



## PLANNING AND BUILDING SERVICES

Town of Newmarket

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### Planning Report

To: Committee of Adjustment

From: Ted Horton  
Senior Planner

Date: December 5, 2019

Re: Application for Minor Variance D13-A25-2019  
355 Marble Place  
Town of Newmarket  
Made by: WONG, Phillip

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#### 1. Recommendations:

That Minor Variance Application D13-A25-2019 be approved, subject to the following conditions:

- a. That the variance pertains only to the request as submitted with the application;
- b. That two spaces in the garage be reserved for the purpose of required parking and for no other use; and
- c. 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 vary the parking requirements for a single detached residential dwelling with an accessory dwelling unit. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	5.3.1	To provide four parking spaces exterior to a garage for a dwelling unit and accessory dwelling unit	To provide two parking spaces exterior to a garage and two parking spaces inside of a garage for a dwelling unit and accessory dwelling unit

The zoning by-law requires four exterior parking spaces. Ontario Regulation 299/19, enacted by the Provincial Government in September of 2019, supersedes this requirement and states that municipalities can only require one parking space for an accessory dwelling unit. The effect of this is that three exterior parking spaces are required.

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood, southwest of the intersection of Yonge Street and Green Lane West and south of Aspenwood Drive. There is an existing single detached residence on the lot and it is abutted by similar single and semi-detached homes.

### **3. Planning considerations:**

The applicant is requesting relief from the By-law in order to permit a reduction in the required parking to facilitate the creation of an Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law, as modified by provincial regulation, requires that three outdoor parking spaces be provided when a dwelling unit has an ADU. In this case, the driveway is not large enough to accommodate three spaces due in part to the presence of a sidewalk across the front of the property.

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:

#### **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 of a range of sizes and built forms. The application is found to conform to the Official Plan. Furthermore, the Planning Act requires the Town's Official Plan to contain policies that authorize ADUs, and to create standards that support the creation of ADUs. This test is met.

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

The subject lands are zoned Residential Detached Dwelling 12 Metre (R1-E) Zone by By-law Number 2010-40, as amended. Single detached dwellings and accessory dwelling units are permitted uses in this zone. Save for the number of parking spaces, this property meets all zoning requirements for an ADU.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This Section states that a single detached dwelling must have two spaces. An ADU must also have one space, as modified by provincial regulation. There is a note which states that when there is a dwelling unit and an ADU, the required parking spaces shall be provided exterior of any garage or structure. Therefore the parking requirement is three (3) outdoor parking spaces. The length of the driveway is measured from the garage face to the sidewalk or curb of the road, whichever is closest. In this case, the applicant's driveway from the garage face to the sidewalk is not long enough to accommodate the three spaces given the maximum length permitted under the zoning by-law. The applicants have two outdoor parking spaces and an attached garage, but the zoning by-law typically precludes any space in the garage from being counted toward the parking requirement.

The general intent of the By-law is to provide sufficient parking for the two dwelling units. Accessory dwelling units arguably have a generally lower parking demand. In addition to being smaller than the principal dwelling unit, they are by nature rental units. These factors are commonly associated with lower parking demand. Providing two parking spaces outdoors and two spaces inside the garage, as would be required by the proposed condition, meets the general intent of the zoning by-law. This test is met.

### **Desirable for the appropriate development of the land**

The variance is considered desirable for the development and the use of the land. An ADU contributes to the mix of housing types in Newmarket and supports the Town's goals of providing for affordable housing and an increased supply of rental housing. Furthermore, ADUs allow an increase in the density of dwelling units and allow homeowners a source of income for their property. While the standard parking requirement of three spaces exterior and additional to any spaces provided in a garage may provide ample parking, not all ADUs will generate such a parking demand. A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development, and a minor parking variance should not overshadow the desirability of an ADU as a development as encouraged by Town, Region, and Provincial policy.

### **Minor nature of the variance**

The impact of the proposed variance appears to be minimal as the potentially increased number of vehicles generated by the accessory unit can be accommodated on site, either by the existing two spaces or by the parking spaces in the garage as would be required by the proposed condition.

In consideration of the above, the proposed variance meets the four tests under the Planning Act.

#### **4. Other comments:**

##### **Heritage**

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

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

No comment was available from Building Services at the time of writing this application.

No comment was available from Engineering Services at the time of writing this application.

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

##### **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 is not proposed to add floor area or increase the building height. As such, the Interim Control By-law it has no effect on this application.

##### **Effect of Public Input**

No public input was received as of the date of writing this report.

**5. Conclusions:**

The relief as requested:

is minor in nature;

conforms to the general intent and purpose of the Official Plan and Zoning By-law; and

is considered desirable for the appropriate development of the lot.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Ted Horton", is positioned above the typed name.

Ted Horton, MCIP, RPP  
Senior Planner, Community Planning