



PLANNING AND BUILDING SERVICES

Town of Newmarket

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Planning Report

TO: Committee of Adjustment

FROM: Joyce Tsui
Intermediate Planner, Development

DATE: May 24, 2024

RE: Application for Consent **CON-2024-003** and
Minor Variance **MV-2024-014, MV-2024-015 & MV-2024-016**
137 Wesley Street
Made by: NGG HOMES INC.

1. Recommendations:

Consent Application

That Consent Application **CON-2024-003** be approved, subject to the following:

Clearing conditions:

1. To the satisfaction of the Secretary-Treasurer:
 - i. An electronic copy of the deposited reference plan showing the subject lands, which conforms substantially to the application as submitted;
 - ii. Proof of payment of all outstanding taxes and local improvement charges owing to date; and,
 - iii. Any required transfers to affect the severance and conveyance of the land.
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 Town of Newmarket, Development and Infrastructure Services – Planning Services Division, indicating that the conveyed land and retained lands comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding.
4. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Engineering Services Division, indicating

that the applicant has provided a signed and stamped plan and report and satisfactory arrangements have been made with respect to stormwater management.

Advisory comments:

1. The consent pertains only to the request as submitted with the application;
2. The development be substantially in accordance with the information submitted with the application;
3. The applicant will be required to obtain municipal servicing for all lots independently, at their own cost, prior to any building permit being issued;
4. Prior to any demolition or construction activity on 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,
5. Failure to comply with and maintain the conditions and comments of the Committee shall render the approval null and void.

Minor Variance Application

That Minor Variance Application **MV-2024-014, MV-2024-015 and MV-2024-016** be approved, subject to the following:

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 the Town's Tree Preservation, Protection, Replacement and Enhancement Policy prior to the issuance of any building permit; and,
2. The Secretary-Treasurer shall receive a letter from the Town of Newmarket, Development and Infrastructure Services – Engineering Services Division, indicating that the applicant has provided a signed and stamped plan and report and satisfactory arrangements have been made with respect to stormwater management.

Advisory comments:

1. The variance pertains only to the request as submitted with the application;

2. The development be substantially in accordance with the information submitted with the application;
3. Any future development, including any additional residential units, shall meet the zone standards for each individual lot and satisfy the minimum parking requirements under the applicable zoning by-law;
4. Prior to any demolition or construction activity on 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,
5. Failure to comply with and maintain the conditions and comments of the Committee shall render the approval null and void.

2. Subject Lands

The application pertains to the property municipally known as 137 Wesley Street and described by the legal description below:

LT 41 and 42 PL 117 NEWMARKET

The subject lands are located on the east side of Wesley Street, north of Srigley Street and are currently occupied by a single detached dwelling, a detached garage, and a shed. The property is surrounded by similar single detached houses.

The subject lands are currently comprised of two existing lots on a Plan of Subdivision. The purpose of the application is to sever the existing two lots to create three lots.

3. Application:

An application for consent has been submitted to create a new lot “Lot 2” by severing a portion of land from both “Lot 1” and “Lot 3” (refer to Attachment 1). The existing dwelling, garage, and shed would be demolished. A residential detached dwelling with an accessory dwelling unit is contemplated for each of the lots. The consent, if granted, would result in three lots.

The purpose of the minor variance applications is to vary the lot frontage and lot area of the proposed lots. The proposed lots and associated frontage and lot area are presented below:

	Frontage (m)	Area (m ²)
Zoning Requirement (R1-D)	15	511
Lot 1 (retained parcel)	10.13	299
Lot 2 (severed parcel)	10.13	298
Lot 3 (retained parcel)	10.14	298

4.1 Planning Considerations – Consent

I. Conformity with the Official Plan

Section 16.1.5.2 of the Official Plan sets out the circumstances in which an application for consent will be granted. The section outlines that consents shall only be granted where:

- A. The severance is for the purpose of infilling within the existing development;
- B. A plan of subdivision is not necessary;
- C. The number of lots created is three or less;
- D. The lot can be adequately serviced by sanitary sewage disposal, water supply, and storm drainage facilities;
- E. No extension, improvement or assumption of municipal services is required;
- F. The lot will have frontage on an improved public road, and access will not result in traffic hazards;
- G. The lot will not restrict the ultimate development of adjacent lands;
- H. The size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and compatible with adjacent lots; and,
- I. The consent complies with all relevant provisions of the Official Plan.

