

# COMMITTEE OF ADJUSTMENT STAFF REPORT

**DATE:** September 3, 2020

**FROM:** Sean Lapenna, Planner, Planning and Development Services

**RE:** Minor Variance Application  
51 Haskell Crescent  
Plan 65M2374, Lot 75  
File: MV-2020-15

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## 1. APPLICATION

The applicant is requesting the following relief from the Town's Comprehensive Zoning By-law 6000-17, as amended, to permit a reduced interior side yard setback for an existing detached pavilion:

- a) Section 7.2 of the Zoning By-law requires a minimum interior side yard setback of 1.2 metres. The applicant is proposing an interior side yard setback of 0.50 metres to the eastern interior side property line.

## 2. BACKGROUND

### Subject Property and Area Context

The subject lands are municipally known as 51 Haskell Crescent and is located south of Henderson Drive, west of Yonge Street, east of Bathurst Street and on the north side of Haskell Crescent. The subject lands have a lot area of approximately 675 m<sup>2</sup> (7,266 ft<sup>2</sup>) and a frontage of approximately 15.01 m (49.0 ft). The property contains a two storey single-detached dwelling, an in-ground swimming pool and a one storey detached pavilion.

The subject property is located within an established residential neighbourhood. Surrounding land uses include low-density residential in the form of single-detached dwellings to the north, east, west and south.

### Proposal

The reduced interior side yard setback variance is being requested to accommodate an existing pavilion in the rear yard, along the east property line. The existing pavilion is 7.13

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m<sup>2</sup> (77.0 ft<sup>2</sup>) in area, 3.2 m (10.5 ft) in height and was constructed in 2012. Based on the submitted Site Plan, the pavilion is located approximately 0.50 m (1.64 ft) away from the interior side yard property line and functions as a covered rear yard accessory structure that accommodates a barbeque set and two lounge chairs.

The Town of Aurora received a complaint regarding the existing pavilion which is in non-compliance with the interior side yard setback Zoning By-law requirement and a notice of violation was issued to the property owner in July 2020. In response to this, the owner submitted the subject Minor Variance application on August 11, 2020. The Town's Building Division has confirmed that a Building Permit is not required for the structure.

#### 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.

#### Zoning

The subject lands are zoned R3 (41) (Detached Third Density Residential Exception Zone) by the Town of Aurora Zoning By-law #6000-17, as amended. The proposed pavilion is considered an accessory building and is therefore permitted under the R3 (41) zone.

#### Preliminary Zoning Review

A Preliminary Zoning Review (PZR) was completed by the Building Division on July 28, 2020. The PZR identified the required variance and no other non-compliance was identified.

### **3. REVIEW & COMMENTS**

The minor variance application was circulated to Town divisions and applicable external agencies for review and comment. The following is a list of those who were circulated and the comments provided:

#### **Planning Division**

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

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The subject property is designated “Stable Neighbourhoods” by the Town of Aurora Official Plan. The proposed pavilion is in keeping with the surrounding context and character of the existing neighbourhood.

As such, staff are of the opinion that this variance meets the general intent of the Official Plan.

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

The purpose of the side yard setback by-law requirement is to ensure that adequate separation is provided between buildings on abutting properties. Although the pavilion was constructed closer to the interior side yard property line than what the by-law allows, staff are of the opinion that the requested variance provides a sufficient separation distance between buildings on abutting properties, as the by-law intends.

Planning Staff are of the opinion that the proposed minor variance maintains the general intent and purpose of the Zoning By-law.

**c) The variance is considered desirable for the appropriate development or use of the land**

Planning Staff note that the proposed pavilion shares a mutual property line (east property line on the subject lands) with the property at 53 Haskell Crescent. This property currently accommodates a two storey single-detached dwelling that is setback approximately 1.66 m away from the mutual property line.

A wooden fence also exists between the two properties and is located along the east side property line. A combined building separation distance of approximately 2.16 m (7.0 ft) exists between the existing pavilion at 51 Haskell Crescent and the existing single-detached dwelling at 53 Haskell Crescent which provides adequate space for maintenance access between the pavilion and the fence along the interior side yard property line.

The pavilion is also setback a minimum of 22.0 m away from the front yard property line. Because of the scale, height and location of the pavilion, the pavilion is not overly visible from the street. A wooden wall exists within the pavilion that faces the adjacent neighbouring property to the east, which provides additional screening. As such, staff are of the opinion that adequate screening exists between the two properties and anticipate no negative impacts from a privacy standpoint.

