



Planning Report

TO: Committee of Adjustment

FROM: David Sanza
 Junior Planner, Development

DATE: December 18, 2024

RE: Application for Minor Variance **MV-2024-039**
 204 McCaffrey Road
 Made by Ashkan Babak

1. Recommendations:

- 1. That Minor Variance Application MV-2024-039 be approved.

2. 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 Town’s Tree Preservation, Protection, Replacement and Enhancement Policy prior to the issuance of any building permit.

3. Advisory Comments:

- 1. That the variance pertains only to the requests as submitted with the application; and,
- 2. That a maximum of one space in the garage be reserved for the purpose of required parking and for no other use; and,
- 3. The municipal boulevard is not recognized as a legal parking space pursuant to Zoning By-law 2010-40; 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 construction of one Accessory Residential Unit (ARU).

The following variances have been requested from Zoning By-law 2010-40, as amended:

Relief	By-law	Section	Requirement	Proposed
1	2010-40	5.3.1	To provide three parking spaces exterior to a garage	To allow for a singular spot within a double car garage to

			for the primary dwelling unit and accessory dwelling unit.	count towards the parking requirement for an ARU.
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The applicant is looking for relief from Section 5.3.1 to allow for an ARU within the dwelling. Section 5.3.1 of the Zoning By-law requires three exterior parking spaces for a single-detached dwelling with an accessory residential unit. The property hosts a double car driveway and will require the additional spot in the garage to meet the parking standards for an ARU.

The above-described property (herein referred to as the “subject land”) is located within a residential neighbourhood, south of the Ray Twinney Recreation Complex and west of Eagle Street West. The subject land is occupied by an existing single detached dwelling and is surrounded by similar single detached dwellings.

5. Planning considerations:

The request for a variance is to permit a reduction in the required minimum number of off-street parking spaces to facilitate the creation of a legal ARU in the existing single detached dwelling. The By-law requires the third parking spot for an ARU to be external to any structure. The current driveway size can only accommodate two parking spaces. Therefore, the applicant has submitted a minor variance to request one of the required parking spaces in the existing double-car garage to count towards the external parking space requirement.

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 residential 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 Detached Dwelling Zone 15m (R1-D) by Zoning By-law 2010-40. Single detached dwellings and accessory residential units are permitted within the zone if they meet the Zoning Standards. The proposed variance is seeking relief from Section 5.3.1 of Zoning By-law 2010-40, to permit a parking space within the double car garage to count towards the parking requirements. The By-law intends to allow a diverse housing market while setting parking guidelines and uniformity within the neighbourhood. This variance intends to promote diverse housing options by adding a separate residential unit.

Section 5.3.1 of the Zoning By-law sets out the parking standards for residential uses. This section states that a single detached dwelling and a single ARU will require a total of three parking spaces. Two parking spaces for the main dwelling and one parking space for the ARU. All parking spaces shall be external to any car garage.

The general intent of the By-law is to provide a sufficient number of parking spaces for individuals residing in the residential units. Currently, two vehicles can be accommodated on the driveway. There is also an attached double-car garage however, the Zoning By-law requires parking spaces to be provided exterior to the garage to meet the minimum parking requirement. Therefore, the proposed variance would allow for enough parking spaces for the proposed ARU on the property by counting one of the garage spaces towards the parking standards. The reduction in storage area which may result from using the garage for parking does not severely impact the storage capacity for the primary dwelling while also accommodating an ARU. The remaining space in the garage will generally make up for the reduction of storage capacity. Therefore, the test is met for this variance.

Desirable development of the lot

The proposed variance is considered desirable for the Town of Newmarket and the development and use of land. An ARU contributes to the mix of housing types within Newmarket and supports the Town's goal of providing more affordable forms of housing. A minor variance is an appropriate tool for relief from the zoning requirements that would otherwise be preventing a desirable development of this dwelling. The parking location should not overshadow the desirability of the ARU as this kind of development is encouraged by the Town, Region and Provincial policy. Therefore, this test is met for this variance.

Minor nature of the variance

The test of whether a variance is minor 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 parking variance is minor and poses negligible negative impacts on the available storage of household items. The proposed parking space within a double-car garage allows for an ARU on a property which cannot accommodate the parking requirements due to the size of the driveway. Therefore, allowing the garage to count as parking is minor in nature and the test is met.

In consideration of the above, the proposed variance is 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

Please refer to the comments made by Urban Forestry Innovation dated December 5, 2024.

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.
- **Legislative Services:** No known outstanding parking or property standard concerns.

Effect of Public Input

At the time of writing this report, we have not received any public input.

7. Conclusions:

The variance 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
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