

Memorandum to the City of Markham Committee of Adjustment

June 22, 2020

File: A/040/20
Address: 15 Mindy Crescent, Markham
Applicant: Naveen Goyal & Deepak Goyal
Agent: Building Experts Canada
Hearing Date: June 30, 2020

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

The applicant is requesting relief from the following requirements of the 'Fourth Density - Semi-Detached Residential' (RSD4) zone in By-law 90-81, as amended, as it relates to a proposed basement apartment. The variance requested is as follows:

a) Bylaw 90-81, Section 6.2:

to permit a secondary dwelling unit, whereas the By-law permits no more than one dwelling per lot.

BACKGROUND

Property Description

The 353 m² (3800 ft²) subject property is located on the south side of Mindy Crescent, which is north of Denison Street and east of Fonda Road. An existing two-storey semi-detached dwelling exists on the subject property, which was constructed in 1994 according to assessment records. The existing dwelling has a two-car garage and driveway.

While the dwelling may visually appear to be single detached above grade, the dwelling links to the adjacent dwelling by a common foundation, and is considered a semi-detached dwelling by definition of the By-law. This configuration is permitted in accordance with the applicable 90-81 Zoning By-law, as amended, and is a common characteristic of the community.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling, as shown in the plans attached in Appendix "B". The proposed secondary suite would have direct and separate access at the east side of the house, via exterior stairs and a door to the basement level. No other changes are proposed to the exterior of the dwelling or the property.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. Under this legislation, "second suites" are now referred to as "additional residential units", and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the Growth Plan, 2019 requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

Official Plan and Zoning

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

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 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is 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. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways, and the overall orientation and sizing of new lots within a residential neighbourhood.

The 2014 Official Plan (Section 4.1.2.6) contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new permitted single-detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria and standards.

As previously mentioned, the City’s Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings, and secondary suites in accordance with Section 8.13.8. A “Secondary Suite” in the 2014 Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 8.13.8 states:

“That in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including:

- a) *the building type in which the secondary suite is contained;*
- b) *the percentage of the floor area of the building type devoted to the secondary suite;*
- c) *the number of dwelling units permitted on the same lot;*

- d) *the size of the secondary suite;*
- e) *the applicable parking standards; and*
- f) *the external appearance of the main dwelling.”*

Zoning By-Law 90-81

The subject property is zoned ‘Fourth Density – Semi-Detached Residential’ (RSD4) under By-law 90-81, as amended, which permits one dwelling on a lot. As such, the applicant has submitted a variance to permit a secondary suite within the basement of the dwelling.

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, “*Section 4.1.2.6 of City of Markham’s Official Plan permit second suites. Existing Zoning By-law does not comply with Section 35(l) of the Planning Act.*”

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) 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.

Secondary Suites

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore, have no objections. It should be noted that the Parking Standards By-law 28-97, as amended, requires two parking spaces for a semi-detached dwelling and an additional parking space for an accessory unit. As per the plans submitted with this application (Appendix ‘B’), parking for up to four cars is provided on the subject property in a two-car garage and two-car driveway, to satisfy the requirements of the parking by-law should this variance be approved.

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 22, 2020. 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.

APPLICATION PROCESSING

This application was initially scheduled to be heard on April 1, 2020; however, this hearing date was scheduled prior to the Province of Ontario's decision to suspend *Planning Act* timelines for the consideration of a consent and minor variance application, as well as any appeal of an application to the Local Planning Appeal Tribunal.

On June 12, 2020, the Province announced that the emergency regulations relating to *Planning Act* applications will end on June 22, 2020. After June 22, 2020, the procedural requirements (e.g. sending of notices, public meetings, eligibility for appeals to LPAT, etc.) of *Planning Act* applications shall proceed as they did prior to the declaration of the emergency.

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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Melissa Leung, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/040/20

1. 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 B' to this Staff Report and recommended by the City of Markham on April 15, 2020, 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 the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite

CONDITIONS PREPARED BY:

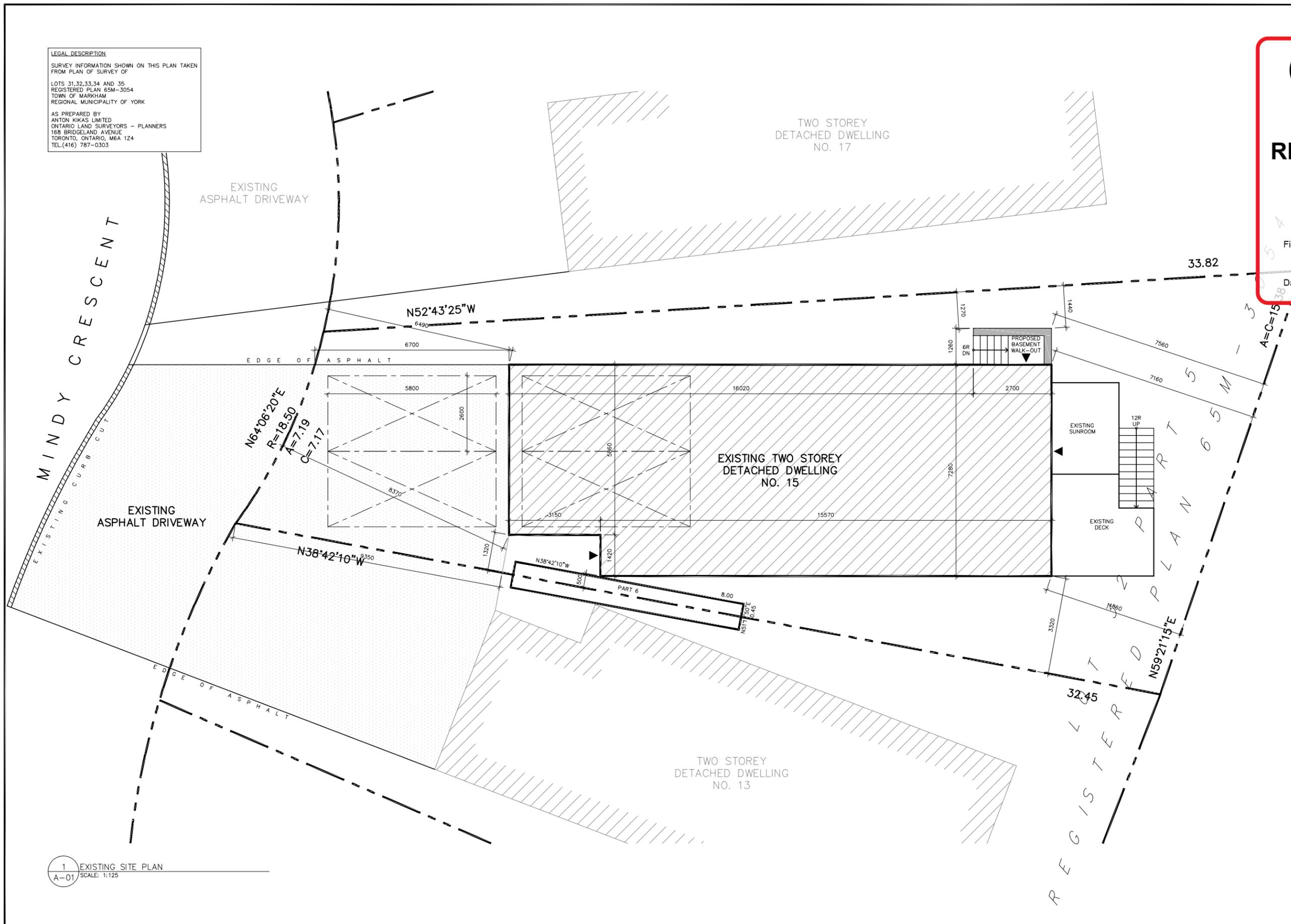


Melissa Leung, Planner, Zoning and Special Projects



File: **20.110228.000.0**
0.MNV
 Date: **04/15/20**
MM/DD/YY

LEGAL DESCRIPTION
 SURVEY INFORMATION SHOWN ON THIS PLAN TAKEN FROM PLAN OF SURVEY OF LOTS 31,32,33,34 AND 35 REGISTERED PLAN 65M-3054 TOWN OF MARKHAM REGIONAL MUNICIPALITY OF YORK
 AS PREPARED BY ANTON KIKAS LIMITED ONTARIO LAND SURVEYORS - PLANNERS 168 BRIDGELAND AVENUE TORONTO, ONTARIO, M6A 1Z4 TEL:(416) 787-0303



2	CLIENT REVIEW	02/14/20
1	CLIENT REVIEW	02/04/20
NO.	ISSUED FOR	DATE

ALL MEASUREMENTS ARE IN mm UNLESS OTHERWISE NOTED.
 UNAUTHORIZED USE OR REUSE OF THIS DRAWING IS NOT PERMITTED.

