

# Memorandum to the City of Markham Committee of Adjustment

May 11, 2023

**File:** A/036/23  
**Address:** 36 John Street, Thornhill  
**Applicant:** David Lung  
**Hearing Date:** Wednesday, May 17, 2023

The following comments are provided by Heritage Section staff (“Staff”) for the property municipally-known as 36 John Street (the “Subject Property”):

The applicant is requesting relief from the following requirements of By-law 2237, as amended, to permit:

**a) By-law 2237, Section 1.2(iv):**

a maximum building depth of 18.9 metres, whereas the By-law permits a building depth of 16.8 metres;

**b) By-law 2237, Section 3.7:**

a maximum encroachment of 10.33 feet into the minimum front yard setback for the veranda, whereas the By-law permits a maximum encroachment of 18 inches.

as it relates to a proposed one-and-a-half storey rear addition and construction of a new front veranda.

## **BACKGROUND**

### **Property Description**

The approximately 918 m<sup>2</sup> (9881 ft<sup>2</sup>) Subject Property is designated under Part V of the Ontario Heritage Act as a constituent property of the Thornhill Heritage Conservation District (the “THCD”), and is located on the north side of John Street between Marie Court to the west, and Church Lane to the east. The area is characterized by low-rise residential properties that vary in scale, setback and massing. There is an existing one-and-a-half storey dwelling and detached wood-frame shed located on the Subject Property which, according to Municipal Property Assessment Corporation records, were constructed in 1911.

### **Proposal**

The applicant is requesting relief from the by-law to enable construction of a one-and-a-half storey rear addition and enlarged front veranda. The existing shed is proposed to be modified to serve as a garage with a breezeway constructed to link it with the heritage dwelling. Note that relief from the by-law is not required for the proposed garage or breezeway.

### **Zoning Preliminary Review Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review has not been conducted. 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.

## **Policy Review**

### **Official Plan**

The Official Plan is a municipality's chief planning tool to provide direction to approval authorities and the public on local planning matters. It contains land use planning objectives as well as policies in areas such as land use, and conservation of cultural heritage resources. The objectives and policies contained within the Official Plan conform to land-use direction as provided by the province via the Planning Act and the Provincial Policy Statement.

Section 10.5 of the Markham Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18), notes that it is the policy of Council that the Committee of Adjustment shall be guided by the general intent and purpose of the Plan in making decisions on minor variances to the zoning by-law.

### **Land Use Policies**

In the Official Plan, the subject property is designated "Residential - Low Rise" which provides for 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. This criteria is established to ensure that infill development is 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 these development criteria. Regard shall also be had for the retention of existing trees and vegetation.

### **Heritage Conservation Policies**

The Markham Official Plan also includes applicable policies respecting **heritage conservation** (Section 4.5 – Cultural Heritage Resources).

From a heritage conservation policy perspective, two of the overall goals of the Official Plan are "to protect established neighbourhoods, heritage conservation districts...by ensuring that new development is compatible and complementary in terms of use, built form and scale" and "to celebrate Markham's unique character by protecting cultural heritage resources and archaeological resources...to foster interaction between people and connections to their community" (Section 2.2.2).

Section 4.5 provides policy guidance on identification/recognition, protection, and development approvals. Two key development approval policies of Council are:

- To provide for the protection and conservation of cultural heritage resources or the mitigation of adverse effects on cultural heritage resources as a condition of minor variance approval and associated agreements (Section 4.5.3.9); and
- To evaluate each variance proposal that directly affects a cultural heritage resource itself and adjacent lands on its own merits and its compatibility with the heritage policies of this Plan and the objectives and policies of any applicable heritage conservation district plan (Section 4.5.3.10).

### **Thornhill Heritage Conservation District Plan**

The Subject Property is categorized as 'Class A – Buildings of Major Importance to the District' within the THCD Plan as described in Section 2.2.2 ('Building/Property Classification') of the THCD Plan, Class A properties possess the following qualities:

- ***They possess cultural heritage value;***
- ***They are buildings and properties that maintain the heritage character of the District primarily pre-1900;***
- ***These buildings possess heritage attributes or character defining elements such as historic materials, features, characteristics, forms, locations, spatial configurations, uses or historical associations that contribute to the cultural heritage value of the District. For example, a building may represent a historic architectural style or may have historic claddings, windows, architectural features, verandas or landscape elements;***
- ***Includes properties designated under Part IV of the Ontario Heritage Act and buildings identified as being of architectural significance in the 1986 Heritage District Plan.***

The THCD Plan provides the following guidance relevant to the variance application:

Section 9.2.5.1 – Location states – ***“Attached exterior additions should be located at the rear or on an inconspicuous side of a historic building”*** and ***“Additions should be limited in size and scale in relationship to the historic building”***.

Section 9.2.5.2 – Design: Building Form states – ***“The form of the original heritage building should be considered in the design of the addition”*** and ***“The attached addition should in no way dominate the street presence of the heritage building nor detract from its historical features”***.

Section 9.2.5.3 – Design: Scale states – ***“The design of additions should reflect the scale of the existing heritage buildings”*** and ***“An addition should not be greater in scale than the existing building”***.

Section 9.2.4.6 – Porches, Verandas, and Lighting states – ***“...The design of the restoration of the porch or veranda should be based on available physical and archival evidence. If the original design is unknown, a porch or veranda design appropriate to the style of the building and District may be considered”***.

## **DISCUSSION**

### **Increase in Maximum Building Depth**

The applicant is requesting relief from the by-law to permit a maximum building depth of 18.9m (62ft), whereas the By-law permits a maximum building depth of 16.8m (55.1ft). This represents an increase of approximately 2.1m (7ft) from existing permissions.

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line.

Staff are of the opinion that the requested variance for building depth is minor in nature as there will remain ample rear yard amenity space at a depth of approximately 22.3m (73.2ft) as measured from the rear elevation of the proposed addition to the northern property line. Further, it is the opinion of Staff that the increased building depth does not adversely impact adjacent property owners at 34 and 38 John Street. The proposed addition also conforms to direction in the THCD Plan for the siting and scale of additions to heritage buildings.

### **Reduction Front Yard Setback**

The applicant is requesting relief from the by-law to permit a maximum encroachment of 10.33ft into the minimum front yard setback as required for the new veranda, whereas the By-law permits a maximum encroachment of 18in (0.46m). The proposed veranda, although wider than the existing, will have the same encroachment, replicating an existing condition and introducing a building element appropriate to the heritage character of the existing dwelling. As this approach conforms to guidelines in the THCD Plan, and replicates an existing condition, Staff are of the opinion that the variance is minor in nature.

### **Advisory Body/Staff Comments**

#### **Heritage Markham Committee**

Heritage Markham reviewed the application at its meeting on May 10, 2023 and had no objection to the requested variances. Refer to Appendix "D" for a copy of the meeting extract.

#### **Urban Design Staff**

The City's Urban Design Section supports the requested variances as no adverse impact to mature trees on and adjacent to the Subject Property is anticipated.

### **Public Input Summary**

No written submissions were received as of May 11, 2023. 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:

A handwritten signature in black ink, appearing to read "E. Manning".

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Evan Manning, Senior Heritage Planner

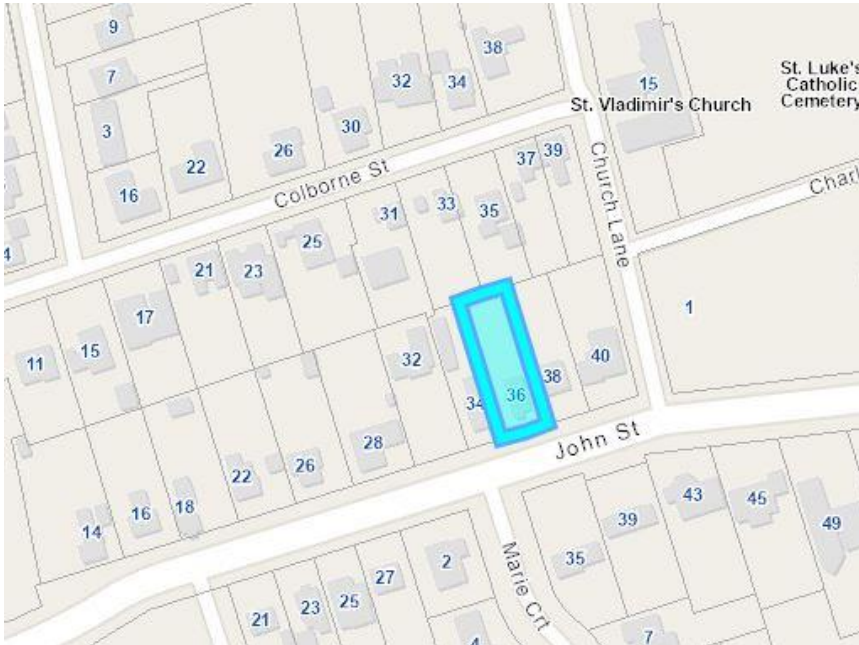
REVIEWED BY:

