



Town of Newmarket

Agenda

Committee of Adjustment

Date: Wednesday, August 21, 2019
Time: 9:30 AM

Pages

1. Declarations of Pecuniary Interest

2. Items

- | | | |
|-----|---|----|
| 2.1 | Minor Variance Application - D13-A15-19

BARKER. Jessica & CARLETON, Stephen

Lot, 10, Plan M81

980 Ferndale Crescent | 1 |
| 2.2 | Minor Variance Application - D13-A16-19

KNOOP, Daniel & KNOOP, Jodi-Lyn

Lot 58, Plan 65M2262

371 Otton Road | 4 |
| 2.3 | Minor Variance Application- D13-A17-19

NEWMARKET COMMUNITY CHURCH

Part Lot 2, Concession 3, Parts 26, 27 & 48
Plan 65R9693

145 Pony Drive | 7 |
| 2.4 | Minor Variance Application - D13-A18-19

MITCHELL, Robert, Trustee & SCOTT, Ryan, Trustee

Lot 3, Plan 34

299 Second Street | 11 |

3. Approval of Minutes	17
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Minutes of the regular Meeting of the Committee held on Wednesday, July 24, 2019.

4. Adjournment



PLANNING AND BUILDING SERVICES

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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: August 12, 2019

RE: Application for Minor Variance **D13-A15-19**
980 Ferndale Crescent
Made by: BARKER, Jessica and CARLETON, Stephen

1. Recommendations:

That Minor Variance Application D13-A15-19 be approved, subject to the following conditions:

- i. That the variance pertains only to the requests for the pool and no other development;
- ii. That the development be substantially in accordance with the sketch 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, in order to permit a swimming pool to be located in a side yard while the by-law normally requires pools to be located in the rear yard.

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood southeast of the intersection of Davis Drive and Leslie Street. The subject lands contain a single detached dwelling and are surrounded by similar single detached dwellings.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to allow a pool to be located in the side yard. Due to the layout of the lot the largest open space is located to the side of the structure, which is by definition a side yard as defined by Zoning By-law 2010-40. Zoning By-law 2010-40, as amended, only permits pools in rear yards. The relief requested is presented below:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	4.4	Pools may only be located in the rear yard	To permit a pool in the side yard

In order to authorize a variance, Committee must be satisfied that the requested variances individually and cumulatively pass 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. 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. The application is found to conform to the general intent of the Official Plan.

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

The subject lands are zoned Residential Detached Dwelling 15.0 m Zone (R1-D) by By-law Number 2010-40, as amended. A single detached dwelling is a permitted use in this zone, as are pools subject to certain limits.

The general intent of requiring pools to be located in the rear yard rather than side yards is to set back from the public street and from abutting dwellings an area that may be considered more private or likely to generate noise by enclosing it in rear yards. In the case of the subject lands the proposed pool location is the principal open space of the subject lands and is well set back from the street. The proposed location also maintains a side yard setback to the pool that is not uncommon for the area. 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.

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

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. As the proposed variance recognizes an uncommon lot configuration, and allows for it to be arranged in a manner that suits the owner without likely negative impact on others, this test is met.

In consideration of the above, the proposed variance meets the four tests under the *Planning Act* and should be approved, subject to the requested variances.

4. 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

Building Services has no comments on the application.

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,



Ted Horton, MCIP, RPP
Planner


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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton, MCIP, RPP
Planner

DATE: August 12, 2019

RE: Application for Minor Variance **D13-A16-19**
371 Otton Road
Made by: KNOOP, Daniel and Jodi-Lynn

1. Recommendations:

That Minor Variance Application D13-A16-19 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 1981-96, as amended by By-law Numbers 1984-13, 2002-94 and 2003-121, in order to allow a residential accessory structure (cabana) to be constructed closer to the side lot line in the rear yard than is permitted by the by-law.

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood, specifically east of Bathurst Street and south of Alex Doner Drive. The subject lands contain a single detached home and are surrounded by similar single-detached homes.

