



100 John West Way
Aurora, Ontario
L4G 6J1
(905) 727-3123
aurora.ca

Town of Aurora

Committee of Adjustment Report

No. MV-2024-10

Subject: **Minor Variance Application**
Wang
149 Kennedy St. W
PLAN 246 PT LOT 33 AND RP 65R31926 PART 1
File: MV-2024-10

Prepared by: **Katherine Gatzos, Planner**

Department: Planning and Development Services

Date: May 9, 2024

Application

The applicant is requesting relief from the requirements of the Town's Comprehensive Zoning By-law 6000-17, as amended, to facilitate the construction of a new two (2) storey single detached dwelling. The following relief is being requested:

- a) Section 7.2 of the Zoning By-law requires a minimum interior side yard of 4.5 metres. The applicant is proposing a two-storey detached dwelling, which is 3.0 metres to the westerly interior side property line.
- b) Section 7.2 of the Zoning By-law requires a minimum interior side yard of 4.5 metres. The applicant is proposing a two-storey detached dwelling, which is 3.0 metres to the easterly interior side property line.
- c) Section 7.2 of the Zoning By-law requires a minimum interior side yard of 4.5 metres. The applicant is proposing a rear deck with steps, which is 2.1 metres to the easterly interior side property line.
- d) Section 7.2 of the Zoning By-law requires a minimum interior side yard of 4.5 metres. The applicant is proposing a rear basement walkout with steps, which is 2.9 metres to the easterly interior side property line.

- e) Section 5.3 of the Zoning By-law requires a minimum maneuvering space of 7.0 metres for 90-degree parking spaces. The applicant is proposing a maneuvering space of 4.2 metres.

Background

Subject Property and Area Context

The subject property, municipally known as 149 Kennedy St. W, is located on the south side of Kennedy St. W, east of Murray Drive. The parcel has a slightly larger frontage and tapers to the back of the property. The parcel has a lot area of approximately 0.211 ac (0.52 ha), frontage of approximately 25.08 m (82.46 ft), and depth of approximately 84.81 m (278.29 ft). The subject property currently contains a one (1) storey single detached dwelling with an approximate gross floor area (GFA) of 465.28 sqm (5008.23 sq ft), two (2) small rear yard sheds, and an in-ground pool in the rear yard.

The surrounding neighbourhood is generally characterized by one and two storey dwellings, with other examples of infill development having already occurred on the street, including the adjacent easterly property.

Proposal

The property owner is seeking to demolish the existing one (1) storey single detached dwelling and rear yard sheds on the subject property and construct a two (2) storey single detached dwelling with an approximate GFA of 642.24 sqm (6913.01 sq ft), as proposed through the subject minor variance application.

Official Plan

The subject property is designated "Suburban Residential" by the Town of Aurora Official Plan. This designation permits for detached dwellings, an accessory dwelling and compatible home occupations.

Zoning

The subject property is zoned "Detached First Density Residential R1" in the Town of Aurora's Zoning By-law. Single detached dwellings are permitted under this zoning category.

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, "The intent was to maintain all existing trees on site and prevent the need to injure any trees".

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2024-10 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.

The subject property is designated "Suburban Residential" by the Town of Aurora Official Plan which permits detached dwellings. The intent of this designation is to ensure highest standards of development for low density residential uses.

Staff are of the opinion that the requested variances will facilitate the development of a new two-storey dwelling that is compatible with and generally in keeping with the low-density residential form and character of the Kennedy St. W neighbourhood. The requested variances will not result in any significant negative impact on the character and streetscape of the existing residential neighbourhood, as the proposal maintains the existing development pattern of the street and adjacent lots.

As such, staff are of the opinion that the requested variances are in keeping with the general intent of the Official Plan.

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

The intent of the "Detached First Density Residential R1" zoning is to maintain low density residential development on larger individual lots and ensure the streetscape and public realm are maintained with appropriately sized and oriented buildings.

