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Town of Aurora
Committee of Adjustment Report
No. MV-2022-21

Subject: **Minor Variance Application**
Chin
1622 Vandorf Sideroad
Concession 3 Part of Lot 16
File: MV-2022-21

Prepared by: **Kenny Ng, Planner**

Department: Planning and Development Services

Date: July 14, 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 three (3) storey single-detached dwelling.

The following relief is being requested:

- a) Section 17.1.1 of the Zoning By-law permits a maximum height of 10.0 metres. The applicant is proposing to construct a three-storey single-detached dwelling with a height of 12.5 metres; and
- b) Section 17.1.3 of the Zoning By-law states new single residential dwellings on existing lots will only be permitted through a minor variance. The applicant is proposing to construct a new three-storey single-detached dwelling on an existing lot.

Background

Subject Property and Area Context

The subject lands are municipally known as 1622 Vandorf Sideroad and are located on the north side of Vandorf Sideroad, east of Leslie Street. The subject lands have an approximate lot area of 4.03 hectares (9.97 acres), and an approximate lot frontage of 100.96 metres. The subject currently contain a one and a half storey single-detached

dwelling with an approximate gross area of 264.9 m² (2851 ft²), a pool, and a driveway. The existing single detached dwelling will be demolished to facilitate the proposed development. A watercourse and vegetation also exist on the subject lands.

Surrounding Land Uses

The surrounding land uses are as follows:

North: Open space;

South: Westview Golf Club;

East: Rural Residential; and

West: Golf course.

Proposal

The applicant is proposing to demolish the existing detached dwelling and to construct a three-storey single detached dwelling with a gross floor area of 914.17 m² (9,840 ft²) and building area of 495.08 m² (5,329 ft²) (see Appendix B). The proposal also includes the installation of a new septic system within Lake Simcoe Region Conservation Authority (LSRCA) regulatory area, whereas the proposed new dwelling will be outside of the regulated lands. Town parks staff noted potential trees removal as a result of the proposed development.

Official Plan

The property is designated as “Oak Ridges Moraine Natural Linkage Area” and “Oak Ridges Moraine Countryside Area” by Amendment No. 48 to the Town of Aurora Official Plan. OPA 48 implements the policies of the Oak Ridges Moraine Conservation Plan (ORMCP).

The intent of the “Oak Ridges Moraine Natural Linkage Area” designation is to identify areas that form natural and open space linkages between Natural Core Areas, and along river valleys and streams. These areas provide as part of a central corridor system that supports or has the potential to support the movement of plants and animals among the Natural Core Areas, Natural Linkage Areas, river valleys and stream corridors. The intent of the “Oak Ridges Moraine Countryside Area” designation is to encourage agricultural and other rural uses.

OPA 48 further identifies the subject lands as within a “Category 1 (Complex Landform)” Landform Class, and provides that Key Natural Heritage Features (KNHFs) and Hydrologically Sensitive Features (KHF) including “Woodland”, “Woodland Minimum Vegetation Protection Zone”, “Watercourse” and “Watercourse Minimum Vegetation Protection Zone” are located on the property.

Section 3.13.3.g of OPA 48 allows for the use, erection or location of a single dwelling and related accessory uses, provided that:

- i. the use, erection and location would have been permitted by the applicable zoning by-law on November 15, 2001;
- ii. prior to issuance of a building permit, the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Oak Ridges Moraine, by means of a natural heritage or hydrological evaluation or other required study in accordance with the policies of the Oak Ridges Moraine Conservation Plan; and
- iii. notwithstanding Subsection 3.13.3.g.ii above, where said lands are located within the Oak Ridges Moraine Settlement Area, the policies of Subsections 3.13.4.f.iv and 3.13.4.f.v shall also apply.

Similarly, the ORMCP does not prevent the use, erection or location of a single-detached dwelling if it was permitted by the applicable zoning by-law on November 15, 2001, and the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Plan Area (Section 7 of ORMCP).

Zoning

The subject property is dually zoned “C-ORM – Oak Ridges Moraine Countryside Area” and “NL-ORM – Oak Ridges Moraine Natural Linkage Area” by Zoning By-law 6000-17, as amended. The existing dwelling (and proposed new dwelling subject to this minor variance application) is located entirely within the NL-ORM Zone. The existing dwelling is a permitted use within this zone, as it legally existed prior to November 15, 2001, in accordance with ORMCP policies, and the Town’s Zoning By-law. However, new single residential dwellings and related accessory uses on existing lots will only be permitted through a minor variance or rezoning to be completed to ensure compliance with Section 3.13.3 g of OPA 48, which is outlined in the above section.

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 architectural design features huge green roof and roof top solar panel, which is enjoyable and also needs a lot of maintenance. It is*

both functional as well as aesthetic to add a small area of cover space on top of roof. This adds extra 2.5 metres to overall building height."

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2022-21 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 proposed development is located wholly within the "Oak Ridges Moraine Natural Linkage Area" designation. As stated in Section 3.13.3 (g), there are three policy tests that must be satisfied to permit the use, erection or location of a single dwelling and related accessory uses. Subsection 3.13.3 (g)(i) requires that the use, erection and location would have been permitted by the applicable zoning by-law on November 15, 2001. The existing single-detached dwelling use existed prior to the adoption of the currently in-effect Comprehensive Zoning By-law 6000-17, as amended. The Previous Zoning By-law No. 2213-78, was in effect prior to the Oak Ridges Moraine Conservation Plan coming into effect, and zoned the subject property as Rural (RU). One single family dwelling was permitted in the RU zone. Given that the RU zone permitted a detached dwelling on the subject property prior to November 15, 2001, Staff are of the opinion that Subsection 3.13.3(g)(i) of OPA 48 is met.

Subsection 3.13.3(g)(ii) requires that prior to issuance of a building permit, the applicant must demonstrate, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Oak Ridges Moraine, by means of a natural heritage or hydrological evaluation or other required study in accordance with the policies of the Oak Ridges Moraine Conservation Plan. The application has been reviewed by the Lake Simcoe Region Conservation Authority (LSRCA), who has determined that a detailed planting plan for the required minimum vegetation protection zone to the Natural Heritage Features in lieu of a Scoped Natural Heritage Evaluation/Environmental Impact Study is acceptable. The landowner is to hire a qualified professional (e.g. landscape architect, natural heritage ecologist) to prepare a planting plan to mitigate any potential negative impacts from the proposed development and achieve a net ecological gain to the ecological features at this site. Given LSRCA's requirement, and that the area of proposed development is disturbed due to prior development, as well as the minimum vegetated protection zone of approximately 15 metres or more to the features is maintained, Staff are of the opinion that Subsection 3.13.3(g)(ii) of OPA 48 is met.

Subsection 3.13.3(g)(iii) is not applicable as the subject property is located outside of the Oak Ridges Moraine Settlement Area.

The proposed development represents a modest increase in the maximum permitted height for the dwelling, given the context of the surrounding area, no visual impact or privacy issues is anticipated as a result of the proposed development. The proposed development will have a larger footprint than the existing dwelling and based on the submitted drawing, is not anticipated to further impede the movement among KNHFs or KHF's on the property, and is located away from the existing features.

Additionally, while the lands are located within a "Category 1 (Complex Landform)" Landform Class, the proposed development does not trigger any disturbance thresholds on the subject lands, as outlined in Section 3.13.6 of OPA 48.

Staff are of the opinion that the requested variance meets the general intent of the Official Plan.

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

The proposed development is located wholly within the NL-ORM Zone. The Zoning By-law defines "Building Height" of a flat roof as the vertical distance between the average finished grade and the highest point of the structure, roof surface or the parapet, whichever is the greater. The intent of the development standards of the Town's Zoning By-law as provided for in Section 17.1.1, is to ensure that development or site alteration occurs in accordance with the policies of the ORMCP, and to ensure there is no adverse impact on nearby KNHFs or KHF's. The intent of the Zoning By-law maximum height restriction is to ensure adequate privacy for residents and to assist in achieving a uniform, aesthetically pleasing streetscape. To achieve this, visual impact of the proposed building shall be adequately designed to avoid overbuilding and incompatibility.

The requested variance seeks to permit development that is located away from any KNHFs or KHF's present on the subject lands and is proposed to be located within an area that is already disturbed on the property. Staff in consultation with the LSRCA have confirmed that the proposed development will not result in any adverse impacts to the ORM or any features on the subject lands. The requested height increase is also not expected to result in any visual impacts or incompatibility issues.

Staff are of the opinion that the requested variance meets the general intent of the zoning by-law.

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

The proposed variance would allow for additional leisure space and storage space within the dwelling for the current homeowner to maintain the proposed rooftop garden and solar panels. The proposed area which requires additional height is modest in nature, will

not adversely affect any neighbouring properties, and is well screened from Vandorf Sideroad (due to the topography of the lands, location of the dwelling and the existing on-site vegetation). Adjacent dwellings are also separated by quite a significant distance with existing vegetation which provides for screening purpose. As mentioned, in consultation with the LSRCA, it has been determined that there will be no adverse affects on the KNHFs or KHF's located on the subject lands. Additionally, Departments and Agencies circulated have not raised concerns for this application.

Staff are of the opinion that the proposed variance is desirable for the appropriate development of the property.

d) The Variance is considered minor in nature

There is minimal impact as a result of the proposed variance. The proposed height is not considered to be an egregious increase from the zoning standard and the additional height will occur for a small area of the proposed building. No adverse impacts on streetscape, surrounding character of the community or KNHFs/KHF's are anticipated. 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 June 24, 2022 to confirm the variance required for the proposed development.
Engineering Division	Comments provided stating no comments/concerns with proposed application (dated June 29, 2022)
Operational Services (Parks)	Comments provided stating there are trees situated on the subject property that may require removal and may be impacted by excavation or disturbance due to demolition/construction of the residence. Parks staff recommend that the Committee impose the following conditions if this application is approved. (dated June 29, 2022)

Department or Agency	Comments
	<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 to facilitate construction. Compensation planting shall be completed prior to release of the financial securities.</i>• <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>

Department or Agency	Comments
	<ul style="list-style-type: none"> <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	Comments provided stating no comments/concerns with proposed application (dated June 29, 2022)
York Region	York Region has completed its review of the application and will defer to the LSRCA for any comments/requirements related to natural heritage, including natural hazards (i.e. flood hazard) (dated June 17, 2022)
LSRCA	<p>Comments provided stating 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, LSRCA recommend that any approval of this application be subject to the following condition: (dated July 6, 2022)</p> <p><i>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).</i></p>

Department or Agency	Comments
	<p><i>b) That the Owner shall obtain a permit under Ontario Regulation 179/06 prior to the proposed development and site alteration taking place.</i></p> <p><i>c) That the Owner shall provide a detailed planting plan for the required minimum vegetation protection zone to the Natural Heritage Features.</i></p> <p><i>d) That the Owner shall provide a detailed grading plan and erosion control plan.</i></p> <p>Note: The plantings should be targeted to areas directly adjacent to existing natural areas and the proposed development (i.e. stream, significant woodland). An updated Site Grading Plan is also required showing Erosion and Sediment Control details in accordance with Section 2.6 of the "LSRCA Technical Guidelines for Stormwater Management (SWM) Submissions". The applicant is to demonstrate on this plan that there will be no significant changes to significant site grading within the stream and woodland setback, including activities such as backfilling and excavation.</p> <p>For general guidelines for preparing the planting plan, LSRCA suggests using "CH Guidelines for Landscaping and Rehabilitation Plans, June 2021" which can be found on Conservation Halton website and the link below:</p> <p>https://www.conservationhalton.ca/policies-and-guidelines</p> <p>Please note that per Section 2.1.7 of the Provincial Policy Statement: Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal</p>

Department or Agency	Comments
	requirements. Please note that a Species at Risk (SAR) Assessment based on existing or potential habitat, with a focus on SAR Bats, Butternut, and potential Barn Swallow and Chimney Swift Habitat in the existing dwelling and/or trees proposed for removal may be required as determined by Ministry of Environment Conservation and Parks (MECP). Please contact the MECP York Durham District Office for additional information.
Alectra	No concerns with the proposed minor variance (dated June 29, 2022)

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 meets the four tests the Planning Act for granting of minor variances. Please refer to Appendix 'A' for recommended conditions of approval for the requested variance.

Attachments

Appendix 'A' – Recommended Conditions of Approval

Appendix 'B' – Drawings

Appendix 'A' – Recommended Conditions of Approval

The following conditions are required to be satisfied should application MV-2022-21 be approved by the Committee of Adjustment:

1. That the variance only applies to the subject property, in substantial conformity with the plans attached as 'Appendix B' to this Staff Report, to the satisfaction of the Director of Planning and Development Services or designate; and,
2. That the Owner shall agree that any single detached dwelling permitted to be constructed shall not exceed a total ground floor area of 500m²; and,
3. That the Owner shall enter into a Letter of Undertaking with the Town of Aurora, to ensure that the development and site alteration occurs in accordance with the conditions of minor variance approval, and to guarantee compliance with all related site work, to the satisfaction of Town of Aurora Director of Planning and Development; and,
4. 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); and,
5. That the Owner shall obtain a permit under Ontario Regulation 179/06 prior to the proposed development and site alteration taking place; and,
6. That the Owner shall provide a detailed planting plan for the required minimum vegetation protection zone to the Natural Heritage Features; and,
7. That the Owner shall provide a detailed grading plan and erosion control plan; and,
8. That the owner shall 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. 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; and,

9. That the Owner shall 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 to facilitate construction. Compensation planting shall be completed prior to release of the financial securities; and,
10. 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.