



PLANNING AND BUILDING SERVICES

Town of Newmarket

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Planning Report

TO: Committee of Adjustment

FROM: Joyce Tsui
Planner, Development

DATE: November 23, 2022

RE: Application for Minor Variance **MV-2022-030**
384 Dixon Boulevard
Made by Mohammadreza Sedighian

1. Recommendations:

That Minor Variance Application MV-2022-030 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 – 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. Prior to any demolition or construction activity on the subject lands, the Town must be notified in order to conduct an inspection of the installed tree protection fencing and other tree protection measures;
4. 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;
5. 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 Minor Variance has been submitted by the owner of the above noted property. The applicant is proposing interior alteration and an exterior addition of a covered patio in rear yard.

The following variances have been requested from Zoning By-law 2010-40, as amended:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.2.2	Minimum interior side yard setback of 1.8m	Interior side yard (southerly) setback of 0.84m
2	2010-40	6.2.2	Minimum interior side yard setback of 1.8m	Interior side yard (northerly) setback of 1.15m

The above-described property (herein referred to as the “subject land”) is located in a residential neighbourhood, north of Mulock Drive and east of Yonge Street. The subject land is occupied by an existing single-detached dwelling and is surrounded by similar single-detached houses.

3. Planning considerations:

The applicant is requesting relief from the By-law to maintain an interior side setback of 0.84m from the south property line and an interior side setback of 1.15m from the north property line, whereas the By-law requires a minimum interior side yard setback of 1.8m.

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 land is designated “Residential” in the Town’s Official Plan. The objectives of the Residential Area policies are 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 neighborhood.
- 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.

Section 3.1.3 of the Official Plan outlines policies regarding development in existing Residential Areas. These policies were developed as a result of the Established Neighborhood Study (ENS) and were adopted by Council under Official Plan Amendment 29 (OPA #29). These policies require development in Residential Areas to have specific consideration of the following:

- Lot dimensions;
- Lot frontage;
- Front, side and rear yard setbacks;

- Siting and orientation;
- Lot coverage;
- Building entrance location;
- Private landscaping;
- Building height, massing, and depth; and,
- Ground floor height.

The proposal has been reviewed against the policy above and is compatible with the existing physical character of the surrounding neighborhood. The variances requested only pertain to the side setback, which reflect the existing situation of the existing residence and maintains the character of the neighborhood. The proposal complies with all other considerations noted above.

The “Residential Areas” designation within Official Plan permits a range of housing types including one storey-detached dwellings. The Official Plan allows for compatible design and the gradual change and improvement of homes through Planning Act applications. Subject to the recommended clearing conditions and advisory comments, the requested variances are 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 land is zoned Residential Detached Dwelling 15M Zone (R1-D) by Zoning By-law 2010-40. Single detached dwellings are permitted within the zone.

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 sunlight, airflow, privacy, landscaping, stormwater run-off, movement around the home and consistency within the neighbourhood. In the case of the subject land, the proposed alterations at the rear of the building will maintain the existing interior side yard setbacks of 0.84m on the south and 1.15m on the north. The proposed reduced setback is an existing condition that appears to create no change in functional space and distance from the lot line that is sufficient for stormwater runoff and yard maintenance. The proposal complies with all other zoning standards. This test is met.

Desirable development of the lot

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.

As the requested relief would allow the property owner to invest in their property and arrange the property to suit their needs and 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 test of whether a variance is minor in nature is not simply an evaluation of the numerical value; the Committee is requested to consider the overall impact of the variance. The overall impact of the proposed variance appears to be minimal as despite the reduced side yard setback, the proposed alteration will be compatible with the surrounding neighborhood. This test is met.

In consideration of the above, the proposed variances are deemed to meet the four tests under the *Planning Act* and are recommended to be approved, subject to clearing conditions.

4. Other comments:

Tree Protection

The tree report form reported that there are no trees over 20cm DBH on the subject property or within 4.5 metres from the subject property lines. However, Urban Forest Innovations Inc. (UFI), the Town's consulting arborist, has noted one significant tree located on an adjacent property within 4.5 of the subject land. A tree protection plan is required. As per the Town's Tree Preservation, Protection, Replacement and Enhancement Policy, tree protection fencing shall be installed to the satisfaction of the Town.

Heritage

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

Commenting Agencies and Departments

York Region has no comments with regards to this application.

Engineering has no objection subject to no changes to existing grading and drainage of the property as well as no adverse impact to the subject property and adjacent properties.

UFI has provided comments. Please see the Arborist Peer Review dated November 22, 2022.

Effect of Public Input

Written correspondence was received from a resident on Dixon Boulevard opposing the application and concerning about a result of a 'monster home'. Two residents also on Dixon Boulevard are supporting the application.

The purpose of the minor variance application is to request relief from the zone standard to maintain existing side yard setbacks on both sides of the property line. Given that it is an existing condition, the proposal appears to create no change in functional space and distance from the lot line, hence minimal impacts to neighboring properties. All other zoning standards are complied with.

Note: This report was prepared in consideration of all public comments received up to the report deadline date. Any public comments received after the reporting deadline will be provided to the Committee separately.

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 black ink, appearing to read 'Joyce Tsui', is written over a light yellow rectangular background.

Joyce Tsui
Planner – Development