STAMP:

PREPARED BY:
LAND & BUILDING EXPERTS
 570 Alden Rd., Unit 6, Markham, ON. L3R 8N5
 (647) 340-8649 landbuildex@gmail.com

PROJECT INFO:
15 MINDY CRESCENT MARKHAM, ON. L3S 3X4

PROJECT NAME:
ALTERATION TO AN EXISTING 2 STOREY SINGLE FAMILY DWELLING TO HAVE A SECOND SUITE IN THE BASEMENT

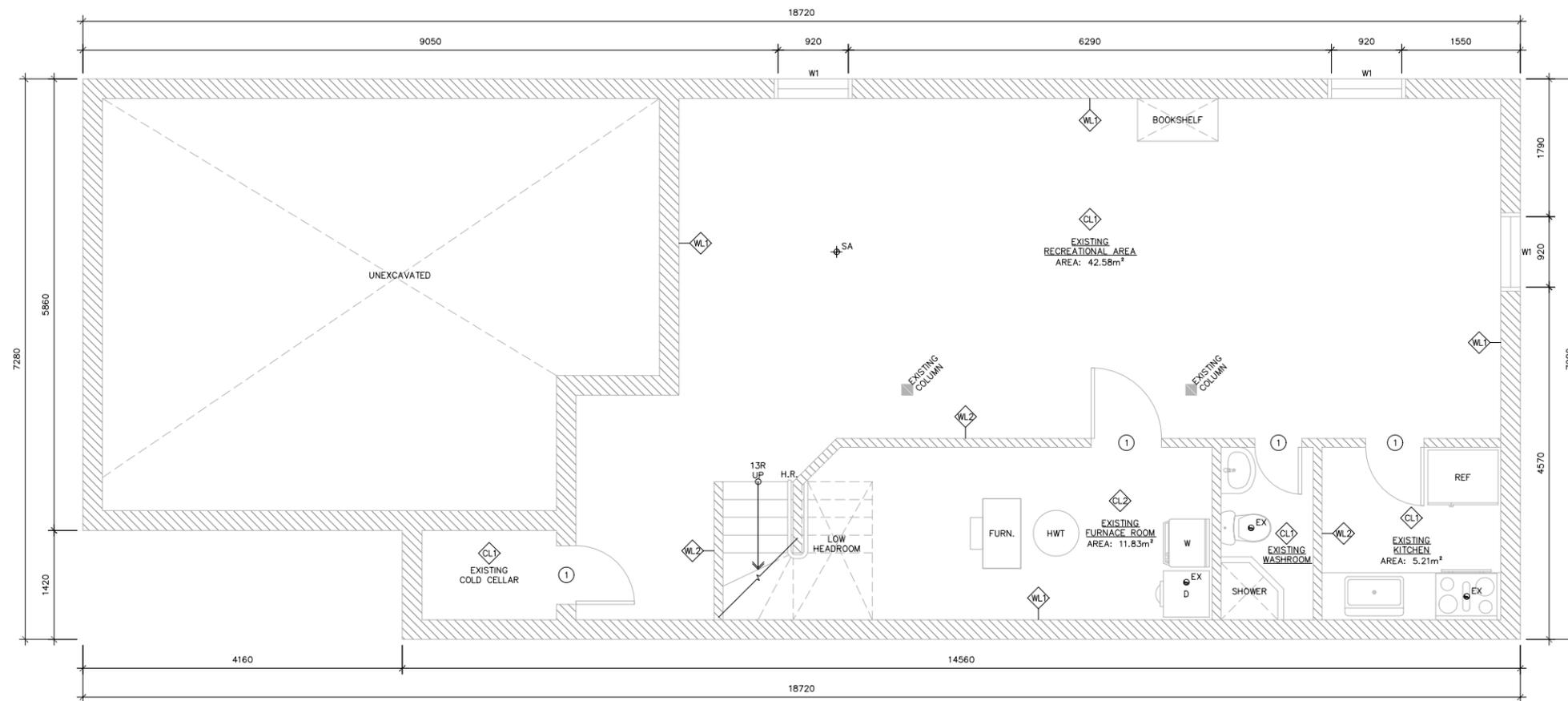
DRAWING TITLE:
EXISTING SITE PLAN

SCALE: AS NOTED	DWG. NO.
DRAWN BY: P.R.	A-01
CHECKED BY: E.L.	
PROJECT NO.: 1219-15	

