

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/020/2024-Deferred from Feb. 07, 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
Sashiharan Balachandran	Rado ProConsulting c/o Jimin Kwon 9-117 Ringwood Drive Whitchurch-Stouffville ON L4A 8C1	PLAN M873 LOT 37 2351 Falling Green Drive Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 4

ZONING: RL6
DISTRICT: West

Under Section 45(1) of the *Planning Act*, the applicant is requesting the Committee of Adjustment to authorize a minor variance to permit the existing outdoor swimming pool on the subject property proposing the following variance:

No.	Zoning By-law Regulation	Variance Request
1	Section 4.16.1 a) If located in the <i>rear yard or interior side yard</i> , the swimming pool shall be set back 1.5 metres from the applicable <i>lot line</i> .	To permit the swimming pool to be set back 1.22m from the <i>rear lot line</i> .

CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED

Planning Services:

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

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/020/2024 – 2351 Falling Green Dr (West District) (OP Designation: Low Density Residential)

This application was previously submitted for consideration by the Committee on February 7, 2024, and was deferred due to insufficient public notice. There have been no revisions made to the application.

The applicant proposes to recognize the location of an existing inground pool that was constructed in non-compliance with the issued pool permit, subject to the variance listed above.

Staff note that the applicant also requested recognition of an existing retaining wall and walkway that were also constructed in non-compliance with the permit, but the minor variance application is exclusive to addressing deficiencies with respect to the pool.

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) in the *Planning Act* are met. Staff 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 within the Official Plan. Development is required to be evaluated using the criteria established in Section 11.1.9 to maintain and protect the existing neighbourhood character. The proposal complies with Livable Oakville.

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

The intent of regulating the setback for a pool is to ensure that there is a safe distance and adequate buffering from the waters edge and an active public or private space such as a rear yard amenity area or public sidewalk. 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 as the lands abut public open space with a vegetative buffer between the fence line and the existing trail system and will maintain a safe distance between the waters edge and a public space. The variance is minor in nature and will not create any undue adverse impacts to adjoining properties or the existing neighbourhood character.

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. That the existing inground pool be permitted in general accordance with the submitted site plan drawing dated September 6, 2023.
2. That the approval expires two (2) years from the date of the decision if a Pool Permit has not been issued.

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 February 7th, 2024. Regional comments provided on January 29th, 2024, 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 a decrease in the set back of the swimming pool from the rear lot line, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting an existing outdoor swimming pool 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. That the existing inground pool be permitted in general accordance with the submitted site plan drawing dated September 6, 2023.
2. That the approval expires two (2) years from the date of the decision if a Pool Permit has not been issued for the proposed construction.

A rectangular box containing a handwritten signature in blue ink that reads "Heather McCrae".

Heather McCrae, ACST
Secretary-Treasurer