



Town of Newmarket

Agenda

Committee of Adjustment

Date: Wednesday, July 24, 2019
Time: 9:30 AM
Location: Council Chambers
Municipal Offices
395 Mulock Drive
Newmarket, ON L3Y 4X7

Pages

1. **Declarations of Pecuniary Interest**

2. **Items**

- | | | |
|-----|---|----|
| 2.1 | Minor Variance Application - D13-A09-19 | 1 |
| | COWIE, Wayne & COWIE, Mary Ann | |
| | Part Block B, Plan 31 | |
| | 160 Victoria Street | |
| 2.2 | Minor Variance Application - D13-A10-19 | 6 |
| | SHAD, Khalid | |
| | Lot 3, Plan 65M4338 | |
| | 352 Rannie Road | |
| 2.3 | Minor Variance Application - D13-A11-19 | 9 |
| | BIROCK INVESTMENTS INC. | |
| | Block 1, Plan 65M3871 | |
| | 17305 Leslie Street | |
| 2.4 | Minor Variance Application - D13-A12-19 | 12 |
| | MANGONI, Roberto | |
| | Lot 10, Plan 90 | |

81 Joseph Street

2.5 Minor Variance Application - D13-A13-19 16

DUTCHER, Kevin & DUTCHER, Lynn

Lot 6, Plan M24

131 Stickwood Court

2.6 Minor Variance Application - D13-A14-19 19

LIU, Heping & ZHOU, Ting

Part Lot 4, Plan 65M3722

139 Trailhead Avenue

3. **Approval of Minutes** 23

Minutes of the regular Meeting of the Committee held on Wednesday, June 19, 2019.

4. **Adjournment**



PLANNING AND BUILDING SERVICES

Town of Newmarket www.newmarket.ca
 395 Mulock Drive planning@newmarket.ca
 P.O. Box 328, STN Main T: 905.953.5321
 Newmarket, ON L3Y 4X7 F: 905.953.5140

Planning Report

To: Committee of Adjustment

From: Ted Horton
 Planner

Date: July 18, 2019

Re: Application for Minor Variance **D13-A09-2019**
 160 Victoria Street
 Town of Newmarket
 Made by: COWIE, Wayne & Mary Ann

1. Recommendations:

That Minor Variance Application D13-A09-2019 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application; and
2. That the development be substantially in accordance with the information submitted with the application.

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, to permit the recognition and legalization of a longstanding triplex on the property. The relief as requested is listed below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.2.1	Permitted uses do not include a triplex	To include a triplex as a permitted use

The above-described property (herein referred to as the “subject lands”) is located on the northwest corner of the intersection of Park Avenue and Victoria Street. The subject lands are occupied by a large brick structure and small detached garage and surrounded by a diverse mix of dwellings.

3. Planning considerations:

The applicant has indicated that the structure on the lot was built in 1914. In 1979 the lot was zoned Single Residential Zone (R2), which permitted a single detached dwelling. Since 2003 the property has been permitted to also have an accessory dwelling unit, for a total of two dwelling units. In 2010 with the adoption of the current zoning by-law, the property was given its current zoning designation which continues to permit a single detached dwelling with an accessory dwelling unit.

The applicant acquired the property in 2005, and they have stated that at that time it was used as a triplex. According to the applicant, it has been used this way since at least 1989, and it was their belief that it was legally nonconforming in this use – that is to say, had the right to continue legally as a triplex due to having been a legal triplex before and since the zoning by-law prohibited such a use. However,

upon discussions with Planning staff the owner learned that the triplex is not legally nonconforming and thus the owner is now applying for this variance to recognize and legalize the use.

Orders have been given by Central York Fire Services to undertake certain necessary fire safety works under the Fire Protection and Prevention Act. In order to do these works, building permits are required under the Ontario Building Code Act. In order to obtain a building permit, the property must comply with the zoning by-law. As a triplex is not currently permitted, the proposed variance is required for these other works to occur.

As per established practice and jurisprudence from appellate bodies, in considering a minor variance in which the work was already completed in error or to legalize an existing nonconformity the Committee is to consider the application as if the work had not yet been done.

3.1 Provincial Policy and Legislation

While minor variance applications are typically not reviewed within the context of provincial policy, in the case of this application important context is available by considering relevant provincial policy and legislation.

The Provincial Policy Statement (the “PPS”) provides policy direction related to land use planning. All decisions affecting land use planning matters must be consistent with the PPS. The PPS supports an appropriate range and mix of housing that efficiently uses land, promotes a compact built form, and encourages the provision of affordable housing. A mix of types of dwellings can be encouraged by allowing dwellings to be adaptively repurposed by demising and adding additional units.

The Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”) 2019 provides more detailed policy guidance for land use planning decisions. All land use planning decisions must conform to the Growth Plan. The Growth Plan supports housing choice by requiring municipalities to provide a range and mix of housing options including a mix of unit sizes to accommodate a diverse range of household sizes and incomes. The Growth Plan supports the intensification goals of the Town through large-scale efforts such as the Urban Centres Secondary Plan of Yonge Street and Davis Drive, but also directs that municipalities shall encourage intensification generally throughout the built-up area. A triplex use supports these goals by increasing the diversity of housing stock and rental supply.

Beyond the requirement that Committee’s decision conform to superior provincial policy instruments, staff are required to consider the 4 tests under the *Planning Act*.

3.2 Conformity with the general intent of the Official Plan

The subject lands are designated “Stable Residential” in the Town’s Official Plan. It is the objective of the Stable Residential Area policies to:

- a. sustain and enhance the character and identity of existing residential communities; and,
- b. encourage the preservation and maintenance of the Town’s existing housing stock, supplemented by various forms of residential intensification such as infilling and the creation of accessory dwelling units.

Section 3 of the Official Plan discusses the stable residential areas as having a mix of housing forms including rowhouses, duplexes, fourplexes, apartments, and other multi-unit dwellings. The Official Plan directs the majority of intensification to the urban centres such as Yonge Street and Davis Drive,

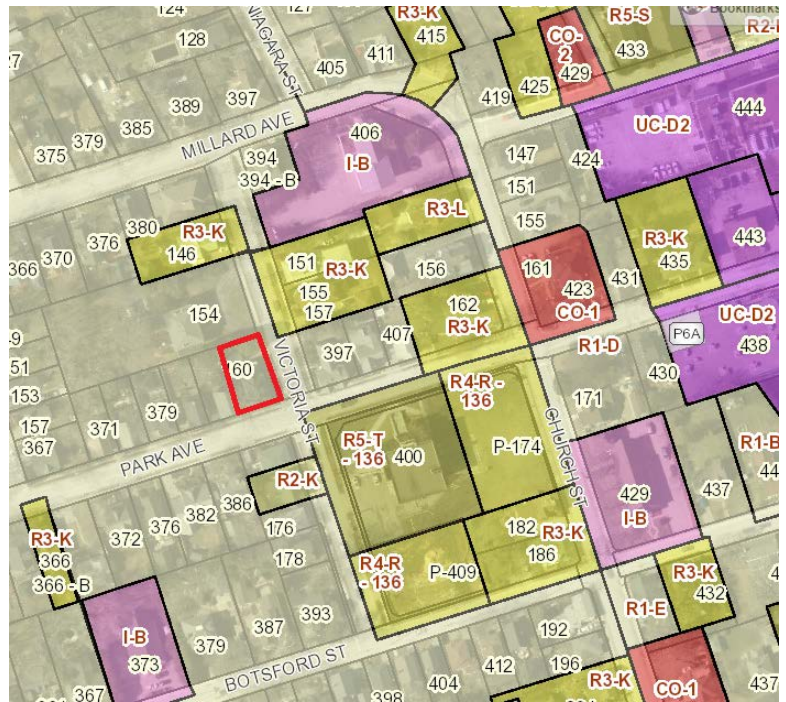
and requires that where intensification is permitted in the stable residential areas that it be compatible and respect the character of these areas.

The proposed variance would recognize a longstanding use that has occurred without adverse effects to the neighbourhood. The proposed use has the same built form permissions as the existing structure and the surrounding single detached structures, and no proposal to change the built form has been made. This test is met.

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

The subject lands are zoned Residential Single Detached Dwelling 15.0m Zone (R1-D) by By-law Number 2010-40, as amended. A triplex is not a permitted use in the R1 zone. The surrounding area hosts a range of zones, as can be seen in the excerpt from the zoning by-law below. The surrounding area includes a number of R2 (semi-detached), R3 (duplex, triplex, and fourplex), R4 (townhouse) and other zones. In the provided image the subject lands are indicated with a red outline at the northwest corner of Park Avenue and Victoria Street.

The general intent of the zoning by-law in the stable residential areas is to ensure compatibility. This is achieved in some cases by regulating uses and in some cases by regulating built form. The built form of the existing structure on the lot has lasted more than a century and is not proposed to change. The use of the structure for a triplex has existed for a considerable period of time and not occasioned adverse effects for the surrounding area. Moreover, such a use demonstrates the ability for small multi-unit dwellings to exist in harmony with single detached dwellings. This test is met.



3.4 Desirable development of the lot

A triplex contributes to the mix of housing types in Newmarket and supports the Town's goals of providing for affordable housing and an increased supply of rental housing. Indeed, allowing the gentle and creative repurposing of homes for additional dwelling units can act as a counter to some of the rapid scale change that impacts some neighbourhoods. As property owners seek to maximize the value of their properties, restricting the permitted uses to only single detached dwellings drives the creation of larger homes. Allowing for homes to be used for additional dwelling units can provide an incentive for homes to be retained and changed in a manner that leads to less overall physical change while still increasing the value of a property.

