



PLANNING AND BUILDING SERVICES

Town of Newmarket

395 Mulock Drive

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REPORT



TO: Committee of Adjustment

FROM: Ted Horton
Planner

DATE: December 3, 2015

RE: Application for Minor Variance **D13-A21/2015**
Part Lot 16, Plan 85
296 Ellen Street
Made by: Grant McKay and Neil Van Den Elzen

1. RECOMMENDATIONS:

That Minor Variance Application D13-A21/2015 be approved, subject to the following conditions:

1. That the variance pertains only to the requests as submitted with the application; and
2. That the existing driveway on the east side of the property be removed and returned to a planted condition akin to the rest of the lawn of the subject land; and
3. That the development be substantially in accordance with the sketch 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, in order to permit the construction of a driveway in the rear yard.

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood, specifically on the west side of Fairy Lake and south of Eagle Street. There is an existing single detached residence on the lot and it is surrounded by similar single detached homes. The subject lands are a corner lot that abut Ellen Street to the east and Andrew Street to the south.

3. PLANNING CONSIDERATIONS:

The applicant is requesting relief from the By-law in order to permit the construction of a driveway in the rear yard. The specific request is to increase the maximum area of the rear yard that can be devoted to a driveway from 25% to 33%, and reduce the applicable setback for the driveway from 7.5m to 1.0m.

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 "Stable Residential" in the Town's Official Plan. This designation permits single detached dwellings. Single detached dwellings are required to have a driveway. Therefore the application is found to conform to the Official Plan.

The subject lands are zoned Residential Detached Dwelling 15 m (R1-D) Zone by By-law Number 2010-40, as amended. A single detached dwelling, with a driveway, is permitted in this zone.

The general intent of rear yard setbacks is to ensure adequate amenity space for the dwelling and to ensure privacy for neighbours. The case for a rear yard setback is complicated in cases of corner lots, as the distinction between the interior side yard and the rear yard exists solely as a construct based on which yard is opposite the front lot line, rather than in interior lots where this definition is an affirmation of the more evident rear yard. In corner lot cases, whether a driveway exists fronting onto one street of the corner lot or the other is a matter of preference as long as the general intent of preventing structures that are unduly close to the property line is maintained.

It is desirable to have developed the lot with a single detached dwelling. This is in keeping with both the Official Plan and the Zoning By-law. It is desirable to permit a land owner to have orient and lay out their property as they wish within the bounds of approved plans, and to take into account the unique context of each lot in evaluating its configuration.

When considering if the variance is minor, it is not simply the numerical value; the Committee is requested to consider the impact of the variance. The impact of the proposed variance appears to be minimal as there will still be a substantial amount of rear yard maintained, and a condition requiring the removal of the existing driveway will ensure this is a minor change of property layout.

In consideration of the above, the proposed variances meet the four tests under the *Planning Act*.

4. OTHER COMMENTS:

Engineering Services has reviewed the application and advised that they have no objections to the proposed minor variance, provided that stormwater runoff is appropriately managed and any works within the municipal road allowance receive required Town approval.

Building Services has reviewed the application and advised that they have no objections. Comments from Building Services are attached to this application.

5. CONCLUSIONS:

The relief as requested:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ted Horton", written in a cursive style.

Ted Horton
Planner

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



DEVELOPMENT AND INFRASTRUCTURE SERVICES - ENGINEERING SERVICES

Town of Newmarket

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COMMITTEE OF

DEC - 8 2015

ADJUSTMENT

M E M O R A N D U M

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

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

DATE: December 7, 2015

RE: Notice of Application for Minor Variance
File No.: D13-A21-15
Part Lot 16, Plan 85
296 Ellen Street
Town of Newmarket
Ward No.: 5
Made by: MCKAY, Grant and VAN DEN ELZEN, Nell

We herein acknowledge receipt of the Notice of Application for Minor Variance from the Town of Newmarket Zoning By-law 2010-40 as amended by Bylaw Number 2013-30, as follows:

Relief is requested from Zoning Bylaw Number 2010-40, as amended by Bylaw Number 2013-30, Section 5.5V) Entrances, Exits and Driveways to permit a driveway within the rear yard 1.0 metres from the rear lot line, whereas the bylaw states that no person shall, in any residential zone, use their minimum rear yard setback for parking.

We have reviewed the application and supporting documentation and have no objection to the proposed minor variance provided that existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable. If minor variance will be granted, please advise applicant that works within municipal road alliance will require Town approval.

Should you have any questions please contact the undersigned.

Sincerely,

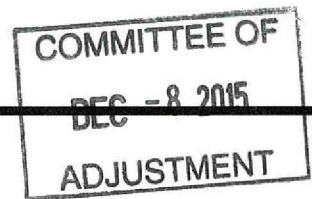
ENGINEERING SERVICES

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

File No.: VK045M

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

Pelham, Kym



From: Hurst, Gabrielle <Gabrielle.Hurst@york.ca>
Sent: December-03-15 1:41 PM
To: Pelham, Kym
Subject: FW: D13-A21-15 (296 Ellen Street)
Attachments: 2015 - D13-A21 (McKay & Van den Elzen) Application.pdf; 2015 - D13-A21 (McKay & Van den Elzen) Notice.pdf

Good Afternoon Kym,

The Region of York has completed its review of the above Minor Variance application and has no objection.

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

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

From: Bilkhu, Vick
Sent: Tuesday, December 01, 2015 10:26 AM
To: Hurst, Gabrielle
Subject: FW: D13-A21-15 (296 Ellen Street)

From: Pelham, Kym [<mailto:kpelham@newmarket.ca>]
Sent: Monday, November 30, 2015 9:30 AM
To: Bilkhu, Vick
Subject: D13-A21-15 (296 Ellen Street)

Hi Vick,

Please find attached the Notice of Application with regards to file D13-A21-15, together with a copy of the Application for your review and comments.

Could I please get your comments for Thursday, December 10, 2015.

Thanks
Kym



Kym Pelham, ACST

Committee Secretary
Planning and Building Services
905-953-5300, press 2, ext. 2456
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MEMORANDUM

TO: Committee of Adjustment

FROM: David Potter, CBCO, B. Tech., MAATO
Chief Building Official

DATE: December 2, 2015

RE: Application for Minor Variance

File no: D13-A21-15

I have reviewed the above and have no comment/objection at this time.

A handwritten signature in cursive script, appearing to read "D. Potter".

A handwritten signature in cursive script, appearing to read "David".
David

Nov. 17/2015

TO WHOM IT MAY CONCERN,

AS THERE IS ONLY A SINGLE PARKING
SPOT AT 296 ELLEN ST. AND WIDENING
THE PRESENT SPOT WOULD PUT THE DRIVEWAY
MUCH TOO CLOSE TO THE INTERSECTION WITH
ANDREW ST. I WOULD ENDORSE AMENDING
THE PRESENT BYLAW TO ALLOW A NEW
DRIVEWAY ACCESSED FROM ANDREW ST.

RESPECTFULLY
R. Waddell



RICHARD WADDELL
TAXPAYER
292 ELLEN ST.
NEWMARKET ONT.
L3Y 4C6.