

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/133/2024

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
H. Shaikh S. Sultana	Valiuddin Mohammed Mechways Inc. 6 Ripon St Mississauga ON, CANADA L4T 1E2	1328 Aymond Cres PLAN M1253 LOT 15

**OFFICIAL PLAN DESIGNATION: Neighbourhood Area
WARD: 6**

**ZONING: GU
DISTRICT: East**

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 side, and rear uncovered access stairs below grade to the existing two-storey detached dwelling proposing the following variance(s) to Zoning By-law 2009-189:

No.	Current	Proposed
1	<i>Table 4.21 (Row (h))</i> The maximum projection into a minimum rear yard for uncovered stairs below grade accessing a main building shall be 1.5m.	To increase the maximum projection into a minimum rear yard for uncovered stairs below grade accessing a main building to 1.78 m.
2	<i>Table 4.21 (Row (h))</i> The minimum distance to the side lot line for uncovered stairs below grade accessing a main building shall be 1.5m.	To reduce the minimum distance to the southerly interior side lot line to 0.21m.

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/133/2024 – 1328 Aymond Crescent (East District) (OP Designation: Neighbourhood Area)

The applicant proposes to permit the construction of below grade access stairs in the interior side yard and rear yard subject to the variances listed above.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance 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 Neighbourhood Area in the North Oakville East Secondary Plan Figure NOE 2 Land Use Plan. The lands are further identified as General Urban Area in the Master Plan Appendix 7.3. Policy 7.6.7.2 applies to the General Urban Area and is intended to accommodate a range of low and medium density residential development. Furthermore, Section 7.5.12 indicates that each neighbourhood will have distinctive characteristics and shall be primarily residential in character, but will include mixed use development including commercial, institutional, live-work and civic facilities. The proposal complies with the North Oakville East Secondary 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 2009-189, as amended, as follows:

Variance #1 – Maximum Projection into a Minimum Rear Yard for Below Grade Access Stairs (No Objection) – Increase from 1.5 metres to 1.78 metres

Variance #2 – Minimum Distance to the Side Lot Line for Below Grade Access Stairs (Objection) – Decrease from 1.5 metres to 0.21 metres

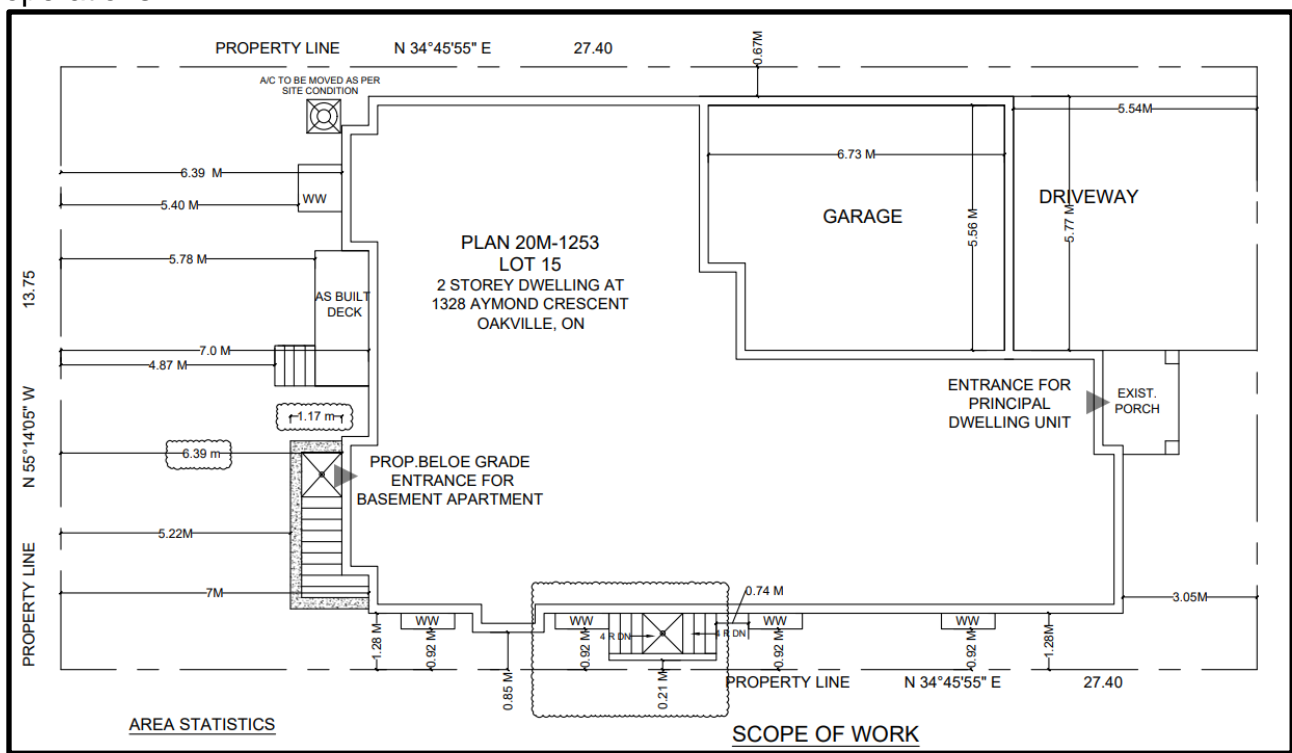
The intent of regulating projections/encroachments of below grade access stairs is to allow for adequate drainage and passage through a yard so that they do not impede access and to allow for adequate open space and landscaping. The below grade access stairs located in the rear yard only project a further 0.28 metres than the maximum requirement under the By-law. In this case, the below grade access stairs in the rear yard allows for adequate drainage, open space, and landscaping to be maintained on site.

