

Memorandum to the City of Markham Committee of Adjustment

May 02, 2024

File: A/195/23
Address: 15 Billy Joel Crescent, Markham
Applicant: Azita Hasheminejad
Hearing Date: Wednesday, June 5, 2024

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

The applicant is requesting relief from the following requirements of By-law 1229, as amended, as it relates to a constructed deck. The requested variances are to permit:

a) By-law 142-95, Section 2.2(b)(ii):

a deck to project 5.29 metres, whereas the by-law permits a maximum projection of 3 metres; and

b) By-law 1229, Table 11.1:

a platform to have an encroachment of 24 inches into a required side yard, whereas the by-law permits a maximum encroachment of 18 inches into a required side yard

BACKGROUND

Property Description

The 1,566.85 m² (16,865.43 ft²) subject property is located on the north side of Billy Joel Crescent, south of Highway 7 East, and west of Wooten Way South. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Mature vegetation exists in the front and rear yards of the property.

There is an existing single family detached dwelling on the property, which according to assessment records was constructed in 1964.

It is partially within TRCA's Regulated Area as the rear portion of the site is traversed by a valley corridor associated with the Rouge River Watershed.

Proposal

The applicant has constructed a deck which occupies the entire northwest side yard setback and the entire width the main house in the rear yard. The existing deck features a maximum height of 2.54 m (8.33 ft) at the side deck and a minimum height of 1.27 m (4.17 ft) at the lower deck. The deck has a total gross area of 92.53 m² (995.98 ft²). The side deck has a gross area of 30.84 m² (331.96 ft²), while the lower deck located in the rear yard has a gross area of 61.69 m² (664.03 ft²).

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.

Zoning By-Law 1229

The subject property is zoned R1 under By-law 1229, as amended, which permits one single family detached dwelling.

Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the applicant has received comments from the building department through their permit process 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.

Increase in Side Yard Encroachment

The applicant is requesting an increased side yard encroachment of 0.61 m (2 ft), whereas the by-law permits a maximum encroachment of 0.46 m (1.5 ft) into a required side yard. This request is to accommodate the existing side deck

The existing side deck does not meet the general intent and purpose of the Zoning By-law. It occupies almost the entire side yard up to the front main wall of the house and is in close proximity to the property line which could potentially negatively impact the neighboring property. Staff believe that the variance requested is neither desirable nor minor in nature and therefore, recommend denying the request.

Increase in Maximum Deck Projection

The applicant is requesting relief for a maximum deck projection of 5.29 m (17.36 ft) at the rear of the existing house, while the By-law permits a maximum deck projection of 3 m (9.84 ft). This is an increase of approximately 2.29 m (7.51 ft). The subject lands feature a considerable depth of 65.46 m (214.76 ft) and back onto a woodlot. Staff believe that due to the considerable depth and absence of neighbors directly behind the subject lands, the proposed increase in deck projection is minor, and will not negatively affect the neighbourhood, and that the general intent of the by-law is maintained.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The rear portion of the site is traversed by a valley corridor associated with the Rouge River Watershed. TRCA provided comments on May 22 2024 (Appendix C) indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of **May 22, 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. Planning staff recommend the approval of variance a) and recommend the denial of variance request b). 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.

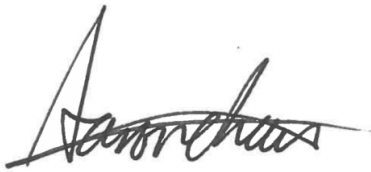
APPENDICIES

Appendix "A" – A/195/23 Conditions of Approval

Appendix "B" – Plans

Appendix "C" – TRCA Comments

PREPARED BY:



Aaron Chau, Planner I, East District

REVIEWED BY:



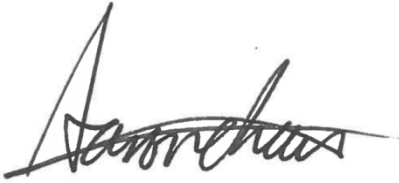
Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/195/23

1. The variances apply only to the proposed development as long as it remains;
2. That the variances only apply to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report, 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. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA

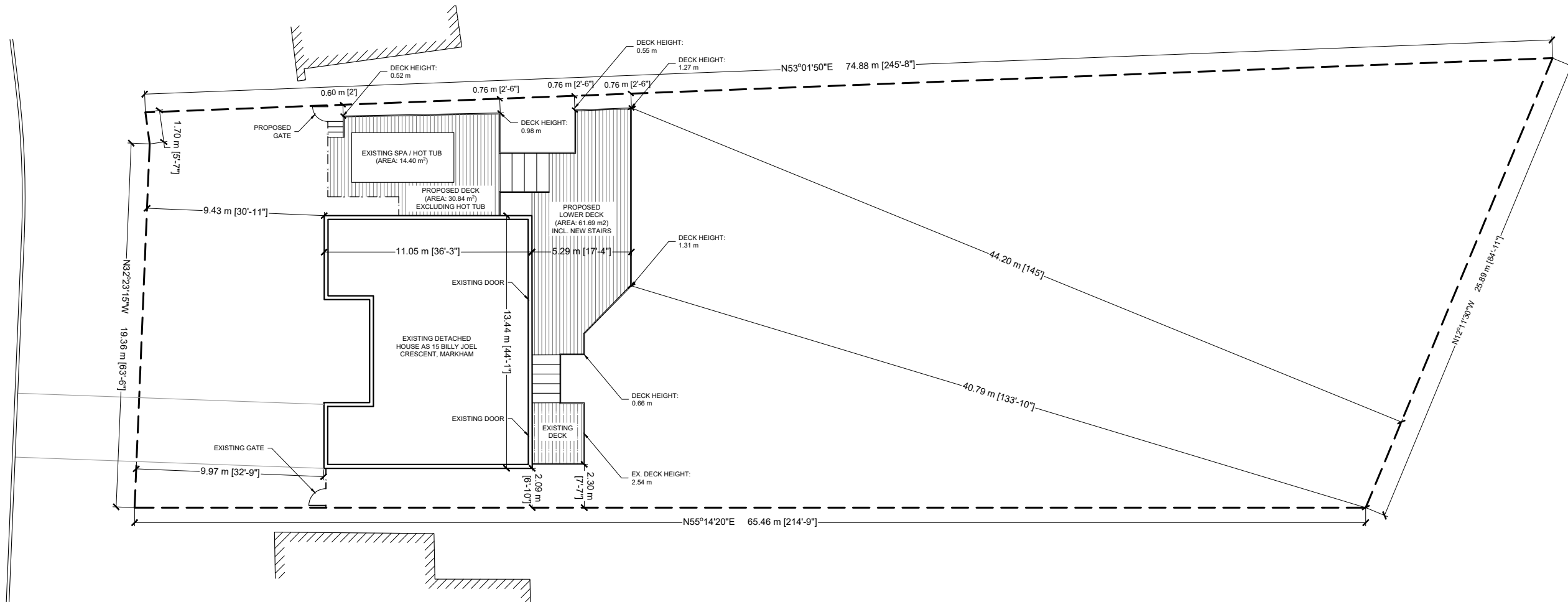
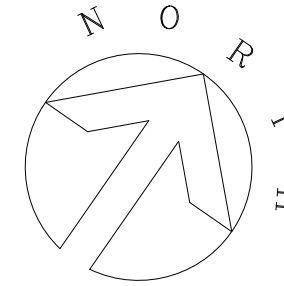
CONDITIONS PREPARED BY:

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

Aaron Chau, Planner I, East District

NOTES:

1. IN CASE THAT THE EXISTING SPA/HOT TUB BE REPLACE WITH A SWIMMING POOL, THE CITY MUST BE NOTIFIED BY THE OWNER AND SAFETY CONSIDERATIONS SHALL BE APPLIED FOR ALL GATES, DOORS AND FENCES TO CONTROL ACCESS TO THE NEW SWIMMING POOL.
2. RAILING IS REQUIRED WHERE THE DECK HEIGHT IS MORE THAN 0.6 m (2 ft). RAILING HEIGHT SHALL NOT BE LESS THAN 965 mm (38").
3. THE PROPOSED SITE PLAN INCLUDES THE MODIFICATIONS WITH REGARD TO THE SETBACK REQUIREMENTS.
4. THE DECK MODIFICATIONS HAVE BEEN DONE AS PER SECTION 2.2(a)(ii) OF BYLAW 142-95:
 - THE SETBACK FROM THE PROPERTY LINE TO THE DECK IS FOUR (4) FEET WITH AN ALLOWABLE ENCROACHMENT OF 18 INCHES IF THE DECK HEIGHT IS MORE THAN 1 m.
 - THE SETBACK FROM THE PROPERTY LINE TO THE DECK IS TWO (2) FEET IF THE DECK HEIGHT IS 1 m OR LESS .
5. THE GEOTECHNICAL INVESTIGATION ABOUT THE EXISTING SLOPE IS NOT IN THE SCOPE OF WORK OF THIS PROJECT.



PROPOSED SITE PLAN
1:250



Appendix B

File: 23.146526.000.00.MNV
Date: 5/30/2024
MM/DD/YY



NOTES

DELTOID CONSULTING
Tel: +1 (647) 877-7530
Email: info@deltoidconsulting.com

ISSUE

| NO. | DATE | ISSUED FOR |
|-----|------------|-------------------|
| 1 | 2023/06/08 | ISSUED FOR PERMIT |
| 0 | 2022/12/12 | ISSUED FOR PERMIT |

DESIGN BY:

MEHDI HAMEDANI

DATE:

2023/06/08

SCALE:

1:250

PROJECT TITLE

PROPOSED DECK EXTENSION

PROJECT ADDRESS

15 BILLY JOEL CRESCENT, MARKHAM

SHEET TITLE

SITE PLAN

SHEET NO

A07

Appendix B

File: 23.146526.000.00.MNV

Date: 5/30/2024
MM/DD/YY



NOTES



Tel: +1 (647) 877-7530
Email: info@deltoidconsulting.com

| ISSUE | | |
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| 0 | 2023/06/08 | ISSUED FOR PERMIT |

DESIGN BY:
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2023/06/08

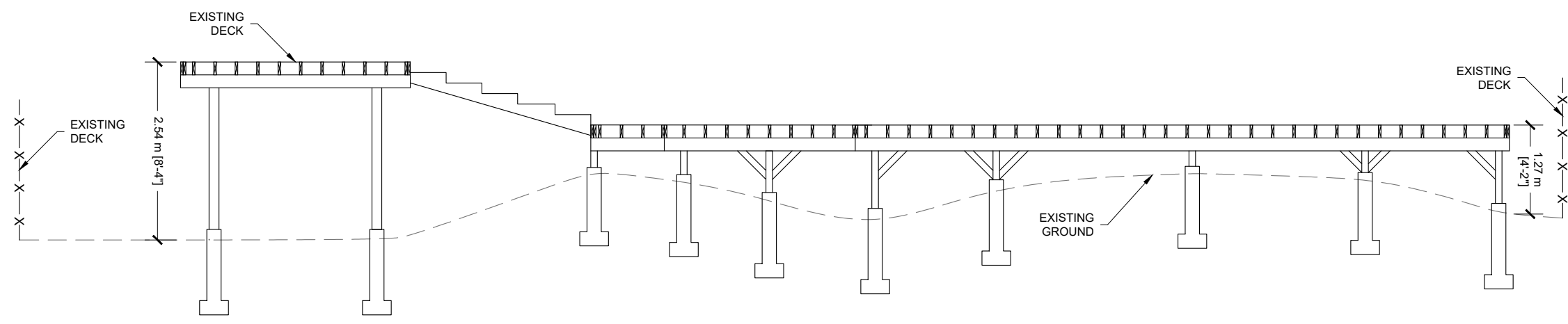
SCALE:
1:50

PROJECT TITLE
PROPOSED DECK EXTENSION

PROJECT ADDRESS
15 BILLY JOEL CRESCENT, MARKHAM

SHEET TITLE
ELEVATIONS

SHEET NO
S09



NORTH ELEVATION (1)
SCALE 1:75

Appendix B

File: 23.146526.000.00.MNV

Date: 5/30/2024
MM/DD/YY

THIS PLAN IS NOT VALID UNLESS IT IS AN ORIGINAL COPY ISSUED BY THE SURVEYOR in accordance with Regulation 1296, Section 29(3).

SURVEYOR'S REAL PROPERTY REPORT
PART 1
PLAN OF
PART OF LOT 8
REGISTERED PLAN 5879
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

SCALE 1:300

5 2.5 0 5 10 15 Metres

LLOYD & PURCELL A DIVISION OF SCHAEFFER DZALDOV BENNETT LTD.

NOTES

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DISTANCES SHOWN ON THIS PLAN ARE GROUND DISTANCES AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.99982.

BEARINGS SHOWN ON THIS PLAN ARE UTM GRID BEARINGS AND ARE DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD 83 (CSRS-2010).

OBSERVED REFERENCE POINTS (ORP's) DERIVED FROM GPS OBSERVATIONS USING REAL TIME NETWORK COORDINATES UTM ZONE 17, NAD 83 (CSRS-2010).
COORDINATES TO URBAN ACCURACY PER SEC.14 (2) OF O.REG. 216/10.

| POINT ID | NORTHING | EASTING |
|----------|------------|-----------|
| ORP A | 4859236.92 | 640562.32 |
| ORP B | 4859186.64 | 640598.60 |

COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

FOR BEARING COMPARISONS, A ROTATION OF 11'40" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON p1, p2

LEGEND

- IP IRON PIPE
- SIB STANDARD IRON BAR
- IB IRON BAR
- FOUND
- SET
- meas MEASURED
- DSTB DISTURBED
- OU ORIGIN UNKNOWN
- 1137 R.G. MCKIBBON, O.L.S
- WSG W.S. GIBSON, O.L.S
- RP REGISTERED PLAN 5879
- p1 SURVEYOR'S REAL PROPERTY REPORT BY R.G. MCKIBBON LIMITED., DATED MARCH 29, 2004 (FILE No. B-04-06)
- p2 SURVEYOR'S REAL PROPERTY REPORT BY R.G. MCKIBBON LIMITED., DATED JUNE 19, 1997 (FILE No. C-97-09)
- e.f. END OF FENCE
- f. FENCE
- nfw. NORTH FACE OF WALL
- BRW BLOCK RETAINING WALL
- CLF CHAIN LINK FENCE
- WF WOOD FENCE
- STR STAIR
- Stn. STONE
- d. DECK

SURVEYOR'S CERTIFICATE

- I CERTIFY THAT:
- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 - THE SURVEY WAS COMPLETED ON THE 30th DAY OF SEPTEMBER 2020.

OCTOBER 02, 2020
JOHN GAUTHIER
ONTARIO LAND SURVEYOR

NO ONE MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN WITHOUT THE WRITTEN PERMISSION OF LLOYD & PURCELL, A DIVISION OF SCHAEFFER DZALDOV BENNETT LTD.

PART 2

DESCRIPTION OF LAND: PART OF LOT 8, REGISTERED PLAN 5879, CITY OF MARKHAM, ALL OF PIN 02932-0278

REGISTERED EASEMENTS AND/OR RIGHTS OF WAY: NONE

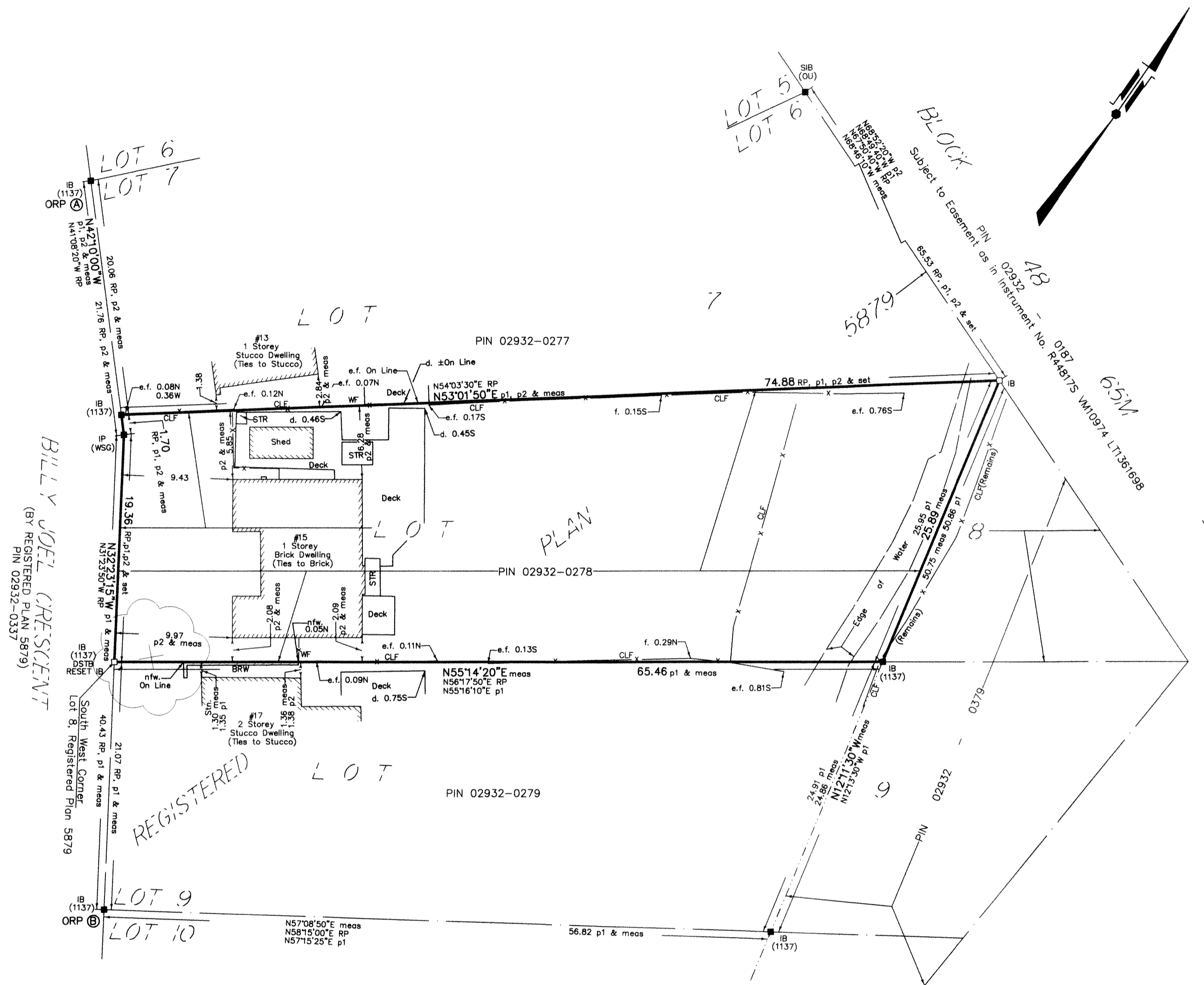
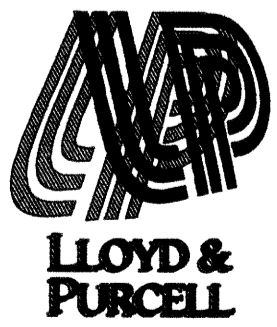
COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS: THIS PLAN DOES NOT CERTIFY ZONING COMPLIANCE OR IDENTIFY WHAT ZONING RESTRICTIONS ARE INVOLVED.

ADDITIONAL REMARKS: NONE

THIS REPORT WAS PREPARED FOR AVISION AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES.

LLOYD & PURCELL
A DIVISION OF SCHAEFFER DZALDOV BENNETT LTD.
ONTARIO LAND SURVEYORS
1228 CORHAM STREET, UNIT 28, NEWMARKET, ONTARIO, L3Y 8Z1
(905) 895-6416 Fax (905) 853-5837 E-MAIL: l_p@ontariolandsurveyors.ca
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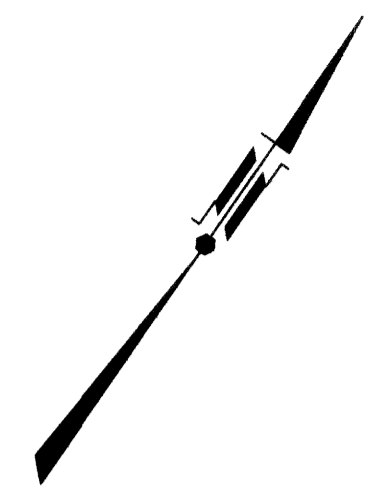
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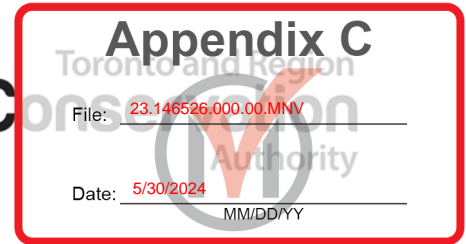


BILLY JOEL CRESCENT
(BY REGISTERED PLAN 5879)
PIN 02932-0337

REGISTERED LOT

PLAN





May 22, 2024

CFN 70441.03
Ex Ref: 63981, 60414, 59017.18, 62582.09

Via E-Plan

Dear Aaron Chau

**Re: Minor Variance Application – (Application A/195/23)
15 Billy Joel Crescent
Lot 8, Plan 5879, Markham
(Highway 7 and Main Street Markham South)
Owner and Applicant: Azita Hasheminejad**

Toronto and Region Conservation Authority (TRCA) staff provide the following comments in response to the referenced Committee of Adjustment application, received by TRCA on April 26, 2024. We provide the following in accordance with TRCA’s commenting role under the Planning Act and regulatory role under the Conservation Authorities Act (CA Act). For additional information, please see [TRCA Role in the Plan Input and Review Process](#).

Purpose of the Application

TRCA staff understand that the purpose of this application is to request relief from the requirements of By-law 1229, as amended, as it relates to an as built deck:

- a) By-law 142-95, Section 2.2 (b)(ii): a deck to project 5.29 metres, whereas the by-law permits a maximum projection of 3 metres; and
- b) By-law 1229, Table 11.1: a platform to have an encroachment of 24 inches into a required side yard, whereas the by-law permits a maximum encroachment of 18 inches into a required side yard.

Background

In August of 2020, TRCA was informed by the City of Markham that the owner of the subject property had constructed a deck in the rear yard without obtaining a permit from the City of Markham or TRCA. A TRCA permit to resolve the unauthorized deck was submitted in February of 2021, and is currently under review with TRCA staff (CFN 63981).

TRCA staff note that the deck is constructed within an erosion hazard (long-term stable top of slope (LTSTOS)). Through discussions with the applicant and TRCA staff, TRCA can support the location of the deck, provided that TRCA requirements are addressed through the permitting process. The applicant should contact the undersigned to continue the on-going permit process.

TRCA Permit Requirements

The subject land contains a valley corridor and regulatory flood plain associated with a tributary of the Rouge River Watershed and its adjacent regulated allowance.

Due to the presence of natural hazards, the issuance of a TRCA permit pursuant to the Conservation Authorities Act is required prior to any development or site alteration within the regulated portion of the property.

Based on the review of materials circulated with this application, the proposed development is located within the regulated portions of the property. Thus, **a permit is required** from TRCA to facilitate the development associated with this application.

TRCA Plan Review Fee

By copy of this letter, the applicant is advised that TRCA have implemented a fee schedule for its planning application review services in accordance with applicable provincial regulations. This Minor Variance Application is subject to a fee of \$950 (Minor Variance – Residential - Standard). The applicant is responsible for fee payment within 60 days of the committee hearing date. Interest will be charged and accumulated beyond that time. Please contact the Planner noted below for an electronic invoice to facilitate payment.

Recommendations

Based on the comments provided, TRCA staff have **no objection** to the approval Minor Variance Application A/195/23 subject to the **conditions** identified in Appendix A.

Should you have any questions or comments, please contact the undersigned.

Regards,



Rameez Sadafal

Planner

Development Planning and Permits | Development and Engineering Services

Telephone: (437) 880-2163

Email: rameez.sadafal@trca.ca

/rs

Attached: Appendix A: TRCA Conditions of Approval

Appendix A: TRCA Conditions of Approval

| # | TRCA Conditions |
|---|----------------------------------------------------------------------------------------------------------|
| 1 | The applicant submits the TRCA plan review fee of \$950 within 60 days of the committee hearing date. |
| 2 | The applicant seeks and is issued a permit by TRCA pursuant to the <u>Conservation Authorities Act</u> . |