

Memorandum to the City of Markham Committee of Adjustment

November 6, 2021

File: A/134/21
Address: 303 Elson St Markham
Applicant: Varatha Design Associates (Ken Varatha)
Agent: Varatha Design Associates (Ken Varatha)
Hearing Date: Wednesday November 10, 2021

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

The applicant is requesting relief from the following requirements of By-law 90-81, "Second Density Residential RMD2" as amended:

- a) **By-law 28-97, Section 3.0, Table A:**
2 parking spaces, whereas the By-law requires a minimum of 3 parking spaces;
- b) **By-law 90-81, Section 5.2.1:**
2 unit dwellings, whereas the By-law permits a single family dwelling;
- c) **By-law 2008-161, Section 2 b):**
45 units, whereas the By-law permits 41 units.

as it relates to proposed secondary suite (basement apartment).

BACKGROUND

Property Description

The 320.2 m² (3445.1 ft²) subject property is located on the west side of Voysey Way, south of Elson Street and east of Markham Road. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached and semi-detached dwellings and is within a residential plan of condominium containing 41 two-storey detached/semi-detached houses, and 14 visitor parking spaces.

There is an existing semi-detached house on the property, which according to assessment records was constructed in 2009.

Proposal

The applicant is requesting permission for a secondary suite in the basement of an existing dwelling, and a parking reduction as a result of the additional unit. The proposed secondary suite would have direct and separate access provided by an existing door located on the east side of the building. The basement level also includes three new egress windows located at the east and south sides of the building. No other changes are being proposed to the exterior of the dwelling or the property.

Three secondary suites were previously approved within the plan of condominium, at 299 Elson Street (MV17 179668/HP18 106548), 307 Elson Street (HP17 167531) and 7 Voysey Way (MVN21 108368/HP21 105788). If approved, the proposed secondary suite will increase the maximum number of dwelling units permitted within the plan of condominium to 45 dwellings (41 single/semi-detached dwelling plus 4 secondary suites).

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, R.S.O. 1990, c. P.13, as amended*, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary 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 options including second units to support complete communities.

Official Plan and Zoning

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

The Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The 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 Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 90-81

The subject property is zoned “Second Density Residential (RMD2) under By-law 90-81, as amended, which permits semi-detached dwelling. The proposed development does not comply with the By-law requirements to permit a maximum of one semi-detached dwelling on the subject property, and a maximum of 41 dwelling units on site.

Parking Standards By-law 28-97

While the driveway of the subject property is constructed with the intent to accommodate three parking spaces, the paved area does not meet the dimension requirements for two parking spaces. As such, a variance to By-law 28-97 to reduce number of minimum required parking spaces from 3 to 2 parking spaces is requested, with one being provided within the enclosed garage and one within the paved driveway.

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 their permit process to confirm the variances required for the proposed development.

It is important to note that a preliminary assessment of the site suggests the minimum 25% soft landscaping requirement in the front yard is not met on the subject property to permit a driveway expansion beyond the garage door width in accordance with by-law 28-97. The applicant should be aware that parking beyond the garage door width would not comply with the requirement of the by-law, and would not be permitted. Applicant should work with the building department to bring the development into compliance with the zoning bylaw minimum landscape requirements.

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.

Secondary Suites

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. 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, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

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.

Maximum number of Dwelling Units

The proposed minor variances will only result in one additional dwelling within the residential plan of condominium. The variance to 2008-161, Section 2 (b) to allow the maximum number of units within the condominium plan to increase from 41 units to 45 units is taking into account the 3 previously approved secondary suites within the condominium plan.

Reduced Parking Spaces

Parking Standards By-law 28-97 requires two parking spaces be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The existing single-car garage and driveway currently provide a total of 2 standard parking spaces.

Staff are of the opinion that the parking issued will “self-regulate”, as the accessory dwelling unit would only be of interest to an occupant that does not require a parking space if both parking spaces are reserved for the owner of the subject property.

As part of common element condominium, shared and visitor parking are provided within the condo block. As there is potential for an increase in the use of these spaces, the applicant has informed the condominium corporation of the minor variance requested, and provided staff with a letter of support issued by the condominium corporation.

PUBLIC INPUT SUMMARY

As of November 6 2021, the City received 5 letters of support from the property owners from within the plan of condominium. 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 have no objection. 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.

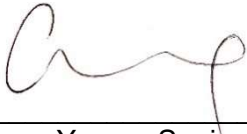
Please see Appendix “A” for conditions to be attached to any approval of this application.

APPENDICES

Appendix A: Conditions of Approval

Appendix B: Architectural Drawings

PREPARED BY:



Carman Yeung, Senior Planner, East District

REVIEWED BY:



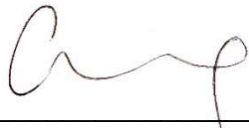
Carlson Tsang, Acting Development Manager, East District

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APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/134/21**

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the batch stamped plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receives 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 subject, 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.

CONDITIONS PREPARED BY:



Carman Yeung, Senior Planner, East District

