

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/139/2024 (Deferred from October 2, 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>
R. SHAHEEN T. SHAHEEN	Jim Levac Glen Schnarr and Associates Inc. 10 Kingsbridge Garden Cir Suite 700 Mississauga ON, CANADA L5R 3K6	PLAN 1103 LOT 4 208 Donessle Dr Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential – Special Policy Area

ZONING: RL1-0, Residential

WARD: 3

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 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 5.8.6 c)</i> For lots located within the Residential Low (RL1) Zone the maximum total floor area for a private garage shall be 56.0 square metres and the maximum width of the entrance to the private garage shall be 9.0 metres.	To increase the maximum total floor area for a private garage to 74.5 square metres and increase the maximum width of the entrance to the private garage to 10.7 metres.
2	<i>Table 6.3.1 (Row 5, Column RL1)</i> The minimum interior side yard shall be 4.2 metres.	To reduce the minimum southerly interior side yard to 2.4 metres.
3	<i>Table 6.3.1 (Row 5, Column RL1)</i> The minimum interior side yard shall be 4.2 metres.	To reduce the minimum northerly interior side yard to 3.1 metres.
4	<i>Table 4.3 (Row 18)</i> The maximum encroachment into a minimum interior side yard for uncovered access stairs below grade	To increase the maximum encroachment into the minimum northerly interior side yard for the uncovered access stairs below grade to 1.51 metres.

	shall be 0.0 metres.	
5	<i>Table 6.3.1 (Row 9, Column RL1)</i> The maximum dwelling depth shall be 20.0 metres.	To increase the maximum dwelling depth to 21.9 metres.
6	<i>Table 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with a lot area 1,301.0 m ² or greater shall be 29%.	To increase the maximum residential floor area ratio to 39.8%.
7	<i>Table 6.4.2 (Row 1, Column 3)</i> Where the detached dwelling is greater than 7.0 metres in height, the maximum lot coverage shall be 25%.	To increase the maximum lot coverage to 32.8%.
8	<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 14.6 metres.	To reduce the minimum front yard to 12.4 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/139/2024 – 208 Donessle Drive (East District) (OP Designation: Low Density Residential – Special Policy Area) (Deferred from October 2, 2024)

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

A minor variance application was previously submitted for consideration by the Committee on October 2, 2024. This application was deferred due to the applicant identifying another variance, as well as Staff comments objecting to the proposed variances. Please see the table below for the list of variances proposed in October 2024, and the revised variances being applied for today, which remain generally unchanged from the original proposal

Town of Oakville Zoning By-law 2014-014		Agenda	
Regulation	Requirement	October 2, 2024	December 11, 2024
Maximum Garage Floor Area and Maximum Garage Width	56.0 m ²	74.5 m ²	74.5 m ²
	9.0m	10.7 m	10.7 m
Minimum Interior Side Yard	4.2m	2.4 m (Southerly)	2.4 m (Southerly)
Minimum Interior Side	4.2m	3.1 m	3.1 m (Northerly)

Yard		(Northerly)	
Maximum Encroachment into Minimum Interior Side Yard for Uncovered Access Stairs	0.0m	N/A	1.51 m
Maximum Dwelling Depth	20.0m	21.9m	21.9m
Maximum Residential Floor Area Ratio	29%	39.8%	39.8%
Maximum Lot Coverage	25%	32.8%	32.8%
Minimum Front Yard	14.6 m	12.4 m	12.4 m

At the request of the applicant, Planning and Urban Design staff met with both the applicant and owner on October 9, 2024, to discuss the concerns raised through the initial submission and how the proposal may be revised to address those concerns. Staff identified that the overall concern is that the cumulative effect of the requested variances result in an undesirable massing and scale of the proposed dwelling and the need to revise the proposed design to mitigate impacts on adjacent properties to be in keeping with the Design Guidelines for Stable Residential Communities. Despite the discussion, the applicant has not addressed any of the original comments of staff and the current design remains unchanged from the original proposal. The only difference is that an additional variance has been added (i.e., the encroachment of the uncovered access stair into minimum northerly interior side yard).

As a result, the following analysis is the same as was provided to the Committee of Adjustment on October 2, 2024, except the numbering of some variances has changed with the additional variance being sought now.

