

Memorandum to the City of Markham Committee of Adjustment

November 17, 2023

File: A/179/23
Address: 31 Saltspring Drive, Markham
Applicant: NOBLE PRIME SOLUTIONS LTD (JIVTESH BHAILA)
Agent: NOBLE PRIME SOLUTIONS LTD (JIVTESH BHAILA)
Hearing Date: Wednesday, November 29, 2023

The following comments are provided on behalf of the East Team:

The applicant is requesting relief from the following "Residential Two Exception *133*137 (R2*133*137) under By-law 177-96, as amended, as it relates to a rear yard below grade entrance for a proposed secondary dwelling unit. The variance requested is to permit:

- a) **By-law 177-96, Section 6.6.3 (a) (i):**
stairs and a landing to encroach 3.42 metres (11.22 feet) into the rear yard, whereas the by-law only permits an encroachment of 2 metres (6.56 feet);

BACKGROUND

Property Description

The 222.69 m² (2397.02 ft²) subject lands is located on the south side of Saltspring Drive, north of Bur Oak Avenue and east of Markham Road. The Subject Lands are surrounded by an established residential neighbourhood to the north, east, and south. Commercial buildings are located to the west of the Subject Lands.

There is an existing two-storey semi detached dwelling on the property, which according to assessment records was constructed in 2005.

Proposal

The applicant is proposing to construct a set of below grade stairs and landing to access the entrance of the proposed basement suite. The proposal also includes railings above grade.

Official Plan and Zoning

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

The subject property is designated "Residential Low Rise", which provides for low rise housing forms including semi-detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the 'Residential Low Rise' designation with respect to height, massing and setbacks. These criteria are established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street.

Zoning By-Law 177-96

The Subject Lands are zoned “Residential Two Exception *133*137 (R2*133*137)” under By-law 177-96 as amended.

The proposed rear yard staircase and landing does not comply with the By-law requirements with respect to maximum rear yard encroachment.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner 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.

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 Rear Yard Encroachment

The applicant is requesting relief to permit a maximum rear yard encroachment of 3.42 metres (11.22 feet), whereas the By-law permits a maximum rear yard encroachment of 2 metres (6.56 feet). This represents an increase of approximately 1.42 metres (4.66 feet).

Staff note that the proposed stairs and landing will remain below grade and there will not be an enclosed structure built around it. Additionally, the amenity space will not be negatively impacted by the increased encroachment as the proposed stairs and landing will be minimal in size and the remainder of the rear yard is still sufficient to function as amenity area.

Staff are of the opinion that the increase in maximum rear yard encroachment is minor in nature, and meets the general intent of the Official Plan and Zoning By-law. As such, staff have no objection to the requested variance.

Metrolinx Comments

The subject property is located within 300 metres of the Metrolinx Uxbridge Subdivision. Metrolinx provided comments on November 6, 2023 noting that they have no concerns with the proposed Minor Variance application, subject to the conditions outlined in their letter attached as Appendix “D”.

Tree Protection

The Subject Lands contain one City of Markham street tree. During the review of the application, the City’s Tree Preservation Technician indicated no concerns in regards to the Minor Variance, however they noted that tree preservation is required on site and further attention will be required to ensure barriers are to the City of Markham’s standards.

Staff recommend that the tree related conditions, as outlined in Appendix “C”, be adopted by the Committee to ensure the Applicant installs the appropriate tree protection barriers.

PUBLIC INPUT SUMMARY

No written submissions were 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.

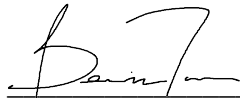
CONCLUSION

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:



Bernie Tom, Development Technician, Zoning and Special Projects

REVIEWED BY:



