

# Memorandum to the City of Markham Committee of Adjustment

November 22, 2022

**File:** A/166/22  
**Address:** 9 Gainsville Avenue, Markham  
**Applicant:** ARK Group (Daniel Wong)  
**Agent:** ARK Group (Daniel Wong)  
**Hearing Date:** Wednesday, December 7, 2022

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

The Applicant is requesting relief from the “Fourth Density Single Family Residential (R4)” zone requirements in By-law 11-72, as amended, as it relates to a proposed two-storey detached dwelling. The variance requested is to permit:

**a) Section 6.1:**

a minimum front yard setback of 8.12 metres (26.64 feet), whereas the By-law requires a minimum setback of 8.23 metres (27 feet).

## **BACKGROUND**

### **Property Description**

The 905.71 m<sup>2</sup> (9,748.98 ft<sup>2</sup>) subject lands are located on the south side of Gainsville Avenue, generally located west of Main Street Unionville and south of Carlton Road (refer to Appendix “A” – Aerial Photo). The property is located within an established residential neighbourhood comprised primarily of a mix of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Mature vegetation exists in the rear yard.

There is an existing, unoccupied two-storey single detached dwelling on the property, which has been under construction since 2017. Due to construction delays, the owner has hired a new contractor to complete the construction and obtain necessary permits. A new survey was completed and it was confirmed that the dwelling was not built in compliance with the zoning requirements.

### **Proposal**

The Applicant is proposing to complete the construction of a 295.34 m<sup>2</sup> (3,179 ft<sup>2</sup>) two-storey detached dwelling (refer to Appendix “B” – Plans).

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the subject lands as “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. These criteria are established to ensure that infill developments are appropriate for the

site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

#### Zoning By-Law 11-72

The subject lands are zoned “Fourth Density Single Family Residential (R4)” under Bylaw 11-72, as amended, which permits one single detached dwelling per lot.

The proposed dwelling does not comply with the by-law requirements as it relates to minimum front yard setback.

#### Varley Village Infill Area

The subject property is within an area of the City where there is a trend to build larger houses. In response to concerns within this trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee, a Committee of Council, undertook a review of this issue with community consultation, and ultimately recommend that no action be taken on an infill by-law at this time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law was not adopted, the Committee should be aware of Council’s and the community’s concerns with regard to variance and maintaining the current standards of the Zoning By-law. Consequently, the Committee should consider public input before making a decision.

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

The owner has completed a Zoning Preliminary Review (ZPR) on August 19, 2022 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; and
- d) The general intent and purpose of the Official Plan must be maintained.

### **Reduction in Front Yard Setback**

The Applicant is requesting relief to permit a minimum front yard setback of 8.12 m (26.64 ft), whereas the By-law requires a minimum setback of 8.23 m (27 ft). This represents a reduction of approximately 0.11m (0.42 ft). The variance is entirely attributable to the front covered porch.

The main front wall of the building provides a front yard setback that is generally consistent with the established front yard setback pattern on the street. Staff are of the opinion that the proposed front yard setback is minor and have no concerns with the proposed variance.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of December 1, 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 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



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Elizabeth Martelluzzi, MCIP RPP, Senior Planner, Central District

REVIEWED BY:



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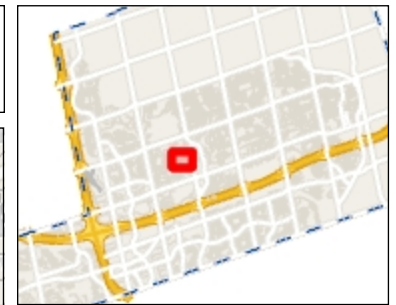
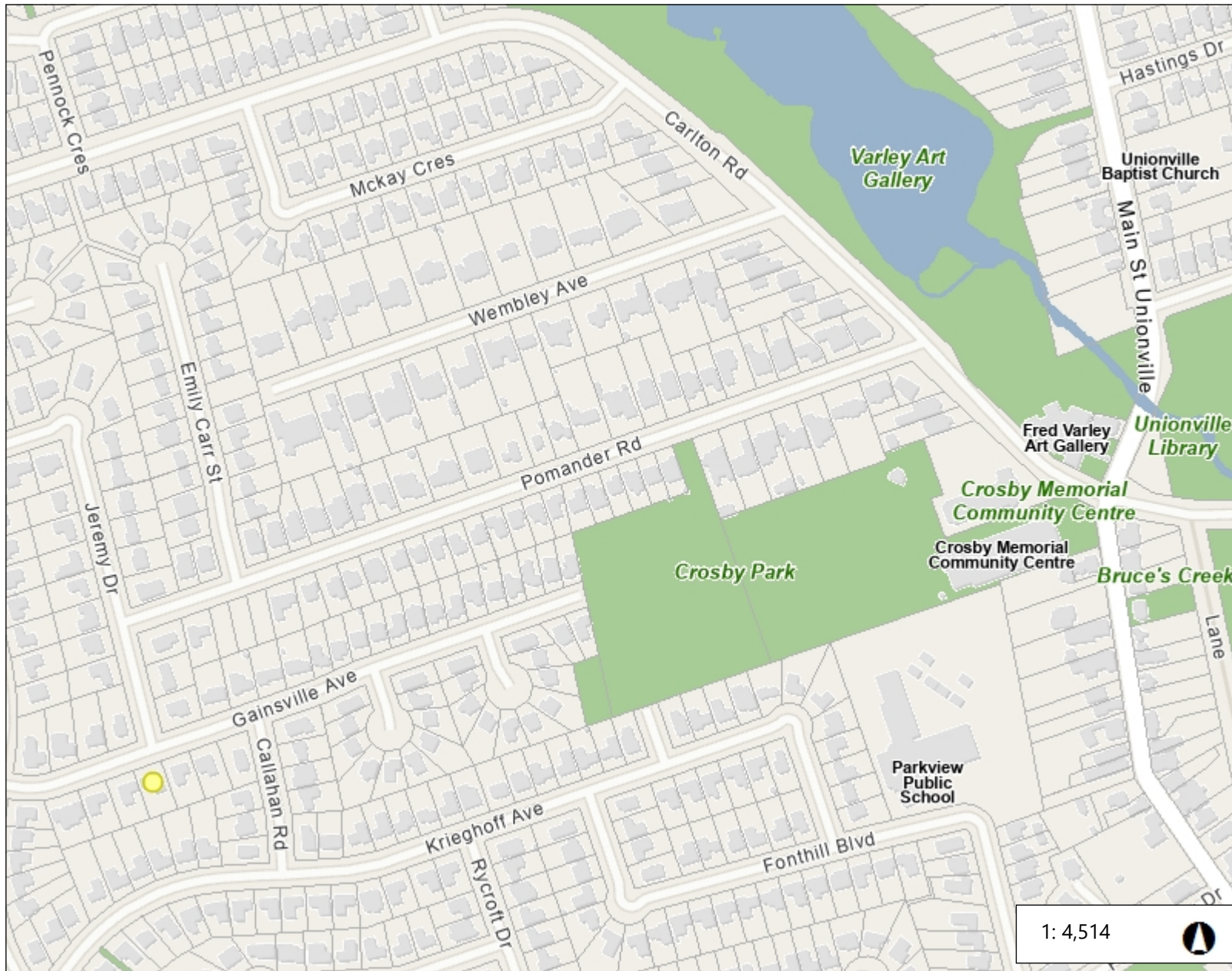
Deanna Schlosser, MCIP RPP, Senior Planner, Central District

### **APPENDICES**

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – A/166/22 Conditions of Approval



Subject Lands

- 9 Gainsville Avenue

1: 4,514



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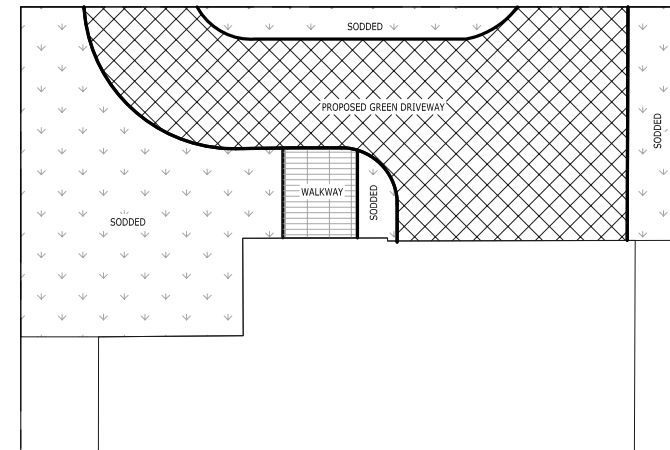
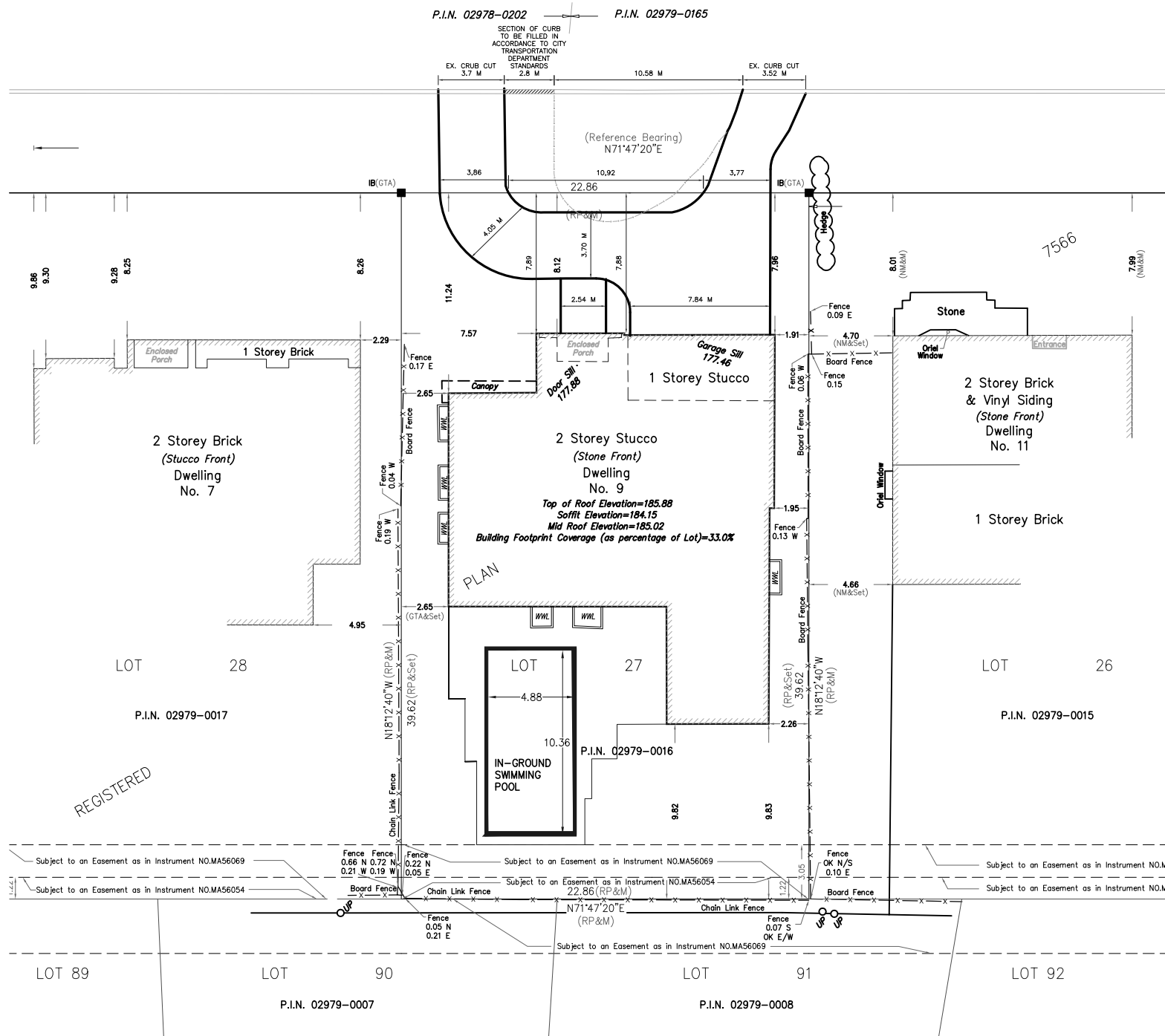
Notes

# Appendix B

File: 22.256731.000.00.MNV

Date: 12/02/22  
MM/DD/YY

## GAINSVILLE AVENUE (By Registered Plan 7566)



**2** FRONT YARD LANDSCAPING  
SP-1 N.T.S.

LEGEND		
	PERVIOUS DRIVEWAY	98.53 SQ. M.
	SOD/GRASS/PLANTERS	100.16 SQ. M.
	INTERLOCK/PAVERS	7.75 SQ. M.

SITE STATISTICS:	
LOT AREA =	905.71 SQ. M.
TOTAL COVERAGE =	299.28 M. [33.0%]
TOTAL GFA =	427.08 SQ. M.
FRONT YARD AREA =	206.44 SQ. M.
DRIVEWAY AREA =	98.53 SQ. M.
FRONT YARD LANDSCAPING =	107.91 SQ. M. [52.3%]
HARD PAVING =	7.75 SQ. M.
SOFT LANDSCAPING =	100.16 SQ. M. [92.8%]

No.	Description	Date	By
1	ISSUE FOR ZONING REVIEW	04/06/2022	DW
2	ISSUE FOR ZONING REVIEW II	08/11/2022	DW
3	ISSUE FOR C OF A COMMENTS I	11/15/2022	DW



### CY WONG & ASSOCIATES INC.

40 FERRIER STREET, 2ND FLOOR  
MARKHAM, ON L3R 2Z5

T: 416-841-3978 | EMAIL: CYWONG181@GMAIL.COM

DRAWING NAME Site Plan		Project Location: 9 Gainsville Avenue Markham, ON
Date Oct 15/21	Scale As Noted	SHEET NUMBER <b>SP-1</b>
Project Number 2152	Drawn by DW	

**1** SITE PLAN  
SP-1 1:8

## **APPENDIX “C” – A/166/22 Conditions of Approval**

1. The variance applies only to the proposed development as long as it remains; and
2. That the variance applies only to the subject development, in substantial conformity with the plan(s) attached as Appendix “B” to this Staff Report, 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:



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Elizabeth Martelluzzi, MCIP RPP, Senior Planner, Central District