

Memorandum to the City of Markham Committee of Adjustment

September 17, 2024

File: A/076/24
Address: 12 Bridleford Court, Markham
Agent: Tai Architect Inc (Ken Tai)
Hearing Date: Wednesday, September 25, 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, and the “Sixth Density - Single Family Residential (R8) Zone” in By-law 134-79, as amended, to permit:

By-law 2024-19

- a) **Section 4.8.1 b) ii):** a maximum gross floor area of 50.72 square metres for an accessory building, whereas the By-law permits a maximum gross floor area of 20 square metres for an accessory building for a lot area greater than 500 square metres and less than 4000 square metres;

By-law 134-79

- b) **Section 6.2.1:** an accessory building to occupy no more than 6.76 percent of the lot area, whereas the By-law permits an accessory building to occupy no more than 5 percent of the lot area;

as it relates to a proposed rear yard garden home.

BACKGROUND

Property Description

The 889.23 m² (9,571.59 ft²) subject lands are located at the east end of the Bridleford Court cul-de-sac, which is generally located north of Carlton Road and west of Manhattan Drive (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey detached dwellings.

There is an existing two-storey detached dwelling on the property, which according to assessment records was constructed in 2002.

Proposal

The Applicant is proposing to construct a one-storey 50.72 m² (545.95 ft²) garden home located in the rear yard (refer to “Appendix B” – Plans).

Staff note that the Applicant revised their initial application and variance requests following comments received from Staff, as demonstrated in the following table:

Table 1 – Changes in Variances Comparison Chart			
Development Standard	By-law Requirement	Initial Variance Request	Current Variance Request
Maximum gross floor area for an accessory building	20m ² (215.28 ft ²)	79.5 m ² (855.73 ft ²)	50.72 m ² (545.95 ft ²)
Accessory building coverage	5% (44.44 m ² or 478.35 ft ²)	7.69% (68.34 m ² or 735.61 ft ²)	6.76% (60.10 m ² or 646.91 ft ²)

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act, R.S.O. 1990, c. P.13, as amended*, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing options including second units to support complete communities.

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 property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The Official Plan also

contains criteria for the establishment of secondary suites in Section 8.13.8 which states:

“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and,*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Planning Staff have had regard for the requirements of the Official Plan in the preparation of the comments provided below.

Zoning By-Law 2024-19 & 134-79

The Subject Lands are zoned “RES-ENLR (Residential – Established Neighbourhood Low Rise)” under By-law 2024-19, which permits one single detached dwelling per lot. By-law 2024-19 permits an accessory garden home to any detached dwelling, semi-detached dwelling or townhouse dwelling, subject to the provisions of Sections 4.8.1 (for accessory buildings or structures) and 4.9.10 (for garden homes) of the By-law, which includes, but is not limited to, development standards related to the size, location and setbacks of the garden home.

Under By-law 2024-19, a Garden home is defined as *“...a dwelling unit located within an accessory building or structure in the rear yard of a lot that is not accessed by a lane and which is accessory to the principal use dwelling unit on the same lot.”* The Proposed Development complies with the garden home provisions of Section 4.9.10 of

the By-law, but does not comply with the accessory building By-law requirements with respect to gross floor area.

The Subject Lands are zoned “Sixth Density – Single Family Residential (R6) Zone” in By-law 134-79, as amended, which permits a single detached dwelling. The Proposed Development does not comply with the By-law as it relates to the accessory building coverage.

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

The Applicant has submitted a letter highlighting the difficulties of complying with the Zoning By-law provisions while also meeting the minimum room size requirements under the Ontario Building Code (refer to “Appendix C” – Agent Justification).

Zoning Preliminary Review (ZPR) 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 August 28, 2024 in response to Planning Staff’s comments. 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.

Increase in Maximum Accessory Building Floor Area

The Applicant is requesting relief to permit a maximum floor area of 50.72 m² (545.95 ft²) for an accessory building, whereas the By-law permits an accessory building to have a maximum floor area of 20 m² (215.28 ft²). This represents a 30.72 m² (330.67 ft²) increase to the permitted floor area.

Staff note that the calculation of maximum floor area includes the proposed basement. Excluding the basement, the Proposed Development would have a floor area of 36.65 m² (394.50 ft²). This is important to note as Staff are of the opinion that the intent of the By-law is to regulate the above-grade massing of accessory buildings.

Staff further note that the Applicant previously requested a maximum accessory building floor area of 79.5 m² (855.73 ft²). After meeting with Staff, the Applicant reduced their previous variance request to 50.72 m² (545.95 ft²).

Given that the Proposed Development meets all required setbacks, and 14.07 m² (151.45 ft²) of the floor area is below grade, Staff are of the opinion that the variance is minor and will have minimal impacts on surrounding properties.

Increase in Maximum Lot Area Coverage for Accessory Building

The Applicant is requesting relief to permit a maximum lot area coverage of 6.76% (60.10 m² or 646.91 ft²) for an accessory building, whereas the By-law permits a maximum lot area coverage of 5% (44.44 m² or 478.35 ft²) for an accessory building. The represents an additional 1.76% (15.66 m² or 168.56 ft²) coverage from what the By-law permits.

