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Town of Aurora
Committee of Adjustment Report
No. MV-2024-27

Subject: **Minor Variance Application**
Ashish Inamdar
69 Kennedy Street E
PLAN 332 LOT 15
File: MV-2024-27

Prepared by: **Felix Chau, Planner**

Department: Planning and Development Services

Date: October 10, 2024

Application

The owner/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 two-storey detached dwelling and an accessory structure (cabana) in the rear yard. The following relief is being requested:

- a) Section 24.497.3.3 of the Zoning By-law permits a maximum gross floor area of 370.0 m². The applicant is proposing a two-storey detached dwelling unit with a gross floor area of 452.5 m².
- b) Section 24.497.3.3 of the Zoning By-law requires a maximum building footprint of 235 m². The applicant is proposing a two-storey detached dwelling unit with a footprint of 254 m².
- c) Section 24.497.5 of the Zoning By-law requires an integral garage to be flush with, or set back from, the main front wall of the detached dwelling. The applicant is proposing an integral garage projecting beyond the main front wall of the detached dwelling.
- d) Section 24.497.8 of the Zoning By-law requires a maximum gross floor area of an accessory detached structure to be 40 m². The applicant is proposing an accessory structure with 46.1 m² gross floor area.

- e) Section 4.12.2 (b) of the Zoning By-law requires a minimum distance separation of 1.2 m from the waters edge of the pool to any buildings and structures. The applicant is proposing an accessory structure with 0.0 m distance separation.
- f) Section 4.12.2 (b) of the Zoning By-law requires a minimum distance separation of 1.2 m from the waters edge of the pool to any buildings and structures. The applicant is proposing a rear covered deck with 0.5 m distance separation.

Background

Subject Property and Area Context

The subject lands are municipally known as 69 Kennedy Street East and it is located on the south side of Kennedy Street East, east of Wells Street.

The subject lands currently feature a one-storey detached dwelling which is proposed to be demolished as part of the redevelopment of the lands. The subject lands have an approximate lot area of 1,062.8 m² (11,440 ft²) and an approximate lot frontage of 15.8 m² (52 ft²). Mature trees and vegetation exist in the front and the rear of the subject lot.

Proposal

The applicant is proposing to demolish the existing one-storey detached dwelling and construct a two-storey detached dwelling with a building footprint of 254 m² (2,734 ft²). The applicant also proposes to construct a private swimming pool and an accessory structure (cabana) in the rear yard.

Official Plan

The subject property is designated 'Stable Neighbourhoods' by the Town of Aurora Official Plan. The Stable Neighbourhoods designation permits the development of single detached dwellings subject to the development policies of the Official Plan.

Zoning

The subject lands are zoned R3-SN (497) (Detached Third Density Residential Exception Zone) by the Town of Aurora Zoning By-law #6000-17, as amended, where Detached Dwelling is listed as a permitted use.

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

The applicant has indicated that the dwelling footprint was determined based on project requirements provided by the client, which maintains a reduced footprint when comparing to the adjacent neighbour on the east. The applicant submits that the proposal has been designed in a manner that is intended to maintain the character of the landscape while also mitigating potential impacts to the streetscape by maintaining the required setbacks and height restrictions.

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2024-27 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 subject lands are designated 'Stable Neighbourhoods' under the Town of Aurora's Official Plan. The intent of the 'Stable Neighbourhoods' designation is to ensure that all new development will be protected from incompatible forms of development. The designation permits ground-oriented residential development, which includes detached dwellings, and focuses on ensuring new development is designed in an appropriate and highquality manner to enhance the streetscape.

The underlying priority is for new development and infill housing opportunities to be introduced in a complementary manner, particularly from an architectural design and compatibility perspective. To assist infill developments to be compatible with the exiting neighbourhood, a Stable Neighbourhood Design Guidelines was developed. The proposed dwelling has been reviewed with guidance from the Stable Neighbourhoods Design Guidelines. Staff are of the opinion that the requested variances will enhance the local streetscape by providing transition in design, size and massing from an adjacent two-storey detached dwelling to the east, and existing one-storey detached dwellings towards the west along Kennedy Street East.

Staff are of the opinion that the proposed development will enhance the attractiveness of the streetscape and therefore meets the applicable policies and maintains the general intent and purpose of the Official Plan.

b) The proposed variance meets the general intent of the Zoning By-law

Maximum Gross Floor Area and Maximum Building Footprint

The intent of regulating Gross Floor Area (GFA) and Maximum Building Footprint for residential dwellings is to ensure that properties are not overdeveloped relative to their lot area. As previously mentioned, the subject lot area is approximately 1,062.8 m², which significantly exceeds the required lot area minimum of 460 m² the R3-SN (497) zone. The applicant is proposing a total GFA of 452.5 m² whereas a maximum of 370 m² is permitted and a building footprint of 254 m² whereas a maximum of 235 m² is permitted. While the proposed detached dwelling exceeds the maximum GFA and building footprint provisions, all provisions pertaining to setbacks are maintained.

The exceedance of the maximum GFA and Building Footprint provisions is a function of the proposed depth of the dwelling, and as such, there will be minimal impact towards the streetscape of Kennedy Street E. Ample space for outdoor amenity area is maintained at the rear of the property and sufficient space for pedestrian access and drainage is maintained from all property lines. Furthermore, the neighbouring detached dwelling immediately to the east (73 Kennedy Street E) is both larger and deeper than the proposed dwelling at hand. The subject variances will facilitate a detached dwelling that will provide a gradual decrease in size to transition from the neighbouring dwelling to longer-standing single storey dwellings along Kennedy Street E.

