

Memorandum

---

**To: Heather McCrae, Secretary Treasurer**

**From: Planning Services**

**Date: April 6, 2017**

**Subject: Comments on Minor Variance Applications for the  
Committee of Adjustment Meeting – April 11, 2017**

---

The following comments are submitted with respect to the matters before the Committee of Adjustment at its meeting to be held on April 11, 2017. 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/067/2017 – 309 Church Street (East District)** (OP Designation: Central Business District)

The applicant proposes to establish a rooftop terrace on the three-storey mixed use building. The applicant requests the variances listed above.

Official Plan – Livable Oakville

The subject lands are designated Central Business District within Downtown Oakville. Section 13.2 states that retail and service commercial intensification is intended to be accommodated within this designation.

Minor Variance

The following analysis and comments has been provided on the requested variances:

Variance #1

The applicant requests relief from Zoning By-law 2014-014 to permit a rooftop terrace whereas roof top terraces are not permitted in the Central Business District (CBD) Zone.

The intent of regulating rooftop terraces is to ensure their use is compatible with surrounding land uses.

### Variance #2

The applicant is seeking relief from Zoning By-law 2014-014 to permit a reduction in the minimum setback for the rooftop terrace from the edge of the roof from 2 m to 0 m. The intent of regulating the setback of the rooftop terrace is to prevent potential negative overlook or privacy impacts onto abutting properties as well as provide appropriate safety measures.

### Analysis

The subject lands contain an existing three-storey mixed use building. The applicant intends to construct a fourth storey addition with a rooftop terrace directly above the existing third storey.

Rooftop Terrace permissions and regulations were added to the Zoning By-law at the end of 2016 which were provided by an Ontario Municipal Board decision. The decision reflects regulations for these uses, but also where these uses are permitted. In accordance with Zoning By-law 2014-014, as amended by the OMB decision, rooftop terraces are only permitted in Residential High (RH), Residential Medium (RM), Mixed Use (MU), Neighbourhood Commercial (C1), Community Commercial (C2), Core Commercial (C3) and Office Commercial (E1) zones. Rooftop terraces are not permitted within the Central Business District (CBD) Zone, as such, it is not within the intent of the Zoning By-law to provide rooftop terraces as a permitted use within this zone.

Planning staff have initiated a study to review the current rooftop terrace and balcony provisions of the Zoning By-law to determine the suitability and merits of such uses in other zones.

### Conclusion:

In summary, based on the application as submitted, staff are of the opinion that the application does not maintain the general intent and purpose of the Zoning By-law. Should the Committee's evaluation of the application differ from staff, the Committee should determine whether approval of the proposed variances would result in a development that is appropriate for the site.

**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.

Prepared By:

Kate Mihaljevic, MCIP, RPP  
Planner, Current Planning

Submitted by:

Heinz Hecht, MCIP, RPP  
Manager, Current Planning – East District