

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/087/2024

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
SUPPORT HOUSE c/o Barrie Sachs	SMDA Design Ltd c/o Hala Koshaji 1492 Wallace Road Oakville ON L6L 2Y2	CON 3 SDS PT LOT 10 RP 20R2981 PARTS 3,4 599 Chartwell Road Town of Oakville

OFFICIAL PLAN DESIGNATION: Business Employment
WARD: 3

ZONING: E2 SP: 3
DISTRICT: East

APPLICATION:

Under Section 45(2) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the enlargement of the existing dwelling (transitional housing) by proposing a two storey addition; whereas by-law 2014-014, as amended, does not permit a dwelling in an E2, Employment, Special Provision 3 zone.

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/087/2024 – 599 Chartwell Rd (East District) (OP Designation: Business Employment)

The applicant proposes to enlarge the existing dwelling (transitional housing) by constructing a two-storey northerly and southerly addition. The applicant requests the variance 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(2) in the *Planning Act* are met. The applicant is seeking a variance under Section 45(2), which will be reviewed below.

Variance under Section 45(2) of the *Planning Act*:

According to Section 45(2) of the *Planning Act*, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed continued until the date of the application to the Committee.

Section 28.10 of Livable Oakville contains similar policies concerning legal non-conforming uses, and that, in special circumstances, it may be appropriate to consider the expansion or enlargement of non-conforming uses.

The Committee of Adjustment has granted Minor Variances to permit expansions of the legal non-conforming use in 1984 (living room addition and enclosure of entryway) and in 2001 (rear single-storey addition). In 2014, Zoning By-law 2014-014 was passed, and the existing dwelling continues to be identified as a legal non-conforming use. The present request is necessary to permit the construction of an enclosed fire exit (stairwell), elevator, living area, accessible washroom, and two new bedrooms. The existing dwelling (transitional housing) provides supportive services to individuals with varying needs, as they transition to more independent living. The proposed expansion will allow the operation to provide greater accessibility and safety for residents, and will continue to be compatible with the surrounding industrial operations.

Staff note that the subject lands have continued to be used for residential purposes since prior to the passage of Zoning By-law 1984-063 and that funding has been allocated for the proposed works under the Regional Housing program.

Recommendation:

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

1. The additions be constructed in general accordance with the submitted site plan and elevation drawings dated September 15, 2023; 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: Residential. 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 a dwelling in an E2, Employment, Special Provision 3 zone, whereas by-law 2014-014, as amended, does

not permit a dwelling in an E2, Employment, Special Provision 3 zone, for the purposes of permitting the enlargement of the existing dwelling (transitional housing) on the subject property.

MTO: The subject property described above is located outside the MTO Permit Control Area and therefore, we have no comments.

Metrolinx:



To: Heather McCrae Secretary-Treasurer, Committee of Adjustment - Oakville (May 29th, 2024, Hearing)
From: *Adjacent Developments GO Expansion & LRT - Third Party Projects Review - Metrolinx*
Date: May 23rd, 2024
Re: CAV A/087/2024 - 599 Chartwell Road, Oakville

Metrolinx is in receipt of the Minor Variance application for 599 Chartwell Rd to construct a 2-storey addition to an existing transitional house building. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300m of the Metrolinx Oakville Subdivision which carries Metrolinx's Lakeshore West GO Train service.

Conditions of Approval:

- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
 - **Warning:** The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns, please do not hesitate to contact me.

Best regards,
Farah Faroque
Project Analyst, Third Party Projects Review
Metrolinx
10 Bay Street | Toronto | Ontario | M5J 2N8



Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the “**Easement Lands**”).

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.

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.

Requested conditions from circulated agencies:

1. The additions be constructed in general accordance with the submitted site plan and elevation drawings dated September 15, 2023.
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.



Heather McCrae, ACST
Secretary-Treasurer