

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: CAV A/146/2024

RELATED FILE: N/A

DATE OF MEETING: October 2, 2024

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
FORESTWOOD PROPERTY CORP.	Jim Pfeffer Makow Architects 95 st clair ave west Ave Toronto ON, Canada M4V 1N7	PLAN 435 LOT 21 216 Forestwood Dr Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential – Special Policy

ZONING: RL1-0

WARD: 3

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 a two-storey detached dwelling proposing the following variance(s) to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 4.3 (Row 7)</i> The maximum encroachment into a minimum yard for window wells with a maximum width of 1.8 metres shall be 0.6m.	To increase the maximum encroachment into the minimum southerly interior side yard for the window well to 2.4 metres with a maximum width of 5.78 metres.
2	<i>Table 4.3 (Row 18)</i> The maximum encroachment into a minimum side yard for uncovered access stairs below grade shall be 0.0m.	To increase the maximum encroachment to 2.4 m into the minimum southerly interior side yard for the uncovered access stairs below grade.
3	<i>Table 4.3 (Row 18)</i> The maximum total projection beyond the main wall for uncovered access stairs below grade shall be 1.5m.	To increase the maximum total projection beyond the main wall to 4.0m for the uncovered access stairs below grade.
4	<i>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area of 1301.00 m <sup>2</sup> or greater shall be 29%.	To increase the maximum residential floor area ratio to 32.70%.

5	Section 6.4.6 c) The maximum height shall be 9.0 metres.	To increase the maximum height to 9.30m.
---	---	--

**CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

**Planning Services:**

(Note: Planning Services includes a consolidated comment from the relevant district teams including, Current, Long Range 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 October 2, 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/146/2024 - 216 Forestwood Dr (East District)** (OP Designation: Low Density Residential – Special Policy) (Denied May 29, 2024)

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

A minor variance application was previously submitted for the consideration of the Committee on May 29, 2024 which was not supported by staff and was subsequently denied by the Committee. Please see the table below for the list of variances proposed in May of 2024, and the variances currently brought forward.

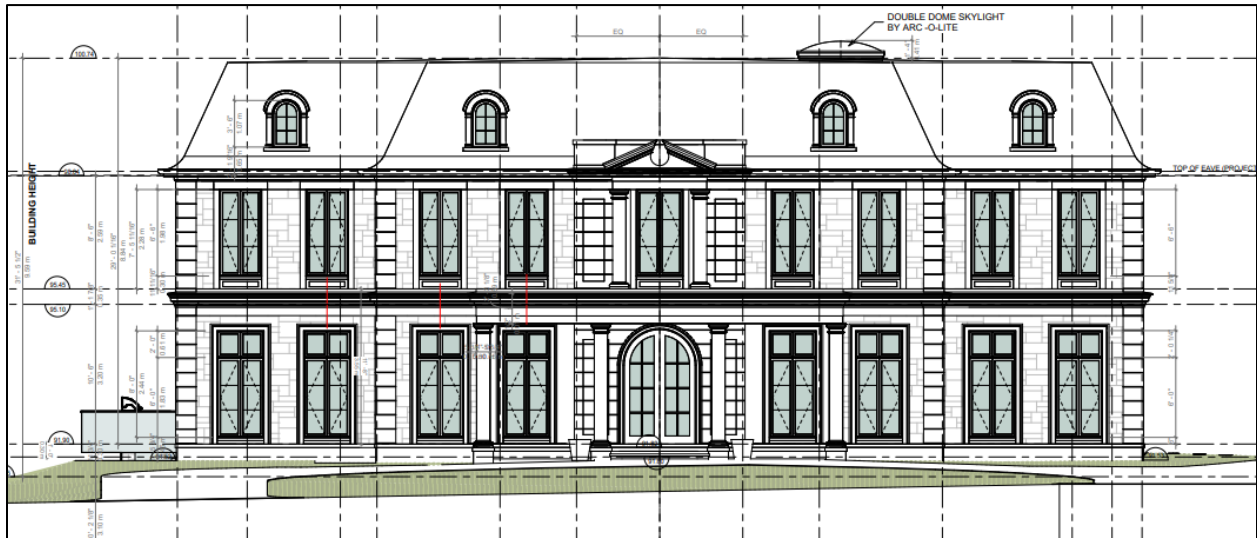
Town of Oakville Zoning By-law 2014-014		Agenda	
Regulation	Requirement	May 29, 2024	October 2, 2024
<b>Window Well Encroachment</b>	1.8m width & 0.6m encroachment	5.5m width & 2.4m encroachment	5.78m width & 2.4m encroachment
<b>Stair Encroachment</b>	0.0m	2.4m	2.4m
<b>Stair Projection</b>	1.5m	4.0m	4.0m
<b>Residential Floor Area</b>	29%	33.7%	32.70%
<b>Height</b>	9.0m	9.59m	9.3m
<b>Balconies</b>	Prohibited above the first storey	2 balconies above the first storey	N/A