Rectangular Snip

Stacia Muradali, Development Manager, East District

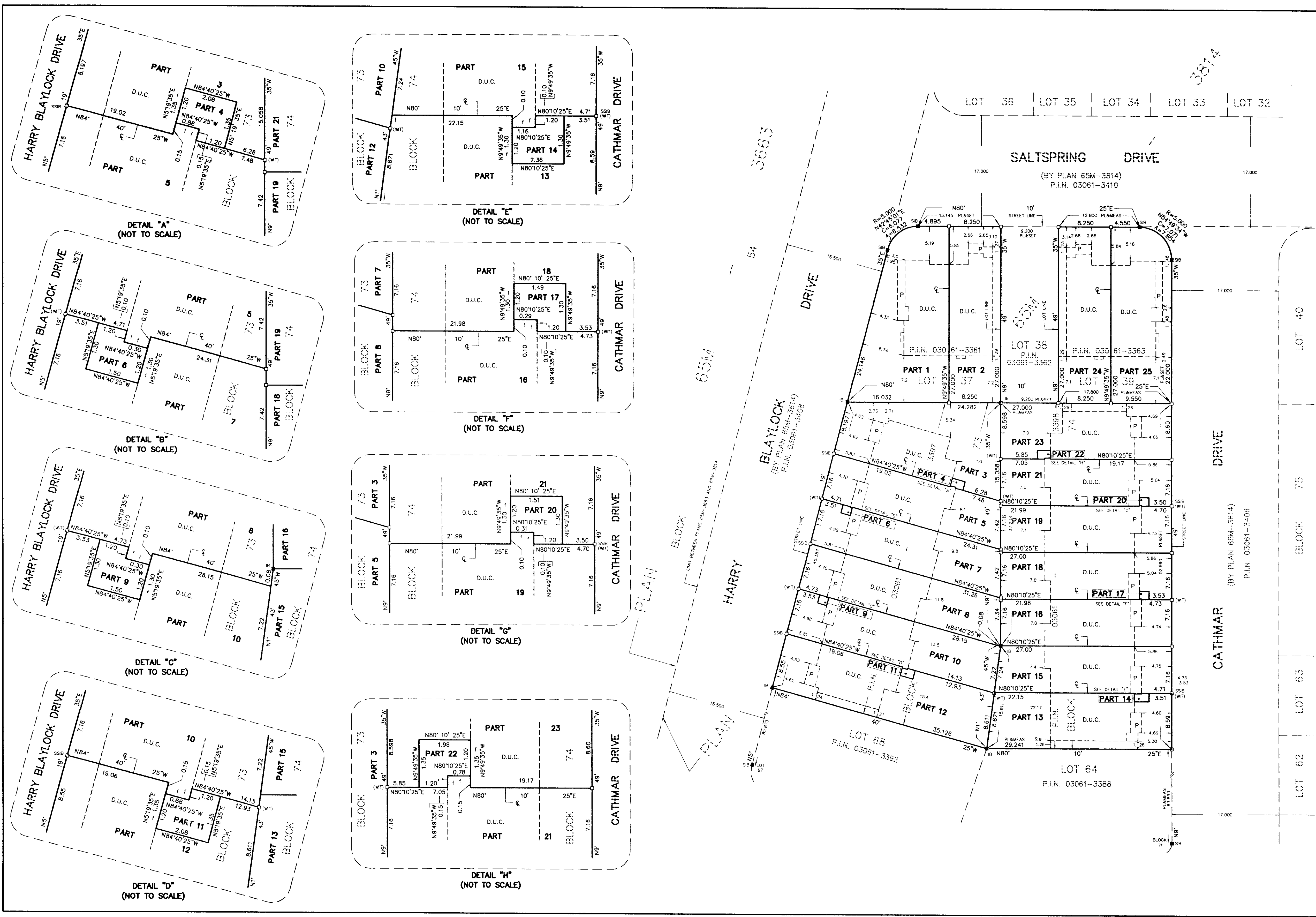
APPENDICIES

Appendix “A” – Aerial Photo

Appendix “B” – Architectural Plans

Appendix “C” – Conditions of Approval

Appendix “D” – External Agency Comments



I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.
 DATE June 14, 2005
 JOSEPH RADY-PENTEK O.L.S.

PLAN 65R-28149
 RECEIVED AND DEPOSITED
 DATE June 23, 2005

Asst Dep J. Smith
 LAND REGISTRAR SR. THE LAND TITLES DIVISION OF YORK REGION (No.65)

SCHEDULE				
PART	ALL OF LOT	ALL OF BLOCK	PLAN	ALL OF P.I.N.
1 & 2	37			03061-3361
3 TO 12 BOTH INCLUSIVE		73	65M-3814	03061-3397
13 TO 23 BOTH INCLUSIVE		74		03061-3398
24 & 25	39			03061-3363

PLAN OF SURVEY OF LOTS 37 AND 39 AND BLOCKS 73 AND 74 PLAN 65M-3814 TOWN OF MARKHAM REGIONAL MUNICIPALITY OF YORK
 SCALE 1:300

10m 5m 0 10m 20m 30 metres
 RADY-PENTEK & EDWARD SURVEYING LTD., O.L.S.

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

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 14TH DAY OF JUNE, 2005

DATE June 14, 2005
 JOSEPH RADY-PENTEK
 ONTARIO LAND SURVEYOR

- NOTES**
- DENOTES MONUMENT FOUND
 - DENOTES MONUMENT SET
 - IB DENOTES IRON BAR
 - SB DENOTES STANDARD IRON BAR
 - SSIB DENOTES SHORT STANDARD IRON BAR
 - PL DENOTES PLAN 65M-3814
 - P.I.N. DENOTES PROPERTY IDENTIFIER NUMBER
 - D.U.C. DENOTES DWELLING UNDER CONSTRUCTION
 - P DENOTES PORCH
 - ⊕ DENOTES CENTRELINE OF WALL
 - (WT) DENOTES WITNESS
 - f DENOTES FACE OF WALL

ALL SET MONUMENTS ARE IRON BARS UNLESS NOTED OTHERWISE.
 ALL FOUND MONUMENTS BY HOLDING JONES VANDERVEEN INC., O.L.S.
 ALL TIES TAKEN TO CONCRETE FOUNDATION.

BEARINGS ARE GRID AND ARE REFERRED TO THE EAST LIMIT OF HARRY BLAYLOCK DRIVE AS SHOWN ON PLAN 65M-3814 HAVING A BEARING OF N519°35'E.

RPE RADY-PENTEK & EDWARD SURVEYING LTD.
 ONTARIO LAND SURVEYORS
 465 WILSON AVENUE, DOWNSVIEW, ONTARIO
 Tel: (416)635-5000 Fax: (416)635-5001
 Website: www.rpesurveying.co
 DRAWN: V.K. CHECKED: J.R-P
 CAD FILE No.05-045R03 JOB No. 05-045

MINOR VARIANCE

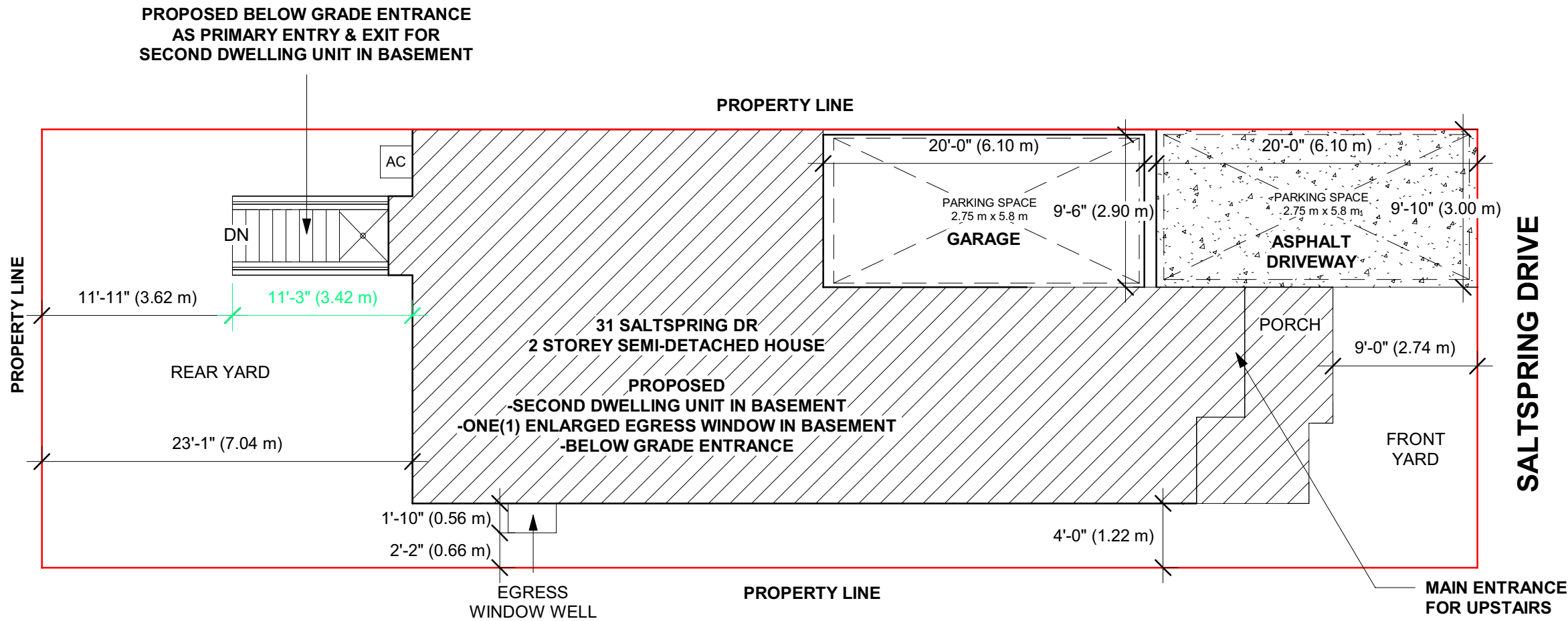
-TO PERMIT THE STAIRS AND LANDING THAT ACCESS THE SECOND DWELLING UNIT TO ENCROACH 3.42 METRES INTO THE REAR YARD, WHEREAS THE BY-LAW ONLY PERMITS 2 METRES ENCROACHMENT INTO THE REAR YARD.

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23

MM/DD/YY



SITE STATISTICS
LOT AREA: 2440 SF
FRONT SETBACK: 9'-0" (2.74m)
SIDE SETBACK: 4'-0" (1.22m)
REAR SETBACK: 11'-11" (3.62m)
BUILDING HEIGHT: 8.4m
GROSS FLOOR AREA: 2067 SF (192 sqm)
LOT COVERAGE: 1227 sf (50.28%)

SITE PLAN	
DRAWN BY: HS	CHECKED BY: TR
PROJECT NUMBER: 23R-28368	

The undersigned has reviewed and taken responsibility for this design and has qualifications and meet the requirements set out in the Ontario Building Code to be a designer	
QUALIFICATION INFORMATION (Required unless design is exempted under 3.2.5 Division C of OBC)	
DESIGNER	BCIN
Tanvir Rai	103482
FIRM	BCIN
Noble Prime Solutions Ltd	118716
SEP 25/23	

THE CONTRACTOR MUST VERIFY AND ACCEPT RESPONSIBILITY FOR ALL DIMENSIONS AND CONDITIONS ON SITE AND MUST NOTIFY THE DESIGNER/ENGINEER OF ANY VARIATIONS FROM THE SUPPLIED INFORMATION. CONSTRUCTION MUST CONFORM TO ALL APPLICABLE CODES AND REQUIREMENTS OF AUTHORITIES HAVING JURISDICTION.	
ADDRESS: 31 SALTSPRING DR, MARKHAM, ON	
NOBLE PRIME SOLUTIONS LTD	
2131 WILLIAMS PARKWAY UNIT 19, BRAMPTON, ON.	
info@nobleltd.ca (437) 888 1800	
01 ISSUED FOR VARIANCE	SEP 25/23
DATE: SEP 25/23	DWG No: A-1
SCALE: 1/8" = 1'-0"	

ROOMS	REQUIRED WINDOW AREA	AVAILABLE WINDOW & DOOR GLASS AREA
BEDROOM 1	2.5% OF 125SF= 3.1SF	4 SF
LIVING / DINING ROOM	5% OF 183SF= 9.2SF	10 SF

WOOD LINTEL	OPENINGS	SIZE
WB1	UPTO 42" OPENINGS	2-2"X6"
WB2	UPTO 66" OPENINGS	2-2"X10"

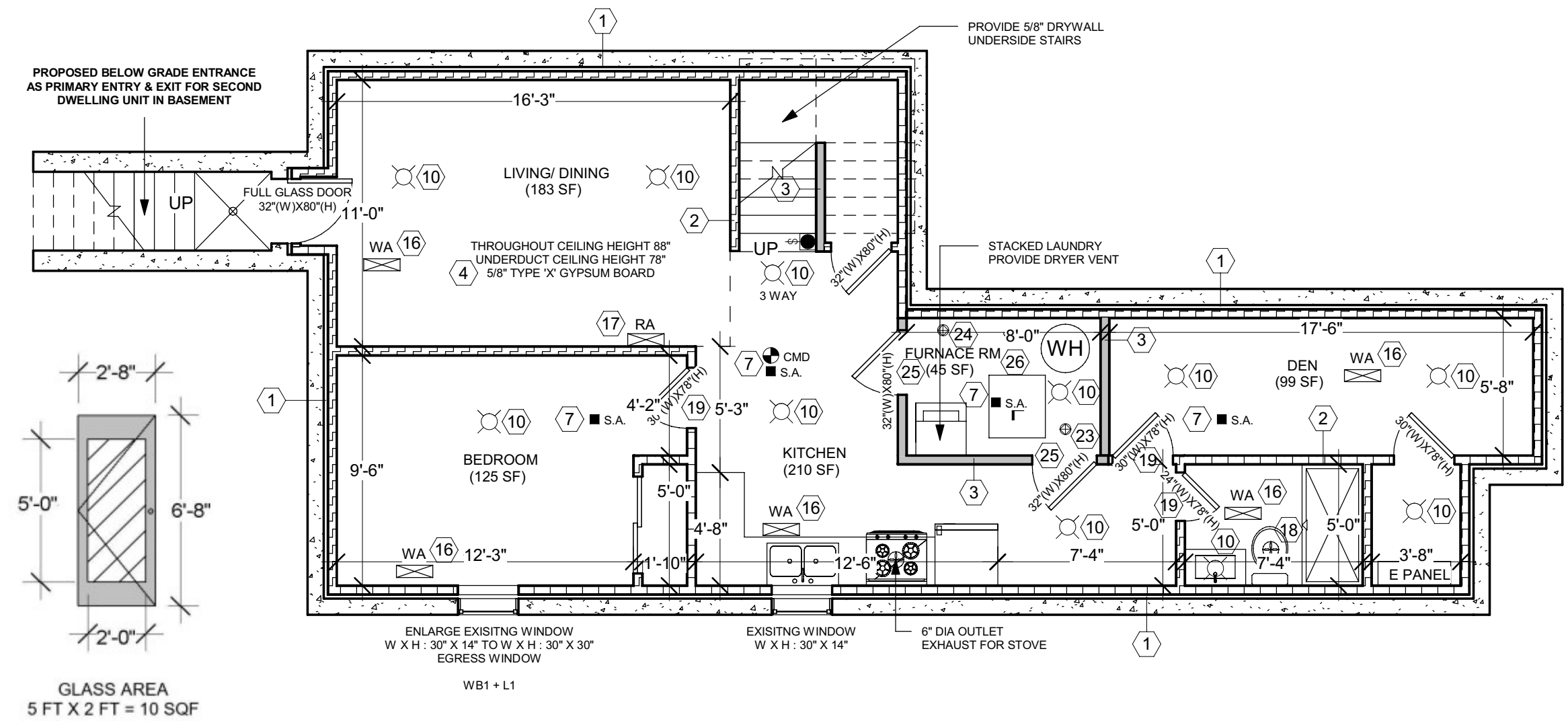
STEEL LINTEL	OPENINGS	SIZE
L1	UPTO 54" OPENINGS	L 3.5" X 3.5" X 0.3125"
L2	UPTO 66" OPENINGS	L 4.0" X 3.5" X 0.3125"

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23

MM/DD/YY



GLASS AREA
5 FT X 2 FT = 10 SQF

NOTE:
FOR DETAILED SPECIFICATIONS AND LEGENDS SEE DWG A-7
PROPOSED SECOND DWELLING UNIT AREA IN BASEMENT: 721 SF
TOTAL AREA IN BASEMENT: 752 SF

PROPOSED BASEMENT PLAN

DRAWN BY: NS CHECKED BY: TR
PROJECT NUMBER: 23R-28368

The undersigned has reviewed and taken responsibility for this design and has qualifications and meet the requirements set out in the Ontario Building Code to be a designer

QUALIFICATION INFORMATION
(Required unless design is exempted under 3.2.5 Division C of OBC)

DESIGNER	BCIN
Tanvir Rai	103482
<i>Tanvir Rai</i>	
FIRM	BCIN
Noble Prime Solutions Ltd	118716

AUG 03/23

THE CONTRACTOR MUST VERIFY AND ACCEPT RESPONSIBILITY FOR ALL DIMENSIONS AND CONDITIONS ON SITE AND MUST NOTIFY THE DESIGNER/ENGINEER OF ANY VARIATIONS FROM THE SUPPLIED INFORMATION. CONSTRUCTION MUST CONFORM TO ALL APPLICABLE CODES AND REQUIREMENTS OF AUTHORITIES HAVING JURISDICTION.

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MARKHAM, ON

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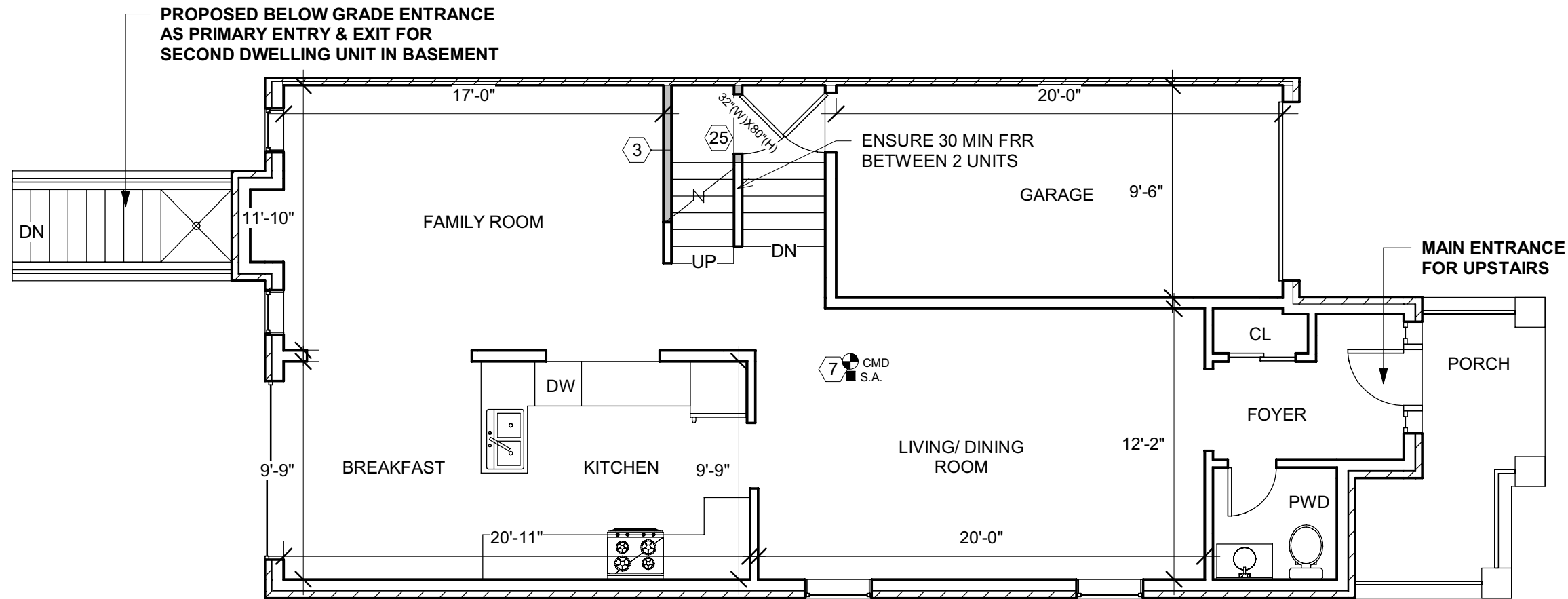
01	ISSUED FOR PERMIT	AUG 03/23
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DATE: AUG 03/23 DWG No: **A-2**
SCALE: 3/16" = 1'-0"

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23
MM/DD/YY



NOTE:
ALL WINDOWS EXISTING UNLESS OTHERWISE SPECIFIED
FOR DETAILED SPECIFICATIONS AND LEGENDS SEE DWG A-7
EXISTING GROUND FLOOR AREA: 925 SF

EXISTING GROUND FLOOR

DRAWN BY: HS CHECKED BY: TR
PROJECT NUMBER: 23R-28368

The undersigned has reviewed and taken responsibility for this design and has qualifications and meet the requirements set out in the Ontario Building Code to be a designer

QUALIFICATION INFORMATION
(Required unless design is exempted under 3.2.5 Division C of OBC)

DESIGNER	BCIN
Tanvir Rai	103482

Tanvir Rai

FIRM	BCIN
Noble Prime Solutions Ltd	118716

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ADDRESS:
31 SALTSRING DR,
MARKHAM, ON

