

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the *Planning Act*, 1990

APPLICATION: CAV A/001/2022

RELATED FILE: N/A

### DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, JANUARY 25, 2022 AT 7:00 P.M.

| Owner/Applicant  | Agent   | Location of Land   |
|--|---|--|
| Dan & Janice Madon<br>1087 Birchview Avenue<br>Oakville ON L6J 2C5 | John Willmott Architect Inc<br>c/o Craig Esposti<br>3-594 Chartwell Road<br>Oakville ON L6J 4A5 | PLAN 19 PT LOT 14<br>21 Allan Street<br>Town of Oakville |

OFFICIAL PLAN DESIGNATION: Low Density Residential  
WARD: 3

ZONING: RL3 sp12  
DISTRICT: East

### APPLICATION:

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the construction of a two-storey detached dwelling on the subject property proposing the following variance(s):

| No. | Zoning By-law Regulation  | Variance Request   |
|-----|---|--|
| 1   | <b>Table 4.3 (Row 3) The maximum encroachment into a <i>minimum yard</i> for eaves and gutters shall be 0.6 m.</b>  | To permit the <b>maximum encroachment into a <i>minimum yard</i> for the awning/canopy (trellis of the tea house) to be 0.85m.</b>   |
| 2   | <b>Table 4.3 (Row 7) The maximum encroachment into a <i>minimum yard</i> for window wells with a maximum width of 1.8 metres shall be 0.6m.</b>   | To permit the maximum encroachment into the <i>minimum front yard</i> for the window well with a maximum width of 8.96 metres to be 0.5m.  |
| 3   | <b>Section 5.8.2 c) iii) The maximum width of a <i>driveway</i> shall be 9.0 metres for a <i>lot</i> having a <i>lot frontage</i> equal to or greater than 18.0 metres.</b>   | To permit the maximum width of the <i>driveway</i> to be 10.36 metres for a <i>lot</i> having a <i>lot frontage</i> equal to or greater than 18.0 metres.                                  |
| 4   | <b>Section 5.8.2 g) Notwithstanding section 5.8.2 c), one walkway access may be connected to each side of a <i>driveway</i>. The maximum width of the walkway access at the point of attachment shall be 1.8 metres.</b>              | To permit two walkway accesses connected to one side of a <i>driveway</i> . One being 2.4m the second being 2.6m in width at the point of attachment.                                      |
| 5   | <b>Section 5.8.6 b) For <i>detached dwellings</i> on <i>lots</i> having greater than or equal to 12.0 metres in <i>lot frontage</i>, the maximum total <i>floor area</i> for a <i>private garage</i> shall be 45.0 square metres.</b> | To permit the maximum total <i>floor area</i> for the <i>private garage</i> to be 88.46 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> . |
| 6   | <b>Table 6.3.1 (Row 3, Column RL3) The <i>minimum front yard</i> shall be 7.5 m.</b>  | To permit a <i>minimum front yard</i> of 1.35 m to an accessory structure (tea house).   |
| 7   | <b>Table 6.3.1 (Row 6, Column RL3) The <i>minimum rear yard</i> shall be 7.5 m.</b>   | To permit a <i>minimum rear yard</i> of 1.22 m.  |

## **CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

### **Planning Services:**

**(Note:** Planning Services includes a consolidated comment from the relevant district teams including, Current, Policy and Heritage Planning, Urban Design and Development Engineering)

#### **CAV A/001/2022 - 21 Allan St (East District) (OP Designation: Low Density Residential)**

The applicant proposes to construct a two-storey detached dwelling subject to the variances listed above.

The neighbourhood consists of two storey dwellings that are original to the area and two-storey dwellings that are newly constructed. Many of the existing dwellings in the area vary in design and are located on different lot sizes. The property is adjacent to Lake Ontario and is therefore subject to a concurrent Site Plan application (SP.1713.045/01). The applicant has already been through two circulations and have made modifications to address staff comments.

The subject property is designated under Part V of the *Ontario Heritage Act* as part of the First and Second Street Heritage Conservation District. The property contains a non-heritage detached house and detached garage. The property previously contained a historic teahouse which is proposed to be reconstructed.

The proposed new house has been assessed by Heritage Planning staff and the Heritage Oakville Advisory Committee and a final heritage permit is still required and is recommended as a condition of approval. The proposal, and its associated minor variance requests, have been supported from a heritage perspective. The proposed house has been designed and situated in a way that allows important views from Allan Street to the lake to be maintained and expanded. The architectural style and materials of the house are compatible with the surrounding heritage properties and meet the requirements of the First and Second Street Heritage Conservation District Plan. The three-car attached garage has been designed in a way that camouflages the third bay, minimizing its visual prominence. While larger than permitted through zoning, the garage is reminiscent of a 1 1/2 storey coach house, a type of structure found throughout the town's residential heritage conservation districts.

The reconstruction of the teahouse supports the conservation of this significant structure, once associated with the Romain Estate which at one time included this property. The proposed location of the teahouse is important as it helps to retain its prominence on the site, as well as its historic use as a landscape feature overlooking the lake.

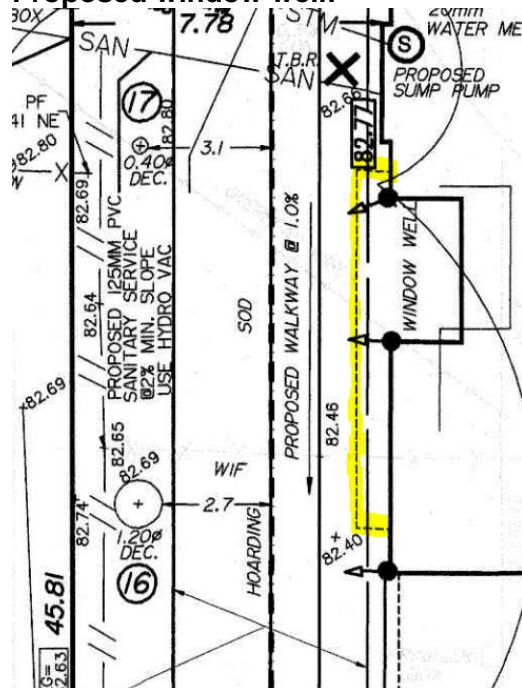
Heritage Planning staff support the minor variance application subject to the owner obtaining a Heritage Permit.

The subject lands are designated Low Density Residential in the Official Plan. Development within stable residential communities shall be evaluated against the criteria in Section 11.1.9 to ensure new development will maintain and protect the existing neighbourhood character. The proposal was evaluated against the criteria established under Section 11.1.9, and the following criteria apply:

Policies 11.1.9 a), b), and h) state:

*“a) The built form of development, including scale, height, massing, architectural character and materials, is to be compatible with the surrounding neighbourhood.*

*b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.*



Variances #3, #4 and #5 are all related to the garage design.

An attached three car garage has been proposed for the new dwelling. This requires a variance for an increase in driveway width and garage area. The garage has been treated to appear as a two car garage, with the third bay doors designed to appear to blend in with the adjacent windows of the breezeway entrance. In a similar fashion, the driveway is designed to appear as a 2 car driveway, with the driveway approaching the third bay treated in a different material with a combination of drivable sod & landscaped stone boarder. The result is that from the street, it reads as a 2 car garage. The driveway is reduced in width at the street to 3.66m, further lessening the feeling of the garage & driveway dominating the streetscape. Additional tree planting is proposed along the north property line in addition to the existing cedar hedgerow, to mitigate any impact to the neighbour to the north.

The proposed design satisfies the following guidelines from the First and Second Street Heritage Conservation District Plan that apply to garages as part of new development on 'non-contributing' (non historic) properties:

#### 4.3.3.10 Garages

Guideline 4.3.3.10.1, "Attached, integral and detached garage forms may be permitted on Non-Contributing Properties, providing they respond respectfully and appropriately to the shape of the lot and the architectural style and form of the main building."

