

# Memorandum to the City of Markham Committee of Adjustment

June 29, 2021

**File Nos.:** B.033.17 & A.141.20  
**Address:** 251 Helen Avenue  
**Applicant:** Glen & Eileen Baron  
**Agent:** David Johnston Architect Ltd. (David Johnston)  
**Hearing Date:** Wednesday July 7, 2021

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

## **B.033.17**

- a) sever and convey a parcel of land with an approximate area of 450.5 m<sup>2</sup> and lot frontage of 10.34 m (Part 2)
- b) sever and convey a parcel of land with an approximate area of 450.5 m<sup>2</sup> and lot frontage of 10.34 m (Part 3)
- c) retain a parcel of land with an approximate area of 450.5 m<sup>2</sup> and lot frontage of 10.34 m (Part 1)

The purpose of this application is to sever the existing lot to create three residential lots that consist of one retained (Part 1) and two new parcels (Parts 2 and 3). This application is related to minor variance application A.141.20.

## **A.141.20**

The Applicant requests relief from the following requirements of By-law 177-96, as amended, as it relates to the three proposed residential lots:

- a) **Amending By-law 2010-38, Section 7.418.1:**  
Permit lots with a minimum frontage of 10 m, whereas the By-law requires minimum lot frontages of 15 m
- b) **Amending By-law 2010-38, Section 7.418.1:**  
Permit lots with a minimum frontage of 10 m, whereas the By-law requires minimum lot frontages of 11.5 m
- c) **Amending By-law 2010-38, Schedule A:**  
Permit 12 lots, whereas the By-law permits a maximum of 11 lots
- d) **Amending By-law 2010-38, Section 6.5 & Table A1:**  
Permit accessory dwelling units (secondary suites), whereas the By-law permits no more than one single detached dwelling/dwelling unit on a lot, unless otherwise specified
- e) **Parking By-law 28-97, Section 3.0:**  
Permit a minimum of two parking spaces on a lot, whereas the By-law requires a minimum of three parking spaces on a lot that has an accessory dwelling unit (secondary suite).

This application relates to consent application B.033.17, which is being reviewed concurrently.

**NOTE:** Notwithstanding that the applications have been circulated under the municipal address of 251 Helen Avenue, the lands are currently unaddressed and are legally described as PLAN 2196 PT LOT 8.

## **BACKGROUND**

### **Property Description**

The vacant, 1,351.5 m<sup>2</sup> (14,548 ft<sup>2</sup>), subject lands are located on the south side of Helen Avenue, which is located north of Highway 407, east of Kennedy Road, in the South Unionville community (the “Subject Lands”). The Subject Lands have an approximate frontage of 31.02 m (101.77 ft) along Helen Avenue and an average depth of 43.90 m (144.03 ft). Vegetation is dispersed throughout the Subject Lands.

The surrounding area is generally comprised of a mix of rectangular-shaped residential lots having varying lot areas and lot frontages with predominately detached dwelling built forms along Helen Avenue.

### **Proposal**

The Applicant proposes to sever the Subject Lands into three residential lots with equal lot frontages of 10.34 m (33.92 ft) and approximate lots areas of 450.58 m<sup>2</sup> (4,850.16 ft<sup>2</sup>) (the “Proposed Development”).

To facilitate the Proposed Development, variances to reduce lot frontages and increase the maximum permitted number of lots are required. The Applicant also proposes to accommodate second suite units, which requires additional variances to permit accessory dwelling units. To accommodate second suites, the Applicant requires one (1) parking space in the garage and two (2) parking spaces on the driveway. The reduced lot frontages would not permit two-car garages and accordingly two parking spaces would be required on the driveway. This widen driveway configuration may not comply with the maximum driveway requirements under the City’s Parking By-law 28-97, as amended. Therefore, the Applicant requests a variance to reduce the required parking. At this time, the Applicant does not have conceptual siting plans for the proposed dwellings.

### **Provincial Policies**

#### *More Homes, More Choice Act, 2019*

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019, and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. Under this legislation, “second suites” are now referred to as “additional residential units”, and the terms are used synonymously in this Memorandum.

#### *Provincial Policy Statement, 2020*

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of

housing options through intensification and redevelopment while taking into account existing building stock.

*A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)*

Section 2.1.4 (c) of the Growth Plan, 2019, requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

**Official Plan and Zoning**

Markham Official Plan, 2014 (the “City’s Official Plan”)

The City’s Official Plan (as partially approved on November 24, 2017 and updated on April 9, 2018) designates the Subject Lands “Residential Low Rise”, which permits low-rise housing forms, including single detached dwellings. Section 8.2.3.5 of the City’s Official Plan outlines development criteria for the “Residential Low Rise” designation ensuring infill development respects and reflects the existing patterns and character of adjacent development. Section 8.2.3.5 a) specifically notes that the “lot frontage(s) and lot area(s) of the proposed new lot(s) shall be consistent with the sizes of the existing lots on both side of the street on which the property is located.”

The City’s Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8, which states:

*“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, 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.”*

A “Secondary Suite” in the Official Plan is defined as:

*“...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 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the York Region Official Plan and subject to appropriate zoning, development criteria, and standards.

### Zoning By-law

The Subject Lands are zoned “Residential Two\*418” (R2\*418) by Site Specific Zoning By-law Amendment 2010-38 (“Amending By-law 2010-38”), which amended Parent By-law 177-96. Amending By-law 2010-38 applies to the Subject Lands, the northern portion of 251 Helen Avenue to the west, and the lots to the east extending to Glenbar Gardens.

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

The Applicant completed a ZPR on May 7, 2018, to confirm the variances required for the Proposed Development.

## **COMMENTS**

### **Consent Application (B.033.17)**

The Applicant proposes to sever the Subject Lands into three residential lots with equal lot frontages of 10.34 m (33.92 ft) and approximate lots areas of 450.58 m<sup>2</sup> (4,850.16 ft<sup>2</sup>), as shown as Parts 1, 2 and 3 on the draft reference plan (Appendix “C”). The proposed lots do not meet the minimum required lot frontage requirements of 11.5 m (37.7 ft) and 15 m (49.2 ft) in Amending By-law 2010-38. As a result, the Applicant submitted a Minor Variance Application File A.141.20. Planning staff have no objection to Consent Application File B.033.17.

### **Minor Variance Application (A.141.20)**

As required by the *Planning Act*, the following four tests must be met in order for a variance to be granted by the Committee:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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 Minimum Lot Frontage - Variances a) and b)

The Applicant requests relief to permit lots with a minimum lot frontage of 10 m (32.8 ft), whereas Amending By-law 2010-38 requires a minimum lot frontage of 11.5 m (37.7 ft) and 15 m (49.2 ft). Planning staff recognize that there are variations of lot frontages with the existing lots along the street and within the surrounding area that include 10 m (32.8ft) frontages. Planning staff are of the opinion that the lots resulting from the proposed severance are generally consistent and compatible with the existing lots on Helen Avenue.

### Additional Lot - Variance c)

The boundary of Amending By-law 2010-38 establishes a maximum number of 11 lots. The Consent Application File B.033.17 proposes one additional lot for a total of 12. Staff have no objection to the creation of one (1) additional lot, as the proposed lot frontage and lot area are generally consistent and compatible with existing lots in the immediate vicinity. Moreover, the additional lot is an efficient use of the land and does not result in any negative impacts from the lot pattern and servicing allocation perspectives.

### Accessory Dwelling Unit and Associated Parking Reduction - Variance d)

The Applicant requests permission to allow for an accessory dwelling unit (secondary suite), in the event that a prospective purchaser wishes to accommodate the same. As

previously mentioned, there are no conceptual plans associated with the dwellings for the proposed lots at this time and formal plans will be required at the Building Permit stage.

The City's Fire and Emergency Services Department has no objections to the proposed accessory dwelling unit provided:

- a) it is not located in a detached ancillary structure (i.e. accessory building/garage)
- b) it is registered with the City
- c) it complies with Building and Fire Codes.

Should this application be approved, the Applicant will be required to obtain a Building Permit to ensure the accessory dwelling unit (secondary suite) is in compliance with Building Code and Fire Code regulations, and will be required to register the unit with the Fire Department prior to occupancy.

Markham remains committed to promoting affordable and shared housing opportunities. Accessory dwelling units help the City increase the availability of affordable housing forms and provides support to achieve its affordable housing target required by the Province. Staff opine that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and have no objections to the requested variance.

#### Associated Parking Reduction - Variance e)

Markham's Parking Standard By-law 28-97, as amended, requires the provision for a minimum of two parking spaces for the principle dwelling unit and one additional space for an accessory dwelling unit (secondary suite). The Applicant requests a variance to permit a reduction in parking to accommodate the proposed accessory dwelling unit (secondary suite) request. This is required as the Applicant proposes to reduce the lot frontage to 10.34 m (33.92 ft), which would not accommodate a two-car garage. In order to provide for the additional parking space, a widened driveway configuration may be required, which may not comply with the maximum driveway requirements under the City's Parking By-law 28-97, as amended. At the time of writing this Memorandum, the Applicant had not provided conceptual siting plans for the proposed dwellings. In this regard, requiring the additional parking space could result in design changes to the proposed lots, such as increased hard surface area within the front yard.

Planning Staff are of the opinion that reduced parking may be considered "self regulating", as a potential accessory dwelling unit (secondary suite) could be of interest to an occupant that does not require a parking space, in the event that the property owners requires both parking spaces. The Applicant should be aware that Markham prohibits overnight on street parking, unless a permit or exemption is obtained through the City's Parking and Enforcement Department. Staff have no objections to this requested variance.

#### Engineering Comments

The City's Engineering staff advised that the Applicant must submit a site servicing and grading plan for review at the Building Permit review stage. The Applicant must also make satisfactory arrangements with the City's Engineering Department related to municipal inspections for the installation of the proposed sanitary, storm and water main service connections to service the newly created lots and disconnect any unused service

connection. The Engineering Department does not have any objections to the approval of the Consent Application File B.033.17, subject to the conditions listed in Appendix "A".

Urban Design Comments

As noted, the Subject Lands contain mature vegetation. If approved, the Applicant must submit an Arborist Report and Tree Assessment and Preservation Plan, prepared by a qualified arborist. The Urban Design section does not have any objections to the approval of Consent Application File B.033.17, subject to the conditions listed in Appendix "A".

York Region Comments

York Region has reviewed the Consent and Minor Variance applications and requests confirmation of adequate water supply and sewage capacity servicing allocation for the new lots. Staff recommend that this comment be addressed through adopting the associated Condition of Approval as detailed in Appendix "A".

**PUBLIC INPUT SUMMARY**

No written submissions were received as of June 29, 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.

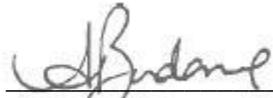
**CONCLUSION**

In concluding that the Proposed Development is appropriate, staff have had regard for the criteria in Sections 51(24) and 45(1) of the *Planning Act, R.S.O. 1990, c.P.13* and do not object to its approval.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the By-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

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

PREPARED BY:



Sabrina Bordone, Senior Planner, Central District

REVIEWED BY:



Stephen Lue, Development Manager, Central District

**Appendices:**

Appendix "A": Conditions of Approval for B.033.17

Appendix "B": Conditions of Approval for A.141.20

Appendix "C": Draft Reference Plan

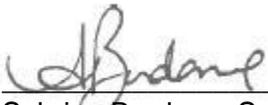
## APPENDIX “A”: CONDITIONS OF APPROVAL FOR B.033.17

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the severed 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.033.17, 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 Lands, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. The Owner shall enter into a Development Agreement with the City, to the satisfaction of the City Solicitor, Director of Planning and Urban Design, Director of Operations, and/or the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including, but not limited to, the following:
  - i) Payment of all applicable fees in accordance with the City’s fee By-law;
  - ii) Approval of an Arborist Report and Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City’s Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
  - iii) Erection and inspection by City staff of tree protection fencing, in accordance with the City’s Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
  - iv) Planting of any required replacement trees, and payment of replacement fees in accordance with the City’s Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
  - v) Submission of securities respecting any works to be provided in accordance with the Development Agreement;
  - vi) Payment of cash-in-lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement. The applicant shall submit an Appraisal report prepared by a member of the Appraisal Institute of Canada in accordance with the City’s terms of reference respecting the proposed new lot, to be reviewed and approved by the City;
  - vii) Notice that the lands may not be connected to the City’s water system, sewage system and/or drainage system (the “Municipal Services”), and that in order to connect to the Municipal Services, the Owner must submit an application to

the City and pay for the connections to the Municipal Services, which shall be installed by the City.

6. That the Owner confirms that water and wastewater servicing capacity is available to service this application as provided by York Region in their comments to the applicant, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of York Region.
7. That the Owner provides confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all the requirements of the applicable Zoning By-law, including any development standards for building and structures, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate.
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.

CONDITONS PREPARED BY:



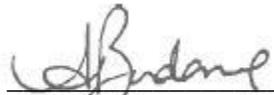
---

Sabrina Bordone, Senior Planner, Central District

**APPENDIX "B": CONDITIONS OF APPROVAL FOR A.141.20**

1. The variances apply only to the Proposed Development as long as it remains.
2. 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.
3. That the Owner register the home as a two-unit house with the City of Markham Fire and Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITONS PREPARED BY:



---

Sabrina Bordone, Senior Planner, Central District

