

The meeting of the Committee of Adjustment was held on Wednesday, September 25th, 2019 at 9:30 a.m. in the Council Chambers at 395 Mulock Drive, Newmarket.

Members Present: Gino Vescio, Chair
Peter Mertens, Vice Chair
Elizabeth Lew, Member
Mohsen Alavi, Member
Ken Smith, 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-A20-19 DUTCHER, Kevin & DUTCHER, Lynn
Lot 6, Plan M24
131 Stickwood Court
Town of Newmarket

Aleks Todorovski, Larkin Land Use Planners, 849 Gorham Street, NEWMARKET, L3Y 1L7, addressed the Committee as the agent representing the home owners. Mr. Todorovski handed hard copies of the presentation to Committee members. Mr. Todorovski introduced Aaron Gillard, his associate at Larkin Land Use Planners.

Mr. Todorovski explained that the property owners are requesting relief from the Zoning By-law to allow for a building addition. He explained that the subject property is zoned R1-D-119, and they are requesting relief from the front yard setback, which requires structures being built between existing buildings to have a setback within the range of the abutting buildings.

Mr. Todorovski explained that a previous minor variance application had been submitted requesting a greater reduction in the front yard setback. Town staff supported the

application and found it met the four tests of minor variance. The Committee of Adjustment did not find the application met the four tests, and denied the application.

Mr. Todorovski explained that the clients are in need of more living space in their current dwelling. They have made revisions to the plan and it is their opinion that the four tests are met and the proposal conforms to planning policy. Mr. Todorovski explained that a scan was conducted of similarly zoned areas across Town, and other cases were found where houses are closer to the front lot line than adjacent properties. These examples are shown at the end of the presentation. Mr. Todorovski asked the Committee if they had any questions or concerns.

Mr. Vescio asked for any questions from Committee members.

Mr. Alavi asked staff for more information on the proposed addition.

Mr. Horton responded that the existing Gross Floor Area is approximately 118 square metres, and the proposed addition is approximately 29 square metres.

Mr. Alavi asked for clarification on the relief amount.

Mr. Horton clarified that the requested relief is 1.42 metres, a lesser relief can also be granted.

Mr. Alavi asked what can be done in the future if other applicants come forward with a similar request. He questioned what if a neighbour wants to do the same thing. If this application is accepted then it will show neighbours they can do the same thing.

Mr. Gillard responded by explaining that if a future application was made by a neighbour then it would be bound by the same tests. Their proposal would have to satisfy the tests based on their own merits. Mr. Gillard explained that any application would be bound by the same tests.

Mr. Alavi responded that other properties within the Town should not be shown as examples.

Mr. Gillard responded that the examples of other properties were included to help the Committee make an informed decision and to provide the Committee with additional information. Mr. Gillard stated that it is not uncommon to have staggered front yard setbacks and that not every community has a uniform building line.

Mr. Alavi stated his concern is the same as before. If a neighbour wants to also move forward it can't be rejected.

Mr. Gillard responded that policies do not suggest that every dwelling needs to have the same setbacks. There could be support for neighbouring dwellings to do the same.

Mr. Vescio asked if there were any further questions or concerns.

Ms. Lew asked staff why a tree preservation plan was not submitted.

Mr. Horton responded the Town's tree policy requires a submission of an arborist report, as well, the policy allows for a tree report form when there are no trees that will be impacted. There has been a review of the area and there are no significant trees in the area.

Mr. Vescio asked if there was anything further.

Mr. Vescio stated the concerns of the Committee were similar to before, whether the development is desirable or appropriate for the lot. Mr. Vescio questioned how this addition will impact the line of sight to the north.

Mr. Gillard stated that the initial application proposed the addition on the north side, however to address the issues with line of sight, the applicant has blended the addition across the entire face of the building. The relief that is being requested is smaller and the impact has been reduced.

Mr. Vescio asked if anyone else wished to speak.

Nassir Alaie, 127 Stickwood Court, NEWMARKET, L3Y 5V2, addressed the Committee as the neighbour to the north of the subject lands. Mr. Alaie stated they have no concerns with the proposal, and that they support the application.

Mr. Vescio asked if there was anyone else who wished to speak.

Mr. Alavi stated that his concern is not related to the individual owner. The proposal would be an example for other residents in Newmarket. If this one was accepted, then all others would need to be accepted.

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

1. Report from Ted Horton, dated September 18th, 2019;
2. Memorandum from David Potter, Chief Building Official, dated September 16, 2019; and
3. Email from Grace Candy, Assistant Planner, Planning and Economic Development Services, Region of York, dated September 18, 2019.

Moved by Peter Mertens
Seconded by Elizabeth Lew

THAT Minor Variance Application D13-A20-19 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.**

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, Gino Vescio, Elizabeth Lew
Opposed – Mohsen Alavi, Ken Smith**

CARRIED

**D10-B04-19 THE DAVIS RESIDENCES INC.
Part Lot 4, 5 and 6, Plan 32
175 Deerfield Road
Town of Newmarket**

Eldon Theodore, MHBC, 7050 Weston Road, WOODBRIDGE, L4L 8G7, addressed the Committee as the agent working on behalf of the owner. He stated that they have reviewed the staff report and are in support of staff's opinion. The application includes a consent and minor variance. The property was previously subject to a Zoning By-law Amendment and the owners are currently working towards final site plan approval. The purpose of the application is to sever and convey Parcel A, which is to be a rental apartment, from Parcel B, which is to be condominium units. This will allow for the units to be financed and owned separately. In regards to the minor variance, it is to help establish clarity. The Zoning By-law Amendment that was approved was over-prescriptive in the setbacks. The prescriptiveness of the decimal points was inhibiting the ability to implement the plan. This replaces the previous schedule that was approved.

