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Town of Aurora
Committee of Adjustment Report
No. MV-2023-05

Subject: Minor Variance Application
Akkermans
156 Wells Street
File: MV-2023-05

Prepared by: Mark Chuang, Planner

Department: Planning and Development Services

Date: March 9, 2023

Application

The applicant is requesting relief from the requirements of the Town's Comprehensive Zoning By-law 6000-17, as amended, to permit a single detached residential dwelling with a gross floor area of 285 square metres (3,068 square feet).

PROPOSED VARIANCES

The following relief is being requested:

- a) Section 7.2 of the Zoning By-law requires a minimum front yard setback of 6.0 metres. The applicant is proposing a single detached dwelling, which is 5.5 metres to the front property line, thereby requiring a variance of 0.5 metres.
- b) Section 24.497.3.2 of the Zoning By-law requires a minimum interior side yard setback of 3.0 metres beyond the main rear wall of the adjacent dwelling. The applicant is proposing a single detached dwelling, which is 2.9 metres beyond the main rear wall of the adjacent building (1.4 metres to the interior side property line), thereby requiring a variance of 0.1 metres.
- c) Section 24.497.3.2 of the Zoning By-law requires a minimum interior side yard setback of 1.5 metres. The applicant is proposing a single detached dwelling, which is 1.4 metres to the interior side property line, thereby requiring a variance of 0.1 metres.
- d) Section 7.2 of the Zoning By-law requires a minimum exterior side yard setback of 6.0 metres. The applicant is proposing a single detached dwelling, which is 4.1 metres to the exterior side property line, thereby requiring a variance of 1.9 metres.

- e) Section 24.497.3.3 of the Zoning By-law permits a maximum height of 9.0 metres to the mid-point of the roof. The applicant is proposing a single detached dwelling with a height of 10.3 metres to the mid-point of the roof, thereby requiring a variance of 1.3 metres.
- f) Section 24.497.3.3 of the Zoning By-law permits a maximum height of 9.9 metres to the peak of the roof. The applicant is proposing a single detached dwelling with a height of 13.4 metres to the peak of the roof, thereby requiring a variance of 3.5 metres.
- g) Section 5.6.1(a)(ii) of the Zoning By-law permits a maximum driveway width of 6.0 metres. The applicant is proposing a driveway width of 6.3 metres, thereby requiring a variance of 0.3 metres.

Background

Subject Property and Area Context

The subject property, municipally known as 156 Wells Street, is a corner lot located at the northwest intersection of Cousins Drive and Wells Street. The property currently contains a single-storey detached dwelling on a lot that has an area of around 706m² (7,600 ft²) and a lot frontage of approximately 16.5 metres (54 feet). The surrounding neighbourhood is residential and generally characterized by one and two storey dwellings.

North: Single detached residential dwelling, being 152 Wells Street

South: Cousins Drive, with additional single detached dwellings and Cousins Park across the road

East: Wells Street, with additional single detached dwellings across the road

West: Existing single detached residential dwellings, with Rotary Park further to the west/northwest

Proposal

The owner is proposing to demolish the existing structure on site and construct a new single detached dwelling with an attached garage and rear deck.

Official Plan

The subject property is designated "Stable Neighbourhoods" by the Town of Aurora's Official Plan, which seeks to ensure that residential neighbourhoods are protected from incompatible forms of development, while allowing the neighbourhoods to be enhanced

over time. Further, the Stable Neighbourhoods designation provides for detached dwellings as a permitted use.

Additionally, portions of the rear of the subject property (and neighbours) are designated "Public Parkland" by the Town of Aurora's Official Plan. No parkland system is currently present on site, and the proposed development has no resulting impacts on this particular area or designation, as confirmed by the Town's Parks Department.

Zoning

The property is zoned R3-SN (497) "Detached Third Density Residential Exception Zone 497", which permits detached dwellings.

Preliminary Zoning Review

A Preliminary Zoning Review (PZR) has been completed by the Town of Aurora's Building Division. The PZR identified the required variances and no other non-compliance was identified.

Applicant's stated reason(s) for not complying with the Zoning By-law

As stated on the application form, "Due to the zoning restrictions of a corner lot, we are not able to comply with the zoning bylaw with the proposed dwelling on this lot."

Planning Comments

Planning Staff have evaluated Minor Variance Application MV- 2023-05 pursuant to the prescribed tests as set out in Section 45(1) of the Planning Act, as follows:

- a) **The proposed variances meet the general intent of the Official Plan, except for those pertaining to the proposed maximum height of the dwelling.**

The intent of the "Stable Neighbourhoods" Official Plan designation is to ensure neighbourhoods are protected from incompatible forms of development, while allowing the neighbourhoods to be enhanced over time. The Official Plan states that new development abutting existing residential development shall be sympathetic to the form and character of existing development with regards to building scale and urban design.

The proposed variances for driveway width, front, side, and exterior side yard setbacks are not anticipated to have any negative impact on the character of the existing residential neighbourhood. They represent minor increases from what is currently existing and permitted, and they align with the built form of other properties in the area. These variances also help to accommodate the appropriate lotting of the building as a corner lot, with no anticipated resulting impacts to the public realm or streetscape.

However, the requested variances for height would result in a significantly taller building that would be incompatible with the form and character of the community area. There is concern that the pitch of the roof and proposed height would dominate the streetscape and not be sympathetic to the established built form. Staff reviewed other dwellings in the vicinity of the site, and the proposed would be the highest building in the area. In turn, the proposed maximum height is contrary to the objectives of the Town's Official Plan.

Staff are of the opinion that the variances pertaining to driveway width, front, exterior and side yard setbacks meet the general intent of the Official Plan and can be supported, but that the variances for maximum height to the mid-point and peak of the roof cannot be. The Committee of Adjustment can approve the noted variances and refuse the variances pertaining to maximum height, with the appropriate conditions of approval established as outlined in Appendix 'A'.

b) The proposed variances meet the general intent of the Zoning By-law, except for those pertaining to the proposed maximum height of the dwelling.

The intent of the front yard setback is to ensure that there is adequate separation between private property and the public realm, and to maintain the overall streetscape and provide adequate front yard area for landscaping and privacy. It is the staff's opinion that the front yard setback being proposed is sufficient to meet the objectives mentioned above, with the overall streetscape character not being adversely impacted.

The intent of the exterior and side yard setback provisions is to ensure that appropriate and adequate spacing between buildings is provided for privacy, landscaping, access, and drainage. It is staff's opinion that the requested setbacks will still provide adequate space between properties as part of the detached residential setting. The proposed dwelling's front yard and side yard setbacks are similar to neighboring properties located along Wells Street and Cousins Drive, and the exterior setback still provides appropriate spacing to the street while also accommodating the lotting of the building on the corner site. No negative impacts are anticipated.

The intent of the maximum driveway width provision is to ensure that lot frontages are not dominated by driveway and that there are no negative impacts to the streetscape or parking on local roads. The proposed increased driveway width aligns with the driveway widths of neighbouring properties and will not have a negative impact on the streetscape as there is sufficient room for on-street parking, and ample space between driveways on the street. The property also has sufficient lot frontage to accommodate the width, at over 16 metres.

The intent of the Zoning By-law maximum height restriction is to ensure adequate privacy for residents and to assist in achieving a uniform, aesthetically pleasing

streetscape. It is staff's opinion that the requested increases in height would be incompatible and inconsistent with the surrounding neighbourhood, and in turn result in negative impacts to the streetscape and public realm. The height proposed would be dominating on the streetscape and represent the highest building on the street and surrounding area.

As a result of the above, staff are of the opinion that the requested variances for driveway width, front, exterior and side yard setbacks are in keeping with the intent of the Zoning By-law and can be supported. The proposed variances regarding maximum heights however are considered to result in too great of an impact on the neighbourhood due to the resulting scale of the proposal, and are not supported.

c) The proposed variances are considered desirable for the appropriate development of the land, except for those pertaining to the proposed maximum height of the dwelling.

Staff are of the opinion that the proposed variances for driveway width, front, exterior, and side yard setbacks are desirable in terms of lotting the new dwelling on the corner lot while still ensuring appropriate screening and spacing. These variances will not negatively impact the streetscape or character of the area. This however is not the same case for the proposed variances to the maximum height to the mid-point of the roof and peak. The requested height variances would significantly increase the height and scale of the building such that it would become the tallest on the street and dominate the landscape while not remaining consistent with neighbouring properties.

Given the above, staff are of the opinion that the proposed variances for the driveway width, front, exterior, and side yard setback are considered desirable for the appropriate development of the lands and can be supported, but the requested variances for maximum height to the mid-point of the roof and peak should be refused. As mentioned, the Committee of Adjustment can approve the noted variances and refuse the variances pertaining to maximum height, with the appropriate conditions of approval established as outlined in Appendix 'A'.

d) The proposed variances are considered minor in nature, except for those pertaining to the proposed maximum height of the dwelling.

The proposed variances for driveway width, front, exterior and side yard setbacks are truly minor in nature, representing generally slight deviations from the permitted provisions. They will also not result in any anticipated negative impacts, with commenting agencies also not raising any concerns or objections. Alternatively, the requested variances for maximum height are considered excessive and incompatible with the neighbourhood.

