

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/095/2024

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
J. Lee Properties c/o Jason Lee	Shore and Co. Inc c/o Rachel Shore 2-507 Speers Road Oakville ON L6K 2G4	PLAN 352 LOT 9 118 Elmwood Road Town of Oakville

OFFICIAL PLAN DESIGNATION: Kerr Village Growth Area - Main Street 1 – Bonusing Overlay

ZONING: H1-MU1 Main Street 1

WARD: 2

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 an accessory building (detached private garage) on the subject property proposing the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
1	16.3.1.2 a – e) For such time as the “H” symbol is in place, only the following replacements, additions or expansions of buildings or structures legally existing on the effective date of this By-law shall be permitted.	To permit the construction of a new accessory building.

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/095/2024 - 118 Elmwood Rd (West District) (OP Designation: Kerr Village Growth Area - Main Street 1 – Bonusing Overlay)

The applicant proposes to construct a new detached accessory building (detached garage). However, Zoning By-law 2014-014, Section “H1”, prohibits the construction of new accessory buildings while the “H” symbol is in effect.

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:

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

The subject property is designated Main Street 1 with a bonusing overlay and is located within the Kerr Village Growth Area. Given the changes to Section 37 of the *Planning Act* the bonusing overlay is no longer implementable and a conformity exercise is underway to address this. The existing detached dwelling is a legal use, and the proposed garage would replace an existing garage.

It is staff’s opinion that the proposal, as described above, maintains the general intent and purpose of the Official Plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

The “H1” holding provision is authorized through section 36 of the *Planning Act* and is used to put limits on development of land, until certain conditions are met. In this case, redevelopment of the land with a more intense land use (such as an apartment permitted by the Main Street 1 designation), cannot proceed until it is demonstrated that sufficient water and wastewater services are available, associated infrastructure is provided / secured and any applicable agreements are entered into.

The proposed replacement of a detached garage does not constitute intensification of the subject lands. It is an accessory use to the legal detached dwelling. Accordingly, staff are of the opinion that the request maintains the general intent and purpose of the Zoning By-law and in-effect Holding Provision (H1).

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

Staff are of the opinion that the proposal represents appropriate development of the subject property. The proposed replacement detached garage has been sufficiently set back from the rear property line and has removed and effectively mitigated any impact on the neighbouring properties’ trees. Additionally, staff are of the opinion that the variance is appropriate as the proposal does not constitute intensification. The variance is minor in nature and will not create any undue adverse impacts to adjoining properties and will not preclude this site from the future redevelopment, as enabled by the policies of the Livable Oakville Plan

Note Regarding Submitted Plans

Staff note that an Arborist Report and Tree Inventory and Preservation Plan was submitted with the application showing that a previous iteration of the detached garage may result in injury to the neighbouring property owner’s trees. Staff note that the site plan drawing submitted shows the detached garage has been moved farther away from the rear property line, and the neighbouring trees, to a more appropriate distance that will not impact tree protection zones. As a condition of approval, the detached garage will be required to be constructed in the location indicated on the site plan.

Recommendation:

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

1. That the accessory building (detached garage) 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: May 30/24 - SFD. No impact to Fire Review.

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 the construction of a new accessory building, under the requirements of the Town of Oakville Zoning By-law 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.

Requested conditions from circulated agencies:

1. That the accessory building (detached garage) 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.

A rectangular box containing a handwritten signature in blue ink. The signature appears to read "Heather McCrae".

Heather McCrae, ACST
Secretary-Treasurer