brought forward a request to revise the order of the agenda.

Member Gutfreund motioned to revise the order of the agenda

Moved By: Tom Gutfreund
Seconded By: Sally Yan

The Committee unanimously approved the motion and the following applications were considered in the order as contained herein.

REQUEST FOR DEFERRAL:

1. A/049/22

Owner Name: Jun Chen Sun
Agent Name: Jun Chen Sun
257 Main Street, Markham
Location: PLAN 1318 LOT 3

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

- a) By-law 1229, Section 11.3 (a)(i):**
an accessory building with a height of 13.81 feet, whereas the By-law permits a maximum of 12 feet;
- b) By-law 1229, Section 11.3 (vi):**
an accessory building with a side yard setback of 2 feet 2 inches, whereas the By-law requires a minimum of 4 feet;
- c) By-law 1229, Table 11.1:**
a minimum setback of 4.04 feet to the interior side lot line, whereas the By-law requires a minimum of 6 feet for a two-storey dwelling;
- d) Parking By-law 28-97, Section 6.2.4.4 (a)(i):**
a driveway to have a setback of 0 metres, whereas the By-law requires a minimum setback from the driveway to the side lot line of 4 feet;
- e) Amending By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 59.83 percent, whereas the By-law permits a maximum of 45 percent;
- f) Amending By-law 99-90, Section 1.2 (i):**
a height of 10.89 metres, whereas the By-law permits a maximum of 9.80 metres; and

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

a detached dwelling to be three storeys, whereas the By-law permits no more than two storeys within a single vertical plane.

as it related to a proposed addition to an existing dwelling.

The Chair brought forward the request for deferral.

The agent was in attendance and spoke on behalf of the owner, Jenny Sun, and indicated that they were aware and agreed with the request for deferral, indicating that the deferral would allow the applicant to meet with Heritage Markham and incorporate recommendations before bringing the project to the Committee of Adjustment.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

THAT Application No **A/049/22** be **deferred** sine die.

Resolution Carried

NEW BUSINESS:

1. A/100/21

Owner Name: Yanhui Jia
Agent Name: W.E Consulting & Construction Ltd. (Jerry Yue)
165 Carlton Road, Markham
PLAN M1838 LOT 2

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

a) Section 5.1:

one accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot.

as it related to a proposed secondary suite (basement apartment).

The Chair introduced the application.

The owner, Jason Wang, appeared on behalf of the application.

Three pieces of written correspondence were received.

Member Gutfreund had reviewed the staff report and was in agreement that the application met the four tests of the *Planning Act* and supported the planning staff recommendation. The member had no objections to the application and recommended approval of the application.

Member Gutfreund motioned for approval.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/100/21** be **approved** subject to conditions contained in the staff report as amended

Resolution Carried

2. A/072/22

Owner Name: Kiran Babu
Agent Name: Varatha Design Associates (Ken Varatha)
10 Outlook Terrace Drive, Markham
PLAN 65M3587 LOT 98

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

a) Section 6.5:

an accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot;

b) Parking By-law 28-97, Section 3.0, Table A:

two parking spaces, whereas the By-law requires a minimum of three parking spaces;

c) Parking By-law 28-97, Section 6.2.4.2 (b)(i)(b):

a minimum of 35.0 percent soft landscaping in the front yard, whereas the By-law requires a minimum of 40.0 percent soft landscaping provided in the front yard in the case of a lot with a lot frontage of 10.10 m (33.14 ft.), or greater;

as it related to a proposed basement apartment.

The Chair introduced the application.

The agent, Ken Varatha, appeared on behalf of the application and stated that they had read the staff report and agreed with the staff recommendation.

Four written comments opposed to the application had been received.

Jaison Joseph, of 3 Beckstead Street, indicated that the proposed stairs and entrance would directly face their front porch and driveway and would impede their privacy. Jaison stated that the owner could relocate the entrance to the other side or the rear of the dwelling, which would be less disruptive to the privacy of other owners on the street.

Sara Araghian, of 1 Beckstead Street, spoke to concerns about sufficient parking for the additional unit, which would lead to on-street parking. The driveway of her house was located across from the proposed entrance, and Sara was concerned that the resident of the secondary suite would park in the street adjacent to the proposed entrance for ease of entry. Sara was concerned about safety, snow plowing, and the need to engage parking enforcement if parking on the street became habitual. Sara stated that corner lots set the tone for the neighbourhood, and allowing the entrance in the street side yard would reduce open space on the streetscape. Sara recognized the provincial mandate to provide affordable housing units. She empathized with owners who needed to rent but was unsure that adding secondary suites into established neighbourhoods was the best way to attain affordable housing.

Ken Varatha indicated the garage had two parking spaces, but they were not included in the total parking requirements because they did not comply with the zoning standard.

Member Gutfreund spoke to the Provincial Policy through Bill 108 to permit detached dwellings to contain two residential dwelling units. A secondary suite is allowed under provincial legislation through the More Homes More Choice Act and A Place to Grow: Growth Plan. Member Gutfreund requested clarification from the agent if the existing fencing would be extended to enclose the proposed walk-down and entrance.

Ken Varatha indicated that it was not shown on the plan, but the side yard fence would be extended past the proposed walk-down and entrance with a gate so that the railing would not be visible from the street.

The Chair identified a detailed landscaping plan, Site Plan A 1.5, had been submitted with the application, and the plan did not show the proposed fence extension. The Chair indicated that the application had addressed parking standards, and a decision cannot be based on a breach or potential breach of other laws.

Member Gutfreund noted that the application followed Provincial Policy and that there was a sufficient separation between dwellings with the road to not impact privacy. Accordingly, the member supported the application and recommended approval, subject to comments from other members.

Member Yan agreed with Member Gutfreund that this application falls under Provincial legislation and that it met the four tests of the *Planning Act* and supported the application.

The Chair indicated that before the motion, the conditions should be amended to include a requirement for the fence's extension.

Member Reingold commented that the existing fence was already very long, and landscaping in the form of evergreens would be softer for the streetscape.

The Committee discussed with staff and the applicant regarding the inclusion of a condition requiring landscaping.

The Chair recommended deferral of the application to provide staff with an opportunity to work with the applicant to determine the appropriate method to provide screening for the proposed door.

The applicant requested a deferral.

Member Reingold motioned for deferral.

Moved By: Jeamie Reingold
Seconded By: Tom Gutfreund

The Committee unanimously deferred the application.

THAT Application No. **A/077/22** be deferred sine die

Resolution Carried

3. A/106/22

Owner Name: Naveed Iqbal
Agent Name: Varatha Design Associates (Ken Varatha)
125 Maria Road, Markham
PLAN 65M4317 PT LOT 10 RP 65R33875 PTS 3 AND 4

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

- a) **Parking By-law 28-97, Section 3.0, Table A:**
two parking spaces, whereas the By-law requires three parking spaces for a detached dwelling with one accessory dwelling; and

b) Section 6.5:

an accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot;

as it related to a proposed secondary suite (basement apartment).

The Chair introduced the application.

The agent, Ken Varatha, appeared on behalf of the application.

There was one piece of written correspondence in opposition to the application.

Fengwei Sun of 123 Maria Road opposed the location of the entrance as they felt it would impact the privacy of their property and requested the Committee deny the application.

Member Gutfreund requested the applicant to provide the measurement for the setback of the proposed door from the property line.

Ken Varatha provided the setbacks from the property line for the proposed door and clarified that the concrete pad would drain to the swale adjacent to the house.

The Chair indicated that the proposal had been reviewed by engineering staff and noted that the application differed from the previous application and that the location of the proposed entrance was appropriate.

Member Yan requested clarification regarding all entrances and egresses, including windows, requiring alteration for the proposal.

Ken Varatha indicated that the Building department would review the application to ensure that the egress window located in the rear yard met the Building Code.

Member Yan supported the application indicating it met the four tests of the *Planning Act*.

