

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

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

APPLICATION: CAV A/116/2022

RELATED FILE: N/A

### DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, JULY 19, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Ihab & Teriza Botros 1503 Durham Street Oakville ON L6J 2P4	David Nelson 382 Bartos Drive Oakville ON L6K 3E6	PLAN 598 LOT 17 1503 Durham Street Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential  
WARD: 3

ZONING: RL2-0  
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 variance:

No.	Zoning By-law Regulation	Variance Request
1	<b>Section 5.8.7 c)</b> 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 1.91 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> .
2	<b>Table 6.3.1 (Row 5, Column RL2)</b> The <i>minimum interior side yard</i> shall be 2.40m and 1.20 m.	To permit a <i>minimum</i> (easterly) <i>interior side yard</i> of 0.80 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/116/2022 - 1503 Durham 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 both one and two-storey dwellings that are original to the area and two-storey dwellings that are newly constructed.

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."*

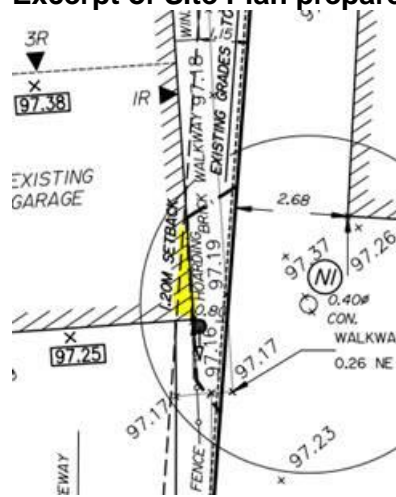
#### **Variance #1– Garage Projection (Supported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to increase the garage projection from 1.5 metres to 1.91 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. In this instance, the front porch of the main entrance is flush with the garage which reduces the impact of the projection and prominence of the garage. The garage will not be a visually dominant feature which meets the intent of the Zoning By-law.

#### **Variance #2– Interior Side Yard (Supported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit a reduced easterly interior side yard setback from a minimum of 1.2 metres to 0.8 metres. The side yard is measured from the easterly lot line to the main wall of the dwelling. The intent of regulating the side yard setback is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. The requested reduction is the result of a pinch point of the garage due to the orientation of the dwelling on the subject property (see excerpt of site plan below). The proposed dwelling follows the orientation of the existing dwelling and as a result the proposed setback is the same as the existing condition. Staff are of the opinion that the request is minor and will not have a negative impact.

#### **Excerpt of Site Plan prepared by Applicant:**



**Subject property:**



**Existing easterly setback condition:**



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 balcony may be proposed when balconies are prohibited on the subject property.

Therefore, depending on the outcome of this application, the applicant may need to revise the proposal to comply with relevant regulation during construction, which may or may not be in general accordance with the plans submitted with this application.

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 dated May 19, 2022 and elevation drawings dated March 2022; 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. Side yard setback existing building condition. Alternate side provide adequate access. New addition portion 2.8m set back. O.K.

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

**Transit:** No Comments

**Finance:** None

### **Halton Region:**

- 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 length in which an attached private garage can project on the main wall, and a decrease in the interior side 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.

**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 May 19, 2022 and elevation drawings dated March 2022.
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.

A rectangular box containing a handwritten signature in blue ink. The signature appears to read "Heather McCrae".

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Heather McCrae, ACST  
Secretary-Treasurer