Memorandum to the City of Markham Committee of Adjustment

November 16, 2018

File:

A/159/18

Address: Applicant:

23 Morgan Ave, Thornhill Mr. Jaffer Mustafa Liyakatali

Agent:

Mr. Aleksandar Markovic

Hearing Date:

Wednesday November 28, 2018

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

The applicant is requesting relief from the following requirements of By-law 2237, R4, as amended:

a) In-fill By-law 101-90, Sec. 1.2 (vii):

a maximum floor area ratio of 54 percent; whereas the By-law permits maximum floor area ratio of 50 percent; as it relates to a proposed residential dwelling.

BACKGROUND

Property Description

The 603.9 m² (6,500.31 ft²) subject property is located on the south side of Morgan Avenue between Yonge Street and Dudley Avenue. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There is an existing one-storey detached 87.33 m² (940 ft²) dwelling on the property, which according to assessment records was constructed in 1910. The area is undergoing a gradual transition towards larger two-storey detached dwellings being developed as infill developments.

Proposal

The applicant is proposing to construct a new two-storey detached 603.9 m² (6500.31 ft²) dwelling with a rear yard deck.

Official Plan and Zoning

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

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. Infill development is required to meet the general intent of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and also generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard must also be had for retention of existing trees and vegetation, as well as the width of proposed garages and driveways. Planning staff have had regard for the infill development criteria in the preparation of the comments provided below.

Zoning By-Law 2237

The subject property is zoned R4 'Fourth Density Single Family Residential' in By-law 2237, as amended, which permits a single detached dwelling.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. 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, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to maximum floor area ratio.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, "requirement for max floor area ratio – (50%) - 31850.00 sq.ft. By-law, zoning, 2237 amendment by-law 101-90 (proposed max. floor area ratio (54%) – 3440.00 sq.ft.".

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on November 13th, 2018. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently it is 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 request in this application 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 54 percent, whereas the By-law permits a maximum floor area ratio of 50 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 319.6 m² (3,440 ft²), whereas the By-law permits a dwelling with a maximum floor area of 295.9 m² (3,185 ft²). This represents an increase of approximately 23.7 m² (255 ft²), which is an increase of approximately eight (8) percent.

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area. It is not a definitive measure of the mass of the dwelling, since it does not include "open to below" areas that may exist within the dwelling (e.g. two-storey foyers, atriums and/or stairs). Other than the space associated with the stairs, there is no open to below area space on the second floor which is excluded from the gross floor area calculation under the by-law.

The proposed gross floor area is also consistent with the recent infill development trend on the street, including a couple of nearby infill homes that have obtained minor variance approval for similar increases in floor area ratio of up to 54.08 percent.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 16, 2018. 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:

Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:

David Miller, Development Manager, West District

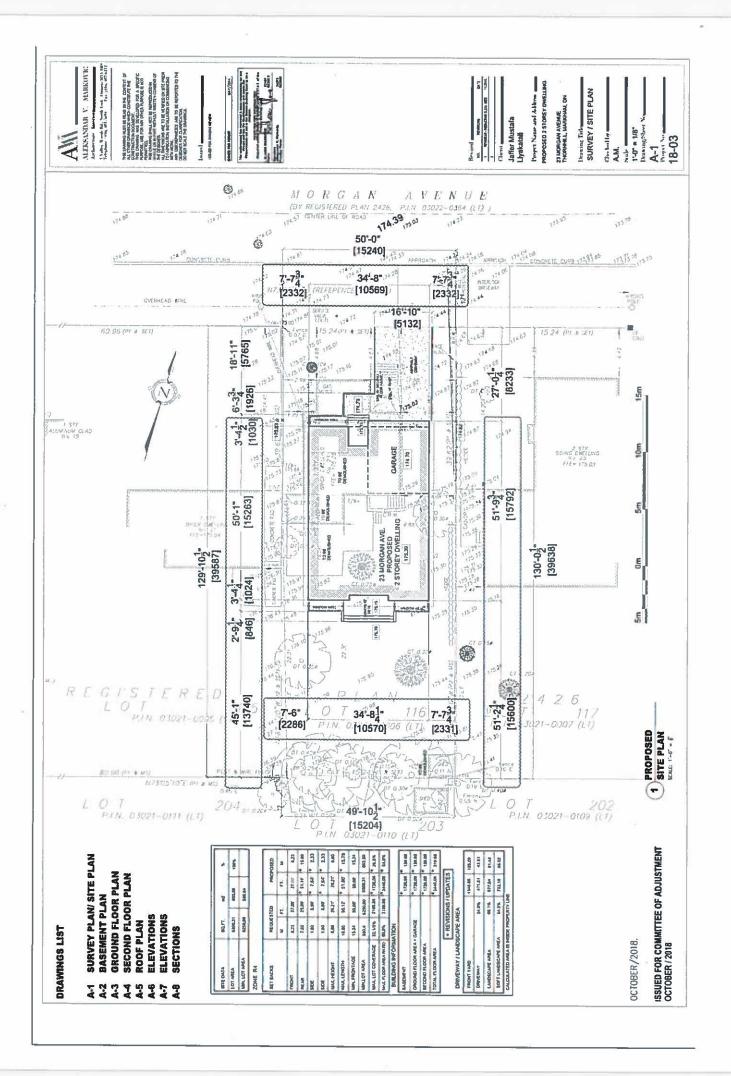
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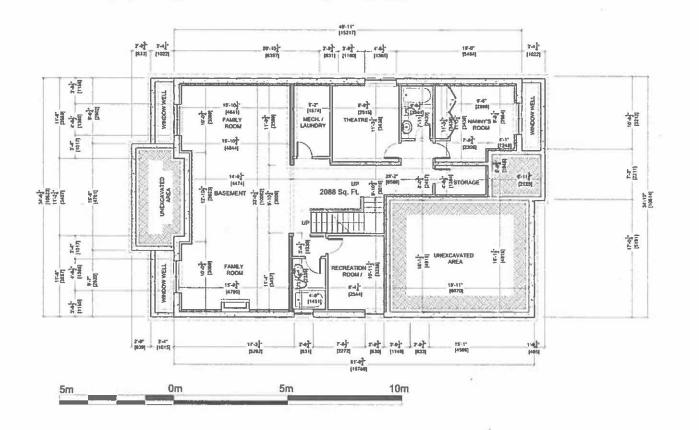
APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/159/18

- 1. The variances apply only to the proposed development as long as it remains;
- 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 dated November 13, 2018 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. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
- 4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations;
- 5. That tree replacements be provided and/or tree replacement fees be paid to the City 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 Tree Preservation Technician or Director of Operations;
- 6. That the proposed building elevations/addition be designed and constructed in conformity with the requirements of Markham's Bird Friendly Guidelines 2014, and that architectural plans be submitted to the City demonstrating compliance, to the satisfaction of the Director of Planning and Urban Design or their designate.

CONDITIONS PREPARED BY:

Aqsa Malik, Planner, Zoning and Special Projects





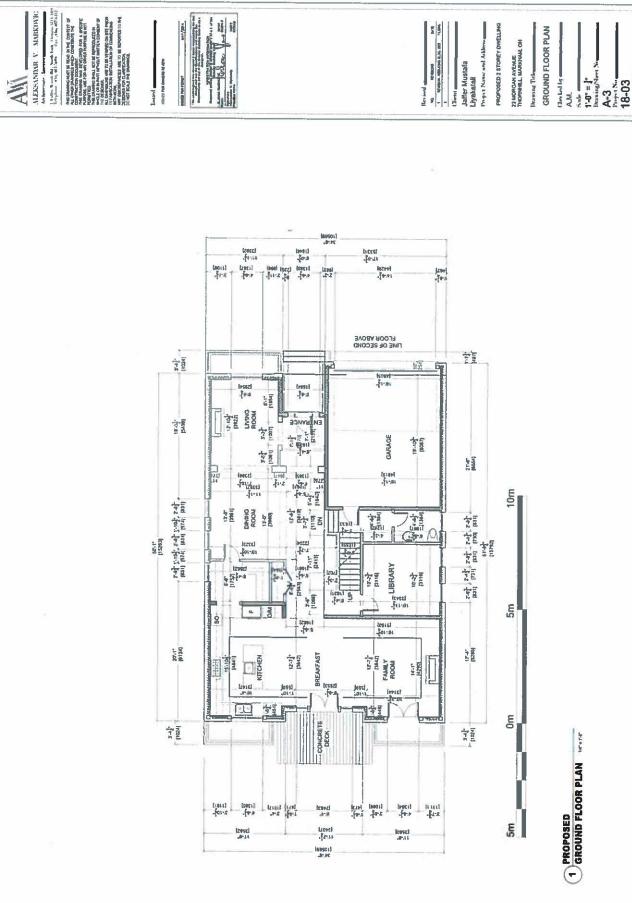
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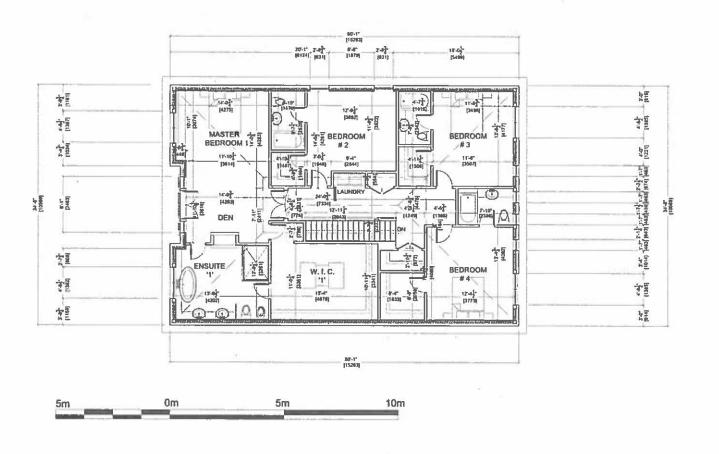
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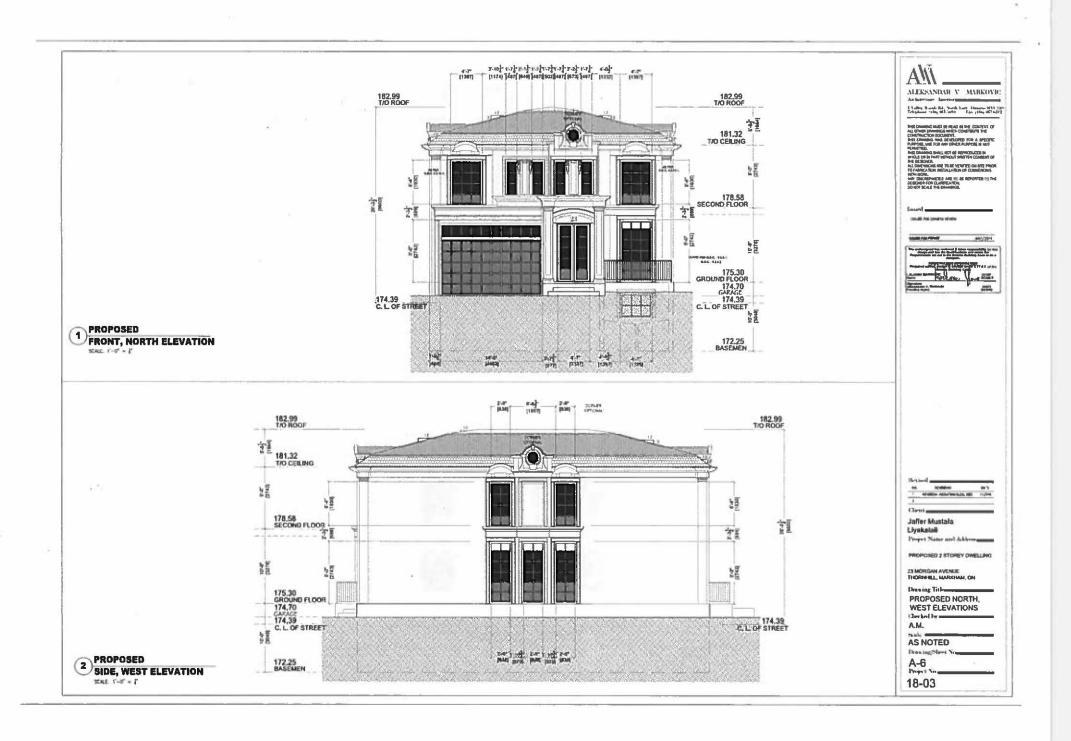
