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Town of Aurora
Committee of Adjustment Report
No. MV-2021-33

Subject: Minor Variance Application
Mahmoudi
243 Murray Drive
PLAN M2035, Lot 24
File Number: MV-2021-33

Prepared by: Stephen Corr, Senior Development Planner

Department: Planning and Development Services

Date: December 9, 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 two second units within the basement of an existing single detached dwelling. The following relief is being requested:

- a) Section 7.1.1 Note (4) specifies a maximum of one second suite dwelling unit shall be permitted per Lot. Whereas the Applicant is proposing two second suite dwelling units in the basement on the property.
- b) Section 7.5.4.2 specifies the minimum area for each dwelling unit shall be 35.0 square meters. Whereas the Applicant is proposing one of the two second suite dwelling units in the basement to be 22.2 square meters.

Background

Subject Property and Area Context

The 0.1224 ha (0.3026 ac) subject lands are located on the west side of Murray Drive, south of Trillium Drive and north of Golf Links Drive. The subject lands have an approximate lot frontage of 31.37 m (102.92 ft) and approximate depth of 44.3 m (145.33 ft). The property is developed with a two-storey dwelling, which has a total

Gross Floor Area (GFA) of approximately 374.53 m² (4,0314 ft²), as shown in Appendix 'A'. The two second suites within the basement of the detached dwelling are existing and shown in Appendix 'B'. Vehicle parking for up to 4 parking spaces is provided onsite, two within an attached garage and two on a driveway to access Murray Drive. An existing side entrance is located on the north side of the dwelling which provides access to the secondary units through a shared interior stairway to the basement. Staff conducted a site visit which identified that there is also a storage shed on the south side of the dwelling for enclosed waste storage.

The subject lands are surrounded predominantly by single detached dwellings to the north, south, east and west.

A creek is located on vacant lands which abut the subject lands to the south. These lands, as well as vacant lands to the east across Murray Drive were formerly part of the Highland Gate Golf Club, which is proposed to be redeveloped as part of a Draft Plan of Subdivision. The draft approved plan of subdivision includes four proposed detached lots on the east side of Murray Drive, and Environmental Protection blocks to the northeast (also across Murray Drive) and on the abutting block to the south to protect the existing creek.

Proposal

The Applicant is proposing a variance to legalize an existing 22.2 m² (239.0 ft²) second unit within the basement of a detached dwelling. This is in addition to another 43.75 m² (470.9 ft²) second suite also within the basement. The variances are required because the Zoning By-law permits one secondary unit on the subject lands only and requires that the minimum area for each dwelling unit is 35 m² (376.7 ft²) in a building containing a second unit.

It should be noted that the presence of the two existing second suite dwelling units was confirmed by a Building Department inspection, following a property standards complaint. A violation order has been issued requiring the property owner to obtain a building permit for the two existing second suite units, which requires approval of this variance for the 22.2 m² unit basement unit. If this variance is refused, the owner will still be required to obtain a building permit but would have to revise the proposal to have only one second unit, in accordance with Zoning By-law permissions and to the satisfaction of the Building Department.

There are no proposed changes to the dwelling or subject property to facilitate this variance request.

Provincial Policies

More Homes, More Choice Act, 2019

The More Homes, More Choice Act, 2019, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019, and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the Planning Act to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. This allows for a total of three units per lot. Under this legislation, “second suites” are now referred to as “additional residential units”, and the terms are used synonymously in this report.

Provincial Policy Statement, 2020

Section 1.4.3 of the Provincial Policy Statement, 2020, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the Growth Plan, 2019, requires municipalities to provide a diverse range and mix of housing options including second units to support complete communities.

Official Plan

The subject lands are designated ‘Stable Neighbourhoods’ in the Official Plan which permits ‘Ground-Related Residential Uses’, which includes detached dwellings, and ‘Secondary Suites’.

Section 3.3 of the Official Plan provides intensification policy direction, which states that ‘within the ‘Stable Neighbourhoods’, new residential development, of approximately 350 persons, is to be accommodated through new Secondary Suite Units’.

Notwithstanding the projected cap of 350 persons, staff note that a Secondary Suite/Unit is permitted as of right in all low-rise Residential Zones and Promenade Zones in Zoning By-law 6000-17, as amended (Zones ER, R1, R2, R3, R4, R5, R6, R8, PD2, PDS1, PDS2, PDS3 and PDS4). Essentially the projected cap on secondary suites in the

Official Plan is unregulated by the Zoning By-law, as they are allowed as of right substantially throughout the Town.

Section 6.8 of the Official Plan provides policy criteria for secondary suites, as follows:

- i. not more than one secondary suite be permitted in association with each principal dwelling on the same lot unless otherwise permitted in the Zoning By-law.
- ii. all the requirements of the Zoning By-law, including the provision of adequate parking, the Ontario Building Code and other relevant municipal and Provincial regulations are satisfied; and,
- iii. it has been determined that municipal services and community facilities meet the anticipated demand for secondary suites to the satisfaction of Council."

Zoning

The subject lands are zoned Detached Third Density Residential (R3) by Zoning By-law 6000-17, as amended, which permits a detached dwelling and one (1) second suite dwelling unit. Section 7.5.4.2 of the Zoning By-law requires that in a building containing a second suite dwelling unit, the minimum area of each dwelling shall be 35.0 m².

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 application is for obtaining permit for one second unit in basement. Actually, the basement would be used as a residential suite which is divided to 2 separate parts: one is private part for family and second part has being used as a living room and guest room. Considering the basement as a unit, it will cover the required minimum area for dwelling unit."

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2021-33 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

Noted above was that the Official Plan provides criteria for second units, to permit one second suite unit in a principle dwelling unless otherwise permitted by the Zoning By-law; conforming to the Zoning By-law, Ontario Building Code and other applicable municipal and Provincial regulations; and can be accommodated by municipal services and community facilities.

No constraints with respect to municipal services and community facilities have been identified for the subject lands and two existing secondary units through the review of this variance application.

The availability of four parking spaces satisfies the zoning by-law requirement of two spaces for the principle dwelling and an additional space for each secondary suite. The establishment of two second units is generally consistent with Provincial Policies which require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses and a unit within an ancillary structure, to allow a total of three units per lot. (Noting that the Town's Official Plan is not in conformity with this requirement).

Staff are of the opinion that should this variance be approved to permit the existing additional second suite, it would therefore be permitted by the Zoning By-law and thus conform to the criteria and intent of the Official Plan. There are no minimum second unit area requirements in the Official Plan.

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

While the zoning by-law specifically permits one second unit, the variance request to permit an additional unit provides an opportunity to support affordable, and rental housing on the subject property. Planning staff are of the opinion that the application meets the criteria under of the Official Plan, the Provincial Policy Statement, the Growth Plan and the Planning Act. The zoning by-law permits a secondary suite to implement these policies. Staff are of the opinion that the proposed variance to permit a smaller 22 m² additional unit still maintains the general intent of the Zoning By-law.

With respect to the variance request to permit a reduced second unit area of 22 m² (236 ft²), the minimum area of 35 m² (376.7 ft²) required by the Zoning By-law is not based on the requirements of the Ontario Building Code, which is applicable Provincial Law regulating minimum living space area requirements consistently across Ontario. The minimum size of a unit in the Building Code is 13.5 m² (145.3 ft²), which has been a requirement since 2006. Staff are of the opinion that since the unit conforms to the Building Code it is adequately sized and satisfies the general intent of the zoning by-law.

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

There are no proposed changes to the dwelling or subject property anticipated with this variance application, which is to legalize an existing additional second suite with an area of 22 m². This is in addition to an existing permitted 43.75 m² (470.9 ft²) unit also within the basement. The appearance and function of the site will also remain unchanged as a detached dwelling. Parking is provided onsite to accommodate the principle dwelling and two second units, in accordance with the zoning by-law requirements. Staff consider the proposed variances appropriate for the subject lands.

