

Memorandum to the City of Markham Committee of Adjustment

August 31, 2021

File: A/094/21
Address: 4 Hamilton Hall Drive – Markham, ON
Applicant: Edgar Labuac
Agent: Building Experts Canada (Edgar Labuac)
Hearing Date: September 8, 2021

The following comments are provided on behalf of the East District Team. The applicant is requesting relief from the following “Residential One (R1)” zone requirements under By-law 1229, as amended, to permit:

a) By-law 1229, Sec. 6.1:

one accessory dwelling unit, whereas the by-law permits no more than one dwelling unit on a lot.

BACKGROUND

Property Description

The subject property is located on the north side of Hamilton Hall Drive, north of Highway 7 East, south of Church Street, and west of Wooten Way North. The property is currently developed with a one-storey detached dwelling, with an attached garage and driveway which can accommodate at least three legal parking spaces. The property is located within an established residential neighbourhood which contains a mix of one and two-storey detached dwellings. Within close proximity to the property are local parks, schools, and commercial plazas.

Proposal

The applicant is requesting permission for a secondary suite to be located in the basement of the existing dwelling. The occupants of the secondary suite would have direct and separate access provided by an existing door on the north side of the building.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of

housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing options including second units to support complete communities.

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 for low rise housing forms including single detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states: *“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:*

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and,*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 1229

The subject property is zoned “Residential One (R1)” under By-law 1229, as amended, which permits one single detached dwelling per lot.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant confirmed that ZPR has not been conducted. It is the applicant’s responsibility to ensure that the application has accurately identified 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 are identified during the Building Permit review process, further variance application(s) may be required to address any non-compliances.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (“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.

Secondary Suite

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the Official Plan for the establishment of a secondary suite.

PUBLIC INPUT SUMMARY

As of August 31, 2021, one written submission was received objecting to the application, expressing concerns over the location of the entry door. 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.

Staff note that the variance requested is to permit a secondary suite, and the applicant is not seeking a variance to permit the location of the entry door.

CONCLUSION

Planning staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, and are of the opinion that the variance request meets the four tests. Staff recommend that the Committee consider public input, and the conditions of approval attached as Appendix “A” in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

Appendix “A” – Conditions of Approval

Appendix “B” – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/094/21

1. The variance applies only to the proposed development for as long as it remains.
2. That the variance applies only to the subject development, in substantial conformity with the batch stamped 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. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks Todorovski', written over a horizontal line.

Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/094/21

LEGEND

	PROPERTY LINE
	FENCE
	ASPHALT DRIVEWAY
	LANDSCAPED SOFT AREA
	BUILDING ENTRANCE/EXIT

METRIC

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

Appendix B

File: 21.127444.000.00.MNV

Date: 09/02/21

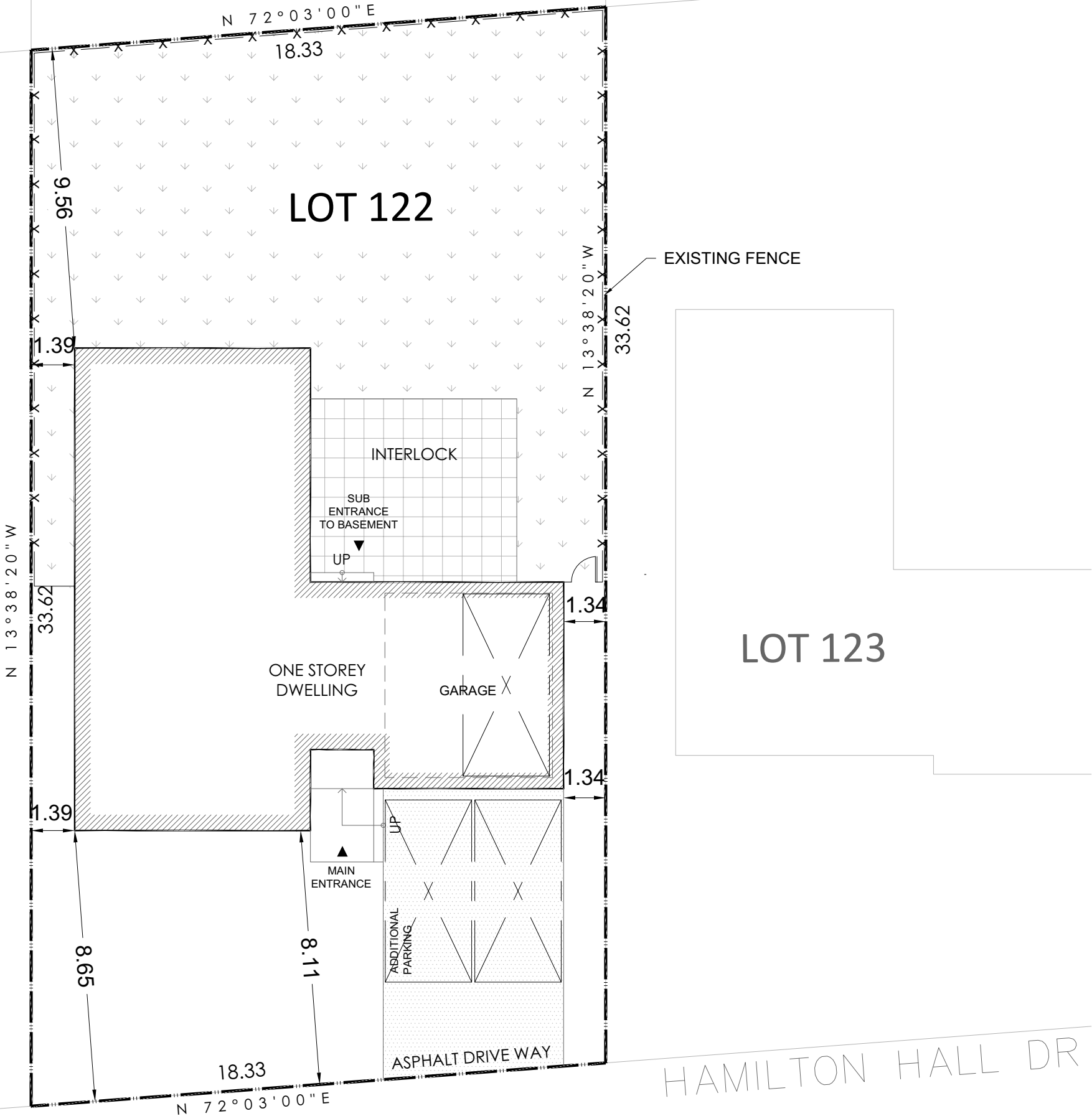
MM/DD/YY

LOT 121

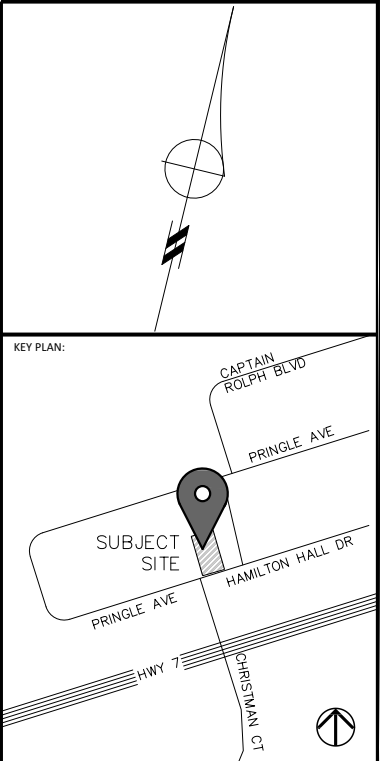
LOT 122

LOT 123

1 SITE PLAN
A-1 SCALE = 1:150



HAMILTON HALL DR



LAND&
BUILDING
EXPERTS

570 Alden Rd., Unit 6, Markham, ON. L3R 8N5
(647) 340-8649 landbuildexp@gmail.com

DO NOT SCALE DRAWINGS.

The contractor must verify and accept responsibility for all dimensions and conditions on site and must notify the Designer/Engineer of any variations from the supplied drawings and information before proceeding with the work. Construction must conform to all applicable codes and requirements of authorities having jurisdiction.

All drawings are the property of Land & Building Experts. and must not be reproduced with out written consent.

All measurements are in mm unless otherwise noted.

STAMP:

1	ISSUED FOR CLIENT REVIEW	2021/06/16
NO.	ISSUED FOR	DATE

PROJECT INFO:

4 HAMILTON HALL DR,
MARKHAM, ON, L3P 2P2

PROJECT NAME:

PROPOSED
BASEMENT SECOND UNIT

DRAWING TITLE:

SITE PLAN

SCALE AS INDICATED

DRAWN BY: Y.K.

CHECKED BY: E.L.

PROJECT NO.:

DWG. NO.