Mr. Theodore stated that the applications are in the public interest and represent good planning. The severing of the land will not result in any physical change, it is for orderly financing for the site. The consent application meets the policies of the planning act and the variance is technical in nature. It maintains the building size and location that was approved through the Zoning By-law Amendment, and it meets the four tests.

Mr. Vescio asked staff why a minimum required setback was approved by Council.

Mr. Horton responded that in most instances there is a minimum setback required to maintain a certain degree of landscaped building separation. Most site specific Zoning By-law Amendments establish a minimum and maximum range. At the zoning stage setbacks are developed to approve the use and bulk of the building, to control some land use restraints. Council approved the setbacks that were proposed, however after a detailed review of the site plan, it has been determined that the setbacks are overly prescriptive.

Mr. Vescio asked for the minimum setbacks.

Mr. Horton responded they are listed on the Notice, and that there is a graphic that shows the current and proposed setbacks.

Mr. Vescio asked the Committee if they had any questions. He further asked if there were any members of the public that wished to speak to the application. There were none.

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

1. Report from Ted Horton, dated September 18th, 2019;
2. Email from Carrie Gordon, External Liaison, Bell Right of Way Control Centre dated September 19, 2019;
3. Memorandum from David Potter, Chief Building Official, dated September 16, 2019;
4. Email from Dennis De Rango, Specialized Services Team Leads, Real Estate Department, Hydro One Networks, dated September 12th, 2019; and,
5. Letter from Peter Green, Director Capital Development, Southlake Regional health Centre, dated September 17, 2019.

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

THAT Consent Application D10-B04-19 be GRANTED, subject to the following conditions:

- a. **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. **confirmation from the Municipal Solicitor that the Owner has received and accepted conveyance from the Town in an ‘as is’ condition of Parts 4, 5, 6, 7 and 27 as they appear on “Figure 1 – Proposed Severance Sketch” and merged these Parts into the subject lands to the satisfaction of the Municipal Solicitor;**
 - iii. **confirmation from the Municipal Solicitor that the Owner has transferred and provided easements in favor of the Town across Parts 6, 7, 9, 10, 11, and 25 as they appear on “Figure 1 – Proposed Severance Sketch” to the satisfaction of the Municipal Solicitor;**
 - iv. **three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted; and**
 - v. **the required transfer to effect the severance and conveyance applied for under Consent Applications D10-B04-19, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.**

CARRIED

**D13-A19-19 THE DAVIS RESIDENCES INC.
Part Lot 4, 5 and 6, Plan 32
175 Deerfield Road
Town of Newmarket**

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

1. Report from Ted Horton, dated September 18th, 2019;
2. Memorandum from David Potter, Chief Building Official, dated September 16, 2019; and
3. Email from Grace Candy, Assistant Planner, Planning and Economic Development Services, Region of York, dated September 17, 2019.

***Moved by Peter Mertens
Seconded by Mohsen Alavi***

THAT Minor Variance Application D13-A19-19 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

**D10-B05-19 FUSSANN INC.
Part Lot 35, Concession 3, Parts 1 & 2, Plan 65R-3249
1166 Davis Drive
Town of Newmarket**

Daniel Hoang, Dillon Consulting Limited, 235 Yorkland Boulevard, TORONTO, M2J 4Y8, addressed the Committee as the agent acting on behalf of the owner. Mr. Hoang stated the applicant is seeking approval for a consent for lease in excess of 21 years, to operate as a Tim Hortons.

Mr. Vescio stated that this consent for lease would allow the Tim Hortons to continue to operate for 21 years. Mr. Vescio asked Committee members and members of the public if anyone else wished to speak to the application.

There were no further questions.

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

1. Report from Ted Horton, dated September 18th, 2019;
2. Memorandum from David Potter, Chief Building Official, dated September 16, 2019; and,
3. Email from Dennis De Rango, Specialized Services Team Leas, Real Estate Department, Hydro One Networks, dated September 12th, 2019; and,
4. Email from Gabrielle Hurst, Planning and Economic Development Branch, The Regional Municipality of York, dated September 16th, 2019; and,
5. Letter from Peter Green, Director Capital Development, Southlake Regional health Centre, dated September 17, 2019.

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

THAT Consent Application D10-B05-19 be GRANTED, subject to the following conditions:

- a. **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. **a copy of the fully executed lease regarding the subject lands; and**
 - iii. **three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.**

CARRIED

The Minutes of the meeting held on Wednesday, August 21st, 2019 were placed before the Committee for consideration.

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

THAT the Minutes of the Wednesday, August 21st, 2019 meeting be approved.

CARRIED

THAT the Meeting adjourn.

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

CARRIED

The meeting adjourned at 10:04 a.m.

Dated

Chair