

Memorandum to the City of Markham Committee of Adjustment

October 30, 2023

File: A/145/23
Address: 2 Foxleigh Court, Markham
Applicant: Gary Grewal
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday, November 15, 2023

The following comments are provided on behalf of the Central Team.

The Applicant is requesting relief from the following “Sixth Density Single Detached Residential (R6)” zone requirements of By-law 90-81, as amended, as it relates to an existing roof above a walk-up set of stairs. The variance requested is to permit:

a) By-law 90-81, as amended, Section 6.1.2 (b):

a minimum interior side yard setback of 0.20 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.

BACKGROUND

This application was deferred by the Committee of Adjustment (the “Committee”) during the September 13, 2023 hearing ([Staff Report](#)). The deferral was for the Applicant to address the concerns related to the location of the gutters, eaves troughs and to resolve any boundary encroachment issues (Refer to Appendix “D” - Minutes). The committee members further recommended that “the Applicant work with the neighbour to resolve concerns and submit photo of the structure for the Committee’s review.”

COMMENTS

The Applicant has requested that the previous variance request to permit an interior side yard setback of 0.58 metres, be changed to be a minimum interior side yard setback of 0.20 metres.

Staff note that the Applicant has not conducted a new Zoning Preliminary Review for the resubmission of the revised minor variance application. Consequently, it is the Applicant’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development.

Staff remain of the opinion this requested variance is minor in nature and that the reduced interior side yard setback will not adversely impact the character of the neighborhood. Staff are satisfied with the side yard setback of 0.80 metres (at grade level) from the edge of the basement walk up stairs to the western property line, which meets the City’s minimum criteria of 0.60 metres for an undisturbed strip.

The Applicant has submitted photos (refer to Appendix “E” – Applicant’s Photos) in response to the Committee’s request as noted in the committee meeting minutes.

PUBLIC INPUT SUMMARY

Oral comments were provided by a resident located at 4 Foxleigh Court during at the September 13, 2023 hearing (refer to Appendix “D” – Minutes). One written submission in opposition has been received as of November 17, 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 “C” for conditions to be attached to any approval of this application.

PREPARED BY:



Hussnain Mohammad, Planner 1, Development Facilitation Office

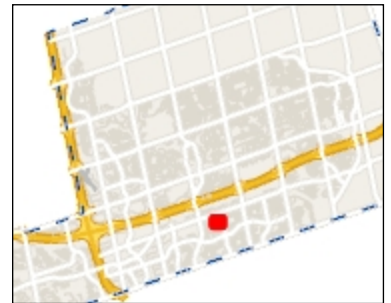
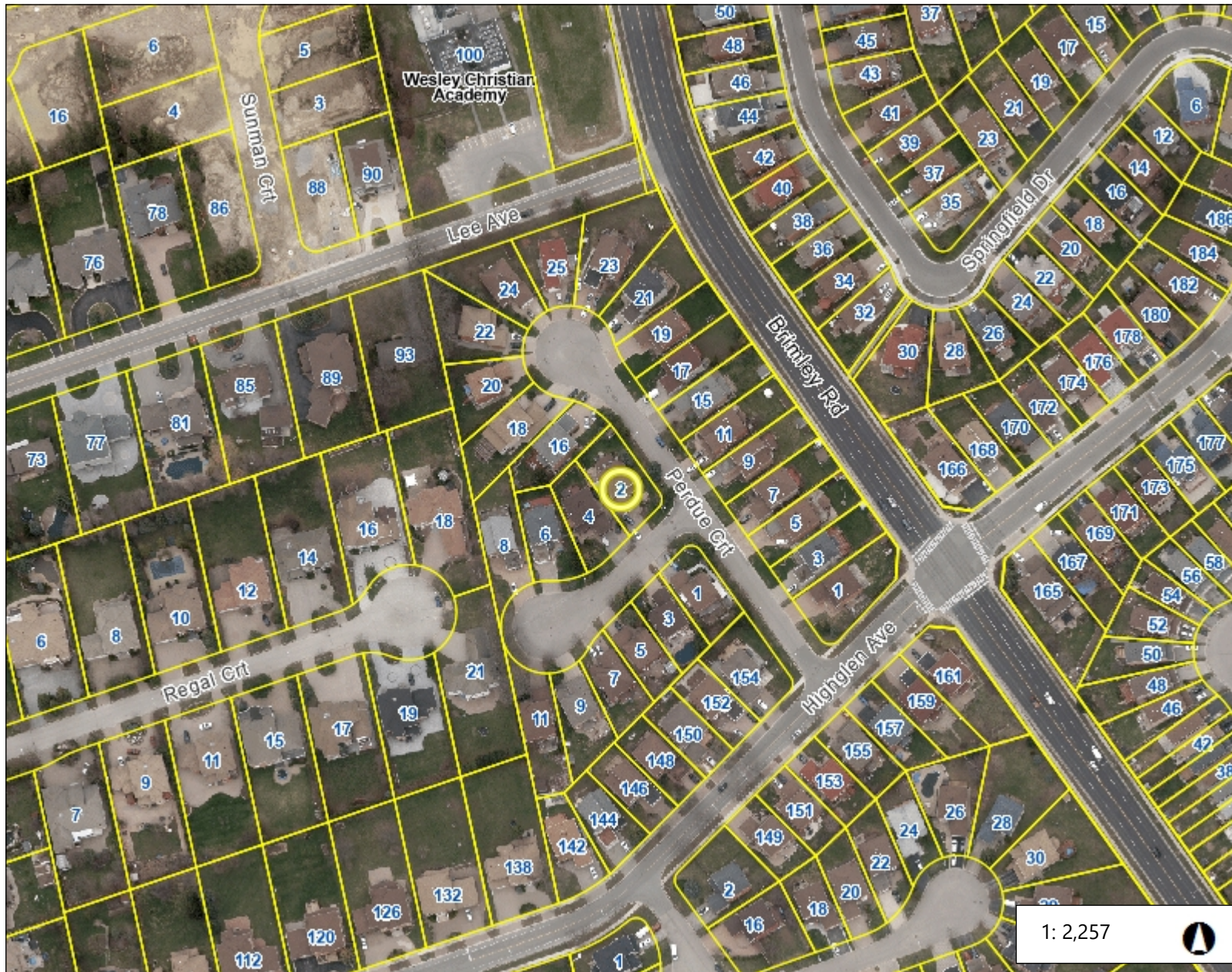
REVIEWED BY:



Deanna Schlosser, RPP MCIP, Senior Planner, Central District

APPENDICES

- Appendix “A” – Aerial Context Photo
- Appendix “B” – Plans
- Appendix “C” – A/145/23 Conditions of Approval
- Appendix “D” – Minutes
- Appendix “E” – Applicant’s Photos



Legend

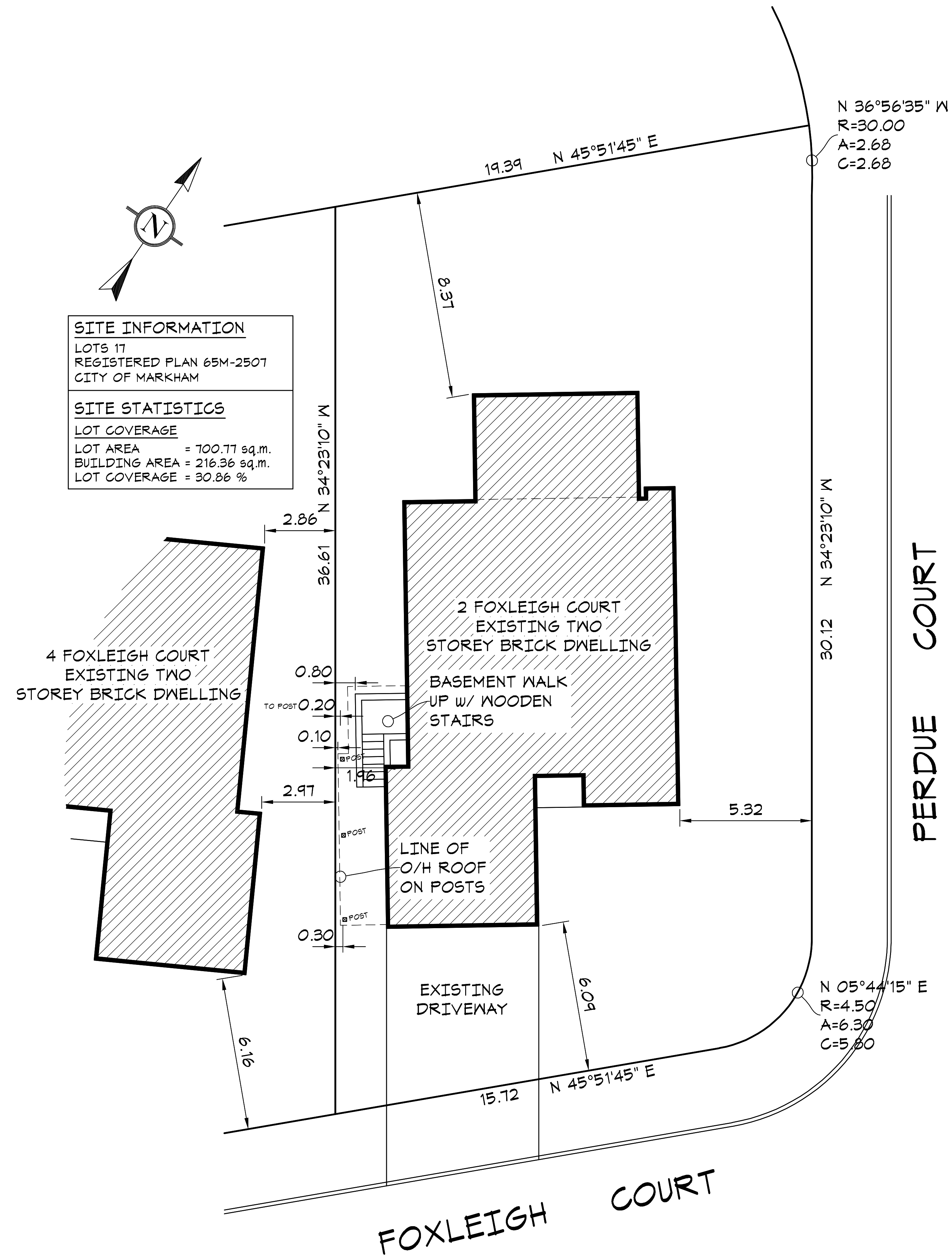
Subject Lands

1: 2,257



114.7 0 57.33 114.7 Meters

Notes



SITE INFORMATION
 LOTS 17
 REGISTERED PLAN 65M-2507
 CITY OF MARKHAM

SITE STATISTICS
LOT COVERAGE
 LOT AREA = 700.77 sq.m.
 BUILDING AREA = 216.36 sq.m.
 LOT COVERAGE = 30.86 %

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

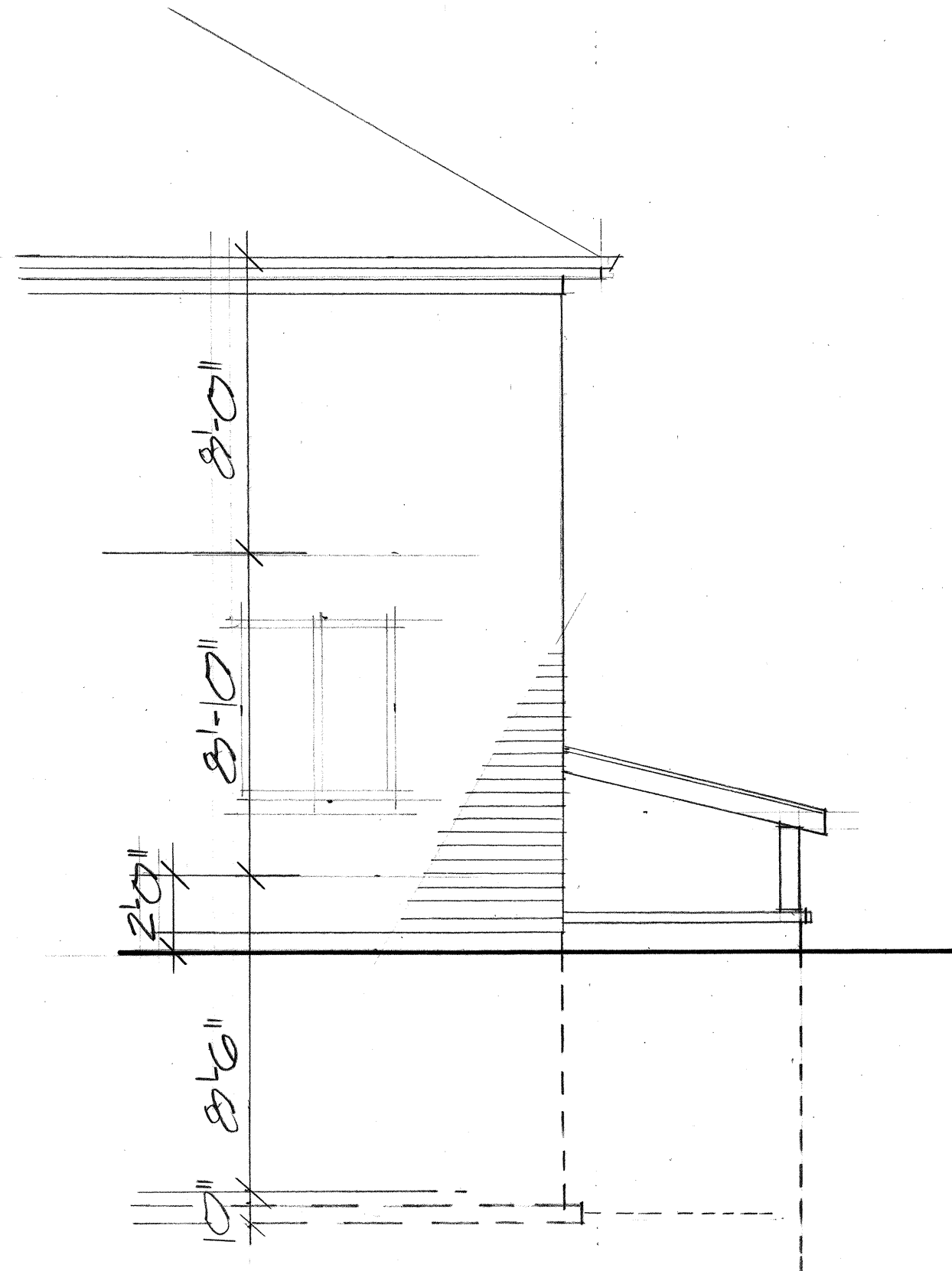
PROJECT TITLE

**SITE PLAN
 2 FOXLEIGH COURT
