



## 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

### REPORT

TO: Committee of Adjustment

FROM: Meghan White, MCIP, RPP  
Planner

DATE: August 13, 2015

RE: Application for Minor Variance **D13-A13/2015**  
Part 11, Plan 65R-34958, Part of Block 1, Plan 65M-4356  
226 Appleton Court  
Made by: Robin Moore and Michael Tamburro

---

#### 1. **RECOMMENDATIONS:**

That Minor Variance Application D13-A13/2015 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That the final grading certificate from the Developer Consultant be forwarded to the Town's Engineering Services Department for review and satisfaction;
3. That approved drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable; and
4. That the development be substantially in accordance with the Site Plan submitted with the application.

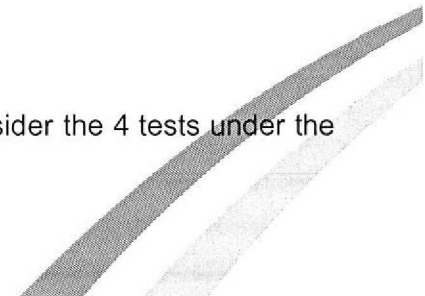
#### 2. **APPLICATION:**

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 permit the construction of a deck in the rear yard. The above-described property (herein referred to as the "subject lands") is located off of Eagle Street, on the west side of Appleton Court. The subject lands are surrounded by residential properties. Although the property to the west, abutting the rear lot line appears to be used for commercial purposes.

The applicant is specifically requesting relief to decrease the setback for the deck from 6.2m to 5.7m. This would allow for a deck that is 0.6m larger than what is permitted by the current Zoning By-law standards.

#### 3. **PLANNING CONSIDERATIONS:**

In making a recommendation to the Committee, staff are required to consider the 4 tests under the *Planning Act*; staff offer the following comments:



The subject lands are designated "Emerging Residential" in the Town's Official Plan. This designation permits townhouse dwellings. The application is found to conform to the Official Plan.

The subject lands are zoned Residential Townhouse Dwelling 3 Exception 83a (R4-R-83a) on Map Number 10 of Schedule 'A' to By-law Number 2010-40, as amended. A townhouse dwelling is a permitted use in this zone.

The general intent of rear yard setbacks is to ensure appropriate outdoor amenity area for the dwelling and to ensure privacy for neighbours. If the proposed deck is built there will be less outdoor amenity area; however there will be the amenity space provided for by the deck. The rear lot line of this property abuts a property that appears to be used for commercial purposes, not another dwelling. Therefore it appears the impact on a neighbour's privacy will be minimal.

Based on the analysis above, it is staff's opinion that the general intent of the By-law has been maintained.

It is desirable to develop the lot with a deck as the Official Plan designation and the Zoning By-law both permit this use. It is considered desirable to permit a home owner to construct a deck.

The impact of the proposed variance appears to be minimal as there will still be sufficient amenity area for the dwelling and it does not appear to negatively impact the neighbour's expected privacy.

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

#### **4. OTHER COMMENTS:**

Lake Simcoe Region Conservation Authority has not provided comments as of the time of writing this report.

The Chief Building Official has no concerns with the proposed development.

Engineering Services has no objection to the proposed variance provided that two conditions are fulfilled, they have been included in the recommendations of this report.

#### **5. CONCLUSIONS:**

The recommendation of approval for the variance is based on the rationale described above and specifically that the relief as requested:

- (1) is minor in nature as the impact on adjacent properties appears to be minimal;
- (2) conforms to the general intent and purpose of the Official Plan and Zoning By-law as both documents permit a residential dwelling on the property; and
- (3) does not adversely affect the character of the neighbourhood and is considered a desirable development of the lot.

Respectfully submitted,

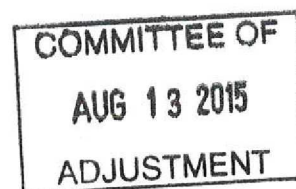


Meghan White, MCIP, RPP  
Planner

copy: R. Prudhomme, M.Sc., P. Eng. – Director, Engineering Services



**DEVELOPMENT AND INFRASTRUCTURE SERVICES - ENGINEERING SERVICES**  
**Town of Newmarket**      www.newmarket.ca  
395 Mulock Drive      engineering@newmarket.ca  
P.O. Box 328, STN Main      T: 905 895.5193  
Newmarket, ON L3Y 4X7      F: 905 953 5138



## MEMORANDUM

TO: R. Nethery, B.E.S., MCIP, RPP, Director, Planning

FROM: V. Klyuev, B.A., C.E.T., Senior Engineering Development Coordinator – Residential

