

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/046/2024**

RELATED FILE: N/A

**DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, MARCH 20, 2024 AT 7:00 P.M**

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
CHITRANJAN VIRDI	KURTIS VAN KEULEN HUIS DESIGN STUDIO 1A CONESTOGA DR 301 OAKVILLE ON, L6H 0C8	1260 CLEAVER DR PLAN 805 LOT 6

**OFFICIAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL - SPECIAL POLICY**

**ZONING: RL1-0**

**WARD: 3**

**DISTRICT: EAST**

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### **APPLICATION:**

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit a two storey single detached dwelling on the subject property proposing the following variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Section 5.8.6 c)</i> For lots located within the Residential Low (RL1) Zone the maximum total floor area for a private garage shall be 56.0 square metres.	To increase the maximum total floor area for the private garage to 62.69 square metres.
2	<i>Table 6.3.1 (Row 9, Column RL1)</i> The maximum dwelling depth shall be 20.0 m.	To increase the maximum dwelling depth to 21.19 m.
3	<i>Section 6.4.6 c)</i> The maximum height shall be 9.0 metres.	To increase the maximum height to 9.78 metres.

### **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/046/2024 – 1260 Cleaver Drive (East District)** (OP Designation: Low Density Residential)

The applicant proposes to construct a two-storey detached dwelling, 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 in a neighbourhood containing two-storey dwellings that are original to the area, along with some newly constructed two-storey homes with diverse architectural styles.

Most newly constructed dwellings include attached two-car garages and consist of lower second floor roof lines and massing that is broken up into smaller elements to help reduce potential impacts on the streetscape. The following images provide the neighbourhood context in the immediate vicinity of the subject lands.



*Aerial Photo of Subject lands – 1260 Cleaver Drive*



*Street View of subject lands – 1260 Cleaver Drive (South side of Cleaver Drive)*



*Street View of neighbouring dwelling located east of the subject lands (1268 Cleaver Drive)*



*Street View of dwellings located on the north side of Cleaver Drive (1259 Cleaver Drive and 1251 Cleaver Drive), opposite the subject lands*

**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:

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.”*

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 the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. 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. Staff are of the opinion that the proposal would 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.*

**3.2.1. 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.*

**3.2.2. Height:** *New development should make every effort to incorporate a transition in building height when the proposed development is more than a storey higher than the adjacent dwellings. The transition may be achieved by:*

- stepping down the proposed dwelling height towards the adjacent shorter dwellings*
- constructing a mid-range building element between the shorter and taller dwellings on either side*
- increasing the separation distance between dwellings*

**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.*

The intent of the Official Plan is to protect the existing character of stable residential neighbourhoods. While redevelopment of some of the original housing stock has taken place in the surrounding area, Staff are of the opinion that the proposed dwelling would not implement the Design Guidelines for Stable Residential Communities, nor maintain and protect the existing neighbourhood character. The proposed dwelling presents as substantially larger than adjacent dwellings and creates an overpowering effect on the streetscape. The overall increase in height being requested, along with the large two-storey front porch element also contributes to the overall scale and massing impacts of the proposed development. While there have measures taken to mitigate some of the potential impacts; such that the second storey roofline has been lowered just above the garage and at the far western portion of the dwelling, the remainder of the proposed dwelling still appears as a full two-storeys from the public realm. Furthermore, the

addition of dormer windows into the roof makes the dwelling appear to be 3-storeys in height directly above the front entrance area. The existing 2-storey home, and the proposed two-storey dwelling are compared in following images:



Street View of 1260 Cleaver Drive – Existing Dwelling



1260 Cleaver Drive – Proposed Dwelling Rendering

In Staff's opinion, the proposed height and overall design of the dwelling have not been properly considered when examining it against the existing character of the stable residential neighbourhood it is located in. 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.

On this basis, it is Staff's opinion that the variance #3 does not maintain the general intent and purpose of the Official Plan as this variance contributes to a proposal that would not maintain nor protect the character of the existing neighbourhood. Variances #1 and #2 however, do maintain the intent and purpose of the Official Plan. The increase in garage floor area has been added towards the interior of the dwelling, so that it still presents as a 2-car garage from the street and is not a prominent feature of the dwelling. While the increase in dwelling depth does not create any adverse shadowing, privacy, or massing impacts on adjacent dwellings from the rear yard and still allows for ample private amenity space.

### **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** – Garage Floor Area (No Objection) – increase from 56.0 m<sup>2</sup> to 62.69 m<sup>2</sup>

**Variance #2** – Maximum Dwelling Depth (No Objection) – increase from 20.0m to 21.19m

The applicant requests relief from Zoning By-law 2014-014, as amended to permit a maximum garage floor area increase of 6.69 square metres and a maximum dwelling depth increase of 1.19 m from what is permitted. The intent of regulating the maximum garage floor area is to prevent the garage from becoming the predominant feature of the dwelling. The intent of regulating maximum dwelling depth is to ensure adequate rear yard amenity space is maintained on site and prevent any shadowing, privacy, or massing impacts on abutting properties. The increase in garage floor area has been added towards the interior of the dwelling, maintaining a 2-car garage appearance from the public realm. Additionally, the total dwelling depth has been measured from the front porch to the covered rear patio. The dwelling depth of the habitable portion of the home itself, from the front main wall to the rear main wall, is 16.61 m. Staff are of the opinion that the requests maintain the general intent and purpose of the Zoning By-law.

**Variance #3** – Maximum Height (Objection) – increase from 9.0 m to 9.78 m

The intent of the Zoning By-law provision regulating height is to reduce the potential for any adverse impacts on neighbouring properties such as shadowing, and to ensure the dwelling does not become an overpowering or predominant feature of the existing streetscape. The combination of the two-storey front porch element, third storey dormer windows, and 0.78 m increase in height, cumulatively contribute to enhancing the massing and scale of the dwelling, resulting in an overbuild of the subject property. In addition, the proposed floor plans include two open-to-below areas that push the second storey floor area to the perimeter of the dwelling, making the dwelling appear larger. While open-to-below areas do not count towards residential floor area, they do contribute to the overall massing and scale of the dwelling in a manner that is not compatible with the neighbourhood character. Additionally, there have been no other height variances approved in the immediate area at the magnitude as the one currently proposed. The increase in building height would not maintain the general intent and purpose of the Zoning By-law and negatively contributes to a mass and scale that is not in keeping with the existing neighbourhood.

### *Development Engineering Notes to Applicant:*

*Staff note that the proposed driveway location conflicts with Town trees in the boulevard. The trees cannot be removed, and the applicant cannot move the driveway closer to the trees than the existing driveway. The applicant will need to respect the minimum TPZ of the trees, based on trunk diameter. It is likely the applicant will need to use the existing limit of driveway adjacent to the trees, and can widen it to follow the existing driveway edge closer to the garage.*

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

Staff are of the opinion that the variance proposed for maximum height does not represent the appropriate development of the subject property 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. Staff does not however, object to the requested variances related to the garage floor area and dwelling depth as they are in keeping with the character of the neighbourhood and are minor in nature.

Staff object to variance #3 on the basis that it does not satisfy the four tests under the *Planning Act*. Further, it is Staff's opinion that variances #1 and #2 satisfy all four tests under the *Planning Act*. Should the Committee's evaluation of the application differ from Staff, the Committee should determine whether approval of the proposed variances would result in a development that is appropriate for the site.

**Fire:** No concerns for Fire.

**Transit :** Comments not received.

**Halton Region: 6.2 CAV A/046/2024 – C. Viridi, 1260 Cleaver 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 maximum total floor area for the private garage, an increase in the maximum dwelling depth, and an increase in the maximum height, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting a two-storey detached dwelling on the Subject Property.

**Bell Canada:** Comments not received.

**Union Gas:** Comments not received.

**Oakville Hydro:**

17 Rayne Ave and 1260 Cleaver Drive will require new underground service from the front of the lot. We do not have any additional comments to add for the remaining minor variance applications.

**Letter(s) in support – None.**

**Letter(s) in opposition – 1.**

**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, 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.



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Jasmina Radomirovic  
Assistant Secretary-Treasurer  
Committee of Adjustment

Letter of objections:

My name is Chris Moeller and I live at 1233 Donlea Crescent. Our home is in my wife's name, Jing Huang.

I am emailing today I regard to the above variance request application at 1260 Cleaver which is directly next to our property on the East side.

We have a concern with the height request of the application. This property would be significantly higher (ok, I havent done the statistical analysis) than anything on the street and will tower over the neighborhood. Especially is you look at the chimneys that will extend even higher than the 9.77 meter request.

We are currently in the process of getting neighbor signatures that express the same concern. We have 7 current neighbors who are concerned over this height variance request. Given it is spring break, most are currently away. We will submit signatures by noon on 3/19 and i will attend the meeting on the 20th.

Thanks in advance for your consideration to this concern.