

2028 West 36th Avenue – Board Minutes and Decision

Appeal Section: 573(1)(a) & 573(1)(b) - Appeal of Regulation & Decision
Legal Description: Lot 10, Block 21, District Lot 526 and Plan VAP2975
Lot Size: Lot Area = 2,402 sq. feet
Zone: RS-5
Related By-Law Clause: Sections 4.6 (Rear Yard) and 4.16 (Building Depth)

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00638 and a request to permit exterior alteration and replacing an existing open sundeck at the rear of this existing one-family dwelling site.

Development Application No. DP-2021-00638 was refused for the following reasons

-The proposed development does not comply with the regulations of the Zoning and Development By-law (Rear Yard and Building Depth) that affect the site.

Technical Information:

Required Rear Yard: 48.00 feet
Existing non-conforming: 33.60 feet
Proposed: 26.50 Feet [As per DP-2021-00638.]

Permitted Building Depth: 48.00 feet
Existing non-conforming: 62.40 feet
Proposed: 69.50 Feet [As per DP-2021-00638.]

Discussion:

Michael Elliston, were present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that there was wood rot on the existing deck, and as they were trying to repair it, they realized it was worse than expected. The deck provides a way to get out of the kitchen, as well as access to having a meal on the deck. They have support from 25 neighbours, with 14 letters of support.

The Director of Planning's Representative

Mr. Chen's initial comments were that this is an appeal of refusal of a rear deck replacement. The Director of Planning did not support that application, and would like the Board to uphold their decision. There was some enforcement action back in 1999; the old owners tried to go through the process with the Board of Variance, and their appeal was denied, as there were charges laid in court.

The Board Chair stated that the Board's site office received fourteen (14) letters in Support and no (0) letter in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Chen's final comments were that the Director of Planning is not in support of the appeal.

The appellant's final comments were that their entire neighbourhood is in support of the appeal.

This appeal was heard by the Board of Variance on February 14h, 2023 and was ALLOWED, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2021-00638 and approved exterior alterations and replacing an existing open sundeck at the rear of this existing one-family dwelling site, and subject to the following condition:

(1) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Board's summary and decision based on the following:

- The Board found site hardship to allow this appeal (older home with non-conforming by-laws)
- The Board also received Support letters from the surrounding neighbourhood and all accepted the proposed development.
- No Opposition from the neighbourhood (from the Board's neighbourhood notices)
- The Owners confirmed that they will continue working with the City and obtain all the required City's Development – Building permits to the satisfaction of the Director of Planning.

From:

January 12, 2023

To:

Attn: Lewis Ng
Board of Variance
City of Vancouver
453 W 12th Ave.
Vancouver BC, V5Y 1V4

Dear Board of Variance,

We are thankful for the opportunity to present to the Board of Variance concerning our City of Vancouver Development Application (DP-2021-00638) which was refused on May 25, 2022 for non-compliance with section 4.6 and 4.16.

Background

We purchased 2028 W 36 Ave in 2005 and the home at that time included a rear deck with the same back yard and side yard setback dimensions as the upgraded deck in our recent permit application (DP-2021-00638). We believe that original deck was constructed in approximately 1980. Until this year, we were unaware of any non-conformance issues related to the rear deck setbacks. In the 17 years we have owned the property we have never received a complaint or concern related to the rear deck.

Over the years, the original deck fell prey to wood rot, and by 2020 (at age 40) it had exhibited wood rot and had become unsafe to use. We undertook repairs which revealed structural rot so significant that replacement was our only option. At that time, we chose to permanently eliminate the original east side-portion of the deck, which has significantly reduced our overall rear yard deck-space. The height, back yard, and side yard setback dimensions of the replacement deck are all unchanged from the original 1980 dimensions.

As we were completing our back deck renovation process, on January 18, 2021, we received a stop-work order from the City of Vancouver. We immediately stopped work as instructed and filed a building permit on July 10, 2021. That application was refused 11 months later, on May 25, 2022.

