



Town of Newmarket

Agenda

Committee of Adjustment

Date: Wednesday, September 23, 2020
Time: 9:30 AM
Location: Electronic VIA ZOOM
See How to Login Guide

Pages

1. Notice

At this time, the Municipal Offices remain closed to the public. This meeting will be available VIA ZOOM Meeting at newmarket.ca/meetings.

2. Conflict of Interest Declarations

3. Items

3.1 Minor Variance Application - D13-A05-20

1

16250 YONGE ST. INC. (SHINING HILL)

Part Lot 87, Concession 1

16250 Yonge Street

3.2 Minor Variance Application - D13-A06-20

SHINING HILL ESTATES COLLECTION INC.

Block 33, PLAN 65M3724

3.3 Minor Variance Application - D13-A07-20

SHINING HILL ESTATES COLLECTION INC.

Block 34, PLAN 65M3724

3.4 Minor Variance Application - D13-A08-20

SHINING HILL ESTATES COLLECTION INC.

Block 35, PLAN 65M3724

3.5 Minor Variance Application - D13-A09-20

SHINING HILL ESTATES COLLECTION INC.

Lot 13, PLAN 65M3724

- 3.6 Minor Variance Application - D13-A13-20 8

IERACI, Nicolina

Lot 87 Plan 65M3994

343 Gilpin Drive

- 3.7 Minor Variance Application - D13-A14-20 11

FATHIEH, Amirahmad

Lot 178 Plan M68

257 Plymouth Trail

- 3.8 Minor Variance Application - D13-A15-20 15

BHATIA, Subhash and BHATIA, Rama

Lot 77 Plan 65M3827

92 Memorial Gardens Way

4. **Approval of Minutes** 19

Minutes of the regular Meeting of the Committee held on Wednesday,
August 26, 2020.

5. **Adjournment**



PLANNING AND BUILDING SERVICES

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Planning Report

To: Committee of Adjustment

From: Alannah Slattery
Planner

Date: September 23, 2020

Re: Applications for Minor Variance D13-A05-20, D13-A06-20, D13-A07-20, D13-A08-20, D13-A09-20
Part Lot 87, Concession 1 16250 Yonge Street
Block 33, 34, 35 PLAN 65M3724
Lot 13, PLAN 65M3724
Town of Newmarket
Made by: SHINING HILL ESTATES COLLECTION INC.

1. Recommendations:

That Minor Variance Applications D13-A05-20, D13-A06-20, D13-A07-20, D13-A08-20, D13-A09-20 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and that,
- ii. That the development be substantially in accordance with the information submitted with the application.

2. Background

The above-described property (herein referred to as the “subject lands”) is located west of Yonge Street between Isaac Phillips Way and Kalinda Road. The subject lands are located between registered plan 65M3742 (also known as the former Great Gulf Development) and the Draft Approved Shining Hill Phase 1 lands (19T-2018-001). The subject lands are subject to approved Official Plan and Zoning Bylaw Amendments (OPA 21 and ZBA 2018-17), in addition to a draft approved Plan of Subdivision (19T-2018-001), for the development of townhouses and semi-detached dwellings. The completion of the draft plan conditions are currently in progress.

The lands subject to the variance applications are highlighted in blue on the context map provided by the applicant. These lands are located within the former Great Gulf Development and were recently purchased by the current owners of the lands to the south, Shining Hill Estates Collection Inc. The lands highlighted in red are currently owned by the applicant.