A-1

DOOR SCHEDULE					
NO.	SIZE (INCH)	SIZE (MM)	NOs.	TYPE	REMARKS
D1	30"x80"	762X2030	1	INTERIOR	EXISTING
D2	30"x72"	762X1828	1	INTERIOR	EXISTING
D3	36"x80"	914X2030	2	INTERIOR	PROPOSED
D4	36"x62"	914X1574	1	INTERIOR	PROPOSED

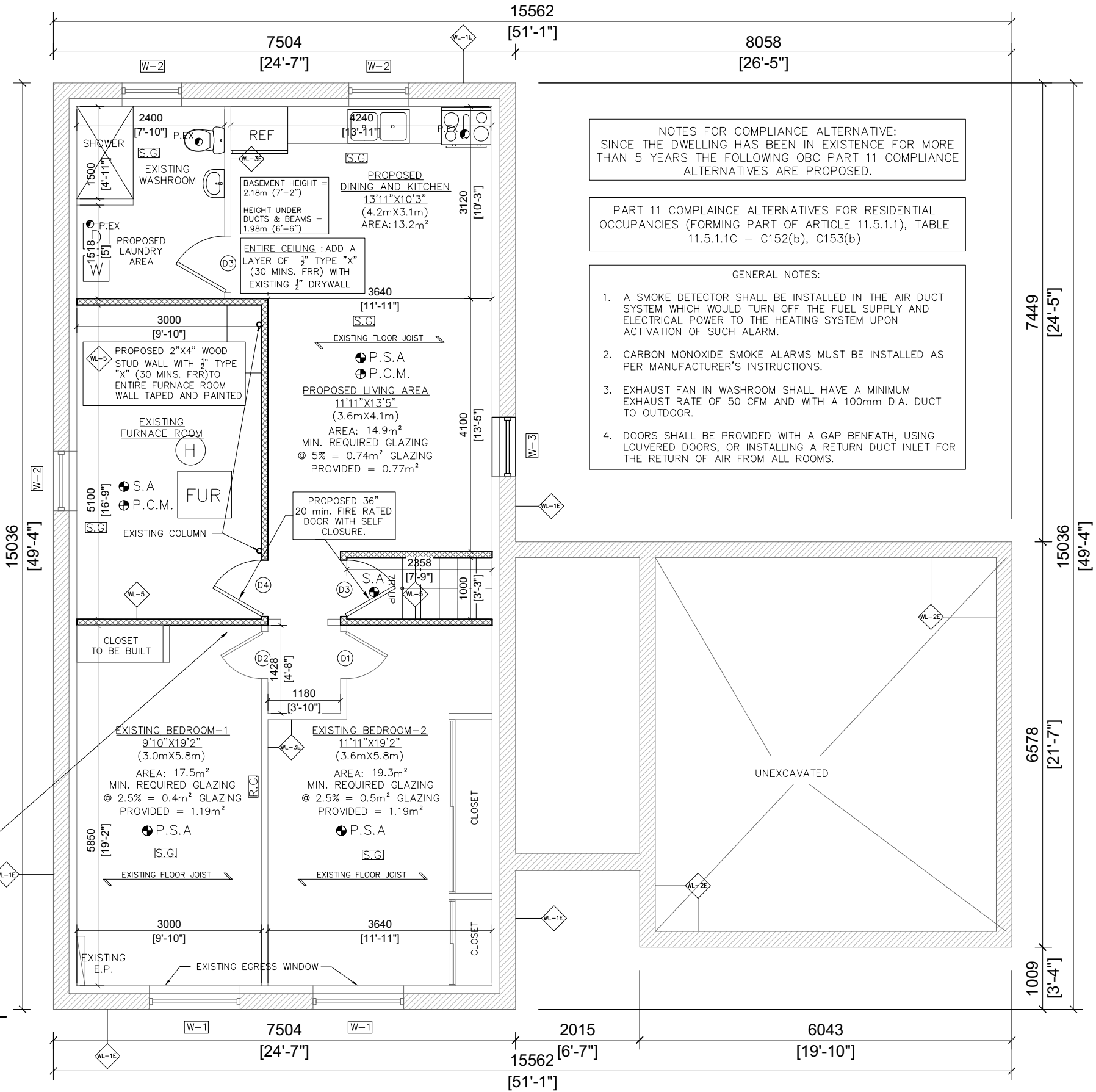
WINDOW SCHEDULE					
NO.	SIZE (INCH)	SIZE (MM)	NOs.	AREA	REMARKS
W-1	58"x32"	1473X812	2	1.19m ²	EXISTING
W-2	38"x16"	965X406	3	0.39m ²	EXISTING
W-3	38"x32"	965X812	1	0.77m ²	PROPOSED

