

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/208/2022

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, DECEMBER 13, 2022 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Pallene Holdings Inc c/o John Krpan 200-2500 Appleby Line Burlington ON L7L 0A2	Hicks Design Studio Inc c/o Cynthia Gibson 200-295 Robinson Street Oakville ON L6J 1G7	PLAN 1009 LOT 63 309 Balsam Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential- Special Policy

ZONING: RL1-0

WARD: 3

DISTRICT: East

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 proposing the following variance(s):

No.	Zoning By-law Regulation	Variance Request
1	Section 5.8.1 d) A maximum of one attached <i>private garage</i> per <i>dwelling</i> shall be permitted.	To permit a maximum of three attached <i>private garages</i> .
2	Section 5.8.7 c) 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 11.13 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> .
3	Table 6.3.1 (Row 9, Column RL1) The maximum <i>dwelling depth</i> shall be 20.0 m.	To permit a maximum <i>dwelling depth</i> of 42.72 m.
4	Section 6.4.4 a) A minimum of 50% (17.24 m) 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 23.5% (8.09 m) 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> .
5	Section 6.4.6 c) The maximum <i>height</i> shall be 9.0 metres.	To permit a maximum <i>height</i> of 10.95 metres.

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/208/2022 - 309 Balsam Dr (East District) (OP Designation: Low Density Residential-Special Policy)

The applicant is proposing to construct a two-storey detached dwelling and cabana subject to the variances above.

The neighbourhood consists of large lots with large one and two storey dwellings. Mature large stature trees and various species of vegetation, on private properties and within the public realm, provide a significant amount of screening and shade, and contribute to the character of the area. There are no sidewalks along Balsam Drive and the lotting pattern is varied, comprising of lots of varying width, lengths and size. This contributes to dwellings being of various sizes and shapes, with no one overall homogenous characteristic in house style.

An earlier Minor Variance application (CAV A/094/2021) on June 29,2021 was presented before the Committee which was deferred by the applicant as most of the variances were not supported by staff. The variances not supported by staff for the earlier application are mentioned below:

1. Balcony Projection
2. Roof Top Terrace and Roof Top Terrace Depth
3. Reduction of Interior Side yard
4. Permit Balconies in (-0) suffix zone

Staff were supportive of the variances related to dwelling depth, height & garage floor area. The applicant revised the application by eliminating the variances for which staff was unresponsive and prepared a new design which addresses the concerns of the earlier application and eliminates any negative impact on the surrounding properties. Staff comments for the revised application are as follows.

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.

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.

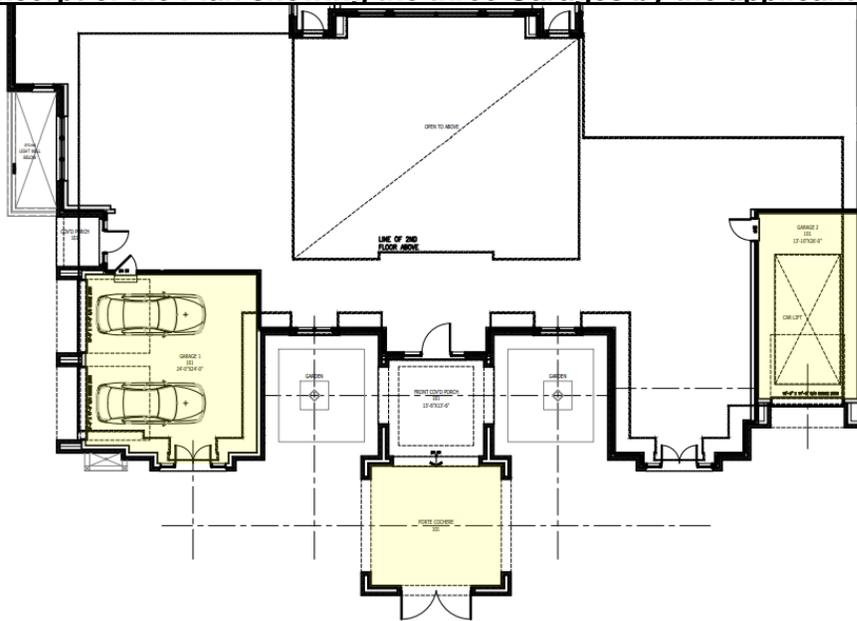
h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing.”

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 unique attributes of the large lots and related homes in the Special Policy Area, intensification shall be limited to the development which maintains the integrity of the large lots and does not negatively impact surrounding properties.

Variance #1- Number of attached private garage (Supported)

The applicant is requests relief from Zoning By-Law 2014-014 as amended, to permit three attached private garages whereas one private garage is permitted. The intent to regulate the number of garages is to prevent the garage from being a visually dominant feature of the dwelling. The first two car garage to the north has a side entrance which has no impact from the public realm. The second garage on the south side acts as an elevator to the lower main garage and does not appear as a garage from the public realm. . The front covered feature (Porte-Cochere) is considered as the third garage but functions as a drop-off/pick-up to the front door and doesn't function as a garage. Staff are of the opinion that the requested three garages have no negative impact and are not visually dominant feature of the dwelling and meets the intent of the Official Plan and Zoning By-Law.

Excerpt of the Plan showing the three Garages by the applicant:



Variance #2- 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 11.13 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 front covered feature (Porte-Cochere) is considered as the third garage and projects 11.13 m from the main dwelling does not have any impact as it also acts as a front porch and not a visual dominant feature. The other two car garage to the north has a 6.4 m projection from the main wall and has a side entrance which again has no negative impact to the dwelling. Staff are of the opinion that the requested projection is minor in nature and meets the intent of the Zoning By-law.

Variance #3- Dwelling Depth (Supported)

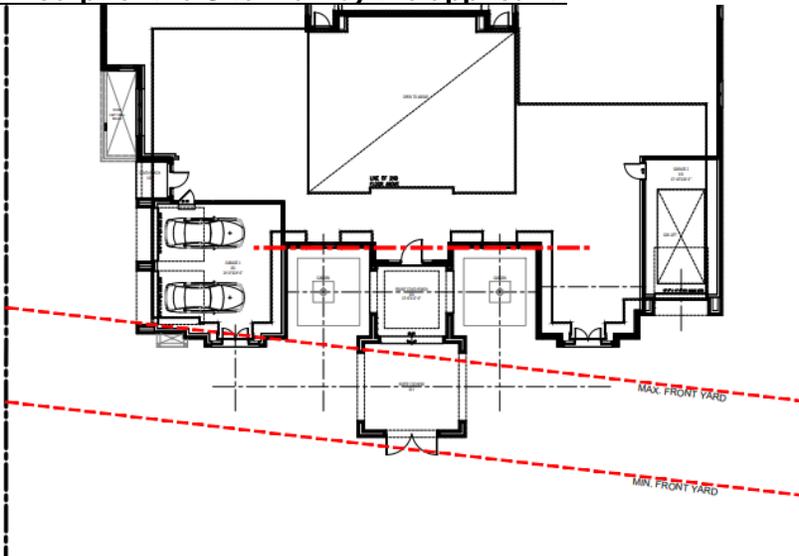
The applicant requests relief from Zoning By-law 2014-014, as amended, to increase the maximum dwelling depth from 20.0 metres to 42.72 metres resulting in a total increase of 22.72 metres. The intent of regulating the dwelling depth is to assist in ensuring that an adequate rear yard amenity space is 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. The dwelling is designed with a courtyard space in the middle, distributing the habitable spaces with two long wings on the sides with appropriate setbacks from the adjacent properties. The proposed design will help mitigate the large mass and scale of the dwelling by introducing a second storey at elements at the front, tapering down to one storey elements on the sides and the rear along with the varied heights to avoid the impact of overlook and privacy concerns over the adjacent

properties. Given that the adjacent dwelling to the north starts almost where the proposed dwelling ends and has a one storey coach house at front which will have no impact on the surrounding property. Staff are of the opinion that the requested increase in the dwelling depth will not have any negative impact on the adjacent properties.

Variance #4- 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%(17.24) to 23.5%(8.09m). 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. The dwelling is further setback to accommodate the front covered feature (Porte-Cochere) and the dwelling is further back from the dwelling on the south. In this instance, the subject site has a larger setback from the street which reduces the impact 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 Site Plan by the applicant:



Variance #5- Height (Supported)

The applicant is seeking relief from Zoning By-law 2014-014, as amended, to permit an increase in maximum permitted height from 9 metres to 10.95 metres. The height is measured from the established grade of the property at the front lot line to the peak 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 increase in height is for the middle portion of the house, whereas the two side "wings" of the dwelling that are closer to the adjacent properties would comply with the maximum allowable height and would also provide appropriate transition by breaking the mass of the dwelling. Staff are of the opinion that the requested variance is compatible with the varied dwelling designs that exist in the area, , will not have any negative impact on the surrounding properties, is minor in nature and satisfies the intent and purpose of the Zoning By-Law.

Elevation by the applicant:



Subject Property



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 dwelling be built in general accordance with the submitted site plan, floor plans and elevation drawings dated October 25, 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

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

Transit: No Comments Received

Finance: None

Halton Region:

- 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 maximum number of attached private garage, an increase in the private garage projection, an increase in the maximum dwelling depth, a decrease in the minimum percent of the length of all main walls to be located within the minimum and maximum front yards, 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.

Bell Canada: No Comments received

Letter(s)/Emails in support: None

Letter(s)/Emails in opposition: Three

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 dwelling be built in general accordance with the submitted site plan, floor plans and elevation drawings dated October 25, 2022.
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.

A rectangular box containing a handwritten signature in black ink. The signature reads "Heather McCrae" in a cursive, slightly slanted script.

Heather McCrae, ACST
Secretary-Treasurer
Attachment:
Letters/Emails of Opposition – 3
Letter from Agent

To Town of Oakville Committee of Adjustments,

Re. File No.: CAV A/208/2022

We are writing to provide our input into the proposed plans for 309 Balsam Drive. We have been in our home, 308 Balsam Drive, since 2015 and have strong relationships with our neighbours. We value these relationships and our sense of community. We look forward to welcoming the Krpan Family.

As we are directly across the street from 309 Balsam Drive, we were contacted by a representative of Jon Krpan's and given insights into the proposed build. We indicated we would look over the plans but did not communicate any agreement. We were therefore surprised and disheartened to read the full report submitted to the Town by Hicks Design Studio stating neighbour support of the 309 Balsam Drive application.

While we think the proposed house is lovely, we are not in agreement with the plans for its construction on Balsam Drive. In fact, we have specific concerns with the request for minor variances – which upon closer inspection, are not minor.

1. Height: The proposed height will have a direct impact on our property. The proposed Porte cochere is directly across from our front door. We have included photos. This is proposed to be over the 9M height allowance – coming very close to the standard height for a 3-storey structure. We enjoy the morning sun on our property, and this will be greatly affected with the proposed height variance. We do not want a structure to tower over our own home.
2. Neighbourhood Fit: The homes on Balsam Drive do have a range of sizes and styles which adds to its charm; they are also within a range that befits the size of the road. Balsam does not have curbs or sidewalks on the north end and could be termed a one-lane street particularly during the fall and winter with leaves and snow. Balsam Drive is not a Chartwell and comparisons should not be made as such. This size of house would be better suited to a property on Chartwell or Lakeshore.
3. Tree Canopy: The value of living in Southeast Oakville can be directly linked to our mature tree canopy. It gives our neighbourhood charm, character and helps foster a community that spends time outdoors. The plans for 309 Balsam, as provided, remove several very mature trees on the property and more concerning, don't consider the tree canopy between the houses. Our concern is that the health of those trees be considered given the house is planned to be close to the property line. Digging foundations run a very good chance of killing the mature pines which would be a huge loss for the neighbourhood.
4. Wastewater Management: A true drawback of living on the north end of Balsam Drive is the lack of a wastewater management system. With the proposed footprint of the

house, our concern is where the water will be directed. We don't want water running towards our property, but we also have concerns about flooding at the Post Park dog park, a spot our own dog enjoys. Where is the water run-off from this very large structure going?

We can appreciate the style of the home but fear the height, the fit with the street, and potential detrimental effect on the tree canopy and water run-off, will negatively affect our property value.

We thank the Town for the opportunity to provide our feedback on the proposed plans and have registered to appear at the December 13th hearing.

Thank you,
Susan and Michael Chisholm
308 Balsam Drive,
Oakville, ON L6J 3X6



December 8, 2022

Attention: Heather McCrae, Secretary Treasurer, Committee of Adjustment

Dear Madam:

File Number: CAV /208/2022

Property Address: 309 Balsam Drive

Committee of Adjustment Hearing Date: December 13, 2022

I live at 291 Balsam Drive, located to the south of and directly abutting 309 Balsam Drive. My house is incorrectly identified as 297 Balsam Drive on the variance application Site Plan for 309 Balsam Drive. I have reviewed the Notice of Public Hearing and the requested variance(s) to the zoning by-law and the proposed architectural plans on file with the Committee of Adjustment for 309 Balsam Drive.

Raising concerns or objecting to Committee of Adjustment applications puts neighbours in a very awkward position. Dissention is generally taken personally by applicants/landowners and jeopardizes future cordial neighbour relationships. I am not an unreasonable person, and value my relationship with my neighbours. I have lived on Balsam Drive for over eleven years, and I want the landowner at 309 Balsam Drive to be successful in building and to be happy with a new house. But if variances are needed to build that new house, those variances should not facilitate a house that directly impacts the use and enjoyment of my home and backyard and that is out of character with the area. **I strongly object to the variances being sought.**

Given that Bill 23, *More Homes Built Faster Act, 2022*, has recently received Royal Assent and prevents third party appeals of minor variances, we ask that the Committee refuse this application based on the arguments below.

Overdevelopment of the Lot

Building Depth

- This variance is seeking to increase building depth from 20 m to 42.75 m.
- The Applicant cites examples of building depth variances granted in the vicinity of 309 Balsam Drive. Only one of the examples cited has a building depth variance that is as large as proposed for 309 Balsam Drive, and that is located at 294 Chartwell Road. Chartwell Road is a throughfare road stretching from Lakeshore Road all the way to the Service Road. The character of Chartwell Road, the relationship of the homes to the street, and the character of the neighbourhood along Chartwell Road is completely different to that of Balsam Drive. A house on Chartwell is not a reasonable comparable to a house on Balsam Drive. There have been no building depth variances granted by the Committee of Adjustment on Balsam Drive that are close to the magnitude of the variance proposed for 309 Balsam Drive.
- The Applicant argues that the RL1-0 zone standards are more applicable to a 30 m x 45 m lot whereas the lot at 309 Balsam Drive is over 3 times that size. The rationale implies that because the depth of the lot is 3 times greater than a standard lot, that it is appropriate to triple certain standards like house depth in order to achieve an appropriate scale of development. If this logic were followed, then required side yard setbacks should also be

tripled, instead of merely just complying with the minimum setback required for lots that are 30 m x 45 m.

- In other words, the Applicant selectively applies the large lot argument when it is convenient to do so, but neglects to adhere to that argument where it is inconvenient to do so.
- Because of the proposed house being built parallel to the side lot lines (instead of parallel to the front lot line as all other houses along Balsam Drive are constructed), almost every metre of the single storey building depth proposed along the south lot line at 309 Balsam Drive will extend beyond the rear façade of my house.
- My house is built in compliance with the By-law and has an estimated depth of 20 metres.
- Appendix B of the attached Welwyn Consulting Report shows the relationship of the proposed house at 309 Balsam Drive relative to my house.
- I have verified that beyond the permitted 20 metre house depth, windows in the façade of 309 Balsam Drive facing my house will have direct views into both my backyard and more impactfully, to the entire back of my house. My neighbours at 309 Balsam Drive will be able to clearly see when I am in my kitchen living room and bedroom. It is not just a concern about overlook, it is a concern about compromised privacy.
- While the Applicant claims a lack of shadow impact from the building depth (without providing any shadow studies) because most of the building depth is only a single storey, the architect also states that roof line on the single storey is meant to "mimic a ... one and one half storey look" and is 8.6 metres in height.
- Shadow impacts from the proposed building depth that is a "single storey" are almost equivalent to that of a two storey 9.0 metre building. The proposed building depth will cause shadowing on our backyard.
- At a mere 4.5 m setback from the side lot line, the depth of the proposed house on 309 Balsam Drive, combined with the minimum 4.2 m side yard setback, means that there is not enough room between the building face and the lot line in which to install trees or a significant landscaping buffer. The excessive 22.75 m long and 8.6 m tall wall of house at 309 Balsam Drive that is proposed in proximity to my lot line, cannot be screened on their property in any meaningful way.
- The Applicant's rationale is that the depth variance is required to minimize the need for separate accessory structures [i.e., pool cabana and hot tub enclosure, etc.] on the site.
- In attaching an accessory structure to the house, that area is now habitable space or capable of becoming habitable space and the intensity of use is entirely different to that of an accessory structure.
- Zoning applies equally to buildings and structures that are not accessory structures or private garages. The Applicant cannot argue that the proposed covered porches and decks at the back of the proposed house should be discounted from being counted as part of the building depth.

Character of the Neighbourhood

- The neighbourhood is characterized by large mature trees and incredibly landscaped backyards.
- The Applicant has not documented all the trees that are in proximity to 309 Balsam Drive accurately on their Site Plan. We attach two photos that demonstrate that there are a significant number of mature spruce and pine trees on my property that are on or are in proximity to the mutual lot line.
- I am very concerned that the combined effects of demolition of the existing tennis court and fencing at 309 Balsam Drive and excavation to build the foundation of the proposed house, which will almost reach my property line, will put the mature trees in my backyard under severe stress and will jeopardize their long-term health and stability.

- I attach the Welwyn Consulting Report, an arbourist report, which documents my concerns about maintaining tree health and the means for doing so. My concerns about demolition and construction impacts on our trees appears to be justified. This document was shared with the Applicant this past summer.
- 251.26 m² of the basement of the proposed house at 309 Balsam Drive is to be devoted to an underground garage. Assuming that a 56 m² garage accommodates 3 parked cars, the proposed underground garage could accommodate over 14 parked cars, also allowing for access aisle widths. Plus, there are no zoning limitations to restrict the rest of the basement from being devoted to a garage use. This is further indication of overdevelopment of the lot, which is inconsistent with neighbourhood character, and that has an impact on adjacent development. Built form variances that facilitate the overdevelopment of the lot are not appropriate and should not be supported.

Front Main Wall(s) Variance

- The Zoning By-law requires that a minimum of 50% of a house's front main wall(s) should fall within the required setback allowance for the front setback. The purpose of this requirement is to ensure that there is a consistent street wall on Balsam Drive, to maintain the character of the neighbourhood.
- The proposed house will have only 23.5% of the house's main walls oriented towards the front lot line. A mere 8.09 m of a massive house will be located within the required setback allowance for the front yard setback.
- The main reason that the proposed house cannot comply with this requirement is because, unlike all the other homes along Balsam Drive, this house is proposed to be constructed parallel to the side lot lines and not parallel to the front lot line.
- Appendix B of the attached Welwyn Consulting Report shows the relationship of the proposed house at 309 Balsam Drive relative to their lot and to my house.
- The side lot lines of the lot at 309 Balsam Drive do not meet the front lot line at 90 degrees.
- The proposed variance that permits a reduction in main wall within required setback allowance for the front yard setback will break the built form rhythm of houses and disrupt the street wall along Balsam Drive and is not in the character of the neighbourhood.

Building Height

- The proposed variance is to allow building height to be increased from a maximum of 9.0 metres to 10.95 metres (note the drawings included with the variance application appear to only show a building height of 10.5 m).
- The Applicant claims that the proposed additional height of the house is concealed; that the proposed mansard roofing should be considered a kind of trompe l'oeil; that, because the roof line starts after one storey, a building with mansard roofing does not look as tall.
- The By-law is blind to architectural manipulation. This is a two-storey dwelling with a building height that is taller than permitted.
- The proposed height variance allows a two-storey element that creates an unacceptable overlook condition.

Intent and Purpose of the By-law

Variance to Allow Three Garages

- The proposed variance to Section 5.8.6 c) of the By-law does not meet the intent and purpose of the By-law.

- Section 5.8.6 c) states that “for lots located within the Residential Low (RL1) Zone the maximum total floor area for a private garage shall be 56.0 square metres.”
- The applicant has applied for a variance from Section 5.8.6.c) to allow for 3 private garages at 309 Balsam Drive – essentially, the applicant incorrectly believes that each of the 3 garages may be 56.0 m² in area. This is a mistake in interpretation.
- The intent of Section 5.8.6 c) of the By-law is to limit the total area on a lot that may be devoted to garage space.
- The By-law restricts the total area devoted to a private garage on a lot because:
 - a private garage is supposed to be a modest ancillary building or space; and
 - garage space is to be de-emphasized in the built form of the house which is why Section 5.8.7 c) restricts how much a garage may protrude beyond the front main wall.
- Because a private garage is limited in size and impact by the By-law, the area of a private garage is not included in the residential floor area calculation (Section 6.4.1 c) of the By-law). The proposed variance effectively removes the size and impact limitations of the By-law, however.
- While the applicant has applied for a variance to Section 5.8.6 c) to allow 3 garages on the lot instead of one, the applicant has not applied for a variance to increase the maximum total floor area devoted to private garage space on the lot from 56.0 m² to 117.59 m².
- It is unreasonable to have 117.59 m² of garage space on a lot.
- Having 3 garages on the property is not in the character of the area and impacts my property.
- The entire front of the house appears to be exclusively devoted to accommodating and parking vehicles, which is contrary to the intent of the By-law.

Variance for Private Garage Projection

- The garage projection beyond front face of the main wall of the home is 11.13 m, compared to the By-law maximum 1.5 m permitted projection.
- The purposed and intent of the requirement in Section 5.8.7 c) of the By-law is to Integrate the garage with the house so that the character of the street is not an undesirable 1980's subdivision condition where garage space stands proud of the houses.
- The projection of 11.13 m is not in the character of the neighbourhood and does not meet the intent and purpose of the By-law to prevent the garage from becoming a focal point from the street.

Conclusion

In summary, I do not support the proposed variances at 309 Balsam Drive because:

- 1) The variances do not maintain the character of the neighbourhood;
- 2) The variances permit the overdevelopment of the 309 Balsam Drive;
- 3) The variances do not meet the intent and purpose of the Official Plan and Zoning By-law; and
- 4) The proposed variances are not minor.

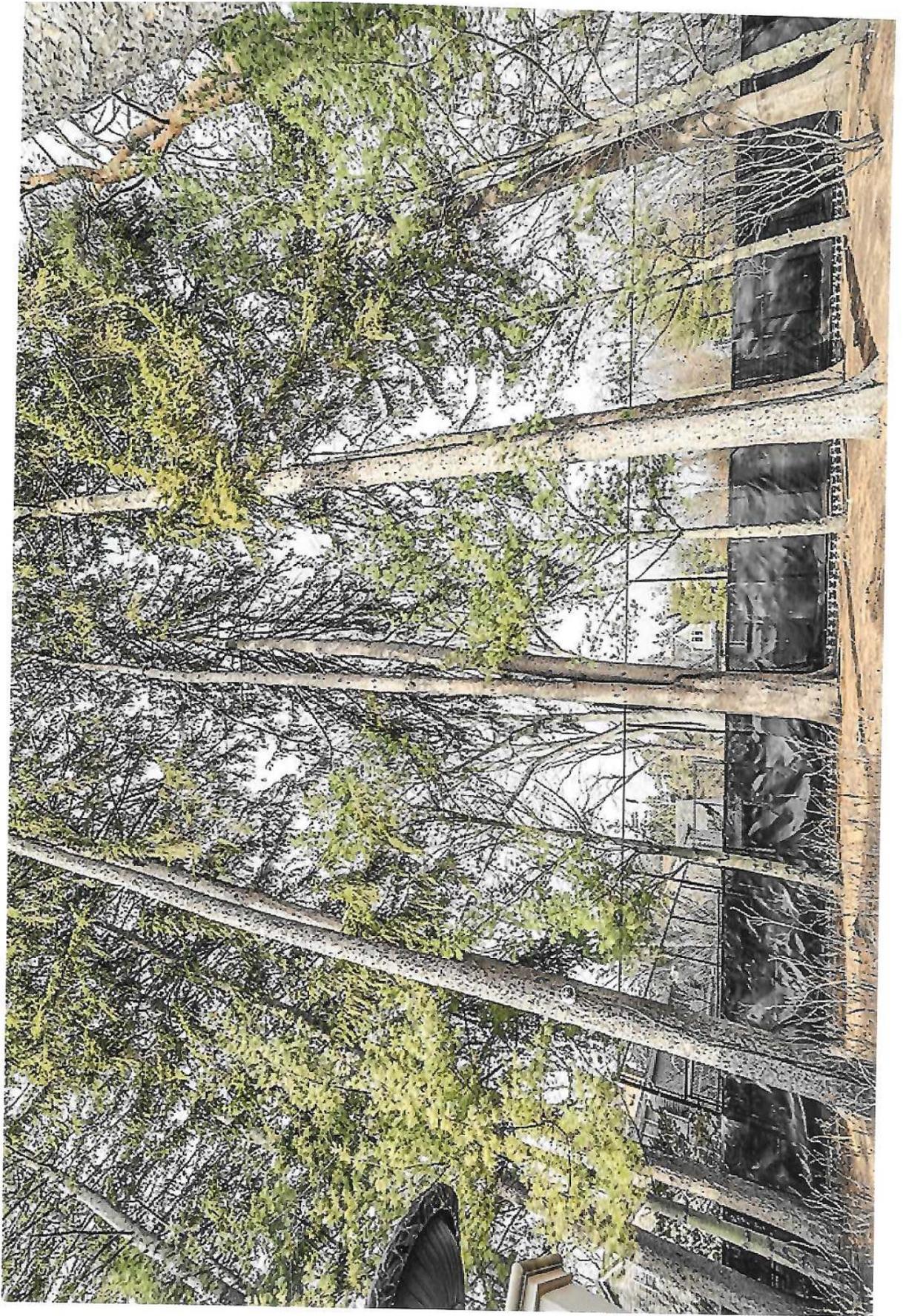
For these reasons, I ask the Committee of Adjustment to consider our concerns and deny the variance requests for 309 Balsam Drive. I also request a copy of the Committee's decision made on this matter.

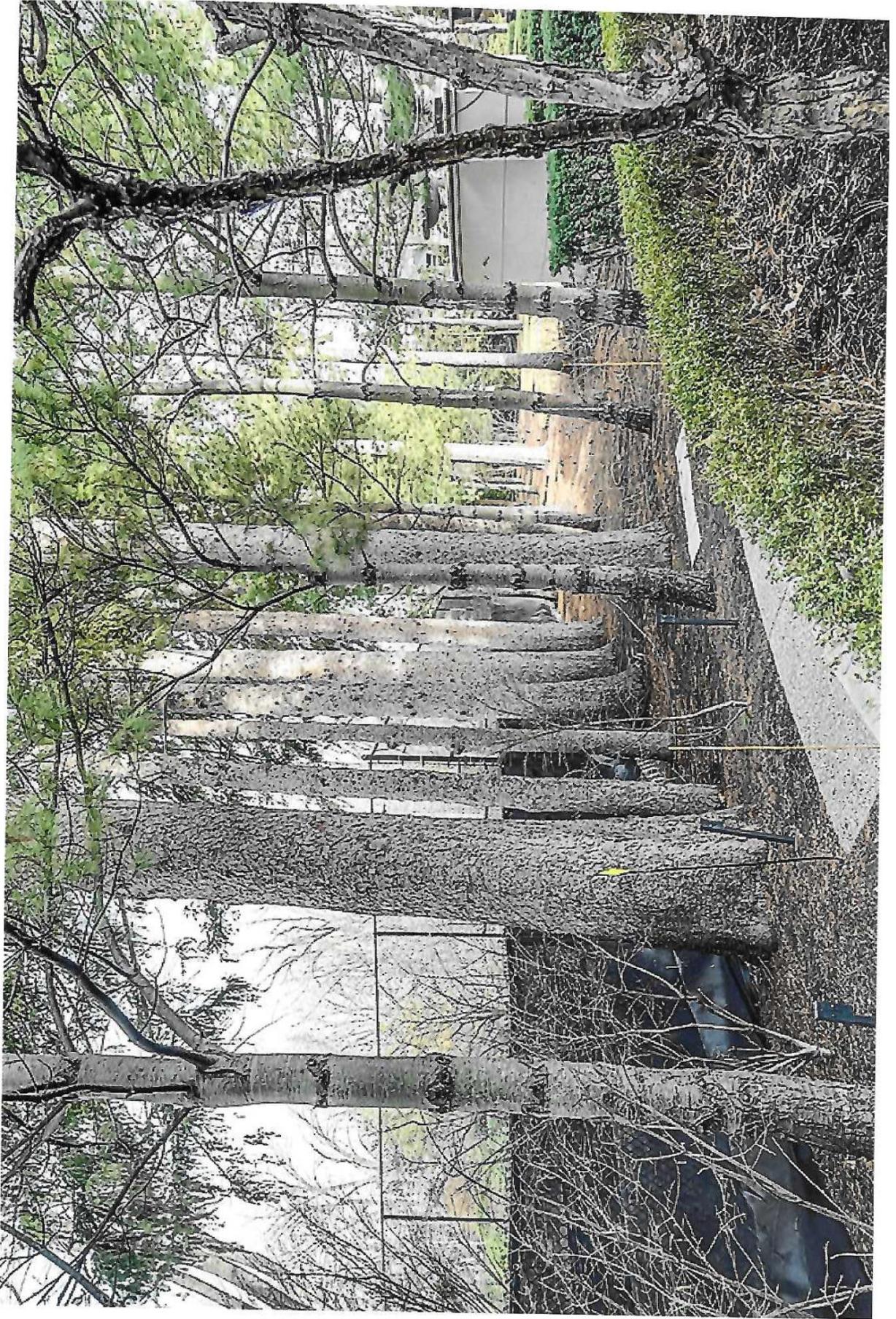
Regards,



Teresa Cascioli
291 Balsam Drive
Oakville, ON L6J 3X7

Cc: Shradha Arun, Town of Oakville (shradha.arun@oakville.ca)
Catherine Buckerfield, Town of Oakville (catherine.buckerfield@oakville.ca)
Calvin Lantz, Stikeman Elliott LLP (clantz@stikeman.com)
Arlene Beaumont (arlene@weoughtred.ca)







Welwyn Consulting

June 21, 2021

Teresa Cascioli
291 Balsam Drive
Oakville, Ontario
L6J 3X7

**SUBJECT: Arborist Report/Letter of Opinion
309 Balsam Drive, Oakville (amended Dec.6/22)**

Dear Teresa:

Attached please find the Arborist Report/Letter of Opinion regarding the proposed development of the property at 309 Balsam Drive to the west of your property at 291 Balsam Drive. At your request, I am providing my opinions/recommendations (based upon standards set by the Town Oakville's Private Tree Protection By-Law) for the preservation of the significant number of large-caliper deciduous and coniferous trees along the west side of your property that may be affected by the proposed construction activities at 309 Balsam Drive.

This information complies with the following Town of Oakville By-Laws required to obtain a Site Alteration Permit:

- *Site Alteration By-Law No. 2003-021 and Amendment No.2008-124*
- *Private Tree Protection By-law No. 2017-038*
- *Trees on Town Property By-Law No.2009-025*
- *Tree Protection Policy and Specifications for Construction near Trees*

Please feel free to contact me to discuss this report further.

Best regards,

Tom Bradley B.Sc. (Agr.)
A.S.C.A. Registered Consulting Arborist #492
I.S.A. Certified Arborist #ON-1182A
I.S.A. Certified Tree Risk Assessor
Butternut Health Assessor (O.M.N.R)
Welwyn Consulting (Business Licence #18-108827)
(905) 301-2925
welwyntrees@gmail.com



Welwyn Consulting

Arborist Report /Letter of Opinion

309 Balsam Drive, Oakville

Prepared For

Teresa Cascioli
291 Balsam Drive
Oakville, Ontario
L6J 3X7

Prepared By

Tom Bradley B.Sc. (Agr.)
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Prepared On

June 21, 2021

Amended On

December 6, 2022 – new proposed site plan for 309 Balsam Ave.



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Introduction

This Arborist Report/Letter of Opinion provides opinions/recommendations for the preservation of the significant number of large trees along the west side of the property at 293 Balsam Drive that may be affected by the proposed construction activities at 309 Balsam Drive.

Assignment

Welwyn Consulting was contacted by **Teresa Cascioli** to provide an Arborist Report/Letter of Opinion (adhering to the Town of Oakville's Tree Protection By-Laws throughout) to minimize the impact that the proposed construction activities at 309 Balsam Drive may have on the trees on or adjacent to her property at 291 Balsam Drive.

Limits of Assignment

This report is limited to assessing and documenting the health and structural condition of the trees on or 6 metres from the west property line at 293 Balsam Drive during Welwyn Consulting's site survey at 293 Balsam Drive on **April 19, 2021**. All evaluations are based upon a visual inspection of the trees from the ground, and the analysis of photos and any samples taken during that inspection. At no time did Welwyn Consulting access the property at 309 Balsam Drive, and all photos within this report were taken from the property at 293 Balsam Drive.

Unless specifically stated in the report:

- 1.) Neither aerial inspections nor root excavations were performed on any trees on or within 6 metres of the subject site.
- 2.) A Level II Basic Assessment using the 2011 International Society of Arboriculture (I.S.A.) *Best Management Practices* was used for tree evaluations on the subject site.
- 3.) A Level I Limited Visual Assessment was used for any off-site trees as required.

This report is intended for the exclusive use of **Teresa Cascioli**. Upon submission by and payment to Welwyn Consulting, this report will be licensed for use by **Teresa Cascioli** at her discretion.

Observations

The proposed development is located at 309 Balsam Drive to the west of 293 Balsam Drive in an established residential area near the intersection of Lakeshore Road and Balsam Drive within the Town of Oakville. This site presently contains a single family dwelling that will be demolished and replaced with a new home and various property amenities. Welwyn Consulting visited the property of Teresa Cascioli at 293 Balsam Drive on **April 19, 2021** to document the trees adjacent to the west property line that may be affected by the proposed site plan at 309 Balsam Drive.



Appendices

Appendix A contains the most current topographic site survey of 309 Balsam Drive as supplied by **Teresa Cascioli**.

Appendix B contains the most current site plan of 309 Balsam Drive as supplied by **Teresa Cascioli** which provides the following information:

- The location of the trees on or adjacent to the subject site
- Property lines for the subject site and neighbouring properties
- Property lines for Town-owned lands adjacent to the subject site
- All existing buildings and hard surfaces
- An outline of the proposed building

Appendix C contains selected photos of trees along the west property at 291 Balsam Drive and some of the infrastructure (tennis court and cabana) adjacent to the property at 291 Balsam Drive.

Tree Preservation Requirements (General conditions)

NOTES:

- 1.) It is the responsibility of the property owner at 309 Balsam Drive to ensure that all architects, engineers, and contractors involved with the project be provided with a copy of the entire Arborist Report and Tree Preservation Plan for review prior to the commencement of construction activities at 309 Balsam Drive.
- 2.) A tree's root system extends 2-3 times beyond the edge of the canopy/dripline. As Tree Protection Zone (TPZ) hoarding protects only that portion of the root system governed by municipal regulations, most trees on urban residential properties may sustain a degree of injury (including but not limited to root severance, soil compaction and disturbance) during proposed construction activities.
- 3.) Despite the information in #2 above, the property owner at 309 Balsam Drive is not permitted to injure any neighbouring trees at 291 Balsam Drive (through any proposed construction activities) to the point where the long term health and/or structural stability of these trees could be affected. Any proposed levels of injury to neighbouring trees (including but not limited to branch canopy pruning, root pruning, etc.) requires the full disclosure and notification of the trees' owner regarding the proposed level of injury and their written consent/approval of the proposed level of injury. These are requirements of both the Town of Oakville's Private Tree Protection Law and the Provincial Forestry Act of Ontario.



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Site specific observations/recommended actions for tree preservation:

- 1.) Both the existing site survey and the proposed site plan for 309 Balsam Drive did not accurately account for all of the neighbouring trees within 6m of the east property line at 309 Balsam Drive – specifically adjacent to the existing tennis court (proposed for removal).
- 2.) The proposed removal of the existing tennis court has the potential to cause root injury to the adjacent neighbouring trees at 291 Balsam Drive, as both the court surface and adjacent chain link fence are within 1.5m of the east property line and within both the required TPZ of 3.0m – 3.6m for the neighbouring trees at 291 Balsam Drive. Also, the removal of the existing frame shed/cabana within 1.0m of the east property line at 309 Balsam Drive has the potential to cause root injury to the adjacent neighbouring trees at 291 Balsam Drive.
- 3.) Excavation for the proposed building foundation (with an anticipated 90cm over-dig) will encroach to within 1.73m of the east property line at 309 Balsam Drive and within the required TPZ of 3.0m – 3.6m for the neighbouring trees at 291 Balsam Drive.
- 4.) The Town of Oakville’s Private Tree Protection By-Law, which is administered by Development Engineering – Site Plan (DESP) during construction projects, requires that the following minimum standards for tree protection be met to protect the neighbouring trees at 291 Balsam Drive during the proposed construction activities at 309 Balsam Drive – these standards are both recommended and supported by Welwyn Consulting:
 - *A Certified Consulting Arborist shall be on-site during the hand removal (no heavy equipment) of the existing tennis court surface, all chain-link fencing and the frame shed/cabana at 309 Balsam Drive within the TPZ of the adjacent neighbouring trees at 291 Balsam Drive determine the size and quantity of tree roots that could be affected. No roots of any size shall be pruned from the neighbouring trees without notification to the property owner at 291 Balsam Drive and their attending Certified Consulting Arborist. The existing tennis court base shall be left intact (no excavation) and covered with soil and sod to minimize the potential for root injury.*
 - *Prior to building foundation excavation, and using either Air Spade or Dry-Vac technology, a root zone investigation of the area 1.73m from the east property line at 309 Balsam Drive shall be performed, under the supervision of a Certified Consulting Arborist, to determine the size and quantity of neighbouring tree roots that could be affected by the excavation process. No roots of any size shall be pruned from the neighbouring trees without notification to the property owner at 291 Balsam Drive and their attending Certified Consulting Arborist. A Tree Protection Audit report documenting the results of the root zone excavation shall be submitted by the Project Consulting Arborist for 309 Balsam Drive to the Town of Oakville and this report shall be made available to the property owner at 291 Balsam Drive and their consulting arborist for approval.*



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- *No pruning of any canopy branches from the neighbouring trees at 291 Balsam Drive that overhang the property at 309 Balsam Drive shall be pruned without the expressed written consent of the property owner at 291 Balsam Drive.*
- *All required TPZ hoarding shall be installed at their minimum required distances from the neighbouring trees at 291 Balsam Drive. Hoarding must be installed prior to any construction activity, and remain intact until construction and landscaping is completed. The TPZ must NOT be used for the temporary storage of building materials, storage or washing of equipment, or the dumping of construction debris, excess fill, or topsoil.*
- *Encroachment within a tree's TPZ will require a special permit from the Town of Oakville and/or on-site supervision by a Certified Consulting Arborist during any proposed excavation activities for root pruning and assessment.*

The property owner at 291 Balsam Drive, Teresa Cascioli, shall be notified at least five (5) working days in advance of the scheduling of any of the proposed construction activities on Page 6 and 7 of this letter so that she arrange to have her Certified Consulting Arborist (Welwyn Consulting) on site to supervise and provide protection for her trees independent of the property owner at 309 Balsam Drive.

Pages 8, 9 and 10 of this report contain the following tree protection information for referral:

- a.) Town of Oakville TPZ Hoarding Specifications
- b.) Optimal Tree Crown and Root Structure – Town of Oakville
- c.) Tree Preservation Plan Summary (Welwyn Consulting)



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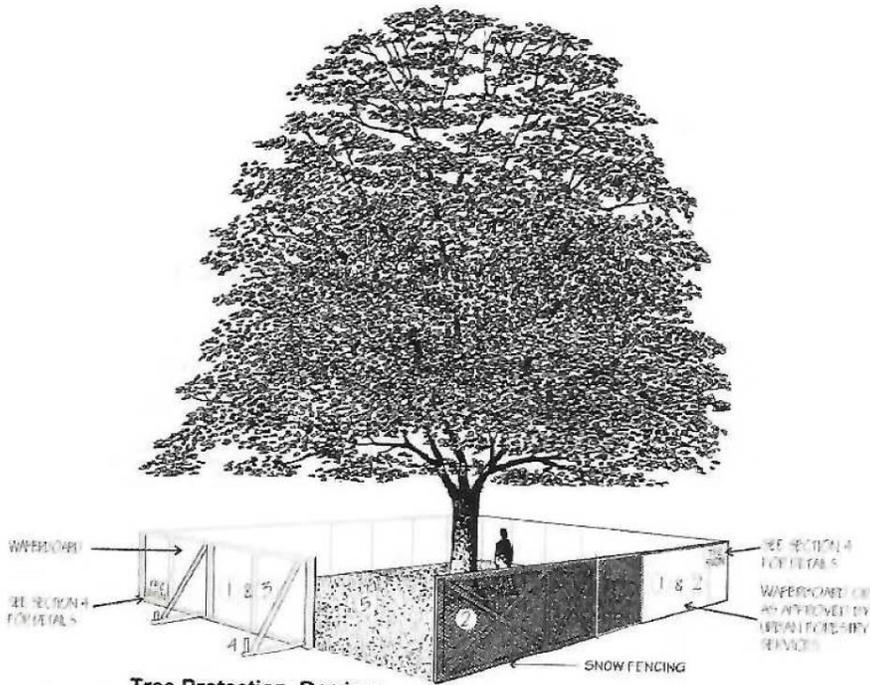
Town of Oakville TPZ Hoarding Specifications

The diagram below provides the Town of Oakville's standards for Tree Protection Zone (T.P.Z) hoarding.



OAKVILLE

SCHEDULE 1 TREE PROTECTION BARRIER



Tree Protection Barriers

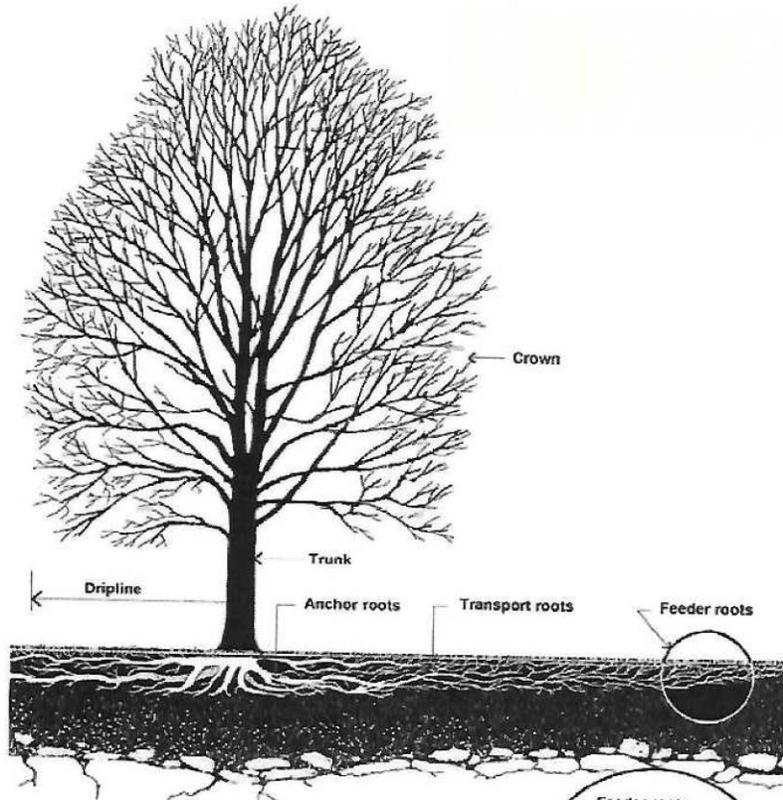
- ① Tree protection barriers must be 1.2m (4ft) high, waferboard hoarding or an equivalent approved by Urban Forestry Services.
- ② Tree protection barriers for trees situated on the Town road allowance where visibility must be maintained can be 1.2m (4ft.) high and consist of plastic web snow fencing on a wood frame made of 2" x 4"s.
- ③ Where some excavate or fill has to be temporarily located near a tree protection barrier, plywood must be used to ensure no material enters the Tree Protection Zone.
- ④ All supports and bracing should be outside the Tree Protection Zone. All such supports should minimize damaging roots outside the Tree Protection Barrier.
- ⑤ No construction activity, grade changes, surface treatment or excavations of any kind is permitted within the Tree Protection Zone.



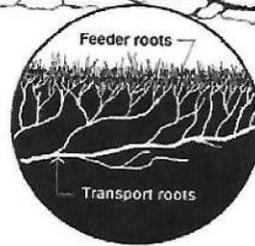
Welwyn Consulting

Optimal Tree Crown and Root Structure – Town of Oakville

DETAIL TP-1



A minimum of 1.5 M of well drained soil depth is required for the growth of a tree to maturity. A tree's root system grows mainly within the top 60 cm. of the surface and extends outward 2 to 3 times the dripline dimension. The root system of a tree has three main parts: The large "anchor roots" providing structural support; a framework of "transport roots"; and a complex network of "feeder roots" that grow outward and upward from the transport roots. These non-woody roots branch out to form fans of thousands of slender roots with fine root hairs. These tiny roots provide the major portion of the absorption surface of a tree's root system.



Note:
Graphic and technical information supplied by
the City of Toronto, Urban Forestry Services

The Crown and Root Structure of a Tree in an Optimum Growing Environment

Name:

Date:

November 2016

Scale:

N.T.S.

File No: -



OAKVILLE

S:\DEPARTMENT\PARIS FORSCMITY Tree Protection Details\THE CROWN AND ROOT STRUCTURE.CDR



Tree Preservation Plan Summary

I.) Pre-Construction Phase

- It is recommended that an on-site meeting take place with the project Certified Consulting Arborist, a representative from the Town of Oakville's Urban Forestry Department, the property owner(s), and any Architects, Engineers, and contractors involved with the project to discuss the Tree Preservation Plan.
- Complete all Tree Care Recommendations, including pruning and any required tree removals.
- Install Tree Protection Zone (TPZ) hoarding as required.
- Where required, apply composted wood mulch to tree root zones within the TPZ hoarding, and apply fresh wood mulch over steel plates and/or plywood to any high-traffic areas immediately adjacent to the TPZ hoarding to help reduce soil compaction.
- If permitted by the Town of Oakville, root-prune any preserved trees adjacent to excavation areas prior to construction under the supervision of a Certified Consulting Arborist.
- Establish an irrigation plan with the assistance of a Certified Consulting Arborist.

II.) Construction Phase

- Maintain and respect TPZ hoarding throughout the construction phase. Do not store or dump materials in this area.
- Continue irrigation plan as directed by a Certified Consulting Arborist.
- If permitted by the Town of Oakville, prune any roots exposed during excavation under the supervision of a Certified Consulting Arborist.
- On-going monitoring by a Certified Consulting Arborist to evaluate construction injury/stress and make recommendations.

III.) Post-Construction Phase

- Remove hoarding only after permission from the Town of Oakville.
- Continue irrigation program as directed by a Certified Consulting Arborist.
- Supplemental fertilizer needs assessment by a Certified Consulting Arborist.
- Post-construction monitoring of all trees by a Certified Consulting Arborist.

NOTE:

Post-Construction Monitoring

Construction injury may take several years to become apparent. All preserved trees should be inspected by a Certified Consulting Arborist on a semi-annual basis for a period of up to 2 years to pro-actively address any tree health related issues as they occur.



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ASSUMPTIONS AND LIMITING CONDITIONS

Any legal description provided to the consultant/appraiser is assumed to be correct. Any titles and ownerships to any property are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is appraised or evaluated as though free and clear, under responsible ownership and competent management. It is assumed that any property is not in violation of any applicable codes, ordinances, statutes, by-laws, or other governmental regulations.

Care has been taken to obtain all information from reliable sources, and all data has been verified insofar as possible. The consultant/appraiser can neither guarantee nor be responsible for the accuracy of information provided by others.

The consultant/appraiser shall not be required to give testimony or to attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule and contract of engagement.

Loss or alteration of any part of this report invalidates the entire report.

Possession of this report or a copy thereof does not imply right of publication or use for any purpose by anyone other than the person to whom it is addressed without the prior expressed written or verbal consent of the consultant/appraiser.

Neither all nor any part of the contents of this report, nor any copy thereof, shall be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media without the prior expressed written or verbal consent of the consultant/appraiser particularly as to value conclusions, identity of the consultant/appraiser, or any reference to any professional society, institute, or any initialed designation conferred upon the consultant/appraiser as stated in his/her qualification.

This report and the values expressed herein represent the opinion of the consultant/appraiser, and the consultant/appraiser's fee is in no way contingent upon the reporting of a specified value, a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.

Sketches, diagrams, graphs, and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as either engineering or architectural reports or surveys.

Unless expressed otherwise: 1) Information contained in this report covers only those items that were examined and reflections the condition of those items at the time of inspection, and 2) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the plants or property in question may not arise in the future.



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CERTIFICATE OF PERFORMANCE

I, Tom Bradley, certify that:

- I have personally inspected the tree(s) and/or the property referred to in this report, and have stated my findings accurately. The extent of any evaluation or appraisal is stated in the attached report and the Limits of Assignment.
- I have no current or prospective interest in the vegetation of the property that is the subject of this report, and have no personal interest or bias with respect to the parties involved.
- The analysis, opinions and conclusions stated herein are my own, and are based on current scientific procedures and facts.
- My compensation is not contingent upon the reporting of a pre-determined conclusion that favours the cause of the client or any other party, or upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.
- My analysis, opinions and conclusions were developed and this report has been prepared according to commonly accepted arboricultural practices.
- No one provided significant professional assistance to the consultant, except as indicated within the report.

I further certify that I am a Registered Consulting Arborist through the *American Society of Consulting Arborists (A.S.C.A)* and both a Certified Arborist and Certified Tree Risk Assessor with the *International Society of Arboriculture (I.S.A)*. I have been involved in the fields of Arboriculture and Horticulture in a full-time capacity for a period of more than 20 years.

Signed: _____

Date: June 21, 2021



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Appendix A: Current Site Survey – 309 Balsam Drive, Oakville

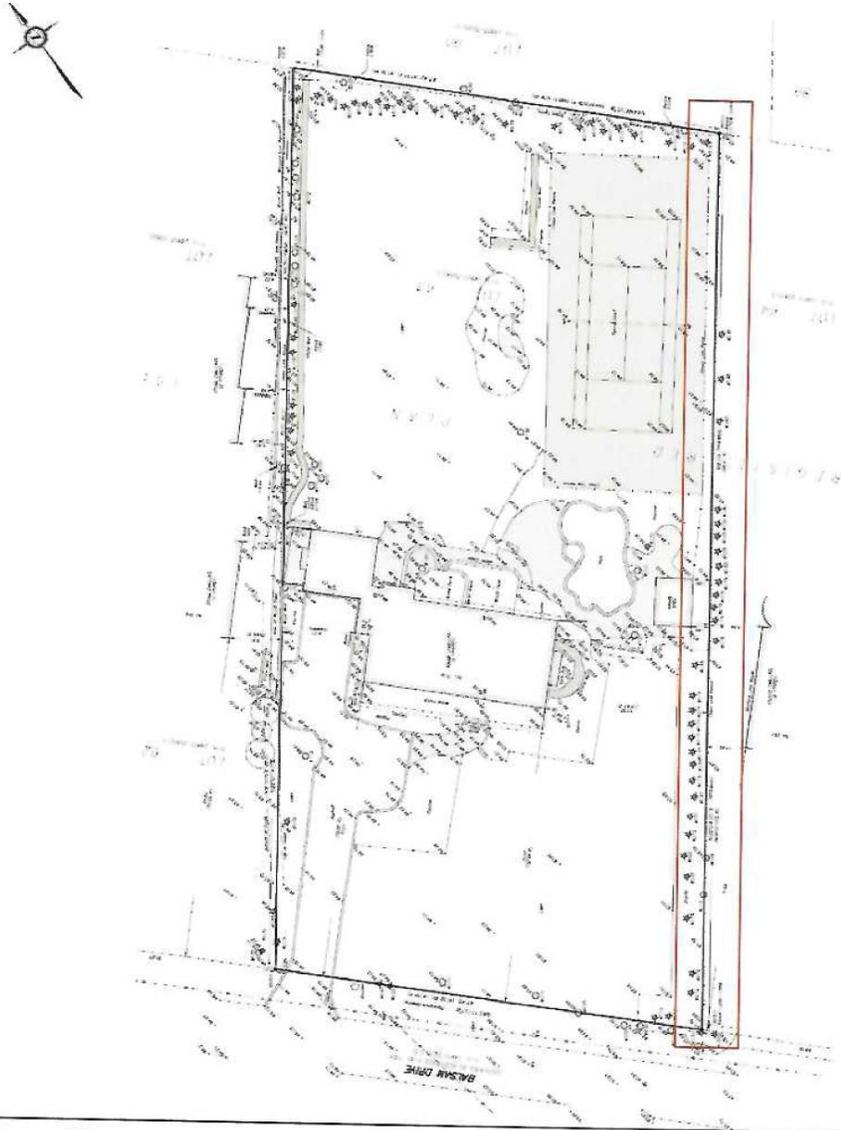


Figure #1:

The above diagram shows the current topographic site survey for 309 Balsam Drive as provided by the property owner at 291 Balsam Drive (Teresa Cascioli). The red rectangular shape represents the area of trees along the west property line of 297 Balsam Dr. that would potentially be injured by the proposed development at 309 Balsam Drive. Please refer to Pg. 14 for further information.



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Appendix B: Proposed Site Plan – 309 Balsam Drive, Oakville
(without survey information for 309 Balsam Drive)



Figure #2:

The above diagram shows the currently proposed site plan for 309 Balsam Drive as provided by the property owner at 291 Balsam Drive (Teresa Cascioli). The proposed site plan has not yet been overlaid onto the existing site survey. The red rectangular shape represents the area of trees along the west property line of 297 Balsam Dr. that would potentially be injured by the proposed development at 309 Balsam Drive.



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Appendix C: Site Photos – 291 Balsam Drive, Oakville



Photo #1 – tennis court west of 291 Balsam Dr. (looking south)



Photo #2 – row of trees at 291 Balsam Drive near tennis court



Photo #3 – trees near tennis court (looking north)



Photo #4 – tennis west of 291 Balsam Drive (looking north)



Photo #5 – cabana west of 291 Balsam Drive

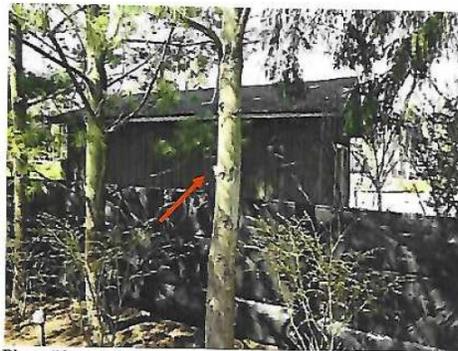


Photo #6 – cabana west of 291 Balsam Drive

Figure #3:

The above six (6) photos show the proximity of the existing tennis court and cabana to the west of 291 Balsam Drive.

From:

Sent: Thursday, December 8, 2022 12:15 PM

To: coarequests <coarequests@oakville.ca>

Subject: Neighbour response to Building Proposal at 309 Balsam Drive

Dear Secretary-Treasurer,

We are long time owners and residents at 316 Balsam Drive and live across the street from 309 Balsam Drive. Kindly find attached our response to the proposed building at 309 Balsam Drive which is scheduled at the upcoming Committee of Adjustment Meeting on December 13, 2022. Unfortunately, we are unable to attend, but respectfully submit our view as a neighbour. Is there a link to listen into the meeting? Or is it just available via live stream?

Please do not hesitate to contact me if needed.

Thanks

Samantha

Samantha Cheung

Samantha Cheung and Laurence Chau
316 Balsam Drive
Oakville, ON L6J 3X6
Re: Neighbour response to building proposal at 309 Balsam
Submitted via email to: Secretary – Treasurer at coarequests@oakville.ca

Dear Town of Oakville Committee of Adjustment:

We received the hand delivered package on Thursday, December 1, 2022, from the office of Hicks Design Studio concerning the proposed new home at 309 Balsam Drive. The information contained in our package was only an abbreviated version of what was submitted to the Town of Oakville.

We live across from 309 Balsam and as long time residents of Balsam Drive for the last 20 years, we have a vested interest in ensuring Balsam remains a desirable street, the street scape remains consistent, and any negative impact on neighbours from the building and construction be minimized.

With respect to the variances described in the package, we provide the following feedback:

- 1) Height – A building height of 1.95 M higher than permitted would completely dwarf any neighbouring properties. The proposed height seems proportionally too high for the lot size and would likely be higher than any other property on the street. If this proposal is in fact the highest, it would seem that this variance would be unreasonable since it is inconsistent with the streetscape. Any tall structure, even set back from the street, would take away from beauty and consistency of the Balsam. For other streetscapes or areas with larger lot sizes, perhaps a taller building height may be more acceptable. Balsam Drive is a narrow street and therefore any house built on it should consider that fact, despite the set back from the street.
- 2) Building depth/width – A building depth that exceeds the permitted depth by almost 100% seems extraordinary and would impact the side view from the neighbouring properties to the north and south. We would suggest that a detailed plan or perspective on what the neighbours will be looking at while sitting in their backyard should be discussed. Neighbours will not want to look at the concrete side of a building and such a view would impact their enjoyment. The Porte cochere may be private for the home owner of 309, but the side façade greatly impacts the neighbours enjoyment of their backyard. As well, the proposed width of the building and its proximity to the side lot lines does not leave much room for proper landscaping on either the north or south side.
- 3) Garage placement/front wall – Any projection of the garage of 11.13 metres beyond the main wall of the home, whereas permitted is 1.5 metres, would impact the streetscape and neighbours view from the side. We find it aesthetically more pleasing when the placement of the front facades of neighbouring properties are generally in line with each other. If the garage protrudes significantly from the main house on both sides, then the neighbours would be looking at the back side of the garage, which we find not appealing and not in keeping with other builds on our street. As well, not knowing how many cars will be parked inside the garages given the proposed lifts, we would be concerned with the traffic flow in and out of the property.

As it stands, we do not support such a build as described on that particular lot. We view the variances as major relative to what has historically been built on the Balsam Drive. It may be a beautiful home being

proposed, but it is too large and tall for the lot with little room to the north and south for any proper landscaping and/or protection of existing trees.

We remind the committee that the street is more narrow compared to other streets in our neighbourhood . It is imperative that the construction staging be thoughtfully planned and kept onsite to minimize impact or disturbances to neighbours. Consideration of water management and runoff should also be thoughtfully considered. We do not want any damage to our lawn or the town owned portion which abuts the street, any impact on traffic when we need to leave our homes for work and school, and any excessive noise during the duration of this project. We can foresee this project to be a long one and it seems unreasonable for neighbours to have to endure 2-3 years of excessive construction vehicle traffic and disturbances given the scope of what is being planned.

Respectfully submitted by,

A handwritten signature in blue ink, appearing to read 'Shay', is written over the printed name.

Samantha Cheung and Laurence Chau



295 Robinson Street, Suite 200
Oakville, ON L6J 1G7
905.339.1212

December 6TH, 2022

LETTER FROM THE ARCHITECT

RE: 309 BALSAM DRIVE, COMMITTEE OF ADJUSTMENT HEARING, DECEMBER 13TH

Dear Committee,

As a regular practice when submitting a Minor Variance application to the Committee, we circulate an information package to all the Neighbours explaining the request for relief in addition to encouraging them to reach out if they have any questions or concerns regarding the application.

We found that after providing the information to the surrounding neighbours, there appeared to be some level of support and understanding of the application but there are also some concerns being expressed which we are working to resolve. Our letter stated that all residents were in support, so we wished to clear up that piece of information.

We believe that the evidence provided to the Committee supports the proposed variances meeting the 4 tests of the Planning Act, and the resulting home will be an asset that contributes to the character of the neighbourhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'William R. Hicks', followed by a horizontal line extending to the right.

William R. Hicks
B.E.S., B.Arch., MRAIC. OAA
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T. 905.339.1212 ext. 222
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