

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/140/2022

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, SEPTEMBER 13, 2022 AT 7:00 P.M.

| Owner/Applicant | Agent | Location of Land |
|---|--|---|
| Andy and Suzanne Murison 504 Forest Hill Drive Kitchener ON N2M 4H6 | Design Plan Services Inc c/o David Igelman 300-900 The East Mall Toronto ON M9B 6K2 | PLAN M6 LOT 97 241 Cherryhill Road Town of Oakville |

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1

ZONING: RL3-0
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 variance(s):

| No. | Zoning By-law Regulation | Variance Request |
|-----|---|--|
| 1 | 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> between 650.00 m ² and 742.99 m ² shall be 41% (276.29 m ²); (Lot area is 673.90 m ²). | To permit the maximum <i>residential floor area ratio</i> for the <i>detached dwelling</i> to be 44.2% (297.86 m ²). |
| 2 | 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 12.38 m -1.0 m = 11.38 m minimum). | To permit a <i>minimum front yard</i> of 8.46 metres. |
| 3 | Section 6.4.6 c) The maximum <i>height</i> shall be 9.0 metres. | To permit a maximum <i>height</i> of 10.62 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/140/2022 - 241 Cherryhill Rd (West District) (OP Designation: Low Density Residential)

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

The neighbourhood is characterized by one-storey dwellings original to the area and two-storey new construction making this a neighbourhood in transition. The existing house is one-storey.

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.”

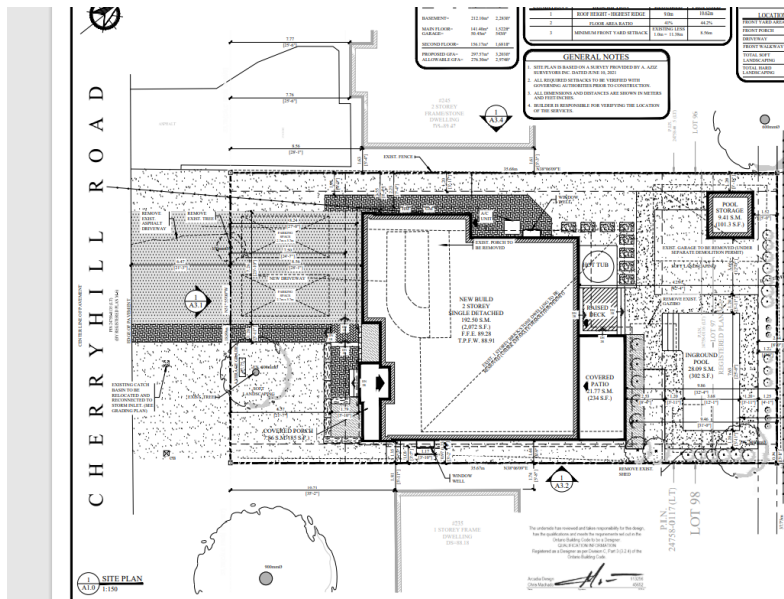
Variance #1 – Residential Floor Area Ratio (Unsupported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in residential floor area ratio from 41% (276.29 square metres) to 44.2% (297.86 square metres) for an increase of 21.57 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. A variance for residential floor area is interrelated to a variance for height as they both regulate the mass and scale of a dwelling and will have a cumulative impact. Both variances are evaluated below.

Variance #2 – 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 11.38 metres to 8.46 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 existing dwelling was set back further than the adjacent dwellings. The revised setback will result in a more uniform streetscape as demonstrated in the excerpt of the site plan prepared by the applicant below. 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.

Proposed Site Plan prepared by the applicant:



Variance #3— Height (Unsupported)

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 10.62 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 the impacts of shadowing and overlook. A variance for height is interrelated to a variance for residential floor area ratio as they both regulate the mass and scale of a dwelling and will have a cumulative impact.

Evaluation of Variances #1 (Residential Floor Area Ratio) and #3 (Height):

Based on staff's review of the application, it is staff's opinion that the proposed dwelling, including the scale, height and proportions, fail to maintain and protect the existing neighbourhood character. The subject property is surrounded by one and two-storey dwellings and the proposed design results in a dwelling that will appear substantially larger than others in the area.

The Town's Design Guidelines for Stable Residential Communities were reviewed in the context of this application. Section 3.1.1.2 states, "*new development should be designed to maintain and preserve the scale and character of the site and its immediate context and to create compatible transitions between the new dwelling and existing dwellings in the surrounding neighbourhood.*" Also, "*new development should positively contribute to the surrounding neighbourhood character by incorporating building and site elements that provide a visual reference to existing neighbourhood features and complement the surrounding residential community*". The Design Guidelines are used to direct the design of new development and ensure the maintenance and preservation of neighbourhood character.

The proposed dwelling also contravenes the Design Guidelines, particularly the following sections:

3.1.1. Character: *“New development should be designed to maintain and preserve the scale and character of the site and its immediate context and to create compatible transitions between the new dwelling and existing dwellings in the surrounding neighbourhood.”*

3.1.3 Scale: *“New development should not have the appearance of being substantially larger than the existing dwellings in the immediate vicinity. If a larger massing is proposed, it should be subdivided into smaller building elements that respond to the context of the neighbourhood patterns.”*

3.2.1 Massing: *“New development, which is larger in overall massing than adjacent dwellings, should be designed to reduce the building massing through the thoughtful composition of smaller elements and forms that visually reflect the scale and character of the dwellings in the surrounding area.”*

3.2.2. Height: *“New development should make every effort to incorporate a transition in building height when the proposed development is more than a storey higher than the adjacent dwellings. The transition may be achieved by:*

- stepping down the proposed dwelling height towards the adjacent shorter dwellings*
- constructing a mid-range building element between the shorter and taller dwellings on either side*
- increasing the separation distance between the dwellings “*

It is Staff's opinion that the dwelling has a proposed mass and scale greater than what would be appropriate for the area and does not meet the intent of the Official Plan or Zoning By-law, is not minor and is not desirable.

The applicant is advised that the Town will comment on stormwater management controls for the 25mm storm as per the Town of Oakville Stormwater Master Plan through the Development Engineering Site Plan (DESP) process.

Conclusion:

In summary, based on the application as submitted, staff are of the opinion that variances #1 and #3 should not be supported as they do not satisfy the four tests under the *Planning Act*. Further, it is staff's opinion that variance # 2 satisfies the four tests under the *Planning Act*. Should the Committee's evaluation of the application differ from staff, the Committee should determine whether approval of the proposed variances would result in a development that is appropriate for the site.

Fire: SFD. Adequate Fire Access

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 maximum residential floor area ratio, an increase in the maximum height, 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.

Bell Canada: No Comments received

Letter(s)/Emails in support: Two

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.

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

Heather McCrae, ACST
Secretary-Treasurer

Attachment:
Signatures in Support – 2

POSITION IN SUPPORT

To the Town of Cape Cod Committee of Adjustment and Planning Department I, the undersigned, have reviewed the plans and information related to the proposed for the construction of a two-story detached dwelling at 101 Chesham Road, and I have discussed them with the applicant. I have no objection to the proposed and support the minor variance requested.

Angela Ricci
205 Chesham Rd
Lewiston, ME
Sept 8, 2022
Name Address Date

Rob Phillips
205 Chesham Rd
Sept 8, 2022
Name Address Date

Name Address Date

Name Address Date

Name Address Date

Name Address Date

Name Address Date