

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/115/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, AUGUST 07, 2024 AT 7:00 P.M.

Applicant / Owner	Authorized Agent	Subject Property
Michael Hohnjec	Russell Cheeseman 277 Lakeshore Road E Suite 211 Oakville ON, CANADA L6J 6J3	564 Lyons Lane CON 3 SDS PT LOT 15 RP 20R5733 PARTS 1,2,3,4

OFFICIAL PLAN DESIGNATION: Natural Area – Midtown Growth Area

ZONING: N - Natural Area

WARD: 3

DISTRICT: East

APPLICATION:

Under Section 45(2) (a) (ii) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to permit six (6) dwelling units within the existing legal non-conforming residential building containing one (1) dwelling unit on the subject property.

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 August 07, 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.

CAV A/115/2024 - 564 Lyons Lane (East District) (OP Designation: Natural Area – Midtown Growth Area, Lyons District)

Site Area and Context

An existing structure is located on the subject property, and was originally designed as a single-detached house. Over time, the house has been modified and now contains six dwelling units. The structure has been investigated by the town's Fire Department for safety since the additional dwelling units were constructed without a building permit(s). The applicant seeks to legalise the existing six dwelling units. The proposal is being considered under Section 45 (2)(a)(ii) of the *Planning Act* which states:

“2) In addition to its powers under subsection [45](1), the committee, upon any such application,

(a) 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,

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.”

Livable Oakville Official Plan

In the 1984 Oakville Official Plan, the subject lands were identified as being within an Environmentally Sensitive Area due to proximity to the Sixteen Mile Creek Valleylands, as shown below in Figure 1.

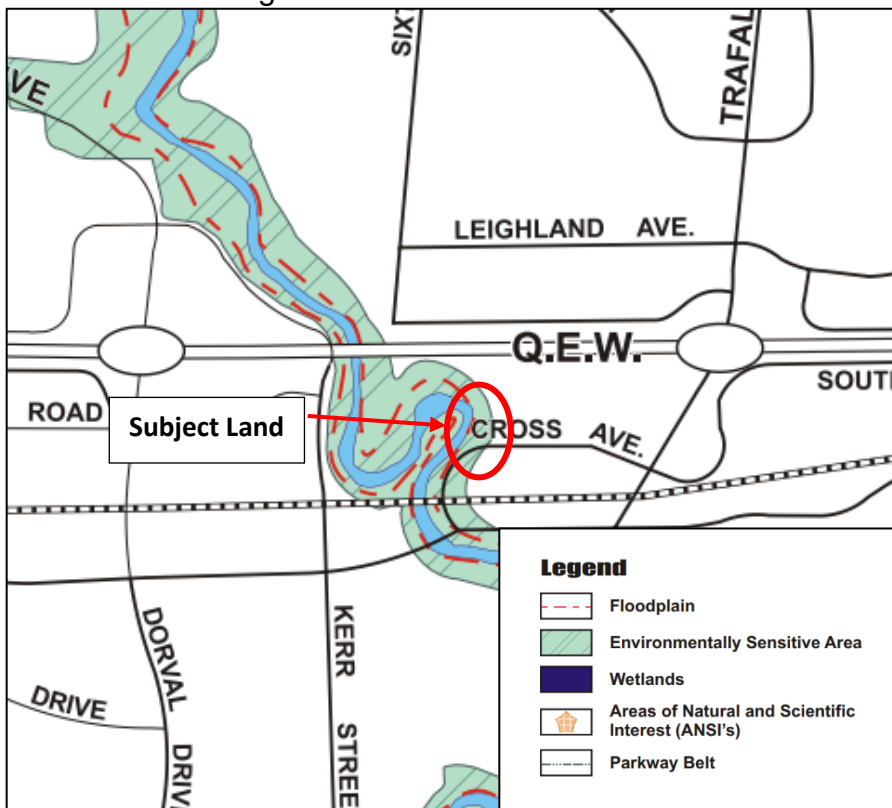


Figure 1 – Excerpt from Figure F2, 1984 Oakville Official Plan

Through the various studies that would inform the Livable Oakville Plan in 2009, the subject lands were designated as “Natural Area”, as shown below in Figure 2:

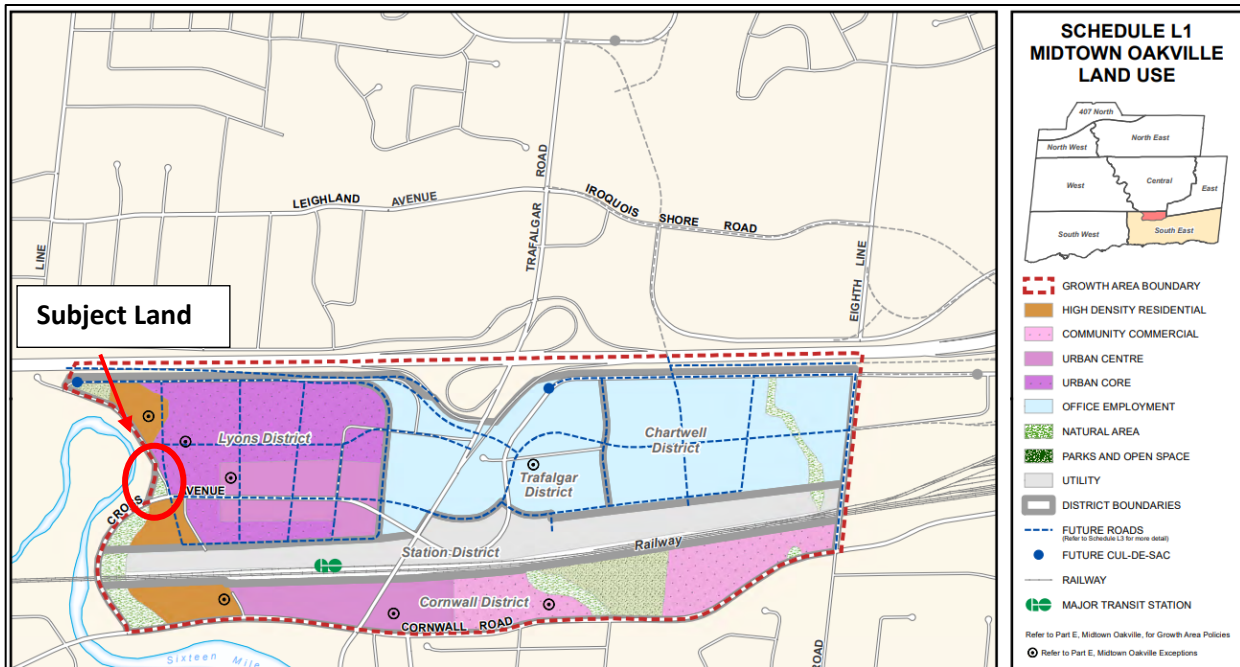


Figure 2 – Excerpt Schedule L1, Livable Oakville Plan

Section 19 of the Livable Oakville Plan, states that the purpose of the *Natural Area* designation is for the long-term preservation of natural features and functions. The subject lands abut the Sixteen Mile Creek Valleyland hazard. The alignment of Lyons Lane is currently the subject of a study. While not completed, this may lead to the closure of Lyons Lane to vehicles and through traffic. Some form of access to the subject property will be maintained.

Legally existing uses are permitted within the Natural Area designation, and staff notes that the existing structure as a single detached dwelling is considered legal non-conforming. Under Section 28.10 of the Livable Oakville Official Plan, specifically Policy 28.10.2 states that:

“It is the intention and expectation that non-conforming uses, buildings or structures shall eventually cease and be replaced by uses, buildings or structures that conform with the intent of this Plan and the Zoning By-law. In special circumstances, however, it may be appropriate to consider the extension or enlargement of non-conforming uses.”

Zoning By-law 2014-014

The subject lands are currently zoned N (Natural Area) within By-law 2014-014, which does not permit detached dwellings or multiple residential buildings. For greater understanding of the legal non-conforming status of the site, staff have also considered the previous zoning by-laws.

The subject lands were previously zoned C3A (Commercial Arterial Commercial) SP:837, in Zoning By-law 1984-063, which did not permit residential dwellings.

Prior to 1984, the subject lands were zoned M3 (Heavy Industrial) in Zoning By-law 1965-136, which did not permit residential dwellings.

According to town records, the existing dwelling was recognized as legal non-conforming through minor variance application A/40/85 in July 1985, when the Committee of Adjustment approved a two-storey addition with basement for the detached dwelling use. A building permit for the addition to the existing single detached dwelling was issued in November 1985.

At some point in the past, the single dwelling unit was converted to provide six independent residential units.

Recently, the applicant obtained approvals from a fire code perspective to ensure that the additional units were equipped with appropriate fire safety measures.

Given the site configuration, the only available on-site vehicular parking is within the existing two-car garage, which did not receive a building permit. Currently, tenants of the six units park within the town's right-of-way, without formal agreements.



Figure 3 – Aerial Photo

Comments

The Midtown Growth Area Review is on-going. The draft Official Plan Amendment (OPA), presented to Town Council in April 2024, illustrates the western boundary of the strategic growth area in alignment with Lyons Lane. As currently considered, the OPA does not include the subject property as part of the Midtown Urban Growth Centre.

The applicant seeks to legalise the overall structure in a location which in the long term, is inappropriate given its location in a Natural Heritage Area designation, shown in the in-effect Official Plan. The town will maintain some form of access to the site to ensure it is not land-locked should Lyons Lane be realigned.

Conclusion

If the Committee of Adjustment approves the application to legalise the proposed use, the committee should first be satisfied that the proposal for a multi-unit building meets the general intent of the Official Plan and Zoning By-law.

Fire: No Concerns for Fire.

Ministry of Municipal Affairs & Housing: Ministry staff note that the property is partially located within the Greenbelt Urban River Valley designation. The Greenbelt Urban River Valley policies apply to publicly owned lands; any privately owned lands within the boundary of the Urban River Valley area are not subject to the policies of the designation. Understanding that the property is privately-owned, and based on the foregoing, ministry staff have no concerns from a provincial perspective.

Oakville Hydro: We do not have any comments.

Transit: No Comments received.

Finance: No Comments received.

Metrolinx: 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 request the following condition be added to the Committee of Adjustment’s decision for the subject lands:
 - The Owner should contact the Regional Services Permit Section for review and approval of the proposed water and sanitary servicing, to obtain water and sanitary sewer Services Permits, and pay all necessary fees, if required.
 - As part of the Services Permit Review, the Owner may be required to comply with Halton Region’s multi-unit servicing policy as set out in report PPW01-96, specifically Section 3.3.
- Regional staff has no objection, subject to the above-noted condition being included, to the proposed minor variance application seeking relief under Section 45(1) of the Planning Act, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting six (6) dwelling units within the existing legal non-conforming residential building containing one (1) dwelling unit on the Subject Property.
- **General ROP Policy:** The Region’s Official Plan provides goals, objectives and policies to direct physical development and change in Halton. All proposed Minor Variances are located on lands that are designated as ‘Urban Area’ and are located within the Built Boundary overlay in the 2009 Halton Region Official Plan (ROP). The policies of Urban Area designation support a range of uses and the development of vibrant and healthy mixed-use communities which 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.

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.



Jennifer Ular
Secretary-Treasurer