Moreover, the ability to add or remove dwelling units within existing structures allows the Town's housing stock to better reflect the evolution of resident needs by providing rental units of a range of sizes. Finally, providing dwelling units within an existing structure can be accomplished at a significantly reduced cost than newly developed buildings, which thus can support the achievement of more affordable housing.

A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development that meets the broad policy goals of the Town and the Province. This test is met.

3.5 Minor nature of the variances

The test of whether a variance is minor in nature is not simply an evaluation of the numerical value, nor is impact the sole determining factor. In some cases, a variance may not be minor even if there is no impact on other properties.

No physical change to the property is proposed and the use that is sought to be recognized and legalized is longstanding. While Committee is to consider the request as if it were made before any work or nonconformity occurred, some comfort of the likelihood of adverse impact can be drawn from the observed experience of the longstanding triplex use. 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

No physical change to the site is proposed and thus no impact to significant trees under the Tree Policy is anticipated.

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. As no additional height or floor area is proposed, the Interim Control By-law does not affect this application.

4.5 Commenting agencies and departments

The Chief Building Official notes that the applicant should be advised that their works will be required to comply with the Ontario Building Code.

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

The Regional Municipality of York has no comment on the application.

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,

A handwritten signature in blue ink, appearing to read "Ted Horton".

Ted Horton, MCIP, RPP
Planner



PLANNING AND BUILDING SERVICES

Town of Newmarket

395 Mulock Drive
P.O. Box 328, STN Main
Newmarket, ON L3Y 4X7

www.newmarket.ca
planning@newmarket.ca
T: 905.953.5321
F: 905.953.5140

Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: July 18, 2019

RE: Application for Minor Variance **D13-A10-19**
352 Rannie Road
Made by: SHAD, Khalid

1. Recommendations:

That Minor Variance Application D13-A10-19 be granted, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application; and
2. That the development be substantially in accordance with the information submitted with the application.

2. Application:

An application for minor variance has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended, in order to allow a residential accessory structure (shed) that has been constructed closer to the side lot line in the rear yard than is permitted by the by-law.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 4.2	A residential accessory structure up to 2.8m in height must be set back a minimum of 1.0m from the side lot line	A residential accessory structure up to 2.8m in height to be set back a minimum of 0.76m from the side lot line

3. Planning considerations:

The applicant is requesting relief in order to permit a side yard setback of 0.76 metres from the residential accessory structure to the side lot line. The structure exists on the lot but was found to contravene the requirements of the zoning by-law. The applicant is thus requesting this relief to legalize the existing structure.

As per established practice and jurisprudence from appellate bodies, in considering a minor variance in which the work was already completed in error or to legalize an existing nonconformity the Committee is to consider the application as if the work had not yet been done.

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 allows for accessory buildings normally associated with residential uses. This test is met.

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

The subject lands are zoned Residential Link Dwelling 18-metre Zone (R2-G) by By-law Number 2010-40, as amended. A link dwelling is permitted in this zone, and residential accessory structures such as sheds are permitted subject to certain setbacks.

The general intent of setbacks are to ensure that the use of a property does not infringe on the rights of neighbours, and to allow sufficient space for light, sunshine, storm water run-off, and movement around the home. In the case of the subject lands, the residential accessory structure will be closer to the lot line than a structure normally would be. However, the proposed reduced setback appears to maintain a functional space and distance from the lot line that is sufficient for runoff. This test 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.

The requested relief provides for a structure that is within the general size and height limits for a residential accessory structure, and appears to continue to maintain sufficient distance to avoid adverse impact on adjacent properties. 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 nor is impact the sole test. Requested relief may not be minor even if no other property is impacted. The proposed residential accessory structure is not out of keeping with common rear yard accessory structures and is not expected to adversely impact neighbouring properties. 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 applicant has indicated that there are no trees on or within the prescribed radius of the lot that would be defined as significant under the Town’s Tree 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. The Interim Control By-law does not prohibit residential accessory structures and as such has no bearing on this application.

4.5 Commenting agencies and departments

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

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

The Regional Municipality of York has no comment on the application.

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 a desirable development of the lot.

Respectfully submitted,



Ted Horton, MCIP, RPP
Planner



PLANNING AND BUILDING SERVICES

Town of Newmarket

395 Mulock Drive
P.O. Box 328, STN Main
Newmarket, ON L3Y 4X7

www.newmarket.ca
planning@newmarket.ca
T: 905.953.5321
F: 905.953.5140

Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: July 10, 2019

RE: Application for Minor Variance **D13-A11-19**
17305 Leslie Street
Made by: BIROCK INVESTMENTS INC.

1. Recommendations:

That Minor Variance Application D13-A11-19 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application.

2. Application:

An application for a minor variance has been submitted by the above-noted owner to request relief from Zoning By-law Number 1979-50 as amended by By-laws 1980-88 and 2010-56, in order to permit a Commercial Athletic Centre where this use is not specifically permitted.

