

Memorandum to the City of Markham Committee of Adjustment

September 3, 2019

File: A/81/19
Address: 3 Sunflower Crt, Thornhill
Applicant: 2574023 Ontario Inc
Agent: Lorne Rose Architect Inc. (Lorne Rose)
Hearing Date: Wednesday September 11, 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 to permit:

- a) **Section 14 (i)(c):**
a minimum front yard setback of 27 feet 9 inches, whereas the By-law requires a minimum front yard setback of 35 feet;
- b) **Section 14 (i)(e):**
a minimum rear yard setback of 31 feet 2 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(i):**
a maximum building height of 11.52 metres, whereas the By-law permits a maximum building height of 9.8 metres;
- d) **Section 9(i):**
a maximum front porch canopy encroachment of 31 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required front yard;

as it relates to a proposed residential dwelling.

BACKGROUND

Property Description

The 1,740.76 m² (18,737.38 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 dwellings. There is an existing two-storey detached 313.08 m² (3,370 ft²) dwelling on the property, which according to assessment records was constructed in 1963. Mature vegetation exists across the front and rear of the property and is a predominant characteristic of the neighbourhood.

Proposal

The applicant is proposing to demolish the existing home and construct a 341.2 m² (3,673 ft²) two-storey detached dwelling (See Appendix A). The proposed dwelling contains a three-car garage and a rear yard deck. Mature vegetation exists across the front and rear of the property.

Variance History

Variances on the subject property were approved in 2018 (A/47/18) 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 for minimum front yard setback, minimum rear yard setback, maximum building height and maximum front porch canopy 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 maximum front porch canopy encroachment, minimum front yard setback 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 ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to building maximum building height.

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, "*lot is shallow*".

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on August 1st, 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 11.52 m (37.8 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of approximately 1.72 m (5.64 ft), or approximately 17.6%.

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 1.6 m (5.24 ft) above the crown of road.

Increase in Front Porch Canopy Encroachment

The applicant is requesting a maximum front porch canopy encroachment of 31 in (0.78 m) into the front yard, whereas the By-law permits a maximum front porch canopy encroachment of 18 in (0.46 m). This represents an increase in approximately 13 in (0.33 m). The front porch canopy occupies approximately 12 ft (3.66 m) or, approximately 13.8 percent of the front of the dwelling.

Reduction in Front & Rear Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 27.75 ft (8.46 m), whereas the By-law requires a minimum front yard setback of 35 ft (10.67 m). This represents a reduction of approximately 7.25 ft (2.21 m) or, approximately 20.7 percent. The variance is attributable to the position of the proposed dwelling relative to the front lot line. While the requested variance applies to a portion of the proposed dwelling, the requested variance will result in a dwelling that is not consistent with the established front yard setback pattern on the street.

The applicant is also requesting relief to permit a minimum rear yard setback of 31.21 ft (9.51 m), whereas the By-law requires a minimum rear yard setback of 50 ft (15.24 m). This represents a reduction of approximately 18.79 ft (5.73 m) or, approximately 37.58%.

The requested variance applies to the main dwelling and is not generally consistent with the established rear yard setback pattern. The subject dwelling backs onto the rear yards of properties on Laureleaf Road which, require a minimum rear yard setback of 40 ft (12.19 m). Mature vegetation at the rear of the property provides some screening to the properties at the rear.

PUBLIC INPUT SUMMARY


No written submissions were received as of September 3rd, 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. The variance request for maximum building height was previously approved (A/47/19) but only applied to a portion of the proposed dwelling, committee should satisfy themselves that that the proposal meets the four test for a minor variance. The variance request for maximum front porch canopy encroachment was previously approved (A/47/18) and staff are of the opinion that the current proposed encroachment meets the four tests of the Planning Act. Staff have concerns with the request to reduce the minimum front and rear yard setbacks. The proposed dwelling would not be consistent with the established front and rear yard setback pattern on the street and, staff are of the opinion that the requested reductions to the front and rear yard setbacks do not meet all the four tests of the Planning Act. Staff recommend that the Committee satisfy themselves that the proposal meets the four test for a minor variance and, 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.

PREPARED BY:



Aqsa Malik, Planner I, East District

REVIEWED BY:



David Miller, Development Manager, West District
File Path: Amanda\File\ 19 130050 \Documents\District Team Comments Memo

NOTE : STATISTICS ARE FOR GENERAL INFORMATION ONLY AND SHOULD BE REVIEWED BY EXAMINER

3 SUNFLOWER CRT.
Markham, Ontario
Project # 19-07

SITE AREA: 18 749 S.F. (1 741.86 S.M.)

GROSS FLOOR AREA:

BASEMENT AREA 3 673 S.F. (341.2 S.M.)
GROUND FLOOR AREA 4 462 S.F. (414.5 S.M.)
SECOND FLOOR AREA 4 462 S.F. (414.5 S.M.)

TOTAL G.F.A. INCLUDING GARAGE AND BASEMENT 12 597 S.F. (1 170.3 S.M.)

TOTAL G.F.A. EXCLUDING GARAGE AND BASEMENT 7 404 S.F. (688 S.M.)

