

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/092/2024 Deferred from June 12, 2024

RELATED FILE: N/A

DATE OF MEETING:

**BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE
AT OAKVILLE.CA ON WEDNESDAY, SEPTEMBER 4, 2024 AT 7:00 P.M.**

Applicant / Owner	Authorized Agent	Subject Property
Jin Ge	MENGDI ZHEN Z Square Consulting Inc. 2710 14th Ave MARKHAM ON, Canada L3R 0J1	147 Elmwood Rd PLAN 352 LOT 25

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

**ZONING: RL5-0
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>Table 6.3.1 (Row 5, Column RL5)</i> The minimum interior side yard shall be 1.2 m.	To reduce the minimum easterly interior side yard to 0.90 m.
2	<i>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area between 557.50 m ² and 649.99 m ² shall be 42%.	To increase the maximum residential floor area ratio to 46.6%

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 September 4, 2024. The following minor variance applications have been reviewed by the applicable Planning District Teams and conform to and are consistent with the applicable Provincial Policies and Plans, unless otherwise stated. The following comments are provided:

CAV A/092/2024 - 147 Elmwood Road (West District) (OP Designation: Low Density Residential) (*Deferred from June 12, 2024*)

The applicant proposes to demolish the existing one-storey dwelling and construct a new two-storey dwelling. The application was deferred from a previous meeting where staff were not supportive of the application. The proposed dwelling was designed partially within a Regional easement on the property, and in staff's opinion did not maintain the character of the neighbourhood with the proposed rear yard projection.

The applicant has since revised their proposal to remove the conflict with the easement and providing a nominal improvement to the side yard setback deficiency, however the applicant now requests greater relief from the by-law as it relates to residential floor area as shown in the table below.

Regulation	Requirement	Original Proposal	Current Proposal
Minimum Side Yard	1.2m	0.89m	0.90m
Maximum Residential Floor Area Ration	42%	45.5%	46.6%

The applicant requests the variances listed above. Staff's comments below are largely identical to the previous application.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variances from provisions of the Zoning By-law provided the requirements set out under 45(1) in the *Planning Act* are met. Staff comments concerning the application of the four tests to this minor variance request are as follows:

Site Area and Context

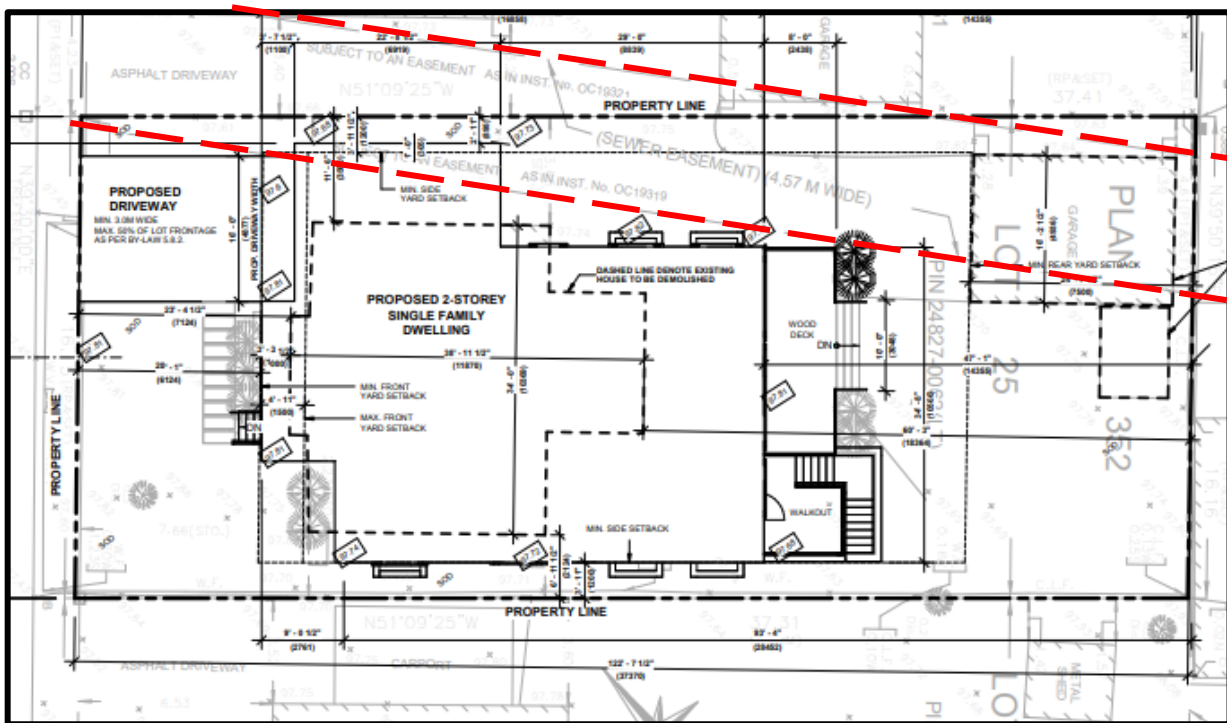
As previously stated in the June 12, 2024 comments:

"The subject lands are within a neighbourhood that predominately consists of original one-storey dwellings, with detached garages, carports, or no garages. The subject lands are adjacent to a two-storey dwelling with a detached garage (151 Elmwood Road) which appears to have undergone a renovation to add the second storey predominantly over the existing footprint, with a minor two-storey addition to the rear, which generally maintained the established rear yard condition of the street. As shown below, the dwellings on the north side of Elmwood Road create a generally consistent rear yard setback pattern for the main dwelling and any detached garages as shown below:



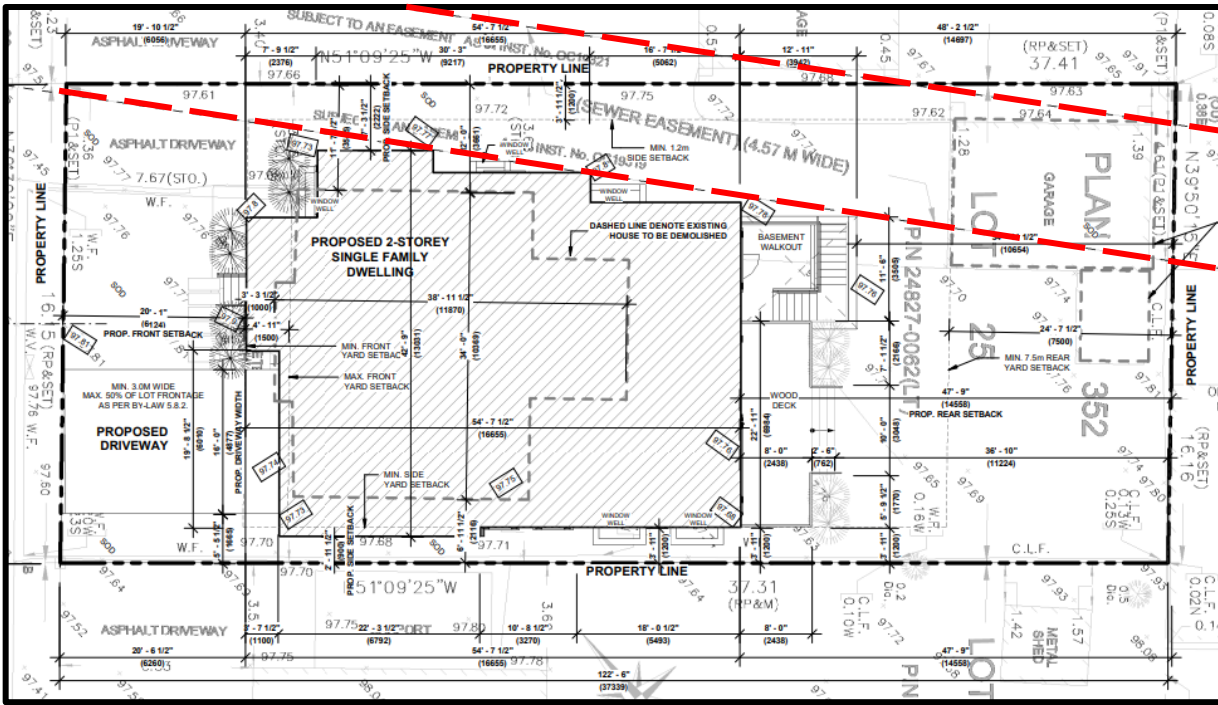
Rear Yard Setback Condition

Staff note that the west side of the subject property is encumbered by a Region of Halton servicing easement, on top of which there is an existing detached garage at the rear of the property. While it appears the applicant is proposing to remove the existing detached garage, the proposed dwelling will encroach into this easement to facilitate the new attached garage.



