

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/189/2022

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT
OAKVILLE.CA ON TUESDAY, NOVEMBER 15, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Muhammad & Fahmida Alam 606 Lakeshore Road West Oakville ON L6K 1G5	Batory Management c/o Paul Demczak 655 Annland Street Pickering ON L1W 1A9	PLAN M18 LOT 27 2036 Water's Edge Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1

ZONING: RL9 sp:58
DISTRICT: West

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	Table 4.3 (Row 7) The maximum encroachment into a <i>minimum yard</i> for window well with a maximum width of 1.8 metres shall be 0.6 metres.	To permit a maximum encroachment of 0.60 m into the <i>minimum side yard</i> for a window well with a maximum width of 5.58 metres.
2	Section 4.6.5. d) The maximum dimensions of the roof opening for the skylight shall be 2.4 metres in length and 2.4 metres in width.	To permit a maximum roof opening of 1.17 metres by 3.05 metres for a skylight.
3	Section 5.8.2 c) ii) The maximum width of a <i>driveway</i> shall be 9.0 metres for a <i>lot</i> having a <i>lot frontage</i> equal to or greater than 18.0 metres.	To permit the maximum width of the <i>driveway</i> to be 10.77 metres for a <i>lot</i> having a <i>lot frontage</i> equal to or greater than 18.0 metres.
4	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 60.62 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> .

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/189/2022 – 2036 Water's Edge Drive (West District) (OP Designation: Low Density Residential)

The applicant proposes to permit the construction of two-storey dwelling subject to the variances listed above.

The subject property is located along the Water's Edge Drive with no sidewalks and Lake Ontario at the rear of the property. The area is characterized by two storey dwellings in the area with varying lot sizes.

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 – Window Well Encroachment (Supported)

The applicant is seeking relief from Zoning By-law 2014-04, as amended, to permit a window well to have a maximum width of 5.58 metres and encroach 0.60 metres into the minimum front yard when a window well is permitted to have a maximum width of 1.8 metres and encroach a maximum of 0.6 metres. The intent of regulating window wells is to allow for adequate drainage and passage through a yard so that the window well does not impede access and allows for adequate open space and landscaping. In this instance, the window well is located on the eastern side of the proposed dwelling with a setback of 2.34 metres and with the encroachment it allows adequate room for drainage and landscaping and adequate access is still possible. Staff are of the opinion the increase in the width of the window well and its encroachment does not have any negative effect on the property.

Variance #2 – Skylight dimensions (Supported)

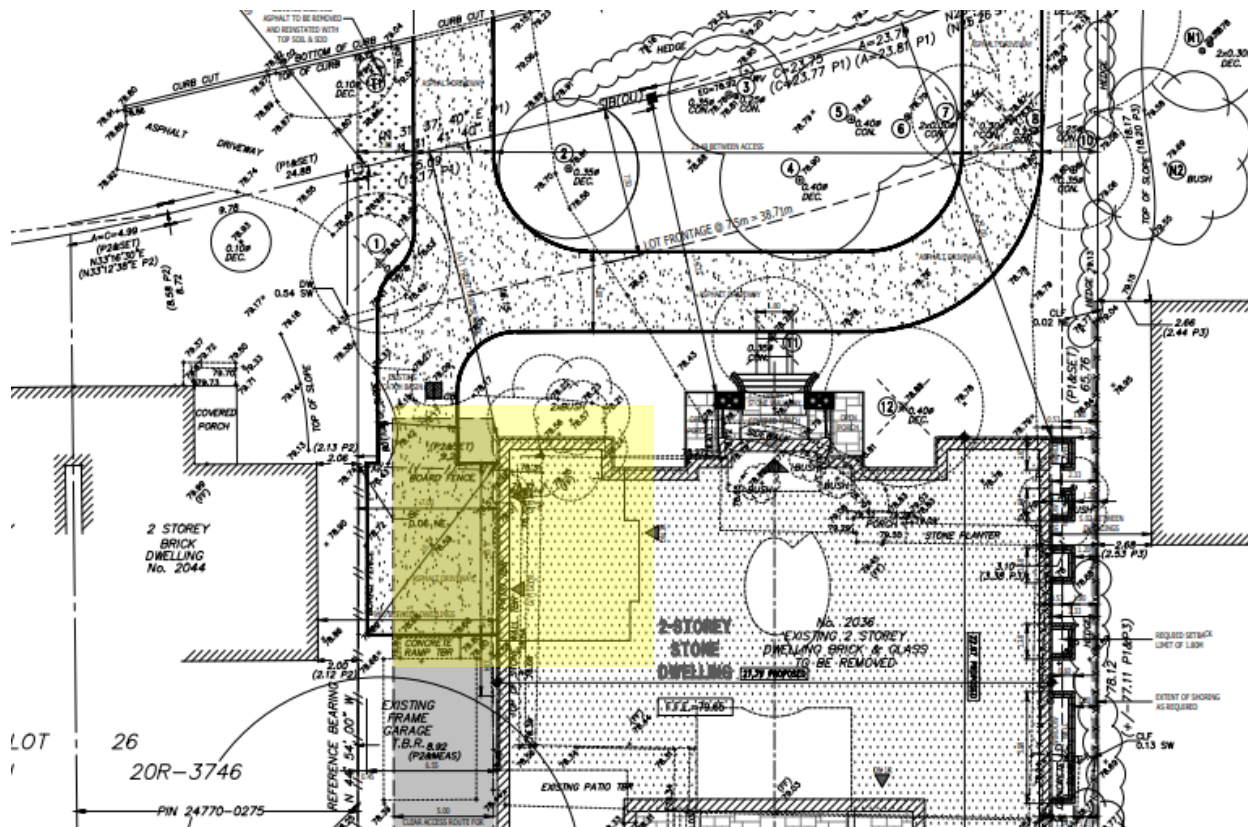
The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase of length of roof opening for the skylight from 2.4 metres by 2.4 metres to 1.17 metres by 3.05 metres. The intent of the length of roof opening (skylight) is to allow sufficient skylight into the house and is not a visual dominant feature of the dwelling. In this instance the proposed skylights have no impact as is not a visually dominant feature of the dwelling. Staff are of the opinion that the proposed length of the skylight is minor as it has no impact on the streetscape, which meets the intent of the zoning by-law.

