



PLANNING AND BUILDING SERVICES

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Planning Report

TO: Committee of Adjustment

FROM: Peterson Rissis
Junior Planner, Development

DATE: December 13, 2024

RE: Application for Consent CON-2024-007
329 Park Avenue, 155 & 157 Lorne Avenue
Made by: Lucas & Kayla O'Neill

1. Recommendations:

1. That Consent Application **CON-2024-007** be granted, subject to the conditions of provisional consent.

2. Conditions of Provisional Consent

1. To be provided 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:
 - I. The owners of the individual lots shall enter into an encroachment agreement to permit the encroachment of the gutters, eavestroughs, and any associated parts from severed lot into the retained lot, as required; and,
 - II. A maintenance easement shall be registered on title to provide access to the encroaching gutters, eavestroughs, and associated parts thereof from the severed lot into the retained lot; and,
 - III. A restrictive covenant shall be registered on title to require the continuation of the existing use of a semi-detached dwelling and prevent the use of the lots for single-detached dwellings. The owner shall agree to not object to a future

Town initiated housekeeping amendment to update the zoning to reflect the existing use; and,

3. The Secretary-Treasurer shall receive a letter from the Town of Newmarket's Chief Building Official indicating satisfactory arrangements have been made with respect to the dwellings on the individual lots being compliant with the requirements of the Ontario Building Code; and,
4. A 5m x 5m daylight triangle at the intersection of Lorne Avenue and Park Avenue shall be conveyed to the Town at no cost; and,
5. The applicant shall provide confirmation that municipal servicing (water, sanitary) is installed for each lot independently, at their own cost.

3. Advisory Comments

1. The consent pertains only to the request as submitted with the application; and,
2. Sanitary connection for the future lot on 329 Park Avenue is only available on Lorne Avenue;
3. A municipal services agreement with the Town is required for any works in the municipal road allowance including the works required to establish separate water and sanitary service connections for each of the proposed lots; and,
4. The Town's Public Tree By-law prohibits and regulates the injury, removal, or destruction of trees owned by the Town of Newmarket. The Town's Private Tree By-law protects trees on private property. The owner must obtain any applicable permits and install tree protection measures in accordance with the applicable By-laws prior to any construction and/or installation of services on the subject land; and,
5. Failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

4. Subject Lands:

The application pertains to the property municipally known as 329 Park Avenue, 155 & 157 Lorne Avenue and legally described as PT LT 2 PL 55 NEWMARKET PT 1, 65R16343; NEWMARKET. The subject lands are located on the northeast corner of Park Avenue and Lorne Avenue. The property is currently occupied by a semi-detached dwelling and is surrounded by predominately single-detached dwellings.

5. Application:

The purpose of this application is to allow the existing semi-detached dwelling units to be split into two separate freehold units, enabling each unit to be held under different ownership. The existing legal non-conforming semi-detached dwelling units would remain on the lands

and the existing built form would not be altered through this application. As such, no other variances are required to facilitate the consent.

The applicant is proposing to sever the parcel for the purposes of legally dividing the existing semi-detached dwellings into two separate properties. The proposed retained parcel of land (Lot 2) would have an approximate lot area of 295 m² and the proposed severed parcel of land (Lot 1) would have an approximate lot area of 370 m² (refer to attachment 1).

Proposed	Retained Lot	Severed Lot
Area (m²)	295.31 m ²	370.18 m ²
Lot Frontage (m)	11.7 m	14.74 m

6. Planning considerations:

i. Conformity with the General Intent of 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.

Staff are of the opinion that the proposed lot sizes are appropriate and would not negatively impact the character of the street or the neighbourhood's lot fabric. The proposal would not raise compatibility concerns with adjacent properties as the site has historically functioned as a semi-detached dwelling and the existing built form would be retained. The application is of a technical nature, as it would allow the existing individual units to be held under different ownership. Staff are satisfied that this test is met.

ii. Conformity with the General Intent of the Zoning By-law

The subject lands are zoned as Residential Detached Dwelling 15M Zone (R1-D) by Zoning By-law 2010-40, as amended. The R1-D zone permits single-detached dwellings and provides minimum standards for lot area, lot frontage, yard setbacks, and maximum lot coverage.

The existing dwelling consists of two semi-detached dwelling units that pre-date the zoning by-law. As a result, the existing dwelling units and lot configuration do not comply with the current zoning standards, which are intended for a single-detached dwelling-built form. The applicant has provided supporting evidence to indicate that the unit has operated in its current configuration as a multi-family residence since approximately 1930's and has been deemed to be legal non-conforming.

Should the consent application be approved, a condition of approval has been included to allow the Town of Newmarket to update the zoning of the property in the future to an appropriate zone to recognize the existing semi-detached use. This condition will ensure that the lots can continue to operate as its intended use, maintaining the use as a semi-detached dwelling.

A restrictive covenant would be registered on title to prohibit the redevelopment of the severed and retained lands for single-detached dwellings. A condition is also recommended that will require an encroachment agreement to permit the existing eavestrough and a portion of the roof of the severed dwelling to encroach into the retained lot. An additional condition would also be recommended to ensure that the future lots are serviced independently as required by Section 7.1.5.4 of the Ontario Building Code.

The general intent of the By-law is to ensure the orderly development of properties and to prevent incompatibility with the surrounding context. It is, however, recognized that the existing dwelling units pre-date the zoning by-law. Subject to the conditions outlined in Section 2 of this report, the use will continue to function as it has historically. The general intent of the By-law is maintained, and therefore, this test is met.

7. Other comments:

i. Tree Preservation

No trees would be required to be removed or are anticipated to be impacted by this application.

ii. Heritage

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated Properties.

iii. Commenting Agencies and Departments

- a) **York Region:** No comments on the application.
- b) **Lake Simcoe Region Conservation Authority (LSRCA):** The property is not located within a LSRCA-regulated area.
- c) **Engineering Services:** No objection to the application given the following conditions are met. The requirements have been reflected as conditions of approval.
 - i. The existing drainage patterns and swales would be required to remain and there should be no negative impacts to the grading and drainage of this property or neighbouring properties as a result of the proposed changes; and,
 - ii. The Town would require a 5m x 5m daylight triangle at the intersection of Lorne Avenue and Park Avenue; and,
 - iii. Sanitary connection for the future lot on 329 Park Avenue is only available on Lorne Avenue
- d) **Building Services:** Building Services has expressed concerns with Ontario Building Code compliance and therefore a condition of approval has been added to ensure that any compliance issues are addressed before the severance is finalized.

iv. Effect of Public Input

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

8. Conclusions:

In Staff's opinion, the consent meets the intent of the Zoning By-law and Official Plan and therefore recommended to be **granted**, subject to the conditions and advisory comments, as set forth in this report.

Respectfully submitted,



Peterson Rissis
Junior Planner – Development