Memorandum to the City of Markham Committee of Adjustment

December 8, 2022

File: A/220/22

Address: 27 Stacey Crescent, Markham

Applicant: Sandeep Gupta Agent: Sandeep Gupta

Hearing Date: Wednesday, December 14, 2022

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

The applicant is requesting relief from the following requirement of the "Eighth Density – Single Family Residential (R8) Zone" in By-law 72-81, as amended, as it relates to a proposed secondary dwelling unit in the basement with a new walk-out basement door and rear deck:

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

a maximum deck projection of 3.66 m (12.0 ft.), whereas the By-law permits a maximum deck projection of 3.0 m (9.8 ft.);

b) Section 6.1.1:

an accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot;

BACKGROUND

Property Description

The 596.52 m² (6,420 ft²) subject property is located on the east side of Stacey Crescent, north of John Street and west of Leslie Street. The property is located within an established residential neighbourhood comprised of two-storey detached dwellings. There is an existing two-storey detached dwelling on the property, which according to assessment records was constructed in 1983. Mature vegetation exists across the property.

Proposal

The applicant is proposing a secondary suite in the basement of the existing dwelling. The proposal includes a new deck at the rear of the building to replace the old deck. The proposed secondary suite would have direct and separate access provided by a newly excavated walkout basement door on the east (rear) side of the building. No changes are being proposed to the front elevation of the dwelling.

Provincial Policies

More Homes, Built Faster Act, 2022

The More Homes, Built Faster Act, 2022, S.O. 2022 – (Bill 23) received Royal Assent on November 28, 2022. Portions of Bill 23 amended the Planning Act, R.S.O. 1990, c. P.13, as amended (The Act), to limit the authority of municipalities to pass a by-law under Section 34 of the Act that would prohibit the use of additional dwelling units within a detached house, semi-detached house or rowhouse, or within a structure ancillary to a detached house, semi-detached house, or rowhouse. These amendments also limit the authority to pass a by-law which would regulate the floor area of additional dwelling units,

as well as requirements for more than one parking space to be provided in connection with additional dwelling units.

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 By-law 72-81

The subject property is zoned "Eight Density – Single Family Residential (R8) Zone "under By-law 72-81, as amended, which permits one single detached dwelling per lot.

City of Markham by-laws generally do not permit additional dwelling units within a detached, semi-detached or rowhouse dwelling as-of-right, necessitating the need for owners and applicants to seek approval from the CoA. The implications of Bill 23 eliminate the need for variance approvals related to requests for additional dwelling units in specific instances, as outlined under Section 35.1 of The Act, without requiring a formal amendment to the in force Zoning By-law.

Zoning standards including, but not limited to, height, lot coverage, setbacks, depth, or standards for ancillary buildings or structures containing a dwelling unit shall continue to apply, as required, in the prevailing By-laws.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. It is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

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.

Maximum Deck Projection Variance

The applicant is requesting a maximum deck projection of 3.66 m (12.0 ft.), whereas a maximum deck projection of 3.0 m (9.8 ft.) is permitted. The new deck is proposed to replace the existing deck using the same footings and will maintain the same dimensions. The requested variance is to permit and maintain the projection of the existing deck and will present no visible change in size from the current state of the deck.

Given the above, Staff are of the opinion that the requested variances are minor in nature and will not result in adverse impacts to the neighbouring properties.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 8, 2022. 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 variances request meet the above-noted 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

CONCLUSION

Appendix "A" - Conditions of Approval

Appendix "B" - Plans

Appendix "C" - Briefing Note: Bill 23 Impacts on Accessory Dwelling Units

PREPARED BY:

Jennifer Kim, Senior Planner, West District

REVIEWED BY:

Rick Cefaratti, MCIP, RPP, Senior Planner II, West District

APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/220/22

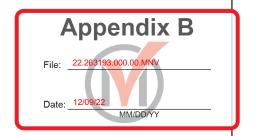
- 1. The variance applies only to the proposed development as long as it remains;
- 2. That the variance applies only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on November 8, 2022, and that 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;

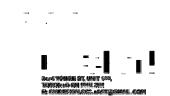
CONDITIONS PREPARED BY:

Jennifer Kim, Senior Planner, West District

APPENDIX "B" PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/220/22

NO. 29 39.10 STACEY CRES 39.10 (THERE HAS NO CHANGED OR WORK ON OR CLOSE TO THIS PROPERTY LINE) NO. 25





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 BE A DESIGNER.

REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2 OF THE DIVISION C OF THE BUILDING CODE.

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 826 DESIGN INC.
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 FIRM NAME
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1.	ISSUE) FOR REVIEW	2021-09-18
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27 STACEY CRES THORNHILL

PROPOSE D SITE PLAN

SCALE: 1/16" = 1'-0"

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PROPOSED WALL

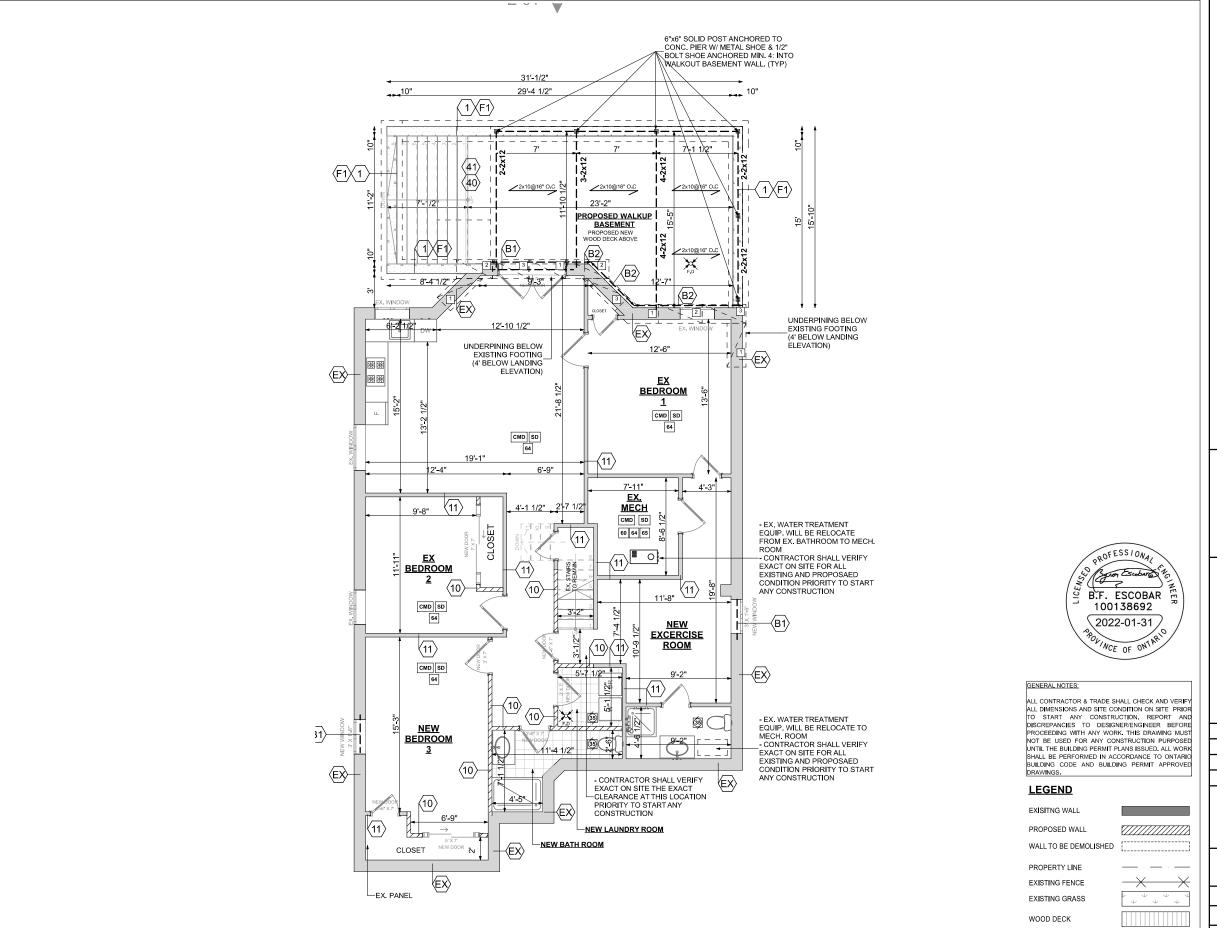
WALL TO BE DEMOLISHED

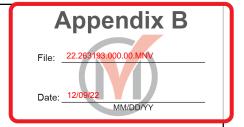
PROPERTY LINE

EXISTING FENCE

EXISTING GRASS

WOOD DECK





828 DESIGN 3474 YONGE ST, UNIT 122, TORONTO ON MAN 2914

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 BE A DESIGNER.

QUALIFICATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.4.1
OF THE DIVISION C OF THE BUILDING CODE.

DUYEN NGUYEN 946200 NAME SIGNATURE BCIN

828 DESIGN INC

 2.
 ISSUED FOR PERMIT
 2021-10-15

 1.
 ISSUED FOR REVIEW
 2021-09-18

 NO.
 DESCRIPTION
 DATE

117505

PROJECT ADDRESS:

27 STACEY CRES THORNHILL

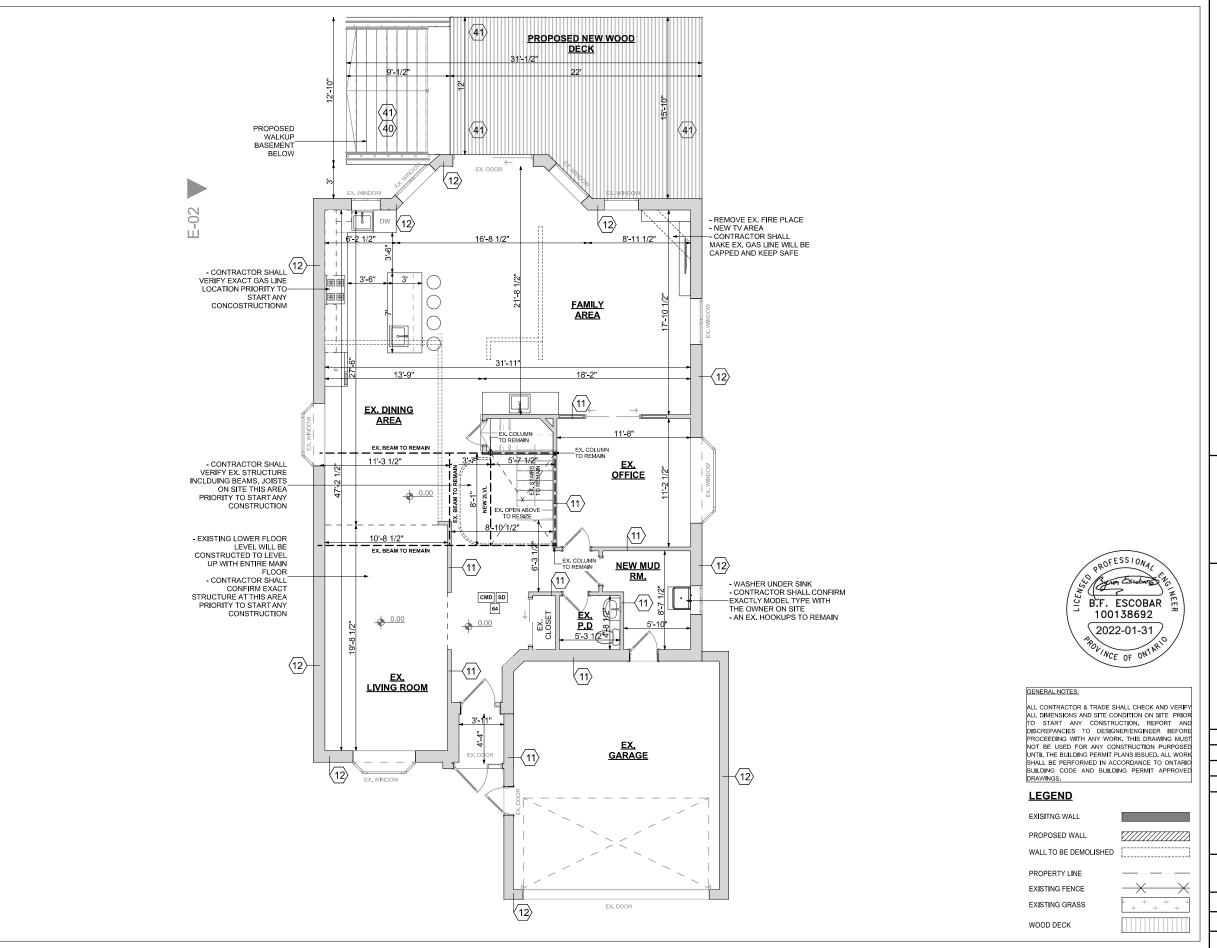
DRAWING TITLE:

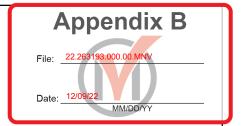
PROPOSED BASEMENT FLOOR PLAN

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

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828 DESIGN 3474 YONGE ST, UNIT 122, TORONTO ON MAN 2914

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828 DESIGN INC

 2.
 ISSUED FOR PERMIT
 2021-10-15

 1.
 ISSUED FOR REVIEW
 2021-09-18

 NO.
 DESCRIPTION
 DATE

117505

A.05

PROJECT ADDRESS:

27 STACEY CRES THORNHILL

DRAWING TITLE:

PROPOSED GRND FLOOR PLAN

DRAWN BY: D.N PAGE:

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

APPENDIX "C"

BRIEFING NOTE: BILL 23 IMPACTS ON ACCESSORY DWELLING UNITS



Briefing Note

Date: December 6, 2022

Prepared by: Greg Whitfield

Prepared for: City of Markham Committee of Adjustment

Subject: Bill 23 Impacts on Additional Dwelling Unit Requests

This briefing provides an overview of the impacts the passing of Bill 23 has on requests for additional dwelling units as it relates to the Committee of Adjustment (CoA).

BACKGROUND

PROVINCIAL POLICIES

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OFFICIAL PLAN AND ZONING

Zoning Provisions

City of Markham by-laws generally do not permit additional dwelling units within a detached, semidetached or rowhouse dwelling as-of-right, necessitating the need for owners and applicants to seek approval from the CoA. The implications of Bill 23 eliminate the need for variance approvals related to requests for additional dwelling units in specific instances, as outlined under <u>Section</u> <u>35.1</u> of The Act, without requiring a formal amendment to the in force Zoning By-law.

Zoning standards including, but not limited to, height, lot coverage, setbacks, depth, or standards for ancillary buildings or structures containing a dwelling unit shall continue to apply, as required, in the prevailing By-laws.

COMMENTS

While approval to allow an additional dwelling unit(s), as outlined above, will no longer require approval from the CoA, owner's will still be required to obtain a building permit which ensures the unit(s) comply with Building Code and Fire Code Regulations. Compliance with the Building Code includes, but is not limited to: ensuring sufficient natural light is provided to living and bedrooms;



Briefing Note

ensuring there is proper egress or exiting in the event of an emergency; and, ensuring there is proper fire separation between dwelling units.

In addition, an approved additional dwelling unit(s) must be registered with the Fire Department prior to the occupancy of the unit.

NEXT STEPS

For applications scheduled on the December 7th and December 14th Committee of Adjustment hearings that include a request for additional dwelling units, Committee will not be required to make a decision on the additional dwelling unit permission. Committee may also not be required to make a decision on an associated reduction in parking if the proposed number of spaces complies with the City's zoning by-law, and the *Planning Act* under Bill 23.

Committee may still be required to render decisions on applications where other deficiencies not addressed by Bill 23 still exist under the zoning by-law.

Staff will provide guidance to Members and the Public at upcoming meetings as to which applications will no longer require consideration.

PREPARED BY:

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Greg Whitfield, Supervisor, Committee of Adjustment

REVIEWED BY:

Brad Roberts, Manager, Development Facilitation Office