

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: CAV A/164/2024

RELATED FILE: N/A

DATE OF MEETING: By videoconference and live-streaming on the Town of Oakville's Live Stream webpage at [www.oakville.ca](http://www.oakville.ca) on November 27, 2024 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
P. FRANZONE	A.Gus Ricci Gus Ricci Architect 64 Rebecca St Oakville ON L6K 1J2	PLAN 536 LOT 57 1457 Constance Dr Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential  
WARD: 3

ZONING: RL3-0  
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 variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 6.4.1</i> The maximum residential floor area for a detached dwelling on a lot with a lot area between 650.00 m <sup>2</sup> and 742.99 m <sup>2</sup> shall be 41%.	To increase the maximum residential floor area ratio to 46.57%.
2	<i>Table 6.4.3</i> Where the detached dwelling is greater than 7.0 metres in height, the maximum lot coverage shall be 35%.	To increase the maximum lot coverage to 38.94%.

### 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)

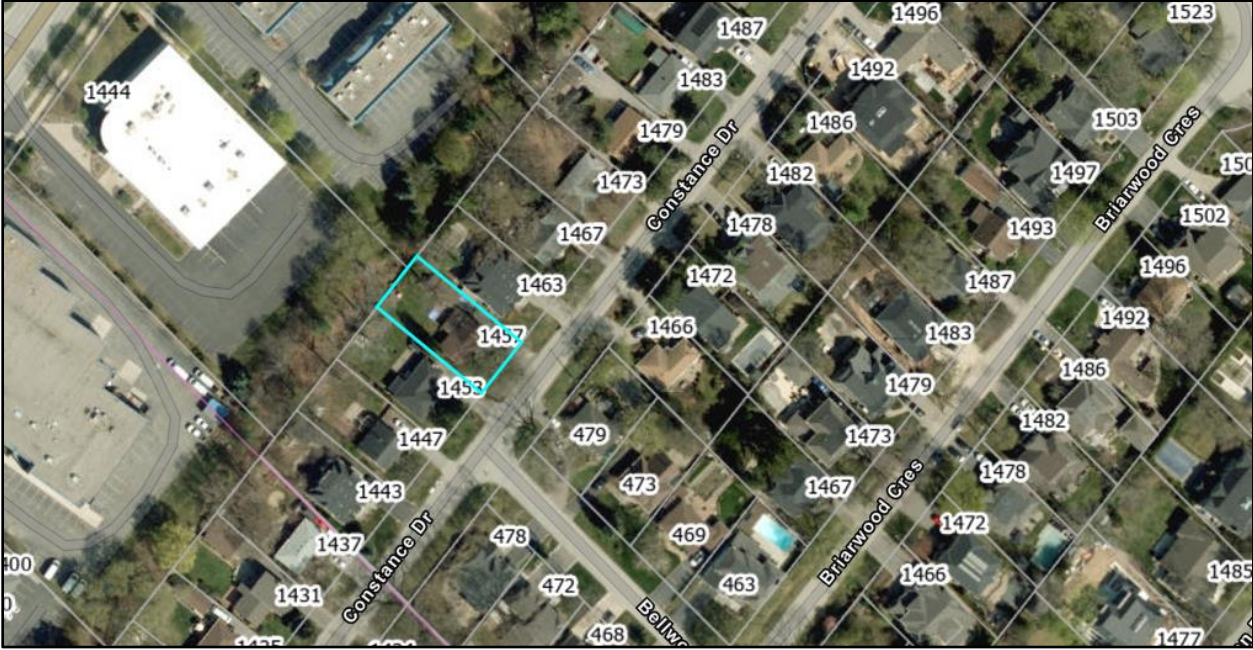
**CAV A/164/2024 – 1457 Constance Drive (East District)** (OP Designation: Low Density Residential)

The applicant is proposing to construct a new two-storey detached dwelling, subject to the variances listed above