LEGEND	
EXISTING	
	EXHAUST FAN
	SMOKE ALARMS
	CARBON MONOXIDE
	REFRIGERATOR
	FURNACE
	HOT WATER TANK
	SUPPLY AIR GRILLES TO BE LOCATED NEAR CEILING
	RETURN AIR GRILLES TO BE LOCATED NEAR CEILING
PROPOSED	
	PROPOSED SMOKE ALARMS
	PROPOSED CARBON MONOXIDE
	PROPOSED EXHAUST FAN

WALL SCHEDULE	
	EXISTING 10"(254mm) POURED CONCRETE (WITH 12Ci INSULATION), 2"x4"(50.8mmX101.6mm) WOOD STUDS @ 16"(406mm) O.C WITH 0.15mm ON POLY VAPOR BARRIER AND 1/2"(12.7mm)GYPSUM WALLBOARD, TAPED AND SANDED
	EXISTING 10"(254mm) CONCRETE BLOCK (WITH 12Ci INSULATION), 2"x4"(50.8mmX101.6mm) WOOD STUDS @ 16"(406mm) O.C WITH 0.15mm ON POLY VAPOR BARRIER AND 1/2"(12.7mm) GYPSUM WALLBOARD, TAPED AND SANDED
	EXISTING 2"x4"(50.8mmX101.6mm) WOOD STUD WALL WITH 1/2"(12.7mm) GYPSUM WALL BOARD , TAPED AND SANDED
	PROPOSED 2"x4"(50.8mmX101.6mm) WOOD STUD WALL WITH 1/2"(12.7mm) GYPSUM WALL BOARD BOTH SIDES, TAPED AND SANDED
	PROPOSED 2"x4"(50.8mmX101.6mm) WOOD STUD WALL WITH 1/2"(12.7mm) TYPE "X" (30 MINS. FRR)TO ENTIRE FURNACE ROOM WALL TAPED AND PAINTED

IN A BUILDING CONTAINING NOT MORE THAN FOUR DWELLING UNITS, THE EXISTING HEATING OR AIR CONDITIONING SYSTEM MAY BE ALTERED TO SERVE MORE THAN ONE DWELLING UNIT PROVIDED SMOKE ALARMS ARE INSTALLED IN EACH DWELLING UNIT AND PROVIDED A SMOKE DETECTOR IS INSTALLED IN THE SUPPLY OR RETURN AIR DUCT SYSTEM SERVING THE ENTIRE BUILDING WHICH WOULD TURN OFF THE FUEL SUPPLY AND ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH DETECTOR

1
A-4 **PROPOSED BASEMENT PLAN**
SCALE = 1:75



Appendix B

File: 21.127444.000.00.MNV

Date: 09/02/21
MM/DD/YY

NOTES FOR COMPLIANCE ALTERNATIVE:
SINCE THE DWELLING HAS BEEN IN EXISTENCE FOR MORE THAN 5 YEARS THE FOLLOWING OBC PART 11 COMPLIANCE ALTERNATIVES ARE PROPOSED.

PART 11 COMPLIANCE ALTERNATIVES FOR RESIDENTIAL OCCUPANCIES (FORMING PART OF ARTICLE 11.5.1.1), TABLE 11.5.1.1C – C152(b), C153(b)

GENERAL NOTES:

- A SMOKE DETECTOR SHALL BE INSTALLED IN THE AIR DUCT SYSTEM WHICH WOULD TURN OFF THE FUEL SUPPLY AND ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH ALARM.
- CARBON MONOXIDE SMOKE ALARMS MUST BE INSTALLED AS PER MANUFACTURER'S INSTRUCTIONS.
- EXHAUST FAN IN WASHROOM SHALL HAVE A MINIMUM EXHAUST RATE OF 50 CFM AND WITH A 100mm DIA. DUCT TO OUTDOOR.
- DOORS SHALL BE PROVIDED WITH A GAP BENEATH, USING LOUVERED DOORS, OR INSTALLING A RETURN DUCT INLET FOR THE RETURN OF AIR FROM ALL ROOMS.

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PROJECT NAME:

**PROPOSED
BASEMENT SECOND UNIT**

DRAWING TITLE:

**PROPOSED
BASEMENT PLAN**

SCALE AS INDICATED

DRAWN BY: Y.K.
CHECKED BY: E.L.

PROJECT NO.:

DWG. NO.

A-4