

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: CAV A/168/2024

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>
2848327 ONTARIO INC.	Sebastian Alzamora Glen Schnarr & Associates Inc. 10 Kingsbridge Garden Cir Unit 700 Mississauga ON, CANADA L5R 3K6	PLAN 1 BLK 16 PT LOT C 78, 80 & 82 Trafalgar Rd Town of Oakville

OFFICIAL PLAN DESIGNATION: Medium Density Residential

ZONING: RM1 sp:50, 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 recognize the common element condominium as one block for the purposes determining zoning compliance proposing the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
1	Section 6.10 c) For a common element condominium, the applicable zoning regulations shall apply to the proposed lots or blocks to be parcels of tied land until the lots or blocks are formally established.	To permit the applicable zoning regulations to apply to the entirety of the lot/block for a common element condominium.

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/168/2024 – 78, 80 & 82 Trafalgar Road (East District) (OP Designation: Medium Density Residential)

The subject lands contain three townhouse dwelling units that are currently under construction. The development was previously approved under Site Plan Application SP.1713.040/03. The development was also subject to a previous Minor Variance application (CAV A/040/2014) which was approved by the former Ontario Municipal Board for a variety of variances related to setbacks and height to support the proposal.

A Plan of Common Element Condominium (24CDM-24008/1713) was draft approved in October 2024 to establish the tenure for the dwelling units, and a Part Lot Control application (PLC 28.24) is currently under review. It was previously considered (at the time of the Site Plan and Minor Variance) that the development would proceed by standard condominium application which evaluates the property as a whole referring to the perimeter of the site for the required setbacks, as shown in Figure 1 below.

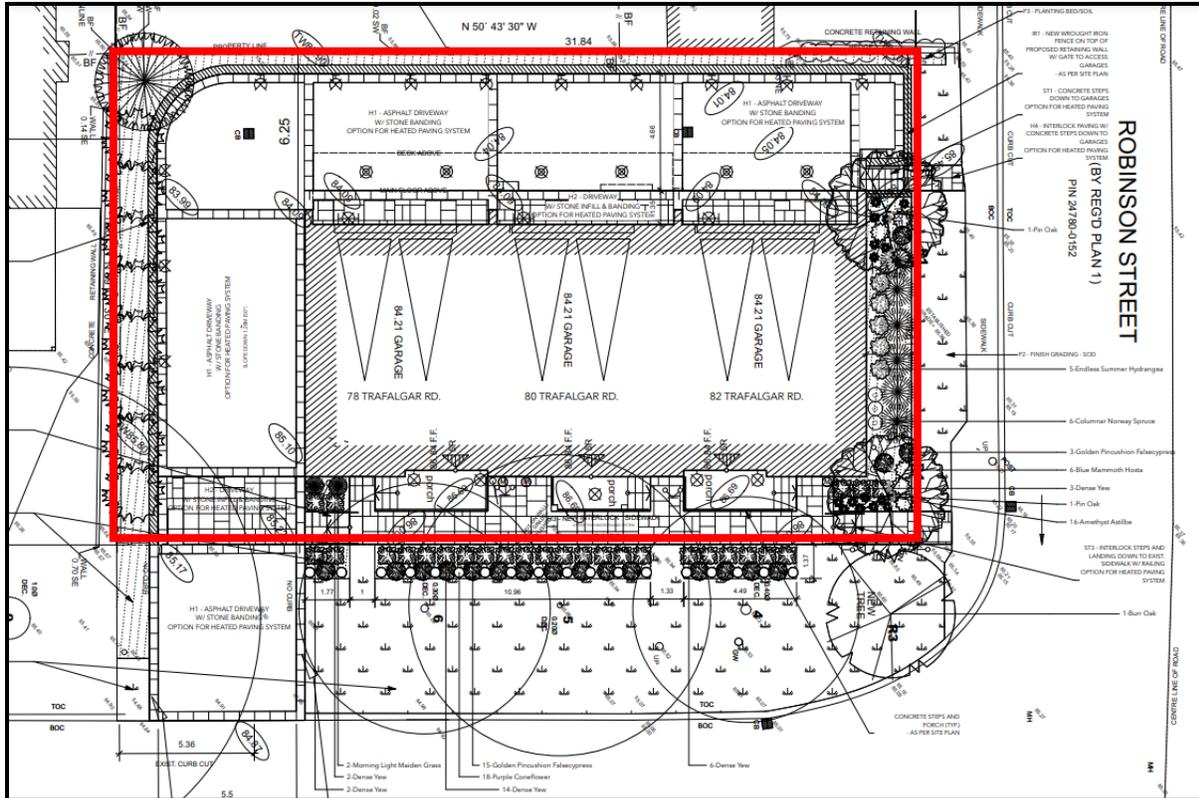


Figure 1 – Standard Condominium limits

However, the applicant has received approval for a Draft Plan of Common Element Condominium, which results in the setbacks being measured from the limit of the common element areas, as shown in Figure 2 below.

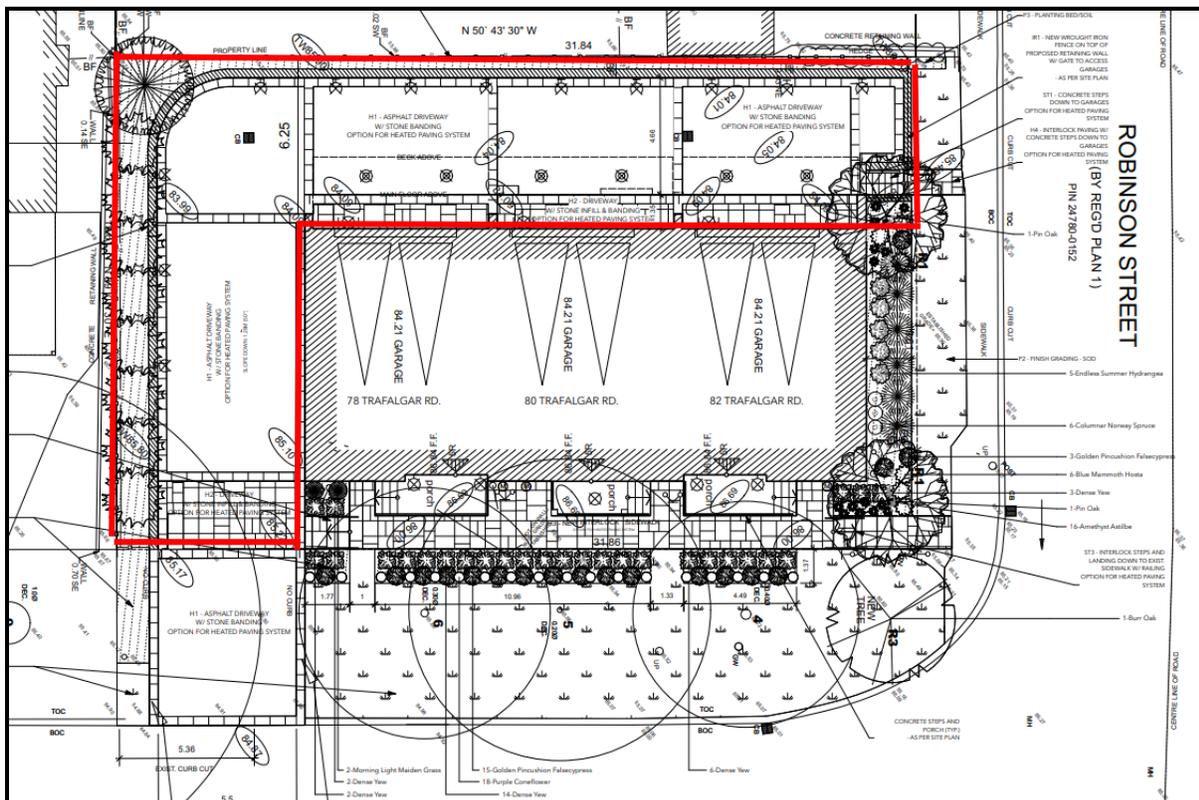


Figure 2 – Common Element Condominium limits

To avoid a new listing of variances that would be required to address the new setbacks resulting from the common element condominium, the applicant is requesting the variance above to maintain the current approvals. No new development is proposed as a result of the requested variance 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:

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

The subject property is designated Medium Density Residential in the Livable Oakville Official Plan. Section 11.1.2 directs the Town to seek a balance in housing tenure. The requested minor variance would recognize the lot's current boundaries to facilitate the future common element condominium application. On this basis the proposal maintains the general intent and purpose of the Official Plan.

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

The purpose of regulating the tenure of the lots, is to ensure orderly development of the site. As the proposal has already been approved through a Site Plan application, all of the previously approved setbacks and other regulations to facilitate the development will be maintained. The common element condominium ensures that the access and driveway will be shared for the purpose of maintenance and does not have an impact on the overall zoning regulations for the site. On this basis, the proposal maintains the general intent and purpose of the Zoning By-law.

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

The proposal to recognize the approved tenure for the property is appropriate for the development and is minor in nature.

Recommendation:

Staff do not object to the proposed variance and do not propose any Conditions, as this application deals with a technical aspect related to tenure of the development. All other matters will be addressed through the Site Plan and Draft Plan of Condominium Conditions, noting that a building permit has been issued and the development is under 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 has no objection to the proposed minor variance application seeking relief under Section 45(1) of the Planning Act in order to permit the applicable zoning regulations to apply to the entirety of the lot/block for a common element condominium, under the requirements of the Town of Oakville Zoning By-law for the purpose of authorizing a minor variance to recognize the common element condominiums as one block 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). 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 Services, 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.

J. Ulcar

Jennifer Ulcar
Secretary-Treasurer
Committee of Adjustment