

COMMITTEE OF ADJUSTMENT

CONSENT REPORT

STATUTORY AUTHORITY: Section 53 of the *Planning Act*, 1990

APPLICATION: B23/09 (1732)

RELATED FILES: CAV A/107/2023

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, JUNE 26, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
William and Sandralee Cudmore 3175 Lakeshore Road West Oakville ON L6L 1J7	Planscape Inc c/o Stefan Szczerbak 104 Kimberley Avenue Bracebridge ON P1L 1Z8	CON 4 SDS PT LOT 32 PLAN M257 BLK 78 RP 20R12966 PARTS 1 to 3 3175 Lakeshore Road West Town of Oakville

**OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1**

**ZONING: RL8 & RL3-0
DISTRICT: West**

APPLICATION:

Under subsection 53(42) of the *Planning Act*, the applicant is requesting to permit the consent for the creation of a Lot Addition.

Application has been made for Consent for the creation of a Lot Addition. The application is asking to convey a portion of land (PART 1 – PARCEL TO BE SEVERED (to be added to Block 78) approximately 203.95m² in area with an approximate frontage of 6.03m (@7.50m) and a depth of 29.29m to be severed from CON 4 SDS PT LOT 32 PLAN M257 BLK 78 RP 20R12966 PARTS 1 to 3 for the purpose of a Lot Addition. The retained parcel (PART 2 – PARCEL TO BE RETAINED) is approximately 1449.67m² in area with an approximate frontage of 45.41m (@7.50m on Lakeshore Road West) and a current depth of 41.37m. The property currently has a 2.5 storey brick dwelling that is to remain.

This application is being considered with related **Minor Variance CAV A/107/2023 for BLOCK 78 (Victoria Street). Variance Notice below.**

The said parcels being more particularly described on the Severance Sketch based on Field work performed by J. H. Gelbloom Surveying Ltd., Project 20-122 Date: January 11, 2022.

Variance Request CAV A/107/2023:

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the lot addition (Part1) of consent application B23/09 for the subject property (Block 78, Plan M-257) proposing the following variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	Table 6.3.1 (Row 1, Column RL3) The	To permit the minimum lot area for the lot

	minimum lot area shall be 557.5 sqm. <i>Table 6.3.3 (Row 1 Column Detached Dwellings)</i> The minimum lot area shall be 360.0 sqm.	which is split zoned RL8 and RL3-0 to be 423.15 sqm.
2	<i>Table 6.3.1 (Row 2, Column RL3)</i> The minimum lot frontage shall be 18.0m. <i>Table 6.3.3 (Row 2, Column Detached Dwellings)</i> The minimum lot frontage shall be 12.0m.	To permit the minimum lot frontage for the lot which is split zoned RL8 and RL3-0 to be 18.0m.

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

**TOWN OF OAKVILLE
CONSENT AND MINOR VARIANCE REPORT**

To: Heather McCrae, Secretary-Treasurer

From: Planning Services

Date: June 14, 2024

Subject: **Consent B23/09 (1732) and CAV A/107/2023**
3175 Lakeshore Road West

NOTE: The Consent application B23/09 (1732) and Minor Variance application CAV A/107/2023 should be considered together.

BACKGROUND

At the September 20, 2023 Committee of Adjustment meeting, the subject Consent and Minor Variance applications were deferred by the applicant to enable further discussions to occur on the following conditions contained in the previous reports submitted to the Committee.

Condition 8 (Consent)

That the owner/applicant enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling.

Condition 4 (CAV)

That the owner/applicant agrees to enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling.

Both previous staff reports are included as Appendices (A and B) and should be read together with this report to provide the background on both applications.

Since the September 20, 2023 meeting, staff have met several times with the applicant's representative and now have agreed on a revised condition to address tree preservation as follows, which is to be applied to both recommended set of conditions.

Revised Condition:

That the owner/applicant enter into a Minor Variance and Consent agreement, inclusive of the submission of a tree security, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a Property Information Sketch dated November 3, 2023, prepared by Planscape demonstrating a development envelope which protects Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023.

Heritage

A recommended condition contained in the previous reports, reflected the following.

That Oakville Town Council be given the opportunity to consider designation for the retained portion of the property, known as 'Cudmore House' under Section 29, Part IV of the Ontario Heritage Act prior to any consent being finalized for the creation of the proposed new lot.

Council, at the April 8, 2024 Planning and Development/Council meeting, passed the following recommendation related to the subject property.

7.3 Notice of Intention to Designate – 3175 Lakeshore Road West

That a notice of intention to designate be issued under section 29, Part IV of the Ontario Heritage Act for the Cudmore House at 3175 Lakeshore Road West. CARRIED

By-law 2024-093, a by-law to designate the Cudmore House at 3175 Lakeshore Road West as a property of cultural heritage value or interest, was passed by Council on June 10, 2024.

As such, Condition 5 (Consent) and Condition 1 (CAV) from the original recommended conditions is no longer applicable. The intent of the original condition has been fulfilled.

Condition 9 (Consent Conditions)

In consideration of Bill 185 and Halton Region's changing role in land use planning and development, the Region will no longer be responsible for the Regional Official Plan. This will become the responsibility of Halton's four local municipalities.

As a result of this, the clearance agency for condition 9 will become the Town of Oakville.

RECOMMENDATION

In consideration of the above, the recommendation of Planning staff as set out in the previous reports remain applicable with the following set of revised conditions. Revised conditions have been *italicized*.

Consent application B23/09 (1732)

That consent application B23/09 (1732) to permit a lot addition (Part 1) having approximately 204 m² of lot area from 3175 Lakeshore Road West to be merged with Block 78, Plan M-257 having an area of approximately 219 m², frontage of 12.4 m, and a depth of approximately 27.5 m, be approved subject to the following conditions.

FILE NO.: B23/09 (1732) CONDITIONS OF APPROVAL (REVISED)

1. That the owner/applicant submit the digital copy of a reference plan showing the lands to be conveyed and a registerable legal description of the lands to be conveyed, to the Secretary-Treasurer, prior to the issuance of Consent.
2. That the owner/applicant submit to the Secretary-Treasurer a final certification fee payable to the Town of Oakville at the rate prescribed at the time of payment.
3. The final consent certificate shall include the following clause to the satisfaction of the town's Legal Department.

Sections 50(3) and 50(5) of the Planning Act shall apply to any subsequent conveyance of or transaction involving the Severed Lands

4. That the owner/applicant receive approval of Minor Variance application CAV A/107/2023, prior to the issuance of Consent.

5. *Not applicable*

6. That the owner/applicant pay all taxes as levied on the property in full.
7. That the Owner and the adjoining landowner who is acquiring the Severed Lands ("Adjoining Owner") enter into a merger agreement with the Town to be registered on title to both the Owner's and Adjoining Owner's lands and pay the applicable fees associated with the preparation and registration of the merger agreement to the satisfaction of the Town.
8. *That the owner/applicant enter into a Minor Variance and Consent agreement, inclusive of the submission of a tree security, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a Property Information Sketch dated November 3, 2023, prepared by Planscape demonstrating a development envelope which protects Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023.*
9. The Owner is required to provide a completed new Environmental Site Screening Questionnaire (ESSQ), to the satisfaction of *Town of Oakville*.

Notes:

Should the proposed severance impact services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner. Also, should future gas

service be required to either the severed or retained parcel, please ensure that an application for gas service is submitted through the Union Gas online application tool 'Get Connected'.

FILE NO.: CAV A/107/2023 CONDITIONS OF APPROVAL (REVISED)

For the reasons outlined in the attached staff report, Staff are of the opinion that the application satisfies the applicable tests under the *Planning Act*. Should the Committee's concur with staff's opinion, the following conditions are requested:

1. **Not applicable**
2. That Consent B23/09 (1732) be approved and the Certificate of Official issued.
3. That the approval expire two (2) years from the date of decision if the proposed scope of work has not been fully completed, being the issuance of the Certificate of Official for B23/09 (1732).
4. *That the owner/applicant enter into a Minor Variance and Consent agreement, inclusive of the submission of a tree security, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a Property Information Sketch dated November 3, 2023, prepared by Planscape demonstrating a development envelope which protects Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023.*

Appendix

Appendix A – Previous Consent Report
Appendix B – Previous Variance Report

Prepared by:
Robert Thun, MCIP, RPP, Senior Planner – West District

Reviewed by:
Paul Barrette, MCIP, RPP, Manager – West District

Approved by:
Gabriel A.R. Charles, MCIP, RPP Director, Planning Services

APPENDIX A – PREVIOUS CONSENT REPORT

**TOWN OF OAKVILLE
CONSENT**

To: Heather McCrae, Secretary-Treasurer

From: Planning Services

Date: September 13, 2023

Subject: **Consent B23/09 (1732)**
3175 Lakeshore Road West

RECOMMENDATION

That Consent application B23/09 (1732) to permit a lot addition (Part 1) having approximately 204 m² of lot area from 3175 Lakeshore Road West to be merged with Block 78, Plan M-257 having an area of approximately 219 m², frontage of 12.4 m, and a depth of approximately 27.5 m, be approved subject to the Conditions attached as Appendix "A".

Note: The Consent application should be considered together with Minor Variance application CAV A/107/2023

LOCATION

The subject property is located on the north side of Lakeshore Road West, west of West Street. The property has a municipal address of 3175 Lakeshore Road West, and is legally described as PT LT 32, Con 4 Traf, SDS, Parts 2 & 3, 20R12966, as shown with a yellow star on Figure 1. The blue circle on Figure 1 reflects Block 78, Plan M-257.



Figure 1: Subject Lands

PURPOSE (see Figure 2)

The purpose of the consent application is to convey a portion of land (Part 1) as a lot addition (approximately 203.95m² in area with an approximate frontage of 6.03m (@7.50m) and a depth of 29.29m to the abutting Block 78, Plan M-257. The retained parcel (Part 2) is approximately 1449.67m² in area with an approximate frontage of 45.41m (@7.50m on Lakeshore Road West) and a current depth of 41.37m.

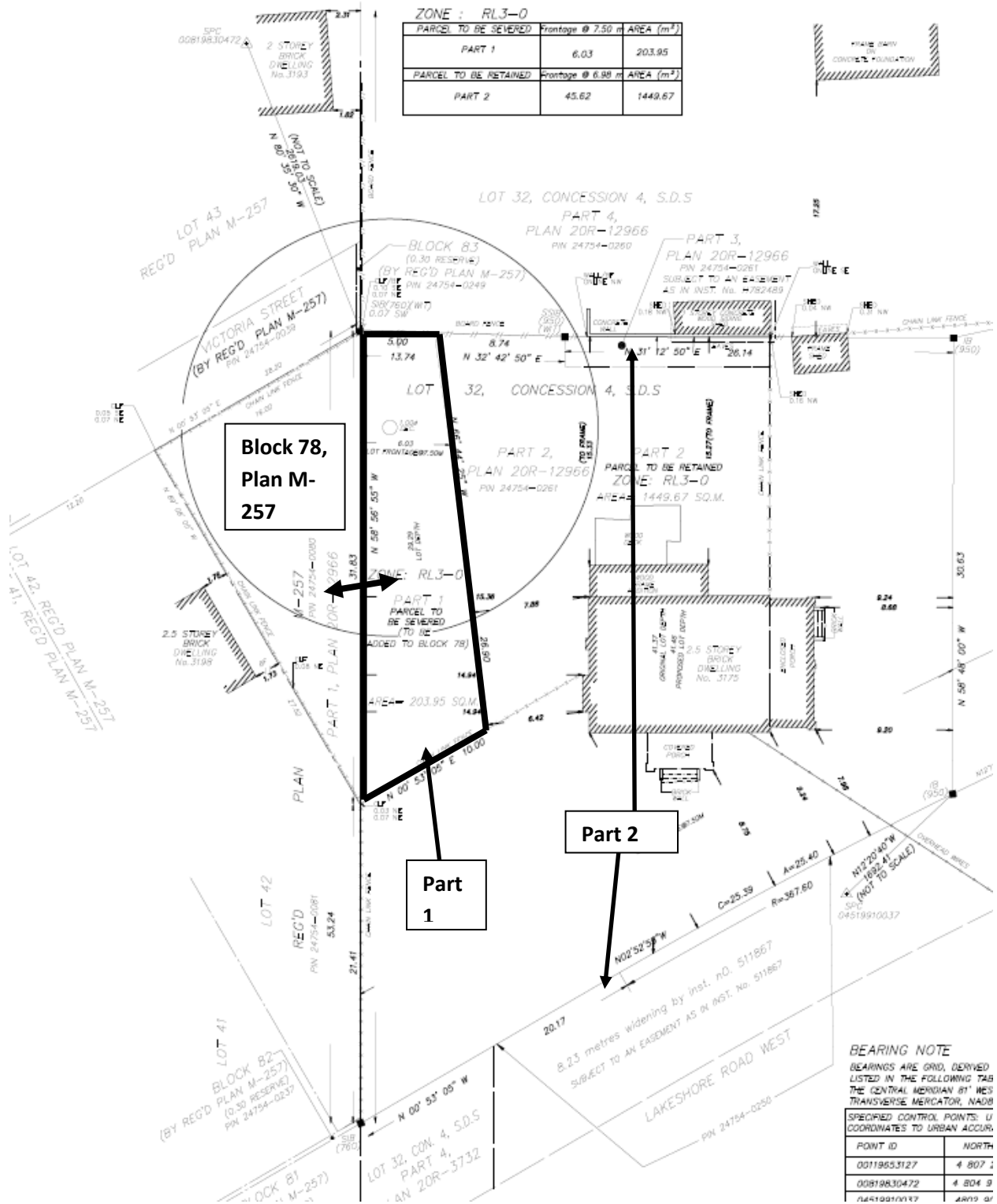


Figure 2: Severance Sketch

LIVABLE OAKVILLE PLAN

The subject lands are designated “Low Density Residential” on Schedule F, South West Land Use Plan.

The consent policies contained within Section 28 provides direction on when a lot addition can be granted. Policy 28.14.1 states:

“Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot, provided an undersized lot is not created.”

The existing lot (3175 LRW) has frontage on a public street (Lakeshore Road West) and is serviced with municipal water, wastewater, and sanitary services.

Part 1 (severed lot) is proposed to be merged with Block 78, Plan M-257 to create a building lot with frontage on Victoria Street.

Access to the retained lot will remain from Lakeshore Road West. Access to the proposed lot and municipal services would be available from Victoria Street.

ZONING

3175 Lakeshore Road West is zoned RL3-0 with Block 78, Plan M-257 being zoned RL8 within Zoning By-law 2014-014.

The following reflect the existing zoning lot area and lot frontage requirements for each portion of the proposed lot.

Zone	Min. Lot Area (m2)	Min. Lot Frontage
RL8 (Block 78, Plan M-257)	360	12
RL3-0 (Part 1 of 3175 LRW)	557.5	18
3175 LRW (Part 2, Retained Parcel)	1149.67	45.57 m on LRW

The proposal is subject to a concurrent Minor Variance application (CAV A/107/2023) for the following matters, and as such both matters should be reviewed together.

No.	Zoning By-law Regulation	Variance Request
1	Table 6.3.1 (Row 1, Column RL3) The minimum <i>lot area</i> shall be 557.5 sqm. Table 6.3.3 (Row 1 Column Detached Dwellings) The minimum <i>lot area</i> shall be 360.0 sqm.	To permit the minimum <i>lot area</i> for the <i>lot</i> which is split zoned RL8 and RL3-0 to be 423.15 sqm.
2	Table 6.3.1 (Row 2, Column RL3) The minimum <i>lot frontage</i> shall be 18.0m. Table 6.3.3 (Row 2, Column Detached Dwellings) The minimum <i>lot frontage</i> shall be 12.0m.	To permit the minimum <i>lot frontage</i> for the <i>lot</i> which is split zoned RL8 and RL3-0 to be 18.0m.

COMMENTS

Block 78, Plan M-257 is a residential reserve related to the former development of the surrounding Plan M-257. The intent of Block 78 was to create a lot in the future, once Victoria Street was extended eastward.