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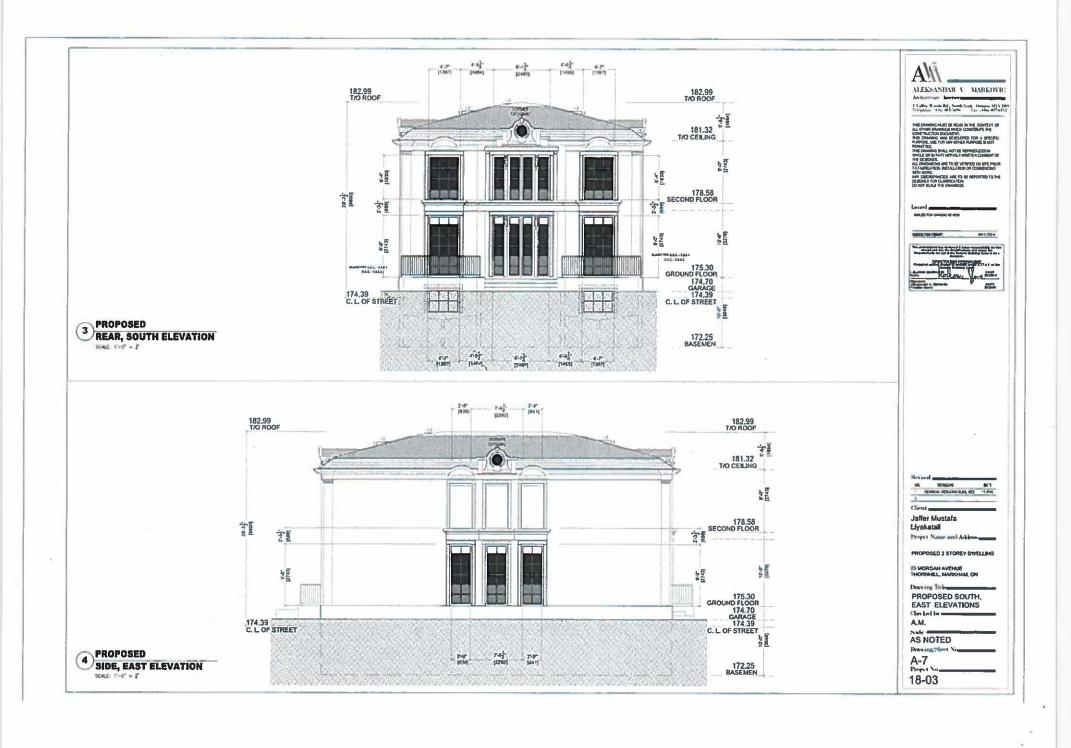
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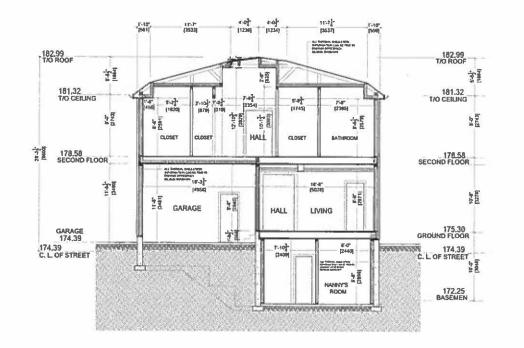
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