

**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

Planning Report

To: Committee of Adjustment

From: Janany Nagulan,
Planner

Date: January 20, 2020

Re: Application for Minor Variance D13-A26-20
258 Plymouth Trail
Town of Newmarket
Made by: MONTASSERI, Korosh

1. Recommendations:

That Minor Variance Application D13-A26-20 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and
- ii. That the development be substantially in accordance with the information and drawing submitted with the application
- iii. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

2. Application:

An application for a minor variance has been submitted by the above –noted owner to request relief from Zoning By-law 2010-40 as amended, to permit a private entrance to an accessory dwelling unit to be from the garage, whereas the By-law defines a dwelling unit as having a private entrance from outside the building or from a common hallway or inside stairway.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	3 Definition of Dwelling Unit	A dwelling unit is defined as: a room or group of rooms to be used by one family that functions as a single independent housekeeping unit in which cooking facilities, living quarters and sanitary facilities are provided for the exclusive use of those residing within the unit only, and with a private entrance from outside the building or from a common hallway or stairway inside.	To allow the definition of dwelling unit to include: or a private entrance from the garage.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, north of London Road and east of Yonge Street. 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 private entrance to an accessory dwelling unit from the garage, to facilitate the creation of a legal Accessory Dwelling Unit (ADU) in the existing building. The Zoning By-law defines a dwelling unit to have a private entrance from outside the building or from a common hallway or inside stairway. In this case, the owner has proposed a private entrance to the ADU from the garage. The existing garage has side door entry on the west side, this would allow for entry to the proposed ADU from the 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 property is 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 property is zoned Residential Detached Dwelling 15.0 Metre (R1-D) by By-law 2010-40, as amended. Single-detached dwellings and accessory dwelling units are permitted uses in this zone.

Section 3 of the Zoning By-law defines the terms and uses of the Zoning By-law. This Section sets out a definition of dwelling unit as stated in the chart above. Definitions are provided in the Zoning By-law to ensure consistent interpretation. In order to use the Zoning By-law and apply the standards and rules contained therein, a dwelling unit must fit a defined term in order to distinguish if it is permitted and which standards are to be applied. In this case, the proposed ADU is consistent with all aspects of the By-law's definition of dwelling unit, aside from its requirement to have a private entrance from outside the building or from a common hallway or inside stairway.

The request for variance is to permit a private entrance to the dwelling unit to be from the garage because the current layout of the home does not allow for a private entrance from outside the building or a common hallway or inside stairway.

The general intent of the definition of dwelling unit in the Zoning By-law is to ensure that dwelling units are comprised of the necessary facilities and are accessible for those residing in them. The proposed entrance from the garage reflects the building's layout and provides sufficient access to the ADU. Therefore, the variance requested maintains 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. Though typically, entrances to a dwelling unit are not from the garage, the building's layout does not allow for a direct outside entrance. A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development.

Minor nature of the variance

The impact of the proposed variance appears to be minimal as access to the proposed ADU will have a private entrance from the garage and will not affect the existing use of use of the garage.

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 stated such an access must be suitably gas-proofed to ensure safe access and egress for the occupants at all times, and a building permit will be required for any material alterations to support the ADU.

Engineering Services has no objection to this application.

Effect of Public Input

Staff have received comments with regards to the zoning of the subject property. Staff would like to advise that ADU's are a permitted use within a single detached dwelling units and within the subject property's zone. Also, comments were received with regards to safety regulations which have been addressed under commenting agencies and departments.

5. Conclusions:

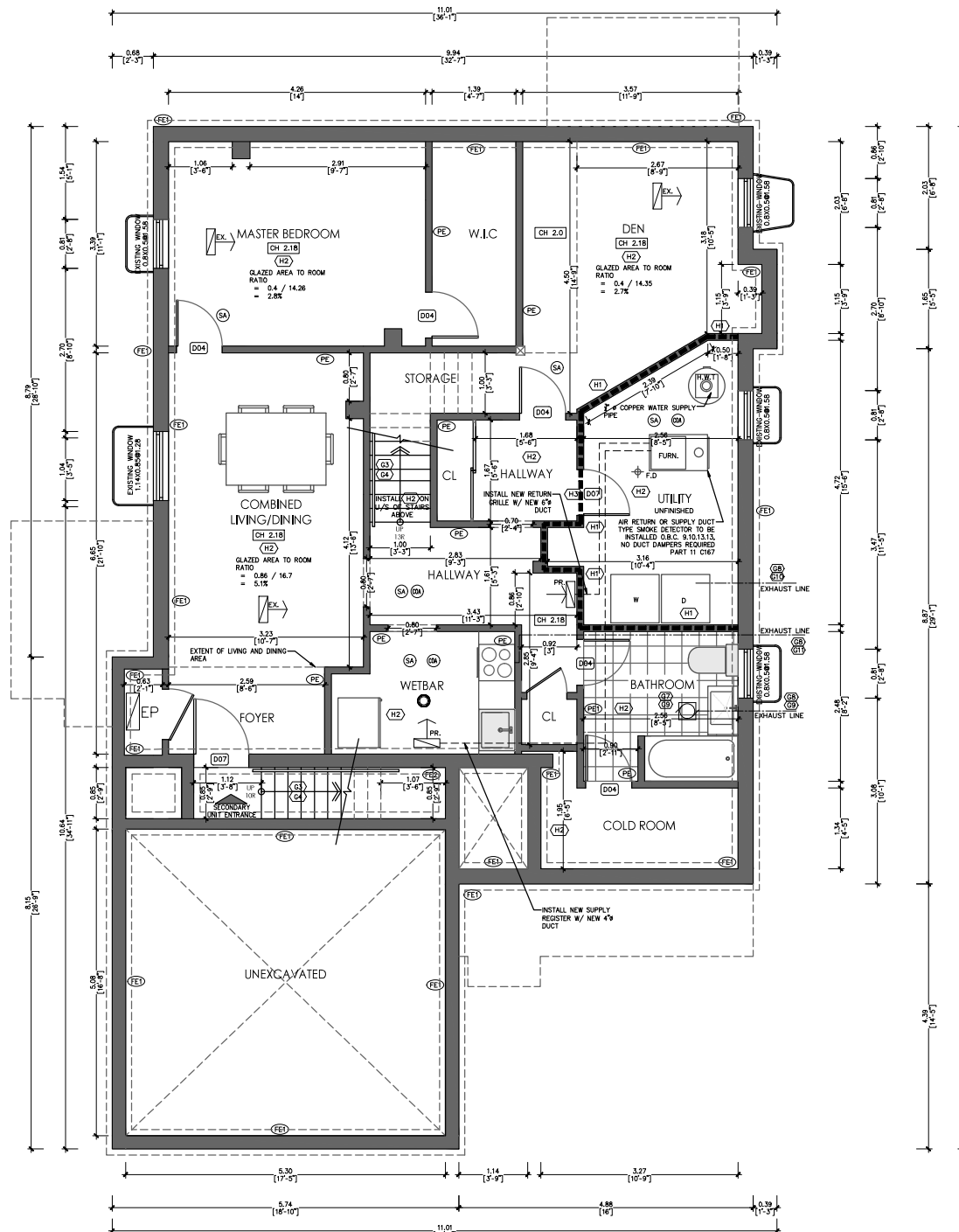
The relief as requested:

- 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 'Janany', with a stylized flourish at the end.

Janany Nagulan
Planner



PROPOSED BASEMENT FLOOR PLAN

ANY ROOMS NOT FITTED WITH A SMOKE ALARM SHALL BE RETROFITTED AS PER "SMOKE ALARM" NOTES ON A3.1

DESIGNER'S STAMP



GENERAL NOTES

ALL DRAWINGS ARE THE PROPERTY OF K&K ARCHITECTS AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN CONSENT FROM K&K ARCHITECTS INC.

CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE ENGINEER OR K&K ARCHITECTS

ALL CONSTRUCTION TO BE ACCORDING TO BEST COMMON PRACTICE AND CONFORM TO THE ONTARIO BUILDING CODE

NO. 1 ISSUED FOR DATE
1 COFA SUBMISSION 2020/11/06



ARCHITECTS + ENGINEERS

K&K ARCHITECTS INC.

1: 800-203-7010

INFO@K&KARCHITECTS.CA

PROJECT ADDRESS

258 PLYMOUTH TRAIL, NEWMARKET

DRAWING

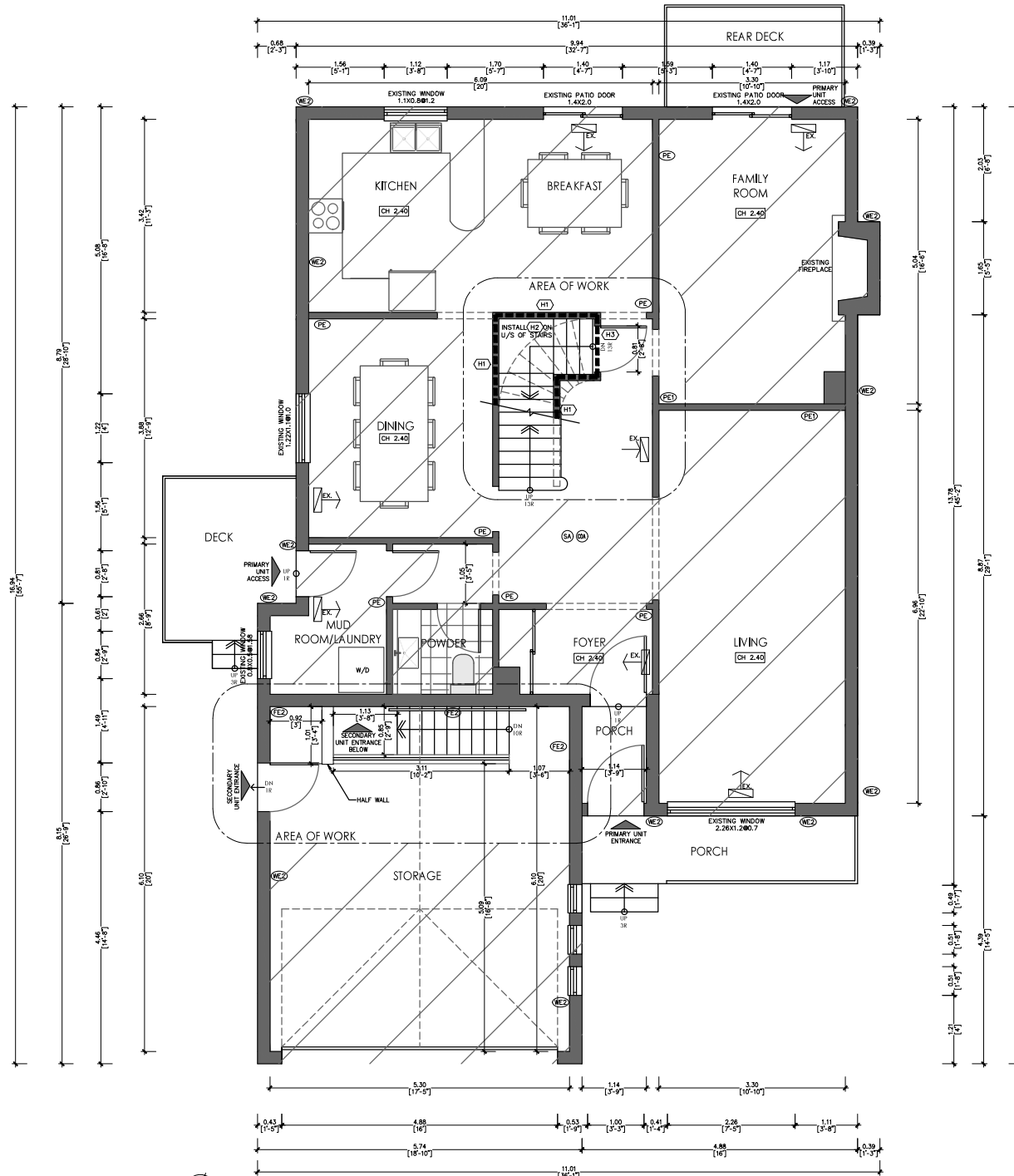
PROPOSED BASEMENT

DRAWN: MURIL AL PROJECT NO: M20-01

PLOTTED DATE: NOV 06, 2020 DRAWING NO:

SCALE: 1/8"=1'-0" A2.1

CHECKED: KYLE KHADRA



DESIGNER'S STAMP



GENERAL NOTES

ALL DRAWINGS ARE THE PROPERTY OF KBK ARCHITECTS AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN CONSENT FROM KBK ARCHITECTS INC.

CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE ENGINEER OR KBK ARCHITECTS

ALL CONSTRUCTION TO BE ACCORDING TO BEST COMMON PRACTICE AND CONFORM TO THE ONTARIO BUILDING CODE

NO. 1 ISSUED FOR COFA SUBMISSION DATE 2020/11/06



ARCHITECTS + ENGINEERS

KBK ARCHITECTS INC.

T: 800-233-7010

INFO@KBKARCHITECTS.CA

PROJECT ADDRESS

258 PLYMOUTH TRAIL, NEWMARKET

DRAWING

PROPOSED ELEVATION

DRAWN: MVR, AL PROJECT NO: M20-01

PLOTTED DATE: NOV 06, 2020 DRAWING NO:

SCALE: 1/8"=1'-0" A2.2

CHECKED: KYL, KHADRA

From: [Potter, David](#)
To: [Cho, Patricia](#)
Cc: [Larmer, Jennifer](#); [Greenham, Curtis](#); [Olsen, Michelle](#); [Antsyferov, Katrina](#); [Corrigan, Wendy](#); [Nagulan, Janany](#); [Bickers, Craig](#); [Ghiami, Lida](#); [Marra, Franco](#)
Subject: RE: Committee of Adjustment - Notice of Application Circulation (January 20, 2021) - Comments
Date: January 12, 2021 11:59:15 AM

Hi Patricia:

Please see comments below (in red).

Cheers,
Dave

From: Cho, Patricia <pcho@newmarket.ca>
Sent: January 6, 2021 3:11 PM
To: Taylor, John <jtaylor@newmarket.ca>; Woodhouse, Victor <vwoodhouse@newmarket.ca>; Kwapis, Bob <bkwapis@newmarket.ca>; Bisanz, Christina <cbisanz@newmarket.ca>; Simon, Grace <gsimon@newmarket.ca>; Broome, Kelly <kbroome@newmarket.ca>; Twinney, Jane <jtwinney@newmarket.ca>; Morrison, Trevor <tmorrison@newmarket.ca>; Sharma, Jag <jsharma@newmarket.ca>; Noehammer, Peter <pnoehammer@newmarket.ca>; Unger, Jason <junger@newmarket.ca>; Potter, David <dpotter@newmarket.ca>; Prudhomme, Rachel <rprudhomme@newmarket.ca>; Majdi, Sepideh <smajdi@newmarket.ca>; Schell, Ryan <rschell@cyfs.ca>; Villanueva, Lawrence <lvillanueva@newmarket.ca>; Lyons, Lisa <llyons@newmarket.ca>; Saini, Kiran <ksaini@newmarket.ca>; rowcentre@bell.ca; Development Services <developmentservices@york.ca>
Cc: Cammaert, Adrian <acammaert@newmarket.ca>; Morton, Devon <dmorton@newmarket.ca>
Subject: Committee of Adjustment - Notice of Application Circulation (January 20, 2021)

Good Afternoon,

The next virtual Committee of Adjustment hearing will be held on Wednesday, January 20th, 2021. The Committee of Adjustment will consider the following applications:

- D13-A24-20 – 258 Plymouth Trail ([WARD 4](#))
The applicant is proposing to add an accessory dwelling unit. Application is to seek relief to amend the definition of dwelling unit to permit a private entrance to an accessory dwelling unit to be from the garage. If access through the garage is proposed to be the principal entrance to the ADU, it would have to be suitably gas-proofed to ensure safe access and egress for the occupants at all times. Building Permit required for any material alterations to support an ADU.
- D13-A25-20 – 1240 Twinney Drive ([WARD 2](#))
The applicant is proposing to add a Motor Vehicle Service Station and Large Format Retail Store. Application is to seek relief to permit a Large Format Retail Store to have a gross floor area of 15,329 square metres and to permit a Motor Vehicle Service Station as an accessory

use to the Large Format Retail Store. **No Comments.**

- D13-A26-20 – 334 Savage Road (WARD 6)
*The applicant is proposing to add an accessory dwelling unit. Application is to seek relief to permit one parking space for an accessory dwelling unit to be within a garage. **Building Permit required for any material alterations to support an ADU.***

