

# Memorandum to the City of Markham Committee of Adjustment

July 14, 2021

**File:** A/081/21  
**Address:** 35 Houser Street – Markham, ON  
**Applicant:** Shailesh Patel and Hemangini Patel  
**Agent:** YEJ Studio and Consulting Inc (Amr Robah)  
**Hearing Date:** July 21, 2021

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

The applicant is requesting relief from the following “Residential Two Exception \*99 (R2\*99)” zone requirements under By-law 177-96, as amended, as it relates to a sunroom addition located in the rear yard. The variance requested is to permit:

**a) By-law 177-96, Sec. 5, Table B2:**

a minimum rear yard setback of 3.84 m (12.60 ft), whereas the by-law requires a minimum rear yard setback of 7.0 m (22.97 ft).

## **BACKGROUND**

### **Property Description**

The 355.35 m<sup>2</sup> (3,824.96 ft<sup>2</sup>) subject property is located on the east side of Houser Street, north of Bur Oak Avenue, south of Castlemore Avenue, and west of Mingay Avenue. The property is currently developed with a single detached dwelling. The property is located within a residential neighbourhood which contains a mix of two-storey detached, semi-detached, and rowhouse (townhouse) dwellings, some of which are lane-based properties.

### **Proposal**

The applicant is proposing to legalize a one-storey 12.29 m<sup>2</sup> (132.29 ft<sup>2</sup>) sunroom addition to the dwelling located in the rear yard, and is requesting the associated variance noted above.

According to City records, a building permit was not obtained for the existing one-storey sunroom which projects into the rear yard setback. Notwithstanding completion of construction, staff's assessment of a minor variance application is based on whether the development as proposed meets the four tests under Section 45(1) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*. In the event that the application is denied, the applicant would be required to appropriately address any non-compliances with the By-law for the site, which may include the partial, or full removal of the existing sunroom addition.

### **Official Plan and Zoning**

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings.

### Zoning By-Law 177-96

The subject property is zoned “Residential Two Exception \*99 (R2\*99)” under By-law 177-96, as amended, which permits various low rise housing forms, including single detached

dwellings. The proposed development does not comply with the By-law requirement with respect to the minimum rear yard setback.

### **Zoning Preliminary Review (ZPR) Not Undertaken**

The applicant confirmed that a ZPR has not been conducted. It is the applicant's responsibility to ensure that the application has accurately identified all 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 at the Building Permit stage, further variance application(s) may be required to address any 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 ("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;
- d) The general intent and purpose of the Official Plan must be maintained.

### **Reduction in Rear Yard Setback**

The applicant is requesting a minimum rear yard setback of 3.84 m (12.60 ft), whereas the By-law requires a minimum rear yard setback of 7.0 m (22.97 ft). This is a reduction of 3.16 m (10.37 ft).

The requested variance to permit the sunroom in its location extends 3.20 m (10.50 ft) beyond the main rear wall of the building, or almost halfway into the rear yard setback. The width of the proposed sunroom is 3.84 m (12.60 ft), and the majority of the main rear wall of the building on either side of the sunroom has a rear yard setback of 7.04 m (23.10 ft) which is in compliance with the rear yard setback requirement, and which minimizes any potential impact of the proposed sunroom on adjacent properties.

Staff are of the opinion that given the one-storey height, central location of the proposed sunroom which does not extend along the entire width of the main building, and remaining useable rear yard, the requested variance is appropriate, and minor in nature. Staff recommend that the conditions detailed in Appendix "A" be adopted by the Committee in the event of approval.

### **PUBLIC INPUT SUMMARY**

Three written submissions/interested party forms were received as of the writing of this report: two of which do not object, and one of which objects to the proposed variance.

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*, and are of the opinion that the proposed development meets the four tests. Staff recommend that public input be considered by the Committee 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.

## **APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/081/21**

1. The variance applies only to the proposed development as long as it remains.
2. That the variance applies only to the subject development, in substantial conformity with the batch stamped plans 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 their designate that this condition has been fulfilled to their satisfaction.

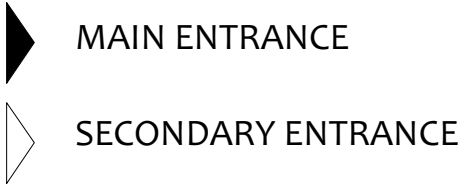
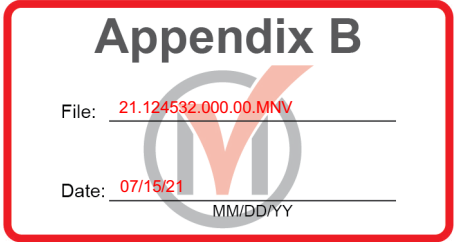
CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to be 'Aleks Todorovski', written over a horizontal line.

Aleks Todorovski, Planner, Zoning and Special Projects

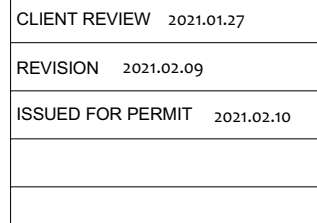
**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/081/21**



**SUNROOM**  
35 HOUSER ST,  
MARKHAM, ON,  
L6E1H9

QUALIFICATION INFORMATION		
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.5.1 OF DIVISION "C" OF O.B.C.		
NAME AMR ROBAH		BCIN 42582



## SITE PLAN

Drawn by A.H.