Guideline 4.3.3.10.2, "New garages shall be located and massed so as to minimize their visibility from the public realm

- a. Garages shall be lower in profile than the main building, and be complementary in design, materials and colour.
- b. Use landscaping treatments to shield garages from view. (See Section 4.4.1 – Guidelines for Landscape Conservation and Design – Private Property)
- c. Locate attached and integral garages on rear or secondary elevations of the main building. When located on side elevations, attached garages should be set back from the main elevation.
- d. Locate detached garages to the rear or side of the main building, set back substantially from the main elevation.
- e. Garage doors and windows shall reflect the style of those on the main building
- f. Garage door openings should be single car width, with separated overhead doors in the case of a double vehicle garage."

#### **Variance #3 – Maximum Driveway Width (Supported)**

The applicant is seeking relief from Zoning By-law 2014-04, as amended, to permit an increased driveway width from 9.0 metres to 10.36 metres. The intent of regulating the driveway width in the Zoning By-law is to minimize the amount of paved surface in the front yard visible to the public realm.

#### **Variance #4 – Walkway Adjacent to Driveway (Supported)**

The applicant is seeking relief from Zoning By-law 2014-04, as amended, to permit two walkway accesses connected to one side of a driveway, one being 2.4 metres and the second being 2.6 metres in width at the point of the attachment.

#### **Variance #5 – Private Garage Area (Supported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum garage floor area from 45 square metres to 88.46 square metres for a total increase of 43.6 square metres. The intent of regulating the garage floor area is to prevent the

garage from being a visually dominant feature of the dwelling. As discussed above, the garage has been designed to reduce the impact of the garage on the public realm and it meets the intent of the First and Second Street Heritage Conservation District Plan.

#### **Variance #7 – Minimum Rear Yard (Supported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to reduce the minimum rear yard setback from 7.5 metres to 1.22 metres for a decrease of 6.28 metres which is measured from the rear lot line, to the rear of the proposed garage. The lot has a unique configuration, both fronting onto Allan Street, and facing Lake Ontario. According to the Zoning By-law, the front yard is the westerly yard that fronts onto Allan Street, while the house is generally oriented facing north, with the rear yard backing onto Lake Ontario. This orientation is consistent with the neighbouring property to the east oriented in a similar fashion. The rear yard (easterly property line) is functioning as a side yard based on the orientation of the dwelling. As a result, staff are of the opinion that the requested variance is minor and will not have a negative impact on adjacent or surrounding properties.

#### **Subject property access:**



#### **Existing driveway and garage:**



#### **Existing dwelling:**





**Existing side yard and view of the lake:**



On this basis, it is staff's opinion that the requested variances maintain the general intent and purpose of the Official Plan and Zoning By-law as it results in a building that maintains the character of the neighbourhood. Further, the variances are minor in nature and appropriate for the development of the site as there are no negative impacts to abutting properties or the streetscape.

**Conclusion:**

In summary, based on the application as submitted, staff are of the opinion that the application satisfies all four tests under the *Planning Act*. Should the Committee concur with staff's opinion, the following condition is requested:

1. That the dwelling and accessory building be constructed in accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services; and
2. That the approval be subject to Heritage Permit approval;
3. That the approval expires two (2) years from the date of the decision if a building permit has not been issued for the proposed construction.

The planning basis for the conditions are as follows, in keeping with the numbering of the conditions above:

1. Building in general accordance with the submitted final approved Site Plan drawings is required to ensure what is requested and ultimately approved, is built on site. This provides assurance and transparency through the process, noting the documents that are submitted with the application, provide the actual planning, neighbourhood and site basis for the request for the variances, and then the plans to be reviewed through the building permit and construction processes.
2. This will ensure that all materials and details have been approved by the Heritage Permit Committee.
3. A two (2) year timeframe allows the owner to obtain building permit approval for what is ultimately approved within a reasonable timeframe of the application being heard by the Committee of Adjustment based on the requirements when it is processed, but cognizant of the ever-changing neighbourhoods, policies and regulations which might then dictate a different result. Furthermore, if a building permit is not obtained within this timeframe, a new application would be required and subject to the neighbourhood notice circulation, public comments, applicable policies and regulations at that time.

