

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/179/2022**

RELATED FILE: N/A

DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, NOVEMBER 01, 2022 AT 7:00 P.M.

Owner (s)	Agent	Location of Land
WERNER MULLER 133 CREEK PATH AVE OAKVILLE ON, L6L 6T3	MIAOYI XUE LAND & BUILDING EXPERTS 570 ALDEN RD 6 MARKHAM ON, L3R 8N5	133 CREEK PATH AVE PLAN M839 LOT 103

OFFICIAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL
WARD: 1

ZONING: RL6,
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 existing accessory building (frame shed) on the subject property proposing the following variance:

No.	Zoning By-law Regulation	Variance Request
1	Section 6.5.2 b) The minimum yard from any lot line for an accessory building or structure located in a flankage or rear yard shall be 0.6 metres, provided that the accessory building or structure has a minimum separation distance of 2.0 metres from the dwelling.	To permit the accessory building located in the rear yard with a minimum interior side yard of 0.50 m and a minimum rear yard of 0.12m.

CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED

Planning Services:

(Note: Planning Services includes a consolidated comment from the relevant district teams including, Current, Long Range and Heritage Planning, Urban Design and Development Engineering)

CAV A/179/2022 - 133 Creek Path Ave (West District) (OP Designation: Low Density Residential)

The applicant proposes to permit an existing accessory building (frame shed) at the rear yard subject to the variances listed above.

The subject property is located along Creek Path Avenue and the area is characterized by two storey dwellings in the area.

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.

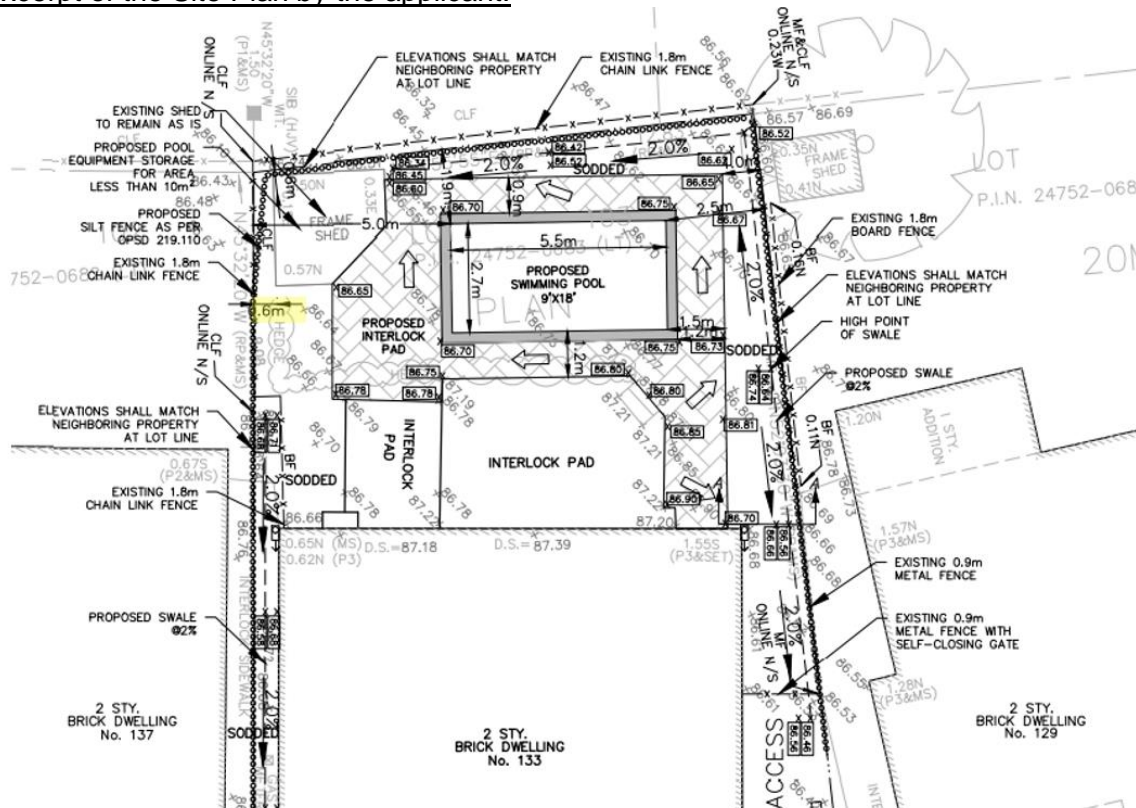
b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.

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 – Rear Yard and Interior side Yard for Accessory Building (Supported)

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit an accessory building (frame shed) located in the rear yard with a minimum interior side yard of 0.50 m and a minimum rear yard of 0.12 meters whereas permitted minimum yard from any lot line for an accessory building or structure located in a flankage or rear yard shall be 0.6 metres. The intent of regulating the side yard and rear yard setback for accessory buildings is to ensure there are no negative visual impacts onto abutting properties and to ensure adequate drainage along the property line. In this instance, the reduced rear yard and side yard setback is for the existing accessory building, the rear of the property has open space (Creek path woods) which does not have any negative impact on the abutting properties. Staff are of the opinion that the requested variance is minor in nature and meets the intent of the Official Plan and the Zoning By-Law.

Excerpt of the Site Plan by the 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 existing frame shed (accessory building) be permitted in general accordance with the submitted site plan and elevation drawings dated August 30, 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: No Concerns for Fire. DL]

Transit : No comments.

Halton Region: CAV A/179/2022 – W. Muller, 133 Creek Path Avenue, Oakville

- The subject property is within 120 meters 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). Staff would consider it appropriate to waive the Region's EIA requirements in this instance as the proposed structure will be located within the manicured area, 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:
 - 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 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.

- As an advisory, the subject site has archaeological potential. Should deeply buried archaeological artifacts or remains be found on the subject lands during construction activities, the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism be notified immediately.
- 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 for accessory building, under the requirements of the Town of Oakville Zoning By-law, for the purpose of recognizing an existing accessory building (frame shed) on the subject property.

Bell Canada: Comments not received.

Union Gas: Comments not received.

Letter(s) in support – None.

Letter(s) in opposition – None.

General notes for all applications:

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 existing frame shed (accessory building) be permitted in general accordance with the submitted site plan and elevation drawings dated August 30, 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.



Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment