



## 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: David Sanza  
Junior Planner, Development

DATE: November 24, 2023

RE: Application for Minor Variance **MV-2023-015**  
491 Eagle Street  
Made by Carmine Panaro

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#### 1. Recommendations:

That Minor Variance Application MV-2023-015 be approved, subject to the following clearing conditions:

1. The Secretary-Treasurer shall receive a letter from the LSRCA, indicating that satisfactory arrangements have been made with respect to the outstanding payment.
2. That the variance pertains only to the request as submitted with the application.
3. Failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

#### 2. Advisory Comments:

2. The development should be substantially in accordance with the information submitted with the application.

#### 3. Application:

An application for Minor Variance has been submitted by the owner of the above noted property. The applicant is requesting relief from Zoning By-law 2010-40, as amended, to permit the construction of a detached garage.

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

Relief	By-law	Section	Requirement	Proposed
1	2010-40	4.1.2	Lesser of 4.6 metres or the height of the main building on the lot.	Detached garage with a height of 5.7 metres.
2	2010-40	6.2.2	No closer than 7.5 meters from rear lot line.	Rear yard setback of 2.05 metres for a detached garage.
3	2010-40	6.2.2	No closer than 3 meters from exterior lot line.	Exterior side yard setback of 1.34 metres for a detached garage.

The above-described property (herein referred to as the "subject land") is located in a residential neighbourhood, south of D'Arcy Street and east of Church Street. The subject land is occupied by an existing townhouse development and is surrounded by single detached dwellings and duplexes.

#### 4. Planning considerations:

The applicant is requesting relief from the By-law to permit a detached garage with a rear side setback of 2.05 metres and an exterior side yard setback of 1.34 metres (from D'Arcy Street). In addition, relief has been requested from the By-law to permit an increase in height from 4.6 meters to a height of 5.7 meters.

It is noted that until recently, a detached garage stood in the same general location of the proposed detached garage. This structure is now removed and there are no legal non-complying elements currently in place. For general information, here is a photo of the former garage from October 2020.



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 land is designated “Residential” in the Town’s Official Plan. The objectives of the Residential Area policies are 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 contextually sensitive manner.
- b. Maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighborhood.
- 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 Neighborhood Study (ENS) and were adopted by Council through 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.

Development in Residential Areas is to be compatible with existing built and physical character of the surrounding properties. The proposal has been reviewed against the policies above and it is the opinion of staff that the proposed garage would be compatible with the existing physical character of the surrounding neighborhood. The variances requested pertain only to the detached garage, which would remain at a size that is generally in keeping with the character of the neighbourhood.

The applicant has designed the garage to mitigate the impact to neighbouring properties by:

- Relocating the exterior staircase to the back of the garage, away from adjacent residences and public view from the street; and,
- Only proposing windows on the north elevation of the garage (facing D'Arcy Street).

As a result, the proposed increase in height would not result in overlook concerns to neighbouring properties. Additionally, the structure is consistent with the Historic Core Character area that is generally characterized by building heights of 1 to 2 storeys with a range of architectural expressions. The proposal complies with all other considerations noted above.

The "Residential Areas" designation within the Official Plan permits residential property owners to have accessory structures, including detached garages. The Official Plan allows for compatible design and the gradual change and improvement of properties 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 Townhouse Dwelling 1 Zone (R4-N) by Zoning By-law 2010-40. Detached garages are permitted within this zoning.

The purpose of the minor variance application is to request relief from the current zoning by-law standards for the rear yard setback, exterior side yard setback, and building height for a detached garage.

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 maintain consistency within the neighbourhood.

As noted, there was previously a detached garage on the property that appears to have been in existence prior to the passing of the Town's original 1979-50 By-law. The former garage has been demolished. The proposed structure would generally maintain the same setbacks as the previous detached garage. The proposed detached garage would be setback 2.05 metres from the rear lot line and 1.34 metres from the exterior lot line, allowing sufficient space around the structure for the above noted activities and maintenance. The location of the structure also would allow a large portion of the yard to remain as usable amenity space for residents and provide separation between the main residence and detached structure.

The general intent of height provisions for detached garages is to ensure that the structure remains accessory to the main building on the property and to reduce the impact of accessory structures on neighbouring properties. The proposed increase to the permitted height is requested to provide functional space on the 2<sup>nd</sup> floor of the garage to permit storage for the tenants of the residential townhouse building. The existing townhouse building has 6 residential units, and the applicant has indicated that there is a need from tenants and the property owner for additional storage on the property. It is noted that accessory residential units are not permitted in this zone and additional residential units would not be permitted within the detached garage.

The maximum building height permitted in this zone for the main residential structure is 8.5 metres and detached garages are permitted to a maximum of 4.6 metres. The proposed garage would be a maximum of 5.7 metres and as such would remain accessory/incidental to the permissions for the main building.

The proposal would not result in a change in functional yard space and is not anticipated to negatively impact neighbouring properties. The proposal would comply with all other zoning standards. Therefore, 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 considered 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, despite the reduced side yard setbacks and increased building height, since:

- The applicant has mitigated the impact on the new structure by relocating the staircase to the rear of the proposed garage.

- The design only includes windows/doors into the front façade facing D’Arcy Street.
- The proposed building complies with the lot coverage requirements of the By-law; and,
- The proposed structure can still be considered accessory to the main residential use on the property.

Therefore, significant impacts to the surrounding properties are not anticipated and the variance can be considered minor in nature. Therefore, 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.

**5. 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 Region of York has reviewed the minor variance application and has advised they have no objection to the proposal.

Engineering has no objections to this application. The applicant will be required to adhere to the Town requirements for servicing, grading, stormwater management, including but not limited to requirements outlined in the Town Engineering Design Standards and Criteria at the time of this development.

Lake Simcoe Region Conservation Authority has reviewed the information and has no objections to the proposal. However, they have noted that there is an outstanding fee to be paid to LSRCA for and therefore payment of this fee has been added as a clearing condition.

**Effect of Public Input**

No public input was received as of the date of writing this report.

**6. Conclusions:**

The relief as requested:

- (1) is minor in nature.
- (2) Is it desirable for the appropriate development or use of land, building or structure.
- (3) conforms to the general intent and purpose of the Official Plan and Zoning By-law.

Respectfully submitted,

SIGNATURE

*David Sanza*

David Sanza

Junior Planner – Development