

# Memorandum to the City of Markham Committee of Adjustment

March 16, 2023

**File:** A/018/23  
**Address:** 1 Lombardy Lane Thornhill  
**Applicant:** Quadra Building Group (Pendar Soleimani)  
**Agent:** Quadra Building Group (Pendar Soleimani)  
**Hearing Date:** Wednesday March 22, 2023

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

The applicant is requesting relief from the following requirements of By-law 2150, as amended, to permit:

a) **By-law 2150, Section 3.7:**

a basement stair encroachment as it relates to walk up access for the basement of 36 inches, whereas the By-law permits a maximum encroachment of no more than 18 inches into the required flankage yard;

## BACKGROUND

### Property Description

The 659.6 m<sup>2</sup> (7,100 ft<sup>2</sup>) subject property is located on the south-east corner of Weeping Willow Lane and Lombardy Lane. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area has undergone a transition with newer dwellings being developed as infill developments.

There is an existing 2-storey single detached dwelling on the property, which according to assessment records was constructed in 1977. Mature vegetation exists on the property including one large mature tree in the flankage yard.

### Proposal

The applicant is proposing to construct a stairwell within the flankage yard of the existing dwelling to access the basement.

### 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. In considering applications for development approval in a ‘Residential Low Rise’ area, which includes variances, infill development are required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways.

### Zoning By-Law 2150, as amended

The subject property is zoned R3A under By-law 2150, as amended, which permits a single family detached dwelling. The By-law requires a minimum flankage side yard setback of 3.66 m (12.0 ft.) or one half the height of the building height, whichever is the greater for flankage yards. Based on the existing building height of 5.18m (17 ft.), the above noted minimum setback is 3.66 m (12.0 ft.).

### **Zoning Preliminary Review (ZPR) Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not 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.

### **Flankage Side Yard Encroachment Variance**

The applicant is proposing a maximum encroachment of 36 in (0.914 m) into the flankage yard, whereas a maximum encroachment of 18 in (0.457 m) is permitted. Based on the applicable minimum flankage setback, the staircase is to be setback a minimum of 3.2 m (10.5 ft.) from the flankage lot line, whereas the proposed setback is 2.75 m (9.0 ft.).

The encroachment is required to provide a functional stairwell width to access the basement within the flankage yard. The maximum permitted encroachment of 18 in would not be sufficient for the subject lands. Staff do not anticipate any adverse impacts relating to the proposal and are of the opinion that the requested variance is minor in nature.

### **Tree Protection and Compensation**

In the event that this application is approved by the Committee, staff recommend that tree related conditions as detailed in Appendix "A", be adopted to ensure the applicant installs the appropriate tree protection. Staff also note that the applicant is required to apply for, and obtain a tree permit from the City for any proposed injury to, or removal of any trees with a diameter at breast height (DBH) of 0.20 m (0.66 ft.) or more. Following any approval of this minor variance application, further mitigation may be required to ensure sufficient tree protection zone(s) are maintained to allow for the appropriate protection of certain trees.

### **EXTERNAL AGENCIES**

The application has been circulated to York Region and Alectra Utilities, both external agencies have indicated they have no comment.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 16, 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



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Nusrat Omer, MCIP, RPP, Senior Planner, West District

REVIEWED BY:



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

File Path: Amanda\File\ 23 112725 \Documents\District Team Comments Memo

**APPENDIX “A”**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/018/23**

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply 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;
3. That the owner implement and maintain all of the works required in accordance with the conditions of this variance;
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City’s Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City’s Streetscape Manual, including street trees, in accordance with the City’s Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division.

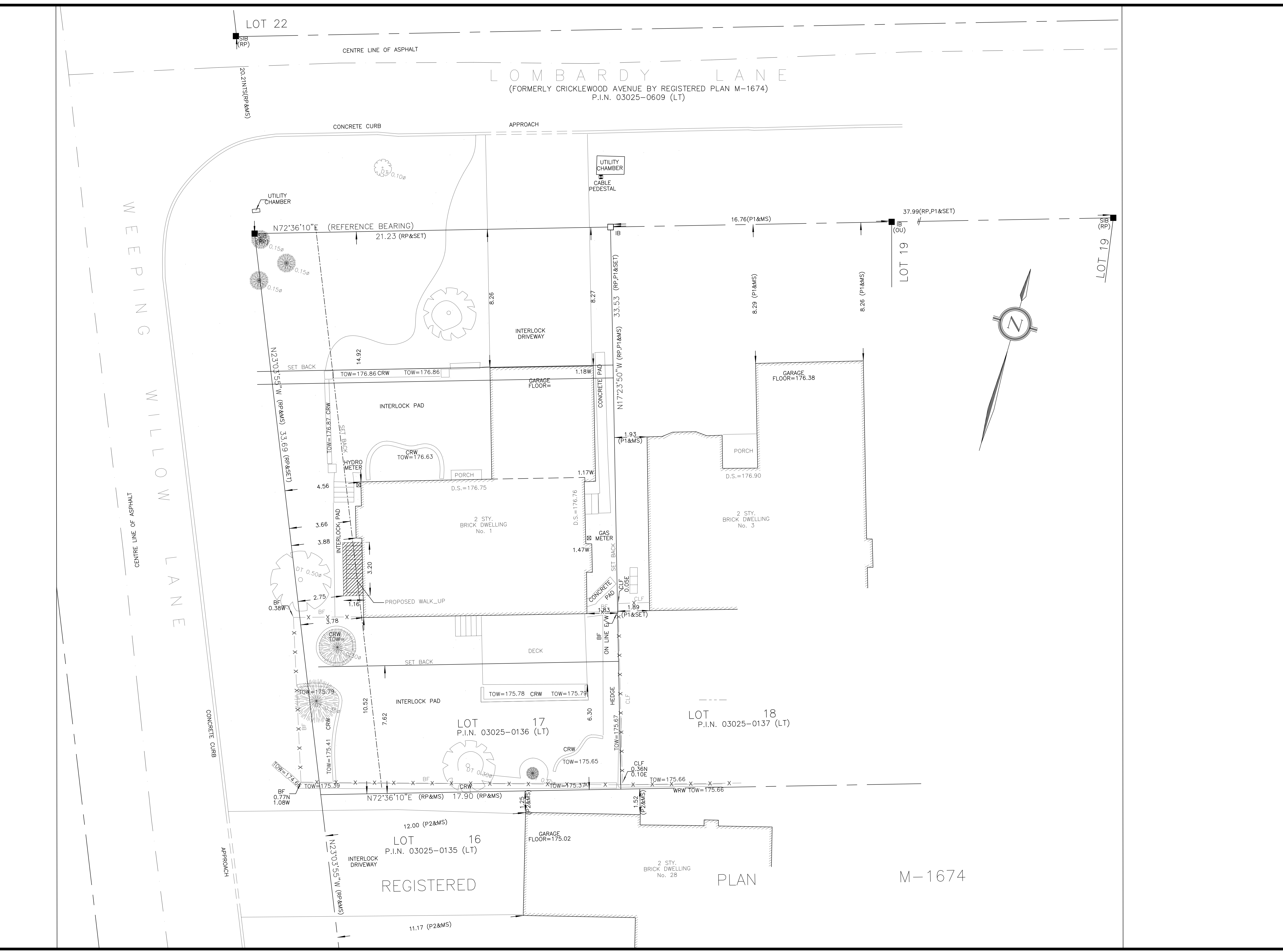
**CONDITIONS PREPARED BY:**



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Nusrat Omer, MCIP, RPP, Senior Planner, West District

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/018/23**



**REVISIONS**

No.	DATE	ISSUED FOR	APPROVED BY
A	2022/09/25	BUILDING PERMIT	NH
B	2023/01/24	MINOR VARIANCE	NH

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CLIENT:  
**MR. AMIR POURAFSHAR**

PROJECT:  
**PRIVATE RESIDENCE  
 EXTERNAL ALTERNATION**

PROJECT ADDRESS:  
 1 Lombardy Lane, Markham, ON L3T 4W3

DRAWING:  
**SITE PLAN**

DATE: 09/12/2022 PROJECT NO: Q20220808  
 SCALE: 1/8" = 1'-0" DRAWING NO:  
 DRAWN BY: PKM A2.0  
 CHECKED BY: NH

