

# COMMITTEE OF ADJUSTMENT

## **MINOR VARIANCE REPORT**

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

**APPLICATION: CAV A/172/2024**

**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>
G. JIN	Christine Deng Z Square Consulting Inc. 2710 14 Ave Markham ON, CANADA L3R 0J1	PLAN 352 LOT 25 147 Elmwood Rd Town of Oakville

**OFFICIAL PLAN DESIGNATION:** Low Density Residential

**ZONING:** RL5-0, 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 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>Section 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area between 557.50 m <sup>2</sup> and 649.99 m <sup>2</sup> shall be 42%.	To increase the maximum residential floor area ratio to 46.56%

## **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/172/2024 - 147 Elmwood Road (West District)** (OP Designation: Low Density Residential)

The property was previously subject to Minor Variance application CAV A/092/2024 which was approved by the Committee of Adjustment, but was not supported by staff. Subsequently, the town appealed the decision to the Ontario Land Tribunal (OLT). The original application requested relief from a minimum side yard setback from the proposed garage, and an increase in residential floor area.

To support the settlement and encourage a reduced timeframe to receive final approval, the subject application was submitted. Through the subject application, the applicant has modified their proposal to remove the garage setback deficiency and reduced the residential floor area. An increase in the setback in the second floor is also proposed to alleviate the massing impact of the rear yard projection, as shown in Figure 1 below.

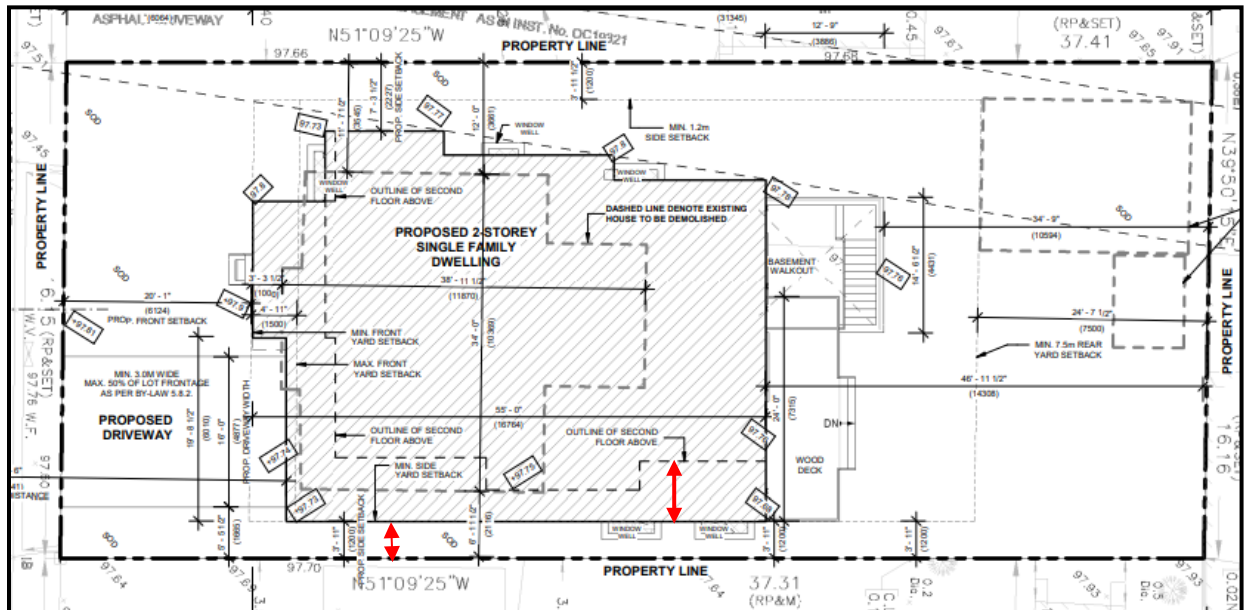


Figure 1 – Site Plan

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

The subject property is designated Low Density Residential in the Livable Oakville Official Plan. Development is required to be evaluated using the criteria established in Section 11.1.9 to maintain and protect the existing neighbourhood character. In this instance, the increase in residential floor area has been mitigated by establishing a stepback in the second floor at the rear of the dwelling. Staff is of the opinion that the proposal maintains the general neighbourhood character and complies with the Livable Oakville Plan.

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

**Variance #1** – Maximum Residential Floor Area (No Objection) – 42% increased to 46.56%

The intent of regulating residential floor area is to ensure the dwelling does not have the appearance of being larger than other dwellings in the neighbourhood. The proposed increase is modestly reduced from the previous approval and now incorporates a stepback in the building wall to mitigate the impact of massing at the rear. On this basis, it is staff's opinion that the requested variance maintains the general intent of the Zoning By-law.

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

The proposal to increase the residential floor area is appropriate for the development and minor in nature.

**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 and elevation drawings dated 10/01/24; 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.

**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 note that there is a Regional easement on the Subject Property. Buildings, structures, landscaping, and other encumbrances are not to be constructed or placed on existing or proposed Regional easements. Regional easement rights must be maintained at all times and not be infringed upon. Regional staff note that the existing sanitary sewer appears to be abandoned. The applicant should apply to have the easement removed from title on the property. Please contact Jing Bo Yu, Assistant Corporate Counsel, ([jingbo.yu@halton.ca](mailto:jingbo.yu@halton.ca)).
- 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 46.56%, 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**

**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. The dwelling be constructed in general accordance with the submitted site plan and elevation drawings dated 10/01/24; 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