



APPENDIX A

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2018-XXX

A by-law to establish criteria with which a minor variance must conform

WHEREAS in accordance with Subsections 45 (1.01) and (1.0.3) of the *Planning Act*, Council may by by-law establish criteria with which a minor variance must conform;

AND WHEREAS the Town's Livable Oakville Official Plan identifies in Section 11 that the Residential Areas on Schedule A1, Urban Structure, represent the areas that provide for stable residential communities;

AND WHEREAS the Town's Livable Oakville Official Plan recognizes that while there will be some growth and change in those stable residential communities, that such growth and change should be subject to the character of the areas being preserved;

AND WHEREAS the Town's Livable Oakville Official Plan establishes policies intended to maintain and protect the existing character of those stable residential communities with their established neighbourhoods, including Section 11(a), with the objective to maintain, protect and enhance the character of existing residential areas;

AND WHEREAS the Town's Livable Oakville Official Plan in Section 11.1.9 provides that within all stable residential communities any development shall be evaluated using the criteria set out in that section 11.1.9 to maintain and protect the existing neighbourhood character;

AND WHEREAS the existing policies for maintaining and protecting the existing neighbourhood character of the stable residential communities when it comes to minor variance applications have been applied in determining whether the proposed minor variance maintains the general intent and purpose of the official plan;

AND WHEREAS the Town has been monitoring trends in minor variance applications since 2016 which indicate challenges with the requests for large deviations from the Zoning By-law respecting detached dwellings in the "-0" Suffix Zone;

AND WHEREAS the Town undertook a Residential Character Study to identify character attributes within the residential neighbourhoods in the Town and heard from the public that changes in the “-0” Suffix Zone affected character;

AND WHEREAS that Recommendation 8.4 of the Residential Character Study was received by Council which resulted in the exploration of additional prescribed criteria to better deal with requests for large deviations to the Zoning By-law which may have an impact on character in residential neighbourhoods;

AND WHEREAS this By-law is intended to implement and impose the additional criteria related to urban design and deviation limitation beyond that anticipated by the criteria in Section 11.1.9 of the Town’s Livable Oakville Official Plan.

NOW THEREFORE THE COUNCIL ENACTS AS FOLLOWS:

Part I - Interpretation

(1) In this By-law:

- (a) **AODA, 2005** means the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c 11., as amended from time to time;
- (b) **Character** means the collective qualities and characteristics that distinguish a particular area or neighbourhood;
- (c) **Compatible** means the development or redevelopment of uses which may not necessarily be the same as, or similar to, the existing development, but can coexist with the surrounding area without unacceptable adverse impact;
- (d) **Design Guidelines for Stable Residential Communities** means Part B of the Livable By Design Urban Design Manual, as endorsed by Planning and Development Council on April 29, 2013, as amended from time to time;
- (e) **Detached Dwelling** means “Dwelling, Detached” as defined as defined by Zoning By-law 2014-014, as amended from time to time;
- (f) **Driveway** means “Driveway” as defined by Oakville Zoning By-law 2014-014, as amended from time to time;
- (g) **Dwelling** means “Dwelling or Dwelling Unit” as defined by Zoning By-law 2014-014, as amended from time to time;

- (h) **Floor Area** means “Floor Area” as defined by Oakville Zoning By-law 2014-014, as amended from time to time;
- (i) **Floor Area, Residential** means “Floor Area, Residential” - as defined by Oakville Zoning By-law 2014-014, as amended from time to time;
- (j) **Grade** means “Grade” as defined by Oakville Zoning By-law 2014-014, as amended from time to time;
- (k) **Grade, Established** means “Grade, Established” as defined by Oakville Zoning By-law 2014-014, as amended from time to time;
- (l) **Growth Area** means an area shown as a “Growth Area” on Schedule A1, Urban Structure, “Livable Oakville, town of Oakville Official Plan 2009”;
- (m) **Height** means “Height” as defined by Zoning By-law 2014-014, as amended from time to time;
- (n) **Heritage Conservation District** means any defined area designated as a heritage conservation district under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18;
- (o) **Lot Coverage** means “Lot Coverage” as defined by Zoning By-law 2014-014, as amended from time to time;
- (p) **“-0” Suffix Zones** means those Residential Zones designated with an “-0” Suffix on the Part 19 Maps of Zoning By-law 2014-014, as amended from time to time, and for which the Zoning Regulations in Section 6.4 of the Zoning By-law 2014-014, as amended from time to time are applicable;
- (q) **Planning Act** means the Planning Act, R.S.O. 1990, c. P.13, as amended from time to time;
- (r) **Residential Floor Area Ratio (RFA)** means “Residential Floor Area Ratio” as defined by Zoning By-law 2014-014, as amended from time to time;
- (s) **Structure** means “Structure” as defined by Zoning By-law 2014-014, as amended from time to time;
- (t) **Yard** means “Yard” as defined by Zoning By-law 2014-014, as amended from time;
- (u) **Yard, Flankage** means “Yard, Flankage” as defined by Zoning By-law 2014-014, as amended from time to time;

- (v) **Yard, Interior Side** means “Yard, Interior Side” as defined by Zoning By-law 2014-014, as amended from time to time;
 - (w) **Yard, Rear** means “Yard, Rear” as defined by Zoning By-law 2014-014, as amended from time to time;
 - (x) **Yard, Side** means “Yard, Side” as defined by Zoning By-law 2014-014, as amended from time to time;
 - (y) **Zone** means “Zone” as defined by Zoning By-law 2014-014, as amended from time to time.
- (2) Where a term used in this By-law is specifically undefined in this By-law but is specifically defined in the Town’s Zoning bylaw 2014 – 014, then the definition for that term in Zoning By-law 2014 – 014, as amended from time to time, is hereby adopted as the definition for that term in this By-law as if that definition were set out herein.

Part II – Criteria

- (3) In addition to complying with the requirements under subsection 45(1) of the *Planning Act*, a minor variance respecting a detached dwelling (new, alteration, addition) shall be in conformity with the following Criterion or Criteria, as applicable, before being authorized:

(a) Urban Design Criterion

Where a minor variance approval is being sought anywhere in the Town, the built form and placement of a dwelling shall be consistent with the “Urban Design Guidelines for Stable Residential Communities”

(b) Maximum Permitted Deviation Criterion

Subject to Sections 4 and 5:

- (i) where a minor variance approval is being sought in a “-0” Suffix Zone with respect to any or all of the zoning regulations set out in Tables 1 through 5 below; and
- (ii) where the average of the particular regulation or regulations which are the subject of the Minor Variance Application, existing for all properties within the Assessment Area as determined under Schedule 1 of this By-Law is larger or smaller, as the case may be, than that permitted by the Zoning By-law for that particular regulation or regulations then

the maximum or minimum permitted, as the case may be, for that regulation or regulations in any approval of that Minor Variance Application shall be as determined by the application of the Tables below:

(i) **Table 1** - Respecting variances requested for increases in maximum residential floor area ratio (RFA)

Column 1	Column 2
Where the maximum permitted <i>RFA</i> for the subject property under Zoning By-law 2014-014 is as set out below	The maximum permitted <i>RFA</i> after any minor variance approval shall be the lesser of : the average <i>RFA</i> determined for all properties found within the assessment area in accordance with Schedule 1 of this By-law OR the corresponding maximum <i>RFA</i> set out below.
43%	45.15%
42%	44.10%
41%	43.05%
40%	42%
39%	41.15%
38%	40.28%
37%	39.59%
35%	37.80%
32%	34.88%
29%	31.90%

(ii) **Table 2** - Respecting variances requested for increases in maximum *Lot Coverage*

Column 1	Column 2
Where the maximum permitted <i>Lot Coverage</i> for the subject property under Zoning By-law 2014-014 is as set out below	The maximum permitted <i>Lot Coverage</i> after any minor variance approval shall be the lesser of : the average <i>Lot Coverage</i> determined for all properties found within the assessment area in accordance with Schedule 1 of this By-law OR the corresponding maximum <i>Lot Coverage</i> set out below.
25%	27.75%
30%	32.70%
35%	37.80%

(iii) **Table 3** - Respecting variances requested for increases in maximum *Height*

Column 1	Column 2
Where the maximum permitted <i>Height</i> for the subject property under Zoning By-law 2014-014 is as set out below	The maximum permitted <i>Height</i> after any minor variance approval shall be the lesser of : the average <i>Height</i> determined for all properties found within the assessment area in accordance with Schedule 1 of this By-law OR the corresponding maximum <i>Height</i> set out below
9m	9.63m

(iv) **Table 4** - Respecting variances requested for decreases in minimum *Yard*:

Column 1	Column 2
Where the minimum permitted setback for the subject property for the <i>Yard</i> or <i>Yards</i> which is/are the subject of the Minor Variance Application, be they rear yards , interior side yards, flankage yards or side yards, is/are under Zoning By-law 2014-014 as set out below	The minimum permitted setback for the <i>Yard</i> or <i>Yards</i> concerned after any minor variance approval shall be the lesser of: the average setback for the applicable <i>Yard</i> or <i>Yards</i> determined for all properties found within the assessment area in accordance with Schedule 1 of this By-law OR the corresponding minimum permitted setback for the <i>Yard</i> or <i>Yards</i> set out below
10.5m	9.45m
7.5m	6.60m
4.2m	3.57m
2.4m	2.00m
1.2m	1.00m

(v) **Table 5** - Respecting variances requested for increases in a maximum *driveway* size:

Column 1	Column 2
Where the maximum <i>Driveway Width</i> or <i>Coverage</i> for the subject property under Zoning By-law 2014-014 is as set out below	The maximum permitted <i>Driveway Width</i> or <i>Coverage</i> after any minor variance approval shall be the lesser of : the average applicable <i>Driveway Width</i> or <i>Coverage</i> determined for all properties found within the assessment area in accordance with Schedule 1 of this By-law OR the corresponding maximum applicable <i>Driveway Width</i> or <i>Coverage</i> set out below.
Width of 6m	6.3m
Width of 9m	9.9m
Coverage of 50%	51.25%

PART III – Exceptions

- (4) Notwithstanding Section 3(b) above, a minor variance need not be in conformity with all or any part of any particular deviation limitation in the Maximum Permitted Deviation Criterion set out in Section 3(b) if the particular deviation limitation concerned prevents the minor variance application from providing relief from the applicable Zoning By-law:
- (a) to address an unusual condition of topography on the property itself as it relates to the calculation of maximum *Height*
 - (b) to address an unusual condition of property shape, or orientation in relation to a right-of-way on the property itself as it relates to the calculation of an applicable minimum *Yard*
 - (c) to address an unusual condition of natural areas or stable-top-of-bank on the property itself as it relates to the calculation of maximum *RFA* and *Lot Coverage*
 - (d) to implement the objectives of the Accessibility for Ontarians with Disabilities Act, where alternative solutions cannot be provided as it relates to the calculation of minimum *Yard*, maximum *Lot Coverage*, and maximum *RFA*.

- (5) Notwithstanding section 3 (b) above, the Maximum Permitted Deviation Criterion does not apply to those minor variance applications related to detached dwellings on lands:
- (a) that are located within a defined Growth Area;
 - (b) that are within a Heritage Conservation District;
 - (c) that are located within a special provision in Section 15 of By-law 2014-014; and
 - (d) that are subject to a holding provision in Section 16 of By-law 2014-014

Part IV – Transition

- (5) Effective Date
- (a) This by-law shall come into full force and effect in accordance with Subsections 45 (1.0.4) of the Planning Act

PASSED this ___ day of _____, 2018.

MAYOR

CLERK

Schedule 1 – Character Assessment Schedule

For the purposes of this By-law, this Schedule is to be used by the Applicant, Town Staff, the Committee of Adjustment and the Local Planning Appeal Tribunal in conjunction with Part II – Criteria of this By-law in making or considering any Minor Variance Application to determine the assessment area including the relevant properties for comparison purposes for any minor variance being sought from the regulations under Zoning By-law 2014-014 and within that assessment area, to determine what the average for the applicable regulation(s) is for the particular minor variance(s) being sought at the date of Application.

The following standards shall apply:

1. The assessment area shall be the lands determined as being within proximity under 2 below to the property which is subject to the minor variance application, and this assessment area forms the basis of identifying neighbourhood character when considering the maximum permitted deviations to the regulations under the Zoning By-law.
2. The assessment area shall consist of all properties within a radius of 60m of the subject site measured from the outside boundaries of the subject site within the same Zone Category

Example:

