Memorandum to the City of Markham Committee of Adjustment

January 15, 2020

File:	A/30/19
Address:	122 Chloe Crescent, Markham
Applicant:	Ainkaran Manoranjitham
Agent:	Varatha Design Associates
Hearing Date:	Wednesday January 22 nd , 2019

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

The applicant is requesting relief from the following requirements of the 'Fourth Density – Semi-Detached Residential' (RSD4) zone in By-law 90-81, as amended, as it relates to an existing basement apartment and associated walkout stairs.

a) Section 5.2.1:

a secondary dwelling unit, whereas the By-law permits no more than one single detached dwelling on one lot; and

b) Section 4.6(a):

a maximum projection of 0.70 m into the side yard, whereas the By-law permits an uncovered platform or step to project a distance of not more than 0.45 m into any required.

COMMENTS

In a Memorandum dated September 4, 2019 (see Appendix 'B') staff indicated that there was no objection to permitting a secondary suite. Staff requested deferral to address Engineering Department comments to confirm there would be no impact to abutting properties by altering an existing drainage swale in the west side yard. This related to the requested side yard projection variance for stairs accessing the basement unit. The Committee of Adjustment deferred the application at the September 11th hearing. The applicant submitted a Grading Plan on December 9th, 2019. The Engineering Department has reviewed this Grading Plan and advises they have no further concerns. Staff do not object to the approval of the variance to permit the existing secondary dwelling unit and projection of 0.70 m into the side yard.

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. 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 see Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:

Aqsa Malik, Planner, East District

REVIEWED BY:

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Stephen Corr, Senior Planner, East District File Path: Amanda\File\ 19 115610 \Documents\District Team Comments Memo

APPENDIX "A" December 9th, 2019

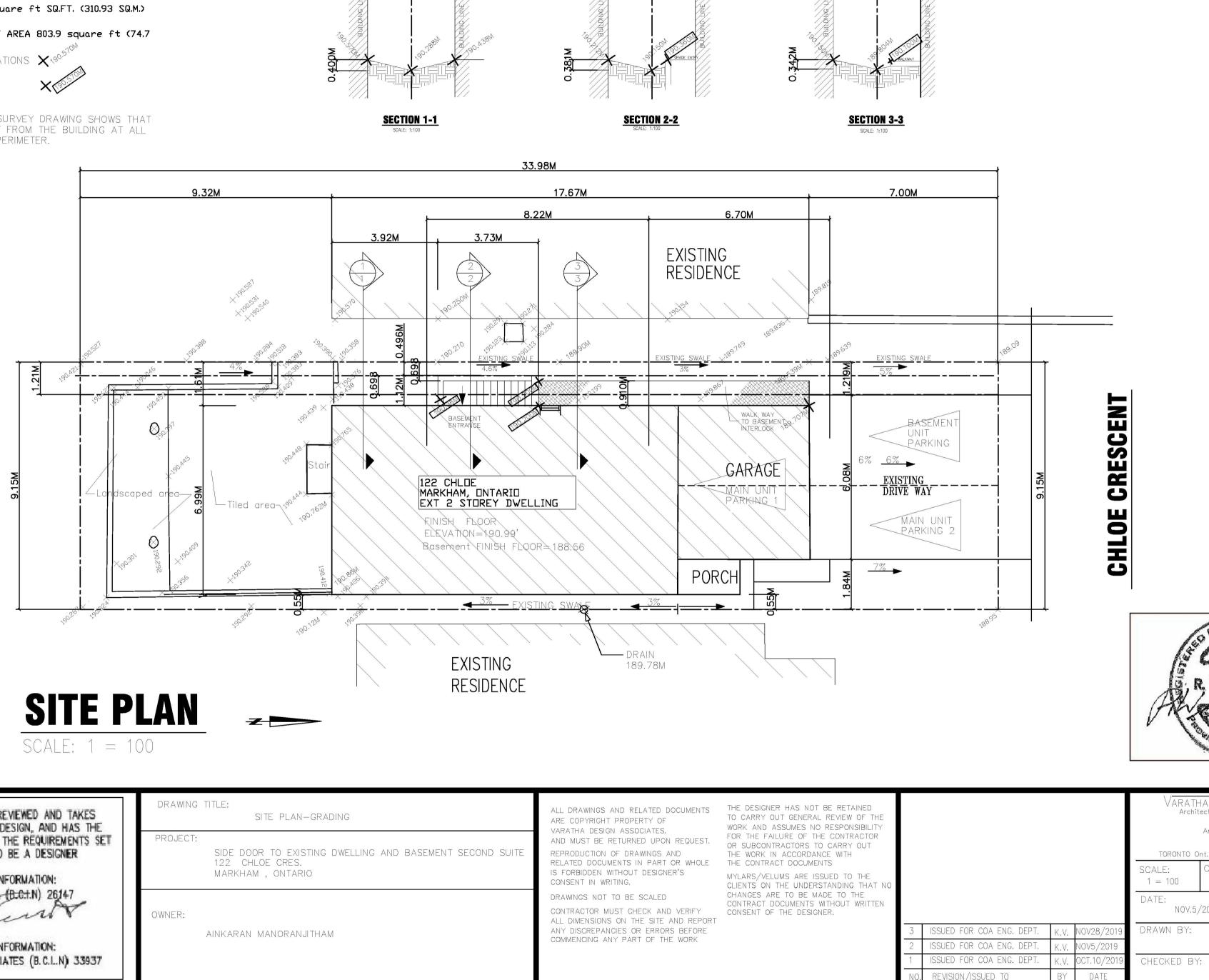
SITE STATISTICS:

SITE ADDRESS: 122 CHLOE CRESCENT MARKHAM, ONTARIO LEGAL DESCRIPTION: LOT AREA :3345.65 square ft SQ.FT. (310.93 SQ.M.)

BASEMENT SECOND UNIT AREA 803.9 square ft (74.7 SM)

NEW ELEVATIONS

ENGINEER'S NOTE: CALCULATION FROM SURVEY DRAWING SHOWS THAT GRADE SLOPES AWAY FROM THE BUILDING AT ALL LOCATIONS ON THE PERIMETER.



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THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN, AND HAS THE			
QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE O.B.C TO BE A DESIGNER QUALIFICATION INFORMATION:	PROJECT:	SIDE DOOR TO EXISTING 122 CHLOE CRES. MARKHAM , ONTARIO	
REGISTRATION INFORMATION: VARATHA DESIGN ASSOCIATES (B. C.IN) 33937	OWNER:	AINKARAN MANORANJITH.	

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DATE OF PRINT: NOV.28/2019

K.V

Memorandum to the City of Markham Committee of Adjustment September 4, 2019

File:	A/30/19
Address:	122 Chloe Crescent, Markham
Applicant:	Ainkaran Manoranjitham
Agent:	Varatha Design Associates
Hearing Date:	Wednesday September 11 th , 2019

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

The applicant is requesting relief from the following requirements of the 'Fourth Density – Semi-Detached Residential' (RSD4) zone in By-law 90-81, as amended, as it relates to an existing basement apartment and associated walkout stairs.

a) Section 5.2.1:

a secondary dwelling unit, whereas the By-law permits no more than one single detached dwelling on one lot; and

b) Section 4.6(a):

a maximum projection of 0.70 m into the side yard, whereas the By-law permits an uncovered platform or step to project a distance of not more than 0.45 m into any required.

BACKGROUND

Property Description

The 234.02 m² (2,519 ft²) subject property is located on the south side of Chloe Crescent, which is south of Denison Street and east of Featherstone Avenue. The property is located within a residential neighbourhood comprised of two-storev detached and semi-detached dwellings. There is an existing two-storev semi-detached dwelling on the property, which according to assessment records was constructed in 1987. The existing dwelling has a two-car garage and driveway. Note, the subject dwelling is considered a semi-detached dwelling as its foundation wall is attached to an adjacent dwellings foundation wall. This configuration is permitted in accordance with the applicable 90-81 Zoning By-law and is a common characteristic of the community. The dwelling however visually looks like at detached dwelling above grade.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling as shown in Appendix A. The proposed secondary suite would have direct and separate access at the west side of the house, which is accessed via stairs and a door to the basement level. No other changes are being proposed to the exterior of the dwelling or the property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- . Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

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

The 2014 Official Plan designates the subject property "Residential Low Rise", which provides for low rise housing forms including town house dwellings. The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or row house 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 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that 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.

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 90-81

The subject property is zoned 'Fourth Density – Semi Detached Residential' (RSD4) under Bylaw 90-81, as amended, which permits a semi-detached dwelling. Section 6.5 of the By-law only permits one dwelling on a lot, and the applicant has therefore submitted a variance to permit the existing secondary suite within the dwelling. The applicant is also requesting a variance to permit the existing walkout to project 0.70 m into the side yard which relates to the existing stairs to access the basement suite.

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, *"basement apt existing need to have a separate entrances and obc min width of exterior steps to maintain".*

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However the applicant has received comments from the Building Department through the building permit review process to confirm the variances required for the existing 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.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the 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.

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 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

Increase in Maximum Projection

The applicant is requesting a maximum projection of 0.70 m (2.3 ft) into the west side yard, whereas the by-law permits an uncovered platform or step to project a distance of not more than 0.45 m (1.47 ft) into any required yard, which is an increase of 0.25 m (0.82 ft). As noted this variance relates to existing stairs accessing the accessory basement suite. The setback between the existing stairs and west lot line is 0.5 m (1.64 ft). The Engineering Department has reviewed the application and are concerned that the 0.5 m (1.64 ft) setback between the existing stairs alters an exisiting drainage swale, which could impact the abutting property to the west by altering overland stormwater flow. Its is recommended that the Applicant submit Grading and Elevation Plans to demonstrate that the existing drainage swale will not be impacted by the stairs, to the satisfaction of the Director of Engineering. Staff are of the opinion that this application should be deferred *Sine Die* until this information is provided.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 4th, 2019. Any additional information or comments received after the writing of this report will be provided to the Committee of Adjustment by the Secretary-Treasurer at the meeting.

CONCLUSION

Based on the discussion above, staff do not object to the approval of the variance to permit the existing secondary dwelling unit. There are concerns however that the reduced setback between the existing stairs and west lot line could impact the abutting property by altering an existing drainage swale. Staff recommend the application be deferred *Sine Die* so that Elevation and Grading plans can be submitted to demonstrate that the existing swale will not be impacted, to the satisfaction of the Director of Engineering or his designate.

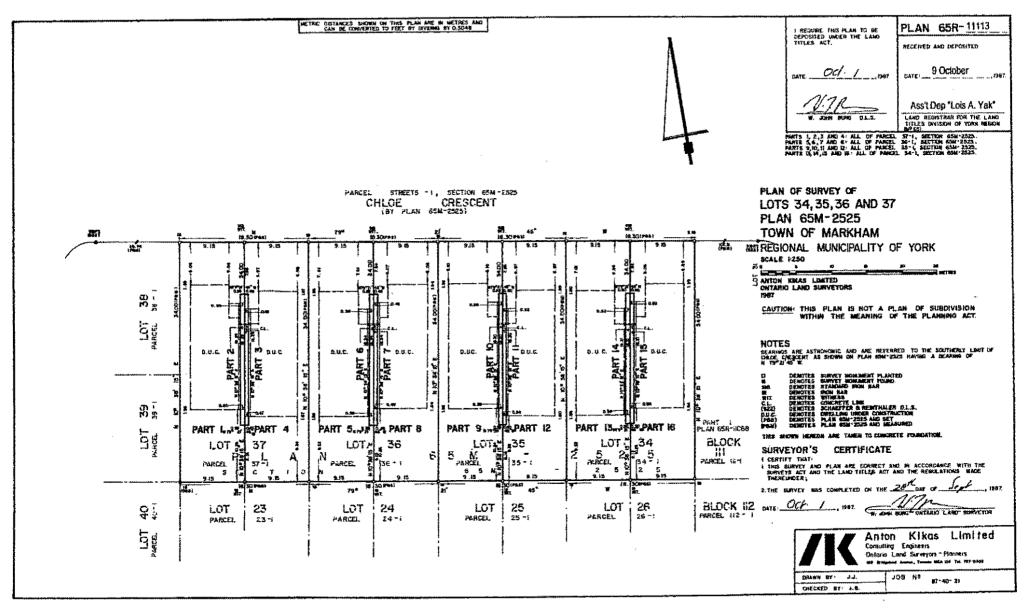
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PREPARED BY:

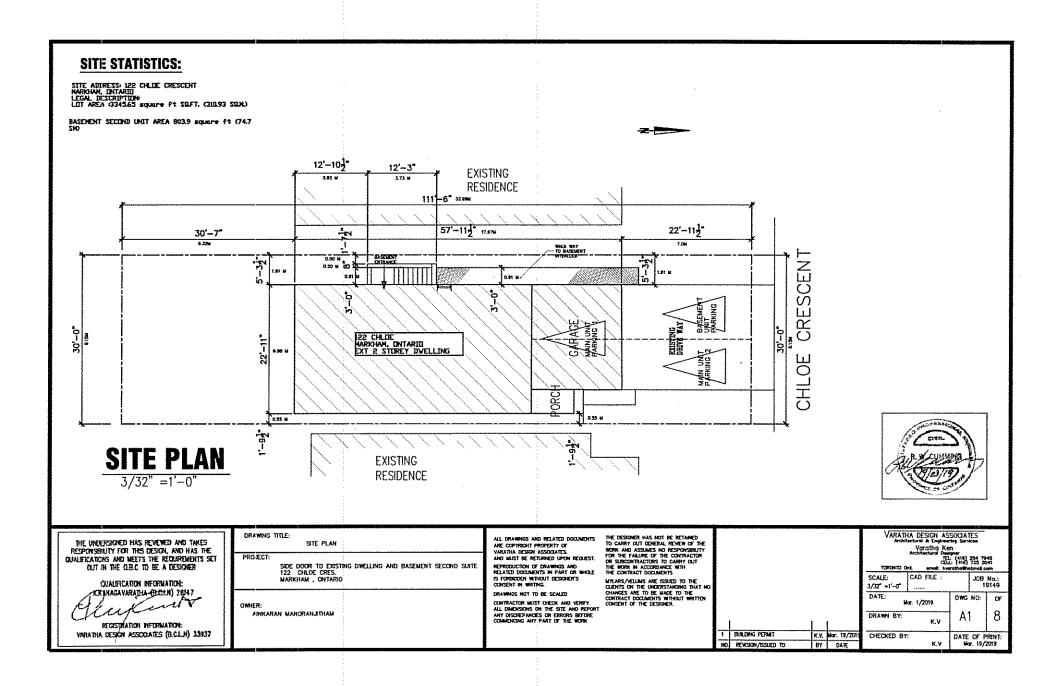
Aqsa Malik, Planner, East District

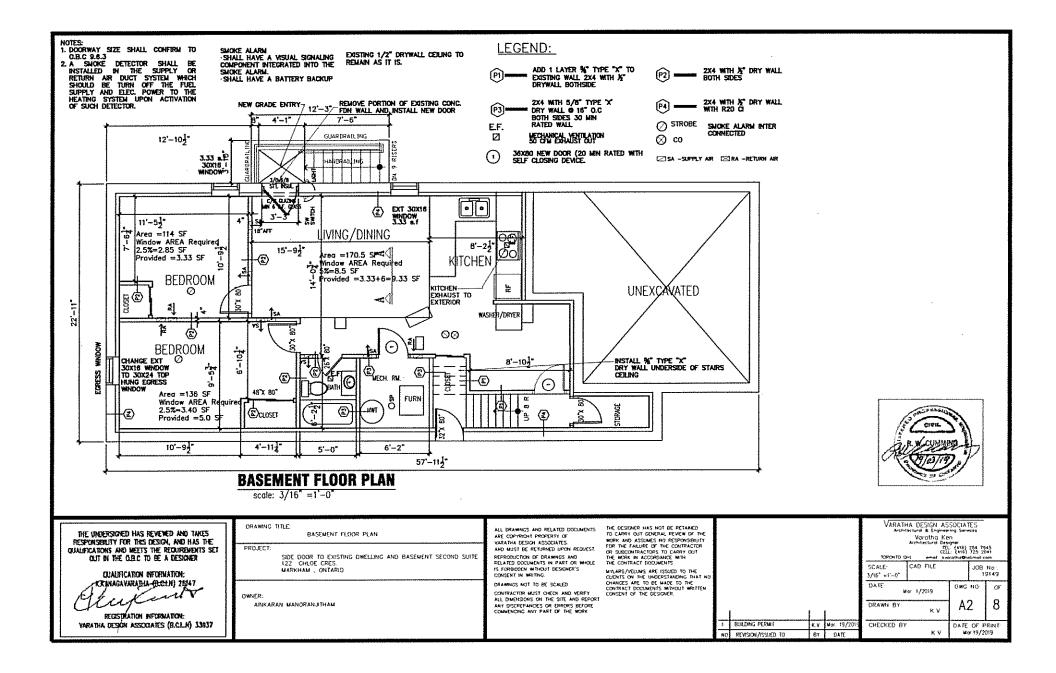
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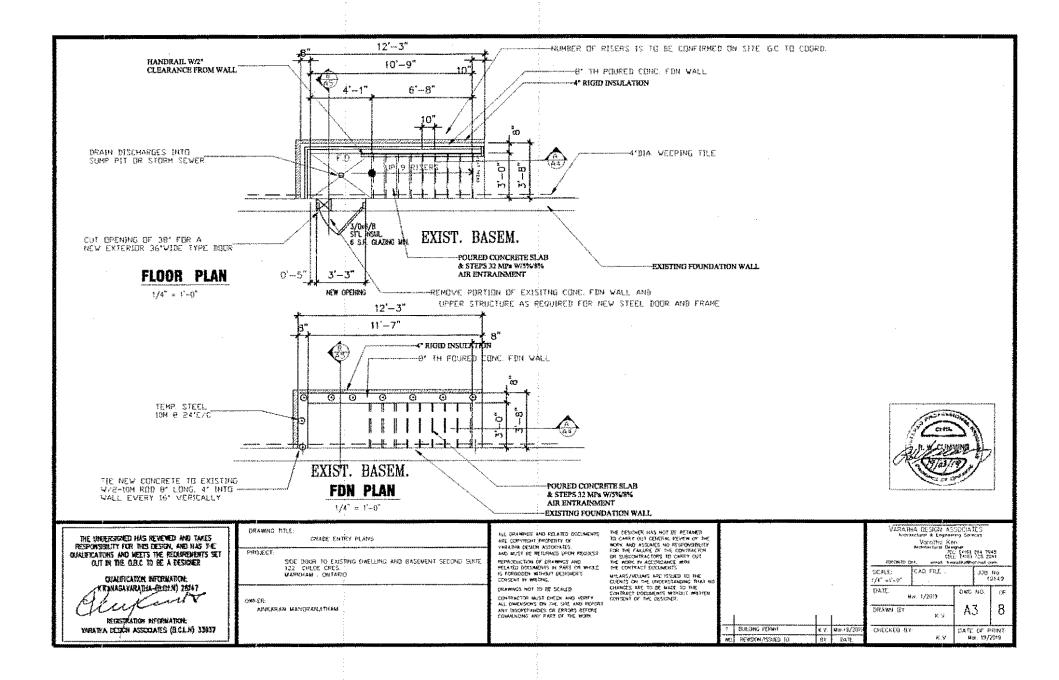
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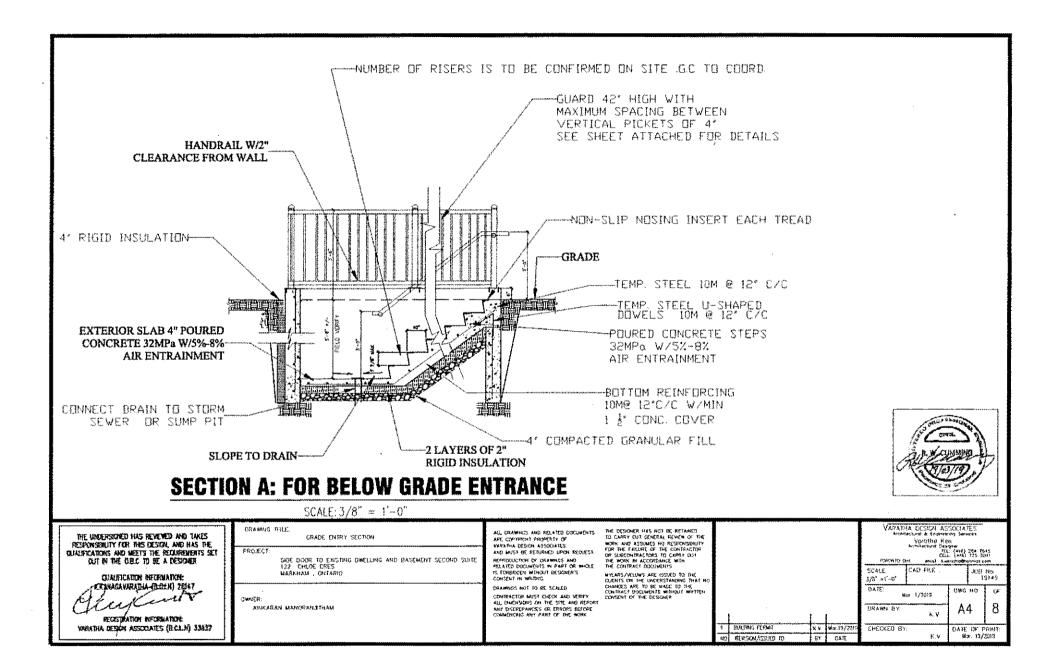


