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Town of Aurora
Committee of Adjustment Report
No. MV-2021-20

Subject: **Minor Variance Application**
Dumitriu
5 Child Drive
PLAN 514 LOT 296
File: MV-2021-20
Related Planning Application: SPR-2021-04

Prepared by: Rosanna Punit, Planner
Department: Planning and Development Services
Date: November 11, 2021

Application

The owner/applicant is requesting relief from the requirements of the Town's Comprehensive Zoning By-law 6000-17, as amended, to facilitate a ground floor and 2nd storey addition to the existing dwelling. The following relief is being requested:

- a) Section 24.497.3.2 of the Zoning By-law requires a minimum interior side yard of 1.5m. The applicant is proposing a first and second storey addition, which is 0.9m to the interior side property line;
- b) Section 24.497.3.2 of the Zoning By-law requires a minimum interior side yard of 3.0m beyond the main rear wall of the adjacent dwelling. The applicant is proposing a first and second storey addition, which is 0.9 metres to the interior side property line.
- c) Section 24.497.3.2 of the Zoning By-law requires a minimum interior side yard of 3.0m (9.8 ft) beyond the main rear wall of the adjacent dwelling. The applicant is proposing an interior side yard setback of 2.4m (7.9 ft).

Background

Subject Property and Area Context

The subject property, municipally known as 5 Child Drive, is generally located north of Henderson Drive, west of Yonge Street, east of Bathurst Street and south of Kennedy Street West. The subject property is located within the Regency Acres Stable Neighbourhood Area. The subject property has a lot area of approximately 650 m² (6,997 ft²) and a lot frontage of approximately 17 m (56 ft). The surrounding area is an established residential neighbourhood that is generally characterized by one and two storey dwellings.

The subject property currently contains a one-storey detached dwelling with an attached two-car garage having an approximate gross floor area of 105.9m² (1140 ft²). Two mature trees are located at the front of the property. Additional vegetation exists on the property including a hedge, along the rear yard fence and a hedge along a portion of the north side yard fence, which straddles the property line.

Proposal

The applicant is proposing to construct a first floor (including attached garage) and second storey addition to the existing home. The first floor addition has an approximate area of 149 m² (1607 sq ft). The second floor addition has an approximate area of 180.6 m² (1944.75 sq ft). The total gross floor area of the proposed first (including garage) and second storey additions are approximately: 329.6m² (3,551.75 ft²).

A summary of the requested variances and applicable By-law requirements are as follows:

Zoning By-law Standard	Zoning By-law requirement	Existing setbacks	Requested variance	Difference (Zoning By-law & MV request)
Interior Side Yard (South Side)	1.5m (5 ft)	0.87m (2.9 ft)	0.9m (3 ft)	0.6m (2 ft)
Interior side yard setback (beyond the main rear wall of adjacent dwelling) (South Side)	3.0m (9.8 ft)	0.87m (2.9 ft)	0.9m (3 ft)	2.1m (6.9 ft)
Interior side yard setback (beyond the main rear wall of adjacent dwelling) (North Side)	3.0m (9.8 ft)	2.4m (7.9 ft)	2.4m (7.9 ft)	0.6m (2 ft)

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 single detached dwellings as a permitted use.

Zoning

The subject property is zoned “R3-SN (497)” (Detached Third Density Residential Exception 497 Zone) by Zoning By-law 6000-17, as amended, which permits single detached dwellings.

The proposed development is subject to Site Plan Approval as per By-law 6106-18, as amended. A Site Plan Application has been submitted to the Town and is currently under review

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, “We need double car garage and increased second floor for the growing family and extended family i.e. in-laws coming from outside Canada to live with us. We are keeping the existing house and first floor plate and adding to it. Also increasing the existing rear yard setback”

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2021-20 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 Regency Acres Neighbourhood is generally characterized by one to two storey dwellings. 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. A Site Plan Application is currently under review by Planning staff where matters relating to site and building design, etc. will be addressed. Staff are of the opinion that the requested variances will facilitate the

development of a second storey and first storey additions that are compatible with and generally in keeping with the low-density residential form and character of the neighbourhood.

It is the opinion of staff that the requested variances meet the general intent of the Official Plan.

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

The applicant is proposing a first and second storey addition, which is 0.9 metres to the interior side property line, whereas 1.5 is required (south side yard setback). The intent of the interior side yard provision is to ensure that appropriate and adequate spacing between buildings is provided for privacy, landscaping, access, and drainage. The current setback of the one storey garage is 0.87m. Planning Staff are of the opinion that the proposed 0.9m setback is similar to the existing condition of the site and do not anticipate any impacts to the abutting property to the south. The proposed addition according to the plans submitted consists of mainly a garage and a small amount of living space on the ground floor. Further, there is a tree located on the neighbouring property that provides for screening. Engineering staff have no concerns with the 0.9m setback proposed.

