

Memorandum to the City of Markham Committee of Adjustment

April 10, 2024

File: B/043/23 and A/214/23
Address: 23 Deer Park Lane, Markham
Applicant: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday, April 17, 2024

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

The purpose of the following Consent and Minor Variance application is to sever and convey the subject lands municipally known as 23 Deer Park Lane into 2 residential lots, and to facilitate the construction of a proposed single-detached dwelling fronting onto Deer Park Lane on the severed lot. The existing semi-detached dwelling located on the retained lot shall be maintained.

Consent Application B/043/23

Pursuant to the provisions of Section 53 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and Ontario Regulation No. 197/96, the Application is requesting provisional consent to:

- a) **Sever and convey** a parcel of land with an approximate lot frontage of 20.12 m (66.01 ft) and an approximate lot area of 398.65 m² (4,291.03 ft²) (Part 2); and
- b) **Retain** a parcel of land with an approximate lot frontage of 11.50 m (37.73 ft) and an approximate lot area of 229.19 m² (2,466.98 ft²) (Part 1).

Minor Variance Application A/214/23

The Applicant is requesting relief from the requirements of By-law 1229, as amended, as it relates to a proposed residential dwelling on the severed lot, to permit:

- a) **By-law 1229, Section Table 11.1:**
a front yard setback of 9.51 feet, whereas the by-law requires a minimum front yard setback of 25 feet;
- b) **By-law 1229, Section Table 11.1:**
a rear yard setback of 15.92 feet, whereas the by-law requires a minimum rear yard setback of 25 feet;
- c) **By-law 1229, Section Table 11.1:**
a lot area of 4,291.14 square feet, whereas the by-law requires a minimum lot area of 6,600 square feet;
- d) **Amending By-law 99-90, Section 1.2(i):**
a height of 10.06 metres whereas the by-law permits a maximum height of 9.8 metres;
- e) **By-law 1229, Section Table 11.1:**
a lot coverage of 42.48 percent, whereas the by-law permits a maximum lot coverage of 35 percent;
- f) **By-law 142-95, Section 2.2(a)(i):**
a deck with a rear yard setback of 1.8 metres, whereas the by-law requires a minimum of 3 metres for the rear yard setback; and
- g) **Amending By-law 99-90, Section 1.2(vi):**
a maximum floor area ratio of 63.64 percent, whereas the by-law permits a maximum floor area ratio of 45 percent;

BACKGROUND

Property Description

The 626.97 m² (6,748.65 ft²) subject lands are located on the south side of Deer Park Lane, east of Main Street Markham North, south of 16th Avenue. There is an existing semi-detached dwelling located on the property, which according to assessment records, was constructed in 1959. Mature vegetation exists across the property including several mature trees in the front and rear yards.

The subject lands are located within the established low-rise residential neighborhood comprised of a mix of dwelling types, including, but not limited to; detached, semi-detached and townhouse dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Staff note that the subject lands are not located within the Markham Village Heritage Conservation District.

Proposal

The Applicant is proposing to sever the existing residential lot municipally known as 23 Deer Park Lane into two residential lots, to facilitate the construction of one new single detached dwelling on the severed lot (Part 2). The existing Semi-Detached dwelling is to be maintained on the retained lot (Part 1). (Refer to Appendix "A" for Draft Reference Plan). The retained lot (Part 1) will have a lot area of 229.19 m² (2,466.98 ft²) and a 11.50 m (37.73 ft) frontage. The conveyed lot (Part 2) will have a lot area of 398.65 m² (4,291.03 ft²) and a lot frontage of 20.12 m (66.01 ft). Both lots will have frontage on Deer Park Lane.

OFFICIAL PLAN AND ZONING

2014 Official Plan (Partially approved on November 24, 2017, and updated on April 9, 2018)

The 2014 Official Plan designates the Subject Lands "Residential Low Rise", which provides for low rise housing forms, including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for "Residential Low Rise" designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighborhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation. Section 10.3.2.4 of the Official Plan outlines criteria for provisional consent.

