



Town of Newmarket

Minutes

Committee of Adjustment

Date: Wednesday, March 27, 2024
Time: 9:30 AM
Location: Electronic VIA ZOOM

Members Present: _____ Seyedmohsen Alavi, Chair
_____ Andrea Lewis, Member
_____ Michelle Starnes, Member
_____ Josh Scholten, Member
_____ James Georgeff, Member

Staff Present: _____ Umar Mahmood, Secretary-Treasurer
_____ David Sanza, Junior Planner
_____ Peterson Rissis, Junior Planner

1. Public Notice

The Chair gave notice.

2. Conflict of Interest Declarations

No conflicts of interest were declared by members of the Committee.

3. Appeals

The Secretary-Treasurer confirmed that no appeals had been received to date, those decisions are now final and binding.

4. Approval of Minutes

Minutes of the regular hearing held on February 28, 2024.

Moved by: Michelle Starnes, Member

Seconded by: Andrea Lewis, Member

Carried

5. Items

The Secretary-Treasurer stated that the Owner for 766 Beman Drive has requested to be moved to the beginning of the items to be heard at today's hearing.

5.1 MV-2024-013 – 766 Beman Drive

The applicant is proposing the construction of an Accessory Dwelling Unit. The following relief is requested from Zoning By-law 2010-40, as amended:

1. Relief from Section 6.2.2 Zone Standards to permit an interior side yard measured to a below grade entrance of 0.6m whereas By-law requires a minimum interior side yard measured to a below grade entrance of 1.2m;
2. Relief from Section 5.3.1 Minimum Off-Street Parking Requirements to permit one parking space for an Accessory Dwelling Unit be provided within the garage whereas the By-law requires parking spaces be provided exterior to a garage; and
3. Relief from Section 6.2.2 to permit a driveway width of 8.85m whereas By-law permits a maximum driveway width of 5.2m; and
4. Relief from Section 6.2.2 to permit a walkway in an interior side yard with a 0.00m setback whereas the By-law requires a minimum interior side yard setback measured to a walkway of 1.2m.

The Chair called for the applicant or their representatives for the file to speak before the Committee, and to state their name, address, and preferred pronoun.

Mohammad Falhasiri, homeowner, provided a presentation and spoke before the Committee.

The Chair asked if the Committee had any other questions for the applicant and asked the Secretary-Treasurer if there are any members of the public who wish to address the Committee.

Michelle Starnes, member, noted that Maintenance Easement between the properties is not mentioned in the report and is to be kept clear of obstructions and no construction on it. Not safe and infringes on neighbour's property. Driveway is existing at the width exceeding what by-law permits. Path direction not clear in report, east vs west. Michelle stated she has an issue with parking in the garage reduce available storage space.

Josh Scholten, member, requested clarification for variance 1. below grade stairs and side yard setback. Question the relief from building code and Planning's jurisdiction to do that? Parking zoning by-law.

James Georgeff, member, identified parking on west side of existing driveway that showed grass in area with no access. Multiple neighbourhood complaints and not an appropriate application.



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The Chair asked the applicant to respond to concerns.

Mr. Falhasiri clarified parking allows for two cars in tandem and grass area is not his property. Not sure of neighbours complaints. Request to proceed with application to focus on parking relief.

Secretary-Treasurer addressed the addition of a new variance would require a new circulation.

The Chair asked the Planner to respond to Committee members questions.

David Sanza, Planner, explained that the easement is between the owners and not with the Town. Spacing between building is a Building Code issue with the landing and drainage. Side door entrance does not meet standards. Driveway by-law standard is 5.2 meters and not 8.71 meters does not meet planning rational. Single car garage used for storage brought up with Council.

The Chair asked members if further questions.

Michelle Starnes, Member, maintenance easement is within the Plan of Subdivision and not as planner states that is between owners. Driveway is already extended, what is the option. Garage space is not in by-law or policy but a Council request.

Planner clarified that it is By-law page 67 (79). 5.3.2. number 2. Can not count garage as parking space.

Josh Scholten, Member, follow-up. Tandem parking requires recirculation.

Secretary-Treasurer states that recirculation is required because the public has not been notified of this new minor variance request.

The Chair asked if any members of public had any concerns.

Mr. Falhasiri, parking has to be exterior and he is asking for relief. If he gets approval for #3, then he can go ahead with ADU, door on other side.

The Chair clarified that the members still have to discuss and approve.

The Secretary-Treasurer asked if the applicant wants to add a new variance, the applicant would have to ask for a deferral and no further evidence should be heard. If he wishes to proceed with application, then we can continue.

Mr. Falhasiri, does the easement prohibit any construction?

David Sanza, planner, asked to address. Confirm with lawyer about easement.

James, just because driveway is already done, it does not mean it is correct.

The Chair asked if any members of public had any concerns. 5 letters from neighbours objecting to variance.

Secretary-Treasurer asked applicant if he would like to defer or proceed. Applicant asked if he defers, would he have 5 variance or amended. Will he get a decision today. If he defers he would be back May 29, 2024. If he defers he will not hear neighbours comments.

