

COMMITTEE OF ADJUSTMENT

Meeting #16

MINUTES

September 11, 2024

MEETING:	Held on Wednesday September 11, 2024, Virtually via Zoom Video Conferencing Technology at 5:30 P.M.	
PRESENT:	J. Riddell	- Chair
	V. Tinti	- Vice Chair
	N. Leblovic	- Member
	F. Capuano	- Member
	E. Westerhof	- Member
	E. Shacklette	- Secretary-Treasurer
	C. Kabel	- Committee Clerk
	J. O'Reilly	- Supervisor of Site Plan Review
	M. Gasic	- Planner, Site Plan Review
ABSENT:	None	

1. DECLARATION OF INTEREST:

2. ADDENDUMS:

3. REQUEST FOR DEFERRALS:

4. CONSENT ITEMS:

HEARING NO.	FILE NO. 540-02-	ADDRESS
4.1	A-033/24	Re: 320 Walker's Line, Burlington Ward 4 Pages 2-5

5. REGULAR ITEMS:

HEARING NO.	FILE NO. 540-02-	ADDRESS
5.1	A-035/24	Re: 1363 Lakeshore Rd., Burlington Ward 2 Pages 6-8

6. OTHER BUSINESS:

6.1 Correspondence

6.2 Items for Discussion

6.3 Date of Next Meeting

6.4 Approval of Minutes from the previous Committee of Adjustment meeting

7. ADJOURNMENT:

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Chair called the Committee of Adjustment meeting no. 16 to order at 5:30 pm.

Secretary Treasurer provided introductory remarks; Committee Clerk advised of housekeeping items.

1. **DECLARATION OF INTEREST:** None
2. **ADDENDUMS:** None
3. **DEFERRALS:** There was one deferral.

MOTION NO. 20/2024

BE IT RESOLVED THAT the application under File: 545-02-A-035/2024 at municipal address 1363 Lakeshore Rd be DEFERRED at the request of the applicant;

That the \$685.00 deferral fee be PAID prior to rescheduling;

That the application (as may be revised) * be proceeded with by September 11, 2025 at the latest (or earlier at the call of the Chair), failing which the Committee will consider the application withdrawn and the file closed.

4. CONSENT ITEMS:

Secretary Treasurer invited the public if they wished to speak to an item on the Consent Agenda; None.

Chair invited the Committee Members if they wished to pull an item from the Consent Agenda; None.

Items in the minutes are not represented in chronological order, as per the agenda, but in the order that the Item was heard.

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HEARING NO. 4.1 - FILE NO. 540-02-A-033/24

APPLICANT: Basam Al-Kerwi c/o 1000613468 Ontario Inc

PROPERTY: 320 Walker's Line,
PLAN 1107 LOT 97,
City of Burlington, Regional Municipality of Halton.

HAVING REVIEWED an application by the Owner of the above-described property, for a Minor Variance to the requirements of the Zoning By-Law 2020, as amended, as follows:

1. To permit a front yard of 9 m instead of the minimum required 11 m for a proposed two-storey dwelling with attached garage.
2. To permit a north-west side yard of 2 m instead of the minimum required 2.134 m for a proposed two-storey dwelling with attached garage.
3. To permit a south-east side yard of 2 m instead of the minimum required 2.134 m for a proposed two-storey dwelling with attached garage.
4. To permit a front yard of 7.2 m instead of the minimum required 10.35 m (11 m – 0.65 m encroachment) for a proposed roofed-over porch including steps and roof overhang excluding eaves and gutter.
5. To permit columns on the first storey to exceed the height of the ceiling of the first storey whereas By-law 2020 does not permit columns to exceed the height of the ceiling of the first storey on building elevations facing a street.

PRESENT:	Bassam Al-Kerwi c/o 1000613468 Ontario Inc – Owner Shane Edwards of Huis Design Studio Ltd. – Agent
MATERIALS:	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
EVIDENCE:	Letters of no objections from Karen Change of 329 Walker’s Line, Ramesh Palanisamy of 322 Walker’s Line, Megan Beach of 336 Walker’s Line, Chris Wilkin of 354 Walker’s Line and Chris Skonberg of 323 Walker’s Line.
HEARING:	Started at approximately 5:35 pm

This application was placed onto the Consent Agenda for the following reasons:

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There was no public opposition as a result of the public notice, staff and agencies supported the application, and there were no requests to delegate to this matter.

Chair asked the Committee for a Motion. Member Capuano moved for approval with condition; Member Westerhof seconded.

Chair turned to Committee for Comments; None.

There was no public opposition as a result of the public notice, staff and agencies supported the application, and there were no requests to delegate to this matter; Committee, having reviewed this information, considered that the application met the four tests of the *Planning Act* for similar reasons as the staff report in the agenda.