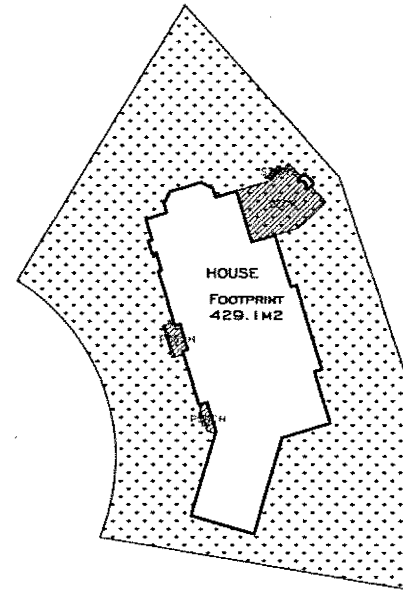
<u>LOT COVERAGE</u>	<u>MAXIMUM</u>	<u>PROPOSED</u>
	33.3 %	23.8 %

<u>SETBACKS:</u>	<u>MINIMUM</u>	<u>PROPOSED</u>
	FRONT	35 F (10.67 M)
REAR	55 F (15.24 M)/20%	31'-2.5" (9.51 M)
NORTH SIDE	8 F (2.44 M)	28'-2" (8.59 M)
SOUTH SIDE	8 F (2.44 M)	8'-5" (2.56 M)

<u>LENGTH OF DWELLING:</u>	<u>MAXIMUM</u>	<u>PROPOSED</u>
		16.8 M

<u>HEIGHT OF DWELLING:</u>	<u>MARKHAM BYLAW MAXIMUM</u>	<u>PROPOSED</u>
		9.8 M

SITE STATISTICS

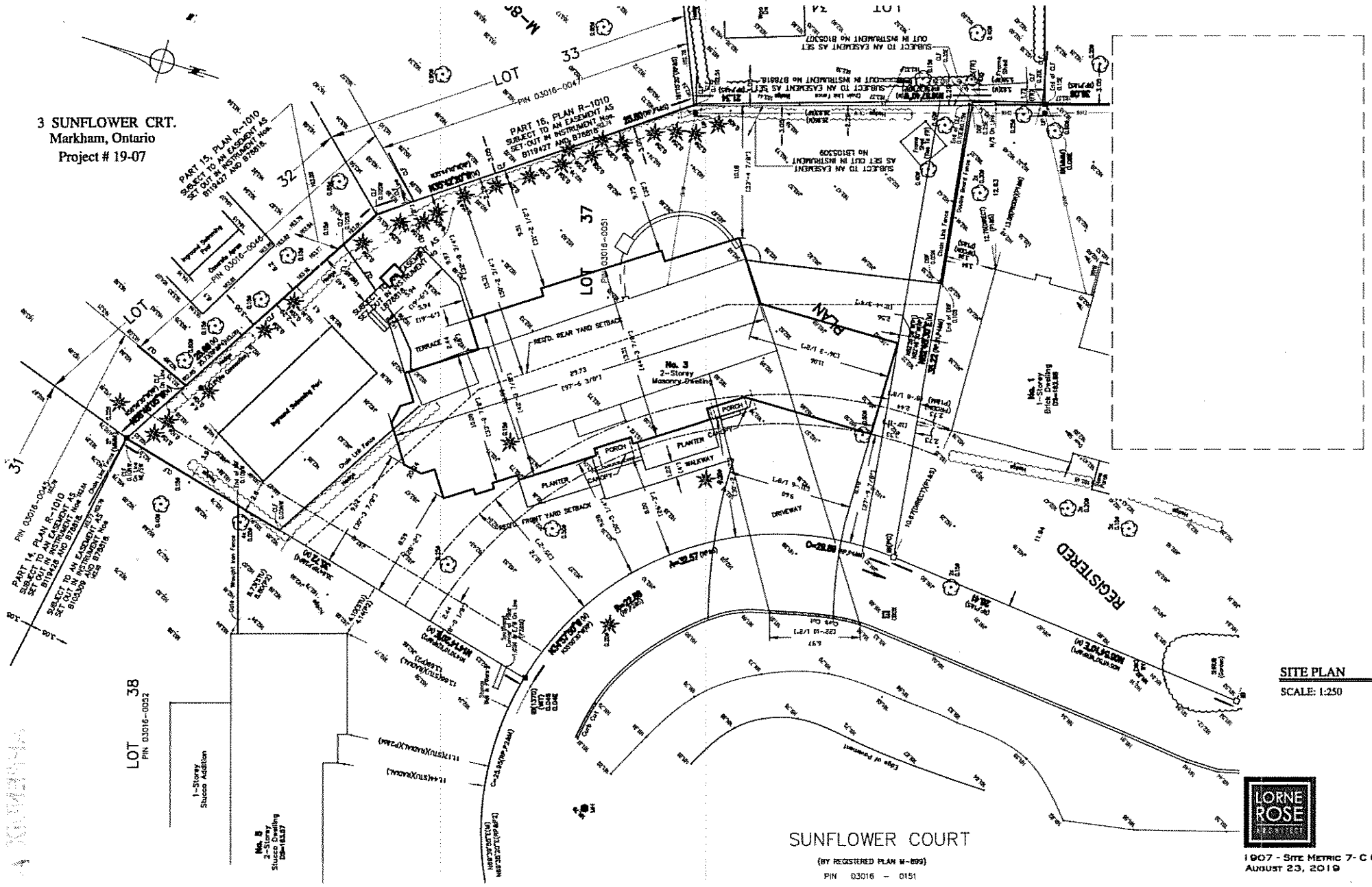


RECEIVED
AUG 23 2019
DEVELOPMENT SERVICES
CITY OF MARKHAM



1907 - DESIGN 18 - COA-R1
AUGUST 23, 2019

3 SUNFLOWER CRT.
Markham, Ontario
Project # 19-07

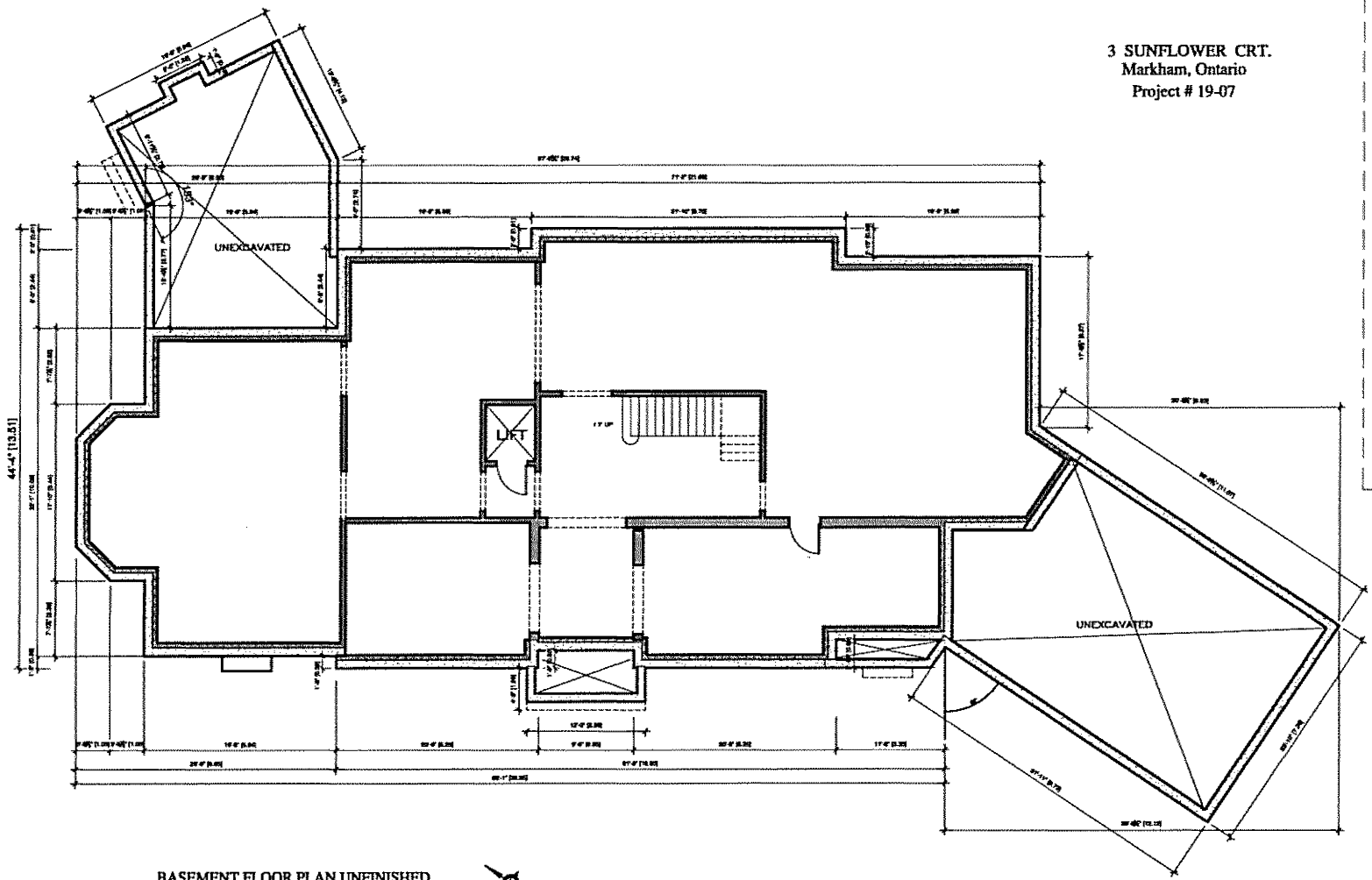


SITE PLAN
SCALE: 1:250



1907 - SITE METRIC 7-C OAR
AUGUST 23, 2019

3 SUNFLOWER CRT.
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 Project # 19-07

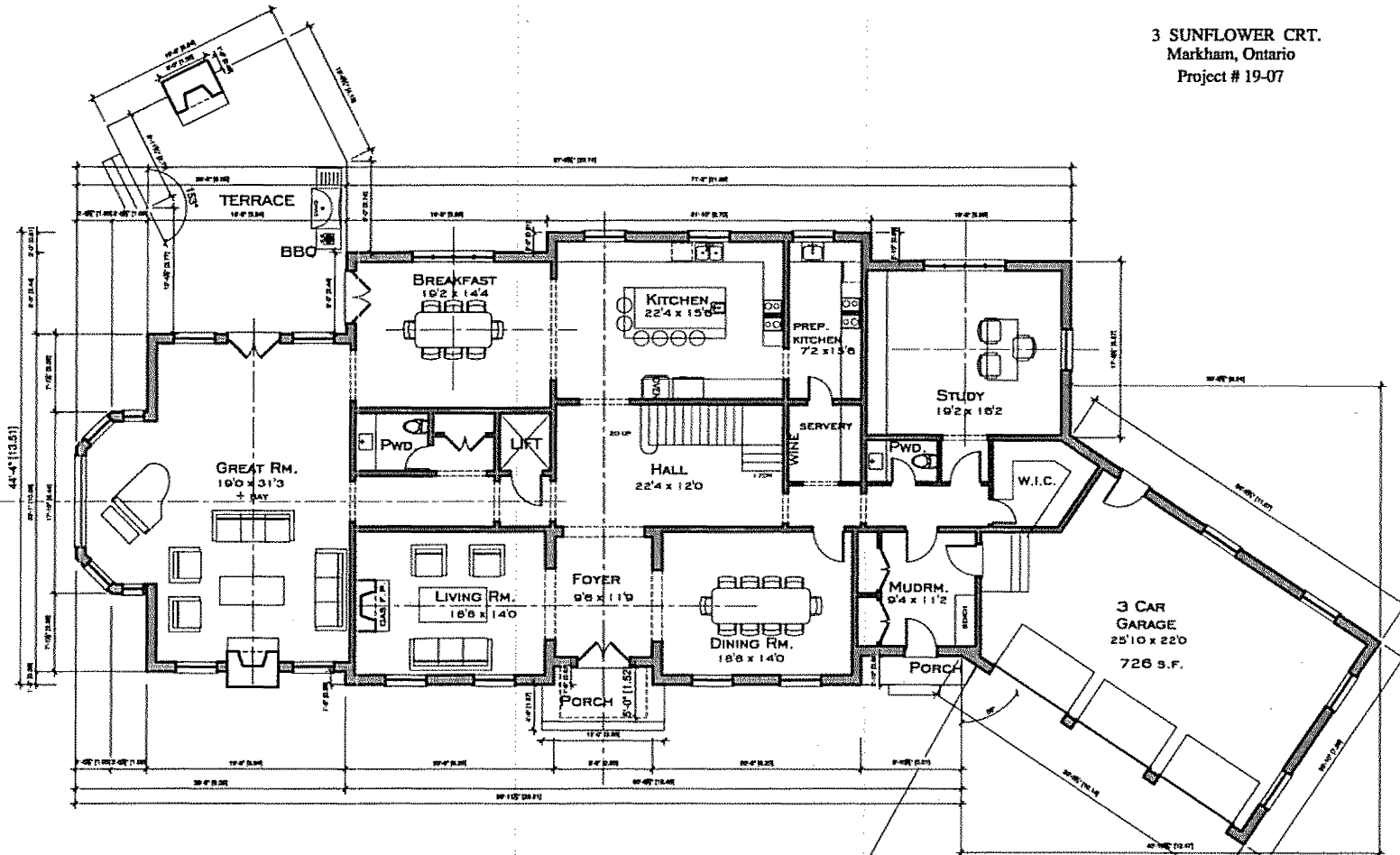


BASEMENT FLOOR PLAN UNFINISHED
 SCALE: 3/32" = 1'-0"
 HEATED AREA = 3 673 S.F.



1907 - DESIGN 18 - COA-R1
 AUGUST 23, 2019

3 SUNFLOWER CRT.
 Markham, Ontario
 Project # 19-07



GROUND FLOOR PLAN

SCALE: 3/32" = 1'-0"

GFA = 3 702 S.F. (NOT INCLUDING GARAGE)

Total GFA = 7 468 S.F. (NOT INCLUDING GARAGE AND BASEMENT)

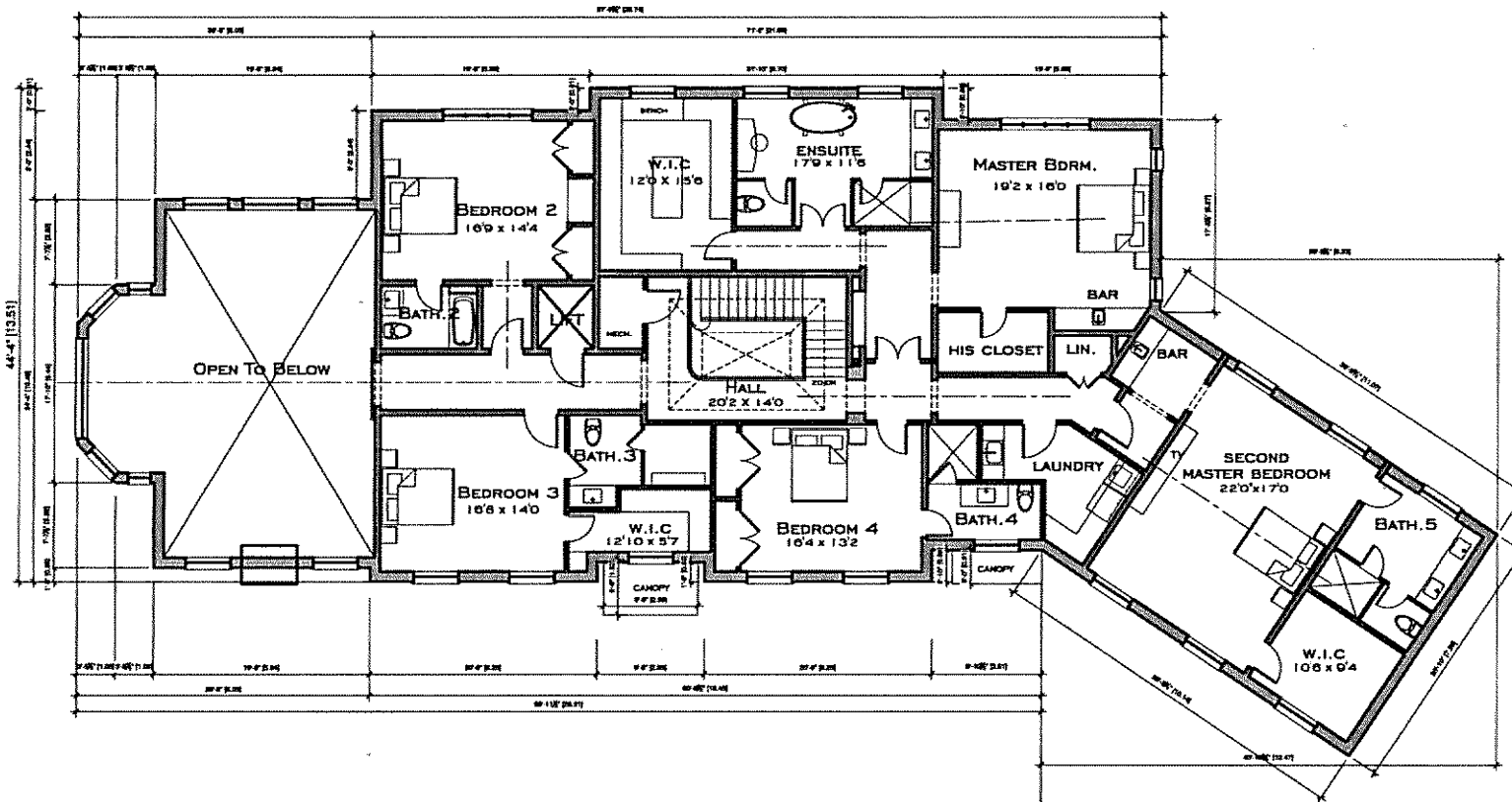
FOOTPRINT = 4 462 S.F. (23.8%)

Lot Area = 18 749 S.F.



1907 - DESIGN 18 - COA-R1
 AUGUST 23, 2019

3 SUNFLOWER CRT.
 Markham, Ontario
 Project # 19-07

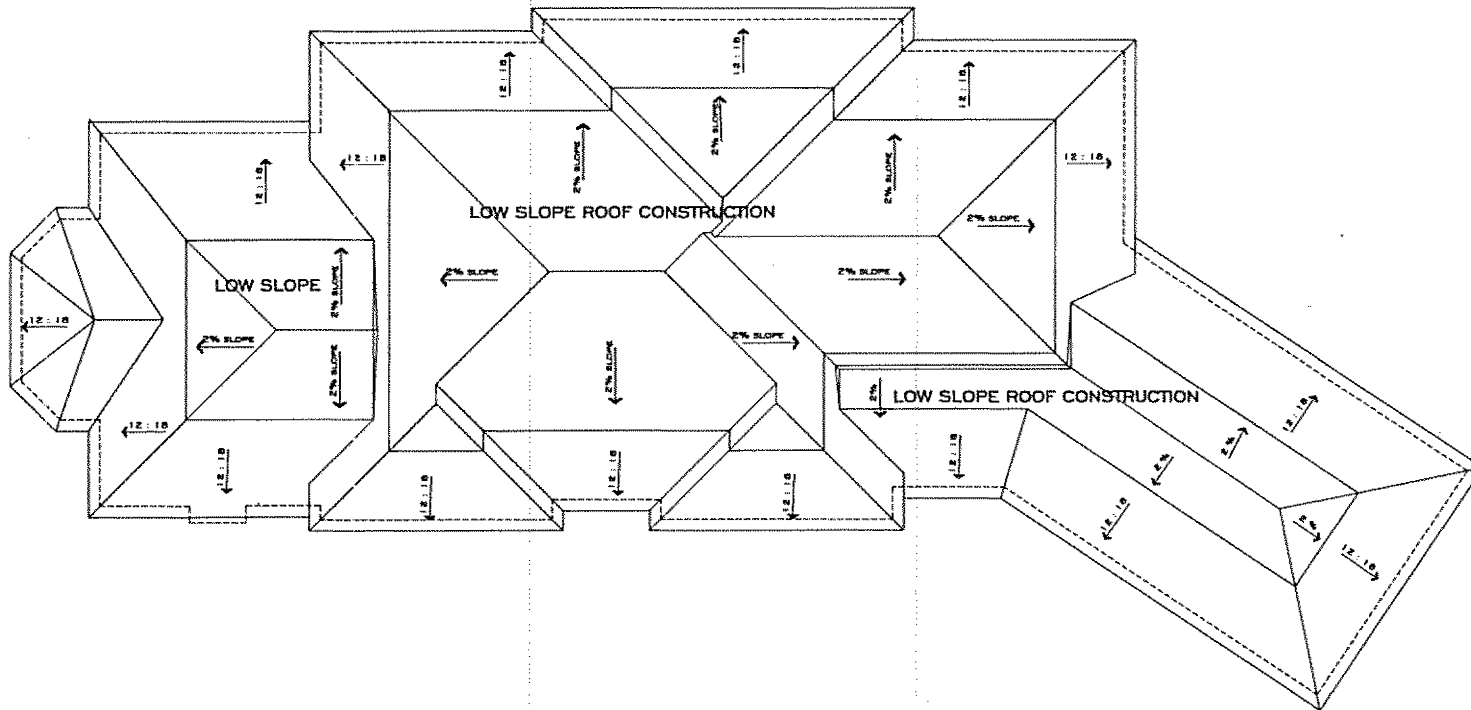


SECOND FLOOR PLAN
 SCALE: 3/32" = 1'-0"
 GFA = 3 766 S.F. (NOT INCLUDING OPEN TO BELOW)



