

# Memorandum to the City of Markham Committee of Adjustment

May 14, 2019

**Files:** B/23/18 & B/09/19  
**Address:** 15 Noble Street & 23 Noble Street  
**Applicant:** Nam Ngok Leung & Diane Inouye (B/23/18)  
Hua Chen & Jianhua Cheng (B/09/19)  
**Agent:** Alawn Lai  
**Hearing Date:** Wednesday May 29, 2019

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

## **B/23/18 (15 Noble Street)**

The applicant is requesting provisional consent to sever and convey a parcel of land with a lot frontage of 45.72 m and an approximate area of 3,044.30 m<sup>2</sup> (Part 2), while retaining a parcel of land with a lot frontage of 24.38 m and an approximate area of 1,523.07 m<sup>2</sup>.

The purpose of this application is to sever a portion of the existing residential property at 15 Noble Street to be conveyed to a proposed subdivision to the east.

**Note:** This serves as a re-application for consent B/03/14, which was approved by the Committee of Adjustment on June 12, 2014, but lapsed due to unfulfilled conditions of approval. Related minor variance application A/38/14 was approved concurrently.

## **B/09/19 (23 Noble Street)**

The applicant is requesting provisional consent to sever and convey a parcel of land with a lot frontage of 31.89 m and an approximate area of 1,986.80 m<sup>2</sup> (Part 4), while retaining a parcel of land with a lot frontage of 32.15 m and an approximate land area of 2,000 m<sup>2</sup> (Part 3).

The purpose of this application is to sever a portion of the existing residential property at 15 Noble Street to be conveyed to a proposed subdivision to the east.

**Note:** This serves as a re-application for consent B/04/14 (with slightly adjusted lots areas), which was approved by the Committee of Adjustment on June 12, 2014, but lapsed due to unfulfilled conditions of approval.

## **COMMENTS**

Staff note that the subject consent applications were originally heard by the Committee of Adjustment on June 12, 2014 [a third consent application for 27 Noble Street (B/05/14) was also heard at the same time, but an application for this property has not been re-submitted at this time]. The applications were approved, subject to conditions, which the applicant failed to fulfill within the required timeframe. Planning and Urban Design staff provided comments on the previous applications (see Appendix "C"). Staff wish to advise that our comments in our May 14, 2014 memo continue to apply, subject to the amended conditions provided in Appendices "A" and "B".

**CONCLUSION**

In concluding that the proposal is appropriate, staff have had regard for the criteria in Section 51 (24) of the Planning Act.

Please see Appendices "A" & "B" for conditions to be attached to any approval of this applications.

PREPARED BY:

  
\_\_\_\_\_  
Sabrina Bordone, Senior Planner

REVIEWED BY:

  
\_\_\_\_\_  
Richard Kendall, Development Manager

File Path: Amanda\File\18 258397\Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/23/18 (15 Noble St)**

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/23/18, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Subsection 50(30) and 50(5) shall apply to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
5. Submission of a Solicitor's Certificate certifying that upon registration of the required transfers to this effect the severance applied for under B/23/18, title to Part 2 on the Draft Reference Plan submitted with file B/23/18 will merge with the title to the lands to the east legally described as Lot 26 on Plan 2440 except Part 1 in Reference Plan 65R29206, which lands to the east are subject to Draft Plan of Subdivision 19TM-05031, all to the satisfaction of the Director of Planning & Urban Design or his designate.
6. Submission to the Secretary-Treasurer of an "Application to Consolidate Parcels" respecting title to the severed lands and title to the lands to the east legally described as Lot 26 on Plan 2440 except Part 1 in Reference Plan 65R29206, which Application shall be certified by the Land Registrar.
7. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
8. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990, c.P.13.