The Applicant previously requested a maximum lot area coverage of 7.69% (68.34 m² or 735.61 ft²). After meeting with Staff, the Applicant reduced their previous variance request to 6.76 percent (60.10 m² or 646.91 ft²). This results in a decrease of 0.93% (8.24 m² or 88.7 ft²).

It is the opinion of Staff that the requested variance is minor and that the Proposed Development will have minimal impacts on the appearance of the street and is not anticipated to compromise the residential character of the neighbourhood.

Furthermore, the City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning Staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

Fire and Emergency Services Comments

The Fire and Emergency Services Department has no objections provided the garden home is registered with the City and complies with Building and Fire Codes. Should this application proceed and be approved, the Proposed Development must not be located more than 45m from the street to the principal entrance of the garden home. Furthermore, access to the garden home must be unobstructed, otherwise the unit is required to be fully sprinklered. The Applicant will be required to obtain a building permit which ensures the garden home will be in compliance with Building Code and Fire Code regulations, and will be required to register their garden home with the Fire Department prior to the occupancy of the unit.

Tree Protection and Compensation

Tree Preservation Staff have no objections to the minor variance request. During the review of the Proposed Development, the City's Tree Preservation Technician indicated

concerns that the proposed walkway will encroach into the Tree Protection Zones (TPZ) of two neighbouring trees at 14 Bridleford Court. Tree protection fencing will be required around private, City, and neighbouring trees that may be impacted.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 16, 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 “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

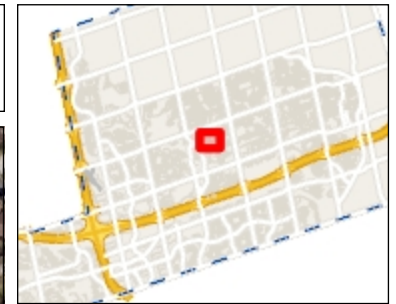
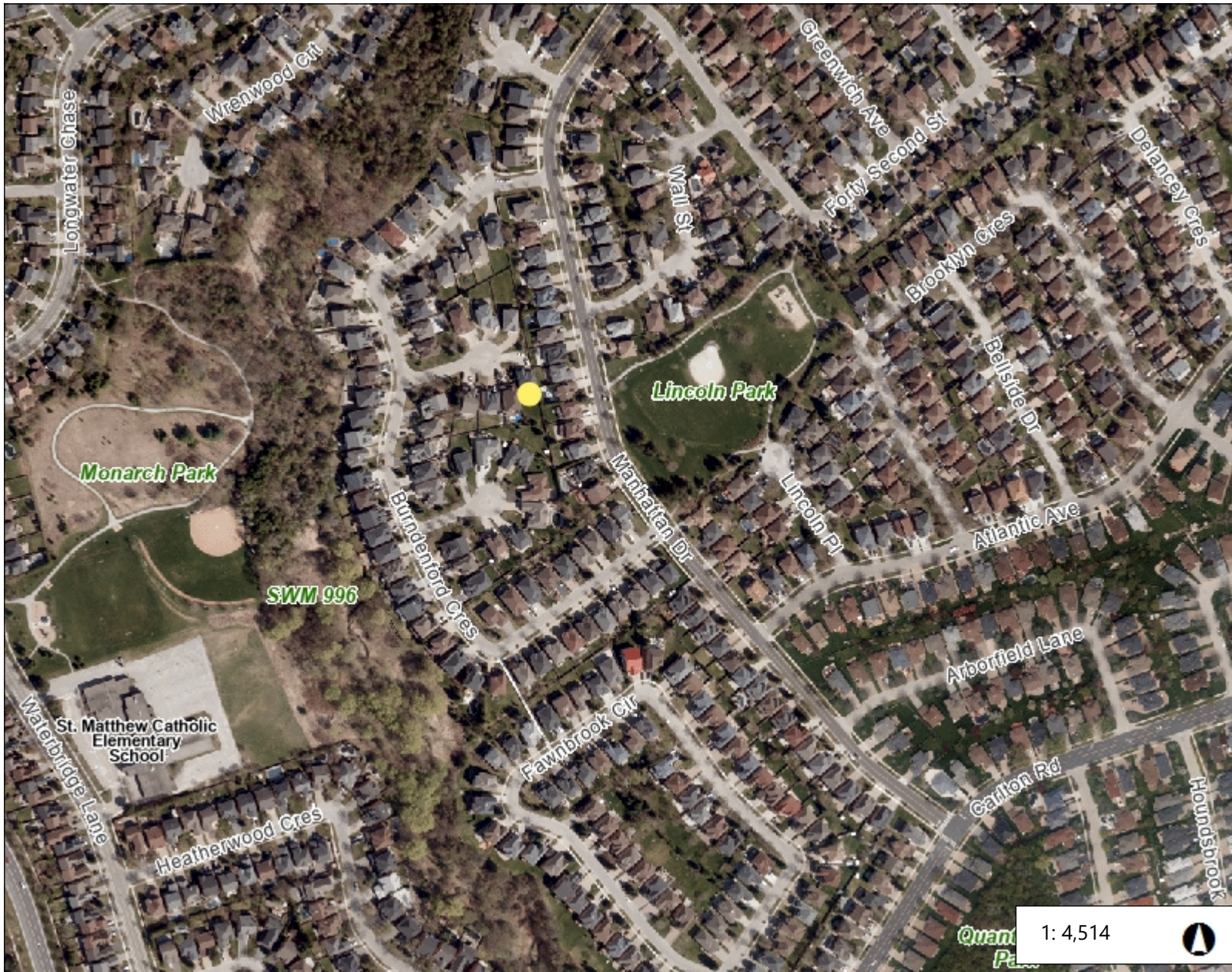
APPENDICES

