

Memorandum to the City of Markham Committee of Adjustment

August 22, 2024

File: A/061/24
Address: 148 Markville Road, Markham
Applicant: Mahendra Appadu
Hearing Date: Wednesday, September 11, 2024

The following comments are provided on behalf of the Central 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 from the “Residential – Established Neighbourhood Low Rise (RES-ENLR) Zone” in By-law 2024-19:

- a) **By-law 2024-19, Section 6.3.2.2 (E)**: a maximum distance of 23 metres for the first storey measured from the established building line, whereas the By-law permits a maximum distance of 19.5 metres from the established building line;

as it relates to a rear addition to a residential dwelling.

BACKGROUND

Property Description

The 436.93 m² (4,703.08 ft²) subject lands are located on the north side of Markville Road, and generally located north of Austin Drive and west of Bullock Drive (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey linked dwellings.

There is an existing two-storey linked dwelling on the Subject Lands, which according to assessment records was constructed in 1983. While the dwelling may visually appear to be single detached above grade, the dwelling links to the adjacent dwelling by a common foundation and is considered a semi-detached dwelling by definition of the By-law (or generally referred to as a “linked” dwelling). This configuration is permitted in accordance with Zoning By-law 184-78, as amended, and is a common characteristic of the community.

The Subject Lands are located immediately south of the Metrolinx’s Corridor right-of-way and within Metrolinx’s 300 metres railway corridor zone of influence.

Proposal

The Applicant is proposing to construct a 35.62 m² (383.41 ft²) one-storey addition in the rear yard (the “Proposed Development”).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the Subject Lands as “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. These criteria are established to ensure that infill developments are appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-law 184-78 and Comprehensive Zoning By-law 2024-19 (“CZBL 2024-19”)

The Subject Lands are zoned “Fourth Density – Semi-Detached Residential (RSD4) Zone” in By-law 184-78, as amended, which permits a semi-detached dwelling. The Proposed Development complies with the requirements of By-law 184-78

The Subject Lands are also zoned “RES-ENLR (Residential – Established Neighbourhood Low Rise)” under 2024-19, which permits one single detached dwelling per lot. The existing linked dwelling is considered to have been legally existing on the lot prior to the date of passing of the CZBL 2024-19. However, the proposed addition does not comply with the requirements of the CZBL 2024-19 as they relate to the maximum distance of the main building from the established building line.

Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant 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 variances required for the Proposed Development.

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 Distance of the Main Building from the Established Building Line (first storey)

The Applicant is requesting a maximum distance of the main building from the established building line of 23 m (75.46 ft) for the first storey, whereas the By-law permits a maximum distance of 19 m (62.34 ft). This represents an increase of 4.0 m (13.12 ft) for the first storey.

Staff note that the established building line is defined as “a line that is the average distance between the front lot line and the nearest wall (including the private garage) of the main building facing the front lot line on the two neighbouring lots fronting the same street”. The intent of this By-law provision is to regulate the building depth and massing in relation to the neighbouring lots.

Staff note that the variance is attributable to the main building being setback further from the street line than the adjacent dwellings, and that the proposed building depth of approximately 21.6 m (69.75 ft) complies with the By-law’s requirement for a maximum building depth of 30 m (98.43 ft). The variance is also attributable to a portion of the office space projecting 3.05 m (10 ft) into the rear yard. Given that the office projection of 9.30 m² (100.1 ft²) does not span across the entire width of the dwelling, Staff are of the opinion that the majority of the dwelling and the remaining portion of the addition are generally aligned with what the By-law permits. Staff are also satisfied that the proposed one-storey addition does not significantly contribute to the size and massing of the dwelling and that there will be no significant impacts to the streetscape.

EXTERNAL AGENCIES

Metrolinx Requirements

Metrolinx provided comments on this application on August 2, 2024 (Appendix C), requiring the construction of a crash wall or, that the Owner enter into an Infill Adjacent Development with Metrolinx, if the construction of an appropriate crash wall is not feasible. Metrolinx also requires that the Owner enter into an agreement to grant Metrolinx an environmental easement for “Operational Emissions”. Staff have included a condition requiring the Applicant to satisfy Metrolinx’s requirements prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 4, 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 to the Proposed Development. 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 "D" for conditions to be attached to any approval of this application.

