

Memorandum to the City of Markham Committee of Adjustment

September 30, 2020

File: A/078/20
Address: 17 Heatherwood Cres – Markham, ON
Applicant: Svina Dhaliwal & Harinder Viridi
Agent: KBK Studios Inc.
Hearing Date: Wednesday October 7, 2020

The following comments are provided on behalf of the Central Team. The applicant is requesting relief from the following requirements of the “Sixth Density – Single Family Residential (R6)” zone under By-law 134-79, as amended:

a) Section 7.1

to permit an accessory dwelling unit, whereas the By-law does not permit the use.

BACKGROUND

Property Description

The 543.75 m² (5,852.88 ft²) subject property is located on the south side of Heatherwood Crescent, north of Carlton Road, and east of Kennedy Road. There is an existing two-storey detached dwelling on the property. The property is located within an established residential neighbourhood generally comprised of two-storey detached dwellings. Mature vegetation exists across the property.

Proposal

The applicant is requesting permission to allow a secondary suite in the basement of the existing dwelling. The proposal will maintain the existing egress window at the south side (rear) of the building, and the secondary suite would have direct and separate access provided by an existing sliding door which is also located at the rear of the building. No changes are being proposed to the exterior of the dwelling or the property.

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* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse 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 option including second units to support complete communities.

Official Plan and Zoning

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

The City's 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 134-79

The subject property is zoned "Sixth Density – Single Family Residential (R6)" under By-law 134-79, as amended, which permits one single detached dwelling per lot. Consequently, the applicant has submitted an application for minor variance to permit a secondary suite within the basement of the existing dwelling.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant has confirmed that a ZPR has not been conducted. It is the applicant's responsibility to ensure that the application has accurately identified all the variances to the 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 ("the Committee"):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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 City's Fire and Emergency Services Department has no objections to the proposed variance provided the secondary suite is registered with the City and complies with Building and Fire Code regulations. 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 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.

Metrolinx Requirements

Metrolinx provided comments on this application on September 18, 2020 (Appendix "C"), as the subject property is within the limits of the railway's buffer area. Metrolinx has requested that an environmental easement for operational emissions be registered on title against the subject residential dwelling in favour of Metrolinx. Staff recommend a condition of approval be added requiring the applicant to satisfy Metrolinx's requirements prior to the issuance of a building permit (Appendix "A").

PUBLIC INPUT SUMMARY

A total of four written submissions were received as of September 30, 2020. Two written submissions were received from one area resident and one resident living in the Town of Clarington in support of the requested variance. Two written submissions were received from a total of three area residents which object to the proposed secondary suite.

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 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" – Plans

Appendix "C" – Metrolinx Comments

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Sabrina Bordone, Senior Planner, Central District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/078/20

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 batch stamped plans attached as Appendix "B" to this Staff Report and received by the City of Markham, 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; and
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.
4. That the applicant satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix "C" to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/078/20

APPENDIX "C"
METROLINX COMMENTS

CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Hello Justin,

Further to the circulation for 17 Heatherwood Crescent, Markham, I note the subject site is within 300 metres of Metrolinx’s Uxbridge Subdivision which carries Stouffville GO Train service, I further note that the subject minor variance application is to permit an accessory dwelling unit. We have no objections to the application, however, ask that the following be included in any conditions of approvals related to the minor variance and/or subsequent site plan application;

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

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

Thank you,

Terri Cowan
Project Manager
Third Party Projects Review| Capital Projects Group
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