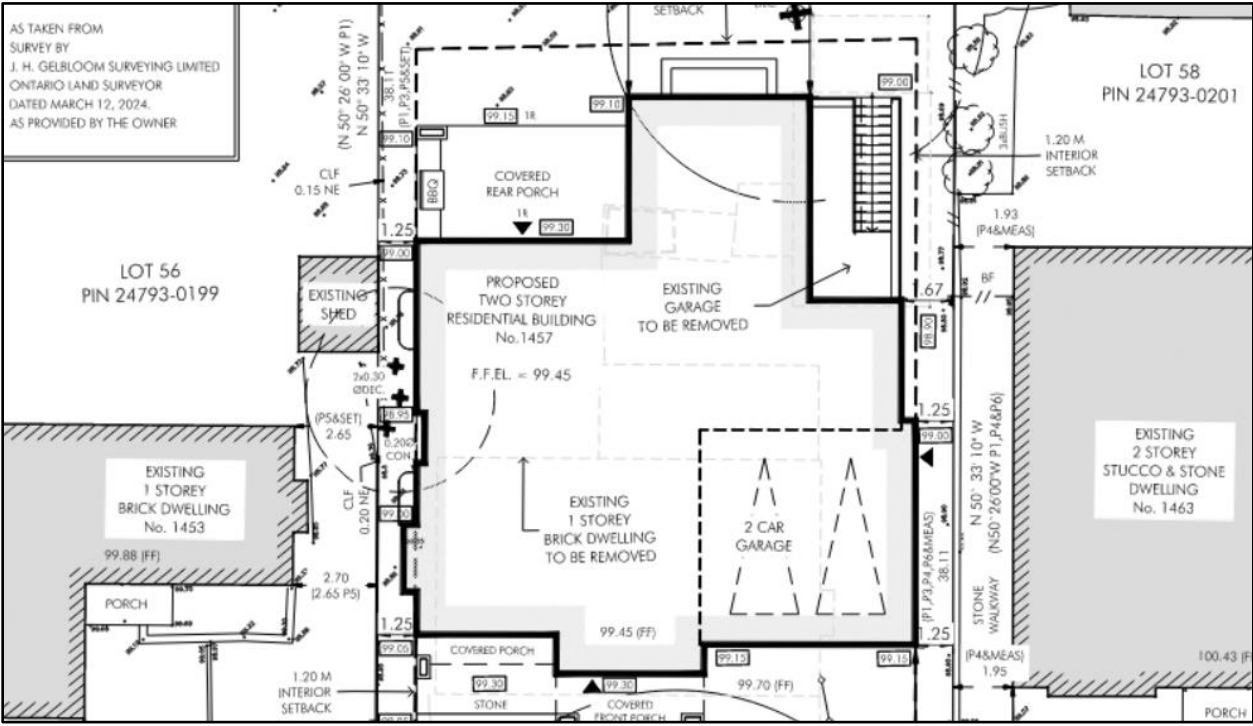
#### **Site Area and Context**

The subject lands are within a neighbourhood that has experienced some redevelopment in the form of replacement dwellings and additions/alterations to existing dwellings. The neighbourhood consists of two-storey and one-storey existing housing stock and newer two-storey replacement dwellings.

Dwellings in the surrounding area consist of a variety of architectural styles and design elements that maintain and contribute to the established neighbourhood character. Along Constance Drive, there have been a number of newer two-storey dwellings constructed with one-storey architectural elements to ensure appropriate transitions to neighbouring properties and mitigate any potential impacts on the public realm.



Aerial Photo – 1457 Constance Drive



Site Plan – 1457 Constance Drive



*Primary Façade – 1457 Constance Drive*

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:

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

The subject lands are designated Low Density Residential in the Livable Oakville 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 new development to ensure the maintenance and protection of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville.

