

Memorandum to the City of Markham Committee of Adjustment

October 24, 2021

File: A/089/21
Address: 154 Rizal Ave Markham
Applicant: Mr Indera Jauhari
Agent: Mr Indera Jauhari
Hearing Date: Wednesday November 10, 2021

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

The applicant is requesting relief from the following requirements of By-law 177-96, R2*222*224 as amended:

a) By-law 177-96, Section 6.6.1 (a) (ii):

an architectural feature (roof cover) to encroach 2.48 m into the required rear yard, whereas the By-law permits a maximum of 2.0 m; and

b) By-law 177-96, Section 6.6.3 (a) (I):

stairs and landings to encroach 2.24 m into a required rear yard, whereas the By-law allows a maximum of 2.0 m;

as it relates to a proposed rear yard entrance to basement and basement finishing.

BACKGROUND

Property Description

The 278 m² (2992.37 ft²) subject property is located on the west side of Rizal Drive, south of Hislop Drive, and east of Forestbrook Drive. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings.

There is an existing single detached house on the property, which according to assessment records was constructed in 2007, with no record of previously approved variances.

Proposal

The applicant is proposing to construct a separate entrance to the basement of the main building from the rear yard, which includes a roof overhang and stairs and landings.

Official Plan and Zoning

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

The Official Plan designates the subject property "Residential Low Rise", which provides for low rise housing forms including single detached dwellings. Section 8.2.3.1 of the 2014 Official Plan outlines the general policies for land designated "Residential Low Rise". In considering applications for development approval on lands designated "Residential Low Rise", the City shall ensure minor variance respects the adjacent developments.

Zoning By-Law 177-96

The subject property is zoned R2*222*224 under By-law 177-96, as amended, which permits single detached use. The subject property is a *wide-shallow lot* with a lot frontage of 10.4 m (34.12 ft) and lot depth of 26.8 m (88.15 ft), therefore Table B2 (Part 3 of 3) – Residential Two (R2) Zone Wide-Shallow Lots applies. Exception*222 is not applicable in this application as it relates to minimum *lot frontage*, maximum *garage width* and *driveway width*, as well as minimum *lot depth*. Exception*224 relates to encroachment into required *front yards* and *exterior side yards* and is also not applicable to this application.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However the applicant has received comments from the building department through their permit process 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.

Increase in Maximum roofed Encroachment

The applicant is requesting a maximum roofed encroachment of 2.48 m (8.1 ft.) into the rear yard, whereas the By-law permits a maximum roof encroachment of 2 m (6.56 ft).

Given that the proposed roofed encroachment is in the rear yard and away from public view, staff is of the opinion that the relief requested would have no impact to the streetscape (Rizal Avenue), would result in minimal impacts to the surrounding properties, and is in keeping with the general intent of the Official Plan and Zoning By-law.

Increase in Maximum stairs and landings Encroachment

The applicant is requesting a stairs and landing encroachment of 2.24 m (7.35 ft.) into the rear yard, whereas the By-law permits a maximum stairs and landing (used to access a principle building) encroachment of 2.0 m (6.56 ft.).

Given that the proposed stairs and landings encroachment is in the rear yard and away from public view, staff is of the opinion that the relief requested would have no impact to the streetscape (Rizal Avenue), would result in minimal impacts to the surrounding properties, and is in keeping with the general intent of the Official Plan and Zoning By-law.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 1, 2021. 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.

Attachments:

Appendix A – Conditions of Approval

Appendix B - Plans

PREPARED BY:



Carman Yeung, Senior Planner, East District

REVIEWED BY:



Carlson Tsang, Acting Development Manager, East District

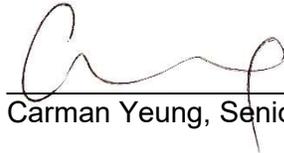
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APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/089/21

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 plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on October 12, 2021 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 proposed roof cover, stairs, and landing remain open and unenclosed.

CONDITIONS PREPARED BY:



Carman Yeung, Senior Planner, East District

