

Memorandum to the City of Markham Committee of Adjustment

February 28, 2019

File: A/110/18
Address: 41 Church St Markham
Applicant: Morten & Marie-Louise Kongsted
Agent: Gregory Design Group (Russ Gregory)
Hearing Date: Wednesday March 13, 2019

The following comments are provided on behalf of the Heritage Team:

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

- a) Amending By-law 99-90, Section 1: a minimum one-storey side yard setback of 3 ft. (0.91 m) (east), whereas the By-law requires a minimum one-storey side yard setback of 4 ft. (1.22 m);
- b) Amending By-law 99-90, Section 1: a minimum two-storey side yard setback of 1.22 m (east), whereas the By-law requires a minimum two-storey side yard setback of 6 ft. (1.83 m); as it relates to a proposed attached garage and loft addition to a residential dwelling.

BACKGROUND

Property Description

The subject property is located on the south side of Church Street within a residential neighbourhood of the Markham Village Heritage Conservation District. The property is occupied by a two storey, 161 m² (1,733 ft²) single detached dwelling, constructed in 1972, and is surrounded by a mix of heritage and modern single detached dwellings (See Location Map - Figure1).

In 2016, the property received Site Plan Approval for façade changes intended to make the building more compatible with the historic character of the street. This work has been completed, but is not compliant with the approved drawings which are the drawings submitted as part of this application.

Proposal

The applicant is seeking the City's approval for a proposed two storey, 92.4m² (995 ft²) addition with a single car garage and second storey loft (See Figure 2 – Site Plan and Elevations of the Proposed Addition).

Applicant's Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, relief is requested "for the construction of a new garage and loft".

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. Consequently, it is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed

addition. If variances are omitted or contain errors, or an additional variance application is required to address outstanding matters, there will be a delay in application processing.

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.

Side Yard Setbacks

The requested variances are to permit a side yard setback of 3 ft. for a one storey portion of a building whereas the By-law requires a 4 ft., and a 4 ft. setback for the second storey portion of the building, whereas the By-law requires 6 ft.

The proposed variances are in support of a proposed addition that is considered to be architectural compatible and complementary to the existing house in terms of its' massing, scale, form and materials.

The proposed variances balance the desire to maintain an appropriate amount of separation between neighbouring homes and the need to create an appropriately scaled and functional garage for the dwelling at 41 Church Street.

The increased separation between homes, and the space this provides for growth of significant vegetation is considered to be a character defining attribute of these specially recognized areas that requires protection from variances to the By-law that negatively impact these historic neighbourhoods.

In this particular case, the requested variances for a 3 ft. setback for the one storey portion of the building, where 4 ft. is required, and a 4 ft. setback for the two storey portion of the building whereas 6 ft. is required, are minor in nature numerically, and in their impact, because they do not compromise the health of any existing vegetation, and there is an easement on the property to the east that prevents the existing home at 43 Church Street from ever expanding to the west, which would further reduce the space between the two existing homes.

The variances are desirable for the appropriate development of the land because they support an addition that is architecturally compatible, and provides for a functional, single car garage for a home that currently does not have a garage. Although the garage could still function if the proposed width was reduced to meet the 4 foot setback for a one storey portion of a building required by the By-law, it would not function as well, nor would it have any significant positive impact on the character of the neighbourhood.

Lastly, the requested variances maintain both the purpose and intent of the City's Zoning By-law and Official Plan, as they support an architecturally compatible addition that will

enhance the historic character of the neighbourhood without negatively impacting the neighbourhood.

Heritage Markham

The Heritage Markham Committee reviewed the requested variances at their meeting of February 13th 2019, and despite having no objection to the design of the proposed two storey addition, the Committee did not support the requested variance of 3' for the ground floor portion of the addition from a heritage perspective, and recommended that the ground floor be setback 4 ft. from the property line to meet the requirement of the By-law.

Heritage Markham did however have no objection to the requested variance for a 4' foot setback for the proposed second storey, as this would support the creation of a single plane exterior east wall, which is more typical of historic buildings.

Urban Design and Engineering

The City's Urban Design Section and Engineering Department provided no comments regarding the application.

PUBLIC INPUT SUMMARY

No written submissions were received as of February 28th 2019. It is noted that additional comments may be received after the writing of the report and the Secretary-Treasurer will provide comments on this at the meeting.

CONCLUSION

It is the opinion of the Planning staff that the requested variances meet the four tests of the planning act and can be supported.