1 EXISTING SITE PLAN
 A-01 SCALE: 1:125



File: 20.110228.000.0
0.MNV
 Date: 04/15/20
MM/DD/YY



1 EXISTING BASEMENT FLOOR PLAN
 A-02 SCALE: 1:75

2	CLIENT REVIEW	02/14/20
1	CLIENT REVIEW	02/04/20
NO.	ISSUED FOR	DATE

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 L3S 3X4**

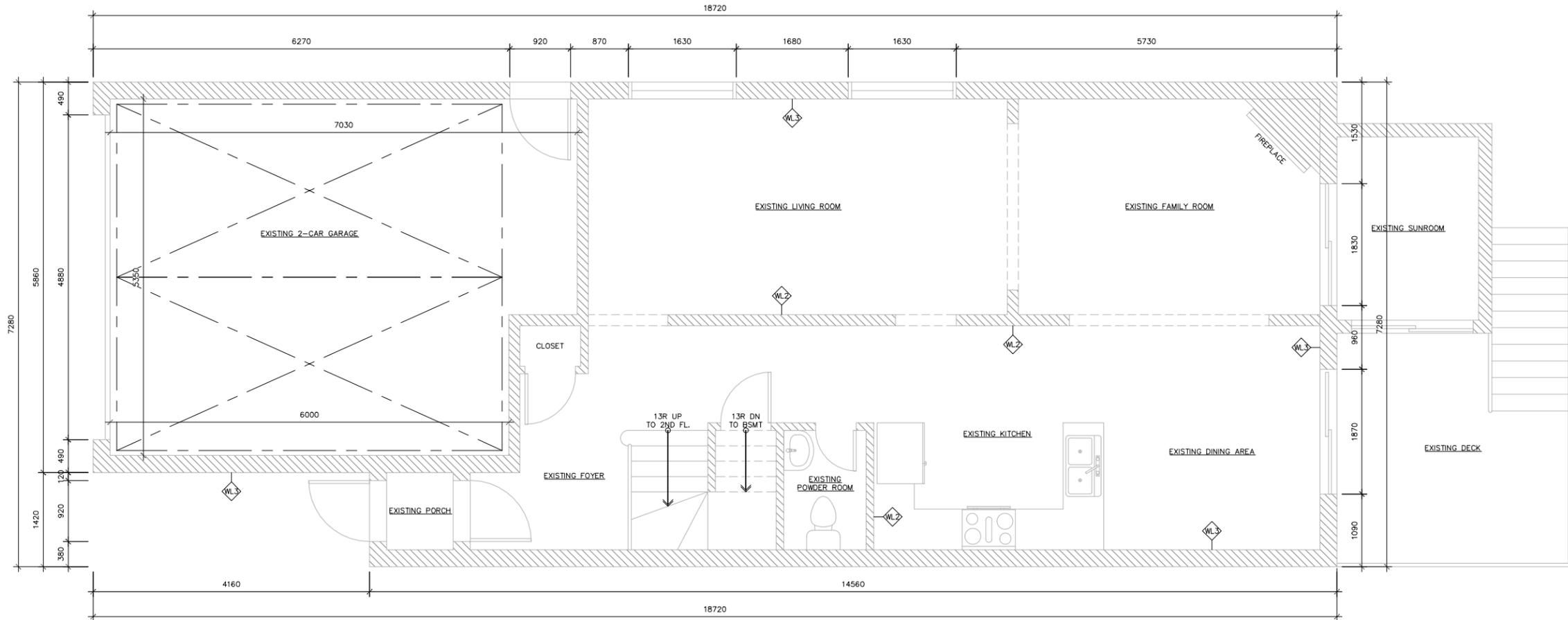
PROJECT NAME:
**ALTERATION TO AN EXISTING 2
 STOREY SINGLE FAMILY DWELLING
 TO HAVE A SECOND SUITE IN THE
 BASEMENT**

DRAWING TITLE:
**EXISTING BASEMENT
 FLOOR PLAN**

SCALE: AS NOTED	DWG. NO.
DRAWN BY: P.R.	A-02
CHECKED BY: E.L.	
PROJECT NO.: 1219-15	



File: 20.110228.000.0
0.MNV
 Date: 04/15/20
MM/DD/YY



1 EXISTING GROUND FLOOR PLAN
 A-03 SCALE: 1:75

2	CLIENT REVIEW	02/14/20
1	CLIENT REVIEW	02/04/20
NO.	ISSUED FOR	DATE

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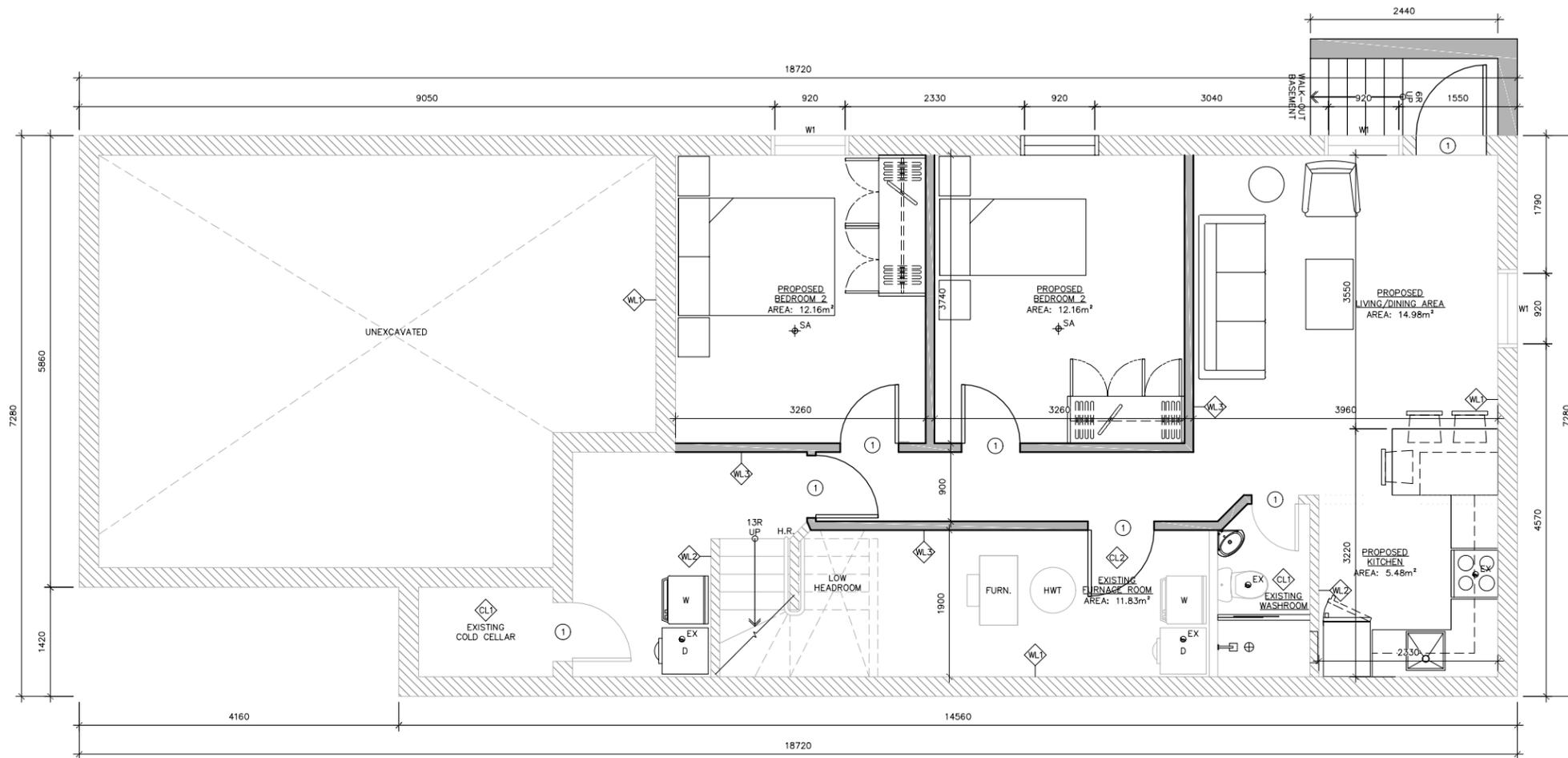
PROJECT NAME:
**ALTERATION TO AN EXISTING 2
 STOREY SINGLE FAMILY DWELLING
 TO HAVE A SECOND SUITE IN THE
 BASEMENT**

DRAWING TITLE:
**EXISTING GROUND
 FLOOR PLAN**

SCALE: AS NOTED	DWG. NO.
DRAWN BY: P.R.	A-03
CHECKED BY: E.L.	
PROJECT NO.: 1219-15	



File: 20.110228.000.0
0.MNV
 Date: 04/15/20
 MM/DD/YY



1 PROPOSED BASEMENT FLOOR PLAN
 A-04 SCALE: 1:75

2	CLIENT REVIEW	02/14/20
1	CLIENT REVIEW	02/04/20
NO.	ISSUED FOR	DATE

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 BASEMENT**

DRAWING TITLE:
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 FLOOR PLAN**

SCALE: AS NOTED	DWG. NO.
DRAWN BY: P.R.	A-04
CHECKED BY: E.L.	
PROJECT NO.: 1219-15	