CONDITIONS PREPARED BY:

  
\_\_\_\_\_  
Sabrina Bordone, Senior Planner

**APPENDIX "B"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/09/19 (23 Noble St.)**

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/09/19, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Subsection 50(30) and 50(5) shall apply to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
5. Submission of a Solicitor's Certificate certifying that upon registration of the required transfers to this effect the severance applied for under B/09/19, title to Part 4 on the Draft Reference Plan submitted with file B/09/19 will merge with the title to the lands to the east legally described as Lot 26 on Plan 2440 except Part 1 in Reference Plan 65R29206, which lands to the east are subject to Draft Plan of Subdivision 19TM-05031, all to the satisfaction of the Director of Planning & Urban Design or his designate.
6. Submission to the Secretary-Treasurer of an "Application to Consolidate Parcels" respecting title to the severed lands and title to the lands to the east municipally legally described as Lot 26 on Plan 2440 except Part 1 in Reference Plan 65R29206, which Application shall be certified by the Land Registrar.
7. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
8. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990, c.P.13.

CONDITIONS PREPARED BY:



Sabrina Bordone, Senior Planner

## M E M O R A N D U M

DATE: May 14, 2014

TO: Chairman and Members, Committee of Adjustment

COPY TO: Cristin Miller - copy by AMANDA comment

FILE: B/03/14, B/04/13, B/05/14 & A/38/14

ADDRESS: 15, 23 & 27 Noble St., Markham

HEARING DATE: May 21, 2014 – Tentative

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

**B/03/14 – 15 Noble Street (associated with A/38/14 below)**

The applicant is requesting provisional consent to sever and convey a parcel of land with an approximate area of 3,039 m<sup>2</sup> (Part 2), while retaining a parcel of land with an approximate area of 1,523 m<sup>2</sup> (Part 1). The purpose of this application is to create a lot which will be merged with the subdivision to the east.

**B/04/14 – 23 Noble Street**

The applicant is requesting provisional consent to sever and convey a parcel of land with an approximate area of 1,448 m<sup>2</sup> (Part 4), while retaining a parcel of land with an approximate area of 2,536 m<sup>2</sup> (Part 3). The purpose of this application is to create a lot which will be merged with the subdivision to the east.

**B/05/14 – 27 Noble Street**

The applicant is requesting provisional consent to sever and convey a parcel of land with an approximate area of 2,021 m<sup>2</sup> (Part 6), while retaining a parcel of land with an approximate area of 2,081 m<sup>2</sup> (Part 5). The purpose of this application is to create a lot which will be merged with the subdivision to the east.

**A/38/14 – 15 Noble Street (associated with B/03/14 above)**

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

- a) Section 6.1 (b)  
a minimum lot area of 1,523 m<sup>2</sup>, whereas the By-law requires a minimum lot area of 2,000 m<sup>2</sup>, and,
- b) Section 6.1 (b)  
a minimum lot frontage of 24.38 metres, whereas the By-law requires a minimum lot frontage of 30 metres.

The variances relate to the retained lot associated with consent application B/03/14. It should be noted that variance b (lot frontage) recognizes an existing lot frontage.

## **BACKGROUND**

### **Property Description**

The subject lots are situated on the east side of Noble Street, south of 14<sup>th</sup> Avenue. Each of the subject lots contain a single-detached dwelling with vegetation dispersed throughout the subject lots.

### **Proposal**

The applicant is proposing to sever and convey the rear portion of each of the subject lots in order to merge these lands to an existing draft approved plan of subdivision to the east (Draft Plan of Subdivision 19TM-05013 at 78 & 90 Lee Avenue).

## **COMMENTS**

### **Official Plan**

The subject lands are designated "Urban Residential" in the 1987 Official Plan and "Urban Residential – Low Density" in the East Riseborough Secondary Plan (non-statutory). These designations both permit detached dwellings.

The City's new Official Plan, which was adopted by Markham Council on December 10, 2013, identifies the lands as "Residential-Low Rise". Lands designated "Residential-Low Rise" are located in established residential areas with lower-scale buildings such as detached and semi-detached dwellings, duplexes and townhouses.

### **Zoning**

The front portion of each of the subject lots is zoned "Suburban Residential Second Density (SUR2)" by By-law 193-81, as amended. This zone category permits a single-detached dwelling and home occupation on a lot. This zone category requires a minimum lot area of 2,000 m<sup>2</sup> and a minimum lot frontage of 30 m.

The rear portion of each of the subject lots is zoned "Suburban Residential Third Density Hold [SUR3(H)] by By-law 193-81, as amended. This zone category permits a single-detached dwelling and home occupation on a lot. This zone category requires a minimum lot area of 1,300 m<sup>2</sup> and a minimum lot frontage of 30 metres.

### **Staff's Comments on Severance and Minor Variance Applications**

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 the 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.

The proposed severance applications will result in parcels to be merged on title with an adjacent draft plan of subdivision to the east. All severed parcels (Part 2, 4, 6) require frontage on a public street as per Section 4.5 of Zoning By-law 193-81, as amended. As the severed parcels are all intended to merge in title with lands to the east that front on Lee Avenue, this zoning by-law requirement will be fulfilled, and there is therefore no necessity for further minor variances in this regard.

Severance application B/03/14 (15 Noble Street) will result in the creation of a lot (Part 1, retained parcel) that is deficient in both lot area and frontage given the location of the existing dwelling (A/138/14). The frontage variance (variance b) recognizes the existing condition. Staff note that the reduced lot area (from 2,000 m<sup>2</sup> to 1,523 m<sup>2</sup>) allows for an approximately 30 metres rear yard setback, which exceeds the By-law requirements of 8 metres, allowing for a generous rear yard amenity space. Furthermore, the newly created retained lot (Part 1, retained parcel) is still generally consistent with adjacent lots and in keeping with the parcel fabric of the area.

It should be noted that Engineering and Urban Design staff have indicated that their respective department's typical conditions of approval when dealing with a consent application (i.e. submission of Grading Plan, submission of a tree inventory and preservation plan and cash in lieu of Cash-in-lieu of parkland dedication) will be dealt with as conditions of draft plan approval for the future amended draft plan.

### **CONCLUSION**

Staff have no objection to the proposed consent and minor variance applications provided the severed parcels (Part 2, 4, 6) are merged with the draft approved plan of subdivision to the east. In concluding that the proposal is appropriate, staff have had regard for the criteria in Section 51 (24) of the Planning Act,

Should the Committee see merit in the application, staff recommends the following conditions be attached to the approval of B/03/14, B/04/14 and B/05/14:

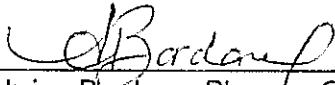
1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels;
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B03/14, B04/14 and B05/14, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act;
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted;
4. Submission to the Secretary-Treasurer of an "Application to Consolidate Parcels" respecting title to the severed lands and title to the lands to the east municipally known as 78 and 90 Lee Avenue, and legally described as Lots 26 and 27 and Part of Lot 1 on Plan 2440, which Application shall be certified by the Land Registrar.
5. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended;
6. Submission of a Solicitor's Certificate certifying that upon registration of the required transfers to effect the severances applied for under Files B/03/14, B/04/14 and B/05/14, title to Parts 2, 4 and 6 on the Draft Reference Plan submitted with Files B/03/14, B/04/14 and B/05/14 will merge with title to the lands to the east municipally known as 78 and 90 Lee Avenue, and legally described as Lots 26 and 27 and Part of Lot 1 on Plan 2440, which lands to the east are subject to Draft Plan of

Subdivision 19TM-05013, all to the satisfaction of the Director of Planning and Urban Design or designate;

7. Draft Plan of Subdivision 19TM-05013 be red-line revised in order to incorporate Parts 4, 5 and 6 on the Draft Reference Plan submitted with Files B/03/14, B/04/14 and B/05/14, to the satisfaction of the Director of Planning and Urban Design or designate.
8. Fulfillment of Conditions 1 – 7 prior to May 21, 2015.

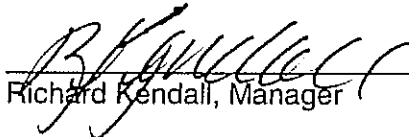
Should the Committee have any questions/concerns, please contact Sabrina Bordone, Planner – Central District, at ext. 8230.

PREPARED BY:



Sabrina Bordone, Planner, Central District

REVIEWED BY:



Richard Kendall, Manager

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