

Memorandum to the City of Markham Committee of Adjustment

June 6, 2024

File: A/031/24
Address: 4140 19th Avenue, Markham
Applicant: Gregory Design Group (Shane Gregory)
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday, June 19, 2024

The following comments are provided on behalf of the West Team. The applicant is seeking permission under Section 45(2)(a) of the *Planning Act* to enlarge an existing legal non-conforming residential dwelling by constructing new rear and second floor additions.

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 Greenway One (GWY1) zone requirements under Comprehensive Zoning By-law 2024-19 as well as the “Open Space-Environmental Buffer (01) Zone” (O1), “Open Space-Environmental Buffer (03) Zone” (O3), and “Rural Residential One (RR1) Zone” under By-law 304-87, as amended.

BACKGROUND

Property Description

The 5,309.60 m² (57,152.05 ft²) subject property is located on the north side of 19th Avenue, west of Kennedy Road and east of Warden Avenue. The property is located within a rural area which is comprised of a mix of one and two-storey detached dwellings. There is an existing one-storey detached dwelling on the property, which according to assessment records was constructed in 1949.

It is partially within TRCA’s Regulated Area as a portion of the site is traversed by a valley corridor. The subject property contains mature vegetation throughout.

Proposal

The applicant is proposing to construct a two-storey and rear addition (covered porch) to the existing one-storey detached dwelling. The existing dwelling’s foundation will be retained in-situ. The proposed dwelling will have an approximate gross floor area of 320.50 m² (3,449.83 ft²).

Official Plan and Zoning

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

The Official Plan designates the subject property “Greenway”, which provides for a detached dwelling and structures on a lot of record that existed prior to the approval of the Official Plan.

Zoning By-Law 304-87 & 2024-19

The subject property is zoned Greenway One (GWY1) under Comprehensive Zoning By-law 2024-19 and “Open Space-Environmental Buffer (01) Zone” (O1), “Open Space-Environmental Buffer (03) Zone” (O3), and “Rural Residential One (RR1) Zone” under By-

law 304-87, as amended. Both By-laws permit one single detached dwelling. The subject dwelling has existed on this property since 1949.

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

According to the information provided by the applicant, the reason for not complying with Zoning is:

“To construct a new two-storey renovation on existing foundations whereas the new by-law does not permit new construction.”

Zoning Preliminary Review (ZPR) Undertaken

The owner has been completed a Zoning Preliminary Review (ZPR) on February 27, 2024 to confirm the variances required for the proposed development.

COMMENTS

Section 45(2)(a) of the Planning Act permits the Committee of Adjustment to consider requests where any land, building or structure, on the day the By-law was passed, was lawfully used for a purpose prohibited by the By-law, it may permit, the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the By-law was passed. The Applicant is proposing a second-storey addition with an approximate gross floor area of 144.92 m² (1,560 ft²), and a 22.29 m² (240 ft²) rear addition to facilitate a covered porch. Staff are satisfied that the intent of the Official Plan and Zoning By-law are maintained as the proposed second and rear storey additions are on the existing foundation, and consider the proposed development appropriate and compatible with the surrounding context.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)’s Regulated Area, and a portion of the site is traversed by a valley corridor. TRCA provided comments on May 28, 2024 (Appendix “C”), indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 12, 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(2)(a) of The Planning Act, R.S.O. 1990, c. P.13, as amended, where it states that:

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

Planning Staff are of the opinion that the requested enlargement to an existing legal non-conforming use, as described above, is appropriate for the development of the subject property and will not result in any undue adverse impacts on the surrounding properties and neighbourhood, constitutes good planning 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.

PREPARED BY:



Brashanthe Manoharan, Planner II, Planning and Urban Design

REVIEWED BY:



Rick Cefaratti, MCIP, RPP Senior Planner, West District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/031/24

1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the batch stamped plans 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 his or her satisfaction.
3. That the Applicant satisfies the requirements of the Toronto Region Conservation Authority (TRCA), as indicated in their letter as attached as Appendix "C", and that the Secretary-Treasurer receives written confirmation that this condition has been fulfilled to the satisfaction of TRCA.

CONDITIONS PREPARED BY:

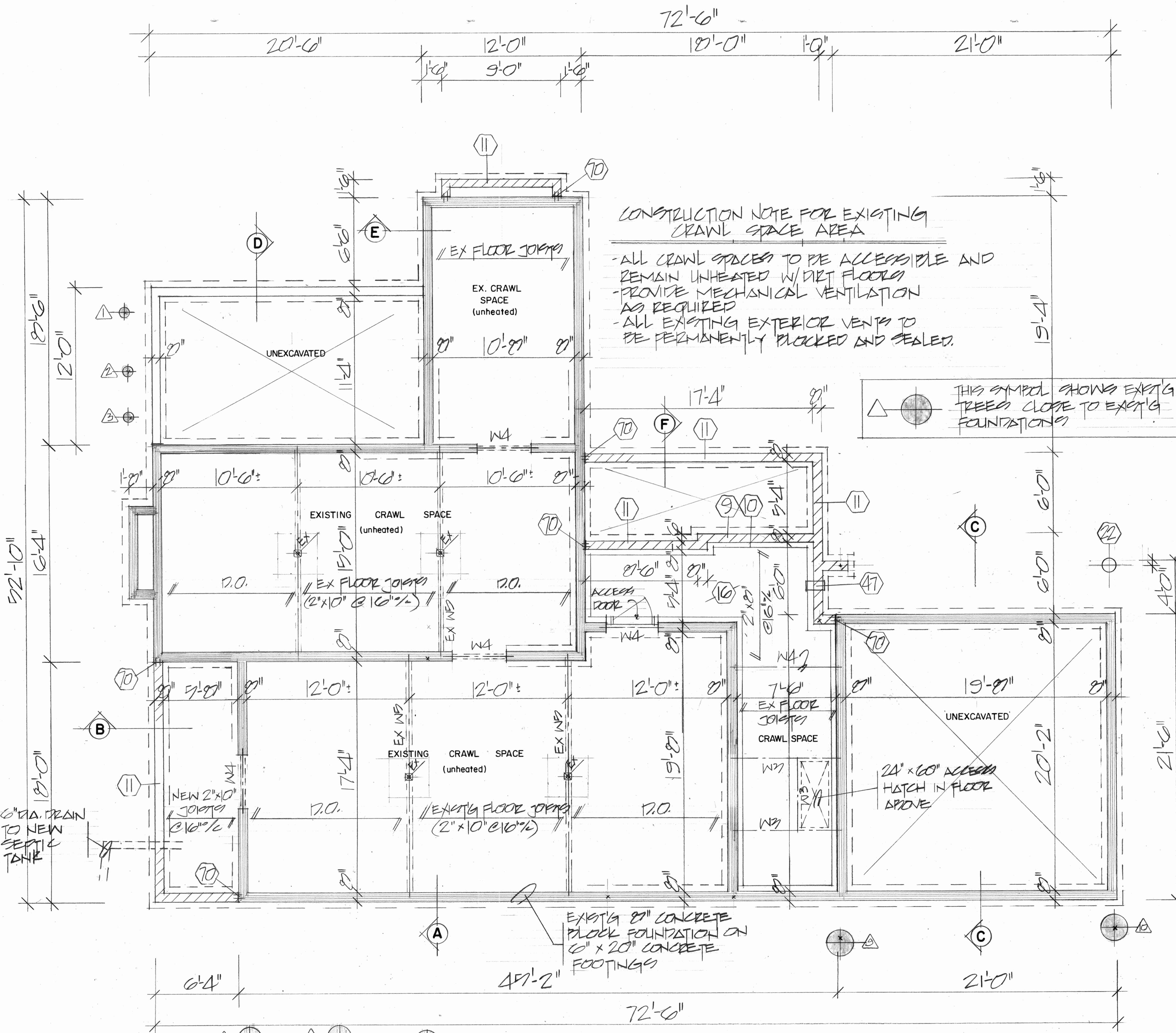


Brashanthe Manoharan, Planner II, Planning and Urban Design

Appendix B

File: 24.167059.000.00.MNV

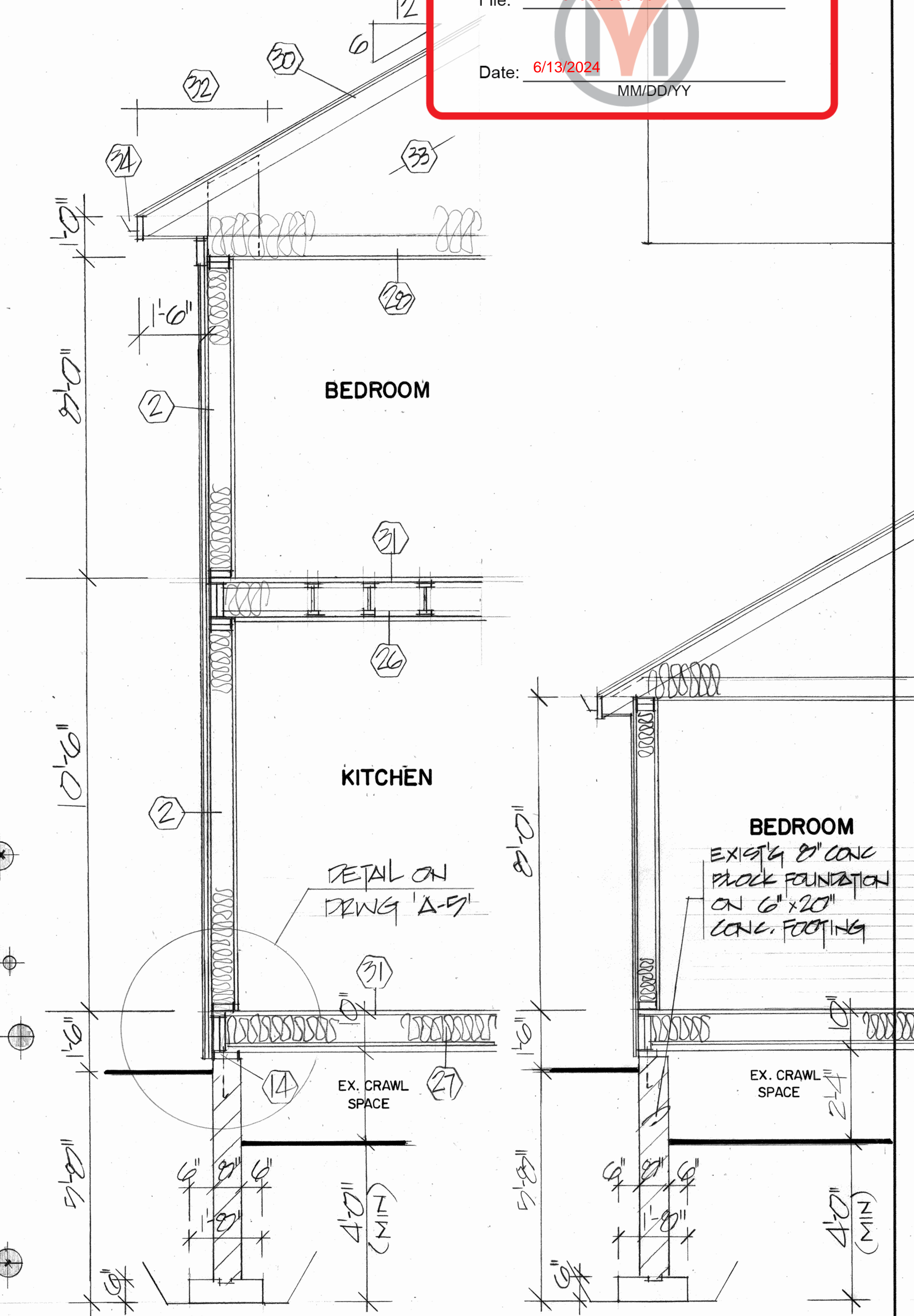
Date: 6/13/2024
MM/DD/YY



CONSTRUCTION NOTE FOR EXISTING CRAWL SPACE AREA

- ALL CRAWL SPACES TO BE ACCESSIBLE AND REMAIN UNHEATED W/ DIRT FLOOR
- PROVIDE MECHANICAL VENTILATION AS REQUIRED
- ALL EXISTING EXTERIOR VENTS TO BE PERMANENTLY FLOPPED AND SEALED.

