

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

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

**APPLICATION: CAV A/162/2022-Revised-Deferred from October 18, 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
Anwar Mustapha 1196 Linbrook Road Oakville ON L6J 2L4	Carrothers and Associates c/o David Carrothers 3-505 York Blvd Hamilton ON L8R 3K4	CON 3 SDS PT LOT 9 1196 Linbrook Road Town of Oakville

**OFFICIAL PLAN DESIGNATION: Low Density Residential  
WARD: 3**

**ZONING: RL1-0  
DISTRICT: East**

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 additions to the second floor and to the attic above the second floor of the existing detached dwelling on the subject property proposing the following variance(s):

No.	Zoning By-law Regulation	Variance Request
1	<b>Table 6.3.1 (Row 5, Column RL1)</b> The <i>minimum interior side yard</i> shall be 4.2 m.	To permit a <i>minimum</i> (easterly) <i>interior side yard</i> of 2.54 m.
2	<b>Section 6.4.6 a)</b> The maximum number of <i>storeys</i> shall be 2.	To permit a maximum of 3 <i>storeys</i> .
3	<b>Section 6.4.6 b)</b> <i>Floor area</i> is prohibited above the second <i>storey</i> .	To permit 67.5m <sup>2</sup> of <i>floor area</i> above the second <i>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 9.96 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/162/2022 - 1196 Linbrook Road (East District)** (OP Designation: Low Density Residential)

The applicant proposes to permit the construction of additions to the second floor and to the attic above the second floor of the existing detached dwelling on the subject property subject to the variances listed above.

The subject property is located along Linbrook Road and the area is characterized by a mix of one and large two storey dwellings in the area with sidewalks on both sides along Linbrook Rd.

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.*

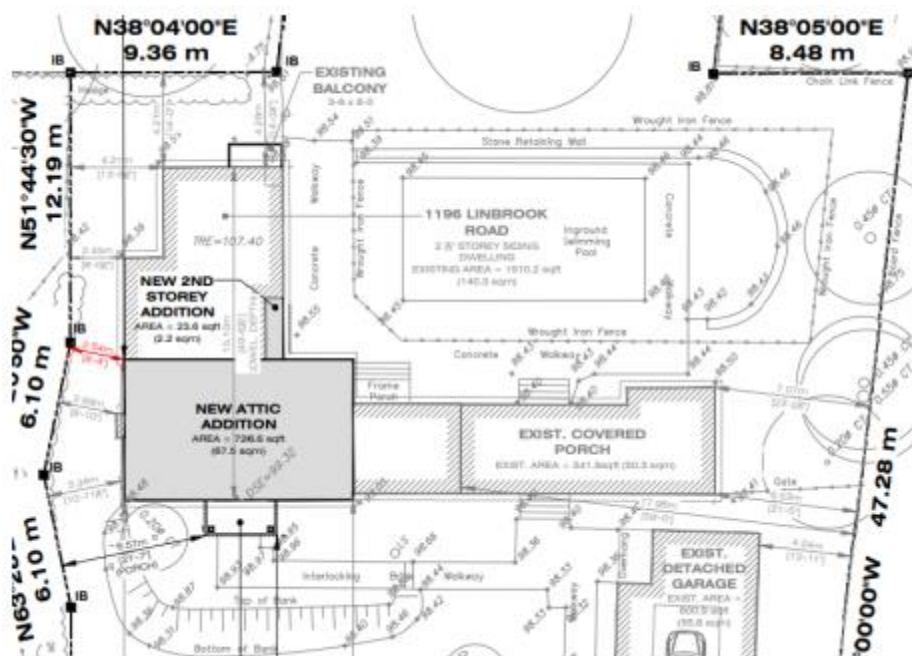
*b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.*

*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 Easterly Side Yard (Supported)**

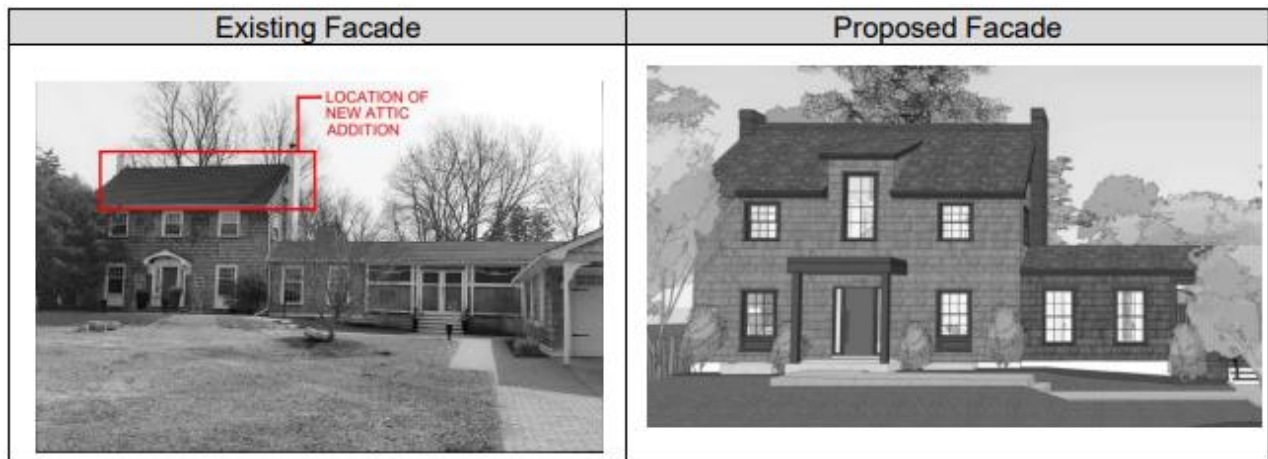
The applicant requests relief from By-law 2014-014, as amended, to permit a reduced southerly interior side yard setback from a minimum of 4.2 metres to 2.54 metres. The side yard is measured from the easterly lot line to the main wall of the dwelling. The intent of regulating the side yard setback is to ensure sufficient spacing and buffering between buildings that are beside one another to provide adequate access and appropriate transition and scale, while also avoiding privacy and overlook concerns and to allow for adequate drainage. In this instance, the requested reduction in the side yard setback is an existing condition and will not have a negative impact on the adjacent property. Staff are of the opinion that this variance is minor and would not have negative impacts on adjacent properties.

### **Excerpt of the Site Plan by the applicant:**



### **Variance #2: Increase of Storeys (Supported)**

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in the number of storeys from 2 storeys to 3 storeys. The intent of regulating the storey height of a building is to ensure compatibility with adjacent land uses, , in addition to preventing mass and scale issues in relation to potential impacts such as shadowing on adjacent lands. In this instance, the one storey addition is at the rear of the building and there is negligible increase in height of 0.33 m visible from the front facade which does not have any impact on the public realm. The figure below shows the existing and the proposed façade with added dormers at the front for the staircase and have no height impact at the front.



**Variance #3:** Floor Area above Second Storey

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit floor area above second storey measuring 67.5 square metres whereas the floor area is prohibited above second storey. The intent of regulating the floor area is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. In this instance the addition of floor area above the second storey is at the rear portion of the dwelling which does not result in visible changes in mass from the front and have negligible impact on the public realm. Staff are of the opinion that the requested variance is minor in nature, meets the intent of the Official Plan and Zoning By-law, and is appropriate for the development of the site as it will not negatively impact adjacent properties or the surrounding area.

**Variance #4:** Height (Supported)

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 9.96 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 impacts of shadowing and overlook. In this instance, the house has an existing height of 9.63 m and with the addition of extra storey the increase in height is by 0.33 m which is a negligible increase and has no impact on the public realm.

On this basis, it is staff’s opinion that the requested variances maintain the general intent and purpose of the Official Plan and Zoning By-law as they result in a dwelling that is in keeping with the character of the neighbourhood. Further, the variances are minor in nature and appropriate for the development of the site as there are no negative impacts to abutting properties or the streetscape.

Front elevation drawing 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 attic be built in general accordance with the submitted site plan and elevation drawings dated October 19, 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:** Oakville Transit staff would like to remind the applicant that Linbrook 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. The nearest bus stop is located at Morrison Road, approximately 25m from the site.

**Finance:** None

**Halton Region:**

- It is understood this application was deferred from October 18, 2022. Regional comments provided on October 12, 2022 still apply.
- 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 floor area above the second storey, a decrease in the minimum interior side yard, an increase in the maximum number of storeys, and an increase in the maximum height, under the requirements of the Town of Oakville Zoning By-law, for the purpose of constructing additions to the second floor and to the attic above the second floor of the existing detached dwelling on the subject property.

**Bell Canada:** No Comments received

**Letter(s)/Emails in support:** Three

**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 attic be built in general accordance with the submitted site plan and elevation drawings dated October 19, 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.



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Heather McCrae, ACST  
Secretary-Treasurer

Attachment:  
Letters/Emails in Support – 3

To: The Committee of Adjustment Department

Re: 1196 Linbrook Road

I/We Nandeep Kang Jagdeep Singh the owner/owners of the  
property located at 1208 Linbrook Rd. in Oakville, Ontario, have  
reviewed the plans as submitted to the Committee of Adjustment, and have no objections to the  
development.

Regards,



Date: Nov. 9/22

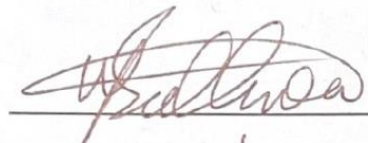


To: The Committee of Adjustment Department

Re: 1196 Linbrook Road

I/We PHIL & MAROOK SIDHWA, the owner/owners of the  
property located at 1191 LINBROOK RD. in Oakville, Ontario, have  
reviewed the plans as submitted to the Committee of Adjustment, and have no objections to the  
development.

Regards,

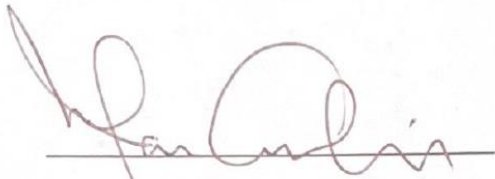
  
Date: Nov/9/2022

To: The Committee of Adjustment Department

Re: 1196 Linbrook Road

I/We Jean Robitaille + Jeanne Aubin, the owner/owners of the  
property located at 404 Morrison Rd in Oakville, Ontario, have  
reviewed the plans as submitted to the Committee of Adjustment, and have no objections to the  
development.

Regards,

A handwritten signature in dark ink, appearing to read "Jean Robitaille", written over a horizontal line.

Date: Nov. 9/22