



Planning Report

TO: Committee of Adjustment

FROM: Peterson Rissis
 Junior Planner, Development

DATE: February 23, 2024

RE: Application for Minor Variance **MV-2024-003**
 102 Queen Street
 Made by: David De Jong & Laura De Jong

1. Recommendations:

That Minor Variance Application MV-2024-005 be approved, subject to the following clearing condition:

1. The Secretary-Treasurer shall receive a letter from the Lake Simcoe Region Conservation Authority, indicating that satisfactory arrangements have been made with respect to the outstanding payment and comments provided on February 7, 2024, prior to the issuance of any building permit.

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. Prior to the demolition or any construction activity of the subject lands, the Town must be notified in order to conduct an inspection of the installed tree protection fencing and other tree protection measures; and,
4. Failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

3. 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 a new two-storey dwelling using the former dwelling’s foundation.

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

Relief	By-law	Section	Requirement	Proposed
1	2010-40	6.2.2	To provide a maximum finished first floor height of 1.2 metres	To provide a maximum finished first floor height of 1.7 metres

2	2010-40	4.2	To provide a porch encroachment inclusive of steps of 2.4 metres	To provide a porch encroachment inclusive of steps of 2.6 metres
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The above-described property (herein referred to as the “subject land”) is located in a residential neighbourhood and is located on the east side of Queen Street north of Millard Avenue. Until recently, the subject land was occupied by a single-detached dwelling. The property is surrounded by similar single-detached dwellings.

4. Planning considerations:

The applicant is proposing the construction of a two-storey dwelling using the former dwelling’s foundation and is proposing to add an entry staircase, a covered front porch, a walkout basement, and an uncovered deck. The request for variance is to permit an increase in the maximum finished first-floor height from 1.2 metres to 1.7 metres. Additionally, the applicant is proposing a covered front porch and stairs that project 3.9 metres from the proposed dwelling, encroaching into the 2.6 metres into the required front yard setback, whereas the maximum encroachment allowed is 2.4 metres.

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 “Historic Core Character Area”. This area is generally characterized by:

- Traditional street grid patterns;
- Short blocks with many intersections;

- Landscaped boulevards and an extensive canopy of established mature trees;
- Continuous sidewalks on one or both sides of the street;
- Building heights of 1 to 2 storeys;
- A range of architectural expressions and styles, with a significant focus on Victorian-era Architecture; and,
- A significant concentration of Listed and Designated heritage properties.

Developments within the Historic Core Character Area shall acknowledge and respect the general physical characteristics as outlined above, while responding to the unique site and contextual conditions and demonstrating compatibility with the existing neighbourhood. Where a new dwelling is being proposed within or abutting an established neighbourhood, it must be designed, massed, and located to respect the predominant context.

More specifically, Section 3.1.2 of the Official Plan outlines policies that 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.

The proposal has been reviewed against the policies above and is compatible with the existing scale and design of the surrounding neighbourhood. The requested variances only pertain to the maximum first-floor height and porch encroachment, which would not negatively impact the neighbourhood's existing character.

The Official Plan allows for compatible design and the gradual change and improvement of homes through Planning Act applications. Subject to the recommended clearing conditions and advisory comments, the requested variance is considered to conform to the Official Plan. Therefore, 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 are permitted within the zone.

Variance 1 pertains to the maximum first floor finished height. Section 6.2.2 of the Zoning By-law sets out the zone standards applicable for residential zones, including the maximum first-floor finished height. The general intent of the maximum finished first-floor height is to ensure that the front façade of the dwelling is generally consistent with the appearance and massing of the surrounding streetscape by creating a regular above-grade elevations for first floors. The intent of having a maximum finished first floor height is to have the first floor located as close as possible to the street in order to create a close relationship between the dwelling and the street and minimize the overall height of the dwelling to ensure the height is compatible with neighbouring properties. The proposed increased first-floor height would

not negatively impact this, as from the established grade, the proposed dwelling is below the maximum permitted height allowed in the By-law.

Variance 2 pertains to the encroachment of the proposed porch into the minimum required front yard setback. The applicant is proposing an encroachment of 2.6 metres into the required front yard, whereas Section 4.2 of the By-law permits a maximum encroachment of 2.4 metres. The proposed porch encroachment is required due to the change in the first-floor height that necessitates a larger number of steps to the primary entrance of the dwelling, causing it to project further from the house into the front yard. The general intent of the minimum front yard setback is to ensure that the use of the property permits adequate drainage, landscaping, and movement around the dwelling and does not negatively impact the visual character of the streetscape or infringe upon the rights of neighbouring properties. The proposed reduction in the front yard setback would still permit adequate functional space for landscaping, drainage, and access around the property.

The variances requested maintain the general intent of the Zoning By-law, and 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 it to suit their needs without significant impact on neighbouring properties or the community, it 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 variances would be minimal. By reusing the foundation of the previously existing residence, the new residence will maintain the previous side and rear yard setbacks. The proposed dwelling would maintain a similar built form and would be compatible with the existing neighbourhood. The proposed increase to the first-floor height would have minimal visual impacts on the neighbouring properties as the requested variance does not result in a change to the overall building height. Sufficient separation between the porch and the front property line is also maintained. As the proposed modifications are consistent with the surrounding neighbourhood context, this test is met.

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 the clearing condition.

5. Other comments:

Tree Preservation

The submitted Arborist Report and Tree Preservation Plan indicate that there are several significant trees on the subject land and on adjacent properties within 4.5 metres of the property line(s). It is advised that the Town be notified in order to conduct an inspection of the installed tree protection fencing and other tree protection measures prior to any demolition or construction activity on the subject lands.

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.

Lake Simcoe and Region Conservation Authority has no objection to the application.

The Regional Municipality of York has no comment 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,



Peterson Rissis
Junior Planner – Development