Planning Staff have taken into account the infill development criteria while preparing the comments below.

Zoning By-Law 1229, as amended

The subject property is zoned "Residential Two" (R2) under By-law 1229, as amended, which permits Single Family Detached, Semi-Detached, Converted, and Duplex Dwellings, along with Accessory Buildings.

This zone category requires single family detached dwelling lots to have a minimum lot frontage of 18.28 m (60 ft), and a minimum lot area of 613.16 m² (6,600 ft²). It also requires a pair of Semi-Detached lots to have a minimum combined lot frontage of 22.86 m (75 ft) and a minimum combined lot area of 761.81 (8200 ft²). While the retained Semi-Detached

Dwelling lot (Part 1) meets the zoning provisions the severed single family detached lot (Part 2) presents a significant deviation.

COMMENTS

Consent to Sever Application B/043/23

The Applicant is proposing one new residential lot to be created through provisional consent. As previously noted, the retained lot (Part 1) will have an approximate lot frontage of 11.50 m (37.73 ft) and an approximate lot area of 229.19 m² (2,466.98 ft²). The conveyed lot (Part 2) will have an approximate lot frontage of 20.12 m (66.01 ft) and an approximate lot area of 398.65 m² (4,291.03 ft²). Both lots comply with the minimum lot frontage as set out by Zoning By-Law 1229, as amended. However, the discrepancy in lot area of the conveyed lot (Part 2) is considerable, representing a shortfall of 214.51 m² (2,308.97 ft²) from the prescribed minimum of 613.16 m² (6,600 ft²).

Under Section 10.3.2.4 (g) of the 2014 Official Plan, it is stipulated that the size and shape of the lot(s) must conform with the requirements of the zoning by-law, be suitable for the proposed use, and be compatible with adjacent lots. The deficiency in lot area of the severed lot, and the necessity for significant Minor Variance requests to rectify numerous Zoning By-Law deficiencies, demonstrates that a single-family dwelling cannot be appropriately accommodated on the proposed severed lot and that the applicable zoning did not consider the proposed development.

Staff note that in 2020, the severance of 12 and 16 Deer Park Lane was achieved through a Zoning By-Law Amendment Application which implemented a new zone category with a new set of site-specific development standards which were more appropriate to accommodate the proposed development. Staff are not in support of this Consent to Sever Application with the associated minor variances which are discussed below.

Minor Variance Application A/214/23

The *Planning Act* states that four tests must be met in order for a minor variance to be granted by the Committee of Adjustment:

1. The variance must be minor in nature;
2. The variance must be desirable, in opinion of the Committee of Adjustment, for the appropriate development or use of land, building, or structure;
3. The general intent and purpose of the Zoning By-law must be maintained; and,
4. The general intent and purpose of the Official Plan must be maintained.

Staff note that the applicant seeks relief from numerous sections of By-Law 1229 to rectify the inadequacies in meeting Zoning-Bylaw requirements as a result of the creation of the undersized proposed lot for the proposed single-family dwelling (Part 2). Staff note that each variance request proposes a significant deviation from the intent of the Zoning By-Law. The variances do not meet the four (4) tests and therefore cannot be supported. The need for variance relief from the majority of development standards demonstrates that the proposed lot is not sufficient in size for the proposed development and therefore not appropriate.

CONCLUSION

Staff have had regard for the criteria in Section 51 (24) of the Planning Act and Section 45 (1) of the Planning Act and for the reasons described above, cannot support the proposed

severance and minor variances. Staff recommend denial of Applications B/043/23 and A/214/23 because they are not appropriate and are not in keeping with the Planning Act.

