

Memorandum to the City of Markham Committee of Adjustment

October 29, 2019

File: A/111/19
Address: 47 Barlow Road, Markham
Applicant: Shoukatali & Almas Damani
Agent: Gregory Design Group
Hearing Date: Wednesday, November 13, 2019

The Central Team provides the comments below. The Applicant requests relief from the following requirements of the 'Eighth Density Single Family Residential' (R8) zone in By-law 118-79, as amended, as it relates to a proposed basement apartment:

- a) **Section 6.1 & 7.1.1:**
to permit a second dwelling unit/basement apartment, whereas the By-law permits no more than one single detached dwelling unit on a lot.

BACKGROUND

Property Description

The 616.5 m² (6,635.95 ft²) subject property is located on the south side of Barlow Road, which is north of Apple Creek Boulevard and west of Warden Avenue and situated within an existing residential neighbourhood comprised of two-storey detached dwellings.

According to assessment and building permit records, the existing 292 m² (3,143.06 ft²) two-storey dwelling with an attached two-car garage was constructed in 1985, with an addition and below-grade walkout that was constructed in 2018. Vehicle access is provided via a driveway to Barlow Road, which can accommodate a minimum of two parking spaces.

Proposal

The Applicant requests permission for a secondary suite in the basement of the existing dwelling as shown in Appendix "A". The proposed secondary suite would have direct and separate access provided by an existing walkout to the south of the building (rear yard). The Applicant proposes no changes to the dwelling exterior or the subject property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the *Strong Communities through Affordable Housing Act* amended various sections of the *Planning Act* to facilitate the creation of second units by:

- requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' (or "secondary suites") are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

2014 Official Plan (partially approved on Nov 24/17, and updated on April 9/18)

The 2014 Official Plan designates the subject property “Residential – Low Rise”, which provides for low-rise housing forms, including townhouse dwellings.

The Official Plan defines secondary suite as, “a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 8.13.8 of the Official Plan states that it is the policy of Council that in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided in the 2014 Official Plan, Council shall be satisfied that an appropriate set of development standards are provided in the Zoning By-law, including the building type in which the secondary suite is contained, and the following:

- a) the percentage of the floor area of the building type devoted to the secondary suite;
- b) the number of dwelling units permitted on the same lot;
- c) the size of the secondary suite;
- d) the applicable parking standards; and
- e) the external appearance of the main dwelling.

As part of the City initiated Zoning By-law Consolidation Project, Council recently considered the issue of second suites within the City. On May 29, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 118-79

The subject property is zoned R8 under Zoning By-law 118-79, as amended, which does not permit a secondary suite.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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 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.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. If approved, the applicant will be required to obtain a Building Permit to ensure compliance with Building Code and Fire Code regulations.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 6, 2019. 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 "B" for conditions to be attached to any approval of this application.

PREPARED BY:



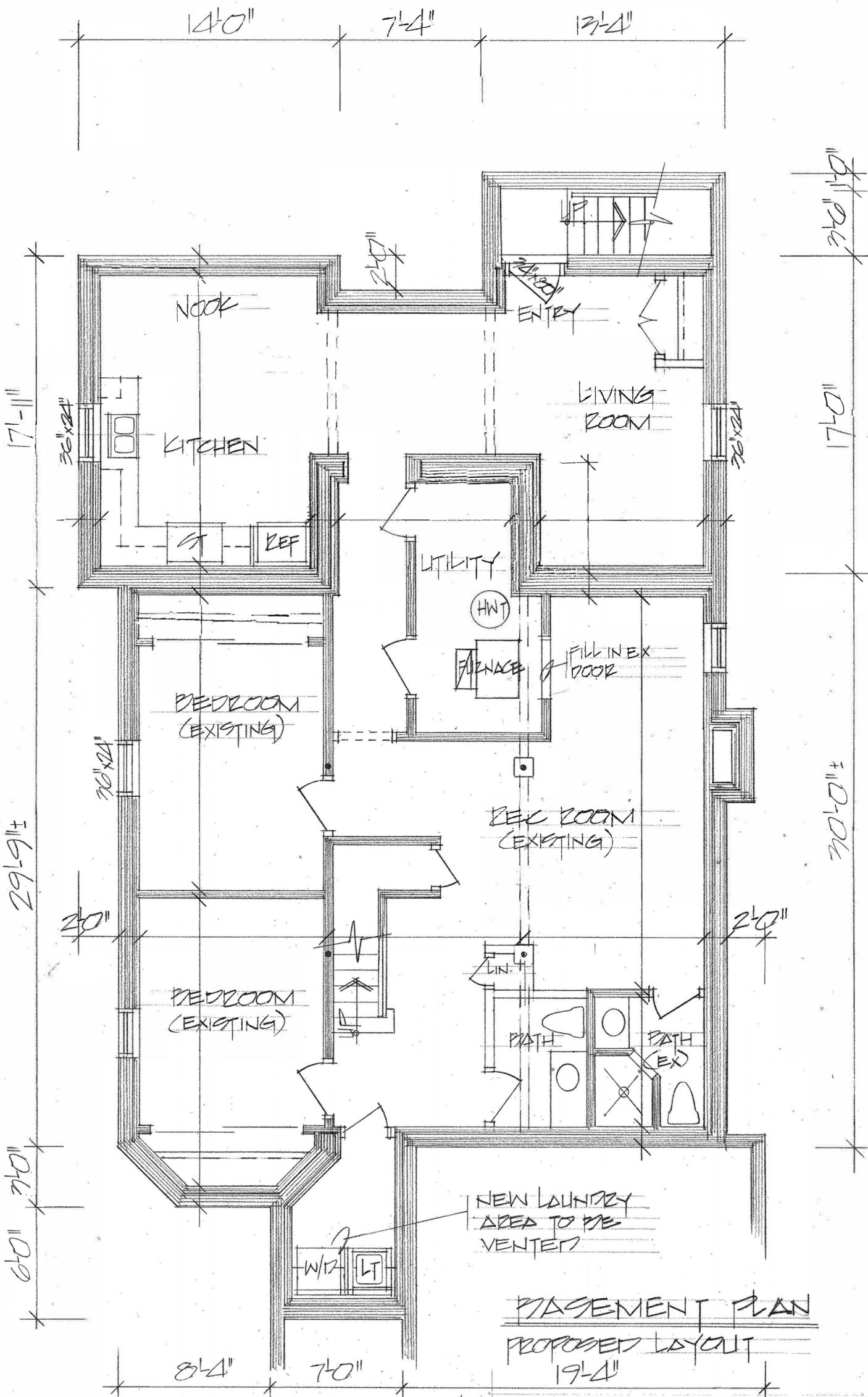
Melissa Leung, Committee of Adjustment Technician, Zoning and Special Projects

REVIEWED BY:



Stephen Lue, Development Manager, Central District

Received:
October 18, 2019



PLACEMENT PLAN
PROPOSED LAYOUT
19'-4"

FINISHED PLACEMENT	
47 PARLOW RD., MARKHAM	
JUNE, 2019	
EXIST'G FINISHED AREA =	2020 SQ FT
NEW FINISHED AREA =	490 " " "
TOTAL =	2510 " " "



APPENDIX "B"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/111/19

- a) The variance apply only to the proposed development as long as it remains;
- b) That the variance apply only to the subject property, in substantial conformity with the plan(s) attached as Appendix "A" to this Staff Report and received by the City of Markham on October 18, 2019, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been satisfactorily fulfilled;
- c) 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; and,
- d) That the Owner register the home as a two-unit house with the City of Markham Fire and Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:



Melissa Leung, Committee of Adjustment Technician, Zoning and Special Projects