

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/031/2024**

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
SIDDHARTH JAISHANKAR	ANTONIO GIOVINAZZO LIMBERLOST BUILDING DESIGN INC 887 DUNDAS ST W TORONTO ON, M6J 1V9	1329 THORNHILL DR PLAN 641 LOT 42

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

**ZONING: RL2-0  
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 construction of a rear balcony on the subject property proposing the following variance(s) to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 4.3 (Row 4)</i> The maximum total balcony projection beyond the main wall shall be 1.5m.	To increase the balcony projection to 4.58m.
2	<i>Section 6.4.5</i> Balconies are prohibited above the floor level of the first storey on any lot in the -0 Suffix Zone.	To permit the balcony above the floor level of the first storey.

### **CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

#### **Planning Services:**

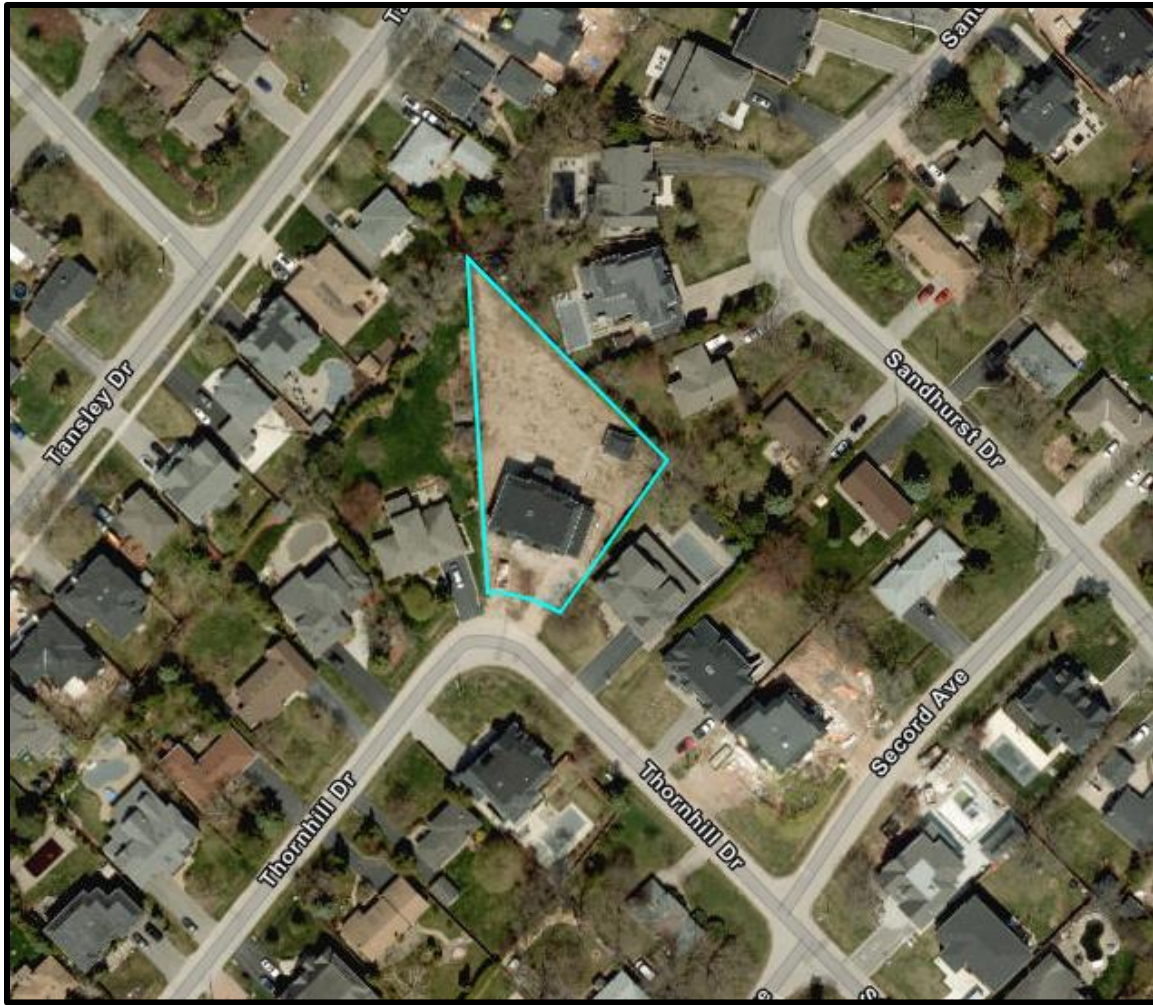
**(Note:** Planning Services includes a consolidated comment from the relevant district teams including, Current, Long Range and Heritage Planning, Urban Design and Development Engineering)

**CAV A/031/2024 - 1329 Thornhill Drive (West District) (OP Designation: Low Density Residential)**

The applicant proposes to construct a rear balcony, subject to the variances 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 and Area Context**

The subject property is a pie-shaped lot located within an established residential neighbourhood comprised of original one and two-storey dwellings as well as new two-storey dwellings. The new two-storey dwellings in the neighbourhood consist of single-storey elements, attached double car garages and façade articulation to mitigate any massing and scale impacts.



