

Memorandum to the City of Markham Committee of Adjustment

June 27, 2022

File: A/065/22
Address: 25 Victoria Ave Markham
Applicant: Vagn Lauritsen
Agent: Gregory Design Group
Hearing Date: July 6, 2022

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

The applicant is requesting relief from the following requirements of the Single Family Residential (R3) zone under By-law 122-72, as amended, to permit:

- 1) By-law 122-72, Section 11.2:
a front yard setback of 5'2" (1.58m) for the front covered porch of existing heritage house, whereas the by-law requires a minimum front yard setback of 25ft.
- 2) By-law 122-72, Section 11.2:
a maximum lot coverage of 34.5 percent whereas the by-law permits a maximum lot coverage of 33.3 percent
- 3) By-law 142-95, Section 2.2 b)(i):
a rear concrete deck without a cellar below to project 3.66 m from the dwelling, whereas a deck over 1 m in height is permitted to project maximum of 3.0m.
- 4) Amended By-law 340-83, Section 1(e):
a window opening at geodetic datum elevation of 174.7m, whereas the by-law requires that there be no openings below a geodetic datum elevation of 174.8m;

This variance application has been submitted concurrently with a Site Plan Control Application (SPC 22 116892).

BACKGROUND

Property Description

The 658.9 m² (7,092.3 ft²) subject property is located on the south side of Victoria Avenue near the intersection of Victoria Lane. The property is located within an established historic residential neighbourhood contained within the Unionville Heritage Conservation District (See Figure 1-Location Map). The street is comprised almost entirely of historic detached dwellings, many of which have been restored and enlarged with modern additions.

There is an existing heritage dwelling on the property, which according to assessment records was constructed in 1896 (See Figure 2- Photograph of the Existing Heritage Dwelling). No significant mature vegetation is known to existing on the property.

The property is entirely within the TRCA's Regulated Area due to its close proximity to Bruce's Creek and the Denby Valley.

Proposal

The applicant is proposing to demolish the existing one storey, historic, rear kitchen component of the dwelling in order to construct a new two-storey rear addition and detached double car garage.

Zoning Preliminary Review (ZPR) Undertaken

The applicant submitted an incomplete Zoning Preliminary Review in November 2021, as the requested variances were identified as part of the zoning review of the accompanying site plan application (SPC 22 116892), after the ZPR was submitted. Therefore, it remains the owner'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 requests in this application contain 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Reduced Front Yard Setback

The applicant is requesting relief to recognize a minimum existing front yard setback of 5'-2", whereas the By-law requires a minimum front yard setback of 25'-0". Staff advise that this is an existing historic site condition common to most of the heritage homes fronting Victoria Avenue that contributes to the unique heritage character of the street. Therefore, this variance is considered minor in nature and desirable for the appropriate development of the land.

Increased Maximum Lot Coverage

Staff are of the opinion that the requested variance to permit a maximum lot coverage of 34.5%, whereas the By-law permits a maximum lot coverage of 33.3% is minor in nature both numerically and, due to its limited impact from the public realm of Victoria Avenue, and is considered to meet the other three tests prescribed by the Act.

Projection of Rear Yard Deck

Staff are also of the opinion that the requested variance to permit the rear yard concrete deck to project 3.66m (12 ft.) whereas the By-law permit a maximum projection of 3.0m (9.8 ft.) is minor in nature numerically, and its impact from the public realm is negligible, as this feature will not be visible from Victoria Avenue.

Elevation of Window Openings

The applicant is requesting a variance to permit a window opening to be 10cm (3.9 inches) lower than what is permitted by the By-law. The applicant has recently demonstrated that basement window openings can be achieved in compliance with the minimum permitted elevation of 178.4m, thus potentially eliminating the need for this particular variance. The minimum elevation permitted for window openings is intended to protect and minimize property damage that might occur during a flood event. This requested variance is considered to be minor in nature and meets the other three tests of the Planning Act, despite the TRCA indicating some concerns, as identified below.