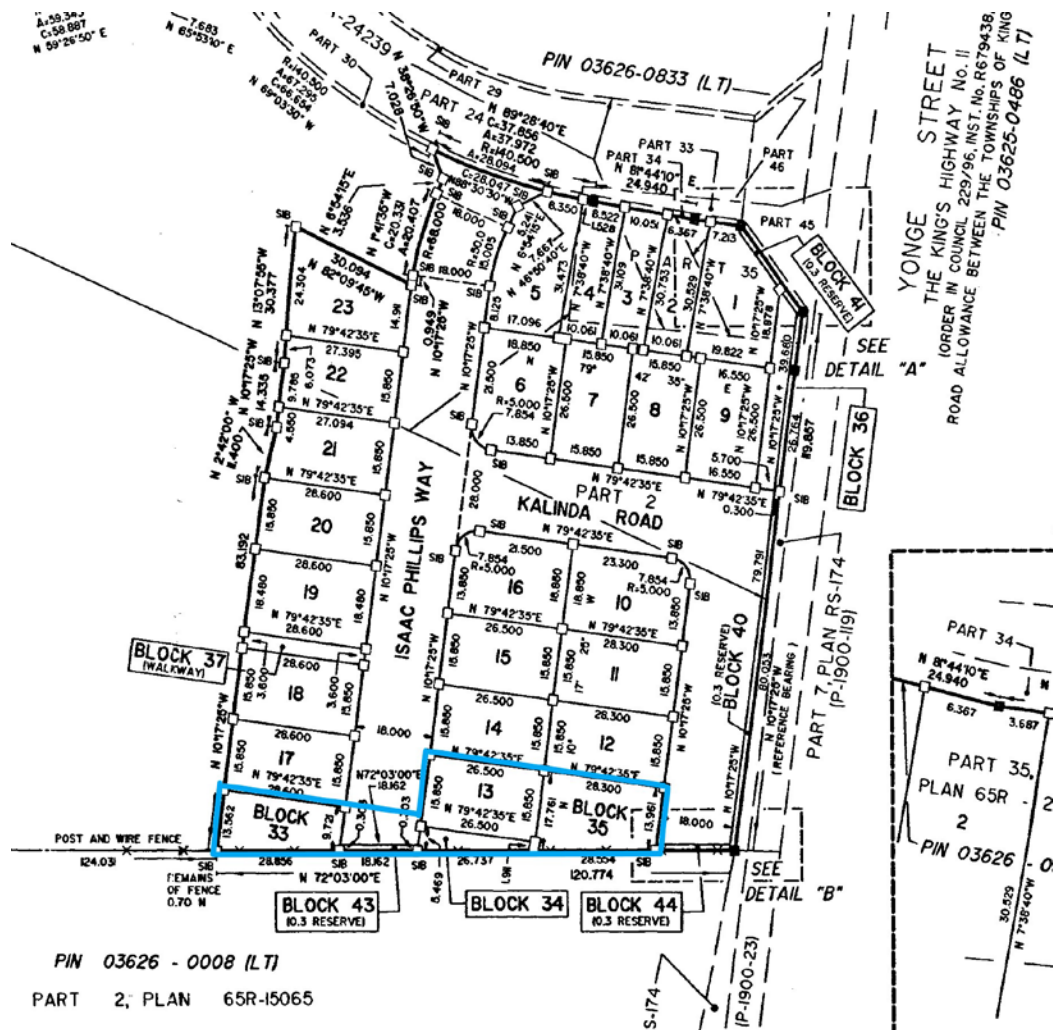
As the northern lands were recently purchased by the applicant, these part lots were not subject to the 2018 approved zoning bylaw amendment, which laid out site-specific development standards for the

lands. The applicant has acquired these lands to include them in their development proposal. They are looking to apply the same zone standards that were approved for the lands to the south in 2018 (highlighted in red), to the newly acquired lands to the north (highlighted in blue).

The variances apply to the following part lots (highlighted in blue on the map above):

Number	Legal Description	Area
1	Lot 13; PLAN 65M3724	0.04
2	Block 33; PLAN 65M3724	0.03
3	Block 34; PLAN 65M3724	0.01
4	Block 35; PLAN 65M3724	0.04
5	Portion of Pt Lot 87, Con 1 King Pt 2, 65R15065; Newmarket	0.40

The lands subject to these variances are currently zoned Residential Semi-Detached Dwelling (R2-H), and currently permit the development of semi-detached dwellings. The subject lands consist of buildable lots, which were kept vacant until such time as the adjacent southern lands were proposed to be developed. Currently, a portion of these lands acts as a temporary right-of-way. There is a sign along the right-of-way which indicates that it is a temporary road, subject to future residential development. The subject lands can be seen highlighted in blue on the plan below:



3. Application:

These minor variance applications have been submitted to apply the same zone standards from the originally approved development of the southern lands, to the newly acquired part lots to the north.

The application is seeking the following relief from Zoning By-law 2010-40 to facilitate the proposed changes to the site:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.2.2 Zone Standards for Residential Zones	A minimum rear yard setback of 7.5 metres	A minimum rear yard setback of 6.0 metres
2	2010-40	6.2.2 Zone Standards for Residential Zones	A maximum height of 11.0 metres or 2-storeys	A maximum height of 11.0 metres
3	2010-40	6.2.2 Zone Standards for Residential Zones	A maximum lot coverage of 45%	No maximum lot coverage
4	2010-40	8.1.1 List of Exceptions	A minimum building separation of 3.0 metres	A minimum building separation of 2.7 metres

Consistent with previous approvals, the new owner of the lands, Shining Hill Estates Collection Inc., intends to develop these lots for residential purposes in the form of townhouses and semi-detached dwellings.

4. Planning considerations:

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:

Conformity with the general intent of the Official Plan

The subject lands are designated “Emerging Residential” in the Town’s Official Plan, through Official Plan Amendment 21, approved by Council in 2018. This designation permits a range of residential accommodation built forms. Regarding this designation, the Town’s Official Plan states:

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

- a. provide for a range of residential accommodation by housing type, tenure, size, location and price ranges to help satisfy the Town's housing needs; and,
- b. encourage the provision for a range of innovative and affordable housing types, zoning standards and subdivision designs.

