

# Memorandum to the City of Markham Committee of Adjustment

March 4, 2022

**File:** A/026/21  
**Address:** 7703 Kennedy Rd Markham  
**Applicant:** Violetta Fitzsimmons  
**Agent:** Brian Lee Architect (Ryan Quan)  
**Hearing Date:** Wednesday March 9, 2022

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

The applicant is requesting relief from the following requirements of By-law 193-81, SUR2 as amended; to permit:

- 1. Parking By-law 28-97, Section 3.0: 9 parking spaces, whereas the By-law requires a minimum of 15 parking spaces;**
- 2. Amending By-law 213-90, Section 7.20: a bridal salon and flower shop within the existing building and proposed addition, whereas the By-law permits a bridal salon and flower shop within the existing building only.**

as it relates to converting an existing roof top deck into a storage space.

## **BACKGROUND**

### **Property Description**

The subject property has 30.5m (100 feet) of street frontage on the east side of Kennedy Road, a depth of approximately 69.7m (228.8 feet) and an area of approximately 2125m<sup>2</sup> (22,872 ft<sup>2</sup>). (See Location Map, Figure 1)

The property is located just south of 14<sup>th</sup> Avenue in a mixed neighbourhood of commercial, residential and institutional uses. To the north of the property is a recently constructed 4 storey apartment/condo building. Further to the north is a two-storey industrial building, and a service station. To the east of the property is a recent subdivision of two-storey detached dwellings, and to the south are several bungalows and a one-storey commercial plaza. To the west, across Kennedy Road, is the Milliken Mills Soccer Dome and Arena, and single-storey commercial buildings.

The one and one half storey heritage building which occupies the property was originally constructed in 1855 as a detached dwelling and more recently converted to accommodate retail uses. The original building/property is listed on the Markham Register of Buildings of Cultural Heritage Value or Interest, but is not designated under Part IV of the Ontario Heritage Act. There are several mature trees located on the property. Parking is located to the rear of the existing building (See Photograph of Existing Heritage Building, Figure 2)

In 2013, the same owner of the property obtained three variances from the City's Committee of Adjustment to permit:

- A minimum north side yard setback of 1.4 metres, whereas the By-law required a minimum side yard setback of 3.0 metres;
- A bridal salon and flower shop to be permitted within the existing building and proposed addition, whereas the By-law only permits a bridal salon and flower shop within the existing building; and
- 9 parking spaces, whereas the By-law requires a minimum of 13 parking spaces.

The above variances were required to permit a proposed addition to the building that was approved by the City in 2015 which included a 2<sup>nd</sup> storey roof-top deck over the modern rear addition to the heritage dwelling.

### **Proposal**

The applicant is now proposing to convert the existing 32.8m<sup>2</sup> (353 ft<sup>2</sup>) roof-top deck constructed in 2015, into an enclosed storage area that can be used year round. This proposed increase in the gross floor area of the building has triggered the requirement to obtain the requested variances.

### **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, *"Site is restrictive in space for more parking. The owner also owns the property to the south with additional parking accessible from the same driveway. Existing site specific by-law to allow bridal and flower shop does not extend to any additions"*

### **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a Zoning Preliminary Review (ZPR) on December 30 2020 to confirm the variances required for the proposed development.

### **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.

### Reduction in the Minimum Number of Required Parking Spaces

The requested variance to permit 9 parking spaces whereas the By-law requires 14 parking spaces can be considered to be minor in nature and desirable for the appropriate development of the land, considering that the property appears to function without any known issues despite already having obtained a variance to permit 9 parking spaces, whereas 13 parking spaces were required by the City's Parking By-law, prior to the

proposed enclosure of the roof top deck. The 2013 variance to permit 9 parking spaces was supported by Planning Staff because the business generally operates by appointment, and does not experience times of peak demand for parking spaces like other types of businesses. It was also noted that the extra space was intended for display purposes which does not necessarily translate into more customers or a demand for parking. Similarly, the proposed 32.8m<sup>2</sup> increase in floor area is proposed to be storage, which also does not necessarily mean an increase in customers, or parking demand.

#### Expansion of Existing Bridal Salon Flower Shop Use

The requested variance to permit the expansion of the existing Bridal Salon and Flower Shop use is also minor in nature as the existing business has been successfully operating at this location for many years. It is also minor in nature considering that the relatively small increase in the existing floor area is proposed for storage in support of the existing commercial use. The general intent and purpose of the Official Plan and Zoning By-law are maintained.

#### Engineering and Urban Design

The City's Engineering Department and Urban Design Section have provided no comments on the application because the proposed increase in floor area does not involve issues of grading, servicing or tree preservation.

