

The meeting of the Committee of Adjustment was held on Wednesday, August 21<sup>st</sup>, 2019 at 9:30 a.m. in the Council Chambers at 395 Mulock Drive, Newmarket.

Members Present: Peter Mertens, Vice Chair  
Ken Smith, Member  
Elizabeth Lew, Member  
Mohsen Alavi, Member  
Michelle Starnes, Member

Staff Present: Ted Horton, Planner  
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.

Peter Mertens 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-A15-19 BARKER, Jessica and CARLETON, Stephen**  
**Lot 110, Plan M81**  
**980 Ferndale Crescent**  
**Town of Newmarket**

Stephen Carleton, 980 Ferndale Crescent, NEWMARKET, L3Y 6B7, addressed the Committee as the property owner and applicant. Mr. Carleton explained that he has an interesting property shape, and that it is set is a large “L” shape. He stated that the previous owners had built a deck and planted gardens behind the house, and as such he is looking for a variance to permit a pool with a portion extending into the side yard. Mr. Carleton stated that he has images for the Committee to see.

Mr. Mertens asked the members if they had any questions.

Ms. Lew asked the applicant if neighbours on either side had been contacted. Ms. Lew acknowledged she had seen one letter of support from a neighbour.

Mr. Carleton confirmed that he has spoken to both neighbours, and they have shown support on the matter.

Mr. Mertens asked if there were any further questions or members of the public who wished to speak.

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 August 12, 2019;
2. Memorandum from David Potter, Chief Building Official, dated August 12 2019; and
3. Email from Gabrielle Hurst, Associate Planner, Community Planning and Development Services, Region of York, dated August 15, 2019.

***Moved by Mohsen Alavi  
Seconded by Michelle Starnes***

**THAT Minor Variance Application D13-A15-19 be APPROVED, subject to the following conditions:**

- 1. That the variance pertains only to the requests for the pool and no other development; and**
- 2. That the development be substantially in accordance with the sketch 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-A16-19 KNOOP, Daniel and Jodi-Lyn  
Lot 58, Plan 65M2262  
371 Otton Road  
Town of Newmarket**

Daniel Knoop, 371 Otton Road, NEWMARKET, L3X 1E5, addressed the Committee as the property owner and applicant. Mr. Knoop explained he is looking for a variance for the height of a proposed pool cabana, he further noted he had photographs for review by the Committee.

Mr. Mertens asked the members if they had any questions. There were none. Mr. Mertens asked if there were any members of the public who wished to speak.

Terry Demchuk, 373 Otton Road, NEWMARKET, L3X 1E5, addressed the Committee as a neighbour directly affected by the cabana. Mr. Demchuk stated he has no concerns or objection to the proposed cabana.

Mr. Mertens asked if the Committee had any questions for the speaker. There were none. Mr. Mertens asked if any other members of the public wished to speak to the application.

Pat Weisner, 367 Otton Road, NEWMARKET, L3X 1E5, addressed the Committee as a neighbour directly affected by the cabana. Ms. Weisner stated she had no objection to the proposed cabana.

Mr. Mertens asked for any further questions or comments from the Committee and public. There were none.

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

1. Report from Ted Horton, dated August 12, 2019;
2. Memorandum from David Potter, Chief Building Official, dated August 12, 2019; and
3. Email from Sadaf Shahid, Planning Assistant, Planning and Economic Development Branch, The Regional Municipality of York, dated August 15, 2019.

***Moved by Michelle Starnes  
Seconded by Ken Smith***

**THAT Minor Variance Application D13-A16-19 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.

**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-A17-19 NEWMARKET COMMUNITY CHURCH  
Part Lot 2, Concession 3, Parts 26, 27 & 48  
Plan 65R9693  
145 Pony Drive  
Town of Newmarket**

Philip Wyns, representing Newmarket Community Church, 145 Pony Drive, NEWMARKET, L3Y 7B5, addressed the Committee as the applicant. Mr. Wyns stated that when the building was purchased in 2001 the zoning was different. He stated that it was always the intention to have a school on the subject lands, for kid and adult classes. Mr. Wyns stated that they hoped to eventually have a school in the location, to help people who are less fortunate and to provide them with an education at a reduced cost.

