

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/160/2022**

RELATED FILE: **N/A**

**DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, OCTOBER 04, 2022 AT 7:00 P.M.**

| Owner (s)   | Agent  | Location of Land                   |
|---|--|------------------------------------|
| RANDI MILANI<br>CAMILLO MILANI<br>63 VERONICA DR<br>MISSISSAUGA ON, L5G 2B1 | PAUL DEMCZAK<br>BATORY MANAGEMENT<br>655 ANNLAND ST<br>PICKERING ON, L1W 1A9 | 1538 BAYVIEW RD<br>PLAN 358 LOT 26 |

**OFFICIAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL**

**ZONING: RL2-0**

**WARD: 2**

**DISTRICT: WEST**

### **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 on the subject property proposing the following variance(s):

| No. | Zoning By-law Regulation   | Variance Request  |
|-----|--|---|
| 1   | <b>Section 5.8.4 b)</b> a <i>driveway</i> shall be located a minimum of 15.0 metres from the point of intersection of the <i>front</i> and <i>flankage lot lines</i> or where the <i>lot lines</i> do not intersect the point of intersection of the projection of the <i>front</i> and <i>flankage lot lines</i> , measured at the point of where the driveway crosses the <i>front</i> or <i>flankage lot line</i> . | To permit a driveway to be located 12.39m away from the point of intersection between the <i>front lot line</i> and <i>flankage lot line</i> .  |
| 2   | <b>Section 5.8.6 b)</b> For <i>detached dwellings</i> on <i>lots</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> , the maximum total <i>floor area</i> for a <i>private garage</i> shall be 45.0 square metres.   | To permit the maximum total <i>floor area</i> for the <i>private garage</i> to be 63.83 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> .  |
| 3   | <b>Section 5.8.7 c)</b> Attached <i>private garages</i> shall not project more than 1.5 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> .   | To permit the attached <i>private garage</i> to project not more than 9.29 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> . |
| 4   | <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 a <i>lot area</i> 1301.00 m <sup>2</sup> or greater shall be 29% (414.12 m <sup>2</sup> ); (Lot area is 1,428.00 m <sup>2</sup> ).  | To permit the maximum <i>residential floor area ratio</i> for the <i>detached dwelling</i> to be 31.07% (443.72 m <sup>2</sup> ).   |
| 5   | <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 metre; (Existing 15.96 m -1.0m = 14.96 m minimum).  | To permit a <i>minimum front yard</i> of 9.00 metres.   |
| 6   | <b>Section 6.4.6 c)</b> The maximum <i>height</i> shall be 9.0 metres.   | To permit a maximum <i>height</i> of 9.96 metres.   |

**CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

## **Planning Services:**

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

**CAV A/160/2022 - 1538 Bayview Rd (West District) (OP Designation:)**

| No. | Zoning By-law Regulation   | Variance Request  |
|-----|--|---|
| 1   | <b>Section 5.8.4 b)</b> a <i>driveway</i> shall be located a minimum of 15.0 metres from the point of intersection of the <i>front</i> and <i>flankage lot lines</i> or where the <i>lot lines</i> do not intersect the point of intersection of the projection of the <i>front</i> and <i>flankage lot lines</i> , measured at the point of where the driveway crosses the <i>front</i> or <i>flankage lot line</i> . | To permit a driveway to be located 12.39m away from the point of intersection between the <i>front lot line</i> and <i>flankage lot line</i> .  |
| 2   | <b>Section 5.8.6 b)</b> For <i>detached dwellings</i> on <i>lots</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> , the maximum total <i>floor area</i> for a <i>private garage</i> shall be 45.0 square metres.   | To permit the maximum total <i>floor area</i> for the <i>private garage</i> to be 63.83 square metres on a <i>lot</i> having greater than or equal to 12.0 metres in <i>lot frontage</i> .  |
| 3   | <b>Section 5.8.7 c)</b> Attached <i>private garages</i> shall not project more than 1.5 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> .   | To permit the attached <i>private garage</i> to project not more than 9.29 metres from the face of the longest portion of the <i>main wall</i> containing <i>residential floor area</i> that is on the <i>first storey</i> of the <i>dwelling</i> oriented toward the <i>front lot line</i> . |
| 4   | <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 a <i>lot area</i> 1301.00 m <sup>2</sup> or greater shall be 29% (414.12 m <sup>2</sup> ); (Lot area is 1,428.00 m <sup>2</sup> ).  | To permit the maximum <i>residential floor area ratio</i> for the <i>detached dwelling</i> to be 31.07% (443.72 m <sup>2</sup> ).   |
| 5   | <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 metre; (Existing 15.96 m -1.0m = 14.96 m minimum).  | To permit a <i>minimum front yard</i> of 9.00 metres.   |
| 6   | <b>Section 6.4.6 c)</b> The maximum <i>height</i> shall be 9.0 metres.   | To permit a maximum <i>height</i> of 9.96 metres.   |

The applicant is proposing construction of a two-storey detached dwelling on the subject to variances above.