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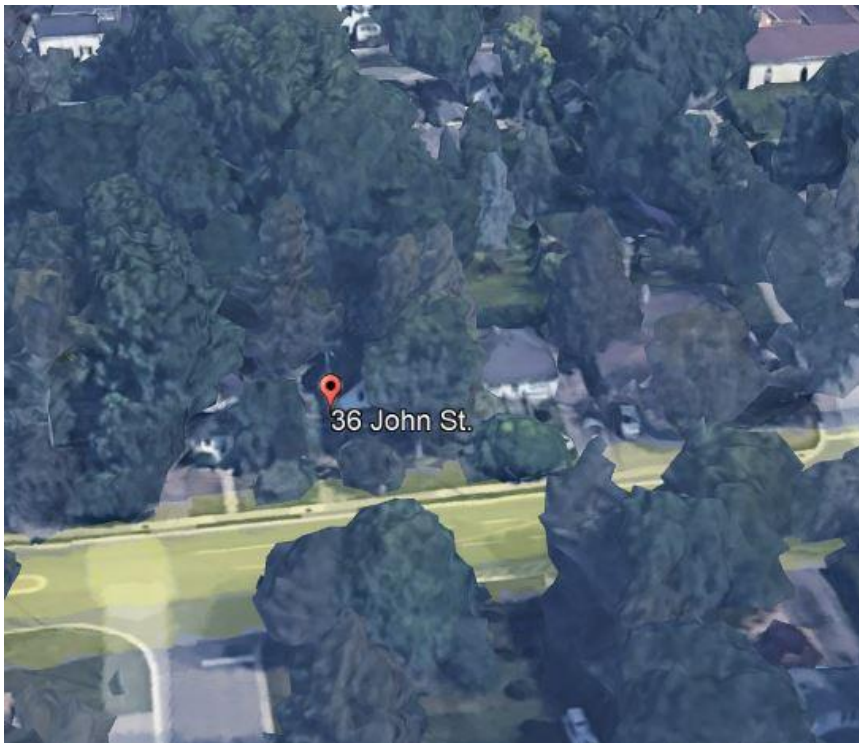
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Regan Hutcheson, Manager, Heritage Planning

**APPENDIX "A"**  
**LOCATION MAP AND AERIAL IMAGE OF THE SUBJECT PROPERTY**



Property map showing the location of the Subject Property [outlined in blue] (Source: City of Markham)



Aerial image looking north towards the Subject Property showing the dense tree cover typical of the District [outlined in blue] (Source: Google Earth)



**APPENDIX "B"**  
**IMAGE OF THE SUBJECT PROPERTY**



The south (primary) elevation of heritage dwelling on the Subject Property (Source: Google)

**APPENDIX “C”  
HERITAGE MARKHAM EXTRACT**

**HERITAGE MARKHAM  
EXTRACT**

Date: May 11, 2023

To: R. Hutcheson, Manager of Heritage Planning  
E. Manning, Senior Heritage Planner

EXTRACT CONTAINING ITEM # 6.3 OF THE FIFTH HERITAGE MARKHAM  
COMMITTEE MEETING HELD ON May 10, 2023

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**6. PART FOUR - REGULAR**

**6.3 COMMITTEE OF ADJUSTMENT VARIANCE APPLICATION**

**36 JOHN STREET, THORNHILL (16.11)**

FILE NUMBER:

A/036/23

Evan Manning, Senior Heritage Planner, advised that that the item was a Minor Variance Application to enable the construction of a one-and-half storey rear addition and extended front veranda. Two variances concerning building depth and encroachment of the veranda into the front yard have been requested by the Applicant (David Lung), and will be considered by the Committee of Adjustment at a future date.

Renderings of the addition were shared with the Committee noting the complimentary nature of the proposal relative to the heritage dwelling. It was noted that the Applicant worked with City staff during the early design phase to maintain existing mature trees.

Barry Nelson, Deputant, speaking on behalf of Thornhill Historical Society, expressed support for this application as it is in line with the District Plan. Mr. Nelson commended the application as obviously separate, but complimentary to the existing design. Mr. Nelson read a statement from the Thornhill Historical Society expressing general support for the application but emphasizing the bird-friendly considerations that should be incorporated into the building design.

Valerie Burke, Deputant, expressed support for this application, noting that it will be an enhancement to the Thornhill Heritage Conservation



District. Ms. Burke commended the design while noting concerns with the proposed windows and the risk of bird strikes.

The Committee provided the following feedback:

- Agreed that the addition is compatible;
- Questioned if a mature tree in the rear yard would be maintained or if the shed would expand. The Applicant confirmed that the back wall of the shed will remain as is and the adjacent tree would be conserved.

Recommendations:

THAT Heritage Markham has no objection from a heritage perspective to requested variances for 36 John Street;

AND THAT future review of a Major Heritage Permit application, and any other development application required to approve the proposed development, be delegated to Heritage Section staff should the design be substantially in accordance with the drawings as appended to this memo.

**APPENDIX "D"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/036/23**

1. That 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 "E" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Manager of Heritage Planning or designate that this condition has been fulfilled to his satisfaction;
3. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Trees for Tomorrow Streetscape Manual, to the satisfaction of the Director of Planning and Urban Design, or their designate, through the future Major Heritage Permit Approval process;
4. That tree replacements be provided and/or tree replacement fees be paid to the City where required, in accordance with the City's Trees for Tomorrow Streetscape Manual and Accepted Tree Assessment and Preservation Plan, through the future Major Heritage Permit Approval process;
5. That prior to the commencement of construction, demolition and/or issuance of building permit, tree protection be erected and maintained around all trees on site, including City of Markham street trees, in accordance with the City's Trees for Tomorrow Streetscape Manual, Accepted Tree Assessment and Preservation Plan, and conditions of the Major Heritage Permit, to be inspected by City staff to the satisfaction of the Director of Planning and Urban Design, or their designate.