Variance #3 – Driveway Width (Supported)

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in the maximum width of the driveway from 9.0 metres to 10.77 metres. The intent of regulating the driveway width in the Zoning By-law is to minimize the amount of paved surface in the front yard visible to the public realm. The increased width of the driveway is to allow for the vehicular movements and turnaround area near the garage with a side access. It is Staff's

opinion that the requested variance is minor and will not have adverse impacts on the surrounding area.

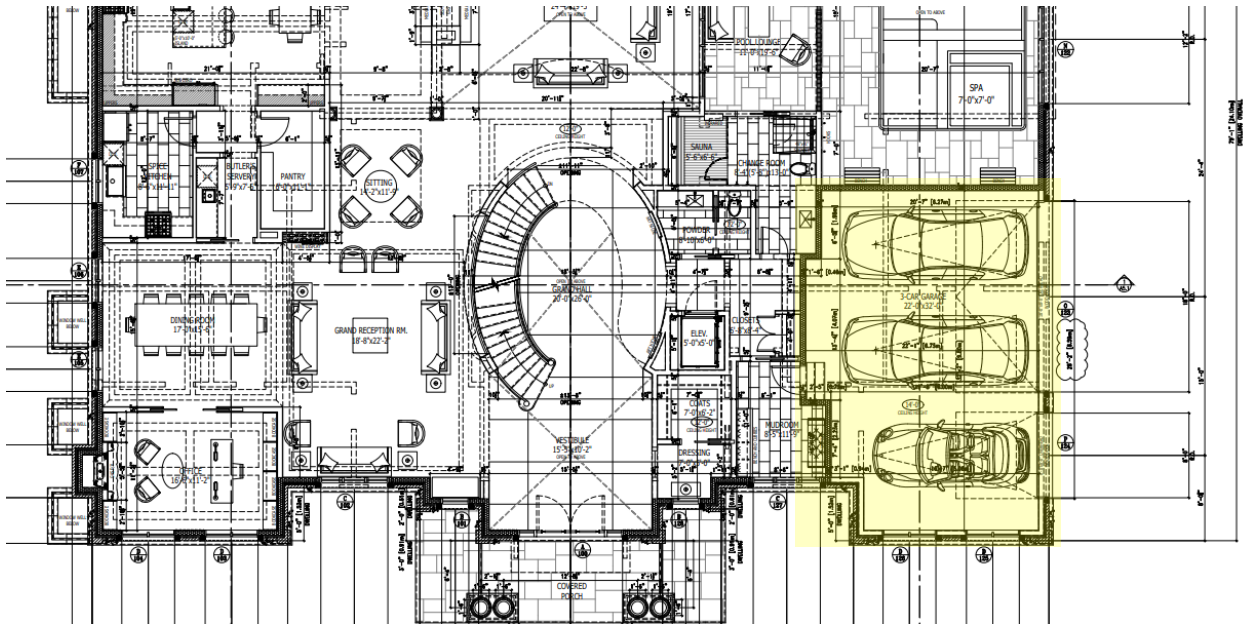
Excerpt of the Site plan by the applicant:



Variance #4 – 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 60.62 square metres for a total increase of 15.62 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 entrance to the garage is from the side yard which helps minimizing the visual impact from the street. Staff are of the opinion that the proposed design of the three car garage is located to the side of the dwelling; therefore, it would not be a visually dominant feature of the dwelling or impact the streetscape, which meets the intent of the zoning by-law.

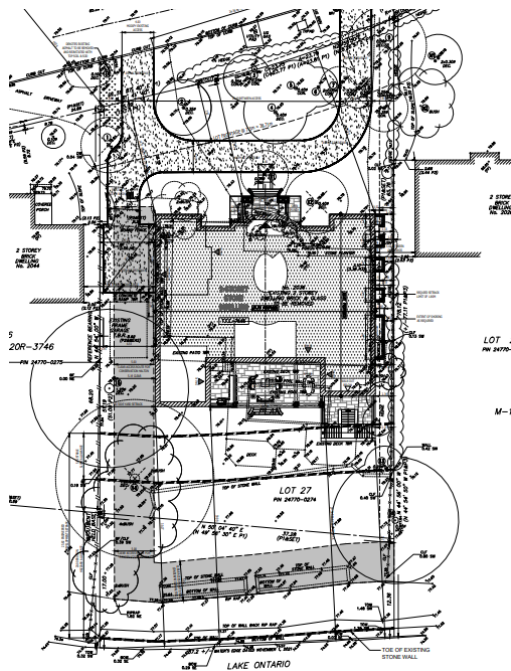
Excerpt of the Site plan showing the Garage area:



Subject property:



Excerpt of the Site plan by the applicant:



Front Elevation 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 dwelling be built in general accordance with the submitted site plan and elevation drawings dated September 23, 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. Adequate access to rear yard provided. O.K.

Oakville Hydro: We do not have any objection or comments for the Minor Variance Applications on the agenda.

Transit: No Comment

Finance: None

Halton Region:

- 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 encroachment into a minimum yard for window well, an increase in the maximum roof opening, an increase in the maximum width of the driveway, and an increase in the maximum total floor area for the private garage, 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/189/2022
2036 Waters Edge Drive, Oakville
Batory Management c/o Paul Demczak (Agent)
Muhammad and Fahmida Alam (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 (MOU, 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 2 storey dwelling including covered patios, a walk out, and associated landscaping on the subject property proposing the following variances:

1. To permit a maximum encroachment of 0.60 m into the *minimum side yard* for a window well with a maximum width of 5.58 metres.
2. To permit a maximum roof opening of 1.17 metres by 3.05 metres for a skylight.
3. To permit the maximum width of the *driveway* to be 10.77 metres for a *lot* having a *lot frontage* equal to or greater than 18.0 metres.
4. To permit the maximum total *floor area* for the *private garage* to be 60.62 square metres on a *lot* having greater than or equal to 12.0 metres in *lot frontage*.

Ontario Regulation 162/06

Conservation Halton (CH) regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The property, 2036 Waters Edge Drive, is adjacent to the shoreline of Lake Ontario and contains the flooding and erosion hazards associated with that feature. Through the review of the plans for development along the shoreline, CH seeks to ensure that waterfront 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. 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>).

CH staff previously issued a CH Permit (No. 8282) for the proposed dwelling reconstruction and the drawings generally match the drawings submitted with the minor variance application, however, there is a difference in the location of the basketball court and the gym in the basement floor plan submitted with the minor variance application. We also note minor discrepancies in the proposed total residential floor area and the basement area. In the minor variance application both the residential floor area and the basement area are larger than in the drawings approved through the CH Permit, CH requires a revised permit to address these changes.

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, CH has no concerns from a PPS perspective.

Recommendation

Given the above, CH staff has **no objection** to the requested minor variances subject to the following conditions to be added to the approval of this application:

1. That, prior to the initiation of works, a CH revised Permit be obtained for the proposed development.

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.

Requested conditions from circulated agencies:

1. That the dwelling be built in general accordance with the submitted site plan and elevation drawings dated September 23, 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.
3. That, prior to the initiation of works, a CH revised Permit be obtained for the proposed development.

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

Heather McCrae, ACST
Secretary-Treasurer