

# Memorandum to the City of Markham Committee of Adjustment

October 23, 2024

**File:** A/051/24  
**Address:** 159 Main Street (Unionville)  
**Applicant:** Battaglia Architect Inc.  
**Hearing Date:** Wednesday, October 30, 2024

The following comments are provided on behalf of Heritage Section staff ("Staff") for the property municipally known as 159 Main Street (the "Subject Property" or the "Property"):

The applicant is requesting relief from the following requirements of By-law 2024-19, MU-HMS(U):

**a) By-law 2024-19, Section 5.1, Section 5.4.1 (g) SP(5):**

a minimum of 9 parking spaces, whereas the by-law requires a minimum of 14 parking spaces with a maximum restaurant area of 80.5 square metres;

as it relates to a proposed restaurant.

## **BACKGROUND**

### **Property Description**

The 700 m<sup>2</sup> (7535 ft<sup>2</sup>) Subject Property is located on the east side of Main Street between Fred Varley Drive to the south and Carlton Road. The Property is designated under Part V of the Ontario Heritage Act as a constituent part of the Unionville Heritage Conservation District.

Parking for commercial uses along Main Street is primarily provided by surface lots accessed from East Lane. The rear yard parking for the Subject Property is integrated with a larger parking lot associated with the abutting property at 157 Main Street. Both parking lots are accessed from East Lane with the driveway located entirely within the bounds of 157 Main Street. The combined parking lot offers 24 parking spaces.

### **Proposal**

The applicant is proposing to provide a minimum of 9 parking spaces whereas the by-law requires 14. This variance reflects an existing rather than proposed condition as a previous applicant sought relief from the relevant section of By-law 122-72, as amended, to reduce the number of required parking spaces from 10 to 9. The Committee of Adjustment approved the variance in 2011 (refer to Appendix "F" - Notice of Decision A/72/11). A change in use has triggered the requirement for the current parking variance. Note that there are no proposed changes to building envelope as part of the Property's conversion to restaurant use.

## **POLICY AND ZONING**

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

### Land Use

The Subject Property is designated "Mixed Use Heritage Main Street" within the Official Plan ("OP") which provides for limited residential uses and a variety of commercial uses that "support a traditional shopping experience in an historic commercial main street setting where at-grade uses are predominantly retail".

Section 9.19.6.1 of the OP (“Unionville Heritage Conservation District – Land Use Objective”) provides the following site-specific policy relevant to the variance being sought for the Subject Property:

- ensuring adequate on-site parking is provided and pursuing opportunities for additional public parking as identified in Section 9.19.6.10.

#### Heritage Conservation Policies

The Markham Official Plan also includes applicable policies respecting **heritage conservation** (Section 4.5 – Cultural Heritage Resources).

From a heritage conservation policy perspective, two of the overall goals of the Official Plan are “to protect established neighbourhoods, heritage conservation districts...by ensuring that new development is compatible and complementary in terms of use, built form and scale” and “to celebrate Markham’s unique character by protecting cultural heritage resources and archaeological resources...to foster interaction between people and connections to their community” (Section 2.2.2).

Section 4.5 provides policy guidance on identification/recognition, protection, and development approvals. Two key development approval policies of Council are:

- To provide for the protection and conservation of cultural heritage resources or the mitigation of adverse effects on cultural heritage resources as a condition of minor variance approval and associated agreements (Section 4.5.3.9); and
- To evaluate each variance proposal that directly affects a cultural heritage resource itself and adjacent lands on its own merits and its compatibility with the heritage policies of this Plan and the objectives and policies of any applicable heritage conservation district plan (Section 4.5.3.10).

#### Unionville Heritage Conservation District Plan

The Council-adopted Unionville Heritage Conservation District (the “UHCD”) Plan contains policies and guidelines intended to manage change within the UHCD in a manner that conserves its cultural heritage significance. As the Subject Property is contained within the UHCD, any development application is reviewed to ensure conformance with the Plan.

#### **Zoning**

The subject property is zoned Mixed Use Heritage Main Street – Unionville village [MU-HMS(U)] under By-law 2024-19, as amended, which permits “a variety of pedestrian oriented retail, office, service and restaurant uses at-grade that contributes to the unique quality of this well-known historic area”.

#### **Zoning Preliminary Review (ZPR) Not Undertaken**

A Zoning Preliminary Review (ZPR) has not been conducted. However, the Applicant has received comments from the building department through their permit process (HP 24 165011) to confirm the variance required for the proposed change of use. It is the applicant’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.

### **Parking Reduction**

As noted above, the Property currently provides 9 parking spaces which represented a reduction of 1 parking space relative to permissions in By-law 122-72 related to the prior on-site use. Permission for this parking reduction was secured from the Committee of Adjustment in 2011. The newly proposed use, a restaurant, will maintain the existing 9 parking spaces.

Transportation Engineering staff are of the opinion that the variance is minor and is unlikely to result in any significant impact on the parking supply associated with the new use. Based on a review of the policies and guidelines contained within the UHCD Plan, Staff are of the opinion that the proposed variance does not have an adverse impact on the cultural heritage value of the Property or the UHCD more broadly. As such, it is the opinion of Staff that the requested variance maintains the general intent and purpose of the Official Plan and Zoning by-law and is minor in nature.

### **HERITAGE MARKHAM**

The Heritage Markham Committee considered the application at its meeting on September 11, 2024 and had no objection to the requested variance. Refer to Appendix "D" for a copy of the meeting extract.

### **EXTERNAL AGENCIES**

#### **Toronto and Region Conservation Authority**

The Subject Property is situated on TRCA-regulated lands associated with the Rouge River Watershed. TRCA provided comments on August 27, 2024, indicating that they have no concerns subject to conditions outlined in their letter contained within Appendix "E".

#### **Metrolinx**

The Subject Property is located within 300 metres of Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service. Metrolinx provided comments on September 26, 2024, indicating that they have no concerns with the proposed variance.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of October 23, 2024. 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 to the requested variance. 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

A handwritten signature in black ink, appearing to read "E. Manning".

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Evan Manning, Senior Heritage Planner

REVIEWED BY:

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Regan Hutcheson, Manager, Heritage Planning

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/051/24**

1. The variances apply only to the proposed development as long as it remains;
2. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix "E" to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

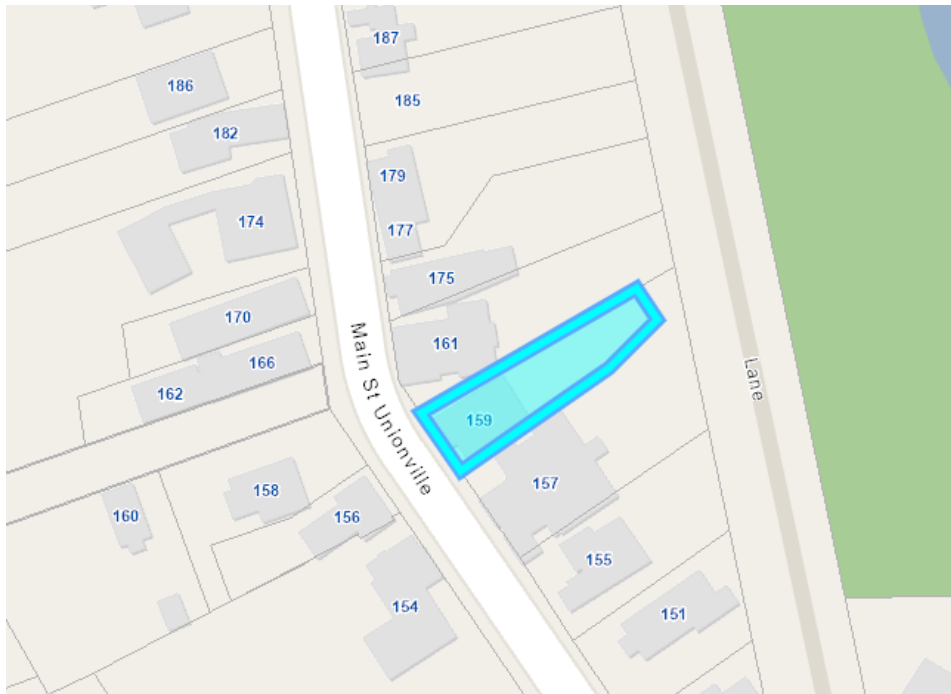
CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read "E. Manning", is positioned above a horizontal line.