This designation permits, among other uses, single- and semi-detached dwellings, as well as rowhouses and townhouses, subject to a review of the proposed densities as a part of the application process.

The subject lands were subject to an Official Plan and Zoning By-law Amendment in 2018, which included the submission of various studies and reports, including a planning justification report which looked at compatibility of the proposed development.

In Staff Report 2018-16 staff found that the proposed townhouses and semi-detached dwelling development was generally compatible with the surrounding uses being single and semi-detached dwellings to the immediate north. Council approved the Official Plan and Zoning By-law Amendment in 2018.

The proposed variances seek to apply the approved zone standards to the newly acquired part lots to the north of the development lands. The application is found to conform to the Official Plan as semi-detached dwellings and townhouses are permitted within the "Emerging Residential" designation. This test is met.

Conformity with the general intent of the Zoning By-law

The northern section of the subject lands are currently zoned Residential Semi-Detached Dwelling (R2-H) Zone, by By-law 2010-40, as amended.

The southern section of the subject lands are currently zoned Residential Back to Back Townhouse Exception (R4-R-143) Zone, as per Zoning By-law 2010-40, as amended by By-law 2018-17.

The requested variance is looking to apply similar standards that are currently established for the lands to the south (R4-R-143 Zone), to the northern (R2-H Zone) lands.

Currently the northern zone (R2-H) permits semi-detached dwellings. The requested variance is proposing to change the existing zone standards, to better align with the development standards of the southern portion. Each proposed point of variance is described below:

1. The R2-H Zone requires a rear setback of 7.5 metres, and the R4-R-143 Zone requires a rear yard setback of 6.0 metres. This rear yard setback of 6.0 metres was approved through By-law 2018-17. The proposed variance seeks to apply a rear yard setback of 6.0 metres for the lands zoned R4-H. The general intent of rear yard setbacks is to provide adequate amenity space, privacy and separation between dwellings. In staff's opinion, the requested rear yard setback of 6.0 metres will allow for sufficient rear amenity space and separation between units. It will also allow for a consistent development design with the lands to the south.
2. The R2-H Zone requires a maximum building height of 11.0 metres or 2 storeys, and the R4-R-143 Zone requires a maximum height of 11.0 metres. The proposed variance seeks to remove the 2-storey provision from this standard, resulting in a maximum height of 11.0 metres for dwelling units. The general intent of a maximum height standard is to ensure development that is compatible with surrounding land uses. The proposed variance will not change the height standard in metres, and will

result in development consistent and compatible with surrounding land uses.

3. The R2-H Zone requires a maximum lot coverage of 45%, and the R4-R-143 Zone requires no maximum lot coverage. The proposed variance seeks to remove the maximum lot coverage requirement, to be in-keeping with the development standards of the southern lands, approved in 2018. The general intent of lot coverage provisions is to ensure adequate amenity space and drainage on a lot, and to maintain compatibility and similarity of structures within a neighbourhood.

In the case of larger lots, lot coverage provisions help to ensure that homes are not built out to the extent of the zone provisions, resulting in 'monster' homes. In this case, due to the size of the established lots, the required rear, front and side yard setbacks and height provisions will control the size of the proposed dwellings, resulting in dwellings compatible with the existing neighbourhood, and providing adequate amenity space. The proposed variance will also allow the northern lands to be developed in a style consistent to the southern lands.

4. The R4-R-143 Zone requires a minimum building separation of 3.0 metres. The proposed variance is seeking a minimum building separation of 2.7 metres. This building separation applies to semi-detached dwellings adjacent to townhouse dwellings, and is not intended to apply to the proposed semi-detached dwellings adjacent to existing semi-detached dwellings to the north. The proposed semi-detached dwellings will require an interior yard setback of 1.2 metres from the property line, as per the existing zoning requirements.

The general intent of a minimum building separation distance is to allow for adequate access to rear yards and separation for maintenance and landscaping purposes. Typically, the minimum building separation between two semi-detached dwellings is 1.8 metres, and the minimum separation between two townhouses is 3.0 metres. As such, a proposed separation of 2.7 metres between semi-detached dwellings and townhouses dwellings will provide adequate separation.

In staff's opinion the proposed variances will allow for a consistent development which conforms to the general intent of the Zoning By-law. This test is met.

Desirable for the appropriate development of the land

The variances are considered desirable for the development and the use of the land in that it is desirable to develop the lands in a consistent way with the approved development to the south, in accordance with the Official Plan and the Zoning By-law.

As the requested relief related to rear setbacks, minimum building separation, height and coverage would allow the property owner to arrange the property to be consistent with the development to the south, and allow the applicant 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.

Minor nature of the variance

The variances are minor in nature as they would allow the creation of lots which do not significantly vary from the requirements of the current zoning.

The proposed variances will result in development that is consistent with the previously approved development to the south. In addition, the variances are not proposing any changes to interior yard setbacks, and as such the proposed dwellings directly abutting the existing dwellings to the north will

meet the existing setback requirements and present as a consistent development from the street. Due to this, significant potential impacts to surrounding neighbours are not anticipated.

Staff advise that the subject lands currently permit the development of semi-detached dwellings. The proposed variances do not dictate whether or not the lands can be developed. The proposed variances only look to modify the rear yard setback, building separation, lot coverage and the definition of height.

In consideration of the above, the proposed variance is deemed to meet the four tests under the Planning Act and is recommended to be approved subject to conditions.

5. Other comments:

Heritage

These properties are not designated under the Ontario Heritage Act and are not on the municipal list of non-designated properties.

Commenting agencies and departments

The Chief Building Official has stated no objection to this application.

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

The Regional Municipality of York has stated no objection to this application.

Effect of Public Input

Staff have received the following concerns in regards to the proposed variances:

- Loss of greenspace

Staff advise that while the subject lands have been vacant for a period of time, these lands are indicated as buildable lots within the Plan of Subdivision. The lands were approved for development in 2003, and are zoned to permit residential development in the form of semi-detached dwellings.

- Loss of “corner” lots

Staff advise that although Lots 12, 14 and 17 have been operating as corner lots, the original draft plan contained lots south of these properties, as such, the lands are not corner lots within the draft plan.

- Loss of value

Staff advise that re-sale value is dependent on numerous market variables and is typically not considered when evaluating a proposal from a planning perspective.

- Height of proposed dwellings

Staff advise that the current zoning of these lands permits a maximum height of 11.0 metres (2 storeys). The proposed variances look to maintain the maximum height of 11.0 metres, but remove the “2 storeys”. As such, the actual height of the dwellings will not be increasing.

- Construction impacts (noise, dust etc.)

Staff advise that construction activities and noise are subject to the Town's Noise By-law 2017-76.

6. 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 black ink, appearing to read 'Alannah Slattery', with a stylized flourish at the end.

Alannah Slattery, BES, MCC
Planner


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Planning Report

TO: Committee of Adjustment
 FROM: Alannah Slattery
 Planner
 DATE: September 23, 2020
 RE: Application for Minor Variance **D13-A13-2020**
 343 Gilpin Drive
 Town of Newmarket
 Made by: IERACI , Nicolina

1. Recommendations:

That Minor Variance Application D13-A13-2020 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 facilitate the construction of a sunroom addition to an existing single detached dwelling. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 6.2.2	A minimum rear yard setback of 7.5 metres	A minimum rear yard setback of 5.81 metres
2	2010-40	Section 6.2.2	A maximum lot coverage of 45%	A maximum lot coverage of 46.69%

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, in the northwest quadrant of the Town, west of Woodspring Avenue. There is an existing single detached dwelling on the lot.

3. Planning considerations:

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 “Emerging Residential” in the Town’s Official Plan. This designation permits a range of residential accommodation built forms. Regarding this designation, the Town’s Official Plan states:

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

- a. provide for a range of residential accommodation by housing type, tenure, size, location and price ranges to help satisfy the Town's housing needs; and,
- b. encourage the provision for a range of innovative and affordable housing types, zoning standards and subdivision designs.

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 12.0 metre (R1-E) Zone by By-law Number 2010-40, as amended. Single detached dwellings are permitted in this zone.

The general intent of setbacks is to ensure that the use of a property does not infringe on the rights of neighbours, and to allow sufficient space for sunlight, airflow, privacy, landscaping, storm water run-off, and movement around the home. In the case of the subject lands, the proposed sunroom will be located 5.81 metres from the rear property line, whereas the required rear yard setback is 7.5 metres. The proposed sunroom will meet the required interior side yard setback of 1.2 metres.

The proposed reduced rear setback appears to maintain a functional space and distance from the rear lot line that is sufficient for runoff. In addition, the rear property line of the subject lands abuts a Town owned park space; as such, impacts to neighbours are minimized.

The general intent of maximum lot coverage provisions is to limit the built form of structures in order to maintain compatibility and similarity of structures, and to ensure adequate amenity space. By limiting lot coverage (and height), building size is restrained and ensures that houses are similar in size. The maximum lot coverage for the R1-E Zone is 45% and the applicant is requesting a maximum lot coverage of 46.69%.

It is staff's opinion that the proposed sunroom addition represents a small increase in coverage that will result in a dwelling that is in keeping with the surrounding area, and will not significantly impact drainage on the lot. 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 invest in their property and 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 overall impact of the variance. The overall impact of the proposed variance appears to be minimal as despite the reduced setback and coverage, the proposed addition would result in a dwelling which is compatible with the overall diversity of dwelling types within the neighbourhood. In addition, significant impacts to surrounding properties are not anticipated. 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

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated properties.

4.2 Commenting agencies and departments

The Chief Building Official has no objection to this application.

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

Comments from the Regional Municipality of York were not available as of the date of this report.

4.3 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,



Alannah Slattery, BES, MCC
Planner



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Planning Report

To: Committee of Adjustment

From: Alannah Slattery
Planner

Date: September 23, 2020

Re: Application for Minor Variance D13-A14-2020
257 Plymouth Trail
Town of Newmarket
Made by: FATHIEH, Amirahmad

1. Recommendations:

That Minor Variance Application D13-A14-2020 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and,
- ii. That one space in the garage be reserved for the purpose of required parking and for no other use.

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 an existing single-detached residential dwelling to permit a new 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 two parking spaces exterior to a garage and one parking space inside of a garage for a dwelling unit and accessory dwelling unit

The zoning by-law requires four exterior parking spaces. Ontario Regulation 299/19, enacted by the Provincial Government in September of 2019, supersedes this requirement and states that municipalities can only require one parking space for an accessory dwelling unit. The effect of this is that three exterior parking spaces are required.

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, north of London Road. There is an existing single-detached residence on the lot and it is abutted by similar single-detached 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 a legal Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law requires four exterior parking spaces for a single detached dwelling with an ADU. However, new provincial legislation requires a total of three outdoor parking spaces for a single detached dwelling with an ADU. In this case, the driveway is not large enough to accommodate three exterior spaces which meet the size requirements of the Zoning By-law, as such a variance is required to recognize one parking space in the existing garage.

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:

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. Further, the Official Plan permits Accessory Dwelling Units in single-detached dwellings, subject to the provisions of the zoning by-law.

The application is found to conform to the Official Plan and therefore this test is met.

Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Detached Dwelling 15.0 Metre (R1-D) Zone by By-law Number 2010-40, as amended. Single-detached dwellings and accessory dwelling units are permitted uses in this zone.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This Section states that both a single-detached dwelling and an ADU must have two exterior spaces, for a total of four exterior parking spaces. This zoning regulation is superseded by provincial regulation which states that municipalities can only require one parking space for an accessory dwelling unit. The effect of this is that three exterior parking spaces are required. There is a note within the Town's Zoning By-law 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 three (3) outdoor parking spaces. In this case, the applicant's driveway from the garage face to the property line is not long enough to accommodate the three spaces. The applicants have two outdoor parking spaces and an attached garage, but the zoning by-law 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 are generally found to have a lower parking demand due to their smaller size. Providing two parking spaces outdoors and one space inside the garage, as would be required by the proposed condition, meet the general intent of the zoning by-law. This test is met.

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 more 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 three exterior spaces, in addition 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.

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 two spaces or by the parking spaces in the garage as would be required by the proposed condition.

In consideration of the above, the proposed variance is deemed to meet the four tests under the Planning Act and is recommended to be approved subject to conditions..

4. Other comments:

Heritage

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated Properties.

Commenting agencies and departments

The Chief Building Official has no objection to this application.

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

Comments from the Regional Municipality of York were not available as of the date of this report.

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,

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Alannah Slattery, BES, MCC
Planner



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Planning Report

To: Committee of Adjustment

From: Alannah Slattery
Planner

Date: September 23, 2020

Re: Application for Minor Variance D13-A15-2020
92 Memorial Gardens Way
Town of Newmarket
Made by: BHATIA, Subhash and Rama

1. Recommendations:

That Minor Variance Application D13-A15-2020 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and,
- ii. That one space in the garage be reserved for the purpose of required parking and for no other use.

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 an existing single-detached residential dwelling to permit a new 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 two parking spaces exterior to a garage and one parking space inside of a garage for a dwelling unit and accessory dwelling unit

The zoning by-law requires four exterior parking spaces. Ontario Regulation 299/19, enacted by the Provincial Government in September of 2019, supersedes this requirement and states that municipalities can only require one parking space for an accessory dwelling unit. The effect of this is that three exterior parking spaces are required.

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, south of Woodspring Avenue. There is an existing single-detached residence on the lot and it is abutted by similar single-detached 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 a legal Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law requires four exterior parking spaces for a single detached dwelling with an ADU. However, new provincial legislation requires a total of three outdoor parking spaces for a single detached dwelling with an ADU. In this case, the driveway is not large enough to accommodate three exterior spaces which meet the size requirements of the Zoning By-law, as such a variance is required to recognize one parking space in the existing garage.

