

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/064/2024**

RELATED FILE: N/A

DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, April 17th, 2024 AT 7:00 P.M

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
AHAMED ABDULWAHHAB ABEER ALASHAAB	GHADA ALKASSAB AG ARCHITECTURE + DESIGN INC 2302 CRESTMONT DRIVE OAKVILLE ON, L6M 5J5	1333 SHELDON AVE PLAN 641 LOT 111 PT LOT 112

**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 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 929.00 m ² and 1021.99 m ² shall be 38%.	To increase the maximum residential floor area ratio to 40.48%.

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/064/2024 - 1333 Sheldon Avenue (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:

Request for Deferral

Halton Region staff have requested a deferral of the application to address matters related to an existing easement on the property. The applicant has not provided sufficient information for the Region to ascertain the location of the easement precisely as it relates to the location of the proposed dwelling. Regional staff are concerned that a portion of the dwelling could be constructed within this existing easement area. Staff are requesting that additional materials be submitted so the Region can maintain their easement rights, and to ensure that no construction is proposed in this area. Regional staff comments are as follows:

“Regional staff note that there may be a Regional easement on the Subject Property. Buildings, structures, landscaping, and other encumbrances are not to be constructed or placed on existing or proposed Regional easements. Regional easement rights must be maintained at all times and not be infringed upon. Therefore, Regional staff require the following materials to ensure that Regional easement rights are maintained:

- *An updated legal survey (which clearly identifies the easement); and*
- *A revised site plan drawing identifying the easement in relation to the proposed development and site alternations (i.e. showing the off-set between the proposed development and site alternations and the boundary of the easement).*
- *Regional staff require that the applicant contact Regional staff to provide the aforementioned information.*

*Regional staff note that the **above-noted concern remains outstanding and therefore requests deferral** of 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-storey detached dwelling on the Subject Property, until the Applicant provides Halton Region with the requested material.”*

Town staff are in agreement with Regional staff and suggest the application be deferred by Committee at the April 17, 2024, meeting in order for the applicant to address the outstanding concerns that have been outlined by the Region, and to provide them with the requested materials.

Setting aside the Region’s request for deferral, planning staff put forth the following comments on the application.

Site and Area Context

The subject property is located in a neighbourhood containing one-storey dwellings that are original to the area, along with some newly constructed two-storey homes with diverse architectural styles. Most of the recently constructed dwellings include attached two-car garages and consist of lower second floor roof lines, stepbacks, 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.



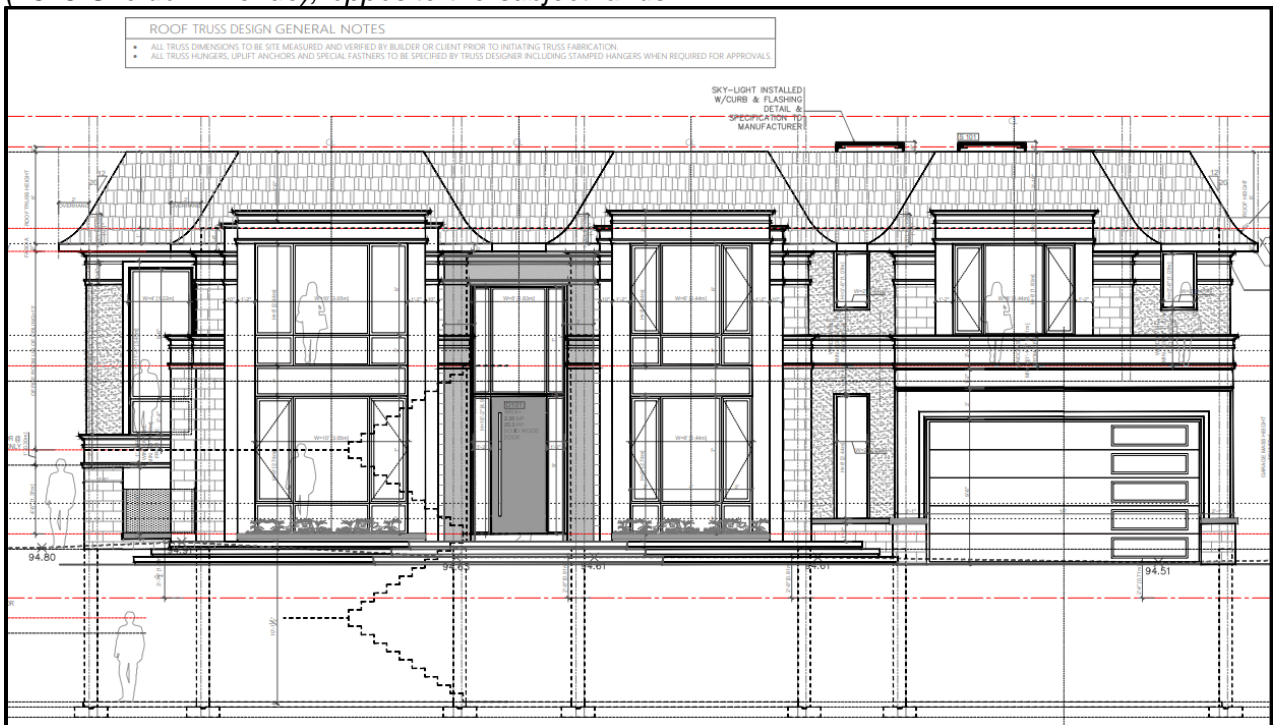
Aerial Photo of subject lands – 1333 Sheldon Avenue



