

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/057/2024

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
Kristina Zekic	Mark Zekic 2070 Jaguar Lane Oakville ON L6M 4R6	PLAN M10 PT LOT 30 RP 20R21103 PART 2 3083 Lakeshore Road West Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1

ZONING: RL3-0
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>Table 6.3.1 (Row 6, Column RL3)</i> The minimum rear yard shall be 7.5 m.	To reduce the minimum rear yard to 3.00 m.
2	<i>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area between 557.50 m ² and 649.99 m ² shall be 42%.	To increase the maximum residential floor area ratio to 51.20%.

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/057/2024 – 3083 Lakeshore Rd W (West District) (OP Designation: Low Density Residential)

The applicant proposes to construct a two-storey detached dwelling, subject to the variances listed above.

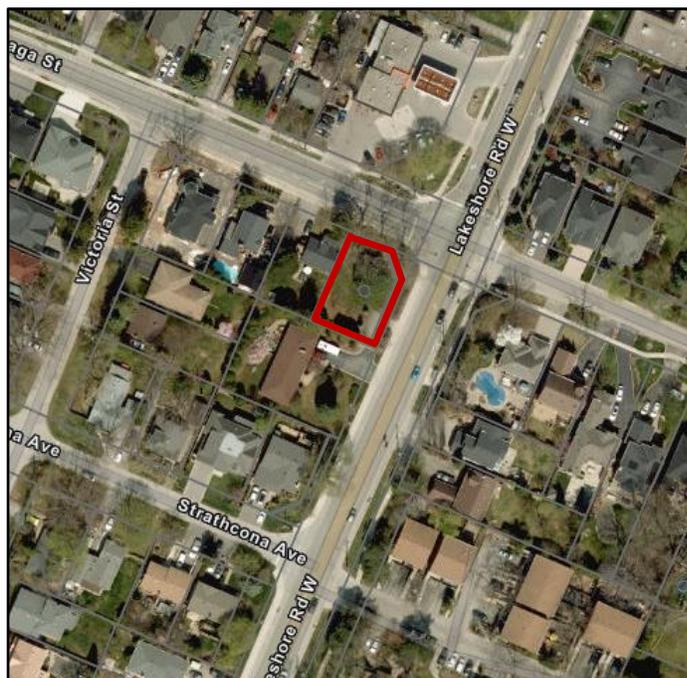
Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance from provisions of the Zoning By-law provided the requirements set out under 45(1) in the *Planning Act* are met. Staff comments concerning the application of the four tests to this minor variance request are as follows:

Site and Area Context

The Subject Property was severed from 3089 Lakeshore Road West, with the certificate of consent being issued on April 19, 2023. Both the severed and retained lots complied with the minimum lot areas and lot frontages for the R3 Residential Low zone and did not require any variances to be created. At the time of the consent, Site Plan Approval was required for all lots subject to a consent application; however, due to legislative changes Site Plan Approval is no longer required.

It is generally expected that if a lot is created through consent, that a dwelling proposed on that lot should comply with the Zoning By-law as it was presented as an appropriate lot division and could support a dwelling that is consistent with those in the area.

The subject property is in a neighbourhood containing one-storey, one-and-a-half storey, and two-storey dwellings that are original to the area, along with some newly constructed two-storey homes with diverse architectural styles.



Aerial photo of 3083 Lakeshore Rd W

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.

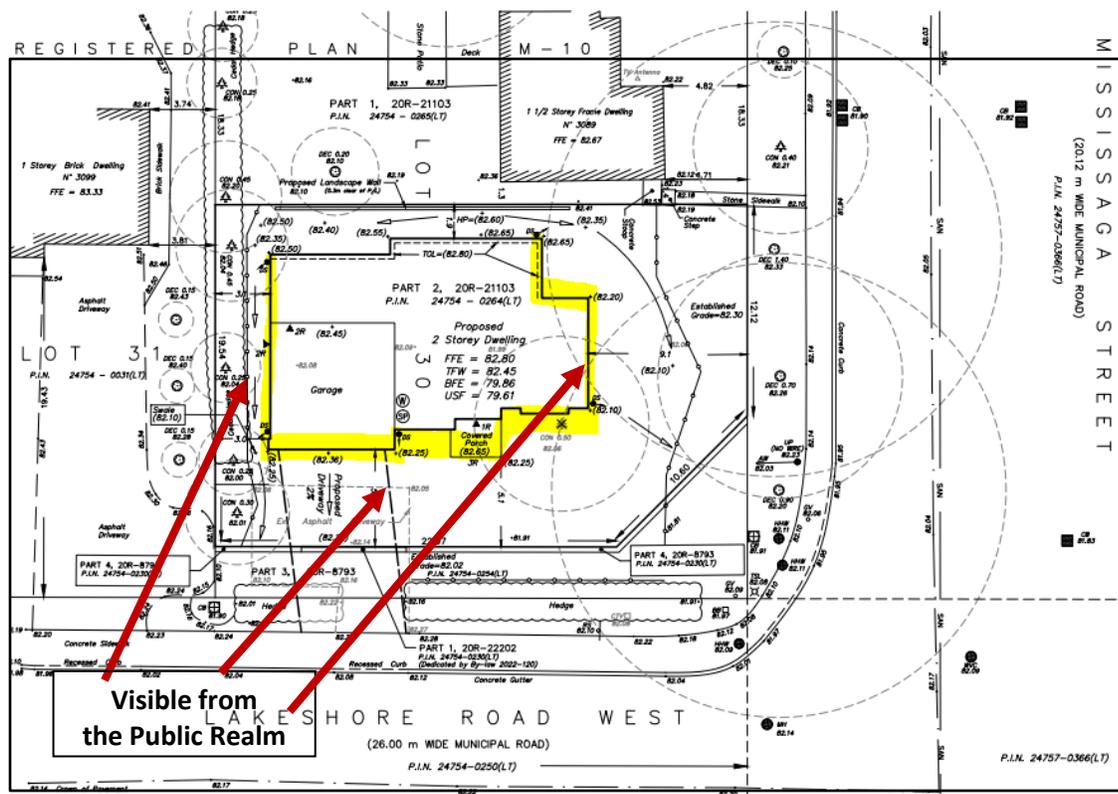
h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing.”

The proposed development has also been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of new development to ensure the maintenance and preservation of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. Subsection 6.1.2 c) of the Livable Oakville Plan 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 and forms that visually reflect the scale and character of the dwellings in the surrounding area.*

The cumulative impact of the proposed reduced rear yard and increase in Residential Floor Area results in a dwelling that will be out of character with properties in the surrounding area. The dwelling will be visible from three sides since the rear yard is adjacent to the front yard of the property at 3099 Lakeshore Road West, hence the rear of the proposed dwelling will be visible from the Lakeshore Road West in addition the flankage and front yards being visible from Lakeshore Road West and Mississauga Street.



Excerpt of Site Plan - sides of the dwelling visible from the public realm

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 – Minimum Rear Yard (Objection) – 7.5 m to 3.0 m

The intent of the Zoning By-law provision for minimum rear yard setback is to ensure that an adequate rear yard amenity space is provided, and to reduce the potential for any adverse impacts such as overlook, privacy loss and shadowing from rear yard projections. In this instance, the subject property is a corner lot which typically results in the rear yard having a similar condition as an interior side yard but in this instance the rear yard is abutting the front yard of the adjacent property based on the configuration of the lots. As a result, the rear of the dwelling will be visible from the public realm. The applicant proposes a rear yard setback of 3.0 metres and an interior side yard setback of 1.9 metres resulting in reduced private amenity space which does not meet the intent of the Zoning By-law.

Variance #2 – Maximum Residential Floor Area Ratio (Objection) – 42% increased to 51.20%

The intent of the Zoning By-law provision 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 of 51.20% (290.785 m²) results in a 52.25 m² increase in residential floor area from that permitted 42% (238.53 m²). The proposed dwelling is a full

two-storey dwelling with reduced separation from adjacent dwellings, resulting in a dwelling that appears larger than other dwellings within the area from the public realm. The proposal will result in an overbuild on the property. There are opportunities to incorporate further setbacks along the north-western elevation and to allow for more separation to the rear and interior side yards in order to reduce the residential floor area and make it consistent with dwellings in the area. The overall size of the dwelling should be reduced and situated on the lot to comply with the minimum setbacks. Care should continue to be made to keep the dwelling outside of the Tree Protection Zone of the trees within the municipal right-of-way along Mississauga Street.

Staff are of the opinion that the cumulative impact of the requested variances do 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 proposal does not represent the appropriate development of the subject property. The requested variances are not appropriate for the development and are not minor in nature as the proposed increase in residential floor area is out of scale with the surrounding area. Staff are of the opinion that the proposed variances and impact on the public realm is not minor.

Development Engineering Notes to Applicant:

The subject property is in a low-laying area that will require drainage relief as the site spills under the current conditions. A drainage solution will also need to be proposed to be desirable for the subject property.

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 recommend that 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:

- 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.
- 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 following comments should be added as notes to the Committee of Adjustment's decision for the subject lands:
 - It is the expectation of Halton Region that both the severed and retained parcel shall be on full municipal services. Post approval, should the minor variance application be approved by the Committee of Adjustment, the Owner shall contact the Regional Services Permit Section for review and approval of the proposed water and sanitary services, to obtain water and sanitary sewer Services Permits, and pay all necessary fees.
- Regional staff has no objection to the proposed minor variance application, subject to the above-noted comment being added as a note to the Committee of Adjustment's decision, seeking relief under Section 45(1) of the Planning Act in order to permit a decrease in the minimum rear yard and 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/057/2024
3083 Lakeshore Road West, Town of Oakville
K. Zekic (Owner)
Mark Zekic (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 reduce the minimum rear yard to 3.00 m.
2. To increase the maximum residential floor area ratio to 51.20%.

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 located within an identified flood hazard (spill) associated with Sheldon 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>).

Staff advise that effective April 1, 2024, 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 Regulation 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 staff have no objection to the variances as written; however, as the property is located within an identified spill a CH Permit is required for the proposed works. Through the CH Permit process alterations to the design and/or footprint of the development may be required, and alterations to the site may be required to address the flood hazard. Such changes may result in the need for additional variances. Technical information will also be required for CH staff to complete a review of the proposal through the permit process. As such, we encourage you to contact the undersigned prior to submitting a permit application to get a better understanding of what is required.

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.

Recommendation

Given the above, CH staff has no objection to the requested minor variances as written 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. We further reiterate that changes may be required to obtain a CH permit, which may require additional variances

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 that reads "Heather McCrae".

Heather McCrae, ACST
Secretary-Treasurer