

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/092/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, JUNE 12, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Ge Jin	Z Square Consulting Inc c/o Mengdi Zhen 2710 14th Avenue MARKHAM ON L3R 0J1	PLAN 352 LOT 25 147 Elmwood Road Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 2

ZONING: RL5-0
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 variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 6.3.1 (Row 5, Column RL5)</i> The minimum interior side yard shall be 1.2 m.	To reduce the minimum westerly interior side yard to 0.89 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 45.5%.

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 June 12, 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/092/2024 - 147 Elmwood Rd (West District) (OP Designation: Low Density Residential)

The applicant proposes to demolish the existing one-storey dwelling and construct a new two-storey dwelling. The applicant requests 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:

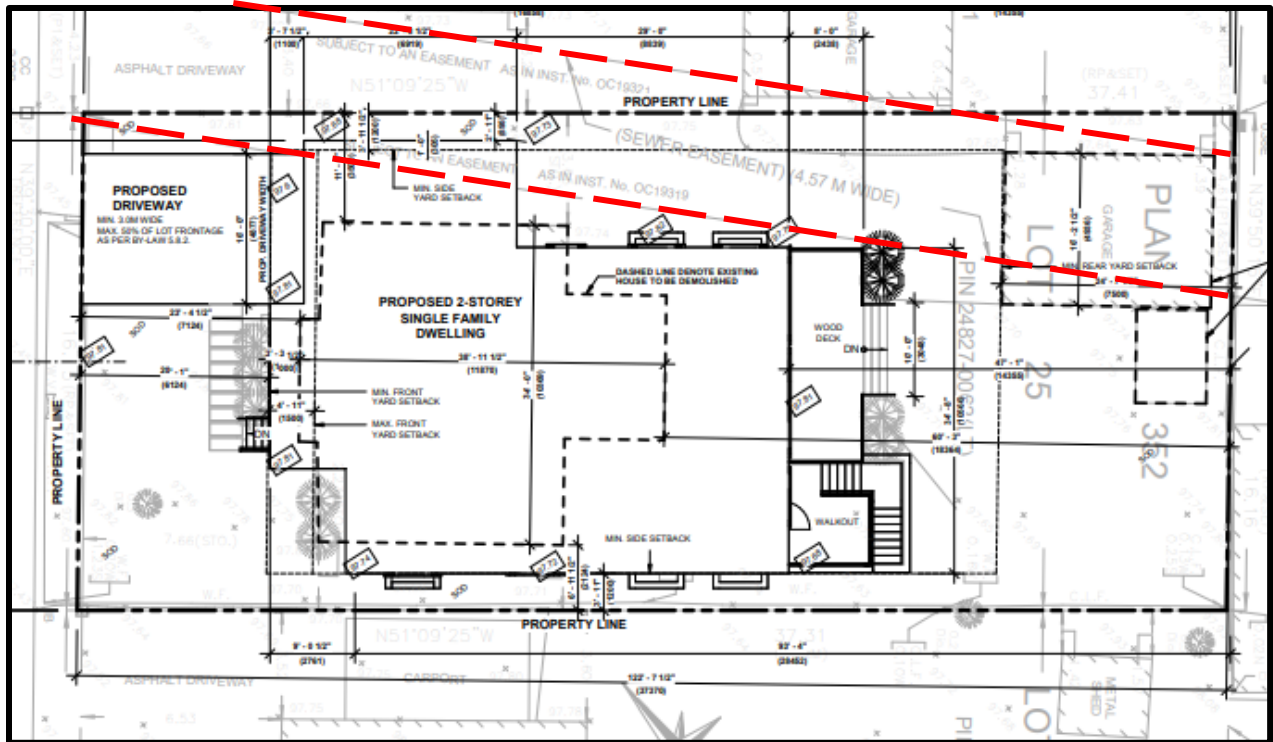
Site Area and Context

The subject lands are within a neighbourhood that predominately consists of original one-storey dwellings, with detached garages, carports, or no garages. The subject lands are adjacent to a two-storey dwelling with a detached garage (151 Elmwood Road) which appears to have undergone a renovation to add the second storey predominantly over the existing footprint, with a minor two-storey addition to the rear, which generally maintained the established rear yard condition of the street. As shown below, the dwellings on the north side of Elmwood Road create a generally consistent rear yard setback pattern for the main dwelling and any detached garages as shown below:



Rear Yard Setback Condition

Staff note that the west side of the subject property is encumbered by a Region of Halton servicing easement, on top of which there is an existing detached garage at the rear of the property. While it appears the applicant is proposing to remove the existing detached garage, the proposed dwelling will encroach into this easement to facilitate the new attached garage.



Servicing Easement shown in dashed line

The existing and proposed dwelling can be viewed in the images below.



147 Elmwood Road – Existing Dwelling



147 Elmwood Road – 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 to ensure new development will maintain and protect the existing neighbourhood character. The proposal was evaluated against the criteria established under 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.

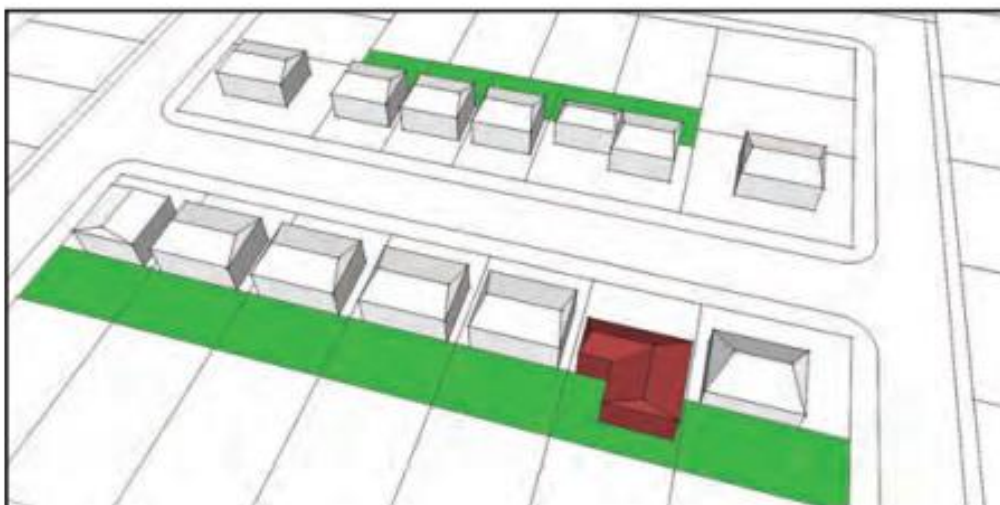
h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing.”

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 variances have 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.

3.1.3 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.

3.1.5 Rear Yard Privacy: The design and placement of new development should make every effort to minimize the potential impacts on the privacy of rear yard amenity spaces of adjacent properties by carefully considering building massing and the placement of building projections, decks and balconies, and screening vegetation.



Discouraged. A two-storey addition projecting into the established rear yard can create an undesirable overlook and shadowing condition on adjacent properties.

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.

The proposed dwelling creates an undesirable projection into the rear yard and does not provide an adequate transition to dwellings and their associated amenity areas on abutting properties. Along the eastern and western façades, the proposed dwelling does not incorporate design elements that would help to mitigate the impact of the massing and scale on abutting properties.

It is staff's opinion that the requested variance for an increase in residential floor area exacerbates this condition.

Further, the reduced side yard setback to the proposed attached garage does not appear to provide adequate space for grading and drainage for the site. On this basis, it is staff's opinion that the requested variances do 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 – Interior Yard Setback (Objection) – 1.2m decreased to 0.89m

The intent of regulating the side yard setback is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. As mentioned above, the reduced interior yard setback to the proposed attached garage appears to limit the opportunity for swales to support drainage. Additionally, the reduced setback further conflicts with the existing Region of Halton sewer easement on the property. On this basis, staff are of the opinion that the request does not maintain the general intent and purpose of the Zoning By-law.

Variance #2 – Residential Floor Area (Objection) – 42% increased to 45.5%

The intent of regulating the residential floor area is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. For the proposed dwelling the additional floor area results in exacerbating the rear yard projection of the dwelling by introducing an undesirable massing into the rear yards of the abutting dwellings. The proposed increase in residential floor area contributes to the development of a dwelling that does not maintain or protect the neighbourhood character. On this basis, staff are of the opinion that the requested variance does not maintain the general intent and purpose of the Zoning By-law.

Is the proposal minor in nature or desirable for the appropriate development of the subject lands?

It is staff's opinion that the cumulative impacts of the additional residential floor area and resulting footprint of the dwelling including the attached garage, which encroaches over the Region of Halton easement, are not minor in nature or appropriate for the development of the lands. The variances intend to facilitate a development that does not maintain the character of the neighbourhood and proposes additional encumbrance onto the Region of Halton easement.

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.

Fire: May 30/24 - Sideyard setback proposed to be reduced. South side of property reduced to 0.895m and North side access reduced to less than 1.2m for window wells and stairs. Inadequate access for fire-fighting operations provided. Design proposal not supported. (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 note that there is 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.
- Regional staff note that a garage is proposed to be constructed on the Regional easement.
- Regional staff, therefore, require the following materials to ensure that Regional easement rights are maintained:
 - An updated legal survey (which clearly identifies the easement); and
 - A revised set of drawings that demonstrate that the proposed development does not infringe upon the Regional easement.
- 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 a reduction to the minimum westerly interior side yard and an increase to 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.

Union Gas: No Comments received

Bell Canada: No Comments received

Letter(s)/Emails in support: One

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.



Heather McCrae, ACST
Secretary-Treasurer

Attachment:
Letter/Email in Support – 1

From:
Sent: Monday, June 3, 2024 10:18 PM
To: coarequests <coarequests@oakville.ca>
Subject: CAV A/092/2024 - 147 Elmwood Road (June 12)

RE: 6.1 CAV A/092/2024 - 147 Elmwood Road
Committee of Adjustments [Committee of Adjustment - June 12, 2024 \(escribemeetings.com\)](https://www.escribemeetings.com)

As a nearby neighbour of 147 Elmwood, I fully support this adjustment application. Our area is in desperate need of vitalization. The "character" of the existing area is drab & dated. The variances proposed are minor concessions for this progress and a welcomed update.

Thank you

Fox Bright
West Kerr Village Residents Association