Ms. Starnes asked the applicant how many children are proposed to attend the school, and what ages will the children be.

Mr. Wyns stated that they are proposing Kindergarten to Grade One, with class sizes of approximately five to ten children.

Ms. Starnes asked what the future intentions were for the site.

Mr. Wyns stated that this is still a new idea for the church, and that they have had children's programs in the past. He stated it is not their intention to have a large school, however possible expansion to Grade Three may be considered. Class sizes would possibly expand to eight to ten students per class, however currently they are proposing smaller class sizes.

Ms. Starnes stated that the building is not extremely large, and asked how they will accommodate students.

Mr. Wyns stated that they currently have several classrooms, and the students will use these classrooms. Mr. Wyns further explained that it is a safe environment. Mr. Wyns asked if this satisfied the question.

Ms. Starnes stated she just wanted to confirm there was enough space for the proposal.

Mr. Wyns stated that they currently have 80 to 100 children in their building regularly.

Mr. Mertens asked for any further questions or comments from the Committee and public.

Mr. Alavi stated that the proposed school does not meet the current zoning. He further stated that the area is not safe for children, there are no houses or walking connections to neighbourhoods nearby. Mr. Alavi stated there are industrial areas nearby that include hazards such as vibrations and dangerous processes. He further stated there are no sidewalks near the building.

Mr. Alavi stated that the proposal does not meet the Provincial Policy Statement, Growth Plan and Official Plan, because there are no paths or sidewalks, whereas York Region guidelines require sidewalks on both sides of the street. He stated that the Growth Plan encourages active transportation, and land use patterns that support active transportation. Mr. Alavi stated he is concerned for the children's safety.

Mr. Wyns explained that currently every child is picked up by their parents, and that there are no busses. He stated that the Town of Newmarket has plans to build a sidewalk. He further stated that there are at least one or two Montessori Schools close

to the facility. He further explained that there are already children at the facility, there is a sidewalk coming, and kids are being picked up by their parents.

Mr. Mertens asked for any further questions or comments from the Committee and public. There were none.

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

1. Report from Ted Horton, dated August 12, 2019;
2. Memorandum from David Potter, Chief Building Official, dated August 12 2019;
3. Memorandum from Rick Bingham, C.E.T., Manager, Development Engineering, dated August 12, 2019; and
4. Email from Sadaf Shahid, Planning Assistant, Planning and Economic Development Branch, The Regional Municipality of York, dated August 16, 2019.

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

**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.**

**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.**

**In favour – Peter Mertens, Ken Smith, Elizabeth Lew  
Opposed – Mohsen Alavi, Michelle Starnes**

**CARRIED**

**D13-A18-19 MITCHELL, Robert, Trustee & SCOTT, Ryan, Trustee  
Lot 3, Plan 34  
299 Second Street  
Town of Newmarket**

Angela Sciberras, of Macaulay Shiomi Howson Ltd, 520 Industrial Parkway South, AURORA, L4G 1Y8, addressed the Committee as the agent for the application. Ms. Sciberras stated she has reviewed the staff report. Originally the building permits showed a driveway and a walkway, which could have been installed using a different material than the driveway, however a decision was made on-site to do the entire

driveway and walkway with the same material. The staff report says the proposal doesn't meet the four tests of Minor Variance.

Ms. Sciberras explained that the driveway width is a maximum of six metres, there is no maximum driveway length. There is a minimum width required to ensure parking spaces can be accommodated, as people do not often use their garages for parking. She explained that in this case, if the driveway was designed differently, the driveway could have been longer and provided the same amount of paved area that there is currently. She further stated that the Manitoba Maple, as mentioned in the report was not removed to accommodate the driveway, and that the tree was removed by the previous owner.

