



**PLANNING AND BUILDING SERVICES**  
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## Planning Report

TO:                                      Committee of Adjustment

FROM:                                    Aida Hosseinzadeh  
Intermediate Planner, Development

DATE:                                    April 19, 2024

RE:                                        Application for Minor Variance **MV-2024-019**  
281 Main Street North  
Made by Mark Fogliato

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### 1. Recommendations:

1. That Variances of Minor Variance Application MV-2024-013 be approved.

### 2. Clearing Conditions:

1. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Planning Services division, indicating that satisfactory arrangements have been made with respect to Site Plan application prior to the issuance of any building permit;
2. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Planning Services division, indicating that satisfactory arrangements have been made with respect to the Town's Tree Preservation, Protection, Replacement and Enhancement Policy prior to the issuance of any building permit; and,
3. The Secretary-Treasurer shall receive a letter from the York Region, indicating that satisfactory arrangements have been made with respect to York Region's comments dated April 18, 2024, prior to the issuance of any building permit.

### 3. 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; 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, to permit the construction of 19 townhouses with 4.3 metres lot frontage per unit.

The following variances have been requested from Zoning By-law 2010-40, Site Specific 132:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	8.1.1, Exception 132, ii) a.	Maximum number of townhouse units: 16	To add three additional units for a total of 19 units
2	2010-40	8.1.1, Exception 132, ii) e.	Minimum Lot Frontage on a private road: 5.0 metres per unit	To allow for minimum 4.3 metres lot frontage on a private road per unit

The above-described property (herein referred to as the “subject land”) is located east of Main Street North, west of the Tom Taylor Trail. The subject land has an area of approximately 5,421 square metres, with a lot frontage of 65 metres on Main Street North and 79 metres on Old Main Street. The subject land is currently vacant and is surrounded by townhouses to the north, and open space and the rail line to the south.

This property has been subjected to multiple applications previously:

- 2016:

The subject land was subjected to a Zoning Bylaw Amendment and Draft Plan of Subdivision, which were approved by Council in 2016 (By-law 2016-63). The Purpose of this amendment was to rezone a portion of the subject land from Residential Detached Dwelling 30 metres (R1-B) Zone to the Residential Townhouse Dwelling Exception (R4-R-132) Zone.

The purpose of the Zoning By-law Amendment was to permit the development of nine townhouse units on a proposed road and to semi-detached units, for a total of 11 units.

- 2020:

The subject land was subject to a Minor Variance application, which was approved by Committee of Adjustment in 2020 (D13-A12-20). The purpose of this Minor Variance application was to permit 11 townhouse units, whereas the By-law permits nine townhouses and two semi-detached dwelling units.

- 2021:

The subject land was subjected to a Zoning Bylaw Amendment, which was approved by Council in 2021 (By-law 2021-71). The purpose of this amendment was to permit the development of 16 townhouses on the subject land.

A site plan application (PLN-SPA-2022-013) has been submitted for the proposed development and is currently under review.

**5. Planning considerations:**

The property was subjected to a Zoning By-law Amendment and Draft Plan of Subdivision, which were approved by Council in 2021 (By-law 2021-71). The purpose of this amendment was to permit the development of 16 townhouses on the subject land.

This application for a Minor Variance has been submitted to address modifications to the previously approved zone standards and proposed site plan. The applicant is proposing to modify the number of permitted townhouses and the minimum permitted width of the townhouses to allow an increase of three units (from 16 to 19 townhouses) on the property.

In order to authorize the variances, Committee must be satisfied that the requested variances pass 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 townhouses subject to certain criteria including compliance with the Town’s Zoning By-law. The Official Plan also encourages a range of residential accommodations and housing types. 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 3, exception 132 (R4-R-132) by Zoning By-law 2010-40. The two proposed variances are analysed separately.

1. **To allow 19 townhouses on the subject land:**

Subsection ii) a of Exception 132 permits maximum of 16 townhouses. The intent of restricting the number of units on the property is to prevent a congested, and poorly designed urban environment. Adding 3 units to the development still maintains these purposes since appropriate built form, adequate servicing, fire access, waste storage, soft landscaping, appropriate driveways, vehicular parking spaces and private amenity spaces are all provided while the units are still functional.

Variance 1 is requesting to add 3 units to the development. Despite adding three additional units, the proposal still complies with the lot coverage and the height provisions; The lot coverage of the previous site plan of the property (16 townhouses) was 17%, however, with smaller units being proposed, the new design is proposing 13% of lot coverage, resulting in smaller building envelope. Also, the height of the units remained unchanged. Therefore, the built form of the proposed development is not changing dramatically.

The other factor that can limit the number of units which can be appropriately accommodated on a property is parking spaces. The Site Specific exception for this property requires one parking space per unit plus 3 visitor parking spaces. The development is proposing one parking space for each unit and 9 visitor parking spaces on the site, a total of 28 parking spaces, which exceeds the number of required parking spaces (22 parking spaces).

