



CITY OF MARKHAM
Virtual Meeting on Zoom

December 07, 2022
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 22nd 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:

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 |
| Patrick Sampson | 7:00 pm |
| Sally Yan | 7:00 pm |

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Bernie Tom, Development Technician, Zoning and Special Projects

DISCLOSURE OF INTEREST

None

Minutes: November 23, 2022

THAT the minutes of Meeting No. 21 of the City of Markham Committee of Adjustment, held November 23, 2022, respectively, be:

- a) Approved on December 07, 2022.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

Carried

SECONDARY SUITES

Item 1 was subject to Bill 23, More Homes Built Faster. Therefore, the application was not heard as the need for planning approvals for an accessory dwelling unit that met development standards and was withdrawn.

1. A/075/22 - Withdrawn

Owner Name: John Andreacchi
Agent Name: John Andreacchi
20 Elizabeth Street, Markham
PLAN 1149 PT LOT 18 65R12379 PT 3

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

- a) Section 6.1:**
an accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot; and
- b) Parking By-law 28-97, Section 3.0:**
two parking spaces, whereas the By-law requires a minimum of three spaces;

as it related to a proposed secondary suite.

NEW BUSINESS

2. A/170/22

Owner Name: Alai Developments Inc. (Alawn Lai)
Agent Name: STEP Design Studio Inc. (Stepan Sukiasyan)
17 Sunman Court, Markham
19TM14013 LOT 7

The applicant was requesting relief from the requirements of By-law 193-81, as amended, to permit:

- a) By-law 193-81, Section 6.1 (c):**
a lot coverage of 27.70 percent, whereas the By-law allows a maximum lot coverage of 25.0 percent:

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

The Chair introduced the application.

The agent, Jim Kotsopoulos, JKO Planning Services Inc., appeared on behalf of the application. The proposal was part of an infill Draft Plan of Subdivision. Similar variances for additional lots in the subdivision were approved in July. The application met the four tests of the *Planning Act*.

Member Gutfreund commented on the proposed development of the basement and asked if a second unit was proposed. Jim Kotsopoulos did not have information regarding the intent of the basement development. Member Gutfreund indicated that the application met the four tests of the *Planning Act*.

Member Reingold supported the application noting the request was minor and met the four tests of the *Planning Act*.

Member Gutfreund motioned for approval.

Moved By: Tom Gutfreund
Seconded By: Kelvin Kwok

The Committee unanimously approved the application.

THAT Application No. **A/170/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/179/22

Owner Name: Dawei Song
Agent Name: Dawei Song
126 Dundas Way, Markham
PLAN 65M4454 PT BLK 1 RP 65R35904 PT 72

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

a) Section 6.2.1 (b)(iii):

a deck to be located at the second storey, whereas the By-law requires the floor of the deck to not be higher than the floor level of the first storey of the main building;

as it related to a proposed deck.

The Chair introduced the application.

The owner, Dawei Song, appeared on behalf of the application.

Member Sampson and Member Gutfreund requested clarification from the owner regarding privacy concerns for the neighbours.

The owners indicated it was an end unit and that the adjoining neighbours did not intend to extend the deck, which would reduce potential conflicts.

Member Reingold indicated that many areas of Markham had second-storey decks, and privacy concerns were worked out between neighbours.

Member Gutfreund motioned for approval.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/179/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

Applications A/201/22 and A/207/2022 were heard concurrently.

4. A/201/22

Owner Name: Zhou Liu
Agent Name: Brutto Consulting (Francesco Fiorani)
28 Sciberras Road, Markham
CON 5 PT LOT 11 65R38799 PART 4

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

- a) **By-law 11-72, Section 4.11:**
a flankage side yard setback of 6 feet 4 inches (1.94 metres), whereas the By-law requires a minimum flankage side yard setback of 12 feet (3.66 metres) or one-half the height of the building (whichever is greater);

as it related to the retention of an existing detached dwelling.

The requested variance was a direct result of the lot severances B/15/17 and B/16/17, approved by the Ontario Municipal Board on September 21, 2018.

The Chair introduced the application.

The agent, Francesco Fiorani, appeared on behalf of the application. The variances resulted from the approved consent applications. The requested variances were only until the owner was ready to proceed with the redevelopment of the properties.

Christiane Bergauer-Free, 145 Kreighoff Avenue, indicated the applicant should be compelled to proceed with the development as approved.

Member Yan asked for clarification regarding the development time frame.

Claudio Brutto responded that the variances came at the request of planning staff and were of a housekeeping nature. The applicant had postponed redevelopment of the lots for economic reasons but would proceed to redevelop the lots when economically feasible.

Member Yan motioned for approval, given that the requests were minor and technical.

Moved By: Sally Yan
Seconded By: Tom Gutfreund

The Committee unanimously approved the application.

THAT Application No. **A/201/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

5. A/207/22

Owner Name: Zhou Mei Liu
Agent Name: Brutto Consulting (Francesco Fiorani)
30 Sciberras Road, Markham
CON 5 PT LOT 11 65R38799 PART 4

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

- a) **By-law 11-72, Section 4.11:**
a minimum rear yard setback of 14 feet 5 inches (4.4 metres), whereas the By-law requires a minimum rear yard setback of 25 feet (7.62 metres).

as it related to the retention of an existing detached dwelling.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/207/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

6. A/166/22

Owner Name: Yan Fan
Agent Name: ARK Group (Daniel Wong)
9 Gainsville Avenue, Markham
PLAN 7566 LOT 27

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

a) By-law 11-72, Section 6.1:

a minimum front yard setback of 8.12 metres (26 feet 7 inches), whereas the By-law requires a minimum setback of 8.23 metres (27 feet);

as it related to a covered porch.

The Chair introduced the application.

The agent, Ken Tai, appeared on behalf of the application, indicating that an error had been made during construction and the request was minor.

Christiane Bergauer-Free, 145 Krieghoff Avenue, indicated concern that the dwelling was under construction and the request was for clemency of a construction error.

Greg Whitfield indicated that inspections were conducted at the request of the applicant or on a complaint basis.

The Chair indicated that inspection requirements had increased in recent years, and applicants were required to have professional confirmation that construction proceeded according to approved plans.

Member Gutfreund supported the application indicating the request was minor and met the four tests of the *Planning Act*.

Member Prasad indicated the request was minor.

Member Gutfreund motioned for approval.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/166/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

7. A/190/22

Owner Name: Jiankun Li
Agent Name: Paar Design Inc. (Nikol Paar)
11 Gainsville Avenue, Markham
PLAN 7566 LOT 26

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

- a) **Section 6.1:**
a maximum lot coverage of 36.3 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent; and
- b) **Section 6.1:**
a maximum building height of 27 feet (8.23 metres), whereas the By-law permits a maximum building height of 25 feet;

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

The Chair introduced the application.

The agent, Nikol Paar, appeared on behalf of the application. Nikol indicated that they had worked with Forestry before coming to Committee and had made modifications to the plans to preserve trees and that the requests were minor.

Christiane Bergauer-Free, 145 Krieghoff Avenue, felt the proposed dwelling did not meet the intent of the Official Plan and was neither in keeping with the character of the neighbourhood nor a green build.

The Chair noted that the Committee had received one piece of written correspondence in opposition to the development.

Member Sampson noted that the lot was one of the largest in the neighbourhood, and the proposal was also very large; if subject to floor area ratio, it would be significantly over what was typically approved by the Committee, and massing of the dwelling was considerable.

Nikol Paar indicated that the proposal had maintained all required setbacks. The requests represented a small percentage change to the by-law, and were in keeping with other variances granted in the area. Drainage would be addressed at the RIGS and Tree Permit stage.

Elizabeth Brown, 65 Lincoln Green Drive, the Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association, spoke to the Official Plan policies related to infill homes and indicated that this proposal was larger and on larger lot size than most other houses in the area and did not reflect the existing character of the area.

Nikol Paar responded that the principle building complied if the balcony and porch were excluded from the lot coverage.

Member Reingold indicated that the build was large for infill development. However, the lot was large, and the requested variances were only slight changes to the standards. The review was complex as the dwelling seemed out of character, but variances were minor.

Member Gutfreund agreed with their colleague that numerically the request was minor. In context, the house was large and did not necessarily reflect the neighbourhood's character. However, the request was to be evaluated using the four *Planning Act* tests; and the criteria were met, and the requests were minor.

Member Yan indicated they agreed with their colleagues regarding the house size and the minor nature of the requests. The area was regulated by different standards and floor area ratio was not under consideration. The neighbourhood had a mix of lot sizes, and the proposal should not be penalized because the property was larger than others in the area.

The Chair indicated that lot coverage, height and setbacks governed massing in the area, and considering those standards, the requests were minor.

Member Gutfreund motioned for approval, indicating the requests had staff support, met the four tests of the *Planning Act* and were minor.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold
Opposed Patrick Sampson

The majority of the Committee approved the application.

THAT Application No. **A/190/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

8. A/189/22

Owner Name: Neamsby Investments Inc. (Joseph Pavia)
Agent Name: The Remington Group (Joseph Pavia)
1271 Denison Street, Markham
PLAN M1915 BLKS 1 2 & 4 AND PART OF BLKS 3 & 5

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

- a) **Section 8.19:**
a Commercial School as a permitted use, whereas the By-law, does not permit this use on the property; and
- b) **Section 8.19:**
a Recreational Establishment as a permitted use, whereas the By-law does not permit this use on the property;

as it related to a proposed golf simulation and instruction facility and a recording studio.

The Chair introduced the application.

The agent, Joseph Pavia, appeared on behalf of the application.

Member Reingold noted it was a unique combination of business uses, however the uses were compatible with employment uses. In addition, no adverse impacts on the adjacent businesses were noted.

Member Prasad noted that the area was surrounded by residential uses and could benefit seniors living there and meet community needs.

Member Kwok asked for clarification regarding the current by-law and the Official Plan designations.

