

# COMMITTEE OF ADJUSTMENT

**MINOR VARIANCE REPORT**

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

**APPLICATION: CAV A/085/2024**

**RELATED FILE: N/A**

**DATE OF MEETING:**

**BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, MAY 29, 2024 AT 7:00 P.M.**

Owner/Applicant	Agent	Location of Land
Forestwood Property Corp	Makow Associates Architect Inc c/o Jim Pfeffer 306-95 St. Clair Avenue West Toronto ON M4V 1N7	PLAN 435 LOT 21 216 Forestwood Drive Town of Oakville

**OFFICIAL PLAN DESIGNATION: Low Density Residential – Special Policy**

**ZONING: RL1-0 WARD: 3**

**DISTRICT: East**

**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 proposing the following variance(s) to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 4.3 (Row 7)</i> The maximum encroachment into a minimum yard for window wells with a maximum width of 1.8 metres shall be 0.6m.	To increase the maximum encroachment into the minimum southerly interior side yard for the window well to 2.4 metres with a maximum width of 5.5 metres.
2	<i>Table 4.3 (Row 18)</i> The maximum encroachment into a minimum side yard for uncovered access stairs below grade shall be 0.0m.	To increase the maximum encroachment to 2.4 m into the minimum southerly interior side yard for the uncovered access stairs below grade.
3	<i>Table 4.3 (Row 18)</i> The maximum total projection beyond the main wall for uncovered access stairs below grade shall be 1.5m.	To increase the maximum total projection beyond the main wall to 4.0m for the uncovered access stairs below grade.
4	<i>Section 6.4.1 d)</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area of 1301.00 m <sup>2</sup> or greater shall be 29%.	To increase the maximum residential floor area ratio to 33.7%.
5	<i>Section 6.4.6 c)</i> The maximum height shall be 9.0 metres.	To increase the maximum height to 9.59m.
6	<i>Section 6.4.5</i> Balconies and uncovered platforms are prohibited above the floor level of the first storey on any lot in the -0 Suffix Zone.	To permit two balconies above the floor level of the first storey.

## **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 May 29, 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:

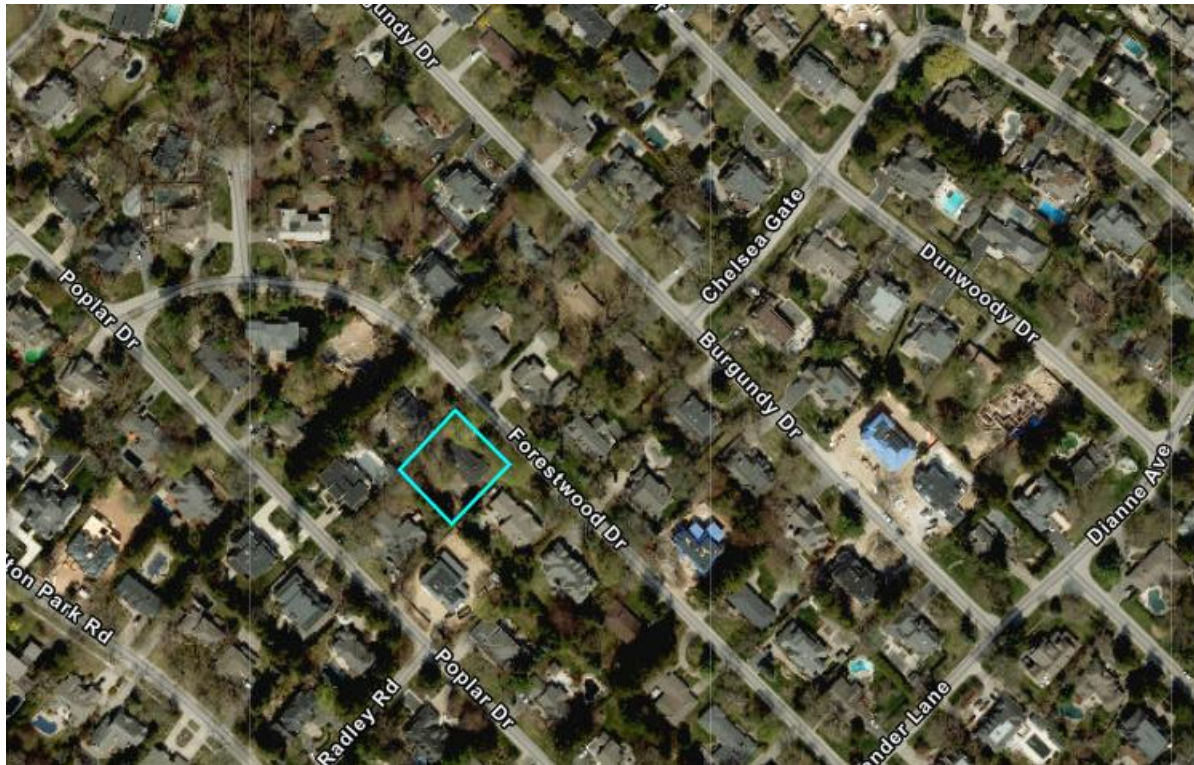
### **CAV A/085/2024 – 216 Forestwood Dr (East District) (OP Designation: Low Density Residential – Special Policy)**

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

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance 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 located on the southwest side of Forestwood Drive, as seen in the aerial photo below. The neighbourhood consists of original one and one-and-a-half-storey dwellings, along with many newer two-storey dwellings.



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

The subject lands are designated Low Density Residential – Special Policy Area in the Livable Oakville Plan. Policy 26.2.1, applies to the Low Density Residential designation and its intended to protect the unique character and integrity of the large lots in the area.

Furthermore, Section 11.1.9 indicates that development which occurs in stable residential neighbourhoods shall be evaluated using criteria that maintains and protects the existing character. The proposal was evaluated against all 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 intent of the above-mentioned Official Plan policies are to protect the existing character of stable residential neighbourhoods and to ensure that any potential impacts on adjacent properties are effectively mitigated. 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.

While redevelopment of much of the original housing stock has taken place in the surrounding area, Staff are of the opinion that the proposed variances to permit an increase in residential floor area ratio, an increase in height, and two balconies above the first storey would not maintain and protect the existing neighbourhood character, nor would they maintain the general intent and purpose of the Official Plan. The proposed dwelling is substantially larger than abutting single-storey dwellings and may create an overpowering effect on the streetscape.

On this basis, it is staff's opinion that variances 4, 5, and 6 do not maintain the general intent and purpose of the Official Plan as these variances contribute to a proposal that would not maintain nor protect the character of the existing neighbourhood. Variance 1, 2, and 3, however, do maintain the intent and purpose of the Official Plan. The increase in window well encroachment, stair encroachment, and stair projection located at the south side of the proposed dwelling will not impact the dwelling's appearance from the streetscape.

### **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** – Window Well Encroachment (No Objection)

**Variance #2** – Stair Encroachment (No Objection)

**Variance #3** – Stair Projection (No Objection)

The intent of regulating window well encroachment, stair encroachment, and stair projection are to allow for adequate drainage and passage through a yard so that they do not impede access and to allow for adequate open space and landscaping. The window well and access stairs are

located in the interior side yard, and a minimum interior side yard setback of 1.84m will be maintained. In this case, the window well and stairs lead below grade, allowing for adequate open space and landscaping to be maintained on site. Furthermore, Staff are of the opinion that the window well and stairs along the south elevation will not impede access. It is noted that drainage will continue to be reviewed as part of the building permit submission of detailed engineering plans.

**Variance #4** – Residential Floor Area Ratio (Objection)

**Variance #5** – Height (Objection)

The intent of regulating the residential floor area ratio and height is to ensure that the dwelling does not have the appearance of being larger than other dwellings in the neighbourhood. The statistics provided show that the applicant proposes a residential floor area ratio of 31.49%, whereas, a maximum of 29% is permitted, and a building height of 9.3m, whereas, a maximum of 9.0m is permitted. While it is recognized that the same residential floor area and building height were requested and approved in 2022, the dwelling proposed at that time was substantially different from that being reviewed today. The 2022 proposal included varying heights as visible from the front façade which broke up the massing and the sale of the dwelling (as can be viewed in the rendering below).



*Front Elevation Approved - 2022*

It is recognized that variances have been requested for many properties along Forestwood Drive, however, none exceed the residential floor area ratio and height proposed for the subject property. Staff are concerned that an increase in both residential floor area ratio and height will result in a dwelling with a mass and scale which creates an overpowering effect over the single-storey dwellings directly abutting the subject lands.





*Front Elevation Proposed - 2024*



*Existing Streetscape - 2024*

It is staff's opinion that variances requested for residential floor area ratio and height would not maintain the intent of the Zoning By-law.

#### **Variance #6 – Balconies (Objection)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit two balconies above the first storey, whereas second-storey balconies and uncovered platforms are prohibited. The intent of prohibiting second storey balconies is to prevent potential overlook and privacy impacts in the -0-suffix zone. In this case, the applicant proposes two balconies at the rear of the proposed dwelling. It is Staff's opinion that introducing an element that has been prohibited in the Zoning By-law would not meet the intent and purpose of the Official Plan or 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 proposed for an increase in residential floor area and height, and balconies above the first storey do not represent the appropriate development of the subject property as the variances are not minor in nature. The proposed dwelling may create 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 object to the requested variances related to the window well width, stair encroachment, and stair projection as they are minor in nature, and it is staff's opinion that variances 1, 2 and 3 satisfy all four tests under the *Planning Act*.

**Development Engineering Comments:**

*Due to general infrastructure capacity concerns on Forestwood Drive, the development should implement a form of onsite stormwater management in order to reduce the impact of the increase in runoff. A grading and drainage review will take place under the building permit process.*

**Forestry Comments:**

*The proposed CAV application showing a circular driveway will negatively impact a number of municipal street trees. The proposed driveway layout does not adhere to the Town of Oakville's minimum tree protection distances for the trees adjacent the new driveway entrance. In the event the new driveway entrance is re-designed to allow for proper tree preservation, Urban Forestry will require that the driveway design adhere to the municipal tree protection standards and that all construction related excavation limits be located beyond the regulated limits.*

Staff object to variances 4, 5, and 6 on the basis that they do not satisfy the 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:** SFD. No impact to Fire Dept. Access or Exposure limits. (JRO).

**Oakville Hydro:** We do not have any comments for this minor variance application.

**Transit:** No Comments received.

**Finance:** No Comments received

**Halton Region:**

- Due to recent Provincial legislation, as of July 1, 2024, the Region will no longer be responsible for the Regional Official Plan – as this will become the responsibility of Halton's four local municipalities. As a result of this change, a Memorandum of Understanding (MOU) between the Halton municipalities and Conservation Authorities is being prepared that identifies the local municipality as the primary authority on matters of land use planning and development. The MOU also defines a continued of interests for the Region and the Conservation Authorities in these matters. Going forward, comments offered through minor variance applications will be reflective of this changing role.
- 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 encroachment into the minimum interior side yard for the window well, an increase in the maximum encroachment into the minimum southerly interior side yard for the uncovered access stairs below grade, an increase to the maximum total projection beyond the main wall for the uncovered access stairs below grade, an increase to the maximum floor Area Ratio, an increase to the maximum height, and to permit two balconies above the floor level of the first storey, under the requirements of the Town of Oakville Zoning By-law, for the purposes of permitting a two-storey detached dwelling on the Subject Property.

**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".

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Heather McCrae, ACST  
Secretary-Treasurer