Staff are presently processing planning applications on the former Cudmore Garden centre site immediately to the east. The related Official Plan Amendment / Zoning Bylaw amendments were granted final approval on August 8, 2023 by the Ontario Land Tribunal (OLT) with the Draft Plan of Subdivision being granted conditional draft plan approval by the OLT. In addition, staff have been processing a concurrent site plan application for 35 residential units comprising of 8 semi-detached and 27 townhouse units for those lands.

As a result, Victoria Street will be extended eastward terminating in a cul-de-sac, just east of Part 1.

The 5.0 metre northerly dimension for the severed parcel is deemed by Zoning to be a side yard. Frontage for the merged and split zoned parcel is measured 7.5 metres back from the front lot line, between the two side lot lines and has been determined by Zoning staff to be approximately 18 metres.

The proposed lot area for the new lot, considering the split zoning and the on-going CAV application, would be in the middle of the lot area range between the RL3-0 and RL8 zones. The lot frontage would be greater than the surrounding RL8 properties.

Heritage

Heritage staff were circulated the Consent and Variance applications and provided the following comments.

“3175 Lakeshore Road West is listed under s. 27 of the Ontario Heritage Act (the Act) on the Oakville Register of Properties of Cultural Heritage Value of Interest. Heritage Planning staff have reviewed the Heritage Impact Assessment (HIA) provided by Megan Hobson and have visited the subject property to view the conditions on site. The HIA concludes that the house meets three of the nine criteria for defining cultural heritage value as set out in Ontario Regulation 9/06 and that the proposed severance (identified in the HIA as the ‘Alternative Option’ but matching the severance applied for) would not have a negative impact on the identified cultural heritage value. Heritage Planning staff do not disagree with these conclusions.

As noted in the Provincial Policy Statement (2020) (PPS), Section 2.6.1 ‘Significant built cultural heritage resources and significant cultural heritage landscapes shall be conserved’. The evaluation of the property included in the HIA has identified three criteria of Ontario Regulation 9/06 are met. As per Ontario Regulation 9/06, ‘property may be designated under section 29 of the Act if it meets two or more of the criteria for determining whether it is of cultural heritage value or interest’, Heritage Planning staff would require that Council consider the designation of the property under Section 29, Part IV of the Ontario Heritage Act as a condition of approval for the consent to sever. This would ensure that future development on the newly created lot consider the cultural heritage value and heritage attributes (if applicable) of the retained property through the application of Section 2.6.3 of the PPS which states: ‘Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved’.

From a cultural heritage perspective, Policy 5.3.1 states the following:

“The Town shall encourage the conservation of cultural heritage resources identified on the register and their integration into new development proposals through the approval process and other appropriate mechanisms”.

While a variance is necessary for lot area and lot frontage for the merged lot, the overall intent maintains the heritage merits on Part 2 of 3175 Lakeshore Road West. The proposed easterly lot line for the merged lot would be approximately 6.42 metres (min) from the heritage house, which provides a greater side yard setback than the required 2.4/1.2 m RL3 side yard regulation.

In consideration of the above, the following condition has been included within this consent report and associated CAV report (CAV A/107/2023).

That Oakville Town Council be given the opportunity to consider designation for the retained portion of the property, known as 'Cudmore House' under Section 29, Part IV of the Ontario Heritage Act prior to any consent being finalized for the creation of the proposed new lot.

A report will be brought forward to the October 24, 2023 Heritage Oakville Committee meeting for consideration of the heritage designation merits for the retained parcel (Part 2).

Tree Protection (see Figure 3)

The applicant submitted an Arborist report which provides an assessment of the trees on site. Regarding Tree #4 (Red Oak, 1 m dbh), within Section 6.2 of the Arborist report, the following is stated:

"6.2 Tree Preservation

It is anticipated that the preservation of Trees 1-4 will be possible with the use of appropriate tree protection measures. Encroachment within the mTPZ of Tree 4 may be required to accommodate development. If such is the case, a Tree Protection Zone Encroachment Permit from the Town would be required.

Depending on the amount of encroachment within the mTPZ of Tree 4, mitigation measures such as sensitive excavation methods, root pruning, watering and fertilizing/compost tea applications may be required, pending the review of detailed development plans by an ISA Certified Arborist.

Tree 4 will also likely require crown pruning in order to provide vertical working space for the construction of a single family residential dwelling, including a driveway. Any crown pruning must be completed by a Certified Arborist in damaged by development activities.