Site Area and Context

The subject lands are within a neighbourhood that consists of two-storey dwellings with some newer two-storey dwellings ranging in architectural forms and design having been constructed within recent years. Along this portion of Donessle Drive, the main walls of dwellings on both sides of the street are generally set back from the front lot line the same as or more than the minimum front yard setback of the zoning by-law.



Aerial Photo – 208 Donessle Drive

The following images are of adjacent dwellings and recently constructed dwellings along Donessle Drive and Michael Terrace.



198 Donessle Drive (taken September 24, 2024)



214 Donessle Drive (taken September 24, 2024)



209 Donessle Drive (taken September 24, 2024)



215 Donessle Drive (taken September 24, 2024)



183 Donessle Drive (taken September 24, 2024)



247 Donessle Drive (taken September 24, 2024)



529 Michael Terrace (taken September 24, 2024)

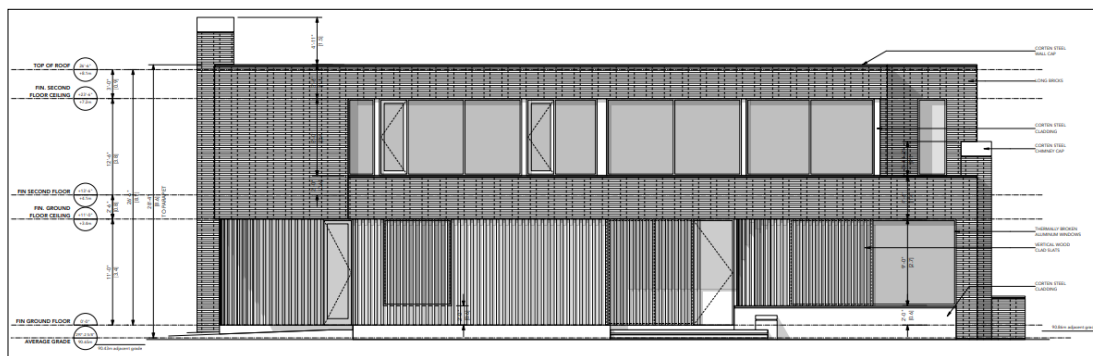
The existing dwelling and proposed dwelling may be viewed in the images below.



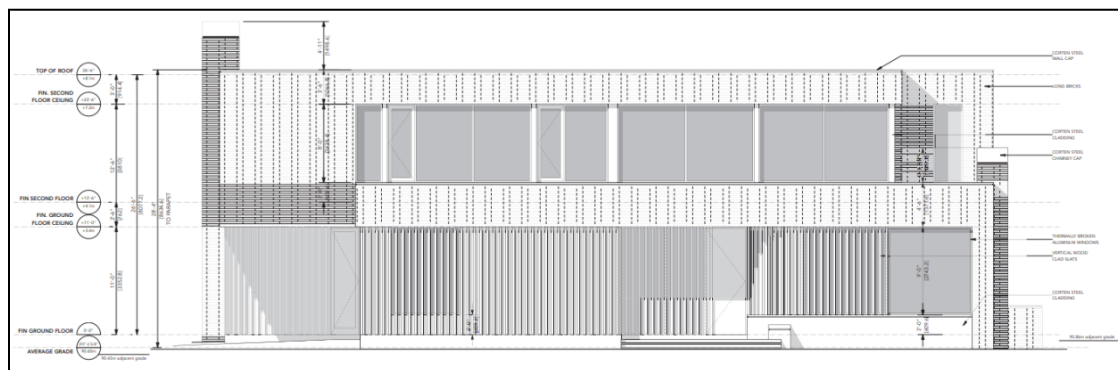
Existing Dwelling – 208 Donessle Drive (taken September 24, 2024)



Proposed Dwelling from architectural set dated July 30, 2024 – 208 Donessle Drive



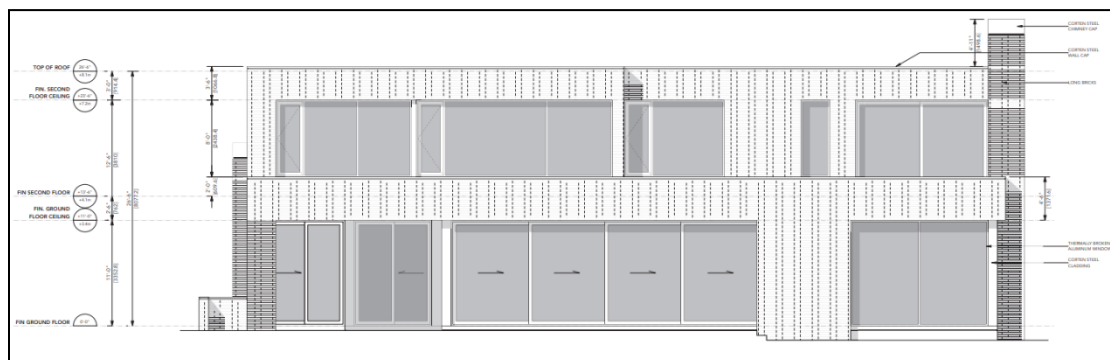
Excerpt of Proposed Northeast (Front) dated Elevation July 30, 2024 – 208 Donessle Drive



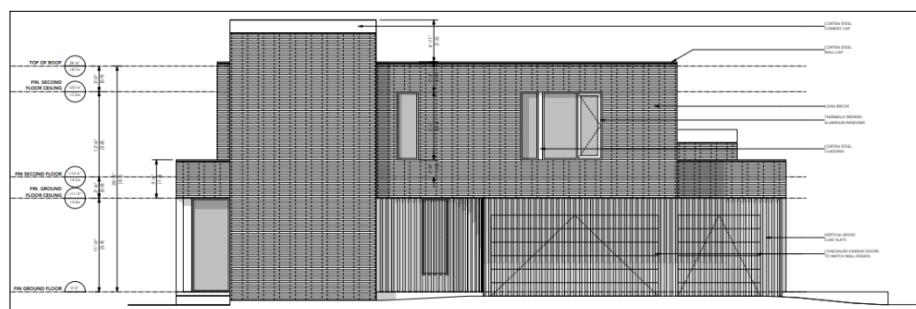
Excerpt of Proposed Northeast (Front) Elevation dated October 29, 2024 – 208 Donessle Drive



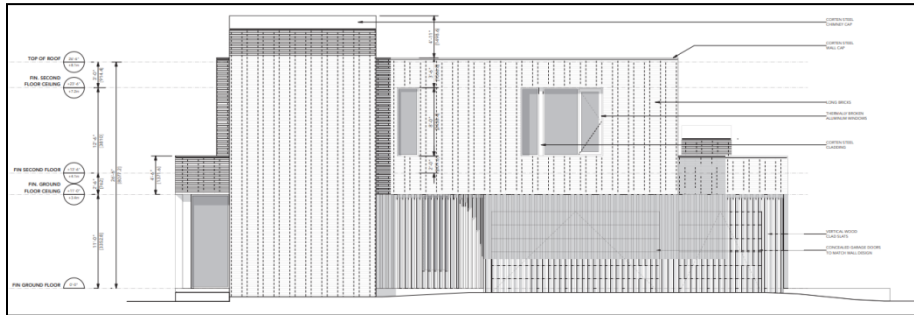
Excerpt of Proposed Southwest (Rear) Elevation dated July 30, 2024 – 208 Donessle Drive



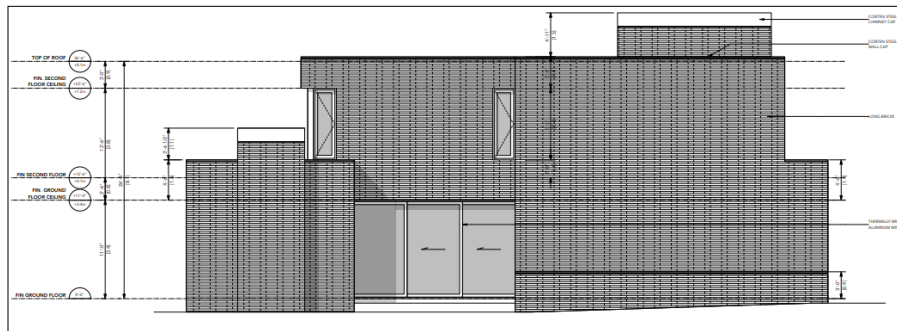
Excerpt of Proposed Southwest (Rear) Elevation dated October 29, 2024 – 208 Donessle Drive



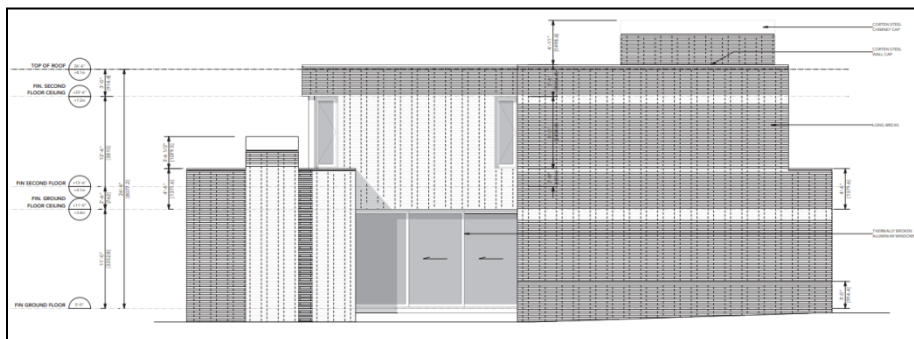
Excerpt of Proposed Southeast (Left) Elevation dated July 30, 2024 – 208 Donessle Drive



Excerpt of Proposed Southeast (Left) Elevation dated October 29, 2024 – 208 Donessle Drive

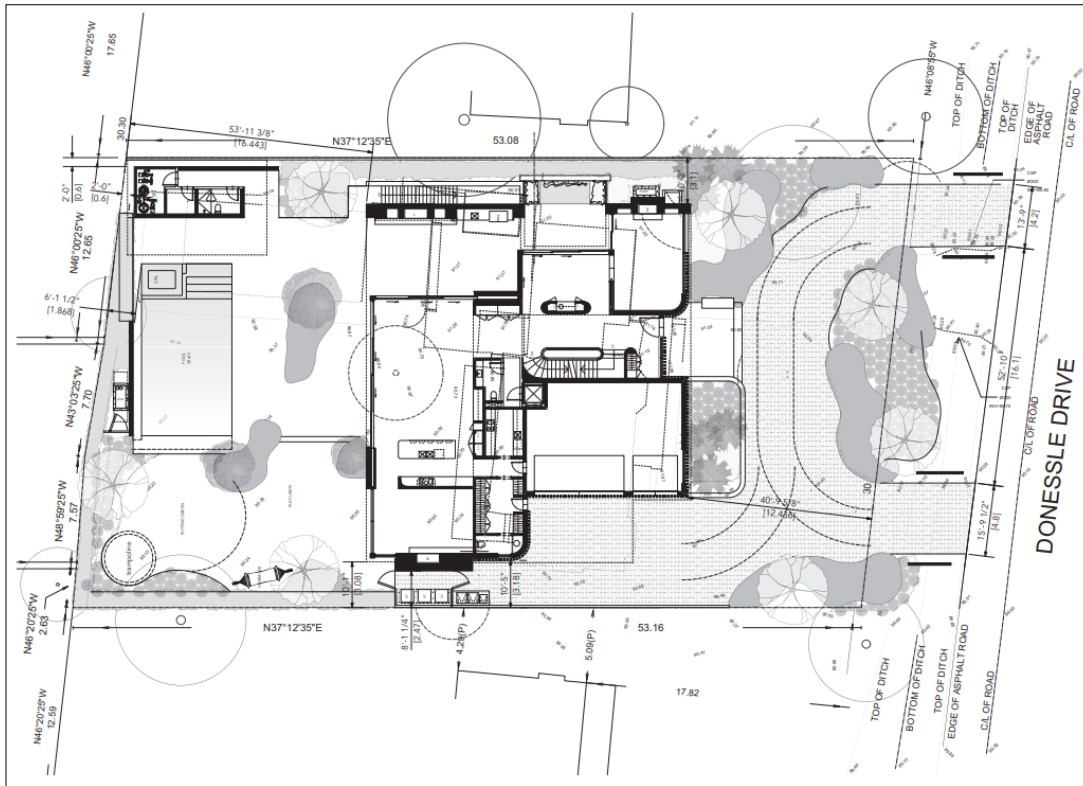


Excerpt of Proposed Northwest (Right) Elevation dated July 30, 2024 – 208 Donessle Drive

