

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

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

APPLICATION: CAV A/144/2022

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
Farahnaz Kaboodanian/ Gholam Abas Ziyadee 1362 Devon Road Oakville ON L6J 2M1	Cityscape Design Innovation Inc c/o Gianni Regina 38 Selvapiano Crescent Vaughan ON L4H 0X2	PLAN 628 LOT 89 1362 Devon Road 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 variances:

No.	Zoning By-law Regulation	Variance Request
1	<b>Table 6.3.1 (Row 5, Column RL2)</b> The <i>minimum interior side yard</i> shall be 2.40 m.	To permit a <i>minimum westerly interior side yard</i> of 1.21 m.
2	<b>Section 6.4.3 a)</b> 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 12.32 m -1.0 m = 11.32 m minimum).	To permit a <i>minimum front yard</i> of 7.55 metres.
3	<b>Section 6.4.5</b> <i>Balconies and uncovered platforms</i> are prohibited above the floor level of the <i>first storey</i> on any <i>lot</i> in the -0 Suffix Zone.	To permit two <i>balconies</i> above the floor level of the <i>first storey</i> .
4	<b>Section 6.4.6 c)</b> The maximum <i>height</i> shall be 9.0 metres.	To permit a maximum <i>height</i> of 11.46 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/144/2022 - 1362 Devon Rd (East) (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 along the Devon Road with the area characterized by one-storey and two-storey dwellings with sidewalks on one side of the road.

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.*

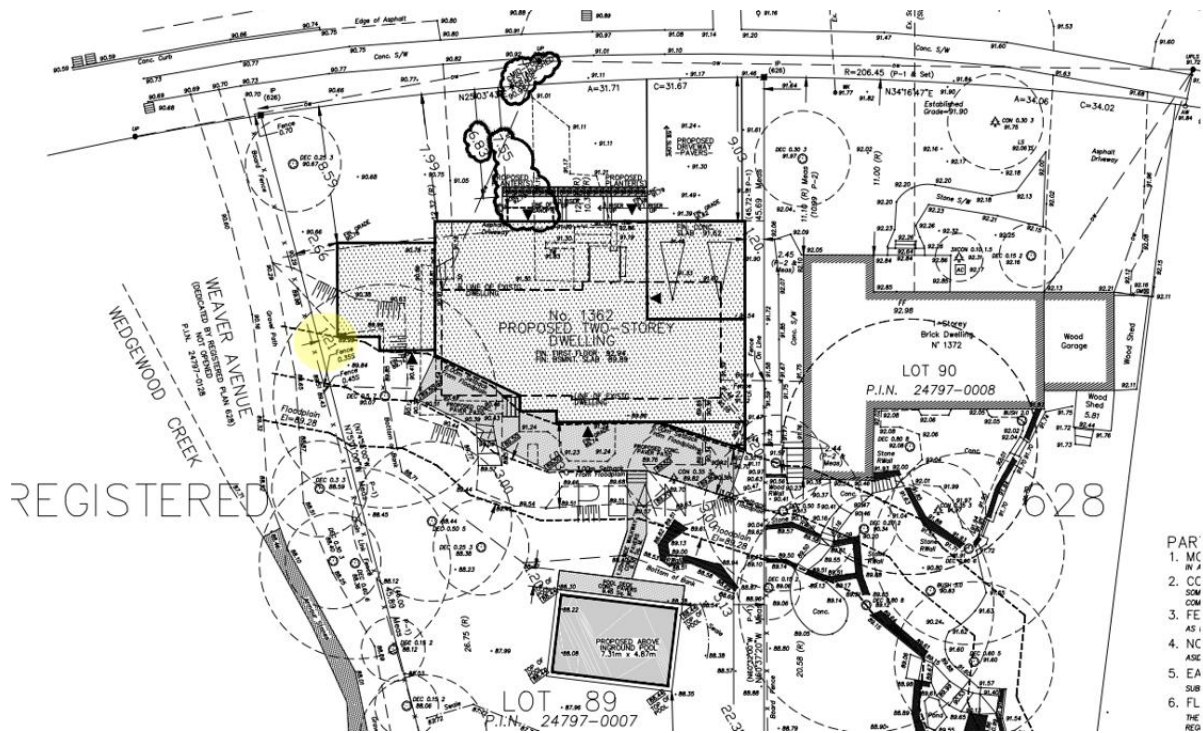
*b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.*

*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 – Interior Side Yard (Supported)**

The applicant requests relief from By-law 2014-014, as amended, to permit a reduced westerly interior side yard setback from a minimum of 2.4 metres to 1.21 metres. The side yard is measured from the westerly 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. In this instance, staff are of the opinion that the requested reduction in side yard setback will not be a concern in respect of separation as it abuts an open space area associated with Wedgewood Creek. In addition, the requested variance is for a small portion of the rear of the garage. Staff are of the opinion that this variance is minor and adequate separation and access are still maintained.

