

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: A/076/2025

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, June 11, 2025 at 7 p.m.

Owner (s)	Agent	Location of Land
Patel Financial Services Inc.	Andy Huang Xudio Design Corporation 49 Glendower Circuit Toronto ON M1T 2Z3	PLAN 347 BLK C 288 Oakwood Cres Town of Oakville

**OFFICIAL PLAN DESIGNATION: Medium Density Residential
WARD: 2**

**ZONING: RM4
DISTRICT: West**

APPLICATION:

Variance request:

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the enlargement of the existing detached dwelling on the subject property proposing the following variances to Zoning By-law 2014-014, as amended:

	Current zoning by-law requirements	Variance request
1	<i>Table 6.3.8 (Row 5, Column RM4)</i> The minimum interior side yard shall be 4.5m.	To reduce the minimum interior side yard to 4.01m.
2	<i>Table 6.3.8 (Row 6, Column RM4)</i> The minimum separation distance between buildings containing dwelling units shall be 2.4m.	To reduce the minimum separation distance to 1.8m.

Permission request:

Under Section 45(2) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to permit the enlargement of the existing detached dwelling on the subject property; whereas Zoning By-law 2014-014, as amended, does not permit a detached dwelling in a RM4, Residential Medium, zone.

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/076/2025 - 288 Oakwood Crescent (West District) (OP Designation: Medium Density Residential)

The applicant proposes the enlargement of the existing detached dwelling, subject to the variances 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(2) and/or 45(1) in the *Planning Act* are met. Staff's comments concerning the request under 45(2) and the request under 45(1), which involves the application of the four tests to this minor variance request, are as follows:

Site Area and Context

This is a unique scenario where an existing detached dwelling is located on a property zoned RM4, Residential Medium which does not currently permit detached dwellings. Also on the property is a three-storey apartment building. According to town records, the detached dwelling has been in existence since at least 1952 when the apartment building was under construction. Prior to the 2014-014 Zoning By-law coming into effect the subject property was zoned R08 under the previous 1984-063 Zoning By-law which permitted detached dwellings. Based on staff review the building is legal non-conforming.

The area is characterized by a combination of Residential Medium properties along South Forester Park Drive adjacent to Residential Low properties as seen in Figure 1 below. The parking area and drive aisles appear to act as the separation between the existing apartment buildings and the adjacent detached dwellings. In this instance, the detached dwelling is located within the typical separation distance and appears to be in-line with the adjacent detached dwelling providing a consistent setback along the street as seen in Figures 2 and 3 below. The separation between the existing apartment building and the existing detached dwelling on the subject property appears to be at a pinch point as seen in Figure 4 below.



Figure 1 – Aerial view of subject property and Zoning By-law 2014-014



Figure 2 – 288 Oakwood Cres.



Figure 3 – View to 284 Oakwood Cres.



Figure 4 – Separation between detached dwelling and apartment building

Variance under Section 45(2) of the *Planning Act*

According to Section 45(2) of the *Planning Act*, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit, the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed continued until the date of the application to the Committee.

Section 28.10 of Livable Oakville contains similar policies concerning legal non-conforming uses, and that, in special circumstances, it may be appropriate to consider the expansion or enlargement of non-conforming uses.

In this instance, a detached dwelling is located on the same lot as a three-storey apartment building that is zoned RM4. The applicant is proposing to renovate the detached dwelling by expanding the second floor to accommodate two bedrooms, two bathrooms and laundry. The height of the dwelling is proposed to remain the same at 6.18 metres. Instead of a peaked roof, a flat roof is proposed. The footprint of the existing dwelling is also proposed to remain the same.

Staff note that the subject property and detached dwelling has continued to be used for residential purposes since prior to the passage of Zoning By-law 2014-014 and that an expansion would be in line with Section 45(2) of the *Planning Act*.

Variances under Section 45(1) of the *Planning Act*:

Two variances are sought to the performance standards of the RM4 zone which are applicable to the subject property for minimum side yard and separation distance between buildings containing dwelling units. Staff are

of the opinion that these variances facilitate the expansion of the legal non-conforming use and allow for the existing footprint of the detached dwelling. Staff have no objection to the proposed variances.

It is staff's opinion that the variances:

- maintain the general intent of the Official Plan as existing detached dwellings are permitted within the Medium Density Residential designation and the detached dwelling fits with the character of the area;
- meet the intent of the Zoning By-law as adequate separation is provided to the detached dwelling on the adjacent property (greater than the minimum setback within the adjacent RL3-0 zone) and the building separation between buildings on the same lot is at a pinch point and will not result in privacy impacts; and
- are minor in nature and are appropriate for the development of the site.

Recommendation:

Staff do not object to the proposed development. Should this minor variance request be approved by the Committee, the following conditions are recommended:

1. The addition be constructed in general accordance with the submitted site plan and elevation drawings dated April 24, 2025; 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.

Bell Canada: No comments received.

Finance: No comments received.

Fire: No concerns for fire.

Metrolinx: No comments/concerns.

Oakville Hydro: 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 decrease to the minimum interior side yard to 4.01 metres and a decrease to the minimum separation distance to 1.8 metres, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the enlargement of the existing detached dwelling on the Subject Property.

Halton Conservation: No comments received.

Transit: No comments received.

Union Gas: No comments received.

Letter(s) in support – 0

Letter(s) in opposition – 0

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.
- The proponent is cautioned that during development activities, should archaeological materials be found on the property, 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 disturbances 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 Funeral, Burial and Cremation Services Act—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 addition be constructed in general accordance with the submitted site plan and elevation drawings dated April 24, 2025; 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.



Sharon Coyne
Asst. Secretary-Treasurer
Committee of Adjustment