



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

TO: Committee of Adjustment

FROM: Kaitlin McKay  
Senior Planner, Development

DATE: June 21, 2024

RE: Application for Consent **CON-2024-004** and  
Minor Variance **MV-2024-020** and **MV-2024-021**  
165 Carlson Drive  
Made by: Cadaxx Design Ltd.

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### 1. Recommendations:

#### ***Consent Application***

That Consent Application **CON-2024-004** 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 matters addressed in UFI Peer Review comments dated June 14, 2024, and 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.

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 and/or future owners 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-2024-020 and MV-2024-021** 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 matters addressed in UFI Peer Review comments dated June 14, 2024, and the Town’s Tree Preservation, Protection, Replacement and Enhancement Policy prior to the issuance of any building permit.

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 shall meet the zone standards for each individual lot;
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 165 Carlson Drive and legally described as “LT 19 PL 443 WHITCHURCH ; S/T A1638A; TOWN OF NEWMARKET”. The subject land is located on the southeast corner of Carlson Drive and Srigley Street. The property

is currently occupied by a single detached dwelling and is surrounded by similar single detached dwellings.

**3. Application(s):**

An application for consent has been submitted to create a new lot “Lot 2” by severing a portion of land from “Lot 1” (refer to Attachment 1). The existing dwelling would remain on the retained land and a single detached dwelling would be constructed on the severed lands. The consent, if granted, would result in one additional lot.

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	Minimum lot area of 743 square metres	Minimum lot area for Lot 1 (retained parcel) of 730.42 square metres  Minimum lot area for Lot 2 (severed parcel) of 662.89 square metres
2	2010-40	6.2.2	Minimum rear yard setback of 7.5 metres	Minimum rear yard setback of 1.8 metres (south lot line on retained parcel)

The proposed lots and associated frontage and lot area are presented below:

	Frontage (m)	Area (m <sup>2</sup> )
<b>Zoning Requirement (R1-C)</b>	18	743
<b>Lot 1 (retained parcel)</b>	24.38 (complies)	730.42
<b>Lot 2 (severed parcel)</b>	27.19 (complies)	662.89

**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 the proposed consent will create a lot that is compatible with adjacent lots.

The proposed severance to create one additional lot would provide limited intensification and a more efficient use of land, 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 18m Zone (R1-C) by By-law 2010-40, as amended. This zone contains requirements for minimum lot area, lot frontage, yard setbacks, and maximum lot coverage. Both resulting properties would comply with these zoning standards except for the minimum lot area for both lots and the minimum rear yard setback for the north (retained) lot. The future dwelling on the severed lot would be required to comply with all other zoning standards, including setbacks, height, and lot coverage.

The chart below provides the mean, median, and standard deviation of the lot areas for properties within 120 metres of the subject property that front on the same street (Carlson Drive).

	<b>Current</b>	<b>After Proposed Severance</b>
<b>Mean (sq. m.)</b>	1071.86	974.39
<b>Median (sq. m.)</b>	1393.55	748.80
<b>Standard Deviation</b>	438.53	425.05

The existing lot areas on Carlson Drive vary from 505 sq. m. to 1455 sq. m. Both resulting lots would have smaller lot areas which would not meet the minimum lot area that is required by the By-law (743 sq. m.). The resulting lots would be 730.42 sq. metres (retained lot) and 662.89 square metres (severed lot). Although the resulting lots are smaller than what is required by the By-law, the widths of the frontages do meet the by-law requirements and the proposed lot areas would fit into the existing variety of lot shapes and sizes in the neighbourhood and do not raise compatibility concerns. Additionally, the proposed lots comply with and exceed the minimum lot

frontage. The retained and proposed lot areas are of a sufficient size for both the retained and proposed dwelling.

## 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 existing and proposed lot 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 retained lot would not comply with the minimum rear yard setback and both resulting lots will not comply with the minimum lot area required by the Zoning By-law. The application would then 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 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 subject lands are within the area characterized as a "Historic Core Character Area". This area is generally characterized by traditional street patterns with short blocks, landscape boulevards with canopy of established mature trees, building heights of 1 to 2 storeys, and a range of architectural expressions and styles.

