



CITY OF MARKHAM
Virtual Meeting on Zoom

June 22, 2022
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 11th 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:

	<u>Arrival Time</u>
Gregory Knight, Chair	7:00 PM
Tom Gutfreund	7:00 PM
Arun Prasad	7:00 PM
Patrick Sampson	7:00 PM
Jeamie Reingold	7:00 PM
Sally Yan	7:00 PM
Kevlin Kwok	7:00 PM

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Aaron Chau, Development Technician,

DISCLOSURE OF INTEREST

None

Minutes: June 08, 2022

THAT the minutes of Meeting Number 10 of the City of Markham Committee of Adjustment, held June 08, 2022, respectively, be

- a) Approved on June 22, 2022.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson

Carried

NEW BUSINESS:

1. A/185/21

**Owner Name: Prem Kohli
Agent Name: Prem Kohli
31 Cranleigh Drive, Markham
PLAN 65M2478 LOT 83**

The applicant was requesting relief from the following “Sixth Density Single Family Residential – (R6)” zone requirement under By-law 118-79, as amended, to permit:

a) By-law 118-79, Section 5.7:

a maximum roofed porch encroachment of 1.70 m (5.58 ft) into the required rear yard, whereas the By-law permits a maximum roofed porch encroachment of 0.45 m (1.48 ft) into any required yard.

as it related to a one-storey porch in the rear yard.

(Central District, Ward 2)

The Chair advised that during the staff review of the application it had been identified that an additional variance was required. Staff had recommended deferral of the application to allow for issuance of new notice with the additional variance and revision of the staff report. The applicant was not in attendance, but had agreed to the deferral. The application would be rescheduled and anyone with an interest in the application would be advised.

Member Gutfreund indicated they were in support of the deferral.

**Moved By: Tom Gutfreund
Seconded By: Patrick Sampson**

THAT Application No **A/185/21** be **Deferred**, sine die.

Resolution Carried

2. A/202/21

**Owner Name: Enosakhare Omoruyi
Agent Name: Gregory Design Group (Shane Gregory)
9 Rouge River Circle, Markham
PLAN 6230 LOT 17**

The applicant was requesting relief from the requirements of By-law 194-82, as amended, to permit:

- a) **Section 10.1 & 10.2:**
construction of a single detached dwelling within the “Open Space – (O1) Zone”, whereas the By-law does not permit the use and prohibits construction within the “Open Space – (O1) Zone”;
- b) **By-law 28-97, Section 6.2.4.6:**
a maximum driveway width of 6.70 metres, whereas the By-law permits a maximum driveway width of 6.10 metres where a garage door opening, used for motor vehicle access, faces an interior side lot line;
- c) **Section 8.2 d):**
a maximum height of 11.80 metres, whereas the By-law permits a maximum height of 10.50 metres;

as it related to a proposed new single detached dwelling.
(East District, Ward 7)

The Chair introduced the application.

The agent, Russ Gregory, appeared on behalf of the application, and spoke to the variances required. They indicated that the property was a rural residential property that was within the Open Space designation and as result had worked with the TRCA to obtain a permit and the City’s Building Department for approval of the septic system prior to coming to Committee for a hearing of the minor variances.

Sandy Neugebauer, of 7 Rouge River Circle had submitted written correspondence and spoke to the application. They were not objecting to the application but were however, concerned regarding the proposed height. Her concerns regarding sewage would be addressed by other departments.

Russ Gregory addressed the question regarding the height stating that the variance resulted from the slope of the lot with height derived from average grade, which was in the middle of the basement level and ground floor level at the front of the home was within the permitted height.

The Chair indicated that the rear elevations showed the height differences.

Member Reingold agreed with staff in supporting the application. They wanted to draw attention to the staff recommendation which encouraged additional native planting on the forest edge and requested that Russ Gregory indicate that he was aware of the recommendation.

Russ Gregory stated that they were aware of the recommendation.

The Chair suggested that the detailed design of the house would indicate that attention would also be given to the landscaping.

Member Prasad requested details regarding the proposed façade and roofing materials.

Russ Gregory spoke to possible design options being contemplated.

Member Gutfreund reviewed the staff report and agreed that the application met the four tests of the *Planning Act*, but noted that staff had some hesitancy regarding building in the O2 zone. They supported the application and moved for approval subject to conditions.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No **A/202/21** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/036/22

Owner Name: Sakheb Alim and Saira Khan
Agent Name: Building Experts Canada (Edgar Labuac)
30 Stockport Road, Markham
PLAN 65M4054 PT LOT 23 RP 65R31260 PT 20

The applicant was requesting relief from the requirements of By-law 177-96, as amended, as it relates to a proposed secondary dwelling (basement apartment).

- a) **Section 7.190.1:**
a basement accessory dwelling unit, whereas the by-law requires an accessory dwelling unit to be above a private garage.
- b) **Section 6.6.3(I):**
an encroachment of 2.73 meters for stairs into the required rear yard setback, whereas the by-law allows for a maximum 2 meter encroachment.
- c) **By-Law 28-97, Section 3.0, Table A:**
two parking spaces with an exterior parking width of 2.7 meters whereas the bylaw requires three spaces, and requires a width of 2.75 meters for the exterior parking;

as it related to a proposed secondary dwelling (basement apartment).
(East District, Ward 5)

The Chair introduced the application.

The agent from Land and Building Experts, appeared on behalf of the application. They were requesting variances related to a secondary suite in the basement of the dwelling. The variances requested were minor in nature and met the four tests of the *Planning Act*. They had read the staff report and agreed with the conditions.

Member Gutfreund had no objections to the basement apartment or the parking variances as it was consistent with other situations that the Committee had dealt with before where there was self-regulated parking. They requested clarification regarding the drawing showing a proposed second floor plan.

The agent clarified that the plan had been included to show the location of a fire rated door and proposed smoke alarms and no changes to the existing floor plan would be made.

Member Sampson agreed with Member Gutfreund's comments and expressed that the proposal aligned with the provincial affordable housing initiatives and no relevant concerns had been raised by neighbours, as such they endorsed the application for approval.

Member Prasad had read the report and indicated that it was a good proposal and agreed with his colleague's comments and as such moved for approval subject to the conditions.

Moved By Arun Prasad
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No **A/036/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. A/042/22

Owner Name: Hartford Homes Inc. (Paul Diluca)
Agent Name: Weston Consulting (Kaveh Wahdat)
5072 14th Avenue, Markham
CON 6 PT LOT 6

The applicant was requesting relief from the following requirements of the "Ninth Density Single Detached Residential (R9) Zone" under By-law 90-81, as amended, to permit:

- a) **Section 4.7.2:**
a setback of 25.5 metres from the centreline of 14th Avenue to the front porch of the building on Lot 5, whereas the By-law requires a setback of 30 metres;
- b) **Section 4.7.2:**
a setback of 25.5 metres from the centreline of 14th Avenue to the front porch of the building on Lot 6, whereas the By-law requires a setback of 30 metres;
- c) **Section 4.7.2:**
a setback of 25.5 metres from the centreline of 14th Avenue to the front porch of the building on Lot 7 whereas the By-law requires a setback of 30 metres;
- d) **Section 4.7.2:**
a setback of 26.0 metres from the centreline of 14th Avenue to the front porch of the building on Lot 8, whereas the By-law requires a setback of 30 metres;

as it related to the construction of four new detached dwellings on a draft approved plan of subdivision.

(Central District, Ward 8)

The Chair introduced the application.

The agent, Raj Lamichhane of Weston Consulting, appeared on behalf of the application.

The property was designated residential low rise and had site specific zoning. The subject property had undergone applications for Official Plan Amendments, Zoning By-law Amendments and Draft Plan of Subdivision. All the conditions of Draft Plan had been satisfied and the Subdivision had been registered with applications for Building Permits submitted. The agent agreed with the staff report and noted no objections from City staff and Regional staff, as well, no objections had been raised as a result of the public notice. The application met the intent of the Official Plan and Zoning By-law. The owner had conveyed a road widening for 14th Avenue. The proposal was minor in nature and would present no negative impacts on the surrounding properties.

Member Prasad requested clarification regarding how the proposed conveyance for the proposed road widening of 14th Avenue related to the requested variances and if it had been taken into consideration with the setbacks.

Raj Lamichhane indicated in the Draft Plan of Subdivision front yards setbacks had been maintained, however, with the road widening the properties related to this application the center line requirement had been missed.

The Chair clarified that the setbacks would have met the by-law requirement prior to the conveyance of the road widening but now required a variance for the setback with the road widening taken into consideration.

Member Prasad asked if the application would hamper the road widening.