CONDITIONS PREPARED BY:

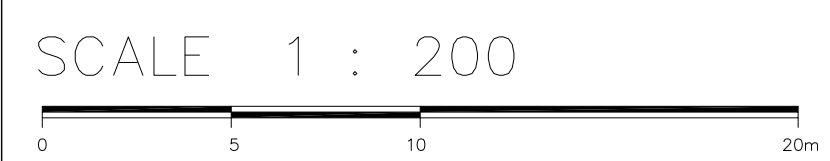


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Evan Manning, Senior Heritage Planner

**APPENDIX "E"**  
**DRAWINGS**

**SURVEYOR'S REAL PROPERTY REPORT**  
 (WITH TOPOGRAPHIC INFORMATION)  
**PART 1**  
**PLAN OF**  
**PART OF LOTS 8 AND 9**  
 (NORTH SIDE OF JOHN STREET)  
**REGISTERED PLAN 71**  
**TOWN OF MARKHAM**



© D.A. MORTON SURVEYING

**BEARING NOTE:**  
 BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE NORTHERLY LIMIT OF JOHN STREET AS SHOWN ON REGISTERED PLAN 71, HAVING A BEARING OF N74°00'00" E.

ALL BUILDING TIES ARE TO SIDING CORNERS UNLESS OTHERWISE NOTED

- LEGEND:**
- RIB DENOTES ROUND IRON BAR
  - IB " IRON BAR
  - CC " CUT CROSS
  - " SURVEY MONUMENT FOUND
  - " SURVEY MONUMENT SET
  - Ø " DIAMETER
  - D1 " INST No. R335485
  - D2 " INST No. R444982
  - D3 " INST No. R499041
  - 1609 " P. KIDD O.L.S., PLAN DATED APRIL 22, 2002
  - 1137 " R.G. MCKIBBON O.L.S.
  - 1027 " V. RAIEND O.L.S., PLAN DATED JANUARY 26, 1974
  - 1095 " J. CARTER O.L.S.
  - meas " MEASURED
  - calc " CALCULATED
  - C/L " CENTRELINE
  - FDN " FOUNDATION
  - BF " BOARD FENCE
  - WFP " WOOD FENCE POST
  - DEC " DECIDUOUS
  - CON " CONIFEROUS
  - N " NORTH
  - S " SOUTH
  - E " EAST
  - W " WEST
  - PLNTR " PLANTER
  - WIT " WITNESS
  - OJ " ORIGIN UNKNOWN
  - HYD " HYDRANT

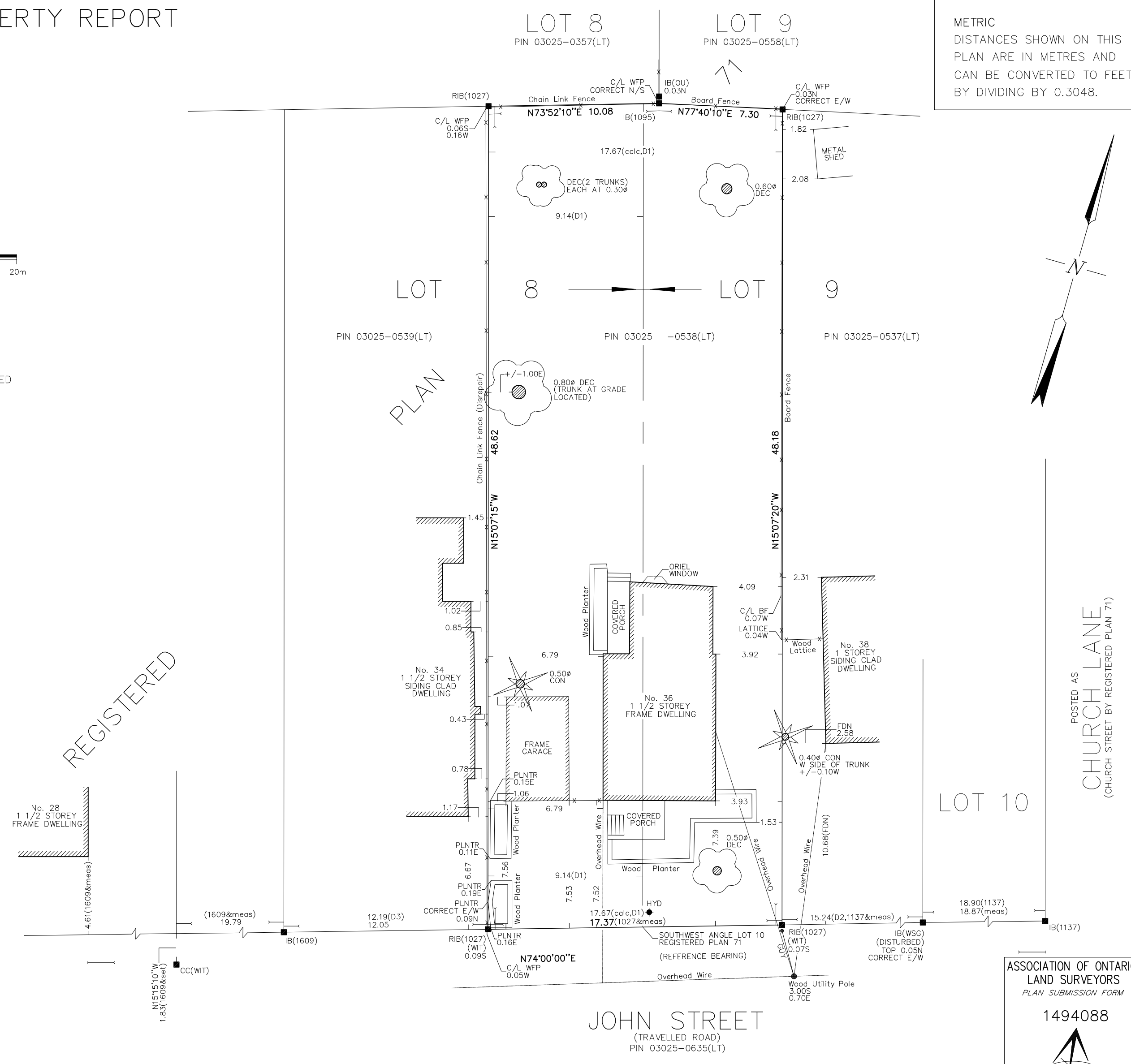
**SURVEYOR'S CERTIFICATE**  
 I CERTIFY THAT:  
 THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYORS ACT, THE SURVEYORS ACT, THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.  
 THIS SURVEY WAS COMPLETED ON THE 24TH. DAY OF NOVEMBER, 2004

