**COMMITTEE OF ADJUSTMENT** 



City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5 Telephone (905) 546-2424, ext. 4221 E-mail: <u>cofa@hamilton.ca</u>

### NOTICE OF PUBLIC HEARING Minor Variance

### You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
- Applicant/agent on file, or
- Person likely to be interested in this application

APPLICATION	AN/A-23:344	SUBJECT	1261 MOHAWK ROAD UNIT 1,
NO.:		<b>PROPERTY</b> :	ANCASTER
ZONE:	"R4-666" (Residential)	ZONING BY-	Zoning By-law former Town of
		LAW:	Ancaster 87-57, as Amended

### APPLICANTS: Owner: MOHAMAD ALAYCHE Applicant: STALLION HOMES (HASSAN ALAYCHE) Agent: A.J. CLARKE & ASSOCIATES LTD. (STEVE FRASER)

The following variances are requested:

1. A minimum rear yard setback of 5.0 metres to a deck over 1.2 metres in height and over 15 m<sup>2</sup> in size shall be provided whereas the by-law requires a minimum rear yard setback of 6.0 metres.

**PURPOSE & EFFECT:** As to permit the construction of a new deck to complement the existing detached dwelling.

Notes: N/A

This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.

This application will be heard by the Committee as shown below:

DATE:	Tuesday, February 13, 2024
TIME:	2:30 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	City Hall Council Chambers (71 Main St. W., Hamilton)
	To be streamed (viewing only) at
	www.hamilton.ca/committeeofadjustment

For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit <u>www.hamilton.ca/committeeofadjustment</u>
- Visit Committee of Adjustment staff at 5<sup>th</sup> floor City Hall, 71 Main St. W., Hamilton
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221

### PUBLIC INPUT

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than February 9, 2024

**Orally:** If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than February 12, 2024

### FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding AN/A-23:344, you must submit a written request to <u>cofa@hamilton.ca</u> or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing <u>cofa@hamilton.ca</u> or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.



Subject Lands

DATED: January 25, 2024

Jamila Sheffield, Secretary-Treasurer Committee of Adjustment Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public, and may include posting electronic versions.

### **COMMITTEE OF ADJUSTMENT**



City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5 Telephone (905) 546-2424, ext. 4221 E-mail: <u>cofa@hamilton.ca</u>

## PARTICIPATION PROCEDURES

### Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing <u>cofa@hamilton.ca</u> or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.** 

Comments are available the Friday prior to the Hearing and are available on our website: <a href="https://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a>

### **Oral Submissions**

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

### 1. Virtual Oral Submissions

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing to** participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email <u>cofa@hamilton.ca</u>. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

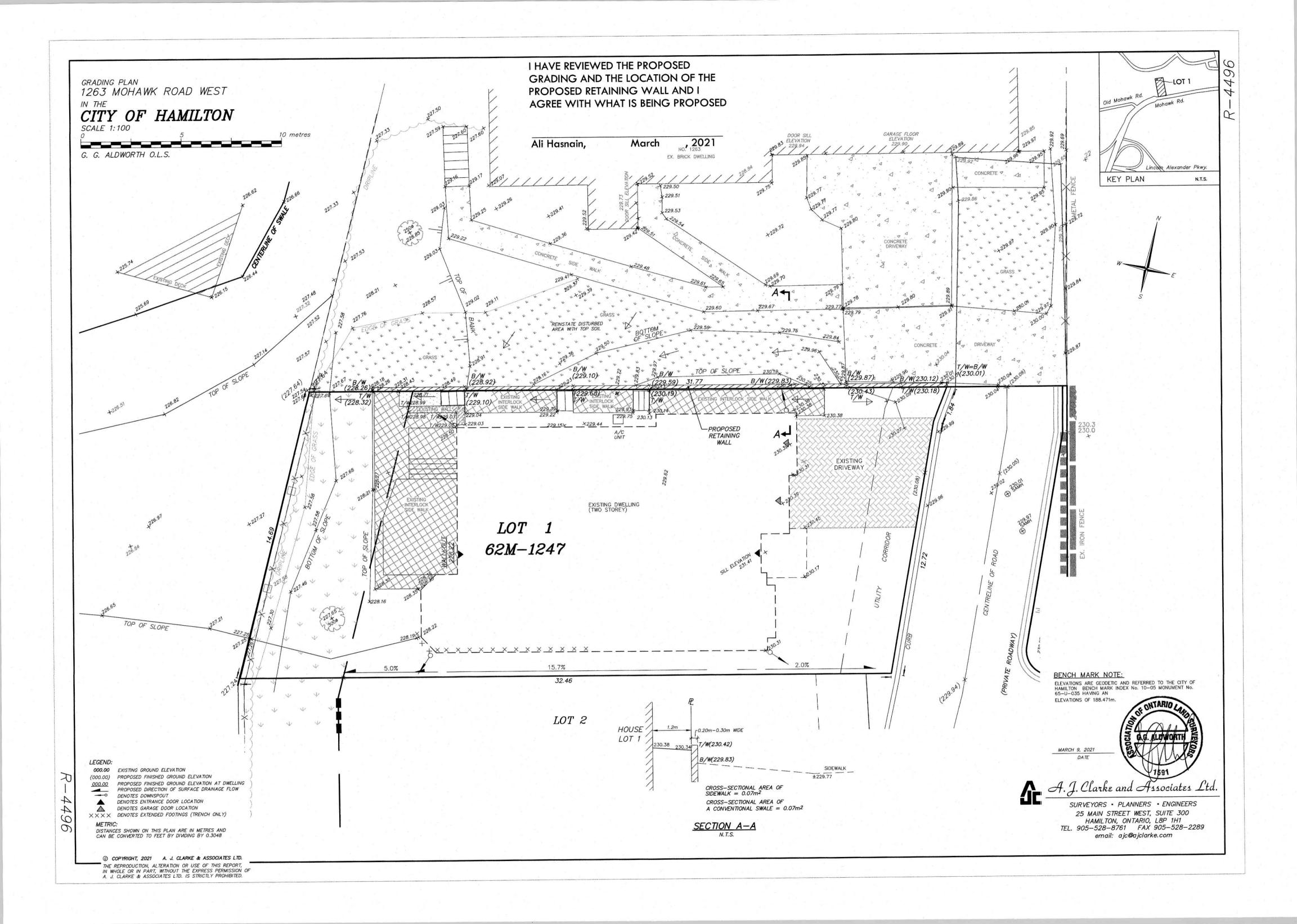
A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

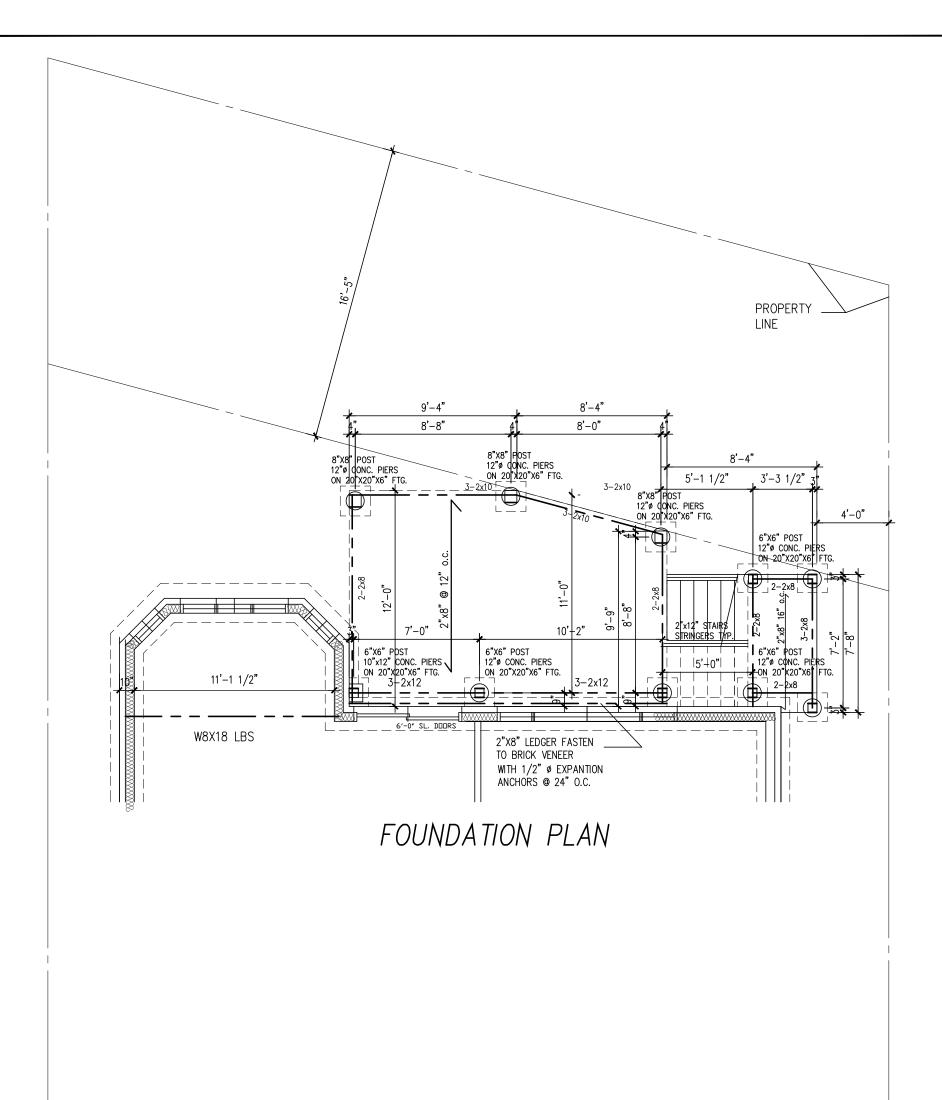
### 2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email <u>cofa@hamilton.ca</u> or by phone at 905-546-2424 ext. 4221.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.





NOTE: PROVIDE BUILT-UP WOOD STUD POST EQUAL TO STUD DEPTH x WIDTH OF BEAM, AT BOTH ENDS OF STEEL or WOOD BEAM.	PROVIDE DOUBLE JOIST FRAMING UNDER ALL PARALLEL WALLS ABOVE AND AROUND STAIRS	NOTE RE SPECIFICATIONS: FOR STANDARD FOUNDATION AND FRAMING NOTES, CODE REQUIREMENTS AND TYPICAL CONSTRUCTION ASSEMBLIES REFER TO SPECIFICATION SHEETS.	I review and take responsibility for the design work on behalf of a firm registered under subsection 2.17.4 of the building code. I am qualified, and the firm is registered. in the appropriate classes/ categories. Individual BCIN : 24770 Firm BCIN : 30203 I certify that: 1. The information contained in this schedule is true to the best of my knowledge. 2. I have authority to bind the corporation. Date: Signature of Designer:
	PATIO DECK		4 BEDROOM 2 STOREY
	Drawn by:	1st Floor Area: sq.ft.	LOT 1 MOHAWK ROAD WEST
ZEINA	Scale: 3/16" = 1'-0"	2nd Floor Area: sq.ft. Total Area: sq.ft.	
	Date: JAN 2020		
HOMES	Project No.:	Open to Above Area Included : sq.ft.	Dwg. No.: 1/3



A. J. Clarke and Associates Ltd. SURVEYORS · PLANNERS · ENGINEERS

December 22, 2023

City of Hamilton Committee of Adjustment 71 Main Street West, 5th Floor Hamilton, ON L8P 4Y5

Ms. Jamila Sheffield Attn: Secretary Treasurer, Committee of Adjustment (email: Jamila.Sheffield@hamilton.ca) Committee of Adjustment (cofa@hamilton.ca)

#### 1261 Mohawk Road, Ancaster (Hamilton): Routine Minor Variance Application Submission Re:

Dear Ms. Sheffield:

A.J. Clarke and Associates Ltd. has been retained by the owners of the subject lands, municipally known as 1261 Mohawk Road, Ancaster, for the purposes of submitting the enclosed Routine Minor Variance Application. Below is a summary of the materials submitted to your attention:

- One (1) digital copy of the required filled and signed Minor Variance Application Form;
- One (1) digital copy of the stamped Grading Plan, prepared by A.J. Clarke & Associates Ltd, dated November 29<sup>th</sup>, 2023;
- Correspondence between applicant and Plans Examiner Gillian Robinson, dated August 28<sup>th</sup> to September 18<sup>th</sup>, 2020;
- Correspondence between applicant and Plans Examiner Gillian Robinson, dated June 8<sup>th</sup>, 2021;
- Building Permit Review Letter 3, prepared by Gillian Robinson, dated June 8<sup>th</sup>, 2021; •
- One (1) cheque in the amount of \$675.00 representing the required Routine Minor Variance Application fee for a deck;

This analysis is in support of the submitted Minor Variance Application for the subject lands. The requested minor variance is to permit a rear yard setback of 5 metres for a raised deck larger than 15m<sup>2</sup> and 1.2 metres or more above the average grade.

The applicant, Stallion Homes care of Hassan Alayche, went through the routine permit process to construct a raised deck within the rear yard of Unit 1 at 1261 Mohawk Road in Ancaster. Permit 20-147602-00 R9 was opened to construct the now-built raised deck. Plans Examiner Gillian Robinson reviewed the permit application and proposed drawings for the deck and correspondence for same is included for ease of reference with this application package. Initial review required only a finalized grading plan after construction to finalize and issue building permit.

Eight months later, as construction of the deck was nearing completion, Gillian Robinson contacted the applicant to inform them of a staff oversight:

"I am reviewing some older applications and unfortunately came across an error in my original zoning review of the above noted application. The required rear yard setback for deck application 20 147602 for 1261 Mohawk Rd Unit 1 is 6m and only 5m is proposed, please see the updated review letter and advise how you would like to proceed."



The intention of the applicant was to build a deck in compliance with Zoning By-law, however this setback requirement was missed by the Plans Examiner and was only brought forward as the deck was nearing completion. The constructed deck, along with its supporting helical pile design would have been altered to comply with Zoning By-law if this requirement was noted earlier by staff.

#### **Minor Variance**

As construction of the deck was complete, the applicant is now seeking zoning relief to permit a 5-metre rear yard setback to permit the as-built deck.

1. To permit a rear yard setback of 5 metres for a raised deck above 1.2 metres in height and over 15 square metres in area, whereas 6 metres is required.

This Minor Variance application is made under the authority of Section 45(1) of the Planning Act. Accordingly, a Minor Variance must meet the requisite four tests as described in Section 45 (1) of the Planning Act.

The rear deck provides private, outdoor amenity space that enjoys the large greenspace area to the west but does abut a neighbouring rear yard. The intent and purpose of Section 9.10.a) "Decks" is to regulate setbacks for decks based on their height and size to prevent undue overlook into neighbouring yards adjacent to the rear lot line. The setback variance to permit an additional one metre deck encroachment still maintains this intent as overlook from the required 6 metres is of very little difference from the 5 metres requested (as evidenced in the photographs attached). Further, large mature trees help to buffer overlook from the deck into the abutting yard of 22 Honeysuckle Crescent. The proposed variance will permit the now-constructed rear deck. It is my professional opinion that the requested variances maintain the intent and purpose of the Official Plan, the Zoning By-law of the Town of Ancaster No 87-57, are appropriate for the subject lands and minor in nature.

The variance has sufficient regard for the matters listed under Section 51 (24) of the *Planning Act*, represents good planning, and should be approved.

I trust that you will find the enclosed satisfactory for your purposes. Please confirm receipt of this submission and we look forward to being scheduled for the next available hearing date. If you have any questions or require additional information, please do not hesitate to contact our office.

Prepared by:

James Thomas, HBA Planner A. J. Clarke and Associates Ltd.





View of 22 Honeysuckle Crescent Rear yard from existing deck rail located five metres from rear lot line.



View of 22 Honeysuckle Crescent Rear yard from the existing deck at the zoning required 6-metre setback.



June 8, 2021

HASSAN ALAYCHE 1261 MOHAWK RD. UNIT 1 ANCASTER, ON L9G 3K9

### RE: 1261 MOHAWK RD. UNIT 1 1 ANCASTER Building Permit Application Number 20-147602-00 R9 Building Permit Application Review Letter 3

Further to our previous letter dated January 23, 2020 and further to the responding information submitted September 18, 2020 the following item(s) are required to be addressed prior to further review of the above-noted building permit application:

	ltem	Administrative	Reference
	A1.	Grading has not been finalized from the constriction of the existing dwelling. This process must be closed prior to the issuance of this permit. Please contact Growth Management at 905-546-2424 x 2799 or gmlotgrading@hamilton.ca	
~	A2.	Approval or exemption from the Hamilton Conservation Authority is required for the proposed development. Please contact them at 905-525-2181 ex. 165 ereimer@conservationhamilton.ca	HAMILTON CONSERVATION EXEMPTION PROVIDED 06/22/21

Item	Zoning	Reference
Z1.	Required rear yard setback for a deck that is over 1.2m high and over 15m <sup>2</sup> area is 6m. Proposed setback is 5m, please provide a revised design or obtain a successful minor variance from the committee of adjustment. Contact <u>Pd.generalinquiry@hamilton.ca</u> 905-546-2424 x 1355 for questions regarding minor variance applications.	Ancaster Zoning By-law 87-57 Section 9.10

Note: Responding information will only be reviewed if provided in a single comprehensive submission complete with an itemized covering letter. Incomplete submissions will be subject to additional fees. Due to concerns related to COVID-19, the City has put in place precautions to protect both the public and staff while providing some continuity of service. As a result City offices are closed to the public, while City services remain in operation, but at a reduced service level. Please note responding information may be sent by mail or courier unless the responding information is 11" x 17" or less and no more than 20 pages in total. In this case responding information will be accepted by email.

When revised drawings are submitted provide two (2) copies sealed and signed by the design professional(s). All documents submitted shall be signed by the required qualified design professional(s).

Please be advised that should revised drawings be received that do not address the above-noted issues, there may be additional plan review fees owing in the amount of \$166.00 per hour of review time.

If you require further information, please contact Gillian Robinson at (905) 546-2424 ext. 3229 gillian.robinson@hamilton.ca

Gillian Robinson Plan Examiner For Director, Building Division



Committee of Adjustment City Hall, 5<sup>th</sup> Floor, 71 Main St. W., Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221 Email: cofa@hamilton.ca

## APPLICATION FOR A MINOR VARIANCE/PERMISSION

UNDER SECTION 45 OF THE PLANNING ACT

### 1. APPLICANT INFORMATION

NAME	MAILIN	NG ADDRESS	3
Registered Owners(s)			
Applicant(s)			
Agent or Solicitor			
.2 All correspondence should be sent to	□ Purcha □ Applica		<ul><li>☐ Owner</li><li>☑ Agent/Solicitor</li></ul>
.3 Sign should be sent to	Purcha     Applica		<ul><li>☐ Owner</li><li>☑ AgentSolicitor</li></ul>
1.4 Request for digital copy of sign	□Yes*	🗹 No	
If YES, provide email address where si	ign is to be se	ent	
1.5 All correspondence may be sent by em	ail	☑ Yes*	□ No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

### 2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1261 Mohawk Road 1, Ancaster		
Assessment Roll Number			
Former Municipality			
Lot	Concession		
Registered Plan Number	Lot(s)		
Reference Plan Number (s)	Part(s)		

2.2 Are there any easements or restrictive covenants affecting the subject land?

☑ Yes □ No If YES, describe the easement or covenant and its effect:

### 3. PURPOSE OF THE APPLICATION

Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

Routine Minor Variance to permit a rear yard setback of 5 metres, whereas 6 is required for a deck raised above 1.2 metres in height from average grade.

- Second Dwelling Unit Reconstruction of Existing Dwelling
- 3.2 Why it is not possible to comply with the provisions of the By-law?

Applicant went through regular permit process. Correspondence shows examiner only required grading plan after construction. After construction, examiner stated their error in missing setback requirement and that a minor variance would be required.

3.3 Is this an application 45(2) of the Planning Act. □ Yes ☑ No

If yes, please provide an explanation:

### 4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
14.56m	32.46m	±456m <sup>2</sup>	private ROW (6.5m)

# 4.2 Location of all buildings and structures on or proposed for the subject lands: (Specify distance from side, rear and front lot lines)

### Existing:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Single-detached dwelling	6m	7.5m	1.2m	08/01/2019
existing raised deck	N/A	5m	4.4 and 5.1m	09/01/2021
				<u>,</u>

#### Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
none				

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

#### Existing:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
single-detached house	±191m²	±382	two storey	<10.5m
	2t	8		

### Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
none				

4.4 Type of water supply: (check appropriate box)
 ☑ publicly owned and operated piped water system
 ☑ privately owned and operated individual well

lake or other	water body
other means	(specify)

4.5 Type of storm drainage: (check appropriate boxes)
 ☑ publicly owned and operated storm sewers
 ☑ swales

ditches	
other means	(specify)

- 4.6 Type of sewage disposal proposed: (check appropriate box)
  - ✓ publicly owned and operated sanitary sewage
  - system privately owned and operated individual
  - septic system other means (specify)
- 4.7 Type of access: (check appropriate box)

  provincial highway
  municipal road, seasonally maintained
  municipal road, maintained all year

✓ right of way
☐ other public road

- 4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.): single-detached
- 4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.): single-detached dwellings

### 7 HISTORY OF THE SUBJECT LAND

- 7.1 Date of acquisition of subject lands: 2019
- 7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc) single-detached dwelling
- 7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc) single-detached dwelling
- 7.4 Length of time the existing uses of the subject property have continued:100+ years
- 7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable):

Rural Settlement Area:

Urban Hamilton Official Plan designation (if applicable) Neighbourhoods

Please provide an explanation of how the application conforms with the Official Plan.

Permitted use that meets all zoning by-law except for rear lot setback for a raised deck.

7.6 What is the existing zoning of the subject land? Residential "R4" Zone, Exception 666, Ancaster 87-57

☐ Yes

7.8 Has the owner previously applied for relief in respect of the subject property? (Zoning By-lawAmendment or Minor Variance)

🗹 No

If yes, please provide the file number:

7.9	Is the subject property the subject of a current application for consent under Section 53 of the <i>Planning Act</i> ?			
		🗌 Yes	☑ No	
	If yes, please provide the file num	ıber:		
7.10	If a site-specific Zoning By-law Amendment has been received for the subject property, has the two-year anniversary of the by-law being passed expired?			
		🗹 Yes	🗆 No	
7.11	If the answer is no, the decision of Council, or Director of Planning and Chief Planner that the application for Minor Variance is allowed must be included. Failure to do so may result in an application not being "received" for processing.			
8	ADDITIONAL INFORMATION			
8.1	Number of Dwelling Units Existing	g: <u>1</u>	_	
8.2	Number of Dwelling Units Propos	ed: _1	_	
8.3	Additional Information (please inc	lude separate sh	eet if needed):	
	metres, whereas 6 is required. Applicant went through proper per requirements were met except for completion of construction, as per Eight (8) months later, Plans Exa	ermit process (De r grading plan. G rmitted. miner Gillian Rob was not met and	setback for a raised deck above 1.2 ck Permit 20-147602). Was informed all rading plan was provided upon pinson accepted an error on their part, that a minor variance would now be	

See enclosed correspondence files regarding the matter.

### 11 COMPLETE APPLICATION REQUIREMENTS

11.1	All Applications
	✓ Application Fee
	✓ Site Sketch
	Complete Application form
	✓ Signatures Sheet
11.4	Other Information Deemed Necessary
	Cover Letter/Planning Justification Report
	Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
	Minimum Distance Separation Formulae (data sheet available upon request)
	Hydrogeological Assessment
	Septic Assessment
	Archeological Assessment
	Noise Study
	Parking Study
	Four Tests Cover Letter