

Memorandum to the City of Markham Committee of Adjustment

January 22nd, 2019

File: A/32/19
Address: 14 Buttonfield Rd, Markham
Applicant: Yue Sun & Zhang Ying
Agent: Henry He
Hearing Date: Wednesday January 22, 2019

The Central Team provides the following comments. The Applicant requests relief from the following requirements of By-law 118-79, R6 – “Sixth Density – Single Family Residential” Zone, as amended:

a) Section 6.1 & 7.1.1:

a second dwelling unit/basement apartment, whereas the By-law permits no more than one single detached dwelling unit on a lot as it relates to a proposed basement apartment.

BACKGROUND

Property Description

The 557.04 m² (5,996 ft²) subject property is located on the west side of Buttonfield Road, south of 16th Avenue and west of Rodick Road, and within an existing residential neighbourhood comprised of a mix of one and two-storey detached dwellings. A two-storey single detached dwelling currently exists on the subject property, which according to assessment records was constructed in 1988.

Proposal

The Applicant requests permission for a secondary suite in the basement of the existing dwelling. The proposed secondary suite would have direct access through an existing door at the rear of the building. The Applicant proposes no changes to the exterior of the dwelling or the subject property.

Provincial Policies

Strong Communities through Affordable Housing Act

In 2011, the *Strong Communities through Affordable Housing Act* amended various sections of the *Planning Act* to facilitate the creation of second units by:

- requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, ‘Second Units’ also known as secondary suites are defined as “self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings.”

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property “Residential – Low Rise”, which provides for low-rise housing forms including single detached dwellings. The definition of a “Secondary

Suite” in the 2014 Official Plan is “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 it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including the following:

- a) building type in which the secondary suite is contained;
- b) percentage of the floor area of the building type devoted to the secondary suite;
- c) number of dwelling units permitted on the same lot;
- d) size of the secondary suite;
- e) applicable parking standards; and
- f) external appearance of the main dwelling.

As part of the City initiated zoning by-law consolidation project, Council considered the issue of second suites within the City. On May 29, 2018, Council voted not to permit second suites as-of-right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 118-79

The subject property is zoned R6 – “Sixth Density – Single Family Residential” Zone under By-law 118-79, as amended, which does not permit a second suite.

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, “1 – to utilize the high-value property, 2 – to provide affordable housing, 3 – to increase house supply, 4 – to comply with the Growth Plan policy.”

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; and
- d) the general intent and purpose of the Official Plan must be maintained.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the proposed secondary suite and the Fire and Emergency Services Department has no objections provided the proposed 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.

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. It is important to note that the variance request, if approved, will permit one secondary suite. 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.

Fire Comments

The applicant is advised to register the home as a two-unit house with the City of Markham Fire and Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief; and

Toronto and Region Conservation Area ("TRCA") Comments

The subject property is located within TRCA's Regulated Area. The rear portion of the subject property is traversed by a valley corridor. The TRCA provided comments on April 10 and August 8, 2019 (Appendix C), indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

As of January 6, 2020, the City received 17 letters expressing concerns over increased waste, property taxes and home insurance premium, concerns that the dwelling will turn into a rooming house, of increased traffic, and impact to streetscape and property values. 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*. 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:



Aqsa Malik, Planner I, East District

REVIEWED BY:



Stephen Lue, Manager, Central District

File Path: Amanda\File\19 116863 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/32/19

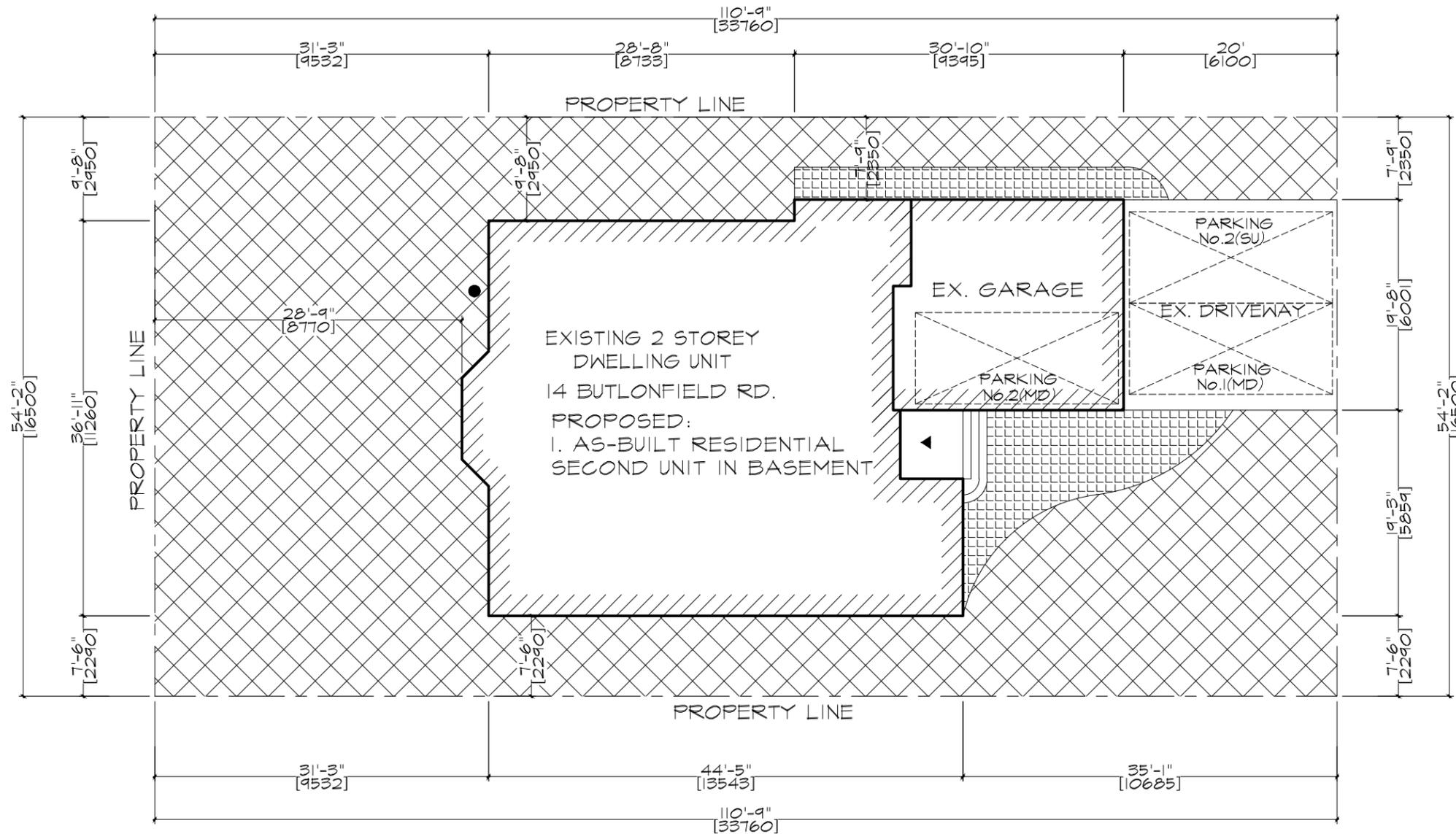
1. The variance apply only to the proposed development as long as it remains;
2. That the variance apply only to the proposed development, in substantial conformity with the plan(s) attached as Appendix B to this Staff Report and received by the City of Markham on April 10, 2019, and that the Secretary-Treasurer 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 Applicant 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; and
4. That the Applicant satisfy the requirements of the TRCA, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation from the TRCA that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



Aqsa Malik, Planner I, East District

APPENDIX "B"
April 10, 2019



SITE PLAN 1:150

DESCRIPTION	FLOOR AREA	TOTAL	SETBACKS	NO CHANGE
GROUND FLOOR	144.9M ²	431.7M ²	FRONT YARD	6100mm
SECOND FLOOR	138.1M ²		REAR YARD	8770mm
BASEMENT	148.7M ²	28.9%	INTERIOR SIDE(NORTH)	2350mm
SECOND UNIT	124.7M ²		INTERIOR SIDE(SOUTH)	2290mm

