

# COMMITTEE OF ADJUSTMENT

## MINOR VARIANCE REPORT

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

**APPLICATION:** CAV A/164/2023-Deferred from Nov. 29, 2023

**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
Nuno Da Silva	Kingswood Engineers Ltd c/o Igor Lukac 370 Sixteen Mile Drive Oakville ON L6M 0Z3	PLAN M997 BLK 41 PLAN M996 BLK 65 2423 Sylvia Drive Town of Oakville

**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**WARD:** 6

**ZONING:** RL8 SP:33  
**DISTRICT:** East

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Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit an uncovered platform on the subject property proposing the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Table 4.3 (Row 16)</i> The maximum encroachment into a minimum rear yard for an uncovered platform having a floor height equal to or greater than 0.60 metres measured from grade shall be 1.5 metres.	To increase the maximum encroachment to 2.18 m into the minimum rear yard for the uncovered platform having a floor height equal to or greater than 0.60 metres measured from grade.

## 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/164/2023 – 2423 Sylvia Dr (East District)** (OP Designation: Low Density Residential)

The applicant proposes to construct an uncovered platform (deck) that encroaches further into the rear yard further than the By-law permits. The applicant requests the variance listed above.

A minor variance application was previously submitted for consideration by the Committee on November 29, 2023. This application was deferred due to staff recommendation as additional information concerning the Zoning By-law warranted further consideration by staff. In particular,

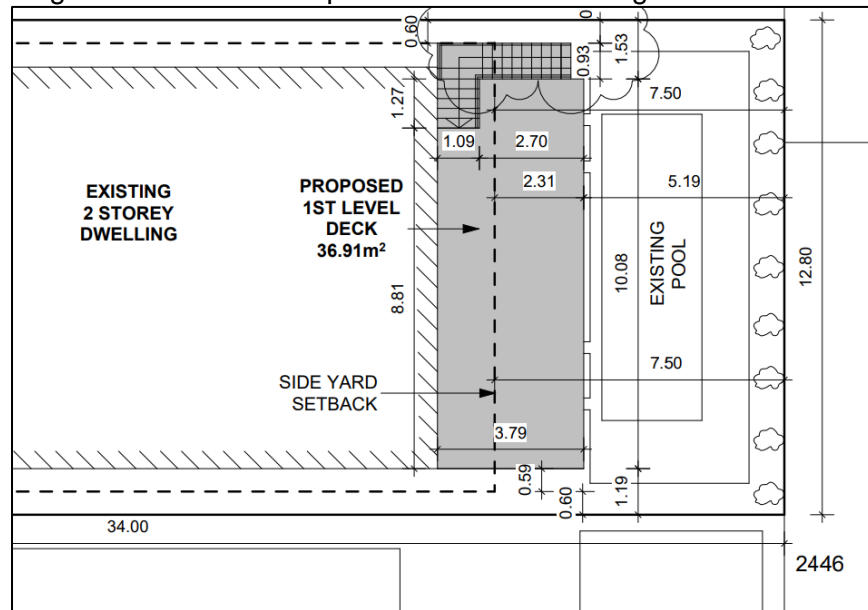
it was confirmed that the required rear yard has always been 6.0 metres (7.5 metres minus 1.5 metre encroachment), despite the existence of a previous deck that encroached further into the required rear yard.

The requested variance remains the same, as shown in the following table:

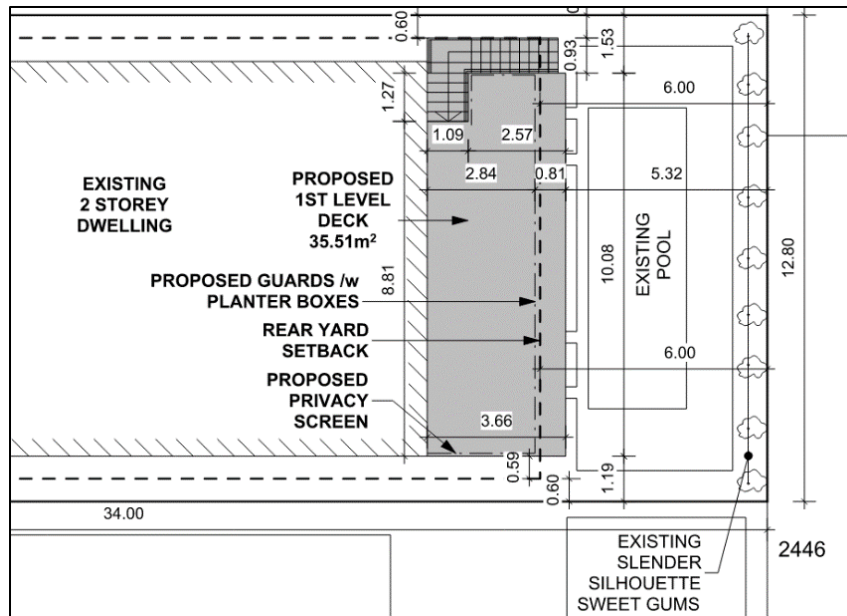
Town of Oakville Zoning By-law 2014-014		Agenda	
Regulation	Requirement	November 29, 2023	April 3, 2024
Maximum encroachment of a raised deck into a Minimum Rear Yard (Table 4.3, Row 16)	1.5 m	2.18 m	2.18 m

Although the variance request has not changed the applicant has incorporated design alterations to the partially constructed deck. In particular, the installation of a privacy screen along the easterly portion and a recessed guardrail from the edge of the northerly portion that aligns with the 1.5m maximum encroachment permitted by the By-law. Raised planter boxes are proposed to be installed along the outer edge to provide additional screening.