Appendix “A” – Aerial Photo

Appendix “B” – Plans

Appendix “C” – Agent Justification

Appendix “D” – A/070/24 Conditions of Approval



Legend

- Subject Lands
- 12 Bridleford Court

1: 4,514



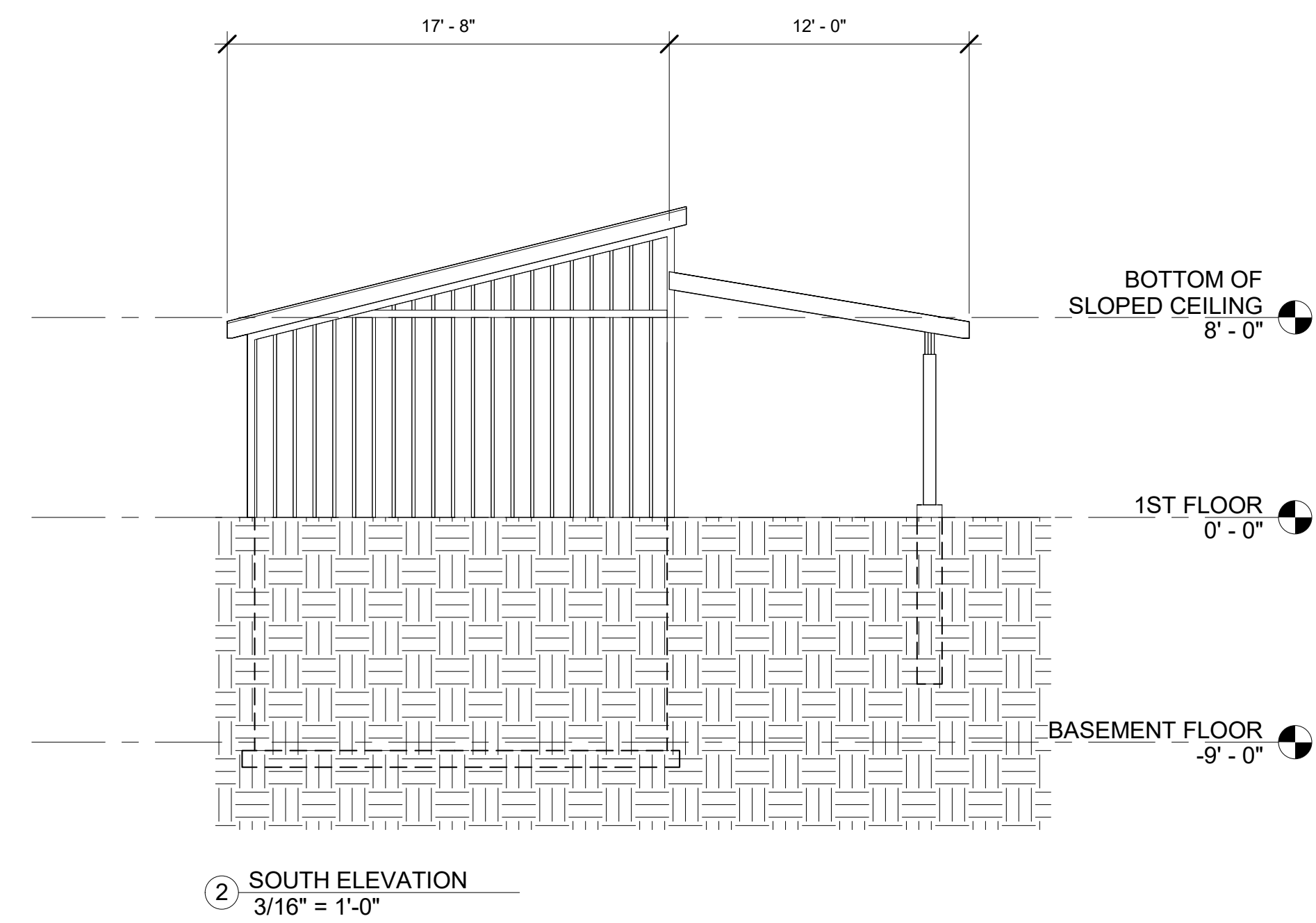
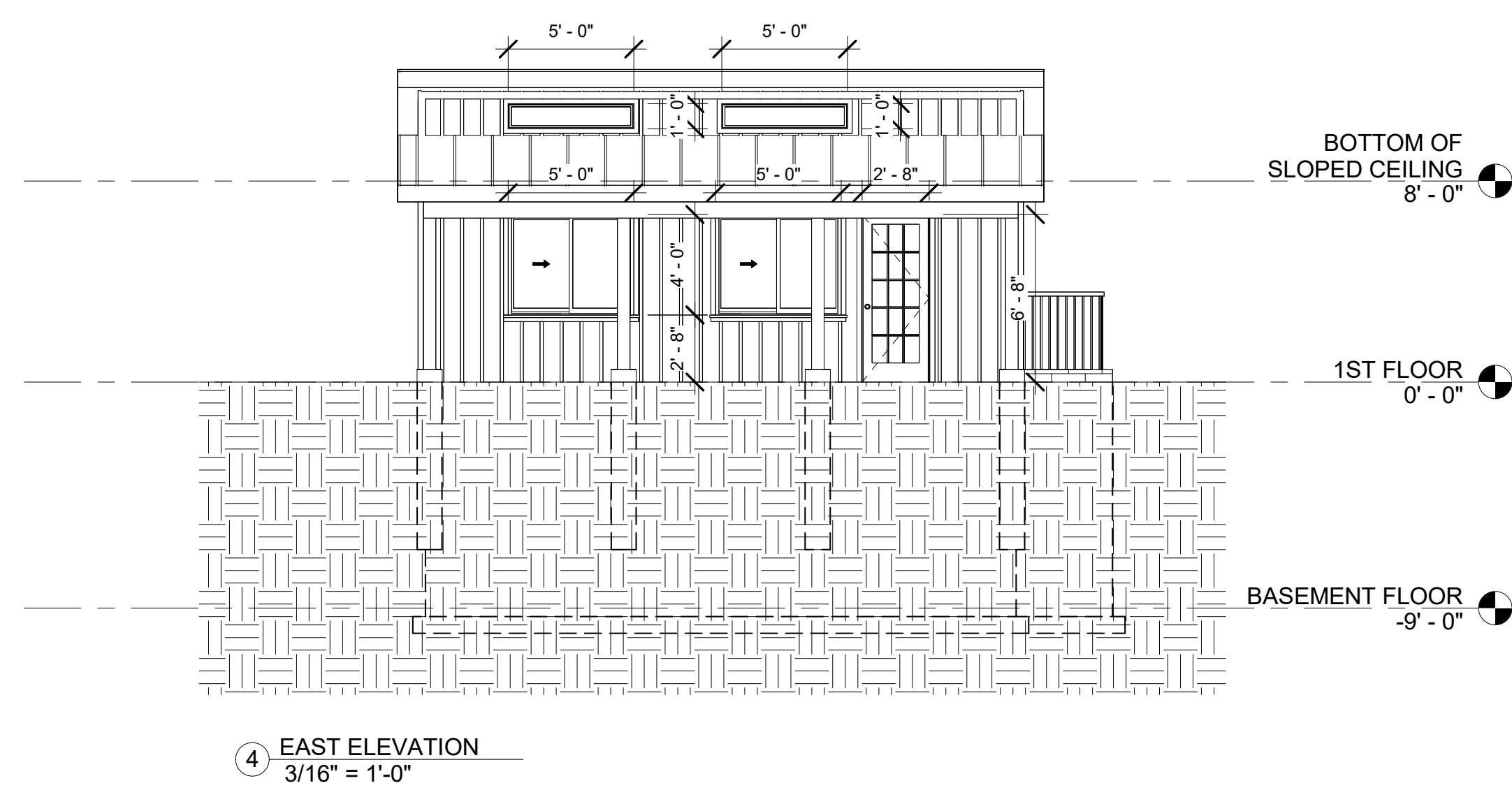
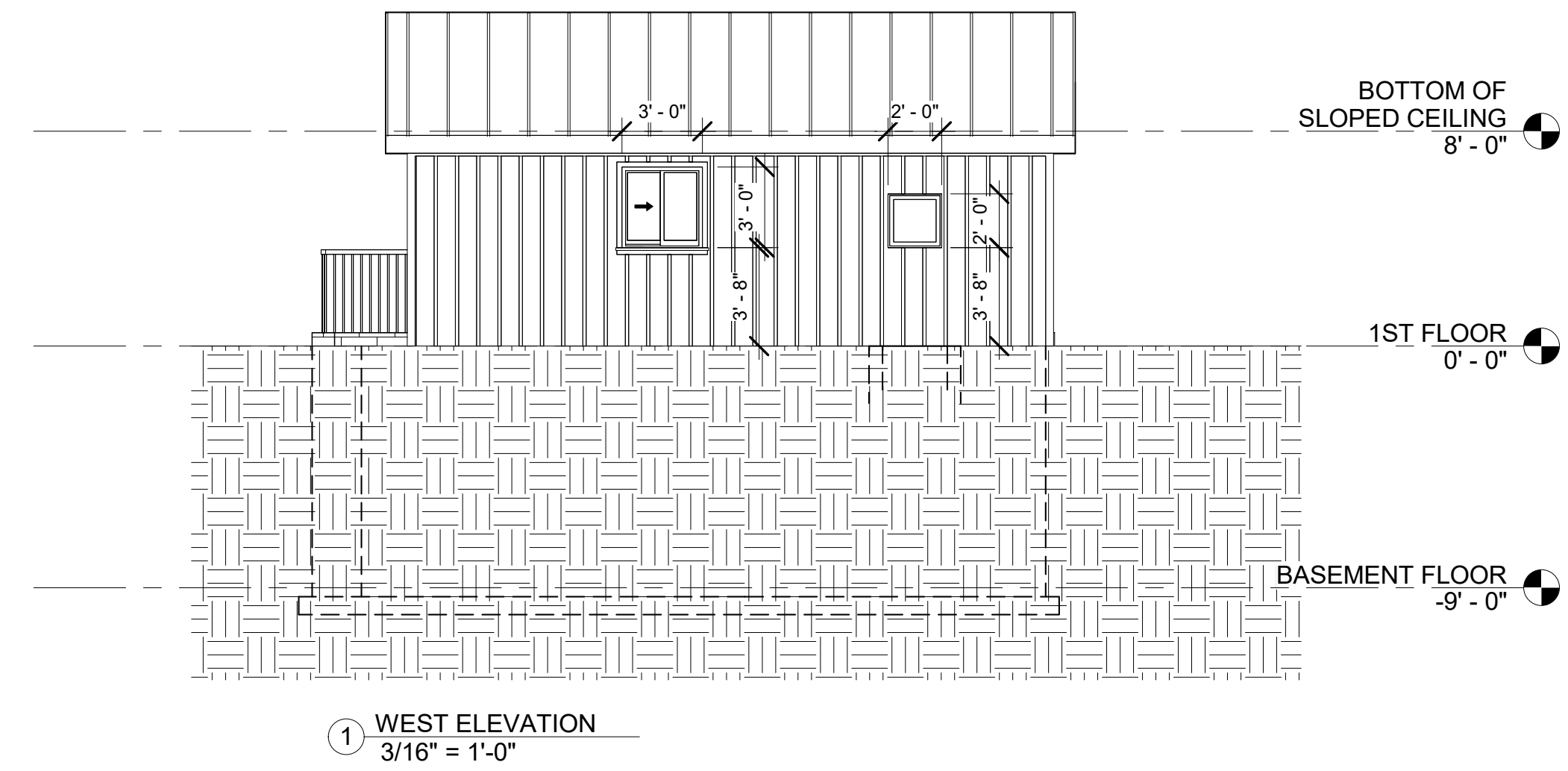
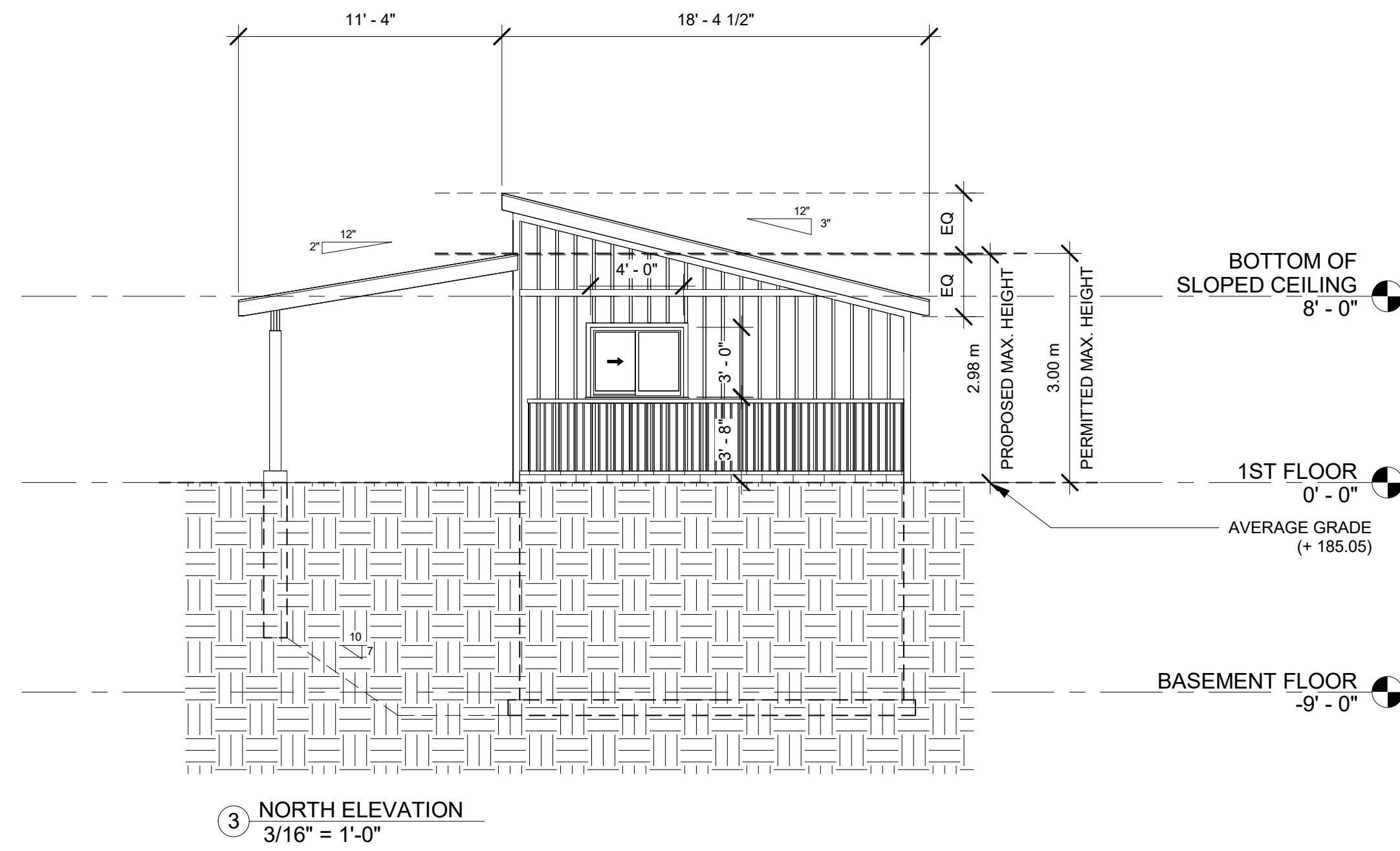
229.3 0 114.66 229.3 Meters

Notes

Appendix B

File: 24.181706.000.00.MNV

Date: 9/18/2024
MM/DD/YY



No.	Description	Date	By

NEW GARDEN HOME:
12 BRIDLEFORD CT
12 BRIDLEFORD COURT, MARKHAM, ON.



C:\Users\wing\OneDrive\2024\24013 - 12 Bridleford Crt Markham\00 Revit & AutoCAD\12 Bridleford Crt - Design 8.rvt

PRELIMINARY DESIGN

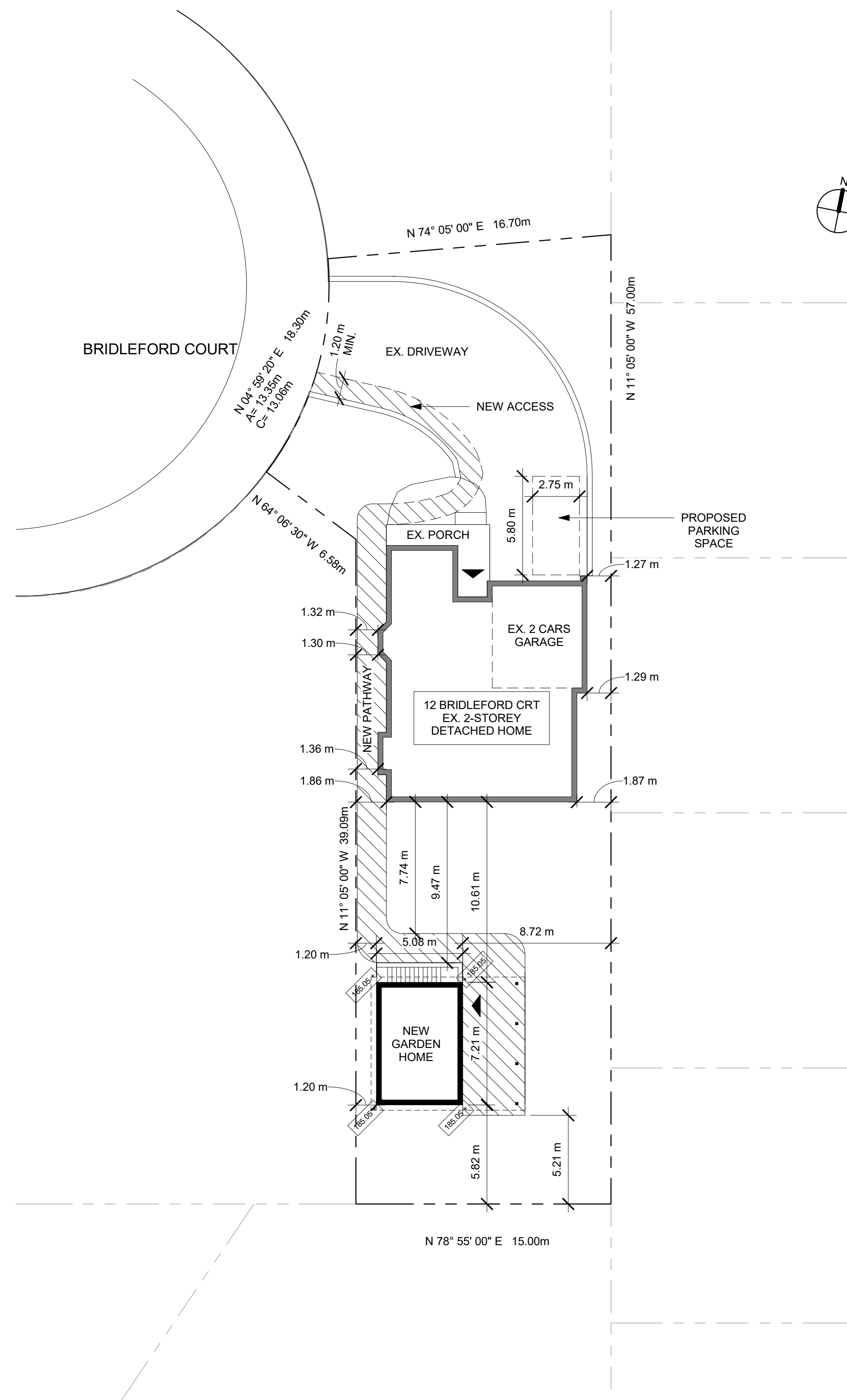
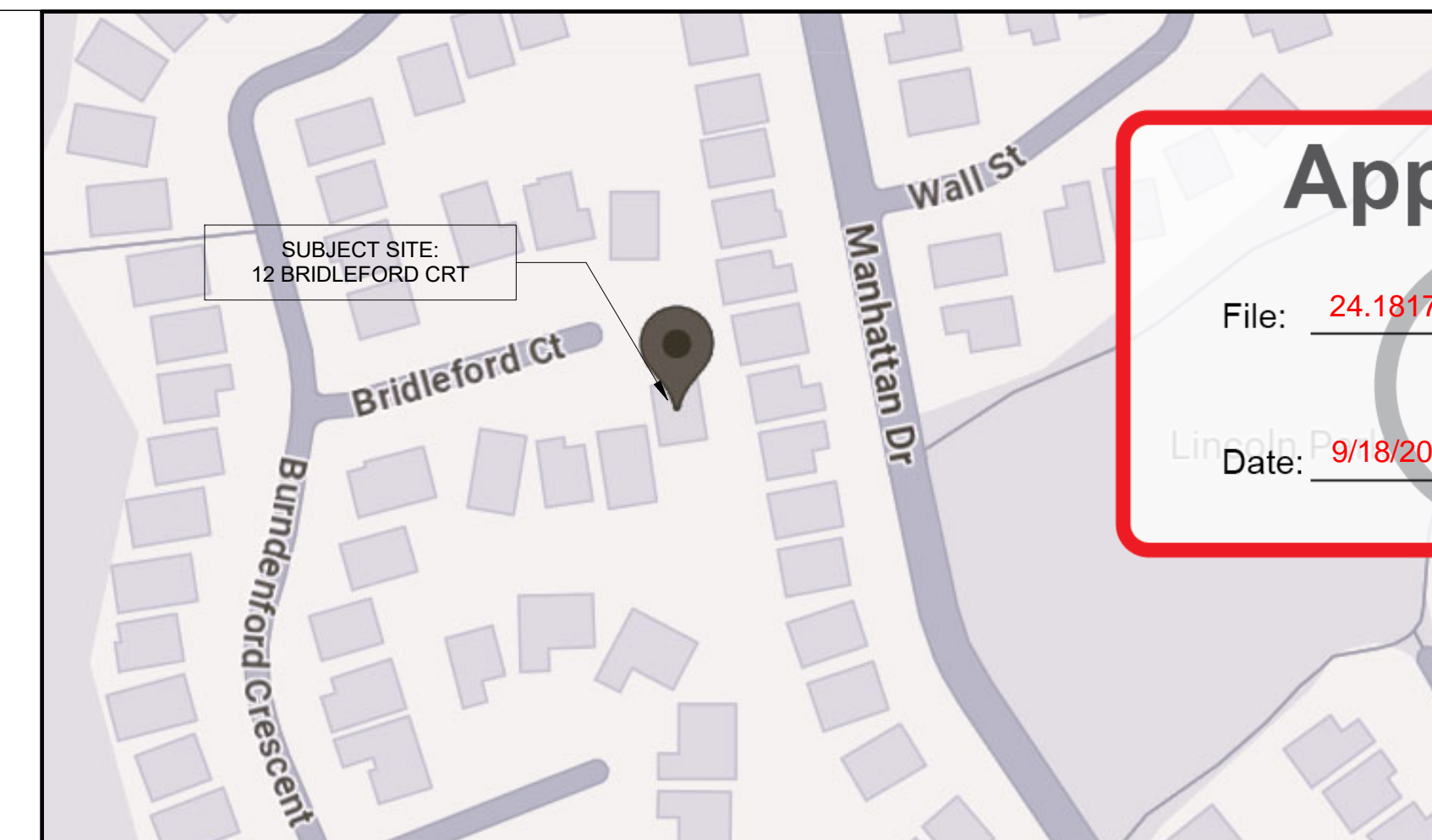
CONTRACTOR SHALL CHECK DIMENSIONS
Drawn by: **WF**
Date: **FEB 2024**
Scale: **3/16" = 1'-0"**
Project Number: **24013**
DRAWING NAME: **NEW ELEVATIONS**
SHEET NUMBER: **A2.1**

2024-08-26 2:51:20 PM

Appendix B

File: 24.181706.000.00.MNV

Date: 9/18/2024
MM/DD/YY



1 SITE PLAN
1 : 200

**FOR PROPOSED GRADING INFORMATION
REFER TO PROPOSED GRADING PLAN PREPARED BY:
MAURO GROUP INC.**

SITE INFORMATION TAKEN FROM:

TOPOGRAPHIC FEATURES OF LOT 64
REGISTERED PLAN 65M-3380
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK
ZONING: RES-ENLR (RESIDENTIAL – ESTABLISHED NEIGHBOURHOOD LOW RISE) UNDER BY-LAW 2024-19
R6 UNDER BY-LAW 134-79
LOT AREA: 888.79 m² (9,566.86 sq.ft.)