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Evan Manning, Senior Heritage Planner

**APPENDIX "B"**  
**LOCATION MAP**



The Subject Property (outlined in blue) (Source: City of Markham)

**APPENDIX "C"**  
**IMAGES OF THE SUBJECT PROPERTY**



Aerial image of the Subject Property and surrounding context (Source: Google)



Primary (west) elevation of the commercial building on the Subject Property (Source: Google)



*Image showing the rear parking lot shared between 157 and 159 Main Street.  
(Source: City of Markham, Geo-logic)*



**APPENDIX "D"**  
**HERITAGE MARKHAM EXTRACT**



## HERITAGE MARKHAM EXTRACT

Date: September 27, 2024

To: R. Hutcheson, Manager of Heritage Planning  
E. Manning, Senior Heritage Planner

EXTRACT CONTAINING ITEM #6.4 OF THE NINTH HERITAGE MARKHAM  
COMMITTEE MEETING HELD ON SEPTEMBER 11, 2024

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### 6. PART FOUR - REGULAR

#### 6.4 COMMITTEE OF ADJUSTMENT APPLICATION

##### PROPOSED PARKING REDUCTION 159 MAIN STREET, UNIONVILLE (16.11)

File Number:  
A/051/24

Evan Manning, Senior Planner, Heritage Planning and Urban Design advised that this is an application to reduce the number of parking spaces at this location from 15 to 9 and that the Unionville Business Improvement Area does not object to this request.

Recommendations:

THAT Heritage Markham has no comment from a heritage perspective to the Minor Variance application for 159 Main Street;

AND THAT Heritage Markham delegates review of future Minor Variance applications that do not involve building envelope expansion to Heritage Section staff provided that the Ward Councillor has no objection to the proposal from a heritage perspective.

**Carried**

**APPENDIX "E"**  
**TRCA LETTER**

August 27<sup>th</sup>, 2024

CFN PAR-DPP-2024-00217

**Via E-Plan**

Dear Shawna Houser,

**Re: Minor Variance Application – (A/051/24)**  
**159 Main Street**  
**Part Lot 338, 65R30694, Markham**  
**(Main Street & Carlton Road)**  
**Applicant: 159 MAIN STREET INC**  
**Owner: BATTAGLIA ARCHITECT INC**

Toronto and Region Conservation Authority (TRCA) staff provide the following comments in response to the referenced Committee of Adjustment application, received by TRCA on August 13<sup>th</sup>, 2024. We provide the following in accordance with TRCA's commenting role under the Planning Act and regulatory role under the Conservation Authorities Act (CA Act). For additional information, please see [TRCA Role in the Plan Input and Review Process](#).

**Purpose of the Application**

TRCA staff understand that the purpose of this application is to facilitate the reallocation of parking spaces to be shared public parking spaces.

**By-law 2024-19**

- a) **By-law 2024-19, Section 5.1, Section 5.4.1 (g) SP(5):** a minimum of 9 parking spaces, whereas the by-law requires a minimum of 14 parking spaces with a maximum restaurant area of 80.5 square metres.

**By-law 122-72**

- a) **By-law 28-97. Section 3, Section 8.2b) and 8.2.2:** a minimum of 9 parking spaces, whereas the by-law requires a minimum of 14 parking spaces with a maximum restaurant area of 80.5 square metres.

**TRCA Permit Requirement**

The subject lands contain floodplain hazards associated with a tributary of the Rouge River Watershed and its adjacent regulated allowance.

Based on the review of materials circulated with this application, the proposal does not meet the definition of development as per the Conservation Authorities Act and as such **a permit will not be required** from TRCA to facilitate the development associated with this application.

### **TRCA Review Fee**

By copy of this letter, the applicant is advised that TRCA have implemented a fee schedule for its planning application review services in accordance with applicable provincial regulations. This Minor Variance is subject to a \$120.00 fee (Screening Letter – Residential/ Minor Projects). The applicant is responsible for fee payment within 60 days of the committee hearing date. Interest will be charged and accumulated beyond that time.

