

# Memorandum to the City of Markham Committee of Adjustment

November 28, 2022

**File:** A/179/22  
**Address:** 126 Dundas Way, Markham, ON  
**Applicant:** Dawei Song  
**Hearing Date:** December 7, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Community Amenity Three Exception \*512 (CA3\*512) Zone” requirement under Zoning By-law 177-96, as amended (the “Zoning By-law”), as it relates to a proposed deck. The variance requested is to permit:

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

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

## PROPERTY DESCRIPTION

126 Dundas Way (the “Subject Property”) is located on the south side of Dundas Way, east of Donald Cousens Parkway, south of Major Mackenzie Drive East, and west of Delray Drive. A three-storey townhouse currently exists on the property, with a rear yard amenity area. The Subject Property is located within a residential neighbourhood, with properties along Dundas Way which also contain three-storey townhouses and two-storey decks in their rear yards.

## PROPOSAL

The applicant is proposing to construct a second-storey deck located in the rear yard of the Subject Property, with an approximate height of 3.0 m (9.84 ft), and approximate area of 12.03 m<sup>2</sup> (129.49 ft<sup>2</sup>) (the “Proposed Development”).

## 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 with a building height of up to three-storeys.

## Zoning By-Law 177-96

The Subject Property is zoned “Community Amenity Three Exception \*512 (CA3\*512) Zone” under the Zoning By-law, which permits one townhouse dwelling per lot. The Proposed Development does not comply with the maximum deck height requirement.

## 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 Building Permit process to confirm the variance required.

## COMMENTS

The *Planning Act*, R.S.O. 1990, c. P.13, as amended (the “*Planning Act*”) 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.

### Increase in Maximum Deck Height

The applicant is requesting a deck to be located at the second-storey, whereas the Zoning By-law requires the floor of a deck to be no higher than the floor level of the first storey of the main building.

A review of the architectural plans approved by the City in 2015 shows that the first-storey floor level as defined by the Zoning 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 condition into the rear yard. The kitchen and family room areas are shown to be located at the floor above, where a Juliette balcony currently exists. The requested variance would facilitate a deck that would provide useable outdoor amenity space at the second-storey level. The Proposed Development is similar to other deck structures which have been approved within the immediate vicinity, and staff are of the opinion that the requested variance meets the four tests of the *Planning Act*.

## PUBLIC INPUT SUMMARY

No written submissions were received as of November 28, 2022. 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 recommend that the Committee consider the subsequent conditions of approval and public input 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, MCIP, RPP  
Planner II, East District

REVIEWED BY:



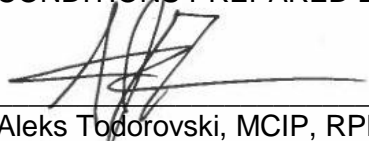
Stacia Muradali, MCIP, RPP  
Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/179/22**

1. That the variance applies only to the Proposed Development for as long as it remains.
2. That the variance applies 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 that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.

CONDITIONS PREPARED BY:

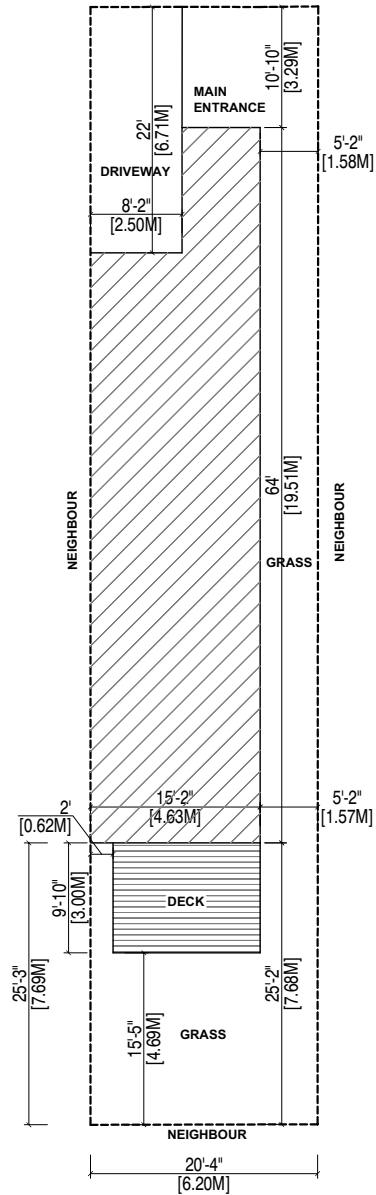


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Aleks Todorovski, MCIP, RPP  
Planner II, East District

**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/179/22**



① SITE PLAN 1:200

## Appendix B

File: 22.258732.000.00.MNV

Date: 11/29/22  
MM/DD/YY

PROJECT ADDRESS:

126 DUNDAS WAY,  
MARKHAM, ON L6E 0T1

PROJECT TITLE:

DECK PERMIT

DRAWING TITLE:

SITE PLAN

DATE:

AUG 2022

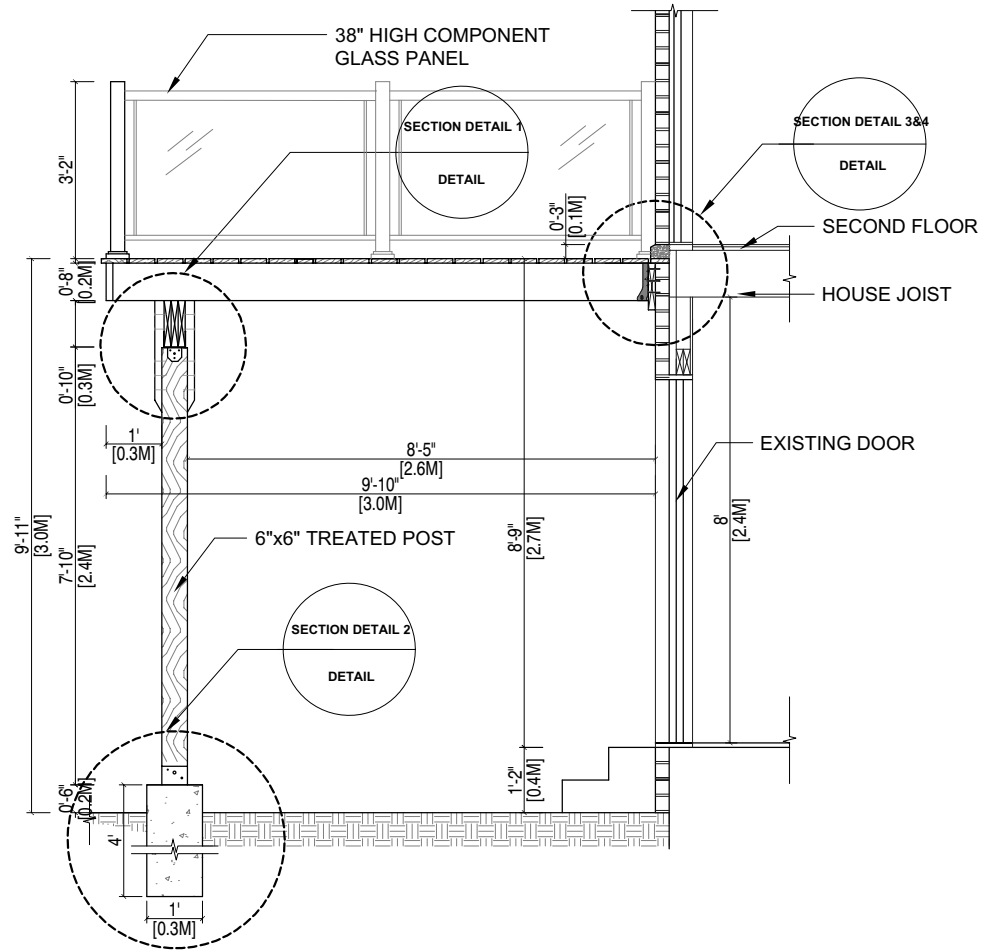
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A 01

# Appendix B

File: 22.258732.000.00.MNV

Date: 11/29/22  
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1 DECK SECTION B 1:40

PROJECT ADDRESS:

126 DUNDAS WAY,  
MARKHAM, ON L6E 0T1

PROJECT TITLE:

DECK PERMIT

DRAWING TITLE:

DECK SECTION B

DATE:

AUG 2022

SCALE:

1:40

SHEET NO:

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