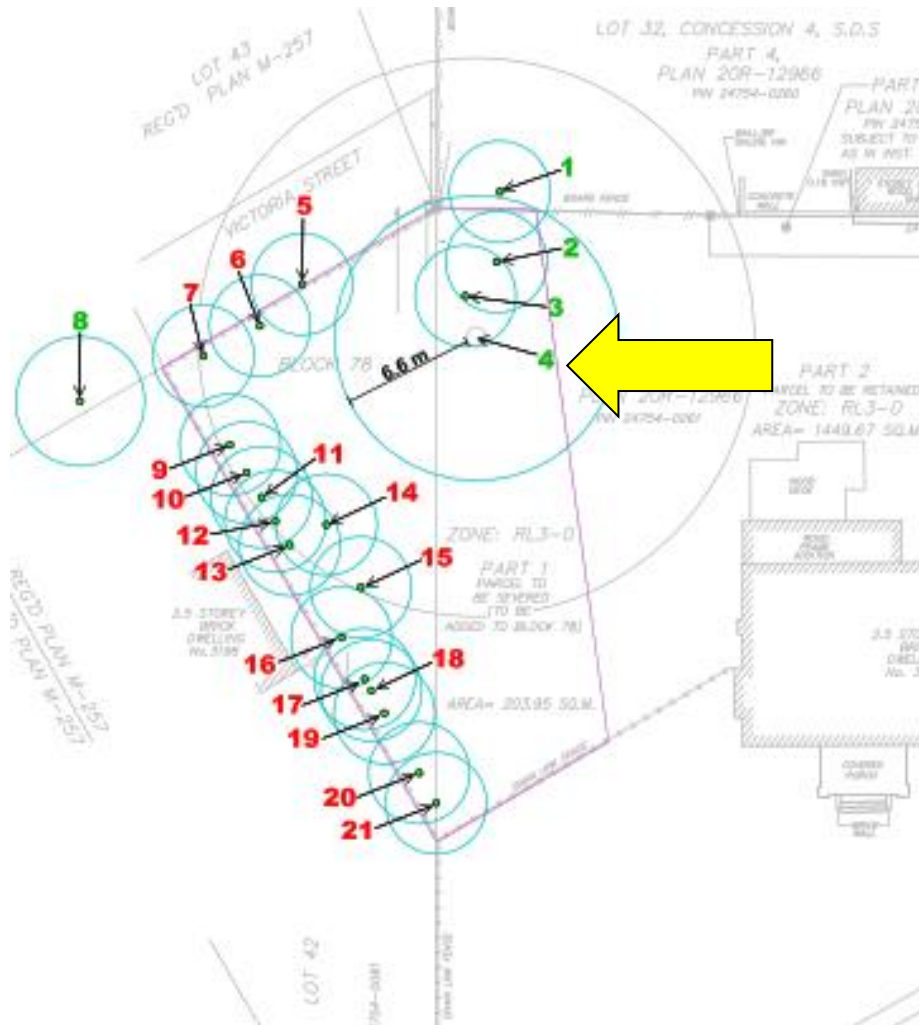


Figure 3 – Tree Preservation Plan Excerpt from Arborist Report

Within the Livable Oakville Plan, Part C, Section 6.10.2 Landscaping states the following:

*“6.10.2 Development should preserve and enhance the urban forest by:
 a) maintaining existing healthy trees, where possible; ...”*

In consideration of the applicant’s arborist report and to ensure that Policy 6.10.2 is satisfactorily addressed, a condition is being included as follows:

That the owner/applicant enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling.

Standard conditions were identified through the Staff review and Agency comment in response to the Notice and Circulation. These conditions have been included in Appendix “A” of this report. Staff and Agency comments are included Appendix “B” of this report.

CONCLUSION

The lot addition does not conflict with any provincial or municipal requirements, subject to concurrent relief being sought to the Zoning By-law.

On this basis, Staff recommends approval of Consent application B23/09 (1732) subject to the Conditions attached as Appendix “A”.

Prepared by:

Robert Thun, MCIP, RPP, Senior Planner – West District

Reviewed by:

Paul Barrette, MCIP, RPP, Manager – West District

Approved by:

Gabriel A.R. Charles, MCIP, RPP Director, Planning Services

APPENDIX “A” – B23/09 (1732) CONDITIONS OF APPROVAL

1. That the owner/applicant submit the digital copy of a reference plan showing the lands to be conveyed and a registerable legal description of the lands to be conveyed, to the Secretary-Treasurer, prior to the issuance of Consent.
2. That the owner/applicant submit to the Secretary-Treasurer a final certification fee payable to the Town of Oakville at the rate prescribed at the time of payment.
3. The final consent certificate shall include the following clause to the satisfaction of the town’s Legal Department.

Sections 50(3) and 50(5) of the Planning Act shall apply to any subsequent conveyance of or transaction involving the Severed Lands

4. That the owner/applicant receive approval of Minor Variance application CAV A/107/2023, prior to the issuance of Consent.
5. That Oakville Town Council be given the opportunity to consider designation for the retained portion of the property, known as ‘Cudmore House’ under Section 29, Part IV of the *Ontario Heritage Act* prior to any consent being finalized for the creation of the proposed new lot.
6. That the owner/applicant pay all taxes as levied on the property in full.
7. That the Owner and the adjoining landowner who is acquiring the Severed Lands (“Adjoining Owner”) enter into a merger agreement with the Town to be registered on title to both the Owner’s and Adjoining Owner’s lands and pay the applicable fees associated with the preparation and registration of the merger agreement to the satisfaction of the Town.
8. That the owner/applicant enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling.
9. The Owner is required to provide a completed new Environmental Site Screening Questionnaire (ESSQ), to the satisfaction of Halton Region.

Notes:

- Should the proposed severance impact services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner. Also, should future gas service be required to either the severed or retained parcel, please ensure that an application for gas service is submitted through the Union Gas on line application tool 'Get Connected'.

APPENDIX "B" – B23/09 (1732) STAFF & AGENCY COMMENTS

With respect to B23/09 (1732), the following Departments/Agencies have indicated no comments or concerns with the proposal:

- Building Services – Plan & Code Review
- Fire Prevention
- Legal Realty - No Cash in Lieu of Parkland for 3175 Lakeshore Road West as there is a current dwelling on the property.