3. Planning considerations:

The applicant is requesting relief in order to permit a side yard setback of 1.22 metres from a residential accessory structure to the side lot line in order to construct a cabana that is closer to the side lot line than a structure of its height is typically allowed. The relief requested is presented below.

Relief	By-law	Section	Requirement	Proposed
1	1981-96	6.2	A residential accessory structure between 2.4m and 4.6m in height must be set back a minimum of 2.4m from the side lot line	A residential accessory structure up to 4.0m in height to be set back a minimum of 1.22m from the side lot line

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 “Low Density Residential – Oak Ridges Moraine” 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, and to ensure that development is managed in a way that protects the valuable Oak Ridges Moraine aquifer. 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 Single Family Detached Second Density (R2/S) by the By-laws cited above. A single detached 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

The Chief Building Official has no objection to the application.

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



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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton, MCIP, RPP
Planner

DATE: August 12, 2019

RE: Application for Minor Variance **D13-A17-19**
145 Pony Drive
Made by: NEWMARKET COMMUNITY CHURCH

1. Recommendations:

That Minor Variance Application D13-A17-19 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 2010-40 as amended, in order to allow an elementary school use within the existing church where this use is not permitted. The applicant intends to include Christian elementary school classes within the church structure in addition to the regular religious observances.

The above-described property (herein referred to as the "subject lands") is located on the east side of Pony Drive between Harry Walker Parkway and Stellar Drive. The subject lands are occupied by a single structure.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to permit an elementary school where this use is not specifically permitted. Zoning By-law 2010-40 does not permit the existing place of worship or an elementary school in the EG zone.

The requested relief is presented below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.5.1	Permitted uses do not include an elementary school	To include an elementary school as a permitted use

The subject lands are zoned General Employment (EG) by By-law 2010-40 as amended. The EG zone permits a range of employment, industrial, and commercial uses such as offices, manufacturing, and warehouses.

For context, the property did not permit a place of worship under the zoning by-law when it was first developed in the late 1990's under the M2 zone. After the initial user of the property closed, the Committee of Adjustment approved a minor variance to allow a place of worship on the property in 2002. In 2006 the Town adopted a new Official Plan to align with the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe that were approved by the province at the time.

The 2006 Official Plan laid out that only existing sensitive land uses such as places of worship would be permitted, and that the zoning by-law would direct these uses away from the employment lands, following these provincial plans that sought to maintain employment lands for more purely employment uses. The zoning by-law that Council adopted in 2010 to enact the policies of the Official Plan accordingly did not permit any places of worship or schools in the employment lands. Thus, the church became legally non-conforming and is also not permitted to add a school use to the property without relief from the by-law.

In addition to the more commonly-exercised power to grant minor variances under Section 45(1) of the Planning Act, Committee is further empowered to grant variances in situations involving legal nonconforming uses such as this. Legal nonconforming rights are the ability of a property to continue to be used in a manner that was legal before and at the time that a zoning by-law changes to prohibit the use. Section 34(9) of the Planning Act outlines that zoning by-laws cannot frustrate the ability of properties to be used for a purpose that was legal, stating:

34 (9) No by-law passed under this section applies, (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.

For example if a property were used for a car repair shop when a zoning by-law is amended to say the property should only be used for a dentist office, it could continue as a car repair shop indefinitely. However, it could not change to another use (e.g. an office) without losing those legal nonconforming rights. Similarly, it could not change to another use that was previously legal or that is also prohibited (e.g. change over to a motor vehicle sales establishment).

