

Memorandum to the City of Markham Committee of Adjustment

September 01, 2022

File: A/116/22
Address: 16 Church St, Markham
Applicant: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday September 7, 2022

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

The applicant is requesting relief from the following requirements of By-law 1229, as amended, to permit:

- a) **By-law 1229, Table 11.1**, a side yard setback of 5.35 feet, whereas the by-law requires a minimum of 8 feet;
- b) **By-law 1229, Table 11.1**, a lot area of 4860.50 sq.ft., whereas the by-law requires 6500 sq.ft.;
- c) **By-law 1229, Table 11.1**, one dwelling unit in a triplex to have an area of 513 sq.ft. and a second dwelling unit of 665 sq.ft. whereas the by-law requires a minimum area of 900 sq.ft.; and
- d) **By-law 28-97, Section 3.0, Table A**, three (3) parking spaces; whereas the by-law requires five (5) parking spaces;

as it relates to the conversion of an existing detached dwelling currently used as a Home Occupation, into a triplex.

BACKGROUND

Property Description

The 451.56 m² (4,860.6 ft²) subject property is located on the north east corner of George and Church Streets (See Location Map - Figure 1). The property is located within an established residential neighbourhood of the Markham Village Heritage Conservation District comprised of a mix of one and two-storey detached, semi-detached, and townhouse dwellings.

There is an existing one storey heritage dwelling on the property, which according to research was constructed circa 1860. In 2018, the current owner received site plan approval for the construction of an addition with an attached garage and rehabilitated the heritage structure which had been poorly maintained and neglected for many years. Since then, the building has been used as a "Home Occupation" housing an architectural design business as well as living quarters (See Figure 2 - Photograph of the Existing Dwelling).

Proposal

The applicant is proposing to convert the existing detached dwelling to a triplex dwelling, which is a permitted use by the By-law. No exterior changes are proposed to the building.

2014 Official Plan and Zoning By-law 1229

The property is designated "Residential Low Rise" by the 2014 Official Plan which is the designation applied to the City's established residential neighbourhoods and permits housing forms ranging from detached, semi-detached, townhouses and small multiplex

buildings of 3 to 6 units, all having frontage along a public street. The property is designated as R3 "Residential" under Zoning By-law 1229, which permits single detached, semi-detached, duplexes, triplexes and fourplex housing.

Zoning Preliminary Review (ZPR) Undertaken

The owner completed a Zoning Preliminary Review (ZPR) in May of 2022 to confirm the variances required for the proposal.

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 Side Yard Setback and Minimum Lot Area

The applicant is requesting permission for an existing side yard setback of 5.35 ft. whereas the By-law requires a minimum side yard setback of 8 ft.; and, for an existing minimum lot area of 4,860.6 ft² whereas the By-law requires a minimum lot area of 6,500 ft². Both of these requested variances can be considered to be minor in nature and meet the remaining three tests as they reflect existing site conditions, and there are no planned changes to the exterior of the existing dwelling.

Reduction in Minimum Area of Residential Units

The applicant is requesting permission to create one unit having a floor area of 513 ft² and another at 665 ft², whereas the By-law requires residential units to have a minimum floor area of 900 ft². The requested variances can be considered to be minor in nature given that the proposed floor areas of the residential units are similar to the floor areas of condominium units offered in other condominium buildings in Markham. The variances can be considered desirable for the appropriate development of the land and maintains the intent of the City's Official Plan as it will further diversify housing opportunities, and provide low impact residential intensification that takes advantage of existing infrastructure. The requested variances also maintain the intent and purpose of the zoning By-law by implementing the permitted use of a tri-plex building.

Parking Reduction

The site currently provides four parking spaces (two in the attached garage, and two in the existing driveway). However, one of the existing parking spaces in the garage cannot be considered to be a parking space from the perspective of the applicable zoning by-law and Ontario Building Code because a portion of it is only 5'-3" high whereas a parking space is required to provide a minimum ceiling height of 7.5 ft. The decrease in ceiling height is due to the presence of a 6 ft. by 8 ft. platform suspended from the ceiling joists of the garage to support mechanical equipment.

The requested variance can be considered minor for the following reasons.

- a) Although a 48 ft² portion of the garage does not meet the ceiling height requirement of the By-law for a parking space, it nevertheless does permit approximately 17 ft.

- X 10 ft. or 170 ft² of unimpeded parking for shorter vehicles including cars, motorcycles, and bikes (See Figure 3 – Interior layout of attached garage).
- b) The reduced number of parking spaces is “self regulating” as any future tenant of the building would be aware of the parking limitations of the site, and would not necessarily be interested in occupying a unit if the unit does not provide the amount of parking they require.

The reduced parking variance can be considered to be desirable for the appropriate development of the land as it is noted that the applicant could have potentially provided the five parking spaces required by the By-law by securing a variance creating a second, two-car, driveway on the George Street frontage of the property however, this would have been at the expense of the only viable amenity and green space of this small urban lot, which would have been undesirable for the future occupants of the building, and from an Urban Design perspective.

Therefore, Staff have no objections to the approval of the proposed parking reduction.

Urban Design and Engineering

The City of Markham’s Urban Design Section provided no comment on the variance application and the City’s Engineering Department had no objections to the requested variances.

Heritage Markham

Heritage Markham Committee reviewed the variance application at its meeting of August 23rd and provided no comment from a heritage perspective on the requested variances (See Heritage Markham Recommendation-Appendix ‘B’)

PUBLIC INPUT SUMMARY

No written submissions were received as of September 1st, 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 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.

PREPARED BY:



Peter Wokral, Senior Heritage Planner,

REVIEWED BY:



Regan Hutcheson, Manager of Heritage Planning

File Path: Amanda\File\ 22 245701 \Documents\District Team Comments Memo

FIGURE 1 – LOCATION MAP

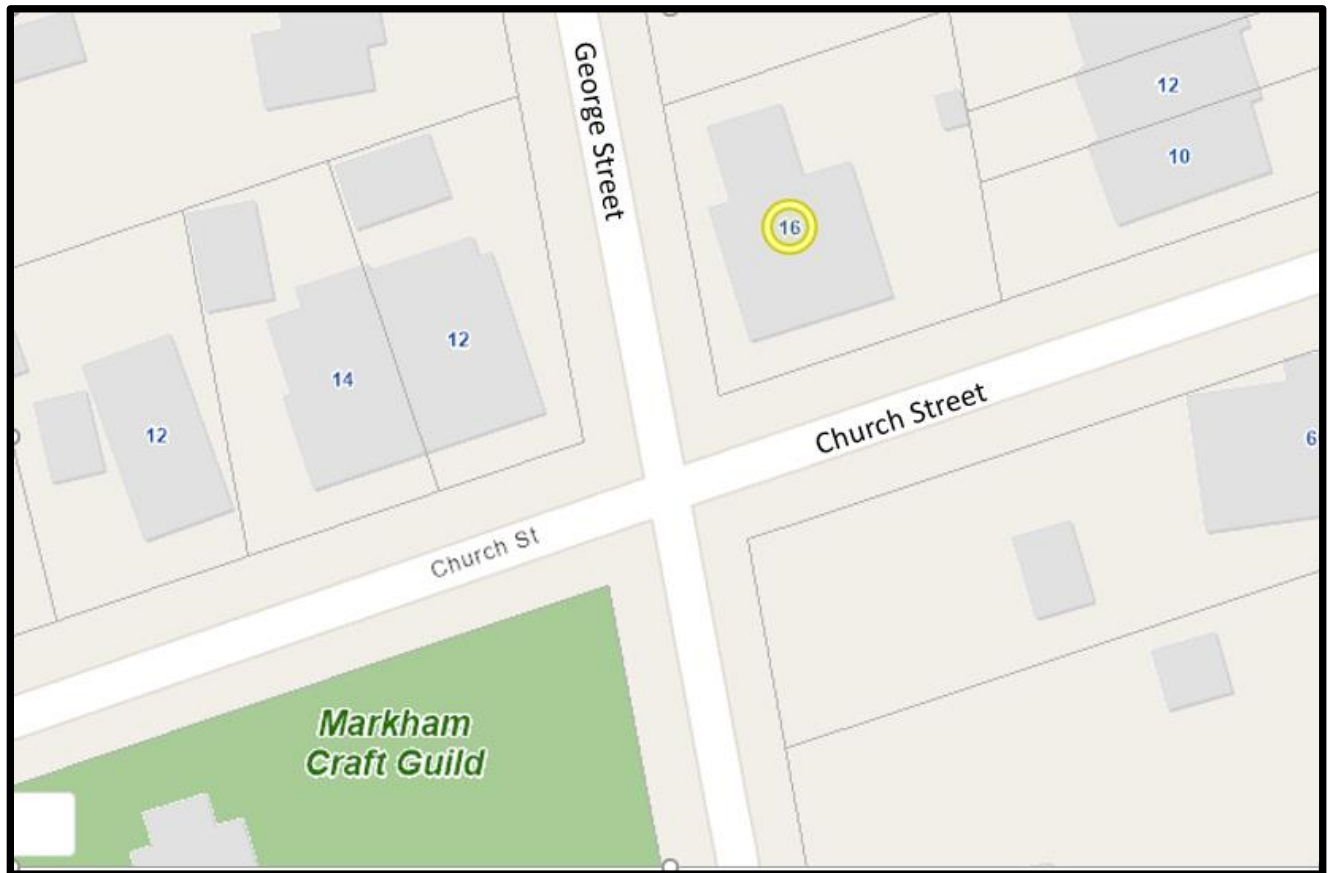


FIGURE 2 – PHOTOGRAPH OF THE EXISTING DWELLING

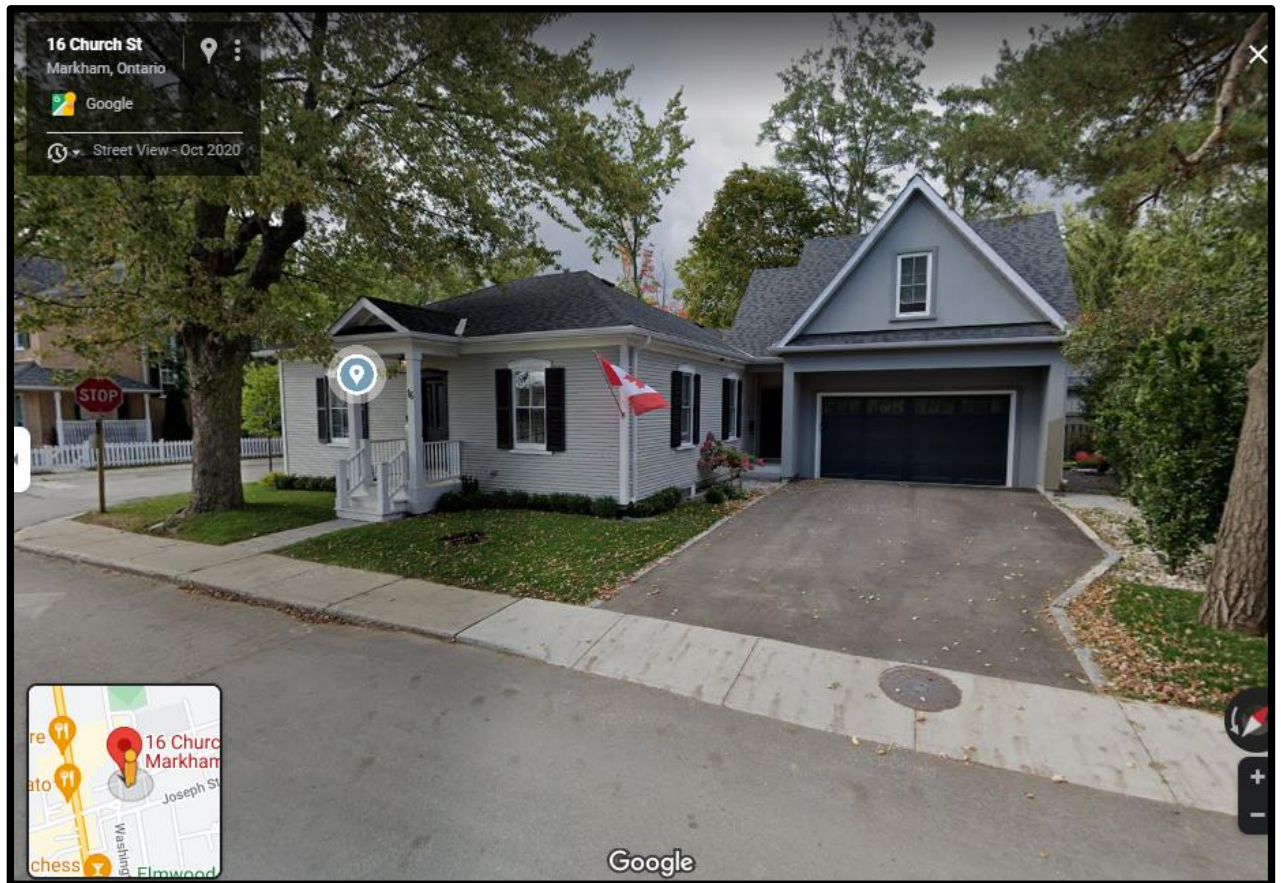
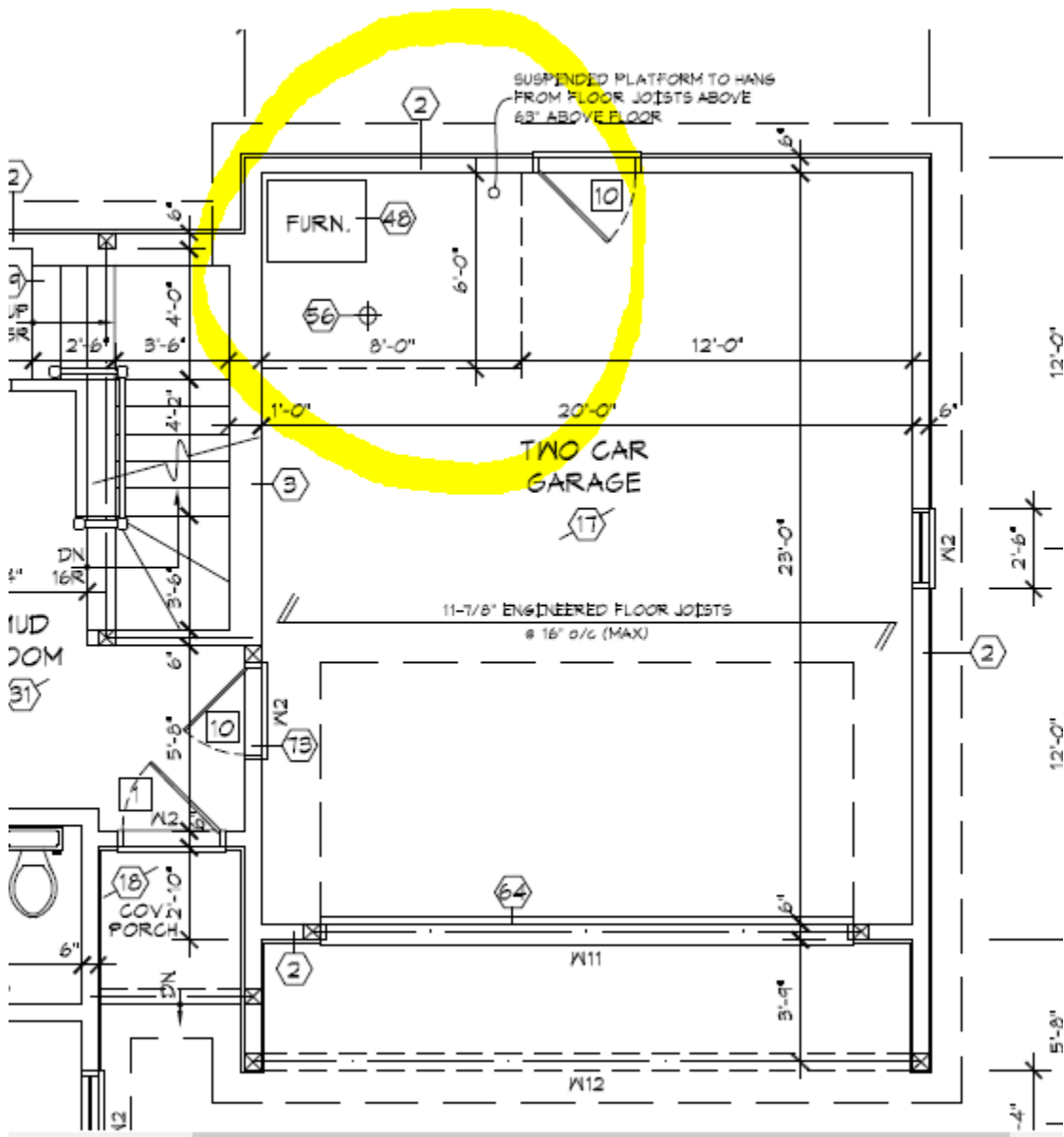


FIGURE 3- INTERIOR LAYOUT OF ATTACHED GARAGE



APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/116/22

1. The variances apply only to the proposed tri-plex dwelling as long as it remains;
2. That the owner submit, 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:

A handwritten signature in dark ink, appearing to read 'Peter Wokral', is written over a light gray rectangular background.

Peter Wokral, Senior Heritage Planner

**“APPENDIX B”- HERITAGE MARKHAM RECOMMENDATION OF AUGUST
23RD 2022.**

**HERITAGE MARKHAM
EXTRACT**

Date: August 23, 2022

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

EXTRACT CONTAINING ITEM # 5.5 OF THE SIXTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON August 23, 2022

5.5 COMMITTEE OF ADJUSTMENT VARIANCE

**PROPOSED CONVERSION FOR DWELLING FROM HOME
OCCUPATION TO TRIPLEX
16 CHURCH STREET, MARKHAM VILLAGE HERITAGE
CONSERVATION DISTRICT (16.11)**

FILE NUMBER:
A/116/22

Recommendation:

THAT Heritage Markham has no comment on the requested variances for 16
Church Street from a heritage perspective.

Carried