

Memorandum to the City of Markham Committee of Adjustment

March 30, 2023

File: A/150/22
Address: 9 Trumpour Court, Markham
Applicant: Z Square Group (Mengdi Zhen)
Agent: Z Square Group (Mengdi Zhen)
Hearing Date: Wednesday, April 5, 2023

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

The Applicant is requesting relief from the “Third Density Single Family Residential (R3)” zone requirements under By-law 11-72, as amended, as it relates to a proposed two-storey detached dwelling. The variances requested are to permit:

a) **Section 6.1:**

a minimum rear yard setback of 16 feet 11.5 inches, whereas the By-law requires a minimum rear yard setback of 25 feet; and

b) **Section 6.1:**

a maximum building height of 26 feet 11 inches, whereas the By-law permits a maximum building height of 25 feet.

BACKGROUND

Property Description

The 494.13 m² (5,318.74 ft²) Subject lands are located on the south side of 9 Trumpour Court, generally located east of Fred Varley Drive, south of Carlton Road (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised primarily of a mix of one and two-storey detached dwellings.

There is an existing detached dwelling on the Subject Lands, which according to assessment records was constructed in 1973. The Subject Lands contain mature vegetation and large mature trees.

Proposal

The Applicant is proposing to construct a new 495 m² (5,328.14 ft²) two-storey detached dwelling (refer to Appendix “B” – Plans).

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 Lands “Residential Low Rise”, which permits 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, development is required to meet the general intent of the above noted development criteria. Regard shall also be had for the retention and enhancement of existing trees and vegetation. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-Law 11-72

The Subject Lands are zoned "Third Density Single Family Residential (R3)" under By-law 11-72, as amended, which permits a single detached dwelling.

The proposed dwelling does not comply with the by-law requirements as it relates to minimum rear yard setback and maximum building height.

Varley Village Infill Area

The Subject Lands are within an area of the City where larger dwellings are replacing the existing building stock. In response to concerns within this redevelopment trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee (a Committee of Council), undertook a review of this issue with community consultation, and ultimately recommend that no action be taken to implement an infill by-law at that time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law was not enacted, the Committee should be aware of Council's and the community's concerns with regard to variances and maintaining the current standards of the Zoning By-law. Consequently, the Committee should consider public input before making a decision.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the originally submitted proposed development. However, in response to comments received during the processing of this application, the Applicant submitted revised drawings (refer to the Reduction in Minimum Rear Yard Setback and Tree Protection and Compensation subsections of this report for additional details).

The Applicant has not submitted a new ZPR for the revised drawings. Consequently, 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 is identified during the Building Permit

review process, further variance application(s) may be required to address the 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:

- 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; and
- d) The general intent and purpose of the Official Plan must be maintained.

Reduction in Minimum Rear Yard Setback

The Applicant is requesting relief to permit a minimum rear yard setback of 16 feet, 11.5 inches, whereas the By-law requires a minimum rear yard setback of 25 feet. This represents a reduction of 8 feet 0.5 inches (1.70 metres) to the permitted rear yard setback.

The original proposal included requests for variances to the front, side, and rear yard setbacks. During the review of the application and discussions with the Applicant, the Applicant was requested to make revisions to their proposal. The Applicant's revisions resulted in the elimination of the requested minor variances for front and side yards. This resulted in a revision to the rear yard setback. The applicant proposes a rear yard setback of 16 feet 11.5 inches whereas the by-law requires a minimum of 25 feet.

Staff have no objections to the requested variance, and are of the opinion that the general intent and purpose of the Zoning By-law is maintained.

Increase in Maximum Building Height

The Applicant is requesting relief to permit a maximum building height of 26 feet 11 inches, whereas the By-law permits a maximum building height of 25 feet. This represents an increase of 1 foot 11 inches. Staff are of the opinion that the proposed maximum building height is minor and have no concern with the requested variance.

Tree Protection and Compensation

As noted previously, the Subject Lands contain mature vegetation and large mature trees. During the review of the application, the City's Tree Preservation Technician indicated concern with potential injury to the two mature trees at 11 Trumpour Court and requested revisions associated with the layout of the front of the proposed dwelling to avoid potential injury to the 2 mature neighbouring trees.

The Applicant agreed to accommodate the change proposed by the Tree Preservation Technician and revised the proposed dwelling to decrease the potential of injury to the mature trees. The revisions to the dwelling resulted in the elimination of the originally requested minor variances for front and side yard.

Staff recommend that the tree-related conditions, as outlined in Appendix “C”, be adopted by the Committee to ensure the Applicant installs the appropriate tree protection barriers, if necessary. Staff note the Applicant is required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees that have a diameter at breast height (DBH) of 20.0 cm (7.87 in) or more on the subject property or neighbouring properties. Further mitigation through these processes may also be required to ensure the protection of certain trees is achieved.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 28, 2023. 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 requests meet 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 refer to Appendix “C” for conditions to be attached to any approval of this application.

PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

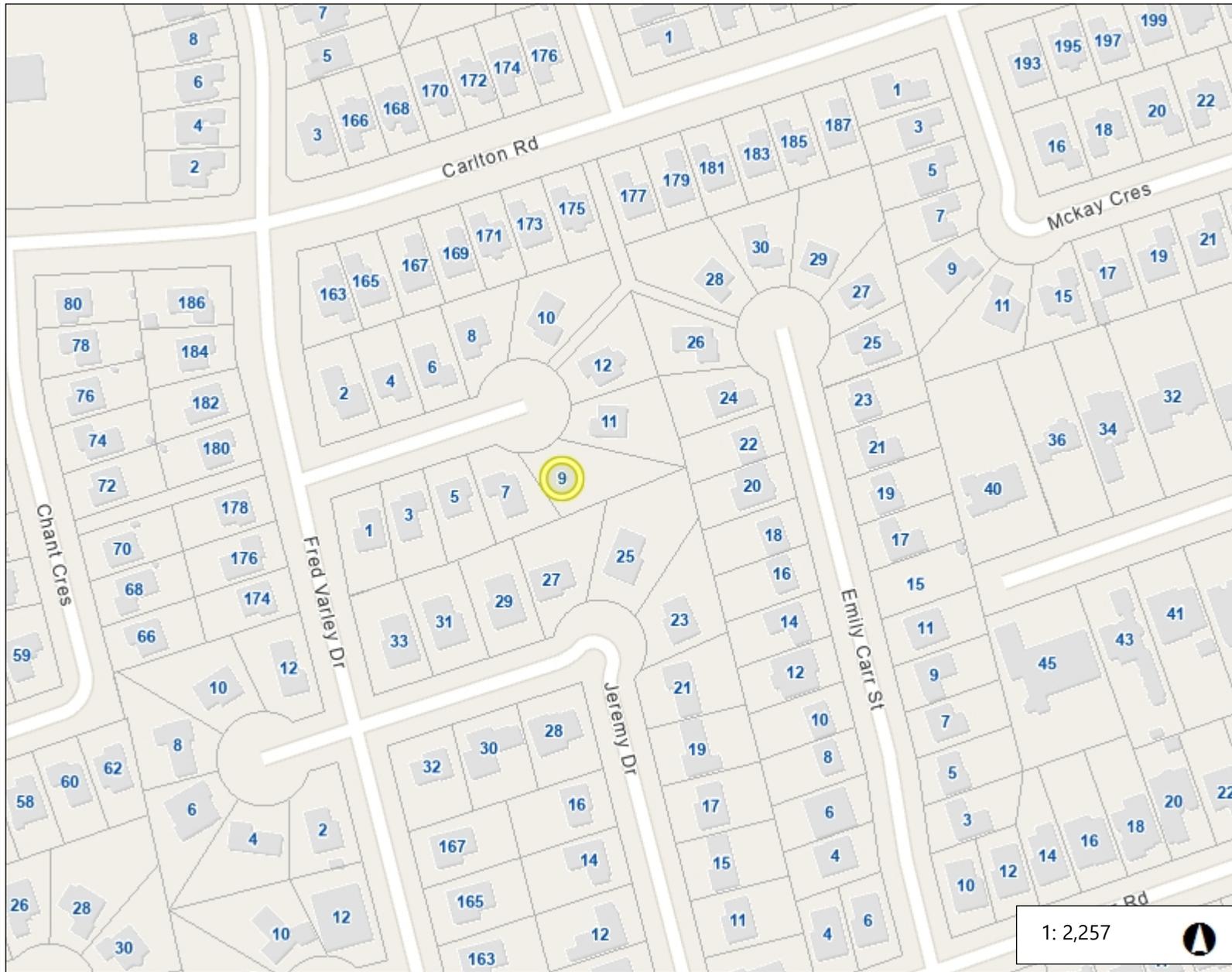
REVIEWED BY:



Elizabeth Martelluzzi, MCIP RPP, Senior Planner, Central District

Appendix “A” – Aerial Context Photo

Appendix "B" – Plans
Appendix "C" – Conditions of Approval



- Legend**
- Subject Lands
 - 9 Trumpour Court, Markham

1: 2,257



114.7 0 57.33 114.7 Meters

NAD_1983_UTM_Zone_17N
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DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes

Appendix “C” – A/150/22 Conditions of Approval

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/150/22

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. Submission of a 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 the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City’s Streetscape Manual, including street trees, in accordance with the City’s Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations; and
5. That tree replacements be provided and/or tree replacement fees be paid to the City 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 Tree Preservation Technician or Director of Operations.

CONDITIONS PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District