

**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: Aida Hosseinzadeh  
Planner, Development

Date: November 25, 2022

Re: Application for Minor Variance MV-2022-033  
228 Reg Harrison Trail  
Town of Newmarket  
Made by: MULTANI, Robinraj

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**1. Recommendations:**

That Minor Variance Application MV-2022-031 be approved, subject to the following 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. A maximum of one space in the garage be reserved for the purpose of required parking and for no other use;
4. The municipal boulevard is not recognized as a legal parking space pursuant to Zoning By-law 2010-40; and
5. Failure to comply with and maintain the 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, to vary the minimum number of off-street parking spaces required for a 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 as amended	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 an 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 property hosts a double car garage and a double car driveway. The two driveway spaces count towards parking; this application seeks to recognize one garage space to support the ADU.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, west of Yonge Street and south of Davis Drive. There is an existing single-detached residence on the property, and it is abutted by similar single-detached homes.

### **3. Planning considerations:**

The request for variance is 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 single detached dwelling located at 228 Reg Harrison Trail. The Zoning By-law requires two exterior parking spaces for the principal dwelling and two exterior parking spaces for the ADU, for a total four exterior parking spaces. However, provincial legislation imposes a maximum of one parking space for an ADU, so three exterior parking spaces for a single detached dwelling with an ADU (two for the principal residence and one for the ADU). The application was submitted because the current driveway size (being a double car, side by side driveway) cannot accommodate the required three exterior parking spaces, and the municipal boulevard is not recognized as a legal parking space. Therefore, a variance is required to recognize one parking space in the existing double-car 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 property is designated “Residential” in the 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 Area 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, diversifies housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with and complementary to the surrounding neighbourhood.
- 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 subject land is within the area characterized as “Contemporary Suburban Character Area”. This area is generally characterized by:

- Modified street grid pattern;
- Short blocks with many intersections;
- Landscape boulevards and a minimal canopy of newly established street trees;
- Continuous sidewalks on one or both sides of the street;
- Rectangular and pie-shaped lots, with consistent dimensions, of a small to moderate size;
- Consistent front and side yard setbacks, of a shallow to moderate depth;
- Consistent building heights of 2-storeys; and
- A limited range of architectural expressions and styles.

The Official Plan permits Accessory Dwelling Units in single-detached dwellings subject to certain criteria including compliance with the Town's Zoning By-law. It also encourages a range of residential accommodations and affordable housing types. Subject to the Advisory Comments set out above, the requested variance is considered to conform to the Official Plan and therefore, this test is met.

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

The subject property is zoned Residential Detached Dwelling 15m Zone (R1-D-122) in Zoning By-law 2010-40. Single-detached dwellings and Accessory Dwelling Units are permitted within 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 parking spaces each, for a total of four exterior parking spaces. This zoning regulation has been superseded by Ontario Regulation 299/19, which states that municipalities can only require one parking space for an accessory dwelling unit. Therefore, only three parking spaces are required. Further, the zoning by-law requires parking spaces to be exterior of any garage or structure. Hence, the parking requirement is three (3) outdoor parking spaces.

The general intent of the By-law is to provide a sufficient number of parking spaces for those residing in the two units within the dwelling. Currently, two vehicles can be accommodated on the driveway, parked side by side. There is also an attached double car garage, however the Zoning By-law prevents parking spaces in the garage from being counted towards the parking requirement. Therefore, the proposed variance would allow for a sufficient number of parking spaces for the two dwelling units on the property by counting one of the garage spaces.

The intent of this zone provision is to ensure that the required number of spaces are provided exterior to the garage to allow the option of the garage to be used by residents as storage. In this case, the parking space proposed within the garage (being one of the two spaces in the double car garage) complies with the minimum parking space dimensions of 2.6 metres by 5.0 metres. The remaining garage area would be able to be used for storage, if required by the residents. If approved, the variance would be subject to the Advisory Comments set out above. The Advisory Comments require that a maximum of one parking space be available in the garage at all times. Legislative Services has the ability to enforce the Advisory Comments of a minor variance. If the Advisory Comments of the variance are not complied with, the variance may no longer be valid and the ADU would be out of compliance with the Zoning By-law and deemed to be 'illegal'.

As three parking spaces will be available, 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**

The variance is considered desirable for the development and the use 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 forms of housing and an increased supply of rental housing.

Furthermore, ADUs allow a modest increase in the density of dwelling units and allow homeowners a source of income for their property. A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development, and a variance change to the parking location should not overshadow the desirability of an ADU as a development as encouraged by Town, Region, and Provincial policy.

### **Minor nature of the variance**

The impact of the proposed variance appears to be minimal as the potential increase in the number of vehicles generated by the accessory dwelling unit can still be accommodated on the property by the existing two exterior spaces combined with one parking space that is required to be reserved in the double-car 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 the Advisory Comments.

## **4. Other comments:**

### **Tree Preservation**

There are no trees over 20cm DBH on the subject property or within 4.5 m from subject property lines. There are also no trees of any size on public lands within 4.5 m of subject property lines. As such, tree preservation measures are not required for the proposed development.

### **Heritage**

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated properties.

### **Commenting agencies and departments**

Comments have not been provided by Engineering Services.

Comments have not been provided by Building Services.

York Region has no comments with regards to this application.

The property is outside of MTO permit control and do not require MTO review or permits.

### **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. Hosseinzadeh*

Aida Hosseinzadeh

Planner – Development