

Memorandum to the City of Markham Committee of Adjustment

March 16, 2023

File: A/021/23
Address: 1 Fierheller Court, Markham
Applicant: Prowise Engineering Inc. (Reagan Jing)
Agent: Prowise Engineering Inc. (Reagan Jing)
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-177-96, as amended, R2*456:

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

To permit a deck with a maximum projection of 3.72 metres from the rear dwelling wall, whereas the By-law permits a maximum projection of 3 metres;

as it relates to an existing rear deck.

BACKGROUND

Property Description

The 339.9 m² (3,561.9 ft²) subject property is located on the southwest corner of Aksel Rinck Drive and Fierheller Court, and east of Kennedy Road. The property is located within an established residential neighbourhood comprised of two-storey detached dwellings.

There is an existing two-storey single detached dwelling on the property, which according to assessment records was constructed in 2015. There is no mature vegetation within the rear yard of the property. An existing unenclosed raised deck projects from the first floor level, which is approximately 2.41 metres (7 feet and 11 inches) above grade.

Proposal

The applicant is proposing to legalize the existing raised deck within the rear yard, which extends beyond the maximum permitted projection from the rear dwelling wall.

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 is 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 177-96, as amended

The subject property is zoned Residential Two (R2*456) under By-law 177-96 as amended, which permits a range of low rise residential uses, including a single detached dwelling. Exception 456 relates to the additional use permission for a public school, and minimum lot provisions which are not applicable.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"deck is as built and difficult to remove/relocate existing post and footing. Also the owner wants to have a little bigger deck area"*.

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 requested variance is required. 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 to permit an existing raised rear yard deck to remain with a maximum projection of 3.72 metres (12.2 feet) from the rear dwelling wall, whereas a maximum projection of 3.0 metres (9.84 feet) is permitted. Staff are of the opinion that the requested variance is minor in nature, and would not negatively impact to the surrounding neighbourhood.

Development Engineering Comments

Engineering staff have reviewed the application and commented that they have no concern with the variance respecting drainage.

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:



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

REVIEWED BY:



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

File Path: Amanda\File\ 23 113013 \Documents\District Team Comments Memo

Committee of Adjustment Conditions List
APPENDIX "A":
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/021/23

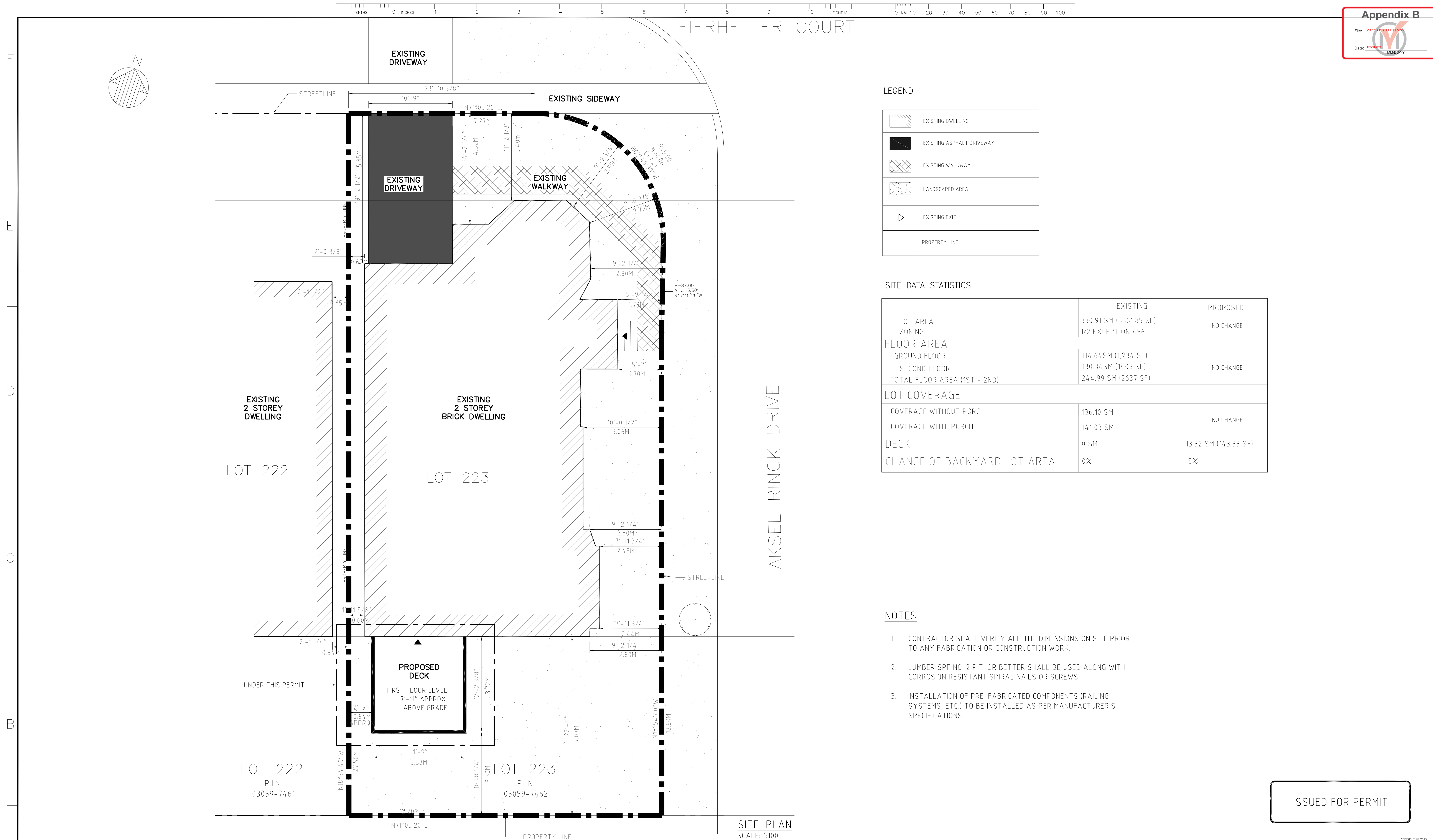
1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;

CONDITIONS PREPARED BY:



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

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/021/23



LEGEND

	EXISTING DWELLING
	EXISTING ASPHALT DRIVEWAY
	EXISTING WALKWAY
	LANDSCAPED AREA
	EXISTING EXIT
	PROPERTY LINE

SITE DATA STATISTICS

	EXISTING	PROPOSED
LOT AREA	330.91 SM (3561.85 SF)	NO CHANGE
ZONING	R2 EXCEPTION 456	
FLOOR AREA		
GROUND FLOOR	114.64 SM (1,234 SF)	
SECOND FLOOR	130.34 SM (1403 SF)	NO CHANGE
TOTAL FLOOR AREA (1ST + 2ND)	244.99 SM (2637 SF)	
LOT COVERAGE		
COVERAGE WITHOUT PORCH	136.10 SM	
COVERAGE WITH PORCH	141.03 SM	NO CHANGE
DECK	0 SM	13.32 SM (143.33 SF)
CHANGE OF BACKYARD LOT AREA	0%	15%

- NOTES**
- CONTRACTOR SHALL VERIFY ALL THE DIMENSIONS ON SITE PRIOR TO ANY FABRICATION OR CONSTRUCTION WORK.
 - LUMBER SPF NO. 2 P.T. OR BETTER SHALL BE USED ALONG WITH CORROSION RESISTANT SPIRAL NAILS OR SCREWS.
 - INSTALLATION OF PRE-FABRICATED COMPONENTS (RAILING SYSTEMS, ETC.) TO BE INSTALLED AS PER MANUFACTURER'S SPECIFICATIONS

ISSUED FOR PERMIT

SITE PLAN
SCALE: 1:100

REV	DDMMYY	REVISION / ISSUE DESCRIPTION	DRN	CHK	APP	APP	APP	APP	APP	REV	DDMMYY	REVISION / ISSUE DESCRIPTION	DRN	CHK	APP	APP	APP	APP	REF	NUMBER	TITLE
0	15/AUG/22	ISSUED FOR REVIEW																			

STAMP/SEAL

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APPROVED FOR			
CLIENT PROJECT MGR.	DEPARTMENT MGR.	PROJECT MGR.	
PROJECT PHASE			
PROJECT NO.	P22-RH-1039	BY	DDMMYY
ACTIVITY NO.		DES	PS 15/AUG/22
PACKAGE CODE		DRN	PS 15/AUG/22
SCALE	AS SHOWN	CHK	RJ 15/AUG/22
		APP	RJ 15/AUG/22

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PWEI

SUBJECT	1 FIERHELLER CRT MARKHAM SITE PLAN	CLIENT	1 FIERHELLER CRT
DRAWING NO.	SP-01	REV.	0