



CITY OF MARKHAM
Virtual Meeting on Zoom

May 17, 2023
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 9th regular meeting of the Committee of Adjustment for the year 2023 was held at the time and virtual space above with the following people present:

Arrival Time

Gregory Knight Chair	7:00 pm
Tom Gutfreund	7:00 pm
Arun Prasad	7:00 pm
Kelvin Kwok	7:00 pm
Jeamie Reingold	7:00 pm
Sally Yan	7:00 pm
Patrick Sampson	7:00 pm

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment

DISCLOSURE OF INTEREST

None

Minutes: May 3, 2023

THAT the minutes of Meeting No. 08, of the City of Markham Committee of Adjustment, held May 3, 2023 respectively, be:

- a) Approved on May 17, 2023.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

Carried

PREVIOUS BUSINESS

1. **A/002/23**

Owner Name: Forest Hill Homes (Joel Seider)
Agent Name: Forest Hill Homes (Joel Seider)
655 Cornell Centre Boulevard, Markham
PLAN 65M3888 BLK 339

The applicant was requesting relief from the requirements of By-law 177-96, as amended, to permit:

Lot 1 (Cornell Centre Blvd) and Lot 15 (16th Avenue):

a) Section 6.3.1.2:

a garage to be setback a minimum of 5.0 m from the main building, whereas the by-law requires a garage to be setback a minimum of 6.0 m from the main building;

b) Section 6.3.1.7 (b):

a garage with a maximum lot coverage of 20 percent, whereas the by-law permits a maximum lot coverage of 18 percent;

c) Section 7.190.2 (ii):

a minimum rear yard setback of 12.0 m, whereas the By-law requires a minimum rear yard setback of 13.0 m;

Lots 2 to 7 (Cornell Centre Blvd) and Lots 12 to 14 (16th Avenue):

d) Section 6.3.1.2:

a garage to be setback a minimum of 5.0 m from the main building, whereas the by-law requires a garage to be setback a minimum of 6.0 m from the main building;

e) Section 6.3.1.7 (b):

a garage with a maximum lot coverage of 24 percent, whereas the by-law permits a maximum lot coverage of 18 percent;

f) Section 7.190.2 (ii):

a minimum rear yard setback of 12.0 m, whereas the By-law requires a minimum rear yard setback of 13.0 m;

Lot 8 (Cornell Centre Blvd) and Lot 11 (16th Avenue):

g) Section 7.190.2 (ii):

a minimum rear yard setback of 12.0 m, whereas the By-law requires a minimum rear yard setback of 13.0 m; and

Lot 9 and Lot 10 (Old Oak Lane):

h) Section 6.3.1.2:

a garage to be setback a minimum of 5.0 m from the main building, whereas the by-law requires a garage to be setback a minimum of 6.0 m from the main building;

i) Table B2:

a minimum front yard setback of 2.0 m on a lot accessed by a lane, whereas the by-law requires a minimum front yard setback of 3.0 m;

as they related to 13 townhouse units and 2 semi-detached dwelling units located within Block 21 on Registered M-Plan 65M-4545.

The Chair introduced the application.

The agent, Joel Sider, appeared on behalf of the application.

The Committee received one written submission.

Member Gutfreund asked if this was a block from a previously approved subdivision plan and noted that irregularly shaped parcel influenced the lot configurations. The member agreed with the staff report and indicated that the application met the four tests of the *Planning Act*.

Member Kwok inquired if the required road widening had been conveyed in the previous subdivision plan. The member agreed with the staff report and supported the application.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Kelvin Kwok

The Committee unanimously approved the application.

THAT Application No. **A/002/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

NEW BUSINESS:

2. A/026/23

Owner Name: Steven Steiger
Agent Name: Square Design Consulting (Anthony Bartolini)
74 Beckenridge Drive, Markham

PLAN 65M2608 LT 19

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

a) By-law 142-95, Section 2.2(b)(i):

a deck in excess of 1 metre in height to project 8.26 metres from the dwelling closest to the rear lot line, whereas the By-law permits a maximum of 3 metres;

as it related to a proposed rear yard porch.

