

MINOR VARIANCE APPLICATIONS

D13-A01-19 **2506994 ONTARIO INC.**
Lot 10, Plan 90; Part Lot 58, Plan 22
Parts 2 & 3, Plan 65R1360
81 Joseph Street

D13-A02-19 **HAUBEN, Ewa**
SOLKOWSKI, Tomazs
Part Lot 13, Plan 90
359 Millard Avenue

NEW BUSINESS

- Minutes of the regular Meeting of the Committee held on Wednesday, January 23, 2019



PLANNING AND BUILDING SERVICES

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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
 Planner

DATE: February 13, 2019

RE: Application for Minor Variance **D13-A01-19**
 Lot 10, Plan 90; Part Lot 58, Plan 22; Parts 2 & 3, Plan 65R1360
 81 Joseph Street
 Made by: 2506994 Ontario Inc.

1. Recommendations:

That Minor Variance Application D13-A01-19 be denied.

2. Application:

An application for minor variances has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended by By-law 2013-30, in order to demolish the existing single-detached dwelling and construct a larger dwelling on the lot.

The above-described property (herein referred to as the “subject lands”) is located on the east side of Joseph Street in a residential neighbourhood west of Main Street South and east of Lorne Avenue. The relief as requested is as follows:

Relief	By-law	Section	Requirement	Proposed
1	2010-40, amended by 2013-30	Development Standards	Maximum lot coverage of 25% for a two-storey structure	Permit a lot coverage of 29.07% for a two-storey structure
2			Maximum height of 10.0m for a two-storey dwelling	Maximum height of 11.26m for a two-storey dwelling
3	2010-40	Section 3 – Definitions	Any portion of a storey exceeding 3.6m in height is deemed to be an additional storey	Any portion of a storey exceeding 3.6m in height to accommodate a second floor dormer is not deemed to be an additional storey
4	2010-40, amended by 2013-30	Development Standards	Front yard setback to be within the range of those of the abutting properties and not less than 3m	Front yard setback of 2.49m
5	2010-40	6.2.2	Minimum interior side- yard setback of 1.8m for a two-storey structure	Minimum interior side-yard setback of 0.62m for a two- storey structure

3. Planning considerations:

The applicant is requesting relief from the By-law in order to demolish the existing two-storey single detached residential dwelling on the lot and construct a significantly larger structure. To accomplish this the applicant requires relief from five sections of the zoning by-law.

In making a recommendation to the Committee, staff are required to consider the 4 tests under the *Planning Act*; staff offer the following comments:

3.1 Conformity with the general intent of the Official Plan

The subject lands are designated “Stable Residential” in the Town’s Official Plan. The objectives of the designation are to sustain and enhance the character and identity of existing residential communities and encourage the preservation and maintenance of the Town’s existing housing stock. This designation permits single detached dwellings, and supports efforts to invest in the existing housing stock. This test is met.

3.2 Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Single Detached Dwelling 15m Zone (R1-D-119) by By-law Number 2010-40, as amended by By-law 2013-30.

The general intent of the zoning by-law is to limit the built form of structures in order to maintain compatibility and similarity of structures. By limiting lot coverage and height, building size is restrained and ensures that houses are similar in size and that a diverse range of housing sizes are preserved across Newmarket.

By-law 2013-30 was passed in 2013 to reduce the permitted building height and coverage in many of the older residential areas of Newmarket in an effort to maintain building compatibility, similarity, and a diversity of built form across Newmarket. In part, Council sought to prevent the loss of smaller homes and the construction of new structures that would be significantly larger than existing homes in the area.

The zoning by-law’s maximum lot coverage provisions serve to ensure a diverse range of housing sizes within the Town by preventing overdevelopment, and preserving houses of certain sizes. While a 2-storey structure is permitted as-of-right on the subject property, the by-law limits such a structure to a reduced lot coverage of 25% compared to the 35% that is permitted for a single-storey structure.

It is important for Committee to weigh any requested relief against the intent of compatibility, ensuring a diversity of housing types, and associated limits on lot coverage. The loss of a diversity of sizes of housing reduces the ability of Newmarket’s housing stock to provide houses for a range of resident needs, and diminishes the character that is brought about through the diverse and eclectic mix of houses in Newmarket’s older areas.

