



Planning Report

TO: Committee of Adjustment

FROM: David Sanza
 Junior Planner, Development

DATE: February 23, 2024

RE: Application for Minor Variance **MV-2024-004**
 200 Vermont Avenue
 Made by Hamidreza Akbari & Sedigheh Soltanian

1. Recommendations:

1. That Minor Variance Application MV-2024-002 variance 1 be denied and variance 2 be approved.

2. Advisory Comments:

1. That the variance pertains only to the requests as submitted with the application;
2. That the development be substantially in accordance with the information submitted with the application;
3. The municipal boulevard is not recognized as a legal parking space pursuant to Zoning By-law 2010-40; and,
4. 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 two accessory dwelling units, one unit is located in the basement and one on the main floor 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 allow for the single car garage to be considered a parking space. To accommodate the 4 th parking spot needed to allow for the second ADU to the dwelling.
2	2010-40	4.5 V)	The external appearance of the front façade of a building	To allow for a side door entrance that faces the public street be

			or any other façade of a building facing a street on which the lot has frontage should not be altered.	allowed to provide an additional entry point for an ADU.
--	--	--	--	--

The applicant is looking for relief from the Section 5.3.1 to allow for two ADU's within the dwelling. One proposed ADU will be in the basement of the dwelling while the other ADU will be on the first floor. 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 for the main dwelling and one accessory unit. The property hosts a single car garage and a double car driveway (with an addition to the driveway to allow for a third spot). 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 two proposed ADU's Leaving the second and third floor reserved for the primary dwelling.

Section 4.5 v) of the Zoning By-law does not allow for the external appearance of a façade of a building facing a street on which the lot has frontage to be altered. The intent of this By-law is to maintain as uniform as possible for facades facing the street.

The above-described property (herein referred to as the "subject land") within a residential neighbourhood, north of Bennington Road and west of Yonge Street. The subject land is occupied by an existing townhouse and is surrounded by similar townhouse dwellings within the same subdivision.

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 two legal ADUs in the existing townhouse dwelling. However, provincial legislation imposes a maximum of one parking space for an ADU, which, in effect, means four exterior parking spaces are required (two for the principal residence and two for the ADUs). The application was submitted as the current driveway size (being a single car driveway with a proposed extension into the front yard for an additional parking space in the driveway) cannot accommodate the required 4 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 Official Plan permits accessory dwelling units in all dwelling types, 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 variances are 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 Townhouse Dwelling 3 Zone (R4-R-X1) by Zoning By-law 2010-40. Townhouse dwellings and accessory dwelling units are permitted within the zone. The two proposed variances are analysed separately.

1. To allow for a single car garage to be counted as a parking space:

Section 5.3.1 of the Zoning By-law sets forth the parking standards for residential uses. This section states that a townhouse and two ADU's require two exterior parking spaces for each, the effect of this regulation is that four 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 three-unit dwelling. Currently, two vehicles can be accommodated on the driveway, parked in tandem with a proposed driveway expansion to the east of the driveway. 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 three-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 applicant is proposing consider counting the single car garage towards parking spaces, further reducing the storage capacity for the primary dwelling. The remaining space that would have generally made up for the lack of storage (the basement) is also being proposed to house an ADU. An additional ADU is also being proposed on the first floor of the dwelling leaving the second and third floor to be occupied by the primary residents of the dwelling. This lack of storage does not allow for items such as lawn mowers to be stored correctly. This change to the dwelling does not support the current Town's intent in the By-law. As of writing this report, the Town has only allowed double car garages to be permissible to have one of the spaces be used for parking. Therefore, the test is not met for this variance.

2. To allow for a side door facing the public road:

Section 4.5 v) of the Zoning By-law requires that a façade that faces the street to be uniform and unchanged. However, the intent of allowing a side door entrance to be added to the side of the house does allow for a range of uses to the dwelling. The planned use for this side door is to provide access to the house for the basement ADU increasing the diversity and supply of housing options in the town. This supports the intent of the Zoning By-law and therefore the test is met for this variance.

Desirable development of the lot

The proposed variances are considered desirable for the Town of Newmarket and for the development and use of land. An ADU contributes to the mix of housing types within Newmarket and supports the Town's goals of providing more affordable forms of housing and increasing the density of the town. However, permitting a single car garage to count as a parking space potentially restricts the storage capacity of needed tools to help maintain and aesthetics of the dwelling. With the addition of a side door entrance, the desirability of the change poses minimal impacts to the neighbourhood and views from the street. Adding more value to the property and providing additional access to the ADU can only benefit the property. Therefore, this test is *** for both variances (?).

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 parking variance is not minor in nature and can have negative impacts on the available storage or household items. The test for minor variance to allow for a single car garage to permit parking is not minor in nature as it removes the potential for storage space to be used. With the proposal of a basement and first floor ADU the reduction of storage can be a genuine concern. Therefore, the test for the garage to count as parking is not minor in nature and is not met.

Permitting a change on a façade that faces the street specifically an exterior side yard should not change the aesthetics of the neighbourhood. By allowing such a minor change to occur only benefits for the tenants and owners shall occur with minimal changes to the street facing exterior side yard façade. The variance for the side door on the exterior side yard is minor in nature and poses minimal impacts to the dwelling and street view. Therefore, the test for the side door entrance is met.

In consideration of the above, the proposed variance 2 is deemed to meet the four tests under the *Planning Act* and is recommended to be approved, subject to clearing conditions.

However, variance 1 does not meet the four tests under the Planning Act and is recommended to be denied.

5. Other comments:

Tree Preservation

No trees will be affected by the changes made to the dwelling.

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.
- Public Works states that the removal of light post that is directly in front of the proposed driveway extension can be relocated but the applicant must deal directly with Montgomery Industries Services in the relocation. Also noted was the site plan is incorrect in that the concrete sidewalk/existing curb cut is missing in the asphalt portion before it abuts the concrete curb.

Effect of Public Input

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

6. Conclusions:

The variance 1 as requested:

- (1) Is not minor in nature.
- (2) Does conform to the general intent and purpose of the Official Plan
- (3) Does not conform to the general intent and purpose of the Zoning By-law; and
- (4) Is considered desirable for the development of the lot.

The variance 2 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
Junior Planner – Development