As detailed in the Public Correspondence section of this report, concerns were raised by an adjacent property owner as it relates to drainage issues between the two properties. Upon

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review of this matter, the Town's Engineering Department has recommended two conditions of approval, should the application be approved, in order to address this matter.

Based on the above, staff are of the opinion that the existing pavilion is compatible with the surrounding area and represents appropriate development of the property.

Therefore, staff are of the opinion that permitting the subject variance is an appropriate development and use of the land.

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

As previously stated, a building separation distance of approximately 2.16 m (7.0 ft) exists between the accessory structure (pavilion) at 51 Haskell Crescent and the existing single-detached dwelling at 53 Haskell Crescent. In addition to this, staff also note that no portion of the pavilion encroaches beyond the side yard property line, into the neighbouring yard at 53 Haskell Crescent.

As such, the subject variance is considered by staff to be minor in nature.

**Department and Agency Comments**

| Department / Agency  | Comments Provided   |
|----------------------|---|
| Engineering Services | <p data-bbox="657 1104 1453 1178">Based on the drainage concerns raised, please include the following conditions for the subject variance application:</p> <ol data-bbox="706 1230 1513 1837" style="list-style-type: none"><li data-bbox="706 1230 1513 1556">1. That the owner provide a report along with a grading and drainage plan prepared by a Professional Engineer providing drainage impact assessment and any associated mitigative measures to demonstrate if there is any adverse drainage impact on the adjacent lands associated with the subject variance application, to the satisfaction of Planning and Development Services or designate.</li><li data-bbox="706 1608 1513 1837">2. That the owner agree in a letter of undertaking to complete site works, if any, required to mitigate the drainage impacts on adjacent lands if identified in the above noted drainage assessment report and certified by an engineer, to the satisfaction of the Director of Planning and Development Services or designate.</li></ol> |

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| Building Division                         | Preliminary Zoning Review conducted. No comments provided specifically on the application at the time of writing of this report.   |
| Operational Services - Parks Division     | We have reviewed the documentation for the property associated with the above noted application and have no formal comments.   |
| Central York Fire Services                | No comments received at the time of writing of this report.  |
| Lake Simcoe Region Conservation Authority | The subject property is not located within an area that is regulated by the LSRCA under Ontario Regulation 179/06 of the Conservation Authorities Act.   |
| Legal Services                            | No comments received 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 noted minor variance and has no comment.   |
| 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.</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</p> |

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|  | referenced, the customer will be responsible for 100% of Alectra's cost for any relocation work |
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## Public Correspondence

One written submission was received at the time of writing of this report. The following is a summary of the comments provided:

- Concern with water pooling issue in neighbouring rear yard;
- Rain water flows into the rear yard of 53 Haskell Crescent which has also caused several adjacent fence posts to rot and the fence to lean from vertical;
- The grading slopes downwards from 51 to 53 Haskell Crescent exacerbated by the construction of a pool in the rear yard of 51 Haskell Crescent and there is no swale between the two properties.

To address these matters, the Town's Engineering Department is requiring, as conditions of approval, that the owner provide a report along with a grading and drainage plan prepared by a Professional Engineer to demonstrate if there are any adverse drainage impacts on the adjacent lands associated with the subject variance application. The report will include a drainage impact assessment and any associated mitigative measures. If it is determined that site works are required to mitigate the drainage impacts identified in the drainage assessment report, the owner will be responsible for completing these works.

With the inclusion of these conditions, Staff have no concerns with approval of the variance as requested.

## 4. 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 recommended conditions of approval for the requested variance.

## 5. ATTACHMENTS

Appendix 'A' – Recommended Conditions of Approval

Appendix 'B' – Site Plan

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

The following condition is required to be satisfied should application MV-2020-15 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 received by the Town of Aurora on August 11<sup>th</sup>, 2020, with respect to the location of the pavilion, to the satisfaction of the Director of Planning and Development Services or designate.
2. That the owner provide a report along with a grading and drainage plan prepared by a Professional Engineer providing drainage impact assessment and any associated mitigative measures to demonstrate if there is any adverse drainage impact on the adjacent lands associated with the subject variance application, to the satisfaction of Planning and Development Services or designate.
3. That the owner agree in a letter of undertaking to complete site works, if any, required to mitigate the drainage impacts on adjacent lands if identified in the above noted drainage assessment report and certified by an engineer, to the satisfaction of the Director of Planning and Development Services or designate.