The neighbourhood is characterized by large lot and mostly two-storey dwellings with no sidewalks along the Bayview Road.

The subject property is subject to a site plan application (SP.1725.017/01). The site plan application is under review and any modifications to address identified issues may result in changes to the requested variances.

The subject lands are designated Low Density Residential in the Official Plan. Development within stable residential communities shall be evaluated against the criteria in Section 11.1.9 to ensure new development will maintain and protect the existing neighbourhood character. The proposal was evaluated against 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.”*

### **Variance #1- Driveway Location (Supported)**

The applicant requests relief from Zoning By-law 2014-014 to permit a driveway located a minimum of 12.39 metres away from the point of intersection of the front and flankage lot lines

when a minimum of 15 metres is permitted. The intent of the Zoning By-law is to prevent safety and sight-line issues pertaining to vehicular and pedestrian conflicts in proximity to an intersection. Staff are of the opinion that the driveway will not have any adverse impact as it provides safety from the intersection without affecting any trees therefore it is appropriate and minor in nature.

As per the above information there is a discrepancy between the variance application which mentions 12.39 m for the driveway location while the site plan drawing mentions 12.34m away from the point of intersection, which needs to be corrected.

Notwithstanding the comments above, it appears that the applicant has missed a variance for the driveway access off the Bayview (front lot line) which does not meet the minimum requirement of 11.2 m from the interior side lot line whereas the driveway is located at 12.1m from the interior side lot line which is 0.9 m away from the permitted therefore the proposal may not comply with the Zoning By-law requirements.

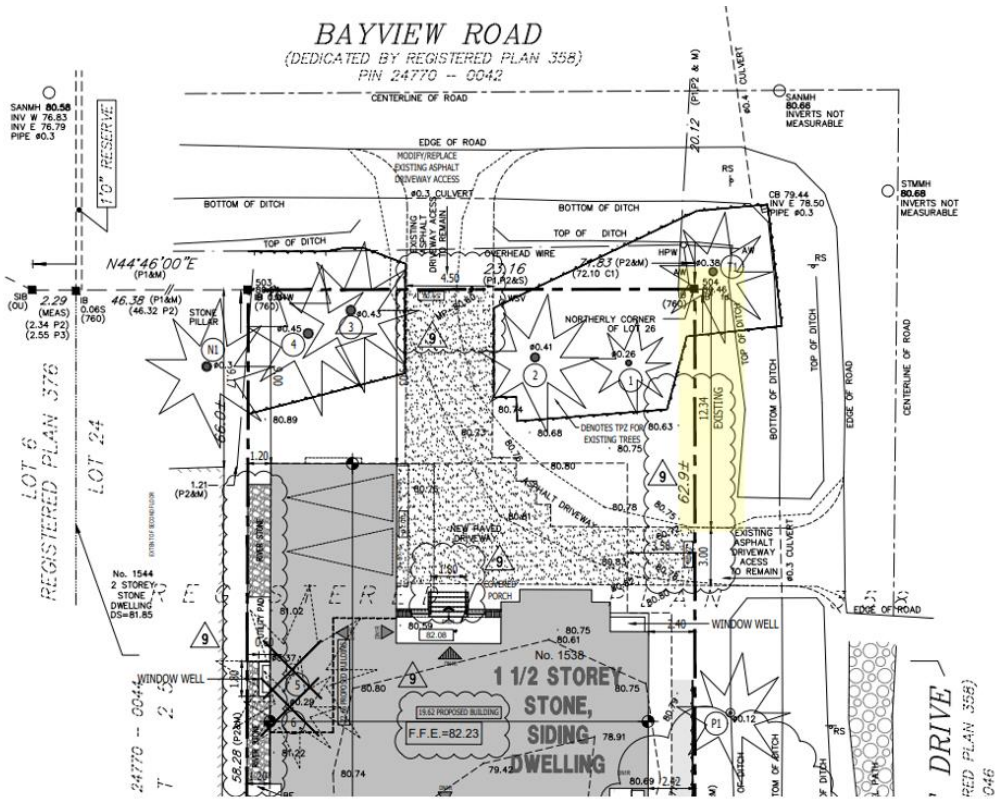
Therefore, depending on the outcome of this application, the applicant may need to revise the proposal to comply with relevant regulations during construction, which may or may not be in general accordance with the plans submitted with this application. Staff are recommending that the plans be to the satisfaction of the Director of Planning since it appears that many of the deficiencies can be resolved with slight updates to the plans.

Alternatively, the applicant may request a deferral of this application in order to submit a Building Permit application for a complete Zoning review. It should be noted staff do not complete a full Zoning review of minor variance applications; rather confirm the accuracy of the variances applied for.

#### **Photo of the Subject property**



#### **Excerpt of Site Plan by the applicant:**

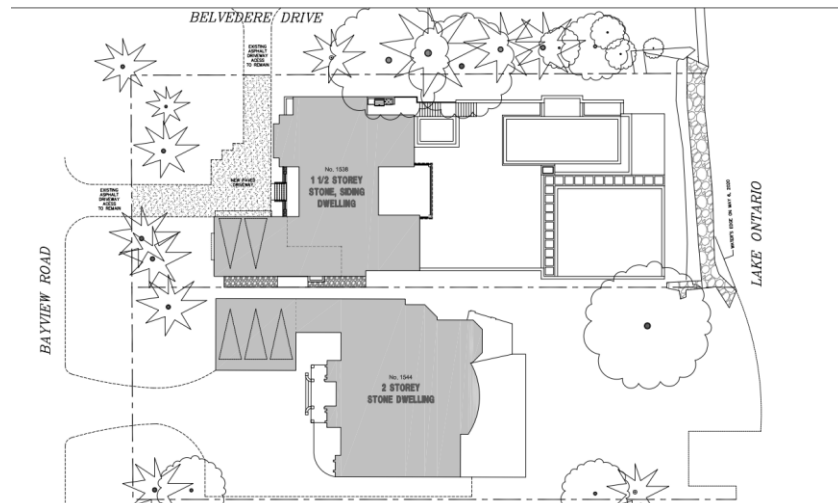


**Variance #2- Private Garage Floor area (Supported)**

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum garage floor area from 45 square metres to 63.83 square metres for a total increase of 18.83 square metres. The intent of regulating the garage floor area is to prevent the garage from being a visually dominant feature of the dwelling. Staff are of the opinion that the proposed design of the two-car garage with requested increase in garage area would be internal to the dwelling due to the added storage area; 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.

**Variance #3- Garage Projection (Supported)**

The applicant requests relief from Zoning By-law 2014-014, as amended, to increase the garage projection from 1.5 metres to 9.29 metres from the face of the longest portion of the main wall. The intent of regulating the garage projection is to prevent the garage from being a visually dominant feature of the dwelling. In this instance, the subject property is a corner lot located at the intersection of Bayview Road and Belvedere Drive, characterized by projecting garages which is a common character in the neighbourhood which makes the proposed design compatible with the streetscape. An example of a similar design with projecting garage feature present in the adjacent dwelling has been provided in the figure below. The design elements incorporated in the proposed design with covered porches, setbacks and one-storey elements helps to break up the massing of the dwelling and softens the impact of the garage projection. Staff are of the opinion that the requested projection is compatible with the neighbourhood character and is appropriate in this context which meets the intent of the Zoning By-law. Excerpt of the Site Plan in comparison with the adjacent dwelling by the applicant



**Variance #4- Residential Floor Area (Supported)**

The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit an increase in residential floor area ratio from 29% (414.12 square metres) to 31.07% (443.72 square metres) for an increase of 29.60 square metres. The intent of regulating the residential floor area is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. The proposed dwelling has been designed to reduce the mass and scale by lowering the roofline and stepbacks. Staff are of the opinion that the requested increase in floor area is minor in nature, meets the intent of the Official Plan and Zoning By-law, and is appropriate for the development of the site as it will not negatively impact adjacent properties or the surrounding area.

The applicant is advised that the Town will comment on stormwater management controls for the 25mm storm as per the Town of Oakville Stormwater Master Plan through the Development Engineering Site Plan (DESP) process.

**Variance #5- Front yard (Supported)**

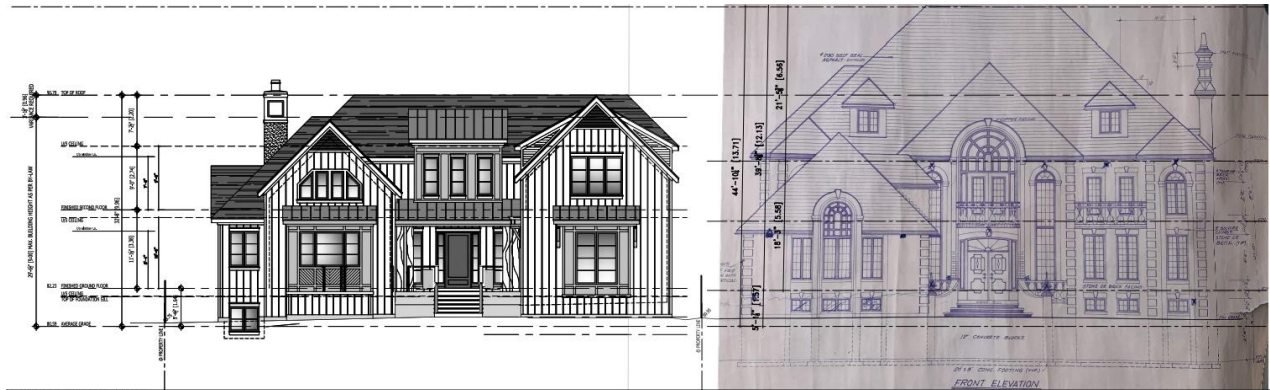
The applicant is requesting relief from Zoning By-law 2014-014, as amended, to permit a decrease in minimum front yard setback from 14.96 metres to 9.0 metres. The front yard is measured from the front property line to the main wall. The intent of regulating the front yard setback is to ensure a relatively uniform setback along the street. In this instance, the existing dwelling was set back further than the adjacent dwellings. The revised setback will result in a more uniform setback with projecting garage inline with the similar projection to the adjacent dwelling. Staff are of the opinion that the decrease in front yard setback will not have a negative impact on adjacent and surrounding properties, is desirable for the development of the property and meets the intent of the Official Plan and Zoning By-law.

**Variance #6- Height (Supported)**

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum height from 9 metres to 9.96 metres. The height is measured from the established grade which is an average of the centre points of each lot line abutting a road to the top of the roof. The intent of regulating the height of a dwelling is to prevent a mass and scale that appears larger than dwellings in the surrounding neighbourhood and to reduce impacts of shadowing and overlook. In this instance, the requested increase in height is related to the slope of the land. Given the size of the lot and changes in grade across the property, the established grade is lower than the grade abutting the proposed dwelling. As seen below in the streetscape drawing prepared by the applicant, the proposed dwelling will have a height consistent with the adjacent dwelling. Staff are of the opinion that the requested height is appropriate for the development of the subject property as it is similar in height with adjacent dwellings on the street and will not appear substantially larger than other dwellings in the surrounding area.

On this basis, it is staff's opinion that the requested variance maintains the general intent and purpose of the Official Plan and Zoning By-law as the proposed dwelling is in keeping with the character of the neighbourhood. Further, the variance is minor in nature and appropriate for the development of the site as there are no negative impacts on abutting properties or the streetscape.

Streetscape Concept Plan 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 covered porch be built in general accordance with the submitted site plan and elevation drawings dated 7<sup>th</sup> July 2022 ; and
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. DL

**Transit :** No comments.

**Halton Region: CAV A/160/2022 – R. & C. Milani, 1538 Bayview Road, Oakville**

- A portion of the subject property falls within Conservation Halton (CH) regulated area and watersheds. CH Staff should be consulted for their comments and satisfied with the proposed development prior to approval of the variance.
- As an advisory, the subject site has archaeological potential. Should deeply buried archaeological artifacts or remains be found on the subject lands during construction activities, the Heritage Operations Unit of the Ontario Ministry of Heritage, Sports, Tourism, and Culture Industries (MHSTCI) should be notified immediately.
- 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 a decrease in the minimum distance of driveway location from the point of intersection of the front and flankage lot lines, an increase in the maximum total floor area for the private garage, an increase in the attached private garage projection, an increase in the maximum residential floor area ratio for the detached dwelling, a decrease in the minimum front yard, and an increase in the maximum height, under the requirements of the Town of Oakville Zoning By-law, for the purpose of constructing a two-storey detached dwelling on the subject property.

**Halton Conservation: Re:Minor Variance Application**

**File Number: CAV A/160/2022**

**1538 Bayview Road, Oakville**

**Batory Management c/o Paul Demczak (Agent)**

**Randi & Camillo Milani (Owners)**

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Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under Ontario Regulation 162/06; provincially delegated responsibilities under Ontario Regulation 686/21 (i.e., represent provincial interests for Sections 3.1.1-3.1.7 of the Provincial Policy Statement (PPS)); the Memorandums of Understanding (MOU, 1999 and 2018) and Interim Ecological Services Agreement (IESA, 2021) with Halton Region and as a public body under the *Planning Act*. These responsibilities are not mutually exclusive. Comments that pertain to items contained in the MOU and IESA may also apply to areas regulated under Ontario Regulation 162/06. Comments under the Ontario Regulation 162/06 are clearly identified and are requirements. Other comments are advisory.

**Proposal**

The applicant is seeking to permit the reconstruction of a two-storey detached dwelling, in-ground pool, sports court, and putting green and are requesting the following variances:

1. To permit a driveway to be located 12.39 metres away from the point of intersection between the front lot line and flankage lot line.
2. To permit the maximum total floor area for the private garage to be 63.83 square metres on a lot having greater than or equal to 12.0 metres in lot frontage.
3. To permit the attached private garage to project not more than 9.29 metres from the face of the longest portion of the main wall containing residential floor area that is on the first storey of the dwelling oriented toward the front lot line.
4. To permit the maximum residential floor area ratio for the detached dwelling to be 31.07% (443.72 m<sup>2</sup>).
5. To permit a minimum front yard of 9.00 metres.
6. To permit a maximum height of 9.96 metres.

### **Ontario Regulation 162/06**

CH regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The subject property is adjacent to the shoreline of Lake Ontario and contains the associated erosion and flooding hazards. Under *Ontario Regulation 162/06*, except where allowed under CH Policies, development is prohibited within lands adjacent to the shoreline of Lake Ontario that may be affected by flooding, erosion, or dynamic beach hazards. Permission is required from CH prior to undertaking any development within CH's regulated area and must meet CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06* (<https://www.conservationhalton.ca/policies-and-guidelines/>).

CH notes that there is an active site plan application for this proposal (SP.1725.017.01) to which CH issued comments on May 26, 2022. All comments received through the site plan application must be addressed to the satisfaction of CH. The updated site plan submitted with the minor variance application has correctly plotted the distance for the erosion allowance and stable slope allowance and all habitable development is outside the Engineered Development Setback (EDS). A CH permit is still required for the proposed development, however, CH recommends that the site plan application be close to completion prior to the applicant applying for the CH permit. This is to avoid the need for any permit revisions that may come out of the site plan process.

### **One Window Delegated Authority under PPS**

CH reviews applications based on its delegated responsibility to represent the Province on the natural hazard policies of the PPS (3.1.1-3.1.7 inclusive). Policy 3.1.1 of the PPS states that "development shall generally be directed to areas outside of... b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards."

Given the above, from a PPS perspective CH raises no concerns with this Minor Variance application.

### **Recommendation**

Given the above, CH staff has **no objection** to the requested minor variances subject to the following conditions to be added to the approval of this application:

1. That, prior to the initiation of works, a CH Permit be obtained from Conservation Halton for the proposed development.

Should any changes to the proposed development arise through the Minor Variance process, please keep CH apprised.

**Please note that CH has not circulated these comments to the applicant, and we trust that you will provide them as part of your report.**

We trust the above is of assistance. If you have any questions, please contact the undersigned.

**Bell Canada:** Comments not received.

**Union Gas:** Comments not received.

**Letter(s) in support – None.**

**Letter(s) in opposition – None.**



**General notes for all applications:**

**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 covered porch be built in general accordance with the submitted site plan and elevation drawings dated 7<sup>th</sup> July 2022 ; and
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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Jasmina Radomirovic  
Assistant Secretary-Treasurer  
Committee of Adjustment