Street View of subject lands – 1333 Sheldon Avenue and the neighbouring dwellings abutting the property to the west at 1337 Sheldon Avenue (left side of photo) and the east at 1331 Sheldon Avenue (right side of photo)



Street View of the one-and-a-half storey dwelling located on the south side of Sheldon Avenue (1328 Sheldon Avenue), opposite the subject lands



1333 Sheldon Avenue – Proposed Front Elevation

As seen in the photos above, to the immediate east and west of the existing dwelling are two 1-storey bungalows original to the neighbourhood. Across the street from the subject lands is a newer one-and-a-half storey dwelling constructed in 2011.

Recent Approvals in the Neighbourhood



1373 Sheldon Avenue – Front Elevation

On February 7, 2024, Planning staff supported an increase to the residential floor area of a proposed single detached dwelling located at 1373 Sheldon Avenue (CAV A/018/2024) and that variance was granted. The differences between the neighbouring application that was supported by staff and the proposed development for the subject lands can be seen in the table below.

1373 Sheldon Avenue (CAV A/018/2024) Approved February 7, 2024	Subject Proposal – 1333 Sheldon Avenue (CAV A/064/2024)
Total lot area: 697.13 sq m.	Total lot area: 991.80 sq m.
Maximum permitted residential floor area ratio: 41% (285.82 sq m.)	Maximum permitted residential floor area ratio: 38% (376.98 sq m.)
Approved residential floor area ratio: 43.99% (306.66 sq m.)	Requested variance for residential floor area ratio: 40.48% (401.51 sq m.)

The reason for the differences in the maximum permitted residential floor area ratio is to ensure dwellings are of a similar massing and scale within the existing neighbourhood regardless of lot size. It is noted that the subject property is one of the larger lots in the area. A dwelling on this lot that is in full compliance with the By-law requirements for residential floor area would still allow for an additional 70.32 sq m. in floor area above and beyond the approval that was granted by the Committee of Adjustment for the neighboring property at 1373 Sheldon Avenue.

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.*

3.1.3 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.*

3.2.2. 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.*

In Staff's opinion, 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 large open-to-below areas, the full two-storey window treatments along the front yard façade, and the

two-storey front porch element also help contribute to a mass and scale that is not in keeping with the existing neighbourhood. The proposed dwelling does not provide an appropriate transition to the abutting one-storey dwellings or the existing one-and-a-half storey dwelling across the street. The proposal also does not 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 2.48% 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 24.53 square metres above the maximum permitted under the By-law for this lot. The proposed dwelling also consists of massing resulting from two large open-to-below areas of approximately 57 square metres 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 approximately 57 square metres of open-to-below area combined with the additional residential floor area of approximately 24.53 square metres results in 81.53 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 two-storey front porch creates an overpowering front façade element which also projects massing towards the public realm. 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.

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:

There is a servicing easement on the east side of the property that has both an active sanitary and storm sewer running through the property. This storm sewer is a 525mm servicing Sheldon Ave. The Sanitary is a 250mm servicing Waverly Ave. The easement is 10ft wide off the east side property line, of the subject property. This service and easement dates back to the late 1950s so additional records may be sparse. Original drawings are available as needed. See sketch below. I note that the easement is not noted on GIS, however, this may be due to record keeping of the original documents. It is noted on the drawings. This needs to be taken into account and shown on the proposals moving forward. While this is indirectly related to the Minor Variance, it is related to the layout of the dwelling which is related to RFA. With this limiting the development, a variance may not be required due to reduced scope. Development Engineering can not support the development until this has been included on the plans and is taken into account.



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 appropriate development of the subject property and are not minor in nature as the proposed dwelling creates negative impacts on the streetscape 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 recommends that the application be denied.

Fire: No Concerns for Fire.

Transit : Comments not received.

Oakville Hydro: We do not have any comments to add for this group of minor variance applications.

Halton Region: 6.4 CAV A/064/2024 – A. Abdulwahhab & A. Alashaab, 1333 Sheldon Avenue, Oakville

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 - An updated legal survey (which clearly identifies the easement); and
 - A revised site plan drawing identifying the easement in relation to the proposed development and site alternations (i.e. showing the off-set between the proposed development and site alternations and the boundary of the easement).
 - Regional staff require that the applicant contact Regional staff to provide the aforementioned information.
- Regional staff note that the **above-noted concern remains outstanding and therefore requests deferral** of 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-storey detached dwelling on the Subject Property, until the Applicant provides Halton Region with the requested material.

Bell Canada: Comments not received.

Union Gas: Comments not received.

Letter(s) in support – None.

Letter(s) in opposition – None.

Letter of concerns- 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 Services, 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.



Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment

Letter of Concerns-1


Hello Jasmina, my name is Michael Jenkins at 1331 Sheldon Ave, Oakville, ONT, L6L2P9.

I received a notice (1 attached) that the house next door will be re-built. My only concern is the driveway which is joined. I attached some pics to give you an idea of how the driveway has been since the houses were built. Do the builders know what will happen with the driveway?

Please let me know, thanks.



**Notice of Public Hearing
Committee of Adjustment Application**


OAKVILLE

File No.: CAV A/064/2024

JENKINS MICHAEL
1331 SHELDON AVE
OAKVILLE ON L6L 2P9

Electronic hearing:
By videoconference and live-streaming video on the Town of Oakville's Live Stream webpage at Oakville.ca on April 17th, 2024 at 7 p.m.

Why am I receiving this notice?
You are receiving this notice because the applicant noted below has submitted a minor variance application to the Town of Oakville. As stipulated by the *Planning Act*, notice must be provided to property owners within 60 metres (200 ft.) of the area to which the application applies. Further details of this application, including drawings, can be viewed online at [Agendas & Meetings \(Oakville.ca\)](http://Agendas & Meetings (Oakville.ca)).

Applicant and property information:

Applicant / Owner	Authorized Agent	Subject Property
AHAMED ABDULWAHHAB ABEER ALASHAAB	GHADA ALKASSAB AG ARCHITECTURE + DESIGN INC 2302 CRESTMONT DRIVE OAKVILLE ON, L6M 5J5	1333 SHELDON AVE PLAN 641 LOT 111 PT LOT 112

Zoning of property: RL3-0, Residential

Variance request:
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	Section 6.4.1 The maximum residential floor area ratio for a detached dwelling on a lot with a lot area between 929.00 m ² and 1021.99 m ² shall be 38%.	To increase the maximum residential floor area ratio to 40.48%.

How do I participate if I have comments or concerns?
Submit written correspondence
You can send your written comments regarding the application by email (preferred) or regular mail to the Secretary-Treasurer noted below. Include your name, address and application number or address of the property in which you are providing comments. To allow all Committee of Adjustment members the opportunity to review

