

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: **CAV A/077/2024**

RELATED FILE: N/A

DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, MAY 15th, 2024 AT 7:00 P.M

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
DON KING CANADIAN TIRE	PATRICK JANIK PAT'S HOT DOGS 2013 ROSEMOUNT CRES OAKVILLE ON, L6M 3P5	2510 HYDE PARK GATE PLAN M526 PT BLK 1 RP 20R12932 PARTS 4,5 AND PLAN M539 PT BLK 1 RP 20R12933 PARTS 1 TO 8

**OFFICIAL PLAN DESIGNATION: CORE COMMERCIAL
WARD: 6**

**ZONING: C3 SP:44
DISTRICT: EAST**

APPLICATION:

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 vending cart and accessory patio on the subject property as uses that conforms with the permitted uses in a C3, Commercial Zone Special Provision 44; whereas Zoning By-law 2014-014 defines permitted uses in general terms and makes no provisions for a food vending cart and accessory patio uses 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, Long Range and Heritage Planning, Urban Design and Development Engineering)

CAV A/077/2024 – 2510 Hyde Park Gate (East District) (OP Designation: Core Commercial)

The applicant proposes to establish a food vending cart and accessory patio as a similar use that conforms to the uses permitted in C3 SP:44 Commercial Zone. 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 C3 SP:44 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 vending cart, an application is required to determine if the use is similar to the uses in the C3 SP:44 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.”

Since the C3 Zone permits a restaurant use, and the food vending cart and accessory patio use is a similar use that conforms to the definition of a restaurant use, it is staff's opinion that the food vending cart and accessory patio use is appropriate for the subject site. It is also noted that Noise By-law 2008-098, as amended, will be applicable to the food vending cart and accessory patio operation.

It is noted that a variance was granted on June 21, 1999 which permitted a single mobile hot dog vending concession to be located outside the main exit doors as a take out restaurant on the subject property (Canadian Tire Store) whereas the proposed take out restaurant would only be permitted within the enclosed building on the property. Through the review of the application materials it is clear that this use has been taking place on this property for over 25 years.

Recommendation:

Staff are of the opinion that the proposal conforms to the uses permitted in the Zoning By-law 2014-014, as amended. Should the application be approved by the Committee, the following conditions are recommended:

1. That the proposed food vending cart and accessory patio is permitted on the subject property in the location and with a size as shown on the submitted materials; and
2. That the approval expires two years from the date of the decision if a Business License has not been issued for the food truck operation.

MTO: Comments not Received.

Fire: No concerns for fire.

Transit : Comments not received.

Oakville Hydro: We do not have any comments to add for this group of minor variance applications

Halton Region: CAV A/077/2024 – Don King Canadian Tire, 2510 Hyde Park Gate, Oakville

- Due to recent Provincial legislation, as of July 1, 2024, the Region will no longer be responsible for the Regional Official Plan – as this will become the responsibility of Halton's four local municipalities. As a result of this change, a Memorandum of Understanding (MOU) between the Halton municipalities and Conservation Authorities is being prepared that identifies the local municipality as the primary authority on matters of land use planning and development. The MOU also defines a continued of interests for the Region and the Conservation Authorities in these matters. Going forward, comments offered through minor variance applications will be reflective of this changing role.

- Regional staff has no objection to the proposed minor variance application seeking relief under Section 45(2) of the Planning Act in order to permit a food vending cart and accessory patio on the Subject Property as uses that conforms with the permitted uses in a C3, Commercial Zone Special Provision 44; whereas Zoning By-law 2014-014 defines permitted uses in general terms and makes no provisions for a food vending cart and accessory patio uses in this instance.

Bell Canada: Comments not received.

Union Gas: Comments not received.

Letter(s) in support – None.

Letter(s) in opposition – None.

General notes for all applications:

Note: The following standard comments apply to all applications. Any additional application specific comments are as shown below.

- The applicant is advised that permits may be required should any proposed work be carried out on the property i.e. site alteration permit, pool enclosure permit, tree preservation, etc.
- The applicant is advised that permits may be required from other departments / authorities (e.g. Engineering and Construction, Building Services, Conservation Halton, etc.) should any proposed work be carried out on the property.
- The applicant is advised that any current or future proposed works that may affect existing trees (private or municipal) will require an arborist report.
- The applicant is advised that any current or future proposed works will require the removal of all encroachments from the public road allowance to the satisfaction of the Engineering and Construction Department.
- The applicant is advised that the comments provided pertain only to zoning and are not to be construed as a review or approval of any proposal for the site. This review will be carried out through the appropriate approval process at which time the feasibility/scope of the works will be assessed.

Requested conditions from circulated agencies:

1. That the proposed food vending cart and accessory patio is permitted on the subject property in the location and with a size as shown on the submitted materials; and
2. That the approval expires two years from the date of the decision if a Business License has not been issued for the food truck operation.



Jasmina Radomirovic
Assistant Secretary-Treasurer
Committee of Adjustment