The above-described property (herein referred to as the “subject lands”) is a commercial lot with multiple structures on the northeast corner of Leslie Street and Stackhouse Road. The subject lands are occupied by a number of commercial plaza buildings. The existing uses range from retail and restaurants to offices.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to permit a Commercial Athletic Centre where this use is not specifically permitted. Zoning By-law 1979-50 does not define this use. Committee previously granted a similar variance for the subject lands under file D13-A22-17 which permitted a Day Nursery and a Commercial Athletic Centre, but imposed conditions related to the size and location of each. The current application would add the requested use as a permission by right.

The requested relief is presented below.

Relief	By-law	Section	Requirement	Proposed
1	1979-50	24.1	Permitted uses do not include a Commercial Athletic Centre	To include a Commercial Athletic Centre as a permitted use

The subject land is unique among the surrounding properties in that it remains subject to Zoning By-law 1979-50 as amended and is not captured by By-law 2010-40. This is due to a zoning by-law amendment application for the subject lands that was under appeal at the Ontario Municipal Board (OMB) when the Town prepared and adopted By-law 2010-40.

The subject lands are zoned Local Shopping Centre (C4) by By-law 1979-50 as amended. The C4 zone permits a range of commercial uses such as retail stores, personal service shops, and offices. For the convenience of Committee, the list of permitted uses is presented below.

SECTION 24 - LOCAL SHOPPING CENTRE COMMERCIAL (C4) ZONE

The following provisions shall apply to all Local Shopping Centre Commercial (C4) Zones.

24.1 PERMITTED USES

No person shall hereafter within a Local Shopping Centre Commercial (C4) Zone use any land, or erect, alter or use any building or structure for any purpose except one or more of the following uses:

(1) Commercial

Retail stores and personal service shops such as food, produce, grocery and meat stores, drug store, supermarket, barber and beauty shops, mens and ladies' hairstyling establishments, hardware store, bank, credit union office, business and professional offices, camera shops, photo studio, television and radio sales and service shops, bake shop, confectionery, restaurant, take-out restaurant, variety store, convenience store, men and women's wearing apparel, florist, boutiques, wallpaper and paint store, book store, shoe store, pet shop, travel agency, dry cleaners, laundromat and taxi stand.

The requested use is permitted in some nearby zones under By-law 2010-40 such as the Retail Commercial zone south of the subject lands, but is not listed as a permitted use for a C4 zone. Section 1.3 of the same by-law states that "No person shall change the use of any building, structure or land; erect or use any building or structure; or occupy any building or land except in accordance with the provisions of this By-Law." Where a use is defined and does not appear in a table of permitted uses for a zone, it is not permitted in that zone.

The lack of a Commercial Athletic Centre being permitted on the subject lands is in part due to the lands being subject to By-law 1979-50, and in part due to the outcome of the hearing of the OMB in which the Town and the Region advanced concerns that the use of the subject lands for fully retail purposes would dilute the aims of providing a strong employment base for the Town, a position which the Board recognized, stating that "an office building to a maximum of six storeys and a density of 1.5 FSI will be a prominent component." The Town maintains the position that the office building as approved by the OMB and appearing on the approved site plan will provide for office uses in a manner that maintains an appropriate and desirable mix of employment uses.

Section 45 (2) (b) of the Planning Act grants the Committee of Adjustment the power to, where a use is defined in general terms, to permit the use of land for a purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. Uses similar to a Commercial Recreation Facility are permitted in the C4 zone.

In considering a variance under section 45 (2) (b), the Committee is not required to consider the four tests that are typically considered for a 45 (1) variance. Rather, the committee need only be satisfied

that the proposal is desirable for the appropriate development of the subject lands and that its impact upon surrounding uses is not unacceptably adverse.

Recognizing that the proposed use has previously been granted and exists as a permission in the types of zones that are nearby and would have likely been applied to this property had it been encompassed in Zoning By-law 2010-40, and that the use as proposed is similar in nature to ones that are permitted by the zoning by-law, the proposal is desirable for the appropriate development of the subject lands and its impact upon surrounding uses is not unacceptably adverse.

4. Other comments:

4.1 Tree protection

The subject lands have an approved site plan agreement that provides for landscaping and the protection of trees and vegetation on the property in accordance with the Tree Preservation, Protection, Replacement and Enhancement Policy.

4.3 Effect of Public Input

Planning Services received no public input on this application as of the time 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 does not include the lands subject to this minor variance application. Accordingly the by-law has no force or effect on this application.

4.5 Commenting agencies and departments

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

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

The Regional Municipality of York has no comment on the application.

5. Conclusions:

The proposed use is defined in general terms, and in the opinion of the committee, conforms with the uses permitted in the by-law.

