

Memorandum to the City of Markham Committee of Adjustment

March 14, 2022

File: A/193/21
Address: 33 Alanadale Avenue – Markham, ON
Applicant: Patrick Lam
Agent: Z Square Group (Mengdi Zhen)
Hearing Date: March 23, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Residential One – (R1)” zone requirements under By-law 1229, as amended, as they relate to a proposed two-storey detached dwelling. The variances requested are to permit:

a) By-law 1229, Section 11.2(c)(i):

A maximum encroachment of 114.50 in (2.91 m) into the required rear yard, whereas the by-law permits a maximum encroachment of 18.0 in (0.46 m) into any required yard; and

b) Amending By-law 99-90, Section 1.2(vi):

a maximum floor area ratio of 50.59%, whereas the by-law permits a maximum floor area ratio of 45.0%.

PROPERTY DESCRIPTION

The 618.35 m² (6,655.86 ft²) subject property is located on the east side of Alanadale Avenue, north of Highway 7 East, east of Sherwood Forest Drive, and south of Robinson Street. There is an existing one-storey detached dwelling located on the subject property, with mature trees located in the front and rear yard. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached and semi-detached dwellings. There are several examples of newer infill development along the street, and within the surrounding area.

PROPOSAL

The applicant is proposing to demolish the existing dwelling, to construct a new two-storey detached dwelling. The new dwelling would have a first floor area of 177.63 m² (1,912.0 ft²), a second floor area of 133.91 m² (1,441.40 ft²), for a total gross floor area of 311.54 m² (3,353.40 ft²).

OFFICIAL PLAN AND ZONING

Official Plan 2014 (partially approved on November 24/17, and 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, 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.

Zoning By-Law 1229

The subject property is zoned “Residential One – (R1)” zone under By-law 1229, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law requirement with respect to the maximum encroachment into the required rear yard.

Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, floor area ratio, height, and number of storeys. The proposed development does not comply with the Infill By-law requirement with respect to the maximum floor area ratio.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

An initial ZPR was completed on December 6, 2021, which confirmed variances relating to encroachments in the front and rear yards, and a floor area ratio for the initial drawings. Since the applicant’s initial submission, an Arborist Report and Tree Protection Plan was completed. Revised drawings were submitted on February 22, 2022, which sets the house closer to the rear lot line in order to better protect the City owned tree that straddles either side of the front lot line. While the floor area ratio request has remained the same, the revisions made have resulted in an increase to the maximum rear yard encroachment (as noted in this memorandum above), and removal of the variance relating to an increased maximum front yard encroachment.

The applicant has not conducted a ZPR for the revised drawings. It is the applicant’s responsibility to ensure that the application has accurately identified all 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 at the Building Permit stage, 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 of Adjustment (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 Floor Area Ratio

The applicant requests a maximum floor area ratio of 50.59%, whereas the By-law permits a maximum floor area ratio of 45.0%. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 311.54 m² (3,353.40 ft²), whereas the By-law permits a dwelling with a maximum floor area of 277.09 m² (2,982.57 ft²). This is an increase of 34.45 m² (370.83 ft²).

Floor area ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area; however, it is not a definitive measure of the mass of the dwelling. With

exception to the requested encroachment into the rear yard, the building layout meets all other zoning provisions that establish the prescribed building envelope and assist in ensuring the proposed dwelling will be in keeping with the intended scale of residential infill developments within the neighbourhood. Staff are of the opinion that the requested variance is minor in nature, and appropriately maintains the general intent of the By-law.

Increase in Maximum Stairs Encroachment

The applicant requests a maximum stairs encroachment of 114.50 in (2.91 m) into the required rear yard, whereas the By-law permits a maximum stairs encroachment of 18.0 in (1.50 m). This is an increase of 96.50 in (1.41 m).

The applicant has worked with staff to site the dwelling closer to the rear lot line, which has resulted in an increase to their initial stair encroachment request. By setting the house further back, this helps to better protect the City owned tree, which has a diameter at breast height (DBH) of 107.0 cm (42.13 in). The walk-up stairs are below grade, and the request is considered by staff to be appropriate for the lot, and minor in nature.

Tree Protection and Compensation

Staff recommend that the tree related conditions be adopted with any approval of this application, to ensure that the applicant installs the appropriate tree protection barriers and provides compensation to the City, if necessary. Staff also note that 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.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 14, 2022. Additional information may be received after the writing of this 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 variance request meets the four tests. Staff recommend that the Committee consider public input in reaching a decision. 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:



Carlson Tsang, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/193/21

1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the batch stamped plans 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 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.
4. 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/193/21

