

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: A/027/2025

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 Wednesday, March 05, 2025 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
P. Awad	Ava Barnett/Joel Tanner SMPL Design Studio 15 Colbourne St Hamilton ON, L8R 2G2	PLAN 1111 LOT 6 57 Cox 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 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 4.3 (Row 7)</i> Window wells with a maximum width of 1.8 metres shall encroach a maximum of 0.6 metres into a minimum yard.	To permit a window well with a width of 2.39 metres to encroach 0.6 metres into the minimum front yard.
2	<i>Table 4.3 (Row 7)</i> Window wells with a maximum width of 1.8 metres shall encroach a maximum of 0.6 metres into a minimum yard.	To permit a window well with a width of 2.87 metres to encroach 0.6 metres into the minimum southerly side yard.
3	<i>Table 6.3.1 (Row 5, Column RL1)</i> The minimum interior side yard shall be 4.2 metres.	To reduce the northerly interior side yard to 3.616 metres.
4	<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. This instance, the minimum front yard shall be 18.74 metres.	To reduce the minimum front yard to 14.887 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/027/2025 - 57 Cox Drive (East District) (OP Designation: Low Density Residential – Special Policy Area)

The applicant proposes to demolish the existing one-storey detached dwelling and 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 subject property is located at the end of a cul-de-sac road, which is lined with mature vegetation on large lots containing larger one and two-storey dwellings in a variety of architectural styles and forms. At the south end of the cul-de-sac, there is a private road that provides access to other dwellings fronting on to Lake Ontario. The dwellings along the street are generally situated in an irregular pattern with varying front yard setbacks, which is a reflection of the modest curvature in the road as well as the cul-de-sac shape. Staff note that the property to the north at 65 Cox Drive was subject to a previous Minor Variance application in 2015 which included a reduction in Front Yard Setback from 13.86 m to 11.75 m among other variances.

The subject lands contain an existing one-storey detached dwelling that is setback behind the main walls of the dwellings to the north and south. Staff note that the dwelling to the south is oriented to the Lake and does not have frontage on the Cox Drive. Staff also note that the proposed dwelling may impact existing trees, and there appears to be opportunities for those trees to be preserved. Every effort should be made to protect the trees and better maintain the neighbourhood character.

In accordance with Bill 97, this property is subject to a Minor Site Plan application for review by Development Engineering staff to review any potential stormwater impacts. A minor site plan application has been submitted and is currently under review. Staff note that the proposed cabana which does not require any variances, may need to be relocated through the Minor Site Plan process to facilitate drainage. The proposed pool is subject to a pool permit and is not reviewed as part of this Minor Variance application. Driveway width is limited at the property line to be 6.5 m for the subject lands. Through the Minor Site Plan process, the proposed driveway of 9.0 m in width needs to be reduced to 6.5 m in width at the property line. This reduction may also support the preservation of trees at the property line. Similarly, the proposed driveway location appears to impact two existing municipal trees. Evaluation of these trees will occur through the Minor Site Plan process. On this basis, it is anticipated that a new driveway configuration is required. It does not appear that the modifications will impact the position of the dwelling on the site and therefore not affect the requested variances.

Additionally, the subject lands are located within an area of low archaeological potential. Although the property has already been disturbed with an existing development, an advisory note is applicable.



Aerial Photo – 57 Cox Drive

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

The subject property is designated Low Density Residential – Special Policy Area in the Livable Oakville Official Plan. The intent of the Official Plan is to protect the unique character of this area within the Town. Due to the special attributes of the large lots and related homes in this Special Policy Area, 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 dwelling is proposed to be situated in-line with the dwelling to north and increases the existing deficient northerly side yard setback. The proposed dwelling has been designed to be compatible with the surrounding neighbourhood by incorporating architectural elements that reduce the mass and scale of the dwelling and not creating any unacceptable adverse impacts to the streetscape with the reduced front yard setback. As such, staff is of the opinion that the proposal maintains and protects the existing 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 Window Well Width Front Yard (No Objection) – 1.8 m to 2.39 m

Variance #2 – Maximum Window Well Width Side Yard (No Objection) – 1.8 m to 2.87 m

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum window well width with a maximum projection of 0.6 m into the required setback. The intent of regulating the size and dimension of the window well is to ensure there are no negative impacts to drainage. The property is subject to a Minor Site Plan application which will better evaluate the stormwater impacts of the proposal for the site. However, there does not appear to be any negative impacts to drainage for these window wells as they are located in areas where there is sufficient separation distance to the applicable property line.

