

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/059/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, APRIL 03, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Amanpreet Kaur & Harpal Dhillon	Galvez Design Inc c/o Sergio Galvez 2030 Bristol Circle Oakville ON L6H 6P5	PLAN M154 LOT 4 372 Bronte Road Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1

ZONING: RL5-0
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 variance(s) 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 between 743.00 m ² and 835.99 m ² shall be 40%.	To increase the maximum residential floor area ratio to 45.60%.

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)

The following comments are submitted with respect to the matters before the Committee of Adjustment at its meeting to be held on April 3, 2024. The following minor variance applications have been reviewed by the applicable Planning District Teams and conform to and are consistent with the applicable Provincial Policies and Plans, unless otherwise stated. The following comments are provided:

CAV A/059/2024 – 372 Bronte Road (West District) (OP Designation: Low Density Residential)

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

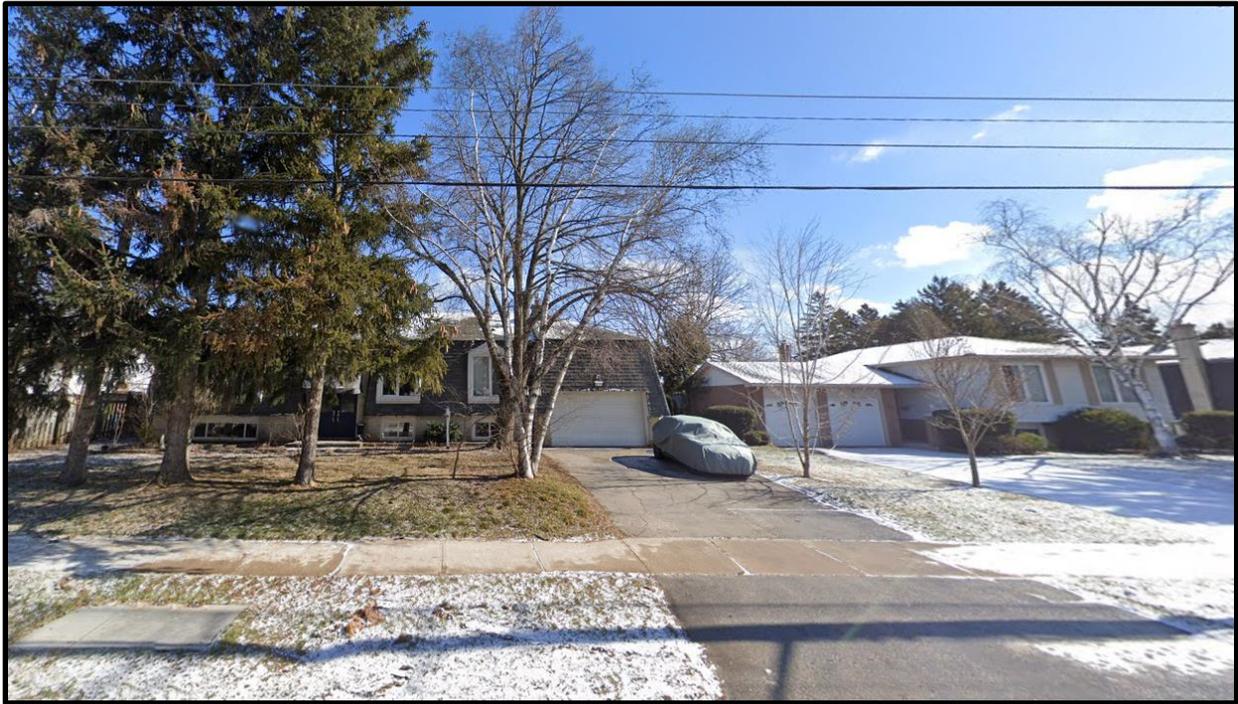
The neighbourhood primarily consists of original two and one and a half storey dwellings with a few newer two-storey dwellings constructed in the area. The property backs onto Bronte Creek and is located on the west side of Bronte Road, north of Rebecca Street. The original and proposed dwelling can be viewed in the images below.



Aerial Photo of subject lands – 372 Bronte Road



Street View of subject lands – 372 Bronte Road and the neighbouring dwellings abutting the property to the south at 368 Bronte Road (left side of photo) and the north at 376 Bronte Road (right side of photo)



Street View of dwellings located on the east side of Bronte Road (375 Bronte Road and 367 Bronte Road), opposite the subject lands



372 Bronte Road – Proposed Front Elevation

As shown above, the existing dwelling on the subject lands has a newly constructed two-storey dwelling abutting the property, located to the south (left side of the Streetview photo). This new dwelling at 368 Bronte Road was built with variations in the second floor roofline, including lower rooflines above the garage and adjacent to the front entryway, incorporated a 1-storey front porch element, articulation of the front façade, and differing building materials, which all help to

break up the massing. To the north of the existing dwelling is a relatively smaller two-storey dwelling original to the neighbourhood. Across the street from the subject lands are 1.5-storey split-level homes, also original to the neighbourhood.

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

The subject property is 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 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.*

3.2.4 Primary Façade: *New development is discouraged to project significant built form and elements toward the street which may create an overpowering effect on the streetscape.*

In Staff's opinion, the magnitude of the proposed floor area increase being requested, along with the architectural design of the dwelling's exterior, have not been properly considered when examining it against the existing character of the stable residential neighbourhood in which it is located. As such, the proposal results in a development that appears to be substantially larger than those around it and would result in negative cumulative impacts on the surrounding neighbourhood. The proposed dwelling does not provide an adequate transition to the relatively smaller abutting two-storey dwelling to the north, or the existing one and a half-storey dwellings across the street, nor does it incorporate design elements that would help to mitigate the impact of the significant massing and scale on adjacent properties. On this basis, it is Staff's opinion that the proposed variance does not maintain the general intent and purpose of the Official Plan as it would contribute to a proposal that would not maintain nor protect the character of the existing neighbourhood.

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

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit a maximum residential floor area increase of 5.60% from what is permitted. The intent of the Zoning By-law provisions for residential floor area is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood.

The residential floor area ratio (RFA) variance results in a total increase of 46.61 square metres above the maximum permitted under the By-law for this lot. The proposed dwelling also consists of massing resulting from a large open-to-below area of approximately 29.73 square metres in the rear that pushes the second storey floor area to the perimeter of the dwelling. While the open-to-below does not count towards the residential floor area, it contributes to the massing and scale of the dwelling in a manner that is not compatible with the neighbourhood character. The 29.73 square metres of open-to-below area combined with the additional residential floor area of approximately 46.61 square metres results in 76.37 square metres of additional area that cumulatively add towards the massing and scale of the proposed dwelling. The dwelling design does not appropriately mitigate the potential massing and scale impacts on abutting properties either. It is noted that the roofline for instance, has not been lowered or integrated into the second storey to help mitigate massing and scale from the public realm. In addition, the inclusion of the decorative columns on the second floor, above the front entryway, creates an overpowering front façade element which projects massing towards the public realm as well. The lack of other mitigation measures such as; the second storey not being stepped back from the front main wall of the first storey, façade articulation, variation in roof forms, and massing that is broken up into smaller elements, exacerbates the negative impacts of mass and scale on the surrounding properties and the streetscape.

Additionally, there have been no other residential floor area ratio variances approved in the immediate area. The newly constructed two-storey dwelling to the south of the subject lands was built within the requirements of the By-law and no variances were needed.

On this basis, it is Staff's opinion that the proposed development would appear visually larger than the surrounding dwellings and would not maintain nor protect the neighbourhood's existing character. In Staff's opinion, the proposed variances do not meet the general intent and purpose of the Zoning By-law and would negatively impact the streetscape.

Development Engineering Notes to Applicant:

Drainage conveyance is not a concern due to the rear backing on to Bronte Creek. However, this lot is entirely in the regulated area, subject to change from the April 1st Conservation Halton (CH) regulatory limit changes. CH should provide additional input on this property prior to any future submissions. This appears be a stable top of bank hazard limit, so CH will need to provide additional input.

Further correspondence with Conservation Halton confirmed the following:

“CH have had a lot of consultation with the applicants on their proposal at 372 Bronte. CH have reviewed a geotechnical slope stability report submitted in favour of this proposal and are okay with the findings. CH believes the proposal submitted has the ability to meet policy objectives, so no significant concerns on CH’s end.”

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 the appropriate development of the subject lands as the variance is not minor in nature. The proposed dwelling creates negative impacts on the public realm in terms of massing and scale, which does not fit within the context of the existing 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, is not minor in nature, and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet the four tests under the *Planning Act* and Staff recommends the application be denied.

Fire: No Concern for Fire.

Oakville Hydro: We do not have any comments for this minor variance application.

Transit: No Comments received.

Finance: None

Halton Region:

- The subject lands are located within an area of Archaeological Potential. Although the property has already been disturbed with an existing development, as an advisory note, should deeply buried archaeological remains/resources be found on the property during construction activities, the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (MCM) must be notified immediately. In the event that human remains are encountered during construction, the Owner shall immediately notify the police or coroner, the Registrar, the Ministry of Public and Business Service Delivery (MPBSD), who administers provisions of that Act related to burial sites, and the MCM.
- 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 would consider it appropriate to waive the Region’s EIA requirements in this instance as the proposed works will be setback sufficiently from any sensitive natural features or areas, and will not likely result in any impacts on the features or ecological functions of the Regional Natural Heritage System.
- A portion of the subject property falls within a Conservation Halton (CH) regulated area. 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 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-story detached dwelling on the Subject Property.

Conservation Halton:

Re: Minor Variance Application
File Number: CAV A/059/2024
372 Bronte Road, Town of Oakville
Amanpreet Kaur & Harpal Dhillon (Owners)
Galves Deign Inc. c/o Sergio Galvez (Agent)

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 45.60%.

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 adjacent to the main branch of Bronte Creek and contains portions of the erosion hazards associated with the valley. CH regulates a distance of 15 metres from the limit of erosion hazard associated with the valley of Bronte 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>).

CH staff have had consultation with the applicant and have reviewed a geotechnical slope stability report in support of the application. CH staff have agreed with the results of the geotechnical slope stability report and the proposal shown in the minor variance application has the ability to meet CH policy. A CH permit is required for these works.

Staff note that effective April 1, 2024, Conservation Halton's (CH) regulation, Ontario Regulation 162/06 ("Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses") under Section 28 of the *Conservation Authorities Act* (CA Act) will be repealed and replaced by Ontario Reg. 41/24: Prohibited Activities, Exemptions and Permits. Complimentary provisions under Part VI ("Regulation of Areas Over Which Authorities Have Jurisdiction") and Part VII ("Enforcement and Offences") of the CA Act will be proclaimed on the same date.

CH was also like to note that we are currently proposing updates to our regulatory allowance policies. Last revised in 2006, the current policies permit limited types of development within the regulatory allowance (e.g., the reconstruction of existing buildings, building additions, pools, decks, grading, and non-habitable accessory structures); other types of development are otherwise restricted in these areas. For more details and information on how to provide input, please refer to our weblink to the Regulatory Allowance Policy Update available here: <https://www.conservationhalton.ca/public-notice-and-engagement/>.

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.

Given the above, CH has no concerns from a PPS perspective.

Recommendation

Given the above, CH staff has no objection to the requested minor variances provided the applicant obtain a CH permit prior to the initiation of works.

Should any changes to the proposed development arise through the Minor Variance process, please keep CH apprised.

Union Gas: No Comments received

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, 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.
- Unless otherwise stated, the Planning basis for the conditions referenced herein are as follows:
 - 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.

- 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.

A rectangular box containing a handwritten signature in blue ink. The signature reads "Heather McCrae" in a cursive, slightly stylized font.

Heather McCrae, ACST
Secretary-Treasurer