

COMMITTEE OF ADJUSTMENT

Meeting #17

MINUTES

September 25, 2024

MEETING: Held on Wednesday September 25, 2024, Virtually via Zoom Video Conferencing Technology at 1:00 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. Dalrymple	- Planner, Site Plan Review

ABSENT: None

1. DECLARATION OF INTEREST:

2. ADDENDUMS:

3. REQUEST FOR DEFERRALS:

4. CONSENT ITEMS:

5. REGULAR ITEMS:

HEARING NO.	FILE NO. 540-02-	ADDRESS
4.1)	A-045/2024	Re: 674 Dynes Rd., Burlington Ward 4 Pages 2-5
4.2)	A-050/2024	Re: 559 King Forest Ct., Burlington Ward 1 Pages 6-9
4.3)	A-051/2024	Re: 271 Linden Ave., Burlington Ward 4 Pages 10-13

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. 17 to order at 1:00 pm.

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

- 1. **DECLARATION OF INTEREST:** None
- 2. **ADDENDUMS:** There were two addendums: 271 Linden Avenue and 559 King Forest Court both of which clarified details within the respective staff report.
- 3. **DEFERRALS:** None
- 4. **CONSENT ITEMS:** None.

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; Member Westerhof requested to remove Item 4.2 from the consent agenda for further discussion.

Items 4.1 and 4.3 were pulled from the consent agent and placed on the regular agenda for further discussion due to public opposition.

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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5. REGULAR ITEMS:

HEARING NO. 4.1 - FILE NO. 540-02-A-045/24

APPLICANTS: Ghanshyambhai Bhingaradia and Bhumi Ghanshy Ambhai Bhingaradia

PROPERTY: 674 Dynes Rd.,
CON 3 SDS PT LOT 14,
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 29.1% instead of the maximum permitted 25% for a proposed second storey addition to an existing one storey dwelling with an attached garage including accessory building.

PRESENT:	Ghanshyambhai Bhingaradia, Bhumi Ghanshy Ambhai Bhingaradia – Owners in the audience Graham Alexander – 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 objection from Frances and Patrick O'halloran of 700 Dynes Rd; Letters of support from Frederico Schuh of 670 Dynes Rd, Bradley and Janet Kernick of 666 Dynes Rd, and Bianca Castro of 678 Dynes Rd
HEARING:	Started at approximately 1:12 pm

Discussion:

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

Graham Day appeared on behalf of the owners and provided evidence in support of the application.

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

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Chair asked if any Members had any questions: None.

Comments from Committee:

Chair asked Members if they had comments on the application:

E. Westerhof **supported** the application as noted for the following reasons: straight forward application; proposed plans illustrated the design was sympathetic to the neighbourhood; the development would not exacerbate any existing traffic concerns and the concerns were not relevant to the variances being requested.

V. Tinti **supported** the application as noted for the following reasons: met the 4 tests of a Minor Variance under the *Planning Act*; the design was compatible with neighbourhood and existing dwellings; application was minor in nature.

N. Leblovic **supported** the application as noted for the following reasons: concurred with his colleagues; the application was minor and straight forward; met the 4 tests of a Minor Variance under the *Planning Act*.

F. Capuano **supported** the application as noted for the following reasons: concurred with his colleagues, agreed with staff report; the application was minor in nature; met the 4 tests of a Minor Variance under the *Planning Act*.

Chair **supported** the application as noted for the following reasons: reviewed letter of objection; application did not increase density nor affect traffic; the application met the 4 tests of Minor Variance under the *Planning Act*.

Chair asked the Committee for a Motion. Member Westerhof moved for approval with condition; Member Capuano 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-045/2024:

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*;

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Members unanimously supported the application therefore;

The Committee **GRANTS** the application under **File 540-02-A-045/2024** at **674 Dynes Road, Burlington:**

1. To permit lot coverage of 29.1% instead of the maximum permitted 25% for a proposed second storey addition to an existing one storey dwelling with an attached garage including accessory building.

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 variance **is** desirable for the appropriate development or use of the property.
- 4) The requested variance **is** minor.

In addition to satisfying the four tests, the Committee's rationale for supporting the application include: despite the additional lot coverage, there would remain adequate landscape area; the residential use was permitted and would continue; the proposal maintained all required setbacks; and the ground floor addition would occur in an area that was an existing concrete patio.

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.

This variance is 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.

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2. A tree permit will be required for any and all work around regulated trees in accordance with the City's Public and Private Tree By-laws.
 3. A lot grading and drainage certificate may be required.

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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HEARING NO. 4.2 - FILE NO. 540-02-A-050/24

APPLICANT: 1407827 Ontario Inc.

PROPERTY: 559 King Forest Crt.,
 PLAN M745 BLK 6,
 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 retail sales or showroom, with a maximum floor area of 83 m² of the total floor area in conjunction with wholesaling whereas Part 3, Section 5.14 only permits retail sales in conjunction with manufacturing, fabricating, processing, assembling or warehouse uses.
- 2) To permit a 25.5 m yard abutting King Road instead of the minimum required 45 m for the proposed building.
- 3) To permit a 25.5 m Landscape Area abutting King Road instead of the minimum required 30 m for the proposed building.
- 4) To permit 1.3 spaces per 100 m² of gross floor area (19 parking spaces) instead of the minimum required 1.5 spaces per 100 m² of gross floor area (22 parking spaces) for Warehouse and Logistics.

PRESENT:	Patrick Luckie of pml.A – Agent
MATERIALS:	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
EVIDENCE:	Burlington Hydro Comments
HEARING:	Started at approximately 1:21 pm

Discussion:

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

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Patrick Luckie of PML appeared on behalf of the owners 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:

V. Tinti, N. Leblovic, E. Westerhof and Chair asked questions of the agent and staff.

Comments from Committee:

Chair asked Members if they had comments on the application:

E. Westerhof **did not support** the application as noted for the following reasons: was not satisfied that there would be no negative impacts on the Natural Heritage System under the Official Plan policies; the definition in the zoning bylaw of wholesale explicitly prohibited sales to the general public; there was room on the site available to meet minimum parking requirements; was of the opinion that the application did not meet the 4 tests of a Minor Variance under the *Planning Act*.

V. Tinti **supported** the application as noted for the following reasons: concurred with her colleagues; concurred with the staff report; the application met 4 tests of a Minor Variance under the *Planning Act*.

N. Leblovic **supported** the application as noted for the following reasons: concurred with Member Capuano; the application met the 4 tests of a Minor Variance under the *Planning Act*.

F. Capuano **supported** the application as noted for the following reasons: concurred with staff report; did not anticipate much vehicle traffic due to the limited retail aspect of the site as it was mostly wholesale; the movement of material indoors will open up needed parking outdoors.

Chair **supported** the application as noted for the following reasons: concurred with staff report and colleagues; supported the condition of site plan approval; application met the 4 tests of a minor variance under the *Planning Act*; staff satisfactorily addressed concerns related to Committee questions about the Official Plan policies.

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

The majority of Committee members voted 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.

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DECISION 540-02-A-050/2024:

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*;

The majority of members supported the application therefore;

The Committee **GRANTS** the application under **File 540-02-A-050/2024** at **559 King Forest Court, Burlington:**

1. To permit retail sales or showroom, with a maximum floor area of 83 m² of the total floor area in conjunction with wholesaling whereas Part 3, Section 5.14 only permits retail sales in conjunction with manufacturing, fabricating, processing, assembling or warehouse uses.
2. To permit a 25.5 m yard abutting King Road instead of the minimum required 45 m for the proposed building.
3. To permit a 25.5 m Landscape Area abutting King Road instead of the minimum required 30 m for the proposed building.
4. To permit 1.3 spaces per 100 m² of gross floor area (19 parking spaces) instead of the minimum required 1.5 spaces per 100 m² of gross floor area (22 parking spaces) for Warehouse and Logistics.

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 proposal was sufficiently setback from Halton's Natural Heritage System and from any sensitive natural features or areas; the proposed addition would be at a low enough elevation, obscured by an existing berm, to not affect the views of

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the Niagara Escarpment; parking would be adequate given the proximity to a Burlington Transit stop with service to Aldershot GO station; and existing outdoor storage would be able to be moved indoors.

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 Industrial and Retail Commercial 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 Zoning Clearance certificate; and
2. The Applicant shall obtain Ministry of Transportation approval; and
3. The Applicant shall apply for Site Plan Approval for the proposed site modifications, to the satisfaction of the Director of Community Planning or designate.

The Applicant is advised of the following notes:

1. A building permit is required for all construction.
2. A grading and drainage clearance certificate may be required.
3. A tree permit will be required for any and all work around regulated trees in accordance with the City's Public and Private 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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HEARING NO. 4.3 - FILE NO. 540-02-A-051/24

APPLICANT: Melissa Jolyn Elizabeth Murray

PROPERTY: 271 Linden Ave.,
PLAN 674 LOT 20,
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 floor area ratio of 0.44:1 instead of the maximum permitted 0.4:1 for a two-storey dwelling with attached garage.
- 2) To permit a front yard of 7.6 m instead of the minimum required 8.35 m (9 – 0.65 m encroachment) for a proposed roofed-over 1-storey porch including steps and roof overhang excluding eaves and gutter.

PRESENT:	David Carrothers of Carrothers and Associates – Agent
MATERIALS:	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
EVIDENCE:	Burlington Hydro Comments; Letter of Objection from Dave and Ramona Boddington of 277 Linden Ave; Letters of Support from Jill Jukes of 265 Linden Ave, Derio Miguelezzi of 268 Linden Ave, Judy Parker and Ron Crawford of 274 Linden Ave, and Amanda Croft of 284 Linden Ave
HEARING:	Started at approximately 2:12 pm

Discussion:

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

David Carrothers appeared on behalf of the owners and provided evidence in support of the application.

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

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Chair asked if any Members had any questions:

V. Tinti, N. Leblovic, F. Capuano, E. Westerhof and Chair asked questions of the agent and staff.

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 member Capuano; the application was appropriate development and met the 4 tests of a Minor Variance under the *Planning Act*.

V. Tinti **supported** the application as noted for the following reasons: the staff report was clear and concise; the applicant presentation was succinct and clear; the application met the 4 tests of Minor Variance under the *Planning Act*.

N. Leblovic **supported** the application as noted for the following reasons: concurred with his colleagues; the application met the 4 tests of a Minor Variance under the *Planning Act*.

F. Capuano **supported** the application as noted for the following reasons: the staff report was thorough; the applicant presentation was clear; the application met the 4 tests of a Minor Variance under the *Planning Act*.

Chair **supported** the application as noted for the following reasons: the design helped mitigate concerns about Floor Area Ratio (FAR); concurred with the staff report; the application met the 4 tests of a Minor Variance under the *Planning Act*.

Chair asked the Committee for a Motion. Member Westerhof moved for approval with condition; Member Capuano 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-051/2024:

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

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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-051/2024** at **271 Linden Avenue, Burlington:**

1. To permit a floor area ratio of 0.44:1 instead of the maximum permitted 0.4:1 for a two-storey dwelling with attached garage.
2. To permit a front yard of 7.6 m instead of the minimum required 8.35 m (9 – 0.65 m encroachment) for a proposed roofed-over 1-storey porch including steps and roof overhang excluding eaves and gutter.

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 exterior design of the home fit well with the existing neighbourhood; the front yard reduction did not adversely impact visual continuity or functionality of the front yard; excess massing concerns related to the increase in Floor Area Ratio(FAR) were mitigated through the building's design with a smaller second floor and sloping roof line.

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:

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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 may be required.
3. A tree permit will be required for any and all work around regulated trees in accordance with the City's Public and Private 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:**

Copy of Minutes for Meeting No. 16 on September 11, 2024

6.2 Items for Discussion:

Chair confirmed that he would be absent at the next meeting to be held October 9th and that Vice Chair Tinti will be filling in as Chair.

6.3 Date of Next Meeting:

Wednesday October 9, 2024 at 5:30 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 September 11, 2024 be approved as distributed.

7) ADJOURNMENT:

The meeting was adjourned at 2:26 p.m.

CERTIFIED CORRECT



E. Shacklette
Secretary-Treasurer

CONFIRMED



J. Riddell
Chair