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:

Conformity with the general intent of the Official Plan

The subject lands are designated “Emerging Residential” in the Town’s Official Plan. This designation permits a range of residential accommodation built forms. Regarding this designation, the Town’s Official Plan states:

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

- a. provide for a range of residential accommodation by housing type, tenure, size, location and price ranges to help satisfy the Town’s housing needs; and,
- b. encourage the provision for a range of innovative and affordable housing types, zoning standards and subdivision designs..

This designation permits, among other uses, single-detached dwellings of a range of sizes and built forms. Further, the Official Plan permits Accessory Dwelling Units in single-detached dwellings, subject to the provisions of the zoning by-law.

The application is found to conform to the Official Plan and therefore this test is met.

Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Single Detached Dwelling 12.0 metre (R1-E) Zone by By-law Number 2010-40, as amended. Single-detached dwellings and accessory dwelling units are permitted uses in this zone.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This Section states that both a single-detached dwelling and an ADU must have two exterior spaces, for a total of four exterior parking spaces. This zoning regulation is superseded by provincial regulation which states that municipalities can only require one parking space for an accessory dwelling unit. The effect of this is that three exterior parking spaces are required. There is a note within the Town’s Zoning By-law 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 three (3) outdoor parking spaces. In this case, the applicant’s driveway from the garage face to the property line is not long enough to accommodate the three spaces. The applicants have two outdoor parking spaces and an attached garage, but the zoning by-law 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 are generally found to have a lower parking demand due to their smaller size. Providing two 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.

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 more 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 three exterior spaces, in addition 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.

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 two spaces or by the parking spaces in the garage as would be required by the proposed condition.

In consideration of the above, the proposed variance is deemed to meet the four tests under the Planning Act and is recommended to be approved subject to conditions..

4. Other comments:

Heritage

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated Properties.

Commenting agencies and departments

The Chief Building Official has no objection to this application.

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

Comments from the Regional Municipality of York were not available as of the date of this report.

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,

A handwritten signature in black ink, appearing to read 'Alannah Slattery', with a stylized, sweeping flourish at the end.

Alannah Slattery, BES, MCC
Planner



Town of Newmarket

Minutes

Committee of Adjustment

Date: Wednesday, August 26, 2020
 Time: 9:30 AM
 Location: Electronic VIA ZOOM
 See How to Login Guide

Members Present: Gino Vescio, Chair
 Seyedmohsen Alavi
 Elizabeth Lew
 Peter Mertens
 Ken Smith

Members Absent: Michelle Starnes

Staff Present: Patricia Cho, Secretary-Treasurer
 Alannah Slattery, Secretary-Treasurer

1. Notice

At this time, the Municipal Offices remain closed to the public. This meeting was available VIA ZOOM Meeting at newmarket.ca/meetings.

2. Conflict of Interest Declarations

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.

3. Items

3.1 Minor Variance Application - D13-A05-20

D13-A05-20

16250 YONGE ST. INC.

Part Lot 87, Concession 1

16250 Yonge Street

Town of Newmarket

D13-A06-20

SHINING HILL ESTATES COLLECTION INC.

Block 33, PLAN 65M3724

Town of Newmarket

D13-A07-20

SHINING HILL ESTATES COLLECTION INC.

Block 34, PLAN 65M3724

Town of Newmarket

D13-A08-20

SHINING HILL ESTATES COLLECTION INC.

Block 35, PLAN 65M3724

Town of Newmarket

D13-A09-20

SHINING HILL ESTATES COLLECTION INC.

Lot 13, PLAN 65M3724

Town of Newmarket

Minor Variance Applications D13-A05-20, D13-A06-20, D13-A07-20, D13-A08-20, and D13-A09-20 to be heard concurrently.

Rohan Sovig, 140 Renfrew Drive, Suite 201, MARKHAM, L3R 6B3, ON, addressed the Committee as the agent working on behalf of the owner.

Mr. Vescio requested that the Secretary-Treasurer go over the new information received pertaining to the applications.

Ms. Cho suggested that the Committee defer the applications pertaining to Shining Hill as there have been e-mail correspondence received from neighbours requesting deferral due to the lack of public notice period provided and concerns with variances.

Mr. Vescio asked Ms. Cho to identify their concerns, considering the merit of notification and concerns with variances.

Ms. Cho read the letters including the following content, "I would like it noted as a concern that the notices were not sent out in a timely manner to residents." and "And if the postmarked date is the mail out date, then I ask that the meeting be rescheduled following the correct amount of notice, to be fair to residents who live near this build site".

Mr. Vescio asked Ms. Slattery if she can provide any comments to this.

Ms. Slattery recommends that the items be deferred due to the postal delay of getting the notices out.

Mr. Sovig stated the minor variance applications were submitted back in May and supports the deferral.

