

Memorandum to the City of Markham Committee of Adjustment

June 17, 2021

File: A/074/21
Address: 11 Pavillion St, Unionville
Applicant: SDG Design (Stefano Di Giulio)
Agent: SDG Design (Stefano Di Giulio)
Hearing Date: June 23, 2021

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

The applicant is requesting relief from the following requirements of By-law 122-72, R3 as amended, to permit:

1. **A maximum lot coverage of 36.33% whereas By-law 122-72 permits a maximum lot coverage of 33.3%;**
2. **An accessory building height of 21' - 11 ½", whereas By-law 122-72 allows a maximum height of 15'- 0";**
3. **An accessory building with a total floor area of 1822sqft, whereas By-law 122-72 allows a maximum floor area of 750sqft.**

The above referenced variances are required to accommodate construction of a detached 2-storey accessory building (garage) and uncovered concrete porch and stairs at the rear of 11 Pavillion Street (the 'subject property' or the 'heritage building').

BACKGROUND

Property Description

The 792m² (8,525ft²) subject property is designated under Part V of the *Ontario Heritage Act* as it is located within the municipally-defined boundaries of the Unionville Heritage Conservation District (the 'HCD' or the 'District'). Within the District, the subject property is located on the south side of Pavillion Street midblock between Union Street to the east, and Eureka Street to the west. There is an existing two-storey single detached dwelling 71m² (761ft²) and associated one-storey garage 54m² (538ft²) which, according to MPAC, were constructed in 1920. A one-storey addition 53m² (572 ft²) was constructed at the rear (south) elevation of the heritage building in 2001. Along the north (primary) and rear (south) elevations of the heritage building there are two covered porch decks and steps with an area of 18m² (194ft²) and 11m² (120ft²), respectively.

The subject property is located within an established residential neighbourhood comprised of predominately two-storey detached dwellings with detached accessory buildings. Mature vegetation exists on and adjacent to the subject property. Commercial uses in the form of low-rise strip plazas are located to the south of the subject property along Highway 7. These properties, municipally-known as 4400-4452 Highway 7, are also located within the District.

The subject property is located within a TRCA Regulated Area associated with the Rouge River watershed, and is located within 300m of the Metrolinx Uxbridge Subdivision. As such, both governmental bodies will review and offer comment on any development application submitted for the subject property.

Proposal

The applicant is proposing to remove and replace the existing one-storey detached garage with a new detached two-storey garage measuring 169.3m² (1,822 ft²) in area along with a rear uncovered concrete porch and stairs measuring 29.5m² (317 ft²) in area (see Appendix 'A'). The new rear porch is proposed to replace an existing rear wood deck and steps 11m² (121 ft²) while the new detached garage will replace a gazebo 65m² (701ft²) and shed 3m² (33 ft²) in addition to the existing garage 50m² (538ft²).

The proposed garage will have a lot coverage area of 104m² (1,120ft²) with an unfinished heated second floor storage level with an area of 67m² (720ft²). The total floor area of this proposed new accessory building is 169m² (1,822ft²).

The proposed design of the garage will have at both its ends one-storey side storage bays with single slope shed roof lines. At its peak, the height of the garage measures 21'-11 1/2" from established grade to the mean of the main gable roof. The scale and massing of the proposed garage is intended to obscure visibility of the commercial building located immediately to the south of the subject property at 4450-4452 Highway 7.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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.

Increase in Maximum Lot Coverage

The applicant is requesting relief for a maximum lot coverage of 36.33% percent, whereas the By-law permits a maximum floor area ratio of 33.33% percent. The proposed lot coverage includes the uncovered rear porch which adds approximately 29.5m² (317 ft²) to the overall building area. Excluding the uncovered rear porch, the existing heritage building with the proposed garage has a lot coverage of 32.5% percent and would comply with the By-law requirement. Given that the rear covered porch is unenclosed, and that the proposed garage will remove and replace 118m² (1272ft²) of accessory structures and other built form, staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the subject property, and the resultant site

condition is generally consistent with what the By-law permits. As such, the requested variance can be considered minor in nature.

Increase in Maximum Accessory Building Height

The applicant is requesting relief to permit a maximum building height of 21'-11 ½" (6.7m) at the main roof gable whereas the By-law permits a maximum building height of 15'-0" (4.6m). This represents an increase of 6'-11 ½" (2.1m) above the permissible height. The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface.

Although the proposed garage is taller relative to the principal (heritage) building than is typically the case with contemporary development, this relationship has historical precedent within the neighbourhood. Urban barns, carriage houses and stables are not uncommon within historic village cores, such as Unionville, and are proportionally taller than many permitted contemporary accessory structures relative to the principal and/or adjacent buildings.

The exclusion of residential uses within the proposed garage, notably the second storey, mitigates impact associated with overlook and privacy for the adjacent property at 9 Pavillion Street. Further, the height of the proposed garage will screen views to the commercial property abutting the rear lot line of the subject property at 4450 Highway 7. Given that this building typology is unsympathetic to the character of the District, staff are of the opinion that efforts to obscure its visibility are advantageous to the historic character of the subject property.

Given the local historical precedent for the scale of the accessory building, as well as minimal concerns associated with privacy and overlook for adjacent properties, the requested variance can be considered minor in variance.

Increase in Maximum Accessory Building Floor Area

The applicant is requesting relief to permit a maximum floor area of 169m² (1822ft²) for an accessory building, whereas the By-law permits an accessory building to have a maximum floor area of 70m² (750ft²).

Given that: (a) 65m² (702ft²) of the proposed 169m² (1822ft²) is an unfinished second floor storage area; (b) accessory structures with relatively larger floorplates have historic precedent within the District; and; (c) the proposed garage does not require relief from the zoning by-law for setbacks, staff are of the opinion that the variance is minor in nature with minimal impact on adjacent properties.

Urban Design and Engineering

The City's Urban Design Section has indicated that they support the requested variances subject to the approval of a tree inventory and preservation plan which will be done through the site plan approval process. The City's Engineering Department provided no comments on the requested variances.

Heritage Markham

Heritage Markham reviewed the application on June 9, 2021 and had no objection to the requested variances. The Committee further recommended that final review of the

forthcoming site plan control application be delegated to the City's Heritage Section staff (See Appendix 'C' – Heritage Markham Extract of June 9, 2021).

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The subject property is part by a valley corridor associated with the Rouge River watershed. The TRCA provided comments on June 11, 2021 (Appendix 'E'), indicating that they have no concerns with the approval of the requested variances provided that the owner confirms in writing that the garage will not be used as a secondary dwelling unit.

Metrolinx Comments

The subject property is located within 300m of the Uxbridge Subdivision which carries Stouffville GO rail service. Metrolinx provided comments on the application on May 21, 2021 (Appendix 'D'), requiring that the owner of the subject property (a) insert a warning clause in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease for the subject property concerning the potential expansion of Uxbridge Subdivision and associated deleterious effects, and (b) grant Metrolinx an environmental easement for operational emissions, registered on title in favour of Metrolinx.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 17, 2021. 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 requests are supportable subject to certain conditions. Staff recommends 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 'B' for conditions to be attached to any approval of this application.

PREPARED BY:



Evan Manning, Heritage Planner

REVIEWED BY:

A handwritten signature in black ink, appearing to read "R. Hutcheson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Regan Hutcheson, Development Manager, Heritage District

File Path: Amanda\File\21 122491 \Documents\District Team Comments Memo

APPENDIX "A" – 11 Pavillion Street

FIGURE 1: LOCATION MAP



FIGURE 2: AERIAL IMAGE OF 11 PAVILLION STREET

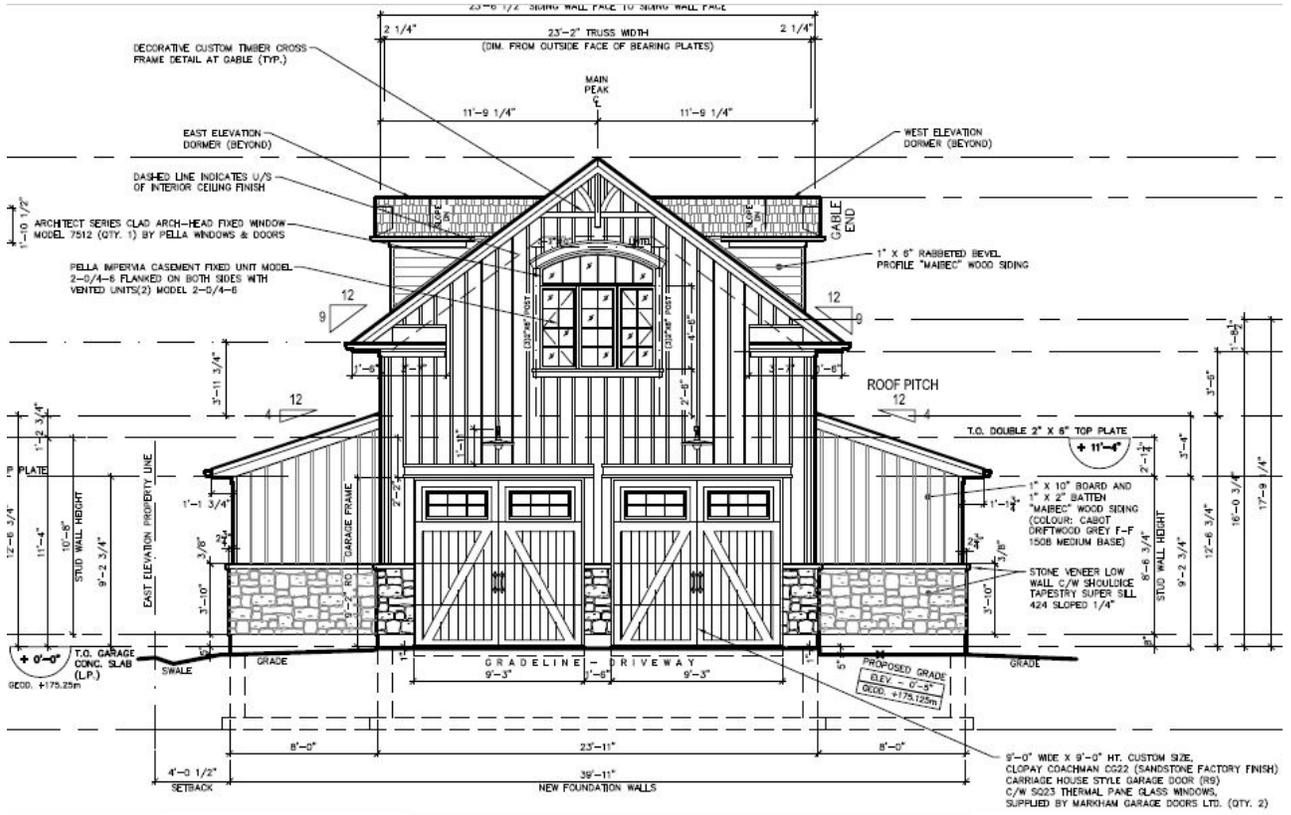


FIGURE 3: PHOTOGRAPH OF 11 PAVILLION STREET (PRIMARY ELEVATION)

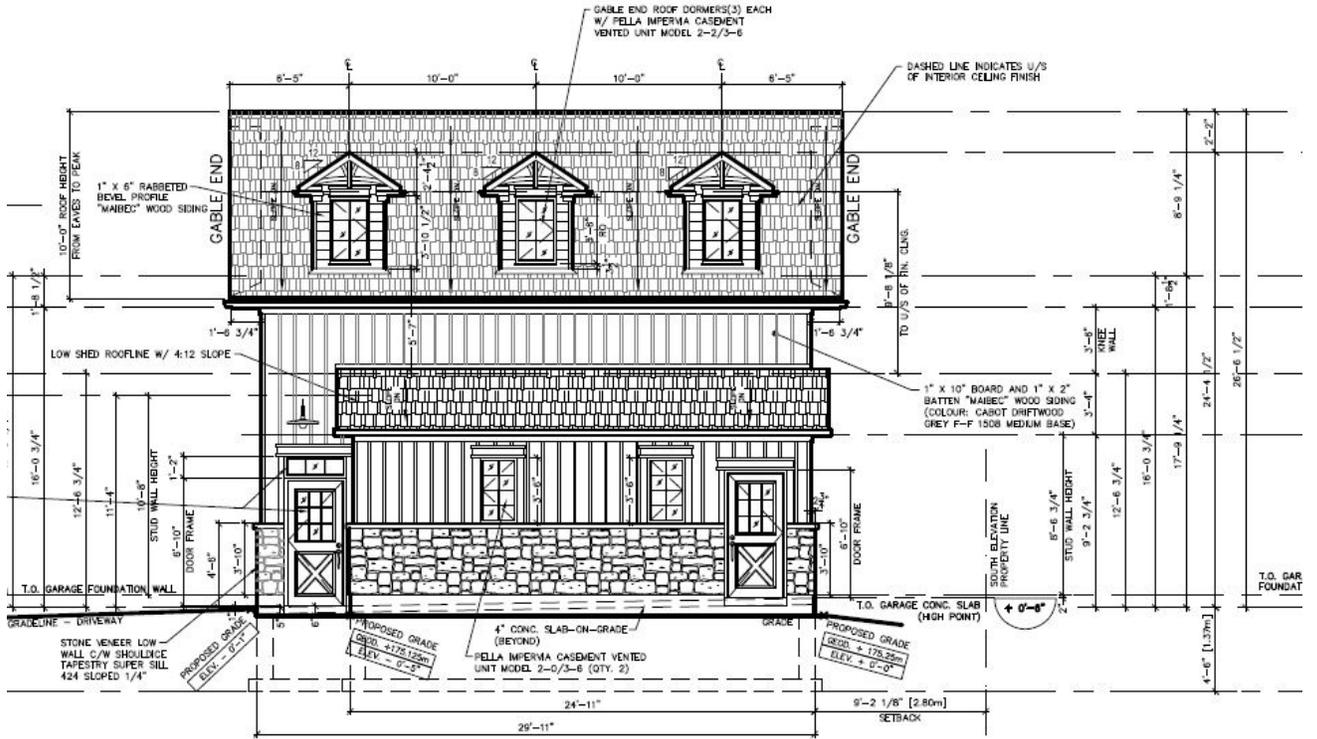


FIGURE 5: ELEVATIONS PREPARED BY SDG DESIGN

North Elevation



West Elevation



APPENDIX “B”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/074/21

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plans attached as 'Appendix A' to this Staff Report 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;
3. That the owner implement and maintain all of the works required in accordance with the conditions of this variance;
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations.
6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations;
7. That the proposed building elevations/addition be designed and constructed in conformity with the requirements of Markham's Bird Friendly Guidelines 2014, and that architectural plans be submitted to the City demonstrating compliance, to the satisfaction of the Director of Planning and Urban Design or their designate; and
8. That the applicant satisfies the requirements of the TRCA and Metrolinx, as indicated in their letters to the Secretary-Treasurer attached as Appendix D and E, to this Staff Report, to the satisfaction of the TRCA and Metrolinx, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the aforementioned agencies.

APPENDIX "C"
HERITAGE MARKHAM EXTRACT

**HERITAGE MARKHAM
EXTRACT**

DATE: June 16, 2021

TO: R. Hutcheson, Manager of Heritage Planning
EXTRACT CONTAINING ITEM #5.5 OF THE SIXTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON JUNE 9, 2021.

5.5 COMMITTEE OF ADJUSTMENT VARIANCE APPLICATION

11 PAVILLION STREET

UNIONVILLE

**PROPOSED NEW ACCESSORY BUILDING AND UNCOVERED
PORCH (16.11)**

FILE NUMBER:

A/074/21

Extracts:

R.Hutcheson, Manager, Heritage Planning

E. Manning, Heritage Planner

J. Leung, Committee of Adjustment

Recommendations:

THAT Heritage Markham has no objection from a heritage perspective to the requested variances to permit a new accessory building and uncovered porch at 11 Pavillion Street.

AND THAT final review of the forthcoming site plan control application and any other development application required to approve the proposed development be delegated to Heritage Section staff.

Carried

APPENDIX “D” METROLINX COMMENTS RECEIVED VIA EMAIL

Hi Justin – further to the circulation for 11 Pavillion Street dated May 20th, 2021, I note the subject site is located within 300 metres of the Metrolinx Uxbridge Subdivision which carries Stouffville GO rail service. Our comments/conditions are set out below;

1. The Owner shall provide written confirmation to Metrolinx that the following warning clause is inserted in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the railway right-of-way:

Warning: Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.

2. The Owner shall grant Metrolinx an environmental easement for operational emissions, registered on title against the subject residential building in favour of Metrolinx.

*I note that the Easement registration process may take up to 8 weeks upon Metrolinx receipt of the required information.

Should you have any questions or concerns, please feel free to contact myself.
Brandon

BRANDON GAFFOOR

Project Manager
Third Party Projects Review, Capital Projects Group
Metrolinx | 20 Bay Street | Suite 600 | Toronto | Ontario | M5J 2W3
T: 416.202.7294 C: 647.289.1958



APPENDIX "E"
TRCA COMMENTS

June 11, 2021

CFN 64187.09

Uploaded to E-Plan

Justin Leung
Secretary-Treasurer – Committee of Adjustment
City of Markham
101 Town Centre Blvd
Markham ON L3R 9W3

Dear Mr. Leung:

Re: Minor Variance Application A/074/21
11 Pavillion Street
Owner: Peter Geimer
Agent: Stefano Di Giulio – SDG Design

This letter acknowledges receipt of the above noted Minor Variance Application in the City of Markham, circulated to Toronto and Region Conservation Authority (TRCA) on June 2, 2021. TRCA staff have reviewed the above noted application, and as per the “Living City Policies for Planning and Development within the Watersheds of the TRCA” (LCP), provides the following comments as part of TRCA’s commenting role under the *Planning Act*; the Authority’s delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2020*; TRCA’s Regulatory Authority under Ontario Regulation 166/06, *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*; and, our Memorandum of Understanding (MOU) with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA’s jurisdiction. A list of the documents received and reviewed can be found in Appendix ‘A’ of this letter.

Purpose of the Application

It is our understanding that the purpose of the application is to request relief from By-law 2150, as amended, as it relates to a proposed detached garage and rear porch addition.

- a) **By-law 122-72, Section 11.2 (d)**: lot coverage of 36.33 percent, whereas By-law allows lot coverage of 33.33 percent;
- b) **By-law 122-72, Section 7.4 (f)**: accessory building height of 21’-11 ½”, whereas By-law allows maximum height of 15’-0”;
- c) **By-law 122-72, Section 7.4 (g)**: accessory building with total floor area of 1822 sq ft, whereas By-law allows maximum floor area 740 sq ft;

Applicable Policies and Regulations

Provincial Policy Statement (2020)

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the *Planning Act*, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

Section 2.1 provides policies for the protection of natural features and areas. It is of note that Section 2.1.8 of the PPS states that development and site alteration shall not be permitted on lands adjacent to certain natural features or areas unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Through a MOU between Conservation Ontario, the Ministry of Municipal Affairs and Housing, and the Ministry of Natural Resources and Forestry, the responsibility to uphold the natural hazards section of the PPS (Section 3.1) has been delegated to Conservation Authorities where the province is not involved. TRCA staff note that Section 3.1 of the PPS generally directs development and site alteration to locations outside of hazardous lands that would be impacted by flooding hazards and/or erosion hazards and prohibits development in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access. The PPS also directs planning authorities to consider the potential impacts of climate change that may increase the risk associated with natural hazards.

Ontario Regulation 166/06

Based on the available information at this time, portions of the subject property is located within TRCA's Regulated Area under Ontario Regulation 166/06 as it is within and adjacent to a valley associated with the Rouge River Watershed. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

'Development' is defined as:

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- iii) site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Living City Policies

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. These policies describe a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System, and that these lands be conveyed into public ownership for their long-term protection and enhancement. It is these policies, along with those found in other provincial and municipal plans, documents and guidelines that guide TRCA's review of the subject applications.

Application-Specific Comments

TRCA was involved in the review of a pre-consultation application for the future Site Plan Application associated with the proposed development. Through our preliminary comment memo / checklist dated May 17, 2021 we outlined that the following information will need to be provided in

order for TRCA to fully review and confirm our detailed requirements for the proposed detached garage, porch and any associated site alteration works:

- A topographic survey signed by an OLS surveyor delineating the Regulatory flood plain elevation 174.81 masl on and to the extent possible adjacent to the property;
- A revised site plan with the flood plain delineated based on the topographic survey and setback measurements to the flood plain (to confirm any flood-proofing/engineering requirements);
- Confirmation of the intended use of the garage (as there would be concerns if a secondary dwelling unit is being proposed).
- Other detailed drawings including a grading and erosion and sediment control plan, building elevation drawings, floor plans, and deck drawings.

Although the above noted information is still required for TRCA staff to fully review the proposal and confirm our detailed requirements, TRCA staff would have no major issues with the approval of this Minor Variance Application provided that the owner confirms in writing that the garage will not be used as a secondary dwelling unit.

TRCA staff look forward to receiving the above listed information as part of the future Site Plan Application. Furthermore, please be advised that a permit from our office under Ontario Regulation 166/06 will be required for the proposed development as it is located in our Regulated Area. The TRCA Permit Application may be submitted after the Site Plan Application process, and prior to applying for a municipal building permit.

Review Fees

Please be advised that the TRCA has implemented a fee schedule for our planning application review services. The fee for our review of a Minor Variance Applications is \$610 per the 2021 TRCA Planning Fee Schedule – Minor Variance Residential. An electronic invoice will be sent via email to the property owner for processing of fees through online payment.

Please note separate review fees will be required for the Site Plan Application and TRCA Permit Application.

Conclusion

Based on our review of this submission, TRCA staff have no objection to this Minor Variance Application, subject to the following condition:

1. That the owner or applicant remit TRCA's review fee of \$610 for the subject application.
2. That the owner confirms in writing that the proposed garage will not be used as a secondary dwelling unit;
3. That the owner obtains a permit from TRCA under Ontario Regulation 166/06 for the proposed development in our Regulated Area.

TRCA also requests notification of any decisions made by the City on this application and, if applicable, any appeals that may be made to the Local Planning Appeal Tribunal by any party in respect to this application.

We trust these comments are of assistance. Should you have any questions, please contact the undersigned.

Sincerely,

Dan Nguyen
Planner I, Development Planning and Permits
dan.nguyen@trca.ca, 416-661-6600 ext. 5306

DN/mb

Appendix 'A': Materials Reviewed by TRCA

- Drawing ASK-1, Site Plan, prepared by SDG Design, dated May 17, 2021;
- Drawing ASK-2, Existing Lot Survey, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-3, Foundation Plan, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-4, Ground Floor Plan, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-5, Detached Garage Foundation and Ground Floor Plans, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-6, Detached Garage Second Floor Plan and Roof Plan, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-7, South Elevation, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-8, West Elevation, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-9, Detached Garage North Elevation prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-10, Detached Garage East Elevation, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-11, Detached Garage West Elevation, prepared by SDG Design, dated May 12, 2021;
- Drawing ASK-12, Detached Garage South Elevation, prepared by SDG Design, dated May 12, 2021;