

# Memorandum to the City of Markham Committee of Adjustment

October 1, 2018

**File:** A/139/18  
**Address:** 39 Wild Cherry Lane, Thornhill  
**Applicant:** Thomasina Whitehead  
**Agent:** Don Whitehead  
**Hearing Date:** Wednesday October 10, 2018

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

The applicant is requesting relief from the following requirements of By-law 2150, R3A, as amended:

- a) **Section 6.1:** a maximum lot coverage of 38.6 percent (215.47 sq. m), whereas the By-law permits a maximum lot coverage of 33.33 percent (186 sq. m); as it relates to a proposed one-storey addition to a residential dwelling.

## BACKGROUND

### Property Description

The 558 m<sup>2</sup> (6,006 ft<sup>2</sup>) subject property is located on the south side of Wild Cherry Lane south of Royal Orchard Boulevard and east of Yonge Street. The property is located within an established residential neighbourhood comprised of two-storey detached dwellings. There is an existing two-storey detached dwelling that is approximately 134.44 m<sup>2</sup> (1,447 ft<sup>2</sup>), and a shed on the property. According to assessment records the dwelling was constructed in 1966.

### Proposal

The applicant is proposing to construct a one-storey addition (with a basement) at the rear of the existing two-storey detached dwelling and, an unenclosed rear covered patio.

### 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. Infill development is required to meet the general intent of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and also generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard must also be had for retention of existing trees and vegetation, as well as the width of proposed garages and driveways. Planning staff have had regard for the infill development criteria in the preparation of the comments provided below.

### Zoning By-Law 2150

The subject property is zoned R3A 'Third Density Single Family -Residential' under By-law 2150, as amended, which permits a single detached dwelling. The proposed development does not comply with the by-law with respect to maximum lot coverage.

### 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, "Increase area is required to facilitate interior space planning function".

### **Zoning Preliminary Review Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner's responsibility to ensure that the application has accurately identified all 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 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 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 Lot Coverage**

The applicant is requesting relief for a maximum lot coverage of 38.6 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent. The proposed lot coverage includes an unenclosed rear covered patio and a rear one-storey brick addition (with a basement) which add approximately 16.72 m<sup>2</sup> (179.97 ft<sup>2</sup>) and approximately 64.1 m<sup>2</sup> (689.97 ft<sup>2</sup>) to the overall building area. Excluding the proposed rear covered patio and rear addition, but including the existing front covered porch and the rear yard shed, the building has a lot coverage of approximately 24 percent.

Records indicate that no other dwelling within the immediate vicinity has been subject to such an increase in lot coverage. Further that the area is generally not experiencing a transition to larger homes. Staff note that the increase in lot coverage will add to the dwelling however, the proposal is generally in line with what the by-law permits. The proposed rear addition does not deviate significantly from the rear yard setback pattern on the street and, does not extend significantly beyond the property to its west. Given this, Staff are of the opinion that the proposed increase in lot coverage is appropriate.

### **PUBLIC INPUT SUMMARY**

As of October 1, 2018, the City received 1 letter expressing support for the application. 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. 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:

  
David Miller, Development Manager, West District  
File Path: Amanda\File\ 18 250031 \Documents\District Team Comments Memo



