

# Memorandum to the City of Markham Committee of Adjustment

July 28, 2022

**File:** B/001/22  
**Address:** 68 Barnstone Drive – Markham, ON  
**Applicant:** Amy Xin Wei Zhang and Lichen Jia  
**Agent:** Gowling WLG (Canada) LLP (Kevin Dias)  
**Hearing Date:** August 10, 2022

The following comments are provided on behalf of the East District team. The solicitors representing the owners of the subject property have determined a previous transfer of title in 2014 is in contravention of Section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (the “*Planning Act*”). The applicant has indicated that the error was made when Part Lot Control By-laws to authorize the transfer had expired prior to the registration of the transfer, which contravened Section 50 of the *Planning Act*, and would inadvertently not have created or conveyed any interest in the property.

The subject property consists of two parcels, legally described as follows:

- Part Block 110, Plan 65M4193, Part 13, Plan 65R32875; subject to an easement for entry as in YR2133626; City of Markham, being all of PIN 03060-7554 (LT); and
- Part Block 37, Plan 65M4240, Part 25, 65R32875; subject to an easement for entry as in YR2133626; City of Markham, being all of PIN 03060-7556 (LT).

## PROPOSAL

Accordingly, the applicant is seeking a Certificate of Validation under Section 57 of the *Planning Act*. A Certificate of Validation from the Committee of Adjustment (the “Committee”) would allow the applicant to cure the 2014 error and validate their title to the subject property, municipally known as 68 Barnstone Drive.

## COMMENTS

As of January 1, 2022, Ontario Regulation 787/21 has since revoked Ontario Regulation 144/95 (O. Reg 144/95), and the criteria previously identified by O. Reg 144/95 is therefore, no longer applicable. Instead, Section 57(6) of the *Planning Act* states that no certificate shall be issued under subsection (1) unless the land described in the Certificate of Validation conforms with the same criteria that apply to the granting of consents under Section 53. While the Committee is authorized to grant consents under Section 53 of the *Planning Act*, staff note that the same rules and procedures, such as notice as well as an applicant’s right to appeal do not apply to validations of title.

Staff have had regard for the criteria in Section 51(24) of the *Planning Act*, and given that no changes to the lot are proposed, staff are satisfied that there would be no impact to the street.

## CONCLUSION

Staff have reviewed the application and have no concerns from a planning perspective given that the application made is to retroactively cure a title error, which is largely

administrative. Staff have had regard for the applicable sections of the *Planning Act*, and find the applicant's request to issue a Certificate of Validation appropriate.

**APPENDICES**

Appendix "A" – Subject Property, 68 Barnstone Drive

Appendix "B" – PLAN 65R-32875, February 9, 2011

PREPARED BY:



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Aleks Todorovski, MCIP, RPP  
Planner, Zoning and Special Projects

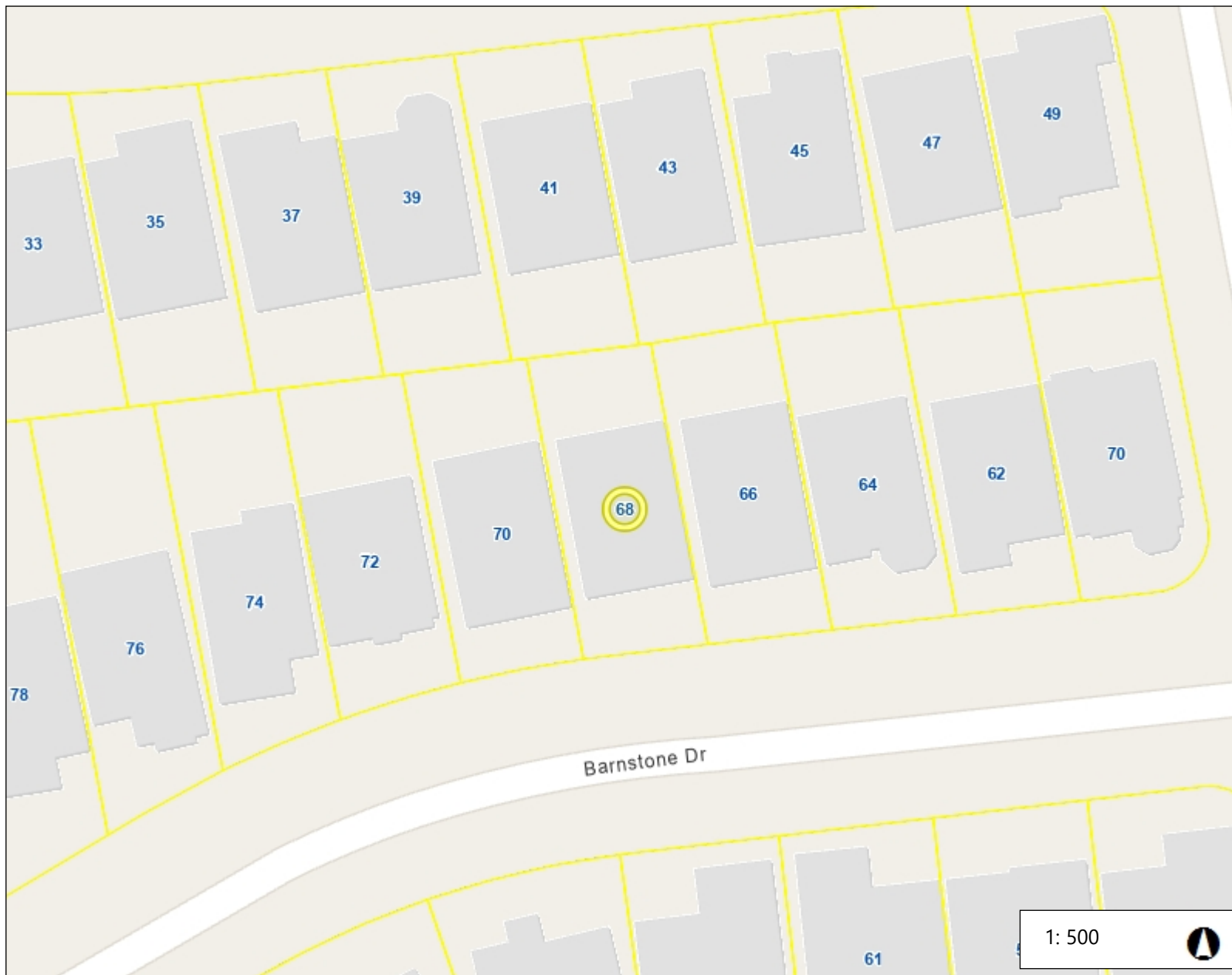
REVIEWED BY:



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Stacia Muradali, MCIP, RPP  
Development Manager, East District

**APPENDIX "A"**  
**SUBJECT PROPERTY, 68 BARNSTONE DRIVE**



## Legend

- Parcel
- Park Facility
- Parks
  - Under Development
  - <all other values>

1: 500



25.4 0 12.70 25.4 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](mailto:cgis@markham.ca) and you will be directed to the appropriate department.

## Notes

Subject lands are denoted by yellow circle, municipally known as 68 Barnstone Drive

**APPENDIX "B"**

**PLAN 65R-32875, FEBRUARY 9, 2011**