**Fire:** SFD. FD Access Acceptable. No concerns to submit

**Transit:** No Comment

**Finance:** None

**Halton Region:**

- It is understood that the proposed minor variance is incidental to an active Site Plan application.
- As an advisory, the subject site has archaeological potential. Although the property has already been disturbed with an existing development, should deeply buried archaeological artifacts or remains be found on the subject lands during construction activities, the Heritage Operations Unit of the Ontario Ministry of Heritage, Sports, Tourism, and Culture Industries (MHSTCI) should be notified immediately.
- The majority of the subject property falls within Conservation Halton (CH) regulated area and is along Lake Ontario shoreline. Conservation Halton (CH) Staff should be consulted for their comments and satisfied with the proposed development prior to approval of the variance.
- Regional staff has no objection to the proposed minor variance application seeking relief under Section 45(1) of the Planning Act in order to permit an increase in the maximum encroachment into a minimum yard for an awning/canopy, an increase in the maximum encroachment into a minimum front yard for a window well, an increase in the maximum width of the driveway, an increase in the number of walkway accesses connected to one side of a driveway, to increase the maximum total floor area for a private garage, a decrease in the minimum front yard, and a decrease in the minimum rear yard, under the requirements of the Town of Oakville

Zoning By-law, for the purpose of constructing a two-storey detached dwelling on the subject property.

**Conservation Halton:**

**Re: Minor Variance Application**  
**File Number: CAV A/001/2022**  
**21 Allan Street, Town of Oakville**  
**Dan Madon (Owner)**

Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under *Ontario Regulation 162/06*; the *Provincial Policy Statement (PPS)* (delegated responsibility for comments relating to provincial interests under Sections 3.1.1-3.1.7 inclusive); the Memorandum of Understanding (MOU, 1999) with Halton Region; and as a public body under the *Planning Act*. These responsibilities are not mutually exclusive. Comments that pertain to items contained in the MOU may also apply to areas regulated under *Ontario Regulation 162/06*.

The following comments relate to the items marked as “applicable” for this specific application. Comments under *Ontario Regulation 162/06* are clearly identified and are requirements. Other comments are advisory.

**Ontario Regulation 162/06**

**Applicable**

Lake Ontario/Burlington Bay/Hamilton Harbour Shoreline Hazards &/or allowances  
River and Stream Valley Hazards (flooding/erosion) &/or allowances  
Wetlands &/or Other Areas\*  
Hazardous Lands (Unstable Soil/Unstable Bedrock)  
CH Permit Requirements

☒  
☐  
☐  
☐  
☒

**One Window Delegated Authority under PPS**

Natural Hazards (Sections 3.1.1-3.1.7 inclusive)

☒

**CA/MOU**

Impacts on Lakes and Rivers  
Wildlife Habitat  
Endangered & Threatened Species  
Fish Habitat  
Stormwater Management (as per Schedule I)  
Sub-watershed Planning/Master Drainage Planning

☐  
☐  
☐  
☐  
☐  
☐

**Other Comments (as a Public Body)**

Niagara Escarpment Plan  
Watershed Plan  
Greenbelt Plan  
Source Protection Plan  
Hamilton Harbour Remedial Action Plan

☐  
☐  
☐  
☐  
☐

\*Other areas are areas where development could interfere with the hydrologic function of a wetland, including areas within 120 m of all provincially significant wetlands and wetlands greater than or equal to 2 ha in size, and areas within 30 m of wetlands less than 2 ha in size.

