

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/027/2024**

RELATED FILE: N/A

DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, FEBRUARY 21, 2024 AT 7:00 P.M

| Owner (s) | Agent | Location of Land |
|------------------|--|-----------------------------------|
| CEMAL VATANSEVER | BILL OUGHTRED W.E. OUGHTRED & ASSOCIATES INC. 2140 WINSTON PARK DR UNIT 26 OAKVILLE ON, L6H 5V5 | 515 VALLEY DR PLAN 641 LOT 320 |

**OFFICIAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL
WARD: 2
WEST**

**ZONING: RL3-0
DISTRICT:**

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 to Zoning By-law 2014-014:

| No. | Zoning By-law Regulation | Variance Request |
|-----|---|---|
| 1 | <i>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area 1301m ² or greater shall be 29%. | To increase the maximum residential floor area ratio to 32.46%. |

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/027/2024 - 515 Valley Drive (West District) (OP Designation: Low Density Residential and Natural Area)

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

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variances from provisions of the Zoning By-law provided the requirements set out under 45(1) in the *Planning Act* are met. Staff comments concerning the application of the four tests to this minor variance request are as follows:

Site Area and Context

The subject lands are within a neighbourhood that predominately consists of one-storey dwellings with few two-storey dwellings. Newer two-storey dwellings in the neighbourhood, and immediately adjacent to the subject lands, have minimized the impact of the second floor by building into the roof line and providing single-storey elements. The impact of these design elements results in a dwelling that does not appear substantially larger than the dwellings in the

surrounding neighbourhood whereas the proposed dwelling does not include these elements to assist in reducing the massing and scale.

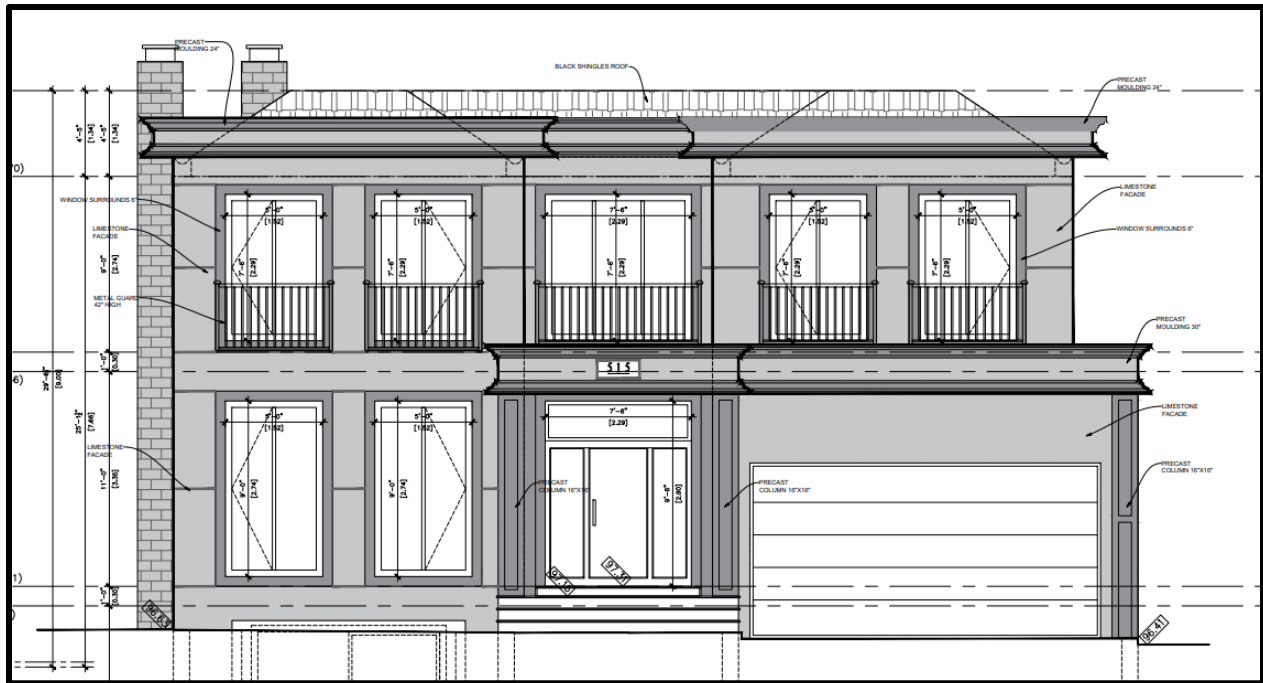


Aerial photo of 515 Valley Drive

Additionally, the property is subject to Conservation Halton's regulatory limits as part of the Fourteen Mile Creek watershed area, and it appears that the proposed development encroaches into the flood and erosion hazards areas based on the mapping town staff have available. Additionally, runoff into Fourteen Mile Creek may not be supported and additional information from Conservation Halton is required. Staff note that Conservation Halton has requested deferral of the application and that submission of necessary permits is still required. The original and proposed dwelling can be viewed in the images below.