*Aerial photo of 1329 Thornhill Drive*

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

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:

Policy 11.1.9 h) state:

*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.”*

The proposed development 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 preservation of 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 section:

**3.1.5 Rear Yard Privacy:** *New development should not include second storey decks and balconies, which may create an undesirable overlook condition onto adjacent properties.*

Planning Staff are of the opinion that the proposed balcony is not consistent with the Design Guidelines for Stable Residential Communities. There is an established, existing neighbourhood character and the proposed balcony and balcony projection does not meet this character as it results in overlook and privacy concerns for adjacent properties.

On this basis, it is Staff's opinion that the variances do not maintain the intent of the Official Plan as the proposal would result in a dwelling that is not in keeping with the character of the neighbourhood.

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

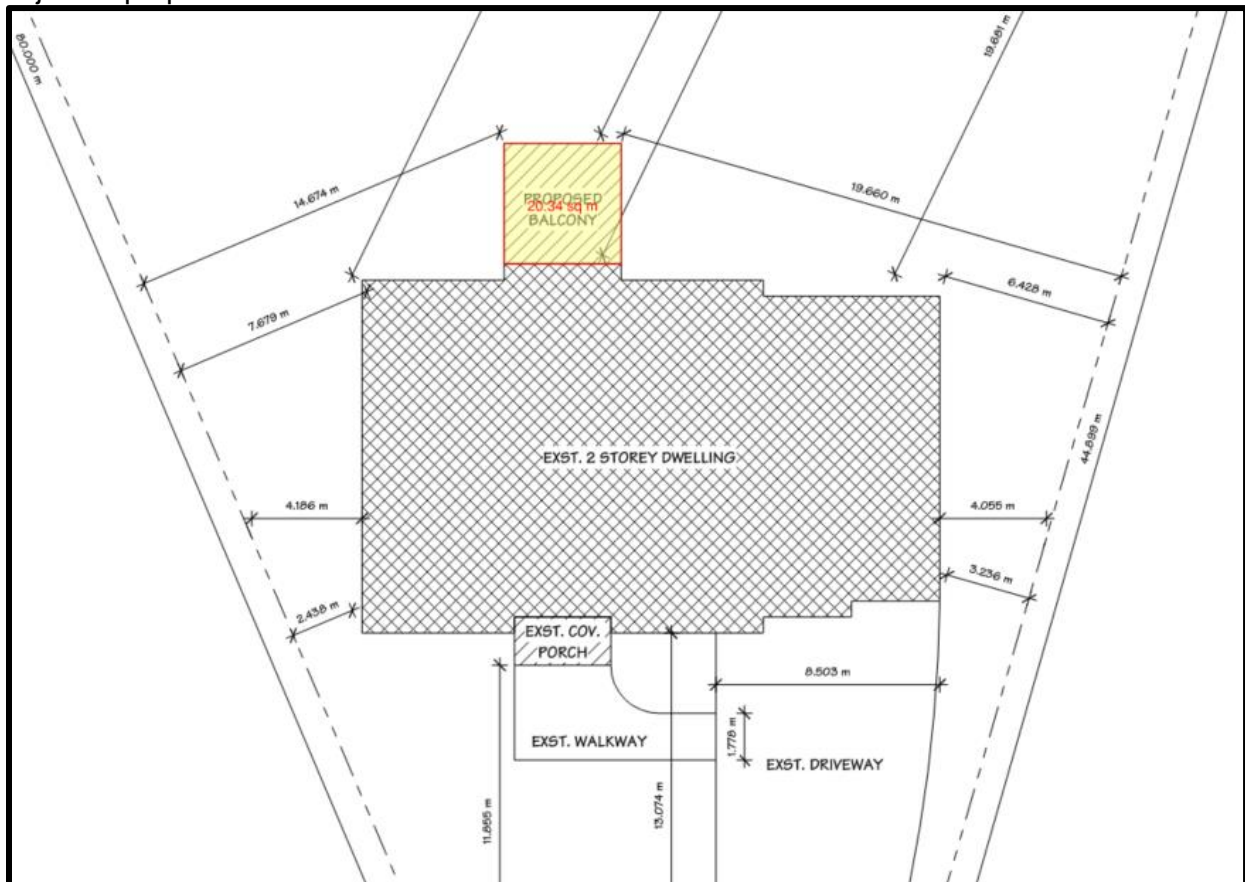
The applicant is seeking relief from the Zoning By-law 2014-014, as amended, as follows:

**Variance #1** – Balcony Projection (Objection)

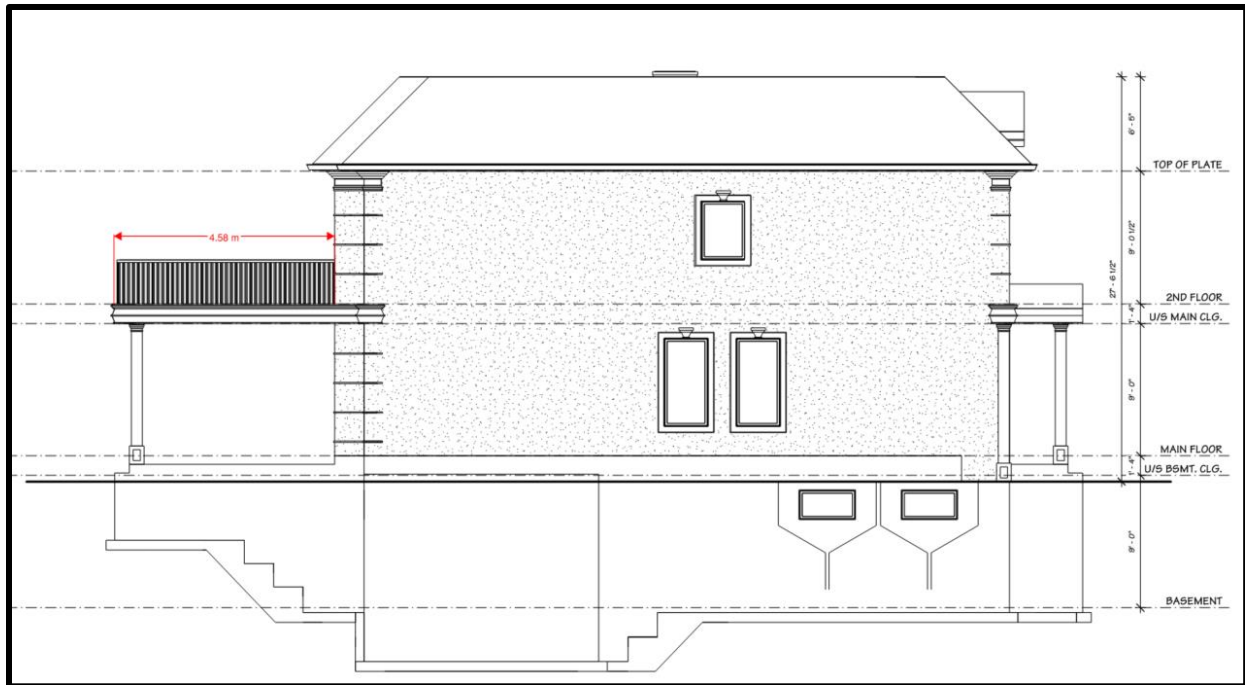
**Variance #2** – Balcony Prohibited above the Floor Level of the First Storey (Objection)

The applicant is seeking relief from the Zoning By-law 2014-014, as amended, to permit a second-storey balcony, whereas second-storey balconies are prohibited. The intent of Zoning By-law provision to prohibit second-storey balconies is to prevent potential overlook and privacy impacts. The intent of the Zoning By-law provision for maximum total balcony projection beyond the main wall is to limit the impacts of overlook and privacy concerns in zones where balconies are permitted.

The proposed second-floor balcony is approximately 20 m<sup>2</sup> (218.75 ft<sup>2</sup>) in size and projects approximately 4.58m into the rear yard beyond the main wall of the dwelling with access from the master bedroom. This large balcony results in significant overlook and privacy concerns for adjacent properties.



Site Plan showing the proposed balcony highlighted



*Left side elevation of the proposed balcony*

In staff's opinion the proposed variances do not meet the general intent and purpose of the Zoning By-law and would create a negative impact on adjacent properties.

**Is the proposal desirable for the appropriate development of the subject lands and minor in nature?**

Staff are of the opinion that the proposal does not represent an appropriate development of the subject property as the variances are not minor in nature as the proposed balcony may create privacy and overlook issues on the adjacent properties and does not fit within the context of the surrounding neighbourhood.

