

**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: Janany Nagulan  
Planner, Development

DATE: August 19, 2021

RE: Application for Minor Variance **D13-A27-2021**  
258 Lorne Avenue  
Town of Newmarket  
Made by: SMITH, Amy Kristina & SMITH, Christopher Douglas

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**1. Recommendations:**

That Minor Variance Application D13-A27-2021 be approved, subject to the following conditions:

1. That the variance pertains only to the request as submitted with the application; and,
2. That the development be substantially in accordance with the information submitted with the application.
3. That the existing detached garage is demolished.
4. That the applicant submits a sealed grading plan designed and stamped by a P.Eng of Ontario to the Town, complying with the Town standards for grading and drainage requirements.
5. 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.
6. 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 2010-40 as amended, to facilitate the construction of a new second storey addition and enlargement of the existing footprint to the south. The requested variances are listed below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 6.2.2 Zoning Standards For Residential Zones	A minimum side yard setback of 1.8m for structures beyond 5.7m in height.	A minimum side yard setback (north side) of 0.79 m for structures beyond 5.7m in height.

2	2010-40	Section 6.2.2 Zoning Standards for Residential Zones	A minimum side yard setback of 1.8m for structures beyond 5.7m in height.	A minimum side yard setback (south side) of 1.46m for structures beyond 5.7m in height.
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The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, west of Main Street and north of Eagle Street. There is an existing single- detached residence on the property, and it is abutted by similar single –detached homes.

### 3. Planning considerations:

The requested variances are to facilitate the construction of a new second storey addition and enlargement of the existing footprint to the south. Due to the new addition and the existing placement of the dwelling, variances are required to the side setbacks on both the north and south sides of the 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:

#### **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 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.

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 Neighbourhood Study (ENS) and were adopted by Council under Official Plan Amendment 29 (OPA 29). These policies includes the following:

Development in the Residential Areas shall be compatible with the existing physical character of the surrounding neighbourhood, with consideration for 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.

Per the policy above, the proposed construction of a new second storey addition and enlargement of the existing footprint to the south is compatible with the existing physical character of the surrounding neighbourhood. The variances requested only pertain to the side setbacks, which will keep with the character of the neighbourhood.

The “Residential Areas” designation within Official Plan permits a range of housing types including two story-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 conditions of approval, the requested variances 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 15.0 Metre (R1-D) according to By-law 2010-40, as amended by By-law Number 2020-63. Single detached dwellings are permitted within the zone.

Section 6.2.2 of the Zoning By-law sets out the zone standards applicable to residential zones. 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, and movement around the home / accessory buildings. The intent is also to ensure compatibility and consistency within the neighbourhood.

In this case, due to the placement of the existing dwelling, the northern interior side setback requires a variance to bring the existing footprint into compliance. The variance to the southern interior side setback is required to accommodate the proposed southerly addition. The existing detached garage, which is proposed to be demolished, is located closer to the existing southern lot line than the proposed variance. Therefore, although the proposed southerly footprint requires a variance, it would situate the residence further from the property line than the existing detached garage. The proposed reductions will maintain the functional space around the property and the impacts to the neighbours appears to be minimal.

The requested variances seek to recognize the location of the existing foundation on the north side, will increase the setback on the south side of the property, and will not significantly impact the functional space of the lot. This test is met.

### **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. As the requested relief would allow the property owner to invest in their property and arrange the property to suit their needs 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**

When considering if the variance is minor, it is not simply the numerical value that must be considered; the Committee is requested to consider the overall impact of the variance. The overall impact of the proposed variance appears to be minimal and despite the reduced setbacks, the proposed addition will be compatible with the surrounding neighbourhood. This test is met.

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

## **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 with the Ontario Building Code.

Engineering services has requested that the applicant submit a sealed grading plan designed and stamped by a P.Eng of Ontario to the Town, complying with the Town standards for grading and drainage requirements. This has been reflected in the conditions.

York Region has no comments with regards to this application

Comments from Lake Simcoe Region Conservation Authority were not available as of the date of this report.

### **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 handwritten signature in black ink, appearing to read 'Janany'.

Janany Nagulan  
Planner, Development



