

Memorandum to the City of Markham Committee of Adjustment

May 23, 2025

File: A/029/25
Address: 146 Old Kennedy Road, Markham
Agent: KLM Planning Partners Inc. (Marshall Smith)
Hearing Date: Wednesday May 28, 2025

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

The Applicant is requesting relief from the following requirements of the “Community Amenity One” (CA1*585 and CA1*585*586) Zone in By-law 177-96, as amended, to permit:

Block 11:

- a) **Amending By-law 2017-108, Section 7.585.2 g):** an attached private garage to be setback 2 metres from the private street, whereas the by-law requires a minimum setback from the private street of 5.8 metres;

Blocks 2, 4, 6, 8, & 9:

- b) **By-law 177-96, Section 6.2.1 a) ii):** decks with a height between 0.6 metres and 1.0 metres to be setback a minimum of 3 metres from the interior side lot line, whereas the by-law requires a minimum setback of 5 metres from the interior side lot line;

as it relates to a proposed townhouse development.

This application is related to Draft Plan of Subdivision 19TM-16012 and Site Plan SC 17 138057 to construct 76 townhouse units.

BACKGROUND

Property Description

The 15,416.81 m² (165,945.16 ft²) subject lands are located on the west side of Old Kennedy Road, south of Aldergrove Drive and north of Sunrise Drive (the “Subject Lands”) (refer to Appendix “A” – Aerial Context Photo). The Subject Lands are located within a traditionally industrial area transitioning to more residential uses comprising of two- and three-storey townhouses and live-work units as infill developments.

The Subject Lands are currently vacant and are related to a corresponding Site Plan application (SC 17 138057) which has been endorsed with conditions, and a Draft Plan of Subdivision (19TM-16012) which has been draft approved subject to conditions.

Proposal

The Applicant is proposing to construct 76 dwelling units (the “Proposed Development”), which includes seven three-storey live-work townhouse units on the eastern portion of

the Subject Lands fronting Old Kennedy Road (also known as “Block 11”) and 69 three-storey standard townhouse dwellings on the remainder of the Subject Lands (as depicted in Appendix “B” as Blocks 1 to 10).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The 2014 Markham Official Plan (“the 2014 OP”) policies state that until an updated Secondary Plan is approved for the Milliken Main Street Secondary Plan – Milliken Centre Lands, the provisions of the 1987 Town of Markham Official Plan, as amended by OPA 144, shall apply to the Subject Lands.

Milliken Main Street Secondary Plan – OPA 144

OPA 144 designates the Subject Lands as “Community Amenity Area – Mixed Use” and “Community Amenity Area – Main Street”. “Community Amenity Area – Mixed Use” permits medium and high density residential developments and small-scale office development, while “Community Amenity Area – Main Street” permits small to moderate scale retail, personal service, restaurant and business. While residential uses are permitted in the “Community Amenity Area – Main Street” designation, they shall not be located on the ground floor of buildings facing Old Kennedy Road.

On July 17, 2024, Council adopted Official Plan Amendment (“OPA 56”) to incorporate the updated Milliken Main Street Secondary Plan into the 2014 OP. OPA 56 is currently with the Ministry of Municipal Affairs and Housing for approval. OPA 56 designates the Subject Lands as Residential Mid Rise, which permits the proposed development.

Zoning By-Law 177-96

The Subject Lands are zoned “Community Amenity One” (CA1*585 & CA1*585*586) under By-law 177-96, as amended by site-specific Amending By-law 2017-108 (the “site-specific By-law”). Zoning exception 585, which applies to Blocks 1 to 10, permits townhouse dwellings, home occupations, and home child care. Zoning exception 586, which applies to Block 11, permits multiple dwellings, townhouse dwellings, home occupations, home child care, art galleries, business offices, personal service shops, repair shops, retail stores, and commercial schools.

Comprehensive Zoning By-law 2024-19

The Comprehensive Zoning By-law 2024-19, as amended, does not apply to the Subject Lands.

Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the Applicant has received comments from the building department through their Site Plan application (SC 17 138057) process to confirm the variances required for the Proposed Development.

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.

Minimum Attached Garage Setback

The Applicant is requesting relief to permit a minimum setback of 2 m (6.56 ft) for an attached garage from the private street, whereas the By-law requires a minimum setback of 5.8 m (19.03 ft). This represents a reduction of 3.8 m (12.46 ft). This variance is related solely to the seven live-work townhouse units in Block 11.

Staff note that the variance request is due to design changes from the Applicant which originally considered carports instead of a fully enclosed garage. The proposed variance relates to the private street to the rear of the live-work townhouse units, which is intended for residents of the units and does not affect the streetscape along the frontage of Old Kennedy Road where the commercial use is situated. In addition, fully enclosed garages provide more privacy for the unit owners and enhances the streetscape by providing a more favourable interface with the street. The reduction of the setback still allows a 1.5m sidewalk along the private street keeping it in AODA compliance. Staff are of the opinion that the proposed setback is minor and will have a minimal impact on the development.

Minimum Deck Interior Side Yard Setback

The Applicant is requesting relief to permit a minimum interior (north and south) side yard setback of 3.0 m (9.84 ft) for a deck with a height between 0.6 m (1.97 ft) and 1.0 m (3.28 ft), whereas the By-law requires decks with a height between 0.6 m and 1.0 m to be located no closer to the interior side lot line than the interior side yard requirement for the building (in which site-specific By-law permits a minimum interior side yard setback of 5.0 m (16.4 ft). This represents a reduction of 2.0 m (6.56 ft).

Staff note that as the entirety of the property is deemed to be one lot under the site-specific By-law. The site-specific By-law further identifies the eastern property line abutting Old Kennedy Road as being the front lot line. This means the northern and southern property lines are considered to be the interior side yard lot lines. This is noteworthy as the proposed decks visually appear to be located in the rear yards of the townhouse units when in fact, they are located in the side yard of the Proposed Development.

