

Memorandum to the City of Markham Committee of Adjustment

September 16, 2019

File: A/88/19
Address: 1 Sunflower Crt, Thornhill
Applicant: Mohammad Javad Nahri
Agent: Richard Wengle Architect (Andrew Dean)
Hearing Date: Wednesday September 25, 2019

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

The applicant is requesting relief from the following requirements of By-law 1767, SR2 as amended:

- a) **Amending By-law 100-90, Section 1.2(i) - Building Height:**
a maximum building height of 10.56 metres, whereas the By-law permits a maximum building height of 9.8 metres;
- b) **Section 14(i)(e) - Rear Yard Setback:**
a minimum rear yard setback of 44 feet 9 1/2 inches, whereas the By-law requires a minimum rear yard setback of 50 feet;
- c) **Amending By-law 100-90, Section 1.2(iii) - Building Depth:**
a maximum building depth of 22.29 metres, whereas the By-law permits a maximum building depth of 16.8 metres; and
- d) **Section 9(i) - Permitted Yard Encroachment:**
a maximum unenclosed front porch encroachment of 56.5 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required front yard;

as they relate to a proposed two-storey dwelling.

BACKGROUND

Property Description

The 1,674.14 m² (18,020.3 ft²) subject property is located on Sunflower Court, a cul-de-sac north of Steeles Avenue and east of Bayview Avenue. The property is located within an established residential neighbourhood comprised primarily of two-storey detached homes. There is an existing 1 storey detached dwelling on the property, which according to assessment records was constructed in 1963. Mature vegetation exists across the property and is a predominant characteristic off the neighbourhood.

Proposal

The applicant is proposing to demolish the existing home and a construct a 779.65 m² (8,392.08 ft²) two-storey detached dwelling (See Appendix A). The proposed dwelling contains a two car garage which, in tandem can accommodate four cars. Several trees will be removed as a result of the development.

Variance History

Variances on the subject property were approved in 2018 (A/42/18) for maximum unenclosed/unexcavated roofed porch, minimum rear yard setback and maximum building height (See Appendix B). The applicant revised their drawings and is applying for variances to allow the

new building. The variances are for minimum rear yard setback, maximum building height, maximum building depth and maximum front porch encroachment as noted, as amended above.

Official Plan and Zoning

Official Plan 2014 (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.

Zoning By-Law 1767

The subject property is zoned ‘SR2-Single Detached Residential’ under By-law 1767 as amended, which permits single detached dwellings. The proposal does not comply with the By-law with respect to the porch encroachment and minimum rear yard setback.

Residential Infill Zoning By-Law 100-90

The subject property is also subject to the Residential Infill Zoning By-law 100-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ration, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to building height and building depth.

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, *“unusual shaped lot creates technical variances”*.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on August 20th, 2019, 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 Building Height

The applicant is requesting relief to permit a maximum building height of 10.65 m (34.94 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of approximately 0.85 m (2.8 ft), or 8.7%.

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface. It should be noted that the proposed grade of the front of the house is approximately 0.35 m (1.15 ft) above the crown of road. It is the opinion of staff that the proposed building height fits in with the recent development trend in the community and is generally consistent with other new infill residential developments in the area.

Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 22.29 m (73.13 ft.), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft.). This represents an increase of approximately 5.49 m (18.01 ft.), or approximately 32.7 %.

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line. Given the configuration of the lot, building depth is measured on an angle through the proposed building.

The depth of the proposed dwelling measured between the front and rear wall exclusive of the front porch is approximately 18.82 m (61.75 ft). This represents a difference of 2.02 m (6.63 ft), or approximately 12%.

Reduction in and Rear Yard Setback

The applicant is requesting relief to permit a minimum rear yard setback of 44.79 ft (13.65 m), whereas the By-law requires a minimum rear yard setback of 50 ft (15.24 m). This represents a reduction of approximately 5.21 ft (1.6 m) or, approximately 10.4 %. The variance is in part attributable to the location of the proposed dwelling on the lot and two projections at the rear of the proposed dwelling.

Increase in Front Porch Encroachment

The applicant is requesting a maximum front porch encroachment of 56.5 in (1.43 m) into the front yard, whereas the By-law permits a maximum front porch encroachment of 18 in (0.46 m). This represents an increase in approximately 38.5 in (0.98 m). The front porch occupies approximately 22.42 ft (6.84 m) or, approximately 26 % of the front of the dwelling. Given that the front porch is unenclosed and maintains more than the required setback from the neighbouring property, staff are of the opinion that the requested variance is minor in nature.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 16, 2019. 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 "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, East District

REVIEWED BY:



David Miller, Development Manager, West District
File Path: Amanda\File\ 19 133150 \Documents\District Team Comments Memo

APPENDIX "C"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/88/19

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 A' to this Staff Report and received by the City of Markham on *August 23rd, 2019 and September 6th, 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. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
4. 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
5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.

