



## PLANNING AND BUILDING SERVICES

Town of Newmarket

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### Planning Report

TO: Committee of Adjustment

FROM: David Sanza  
Junior Planner, Development

DATE: April 19, 2024

RE: Application for Minor Variance **MV-2024-017**  
693 Sunnypoint Dr  
Made by Nikita Karmanov

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#### 1. Recommendations:

1. That Minor Variance Application MV-2024-017 be denied.

#### 2. Clearing Conditions:

1. The applicant will need to submit a sealed grading plan designed and stamped by a P. Eng of Ontario to the Town, complying with Town standards for grading and drainage requirements. See letter TF044M dated April 8, 2024.
2. The applicant will need to submit a sealed letter signed and stamped by a P. Eng of Ontario confirming that there will be no negative impacts to the grading and drainage of this property or neighbouring properties as a result of the proposed changes. See letter TF044M dated April 8, 2024.
3. The applicant will need to submit a revised arborist report to satisfactory of the Towns Peer Review consultant. See Peer Reviewed consultant comments dated April 16, 2024.

#### 3. 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. Failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

#### 4. 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 a setback of 0.117 metres to the interior lot line for an existing shed (Residential Accessory Structure).

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

Relief	By-law	Section	Requirement	Proposed
1	2010-40	4.2	2.4 metres setback from the property line.	To allow for the current shed to have a setback from the interior side lot line of 0.117 metres.

The above-described property (herein referred to as the “subject land”) is located in a residential neighbourhood, north of Davis Drive and east of Patterson Street. The subject land is occupied by an existing semi-detached dwelling and is surrounded by similar semi-detached dwellings.

## 5. Planning considerations:

The request for variance is to seek relief from section 4.2 to allow for a currently existing shed to be located 0.117 metres from the interior lot line. The requirements within section 4.2 states that a residential accessory structure of a height between 2.8 metres and 4.6 metres must not be closer than 2.4 metres from the side lot line. The height of the shed is 3.46 metres, thus requiring a setback of 2.4 metres from the lot line.

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:

- 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.
- Maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighbourhood.
- 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.
- 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 "Residential Area" designation permits semi-detached dwellings with various residential accessory structures. The Official Plan allows for compatible design and the gradual change and improvement of homes through Planning Act applications. Subject to the four tests and committee's approval the requested variance is 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 Semi-Detached Dwelling 21.3m Zone (R2-K) by Zoning By-law 2010-40. Semi-detached dwellings and residential accessory structures are permitted in this zone.

Section 4.2 of the Zoning By-law requires Residential Accessory Structures with a maximum height between 2.8 metres and 4.6 metres to be located no closer than 2.4 metres from the rear and side lot lines. The intent of a setback is to ensure that the use of the property does not infringe on the rights of neighbours, there is sufficient space maintained for drainage, lawn maintenance, sunlight airflow, stormwater, run-off, and movement around the interior side yard. The current structure (a shed) is situated on an angle from the property line. The shed is setback from the interior lot line 0.117 meters at the front of the shed and 0.635 meters to the rear of the shed. As described above, there is minimal space between the lot line and the shed. The existing setback does not maintain the general intent of the Zoning By-law; therefore, this test is not met for this variance.

### **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 suites their needs, subject to the limits of the zoning by-law and impacts on neighbouring properties. The requested variance is specific to the interior side setback and the location of the residential accessory structure does not maintain a sufficient distance from the property line. The requested relief would not allow for sufficient access to structure for general maintenance and it has the potential to negatively impact the neighbours. Therefore, this test is not 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 variance is requesting to allow for a minimal setback to be applied to an existing shed, however the shed has the potential to negatively affect the neighbours by impacting stormwater management and restricting the ability of the area between the structure and fence to be adequately maintained. Some of the routine maintenance that would be adversely affected by the shed being so close to the lot line would be vegetation growth due to inaccessibility, water runoff directly on to the neighbouring properties and a potential for built up debris such as leaves that have the potential to build up. Thus, this variance is not minor in nature variance.

In consideration of the above, the proposed variance is deemed to not meet the four tests under the *Planning Act* and is recommended to be denied.

## **6. Other comments:**

### **Tree Preservation**

The Arborist report has been received and reviewed by Urban Forest Innovation (UFI) and based on their comments an updated arborist will be required to revise the tree inventory, tree protection, and tree values.

### **Heritage**

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

### **Commenting Agencies and Departments**

- Please see clearing conditions for engineering comments TF044M dated April 8, 2024.
- 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.

## **7. Conclusions:**

That the application be denied as the relief as requested:

- (1) is not minor in nature;
- (2) does not conform to the general intent and purpose of the Zoning By-law; and
- (3) is not considered desirable for the appropriate development of the lot.

Respectfully submitted,



David Sanza  
Junior Planner – Development