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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Peter Wokral, Senior Heritage Planner

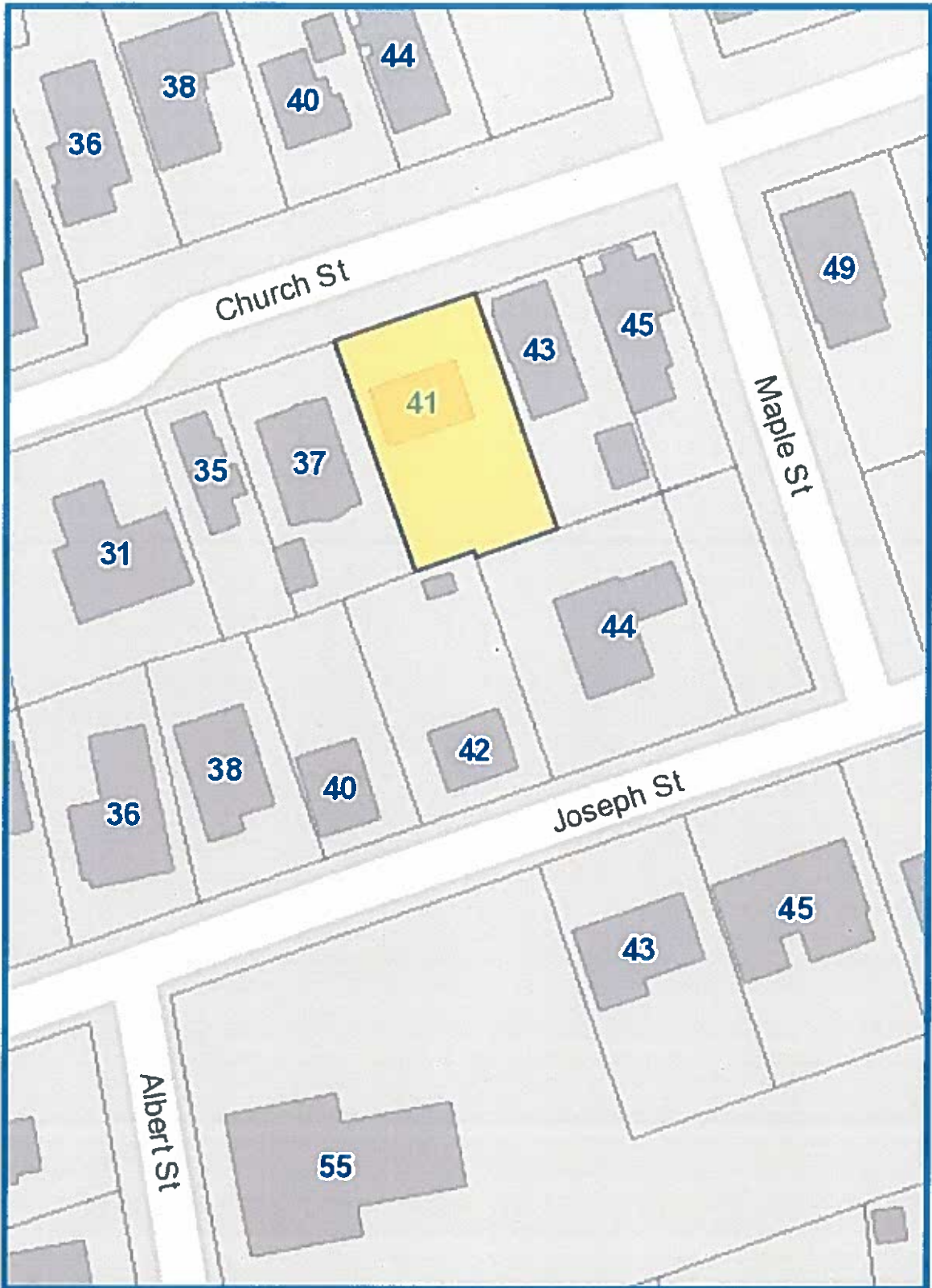
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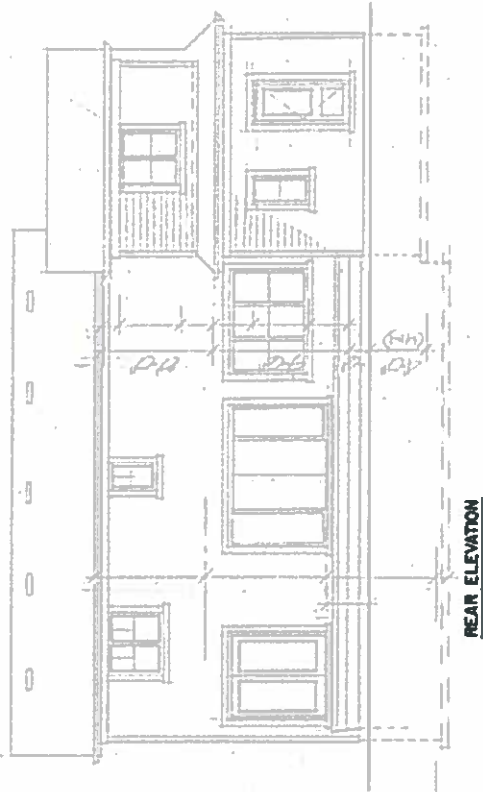