SITE STATISTIC

ZONING DEVELOPMENT STANDARDS	PERMITTED	EXISTING	PROPOSED
LOT COVERAGE: MAX. EXISTING BUILDING LOT COVERAGE (MAIN BUILDING + PORCH)	30.00% (266.64 m ²)	17.89% +1.46% (159.01 m ² +12.95 m ²) =19.35% (171.96 m ²)	EXISTING
MAX. GARDEN HOME LOT COVERAGE (GARDEN HOME + PORCH)	5.00% (44.44 m ²)	N/A	4.12% + 2.64% (36.65 m ² +23.45 m ²) =6.76% (60.10 m ²)
MAX. TOTAL LOT COVERAGE	30.00% (266.64 m ²)	19.35% (171.96 m ²)	26.11% (232.06 m ²)
MAX. GARDEN HOME BUILDING HEIGHT	3.00 m	N/A	2.98 m
MAX. DISTANCE LOCATED NO FURTHER THAN LOT LINE	30.00 m	N/A	28.26 m
GARDEN HOME SETBACK			
MIN. SETBACK FROM MAIN BUILDING	6.00 m	N/A	10.00 m
MIN. INTERIOR SIDE YARD SETBACK	1.20 m	N/A	1.20 m
MIN. REAR YARD SETBACK	1.20 m	N/A	5.82 m
GARDEN HOME TOTAL G.F.A.	20.00 m ²		50.72 m ²
1ST FLOOR		N/A	36.65 m ² (394.50 sq.ft.)
BASEMENT		N/A	14.07 m ² (151.45 sq.ft.)
TOTAL		N/A	50.72 m ² (545.95 sq.ft.)

SITE STATISTICS

NEW GARDEN HOME:
12 BRIDLEFORD CT
12 BRIDLEFORD COURT, MARKHAM, ON.



C:\Users\wing\OneDrive\2024\24013 - 12 Bridleford Ct\Markham\00 Revit & AutoCAD\12 Bridleford Ct - Design 8.rvt

PRELIMINARY DESIGN

CONTRACTOR SHALL CHECK DIMENSIONS

Drawn by: **KT**

Date: **FEB 2024**

Scale: **As indicated**

Project Number: **24013**

DRAWING NAME:

SITE PLAN

SHEET NUMBER

SD1

2024-08-26 2:51:19 PM

Copyright TAI Architect Inc. Duplication or reproduction by any means without the express written consent of TAI Architect Inc. is a violation of Federal and International Law. The information contained on this document are the intellectual property of TAI Architect Inc. and all rights therein are reserved.

Appendix C

File: 24.181706.000.00.MNV

Date: 9/18/2024
MM/DD/YY

Subject: Ontario Building Code Requirements for Garden Homes

Dear Planning Department,

I am writing to express concerns regarding the compatibility of the current zoning by-laws with the Ontario Building Code (OBC) for garden homes in the City of Markham. I would like to draw attention to the OBC requirements pertaining to minimum room sizes for such residences:

- Living Room: 13.5 sq.m minimum (OBC 9.5.4.)
- Dining Room: 7 sq.m minimum (OBC 9.5.5.)
- Kitchen: 4.2 sq.m minimum (OBC 9.5.6.)
- Master Bedroom: 9.8 sq.m minimum (OBC 9.5.7.)

The total area required for these essential living spaces is **34.5 sq.m.**

However, when combining spaces as allowed by the OBC:

- Combined Living Room, Dining Room, and Kitchen (max. 2 persons): 17.95 sq.m
- Master Bedroom: 9.8 sq.m

This results in a combined total of **27.75 sq.m.**

Furthermore, the OBC allows for a minimum combined space (OBC 9.5.8) (living, dining, kitchen, and bedroom) of 13.5 sq.m, inclusive of wall thickness and structural elements. Adding necessary spaces such as bathrooms, laundry, a mechanical room, and storage, the 20 sq.m maximum permitted under the accessory building classification becomes impractical. This limitation poses significant challenges, especially in designs intended to accommodate seniors, like those planned for my client's senior mother.

Currently, the zoning by-laws permit only small studio spaces in garden homes on lots smaller than 4000 sq.m, which do not meet the OBC's minimum requirements for regular living spaces and one-bedroom residences.

Thank you for your attention to this matter.

Sincerely,



Ken Tai, Architect OAA
Tai Architect Inc.
kentai@taiarchitect.com
416.450.3093

APPENDIX “D”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/076/24

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 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 prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, neighbouring properties, and 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 By-law Administrator.

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District