

Memorandum to the City of Markham Committee of Adjustment

March 27, 2023

File: A/210/22
Address: 122 Dundas Way, Markham
Applicant: Felix Tse
Agent: Felix Tse
Hearing Date: Wednesday April 5, 2023

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

The Applicant is requesting relief from the following “Community Amenity Three Exception *512 (CA3*512) under By-law 177-96, as amended, as it relates to proposed raised deck. The variance requested is to permit:

a) Amending By-law 177-96, Section 6.2.1 b) (iii):

A deck to be located at the second storey, whereas the By-law requires the floor of the deck not to be higher than the floor level of the first storey of the main building.

BACKGROUND

Property Description

The 137.18 m² (1476.59 ft²) subject lands are located on the south side of Dundas Way, generally south of Major Mackenzie Drive East, east of Donald Cousens Parkway and west of Delray Drive (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within a residential neighbourhood consisting of two-storey semi-detached dwellings and three-storey townhomes.

Currently, on the Subject Lands there is an existing three-storey townhouse, which according to assessment records was constructed in 2016.

Proposal

The Applicant is proposing to construct a raised deck at the second-storey level with an approximate area of 12.07 m² (129.92 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 Lands as “Residential Low Rise”, which provides for low rise housing forms with building heights up to three-storeys.

Zoning By-Law 177-96

The Subject Lands are zoned “Community Amenity Three Exception *512 (CA3*512)” under By-law 177-96 as amended, which permits one townhouse dwelling per lot.

The proposed development does not comply with the By-law requirements with respect to maximum deck height.

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 Maximum Deck Height

The Applicant is requesting relief from the Amending By-law to permit a deck to be located at the second-storey, whereas the by-law requires the floor of the deck not to be higher than the floor level of the first storey of the main building.

Within the surrounding area, along Dundas Way and Weidman Lane, multiple properties have been developed in a similar manner. They are built as three-storey townhouses, without a basement level.

By-law 177-96 provides the following definitions:

- a) basement: “that portion of a building below the first storey”; and
- b) first-storey: “the storey with its floor closest to established grade and having its ceiling more than 1.80 m (5.91 ft) above grade.”

A review of the architectural plans approved by the City in 2015 indicates that the first-storey floor level as defined by the By-law is occupied by a recreation room at the rear. This is the lowest level of the dwelling, is not below grade, and provides for a walk-out into the rear yard. The kitchen and family room areas are shown to be located at the floor above, next to the existing deck entrance. Currently, there is a Juliette balcony where the deck is proposed to be built.

The proposed deck would improve the resident's existing outdoor amenity space by providing more usable outdoor area at the second-storey. Furthermore, it would provide the residents with an alternate access point to the rear yard from the main living/dining area.

Additionally, the By-law permits a deck to be located no closer than 3.0 m (9.84 ft) to the rear lot line, the plans provided by the Applicant indicates that the proposed deck will be located 6.43 m (21.10 ft) from the rear lot line.

Staff note that Minor Variance applications from properties within the immediate vicinity that have requested similar variances has been previously approved by the Committee of Adjustment. This application's requested variance of permitting a deck to be located at the second-storey will be no different than the ones previously approved.

Staff are of the opinion that the impacts of the proposed second-storey deck are minor in nature, and meets the general intent of the Official Plan and Zoning By-law. As such, staff have no objection to the requested variances.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 28, 2023. 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.

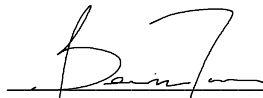
CONCLUSION

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 meets the four tests of the Planning Act and have no objection. 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 see Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Bernie Tom, Development Technician, Zoning and Special Projects

REVIEWED BY:



Rectangular Snip

Stacia Muradali, Development Manager, East District

APPENDICIES

Appendix "A" – Aerial Photo

Appendix "B" – Architectural Plans

Appendix "C" – Conditions of Approval

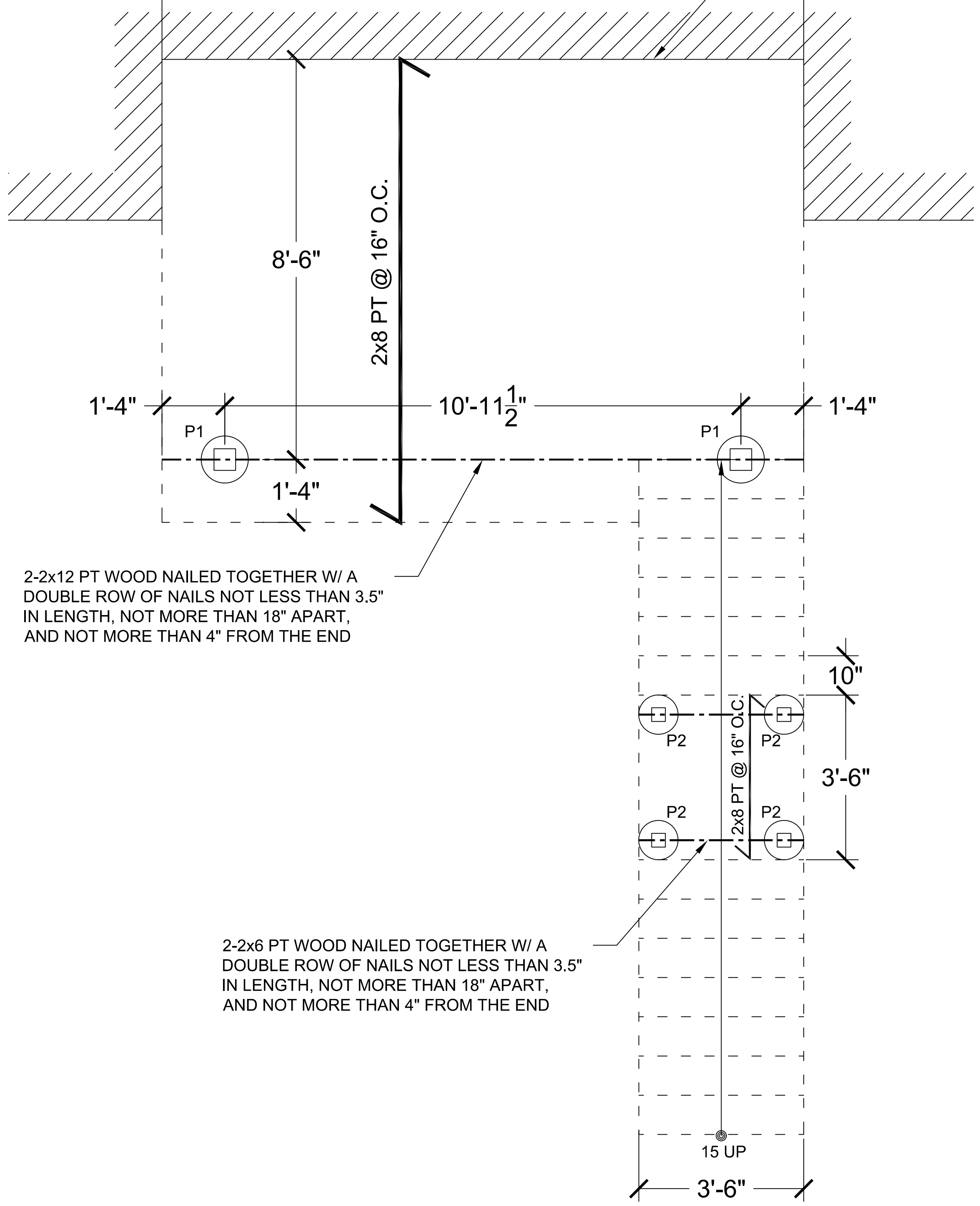


Notes

57.3 0 28.65 57.3 Meters

EXISTING SINGLE FAMILY ATTACHED DWELLING

ONE 2X8 LEDGER BOARD BOLTED TO THE RIM JOIST OF EXISTING HOUSE W/ 1/2" DIA. HOT-DIPPED GALVANIZED THROUGH-BOLTS WITH NUT AND WASHER @ 32" O.C. MIN.



2-2x12 PT WOOD NAILED TOGETHER W/ A DOUBLE ROW OF NAILS NOT LESS THAN 3.5" IN LENGTH, NOT MORE THAN 18" APART, AND NOT MORE THAN 4" FROM THE END

2-2x6 PT WOOD NAILED TOGETHER W/ A DOUBLE ROW OF NAILS NOT LESS THAN 3.5" IN LENGTH, NOT MORE THAN 18" APART, AND NOT MORE THAN 4" FROM THE END

PIER & COLUMN SCHEDULE	
P1	6x6 PT WOOD POST ANCHORED TO 12" DIA. CONC. PIER WITH METAL SHOE AND 12.7mm DIA. BOLT ANCHORED MINIMUM 100mm INTO CONC. PIER
P2	4x4 PT WOOD POST ANCHORED TO 10" DIA. CONC. PIER WITH METAL SHOE AND 12.7mm DIA. BOLT ANCHORED MINIMUM 100mm INTO CONC. PIER

The contractor must verify and accept responsibility for all dimensions and conditions on site. This drawing is not to be scaled. The designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., information shown on this drawing. Refer to the appropriate consultant's drawings before proceeding with the work. Construction must conform to all applicable codes and requirements of authorities having jurisdiction. The contractor working from drawings not specifically marked 'For Construction' must assume full responsibility and bear costs for any corrections or damages resulting from his work.

REV.	ISSUED FOR:	DATE:
1.	CLIENT REVIEW	Dec. 10

The undersigned has reviewed and takes responsibilities for this design, and has the qualifications and meets the requirements set out in the Ontario building code to be a designer.

QUALIFICATIONS INFORMATION
 Required unless design is exempt under 2.17.5.1 of the building code

SERENA LI #103525
 Name Signature BCIN/BCDN

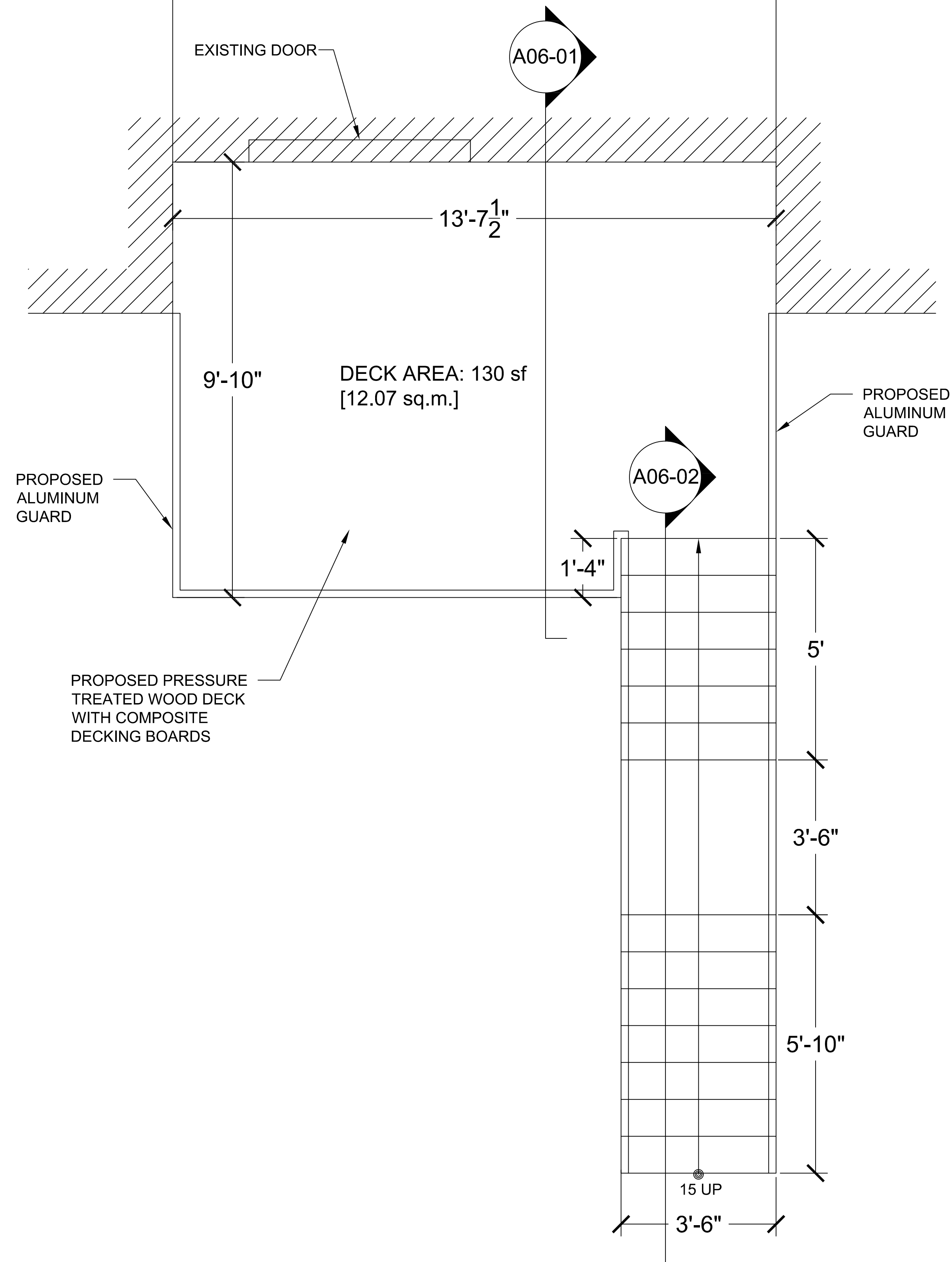
Project:
 122 Dundas Way
 Markham, ON

Drawing Name:
FOOTING PLAN

Proj No.:	Date: Dec. 10, 2022
Drawn by: YUE LI	Scale: 1-1/2"=1'-0"
Checked by:	
North:	Drawing No.:

↑ A02

EXISTING SINGLE FAMILY ATTACHED DWELLING



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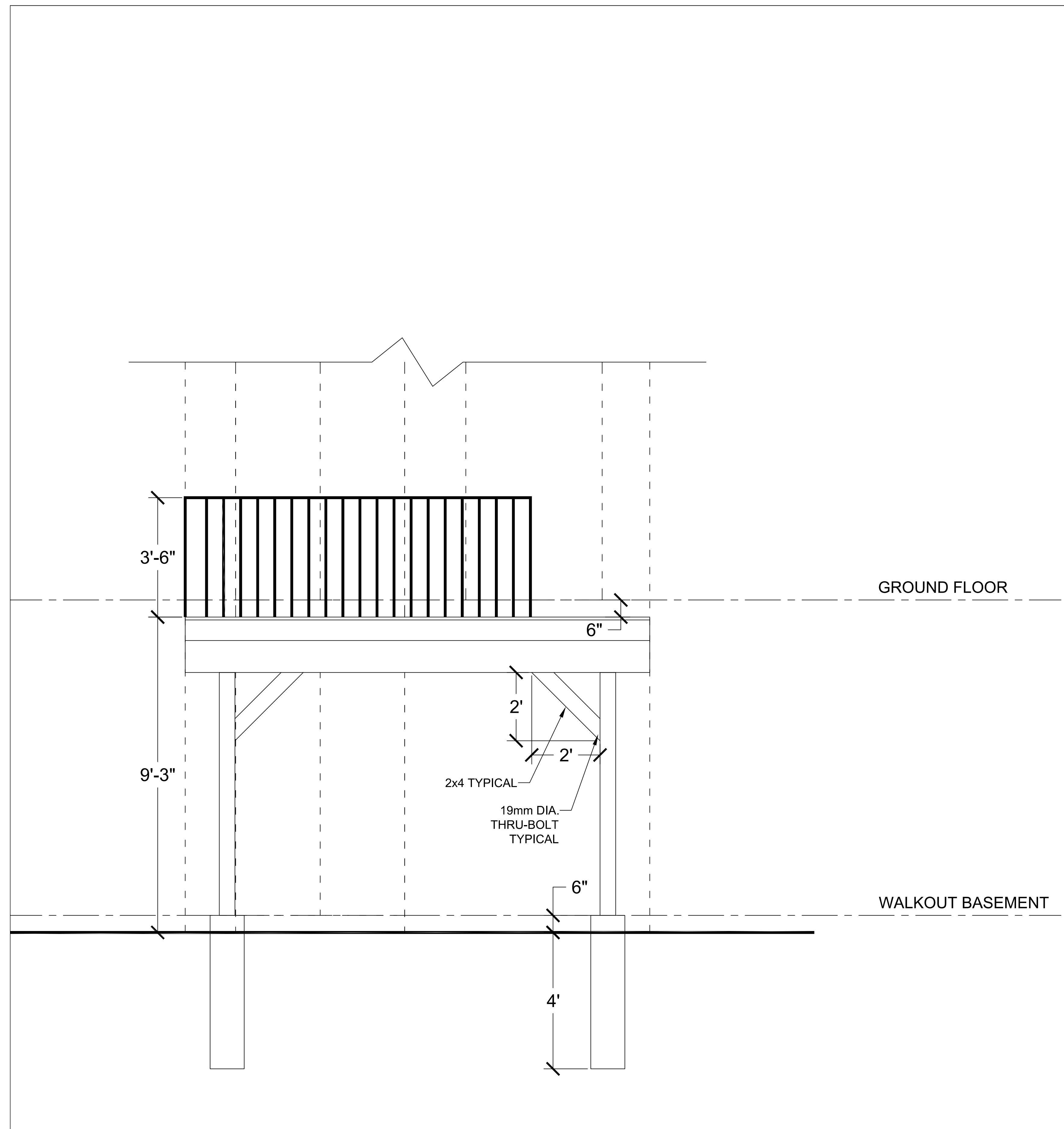
SERENA LI #103525
 Name Signature BCIN/BCDN

Project:
 122 Dundas Way
 Markham, ON

Drawing Name:
FLOOR PLAN

Proj No.:	Date: Dec. 10, 2022
Drawn by: YUE LI	Scale: 1-1/2"=1'-0"
Checked by:	
North:	Drawing No.:

↑ **A03**



GROUND FLOOR

WALKOUT BASEMENT

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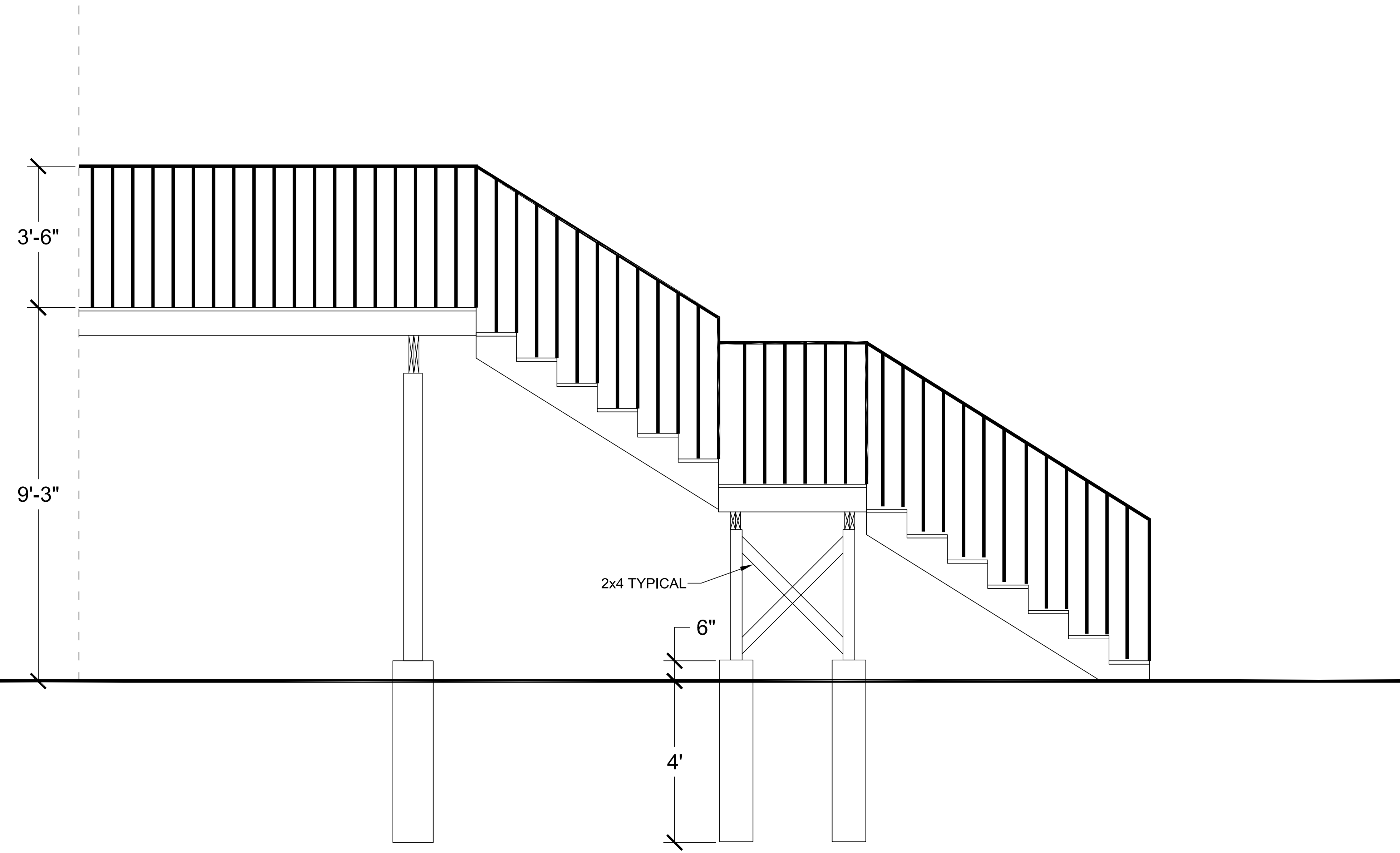
SERENA LI #103525
 Name Signature BCIN/BCDN

Project:
 122 Dundas Way
 Markham, ON

Drawing Name:
WEST ELEVATION

Proj No.:	Date: Dec. 10, 2022
Drawn by: YUE LI	Scale: 1-1/2"=1'-0"
Checked by:	
North:	Drawing No.:

A04



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SERENA LI #103525
 Name Signature BCIN/BCDN

Project:
 122 Dundas Way
 Markham, ON

Drawing Name:
WEST ELEVATION

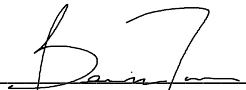
Proj No.:	Date: Dec. 10, 2022
Drawn by: YUE LI	Scale:
Checked by:	
North:	Drawing No.:

A05

APPENDIX “C” – A/210/22 Conditions of Approval

1. The variance applies only to the proposed development as long as it remains; and
2. That the variance applies only 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 Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;

CONDITIONS PREPARED BY:



Bernie Tom, Development Technician, Zoning and Special Projects