Respectfully submitted,



Ted Horton, MCIP, RPP
Planner


PLANNING AND BUILDING SERVICES
Town of Newmarket

 395 Mulock Drive
 P.O. Box 328, STN Main
 Newmarket, ON L3Y 4X7

 www.newmarket.ca
 planning@newmarket.ca
 T: 905.953.5321
 F: 905.953.5140

Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: July 18, 2019

RE: Application for Minor Variance **D13-A12-19**
81 Joseph Street
Made by: MANGONI, Roberto

1. Recommendations:

That Minor Variance Application D13-A12-19 be granted, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That prior to the issuance of any demolition permit or building permit the owner be required to comply with the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy and Public Tree Protection By-law, including tree protection, securities, and compensation; and
3. That the development be substantially in accordance with the information submitted with the application.

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. Committee previously heard and rejected another application for this property under file number D13-A01-19. At that time the applicant was requesting relief from five sections of the zoning by-law as indicated below.

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

Following Committee's rejection of the application, the applicant has revised the plans and submitted this application for a lesser amount of relief as indicated below. 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 27.36% for a two-storey structure

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.

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 larger structure. To accomplish this the applicant requires relief for additional lot coverage.

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 Exception 119 (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.

The revised plans submitted with this application provide for a structure that is more in keeping with the surrounding area while still allowing for gradual change and development. This test 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.

The requested relief provides for a structure that is largely within the built form limits of the zoning by-law in terms of height and setback, and represents a modest increase in coverage beyond the permissions of the by-law. 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 nor is impact the sole test. Requested relief may not be minor even if no other property is impacted. The proposed development shows greater consideration than its previous iteration of its place within the broader streetscape, and is not significantly beyond what development might reasonably be expected on this lot. This test is met.

In consideration of the above, the proposed variances 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. If Committee deems to approve this application the applicant will be required to provide financial securities for the trees to be protected, install tree protection fencing, have the fencing inspected before any demolition or construction takes place, and pay for the costs of the Town's consulting arborist undertaking their review(s), as provided for by 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.

Engineering Services has reviewed the application and has no objection to the proposed minor variance provided that the existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable.

The Regional Municipality of York has reviewed the minor variance application and has no comment.

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 a desirable development of the lot.

Respectfully submitted,



Ted Horton, MCIP, RPP
Planner


PLANNING AND BUILDING SERVICES
Town of Newmarket

 395 Mulock Drive
 P.O. Box 328, STN Main
 Newmarket, ON L3Y 4X7

 www.newmarket.ca
 planning@newmarket.ca
 T: 905.953.5321
 F: 905.953.5140

Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: July 18, 2019

RE: Application for Minor Variance **D13-A13-2019**
131 Stickwood Court
Town of Newmarket
Made by: DUTCHER, Kevin & Lynn

1. Recommendations:

That Minor Variance Application D13-A13-2019 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That the development be substantially in accordance with the information submitted with the application.

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, to allow a reduced front yard setback for an addition to an existing single detached dwelling. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, amended 2013-30	as by 119	Exception The required front yard setback is within the range of the setback of the abutting buildings	A front yard setback of 3.94m

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, east of Prospect Street and north of Srigley Street. There is an existing single detached dwelling on the lot.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to permit a front yard setback that is closer than either of the abutting buildings. The Zoning By-law requires that the front wall of a dwelling in this area is no closer to the street than the closer of the two abutting buildings and no farther away than the farther of the two abutting buildings. In this case, staggered setbacks of the homes and the angle of the lot line presents challenges to aligning an addition in the manner required by the by-law.

In order to authorize a variance, Committee must be satisfied that the requested variance passes the four tests required by the *Planning Act*. In this regard, 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. This designation permits a range of residential accommodation built form types. Regarding this designation, the Town’s Official Plan states:

It is the objective of the Stable Residential Area policies to:

- a. sustain and enhance the character and identity of existing residential communities; and,
- b. encourage the preservation and maintenance of the Town's existing housing stock, supplemented by various forms of residential intensification such as infilling and the creation of accessory dwelling units.

This designation permits, among other uses, single detached dwellings of a range of sizes and built forms. The Official Plan encourages compatible design and the gradual change and improvement of homes. The application is found to conform to the Official Plan.

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

The subject lands are zoned Residential Single Detached Dwelling 15 Metre Exception 119 Zone (R1-D-119) by By-law Number 2010-40, as amended by By-law Number 2013-30. Single detached dwellings are permitted in this zone.

Exception 119 is present across much of the older areas in Newmarket principally in Wards 2 and 5. In these areas the permitted maximum height and coverage of building is slightly reduced, and buildings are required to be setback within the range of the abutting buildings. The intent of this is to ensure compatibility of built form and control the pace and scale of change in neighbourhoods. Stickwood Court features a range of forms of single detached dwellings – some have projecting garages or staggered rooflines, others have flat front walls. The proposed addition would have less of a setback than either of the abutting dwellings but does not appear to be out of place for the neighbourhood as it would line up with the front wall of the southerly dwelling. This test is met.

3.3 Desirable for the appropriate development of the land

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 variance

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 reduced setback for the addition appears to fit within the overall diversity of dwelling types on the street. 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 Heritage

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

4.2 Commenting agencies and departments

No comment was available from Building Services at the time of writing this application.

Engineering Services reviewed the application and supporting documentation and has no objection to the proposed minor variance provided that the existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable.

The Regional Municipality of York has no comment on the application.

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. This property will not be permitted to increase its floor area or building height in a manner that contravenes the Interim Control By-law.

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
MCIP, RPP



PLANNING AND BUILDING SERVICES

Town of Newmarket

395 Mulock Drive
P.O. Box 328, STN Main
Newmarket, ON L3Y 4X7

www.newmarket.ca
planning@newmarket.ca
T: 905.953.5321
F: 905.953.5140

Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: July 18, 2019

RE: Application for Minor Variance **D13-A14-2019**
149 Trailhead Avenue
Town of Newmarket
Made by: LIU, Heping & ZHOU, Ting

1. Recommendations:

That Minor Variance Application D13-A14-2019 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That one space in the garage be reserved for the purpose of required parking and for no other use; and
3. That the development be substantially in accordance with the information submitted with the application.

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, to vary the parking requirements for a single detached residential dwelling with an accessory dwelling unit. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	5.3.1	To provide four parking spaces exterior to a garage for a dwelling unit and accessory dwelling unit	To provide three parking spaces exterior to a garage and one parking space inside of a garage for a dwelling unit and accessory dwelling unit

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, northwest of the intersection of Yonge Street and Davis Drive and south of Bonshaw Avenue Park. There is an existing semi-detached residence on the lot and it is surrounded by similar homes.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to permit a reduction in the required parking to facilitate the creation of an Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law requires that four outdoor parking spaces be provided when a dwelling unit has an

ADU. In this case, the driveway is not large enough to accommodate four spaces due in part to the presence of a projecting feature of the house and a municipal sidewalk.

In order to authorize a variance, Committee must be satisfied that the requested variance passes the four tests required by the *Planning Act*. In this regard, 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. This designation permits a range of residential accommodation built form types. Regarding this designation, the Town’s Official Plan states:

It is the objective of the Stable Residential Area policies to:

- a. sustain and enhance the character and identity of existing residential communities; and,
- b. encourage the preservation and maintenance of the Town's existing housing stock, supplemented by various forms of residential intensification such as infilling and the creation of accessory dwelling units.

This designation permits, among other uses, semi-detached dwellings of a range of sizes and built forms. The application is found to conform to the Official Plan. Furthermore, the Planning Act requires the Town’s Official Plan to contain policies that authorize ADUs, and to create standards that support the creation of ADUs. This test is met.

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

The subject lands are zoned Residential Semi-Detached Dwelling 17.4 Metre (R2-J) Zone by By-law Number 2010-40, as amended. Semi-detached dwellings and accessory dwelling units are permitted uses in this zone. Save for the number of parking spaces, this property meets all zoning requirements for an ADU.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This Section states that a semi-detached dwelling must have two spaces. An ADU must also have two spaces. There is a note which states that when there is a dwelling unit and an ADU, the required parking spaces shall be provided exterior of any garage or structure. Therefore the parking requirement is four (4) outdoor parking spaces. The length of the driveway is measured from the garage face to the sidewalk or curb of the road, whichever is closest. In this case, the applicant’s driveway from the garage face to the sidewalk is not long enough to accommodate the four spaces given the projecting front wall to the east of the driveway. The applicants have three outdoor parking spaces and an attached garage with one space inside, but the zoning by-law typically precludes any space in the garage from being counted toward the parking requirement.

The general intent of the By-law is to provide sufficient parking for the two dwelling units. Accessory dwelling units arguably have a generally lower parking demand. In addition to being smaller than the principal dwelling unit, they are by nature rental units. These factors are commonly associated with lower parking demand. Providing three parking spaces outdoors and one space inside the garage, as would be required by the proposed condition, meets the general intent of the zoning by-law. This test is met.

3.3 Desirable for the appropriate development of the land

The variance is considered desirable for the development and the use of the land. An ADU contributes to the mix of housing types in Newmarket and supports the Town's goals of providing for affordable housing and an increased supply of rental housing. Furthermore, ADUs allow an increase in the density of dwelling units and allow homeowners a source of income for their property. While the standard parking requirement of four spaces exterior and additional to any spaces provided in a garage may provide ample parking, not all ADUs will generate such a parking demand. A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development, and a minor parking variance should not overshadow the desirability of an ADU as a development as encouraged by Town, Region, and Provincial policy.

3.4 Minor nature of the variance

The impact of the proposed variance appears to be minimal as the potentially increased number of vehicles generated by the accessory unit can be accommodated on site, either by the existing three spaces or by the parking space in the garage as would be required by the proposed condition.

