



**Planning Report**

TO:                                      Committee of Adjustment

FROM:                                  Alannah Slattery  
    Planner

DATE:                                    October 21, 2020

RE:                                      Application for Minor Variance **D13-A16-2020**  
    0 Queen Street (Lot 15, Plan M1032)  
    Town of Newmarket  
    Made by: BUCKLEY, Kyle

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**1. Recommendations:**

That Minor Variance Application D13-A16-2020 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That the applicant be advised that prior to the issuance of any building permit, compliance will be required with the provisions of the Town’s Tree Preservation, Protection, Replacement and Enhancement Policy; and,
3. 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 facilitate the construction of a single-detached dwelling on a vacant lot. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 6.2.2	A maximum lot coverage of 25% for a 2-storey dwelling	A maximum lot coverage of 32% for a 2-storey dwelling

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, north of Queen Street and west of Lorne Avenue. The lot is currently vacant and contains trees and shrubbery.

**3. Planning considerations:**

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 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 Detached Dwelling 18.0 metre (R1-C-119) Zone by By-law Number 2010-40, as amended. Single-detached dwellings are permitted uses in this zone.

The general intent of maximum lot coverage provisions is to limit the built form of structures in order to maintain compatibility and similarity of structures, and to ensure adequate space for drainage and amenities. By limiting lot coverage (and height), building size is restrained and ensures that houses are similar in size. While a 2-storey structure is permitted as-of-right on the subject property, the by-law limits such a structure to a reduced lot coverage of 25%, compared to the 35% that is permitted for single-storey structures.

It is important for Committee to weigh any requested relief against the intent of compatibility, ensuring a diversity of housing types, and associated limits on lot coverage. In this case, the proposed dwelling will meet all yard setbacks required by Zoning By-law 2010-40, and the proposed dwelling will be entirely located within the existing building envelope. The setbacks will provide a reasonable level of separation that is commensurate with other homes.

The proposed dwelling will be setback approximately 12 metres from the front property line, maintaining existing sight lines. The dwelling to the west of the subject lands has an approximate front yard setback of 8.5 metres, and the dwelling to the east has an approximate front yard setback of 14 metres, and also includes a detached garage with an approximate front yard setback of 5 metres.

The majority of dwellings within this neighbourhood were constructed in the 1970’s. As such, there are multiple instances within the neighbourhood of legal non-conforming dwellings exceeding the maximum lot coverage requirements of Zoning By-law 2010-40, as shown in the table below:



Address	Dwelling Type	Maximum Permitted Lot Coverage	Approximate Lot Coverage
293 Queen Street	2-storey	25%	37%
305 Queen Street	Single-storey	35%	47%
325 Lorne Avenue	Single-storey	35%	39%
98 Arden Avenue	2-storey	25%	40%

The proposed 2-storey dwelling will result in a lot coverage of 32%, which is not out of character for the surrounding neighbourhood.

As the proposed dwelling will be built entirely within the existing building envelope and will not encroach into any yard setbacks, it is staff's opinion that the general intent of the Zoning By-law 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 invest in their property and arrange the property to suit their needs without significant impact to neighbours or the community, and as the lands are zoned to permit residential development, 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 overall impact of the variance. The overall impact of the proposed variance appears to be minimal as despite the increased coverage, the proposed dwelling would result in a dwelling which is compatible with the existing housing stock within the neighbourhood. In addition, significant impacts to surrounding properties are not anticipated. 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 Interim Control By-law**

Interim Control By-law 2019-04 currently restricts residential development on the subject lands. As such, the applicant will not be able to receive a building permit for the proposed development until Interim Control By-law 2019-04 has been lifted by Council. Staff advise that the proposed development will be required to meet all other zone standards.

### **4.2 Heritage**

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

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

No comments were received from Building Services at the time of writing this report.

Engineering Services has advised of no objection to this application.

The Regional Municipality of York has advised of no comment on this application.

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

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

#### **4.4 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. Standard conditions related to adherence with the Policy are recommended with 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