01	ISSUED FOR PERMIT	AUG 03/23
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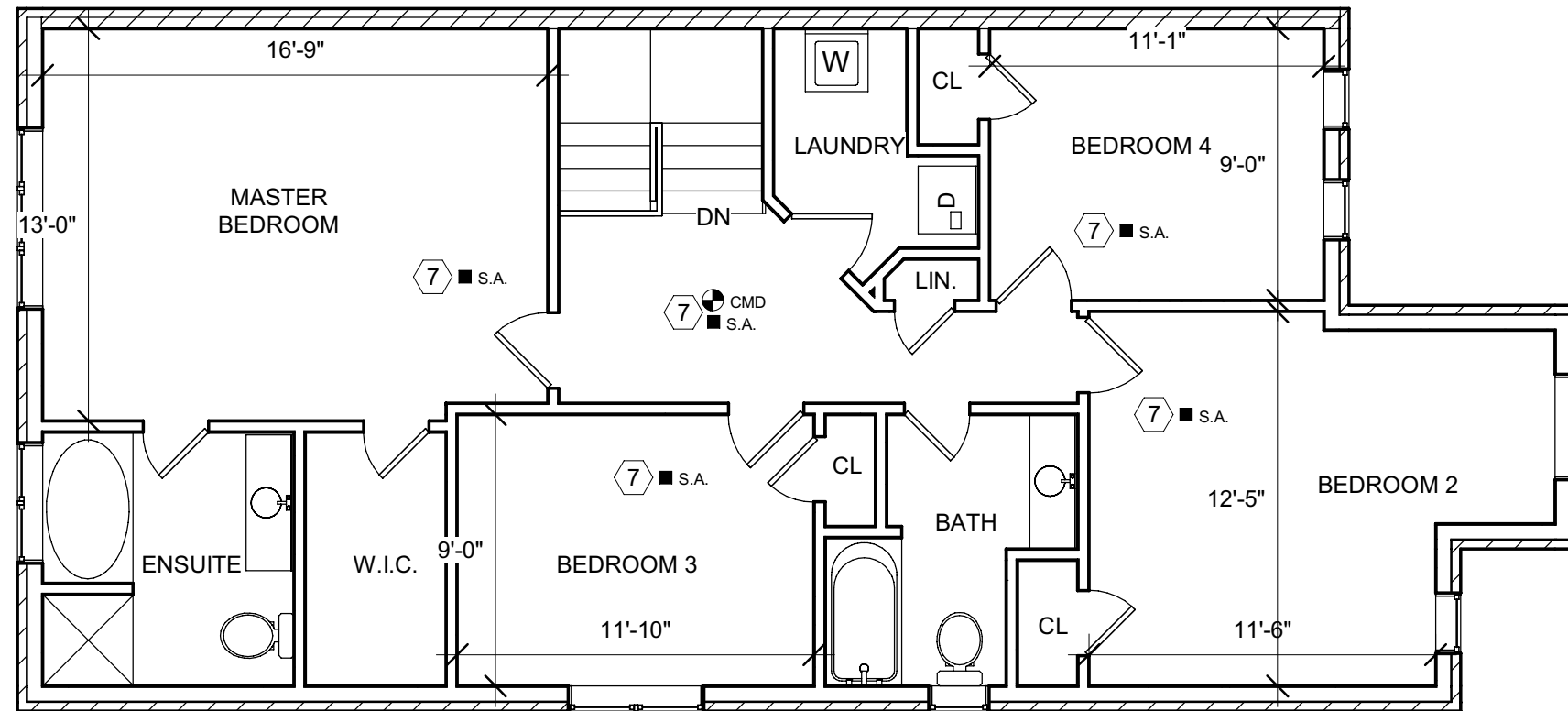
NOBLE PRIME SOLUTIONS LTD
2131 WILLIAMS PARKWAY
UNIT 19,
BRAMPTON, ON.
info@nobleltd.ca
(437) 888 1800

DATE: AUG 03/23 DWG No: A-3
SCALE: 1" = 5'-4"

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23
MM/DD/YY



NOTE:

ALL WINDOWS EXISTING UNLESS OTHERWISE SPECIFIED
FOR DETAILED SPECIFICATIONS AND LEGENDS SEE DWG A-7

EXISTING SECOND FLOOR AREA: 1,111 SF

EXISTING SECOND FLOOR

DRAWN BY: HS CHECKED BY: TR
PROJECT NUMBER: 23R-28368

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(Required unless design is exempted under 3.2.5 Division C of OBC)

DESIGNER	BCIN
Tanvir Rai	103482

Tanvir Rai

FIRM	BCIN
Noble Prime Solutions Ltd	118716

AUG 03/23

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2131 WILLIAMS PARKWAY
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BRAMPTON, ON.

info@nobleltd.ca
(437) 888 1800

01	ISSUED FOR PERMIT	AUG 03/23
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DATE: AUG 03/23

SCALE: 1" = 4'-0"

DWG No:

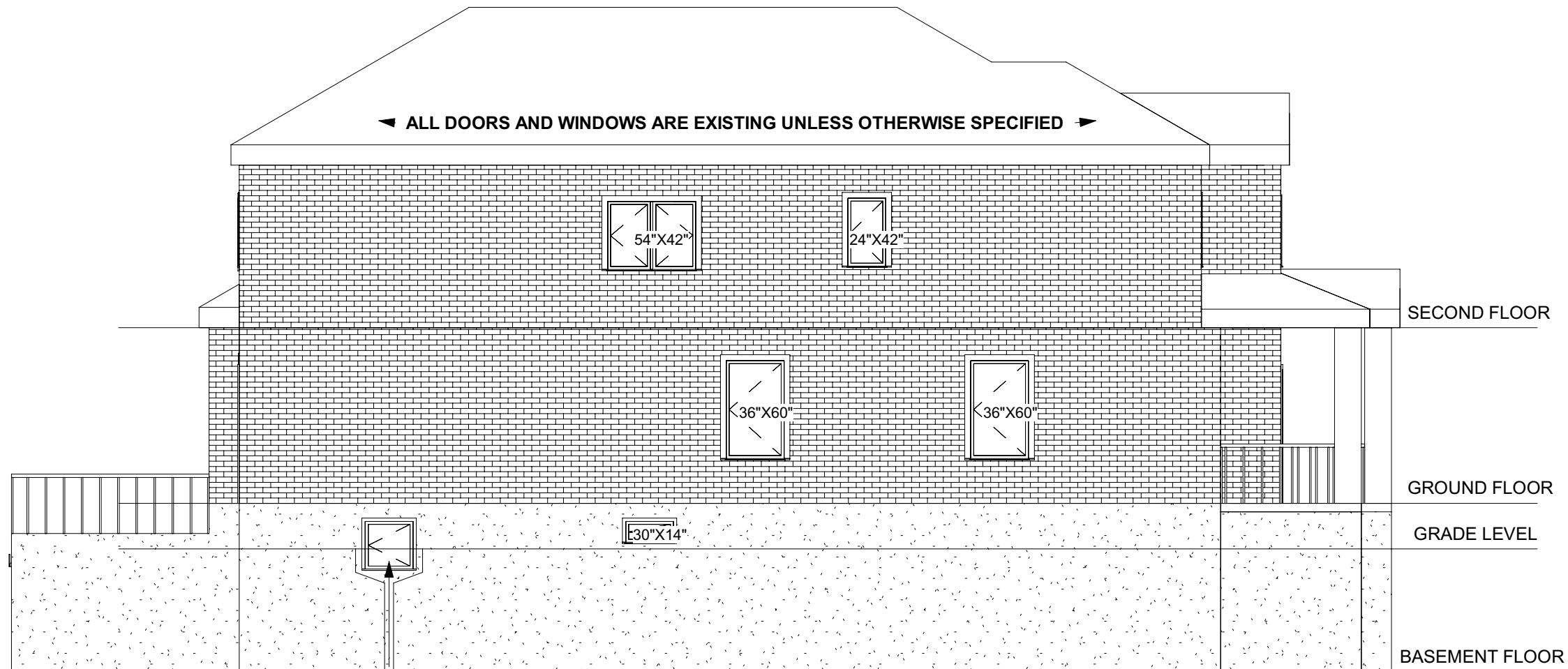
A-4

TOTAL WALL AREA : 875.4 SF.
 ALLOWABLE OPENING : 7% (61.3 SF).
 EXISTING WINDOW AREA : 40.3 SF.
 PROPOSED WINDOW OPENING : 2.7 SF.
 TOTAL OPENING WINDOW : 43 SF.

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23
MM/DD/YY



ENLARGE WINDOW
 W X H : 30" X 14" TO
 W X H : 30" X 30"
 EGRESS WINDOW

WB1 + L1

WINDOW WELL REQUIRED
 DRAIN TO WEEPING TILES

NOTE:

FOR DETAILED SPECIFICATIONS AND LEGENDS SEE DWG A-7

**LEFT SIDE
 ELEVATION**

DRAWN BY: HS CHECKED BY: TR
 PROJECT NUMBER: 23R-28368

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QUALIFICATION INFORMATION
 (Required unless design is exempted under 3.2.5 Division C of OBC)