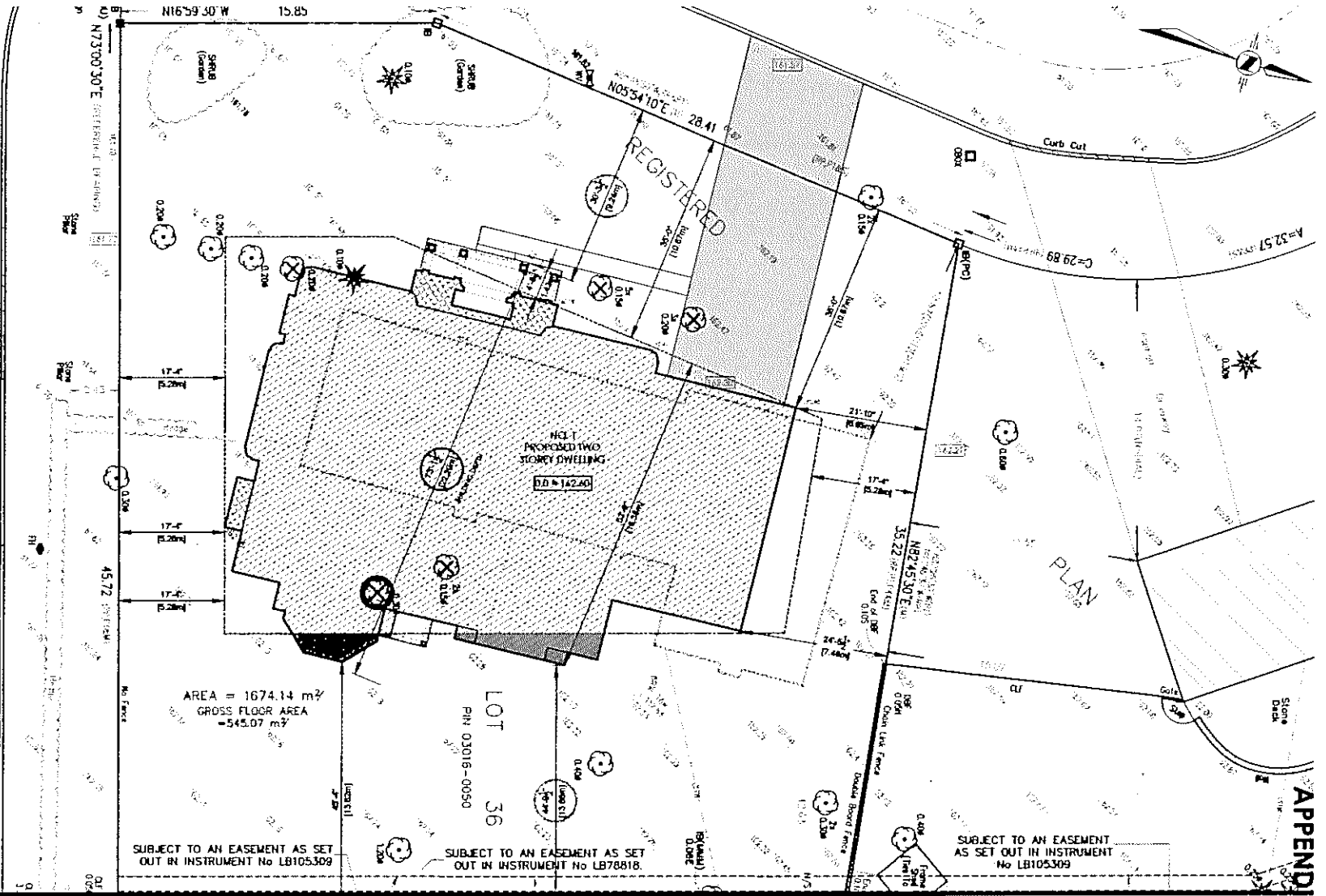
CONDITIONS PREPARED BY:



Aqsa Malik, Planner, East District

LEGEND

- HALIBROOKS TREE
- TREE REMOVAL NOT REQUIRING PERMIT
- TREE REMOVAL REQUIRING PERMIT
- TREE REQUIRING PERMIT TO INLIE
- TREES TO BE PROTECTED
- PROPOSED TREES
- LIGHT OR MAME HELD EQUIPMENT IN THIS AREA DURING DEMOLITION AS PER ARBORIST REPORT



APPENDIX A

PRIVATE RESIDENCE







1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 SEPTEMBER 6, 2019
 1914

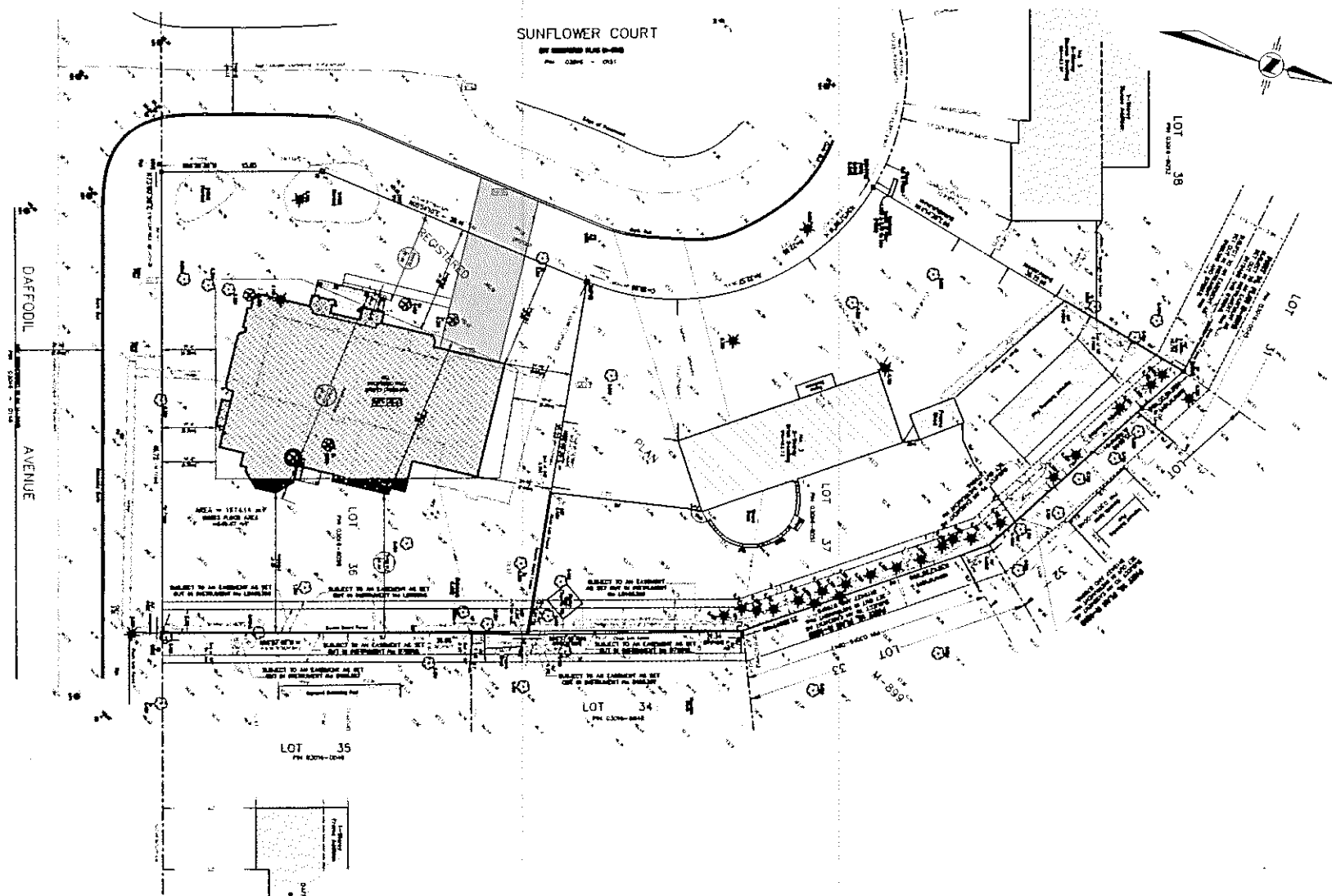
SITE PLAN
 SCALE: 1/16" = 1'-0"



DAVE ODIL AVENUE
 (AS REGISTERED BY PLAN M-2893)
 P.N. 03016-0148

LEGEND

-  HAZARDOUS TREE
TREE REMOVAL NOT REQUIRING PERMIT
-  TREE REMOVAL REQUIRING PERMIT
-  TREE REQUIRING PERMIT TO INJURE
-  TREES TO BE PROTECTED
-  PROPOSED TREES
-  LIGHT OR HAND HELD EQUIPMENT
IN THIS AREA DURING DEMOLITION
AS PER APPROVED REPORT



STATISTICS, Markham

August 29th, 2019

1 Sunflower Court, City of Markham, Lots 36 and 37, Registered Plan M899

Zoning Designation	SR2
Lot Frontage,	26.51 m
Lot Depth,	29.62 m
Lot Area,	1674.14 sm

	<u>Allowed</u>	<u>Proposed</u>
Floor Area;		
Ground		402.49 sm
Second		377.16 sm
	786.85 sm (47%)	779.65 sm (46.57%)

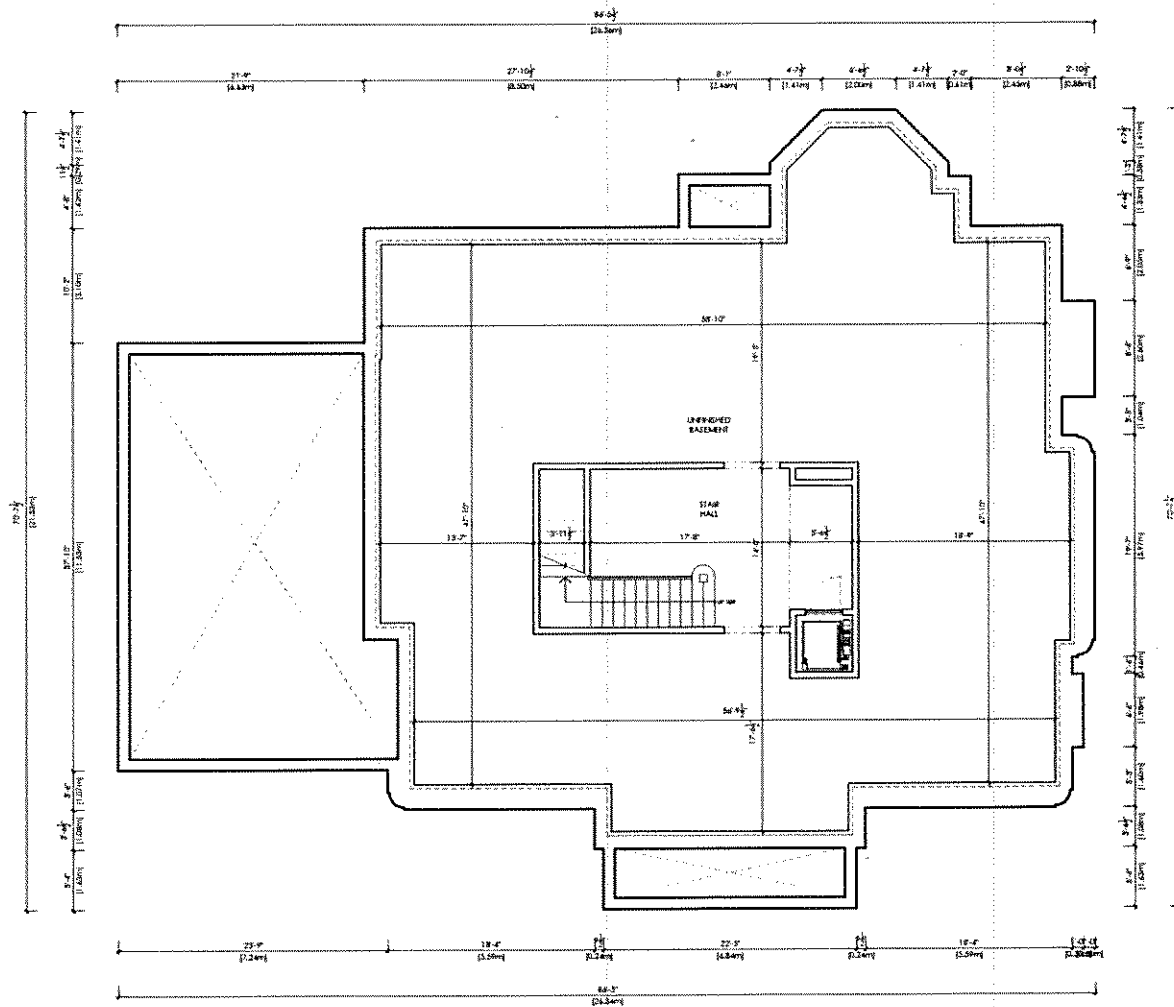
Note: the cellar is more than 50% below grade and is not counted in the floor area of the house

