

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/169/2024

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 on December 11, 2024 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
W. LI	Kurtis Van Keulen Huis Design Studio 301-1a Conestoga Dr Brampton ON, Canada L6Z 4N5	PLAN M16 LOT 1 BLK A 2114 Hixon St Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential

ZONING: RL3-0, Residential

WARD: 1

DISTRICT: West

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 on the subject property proposing the following variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 6.4.1 (Row 4)</i> The maximum residential floor area ratio for a detached dwelling with a lot area between 743.00 m ² and 835.99 m ² shall be 40%.	To increase the maximum residential floor area ratio to 44.75%.
2	<i>Section 6.4.3 a)</i> The minimum front yard on all lots shall be the yard legally existing on the effective date of this By-law less 1.0 metre. In this instance, the minimum front yard shall be 7.81 metres.	To reduce the minimum front yard to 7.56 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/169/2024 – 2114 Hixon Street (West District) (OP Designation: Low Density Residential)

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

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:

Site and Area Context

The subject property is a corner lot in a neighbourhood containing one-storey, one-and-a-half-storey, and two-storey dwellings that are original to the area, along with some newly constructed two-storey homes with diverse architectural styles. There is a newly constructed infill subdivision containing 14 single detached residential dwellings directly across the street from the subject lands, which was previously the location of a former Catholic elementary school named St. Ann's. Most newly constructed dwellings include attached two-car garages and consist of lower second floor roof lines, stepbacks, and massing that is broken up into smaller elements to help reduce potential impacts on the streetscape. The following images provide the neighbourhood context in the immediate vicinity of the subject lands.



Aerial Photo of subject lands – 2114 Hixon Street



Photograph of subject lands – 2114 Hixon Street (Hixon Street frontage [taken November 26, 2024])



Photograph of subject lands – 2114 Hixon Street (Sollingate Drive frontage [taken November 26, 2024])



Photograph of dwellings located on the north side of Hixon Street (Nyla Court), opposite the subject lands (taken November 26, 2024)



Photograph of dwellings located on the west side of Solingate Drive Street, opposite the subject lands (taken November 26, 2024)

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

The subject lands are designated Low Density Residential 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. The proposal was evaluated against 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 proposed development has been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of the new development to ensure the maintenance and preservation of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. 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. Staff are of the opinion that the proposal would 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.*

3.1.3 Scale: *New development should not have the appearance of being substantially larger than the existing dwellings in the immediate vicinity. If a larger massing is proposed, it should be subdivided into smaller building elements that respond to the context of the neighbourhood patterns.*

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. The 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.*
- *Variations 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.*

3.2.2. Height: *New development should make every effort to incorporate a transition in building height when the proposed development is more than a storey higher than the adjacent dwellings. The transition may be achieved by:*

- *stepping down the proposed dwelling height towards the adjacent shorter dwellings*
- *constructing a mid-range building element between the shorter and taller dwellings on either side*
- *increasing the separation distance between dwellings*

New development is encouraged to incorporate upper storey living spaces wholly or partially within the roof structure to de-emphasize the height and overall building scale, and to divide the massing of the roof. Dormer and end gable windows can provide adequate light into these spaces.

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 intent of the Official Plan is to protect the existing character of stable residential neighbourhoods. While redevelopment of some of the original housing stock has taken place in the surrounding area, Staff are of the opinion that the proposed dwelling would not maintain and protect the existing neighbourhood character. The proposed dwelling presents as substantially larger than adjacent dwellings and creates an overpowering effect on the local streetscape.

The proposed floor area increase, along with the architectural design of the dwelling's exterior, have not been properly considered when examining it against the existing character of the stable residential neighbourhood in which it is located. As such, the proposal results in a development that appears to be substantially larger than those around it and would result in negative cumulative impacts on the surrounding neighbourhood. In particular, the proposed two-storey entryway feature would enhance the verticality of the primary façade and contribute to the development of a dwelling which helps further exacerbate the negative impacts of mass and scale on nearby properties, and the local streetscape. Furthermore, the proposed dwelling does not provide an appropriate transition to the abutting one-and-a-half-storey dwelling to the south. The height of the proposed dwelling should be stepped down towards the southern end of the property or the second floor integrated into a lowered roofline. Portions of the second floor could also be stepped back along the rear main wall to help mitigate the potential shadowing, massing, and scale impacts on the abutting one-half-storey dwelling.

