

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/054/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, APRIL 03, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Post Scriptum Holdings Inc	AgedRXN c/o Sam Nouelaty 874 Sinclair Road Oakville ON L6K 2H3	PLAN 949 PT BLK D 43R 20 - 2- 7606 PT 1,2,4,6 874 Sinclair Road Town of Oakville

**OFFICIAL PLAN DESIGNATION: Business Employment
WARD: 2**

**ZONING: E2 sp: 6
DISTRICT: West**

Under Section 45(2) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit a food truck and accessory patio on the subject property as a use that conforms with the permitted uses in an E2, Employment Zone, Special Provision 6; whereas Zoning By-law 2014-014 defines permitted uses in general terms and makes no provisions for a food truck use in this instance.

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)

The following comments are submitted with respect to the matters before the Committee of Adjustment at its meeting to be held on April 3, 2024. The following minor variance applications have been reviewed by the applicable Planning District Teams and conform to and are consistent with the applicable Provincial Policies and Plans, unless otherwise stated. The following comments are provided:

CAV A/054/2024 – 874 Sinclair Rd (West District) (OP Designation: Business Employment)

The applicant proposes to establish a food truck as a similar use that conforms to the uses permitted in E2 sp: 6, Business Employment. The applicant requests the variance listed above.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variances from provisions of the Zoning By-law provided the requirements set out under 45(1) or 45(2) in the *Planning Act* are met. The applicant is seeking variance under Section 45(2)(b) which will be reviewed below:

Variance under Section 45(2)(b) of the *Planning Act*:

The application submitted under Section 45(2)(b) of the *Planning Act* would allow the use of the property for a similar purpose as the E2 sp: 6, Business Employment Zone permitted uses to meet the intent of the By-law. Section 45(2)(b) states:

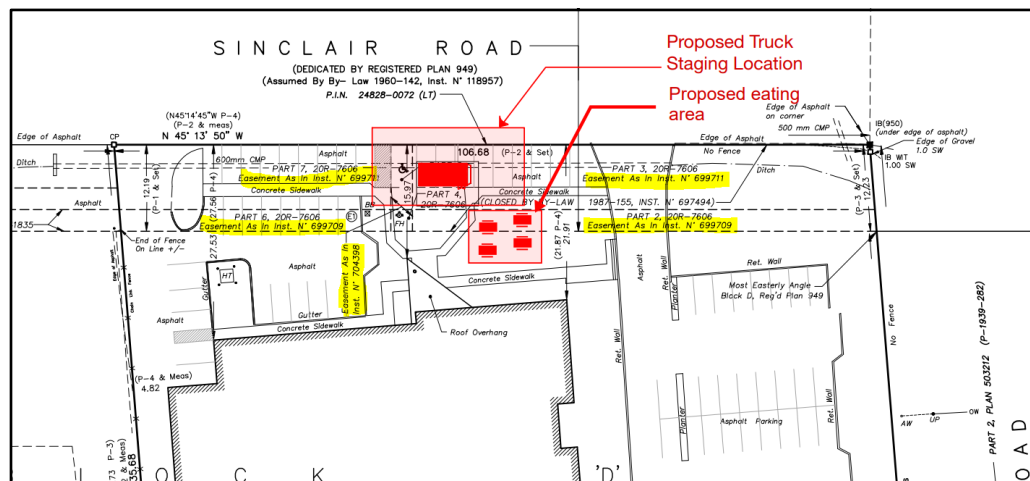
“where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the Committee, conforms with the uses permitted in the by-law.”

As the Zoning By-law does not explicitly define a Food Truck, an application is required to determine if the use is similar to the uses in the E2 sp: 6 Zone where a restaurant use is permitted.

The Zoning By-law 2014-014, as amended, defines the restaurant use as:

“a premises where meals or refreshments are provided to order, and may include table service on an accessory patio.”

The E2 Zone permits a restaurant use, however, a restaurant would not be permitted on the subject lands in the location where the Food Truck and accessory patio are proposed within Town and Regional easements.



Excerpt of Site Plan

The location of the easements may restrict a Food Truck from being established in the location, as proposed. The Town Stormwater Easement does not permit any permanent structures. The applicant needs to provide more information regarding the nature of the proposed use, whether the proposed food truck is parking, then leaving the same day, similar to how the parking spaces would be used, or something more permanent. More information about the proposed eating area and whether there are any permanent elements is also required.

Instrument No. 704398 highlighted in the Site Plan above, is a Regional Easement where the Region is the Transferee. This easement states that:

“The Transferor covenants and agrees that the Transferee shall have quiet possession of the said rights herein transferred and that said rights and privileges hereby granted shall be enjoyed by the Transferee free from any encumbrance, interference, interruption or obstruction of any natures and to that end the Transferor shall maintain the lands free from any other licence, use permit, easement, right of way, or similar encumbrance, whether such encumbrance relates to the surface or above or below the ground unless such licence, use permit, easement, right of way, or other similar encumbrance, is permitted hereby or has been approved in writing by the Transferee.”

In this instance, the Region would need to provide approval in writing that this use and a business license for this use could be permitted.

In the absence of this additional information, Staff cannot support the proposed variance and recommend that the application be denied.

Fire: No Concern for Fire.

Oakville Hydro: We do not have any comments for this minor variance application.

Transit: No Comments received.

Finance: None

Halton Region:

- Regional staff note that the proposed food truck and accessory patio are located in a Regional easement. Regional staff require that the applicant reach out to Regional staff to provide additional information regarding the proposed development and site alternations (i.e. a detailed explanation of the proposal/intent of use, providing photos of the existing area, written reassurances that no development or site alternation would interfere with the Regional infrastructure and any development would be removed upon request of the Region, at their expense of the Owner, and providing all easement documents and R-Plans associated with the subject lands).).
- Regional staff note that the **above concerns remain outstanding and therefore requests deferral** of the proposed minor variance application seeking relief under Section 45(2) of the Planning Act in order to permit a food truck and accessory patio on the subject property as a use that conforms with the permitted uses in an E2, Employment Zone, Special Provision 6; whereas Zoning By-law 2014-014 defines permitted uses in general terms and makes no provisions for a food truck in this instance, until the Applicant provides Halton Region with the requested material.

MTO:

From: Morrison, Kian (MTO) <Kian.Morrison@ontario.ca>

Sent: Thursday, March 21, 2024 10:53 AM

To: coarequests <coarequests@oakville.ca>

Cc: Akhtar, Usman (MTO) <Usman.Akhtar@ontario.ca>

Subject: 874 Sinclair Road

Hello Heather,

Thank you for submitting the below Minor Variance to the Ministry of Transportation. We have reviewed your request and offer the following comments:

1. If any signage displayed can be seen from a highway or ramp then a permit is required.
2. Food truck stands or other similar vending stands must be located on commercially zoned property
3. If this a regular occurrence then a permit would also be required as it could impact Traffic
4. Sufficient on-site parking must be available, and a commercial entrance is required.

If you'd like a formal letter stating no permit is required, please apply for a Building and Land Use permit on our HCMS website online, and we will issue a permit stating "No Permit is Required" free of charge.

If you have any other questions, feel free to reach out.

Thanks,

Union Gas: No Comments received

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, 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.
- Unless otherwise stated, the Planning basis for the conditions referenced herein are as follows:
 - 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.
 - 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.

A handwritten signature in blue ink, reading "Heather McCrae", enclosed within a thin black rectangular border.

Heather McCrae, ACST
Secretary-Treasurer