Coverage;	558.04 sm (33.33%)	418.97 sm (25.03%)
------------------	-----------------------	-----------------------

Note: coverage includes the covered rear deck (1.59%) but not the covered front porch

Setbacks;		
Front	10.67 m	9.24 m
Note: setback is to the front porch due to the roof overhang		
Note: the front setback to the main wall of the house complies with the by-law		
*Rear	15.24 m (50'-0")	<u>13.66 m (44'-9 1/2")</u>
Side (flanking)	5.28 m	5.28 m
Note: the Flanking Setback is half the height		
Side (n)	2.44 m	6.65 m
Front Porch Projection	1.52 m	1.30 m
*Building Depth:	16.80 m	<u>22.29 m</u>
Note: as measured from the front of the covered porch to the main back wall		
*Front Porch Projection	0.46 m (1'-6")	<u>1.43 m (4'-8 1/2")</u>
*Height:	9.80 m	<u>10.56 m</u>
Note: less than 50% of the total roof area is sloped and therefore this is considered a flat roof		
Number of Stories;	3	2

* Required Variances



PRIVATE RESIDENCE

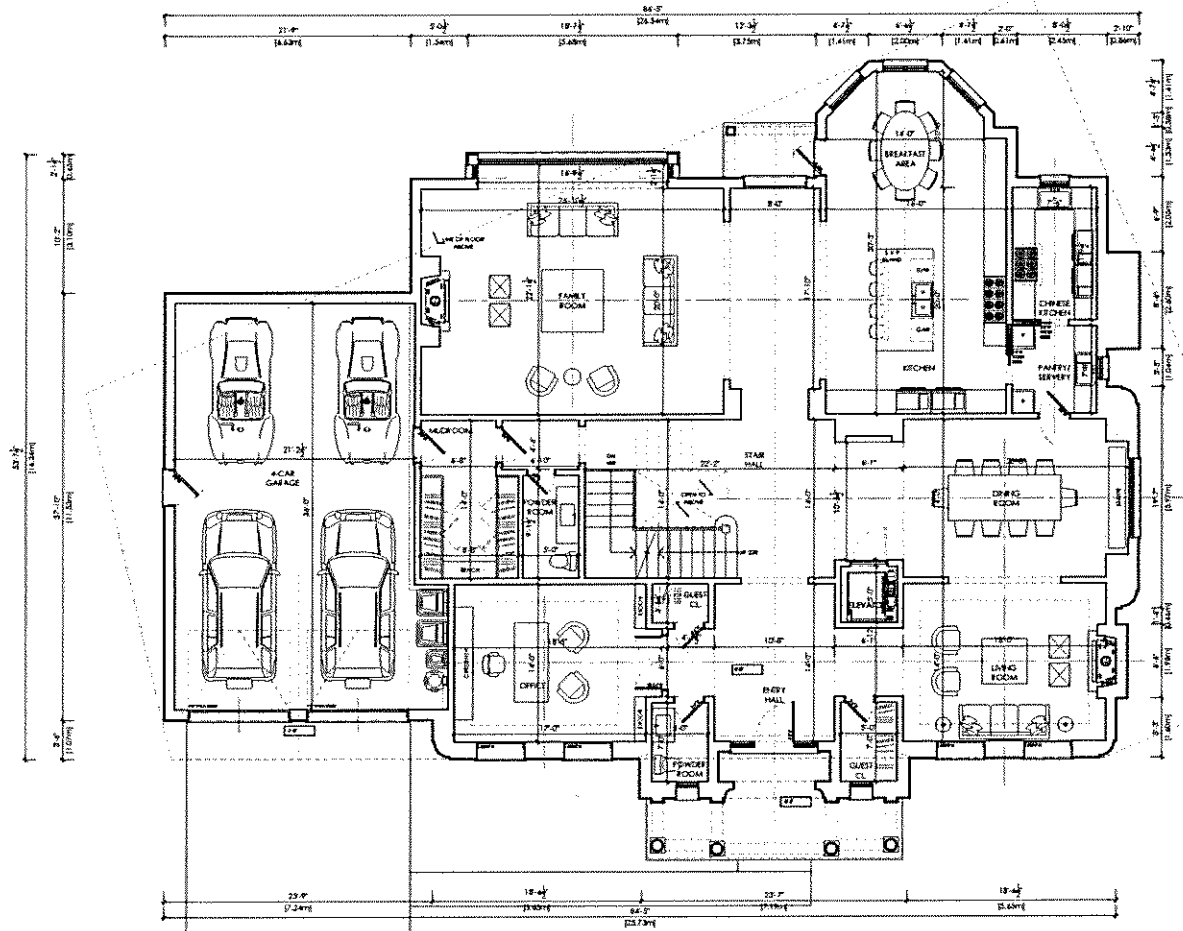
1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 AUGUST 30, 2019

1914

BASEMENT FLOOR PLAN
 SCALE: 3/32" = 1'-0"



RICHARD WENGLER
 ARCHITECT INC.