515 Valley Drive – Existing Dwelling



515 Valley Drive – Proposed Dwelling

As shown above, the existing dwelling has a newer constructed two-storey dwelling to the northwest (left side), with the second floor built into the roof line, and single storey covered front porch. To the southeast (right side) of the existing dwelling is one-storey dwelling original to the neighbourhood. While the applicant's requested variance could be considered a minor numerical deviation from the zoning by-law, the variance contributes to a dwelling that does not maintain or protect the character of this neighbourhood. Further, the variance contributes to a design which does not provide an appropriate transition to the existing dwelling to the southeast, or a massing and scale that is consistent with what is found in the neighbourhood or align with the Urban Design Guidelines for Stable Residential Communities.

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject property is designated Low Density Residential and Natural Area 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 11.1.9, and the following criteria apply:

Policy 11.1.9 a) states:

"a) The built form of development, including scale, height, massing, architectural character and materials, is to be compatible with the surrounding neighbourhood."

Section 6.1.2 c) of Livable Oakville provides that the urban design policies of Livable Oakville will be implemented through design documents, such as the Design Guidelines for Stable Residential Communities, and the Zoning By-law. The variance has been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of the new development to ensure the maintenance and protection of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. Staff are of the opinion that the proposal does not implement the Design Guidelines for Stable Residential Communities, in particular, 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. The design approach may incorporate:*

- *Projections and/or recesses of forms and/or wall planes on the façade(s).*
- *Single-level building elements when located adjacent to lower height dwellings.*
- *Variations in roof forms.*
- *Subdividing the larger building into smaller elements through additive and/or repetitive massing techniques.*
- *Porches and balconies that can reduce the verticality of taller dwellings and bring focus to the main entrance.*
- *Architectural components that reflect human scale and do not appear monolithic.*
- *Horizontal detailing to de-emphasize the massing.*
- *Variation in building materials and colours.*

Additionally, it would appear that the proposed development is within Conversation Halton's regulated area, and a permit has not been granted for the proposed dwelling. It is not clear if the development negatively impacts the Natural Area on the property or provides negative downstream impacts to Fourteen Mile Creek watershed.

It is staff's opinion that the proposed dwelling does not provide an adequate transition to dwellings on abutting properties, nor does it incorporate design elements that would help to mitigate the impact of the significant massing and scale on abutting properties. Additionally, the variance request may negatively impact the Natural Area given the proximity of the proposed dwelling to the Natural Area. Therefore, the variance does not maintain the general intent and purpose of the Official Plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

The applicant is seeking relief from the Zoning By-law 2014-014, as amended, as follows:

Variance #1 – Residential Floor Area Ratio (Objection) – 29% increased to 32.46%

The intent of regulating residential floor area ratio (RFA) is to prevent the construction of a dwelling that has a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. Staff are of the opinion that the proposed dwelling introduces a mass and scale that does not protect or maintain the character of the neighbourhood and the proposed RFA further exacerbates the design resulting in a dwelling that is not compatible with the surrounding neighbourhood character. Additionally, staff note that the design of the proposed dwelling includes open to below areas. While these features of the design do not count towards RFA, they do contribute to the massing and scale of the dwelling in a manner that is not compatible with the neighbourhood character. . On this basis, staff are of the opinion that the request does not maintain the general intent and purpose of the Zoning By-law.

Is the proposal minor in nature?

It is staff's opinion that an increase of 3.46% in RFA may seem nominal, but the increase contributes to a mass and scale of the dwelling, making it appear larger than those in the neighbourhood, which is not minor in nature.

Is the proposal desirable for the appropriate development of the subject lands?

Staff are also of the opinion that the requested variance is not appropriate for the development of the lands as it contributes to a dwelling that has a mass and scale that is not compatible with the adjacent dwellings and surrounding area, and has not been designed to protect or maintain the character of the neighbourhood. Further the variance appears to contribute to the dwelling which may have an impact on the Natural Area. Staff note that the Conservation Halton approval process may require modifications to the proposal, resulting in additional by-law deficiencies.

On this basis, it is staff's opinion that the application does not maintain the general intent and purpose of the Official Plan, Zoning By-law and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet the four tests and recommends that the application be denied.

Fire: No concerns for fire.

Transit : Comments not received.

Oakville Hydro: We do not have any comments to add for this group of minor variance applications.