DESIGNER	BCIN
Tanvir Rai	103482

Tanvir Rai

FIRM	BCIN
Noble Prime Solutions Ltd	118716

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01	ISSUED FOR PERMIT	AUG 03/23
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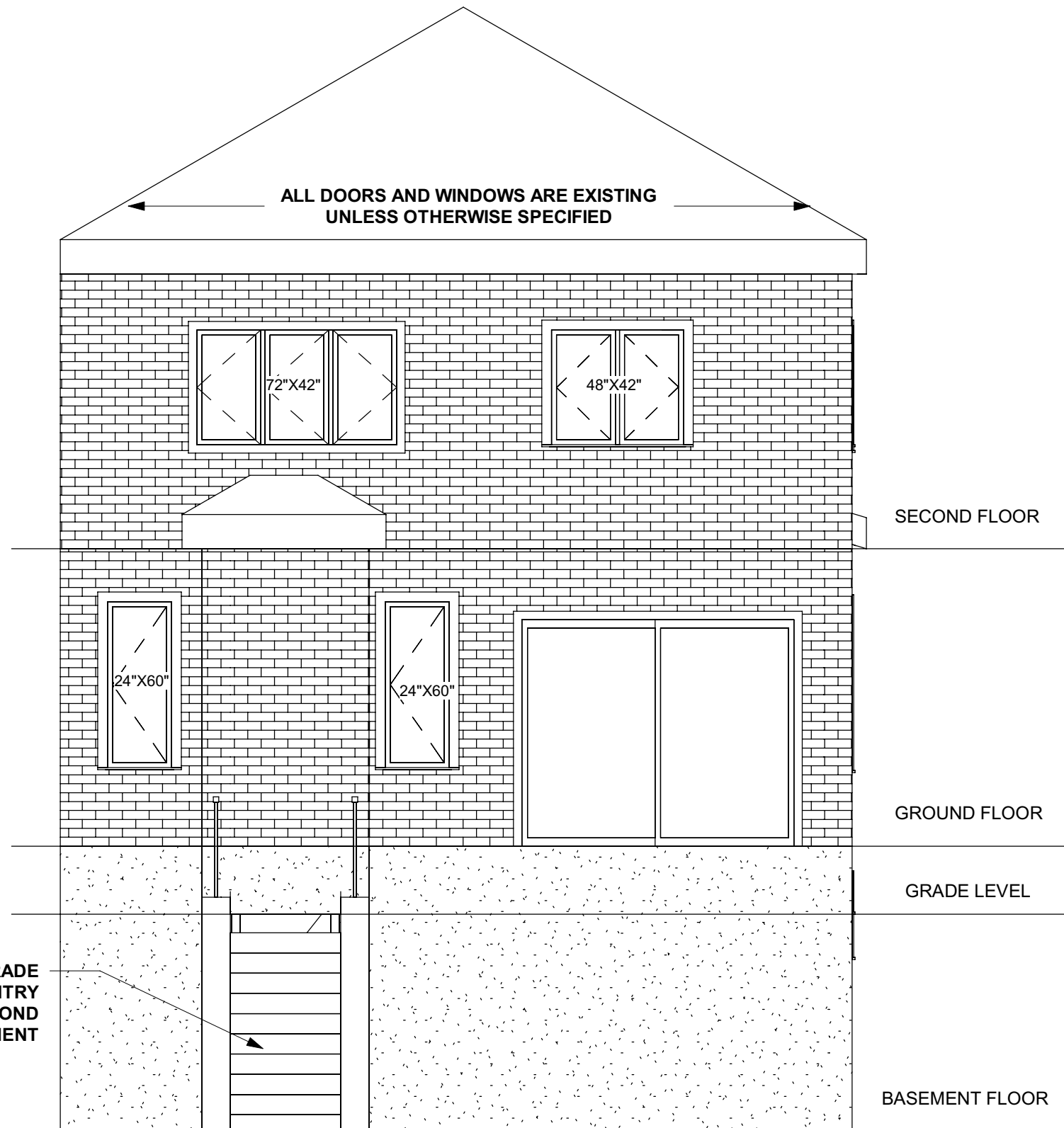
DATE: AUG 03/23	DWG No: A-5
SCALE: 1" = 5'-4"	

Appendix B

File: 23.142835.000.00.MNV

Date: 11/23/23
MM/DD/YY

ALL DOORS AND WINDOWS ARE EXISTING
UNLESS OTHERWISE SPECIFIED



PROPOSED BELOW GRADE
ENTRANCE AS PRIMARY ENTRY
& EXIT FOR SECOND
DWELLING UNIT IN BASEMENT

SECOND FLOOR

GROUND FLOOR

GRADE LEVEL

BASEMENT FLOOR

The undersigned has reviewed and taken responsibility for this design and has qualifications and meet the requirements set out in the Ontario Building Code to be a designer

QUALIFICATION INFORMATION
(Required unless design is exempted under 3.2.5 Division C of OBC)

DESIGNER	BCIN
Tanvir Rai	103482

Tanvir Rai

FIRM	BCIN
Noble Prime Solutions Ltd	118716

AUG 03/23

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MARKHAM, ON

NOBLE PRIME SOLUTIONS LTD

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UNIT 19,
BRAMPTON, ON.

info@nobleltd.ca
(437) 888 1800

01	ISSUED FOR PERMIT	AUG 03/23
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DATE:	AUG 03/23	DWG No:	A-6
SCALE:	1/4" = 1'-0"		

REAR SIDE ELEVATION

DRAWN BY:	HS	CHECKED BY:	TR
PROJECT NUMBER:	23R-28368		

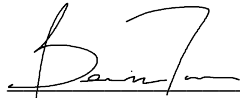
NOTE:

FOR DETAILED SPECIFICATIONS AND LEGEND SEE DWG A-7

APPENDIX “C” – A/179/23 Conditions of Approval

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;
3. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City’s Streetscape Manual, including 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 Technician or Director of Operations; and
4. That the applicant satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix “D” 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:



Bernie Tom, Development Technician, Zoning and Special Projects

To: Shawna Houser, Secretary-Treasurer, Markham Committee of Adjus File: 23.142835.000.00.MNV
From: Adjacent Developments GO Expansion & LRT - Third Party Projects Review - Metrolinx
Date: November 6th, 2023
Re: A/179/23 - 31 Saltspring Dr, Markham

Date: 11/23/23
MM/DD/YY

Metrolinx is in receipt of the minor variance application for 31 Saltspring Dr, Markham, to facilitate a below grade entrance as a primary entry/exit for a proposed second dwelling unit in the basement. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300m of the Metrolinx Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.

Conditions of Approval:

- 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 do not hesitate to contact me.

Best regards,
Farah Faroque
Project Analyst, Third Party Projects Review
Metrolinx
10 Bay Street | Toronto | Ontario | M5J 2N8

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 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 (herein collectively called the "**Operational Emissions**").

THIS Easement and all rights and obligations arising from same shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, servants, 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 each party hereto, if more than one person, shall be joint and several.

Easement in gross.