



PLANNING AND BUILDING SERVICES

Town of Newmarket

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To: Committee of Adjustment

From: Ted Horton
Planner

Date: May 11, 2016

Re: Application for Minor Variance **D13-A02-16**
107 Cherrywood Drive
Town of Newmarket
Made by: Brad Forsythe

1. Recommendations:

That Minor Variance Application D13-A02-16 be approved, subject to the following conditions:

1. That the variance pertains only to the requests as submitted with the application;
2. That the reduced setback apply only to the garage as proposed and not to any other structure or encroachment;
3. 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; and
4. That the development be substantially in accordance with the sketch submitted with the application.

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, in order to permit a rear yard setback of 0.6 metres and an easterly side yard setback of 0.6 metres, whereas the by-law requires a rear yard setback of 7.5 metres and a side yard setback of 1.2 metres from the proposed garage to the lot lines.

The above-described property (herein referred to as the "subject lands") is located in a residential neighbourhood, specifically on the east of Yonge Street and north of Davis Drive.

3. PLANNING CONSIDERATIONS:

The applicant is requesting relief in order to permit a rear yard setback of 0.6 metres and an easterly side yard setback of 0.6 metres, whereas the by-law requires a rear yard setback of 7.5 metres and a side yard setback of 1.2 metres from the proposed garage to the lot lines. The subject lands are zoned R1-D. The subject lands are a single lot that is located on the corner of Cherrywood Drive.

In making a recommendation to the Committee, staff are required to consider the 4 tests under the *Planning Act*; staff offer the following comments:

The subject lands are designated "Stable Residential" in the Town's Official Plan. The objectives of the designation are to sustain and enhance the character and identity of existing residential communities and encourage the preservation and maintenance of the Town's existing housing stock. This designation permits single detached dwellings, and supports efforts to invest in the existing housing stock. Therefore the application is found to conform to the Official Plan.

The subject lands are zoned Residential Detached Dwelling (R1-D) 15-metre Zone on Schedule 'A' to By-law Number 2010-40, as amended. A single detached dwelling is permitted in this zone, and detached garages are permitted subject to certain setbacks.

The general intent of setbacks are to ensure that the use of a property does not infringe on the rights of neighbours, and to allow sufficient space for light, sunshine, storm water run-off, and movement around the home. In the case of the subject lands, the proposed garage will be substantially closer to the rear lot line than a structure normally would be. However, the proposed reduced setbacks maintain a functional movement space and distance from the lot line. Thus the intent of the zoning by-law is met.

It is desirable to maintain and improve existing properties by applying zoning provisions that reflect the context of each lot – in this case, the context of a corner lot. Both the Official Plan and the Zoning By-law permit this use, and encourage improvement of existing properties. It is considered desirable to permit a land owner to improve their property and develop it to suit their needs in a way that respects the rights of nearby residents.

When considering if the variance is minor, it is not simply the numerical value; the Committee is requested to consider the impact of the variance. The impact of the proposed variance appears to be minimal.

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

4. OTHER COMMENTS:

Building Services has reviewed the application and advised that they have no comments or concerns.

Engineering Services has reviewed the application and advised that they have no comments or concerns provided that existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite, and construction does not occur within any easement(s), where applicable.

The application is subject to the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy that was adopted by Council on October 12, 2004. The policy provides that all significant trees, as defined in the policy, and subject to a development application, may not be removed, injured, pruned or destroyed in any way without the approval of the Town. Significant trees that have been identified in a tree inventory which cannot be protected due to development constraints can be removed with the Town's approval, provided compensation is provided to the Town. Compensation may be in the form of aggregate inch replacement trees or financial payment. The Town's consulting arborist has noted concerns with the submitted arborist report and tree protection plan. These will be addressed before any building permit is issued if the Committee imposes the condition recommended in this report.

5. **CONCLUSIONS:**

The recommendation of approval for the variance is based on the rationale described above and specifically that the relief as requested:

- (1) is minor in nature as the impact appears to be minimal;
- (2) conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- (3) does not adversely affect the character of the neighbourhood and is considered a desirable development of the lot.

