

# COMMITTEE OF ADJUSTMENT

## **MINOR VARIANCE REPORT**

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

**APPLICATION:** A/016/2025

**RELATED FILE:** N/A

**DATE OF MEETING:** February 19, 2025

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
A. AL-HAJJAJ	Kurtis Van Keulen Huis Design Studio	PLAN 542 LOT 1
A. AL-ZHARI	1a Conestoga Dr 301 Brampton ON L6Z 4N5	2019 Lakeshore Rd E Town of Oakville

**OFFICIAL PLAN DESIGNATION:** Low Density Residential SP.  
**WARD:** 3

**ZONING:** RL1-0, Residential  
**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 the construction of a two-storey detached dwelling on the subject property proposing the following variances to Zoning By-law 2014-014:

	<b>Current zoning by-law requirements</b>	<b>Variance request</b>
1	<i>Table 6.3.1 (Row 5, Column RL1)</i> The minimum interior side yard shall be 4.2 metres.	To reduce the minimum easterly interior side yard to 3.08 metres.
2	<i>Table 6.3.1 (Row 6, Column RL1)</i> The minimum rear yard shall be 10.5 metres.	To reduce the minimum rear yard to 7.52 metres.
3	<i>Table 6.4.1</i> The maximum residential floor area ratio for a detached dwelling on a lot with an area between 1,115.0 m <sup>2</sup> and 1,207.99m <sup>2</sup> shall be 35%.	To increase the maximum residential floor area ratio to 37.83%.
4	<i>Table 6.4.2</i> The maximum lot coverage where the detached dwelling is greater than 7.0 metres in height shall be 25%.	To increase the maximum lot coverage to 28.11%.
5	<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 16.02m.	To reduce the minimum front yard to 12.81 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)

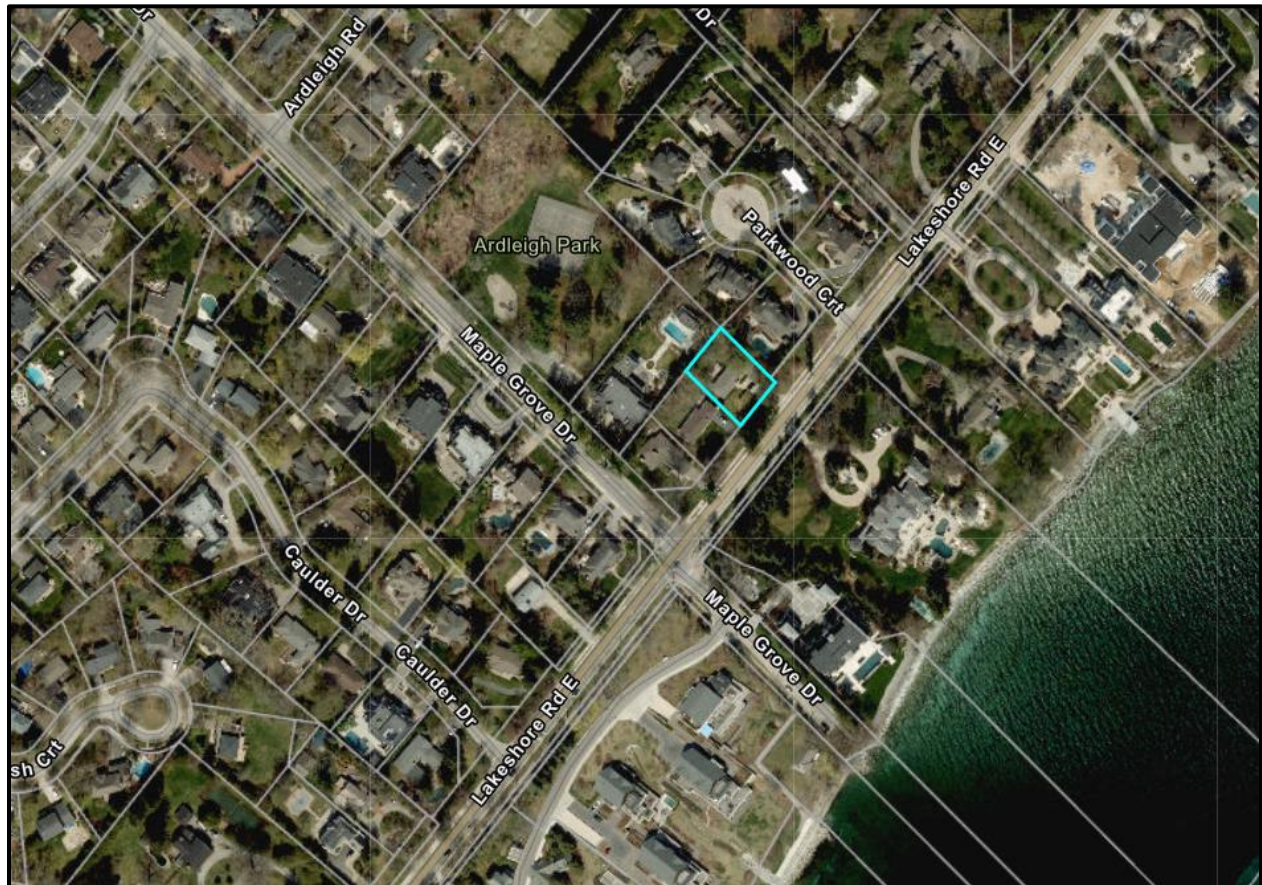
**A/016/2025 - 2019 Lakeshore Road East (East District)** (OP Designation: Low Density Residential – Special Policy)