The front and northerly interior side setbacks are likely legally nonconforming based on the age of the structure. While these setbacks can be maintained, they have been requested as variances to grant them as legally conforming permissions and must be considered by Committee based on the same grounds as other variances.

The proposed structure requires significant relief from the by-law and would result in a structure that appears to fill the subject lands to the side edges of the lot. This width on the street frontage, combined with the requested relief for additional height and reduced front-yard setbacks, would result in a new

structure that is significantly different from the surrounding area and out of keeping with the general intent of the zoning by-law to preserve smaller homes and ensure similarity of structures. It is staff's opinion that this test is not met.

3.3 Desirable development of the lot

It is generally desirable to allow a property owner to invest in their property and arrange it in a manner that suits their needs, subject to the limits of the zoning by-law and impacts on neighbouring properties. This deference is balanced against the desirability of development in the public interest when permission beyond that of the zoning by-law is sought by way of a minor variance.

The requested relief would be indicative of the ongoing loss of smaller dwellings and the decrease in housing diversity in Newmarket. In addition, the proposed development would continue the imposition of structures that seek to maximize their own size without sufficient regard to the public realm and existing pattern of structures in the area. It is staff's opinion that this is not a desirable development of the lot.

3.4 Minor nature of the variances

When considering if the variance is minor, it is not simply the numerical value nor is impact the sole test. Requested relief may not be minor even if no other property is impacted. The requested relief would bring significant change to a small street beyond what is permitted by the zoning by-law. The proposed development does not show evidence of considering its place within the broader streetscape or how to best fit its size and style into an established pattern of built form. This test is not met.

In consideration of the above, the proposed variances do not meet the four tests under the *Planning Act*.

4. Other comments:

4.1 Tree Protection

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy requires properties that are subject to a development application to submit an arborist report, protect trees during construction, and compensate for any removed trees by replanting or paying an amount to the Town commensurate with the removed trees. While the recommendations of this report would not grant the relief requested, if Committee deems to approve this application, standard condition wording can be provided to ensure compliance with the Policy.

4.2 Heritage

No structure on the lot is designated under the *Ontario Heritage Act*.

4.3 Effect of public input

No public input was received as of the date of writing this report.

4.4 Interim Control By-law

On January 21st, 2019 Council adopted an Interim Control By-law under Section 38 of the *Planning Act*. The Interim Control By-law limits the ability to increase the floor area or height of residential

dwellings throughout its study area, which includes the lands subject to this minor variance application. However, the Interim Control By-law exempts properties that were subject to a complete *Planning Act* application, which includes applications for minor variance such as this one. As such, this property is exempt from the Interim Control By-law and it has no force or effect on this application.

4.5 Commenting agencies and departments

Building Services has reviewed the application and does not have any comments on the proposed variances.

Comments from Engineering Services were not available as of the date of writing this report.

The Regional Municipality of York has reviewed the minor variance application and has advised they have no objection to the proposal.

5. Conclusions:

The relief as requested does not conform to the four tests as required by the *Planning Act*.

Respectfully submitted,



Ted Horton
Planner



Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
 Planner

DATE: February 13, 2019

RE: Application for Minor Variance **D13-A02-19**
 Plan 90, Part Lot 13
 359 Millard Avenue
 Made by: HAUBEN, Ewa & SOLKOWSKI, Tomazs

1. Recommendations:

That Minor Variance Application D13-A02-19 be approved, subject to the following conditions:

- i. That the variance pertains only to the addition as submitted with the application and not to any other structure;
- ii. That the applicant be advised that prior to the issuance of any building permit compliance will be required with the provisions of the Town’s Tree Preservation, Protection, Replacement and Enhancement Policy; and
- iii. That the development be substantially in accordance with the Site Plan submitted.

2. Application:

An application for a minor variance has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended by By-law 2013-30, in order to construct a single-storey addition within the existing setbacks of the house.