The Owner should be aware that the garage should be maintained as an area for parking to ensure that the provision of parking is accordance with the Zoning By-law. Additionally, a building permit is required to permit the second units to resolve the violation order. A building permit is required if the variance is approved to legalize the two existing basement units, or if refused to only allow one, as permitted by the Zoning By-law. A permit will ensure that the units are safe by complying with the requirements of the Ontario Building Code, including access and egress windows. Through the building permit review process, the basement units (or unit), will also be added to the Town's register of second units, and through that registration and inspection process, the Building Division will ensure that addressing for the principle dwelling and units is installed on the building so that emergency services can identify the location of basement units and that working smoke and carbon dioxide detectors are installed. Since the above will be confirmed through the permit and registration process, planning staff have no conditions in this regard should the variances be approved. Requirement for a building permit cannot be added as a condition, as the conditions need to be cleared to obtain a permit.

d) The proposed variance is considered minor in nature

The variances are requested to permit an existing situation, which staff are of the opinion is minor as it will not alter the surrounding community context or detract from the detached character of the site. Further, as variances are to be assessed on their individual merit, staff are of the opinion that approval of this application will not be precedent setting if considering future development applications to permit additional second units.

From an impact perspective, residential properties are to be maintained in good order in accordance with applicable Town of Aurora Property Standards By-laws. Should any property standards issues arise, they can be appropriately addressed by the Towns By-

law Enforcement division. On that basis, staff consider the variances to be 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, confirming the variances required. No other comments or conditions were provided.
Engineering Division	Comments provided stating no comments/concerns with proposed application (dated Nov. 16, 2021)
Operational Services (Parks)	Comments provided stating no comments/concerns with proposed application (dated Nov. 26, 2021)
Operational Services (Public Works)	No comments received at the time of writing this report.
Accessibility Division	Comments provided stating no comments/concerns with proposed application (dated Nov. 22, 2021)
Legal Division	Comments provided stating no comments/concerns with proposed application (dated Nov. 17, 2021)
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 Nov. 17, 2021)
LSRCA	<p>Written comments provided in letter dated, concluding:</p> <p>"Based upon our review of the submitted information in support of the application, it is determined that the proposal is generally consistent and in conformity with the natural heritage and natural hazard policies of the applicable Provincial and Regional plans. As such, we recommend that any approval of this application for minor variance be subject to the following condition:</p> <p>a. That the Owner shall pay all development fees to the LSRCA in accordance with the approved Fees Schedule under the Conservation Authorities Act (Note: Under the 2021 LSRCA Fee Schedule, this amount is \$525.00).</p>

Alectra	Comments provided stating no comments/concerns with proposed application (dated Nov. 16, 2021)
MTO	Comments provided stating no comments/concerns with proposed application (dated Nov. 15, 2021)

Public Correspondence

No written submissions have been 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 its criteria. Staff recommend approval of the requested variances subject to the condition attached as Appendix 'A'.

