

# Memorandum to the City of Markham Committee of Adjustment

March 09, 2022

**File:** A/178/21  
**Address:** 105 Cimmaron St Markham  
**Applicant:** Grandesign Engineering Inc (Mohammad Ghofrani)  
**Agent:** Grandesign Engineering Inc (Mohammad Ghofrani)  
**Hearing Date:** Wednesday March 09, 2022

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

The applicant is requesting relief from the following requirements of By-law 90-81, "Fourth Density – Semi-detached Residential RSD4" as amended, as it relates to a proposed secondary suite (basement apartment):

**a) By-law 90-81, Section 4.6:**

an unenclosed stair to encroach 0.7 metres into the required interior side yard, whereas the By-law permits a maximum encroachment of 0.45 metres; and

**b) By-law 90-81, Section 5.2.1:**

a second dwelling unit (basement suite), whereas the By-law permits no more than one (1) single-detached dwelling on one (1) lot.

## **BACKGROUND**

### **Property Description**

The 311.1 m<sup>2</sup> (3348.65 ft<sup>2</sup>) subject property is located on the north side of Cimmaron Street, west of Middlefield Road and east of Featherstone Avenue. The property is located within an established residential neighbourhood comprised of a mix of two-storey detached dwellings. There is currently no mature vegetation within the property.

There is an existing two storey single detached residential dwelling on the property, which according to assessment records was constructed in 1987.

### **Proposal**

The original application proposed to construct a secondary suite in the basement of an existing dwelling and relief to the following development standards:

- c) to allow the unenclosed stairs that provide direct access to the secondary suite to encroach 0.95 m (3.12 ft.) into the required interior side yard whereas the By-law permits a maximum encroachment of 0.45 m (1.47 ft);

to allow soft landscaping in the front yard be reduced from minimum 25 percent to 0 percent where the driveway width exceeds the width of the garage door opening, to bring the existing condition into compliance with By-law 28-97, Section 6.2.4.2  
b) i)

No changes are being proposed to the exterior of the dwelling except that a new egress window on the east façade of the building where the kitchen is to be located, bringing the total number of egress windows to 5 at the basement level,

In order to address Tree Preservation as well as Engineering staff concerns regarding runoffs and drainage issues, the applicant worked with staff to replace portions of the front yard pavements with soft landscaping, and reduced the encroachment into the east interior side yard from 0.95 m (3.12 ft.) to 0.7 m (2.29 ft.) and increased the width of the undisturbed strip between the stairs and the east property line from 0.25 m (0.82 ft.) to 0.5 m (1.64 ft.) to allow for drainage. The list of variances have been updated to reflect these changes.

### **Provincial Policies**

#### *More Homes, More Choice Act, 2019*

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act, R.S.O. 1990, c. P.13, as amended*, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

#### *Provincial Policy Statement, 2020*

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

#### *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)*

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing options including second units to support complete communities.

### **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 property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states: “*That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:*

- a) *the building type in which the secondary suite is contained;*
- b) *the percentage of the floor area of the building type devoted to the secondary suite;*
- c) *the number of dwelling units permitted on the same lot;*
- d) *the size of the secondary suite;*

- e) *the applicable parking standards; and,*
- f) *the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

*“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”*

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

#### Zoning By-Law BY-LAW 90-81, as amended

The subject property is zoned Fourth Density – Semi-detached Residential RSD4 under By-law 90-81, as amended, which permits single detached dwelling. The proposed development does not comply with the By-law requirements to permit a maximum of one single-detached dwelling and with the maximum permitted side yard encroachment.

#### **Zoning Preliminary Review (ZPR) Undertaken**

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on February 4, 2022. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently it is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

#### **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;
- d) The general intent and purpose of the Official Plan must be maintained.

#### Secondary Suites

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code

regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

### **Increased Projection**

The applicant is requesting permission for the unenclosed stairs to encroach 0.7 m (2.29 ft.) into the required interior side yard, whereas the By-law permits a maximum encroachment of 0.45 m (1.47 ft.). If the relief is granted, a 1.1 m (3.6 ft.) wide stairs and a 0.5 m (1.65 ft.) undisturbed strip will be located within the 1.6 m (5.25 ft.) wide interior side yard (1.2 m or 3.93 ft. is required).

Staff have no objections to the approval of the proposed variances as it meets the four tests.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 3, 2022. 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 variance request meets 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.

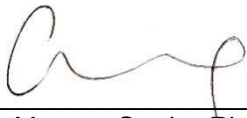
Please see Appendix "A" for conditions to be attached to any approval of this application.

### **APPENDICES**

Appendix A: Conditions of Approval

Appendix B: Architectural Drawings

PREPARED BY:



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Carman Yeung, Senior Planner, East District

REVIEWED BY:

A handwritten signature in blue ink, appearing to be 'Stacia Muradali', written over a horizontal line.

**Stacia Muradali, Development Manager, East District**

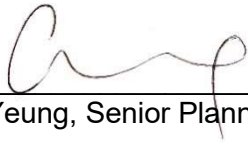
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**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/21**

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the batch stamped plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receives written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. That the owner subject, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:



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Carman Yeung, Senior Planner, East District