

# Memorandum to the City of Markham Committee of Adjustment

February 7, 2022

**File:** A/141/21  
**Address:** 48 Pagnello Court – Markham, ON  
**Applicant:** Ali Khan  
**Agent:** Hickory Dickory Decks (Steve Hall)  
**Hearing Date:** February 16, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Residential Two Exception \*224 (R2\*224) Zone” requirements under By-law 177-96, as amended, as they relate to a proposed rear yard deck. The requested variances are to permit:

**a) By-law 177-96, Section 6.2.1(b)(ii):**

a deck to be located closer to the interior side lot line than main building, whereas the By-law permits a deck to be located no closer to the interior side lot line than the main building; and

**b) By-law 177-96, Section 6.2.1(b):**

a deck to extend a maximum of 3.65 m (11.98 ft) from the wall closest to the rear lot line, whereas the By-law permits a maximum extension of 3.0 m (9.84 ft) from the wall closest to the rear lot line.

## PROPERTY DESCRIPTION

The subject property is lot located on the west side of Pagnello Court, north of 14<sup>th</sup> Avenue, east of 9<sup>th</sup> Line, and south of Rouge Bank Drive. The property is pie shaped, and there is an existing two-storey detached dwelling located on the property. The property abuts residential lots to the west, which front onto 9<sup>th</sup> Line, and have lot depths of approximately 50.29 m (165.0 ft). Properties along the street contain similar two-storey detached dwellings. Pagnello Court is located within close proximity to a residential neighbourhood comprised of a mix of one and two-storey detached dwellings, commercial buildings and plazas, and open space areas.

## PROPOSAL

The applicant is requesting variances to permit the construction of a new 44.59 m<sup>2</sup> (480.0 ft<sup>2</sup>) deck with a reduced interior side yard setback, and a maximum projection of 3.65 m (11.98 ft) from the wall closest to the rear lot line. The applicant proposes to install privacy screening along the south side of the deck (see Side Elevation Drawing attached as Appendix “B”).

## OFFICIAL PLAN AND ZONING

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms with a building height of up to three-storeys.

## Zoning By-Law 177-96

The subject property is zoned “Residential Two Exception \*224 (R2\*224) Zone” under By-law 177-96, as amended, which permits one single detached dwelling per lot. The

proposed development does not comply with the By-law requirements with respect to the minimum required side yard setback, and maximum projection from the dwelling wall closest to the rear lot line.

### **ZONING PRELIMINARY REVIEW (ZPR) NOT UNDERTAKEN**

The applicant has confirmed that a 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, R.S.O. 1990, c. P. 13, as amended* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the "Committee"):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

### **Reduction in Minimum Required Side Yard Setback and Increase in Maximum Deck Projection from the Dwelling Wall Closest to the Rear Lot Line**

The applicant is requesting a deck to be located closer to the interior side lot line than the main building, and to project a maximum distance of 3.65 m (11.98 ft) from the wall closest to the rear lot line. The By-law requires a deck to be located no closer to the interior side lot line than the main building, and to project no more than 3.0 m (9.84 ft) from the wall closest to the rear lot line.

The applicant is proposing to install vertical screening along the south side of the deck, where the deck projects beyond the south wall of the main building. The deck would be setback a distance of at least 3.70 m (12.14 ft) from the interior south side lot line. Staff are of the opinion that the overall orientation of the subject property, the unique pie shaped lot, and the vertical screening along the south side of the deck assist in mitigating any potential overlook or privacy concerns to the adjacent property to the south.

With respect to the requested maximum deck projection, it is noted that the request is an extension of 0.65 m (2.14 ft) beyond the By-law requirement. It is also noted that the proposed development would comply with the minimum required rear yard setback of 3.0 m (9.84 ft) for a deck having a height greater than 1.0 m (3.28 ft). Staff are satisfied that the proposed development would be of minimal impact to adjacent properties, and meets the four tests.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of February 7, 2022. It is noted that additional information may be received after the writing of this 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*, and are of the opinion that the variance request meets the four tests. Staff recommend that the Committee consider public input and the subsequent conditions of approval in

reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

**APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



\_\_\_\_\_  
Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/141/21**

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans 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:



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Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/141/21**

# Appendix B

File: 21.138112.000.00.MNV  
 Date: 02/11/22  
MM/DDYY

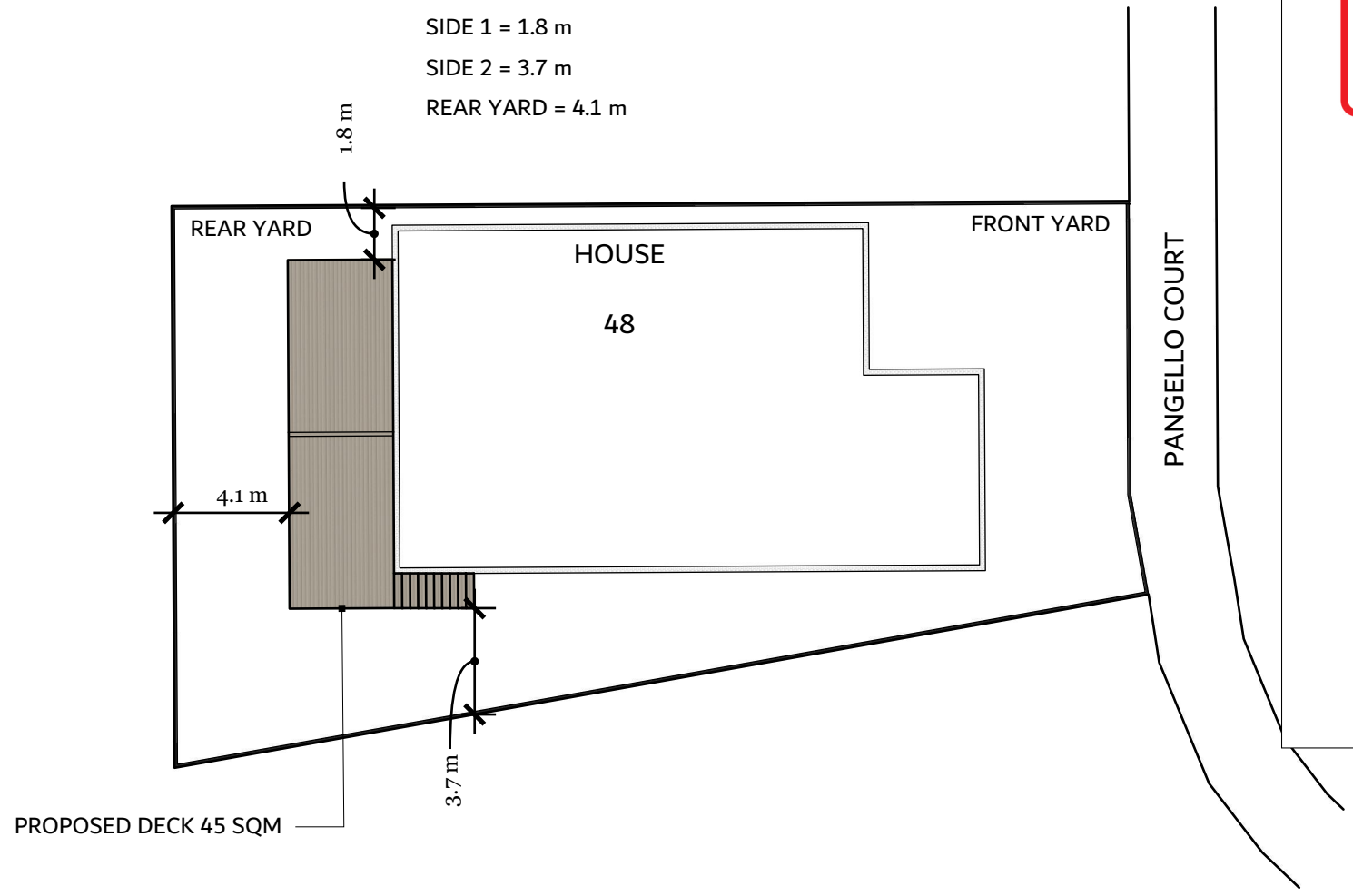
PROPOSED REAR DECK = 45m<sup>2</sup>

DECK SETBACKS

SIDE 1 = 1.8 m

SIDE 2 = 3.7 m

REAR YARD = 4.1 m



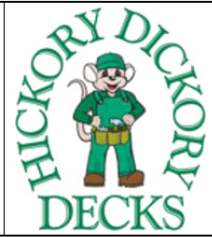
**SITE PLAN** **A**

Scale: N/A 0.1

KHAN DECK  
SITE LAYOUT

I Brad Arnold review and take responsibility for the design and am qualified in the appropriate category as an "other designer" under subsection 3.2.5. of Division C, of the Building Code.

Individual BCIN:



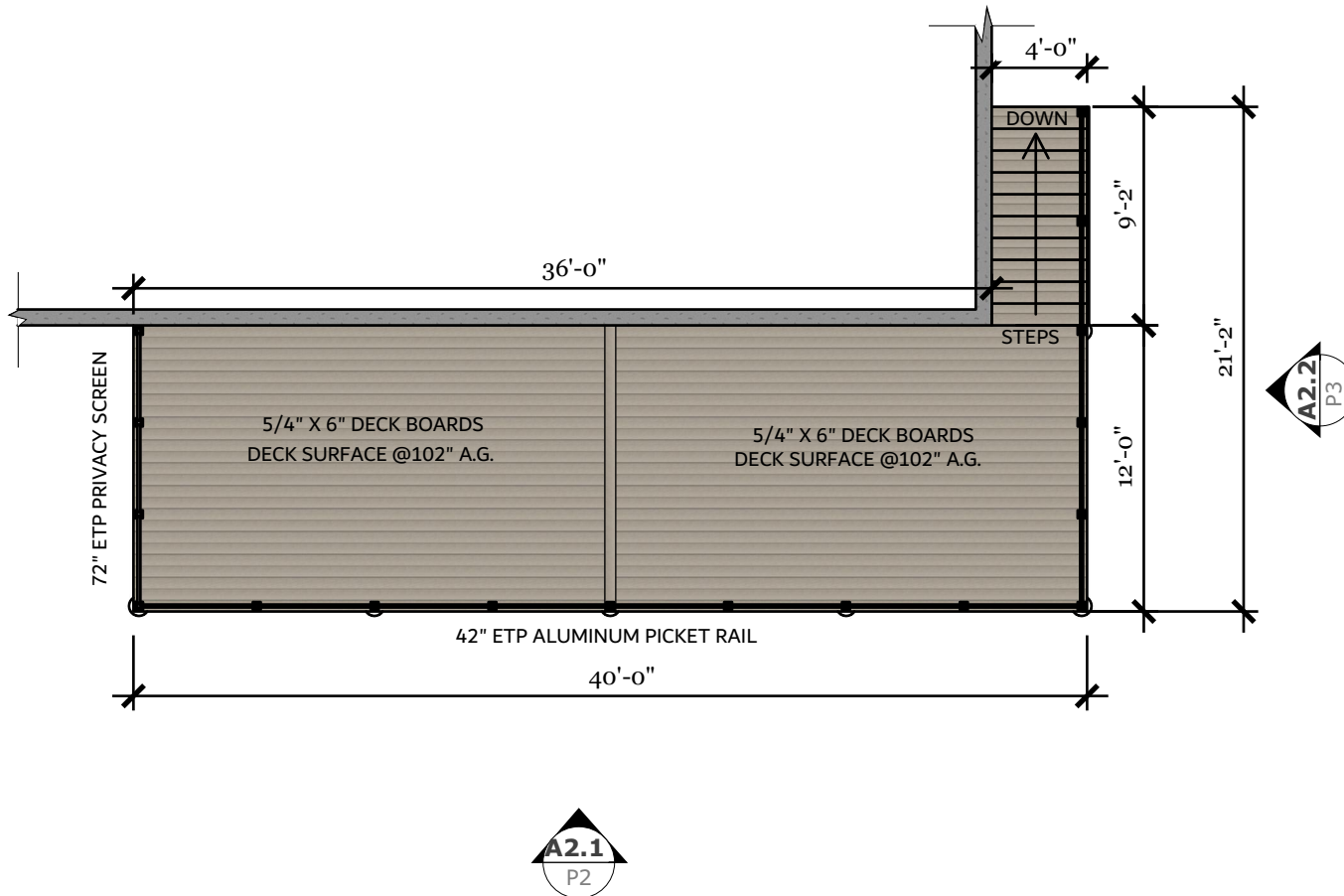
48 Pangello Court, Markham

Wednesday, March 24, 2021

# Appendix B

File: 21.138112.000.00.MNV

Date: 02/11/22  
MM/DD/YY



**DECK FLOOR PLAN** **A**

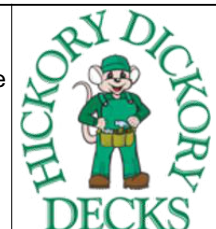
Scale: 1/8" = 1'-0" 1.1

Owner: Saqib Qureshi & Alia Khan

Revision 1: Issued for Permit

I Brad Arnold review and take responsibility for the design and am qualified in the appropriate category as an "other designer" under subsection 3.2.5. of Division C, of the Building Code.

Individual BCIN:



01  
P

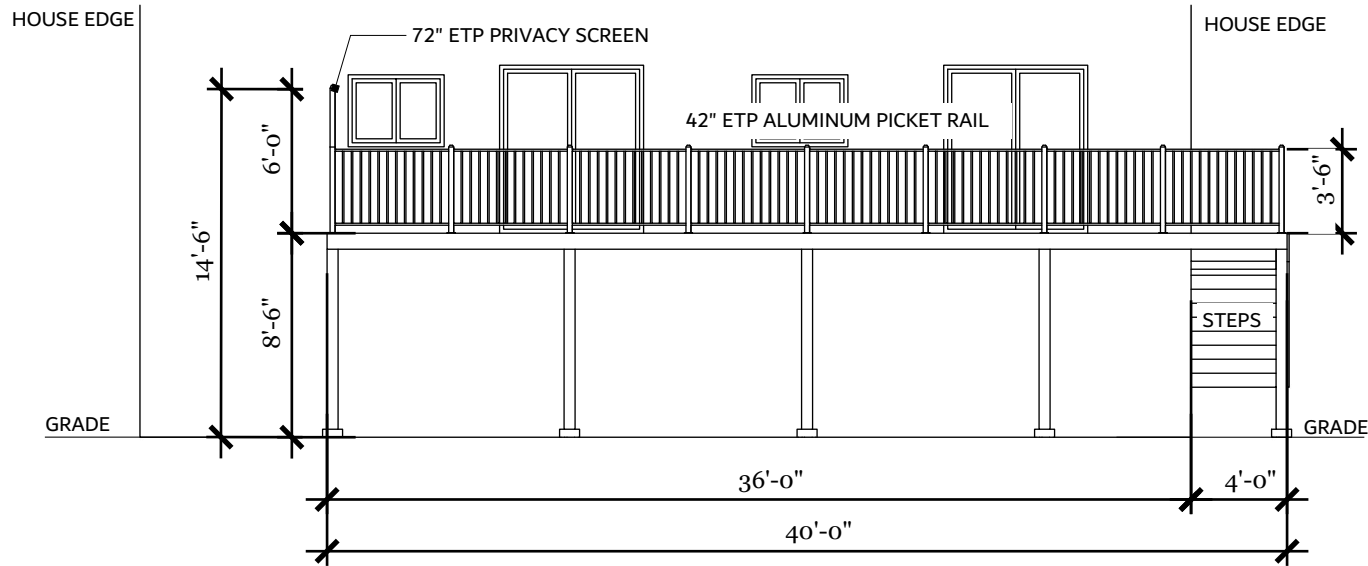
Address: 48 Pagnello Court, Markham

Sunday, April 4, 2021

# Appendix B

File: 21.138112.000.00.MNV

Date: 02/11/22  
MM/DD/YY



**FRONT ELEVATION**

**A**

Scale: 1/8" = 1'-0"

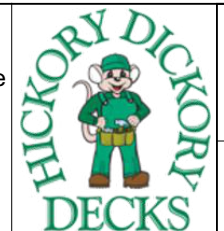
2.1

Owner: Saqib Qureshi & Alia Khan

Revision 1: Issued for Permit

I Brad Arnold review and take responsibility for the design and am qualified in the appropriate category as an "other designer" under subsection 3.2.5. of Division C, of the Building Code.

Individual BCIN: 



**O2**

**P**

Address: 48 Paqnello Court, Markham

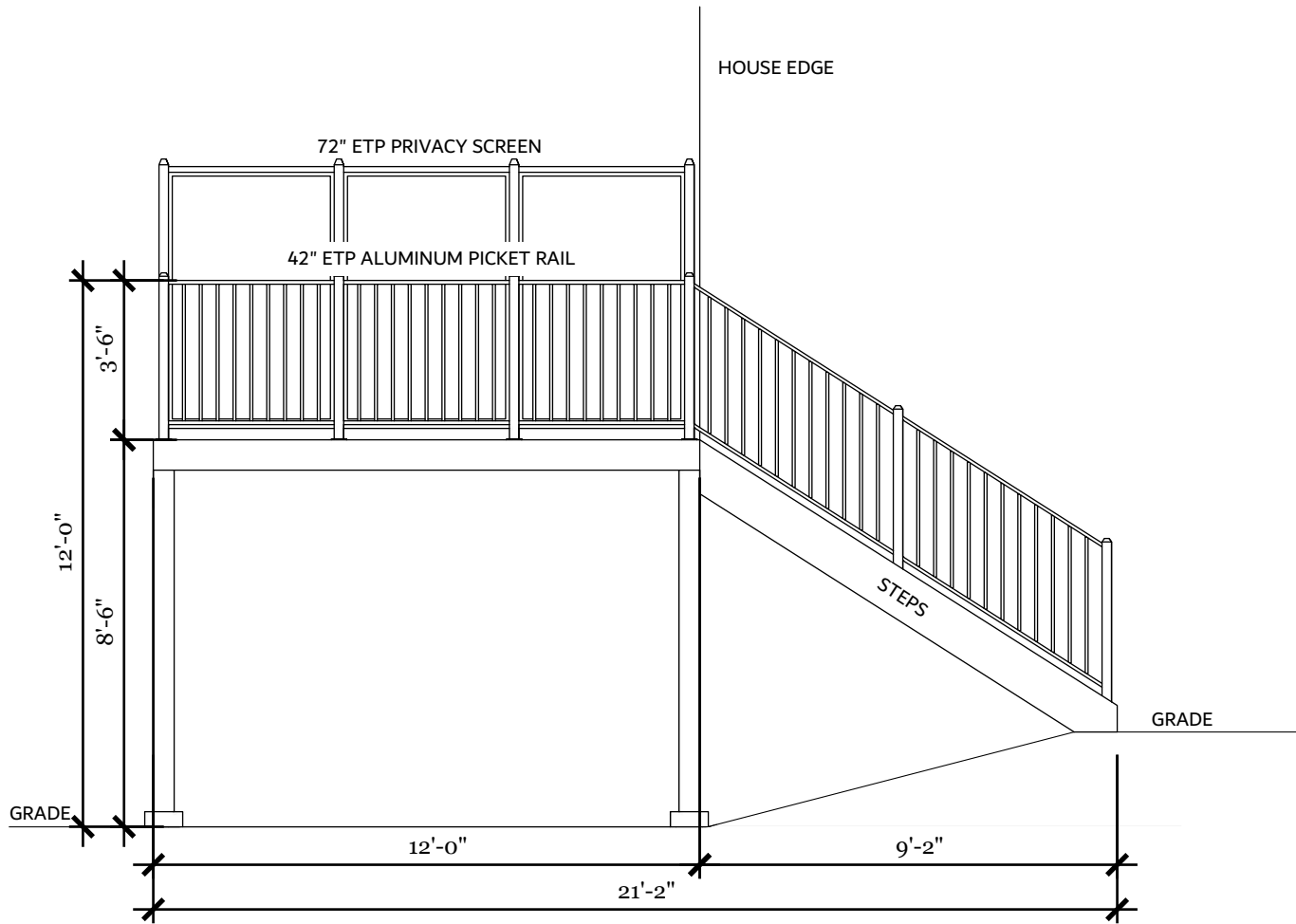
Sunday, April 4, 2021



# Appendix B

File: 21.138112.000.00.MNV

Date: 02/11/22  
MM/DD/YY



**SIDE ELEVATION**

**A**

Scale: 1/4" = 1'-0"

2.2

Owner: Saqib Qureshi & Alia Khan

Revision 1: Issued for Permit

I Brad Arnold review and take responsibility for the design and am qualified in the appropriate category as an "other designer" under subsection 3.2.5. of Division C, of the Building Code.

Individual BCIN: 



**03**

**P**

Address: 48 Paqello Court, Markham

Sunday, April 4, 2021