Respectfully submitted,



Ted Horton
Planner

copy: R. Prudhomme, M. Sc., P. Eng. – Director, Engineering Services



Planning & Building Services
Office of the Building Inspector
TOWN OF NEWMARKET

395 Mulock Drive

P.O. Box 328

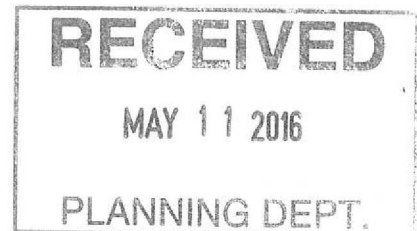
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905.953-5300 ext. 2400

MEMORANDUM



TO: Committee of Adjustment

FROM: David Potter, CBCO, B. Tech., MAATO
Chief Building Official

DATE: May 11, 2016

RE: Application for Minor Variance

File no: D13-A02-16

I have reviewed the above and have no objection subject to compliance with the Building Code.

Brian Givish For David Potter

David



DEVELOPMENT AND INFRASTRUCTURE SERVICES - ENGINEERING SERVICES

Town of Newmarket

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M E M O R A N D U M

TO: R. Nethery, B.E.S., MCIP, RPP, Director, Planning

FROM: Rick Bingham, C.E.T., Manager, Engineering Services

DATE: May 10, 2016

RE: Application for Minor Variance
File No. D13-A02-16
Lot 29, Plan 505
107 Cherrywood Drive
Town of Newmarket



The applicant is proposing to build a detached garage. Relief is requested from Zoning By-law Number 2010-40, as amended, Section 4.2 Accessory Structures to permit a rear yard setback of 0.6 metres and an easterly side yard setback of 0.6 metres, whereas the by-law requires a rear yard setback of 7.5 metres and a side yard setback of 1.2 metres from the garage to the lot lines.

We have reviewed the application and supporting documentation and have no objection to the proposed minor variance provided that existing drainage patterns are not altered, any increase in stormwater runoff is maintained onsite and construction does not occur within any easement(s), where applicable.

Should you have any questions please contact the undersigned.

Sincerely,

ENGINEERING SERVICES

Rick Bingham, C.E.T.
Manager, Engineering Services

File No.: RDB017M

al:RDB

File digital and hardcopy



Lake Simcoe Region
conservation authority

Sent by Email: ltraviss@newmarket.ca

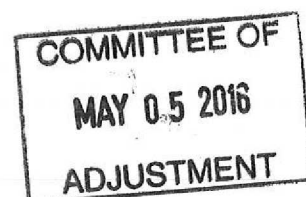
May 5, 2016

File No: D13-A02-16
IMS File No.: PVOC1667C2

Ms. Linda Traviss, Secretary-Treasurer (Acting)
Corporation of the Town of Newmarket
395 Mulock Avenue, Box 328, STN Main
Newmarket, ON L3Y 4X7

Dear Ms. Traviss:

Re: **Proposed Application for Minor Variance**
Brad Forsythe
107 Cherrywood Drive
Town of Newmarket, Regional Municipality of York



Thank you for circulating the Lake Simcoe Region Conservation Authority (LSRCA) regarding the above noted application for Minor Variance. It is our understanding that the purpose of this application is to request relief from the Zoning By-law to permit a rear yard setback of 0.6 metres and an easterly side yard setback of 0.6 metres, whereas the by-law requires a rear yard setback of 7.5 metres and a side yard setback of 1.2 metres from the garage to the lot lines.

Based on existing resource mapping, the subject property is located outside:

- Any natural hazard lands such as floodplain
- Any natural heritage feature such as wetlands
- Any area currently governed by Ontario Regulation 179/06 under the *Conservation Authorities Act*

On this basis, we are satisfied from a watershed management perspective that this application is consistent with the Natural Heritage and Natural Hazard policies of the Provincial Policy Statement (PPS), conforms with the requirements of the Lake Simcoe Protection Plan (LSPP), and Ontario Regulation 179/06 made under the *Conservation Authorities Act*. As a result, the LSRCA has no further requirements as they relate to this proposed Minor Variance application.

If you have any questions regarding these comments, please do not hesitate to contact the undersigned. Please refer to the above file numbers in future correspondence.

Regards,

Lisa-Beth Bulford
Development Planner

LBB/ph

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Newmarket D13-A02-16 PVOC1667 107 Cherrywood Drive.docx

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