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

4. Other comments:

4.1 Heritage

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

4.2 Commenting agencies and departments

No comment was available from Building Services at the time of writing this application.

No comment was available from Engineering Services at the time of writing this application.

The Regional Municipality of York has no comment on the application.

4.3 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. This property is not proposed to add floor area or increase the building height. As such, the Interim Control By-law it has no effect on this application.

4.4 Effect of Public Input

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

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
MCIP, RPP

The meeting of the Committee of Adjustment was held on Wednesday, June 19th, 2019 at 9:30 a.m. in the Council Chambers at 395 Mulock Drive, Newmarket.

Members Present: Gino Vescio, Chair
Peter Mertens, Vice Chair
Ken Smith, Member
Elizabeth Lew, Member
Mohsen Alavi, Member

Staff Present: Ted Horton, Planner
Linda Traviss, Alternate Secretary-Treasurer
Alannah Slattery, Secretary-Treasurer

The Meeting was called to order at 9:30 a.m. in the Council Chambers to consider items on the agenda.

Gino Vescio in the Chair.

The Chair called for conflicts of interest. No conflicts were declared. Members were invited to declare any other conflicts of interest at any time during the meeting.

MINOR VARIANCE APPLICATIONS

D13-A03-19 KUHNE, Carl & KUHNE, Amber
Lot 13, Plan 65M3486
546 Menczel Crescent
Town of Newmarket

Kyle Khadra, of KBK Studios Inc., 1180 Stellar Drive, Unit 2, NEWMARKET, L3Y 789 addressed the Committee as agent acting on behalf of the property owner.

Mr. Vescio confirmed the requested number of parking spaces, and further noted that the garage must be kept clear to accommodate the requested parking spaces. Mr. Vescio asked if there were any members of the public who wished to speak to the application. He further asked if there were any questions from the Committee.

There were no comments from the public or from Committee Members on the application.

The following correspondence was received and considered by the Committee regarding the application:

1. Report from Ted Horton, dated June 11, 2019;
2. Memorandum from David Potter, Chief Building Official, dated June 13 2019;
3. Memorandum from Victoria Klyuev, Senior Engineering Development Coordinator, dated June 8, 2019.

Moved by Ken Smith
Seconded by Elizabeth Lew

THAT Minor Variance Application D13-A03-19 be APPROVED, subject to the following conditions:

1. **That the variance pertains only to the requests as submitted with the application;**
2. **That two spaces in the garage be reserved for the purpose of required parking and for no other use; and**
3. **That the development be substantially in accordance with the information submitted with the application.**

As the Minor Variance Application:

- 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 a desirable development of the lot.**

CARRIED

D13-A07-19 BIROCK INVESTMENTS INC.
Block 5, Plan 65M3871
Stackhouse Road – North Side
Town of Newmarket

David Woods, of Birock Investments Inc., 8688 Woodbine Ave, Suite 100, MARKHAM, L3R 8B9 addressed the Committee as the agent for the application. Mr. Woods stated that Birock Investments Inc. owns the blocks on both sides of Stackhouse Road. He stated that Birock Investments is currently in the site plan process for Block 5 and Block 6, and is negotiating terms with tenants. The tenants are requesting relief for the maximum building height, in order to accommodate their proposed uses.

Mr. Vescio asked if there were any members of the public who wished to speak to the application. He further asked if there were any questions from the Committee.

There were no comments from the public or from Committee Members on the application.

The following correspondence was received and considered by the Committee regarding the application:

1. Report from Ted Horton, dated June 11, 2019;
2. Memorandum from David Potter, Chief Building Official, dated June 13, 2019;
3. Memorandum from Rick Bingham, Manager, Development Engineering, dated June 6, 2019;
4. Email from Gabrielle Hurst, Associate Planner, Community Planning and Development Services, The Regional Municipality of York, dated June 11, 2019.

***Moved by Elizabeth Lew
Seconded by Ken Smith***

THAT Minor Variance Application D13-A07-19 be APPROVED, subject to the following conditions:

1. That the variance pertains only to the requests as submitted with the application.

As the Minor Variance Application:

- 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 a desirable development of the lot.

CARRIED

**D13-A08-19 BIROCK INVESTMENTS INC.
Block 6, Plan 65M3871
Stackhouse Road – South Side
Town of Newmarket**

David Woods, of Birock Investments Inc., 8688 Woodbine Ave, Suite 100, MARKHAM, L3R 8B9 addressed the Committee as the agent for the application. He stated that the application was seeking the same relief as application D13-A07-19, for Block 6, adjacent to Block 5.

Mr. Vescio asked if there were any members of the public who wished to speak to the application. He further asked if there were any questions from the Committee.

There were no comments from the public or from Committee Members on the application.

The following correspondence was received and considered by the Committee regarding the application:

1. Report from Ted Horton, dated June 11, 2019;
2. Memorandum from David Potter, Chief Building Official, dated June 13, 2019;
3. Memorandum from Rick Bingham, Manager, Development Engineering, dated June 6, 2019.
4. Email from Gabrielle Hurst, Associate Planner, Community Planning and Development Services, The Regional Municipality of York, dated June 11, 2019.

Moved by Peter Mertens

Seconded by Mohsen Alavi

THAT Minor Variance Application D13-A07-19 be APPROVED, subject to the following conditions:

1. That the variance pertains only to the requests as submitted with the application.

As the Minor Variance Application:

- 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 a desirable development of the lot.

CARRIED

**D10-B01-19 MAIN STREET CLOCK INC (heard in conjunction with following applications)
Plan 81, Part Lot 50 to 52
194 Main Street South
Town of Newmarket**

**D10-B02-19 MAIN STREET CLOCK INC
Plan 81, Part Lot 50 to 52
188, 190, 192 Main Street South
Town of Newmarket**

**D10-B03-19 MAIN STREET CLOCK INC
Plan 81, Part Lot 50 to 52
184, 186 Main Street South
Town of Newmarket**

**D13-A04-19 MAIN STREET CLOCK INC
Part Lot 50-52, Plan 65R11342
194 Main Street South (Proposed severed lot, per D10-B01-19)
Town of Newmarket**

D13-A05-19 MAIN STREET CLOCK INC

**Part Lot 50-52, Plan 65R11342
188, 190, 192 Main Street South (Proposed severed lot, per D10-B02-19)
Town of Newmarket**

D13-A06-19 MAIN STREET CLOCK INC

**Part Lot 50-52, Plan 65R11342
184, 186 Main Street South (Proposed severed lot, per D10-B03-19)
Town of Newmarket**

Peter Rich, of Main Street Clock Inc., 950 Alden Road, Suite 211, MARKHAM ON, L3R 8N2, addressed the Committee on behalf of Main Street Clock Inc. Mr. Rich informed the Committee that the applications are all complimentary and are to heard in conjunction. In order to facilitate the consents they will require the minor variances for the properties.

Mr. Vescio asked if Mr. Rich could further describe the consent portion of the applications.

Mr. Rich stated that the lands are all currently under a single land-holding. The owners wish to split the parcel into four parcels, returning the land to the previously existing lot fabric. Mr. Rich explained that the land, originally four separate parcels, had merged over time. The intent of the consent applications is to return the land back to four separate parcels.

Mr. Rich stated that there are no proposed changes to the existing buildings. The variances are required for the existing buildings to conform with the zoning provisions once the lots have been divided.

Mr. Vescio asked if there were any members of the public who wished to speak to the application. He further asked if there were any questions from the Committee.

There were no comments from the public or from Committee Members on the application.

The following correspondence was received and considered by the Committee regarding the application:

1. Report from Ted Horton, dated June 11, 2019;
2. Memorandum from David Potter, Chief Building Official, dated June 13, 2019;
3. Memorandum from Rick Bingham, Manager, Development Engineering, dated June 6, 2019;
4. Memorandum from Rick Bingham, Manager, Development Engineering, dated June 4, 2019;
5. Email from Joseph McMackin, Associate Planner, Planning and Economic Development Branch, The Regional Municipality of York, dated June 19, 2019;
6. Email from Rogers Communications dated June 12, 2019;
7. Email from Iwona Lipowski, Real Estate Clerk, Hydro One Networks Inc., dated June 10, 2019.

***Moved by Peter Mertens
Seconded by Elizabeth Lew***

THAT Consent Applications D10-B01-19, D10-B02-19 and D10-B03-19 be APPROVED, subject to the following conditions:

- a. **That the Owner obtain relief from the provisions of the zoning by-law as set forth in Minor Variance Applications D13-A04-19, A05-19, and A06-19;**
- b. **That the Owner be required to provide to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment the following:**
 - i. **proof of payment of all outstanding taxes and local improvement charges owing to date against the subject lands;**
 - ii. **three white prints of a deposited reference plan showing the subject land, which conforms substantially to the applications as submitted; and**
 - iii. **required transfers to effect the severances and conveyances applied for under Consent Applications D10-B01-19, D10-B02-19, D10-B03-19, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.**

THAT Minor Variance Application D13-A04-19, D13-A05-19, D13-A06-19 be APPROVED, as the Minor Variance Application:

- 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 a desirable development of the lot.**

CARRIED

The Minutes of the meeting held on Wednesday, April 17th, 2019 were placed before the Committee for consideration.

***Moved by Elizabeth Lew
Seconded by Mohsen Alavi***

THAT the Minutes of the Wednesday, April 17th , 2019 meeting be approved.

CARRIED

THAT the Meeting adjourn.

Moved by Peter Mertens

Seconded by Elizabeth Lew

CARRIED

The meeting adjourned at 9:53 a.m.

Dated

Chair