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Town of Aurora
Committee of Adjustment Report
No. MV-2023-07

Subject: **Minor Variance Application**
Veyseh
54 Nisbet Drive
PLAN M50 LOT 6
File: MV-2023-07

Prepared by: **Kenny Ng, Planner**

Department: Planning and Development Services

Date: April 13, 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 two-storey addition with a gross floor area of 140.81 square metres (1,516.67 square feet). A conceptual site plan and elevations are attached as Appendix 'B' to this report.

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 two-storey addition, which is 4.0 metres to the front property line, thereby requiring a variance of 2 metres.
- b) 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 two-storey addition, which is 1.3 metres to the interior side property line, thereby requiring a variance of 0.2 metres.
- c) Section 24.497.3.3 of the Zoning By-law requires a maximum lot coverage of 35%. The applicant is proposing a two-storey addition with a lot coverage of 38.4%, thereby requiring a variance of 3.4%.
- d) Section 5.4 of the Zoning By-law requires a minimum 2 parking spaces per detached dwelling unit. The applicant is proposing 1 parking space, thereby requiring a variance of 1 space.

- e) Section 4.20 of the Zoning By-law requires steps to be minimum 4.5 metres from the front property line. The applicant is proposing steps 2.5 metres from the front property line, thereby requiring a variance of 2 metres.
- f) Section 4.20 of the Zoning By-law requires an open sided roof porch to be a minimum 4.5 metres from the front property line. The applicant is proposing an open sided roof porch which is 3.1 metres from the front property line, thereby requiring a variance of 1.4 metres.

Background

Subject Property and Area Context

The subject lands are municipally known as 54 Nisbet Drive and are located north of Murray Drive on the west side of Nisbet Drive. The subject lands have an approximate lot area of 535.86 square metres (5,767.95 square feet), and an approximate lot frontage of 15.24 metres (50 feet). The subject lands currently contain a two-storey single-detached dwelling with an approximate gross floor area of 140.14 square metres (1,508.45 square feet). The surrounding neighbourhood is residential and generally characterized by one and two storey dwellings, with infill development and additions to other properties have also occurred on the street.

Proposal

The applicant is proposing to demolish the existing garage and expand the existing dwelling and construct a new attached garage. The proposed attached garage will align with the proposed new front door entrance. The proposed addition will have a gross floor area of 140.81 square metres (1,516.67 square feet), which would result in a total gross floor area of 280.95 square metres (3,025.12 square feet) when combined with the existing dwelling.

Official Plan

The subject property is designated “Stable Neighbourhoods” by the Town of Aurora’s Official Plan, which protects residential neighbourhoods from incompatible forms of development and, at the same time, permits them to evolve and enhance over time. The Stable Neighbourhoods designation provides for detached dwellings as a permitted use.

Zoning

The subject property is zoned “Detached Third Density Residential – Stable Neighbourhoods R3-SN(497) Exception 497 Zone” by Zoning By-law 6000-17, as

amended, which permits single detached dwellings. The site specific provision (497) reflects the stable neighbourhood design policy.

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, "In order to have access to the new living space for a pathway from the current front door, the new garage would need to be pushed forward to allow for this access."

The applicant also submitted a supporting letter which further states their reason to apply for a minor variance:

"The current entrance to the house from the backyard is on the north side where the pathway is narrow and steps up into the kitchen area with no visibility to the backyard. The front access to our home is from the driveway and access to the backyard from the driveway is through a gate down a narrow pathway, again with no visibility to the backyard. We have considered many design options and have not been able to come up with the perfect solution. The main caveat is the current backsplitted design with many different levels. According to the architects, adding new space to the house requires enough spacing between the existing build to incorporate stairs and this is the reason we have asked for a variance to shorten our setback from the front. We worked on coming up with many different ideas to avoid the minor variance but then once shown on paper to-scale, we realized that none of the ideas [in absence of minor variance] would work. However, the design proposed in this document would work for us but requires your approval. We were thinking long and hard about this plan and we consulted with multiple A+ architects. This is the only design that looks like it may solve our problems if these minor variances are accepted."

