



Report

TO: Committee of Adjustment

FROM: Ted Horton
 Planner

DATE: September 18, 2019

RE: Application for Minor Variance **D13-A20-2019**
 131 Stickwood Court
 Town of Newmarket
 Made by: DUTCHER, Kevin & Lynn

1. Recommendations:

That Minor Variance Application D13-A20-2019 be approved, 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.

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 allow a reduced front yard setback for an addition to an existing single detached dwelling. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, as amended by 2013-30	Exception 119	The required front yard setback is within the range of the setback of the abutting buildings (being 8.28m and 8.74m)	A front yard setback of 6.86m

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, east of Prospect Street and north of Srigley Street. There is an existing single detached dwelling on the lot.

3. Planning considerations:

The applicant previously requested relief from the zoning by-law for this property through minor variance application D13-A13-2019, which sought permission for a front yard setback of 3.94m. Committee denied this application. The current application has been revised to spread the proposed addition across the front of the house instead of concentrating the massing on one side. Accordingly, the requested relief has been reduced.

The applicant is requesting relief from the By-law in order to permit a front yard setback that is closer than either of the abutting buildings. The Zoning By-law requires that the front wall of a dwelling in this area is no closer to the street than the closer of the two abutting buildings and no farther away than the farther of the two abutting buildings. In this case, staggered setbacks of the homes and the

angle of the lot line presents challenges to aligning an addition in the manner required by the by-law. The applicant is seeking permission for a front yard setback of 6.86m, being 1.42m closer than would otherwise be permitted.

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 “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. 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 15 Metre Exception 119 Zone (R1-D-119) by By-law Number 2010-40, as amended by By-law Number 2013-30. Single detached dwellings are permitted in this zone.

Exception 119 is present across much of the older areas in Newmarket principally in Wards 2 and 5. In these areas the permitted maximum height and coverage of buildings is slightly reduced, and buildings are required to be setback within the range of the abutting buildings. The intent of this is to ensure compatibility of built form and control the pace and scale of change in neighbourhoods.

Stickwood Court features a range of forms of single detached dwellings – some have projecting garages or staggered rooflines, others have flat front walls. The proposed addition would have less of a setback than either of the abutting dwellings but does not appear to be out of place for the neighbourhood. In addition, the applicant has revised their plans following Committee’s previous decision on the application to better align with Committee’s application of the four tests under the *Planning Act*. The proposed plans have been amended following Committee’s previous decision on application D13-A13-2019, and now more closely follow the staggered setback pattern of the street. 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 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 impact of the variance. The impact of the proposed variance appears to be minimal as despite the reduced setback, the addition appears to fit within the overall diversity of dwelling types on the street. The proposed plans have been amended following Committee's previous decision on application D13-A13-2019, and now more closely follow the staggered setback pattern of the street. 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

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

4.2 Commenting agencies and departments

The Chief Building Official has no objection this application.

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

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

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 21st, 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. This property will not be permitted to increase its floor area or building height in a manner that contravenes the Interim Control By-law.

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 blue ink, appearing to read "Ted Horton".

Ted Horton, Planner
MCIP, RPP