NOVEMBER 26, 2004 DATE  
 D.A. MORTON ONTARIO LAND SURVEYOR

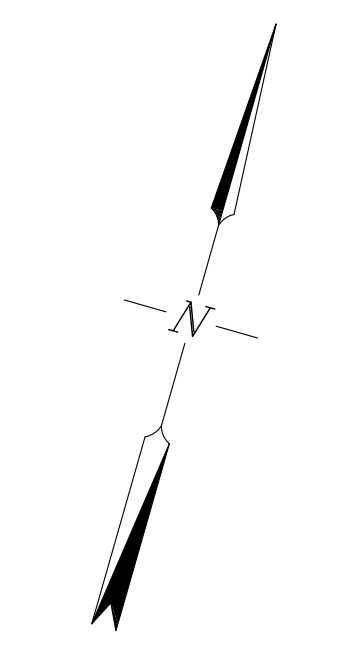
D.A. MORTON SURVEYING  
 ONTARIO LAND SURVEYORS  
 12 DAVID STREET  
 MARKHAM, ONTARIO L3P 1Z9  
 PHONE(905) 294-2994  
 FAX (905) 471-0824  
 ontariolandsurveyor@rogers.com

THIS REPORT WAS PREPARED FOR DAVID LUNG AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES.

PART 2  
 THIS PLAN MUST BE READ IN CONJUNCTION WITH SURVEY REPORT DATED NOVEMBER 26, 2004.



METRIC  
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



ASSOCIATION OF ONTARIO LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 1494088

THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR IN ACCORDANCE WITH REGULATION 1026, SECTION 29(3)

