

Memorandum to the City of Markham Committee of Adjustment

January 31, 2019

File: A/133/18
Address: 62 Cobbler Cres, Markham
Applicant: Mary Maowad & Mamdouh Nassim
Agent: Mamdouh Nassim
Hearing Date: Wednesday February 06, 2019

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

The applicant is requesting relief from the following requirements of By-law 153-80, R8, as amended:

a) Section 6.1:

a second suite (basement apartment), whereas the By-law permits no more than one dwelling unit per lot;

b) Section 7.2 (c):

a maximum lot coverage of 34.01 percent whereas the by-law permits a maximum lot coverage of 33.33 percent;

as they relate to an existing basement apartment and shade structure in the rear yard for which no permit record exists.

BACKGROUND

Property Description

The 555.37 m² (5,978 ft²) subject property is located on the west side of Cobbler Crescent, south of 16th Avenue and west of Main Street Markham North. The property is developed with a two-storey detached 265.98 m² (2863 ft²) dwelling, which according to assessment records was constructed in 1983. The property currently provides a total of 4 parking spaces, 2 in the garage and 2 on the driveway.

Proposal

The applicant is requesting permission for an existing unenclosed covered deck at the rear of the existing dwelling. The applicant is also requesting permission for an existing secondary suite in the basement of the existing dwelling. The proposed secondary suite would have direct and separate access provided by an existing door at the rear side of the building. No 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".

Official Plan and Zoning

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 townhouse 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: The building type in which the secondary suite is contained;

- a) The percentage of the floor area of the building type devoted to the secondary suite;
- b) The number of dwelling units permitted on the same lot
- c) The size of the secondary suite;
- d) The applicable parking standards; and
- e) 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 153-80

The subject property is zoned 'R8' – Eight Density – Single Family Residential under By-law 153-80, as amended, which permits a single detached dwelling. The proposal does not comply with the by-law with respect to lot coverage. The By-law does not permit a secondary suite.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant on the application form, *"it was an existing condition. I bought the house with a finished basement apartment and separate entrance since 2011"*.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) on August 30, 2018 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.

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 Lot Coverage

The applicant is requesting relief for a maximum lot coverage of 34.01 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent. The proposed lot coverage includes a one-storey 2.65 m (8.7 ft) rear unenclosed covered deck which adds approximately 23.1 m² (248.65 ft²) to the overall building area. Excluding the rear unenclosed covered deck, the building with the proposed addition has a lot coverage of approximately 30 percent and would comply with the by-law requirement.

The proposed unenclosed covered deck provides a rear yard setback of approximately 12 m (39 ft), and maintains side yard setbacks of 2.3 m (7.55 ft) on the south side of the property and over 1.85 m (6 ft) on the north side of the property. Given that the covered deck is at the rear of the property, provides a generous rear yard setback and is unenclosed, staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling and the resultant dwelling is generally consistent with what the by-law permits.

PUBLIC INPUT SUMMARY

As of January 31, 2019, the City received 1 letter expressing concerns over the basement apartment and safety in the neighbourhood. 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.

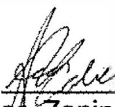
CONCLUSION

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. 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 "A" for conditions to be attached to any approval of this application

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Senior Planner, East District
File Path: Amanda\File\ 18 248668 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/133/18

1. The variances apply only to the proposed unenclosed rear shade structure for 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 received by the City of Markham on August 30, 2018 and January 31, 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;
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.

