

# **Summary of Comments**

A-037 and A-038-2024 -  
1923 10th Line



## COMMITTEE OF ADJUSTMENT MEMORANDUM

**APPLICATION NUMBER(S):** A-037-2024 and A-038-2024  
**MEETING DATE:** September 19, 2024  
**TO:** Toomaj Haghshenas  
Secretary Treasurer Committee of Adjustment  
**FROM:** Toomaj Haghshenas  
Development Planner  
**SUBJECT:** Minor variance application A-037-2024 And A-038-2024 seeking relief from Section 3.5(b) of the Zoning By-law for an increase to the maximum permitted Gross Floor Area (GFA) for an Accessory Dwelling Unit (ADU) from 100m<sup>2</sup> to approximately 235<sup>2</sup>; and relief from Section 3.5(j) to increase the permitted footprint to approximately 195m<sup>2</sup>.

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### PROPERTY INFORMATION:

<b>Municipal Address</b>	1923 10 <sup>th</sup> Line
<b>Legal Description</b>	CON 9 N PT LOT 18 PLAN M34 LOT 1 AND RP 51R26126 PART 1
<b>Official Plan</b>	Agriculture Area (Schedule B) and Key Natural Heritage Feature and Key Hydrological Feature (Schedule B)
<b>Zoning By-law</b>	Residential Rural Exception 10 (RR-10) Zone and Environmental Protection (EP)

### RECOMMENDATION:

The Planning Department recommends approval of A-037-2024 and A-038-2024, subject to the following condition:

- 1.) That the variances only apply to the existing structure with respect to its existing gross floor area and footprint, and that any future development of the lands be subject to the Zoning By-law.

Application Number	By-law Section	Requirements	Existing	Difference
A-037-2024	3.5 b)	Max 100m <sup>2</sup>	235m <sup>2</sup>	+135 m <sup>2</sup>
A-038-2024	3.5 j)	Max 50m <sup>2</sup>	195m <sup>2</sup>	+145m <sup>2</sup>

**REASON FOR APPLICATION:**

The applicant constructed an Accessory Dwelling Unit (ADU) which was approved through a 2008 Zoning By-Law Amendment (ZBA) (specifically a Temporary Use By-law). ADUs were not permitted in the Town Zoning By-law at the time, hence the need for a ZBA application for a Temporary Use By-law. The subject property’s zoning was changed from Rural Residential (RR) to Rural Residential Exception 12 (RR-12) to permit a second dwelling with the condition that occupancy of the ADU/Garden Suite for residential purposes be prohibited after April 2, 2018, unless such a use is extended by Council. In 2014, ADU regulations and permissions came into effect in the Zoning By-law, thus the **use** of an ADU was continuously allowed to be permitted, notwithstanding the 2018 expiry of the Temporary Use By-law, however the scale (235m<sup>2</sup>) expired in 2018 as current ADU permissions do not allow an ADU of this scale. The RR-12 designation was later changed to RR-10 through a housekeeping amendment, but all provisions remained the same. The applicant is seeking to bring an existing structure into compliance through two minor variance applications. The existing ADU has an approximate GFA of 235 m<sup>2</sup>, and a footprint over 50 m<sup>2</sup> (approximately 195m<sup>2</sup>) (a finished basement results in the differential between the two numbers). The applicant is seeking relief from Section 3.5(b) of the Zoning By-law which states that the gross floor area of an ADU shall not exceed 100 square metres in any Residential zone. The applicant is also seeking relief from Section 3.5(j) of the Zoning By-law which states that any detached ADU located in the rear yard shall not exceed 50m<sup>2</sup> in footprint coverage.

**SURROUNDING LANDS:**

<b>North</b>	10 <sup>th</sup> Line and Single-detached dwellings
<b>East</b>	Agricultural lands
<b>South</b>	Agricultural lands and watercourse
<b>West</b>	Single-detached dwelling

**ANALYSIS:**

<b>Site Inspection Date</b>	September 4, 2024
<b>Maintains the purpose and intent of the Official Plan:</b> <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<p>The subject lands are outside any settlement areas. The subject lands are designated Agriculture Area and Key Natural Heritage Feature and Key Hydrological Feature in the Town’s Official Plan (Schedule B).. As per Section 18.3.2 of the Official Plan, the Agricultural Area designation permits single detached dwellings and accessory structures including accessory dwelling units (ADUs). The Section 14.3 of the Official Plan includes policies that promote development that provides affordable and accessible housing which includes ADUs. The existing ADU does provide an opportunity for a more affordable housing option and increase the housing diversity within the Town which in general is consistent with the purpose and intent of the Town’s Official Plan.</p> <p>The existing ADU is located outside the Key Natural Heritage Feature and Key Hydrological Feature designation and is existing; therefore there are no concerns from a natural heritage perspective.</p> <p>The proposal in general meets the purpose and intent of the Official Plan subject to the proposed condition.</p>