Planning staff recommend a condition of approval that no door openings be permitted within the 0.9m setback, to maintain privacy of the neighbouring property to the south. The Building Department has confirmed that there is no conflict with the Ontario Building Code should this condition be imposed. Planning staff are satisfied that the 0.9m setback proposed maintains the intent of the Zoning by-law.

The Zoning By-law requires a minimum interior side yard setback of 3.0 metres beyond the main rear wall of the adjacent dwelling whereas 0.9m is proposed (south side yard setback). The applicant is proposing a first and second storey addition, which is 0.9 metres to the interior side property line. The current attached garage has a 0.87m side yard setback. The current one storey garage extends approximately 15m (49 ft) beyond the main rear wall of the adjacent home. The proposed ground floor and 2nd storey addition extends approximately 6m (21 feet) beyond the main rear wall of the adjacent dwelling. The rear portion of the proposed addition improves the existing condition on the property and provides for more privacy and less impacts for the abutting property to the south.

The Zoning By-law requires a minimum interior side yard setback of 3.0 metres beyond the main rear wall of the adjacent dwelling, whereas 2.4m is proposed (north side yard setback). The applicant is using the existing wall (north side) of the dwelling for the 2nd storey addition which is currently setback 2.4m from the property line. The dwelling to the north (3 Child Drive) is a two storey dwelling and staff do not anticipate any negative

impacts. There is an existing hedge straddling both properties which provides for privacy. Overall, staff are of the opinion that the requested variances meet the intent of the zoning by-law.

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

Staff are of the opinion that the requested interior side yard variances for proposed first floor and second storey additions will have minimal impacts to the existing neighbourhood and abutting properties. The requested variance for 0.9m setback on the south side yard generally maintains existing setbacks that are present for the existing dwelling and is anticipated to have no negative impacts on the streetscape. Further, the interior side yard setback of 0.9m (beyond the main rear wall of adjacent dwelling) extends less than what currently exists on the property. Planning staff are of the opinion that there are no negative impacts on the adjacent property and Town Engineering staff have confirmed they have no concerns. The existing 2.4m north side yard setback maintains the setback the exists on the property.

To ensure the mature vegetation on the property is protected, conditions of approval have been recommended by staff. Staff are of the opinion that the proposed variances will facilitate the development of additions to the existing dwelling that is compatible in scale with other dwellings in the neighbourhood. Staff note that the property is subject to Site Plan Approval and staff have included this as a condition of approval, to ensure the final design is compatible and sympathetic with the existing character of the neighbourhood.

Staff consider the variances desirable for the appropriate development of the property.

d) The proposed variance is considered minor in nature

The proposed second and first storey additions are considered moderate in scale and are not anticipated to result in any negative impacts to surrounding properties or the neighbourhood. 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 October 8, 2021.
Engineering Division	Comments provided stating no comments/concerns with proposed application (dated: October 19, 2021)
Operational Services (Parks)	<p>Comments provided stating (dated July 29, 2021)</p> <ul style="list-style-type: none">• <i>That the owner may 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.</i>• <i>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.</i>• <i>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</i>

Department or Agency	Comments
	<p><i>to facilitate construction. Compensation planting shall be completed prior to release of the financial securities.</i></p> <ul style="list-style-type: none"> <i>• 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.</i> <i>• 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.</i> <i>• 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</i>
Operational Services (Public Works)	No comments received at the time of writing this report.
Central York Fire Services	No comments received at the time of writing this report.
York Region	Comments provided stating no comments/concerns with proposed application (dated October 20, 2021)
LSRCA	Not commenting on application as it is located outside the area governed by O. Reg. 179/06 under the Conservation Authorities Act (dated October 19, 2021).
Alectra	<p>Comments provided stating that, all proposed billboards, signs, and other structures associated with the project or plan must maintain minimum clearances to the existing overhead or underground electrical distribution system as specified by the applicable standards, codes and acts referenced.</p> <p>In the event that construction commences, and the clearance between any component of the work/structure and the adjacent existing overhead and underground electrical distribution system violates the Occupational Health and Safety Act, the customer will be responsible for 100% of the costs associated with Alectra making the work area safe.</p>

Department or Agency	Comments
	All construction work will be required to stop until the safe limits of approach can be established. In the event construction is completed, and the clearance between the constructed structure and the adjacent existing overhead and underground electrical distribution system violates the any of applicable standards, acts or codes referenced, the customer will be responsible for 100% of Alectra's cost for any relocation work. (Email dated: July 22, 2021)

Public Correspondence

A total of 14 letters of support were received at the time of writing of this report. Should additional 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 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' – Site Plan and Elevations

Appendix 'B' - Recommended Conditions of Approval