Moved by: Peter Mertens

Seconded by: Seyedmohsen Alavi

THAT Minor Variance Applications D13-A05-20, D13-A06-20, D13-A07-20, D13-A08-20 and D13-A09-20 be DEFERRED.

Carried

3.2 Minor Variance Application - D13-A06-20

3.3 Minor Variance Application - D13-A07-20

3.4 Minor Variance Application - D13-A08-20

3.5 Minor Variance Application - D13-A09-20

3.6 Minor Variance Application - D13-A10-20

D13-A10-20

AHMED, Zaeem and AHMED, Nadia

Part Lot 30 Plan 65M4436

746 Yarfield Crescent

Town of Newmarket

Zaeem Ahmed, 746 Yarfield Crescent, NEWMARKET, L3X 0H4, ON, addressed the Committee as the applicant.

Mr. Ahmed would like to request relief from the zoning by-law that one parking spot be located inside the garage as the by-law requires three exterior parking spots.

Mr. Vescio asked if committee members had any questions. There were none.

Mr. Vescio stated that there were no more speakers.

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

1. Report from Alannah Slattery, Planner, dated August 26th, 2020;

2. Email Correspondence from Gabrielle Hurst, Planning and Economic Development Services, Region of York, dated August 19th; and,
3. Memorandum from David Potter, Chief Building Official, dated August 19th, 2020.

Moved by: Elizabeth Lew

Seconded by: Ken Smith

THAT Minor Variance Application D13-A10-20 be GRANTED, 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:

- **is minor in nature;**
- **conforms to the general intent and purpose of the Official Plan and Zoning By-law; and**
- **is considered a desirable development of the lot.**

Carried

3.7 Minor Variance Application - D13-A11-20

D13-A11-20

BASSIDJ, Jahanshah and KHAMOOSHI, Homa

Lot 16 Plan M78

92 Cardinal Crescent

Town of Newmarket

Jahanshan (John) Bassidj, 92 Cardinal Crescent, NEWMARKET, L3Y 5X6, ON, addressed the Committee as the owner of the subject property.

Mr. Bassidj stated that they are asking for relief from the zoning by-law to add an accessory dwelling unit. As the zoning by-law requires three exterior parking spots, he is seeking relief to have one parking spot inside the garage.

Mr. Vescio asked if committee members had any questions.

Ms. Lew said that she went on a site visit to the subject property and it seemed that there were enough space for four exterior parking spots. Ms. Lew asked why they needed to apply for a minor variance to have one parking spot inside the garage.

Mr. Bassidj said that he thought it was enough as well but found out that seventeen (17) feet is property of the Town and does not have enough space to meet the minimum requirements of the parking space measurements.

Ms. Slattery confirmed this and stated that the measurement is off of the property line and not the boulevard.

Mr. Vescio asked if committee members had any further questions. There were none.

Mr. Vescio stated that there were no more speakers.

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

1. Report from Alannah Slattery, Planner, dated August 26th, 2020;
2. Email Correspondence from Gabrielle Hurst, Planning and Economic Development Services, Region of York, dated August 19th; and,

3. Memorandum from David Potter, Chief Building Official, dated August 19th, 2020.

Moved by: Seyedmohsen Alavi

Seconded by: Ken Smith

THAT Minor Variance Application D13-A11-20 be GRANTED, 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:

- is minor in nature;
- conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- is considered a desirable development of the lot.

Carried

3.8 Minor Variance Application - D13-A12-20

D13-A12-20

281 MAIN STREET NORTH INC.

Part Lot 98, Concession 1, Part 2, PLAN 65R3687

281 Main Street North

Town of Newmarket

Monika Oviedo and Michael Testaguzza, The Biglieri Group LTD., 20 Leslie Street, Suite 121, TORONTO, M4M 3L4, ON, addressed the Committee as the agents working on behalf of the owner.

Ms. Oviedo stated that they were the planning consultants for the owner. They are requesting three variances. They have reviewed the staff report and conditions and are in agreement to the conclusion of the report that recommends approval. Ms. Oviedo stated that she would be happy to go through the variances if the Committee wishes and answer any questions.

Mr. Vescio asked if committee members had any questions.

Ms. Lew asked if any correspondence has been received for this application.

Ms. Cho stated that there were no correspondences received.

Mr. Alavi asked if the variances impact lot width.

Ms. Oviedo stated that they are requesting for the minor reduction of lot frontage (reduction of 0.9 metres which is approximately 3 feet) on private road.

Mr. Testaguzza added that the lot frontage impacts the unit width. Therefore, the building width equals to lot frontage and by reducing lot frontage, it impacts the building width.

Ms. Slattery stated that the variance being requested is lot frontage which is building width. There is no specific zoning standard required for lot width, only lot frontage. For townhouse dwellings, there are different zones that permit townhouses. For townhouses in the Residential (R) Zone, minimum lot frontage is 6 metres. The approved Zoning By-law

amendment in 2016 for the subject lot allowed 5.9 metres. The applicant is looking for reduction of 0.9 metres.