LEGEND

- ▣ PARKING SPACE :2600X5800
- ▨ SOFT LANDSCAPE • DOWN PIPE
- ▲ ENTRANCE OF MAIN DWELLING UNIT
- ENTRANCE OF SECOND DWELLING UNIT
- ▤ WALK WAY(WIDTH:1200mm)



NOBLE ELITE SOLUTIONS LTD
2130 NORTHPARK DR., UNIT 249, BRAMPTON, ON
INFO@NOBLELTD.CA
(437)888 1800
(905)782 5261

PROJECT ADDRESS:
14 BUTLONFIELD RD., MARKHAM

PROJECT NUMBER: 18166

DRAWING SHEET: SITE PLAN

SCALE: 1:150

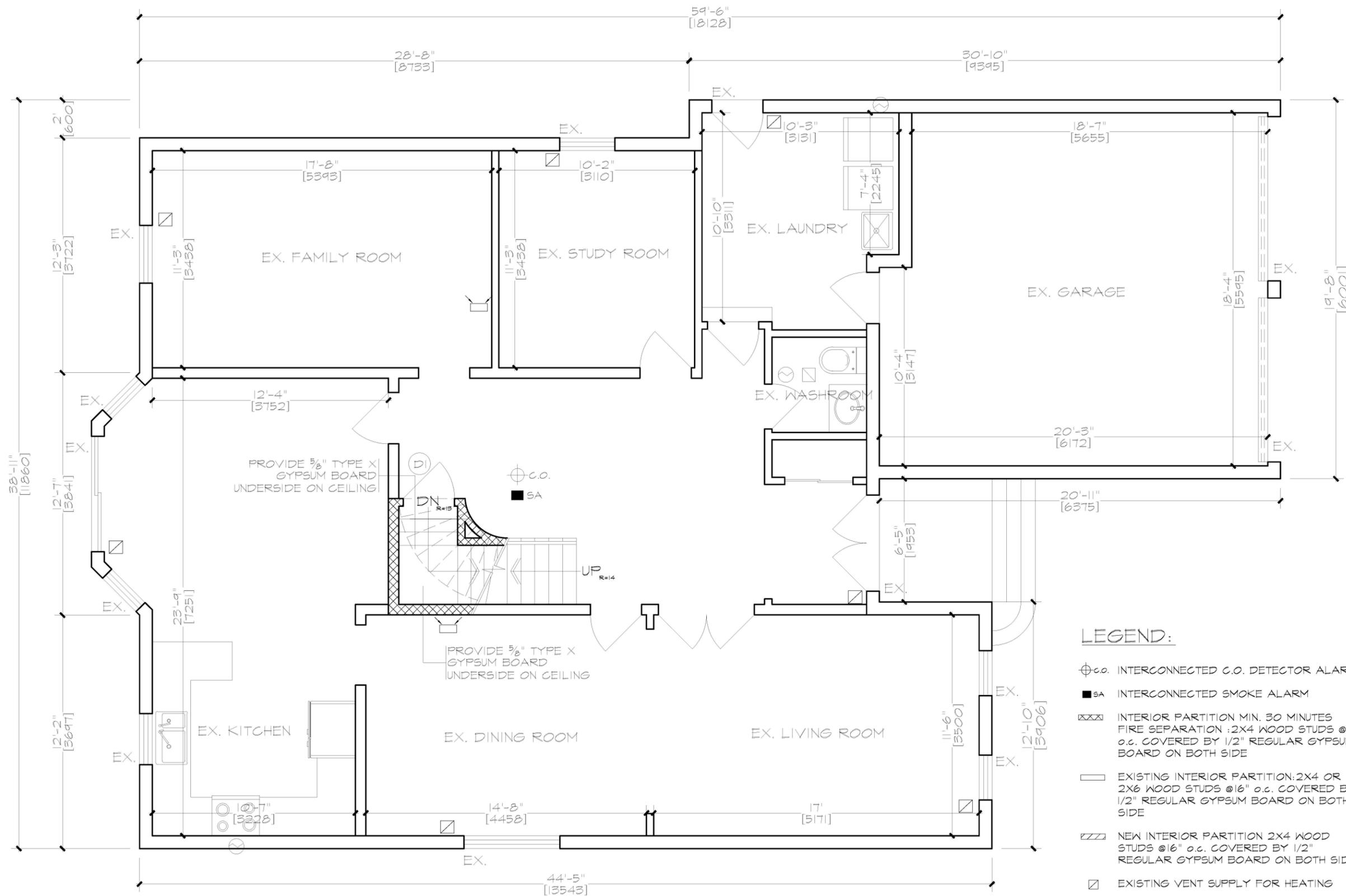
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PROVIDE 5/8" TYPE X GYPSUM BOARD UNDERSIDE ON CEILING

