

# Memorandum to the City of Markham Committee of Adjustment

March 18, 2019

**File:** A/18/19  
**Address:** 33 Eureka St Unionville Ward 3  
**Applicant:** William Fu  
**Agent:** Gregory Design Group  
**Hearing Date:** Wednesday March 27, 2019

The following comments are provided on behalf of the Heritage Districts Team. The applicant is requesting relief from the provisions of By-law 122-72, as amended, to permit

- a) construction of a new addition to an existing residential dwelling in an (H) O Office zone. THIS IS A PERMISSION APPLICATION (expansion of existing legal non-conforming building).

as it relates to a proposed addition to an existing heritage dwelling.

## BACKGROUND

### Property Description

The subject property is located within the Unionville Heritage Conservation District. It is an irregularly-shaped corner property that contains a one and a half storey frame heritage dwelling dating from c.1880, an attached garage, and a number of mature trees and shrubs. The immediate neighbourhood context is a renovated heritage dwelling to the east, and a newer dwelling in a neo-traditional style to the south. The architectural front of the dwelling at 33 Eureka Street faces Station Lane, while the frontage from a by-law perspective is on Eureka Street. The lot frontage is 28.91m (94.84ft), the depth is 32.25m (105.8ft) and the lot area is 716.0m<sup>2</sup> (7707.21ft<sup>2</sup>).

### Proposal

The applicant proposes to construct a two storey addition with an attached garage to the existing heritage dwelling. The Minor Variance application is related to Site Plan Control application SPC 19 110799, currently under review by City staff. The existing dwelling is proposed to be placed on a new foundation, moved back a short distance from the property line.

### Official Plan and Zoning

#### Official Plan 2014

The City of Markham Official Plan 2104 designates the subject property "Mixed Use Heritage Main Street."

#### Zoning

The subject property is zoned (H) O – Hold Office – under By-law 122-72, as amended. The existing residence is a legal non-conforming use that has been on the property since 1880, long before the passing of the By-law. A variance is required to add to the existing dwelling due to its legal, non-conforming status.

### Zoning Preliminary Review

The applicant has not applied for a Zoning Preliminary Review. If additional variances are identified during the building permit process, a new application to the Committee of Adjustment will be required.

### **Applicant's Reasons Why it is Not Possible to Comply with the Provisions of the Zoning By-law**

On the application form, the applicant wrote "Minor Variance is required."

### **COMMENTS**

#### Heritage Markham

Heritage Markham reviewed the Minor Variance application at their meeting of March 13, 2019 and had no comment. Heritage Markham will be reviewing the proposed development in detail within the context of Site Plan Control application SPC 19 110799.

#### Engineering and Urban Design

Lot grading, servicing and tree preservation will be addressed through the Site Plan Control application.

#### Heritage Planning

Similar Minor Variance applications have been submitted to allow residential development on adjoining properties at 15 Station Lane and 31 Eureka Street. The proposed development is in keeping with the general pattern and type of residential development in the immediate context. When the municipality amended By-law 122-72 with By-law 2003-67, the cluster of properties in this area was zoned (Hold) Office because at the time it appeared that Station Lane was going to transform into an area of office use in converted heritage buildings. This anticipated conversion has not occurred; rather, the residential use has been stable. The requested variance is therefore, in the opinion of staff, appropriate and consistent with the neighbourhood character.

A detailed review of the Site Plan Control application may impact the precise placement of the proposed addition on the subject property or specific architectural design details. For this reason, staff are not recommending that the approval of the Minor Variance application be conditional on the plans as submitted with the Minor Variance application. However, Planning staff are generally in agreement with the development concept as proposed and do not anticipate any significant changes to result from the upcoming review by Heritage Markham and City staff.

#### Toronto and Region Conservation Authority (TRCA)

The subject property is within the Special Policy Area and is located within TRCA's Regulated Area of the Rouge River Watershed. A permit is required from the TRCA prior to any development taking place. TRCA has no objection to the Minor Variance application subject to the applicant remitting the review fee of \$580.00.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 18, 2019.

## CONCLUSION

The Planning Act states in Section 45 (2):

- a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, [the committee] may permit,
  - i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day of the by-law was passed, or a use permitted under sub-clause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in conjunction therewith on the day the by-law was passed, or
  - ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose previously prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or
  
- b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

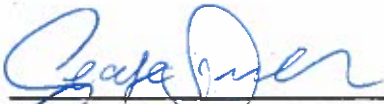
R.S.O. 1990, c. P.13, s. 45 (2)

Planning staff have evaluated the application pursuant to the prescribed tests set out in Section 45 (2) of the Planning Act. It is the opinion of the Planning staff that based on the analysis provided in this report, the Minor Variance application for an addition to an existing building with a legal, non-conforming use that was in place long before the passing of the By-law is appropriate, and supports a design that is complementary to the existing heritage dwelling designed according the policies and guidelines of the Unionville Heritage Conservation District.

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 requirements of the Planning Act for the granting of minor variances.

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

PREPARED BY:

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George Duncan, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Manager of Heritage Planning

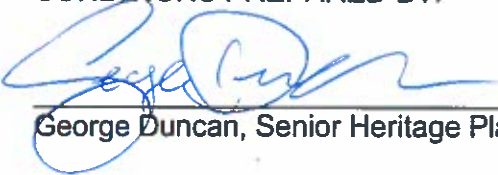
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**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/18/19**

1. The variance applies only to the proposed development as long as it remains;
2. That the owner submit to the Secretary-Treasurer confirmation that the Toronto and Region Conservation Authority review fee of \$580.00 has been paid.
3. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development.

CONDITIONS PREPARED BY:



George Duncan, Senior Heritage Planner