The intent of the side yard setback provision is to ensure there is appropriate and adequate spacing between lots for privacy, landscaping, access, and drainage. The applicant is proposing a reduction in the interior yard setback of 3.0 m to the west property line to accommodate the proposed dwelling. Additionally, the applicant is

seeking reductions in the interior side yard setback to the east property line of 3.0 m, 2.9 m, and 2.1 m, to accommodate the proposed dwelling, rear basement walkout with steps, and rear yard deck with steps, respectively.

The proposed dwelling at 149 Kennedy St. W will still provide space of approximately 9.5 m to the west and 12.5 m to the east abutting dwellings, respectively. With ample space separating the buildings, staff are of the opinion that the requested variances to accommodate the proposed dwelling do not result in conflicts of proportionality, nor impact with the usability of the side or rear yard areas.

Although the rear basement walkout with steps and rear deck with steps encroach further into the interior side yard than what the By-law permits, they are constructed at the rear southeast corner of the proposed dwelling and are not visible from the public realm. The ground-oriented nature of these features maintains the desired openness of the interior side yard and are not anticipated to result in any privacy or maneuverability concerns. Further, vegetation and landscaping along the side and rear yards helps mitigate privacy issues for abutting properties.

Staff consider the additional encroachment of the rear yard deck and steps, and rear basement walkout with steps to be minor and do not anticipate will result in impediment of access along either side yard, access to the rear yard, or future maintenance along both side yards, therefore maintaining intent of the zoning provision.

Openness and privacy within the side yards are further maintained and enhanced by vegetation and landscaping. Large existing hedgerows along the west and east property lines extend from the front lot line towards the middle of the proposed dwelling, and mature trees along the west property line and within rear yard help to minimize sightline impacts from adjacent properties. As such, staff do not have any concerns with the rear basement walkout with steps and rear deck with steps further impeding movement through the side yard or sightline concerns from the streetscape or adjacent property.

Although windows are proposed along the west and east sides of the dwelling, staff are of the opinion that the proposed separation to adjacent dwellings, in addition to vegetation screening, minimizes concerns related to overlook onto adjacent properties.

The intent of the minimum maneuvering aisle width is to ensure that parking stalls have adequate space for maneuvering turns to avoid vehicular conflicts. The development proposes a maneuvering space of 4.2 metres within the private residential drive aisle to accommodate three (3) parking stalls within the attached garage. As the property maintains the single detached residential designation, staff do not anticipate that everyday family use of parking stalls would result in instances where vehicular conflict

could arise. Visibility of the entire drive aisle and site entrance is maintained, thus ensuring that vehicles can maneuver through the site in a safe manner without negative impacts to pedestrians and other vehicles. Further, the Town's Traffic & Transportation Analyst has no concerns with the reduction in maneuvering aisle width and as such, staff are of the opinion that a reduced maneuvering space of 4.2 metres is sufficient to accommodate vehicular movement within the site.

As the proposed dwelling conforms to all other zoning provisions governing front and rear yard setbacks, lot coverage, gross floor area, and building height, staff are of the opinion that the proposed variances will not result in overdevelopment of the site.

Therefore, staff are of the opinion that the proposed variances maintain the general intent and purpose of the Zoning By-law.

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

The subject minor variance application has been considered in the context of the site itself and the adjacent neighbourhood. The proposed dwelling has been designed in a manner that is in keeping with the existing single detached dwellings along Kennedy St. W, and the character of the surrounding residential neighbourhood and streetscape.

The requested variances will enable to proposed dwelling to maintain ample amenity area and backyard green space, while still providing sufficient room for access, drainage, and maneuverability on both side yards. The dwelling is proportionate to the lot size and has been designed in a manner that respects neighbourhood privacy and spacing. Further, no side entrances are to be constructed, which will maintain ample space and separation between properties. Staff are of the opinion that existing vegetation along the west and east property lines, and within the rear yard provides adequate screening from adjacent properties and will minimize concerns related to overlook into neighbouring yards and sightline impacts.

The existing in-ground pool and mature trees within the rear yard limit the ability to construct the basement walkout and steps further from the side yard than what is proposed. Staff are of the opinion that despite these constraints, the proposed location of this feature is appropriate as it is not visible from the streetscape and ensures that existing mature trees remain to provide further screening to the adjacent easterly property.