The proposed consent meets clauses (a) to (g) and (i), as the subject lands are within an existing neighborhood with existing services. Clause (h) requires the Committee to determine whether it has been fulfilled or not. Clause (h) relies on whether the proposed consent will create a lot that is compatible with adjacent lots.

Although the proposed lots will have a smaller frontage than the adjacent lots, the neighborhood is eclectic in terms of frontages. There are lots with similar frontages along both Wesley Street and Srigley Street.

The proposed severance to create one additional lot would provide gentle intensification while still maintaining the characteristics of the low-density residential neighborhood. The proposed application meets the intent of the Official Plan.

II. Conformity with the Zoning By-law

The subject lands are zoned Residential Detached Dwelling 15m Zone (R1-D) by By-law 2010-40, as amended. This zone contains requirements for minimum lot area, lot frontage, yard setbacks, parking, and maximum lot coverage. As discussed above, the consent would result in the creation of three lots that have smaller lot frontages and lot area than the required minimum lot frontages and area under the Zoning By-law. However, this would not raise compatibility concerns because there are a variety of lot frontages and area in the neighborhood. There are lots with the same zoning on Wesley Street and on Crescent Road that have similar lot frontages and area. Therefore, the proposed lot frontages and area of the three lots would fit into the character of the surrounding area.

Subject to the approval of the concurrent minor variances, each of the lots would comply with the site-specific requirements for minimum lot frontage and lot area. Any future dwelling or structure, including any accessory residential units built on the lots would be required to comply with all other zoning standards, including setbacks, height and coverage.

4.2 Planning Considerations – Minor Variances

The applications for consent and variances must be addressed in tandem. If Committee decides not to grant the consent, the applications for minor variances are unnecessary. Conversely, if Committee decides to deny the minor variances, the consent cannot be approved as the minor variances are required for the proposed resulting lots to conform with the requirements of the Zoning By-law.

The minor variance applications must be addressed as a condition of the approval of the consent. If not, the proposed resulting lots will not conform with the minimum standards required by the Zoning By-law and the application will be inconsistent with the Town's Official Plan, specifically Section 16.1.5(h): "the size and shape of the lot conforms with the requirements of the Zoning By-law".

In order to authorize a minor variance, 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:

I. Conformity with the General Intent of the Official Plan

The subject lands are designated "Residential Areas" in the Town's Official Plan, which permits a range of residential accommodation built form types. The objectives of the Residential Areas policies are to:

- a) Provide for a range of residential accommodation 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; and,
- 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.

Section 3.8 of the Official Plan states that, "Throughout Residential Areas, intensification is permitted through the introduction of the following:

- The consent of lands resulting in the introduction of additional residential dwellings, where appropriate and subject to other policies of this Plan."

The policy also states that, "Limited intensification through consents will be permitted subject to the zoning by-law and compatibility with the scale of the surrounding neighbourhood, the physical suitability of the site to accommodate the proposed infill or intensification, availability of services and road access requirements."

The Official Plan permits a range of residential accommodation by housing type, tenure, size, and location to help satisfy the Town's housing needs in a contextually sensitive manner. The application would allow for three single detached dwellings where the subject lands are currently comprised of two existing lots on a Plan of Subdivision and two single detached dwellings are currently permitted.

The subject lands are within the area characterized as a "Historic Core Character Area". This area is generally characterized by the following:

- 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.

Section 12.4 of the Official Plan outlines the criteria that developments must be reviewed against to determine if the design will fit into the existing character of the surrounding area. The proposed application meets the general characteristics of the Residential Area designation and Historic Core Character Area, as the physical features, such as street pattern and block size of the neighborhood will remain unchanged. Similarly, there is an existing sidewalk and landscaped boulevard that will be retained and no changes to the public realm are required or proposed. The proposed lots will result in rectangular lots, with varied lot sizes and dimensions that fit into the existing lot fabric of the Historic Core Character Neighborhood.