Raj Lamichhane confirmed that the road widening had already been conveyed and the variances would not impede the road widening.

Member Prasad had read the staff report and agreed with the recommendations, and moved for approval subject to the conditions.

Moved By: Arun Prasad
Seconded By: Patrick Sampson

The Committee unanimously approved the application.

THAT Application No **A/042/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

5. A/048/22

Owner Name: NIA Architects Inc. (Nadeem Irfan)
Agent Name: NIA Architects Inc. (Nadeem Irfan)
11 Fairty Drive, Markham
PLAN 65M2599 LOT 4

The applicant was requesting relief from the requirements of By-law 90-81 as amended, as amended to permit:

- a) **Section 5.2.1:**
a second dwelling unit, whereas the By-law permits no more than one single detached dwelling unit on one lot;
- b) **Section 6.2.1(b):**
a side yard setback of 0.3 meters, whereas the By-law requires 1.2 meters for a one storey portion;

as it related to a proposed secondary suite (basement apartment).
(East District, Ward 7)

The Chair introduced the application.
The agent, Nadeem Irfan, appeared on behalf of the application.

Gino Pagliuso, of 27 Durant Crescent. requested additional information regarding what was proposed and how it would impact the area.

The Chair explained the requested variances and what the by-law required. They further explained the proposal was for a basement apartment and exterior stairs that would

access the unit and indicated that Committee operated under Provincial, Regional and Municipal directives regarding increasing the affordable housing stock within the province and was supportive of providing additional dwellings through secondary suites.

Gino Pagliuso thanked Chair for the information and stated he was in support of the application.

The Committee members had no questions for the agent.

The agent requested an amendment to condition number 4 of the staff report indicating that the as built situation of the air conditioner resulted in a 0.9m setback.

Greg Whitfield indicated that staff been made aware of this request earlier in the day and had reached out to zoning staff but did not receive confirmation. However, the planner who wrote the staff report Aleks Todorovski and a staff Senior Planner were of the opinion that the condition could be amended to reflect that setback at the point of the air conditioner.

The Chair asked the Committee members if they were in favour of amending the condition.

Member Gutfreund recommended condition number 4 could be amended but should reflect the recommendation of Greg Whitfield that the distance of 1.2m be amended to read "0.9m at the point of the air conditioner and 1.2m in all other aspects from the curb of Fairty Drive to the rear yard."

Member Prasad was in agreement with Member Gutfreund's recommendation and moved for approval with the conditions as amended.

Moved By: Arun Prasad
Seconded By: Tom Gutfreund

The Committee unanimously approved the application.

THAT Application No **A/048/22** be **approved** subject to conditions contained in the staff report as amended.

Resolution Carried

6. A/064/22

Owner Name: Salvatore Rustico
Agent Name: Salvatore Rustico
12 Reesorville Road, Markham
PLAN M1385 LOT 57

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

- a) **Amending By-law 99-90, Section 1.2 (i):**
a maximum height of 10.14 m (33.27 ft), whereas the By-law permits a maximum height of 9.80 m (32.15 ft);
- b) **Amending By-law 99-90, Section 1.2 (ii):**
a maximum depth of 18.90 m (62.01 ft), whereas the By-law permits a maximum depth of 16.80 m (55.12 ft); and
- c) **Amending By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 54.07%, whereas the By-law permits a maximum floor area ratio of 45.0%;

as it related to a proposed two-storey single detached dwelling.
(East District, Ward 4)

The Chair introduced the application.

The owner, Sal Rustico, appeared on behalf of the application.

Sal indicated that they had read and understood the staff report and were in agreement with the conclusion. Sal was aware that the requested floor area ratio was greater than other approvals given by the committee recently, however, they felt given the size of the property and the transitioning nature of the community the request was appropriate.

Darren Parkhurst, of 12 Jack Court had submitted written correspondence signed by himself and the residents of seven other properties on Jack Court. Their concerns were outlined in the letter but were specifically related to the request for increased dwelling depth and floor area ratio both of which, when taken as a percentage change to the permissible requirements, were “greater” than minor variances. Darren requested clarification regarding what a Zoning Preliminary Review was and if it was necessary for the application to go forward.

Greg Whitfield provided information regarding the ZPR (Zoning Preliminary Review).