Joseph Pavia indicated that the by-law was enacted in 1983 did not comply with the updated Official Plan. The Official Plan governs how healthy communities were planned, and the request facilitated the implementation of the Official Plan.

Greg Whitfield indicated that the educational uses could be classified as Commercial Schools, which were permitted as a discretionary use.

Member Yan inquired regarding other examples of uses in the City and target clients.

Joseph Pavia indicated that the clients would be drawn from the surrounding employment and residential areas and there was a market for private tutoring for both uses.

Member Yan agreed that this was a good use in the employment area and supported the application.

Member Prasad motioned for approval.

Moved By: Arun Prasad
Seconded By: Kelvin Kwok

The Committee unanimously approved the application.

THAT Application No. **A/189/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

9. A/119/22

Owner Name: Kamran Naghavi
Agent Name: Brickhaus (Michael Shirzadfar)
5 Wildrose Crescent, Thornhill
PLAN M899 PT LOT 63

The applicant was requesting relief from the requirements of By-law 1767, as amended, to permit:

- a) **Amending By-law 100-90, Section 1.2 (vi):**
a maximum floor area ratio of 52.7 percent (414.9 m²), whereas the By-law permits a maximum floor area ratio of 50 percent (393.35 m²);
- b) **By-law 1767, Section 18(i)(d):**
a minimum side yard setback of 4.82 feet (1.47 metres), whereas the By-law permits a minimum side yard setback of 6 feet (1.83 metres); and
- c) **By-law 1767, Section 12(vi)(a):**
a minimum setback for an existing accessory building (Cabana) of 0 feet (0 metres) from the west side lot line, whereas the By-law requires a minimum setback for an accessory building to be 2 feet (0.6096 metres) from the nearest lot line.

as it related to a proposed second-storey and rear addition to the existing one-storey portion of the dwelling.

The Chair introduced the application.

The agent, Michael Shirzadfar, appeared on behalf of the application. The agent indicated that the plans had been changed to protect the trees at 3 Wildrose Crescent.

Minzhi Lui, 11 Wildrose Crescent, expressed that the area had spacious lots, and the increased floor area ratio contributed to a denser, crowded environment. Additionally, the setback of 0 metres for an accessory structure created issues of maintenance and separation on adjacent lots and the potential for friction between neighbours.

The Chair asked the agent to clarify the requested floor area ratio.

The agent indicated that the total floor area ratio request was reduced to 52.7 percent. The variance for the cabana was requested by staff to recognize the existing condition.

Member Gutfreund indicated the floor area ratio was minor and the request to recognize the pre-existing condition of the cabana was reasonable and motioned for approval.

Moved By: Tom Gutfreund

Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/119/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

PREVIOUS BUSINESS

10. A/141/22

Owner Name: Kuwardeep Singh

Agent Name: Gregory Design Group (Shane Gregory)

33 Windridge Drive, Markham

PLAN 4429 LOT 38

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 (vi):

a maximum floor area ratio of 51.53 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;

b) Amending By-law 99-90, Section 1.2 (iii):

a maximum building depth of 21.03 metres, whereas the By-law permits a maximum building depth of 16.80 metres;

c) Table 11.1:

a flankage yard of 7.51 feet, whereas the By-law requires a flankage yard of 10 feet;

d) Section 11.2 (c)(i):

eaves to encroach 24 inches into a required yard, whereas the By-law requires 18 inches; and

e) Section 11.2 (c)(i):

a porch with stairs to encroach 36 inches, whereas the By-law requires 18 inches.

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

The Acting Chair introduced the application.

The agent, Shane Gregory, appeared on behalf of the application. Shane indicated that the application was returning to the Committee for consideration after a redesign that reduced the floor area ratio variance.

Elizabeth Brown, 65 Lincoln Green Drive, the Committee of Adjustment representative for the Markham Village Sherwood Conservation Residents Association, noted that there were continuing concerns regarding size, massing, scale and vegetation. Elizabeth reviewed the minutes of the previous meeting and noted that the Committee had requested a reduction of the floor area ratio to 50 percent.

Shane Gregory responded that focusing on the floor area ratio as a number did not speak to the design of the house. Several mature trees on the property which would be preserved.

Member Reingold expressed that they continued to view the proposal as an excellent transitional design. However, no justification for the requested additional floor area ratio above 50 percent had be provided.

Member Gutfreund noted that at the time of deferral, the Committee requested a reduction to 50 percent and that the proposed reduction was insufficient.

Member Sampson indicated they maintained their original position of a reduction to 50 percent or less.

The Chair noted that there had been only minimal changes from the original proposal, and the house was still highly visible and prominent for the streetscape.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Patrick Sampson

THAT Application No. **A/141/22** be **deferred** sine die.

Resolution Carried

Adjournment

Moved by: Tom Gutfreund
Seconded by: Arun Prasad

THAT the virtual meeting of the Committee of Adjustment was adjourned at 9:15 pm, and the next regular meeting would be held on December 14, 2022.

CARRIED

Original Signed
January 18, 2023
Secretary-Treasurer
Committee of Adjustment

Original Signed
January 18, 2023
Chair
Committee of Adjustment