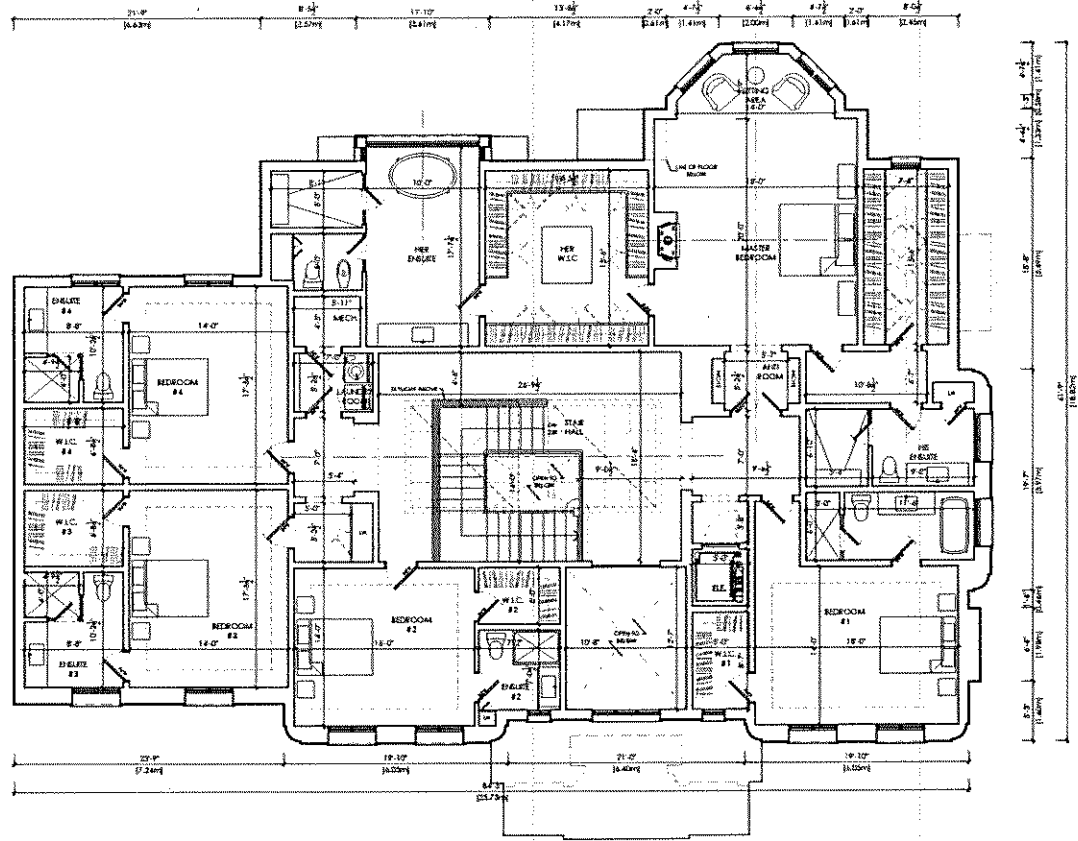
PRIVATE RESIDENCE

1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 AUGUST 30, 2019
 1914

⊕ GROUND FLOOR PLAN
 SCALE: 3/32" = 1'-0"



RICHARD WENGLER
 ARCHITECT INC.



PRIVATE RESIDENCE

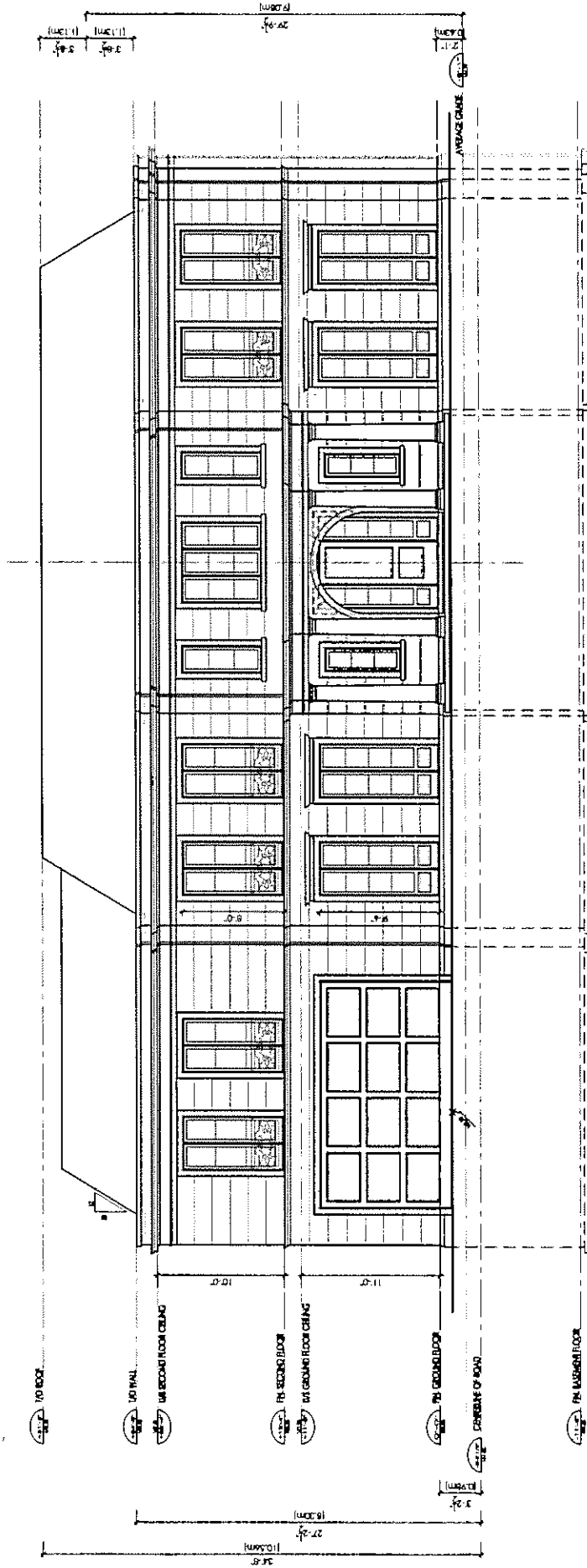
1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 AUGUST 30, 2019

1914

⊕ SECOND FLOOR PLAN
 SCALE: 3/32" = 1'-0"



RICHARD WENGLÉ
 ARCHITECT INC.



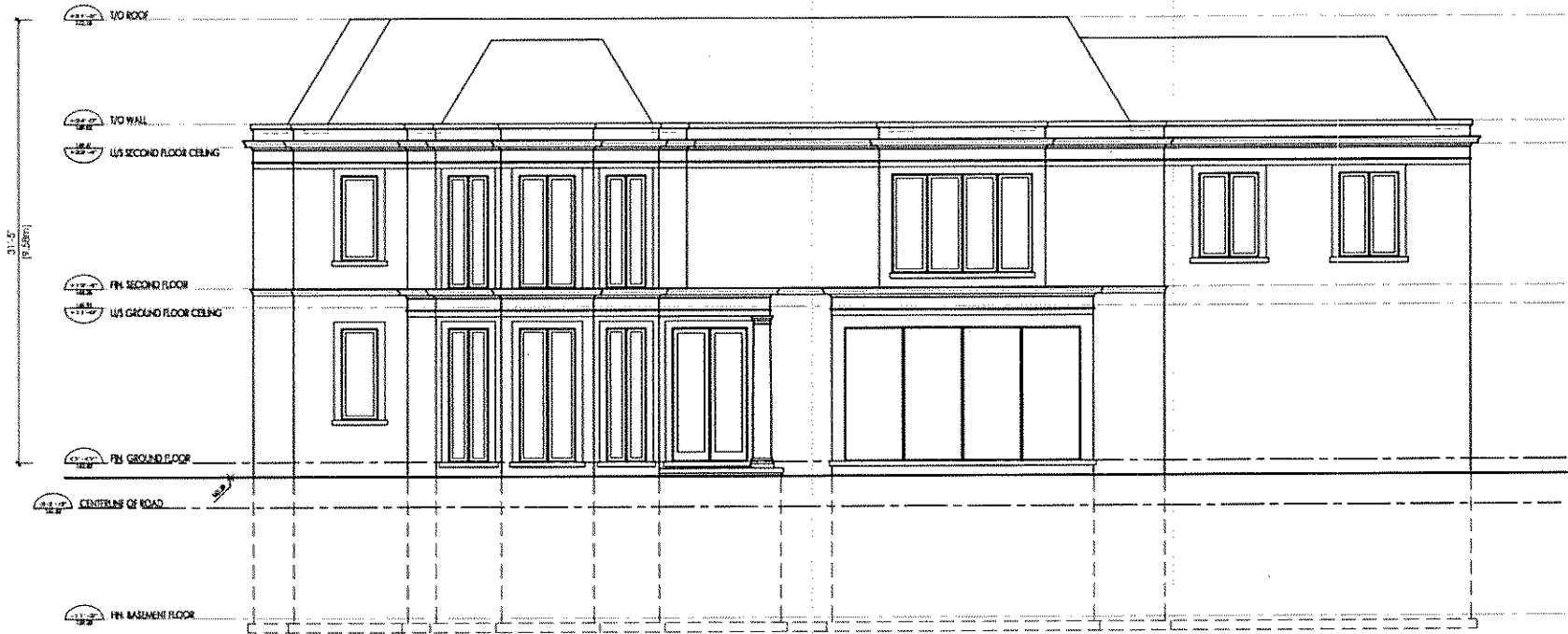
PRIVATE RESIDENCE

1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 AUGUST 30, 2019
 1914




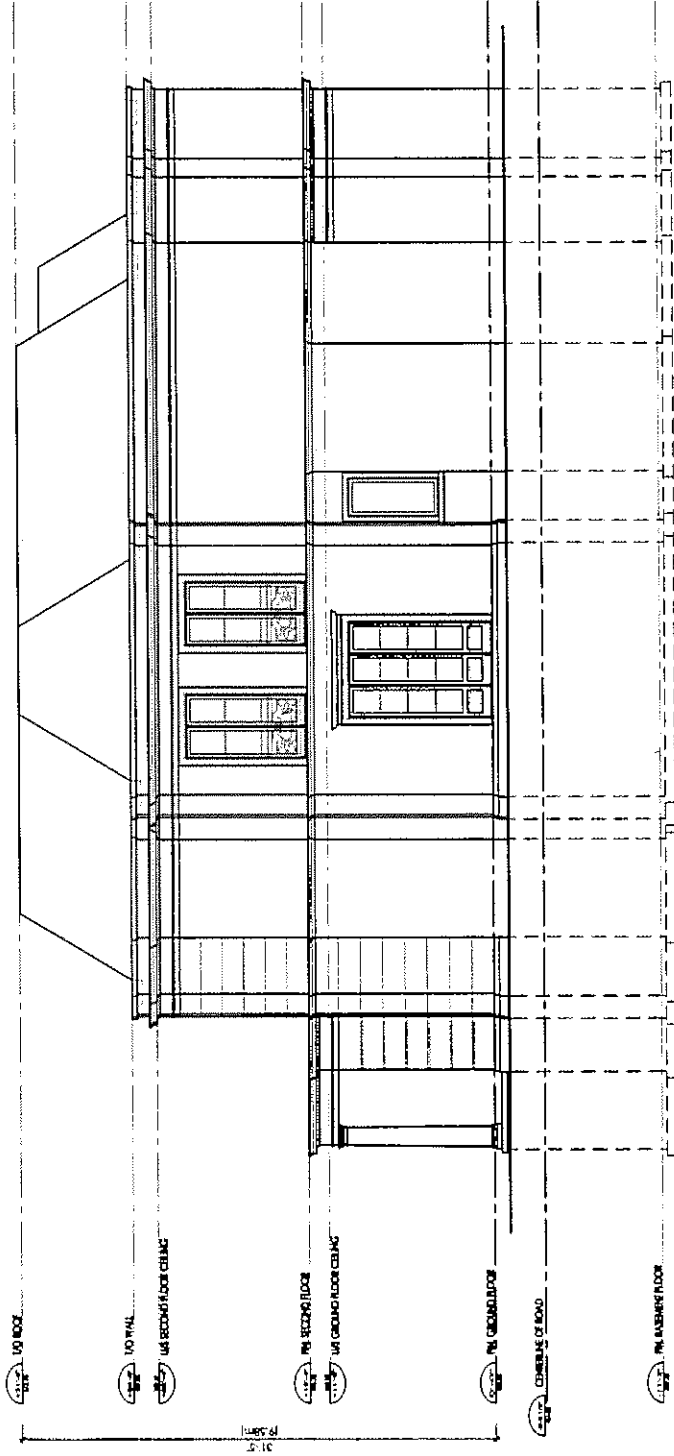
RICHARD WENGLE
 ARCHITECT INC.

⊕ **FRONT ELEVATION**
 SCALE: 1/8" = 1'-0"



PRIVATE RESIDENCE
1 SUNFLOWER COURT
MARKHAM, ONTARIO
AUGUST 30, 2019
1914

 **REAR ELEVATION**
SCALE: 1/8" = 1'-0"



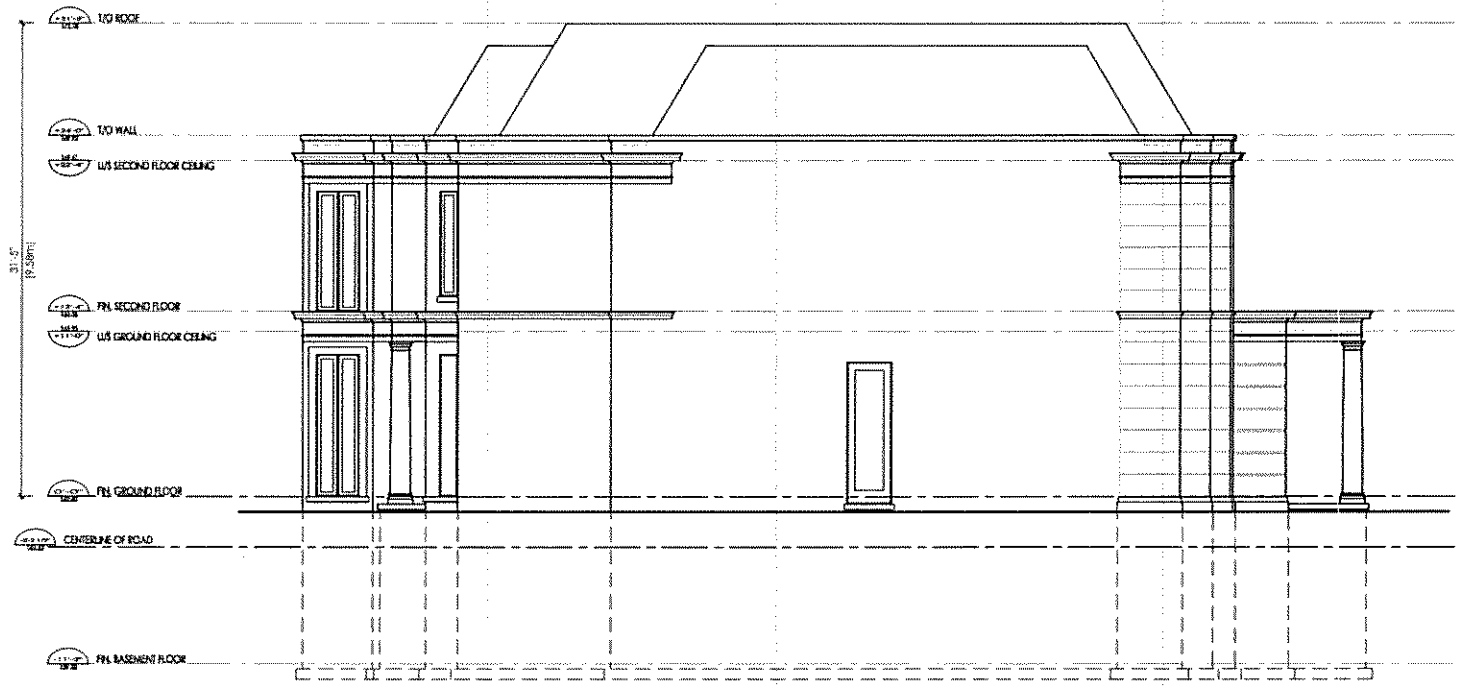
PRIVATE RESIDENCE

1 SUNFLOWER COURT
 MARKHAM, ONTARIO
 AUGUST 30, 2019
 1914




RICHARD WENGLE
 ARCHITECT INC.

