

MEMORANDUM

DATE: October 15, 2018
TO: Chairman and Members, Committee of Adjustment
FILE: A/141/18
ADDRESS: 24 Loweswater Ave, Markham
HEARING DATE: Wednesday October 24, 2018

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

The applicant is requesting relief from the following requirements of By-law 142-95, R8, as amended:

- a) **Section 2.2 b(i):** To permit maximum deck projection of 3.64 metres (11.94 feet); whereas the By-law permits maximum deck projection of 3.0 metres (9.84 feet) when deck is in excess of one metre in height above lowest ground surface at all points around perimeter of the platform; as it relates to an existing rear yard deck.

The applicant requested deferral on October 09, 2018 prior to the Committee of Adjustment meeting on Wednesday October 10th 2018. Staff had concerns with the original proposal which sought variances to permit a deck projection of 4.5 metres (14.76 feet) and a rear yard setback of 2.75 metres (9.02 feet) (see 'Appendix A'). The applicant submitted a revised application form and plans on October 10, 2018 (See Appendix 'B') reducing the requested variances to permit a maximum deck projection of 3.64 (11.94 ft.) whereas the by-law permits 3.0 metres (9.84 feet). This represents a difference of approximately 0.64 metres (2.1 feet). The proposal maintains a rear yard setback approximately 3.76 metres (12.33 feet) at the east corner of the irregular rear property line and approximately 6.32 metres (20.73 feet) at the west corner of the irregular rear property line. Staff are of the opinion that the reduced variances result in a deck that, given its height is now more appropriately located to the rear property line and, that the variance is minor in nature. Staff ask that Committee consider public input in reaching a decision and satisfy themselves that the proposal meets the 4 tests.

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on October 09, 2018. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently 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.

MEMORANDUM

PUBLIC INPUT SUMMARY

As of October 10th, 2018 the City received 1 letter expressing concerns over privacy and 8 letters of support. 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 see Appendix "B" for conditions to be attached to any approval of this application.

PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:


Richard Kendall, Development Manager, Central District

Appendices

Appendix A – Previous Staff Report

Appendix B – Conditions

Appendix C – Plans (October 09, 2018)

MEMORANDUM

APPENDIX "B"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/141/18

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 C' to this Staff Report and received by the City of Markham on October 09, 2018, 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:


Aqsa Malik, Planner, Zoning and Special Projects

Memorandum to the City of Markham Committee of Adjustment

October 1, 2018

File: A/141/18
Address: 24 Loweswater Ave, Markham
Applicant: Kenneth Kwok-On Chen
Agent: NAPA DESIGN GROUP INC. (Lou Parente)
Hearing Date: Wednesday October 10, 2018

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

The applicant is requesting relief from the following requirements of By-law 142-95, R8, as amended:

- a) **Section 2.2 b(i):** To permit maximum deck projection of 4.5 metres (14.76 feet); whereas the By-law permits maximum deck projection of 3.0 metres (9.84 feet) when deck is in excess of one metre in height above lowest ground surface at all points around perimeter of the platform.
- b) **Section 2.2b(ii):** To permit minimum rear yard setback of 2.75 metres (9.02 feet); whereas the By-law permits minimum rear yard setback of 3.0 metres (9.84 feet)

as they relate to an existing rear yard deck.

The applicant is requesting a maximum deck projection of 4.5 metres (14.76 feet), whereas the By-law permits maximum deck projection of 3.0 metres (9.84 feet). This represents a difference of approximately 1.5 metres (4.92 feet). The applicant is also requesting a minimum rear yard setback of 2.75 metres (9.02 feet) whereas the By-law requires a minimum rear yard setback of 3.0 metres (9.84 feet) (see Appendix 'A'). This represents a difference of approximately 0.82 metres (2.69 feet). The applicable by-law for the property permits a small rear yard setback of 3.0 metres (9.84 feet). Staff note that the property has an irregular rear property line and that the variance for the rear yard setback only applies to a corner of the proposed deck. Notwithstanding this, records indicate that properties in the immediate vicinity have not applied for variances of this scale. Staff asked the applicant to consider reconfiguring the design of the deck however, the applicant chose to proceed. Staff are of the opinion that as it is proposed, it is not suitable to permit a further reduction in an already small rear yard setback as well as the proposed deck projection. Staff ask that Committee consider public input in reaching a decision and satisfy themselves that the proposal meets the 4 tests.

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

According to the information provided by the applicant, *"The owner was unaware of the by-laws and the deck/platform has already been constructed. A stop work/order to comply was issued BV 18 247694 V. Goncalves"*.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the variances required for the proposed development.

PUBLIC INPUT SUMMARY

As of October 1, 2018, the City received three (3) letters. One (1) expressing concerns over the height of the proposed deck and impacts to privacy and two (2) expressing support for the application. 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 does not meet the four tests of the Planning Act and that the application be denied. Staff recommend that the Committee consider public input in reaching a decision.

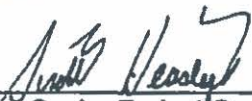
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

PREPARED BY:



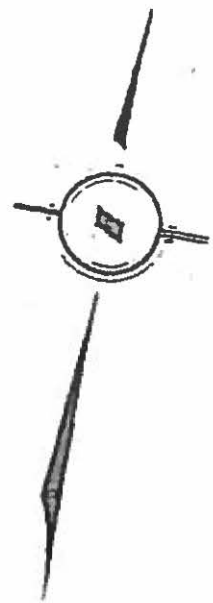
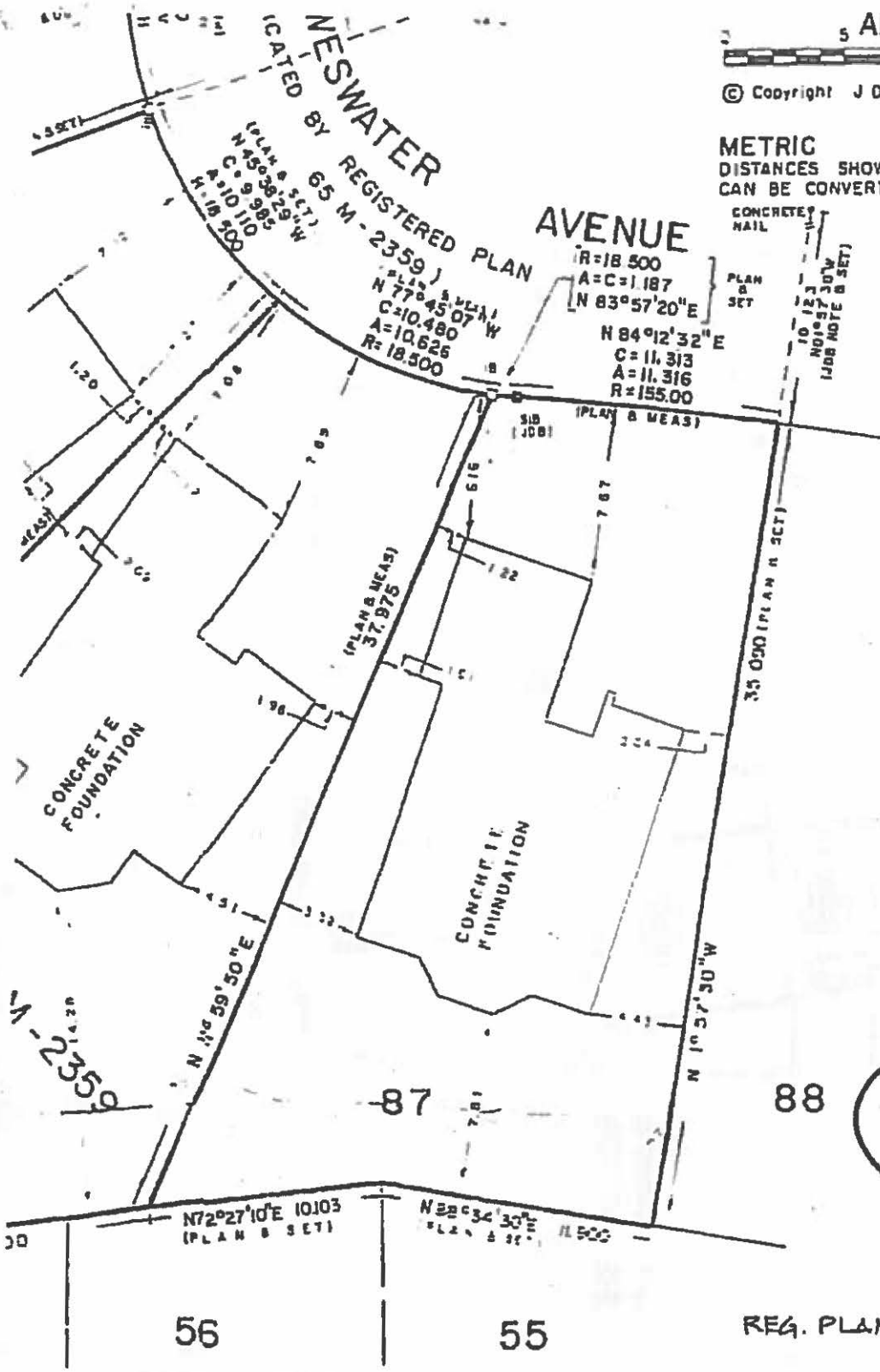
Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



Scott Heaslip, Senior Project Coordinator, Central District
File Path: Amanda\Files\18 250614 \Documents\District Team Comments Memo

METRIC
DISTANCES SHOWN ON THIS PLAN ARE IN METERS
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048



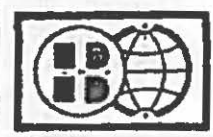
CITY OF MARKHAM
RECEIVED
SEP 19 2018
COMMITTEE OF ADJUSTMENT

REG. PLAN No. 65M2359.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
THE FIELD SURVEY REPRESENTED ON THIS
PLAN WAS COMPLETED ON THE 29th DAY
OF MAY 1986

R. C. W. S.

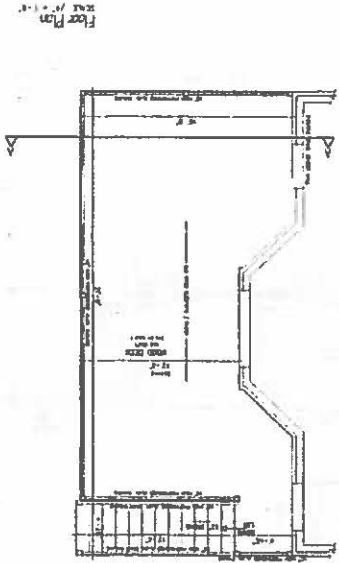
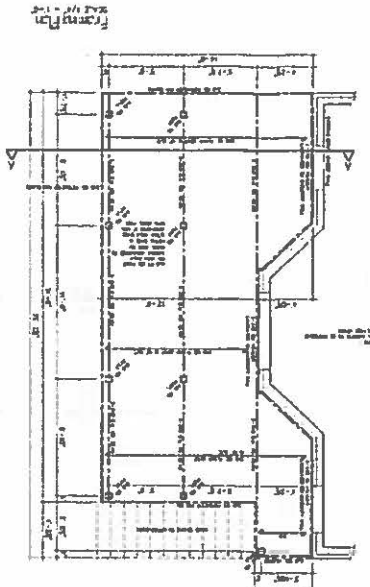
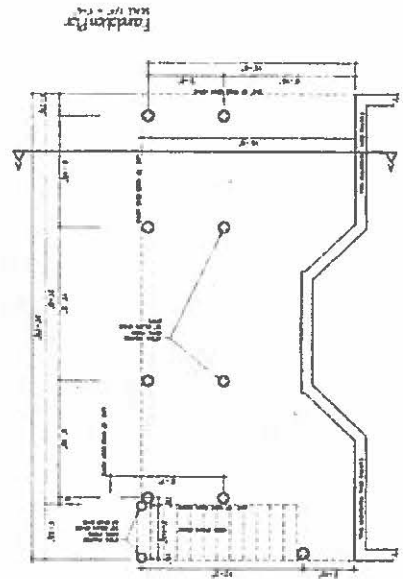
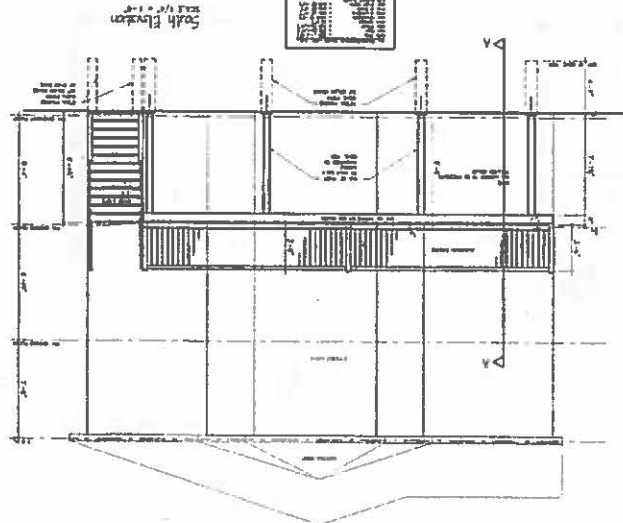
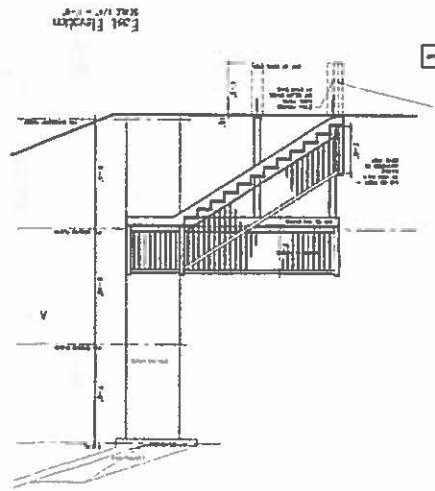
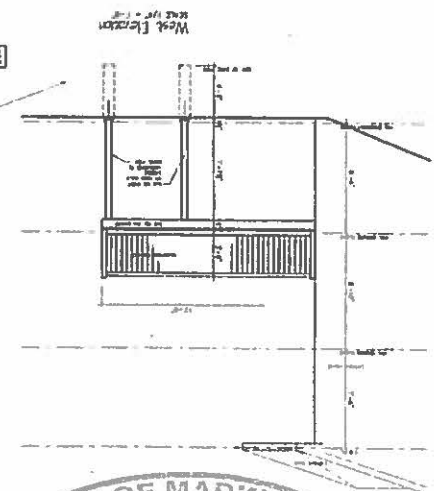
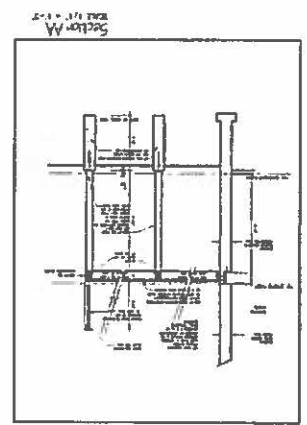


J. D. BARNES LTD.

Cadastral, Geodetic, Photogrammetric
TORONTO BRAMPTON ONT

FOUND
PLANTED
R

Surveyors



PLAN	DATE	BY	CHKD
	10/09/18	AMM	AMM
A2			

21 L'CHASKE &
KRENN & MARK
2741 RICE CIRCLE
MARKHAM, ONTARIO
L3R 9V5
416-600-6337

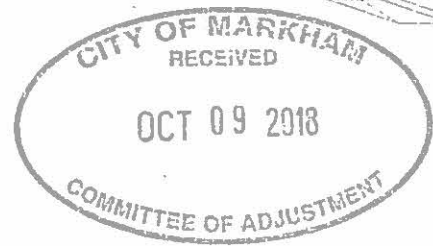
noval
architectural design group

NO	REVISION / DATE
1	10/09/18
2	10/09/18
3	10/09/18



GENERAL NOTES

1. All dimensions are in Imperial units.
2. All materials shall be as specified in the schedule of materials.
3. All work shall be in accordance with the Ontario Building Code.
4. All structural steel shall be A36.
5. All concrete shall be 25 MPa.
6. All foundations shall be on compacted fill.
7. All exterior finishes shall be as specified.
8. All interior finishes shall be as specified.
9. All mechanical, electrical and plumbing work shall be as specified.
10. All work shall be completed within the specified time frame.



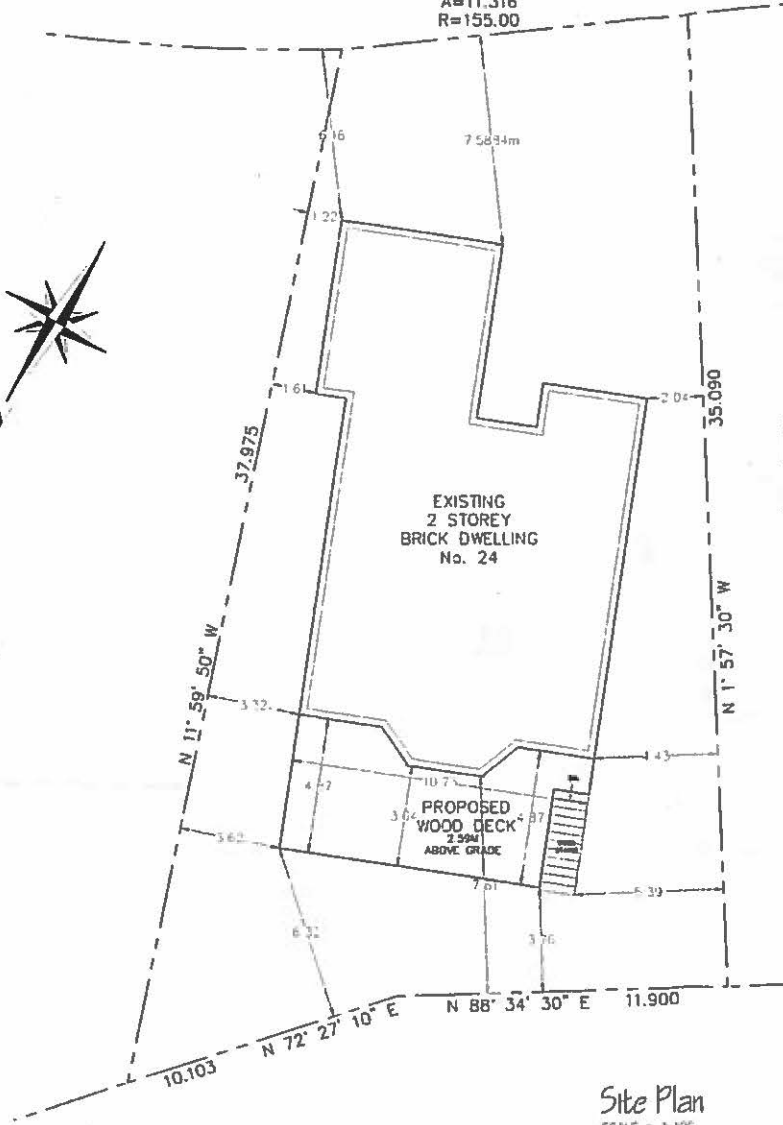
OCT 09 2018

COMMITTEE OF ADJUSTMENT

[illegible]

LOWESWATER AVENUE

N 94° 12' 32" E
C=11.313
A=11.316
R=155.00



LOT AREA	588.80 SQ.M.
HOUSE FOOTPRINT AREA	171.13 SQ.M.
PROPOSED DECK AREA	42.94 SQ.M.
TOTAL FOOTPRINT AREA	214.07 SQ.M.
PERCENT COVERAGE	36.36%

Key Plan
SCALE = N.T.S.

Site Plan
SCALE = 1:100



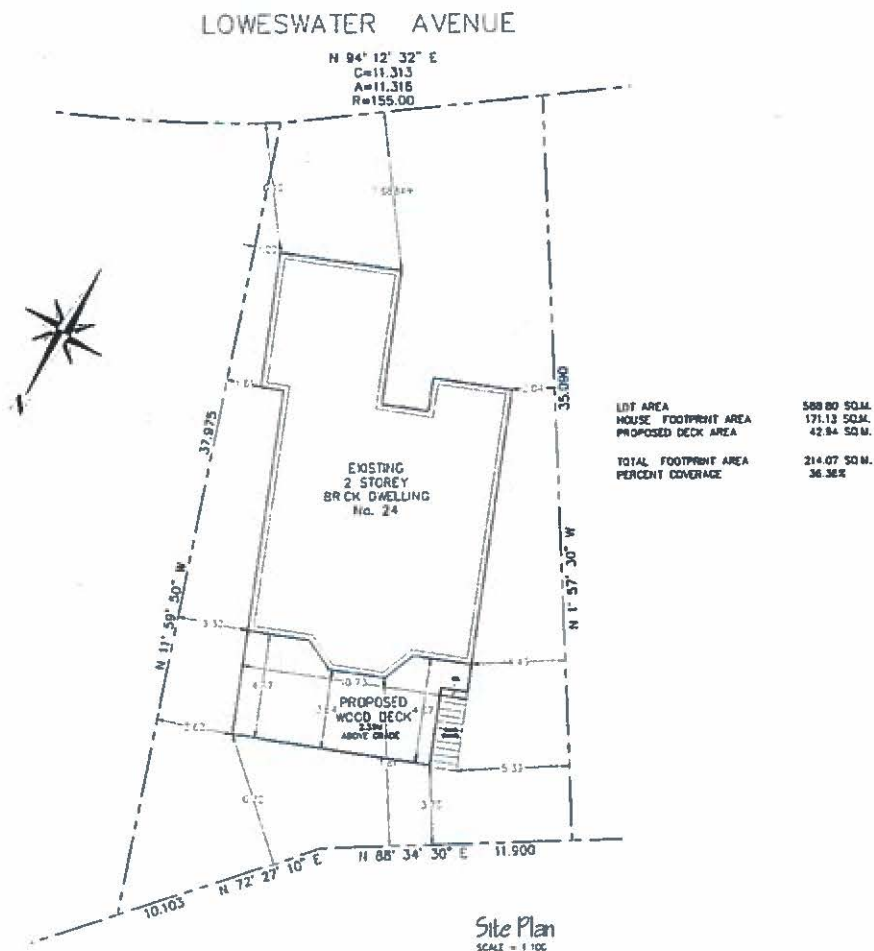
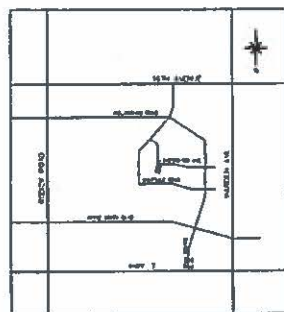
INFORMATION SHOWN TAKEN FROM
LOT 87 REG. PLAN 65M2359
24 LOWESWATER AVENUE
CITY OF MARKHAM, ONTARIO.

SCALE 1:100

JO BARNES LIMITED
METRIC

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

THE FIELD OBSERVATIONS REPRESENTED ON THIS PLAN
WERE COMPLETED ON THE 29th DAY OF MAY, 1982



GENERAL NOTES

1. The information shown on this plan is for informational purposes only and does not constitute a guarantee of accuracy or a warranty of any kind.

2. The information shown on this plan is based on the best available information and is subject to change without notice.

3. The information shown on this plan is not to be used for any purpose other than that for which it was prepared.

4. The information shown on this plan is not to be used for any purpose other than that for which it was prepared.

5. The information shown on this plan is not to be used for any purpose other than that for which it was prepared.

NO.	REVISION / DATE	BY
1	1.00	JO BARNES
2	1.01	JO BARNES
3	1.02	JO BARNES
4	1.03	JO BARNES
5	1.04	JO BARNES
6	1.05	JO BARNES
7	1.06	JO BARNES
8	1.07	JO BARNES
9	1.08	JO BARNES
10	1.09	JO BARNES

nada
design group

27 Loweswater Ave.
Unit 101, Oakville, ON L6M 4K2
info@nada-design.com
416 930-6337

PROPOSED
PLAN NO. 2024
Kenneth & Marie
CHEN
24 LOWESWATER AVE
LOT 87
Markham, Ontario

SITE PLAN	
DATE 2024	PROJECT NO. A1
SCALE 1:100	PAGE NO. 1
DRAWN L.P.	