



PLANNING AND BUILDING SERVICES

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Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: June 11, 2019

RE: Applications for Minor Variance **D13-A04-19, D13-A05-19, D13-A06-19**
Applications for Consent **D10-B01-19, D10-B02-19, D10-B03-19**
Part Lot 50-52, Plan 65R11342
180 – 194 Main Street South
Made by: MAIN STREET CLOCK INC.

1. Recommendations:

That Applications for Consent D10-B01-19, D10-B02-19, D10-B03-19 be granted, subject to the following conditions:

- a. That the Owner obtain relief from the provisions of the zoning by-law as set forth in Minor Variance Applications D13-A04-19, A05-19, and A06-19;
- b. 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 applications as submitted; and
 - iii. required transfers to effect the severances and conveyances applied for under Consent Applications D10-B01-19, D10-B02-19, D10-B03-19, conveying the subject lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act.

That Applications for Minor Variance D13-A04-19, A05-19, A06-19 be granted.

2. Background

This report follows applications for Official Plan amendment and zoning by-law amendment to permit the multi-unit residential redevelopment of the property indicated above (the 'subject lands'), which comprised the historic post office and three adjoining buildings to the south. These buildings were once located on four separate lots, but have previously merged, and this application seeks to re-divide the properties.

Council refused to amend the zoning by-law to match the proposal of the applicant, and this refusal was subsequently appealed to the Ontario Municipal Board. This appeal has since been withdrawn, and the Town and the property owner have entered into minutes of settlement to conclude the appeal. The result is that the existing zoning remains in place on the property. The property owner is now seeking to divide the four buildings into separate lots through the current applications.

3. Application

The lands are located on the west side of Main Street South, south of Park Avenue. Each of the three consent applications would result in the successive severance of the four buildings and their associated lands from one another. The purpose of the minor variance applications is to address existing amount of floor space on each of the proposed lots that exceeds the maximum permitted by the zoning by-law. No current physical change to the site is proposed through these applications, only a division of ownership.

The requested relief is presented below:

Application	By-law	Section	Requirement	Proposed
D13-A04-19	2010-40	6.4.2	Maximum Floor Space Index of 1.0	Maximum Floor Space Index of 1.85
D13-A05-19				Maximum Floor Space Index of 1.1
D13-A06-19				Maximum Floor Space Index of 1.25

The purpose of the consent applications is to successively convey each of the subject lands indicated as “A” (severed lands) on the submitted sketches and to retain the lands marked “B” (retained lands) on the submitted sketches. The effect of this will be to sever the southernmost building from the remaining northerly three buildings, and then to sever the next-southernmost building, and to repeat this process until the historic post office and each of the three buildings is situated on its own legal parcel of land. The relevant statistics for the lot proposed to be severed by each application are below.

	Frontage (m)	Depth (m)	Area (m ²)
D13-A04-19	9.7	26.1	229
D13-A05-19	11	28	315
D13-A06-19	8.7	28.2	283
Retained (post office)	25.8	64.3	1913

The subject lands are currently occupied by a range of historic buildings. No current use is proposed for any of the buildings. Any future use will be required to comply with the permissions of the zoning by-law.

4. Planning considerations – Minor Variances

4.1 Variances

The question of the application for consent and variance must be addressed in tandem. If Committee decides not to grant the consent, the applications for relief are unnecessary. If Committee decides to deny the relief, the consent cannot be approved, as it is required for the proposed resulting lots to conform with the requirements of the zoning by-law.

In order to authorize a minor variance, Committee must be satisfied that the requested variances pass the four tests required by the *Planning Act*. In this regard, staff offer the following comments:

4.2 Conformity with the general intent of the Official Plan

The subject lands are within the Historic Downtown Centre of the Town's Official Plan. Section 4.3.3 of the Official Plan discusses this area and the intent to "be the heart of historic Newmarket and the cultural and community focus of the Town". The policies of this designation seek to encourage the maintenance, upgrading, and redevelopment of buildings and facades along Main Street South in a manner that aligns with the Historic Downtown Community Improvement Plan and the heritage nature of the area.

The proposed minor variance applications will recognize an existing built form of structures that exceed the maximum permitted amount of floor space for each lot. This existing condition reflects building styles of an era before minimum parking requirements and other zoning considerations that today impose setbacks and limit density. However, the existing buildings on Main Street South are regarded as the heart of historic Newmarket and the Official Plan seeks to allow their repurposing and upgrading, and no reduction in FSI is encouraged by the Official Plan. Accordingly, this test is met.

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

The subject lands are zoned Historic Downtown Zone by By-law Number 2010-40, as amended.

The general intent of maximum floor space index limits is to control the density of each lot in a manner that ensures compatibility and similar built form massing, avoiding overbuilding on a lot in a manner that does not align well with the surrounding area. In the case of the historic downtown area, many buildings exceed the maximum FSI due to being built out to lot boundaries and having multiple stories. The proposed variances would recognize an existing condition that has been on the site for decades and has provided a compatible built form in the area. This test is met.

4.4 Desirable development of the lot

It is desirable to allow property owners to invest in, redevelop, and improve their properties in accordance with the Official Plan and the Zoning By-law. In cases of consents, it is desirable to allow property owners to arrange their properties and sever new lots in a manner that suits their needs subject to the need for orderly development and zoning conformity. The proposed variances will assist in allowing the buildings to be divided in a manner that reflects their historical ownership pattern before they were merged, and may lead to a return the independent ownership of lots.