Planning Comments

Planning Staff have evaluated Minor Variance Application MV- 2023-07 pursuant to the prescribed tests as set out in Section 45(1) of the Planning Act, as follows:

a) The proposed variance meets the general intent of the Official Plan

The intent of the "Stable Neighbourhoods" designation is to ensure that mature neighbourhoods are protected from incompatible forms of development, while also

permitted to evolve and be enhanced over time. New development shall be sympathetic to the form and character of existing development with regards to building scale and urban design.

It is Planning Staff's opinion that the proposed variances are not anticipated to result in any significant negative impacts on the character and streetscape of the existing residential neighbourhood. The neighbourhood is characterized by generally one to two-storey dwellings, which this proposal aligns with, and vegetation is present in the front and side yards of the property, which creates landscaped buffering between neighbouring properties. The design of the proposed addition also aligns with the architectural expression of the existing neighbourhood.

Three of the requested variances are related specifically to the front yard setback of the property. These include the proposed addition, steps, and covered porch, which will encroach into the required front yard. As shown in Appendix "B", there is a 16.70m setback measuring from the front face of the garage to the centre line of the Street. Although setbacks are measured from the building face to property line, in this situation, there is approximately an additional 8 metres to the curb of the street. Furthermore, there is no sidewalk on the west side of Nisbet Drive, there is minimal resulting impacts to the public realm or streetscape. There is adequate front yard space remaining on the property to allow for soft landscaping and the vegetated area remains unaffected by the proposal. Although the proposed garage will extend slightly into the required front yard, this configuration of an extended garage is fairly common in the neighbourhood within the vicinity (62 Nisbet, 49 Nisbet, 51 Nisbet). The proposed porch will extend beyond the front face of the main wall of the building, which will enhance the streetscape, thus allowing for a modest, compatible design in the existing neighbourhood.

Currently, there is an interior side yard setback of 1.3m along the southerly property line. The proposed addition will follow the existing interior side yard setback on the south side, and will not further encroach into the interior side yard. Thus, keeping with the consistency and character of existing development.

The existing one car garage will be replaced with a new garage that can accommodate for one parking space and storage. There is sufficient room on the driveway to accommodate for an additional parking space, which will avoid the need for on street parking.

The lot coverage increase is marginal, while the addition itself is not too egregious in size that would result in overbuilding or incur incompatible built forms. The requested variance is also related to encouraging better access and use of the rear yard space, which allows for optimal use of the open space of the lot.

The proposed addition to the existing dwelling is generally in keeping with the surrounding context and character of the neighbourhood, and as such, Staff are of the opinion that the proposed variances meet the general intent of the Official Plan.

b) The proposed variances meet the general intent of the Zoning By-law

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. The encroachment resulted by the proposed addition, steps and covered porch are not too egregious that it would cause significant disruption to the public realm and create an undesirable streetscape. The existing side yard landscape buffer will help with the streetscape image and no trees are proposed to be removed. The existing dwelling is also situated at a slight angle on the lot as well, which impacts the calculation of these setbacks but still provides ample separation and spacing. It is staff's opinion that the variances related to the front yard setback will not hinder the subject development's ability to meet the objectives mentioned above, with the overall streetscape character not being adversely impacted.

The intent of the interior side yard setback is to ensure that appropriate and adequate spacing between buildings is provided for privacy, landscaping, access, and drainage. The existing interior side yard setback on the south side of the building is measured at 1.39 metre, which is a legal non-conforming condition due to the zoning by-law update in 2017 that increased the side yard setback to be 1.5 metre. The proposed addition is an extension of the existing building, and it is simply following the same setback as the existing condition. No negative impacts are anticipated. The proposed development has also taken privacy into consideration, as there will be limited window openings on the south side of the addition. The proposed windows are to be in the rear of the building, and are located on the ground level, all of which contribute to reducing any privacy concerns.

The intent of the maximum lot coverage requirement is to regulate the amount of building footprint on a property to avoid overbuilding and that sufficient open space remains available. The additional footprint from the proposed addition would not result in an oversized building that would be incompatible or appear egregious in the immediate neighbourhood, while adequate open space and front/rear yard amenity area remain available, specifically due to the slight angled orientation of the building on the lot. The proposed addition is also within the maximum building height requirement, which helps to maintain its modest, non-intrusive built form and appearance. The subject property's drainage capability will also remain functional, without any anticipated impacts.

