

Memorandum to the City of Markham Committee of Adjustment

November 09, 2020

File: A/101/20
Address: 1 Spirea Court Thornhill
Applicant: Gary Stein Architect (Gary Stein)
Agent: Goldberg Group (Janice Robinson)
Hearing Date: Wednesday November 18, 2020

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

The applicant is requesting relief from the following requirements of the Second Density Special Residential (SR2) zone in By-law 1767, as amended to permit:

- a) **Section 14(i)(c):**
a minimum front yard setback of 26.9 ft (8.2 m); whereas, the By-law requires a minimum front yard setback of 35 ft (10.67 m);
- b) **Infill By-law 100-90; Section 1.2(i):**
a maximum building height of 10.1 m (33.14 ft) whereas, the By-law permits a maximum building height of 9.8 m (32.15 ft);
- c) **Infill By-law 100-90, Section (iii):**
a maximum building depth of 20.73 m (68.01 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft);
- d) **Section 14 (i)(e):**
a minimum rear yard setback of 44.7 ft (13.62 m), whereas the By-law requires a minimum rear yard setback of 50 ft (15.24 m);

as it relates to a proposed dwelling that is under construction.

BACKGROUND

Property Description

The 1,674.2 m² (18,020.94 ft²) subject property is located on the northeast corner of Spirea Court and Daffodil Avenue, east of Bayview Avenue and south of John Street. The property is located within an established residential neighbourhood comprised of predominantly two-storey detached dwellings on large lots with mature vegetation. There is an existing 205.1 m² (2,207.68 ft²) two-storey single detached dwelling with an attached two car garage which according to assessment records was constructed in 1962. Mature vegetation exists across the property.

Proposal

The applicant is proposing to demolish the existing two-storey detached dwelling and construct a new 875.88 m² (9,427.89 ft²) two storey detached dwelling on the subject property. The proposal also includes a front covered porch.

Official Plan and Zoning

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

The subject property is designated "Residential Low Rise", which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the 'Residential Low Rise' designation with respect

to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a 'Residential Low Rise' area, including variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

Zoning By-Law 1767

The subject property is zoned Second Density Special Residential (SR2) under By-law 1767, as amended, which permits a single detached dwelling. The proposed development does not comply with the By-law requirements with respect to minimum front and rear yard setback.

Residential Infill Zoning By-law 100-90

The subject property is also subject to the Residential Infill Zoning By-law 100-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to maximum building height and maximum building depth.

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.

Previous Application A/41/18

The Committee of Adjustment previously approved a minor variance application (A/41/18) on the subject property in 2018 with the following requested variances:

- **Section 14(i)(c):**
a minimum front yard setback of 26.9 feet (8.2 metres); whereas, the By-law requires a minimum front yard setback of 35 feet (10.67 metres);
- **Infill By-law 100-90; Section 1.2(i):**
a maximum building height of 10.1 metres; whereas, the By-law permits a maximum building height of 9.8 metres.

The approved plans have since been changed and are no longer in substantial conformity with what the Committee approved. Therefore, Staff advised the applicant that a new variance application would be required to consider the variances listed above.

Tree Assessment and Preservation

The applicant has received Lot Grading approval from the Engineering Department which includes the review of any proposed tree removals. The recommended conditions of approval found in 'Appendix A' include items related to tree protection and compensation for removed trees.

Reduction in Front Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 26.9 ft (8.2 m), whereas the By-law requires a minimum front yard setback of 35 ft (10.67 m). This represents a reduction of approximately 8.1 ft (2.47 m).

The reduction in front yard setback is associated with the irregular shape of the lot. The majority of the proposed building complies with the required front yard setback. In addition, the surrounding area includes dwellings with similar front yard setbacks. Staff are of the opinion the requested variance is minor in nature and comparable to development in the surrounding area.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 10.1 m (33.14 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of 0.3 m (0.98 ft). The proposed increase in maximum building height is considered to be minor in nature. Staff do not anticipate any impact to surrounding developments.

Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 20.73 m (68.01 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft). This represents an increase of approximately 3.93 m (12.89 ft).

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest to the front lot line and the other through the point on the dwelling which is the farthest from the front lot line. Given the configuration of the lot, building depth is measured on an angle through the proposed building (See A1.1 Site Plan, Appendix B). Staff are of the opinion the proposed building depth is appropriate for the lot, and do not object to the requested variance.

Reduction in Rear Yard Setback

The applicant is requesting relief to permit a minimum rear yard setback of 44.7 ft (13.63 m), whereas the By-law requires a minimum rear yard setback of 50 ft (15.24 m). This represents a reduction of approximately 5.3 ft (1.61 m). The variance is entirely attributable to the one storey rear yard projection (See A1.1 Site Plan, Appendix B) and Staff are of the opinion the proposed rear yard setback variance is minor in nature, and have no objection to the requested variance.

PUBLIC INPUT SUMMARY

As of November 9, 2020 the City received two letters expressing support for the application. 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.

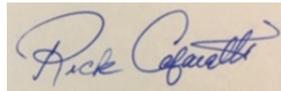
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Hailey Miller, Planner I, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Senior Planner, West District

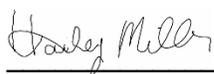
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APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/101/20

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 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. 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;
4. 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;
5. 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.

CONDITIONS PREPARED BY:



Hailey Miller, Planner I, West District