



## 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: Patricia Cho  
Planner

Date: February 17, 2021

Re: Application for Minor Variance D13-A03-2021  
438 Bristol Road  
Town of Newmarket  
Made by: Mohammadnazari, Sharareh & Hassany, Abbas

#### 1. Recommendations:

That Minor Variance Application D13-A03-2021 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 minimum number of off-street parking space required for an existing single-detached residential dwelling to permit a new Accessory Dwelling Unit (ADU). The description of the proposed variance 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 for a single detached dwelling with an ADU. 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, west of Main Street North and south of the Town boundary. 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 minimum number of off-street parking spaces to facilitate the creation of a legal ADU in the existing building. The Zoning By-law requires four exterior parking spaces for a single detached dwelling with an ADU. However, provincial legislation requires a total of three exterior 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.

The Official Plan permits ADU's 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 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 ADU. Therefore only three exterior parking spaces are required. Within the Zoning By-law, a dwelling unit with an ADU is required to provide parking spaces exterior of any garage or structure. Therefore the parking requirement is three (3) exterior parking spaces.

The general intent of the Zoning By-law is to provide a sufficient number of parking spaces for those residing in the two dwelling units on the property. Currently, the distance of the driveway measured from the garage face to the sidewalk is not long enough to accommodate two parking spaces, so only two vehicles can be accommodated on the driveway, parked side by side. A two car attached garage also exists, however the Zoning By-law prevents parking spaces in the garage from being counted towards the parking requirement. Therefore, the proposed variance would allow for a sufficient number of parking spaces for the two dwelling units on the property.

The variance requested maintains the general intent of the Zoning By-law and therefore this test is met.

### **Desirable for the appropriate development 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 overall desirability of an ADU as encouraged by Town, Region, and Provincial policy.

The variance is considered desirable for the development and the use of the land and therefore this test is met.

### **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 ADU can be accommodated on site, either by the existing two exterior spaces or by the parking spaces in 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**

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.

The Region of York has no objection to this application.

### **Effect of Public Input**

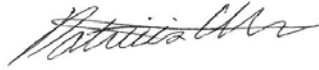
No public input was received as of the date of writing this report.

## **5. Conclusions:**

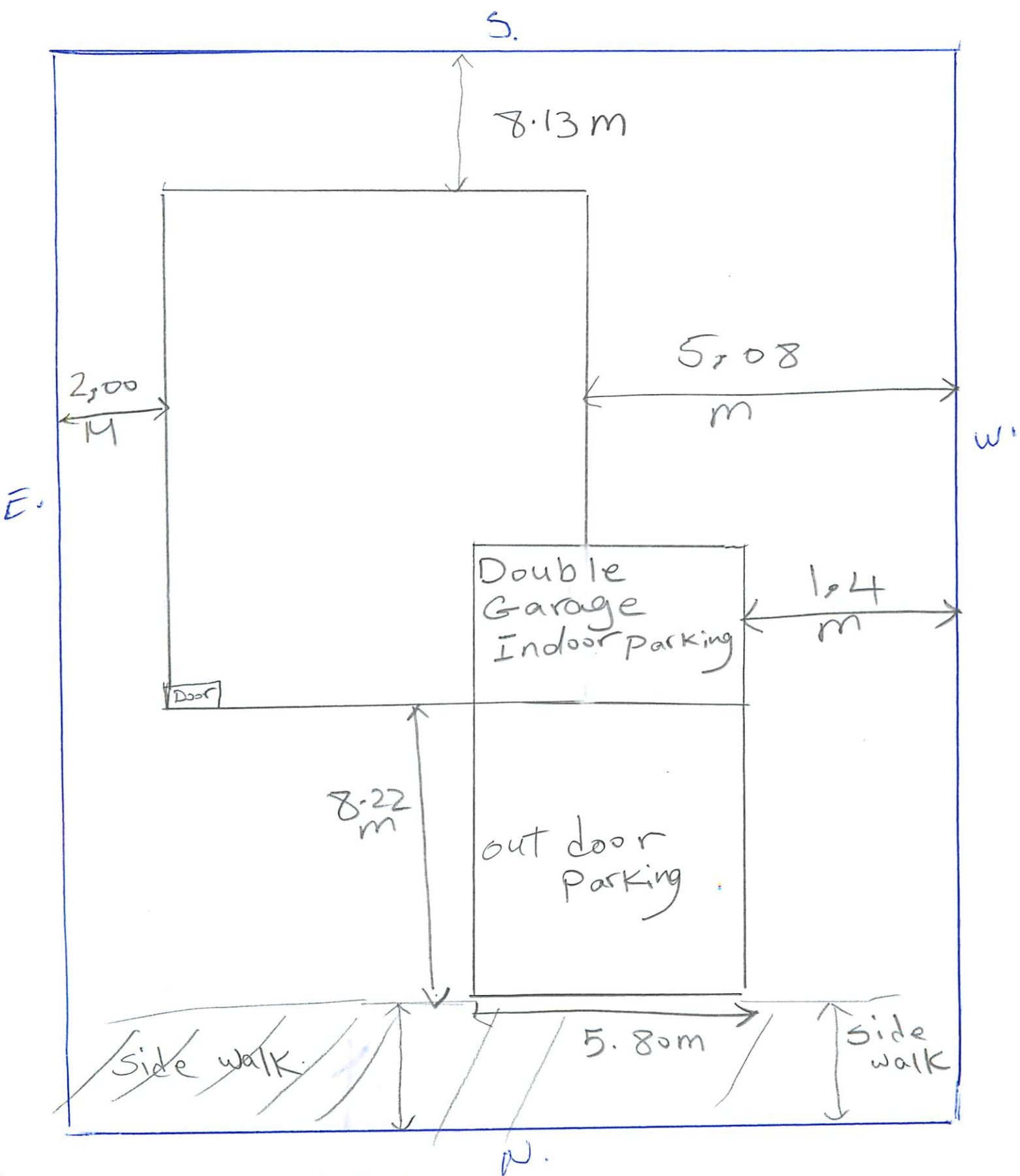
The relief as requested:

- 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 'Patricia Cho', with a stylized flourish at the end.

Patricia Cho, HBA, MSc. (Pln)  
Planner



438 Bristol Rd.