#### Heritage Markham

Heritage Markham reviewed the requested variances at their January 12, 2022 meeting and recommended "No Comment" on the application from a heritage perspective, as the proposed variances had no impact on the heritage attributes of the property.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of February 28<sup>th</sup> 2022. 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 requested variances meet 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:



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Peter Wokral, Senior Heritage Planner

REVIEWED BY:



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Regan Hutcheson, Manager of Heritage Planning

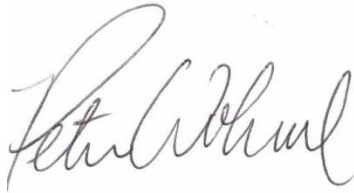
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**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/026/21**

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 plans attached as 'Appendix B' to this Staff Report and received by the City of Markham on November 20, 2020, 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;

CONDITIONS PREPARED BY:

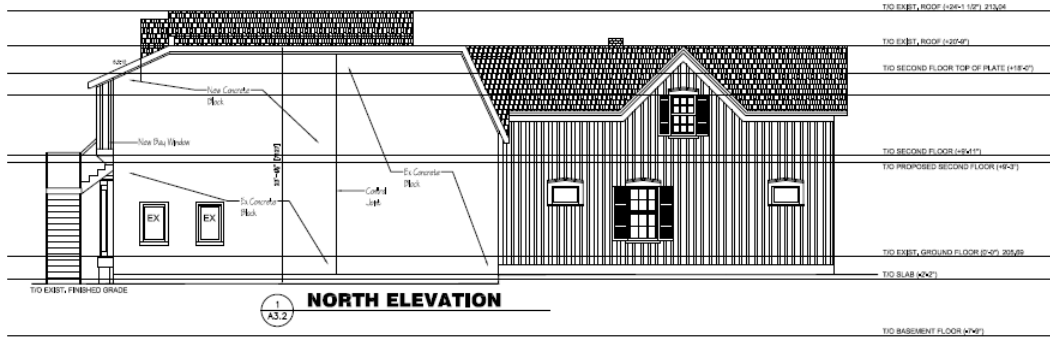
A handwritten signature in black ink, appearing to read "Peter Wokral". The signature is fluid and cursive, with a large initial "P" and "W".

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Peter Wokral, Planner, Senior Heritage Planner



# North Elevation



24.00 x 18.00 in

the **ideal** environment  
BRIAN LEE ARCHITECT A3.2

Project : Superior Bridal Renovation  
Client : Superior Bridal & Floral Inc  
7703 Kennedy Rd., Markham, ON, L3R 0J7

**PROJECT NORTH**

Title : West & North Elevations  
Project : 20-04  
Drawn By : RQ  
Scale : 3/16"=1'-0"

Note: This drawing is the property of the Architect and may not be reproduced or used without the written consent of the Architect. The Contractor is to verify all dimensions and conditions on the project and to report any discrepancies to the Architect prior to commencing work. The drawings are to be used for construction purposes unless indicated as 'Noted for construction'.

# East Elevation



24.00 x 18.00 in

the **ideal** environment  
BRIAN LEE ARCHITECT A3.1

Project : Superior Bridal Renovation  
Client : Superior Bridal & Floral Inc  
7703 Kennedy Rd., Markham, ON, L3R 0J7

**PROJECT SOUTH**

Title : South & East Elevations  
Project : 20-04  
Drawn By : RQ  
Scale : 3/16"=1'-0"

Note: This drawing is the property of the Architect and may not be reproduced or used without the written consent of the Architect. The Contractor is to verify all dimensions and conditions on the project and to report any discrepancies to the Architect prior to commencing work. The drawings are to be used for construction purposes unless indicated as 'Noted for construction'.

Figure 1 – Location Map





Figure 2- Photograph of the Existing Heritage Building



## Figure 3 – Heritage Markham Extract of January 12 2022

### 5.3 COMMITTEE OF ADJUSTMENT VARIANCE

#### PROPOSED ENCLOSING OF AN EXISTING ROOF-TOP DECK 7703 KENNEDY ROAD (16.11)

FILE NUMBER:

A/026/21

Extracts:

R. Hutcheson, Manager, Heritage Planning

P. Wokral, Senior Heritage Planner

Peter Wokral, Senior Heritage Planner, addressed the Committee and provided a summary of the staff memorandum, noting that the property was listed but not designated under Part IV of the *Ontario Heritage Act*. The proposal to enclose the rear rooftop deck on the modern portion of the building triggered the variance request for 9 parking spots where 14 are required by the zoning by-law.

The following comments were made regarding 7703 Kennedy Road:

- The Committee inquired whether there were any plans to improve the aesthetic of the exposed concrete block on the north wall of the addition.
  - Staff advised that the existing concrete block wall was a building code requirement related to fire concerns and that improvements to the wall were not requested.
- The Committee inquired whether the house should be designated.
  - Staff advised that designation was considered in 2014 as part of a Heritage Markham recommendation, noting that there were complexities to the application. The existing owners did not wish to designate the property; therefore the City negotiated with the owner to have restoration work undertaken and existing improper installations repaired (as per the direction of the Development Services Committee). The owner entered into a development agreement with the City

requiring them to provide notice of their intention to sell the property so that the City could initiate designation of the property prior to listing the property for sale.

Recommendations:

THAT Heritage Markham has no comment from a heritage perspective regarding the Committee of Adjustment application A/026/21 requesting 9 parking spaces whereas 14 are required, noting that Heritage Markham previously supported a 2013 Variance permitting 9 parking spaces whereas 13 were required;

AND THAT review of the future building permit to enclose the existing roof-top deck based on the drawings dated November 20, 2020 be delegated to Heritage Section staff.

**Carried**