Through the comments prepared for the May 29, 2024 Committee of Adjustment meeting, staff had no objection to the window well encroachment, stair encroachment, nor stair projection variances proposed. Staff concerns were related to the cumulative impact of the variances proposed for residential floor area, height, and balconies. Specifically, staff concerns were as follows:

- The proposed dwelling appearing as substantially larger than adjacent single-storey dwellings, therefore, creating an overpowering effect on the streetscape;
- Cumulative impact of the requested residential floor area ratio and height variances, primarily due to the inclusion of full second storey without adequate recesses or wall plane variation;
- The proposed floor area ratio and height variances would not be compatible with the existing stable residential neighbourhood;

- Balconies above the first storey, whereas, second-storey balconies and uncovered platforms are prohibited; and,
- The unauthorized removal of municipal trees to accommodate proposed driveway.

Variations proposed since May 29, 2024, have been revised (as shown above) to reduce the height from 9.53m to 9.3m, RFA from 33.7% to 32.7%, increase the size of the window well encroachment, and remove balconies above the first storey. The proposed elevations have been altered as to eliminate dormers, step down the roof at the sides, and reduce the height and RFA from that previously proposed. However, the numerical changes to the variations and cosmetic changes to the dwelling do not appear to substantially address staff comments in mitigating the massing and scale impacts of the dwelling on abutting single-storey dwellings.



Front Elevation – May 29, 2024



Front Elevation – October 2, 2024

Staff recognize that action has been taken to revise the variations being proposed, however, as demonstrated in the above elevations, the massing and scale of the dwelling proposed has not substantially changed from that brought forward to the Committee of Adjustment in May of 2024. Therefore, staff maintain their comments previously shared with the Committee of Adjustment dated May 29, 2024.

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 – Special Policy Area in the Livable Oakville Plan. Policy 26.2.1, applies to the Low Density Residential designation and its intended to protect the unique character and integrity of the large lots in the area.

Furthermore, Section 11.1.9 indicates that development which occurs in stable residential neighbourhoods shall be evaluated using criteria that maintains and protects the existing character. The proposal was evaluated against all 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 are to protect the existing character of stable residential neighbourhoods and to ensure that any potential impacts on adjacent properties are effectively mitigated. 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 character in accordance with Section 11.1.9 of Livable Oakville. 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.

While redevelopment of much of the original housing stock has taken place in the surrounding area, staff are of the opinion that the proposed variances to permit an increase in residential floor area ratio, an increase in height would not maintain and protect the existing neighbourhood character, nor would they maintain the general intent and purpose of the Official Plan. The redevelopment that has occurred along Forestwood Drive contains various building articulation techniques of which work to provide for fluid transitions to the original housing stock. Staff are of the opinion that because the proposed dwelling is substantially larger than abutting single-storey dwellings, the development may create an overpowering effect on the streetscape. On this basis, it is staff's opinion that variances 4 and 5 do not maintain the general intent and purpose of the Official Plan as these variances contribute to a proposal that would not maintain nor protect the character of the existing neighbourhood. Variance 1, 2, and 3, however, do maintain the intent and purpose of the Official Plan. The increase

in window well encroachment, stair encroachment, and stair projection located at the south side of the proposed dwelling will not impact the dwelling's appearance from the streetscape.

**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** – Window Well Encroachment (No Objection) – 1.8m width & 0.6m encroachment increased to 5.78m width & 2.4m encroachment

**Variance #2** – Stair Encroachment (No Objection) – 0.0m increased to 2.4m

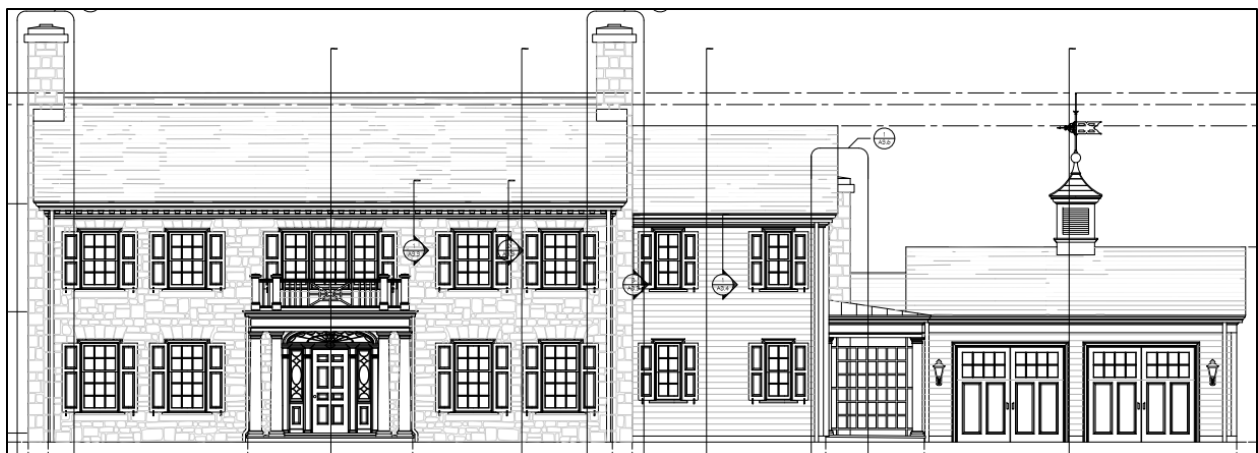
**Variance #3** – Stair Projection (No Objection) – 1.5m increased to 4.0m