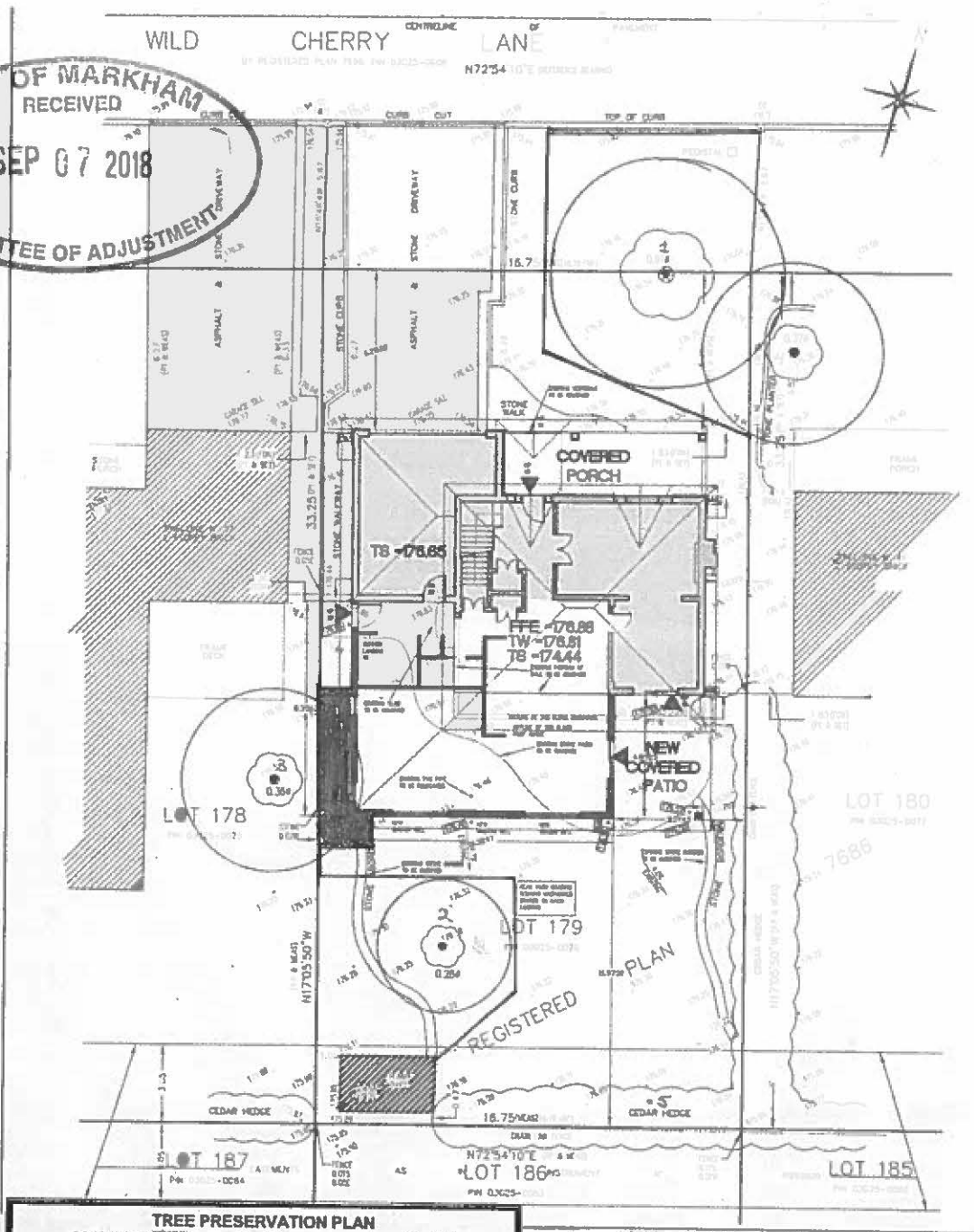
## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/139/18**

1. That the rear patio remain unenclosed;
2. The variances apply only to the proposed development as long as it remains;
3. 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 dated September 07, 2018 and October 1, 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;
4. 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 or Director of Operations 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;
5. 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 Tree Preservation Technician or Director of Operations;
6. 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 or Director of Operations.

**CONDITIONS PREPARED BY:**

  
\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects



**TREE PRESERVATION PLAN**  
 39 Wild Cherry Lane, Markham June 20, 2018

NOTE : This Plan must be reviewed in conjunction with the Arborist Report

- > Tree locations    • 1
- > Minimum Protection Distances    ○
- > Tree Protection Fence Locations    —
- > Hand Excavation Areas

Kelly's Tree Care Ltd., 12 Old Kingston Road, Scarborough, Ontario. M1E 3J5

**ONTARIO ASSOCIATION OF LANDSCAPE ARCHITECTS**  
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**ddi**  
 design & development inc.

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**SITE PLAN  
 RESIDENTIAL ADDITION  
 WHITEHEAD  
 39 WILD CHERRY LANE  
 - MARKHAM**

SCALE: 1" = 150'  
 PROJECT No. D016-35

**KEY PLAN**

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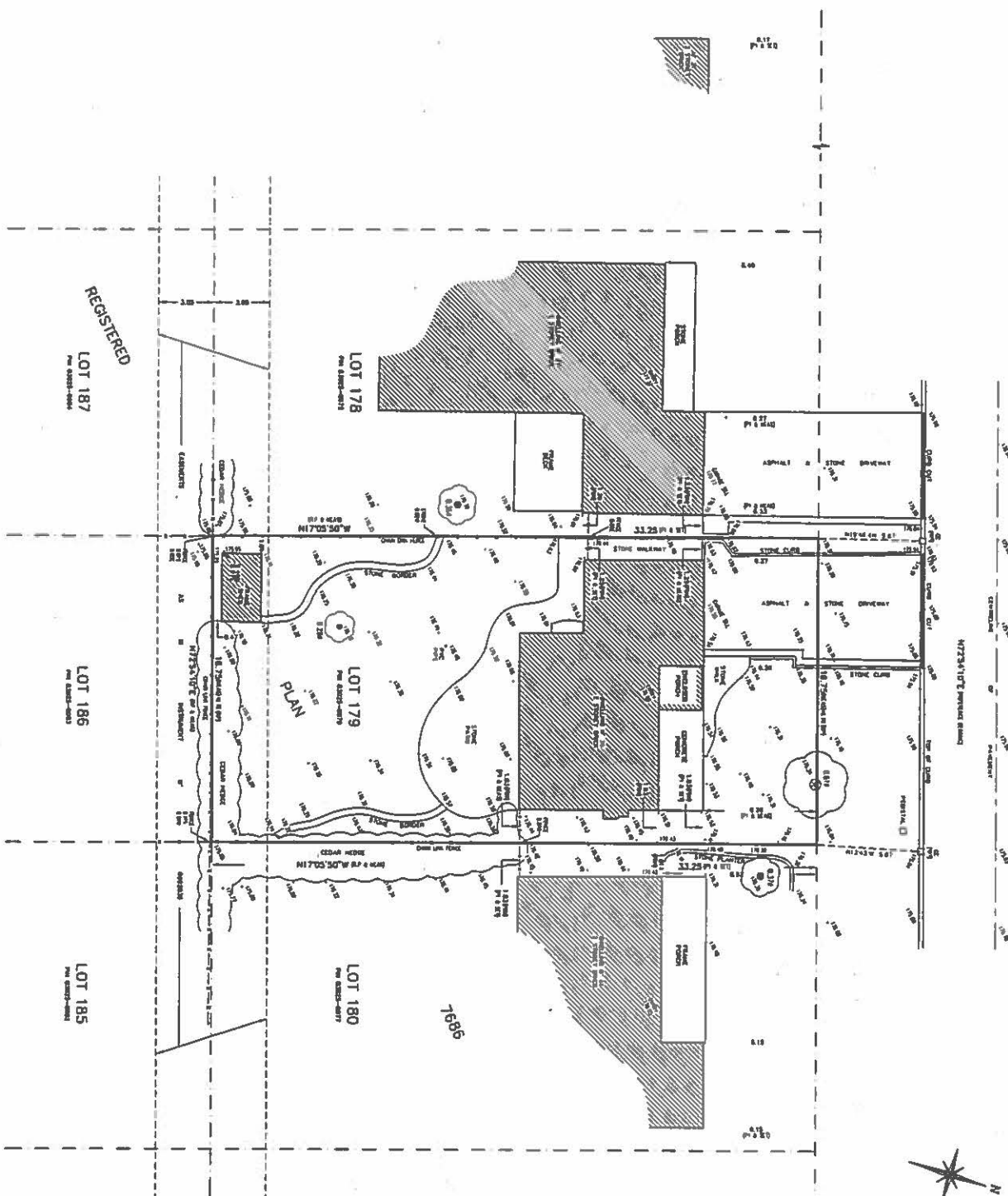
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SEP 07 2018

COMMITTEE OF ADJUSTMENT



**PART I: PLAN OF**

REGISTERED PLAN 7686

E.W. BUNYER B.Sc., O.L.S.

**L.W. BOUTER, B.Sc., OLS.**

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## PART 2: REPORT

- 2 - Respondent's testimony substantially in U.S. ex parte's favor.
- 3 - All factors are weighed on balance as to whether the claim was or should be granted by the examiner.
- 4 - Factors favor respondent.

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**NOTE: THIS REPORT CAN BE UPDATED BY THE USER.**

It is not possible to make a general statement about the results of the study. The results are specific to the study population and the study design.

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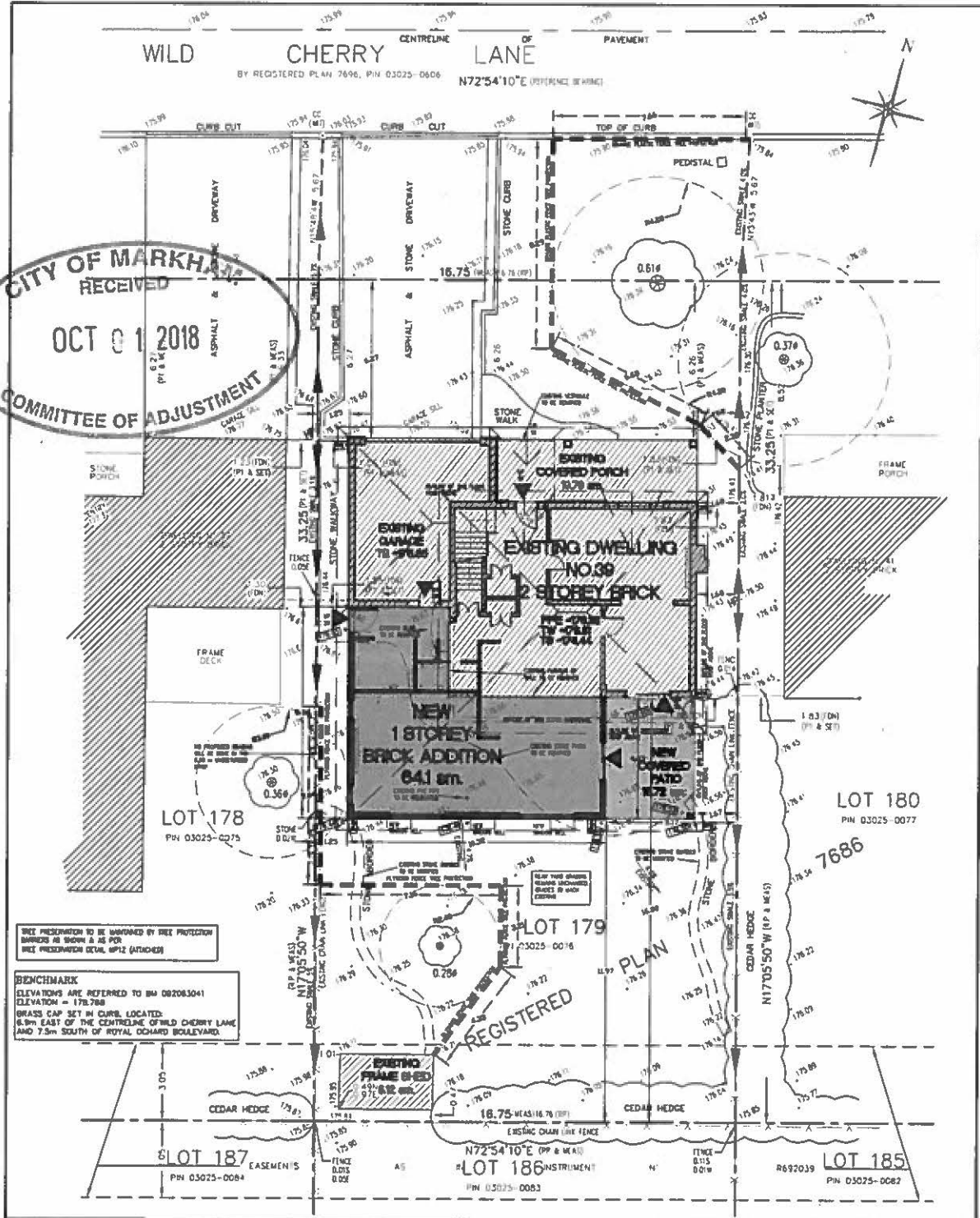
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Houston, Texas 77057-1212

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**CITY OF MARKHAM**  
**RECEIVED**  
**OCT 01 2018**  
**COMMITTEE OF ADJUSTMENT**



**SITE STATISTICS:**

**APPLICANT:**  
 DEBORTEL DESIGN INC.  
 9 SCUMPHUR CREEK  
 WILLOWDALE ON L4M 1B2  
 TEL: (905) 463-6886

**PROPERTY ADDRESS:**  
 39 WILD CHERRY LANE  
 THORNHILL, ONTARIO L3T 3J3

**SITE STATISTICS:**  
 ZONING DESCRIPTION: R5A  
 LOT LEGAL DESCRIPTION: PART 1: PLAN OF LOT 179 REGISTERED PLAN 7496  
 CITY OF MARKHAM  
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 PIN 03025-0371

**LOT 475**  
 PIN 03025-0372

**LOT 476**  
 PIN 03025-0373

**LOT 477**  
 PIN 03025-0374

**LOT 478**  
 PIN 03025-0375

**LOT 479**  
 PIN 03025-0376

**LOT 480**  
 PIN 03025-0377

**LOT 481**  
 PIN 03025-0378

**LOT 482**  
 PIN 03025-0379

**LOT 483**  
 PIN 03025-0380

**LOT 484**  
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**LOT 485**  
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**LOT 486**  
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**LOT 487**  
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**LOT 488**  
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**LOT 492**  
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**LOT 493**  
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**LOT 494**  
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**LOT 495**  
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**LOT 497**  
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**LOT 499**  
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**LOT 500**  
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**LOT 504**  
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**LOT 511**  
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**LOT 513**  
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**LOT 514**  
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**LOT 515**  
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**LOT 518**  
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**LOT 519**  
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**LOT 520**  
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**LOT 521**  
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**LOT 545**  
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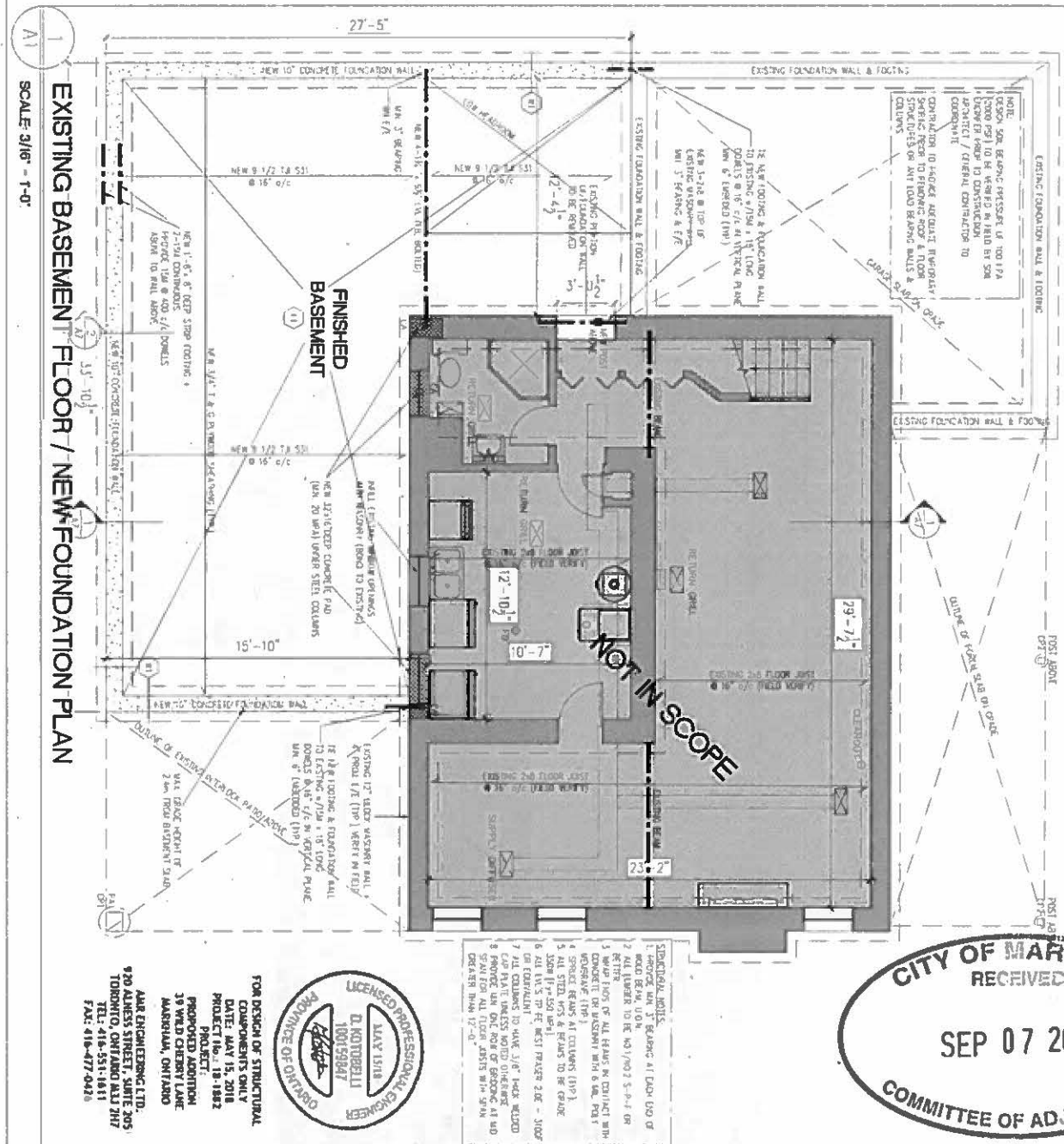
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**LOT 551**  
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**LOT 552**  
 PIN 0302





CITY OF MARKHAM  
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[illegible]



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p 416-363-6096 f 416-363-7367  
www.ddi.ca



**EXISTING BASEMENT FLOOR / NEW FOUNDATION PLAN**  
**RESIDENTIAL ADDITION**  
**WHITEHEAD**  
**39 WILD CHERRY LANE - MARKHAM**

THIS DRAWING IS ISSUED FOR COMMITTEE OF ASSOCIATES  
2018-08-28 ISSUED FOR BUILDING PERMIT  
2018-08-22 ISSUED FOR DESIGN REVIEW

DATE	ISSUE	BY
DATE: 2018-08-27		

A1

SCALE: 1" = 3/16"

PROJECT NO: DD16-35

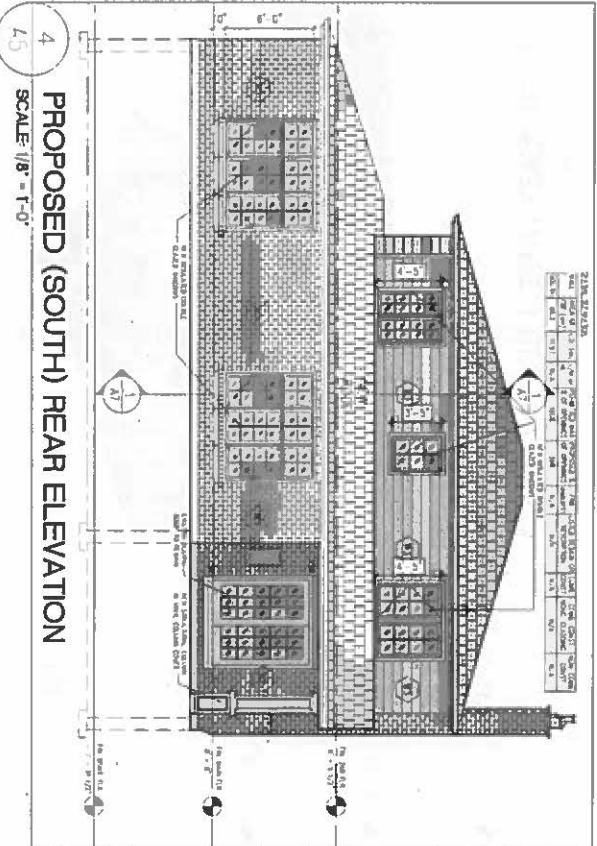
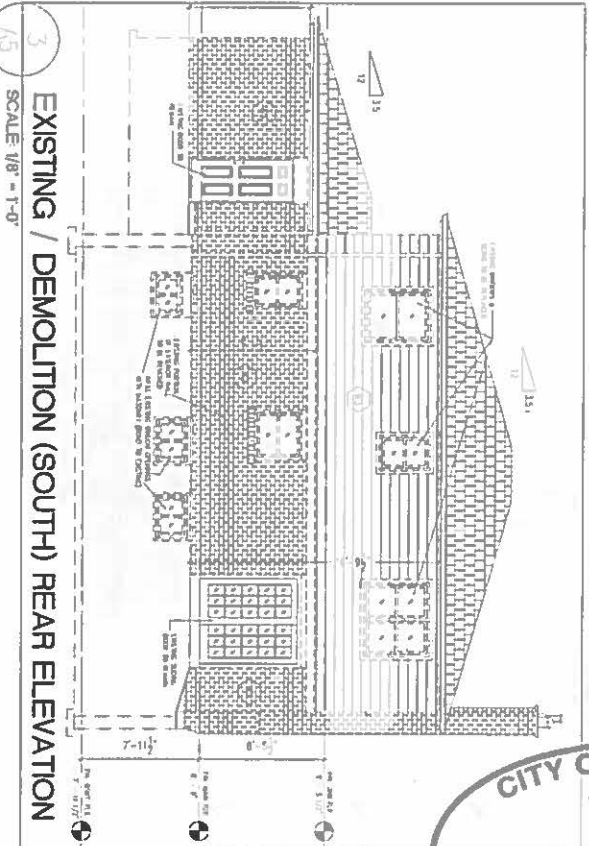
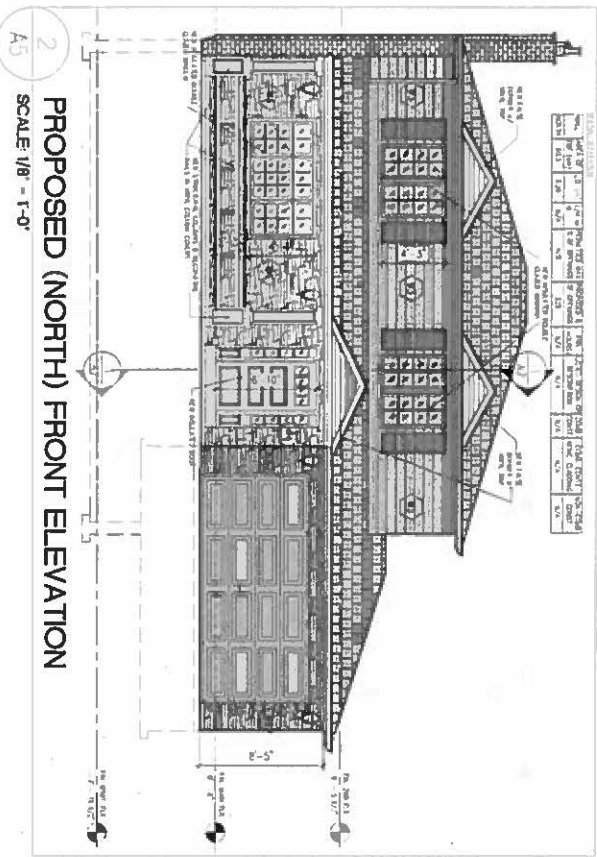
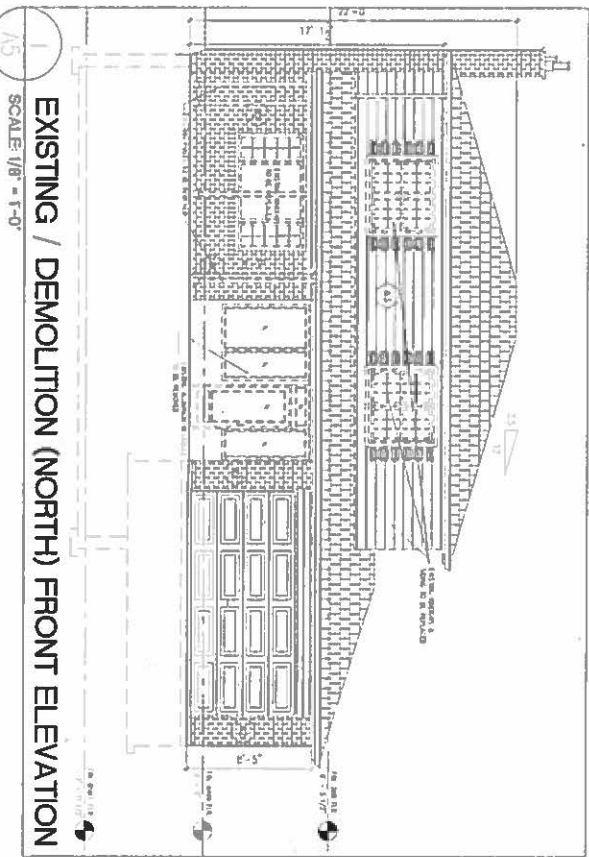
DRAWN BY: JD