PREPARED BY:



Aaron Chau, Planner

REVIEWED BY:



Rectangular Snip

Stacia Muradali, Development Manager

APPENDICIES

Appendix "A" – Draft Refence Plan

Appendix "B" – Plans

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT. **PLAN 66R-**

Appendix A

DATE: NOVEMBER 14, 2023 DATE: NOVEMBER 14, 2023

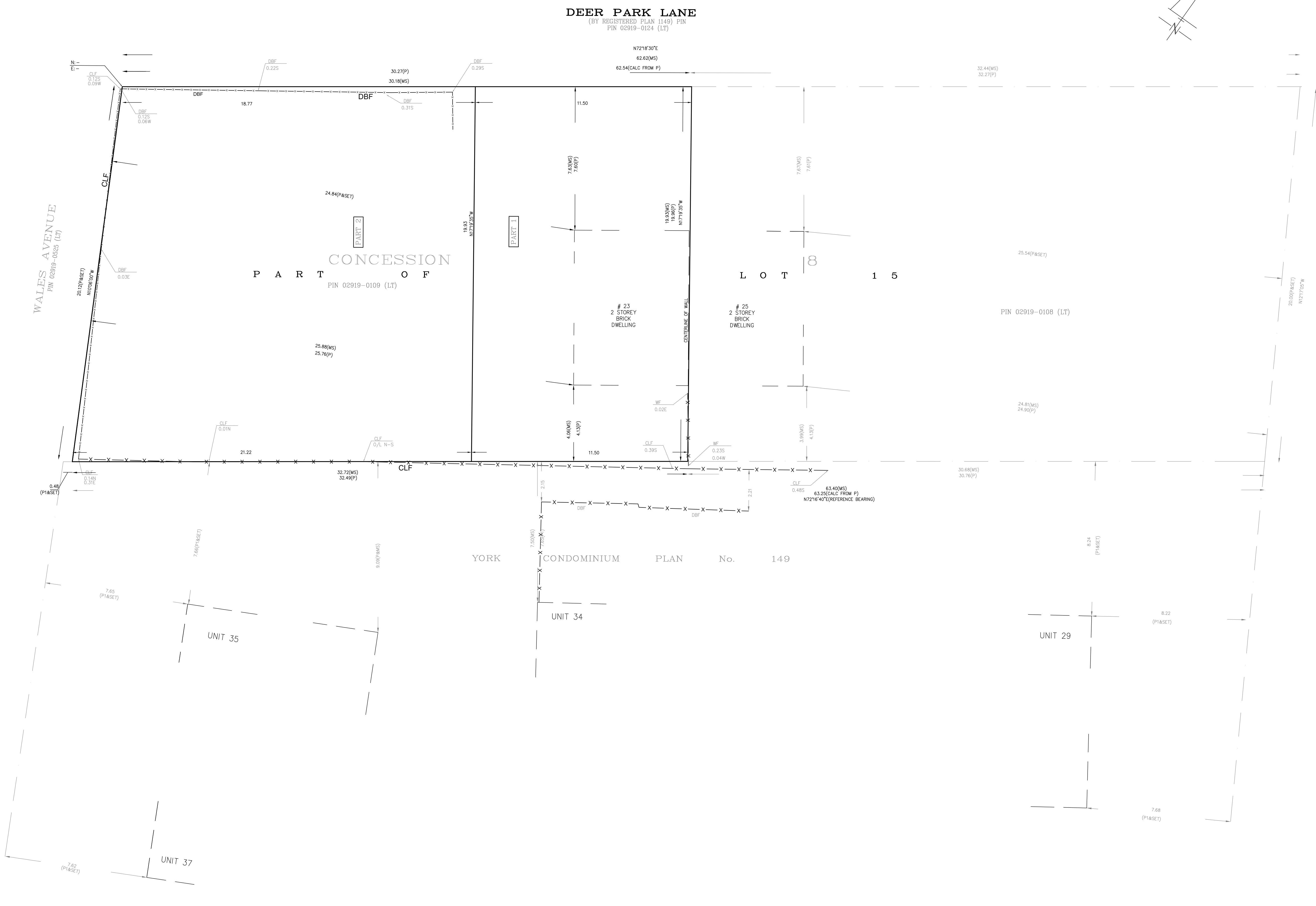
File: **23.149288.000.CSNT**

AZIZ, ABDELSHAHID
ONTARIO LAND SURVEYOR REPRESENTATIVE FOR LAND REGISTRAR FOR THE LAND TITLES DIVISION OF TORONTO REGISTRY OFFICE (No. 66)