EXTERNAL AGENCIES

TRCA Comments

As mentioned above, the subject property is entirely located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. TRCA provided comments on the variance and the accompanying site plan application in a letter to the applicant dated June

15, 2022. (See Appendix C), recommending that the variance application be deferred pending the submission of additional materials and/or revised plans from the applicant.

Despite this, it is the opinion of Planning staff that a deferral is not warranted, given that the TRCA has its own separate permitting process that is required under applicable law, in order to obtain a building permit from the City. Satisfying the requirements of the TRCA is included as condition of approval of the variance application, as well as a condition of Site Plan Approval.

The applicant will be required to resolve any outstanding issues with the TRCA, as the applicant would not be able to obtain final approval of the variances or a building permit without first obtaining a permit from the TRCA. Given that the applicant has also demonstrated that the window openings in the basement can be designed to comply with the minimum required elevation of 178.4m, this variance to permit a window opening below the minimum required elevation may potentially be eliminated altogether.

Metrolinx Requirements

Metrolinx provided comments on this application requiring the construction of a crash wall or, the applicant entering into an Infill Adjacent Development Agreement with Metrolinx, should the construction of an appropriate crash wall not be feasible. Metrolinx also will require the owner to enter into an Environmental Easement Agreement. Staff have included a condition requiring the applicant to satisfy Metrolinx's requirements prior to the issuance of a building permit.

CITY OF MARKHAM

Urban Design and Engineering

The City's Urban Design Section and Engineering Department have provided no comments on the variance application.

Heritage Markham

The Heritage Markham Committee reviewed the requested variances at their meeting of June 8, 2022 and had no objection to the approval of the variances from a heritage perspective (See Appendix C).

PUBLIC INPUT SUMMARY

No written submissions were received as of June 28, 2022. 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 variances requested 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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Peter Wokral, Senior Heritage Planner

REVIEWED BY:



Peter Wokral, "Acting" Manager of Heritage Planning

File Path: Amanda\File\ 22 116369 \Documents\District Team Comments Memo

FIGURE 1- LOCATION MAP

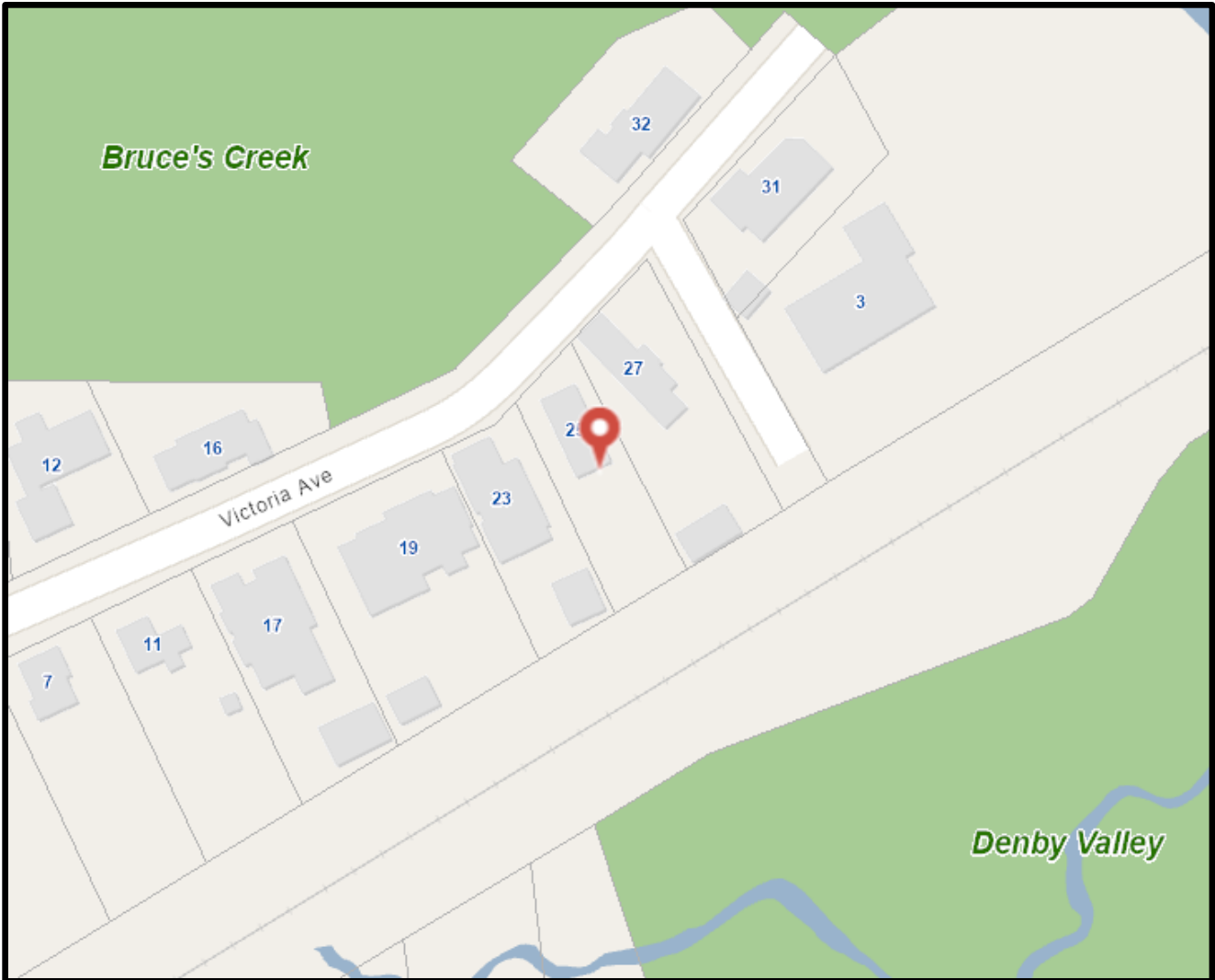


FIGURE 2- PHOTOGRAPH OF THE EXSTING HERITAGE DWELLING



APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/065/22**

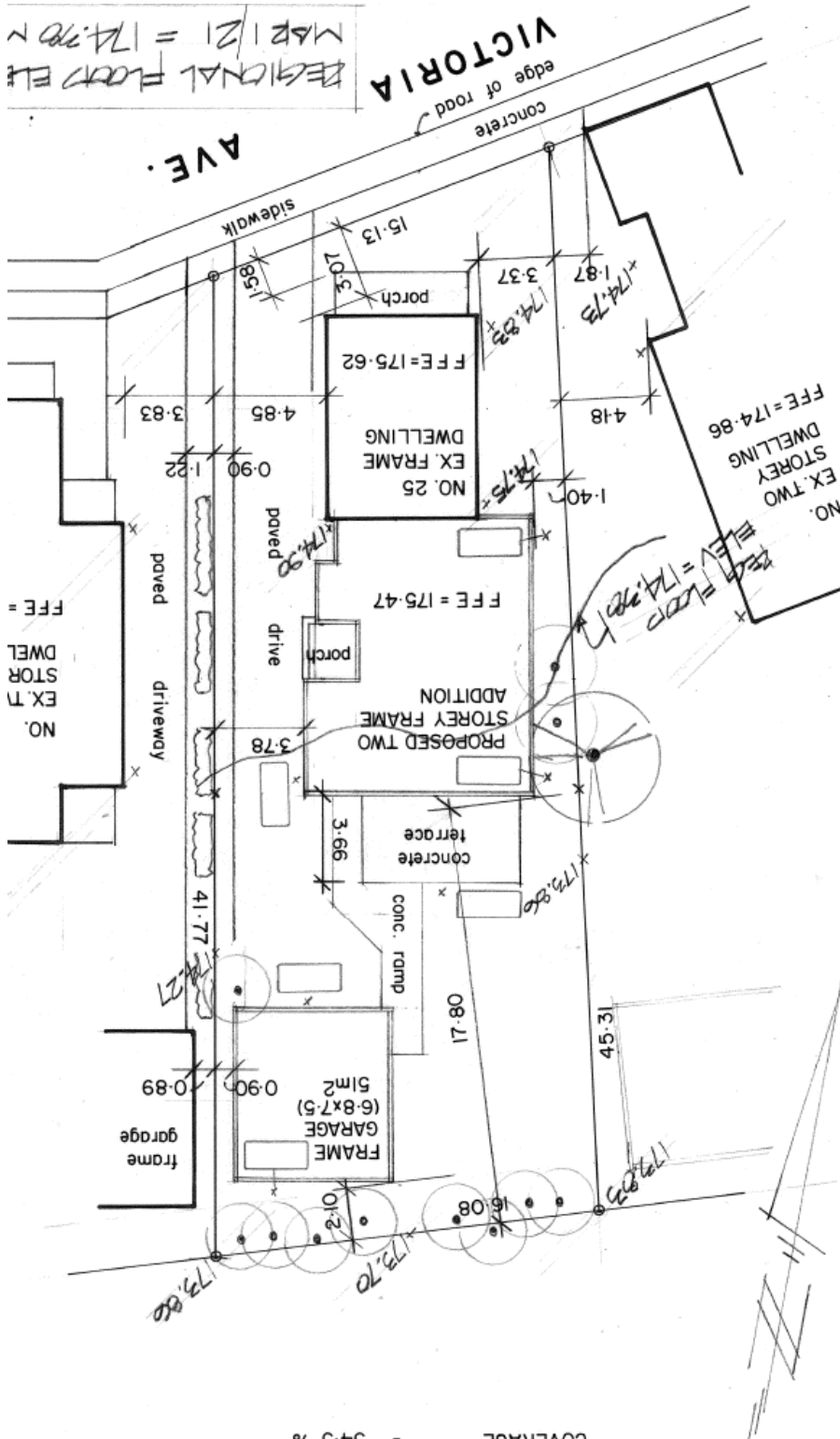
- 1) The variances apply only to the proposed development as long as it remains;
- 2) That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
- 3) That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;
- 4) That the applicant satisfies the requirements of both the TRCA and Metrolinx, financial or otherwise, as indicated in their letter and correspondence attached as Appendix C and D to this Staff Report, to the satisfaction of the TRCA and Metrolinx, and that the Secretary-Treasurer receive written confirmation that the applicant has obtained a permit from the TRCA and has entered into an Infill Adjacent Development Agreement and an Environmental Easement Agreement with Metrolinx prior to the issuance of a Building Permit.

CONDITIONS PREPARED BY:

A handwritten signature in dark ink, appearing to read 'Peter Wokral', is written over a light blue horizontal line.

Peter Wokral, Senior Heritage Planner

REGIONAL FLAT EL: $\text{MAR} | Z = 174.70 \text{ N}$





South (Rear) Elevation



APPENDIX C- HERITAGE MARKHAM EXTRACT OF JUNE 8, 2022

HERITAGE MARKHAM EXTRACT

Date: June 8, 2022

To: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Senior Heritage Planner

EXTRACT CONTAINING ITEM # 6.4 OF THE SIXTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON June 8, 2022

6.4 SITE PLAN CONTROL APPLICATION & VARIANCE APPLICATION

PROPOSED REAR ADDITION TO AN EXISTING HERITAGE DWELLING 25 VICTORIA AVE, UNIONVILLE HERITAGE CONSERVATION DISTRICT (16.11)

FILE NUMBER:
SPC 116892
A/06/22

Councillor Reid McAlpine, Chair disclosed an interest with respect to Item # 6.4 (25 Victoria Avenue, Unionville Heritage Conservation District), by nature of being the neighbour, and did not take part in the discussion of or vote on the question of the approval of this matter.