In most cases these legal nonconforming rights are strictly limited to the prohibited activity that occurred when the by-law changed. However, the Planning Act allows Committee to evaluate and grant variances that allow some evolution in legal nonconforming rights. Section 45 (2) (a) (i) outlines this power, saying that Committee can allow a property that is legally nonconforming to also be used for other prohibited purposes if Committee is of the opinion that the proposed use is similar to the existing use, or more compatible than the existing use. The Act states:

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it

was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

Committee is not required to evaluate the application against the commonly considered “four tests”, as the tests prescribed by the Planning Act for this type of application are different. Namely, Committee must be satisfied that including the ability to have elementary school instruction within the existing church is similar to or more compatible than the existing place of worship use.

Council has adopted a zoning by-law that seeks to see uses such as this depart from the employment lands over time, as they can pose concerns of conflict with traditional employment uses such as manufacturing due to noise, traffic, and environmental effects. However, the place of worship use has taken place for the past 17 years without incident and would not significantly increase the potential conflict between uses that may already occur due to this legally nonconforming use. As the test prescribed by the Planning Act for this type of application is whether the additional use is similar to or more compatible than the existing use, staff are of the opinion that the additional use of an elementary school within the church is similar to the existing legally nonconforming place of worship. Accordingly, staff are of the opinion that this test is met.

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

The Chief Building Official notes that a Record of Site Condition may be required under the *Environmental Protection Act*.

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 similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed.

Respectfully submitted,



Ted Horton, MCIP, RPP
Planner



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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: August 12, 2019

RE: Application for Minor Variance **D13-A18-19**
299 Second Street
Made by: MITCHELL, Robert and SCOTT, Ryan

1. Recommendations:

That Minor Variance Application D13-A17-19 be denied.

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, in order to legalize a recent construction that was completed that did not comply with approved building permits or the zoning by-law. The applicant is seeking to permit a driveway that is 11.2m in width whereas the by-law permits a maximum width of 6.0m.

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, specifically at the junction of Cotter Street and Second Street east of Fairy Lake. There is an existing single detached residence on the lot and it is surrounded by similar single detached homes. The Barrie GO rail line runs on the west side of Cotter Street.

3. Planning considerations:

After construction of the single detached dwelling on the lot the Town determined that a driveway wider than is permitted had been installed on the site in a manner that contravened the building permit drawings that were submitted and the Town’s zoning by-law, which caused the applicant to make the current application to seek the relief presented below:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.2.2	Maximum driveway width of 6.0m	Maximum driveway width of 11.2m

The approved site plan for the current development from the building permit is presented in attachment 1 in which the proposed 6.0m driveway is underlined in red, followed by the proposed site plan for this minor variance application with its 11.2m driveway in attachment 2 for comparison purposes.

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. Therefore 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 Detached Dwelling 15.0 m (R1-D) Zone by By-law Number 2010-40, as amended. A two-storey dwelling is a permitted use in this zone, and a driveway is permitted subject to certain location and size restrictions.

Driveways are limited to a maximum of 6.0m in width in the D zone, which provides for at least two cars outside of a garage or more depending on the depth of the lot. The effect of this limit maintains a consistent size of driveways, which limits the amount of yards that can be paved. This limit provides ecological benefits as paved surfaces (1) increase stormwater runoff during major rain events, (2) reduce the amount of yard that is landscaped for biodiversity and phosphorous retention, and (3) add to the urban heat island effect that increases summer temperatures.

Ecologically, larger driveways reduce the health of our neighbourhoods. Mature trees spread a wide root bed, and paving close to them limits their ability to grow, meaning that on streets where their growth is stunted residents will not benefit as much from the leafy canopy and benefits that mature trees provide – including improving air quality, lowering air temperatures, reducing energy costs, reducing erosion, and reducing stormwater runoff. In the case of this property, a 90cm DBH Manitoba maple was removed from the front lawn in the location of the existing driveway. Increased impermeable surface area causes an increase in the volume of runoff, an increase in the temperature of water runoff, a decrease in the amount of water that infiltrates the soil, and an increase in the amount of phosphorous runoff.

The limit on the size of driveways also maintains a consistency of front façade appearances by limiting how much of the front of the building can be used as a garage. This seeks to maintain a certain degree of consistency in built form appearance to ensure compatibility.