Chair called a vote; Members unanimously supported the application and therefore the decision was carried; application was approved, and the decision was now in the 20-day appeal period. The Secretary Treasurer will mail a copy of the decision within 10 days of this meeting.

DECISION 540-02-A-033/2024:

Having regard for the requirements of Section 45 Sub-section (1) of the *Planning Act*, RSO. 1990, c. P.13, as amended;

And after having fully considered as part of their deliberations and final decision on this matter any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision, and any and all oral submission related to this application that were made at the public hearing held under the *Planning Act*;

Members unanimously supported the application and therefore;

The Committee **GRANTS** the application under **File 540-02-A-033/2024** at **320 Walker's Line, Burlington:**

1. To permit a front yard of 9 m instead of the minimum required 11 m for a proposed two-storey dwelling with attached garage.
2. To permit a north-west side yard of 2 m instead of the minimum required 2.134 m for a proposed two-storey dwelling with attached garage
3. To permit a south-east side yard of 2 m instead of the minimum required 2.134 m for a proposed two-storey dwelling with attached garage.
4. To permit a front yard of 7.2 m instead of the minimum required 10.35 m (11 m – 0.65 m encroachment) for a proposed roofed-over porch including steps and roof overhang excluding eaves and gutter.

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5. To permit columns on the first storey to exceed the height of the ceiling of the first storey whereas By-law 2020 does not permit columns to exceed the height of the ceiling of the first storey on building elevations facing a street.

The reasons for the Committee's decision are that:

1. The general intent and purpose of the Official Plan **will** be maintained.
2. The general intent and purpose of the zoning by-law **will** be maintained.
3. The requested variances **are** desirable for the appropriate development or use of the property.
4. The requested variances **are** minor.

In addition to satisfying the four tests, the Committee's rationale for supporting the application include: the side yard setbacks would contribute to a balanced, functional, and aesthetically pleasing neighbourhood; the columns created a visually appealing design interest, and the variances facilitated a design that was compatible with the neighbourhood while allowing for the continued residential use.

CONDITIONS:

The decision of the subject minor variance application is subject to the following conditions. Conditions as listed below must be fulfilled within the time period specified which period begins from the last date of appeal. Any time period given is a maximum period only and cannot be extended.

These variances are for the life and repair of the single detached residential use only; any construction associated with this approval shall be substantially in accordance with the plans submitted in support of the application.

The following conditions must be satisfied within 2 years for the subject site:

1. The Applicant shall apply for a Pre-Building Permit Application

The Applicant is advised of the following notes:

1. A building permit is required for all construction.
2. A grading and drainage clearance certificate will be required.
3. A tree permit may be required for any and all work around regulated trees in accordance with the City's Tree By-laws. An exploratory sensitive root excavation may also be required to determine the impact on the tree adjacent to the south-east side yard property line.

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The decision of the Committee is subject to a 20-day appeal period that starts today. The Secretary-Treasurer will mail a copy of the decision within 10 days of this meeting.

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5. REGULAR ITEMS:

HEARING NO. 5.1 - FILE NO. 540-02-A-035/24

APPLICANT: Homestead Land Holdings Limited c/o Jason Gerrard

PROPERTY: 1363 Lakeshore Rd.,
 PLAN 65 PT LOTS 1, LAKEVIEW,
 City of Burlington, Regional Municipality of Halton.

TO HEAR AND DETERMINE an application by the Owners of the above-described property, for a Minor Variance to the requirements of the Zoning By-Law 2020, as amended, as follows:

1. To permit a 0.7 m east side yard for the enclosed parking structure ramp instead of the minimum required 6 m.
2. To permit a 0.7 m setback to an O3, Open space Zone, for the enclosed parking structure ramp instead of the minimum required 7.5 m.
3. To permit a 0.7 m landscape area abutting an O3 zone for the enclosed parking structure ramp instead of the minimum required 3 m.

PRESENT:	Homestead Land Holdings Limited – Owner Jason Gerrard of Homestead Land Holdings Limited - Agent
MATERIALS:	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
EVIDENCE:	Letter of concern from Reverend Pike of St Luke’s Anglican Church of 1382 Ontario St.
HEARING:	Started at approximately 5:43 pm

Discussion:

Chair noted pertinent details outlined in the application and on the plans and evidence received.

Jason Gerrard appeared on behalf of the owners and provided evidence in support of the application.

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Reverend Pike of St Lukes Anglican Church 1382 Ontario St delegated before the Committee with concerns related to the survival and maintenance of cedar trees within the 0.7m planting strip and expressed concerns over who would maintain the façade of the enclosed parking structure if it were to fall into disrepair.

Chair asked if any Members had any questions:

V. Tinti, N. Leblovic, F. Capuano, E. Westerhof and Chair asked questions of staff, the applicant and delegate. Several questions were related to the heritage aspect of the adjacent St Luke's allée and how the variances for an enclosure over the existing parking garage ramp on the subject lands would affect the use of the allée.

Comments from Committee:

Chair asked Members if they had comments on the application:

E. Westerhof **supported** the application as noted for the following reasons: felt the proposed enclosure improved the maintenance and safety for the Applicant as it would enclose vehicles leaving/entering the ramp area; may improve and address concerns related to having a more peaceful allée for the church congregation as it would enclose vehicles entering and existing the parking garage; supported the open ended condition as it allowed the Church and the Applicant to discuss various solutions that may differ from the planting of cedar shrubs or creating a stucco façade; was concerned with the unknown nature of development of the adjacent St Luke's allée however felt the application satisfied the 4 tests of a minor variance under the *Planning Act* and was minor in nature.

V. Tinti **did not support** the application as noted for the following reasons: was concerned with compatibility with the adjacent allée; met only some of the tests of the *Planning Act*; felt going through the site plan process would be beneficial for both the Applicant and adjacent landowner, St Luke's Church; would support a deferral if the applicant chose that route.

N. Leblovic **supported** the application as noted for the following reasons: the Staff Report based its recommendation for supporting the application solely on their conclusion that the proposed enclosure would have a negative visual impact on the adjacent open space corridor known as St. Luke's Allée and therefore not being "compatible" with that corridor; that the definition of "Compatibility" of a development in the Official Plan was limited to "an undue physical or functional adverse impact" on an adjacent property or pose an unacceptable risk to environment and/or human health, none of which factors was noted in the Staff Report or evident from his site visit; that the Staff Report, without any discussion or analysis, extended the scope of the definition of "Compatibility" to include the aesthetic criteria of "visual impairment"; that there was no objective evidence presented that either the existing garage and entrance had promoted, or the proposed development would promote, any adverse visual impacts on the St Luke's Allée; and that, if negative visual impairment is properly included in the

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definition of "Compatibility", then it would reasonably allow Staff or any property owner to object to proposed construction or renovation on a neighbouring property based solely on aesthetic factors such as colour or style.

F. Capuano **supported** the application as applied for as noted for the following reasons: felt the application should have been more definitive before coming before the Committee but based on the *Planning Act* criteria, he felt the application met the 4 tests of a minor variance.

Chair **did not support** the application as noted for the following reasons: did not feel there was enough information in front of the Committee to make a decision; felt that the condition presented by staff was too open ended and it was not the purview of the Committee to determine what material should be used on the enclosure however, in his opinion both a material and landscape treatment would be appropriate not either/or; was uncertain if the applicant would be required to go through site plan approval (SPA) and felt that the proposal would be appropriate for site plan review; did not meet the 4 tests of a minor variance and that the general intent and purpose of the zoning bylaw was not being met. Chair did however support a deferral to allow the Applicant, St Luke's Church, and The City to discuss more details of the proposal and to create a more concrete plan and design satisfactory to all parties.

The Applicant was granted an opportunity to speak again and decided that he would request a deferral.

Chair asked the Committee for a Motion. Member Tinti moved for a motion for deferral with the fee; Member Leblovic seconded.

Committee members voted unanimously in support of the request for deferral.

MOTION NO. 20/2024

BE IT RESOLVED THAT the application under File: 545-02-A-035/2024 at municipal address 1363 Lakeshore Rd be DEFERRED at the request of the applicant;

That the \$685.00 deferral fee be PAID prior to rescheduling;

That the application (as may be revised) * be proceeded with by September 11, 2025 at the latest (or earlier at the call of the Chair), failing which the Committee will consider the application withdrawn and the file closed.

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HEARING NO. 5.2 - FILE NO. 540-02-A-127/23

APPLICANTS: Steven Xue and Helen Chen

PROPERTY: 679 Inverary Rd.,
 PLAN 1496 LOT 61,
 City of Burlington, Regional Municipality of Halton.

TO HEAR AND DETERMINE an application by the Owners of the above-described property, for a Minor Variance to the requirements of the Zoning By-Law 2020, as amended, as follows:

1. To permit lot coverage of 28.8% instead of the maximum permitted 25% for a proposed second storey addition.
2. To permit floor area ratio of 0.52:1 instead of the maximum permitted 0.45:1 for a proposed second storey addition.
3. To permit a north side yard setback of 1.2 m instead of the minimum required 1.8 m for a proposed second storey addition.

PRESENT:	Steven Xue and Helen Chen – Owners
MATERIALS:	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
EVIDENCE:	None
HEARING:	Started at approximately 7:00 pm

Discussion:

Chair noted pertinent details outlined in the application and on the plans and evidence received.

Homeowners Steven Xue and Helen Chen appeared on their own behalf and provided evidence in support of the application.

No one appeared before the Committee in support or opposition to the request.

Chair asked if any Members had any questions:

N. Leblovic, E. Westerhof and Chair asked questions of staff and the applicant.

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Comments from Committee:

Chair asked Members if they had comments on the application:

E. Westerhof **supported** the application as noted for the following reasons: concurred with colleagues; met the 4 tests of a minor variance under the *Planning Act*.

V. Tinti **supported** the application as noted for the following reasons: concurred with Member Capuano; the applicant met the 4 tests of a minor variance under the *Planning Act*; agreed with the staff report.

N. Leblovic **supported** the application as noted for the following reasons: met the 4 tests of a minor variance under the *Planning Act*.

F. Capuano **supported** the application as noted for the following reasons: satisfied with staff recommendation and applicant presentation; met the 4 tests of a minor variance under the *Planning Act*

Chair **supported** the application; noted for the following reasons: met the 4 tests of a minor variance under the *Planning Act*; commended the applicant for working with staff to create a design that was amiable to the neighbourhood and was good development; concurred with the staff report.

Chair asked the Committee for a Motion. Member Westerhof moved for approval with condition; Member Tinti seconded.

Committee members voted unanimously that the variance application met the four tests of the *Planning Act* for similar reasons as the staff reports in the agenda and evidence presented at the hearing.

Chair read the decision; advised of the conditions and 20-day appeal period.

DECISION 540-02-A-127/2023:

Having regard for the requirements of Section 45 Sub-section (1) of the *Planning Act*, RSO. 1990, c. P.13, as amended;

And after having fully considered as part of their deliberations and final decision on this matter any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision, and any and all oral submission related to this application that were made at the public hearing held under the *Planning Act*;

Members unanimously supported the application therefore;

The Committee **GRANTS** the application under **File 540-02-A-127/2023** at **679 Inverary Road, Burlington:**

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1. To permit lot coverage of 28.8% instead of the maximum permitted 25% for a proposed second storey addition.
2. To permit floor area ratio of 0.52:1 instead of the maximum permitted 0.45:1 for a proposed second storey addition.
3. To permit a north side yard setback of 1.2 m instead of the minimum required 1.8 m for a proposed second storey addition.

The reasons for the Committee's decision are that:

1. The general intent and purpose of the Official Plan **will** be maintained.
2. The general intent and purpose of the zoning by-law **will** be maintained.
3. The requested variances **are** desirable for the appropriate development or use of the property.
4. The requested variances **are** minor.

In addition to satisfying the four tests, the Committee's rationale for supporting the application include: the existing dwelling had a lot coverage of 28.8% which already exceeded that permitted by the zoning bylaw and the applicant was not proposing to increase this; the applicant had taken measures to reduce massing impacts by reducing the second floor footprint and varying the design and material used; this helped to eliminate the bulky appearance from previous renditions of the proposal. Any cumulative impact would be minor, and the proposed addition would fit well with the surrounding neighbourhood.

CONDITIONS:

The decision of the subject minor variance application is subject to the following conditions. Conditions as listed below must be fulfilled within the time period specified which period begins from the last date of appeal. Any time period given is a maximum period only and cannot be extended.

These variances are for the life and repair of the single detached residential use only; any construction associated with this approval shall be substantially in accordance with the plans submitted in support of the application.

The following conditions must be satisfied within 2 years for the subject site:

1. The Applicant shall apply for a Pre-Building Permit Application.

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The Applicant is advised of the following notes:

1. A building permit is required for all construction.
2. A grading and drainage clearance certificate will be required.
3. A tree permit will be required for any and all work around regulated trees in accordance with the City's Tree By-laws.

The decision of the Committee is subject to a 20-day appeal period that starts today. The Secretary-Treasurer will mail a copy of the decision within 10 days of this meeting.

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6. OTHER BUSINESS:

6.1 Correspondence:

Copies of Minutes for Meeting No. 15 on August 21, 2024

6.2 Items for Discussion:

6.3 Date of Next Meeting:

Wednesday September 25, 2024 at 1:00 p.m., Virtual Meeting via Zoom Video Conferencing Technology.

6.4 Approval of Minutes:

After conferring with the Members, the Chair directed the minutes of August 21, 2024 be approved as distributed.

7. ADJOURNMENT:

The meeting was adjourned at 7:31 p.m.

CERTIFIED CORRECT



E. Shacklette
Secretary-Treasurer

CONFIRMED



J. Riddell
Chair