



**PLANNING AND BUILDING SERVICES**

**Town of Newmarket**      www.newmarket.ca  
395 Mulock Drive      planning@newmarket.ca  
P.O. Box 328, STN Main      T: 905.953.5321  
Newmarket, ON L3Y 4X7      F: 905.953.5140

**REPORT**



TO:                                      Committee of Adjustment

FROM:                                  Ted Horton  
   Planner

DATE:                                  January 6, 2016

RE:                                      Application for Minor Variance **D13-A28-15**  
   340 Timothy Street  
   Town of Newmarket  
   Made by: David Goodman

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**1.      RECOMMENDATIONS:**

**That Minor Variance Application D13-A28-15 be approved, subject to the following conditions:**

- 1.      That the variance pertains only to the request as submitted with the application;**
- 2.      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**
- 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 2013-30 as amended, in order to permit a porch having a height of 3.4 metres to be setback a distance of 0.3 metres from the front lot line, whereas the bylaw permits a porch, having a height of 2.75 metres or less to encroach a distance of 2.4 metres into the required front yard.

The above-described property (herein referred to as the “subject lands”) is located in a residential neighbourhood, specifically on the south side of Timothy Street east of Lorne Avenue and west of John Street.

**3.      PLANNING CONSIDERATIONS:**

The applicant is requesting relief in order to permit a porch having a height of 3.4 metres to be setback a distance of 0.3 metres from the front lot line. The subject lands are zoned R1-D-119, and exists in one of the older parts of Newmarket. The subject lands are a single lot that is smaller and shallower than many R1-D-119 lots in the area.

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. The objectives of the designation are to sustain and enhance the character and identity of existing residential communities and encourage the preservation and maintenance of the Town’s existing housing stock. This designation permits single detached dwellings, and supports efforts to invest in the existing housing stock. Therefore the application is found to conform to the Official Plan.

The subject lands are zoned Residential Detached Dwelling (R1-D-119) 15-metre Zone on Schedule ‘A’ to By-law Number 2013-30, as amended. A single detached two-storey dwelling is permitted in this zone, and covered front porches are permitted subject to certain setbacks and limited encroachments into required setbacks. The existing building has a legal nonconforming position for the existing setbacks, and it has been the Town’s practice to not allow further encroachment into setbacks that are inferior yet legally nonconforming to the requirements of the Zoning By-law.

The general intent of setbacks is to ensure that the use of a property does not infringe on the rights of neighbours, and to allow sufficient space for light, sunshine, storm water run-off, and movement around the home. The general intent of front yard setbacks is less utilitarian and more aesthetic, often requiring larger setbacks than on the sides in order to require properties to have open sightlines on streets and not to appear to crowd the right-of-way. In the case of the subject lands, the street is narrow and existing properties are close to the right-of-way, with fences, retaining walls, and hedges lining the street. In this case, a more liberal encroachment and height will not detract from the sightlines and view of the street, as the existing character is much the same. Thus the intent of the zoning by-law is met.

It is desirable to maintain and improve existing properties by applying zoning provisions that reflect the context of each lot. Both the Official Plan and the Zoning By-law permit this use, and encourage improvement of existing properties. It is considered desirable to permit a land owner to improve their property and renew the housing stock of the town.

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 is little change in the existing street sightlines, pedestrian or traffic safety, or enjoyment of the adjacent property.

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

**4. OTHER COMMENTS:**

Building Services has reviewed the application and advised that they have no comments or concerns.

Engineering Services has reviewed the application and advised that they have no comments or concerns 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.

The application is subject to the provisions of the Town’s Tree Preservation, Protection, Replacement and Enhancement Policy that was adopted by Council on October 12, 2004. The policy provides that all significant trees, as defined in the policy, and subject to a development application, may not be

removed, injured, pruned or destroyed in any way without the approval of the Town. Significant trees that have been identified in a tree inventory which cannot be protected due to development constraints can be removed with the Town's approval, provided compensation is provided to the Town. Compensation may be in the form of aggregate inch replacement trees or financial payment.

The Town's Consulting Arborist has reviewed the application and advised that a proper arborist report must be submitted with proof of ISA credentials.

The Lake Simcoe Region Conservation Authority has reviewed the application and advised that they have no comments or concerns.

The Regional Municipality of York has reviewed the application and advised that they have no comments or concerns.

**5. CONCLUSIONS:**

The recommendation of approval for the variance is based on the rationale described above and specifically that the relief as requested:

- (1) is minor in nature as the impact appears to be minimal;
- (2) conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- (3) does not adversely affect the character of the neighbourhood and is considered a desirable development of the lot.