The rear yard deck will be constructed flush to the east wall of the dwelling, with associated steps minorly encroaching 0.9 m further into the interior side yard. Staff are of the opinion that this feature is appropriate to provide maneuverability within the rear

yard and provides functional access from the interior yard to the backyard amenity area, and rear yard basement and ground floor entrances.

The Town's Traffic & Transportation Analyst does not have any concerns regarding the proposed reduction in maneuvering space, and staff are of the opinion that the proposed maneuvering aisle width is appropriate to accommodate daily family vehicular usage.

The proposal allows for the appropriate infill development of the site to accommodate specific family housing needs and is done so in a manner that in the opinion of staff respects the existing neighbourhood character.

Based on the above, staff are of the opinion that permitting the subject variances is appropriate development and use of the land.

d) The proposed variances are considered minor in nature.

The question of the minor nature of a proposed variance can be related to its scale and impact on adjacent properties. In the opinion of staff, the requested variances are considered to be minor and are not expected to have any adverse effects on the subject lands, neighbouring properties, or the character of the existing neighbourhood as a whole.

The reduced side yard setbacks of 3.0 m and 2.1 m to the west and east property lines, respectively, are considered to be numerically minor by staff and generally in keeping with the intent side yard setback provision, ensuring that access to the side and rear yards are maintained. As mentioned, the site contains ample hedging, trees, and other plantings along the west and east property lines and within the rear yard, which help minimize sightline impacts from adjacent properties and alleviates privacy concerns which may result from reducing the side yard setbacks to accommodate the dwelling and associated rear deck and basement walkout steps.

Further, staff consider the impact generated by the reduction of minimum maneuvering aisle to be minor. The Town's Traffic and Transportation Analyst has no concerns with the proposed reduction in maneuvering aisle width, and the ability to support daily familial vehicular usage generated by one single detached dwelling.

The proposed dwelling conforms to all other applicable zoning provisions, and staff are of the opinion that the proposed relief from the side yard setback provision, and minimum maneuvering aisle width will not result in overdevelopment of the site or any negative impacts.

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 with no other non-compliance identified.
Engineering Division	No objections.
Operational Services (Parks)	No objections.
Operational Services (Public Works)	No objections.
Central York Fire Services	No objections.
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 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 do meet the four tests of the *Planning Act* for granting of minor variances. Staff recommend approval of the requested variances subject to the conditions outlined in Appendix 'B'.

Attachments

Appendix 'A' – Recommended Conditions of Approval

Appendix 'B' – Site Plan

Appendix 'A' – Recommended Conditions of Approval

The following conditions are required to be satisfied should application MV-2024-10 be approved by the Committee of Adjustment:

1. That the variance only applies to the subject property in conformity with the plan attached as 'Appendix B' to this Staff Report, to the satisfaction of the Director of Planning and Development Services or designate.
2. 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 trees. The report shall include the following:
 - a. An assessment of existing trees (5cm trunk diameter and greater) by size, species and condition including trees on adjacent properties whose structure or root zone may be impacted by construction.
 - b. Identification of all tree injuries and tree removals, if any.
 - c. Identification of all tree protection measures including recommendations on the mitigation of negative effects to trees during and post construction, including applicable maintenance requirements.
 - d. Provision of monitoring of the site work through a series of site visits by the Arborist/Forester to ensure protection/preservation measures remain in compliance throughout the duration of the project. Monitoring shall occur:
 - i. at commencement of work to certify all tree protection measures are in place;
 - ii. during site work to confirm protection measures are in place and to oversee arboricultural works as required; and
 - iii. post construction assessment. Each site visit is 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.
 - e. A monetary evaluation in accordance with the Town's Tree Compensation Policies for all trees designated to be removed.

3. The Owner shall be required to provide a tree compensation and a replanting plan in accordance with the Town of Aurora Tree Compensation Policies 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.
4. 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.
5. The owner shall be required 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 Owner's Arborist/ Forester, to the satisfaction of the Director of Operational Services.
6. All 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.