Halton Region: 6.2 CAV A/027/2024 – C. Vatansever, 515 Valley Drive, Oakville

- The subject property is within 30 metres 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). Regional staff may consider it appropriate to waive the Region's EIA requirements in this instance (once the feature sensitivity to the development is considered and appropriate mitigations are identified and implemented) based upon the Owner's completion of the Appendix D-1 'Waiving Assessment Tool', to the satisfaction of Halton Region. The Owner is required to submit Appendix D-1 and an updated site plan that shows the distance from the dripline of the woodlands to the closest edge of proposed residential addition and/or ground disturbance. The Owner is required to reach out to Regional staff to resolve the Region's concerns in relation to the RNHS. Regional environmental technical staff can stake the boundary of the dripline of the woodlands upon request, otherwise the Owner can measure in this instance. Please note that Regional staff may require a site visit to confirm the dripline of the woodlands.
- The Region of Halton's 2024 fee by-law has come into force and effect, which includes applications requiring natural heritage review and their associated fees.
- A copy of the Environmental Impact Assessment Guideline can be found here: <https://www.halton.ca/The-Region/Regional-Planning/Regional-Plans,-Strategies-and-Studies/Environmental-Impact-Assessment-Guide-Update>
- Regional staff note that the **above conditions remain outstanding and therefore requests deferral** of 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, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of a two-storey detached dwelling on the subject property, until the Owner provides Halton Region with the requested material.
- A portion of the subject property falls within a Conservation Halton (CH) regulated area and flood plain. CH Staff should be consulted for their comments and satisfied with the proposed development prior to approval of the variance.

Halton Conservation:



Planning & Regulations
905.336.1158
2596 Britannia Road West
Burlington, Ontario L7P 0G3
conservationhalton.ca

February 15, 2024

Heather McCrae, Secretary Treasurer
Committee of Adjustment, Town of Oakville
1225 Trafalgar Road
Oakville, ON L6J 5A6

BY EMAIL (heather.mccrae@oakville.ca)

To: Heather McCrae

Re: Minor Variance Application
File Number: CAV A/027/2024
515 Valley Drive
Town of Oakville

Conservation Halton (CH) staff has reviewed the above-noted application as per our regulatory responsibilities under Ontario Regulation 162/06 and our provincially delegated responsibilities under Ontario Regulation 686/21 (e.g., represent provincial interests for Section 3.1.1-3.1.7 of the Provincial Policy Statement (PPS)).

Proposal

The applicant is seeking to permit the construction of a two storey detached dwelling on the subject property through the following variance:

1. To increase the maximum residential floor area ratio to 32.46%.

Ontario Regulation 162/06

CH regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The subject property is traversed by a tributary of Fourteen Mile Creek. In this area CH regulates a distance of 7.5 metres from the greater of the flooding or erosion hazard associated with Fourteen Mile Creek. Permission is required from CH prior to undertaking any development within CH's regulated area and applications are reviewed under CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06* (<https://conservationhalton.ca/policies-and-guidelines>).

To determine if the proposed development meets CH's regulatory policies, or whether design modifications are necessary to meet CH policies in support of a CH permit, a topographic survey to be completed by the owner is required, to delineate the following:

- The physical top of bank, staked by CH staff with the applicant's surveyor. The applicant should contact CH to schedule the staking.
- The regulatory floodplain is to be delineated based on the flood elevations attached in Appendix A of this letter.
- CH's regulation limit is to be delineated 7.5m landward from the greater of the floodplain or staked top of bank.
- Distances of the proposed development from the hazard

The proposed development will be reviewed under CH regulatory policies. Modifications to the proposal may be necessary to demonstrate that the proposed dwelling meets CH policy. If the existing dwelling is confirmed to be within the regulated area and there are no reasonable alternatives outside of the regulated area, the proposed dwelling may be permitted no closer than the existing development and no closer than 6 metres to both the stable top of bank and the floodplain. Where no alternative locations exist, non-habitable accessory structures may be permitted within 3 metres of the top of bank and may be permitted within the regulatory allowance of the floodplain provided they are under 20 square metres in size. Specific policies can be discussed once features are delineated on the survey.

Provincial Policy Statement (Sections 3.1.1-3.1.7)

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). As per the above comments, delineation of the flooding and erosion hazard limits relative to the proposed development is required to assess the proposed development relative to the natural hazards policies of the PPS.

Recommendation

CH recommends **deferral** of this Minor Variance application until the regulated hazards and allowances are delineated as per the comments above as modifications to the proposed development may be necessary to meet CH regulatory policies, which may impact the requested variances.

Appendix A: Regional water surface elevations and overbank flow velocities

The HEC-RAS hydraulic model used to delineate this line was created as part of the Fourteen Mile Creek Flood Mitigation Study. Flood elevations from the model are based on the CGVD28 with the 1978 adjustments. For reference, flood elevations based on the CGVD2013 datum are also provided.

Here are the flood elevation and flow velocities from the cross sections (2346.464) in the model bounding the subject property. Looking downstream, the property is situated in the right overbank.

Model: MainBranch.prj

| Cross Section | WSE (CGCV28) (m) | WSE (CGVD2013) (m) | V LOB (m/s) | V Channel (m/s) | V ROB (m/s) |
|---------------|------------------|--------------------|-------------|-----------------|-------------|
| 2346.464 | 95.41 | 95.01 | 0.47 | 1.93 | 0.28 |

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.

A rectangular box containing a handwritten signature in cursive script that reads "J. Radomirovic".

Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment