

# COMMITTEE OF ADJUSTMENT

## **MINOR VARIANCE REPORT**

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

**APPLICATION: CAV A/158/2024**

**RELATED FILE: N/A**

### **DATE OF MEETING:**

By videoconference and live-streaming video on the Town of Oakville's Live Stream webpage at [oakville.ca](https://oakville.ca) on December 11, 2024 at 7 p.m.

| <u>Owner (s)</u> | <u>Agent</u>   | <u>Location of Land</u>   |
|------------------|--|---|
| J. GOUDA         | Kruti Shah<br>RJ CAD SOLUTIONS INC<br>4 ABACUS Rd Unit<br>BRAMPTON ON, CANADA<br>L6T 5J6 | HVLCP 620 LEVEL 1 UNIT<br>16<br>25 Lambert Common<br>Town of Oakville |

**OFFICIAL PLAN DESIGNATION:** Low Density Residential – Special Policy

**ZONING:** RL1-0 sp:314, Residential

**WARD: 2**

**DISTRICT: West**

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### **APPLICATION:**

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit a below grade entrance in the rear yard on the subject property proposing the following variances to Zoning By-law 2014-014:

| No. | Current   | Proposed   |
|-----|---|--|
| 1   | <i>Table 6.3 (Row 6, Column RL1)</i><br>The minimum rear yard shall be 10.5 metres.   | To reduce the minimum rear yard to 8.6 metres.   |
| 2   | <i>Table 4.3 (Row 18, Column 3)</i><br>Maximum encroachment into a minimum rear yard for uncovered access stairs below grade shall be 1.5 metres. | To increase the maximum encroachment into the minimum rear yard for uncovered access stairs below grade to 3.2 metres. |

## **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/158/2024 - 25 Lambert Common (West District)** (OP Designation: Low Density Residential – Special Policy)

The applicant proposes to construct a below grade entrance in the rear yard, subject to the variances listed above.

**Site Area and Context**

The subject property fronts onto Lambert Common which is characterized by newly constructed two storey dwellings and a cul-de-sac that leads to a view of Lake Ontario. Previous variances have been obtained for the property under Zoning By-law 2014-014 related to maximum garage floor area on December 9, 2014 and on November 8, 2016 to recognize the existing as built flankage yard setback. A public pathway runs behind the subject property toward the lake as shown in the images below.



*Aerial Photo of Lambert Common*

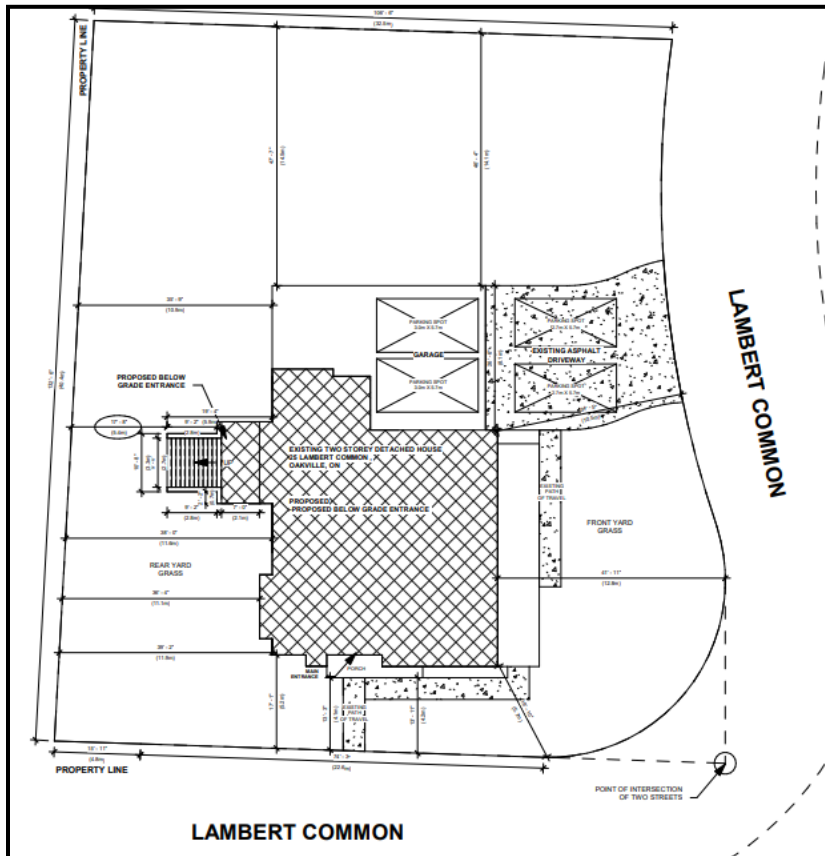




*25 Lambert Common – taken on December 2, 2024*



*Public pathway and rear of 25 Lambert Common – taken on December 2, 2024*



*Excerpt of Site Plan prepared by Applicant*

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) in 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 property is designated Low Density Residential- Special Policy in the Official 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. Due to the special attributes of the large lots and related homes in this Special Policy Area, intensification shall be limited to development which maintains the integrity of the large lots and not negatively impact surrounding properties. The proposed uncovered access stairs will facilitate access to the basement of the dwelling and will not have an adverse impact on adjacent and surrounding properties. It is staff's opinion that the proposal maintains the intent of the Official Plan and is compatible with the neighbourhood character.

**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** – Minimum Rear Yard: decrease of 1.9 m (No Objection)

**Variance #2** – Maximum Encroachment into Rear Yard: Increase of 1.7 m (No Objection)

The intent of regulating the rear yard setback is to ensure adequate rear yard amenity space and to reduce potential overlook and privacy impacts and the intent of regulating the rear yard encroachment is to allow for adequate drainage and passage through a yard so that the encroachment does not impede access and allow for adequate open space and landscaping. In this case, the proposed below-grade access stair is located in the rear yard and will not impede access, and adequate landscaping will be accommodated on-site. Furthermore, drainage will continue to be reviewed as part of the building permit submission of detailed engineering plans.

It is staff's opinion that the application as submitted maintains the general intent and purpose of the Zoning By-law and is compatible with the neighbourhood character.

**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 variances are minor in nature and will not create any undue adverse impacts to adjoining properties or the existing neighbourhood character.

**Recommendation:**

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

1. That the below grade entrance be built in general accordance with the submitted site plan and elevation drawings dated 2024-10-10; 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.

**Bell Canada:** No comments received.

**Fire:** No concerns for fire. Passed.

**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 a decrease to the minimum rear yard to 8.6 m and an increase to the maximum encroachment into the minimum rear yard for uncovered access stairs below grade to 3.2 m, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting a below grade entrance in the rear yard 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.
- **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. However, the subject lands have been disturbed with the existing development, as such, an archaeological assessment would not have been required.

As a caution, however, please note that during any development activities, should archaeological materials be found on the property, the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism must be notified

immediately ([archaeology@ontario.ca](mailto:archaeology@ontario.ca)). If human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbances must stop to allow the authorities to investigate and the Registrar, Ontario Ministry of Public and Business Service Delivery, who administers provisions of that Act related to burial sites, to be consulted.

**Metrolinx:** No comments received.

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

**Union Gas:** No comments received.

**Letter(s) in support – None**

**Letter(s) in opposition – None**

**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.

Requested conditions from circulated agencies:

1. That the below grade entrance be built in general accordance with the submitted site plan and elevation drawings dated 2024-10-10; 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.

*J. Ulcar*

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Jennifer Ulcar  
Secretary-Treasurer  
Committee of Adjustment