Heritage Planning Comments:

The property at 3175 Lakeshore Road West is listed under s. 27 of the *Ontario Heritage Act* (the Act) on the Oakville Register of Properties of Cultural Heritage Value of Interest. Heritage Planning staff have reviewed the Heritage Impact Assessment (HIA) provided by Megan Hobson and have visited the subject property to view the conditions on site. The HIA concludes that the house meets three of the nine criteria for defining cultural heritage value as set out in Ontario Regulation 9/06 and that the proposed severance (identified in the HIA as the 'Alternative Option' but matching the severance applied for) would not have a negative impact on the identified cultural heritage value. Heritage Planning staff do not disagree with these conclusions.

As noted in the *Provincial Policy Statement (2020) (PPS)*, Section 2.6.1 '*Significant built cultural heritage resources and significant cultural heritage landscapes shall be conserved*'. The evaluation of the property included in the HIA has identified three criteria of Ontario Regulation 9/06 are met. As per Ontario Regulation 9/06, '*property may be designated under section 29 of the Act if it meets two or more of the criteria for determining whether it is of cultural heritage value or interest*', Heritage Planning staff would require that Council consider the designation of the property under Section 29, Part IV of the *Ontario Heritage Act* as a condition of approval for the consent to sever. This would ensure that future development on the newly created lot consider the cultural heritage value and heritage attributes (if applicable) of the retained property through the application of Section 2.6.3 of the PPS which states: '*Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved*'.

Zoning

Subject to minor variance approval to permit the lot which is split zoned RL8 and RL3-0.

Parks and Open Space, Forest Protection, Parks and Open Space

Based on the arborist report and site inspection, it appears that a number of 16 trees may require removal. Six out of those trees would be subject to the private tree by-law and one tree is town owned (15 cm dbh white mulberry).

Development Engineering

Development Engineering has no comments for the B23/09 (1732) application. Applicant should consider consulting with Urban Forestry.

The applicant is advised that:

- Permits may be required should any proposed works be carried out on the property i.e. site alteration permit, pool enclosure permit, tree preservation, etc.
- Any current or future proposed works that may affect existing trees (private or municipal) will require an arborist report and/or a tree preservation assessment.
- The driveway location is subject to review and approval by the Development Engineering Department and Engineering & Construction Department and will be reviewed in detail during the site alteration permit. The driveway design & spacing must comply with the Driveway By-law (by-law 2009-072).
- A site alteration application (and approval) will be required to develop the severed lands.

Legal Department

Since this is a lot addition, please include the condition for a merger agreement below:

“That the Owner and the adjoining land owner who is acquiring the Severed Lands (“Adjoining Owner”) enter into a merger agreement with the Town to be registered on title to both the Owner’s and Adjoining Owner’s lands and pay the applicable fees associated with the preparation and registration of the merger agreement to the satisfaction of the Town.”

Also, since we do not want the severed parcel to be transferred on its own in the future, we should include in the consent certificate a statement that Sections 50(3) and 50(5) of the Planning Act shall apply to any subsequent conveyance of or transaction involving the Severed Lands.

Oakville Hydro

The existing underground secondary service for 3175 Lakeshore Road West runs from Victoria Street through the proposed lot to be severed to the house, see screenshot below.

A new underground service for 3175 Lakeshore Road W would have to be installed from Lakeshore Road at the owner’s expense and a new underground service for the proposed lot to be severed would have to be installed from Victoria Street at the owner’s expense.

Halton Region

**RE: Region of Halton Comments – 1st Submission
Consent Application
File: B23/09 (1732)
W. & S. Cudmore
3175 Lakeshore Road West, Town of Oakville**

Regional staff are forwarding comments in response to the circulation of the 1st submission for the above-noted application circulated on July 7, 2023.

This is a Consent application for a Lot Addition. The applicant is asking to convey a portion of land (PART 1 – Parcel to be severed (to be added to Block 78) approximately 203.95m² in area with an approximate frontage of 6.03m (@7.50m) and a depth of 29.29m to be severed from CON 4 SDS PT LOT 32 PLAN M257 BLK 78 RP 20R12966 PARTS 1 to 3 for a Lot Addition. The retained parcel (PART 2 – Parcel to be retained) is approximately 1449.67m² in area with an approximate frontage of 45.41m (@7.50m on Lakeshore Road West) and a current depth of 41.37m. The Subject Lands currently has a 2.5 storey brick dwelling that is to remain, and the new lot will have frontage on Victoria Street.

In addition, should the Consent application be approved, the Proponent will require a minor variance application, as per CAV A/107/2023, for Block 78. The proposed variance is seeking relief under Section 45(1) of the Planning Act to permit an increase in the minimum lot area and an increase in the minimum lot frontage, under the requirements of the Town of Oakville Zoning By-law. Regional staff have no objections to the above-noted Minor Variance application.

Staff have considered the proposed consent application within the context of Provincial planning documents and the Regional Official Plan and have **no objection**, subject to the comments and conditions herein.

Region of Halton Official Plan:

Land use:

The Region's Official Plan provides goals, objectives and policies to direct physical development and change in Halton. The proposed development are located on the lands that are designated as 'Urban Area' are located within the Built Boundary in the 2009 Halton Region Official Plan (ROP). The policies of Urban Area designation support range of uses and the development of vibrant and healthy mixed-use communities that afford maximum choices for residence, work, and leisure. The Urban Area policies state that the range of permitted uses and the creation of new lots in the Urban Area will be per Local Official Plans and Zoning-By-laws. All development, however, will be subject to the policies of the ROP.

Regional staff are satisfied that the submitted Consent Application conforms to the Urban Area policies of the ROP.