David Wilson assumed the Chair for this item.

Peter Wokral, Senior Heritage Planner, addressed the Committee and summarized the Site Plan Control and Minor Variance applications for the proposed rear addition to an existing heritage dwelling at 25 Victoria Avenue.

The property is currently occupied by a heritage dwelling constructed in the 1890s. An existing 1-storey tail that was most likely a summer kitchen woodshed is proposed to be removed in order to construct a two-storey addition at the rear. A full width verandah is also proposed, along with some restoration of the heritage house. The variances being applied for are:

1. a front yard setback of 5 feet 2 inches to the front covered porch, whereas the By-law requires 25 feet;

2. a maximum lot coverage of 34.5 percent, whereas the By-law permits a maximum lot coverage of 33.3 percent;
3. a rear concrete deck without cellar below to project 3.66 metres, whereas the By-law permits a maximum projection of 3.0 metres; and
4. window openings at an elevation of 174.7 metres, whereas the bylaw requires an elevation of 174.8 metres.

The Senior Heritage Planner advised the Committee that Staff have evaluated the proposal against the policies and guidelines of the District Plan and have no objections to the variances being sought as they either reflect an existing historic condition, are minor in nature, or have no impact from a heritage perspective.

Staff, however, recommends that the architectural form of the proposed addition be revised to better reflect the form and simple massing of the existing heritage house. Staff do not support the proposed alteration to the existing front veranda which appears to be an original or early heritage feature based on archival photographs. The proposed addition would appear to negatively impact a large Norway Maple tree located on the property boundary to the east, and the proposed detached garage requires the removal of trees located at the rear of the property. Staff recommends that the submitted drawings be annotated to identify heritage features to be retained and new materials, and that elevation drawings for the garage be submitted. Staff also recommends that the underlying historic siding of the heritage house be restored, and that two-over-two single hung windows be installed in the heritage portion of the house. Staff suggested that this application return to Heritage Markham for further review after the applicant has considered Staff's recommendations.

Heritage Markham expressed concerns about tree preservation on the property and will review this aspect of the proposal when it comes back to the Committee for future consideration.

Mr. Russ Gregory, the applicant's design representative, advised that a tree preservation plan has been submitted. There are two trees on the owner's property that reportedly are not in good health and are proposed to be removed, however, the owner has every intention to preserve significant trees. He further advised that the plans have been designed considering the neighbouring properties.

Recommendations:

THAT Heritage Markham does not support the proposed front veranda and recommends that the existing historic front porch be retained in its current form;

THAT Heritage Markham has no objection to the requested variances from a heritage perspective;

THAT the proposed addition be revised to better reflect the architectural form and simple massing of the existing heritage dwelling;

THAT the drawings be annotated to identify materials, heritage features to be retained and new materials, and garage drawings be submitted;

THAT the underlying historic siding of the heritage dwelling be revealed and restored, and that any modern replacement window be replaced with new historically authentic windows;

THAT the large Norway Maple tree located on the property to the east be preserved; through the design of the proposed addition;

AND THAT the submission be revised and return to Heritage Markham Committee for review.

Carried

APPENDIX D- Letter to Planner and Applicant from TRCA dated June 15, 2022

From: [Michelle Bates](#)
To: ["Wokral, Peter"](#)
Cc: ["Shane Gregory"](#)
Subject: 25 Victoria Avenue, Markham - SPC 22 116892 & MNV 22 116369 - CFN 66425.07
Date: June 15, 2022 1:36:25 PM
Attachments: [image001.png](#)

Hi Peter,

Thank you for circulating the above noted Site Plan Application and Minor Variance Application to Toronto and Region Conservation Authority (TRCA) for review and comments. Please accept this email as TRCA's comments (they will also be uploaded to E-Plan).