PROVIDE 5/8" TYPE X GYPSUM BOARD UNDERSIDE ON CEILING

GROUND FLOOR PLAN

SCALE: 3/16" = 1'-0"

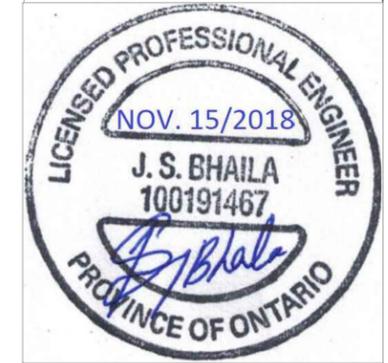
DOOR & WINDOW SCHEDULE

No.	SIZE	DESCRIPTION
(D)	32" X 80"	FIRE DOOR (20 MIN) WITH SELF CLOSER

LEGEND:

- ⊕ C.O. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
- XXXX INTERIOR PARTITION MIN. 30 MINUTES FIRE SEPARATION : 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
- ▭ EXISTING INTERIOR PARTITION: 2X4 OR 2X6 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
- ▨ NEW INTERIOR PARTITION 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
- ☐ EXISTING VENT SUPPLY FOR HEATING
- ⊙ EXHAUST VENT
- ⌋ EXISTING LOWER WALL AIR RETURN
- ⌋ EXISTING HIGH WALL AIR RETURN

KEEP EXISTING 1/2" DRYWALL INTERIOR CEILING (15 MIN HORIZONTAL FIRE SEPARATION)



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DRAWING SHEET:
GROUND FLOOR PLAN

SCALE: 3/16" = 1'-0"