Previous proposal, Servicing Easement shown in dashed line

The applicant has chosen to relocate the garage to the east side of the lot, and has modified the dwelling to accommodate the easement, shown below.



Revised proposal, Servicing Easement shown in dashed line

The existing and proposed dwelling can be viewed in the images below.



147 Elmwood Road – Existing Dwelling



147 Elmwood Road – Proposed Dwelling June 12, 2024



147 Elmwood Road – Proposed Dwelling September 4, 2024

Staff acknowledge the changes the applicant has made with respect to the removing the dwelling from the easement. However, the nominal improvement in side yard setback from 0.89m to 0.90m and the further increase in residential floor area from 45.5% to 46.6% still results in a dwelling that is not consistent with or maintains the character of the neighbourhood due to the projection into the rear yard. The comments provided by staff for the June 12, 2024 meeting are still applicable and provided below:

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

The subject property is designated Low Density Residential in the Official 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 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.

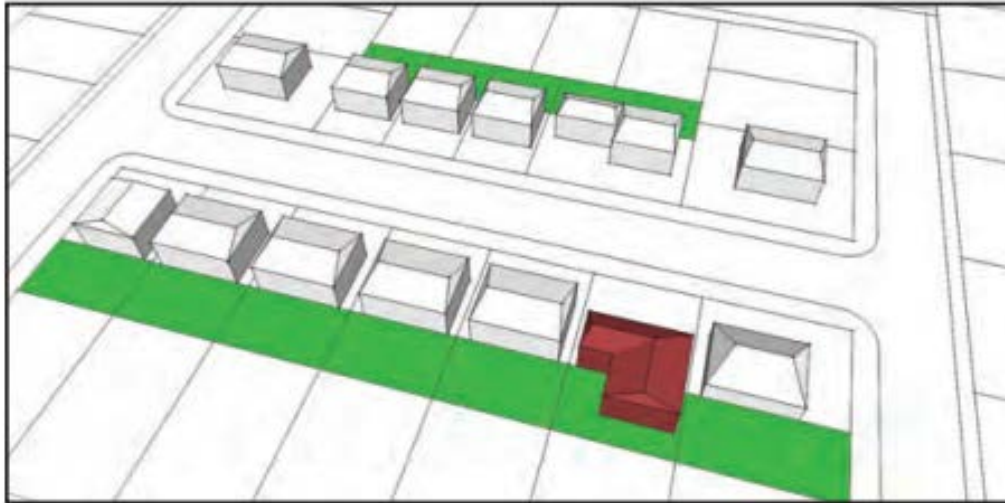
h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing.”

Section 6.1.2 c) of Livable Oakville 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. The variances have been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of the new development to ensure the maintenance and protection of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. Staff are of the opinion that the proposal does not implement the Design Guidelines for Stable Residential Communities, in particular, the following sections:

3.1.1 Character: *New development should be designed to maintain and preserve the scale and character of the site and its immediate context and to create compatible transitions between the new dwelling and existing dwellings in the surrounding neighbourhood.*

3.1.3 Scale: *New development should not have the appearance of being substantially larger than the existing dwellings in the immediate vicinity. If a larger massing is proposed, it should be subdivided into smaller building elements that respond to the context of the neighbourhood patterns.*

3.1.5 Rear Yard Privacy: *The design and placement of new development should make every effort to minimize the potential impacts on the privacy of rear yard amenity spaces of adjacent properties by carefully considering building massing and the placement of building projections, decks and balconies, and screening vegetation.*



Discouraged. A two-storey addition projecting into the established rear yard can create an undesirable overlook and shadowing condition on adjacent properties.

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. The 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.
- Variations 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 building materials and colours.

The proposed dwelling creates an undesirable projection into the rear yard and does not provide an adequate transition to dwellings and their associated amenity areas on abutting properties. Along the eastern and western façades, the proposed dwelling does not incorporate design elements that would help to mitigate the impact of the massing and scale on abutting properties. It is staff's opinion that the requested variance for an increase in residential floor area exacerbates this condition.

Further, the reduced side yard setback to the proposed attached garage does not appear to provide adequate space for grading and drainage for the site. On this basis, it is staff's opinion that the requested variances do not maintain the general intent and purpose of the Official Plan.”

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

The applicant is seeking relief from the Zoning By-law 2014-014, as amended, as follows:

Variance #1 – Interior Yard Setback (Objection) – 1.2m decreased to 0.90m (revised from 0.89m)

The intent of regulating the side yard setback is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. The applicant has modified their proposal and moved the garage to the eastern side of the property and continues to present concerns related to the ability to support drainage on this side. On this basis, staff are of the opinion that the request does not maintain the general intent and purpose of the Zoning By-law.

Variance #2 – Residential Floor Area (Objection) – 42% increased to 46.6% (revised from 45.5%)

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 applicant has made modifications to their proposal that has had the effect of increasing the residential floor area rather than reducing it to better comply with the by-law. The additional floor area continues to exacerbate the rear yard projection of the dwelling by introducing an undesirable massing into the rear yards of the abutting dwellings. 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.

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

It is staff's opinion that the cumulative impacts of the additional residential floor area and resulting footprint of the dwelling including deficient side yard setback for the attached garage, are not minor in nature or appropriate for the development of the lands. The variances intend to facilitate a development that does not maintain the character of the neighbourhood and proposes additional encumbrance onto the Region of Halton easement.

Recommendation:

On this basis, it is staff's opinion that the application does not maintain the general intent and purpose of the Official Plan, Zoning By-law and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet the four tests.

Requested conditions from circulated agencies:

Fire: No concerns for Fire. Passed.

Oakville Hydro: We do not have any comments.

Transit: No Comments received.

Finance: No Comments received.

Heritage: No heritage issues.

Halton Region:

- It is understood that this application was deferred from June 12, 2024. Regional comments provided on June 6, 2024 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 note that there is a Regional easement on the Subject Property. Buildings, structures, landscaping and other encumbrances are not to be constructed or placed on existing or proposed Regional easements. Regional easement rights must be maintained at all times and not be infringed upon.
- The Region has restricted comments to the subject of this minor variance; the proposed two-storey detached dwelling. There is an existing detached garage located on the easement which is in conflict with the Town of Oakville's Bylaw. The Region understands that this garage is to be demolished which would resolve this issue.
- 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 a reduction to the minimum westerly interior side 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 permitting the construction of 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' 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 (1)



Jennifer Ular
Secretary-Treasurer

Attachment:
Letter in Opposition - 1

M. VIRGINIA MACLEAN, K.C. L.S.M.
Barrister & Solicitor



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August 30 2024

Jennifer Ulcar
Secretary-Treasurer, Committee of Adjustment,
1225 Trafalgar Rd
Oakville On L6H 0H3

Delivered by E mail

Dear Ms Ulcar::

Re File # CAV A/092/2024- Committee of Adjustment Agenda September 4 2024 item
6.71- 147 Elmwood Rd Deferred from June 12, 2024

This letter of objection to the above identified application is made on behalf of [REDACTED]
[REDACTED] principal, the owner of [REDACTED] Elmwood Rd that abuts the
subject property to the east.

An objection was filed to the first application on behalf of my client and the objection
remains for the amended application. Not only has the applicant/ owner failed to
contact me or my client to discuss the changes but also, in order to leave the Regional
easement clear, he has flipped the house so the garage is now next to my client's
property and is seeking a reduced easterly side yard and increased maximum
residential floor area thereby increasing the negative impacts on my client's property.

The planning staff comments filed with the Committee on June 7 were discussed with
my client. He fully supports those comments in opposition to the application. I have not
seen the planning staff comments on this amended application but I have difficulty
understanding how it can in any way be favourable when it fails to comply with the rear
yard privacy and massing policies of Liveable Oakville. The applicant has totally
disregarded these comments in amending the application. The proposed increase in
maximum residential floor area ratio will adversely impact the use of the rear lot of [REDACTED]
Elmwood and the character of this neighbourhood and does not satisfy one of the four
tests for the granting a variance under section 45 of the *Planning Act*.

My client wishes to urge the Committee to refuse the amended application for reason of
non compliance with section 45 of the *Planning Act* and also, to refuse any further
deferral requests by this applicant.