<p><b>Maintains the purpose and intent of the Zoning By-law:</b>  <input checked="" type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></p>	<p>The subject lands are zoned Residential Rural Exception 10 (RR-10) Zone and Environmental Protection (EP) in the Town’s Zoning By-law 080-13. The RR zone permits single-detached dwellings and accessory structures, as well as accessory dwelling units. At the time of construction, ADUs were not permitted in the Zoning By-law. As such, a Zoning By-Law Amendment (Temporary Use By-law) was required to permit a second dwelling on the property, which resulted in the zoning exception RR-12. The zoning exception (which is now RR-10 as it was clerically re-labelled exception 10 through a zoning housekeeping exercise), permitted a garden suite dwelling of a scale of 235m<sup>2</sup> GFA until the 2<sup>nd</sup> day of April, 2018. As stated, since new ADU regulations came into effect in 2014, the allowance for the <b>use</b> of an ADU never expired. However the scale did expire (235m<sup>2</sup>) in 2018.</p> <p>In order to be in compliance, the ADU needs to meet section 3.5 of the Town’s current Zoning By-law. Section 3.3(b) of the Town’s Zoning By-law states that the gross floor area of an ADU shall not exceed 100 square metres in any Residential zone. The gross floor area of the existing ADU is 235 m<sup>2</sup>. Section 3.5 (j) of the Zoning By-law states that that any detached ADU located in the rear yard shall not exceed 50m<sup>2</sup> in footprint coverage. The existing footprint of the ADU is roughly 195 m<sup>2</sup>. The purpose of both provisions is to ensure the hierarchy of structures is maintained on the property and to reduce visual bulk and massing of structures on the property. The increased floor area does not provide a negative visual impact as far as massing and density. The principal dwelling will remain the dominant structure in terms of scale and use on the property due to its larger size and height. The property is also large enough that visual bulk and massing of the ADU is not of significant concern. The structure is also an existing structure carried forward from a previous Temporary Use By-law approval which allowed a 235m<sup>2</sup> GFA structure, which went through a Public Meeting process at the time.</p> <p>The ADU complies with all other provisions in the Zoning By-law. Staff are of the opinion the variance is in keeping with the general purpose and intent of the Zoning By-law, subject to the proposed condition.</p>
<p><b>The variance is desirable for the appropriate/orderly development or use of the land:</b>  <input checked="" type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></p>	<p>The ADU is located on the east side of the property in the rear yard. The ADU takes advantage of an existing driveway and has limited impacts to neighbouring residences given its location. The ADU does not negatively impact the character of the neighborhood and maintains consistency in terms of use.</p> <p>Given the location of the ADU and compliance with all other zoning provisions, and given it is an existing ADU from a previous Planning approval, Staff consider the variances desirable and appropriate for the use of the land.</p>
<p><b>The variance is minor in nature:</b>  <input checked="" type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>No</b></p>	<p>Staff are of the opinion that the proposed variance could be considered minor, subject to the proposed condition, due to the scale and location of the ADU which has have limited impacts to neighboring properties, and the development meeting all other provisions of the Zoning By-law.</p>

**PREPARED BY:**

Toomaj Haghshenas,  
Development Planner

**REVIEWED BY:**

Steven Montgomery, MCIP, RPP  
Supervisor of Development Planning



Community Development Standards Branch

MEMORANDUM TO FILE

**DATE:** September 13, 2024

**FROM/CONTACT:** Jocelyn Penfold ex 3506 jpenfold@innisfil.ca

**FILE/APPLICATION:** A-037 & 038-2024

**SUBJECT:** 1923 10<sup>th</sup> Line

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**Comments to applicant/owner for information purposes** (Comments help provide additional information regarding the development of the subject lands to the applicant. Comments are not conditions of approval):

1. No comments.

**Condition of Approval** (Conditions of Approval are specific enforceable conditions regarding the subject lands should the Committee of Adjustment approve the application. For example: The applicant/owner shall apply for a building permit for the construction of a new dwelling to the satisfaction of Community Development Standards Branch)

1. No comments.

TO: Town of Innisfil - Committee of Adjustment  
2101 Innisfil Beach Rd, Innisfil, ON, L9S A1

CC: [planning@innisfil.ca](mailto:planning@innisfil.ca)

DATE: September 18, 2024

RE: Adjacent Development Review: A-037-2024 and A-038-2024  
1923 10<sup>th</sup> Ln, Innisfil, ON  
Minor Variance

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Dear Committee of Adjustment,

Metrolinx is in receipt of the Minor Variance application for 1923 10th Ln to construct an accessory dwelling unit addition to be heard at Public Hearing on September 19th, 2024, at 6:30 PM. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300m of the Metrolinx Newmarket Subdivision which carries Metrolinx's Barrie GO Train service.

#### GO/HEAVY-RAIL - CONDITIONS OF APPROVAL

- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
  - **Warning:** The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns on the above , please contact [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com).

Best Regards,  
**Farah Faroque**  
Project Analyst, Third Party Project Review  
Metrolinx | 10 Bay Street | Toronto | Ontario | M5J 2S3  
T: (437) 900-2291

### Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**").

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.