In 2023, Council adopted the housing target of 6400 new housing units in the community by 2031. Adding three units as a result of this minor variance application would be an appropriate way to contribute to the housing target to achieve the housing pledge. This variance will allow for an appropriate level of density, accommodating a range of housing options without comprising the liveability of the site, being compatible with the neighbourhood, and ensuring compliance with the zoning provisions.

**2. To allow for 4.3 metres lot frontage per unit:**

The intent of the lot frontage is to maintain compatibility, adequate spacing and width of the built form, and to ensure enough soft landscaping is being provided in front of the dwellings.

Section ii) e. of Exception 132 requires a minimum of 5 metres of lot frontage on a private road for each unit. There are two blocks of townhouses on the subject land. One on the west side (13 units), and the other one on the east side (6 units) of the property.

*West Block:*

The west block previously proposed 11 townhouse units, and the new proposal is adding 2 units to this row of townhouses. Having smaller lot frontages for this block will not affect the amount of soft landscaping, since all the driveways are at the rear of the buildings.

*East Block:*

This block of townhouse units previously had 5 units. The new site plan is proposing 6 townhouse units with lot frontages varying from 4.3 metres to 5.3 metres. Adding a unit to this block, resulted in reducing the lot frontage, however, the block still complies with other zoning provisions.

The footprint of the buildings remained unchanged for both blocks and comply with the required setbacks.

The lot frontage of 4.3 metres maintains the general intent of the zoning by-law of ensuring compatibility. This development is compatible with the existing townhouses on north side of the property. It will be considered as a continuation of already existing townhouses and in line with other similar current planning applications in the neighbourhood. Also, the property has 65 metres of frontage on Main Street North, the smaller individual lot frontages for each townhouse will not affect the building envelope or streetscape, as the footprint remains unchanged. Moreover, sufficient landscaped space for each dwelling is possible on each lot, and rear amenity space remains available for each lot.

The requested variances are consistent with the general intent and purpose of the Zoning By-law; therefore, this test is met.

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

The proposed variances are required to add 3 townhouse units to the development. The additional units contribute to the mix of housing types within Newmarket and supports the Town's goals of providing more diversifies housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with the surrounding neighbourhood by proposing transitional-styled buildings referencing the materials and architectural characteristics commonly found in "Historic Core Character" area.

Also, the applicant advises that the revised site plan provides for an improved interior floor plan with bedroom layouts and usability of the individual units, while it is compatible with the architectural style of the neighbourhood by using red and yellow brick facades, tall windows and doors and roofs with short overhangs which reflects the surrounding built form of the neighbourhood.

The requested variances are desirable for the development of the lot and the neighbourhood, therefore, the 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. Staff are of the opinion that the overall impact of the variances being discussed are minor in nature since the list of permitted uses is not being changed and the built form is compatible with the neighbourhood, as demonstrated above. The impact of the variance is minor and 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.

## **6. Other comments:**

### **Tree Preservation**

There are a total of 86 trees being affected by this development: 68 trees on the subject land, 14 shared trees, 3 trees on neighbouring properties, and 1 town-owned tree. The Arborist Report speaks to the removal of 68 trees and preservation of 18 trees.

The Town's Arborist Peer Review Consultant has commented on the Arborist Report. Appropriate compensation and securities will be provided through the Site Plan Approval process.

### **Heritage**

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

### **Commenting Agencies and Departments**

- LSRCA has confirmed that they have signed off on the Site Plan application, therefore, they will not be commenting on the construction of 19 townhouses. LSRCA has no concerns with the reduced lot frontage.
- York Region has no concerns with the Minor Variance application, however, requires a letter prepared by the professional Engineer to be submitted to the York Region stating that bulk fuel or bulk chemicals will not be occurring in the subject land. This will be condition of Site Plan Agreement. Please refer to York Region comments dated April 18, 2024.
- Engineering Services has reviewed this application and has no objection to the Minor Variance application. Further engineering comments will be provided during resubmission of the Site Plan application. Please see letter TF046M dated April 11, 2024.
- Metrolinx has reviewed the application. Please see comments dated April 19, 2024.

### **Effect of Public Input**

Written correspondence was received from a resident in the neighbourhood. A summary of the concerns received from the public include:

- The increase of traffic accessing Main Street.
- Access to the townhouses
- Possible traffic light on Main Street and Jim Barber intersection

## **7. Conclusions:**

That the application be approved as the relief as requested:

- (1) is minor in nature;
- (2) conforms to the general intent and purpose of the Official Plan;
- (3) conforms to the general intent and purpose of the Zoning By-law; and
- (4) is considered desirable for the appropriate development of the lot.

Respectfully submitted,

*A. Hosseinzadeh*

Aida Hosseinzadeh  
Intermediate Planner – Development