

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: A/042/2025

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 April 02, 2025 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
S. Singh J. Saini	Shivang Tarika Rely Solution Inc 106 Morningside Dr Georgetown ON, L7G 0M2	PLAN M895 LOT 41 2202 Brookhaven Cres Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential

ZONING: RL8, Residential

WARD: 4

DISTRICT: West

APPLICATION:

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit an uncovered access stairs below grade on the subject property proposing the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 4.3 (Row 18)</i> The maximum encroachment for uncovered access stairs below grade in an interior side yard shall be a maximum of 0.0 metres.	To increase the maximum encroachment into the minimum northerly interior side yard for the uncovered access stairs below grade to 1.21 metres.

CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED

Planning Services:

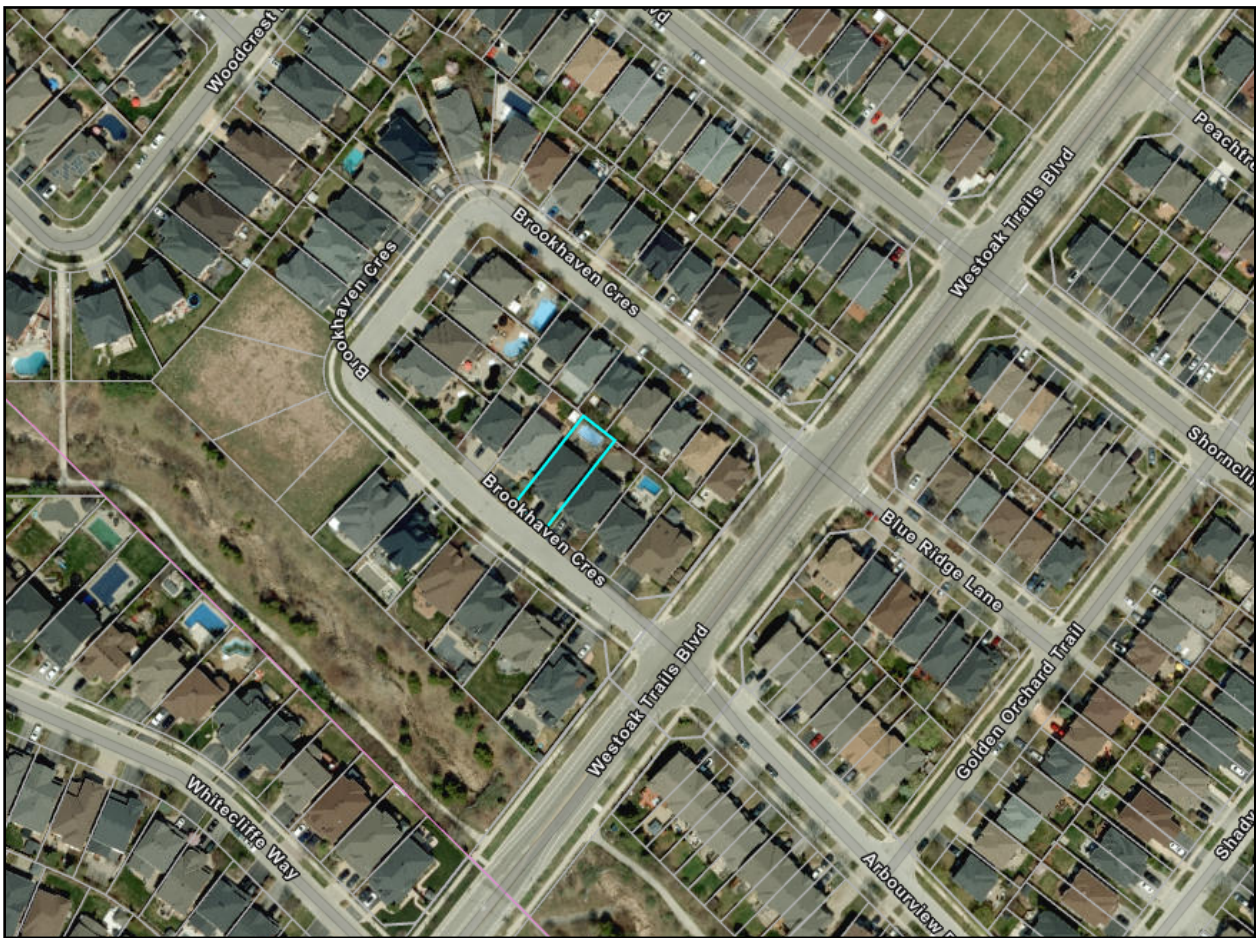
(Note: Planning Services includes a consolidated comment from the relevant district teams including, Current, Long Range and Heritage Planning, Urban Design and Development Engineering)

A/042/2025 - 2202 Brookhaven Crescent (West District) (OP Designation: Low Density Residential)

The applicant is proposing to construct a below grade access stair in the interior side yard subject to the variance listed above.

Site Area and Context:

The neighbourhood consists of predominantly two-storey detached dwellings that are original to the area.



Aerial Photo – 2202 Brookhaven Crescent

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance 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 are as follows:

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

The lands are designated “Low Density Residential” in the 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. The proposed uncovered access stairs may result in impacts on adjacent properties related to grading and drainage, location of service areas, and access and circulation. Thus, the proposal does not satisfy all policy requirements as set out in Section 11.1.9 to protect the established neighbourhood character and will result in impacts on adjacent properties. It is staff’s opinion that the proposal does not maintain the intent of the Official Plan and will result in impacts on adjacent properties.

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 – Maximum encroachment for uncovered below grade stairs in the interior side yard (Objection) – Increase from 0.0 m to 1.21 m

The intent of regulating projections/encroachments of below grade access stairs is to allow for adequate drainage and passage through a yard so that access is not impeded and to allow for adequate open space and landscaping. The below grade access stairs located in the side yard will project 1.21 metres into the available 1.22 metres of open space leaving a 0.01 metres (1.0 cm) setback to facilitate drainage and passage through the yard. The reduction for the proposed below grade stairs will result in a condition where there is inadequate space for access purposes or ingress/egress from the front yard area to the rear yard. Although the stairs include two risers down to the landing where the main entrance would be located for the additional unit,

and two risers up to provide access to the rear yard, the introduction of below grade stairs in this location does not provide for sufficient drainage or allow for the maintenance of a drainage swale in the side yard. The original subdivision design for the subject lands provided rear to front drainage; therefore, it is imperative that the side yards of the subject property remain unobstructed so as not to negatively impact grading and drainage of the subject property and neighbouring properties.

Additionally, the 0.01 metre setback from the side yard lot line does not provide for adequate separation between the structure and property line. It is noted that drainage will continue to be reviewed as part of the building permit submission of detailed engineering plans, and this site would also need to go through the Minor Site Plan process based on the Bill 97 buffer requirements.

Furthermore, Fire Prevention Services from the Town notes that one benefit of having adequate side yard setback is to provide room to maneuver equipment to the rear of the property to facilitate fire-fighting operations. Plans provided indicate an impedance to the minimum required side yard setback on both sides of the property (i.e. window wells, stairs, vegetation etc.). This proposal has the potential to create challenges to standard fire-fighting operations.

On this basis, it is staff's opinion that the variance does not maintain the general intent and purpose of the Zoning By-law as the introduction of the below grade access stair in the interior side yard would result in negative impacts on drainage, impede access and ingress/egress from the front yard to the rear yard, and is not setback at a far enough distance from the abutting dwelling.

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

As noted above, the original subdivision design for the subject lands provided rear to front drainage; therefore, it is imperative that the side yards of the subject property remain unobstructed so as not to negatively impact grading and drainage of the subject property and neighbouring properties. The proposed below grade access stair would create a negative condition on the subject property and adjacent properties as drainage can not be appropriately managed should the proposal be approved. Staff are of the opinion that the variance proposed for an increase in the interior side yard projection, and ultimately the reduction of unobstructed interior side yard, is not desirable for the appropriate development of the subject property and the variance is not minor in nature.

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.

Fire: COA to decrease side yard setback below 1.2m. One aspect of the side yard setback is to provide the minimum amount of room to maneuver equipment to the rear of the property to facilitate fire-fighting operations. Plans provided indicate an impedance to the minimum required side yard setback on both sides of the property (i.e. window wells, stairs, vegetation). This proposal creates a negative impact to standard fire-fighting operations. Re-submission required.

Oakville Hydro: We do not have any comments to add.

Transit: No comments received.

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 an increase in the minimum northerly interior side yard for the uncovered access stairs below grade to 1.21 metres, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting uncovered access stairs below grade on the Subject Property.

Union Gas: No comments received.

Bell Canada: No comments received.

Letter(s) in support – 0

Letter(s) in opposition – 0

J. Ulcar

Jennifer Ulcar
Secretary-Treasurer
Committee of Adjustment