The Committee invites your advice and comments on these matters. The Committee would like to receive comments, if possible, a week before the Hearing of the application (**Wednesday, January 13, 2021**). For your convenience, you may download the submitted documents in digital format and Notice of Hearing on the Town's file share site with the link below:

<https://tonfileshare.newmarket.ca/share.cgi?ssid=0MBFw6J>

Please let me know if you have any questions.

Thank you,
Patricia

Please note that I am working remotely due to the COVID-19 pandemic and can be reached by email.



Patricia Cho, BA., MSc. (Planning)

Planner

Planning and Building Services

[Newmarket.ca/zoning for zoning Information](https://www.newmarket.ca/zoning-for-zoning-information)

[@townofnewmarket](https://twitter.com/townofnewmarket)

Newmarket: A Community *Well* Beyond the Ordinary



DEVELOPMENT AND INFRASTRUCTURE SERVICES - ENGINEERING SERVICES

Town of Newmarket

395 Mulock Drive

P.O. Box 328, STN Main

Newmarket, ON L3Y 4X7

www.newmarket.ca

engineering@newmarket.ca

T: 905 895.5193

F: 905 953.5138

M E M O R A N D U M

TO: Jason Unger, B.E.S., M.PL., MCIP, RPP, Director, Planning and Building Services

FROM: Sepideh Majdi, P.Eng., Manager, Development Engineering

DATE: January 11, 2021

RE: Application for Minor Variance
Made by: MONTASSERI, Korosh
File No.: D13-A24-20
Lot 134 PLAN M68
258 Plymouth Trail
Town of Newmarket Ward 4
Engineering Services File No.: R. Plymouth Trail

We herein acknowledge receipt of the Application for Minor Variance wherein the applicant is proposing to add an accessory dwelling unit. The following relief is requested from Zoning By-law 2010-40, as amended:

1. Relief from Section 3 Definitions to permit a private entrance to an accessory dwelling unit to be from the garage, whereas the By-law defines a dwelling unit as having a private entrance from outside the building or from a common hallway or stairway inside.

We have reviewed the application and supporting documentation and have no objection to the application.

Should you have any questions please contact the undersigned.

Sincerely,

ENGINEERING SERVICES

Sepideh Majdi, P.Eng.
Manager, Development Engineering

From: [Deb Kaszper](#)
To: [Cho, Patricia](#); [Taylor, John](#)
Subject: Hearing re File Number D13-A24-20
Date: January 13, 2021 9:51:21 AM

Attention: Secretary- Treasurer

General comments first,

We have lived in our home for forty years, and originally bought because it was a single family home on a quiet residential street. At that time this area was zoned for single family residences. When we checked today the area still has a zoning designation of R1-D, single family residence.

Over the last five years original homeowners have sold and in several cases investors have purchased the properties and split them into apartments. Of the seven that exist on our street, only two are registered as “legal” apartments.

Notwithstanding, We do not see how an are can be zoned as single family residences and then have apartments allowed in these same residences. If, through the Committee of Adjustments, it is the Town’s intent to circumvent the existing zoning to allow these apartments, we would suggest that another alternative needs to be examined.

Zoning bylaws were put in place for a reason. If there is to be a change in the type of housing that is allowed then the bylaws need to be revisited with full public consultation and input.

Specifically to this hearing:

We oppose this application as it allows for the creation of a accessory dwelling unit which is not consistent with the zoning for this area. In addition, there are fire and safety regulations behind entrances and exits in houses, probably the reason behind having an outside entrance, and this should be adhered to.

Thank you

Garry and Debbie Kaszper
260 Plymouth Trail
Newmarket
905-895-7054

Sent from my iPad