Staff have concerns over the cumulative impact of the requested variances, primarily due to the inclusion of a full second storey without adequate recesses or wall plane variation which 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.*

**3.2.1 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. This 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*
- *Variation 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*

In addition, staff have concerns with the proposed two storey foyer and white limestone framing contribute to a larger overall massing and visual appearance, which is relevant to the RFA and lot coverage variances. It is staff's opinion that the current design does not implement the Design Guidelines for Stable Residential Communities, in particular, the following sections:

**3.2.4 Primary Façade:** *New development is discouraged to project significant built form and elements toward the street which may create an overpowering effect on the streetscape.*

The proposed dwelling includes a full two-storey primary façade entryway feature that elongates the verticality of the proposed dwelling, contributing to the overall massing scale of the proposed dwelling. In combination with the requested variances the proposed architectural elements increase the size and scale of the proposed dwelling that will result in a dwelling that appears substantially larger than those in the surrounding neighbourhood. The proposed dwelling does not incorporate any transitional, one-storey elements along the west side and proposes multiple architectural finishing pillars that contributes to the size of the dwelling. Within the established neighbourhood the newer two-storey replacement dwellings incorporate one-storey primary façade entryway features, which ensures the established character of the neighbourhood is maintained and protected by mitigating visual impacts on the public realm. One-storey primary façade entryway is a common feature for newer two-storey detached dwellings in the surrounding area. The chosen material and the size of the full two-storey entryway feature enhances the massing and scale of the dwelling, and combined with the variances does not maintain the character of the established neighbourhood. Therefore, on this basis it is staff's opinion that the requested variances are not in keeping with the intent of the Town's Official Plan.

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

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

**Variance #1** – Residential Floor Area Ratio (Objection) – 41% increased to 46.57%

**Variance #2** – Maximum Lot Coverage (Objection) – 35% increased to 38.94%

The intent of regulating the residential floor area ratio and lot coverage is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. The requested increases in residential floor area and lot coverage, combined with the large two-storey primary façade entryway feature and chosen architectural features will result in a dwelling that appears larger than those in the surrounding area. The applicant has not demonstrated how the potential impacts of the proposed dwelling are being mitigated through the design. As a result, 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 requested variances and chosen architectural elements will result in a dwelling that will appear larger than those in the surrounding area and does

not represent the appropriate development of the subject lands 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 established neighbourhood. The requested variances are not minor in nature or appropriate for the development of the lands.

**Recommendation:**

Given the foregoing, it is staff's opinion that the application does not maintain the general intent and purpose of the Official Plan, Zoning By-law, is not minor in nature, and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet the four tests under the *Planning Act* and staff recommends that the application be denied.

**Bell:** No comments received.

**Fire:** No concerns for fire.

**Metrolinx:** No comments received.

**Finance:** No comments received.

**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 an increase to the lot coverage and an increase to the residential floor area, under the requirements of the Town of Oakville Zoning By-law, for the purpose of constructing a new two-storey detached dwelling on the Subject Property.

**Halton Conservation:** No comments received.

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

**CN Rail:**

Thank you for consulting CN on the application mentioned in subject. It is noted that the subject site is within 1000 meters of CN railway yard operations. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. The Guidelines for New Development in Proximity to Railway Operations reinforce the safety and well-being of any existing and future occupants of the area. Please refer to these guidelines for the development of sensitive uses in proximity to railway operations. These policies have been developed by the Railway Association of Canada and the Federation of Canadian Municipalities.

In consideration of the scale of the proposed sensitive use and the distance of the subject site from the railway yard facility, CN encourages the municipality to pursue the implementation of the following criteria as conditions of approval:

- Inclusion of a warning clause in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1,000m of the railway yard facility, to address various issues relating to the safety and well-being of future occupants, but also to protect the integrity of railway operations and lands:  
“Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 1,000 meters from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CN will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

We request that CN rail and the proximity@cn.ca email be circulated on any and all public notices and notice of decisions with respect to this and future land use planning applications with respect to the subject site.

**Letter(s) in support – None**

**Letter(s) in opposition – None**

Sharon Coyne

Sharon Coyne  
Assistant Secretary-Treasurer  
Committee of Adjustment