



**Planning Report**

TO:                                      Committee of Adjustment

FROM:                                    Ted Horton  
   Planner

DATE:                                    July 18, 2019

RE:                                        Application for Minor Variance **D13-A10-19**  
   352 Rannie Road  
   Made by: SHAD, Khalid

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**1. Recommendations:**

That Minor Variance Application D13-A10-19 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.

**2. Application:**

An application for minor variance has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended, in order to allow a residential accessory structure (shed) that has been constructed closer to the side lot line in the rear yard than is permitted by the by-law.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 4.2	A residential accessory structure up to 2.8m in height must be set back a minimum of 1.0m from the side lot line	A residential accessory structure up to 2.8m in height to be set back a minimum of 0.76m from the side lot line

**3. Planning considerations:**

The applicant is requesting relief in order to permit a side yard setback of 0.76 metres from the residential accessory structure to the side lot line. The structure exists on the lot but was found to contravene the requirements of the zoning by-law. The applicant is thus requesting this relief to legalize the existing structure.

As per established practice and jurisprudence from appellate bodies, in considering a minor variance in which the work was already completed in error or to legalize an existing nonconformity the Committee is to consider the application as if the work had not yet been done.

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 encourage the preservation and maintenance of the Town’s existing housing stock. This designation permits single detached dwellings, and allows for accessory buildings normally associated with residential uses. This test is met.

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

The subject lands are zoned Residential Link Dwelling 18-metre Zone (R2-G) by By-law Number 2010-40, as amended. A link dwelling is permitted in this zone, and residential accessory structures such as sheds are permitted subject to certain setbacks.

The general intent of setbacks are to ensure that the use of a property does not infringe on the rights of neighbours, and to allow sufficient space for light, sunshine, storm water run-off, and movement around the home. In the case of the subject lands, the residential accessory structure will be closer to the lot line than a structure normally would be. However, the proposed reduced setback appears to maintain a functional space and distance from the lot line that is sufficient for runoff. This test is met.

### **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 provides for a structure that is within the general size and height limits for a residential accessory structure, and appears to continue to maintain sufficient distance to avoid adverse impact on adjacent properties. 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 residential accessory structure is not out of keeping with common rear yard accessory structures and is not expected to adversely impact neighbouring properties. 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 Tree Protection**

The applicant has indicated that there are no trees on or within the prescribed radius of the lot that would be defined as significant under the Town’s Tree 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.

#### **4.4 Interim Control By-law**

On January 21<sup>st</sup>, 2019 Council adopted an Interim Control By-law under Section 38 of the *Planning Act*. The Interim Control By-law limits the ability to increase the floor area or height of residential dwellings throughout its study area, which includes the lands subject to this minor variance application. The Interim Control By-law does not prohibit residential accessory structures and as such has no bearing on this application.

#### **4.5 Commenting agencies and departments**

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

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

The Regional Municipality of York has no comment on the application.

### **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 a desirable development of the lot.

Respectfully submitted,



Ted Horton, MCIP, RPP  
Planner