



PLANNING AND BUILDING SERVICES

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Planning Report

To: Committee of Adjustment

From: Alannah Slattery
Planner

Date: August 26, 2020

Re: Application for Minor Variance D13-A10-2020
746 Yarfield Crescent
Town of Newmarket
Made by: AHMED, Zaeem and Nadia

1. Recommendations:

That Minor Variance Application D13-A10-2020 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application;
- ii. That one space in the garage be reserved for the purpose of required parking and for no other use; and
- iii. 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 an existing semi-detached residential dwelling to permit a new 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 one parking space 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, south of Davis Drive and east of Bathurst Street. There is an existing semi-detached residence on the lot and it is abutted by similar semi-detached dwellings.

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 a legal Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law requires four exterior parking spaces for a semi-detached dwelling with an ADU. This has been modified by provincial regulation, which now requires three outdoor parking spaces for a semi-detached dwelling with an ADU. In this case, the driveway is not large enough to accommodate three exterior spaces which meet the size requirements of the Zoning By-law, as such a variance is required to recognize one parking space in the existing garage.

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 “Low Density Residential – Oak Ridges Moraine” in the Town’s Official Plan. The general intent of this designation is to permit low-density residential development and a mix of housing types, subject to the specific criteria of the Zoning By-law. Further, the Official Plan permits Accessory Dwelling Units in semi-detached dwellings (as well as single-detached dwellings) subject to the provisions of the zoning by-law.

The application is found to conform to the Official Plan and therefore this test is met.

Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Semi Detached Dwelling 13.6m (R2-H) by By-law Number 2010-40, as amended. Semi-detached dwellings and ADUs 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 both a semi-detached dwelling and an ADU must have two exterior spaces each, for a total of four exterior parking spaces. However, in 2019 this regulation was superseded by provincial regulation which stated that municipalities can only require one parking space for an ADU. The effect of this is that three exterior parking spaces are required. There is a provision 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 curb is not long enough to accommodate the three spaces. The applicants have two outdoor parking spaces and an attached garage, but the zoning by-law 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 are generally found to have a lower parking demand due to their smaller size. Providing two parking spaces outdoors and one space 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 more 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 is deemed to meet the four tests under the Planning Act and is recommended to be approved subject to conditions..

4. Other comments:

Heritage

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated properties.

Commenting agencies and departments

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

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

No comment was available from the Regional Municipality of York at the time of writing this report.

Effect of Public Input

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

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,



Alannah Slattery, BES, MCC
Planner