Staff further note that the requested variance was identified due to the existing grading on-site which resulted in a change to the deck heights. Due to the height of the decks being between 0.6 m and 1.0 m, the parent By-law applies as opposed to the intended site-specific Amending By-law, which only contemplated setbacks for decks that exceed

1 m in height. The site-specific By-law requirements were established based on conceptual grading at the time of the zoning approval prior to detailed site plan design. Staff note that the site-specific By-law requires decks with a height of greater than 1 m to be setback a minimum of 2 m (6.56 ft) from the side yard. The current decks, as proposed, meet this setback requirement. Furthermore, the reduction of the minimum deck setback from the interior side yard still provides the intended outdoor amenity space. Staff are of the opinion that the proposed setback is minor in nature and meets the general intent of the By-law.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 23, 2025. 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Brendan Chiu, Planner I, Central District

REVIEWED BY:



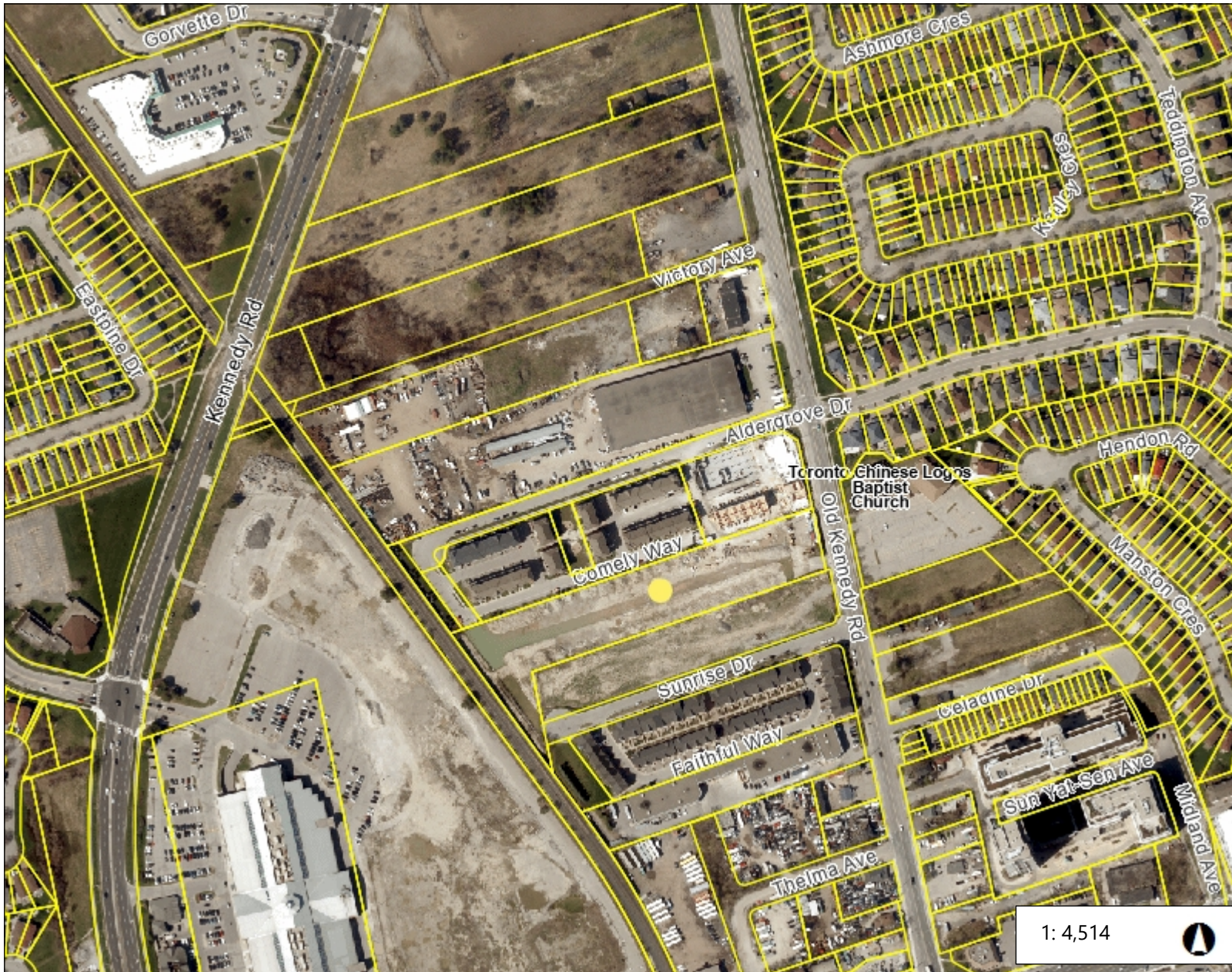
Melissa Leung, Senior Planner, RPP MCIP, Central District

APPENDICES

Appendix "A" – Aerial Context Photo

Appendix "B" – Plans

Appendix "C" – A/029/25 Conditions of Approval



Legend

- Subject Lands
146 Old Kennedy Road

1: 4,514



229.3 0 114.66 229.3 Meters

Notes

APPENDIX “C”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/029/25

1. The variances apply only to the Proposed Development as long as it remains;
2. That the variances apply only to the Proposed Development, in substantial conformity with the plan(s) attached as ‘Appendix B’ to this Staff Report and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction; and,
3. That variance a) applies only to Block 11 as shown in the plans attached as ‘Appendix B’ of this Staff Report.
4. That variance b) applies to Blocks 2, 6, 8 & 9 as shown in the plans attached to ‘Appendix B’ of this Staff Report

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District