FILE No. 2004-54  
 COGO FILE: 2004-54  
 CAD FILE: 2004-54.DWG

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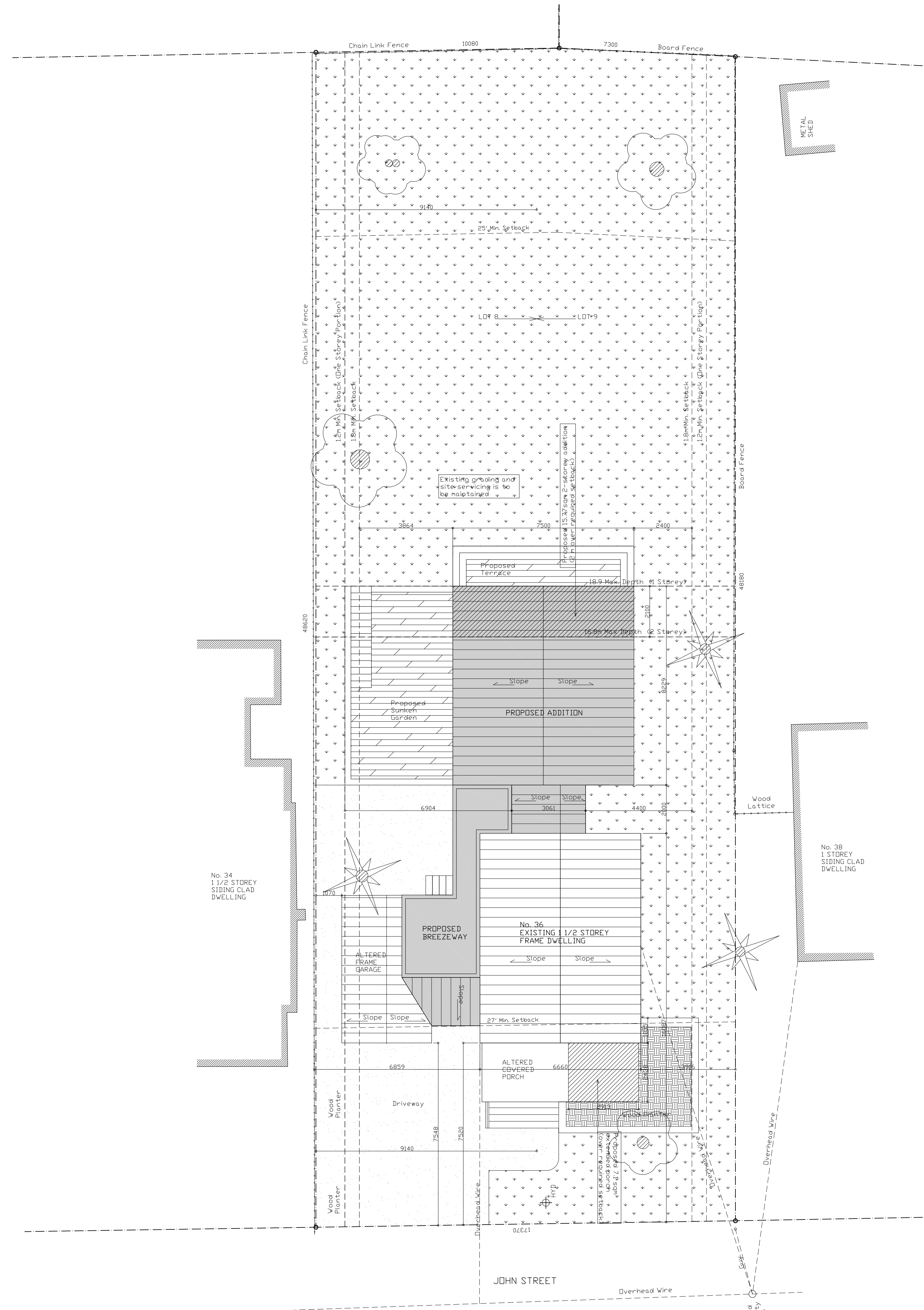
#	DATE	DESCRIPTION
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**ISSUED:**  
**PROJECT:**  
**36 John**  
 36 John Street, Thornhill,  
 Ontario, L3T1X6, Canada




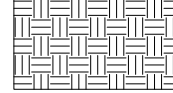
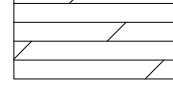

**ARCHITECT:**  
**Uufie**  
 2810-55 Bremner Blvd.  
 Toronto, Ontario  
 M5J 0A6, Canada  
 +1 416 533 9999

**SCALE:** 1:200  
**DRAWING TITLE:** SURVEY

**DRAWING #:**  
 A 010 0  
 DISCIPLINE SHEET NO. REVISION  
**DATE:** 2022.07.05



LEGEND

-  PROPOSED ADDITION
-  MINOR VARIANCE
-  SOODED AREAS
-  PLANTING BEDS
-  DECKING OR PC
-  HARD LANDSCAPING

SITE STATISTIC

Size of Lot: 842.7 sqm  
 Maximum GFA: 842.7 sqm x 33% = 278.1 sqm  
 Existing GFA: 57.7 sqm (Ground Floor) + 57.7 sqm (Second Floor) + 22.8 sqm (Garage) = 138.2 sqm  
 GFA of cellar floor is excluded. Existing kitchen is excluded. (demolition)  
 Maximum GFA For Proposed Building: 139.9 sqm  
 Existing Building Height: 8.625 m

PROJECT DATA

Proposed Addition Height: 9.800 m  
 Proposed Addition GFA: 27.5 sqm (Extension of Garage) + 67.84 sqm (Ground Floor) + 67.84 sqm (Second Floor) = 139.98 sqm (GFA of cellar floor is excluded)

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#	DATE	DESCRIPTION
2	22.12.15	MINOR VARIANCE
1	22.07.05	PRECONSULTATION

ISSUED:

PROJECT:

**36 John**

36 John Street, Thornhill,  
 Ontario, L3T1X6, Canada

ARCHITECT:

**Uufie**

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 Toronto, Ontario  
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SCALE: **1:100**

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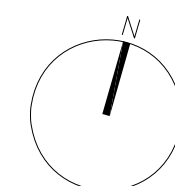
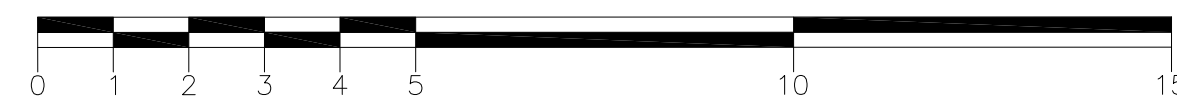
**SITE PLAN**

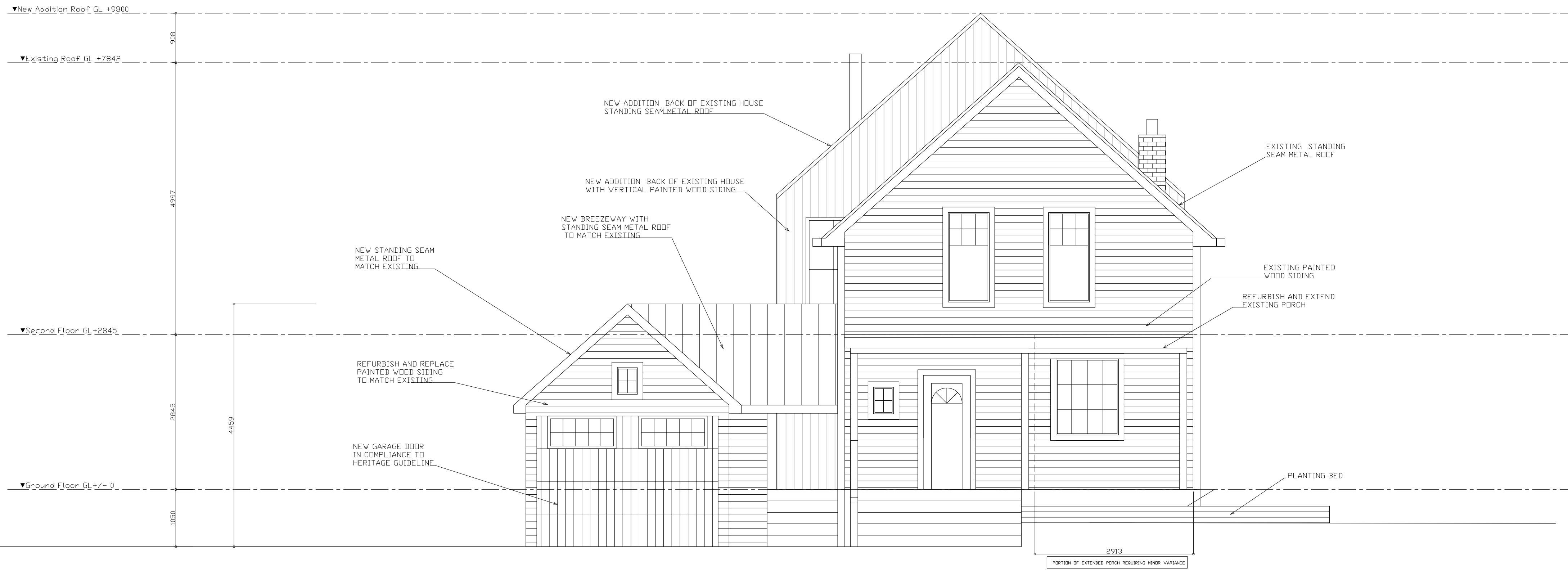
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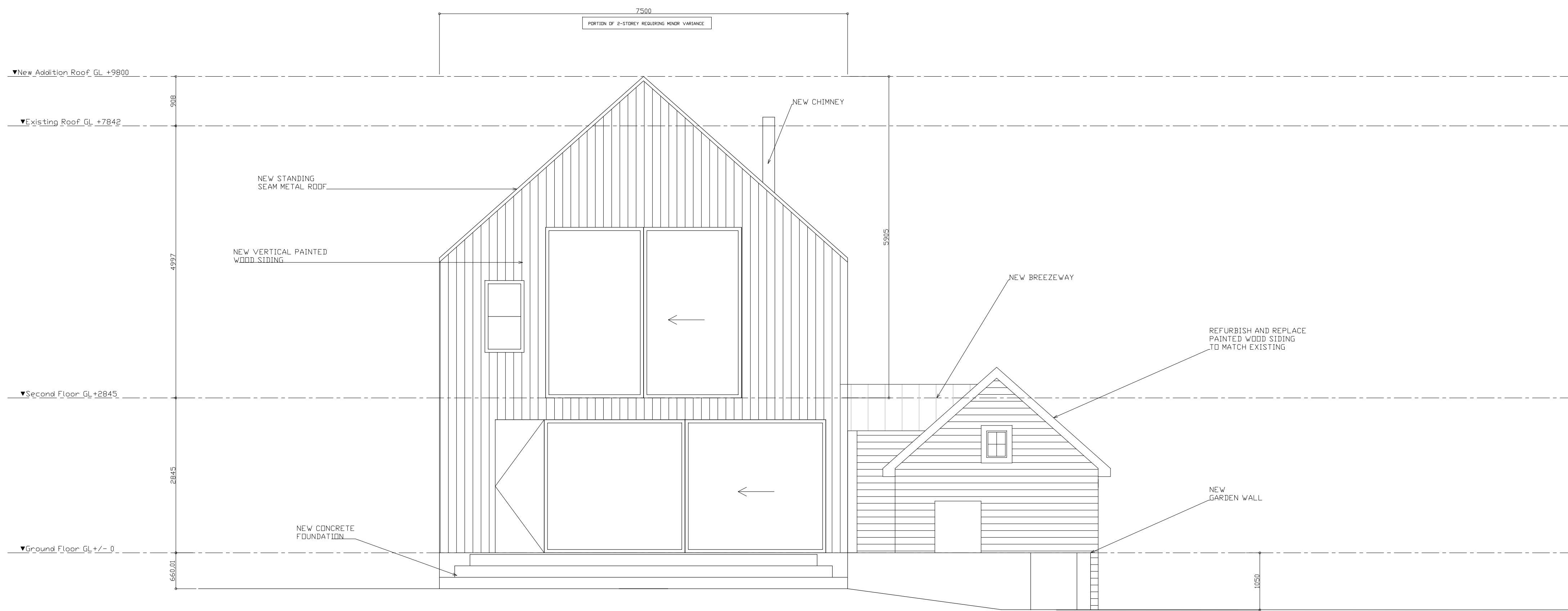
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DATE: **2022.12.15**





01 SOUTH ELEVATION



02 NORTH ELEVATION

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36 John Street, Thornhill,  
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ARCHITECT:

**UUFIE**

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SCALE: **1:50**

DRAWING TITLE:  
**ELEVATION -  
NORTH & SOUTH**

DRAWING #:

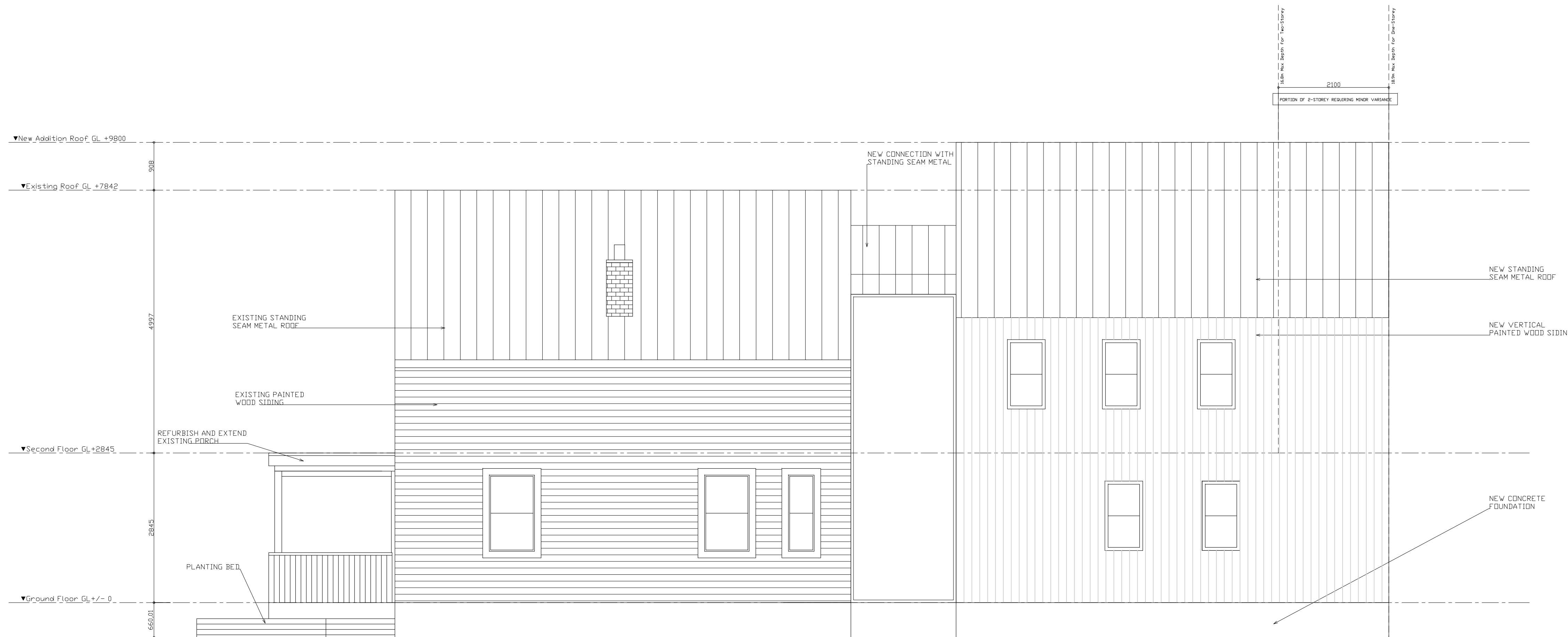
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DISCIPLINE SHEET NO. REVISION

DATE: **2022.12.15**



03 WEST ELEVATION



04 EAST ELEVATION

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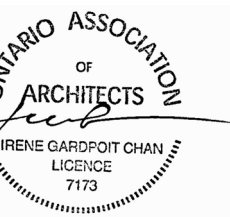
**36 John**

36 John Street, Thornhill,  
 Ontario, L3T1X6, Canada

ARCHITECT:

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SCALE: **1:50**

DRAWING TITLE:  
**ELEVATION-  
 WEST & EAST**

DRAWING #:

A **201 0**

DISCIPLINE SHEET NO. REVISION  
 DATE: **2022.12.15**