THIS SYMBOL SHOWS EXIST'G TREES CLOSE TO EXIST'G FOUNDATION



TYP. WALL SECTION 'A'
(PROPOSED)
1/2" = 1'-0"

TYP. WALL SECTION 'A'
(EXISTING)
1/2" = 1'-0"

FOUNDATION PLAN

PROPOSED LAYOUT

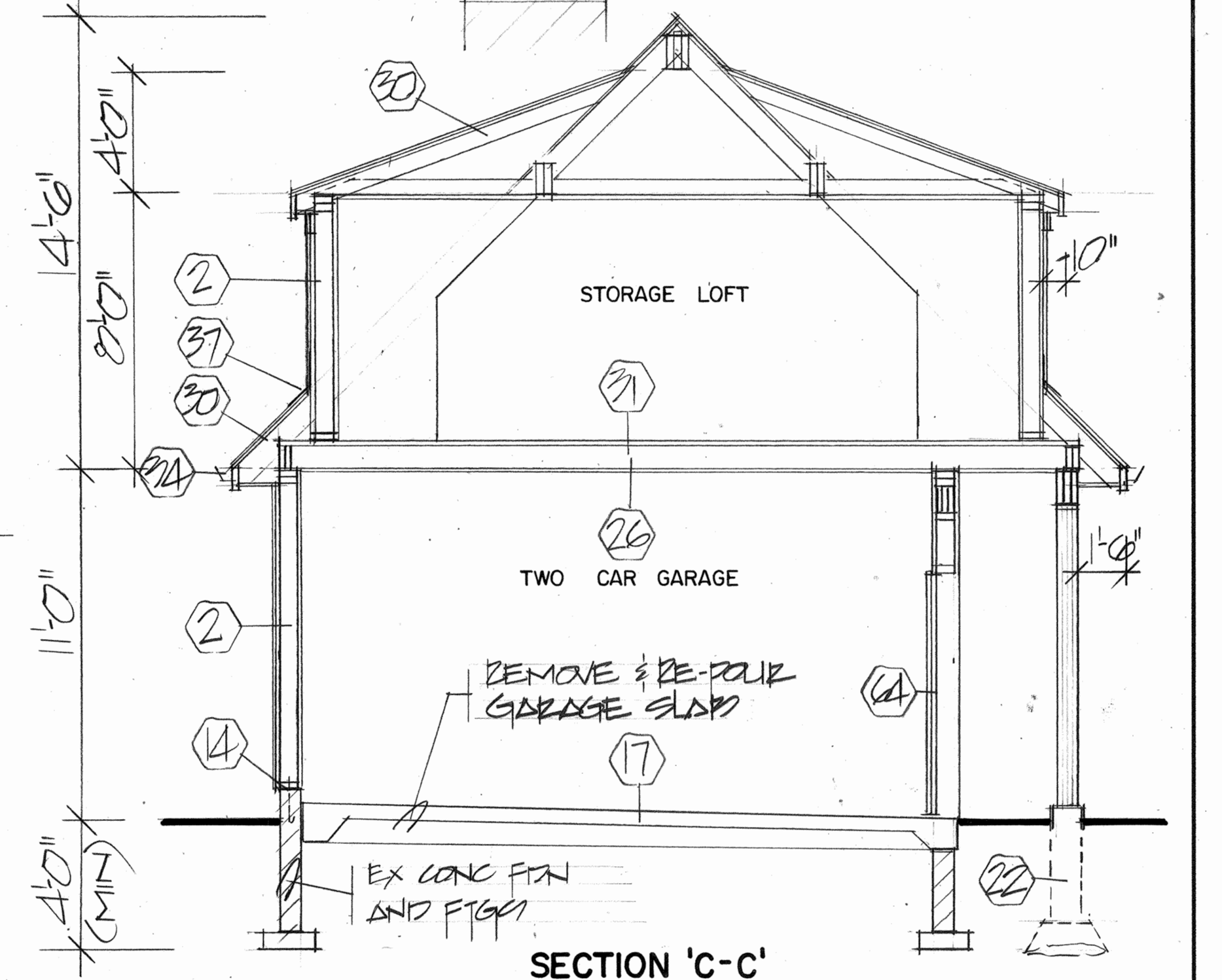
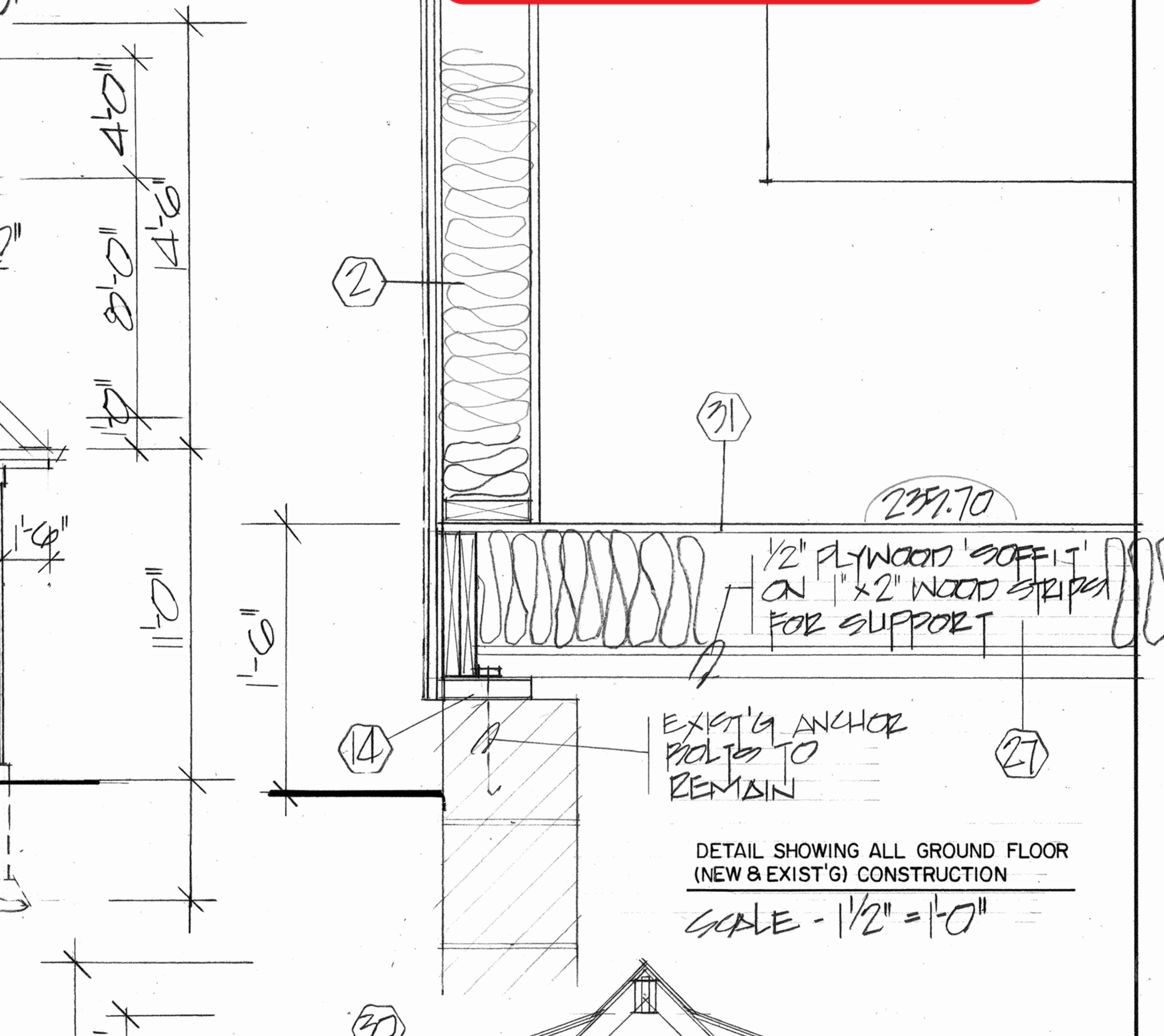
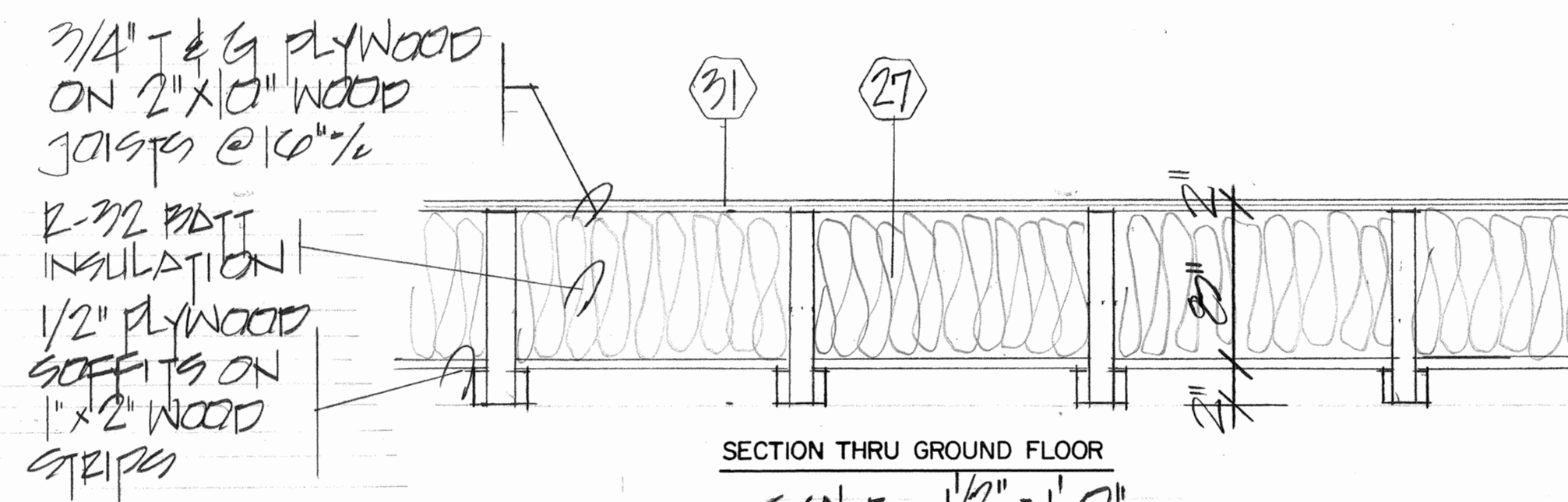
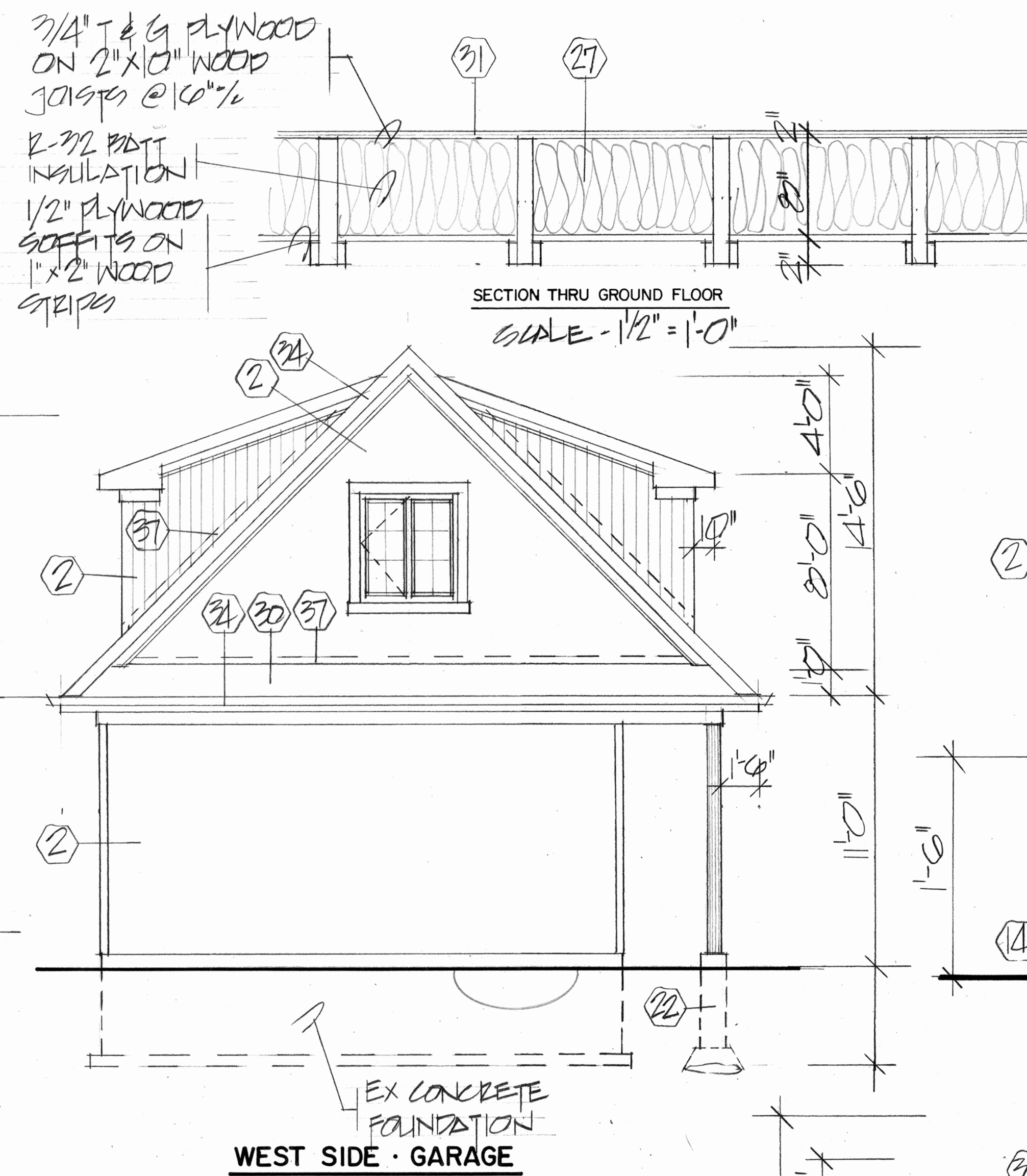
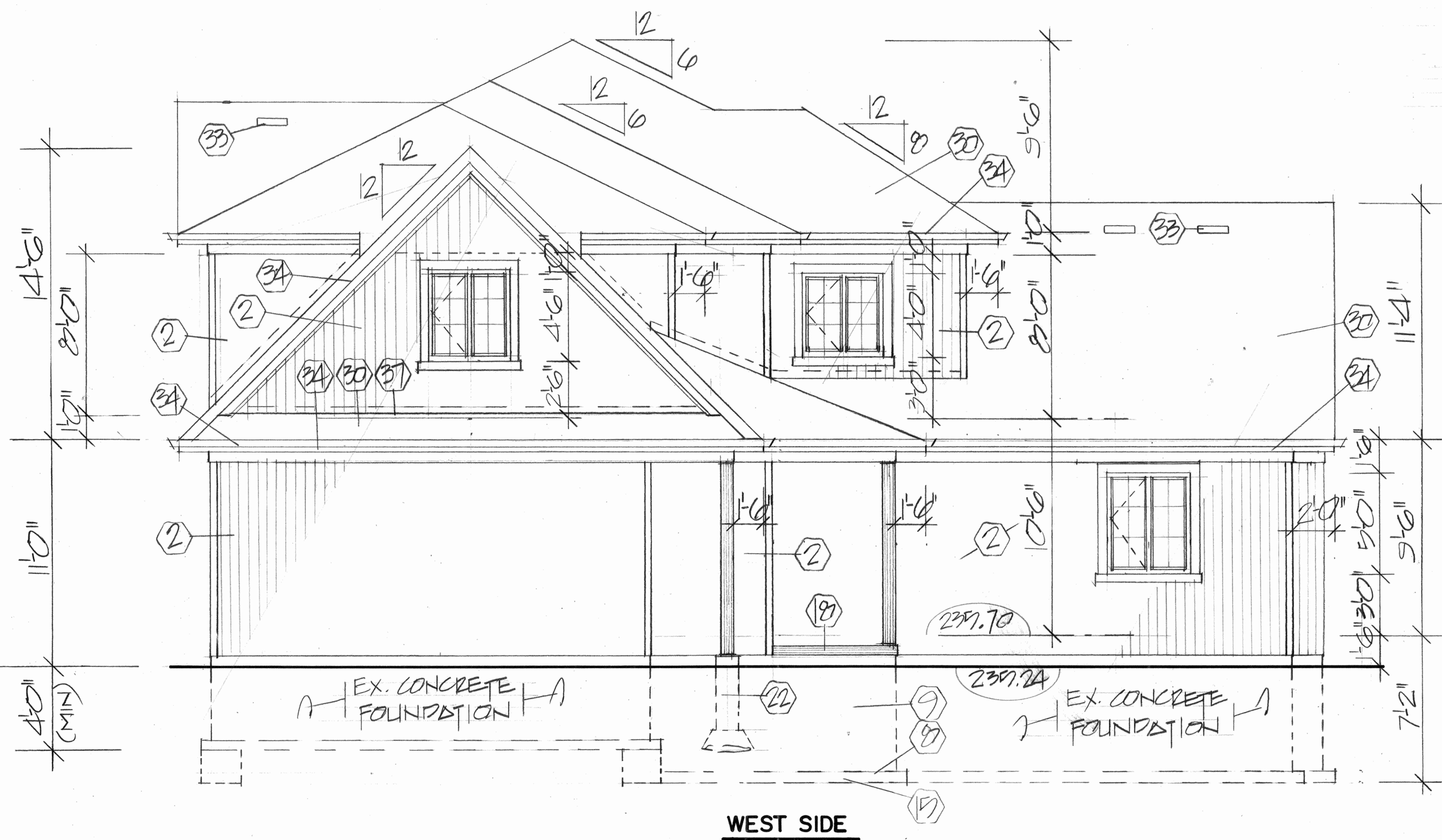
PROJECT: PROPOSED RENOVATIONS 4140 - 19TH AVENUE CITY OF MARKHAM THE GREGORY DESIGN GROUP 18 Paradise Ave MARKHAM, ONTARIO, L3P 3B9 (416) 720-4667 russ@gregorydesigngroup.net	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C. of the Building Code. I am qualified, and the firm registered, in the appropriate classes/categories. INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30056 Russ Gregory NAME SIGNATURE	DRAWN: R. GREGORY DATE: 4/2/24 SCALE: 1/4" = 1'-0" PROJECT NO.: 2456 - 23 DRAWING NO.: A-1
	GENERAL NOTES: All construction is to conform to section "P" 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 reclaim 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 should be obtained prior to commencing construction.	

Appendix B

File: 24.167059.000.00.MNV

Date: 6/13/2024

MM/DD/YY



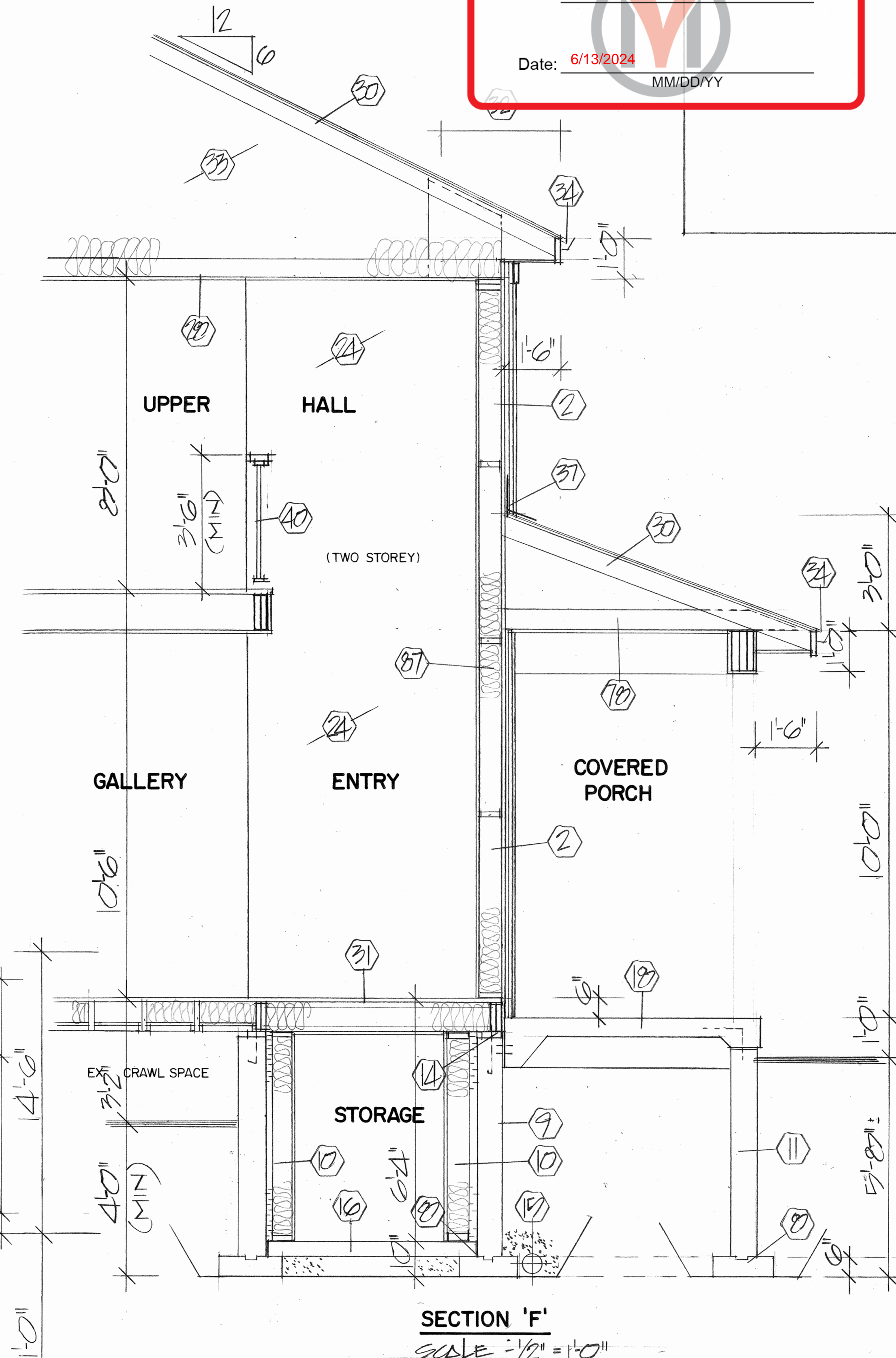
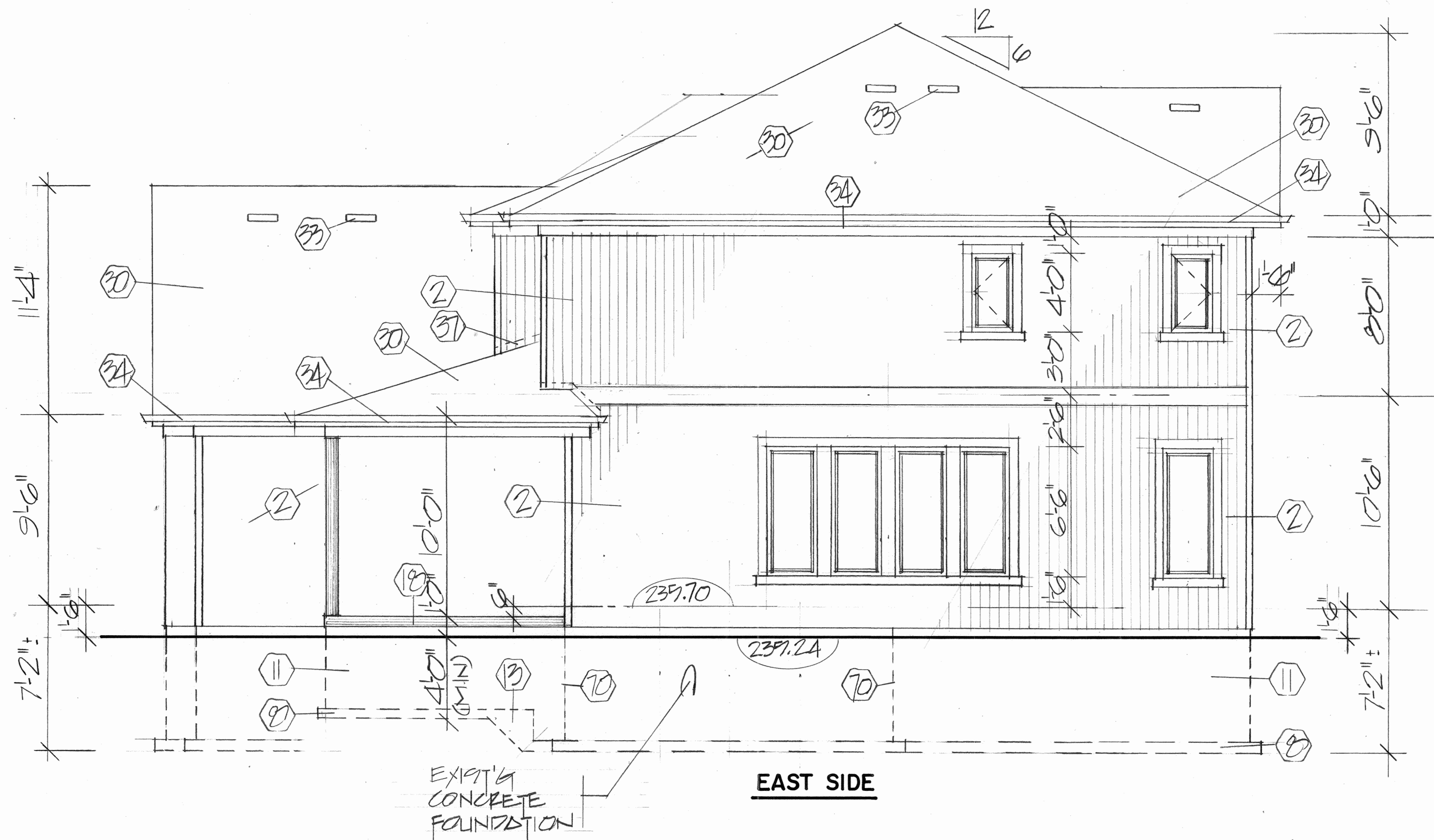
- Notes for Elevations:**
- Pre-finished horizontal wood siding over 1"x3" vertical strapping where shown (colour to be determined)
 - All windows to be double glazed panes in wood or aluminum clad frames. (colour to be determined)
 - All exterior door systems to be in wood or aluminum clad frames. (colour to be determined)
 - All roofing to be IKO Cambridge style asphalt shingles. (colour to be determined)
 - 8" wood frieze board to surround entire house below soffits. (colour to be determined)
 - Heavy gauge aluminum fascia, gutters, and downspouts to match existing.
 - Contractor must supply samples of materials and colours to the Owners for approval prior to installation on site.

PROJECT: PROPOSED RENOVATIONS	<small>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 registered, in the appropriate classes/categories.</small> INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30506	DRAWN: R. GREGORY DATE:
	<small>Russ Gregory</small> NAME <small>_____</small> SIGNATURE	SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 18 Paradise Ave MARKHAM, ONTARIO, L3P 3B9 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "9" 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 notify and notify 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 should be obtained prior to commencing construction.	PROJECT NO.: 2456-23 DRAWING NO.: A-5

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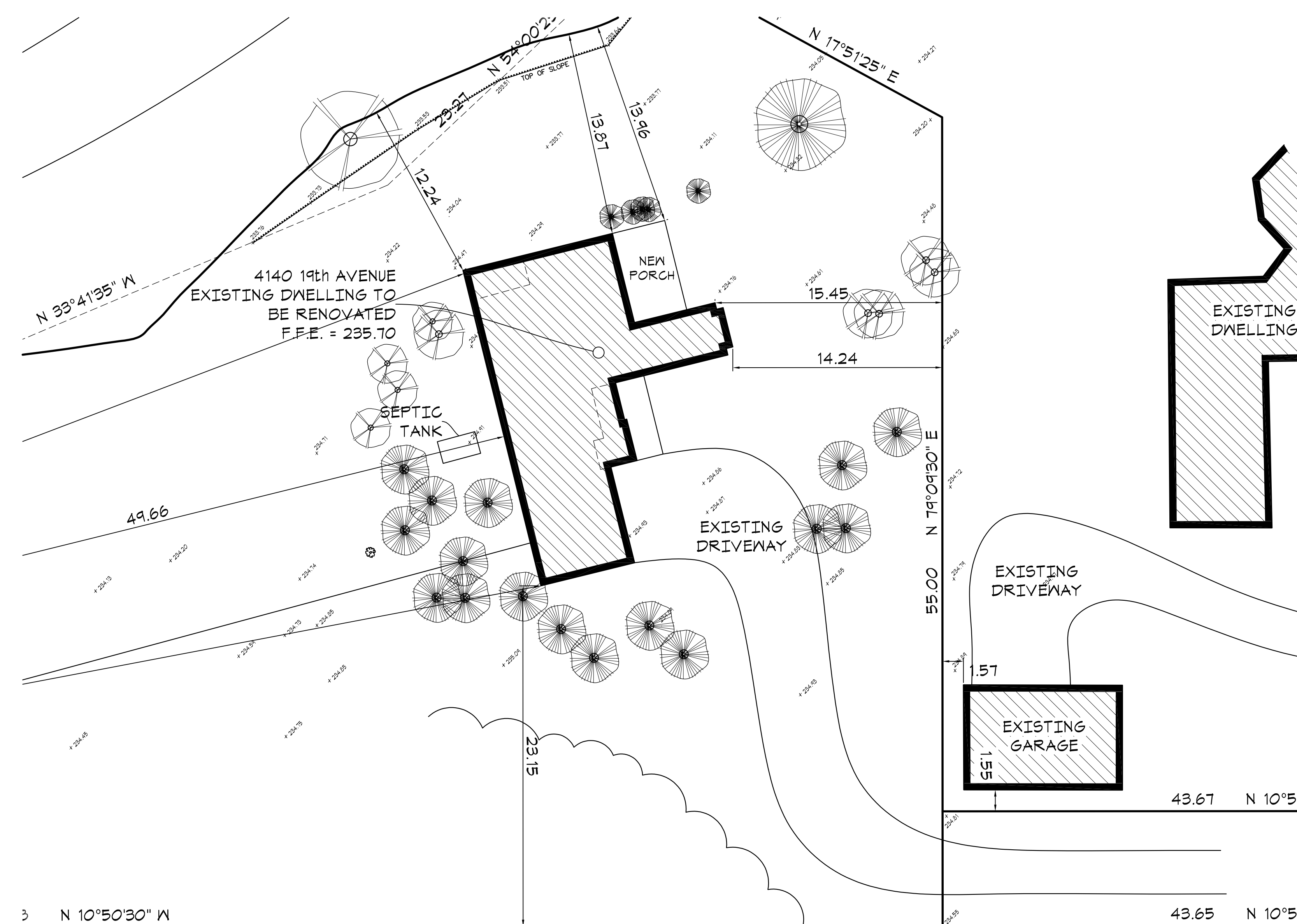
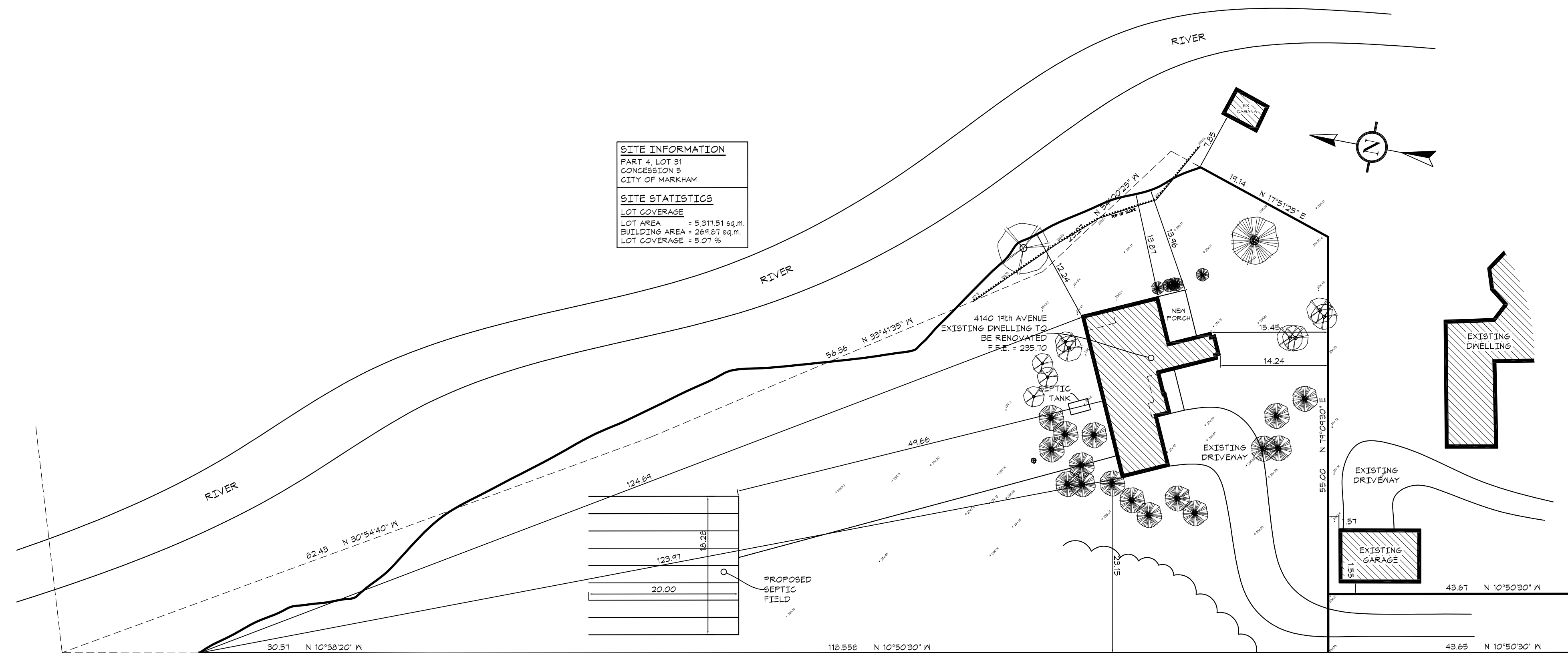
PROJECT: PROPOSED RENOVATIONS	<small>I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C of the Building Code, I am qualified, and the firm registered, in the appropriate classes/categories.</small> INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30908 Russ Gregory NAME SIGNATURE	DRAWN: R. GREGORY DATE:
	THE GREGORY DESIGN GROUP 18 Paradise Ave MARKHAM, ONTARIO, L3P 3B9 (416) 720-4667 russ@gregorydesigngroup.net	<small>Owner/contractor/designer is responsible to re-claim and destroy all previous and unrevoked copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.</small> GENERAL NOTES: All construction is to conform to section "9" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings.

Appendix B

File: 24.167059.000.00.MNV

Date: 6/13/2024

MM/DD/YY



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

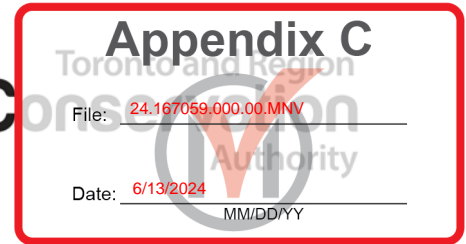
PROJECT TITLE

**SITE PLAN
4140 19th AVENUE
CITY OF MARKHAM**

**THE GREGORY
DESIGN GROUP**

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

SCALE 1:200 & 1:400	DATE 03/27/24
PROJECT NUMBER	SHEET NUMBER
DRAWN BY S.Gregory	SP-1
CHECKED BY R.G.	



May 28, 2024

PAR-DPP-2024-00023
Ex Ref: N/A

VIA E-Plan

Brashanthe Manoharan, Planner II
Planning and Urban Design Department
City of Markham
101 Town Centre Boulevard
Markham, ON L3R9W3

Dear Brashanthe Manoharan

Re: Minor Variance Application – A/031/24
4140 19th Avenue
Part Lot 13, Concession 5, Markham
Applicant: Gregory Design Group (Shane Gregory)
Owner: Francois Pourre

Toronto and Region Conservation Authority (TRCA) staff provide the following comments in response to the referenced Committee of Adjustment application, received by TRCA on April 16, 2024. We provide the following in accordance with TRCA’s commenting role under the Planning Act and regulatory role under the Conservation Authorities Act (CA Act). For additional information, please see [TRCA Role in the Plan Input and Review Process](#).

Purpose of the Application

It is our understanding that the purpose of the above noted application is to request relief from the requirements of By-laws 304-87 & 2024-19 to facilitate an extension to an existing legal non-conforming residential dwelling by constructing new rear and second floor additions to the existing building.

Background

TRCA staff are currently reviewing the proposal through the associated TRCA permit application. On May 23, 2024, TRCA staff conducted a site visit to stake the physical top of slope (erosion hazard) associated with a valley corridor that traverses the subject property and assess the location of the proposed septic field and tanks. TRCA staff are currently awaiting the submission of a topographic survey with the staked physical top of slope delineated.

Based on the material circulated as part of this minor variance application, staff do not have any concerns with the requested variance. However, staff have concerns with the location of the septic field and tanks. TRCA concerns with the overall septic system can be addressed through the TRCA permit process.

TRCA Permit Requirements

The subject lands contain an erosion hazard associated with a tributary of the Rouge River Watershed and its adjacent regulated allowance.

Due to the presence of natural hazards, the issuance of a TRCA permit pursuant to the Conservation Authorities Act is required prior to any development or site alteration within the regulated portion of the property.

Based on the review of materials circulated with this application, the proposed development is located within the regulated portions of the property. Thus, a **permit is required** from TRCA to facilitate the development associated with this application.

TRCA Plan Review Fee

By copy of this letter, the applicant is advised that TRCA have implemented a fee schedule for its planning application review services in accordance with applicable provincial regulations. This Minor Variance Application is subject to a fee of \$950 (Minor Variance – Residential – Standard). The applicant is responsible for fee payment within 60 days of the committee hearing date. Interest will be charged and accumulated beyond that time. Please contact the Planner noted below for an electronic invoice to facilitate payment.

Recommendations

Based on the comments provided, TRCA staff have **no objection** to the approval Minor Variance Application A/031/24 subject to the **conditions** identified in Appendix A.

Should you have any questions or comments, please contact the undersigned.

Regards,



Rameez Sadafal
Planner

Development Planning and Permits | Development and Engineering Services

Telephone: (437) 880-2163

Email: rameez.sadafal@trca.ca

RS/hr

Attached: Appendix A: TRCA Conditions of Approval

Appendix A: TRCA Conditions of Approval

#	TRCA Conditions
1	The applicant submits the TRCA plan review fee of \$950 within 60 days of the committee hearing date.
2	The applicant seeks and is issued a permit by TRCA pursuant to the <u>Conservation Authorities Act</u> .