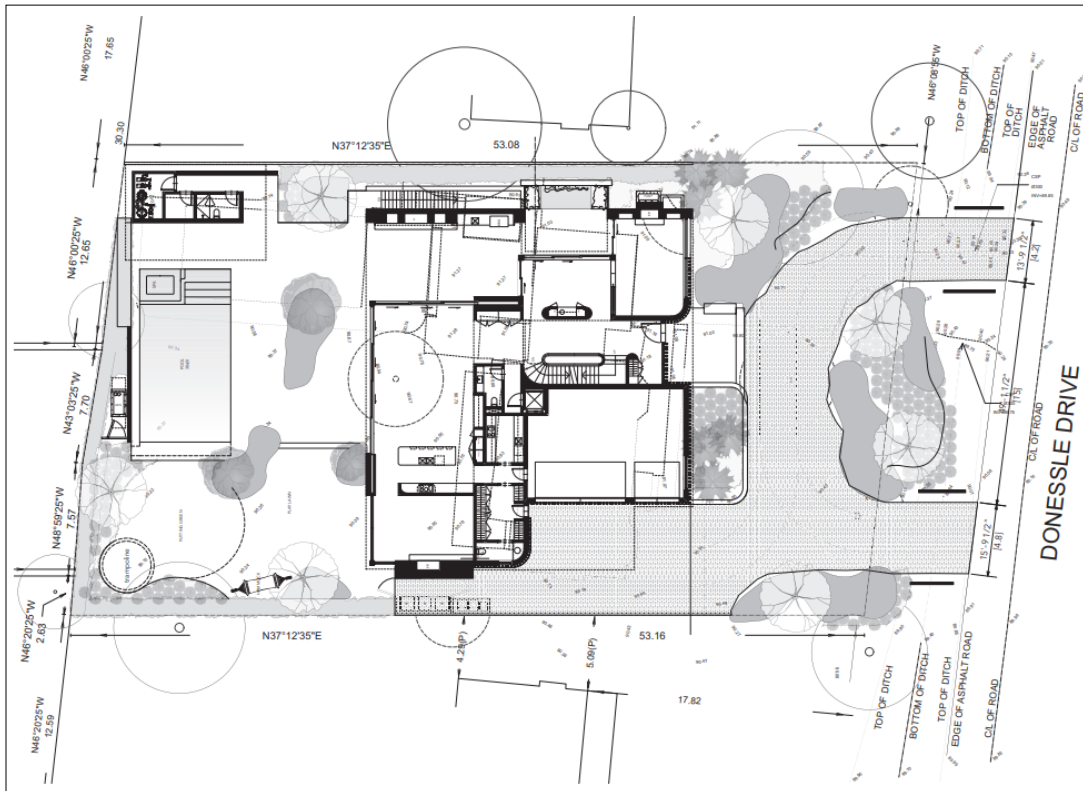


Excerpt of Proposed Northwest (Right) Elevation dated October 29, 2024 – 208 Donessle Drive

The proposed site plan is shown below:



Excerpt of Proposed Site Plan dated July 30, 2024– 208 Donessle Drive



Excerpt of Proposed Site Plan dated October 29, 2024– 208 Donessle 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 property is 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 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 the new development to ensure the maintenance and protection of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. Staff are of the opinion that the proposal 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...*

3.2.3 Setbacks: *New development should be compatible with the character of the existing dwellings by maintaining the established front yard setback patterns and side yard setback patterns along the street edge. There may be instances when the established front yard setback can be slightly varied due to specific site constraints.*

- 1. New development should be oriented and positioned on the lot to be compatible with the existing pattern of dwelling placement, in terms of front, side, flankage and rear yard setbacks.*

2. *New development should maintain the setback or average of setbacks from the street frontage as the existing dwellings in the immediate area.*

While the proposed dwelling incorporates design elements that incorporates step backs of various portions of the building, it does not maintain or preserve the scale and character of the surrounding neighbourhood, nor does the proposal sufficiently mitigate the impact of the massing and scale on abutting properties. Additionally, the proposed dwelling does not maintain the setback or average of setbacks from the street frontage as the existing dwellings in the immediate area resulting in a dwelling closer to the public street and less separation distance along both side yards. Therefore, on the foregoing basis it is staff's opinion that the requested variances are not in keeping with the Official Plan.

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 –Garage Floor Area (No Objection) – 56m² increased to 74.5m²
Garage Width (No Objection) – 9.0m increased to 10.7m

The intent of regulating garage floor area and garage width is to ensure that the garage is not a visually dominant feature of the dwelling. The proposed garage is accessed from the southerly side yard and the proposed design includes elements that blend the garage portion of the dwelling into the front elevation and as a result the increased size and width of garage would not be directly visible from the public realm.

Variance #2 – Southerly Interior Side Yard (Objection) – 4.2m reduced to 2.4m

Variance #3 – Northerly Interior Side Yard (Objection) – 4.2m reduced to 3.1m

Variance #4 – Encroachment of Unenclosed Stairs into Interior Side Yard – 0.0m increased to 1.51m

The intent of regulating side yard setbacks is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. When combined, the proposed reductions amount to the equivalent of 2.9 metres in increased building width and reduced separation from the property lines, which raises concerns from both a scale/massing and a grading/drainage perspective. The proposed encroachment of unenclosed stairs into the required northerly interior side yard exacerbates the concern. On this basis, staff are of the opinion that the requested variances do not maintain the general intent and purpose of the Zoning By-law.

Variance #5 – Dwelling Depth (Objection) – 20m increased to 21.9m

Variance #6 – Residential Floor Area (Objection) – 29% increased to 39.8%

Variance #7 – Lot Coverage (Objection) – 25% increased to 32.8%

The intent of regulating the dwelling depth, residential floor area, 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 increase in dwelling depth is not attributed to a small portion of the dwelling, such as a sunroom or a covered porch, but the proposed increased dwelling depth is required for the majority of the dwelling. The applicant is also proposing an approximate increase in residential floor area of 173.6 sq m (1,868.6 sq ft). For context, the subject property is significantly larger than two lots in

the immediate area (lot to the north and the lot to the north of the lot directly across the street). This larger lot area and the requested increase in lot coverage, which is a significant increase from other dwellings in the neighbourhood, will result in a proposed dwelling that is significantly larger than others along the street and would not maintain or protect the neighbourhood character. Additionally, Forestry staff have indicated concerns with the amount of hard surface and the requirement to remove multiple trees that may cause injury to others, because of the proposed driveway, which includes a circular driveway across the front, and a wide driveway all along the side. On this basis, staff are of the opinion that the requested variances do not maintain the general intent and purpose of the Zoning By-law.

Variance #8 – Minimum Front Yard (Objection) – 14.6m reduced to 12.4m

The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. The proposed reduction in front yard setback is due to the projection of the attached garage and second storey living space towards the street. The reduced front yard of 12.4m allows two-storey massing being projected towards the street creating an overpowering effect on the streetscape and resulting in a dwelling that is not compatible with the surrounding neighbourhood. It results in the dwelling being closer to the street than the average of the front yard setbacks of the adjacent dwellings resulting in non-uniform setback along the street. As such, staff are of the opinion that proposed minimum front yard setback does not meet 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 result in a proposed dwelling that represents an overbuild of the site and is not in keeping with the surrounding neighbourhood. Increased impervious coverage of the property and the also presents drainage concerns. Although a letter from a professional engineer advises that the drainage will not be altered by the proposed development, the proposal includes the introduction of a retaining wall and cabana that will impede cross lot drainage. In addition, there appears to be a 31% increase in impervious surface on the property, resulting from the proposed reduced side yard setbacks and increased unenclosed stairway encroachment, the circular driveway in the front yard, and hardscape surfaces in the rear yard. Although the letter identifies that low impact development strategies will be incorporated into the detailed design of the development, without the submission of a proposed grading plan and associated details, it is unclear whether the proposed development will not negatively impact adjacent residential properties.

The requested variances are not minor in nature or appropriate for the development of the lands. The variances intend to facilitate a development that does not maintain the character of the neighbourhood.

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 Canada: No comments received.

Fire: No concerns for fire. Passed.

Halton Region:

- It is understood that this application was deferred from October 2, 2024. Regional comments provided on September 26, 2024, still apply.
- 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 total floor area for a private garage to 74.5 square m, an increase to the maximum width of the entrance to the private garage to 10.7 m, a decrease to the minimum southerly interior side yard to 3.1 m, a decrease to the minimum southerly interior side yard to 2.4 m, an increase to the maximum dwelling depth to 21.9 m, an increase to the maximum encroachment into the minimum northerly interior side yard for the uncovered access stairs below grade to 1.51 m, an increase to the maximum residential floor area ratio to 39.8%, an increase to the maximum lot coverage to 32.8% and a decrease to the minimum front yard to 12.4 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