

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAVA/084/2024-Deferred May 29, 2024 RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, AUGUST 07, 2024 AT 7:00 P.M.

| Applicant / Owner | Authorized Agent | Subject Property |
|---------------------------------|---|---------------------------------------|
| Andre Morin Sheri Lynn Morin | Bill Oughtred W.E. Oughtred & Associates Inc. 2140 Winston Park Dr Unit 26 Oakville ON, CANADA L6H 5V5 | 3232 Shoreline Dr PLAN M302 LOT 10 |

**OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 1**

**ZONING: RL2-0
DISTRICT: West**

APPLICATION:

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

| No. | Current | Proposed |
|-----|---|---|
| 1 | <i>Section 6.4.2 (Row RL2, Column 3)</i> The maximum lot coverage shall be 25% where the detached dwelling is greater than 7.0 metres in height. | To increase the maximum lot coverage to 30.23%. |
| 2 | <i>Section 6.5.2 b)</i> The minimum yard from any lot line for an accessory building or structure located in a flankage or rear yard shall be 0.6 metres, provided that the accessory building or structure has a minimum separation distance of 2.0 metres from the dwelling. | To permit the accessory building located in the rear yard a reduced minimum interior side yard of 0.11 m and reduced minimum rear yard of 0.00 m. |

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 August 07, 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.

CAV A/084/2024 – 3232 Shoreline Dr (West District) (OP Designation: Low Density Residential) (*Deferred from May 29, 2024*).

Site Area and Context

A Minor Variance application was previously submitted for consideration by the Committee on May 29, 2024. The application was deferred by the applicant due to staff objection to both variances for lot coverage and interior/rear yard setback. Staff’s objections were specifically related to impacts on abutting properties and publicly accessible Town parkland, further to the potential precedent that would be set for other properties that abut Town owned land. Please see the table below for a list of variances being applied for.

| Zoning By-law 2014-014 | | Agenda | |
|------------------------------|---------------|----------------|----------------|
| Regulation | Requirement | May 29, 2024 | Aug 7, 2024 |
| Lot Coverage | 25% | 30.23% | 30.23% |
| Interior / Rear Yard Setback | 0.6 m / 2.0 m | 0.16 m / 0.0 m | 0.11 m / 0.0 m |

The applicant proposes to permit an existing shed on the property, subject to the variances 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) 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 and abuts the Town’s Sheldon Creek Park, which is designated as Natural Area, Waterfront Open Space and Parks and Open Space.

Regarding Variance #1, it's important to note that if the shed were entirely on private property, the Lot Coverage would increase. The lot-to-building ratio would rise from the proposed 30.23% to 30.42% if the 1.67 square meters of the shed currently outside the property were included. Although the difference in percentage is small, this adjustment would result in a more accurate representation of the privately owned lot coverage elements, rather than an understated figure.

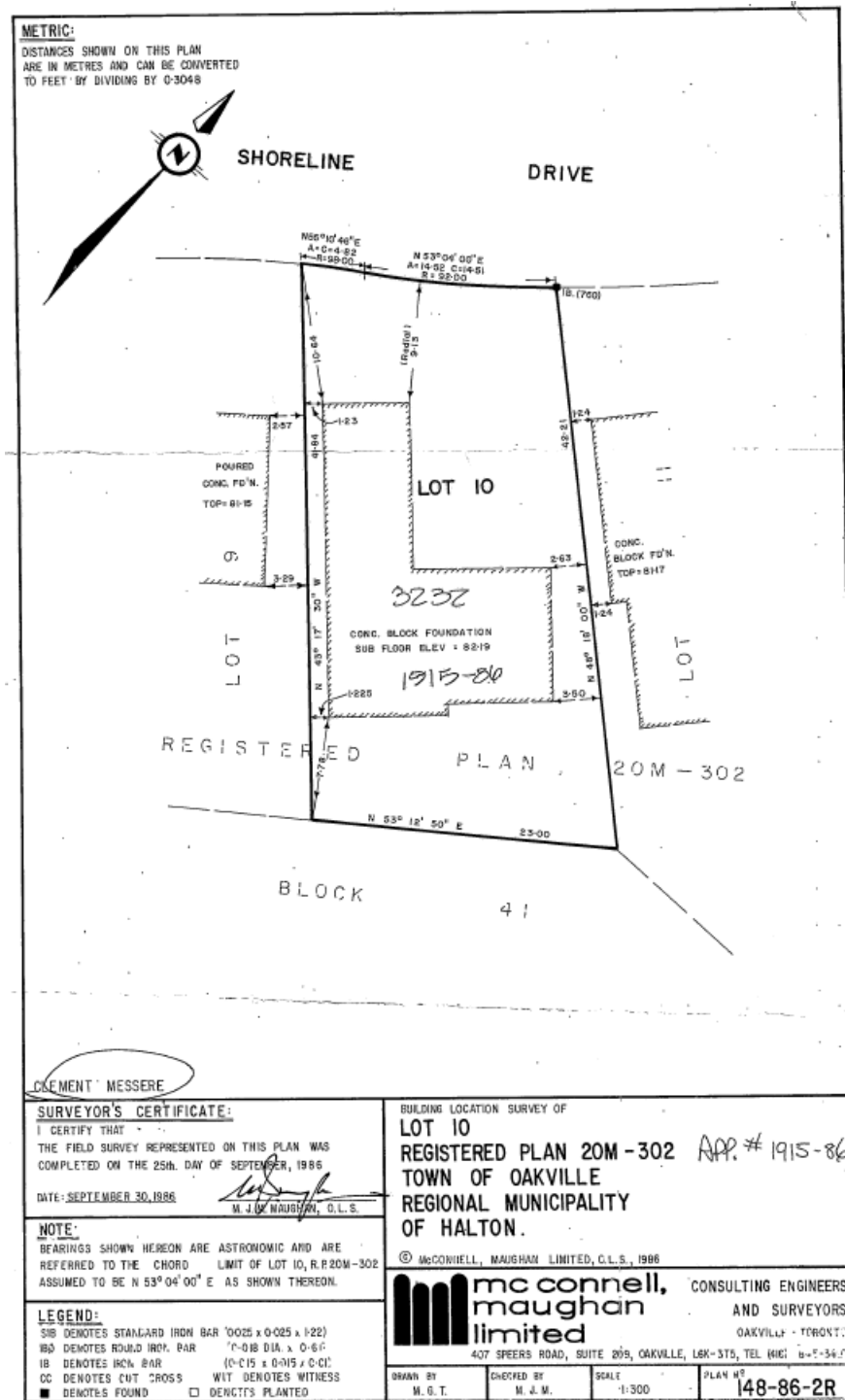
Additionally, staff have concerns regarding variance #2, particularly with the setbacks of the existing shed. These concerns relate to the Livable Oakville Plan policies 11.1.9 b), h), and j), which state:

“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.

j) Development should maintain access to amenities including neighbourhood commercial facilities, community facilities including schools, parks and community centres, and existing and/or future public transit services.”

A review of the property records for the detached dwelling, revealed an as-built survey dated September 30, 1986. However, this survey does not include the pool or shed in the rear yard:



However, a record for the pool dated May 14, 1990, was found, but does not include a survey illustrating the pool or shed. Despite this, the proposal to allow the existing shed to remain 0.16 m from the easterly property line and 0.0 m from the southerly property line on

Town parkland does not, in Staff's opinion, meet the general intent and purpose of the Official Plan. Private amenity spaces, buildings, and structures should be entirely located on private property, not public land. Additionally, it should be noted that steps, a retaining wall, and fencing are also located within the Town parkland. Although these are not subject to the Zoning By-law regulations, they result in an intrusion of private land uses onto Town property.

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

The intent of regulating setbacks for accessory buildings is to provide adequate space for access, construction, maintenance, and repairs. It is evident from the submitted materials that this is not possible, given that the existing shed is located partially on Town parkland:



Staff are of the opinion that the requested Variance #2 does not maintain the general intent and purpose of the Zoning By-law. The photo above clearly shows that access, construction, maintenance, and repairs of the existing shed have taken place outside the subject property, which is not permitted nor acceptable to Parks and Open Space Staff. All encroachments should be removed from the Town parkland.

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

As stated above, it is not desirable for the development of the site, to perpetuate the existing shed and other encroachments. Private land uses that encroach onto Town parkland infringe on the public's use of the space and creates an unpermitted expansion of private amenity space. This results in a negative adverse impact on the public and abutting property owners by reducing available public parkland and increasing private amenity space.

Recommendation:

On this basis, it is staff's opinion that the application does not meet the four tests and staff recommends that the application be denied.

Fire: No Concerns for Fire.

Oakville Hydro: We do not have any comments.

Transit: No Comments received.

Finance: No Comments received.

Metrolinx: No Comments received.

Halton Region:

- It is understood that this application was deferred from May 29, 2024. Regional comments provided on May 23, 2024 still apply.
- 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(1) of the Planning Act in order to permit an increase to the maximum lot coverage and a decrease in the minimum interior side and rear yard, under the requirements of the Town of Oakville Zoning By-Law, for the purpose of constructing an accessory building on the Subject Property.
- **General ROP Policy:** The Region's Official Plan provides goals, objectives and policies to direct physical development and change in Halton. All proposed Minor Variances are located on lands that are designated as 'Urban Area' and are located within the Built Boundary overlay in the 2009 Halton Region Official Plan (ROP). The policies of Urban Area designation support a range of uses and the development of vibrant and healthy mixed-use communities which afford maximum choices for residence, work and leisure. The Urban Area policies state that the range of permitted uses and the creation of new lots in the Urban Area will be per Local Official Plans and Zoning-By-laws. All development, however, will be subject to the policies of the ROP.
- Given the location of the proposed works in relation to the Regional Natural Heritage System (RNHS), the proposed development would trigger the Environmental Impact Assessment (EIA) requirements in accordance with Sections 118 (3) & (3.1)c) of the ROP. Staff would consider it appropriate to waive the Region's EIA requirements in this instance as the proposed development will not likely result in any impacts on the features or ecological functions of the Regional Natural Heritage System.

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.



Jennifer Ulcar
Secretary-Treasurer