

# COMMITTEE OF ADJUSTMENT

## **MINOR VARIANCE REPORT**

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

**APPLICATION: A/068/2025**

**RELATED FILE: N/A**

### **DATE OF MEETING:**

By videoconference and live-streaming video on the Town of Oakville's Live Stream webpage at [oakville.ca](http://oakville.ca) on Wednesday, May 28 at 7 p.m.

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
V. Virmani	William Hicks William Hicks Holdings Inc. 905 Sangster Ave Mississauga ON, L5H 2Y3	PLAN 343 LOT 9 37 Colonial Cres Town of Oakville

**OFFICIAL PLAN DESIGNATION: Low Density Residential and Waterfront Open Space**

**ZONING: RL1-0, Residential**

**WARD: 3**

**DISTRICT: East**

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### **APPLICATION:**

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 a two-storey addition to the existing two storey detached dwelling on the subject property proposing the following variances to Zoning By-law 2014-014:

No.	Current	Proposed
1	<i>Section 5.8.2 c) iii)</i> The maximum width of a driveway shall be 9.0 metres for a lot having a lot frontage equal to or greater than 18.0 metres.	To increase the maximum width of the driveway to be 13.20 metres for a lot having a lot frontage equal to or greater than 18.0 metres.
2	<i>Table 6.3.1 (Row 9, Column RL1)</i> The maximum dwelling depth shall be 20.0 m.	To increase the maximum dwelling depth to 25.4 m.
3	<i>Section 6.4.6 c)</i> The maximum height shall be 9.0 metres.	To increase the maximum height to 9.42 metres.

## **CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

### **Planning & Development:**

**(Note:** Planning & Development includes a consolidated comment from the relevant district teams including Current, Long Range and Heritage Planning, Urban Design and Development Engineering)

The applicant is proposing to construct a two-storey addition to the existing two-storey detached dwelling and to expand the driveway area, subject to the variances listed above.

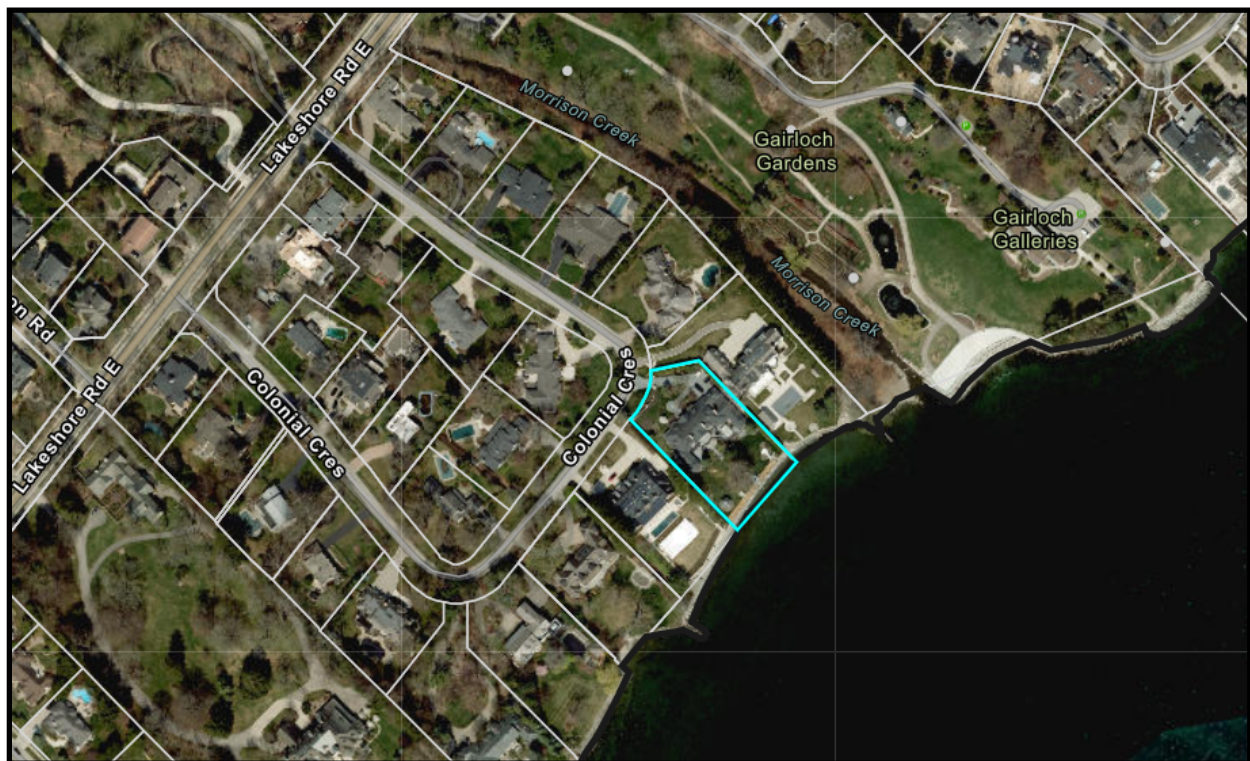
Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to authorize minor variances from provisions of the Zoning By-law provided the requirements set out under 45(1) in the *Planning Act* are met. Staff's comments concerning the application of the four tests to this minor variance request are as follows:

### **Site Area and Context**

The subject lands are located within an established neighbourhood that consists predominantly of two-storey dwellings on large lots, designed in a range of architectural forms with two and three-car garages. Many newer two-storey dwellings exist in the surrounding neighbourhood. The property also has an irregular topography and falls within Conservation Halton's regulated area limits as it abuts Lake Ontario.

Additionally, the neighbourhood consists of single and double car driveways, some of them circular, and at varying lengths. Most properties also feature landscaped front yards with mature vegetation on both public and private property, and the driveway is not the dominant feature of the front yard. Figures 1 and 2 below outline both the location of the subject lands and surrounding environs, along with the existing single detached dwelling on the property.

The property is also subject to a scoped site plan application to further assess impacts on drainage and grading since the property abuts Lake Ontario which is currently under review by Staff. A new easement will also be required on the lot due to a storm main on the property line.



**Figure 1:** Aerial Photo – 37 Colonial Crescent



**Figure 2:** Photograph of the subject lands – 37 Colonial Crescent (Photo taken on May 15, 2025)

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

The subject lands are designated Low Density Residential and Waterfront Open Space in the Official Plan. Development within the Waterfront Open Space area is required to be evaluated using the criteria established in Section 17.3. No portion of the proposed addition is to be constructed within the Waterfront Open Space area. Therefore, the proposal conforms with this Section of Livable Oakville. Development within stable residential communities shall also be evaluated against the criteria in Section 11.1.9 to ensure new development will maintain and protect the existing neighbourhood character. The proposal was evaluated against the criteria established under Section 11.1.9, and the following criteria apply:

*“Policies 11.1.9 a), b), and h) state:*

- a) The built form of development, including scale, height, massing, architectural character and materials, is to be compatible with the surrounding neighbourhood.*
- 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.”*

Section 6.1.2 c) of Livable Oakville provides that the urban design policies of Livable Oakville will be implemented through design documents, such as the Design Guidelines for Stable Residential Communities, and the Zoning By-law. The variances have been evaluated against the Design Guidelines for Stable Residential Communities, which are used to direct the design of the new development to ensure the maintenance and protection of the existing neighbourhood character in accordance with Section 11.1.9 of Livable Oakville. In particular, the following sections apply to the proposed development:



***“3.3.2 Driveways and Walkways:*** *New development should be designed with minimal paved areas in the front yard. These paved areas should be limited in width to accommodate a driveway plus a pedestrian walkway.*

***3.3.1 Landscaping and Tree Preservation:*** *New development should make every effort to retain established landscaping, such as healthy mature trees and existing topography, by designing new dwellings and building additions around these stable features.”*

The proposal seeks to construct new two-storey additions at the rear of the existing dwelling. There was a previous minor variance approval in October 2006 (A/187/2006) permitting a maximum dwelling depth of 25.49 metres. The proposed dwelling depth being sought for the new additions is 25.40 metres, less than what was previously approved and constructed.

Additionally, the height of the existing dwelling is 10.07 metres, whereas the requested height variance for the proposed addition is 9.42 metres. Based on the fact that the new addition results in a dwelling depth and building height that are similar to the existing built form on the subject lands, it is staff's opinion that variances #2 and #3 maintain the general intent and purpose of the Official Plan. These variances contribute to a proposal that would help to protect and maintain the character of the existing neighbourhood and will not result in any adverse impacts to abutting neighbours.

However, the proposed driveway width variance being requested, along with the reconfiguration of the driveway to be circular, results in an undesirable condition on the property with the increased amount of hardscaping and impermeable surfaces being introduced on the site. Additionally, the driveway works will result in the loss of multiple mature trees on the property. It is therefore staff's opinion that variance #1 does not maintain the general intent and purpose of the Official Plan as this variance contributes to a proposal that would not maintain or protect the existing neighbourhood character. As shown below, Figures 3 and 4 outline the differences between the existing driveway condition on the subject lands as compared to the driveway currently being proposed.

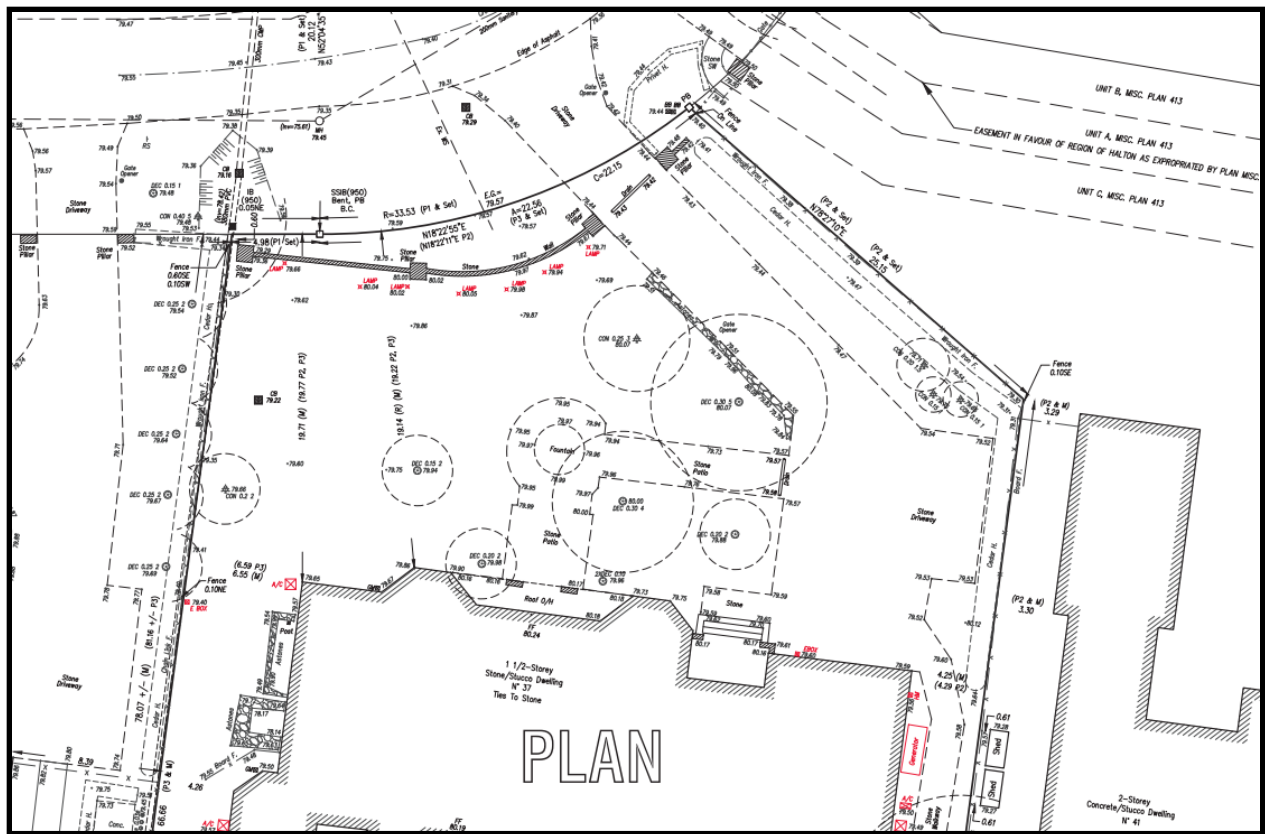


Figure 3: Existing Driveway Condition – 37 Colonial Crescent

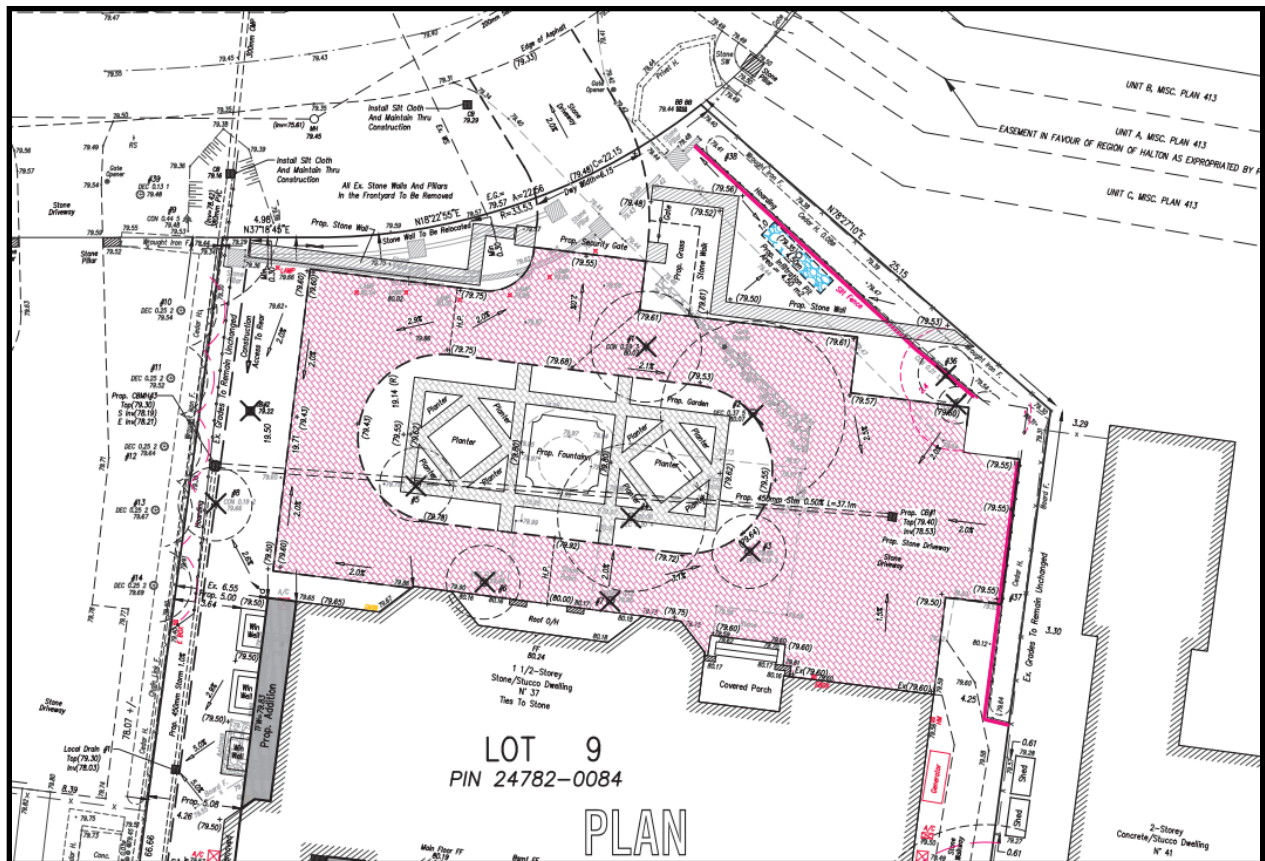


Figure 4: Proposed Driveway Condition – 37 Colonial Crescent

**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 – Driveway Width (Objection) – Increase driveway width from 9.0 m to 13.20 m**

The intent of regulating driveway width is to prevent the construction of a driveway that is wider than the width of the garage, in order to minimize the amount of hardscaping in the front yard. Maintaining an appropriate amount of landscaping in the front yard also promotes improved drainage conditions for redeveloped sites.

The increase in the driveway width and reconfiguration of the driveway to be circular will result in a large portion of the front yard being hardscape, necessitate the removal of multiple mature trees, and contribute to the driveway becoming a dominant feature on the front yard. On this basis, staff are of the opinion that the requested variance does not maintain the general intent and purpose of the Zoning By-law.

**Variance #2 – Maximum Dwelling Depth (No Objection) – Increase from 20.0 m to 25.4 m****Variance #3 – Maximum Dwelling Height (No Objection) – Increased from 9.0 m to 9.42 m**

The intent of the Zoning By-law provision for maximum dwelling depth is to ensure adequate rear yard amenity space is maintained on site, and to prevent any shadowing, privacy, or massing impacts on abutting properties. The intent of regulating the residential height is to prevent a dwelling from having a mass and scale that appears larger than the dwellings in the surrounding neighbourhood. The applicant is proposing an increase in the dwelling depth from 20.0 m to 25.4 m resulting in a total increase of 5.4 m. The proposed addition is being constructed at the rear of the dwelling and results in a total depth that is less than the previous approval for the subject property. There will be no shadowing, privacy or other built form impacts on abutting properties, and there is still a substantial amount of rear yard amenity space being maintained. The proposed increase in building height from 9.0 m to 9.42 m results in a total increase of 0.42 m above the maximum permitted under the by-law. The increase in height is negligible as experienced from the public realm since the height will be located at the rear of the dwelling, and the existing home provides for sufficient setbacks so that the proposed increase will not result in any massing, scale, or shadow impacts on abutting properties. On this basis, staff are of the opinion that the requested variances maintain the general intent and purpose of the Zoning By-law.

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

Staff are of the opinion that the variance proposed for driveway width does not represent the appropriate development of the subject property. The increase in the driveway width and reconfiguration of the driveway to be circular will result in a large portion of the front yard being hardscape, necessitate the removal of multiple mature trees, and contribute to the driveway becoming a dominant feature on the front yard. As such, the requested variance is not appropriate or desirable for the development of the lands. However, Staff do not object to the requested variances related to the dwelling depth or building height, as those are minor in nature and meet the foregoing tests.

**Recommendation:**

Staff do not object to Variances #2 and #3. Should these minor variance requests be approved by the Committee, the following conditions are recommended:

1. The dwelling be constructed in general accordance with the submitted site plan and elevation drawings dated April 1, 2025, to the satisfaction of the Director of Planning and Development; 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.

It is staff's opinion that Variance #1 does not maintain the general intent and purpose of the Official Plan, Zoning By-law, is not minor in nature, and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet all four tests under the *Planning Act* and staff recommends that Variance #1 be denied.

**Bell Canada:** No comments received.

**Halton Conservation:** No comments received.

**Finance:** No comments received.

**Fire:** No concerns for Fire.

**Metrolinx:** No comments/concerns with this application.

**Oakville Hydro:** No comments.

**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 an increase to the maximum width of the driveway to be 13.20 metres, an increase to the maximum dwelling depth to 25.4 metres and an increase to the maximum height to 9.42 metres, under the requirements of the Town of Oakville Zoning By-law, for the purpose of permitting the construction of a two-storey addition to the existing two storey detached dwelling on the Subject Property.

**Transit:** No comments.

**Union Gas:** No comments received.

**Letter(s) in support – 0**

**Letter(s) in opposition – 0**

**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.
- The proponent is cautioned that during development activities, should archaeological materials be found on the property, the Ministry of Citizenship and Multiculturalism (MCM) must be notified immediately (archaeology@ontario.ca), as well as the Town of Oakville and, if Indigenous in origin, relevant First Nations communities. If human remains are encountered during construction, the proponent must immediately contact the appropriate authorities (police or coroner) and all soil disturbances must stop to allow the authorities to investigate, as well as the Registrar, Ontario Ministry of Public and Business Service Delivery—who administers provisions of the Funeral, Burial and Cremation Services Act—to be consulted, as well as the MCM and the Town of Oakville, and, if considered archaeological, the relevant First Nations communities. All construction activity in the vicinity of the discovery must be postponed until an appropriate mitigation strategy is identified and executed.
- 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 dwelling be constructed in general accordance with the submitted site plan and elevation drawings dated April 1, 2025, to the satisfaction of the Director of Planning and Development; 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.

It is staff's opinion that Variance #1 does not maintain the general intent and purpose of the Official Plan, Zoning By-law, is not minor in nature, and is not desirable for the appropriate development of the subject lands. Accordingly, the application does not meet all four tests under the *Planning Act* and staff recommends that Variance #1 be denied.

*J. Ulcar*

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Jen Ulcar  
Secretary-Treasurer  
Committee of Adjustment