



Planning Report

TO: Committee of Adjustment

FROM: David Sanza
 Junior Planner, Development

DATE: June 21, 2024

RE: Application for Minor Variance **MV-2024-029**
 139 Bethpage Crescent
 Made by Suman Kumar and Rashmi Kumari

1. Recommendations:

- 1. That Minor Variance Application MV-2024-029 be approved.

2. Clearing Conditions:

- 1. The applicant needs to submit a sealed grading plan designed and stamped by a P.Eng of Ontario to the Town, complying with the Town’s standards for grading and drainage requirements. The applicant shall demonstrate that there will be no negative impacts to the grading and drainage for this property or neighbouring properties because of the proposed changes. See Letter TF061M dated June 13, 2024.

3. Advisory Comments:

- 2. That the variance pertains only to the requests as submitted with the application; and,
- 3. That the development be substantially in accordance with the information submitted with the application; and,
- 4. 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 the addition of below grade steps within the interior side yard.

The following variance has 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 1.2 metres from the lot line.	To permit an interior side yard setback of 0.54 metres for below grade steps.

The above-described property (herein referred to as the “subject land”) is within a residential neighbourhood, north of Alex Doner Drive and east of Reg Harrison Trail. The subject land is currently occupied by a single detached dwelling and is surrounded by similar single detached dwellings within the same neighbourhood.

5. Planning considerations:

The request for the variance is to permit the addition of below grade steps into the interior side yard setback on the north side of the dwelling. The below grade steps would need a variance as the setback provided for the steps is 0.54 metres at the closest point to the lot line. The property is zoned R1-D which requires a 1.2 metre setback for interior side yards. Permitting this encroachment would allow for additional access into the basement of the dwelling.

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 residents to modify their property to suit their needs. Adding below grade steps to this property will improve the resident’s lifestyle. Subject to the advisory comments, 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 Detached Dwelling 15m (R1-D) by Zoning By-law 2010-40. Single-detached dwellings and below grade entrances are permitted.

Section 6.2.2 of the Zoning By-law sets forth the building setbacks for dwellings. The interior side yard setback is determined based on the height of the building. In the case of this property, the permitted interior side yard setback is 1.2 metres, based on the existing structure. The proposed setback for the below grade entrance is 0.54 metres at the closest distance from the lot line, thus the proposed stairs reduce the required side yard setback by 0.66 metres.

The general intent of the interior side yard setbacks in the By-law is to provide proper distance that allows for access to the rear yard through the side yard, to provide adequate drainage, maintaining proper amount of soft landscaping around the building, and access to the side of the dwelling for general maintenance. The smaller interior setback for this property still maintains the general intent of the by-law. It still allows for access to the rear yard, it provides access from the side of the building, and it does not adversely affect the drainage and soft landscaping portion of the property. Given the noted details the variance requested maintains the general intent of the Zoning By-law and therefore, this test is met.

Desirable development of the lot

The proposed variance is considered desirable for the dwelling as it adds functionality to the lot without interfering with neighbouring properties. Permitting the below grade steps to have smaller setback from the building wall to the property line will add versatility to the lot by enabling it to have multiple entrances and exits. 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. The overall impact of the requested variance appears to be minimal as the decrease in the side yard setback does not impact drainage, access to the rear yard and still provides the interior side yard with enough space for basic house maintenance.

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

6. Other comments:

Tree Preservation

No trees are being impacted by the approval of this variance.

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 condition for engineering comments TF061M dated June 13, 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:

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,

David Sanza
David Sanza
Junior Planner – Development