### **Recommendations**

Based on the comments noted in this letter, TRCA staff recommends **conditional approval** of Minor Variance (A/051/24) subject to the following:

1. That the applicant submits the TRCA plan review fee of \$120.00 within 60 days of the committee hearing date.

Should you have any questions or comments, please contact the undersigned.

Regards,



Matthew Pereira

Planner 1

Development Planning and Permits | Development and Engineering Services

437-880-2416

[Matthew.pereira@trca](mailto:Matthew.pereira@trca).

**APPENDIX "F"**  
**NOTICE OF DECISION A/72/11**



August 2, 2011

David Johnston  
David Johnston and Architects Ltd  
8 MAPLE LANE  
UNIONVILLE ON L3R 1R2

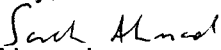
Dear Sir/Madam,

**RE: *Javadeddin Jalali Moyhadam & Simindokht Jahedi***  
***159 Main St Unionville***  
***PLAN 338 LOT E CON 5 PT LOT 12 RP 65R30694 PTS 1 AND 2***  
***A/72/11***

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Attached please find a copy of the Committee of Adjustment resolution of **approval** regarding the above, from the meeting of July 27, 2011.

Yours truly,

  
Sarah Ahmad  
Acting Secretary-Treasurer  
Committee of Adjustment

Attachments

cc Javadeddin Jalali Moyhadam  
Simindokht Jahedi  
Equitable Trust  
Regan Hutcheson, Heritage District Manager  
George Duncan, Heritage District Planner  
Bradley Roberts, Zoning and Compliance  
Building Inspection

File copy



COMMITTEE OF ADJUSTMENT

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NOTICE OF DECISION

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I hereby certify that the attached is a true copy of the decision of the Committee of Adjustment in the matter of Application No. A/72/11 was **approved** at a hearing held on July 27, 2011. A written appeal of this decision must be received **no later than Aug 16, 2011. After this date the decision becomes final and binding and cannot be appealed.**

Appeals to the Ontario Municipal Board must be served personally or sent by registered mail to the Secretary Treasurer, Committee of Adjustment, accompanied by a cheque in the amount of **\$125.00**, payable to **the Minister of Finance**, and must give reasons for the appeal. **The reasons must be given or it will not be considered an objection. A letter of objection filed prior to the hearing date is not a notice of appeal.**

Only individuals, corporations and public bodies may appeal decisions in respect to variance or consent applications to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Sworn before me at the Town of Markham  
August 2, 2011

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Sarah Ahmad  
Acting Secretary Treasurer,  
Committee of Adjustment,  
Town of Markham.

\_\_\_\_\_  
A Commissioner, etc.





COMMITTEE OF ADJUSTMENT RESOLUTION

Application: A/72/11  
Hearing Date: July 27, 2011  
Name: Javadeddin and Simindokht Jalali Moyhadam and Jahed  
Location: 159 Main St Unionville  
PLAN 338 LOT E CON 5 PT LOT 12 RP 65R30694 PTS 1 AND 2

Last Date of Appeal: August 16, 2011

Moved by B. [Signature]  
Seconded by L. [Signature]

THAT Application No. A/72/11, submitted by Javadeddin and Simindokht Jalali Moyhadam and Jahed, owners of 159 Main St, Unionville, requesting relief from the requirements of By-law No. 122-72, as amended, to permit a minimum of 9 parking spaces whereas the By-law requires a minimum of 10 parking spaces, be **approved** for the following reasons:

- (a) in the opinion of the Committee, the general intent and purpose of the by-law will be maintained;
- (b) in the opinion of the Committee, the general intent and purpose of the Official Plan will be maintained;
- (c) in the opinion of the Committee, the granting of the variance is desirable for the appropriate development of the lot;
- (d) in the opinion of the Committee, the requested variance is minor in nature.

SUBJECT to the following conditions:

- (1) That the variances apply only to the subject development as long as it remains.

Resolution carried.

**SPECIAL NOTE TO OWNERS AND AGENTS:** It is the responsibility of the owner and/or agent to ensure that all conditions of approval are met through the respective departments noted therein. Failure to do so may result in additional approvals being required.