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 staff 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:**

**6.6 CAV A/031/2024 – S. Jaishankar, 1329 Thornhill Drive, Oakville**

- 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 balcony projection and a balcony above the floor level of the first storey, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of a rear balcony on the Subject Property.

**Bell Canada:** Comments not received.

**Union Gas:** Comments not received.

**Letter(s) in support – None.**

**Letter(s) in opposition – 4**

**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.



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Jasmina Radomirovic  
Assistant Secretary-Treasurer  
Committee of Adjustment

**Letter of Objections:**

This is with reference to 1329 Thornhill Drive, Oakville, Ontario  
PLAN 641 LOT 42

Specifically the variances proposed to

1. Table 4.3 (Row 4)

to increase the balcony projection to 4.58 meters

2. Section 6.4.5 to permit the balcony above the floor level of the first storey.

Please be advised that I vehemently oppose the requested variances to the subject property, 1329 Thornhill Drive PLAN 641 LOT 42.

The proposed balcony would destroy any remaining vestige of my privacy in my own back garden and in my bedrooms.

The house already towers over my house and the neighbours. Further, it restricts my light and invades my privacy both inside and outside my own home.

The proposed variances are not minor and are neither desirable nor appropriate.

Yours faithfully,  
Paulette Chadwick  
378 Sandhurst Drive  
Oakville L6L 4L3

**Letter of Objection:**

To whom it may concern.

I am writing this letter to register my objections to the variance request CAV A/031/2024 as I believe the impacts these changes will have are not minor as stipulated in sub-section 45(l) of the Planning Act.

Firstly, item 1 requests a change in the maximum balcony projection from the main wall from 1.5 m (as stipulated in the zoning bylaws) to 4.58 m. This would result in an increase of 305% from maximum allowed in the bylaws, which is not a minor variation under any definition.

Secondly, item 2 requests the construction of a balcony above the level of the first storey. If this variance was allowed it would have a significant impact on the privacy of my property, as well as all of the other properties adjacent to 1329 Thornhill Drive. A second storey balcony on the property would have direct visibility into almost the entirety of my back yard, which would be a complete loss of my privacy. This situation has been made even worse since all of the mature trees that may have provided some screening were removed from the property during its redevelopment. As an aside I was extremely distraught that the removal of these trees was permitted in the first place.

Thank you for your consideration.

Daryl Blanchett  
374 Sandhurst Drive  
Oakville, ON  
L6L 4L3

**Letter of Objections:**

Good afternoon,

My name is Stephen Connor, my wife is Tara Connor and we live at 386 Sandhurst Drive in Oakville.

We are writing to express our concerns for the proposed changes to allow a second story balcony extension at 1329 Thornhill Dr - Plan 641 Lot 42.

We feel that this proposal - should it be allowed to go through, will set a dangerous precedent to allow oversized second story balconies for all new home constructions in the area.

It is our opinion that this proposal should Not be allowed to go through.

Kind regards,

Stephen and Tara Connor

**Letter of objections:**

Hello Jasmina

We would like to file the following objections to the variance applied for by Siddharth Jaishankar on 1329 Thornhill Drive, Plan 641 Lot 42, File No.: CAV A/031/2024 .

This is not a minor variance, this is an incursion on our privacy and that of all the other neighbors. With the proposed balcony floor height of 12 feet above grade this will place the line of sight of anyone using it at 17 to 18 feet above the grade.

The current owners of 1329 Thornhill Drive have removed all of the trees that were originally there in the back yard. They have also cut back any branches from neighboring trees to the property line. From ground level there is an unobstructed view of all of their back yard, what is the need for an elevated observation platform? Most of the back yard has a 6 foot to 7 foot high solid wooden fence ensuring their privacy, now they want to intrude on ours. The irregular lot shape means they will be looking into at least 10 different families' back yards, some with pools, from this elevated height.

The existing character of the neighborhood is a mix of the original homes built here as bungalows and side splits of about 1000 square feet to new ones, much larger, capitalizing on the larger lot sizes. None of them have second storey balconies.

The references quoted on 9 Lambert Common and 15 Birkbank Drive are both homes on the shore of Lake Ontario with a view, not staring into many back yards.

"As per the site plan the proposed balcony is approximately 15 meters (about 2 car lengths) away from the left property" at an elevated sight line 18 feet above grade well above their 7 foot tall privacy fence and our cedar trees looking into our patio and back yard.

This is not a minor variance, it is an incursion on the privacy of others and sets a disturbing precedent for future construction in the area.

Steven and Doraine Chambers

1333 Thornhill Drive

Oakville ON L6L 2L3