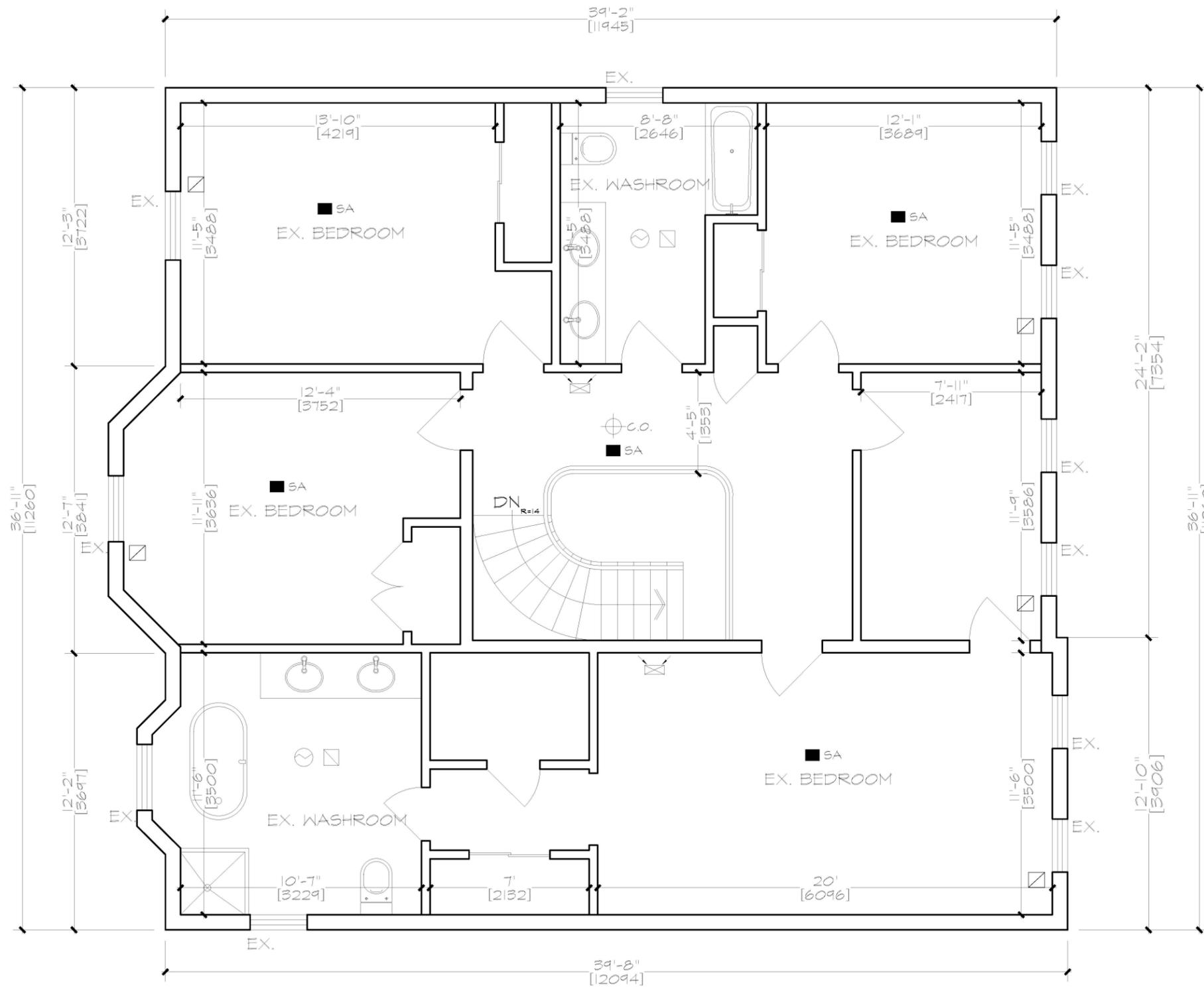
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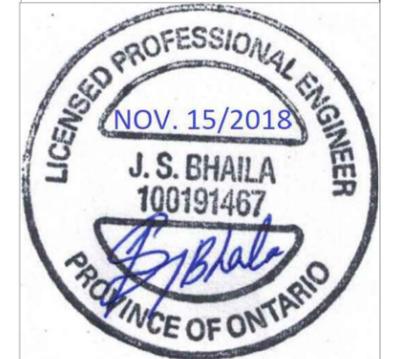
LEGEND:

- ⊕ C.O. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
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- ⊠ EXISTING VENT SUPPLY FOR HEATING
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- ⌞ EXISTING LOWER WALL AIR RETURN
- ⌘ EXISTING HIGH WALL AIR RETURN

KEEP EXISTING 1/2" DRYWALL INTERIOR CEILING(15 MIN HORIZONTAL FIRE SEPARATION)

SECOND FLOOR PLAN

SCALE: 3/16" = 1'-0"



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DRAWING SHEET:
SECOND FLOOR PLAN

SCALE: 3/16" = 1'-0"

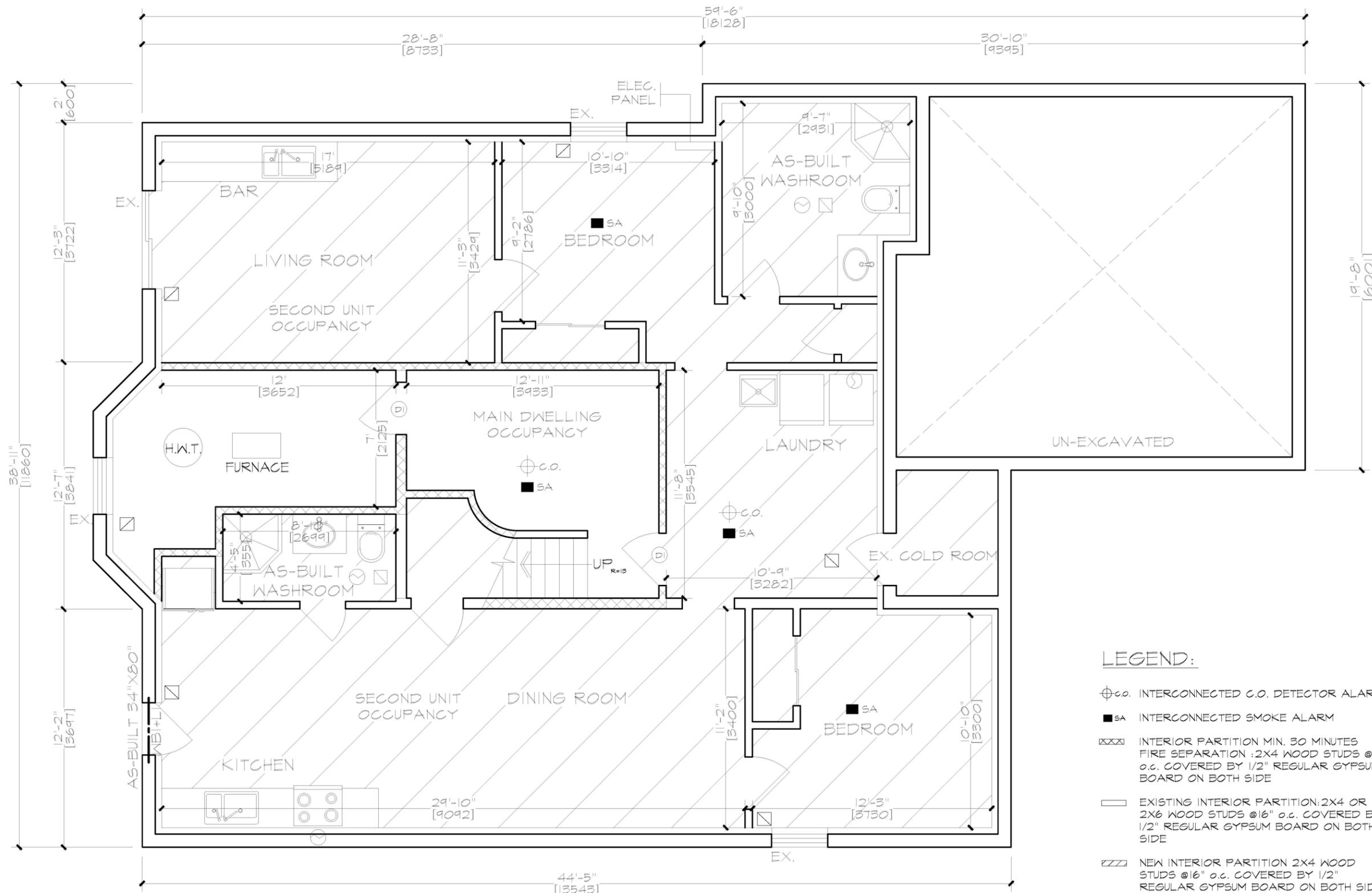
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DOOR & WINDOW SCHEDULE

No.	SIZE	DESCRIPTION
(D)	32"x80"	FIRE DOOR (20 MIN) WITH SELF CLOSER

WOOD LINTEL SCHEDULE

Code	UP TO	DESCRIPTION	SIZE
WB1	3'-6"	UP TO 3'-6" OPENING	3-2"x6"
WB2	5'-6"	UP TO 5'-6" OPENING	3-2"x8"
WB3	6'-6"	UP TO 6'-6" OPENING	3-2"x10"
WB4	7'-6"	UP TO 7'-6" OPENING	3-2"x12"

STEEL LINTEL SCHEDULE

Code	UP TO	DESCRIPTION	SIZE
L1	4'-6"	UP TO 4'-6" OPENING	L 3 1/2"x3 1/2"x1/8"
L2	5'-6"	UP TO 5'-6" OPENING	L 4"x3 1/2"x1/8"
L3	6'-6"	UP TO 6'-6" OPENING	L 5"x3 1/2"x1/8"
L4	7'-6"	UP TO 7'-6" OPENING	L 5"x3 1/2"x1/8"
L5	9'-10"	UP TO 9'-10" OPENING	L 6"x4"x1/8"
L6	11'-0"	UP TO 11'-0" OPENING	L 7"x4"x1/8"

BASEMENT PLAN

SCALE: 3/16" = 1'-0"

LEGEND:

- ⊕ c.o. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
- XXXX INTERIOR PARTITION MIN. 30 MINUTES FIRE SEPARATION : 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
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KEEP EXISTING 1/2" DRYWALL INTERIOR CEILING (15 MIN HORIZONTAL FIRE SEPARATION)



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DRAWING SHEET:
BASEMENT PLAN

SCALE: 3/16" = 1'-0"

DATE: NOVEMBER 12, 2018

DRAWN BY:

CHECKED BY:

PAGE NO.

