

**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, Development

Date: September 22, 2021

Re: Application for Minor Variance D13-A28-21
963 Goring Circle
Town of Newmarket
Made by: Aghaei, Amir & Rafiei, Mitra

1. Recommendations:

That Minor Variance Application D13-A28-21 be approved, subject to the following conditions:

- 1) That the variance pertains only to the request as submitted with the application;
- 2) That one space in the garage be reserved for the purpose of required parking and for no other use;
- 3) 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, to vary the minimum number of off-street parking spaces 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, east of Leslie Street and south of Mulock Drive. 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 (two for the principle residence, two for the ADU). However, provincial legislation requires a total of three exterior parking spaces for a single-detached dwelling with an ADU (two for the principle residence, one for the 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 "Residential Areas" 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 Residential Areas 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 context 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, diversified housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with and complementary to the surrounding neighbourhood; and,
- 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 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 13.7M Exception 75 (R1-E1-75) 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 each, 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 driveway is only wide enough to accommodate two vehicles parked side by side and the length (driveway measured from the garage face to the sidewalk) is not long enough to accommodate two vehicles in tandem. 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 recognize one of the parking spaces inside the garage and thereby 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 can contribute to an increased supply of rental housing. Furthermore, ADU's 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 by the existing two exterior spaces combined with one of 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

Building Division has reviewed the application and has advised they have no comment to the proposal. A building permit review will be completed prior to permit issuance.

Engineering Services has reviewed the application and has advised that comments should be deferred to the Planning Department.

The Region of York has reviewed the application and has advised they have no comment to the proposal.

Effect of Public Input

Planning Services received two letters of opposition from neighbouring properties in response to these applications. One letter raised the following concerns: (1) consistency street outlook and (2) decrease value of properties. In response, staff offer the following:

- (1) There are no physical changes proposed to the exterior of the single detached dwelling unit. The streetscape of the street will remain the same. Staff would like to advise that ADU's are a permitted use within single detached dwelling units and within the subject property's zone.
- (2) Property appraisals are not completed by the Town and are not part of one of the four tests when evaluating variance requests.

5. Conclusions:

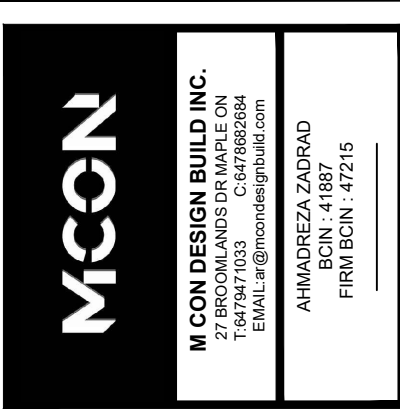
The relief as requested:

- 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,



Patricia Cho, HBA, MSc. (Pln)
Planner, Development



AHMADREZA ZADRAD
BCIN : 41887
FIRM BCIN : 47215

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THE DESIGN, AND HAS THE QUALIFICATIONS AND MEET THE REQUIREMENTS SET OUT IN O.B.C TO BE A DESIGNER. QUALIFICATION INFORMATION REQUIRED UNLESS DESIGN IS EXEMPT UNDER DIVISION C-3.2.5.1. OF 2006 O.B.C (OR 2.17.5.1. THE 1997 O.B.C).

The Designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc. engineering information shown on the drawing. Refer to the appropriate engineering drawings before proceeding with work.

This drawing is not to be scaled.

Drawing Title
PROPOSED SITE PLAN

[illegible]

Drawing No.		A101	
Scale: 1/8"=1'-0"	Drawn by: AB	Checked by: AZ	
		File No. 130	
		Date: 22022021	