Date: **4/15/2024**

PART	LOT	REGISTERED YEAR	AREA
1	15	CONCESSION 8	PIN 02919-0109 (LT)
2			398.665 m ²

* PARTS 1 AND 2 COMPRISED ALL OF PIN PIN 02919-0109 (LT)



SURVEYOR'S REAL PROPERTY REPORT OF
PART 1:
PLAN OF LOT 15
CONCESSION 8
TOWN OF MARKHAM
(REGIONAL MUNICIPALITY OF YORK)

SCALE = 1 : 100

A. AZIZ SURVEYORS INC., O.L.S.

METRIC: DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

BEARING SHOWN HEREON ARE GRID, DERIVED FROM OBSERVED REFERENCE POINTS (ORP'S) A & B, BY REAL TIME NETWORK OBSERVATIONS, NAD 83 (CSRS V6) (EPOCH 2010.00)

INTEGRATION DATA
OBSERVED REFERENCE POINTS (ORP'S) DERIVED FROM GPS OBSERVATIONS USING THE SOKKIA GPS (RMC) NETWORK SERVICE AND ARE REFERRED TO WITH ZONE 10, NAD 83 (CSRS V6) (EPOCH 2010.00)

POINT ID	NORTHING	EASTING
A	0	0
B	0	0

DISTANCE SHOWN ON THE PLAN ARE ADJUSTED GROUND DISTANCE AND CAN BE USED TO COMPUTE GRID DISTANCE BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.9999011

ROTATION NOTE
FOR BEARING COMPARISONS A ROTATION OF " - ' " WAS APPLIED TO

- LEGEND:
- REMOTES SURVEY MONUMENT FOUND
 - SURVEY MONUMENT SET
 - SB - STANDARD IRON BAR
 - N,E,S,W - NORTH, EAST, SOUTH, WEST
 - CU - CURB
 - MS - MEASURED
 - PLAN - PLAN OF SURVEY BY BOARD & MUCKLESTONE O.L.S., DATED JULY 20, 1999
 - P - YORK CONDOMINIUM PLAN No. 149 O.L.S., DATED AUGUST 1, 2012
 - PI - YORK CONDOMINIUM PLAN No. 149
 - CLF - CHAIN LINK FENCE
 - BF - BOARD FENCE
 - CC - CUT CROSS
 - WT - WITNESS

SURVEYOR'S CERTIFICATE
I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 10th DAY OF NOVEMBER, 2023.

DATE: NOVEMBER 14 2023
A. ABDELSHAHID
ONTARIO LAND SURVEYOR

A. AZIZ SURVEYORS INC.
ONTARIO LAND SURVEYORS
120 NEWKIRK ROAD-#31, RICHMOND HILL, ONT. L4C-9S7
Tel: (905) 237-8224 Fax: (416) 477-5465
Website: A-Azizsurveyors.ca
E-Mail: aziz@m-azizsurveyors.ca

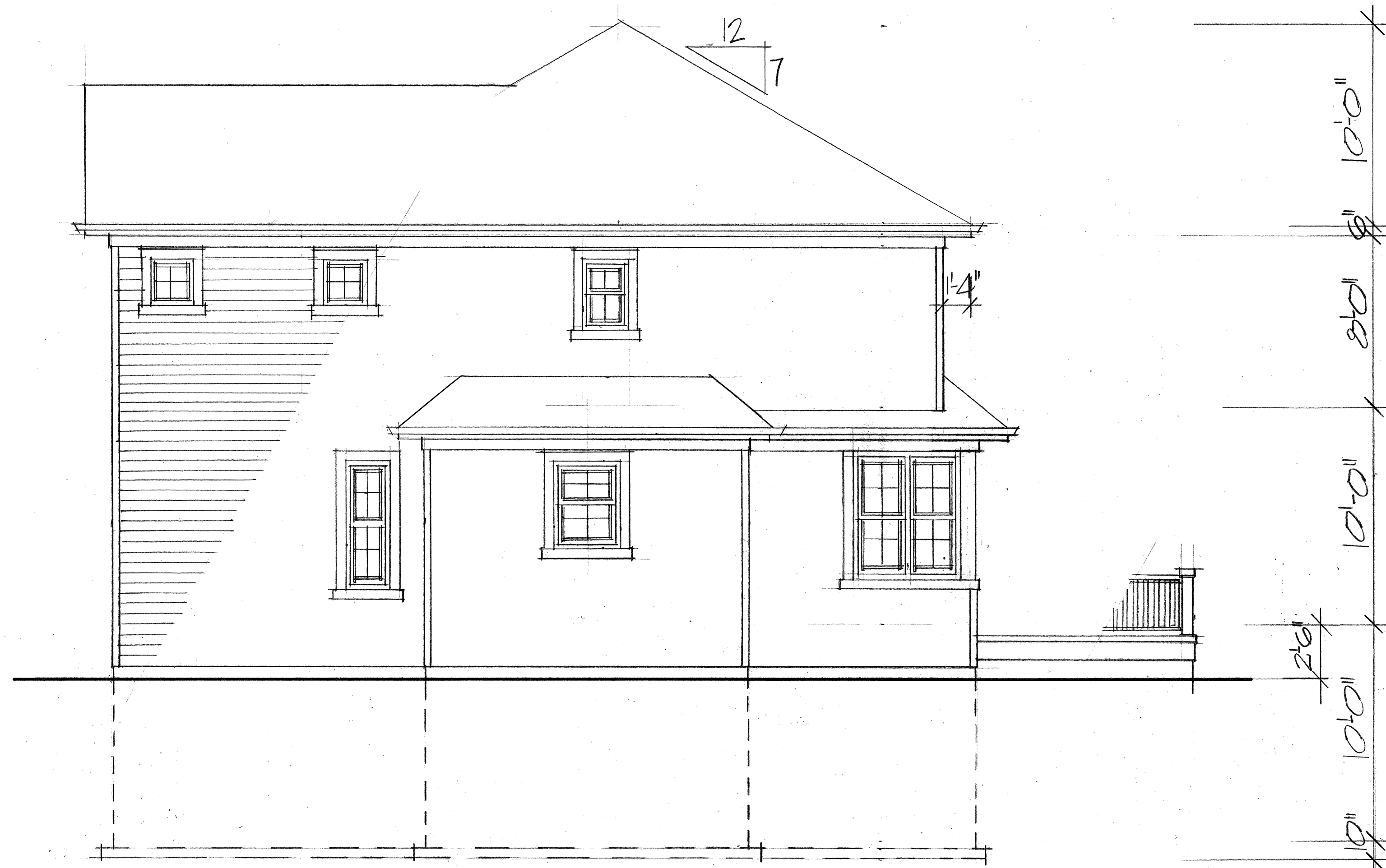
PROJECT NUMBER	PROJECT
23-166	23 DEER PARK LANE (RP)

