

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAVA/115/2024 Deferred from August 7, 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
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, Lyons District

ZONING: 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 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.

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

The application was presented to the Committee on August 7, 2024 when it was deferred at the request of the Committee to obtain additional clarity on the proposal.

The applicant presented their proposal and raised a number of items that the Committee had questions on. In addition to the Planning Staff comments previously provided for the August 7, 2024 meeting, Planning Staff provide the following clarity for the Committee's consideration.

The conclusion provided by staff in the August 7, 2024 comments indicated that conformity with the Official Plan should be considered by the Committee in making its decision. It is staff's opinion that while recognition of the Official Plan policies regarding Legal Non-Conforming uses in Section 28.10 may be valuable to the Committee, it is not part of the test in this application. In other words, the appropriate test is that of similarity as provided by Section 45(2)(a)(ii) of the *Planning Act*.

Should the Committee approve the application, it should be satisfied that in its opinion, the proposal "*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.*"

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.

Metrolinx:

- The subject property is located within 300m of the Metrolinx Oakville Subdivision which carries Metrolinx's Lakeshore West GO Train service.

GO/HEAVY-RAIL – CONDITIONS OF APPROVAL

- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
 - Warning: The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility

that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Adjacent Development Review: CAV A/115/2024
564 Lyons Lane, Oakville, ON

Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "Easement Lands").

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.

Halton Region:

- It is understood that this application was deferred from August 7, 2024. Regional comments provided on August 1, 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 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' 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.



Jennifer Ulcar
Secretary-Treasurer