Ms. Sciberras stated that the report speaks to a reduction in permeability on the site. The dwelling is not currently at the maximum permitted lot coverage amount. If the driveway was within the 6 metre maximum, the dwelling footprint could have been expanded, which would result in a similar level of permeability for the site.

Ms. Sciberras stated that the limit on driveway size maintains consistency. She stated that this neighbourhood is an area of diverse development, age height, tenure and driveway lengths and widths. Some driveways are significantly longer than the driveway at 299 Second Street, which consequently take up more permeable area. She stated that in many dwellings, the garage has been converted as a living space only providing parking space in front of the house. The subject dwelling still has a large front yard and amenity space, compared to other nearby properties where the entire front yard has been paved.

Ms. Sciberras commented that the report states the driveway has been paved across nearly the entire front yard. However, the driveway at the street is 6 metres, is 6.8 metres at the property line, and expands to 11.2 metres in front of the garages. She stated that the driveway does not stretch across the entire frontage of the property.

Ms. Sciberras stated there are limits on the amount of parking to encourage more sustainable transportation, these are applied in the Urban Centres. It was not intended to reduce parking in Stable Residential areas. The Town accommodated longer driveways to ensure two cars could be located in front of the garage.

Ms. Sciberras stated her last point is in regards to safety. Due to the roadways adjacent to the subject property, backing out of the driveway would be difficult and dangerous. With the expanded driveway the resident can turn their car around and pull out forwards, safely into traffic.

Mr. Mertens asked the members if they had any questions.

Ms. Starnes asked when the site plan came in, as there clearly was a three car garage on the site plan, which is not permitted. The site plan says it is a man door. Ms. Starnes stated that her concern is that the work was done after and that there was a three car garage but not three car driveway.

Ms. Sciberras stated that to her understanding, a three car garage is permitted. The original plan was to have a different material used for the driveway and the walkway. O

site, there was a decision made to use the same material. This resulted in non-compliance. The owners didn't know they had gone outside of what was permitted, it was not intentional.

Mr. Mertens asked if when the permit was applied for, the building permit had three or two garages.

Ms. Starnes replied it had three garages.

Mr. Mertens asked for any further questions or comments from the Committee and public.

Roy Ellis, 155 Main Street, NEWMARKET, L3Y 8C2, addressed the committee. Mr. Ellis stated he has an offer to buy this dwelling. He is in support of the application and needs access to the third garage. He stated he wants to go on record to support the application.

Mr. Mertens asked for any further questions or comments from the Committee and public.

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

1. Report from Ted Horton, dated August 12, 2019;
2. Memorandum from David Potter, Chief Building Official, dated August 12 2019;
3. Memorandum from Rick Bingham, C.E.T., Manager, Development Engineering, dated August 12, 2019; and
4. Email from Sadaf Shahid, Planning Assistant, Planning and Economic Development Branch, The Regional Municipality of York, dated August 16, 2019.

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

**THAT Minor Variance Application D13-A18-19 be DENIED, as the relief as requested does not conform to the four tests prescribed by the Planning Act.**

**In favour – Elizabeth Lew, Mohsen Alavi  
Opposed – Peter Mertens, Ken Smith, Michelle Starnes**

**NOT CARRIED**

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

**THAT Minor Variance Application D13-A18-19 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.**

**In favour – Peter Mertens, Ken Smith, Michelle Starnes  
Opposed – Elizabeth Lew, Mohsen Alavi**

**CARRIED**

The Minutes of the meeting held on Wednesday, July 24<sup>th</sup>, 2019 were placed before the Committee for consideration.

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

**THAT the Minutes of the Wednesday, July 24<sup>th</sup>, 2019 meeting be approved.**

**CARRIED**

**THAT the Meeting adjourn.**

***Moved by Ken Smith  
Seconded by Mohsen Alavi***

**CARRIED**

The meeting adjourned at 10:11 a.m.

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Dated

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Chair