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 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:

### **Site Area and Context**

The neighbourhood is in transition and has a mix of one-storey and two-storey dwellings that are original to the area and two-storey dwellings that are newly constructed.



*Aerial Photo of 2019 Lakeshore Road East*



*Streetview of 2019 Lakeshore Road East*

### **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 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 also 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 maintain and protect the existing character of established residential neighbourhoods. The subject property is adjacent to one-storey dwellings with two-storey dwellings located across the street. There is opportunity to incorporate design elements to assist in mitigating the impact of the requested variances. For example, greater transition to the adjacent dwelling to the south could be incorporated. The verticality of the entrance could be reduced as well as incorporate architectural components that reflect human scale and do not appear monolithic. Staff are of the opinion that the proposed dwelling would not maintain and protect the existing neighbourhood character as the

proposed dwelling presents as larger than adjacent dwellings and on foregoing basis the proposed variances do not maintain the general intent and purpose of 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 noted below. All of the variances have a cumulative impact resulting in an overbuild on the subject property.

**Variance #1** – Minimum easterly interior side yard **(Objection)** – reduce from 4.2 m to 3.08 m

**Variance #2** – Minimum rear yard **(Objection)** – reduce from 10.5 m to 7.52 m

**Variance #3** – Maximum Residential Floor Area Ratio **(Objection)** – increase from 35% to 37.83%

**Variance #4** – Maximum lot coverage **(Objection)** – increase from 25% to 28.11%

**Variance #5** – Minimum front yard **(Objection)** – decrease from 16.02 m to 12.81 m

The applicant requests relief from Zoning By-law 2014-014, as amended, to permit a maximum residential floor area increase of 2.83% (33.38 sq. m) from what is permitted. In addition to the requested increase in residential floor area, an approximately 34 square metre open-to-below area is proposed that pushes the second-storey floor area to the perimeter of the dwelling resulting in effectively an overall increase of approximately 67.38 square metres in residential floor area resulting in a perceived built-form increase of 5.7%. 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 maintain or protect the neighbourhood character.

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 dwelling design does not appropriately mitigate the potential massing and scale impacts on abutting properties.

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in lot coverage from 25% to 28.11% resulting in an increase of approximately 36.7 square metres. The intent of regulating lot coverage is to prevent the construction of a dwelling that has a mass and scale that appears larger than the dwellings in the surrounding neighbourhood.

The applicant requests relief from Zoning By-law 2014-014, as amended, to reduce the easterly interior side yard, rear yard and front yard. The intent of regulating the interior side yard setback, rear yard setback and front yard setback, is to ensure adequate spatial separation between dwellings and prevent any negative impacts on drainage, ensure that there is adequate rear yard amenity space and to reduce potential overlook and privacy impacts and to ensure a relatively uniform setback along the street. The cumulative impacts of the proposed yard reductions in combination with the increase in residential floor area and lot coverage 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.

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.

**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 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 proposed reduction in side yard also appears to contribute to the significant removal of large mature trees. The development as proposed may result in unacceptable adverse impacts on the abutting properties, 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.

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.

**Note:** Development Engineering staff have acknowledged that a subsequent site alteration permit will be required for the review of stormwater management controls, site grading and tree protection zones.

**Fire:** No concerns for fire.

**Halton Region:**

- Due to Provincial legislation, Halton Region's role in land use planning and development matters has changed. The Region is no longer responsible for the Regional Official Plan - as this has become the responsibility of Halton's four local municipalities.
- 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 easterly interior side yard to 3.08 m, a decrease to the minimum rear yard to 7.52 m, an increase to the maximum residential floor area ratio to 37.83%, an increase to the maximum lot coverage to 28.11% and a decrease to the minimum front yard to 12.81 m, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of a two-storey detached dwelling on the Subject Property.

**Metrolinx:** Upon review, we note no properties fall within our review zones.

**Oakville Hydro:** We do not have any comments to add for this group of minor variance applications.

**Bell Canada:** No comments received.

**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.

Sharon Coyne

Sharon Coyne  
Assistant Secretary-Treasurer  
Committee of Adjustment