



Planning Report

To: Committee of Adjustment

From: Janany Nagulan
 Planner

Date: April 16, 2021

Re: Application for Minor Variance D13-A11-21
 824 Grace Street
 Town of Newmarket
 Made by: STRIEGLER, Kelley Shawn and STRIEGLER, Andrew Ross

1. Recommendations:

That Minor Variance Application D13-A11-21 be approved in part, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and
- ii. That Variances 2, 3, and 4 be refused; and
- iii. That the extent of Variance 1 be developed substantially in accordance with the plans submitted with the application; and
- iv. 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
- v. 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 Number 2010-40 as amended, for the purposes of constructing a new cabana and swimming pool with outdoor mechanical equipment. The description of the proposed variances are below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 4.4 Requirements for Swimming Pools for Residential Uses	i) Swimming Pools shall only be located in the rear yard.	To permit a swimming pool in the side yard.
2	2010-40	Section 4.2 Encroachments into Required Yards	Residential Accessory Structures are to be located in the rear and side yard.	To permit a residential accessory structure in the front yard.

3	2010-40	Section 6.2.2 Zoning Standards for Residential Zones	The required front yard setback is to be one metre less than the average of the front yard of adjacent dwellings located within 60 metres, of the subject property on the same road but shall not be closer to the street line than 3.0m. The average front yard depth is 7.5 metres therefore the required minimum front yard is 6.5m.	To reduce the minimum required front yard setback from 6.5m to 4.0m.
4	2010-40	Section 4.3 Accessory Outdoor Mechanical Equipment for Residential Uses	The required maximum encroachment of 1.5m into the required yard but no closer than 3.0m to the street line and is screened from the street by fencing, landscaping, or an enclosure.	To permit a 4.0 m encroachment into the front yard.

The proposed site plan is attached to this report.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, west of Leslie Street and south of Davis Drive. There is an existing single- detached residence on the property, and it is abutted by similar single –detached homes.

3. Planning considerations:

The request for variances are to facilitate a swimming pool in the side yard and a residential accessory structure (cabana) and mechanical equipment for the pool in the front yard.

Based on the Zoning By-law 2010-40, as amended, the required front yard is to be one metre less than the average front yards of the adjacent dwellings located within 60 metres of the subject property on the same road. The average front yard length of dwellings located 60 metres of 824 Grace Street is 7.5m therefore the minimum required front yard for the subject property is 6.5m.

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 “Residential Areas” in the Official Plan. This designation permits a range of residential built form types. Regarding this designation, the Town’s Official Plan states:

It is the objective of the Stable Residential Area policies to:

- a. Provide for a range of residential accommodation by housing type, tenure, size and location to help satisfy the Town of Newmarket’s housing needs in a contest sensitive manner.
- b. Maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighbourhood.

- c. Recognize the desirability of gradual ongoing change by allowing for contextually-sensitive development through *Planning Act* applications, to permit development which contributes to a desirable urban structure, diversifies housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with and complementary to the surrounding neighbourhood.
- d. Encourage a range of innovative and affordable housing types, zoning standards and subdivision designs where it can be demonstrated that the existing physical character of the Residential Area will be maintained.

The "Residential Areas" designation permits single-detached dwellings and allows for accessory structures associated with the main residential use. The Official Plan allows for compatible design and the gradual change and additions through Planning Act applications.

Regarding variance 1, Subject to the recommended conditions of approval, the requested variance is considered to conform to the Official Plan and therefore, variance 1 meets this test.

Regarding variances 2, 3 and 4, staff are of the opinion that the proposed accessory residential structure and mechanical equipment in the front yard is not compatible or complementary to the existing neighbourhood. The requested variance does not conform to the Official Plan and therefore, variance 2, 3, and 4 do not meet this test.

Conformity with the general intent of the Zoning By-law

The subject property is zoned Residential Detached Dwelling 15.0 Metre (R1-D) according to By-law 2010-40, as amended by By-law Number 2020-63. Single-detached dwellings are permitted within the zone.

Variance 1 is requested to permit a Swimming Pool in the side yard. The By-law's intent of requiring swimming pools to be located in the rear yard is to set them back from the public streets and abutting dwellings. In this case, the subject property is a corner lot, with a smaller rear yard and a larger side yard than what is typically seen in the area. The proposed swimming pool would be located in the side yard and sufficiently set back from the street and abutting dwellings. The proposed location also maintains the side yard setback for swimming pools in residential areas as set out in Zoning By-law 2010-40. Variance 1 is considered to maintain the intent of the Zoning By-law.