The intent of the parking space requirement is to ensure that adequate parking spaces are provided for the residents and potential visitors to the dwelling. It is staff's opinion

that the requested variance in parking space will not result in parking related concerns, as the new garage is replacing the existing with the same number of spots provided. Staff also note that for an older subdivision with lots such as the subject property, the portion of driveway that is part of the municipal right-of-way (space beyond the front property line) does not factor into the parking space calculation, which has occurred in this case and limits the consideration of parking provided to be only one per the garage. In newer subdivisions, zoning provisions would include the driveway space beyond the property line to be part of the parking space calculation, thereby this would not require a variance to the zoning standard. In evaluating the current site conditions, it is evident that there is adequate driveway space to accommodate for additional parking needs.

As a result of the above, staff are of the opinion that the requested variances are in keeping with the intent of the Zoning By-law.

c) The proposed variances are considered desirable for the appropriate development of the land

The minor variances requested have been considered in the context of the site and the adjacent neighbourhood.

Staff are of the opinion that the proposed variances for front yard setbacks are desirable as the proposed built form and overall character of the addition will continue to be in keeping with other surrounding properties located within the residential neighbourhood. The reduced front yard setback is required to accommodate the addition, covered porch and steps which make up the southern portion of the overall building. Staff do not anticipate that the variance as requested will result in any negative impacts and that the dwelling will remain compatible with the existing and future surrounding built form.

It is in the opinion of staff that the building will continue to be in keeping with other surrounding properties and will not result in accessibility or non-conformity concerns with neighbouring properties. The deficient side yard setback is an existing condition, with no further negative impacts to result.

Staff are also of the opinion that the slightly increased lot coverage will not result in overbuilding of the site and incompatibility due to the extra building area. The requested increase is not significant in considering the overall lot area and the appearance of the building will not be too imposing to the public realm. An objective of the requested variances is to also provide additional access to the rear yard open space, with the increase in lot coverage not anticipated to impact the usability of this space.

The parking space variance is required as the driveway length is shortened by the addition, but despite this, adequate driveway space remains to still accommodate for

parking needs, plus the proposed garage will also provide for extra storage and parking space.

Given the above, staff are of the opinion that the proposed variances are considered desirable for the appropriate development of the lands.

d) The proposed variances are considered minor in nature

In considering the scale of the addition, there is minimal impact as a result of the proposed reduced front yard setbacks. The overall streetscape is conserved as the addition will be selecting buildings materials similar to the existing dwelling, and it will have a gable roofline similar to the existing building. The character of the neighbourhood is maintained as the addition's overall massing and scale is considered modest and adequate. The covered porch will also add to the overall aesthetic of the streetscape and result in an attractive front façade.

The addition will follow the existing building's side yard setback and therefore no additional negative impact is anticipated, with adequate side yard space remaining for maneuverability and accessibility. The increased lot coverage is also not anticipated to have incompatibility concerns with the overall built form. The subject property also contains sufficient parking to eliminate any concerns with parking capacity, as adequate driveway parking spaces are still available and vehicles can be parked in the proposed garage as well. As confirmed by Town engineering staff, parking on driveway that is part of the municipal ROW is permitted and would not be a concern. To this regard the parking variance is more technical in nature with no actual parking concerns anticipated to occur on the property.

As such, staff are of the opinion that the requested variances are minor in nature.

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
Building Division	Preliminary Zoning Review was completed on March 7, 2023 to confirm the variances required for the proposed development.
Engineering Division	No objections.

Department or Agency	Comments
Operational Services (Parks)	No objections.
Operational Services (Public Works)	No objections.
Central York Fire Services	No comments received at the time of writing this report.
York Region	No objections
LSRCA	No 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 variance meets the four tests the Planning Act for granting of minor variances. Please refer to Appendix 'A' for recommended conditions of approval for the requested variance.

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-2023-07 be approved by the Committee of Adjustment:

1. That the variance only applies to the subject property, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report, to the satisfaction of the Director of Planning and Development Services or designate.