



### Planning Report

TO:                                      Committee of Adjustment

FROM:                                  David Sanza  
    Junior Planner, Development

DATE:                                    May 24, 2024

RE:                                      Application for Minor Variance **MV-2024-022**  
    876 Magnolia Ave  
    Made by Christine Bates

---

**1. Recommendations:**

1. That Minor Variance Application MV-2024-022 be approved.

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

**2. Application:**

An application for Minor Variances 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 two-storey addition to the rear of the building. Additionally, the Minor Variance is seeking relief from Section 6.2.2 of the Zoning By-law to permit the usage of existing non-complying structures along the interior side yard of the dwelling.

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 an interior side yard setback of 1.8 metres from the lot line.	To allow the existing structures to have a setback of 0.17m from the interior lot line.
2	2010-40	6.2.2	To provide an exterior side yard setback of 6.0 metre from the lot line.	To allow for proposed addition to the dwelling to have an exterior side yard setback of 5.73 metres.

Section 6.2.2 of the Zoning By-law requires that the structures on the property have an interior side yard setback of 1.8 metres. The applicant is seeking relief from the Zoning By-law to legalise the existing structures on the property. They are a deck, walkway, and a sunroom. At the closest point they have a 0.17 metres setback to the west interior side lot line.

The applicant is also seeking relief from Section 6.2.2 of the Zoning By-law to allow a 5.37 metre exterior side yard setback for the proposed two-storey addition. The addition is designed to add additional living space above the garage. It will also extend the garage turning the single car garage into a double car garage, giving the dwelling additional storage, and living space.

The above-described property (herein referred to as the “subject land”) is located in a residential neighbourhood, north of Elgin Street and west of Waratah Avenue. The subject land is occupied by an existing single-detached dwelling and is surrounded by similar single-detached dwellings.

### 3. **Planning considerations:**

The variance application is seeking relief from two different standards outlined in Section 6.2.2 of the Zoning By-law, specifically the standards for interior and exterior side yards.

Variance 1 is seeking to allow the encroachment of several structures into the required interior side yard setback (the western side of the property). Section 6.2.2 of the By-law requires a 1.8 metres setback from the lot line; however, the existing structures have a setback of 0.17 metres. Therefore, the applicant is looking to legalize the current structures (a deck, a walkway, and a sunroom).

Variance 2 is seeking relief from the exterior side yard setback. Section 6.2.2 requires a 6.0 metre setback from the exterior side lot line, whereas the addition to the dwelling is proposed to have a setback of 5.73 metres.

To authorize a 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:

#### **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 property owners to modify their dwelling units to suite the needs of the owner providing that they are compliance with the Town's Zoning By-law. 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 Detached Dwelling 15m Zone (R1-D) by Zoning By-law 2010-40. Single-detached dwellings and accessory structures are permitted within the zone.

Section 6.2.2 of the Zoning By-law establishes building setbacks for dwellings located within the R1-D zone. The required interior side yard setback is 1.8 metres. Variance 1 is seeking relief from Section 6.2.2 to permit a setback for the existing structures of 0.17 metres. The general intent of interior side yard setbacks is to provide enough space between the building and the lot line for access to the rear yard, drainage, and maintenance. Access to the rear yard can still be accomplished by either using the sunroom as a pass through or by using the exterior side yard to access the rear yard. As there have been no complaints about flooding or maintenance issues from the neighbours it shows that there has been proper maintenance and drainage despite the limited side yard. Therefore, the intent of the zoning by-law has been maintained. These structures (deck and sunroom) provide the homeowners with useable private amenity space screened from the street.

Variance 2 is seeking relief from the exterior side yard setback. The general intent of the Zoning By-law is to establish larger side yard setbacks when they are adjacent to the street is to ensure there is adequate private amenity space for the dwelling. Typically, corner lots have much smaller 'rear' yards and all of the amenity spaces is found to the side of the house. The proposed addition cannot meet the exterior side yard setback, however, all other zoning provisions (i.e. required lot coverage, height, interior side yard setback, rear yard setback requirements) have been met. Therefore, the addition does not represent an over development of the site. The minor reduction in the exterior side yard will still allow for adequate private outdoor amenity space, therefore the intent of the Zoning By-law is met.

Based on the analysis above, 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. The proposed variances are considered desirable for the development and provide the residents with the use of both private amenity space externally and internally to the dwelling with the proposed addition.

Variance 1 consists of permitting a the currently existing deck, walkway, and sunroom to existing within the interior side yard setback. These additions to the dwelling provide the residents with private amenity space that is not visible from the street. As long as these structures have existed on the property, the neighbours have had to complaints about them existing. Allowing, these existing structures to exist and have proven to have minimal impact on the neighbours provide the owners with a very desirable addition to the property.

Variance 2 is to permit the encroachment of a proposed addition to the dwelling within the exterior side yard. This addition is being proposed to extend the living space within the dwelling while expanding the single car garage to make it a double car garage. The addition will maintain the same building façade, building height and will allow for more versatility in dwelling usage. It will still maintain the existing buildings setbacks from the interior side yard while providing ample distance from the rear yard. Maintaining the necessary distance from the property lines to accommodate the privacy needs of the surround neighbours. Making this extension of the dwelling a very desirable addition to provide additional usage to the existing dwelling. Thus, both the proposed addition and the existing structures located within the interior side yard are considered desirable for the development of the lot; 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 variances. To permit the usage of the structures currently within the interior side yard would appear to have minimal negative impact to the neighbouring properties. These structures have existed on the property for approximately 43 years. The Town does not have any records of complaints regarding these structures.

The addition will maintain not only the front façade but the minimum required setbacks from the rear and interior side yard lot line therefore the impacts of this addition will be minimal. The addition will provide the residents with more usable living space within the dwelling and provide them with a larger double car garage and will still provide the necessary setbacks to ensure privacy for both the neighbour to the east and south of the dwelling.

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.

## **5. Other comments:**

### **Tree Preservation**

No trees will be removed or injured from the proposed work 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.

### **Effect of Public Input**

The applicant has submitted a letter stating that they have been in communication with their neighbours and no concerns have been brought to their attention with the proposed changes to the dwelling.

### **6. Conclusions:**

The relief as requested:

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

Respectfully submitted,

*David Sanza*

David Sanza  
Junior Planner – Development