Moved By: Sally Yan
Seconded By: Tom Gutfreund

The Committee unanimously approved the application.

THAT Application No. **A/106/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. A/100/22

Owner Name: Soren Dumrath
Agent Name: Orangeink Design Inc. (Tony Diodati)
7 Circle Court, Thornhill
PLAN 65M3495 LOT 9

The applicant was requesting relief from the requirements of By-law 72-81, as amended to permit:

a) Parking By-law 28-97, Section 6.1.1 (b):

two parking spaces to be located within the front yard; whereas the By-law permits no more than one required parking space to be located within the front yard on a driveway.

as it related to a proposed rear two-storey addition.

The Chair introduced the application.

The agent, Tony Diodati, appeared on behalf of the application. Tony agreed with the staff report and indicated that the work was minor.

No written correspondence was received for the application.

Member Gutfreund asked the agent to explain where the work would take place and what would be the proposed location of the parking spaces. The member also asked the agent to confirm that they were aware that a Zoning Preliminary Review had not been completed and that any additional variances identified at the time of the Building Permit would have to be addressed.

The agent clarified the scope of the application and indicated that they had received Zoning comments and were aware that they would be required to meet Zoning standards at the time of Building Permit.

Member Reingold stated that they were familiar with the Circle Court area and noted historical erosion issues. They questioned if the applicants would undertake landscaping in the rear yard.

Tony Diodati clarified that the property backs on the ravine and a CN Rail right-of-way. There would be no work at the front of the house, and the extension to the side was minimal and should not interfere with drainage on the site.

The Chair noted that TRCA regulated the property and had provided conditions as outlined in the staff report.

Member Gutfreund motioned for approval.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

The Committee unanimously approved the application.

THAT Application No. **A/100/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Applications B/003/22, B/006/2022 and A/031/22, A/039/22 and A/040/22 were heard concurrently.

5. B/020/21

Owner Name: Jun Liu
Agent Name: MHBC Planning Limited (Maire Stea)
19 Riverview Avenue, Markham
PLAN 4365 LOT 13

The applicant was requesting provisional consent to:

- a)** sever and convey a parcel of land with an approximate lot frontage of 2.21 m (7.25 ft.) and an approximate lot area of 88.89 sq.m. (956.80 sq.ft.) (Part 3); and
- b)** retain a parcel of land with an approximate lot frontage of 32.08 m (105.25 ft.) and an approximate lot area of 1294.17 sq.m. (13,930.33 sq.ft.) (Part 4).

The purpose of this application was to sever and convey a portion of 19 Riverview Avenue (B/020/21) with the intent to merge this parcel (Part 3) with the severed portion of 21 Riverview Avenue (B/021/21) (Part 2) to facilitate the creation of one new residential lot which will have a total approximate lot frontage of 18.3 m and a total approximate lot area of 735.76 sq. m.

The Chair introduced the application.

The agent, Debra Walker, appeared on behalf of the application. Debra shared a presentation which highlighted the proposal, the lot patterning of the area, consent applications within the surrounding area, Official Plan policies and the recent OLT decision for the consent applications at 11 and 15 Grandview Avenue. In summary, Debra Walker indicated the area was stable but not static. The proposal was in keeping with the area's character and would not create adverse impacts on surrounding properties. They further put forward that it was in keeping with planning principles of

infill development, and the proposed development was zoning compliant, moderate, and appropriate for the area.

The Committee received twenty-six pieces of written correspondence, twenty-three opposed and three in support.

Quanze Man of 21 Ovida Boulevard indicated that their family moved to the area for the lower population density and high-quality neighbourhood. However, Quanze expressed concern that larger properties would continue to be subdivided if allowed, and the increased density would put further strain on schools and healthcare and increase traffic congestion.

K. Jeffery Stacey of 17 Riverview Avenue put forward that despite the presentation given by the applicant's agent, the proposal would adversely impact the area and the adjacent properties and was not a modest infill application. The application was a workaround of the existing by-law and was not a reasonable balance of infill and protection of the neighbourhood's existing character.