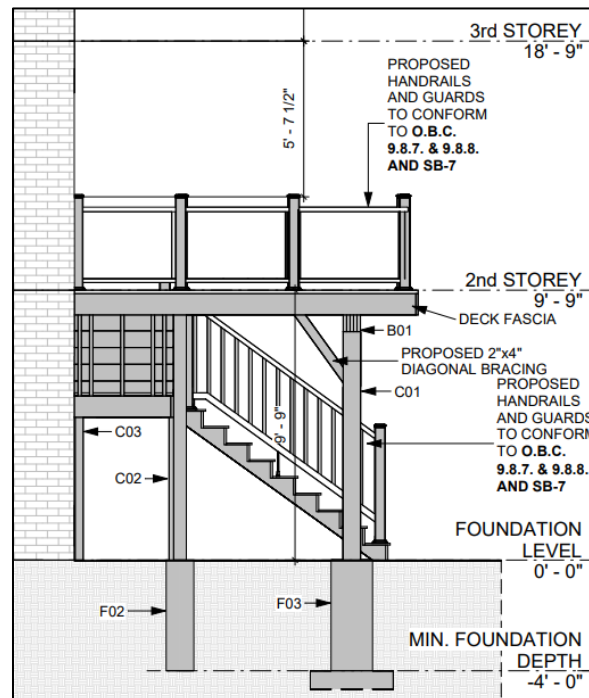
The following images illustrate the comparison between the original and the revised proposal:



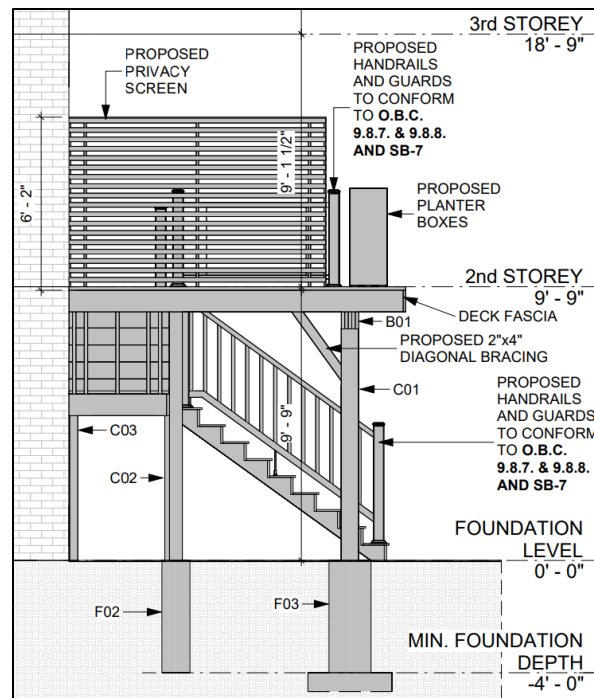
Site Plan – November 29, 2023



Site Plan – April 3, 2024



Elevation View (East) – November 29, 2023



*Elevation View (East) – April 3, 2024*

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to allow minor variance from provisions of the Zoning By-law, provided the requirements set out under Section 45(1) in the *Planning Act* are met. Staff's comments concerning the application of the four tests to this minor variance request are as follows:

### **Does the proposal maintain the general intent and purpose of the Official Plan?**

The subject property is designated Low Density Residential by Livable Oakville. Development is required to be evaluated using the criteria established in Section 11.1.9 to maintain and protect the existing neighbourhood character. Planning staff note that mitigation to minimize overlook has taken place through the installation of trees along both sides of the adjoining rear property lines, and additional mitigation is proposed through the installation of a recessed guardrail along the northerly portion of the raised deck and a privacy screen along the easterly portion of the raised deck. The proposal complies with Livable Oakville.

### **Does the proposal maintain the general intent and purpose of the Zoning By-law?**

The intent of the Zoning By-law provision for maximum encroachment into the minimum rear yard for uncovered platforms (e.g., deck) is to ensure privacy and prevent overlook into adjacent properties. The revised design of the raised deck, through the installation of a privacy screen and recessed guardrail with planters, will ensure privacy and prevent overlook into adjacent properties. Staff are of the opinion that the requested variance maintains the general intent and purpose of the Zoning By-law.

### **Is the proposal desirable for the appropriate development of the subject lands and minor in nature?**

Staff are of the opinion that the proposal represents appropriate development of the subject property. The variance is minor in nature and will not create any adverse impacts to adjoining properties or the existing character of the area.

### **Recommendation:**

Staff do not object to the proposed variance. Should this minor variance request be approved by the Committee, the following conditions are recommended:

1. The rear deck addition be constructed in general accordance with the submitted site plan, elevation, and second floor layout drawings, dated March 1, 2024; 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.

**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:**

- It is understood this application was deferred from November 29<sup>th</sup>, 2023. Regional comments provided on November 16<sup>th</sup>, 2023, still apply.
- Regional Staff has no objection to the proposed minor variance application seeking relief under Section 45(1) of the Planning Act in order to permit an increase in the maximum encroachment into the minimum rear yard for the uncovered platform, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of an uncovered platform on the Subject Property.

**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.

Requested conditions from circulated agencies:

1. The rear deck addition be constructed in general accordance with the submitted site plan, elevation, and second floor layout drawings, dated March 1, 2024.
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 blue ink. The signature appears to read "Heather McCrae".

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Heather McCrae, ACST  
Secretary-Treasurer