The applicant has submitted a Compatibility Study and concept site plan to demonstrate that the proposed lots are able to accommodate future dwellings with a built form and height that would be similar to the existing adjacent low density residential dwellings. The applicant has also submitted an Arborist Report as part of the application and will implement measures through the development to preserve as many trees as possible, and to maintain the existing

canopy of mature trees in the neighbourhood. The proposed use of single detached dwellings on the lots is consistent with the Residential Area policies. As the proposed use is of a consistent low density built form to what is existing, there are no shadow, sun reflection, and overlook impacts anticipated. Similarly, the applicant's report indicates that there are no significant changes to the pre and post construction grades and existing municipal services and road access are available to service and access the proposed lots. It is Staff's opinion that the compatibility criteria in Section 12.4 of the Official Plan have been met. The proposed minor variance would allow for gentle intensification, including 3 basement ADUs, while still maintaining the characteristics of a low-density residential neighborhood. The submitted conceptual site plans and a Compatibility Study demonstrate the physical suitability of the subject lands to accommodate intensification. The proposed application meets the intent of the Official Plan.

II. Conformity with the general intent of the Zoning By-law

The subject lands are zoned Residential Detached Dwelling 15m Zone (R1-D) by Zoning By-law 2010-40, as amended.

The general intent of the By-law is to ensure the orderly development of properties and to prevent developments that are incompatible with the surrounding context. The applicant has provided a concept site plan and elevations (refer to Attachment 2 and 3) which demonstrate that the reduction in lot frontage and area would allow for future residential development that comply with other zone standards such as lot coverage and setbacks, and be compatible with the surrounding neighborhood.

Any future structure built on the lots would be required to comply with all other zoning standards, including the revised zoning standards (setbacks, height, and lot coverage) resulting from the Established Neighborhood Study. The general intent of the By-law is maintained, and therefore, this test is met.

III. Desirable for the appropriate development of the land

It is generally desirable to allow the owner to invest in, redevelop, and improve their property subject to the limits of the By-law and impacts on neighbouring properties. In cases of consents, it is desirable to allow property owners to arrange their properties and sever new lots in a manner that suits their needs, subject to compliance with the Zoning By-law and ensuring the orderly development of the lots. The applicant has provided a concept site plan to illustrate how future residential development would be similar in size and scale to the existing homes in the surrounding area.

As the requested relief related to lot frontage and lot area would allow the property owner to arrange the property to suit their needs without significant impact to neighbours or the community, the variance is considered desirable and appropriate development of the lot. This test is met.

IV. Minor nature of the variance

When considering if the variance is minor, it is not just the numerical value that should be considered. Committee is requested to consider the overall impact of the variance, and more specifically, whether an application creates unacceptable adverse impacts. The proposed variance to the required lot frontage and lot area would allow the creation of lots that do not significantly alter the character of the neighborhood. This test is met.

In consideration of the above, the proposed variances meet the four tests under the *Planning Act*.

5. Other comments:

Tree Preservation

An Arborist Report was submitted as part of the application. This report indicates that there are a total of 15 trees on and within 4.5 metres of the property. Based on the concept site plan, the applicant is proposing the removal of 10 trees and preservation of 5 trees. Subject to the final design of the building envelopes, tree protection barriers and securities must be provided for the retained trees and compensation for replacement or cash-in-lieu shall be provided, in accordance with the Town's Tree Policy.

Heritage

The subject lands are not designated under the Ontario Heritage Act or on the municipal list of non-designated properties.

Commenting agencies and departments

Engineering Services requires the applicant to provide a signed and stamped plan and report showing how the storm water runoff will match pre-existing conditions prior to approval. This has been reflected in the condition of the consent and minor variances approval.

The subject lands are not within the LSRCA-regulated area.

The Region of York has advised that prior to approval of the consent application, the Town of Newmarket shall confirm that adequate water supply and sewage capacity have been allocated for the proposed new lot.

Urban Forest Innovations Inc. (UFI), the Town's consulting arborist, has been circulated for review of the Arborist Report. Comments will be provided to the applicant once available and the applicant is required to make satisfactory arrangements with respect to the Town's Tree Preservation, Protection, Replacement and Enhancement Policy. This is reflected in the condition of the consent and minor variances approval.

Effect of Public Input

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

6. Conclusion:

I. Consent Application

It is staff's opinion that the consent meets the intent of the Zoning By-law, the Official Plan, and is recommended to be granted, subject to the clearing conditions and advisory comments.

II. Minor Variance Applications

The requested variances be granted as the relief:

- (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;
- (4) is considered desirable for the appropriate development of the lot.

Respectfully submitted,



Joyce Tsui
Intermediate Planner – Development

Attachment(s):

- Attachment 1 - Severed/Retained Sketch
- Attachment 2 - Concept Site Plan
- Attachment 3 - Concept Elevations