The above-described property (herein referred to as the “subject lands”) is located on the north side of Millard Avenue in a residential neighbourhood west of Main Street South and east of Lorne Avenue. The relief as requested is as follows:

Relief	By-law	Section	Requirement	Proposed
1	2010-40, amended by 2013-30	Development Standards	Maximum lot coverage of 25% for a two-storey structure	Permit a lot coverage of 28.3% for a two-storey structure

3. Planning considerations:

The applicant is requesting relief from the By-law in order to construct a new living room through a single-storey addition. The proposed addition fills in a gap in the footprint of the house that is surrounded on three sides by the existing house and attached garage.

In making a recommendation to the Committee, staff are required to consider the 4 tests under the *Planning Act*; staff offer the following comments:

3.1 Conformity with the general intent of the Official Plan

The subject lands are designated “Stable Residential” in the Town’s Official Plan. The objectives of the designation are to sustain and enhance the character and identity of existing residential communities and encourage the preservation and maintenance of the Town’s existing housing stock. This designation permits single detached dwellings, and supports efforts to invest in the existing housing stock. This test is met.

3.2 Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Single Detached Dwelling 18m Zone (R1-D-119) by By-law Number 2010-40, as amended by By-law 2013-30.

The general intent of the zoning by-law is to limit the built form of structures in order to maintain compatibility and similarity of structures. By limiting lot coverage, building size is restrained and ensures that houses are similar in size and that a diverse range of housing sizes are preserved across Newmarket.

Restricting this increased coverage to the infill addition as proposed and not to an overall increase in area allows for the resident to arrange their property as they like without significantly increasing the building’s size. Furthermore, the addition represents a small increase in coverage that is principally within the boundaries of the existing building envelope – that is to say, the proposed addition is bounded on three sides by the existing structure and is largely in line with the existing setback on the fourth side – and thus represents a gradual evolution of the built form rather than the construction of a new and significantly larger structure. The general intent of the zoning by-law is met.

3.3 Desirable development of the lot

It is generally desirable to allow a property owner to invest in their property and arrange it in a manner that suits their needs, subject to the limits of the zoning by-law and impacts on neighbouring properties. This deference is balanced against the desirability of development in the public interest when permission beyond that of the zoning by-law is sought by way of a minor variance.

As the requested relief would allow the property owner to arrange the property to suit their needs without significant impact to neighbours or the community, the variance is desirable for the appropriate development of the lot. This test is met.

3.4 Minor nature of the variances

When considering if the variance is minor, it is not simply the numerical value; the Committee is requested to consider the impact of the variance. The impact of the proposed variance appears to be minimal as despite the increase in coverage the structure remains within the required setbacks, and the increased coverage is a minor evolution of the size of the structure. This test is met.

In consideration of the above, the proposed variance meets the four tests under the *Planning Act*.

4. Other comments:

4.1 Tree Protection

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy requires properties that are subject to a development application to submit an arborist report, protect trees during construction, and compensate for any removed trees by replanting or paying an amount to the Town commensurate with the removed trees. Standard conditions related to adherence with the Policy are recommended with this report.

4.2 Heritage

No structure on the lot is designated under the *Ontario Heritage Act*.

4.3 Effect of public input

No public input was received as of the date of writing this report.

4.4 Interim Control By-law

On January 21st, 2019 Council adopted an Interim Control By-law under Section 38 of the *Planning Act*. The Interim Control By-law limits the ability to increase the floor area or height of residential dwellings throughout its study area, which includes the lands subject to this minor variance application. However, the Interim Control By-law exempts properties that were subject to a complete *Planning Act* application, which includes applications for minor variance such as this one. As such, this property is exempt from the Interim Control By-law and it has no force or effect on this application.

4.5 Commenting agencies and departments

Building Services has reviewed the application and does not have any comments on the proposed variance.

Comments from Engineering Services were not available as of the date of writing this report.

The Regional Municipality of York has reviewed the minor variance application and has advised they have no objection to the proposal.

5. Conclusions:

The relief as requested:

- (1) is minor in nature;
- (2) conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- (3) is considered desirable for the appropriate development of the lot.

Respectfully submitted,



Ted Horton
Planner