1907 - DESIGN 1B - COA-R1
 AUGUST 23, 2019

3 SUNFLOWER CRT.
Markham, Ontario
Project # 19-07



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



1907 - DESIGN 18 - CDA -R1
AUGUST 23, 2019



3 SUNFLOWER CRT.
Markham, Ontario
Project # 19-07

1907 - DRAWING 17
JULY 8, 2019



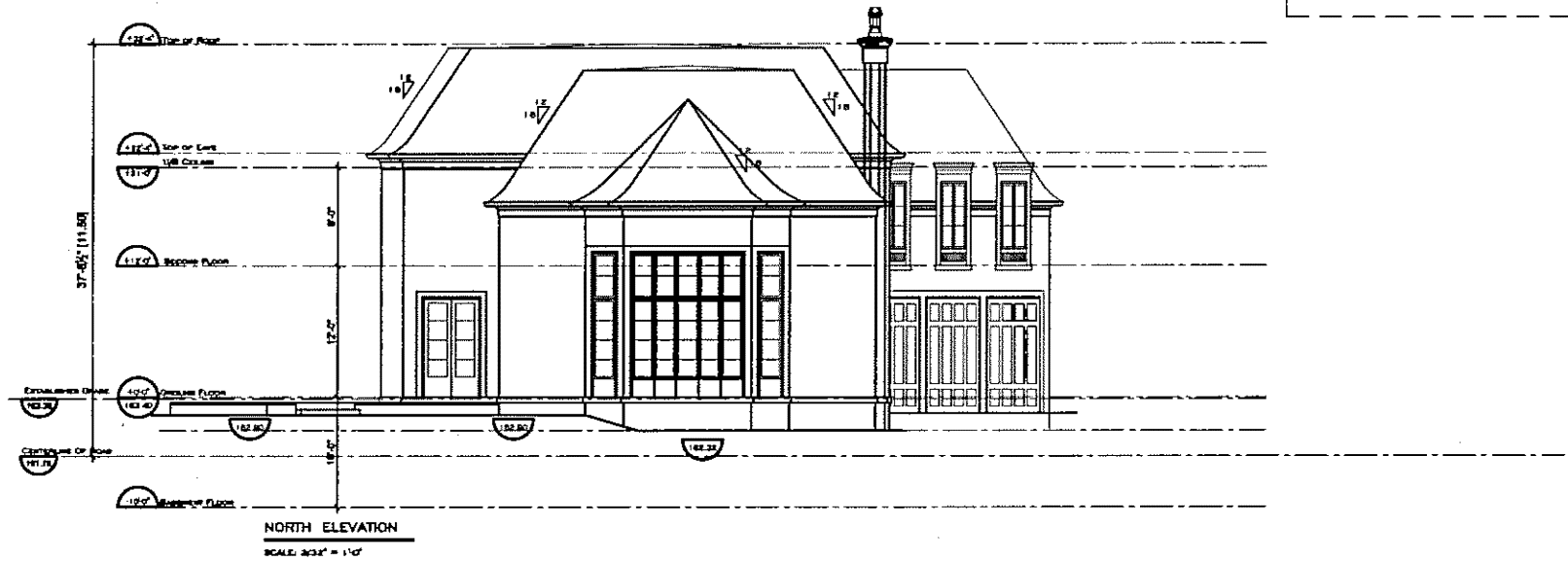
REAR ELEVATION

SCALE: 3/32" = 1'-0"



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Markham, Ontario
Project # 19-07