Variance 2 is requested to permit a residential accessory structure (cabana) in the front yard. The By-law's intent of requiring residential accessory structures to be located in the rear and side yard is to set them back from the public street and ensure that they do not project in front of the house where they would be in a more prominent location. The subject property is located on a corner lot and the proposed residential accessory structure is to be located on the north-east corner of the property in a highly exposed location. Further, the proposed structure may create site-line issues for vehicles travelling on Grace Street. Variance 2 is not considered to maintain the intent of the Zoning By-law.

Variance 3 is requested to permit a reduction to the minimum required front yard setback from 6.5m to 4.0m. Section 6.2.2 of the Zoning By-law sets out the zone standards applicable to residential zones. Buildings in residential zones are required to be setback within a specific range based on the front yard setbacks of abutting buildings. The intent of the zone standards is to ensure compatibility and consistency of built form and control the extent of change in the neighbourhood. There is a range of forms of single-detached dwellings located on Grace Street however accessory dwelling structures in the front yard are not common. The request for front yard reduction for an accessory structure in the front yard would be

inconsistent with the existing neighbourhood. Variance 3 is not considered to maintain the intent of the Zoning By-law.

Variance 4 is requested to permit a 4.0 m encroachment into the front yard to permit accessory outdoor mechanical equipment associated with the pool. The By law sets a maximum encroachment of 1.5 m into the required yard for Accessory Outdoor Mechanical Equipment as long as it is no closer than 3.0 metres to the street line. Finally, zoning requires that such equipment be screened from the street by fencing, landscaping, or an enclosure. The intent of this maximum encroachment standard is to ensure the mechanical equipment is in close proximity to the primary residence. In this case, the mechanical equipment would be located well into the front yard, distant from the residence, in the exterior side yard. Variance 4 is not considered to maintain the intent of the Zoning By-law.

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 the existing neighbourhood.

Variance 1, to permit a swimming pool in the side yard, would allow the property owner to arrange the property to suit their needs without significant impact to neighbours or the community. Variance 1 is desirable for the development of the lot. Variance 1 meets this test.

Variances 2, 3, and 4 are related to the placement of the proposed residential accessory structure (cabana) and mechanical equipment in the front yard. The placement of the structure and mechanical equipment are not desirable as it is inconsistent with the existing neighbourhood. The placement may also be a visual obstruction for cars driving along Grace Street. Variance 2, 3, and 4 do not meet this test.

Minor nature of the variance

When considering if the variance is minor, potential impacts of the variance are considered rather than the measurable scale of the requested change.

The overall impact of Variance 1 appears to be minimal as placement of the proposed swimming pool appears to have a minimal impact on the existing neighbourhood. The proposed variance recognizes a unique context and lot configuration involving a reduced rear yard and enlarged exterior side yard, and allows it to be arranged in a manner that suits the owner without likely impacting others. Variance 1 is considered minor in nature.

Variances 2, 3, and 4 are related to the placement of the proposed residential structure (cabana) and mechanical equipment. This placement is in a highly visible location that requires a fence to be constructed in the front yard. This arrangement is deemed to be inconsistent with the existing neighbourhood and could create potential hazards for vehicle driving along Grace Street. Variance 2, 3, and 4 are not considered minor in nature.

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 comment with regards to this application.

Engineering Services has concerns with this application as the request may result in reduced sight lines at the corner.

York Region has no comment with regards to this application.

Effect of public input

The property owners at 825 Grace Street and 827 Grace Street are in opposition of the application.

5. Conclusions:

That Variance 1 be granted as it is:

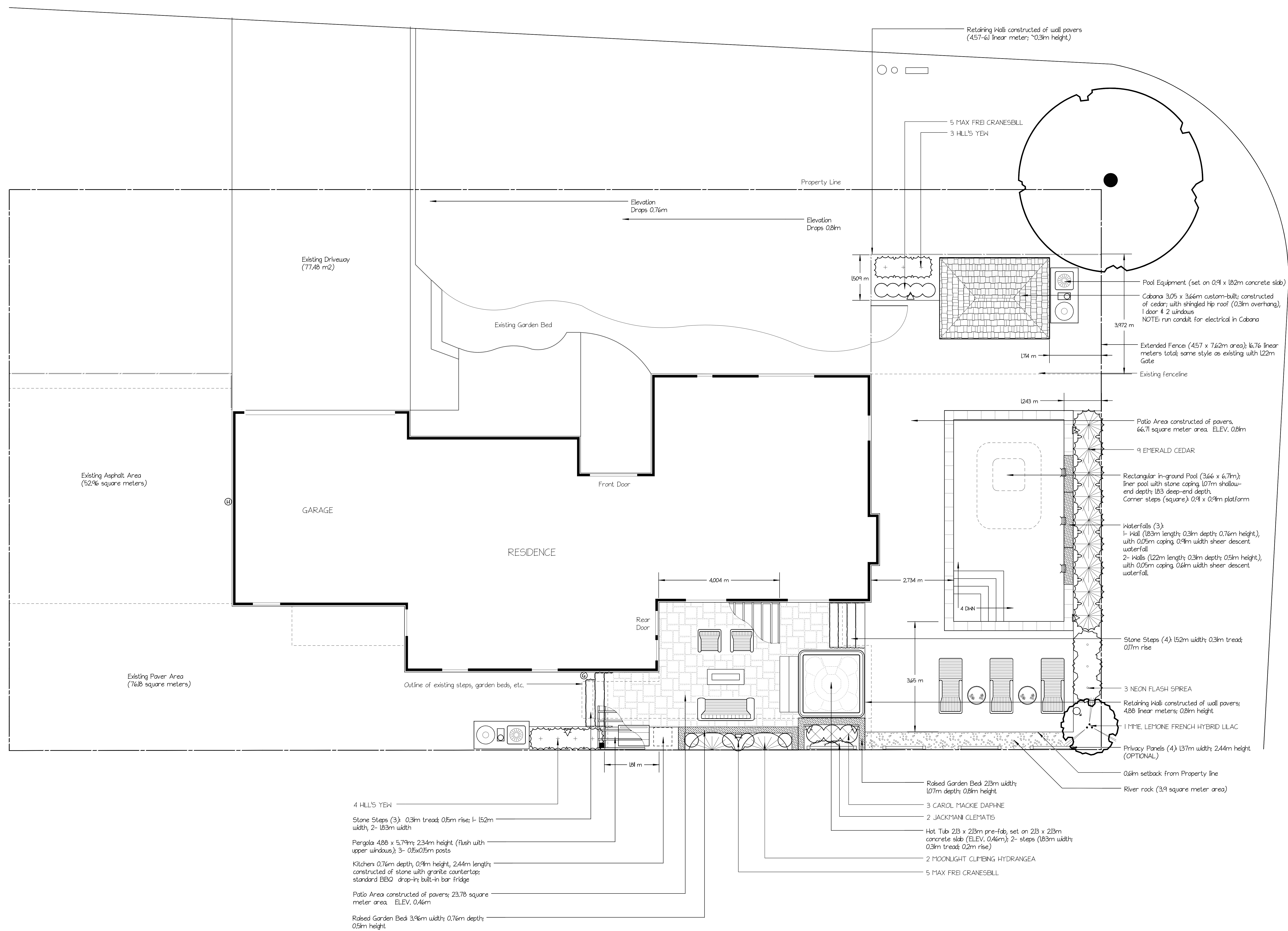
- 1) Minor in nature;
- 2) Conform to the general intent and purpose of the Official Plan and Zoning By-law; and

The Variances 2, 3, and 4 be refused as they do not conform to the four tests as required by the *Planning Act*.

Respectfully submitted,



Janany Nagulan
Planner



- NOTES
- Wall Light - waterfall (3 in total)
 - Garden/Path Light (7 in total)
 - Spot Light (1 in total)

The contractor shall check and verify all dimensions and conditions on the project and immediately report any discrepancies to the Designer before proceeding with the work.

The contractor is to be aware of all existing and proposed services and utilities. The contractor shall check all underground services and utility lines staked by each appropriate agency having jurisdiction prior to commencing with the work.

All planting to meet horticultural standards of the Canadian Nursery Trades Association Guide Specification for nursery stock. All plant material is to be No. 1 Grade and to the approval of the Designer.