 CITY OF MARKHAM**

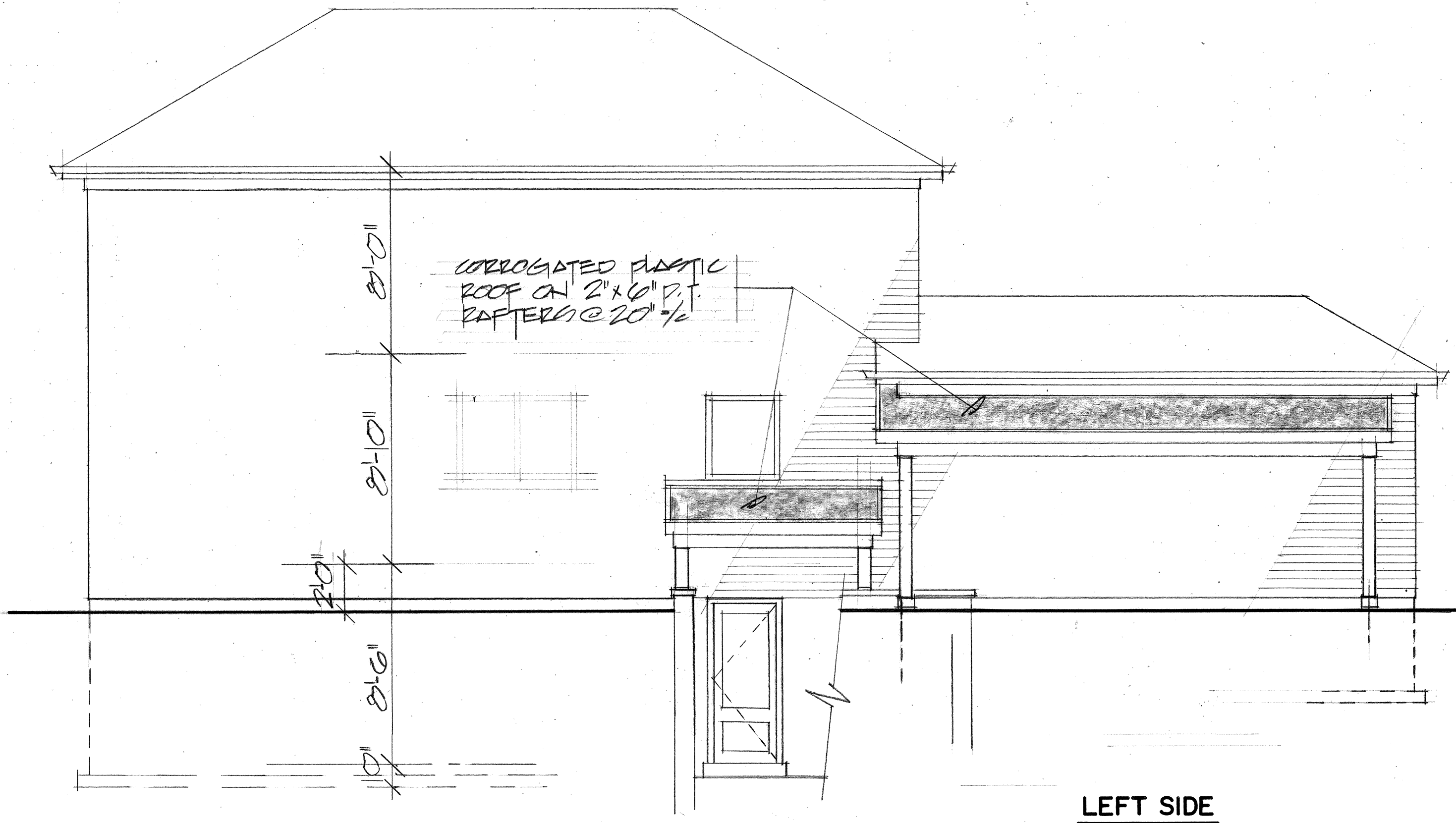
THE GREGORY DESIGN GROUP

16 CHURCH STREET
 MARKHAM, ONTARIO L3P 2L6
 416-520-0978
 shane@gregorydesigngroup.net

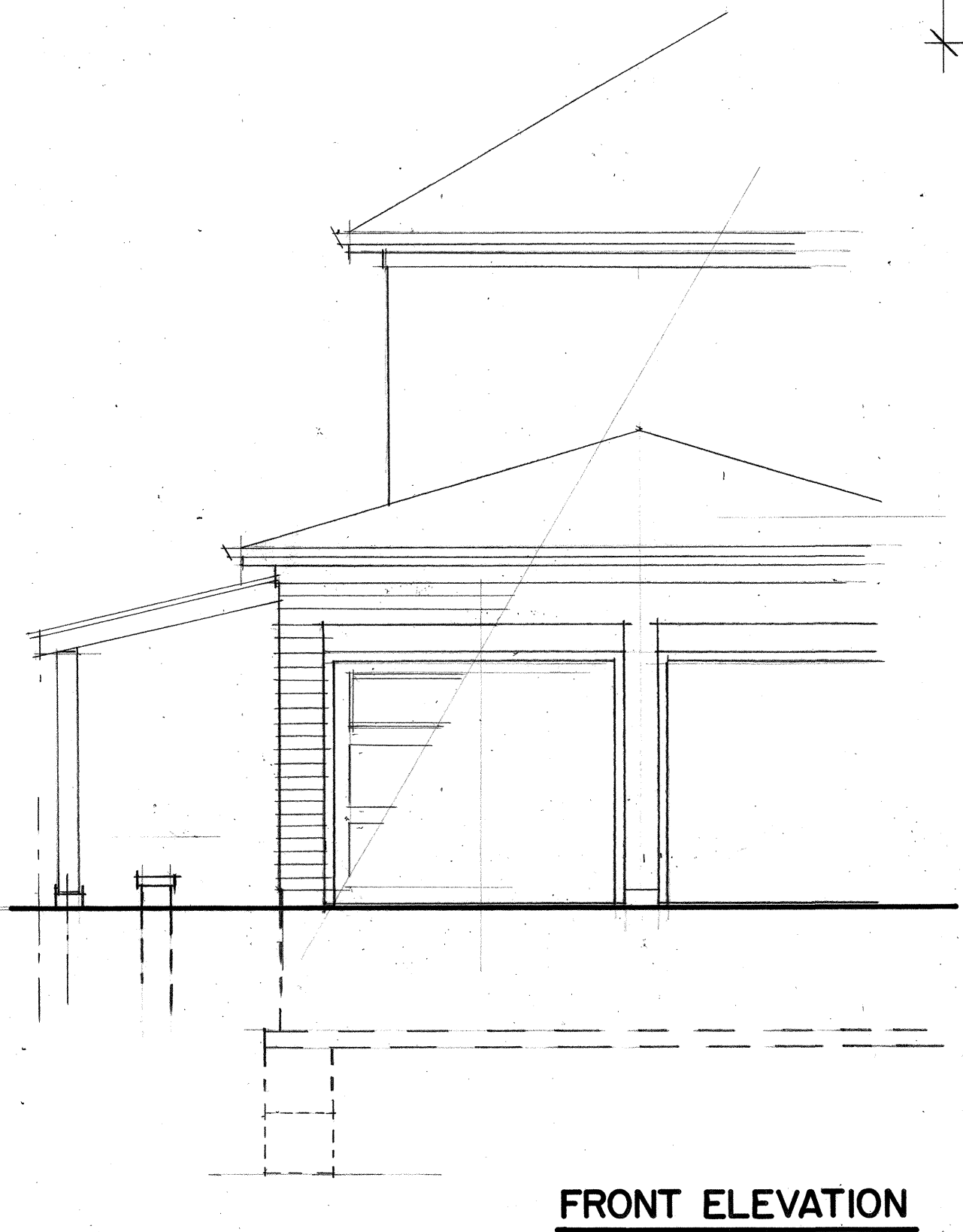
SCALE 1:100	DATE 09/27/23
PROJECT NUMBER 2431-23	SHEET NUMBER SP-1
DRAWN BY S.Gregory	CHECKED BY R.G.



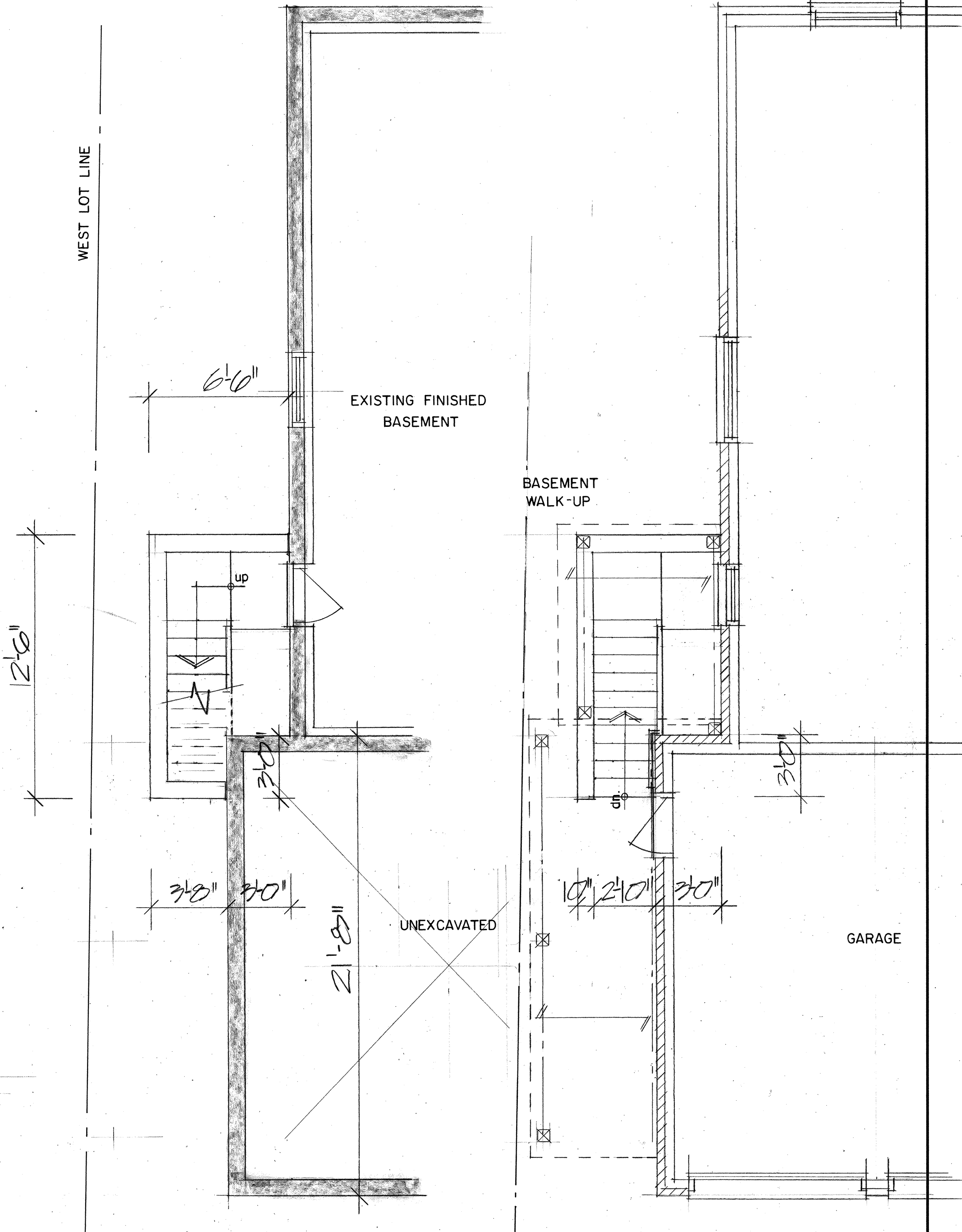
REAR ELEVATION



LEFT SIDE



FRONT ELEVATION



BASEMENT

GROUND FLOOR

PROJECT: BASEMENT WALK-UP THE GREWAL RESIDENCE 2 FOXLEIGH CT. CITY OF MARKHAM	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 classification categories. INDIVIDUAL B.C.I.N. - 25625 FIRM B.C.I.N. - 30508	DRAWN: R. GREGORY DATE:
	Russ Gregory NAME SIGNATURE	SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "M" 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 should be obtained prior to commencing construction.	PROJECT NO.: 2431-23 DRAWING NO.: A-1

Appendix B

File: 23.135045.000.00.MNV

Date: 11/09/23

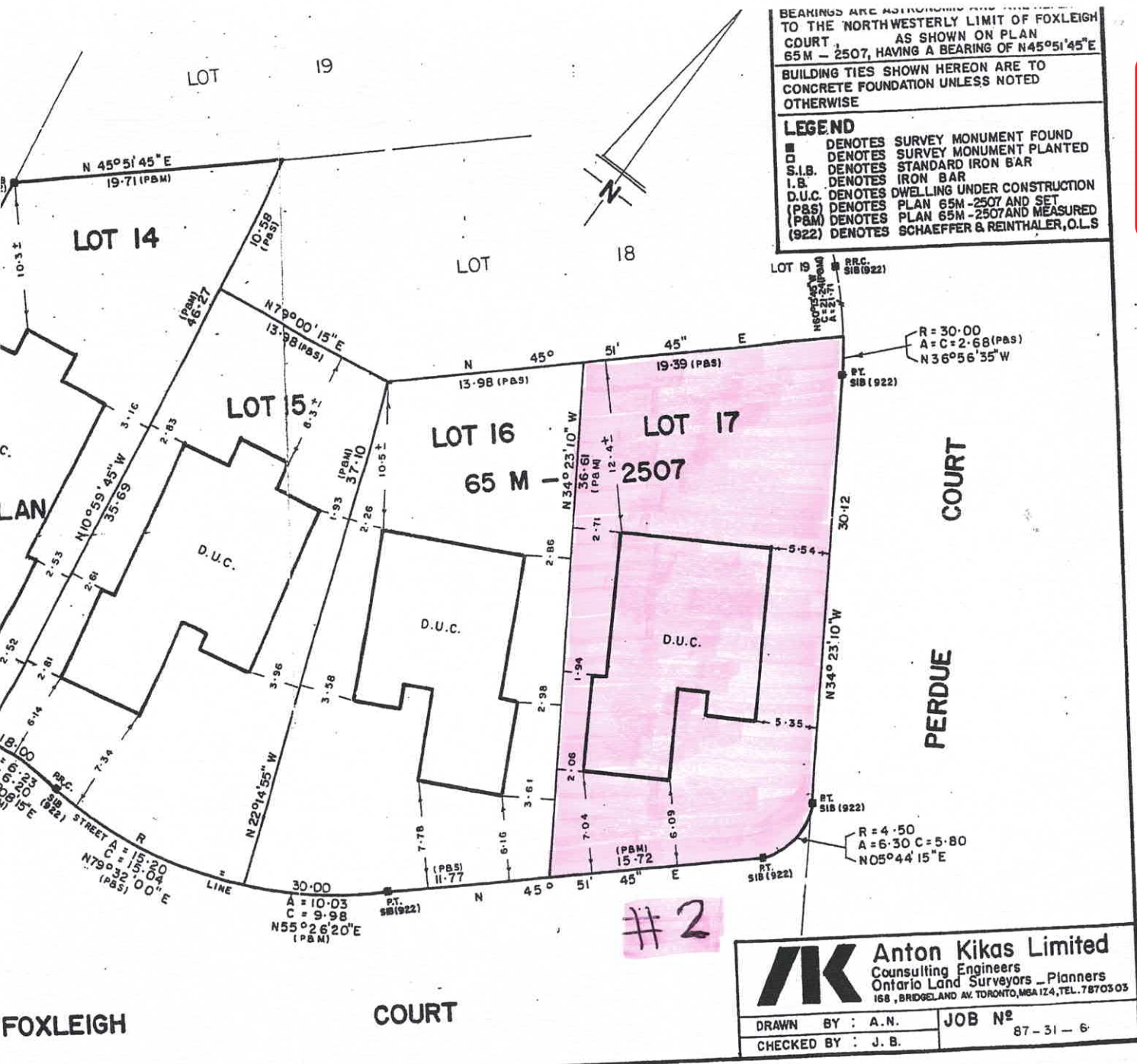
MM/DD/YY

BEARINGS ARE ASTROLOGICAL AND TIES TO THE NORTHWESTERLY LIMIT OF FOXLEIGH COURT, AS SHOWN ON PLAN 65M - 2507, HAVING A BEARING OF N45°51'45"E

BUILDING TIES SHOWN HEREON ARE TO CONCRETE FOUNDATION UNLESS NOTED OTHERWISE

LEGEND

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT PLANTED
- S.I.B. DENOTES STANDARD IRON BAR
- I.B. DENOTES IRON BAR
- D.U.C. DENOTES DWELLING UNDER CONSTRUCTION
- (P&S) DENOTES PLAN 65M-2507 AND SET
- (P&M) DENOTES PLAN 65M-2507 AND MEASURED (922)
- DENOTES SCHAEFFER & REINTHALER, O.L.S



AK Anton Kikas Limited
 Consulting Engineers
 Ontario Land Surveyors - Planners
 168, BRIDGELAND AV. TORONTO, M6A 1Z4, TEL. 7870303

DRAWN BY : A.N. JOB № 87-31-6
 CHECKED BY : J.B.

#2

APPENDIX “C” – A/145/23 Conditions of Approval

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/145/23

1. The variance applies only to the proposed development as long as it remains;
2. That the variance applies 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 Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.

CONDITIONS PREPARED BY:



Hussnain Mohammad, Planner 1, Development Facilitation Office



CITY OF MARKHAM
Virtual Meeting on Zoom

September 13, 2023
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 16th regular meeting of the Committee of Adjustment for the year 2023 was held at the time and virtual space above with the following people present:

Arrival Time

Gregory Knight Chair	7:00 pm
Tom Gutfreund	7:00 pm
Jeamie Reingold	7:00 pm
Sally Yan	7:00 pm
Arun Prasad	7:00 pm

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Trisha Sridharan, Development Technician

Regrets

Kelvin Kwok
Patrick Sampson

DISCLOSURE OF INTEREST

None

Minutes: August 30, 2023

THAT the minutes of Meeting No.15, of the City of Markham Committee of Adjustment, held August 30, 2023 respectively, be:

- a) Approved on September 13, 2023.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

Carried

REQUESTS FOR DEFERRAL

1. A/123/23

Owner Name: Nguyen The Phuong and Trac Thanh Kiet
Agent Name: In Roads Consultants
221 The Meadows Avenue, Markham
PLAN 65M4306 LOT 156

The applicant was requesting relief from the requirements of By-law 177-96, as amended, to permit:

a) By-law 177-96, Section 6.3.1.7(a):

a garage lot coverage of 22.8 percent, whereas the by-law permits a maximum of 15 percent;

b) By-law 177-96, Section 7.190.2(c)(ii):

a side yard setback of 0.1 metres, whereas the by-law permits a maximum of 0.3 metres; and

c) By-law 177-96, 6.3.1.2:

a setback from the main building of 4.802 metres, whereas the by-law permits a minimum of 6.0 metres.

as it related to a coach house.

The Chair introduced the application.

Ida Evangelista, the applicant attended the meeting and requested deferral.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund

Seconded By: Sally Yan

THAT Application No. **A/123/23** be **deferred** sine die.

Resolution Carried

2. A/132/23

Owner Name: Kit Chau
Agent Name: Setless Architecture (Michael Lafreniere)
176 Krieghoff Avenue, Markham
PLAN 7566 LOT 108

The applicant was requesting relief from the requirements of By-law 11-72, as amended, to permit:

- a) **By-law 11-72, Section 6.1:**
a maximum building height of 35 feet, whereas the by-law permits a maximum building height of 25 feet;
- b) **By-law 11-72, Section 6.1:**
a maximum lot coverage of 40.7 percent, whereas the by-law permits a maximum lot coverage of 33.3 percent;
- c) **By-law 11-72, Section 3.7:**
uncovered front steps to project a maximum of 6 feet, 5 inches into the required front yard, whereas the by-law permits uncovered front steps to project a maximum of 5 feet into the required front yard;
- d) **By-law 11-72, Section 3.7:**
uncovered rear walk up stairs and platform to project a maximum of 10 feet, 1 inch into the required rear yard, whereas the by-law permits uncovered rear platform to project a maximum of 5 feet into the required rear yard;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

Michael Lafreniere, the agent attended the meeting and requested a deferral to work with staff and the neighbours.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Sally Yan

THAT Application No. **A/132/23** be **deferred** sine die.

Resolution Carried

PREVIOUS BUSINESS:

1. **A/126/23**

Owner Name: Cen Wen Hao
Agent Name: Frank Bandiera Architect Inc. (Frank Bandiera)
29 Briarcrest Drive, Markham
PLAN 65M3632 PT BLK 11 RP 65R26389 PARTS 21 TO 23

The applicant was requesting relief from the requirements of By-law 177-96, as amended, to permit:

- a) **By-Law 177-96, Table B2 (P):**
a minimum front yard setback of 1.6 metres to the enclosed porch whereas a minimum front yard setback of 3 metres is required; and
- b) **28-97, Section 3 and 6.1.1 b):**
one parking space of 2.75 metres x 5.8 metres provided on the driveway whereas 2 parking spaces are required for a semi-detached dwelling;

as it related to a semi-detached dwelling.

The Chair introduced the application.

The agent, Frank Bandiera, appeared on behalf of the application.

The Committee received three written pieces of correspondence.

Member Gutfreund indicated that the applicant had demonstrated the need for the changes to the property. The proposed changes were minor and met the four tests of the Planning Act.

Member Reingold believed the variances were worthwhile to meet the owner's needs for adaptive housing and supported the application.

Member Gutfreund motioned for approval with conditions.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/126/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

NEW BUSINESS:

1. **A/145/23**

Owner Name: Gary Grewal
Agent Name: Gregory Design Group (Shane Gregory)
2 Foxleigh Court, Markham

PLAN 65M2507 LOT 17

The applicant was requesting relief from the requirements of By-law 90-81, as amended, to permit:

a) By-law 90-81, Section 6.2.1(b):

an interior side yard setback of 0.58 metres, whereas the By-law requires 1.2 metres;

as it related to an existing as built roof over a walk-up set of stairs.

The Chair introduced the application.

The agent, Russ Gregory, appeared on behalf of the application.

The Committee received one written piece of correspondence.

Francis Fernandes, of 4 Foxleigh Court, spoke to the Committee, indicating that the structure had been constructed without the benefit of permits and the eaves encroached on their property. During inclement weather, rainwater and snow came off the roof of both the garage roof and the walkway roof and damaged Francis's side yard.

Member Gutfreund indicated that the applicant and neighbour needed to determine the location of the overhang and resolve any boundary encroachment issues prior to the Committee making a decision.

Member Prasad requested further information regarding the construction and whether eaves troughs had been installed. Russ Gregory indicated the construction had occurred without a permit, the plans had been drawn based on the survey, and was uncertain if gutters had been installed. Francis Fernandes stated that no gutters had been installed.

Member Prasad recommended that the applicant work with the neighbour to resolve concerns and submit photos of the structure for the Committee's review and supported Member Gutfreund's request for deferral.

Russ Gregory agreed to deferral.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Arun Prasad

THAT Application No. **A/145/23** be **deferred** sine die.

Resolution Carried

2. A/053/23

Owner Name: Yip Huan Seng and Choo Chak Kwen
Agent Name: Ray Lall
69 Ingleborough Court, Markham
PLAN 65M2478 LOT 108

The applicant was requesting relief from the requirements of By-law 118-79, as amended, to permit:

a) Section 6.2.1:

an accessory building to occupy 6.4 percent (76.4 square metres) of the lot area, whereas the By-law requires an accessory building not occupy more than 5 percent (57.5 square metres) of the lot area;

as it related to a proposed accessory building.

The Chair introduced the application.

The agent, Ray Lall, appeared on behalf of the application and made a brief presentation indicating the applicant had a sizeable lot which would accommodate the larger accessory structure. The owner required the additional garage space to park cars, eliminate the need to shuffle cars parked in the driveway and store property maintenance equipment and garden tools.

The Committee received eleven written pieces of correspondence.

Albert Chan and Sally Lum of 63 Ingleborough Court spoke to the Committee, indicating that the requested increase of 28 percent was not minor. Additionally, the garage would introduce a use into the rear yard that would decrease the neighbours' ability to use their rear yards due to noise and air pollution. Albert stated that the proposal did not fit the environment of the existing neighbourhood and could create impacts due to a decreased side yard related to the vehicle access to the rear yard.

Simon Zhou of 67 Ingleborough Court asked for clarification if the building would be heated and constructed to habitable standards. Ray Lall clarified that the building would store vehicles and not be heated or habitable.

Member Reingold expressed that having a large yard did not justify having a driveway and garage in the rear yard, and the use would have undesirable impacts in the form of noise, air and light pollution. Other residents in the neighbourhood could manage their parking with the two-car garage and the front parking pad customary to the area's houses. Member Reingold noted that permitting the request would establish the use for the duration of the build, and once established, uses such as car repair or idling of the vehicles in the rear yard would be challenging to control. Member Reingold did not support the application.

Tom Gutfreund agreed with their colleague, indicating that the request did not meet the intent of the by-law and failed to maintain the integrity of the residential neighbourhood. The build was overly large to be considered minor; it did not reflect an accessory building for storage; instead, it was the equivalent of a four-car garage. Member Gutfreund agreed that parking cars in the rear yard would result in undesirable noise and air pollution impacts for the neighbours, and the location of the proposed driveway created additional environmental concerns due to the impact of runoff from increased hard surface area and lot coverage. Member Gutfreund did not support the application and recommended refusal.

Member Yan did not support the application, indicating that it was overbuilding on the property in the rear with numerous activities that would create adverse impacts for the residents of the neighbouring properties.

The Chair noted that the Committee had considered neighbours' oral and written comments regarding the proposal in making the decision. The Chair stated that the application was not desirable nor appropriate development of the property and could not be considered minor in either scope or size. It did not meet the intent of the by-law, and the original neighbourhood design did not contemplate the construction of driveways in the side yard and multivehicle garages in the rear yard.

Member Gutfreund motioned to deny the application.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

The Committee unanimously denied the application.

THAT Application No. **A/053/23** be **denied**.

Resolution Carried

3. A/089/23

Owner Name: Joanne Haywood
Agent Name: Bradley Dunn
25 Colborne Street, Thornhill
PLAN 71 LOT 6 PT LOT 5 PT LOT 7

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

a) By-law 223-94, Section 1(b):

a garage floor area of 67 square metres, whereas the By-law permits a maximum area of 41.8 square metres;

b) By-law 101-90, Section 1.2(iv):

a building depth of 17.6 metres, whereas the By-law permits a maximum depth of 16.8 metres;

c) By-law 177-96, Section 6.1:

a front yard setback of 2 feet 2 inches to the proposed veranda and 10 feet to the proposed garage, whereas the By-law requires a minimum front yard setback of 27 feet.

as it related to the proposed garage and reinstated covered front porch.

The Chair introduced the application.

The agent, Bradley Dunn, appeared on behalf of the application.

The Committee received two written pieces of correspondence.

Ken Ruffo, representing Margaret Ruffo of 23 Colborne Street, indicated that the agent had agreed to address the residents' concerns.

Member Reingold stated that the property was a beautiful landmark and noted that Heritage Markham had supported the application, they appreciated the restoration of the heritage features, and that they felt garage was an excellent addition to a well-maintained property.

Member Gutfreund supported their colleague, indicating it was a beautiful design and would enhance the heritage streetscape.

The Chair noted that the proposed design would maintain the heritage features.

Member Reingold motioned for approval with conditions.

Moved By: Jeamie Reingold
Seconded By: Tom Gutfreund

The Committee unanimously approved the application.

THAT Application No. **A/089/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

6. A/020/23

Owner Name: 1000282721 Ontario Ltd. (Heng Hua Xu)
Agent Name: HJ Architects Inc. (Joanne Ying)
7725 Birchmount Road, Markham
YORK REGION CONDO PLAN 643 LEVEL 1 UNIT 45

The applicant was requesting relief from the requirements of By-law 108-81, as amended, to permit:

- a) **By-law 28-97, Section 3.0 - Table 'B':**
to permit a minimum of 206 parking spaces; whereas a minimum of 208 is required.

as it related to a proposed medical office use.

The Chair introduced the application.

The agent, Joanne Ying, HJ Architects Inc., appeared on behalf of the application.

The Committee received two written pieces of correspondence.

Brian Duffy, Director of the Condo Board, indicated the new owner had yet to submit the unit's intended use to the Board and requested deferral of the application until the Condo Board of Directors could review and consider the use and parking requirements.

The Chair asked Greg Whitfield to clarify the process for applications related to condo corporations.

Greg Whitfield indicated it was standard practice to require a letter of permission from a condo board before proceeding to the Committee for a decision.

Member Gutfreund motioned for deferral.

Moved By: Tom Gutfreund
Seconded By: Jeamie Reingold

THAT Application No. **A/020/23** be **deferred** sine die.

Resolution Carried

Adjournment

Moved by: Tom Gutfreund
Seconded by: Jeamie Reingold

Committee of Adjustment Minutes
Wednesday September 13, 2023

THAT the virtual meeting of the Committee of Adjustment was adjourned at 8:14 pm,
and the next regular meeting would be held on September 27, 2023.

CARRIED

Original signed
September 27, 2023
Secretary-Treasurer,
Committee of Adjustment

Original signed
September 27, 2023
Chair
Committee of Adjustment