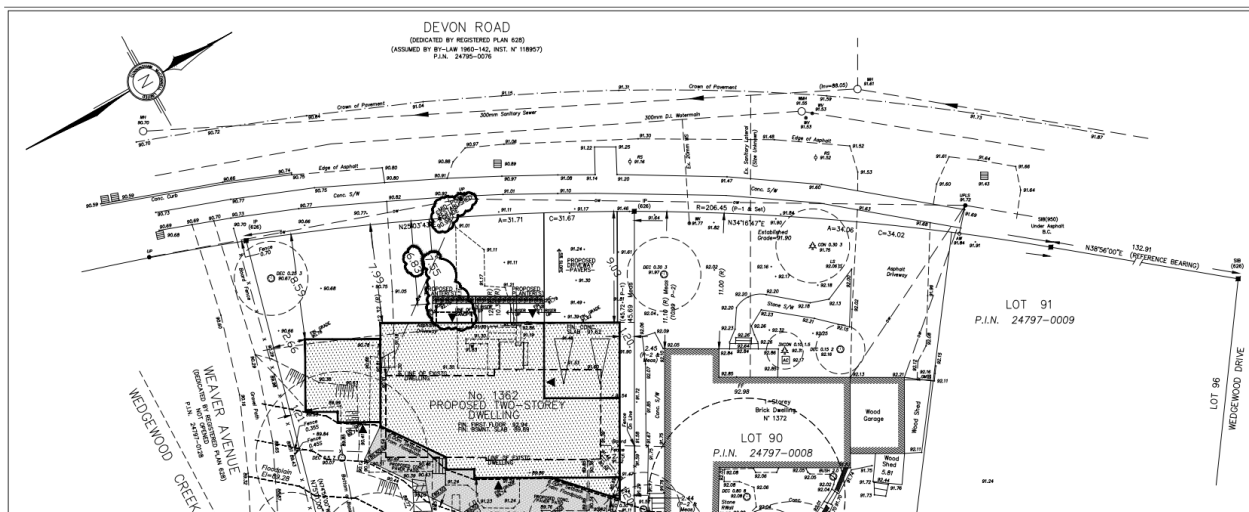
#### **Excerpt from the Site Plan by the applicant**



## Variance #2 – Front Yard (Unsupported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit a decrease in minimum front yard setback from 11.32 metres to 7.55 metres for a reduction of 3.77 metres. The front yard is measured from the front property line to the front porch. The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. In this instance, the setback is not consistent with the adjacent dwellings and therefore staff are of the opinion that the decrease in front yard setback will have a negative impact on adjacent and surrounding properties. When reviewing the excerpts below, it is clear that the proposed dwelling will be set closer to the street than the surrounding dwellings.

## Excerpt of Site Plan prepared by the applicant:



## Town GIS Mapping demonstrating the consistent setback of surrounding dwellings



### **Variance #3 –Permit Balconies (Unsupported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit two balconies above the first storey floor level whereas second storey balconies and uncovered platforms are prohibited. It is Staff's opinion that introducing an element that has been prohibited in the Zoning By-law would not meet the intent and purpose of the Official Plan or Zoning By-law, is not considered minor in nature and is not appropriate for the development of the site.

### **Variance #4 –Height (Unsupported)**

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum height from 9 metres to 11.46 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 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. The subject property is located in an area that consists of one-storey and two-storey dwellings that comply with the Zoning By-law height regulations. The proposed design of the dwelling and requested increase in height will result in a dwelling that will appear substantially larger than others in the area.

On this basis, it is staff's opinion that the requested variances does not maintain the general intent and purpose of the Official Plan and Zoning By-law as they result in a dwelling that is not in keeping with the character of the neighbourhood. Further, the variances are neither minor or appropriate for the development of the site as there are negative impacts to abutting properties and the streetscape.

Notwithstanding the comments above, it appears that an additional variance may be required related to an increase in the residential floor area ratio.

Therefore, depending on the outcome of this application, the applicant may need to revise the proposal to comply with the residential floor area ratio regulation at the time of building permit, 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 variances # 2 , #3 and 4 should not be supported as they do not satisfy the four tests under the *Planning Act*. Further, it is staff's opinion that variance #1 satisfies the four tests under the *Planning Act*.