Project number	21 RE100-4
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Date	2021.01.27
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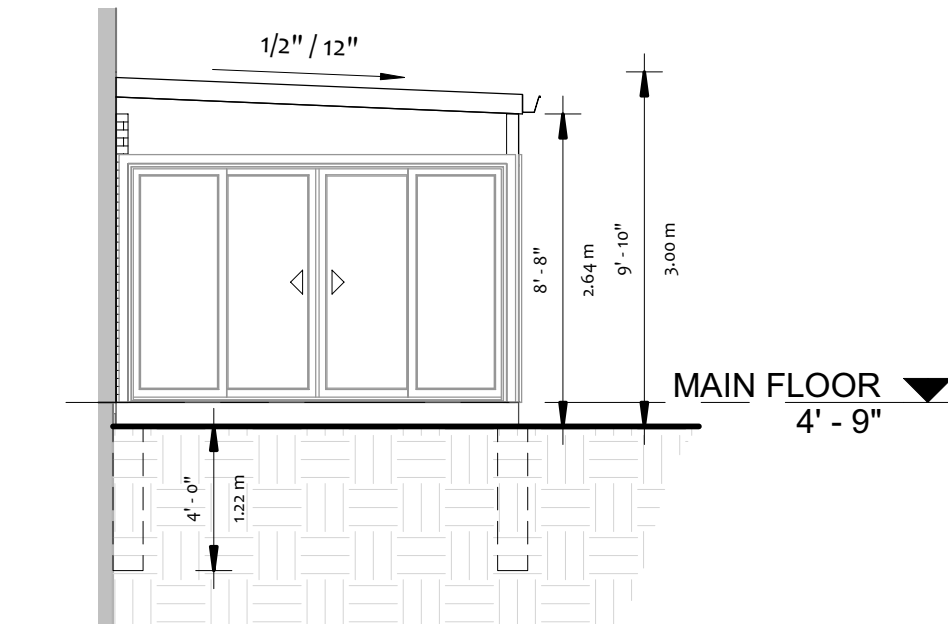
A-02

Scale 1/8" = 1'-0"

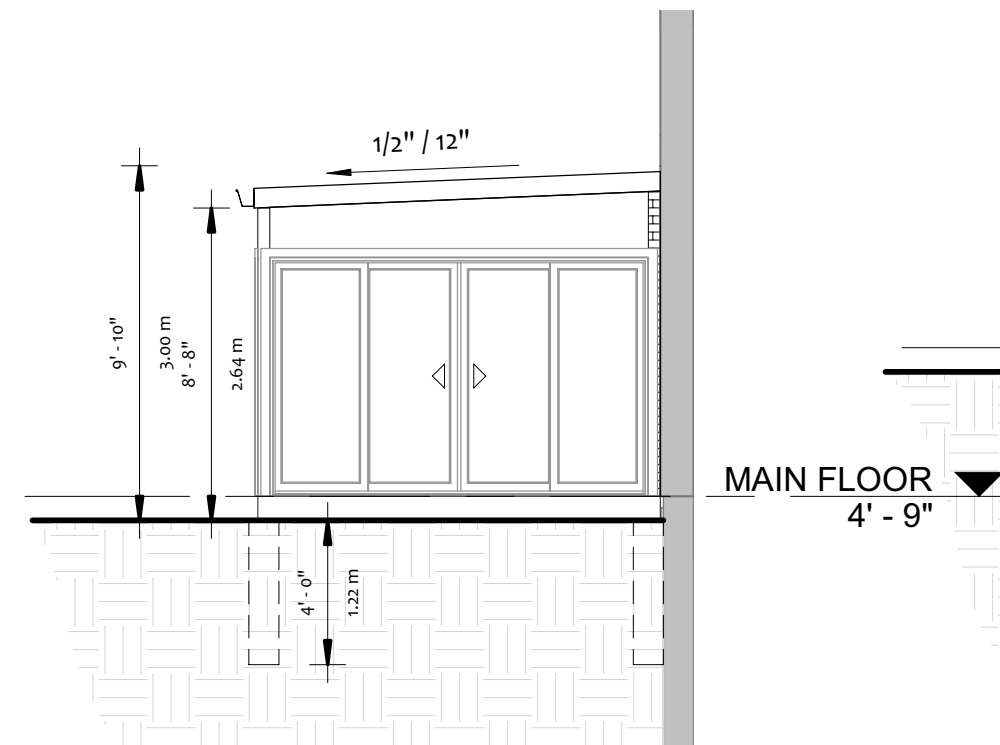
## Appendix B

File: 21.124532.000.00.MNV

Date: 07/15/21  
MM/DD/YY



**1**  
**A-10** Elevation 1  
3/16" = 1'-0"



**3**  
**A-10** Elevation 3  
3/16" = 1'-0"



**2**  
**A-10** Elevation 2  
3/16" = 1'-0"

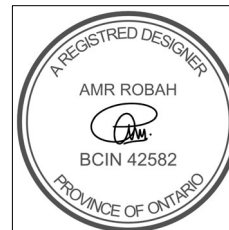


7-250 SHEILDS CRT.  
MARKHAM ON L3R 9T5  
888.236.9958 | 416.483.5393  
INFO@YEJSTUDIO.COM  
WWW.YEJSTUDIO.COM

SUNROOM  
35 HOUSER ST,  
MARKHAM, ON,  
L6E1H9

THE UNDERSIGNED HAS REVIEW AND TAKES RESPONSIBILITY FOR THE DESIGN, AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION  
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.5.1 OF DIVISION "C" OF O.B.C.  
NAME AMR ROBAH  
BCIN 42582



CLIENT REVIEW 2021.01.27

REVISION 2021.02.09

ISSUED FOR PERMIT 2021.02.10

### SUNROOM ELEVATIONS

Drawn by A.H.

Project number 21 RE100-4

Date 2021.01.27

**A-10**

Scale 3/16" = 1'-0"