

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the *Planning Act*, 1990

APPLICATION: CAV A/118/2020-Revised-Deferred from December 08, 2020

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, OCTOBER 18, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Chad & Marija Moldenhauer 119 Burgundy Drive Oakville ON L6J 6R1	Korsiak Urban Planning c/o Catherine McEwan 277 Lakeshore Road East Oakville ON L6J 1H9	CON 3 SDS PT LOT 9 RP 20R17006 PART 2 119 Burgundy Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential - Special Policy

ZONING: RL1-0

WARD: 3

DISTRICT: East

### 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 a two-storey detached dwelling and an accessory building (cabana) proposing the following variance(s):

No.	Zoning By-law Regulation	Variance Request
1	<b>Section 4.6.5 b)</b> The maximum dimensions of the roof opening for the skylight shall be 2.4 metres in length and 2.4 metres in width;	To permit the maximum length of the roof opening for the skylight to be 5.6 metres
2	<b>Section 4.27 a)</b> A <i>rooftop terrace</i> is permitted on a <i>lot</i> in any <i>Zone</i> , except for Residential Low -0 Suffix Zones;	To permit a <i>rooftop terrace</i> on a <i>lot</i> in a Residential Low- 0 Suffix Zone
3	<b>Section 5.8.6 c)</b> For <i>lots</i> located within the Residential Low (RL1) <i>Zone</i> the maximum total <i>floor area</i> for a <i>private garage</i> shall be 56.0 square metres.	To permit the maximum <i>total floor area</i> for the <i>private garage</i> to be 66.5 square metres.
4	<b>Table 6.3.1 (Row 5, Column RL1)</b> The <i>minimum interior side yard</i> shall be 4.2 m.	To permit a <i>minimum</i> (southerly) <i>interior side yard</i> of 2.7 m.
5	<b>Table 6.3.1 (Row 9, Column RL1)</b> The maximum <i>dwelling depth</i> shall be 20.0 m.	To permit a maximum <i>dwelling depth</i> of 24.06 m above grade and 33.33m below grade,
6	<b>Section 6.4.4 a)</b> A minimum of 50% of the length of all <i>main walls</i> oriented toward the <i>front lot line</i> shall be located within the area on the <i>lot</i> defined by the <i>minimum</i> and <i>maximum front yards</i> .	To permit a minimum of 0% of the length of all <i>main walls</i> oriented toward the <i>front lot line</i> to be located within the area on the <i>lot</i> defined by the <i>minimum</i> and <i>maximum front yards</i> .

## **CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

### **Planning Services:**

**(Note:** Planning Services includes a consolidated comment from the relevant district teams including, Current, Policy and Heritage Planning, Urban Design and Development Engineering)

**CAV A/118/2020 - 119 Burgundy Dr (East District)** (OP Designation: Low Density Residential-Special Policy))

This application was deferred from the December 8, 2020 meeting at the request of the applicant due to deficiencies in the application. The applicant has updated the application and is currently under Site Plan application (SP.1609.023/01) review and any modifications to address identified issues may result in changes to the requested variances. Staff comments for the updated application are as follows:

The applicant proposes to construct a two-storey detached dwelling and an accessory building(cabana) subject to the variances listed above.

The neighbourhood consists of predominately two storey dwellings that are original to the area and two-storey dwellings that are newly constructed. There are no sidewalks along Burgundy Drive. Mature trees and vegetation provide a significant amount of shade and contribute to the distinct character of the area. Driveways along the street contain culverts to manage the drainage within the road allowance.

The subject lands are designated Low Density Residential – Special Policy Area in the Official Plan. Policy 26.2.1, applies to the Low-Density Residential designation and is intended to protect the unique character and integrity of the large lots in the area.

Furthermore, Section 11.1.9 indicates that development which occurs in stable residential neighbourhoods shall be evaluated using criteria that maintains and protects the existing character. The proposal was evaluated against all the criteria established under Section 11.1.9, and the following criteria apply:

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.*

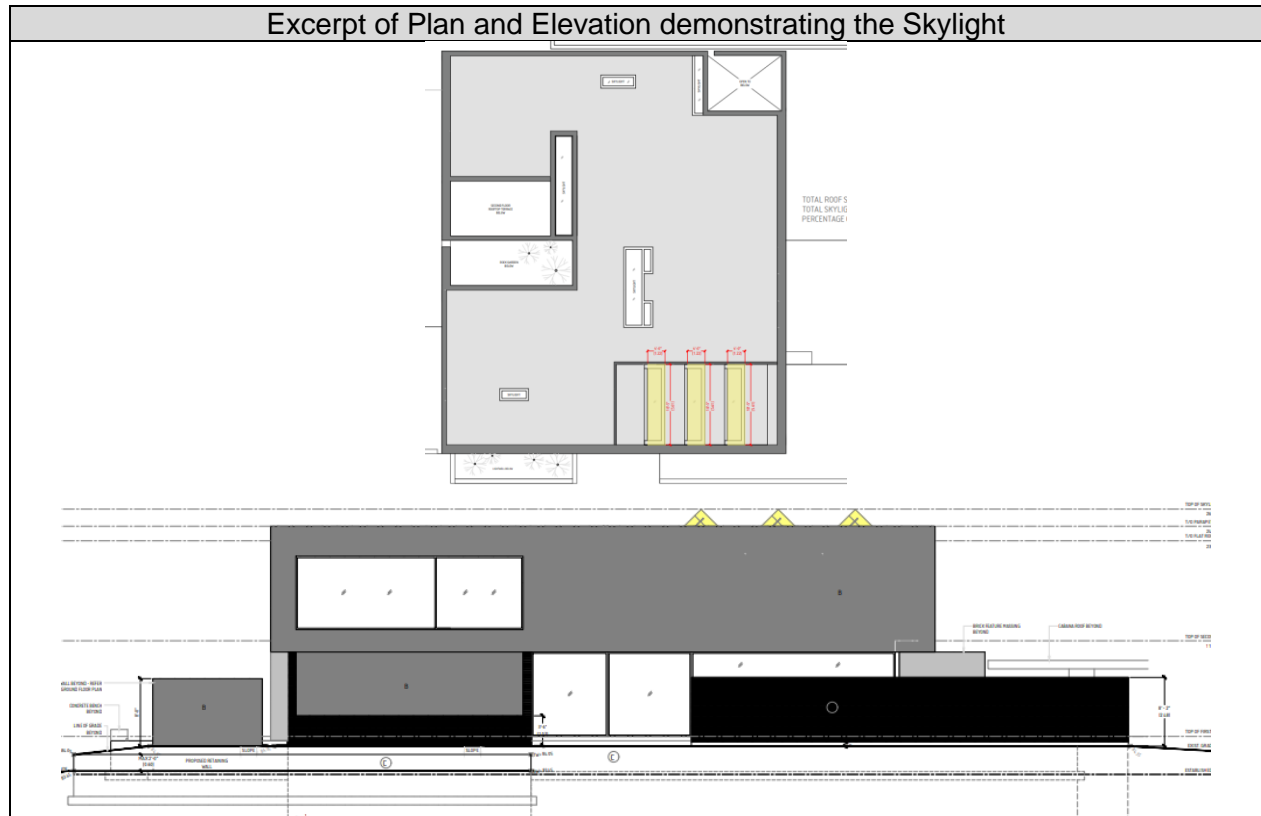
*h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing.”*

The intent of the Official Plan and Zoning By-law is to protect the unique character of this area within the Town. Due to the special attributes of the large lots and related homes in this Special Policy Area, intensification shall be limited to development which maintains the integrity of the large lots and not negatively impact surrounding properties.

### **Variance #1 –Length of Roof Opening (Skylight) (Supported)**

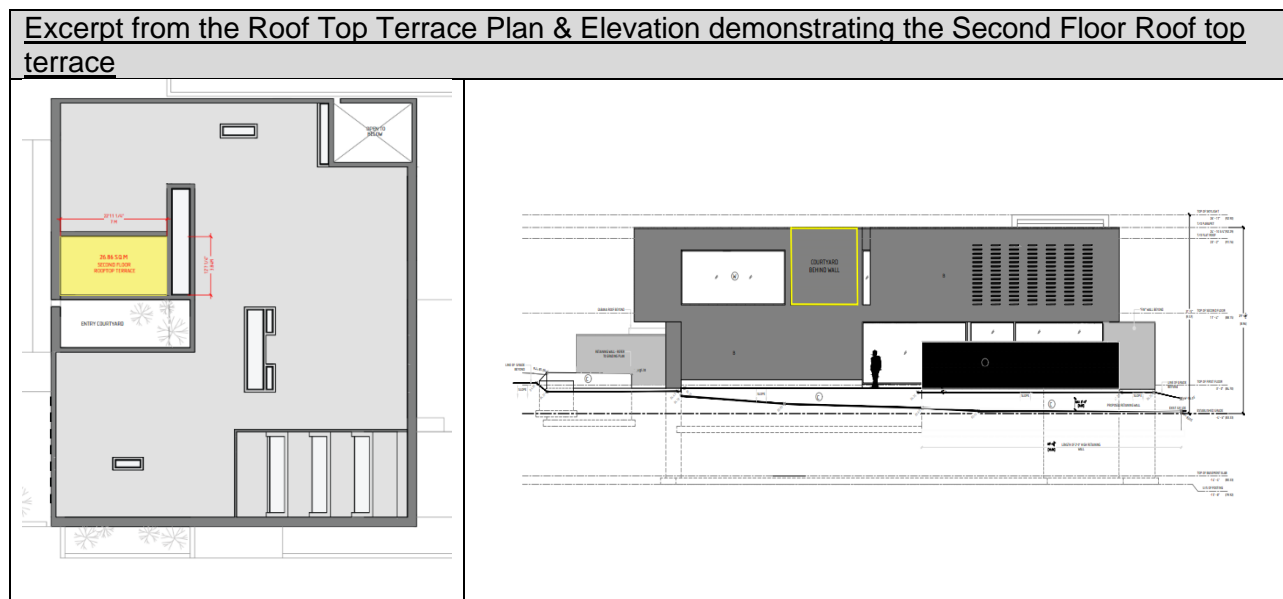
The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase of length of roof opening for the skylight from 2.4 metres to 5.6 metres for a total increase of 3.2 metres. The intent of the length of roof opening(skylight) is to allow sufficient skylight into the house and is not a visual dominant feature of the dwelling. In this instance as demonstrated below the proposed skylights have no impact on the front and is not a visually

dominant feature of the dwelling. Staff are of the opinion that the proposed length of the skylight is minor as it has no impact on the streetscape, which meets the intent of the zoning by-law.



### **Variance #2 –Permission of Rooftop terrace (Supported)**

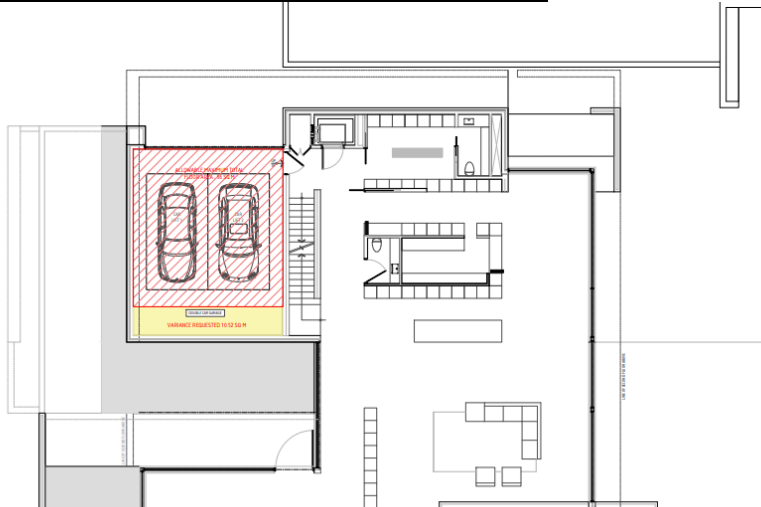
The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit a rooftop terrace in a Residential Low -0 suffix zone when a rooftop terrace is not permitted on the -0 suffix zone. The intent of regulating rooftop terraces is to regulate undesirable privacy and overlook conditions onto adjacent properties. The proposed rooftop terrace location and size allows for an amenity space to be located on the roof of the second storey of the dwelling has no opening on the outer walls which will not result in privacy and overlook concerns onto the adjacent properties. Staff are of the opinion that the roof top terrace will not have any negative impact on the surrounding properties and meets the intent and purpose of Zoning By-law and Official Plan.



### **Variance #3 –Private Garage Floor Area (Supported)**

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum garage floor area from 56 square metres to 66.5 square metres for a total increase of 10.5 square metres. The intent of regulating the garage floor area is to prevent the garage from being a visually dominant feature of the dwelling. In this instance the increase in garage area is due to the installation of car lift to allow stacking of cars and the entrance to the garage is from the side yard which helps minimizing the visual impact from the street. Staff are of the opinion that the proposed design of the garage with requested increase in garage area would be internal to the dwelling; therefore, it would not be a visually dominant feature of the dwelling or impact the streetscape, which meets the intent of the zoning by-law.

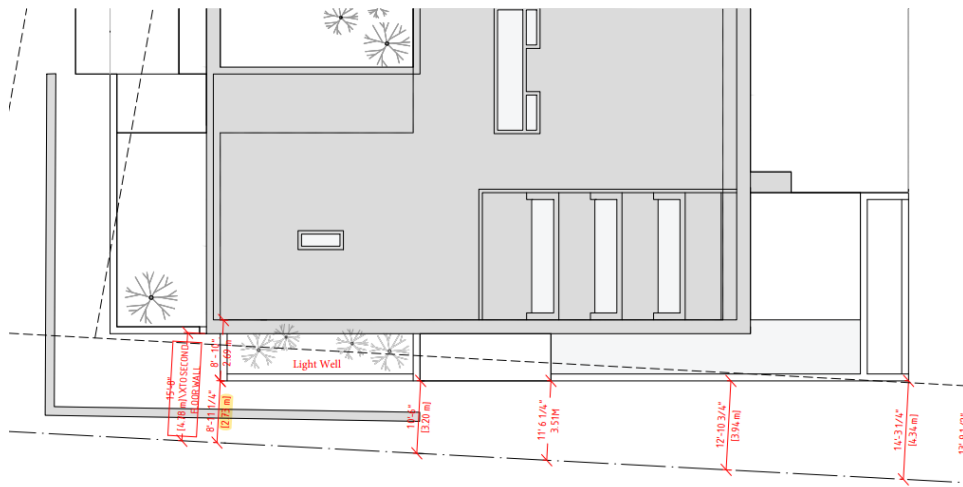
#### Excerpt of the Plan showing the Garage Area:



### **Variance #4 –Interior Side Yard (Southerly) (Supported)**

The applicant requests relief from By-law 2014-014, as amended, to permit a reduced southerly interior side yard setback from a minimum of 4.2 metres to 2.7 metres. The side yard is measured from the southerly lot line to the main wall of the dwelling. The intent of regulating the side yard setback is to ensure sufficient spacing and buffering between buildings that are beside one another in order to provide adequate access and appropriate transition and scale, while also avoiding privacy and overlook concerns and to allow for adequate drainage. In this instance, the decrease in setback is for a small portion of the dwelling where the light well is located which does not have any negative impact on the adjacent property with respect to adequate separation. Staff are of the opinion that the requested decrease in the side yard setback is minor in nature and would not have any negative impact on the adjacent property

#### Excerpt of the plan demonstrating the side yard setback by the applicant

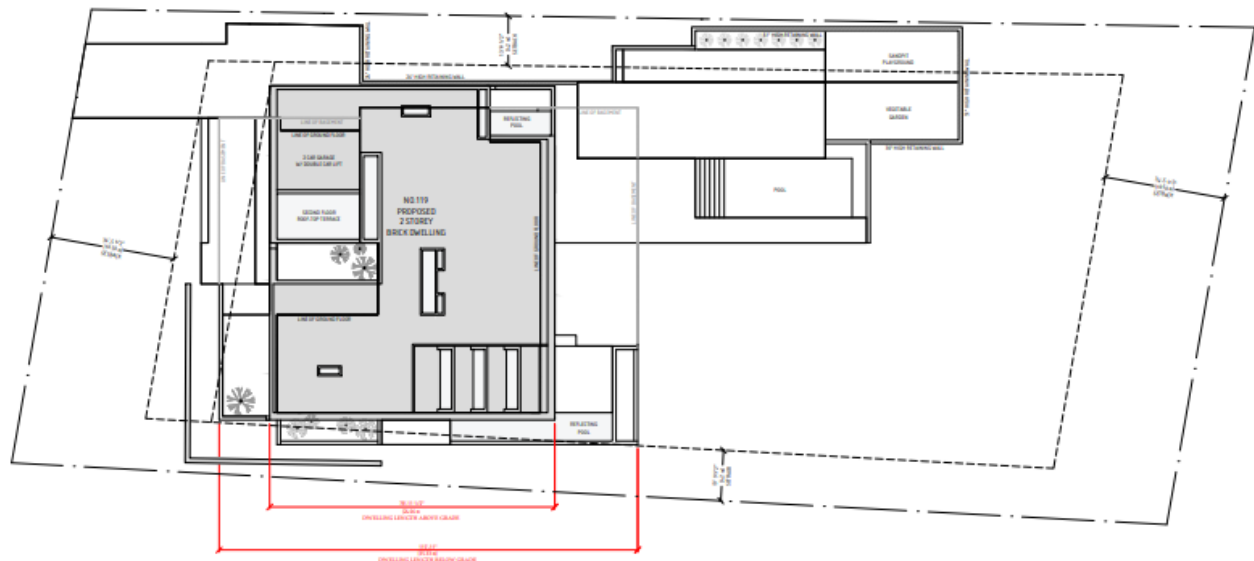


### Variance #5 – Dwelling Depth (Supported)

The request for an increased dwelling depth from 20 m to 24.06 m above grade and 33.33 m below grade. The intent of regulating the dwelling depth is to assist in ensuring that an adequate rear yard amenity space is provided and reduce the potential for any adverse impacts such as overlook, privacy loss and shadowing from rear yard projections. It is also intended to control the massing and size of new dwellings in relation to adjacent properties.

In this instance the subject lot is a deeper lot and the proposed dwelling is accommodated in half the size of the lot depth. Staff are of the opinion that the proposed increased dwelling depth would not have a negative impact on adjacent properties or the surrounding area. Therefore, the request for an increased dwelling depth would meet the intent of the Zoning By-law.

Excerpt of the Plan demonstrating Dwelling Depth by the applicant:

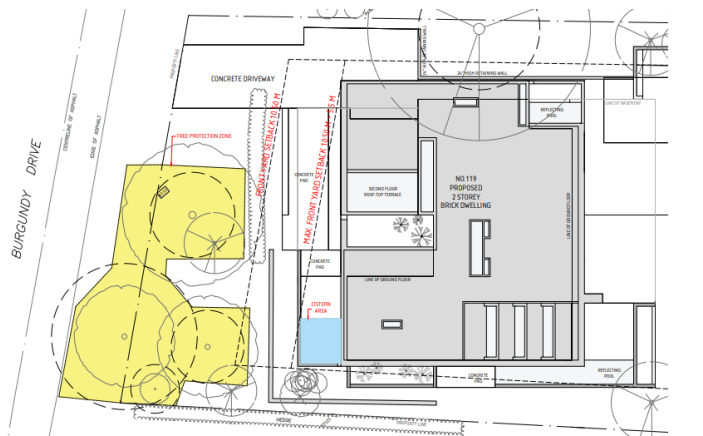


### Variance #6 – Main wall Proportionality (Supported)

The applicant requests relief from Zoning By-law 2014-014 to decrease the minimum length of all main walls to be located between the minimum and maximum front yards from 50% to 0%. The intent is to have alignment across each lot and not have lone elements within the appropriate setback and the rest of the dwelling to be setback and out of alignment with the adjacent homes. It is also intended to support a prominent primary entrance. The dwelling is further setback to preserve existing large significant trees in the front yard and to accommodate a cistern at the front; further the dwelling is consistent with the adjacent properties. In this instance, the subject site is not visible from the public realm / street and therefore there is not a

significant impact as a result of not maintaining the main wall proportionality. It is Staff's opinion that the request for a decrease in main wall proportionality is minor in nature and does not have a negative impact on the adjacent properties.

Excerpt of the Plan demonstrating the Main wall Proportionality by the applicant:



### **Conclusion:**

In summary, based on the application as submitted, Staff are of the opinion that the application satisfies the applicable tests under the Planning Act. Should the Committee concur with staff's opinion, the following conditions are requested:

1. That the development be constructed in general accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services.
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.

The planning basis for the conditions are as follows, in keeping with the numbering of the conditions above:

1. 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.
2. 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.

**Fire:** No concerns for Fire

**Oakville Hydro:** We do not have any objection or comments for this Minor Variance Application.

**Transit:** No Comment

**Finance:** None

**Halton Region:**

- It is understood this application was deferred from December 08, 2020. Regional comments provided on December 03, 2020 still apply.
- 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 an increase in the maximum length of the roof opening for the skylight, a rooftop terrace on a lot in a Residential Low-0 Suffix Zone, an increase in the maximum total floor area for the private garage, a decrease in the minimum interior side yard, an increase in the maximum dwelling depth, and a decrease in the minimum length of all main walls, under the requirements of the Town of Oakville Zoning By-law, for the purpose of constructing a two-storey detached dwelling and an accessory building (cabana) on the subject property

**Bell Canada:** No Comments received

**Letter(s)/Emails in support:** None

**Letter(s)/Emails in opposition:** None

**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 Services, 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.

Requested conditions from circulated agencies:

1. That the development be constructed in general accordance with the final approved Site Plan to the satisfaction of the Director of Planning Services.
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.



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Heather McCrae, ACST  
Secretary-Treasurer