

Memorandum to the City of Markham Committee of Adjustment

July 3, 2020

File: A/060/20
Address: 83 Living Crescent Markham
Agent: FAIZAL SALAWU
Hearing Date: July 16, 2020

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

The applicant is requesting relief from the following requirements of the Residential Two – Special (R2-S*402) zone in By-law 177-96:

a) By-law 177-96, Sec. 7.5.3(c):

allow one (1) accessory basement dwelling unit; whereas the By-law does not permit an accessory dwelling unit to be located within the main building;

b) Parking By-law 28-97, Sec. 3.0 Table A(G):

not to require an additional one (1) parking space for an accessory dwelling unit, whereas one (1) additional parking space is required for an accessory dwelling unit;

as it relates to a proposed basement apartment.

BACKGROUND

Property Description

The 246.24 m² (2650.50 ft²) subject property is located on the south-west side of Living Crescent south of Woodbine Avenue and west of Victoria Square Boulevard. There is an existing townhouse dwelling on the property, which according to assessment records was constructed in 2013. The property is located within a residential neighbourhood comprised of a mix of townhouse dwellings, single detached dwellings, and semi-detached dwellings.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing townhouse dwelling. The proposed secondary suite would have direct and separate access provided by a proposed door on the west side of the building. No other changes are being proposed to the exterior of the dwelling or the property. An additional parking space for the accessory unit is not being proposed.

Provincial Policies

More Homes More Choice

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* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. Under this legislation, “second 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 option including second units to support complete communities.

Official Plan and Zoning

1987 Official Plan and Highway 404 North Secondary Plan

The subject property is located within the Highway 404 North Secondary Plan and is subject to the policies within the Secondary Plan and 1987 Official Plan. The subject property is designated Urban Residential which provides for predominately housing and related purposes including accessory apartments subject to specific provisions. The 1987 Official Plan permits accessory apartments in single detached or semi-detached dwellings. They are not provided for or prohibited in townhouse dwellings.

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

While the 2014 Official Plan is not in effect, the update of the Highway 404 North Secondary Plan shall conform generally with the land use designations and policies of the 2014 Official Plan.

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including: The building type in which the secondary suite is contained;

- a) The percentage of the floor area of the building type devoted to the secondary suite;
- b) The number of dwelling units permitted on the same lot
- c) The size of the secondary suite;
- d) The applicable parking standards; and
- e) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

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.

Zoning By-Law 177-96

The subject property is zoned Residential Two – Special (R2-S*402) under By-law 177-96, as amended, which permits townhouse dwellings. The By-law does not permit a secondary suite on the subject property.

Parking Standards By-law 28-97

The proposed secondary suite does not comply with the standards of Parking By-law 28-97 with respect to minimum required parking spaces. Further details of the parking requirement is provided in the comment section below.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"City of Markham By-law does not permit creation of second dwelling. The lot size can provide only 2 parking spaces."*

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However the applicant has received comments from the building department through their permit process 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Suites

The 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.

Staff have no objection to the approval of the proposed second suite.

Reduced Parking Spaces

Parking Standards By-law 28-97 requires two parking spaces be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The existing single-car garage and driveway currently provide a total of 2 parking spaces.

Based on the configuration of the lot, there is insufficient space to provide an additional parking space that would comply with the requirements of the Parking By-law.

Staff are of the opinion that the parking issue may be considered "self-regulating", as the unit would only be of interest to a tenant that does not require a parking space, in the event that both parking spaces are required for use by the owner of the dwelling. It is noted that no overnight parking is permitted on this street, and violators would be ticketed nightly. Staff have no objection to the requested variance.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 3, 2020. 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.

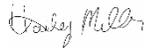
CONCLUSION

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.

PREPARED BY:



Hailey Miller, Planner, Zoning and Special Projects

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\20 113667 \Documents\District Team Comments Memo

APPENDIX "A"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/060/20

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 plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on May 1, 2020, 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;
3. That the owner submit, 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:

Hailey Miller

Hailey Miller, Planner, Zoning and Special Projects