

# Memorandum to the City of Markham Committee of Adjustment

August 10, 2023

**File:** A/111/23  
**Address:** 40 Rouge Street, Markham Village  
**Applicant:** Gregory Design Group (Shane Gregory)  
**Agent:** Gregory Design Group (Shane Gregory)  
**Hearing Date:** Wednesday, August 16, 2023

The following comments are provided on behalf of Heritage Section staff (“Staff”) for the property municipally-known as 40 Rouge Street (the “subject property” or the “property”):

The applicant is requesting relief from the following requirements of By-law 1229, R1, as amended:

**a) By-law 1229, section 1.2(iii):**

a maximum building depth of 17.50 metres, whereas the By-law requires a building depth of 16.80 metres;

**b) By-law 1229, section table 11.1:**

a flankage yard setback of 2.90 metres, whereas the By-law requires a flankage yard setback of 3.05 metres;

as it relates to a proposed carport and one-storey addition to the existing one-storey dwelling.

## **BACKGROUND**

### **Property Description**

The subject property, located on the northwest corner of Rouge Street and Magill Street, is designated under Part V of the Ontario Heritage Act as a constituent property of the Markham Village Heritage Conservation District (the “MVHCD”). The approximately 900 sq. m. (9688 sq. ft.) property is located within a portion of the MVHCD typified by substantial amounts of infill construction interspersed with post-war bungalows. There is an existing one-storey dwelling and detached garage on the subject property which, according to Municipal Property Assessment Corporation records, were both constructed in 1954.

### **Proposal**

The applicant is proposing to retain and modify the on-site dwelling. Single storey additions are proposed at the front and rear of the existing dwelling (north and south elevations, respectively) with a carport proposed along the west elevation. The existing detached garage will be retained. Refer to Appendix “E” for drawings of the proposal.

## **POLICY REVIEW**

### **Official Plan**

The Official Plan is a municipality’s chief planning tool to provide direction to approval authorities and the public on local planning matters. It contains land use planning objectives as well as policies in areas such as land use, and conservation of cultural heritage resources. The objectives and policies contained within the Official Plan conform to land-use direction as provided by the province via the Planning Act and the Provincial Policy Statement (2020). Section 10.5 of the Markham Official Plan 2014 (partially

approved on November 24/17, and updated on April 9/18), notes that it is the policy of Council that the Committee of Adjustment shall be guided by the general intent and purpose of the Plan in making decisions on minor variances to the zoning by-law and consent applications.

#### Land Use Policies

In the Official Plan, 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 Official Plan outlines infill development criteria for the "Residential Low Rise" designation with respect to height, massing and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a "Residential Low Rise" area, which includes variances, development is required to meet the general intent of these development criteria.

#### Heritage Conservation Policies

The Official Plan also includes applicable policies respecting **heritage conservation** (Section 4.5 – Cultural Heritage Resources). From a heritage conservation policy perspective, two of the overall goals of the Official Plan are "to protect established neighbourhoods, heritage conservation districts...by ensuring that new development is compatible and complementary in terms of use, built form and scale" and "to celebrate Markham's unique character by protecting cultural heritage resources and archaeological resources...to foster interaction between people and connections to their community" (Section 2.2.2).

Section 4.5 provides policy guidance on identification/recognition, protection, and development approvals. Two key development approval policies of Council are:

- To provide for the protection and conservation of cultural heritage resources or the mitigation of adverse effects on cultural heritage resources as a condition of minor variance approval and associated agreements (Section 4.5.3.9); and
- To evaluate each variance proposal that directly affects a cultural heritage resource itself and adjacent lands on its own merits and its compatibility with the heritage policies of this Plan and the objectives and policies of any applicable heritage conservation district plan (Section 4.5.3.10)

#### **Zoning By-law**

The subject property is zoned "R1" under By-law 1229, as amended, which permits low-density residential uses.

#### **Markham Village Heritage Conservation District Plan**

The MVHCD Plan provides policy direction relevant to the variance application. The subject property is classified as a Type 'C' property. As described in Section 3.2 ('Building Classification') of the MVHCD Plan, Type 'C' properties possess the following characteristics within the District:

- *These buildings do not relate to the historical character.*
- *They do not reinforce the historical character.*

- *Any redevelopment on a lot with this designation will be subject to the policies set out herein and handled in the same manner as a NEW BUILDING.*

Adjacent properties at 36 and 44 Rouge Street are also classified as Type 'C' properties meaning that they are 'non-conforming' with the heritage character of the MVHCD.

Although not a heritage dwelling, the MVHCD Plan provides the following guidance for the siting and massing for additions to dwellings:

Section 4.2.1 (Residential: Proportions/Height) states: ***“Additions and new infill buildings should be designed to be compatible in terms of height, massing and proportions with those of adjacent heritage buildings”*** and ***“The size of the new structures should neither dominate the adjacent heritage structures, nor be diminutive in scale”***.

Section 4.2.2 (Residential: Siting & Setback) states: ***“Addition or infill buildings are to be set-back and sited so that they do not obscure the adjacent heritage building(s)”*** and ***“New buildings and their site features such as garages, fences, etc. should correspond and complement buildings on adjacent properties unless the adjacent structures are non-conforming”***.

### **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.

### **Increase in Maximum Building Depth**

The applicant is requesting relief to permit a maximum building depth of 17.50m (57.41ft), whereas the By-law permits a maximum building depth of 16.80m (55.12ft). This represents an increase of approximately 0.8m (2.63ft).

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.

It is the opinion of Staff that the requested increase in building depth can be considered minor as it won't adversely impact the viability of rear yard amenity space nor will be lead

to meaningful increase in building mass. It maintains the general intent and purpose of the Official Plan and Zoning By-law.

### **Reduction in Flankage Yard**

The applicant is requesting a flankage yard setback of 2.90m (9.52ft) whereas the By-law requires a flankage yard setback of 3.05m (10.0ft). The variance partially captures an existing condition as the current flankage is 2.99m (9.81ft). When taking into account the existing condition, the proposed deviation from current permissions required for the proposed addition is 0.9m (2.95ft). Given this small amount, it is the position of Staff that the variance can be considered minor and maintains the general intent and purpose of the Official Plan and Zoning By-law.

### **HERITAGE MARKHAM COMMITTEE**

Heritage Markham reviewed the Major Heritage Permit application (refer to 23 120000 HE) for this project at its meeting on June 14, 2023 and delegated review of any future minor variance application to Staff. Refer to Appendix "C" for a copy of the meeting extract.

As noted in the Staff report considered by Heritage Markham, Staff are in support of the requested variances as the proposed development conforms to the relevant policies and guidelines in the Official Plan and MVHCD Plan for designated properties.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of August 10, 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**

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 variances requested meet 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 refer to Appendix "D" for conditions to be attached to any approval of this application.

PREPARED BY:



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Evan Manning, Senior Heritage Planner

REVIEWED BY:

A handwritten signature in black ink, appearing to read "R. Hutcheson". The signature is written in a cursive, flowing style.

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Regan Hutcheson, Manager, Heritage Planning

**APPENDIX "A"**  
**PROPERTY MAP**

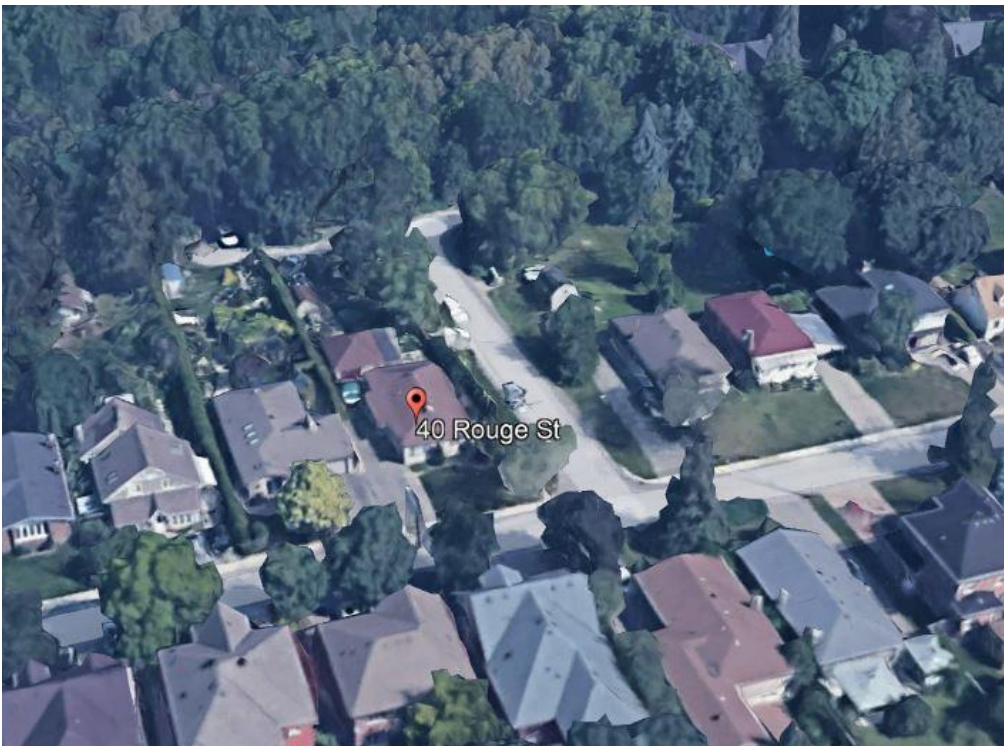


Property map showing the location of 40 Rouge Street outlined in blue  
(Source: City of Markham)

**APPENDIX "B"**  
**IMAGES OF THE SUBJECT PROPERTY**



The south (primary) elevation of 40 Rouge Street (Source: Google)



Aerial image of 40 Rouge Street looking northeast (Source: Google)

**APPENDIX "C"**  
**HERITAGE MARKHAM EXTRACT**

**HERITAGE MARKHAM  
EXTRACT**

Date: June 23, 2023

To: R. Hutcheson, Manager, Heritage Planning  
E. Manning, Senior Heritage Planner

EXTRACT CONTAINING ITEM # 5.3 OF THE SEVENTH HERITAGE  
MARKHAM  
COMMITTEE MEETING HELD ON June 14,  
2023

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**5. PART THREE - CONSENT**

**5.3 MAJOR HERITAGE PERMIT APPLICATION**

**PROPOSED ONE-STOREY ADDITION WITH  
CARPORT 40 ROUGE STREET (16.11)**

File Number:  
23 120000 HE

Recommendations:

THAT Heritage Markham has no objection from a heritage perspective to the proposed modifications detailed in the Major Heritage Permit application submitted for 40 Rouge Street provided that the design revisions suggested by Heritage Section staff are appropriately addressed to the satisfaction of Staff.