As the requested relief would allow a return to a previous property division alignment that reflects the lot fabric along the overall Main Street Area, in staff's opinion, this test is met.

4.5 Minor nature of the variances

The variances are minor in nature as they recognize a long-existing built form condition and assist in returning the lot fabric to its condition as it existed before the subject lands lots were merged. This test is met.

In consideration of the above, the proposed variances, subject to the recommended conditions, meet the four tests under the *Planning Act*.

5. Planning considerations – Consent

5.1 Conformity with Provincial Policy and Regional Plans

Provincial plans are to inform Committee's decision regarding consents. Relevant plans include the Places to Grow Act, the Growth Plan for the Greater Golden Horseshoe, and the Provincial Policy Statement 2014. These acts and plans speak to allowing consents where appropriate, to directing development to areas within urban boundaries, and to intensify existing built-up areas.

The Provincial Policy Statement and provincial policy documents are to be read in their entirety and the relevant policies applied to each situation. In situations where more than one policy is relevant, a decision maker such as the Committee of Adjustment should consider all of the relevant policies to understand how they work together. These documents are available online and through Planning Services and staff from Planning Services are available to assist members of Committee to access and consider them. Given the number and breadth of policy documents they will not all be discussed in this report, but relevant excerpts are provided and brief comments on their relevancy offered.

The Provincial Policy Statement directs that municipalities manage and direct land use to achieve efficient land use patterns. This aim and the creation of healthy, liveable, and safe communities is supported by:

- Promoting efficient development and land use patterns which sustain the financial well-being of the province and municipalities over the long term; and
- Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs, among other efforts.

Section 2 of the Planning Act sets out Matters of Provincial Interest that are to be considered by the Committee as part of applications for consent. In particular, Committee may consider matters of interest such as the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest.

In addition, criteria under Section 51 (24) of the Planning Act must also be considered when the considering the creation of new lots through consent. Many of these criteria are addressed by staff and agency comments, but these clauses should be considered in their entirety by Committee.

The Growth Plan for the Greater Golden Horseshoe 2019 (the 'Growth Plan') provides more specific policy direction. Every planning decision is required to conform with or not conflict with this Plan. The Growth Plan supports the conservation of cultural heritage resources, and the division of the subject lands into a lot pattern that is consistent with the surrounding streets does not conflict with the Growth Plan.

The York Regional Official Plan (the 'YROP') also generally states that intensification and infill in urban areas by consent is appropriate. The current applications do not propose any physical change or intensification to the site. Any changes to the site will be required to proceed through the required municipal review processes.

5.2 Conformity with the Official Plan

As discussed above, the subject lands are designated Historic Downtown Centre in the Town's Official Plan. The Official Plan does not specifically address applications for consent in this area,

but rather speaks to encouraging the maintenance and improvement of the structures in this historic area.

Section 16.1.5 of the Official Plan sets out the circumstances in which an application for consent will be granted. The section reads that consents shall only be granted where:

- a. the severance is for the purpose of infilling within existing development;
- b. a plan of subdivision is not necessary;
- c. the number of lots created is three or less;
- d. the lot can be adequately serviced by sanitary sewage disposal, water supply, and storm drainage facilities;
- e. no extension, improvement or assumption of municipal services is required;
- f. the lot will have frontage on an improved public road, and access will not result in traffic hazards;
- g. the lot will not restrict the ultimate development of adjacent lands;
- h. the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and compatible with adjacent lots; and,
- i. the consent complies with all relevant provisions of this Plan.

The proposed consents clearly meet each of these requirements. The severances are within a developed area and do not require a plan of subdivision to address their impacts. Three lots are created by the applications, which are already serviced by municipal servicing. The proposed lots front onto at least one municipal road, and the division of land does not restrict attaining the development permitted by the zoning by-law. The proposed lots conform with the size and shape of the zoning by-law, are compatible with the adjacent lots, and the applications comply with all relevant provisions of the Official Plan.

The proposed applications are consistent with the purpose and intent of the Official Plan.

5.3 Conformity with the Zoning By-law

The subject lands are zoned Historic Downtown Zone (UC-D1) by By-law Number 2010-40, as amended. This zone has no minimum lot area or frontage requirements, recognizing the unique lot pattern in the Main Street South area. The requested relief from the zoning by-law recognizes the existing amount of floor space index of the buildings on each of the resulting lots, but no nonconformity in terms of the lots themselves exists.

6. Other comments

6.1 Tree protection

No physical change is proposed to the site, and any development will be required to comply with the Tree Policy.

6.2 Heritage

All of the structures on the subject land are designated under either Part IV or Part V of the Ontario Heritage Act. Any changes to the structures will be required to be reviewed under the appropriate Planning Act, Ontario Heritage Act, and Ontario Building Code Act requirements.

6.3 Effect of public input

Planning Services received no public input as of the date of writing this report.

6.4 Commenting agencies and departments

No comment was available from Building Services at the time of writing this application.

Engineering Services has reviewed the application and indicated that they have no objection provided that existing drainage patterns are not altered and construction does not occur within any easement(s), where applicable.

7. Conclusions

Minor Variance Applications D13-A04-19, D13-A05-19, D13-A06-19

That 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

Consent Application D10-B01-19, D10-B02-19, D10-B03-19

The consents are appropriate divisions of land that meet the relevant requirements of the Zoning By-law, Official Plan, and matters of Provincial interest, and should be granted.

Respectfully submitted,



Ted Horton
Planner
MCIP, RPP