

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/136/2022

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, AUGUST 16, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Adeel Khan & Jenny Liu 279 Sixteen Mile Drive Oakville ON L6M 0V8	Ruth Victor & Associates c/o Len Radomski P.O. Box 575 Waterdown ON L0R 1R0	CON 4 SDS PT LOT 33 3308 Lakeshore Road West Town of Oakville

**OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1**

**ZONING: RL2-0
DISTRICT: West**

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 57.78 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> .
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 11.72 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 23.86 m -1.0 m = 22.86 m minimum).	To permit a <i>minimum front yard</i> of 20.87 metres.
4	Section 6.4.6 c) The maximum <i>height</i> shall be 9.0 metres.	To permit a maximum <i>height</i> of 9.23 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/136/2022 - 3308 Lakeshore Rd W (West District) (OP Designation: Low Density Residential)

The applicant is proposing to construct a two-storey detached dwelling and cabana subject to the variances above.

The neighbourhood consists of both one-storey dwellings that are original to the area and two-storey dwellings that are newly constructed over large lots.

The subject property is subject to a site plan application (SP.1733.011/01). The site plan application is under review and any modifications to address identified issues may result in changes to the requested variances.

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 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 45 square metres to 57.78 square metres for a total increase of 12.78 square metres. The intent of regulating the garage floor area is to prevent the garage from being a visually dominant feature of the dwelling. In this instance, the three car garage has side access and is not visually prominent from the front. Staff are of the opinion that a variance for private garage floor area is interrelated to a variance for garage projection.

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 11.72 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. Staff are of the opinion that a variance for private garage projection is interrelated to a variance for private garage floor area.

Evaluation of variances #1 (private garage floor area) and #2 (private garage projection):

Staff are of the opinion that variances #1 (private garage floor area) and #2 (private garage projection) are interrelated since they facilitate the three car garage at the front of the proposed dwelling. The proposed dwelling has been designed to be similar to others in the area and is appropriate in the context of the streetscape. In this instance, the dwelling has been designed to allow the garage entrance to be perpendicular to the front lot line which reduces the visual impact of garage doors on the streetscape. Staff are of the opinion that the garage is designed

in keeping with the neighbourhood character and will not have a negative impact on adjacent and surrounding properties.

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 22.86 metres to 20.87 metres. The front yard is measured from the front property line to the main wall. The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. In this instance, the proposed reduced front yard setback of 1.99 metres is due to a road widening of 2.94 m that will be established as part of the Site Plan process. As a result the front yard will be calculated from the newly established front lot line. The figure below illustrates that the proposed setback is in line with the adjacent dwelling along the street. Staff are of the opinion that the decrease in front yard setback will not have a negative impact on adjacent and surrounding properties, is desirable for the development of the property and meets the intent of the Official Plan and Zoning By-law.

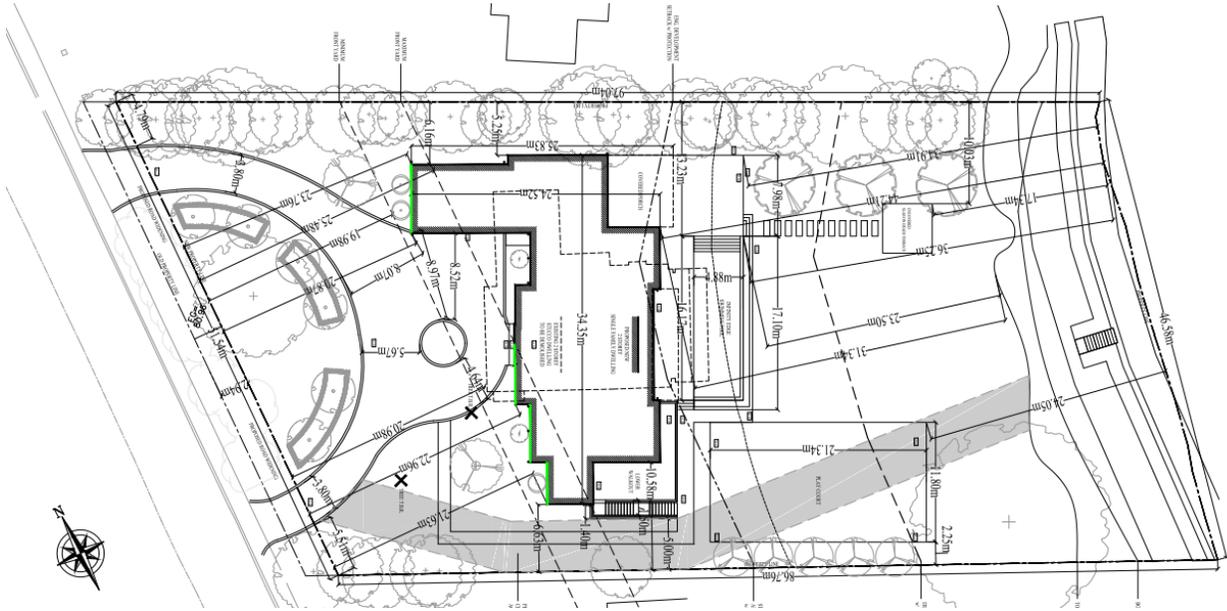
Excerpt of the aerial view provided by the applicant:



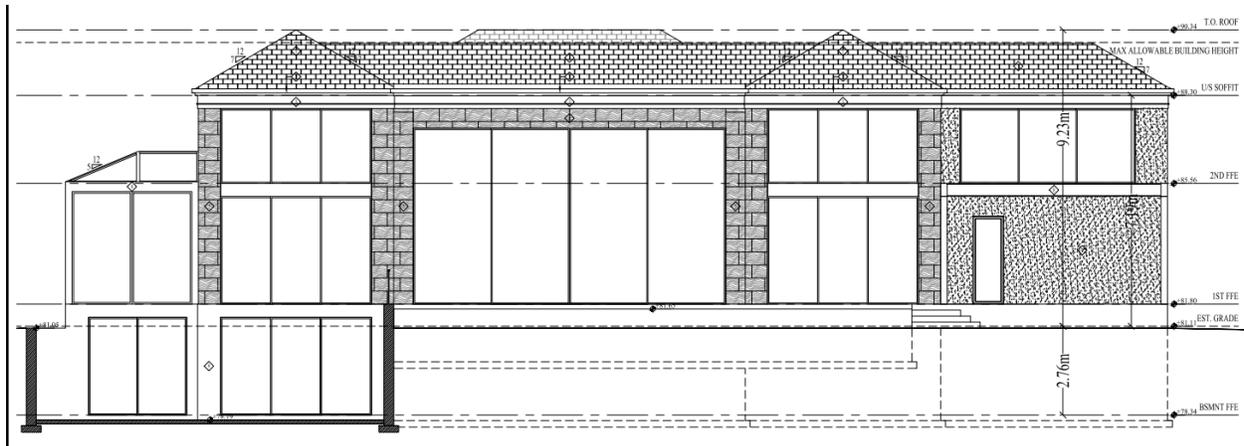
Variance #4 – Height (Supported)

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum height from 9 metres to 9.23 metres. The height is measured from the established grade which is an average of the centre points of each lot line abutting a road to the top 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. In this instance, the increase in height is for a small portion of the roof for what appears to be a peaked element from the public realm. The excerpts of the elevations below provide a representation of the proposed increase in height. Based on the design of the roof, the increase is minor and will not have a negative impact on adjacent and surrounding properties.

Excerpt of Site Plan prepared by applicant:



Excerpt of elevation prepared by applicant:



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 development be constructed in general accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services 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: No concerns. SFD. Adequate FD access

Oakville Hydro: We have no objections or comments for any of the items on the agenda

Transit: No Comments

Finance: None

Halton Region:

- The subject property is within 120 metres of the Regional Natural Heritage System (RNHS), therefore 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). Regional Staff note that the EIA requirement was waived during the associated Site Plan application (SP.1733.011/01).
- A portion of the subject property falls within Conservation Halton (CH) regulated area and watersheds. 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 total floor area for a private garage, an increase in the maximum garage projection, an increase in the maximum height, and a decrease in 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:

Re: Minor Variance Application
File Number: CAV A/136/2022
3308 Lakeshore Road West, Oakville
Len Radomski/Ruth Victor, Ruth Victor and Associates (Agents)

Adeel Khan & Jenny Liu (Owners)

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 (MOUs, 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 construction of a two-storey detached dwelling on the subject property proposing the following variances:

1. To permit the maximum total floor area for the private garage to be 57.78 square metres on a lot having greater than or equal to 12.0 metres in lot frontage.
2. To permit the attached private garage to project not more than 11.72 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 20.87 metres.
4. To permit a maximum height of 9.23 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 is adjacent to the shoreline of Lake Ontario and contains the associated erosion and flooding hazards. Through the review of plans for development along the shoreline, CH seeks to ensure that development will generally be directed to areas outside of the hazardous lands. Hazardous lands are those lands adjacent to the shoreline of the Great Lakes - St. Lawrence River System, which are impacted by flooding, erosion, and/or dynamic beach hazards. The combination of these hazardous lands delineates the extent of the development setback and is determined based on site-specific conditions. 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>).

Background and Outstanding CH Comments

CH staff attended a Site Plan pre-consultation meeting for the proposed works on July 21, 2021. At that time CH provided comments on defining the erosion hazard limit and next steps.

An application for shoreline protection works was submitted to CH on October 28, 2021 (CH File No. A/21/O/93), and the permit was issued November 26, 2021 (CH Permit No. 8026). On June 6, 2022, CH staff received the as-built drawings confirming the completion of the shoreline protection works.

On February 23, 2022, the Town of Oakville circulated Site Plan Application No. SP1733.011/01 for the proposed dwelling, pool, and associated landscaping at the subject property and CH issued a comment letter dated March 24, 2022. A second submission was received on June 2, 2022, and CH issued a subsequent letter dated July 7, 2022. In that letter CH staff acknowledged that the Engineered Development Setback (EDS) had been calculated and

placed on all plans, however accurate distance measurements on a topographic survey were required to confirm its location. As such, a resubmission of drawings showing the shoreline protection limits, erosion allowance setback from the toe of slope (e.g. behind all shoreline protection works), and stable top of slope based on the geotechnical recommendations with accurate distance measurements was required. The letter further stated that all habitable space must then be located outside the EDS. CH has not received a response to those comments and we note that the drawings submitted with the minor variance application match the drawings received with the June 2, 2022 site plan application.

Until CH has received the updated drawings accurately showing the location of the EDS and the proposed dwelling located outside the EDS, staff are unable to confirm that the proposed development meets applicable policy.

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 regulatory feedback, from a PPS perspective, CH staff are not yet able to determine if the proposed development meets Provincial policy.

Recommendation

Given the above, CH staff recommend **deferral** of the minor variance application until CH can confirm the location of the EDS and that the proposed dwelling is located outside the EDS in accordance with applicable policy. A CH Permit will also be required for all proposed development.

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 development be constructed in general accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services.
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 that reads "Heather McCrae".

Heather McCrae, ACST
Secretary-Treasurer