

# Memorandum to the City of Markham Committee of Adjustment

September 05, 2024

**File:** A/080/24  
**Address:** 22 Sir Tristram Place, Markham  
**Applicant:** Stambuk Homes (Ozren Stambuk)  
**Hearing Date:** Wednesday, October 8, 2024

The following comments are provided on behalf of the East Team:

The applicant is requesting relief from the following requirements of By-law 2024-19, RES-ENLR, as amended, as it relates to a proposed covered deck and stairs:

- a) **By-law 2024-19, Section 4.8.8 (F):**  
a stair or landing with a setback of 0 metres to the interior side lot line, whereas the by-law requires a stair or landing to be no closer than 1.2 metres to the interior side yard;
- b) **By-law 2024-19, Section 6.3.2.2 (I):**  
a combined side yard of 2.52 metres, whereas the by-law requires a combined side yard of 4.57 metres; and
- c) **By-law 2024-19, Section 4.8.9.2 (a)(i):**  
a landscaping strip of 0 metres, whereas the by-law requires a minimum landscaping strip of 1.5 metres;

## BACKGROUND

### Property Description

The 613.33 m<sup>2</sup> (6,601.83 ft<sup>2</sup>) subject property is located on the west side of Sir Tristram Place, west of Wootten Way North, and north of Highway 7 East. The property is located within an established residential neighbourhood comprised of two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Mature vegetation exists across the property.

There is an existing single detached dwelling on the property, which according to assessment records was constructed in 1974. Mature vegetation exists on the property including one large mature tree in the front yard.

### Proposal

The applicant is proposing to construct a new covered deck with a gross area of 19.37 m<sup>2</sup> (208.50 ft<sup>2</sup>) in the rear of the existing two storey detached dwelling. The proposal also includes the construction of stairs located up to the northern lot line and fence.

## **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The Official Plan also contains policies protecting the physical character of established neighborhoods in Section 8.2.3.1a which states:

*“On lands designated ‘Residential Low Rise’ to respect the physical character of established neighborhoods including heritage conservation districts”*

### Zoning By-Law 2024-19

The subject property is zoned RES-ENLR By-law 2024-19, as amended, which permits:

- Detached Dwellings
- Home Child Care
- Home Occupation
- Shared Housing – Small Scale

### **Applicant’s Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with Zoning is, *“The new wood platform and steps will elegantly facilitate code compliant access while allowing groundwater absorption”* and *“The new deck will not be increasing the side yard encroachment and will be in line with the existing house garage north wall”*

### **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a Zoning Preliminary Review (ZPR) on July 29, 2024 to confirm the variances required for the proposed development.

### **COMMENTS**

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

The deck and stairs previously existed and at that time were constructed without the necessary building permits and did not comply with the existing zoning. The applicant is now replacing the deck and stairs and as a result should comply with zoning or reduce the variances to something more appropriate and therefore reduce the impacts which they may have.

The proposed covered deck and stairs do not meet the general intent and purpose of the Zoning By-Law, nor the Official Plan. The stairs should not be constructed up to the property/ fence line for safety reasons and to allow sufficient distance from the neighbouring property. The reduction of the combined side yards by over 2.0 m (6.56 ft) and elimination of the required landscaping strip will not only negatively impact the established character of the neighborhood, but also potentially create stormwater drainage issue.

Staff believe that the requested variances for a reduced combined side yard, elimination of the landscaping strip, and zero setback for the stairs and landing are neither desirable nor minor in nature and will negatively impact the adjoining properties. They do not meet the general intent of both the City's 2014 Official Plan and Zoning By-Law 2024-19, as amended.

Staff are not in support of the proposed variances and are of the opinion that these variances do not satisfy the four tests for Minor Variance under Section 45(1) of the *Planning Act*.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of October 1, 2024. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

### **CONCLUSION**

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request does not meet the four tests of the Planning Act and recommend the application be denied. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



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Aaron Chau, Planner I, East District

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO FILE A/080/24 IF APPROVED:**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on September 3 2024 and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. Submission of a detailed Stormwater Management Report prepared by a Professional Engineer, satisfactory to the Director of Engineering, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Engineering or designate.

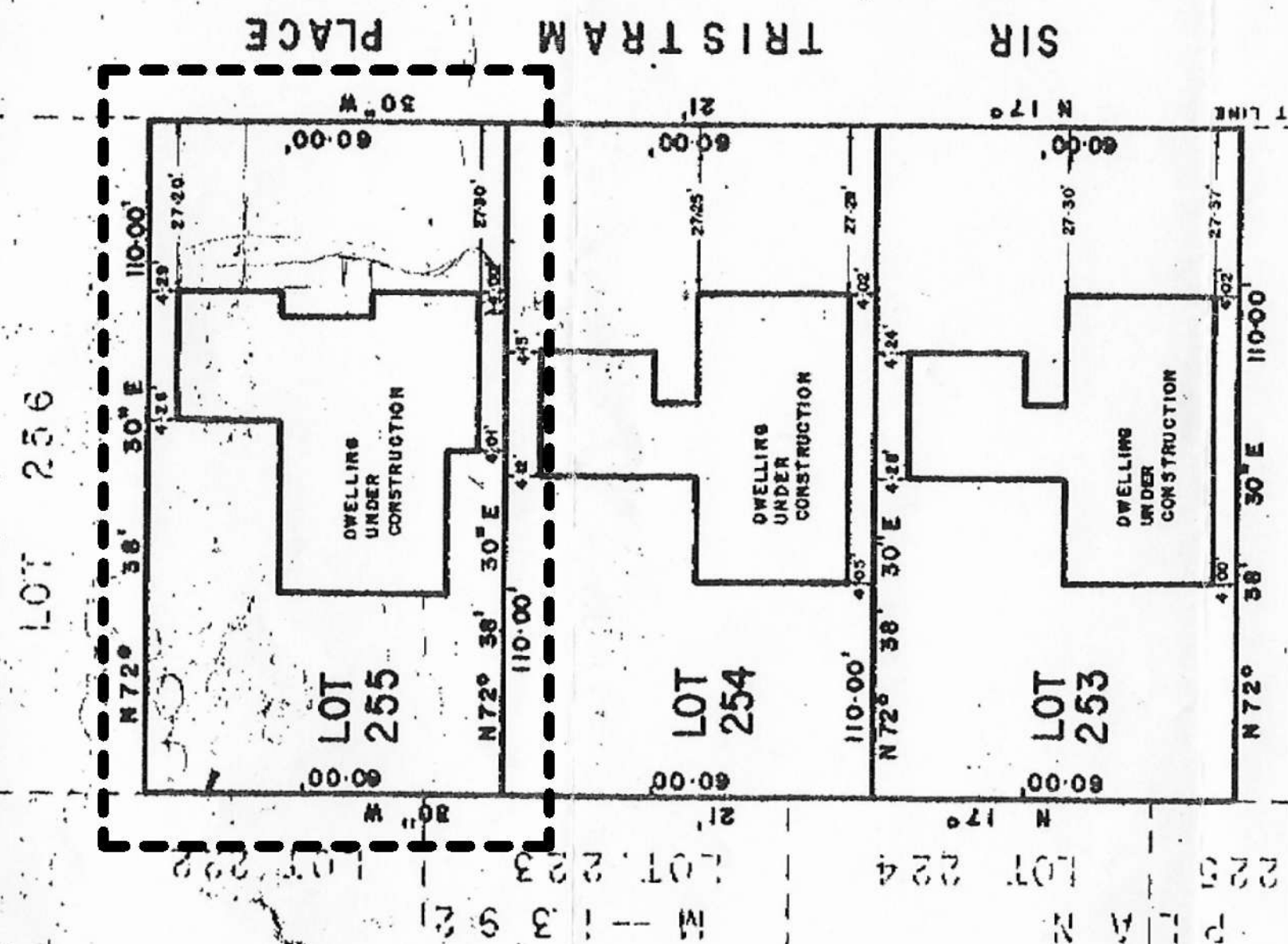
CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aaron Chau', written over a horizontal line.

Aaron Chau, Planner I, East District

**PLAN OF SURVEY OF  
 LOTS 253, 254 AND 255, PLAN M-1448  
 TOWN OF MARKHAM  
 REGIONAL MUNICIPALITY OF YORK**

SCALE 1" = 30'



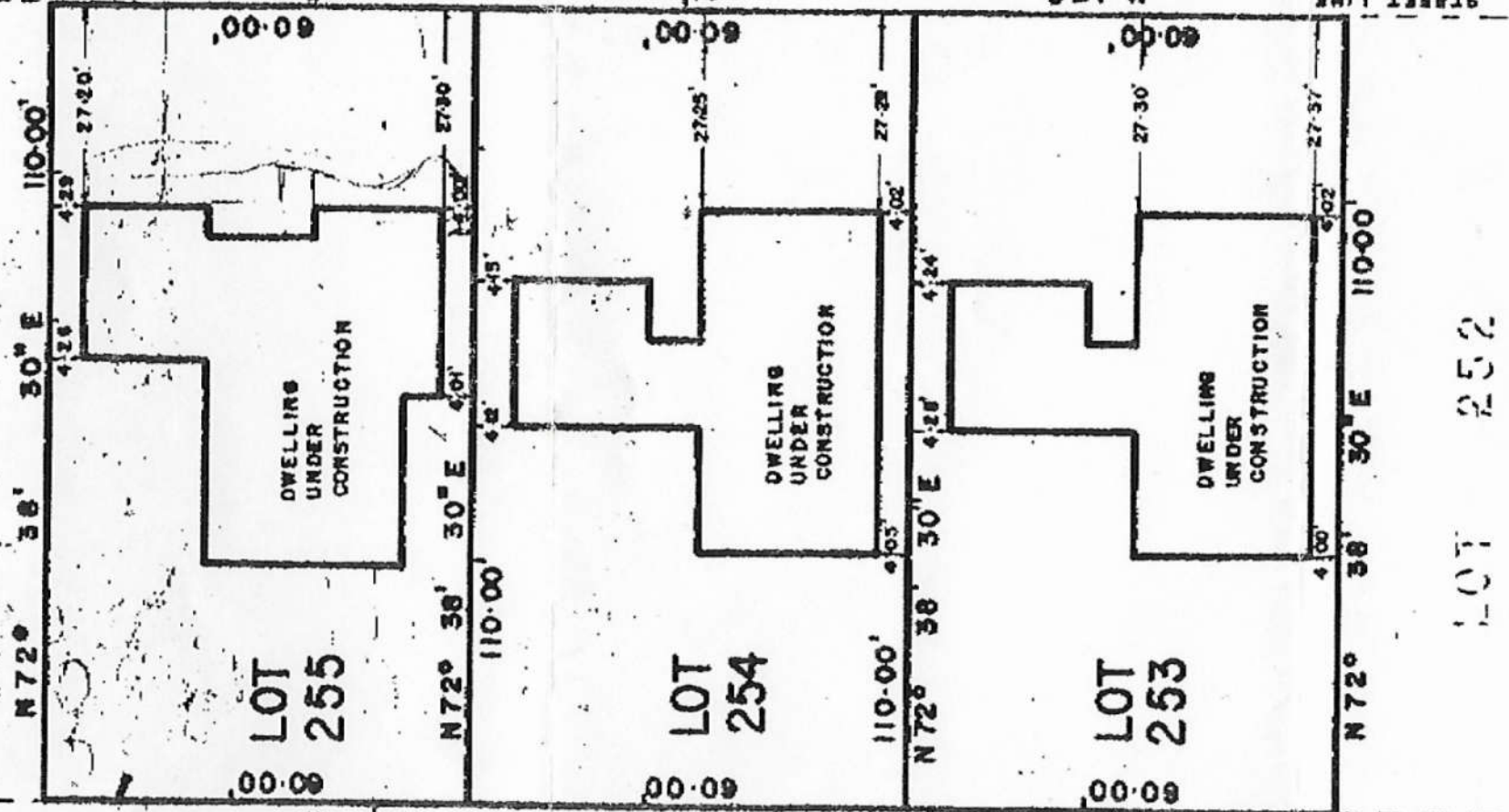
**Appendix B**

File: 24.184278.000.00.MNV

Date: 10/1/2024  
MM/DD/YYYY



LOT 256



SIR TRISTRAM PLACE

PLAN  
 M-13921  
 LOT 225 LOT 224  
 LOT 223 LOT 222

*J. Rady - Pentek*

**J. RADY - PENTEK**  
 ONTARIO LAND SURVEYOR  
 262 WILSON AVE., DOWNSVIEW, ONT. M3H 1S7.  
 635-5886

DATE FEB. 5<sup>th</sup> 1974

JOB No 73-176

### Appendix B

File: 24.184278.000.00.MNV

Date: 10/1/2024  
MM/DD/YYYY

**4. By-Law 1229, Section 11.2**

To permit an eaves encroachment of 51.2 inches; whereas the by-law allows a maximum of 18 inches

**NEW STEPS IN THE SIDE YARD, REPLACEMENT OF THE EXISTING STEPS TO FACILITATE ACCESS TO THE EXISTING GARAGE AND DECK**

**1. By-Law 2024-19, Section 4.8.8(F)**

To permit a stair or landing with a setback of 0m; whereas the bylaw permits a stair or landing no closer than 1.2m to the interior side yard.

**3. By-Law 2024-19, Section 4.8.9.2(a)(i)**

To permit a minimum landscaping strip of 0m; whereas the bylaw requires a minimum of 1.5m.

**2. By-Law 2024-19, 6.3.2.2(I)**

To permit a combined side yard of 2.52m; whereas they bylaw requires the combined side yard of 4.57m

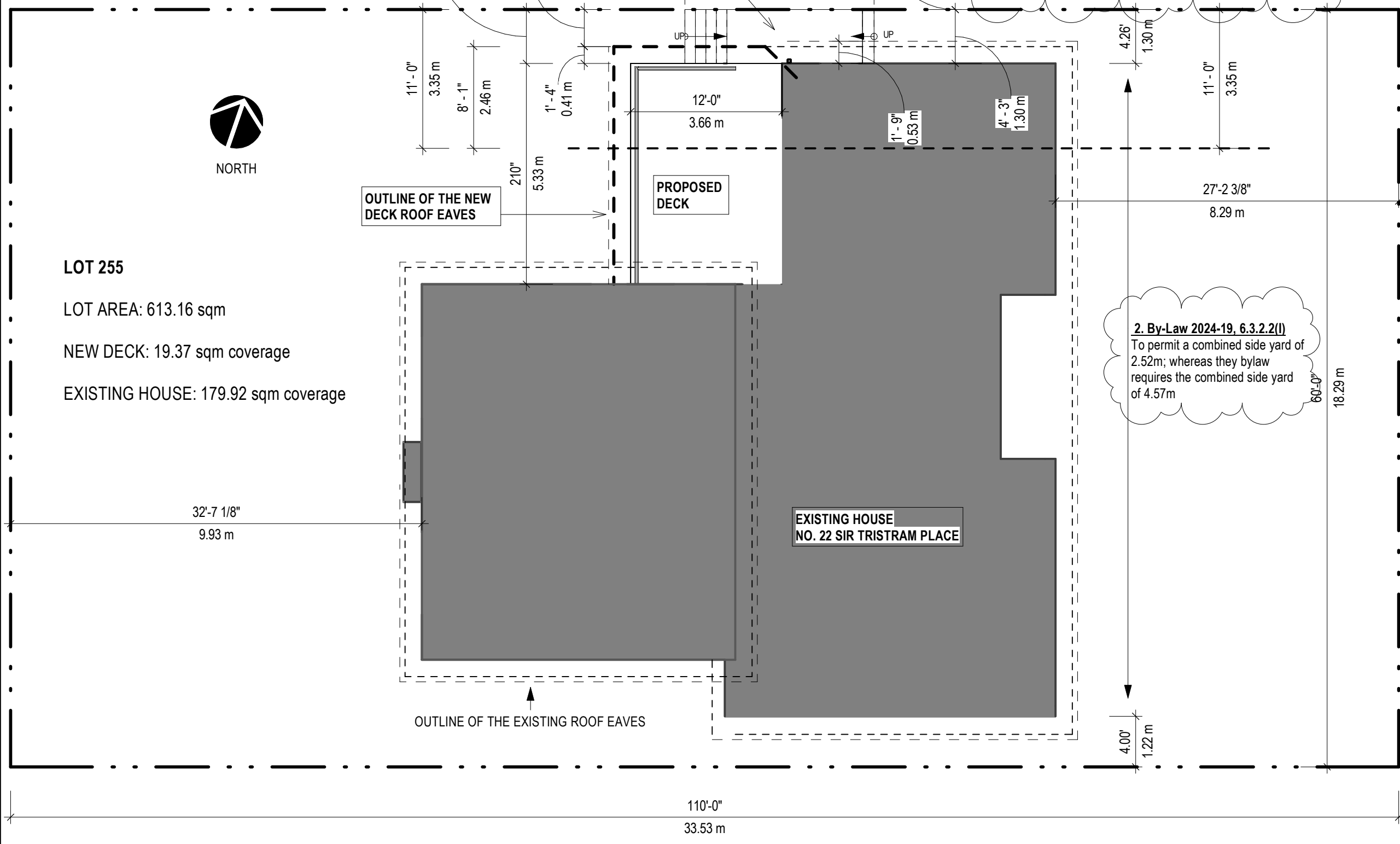


LOT 255

LOT AREA: 613.16 sqm

NEW DECK: 19.37 sqm coverage

EXISTING HOUSE: 179.92 sqm coverage



**Appendix B**

File: 24.184278.000.00.MNV

Date: 10/1/2024

MM/DD/YYYY

The undersigned has reviewed and takes responsibility for this design and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the attached documents.

Qualification Information	
Required unless design is exempt under Div. C-3.2.5.1. of the building code	
OSREN STAMBUK	46080
Name	BCR#
Registration Information	
Required unless design is exempt under Div. C-3.2.4.1. of the building code	
STAMBUK HOMES	106172
Firm Name	BCR#