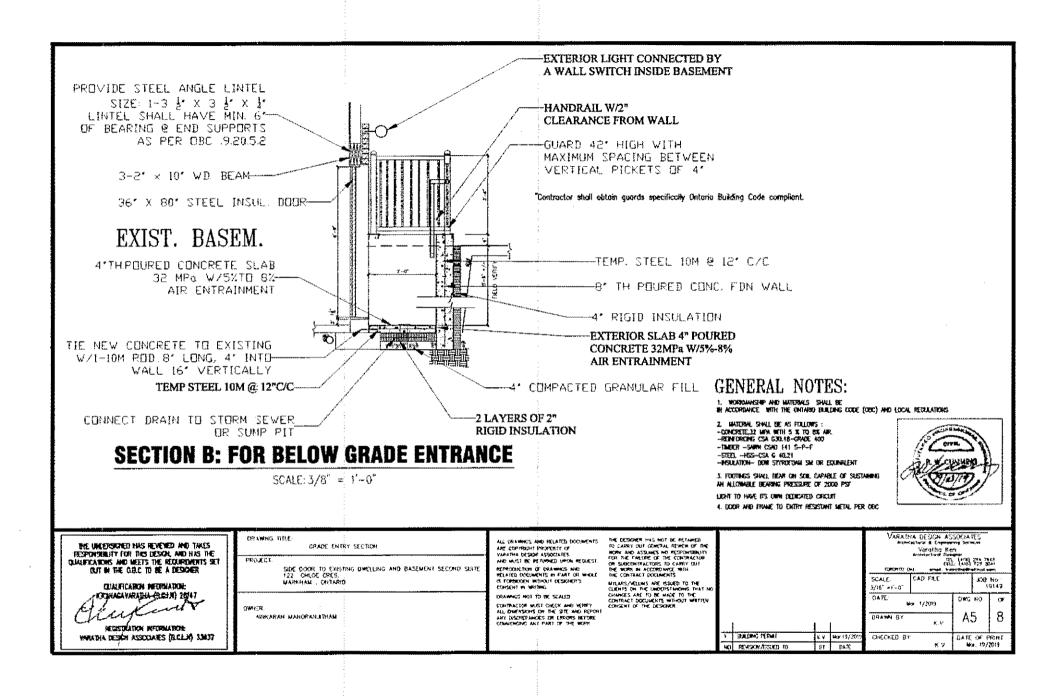
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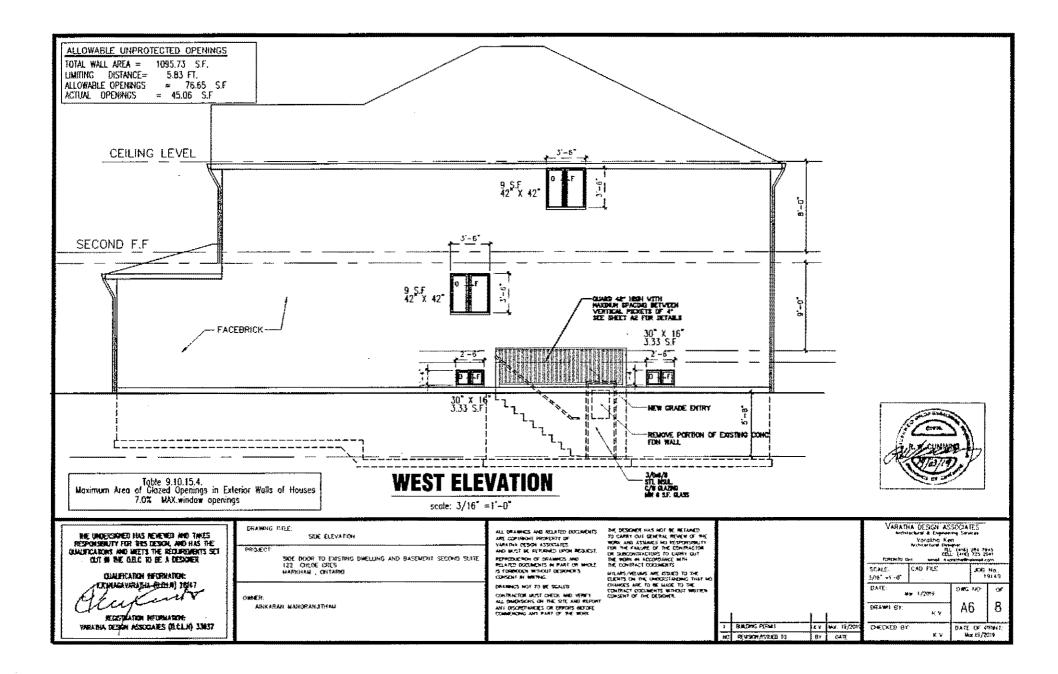


