



**Planning Report**

TO:                                      Committee of Adjustment

FROM:                                    Ted Horton  
    Planner

DATE:                                    July 18, 2019

RE:                                        Application for Minor Variance **D13-A12-19**  
    81 Joseph Street  
    Made by: MANGONI, Roberto

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**1. Recommendations:**

That Minor Variance Application D13-A12-19 be granted, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That prior to the issuance of any demolition permit or building permit the owner be required to comply with the provisions of the Town’s Tree Preservation, Protection, Replacement and Enhancement Policy and Public Tree Protection By-law, including tree protection, securities, and compensation; and
3. That the development be substantially in accordance with the information submitted with the application.

**2. Application:**

An application for minor variances has been submitted by the above-noted owner to request relief from Zoning By-law Number 2010-40 as amended by By-law 2013-30, in order to demolish the existing single-detached dwelling and construct a larger dwelling on the lot. Committee previously heard and rejected another application for this property under file number D13-A01-19. At that time the applicant was requesting relief from five sections of the zoning by-law as indicated below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, amended by 2013-30	Development Standards	Maximum lot coverage of 25% for a two-storey structure	Permit a lot coverage of 29.07% for a two-storey structure
2			Maximum height of 10.0m for a two-storey dwelling	Maximum height of 11.26m for a two-storey dwelling
3	2010-40	Section 3 – Definitions	Any portion of a storey exceeding 3.6m in height is deemed to be an additional storey	Any portion of a storey exceeding 3.6m in height to accommodate a second floor dormer is not deemed to be an additional storey

4	2010-40, amended by 2013-30	Development Standards	Front yard setback to be within the range of those of the abutting properties and not less than 3m	Front yard setback of 2.49m
5	2010-40	6.2.2	Minimum interior side-yard setback of 1.8m for a two-storey structure	Minimum interior side-yard setback of 0.62m for a two-storey structure

Following Committee's rejection of the application, the applicant has revised the plans and submitted this application for a lesser amount of relief as indicated below. The relief as requested is as follows:

Relief	By-law	Section	Requirement	Proposed
1	2010-40, amended by 2013-30	Development Standards	Maximum lot coverage of 25% for a two-storey structure	Permit a lot coverage of 27.36% for a two-storey structure

The above-described property (herein referred to as the "subject lands") is located on the east side of Joseph Street in a residential neighbourhood west of Main Street South and east of Lorne Avenue.

### 3. Planning considerations:

The applicant is requesting relief from the By-law in order to demolish the existing two-storey single detached residential dwelling on the lot and construct a larger structure. To accomplish this the applicant requires relief for additional lot coverage.

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 supports efforts to invest in the existing housing stock. 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 Exception 119 (R1-D-119) by By-law Number 2010-40, as amended by By-law 2013-30.

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. By limiting lot coverage and height, building size is restrained and ensures that houses are similar in size and that a diverse range of housing sizes are preserved across Newmarket.

By-law 2013-30 was passed in 2013 to reduce the permitted building height and coverage in many of the older residential areas of Newmarket in an effort to maintain building compatibility, similarity, and a diversity of built form across Newmarket. In part, Council sought to prevent the loss of smaller homes and the construction of new structures that would be significantly larger than existing homes in the area.

The zoning by-law's maximum lot coverage provisions serve to ensure a diverse range of housing sizes within the Town by preventing overdevelopment, and preserving houses of certain sizes. While a 2-storey structure is permitted as-of-right on the subject property, the by-law limits such a structure to a reduced lot coverage of 25% compared to the 35% that is permitted for a single-storey structure.

The revised plans submitted with this application provide for a structure that is more in keeping with the surrounding area while still allowing for gradual change and development. 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 largely within the built form limits of the zoning by-law in terms of height and setback, and represents a modest increase in coverage beyond the permissions of the by-law. 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 development shows greater consideration than its previous iteration of its place within the broader streetscape, and is not significantly beyond what development might reasonably be expected on this lot. This test is met.

In consideration of the above, the proposed variances 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. If Committee deems to approve this application the applicant will be required to provide financial securities for the trees to be protected, install tree protection fencing, have the fencing inspected before any demolition or construction takes place, and pay for the costs of the Town's consulting arborist undertaking their review(s), as provided for by 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.

### **4.4 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. However, the Interim Control By-law exempts properties that were subject to a complete *Planning Act* application, which includes applications for minor variance such as this one. As such, this property is exempt from the Interim Control By-law and it has no force or effect on this application.

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

Building Services has reviewed the application and does not have any comments on the proposed variances.

Engineering Services has reviewed the application and has no objection to the proposed minor variance provided that the existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable.

The Regional Municipality of York has reviewed the minor variance application and has no comment.

#### **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