Applicant decides to defer to add new variance. Chair recommends better communication with planning staff and connection with the neighbours.

The following correspondence was received and considered by the Committee regarding the application:

1. The Planning Report from David Sanza, Junior Planner, Town of Newmarket, dated March 22, 2024.
2. Memorandum from Temi Fashina, Senior Development Coordinator, Town of Newmarket, March 18, 2024.
3. Written comments from Maryam Ahmed, Associate Planner, The Regional Municipality of York, dated March 6, 2024.
4. Written correspondence was received from 6 area residents

Moved by: James Georgeff, Member

Seconded by: Josh Scholten, Member

Carried

5.2 MV-2024-007 – 209 Yorkshire Drive

The Chair called item MV-2024-007 to order.

The applicant is proposing the construction of an accessory dwelling unit and shed (existing). The following relief is requested from Zoning By-law 2010-40, as amended:

1. Relief from Section 5.3.1 Minimum Off-Street Parking Requirements to permit one parking space for an Accessory Dwelling Unit be provided within the garage whereas the By-law requires parking spaces be provided exterior to a garage; and
2. Relief from Section 4.2 Encroachments into Required Yards to permit a shed (existing) with a setback of 0.98m to the side lot line (westerly) whereas By-law requires a minimum setback of a shed to a side lot line of 1.00m.



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The Chair called for the applicant or their representatives for the file to speak before the Committee, and to state their name, address, and preferred pronoun.

Sara Attarian, designer for project, spoke before the Committee and gave a brief introduction to the application.

The Chair asked if the Committee had any other questions for the applicant and asked the Secretary-Treasurer if there are any members of the public who wish to address the Committee.

No questions by the Committee.

The Secretary-Treasurer noted that members of the public are in attendance to speak at today's meeting.

Gloria Qk, neighbour, no objection to variance, noise after 11:00 p.m. Parking on Yorkshire Dr. concern.

Nancy Persecott, neighbour, not issues with the shed location.

Committee had no further comments and questions for the applicant.

The following correspondence was received and considered by the Committee regarding the application:

1. The Planning Report from David Sanza, Junior Planner, Town of Newmarket, dated March 22, 2024.
2. Memorandum from Temi Fashina, Senior Development Coordinator, Town of Newmarket, March 18, 2024.
3. Written comments from Maryam Ahmed, Associate Planner, The Regional Municipality of York, dated March 6, 2024.
4. Written correspondence was received from 4 area residents.

That Minor Variance Application MV-2024-007 be approved.

Moved by: Andrea Lewis, Member

Seconded by: James Georgeff, Member

Carried

5.3 MV-2024-008 – 361 Queen Street

The Chair called item MV-2024-008 to order.

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The applicant is proposing the construction of a new dwelling. The following relief is requested from Zoning By-law 2010-40, as amended:

1. Relief from Section 6.2.2 Zone Standards to permit a lot coverage of 45.3% whereas By-law permits a maximum lot coverage of 30.0%;
2. Relief from Section 6.2.2 Zone Standards to permit an interior side yard of 1.25m whereas By-law requires a minimum interior side yard of 1.80m;
3. Relief from Section 4.2 Encroachments into Required Yards to permit a porch inclusive of steps setback 1.16m from the front lot line (Joseph Street) whereas By-law requires a minimum setback measured to a porch inclusive of steps of 1.50m to the front lot line;
4. Relief from Section 6.2.2 Zone Standards to permit an exterior side yard of 3.09m whereas By-law requires a minimum exterior side yard of 6.00m;
5. Relief from Section 4.2 Encroachments into Required Yards to permit a porch inclusive of steps encroaching 3.70m into the required exterior side yard (Queen Street) whereas By-law permits a maximum encroachment of a porch inclusive of steps of 2.40m into the required exterior side yard;
6. Relief from Section 6.2.2 Zone Standards to permit a rear yard of 5.11m whereas By-law requires a minimum rear yard of 7.5m; and
7. Relief from Section 6.2.2 Zone Standards to permit a building height of 8.58m whereas By-law permits a maximum building height of 8.00m.

The Chair called for the applicant or their representatives for the file to speak before the Committee, and to state their name, address, and preferred pronoun.

Joseph Caricari, applicant representative, spoke before the Committee and gave an introduction and presentation to the application. Over development of the site is not accurate as stated in the Planner's Report. Joseph Caricari stated the development will continue with for the fabric of the neighbourhood.

The Chair asked if the Committee had any other questions for the applicant and asked the Secretary-Treasurer if there are any members of the public who wish to address the Committee.

James Georgeff, Member, states that the entire application has large amounts of overages as the by-law dictates. Pushing limits and does not make community sense. Not a good package as a whole on the variance perspective.

Josh Scholten, Member, asked the applicant current lot coverage. Asked planning staff, if denied the whole application because not minor in nature or that the relief proposed is not in line with by-law. What would be the steps moving forward.

Applicant responded that the lot coverage is 37% currently.

Peterson Rissis, planner, Established Neighbourhood study area introduced Historic

Core Character area. Lot coverage determined at 30%. Does not meet the 4 tests. Next steps pre-consultation with the applicant.