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 regular shaped lots that fit into the existing fabric of the Historic Core Character Neighborhood.

The applicant has submitted a justification letter and site plan to demonstrate that the severed lot is able to accommodate a future single detached dwelling that would be similar in scale to the existing and adjacent low density residential dwellings. The applicant has also submitted an Arborist Report as part of the application. The applicant would be required implement tree protection measures prior to construction and maintain the existing canopy of mature trees in the neighbourhood. The proposed use of single detached dwellings on both resulting lots is consistent with the Residential Area policies. As the proposed use is of a low density built form that is similar to what is existing and adjacent, there are no shadow, sun reflection, and overlook impacts anticipated.

It is Staff’s opinion that the compatibility criteria in Section 12.4 of the Official Plan have been met. The proposed minor variances would allow for gentle intensification, while still maintaining the characteristics of a low-density residential neighborhood. The submitted site plan and justification letter demonstrate that the severed lot could accommodate a new dwelling that would comply with the requirements of the Zoning By-law. 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 18m Zone (R1-C) 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 new development that would be incompatible with the surrounding context. The applicant has provided a concept plan and elevations (refer to

Attachment 2 and 3) which demonstrate that the reduction in lot area would still allow for one new single detached dwelling that would comply with other zone standards such as lot coverage and building height and would be compatible with the surrounding neighborhood.

The application proposes to vary the required rear yard setback from 7.5 metres to 1.8 metres for the retained lot and existing dwelling. The general intent of rear yard setbacks is to ensure adequate amenity space is provided for residential dwellings. The retained lot is a corner lot and as such, the front lot line/yard of the dwelling is the lot line that abuts Srigley Street. The rear lot line/yard is the opposite lot line (abutting the proposed severed lot). Although this setback by definition is considered a rear yard setback, the orientation of the dwelling fronting onto Carlson Drive creates an interior side yard condition in this location. The minimum interior side yard setback for a dwelling of this height would be 1.8 metres. Regardless of the lot line, the proposed arrangement of the retained property is similar to what currently exists on the lot.

The private amenity space for the retained dwelling would continue to be located behind the existing dwelling, along the east property line. The existing setback from the east lot line to the dwelling is consistent with the minimum setback that is required for rear yards (7.5 metres). It is staff's opinion that adequate amenity space is provided within this setback for the retained dwelling.

The retained lot and existing dwelling would comply with all other required zone provisions. Any future structure built on the severed lot would be required to comply with all other zoning standards, including building height, lot coverage, etc. 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 sever a new lot 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 plan to illustrate how a new single detached dwelling could be constructed on the severed lot that would be similar in size and scale to the existing homes in the surrounding area. Additionally, the applicant has demonstrated how the retained lot size can continue to accommodate the existing dwelling and private amenity area.

As the requested relief 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 variances would allow for the resulting lots to be created that would not significantly alter the character of the neighborhood and are not anticipated to create unacceptable adverse impacts.

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 21 trees on and within 4.5 metres of the property. Based on the concept plan, the applicant is proposing to remove two trees and potentially injure one tree. Tree protection barriers and securities must be provided for the retained trees and compensation for replacement shall be provided for removals, 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 has reviewed the application and has no objections.

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

The Region of York has advised that 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 requested a revised Tree Protection Plan from the applicant to accurately reflect the species, size, and condition of all significant trees located on or within 4.5 metres of the subject lands as several deficiencies were noted in the tree inventory. Additionally, one tree appears to be a boundary tree between the subject land and adjacent property. The removal of a boundary tree requires the consent of the owner(s) of the adjacent lands. UFI has also requested that 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.



## **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,



Kaitlin McKay  
Senior Planner – Development

Attachment(s):

- Attachment 1 - Severed/Retained Sketch
- Attachment 2 - Concept Plan
- Attachment 3 - Concept Elevation