

Memorandum to the City of Markham Committee of Adjustment

August 27, 2021

File: A/116/21
Address: 47 Kirk Drive – Markham, ON (Thornhill)
Applicant: Aboulghasem Teymourian
Agent: Hub Development Group Ltd. (Frida Gao)
Hearing Date: September 8, 2021

The following comments are provided on behalf of the West District Team. The applicant is requesting relief from the following “Second Density Single Family Residential (R2A)” zone requirement under By-law 2150, as amended, as it relates to a new detached dwelling to permit:

a) By-law 2150, Section 6.1:

a maximum height of 8.59 m (28.18 ft), whereas the By-law permits a maximum height of 8.23 m (27.0 ft).

BACKGROUND

Property Description

The 1,523.73 m² (16,401.32 ft²) subject property is located on the south side of Kirk Drive, north of Royal Orchard Boulevard, east of Yonge Street, and west of Royal Orchard Park. A one-storey detached dwelling with an attached and detached garage, two frame sheds exist, and mature vegetation exists on the property. The property is located within a residential neighbourhood which contains one and two-storey detached dwellings. There are examples of infill housing developments within the surrounding area.

Proposal

The applicant is proposing to demolish the existing one-storey dwelling and detached garage, and remove the two frame sheds which exist in the rear yard, to construct a two-storey dwelling with a height of 8.59 m (28.18 ft).

Official Plan and Zoning

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for the retention of existing trees and vegetation, and the width of proposed garages and driveways.

Zoning By-Law 2150

The subject property is zoned “Second Density Single Family Residential (R2A)” under By-law 2150, as amended, which permits one single detached dwelling per lot. The

proposed development does not comply with the By-law requirements with respect to the maximum height.

Previous Committee of Adjustment Approval

The Committee of Adjustment ("the Committee") previously approved a minor variance application (CA/81/49) in 1981, where the following variance was requested under Zoning By-law 2150, as amended, to permit:

- a new front entrance with a minimum front yard setback of 6.65 m (21.82 ft), whereas the By-law requires a minimum front yard setback of 8.23 m (27.0 ft).

The variance was passed with a condition that the variance applies only to the two additions shown on the site plan filed at the time the application was made (circa 1981). Accordingly, the previously approved variance would not apply to the newly proposed development in the event that the current minor variance application is approved.

Zoning Preliminary Review (ZPR) Undertaken

The applicant completed a ZPR on July 20, 2021 which noted a reduction to the front yard setback, and an increase to the eaves encroachment and building height. The applicant has since submitted revised drawings on July 26, 2021 as a part of their variance application, limiting their request to an increase in maximum building height. The applicant has not conducted a new ZPR for the revised drawings, and it is the applicant'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 are identified during the Building Permit review process, further variance application(s) may be required to address any non-compliances.

COMMENTS

The *Planning Act, R.S.O. 1990, c. P.13, as amended* states that 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Building Height

The applicant is requesting a maximum height of 8.59 m (28.18 ft), whereas the By-law permits a maximum height of 8.23 m (27.0 ft). This is an increase of 0.36 m (1.18 ft).

Staff consider the minor increase in height to be of minimal impact to adjacent properties, and compatible and consistent with other low rise housing forms along the street. Accordingly, staff have no objections.

Tree Protection and Compensation

The applicant is proposing a tapered driveway to assist in providing a tree protection zone of 5.16 m (16.93 ft) from the neighbouring tree which has a trunk diameter at breast height

(DBH) of 80 cm (2.63 ft). In the event of approval, staff recommend that the Committee adopt the tree related conditions provided in Appendix "A" to ensure the applicant installs appropriate tree protection, and provides any required compensation for trees proposed to be removed. It is noted that the applicant is required to apply for and obtain a tree permit from the City for any proposed injury or removal of trees with a DBH of 20 cm (0.66 ft) or greater. Following approval of this minor variance application, further mitigation may be required at the Residential Infill Grading and Servicing (RIGS) stage to ensure the appropriate protection of certain trees is achieved.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 27, 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*, and are of the opinion that the requested variance meets the four tests. Staff recommend that the Committee consider public input in reaching a decision, and the conditions of approval detailed in Appendix "A". The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

Appendix "A" – Conditions of Approval

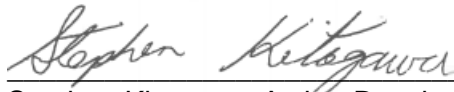
Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



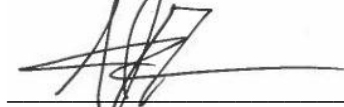
Stephen Kitagawa, Acting-Development Manager, West District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/116/21

1. The variance applies only to the proposed development as long as it remains.
2. That the variance applies only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or their designate.
3. Review and approval by the Director of Planning and Urban Design, or their designate of the Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
4. That tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, if required, in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by the Tree Preservation Technician, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.

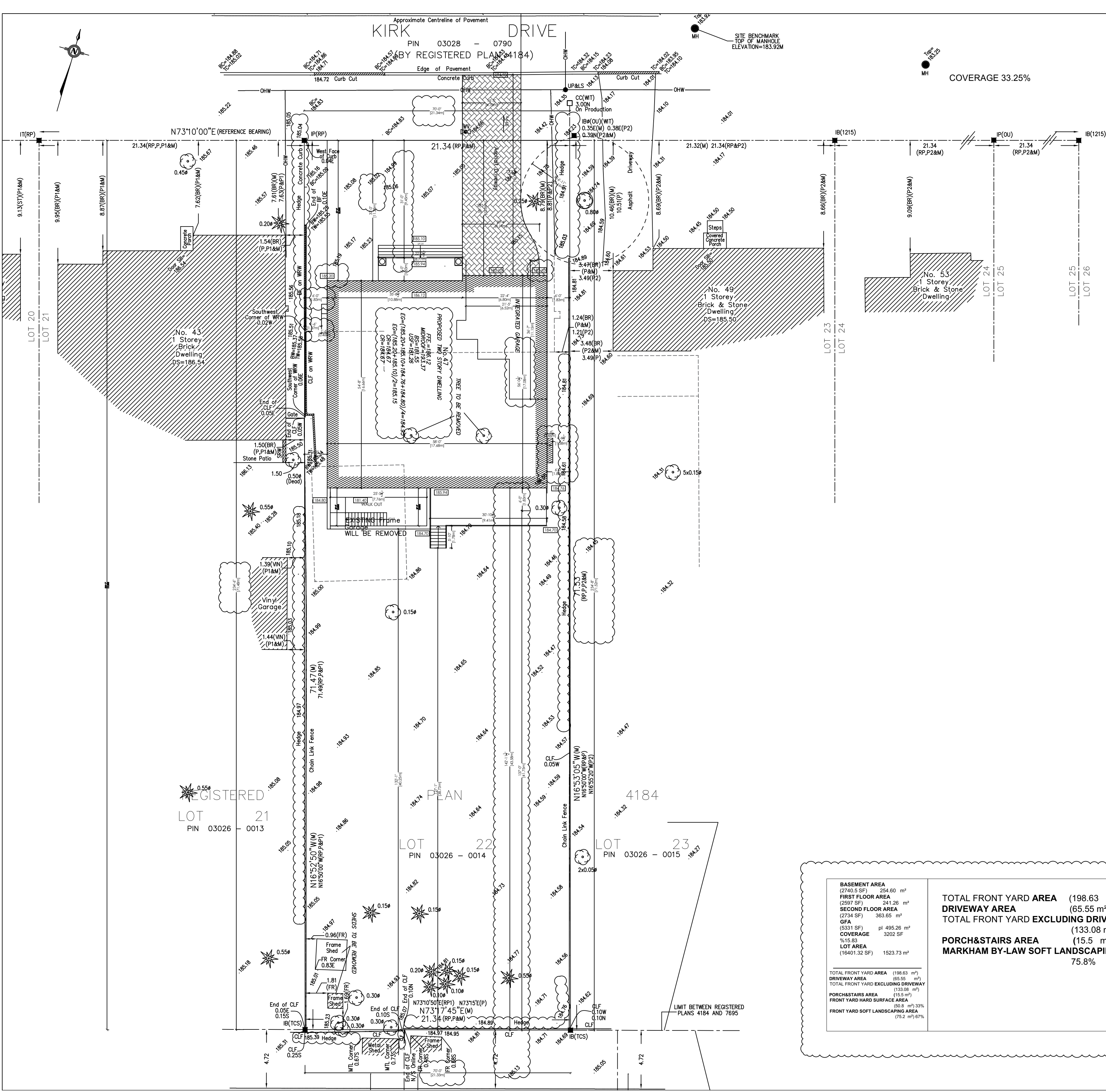
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/116/21



Appendix B

File: 21-132434.000.00.MWV

Date: 09/02/21

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The undersigned has reviewed and takes responsibility for this 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 Division C - 3.2.5.1. of the 2006 Ontario Building Code (or 2.17.5.1. of the 1997 Ontario Building Code)

NAME

SIGNATURE

BCIN

REGISTRATION INFORMATION
Required unless design is exempt under Division C - 3.2.4.1. of the 2006 Ontario Building Code (or 2.17.4.1. of the 1997 Ontario Building Code)

FIRM NAME

BCIN



PROJECT :
47 Kirk Dr.

DRAWING TITLE :
SITE PLAN

A-1.1

DATE :
AUGUST 2021

SCALE :
1/16"=1'

BASEMENT AREA (2740.5 SF) 254.60 m ² FIRST FLOOR AREA (2597 SF) 241.26 m ² SECOND FLOOR AREA (2734 SF) 363.65 m ² GFA (5331 SF) pl 495.26 m ² COVERAGE 3202 SF LOT AREA 1523.73 m ² (16401.32 SF)	TOTAL FRONT YARD AREA (198.63 m ²) DRIVEWAY AREA (65.55 m ²) TOTAL FRONT YARD EXCLUDING DRIVEWAY (133.08 m ²) PORCH&STAIRS AREA (15.5 m ²) MARKHAM BY-LAW SOFT LANDSCAPING 75.8%
TOTAL FRONT YARD AREA (198.63 m ²) DRIVEWAY AREA (65.55 m ²) TOTAL FRONT YARD EXCLUDING DRIVEWAY (133.08 m ²) PORCH&STAIRS AREA (15.5 m ²) FRONT YARD HARD SURFACE AREA (50.8 m ²) 33% FRONT YARD SOFT LANDSCAPING AREA (75.2 m ²) 67%	

Appendix B

File: 21.132434.000.00.MNV

Date: 09/02/21
MMDDYY



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FIRM NAME _____

BCIN _____



PROJECT :

47 Kirk Dr.

DRAWING TITLE :

FRONT ELEV.(SOUTH)

A-3

DATE: JULY 2021

SCALE: 3/16" = 1'

Appendix B

File: 21.132434.000.00.MNV

Date: 09/02/21 MM/DD/YY



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FIRM NAME _____

BCIN _____



PROJECT :

47 Kirk Dr.

DRAWING TITLE :

REAR ELEV.(NORTH)

A-3.2

DATE : JULY 2021

SCALE : 3/16" = 1'

Appendix B

File: 21.132434.000.00.MNV

Date: 09/02/21
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FIRM NAME _____

BCIN _____



PROJECT :

47 Kirk Dr.

DRAWING TITLE :
SIDE ELEV.(EAST)

A-3.3

DATE : JULY 2021

SCALE : 3/16" = 1'

Appendix B

File: 21.132434.000.00.MNV

Date: 09/02/21 MM/DD/YY

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FIRM NAME _____

BCIN _____



PROJECT :

47 Kirk Dr.

DRAWING TITLE :

SIDE ELEV.(WEST)

A-3.1

DATE : JULY 2021

SCALE : 3/16" = 1'

