

**PLANNING AND BUILDING SERVICES****Town of Newmarket**

395 Mulock Drive

P.O. Box 328, STN Main

Newmarket, ON L3Y 4X7

www.newmarket.ca

planning@newmarket.ca

T: 905.953.5321

F: 905.953.5140

Planning Report

TO: Committee of Adjustment

FROM: Ted Horton
Senior Planner, Community Planning

DATE: December 6, 2019

RE: Application for Minor Variance **D13-A24-19**
199 Avenue Road
Town of Newmarket
Made by: RODGER, Ian & RODGER, Janet

1. Recommendations:

That Minor Variance Application D13-A24-19 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) to be 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 greater than 2.8m in height must be set back a minimum of 2.4m from the side lot line	A residential accessory structure greater than 2.8m in height in height to be set back a minimum of 0.76m from the side lot line

The above-described property (herein referred to as the "subject lands") is located on the north side of Avenue Road in a residential neighbourhood northeast of the intersection of Scott Avenue and Eagle Street. There is an existing single detached residence on the lot and it is surrounded by similar single detached homes.

3. Planning considerations:

The applicant is requesting relief from the By-law in order to permit a side yard setback of 0.76 metres from the residential accessory structure to the side lot line. The existing residential accessory structure (shed) in the rear yard will be removed and replaced with the construction of a new residential accessory structure (shed) with a larger footprint.

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. 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:

- sustain and enhance the character and identity of existing residential communities; and,
- 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, and allows for accessory buildings normally associated with residential uses. This application is found to conform to the Official Plan. This test is met.

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

The subject lands are zoned Residential Detached Dwelling 15 Metre Zone (R1-D-119) by By-law Number 2010- 40, as amended. A single detached 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 should prevent adverse impact. 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 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 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 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. 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.

Engineering Services has reviewed the application and does not have any objections to the proposed variance provided that existing drainage patterns are not altered, and that 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 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,

A handwritten signature in blue ink, appearing to read "Ted Horton". The signature is stylized with a large initial "T" and a cursive "Horton".

Ted Horton, MCIP, RPP
Senior Planner, Community Planning