DRAWN BY	CHECKED BY
MEL	A.A

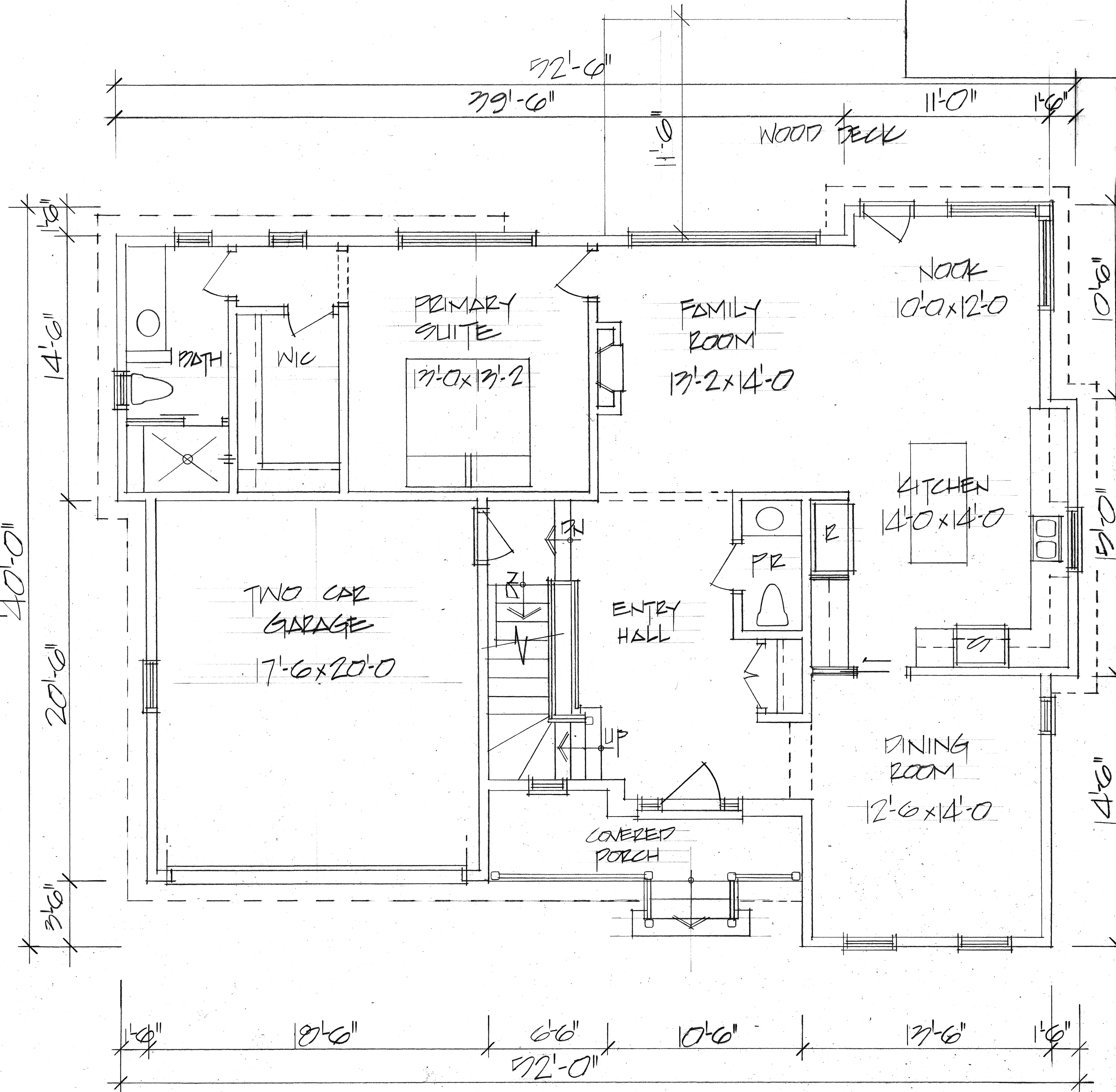
Appendix B

File: 23.149288.000.00.CSNT

Date: 4/15/2024
MM/DD/YY



WEST SIDE



GROUND FLOOR PLAN

GROUND FLOOR AREA = 1379 SQ FT
NET FLOOR AREA = 1750 " "
BUILDING AREA = 1820 " "