Based on over 40 years of use (between 2 owners), we believe the upgraded and reduced deck should be allowed to remain. We have canvassed our neighborhood and with this application we are submitting a petition showing the support of 25 neighbors, including 3 of our direct

neighbors to the side and across the alley who are aware of our deck and how our family has used it for the past 17 years.

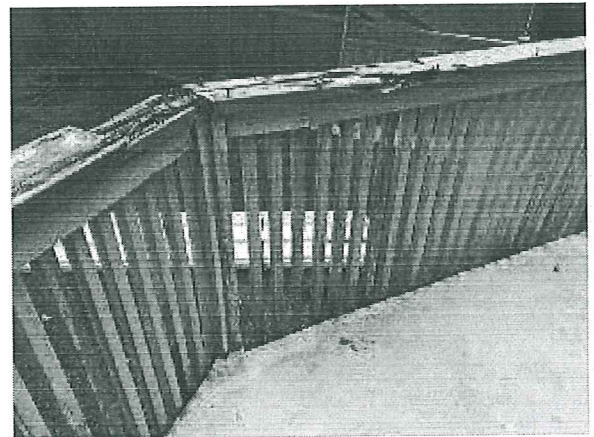
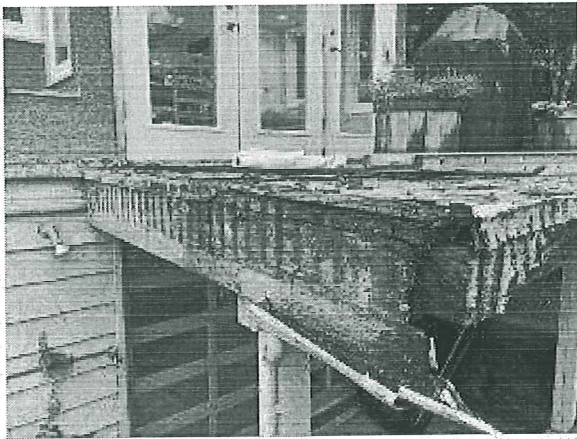
The back deck has always been - and remains - integral part of our family routine. In good weather we have our meals there. We barbecue there. Our kitchen is well above ground level, and we use the deck to exit the kitchen and to access the back yard. Our dog naps in the sun there. We grow herbs and flowers there. The deck provides rain protection for a ground-level patio underneath. We undertook the deck upgrade project during the pandemic, and once completed we were very grateful to have a usable outside space to host family and friends in a safe, outdoor environment.

On the following two pages you will see photos of a) the original 1980 deck including evidence of the severe wood-rot, and b) the new replacement deck with the same set-back dimensions and eliminated east side-deck.

We thank you for your consideration and welcome any questions.



Old Deck (Circa 1980)



Severe Wood Rot - Safety Issue



**Upgraded Deck (2022)
High Construction Standard**



**Eliminated East Side Deck:
Reduced Deck Footage**



**Retains 1980 Setback,
Dining Area, and ground-
level access from kitchen
(fire safety)**



May 26, 2022

**RE 2028 W 36TH AVENUE, Vancouver, BC V6M 1K9
Development Application Number DP-2021-00638**

Please be advised that the Director of Planning has Refused DP-2021-00638 on May 25, 2022, for the following reason(s):

SCOPE OF WORK:

Remove existing non conforming deck and replace with a non-conforming rear deck

RECOMMENDATION SUMMARY:

Following a detailed review of the above noted application, I recommend REFUSAL for the following reasons:

- **Refusal 1 - Non-compliance** - Section 4.6 (Rear yard) of the RS-5 District Schedule; the proposed development does not comply with the regulations of the Zoning and Development By-law that affect the site;

Minimum Required	Existing	Proposed
48.00 feet	33.60 feet	26.50 feet

- **Refusal 2 - Non-compliance** - Section 4.16 (Building Depth) of the RS-5 District Schedule; the proposed development does not comply with the regulations of the Zoning and Development By-law that affect the site;

