

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

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Planning Report

To: Committee of Adjustment

From: Janany Nagulan
Planner, Development

Date: July 16, 2021

Re: Application for Minor Variance D13-A23-21
184 Prospect Street
Town of Newmarket
Made by: BANISADR, Arash

1. Recommendations:

That Minor Variance Application D13-A23-21 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and,
- ii. That the development be substantially in accordance with the information and drawing submitted with the application; and,
- iii. That one space on the driveway be reserved for the purpose of required parking for an Accessory Dwelling Unit; and,
- iv. That the Owner pay development fees to the LSRCA in accordance with the approved Fees Policy under the *Conservation Authorities Act*; and,
- v. 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 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	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 on the existing driveway. One parking space to be reserved for the dwelling unit and one parking space to be reserved for the Accessory Dwelling Unit.
2	2010-40	6.2.3 (7)	A driveway shall be located a minimum of 0.6 metres from the side lot line.	To permit the existing driveway to be located 0.0 metres from the side lot line.

3	2010-40	5.2.2	The minimum required width for perpendicular parking spaces on parking lots fewer than 5 spaces is 2.6m	To permit two perpendicular parking spaces on a parking lot fewer than 5 spaces to have a width of 2.3m.
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The Zoning By-law requires four exterior parking spaces. 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 above-described property (herein referred to as the “subject property”) is located on Prospect Street north of Gorham Street. There is an existing single- detached residence on the property, and it is abutting other residential properties.

3. Planning considerations:

The request for variance is to permit a reduction in the minimum number of off-street parking spaces required to create a legal ADU in the existing single detached dwelling located at 184 Prospect Street. The Zoning By-law requires four exterior parking spaces for a single detached dwelling with an ADU (two for the principle residence, two for the ADU). However, provincial legislation requires three exterior parking spaces for a single detached dwelling with an ADU (two for the principle residence, one for the ADU). The current driveway length and width cannot accommodate the required number of minimum exterior parking spaces, therefore a variance is required to permit two exterior parking spaces, one for the existing dwelling and one for the proposed accessory dwelling unit. The property does not have a garage.

It is noted that the property is located in a highly walkable are of Town in close proximity to the downtown Main Street area and many local places of employment. It is also directly located on a YRT bus route and a the Town’s East/West Bikeway.

In order to authorize a variance, Committee must be satisfied that the requested variances pass 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 Areas” 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 Stable Residential Area 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 contest 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.

- 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 Official Plan permits Accessory Dwelling Units in single-detached dwellings in subject to the provisions of the Zoning By-law. It also encourages a range residential accommodations and affordable housing types. Subject to the recommended conditions of approval, 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 15.0m (R1-D) according to By-law 2010-40, as amended. Single-detached dwellings and accessory dwelling units are permitted uses in 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 is superseded by provincial regulation, which states that municipalities can only require one parking space for an accessory dwelling unit. Therefore only three exterior parking spaces are required. Within the Zoning By-law, a dwelling unit with an ADU is required to provide parking spaces exterior of any garage or structure. Therefore, 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 dwelling units on the property. Currently, the applicant's driveway is not long or wide enough to accommodate the three required spaces. The property can accommodate 2 exterior parking spaces on the driveway, parked in tandem. Therefore, the proposed variance would permit one exterior parking space for the dwelling unit and one exterior parking space for the accessory dwelling unit.

Section 5.2.2 of the Zoning By-law sets out the minimum required size of parking spaces. This section states that the minimum required width for perpendicular parking spaces on parking lots fewer than 5 spaces is 2.6m. This is to ensure that there is enough space for a vehicle to maneuver in and out of a parking space. Section 6.2.3 (7) of the Zoning By-law sets out minimum distance of the driveway from the side lot line is 0.6m. This is to allow a buffer between the neighbouring property and the subject property. Due to the age and the placement of the existing home, the current driveway is located right next to the side lot line and the width of the driveway prevents standard-sized parking spaces on the property. Therefore, the proposed variance would bring the current driveway and parking spaces into conformity.

The requested variances are necessary due to the placement of the existing home and driveway. The variances will allow for the addition of an Accessory Dwelling Unit and bring the existing home into conformity. The variance requested maintains the general intent of the Zoning by-law. 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 can contribute to 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. While the standard parking requirement of three exterior spaces provides ample parking, it is noted that not all ADUs will generate such a parking demand, this point is highlighted in areas, like the subject property, that are highly walkable and well supported by transit and active transportation. Therefore, the two exterior parking spaces, one for the dwelling unit and one for the accessory dwelling unit, appear to be sufficient in this case.

Minor nature of the variance

The overall impact of the proposed variance appears to be minimal as the potential increase in the number of vehicles generated by the accessory unit can still be accommodated on the site.

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 conditions.

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

The Chief Building Official has no objection to this application subject to compliance of the ADU with the Ontario Building Code.

Engineering has deferred their comments to Planning and have no objects at this time.

York Region has no comments with regards to this application.

LSRCA has stated that the proposal is generally consistent and in conformity with the natural heritage and natural hazards policies of the applicable Provincial, Regional and Local plans. LSRCA has requested the Owner pay outstanding development fees.

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,



Janany Nagulan
Planner, Development



GENERAL NOTES:

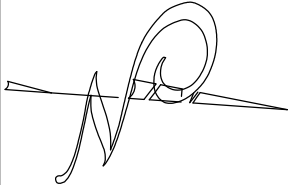
All construction to adhere to these plans and spec's and to conform to the ontario code and all other applicable codes and authorities having jurisdiction.general contractor shall check and verify all dimentions and reports all errors and ommissions before proceeding with the work.

QUALIFICATION INFORMATION



NAME FIRM NAME
SAHAR ARFA ARFA DESIGN INC
BCIN 110518
107072

I review and take responsibility for the design work on behalf of Arfa design inc registered under subsection 3.2.4 of division c of the building code.in the appropriate classes categories



PROJECT NAME

184 PROSPECT ST


DRAWING NAME

SITE PLAN

A03

SCALE 1 : 120

STATESTIC

SCOPE OF WORK	NEW BASEMENT APARTMENT
PROPOSE FIRST UNIT (2 BEDROOMS)	63.36 m2
PROPOSE SECOND UNIT (1 BEDROOM)	36.74 m2
	ACCESS TO DWELLING UNIT

LOT 2

NO 184
1 STOREY BRICK HOUSE

EXISTING PORCH

PARKING SPACE

PARKING SPACE

P R O S P E C T S T R E E T