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Town of Aurora
Committee of Adjustment Report
No. MV-2022-16

Subject: Minor Variance Application
Ahmadi
9 Craiglee Court
65M-2685, Lot 34
File: MV-2022-16

Prepared by: Rosana Punit, Planner

Department: Planning and Development Services

Date: June 9, 2022

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 deck. The following relief is being requested:

- a) Section 4.20 of the Zoning By-law specifies maximum encroachment of 3.7m into minimum rear yard of 9m for zone R2(74).

The applicant is proposing a deck encroaching 4.8m into minimum required yard.

Background

Subject Property and Area Context

The subject property is municipally known as 9 Craiglee Court, is located south of St. Johns Sideroad, west of Yonge Street and east of Bathurst Street. The property is adjacent (rear yard area) to the Willow Farm Trail system. The property has an approximate frontage of 18.78m (62 ft) and a lot area of 0.10 ha (0.25 ac). There is an existing 2 storey dwelling on the property with an attached deck and swimming pool.

A portion of the property is located within the Lake Simcoe Region Conservation Authority (LSRCA) regulated area under Ontario Regulation 179/06 of the Conservation Authorities Act. A permit is not required from the LSRCA because this is considered a replacement. Decks that are reconstructed in the same footprint are exempt from the LSRCA permits under 4.3(b) of Regulation Implementation Guidelines (for O.R..179/06)

Proposal

The applicant is proposing to build a new deck in the same area of the existing deck. The current encroachment of the existing deck is 4.8m (16 ft). The new deck proposed will have the same rear yard setback of 4.8m (16ft).

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 “Detached Second Density Residential, exception zone 74, R2(74)”. The exception zone refers to site specific development standards.

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, “existing By-law does not accommodate existing and proposed design”.

Planning Comments

Planning Staff have evaluated Minor Variance Application MV- 2022-16 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 Official Plan Stable Neighbourhood designation is to allow for single detached dwellings to enhance over time and are protected from incompatible forms of development. The intent of the Official Plan in the opinion of staff is being maintained.

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

The intent of the zoning by-law designation is to provide encroachments for decks, uncovered terraces and open porches at 3.7m (12 ft). The owner is replacing the existing deck with a new deck, using the same deck encroachment that exists on the property of 4.8m (16 ft). Planning Staff are of the opinion that the requested variance meets the general intent of the Zoning By-law.

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

The current deck, as stated in the applicants cover letter, is being replaced due to safety concerns. The deck currently encroaches 4.8m (16ft) into the rear yard. Lake Simcoe Region Conservation Authority (LSRCA) does not require a permit for the works proposed, decks that are reconstructed in the same footprint are exempt from the LSRCA permits under 4.3(b) of Regulation Implementation Guidelines (for O.R..179/06). The LSRCA has requested that their review fee be paid, this is included as a condition of approval.

Staff are of the opinion that the requested rear yard deck encroachment for the new proposed deck will have minimal impacts to the existing neighbourhood. Staff consider the variance desirable for the appropriate development of the property.

d) The proposed variance is considered minor in nature

The deck encroachment proposed is considered minor in scale and are not anticipated to result in any negative impacts to surrounding properties or the neighbourhood, as the 4.7m encroachment currently exists. As such, Staff are of the opinion that the requested variance is 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 April 14, 2022.

Department or Agency	Comments
Engineering Division	Comments provided stating no objections. (Dated: May 24, 2022)
Operational Services (Parks)	Comments provided stating: We have reviewed the documentation for the property associated with the above noted application and have no formal comments. (Dated: May 30, 2022)
Operational Services (Public Works)	No comments received at time of writing this report.
Central York Fire Services	No comments received at time of writing this report.
York Region	Comments provided stating no comments (Dated: May 20, 2022)
LSRCA	<p>Comments provided stating:</p> <p>“Based upon our review of the submitted information in support of the application, the proposal is consistent and in conformity with the natural heritage and natural hazard policies of the applicable Provincial, Regional and Local plans. On this basis, we recommend that any approval of this application be subject to the following condition:</p> <ol style="list-style-type: none"> a. That the Owner shall pay the LSRCA Plan Review Fee in accordance with the approved Fees Policy (Note: payment is currently outstanding for the LSRCA review of the minor variance application of \$525.00 per the LSRCA 2022 Fee Schedule). <p>The owner will not need a LSRCA permit for this deck. Decks that are reconstructed in the same footprint are exempt from LSRCA permits under 4.3 (b) of our Regulation Implementation Guidelines (for O.R. 179/06)” (Dated: May 27, 2022)</p>
Alectra	Comments provided stating: “We have reviewed the proposed variance application and have no objections to its approval, subject to the following

Department or Agency	Comments
	<p>comments: Alectra Utilities (formerly PowerStream) has received and reviewed the proposed Variance Application. This review, however, does not imply any approval of the project or plan.</p> <p>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. All construction work will be required to stop until the safe limits of approach can be established.</p> <p>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" (Dated: May 18, 2022).</p>

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 does 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

- 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 their designate;
- 2) That the Owner pay LSRCA Plan Review Fee in accordance with the approved Fees Policy (Note: payment is currently outstanding for the LSRCA review of the minor variance application of \$525.00 per the LSRCA 2022 Fee Schedule).