Integral Garage to be Flush with, or Set Back from, the Main Front Wall

The intent of requiring the integral garage to be flush with or set back from the main front wall of a dwelling is to maintain consistent streetscape by ensuring that the main wall of the dwelling is not overwhelmingly dominated by garage doors. While the integral garage projects approximately 1.2 m out of the main front wall of the dwelling, it is in line with the proposed front porch. Furthermore, a consistent roofline is proposed from the garage which extends and covers the front porch. This architectural feature minimizes the garage projection from the streetscape and presents more flush appearance along the front of the dwelling. It is Staff's opinion that the requested variance to facilitate a projection of the integral garage from the main wall of the proposed detached dwelling maintains the intent of the Zoning By-law.

Accessory Detached Structure Gross Floor Area

The intent of regulating the GFA of detached structures is to ensure that accessory structures truly appear and function secondary to the main structure, and to ensure that sufficient space is maintained on the property for drainage, access, and amenity area. The proposed accessory structure is to be utilized as a pool house/cabana which will complement the proposed in-ground pool in the rear yard. The proposed structure is one-storey and has a proposed GFA of 46.1 m² whereas the By-law establishes a maximum GFA of 40 m². The proposed structure will contain a changeroom, storage area, and a sauna. The accessory structure eave overhang is the attributing factor to the increase of the GFA. Given the previously referenced large nature of this lot, an increase of 6.1 m² is minimal and maintains the intent of the zoning provision.

Minimum Distance Separation from Pool to Buildings and Structures

The applicant is requesting variances from the By-law to reduce the minimum distance separation from the proposed pool to the proposed accessory structure of 0.0 m and to the rear covered deck of 0.5 m whereas a minimum separation of 1.2 m is required. With respect to the 0.0 m separation from the accessory structure, this separation is calculated to the proposed overhang of the structure. The accessory structure is designed to have an extended overhang to serve as a covered patio area next to the proposed pool. The pool maintains an approximately 2.0 m setback from the closest wall of the accessory structure.

Similarly, the 0.5 m separation from the pool to the rear covered deck is a function of an overhanging architectural feature projecting from the dwelling. An approximate 2.0 m separation from pool to the nearest wall of the dwelling is maintained. The intent of the structure is to ensure the structural integrity and pedestrian safety adjacent to swimming pools, and this intent is maintained, based on the 2.0 m setback from the pool to the nearest wall of the proposed accessory structure and the nearest wall of the proposed dwelling respectively.

Based on the above, it is Staff's opinion that the reduction of the pool setback from the proposed accessory structure of 0.0 m and to the proposed dwelling of 0.5 m maintains the intent of the Zoning By-law, as the setbacks are calculated to the closest overhanging features of buildings. The pool maintains setbacks of greater than 2.0 m from the closest wall of both buildings.

c) The proposed variance is considered desirable for the appropriate development of the land

The minor variances have been considered in the context of the site itself and the adjacent neighbourhoods. The requested variances will enable the proposed dwelling to maintain ample amenity area while providing sufficient room for access and drainage. The dwelling is proportionate to the lot size and has been designed in a manner that respects privacy and spacing between buildings. The proposal allows for appropriate infill development while accommodating specific family housing and storage needs. It is the opinion of Staff that this is done so in a manner that respects the existing neighbourhood and streetscape and does not result in the overdevelopment of the lands. Furthermore, the proposed detached dwelling and accessory features serves as a transition in size and architectural design from newer detached dwellings to older existing detached dwellings along Kennedy Street E. As such, it is the opinion of Staff that the requested variances are considered desirable for the appropriate development of the land.

d) The proposed variance is considered minor in nature

In the opinion of the Staff, the requested variances are considered to be minor and are not expected to have any adverse impacts on the subject lands, neighbouring properties, or the character of the existing neighbourhood as a whole. The proposed development allows the property owner to maximize the large nature of the subject lot, while serving as a gradual transition in size and massing from the neighbouring two-storey dwelling to the east from the older one-storey dwellings west of the subject property.

Staff are of the opinion that the increase in GFA and building footprint are numerically minor given the overall context and size of the site. This is reinforced by the fact that no setback variances to property lines have been requested as part of this proposal.

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. No objections.
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 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. Staff recommend approval of the requested variance subject to the conditions outlined in Appendix 'A'.

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 MV-2024-27 be approved by the Committee of Adjustment:

Planning and Development Services:

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. Prior to final approval of the minor variance, the Owner shall obtain a pre-construction inspection of the existing retaining wall by a qualified professional and provide a security deposit, as determined by the Town, to ensure a post-construction inspection is conducted. The security will be released only after the Town accepts the post-construction inspection report confirming the integrity of the retaining wall.

Operational Services:

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 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.
4. 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.
5. 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.
6. 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.
7. 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.

Engineering & Capital Delivery Division

8. All roof drains are required to discharge onto splash pads on grassed areas. Residential roof leaders/downspouts shall not be connected to any sewers/drains. Given a flat roof is proposed for the house, drawings showing the roof leaders/downspouts locations demonstrating fulfilment of the above noted criteria is submitted to the satisfaction of the Director of Planning and Development Services or designate.