The zoning by-law limits the size of garages through limits on the maximum width of driveways. The zoning by-law defines a garage as being a building that is used for the storage of motor vehicles and the zoning by-law defines a driveway as being the part of a lot used to access an off-street parking area (i.e. a garage) via a driveway.

The non-conforming constructed site has a driveway that is nearly twice the permitted width. And while it presents design that may be an investment and improvement over the pre-existing condition, it remains that the site was not constructed as permitted by the zoning by-law or as was presented in the building permit application. Moreover, allowing the paving of nearly the entire front yard runs contrary to the intent of the zoning by-law both in the amount of paved surface area and the façade design of all garage doors that is associated with it. This test is not met.

3.3 Desirable development of the lot

It is desirable to develop the lot with a residential single detached dwelling as the Official Plan designation and the Zoning By-law both permit this use. However, the nonconformities in the site due

to unapproved changes to the design present negative impacts. As discussed above, paved surface areas increase stormwater runoff which impacts municipal infrastructure and downstream recipients. Increased paved surface areas reduce the amount of soft landscaping which reduces the amount of plant life to support biodiversity, shade, and other ecological benefits. Increased paved surface areas add to the urban heat island effect, increasing summer temperatures. And limits on the amount of parking serve Council's aim of encouraging shifts toward more sustainable transportation options. This test is not met.

3.4 Minor nature of the variances

The impact of the proposed variance will be generalized instead of causing specific impact to one property. The costs of the increase in runoff, loss of soft landscaped area, and increase in ecological detriment due to the near-full paving of the front yard will be shared by the neighbourhood and downstream recipients. As the Town undertakes other investments in stormwater management and low-impact development to combat the effects of climate change, a negative effect such as this is minor overall. This test is met.

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 consideration of the above, the proposed variance does not meet the four tests under the *Planning Act*.

4. Other comments:

4.1 Tree Protection

The applicant has not submitted any documents related to trees on or surrounding the property.

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 limit the size of driveways.

4.5 Commenting agencies and departments

The Chief Building Official has no objection to the application.

Engineering Services has no objection to the application.

