

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAVA/113/2024

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
Chile Paul	Pamir Rafiq Lucid Homes Inc 28 Crescent Rd Oakville ON, Canada L6K 1W4	28 Crescent Rd PLAN 347 PT LOTS 136,137

**OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 2**

**ZONING: RL4-0
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>Section 5.8.7 c)</i> Attached private garages shall not project more than 1.5 metres from the face of the longest portion of the main wall containing residential floor area that is on the first storey of the dwelling oriented toward the front lot line.	To increase the attached private garage projection to 7.66 metres from the face of the longest portion of the main wall containing residential floor area that is on the first storey of the dwelling oriented toward the front lot line.
2	<i>Table 6.3.1 (Row 6, Column RL4)</i> The minimum rear yard shall be 7.5 m.	To reduce the minimum rear yard to 5.91 m.
3	<i>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area between 650.00 m ² and 742.99 m ² shall be 41%.	To increase the maximum residential floor area ratio to 43.79%.
4	<i>Section 6.4.3 (a)</i> The minimum front yard shall be 8.54 metres in this instance.	To reduce the minimum front yard to 6.99 metres.

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/113/2024 - 28 Crescent Rd (West District) (OP Designation: Low Density Residential)

The applicant proposes to construct a two-storey detached dwelling, subject to the variances listed above.

Site Area and Context

The subject property is located in a neighbourhood with original one, one-half, and two-storey dwellings, as well as newer two-storey dwellings. The newer two-storey dwellings consist of massing that is broken up into smaller elements, lowered roof lines incorporating Second floor area into the roof line, attached garages most of which are either flush with the front main wall of the dwelling or are within the permitted garage projection.



Aerial Photo – 28 Crescent Road

Four surrounding newer two-storey dwellings are shown in the image below as an example of the emerging neighbourhood character.



20 Crescent Road



14 Crescent Road



29 Highland Road



40 Crescent Road

The subject property has a curved frontage as shown in the aerial photo above and the proposed site plan below. The front elevation of the proposed two-storey detached dwelling is also shown in the image below.



Proposed Front Elevation – 28 Crescent Road

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to 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:

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

The subject lands are designated Low Density Residential in the Livable Oakville 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 Section 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.”

The intent of the above-mentioned Official Plan policies is to maintain and protect the existing character of stable residential neighbourhoods and to ensure that any potential impacts on adjacent properties are effectively mitigated. While redevelopment of some of the original housing stock has taken place in the surrounding area, Staff are of the opinion that the proposed variances and the resulting massing of the proposed dwelling would result in a dwelling that does not maintain or protect the existing character and is not compatible

with the surrounding neighbourhood.

The proposed development has also been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of new development to ensure the maintenance and preservation of the existing neighbourhood in accordance with Section 11.1.9 of the Livable Oakville Plan. Subsection 6.1.2 c) of the Livable Oakville Plan 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. Staff are of the opinion that the proposal would not implement the Design Guidelines for Stable Residential Communities, in particular, the following sections:

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. This 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.*
- *Variation 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 colours.*

3.2.6. Garages and Accessory Structures: *New development with an attached garage should make every effort to incorporate this feature into the design of the building, to achieve compatibility with the overall massing, scale and style of the dwelling and the immediate surroundings.*

New development with an attached garage on the front façade should position the garage flush with or recessed behind the front façade of the dwelling. Where applicable, additional building elements, such as porches or trellises, are encouraged to extend along the garage face and primary façade to lessen the visual prominence of the garage.

The proposed garage projects approximately 7.66m into the front yard resulting in a reduction in the front yard to 6.99m. The two-storey projection of the garage with living space above results in significant mass being projected towards the street creating an overpowering effect on the streetscape. In addition to the massing impact from the garage projection and reduction in the front yard setback, there is a large open to below area of approximately 37 m² that pushes the second-floor area to the perimeter of the dwelling. The open to below area combined with the residential floor area increase of approximately 20.36 m² results in a combined massing impact equivalent to approximately 57.36 m² of additional floor area. The cumulative impact of the increased garage projection, reduced front yard setback, increased residential floor area, and large rear open to below area, would create a mass and scale that would appear larger than the massing and scale of adjacent and surrounding dwellings within the neighbourhood.

It is staff's opinion that the proposed variances do not conform to the criteria for development in Section 11.1.9, noting that there is an established existing neighbourhood character, and the proposed dwelling does not maintain or protect that character. As noted previously, the proposed dwelling is not compatible with the existing and newly constructed dwellings in this residential area. It is staff's opinion that the increased lot coverage introduces negative massing and scale impacts onto the streetscape of the surrounding area. The proposed dwelling does not protect or represent a desirable transition in the existing and developing character of the neighbourhood, and therefore does not maintain the intent of the Official Plan.

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

Variance #1 – Garage Projection (Objection) – 1.5m increased to 7.66m

The intent of regulating the garage projection is to prevent the garage from being a visually dominant feature of the dwelling. The garage projection of 7.66m results in bringing the two-storey massing of the dwelling significantly closer to the street creating an overpowering effect on the streetscape and makes the garage a visually dominant feature of the dwelling. The interior side access garage will also result in relocation of the existing driveway and removal of the vegetation along the front property line. Staff are of the opinion that the garage projection combined with other proposed variances and the rear open to below area will cumulatively create negative adverse impact of mass and scale onto adjacent and surrounding properties and the streetscape and does not maintain the general intent and purpose of the Zoning By-law.

Variance #2 – Minimum Rear Yard (Objection) – 7.5m reduced to 5.91m

The intent of regulating rear yard setback is to provide adequate rear yard amenity space and reduce potential overlook and privacy impacts. The reduction in the rear yard in conjunction with the irregular shape of the lot contribute to the deficiency in the rear yard amenity space. The reduced rear yard combined with the variances for garage projection, maximum residential floor area, and minimum front yard results in overbuilding of the site with a dwelling that is not compatible with the surrounding neighbourhood. Staff are of the opinion that the proposed rear yard setback contribute to the cumulative negative adverse impacts of mass and scale and therefore does not meet the general intent and purpose of the Zoning By-law.

Variance #3 – Maximum Residential Floor Area (Objection) – 41% increased to 43.79%

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. The proposed dwelling consists of a large open to below area above the great room of approximately 37.04 m² which pushes the second-floor area towards the perimeter of the dwelling resulting in a second-storey floor area above the projected garage. The proposed additional residential floor area of approximately 20.36 m² combined with a large open to below area would result in a combined massing impact equivalent to approximately 57.4 m² of additional floor area. The increased residential floor area, the rear open to below area, the significant garage projection, and the reduced front yard setback would cumulatively result in a mass and scale which is not compatible with other dwellings in the surrounding neighbourhood.

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.

Variance #4 – Minimum Front Yard (Objection) – 8.54m reduced to 6.99m

The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. The proposed reduction in front yard setback is due to the projection of the attached garage and second storey living space towards the street. The reduced front yard of 6.99m allows significant two-storey massing being projected towards the street creating an overpowering effect on the streetscape and resulting in a dwelling that is not compatible with the surrounding neighbourhood. It results in the dwelling being closer to the street than the average of the front yard setbacks of the adjacent dwellings resulting in non-uniform setback along the street. Staff are of the opinion that the reduction in the front yard setback combined with the garage projection, residential floor area and open to below area results in a dwelling that is not compatible with the neighbourhood character. As such, staff are of the opinion that proposed minimum front yard setback does not meet the general intent and purpose of the Zoning By-law.

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

It is staff's opinion that the request for garage projection (Variance #1), reduced rear yard (Variance #2), additional residential floor area (Variance #3), and reduction in the front yard setback (Variance #4) are not minor in nature or appropriate for the development of the subject lands. These variances would facilitate a development that does not maintain the character of the neighbourhood.

Recommendation:

On this basis, it is staff's opinion that the application does not meet the four tests of the *Planning Act*, and staff recommends that the application be denied. Should the Committee's evaluation of the application differ from staff, the Committee should determine whether the approval of the proposed variances would result in a development that is appropriate for the site.

Fire: No Concerns for Fire.

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 has no objection to the proposed minor variance application seeking relief under Section 45(1) of the Planning Act in order to permit an increase to the attached private garage projection from the face of the longest portion of the main wall containing residential floor area that is on the first storey of the dwelling oriented towards the front lot line, a decrease to the minimum rear 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 constructing a two-storey detached dwelling 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: One

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 Ulcar
Secretary-Treasurer

Attachment:
Letter/Email in Opposition – 1

From: Florenda Tingle [REDACTED]
Subject: COA variance application for 28 Crescent Rd. In West River
Date: July 30, 2024 at 2:12:08 PM EDT
To: ciarequest@oakville.ca
Cc: Ron Tingle [REDACTED], cathyduddeck@gmail.com, "info@wrra-oakville.ca"
<info@Wrra-oakville.ca>

Dear Sirs,

We are in receipt of a notice from COA regarding an application for a 'minor' variable for a house being proposed to be built at 28 Crescent Road in West River. We are residents of [REDACTED] - around the corner from the subject property.

In our opinion, none of the proposed changes are minor. Most changes being requested are for significant changes to current by-law requirements and would only serve to set more precedences for more and bigger variances in the future that would only shrink the amount of absorptive land able to deal with rain and resulting run off in our area.

Hardly Minor changes are the following being requested:
The garage which is a 500% increase
Rear Yard - 23% less
Floor area ratio - 7% increase
Front Yard - 18% decrease

The recent severe weather with attendant flooding primarily caused by climate change and over development with large non absorbent catchment surfaces (roofs, driveways and hardscaping of the rest) resulted in many properties in our area experiencing recent flooding - including a property in close proximity to 28 Crescent. This will only get worse as we cover more porous land with larger and larger houses, driveways and hardscaping, Ironically it is seldom the 'new' home experiencing the flooding, but the neighbours who are long time residents with original housing to the sides, to the rear or even down the road of the newly developed property.

We respectfully request the committee to uphold the standards in place and reject this application that seeks to cover more of the lot in the rear, front and with garage.

Ron and Florenda Tingle

[REDACTED]

Oakville