



Planning Report

TO: Committee of Adjustment

FROM: David Sanza
 Junior Planner, Development

DATE: June 21, 2024

RE: Application for Minor Variance **MV-2024-013**
 766 Beman Drive
 Made by Mohammad Falhasiri

1. Recommendations:

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

2. 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;
- 3. The municipal boulevard is not recognized as a legal parking space pursuant to Zoning By-law 2010-40;

2. 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 construction of one Accessory Dwelling Unit in the basement.

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	Maximum permissible driveway width is 5.2 metres.	To allow for the maximum permitted driveway width of 5.29 metres.

2	2010-40	5.2.2	Minimum parking space dimension of 2.6 metres by 5.0 metres.	To permit the reduction of the parking space size to 2.6 metres by 4.75 metres.
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The above-described property (herein referred to as the “subject land”) is within a residential neighbourhood, north of Davis Drive and east of Patterson Street. The subject land is occupied by a single detached dwelling and is surrounded by similar semi-detached and single detached dwellings within the same neighbourhood.

3. Planning considerations:

In order to accommodate an additional residential unit (ARU) in the basement of the house, the property owner is seeking two variances. Specifically, relief is required from Section 6.2.2 of the Zoning By-law 2010-40 to permit the widening of the driveway from 5.2 metres to the proposed maximum width of 5.29 metres. This variance represents an overall reduction in driveway as the current driveway is 8.7 metres wide. This reduction is seeking to meet the parking requirements required for ARU’s while having a driveway that fits the requirements set out in Section 6.2.2 of the Zoning by-law.

The applicant is also seeking relief from Section 5.2.2 to allow for a reduction in parking space length requirements. As per Section 5.2.2 of Zoning By-law 2010-40, the minimum required size for parking space is 2.6 metres by 5.0 metres. The applicant is seeking to permit a reduction in the parking space length from 5.0 metres to 4.75 metres. This will allow for the driveway to accommodate two cars in tandem due to the pie-shape of the property’s frontage.

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 accessory dwelling units in all dwelling types, subject to certain criteria including compliance with the Town's Zoning By-law. The Official Plan also encourages a range of residential accommodations and affordable housing types. Subject to the advisory comments, 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 Semi-Detached Dwelling 21.3m Zone (R2-K) by Zoning By-law 2010-40. Semi-detached dwellings and accessory dwelling units are permitted within this zone. The two proposed variances are analysed separately.

a. To allow for the maximum driveway width to be increased to 5.29 metres:

Section 6.2.2 of the Zoning By-law sets the standards for the driveway width. Under this standard, the maximum permitted driveway width allowed for this property is 5.2 metres. The variance is seeking relief from this Section of the Zoning By-law to allow for a driveway width of 5.29 metres.

The intent of restricting the maximum driveway width is to limit negative impacts such as a reduction of drainage, not conforming with the surrounding neighbourhood features, and minimizing the amount of soft landscaping on the property. The reason for having such restrictions is to promote a uniform look within the surrounding context of the community as well as ensuring proper drainage, and to reduce the urban heat island effect, and increasing soft landscaping. Extending the driveway slightly (0.09 metres) will not be considered a noticeable widening of the driveway.

b. To allow for the minimum parking size be reduced to 2.6 metres by 4.75 metres:

Section 5.2.2 in the Zoning By-law sets the standards for the minimum parking space requirements. The minimum By-law requirements for parking spaces on driveways is 2.6 metres (width) by 5.0 metres (length). The applicant is looking to seek relief from this Section to permit the reduction in the parking space length to 4.75 metres for one of the parking spaces on the driveway.

The reduction of the parking space length will allow for the driveway to accommodate the required parking spaces needed to permit the addition of an ARU. The other two parking spaces on the subject land will remain within the required size of the By-law. Furthermore, the front portion of the subject land is pie shaped. The reduction has been requested for the northwest parking spot on the driveway. The length of the parking space meets the minimum requirement (5 metres) on one side and on the other side is 4.75 metres.

Permitting the reduction in parking space length allows for the residents to claim the full utility of the driveway. This in turn allows the owner of the property to add more housing to the neighbourhood in the form of an ARU. The angled front property line does not permit a rectangular parking space to be provided on the driveway in a traditional way. However, allowing this modification of the parking space to exist will allow for a good mixture of housing forms, promote the needs of the housing, and allow for

the parking standards to be met. The intent of the Zoning By-law is met, therefore, the test for this variance is met.

4. Desirable development of the lot

The proposed variances are required to support the parking provisions for an ARU. An ARU contributes to the mix of housing types within Newmarket and supports the Town's goals of providing more affordable forms of housing.

The above-mentioned variances allow for the parking requirements to meet the Town's Zoning By-law requirements with minor modifications to the length (from 5 metres to 4.75 metres) of a parking space, and to allow a driveway width to be extended by 0.09 metres (from 5.2 metres to 5.29 metres). The requested variances allow for accommodating an ARU within this property. This will provide diversity in housing types and is a desirable development for the property. Therefore, the test is met.

5. 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 and will not adversely affect the property and neighbourhood.

Variance 1 is to permit a maximum driveway width of 5.29 metres. Permitting such a miniscule increase to the driveway width does not visually impact the driveway from a pedestrian's perspective. The small increase does not adversely affect the drainage of the site or soft landscaping on the property. The approval of the 5.29 metre driveway width would be a reduction of the existing driveway reducing the overall impact of the driveway and an improvement to the function of the property.

Variance 2 is to permit the reduction of the required parking space length. The requirement for this reduction is the result of the curvature of the front property line not permitting a rectangular parking space. Reducing the parking space length, will allow the required number of parking spaces to be accommodate on the property. A minor reduction in the parking space length does not adversely affect the parking spaces as the reduction in size is to accommodate a small portion of the parking space.

In consideration of the above, the proposed variances 1 and 2 are deemed to meet the four tests under the *Planning Act* and is recommended to be approved, subject to clearing conditions.

6. Other comments:

Tree Preservation

No trees will be affected by the changes made to the property.

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 refer to the Engineering letter TF059M 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

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

- An excessive number of cars are parked on the driveway (total of 6 cars can be seen on the driveway consistently).
- Concerns of cars parking on the street from this dwelling.
- Neighbours do not approve of the Application in general.

In response, if the neighbours find that problems persist with excessive cars parking on the property, By-law Enforcement can get involved to ensure that cars are only parked on the driveway in accordance with the Zoning By-law. Planning staff have reviewed the application in light of the legislated requirements and found that the four tests have been met.

6. Conclusions:

The variances 1 and 2 be approved as requested:

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

Respectfully submitted,

David Sanza

David Sanza
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