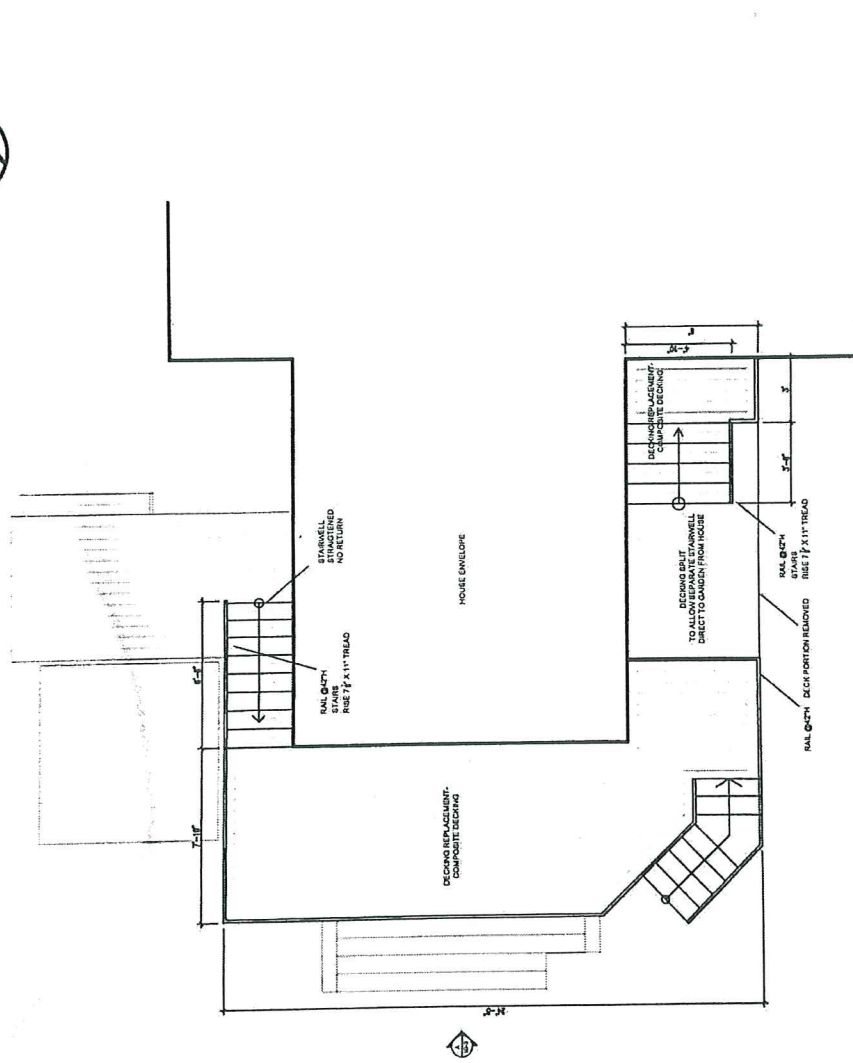
Maximum allowed	Existing	Proposed
48.00 feet	62.40 feet	69.50 feet

You may be eligible to appeal this decision to the Board of Variance within 30 days of the date of this letter. For more information please contact the writer.

Yours truly,

A handwritten signature in cursive script that reads "Laurie Baranyais".

Laurie Baranyais
laurie.baranyais@vancouver.ca
(604) 871-6108



UPPER DECKING PLAN

Scale: 3/16" = 1'-0"

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY AND CHECK ALL DIMENSIONS, DETAILS & WORK & REPORT TO THE DESIGNER ANY ERRORS, OMISSIONS OR DISCREPANCIES PRIOR TO FABRICATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MEASUREMENTS AND DIMENSIONS OF ALL WORK TO BE TREATED AS A WORKING DRAWING RELATIVE TO THE CONTRACTOR'S OBLIGATION TO VERIFY ALL DIMENSIONS AND MEASUREMENTS ON SITE BEFORE COMMENCEMENT OF WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGNER'S REVIEW.

DRAWING TITLE

UPPER DECKING PLAN

PROJECT NAME & ADDRESS

2028 WEST 36TH AVENUE

DRAWN BY:

A.C.

SCALE:

AS NOTED

SHEET:

1.0

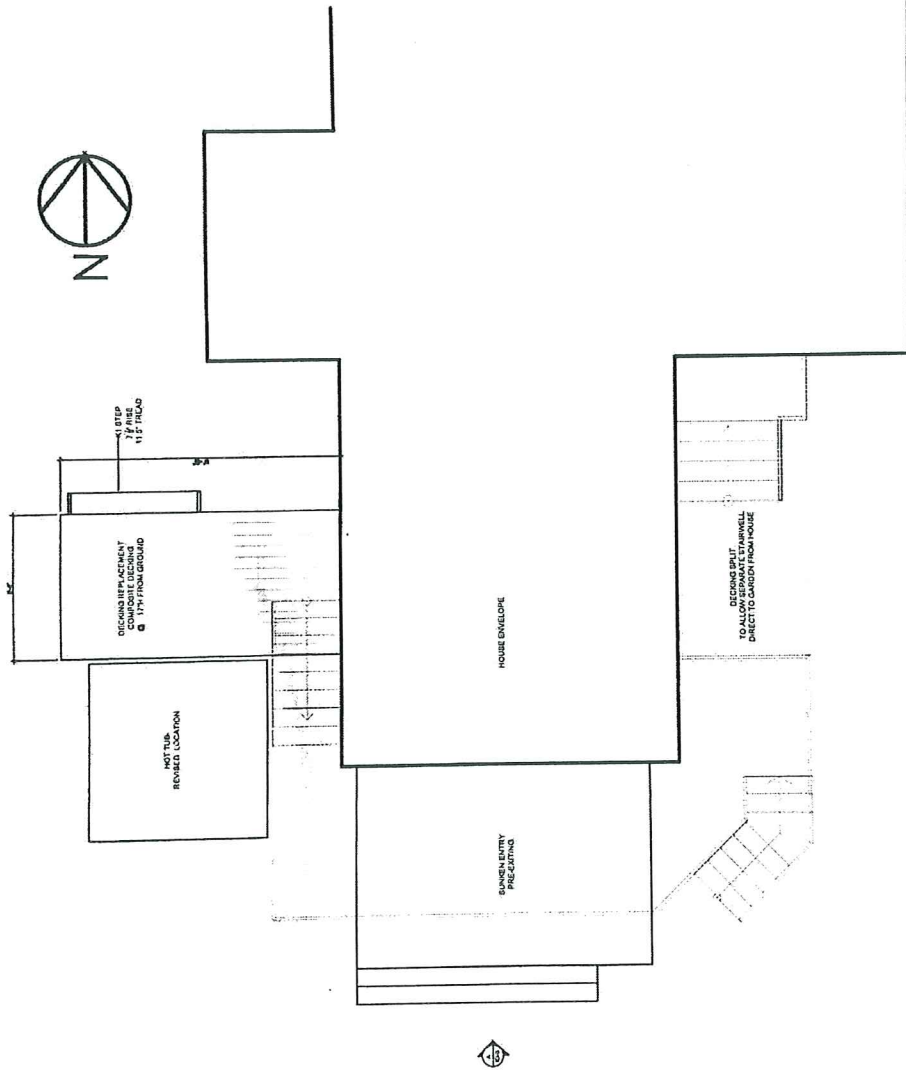
DATE:

MARCH 18TH 2021

VERSION:

V.01

ALEXANDRA INTERIORS
ALEXANDRA INTERIORS
P: 778 - 840 - 9887
E: info@alexandriainteriors.ca



LOWER DECKING PLAN
Scale: 3/16" = 1'-0"

NOTE: THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY AND CHECK ALL DIMENSIONS, DETAILS & SPECIFICATIONS PRIOR TO THE COMMENCEMENT OF ANY WORK IS ABSOLUTE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DISCREPANCIES PRIOR TO FABRICATION OR BUILD. THIS DRAWING HAS BEEN PROVIDED BY THE ARCHITECT AS A WORKING DRAWING FOR AID IN TO BE USED FOR FABRICATION AND SHALL BE SUBJECT TO STRUCTURAL DETAILS, ADDITIONS OR OMISSIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FABRICATION & SUBMIT ALL SHOP DRAWINGS TO THE DESIGNER FOR REVIEW.

DRAWING TITLE

LOWER DECKING PLAN

PROJECT NAME & ADDRESS

2028 WEST 36TH AVENUE

DRAWN BY:

A.C.

DATE:

MARCH 18TH 2021

VERSION:

V.01

SCALE

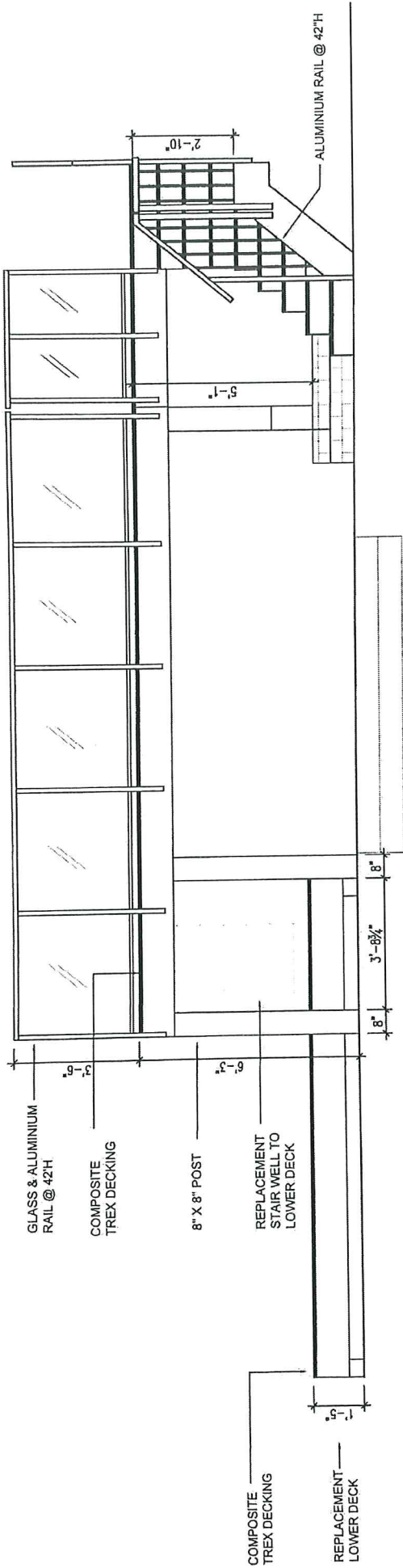
AS NOTED

SHEET:

ID 2.0



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GLASS & ALUMINIUM
RAIL @ 42" H

COMPOSITE
TREX DECKING

8" X 8" POST

REPLACEMENT
STAIR WELL TO
LOWER DECK

COMPOSITE
TREX DECKING

REPLACEMENT
LOWER DECK

ALUMINIUM RAIL @ 42" H

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SCALE: AS NOTED
SHEET: ID3.0
DRAWN BY: A.C.
DATE: MARCH 18TH 2021
VERSION: V.01

PROJECT NAME & ADDRESS
2028 WEST 36TH AVENUE

DRAWING TITLE
DECKING ELEVATION

A DECKING ELEVATION
ID-3 Scale: 3/8" = 1'-0"

NOTE:
IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO
VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO
SPECIFICATIONS PRIOR TO THE COMMENCEMENT OF ANY
WORK & REPORT TO THE DESIGNER ANY PROBLEMS
OR BUILD. THE DRAWING HAS BEEN PROVIDED BY THE
DESIGNER AS A DESIGN CONCEPT & IS NOT TO
BE USED FOR STRUCTURAL DETAILS, ADDITIONS OR OMISSIONS.
THE CONTRACTOR IS TO OBTAIN ALL NECESSARY
PERMITS AND APPROVALS PRIOR TO FABRICATION & INSTALLATION. ALL SHOP DRAWINGS TO THE
DESIGNER FOR REVIEW.