



**Planning Report**

TO:                                      Committee of Adjustment

FROM:                                  David Sanza  
     Junior Planner, Development

DATE:                                   February 23, 2024

RE:                                      Application for Minor Variance **MV-2024-002**  
     1054 Leslie Valley Drive  
     Made by Arash Aminianrazavi & Dalaram Alijeni

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**1. Recommendations:**

- 1. That Minor Variance Application MV-2024-002 be approved.

**2. Advisory Comments:**

- 1. That the variance pertains only to the requests as submitted with the application; and,
- 2. That the development be substantially in accordance with the information submitted with the application; and,
- 3. That a maximum of one space in the garage be reserved for the purpose of required parking and for no other use; and,
- 4. The municipal boulevard is not recognized as a legal parking space pursuant to Zoning By-law 2010-40; and,
- 5. Failure to comply with and maintain the conditions 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 to request relief from Zoning By-law 2010-40, as amended, to permit the construction of an accessory dwelling unit in the basement of the existing dwelling.

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

Relief	By-law	Section	Requirement	Proposed
1	2010-40	5.3.1	To provide four parking spaces exterior to a garage for the primary dwelling unit and accessory dwelling unit.	To provide two parking spaces exterior to a garage and one parking space inside of a garage for the primary dwelling unit and an accessory dwelling unit

Section 5.3.1 of the Zoning By-law requires four exterior parking spaces for a single-detached dwelling with an accessory dwelling unit. 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 legislation is that three exterior parking spaces are required. The property hosts a double-car garage and a double-car driveway. The two driveway spaces count towards parking and the application is seeking to recognize one parking space within the garage to support the development of the ADU.

The above-described property (herein referred to as the “subject land”) is located in a residential neighbourhood, north of Jacarandah Dr and west of Leslie Steet. The subject land is occupied by an existing single-detached dwelling and is surrounded by similar single-detached dwellings.

### **3. Planning considerations:**

The request for variance is to permit a reduction in the required minimum number of off-street parking to facilitate the creation of a legal ADU in the existing single-detached dwelling. The Zoning By-law requires two exterior parking spaces to be provided for the principal dwelling and two exterior parking spaces for the ADU, for a total of four exterior parking spaces. However, provincial legislation imposes a maximum of one parking space for an ADU, which, in effect, means three exterior parking spaces are required (two for the principal residence and one for the ADU). The application was submitted as the current driveway size (being a double car, side-by-side driveway) cannot accommodate the required three exterior parking spaces. Therefore, a variance is required to recognize one parking space in the existing garage.

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” 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 a range of residential accommodations 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.

The subject land is within the area characterized as “Traditional Suburban Character Area”. This area is generally characterized by:

- Curvilinear street patterns, including crescent streets and cul-de-sacs;
- Long blocks with few intersections;
- Landscaped boulevards and a moderate and evolving canopy of maturing street trees;
- Discontinuous sidewalks on one side of the street, with the exception of cul-de-sacs, many of which are absent of sidewalks;
- Rectangular and pie-shaped lots, with consistent dimensions, of a moderate to significant size;
- Consistent front and side yard setbacks;
- Building heights between 1 and 2-storeys; and
- A limited range of architectural expressions and styles.

The Official Plan permits accessory dwelling units in single-detached dwellings, subject to certain criteria including compliance with the Town’s Zoning By-law. The Official Plan also encourages a range of residential accommodations and affordable housing types. Subject to the advisory comments, the requested variance is considered to conform to the Official Plan and therefore and 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 and accessory dwelling units are permitted within the zone.

Section 5.3.1 of the Zoning By-law sets forth the parking standards for residential uses. This section states that both a single-detached dwelling and an ADU require two exterior parking spaces for each provided, for a total of four exterior parking spaces allocated. This zoning regulation has been superseded by Ontario Regulation 299/19, which states that municipalities can only require one parking space for an ADU. The effect of this regulation is that only three parking spaces are required.

The general intent of the By-law is to provide a sufficient number of parking spaces for individuals residing in the two dwelling units within the property. Currently, two vehicles can be accommodated on the driveway, parked side-by-side. There is also an attached garage, however, the Zoning By-law requires parking spaces to be provided exterior to the garage to meet the minimum parking requirement. Therefore, the proposed variance would allow for a sufficient number of parking spaces for the two dwelling units on the property by counting one of the garage spaces.

The intent of this zoning provision is to ensure that the required number of spaces are provided to allow the option of the garage to be used by residents as storage. In this instance, the one space proposed within the garage complies with the minimum parking space dimension of 2.6 metres by 5 metres. The remaining garage area would be able to be used for storage, if desired, by the owner. If approved, the variance would be subject to the Advisory Comments set out above. The Advisory Comments require that a maximum of one parking space be available in the garage at all times. Legislative Services has the ability to enforce the Advisory Comments of a minor variance. If the Advisory Comments on the variance are not complied with, the variance may no longer be valid and the ADU would be considered out of compliance with the Zoning By-law and deemed to be “illegal”. As three parking spaces will be available, the variance requested maintains the general intent of the Zoning By-law and therefore, this test is met.

### **Desirable development of the lot**

The proposed variances are considered desirable for the development and use of the land. An ADU contributes to the mix of housing types within Newmarket and supports the Town's goals of providing for more affordable forms of housing and provides for modest increases in density. A minor variance is the appropriate tool for relief from zoning requirements that would prevent an otherwise desirable development, and a variance change to the parking location should not overshadow the desirability of an ADU as a development as encouraged by Town, Region, and Provincial policy. Therefore 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 parking variance appears to be minimal as the potential increase in the number of vehicles generated by the accessory dwelling unit can still be accommodated on the property by the two existing exterior parking spaces and one parking space that is to be reserved in the garage.

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:**

### **Tree Preservation**

No trees will be affected by allowing the double car garage to have a singular parking spot allocated out of the two spots.

### **Heritage**

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

### **Commenting Agencies and Departments**

Engineering Services has no objection to the application.

The Regional Municipality of York has no comment on the application.

The subject land is not within the LSRCA-regulated area.

Central York Fire Services has not commented on the application.

### **Effect of Public Input**

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

## **6. 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,

*David Sanza*

David Sanza  
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