DATE: August 12, 2015

RE: Notice of Application for Minor Variance  
File No. D13-A13-15  
226 Appleton Court  
Made by: MOORE, Robin and TAMBURRO, Michael

We herein acknowledge receipt of the Notice of Application for Minor Variance from the Town of Newmarket Zoning By-law 2010-40 as amended, as follows:

To request relief from Zoning By-law Number 2010-40, as amended, Exception 83 Development Standards to permit a rear yard setback of 5.7 meters for a proposed deck, notwithstanding the bylaw requirements of 6.2

We have reviewed the application and supporting documentation and, we recommend the minor variance subject to the following:

1. That the final grading certificate from the Developer Consultant be forwarded to the Town's Engineering Services Department for review and satisfaction.
2. That approved drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable.

Should you have any questions please contact the undersigned.

Sincerely,

### ENGINEERING SERVICES

V. Klyuev, B.A., C.E.T.  
Senior Engineering Development Coordinator – Residential

File No.: VK024

COPY: R. Bingham, C.E.T., Manager, Engineering and Technical Services  
File digital and hardcopy

## Pelham, Kym

---

**From:** Kevin Jarus <K.Jarus@lsrca.on.ca>  
**Sent:** August-13-15 11:27 AM  
**To:** Pelham, Kym  
**Subject:** RE: Minor Variance Applications



Good morning Kym,

In the interest of expediency, I will provide comments on these applications via this email.

Please note that in relation to applications D13-A13-15 and D13-A14-15, the LSRCA has no comments or concerns with these minor variance applications. We further note that both of the developments proposed do not fall within an area subject to Ontario Regulation 179/06. As such, a permit would not be required from our office. At the time of Site Plan approval, we would require a Stormwater Management Plan be submitted as part of a complete application to facilitate the expansion proposed in relation to application A13-A14-15.

Should you have any questions please let me know.

Regards,



**Lake Simcoe Region**  
conservation authority

**Kevin Jarus, M.P.I.**  
Development Planner  
**LSRCA** 120 Bayview Parkway, Newmarket, Ontario L3Y 3W3  
905.895.1281 x 151 | 1.800.465.0437  
[K.JARUS@LSRCA.on.ca](mailto:K.JARUS@LSRCA.on.ca) | <http://www.LSRCA.on.ca>

The information in this message (including attachments) is directed in confidence solely to the person(s) named above and may not be otherwise distributed, copied or disclosed. The message may contain information that is privileged, confidential and exempt from disclosure under the Municipal Freedom of Information and Protection of Privacy Act and by the Personal Information Protection Electronic Documents Act. If you have received this message in error, please notify the sender immediately and delete the message without making a copy. Thank you.

---

**From:** Pelham, Kym [<mailto:kpelham@newmarket.ca>]  
**Sent:** Thursday, August 13, 2015 8:16 AM  
**To:** Kevin Jarus  
**Subject:** Minor Variance Applications

Hi Kevin,

Just wanted to followup from my previous e-mails, are you still able to provide me with comments regarding D13-A13-15 and D13-A14-15 this morning before noon, as I have to provide the comments to my Committee members this afternoon.

Thanks  
Kym



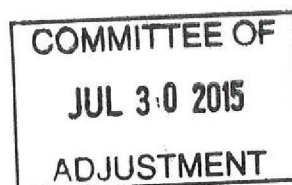
**Kym Pelham, ACST**  
Committee Secretary  
Planning and Building Services  
905-953-5300, press 2, ext. 2456  
905-953-5140 (fax)  
[kpelham@newmarket.ca](mailto:kpelham@newmarket.ca)  
[www.newmarket.ca](http://www.newmarket.ca)  
Follow us on [Twitter](#) @townofnewmarket

"The information contained in this message is directed in confidence solely to the person(s) named above and may not be otherwise distributed, copied or disclosed. The message may contain information that is privileged, confidential and exempt from disclosure under the Municipal Freedom of Information and Protection of Privacy Act. If you have received this message in error, please notify the sender immediately advising of the error and delete the message without making a copy. Thank you."

**Pelham, Kym**

---

**From:** Potter, David  
**Sent:** July-30-15 11:12 AM  
**To:** Pelham, Kym  
**Subject:** RE: C of A - 226 Appleton - your file D13-A13-15



Hi Kym:

I don't have any comments on the appropriateness of the application. The Building Permit was issued and subsequently revoked based on mistaken information.

Regards,

Dave Potter  
Chief Building Official

**Pelham, Kym**

---

**From:** Hurst, Gabrielle <Gabrielle.Hurst@york.ca>  
**Sent:** August-05-15 2:22 PM  
**To:** Pelham, Kym  
**Subject:** FW: D13-A13-15 - 226 Appleton Court  
**Attachments:** 2015 - D13-A13 (Moore & Tamburro) Application.pdf; 2015 - D13-A13 (Moore & Tamburro) Notice.pdf

Good Afternoon Kym,

The Region of York has completed its review of the above Minor Variance application and has no objections. Please contact me if you require additional information.

Regards,

*Gabrielle*

**Gabrielle Hurst, MCIP. RPP. C.Tech** | Programs and Process Improvement Section of the Planning and Economic Development Branch | Corporate Services

-----  
The Regional Municipality of York | 17250 Yonge Street | Newmarket, ON L3Y 6Z1  
O 1-877-464-9675 ext. 71538 | [gabrielle.hurst@york.ca](mailto:gabrielle.hurst@york.ca) | [www.york.ca](http://www.york.ca)

*Our Values: Integrity, Commitment, Accountability, Respect, Excellence*



Please consider the environment before printing this email.

---

**From:** Bilkhu, Vick  
**Sent:** Saturday, August 01, 2015 11:56 AM  
**To:** Hurst, Gabrielle  
**Subject:** FW: D13-A13-15 - 226 Appleton Court

---

**From:** Pelham, Kym [<mailto:kpelham@newmarket.ca>]  
**Sent:** Wednesday, July 29, 2015 8:05 AM  
**To:** Bilkhu, Vick  
**Subject:** D13-A13-15 - 226 Appleton Court

Hi Vick,

Please find attached the Notice of Application with regards to file D13-A13-15, together with a copy of the Application for your review and comments.

Could I please get your comments for Thursday, August 13, 2015.

Thanks  
Kym



**Kym Pelham, ACST**

Committee Secretary  
Planning and Building Services  
905-953-5300, press 2, ext. 2456  
905-953-5140 (fax)

[kpelham@newmarket.ca](mailto:kpelham@newmarket.ca)

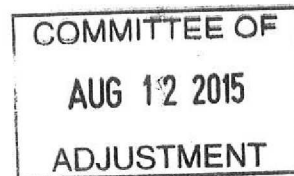
[www.newmarket.ca](http://www.newmarket.ca)

Follow us on [Twitter](#) @townofnewmarket

Newmarket: A Community Well Beyond the Ordinary

"The information contained in this message is directed in confidence solely to the person(s) named above and may not be otherwise distributed, copied or disclosed. The message may contain information that is privileged, confidential and exempt from disclosure under the Municipal Freedom of Information and Protection of Privacy Act. If you have received this message in error, please notify the sender immediately advising of the error and delete the message without making a copy. Thank you."

Secretary-Treasurer, Committee of Adjustment  
Town of Newmarket  
395 Mulock Drive  
Stn Main, Box 328  
Newmarket, ON L3Y 4X7



Regarding: Notice of Application for Minor Variance File: D13-A13-15  
August 12, 2015

I am unable to attend the Committee off Adjust on August 19<sup>th</sup>, 2015 regarding the above file and wish to register my opposition to the application.

One reason we bought a townhouse in Eagle Heights was the attractive exterior design and unique architectural structure. The town homes are upscale, priced accordingly and represent a new and thoughtful approach to housing in Newmarket, on which the town is complimented.

It seems that preserving the intended exterior with a standard design would be important to maintaining the integrity of the project. Rather than allow a variety of deck sizes, uniformity is what was prescribed by the town and expected at the time of purchase and should be upheld.

In the planning of Eagle Heights, it is my understanding that the neighbours were consulted and assured that there would be uniformity in the exterior design and that the outside deck space would be limited, given the proximity to the property lines.

As well, I am in a row of townhouses where several decks are not yet finished and would not appreciate any neighbour who over sizes and thus overwhelms my existing deck built according to code. It would diminish my enjoyment and disrupt my view of the rear yard.

In addition, should owners be allowed to build decks that are not in keeping with the bylaw a variety of deck sizes would be less attractive and result in decreased property value. Townhouse developments that we have seen over many years have always had consistent deck size.

The builder is presently making every effort to ensure that the exterior landscape design complements the townhouse community, as prescribed by the town, and it would be unfortunate to allow exterior built structures outside the expectations of uniformity as prescribed by Zoning Bylaw 2010-40.

Sincerely yours,

John and Heather Vincent  
220 Appleton Ct  
Newmarket ON  
L3Y 0B8

A handwritten signature in black ink, appearing to read "H. Vincent", with a long horizontal line extending to the right.