

COMMITTEE OF ADJUSTMENT

MINOR VARIANCE REPORT

STATUTORY AUTHORITY: Section 45 of the Planning Act, 1990

APPLICATION: A/020/2025

RELATED FILE: N/A

DATE OF MEETING: February 19, 2025

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
D. SCOTT J. SCOTT	RUTH VICTOR RUTH VICTOR AND ASSOCIATES 191 Main St S Waterdown ON L0R 2H0	PLAN M457 PT BLK 4 RP 20R9216 PARTS 22,23,24,25 9 Southaven Pl Town of Oakville

OFFICIAL PLAN DESIGNATION: Medium Density Residential
WARD: 1

ZONING: RM1 sp:135, Residential
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 a hot tub on an uncovered platform (deck) proposing the following variances to Zoning By-law 2014-014:

	Current zoning by-law requirements	Variance request
1	<i>Section 4.16.1 a)</i> If located in the rear yard or interior side yard, the swimming pool or hot tub shall be set back 1.5 metres from the applicable lot line.	To reduce the setback to 0.0 metres for a hot tub along the easterly interior lot line.
2	<i>Section 4.16.1 d)</i> The maximum height of a swimming pool or hot tub shall be 1.5 metres above grade.	To increase the maximum permitted height to 4.3 metres above grade.

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)

A/020/2025 - 9 Southaven Place (West District) (OP Designation: Medium Density Residential)

The applicant proposes to permit a hot tub on an uncovered platform (deck), subject to the variances listed above.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variance from the 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:

Site Area and Context

The subject property is part of a townhouse block that fronts onto Southaven Place south of Marine Drive and backs onto Lake Ontario and Town of Oakville owned lands.



Aerial Photo of 9 Southaven Place

The applicant’s letter that accompanied the application clearly explains what is proposed. It outlines that the configuration of the deck is unique in the fact that it acts as the backyard for the townhome development in which it is located. Below the deck is a driveway that serves to provide access to the townhome’s garage. The topography of the site slopes towards the lake where the ground floor is at grade in the front and is one storey above grade in the rear. The deck is accessible only from the dwelling’s interior and not from grade. Below are images from the report which provide explanation for what is proposed.



Photo provided by Applicant of Existing Rear Yard Deck and Driveway access to Garage at Grade



Photo provided by Applicant of View to Northeast from Waterfront Trail

The proposed hot tub will be located at the inside corner of the deck, approximately 0.6 m from the patio doors accessing the deck. The proposed hot tub is 0.806 m tall and would be minimally visible on the deck when observed from the park.

The applicant also provided a structural adequacy for hot tub certificate prepared by a professional engineer which indicates that the existing hollow core slab deck, supported by a steel beam is capable to carry a hot tun with maximum operational weight of 4,000 lb and size of 8 ft by 8 ft over the steel beam.



Photo of Steel Beam provided by Applicant

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

The subject property is designated Medium Density Residential which allows for a range of medium density housing types including multiple-attached dwelling units, apartments, retirement homes and long-term care homes. It is noted that no change to the deck itself nor access to the deck is proposed, and the hot tub is setback and would not impact the existing neighbourhood character. Accordingly, the proposal meets the general intent and purpose of the Official Plan.

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

The applicant is seeking relief from the Zoning By-law 2014-014, as amended, as follows:

Variance #1 – Minimum hot tub setback to a lot line (No Objection) – reduce 1.5 m to 0.0 m

Variance #2 – Maximum height of a hot tub (No Objection) – increase 1.5 m to 4.3 m

The intent of regulating the setback for a pool or hot tub 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. The intent of regulating height of a pool or hot tub is similar to the intent of regulating an accessory building which is to ensure that they are of an appropriate scale and mass and are subordinate to the principle use of the property.

In this instance, the variance for height is a technical variance since it is measured from grade and the hot tub is located on a raised deck. The hot tub is a standard height. Typically, staff do not support permanent structures to be located at a property line due to concerns regarding maintenance and drainage. This is a unique scenario where a hot tub is a movable structure that could be removed for maintenance, if required, and addressed within the subject property. It is also located on a raised deck above a parking area / driveway so there are not concerns regarding drainage. There is a privacy fence located next to the hot tub which reduces impact on the adjacent property's private amenity area.

Staff are of the opinion that the requested variances maintain 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 variances are 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 hot tub be placed in general accordance with the submitted site plan dated December 2024.

Fire: No concerns for fire.

Halton Region:

- Due to Provincial legislation, Halton Region's role in land use planning and development matters has changed. The Region is no longer responsible for the Regional Official Plan - as this has become the responsibility of Halton's four local municipalities.
- 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 to the hot tub setback to 0.0 m along the easterly interior lot line and an increase to the maximum permitted height to 4.3m above grade, under the requirements of the Town of Oakville Zoning By-law for the purpose of permitting a hot tub on an uncovered platform (deck) on the Subject Property.

Metrolinx: Upon review, we note no properties fall within our review zones.

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

Bell Canada: No comments received.

Union Gas: No comments received.

Letter(s) in support – 1

----- Forwarded message -----
From: **David Prescott** [REDACTED]
Date: Mon, Dec 2, 2024 at 2:47PM
Subject: Hot Tub on Back Deck of 9 Southaven Place
To: [REDACTED]

Jim,

In view of your engineer's report dated Dec 1, 2024 stating that the back deck is capable of supporting your proposed hot tub, and provided that the hot tub does not extend beyond approximately 10 feet from the rear wall of your townhome, I have no problem with your installing the hot tub as proposed.

I appreciate your consulting us about this installation, to the extent that it may affect us.

Regards,

David Prescott

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, 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 states, 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 hot tub be placed in general accordance with the submitted site plan dated December 2024.

Sharon Coyne

Sharon Coyne
Assistant Secretary-Treasurer
Committee of Adjustment