

**PLANNING AND BUILDING SERVICES****Town of Newmarket**

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Planning Report

TO: Committee of Adjustment

FROM: Meghan White
Sr. Planner

DATE: January 26, 2022

RE: Application for Minor Variance **D13-A13-2021**
40 Birkdale Place
Town of Newmarket
Made by: Cheung, Kenny Kin and Chen, Elaine Yau-Ling

1. Recommendations:

That Minor Variance Application D13-A13-2021 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application;
2. That the development be substantially in accordance with the information submitted with the application;
3. 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,
4. 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 facilitate the construction of a sunroom addition at the rear of the existing single detached dwelling. The requested relief is below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, as amended by By-law 2014-25	Development Standards (c)	A maximum lot coverage of 37%	A maximum lot coverage of 41.6%
2	2010-40	Section 6.2.2	Minimum interior side yard setback of 1.8m for a building beyond 5.7m in height	Minimum interior easterly side yard setback of 1.2m

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood, east of Mitchell Place and south of Davis Drive. There is an existing single detached dwelling on the lot and is abutted by similar single-detached homes to the north and west and open space to the east (stormwater management pond) and south (park).

3. Planning considerations:

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 designation permits single detached dwellings and supports efforts to invest in the existing housing stock in a compatible manner. 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 (R1-D-123) Zone by By-law Number 2010-40, as amended by By-law 2014-25. Single-detached dwellings are permitted uses in this zone.

The general intent of maximum lot coverage provisions is to limit the built form of structures in order to maintain compatibility and similarity of structures, and to ensure adequate space for drainage and amenities. By limiting lot coverage, building size is restrained and adequate open space is present on site. The maximum lot coverage for the R1-D-123 Zone is 37% and the applicant is requesting a maximum lot coverage of 41.6%, to facilitate the construction of a sunroom addition.

The proposed sunroom addition would also require a reduction to the interior yard setback. The general intent of a greater setback for a dwelling greater in height is to ensure that buildings do not 'tower over' adjacent properties. The proposed relief from the interior yard setback from 1.8m to 1.2m would apply only to the proposed addition and there is still sufficient distance from the rear property line to facilitate rear-yard access. This property is a corner lot with a private road adjacent to the side of the lot with the

proposed sunroom. There is no negative impact associated with having the sunroom closer to the lot line adjacent to a private road.

The proposed sunroom addition would not appear to have a negative impact on the neighbourhood and would not significantly impact drainage or amenity space on the lot. The variances requested maintain the general intent of the Zoning By-law. This test is met.

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 neighbouring properties. This deference is balanced against the desirability of development in the public interest when permission beyond that of the zoning by-law is sought by way of a minor variance.

As the requested relief would allow the property owner to invest in their property and arrange the property to suit their needs without significant impact to neighbours or the community, the variance is desirable for the appropriate development of the lot. This test is met.

Minor nature of the variance

The overall impact of the proposed variances appear to be minimal as despite the increased lot coverage and reduction in the interior side yard setback, the proposed addition would result in a dwelling which is compatible with the existing neighbourhood. In addition, significant impacts to surrounding properties are not anticipated. This test is met.

In consideration of the above, the proposed variance meets the four tests under the *Planning Act*.

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 Services has stated no objection to this application subject to compliance with the Ontario Building Code.

Engineering Services has advised that they have no objection to the application.

The Regional Municipality of York has no comment on the 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 blue ink, appearing to read 'M White', is written over the printed name and title.

Meghan White, MCIP RPP
Senior Planner