The Chair introduced the application.

The agent, Anthony Bartolini, appeared on behalf of the application.

The Committee received no written correspondence or requests from interested parties to speak.

Member Sampson questioned the notation on the plans regarding the existing shed.

The agent explained that the application had been submitted for the porch only. Greg Whitfield confirmed that if other variances were identified later in the process, the applicant would be required to return to the Committee.

Member Sampson noted that the staff had not raised any concerns during the application review. The property backed on greenspace and the railway and motioned for approval with conditions.

Moved By: Patrick Sampson

Seconded By: Sally Yan

The Committee unanimously approved the application.

THAT Application No. **A/026/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/028/23

Owner Name: Syed Kakakhel
Agent Name: Syed Kakakhel
7 Victoria Avenue, Markham
PLAN 348 PT LOT 2

The applicant was requesting relief from the requirements of By-law 122-72, as amended, to permit:

a) **By-law 340-83 amended, Section 1(e):**

a window opening below a geodetic datum elevation of 174.8 meters, whereas the By-law requires no opening below a geodetic datum elevation of 174.8 meters;

b) **Section 11.2(c):**

a minimum front yard setback of 1.67 feet (0.51 meters) to a front covered porch and 7.18 feet (2.19 meters) to the heritage building, whereas the By-law requires a minimum front yard setback of 25 feet (7.62 meters);

as it related to the proposed addition and restoration to the existing heritage building.

The Chair introduced the application.

The owner Syed Kakakhel, appeared on behalf of the application.

The Committee received one written submission.

Doug Denby of 137 Main St Unionville presented the history of the lot.

Member Gutfreund motioned for approval with conditions indicating the application met the four tests of the *Planning Act*.

Moved By: Tom Gutfreund

Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/028/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. **A/036/23**

Owner Name: David Lung

Agent Name: David Lung

36 John Street, Thornhill

PLAN 71 E PT LOT 8 W PT LOT 9

The applicant was requesting relief from the requirements of By-law 2237, as amended, to permit:

a) **Section 1.2(iv):**

a maximum building depth of 18.9 metres, whereas the By-law permits a building depth of 16.8 metres;

b) Section 3.7:

a maximum encroachment of 10.33 feet into the minimum front yard setback for the veranda, whereas the By-law permits a maximum encroachment of 18 inches.

as it related to a proposed rear addition, veranda extension and accessory building restoration.

The Chair introduced the application.

The owner, David Lung, appeared on behalf of the application.

The Committee received one written submission.

Member Gutfreund noted that the proposal was a welcome addition that would refresh the property. The member agreed with the staff report and expressed that the application met the four tests of the *Planning Act*.

Member Yan asked if bird-friendly guidelines could be considered for the project through the site plan process.

Greg Whitfield indicated that with recent legislative changes to the site plan process, various limitations had been added to what the City could request.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/036/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

5. A/067/23

Owner Name: Weimin Wang
Agent Name: Meta Home Inc. (Sheng Huang)
6 Gainsville Avenue, Markham
PLAN 7566 LOT 33

The applicant was requesting relief from the requirements of By-law 11-72, as amended, to permit:

- a) **Section 6.1:**
a maximum height of 27 feet 2 inches, whereas the By-law permits a maximum height of 25 feet; and
- b) **Section 6.1:**
a maximum lot coverage of 36.40 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Sheng Huang, appeared on behalf of the application.

The Committee received no written correspondence or requests from interested parties to speak.

Member Sampson identified that larger homes were already permitted in areas governed only by lot coverage standards. The request was for an even larger home than would be typically considered in other city areas. The proposal was very large and pushed the lot's development boundaries.

Member Gutfreund noted the proposal was for a large home on a considerable lot and might be considered oversized for the area. However, when reviewing the development standards that apply to the property, the proposed changes were minor and did not present reasons for refusal or reductions.

