

# Memorandum to the City of Markham Committee of Adjustment

February 8, 2021

**File:** A/140/20  
**Address:** 8 Dove Lane – Markham, ON (Thornhill)  
**Applicant:** Yousef Kimiagar  
**Agent:** JKO Planning Services Inc.  
**Hearing Date:** February 17, 2021

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

The applicant is requesting relief from the following “Third Density Single Family Residential (R3)” zone requirements under By-law 2237, as amended, as they relate to a proposed new single detached dwelling. The variances requested are to permit:

- a) **Infill By-law 101-90, Section 1.2 (vii) - Floor Area Ratio:**  
a maximum floor area ratio of 55.0%, whereas the By-law permits a maximum floor area ratio of 50.0%;
- b) **Infill By-law 101-90, Section 1.2 (i) - Building Height:**  
a maximum building height of 10.11 m (33.17 ft), whereas the By-law permits a maximum building height of 9.80 m (32.15 ft);
- c) **Section 6.1 - Rear Yard Setback:**  
a rear yard setback of 23.0 ft (7.01 m), whereas the By-law requires a minimum rear yard setback of 25.0 ft (7.62 m);
- d) **Section 6.1 - Front Yard Setback:**  
a minimum front yard setback of 17.85 ft (5.43 m), whereas the By-law requires a minimum front yard setback of 27.0 ft (8.23 m);
- e) **Parking By-law 28-97, Section 6.2.4.5 i) - Provisions for Circular Driveways:**  
a minimum main building setback of 5.43 m (17.81 ft), whereas the By-law requires a minimum main building setback of 8.0 m (26.25 ft) from the street line; and
- f) **Section 3.7 - Permitted Yard Encroachment:**  
a maximum eaves encroachment of 19.0 in (0.48 m), whereas the By-law permits a maximum eaves encroachment of 18.0 in (0.46 m) into the required yards.

This application is related to consent application B/30/16, which was approved by the Committee of Adjustment (“the Committee”) on March 22, 2017.

## BACKGROUND

### Property Description

The 699.56 m<sup>2</sup> (7,530.43 ft<sup>2</sup>) subject property is located on the north side of Dove Lane, east of Henderson Avenue, south of John Street, and west of Bayview Avenue. The subject property is currently vacant, with no existing dwelling on the lot. Mature vegetation exists across the property. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The

surrounding area is undergoing a transition with newer dwellings being developed as infill developments.

### **Proposal**

The applicant is proposing to construct a new two-storey dwelling on the subject property. The proposed dwelling would have an approximate ground floor area of 217.14 m<sup>2</sup> (2,337.25 ft<sup>2</sup>), a second floor area of 167.04 m<sup>2</sup> (1,798.0 ft<sup>2</sup>), for a total gross floor area of 384.15 m<sup>2</sup> (4,135.25 ft<sup>2</sup>) as shown in the plans attached as Appendix "B".

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24/17, and 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 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, and the width of proposed garages and driveways within a residential neighbourhood.

Zoning By-Law 2237, as amended

The subject property is zoned "Third Density Single Family Residential (R3)" under By-law 2237, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law requirements with respect to the minimum rear yard setback, minimum front yard setback, and maximum yard encroachment.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. The intent of the Infill 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 ratio, height, and number of storeys. The proposed development does not comply with the Infill By-law requirements with respect to the maximum floor area ratio, and maximum building height.

Parking Standards By-law 28-97, as amended

The subject property is also subject to the Parking By-law. The proposed development does not comply with the Parking By-law requirements with respect to the minimum main building setback for circular driveway provisions.

### **Zoning Preliminary Review (ZPR) Undertaken**

The applicant has completed a ZPR to confirm the initial variances required for the proposed development. The applicant has reduced the floor area ratio from 57.70% from their initial ZPR submission dated November 5, 2020, and submitted revised drawings on February 8, 2021 which confirmed a floor area ratio of 55.0%. The applicant has not conducted a ZPR for the revised drawings. Consequently, it is the applicant's responsibility to ensure that the application has accurately identified all the variances to the 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:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

### **Circular Driveway**

Operations staff provided comments as it relates to the proposed design of the circular driveway and driveway widths. The applicant will be required to address and comply with the City's requirements for a circular driveway at the building permit stage.

### **Increase in Maximum Floor Area Ratio**

The applicant is requesting relief to permit a floor area ratio of 55.0%, whereas the By-law permits a maximum floor area ratio of 50.0%. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 384.15 m<sup>2</sup> (4,135.0 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 349.08 m<sup>2</sup> (3,757.50 ft<sup>2</sup>). This is an increase of approximately 35.07 m<sup>2</sup> (377.50 ft<sup>2</sup>).

Staff are of the opinion that the requested floor area ratio would result in a dwelling that meets the intended scale of residential infill developments for the neighbourhood.

### **Increase in Maximum Building Height**

The applicant is requesting relief to permit a maximum building height of 10.11 m (33.17 ft), whereas the By-law permits a maximum building height of 9.80 m (32.15 ft). This is an increase of 0.31 m (1.02 ft).

Staff are of the opinion that the requested variance is a minor increase in height that will not adversely impact neighbouring properties, and is compatible with the low rise character of the neighbourhood.

### **Reduction in Rear Yard Setback**

The applicant is requesting relief to permit a minimum rear yard setback of 23.0 ft (7.01 m), whereas the By-law requires a minimum rear yard setback of 25.0 ft (7.62 m). This is a reduction of 2.0 ft (0.61 m).

Staff are of the opinion that the requested reduction to the rear yard setback would maintain sufficient rear yard amenity space which is generally consistent with the established rear yard setback pattern on the street.

### **Reduction in Front Yard Setback**

The applicant is requesting relief to permit a minimum front yard setback of 17.85 ft (5.43 m), whereas the By-law requires a minimum front yard setback of 27.0 ft (8.23 m). This is a reduction of 9.15 ft (2.79 m).

The variance is attributable to the below grade cold cellar which is setback approximately 17.85 ft (5.43 m) from the front lot line. The applicant submitted plans which propose a

main front wall of the building which provides a front yard setback of approximately 23.65 ft (7.21 m) as shown in the attached plans (Appendix “B”).

Staff note that the proposed development would have a setback above grade that is generally consistent with other building setbacks along Dove Lane, and have no objections.

#### **Minimum Main Building Setback**

The applicant is requesting a minimum main building setback of 5.43 m (17.81 ft), whereas the By-law requires a minimum main building setback of 8.0 m (26.25 ft) from the street line. Staff are of the opinion that the proposed development would have a main building setback that is generally consistent with other building setbacks along Dove Lane.

Similar to the applicant’s request to reduce the front yard setback, staff are of the opinion that the request is in part attributable to a below grade cold cellar as discussed above. Staff similarly do not object to the variance.

#### **Increase in Maximum Eaves Encroachment**

The applicant is requesting a maximum eaves encroachment of 19.0 in (0.48 m), whereas the By-law permits a maximum eaves encroachment of 18.0 in (0.46 m) into the required yards. Staff are of the opinion that the requested variance is negligible, and have no objections.

#### **Tree Protection & Compensation**

The applicant submitted Tree Preservation and Planting Plans (Appendix “C”), proposing to remove two trees, and protect seventeen trees which are located along the rear lot line. The applicant is also proposing to protect one existing tree located in the front yard, and to plant one additional tree in the front yard.