The Secretary-Treasurer noted that there are members of the public are in attendance to speak at today's meeting.

Debbie Keyhole, neighbour, requested confirmation of the two garage will be facing Joseph St. Two residence will now be using Joseph street for entrance to premise. Cul-de-sac that has snow removal issues and visitor parking on street.

Applicant states they have one parking space on Queen Street as well as two car garage facing Joseph Street.

The Chair redirected applicant and caller that we are looking at the Minor Variances today and not parking. Requested to contact planning department regarding parking concern.

Committee had no further comments and questions for the applicant.

The following correspondence was received and considered by the Committee regarding the application:

1. The Planning Report from Peterson Rissis, Junior Planner, Town of Newmarket, dated March 22, 2024.
2. Memorandum from Temi Fashina, Senior Development Coordinator, Town of Newmarket, March 18, 2024.
3. Written comments from Maryam Ahmed, Associate Planner, The Regional Municipality of York, dated March 7, 2024.
4. Arborist Peer Review, Philip van Wassenaer, ISA Certified Arborist and Shane Jobber, ISA Certified Arborist, Urban Forest Innovations, Inc. March 19, 2024
5. Written correspondence was received from 1 area residents.

That Minor Variance Application MV-2024-008 be denied.

Moved by: Michelle Starnes, Member

Seconded by: James Georgeff, Member

Carried

5.4 MV-2024-009 321 - Towercrest Drive

The Chair called item MV-2024-009 to order.

The applicant is proposing the construction of a garden suite. The following relief is requested from Zoning By-law 2010-40, as amended:

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1. Relief from Section 4.1.2 Accessory Buildings and Structures to permit an accessory structure with a lot area of 79.8% of the main building first floor area whereas By-law permit a maximum accessory structure lot area of 75.0% of the ground floor area of the main building;
2. Relief from Section 5.3.1 Minimum Off-Street Parking Requirements to permit one parking space for an 'Accessory Dwelling Unit' be provided within the garage whereas the By-law requires parking spaces be provided exterior to any garage in this instance; and
3. Relief from Section 4.2 Encroachments into Required Yards to permit a patio encroachment into a required interior side yard of 1.22m whereas By-law does not permit a patio encroachment into a required interior side yard (2.4m).

The Chair called for the applicant or their representatives for the file to speak before the Committee, and to state their name, address, and preferred pronoun.

Daniel Hall, Principal Architect on the project, spoke before the Committee and gave an introduction to the application. Concerned about the Planning Reports statement of Intent for parking is not met due to storage within the garage.

The Chair asked if the Committee had any other questions for the applicant and asked the Secretary-Treasurer if there are any members of the public who wish to address the Committee.

Michelle Starnes, Member, car in the garage not an issue. To approve garden suite and not the parking does not make sense. Motion for 1, 2 & 3 be approved.

Josh Scholten, Member, difficulty denying parking but approving garden suite. Supporting variance 1, 2 & 3.

The Secretary-Treasurer noted that there is a member of the public are in attendance to speak at today's meeting.

Mike Kaczer, neighbour, concern with height of proposed house for privacy for their rear yard.

Applicant states rear elevation of building not an issue and windows open up to the forward facing yard and would not be a privacy issue.

Committee had no further comments and questions for the applicant.

Michelle Starnes put motion to approve all variances on this application.
Josh Scholten Seconded.

That Minor Variance Application MV-2024-009 be approved.

The following correspondence was received and considered by the Committee



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regarding the application:

1. The Planning Report from Peterson Rissis, Junior Planner, Town of Newmarket, dated March 22, 2024.
2. Memorandum from Temi Fashina, Senior Development Coordinator, Town of Newmarket, March 18, 2024.
3. Written comments from Maryam Ahmed, Associate Planner, The Regional Municipality of York, dated March 7, 2024.
4. Arborist Peer Review, Philip van Wassenaeer, ISA Certified Arborist and Shane Jobber, ISA Certified Arborist, Urban Forest Innovations, Inc. March 19, 2024
5. Written correspondence was received from 2 area residents.

Moved by: Michelle Starnes, Member

Seconded by: Josh Scholten, Member

Carried

5.5 MV-2024-010 – 16625 Leslie Street

The Chair called item MV-2024-010 to order.

The applicant is proposing the construction of a pool house (existing). The following relief is requested from Zoning By-law 2010-40, as amended:

1. Relief from Relief from Section 6.2.2 Zone Standards to permit a lot coverage of 22.82% whereas By-law permits a maximum lot coverage of 20%.

The Chair called for the applicant or their representatives for the file to speak before the Committee, and to state their name, address, and preferred pronoun.

The Secretary-Treasurer stated the applicant is not present and are aware of the staff recommendation for deferral of this application.

That Minor Variance Application MV-2024-010 be deferred.

Moved: Andrea Lewis, Member

Seconded: James Georgeff, Member

Carried

6. Adjournment

The hearing was adjourned.

Moved by: Michelle Starnes, Member

Seconded by: Andrea Lewis, Member



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Carried

Chair

Date