

# Memorandum to the City of Markham Committee of Adjustment

May 30, 2024

**File:** A/144/23  
**Address:** 16 George Street, Markham  
**Applicant:** Gregory Design Group (Shane Gregory)  
**Hearing Date:** Wednesday, July 10, 2024

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

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. As By-law 2024-19 is currently under appeal with the Ontario Land Tribunal (OLT), any Applications under Section 45 of The *Planning Act* that do not benefit from the transition clauses under Section 1.7 of By-law 2024-19 must comply with By-law 2024-19 and any previous By-laws in effect. As such, the applicant is requesting relief from the following requirements of By-Law 2024-19, MU-HMS & By-Law 1229, R3, as amended, as it relates to an existing accessory structure in the rear of the property. The requested variances are to permit:

- a) **By-law 2024-19, Section 4.8.1(b)(ii):**  
an accessory building with gross floor area of 20.13 m<sup>2</sup> (216.68 ft<sup>2</sup>), whereas the by-law permits a maximum of 20 m<sup>2</sup> (215.28 ft<sup>2</sup>).
- b) **By-law 2024, Section 4.8.1(e)(i):**  
an interior sideyard setback of 0.59 m (1.93 ft) 0.59 metres, whereas the by-law requires a minimum of 1.2 m (3.94 ft).
- c) **By-law 1229, Section 11.3 (a)(vi):**  
a setback of 0.59 m (1.93 ft) whereas the by-law requires a minimum of 1.22 m (4 ft)

## BACKGROUND

### Property Description

The 876.20 m<sup>2</sup> (9,431.34 ft<sup>2</sup>) subject property is located on the west side of George Street, east of Main Street Markham North and north of Church Street. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey dwellings of various types. The subject property is located within the Markham Village Heritage Conservation District, adjacent to mixed and commercial uses to the west and residential to the east. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Mature vegetation exists across the property.

There is an existing heritage detached dwelling on the property, which according to assessment records was constructed in 1867. A second story addition and detached garage was constructed in 2017.

### Proposal

The applicant has already constructed a 20.13 m<sup>2</sup> (216.68 ft<sup>2</sup>) freestanding pergola with a height of 3.10 m (10.17 ft) at the rear of the subject lands. The existing pergola does not

extend along the entire depth of the rear yard. There is an existing pool centrally located in the rear yard which restricts the placement of the pergola.

### **Official Plan and Zoning**

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

Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighborhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

### Zoning By-Law 1229 & Comprehensive Zoning By-Law 2014-19

The subject property is zoned R3 under By-Law 1229. Under the City’s Comprehensive Zoning By-Law 2014-19, as amended, the subject property is designated Mixed Use Main Street – Markham Village (MU-HMS(M)). Under both By-Laws, detached and semi-detached dwellings are permitted.

### Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development complies with the infill By-Law requirements.

### **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a Zoning Preliminary Review (ZPR) on April 12, 2024 to confirm the variances required for the proposed development.

### **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.

### **Reduced Side Yard Setback**

The applicant is requesting a minimum side yard setback of 0.59 m (1.93 ft) whereas the by-law requires a minimum of 1.22 m (4 ft). The applicant is also requesting relief from the City’s Comprehensive Zoning Bylaw 2014-19 to permit an interior side yard setback of 0.59 m (1.93 ft), whereas the by-law requires a minimum of 1.2 m (3.94 ft).

The requested variance only applies to 20.13 m<sup>2</sup> (216.68 ft<sup>2</sup>) pergola that has already been constructed at the rear of the property. The main building and detached two-car garage comply with minimum side yard setback requirement through a minor variance request

submitted in 2017. Engineering staff have reviewed the application and have no concern with the variance respecting drainage.

Staff note that the pergola is not solid nor enclosed and there is fencing that mitigates the visual impact the pergola has on the adjacent property. Staff ask the applicant to consider attaching vines to the pergola to soften the visual impact. The 6.60 m (21.67 ft) long pergola backs onto the side yard of the neighboring property, which features a generous setback to the main building. Staff have no objections to the request and are of the opinion that the request is minor in nature and poses no adverse impacts on the surrounding area.

#### **Increase in Gross Floor Area of Accessory Building**

The applicant is requesting to permit an accessory structure to have a gross floor area of 20.13 m<sup>2</sup> (216.68 ft<sup>2</sup>), whereas the by-law permits a maximum gross floor area of 20 m<sup>2</sup> (215.28 ft<sup>2</sup>). This represents an increase of less than 1% at 0.13 m<sup>2</sup> (1.40 ft<sup>2</sup>). A negligible difference that does not compromise the intent of the Zoning By-Law, which aims to regulate the size and impact of accessory structures. The unenclosed structure's design minimizes visual impact on the surroundings, and maintains the character and aesthetics of the area.

Staff are of the opinion that the general intent of the Zoning By-Law is maintained and that the request is minor in nature.

#### **PUBLIC INPUT SUMMARY**

Two letters of support were received as of **July 2 2024**. 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.

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PREPARED BY:



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Aaron Chau, Planner I, East District

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

**APPENDICIES**

Appendix "A" – A/144/23 Conditions of Approval

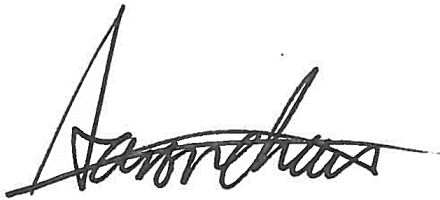
Appendix "B" – Drawings

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/144/23**

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 received by the City of Markham on May 21, 2024 and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the Secretary-Treasurer receive written confirmation from Heritage Markham that the requested variances are supported;

CONDITIONS PREPARED BY:

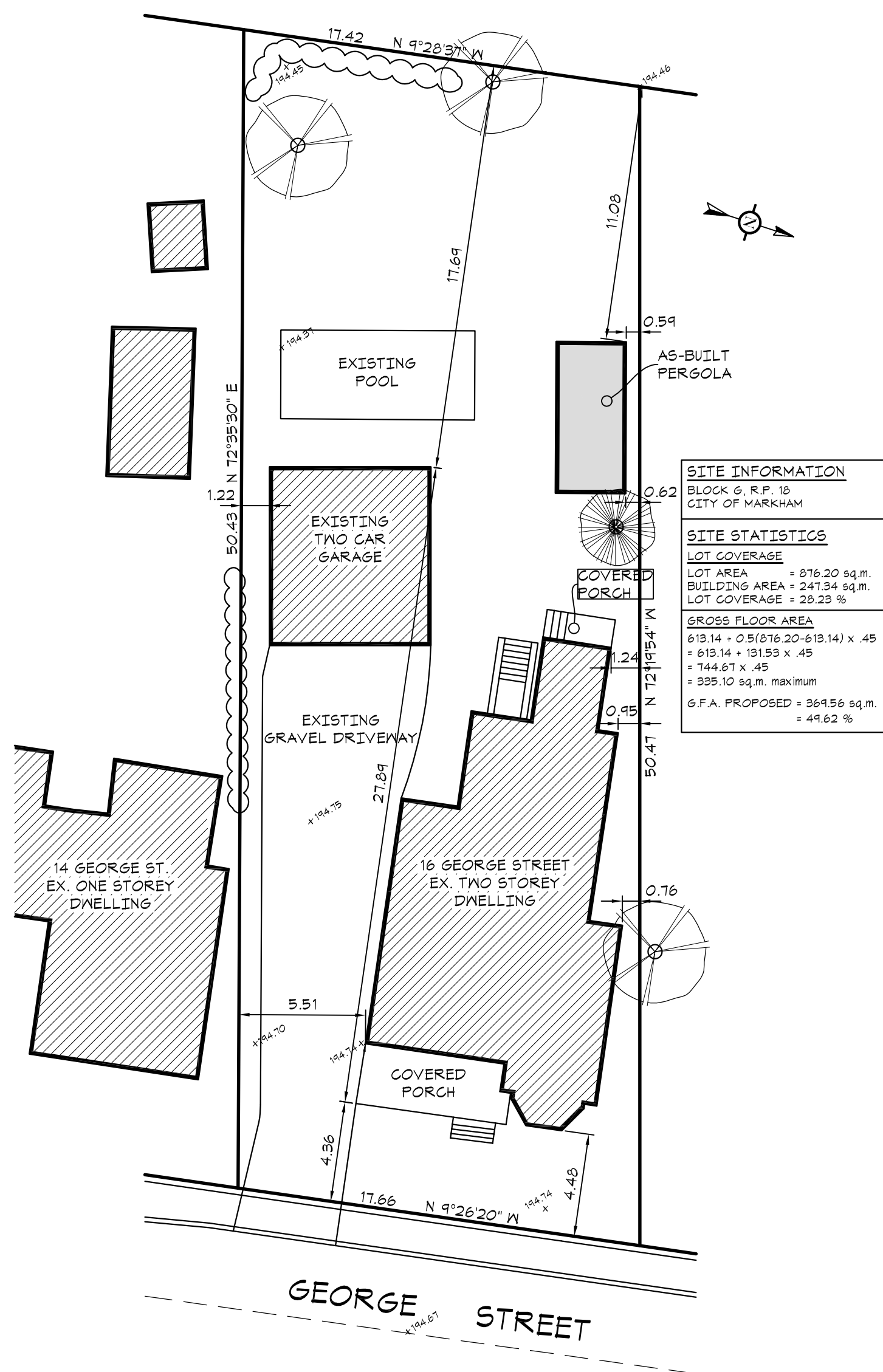
A handwritten signature in black ink, appearing to read 'Aaron Chau', written over a horizontal line.

Aaron Chau, Planner I, East District

# Appendix B

File: 23.134888.000.00.MNV

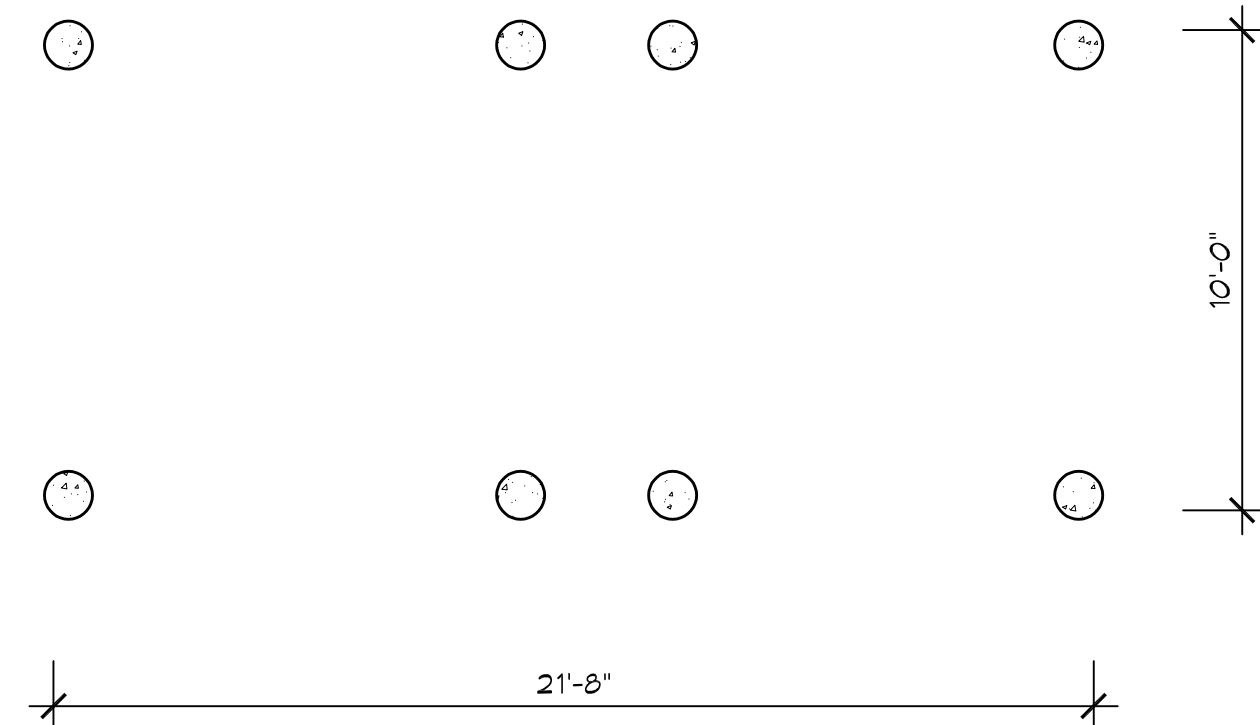
Date: 7/4/2024  
MM/DD/YY



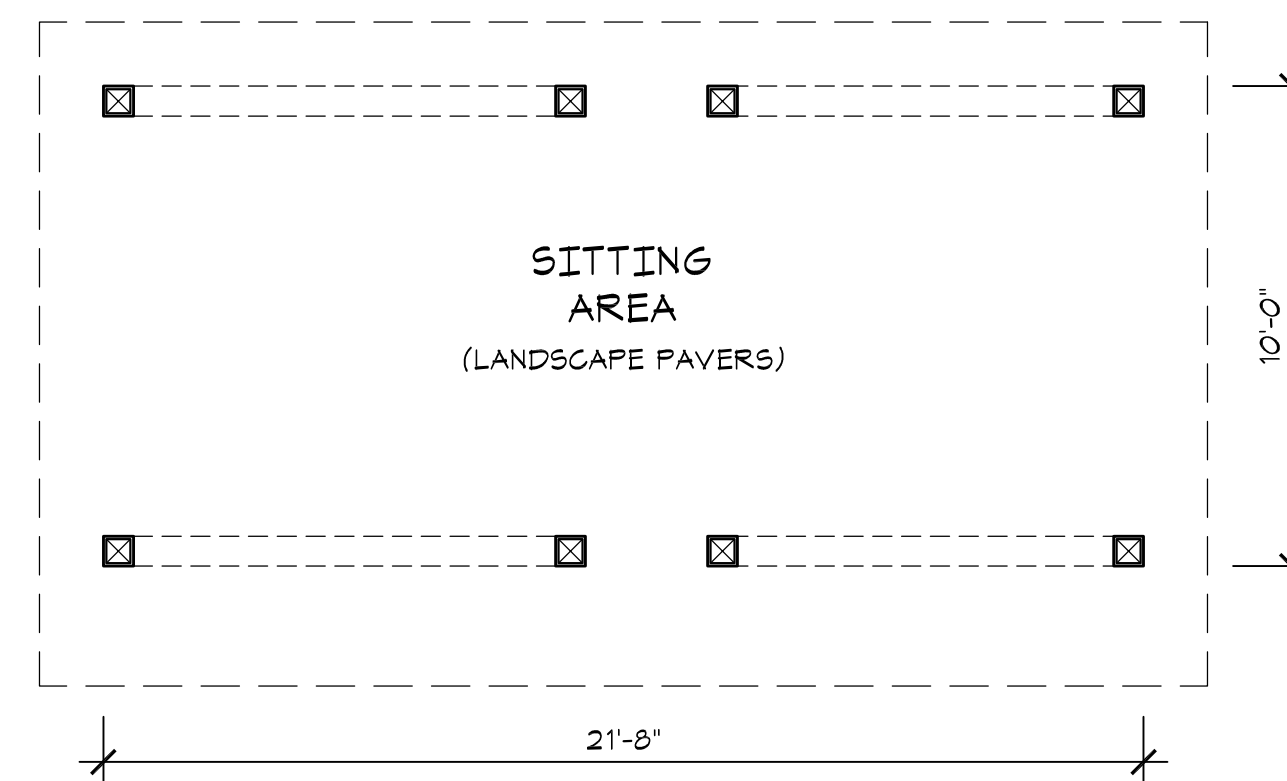
**SITE INFORMATION**  
BLOCK 8, R.P. 18  
CITY OF MARKHAM

**SITE STATISTICS**  
LOT COVERAGE = 20.23 %  
LOT AREA = 816.20 sq.m.  
BUILDING AREA = 247.54 sq.m.  
LOT COVERAGE = 30.21 %  
GROSS FLOOR AREA  
813.14 + 0.51(816.20-813.14) x .45  
= 813.14 + 131.93 x .45  
= 744.67 x .45  
= 335.10 sq.m. maximum  
G.F.A. PROPOSED = 304.56 sq.m.  
= 49.62 %

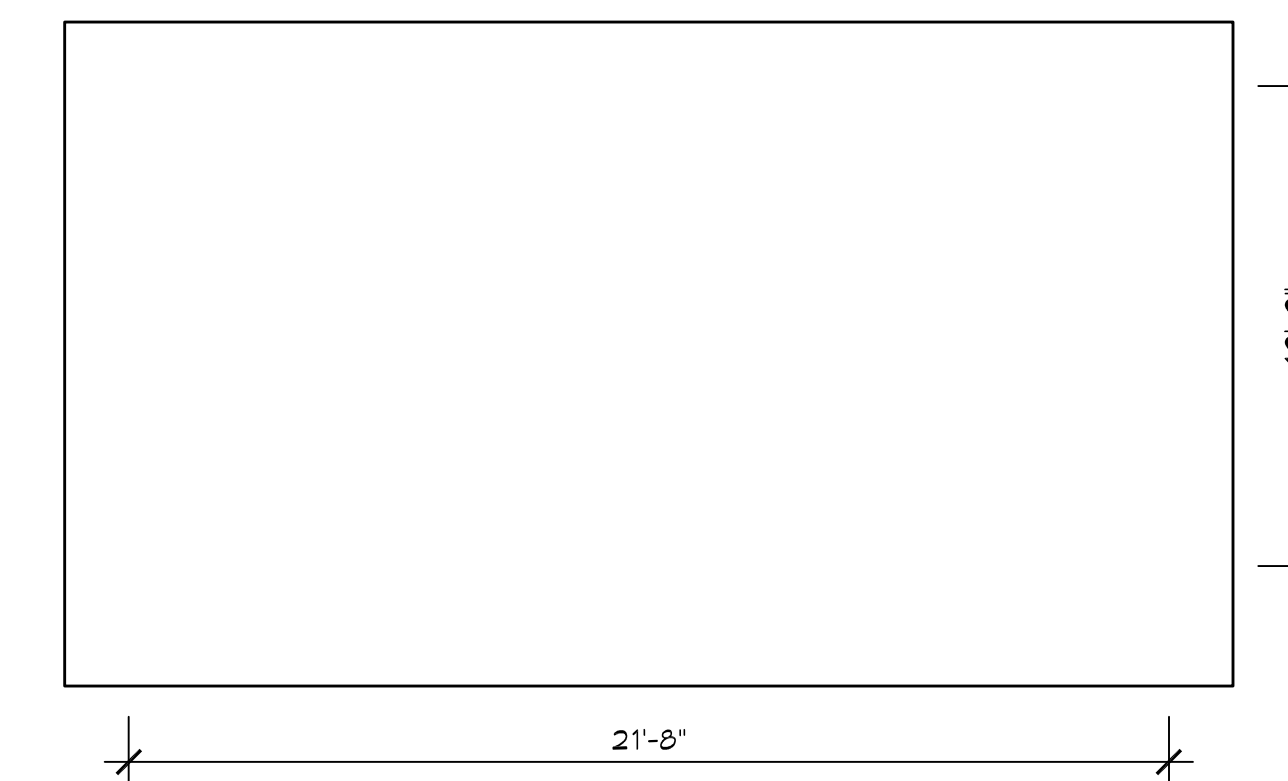
**SITE PLAN**  
SCALE = 1:200



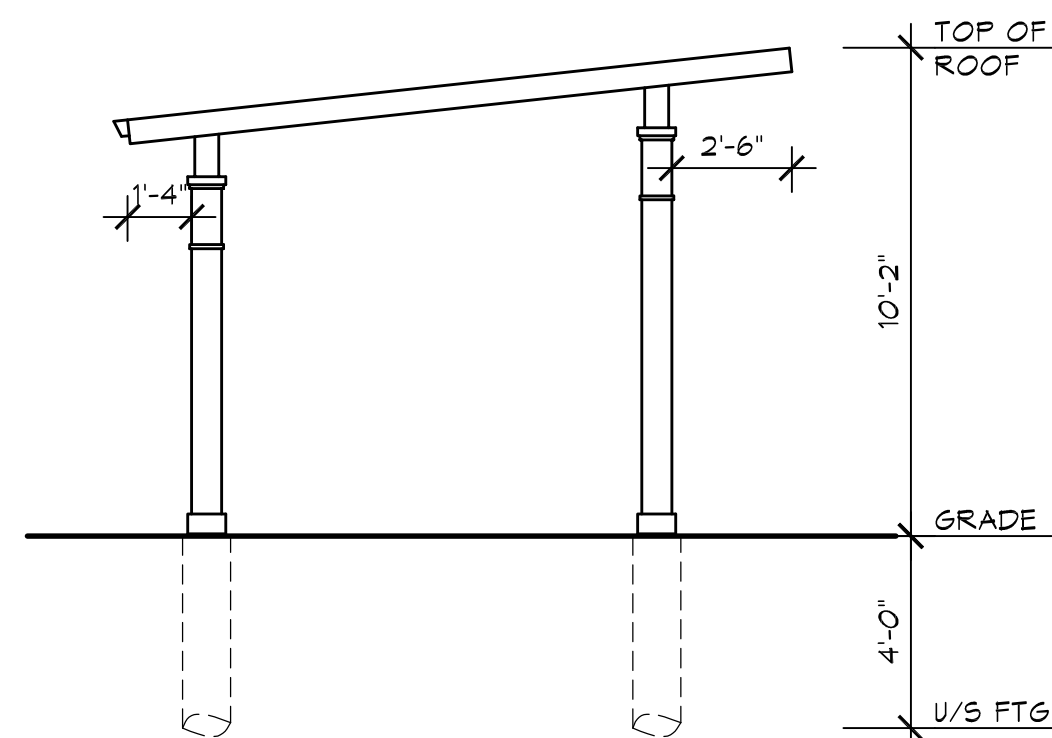
**FOUNDATION PLAN**  
EXISTING LAYOUT



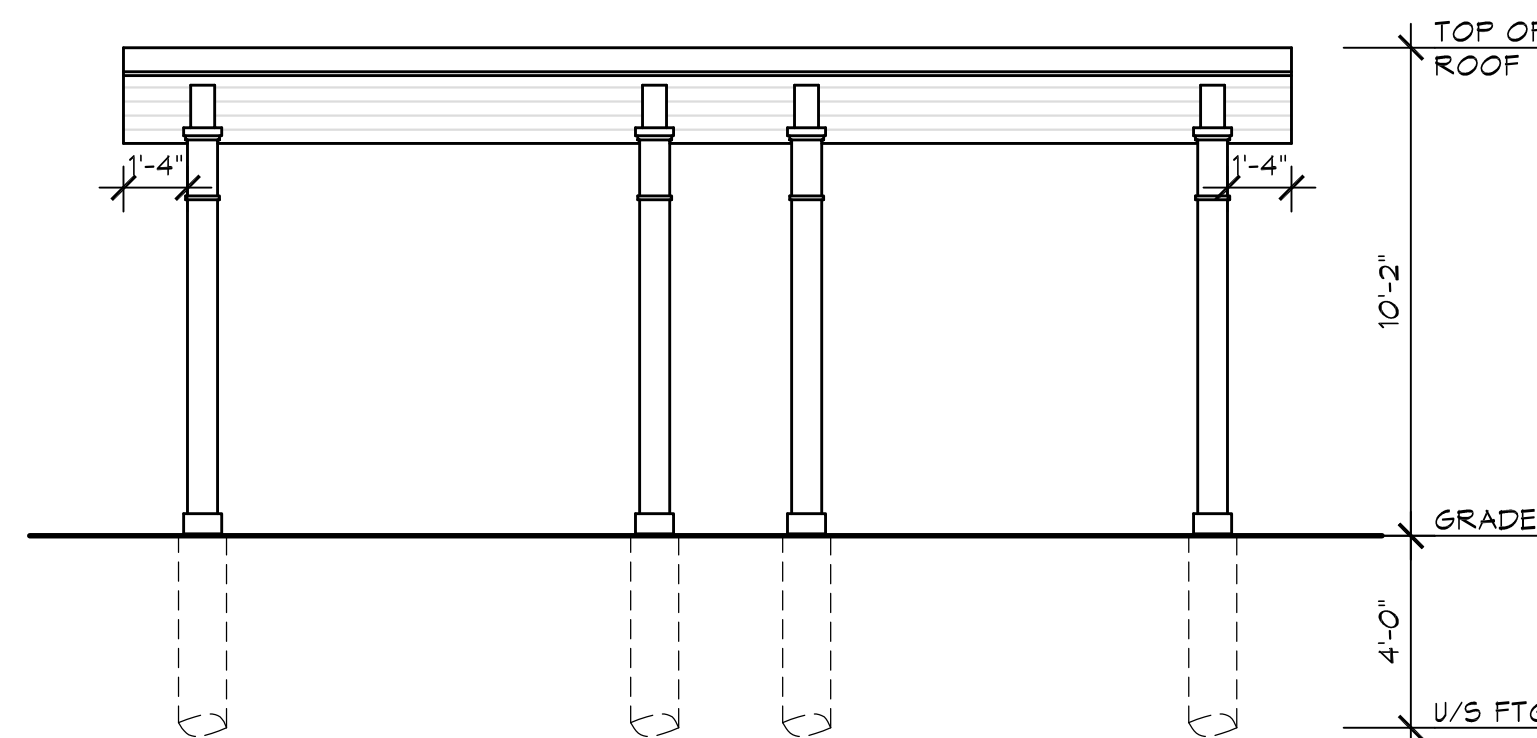
**PERGOLA PLAN**  
EXISTING LAYOUT  
BUILDING AREA = 216 sq.ft.



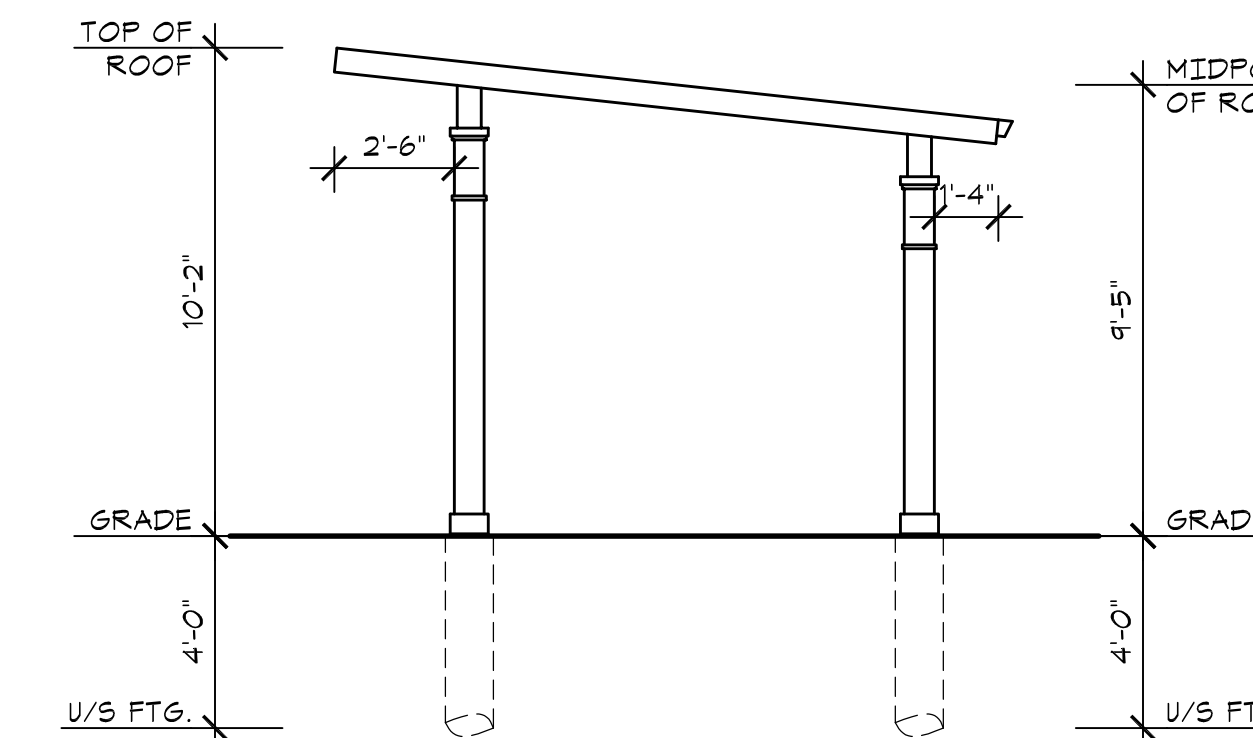
**ROOF PLAN**  
EXISTING LAYOUT



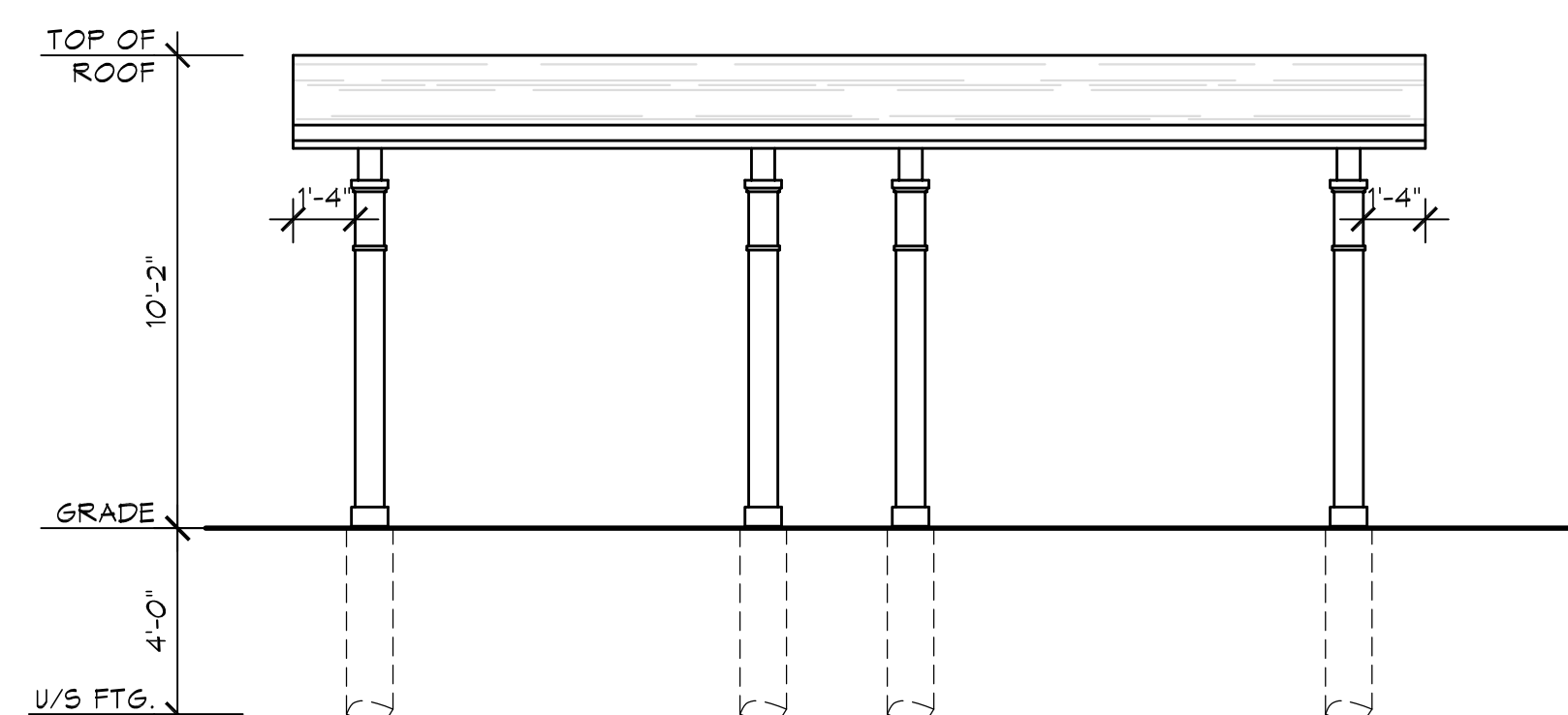
**LEFT SIDE ELEVATION**



**FRONT ELEVATION**



**RIGHT SIDE ELEVATION**



**REAR ELEVATION**

**GENERAL NOTES:**

ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" OF THE ONTARIO BUILDING CODE (LATEST EDITION).

CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.

DO NOT SCALE DRAWINGS.

OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE TO RE-CLAIM AND DESTROY ALL PREVIOUS AND UN-REVISED COPIES OF THIS DRAWING.

THESE DRAWINGS ARE THE PROPERTY OF THE GREGORY DESIGN GROUP AND / OR ITS CLIENTS ONLY.

BUILDING PERMITS TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025  
Firm B.C.I.N. - 30506

Russ Gregory  
NAME SIGNATURE

**PROJECT TITLE**

**AS-BUILT PERGOLA PLAN**  
**16 GEORGE STREET**  
**CITY OF MARKHAM**

**THE GREGORY DESIGN GROUP**

48 GEORGE STREET  
MARKHAM, ONTARIO L3P 2R7  
416-520-0978  
shane@gregorydesigngroup.net

SCALE 1/4"=1'-0"	DATE 05/08/24
PROJECT NUMBER 24-12	SHEET NUMBER A-1
DRAWN BY S.Gregory	A-1
CHECKED BY R.G.	



# Appendix B

File: 23.134888.000.00.MNV

Date: 7/4/2024

MMIDDY



## AS BUILT GRADING PLAN OF PLAN OF PART OF BLOCK G REGISTERED PLAN 18 CITY OF MARKHAM (REGIONAL MUNICIPALITY OF YORK)



A. AZIZ SURVEYORS INC., O.L.S.  
METRIC. DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

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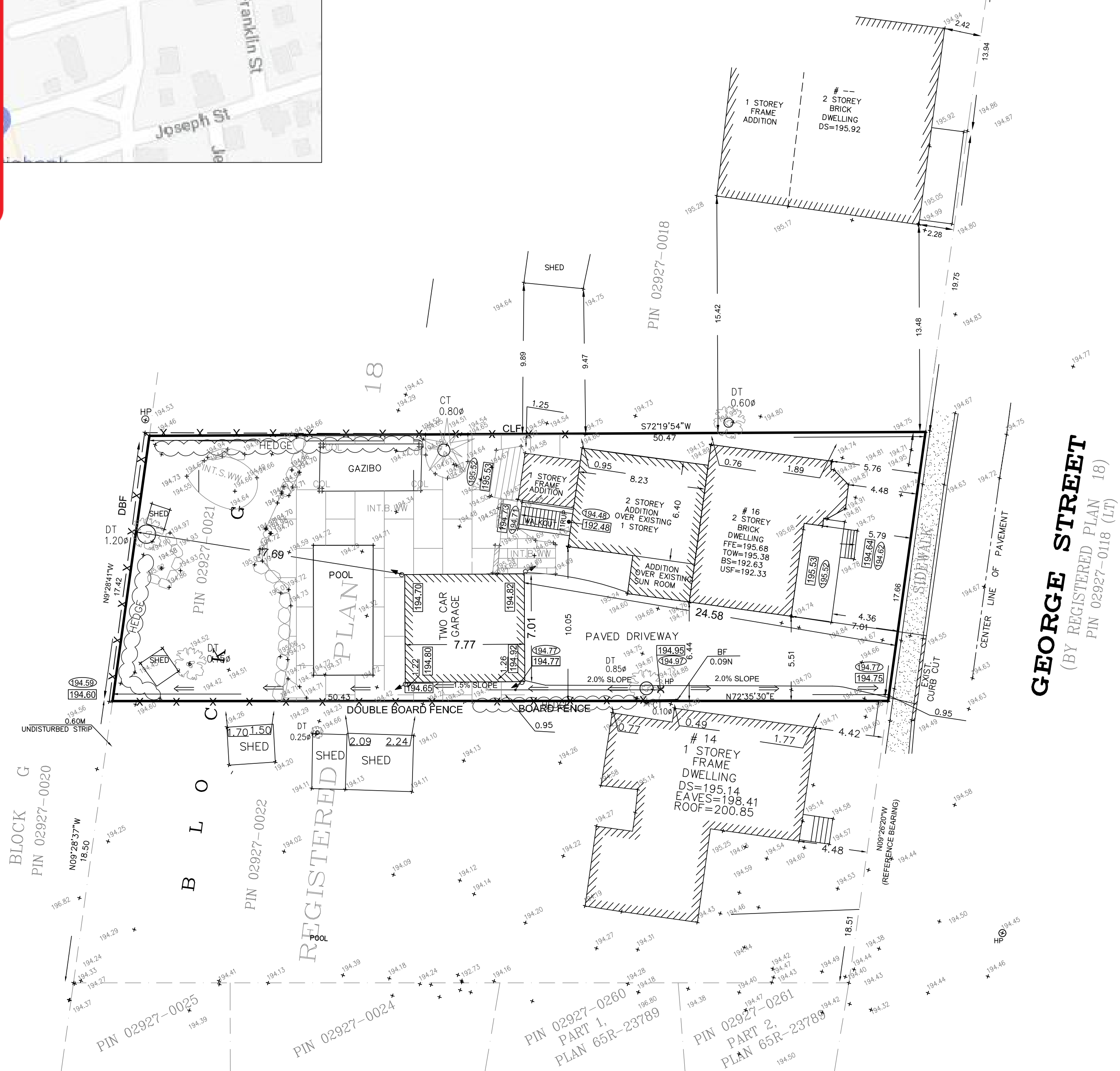
CAUTION  
THIS IS NOT A PLAN OF SURVEY AND SHOULD NOT BE USED FOR ANY REAL ESTATE TRANSACTIONS.

GEODETIC:  
ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE DERIVED FROM THE TOWN OF MARKHAM BENCH MARK # 768483, HAVING AN ELEVATION OF 202.965m.

TREE NOTE  
TREES LOCATED WITHIN THE PROPOSED DWELLING AND DRIVEWAY TO BE REMOVED

- NOTES
1. PRIOR TO SUBMITTING A BUILDING PERMIT APPLICATION, THE BUILDER SHALL HAVE INDIVIDUAL SITING PLANS FOR EACH LOT APPROVED BY THE SUBDIVISIONS CONSULTING ENGINEER, WHICH COMPLY WITH THE APPROVED SUBDIVISION GRADING PLANS AND COMPOSITE UTILITY PLANS. SITING PLANS SHALL INCLUDE AS CONSTRUCTED SANITARY AND STORM SERVICE CONNECTION INVERT ELEVATION AT THE STREET LINE FOR EACH LOT.
  2. WHERE INDICATED ON THIS PLAN, LOTS WHICH ABUT THE SUBDIVISION LIMIT SHALL BE GRADED TO PROVIDE A MINIMUM 0.6 METER STRIP OF UNDISTURBED LAND ADJACENT TO THE SUBDIVISION LIMIT. ALL EMBANKMENTS REQUIRED FOR THE GRADING OF THE LOTS SHALL COMMENCE AT THE INSIDE EDGE OF THIS STRIP OF LAND.
  3. DRAINAGE SWALES SHALL BE CONSTRUCTED BY THE BUILDER ON THE PROPERTY LINE AND TO THE GRADES, DEPTHS AND SECTIONS SPECIFIED HEREIN:  
MINIMUM DEPTH= 0.15M, MAXIMUM DEPTH= 0.50M  
MINIMUM GRADIENT= 2.00%, MAXIMUM GRADIENT= 5.00%
  4. ALL EMBANKMENTS FORMED DURING LOT GRADING SHALL HAVE A MAXIMUM FIVE (5) HORIZONTAL TO ONE (1) VERTICAL SLOPE.
  5. DRIVEWAYS SHALL NOT BE USED AS AN OUTLET FOR ANY SIDE YARD SWALES.
  6. DRIVEWAYS SHALL HAVE A GRADIENT BETWEEN 2.00% TO 8.00%
  7. RETAINING WALL DESIGNS SHALL BE AS PER MANUFACTURER'S SPECIFICATIONS AND ARE TO BE STAMPED BY THE STRUCTURAL DESIGN ENGINEER. ALL RETAINING WALLS ARE TO BE INSPECTED BY A CONSULTING ENGINEER DURING CONSTRUCTION AND CERTIFIED UPON COMPLETION PRIOR TO RELEASE OF GRADING DEPOSIT.
  8. WHEN A SEPARATION BETWEEN HOUSES IS LESS THAN 3.0 METRES, PLACE 19MM OF CLEAR STONE TO A DEPTH OF 100MM IN PLACE OF TOPSOIL & SOD. A POSITIVE GRADE AWAY FROM THE HOUSE AT SUB GRADE LEVEL IS MANDATORY.
  8. WHEN A SEPARATION BETWEEN HOUSES IS LESS THAN 3.0 METRES, PLACE 19MM OF CLEAR STONE TO A DEPTH OF 100MM IN PLACE OF TOPSOIL & SOD. A POSITIVE GRADE AWAY FROM THE HOUSE AT SUB GRADE LEVEL IS MANDATORY.
  9. UNDERSIDE OF BASEMENT FLOOR SHALL BE MIN. 0.5M ABOVE THE 100 YEAR HYDRAULIC GRADE LINE.

ENGINEER. ALL RETAINING WALLS ARE TO BE INSPECTED BY A CONSULTING ENGINEER DURING CONSTRUCTION AND CERTIFIED UPON COMPLETION PRIOR TO RELEASE OF GRADING DEPOSIT.



**GEORGE STREET**  
(BY REGISTERED PLAN 18)  
PIN 02927-0118 (LT)

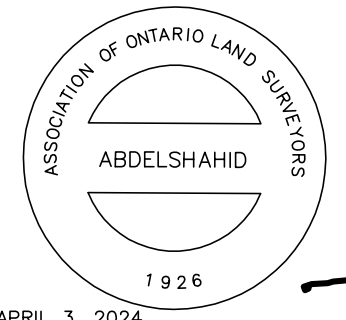
LEGEND:

TOW	TOP OF WALL ELEV.	MH	MANHOLE
FN. FL.	FINISHED FLOOR	HP	HYDRO POLE
USF	UNDERSIDE OF FOOTING	LP	LAMP POST
BS	BASEMENT SLAB	N,E,S,W	NORTH, EAST, SOUTH, WEST
HP*	HIGH GRADING POINT	BF	BOARD FENCE
DT	DECIDUOUS TREE	DBF	DOUBLE BOARD FENCE
		PROP.	PROPOSED
CT	CONIFEROUS TREE	EX	EXISTING
		CONN	CONNECTION
			HORIZONTAL PROTECTION BOARDS
			TREE TO BE REMOVED
			TREE PROTECTION FENCE
			SEDIMENT CONTROL FENCE
			HAND EXCAVATION AREA
			TREE PROTECTION ZONE

UNDERGROUND SERVICES  
IT IS THE BUILDER OR CONTRACTOR RESPONSIBILITY TO CHECK THE UNDERGROUND SERVICES AND CONNECTIONS PRIOR TO THE EXCAVATION OF THE NEW DWELLING. THE UNDERSIGN CLAIMS NO RESPONSIBILITY FOR THE UNDERGROUND INVERTS AND ELEVATIONS OR LOCATIONS.

SURVEYOR'S CERTIFICATE  
I HAVE REVIEWED THIS SITE PLAN FOR THE DWELLING NO. 16 GEORGE STREET IT IS MY BELIEF THAT THE GRADES AS SHOWN WILL PRODUCE ADEQUATE SURFACE DRAINAGE WITHOUT DETRIMENTAL EFFECT ON ADJACENT PROPERTIES.

SERVICES NOTE  
PLEASE NOTE THAT ALL EXISTING SERVICES TO BE REUSED FOR EXISTING DWELLING  
NO ADDITION TO EXISTING BASEMENT AREA BEING PROPOSED THEREFORE NO STORM CONNECTION IS REQUIRED



DATE: APRIL 3, 2024  
A. ABDELSHAHID  
ONTARIO LAND SURVEYOR

A. AZIZ SURVEYORS INC ONTARIO LAND SURVEYORS 120 NEWKIRK ROAD-#31, RICHMOND HILL, ONT. L4C-9S7 Tel. (905) 237-8224 Fax: (416) 477-5465 Website: M-Azizsurveyors.ca E-Mail: aziz@m-azizsurveyors.ca	
PROJECT NUMBER 16-331	PROJECT 16 GEORGE STREET (GP)
DRAWN BY R.A	CHECKED BY A.A