



## PLANNING AND BUILDING SERVICES

Town of Newmarket

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### Planning Report

TO: Committee of Adjustment

FROM: Aida Hosseinzadeh  
Planner, Development

DATE: November 25, 2022

RE: Application for Minor Variance **MV-2022-032**  
116 Eden Court  
Town of Newmarket  
Made by: KARBALAN HABIBI, Jalal and SHARIF ESFAHANI, Nasrin

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#### 1. Recommendations:

That Minor Variance Application MV-2022-032 be approved subject to the following:

Clearing Conditions:

1. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Engineering Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated November 25, 2022;
2. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Planning Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in UFI Peer Review comments dated November 22, 2022;

Advisory Comments:

1. The variance pertains only to the request as submitted with the application;
2. The development be substantially in accordance with the information submitted with the application;
3. The applicant be advised that compliance is required with the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy; and,
4. Failure to comply with and maintain the conditions and comments 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. This application is required to consider an existing

situation involving a partially constructed residence, for which a building permit was issued on May 11, 2022.

The applicant is seeking relief from maximum permitted lot coverage, as shown below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40, as amended	Section 6.2.2 Schedule D - Maximum Lot Coverage	A maximum lot coverage of 30%.	A maximum lot coverage of 31.5%.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, east of Bayview Parkway and north of Davis Drive. The property is currently occupied by a single detached dwelling that is under construction. The property is surrounded by single detached or semi-detached (1 to 2-storey) dwellings.

#### 4. Planning considerations:

The request for variance is to permit an increase to the maximum permitted lot coverage to construct a new building on the subject property.

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:

##### i. Conformity with the general intent of the Official Plan

The subject property is designated “Residential Areas” in the Official Plan which permits a range of residential built form types. Regarding this designation, the Town’s Official Plan states:

It is the objective of the Residential Areas policies to:

- 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.
- Maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighbourhood.
- 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.
- 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 subject land is within the “Traditional Suburban Character Area”. This area is generally characterized by:

- Curvilinear street patterns, including crescent streets and cul-de-sacs;
- Long blocks with few intersections;
- Landscaped boulevards and a moderate and evolving canopy of maturing street trees;
- Discontinuous sidewalks on one side of the street, with the exception of cul-de-sacs, many of which are absent of sidewalks;
- Rectangular and pie-shaped lots, with consistent dimensions, of a moderate to significant size;
- Consistent front and side yard setbacks
- Building heights between 1 and 2-storey;
- A limited range of architectural expressions and styles;
- Weather protection features including canopies, overhangs, recessed entrances and some awnings;
- Consistent vehicular access configurations, characterized by front yard driveways of narrow to significant width

OPA#29 amended the Official Plan to better guide future development from a compatibility standpoint, while addressing neighbourhood character in existing residential neighbourhoods. Developments within the Traditional Suburban Character Area shall acknowledge and respect the general physical characteristics as outlined above, while responding to unique site and contextual conditions, and demonstrate compatibility with the existing neighbourhood. Where a new building is being constructed within an established neighbourhood, it must be designed, massed, and located to respect the predominant context.

The Official Plan permits contextually sensitive infill development and the gradual change and improvement of the existing housing stock, provided such development is contextually sensitive and maintains the character of the area as generally described above. The applicant is proposing a two storey building in a pie-shaped lot with a moderate size which respects the general characteristics of the neighbourhood and maintains its compatibility. Therefore, the requested variance is considered to conform to the Official Plan and therefore, this test is met.

## **ii. Conformity with the general intent of the Zoning By-law**

The subject property is zoned Residential Detached Dwelling 15m (R1-D) Zoning By-law 2010-40, as amended by Zoning By-law Number 2020-63 Schedule D.

Section 6.2.2 of the Zoning By-law sets out the zone standards by residential built form. The zone standards set out the building envelope for the lot, including setbacks from lot lines and a maximum lot coverage.

The application complies with all applicable zoning standards except for lot coverage. The general intent of the maximum lot coverage is to limit the built form of structures in order to maintain compatibility and similarity of structures, and to ensure adequate amenity space. By limiting lot coverage, building size is restrained and adequate open space is provided on site.

By-law 2010-40 defines the lot coverage as below:

*“Lot Coverage means the percentage of the lot area covered by all buildings, structures or parts thereof, at or above grade or established grade, exclusive of uncovered decks, uncovered*

*porches, pergolas, ornamental structures such as mailbox or birdhouses, and outdoor swimming pools.”*

The maximum permitted lot coverage for this property is 30%. The requested variance is to increase the lot coverage to 31.5%. The increase in massing that results in the increased lot coverage is proposed at the rear of the residence, not at the sides of the residence and it does not result in increased height. As a result, the increased massing is not noticeable from the street or other areas of the public realm.

As noted, the general intent of a maximum lot coverage standard is to limit the built form of structures in order to maintain compatibility. Because there are limited, if any impacts to the public realm that result from the additional 1.5% lot coverage, it is submitted that the general intent of the zoning by-law is maintained and this test is met.

**iii. 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.

The increase in lot coverage would not be visible from the street as the proposed building would meet the required minimum yard setbacks and the dwelling would comply with the other provisions of the by-law including height, storey, etc., thus it will not significantly impact the neighborhood's built form. The requested relief would allow the property owner to invest in their property and arrange the property to suit their needs. Therefore, the variance is desirable for the appropriate development of the lot. This test is met.

**iv. Minor nature of the variance**

When considering if the variance is minor, both the numerical value and the overall impact of the variance should be taken into consideration. In the case of the subject land, the 1.5% increase in the lot coverage and the overall impact of the new dwelling to the neighbourhood appears to be minimal despite the increased coverage, since:

- The yard setbacks comply with the by-law;
- The existing lot dimensions are suitable to accommodate the proposed dwelling and,
- The proposed building complies with the other applicable By-law provisions, including building height and storey.

Therefore, significant impacts to surrounding properties are not anticipated and the variance can be considered minor in nature.

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

**4. Other comments:**

**Tree Preservation**

The applicant provided information stating that there are no trees over 20 centimeters DBH on the subject property or within 4.5 metres from the subject property lines. There are also no trees of any size on

public lands within 4.5 metres of the subject property lines. However, several discrepancies were noted during site observation by Urban Forestry Innovation. Urban Forestry Innovation findings and comments are as follows:

- Five significant trees were found during site observations and are not included in the tree report form.
- An arborist report must be provided to identify appropriate tree injury mitigation measures for trees designated for injury on or within 4.5 metres of the subject land.
- A tree protection plan must be provided to show the correct location of all significant trees located on or within 4.5 metres of the subject land.

Please see the Arborist Peer Review dated November 22, 2022 for their comments.

As such, a condition has been added requiring the applicant to send a letter to the Town of Newmarket, Development and Infrastructure Services – Planning Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in UFI Peer Review comments dated November 22, 2022;

### **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 no concerns with this application.

Engineering Services: Based on the drawing dated February 7th 2022, revision No. 3 on April 13th 2022. We understand that a building permit has been submitted for the above noted property to the town. Comments have been provided as per building review. The applicant shall comply with those comments.

York Region has no comments with regards to this application.

No comments have been provided by the Central York Fire Services.

No comments have been provided by the Lake Simcoe Region Conservation Authority.

### **Effect of Public Input**

Written correspondence was received from several residents in the neighbourhood. A summary of concerns received from the public include:

- The applicant has not provided information with respect to the dimension or floor area of the existing structure.
- Building height
- Compatibility with the surrounding neighbourhood.

**5. Conclusions:**

The relief as requested:

- (1) is minor in nature;
- (2) conforms to the general intent and purpose of the Official Plan;
- (3) conforms to the general intent and purpose of the Zoning By-law;
- (4) is considered desirable for the appropriate development of the lot.

Respectfully submitted,

Aida Hosseinzadeh

*A. Hosseinzadeh*

Planner – Development