A004

April 10, 2019

CFN: 60777.04

BY E-MAIL ONLY

Mr. Justin Leung
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Boulevard
Markham, ON
L3R 9W3

Dear Mr. Leung:

**Re: Minor Variance Application – A/32/19
14 Buttonfield Road, Markham
Owner(s): Zhang Ying & Yue Sun
Agent: Henry He**

This letter will acknowledge receipt of the above noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and provide the following comments.

PURPOSE OF THE APPLICATION

A/32/19

The applicant is requesting relief from the requirements of By-law 118-79, as amended, as it relates to a proposed basement apartment.

Requested Variance(s) to the Zoning By-law:

a) Section 6.1 & 7.1.1:

A second dwelling unit/basement apartment, whereas the By-law permits no more than one single detached dwelling unit on a lot.

APPLICABLE TRCA REGULATIONS AND POLICIES

Ontario Regulation 166/06 (as amended):

The subject property is located within TRCA's Regulated Area of the Rouge River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place:

- a. straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b. development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. the construction, reconstruction, erection or placing of a building or structure of any kind;
- ii. any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. site grading;
- iv. the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP):

The LCP describes a “Natural System” made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System and that it be conveyed into public ownership for its long term protection and enhancement.

APPLICATION SPECIFIC COMMENTS**Planning and Development:**Water Resource Engineering

The subject property is located adjacent to a valley corridor associated with Beaver Creek, a tributary of the Rouge River watershed. Based on TRCA’s Water Resource Engineering staff’s review of the estimated hydraulic flood modelling for the surrounding area, the Regional Storm water surface elevation is 191.18 metres above sea level (masl) with a velocity of 0.37 m/s.

Minor Variance Application

It is our understanding that the applicant is requesting relief from the requirements of By-law 118-79, as amended, to legalize an existing secondary suite. Due to the sensitivities of adding an additional dwelling unit within the flood hazard, TRCA staff must be satisfied that the existing building is located outside of any hazardous lands. As such, TRCA staff request that a topographical survey with the water surface elevation (191.18 masl) of the Regional Storm is plotted accurately on the drawing.

Subsequent to the delineation of the extent of the flood hazard, the Conservation Authority would be able to ascertain which policies are applicable in relation to the confirmed on site constraints.

Ontario Regulation 166/06, as amended:

We note, that the internal works associated with the secondary suite is existing and occurred without prior approvals, as outlined within the application form for the Minor Variance application. As such, the works undertaken are in contravention of Ontario Regulation 166/06, as amended, and considered a violation under the *Conservation Authorities Act*.

A permit is required prior to any development or site alteration occurring within TRCA’s Regulated Area. In addition, this encompasses any changes in a building and/or structure so that it alters its use or potential use, increases its size or increases the number of dwelling units.

Please note, TRCA does not support secondary suites within buildings that would be inundated with flood waters during a Regional Storm Event. Furthermore, a permit application will be required, if the development application can be supported by the TRCA. At this time, please wait until the flood hazard is delineated on a topographic survey.

APPLICATION REVIEW FEE

By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a \$580.00 review fee (2018 TRCA Planning Fees Schedule – Variance – Residential). The applicant is responsible for fee payment and should forward the fee to this office within 60 days of the issuance of this letter.

RECOMMENDATION

In light of the above, TRCA request **deferral** of this application until the applicant addresses the following:

- 1) The applicant submits a topographic survey with the flood hazard accurately delineated to TRCA’s satisfaction;
- 2) TRCA requests that the applicant remits the outstanding review fee of \$580.00 within 60 days of the issuance of this letter.

We trust this is of assistance. Should you have any questions or comments, do not hesitate to contact the undersigned.

Sincerely,



Aidan Pereira
Planner I, Development Planning & Permits
(416) 661-6600 Ext. 5723
apereira@trca.on.ca

AP/as

J:\DSS\York Region\Markham\A-32-19 - 14 Buttonfield Road, Markham