Regan Hutcheson, Manager of Heritage Planning

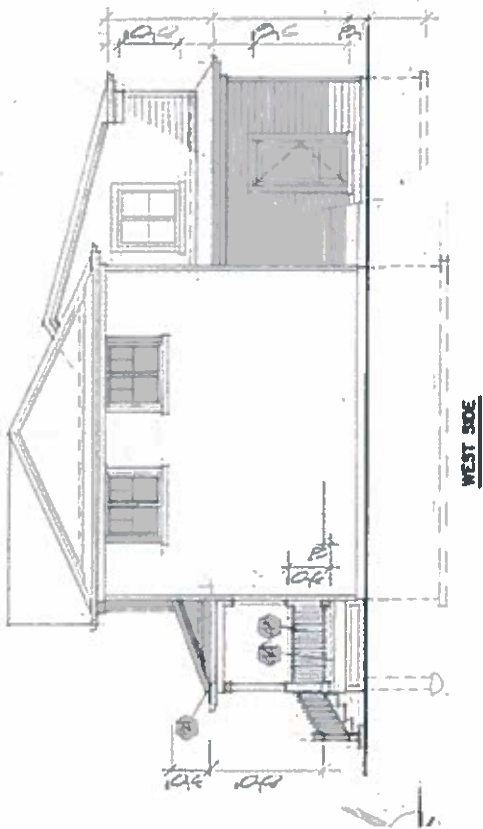
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Figure 1 – Location Map

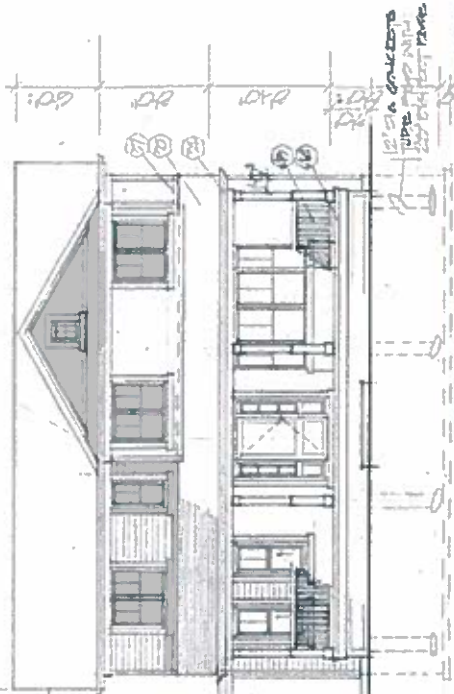




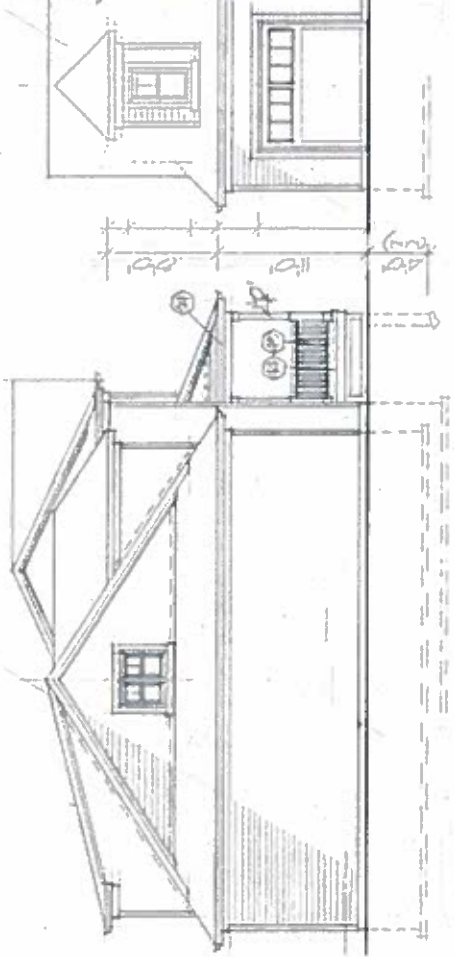
REAR ELEVATION



WEST SIDE



FRONT ELEVATION



EAST SIDE

100' & 100' DIMENSIONS
 TO BE MAINTAINED
 BY DEVELOPER

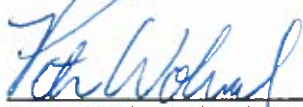
PROPOSED RENOVATIONS TO THE KONGSTED RESIDENCE	
THE GREGORY DESIGN GROUP 50 MARLBOROUGH DRIVE, SUITE 140 WILMINGTON, MA 01890	
PROJECT NO. 100-100	SHEET NO. 2/20-1
DATE 10/1/10	SCALE AS SHOWN

1000 100 100
 THE GREGORY DESIGN GROUP
 50 MARLBOROUGH DRIVE, SUITE 140
 WILMINGTON, MA 01890
 TEL: 617-261-1000
 WWW.GREGORYDESIGNGROUP.COM

APPENDIX "A"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/110/18

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 plan and elevations attached as 'Figure 2' to this Staff Report, 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.
3. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;

CONDITIONS PREPARED BY:



Peter Wokral, Senior Heritage Planner