



Town of Newmarket

Agenda

Committee of Adjustment

Date: Wednesday, November 18, 2020
Time: 9:00 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. Appeals

4. Items

4.1. Minor Variance Application - D13-A19-20

1

LEACH, Steven

Part Lots 6-8 PLAN 85

239 Pine Street

4.2. Minor Variance Application - D13-A20-20

4

SEIFIHESSAR, Jalal and AZAMI, Ghazaleh

Lot 234 Plan M47

45 Ashton Road

5. Approval of 2021 Schedule

8

Committee of Adjustment meeting schedule for 2021.

6. Approval of Minutes

9

Minutes of the regular Meeting of Committee held on Wednesday, October 21, 2020.

7. Adjournment


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Planning Report

TO: Committee of Adjustment
 FROM: Alannah Slattery
 Planner
 DATE: November 18, 2020
 RE: Application for Minor Variance D13-A19-20
 239 Pine Street
 Made by: LEACH, Steven

1. Recommendations:

That Minor Variance Application D13-A19-20 be denied.

2. Application:

An application for minor variances has been submitted by the above-noted owners to request relief from Zoning By-law Number 2010-40 as amended in order to construct a detached garage in their rear yard in a location and at a size that are not permitted by the zoning by-law.

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, north of Gorham Street. The relief as requested is as follows:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	4.1.2	Minimum side yard setback of 1.2m	Side yard setback of 0.61m
2	2010-40	4.1.2 vi	Maximum lot coverage for an accessory building of the lesser of 10% of the lot area or 75% of the ground floor area of the main building	Lot coverage for an accessory building of 117.19% of the ground floor area of the main building

3. Planning considerations:

The applicant is requesting relief from the By-law in order to build a detached garage in the rear yard of their property. The proposed garage will be replacing an existing, smaller detached garage. The garage is proposed to be closer to the side lot line than is permitted and larger than is permitted.

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 ensure compatibility of new development with existing structures. This designation permits single detached dwellings and residential accessory buildings. This test is met.

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

The subject lands are zoned Residential Single Detached Dwelling 15m Zone (R1-D-119) by By-law Number 2010-40, as amended.

The general intent of the zoning by-law is to limit the built form of structures in order to maintain compatibility and similarity of structures. In the case of detached garages, the zoning by-law provides that they have the same setback requirements as the main building, reflecting that garages can have a size and massing akin to a house.

The proposed garage would be 0.61 metres away from the side lot line, while the zoning by-law requires the same minimum yard setback as for the main building, being 1.2 metres. The zoning by-law also includes standards for the maximum lot coverage for all accessory buildings on a lot that represents a relationship to the size of the lot and the size of the main building. The by-law allows a maximum coverage for all accessory buildings on a lot to be the lesser of 10% of the lot area or 75% of the ground floor area of the main building. That is to say, for the subject lands whose main building is 79.27 square metres in ground floor area, the maximum size for a detached garage would be approximately 59.5 square metres. The proposed garage is 92.90 square metres.

By limiting the size of detached garages, the zoning by-law maintains a similar built form pattern. The by-law ensures that accessory buildings such as garages are secondary in prominence to the main building. The proposed detached garage will have a larger ground floor area than the main dwelling on the lot.

By limiting the ability to construct a garage within yard setbacks, the by-law maintains rear yards as areas where vehicular uses are strongly discouraged, as evidenced by other elements of the zoning by-law that limit the amount of a rear yard that can be used for parking and that prohibit driveways in the required rear yard setback. The by-law maintains side yards to provide for adequate access to rear yards and to reduce impacts on neighboring properties. Staff note that the existing side yard setback of the main dwelling to the north property line is 0.88 metres. The proposed garage would have a side yard setback of 0.61 metres to the south property line. The existing and proposed reduced side yard setbacks would limit access to the rear yard for emergency and maintenance uses. In addition, the proposed garage would be located adjacent to the neighboring property's main dwelling and in-ground pool.

The intent of ensuring compatible building forms and maintaining yards to not be dominant by vehicular uses is not met by this application.

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 would place a garage that is larger than typically permitted in a location that is proximate to the neighboring property to the south. The proposed garage may result in run-off and drainage impacts to the southerly neighbours. In addition, detached garages are intended by the By-law to be secondary to the main building on the lot. The size of the proposed garage conflicts with this intent.

It is not clear that 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 design is a relatively small change within the overall neighbourhood. This test is met.

In consideration of the above, it is staff's opinion that the proposed variances do not meet the four tests under the *Planning Act*.

4. Other comments:

4.1 Tree Protection

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy requires properties that are subject to a development application to submit an arborist report, protect trees during construction, and compensate for any removed trees by replanting or paying an amount to the Town commensurate with the removed trees. While the recommendations of this report would not grant the relief requested, if Committee deems to approve this application, standard condition wording can be provided to ensure compliance with the Policy.

4.2 Heritage

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

4.3 Effect of public input

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

4.5 Commenting agencies and departments

Building Services 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 as required by the *Planning Act*.

Respectfully submitted,



Alannah Slattery
Planner



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Planning Report

To: Committee of Adjustment

From: Alannah Slattery
Planner

Date: November 18, 2020

Re: Application for Minor Variance D13-A20-2020
45 Ashton Road
Town of Newmarket
Made by: SEIFIHESSAR, Jalal and AZAMI, Ghazaleh

1. Recommendations:

That Minor Variance Application D13-A20-2020 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 Davis Drive. 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.

Engineering Services have deferred comments to Planning and have stated no objection to this application.

Regional Municipality of York has no objection to this application.

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, flowing script.

Alannah Slattery, BES, MCC
Planner

**COMMITTEE OF ADJUSTMENT****Town of Newmarket**

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M E M O R A N D U M

To: Gino Vescio, Chair
 Peter Mertens, Vice Chair
 Ken Smith, Member
 Elizabeth Lew, Member
 Mohsen Alavi, Member
 Michelle Starnes, Alternate Member

From: Patricia Cho, HBA, MSc. (Pln.)
 Planner/Secretary Treasurer

Re: Scheduled hearing dates for 2021

Date: November 18, 2020

The following is a list of proposed hearing dates scheduled for 2021:

Wednesday, January 20, 2021
 Wednesday, February 24, 2021
 Wednesday, March 24, 2021
 Wednesday, April 21, 2021
 Wednesday, May 19, 2021
 Wednesday, June 23, 2021
 Wednesday, July 21, 2021
 Wednesday, August 25, 2021
 Wednesday, September 22, 2021
 Wednesday, October 20, 2021
 Wednesday, November 17, 2021
 Wednesday, December 15, 2021



Town of Newmarket

Minutes

Committee of Adjustment

Date: Wednesday, October 21, 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, Planner
 Adrian Cammaert, Acting Manager of Planning Services

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-A16-20

Kyle Buckley, 599 Pearson Street, NEWMARKET, L3Y 1G4, ON, addressed the Committee as the owner of the subject property.

Mr. Buckley said that they were applying for a minor variance for lot coverage. Currently, the lot coverage is 25% for a 2-storey dwelling and they would like an additional 7% lot coverage to build a house that they think is suitable for the neighbourhood and fits the neighbourhood well.

Mr. Vescio asked if committee members had any questions.

Ms. Lew asked if the applicant was the owner of the property and if he had received any comments from neighbours.

Mr. Buckley said that he had received comments from neighbours regarding lot coverage and what it would do to the neighbourhood. Currently, neighbours look into their backyard and see a forested vacant lot so it is understandable that the proposed dwelling will change their view. However, he believes that dwelling will add value to their properties and the surrounding ones.

Mr. Smith asked if there were any houses in the neighbourhood with similar lot coverage.

Mr. Buckley said that the dwelling directly to the east (next door) has a lot coverage of 37%, and the dwelling at Queen Street and Lorne Avenue has a lot coverage of 47%.

Mr. Mertens asked if the applicant has gotten a chance to look at the peer review from the Town's Consulting Arborist, Urban Forest Innovations Inc.

Mr. Buckley said that he had an Arborist come out and conduct a report which identified trees that were dead and to be removed. His goal is to build something that suites the neighbourhood and leave as many mature trees as possible.

Mr. Mertens asked if the applicant was prepared to follow the ten (10) recommendations within the peer report.

Mr. Buckley said that would not be a problem. He can have his Arborist review and respond.

Mr. Mertens said that in the report, one of the conditions of the peer review mentions how to deal with trees in the forested area. He asked Town staff whether the applicant will be required to follow this.

Ms. Slattery said to ensure compliance with the Town's Tree Preservation, Protection, Replacement and Enhancement Policy, when UFI reviews the submitted Arborist Report, they require the applicant to address any comments before any building permits are issued.

Mr. Mertens asked when the Interim Control By-law (ICBL) is expected to be lifted.

Ms. Slattery said the ICBL is expected to be lifted by January 2021. The applicant would not be able to apply for any building permits prior to the ICBL being lifted.

Mr. Alavi identified three concerns that he had: 1) Property is subject to ICBL, 2) Tree preservation, and 3) domino effect. As such, the application should not be approved based on these three factors.

Ms. Slattery responded saying that there is a limitation on getting a building permit and anyone is allowed to apply for a planning application. The application was reviewed based on the current Zoning By-law in effect. This would be the case until the new Zoning By-law policies come into place as a result of the Established Neighbourhood Study.

Mr. Vescio stated that a lot of properties have a maximum lot coverage of 35%. He asked why the lot coverage is 35% in some areas while lot coverage is 25% in others.

Ms. Slattery said that it depends on the zone standard and for areas zoned R1-D, exception 119, it breaks it down by storeys to control the massing of the dwelling on the property.

Mr. Vescio asked whether the Established Neighbourhood Study was proposing an increase of lot coverage from 25% to 35%.

Ms. Slattery said that there may be some instances in Town, but for this lot, the intent is for the lot coverage to remain the same at 25%.