However, the reduction in the southerly interior side yard setback for the proposed below grade access stairs results in a condition where there is inadequate space for access purposes or ingress/egress from the front yard area to the rear yard. Although the stairs include four risers down to the landing where the main entrance would be located for the additional residential unit in the basement, and four risers up to provide access to the rear yard, the introduction of below grade stairs in this location does not provide for sufficient drainage or allow for the maintenance of a graded swale. Additionally, the proposed 0.21 metres setback from the side yard lot line does not provide for adequate separation between this structure and the property line.

The northerly interior side yard is also quite constrained, as there is only a 0.67 metre setback from the existing dwelling to the property line. With the proposed setback reduction in the southerly interior side yard, this helps further exacerbate potential drainage issues and stormwater runoff concerns on-site. Based on the submitted site plan and floor plans, it

also appears as though the side yard entrance would provide access to both the additional residential unit in the basement and to the principal dwelling unit. As there is already an entrance to access the main dwelling unit from the front yard and a separate entrance within the rear yard to access the additional residential unit in the basement, the side yard entrance may be unnecessary and redundant in this particular case. The location of the below grade stairs in this interior side yard would not be an appropriate element on this residential lot. It is noted that drainage will continue to be reviewed as part of the building permit submission of detailed engineering plans, and this site would also need to go through the minor site plan process based on the Bill 97 buffer requirements.

Furthermore, Fire Prevention Services from the Town note that one benefit of having an adequate side yard setback is to provide room to maneuver equipment to the rear of the property to facilitate fire-fighting operations. Plans provided indicate an impedence to the minimum required side yard setback on both sides of the property (i.e. window wells, stairs, vegetation). This proposal has the potential to create challenges to standard fire-fighting operations.



On this basis, it is staff's opinion that variance 2 does not maintain the general intent and purpose of the Zoning By-law as the introduction of a below grade access stair in the interior side yard would result in negative impacts on drainage, impede access and ingress/egress from the front yard to rear yard, and is not setback at a far enough distance from the abutting dwelling. Variance 1 however does maintain the intent and purpose of the Zoning By-law, as the increase in the projection of the below grade access stairs into the rear yard still provides for adequate room for open space/landscaping and does not impede access.

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

Staff are of the opinion that the variance proposed for a decrease in the minimum distance to the side lot line for below grade access stairs is not desirable for the appropriate development of the subject property and the variance is not minor in nature. However, Staff

do not object to the requested variance related to the maximum projection into a minimum rear yard for below grade access stairs as it is minor in nature. It is Staff's opinion that variance 1 satisfies all four tests under the *Planning Act*.

Staff object to variance 2 on the basis that it does 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 variances would result in a development that is appropriate for the site. If the request for minor variance 1 is approved by the Committee, the following conditions are recommended:

1. That the below grade access stairs in the rear yard be constructed in general accordance with the submitted site plan drawing dated May 24, 2024; and
2. That the approval expires two (2) years from the date of the decision if a Building Permit has not been issued for the proposed construction.

Requested conditions from circulated agencies:

Fire:

- COA to decrease side yard setback below 1.2m. One aspect of the side yard setback is to provide the minimum amount of room to maneuver equipment to the rear of the property to facilitate fire-fighting operations. Plans provided indicate an impedance to the minimum required side yard setback on both sides of the property (i.e. window wells, stairs, vegetation). This proposal creates a negative impact to standard fire-fighting operations.

Oakville Hydro: We do not have any comments.

Conservation Halton:

- The subject property is located adjacent to a tributary of Joshua's Creek. CH regulates 15m from the flooding and erosion hazards associated with this watercourse. The rear 7.5 metres of this property as taken from the rear property line is within CH's regulated area and as such, the proposed works will require a permit from our office.
- The applicant is seeking two variances to permit the construction of a side and rear uncovered access to the existing dwelling. CH does not object to the approval of the variances sought.
- The applicant will need to contact CH to obtain a permit for the works, if approved by the Committee of Adjustment. CH requires that the applicant, add a line on their site plan with a setback of 7.5 metres from the property line adjacent to the creek and label it "15m CH Regulatory Allowance". This line represents the 15m regulatory allowance from the hazards associated with Joshua's Creek. The lot was constructed at a distance of 7.5m from the hazards, however, since our regulation changed on April 1, 2024, we now regulate 15m from hazards rather than 7.5m.

Transit: No Comments received.

Finance: No Comments received.

Heritage: No heritage concerns.

Metrolinx: No Comments received.

Halton Region:

- Archeological Potential: The ROP also contains policies concerning archaeological potential and the preservation mitigation, and documentation of artifacts. It should be noted the site is identified as having archaeological potential overlay. Archaeological concerns were addressed through the original subdivision and ZBA applications (24T-20006/1307 & Z.1307.06). As such, there would be no further Regional requirements in this regard.
- RNHS: Given the location of the proposed works in relation to the Regional Natural Heritage System (RNHS), the proposed development would trigger the Environmental Impact Assessment (EIA) requirements in accordance with Sections 118 (3) & (3.1)c) of the ROP. Staff would consider it appropriate to waive the Region's EIA requirements in this instance as the proposed development will not likely result in any impacts on the features or ecological functions of the Regional Natural Heritage System.
- 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.
- 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 in order to permit an increase to the maximum projection into a minimum rear yard for uncovered stairs below grade accessing a main building and a decrease in the minimum distance to the southerly interior side lot line under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of side and rear uncovered access stairs below grade to the existing 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: 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 states, 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.

Requested conditions from circulated agencies:

1. That the below grade access stairs in the rear yard be constructed in general accordance with the submitted site plan drawing dated May 24, 2024; and
2. That the approval expires two (2) years from the date of the decision if a Building Permit has not been issued for the proposed construction.



Jennifer Ulcar
Secretary-Treasurer