

Memorandum to the City of Markham Committee of Adjustment

December 13, 2024

File: A/137/24
Address: 9 Warton Court, Thornhill
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday, December 18, 2024

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

The applicant is requesting relief from the following requirements of By-law 2024-19, Residential - Established Neighbourhood Low Rise (RES-ENLR), as amended, to permit:

a) By-law 2024-19, Section 6.3.2.2 (c):

a main building coverage of 23.3% (165.5 m²) for the second storey, whereas the by-law permits a maximum main building coverage of 20% (141.7 m²) of the lot area for any storey above the first;

b) By-law 2024-19, Section 4.8.8 (i):

a side yard eaves/roof overhang encroachment of 0.60 m, whereas the by-law permits a maximum encroachment into the required interior side yard of 0.45 m;

c) By-law 2024-19, Section 4.8.10.2 (d) (iii):

a porch and underground cold cellar to project 1.22 m beyond the established building line, whereas the by-law permits a porch with underground cold cellar to project a maximum of 0.6 m beyond an established building line; and

d) By-law 2024-19, Section 4.8.10.2 (d) (iv):

stairs used to access a porch to project 0.91 m beyond a permitted porch encroachment, whereas the by-law permits stairs used to access a porch to project 0.45 m beyond a permitted porch encroachment;

as it relates to a proposed two-storey residential dwelling.

BACKGROUND

Property Description

The 714.12 m² (7,687 ft²) "Subject Property" is located on the east side of Warton Court, west of Bayview Avenue and north of the CN Rail. A one-storey dwelling with mature vegetation in the rear yard exists on the Subject Property. The surrounding established residential neighbourhood is comprised of a mix of one and two-storey detached dwellings and contains examples of recent infill developments.

Proposal

The applicant is proposing to demolish the existing one-storey dwelling and construct a two-storey dwelling on the Subject Property. The proposed dwelling will be sited forward from the location of the existing house, to maintain the mature trees in the rear of the property.

Official Plan and Zoning

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

The Official Plan designates the Subject Property “Residential Low Rise”, which provides a range of lower-scale residential buildings in established neighbourhoods, including single detached dwellings.

Area Specific Policy 9.18.5 also applies to the Subject Property and intends to provide a set of development standards in the zoning by-law that limits the size and massing of new dwellings or additions, ensuring infill development respects the existing pattern and character of adjacent development. This includes lot coverage, building depth, floor area ratios, height, number of storeys, garage projections, and garage widths.

Zoning By-Law 2024-19

The Subject Property is zoned “Residential – Established Neighbourhood Low Rise” (RES-ENLR) under By-law 2024-19, which permits detached dwellings. The proposal does not comply with respect to the building coverage, side yard eave encroachment, porch projection and stairs access. Further details on the variances are provided in the comment section below.

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, *“the variances are being requested due to moving the house forward on the property to maintain two mature rear yard trees”*.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on November 8th, 2024 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 Main Building Coverage Variance

The applicant is requesting to permit a main building coverage of 23.3% for the second storey, whereas the by-law permits a maximum main building coverage of 20%. The intent of the maximum building coverage requirements include, but are not limited to, ensuring that appropriate angular planes are provided and that the built form and character of the neighbourhood is maintained.

The proposed second-storey building coverage excludes the second-storey balcony which would add approximately 5.57 m² to the overall second-storey building coverage area. The proposed building includes a portion that will cover part of the existing front yard and driveway. This moves the building line closer to 7 Wiarthon Court, the existing dwelling adjacent to the subject property. The proposed building is set back 8.67 m from the front lot line, which is generally consistent with the established front yard pattern in the neighbourhood.

Given that the proposed second-storey building coverage does not extend beyond the existing building footprint, and there remains a generous rear yard (12.44 m from the porch and 10.61 m from the stairs) to accommodate for the existing trees in the rear yard, the proposed increase in the second-storey building coverage will not significantly add to the scale and massing of the dwelling. Staff are of the opinion that the requested variance is minor in nature.

Increased Side Yard Eave Encroachment Variance

The applicant is requesting to permit a side yard eaves/roof overhang encroachment of 0.60 m, whereas the by-law permits a maximum encroachment into the required interior side yard of 0.45 m. The intent of the maximum encroachment requirement is to maintain adequate spacing between structures and access for adjacent dwellings. Staff are of the opinion that the proposed encroachment will not negatively impact the adjacent dwelling(s). The requested variance maintains appropriate distance between neighbouring dwellings, and as such, have no concerns.

Porch Projection Variance

The applicant is requesting to permit a porch and underground cold cellar to project 1.22 m beyond the established building line, whereas the by-law permits a porch with underground cold cellar to project a maximum of 0.6 m beyond an established building line. The main front wall of the building provides a front yard setback of 8.67 m and is generally consistent with the established front yard setback pattern. Staff are of the opinion that the requested variance is minor in nature.

Stair Encroachment Variance

The applicant is requesting to permit stairs used to access a porch to project 0.91 m beyond a permitted porch encroachment, whereas the by-law permits stairs used to access a porch to project 0.45 m beyond a permitted porch encroachment. The relief is needed to access the basement of the subject property, within the proposed footprint of the new two-storey dwelling. Staff are of the opinion that the requested variance is minor in nature and is consistent with the surrounding properties, and as such, have no concerns.

EXTERNAL AGENCIES

CN Rail Requirements

CN Rail provided comments on this application on December 12, 2024 (Appendix 'C'), requiring a list of mitigation measures be implemented to attenuate the impact generated by the railway located south of the property. Staff recommend a condition be added requiring the applicant to satisfy CN Rail's requirements prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 13, 2024. 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 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Theo Ako-Manieson, Planner I, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Acting-Development Manager, West District

File Path: Amanda\File\ 24 197668 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/137/24

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 that the Secretary Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the applicant satisfies the requirements of CN Rail, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of CN Rail, and that the Secretary Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of CN Rail.

CONDITIONS PREPARED BY:



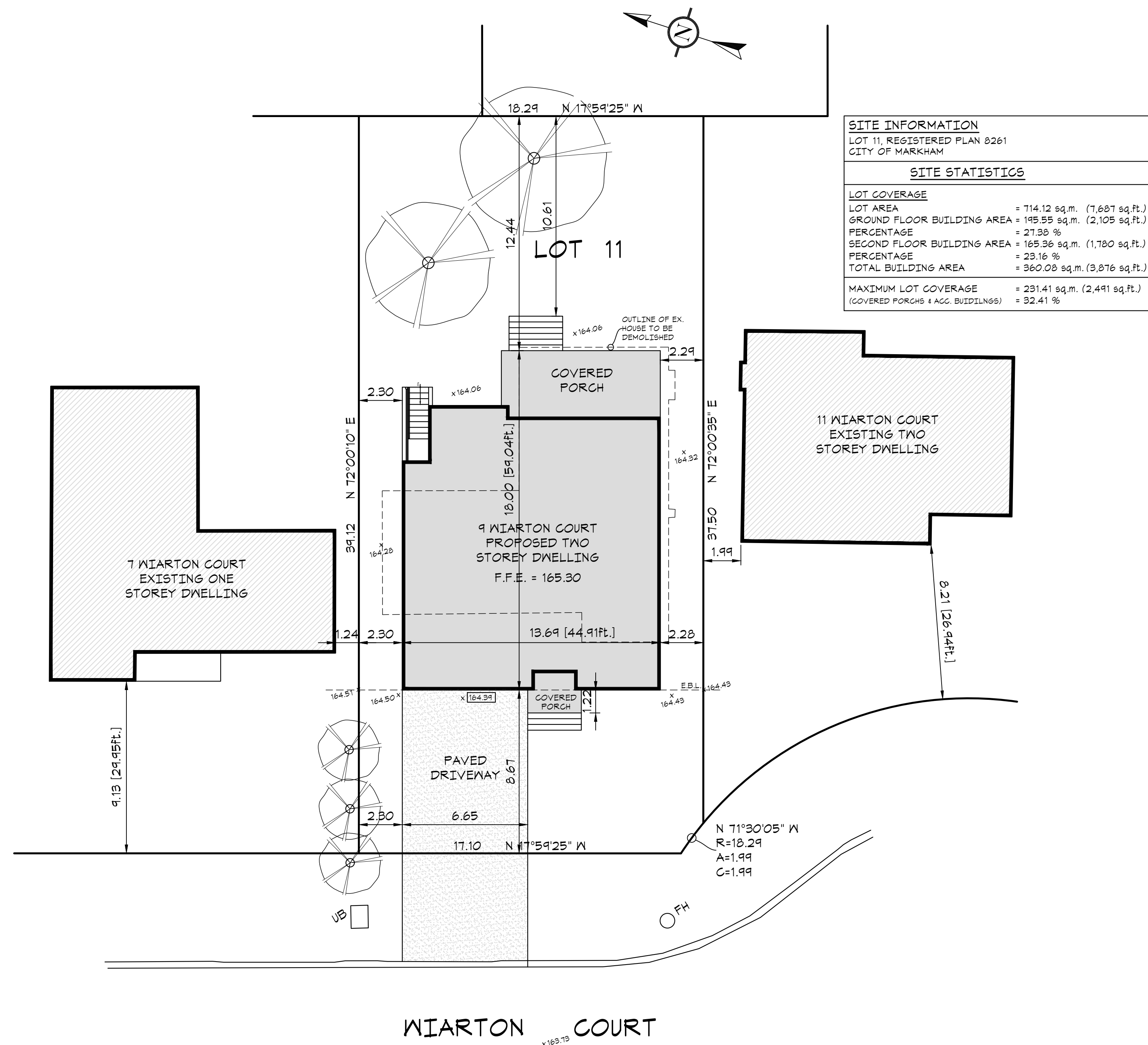
Theo Ako-Manieson, Planner I, West District

Appendix B

File: 24.197668.000.00.MNV

Date: 12/13/2024

MM/DD/YYYY



GENERAL NOTES:
ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" 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 TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

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 is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025
Firm B.C.I.N. - 30506

Russ Gregory
NAME SIGNATURE

PROJECT TITLE
**NEW HOUSE DESIGN
9 WIARTON COURT
CITY OF MARKHAM**

GREGORY DESIGNS
48 GEORGE STREET
MARKHAM, ONTARIO L3P 2R7
416-520-0978
shane@gregorydesigngroup.net

SCALE 1:150	DATE 10/09/24
PROJECT NUMBER 24-24	SHEET NUMBER A-1
DRAWN BY S.Gregory	A-1
CHECKED BY R.G.	

Appendix B

File: 24.197668.000.00.MNV

Date: 12/13/2024

MM/DD/YYYY



FRONT ELEVATION



RIGHT SIDE (SOUTH) ELEVATION

GENERAL NOTES:
 ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" 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 TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

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 is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025
 Firm B.C.I.N. - 30506

Russ Gregory
 NAME SIGNATURE

PROJECT TITLE
 NEW HOUSE DESIGN
 9 WIARTON COURT
 CITY OF MARKHAM

GREGORY DESIGNS
 48 GEORGE STREET
 MARKHAM, ONTARIO L3P 2R7
 416-520-0978
 shane@gregorydesigngroup.net

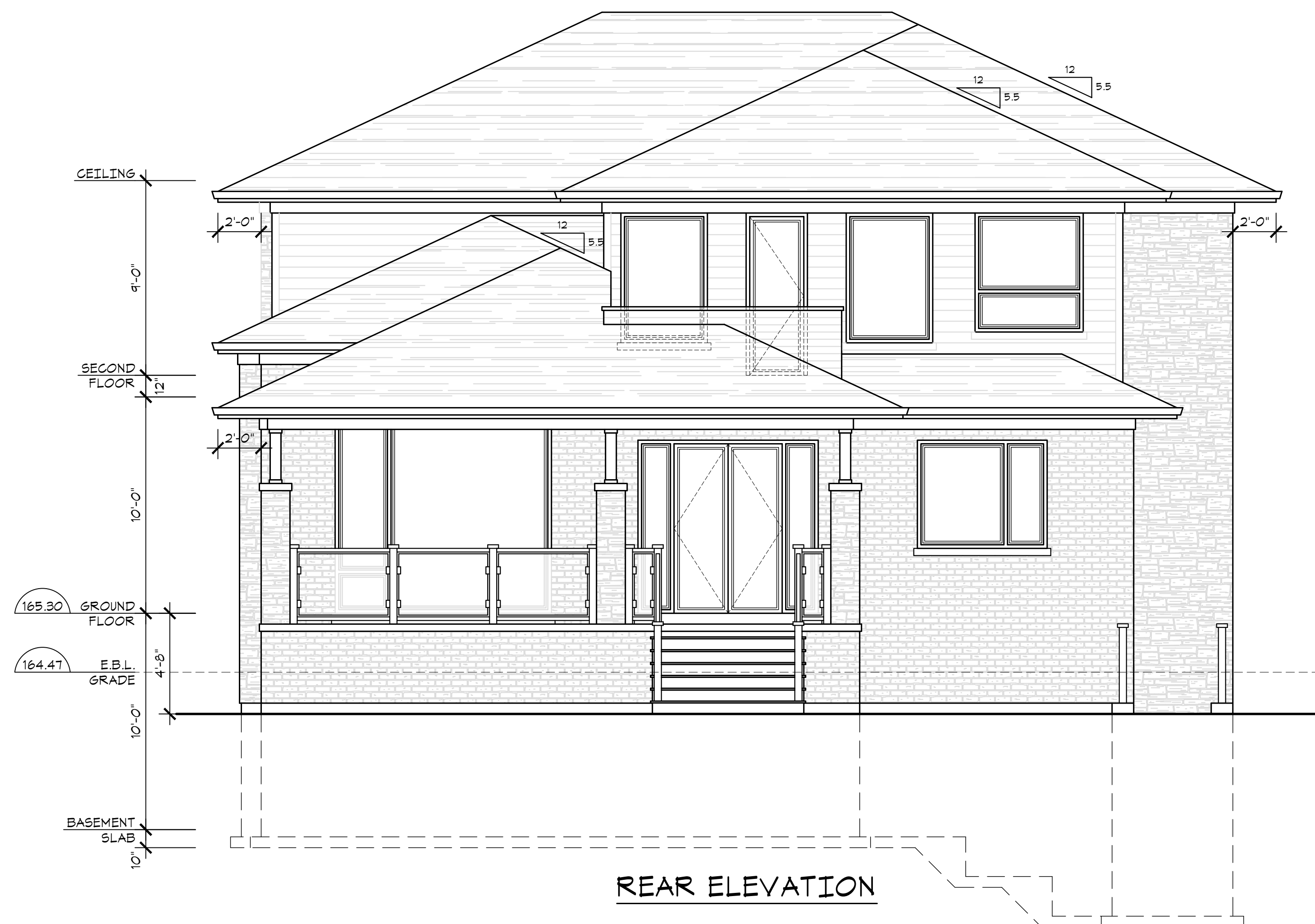
SCALE 1/4"=1'-0"	DATE 10/09/24
PROJECT NUMBER 24-24	SHEET NUMBER A-6
DRAWN BY S.Gregory	CHECKED BY R.G.

Appendix B

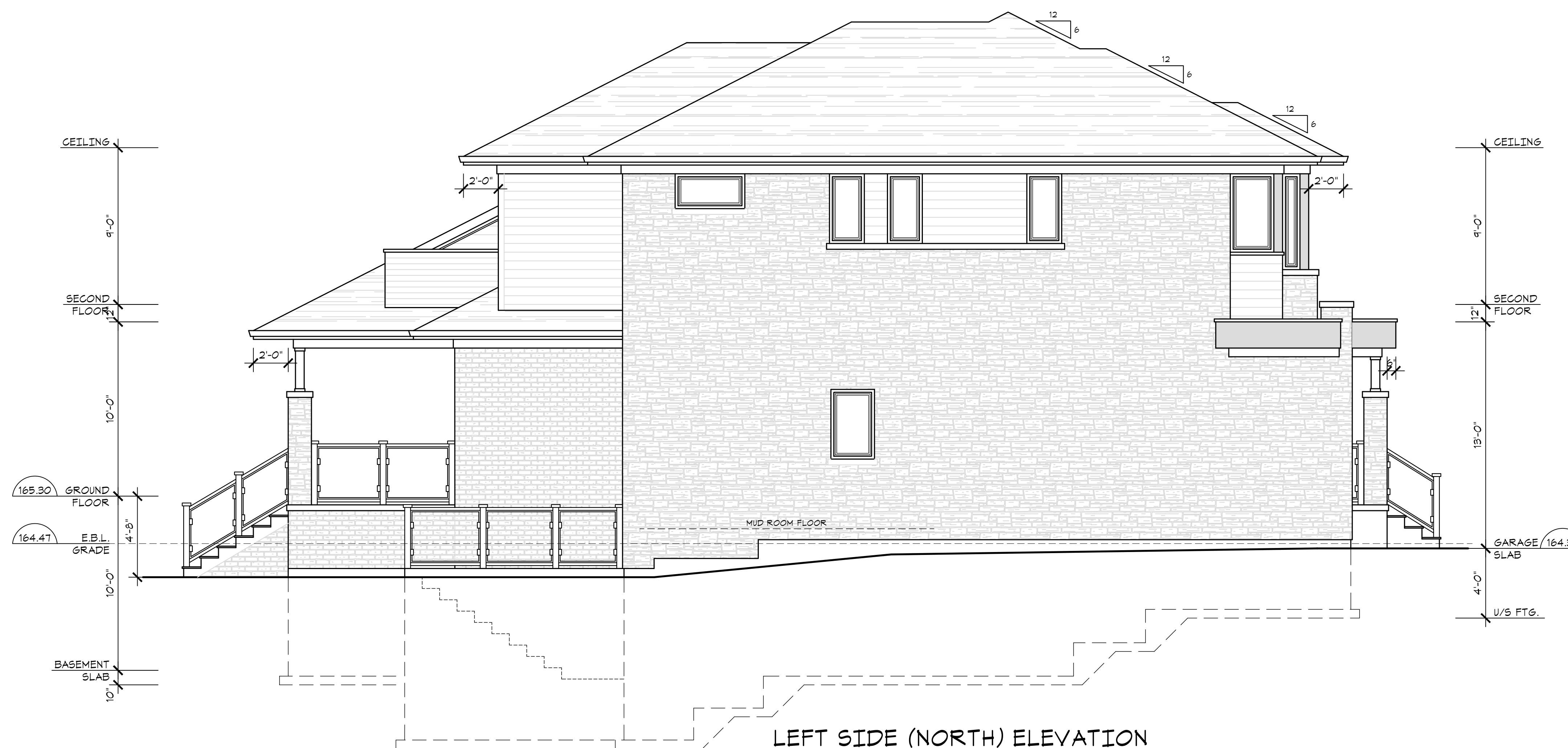
File: 24.197668.000.00.MNV

Date: 12/13/2024

MM/DD/YYYY



REAR ELEVATION



LEFT SIDE (NORTH) ELEVATION

GENERAL NOTES:
 ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" 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 TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

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 is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025
 Firm B.C.I.N. - 30506

Russ Gregory
 NAME SIGNATURE

PROJECT TITLE
 NEW HOUSE DESIGN
 9 WIARTON COURT
 CITY OF MARKHAM

GREGORY DESIGNS
 48 GEORGE STREET
 MARKHAM, ONTARIO L3P 2R7
 416-520-0978
 shane@gregorydesigngroup.net

SCALE 1/4"=1'-0"	DATE 10/09/24
PROJECT NUMBER 24-24	SHEET NUMBER A-7
DRAWN BY S.Gregory	CHECKED BY R.G.

Appendix C

File: 24.197668.000.00.MNV

Date: 12/13/2024
MM/DD/YYYY

From: Ako-manieson_Theo
Sent: Thursday, December 12, 2024 2:14 PM
To: [Houser, Shawna](mailto:Houser_Shawna); [Whitfield, Greg](mailto:Whitfield_Greg)
Subject: FW: 2024-12-12_CN Comments_Markham_ MNV.24. - 9 Wiarnton Court

CN Rail comments for 9 Wiarnton Court

Thanks,

Theo Ako-Manieson, BURPI
Planner 1, West District
(905) 477-7000, Extension 2383

City of Markham Planning and Urban Design Department
101 Town Centre Boulevard, Markham, ON L3R 9W3
markham.ca



From: Alexandre Thibault <Alexandre.Thibault@cn.ca> On Behalf Of Proximity
Sent: Thursday, December 12, 2024 2:10 PM
To: Ako-manieson, Theo <Ako-manieson@markham.ca>
Subject: 2024-12-12_CN Comments_Markham_ MNV.24. - 9 Wiarnton Court

CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Hello Theo,

Thank you for consulting CN on the application mentioned in subject. It is noted that the subject site is within 300 meters of CN's Main Line. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. The [Guidelines for New Development in Proximity to Railway Operations](#) reinforce the safety and well-being of any existing and future occupants of the area. Please refer to these guidelines for the development of sensitive uses in proximity to railway operations. These policies have been developed by the Railway Association of Canada and the Federation of Canadian Municipalities. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

- The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way:

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.
- The implementation of the following mitigation measures in the dwelling design and construction:
 - Forced air ventilation systems with central air conditioning,
 - Acoustically upgraded windows meeting the minimum requirements of the Building Code and providing a maximum 35 dBA indoor limit for bedrooms and 40 dBA for living rooms,

We request that CN rail and the proximity@cn.ca email be circulated on any and all public notices and notice of decisions with respect to this and future land use planning applications with respect to the subject site.

Thank you and do not hesitate to contact us with any questions.

Best regards,



CN Proximity

E: proximity@cn.ca

What's New at CN | Quoi de neuf au CN

From: Ako-manieson, Theo <Ako-manieson@markham.ca>
Sent: Thursday, December 05, 2024 1:55 PM
To: Proximity <proximity@cn.ca>

Cc: Whitfield, Greg <GWhitfield@markham.ca>
Subject: MNV.24. - 9 Wiarton Court

CAUTION: This email originated from outside CN: DO NOT click links or open attachments unless you recognize the sender AND KNOW the content is safe.
AVERTISSEMENT : ce courriel provient d'une source externe au CN : NE CLIQUEZ SUR AUCUN lien ou pièce jointe à moins de reconnaître l'expéditeur et d'avoir VÉRIFIÉ la sécurité du contenu.

Hello, hope everything's well,

I'm reaching out to ask if CN Rail has any comments or issues regarding a minor variance application for 9 Wiarton Court, as the subject property is located within the 200m CN rail.

The applicant is looking to seek relief from the following:

- a. **By-law 2024-19, Section 6.3.2.2 (c):**
a main building coverage of 23.3 percent (1782 square feet) for the second storey, whereas the by-law permits a maximum main building coverage of 20 percent (1,525 square feet) of the lot area for any storey above the first;
- b. **By-law 2024-19, Section 4.8.8 (i):**
A side yard eaves/roof overhang encroachment of 0.60 metres, whereas the by-law permits a maximum encroachment into the required interior side yard of 0.45 metres;
- c. **By-law 2024-19, Section 4.8.10.2 (d) (iii):**
a porch and underground cold cellar to project 1.22 metres beyond the established building line, whereas the by-law permits a porch with underground cold cellar to project a maximum of 0.6 metres beyond an established building line; and
- d. **By-law 2024-19, Section 4.8.10.2 (d) (iv):**
stairs used to access a porch to project 0.91 metres beyond a permitted porch encroachment, whereas the by-law permits stairs used to access a porch to project 0.45 metres beyond a permitted porch encroachment;

The variances are to facilitate a proposed two-storey residential dwelling. The applicant plans on moving the house forward to maintain two mature rear yard trees.

Please let me know if there are any comments, concerns, etc. that need to be factored into the staff report. The application is due for the Dec 18th Committee of Adjustment meeting, so if you could get back to me at your earliest convenience, that would be much appreciated.

Thanks,

Theo Ako-Manieson, BURPI
Planner 1, West District
Planning and Urban Design
(905) 477-7000, Extension 2383

City of Markham Planning and Urban Design Department
101 Town Centre Boulevard, Markham, ON L3R 9W3
markham.ca



[Visit our Website](#)

[Visit our Website](#)

Connect with us:



This e-mail contains information that may be privileged and/or confidential. If you are not the intended recipient, any disclosure, distribution, copying or other use of this e-mail or the information contained herein or attached hereto is strictly prohibited and may be unlawful. If you have received this e-mail in error, please notify this sender immediately and delete this e-mail without reading, printing, copying or forwarding it to anyone. Thank you for your co-operation.