

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/083/2022

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, MAY 17, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Robert & Connie Cohen 1176 Burnhamthorpe Road West Oakville ON L6M 4L1	SMPL Design Studio c/o Lindsey Bruce 15 Colbourne Street Hamilton ON L8R 2G2	PLAN 718 LOT 37 265 Dunwoody Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential - Special Policy

ZONING: RL1-0

WARD: 3

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	Section 5.8.6 c) For <i>lots</i> located within the Residential Low (RL1) <i>Zone</i> the maximum total <i>floor area</i> for a <i>private garage</i> shall be 56.0 square metres.	To permit the maximum <i>total floor area</i> for the <i>private garage</i> to be 70.26 square metres.
2	Section 5.8.7 c) Attached <i>private garages</i> shall not project more than 1.5 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> .	To permit the attached <i>private garage</i> to project not more than 2.74 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> .
3	Section 6.4.3 a) The <i>minimum front yard</i> on all <i>lots</i> shall be the <i>yard</i> legally existing on the effective date of this By-law less 1.0 metre; (Existing 14.54 m -1.0 m = 13.54m minimum).	To permit a <i>minimum front yard</i> of 8.67 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/083/2022 - 265 Dunwoody Dr (East District) (OP Designation: Low Density Residential - Special Policy)

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

The neighbourhood consists of both one and two-storey dwellings that are original to the area and two-storey dwellings that are newly constructed. There is a lot of newly constructed dwellings in the area.

The subject lands are designated Low Density Residential – Special Policy Area in the Official Plan. Policy 26.2.1, applies to the Low Density Residential designation and is intended to protect the unique character and integrity of the large lots in the area.

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.”

The intent of the Official Plan and Zoning By-law is to protect the unique character of this area within the Town. Due to the unique attributes of the large lots and related homes in the Special Policy Area, intensification shall be limited to the development which maintains the integrity of the large lots and does not negatively impact surrounding properties.

Variance #1 – Private Garage Floor Area (Supported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum garage floor area from 56 square metres to 70.26 square metres for a total increase of 14.26 square metres. The intent of regulating the garage floor area is to prevent the garage from being a visually dominant feature of the dwelling. The additional floor area would be internal to the dwelling; therefore, it would not be a visually dominant feature of the dwelling or impact the streetscape, which meets the intent of the Zoning By-law.

Variance #2 – Private Garage Projection (Supported)

The applicant requests relief from Zoning By-law 2014-014, as amended, to increase the garage projection from 1.5 metres to 2.74 metres from the face of the longest portion of the main wall. The intent of regulating the garage projection is to prevent the garage from being a visually dominant feature of the dwelling. Based on the curve of the subject property and the design of the dwelling and front covered porch, the garage will not be a visually dominant feature which meets the intent of the Zoning By-law.

Variance #3 – Front Yard (Supported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit a decrease in minimum front yard setback from 13.54 metres to 8.67 metres. The front yard is measured from the front property line to front covered porch. The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. The proposed dwelling will be in line with the setback of the adjacent dwellings. In this instance, staff are of the opinion that the decrease in front yard setback will not have a negative impact on 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.

Notwithstanding the comments above, it appears that a series of variances may have been missed related to driveway width, walkway distance to the driveway, dwelling depth due to an overhang, dwelling height, window wells and height of the pool and may not comply with the zoning by-law requirements.

Therefore, depending on the outcome of this application, the applicant may need to revise the proposal to comply with relevant regulations during construction, which may or may not be in general accordance with the plans submitted with this application. Staff are recommending that the plans be to the satisfaction of the Director of Planning since it appears that many of the deficiencies can be resolved with slight updates to the plans.

Alternatively, the applicant may request a deferral of this application in order to submit a Building Permit application for a complete Zoning review. It should be noted staff do not complete a full Zoning review of minor variance applications; rather confirm the accuracy of the variances applied for.

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 and elevation drawings to the satisfaction of the Director of Planning; 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. No concerns with FD access. No impact to Fire Review items

Oakville Hydro: We do not have any objection or comments for this Minor Variance Application

Transit: No Comments

Finance: None

Halton Region:

- A portion of the subject property falls within Conservation Halton (CH) regulated area, floodplains and watersheds. 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 manicured lawn area, and 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. The following comments should be added as notes to the Committee of Adjustment decision for the subject lands:
 - Machinery is to arrive on site in a clean condition and is to be maintained free of fluid leaks.
 - Construction activities should be avoided during unusually wet, rainy or winter thaw conditions.
 - The stockpile of materials and/or equipment should be located outside of the natural heritage system and/or any woodland. No fill is to be dumped within the woodland.
 - The Owner agrees to install construction and sediment fencing prior to construction commencing. The fencing should remain until all construction works are complete.
- 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 projection of a private garage, and a decrease in the minimum front 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:

File Number: CAV A/083/2022
265 Dunwoody Drive, Oakville
SMPL Design Studio, c/o Lindsey Bruce (Agent)
Robert & Connie Cohen (Owner)

Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under Ontario Regulation 162/06; provincially delegated responsibilities under

Ontario Regulation 686/21 (i.e., represent provincial interests for Sections 3.1.1-3.1.7 of the Provincial Policy Statement (PPS)); the Memorandums of Understanding (MOU, 1999 and 2018) and Interim Ecological Services Agreement (IESA, 2021) 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 and IESA may also apply to areas regulated under Ontario Regulation 162/06. Comments under the Ontario Regulation 162/06 are clearly identified and are requirements. Other comments are advisory.

Proposal

The applicant is seeking to permit the reconstruction of a 2-storey single detached dwelling on the subject property through the following variances:

1. To permit the maximum *total floor area* for the *private garage* to be 70.26 square metres.
2. To permit the attached *private garage* to project not more than 2.74 metres from the face of the longest portion of the *main wall* containing *residential floor area* that is on the *first storey* of the *dwelling* oriented toward the *front lot line*.
3. To permit a *minimum front yard* of 8.67 metres.

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 contains a portion of Lower Morrison Creek and contains a portion of the flooding and erosion hazards associated with that watercourse. CH regulates a distance of 7.5 metres from the greater hazard associated with that watercourse which, in this case, is the erosion hazard. 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>).

CH staff has previously approved a CH Permit (No. 8128) for the proposed construction of a 2-storey single detached dwelling, covered deck, patio, and pool. CH staff have no concerns with the variances as written but note discrepancies on the site plan submitted for this Minor Variance process and those that were submitted through the CH permitting process. Staff note that the proposed changes do not appear to result in any portion of the proposed development encroaching further into the valley than what was approved through CH Permit No. 8128. However, due to the changes in the site plan (SP1.01 Revision Date November 21, 2021) that was submitted and approved through the CH permitting process and the site plan (SP1.01 Revision Date April 7, 2022) that was submitted for this minor variance a revised CH permit is required.

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 inclusive). Policy 3.1.1 of the PPS states that "development shall generally be directed to areas outside of... b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards."

Given the above, from a PPS perspective CH raises no concerns with this Minor Variance application.

Recommendation

Given the above, CH staff has **no objection** to the requested minor variances subject to the following conditions to be added to the approval of this application:

1. That, prior to the initiation of works, a revised Permit be obtained from Conservation Halton for the proposed development.

Should any changes to the proposed development arise through the Minor Variance process, please keep CH apprised.

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 and elevation drawings to the satisfaction of the Director of Planning.
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.
3. That, prior to the initiation of works, a revised Permit be obtained from Conservation Halton for the proposed development.



Heather McCrae, ACST
Secretary-Treasurer