

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

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

APPLICATION: CAV A/035/2024

RELATED FILE: N/A

DATE OF MEETING:

BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON WEDNESDAY, MARCH 06, 2024 AT 7:00 P.M.

Owner/Applicant	Agent	Location of Land
Brad Leeming	N/A	PLAN M602 LOT 41 2270 Hilltop Lane Town of Oakville

OFFICIAL PLAN DESIGNATION: Low Density Residential
WARD: 4

ZONING: RL5
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 construction of an outdoor swimming pool on the subject property proposing the following variance to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Section 4.19.3 b)</i> Notwithstanding any other provision of this By-law, no accessory structure, outdoor swimming pool, or hot tub shall be located any closer than 3.0 metres from the limit of the TransCanada Pipeline right-of-way.	To decrease the setback for the outdoor swimming pool from the limit of the TransCanada Pipeline right-of-way to 1.5 metres.

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 March 6, 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/035/2024 - 2270 Hilltop Lane (West District) (OP Designation: Low Density Residential)

The applicant proposes to construct a pool subject to 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) 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. The proposal complies with Livable Oakville.

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

The intent of requiring a 3.0 metres setback from a pipeline is to protect the pipeline from any disturbances during construction. The applicant has received a letter from TransCanada PipeLines Limited confirming no concerns with the reduced setback for the pool; therefore, staff are of the opinion that the request maintains the general intent and purpose of the Zoning By-law. It is noted that the proposed swimming pool complies with the minimum rear yard setback of a swimming pool to the rear lot line of 1.5 metres.

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 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. The pool be constructed in general accordance with the submitted site plan dated August 23, 2023; 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 concerns 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 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 setback for the outdoor swimming pool from the limit of the TransCanada Pipeline right-of-way, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of an outdoor swimming pool on the Subject Property.

TransCanada Pipelines:



Authorized commenting Agency for



February 23, 2024

Heather McCrae
Secretary-Treasurer, Committee of Adjustment

Town of Oakville
1225 Trafalgar Road
Oakville, ON L6H 0H3

Via email: heather.mccrae@oakville.ca

Dear Heather McCrae:

**RE: Application for Minor Variance
2270 Hilltop Lane, Town of Oakville**
Brad Leeming
Municipal File: CAV A/035/2024
MHBC File: PAR 50260

MacNaughton Hermesen Britton Clarkson (MHBC) are the planning consultants for TransCanada PipeLines Limited (TCPL). This letter is in response to a notification and request for comments for the Minor Variance application outlined above. It is our understanding that the purpose of the variance is to facilitate the construction of an outdoor swimming pool on the lands identified as 2270 Hilltop Lane (the "Subject Lands"). TCPL has two (2) high-pressure natural gas pipelines contained within a right-of-way ("easement") crossing the Subject Lands.

TCPL's pipelines and related facilities are subject to the jurisdiction of the Canada Energy Regulator (CER) – formerly the National Energy Board (NEB). As such, certain activities must comply with the Canadian Energy Regulator Act ("Act") and associated Regulations. The Act and the Regulations noted can be accessed from the CER's website at www.cer-rec.gc.ca.

We understand that the proposed variance seeks a setback of 1.5 metres from the limit of the TCPL right-of-way, whereas Zoning By-law 2014-04 requires a minimum setback of 3.0 metres from the limit of the TCPL right-of-way. It should be noted that Block 39 of Registered Plan 20M-599 contains TCPL's easement and a Union Gas (now Enbridge Gas) easement. As the Enbridge Gas easement is located between TCPL's easement and the Subject Lands, **TCPL has no concerns with the proposed variance to Zoning By-law 2014-014.**

TCPL requests the following regulatory requirements are forwarded to the applicant:

1. Written consent from TCPL must be obtained before any of the following:
 - a. Constructing or installing a facility across, on, along or under a TCPL pipeline right-of-way (easement). A facility may include, but is not limited to: driveways, roads, access ramps, trails, pathways, utilities, berms, fences/fence posts;

- b. Conducting ground disturbance (excavation or digging) on TCPL's right-of-way or within 30 metres of the centreline of TCPL's pipeline (the "Prescribed Area");
- c. Driving a vehicle, mobile equipment or machinery across a TCPL right-of-way outside the travelled portion of a highway or public road;
- d. Using any explosives within 300 metres of TCPL's right-of-way; and
- e. Use of TCPL's Prescribed Area for storage purposes.