As such, staff are of the opinion that the requested variances for driveway width, front, exterior, and side yard setbacks can be supported, but that the requested variances for

maximum height should be refused. Conditions of approval have also been developed to ensure that the final drawings prepared are generally reflective of what has been presented as part of this application and that the final design is still satisfactory. Should any additional non-conformities or non-compliance be discovered through the submission of final drawings, additional minor variance applications and approval will be required.

Additional Comments

The minor variance application was circulated to Town Department/Divisions and to external agencies for review and comment. The following comments were provided:

Department or Agency	Comments
Accessibility	No comments or objections.
Building Division	Preliminary Zoning Review was completed on January 11 2023.
Engineering Division	No comments or objections.
Legal	No comments or objections.
Operational Services (Parks)	Comments provided with appropriate conditions of approval outlined in Appendix A. Confirmation of no impacts to the adjacent public park area has been provided.
Operational Services (Public Works)	<p>This resident will require an approved Road Occupancy Permit from Operations.</p> <p>Since they are proposing a new home, they should install a new PVC Sanitary lateral to the sewermain.</p> <p>There is a Town sewermain that runs through the rear of this property and the sewer lateral for 156 is connected to it. This lateral should be replaced with modern PVC pipe.</p>
Transportation	Not Received.
Central York Fire Services	No comments or objections.

Department or Agency	Comments
LSRCA	The proposal is consistent and in conformity with the natural hazard policies of the applicable Provincial, Regional and Local plans. See conditions in Appendix A.
York Region	No comments or objections.
Alectra	No comments or objections.

Public Correspondence

Written submissions were not received at the time of writing of this report. Should written submissions be received after the writing of this report, the Secretary Treasurer will provide the submission(s) to Committee members at the meeting.

Conclusion

Planning staff have reviewed the application with respect to the Section 45(1) of the Planning Act, R.S.O., 1990, c.P.13, as amended, and are of the opinion that the requested variances meet the four tests of the Planning Act for granting of minor variances, save and except for those pertaining to the proposed maximum building heights. Staff recommend approval of the requested variances for driveway width, front, exterior, and side yard setbacks, subject to the conditions outlined in Appendix 'A', and then refusal of the requested variances pertaining to the maximum height of the dwelling to the mid-point of the roof and peak.

Attachments

Appendix 'A' – Recommended Conditions of Approval

Appendix 'B' – Site Plan and Elevations

Appendix 'A' – Recommended Conditions of Approval

The following conditions are required to be satisfied should application MV-2023-05 be approved by the Committee of Adjustment:

1. That the preparation of final drawings implementing the decisions of the Committee of Adjustment be prepared to the satisfaction of the Director of Planning and Development Services or their designate to ensure compliance and conformity.
2. The owner acknowledge that through the submission of final drawings, minor revisions or adjustments to the design or character of the proposed dwelling may be required to ensure conformity and compliance and to implement the decisions made by the Committee of Adjustment, to the satisfaction of the Director of Planning and Development Services or their designate. Any additional variance requests would be subject to a new, additional minor variance application.
3. That the owner shall be required to provide an Evaluation Report prepared by a Certified Arborist or Professional Registered Forester outlining all aspects of the impacts that this proposal will have on existing and current remaining vegetation, The report shall include recommendations and an action plan on the mitigation of negative effects to vegetation , during and post construction periods as well as measures aimed at tree health care and protection for trees effected by the project and any remaining trees in the vicinity of the project that require applicable maintenance.
4. In addition the report shall include a schedule of monitoring the ongoing site work through a series of scheduled site visits by the Arborist / Forester during and post construction to ensure the vegetation preservation measures remain in compliance throughout the project, each site visit to be documented and any resulting action items required by the Arborist /Forester shall be implemented and confirmed on site forthwith by the Arborist /Forester following each visit.
5. The owner may be required to provide vegetation compensation and a replanting plan in accordance with the Town of Aurora TREE REMOVAL/PRUNING AND COMPENSATION POLICY to the satisfaction of the Director of Operational Services as compensation for trees removed to facilitate construction. Compensation planting shall be completed prior to release of the financial securities.

6. The owner shall agree to comply with the Aurora Tree Permit By-law # 5850 -16 prior to the removal of any trees on the property.
7. The owner shall agree to provide financial securities based on the total value of the Tree Compensation evaluation and all Arboriculture works as defined by the Town and the Owners Arborist/ Forester. To the satisfaction of the Director of Parks and Recreation.
8. All of the above shall be included as terms and conditions in a Letter of Undertaking with the Town of Aurora to guarantee compliance with the Conditions of Approval and all related site works.
9. That the Owner shall pay the LSRCA Plan Review Fee in accordance with the approved Fees Policy (Note: payment is currently outstanding for the LSRCA review of the minor variance application of \$536.00 per the LSRCA 2023 Fee Schedule).
10. That the Owner shall obtain a permit from the LSRCA under Ontario Regulation 179/06 prior to the proposed development and site alteration taking place.