



## PLANNING AND BUILDING SERVICES

Town of Newmarket

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### Planning Report

To: Committee of Adjustment

From: Alannah Slattery  
Planner

Date: September 23, 2020

Re: Application for Minor Variance D13-A14-2020  
257 Plymouth Trail  
Town of Newmarket  
Made by: FATHIEH, Amirahmad

#### 1. Recommendations:

That Minor Variance Application D13-A14-2020 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and,
- ii. That one space in the garage be reserved for the purpose of required parking and for no other use.

#### 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 single-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, north of London Road. There is an existing single-detached residence on the lot and it is abutted by similar single-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 a legal Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law requires four exterior parking spaces for a single detached dwelling with an ADU. However, new provincial legislation requires a total of three outdoor parking spaces for a single 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 "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. Further, the Official Plan permits Accessory Dwelling Units in 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 Detached Dwelling 15.0 Metre (R1-D) Zone by By-law Number 2010-40, as amended. Single-detached dwellings and accessory dwelling units are permitted uses in this zone.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This Section states that both a single-detached dwelling and an ADU must have two exterior spaces, for a total of four exterior parking spaces. This zoning regulation is superseded by provincial regulation which 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. There is a note within the Town's Zoning By-law 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. In this case, the applicant's driveway from the garage face to the property line 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, meet 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 exterior spaces, in addition 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**

The Chief Building Official has no objection to this application.

Comments from Engineering Services were not available as of the date of this report.

Comments from the Regional Municipality of York were not available as of the date of 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,

A handwritten signature in black ink, appearing to read 'Alannah Slattery', with a stylized, sweeping flourish at the end.

Alannah Slattery, BES, MCC  
Planner