Variance #3 – Minimum Interior Yard Setback (No Objection) – 4.2 m to 3.616 m

The applicant requests relief from By-law 2014-014 to permit a decrease in the northern interior side yard setback from 4.2 m to 3.616 m. The intent of regulating the side yard setback is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. The proposed setback is related to the attached garage, where the remaining portions of the dwelling comply with the required 4.2 m setback. Staff note that the proposed setback is an improvement to the existing side yard setback.

Variance #4 – Minimum Front Yard Setback (No Objection) – 18.74 m to 14.887 m

The applicant is requesting relief from By-law 2014-014 to permit a decrease in front yard setback from 18.74 m to 14.887 m. The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. As discussed above, there are a variety of setbacks on the street due to the road alignment and cul-de-sac curvature. The proposed dwelling is aligned with the property to the north, and the design of the dwelling does not introduce any negative massing and scale impacts onto the street.

Given the foregoing, it is staff's opinion that the application 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?

Staff is of the opinion that the proposal represents appropriate development of the subject property. The variances are minor in nature and will not create any undue adverse impacts to adjoining properties, the public realm or the existing neighbourhood character.

Recommendation:

Staff do not object to the proposed variances. 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 2025.01.23; 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.

Fire: No concerns for fire.

Oakville Transit: No comments for the March 5th COA package.

Finance: No comments received.

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 window well with a width of 2.39 m to encroach 0.6 m into the minimum front yard, a window well with a width of 2.87 m to encroach 0.6 m into the minimum southerly yard, a decrease in the northerly interior side yard to 3.616 m and a decrease in the minimum front yard to 14.887 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.

Bell Canada: No comments received.

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

Union Gas: No comments received.

Letter(s) in support – 0

Letter(s) in opposition – 1

File No: A/027/2025

**Minor Variance Application
57 Cox Drive – Plan 1111 – LOT 6**

Thank you for the opportunity to present this evening.

My name is Mitesh Suchak. My wife Avni and I, with our 2 children have lived at [REDACTED] Cox Drive since October 2021.

The intent of this presentation is to contest variance request #4 pertaining to Section 6.4.3a) which is requesting a variance to the front yard minimum.

Firstly, we would like to welcome the Awad family to the Cox Drive neighbourhood. We have a lovely neighbourhood where we all know and respect each other, help one another and look out for one other. We are delighted to have them build their home adjacent to ours. Joel Tanner and his team at SMPL Design Studio have designed a beautiful home.

We have no objection to the proposed house and the other variance requests - #1, #2 or #3.

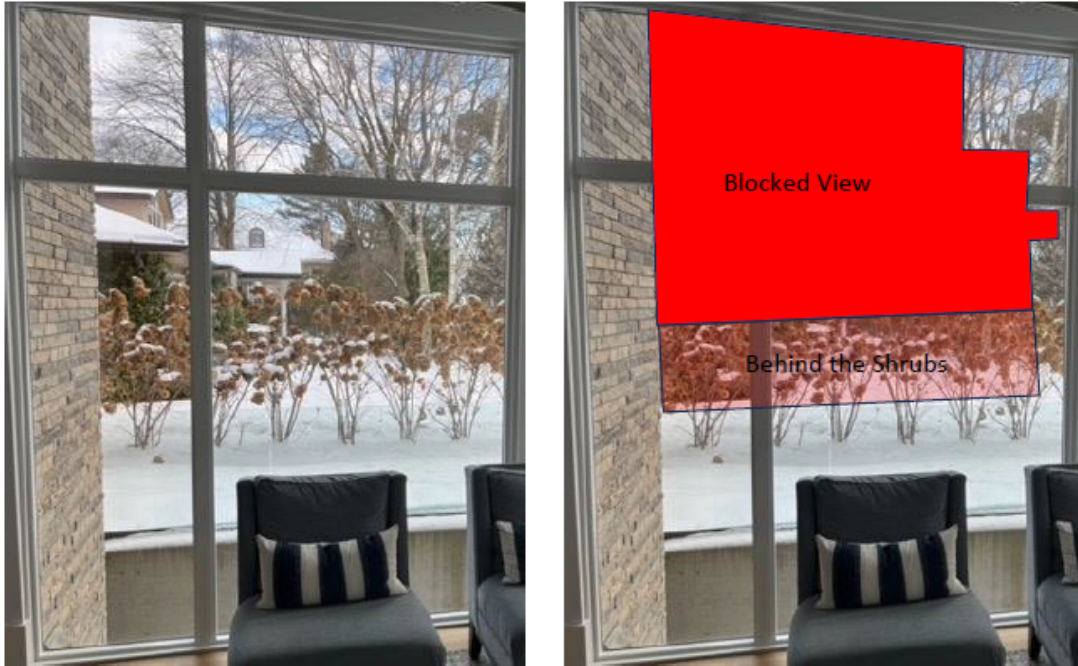
The issue we have is with the proposed decrease in minimum front yard from the required 18.74 metres to the proposed 14.887 metres. It is our contention that the proposed 3.85 metres variance is not minor – in fact, it has a major impact on us.

When you enter our house, the first room you see on the right is the Living Room. This is a room we use extensively when we have neighbours, friends and families visiting.



As you enter the Living Room, you currently see a gorgeous, open view with plenty of natural light and sightings of the lake. The window faces south-east and is the primary source of sunlight from morning to mid-afternoon entering not just the Living Room but also the main entrance of the house. While the lake is two houses away, you can clearly see it. The view and brightness of the Living Room was one of the aspects that made us fall in love with the house when we bought it in 2021. We and our guests enjoy sitting in this room and cherish the beauty that every season brings.

The proposed 3.85 metres frontage variance will block virtually the entire view and obstruct a significant amount of natural light.



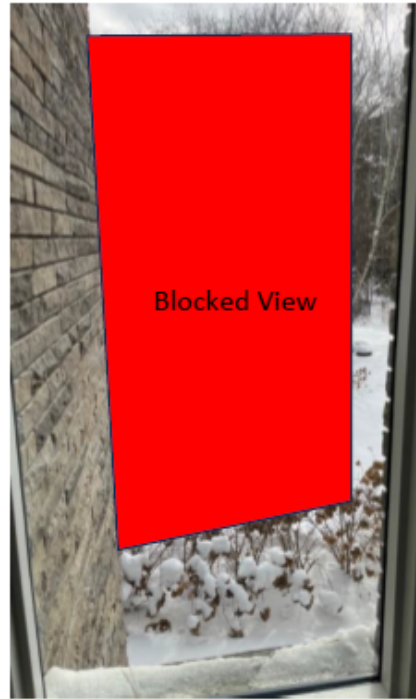
Joel of SMPL Design was kind enough to drop off the proposed design and asked if we had any concerns. We expressed our concern, invited him to our home to take a first-hand look at the impact, and asked him to consider moving their house further back. He was generous to have SMPL Design create a rendering, shown below. Their rendering is the basis for the "before" and "after" view above.



A week after visiting us, Joel responded that he and the owner considered options but “unfortunately there is simply too much of a negative impact on the backyard” and that they are not willing to move the house at all. We had proposed splitting the difference on the variance, i.e. 1.93 metre frontage variance but they are unwilling to compromise.

We have also tried to assess the potential impact on our son’s bedroom which is above the Living Room. There are two windows in his room facing south-east, **both of which bring abundant natural sunlight and have views of the lake.** The left window would likely be **almost entirely blocked** while the right window would be **partially blocked.** The overall impact would be a **significant loss of natural light, which is important for his health and well-being,** as well as a loss in view.

Left Window:



Right Window:



We appreciate the desire of the Awad family to maximize their backyard space. However, between the Living Room and Bedroom, the 3.85 metre frontage variance has a major impact on the natural light entering our house as well as the views from the house including that of the lake. **We truly believe this level of blockage has the potential to de-value our home.**

So, with all of this said, we would like to ask that the committee please revisit the proposed variance #4. We are happy to split the difference and compromise with a 1.93 metre variance.

Thank you for your time and consideration of our concerns.

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.
- Should archaeological remains or resources be found on the property during construction activities, the proponent is cautioned that during development activities, should archaeological materials be found, the Ministry of Citizenship and Multiculturalism (MCM) must be notified immediately (archaeology@ontario.ca), as well as the Town of Oakville and, if Indigenous in origin, relevant First Nations communities. If human remains are encountered during construction, the proponent must immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate, as well as the Registrar, Ontario Ministry of Public and Business Service Delivery—who administers provisions of the Act related to burial sites—to be consulted, as well as the MCM and the Town of Oakville, and, if considered archaeological, the relevant First Nations

communities. All construction activity in the vicinity of the discovery must be postponed until an appropriate mitigation strategy is identified and executed.

- 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 2025.01.23; 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

Jen Ulcar
Secretary-Treasurer
Committee of Adjustment