Urban Forestry staff has reviewed the application, and have requested that the tree assessment and preservation plan be subject to further review. Accordingly, staff recommend that any approval of the variance application includes related tree protection and compensation conditions attached in Appendix “A”.

#### **PUBLIC INPUT SUMMARY**

Thirteen written submissions were received as of February 8, 2021 from area residents, twelve of which are in support, and one of which objects to the proposed development, citing concerns with the following:

- the proposed height; and,
- reduced sunlight with respect to the proximity of the proposed development to the rear yard of the lot municipally addressed 35 Johnson Street.

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 proposed

development meets the four tests of the *Planning Act*, and have no objections. 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 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.

**APPENDICES**


Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Tree Preservation & Planting Plans

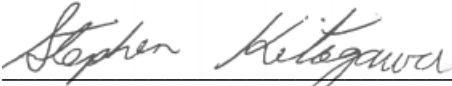
Appendix "D" – Aerial Photo: Parcel Fabric

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Kitagawa, Acting Development Manager, West District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/140/20**

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, 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 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, 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.
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.

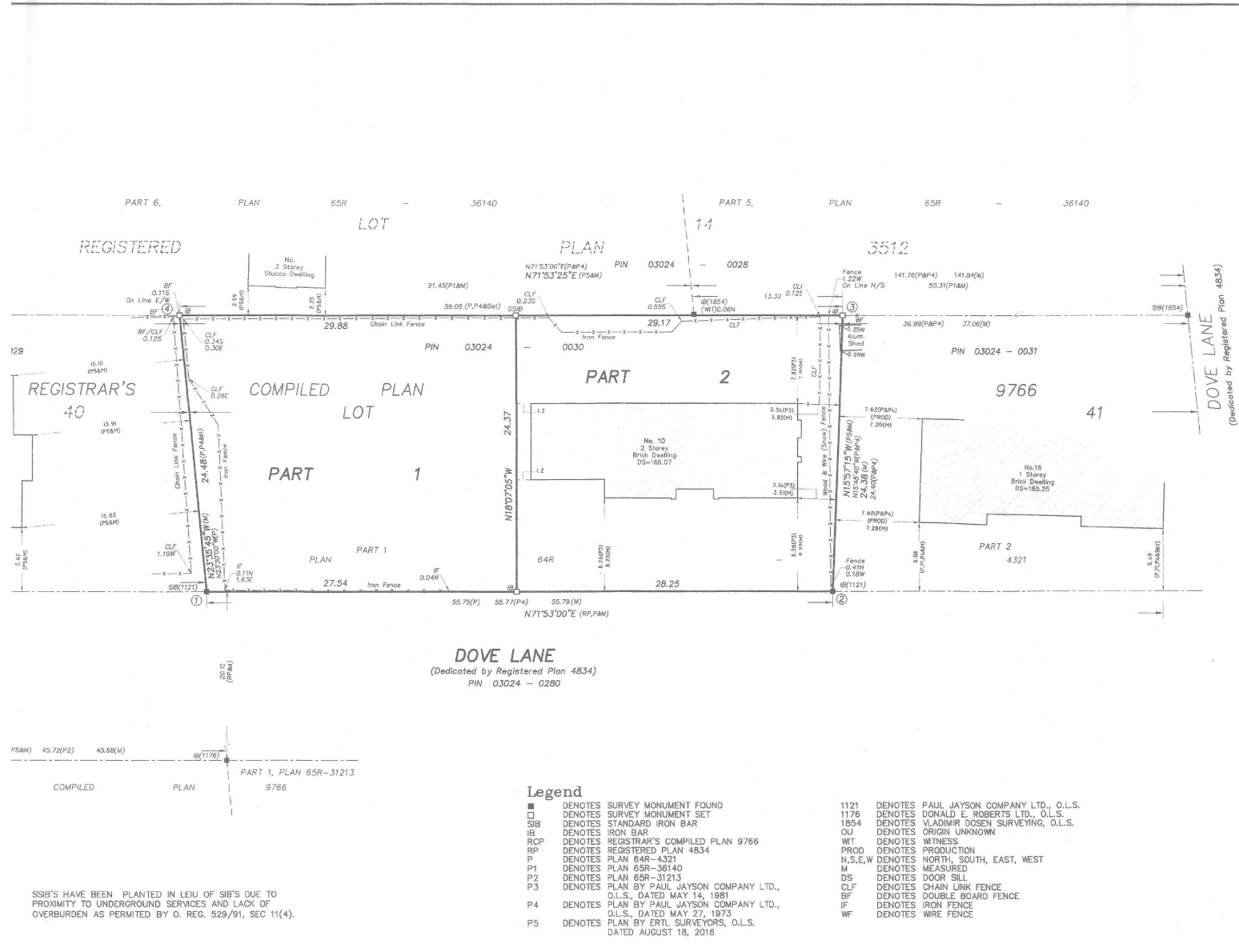
CONDITIONS PREPARED BY:



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Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/140/20**



I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

Plan 65R-37219  
RECEIVED AND DEPOSITED:

DATE: JUNE 21, 2017

DATE: July 14, 2017

*Yuriy Bogdanov*  
YURIY BOGDANOV  
ONTARIO LAND SURVEYOR

*Y. G. Maro*  
"Y. G. Maro"  
REPRESENTATIVE OF THE LAND REGISTRAR  
FOR THE LAND TITLES DIVISION OF THE  
YORK REGION REGISTRY OFFICE (No. 65)

Metric DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

**Schedule**

PART	PART OF LOT	REGISTRAR'S COMPILED PLAN	ALL OF P.I.N.	AREA Sq.m.
1	41	9766	03024 - 0030	699.6
2				699.6

PLAN OF SURVEY OF  
PART OF LOT 41  
REGISTRAR'S COMPILED PLAN 9766  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK

SCALE 1:250

ertl surveyors 2017  
Ontario Land Surveyors

**Integration**  
DISTANCES HEREON ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.99988873

BEARINGS AND COORDINATES HEREON ARE UTM GRID, DERIVED FROM GPS REAL TIME NETWORK OBSERVATIONS IN NAD83 (CSRS) (2010.0) AND ARE REFERRED TO THE CENTRAL MERIDIAN OF UTM ZONE 17, LONGITUDE 81W.

THE BEARINGS HEREON CAN BE CONVERTED TO ASTRONOMIC BY APPLYING A CLOCKWISE ROTATION OF 01°01'00\".

COORDINATES IN TABLE BELOW COMPLY WITH SUBSECTION 14(2) OF O. REG. 216/10 AND CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

**Coordinated Points**

POINT ID	NORTHING	EASTING
1	4852325.258	628112.783
2	4852342.808	628165.812
3	4852365.048	628159.111
4	4852347.692	628102.984

**Surveyor's Certificate**  
I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE 6TH DAY OF JUNE, 2017

DATE: JUNE 21, 2017

*Yuriy Bogdanov*  
Yuriy Bogdanov  
Ontario Land Surveyor

**ertl surveyors**  
Ontario Land Surveyors  
www.es-ols.com

1234 REID STREET, UNIT 10, RICHMOND HILL, L4B 1C1  
TELEPHONE (905) 731-7834 FAX (905) 731-7859 EMAIL info@es-ols.com  
DRAWING: 18322-Done10-RP.DWG PROJECT: 18322  
CALC. BY GT, DRAWN BY DH/TRAJA, CHECKED BY YB

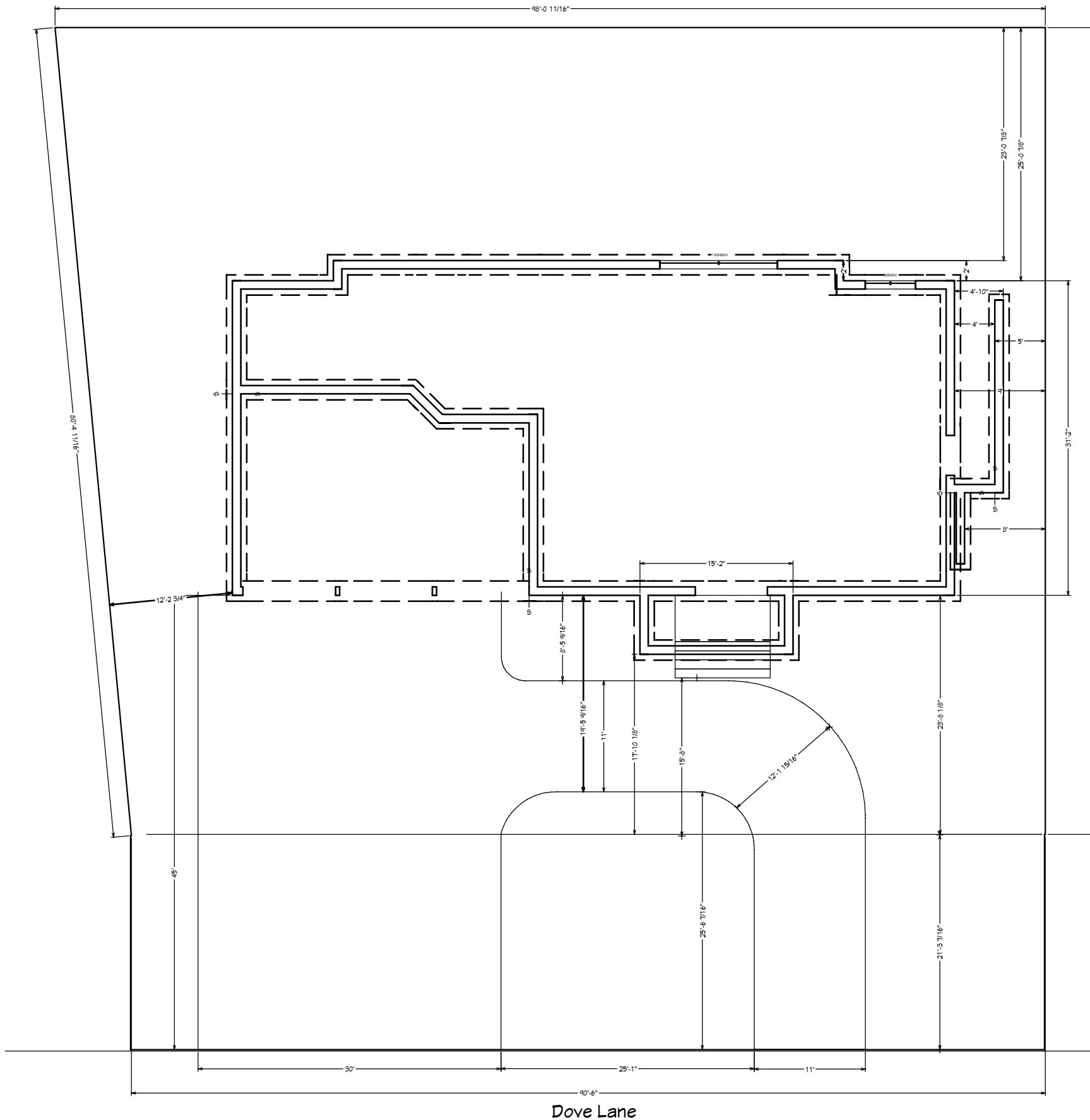
Survey	Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 1</b>	November 26, 2020	



# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY



Footprint	ft	in	ft	in	Area s-ft
Main	71	6	x	31	2 = 2,228.42
Back Side	50	6	x	2	0 = 101.00
Cold Cellar	15	2	x	5	10 = 88.47
Fire Place	7	11	x	1	0 = 7.92
Total					2,425.81
Lot Area					7,530.00
<b>Lot Coverage</b>					<b>32.2%</b>

First floor	ft	in	ft	in	Area
Main	71	6	x	31	2 = 2,228.42
Back Side	50	6	x	2	0 = 101.00
Fire Place	7	10	x	1	0 = 7.83
Total					2,337.25

Second floor	ft	in	ft	in	Area
Main	71	6	x	31	2 = 2,228.42
Back Side	50	6	x	2	0 = 101.00
Less open to below	41	4	x	16	3 = - 671.67
Add hallway	25	6	x	5	6 = 140.25
Total					1,798.00

Total Floor Area	4,135.25
<b>Floor Area Ratio</b>	<b>54.92%</b>

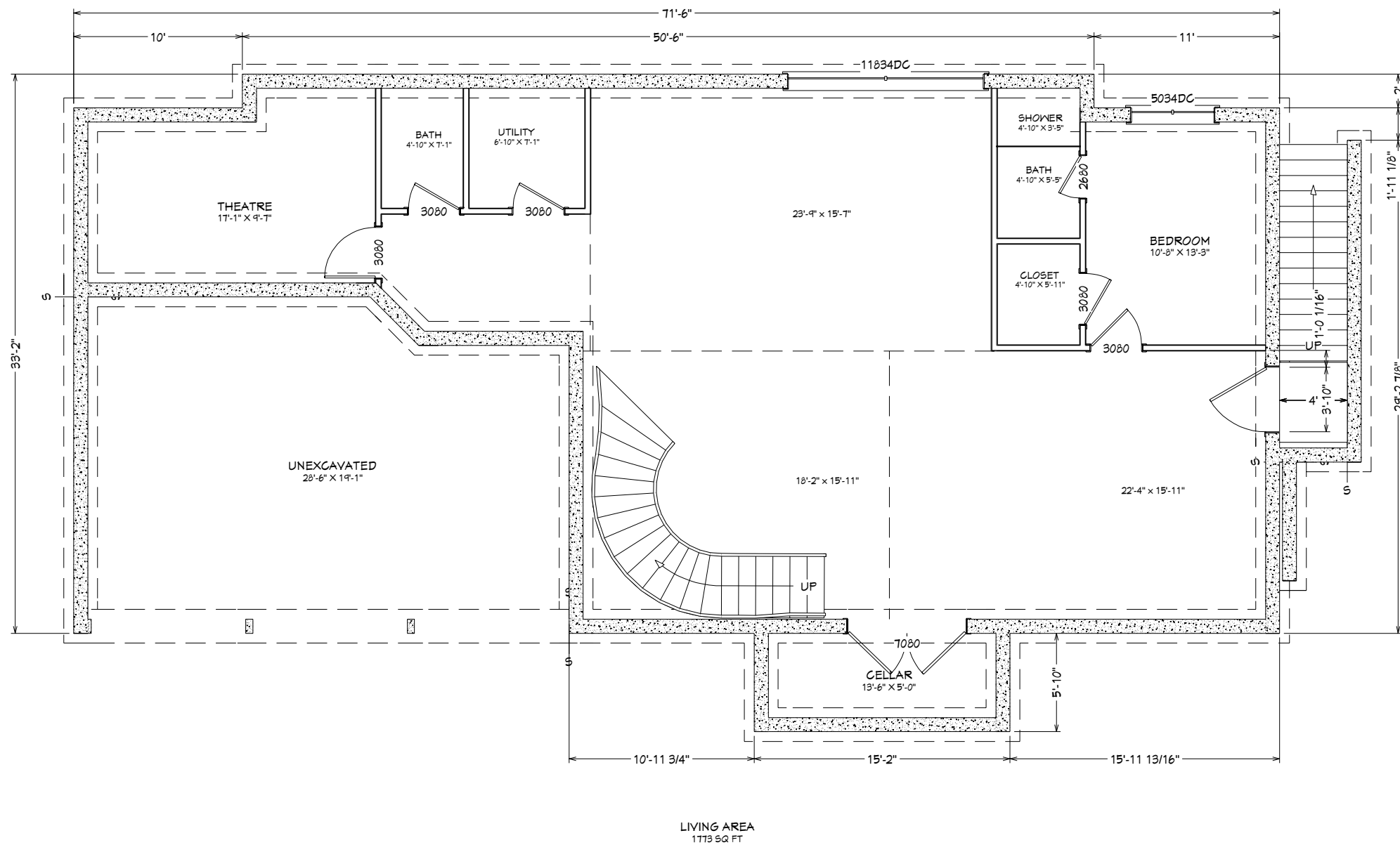
Lot Area = 7,530 sq. ft	By Law	Plan
Front Yard Setback to Cellar	27 ft	17' 10"
Front Yard Setback to Main Building	27 ft	23' 8"
Rear Yard Setback	25 ft	23 ft
Side yard Setback (east):	2.4 m (8 ft)	2.4 m (8 ft)
Side yard Setback (west):	2.4 m (8 ft)	3.7 m (12' 2")
Building Height	9.8 m (32.15 ft)	10.11 m (33.2 ft)
Floor Area Ratio	50% (3,765 sq. ft.)	54.92% (4,135 sq. ft.)
Maximum Lot Coverage 33 1/3%	33.3% (2,510 sq. ft)	32.2% (2,426 sq. ft.)
Circular Driveway Setback	8 m	13.7 m/curb, 7.8 m/Main Building, 5.45 m/Cellar

Site Plan		Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 2</b>	1/12 in = 1 ft	February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY

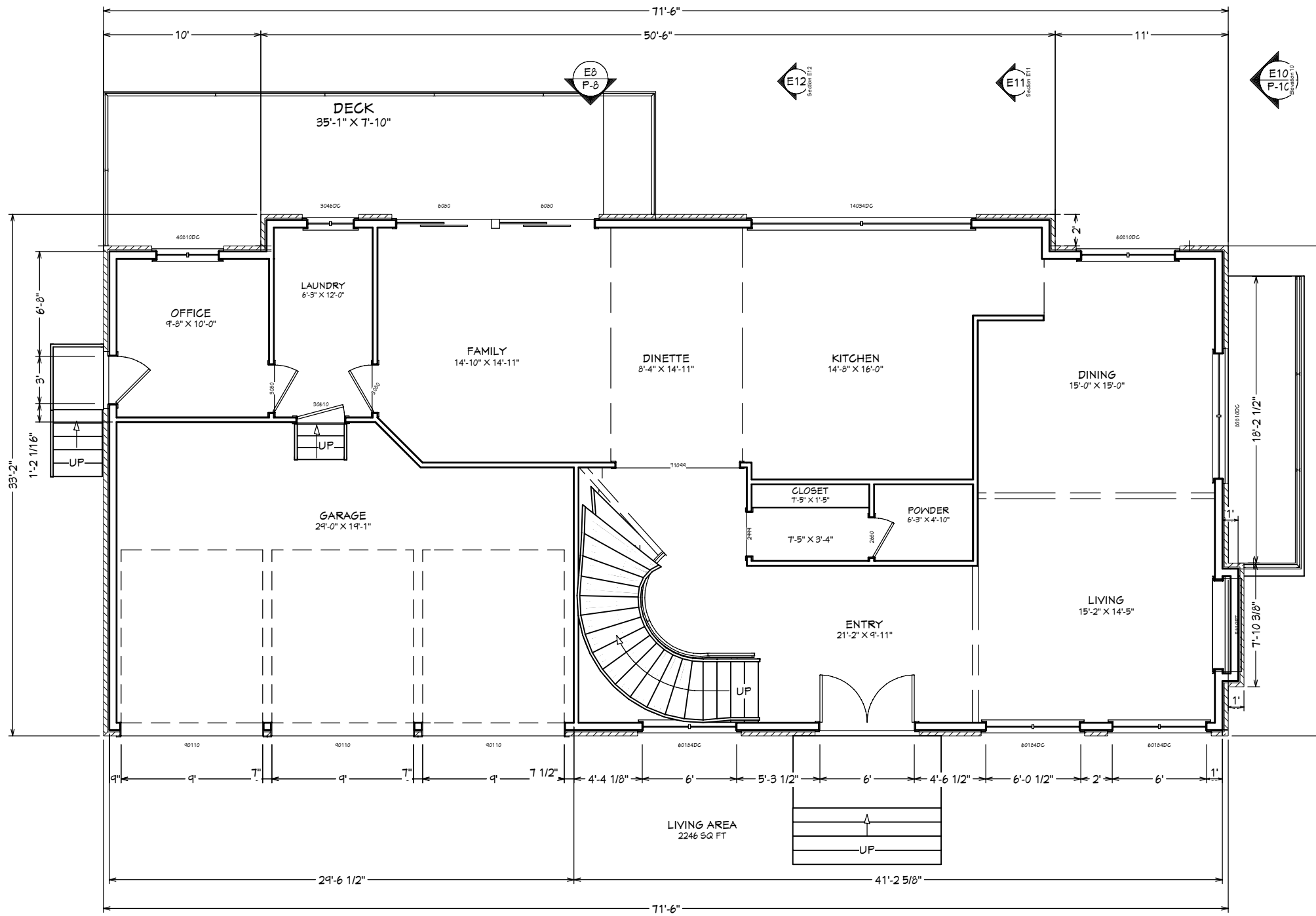


Basement		Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 3</b>	1/8 in = 1 ft	February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY

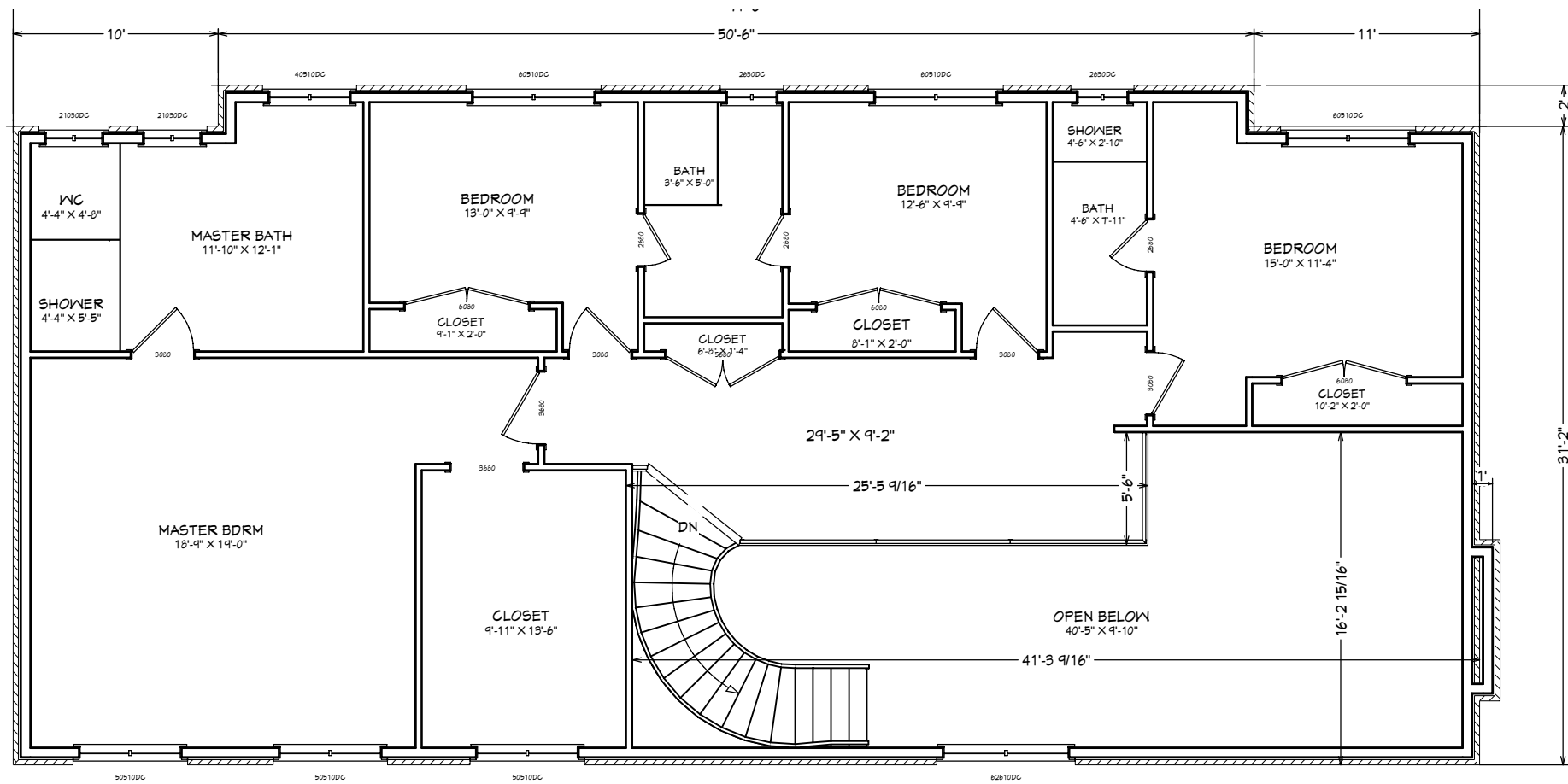


1st Floor	Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet: <b>A - 4</b>	1/8 in = 1 ft	February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY

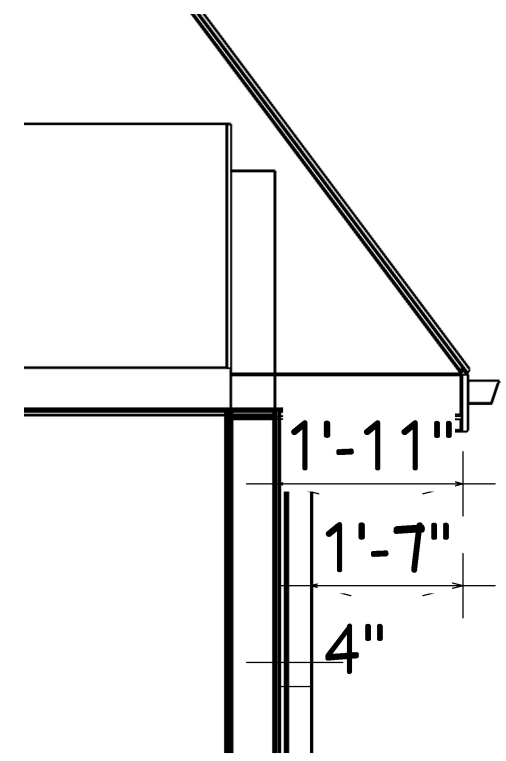
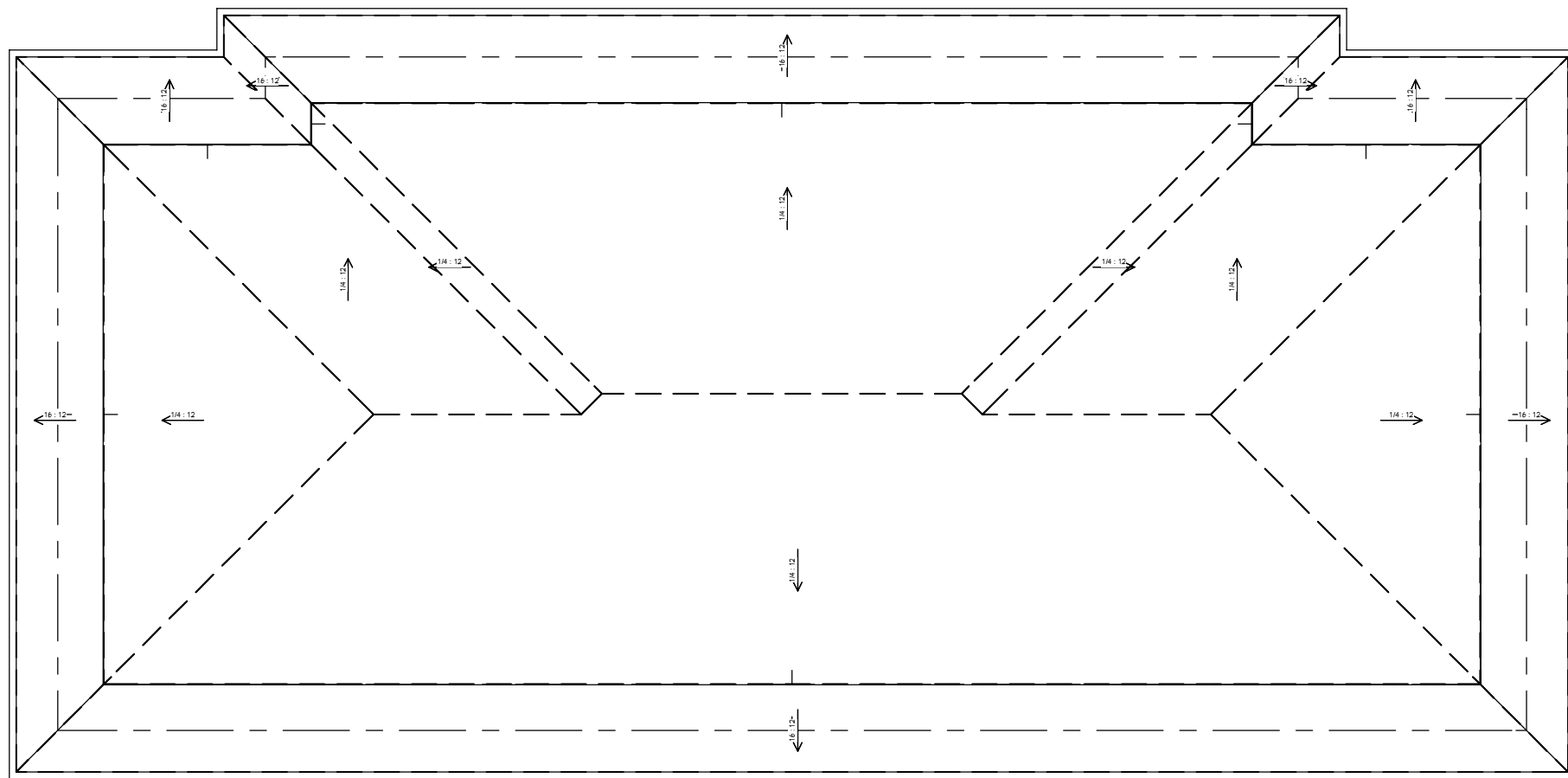


2nd Floor		Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 5</b>	1/8 in = 1 ft	February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY



Roof Section  
Scale 1/2 in = 1 ft

Roof Plan		Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 6</b>		February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY



South Elevation		Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet:	<b>A - 7</b>	1/8 in = 1 ft	February 7, 2021	

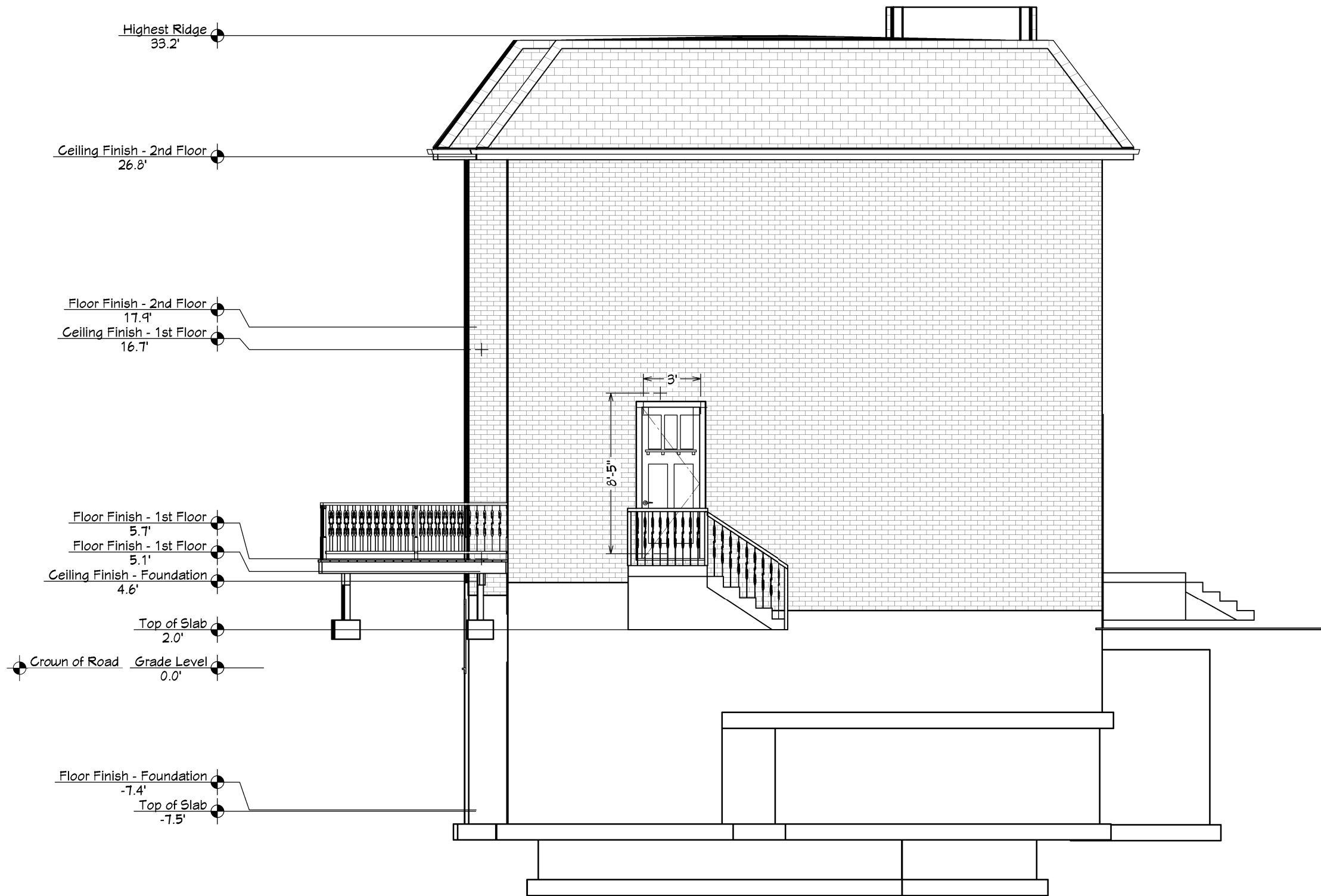


North Elevation E8	Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet: <b>A - 8</b>	1/8 in = 1 ft	February 7, 2021	

# Appendix B

File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY



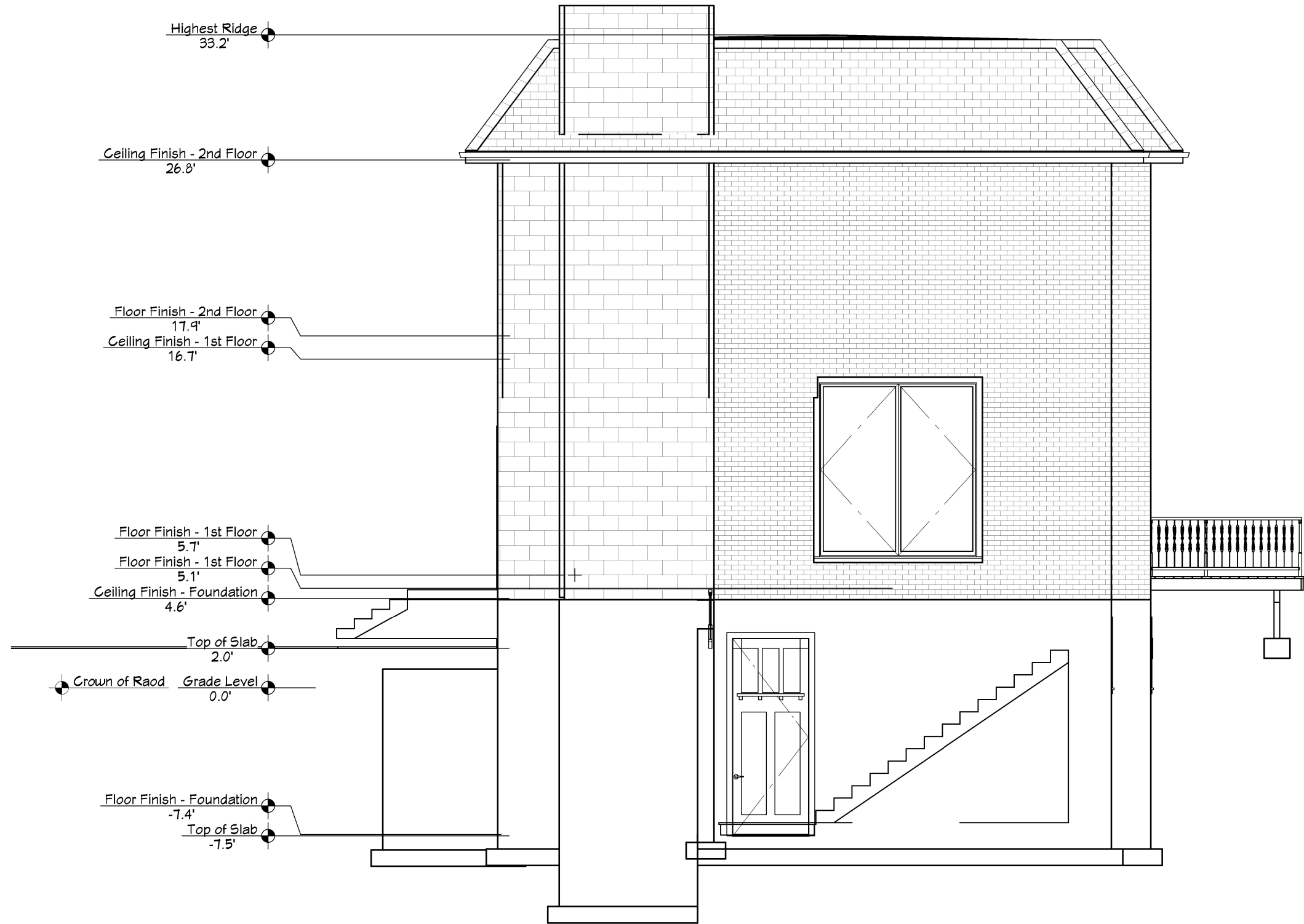
West Elevation E9	Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet: <b>A - 9</b>	1/6 in = 1 ft	February 7, 2021	



# Appendix B

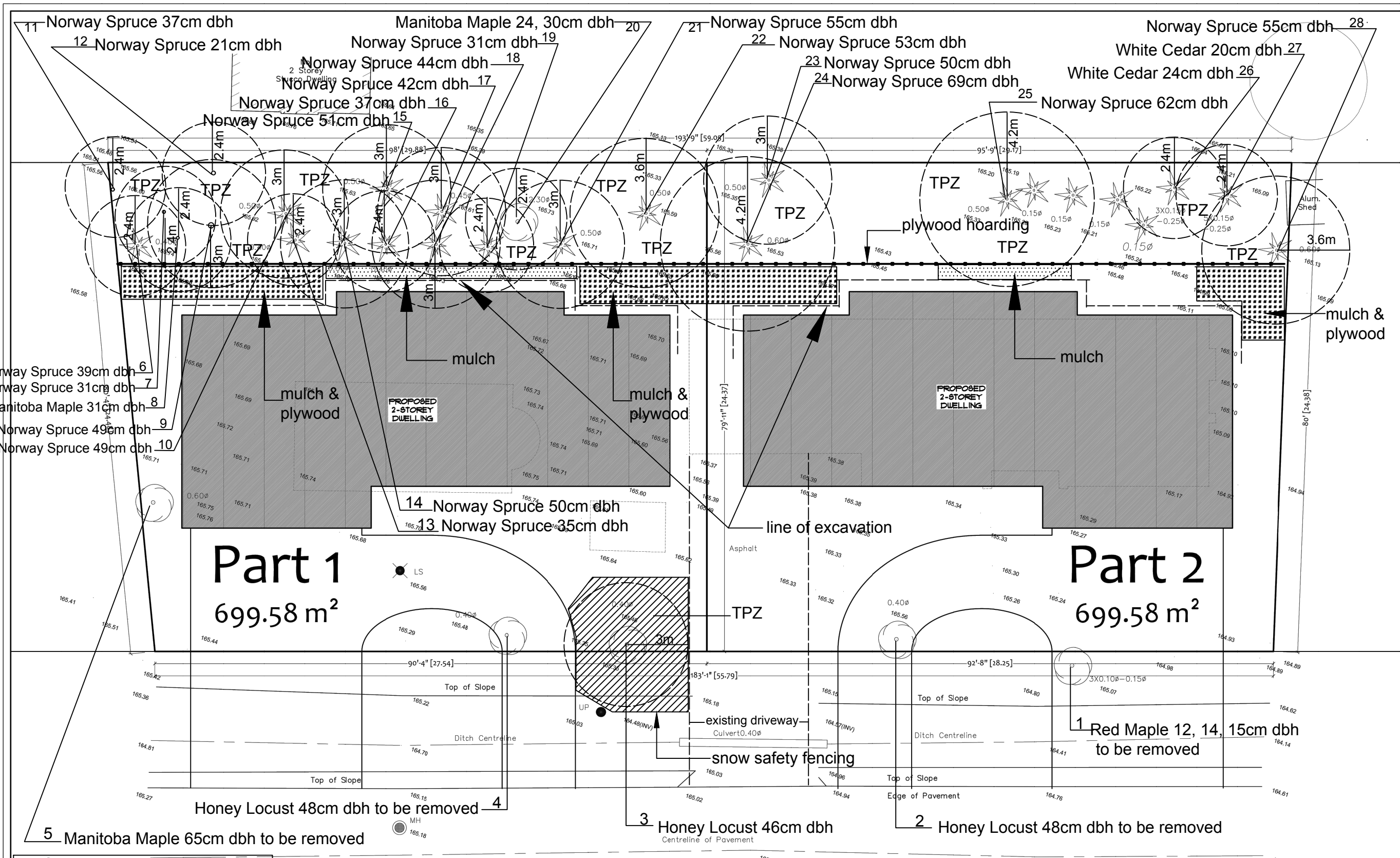
File: 20.136256.000.00.MNV

Date: 02/12/21  
MM/DD/YY



East Elevation E10	Scale:	Date:	Yousef Kimiagar 8 Dove Lane Markham
Sheet: <b>A - 10</b>	1/6 in = 1 ft	February 7, 2021	