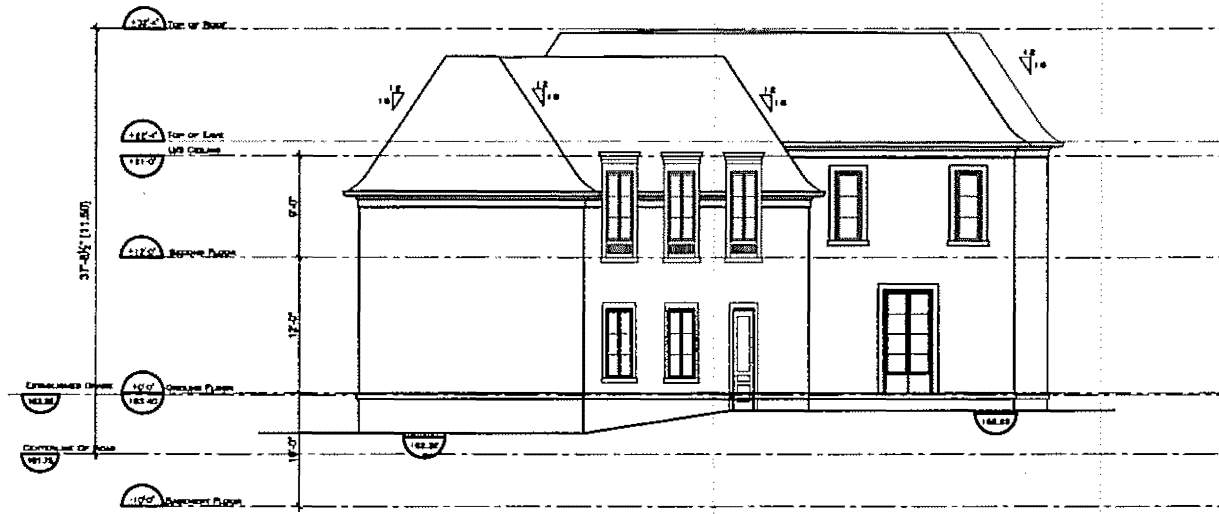
1907 - DESIGN 17
JULY 8, 2019



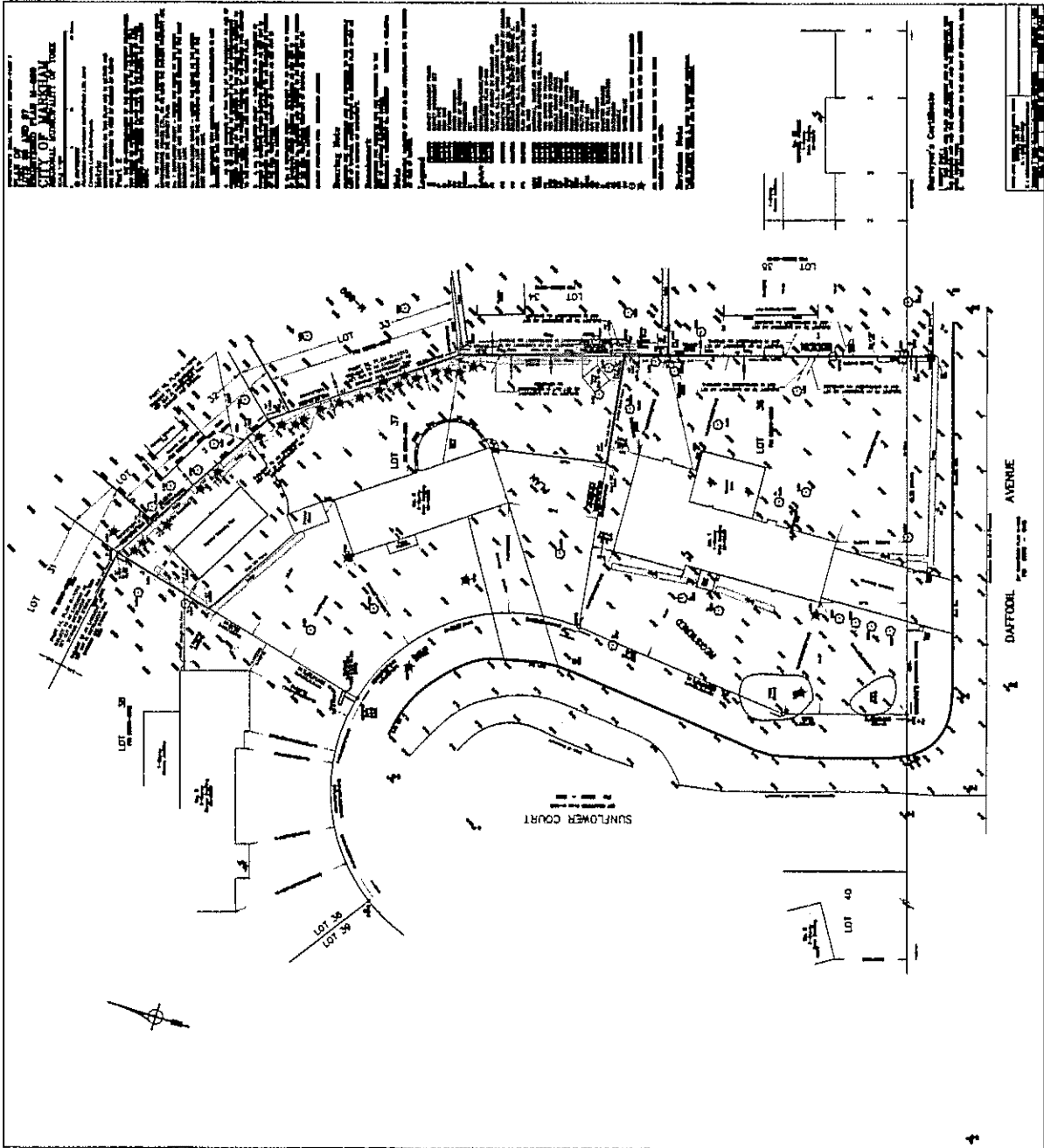


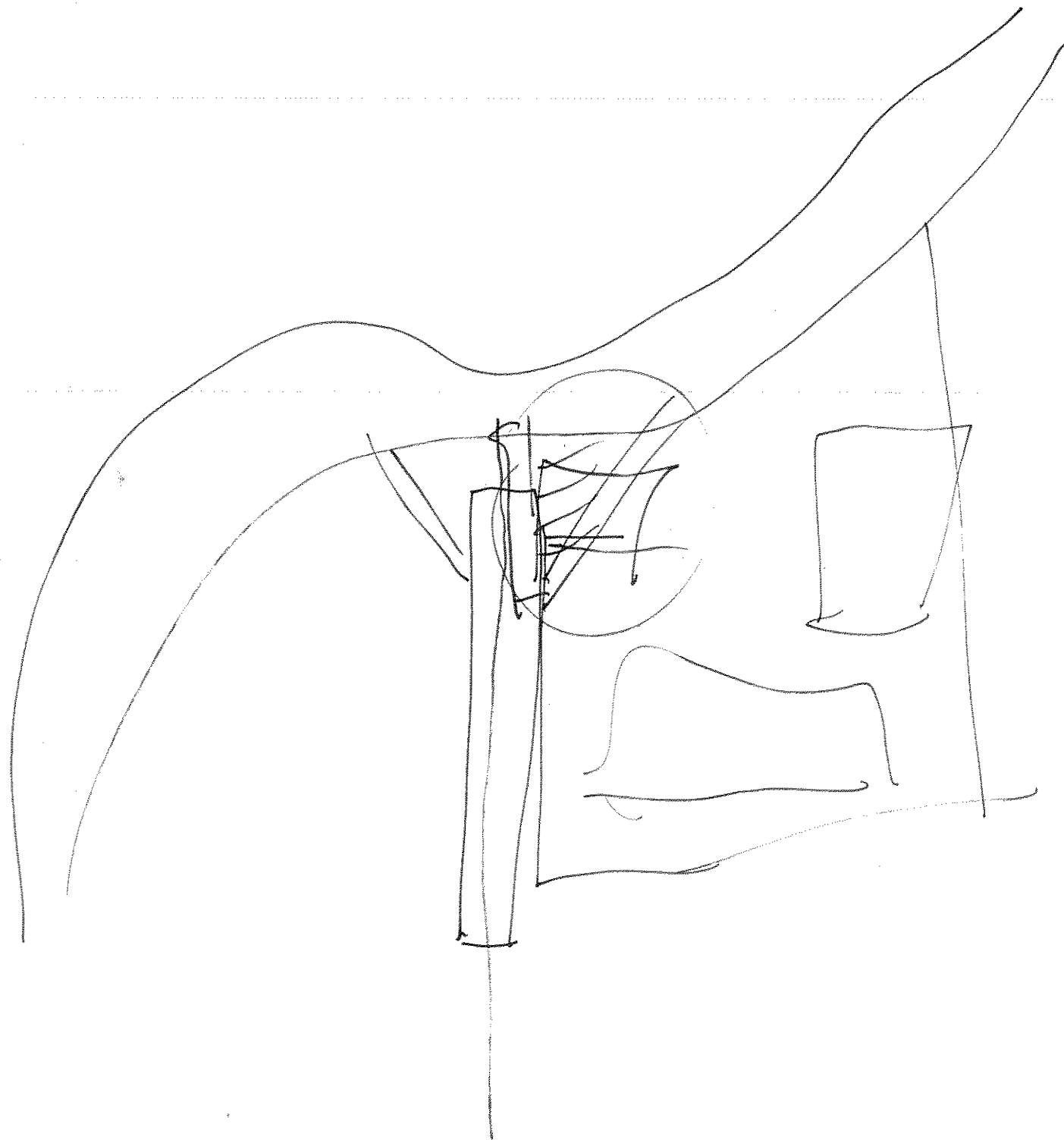
1907 - DESIGN 17
JULY 8, 2010

3 SUNFLOWER CRT.
Markham, Ontario
Project # 19-07



SOUTH ELEVATION
SCALE: 3/32" = 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/47/18 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.

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

A Commissioner, etc.



Committee of Adjustment Resolution

File Number: A/47/18
 Hearing Date: Wednesday, May 30, 2018
 Owner(s): 2574023 Ontario Inc. (Amir Meysam Nahvi)
 Agent: Avesta Design Group Inc. (Mohammad Ashouri)
 Property Address: 3 Sunflower Court Thornhill
 Legal Description: PLAN M899 LOT 37
 Zoning: By-law 1767, as amended, SR2
 Official Plan: Urban Residential
 Ward: 1
 Last Date of Appeal: Tuesday, June 19, 2018

Moved by Gregory Knight M. Knight

Seconded by Arun Prasad Arun Prasad

- Arun Prasad Arun Prasad
- Michael Visconti ABSENT
- Gary Muller ABSENT
- Jeannie Reingold Jeannie Reingold
- Tom Gutfreund T. Gutfreund
- Gregory Knight Gregory Knight

THAT Application No. A/47/18, submitted by 2574023 Ontario Inc. (Amir Meysam Nahvi) owner(s) of 3 Sunflower Court Thornhill, PLAN M899 LOT 37, 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 11.52 metres; whereas, the By-law permits a maximum building height of 9.8 metres; b) Section 14(i)(e): a minimum rear yard setback of 37'-7"; whereas, the By-law requires a minimum rear yard setback of 50 feet; c) Section 9(i): a maximum unenclosed/unexcavated roofed porch encroachment of 62"; whereas, the By-law permit a maximum encroachment of 18" into the required front yard; as it relates 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 A' to this Staff Report and dated *January 19, 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. 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.
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 Director of Planning and Urban Design or their designate.
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 Director of Planning and Urban Design or designate.
6. 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.