Member Reingold commented that the applicants were within the scope of development to request variances. However, the proposed massing and scale were challenging because character mattered.

Member Yan expressed that this area of town was assessed differently than other areas for infill development. However, the application must be considered under the development standards of the zone. The increased lot coverage was related to the front porch and balcony, and as a result, the member felt the request was reasonable and supported the application.

The Chair advised that the nature of zoning was not to create uniformity and thus resulted in different built forms in different areas. The proposal was in keeping with the streetscape, had considerable setbacks, and the massing had been proposed in a manner that would not be noticeable on the streetscape. The proposal was typical of infill development in the area.

Member Gutfreund asked the agent to provide context for why the variance had been requested.

Sheng Huang indicated owner was looking to create space to accommodate an extended family. The agent highlighted that the requested increase in lot coverage was related to the porch and balcony and that the proposal was in keeping with other new infill development.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Sally Yan
Opposed: Patrick Sampson

The majority of the Committee approved the application.

THAT Application No. **A/67/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

6. A/055/23

Owner Name: York Region District School Board (Jennifer Lang)
Agent Name: Saccoccio Wepler Architects Inc. (Dana Saccoccio)
1000 Carlton Road, Markham
PLAN 65M2268 PT BLK 100 65R15831 PT 1 65R13136 PT 1

The applicant was requesting relief from the requirements of By-law 134-79, as amended, to permit:

- a) **Parking By-law 28-97, Section 3.0:**
243 parking spaces, whereas the By-law requires a minimum of 270 parking spaces;

as it related to four proposed portable classrooms and two portable classroom relocations.

The Chair introduced the application.

The agent, Dana Saccoccio, appeared on behalf of the application. The agent noted that the site had sufficient parking to accommodate the additional teachers that would be added to the staff due to the new portables. Additionally, the agent spoke to the proposed construction plan and indicated that the relocation and installation of the portables would not impact existing trees on the site and requested that conditions 3 and 5 be removed.

The Committee received no written correspondence or requests from interested parties to speak.

Member Kwok asked if the increased number of portables would result in increased student enrollment.

Dana Saccoccio indicated that the School Board did not provide parking for students on site. However, the required parking for the child care center and administrative offices had been met, and the deficiency applied only to the high school and sufficient parking was available for the teachers with the new portables.

Member Kwok noted that traffic congestion and other traffic hazards in the area were common.

Member Yan asked why there would be no Site Plan Control for the project, as traffic congestion was a concern for the site.

Member Reingold noted that the school had a high percentage of students who walked to school. Therefore, the member did not see significant impacts from the reduced parking request.

Member Prasad asked if the portables would be permanent or if the School Board had plans for extending the building.

Dana Saccoccio commented that the determination for adding portables was based on funding formulas the Ministry of Education set. Dana noted there would be no invasive work on-site, and six trees on-site would be hoarded. Dana noted that the timing of the application was essential to ensure the portables would be in place for September.

Member Kwok said that adding portables would increase student attendance and exacerbate ongoing traffic problems in the area, and the member did not support the request.

Member Gutfreund asked for clarification of the removal of conditions.

The Chair reiterated the applicant's justification for removal and asked for staff clarification.

Greg Whitfield indicated that staff had provided comments and needed more time to review the tree plans submitted on the meeting day. Therefore, staff requested the conditions remain; however, if determined after the meeting that they were not required, they could be cleared before Final and Binding.

Chair noted Member Kwok's concerns regarding the broader issues of the traffic corridor. However, they felt it was not appropriate to hold up the application for concerns

outside the scope of the request. They indicated that the applicants had extensive experience with similar applications.

Member Gutfreund reflected that the tree conditions were administrative and could be handled by staff after the meeting. Member Gutfreund indicated that the application met the four tests of the *Planning Act* and motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson
Opposed: Kelvin Kwok

The majority of the Committee approved the application.

