

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: A/082/2025

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 June 25, 2025 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
J. Patterson	Darren Sanger-Smith Structured Creations Inc. 445 Elizabeth St Unit 502 Burlington ON, L7R 2L8	PLAN 198 LOT 5 59 Cudmore Rd Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential

ZONING: RL5-0, Residential

WARD: 1

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 the construction of ground floor and second floor additions to the existing 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 3)</i> The maximum encroachment into a minimum yard for eaves and gutters shall be 0.6 m.	To increase the maximum encroachment into the minimum front yard for the eaves and gutters to 0.78m.
2	<i>Section 4.27 a)</i> A rooftop terrace is not permitted on the lot located in the Residential Low - 0 Suffix Zone.	To permit a rooftop terrace on the lot located in the Residential Low -0 Suffix Zone.
3	<i>Section 4.27 i)</i> The maximum depth rooftop terrace located on the roof of the first storey shall be 1.5m, measured from the main wall.	To increase the maximum depth rooftop terrace located on the roof of the first storey to 2.46m, measured from the main wall.

4	<i>Section 5.8.6 b)</i> For detached dwellings on lots having greater than or equal to 12.0 metres in lot frontage, the maximum total floor area for a private garage shall be 45.0 square metres.	To increase the maximum total floor area for the private garage to 49.46 square metres.
5	<i>Section 5.8.7 c)</i> Attached private garages shall not project more than 1.5 metres from the face of the longest portion of the main wall containing residential floor area that is on the first storey of the dwelling oriented toward the front lot line.	To increase the attached private garage projection to a maximum of 8.15 metres.
6	<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 13.39 metres.	To reduce the minimum front yard to 11.71 metres.
7	<i>Section 6.4.6 c)</i> The maximum height shall be 9.0 metres.	To increase the maximum height to 9.97 metres.

CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED

Planning & Development:

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

A/082/2025 - 59 Cudmore Road (West District) (OP Designation: Low Density Residential)

The applicant is proposing to construct a new two-storey addition to the existing 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 variances from 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 lands are located within a neighbourhood that consists predominantly of two-storey detached dwellings designed in a range of architectural forms with attached garages. In addition, several newer two-storey dwellings exist within the established neighbourhood. The west side of Cudmore Road has multiple original dwellings that include projecting garages beyond the in-effect regulation, typically around 6.5 m. It is noted that the west side of Cudmore Road is zoned RL3-0 which provides larger lot

sizes and enables larger dwellings to be constructed. The subject lands are 2,182 sq m in size which is larger than the typical lot size for properties along Cudmore Road and in the surrounding area, as this property was not further subdivided when the original subdivision was developed. Figure 1 below shows the size of the lot relative to others in the immediate area. Figure 2 below shows the original parcel sizes of the properties on the east side of Cudmore Road, as established through the original plan of subdivision (RP 198).



Figure 1: Aerial Imagery – 59 Cudmore Road

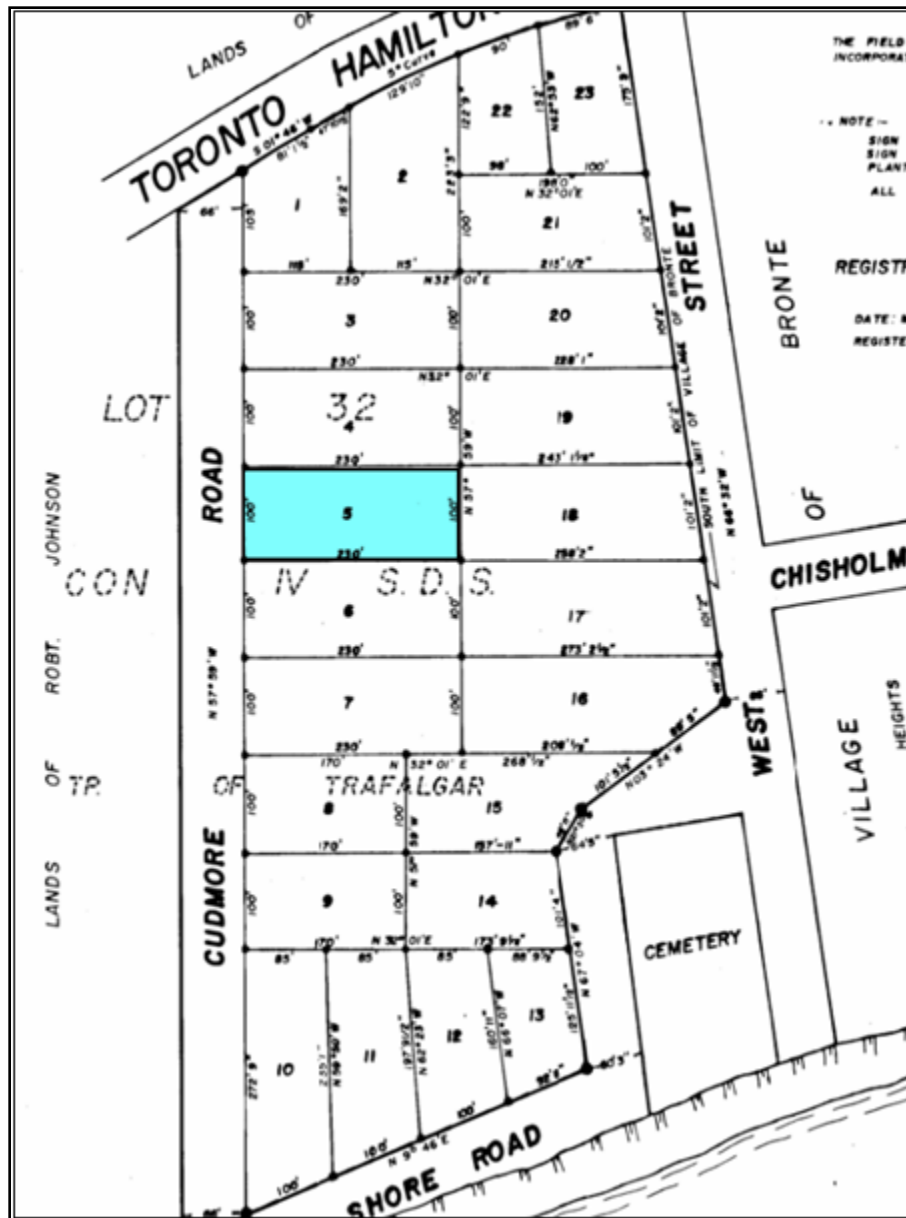


Figure 2: RP198 – 59 Cudmore Road highlighted

The property will be subject to a site alteration permit for review by Development Engineering staff to further assess impacts on drainage and grading.

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

The subject property is designated Low Density Residential 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.

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 inclusion of a rooftop terrace above the proposed garage projection will enhance the massing impacts of the dwelling on the public realm, by bringing usable floor area of the second storey of the dwelling closer to the street. It is staff's opinion that the variances to permit a rooftop terrace and the further enhancement of the overall size of the rooftop terrace does not maintain the general intent and purpose of the Official Plan.

However, it is staff's opinion that the garage floor area, garage projection, reduced front yard setback, permitted encroachment of an eaves and the continuation of the established roofline of the existing dwelling will not create undue, adverse impacts on the public realm and will protect and maintain the existing neighbourhood character.

On this basis, it is staff's opinion that variances #2, and 3 do not maintain the general intent and purpose of the Official Plan. Further, it is staff's opinion that variances #1, 4, 5, 6, and 7 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 Zoning By-law 201014, as amended, as follows:

Variance #2 – Permit a rooftop terrace (Objection) – Not permitted to permitted

Variance #3 – Maximum depth of rooftop terrace (Objection) – 1.5 m Increased to 2.46 m

The intent of the By-law is to not allow rooftop terraces. This eliminates associated overlook and privacy impacts. The proposed rooftop terrace would create an overlook condition.

The intent of regulating the size of a rooftop terrace is to limit the size of the terrace and ensure that any potential impacts from overlook on the public realm and neighbouring properties are reduced. As noted above the proposed rooftop terrace would result in such an impact and is not a permitted feature. While it is acknowledged that the rooftop terrace will not bring a second-storey built form closer to the street, the usable second storey floor area above the garage projection will have an impact on the public realm and adjacent properties. As such, variances #2 and 3 do not maintain the general intent and purpose of the Zoning By-law.

Variance #1 – Maximum encroachment of eaves (No objection) – Increased from 0.6 m to 0.78 m

Variance #4 – Garage floor area (No objection) – Increased from 45 sq. m to 49.46 sq.m

Variance #5 – Attached garage projection (No objection) – Increased from 1.5 m to 8.15 m

Variance #6 – Minimum front yard setback (No objection) – Reduced from 13.39 m to 11.71 m

With respect to variance #5, the attached garage projection is to be measured from the main wall of the principal dwelling. The main wall of the dwelling is proposed to be established as the new sitting room located on the south side of the dwelling, resulting in a reduced attached garage projection variance of 3.34 m. Figure 3 below shows the dimensioned main wall and projection of the attached garage from the main wall.

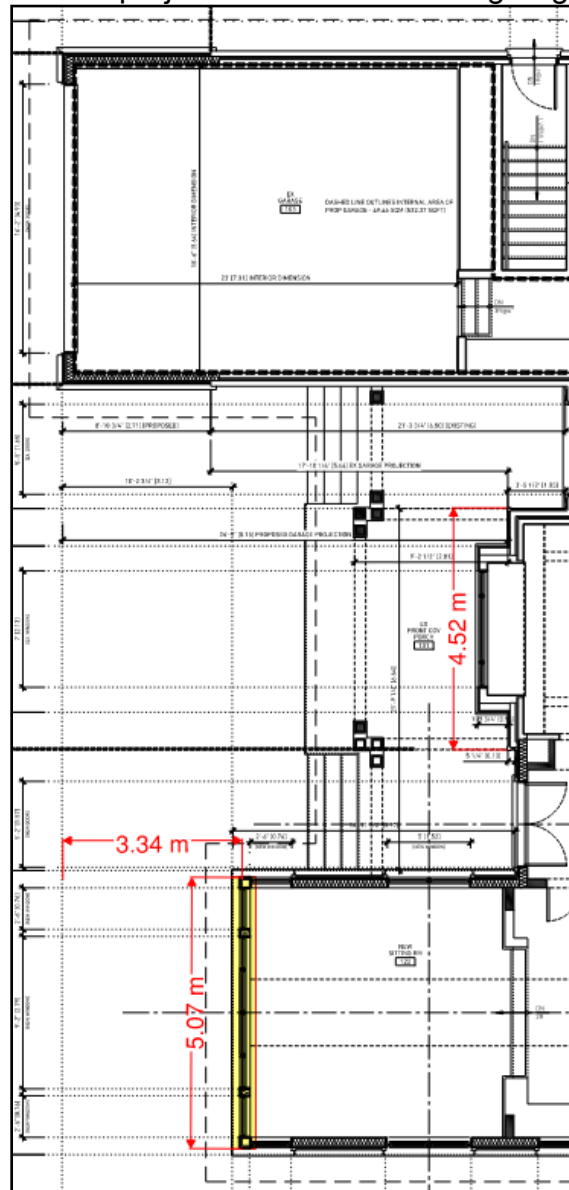


Figure 3: Ground floor plan excerpt

The intent of regulating eaves and from encroaching into a required front yard is to ensure that adequate separation is maintained between the eaves and the public realm. The encroachment of the eaves into the minimum front yard is negligible and will not have an impact on the public realm.

The intent of regulating the garage floor area, garage projection and minimum front yard setback is to prevent the garage from being a visually dominant feature of the dwelling, to ensure relatively uniform setbacks along the street and to ensure there is adequate space for landscaped areas. The increased garage floor area and attached garage projection is interrelated to the requested reduction in front yard setback. The reduced

front yard setback will bring the dwelling into greater uniformity with adjacent dwellings' front yard setbacks, and the associated attached garage projection will not create an undue adverse impact on the neighbouring properties or public realm. Further, the increase in garage floor area is partially contained within the existing dwelling and will not contribute to the garage being a visually dominant feature of the dwelling. The inclusion of the south side first floor addition will help balance the single-storey garage projection located on the north side of the proposed dwelling by incorporating, step backs and articulations of the roofline for the one-storey elements that subdivides the building into smaller segments. As such, staff are of the opinion that the permitted encroachment, garage floor area, attached garage projection and reduced front yard setback maintains the general intent and purpose of the Zoning By-law.

Variance # 7 – Maximum height (No objection) – Increased from 9.0 m to 9.97 m

The intent of regulating building height is to prevent a dwelling from having a mass and scale that appears larger than those dwellings in the surrounding area. The finished floor elevation of the existing dwelling is 84.01; whereas, the established grade for the subject property is 82.81. There is a noticeable increase in grade from where the measurement of the dwelling height will be taken and where the finished floor of the principal dwelling begins. The proposed dwelling seeks to match the existing roof peak and overall roofline with the established roofline that presently exists and incorporates step backs, roofline articulations and one-storey architectural elements that break up the overall massing and scale of the proposed dwelling. The further extension of the existing roofline at 9.97 m will not contribute to the dwelling having a mass and scale that appears larger than those in the surrounding area. As such, staff are of the opinion that the proposed dwelling height maintains the general intent and purpose of the Zoning By-law.

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

Staff are of the opinion that variance #2, and 3 does not represent the appropriate development of the subject property. Variance #2, and 3 are not appropriate for the development and are not minor in nature as rooftop terraces are not permitted in the residential low -0 suffix zones. As proposed, these variances will enable the inclusion of an architectural feature that is not permitted, beyond the maximum size, that will create overlook conditions on neighbouring properties and the public realm.

Staff are of the opinion that variances #1, 4, 5, 6, and 7 represents the appropriate development of the subject property. These variances are appropriate for the development, are minor in nature and will result in a dwelling that continues to protect and maintain the existing neighbourhood character. The continuation of the existing roofline will not result in a dwelling that appears larger than those in the surrounding area. variances #1, 4, 5, 6, and 7 are appropriate for the subject development and minor in nature.

Recommendation:

On this basis, it is staff's opinion that variances #1, 4, 5, 6, and 7 maintain the general intent and purpose of the Official Plan and Zoning By-law, are minor in nature and desirable for the appropriate development of the subject lands. However, it is staff's opinion that variances #2, and 3 do not maintain the general intent and purpose of the Official Plan and Zoning By-law, are not minor in nature and desirable for the appropriate development of the subject lands.

Therefore, staff do not object to variances #1, 4, 5 (as modified), 6, and 7. Should the Committee's evaluation of the application differ from Staff, the Committee should determine whether approval of variances #2, and 3 would result in appropriate development for the site.

Should variances number 1, 4, 6, and 7 be approved, variance number 5 be approved as modified to reflect an attached garage projection of 3.34 m, and variances 2 and 3 denied, the following conditions are recommended:

1. That the dwelling be constructed in general accordance with the submitted site plan and elevation drawings as modified to remove the rooftop terrace; 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.

Metrolinx: No comments.

Oakville Hydro: No comments.

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 rooftop terrace on the lot located in the Residential Low -0 Suffix Zone, an increase to the maximum encroachment into the minimum front yard for the eaves and gutters to 0.78 metres, an increase to the maximum depth rooftop terrace located on the roof of the first storey to 2.46 metres measured from the main wall, an increase to the maximum total floor area for the private garage to 49.46 square metres, an increase to the attached private garage projection to a maximum of 8.15 m, a decrease to the minimum front yard to 11.71 metres and an increase to the maximum height to 9.97 metres, under the requirements of the Town of Oakville Zoning By-law for the purpose of permitting the construction of ground and second floor additions to the existing detached dwelling on the Subject Property.

Union Gas: No comments received.

Letter(s)/Emails in support: 0

Letter(s)/Emails in opposition: 0

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

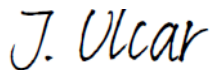
variances, and then the plans to be reviewed through the building permit and construction processes.

- 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:

Should variances number 1, 4, 6, and 7 be approved, variance number 5 be approved as modified to reflect an attached garage projection of 3.34 m, and variances 2 and 3 denied, the following conditions are recommended:

1. That the dwelling be constructed in general accordance with the submitted site plan and elevation drawings as modified to remove the rooftop terrace; 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.



Jen Ulcar
Secretary-Treasurer
Committee of Adjustment