



Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
 Senior Planner, Community Planning

DATE: November 8, 2019

RE: Application for Minor Variance **D13-A21-19**
 134 Avenue Road
 Made by: DUNNET, William James and PICKLE, Jody

1. Recommendations:

That Minor Variance Application D13-A21-19 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 on the south side of Avenue Road in a residential neighbourhood northwest of the intersection of Sandford Street and Eagle Street. The relief as requested is as follows:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	4.1.2	Minimum rear yard setback of 7.5m	Rear yard setback of 1.83m
2		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 159% 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 garage is proposed to be closer to the rear 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. 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 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. 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 1.83m away from the rear lot line, while the zoning by-law typically requires the same minimum yard setback as for the main building, being 7.5m. 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 87.99 m² in ground floor area, the maximum size for a detached garage would be roughly 65 m². The proposed garage is just over 100 m².

By limiting the size 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. By limiting the ability to construct a garage at the very rear of a lot, the by-law effectively maintains backyards as areas where vehicular access is 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, being the final 7.5m from the rear lot line. In order to access the garage with vehicles, they would need to traverse the length of the yard from the front of the lot. The intent of ensuring compatible building forms and maintaining yards to not be dominant by vehicles 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 yards of the four abutting dwellings. In order to access the proposed garage vehicles would need to travel through the existing garage or across the yard surrounding the garage, which poses questions of the proportion of the rear yard that would effectively be a driveway and thus impact surrounding properties through vehicular movement. 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. While dissimilar from the established building and yard patterns of the surrounding area, the proposed design is a relatively small change on the overall lot and 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.

4.4 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. However, the Interim Control By-law does not regulate or prohibit the construction of accessory buildings such as detached garages.

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 no objection to the application, provided that the existing drainage patterns are not altered.

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,



Ted Horton
Senior Planner, Community Planning