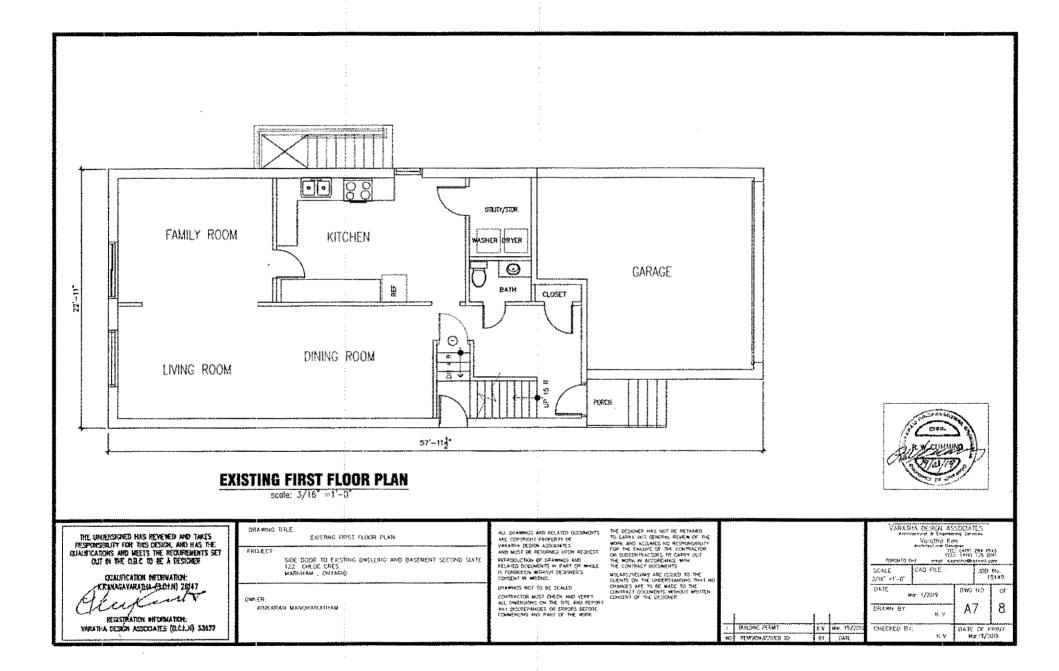


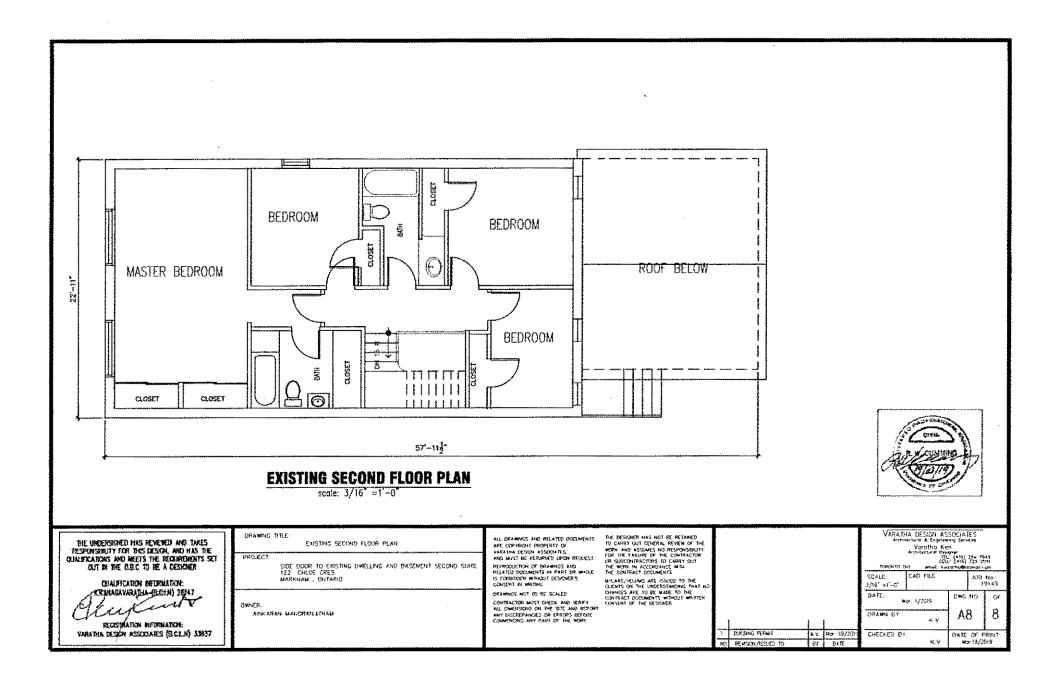












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APPENDIX "C" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/30/19

- 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 received by the City of Markham on December 9th, 2019, 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; and
- 4. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:

Agsa Malik, Planner, East District