The intent of regulating window well encroachment, stair encroachment, and stair projection are 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 window well and access stairs are located in the interior side yard, and a minimum interior side yard setback of 1.84m will be maintained. In this case, the window well and stairs lead below grade, allowing for adequate open space and landscaping to be maintained on site. Furthermore, Staff are of the opinion that the window well and stairs along the south elevation will not impede access. It is noted that drainage will continue to be reviewed as part of the building permit submission of detailed engineering plans.

**Variance #4** – Residential Floor Area Ratio (Objection) – 29% increased to 32.7%

**Variance #5** – Height (Objection) – 9.0m increased to 9.3m

The intent of regulating the residential floor area ratio and height is to ensure that the dwelling does not have the appearance of being larger than other dwellings in the neighbourhood. The statistics provided show that the applicant proposes a residential floor area ratio of 32.70%, whereas, a maximum of 29% is permitted, and a building height of 9.3m, whereas, a maximum of 9.0m is permitted. While it is recognized that the same residential floor area and building height were requested and approved in 2022, the dwelling proposed at that time was substantially different from that being reviewed today. The 2022 proposal included varying heights as visible from the front façade which broke up the massing and the sale of the dwelling (as can be viewed in the rendering below).



*Front Elevation Approved - 2022*

It is recognized that variances have been requested for many properties along Forestwood Drive, however, none exceed the residential floor area ratio and height proposed for the subject property. Staff are concerned that an increase in both residential floor area ratio and height will result in a dwelling with a mass and scale which creates an overpowering effect over the single-storey dwellings directly abutting the subject lands.

It is staff's opinion that variances requested for residential floor area ratio and height would not maintain the intent of the Zoning By-law.

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

Staff are of the opinion that the variances proposed for an increase in residential floor area and height do not represent the appropriate development of the subject property as the variances are not minor in nature. The proposed dwelling may create negative impacts on the public realm in terms of massing and scale, which does not fit within the context of the existing neighbourhood. Staff does not object to the requested variances related to the window well width, stair encroachment, and stair projection as they are minor in nature, and it is staff's opinion that variances 1, 2 and 3 satisfy all four tests under the *Planning Act*.

In consultation with Development Engineering staff, it is noted that due to general infrastructure capacity concerns on Forestwood Drive, the development should implement a form of onsite stormwater management in order to reduce the impact of the increase in runoff. A grading and drainage review will take place under the building permit process.

Additionally, in consultation with Forestry staff, the proposed CAV application showing a circular driveway will negatively impact a number of municipal street trees. The proposed driveway layout does not adhere to the Town of Oakville's minimum tree protection distances for the trees adjacent the new driveway entrance. In the event the new driveway entrance is re-designed to allow for proper tree preservation, Urban Forestry will require that the driveway design adhere to the municipal tree protection standards and that all construction related excavation limits be located beyond the regulated limits.

Staff object to variances 4 and 5 on the basis that 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 variances would result in a development that is appropriate for the site.

**Fire:** No concerns for Fire.

**Transit :** No comments received.

**Finance:** No comments received.

**Halton Region:**

- 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.

- 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 maximum encroachment into the minimum southerly interior side yard for the window well to 2.4 m with a maximum width of 5.78 m, an increase to the maximum encroachment to 2.4 m into the minimum southerly interior side yard for the uncovered access stairs below grade and an increase to the maximum total projection beyond the main wall to 4.0 m for the uncovered access stairs below grade, 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.

**Halton Conservation:** Based on CH's ARL mapping, none of the variance applications are regulated by Conservation Halton or contain features that we would comment on. As such, we will not be providing comments

**Trans-Northern Pipeline:** We can confirm that TNPI has NO infrastructure in the mentioned areas.

**Metrolinx:** Please be advised that there are no applicable Metrolinx comments.

**Bell Canada:** No comments received.

**Trans Canada Pipeline :** No comments received.

**Oakville Hydro:** We do not have any comments to add.

**Union Gas:** No comments received.

**Letter(s) in support – 0**

**Letter(s) in opposition – 0**

*Sharon Coyne*

---

Sharon Coyne, Assistant Secretary-Treasurer,  
Committee of Adjustment

1225 Trafalgar Rd Oakville, ON L6H 0H3

Phone: 905-845-6601 x3863

Email: [sharon.coyne@oakville.ca](mailto:sharon.coyne@oakville.ca)