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

5. Conclusions:

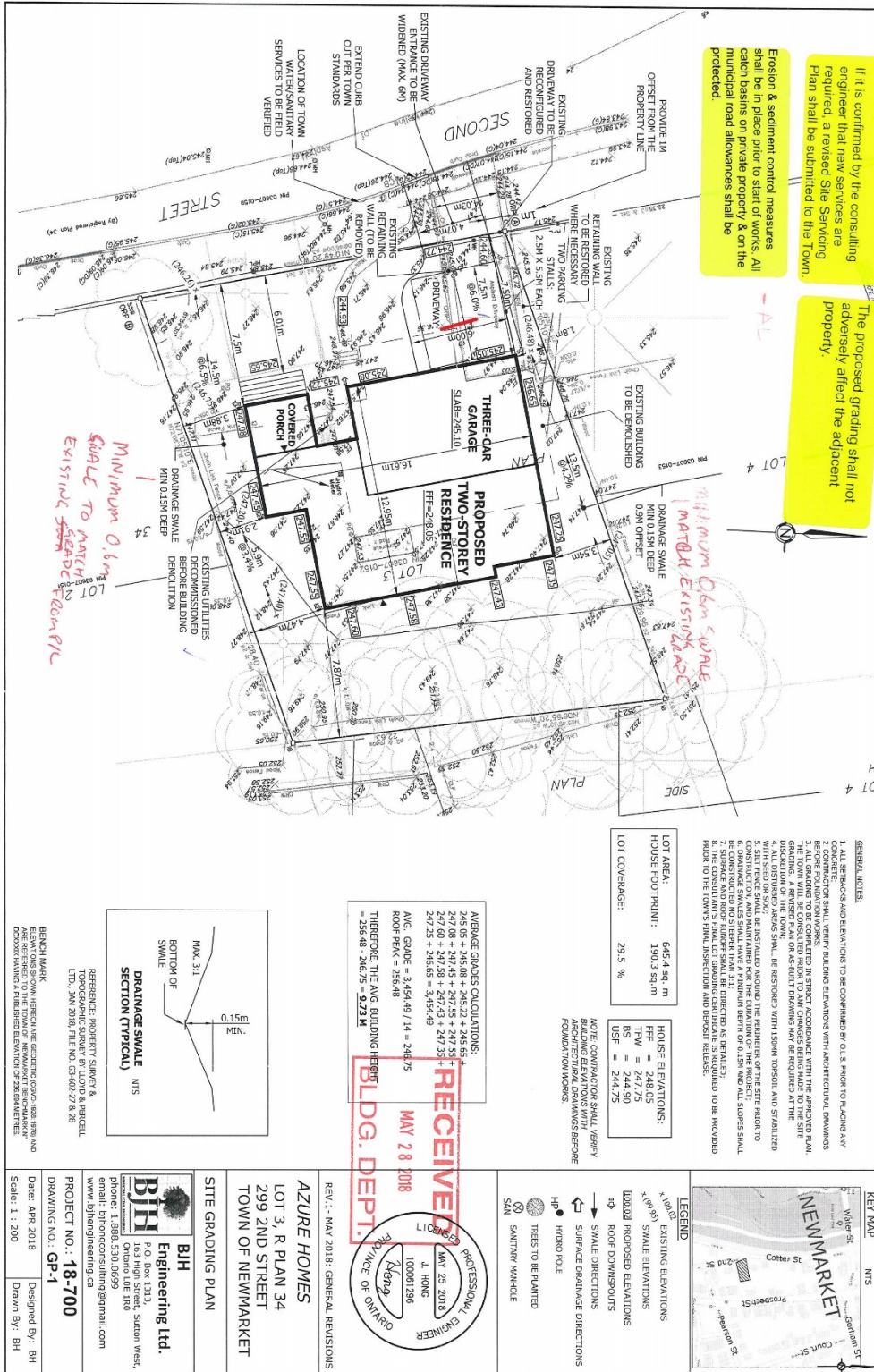
The relief as requested does not conform to the four tests prescribed by the Planning Act.

Respectfully submitted,



Ted Horton, MCIP, RPP
Planner

Attachment 1: Site Plan from building permit



PRELIMINARY
FOR DISCUSSION PURPOSES ONLY

LOT 3
PIN 0367-0152

TWO-STORY RESIDENCE
13.25m x 16.61m

THREE-CAR GARAGE
16.61m x 12.25m

COVERED PORCH
3.50m x 3.50m

DRIVEWAY
7.00m x 11.2m

SECOND STREET
PIN 0367-0153

EXISTING DRIVEWAY TO BE RECONSTRUCTED AND RESURFACED

EXISTING RETAINING WALL TO BE RECONSTRUCTED WHERE NECESSARY

EXISTING DRIVEWAY ENTRANCE TO BE WIDENED (MAX. 8M)

EXTEND CURB CUT PER TOWN STANDARDS

LOCATION OF TOWN WATER/SEWAGE SERVICES TO BE FIELD VERIFIED

EXISTING WALL TO BE REMOVED

PROVIDE 1M OFFSET FROM THE PROPERTY LINE

VALUANCE #1
Address: 423, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

PLAN

SIDE



Site Statistics	
[see Zhang et al. 2016-02]	
FACTOR	Required
Zone:	R-2
Setback:	min. 51' m ²
Site Area:	646.43 m ²
	0.056 ha
	(0.16 ac.)
Proposed	
R-2	
646.43 m ²	
0.056 ha	
(0.16 ac.)	
Building Footprint:	190.29 m ²
Driveway:	79.00 m ²
Landscaped - Hard:	37.94 m ²
Landscaped - Soft:	338.20 m ²
TOTAL:	645.43 m ²
	0.056 ha
	(0.16 ac.)
Total Non-Permeable Surface:	367.23 m ²
Lot Footprint:	22.36 m ²
Coverage:	29.5 %
Imp. Footprint:	190.29 m ²
	max. 35.0 %
	min. 18.00 m