**APPENDIX "C"**  
**TREE PRESERVATION AND PLANTING PLANS**



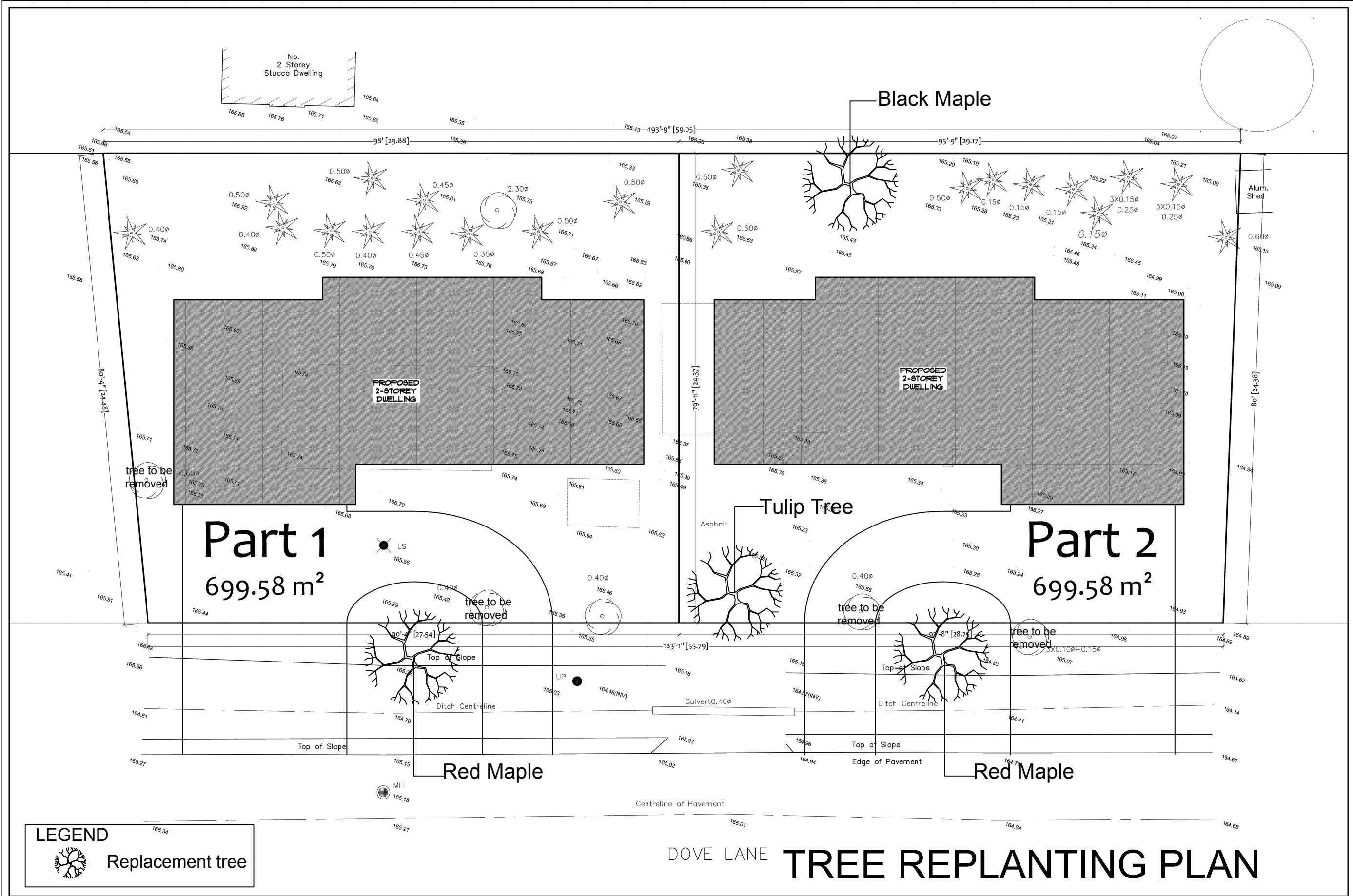
LEGEND	
	Plywood hoarding
	Snow safety fencing
	TPZ
	Tree Protection Zone

# DOVE LANE TREE PRESERVATION PLAN

OWNER	YOUSEF	DATE	JAN. 23, 2017	DESIGN	HOMELAND	PHONE	416-319-6020	PROJECT	10 DOVE LANE	SCALE	5/64" = 1'-0"	TITLE	SITE PLAN	01
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THESE DRAWINGS ARE THE PROPERTY OF "HOMELAND" AND ANY REPRODUCTION OR USE FOR OTHER PROJECTS, IN WHOLE OR IN PART, WITHOUT THE WRITTEN CONSENT OF THE DESIGNER IS FORBIDDEN.

THESE DRAWINGS ARE THE PROPERTY OF "HOMELAND" AND ANY REPRODUCTION OR USE FOR OTHER PROJECTS, IN WHOLE OR IN PART, WITHOUT THE WRITTEN CONSENT OF THE DESIGNER IS FORBIDDEN.



**LEGEND**



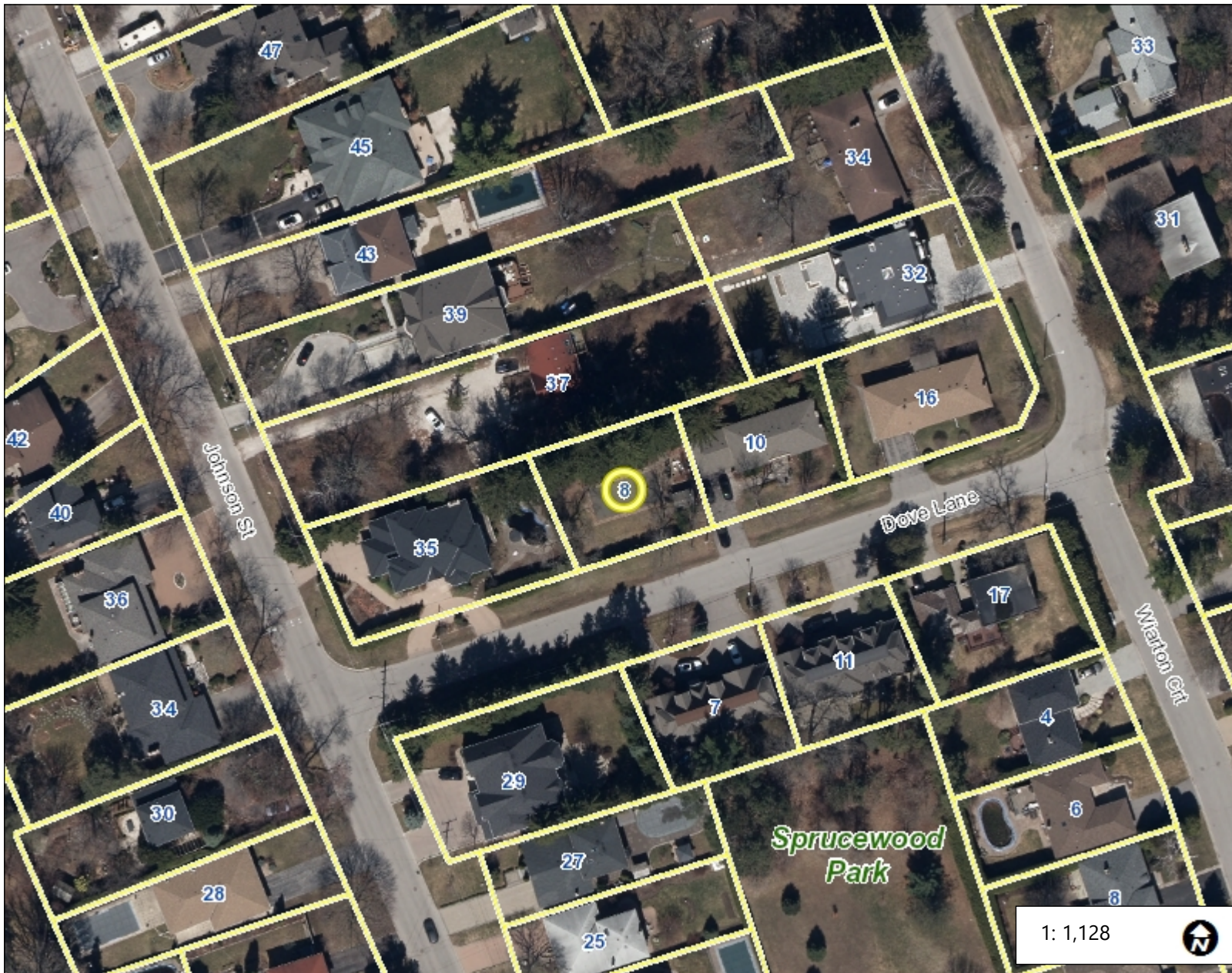
Replacement tree

DOVE LANE **TREE REPLANTING PLAN**

OWNER	YOUSEF	DATE	JAN. 23, 2017	DESIGN	HOMELAND	PHONE	416-313-6020	PROJECT	10 DOVE LANE	SCALE	5/64" = 1'-0"	TITLE	SITE PLAN	01
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**APPENDIX "D"**  
**AERIAL PHOTO: PARCEL FABRIC**



Legend

- LANDMARKS\_6000
- SLRN\_6000
- PARKS\_6000
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Park Facilities
- Parks
  - <all other values>
  - Under Development

1: 1,128



57.3 0 28.65 57.3 Meters

Notes