PREPARED BY:



Brendan Chiu, Planner I, Central District

REVIEWED BY:



Melissa Leung, Senior Planner, Central District

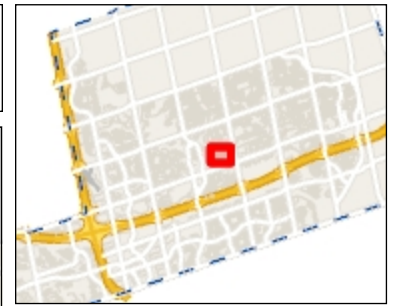
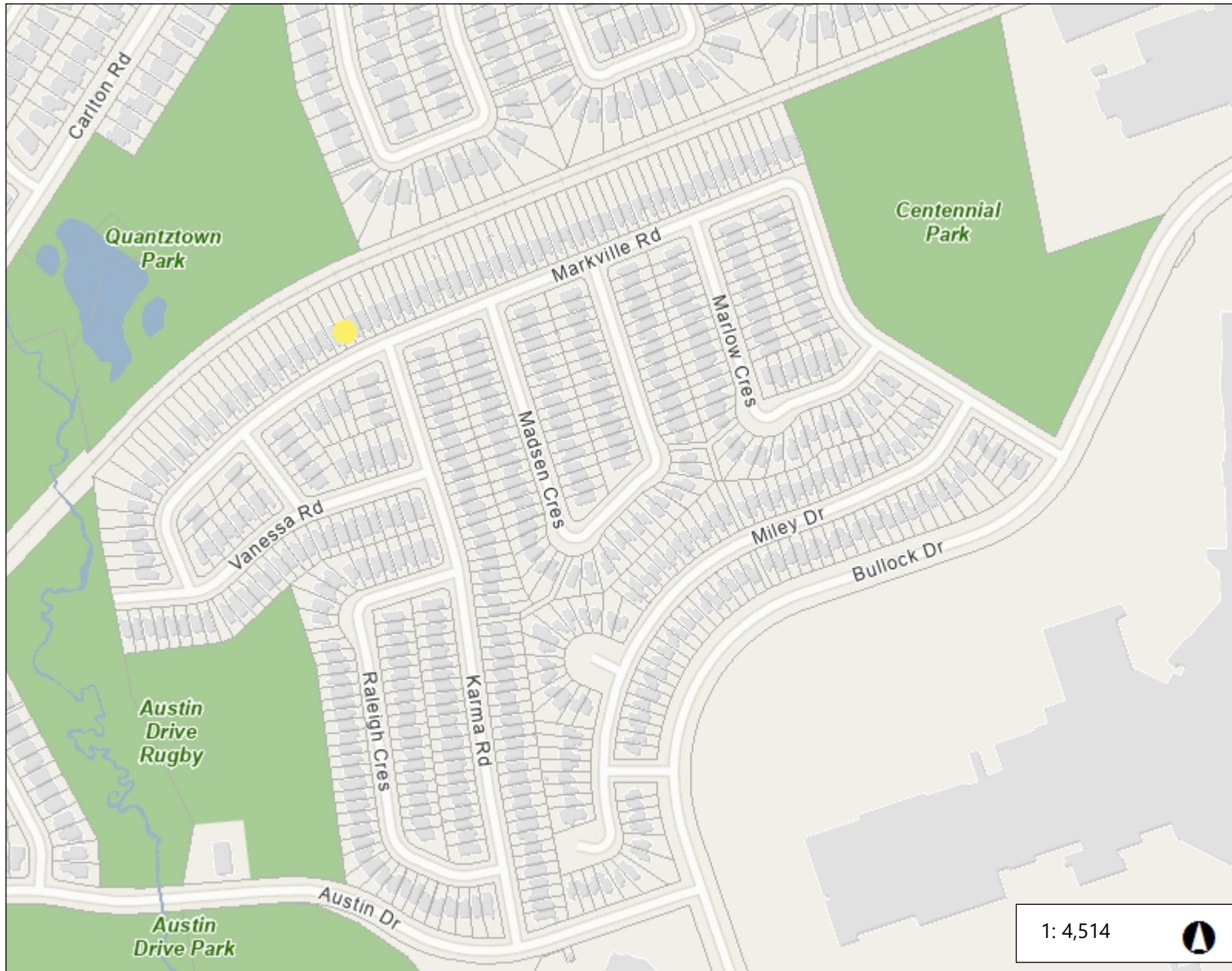
APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – Metrolinx Conditions of Approval

Appendix "D" – A/061/24 Conditions of Approval



Legend

- Subject Lands
148 Markville Road

1: 4,514



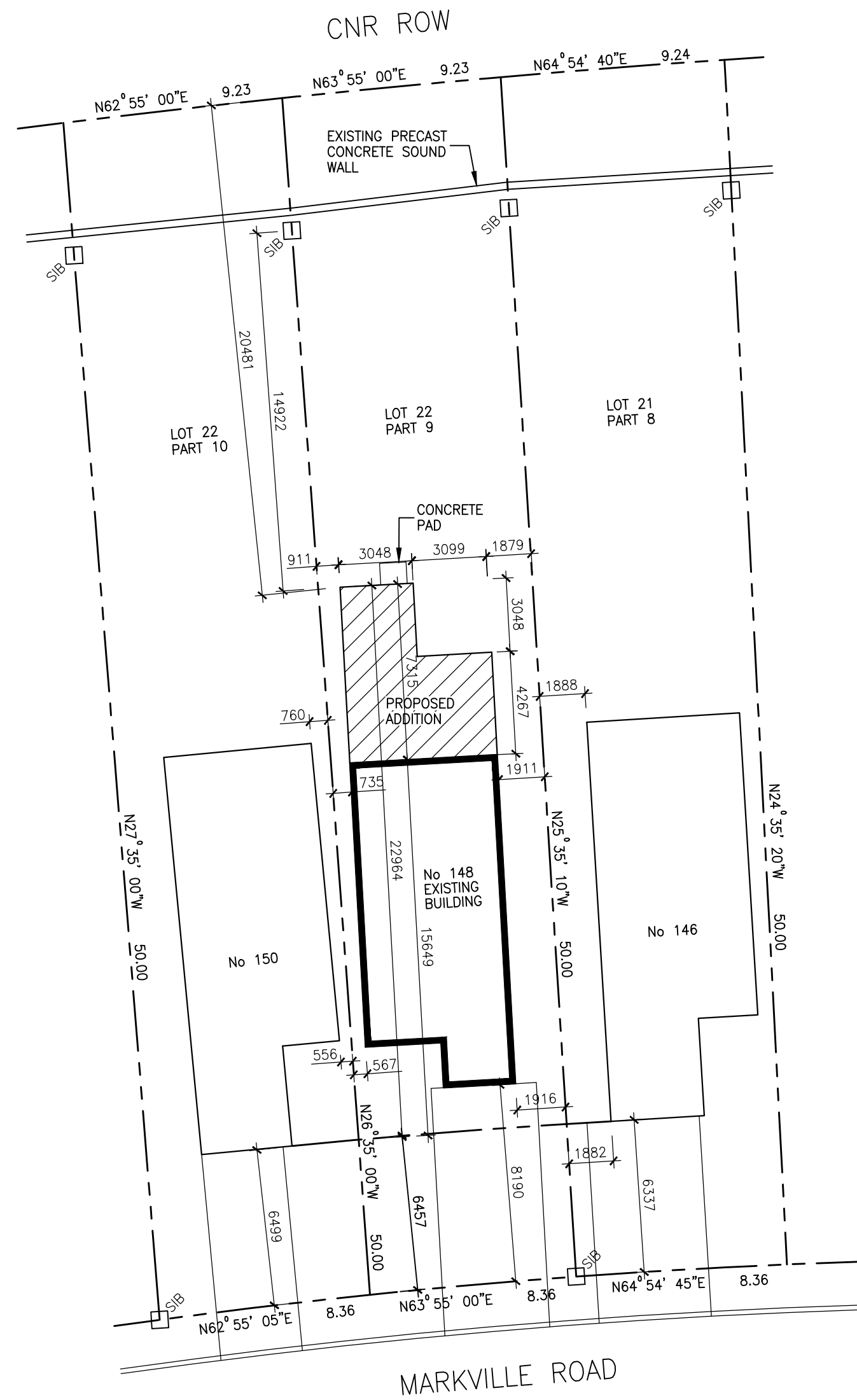
Notes

229.3 0 114.66 229.3 Meters

Appendix B

File: 24.177886.000.00.MNV

Date: 9/4/2024
MM/DD/YY

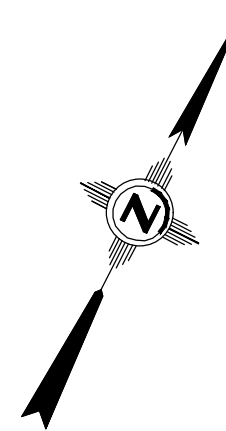


SITE STATISTICS	
ZONING:	R1
LOT AREA:	442.80 SQ.M.
EXISTING BUILDING AREA:	78.34 SQ.M.
PROPOSED BUILDING ADDITION:	35.62 SQ.M.
TOTAL PROPOSED BUILDING AREA:	113.96 SQ.M.
LOT FRONTAGE	8.36m
LOT DEPTH	50.0m
BUILDING HEIGHT (ADDITION)	4.27m
LOT COVERAGE	
TOTAL PROPOSED BUILDING AREA	113.96 SQ.M. (1227 SQ.FT)
PROPOSED LOT COVERAGE	113.96 SQ.M. 25.74 %
TOTAL ASPHALT PAVED AREA	36.06 SQ.M. 8.14 %
REMAINING LANDSCAPED AREA	292.78 SQ.M. 66.12 %
GROSS FLOOR AREA COVERAGE	
EXISTING GROSS FLOOR AREA	154.33 SQ.M.
PROPOSED GROSS FLOOR AREA	35.74 SQ.M.
GROSS FLOOR AREA IS INCREASED = 23.16%	
SETBACKS	
AS NOTED ON PLAN	

SPATIAL SEPARATION SUMMARY

WALL	EXISTING AREA OF EBF (m2)	NEW AREA OF EBF (m2)	TOTAL AREA OF EBF (m2)	LD (m)	L/H OR H/L	PERMITTED MAX % OF OPENINGS	PROPOSED % OF OPENINGS
NORTH	34.01	0.00	34.01	20.481	1.13:1	100	19.82
SOUTH	34.01	0.00	34.01	6.457	1.13:1	100	32.31
EAST	71.09	17.84	88.93	1.911	3.88:1	8	2.46
WEST	71.09	17.84	88.93	0.567	3.88:1	0	0.00

1 SITE PLAN
A1 SCALE: 1:200 METRIC



Project Name	Date
PROPOSED ADDITION 148 MARKVILLE ROAD, UNIONVILLE, ONT.	18 MARCH 2024
	08 MAY 2024-UPDATED 05 JUNE 2024-UPDATED
Sheet Title	Scale
SITE PLAN	1:200 METRIC
Sheet No	Sheet No
	A1

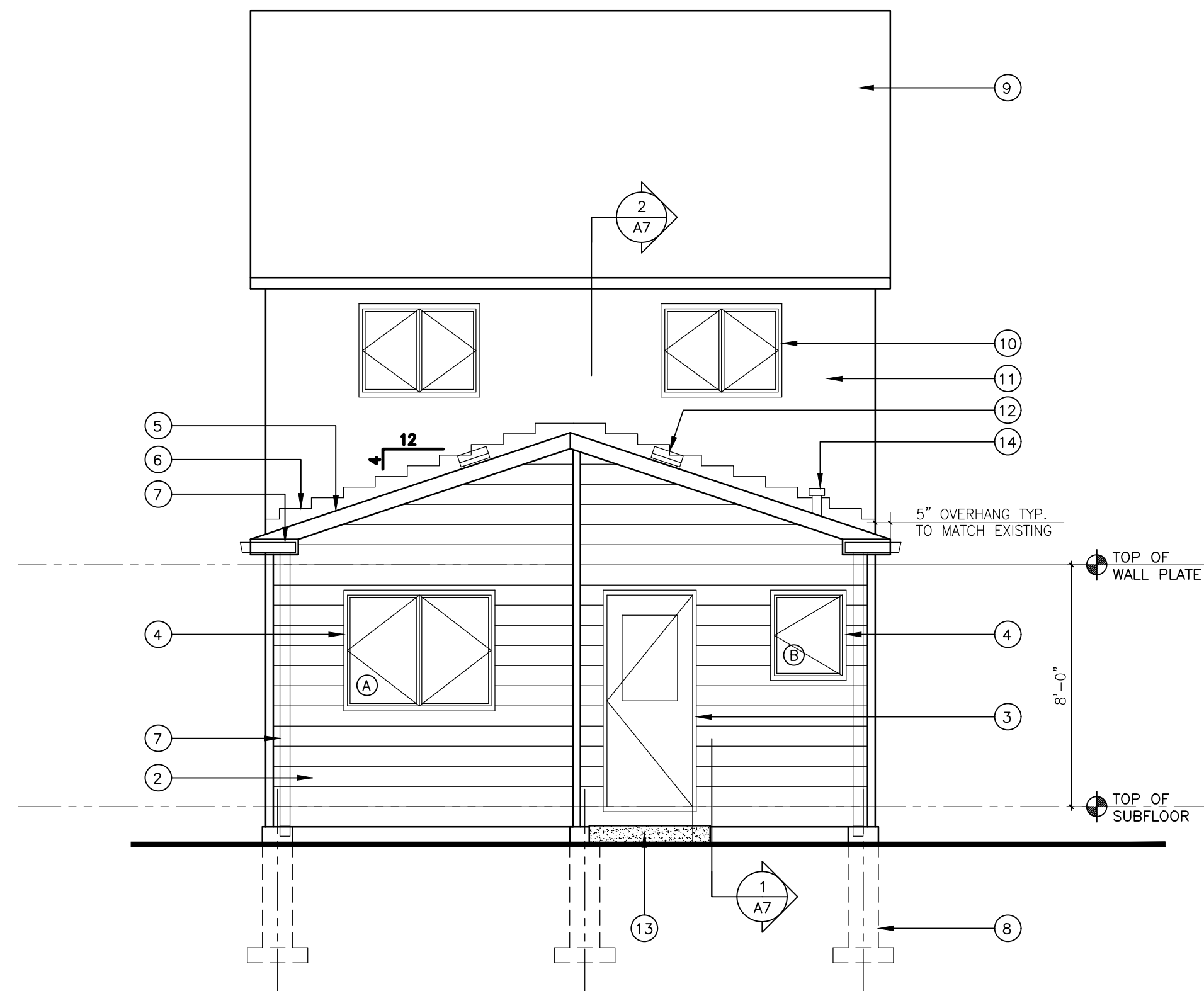
Appendix B

File: 24.177886.000.00.MNV

Date: 9/4/2024
MM/DD/YY

EXTERIOR MATERIAL LEGEND:

- ① ASPHALT ROOF SHINGLES
- ② PREFINISHED METAL SIDING
+ METAL CORNER TRIM
- ③ INSULATED METAL DOOR
+ CLAD WOOD FRAME
- ④ CASEMENT WINDOW
+ DOUBLE GLAZED
+ CLAD WOOD FRAME
- ⑤ PREFINISHED METAL FASCIA
+ FLASHING
- ⑥ PREFINISHED METAL FLASHING
- ⑦ PREFINISHED METAL RAIN
WATER LEADER AND EAVESTROUGH
- ⑧ CONCRETE PIER FOUNDATION & FOOTING
- ⑨ EXISTING ROOF SHINGLES
- ⑩ EXISTING WINDOW
- ⑪ EXISTING FACE BRICK
- ⑫ PREFINISHED METAL ROOF VENT
- ⑬ CONCRETE STEP/LANDING
- ⑭ WASHROOM EXHAUST FAN



① NORTH ELEVATION
A4 SCALE: 1/4"=1'-0"

Project Name	Date
PROPOSED ADDITION 148 MARKVILLE ROAD, UNIONVILLE, ONT.	18 MARCH 2024
	08 MAY 2024-UPDATED 05 JUNE 2024-UPDATED
Sheet Title	Scale
NORTH ELEVATION	1/4"=1'-0"
Sheet No	Sheet No
	A4

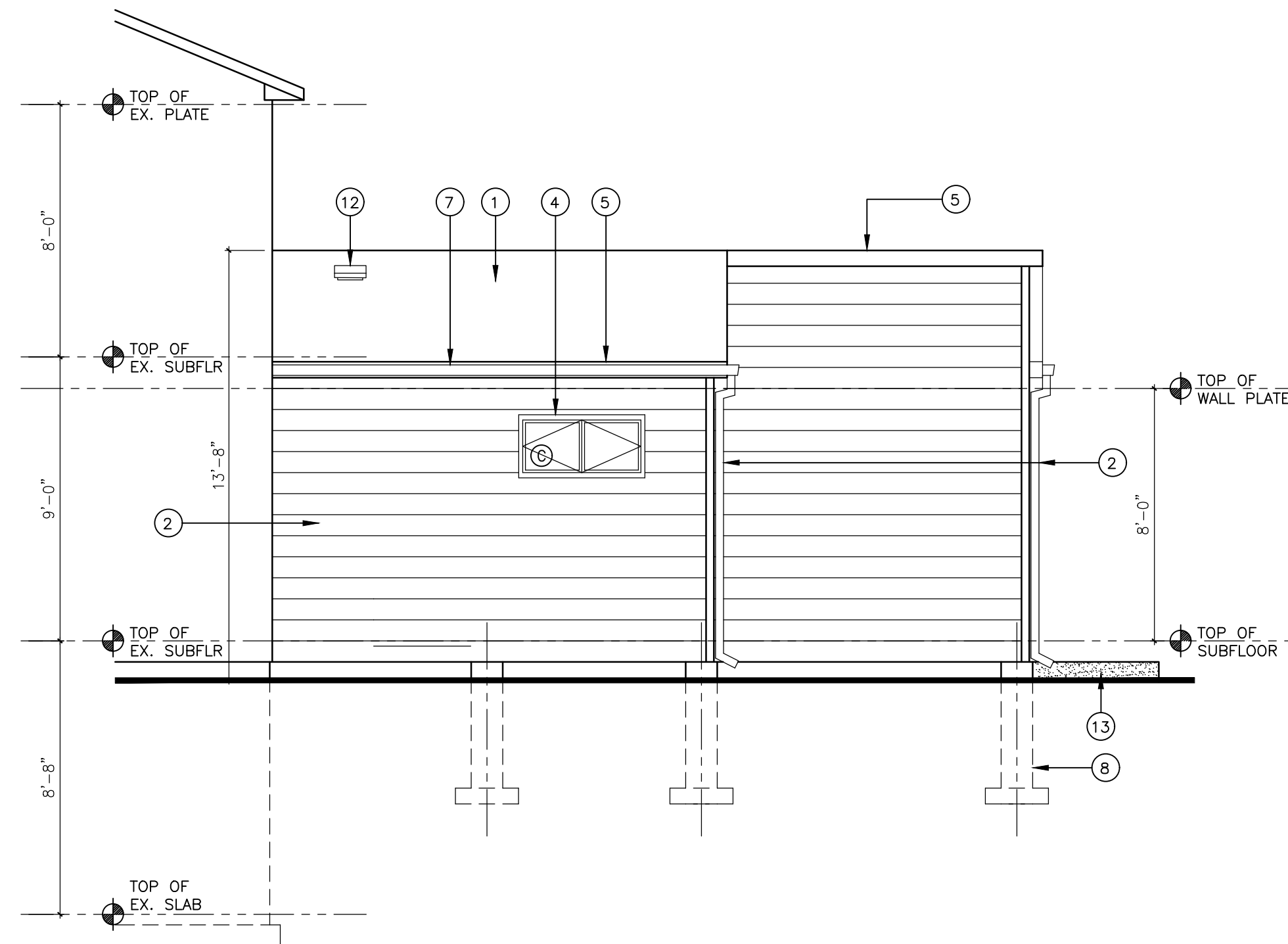
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WATER LEADER AND EAVESTROUGH
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- ⑨ EXISTING ROOF SHINGLES
- ⑩ EXISTING WINDOW
- ⑪ EXISTING FACE BRICK
- ⑫ PREFINISHED METAL ROOF VENT
- ⑬ CONCRETE STEP/LANDING



① EAST ELEVATION
A5 SCALE: 1/4"=1'-0"

Project Name	Date
PROPOSED ADDITION 148 MARKVILLE ROAD, UNIONVILLE, ONT.	18 MARCH 2024 08 MAY 2024-UPDATED 05 JUNE 2024-UPDATED
Sheet Title	Scale
EAST ELEVATION	1/4"=1'-0"
Sheet No	Sheet No
	A5

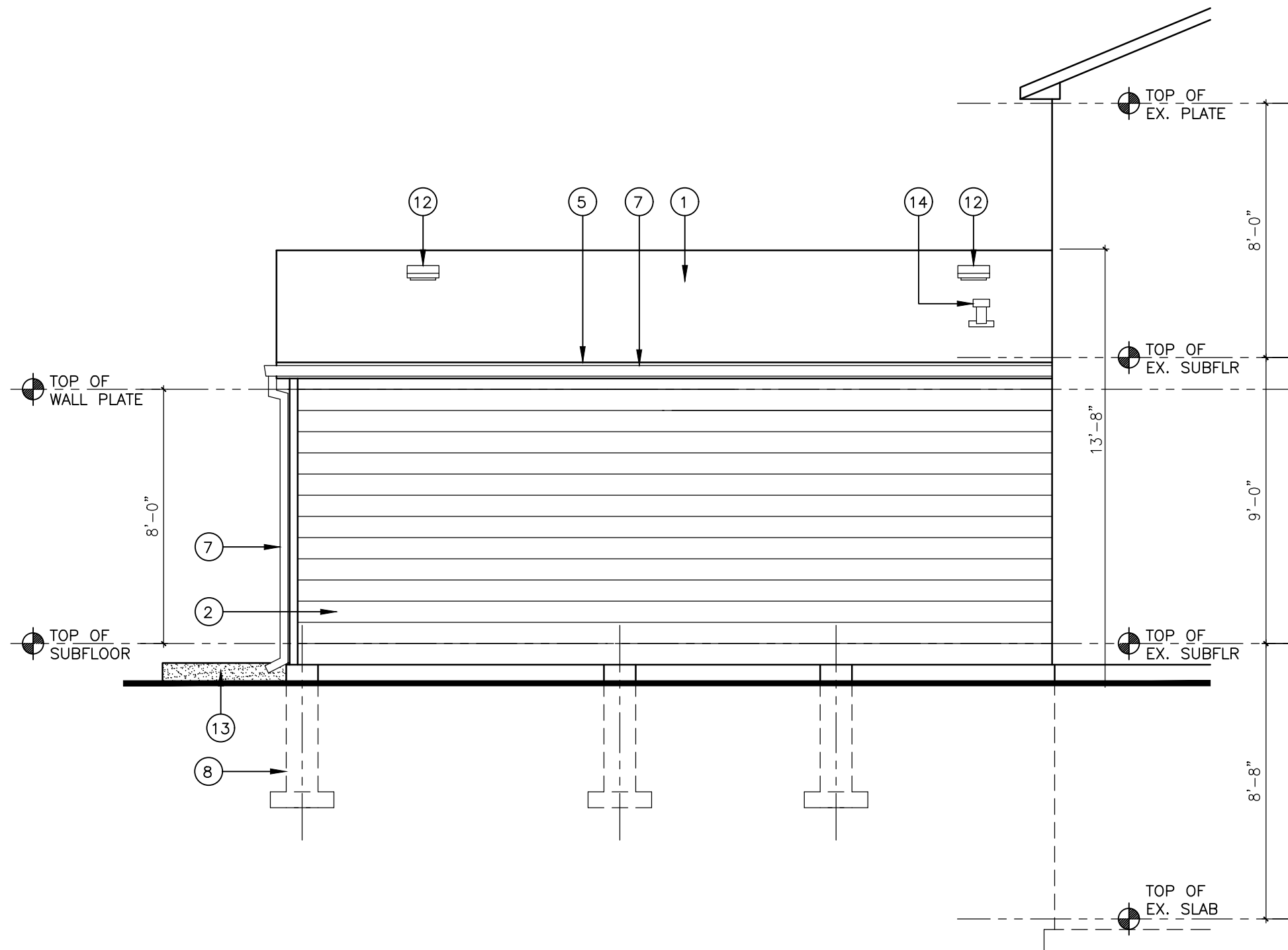
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Date: 9/4/2024
MM/DD/YY

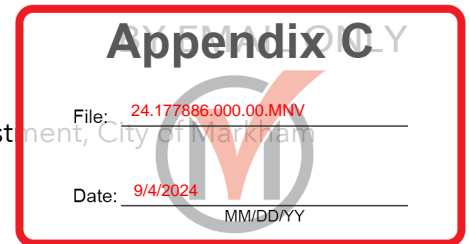
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- ⑬ CONCRETE STEP/LANDING
- ⑭ WASHROOM EXHAUST FAN



① WEST ELEVATION
A6 SCALE: 1/4"=1'-0"

Project Name	Date
PROPOSED ADDITION 148 MARKVILLE ROAD, UNIONVILLE, ONT.	18 MARCH 2024 08 MAY 2024 - UPDATED 05 JUNE 2024 - UPDATED
Sheet Title	Scale
WEST ELEVATION	1/4"=1'-0"
Sheet No	Sheet No
	A6



TO: Shawna Houser, Secretary-Treasurer, Committee of Adjustment, City of Markham

DATE: August 2, 2024

RE: Adjacent Development Review: A/061/24
148 Markville Rd, Markham, ON
Minor Variance

Dear Committee of Adjustment,

Metrolinx is in receipt of the Minor Variance application for 148 Markville Rd, Markham, to facilitate the construction of a rear addition to the existing dwelling with a proposed setback of 20.5m to the mutual (Metrolinx rail corridor) property line, as circulated on July 22nd, 2024, and to be heard by the Committee as early as September 11, 2024. Metrolinx's comments on the subject application are noted below:

- The subject property is located adjacent of Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.

GO/HEAVY-RAIL - ADVISORY COMMENTS

- Metrolinx would like to note that additional drainage from the proposed development is not permitted onto Metrolinx-owned lands, without prior approval from Metrolinx and our Technical Advisor.
- The proposed development is adjacent to the Metrolinx Rail Corridor Right-of-Way and may be subject to a work permit and review. The Proponent can find more information on the submission requirements here: <https://www.metrolinx.com/en/about-us/doing-business-with-metrolinx/development-opportunities/construction-beside-go-corridors>.
- In addition to the technical review (by our Technical Advisor), it should be noted that various Metrolinx permits/approvals/agreements with associated fees may be required for implementation/construction. For example, this includes, but not limited to, private property when works are proposed within 30ft (~10m) of an active rail. This includes, but is not limited to, works involving, shoring, tiebacks, and crane swing (i.e., crane, crane boom/crane swing) that fall within 30ft of the active rail.
- As such, these permits/approvals/agreements with their required fees and processing timelines in advance of proposed work, should be factored into your construction cost and schedule accordingly. More detail can be provided as the application and details progress.
- The Proponent may contact Farah.Faroque@metrolinx.com with questions and to preliminarily assess if work permits/flagging/additional approvals/agreements may be required for this proposal.

GO/HEAVY-RAIL - CONDITIONS OF APPROVAL

- As Per Metrolinx's Adjacent Development Guidelines, derailment protection in the form of a safety barrier (e.g., Crash wall, earthen berm, etc.) is required for residential uses immediately adjacent to the rail corridor. For infill development, safety barriers are often infeasible. In these instances, the Proponent will be required to enter into an Infill Adjacent Development Agreement with Metrolinx. The Proponent may contact Farah.Faroque@metrolinx.com with any questions and for a copy of the Infill Adjacent Development Agreement.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
 - **Warning:** The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns, please contact Farah.Faroque@metrolinx.com.

Best Regards,

Farah Faroque

Project Analyst, Third Party Project Review

Metrolinx | 10 Bay Street | Toronto | Ontario | M5J 2S3

T: (437) 900-2291

Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**").

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.

APPENDIX “D”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/061/24

1. The variances apply only to the Proposed Development as long as it remains;
2. That the variances apply only to the Proposed 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 Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the Owner satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as ‘Appendix C’ to this Staff Report, to the satisfaction of Metrolinx, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District