[illegible]

II 299 Second Street II
 LOT 3, R PLAN 34
 TOWN OF NEWMARKET
 REGIONAL MUNICIPALITY OF YORK
 ~ AS BUILT ~
 Proposed Minor Variance

[illegible]

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-A09-19 COWIE, Wayne & COWIE, Mary Ann
Part Block B, Plan 31
160 Victoria Street
Town of Newmarket

Wayne Cowie, 95 Samuel Lount Road, HOLLAND LANDING, L9N 1K3, addressed the Committee as the property owner and applicant.

Mr. Vescio asked for confirmation that Mr. Cowie was the property owner.

Mr. Cowie confirmed he has owned the property for thirteen years. He stated that he has regarded the property as a triplex for thirty years and was surprised to find it was not a legal triplex use. Mr. Cowie stated that the application meets all four tests.

Mr. Vescio asked if he had anything further to say about the application. Mr. Cowie did not.

Mr. Vescio asked if there were any questions from Committee members. There were none.

Mr. Cowie stated that he will still require building permits. Mr. Vescio confirmed that receiving a minor variance is required before the building permit stage.

Mr. Vescio asked for any further questions or comments from the public.

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 July 18, 2019;
2. Email from David Potter, Chief Building Official, dated July 18 2019;
3. Memorandum from Victoria Klyuev, Senior Engineering Development Coordinator, dated July 11, 2019; and
4. Email from Diana Guida, Planning Assistant, Planning and Economic Development Branch, The Regional Municipality of York, dated July 15, 2019.

***Moved by Peter Mertens
Seconded by Ken Smith***

THAT Minor Variance Application D13-A09-19 be APPROVED, subject to the following conditions:

1. **That the variance pertains only to the requests as submitted with the application; and**
2. **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-A10-19 SHAD, Khalid
Lot 3, Plan 65M4338
352 Rannie Road
Town of Newmarket**

Khalid Shad, 352 Rannie Road, NEWMARKET, L3X 2N1, addressed the Committee as the property owner and applicant. Mr. Shad explained that his backyard shed was built too close to the lot line. The shed is for storage purposes for his mother. Mr. Shad stated that the neighbours have no objection, and he has a letter of support from neighbours.

Mr. Vescio asked how the Town was notified of the deficiency.

Mr. Shad explained that the Town sent him a letter, and that a neighbour must have complained. Mr. Shad brought forward a letter for the Committee members to read.

Mr. Vescio confirmed that it was a letter of support from surrounding neighbours. 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 July 18, 2019;
2. Memorandum from Victoria Klyuev, Senior Engineering Development Coordinator, dated July 11, 2019; and
3. Email from Tiffany Wong, Associate Planner, Planning and Economic Development Branch, The Regional Municipality of York, dated July 15, 2019

Moved by Ken Smith
Seconded by Mohsen Alavi

THAT Minor Variance Application D13-A10-19 be APPROVED, subject to the following conditions:

- 1. That the variance pertains only to the requests as submitted with the application; and**
- 2. 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.**

D13-A11-19 BIROCK INVESTMENTS INC.
Block 1, Plan 65M3871
17305 Leslie Street
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 the lands are zoned C4 under the old Zoning By-law, not the current Zoning By-law. The block to the south is governed by the new Zoning By-law, 2010-40, which has Commercial Athletic Centre as a permitted use, whereas the older By-law does not include Commercial Athletic Centre as a permitted use.

Mr. Woods stated that they are requesting to add Commercial Athletic Centre as a permitted use on the subject lands.