Mr. Alavi asked if there were any examples of the building width standard of 5 metres within the Town.

Ms. Slattery said that it would require more research on previous zoning by-law amendments to determine if there are precedents around Town that allowed the building width of 5 metres.

Mr. Testaguzza said that generally speaking, a 6 metres standard for a front-loaded townhouse (garage and front yard) is average, with the streetscape dominated by garage. However, with rear lane townhouse, like their proposal, there are no garages.

Mr. Vescio asked if committee members had any further questions. There were none.

Mr. Vescio stated that there were no more speakers.

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

1. Report from Alannah Slattery, Planner, dated August 26th, 2020;
2. Email Correspondence from Gabrielle Hurst, Planning and Economic Development Services, Region of York, dated August 20th; and,
3. Memorandum from David Potter, Chief Building Official, dated August 19th, 2020.

It is noted for the record that Mr. Alavi dissented the application.

Moved by: Peter Mertens

Seconded by: Elizabeth Lew

THAT Minor Variance Application D13-A12-20 be GRANTED, 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.**
- 3. That the applicant be advised that Site Plan Approval will be required prior to development of the lands.**
- 4. That servicing allocation be granted prior to the development of the lands.**
- 5. That the applicant be advised that the integrity of the Region's 850 mm diameter West Holland River trunk sanitary sewer, that is located in between Bayview Parkway and the railway, shall be protected and maintained at all times during construction and grading of the proposed development. All construction drawings showing works in close proximity of the Region's infrastructure shall include the following notes for the Contractor:**

"Integrity of the Regional 850mm diameter West Holland River trunk sanitary sewer main located in between Bayview Parkway and the railway is to be protected at all times."

- 6. That the applicant shall invite the Region's Construction Administrator, to the pre-construction meetings as well as to inspect all works proposed in close proximity of regional infrastructure.**

As the Minor Variance Application:

- is minor in nature;**
- conforms to the general intent and purpose of the Official Plan and Zoning By-law; and**
- is considered a desirable development of the lot.**

Carried

3.9 Amendment to the Conditions of Provisional Consent regarding 175 Deerfield Road

D10-B01-20

DEERFIELD 2 GP INC.

Part Lot 5 and 6, Plan 32

175 Deerfield Road

Town of Newmarket

Amendment to the Provisional Condition of Consent

David McKay, MHBC Planning Urban Design & Landscape Architecture, 230-7050 Weston Road, WOODBRIDGE, L4L 8G7, ON, addressed the Committee as the agent working on behalf of the owner. Natalie Reisman Breger, Rose Corporation, 156 Duncan Mill Road, Suite 12, TORONTO, M3B 3N2, ON, was also present on behalf of the owner.

Mr. McKay stated that the consent was granted by Committee previously in June 2020. The issue is that because of the legal description and ownership on title, their lawyer brought to their attention that effectively, the parcel to be severed and retained were reserved. There posed legal complexities on the transfer. The most straightforward way to resolve the matter was to go back to Committee to revise the condition. It could have been resolved through the transfer of ownership within their company but it would be more timely and complicated. The severance remains exactly the same and the change would be in the condition of the transfer.

Ms. Slattery provided insight that the severance is the same and the change would be in the ownership to be reversed for transfer purposes. As Mr. McKay mentioned, going back to Committee would be the most straightforward way to fix this.

Mr. Vescio asked if committee members had any questions. There were none.

Mr. Vescio stated that there were no more speakers.

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

1. Cover Letter from David McKay, MHBC Planning, dated August 21st, 2020; and,
2. Memorandum from Jason Unger, Acting Director of Planning and Building Services, dated August 21st, 2020.

Moved by: Peter Mertens

Seconded by: Ken Smith

THAT the amendment to the conditions on Consent Application D10-B01-20 be GRANTED, as indicated on page 2 of the Memorandum that was submitted to Committee members, specifically a(iii):

- 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. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted; and
 - iii. the transfer **of lands indicated as 'B'**, applied for **as the lands to be retained** under Consent Application D10-B01-20, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.

Carried

4. Approval of Minutes

Mr. Vescio appointed Mr. Mertens as Chair of the meeting for Item #4 – Approval of Minutes.

Moved by: Ken Smith

Seconded by: Elizabeth Lew

THAT the Minutes of the Wednesday, July 22nd, 2020 meeting be approved.

Carried

5. Adjournment

Mr. Vescio reassume role as Chair of the meeting.

Moved by: Peter Mertens

Seconded by: Elizabeth Lew

THAT the Meeting adjourned at 10:25 a.m.

Carried

Chair

Date