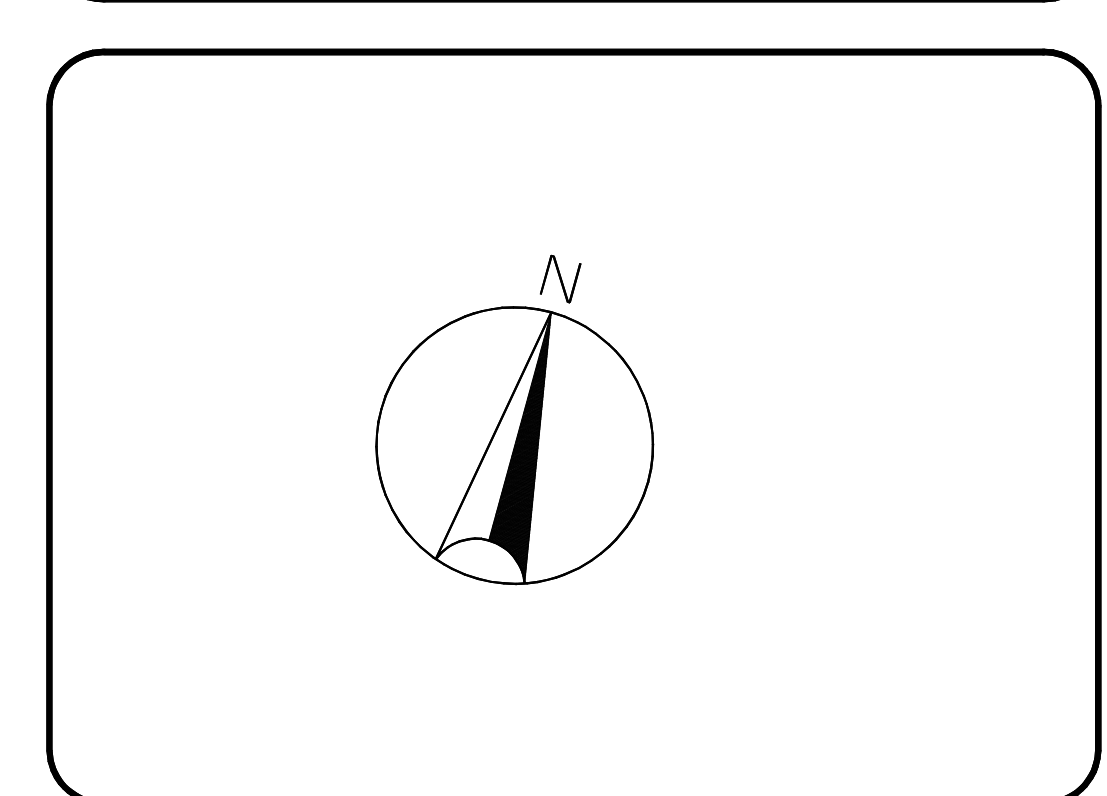
All garden beds and tree pits are to be amended with min. 6" - 8" triple mix soil.

All garden beds and tree pits are to be mulched with a cedar shredded bark mulch to a min. of 3".

All proposed structures such as walkways, decking, changes in elevation are to be approved by the regulatory bodies prior to construction.

It is the responsibility of the building owner and/or their hired contractor(s) to follow specifications standards and building codes, and to obtain all approvals and permits prior to construction.

Rev.	Date	Description
Rev.3	Jan 8	Convert drawing to metric
Rev.2	Nov 17	Move pool equipment; shift pool
Rev.1	Nov 5	Pool size change; move north fence line



STRIEGLER Residence

824 Grace Street
Newmarket, Ontario

Qty.	Botanical Name	Common Name
Shrubs		
3	Daphne burkwoodii 'Carol Mackie'	CAROL MACKIE DAPHNE
3	Spiraea japonica 'Neon Flash'	NEON FLASH SPIREA
1	Syringa vulgaris 'Mme. Lemoine'	MME. LEMON FRENCH HYBRID LLAC
7	Taxus media 'Hill'	HILL'S YEW
4	Thuja occidentalis 'Smaragd'	EMERALD CEDAR
Perennials and Annuals		
10	Geranium 'Max Frie'	MAX FRI CRANESBILL
Vines		
2	Clematis 'Jackmanii'	JACKMANI CLEMATIS
2	Schizophragma hydrangeoides 'Moonlight'	MOONLIGHT CLIMBING HYDRANGEA

SCALE	1 : 0.50" = 1'	PROJECT NO.	
DRAWN BY	Aislyn Boutin	SHEET NO.	
CHECKED BY			
DATE	Sept. 21, 2020		
DATE OF PRINT			