Archaeological Potential:

The ROP also contains policies concerning archaeological potential, and the preservation, mitigation and documentation of artifacts. Staff note that the Subject Lands are identified as

having archaeological potential. However, as the development area has been previously disturbed with existing development, an Archaeological Assessment is not required by Halton Region.

The proponent is cautioned that during development activities, should deeply buried archaeological remains/resources be found on the property during construction activities, the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism shall be notified immediately (archaeology@ontario.ca). If human remains are encountered during construction, the owner shall immediately notify the police or coroner, the Registrar, Ontario Ministry of Public and Business Service Delivery, who administers provisions of that Act related to burial sites, and the Ministry of Citizenship and Multiculturalism.

Site Contamination:

Per Section 147(17) of the Region's Official Plan, properties are to be free of contamination prior to any development and/or changes of use taking place. As such, Regional staff require the submission of the Region's new Environmental Site Screening Questionnaire (ESSQ). A condition to address this requirement has been added to Schedule "A" of this letter.

Other Regional Comments:

Water and Wastewater Servicing:

Section 89(3) of the ROP requires that all new development within the Urban Areas be based on connection to Halton's municipal water and wastewater service.

The following information is a review of the existing services adjacent to the subject lands, and Regional Servicing comments and conditions as they relate to the proposed development:

Watermain:

- A 300mm dia. watermain is located on Lakeshore Road West adjacent to the property.
- A 150mm dia. watermain is located on Victoria Street adjacent to the property.

Sanitary Sewer:

- A 300mm dia. sanitary sewer is located on Lakeshore Road West adjacent to the property.
- A 200mm dia. sanitary sewer is located on Victoria Street adjacent to the property.

Regional staff notes that no documentation or drawing was submitted with the application showing the location of the existing water service and/or sanitary sewer lateral for the existing property. Regional records indicate that the existing house on the property is currently serviced by both an existing water service and sanitary sewer lateral that are connected to the existing services on Lakeshore Road West. Regional records also indicate that the adjacent triangular parcel that fronts onto Victoria Street is also a serviced property with both a water service and a sanitary lateral connected to the existing services on Victoria Street.

Since the severed portion of the subject parcel does not front onto Lakeshore Road West, the existing servicing for the subject property will not be impacted by this consent. The new lot will be serviced by the existing service connections on Victoria Street.

Halton's Development Engineer has no servicing issues with this development, and therefore have no objections to this consent.

Finance:

The Owner will be required to pay all applicable Regional Development Charges (DCs) per the Region of Halton Development Charges By-law(s), as amended. If a subdivision (or other form of development) agreement is required, a portion of the Regional DCs for residential units may be payable upon execution of the agreement or per the terms and conditions set out in the agreement. In addition, commencing January 1, 2017 every owner of land located in Halton Region intended for residential development will be subject to the Front-ending Recovery Payment. Residential developments on lands located in Halton Region that prior to January 1, 2017 are part of a Regional allocation program, or have an executed Regional/Local Subdivision or consent agreement, or have an executed site plan agreement with the Local Municipality, or received a notice in writing from the Local Municipality that all requirements under the Planning Act have been met, or obtained a building permit are not subject to the Front-ending Recovery Payment.

The above note is for information purpose only. All residential development applicants and every owner of land located in Halton Region assume all of the responsibilities and risks related to the use of the information provided herein.

Please visit our website at <https://www.halton.ca/The-Region/Finance-and-Transparency/Financing-Growth/Development-Charges-Front-ending-Recovery-Payment> to obtain the most current information which is subject to change.

Conclusion:

Regional staff have no objection to the proposed application, subject to the following conditions in the attached Schedule "A" below being satisfied.

We trust that these comments are of assistance. Should you have any questions or require additional information, please do not hesitate to contact the undersigned. **Please send a copy of the Town's decision on this application.**

Sincerely,

Sharon Yin
Summer Student, Community Planning
Sharon.Yin@halton.ca

cc: Michael Di Febo, Acting Senior Planner (via email)
Ron MacKenzie, Development Engineer (South) (via email)
Tracie Eveline, Development Officer (via email)

**SCHEDULE 'A'
CONDITIONS – B23/09 (1732)**

The following Regional Conditions must be satisfied and/or included in the Consent application.

The Owner is required to provide a completed new Environmental Site Screening Questionnaire (ESSQ), to the satisfaction of Halton Region.

APPENDIX B – PREVIOUS VARIANCE REPORT

CAV A/107/2023 – 3175 Lakeshore Road West (West District) (OP Designation: Low Density Residential)

This Minor Variance application should be reviewed concurrently with the Consent Application (B23/09 [1732]).

Section 45 of the Planning Act provides the Committee of Adjustment with the authority authorize minor variance 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:

No.	Zoning By-law Regulation	Variance Request
1	Table 6.3.1 (Row 1, Column RL3) The minimum <i>lot area</i> shall be 557.5 sqm. Table 6.3.3 (Row 1 Column Detached Dwellings) The minimum <i>lot area</i> shall be 360.0 sqm.	To permit the minimum <i>lot area</i> for the <i>lot</i> which is split zoned RL8 and RL3-0 to be 423.15 sqm.
2	Table 6.3.1 (Row 2, Column RL3) The minimum <i>lot frontage</i> shall be 18.0m. Table 6.3.3 (Row 2, Column Detached Dwellings) The minimum <i>lot frontage</i> shall be 12.0m.	To permit the minimum <i>lot frontage</i> for the <i>lot</i> which is split zoned RL8 and RL3-0 to be 18.0m.

