

Memorandum to the City of Markham Committee of Adjustment

September 02, 2021

File: A/102/21
Address: 5965 7 Hwy E Markham
Applicant: Mac's Convenience Stores Inc.
Agent: EXP services (Crystal Frazao)
Hearing Date: Wednesday September 08, 2021

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

The applicant is requesting relief from the following requirements of the Service Commercial (C3) zone under By-law 1229, as amended, to permit:

1. **a minimum side yard setback of 3.32 m [10.89 ft] for the proposed convenience store, whereas the By-law requires a minimum side yard setback of 7.5 m;**

2. **a minimum side yard setback of 3.068 m [10.07 ft], for the proposed garbage enclosure whereas the By-law requires a minimum side yard setback of 7.5 m;**

as it relates to demolishing existing gas station, convenience store and car wash and constructing new Circle K gas station, convenience store and car wash.

Notice and Signage

Upon review of the variance application, Staff note that the numeric values associated with the application were submitted and distributed in metric units. However, the values associated with this section of By-law 1229, as amended, are written in imperial units. Consequently, as submitted and circulated, the minimum required side yard was indicated as 7.5 metres, whereas the actual minimum required side yard under By-law 1229, is 25 feet. When converted to metric, this equates to 7.62 metres.

Therefore, in order to ensure that proper notice of this variance application is given to all affected parties, Staff recommend that the application be deferred sine die.

However, if Committee chooses to proceed in rendering an alternative decision, Staff provide the following comments and, request that any notice of decision include the following revisions:

- a) By-law 1229, Section Table 11.1: a minimum side yard setback of 10.89 feet (3.32 metres), whereas the By-law permits a minimum side yard setback of 25 feet (7.62) metres;

- b) By-law 1229, Section Table 11.1: a minimum side yard setback of 10.07 feet (3.068 metres), whereas the By-law permits a minimum side yard setback of 25 feet (7.62) metres.

BACKGROUND

Property Description

The 5,250 m² (56,511 ft²) subject property is prominently located at the south east corner of Markham Main Street and Highway 7 E. at the southerly limit of the historic commercial core of the Markham Village Heritage Conservation District. The property borders naturalized areas of the Rouge River Valley and Wellington Street to the south and the west and is not adjacent to any other commercial or residential uses, however there are commercial properties to the north of Highway 7, and the Markham Village Library and Veterans Square is located on the southeast corner of Highway 7 and Main Street South.

The property is currently occupied by an automobile service station comprised of fuel pumps covered by a canopy attached to a small convenience store and an automated carwash building along the southern edge of the property.

The western naturalized sloped portion of the property and the portion of the property proposed to be occupied by the new carwash building are within TRCA's Regulated Area, as it is associated with the Rouge River Watershed, but the table lands proposed to be occupied by the new fuel pumps and convenience store are not. (See Figures 1 and 2, Location and Aerial Maps)

Proposal

The applicant is proposing to demolish all the existing structures on the property to expand the capacity of the site by constructing a new 352.7m² (3,796.4 ft²) Circle K convenience store, a 163.37m² (1,758.5 ft²) automated car wash as well as a large canopy covering fuel pumps. (See proposed Site Plan-Figure 3).

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 the review of the associated site plan control application 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.

Reduced Side Yard Setback

The applicant is requesting a minimum side yard setbacks of 10.89 feet (3.32 metres) and 10.07 feet (3.068m) for the proposed convenience store and garage storage enclosure respectively whereas the By-law requires 25 feet (7.62 metres). These structures are proposed to be constructed at the southern edge of the property to accommodate proposed landscape areas, the expanded fueling area and vehicular access and turning radii required for automobiles and transport trucks that deliver fuel to the underground tanks.

These variances can be considered to be minor in nature and desirable for the appropriate development of the land because the adjacent property to the south is bordered by a retaining wall, a landscaped right-of way along the north side of Wellington Street, and a naturalized slope of the Rouge Valley, and will therefore not negatively impact any neighbouring properties. (See Figure 3-Photograph of adjacent land to south property line)

EXTERNAL AGENCIES

TRCA Comments

The western portion of the subject property to be occupied by the proposed carwash is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. TRCA provided comments on May 18th 2021 and August 12, 2021. Although the TRCA has expressed concerns with the proximity of the proposed car wash to the top of slope on the western portion of the property there are no concerns with the requested variances requested to permit the location of the proposed convenience store and garbage enclosure from the southern, side property line. (See Appendix C- Extract from the letter from the TRCA dated August 12, 2021). Any outstanding issues the TRCA has with development proposal are proposed to be resolved through the Site Plan Approval process.

INTERNAL DEPARTMENTS

Engineering and Urban Design

The City's Engineering Department and Urban Design Section have not provided any comments regarding the requested variances.

Heritage Markham

Heritage Markham Committee reviewed the site plan control application on April 14, 2021 and had no objection to the site plan showing the location of the proposed new convenience store and delegated final review of the site plan application and any other development application required to approve the proposed development to Heritage Section staff. (See Appendix D-Heritage Markham Extract of April 14, 2021)

PUBLIC INPUT SUMMARY

No written submissions were received as of September 2nd 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 requested variances meet the four tests of the Planning Act and have no objections. However, as indicated above, Staff defer to the Committee to determine whether proper notice has been given in order to render its decision. 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:



Peter Wokral, Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Manager of Heritage Planning

File Path: Amanda\File\ 21 129775 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/102/21

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 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 to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;

CONDITIONS PREPARED BY:

A handwritten signature in cursive script, appearing to read "Peter Wokral".

Peter Wokral, Senior Heritage Planner

APPENDIX "C" EXTRACT FROM TRCA LETTER OF AUGUST 2021

Application-Specific Comments

TRCA has been involved in the review of the associated Site Plan Application SPC 21 108793 (TRCA CFN 64172.05) for the proposed development. Through our letter dated May 18, 2021 TRCA has provided comments on matters such as the limits of development, the existing retaining walls, stormwater management, erosion and sediment control, plantings and requirement for a TRCA permit. Based on our review of the plans submitted with this Minor Variance Application (listed in Appendix A) the concerns and comments provided in our letter dated May 18, 2021 remain outstanding. In particular, we continue to be concerned with the proximity of the proposed development (carwash and laneway area) to the top of slope in the western portion of the property and require an unobstructed 6 metre setback (erosion access allowance) to the top of slope.

Through this Minor Variance Application, the applicant is requesting variances from the Zoning By-law related to setbacks to the side yard, which coincides with the southern property line. A 3.32 m side yard setback is proposed for the convience store and a 3.068m side yard setback is proposed for the garbage enclosure. TRCA has no concerns with these specific variances.

APPENDIX “D” HERITAGE MARKHAM EXTRACT OF APRIL 14, 2021

6.4 SITE PLAN CONTROL APPLICATION

PROPOSED REDEVELOPMENT OF EXISTING ESSO SERVICE STATION

5965 HWY. 7 E.

MARKHAM VILLAGE HERITAGE CONSERVATION DISTRICT (16.11)

FILE NUMBER:

SPC 21 108793

Extracts:

R.Hutcheson, Manager, Heritage Planning

P. Wokral, Senior Heritage Planner

Peter Wokral, Senior Heritage Planner presented the staff memorandum of the proposed redevelopment of the Esso Service Station at 5965 Highway 7, East Markham Village Heritage Conservation District. The proposal includes demolishing the existing buildings on the site and replacing them with a larger convenience store, a car wash, an expanded number of fuel pumps and canopy.

Staff suggested a number of design changes. Staff are recommending reducing the entrances to the gas station on Main Street South from two to one so that that

landscaping can be added to the site in this area to improve the aesthetics of the gas station and to enhance the Hwy 7/Main St intersection area.

Crystal Frazao, representing the owner advised that adding the landscaping, and having one larger entrance on Main Street South (instead of two entrances) would require a reduction in the number of parking spots at the gas station by four, and that with the reduction in parking it would not be in compliance with the City's parking requirements. She was unsure if a reduction in the number of entrances would impact the gas stations operations.

Mr. Wokral advised that City staff will sometimes support minor variances in the number of parking spaces provided if they support greater Urban Design/Planning objectives.

Committee provided the following feedback on the proposal to re-develop the gas station:

- Suggested that one larger entrance would be more pedestrian friendly, but did not support it if it will impact the gas stations operations;
 - Suggested that the proposed location for the car wash may create a long line-up of cars;
 - Suggested the landscaping should be easy to maintain, noting gas stations do not always maintain their landscaping;
 - Suggested that warm paint colours be used, and that the surrounding neighbourhood be considered when selecting the lighting;
 - Suggested having a pump for electric cars.
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Recommendation:

THAT Heritage Markham has no objection to the demolition of the existing service station buildings and structures at 5965 Hwy. 7 E.;

THAT Heritage Markham has no objection from a heritage perspective to the proposed forms, massing, and scale of the proposed new convenience store and carwash, but recommends the stone treatment as a foundational element with a consistent historic Markham Village colour brick used for the remainder of the buildings, and a consistent use of window treatments;

THAT Heritage Markham does not support the proposed fuel pump canopy and recommends that it have supports clad in brick reflective of local historic brick, or have a brick base with the columns finished in a black painted finish to appear visually lighter and less stark than the proposed white finished surfaces;

THAT Heritage Markham supports a reduction in vehicular driveway openings on Main Street South and the introduction of landscaping to replace proposed parking east of the proposed main building;

THAT the proposed redevelopment include enhanced soft and hard landscaping similar to that found at existing ESSO Station at the south west corner of 16th Avenue and Main Street North to soften the appearance of the property, enhance the heritage character of the Markham Village Heritage Conservation District, and better reflect and complement the existing green spaces directly across Main Street South on the City owned Library and Cenotaph property;

THAT any new proposed signage be shown on the site plan drawings and comply with Section 10.0 (Special Sign Districts) of the City of Markham's Sign By-law;

THAT final review of the site plan control application and any other development application required to approve the proposed redevelopment be delegated to Heritage Section staff.

Carried

FIGURE 1- LOCATION MAP



FIGURE 2- AERIAL MAP 2020



FIGURE 3- PHOTOGRAPH OF SOUTHERN BORDER OF PROPERTY