SOUTH ELEVATION
 SCALE: 1/8" = 1'-0"



PRIVATE RESIDENCE
1 SUNFLOWER COURT
MARKHAM, ONTARIO
AUGUST 30, 2019
1914

 **NORTH ELEVATION**
SCALE: 1/8" = 1'-0"



COMMITTEE OF ADJUSTMENT

 NOTICE OF DECISION

I hereby certify that the attached is a true copy of the decision of the Committee of Adjustment in the matter of Application No. A/42/18 which was **approved** at a hearing held on Wednesday, May 30, 2018. A written appeal of this decision must be received **no later than Tuesday June 19, 2018. After this date the decision becomes final and binding and cannot be appealed.**

Appeals to the Ontario Municipal Board must be served personally or sent by registered mail to the Secretary Treasurer, Committee of Adjustment, accompanied by a cheque in the amount of **\$300.00**, payable to the **Minister of Finance**, and must give reasons for the appeal. When filing an appeal to the Ontario Municipal Board, please note there will be an additional City of Markham administration fee of \$224.00, which must be paid at the time of the appeal submission to the Committee of Adjustment. **The reasons for the appeal must be provided, or the Ontario Municipal Board may not consider the appeal to be valid. Please note that a letter of objection filed prior to the hearing date is not considered an official notice of appeal.**

Only individuals, corporations and public bodies may appeal decisions in respect to variance or consent applications to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Sworn before me at the City of Markham
May 31, 2018.

 Justin Leung MES(PI) ACST(A)
Secretary Treasurer,
Committee of Adjustment,
City of Markham.

 A Commissioner, etc.

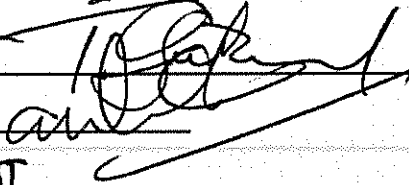
Gregory James Hayes, a Commissioner,
etc., Province of Ontario, for
The Corporation of the City of Markham.
Expires April 24, 2021.

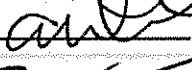
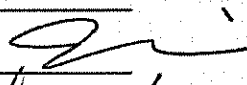
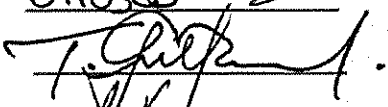
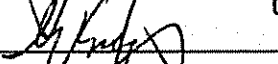


Committee of Adjustment Resolution

File Number: A/42/18
 Hearing Date: Wednesday, May 30, 2018
 Owner(s): Mohammad Javad Nahri
 Agent: Avesta Design Group Inc. (Mohammad Ashouri)
 Property Address: 1 Sunflower Court Thornhill
 Legal Description: PLAN M899 LOT 36
 Zoning: By-law 1767 , as amended, SR2
 Official Plan: Urban Residential
 Ward: 1
Last Date of Appeal: Tuesday, June 19, 2018

Moved by Arun Prasad 

Seconded by Tom Gutfreund 

- Arun Prasad 
- Michael Visconti ABSENT
- Gary Muller ABSENT
- Jeamie Reingold OPPOSED 
- Tom Gutfreund 
- Gregory Knight 

THAT Application No. A/42/18, submitted by Mohammad Javad Nahri owner(s) of 1 Sunflower Court Thornhill , PLAN M899 LOT 36, requesting relief from the requirements of By-law No. 1767 , as amended, to permit the following:

a) Infill By-law 100-90; Section 1.2(i): a maximum building height of 10.71 metres; whereas, the By-law permits a maximum building height of 9.8 metres; b) Infill By-law 100-90; Section 1.2(iii): a maximum building depth of 19.56 metres; whereas, the By-law permits a maximum building depth of 16.8 metres; c) Section 9(i): a maximum unenclosed roofed porch encroachment of 39"; whereas, the By-law permits a maximum encroachment of 18" into the required front yard; as they relate to a proposed residential dwelling. These variance requests be **approved** for the following reasons:

(a) In the opinion of the Committee, the general intent and purpose of the By-law will be maintained;

- (b) In the opinion of the Committee, the general intent and purpose of the Official Plan will be maintained;
- (c) In the opinion of the Committee, the granting of the variance is desirable for the appropriate development of the lot;
- (d) In the opinion of the Committee, the requested variance is minor in nature.

Subject to the following conditions:

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 dated January 19th, 2018 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 implement and maintain all of the works required in accordance with the conditions of this variance;
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, 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/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
5. 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 Director of Planning and Urban Design or their designate.
6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate;
7. Submission of a detailed Siting, Lot Grading and Servicing Plan designed and stamped by a Professional Engineer/Ontario Land Surveyor/Landscape Architect satisfactory to the Director of Engineering, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Engineering or designate;

Any and all written submissions relating to this Application that were made to the Committee of Adjustment before its Decision, and any and all oral submissions related to this Application that were made at a public meeting, held under the Planning Act, have

been taken into consideration by the Committee of Adjustment in its Decision on this matter.

Resolution Carried

SPECIAL NOTE TO OWNERS AND AGENTS: It is the responsibility of the owner and/or agent to ensure that all conditions of approval are met through the respective departments noted therein. Failure to do so may result in additional approvals being required.