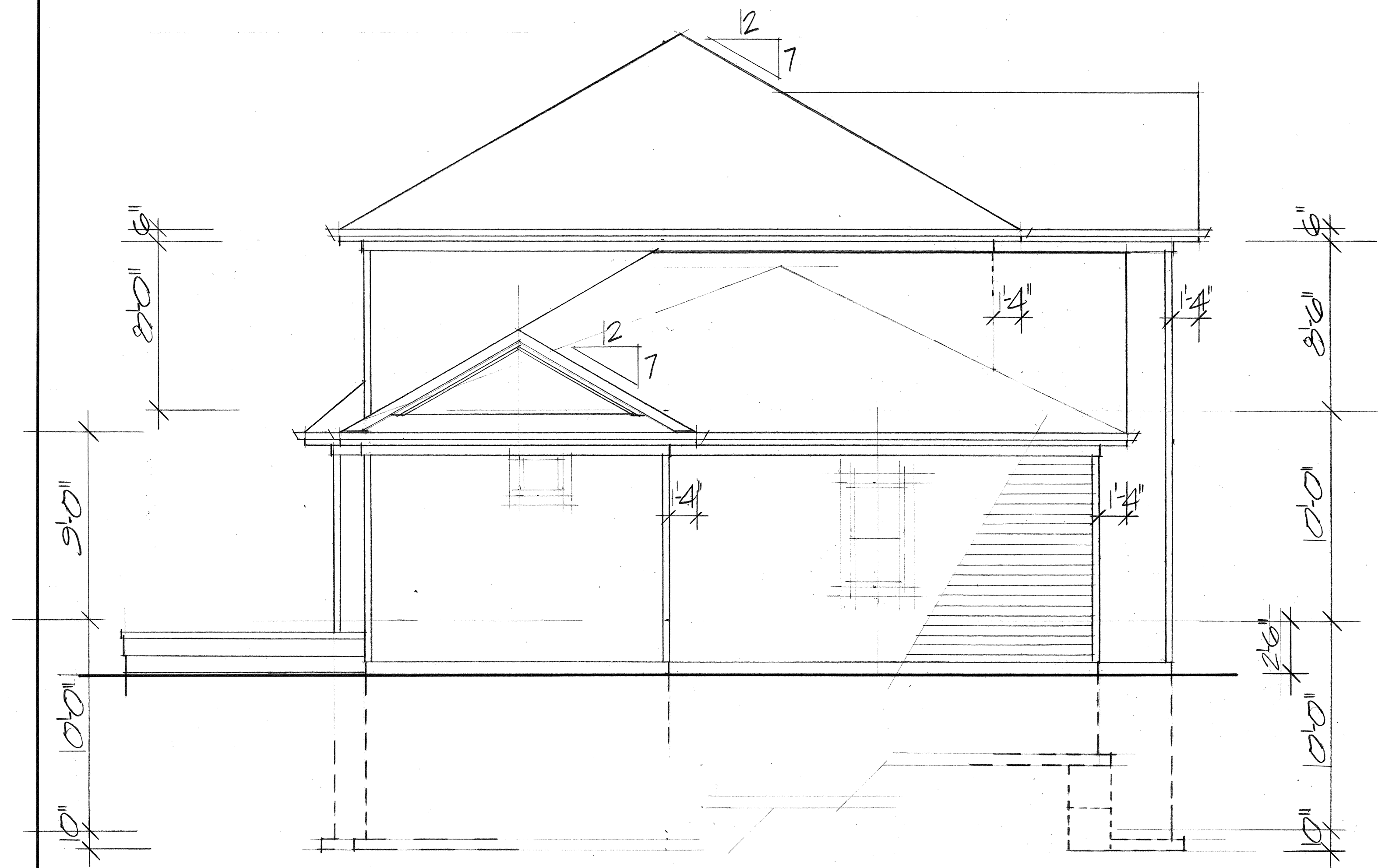
FRONT ELEVATION - NORTH

PROJECT: THE FEMIA RESIDENCE	NOTES: ALL CONSTRUCTION IS TO CONFORM TO SECTION 9.9 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 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.	DRAWN:
		DATE:
THE GREGORY DESIGN GROUP 67 SUMMERFELDT CRES. UNIONVILLE, ONTARIO, L3R 2B1 OFFICE (905) 479-4767 FAX (905) 479-8496	SCALE:	PROJECT NO.: ZAF1-23
		DRAWING NO.:

Appendix B

File: 23.149288.000.00.CSNT

Date: 4/15/2024
MM/DD/YY



EAST SIDE



REAR ELEVATION · SOUTH

PROJECT:	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.	DRAWN:
THE FEMIA RESIDENCE	INDIVIDUAL B.C.I.N. - 25825	R. GREGORY
	FIRM B.C.I.N. - 30506	DATE:
	Russ Gregory NAME SIGNATURE	SCALE:
		1/4"=1'-0"
THE GREGORY DESIGN GROUP	GENERAL NOTES:	PROJECT NO.:
18 Paradise Ave	All construction is to conform to section "B" of the Ontario Building Code (latest edition).	DRAWING NO.:
MARKHAM, ONTARIO, L3P 3B9	Contractor shall check and verify all notes and dimensions. Do not scale drawings.	A-4
(416) 720-4667	Client/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.	
russ@gregorydesigngroup.net		

Appendix B

File: 23.149288.000.00.CSNT

Date: 4/15/2024

MM/DD/YY

DEER PARK LANE

(BY REGISTERED PLAN 1149)

PIN 02919-0124 (LT)

CONCESSION

PART OF

PIN 02919-0109 (LT)

LOT 15

PIN 02919-0108 (LT)

YORK CONDOMINIUM PLAN No. 149

PART 2: REPORT

- * THIS REPORT WAS PREPARED FOR RUSS GREGORY, AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

BOUNDARIES

- * PART OF LOT 15, CONCESSION 8.

TITLE SEARCH INDICATES

- * NO EASEMENTS OR RIGHT OF WAYS REGISTERED ON TITLE.

ZONING

- * NO INVESTIGATION WITH RESPECT TO MUNICIPAL ZONING BY LAW HAS BEEN MADE FOR THE SUBJECT PROPERTY (PROPERTIES).

FENCES

- * PLEASE NOTE THE POSITION OF THE FENCES IN RELATION TO THE SOUTHERLY, NORTHERLY & EASTERLY BOUNDARIES; THEY ARE LOCATED OVER THE SUBJECT BOUNDARIES TO THE EXTENT SHOWN ON THE PLAN.

BEARING NOTE

- * BEARING ARE ASTRONOMIC AND ARE REFERRED TO THE NORTHERLY LIMIT OF 14TH AVENUE HAVING A BEARING OF N72°16'40"E AS SHOWN ON YORK CONDOMINIUM PLAN No. 149

LEGEND:

■ DENOTES SURVEY MONUMENT FOUND	IB DENOTES IRON BAR
□ DENOTES SURVEY MONUMENT SET	CC - CUT CROSS
SB - STAINLESS IRON BAR	WT - WITNESS
IP - IRON PIPE	OU - ORIGIN UNKNOWN
N.E.S.W. - NORTH, EAST, SOUTH, WEST	SDI - DECIDUOUS TREE
DBF - DOUBLE BOARD FENCE	*CT - CONIFEROUS TREE
CLF - CHAIN LINK FENCE	
WF - WIRE FENCE	
P - PLAN OF SURVEY BY BARD & MCKLESTONE O.L.S., DATED JULY 30, 1999	
PI - PLAN OF SURVEY BY BARD & MCKLESTONE O.L.S., DATED AUGUST 1, 2012	
PI - YORK CONDOMINIUM PLAN No. 149	

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 REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 10th DAY OF NOVEMBER, 2023.

DATE: NOVEMBER, 14 2023

A. Abdelshahid
A. ABDEL SHAHID
ONTARIO LAND SURVEYOR

A. AZIZ SURVEYORS INC
ONTARIO LAND SURVEYORS
120 NEWKIRK ROAD-#31, RICHMOND HILL, ONT. L4C-9S7
Tel: (905) 237-8224 Fax: (416) 477-5465
Website: M-Azizsurveyors.ca
E-Mail: aziz@m-azizsurveyors.ca

PROJECT NUMBER	PROJECT
23-166	23 DEER PARK LANE (SR-PR)
DRAWN BY	CHECKED BY
MEL	A.A