How to apply for written consent:

- Determine the location of your work relative to TCPL's facilities.
 - When planning, and before any of the work or activities, listed above, can begin, a request for written consent must be submitted to TCPL through our online application form
 - We no longer accept applications through email
 - Location of the work is required, along with the proximity to TCPL's right-of-way
 - This information can be obtained through survey plans, or through a locate request
 - Make a locate request either online (ClickBeforeYouDig.com) or by calling your local One-Call Centre.
 - The One-Call Centre will notify the Proponent of buried utilities in your area, who will send representatives to mark these facilities with flags, paint or other marks, helping you avoid damaging them. Often written consent for minor activities can be obtained directly from a regional TCPL representative through a locate request.
 - Apply for written consent using TCPL's [online application form](#) or call 1-877-872-5177.
 - Application assessment and consent. Once your information has been assessed and potential impacts have been evaluated, TCPL may:
 - Grant consent without any conditions
 - Grant consent that requires certain conditions to be met to assure safety, or
 - Not grant consent
2. No buildings or structures shall be installed anywhere on TCPL's right-of-way. Permanent buildings and structures are to be located a minimum of 7 metres from the edge of the right-of-way. Temporary or accessory structures are to be located a minimum of 3 metres from the edge of the right-of-way.
 3. A minimum setback of 7 metres from the nearest portion of a TCPL right-of-way shall also apply to any parking area or loading area, including any parking spaces, loading spaces, stacking spaces, bicycle parking spaces, and any associated drive aisle or driveway.
 4. During any construction activities in proximity of the right-of-way, the Proponent must install and maintain temporary fencing along the limits of TCPL's right-of-way to prevent unauthorized access onto the pipeline right-of-way with heavy equipment. The fence must meet TCPL's specifications concerning type, height and location and must be maintained by the Proponent for the duration of construction.
 5. Storage of materials and/or equipment on TCPL's right-of-way is not permitted.
 6. Any landscaping of TCPL's right-of-way is to be approved in writing by TCPL and done in accordance with TCPL's Landscaping Guidelines:
 - a. TCPL's Right-of-way is to be seeded with Canada #1 seed.
 - b. Grantee shall ensure a 5 metre continuous access way is maintained over, through and within the right-of-way to facilitate access for future pipeline operation and maintenance activities.
 - c. No portion of trees or shrubs at the time of maturity shall be permitted to encroach within 5 metres of the edge of the TCPL pipeline within the right-of-way.

- d. No trees or shrubs at the time of maturity that will reach a height greater than 4 metres shall be planted within the right-of-way.
 - e. Tree roots must not interfere with the pipeline.
 - f. A minimum of 5 metres between all groups of trees/shrubs will be established. A group is defined as 3-5 trees/shrubs.
 - g. Irrigation systems are not permitted within TCPL's right-of-way.
7. If TCPL's pipelines suffer contact damage or other damage as a result of an Proponent's operations, stop work immediately and notify TCPL at once.
8. The Proponent shall ensure through all contracts entered into, that all contractors and subcontractors are aware of and observe the foregoing terms and conditions.

Enclosed is a copy of TC Energy's Work Safely Handbook for additional information on constructing near TCPL's pipelines. Additional information can be found on TC Energy's [website](#).

Thank you for the opportunity to provide comments. Kindly forward a copy of Notice of Decision to TCEnergy@mhbcplan.com. If you have any questions, please do not hesitate to contact our office.

Sincerely,

MHBC



Kaitlin Webber, MA
Planner | MHBC Planning

on behalf of TransCanada PipeLines Limited

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 pool be constructed in general accordance with the submitted site plan dated August 23, 2023.
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.



Heather McCrae, ACST
Secretary-Treasurer