Angie Dornai of 17 Riverview Avenue expressed that presenting the application as a small sliver misrepresented the proposed infill development. Angie shared a presentation highlighting the current development on Riverview Avenue. She expressed that the creation of smaller lots and the houses constructed on those lots could not be compatible with the lots of 100-foot frontages. The area was unique, and residents had made efforts to build compatible homes. Angie stated that there were considerable differences between Grandview Avenue and Riverview Avenue and felt that approval of the consent would reverse the value of land over homes. Additionally, Angie noted the environmental impact of the intensification and the disruption that construction would create. Angie noted that residents of the area had gathered more than 50 signatures in opposition to the development. Lastly, Angie requested that the neighbourhood's unique character be respected and asked the Committee to refuse the application.

Shubha Dasgupta of 17 Grandview Avenue indicated that they had spoken with the owner of 21 Riverview Avenue regarding their intentions for the development of the property. Shubha supported the proposal's intentions and goals, noting that it would meet the community's changing needs and would produce opportunities for others to join and enjoy Markham's vibrancy. In addition, they noted that it met the Provincial guidelines for new housing as presented earlier in the meeting.

Elizabeth Brown, 65 Lincoln Green Drive, the Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association, appeared to speak to the application. Elizabeth shared the Official Plan policies related to consent and infill development. She highlighted that every chapter of the Official Plan indicates that uses created through development applications should be consistent with the entirety of the policies in the Official Plan. The staff report indicated that the Official Plan policies were relevant and meaningful when considering applications. Elizabeth highlighted that not only Chapter 10 policies are meaningful in assessing the application

but also the policies of Chapter 8 regarding infill development. Elizabeth spoke about policies regarding consistent frontages and lot areas reflecting the current lot patterns of the area and policies to reduce and minimize tree loss. Elizabeth shared the current and proposed lot sizes in the presentation and demonstrated how permitted dwelling size was calculated. The location and number of trees to be removed were also illustrated. Elizabeth asked that the proposal be refused; however, if they were approved, Elizabeth requested that the Committee add a condition that the development of the houses must conform to the by-law and no future requests for variances would be granted.

Tupper Wheatly of 9 Willowgate Drive, co-owner of 23 Riverview Avenue, and Vice Chair of the Boyington Heights Ratepayers Association, expressed that staff recommendations were sometimes inconsistent. Infill By-laws had been established to protect neighbourhoods from oversized houses on smaller lots. The policies of 60-foot lots were to prevent severances. Tupper spoke to OMB and the Committee's refusal of consent applications on Grandview Avenue and Ovida Boulevard. Additionally, they referenced the Regional Official Plan, indicating that a variety of lot sizes and housing options be available within the community. They indicated that this included the retention of existing large lots. Finally, Tupper indicated that the area was not identified as part of Markham's intensification area, and the proposals would not function to aid in the creation of affordable housing.

Cora Moncada of 15 Riverview Avenue had registered to delegate but could not be present during the hearing. However, Cora's written presentation highlighting the inconsistency of the smaller lots proposed in comparison to the large lot sizes in the area, the uniqueness of the area and the environmental sensitivity of the adjacent lands and area were read by staff to the Committee members.

The written comments of Bernard Szederkenyi of 4 Riverview Avenue, who could not establish a connection to the meeting, were also read aloud in the meeting. Bernard objected to the application, indicating that it was not consistent with the Official Plan Policies in Sections 8 and 10, stating the proposed lots would not be consistent with the 113-foot frontages on the south side of Riverview Avenue and were not in keeping with the existing neighbourhood.

Member Reingold agreed with the presenters, who indicated that it was more appropriate in the area to have one large home on a large lot than two smaller homes on smaller lots. In addition, the Riverview area was considered a unique prestige area that needed protection. In the opinion of the member, in the same way, that communities needed to promote intensification in some areas, they also needed to consider and protect areas with unique features unsuitable for intensification. Therefore, the member did not support the application.

Member Gutfreund disagreed with the staff report and spoke to the wording of Section 8.2.3.5. and indicated that the wording stated the lot frontages and areas of proposed new lots should be consistent with existing lots. The member spoke to the specific planning language indicating that the word shall was mandatory, not discretionary. The

use of the word shall was very clear in the intent of the Official Plan, and as a result, the proposed lots did not conform to the policies of Section 8 of the Official Plan. The member also referenced Council's intent for the area in the proposed but not in effect comprehensive By-law to provide minimum frontages of 75 feet for new lots in the area. Additionally, the member considered that the number of trees required to be removed for redevelopment would be devastating to the urban canopy and the character area and surrounding properties. Finally, Member Gutfreund noted the substantial turnout of the community who had turned out to speak in one voice regarding something they did not want for their neighbourhood. The member indicated they could not support the application and recommended refusal.

Member Yan commended community members for their presentations. Member Yan commented on how the agent had defined the context of the area. In the member's opinion, the context needed to be defined considering the sense of community within the area. They disagreed that the lot patterning should be represented by the broader area, as illustrated in the agent's presentation of previously approved consent applications. From the member's perspective, the context of Riverview Avenue was unique and an area to be preserved. Community input had been provided on the proposed by-law regarding 75-foot frontages for the area. Member Yan inquired if the applicant could review and revise the concept and establish three larger lots. As proposed, the member did not support the application.

Debra Walker provided comments in response to the public deputations and the Committee's comments regarding previous consents, the wording of Official Plan policies, tree removal, vegetation protection zones, tree planting and compensation and the status of the draft Comprehensive Zoning By-law.

The Chair indicated that consideration should be given to both sides. They expressed that there had been intentionality in the current Zoning By-law and Official Plan policies to contemplate the severance of lots. Additionally, the area did have lots nearby that were smaller than the lots represented in the applications and presentations.

The Chair noted that the proposal was reviewed by Forestry and Urban Design staff, and they had been satisfied and provided conditions that would need to be fulfilled. The Chair indicated that the Committee, in making their decision needed to be mindful of the staff planning report, the presentation made by the professional planning consultant, provincial policies, and in effect, policies of the Regional Official Plan, Official Plan and Zoning By-law.

The Chair asked Debra Walker if the applicant wished to request a deferral to determine if changes could be made to the proposal regarding the lot lines. However, the Chair cautioned that changing the lot lines could raise different concerns for the neighbours.

After consulting with their client, Debra Walker requested a deferral.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

THAT Application No. **B/020/21** be **deferred** sine die.

Resolution Carried

6. B/21/21

Owner Name: Moe Nikaien
Agent Name: MHBC Planning Limited (Maire Stea)
21 Riverview Avenue, Markham
PLAN 4365 LOT 13

The applicant was requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate lot frontage of 16.09 m (52.79 ft.), and an approximate lot area of 646.87 sq. m. (6,962.85 sq. ft.) (Part 2); and
- b) retain a parcel of land with an approximate lot frontage of 18.30 m (60.04 ft.), and an approximate lot area of 734.02 sq.m. (7,900.93 sq. ft.) (Part 1).

The purpose of this application was to sever and convey a portion of 21 Riverview Avenue (B/021/21) with the intent to merge this parcel (Part 2) with the severed portion of 19 Riverview Avenue (B/020/21) (Part 3) to facilitate the creation of one new residential lot which will have a total approximate lot frontage of 18.3 m and a total approximate lot area of 735.76 sq. m. (as noted above in B/020/21).

The Chair introduced the application.

The agent, Debra Walker, appeared on behalf of the application.

Member Gutfreund motioned for a deferral.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

THAT Application No. **B/021/21** be **deferred** sine die.

Resolution Carried

Adjournment

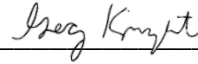
Moved by: Tom Gutfreund
Seconded by: Jeamie Reingold

THAT the virtual meeting of the Committee of Adjustment was adjourned at 9:32 pm,
and the next regular meeting would be held on September 7, 2022.

CARRIED



Secretary-Treasurer
Committee of Adjustment



Chair
Committee of Adjustment