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

Mr. Vescio asked if any members of the public wishes to speak.

Glen Letman, 71 Forest Glen Road, NEWMARKET, L3Y 4N2, ON, addressed the Committee as a concerned neighbour.

Mr. Letman said that his property is located northwest of the subject property. His primary concern is the lot coverage as it will increase mass

and scaling at the rear. He did not have major issues with the lot development, but said that the existing criteria should be followed. He would like to see development that is proposed to be compatible with the lots in the area. He also had concerns with vegetation on the lot. The Arborist report provided an inventory but did not identify the impact of the lot coverage. There were no recommendations on what the increase of the approximately 500 sq. feet would have on the mature vegetation of the property. There was also no mention of the impact from grading on the existing vegetation.

Mr. Vescio asked if anyone had any questions for Mr. Letman. There were none.

Mr. Vescio asked if there were any other members of the public wishing to speak. There were no more speakers.

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 October 21st, 2020;
2. Memorandum from Sepideh Majdi, Manager, Development Engineering, dated October 7th, 2020;
3. Email Correspondence from Gabrielle Hurst, Planning and Economic Development Services, Region of York, dated October 9th;
4. Report from Urban Forest Innovations Inc., dated October 16, 2020;
5. Letter of Opposition from Thora Hunter, 294 Woodland Court, NEWMARKET, L3Y 2J7, ON, dated October 19th, 2020;
6. Letter of Opposition from Gary Bondi, 325 Queen Street, NEWMARKET, L3Y 2G5, ON, dated October 20th, 2020; and,
7. Letter of Objection from Glen Letman, 71 Forest Glen Road, NEWMARKET, L3Y 4N2, ON, dated October 19th and October 29th, 2020.

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

Mr. Vescio said that with respect to the application, there are certain properties in the community that are two-storey dwellings that exceed the 25% lot coverage, and even single-storey dwellings that have a lot

coverage of 35% as permitted. For example, 305 Queen Street is a single-storey dwelling that exceeds the lot coverage to 47%. He does not find that the request is unreasonable as excess lot coverage is not unheard of in his experience. Also, this is a fairly large lot that has excess front lot and rear yard setback.

Moved by: Ken Smith

Seconded by: Peter Mertens

THAT Minor Variance Application D13-A16-20 be GRANTED, subject to the following conditions:

1. **That the variance pertains only to the request as submitted with the application;**
2. **That the applicant be advised that prior to issuance of any building permit, compliance will be required with the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy; 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

3.2 Minor Variance Application - D13-A17-20

Stepan Sukiasyan, 200 Town Centre Boulevard, MARKHAM, L3R 8G5, ON, addressed the Committee as the agent working on behalf of the owner.

Mr. Sukiasyan said that the existing house is pretty close to the maximum lot coverage of 35%. They are proposing a covered heated porch which increases the lot coverage to 36.4%. This is a minor increase and straightforward application.

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

Mr. Vescio asked if any members of the public wishes to speak. 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 October 21st, 2020;
2. Memorandum from Sepideh Majdi, Manager, Development Engineering, dated October 7th, 2020;
3. Email Correspondence from Gabrielle Hurst, Planning and Economic Development Services, Region of York, dated October 9th; and,
4. Letter of Support from Lisa Gao, 516 Bristol Road, NEWMARKET, L3Y 6P8, ON dated October 11th, 2020.

Moved by: Seyedmohsen Alavi

Seconded by: Peter Mertens

THAT Minor Variance Application D13-A17-20 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.**

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

3.3 Minor Variance Application - D13-A18-20

Sean Payne and Stephanie Soave, 56 Ochalski Road, AURORA, L4G 7J3, ON, addressed the Committee as the agents working on behalf of the owner.

Mr. Payne said that they were requesting a deferral of the application. They found out last night that there were some legal verbiage that the Town's lawyer had concerns about. The request may or may not be allowed to proceed through a minor variance. This will need to be reviewed further by the applicant's lawyer.

Mr. Vescio asked the applicants for a deferral timeline.

Mr. Payne suggested that the item be deferred to the Committee of Adjustment meeting scheduled for December 9.

While in discussion for the next item, Michelle Teti, 555 Priddle Road, NEWMARKET, L3X 1X8, ON, addressed the Committee as a concerned neighbour.

Ms. Teti would like to know what kind of medical use(s) will be proposed and had some parking concerns.

Mr. Vescio notified Ms. Teti that the item had been deferred and can reach out to Town staff to discuss.

Moved by: Ken Smith

Seconded by: Peter Mertens

THAT Minor Variance Application D13-A18-20 be DEFERRED.

Carried

4. Approval of Minutes

Moved by: Seyedmohsen Alavi

Seconded by: Peter Mertens

THAT the Minutes of the Wednesday, September 23rd, 2020 meeting be approved.

Carried

5. Adjournment

Moved by: Peter Mertens

Seconded by: Seyedmohsen Alavi

THAT the Meeting adjourn at 10:11 a.m.

Carried

Chair

Date