Respectfully submitted,



Ted Horton  
Planner

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



**DEVELOPMENT AND INFRASTRUCTURE SERVICES - ENGINEERING SERVICES**

**Town of Newmarket**

395 Mulock Drive  
P.O. Box 328, STN Main  
Newmarket, ON L3Y 4X7

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T: 905.895.5193  
F: 905.953.5138

**MEMORANDUM**

TO: R. Nethery, B.E.S., MCIP, RPP, Director of Planning  
FROM: Rick Bingham, C.E.T., Manager, Engineering Services  
DATE: January 11, 2015  
RE: Application for Minor Variance  
File No. D13-A28-15  
Lot 3, Plan 48  
340 Timothy Street  
Town of Newmarket



We herein acknowledge receipt of the above noted application for Minor Variance requesting relief from the Town of Newmarket Zoning By-law 2010-40 as amended by Bylaw Number 2013-30, Section 4.2 Encroachments into Required Yards to permit a porch having a height of 3.4 metres to be setback a distance of 0.3 metres from the front lot line, whereas the bylaw permits a porch, having a height of 2.75 metres or less to encroach a distance of 2.4 metres into the required front yard.

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.

Should you have any questions please contact the undersigned.

Sincerely,

**ENGINEERING SERVICES**

Rick Bingham, C.E.T.  
Manager, Engineering Services

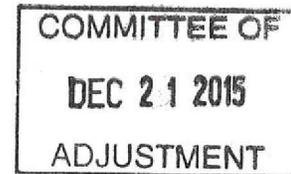
File No.: RDB004M

File digital and hardcopy

## Pelham, Kym

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**From:** Kevin Jarus <K.Jarus@lsrca.on.ca>  
**Sent:** December-21-15 2:55 PM  
**To:** Pelham, Kym  
**Subject:** RE: D13-A28-15 - 340 Timothy Street



Hello Kym,

Please note we have no comments or concerns with the subject application.

Regards,

**Kevin Jarus, M.Pl.**

Development Planner

**Lake Simcoe Region Conservation Authority**

120 Bayview Parkway, Newmarket, Ontario L3Y 3W3

905-895-1281, ext. 151 | 1-800-465-0437

[k.jarus@LSRCA.on.ca](mailto:k.jarus@LSRCA.on.ca) | [www.LSRCA.on.ca](http://www.LSRCA.on.ca)

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**From:** Pelham, Kym [<mailto:kpelham@newmarket.ca>]

**Sent:** Monday, December 21, 2015 9:09 AM

**To:** Kevin Jarus; Info Mail

**Subject:** D13-A28-15 - 340 Timothy Street

Hi Kevin,

Please find attached the Notice of Application with regards to file D13-A28-15, together with a copy of the Application for your review and comments.

A cheque for LSRCA fees will be attached to the hard copy of the Notice & Application and will be forwarded to your attention by mail.

Could I please get your formal comments for noon on Thursday, January 14, 2016.

Thanks

Kym



**Kym Pelham, ACST**

Committee Secretary

Planning and Building Services

905-953-5300, press 2, ext. 2456

905-953-5140 (fax)

[kpelham@newmarket.ca](mailto:kpelham@newmarket.ca)

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Planning & Building Services  
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905.953-5300 ext. 2400

COMMITTEE OF  
DEC 22 2015  
ADJUSTMENT

## MEMORANDUM

**TO:** Committee of Adjustment

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

**DATE:** December 22, 2015

**RE:** Application for Minor Variance

**File no:** D13-A24/A25/A28-15

I have reviewed the above and have no concerns or comments at this time.

  
David

**Pelham, Kym**

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**From:** Hurst, Gabrielle <Gabrielle.Hurst@york.ca>  
**Sent:** January-05-16 2:24 PM  
**To:** Pelham, Kym  
**Subject:** FW: D13-A28-15 - 340 Timothy Street  
**Attachments:** 2015 - D13-A28 (Goodman) Application.pdf; 2015 - D13-A28 (Goodman) Notice.pdf

Good Morning Kym,

The Region of York has completed its review of the Minor Variance application submitted for 340 Timothy Street 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

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The Regional Municipality of York | 17250 Yonge Street | Newmarket, ON L3Y 6Z1

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

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**From:** Hurst, Gabrielle  
**Sent:** Tuesday, January 05, 2016 10:32 AM  
**To:** [kpelham@newmarket.ca](mailto:kpelham@newmarket.ca)  
**Subject:** FW: D13-A28-15 - 340 Timothy Street

Good Morning Kym,

The Region of York has completed its review of the Minor Variance application submitted for 340 Timothy Street 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

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**From:** Bilkhu, Vick  
**Sent:** Monday, January 04, 2016 9:18 AM  
**To:** Hurst, Gabrielle  
**Subject:** FW: D13-A28-15 - 340 Timothy Street

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**From:** Pelham, Kym [<mailto:kpelham@newmarket.ca>]  
**Sent:** Monday, December 21, 2015 9:09 AM  
**To:** Bilkhu, Vick  
**Subject:** D13-A28-15 - 340 Timothy Street

Hi Vick,

Please find attached the Notice of Application with regards to file D13-A28-15, together with a copy of the Application for your review and comments.

Could I please get your comments for Thursday, January 14, 2016.

Thanks  
Kym



**Kym Pelham, ACST**

Committee Secretary  
Planning and Building Services  
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