

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/007/2022

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
Gurinder & Rajveer Kler 155 Leighland Avenue Oakville ON L6H 1B3	David Small Designs c/o Julie Odanski 4-1405 Cornwall Road Oakville ON L6J 7T5	PLAN 409 PT LOT 20 155 Leighland Avenue Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 5

ZONING: RL3-0
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 variances:

No.	Zoning By-law Regulation	Variance Request
1	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.	To permit the maximum total <i>floor area</i> for the <i>private garage</i> to be 61.0 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> .
2	Section 6.4.1 The maximum <i>residential floor area ratio</i> for a <i>detached dwelling</i> on a <i>lot</i> with a <i>lot area</i> 1301.00 m ² or greater shall be 29% (408.25 m ²); (Lot area is 1407.76 m ²).	To permit the maximum <i>residential floor area ratio</i> for the <i>detached dwelling</i> to be 30.00% (422.33m ²).
3	Section 6.4.6 c) The maximum <i>height</i> shall be 9.0 metres.	To permit a maximum <i>height</i> of 9.64 metres.

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/007/2022 - 155 Leighland Ave (East District) (OP Designation: Low Density Residential)

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

The subject property is located adjacent to lands zoned Natural Area to the north and east of the property and backs onto the flood hazard (spill) of the Morrison-Wedgewood Diversion Channel. Leighland Avenue has sidewalks on both sides of the street and is characterized by one and two-storey dwellings original to the area and two-storey new construction.

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.

h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing."

Variance #1 – 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 61.0 square metres for a total increase of 16 square metres. The intent of regulating the garage floor area is to prevent the garage from being a visually dominant feature of the dwelling. Based on the current proposed design, the increase in garage floor area would be internal to the dwelling due to the three-car tandem parking garage configuration. The proposed garage would not be a visually dominant feature of the dwelling or impact the streetscape, which meets the intent of the zoning by-law. Staff are of the opinion that the requested variance will not have a negative impact on adjacent and surrounding properties.

Variance #2 – Residential Floor Area Ratio (Supported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in the maximum residential floor area ratio from 29% (408.25 square metres) to 30%. (422.33 square metres) for an increase of 14.08 square metres. The intent of regulating the residential floor area is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. The proposed dwelling has been designed so that the massing of the dwelling is reduced. The lowered roofline assists in mitigating the impact of the requested increase and the one-storey covered porch assists in breaking up the massing at the rear of the dwelling. This variance will not have a negative impact on adjacent properties or the surrounding area since the overall massing and the scale of the proposed dwelling is mitigated by the proposed design.

Variance #3 – Height (Supported)

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum permitted height from 9 metres to 9.64 metres. The height is measured from the established grade of the property at the front lot line to the peak of the roof. The intent of regulating the height of a dwelling is to prevent a mass and scale that appears larger than dwellings in the surrounding neighbourhood and to reduce impacts of shadowing and overlook.

The subject property backs onto the flood hazard (spill) of the Morrison-Wedgewood Diversion Channel. The applicant communicated that due to the flood parameters required by Conservation Halton the house was raised to allow the flood elevation & freeboard to land just below the finished floor elevation.

The dwelling has been designed to reduce the impact of the increase in height through the peaked roof design and lowered roofline which gives the appearance of the second storey being part of the attic of the dwelling. It is Staff's opinion that the increase in height will not have an adverse impact on the adjacent and surrounding properties.

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 they result in a dwelling that is in keeping with 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.

Existing dwelling:



Conclusion:

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

1. That the dwelling be built in general accordance with the submitted site plan dated November 30, 2021 and elevation drawings dated October 29, 2021; and
2. 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 site plan and elevation 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. 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: Oakville Transit staff would like to remind the applicant that Leighland Avenue is an existing transit corridor. Any existing bus stop locations will remain. New bus stop locations and amenities such as bus shelter can be installed at any time. An existing bus stop is located across the street from the site adjacent to 152 Leighland Avenue.

Finance: None

Halton Region:

- The entirety of the subject property falls within Conservation Halton (CH) regulated area. Conservation Halton (CH) Staff should be consulted for their comments and satisfied with the proposed development prior to approval of the variance.
- The subject property is within 120 metre of the Regional Natural Heritage System (RNHS), the proposed development would trigger the Environmental Impact Assessment (EIA) requirements in accordance with Sections 118 (3) & (3.1)c) of the Regional Official Plan (ROP). Staff would consider it appropriate to waive the Region's EIA requirements in this instance as the proposed development will be constructed within the existing footprint and manicured lawn area, will be setback sufficiently from any sensitive natural features or areas, and will not likely result in any impacts on the features or ecological functions of the Regional Natural Heritage System.
- 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 total floor area for a private garage, an increase in the maximum residential floor area ratio for a detached dwelling, and an increase in the maximum height, 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/007/2022
155 Leighland Avenue, Oakville
Julie Odanski, David Smalls Designs (Agent)
Gurinder & Rajveer Kler (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

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One Window Delegated Authority under PPS

Natural Hazards (Sections 3.1.1-3.1.7 inclusive)

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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

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Other Comments (as a Public Body)

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

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Proposal

To permit the construction of a two-storey detached dwelling with the following proposed variances:

1. To permit the maximum total *floor area* for the *private garage* to be 61.0 square metres on a *lot* having greater than or equal to 12.0 metres in *lot frontage*.
2. To permit the maximum *residential floor area* ratio for the *detached dwelling* to be 30.00% (422.33M²).
3. To permit a maximum *height* of 9.64 metres.

Staff understands that the applicant is seeking variances to allow for the re-construction of a two storey detached dwelling that exceeds the Town's maximum residential floor area and height, and the maximum total floor area for the private garage.

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 located adjacent to the Morrison-Wedgewood Diversion Channel (watercourse) and is located within an identified flood hazard (spill). 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>).

The applicant has applied for and obtained permission from CH for development on this property. Through the CH permit review process, staff has confirmed that the flood hazard has been addressed and the works meet CH's regulatory policies. However, there are some minor discrepancies between the drawings approved through the CH permit and the current drawings submitted for this application. We have reached out to discuss these discrepancies with the applicant's agent. Should these changes be considered a significant alteration to the proposed dwelling a new CH permit may be required. Regardless, staff has no outstanding concerns with the above-referenced variances requested.

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). Through our review of the applicant's Ontario Regulation 162/06 permit application, it has been demonstrated that the relevant policies of the PPS have been met.

Recommendation

As per the above, CH staff has **no objection** to the above-referenced minor variance application. Should the discrepancies in drawings result in significant alterations to the proposed dwelling CH may require the applicant apply for a revised permit.

Bell Canada: No Comments Received

Letter(s)/Emails in support: None

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 be built in general accordance with the submitted site plan dated November 30, 2021 and elevation drawings dated October 29, 2021.
2. 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.



Heather McCrae, ACST
Secretary-Treasurer