

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: **CAV A/050/2024**

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>
JIAQI PENG	LOUISE YANG 165 SUSSEX AVE RICHMOND HILL ON, L4C 2E9	2441 HIXON ST PLAN M6 LOT 78

**OFFICIAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL
WARD: 1**

**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 construction of a two-storey detached dwelling on the subject property proposing 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 650.00 m ² and 742.99 m ² shall be 41%.	To increase the maximum residential floor area ratio to 47.71%
2	<i>Section 6.4.6 c)</i> The maximum height shall be 9.0 metres.	To increase the maximum height to 9.50 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/050/2024 - 2441 Hixon Street (West 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 Area and Context

The neighbourhood consists of original one and two-storey detached dwellings as well as newer two-storey dwellings. Most newer two-storey dwellings consist of massing that is broken up into smaller elements, variation in roof forms and incorporation of second storey into the roof line. The original and proposed dwelling can be viewed in the images below.



Aerial of 2441 Hixon Street



2441 Hixon Street – Existing Dwelling



2441 Hixon Street – Proposed Dwelling

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, and the following criteria apply:

Policies 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.*

3.2.2. 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.*

The proposed dwelling consists of a large open-to-below in the rear of the dwelling that combined with the additional residential floor area and additional height, contribute to the

cumulative impacts of mass and scale. The cumulative impacts of the variances and the rear open-to-below result in a dwelling that is not compatible with the surrounding neighbourhood as it results in a massing that appears larger than adjacent and surrounding properties. There is an established, existing neighbourhood character and staff are of the opinion that the proposed dwelling does not maintain this character; hence, the variances 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 (Objection) – 41% increased to 47.71%

Variance #2 – Height (Objection) – 9m increased to 9.50m

The intent of the Zoning By-law provisions for regulating residential floor area and height is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. The proposed dwelling consists of massing resulting from the large open-to-below of approximately 31.71 m² in the rear of the dwelling 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 neighbourhood character. The 31.71 m² of open-to-below area combined with the additional residential floor area of approximately 44.86 m² results in 76.57 m² of additional area that contributes towards the massing and scale of the proposed dwelling. The additional height of 0.50m further exacerbates the massing impact of the proposed dwelling.

The cumulative impact of the proposed variances can negatively impact adjacent properties and the surrounding area, as the massing and scale of the proposed dwelling would make it visually appear larger than existing dwellings in the immediate area. On this basis, it is staff's opinion that the request does not maintain 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 variances do not represent the appropriate development of the subject property as the variances are not minor in nature. The proposed dwelling creates negative impacts in terms of massing and scale, which does not fit within the context of the surrounding area.

On this basis, it is staff's opinion that the application does not meet the four tests and staff recommend that the application be denied.

Fire: No concerns for Fire.

Transit : Comments not received.

Halton Region: 6.6 CAV A/050/2024 – J. Peng, 2441 Hixon Street, 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 and an increase in the maximum height, 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.

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.



Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment