

Memorandum to the City of Markham Committee of Adjustment

June 6, 2020

File: A/175/16
Address: 20 Personna Boulevard, Markham
Applicant: Vickine & Silva Kaloustian
Agent: CZC Building Consultants Ltd.
Hearing Date: Thursday June 25, 2020

The following comments are provided on behalf of the West Team. The applicant requests relief from the following requirements of the Rural Residential Estate (RRE) Zone under Zoning By-law 304-87, as amended, and the City's Deck By-law, as they relate to an existing accessory building and deck in the rear yard, to permit:

a) Section 7.5 (b) (iv):

a maximum rear yard setback of 1.20 m (3.94 ft) for an accessory building whereas the By-law requires a minimum rear yard setback of 7.50 m (24.61 ft) for an accessory building;

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

a maximum deck projection of 16.87 m (55.35 ft) from the point of the dwelling closest to the rear lot line whereas the By-law permits a maximum deck projection of 3.0 m (9.84 ft) from the point of the dwelling closest to the rear lot line;

c) Deck By-law 142-95, Section 2.2 (b) (ii):

a minimum rear yard setback of 1.2 m (3.94 ft) for a deck whereas the By-law requires a minimum rear yard setback of 3.0 m (9.84 ft) for a deck.

Following planning staff's review of the plans, the applicant confirmed that the initial variances be revised to the measurements shown on the "Survey – Callout, Drawing A0.02" in Appendix "B" which was received by the City of Markham via e-mail on March 27, 2020. The revised variances are as follows:

a) Section 7.5 (b) (iv):

a minimum rear yard setback of 1.06 m (3.48 ft) for an accessory building whereas the By-law requires a minimum rear yard setback of 7.50 m (24.61 ft) for an accessory building;

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

a maximum deck projection of 16.91 m (55.48 ft) from the point of the dwelling closest to the rear lot line whereas the By-law permits a maximum deck projection of 3.0 m (9.84 ft) from the point of the dwelling closest to the rear lot line;

c) Deck By-law 142-95, Section 2.2 (b) (ii):

a minimum rear yard setback of 1.28 m (4.20 ft) for a deck whereas the By-law requires a minimum rear yard setback of 3.0 m (9.84 ft) for a deck.

BACKGROUND

Property Description

The 4,066.36 m² (1.01 ac) property is located on the north side of Personna Boulevard, south of Major Mackenzie Drive East and east of Woodbine Avenue. The property is within an established residential neighbourhood, primarily comprised of one and two-storey detached dwellings on estate lots. The west portion of the site is traversed by a valley corridor associated with the Rouge River Watershed.

There is an existing one-storey detached dwelling with a gross floor area of approximately 251.67 m² (2,709.0 ft²) on the property. An existing deck surrounds a built-in pool and hot tub in the rear yard. The deck is raised approximately 0.86 m (2.82 ft) from the ground, with the hot tub which extends an additional 0.58 m (1.90 ft) above the height of the deck and pool. Separate from the deck, is an existing accessory building approximately 3.35 m (11.0 ft) in height. For the purpose of this report, the existing deck, hot tub, pool, and accessory building, collectively, shall be herein referred to as the "subject development."

Proposal

Variance a) is to facilitate the existing accessory building of 14.31 m² (154.0 ft²) in the rear yard. Variances b) and c) relate to the existing concrete deck constructed with a built-in swimming pool and hot tub in the rear yard.

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property "Residential Estate", which provides for low rise housing forms on larger lots.

Zoning By-Law 304-87

The subject property is zoned Rural Residential Estate (RRE) Zone under By-law 304-87, as amended, which permits one single detached dwelling per lot. The existing accessory building does not comply with the By-law with respect to the minimum rear yard setback.

Deck By-law 142-95

The subject property is also subject to the City of Markham's Deck By-law 142-95. The existing deck does not comply with the Deck By-law with respect to the maximum projection from the point of the dwelling closest to the rear lot line, and the minimum rear yard setback for a deck.

Applicant's Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"the existing deck and cabana were constructed by the previous owner of the property"*.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant confirmed a ZPR was complete; however, the ZPR as referenced on the application form was completed with respect to future development plans for the property. Consequently, a ZPR does not appear to be undertaken for the existing deck and accessory building.

The plans as initially submitted show a setback distance of 1.12 m (3.94 ft) from the rear lot line to the accessory building, a maximum deck projection of 16.87 m (55.35 ft), and a minimum rear yard setback of 1.20 m (3.94 ft) for the deck. Following a review of the plans,

staff contacted the applicant to confirm variance a). The applicant provided planning staff with a new set of variances a) through c) to reflect the updated measurements as shown on the "Survey – Callout, Drawing A0.02" in Appendix "B".

It is the applicant's responsibility to ensure that the application has accurately identified all the variances to the 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.

The proposed accessory building and deck are approximately 123.0 m (403.54 ft) from the two dwellings which share the north property line. There are existing mature trees which provide for partial screening from the adjacent properties to the east and west. Staff do not anticipate the variances will result in any demonstrable adverse impact to adjacent properties. However, staff note that the requested variances represent a considerable departure from the requirements of the By-laws. Staff recommend that the Committee consider public input in reaching a decision. Should the variances be approved, staff also recommend that adequate privacy screening and vegetative buffering be added where the Director of Planning and Urban design or designate may feel appropriate (Appendix "A").

TRCA Comments

The subject property is located within the Toronto and Region Conservation Authority's (TRCA) regulated area, traversed by Carlton Creek, and partially covered by the Regional Storm Floodplain. The TRCA confirmed in a previous letter dated December 2, 2016, that the studies then submitted demonstrated that the proposed works at the time (limited to a deck, pool, and accessory building) would not have a negative impact on the storage and conveyance of flood waters and conformed with TRCA policies related to development in the Regional Storm Floodplain, upon which a conservation permit was issued. It is noted that the hot tub was not included as part of the TRCA's review and issuance of a new conservation permit is required to recognize the hot tub. As a result of this application, the applicant will be required to satisfy the requirements of the TRCA as indicated in their most recent letter dated April 15, 2020 (Appendix "C") through a condition of approval as shown in Appendix "A".

PUBLIC INPUT SUMMARY

No written submissions were received as of June 8, 2020. 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.

APPLICATION PROCESSING

This application was initially scheduled to be heard on April 1, 2020; however, this hearing date was scheduled prior to the Province of Ontario's decision to suspend *Planning Act* timelines for the consideration of a consent and minor variance application, as well as any appeal of an application to the Local Planning Appeal Tribunal.

On June 12, 2020, the Province announced that the emergency regulations relating to *Planning Act* applications will end on June 22, 2020. After June 22, 2020, the procedural requirements (e.g. sending of notices, hearing of applications, eligibility for appeals to LPAT, etc.) of *Planning Act* applications shall proceed as they did prior to the declaration of the emergency. Revisions to the initial memorandum include an update on matters relating to application processing.

CONCLUSION

The subject development provides for a useable amenity space in the rear yard. Considering the size of the properties and its relationship with neighbouring homes, staff are of the opinion that the requested variances are unlikely to generate any significant impact on the abutting properties; however, the requested variances are a significant departure from the By-law requirement. Staff recommend that the Committee consider public input and give consideration as to whether the variances satisfy the four tests of the *Planning Act*.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the By-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

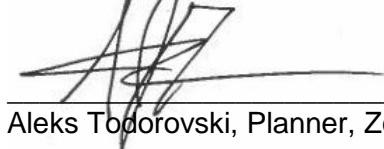
Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Comments

Appendix "D" – Site Photos

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



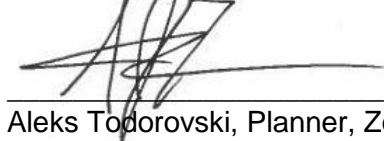
Dave Miller, Development Manager, West District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/175/16

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 plans attached as Appendix "B" to this Staff Report, and received by the City of Markham on March 27, 2020, 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 Secretary-Treasurer receives written confirmation from the Toronto and Region Conservation Authority (TRCA) that the requirements indicated in their letter dated March 20, 2020 and attached as Appendix "C" to this Staff Report have been fulfilled to the satisfaction of the TRCA.
4. 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 Director of Operations.
5. 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 Director of Operations 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.
6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.
7. That adequate vegetative buffering/screening be provided along the north, east, and west property lines to the satisfaction of the Director of Planning and Urban Design or designate, 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 designate.

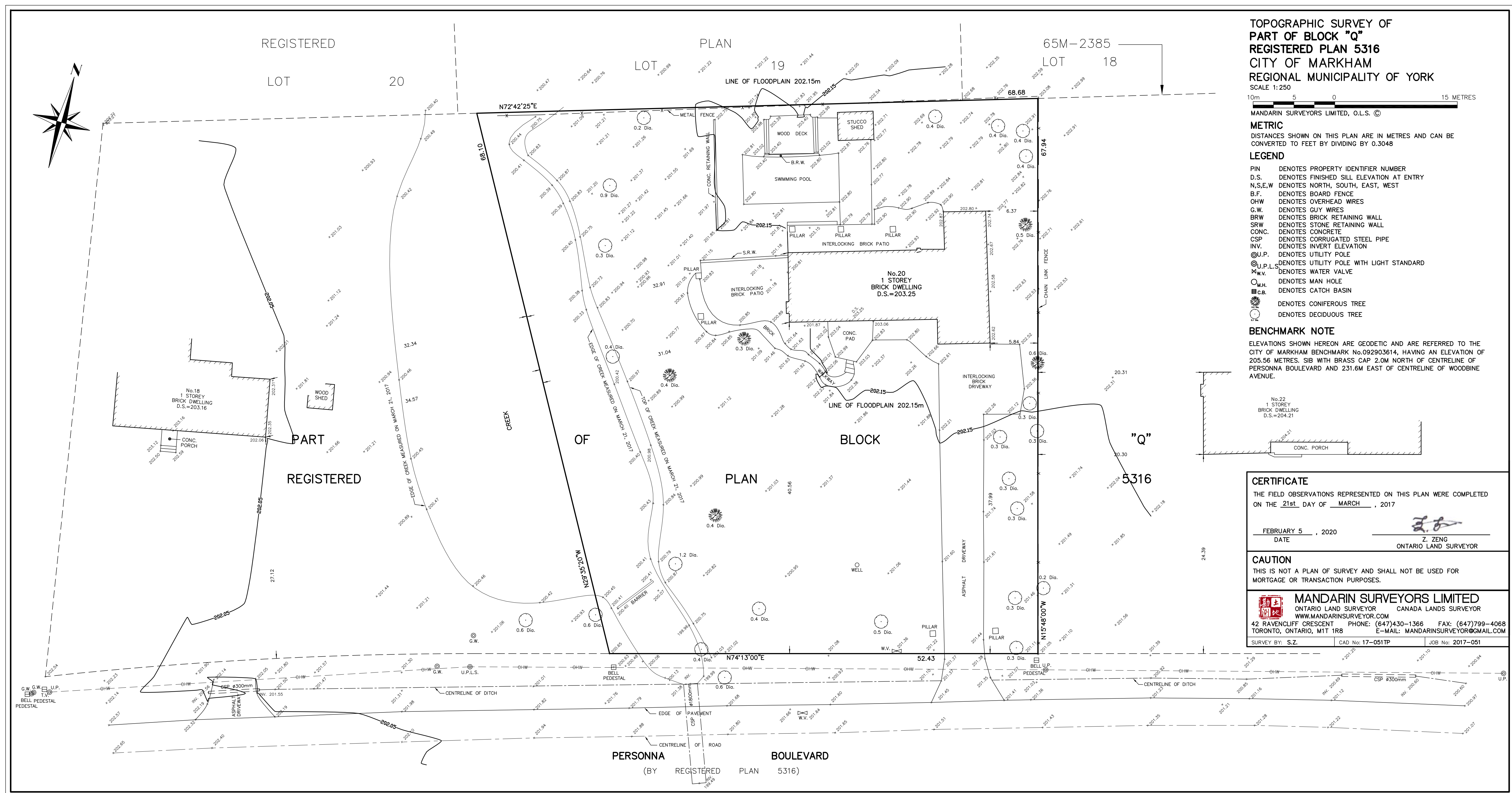
CONDITIONS PREPARED BY:

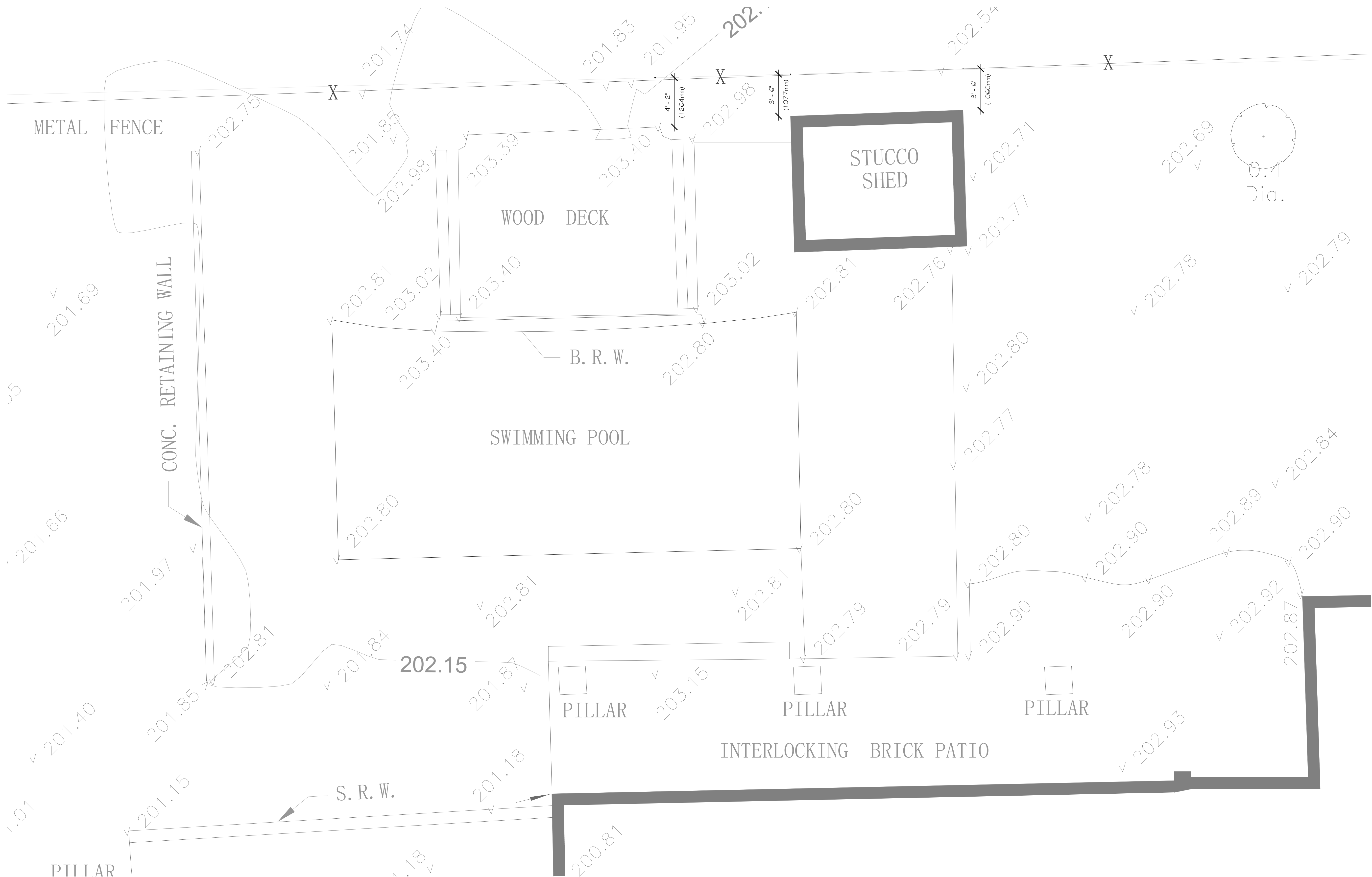


Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/175/16





EXISTING SURVEY- CALL OUT

1/4" = 1' - 0"

Legend

- EXISTING DOOR
- NEW DOOR
- EXISTING WALL TO REMAIN
- EXISTING WALL TO REMOVE
- PROPOSED WALL

DO NOT SCALE DRAWINGS. THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY DISCREPENCIES TO ENGINEER & DESIGNER BEFORE PROCEEDING WITH THE WORKS. DIMENSIONS ARE CLEAR TO THE FACE OF COLUMNS AND PARTITIONS UNLESS INDICATED OTHERWISE.

Consultants



CZC BUILDING
CONSULTANTS LTD.

27 - 90 Nolan Court, Markham, ON
(647) 390 1417 | www.czcbuild.com

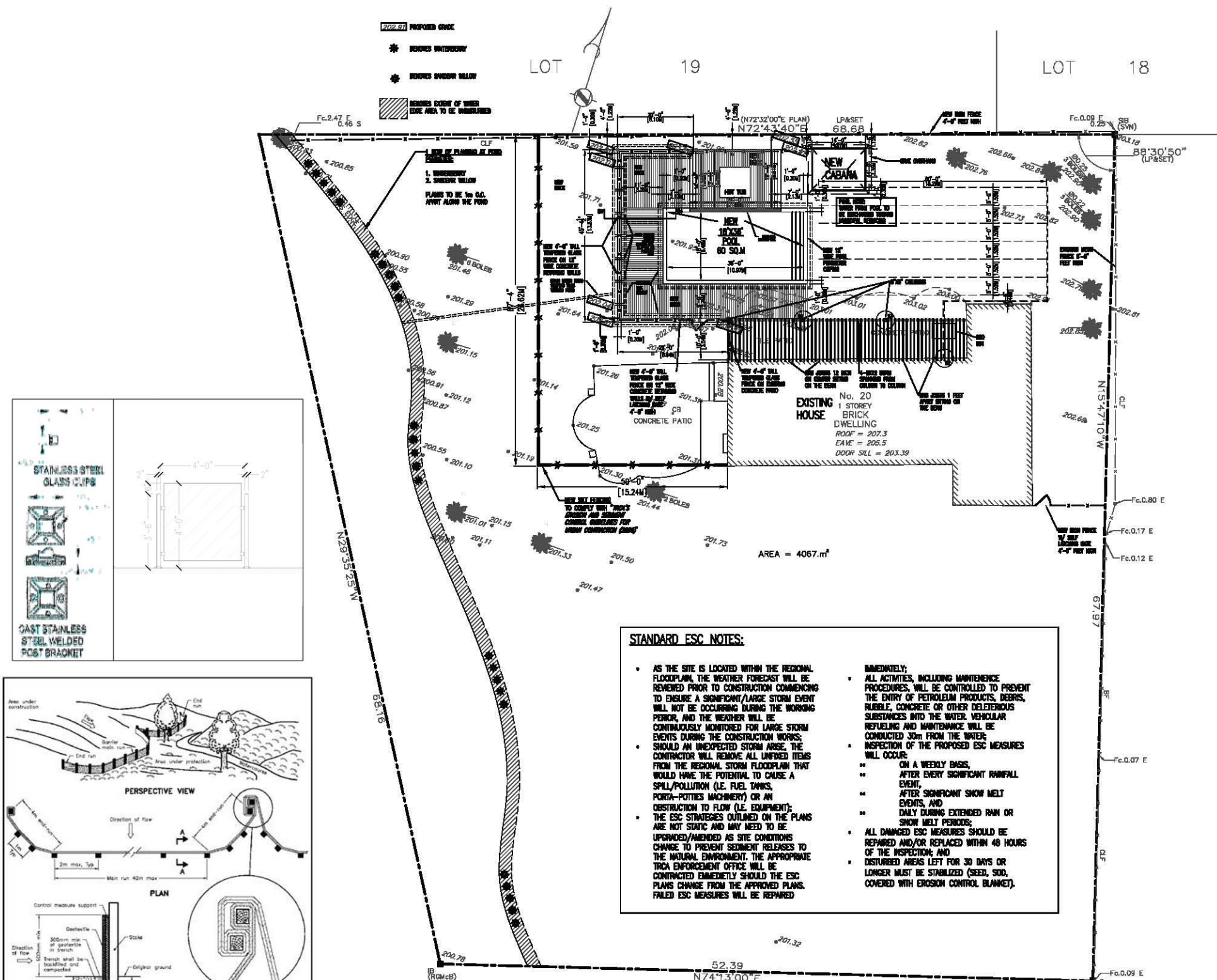
No.	REVISION	DATE
2	Issued for Building Permit	Mar. 2020
1	Issued for Zoning Review	Nov. 2019

Project Address
20 Personna Blvd

Drawing Name

Survey - Callout

Project number	052
Date	MAR 2020
Drawn by	HZ
Check by	HZ
Scale	1/4" = 1'-0"
Page No.	



PLAN OF PART OF BLOCK Q
REGISTERED PLAN 5316
CITY OF MARKHAM
FORMERLY CITY OF YORK

SCALE 1 : 200

AKSAN PILLER CORPORATION LTD.

LEGEND:

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	IRON BAR
□	DENOTES	IRON PIPE
□	DENOTES	STANDARD IRON BAR
□	DENOTES	CHAIN UNKNOWN
□	DENOTES	NORTH
□	DENOTES	SOUTH
□	DENOTES	EAST
□	DENOTES	WEST
□	DENOTES	FENCE
□	DENOTES	CHAIN LINK FENCE
□	DENOTES	BOARD FENCE
□	DENOTES	R.G. McROBISON, OLS
□	DENOTES	SPEIGHT & VAN NOSTRAND, OLS
□	DENOTES	LLOYD & PURCELL, OLS (MARCH 18, 1998)
□	DENOTES	CATCH BASIN
□	DENOTES	REGISTERED PLAN 5316
□	DENOTES	TREE TRUNK DIAMETER

METRIC:
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

ELEVATIONS NOTE:
ELEVATIONS SHOWN HEREIN ARE GEODETIC AND ARE DERIVED FROM THE CITY OF TORONTO BENCH MARK M-16-021, ELEVATION -201.285 m.

NOTE:
BOUNDARY INFORMATION BASED ON SURVEYOR'S REAL PROPERTY REPORT PREPARED BY LLOYD & PURCELL LTD., OLS DATED MARCH 18, 1998.

APRIL 27, 2016
DATE
HELMUT PILLER
Ontario Land Surveyor
AKSAN PILLER CORPORATION LTD.
ONTARIO LAND SURVEYORS
243 MT PLEASANT ROAD, TORONTO, ONTARIO, M4P 2L7
(416) 462-1174 (F) 416-462-7845 (E) info@aksanpiller.com aksanpiller.com
CALC.: JZ DRAWN: VF CHECKED: HP
reference number: 15-04-10490-00

NO WORK TO ENCRoACH ONTO ADJOINING PROPERTIES

PROVIDE SHOP DRAWINGS TO THE CITY OF TORONTO FOR APPROVAL ON ALL METAL GUARD/RAILING ATTACHMENTS TO CONCRETE

No.	Date:	Revision / Issued	D'wn.	Ch'd.
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HSK

Design

20 Personna Blvd
Markham, ON, L6C 1E9
Tel: 416-705-0233
Email: serouj@hskdesign.ca
Website: www.hskdesign.ca

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QUALIFICATION INFORMATION

TOMOR
SODNOMPIL 41177
Name Signature BCIN

REGISTRATION INFORMATION

HSK DESIGN 42454
Firm Name BCIN

Project
NEW OUTDOOR POOL
LANDSCAPING PLAN

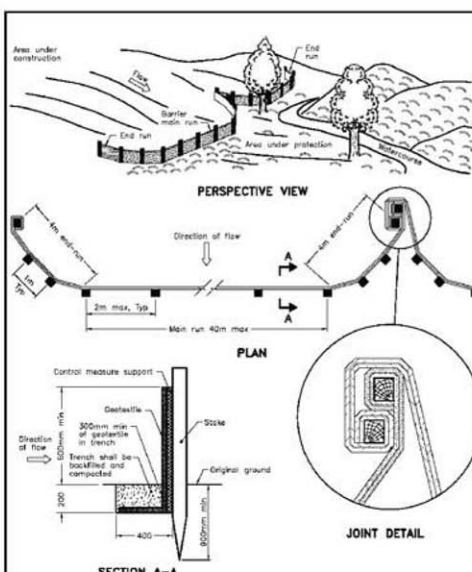
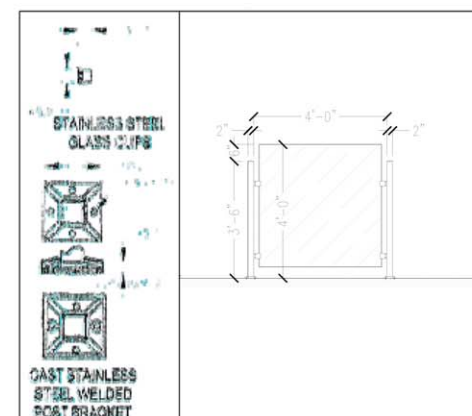
Project
20 Personna Blvd
Markham, ON

Plot Date	Drawn	Checked
NOVEMBER, 2016	TS	SK

BCIN	FIRM BCIN	DWG. File Name
41177	42454	PERMIT

Scale	Project No.
1/32" = 1'-0"	15-003

Title	Drawing No.
SITE PLAN	A1



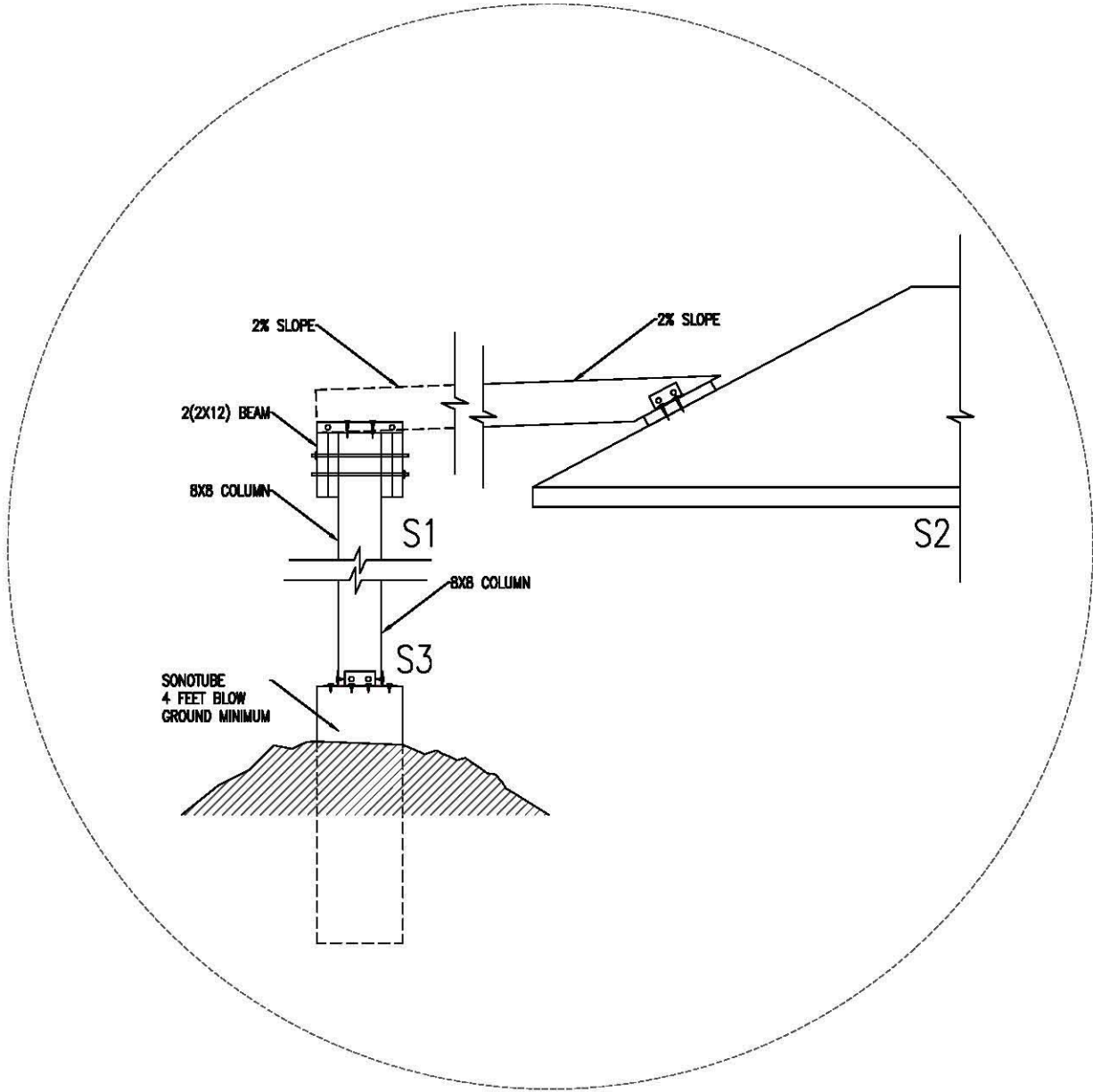
NOTE:
All dimensions are in millimetres unless otherwise shown.

ONTARIO PROVINCIAL STANDARD DRAWING
HEAVY-DUTY
SILT FENCE BARRIER
Nov 2015 Rev 2
OPSD 219.130

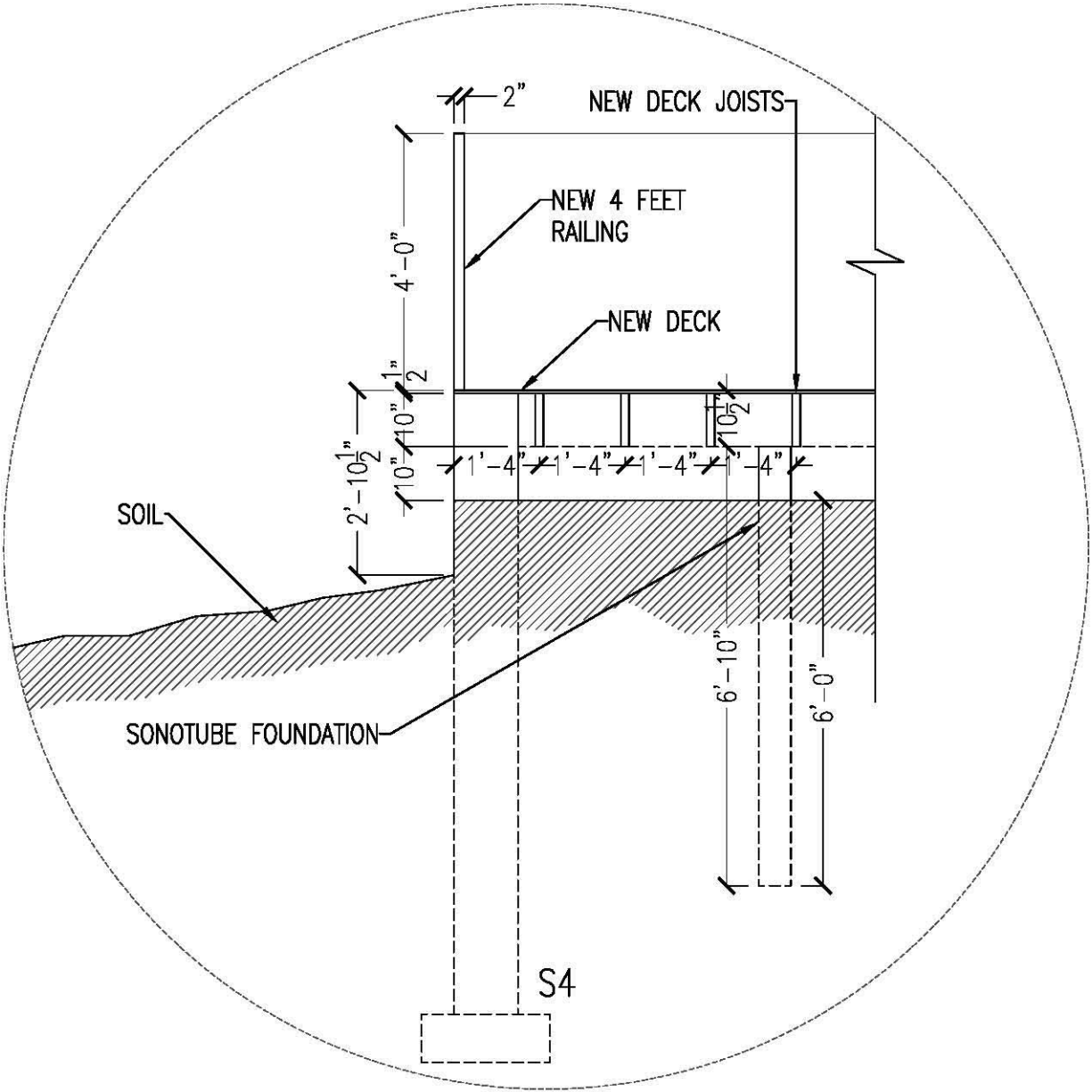


SITE PLAN
ENLARGED

SECTION (1-2-3)



SECTION (4)



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No.	Date:	Revision / Issued	D'wn.	Ch'd.

HSK
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20 Personna Blvd
Markham, ON, L6C 1E9
Tel: 416-705-0233
Email: serouj@hskdesign.ca
Website: www.hskdesign.ca

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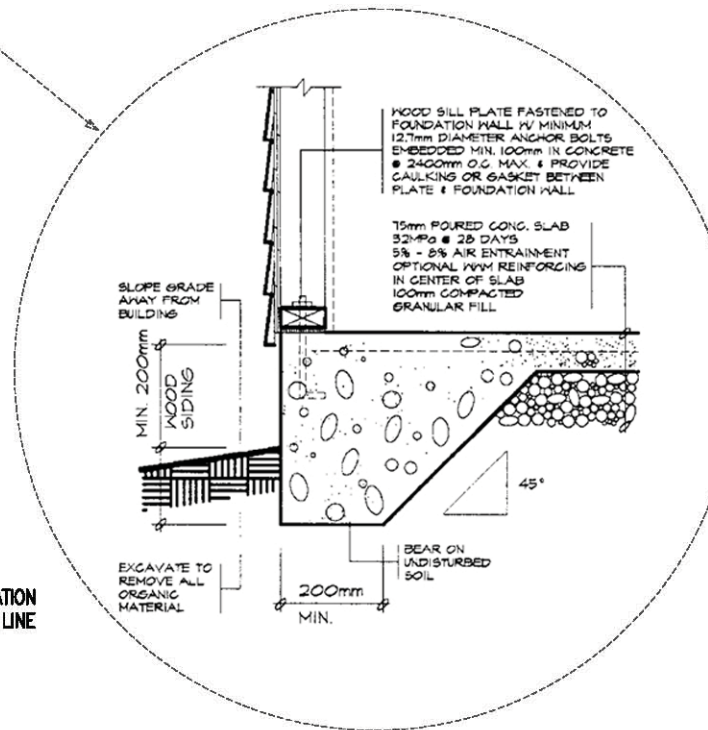
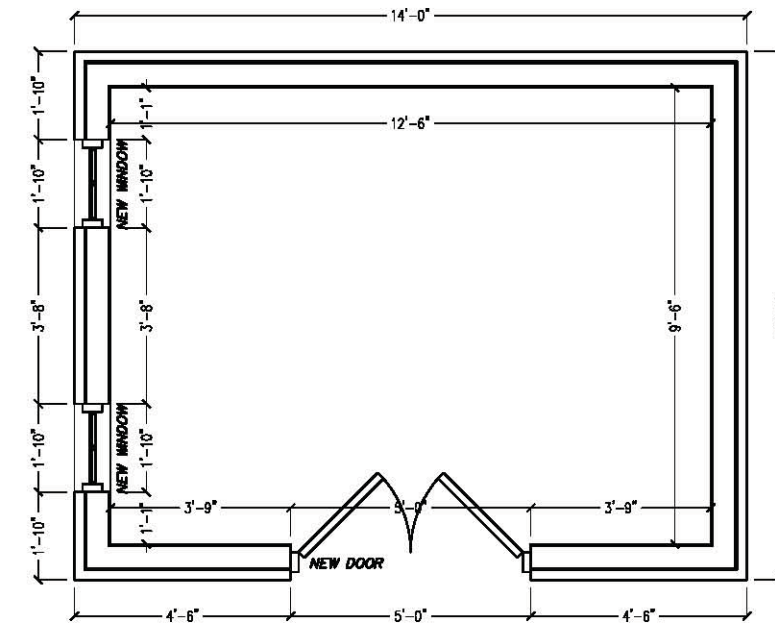
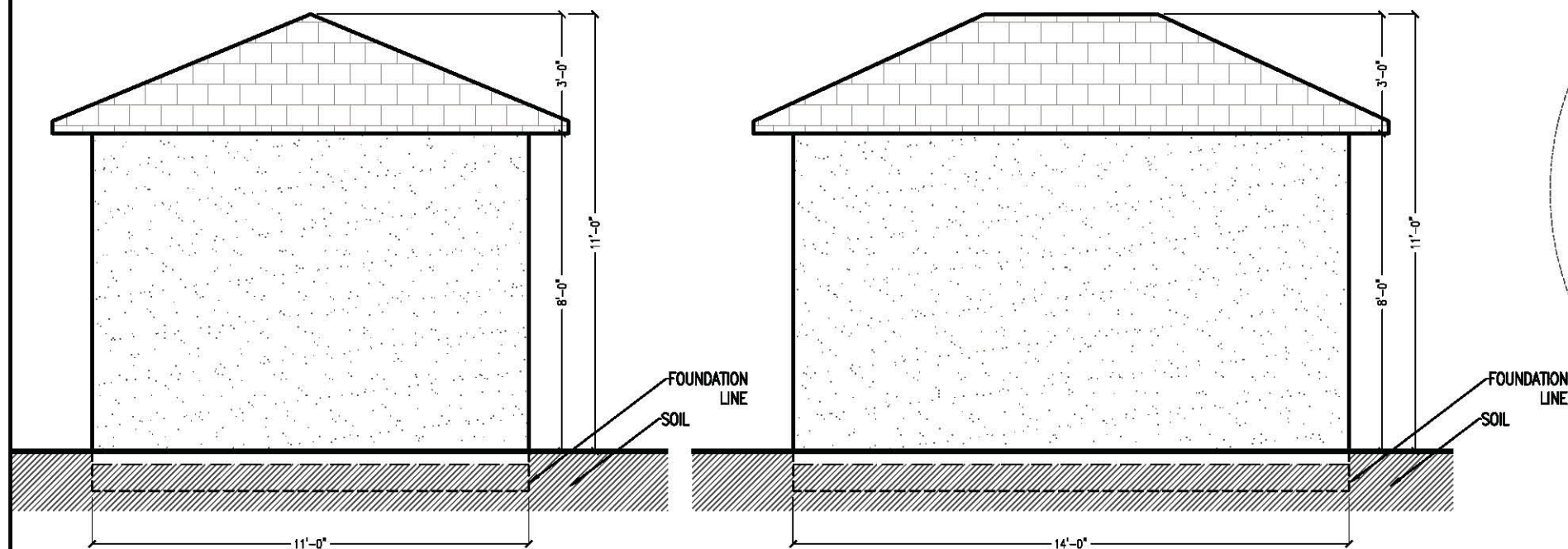
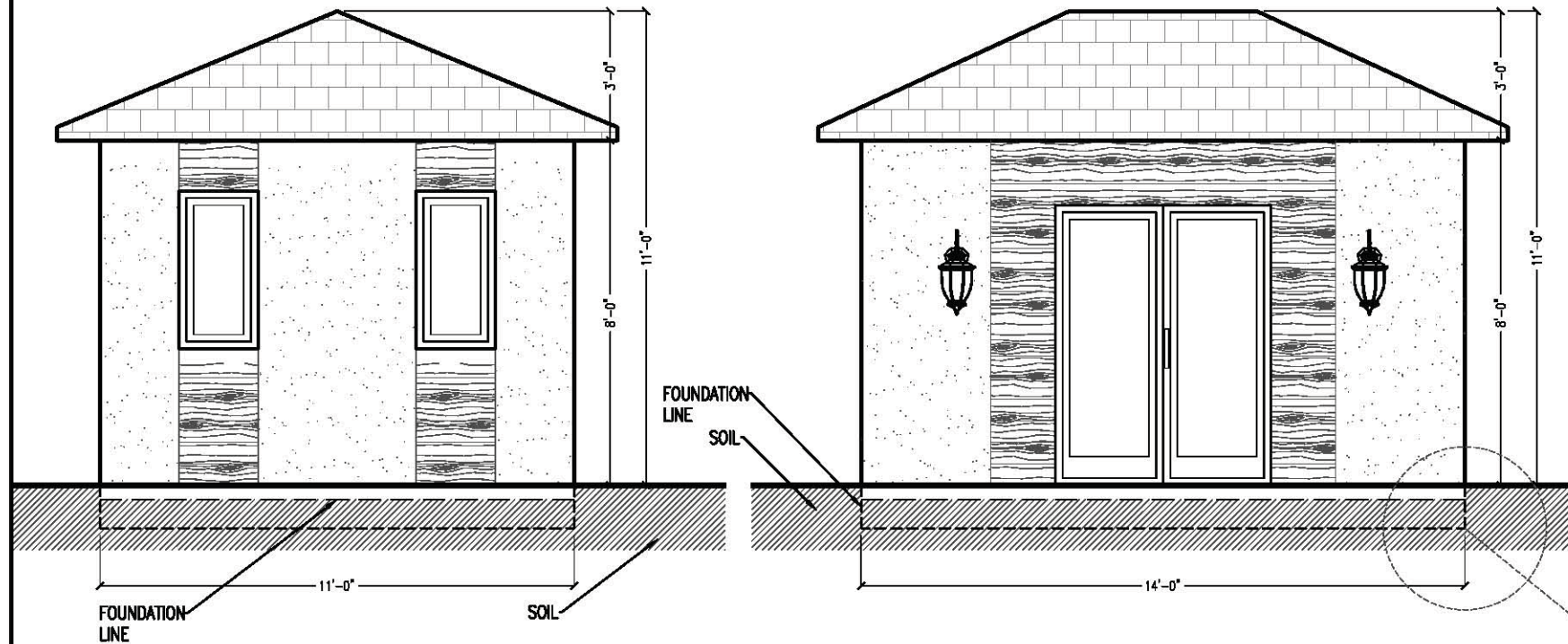
QUALIFICATION INFORMATION

Name	Signature	BCIN
TOMOR SODNOMPIL		41177

REGISTRATION INFORMATION

Firm Name	BCIN
HSK DESIGN	42454

Project NEW OUTDOOR POOL LANDSCAPING PLAN		
Project 20 Personna Blvd Markham, ON		
Plot Date NOVEMBER, 2016	Drawn TS	Checked SK
BCIN 41177	FIRM BCIN 42454	DWG. File Name PERMIT
Scale 3/8"=1'-0"	Project No. 15-003	
Title SITE SECTION	Drawing No. A3	



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No.	Date:	Revision / Issued	D'wn.	Ch'd.
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HSK

Design

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Markham, ON, L6C 1E9

Tel: 416-705-0233

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Website: www.hskdesign.ca

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QUALIFICATION INFORMATION

TOMOR SODNOMPIL		41177
Name	Signature	BCIN

REGISTRATION INFORMATION

HSK DESIGN	42454
Firm Name	BCIN

Project
NEW OUTDOOR POOL
LANDSCAPING PLAN

Project
20 Personna Blvd
Markham, ON

Plot Date NOVEMBER, 2016	Drawn TS	Checked SK
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BCIN	FIRM BCIN	DWG. File Name
41177	42454	PERMIT

Scale 1/4" = 1' - 0"	Project No. 15-003
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Title CABANA	Drawing No. A4
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APPENDIX “C”

COMMENTS TO BE ATTACHED TO ANY APPROVAL OF FILE A/175/16

April 15, 2020

CFN 55157.37
X Ref 60756.11, 53724

By Email Only (email: JLeung@markham.ca)

Mr. Justin Leung
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Boulevard
Markham, ON L3R 9W3

Dear Mr. Leung:

Re: A/175/16 (Minor Variance Application)
20 Personna Boulevard, City of Markham
Owners: Lan Zhang, Luo Liang Zhi
Agent: CZC Building Consultants Ltd. (Han Zhou)

Further to our previous letter dated December 2, 2016, Toronto and Region Conservation Authority (TRCA) staff have reviewed this revised resubmission, and our updated comments are provided herein.

Purpose of the Applications
A/175/16 (Minor Variance)

The applicant is requesting relief from the requirements of By-law 304-87, as amended, as it relates to an existing cabana and deck in the rear yard.

- a) Section 7.5 (b) (iv):
a minimum rear yard setback of 1.06 m for an accessory building, whereas the By-law requires a minimum rear yard setback of 7.5 m for an accessory building;
- b) Deck By-law 145-95, Section 2.2 (b)(i):
a maximum deck projection of 16.91 m from the point of the dwelling closest to the rear lot line, whereas the By-law permits a maximum deck projection of 3.0 m from the point of the dwelling closest to the rear lot line;
- c) Deck By-law 145-95, Section 2.2 (b)(ii):
a minimum rear yard setback of 1.28 m for a deck, whereas the By-law requires a minimum rear yard setback of 3.0 m for a deck.

Applicable TRCA Regulations and Policies

The TRCA provides our technical review comments through a number of roles. This includes TRCA's commenting role under the *Planning Act*, the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement (2014); TRCA's Regulatory Authority under Ontario Regulation 166/06, as amended (Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses); and our

Memorandum of Understanding with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.

Ontario Regulation 166/06, as amended:

Based on the available information at this time, the majority of the subject property is located within TRCA's Regulated Area, as per Ontario Regulation 166.06, as amended, as it is traversed by a stream corridor/online pond and Regulatory floodplain associated with Carlton Creek, a tributary of the Rouge River. In accordance with Ontario Regulation 166/06, a permit is required from the TRCA prior to any of the following works taking place in the Regulated Area:

- a) a straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. The construction, reconstruction, erection or placing of a building or structure of any kind;
- ii. Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. Site grading, or;
- iv. The temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Living City Policies for Planning and Development in the Watersheds of the TRCA:

The Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the "Natural System" as the greater of, but not limited to the following:

- Valley and Stream Corridors: 10 metre buffer from the greater of the long-term stable top of slope (LTSTOS), stable toe of slope, Regulatory Floodplain, meander belt and any contiguous natural features or areas;
- Woodlands: 10 metre buffer from the dripline and any contiguous natural features or areas;
- Wetlands: 30 metre buffer from Provincially Significant Wetlands and a 10 metre buffer from all other wetlands and any contiguous natural features or areas.

Application Specific Comments

TRCA staff note that this is a re-circulation of Minor Variance Application A/175/16 which was first received by our office in 2016. Our first comment letter on this file (dated December 2, 2016) advised that TRCA Permit No. C-160170 had been issued on March 11, 2016 for a pool and deck in the rear yard of this property, which was subsequently revised on September 28, 2016 to include the cabana that is subject to this application. However, TRCA staff had noticed that a new hot tub had been added to the applicant's plans and therefore, approval from the TRCA via a permit revision was required.

It appears that the hot tub was still constructed/installed in TRCA's Regulated Area (though, outside of the floodplain) without a corresponding TRCA permit. Therefore a TRCA permit should be sought to recognize the hot tub. As it is our TRCA's understanding that property ownership has changed and the current landowner is in the process of preparing a new TRCA Permit Application for new works on their property, the unauthorized hot tub should be included on the owner's TRCA Permit Application.

In light of the comments above, TRCA staff continue to have no objections to subject application.

Application Review Fee

As per TRCA's role as a commenting agency for *Planning Act* application circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

As per the TRCA's 2018 Fee Schedule for Planning Services, the applicant has remitted the outstanding balance of \$580 for the subject application.

Recommendation

In light of the above, TRCA staff have no objections to the subject application, subject to the following conditions:

1. That the applicant obtain a TRCA permit for the proposed works. As noted above, TRCA staff are willing to consider a combined permit for the existing hot tub as well as the applicant's proposed development on the property.

I trust these comments are of assistance. Should you have any questions, please do not hesitate to contact me at the undersigned.

Sincerely,



Andrea Lam
Planner I
Development Planning and Permits
Extension 5306

AL/mb

APPENDIX “D”

SITE PHOTOS TO BE ATTACHED TO ANY APPROVAL OF FILE A/175/16





