

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/048/2024**

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>
DANIEL PEREIRA MARIA PEREIRA	JORIS KEEREN KEEREN DESIGN INC. 11 BRONTE RD UNIT UNIT 31 OAKVILLE ON, L6L 0E1	212 SOUTHVIEW RD PLAN 620 LOT 24

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

**ZONING: RL3-0
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 room on the second floor above the garage to remain with the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
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 836.00 m ² and 928.99 m ² shall be 39%.	To increase the maximum residential floor area ratio to 42.2%.

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/048/2024 - 212 Southview Road (West District) (OP Designation: Low Density Residential – Special Policy Area)

The applicant proposes to legalize a recently constructed detached dwelling with additional residential floor area, subject to the variance listed above.

The applicant initially constructed a two-storey detached dwelling with unheated, uninhabitable space included within the second floor of the dwelling unit, above the attached garage without access to the main dwelling. Unheated, uninhabitable space without access within a dwelling unit does not count toward the residential floor area ratio regulation of the Town's Zoning By-law (2014-014). Therefore, the applicant was issued a building permit as the exclusion of this area as habitable floor space resulted in compliance with the Zoning By-law. Through construction activities, this 'unheated space' was subsequently finished and turned into habitable floor area with access to the main dwelling, likely for use as an additional bedroom. Only after a final building inspection highlighted the non-compliance did the property owners apply to legalize the additional floor area.

Staff acknowledge this has resulted in a piecemeal approach that failed to present a complete design up front for review and attempted to circumvent applicable zoning regulations. The

method employed by the applicant is concerning and constitutes an undesirable and objectionable approach to the redevelopment of properties within stable residential communities. Notwithstanding the applicant's approach, staff have reviewed the application materials holistically and provided comments on the variance as applied for.

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 that 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:

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

The subject property is designated Low Density Residential – Special Policy Area in the Livable Oakville Official Plan. Development is required to be evaluated using the criteria established in Section 11.1.9 to maintain and protect the existing neighbourhood character. The proposal maintains the general intent and purpose of the Livable Oakville Plan.

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

The intent of regulating residential floor area is to ensure that the dwelling does not appear larger than those in the surrounding area, and that the massing does not present any unacceptable adverse impacts. The potential impact on neighbouring properties and potential adverse impacts from an increased massing and scale of the proposed two-storey detached dwelling has been mitigated through the inclusion of one-storey design elements, existing site context and lotting patterns and siting of adjacent residential uses. Staff are of the opinion that the request maintains the general intent and purpose of the Zoning By-law.

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

Staff are of the opinion that the proposal represents appropriate development of the subject property as the additional floor area is prominently within the established footprint of the dwelling as constructed. Staff are of the opinion that the current design is appropriate, as it does not have a negative impact on adjacent properties or the surrounding area. The overall massing is broken up and the second storey design incorporates step backs from the ground floor, the second storey elements are integrated into the roofline and includes one-storey design elements. These reduce the visual massing impacts on the streetscape and public realm, and the proposed dwelling would have a mass and scale similar to new dwellings in the surrounding area. The variance is minor in nature and will not create any undue adverse impacts to adjoining properties or the existing neighbourhood character.

Recommendation:

Staff do not object to the proposed variance. Should this minor variance request be approved by the Committee, the following conditions are recommended:

1. That the two-storey detached dwelling be constructed in general accordance with the submitted site plan and elevation drawings dated February 5, 2024; 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.

Fire: No concerns for Fire.

Transit : Comments not received.

Halton Region: 6.4 CAV A/048/2024 – M. & D. Pereira, 212 Southview Road, 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 residential floor area ratio, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the room on the second floor above the garage to remain on the Subject Property.

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, 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.

Requested conditions from circulated agencies:

1. That the two-storey detached dwelling be constructed in general accordance with the submitted site plan and elevation drawings dated February 5, 2024; 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.

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

Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment