



OAKVILLE

## REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: JUNE 12, 2017

---

**FROM:** Legal Department

**DATE:** May 4, 2017

**SUBJECT:** Appeal to the OMB CAV A/070/2017 - 132 Caulder Drive

**LOCATION:** 132 Caulder Drive

**WARD:** 3

Page 1

---

### RECOMMENDATION:

1. That the appeal to the Ontario Municipal Board of Committee of Adjustment Decision CAV A/070/2017132 Caulder Drive, be confirmed;
2. That if Council confirms the Appeal, then the Town Solicitor or his designate be authorized to pursue this appeal of COA Decision CAV A/070/2017 in accordance with the position set out in Appendix C attached to the report dated May 4, 2017, from the Legal department; and
3. That if pursuant to clause 1 above this appeal is continued, then in consultation with the Director of Planning or his designate the Town Solicitor or his designate be authorized to negotiate a proposed settlement of the Appeal either before or at the Board Hearing in a manner that addresses the issues and concerns identified in Appendix C attached to the report dated May 4, 2017, from the Legal department.

### KEY FACTS:

The following are key points for consideration with respect to this report:

- The owner of 132 Caulder Drive, Oakville, wishes to demolish the existing one-storey dwelling and construct a new two-storey dwelling on the site.
- To do so, the owner has pursued variances to both the prior and current zoning by-laws. The current variance request is set out in the chart below. Four variances are being sought from Zoning By-law 2014-014, and one from the prior Zoning By-law 1984-063.

From: Legal Department  
 Date: May 4, 2017  
 Subject: Appeal to the OMB CAV A/070/2017 - 132 Caulder Drive

#	Zoning By-law 2014-014 requirements – RL1-0	Variance request
1	<b>Section 5.8.6 c)</b> For <i>lots</i> located within the Residential Low (RL1) Zone the maximum total <i>floor area</i> for a <i>private garage</i> shall be 56.0 m <sup>2</sup> .	To permit the maximum <i>floor area</i> for a <i>private garage</i> to be 66.0 m <sup>2</sup> .
2	<b>Section 6.4.1</b> The maximum <i>residential floor area ratio</i> for a <i>detached dwelling</i> on a <i>lot</i> with an area of 1301 m <sup>2</sup> or greater shall be 29% (404.02 m <sup>2</sup> ). (The <i>lot area</i> is 1393.16 m <sup>2</sup> ).	To permit the maximum <i>residential floor area ratio</i> for a <i>detached dwelling</i> of 33.35% (464.6 m <sup>2</sup> ).
3	<b>Section 6.4.3 a)</b> The <i>minimum front yard</i> on all <i>lots</i> shall be the <i>yard</i> legally existing on the effective date of this By-law less 1.0 m. (Existing 13.3 m -1.0 m = <i>Minimum Front Yard</i> of 12.3 m).	To permit a <i>minimum front yard</i> of 12.14 m.
4	<b>Section 6.4.6 c)</b> The maximum <i>height</i> shall be 9.0 m.	To permit a maximum <i>height</i> of 9.19 m.
#	Zoning By-law 1984-63 as amended requirements – R01	Variance request
5	<b>Section 39B i)</b> The Maximum Overall Height shall be 9.0 m.	To permit a Maximum Overall Height of 9.19 m.

- The appeal relates to Variances 2, 4 and 5. The Town accepts that Variances 1 and 3 meet the four tests under Section 45 of the Planning Act.
- Planning Staff advised the Committee against granting the variances 2, 4 and 5, as in Planning Staff’s opinion they did not satisfy all of the 4 Minor Variance Tests.

**BACKGROUND:**

The owner of 132 Caulder Drive, Oakville, being Yuqing Zou, through their agent Bobbi-Jo MacKinnon of Ian Robertson Design, applied to the Committee of Adjustment to demolish the existing one-storey dwelling and construct a new two-storey dwelling on the site.

The applicant had initially presented their proposal to the Committee of Adjustment on November 29, 2016. Staff were not supportive of the application and it was subsequently denied by the Committee. The applicant submitted a new application after discussing the proposal with staff.

While the Planning Staff recommended against variances 2, 4 and 5 on the basis that any such approval would not be in keeping with the general intent and purpose of the Zoning By-law as set out in Appendix C, the Committee approved the variance requests. The Approval Decision of the Committee is attached as

From: Legal Department  
Date: May 4, 2017  
Subject: Appeal to the OMB CAV A/070/2017 - 132 Caulder Drive

Appendix B to this report. The location map for the particular lands concerned is attached as Appendix A to this report.

### **COMMENT/OPTIONS:**

Planning staff's advice and reasoning to the Committee of Adjustment as to why the application should not be approved is shown in Appendix C. If the Council decision is to confirm the appeal, staff recommend that Council instruct the Town Solicitor or his designate to take a position at the Hearing based on the advice in Appendix C.

The third recommendation is to allow some flexibility to the Town Solicitor or his designate and the Director of Planning or his designate before or at the hearing to negotiate a settlement with the Applicants, provided that any proposed settlement is in keeping with the spirit of the Planning advice in Appendix C.

Accordingly, the options for Council are to confirm the appeal and pursue the dismissal of the Variance Request as not being in keeping with the general intent and purpose of the Zoning By-law, or withdraw the appeal considering the circumstances of this particular case.

### **CONSIDERATIONS:**

**(A) PUBLIC**

This matter may be considered in public.

**(B) FINANCIAL**

Staff time in preparing the appeal and this report. The additional cost to the Town would be further cost in the Legal and Planning Departments in processing the Appeal to the OMB.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

The Commissioner Community Development has reviewed this report.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- be accountable in everything we do

**(E) COMMUNITY SUSTAINABILITY**

The issue impacts the pillar of economic sustainability through the appropriate use of internal and external resources.

From: Legal Department  
Date: May 4, 2017  
Subject: Appeal to the OMB CAV A/070/2017 - 132 Caulder Drive

---

**APPENDICES:**

Appendix A – Location Map

Appendix B – Decision of the Committee of Adjustment CAV A/070/2017

Appendix C – Planning Staff Report to the Committee

Prepared by:

Dennis Perlin  
Assistant Town Solicitor

Submitted by:

Doug Carr  
Town Solicitor