**Proposal**

To permit the construction of a two-storey replacement single detached dwelling on the subject property proposing the following variance(s):

1. To permit the maximum encroachment into a minimum yard for the awning/canopy (trellis of the tea house) to be 0.85m.



2. To permit the maximum encroachment into the minimum front yard for the window well with a maximum width of 8.96 metres to be 0.5m.
3. To permit the maximum width of the driveway to be 10.36 metres for a lot having a lot frontage equal to or greater than 18.0 metres.
4. To permit two walkway accesses connected to one side of a driveway. One being 2.4m the second being 2.6m in width at the point of attachment.
5. To permit the maximum total floor area for the private garage to be 88.46 square metres on a lot having greater than or equal to 12.0 metres in lot frontage.
6. To permit a minimum front yard of 1.35 m to an accessory structure (tea house).
7. To permit a minimum rear yard of 1.22 m.

### **Ontario Regulation 162/06**

CH regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The subject property is adjacent to the shoreline of Lake Ontario and contains the associated erosion hazards. Under *Ontario Regulation 162/06*, except where allowed under CH Policies, development is prohibited within lands adjacent to the shoreline of Lake Ontario that may be affected by flooding, erosion, or dynamic beach hazards. Permission is required from CH prior to undertaking any development within CH's regulated area and must meet CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06* (<https://conservationhalton.ca/policies-and-guidelines>).

#### *Proposal Background and Outstanding Comments*

On November 12, 2019, CH issued Permit No. 7341 (CH file number S/19/O/25) for replacement of the shoreline protection works at the subject property, which has been completed. However, as will be discussed below, additional works were done on site that did not have approval from CH.

A CH Permit will be required for the proposed works. Staff note that the applicant has submitted a CH permit application (CH file number A/20/O/51) for the proposed works, which is on hold until other planning approvals are granted (i.e. Site Plan, Minor Variances). Staff reviewed the development setbacks for the proposed dwelling under CH file A/20/O/51 and provided comments to the applicant in letters dated September 22, 2020, and November 27, 2020. We are satisfied that the location of the proposed dwelling can meet CH Policies so long as a 5 m access to and along the shoreline protection works (built as per CH Permit No. 7341) is provided for maintenance, repair, or replacement.

CH staff are currently reviewing the proposed development through Site Plan application SP 1713.045/01 and provided comments to the Town of Oakville in letters dated March 15, 2021, and September 23, 2021. There are outstanding comments regarding the proposed rear landscaping, confirmation that the shoreline protection works were built as approved (it has since been confirmed that they have not), and revisions to confirm that the 5 m access to and along the shoreline protection works can be considered unobstructed. Additional comments may also be provided upon resubmission of SP 1713.045/01.

While CH staff are not opposed to the proposed variances as written, we recommend **deferral** of this Minor Variance application until our comments regarding the required 5 m unobstructed access are addressed through the Site Plan application and the compliance issues found on site are dealt with.

#### *CH Permit Compliance Issue*

CH staff visited the site on January 12, 2022 to look at the rockery retaining, stairs, landings and shoreline access built on site associated with the shoreline protection works (CH Permit No. 7341). Staff found that these works constitute substantial development within the shoreline erosion hazard and were not included on the drawings approved through CH Permit No. 7341. CH is unable to issue

Permits for works which have been initiated and/or completed without prior approval. Instead, Compliance Agreements can be negotiated with willing landowners for alleged violations that have the potential to meet CH policies and regulatory requirements. This must be dealt with before CH can support approvals on site including this Minor Variance application CAV A/001/2022 (and Site Plan application SP 1713.045/01).

### **One Window Delegated Authority under PPS**

CH reviews applications based on its delegated responsibility to represent the Province on the natural hazard policies of the PPS (3.1.1-3.1.7). Policy 3.1.1 of the PPS states that “development shall generally be directed to areas outside of... a) hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards.”

Given the above, additional information is required to ensure the proposed works conform to the PPS and CH Policy.

### **Recommendation**

CH is unable to issue Permits for works which have been initiated and/or completed without prior approval. The works identified in this Minor Variance Application can be rectified through the Compliance Agreement process. Through that Agreement, the applicant will agree to work with staff to bring the development on site into compliance with Ontario Regulation 162/06. Staff advise that, under the current years fee schedule, Compliance Agreements are charged based on the applicable category plus a 100% surcharge. The applicant is encouraged to contact Justin Vetro, Compliance Inspector, at [jvetro@hrca.on.ca](mailto:jvetro@hrca.on.ca) to initiate this process.

Given the above, CH staff recommends **deferral** of the requested minor variances until the compliance issue on site has been dealt with, and subsequently our comments regarding the required 5 m unobstructed access are addressed.

**Bell Canada:** No Comments Received

**Letter(s)/Emails in support:** Three

**Letter(s)/Emails in opposition:** None

**Note:** *The following standard comments apply to all applications. Any additional application specific comments are as shown below.*

- The applicant is advised that permits may be required should any proposed work be carried out on the property i.e. site alteration permit, pool enclosure permit, tree preservation, etc.
- The applicant is advised that permits may be required from other departments / authorities (e.g. Engineering and Construction, Building Services, Conservation Halton, etc.) should any proposed work be carried out on the property.
- The applicant is advised that any current or future proposed works that may affect existing trees (private or municipal) will require an arborist report.
- The applicant is advised that any current or future proposed works will require the removal of all encroachments from the public road allowance to the satisfaction of the Engineering and Construction Department.
- The applicant is advised that the comments provided pertain only to zoning and are not to be construed as a review or approval of any proposal for the site. This review will be carried out through the appropriate approval process at which time the feasibility/scope of the works will be assessed.

Requested conditions from circulated agencies:

1. That the dwelling and accessory building be constructed in accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services.
2. That the approval be subject to Heritage Permit approval.
3. That the approval expires two (2) years from the date of the decision if a building permit has not been issued for the proposed construction.



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Heather McCrae, ACST  
Secretary-Treasurer

Attachment:  
Letters/Emails in Support – 3

**From:** Bill Podolsky  
**Sent:** January 17, 2022 3:28 PM  
**To:** Heather McCrae <heather.mccrae@oakville.ca>  
**Cc:**  
**Subject:** Notice of Public Hearing, Committee of Adjustment Application (21 Allan Street)

Dear Ms. McCrae:

Please accept this message as confirmation that on review of the information provided regarding the above noted Hearing and Application we do not have any objections to the minor variances requested and therefore support the application as presented.

Thank you for your attention to this matter.

William Podolsky & Arlene Donovan  
23 Reynolds Street  
Oakville, Ontario

Date: January 17, 2022

Committee of Adjustment  
Town of Oakville  
1225 Trafalgar Road, P.O. Box 310  
Oakville, ON  
L6J 5A6

Dear Members of the Committee:

**Regarding:     Application for Minor Variance  
                     21 Allan Street.**

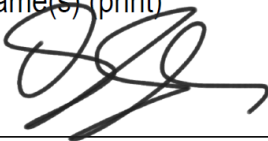
I/We are aware of the above noted application for minor variance(s) submitted.

Having reviewed the design drawings proposed for the new house and the minor variances requested, I/we do not have any objection to the request for minor variance(s) and therefore support the application as presented.

Sincerely,

David Gagner

\_\_\_\_\_  
Name(s) (print)



\_\_\_\_\_  
Signature(s)

33 Allan St., Oakville

\_\_\_\_\_  
Address

Date: Jan 18, 2022

Committee of Adjustment  
Town of Oakville  
1225 Trafalgar Road, P.O. Box 310  
Oakville, ON  
L6J 5A6

Dear Members of the Committee:


**Regarding:    Application for Minor Variance  
                  21 Allan Street.**

I/~~We~~ are aware of the above noted application for minor variance(s) submitted.

Having reviewed the design drawings proposed for the new house and the minor variances requested, I/we do not have any objection to the request for minor variance(s) and therefore support the application as presented.

Sincerely,

June Codwell  
Name(s) (print)

  
Signature(s)

194 Front St. Oakville. ON. L6J 1A7  
Address