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 July 10, 2019;
2. Memorandum from David Potter, Chief Building Official, dated July 19 2019;
3. Memorandum from Brandon Ewart, Senior Engineering Development Coordinator, dated July 11, 2019; and
4. Email from Diana Guida, Planning Assistant, Planning and Economic Development Branch, The Regional Municipality of York, dated July 15, 2019

Moved by Mohsen Alavi
Seconded by Peter Mertens

THAT Minor Variance Application D13-A11-19 be APPROVED, subject to the following condition:

- 1. That the variance pertains only to the request 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-A13-19 DUTCHER, Kevin & DUTCHER, Lynn
Lot 6, Plan M24
131 Stickwood Court
Town of Newmarket

Kevin Dutcher, 131 Stickwood Court, NEWMARKET, L3Y 5V2, addressed the Committee as the property owner and applicant.

Mr. Dutcher explained they are proposing an addition to their dwelling and it impedes on the required front yard setback.

Mr. Vescio asked what the addition was for. Mr. Dutcher replied it was for additional living space for family.

Mr. Vescio asked if there were any comments or questions from Committee members.

Ms. Lew asked the applicant if their neighbours had any comments or concerns.

Mr. Dutcher replied he had spoken to them and there were no issues.

Mr. Alavi asked planning staff if this application would be impacted by Interim Control By-law 2019-04.

Mr. Horton responded it would be impacted by Interim Control By-law 2019-04 if the addition was greater than 25% of the gross floor area of the dwelling.

Mr. Alavi stated that the proposed addition would be roughly five metres closer than abutting neighbours.

Mr. Vescio stated that it appears the proposed addition does jet out into at least half of the front yard that presently exists. Mr. Vescio stated that in his view, it does not meet the average of the two adjacent properties.

Mr. Horton responded that is correct. The neighbouring properties have front yard setbacks of approximately 8 metres. This addition would bring the dwelling roughly 4 metres closer to the front lot line. Mr. Horton mentioned that in the report it is discussed that the dwelling can be no closer than the closer of the two adjacent dwellings, and no further than the further of the two adjacent dwellings. Mr. Horton further explained this provision works well for straight streets, however can be challenging for a curved street.

Mr. Alavi stated that the issue with approving the application is that if everyone wanted to do something similar, they could.

Mr. Vescio stated that the rule is that the dwelling must be built within the setbacks of the two abutting buildings. This application is looking to approve a setback of four metres.

Mr. Vescio stated that if he was the neighbour to the north he would be concerned. He further noted the abutting neighbours may be occupied by tenants, and the property owners may not be aware of the application.

Mr. Horton explained that the notices are sent out to the property owners and that the owner would have received the notice.

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 further 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 July 18, 2019;
2. Memorandum from David Potter, Chief Building Official, dated July 19 2019; and
3. Memorandum from Eric Engman, Engineering Development Coordinator, dated July 10, 2019.

Moved by Peter Mertens

THAT Minor Variance Application D13-A13-19 be APPROVED, subject to the following conditions:

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

NOT CARRIED

Moved by Mohsen Alavi
Seconded by Ken Smith

THAT Minor Variance Application D13-A13-19 be DENIED,

As the Minor Variance application does not conform to the four tests as required by the Planning Act.

CARRIED

D13-A14-19 LIU, Heping & ZHOU, Ting
Part Lot 4, Plan 65M3722
139 Trailhead Avenue
Town of Newmarket

Heping Liu, 139 Trailhead Avenue, NEWMARKET, L3X 2Z6, addressed the Committee as the property owner and applicant. Mr. Liu explained that there is not enough driveway space to have an exterior parking space. The variance is requesting three spaces outside of the garage and one space within the garage.

Mr. Vescio asked if there were any questions from the Committee.

Ms. Lew asked the applicant what was currently being stored in the garage. Ms. Lew further noted that the garage would need to be kept empty.

Mr. Liu stated it currently contained regular garage stuff, and that he was aware the space would need to stay empty.

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 further 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 July 18, 2019;
2. Memorandum from David Potter, Chief Building Official, dated July 19 2019;
3. Memorandum from Victoria Klyuev, Senior Engineering Development Coordinator, dated July 11, 2019; and
4. Email from Tiffany Wong, Associate Planner, Planning and Economic Development Branch, The Regional Municipality of York, dated July 17, 2019

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

THAT Minor Variance Application D13-A14-19 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.**

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-A12-19 MANGONI, Roberto

**Lot 10, Plan 90
81 Joseph Street
Town of Newmarket**

Mitch Sauder, of Stamp and Hammer Inc., 17-1100 Gorham Street, NEWMARKET, L3Y 8Y8, addressed the Committee as the agent for the application.

Mr. Sauder stated that this application has been before the Committee earlier this year, and that they have been working with the planning department. He stated that they now have a positive recommendation for approval of the application. They have since reduced their request for lot coverage. In addition, a major change is that they are now building a new structure, whereas beforehand they were trying to maintain the existing foundation.

Mr. Vescio asked if there were any members of the public who wished to speak to the application.

Bill Keogh, 76 Joseph Street, NEWMARKET, L3Y 4G9, addressed the Committee. Mr. Keogh stated he wished to know more about the application. Mr. Keogh mentioned that he was aware of monster homes being built in Newmarket and wanted to know if this proposal would result in such a house.

Mr. Vescio asked Mr. Keogh if he had seen the report. Mr. Keogh responded that he had not, and requested if the proposed dwelling is of normal size.

Mr. Horton responded that the dwelling is permitted a height up to 10 metres and the proposed building will meet that requirement. There is no relief from height being requested.

Mr. Keogh asked if the new dwelling would have the same height as the existing dwelling.

Mr. Vescio stated that they were not requesting relief for height.

Mr. Keogh asked the applicant if the new dwelling would have a greater height than the existing dwelling.

Mr. Sauder responded that the new dwelling will be slightly taller.

Mr. Vescio suggested the resident and applicant speak after the hearing. Mr. Vescio asked if there were any further questions from the public.

Arthur Weis, 86 Niagara Street, NEWMARKET, L3Y 4E6, addressed the Committee as the owner of a neighbouring dwelling. Mr. Weis stated he came to speak in favour of the application. He stated that the current dwelling had been neglected for a number of years, and that the building does not have any heritage importance. Renewal of the dwelling would be welcome.

Mr. Vescio asked if there were any further questions from the public. He further asked if there were any questions from the Committee.

Mr. Alavi asked staff if this application was applied for after the enactment of Interim Control By-law 2019-04.

Mr. Horton responded that Interim Control By-law 2019-04 does not halt applications that were in place before Interim Control By-law 2019-04 was passed. The Committee was in the process of considering this property before Interim Control By-law 2019-04.

Mr. Vescio asked if there were any further questions from the public. He further asked if there were any questions from the Committee.

There were no further 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 July 18, 2019;
2. Memorandum from David Potter, Chief Building Official, dated July 19 2019;
3. Memorandum from Eric Engman, Engineering Development Coordinator, dated July 10, 2019;
4. Email from Tiffany Wong, Associate Planner, Planning and Economic Development Branch, The Regional Municipality of York, dated July 17, 2019; and
5. Letter from Philip van Wassenaer, ISA Certified Arborist, Urban Forest Innovations Inc, dated July 15, 2019.

Moved by Elizabeth Lew

Seconded by Ken Smith

THAT Minor Variance Application D13-A12-19 be APPROVED, 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.**

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, June 19th, 2019 were placed before the Committee for consideration.

Moved by Peter Mertens

Seconded by Ken Smith

THAT the Minutes of the Wednesday, June 19th, 2019 meeting be approved.

CARRIED

THAT the Meeting adjourn.

Moved by Peter Mertens

Seconded by Mohsen Alavi

CARRIED

The meeting adjourned at 10:18 a.m.

Dated

Chair