

Memorandum to the City of Markham Committee of Adjustment

March 29, 2019

File: A/25/19
Address: 62 Summerlea Street, Markham
Applicant: Howard & Herfa Shaw
Agent: DA Design Inc. (Dragan Acimovic)
Hearing Date: Wednesday April 10, 2019

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

The applicant is requesting relief from the requirements of Section 5.2.1 of By-law 90-81, as amended, to permit a secondary dwelling unit, whereas the By-law permits only one single detached dwelling on one lot.

This variance relates to proposed secondary dwelling unit within an existing single detached dwelling.

BACKGROUND

Property Description

The 389.28 m² (4,190.2 ft²) subject property is located on the south side of Summerlea Street. More generally, the subject property is west of Middlefield Road and south of 14th Avenue. The property is developed with a 298.49 m² (3,212.9 ft²) two-storey single detached dwelling, which according to assessment records was constructed in 2001. The property currently provides a total of three parking spaces, one legal parking space in the garage and two parking spaces on the driveway.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposal includes a new egress window at the rear of the building and a new window on the east side of the building. The proposed secondary suite would have direct and separate access provided by an existing door on the west side of the building. No other changes are being proposed to the exterior of the dwelling or the property.

Parking Standards By-law 28-97, as amended, requires two parking spaces to be provided for the principal dwelling unit and one additional space for the secondary suite. According to the drawings submitted by the applicant, the double car garage meets the minimum requirements for one parking space in the garage. The second and third parking spaces will be provided on the existing driveway.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property "Residential – Low Rise", which provides for low rise housing forms including detached, semi-detached, duplex and townhouse dwellings. The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or row house that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons."

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including:

- a) The building type in which the secondary suite is contained;
- b) The percentage of the floor area of the building type devoted to the secondary suite;
- c) The number of dwelling units permitted on the same lot
- d) The size of the secondary suite;
- e) The applicable parking standards; and
- f) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-law 90-81

The subject property is zoned 'Tenth Density (Special One) Single Detached Residential (R10(S1))' under By-law 90-81, as amended, which does not permit a secondary suite.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant on the application form, "*not permitted in City of Markham.*"

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 development. If the variances in the application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance application(s) may be required to address the outstanding matters and 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.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 29, 2019. 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. 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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Melissa Leung, Committee of Adjustment Technician, Zoning and Special Projects

REVIEWED BY:



Stephen Carr, Senior Planner, East District

APPENDIX "A"
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/25/19


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(s) attached as 'Appendix A' to this Staff Report and dated *March 13, 2019*, 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, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.
4. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:



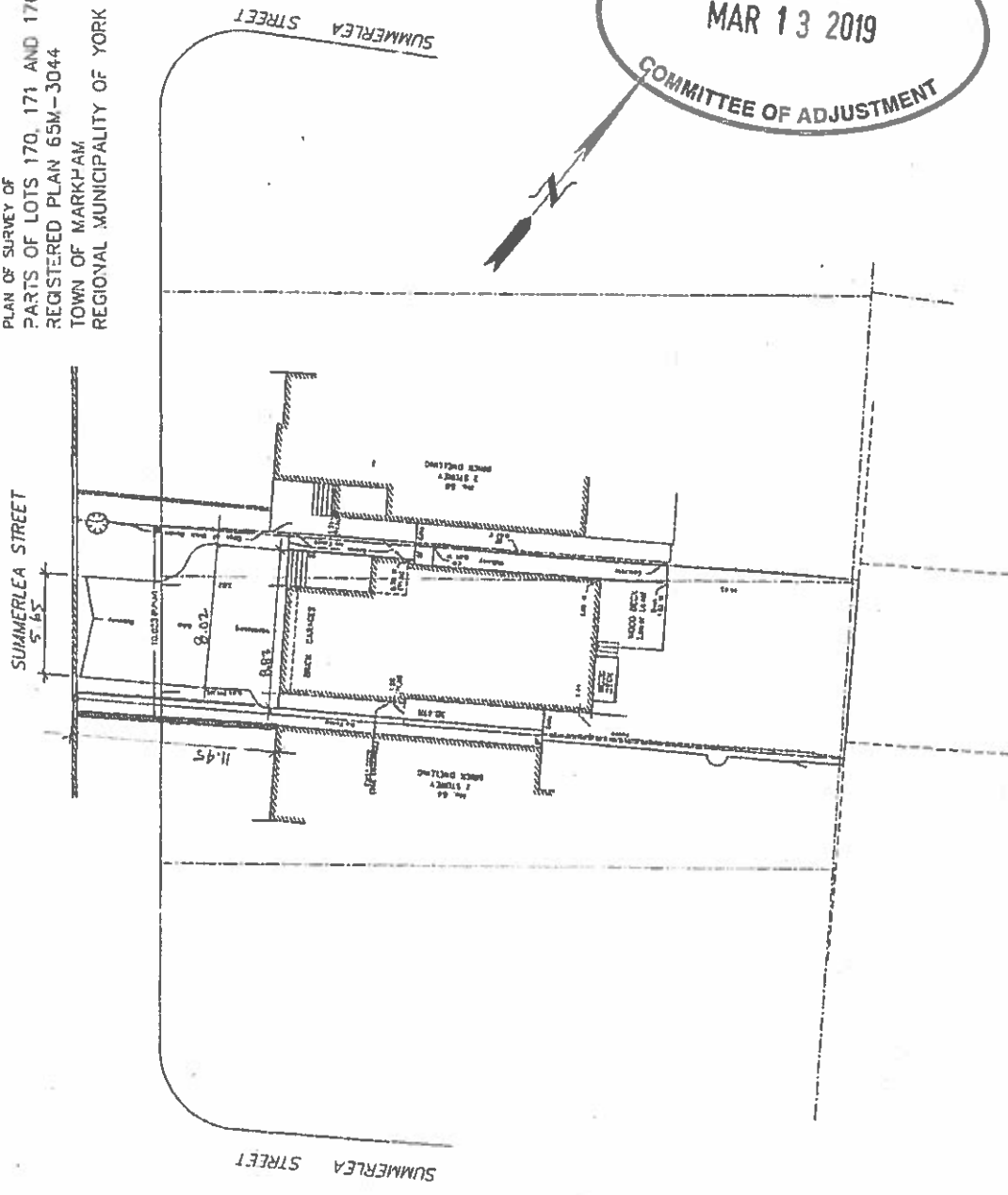
Melissa Leung, Committee of Adjustment Technician, Zoning and Special Projects

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82 SUMMERLEA STREET MARKHAM, ONTARIO	
2ND UNIT BASEMENT APARTMENT	
EXIST SITE PLAN	
DATE	NO.

SURVEYOR'S REAL PROPERTY REPORT
 PART 1
 PLAN OF SURVEY OF
 PARTS OF LOTS 170, 171 AND 176
 REGISTERED PLAN 65M-3044
 TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK

CITY OF MARKHAM
 RECEIVED
 MAR 13 2019
 COMMITTEE OF ADJUSTMENT





AcmEng Engineering Consultants Inc.
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 SUITE 1000 SCARBOROUGH, ONTARIO M1S 1T5
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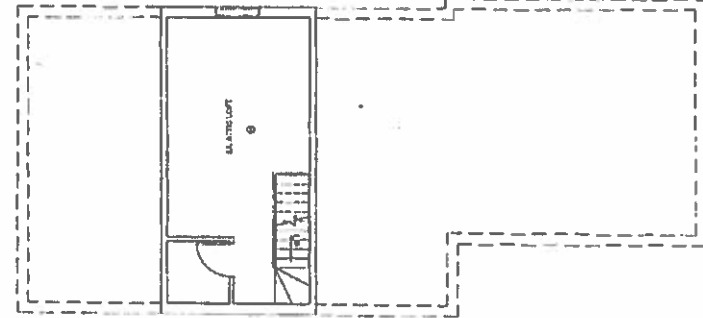


63 SUMMERLEA STREET
 MARKHAM, ONTARIO

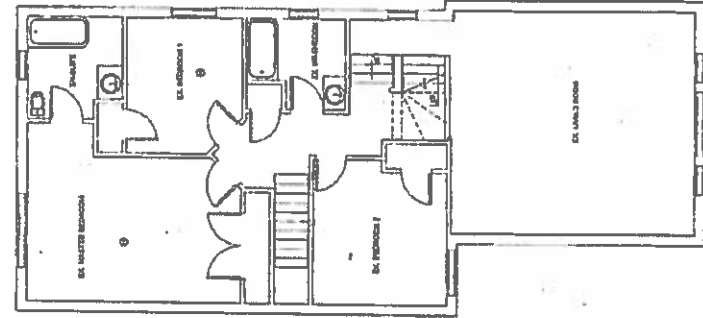
2ND UNIT BASEMENT
 APARTMENT

EXISTING FLOOR PLANS

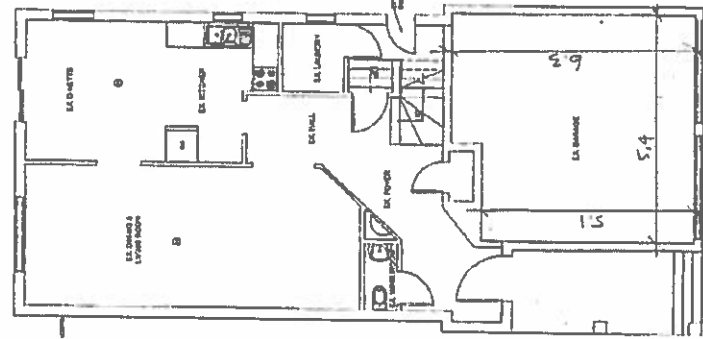
NO.	DATE	DESCRIPTION
1	2018.01.15	ISSUED FOR PERMIT
2	2018.02.01	REVISED PER COMMENTS
3	2018.02.15	REVISED PER COMMENTS
4	2018.03.01	REVISED PER COMMENTS
5	2018.03.15	REVISED PER COMMENTS
6	2018.04.01	REVISED PER COMMENTS
7	2018.04.15	REVISED PER COMMENTS
8	2018.05.01	REVISED PER COMMENTS
9	2018.05.15	REVISED PER COMMENTS
10	2018.06.01	REVISED PER COMMENTS



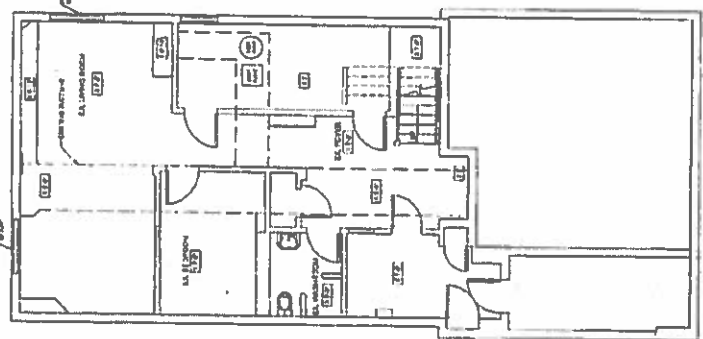
3 EXISTING THIRD FLOOR PLAN (LOFT PLAN)
 SCALE 1/8"



2 EXISTING SECOND FLOOR PLAN
 SCALE 1/8"



2 EXISTING FIRST FLOOR PLAN
 SCALE 1/8"



1 EXISTING BASEMENT PLAN
 SCALE 1/8"

⊗ = PROVIDE INTERCONNECTED SMOKE ALARM ON ALL FLOORS

