

Memorandum to the City of Markham Committee of Adjustment

May 03, 2019

File: A/35/19
Address: 1 Beech St Markham
Applicant: 1901642 Ontario Inc. (Mario Colangelo)
Hearing Date: Wednesday May 08, 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, RMD2 as amended:

a) Amending By-law 96-1999, Section 1.5: a secondary dwelling unit, whereas the By-law does not permit secondary suites; as it relates to a proposed basement apartment.

BACKGROUND

Property Description

The subject property is located on the north side of Beech Street just west of the intersection of Main Street North, in a residential neighbourhood of the Markham Village Heritage Conservation District. The property is occupied by one half of semi-detached dwelling that was constructed in the year 2000 as part of a larger multi-residential development approved by the Ontario Municipal Board (O.M.B.) (See Figure 2- Photograph of the existing dwelling). Surrounding uses included single detached dwellings both in residential and limited office use, and a GO-Train commuter parking lot across the street to the south (See Figure 1-Location Map).

The basement of 1 Beech Street is already in use as an apartment or second suite that has not been approved by the City.

Proposal

The applicant is proposing to legalize the existing basement apartment/ second suite.

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 town house dwellings. A secondary suite is a use provided for in all residential designations (Section 8.3.1.1). The definition of a “Secondary Suite” in the 2014 Official Plan is “a second residential unit in a detached house, semi-detached house or rowhouse 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 secondary suites within the City. On May 29th, 2018, Council voted not to permit secondary suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 1229

The subject property is zoned RMD2 under By-law 1229, as amended, which permits single detached, semi-detached and townhouse dwellings.

Applicant’s Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, “*the current zoning only allows one dwelling unit*”.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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 variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

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

The proposed secondary suite is already in existence and only occupies approximately a third of the floor area of the semi-detached dwelling. The existing apartment has also not been the subject of any complaints by neighbouring property owners to the knowledge of Planning staff. Legalization of the existing apartment/secondary suite does not change the physical appearance of the existing dwelling unit. Three parking spaces exist on the property, however, staff cannot confirm if the spaces on the driveway comply with the requirements of By-law 28-97. Staff has therefore taken into consideration the policies of the 2014 Official Plan as it relates to Secondary Suites.

The City's Engineering Department and Urban Design Section have not provided any comments on the application.

Heritage Markham will review the requested variance at their May 8th meeting and is not expected to have any objection from a heritage perspective, as there is no proposed change to the physical appearance of the existing semi-detached dwelling.

The City's Building and Fire Departments regulate and record secondary suites to make sure they comply with the applicable provisions of the Ontario Building Code and to ensure that emergency services are aware of their existence.

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 has no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 3, 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 has 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 can be supported.

Staff recommends 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:



Peter Wokral, Senior Heritage Planner,

REVIEWED BY:



Regan Hutcheson, Development Manager, Heritage District

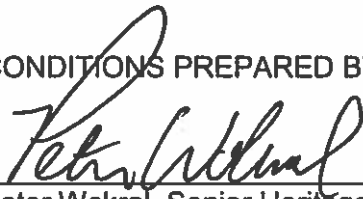
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APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/35/19

1. That the variance only apply as long as the existing development remains;
2. That the Secretary-Treasurer receive written confirmation from Heritage Markham that the requested variance is supported;
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:



Peter Wokral, Senior Heritage Planner

FIGURE 1- LOCATION MAP

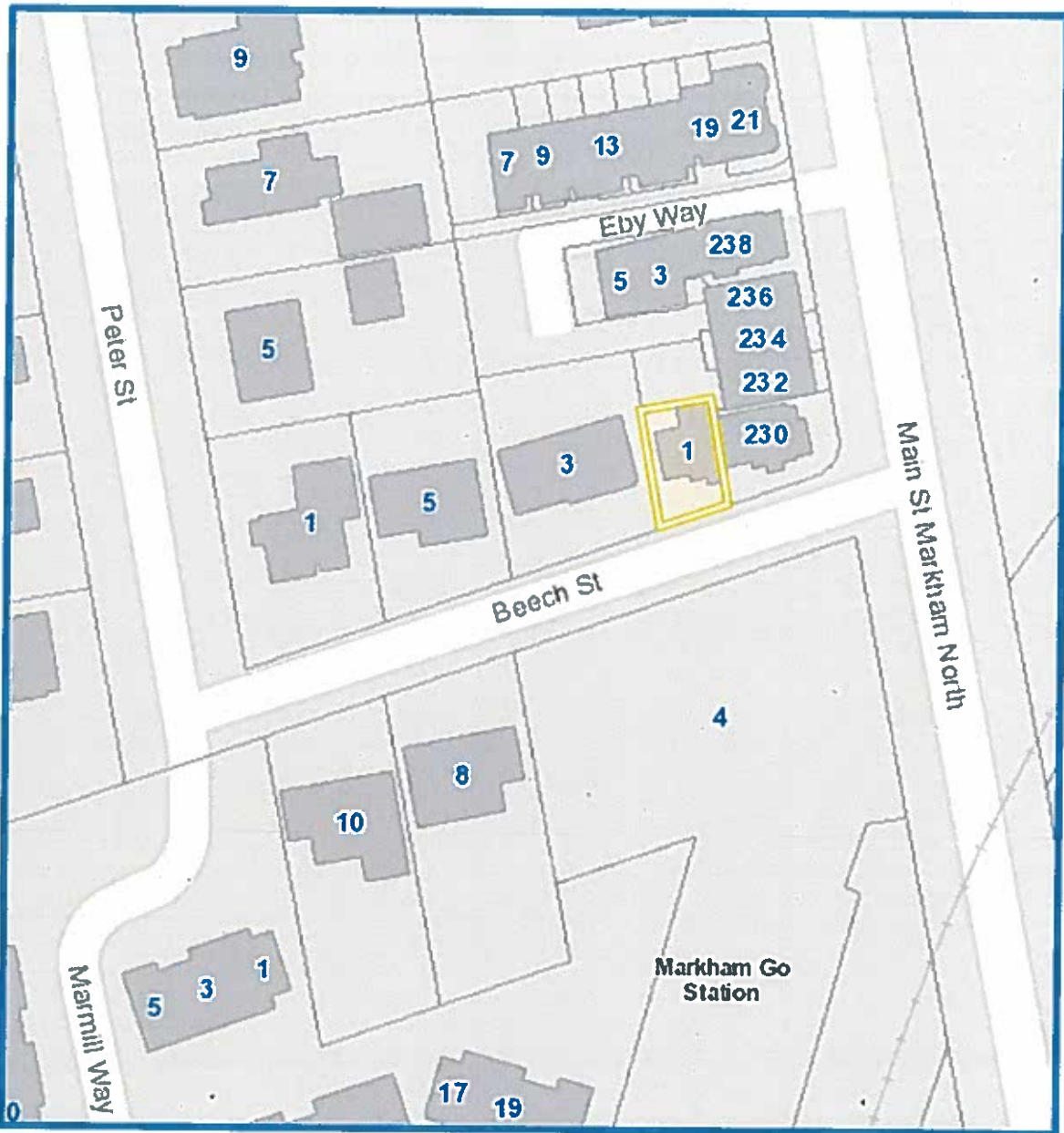


FIGURE 2- PHOTOGRAPH OF EXISTING SEMI-DETACHED DWELLING