Attachments

Appendix 'A' – Conditions

Appendix 'B' – Figure 1, Site Plan

Appendix 'C' – Figure 2, Basement Plan

Appendix 'A' – Conditions

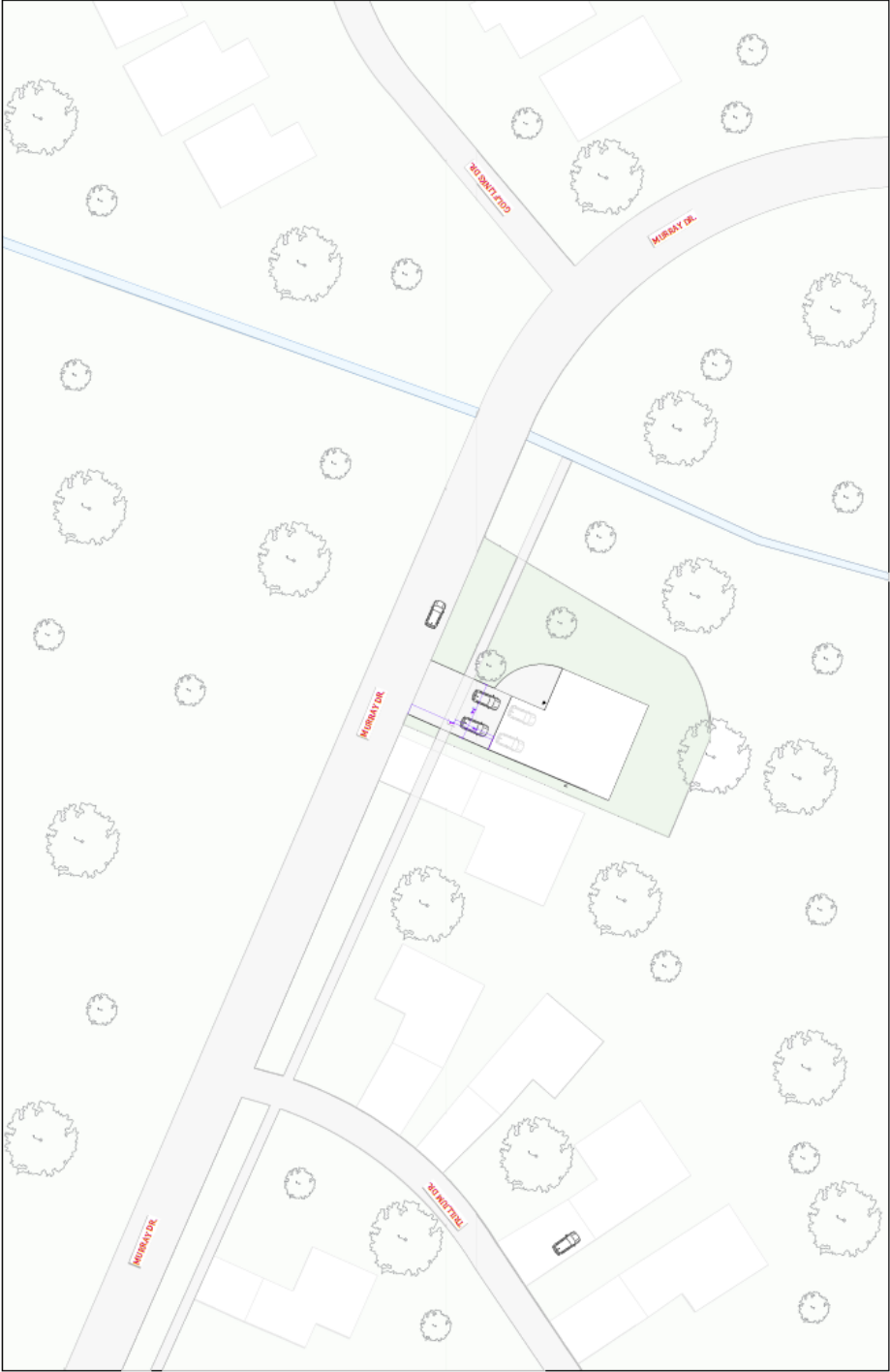
1. That the variances only apply to the proposed development, and in substantial conformity with the Plans submitted with this application, attached as Appendix 'B' and 'C'
2. That the Owner shall pay all development fees to the LSRCA in accordance with the approved Fees Schedule under the Conservation Authorities Act (Note: Under the 2021 LSRCA Fee Schedule, this amount is \$525.00).
3. That a maximum of two secondary suite dwelling units be permitted on the subject property.

Figure 1 - Site Plan

SUBMISSION No. 1

TOWN OF AURORA
PLANNING AND DEVELOPMENT SERVICES
Development Planning Division
DATE: NOV. 8, 2021
RECEIVED

TOWN OF AURORA
PLANNING & DEVELOPMENT SERVICES
BUILDING DIVISION
PERMIT NO.: PR20210728 DATE: Oct. 8, 2021
APPROVED BY: *Heather McQuinn*
PRELIMINARY ZONING REVIEW



LEGEND:	
TREE	
PROPOSED PROPERTY	
MAIN ENTRANCE	
BASEMENT ENTRANCE	
PARKING INFO:	
DOUBLE DOOR GARAGE THAT 2 CARS CAN BE FITTED.	
DRIVE WAY: 21'1" x 29'5.5" W	

Figure 2 - Basement Plan