Please note, the agent has been copied on this correspondence in case they would like to work with TRCA on resolving our Minor Variance comment(s) before the next COA meeting, which I believe is scheduled for as early as July 6, 2022.

Purpose of the Applications

It is our understanding the applications were submitted to facilitate the development of a new two storey addition on the rear side of an existing 1.5 storey heritage dwelling (new addition is slightly larger footprint than an existing addition which is to be removed), attached porches and a new rear yard detached garage (new garage is larger footprint than the existing shed to be removed). The variances requested are below.

- a) By-law 122-72, Section 11.2: A front yard setback of 5 feet 2 inches to the front covered porch, whereas the By-law requires 25 feet.
- b) By-law 122-72, Section 11.2: A maximum lot coverage of 34.5 percent, whereas the By-law requires 33.3 percent.
- c) By-law 142-95, Section 2.2 b (l): A rear concrete deck without cellar below to project 3.66 meters, whereas the Bylaw requires a maximum of 3.0 meters.
- d) By-law 340-83, Section 1(e): A window opening at elevation of 174.7 meters, whereas the bylaw requires 174.8 meters.

Screening/Applicable Policies (may not be an exhaustive list)

- The property is located within TRCA's Regulated Area as it is located within a Regulatory (Regional Storm) flood plain associated with the Rouge River Watershed. As the proposed development is within TRCA's Regulated Area, a permit from TRCA will be required. The proposed development will need to satisfy our Living City Policies.
- The property is currently located within the Unionville Special Policy Area (SPA). The proposed development will need to satisfy the Unionville SPA policies located within the City of Markham Official Plan. Please note, the Unionville SPA boundary update is underway and review of this application will be based on the Unionville SPA mapping and policies in affect at the time of our review.
- The proposed development will need to be consistent with the Provincial Policy Statement (e.g., Natural Hazards Section 3.1)

Review Fees

Given the concurrent nature of these applications, a combined TRCA review fee of

\$1,312.50 (Site Plan – Minor – Within SPA) is required which is payable to TRCA.

Comments

The owner had previously submitted a Concept Development Application to TRCA which facilitated our preliminary review and comments on the architectural drawings. TRCA appreciates that the owner / their agent had addressed some of our questions and comments through this process. However, some minor comments and/or refinements remain to be addressed prior to our endorsement or conditional approval of the Minor Variance and Site Plan Applications, and approval of a future TRCA Permit. Please see below for further information.

Minor Variance & Site Plan Application:

1. The combined Site Plan and Minor Variance review fee of \$1,312.50 (Site Plan – Minor - Within SPA) is required prior to further review of these applications. Please confirm who TRCA should email the payment link to (owner or agent).
2. Please provide a response letter or email with each re-submission identifying how each comment has been addressed.
3. Please provide the following additional information and/or revisions on the architectural drawings:
 - a. Elevation of the bottom of the new window on the west side of the addition.
 - b. All new openings should be at least 0.3 metres above the Regional Storm flood elevation of 174.38 masl (i.e. 174.78 masl). While it appears that this should be feasible, if it is not, please provide the rationale.
 - c. Confirm the dwelling will remain as a single family dwelling by adding a note on the drawings. Please note, additional dwelling units on this property would not conform to current policies as there does not appear to be safe access and the dwelling is partially within the flood plain.
 - d. Delineate the existing dwelling vs. the proposed addition on all drawings.

4. *This comment will be a condition of approval.* A permit from TRCA is required for the proposed development. Once plans have been finalized through the Site Plan and Minor Variance Application processes, the applicant should contact TRCA for a permit application checklist.

