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Town of Aurora  
**Committee of Adjustment Report**  
No. MV-2022-19

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**Subject:** **Minor Variance Application**  
David Small Designs  
3 Hawthorne Lane  
MV-2022-19

**Prepared by:** Sean Lapenna, Planner

**Department:** Planning and Development Services

**Date:** July 14, 2022

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## Application

The applicant is requesting relief from the Town's Comprehensive Zoning By-law 6000-17, as amended, to facilitate the development of a new addition (one and two storey) to an existing Single-Detached Dwelling. The following relief from the requirements of the Town's Zoning By-law 6000-17, as amended, is requested:

- a) Section 7.2 of the Zoning By-law requires a minimum interior side yard setback of 3.0 metres. The applicant is proposing a two-storey addition, which is 1.5 metres to the interior side property line.
- b) Section 7.2 of the Zoning By-law requires a minimum exterior side yard setback of 9.0 metres. The applicant is proposing a one-storey addition, which is 5.1 metres to the exterior side property line.

## Background

### Subject Property and Area Context

The subject lands are municipally known as 3 Hawthorne Lane and are located on the south side of Hawthorne Lane, west of Yonge Street and south of Wellington Street West. The subject lands have an approximate lot area of 1,310 m<sup>2</sup> (14,101 ft<sup>2</sup>) and a lot frontage of 30.48 m (100.0 ft).

## **Proposal**

The applicant has requested a total of two variances for reduced side yard setbacks (interior and exterior) in order to accommodate a new one and two storey addition (with a Gross Floor Area of approximately 148.67 m<sup>2</sup> (1,600.0 ft<sup>2</sup>)) to an existing two-storey single-detached dwelling, which is located at 3 Hawthorne Lane. The new total Gross Floor Area for the dwelling in it's entirety would be 464.80 m<sup>2</sup> (5,000.3 ft<sup>2</sup>).

## **Official Plan**

The subject property is designated 'Stable Neighbourhood' by the Town of Aurora Official Plan. Stable Neighbourhoods are to be protected from incompatible forms of development, but are permitted to evolve over time. All new development shall be compatible with its surrounding context. Single detached dwellings are permitted in the Stable Neighbourhoods designation.

## **Zoning**

The subject property is zoned 'R2 (2) (Detached Second Density Residential Exception Zone)' under Zoning By-law 6000-17, as amended, which permits single detached dwellings.

## **Preliminary Zoning Review**

A Preliminary Zoning Review (PZR) has been completed by the Building Division. The PZR identified the required variances.

## **Applicant's stated reasons(s) for not complying with the Zoning By-law**

Please see attached Cover Letter (Appendix C).

## **Planning Comments**

Planning staff have reviewed the requested variance as per the four tests in section 45(1) of the Planning Act.

### **a) The proposed variance meets the general intent of the Official Plan**

The variance requested is not anticipated to have any negative impact on the existing character of the neighbourhood. The proposed variances are minimal and will not negatively impact the character of the neighbourhood.

The proposed dwelling is also in keeping with the surrounding context and character of the existing neighbourhood, especially when considering the predominant built form

along Hawthorne Lane as well as surrounding area (two-storey single-detached dwellings).

The Official Plan requires new development and site alterations to be sympathetic to the form and character of abutting existing residential development and to be compatible with regard to building scale and urban design.

Section 8.1.2 of the Town's Official Plan lists 'Ground-Related Residential Uses' as permitted within Stable Neighbourhood areas. Staff are of the opinion that the proposed minor variances to permit a use allowed for through this designation (two storey Single Detached Dwelling) meets the applicable policies and maintains the general intent and purpose of the Official Plan

It is the opinion of Planning staff that the proposed variances maintains the general intent of the Official Plan.

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

The purpose of setback requirements in the Zoning By-law is to ensure that adequate separation is provided between buildings on abutting properties. In this case, the subject property is a corner lot (south-east corner of Hawthorne Lane and George Street) meaning that the exterior side yard property line is not abutting another residential lot but instead, George Street. In addition to this, staff are also mindful of any potential negative impacts to neighbouring properties from a privacy standpoint in regards to abutting side yard amenity space.

The interior side yard property line to the west is shared with the property at 5 Hawthorne Lane. The adjacent property at 5 Hawthorne Lane currently accommodates a two-storey single-detached dwelling that is setback approximately 2.40 m (7.87 ft) away from the mutual side yard property line. This results in a combined separation distance of approximately 3.90 m (13.0 ft) that will exist between the two properties.

Although the dwelling would be constructed closer to the exterior and interior side yard property lines than what the by-law allows, staff are of the opinion that the requested variances of 5.1 m (exterior side yard) and 1.5 m (interior side yard) will not result in any conflicts as it relates to building separation, nor will it impact the enjoyment of the side yard amenity areas with any surrounding property.

As such, 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 or use of the land**

Regarding the proposed 1.5 m (5.0 ft) interior side yard setback to the west, staff note that the subject property's dwelling is setback closer to the front yard property line compared to that of their neighbour to the west.

The subject property has an existing front yard setback of 13.72 m (45.0 ft) while the neighbouring property to the west has a front yard setback of 16.63 m (55.0 ft). With the dwelling for the subject property being located closer to the front yard property line, this results in a building configuration whereby the area of the dwelling at the subject property for which the reduced interior side yard setback will exist, will not be located directly adjacent to the neighbouring dwelling at 5 Hawthorne Lane. As a result, staff anticipate no negative impacts from a privacy standpoint.

Regarding the proposed exterior side yard setback adjacent to George Street to the east, as previously outlined in this report, there is no neighbouring residential dwelling or lot located here. With a side yard setback proposed of 5.1 m (17.0 ft) sufficient side yard amenity space will still exist. As a result, staff do not anticipate any negative impacts to result.

Both reduced side yard setbacks to the east and west will not impede existing access along either side yard, access to the rear yard or future maintenance along both side yards. This includes future maintenance of eaves along each side yard, which staff notes will not encroach over either side yard property line.

As such, staff are of the opinion that the requested variances are considered desirable for the appropriate development or use of the land.

**d) The variance is considered minor in nature**

The reduced side yard setbacks to the east and west are considered to generally be in keeping with the by-law requirements. For the reduced interior side yard setback to the west, the proposed side yard setback of 1.50 m (5.0 ft) is consistent with what currently exists present day where the owner will be reducing the existing number of garages from three to two and adding a second storey addition over top of the new garage. With the setback remaining consistent with the present-day setback, staff consider this to be a minor change.

Similarly, the same can be said for the proposed exterior side yard setback of 5.1 m (17.0 ft) to the east, which is very consistent with the present day existing exterior side yard setback of 5.86 m (19.0 ft).

Staff also note the existence of a mature hedgerow along the side yard property line to the east adjacent to George Street, as well as another mature hedgerow along the side yard property line to the west. This existing landscaping will remain in place and as such, will provide sufficient screening and buffering between adjacent properties.

Finally, staff note that all other applicable by-law requirements such as lot coverage, building height, front and rear yard setbacks are still being met.

Based on the above, staff are of the opinion that permitting the subject variances is minor in nature.

## Additional Comments

The minor variance application was circulated internally and to external agencies for review and comment. The following comments were provided:

Department / Agency	Comments Provided
Engineering Services	We have reviewed the above-noted minor variance application and have no objections.
Building Division	Preliminary Zoning Review conducted. No comments provided specifically on the application at the time of writing of this report.
Accessibility Advisor	No comments provided at the time of writing of this report.
Traffic Analyst	No comments provided at the time of writing of this report.
Operational Services – Parks	<p>We have reviewed the documentation for the property associated with the above noted application.</p> <p>There are trees situated on the subject property that may require removal and may be impacted by excavation or disturbance due to construction.</p> <p>In view of the above staff recommend that the Committee impose the following conditions if this application is approved.</p> <ul style="list-style-type: none"><li>• 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</li></ul>

	<p>effected by the project and any remaining trees in the vicinity of the project that require applicable maintenance.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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</li> </ul>
Central York Fire Services	No comments provided at the time of writing of this report.
The Regional Municipality of York	The Regional Municipality of York has completed its review of the above minor variance and has no comment.
Lake Simcoe Region Conservation Authority	The LSRCA will not be providing comments or collecting an LSRCA review fee as the subject property is not regulated by

	the LSRCA and there are no natural heritage features which warrant our technical review.
Alectra Utilities	<p>We have reviewed the proposed Variance application and have no objections to its approval, subject to the following comments:</p> <p>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. 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</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 recommend approval subject to conditions of approval. Please refer to Appendix 'A' for the recommended conditions of approval for the requested variance.

## **Attachments**

Appendix 'A' - Recommended Condition of Approval

Appendix 'B' – Site Plan & Architectural Package

Appendix 'C' - Submitted Cover Letter



### **Appendix 'A' – Recommended Condition of Approval**

The following condition are required to be satisfied should application MV-2022-19 be approved by the Committee of Adjustment:

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 and dated March 2022, to the satisfaction of the Director of Planning and Development Services.
2. 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.
3. 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.
4. 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.
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 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.

7. 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