

Memorandum to the City of Markham Committee of Adjustment

October 29, 2019

File: A/105/19
Address: 272 Main St N Markham
Applicant: MARIJA SALOPEK
Agent: (none)
Hearing Date: Wednesday November 13, 2019

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

The applicant is requesting relief from the following requirements of By-law 1229, R1 as amended, to permit:

a) Section 6.1 (a):

a second dwelling unit, whereas the By-law does not permit secondary suites;

as it relates to a proposed main floor secondary suite.

BACKGROUND

Property Description

The 999.41 m² (10,758 ft²) subject property is located on the west side of Main Street North, south of 16th Avenue, within the Markham Village Heritage Conservation District. The property has a frontage of 20.1m (66ft) and a depth of 49.68m (163ft). The property is located within an established residential neighbourhood mainly comprised of one and a half detached dwellings, many of which are heritage buildings.

The existing dwelling on the property is a one and a half storey building dating from c.1885. It was constructed as a single family dwelling, but in more recent times had a hairdressing business on the main floor as a home occupation, with the proprietor residing on the second floor. The business is no longer in operation and the owner wishes to convert the main floor to a secondary dwelling unit.

The rear yard contains a one storey accessory building, which is a large 4-bay garage. The entire rear yard is asphalt-paved.

Proposal

The applicant is proposing to convert the main floor of the dwelling to a secondary dwelling unit, thereby returning it to its original residential use. The entrance to the existing second floor dwelling unit will continue to be from an enclosed porch on the south side of the building. There are no additions or other changes proposed for the exterior of the existing building. Floorplans of the ground floor and second floor of the existing building are attached as Figures 2 and 3.

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. 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 second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling. For this reason a Minor Variance Application is required to permit the requested secondary dwelling unit.

Zoning By-Law 1229

The subject property is zoned R1 under By-law 1229, as amended, which permits single detached dwellings and accessory buildings.

Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. No new construction is proposed.

Parking Standards By-law 28-97

The accessory building containing 4 parking spaces and paved driveway and rear yard provide ample parking to serve the proposed secondary dwelling unit.

Applicant's Stated Reason(s) for Not Complying with Zoning

Not filled out on the application form.

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.

Planning staff has no concerns regarding the secondary dwelling unit as it will not alter the existing exterior appearance of the heritage dwelling or property. There is more than adequate parking available on-site in the existing four-bay garage and asphalt-paved driveway. Staff has taken into consideration the policies of the 2014 Official Plan as it relates to Secondary Suites in the evaluation of this proposal.

Heritage Markham Committee reviewed the Minor Variance Application at its meeting of October 9, 2019 and had no comments regarding the secondary dwelling unit; however the committee did recommend that the owner be requested to remove a portion of the existing hard surface treatment of the rear yard and replace it with soft landscaping.

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

The City's Fire and Emergency Services Department 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. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

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 have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of October 30, 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 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 can be supported.

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.

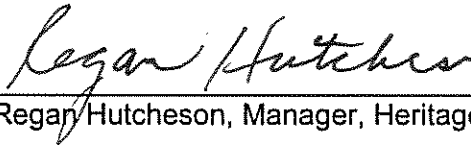
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



George Duncan
George Duncan, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson
Regan Hutcheson, Manager, Heritage Districts

File Path: Amanda\File\ 19 136270 \Documents\District Team Comments Memo

Appendix A: Conditions

Figure 1: Location Map & Building Photograph

Figure 2: Ground Floor Dwelling Unit Plan.

Figure 3: Second Floor Dwelling Unit Plan

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/105/19

1. That 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 A' to this Staff Report and received by the City of Markham on October 1, 2019, 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 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:



George Duncan, Senior Heritage Planner

Figure 1: Location Map and Building Photograph

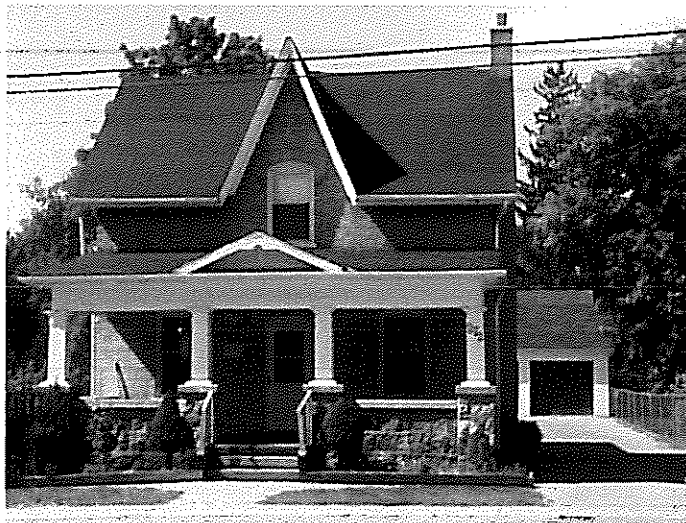
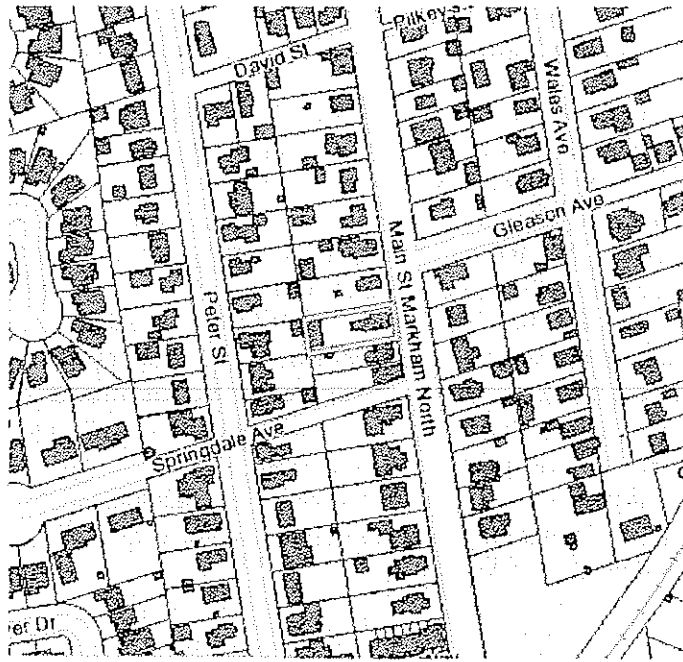
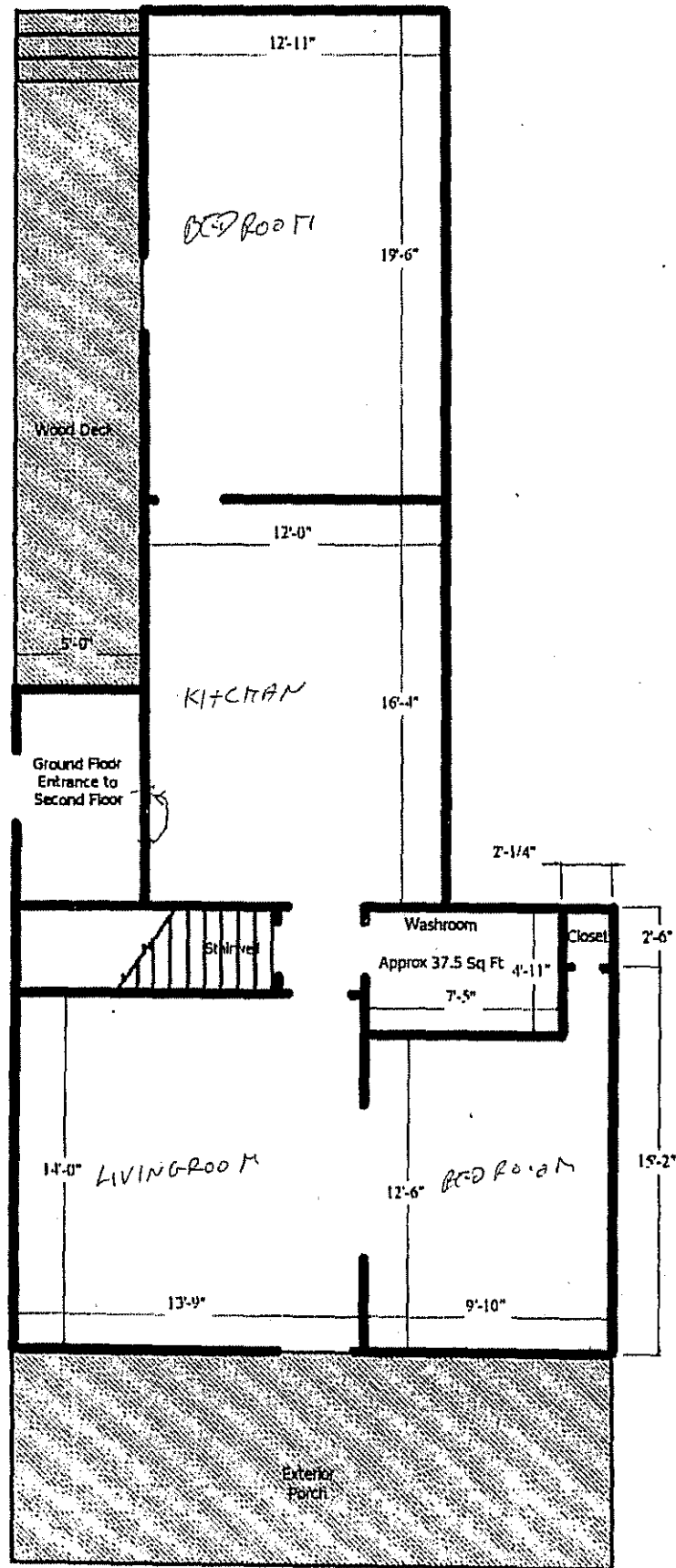


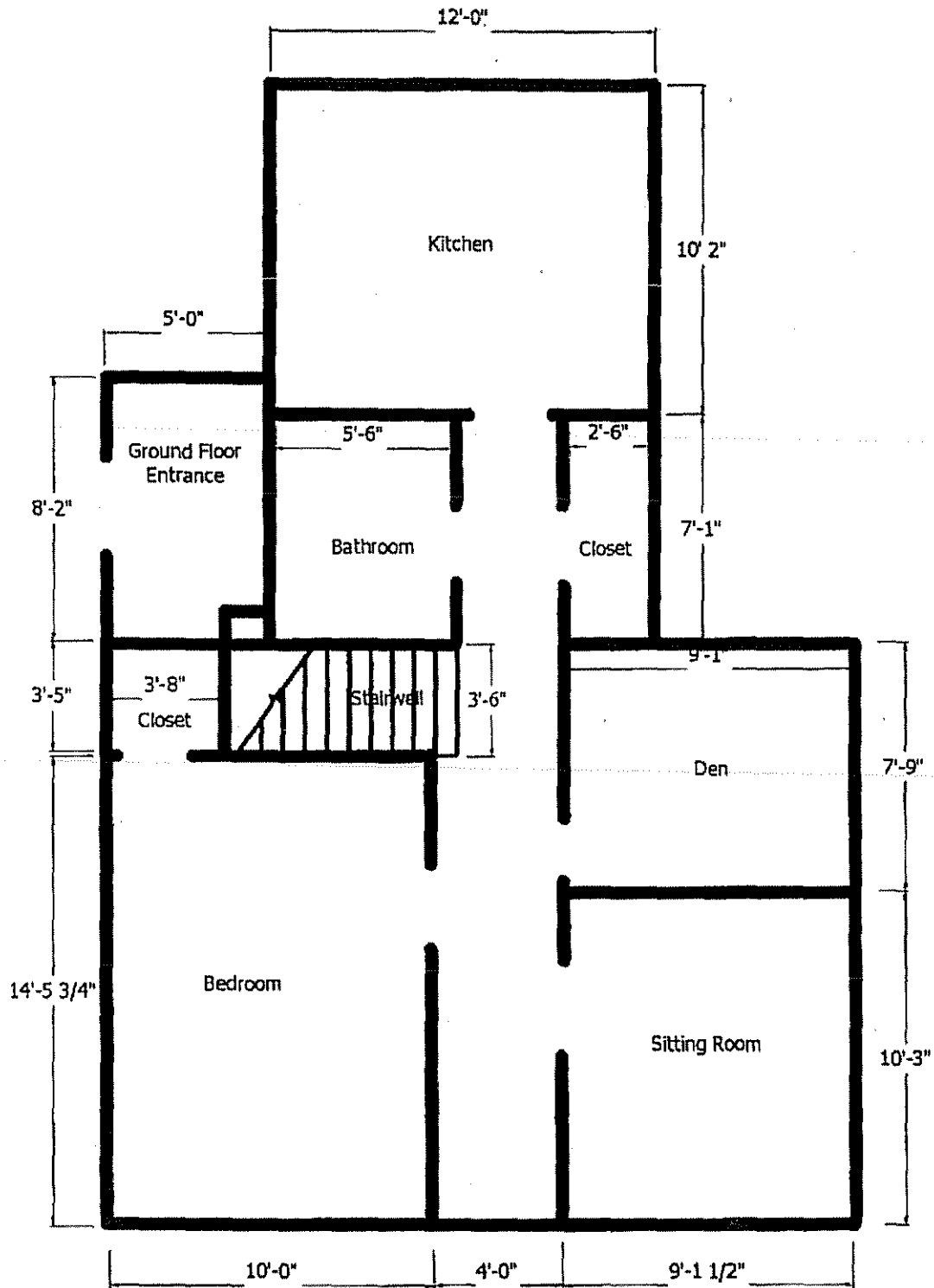
Figure 2



272 Main Street North

Main Floor - Mixed Use

Figure 3



272 Main Street North

Second Floor - Residential Use

Approximate area = 624 square feet