

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: CAV A/149/2024

RELATED FILE: N/A

DATE OF MEETING: October 30, 2024

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
W. IBRAHIM A. WASIM	Raman Kumar MEM ENGINEERING INC 2355 DERRY Rd E 28 MISSISSAUGA ON L5S 1V6	PLAN M1214 LOT 363 3427 Millicent Ave Town of Oakville

OFFICIAL PLAN DESIGNATION: Neighbourhood Area
WARD: 7

ZONING: GU sp. 42
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 an uncovered stairs below grade accessing a main dwelling proposing the following variance(s) to Zoning By-law 2009-189:

	Current zoning by-law requirements	Variance request
1.	<i>Table 4.21 Row (h)</i> Uncovered stairs below grade accessing a main dwelling are permitted to project 0.0m into a required side yard.	To permit the uncovered stairs below grade accessing a main dwelling to project 0.28m into the required flankage yard.

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)

CAV A/149/2024 - 3427 Millicent Avenue (East District) (OP Designation: Neighbourhood Area)

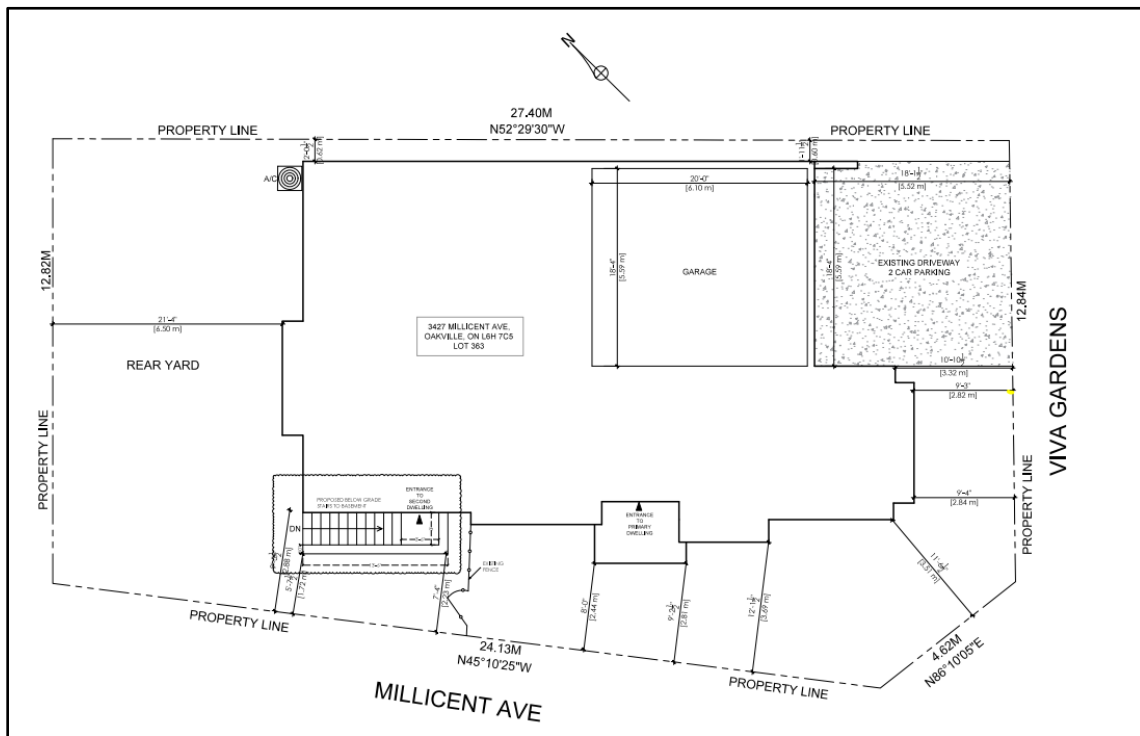
The applicant proposes to construct an uncovered stair below grade of the existing dwelling, subject to the variance listed above.

Site Area and Context

The subject property is located in a newer subdivision within North Oakville. The neighbourhood consists of two-storey detached dwellings. Dwellings in the surrounding area share similar architectural characteristics and styles, while all contributing to the establishment of the neighbourhood character.



Aerial Photo – 3427 Millicent Avenue



Site Plan – 3427 Millicent Avenue

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance from the provisions of the Zoning By-law provided the requirements set out under 45(1) of the *Planning Act* are met. Staff's 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 proposed access stair supports the continued residential use. Therefore, the proposal complies with the North Oakville East Secondary Plan.

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

Variance #1 – Maximum projection into a required side yard (No Objection) – Increase from 0.0 metres to 0.28 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 access is not impeded and to allow for adequate open space and landscaping. The below grade access stairs are located within the flankage yard and will project 0.28 metres into the required side yard, whereas no encroachment into this side yard is permitted by the Zoning By-law. The area between the flankage lot line and the proposed below grade access stairs is between 1.72 m and 2.23 m and would continue to allow for and facilitate adequate drainage, access open space and landscaping in the flankage yard. Therefore, staff is of the opinion that the request maintains the general intent and purpose 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 proposal represents appropriate development of the subject property. The variance is minor in nature and will not create any undue adverse impacts to adjoining properties or the established neighbourhood character.

Recommendation:

Staff do not object to the proposed variance. Should this minor variance request be approved by the Committee, the following conditions are recommended:

1. The dwelling be constructed in general accordance with the submitted site plan dated 2024-06-10; 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.

Fire: No concerns for fire.

Halton Region:

- 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 the uncovered stairs below grade accessing a main dwelling to project 0.28m into the required flankage yard, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of an uncovered stairs below grade accessing a main dwelling on the Subject Property.
- Archaeological Potential: The ROP contains policies concerning archaeological potential and the preservation mitigation, and documentation of artifacts. The site is identified as having archaeological potential. The applicant as part of the subdivision application (24T-12012) has submitted Stage 1, 2 and 3 Archaeological Assessments. The stage 3 Archaeological Assessment recommends the subject lands be cleared of any further archaeological concern. This issue has therefore been resolved.

Halton Conservation: No comments.

Hydro: No comments.

Metrolinx : No comments.

Union Gas: No comments received.

Letter(s) in support – 0

Letter(s) in opposition – 0

General notes for all applications:

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.

Sharon Coyne

Sharon Coyne
Assistant Secretary-Treasurer
Committee of Adjustment