While measures have been taken to mitigate some of the potential massing and scale impacts along the front façade, such as the second storey roofline being lowered above the garage, the remainder of the proposed dwelling still appears as a full two-storeys from the public realm. Additionally, the inclusion of non-functioning aesthetic dormer windows into the roof and front entryway feature makes the dwelling appear to be 3-storeys in height exacerbating the perceived height from the public realm. As seen in the above photos, the new single detached dwelling across from the subject property has been designed to incorporate a majority of the second floor into the roofline along the Hixon Street frontage, making it appear considerably smaller in massing and scale than the proposed development. The subject proposal has attempted to mitigate some of the impacts on neighbouring properties, but the magnitude and cumulative impacts of variances being sought still result in a development that is not desirable or appropriate given the existing neighbourhood character.



2114 Hixon Street – Proposed Front Elevation (Hixon Street frontage)



2114 Hixon Street – Proposed Flankage Elevation (Solvingate Drive frontage)

In Staff's opinion, the proposed floor area increase, along with some of the chosen exterior façade design elements of the dwelling, have not been properly considered when examining it against the existing character of the stable residential neighbourhood in which it is located. As such, the proposal results in a development that appears to be substantially larger than those around it and would result in negative cumulative impacts on the surrounding neighbourhood. On this basis, it is Staff's opinion that variance #1

does not maintain the general intent and purpose of the Official Plan as this variance contributes to a proposal that would not maintain nor protect the character of the existing neighbourhood.

The requested variance to decrease the minimum required front yard setback is required to accommodate a portion of the mudroom located directly beside the kitchen area. This variance can be considered technical in nature as the front yard under the Zoning By-law on a corner lot is deemed to be the shorter of the two lot frontages facing the public right-of-way. As such, the technical front yard is being utilized as the functional flankage yard area of the dwelling. Notwithstanding the above, and although the decrease in setback from 7.81 metres to 7.56 metres may seem minor in nature, the cumulative impacts of the front yard setback reduction in combination with the increase in residential floor area results in a dwelling that is not compatible with the existing neighbourhood character. The dwelling as contemplated may result in negative impacts on abutting properties and the proposed massing and scale of the dwelling will create an overpowering effect on the local streetscape that will be perceived from the public realm. On this basis, it is Staff's opinion that variance #2 does not maintain the general intent and purpose of the Official Plan as this variance also helps contribute to the proposal in a way that adversely affects the surrounding area and does not maintain nor protect the character of the existing neighbourhood.

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 – Maximum Residential Floor Area Ratio (Objection) – increase from 40% to 44.75%

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit a maximum residential floor area increase of 4.75% from what is permitted. The intent of the Zoning By-law provisions for residential floor area and lot coverage are to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood.

The residential floor area ratio variance results in a total increase of 36.93 square metres above the maximum permitted. The proposed dwelling also consists of massing resulting from the large open-to-below areas above the front foyer and the dining/great room at the rear of the home, totalling approximately 60.99 square metres that pushes the second-storey floor area to the perimeter of the dwelling. While the open-to-below areas do not technically count towards the residential floor area, it contributes to the massing and scale of the dwelling in a manner that is not compatible with the neighbourhood character. The 60.99 square metres of open-to-below area combined with the additional residential floor area of approximately 36.93 square metres results in 97.92 square metres of additional area that contributes overall towards the massing and scale of the proposed dwelling.

The dwelling design does not appropriately mitigate the potential massing and scale impacts on abutting properties either. It is noted that the roofline for instance, besides the area above the garage, has not been lowered or integrated into the second storey to help mitigate massing and scale from the public realm. In addition, the inclusion of the two-storey front porch creates an overpowering front façade element which also projects massing towards the public realm. The proposal also does not incorporate design elements that would help to mitigate the impact of the significant massing and

scale on adjacent properties such as: the second storey being stepped back from the front main wall of the first storey, variations in dwelling height, lowered rooflines, wall plane variations, façade articulation, adequate recesses, variation in roof forms, and massing that is broken up into smaller elements.

On this basis, it is Staff's opinion that the proposed dwelling would negatively impact adjacent properties, as the effect of the proposed variance creates a massing and scale that is not in keeping with other dwellings in the area. Although efforts have been made to help mitigate some of the potential massing and scale impacts, the magnitude of the variance being sought would make the proposed development appear visually larger than the dwellings in the existing neighbourhood and would not maintain nor protect the neighbourhood's existing character. In Staff's opinion, the proposed variance does not meet the general intent and purpose of the Zoning By-law and would negatively impact the streetscape.

Variance #2 – Minimum Front Yard Setback (Objection) – decrease from 7.81 m to 7.56 m

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit a decrease in the minimum required front yard setback of 0.25 m. The intent of the provision for minimum front yard setback is to ensure a relatively uniform setback along the street. As mentioned previously, Staff recognize that the decrease in the minimum required front yard setback is needed to accommodate a portion of the mudroom located directly beside the kitchen area. This variance can be considered technical in nature as the front yard under the Zoning By-law on a corner lot is deemed to be the shorter of the two lot frontages facing the public right-of-way. As such, the technical front yard along Solingate Drive is being utilized as the functional flankage yard area of the dwelling. Notwithstanding the above, and as stated previously, although the decrease in setback from 7.81 metres to 7.56 metres may seem minor in nature, the cumulative impacts of the front yard setback reduction in combination with the increase in residential floor area results in a dwelling that is not compatible with the existing neighbourhood character. As such, Staff are of the opinion that the variance request for minimum required front yard setback does not maintain the general intent and purpose of the Zoning By-law.

Potential Missed Variances

Notwithstanding the comments above, it appears that the following variances may have been missed, and therefore, the proposal may not comply with the Zoning By-law requirements:

No.	Zoning By-law Regulation	Potential Variance Request Missed
1	Section 5.8.7 a) The minimum setback from the flankage lot line for a private garage shall be 5.70 metres	To permit a minimum setback of 5.0 metres from the flankage lot line for a private garage
2	Table 4.3 – The maximum projection beyond the main wall of the dwelling for below grade access stairs located in an interior side yard shall be 1.5 metres (which is measured to the outside of the retaining wall)	To permit a maximum projection of approximately 1.8 metres beyond the main wall of the dwelling for below grade access stairs located in an interior side yard

Therefore, depending on the outcome of this application, the applicant may need to revise the proposal to comply with relevant regulations during construction, which may or may not be in general accordance with the plans submitted with this application. Alternatively, the applicant may request a deferral of this application in order to submit a Building Permit application for a complete Zoning review. It should be noted Staff do not complete a full Zoning review of Minor Variance applications; rather, they only confirm the accuracy of the variances applied for.

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 floor area ratio and front yard setback do not represent the appropriate development of the subject property. The proposed dwelling represents an overbuild of the site and would create negative impacts on the public realm in terms of massing and scale and does not fit within the context of the existing neighbourhood. The development as proposed may result in undue adverse impacts on the abutting property to the south, and the requested variances are not appropriate for the development of the lands. The variances intend to facilitate a development that does not maintain the character of the neighbourhood.

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 desirable for the appropriate development of the subject lands, and cumulatively, the impact of the variances are not minor in nature. Accordingly, the application does not meet the four tests under the Planning Act and staff recommends that the application as submitted be denied.

Bell Canada: No comments received.

Fire: No concerns for fire. Passed.

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 maximum residential floor area ratio to 44.75% and a decrease to the minimum front yard to 7.56 m, 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.
- **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.

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

J. Ulcar

Jennifer Ulcar
Secretary-Treasurer
Committee of Adjustment