The applicant requests permission for a lot addition (Part 1) of consent application B23/09 to be combined with Block 78, Plan M-257 to create a building lot.

Livable Oakville Plan

The subject lands are designated *Low Density Residential* in the Official Plan. Development within established 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 5.3.1 and 11.1.9, and the following criteria apply:

Policies 11.1.9 b) and d) state:

“b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.

d) Where applicable, the proposed lotting pattern of development shall be compatible with the predominant lotting pattern of the surrounding neighbourhood.

The proposal relates to a merged lot (subject to the corresponding consent) which would have a split zoning. Block 78, Plan M-257 is zoned RL8 with the corresponding additional land from 3175 Lakeshore Road West being zoned RL3-0.

Variance #1 – Lot Area (No Objection)

The minimum lot area for the RL3 zoned land is 557.5 square metres (severed portion) with the minimum lot area for the RL8 zone (Block 78, Plan M-257) being 360 square metres. The proposed minimum lot area for the proposed merged lot will be 423.15 square metres.

A review of the surrounding neighbourhood revealed that there is a range of lot areas with many at or above the minimum RL8 lot area. The proposed lot area of approximately 423 square metres is approximately 63 square metres greater than the minimum lot area for the surrounding RL8 lands west and north of the proposed lot.

Variance #2 – Lot Frontage (No objection)

The minimum lot frontage for the RL3 zoned portion of the proposed lot is 18 metres, while the minimum lot frontage for RL8 portion of the proposed lot is 12 metres.

The variance is proposing a minimum lot frontage for the split zoned property to be 18.0 metres.

The intention of regulating the lot frontages is to ensure adequate space is provided for appropriate development that would maintain the character of the neighborhood without compromising the built character. The neighborhood consists of varying lot sizes and shapes.

A review of the existing neighbourhood confirmed that that the lot frontages are at or greater than 12 metres. The proposed lot frontage would be compatible with various lot frontages and varying lot sizes and shapes of the neighbourhood to the west and north of the proposed lots.

It is staff's opinion that the proposed variances would maintain the existing character of the general area, being varying sizes and shapes of established lots.

Heritage

3175 Lakeshore Road West is a list heritage property. Heritage staff have reviewed the associated Consent application and have not raised any concerns related to the severed portion of 3175 Lakeshore Road West being added to Block 78, Plan M-257. The proposed easterly lot line for the new lot will be a minimum of 6.4 metres from the existing dwelling.

From a cultural heritage perspective, Policy 5.3.1 of the Livable Oakville Plan states the following:

“The Town shall encourage the conservation of cultural heritage resources identified on the register and their integration into new development proposals through the approval process and other appropriate mechanisms”.

Staff will be bringing forward a report to the October 24, 2023 Heritage Oakville meeting on the heritage designation merits of the retained parcel. The same consent condition has been applied to the CAV application.

Tree Protection

Part C Section 6.10.2 Landscaping states the following:

*“6.10.2 Development should preserve and enhance the urban forest by:
b) maintaining existing healthy trees, where possible; ...”*

The applicant within the submission documents provided an assessment of the trees on site. With regard to Tree #4 (Red Oak, 1 m dbh), within Section 6.2 of the Arborist report, the following was stated:

6.2 Tree Preservation

It is anticipated that the preservation of Trees 1-4 will be possible with the use of appropriate tree protection measures. Encroachment within the mTPZ of Tree 4 may be

required to accommodate development. If such is the case, a Tree Protection Zone Encroachment Permit from the Town would be required.

Depending on the amount of encroachment within the mTPZ of Tree 4, mitigation measures such as sensitive excavation methods, root pruning, watering and fertilizing/compost tea applications may be required, pending the review of detailed development plans by an ISA Certified Arborist.

Tree 4 will also likely require crown pruning in order to provide vertical working space for the construction of a single family residential dwelling, including a driveway. Any crown pruning must be completed by a Certified Arborist in damaged by development activities.

In consideration of the applicant's arborist report and to ensure that Policy 6.10.2 is satisfactorily addressed, a condition is being included as follows:

"That the owner/applicant agrees to enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling."

Conclusion:

On this basis, it is Staff's opinion that the requested variances maintain the general intent of the Official Plan and Zoning By-law as it results in a lot fabric that is consistent with the surrounding neighbourhood and provides a development opportunity without negatively impacting the established character of the neighbourhood, including the listed heritage property at 3175 Lakeshore Road West.

In summary, staff are of the opinion that the application satisfies the applicable tests under the Planning Act. Should the Committee's concur with staff's opinion, the following conditions are requested:

1. That Oakville Town Council be given the opportunity to consider designation for the retained portion of the property, known as 'Cudmore House' under Section 29, Part IV of the *Ontario Heritage Act* prior to any Minor Variance application being finalized to permit the creation of the proposed new lot.
2. That Consent B23/09 (1732) be approved and the Certificate of Official issued.
3. That the approval expire two (2) years from the date of decision if the proposed scope of work has not been fully completed, being the issuance of the Certificate of Official for B23/09 (1732).
4. That the owner/applicant agrees to enter into a Minor Variance and Consent agreement, to be registered on title and to the satisfaction of the Town of Oakville, reflecting a preliminary design plan including a preliminary foundation design demonstrating that Tree 4 as outlined in the Arborist Report prepared by Jackson Arboriculture Inc. dated June 2, 2023 will be protected to the Town of Oakville tree protection standards for the construction of a future dwelling.