Site Plan Application only:

5. This submission has provided grading details associated with the asphalt driveway. It appears that grades will be raised up (by approximately 0.44-0.85 metres) in the vicinity of the driveway and north side of the garage. In accordance with TRCA policies, the placement of fill must to be avoided and/or minimized in order to minimize potential impacts on the flood plain (i.e., flood storage and/or conveyance on the property and/or off-site impacts). Please revise the grading plan to reduce grades and maintain the existing grades to the greatest extent possible. Please also investigate if the area below the concrete porch/terrace can be left open to maintain the storage and conveyance of flood waters.
6. Elevation and floor plan drawings for the proposed 2 car garage addition are

required for review. Please demonstrate that this structure will not be habitable and if any electrical is required, that it is situated 0.3 metres above the 174.38 masl.

7. *Advisory (no change required unless the owner wishes to)* Please note staff have recently received new direction regarding basements within the Unionville Special Policy Area. We may consider a basement beneath the entirety of the proposed addition on this property provided that flood-proofing requirements can be met. The owner has the option to revise if they prefer this design. Please note, the policies for flood plain areas that are outside of the SPA remain the same (i.e., no basement expansions in the flood plain outside of the SPA).
8. *This comment may be deferred to the TRCA Permit Application Stage.* For all new structures within the flood plain (e.g., addition, deck, garage), please provide a letter and associated drawings signed and stamped by a professional engineer confirming that the structures have been structurally designed to withstand the depths and velocities of the Regional Storm (174.38 masl & 0.7 m/s). It is recommended to provide this once the detailed drawings have been finalized to the satisfaction of the City and TRCA as the final drawings should be referenced or appended to the letter.

Recommendation

TRCA staff recommend deferral of the Minor Variance Application until such time that the applicable comments have been addressed (at a minimum, comment 3a in this email). We would be pleased to work with the applicant on addressing this comment before the next scheduled COA meeting.

TRCA staff do not yet provide our endorsement or conditional approval of the Site Plan Application. We recommend that all comments be addressed prior to approval of the Site Plan Application.

Drawings Received

- Architectural Drawings A1 – A5 , prepared by The Gregory Design Group, dated December 23, 2021
- Erosion and Sediment Control Plan & Grading Plan, prepared by ERTL Surveyors, revision no. 2 dated April 5, 2022

I trust these comments are of assistance. If you have any questions, please let me know.

Regards,

Michelle Bates

Senior Planner

Development Planning and Permits | Development Planning and Engineering
Services

T: [437-880-2287](tel:437-880-2287)

E: michelle.bates@trca.ca

A: [101 Exchange Avenue, Vaughan, ON, L4K 5R6](https://www.trca.ca) | [trca.ca](https://www.trca.ca)

APPENDIX E- Correspondence received from Metrolinx

Metrolinx is in receipt of the minor variance application for 25 Victoria Avenue to facilitate the construction of a new two storey addition to the existing 1.5 storey heritage dwelling. I would like to note that Metrolinx has provided comments on the Site Plan Application for 25 Victoria Avenue (22.116892.000.00.SPC). Metrolinx's comments on the subject application are reiterated noted below: · The subject property is located directly adjacent to Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service. · As Per Metrolinx's Adjacent Development Guidelines, residential uses adjacent to the corridor require a minimum setback of 30 metres from the rail corridor's mutual property line. Metrolinx notes the proposed setback is closer than 30 metres for the mutual property line. According to Markham Zoning Bylaw 177-96 Section 6.21 Special Setbacks, it indicates that all buildings and structures shall be located no closer than 30 metres from a railway right-of-way. · As Per Metrolinx's Adjacent Development Guidelines, derailment protection in the form of a safety barrier (e.g. Crash wall, earthen berm, etc.) is required for residential uses immediately adjacent to the rail corridor.

For infill development, safety barriers are often infeasible. In these instances, the Proponent will be required to enter into an Infill Adjacent Development Agreement with Metrolinx. The Proponent may contact Harrison.rong@metrolinx.com with any questions and for a copy of the Infill Adjacent Development Agreement. · As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. The applicant may contact Harrison.Rong@Metrolinx.com with questions and to initiate the registration process