

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAVA/157/2021-Deferred Oct. 26, 2021 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
D Q I Design Quorum Incorporated	N/A	74 Stewart St PLAN 200 LOT 2 RP 20R21988 PART 1

**OFFICIAL PLAN DESIGNATION: Main Street 2
WARD: 2**

**ZONING: H1 MU2
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 proposed construction of a new multi-unit dwelling on the subject property proposing the following variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Part 3 (Definitions)</i> Dwelling, Apartment means a dwelling unit within a building containing three or more dwelling units where the units are connected by a common corridor or vestibule.	To alter the definition of Dwelling, Apartment to mean: A dwelling unit within a building containing three or more dwelling units where the units are connected by an uncovered, exterior podium
2	<i>Table 4.3 (row 4)</i> Balconies shall be located in a front or rear yard with a maximum total projection of 1.5m beyond the main wall.	To increase the maximum total projections beyond the main wall to 2.45m on both the second and third floors.
3	<i>Table 5.2.2</i> All other permitted non-residential uses in Kerr Village (Map 19(7a)) shall provide a minimum of 1 parking space per 40.0 m ² of net floor area.	To reduce the non-residential uses parking to a minimum of 0 parking spaces.
4	<i>Section 8.6 d)</i> The parking of motor vehicles is prohibited in all storeys of an above grade parking structure for the first 9.0m of depth of the building, measured in from the main wall oriented toward the lot line adjacent to Kerr Street.	To permit the parking of motor vehicles within 16.8% of the area within 9.0m of depth of the building on the ground floor, measured in from the main wall oriented toward the lot line adjacent to Kerr Street.
5	<i>Table 8.3.1 (Row 1, Column MU-2)</i> The minimum first storey height shall be 4.5 m.	To reduce the minimum first storey height to 3.04m

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/157/2021 - 74 Stewart St (East District) (OP Designation: Main Street 2)

The applicant proposes to construct a new multi-unit dwelling subject to the variances listed above.

Site Area and Context

A minor variance application was previously submitted for consideration by the Committee on October 26, 2021. This application was deferred due to staff objection to the proposed variances given safety issues with the access proposed at that time. Please see the table below for the list of variances proposed in October 2021 and August 2024.

No.	Zoning By-law Regulation	Variance Request (October 26, 2021)	Variance Request (August 7, 2024)
1	Part 3 (Definitions) Dwelling, Apartment means a dwelling unit within a building containing three or more dwelling units where the units are connected by a common corridor or vestibule.	To alter the definition of Dwelling, Apartment to mean: A dwelling unit within a building containing three or more dwelling units where the units are connected by an uncovered, exterior podium	To alter the definition of Dwelling, Apartment to mean: A dwelling unit within a building containing three or more dwelling units where the units are connected by an uncovered, exterior podium
2	Table 4.3 (row 4) Balconies shall be located in a front or rear yard with a maximum total projection of 1.5m beyond the main wall.	To permit balconies to be located in the (westerly) interior side yard and flankage yard with a maximum total projection of 3.96m beyond the main wall, for Apt 5 and Apt 7, 5.14m for Apt 6, and 3.68m for the uncovered exterior podium.	To increase the maximum total projections beyond the main wall to 2.45m on both the second and third floors.
3	Table 5.2.2 All other permitted non-residential uses in Kerr Village (Map 19(7a)) shall provide a minimum of 1 parking space per 40.0 m ² of net floor area.	To reduce the non-residential uses parking to a minimum of 0 parking spaces.	To reduce the non-residential uses parking to a minimum of 0 parking spaces.

4	Section 8.6 d) The parking of motor vehicles is prohibited in all storeys of an above grade parking structure for the first 9.0m of depth of the building, measured in from the main wall oriented toward the lot line adjacent to Kerr Street.	Nil.	To permit the parking of motor vehicles within 16.8% of the area within 9.0m of depth of the building on the ground floor, measured in from the main wall oriented toward the lot line adjacent to Kerr Street.
5	Table 8.3.1 (Row 1, Column MU-2) The minimum first storey height shall be 4.5 m.	To permit the minimum first storey height to be 3.32 m.	To reduce the minimum first storey height to 3.04m
6	Table 4.3 (Row 4) The maximum total balcony projection beyond the main wall shall be 1.5 m.	To permit the maximum total balcony projection beyond the main wall to be 1.76m for Apts 1 to 3, and 1.76m for Apt 4 to the East and 2.98m for Apt 4 to the South.	Nil.
7	Table 8.2 Footnote 3. Apartment Dwellings are prohibited in the first 9.0 metres of depth of the building, measured in from the main wall oriented toward the front lot line, on the first storey.	To permit 18.1% of the area within 9.0 m of depth of the building measured in from the main wall oriented the front lot line, on the first storey to be occupied by Apartment Dwellings.	Nil.
8	Section 8.6 e) On a corner lot, a driveway providing access to a parking structure that crosses a flankage lot line shall be set back a minimum of 9.0 metres from the main wall of the parking structure oriented toward the front lot line.	To permit on a corner lot, a driveway providing access to a parking structure that crosses a flankage lot line to be set back a minimum of 6.15 metres from the main wall of the parking structure oriented toward the front lot line.	Nil.

Since this application was deferred, the design of the proposed mixed-use building has been revised to reduce the number of residential units from 7 to 6. The orientation of the residential units has also changed so that the dwellings are in a row, all facing toward Stewart Street. Access to the dwellings is proposed via an uncovered podium accessed by a ramp from the parking garage and stairs from the lobby. It is unclear how this space is intended to function and whether it will serve as an amenity space for the units.

The subject property is designated Main Street 2, located within the Kerr Village Growth Area and the Kerr Village Main Street District under the Livable Oakville Official Plan. The Main Street 2 designation shall provide for mixed use development characterized by high quality design standards and appropriately scaled pedestrian environment for emerging Growth Areas such as Kerr Village.

The proposed mixed-use development is also subject to a concurrent Site Plan application (Site Plan No. 1616.069/01). Since the minor variance application was deferred by the Committee in 2021, there have been changes to the *Planning Act*, and regulations. Pursuant to the current regulations, the proposed mixed-use development is subject to site plan approval.

The applicant submitted communication dated December 10, 2021 with transportation staff at the Town indicating that the sightline issues, that were referenced when the application was before the Committee on October 26, 2021, have been resolved. In that communication, Town staff indicated that pavement marking and signing plans should be resubmitted with the final plans for review and comments by Transportation Services. The applicant did not resubmit materials supporting the revised design as part of the site plan process for further review. Subsequently, the applicant will need to confirm that the previously approved driveway and building location are exactly the same now that the design of the building has changed. The access and other factors still need to be evaluated further through that process.

Staff are of the opinion that the proposed development should be reviewed further through the Site Plan process prior to progressing with a Committee of Adjustment application as there are multiple questions about the revised design that staff would like clarity on. Staff are of the opinion that the proposed design is not desirable for the appropriate development of the subject property and could have negative impacts on adjacent properties. Staff are also concerned that variances could have been missed or changes required as a result of further review.

Additionally, the subject property is subject to an H1 Holding provision which will be required to be lifted through a Holding Removal application prior to a building permit being issued.

Further review of the site plan application is necessary to review the updated plans, and for the proponent to address other site plan requirements. Staff are of the opinion that none of the requested variances can be supported, at this time, since they cumulatively work together to allow for the proposed development.

Conclusion:

In summary, based on the application as submitted, staff are of the opinion that the variances should not be supported as they do not satisfy the four tests under the *Planning Act*. Should the Committee's evaluation of the application differ from staff, the Committee should determine whether approval of the proposed variance would result in a development that is appropriate for the site.

Given the recent change to the foregoing site plan regulations, staff would not oppose a deferral of this application to provide the proponent with the opportunity to work with staff to resolve outstanding concerns and for appropriate time to advance the site plan. It is noted that design revisions may be required which may alter the variances being applied for.

Fire: No Concerns for Fire. Exiting requirements to be maintained.

Oakville Hydro: We do not have any comments.

Transit: No Comments received.

Finance: No Comments received.

Metrolinx: No Comments received.

Halton Region:

- It is understood that this application was deferred from October 26, 2021. Regional comments provided on October 21, 2021 still apply.
- 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 alteration of the definition of Dwelling, Apartment to mean: A dwelling unit within a building containing three or more dwelling units where the units are connected by an uncovered, exterior podium, an increase to the maximum total projections beyond the main wall on the second and third floors, a decrease to the non-residential uses parking requirement, the parking of motor vehicles within 9.0m of depth of the building on the ground floor, measured in from the main wall oriented toward the lot line adjacent to Kerr Street and to reduce the minimum first storey height, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of a multi-unit dwelling 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: 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 Ulcar
Secretary-Treasurer