Darren Parkhurst highlighted sections of the staff report that spoke to the 2016 Committee of Adjustment decision for 10 Reesorville Road where a floor area ratio variance of 49.6 percent was granted. Darren indicated that while the proposed floor area of the two builds was similar the overall impact of the request for 12 Reesorville Road was greater due to the smaller property size. Darren, also indicated that the frontage was not consistent with the area with the only other new build within the immediate area being the adjacent property at 10 Reesorville Road and expressed concern that if granted this request would set precedence.

Elizabeth Brown, of 65 Lincoln Green Drive, and Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association,

appeared to speak to the application. Elizabeth advised she had provided written comments as well.

Elizabeth outlined that the applicant was requesting a floor area ratio that was significantly larger than permitted by the by-law. This proposal was heavily massed at the front of the property and did not relate to the lower bungalows of the area. The report spoke to 10 Reesorville Road as an infill property on the street. The build at 10 Reesorville Road had a sloped roof and a second floor that was built into the roof which reduced the massing. As stated by the previous speaker the house sizes would be similar but this application did not have the feel of a one storey dwelling at the front. A two storey house of this size could not be built within the by-law. The covered rear patio was not included in the floor area calculation and further increased the massing of the build on the property.

Elizabeth spoke to sections of the Official Plan and Zoning By-law that considered massing and built form and character of existing neighbourhoods. Excessive massing was not in keeping with the Official Plan or the Zoning By-law. As this was a large lot in neighbourhood it would be one of the largest homes if it were to be built to the by-law and with the requested variances it would be excessive for the area. Elizabeth requested the Committee to not approve the application.

Member Gutfreund agreed that the massing was too big and this was an exceedingly large home. When the open to below was added it made the massing even more significant. The request was not minor and they did not support as it stood and would like to see a Floor Area Ratio of less than 50 percent.

Member Yan acknowledged the receipt of letters submitted by the applicant in support of the application as well as the dissenting letters.

Member Yan agreed with Member Gutfreund and did not agree with the rationale in the staff report. The street had a mix of small and large lots; therefore, smaller and larger homes could be houses built as of right. They were concerned about the compatibility and fit of the proposal with regards to the streetscape and how the massing was presented at the front of the house. The member was not as concerned about the other two variances but was concerned with the request for an increased Floor Area Ratio and how the new dwelling would stand out on the streetscape. The member requested that the Floor Area Ratio be reduced.

Member Sampson agreed with their colleagues that the proposal was too big for the lot and the applicant should bring down the Floor Area Ratio.

The Chair and Greg Whitfield discussed the addendum to the staff report which referenced the letters of support and opposition submitted by the applicant and neighbours.

Member Gutfreund indicated despite the submitted letters and the staff report, the analysis and judgement of the committee members who had spoken was that the massing was too large and the request for Floor Area Ratio needed to come down and their position remained unchanged.

The Chair spoke to the presentation given by residents and the evidence submitted, and indicated that the Committee rarely approved requests for Floor Area Ratio of this amount, particularly in conjunction with elevations as submitted, as they did not mitigate the Floor Area Ratio request. The Chair recommended that the applicant consider the elevations and their impact on the massing, particularly the garage doors and the roofline, as the application as presented was not close to the streetscape of Reesorville Road.

The Chair offered the option of a deferral and suggested that the Residents Association was often willing to collaborate with applicants in the revised proposal.

The owner requested a deferral and indicated they would contact the Residents Association.

Moved By: Tom Gutfreund
Seconded By: Jaemie Reingold

THAT Application No **A/064/22** be **deferred** sine die.

Resolution Carried

7. A/069/22

Owner Name: Safia Khan
Agent Name: Stambuk Homes (Ozren Stambuk)
50 Kentview Crescent, Markham
PLAN 65M3970 LOT 26

The applicant was requesting relief from the following “Residential Two Exception *224 (R2*224) Zone” requirements under By-law 177-96, as amended, to permit:

- a) **Section 6.5:**
a second 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).
(East District, Ward 7)

The Chair introduced the application.

The agent, Ozren Stambuk, appeared on behalf of the application.

Patrick Sampson did not see any issues with the application as it was for the legalization of a second dwelling and recommend approval.

Moved By: Patrick Sampson
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No **A/069/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Adjournment

Moved by: Patrick Sampson
Seconded by: Arun Prasad

THAT the virtual meeting of the Committee of Adjustment was adjourned at 8:00 pm, and the next regular meeting would be held on July 06, 2022.

CARRIED



Secretary-Treasurer
Committee of Adjustment



Chair
Committee of Adjustment