THAT Application No. **A/055/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

7. A/040/23

Owner Name: Beedie ON (Birchmount Road) Property Ltd.
Agent Name: MHBC Planning Limited
Birchmount Road, Markham
PLAN 65M2616 PT LOT 7 RP 65R17201 PART 2 PT PART 1

The applicant was requesting relief from the requirements of By-law 108-81, as amended, to permit:

- a) **By-law 108-81, Section 4.7.1:**
a minimum depth of 5.39 metres for landscaped open space, whereas the By-law requires a minimum depth of 6 metres;
- b) **By-law 108-81, Section 7.4.3:**
a maximum floor area ratio of 53 percent, whereas the By-law permits a maximum floor area ratio of 40 percent; and
- c) **Parking By-law 28-97, Table B - Non Residential Uses:**
97 parking spaces, whereas the By-law requires 221 parking spaces;

as it related to a proposed multi-unit industrial building. This application was related to a Site Plan Control Application (SPC 22 121796) which was being reviewed concurrently.

The Chair introduced the application.

The agent, David McKay, appeared on behalf of the application.

The Committee received one written piece of correspondence.

Amy Shao representing 2656806 Ontario Inc., of 7725 Birchmount Road, spoke to the Committee. Amy indicated they were located on the property next to the proposal. She was concerned about the reduced parking request based on their experience with parking in the area. The area had many businesses that operated 365 days of the year, parking was at capacity, and they expressed concern that if there was insufficient parking on the site, visitors to the property could overflow and utilize parking areas of adjacent businesses.

Member Gutfreund requested information regarding the parking requirements and calculations under the proposed Comprehensive Bylaw.

The consultant provided the calculation stating that under the proposed new Comprehensive Bylaw, only 74 parking spots would be required based on one industrial use business with one office. It was noted that the calculations for the parking reduction had been done based on comparable developments within the area.

Member Sampson expressed concern about how the proposal could be assessed against the tests of being minor in nature and meeting the intent of the Zoning Bylaw.

The Chair reminded the Committee that the existing bylaw was very old and, when considering the request, any published white papers should be considered, and the Committee should have regard for the draft bylaw.

Member Yan asked for clarification on how visitor parking would be addressed.

Member Kwok asked how the parking study sites had been chosen, if consideration to the differences in transit routes had been taken into consideration and if the mandate to return to the office had been considered in the study.

The transportation consultant Mike Waters addressed the member's questions indicating that City staff had reviewed the proxy sites that had been chosen and that the study had been carried out with consideration of a full staff complement working on site as would be typical of industrial use.

Michiko Ishiyama of Beedie further clarified that six industrial condominium units were proposed, and parking would be allocated and tied to each unit.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

The Committee unanimously approved the application.

THAT Application No. **A/040/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

8. A/035/23

Owner Name: Toronto Christian Community Church (Yiu Yin CHAN)
Agent Name: QX4 Investments Ltd. - Consulting Services (Ben Quan)
105 Gibson Drive, Markham
PLAN M1738 LOTS 34 & 35

The applicant was requesting relief from the requirements of By-law 108-81, as amended, under Section 45(2)(b) of the *Planning Act*, to permit:

a) By-law 108-81, as amended:

a 'medical office' and 'place of worship' as community service uses accessory to an existing permitted private community centre, whereas the by-law does not include such uses;

as it related to the use of a medical office and a place of worship accessory to a private community centre.

The Chair introduced the application.

The agent, Ben Quan, appeared on behalf of the application.

The Committee received 32 written pieces of correspondence.

Monie Qian, of 80 Acadia Avenue, spoke to the Committee regarding ongoing parking and maintenance issues arising from the existing uses at 105 Gibson Drive and raised concerns of additional issues arising from the additional traffic generated by the proposed uses. In addition, Monie emphasized that a fence without a gate needed to be reestablished at the cost of 105 Gibson Drive.