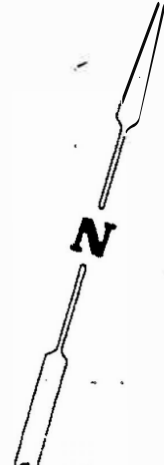
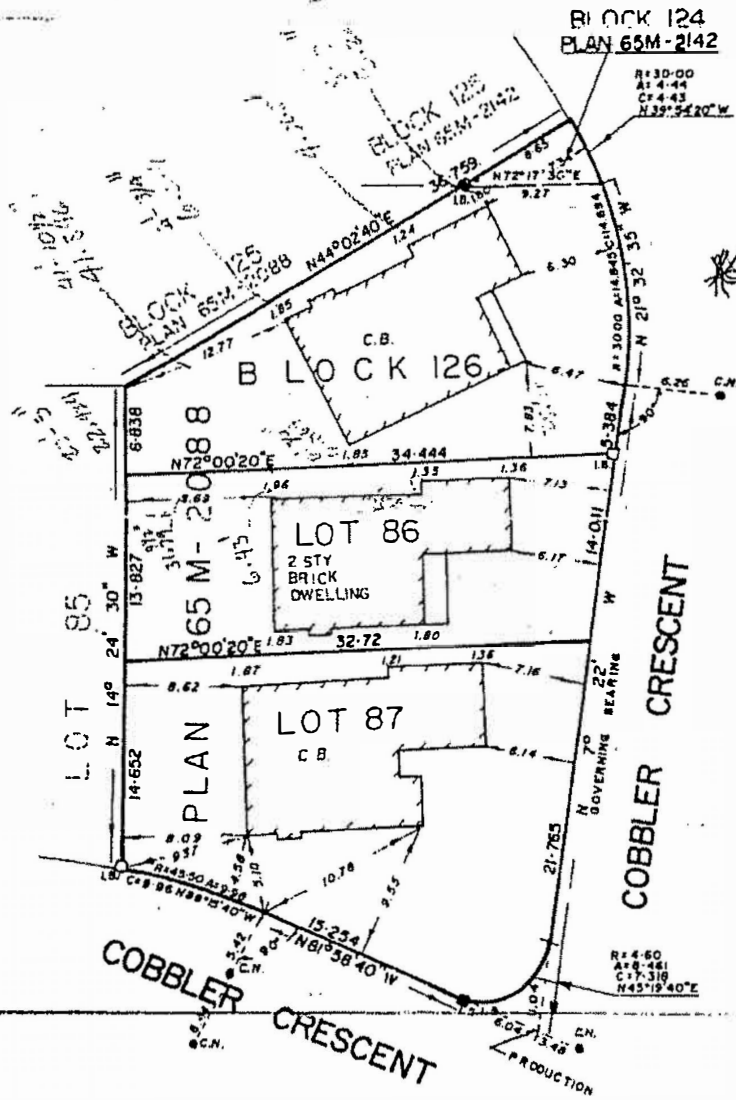
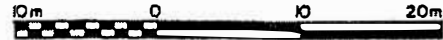
CONDITIONS PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

PLAN SHOWING BUILDING LOCATION ON
 LOTS 86 and 87 and BLOCK 126
 PLAN 65M-2088
 AND BLOCK 124
 PLAN 65M-2142
 TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK

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

SCALE 1:400



CITY OF MARKHAM
 RECEIVED
 AUG 30 2018
 COMMITTEE OF ADJUSTMENT

NOTES AND LEGEND

BEARINGS ARE ASTROMOMIC AND ARE
 DERIVED FROM THE WESTERLY LIMIT
 OF COBBLER CRESCENT AS SHOWN
 ON REGISTERED PLAN 65M-2088
 HAVING A BEARING OF N7°22' W

○ DENOTES SURVEY MONUMENT SET
 ● DENOTES SURVEY MONUMENT FOUND
 C.B. DENOTES CONCRETE BASEMENT
 C.B. DENOTES FOUND CONCRETE BASE
 SET MARCH 1988 BY P. SALNA O.L.S.

SURVEYOR'S CERTIFICATE

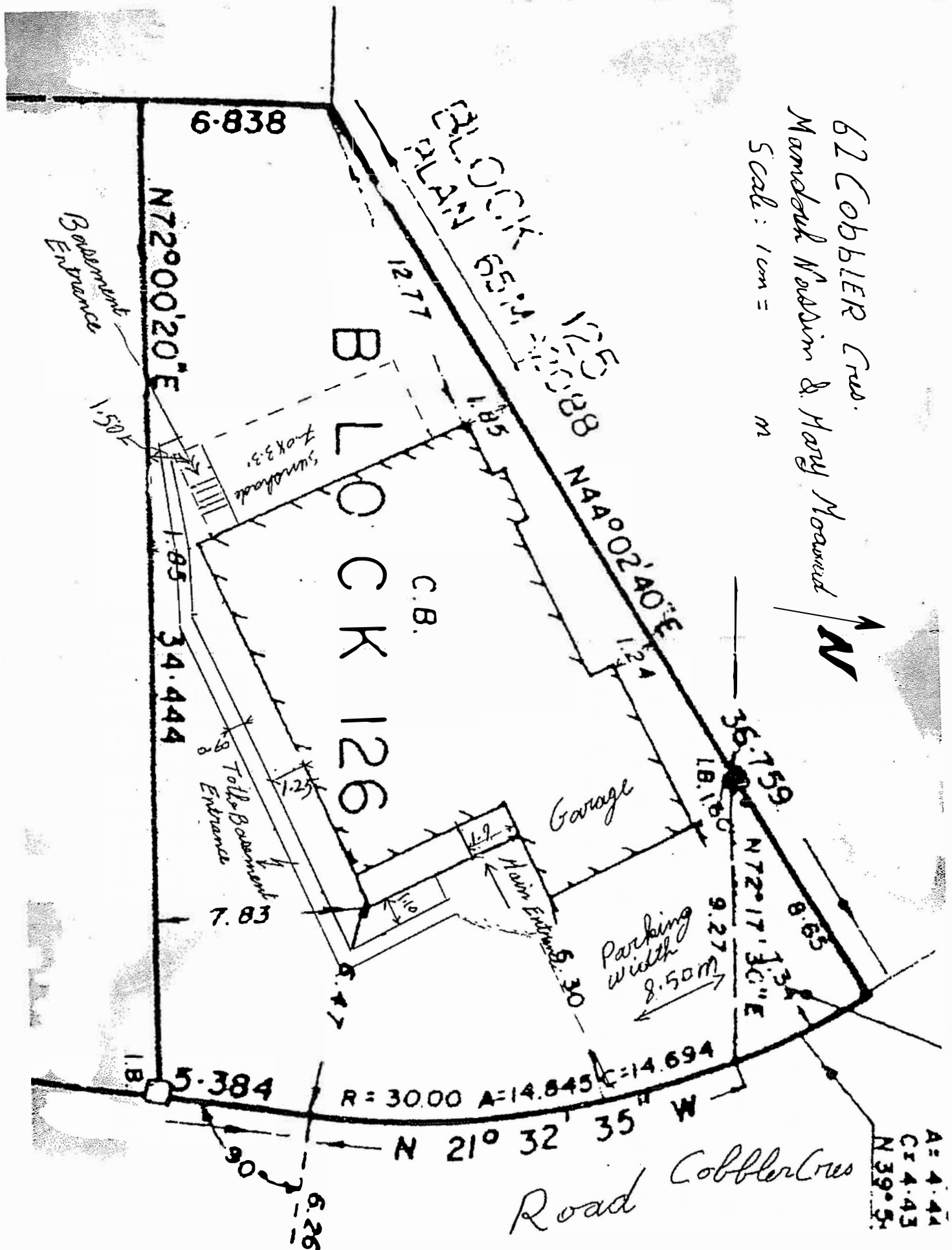
I HEREBY CERTIFY:
 THAT THE FIELD SURVEY, REPRESENTED
 ON THIS PLAN WAS COMPLETED ON THE
 17th DAY OF MAY, 1983

P. Salna
 P. SALNA
 ONTARIO LAND SURVEYOR
 DATE: MAY 27, 1983

P. SALNA COMPANY LTD.
 ONTARIO LAND SURVEYOR
 125 WELORICK ROAD
 RICHMOND HILL, ONT. L4C 3V2
 PHONE: 884-3986, FILE: 82-3

62 COBBLER Cres.
Mamabul Nodlin & Mary Mowand

Scale: 1cm = m



The net dimensions without extension of the roof:

Existing House:

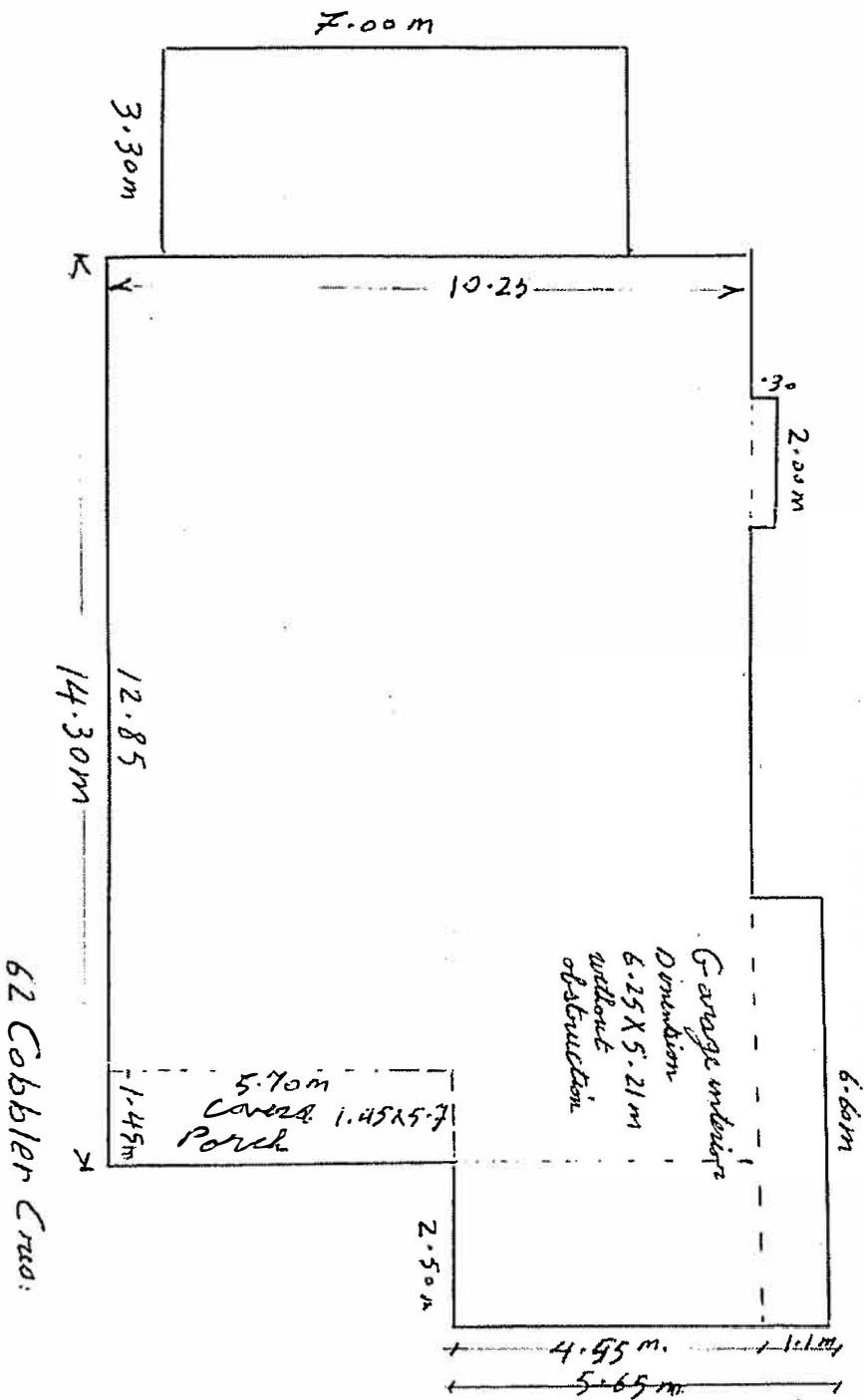
$$\begin{aligned} &14.30 \times 10.25 \\ &+ 2.5 \times 4.55 \\ &+ 6.6 \times 1.1 \\ &+ 3 \times 2.00 = \underline{\underline{165.81 \text{ m}^2}} \end{aligned}$$

$$\begin{aligned} &\text{Sunshade} \\ &7.0 \times 3.3 \\ &= \underline{\underline{23.1 \text{ m}^2}} \end{aligned}$$

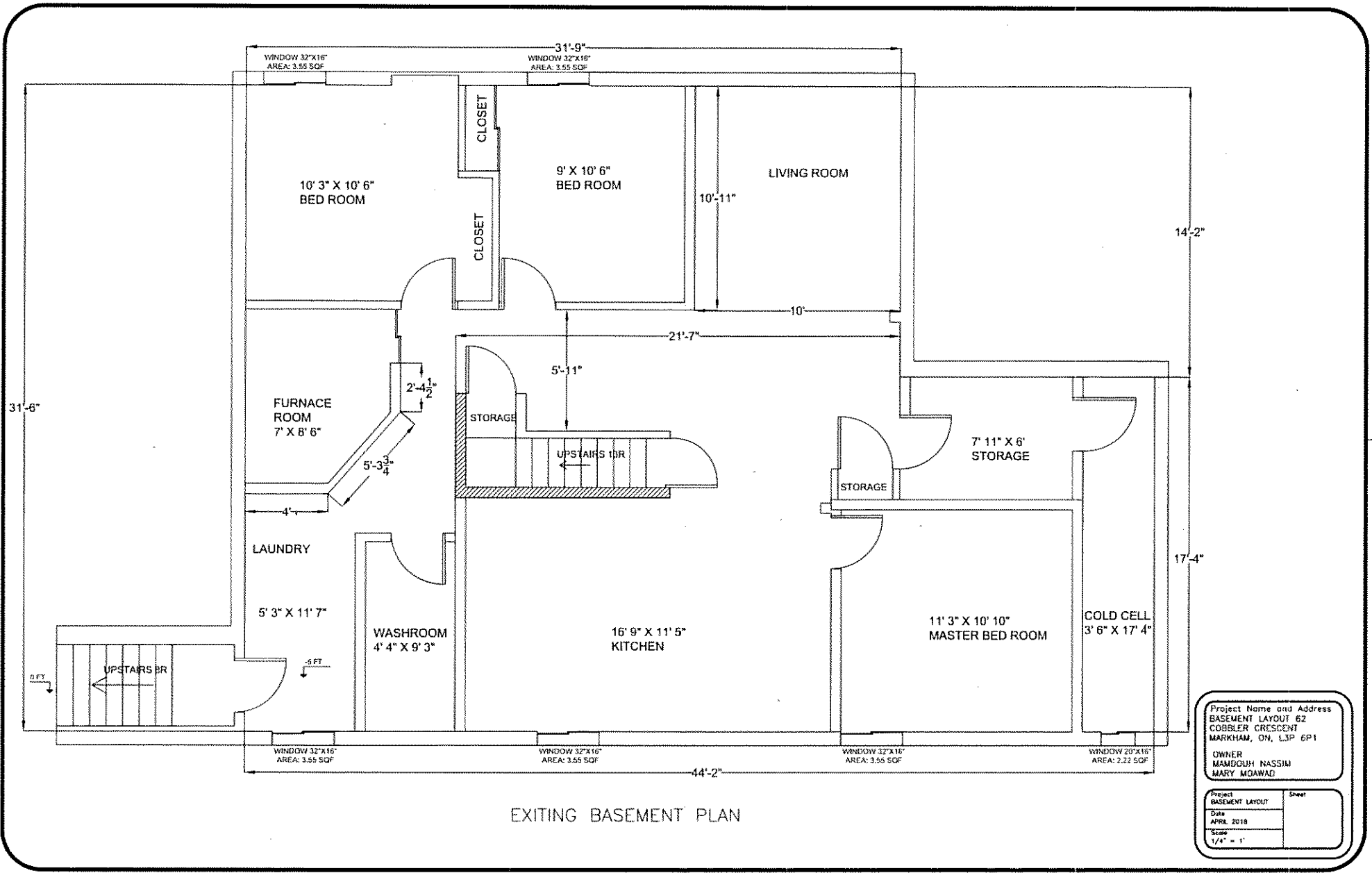
Percentage of coverage on the lot = $188.91 / 555.3688 = 34.01\%$

Total:

$$165.81 + 23.1 \text{ m}^2 = \underline{\underline{188.91 \text{ m}^2}}$$

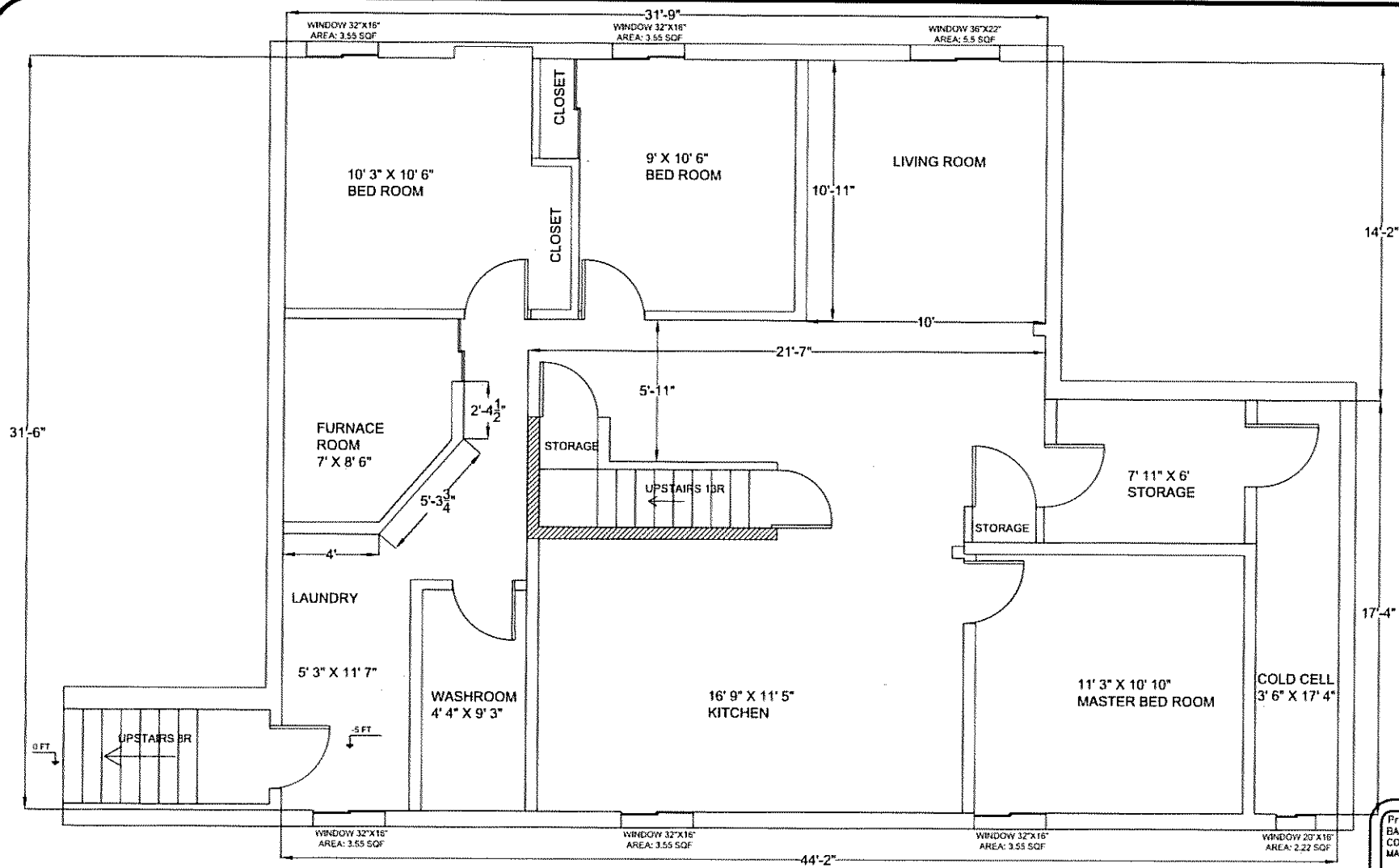


62 Cobble Creek:



EXITING BASEMENT PLAN

Project Name and Address BASEMENT LAYOUT 62 COBBLER CRESCENT MARKHAM, ON, L3P 6P1	
OWNER MAMDOUH NASSIM MARY MOAWAD	
Project BASEMENT LAYOUT	Sheet
Date APRIL 2018	
Scale 1/4" = 1'	



PROPOSED BASEMENT PLAN

Project Name and Address	
BASEMENT LAYOUT 62	
COBBLER CRESCENT	
MARKHAM, ON, L3P 6P1	
OWNER	
MAMDOUH NASSIM	
MARY MOAWAD	
Project	Sheet
BASEMENT LAYOUT	
Date	
APRIL 2018	
Scale	
1/4" = 1'	