AND THAT future review of this and any other development application required to approve the proposed development be delegated to Heritage Section staff.

**Carried**



**APPENDIX “D”**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/111/23**

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 “E” to this Staff report, and that the Secretary-Treasurer receive written confirmation from the Manager of Heritage Planning or designate that this condition has been fulfilled to his satisfaction;
3. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Tree Assessment and Preservation Plan (TAPP) Requirements (June 2019), through the future Residential Infill Grading & Servicing (RIGS) TREE Permit process prior to issuance of building permit;
4. That tree replacements be provided and/or tree replacement fees be paid to the City where required, in accordance with the City's accepted Tree Assessment Preservation Plan (TAPP), through the Residential Infill Grading & Servicing (RIGS) TREE Permit process;
5. That prior to the commencement of construction, demolition and/or issuance of building permit, tree protection be erected and maintained around all trees on site, including City of Markham street trees, in accordance with the City's Tree Preservation By-Law 2008-96 and Conditions of a TREE Permit, to be inspected by City staff.

CONDITIONS PREPARED BY:



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Evan Manning, Senior Heritage Planner

**APPENDIX "E"**  
**DRAWINGS**

SURVEYOR'S REAL PROPERTY REPORT OF  
 PART 1:  
 PLAN OF LOT 14 - BLOCK L  
 REGISTERED PLAN 173  
 TOWN OF MARKHAM  
 (REGIONAL MUNICIPALITY OF YORK)

SCALE = 1 : 150  
 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.

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 THE REPRODUCTION, ALTERATION OR USE OF THIS REPORT IN WHOLE OR IN  
 PART WITHOUT THE EXPRESS PERMISSION OF A. AZIZ SURVEYORS INC. O.L.S.  
 IS STRICTLY PROHIBITED.

**PART 2:**  
**REPORT**  
 \* THIS REPORT WAS PREPARED FOR S. GREGORY, AND THE UNDERSIGNED  
 ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.  
**BOUNDARIES**  
 \* LOT 14 - BLOCK L, REGISTERED PLAN 173  
**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 NORTHERLY,  
 EASTERLY & WESTERLY BOUNDARIES; THEY ARE LOCATED OVER THE SUBJECT  
 BOUNDARIES TO THE EXTENT SHOWN ON THE PLAN.  
**BEARING NOTE**  
 \* BEARING ARE ASTRONOMIC AND ARE REFERRED TO AS NORTHERLY  
 OF ROUGE STREET HAVING A BEARING OF N74°50'00"E AS SHOWN ON  
 REGISTERED PLAN 173  
**GEODETIC**  
 \* ELEVATIONS SHOWN GEODETIC DRIVEN FROM TOWN OF MARKHAM  
 BENCH MARK # 00819668330, ELEVATION 172.110 M

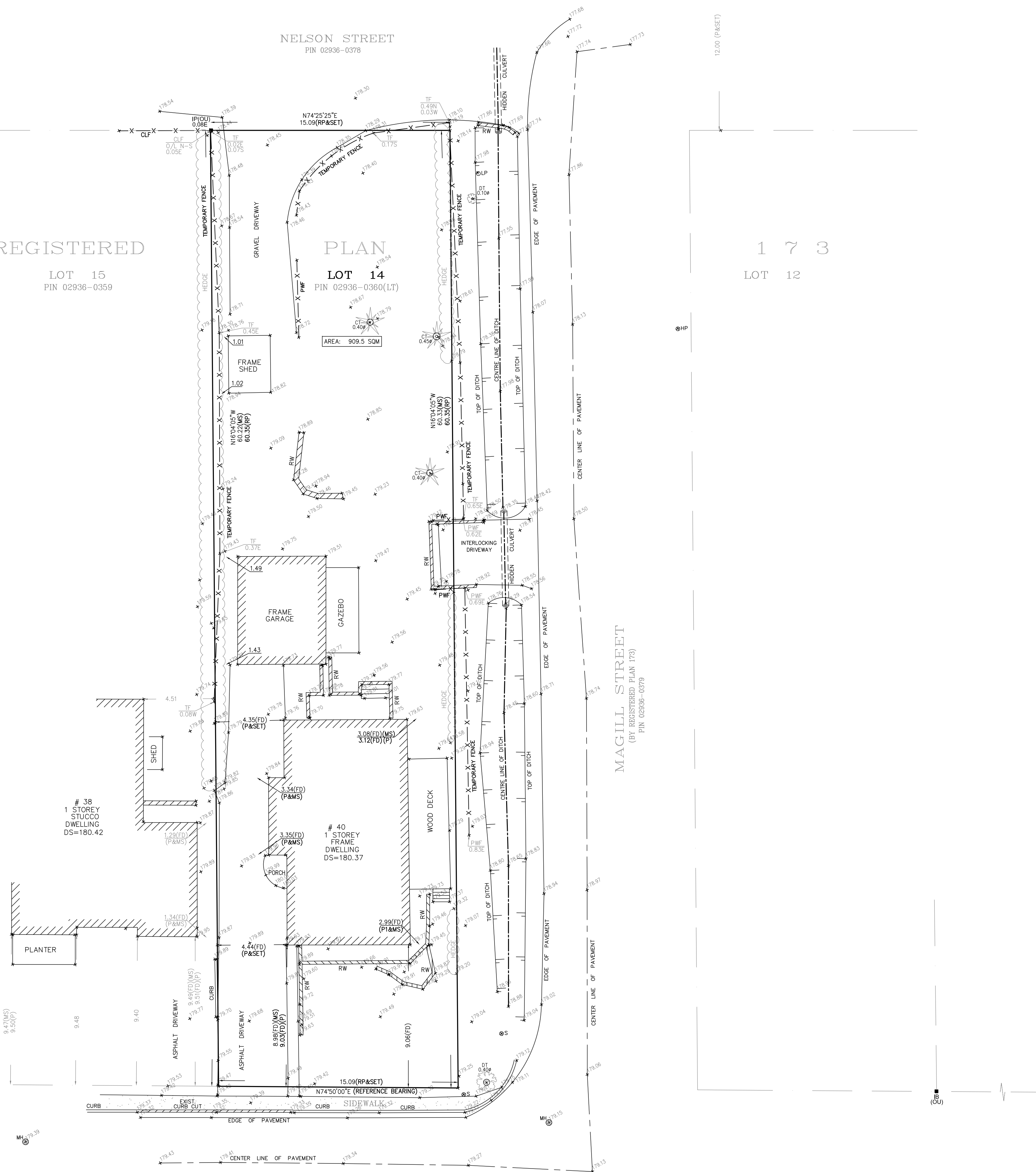
**LEGEND:**

■ DENOTES SURVEY MONUMENT FOUND	IB DENOTES IRON BAR
D - SURVEY MONUMENT SET	MH - MANHOLE
SB - STANDARD IRON BAR	HP - HYDRO POLE
N.E.S.W - NORTH, EAST, SOUTH, WEST	LP - LAMP POST
TF - TEMPORARY FENCE	TFH - TOP OF FIRE HYDRANT
PWF - PLASTIC WOOD FENCE	S - SIGN
CLF - CHAIN LINK FENCE	OU - ORIGIN UNKNOWN
RP - REGISTERED PLAN 173	MS - MEASURED
P - SURVEY BY B. J. HAYNES, O.L.S., DATED AUGUST 16, 1989	DT - DECIDUOUS TREE
P1 - SURVEY BY HORTON & HAYNES, O.L.S., DATED DECEMBER 23, 1954	CT - CONIFEROUS TREE
	DS - DOOR SILL
	FD - FOUNDATION
	RW - RETAINING WALL

REGISTERED  
 LOT 15  
 PIN 02936-0359

PLAN  
 LOT 14  
 PIN 02936-0360(LT)  
 AREA: 909.5 SQM

1 7 3  
 LOT 12



ROUGE STREET  
 (BY REGISTERED PLAN 173)  
 PIN 02936-0615 (LT)

MAGILL STREET  
 (BY REGISTERED PLAN 173)  
 PIN 02936-0379

ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2112207  
 THIS PLAN IS NOT VALID  
 UNLESS IT IS AN EMBOSSED  
 ORIGINAL COPY  
 ISSUED BY THE SURVEYOR.  
 In accordance with  
 Regulation 1026, Section 29(3)

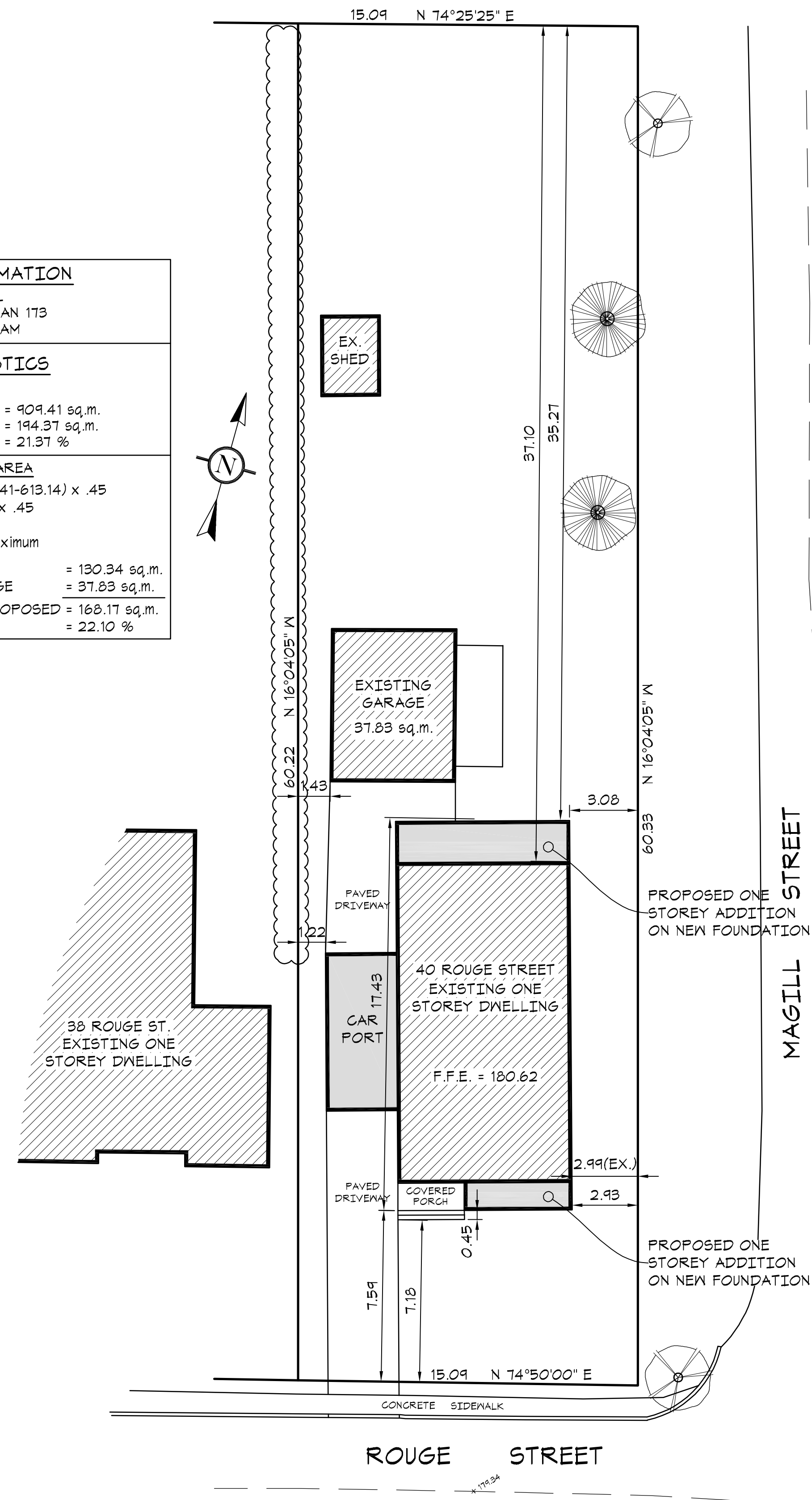
**SURVEYOR'S CERTIFICATE**  
 I CERTIFY THAT:  
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE  
 WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE  
 REGULATIONS MADE UNDER THEM.  
 2. THE SURVEY WAS COMPLETED ON THE 15th DAY OF DECEMBER, 2019

DATE: JANUARY 09, 2020  
 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.COM  
 E-Mail: aziz@m-azizsurveyors.ca

PROJECT NUMBER	PROJECT
19-342	40 ROUGE STREET (SR-PR)
DRAWN BY	CHECKED BY
C.H	A.A

<b>SITE INFORMATION</b>	
LOT 14, BLOCK L REGISTERED PLAN 173 CITY OF MARKHAM	
<b>SITE STATISTICS</b>	
<b>LOT COVERAGE</b>	
LOT AREA	= 909.41 sq.m.
BUILDING AREA	= 194.37 sq.m.
LOT COVERAGE	= 21.37 %
<b>GROSS FLOOR AREA</b>	
613.14 + 0.5(909.41-613.14) x .45	
= 613.14 + 148.13 x .45	
= 761.27 x .45	
= 342.57 sq.m. maximum	
G.F.A. HOUSE	= 130.34 sq.m.
G.F.A. EX. GARAGE	= 37.83 sq.m.
TOTAL G.F.A. PROPOSED	= 168.17 sq.m.
	= 22.10 %



GENERAL NOTES:

ALL CONSTRUCTION IS TO CONFORM TO SECTION "A" OF THE ONTARIO BUILDING CODE (LATEST EDITION).

CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.

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BUILDING PERMITS TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

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Individual B.C.I.N. - 25825  
Firm B.C.I.N. - 30506

Russ Gregory  
NAME SIGNATURE

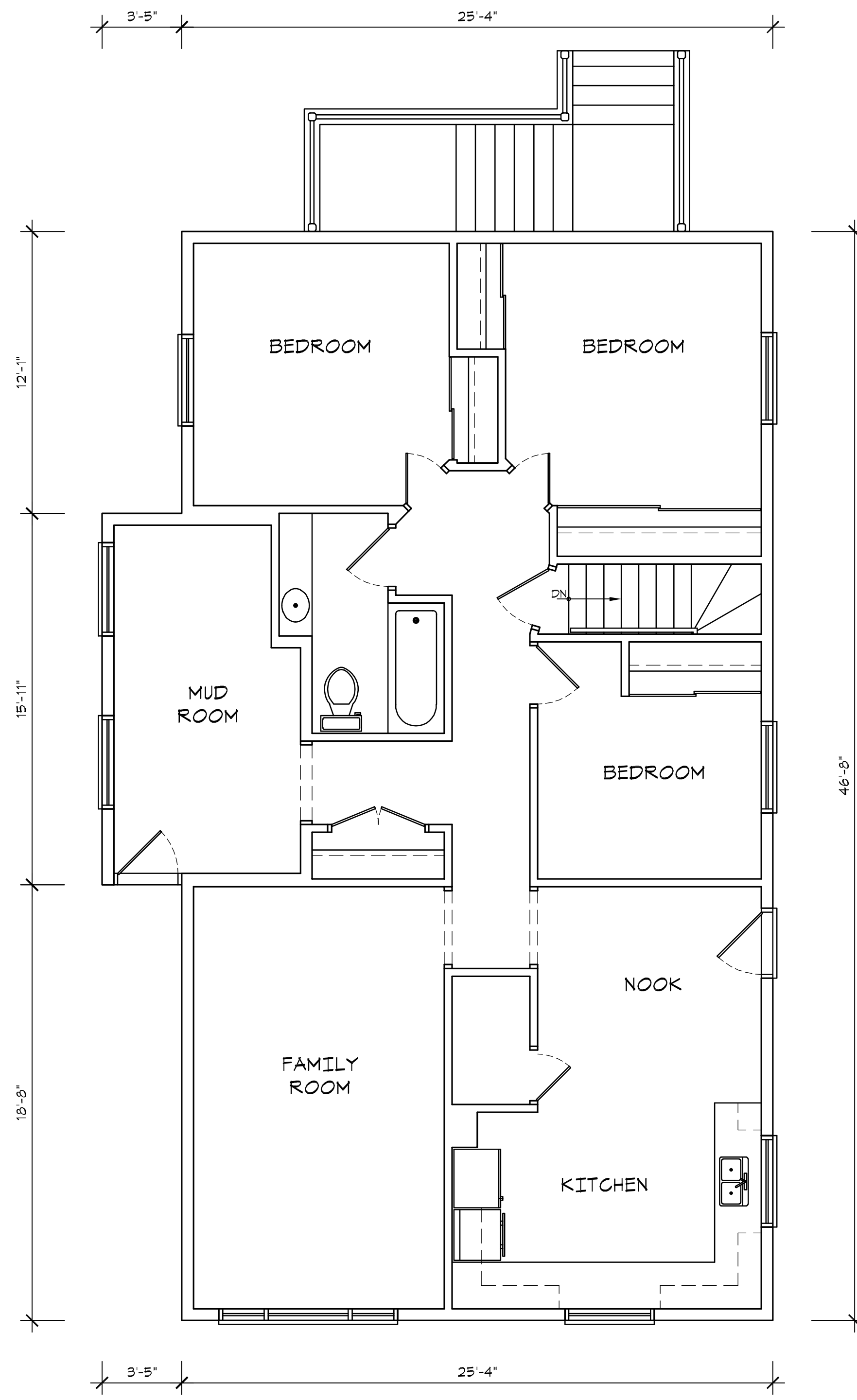
PROJECT TITLE

**PROPOSED DWELLING  
40 ROUGE STREET  
CITY OF MARKHAM**

**THE GREGORY  
DESIGN GROUP**

16 CHURCH STREET  
MARKHAM, ONTARIO L3P 2L6  
416-520-0978  
shane@gregorydesigngroup.net

SCALE 1:150	DATE 05/25/23
PROJECT NUMBER 2178-19	SHEET NUMBER SP-1
DRAWN BY S.Gregory	CHECKED BY R.G.



**GROUND FLOOR PLAN**  
EXISTING LAYOUT

GENERAL NOTES:  
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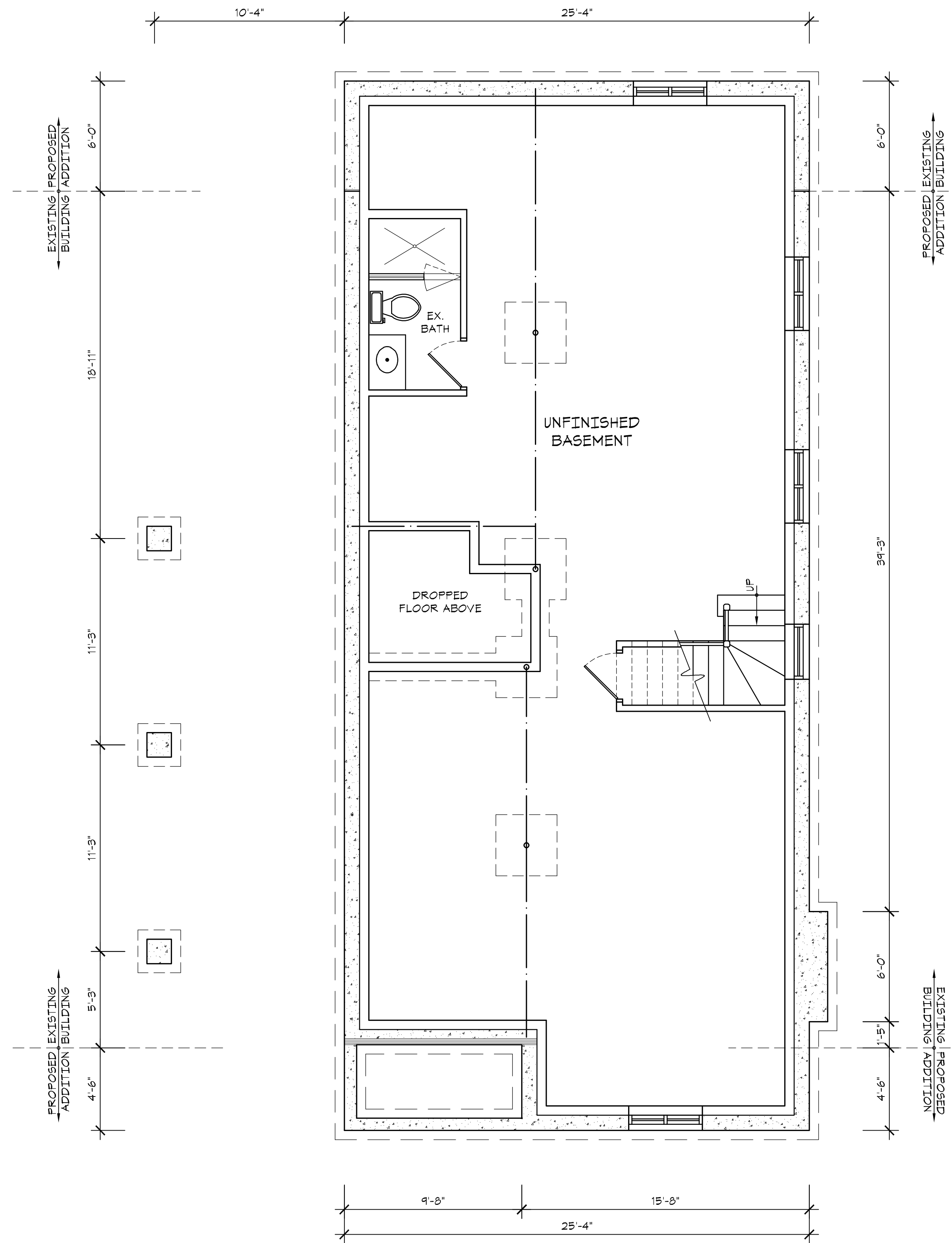
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 Russ Gregory  
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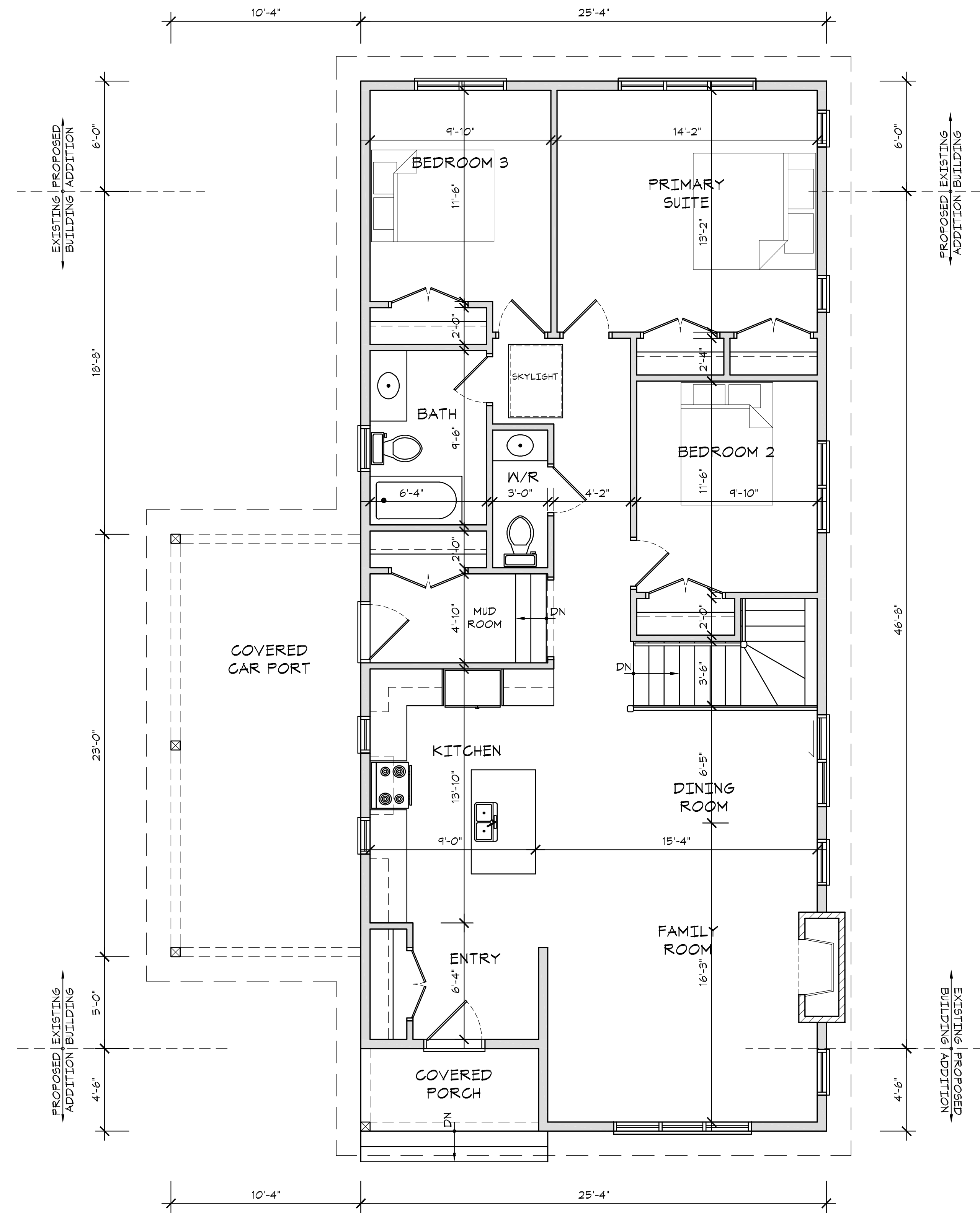
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SCALE 1/4"=1'-0"	DATE 05/25/23
PROJECT NUMBER 2178-19	SHEET NUMBER <b>A-4</b>
DRAWN BY S.Gregory	CHECKED BY R.G.



**BASEMENT & FOUNDATION PLAN**  
PROPOSED LAYOUT



**MAIN FLOOR PLAN**  
PROPOSED LAYOUT  
EXISTING FLOOR AREA = 1,181 sq.ft.  
PROPOSED ADDITION = 222 sq.ft.  
TOTAL FLOOR AREA = 1,403 sq.ft. (130.34 sq.m.)  
BUILDING AREA = 1,685 sq.ft. (156.54 sq.m.)

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40 ROUGE STREET  
CITY OF MARKHAM**

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SCALE 1/4"=1'-0"	DATE 05/25/23
PROJECT NUMBER 2178-19	SHEET NUMBER <b>A-1</b>
DRAWN BY S.Gregory	CHECKED BY R.G.



**FRONT ELEVATION**

- NOTES FOR ONE STOREY ADDITION ELEVATIONS:**
- Pre-Finished horizontal wood siding over 1"x3" vertical strapping where shown (colour to be determined)
  - Pre-Finished "shake" style siding over 1"x3" horizontal strapping where shown (colour to be determined)
  - Ontario size brick veneer to be installed on chimney (colour to be determined)
  - Pre-Finished 1/2"x3 1/2" corner trim boards (colour to be determined)
  - Pre-Finished 1/2"x3 1/2" window trim boards (colour to be determined)
  - All windows to be double glazed panes in wood or vinyl clad frames. (colour to be determined)
  - All exterior door systems to be in wood or vinyl clad frames. (colour to be determined)
  - All roofing to be Cambridge style (or equal) asphalt shingles. (colour to be determined)
  - 6" wood Frieze board to surround entire addition below soffits. (colour to be determined)
  - Heavy gauge aluminum fascia, soffit, gutters, and downspouts to match existing.
  - Contractor must supply samples of materials and colours to the Gregory Design Group and Heritage Markham for approval prior to installation on site.



**RIGHT SIDE (EAST) ELEVATION**

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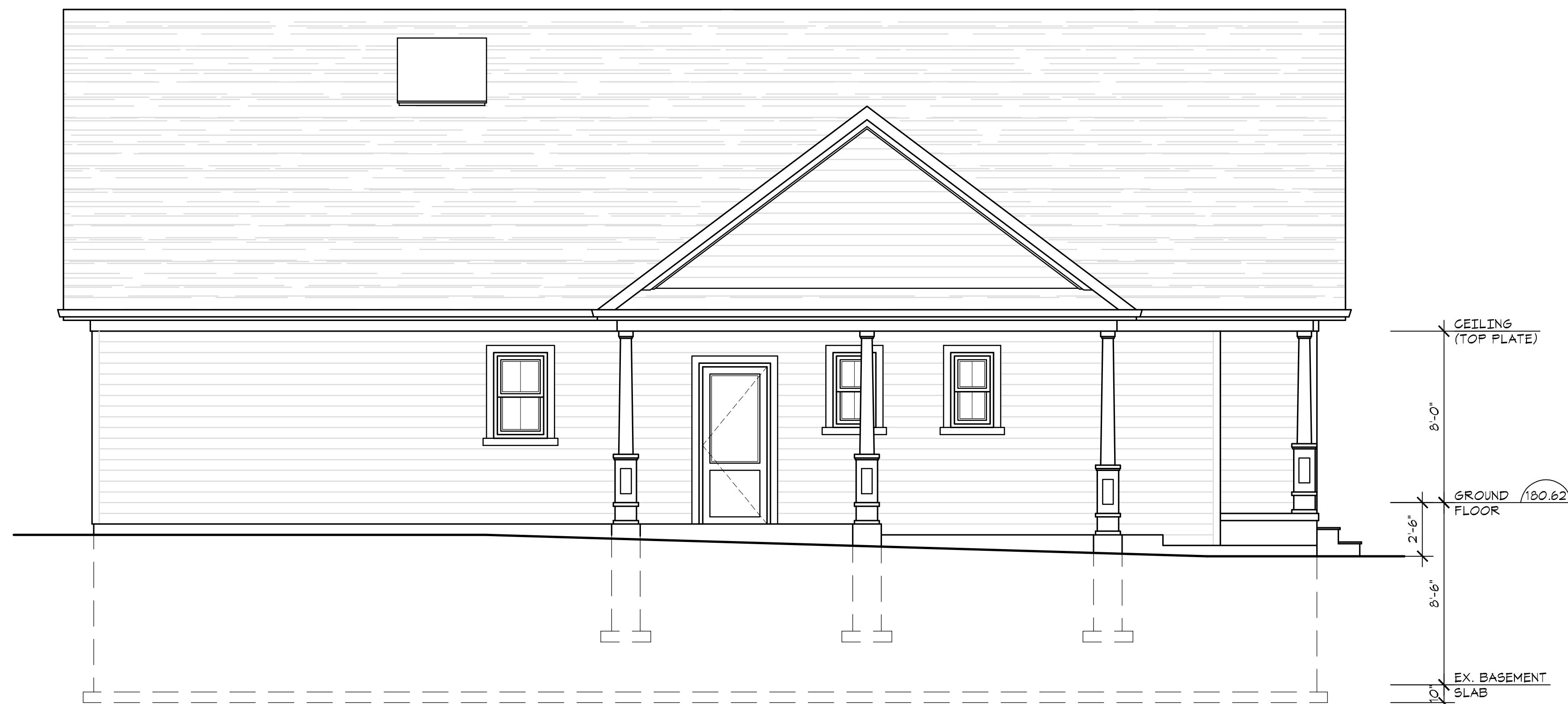
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SCALE 1/4"=1'-0"	DATE 05/25/23
PROJECT NUMBER 2178-19	SHEET NUMBER <b>A-2</b>
DRAWN BY S.Gregory	CHECKED BY R.G.



REAR ELEVATION

- NOTES FOR ONE STOREY ADDITION ELEVATIONS:
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  - Contractor must supply samples of materials and colours to the Gregory Design Group and Heritage Markham for approval prior to installation on site.



LEFT SIDE (WEST) ELEVATION

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 40 ROUGE STREET  
 CITY OF MARKHAM**

**THE GREGORY  
 DESIGN GROUP**  
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SCALE 1/4"=1'-0"	DATE 05/25/23
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