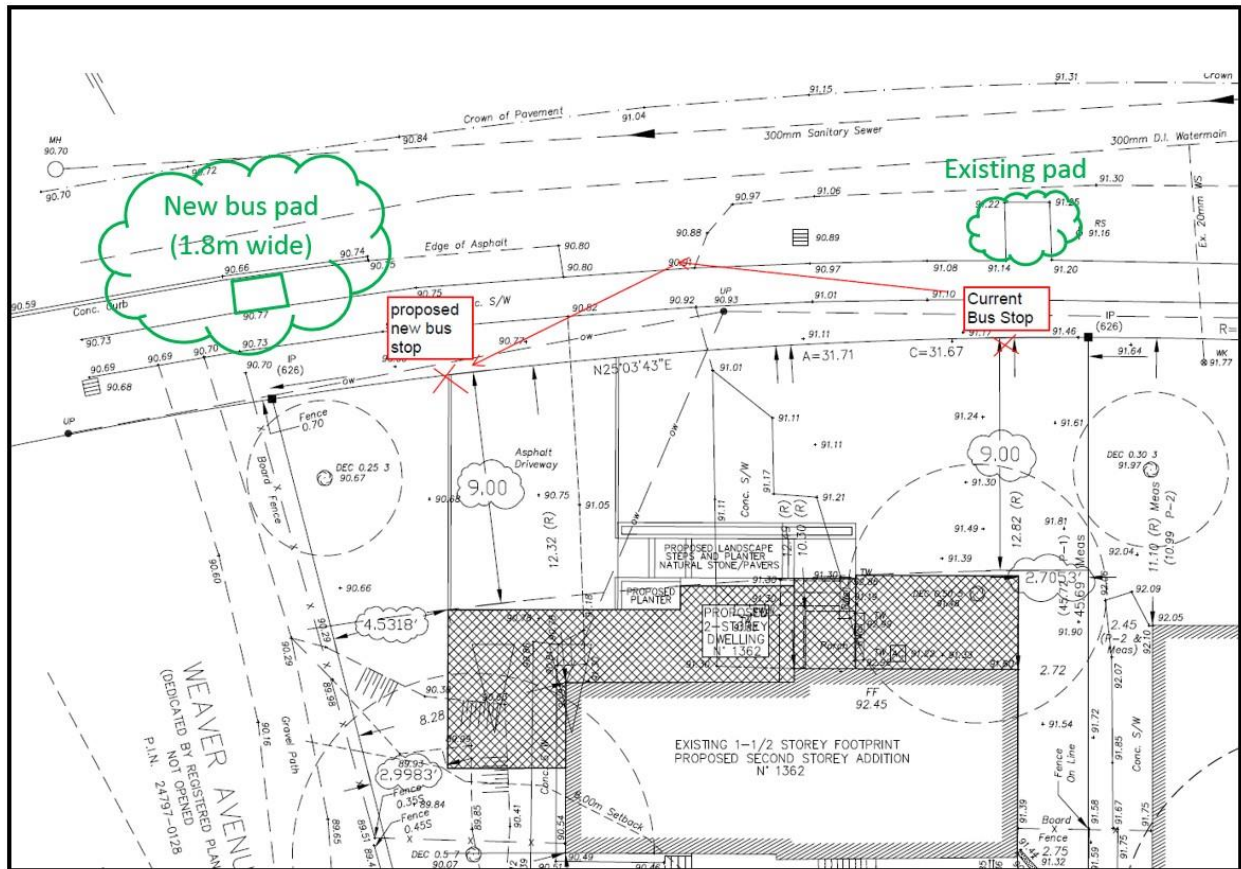
**Fire:** SFD. Adequate Fire Access

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

**Transit:** Oakville Transit staff would like to remind the applicant that Devon Road 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. There is an existing bus stop in front of the site where the proposed driveway will be located.

1. We would request the applicant to remediate the existing concrete pad by installing a new one at the new location. You can obtain the construction standards through the Town's Transportation and Engineering Department. We would relocate the bus stop slightly further west than your original proposed location. It will situate between the existing sidewalk and concrete curb (where it is at full height), closer to the west property line. Please see the two images below.
2. Please update and include the new concrete pad on all future drawings and provide to our staff for final review.
3. Please notify Oakville Transit staff when construction begins. Staff will savage and relocate the existing bus stop sign to the new location.





Heritage System. The following comments should be added as notes to the Committee of Adjustment decision for the subject lands:

- Construction should be avoided during unusually wet, rainy or winter thaw conditions.
- Machinery is to arrive on site in a clean condition and is to be maintained free of fluid leaks.
- The refueling of equipment should occur at least 30m from the adjacent watercourse.
- 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 erosion and sediment control fencing prior to construction commencing. The fencing should remain until all construction works are complete and the area is stabilized.
- Any tree removals should be completed outside the breeding bird window (April 1-August 30) in accordance with the Migratory Birds Convention Act.
- The subject property entirely falls within Conservation Halton (CH) regulated area, watersheds, and floodplain. 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 a decrease in the minimum interior side yard, a decrease in the minimum front yard, an increase in the maximum height, and to permit two balconies, 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:**

- CH has issued a permit for the proposed two storey dwelling, patio, above-inground pool, and associated landscaping. The drawings submitted through this MV application match those issued for a CH permit. CH has no comments or concerns at this time. 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.

A handwritten signature in blue ink, reading "Heather McCrae", enclosed within a thin black rectangular border.

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Heather McCrae, ACST  
Secretary-Treasurer