Mimi, a unit owner at 80 Acadia Avenue, spoke regarding the history of the shared parking area of four other properties not related to 105 Gibson Drive. Users of 105 Gibson Drive parked in the shared area without permission and this impacted the costs for maintenance. The owners of 80 Acadia Avenue were concerned that medical uses could generate considerable additional parking and continuing abuse of the parking areas. Therefore, it was essential for the owners of 80 Acadia Avenue for the fence and gate to be replaced and maintained.

Simon Mou represented the owner of 50 Acadia Avenue. Simon noted that there had been considerable use by visitors of 105 Gibson Drive of the parking at 50, 80 and 100 Acadia Avenue. The owners had to pay for enforced parking and maintenance without

any reimbursement of costs. Therefore, it was vital for the owners of 50 Acadia Avenue to have a fence without a gate reinstated.

Ben Quan provided information on the shared parking agreement between the church and the properties on Acadia Avenue. Simon Mou provided additional information regarding the shared access easement established at the time of the development of the church.

Member Kwok requested information as to how the applicant calculated the parking requirements to determine that no parking variance would be required due to the additional uses.

Ben Quan stated that the parking had been calculated based on the floor space for the identified uses as indicated in the building permit.

Member Reingold expressed concerns regarding the coupling of medical uses with the church and the various issues that could arise from mixing the uses. The province had separated the uses and provided the services through universal health care. In addition to other broader issues, the medical uses would undoubtedly generate additional parking concerns.

The Chair requested clarification of the medical use from the applicant.

Member Reingold expressed that they did not see the need to establish permission for medical use.

The Chair reminded the Committee to focus on the request made through the application for an accessory use of a medical office to the private community centre.

Greg Whitfield provided additional information regarding the definition of medical office and clinic in the bylaw.

Ben Quan indicated that the application was required by the Building Department and the Zoning Examiner to proceed with the building permit.

Member Gutfreund felt the request for an accessory use for counselling of various aspects was appropriate and was a common function of churches.

A discussion was held between the applicants and the Committee members regarding how the space would be used, what facilities and equipment would be installed, who the users would be, and how access to the services would be attained and if services would be provided through volunteers.

Member Gutfreund disagreed with the interpretation of the proposed use by zoning staff.

Member Yan indicated that private community centres should have legally generic labels, such as program rooms for functions and uses carried out in various spaces in the buildings, as it was expected that the uses of a community centre often need to be better defined in the zoning bylaws. Therefore, member Yan supported the accessory use to the private community centre.

The Chair noted that other than the potential parking issues, no planning-related issues had been raised regarding the uses defined within the application's scope before the Committee.

Member Prasad felt that the application needed more information and was concerned that approval by the Committee could bring forward liability issues and did not support the application.

Member Kwok understood the general principle of the church's goal. However, if the use was approved as an accessory medical office, in the future, the use could be changed to a for-profit medical use. Member Kwok was concerned regarding the long-term implications of approving the use.

The Chair reminded the Committee to focus on the land use planning issues.

Member Sampson indicated that other licensing bodies governed concerns about the type and scope of medical uses. The member noted that the question before the Committee was a planning matter related solely to the permission for an accessory medical use. The member agreed with members Yan and Gutfreund and supported the application.

Member Gutfreund indicated that the information provided by the applicant was satisfactory to support the accessory medical use and trusted the goodwill of the applicant.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund

Seconded By: Sally Yan

Supported By: Patrick Sampson, Greg Knight

Opposed By: Arun Prasad, Jeamie Reingold, Kelvin Kwok

The majority of the Committee approved the application.

THAT Application No. **A/035/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Committee of Adjustment Minutes
Wednesday May 17, 2023

Adjournment

Moved by: Tom Gutfreund
Seconded by: Patrick Sampson

THAT the virtual meeting of the Committee of Adjustment was adjourned at 9:46 pm, and the next regular meeting would be held on May 31, 2023.

CARRIED

Original Signed June 1, 2023

Secretary-Treasurer
Committee of Adjustment

Original Signed June 1, 2023

Chair
Committee of Adjustment