A4



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COMMITTEE OF ADJUSTMENT

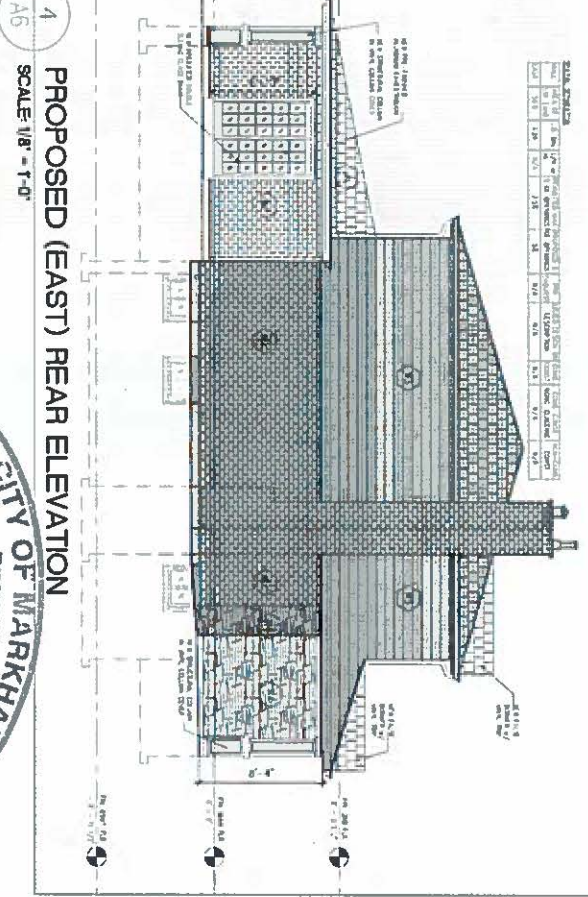
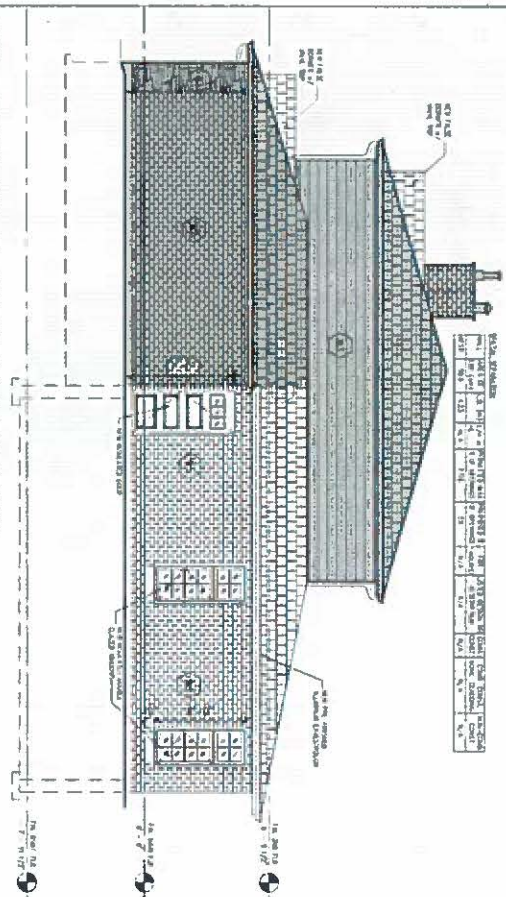
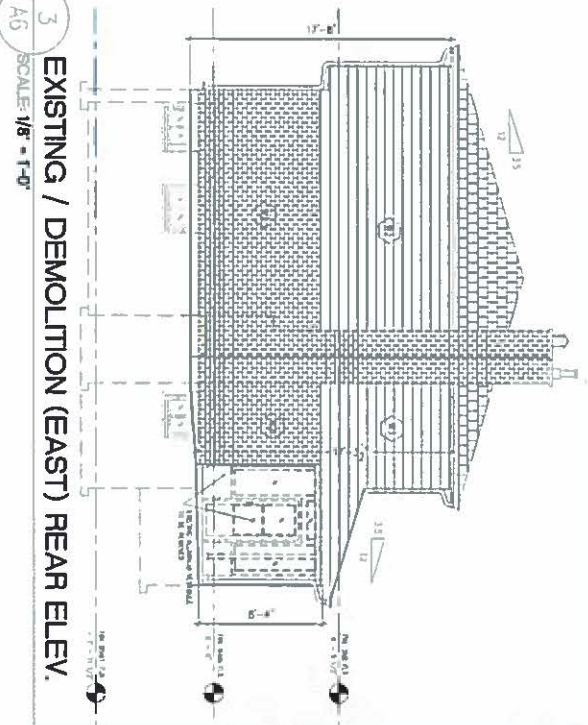
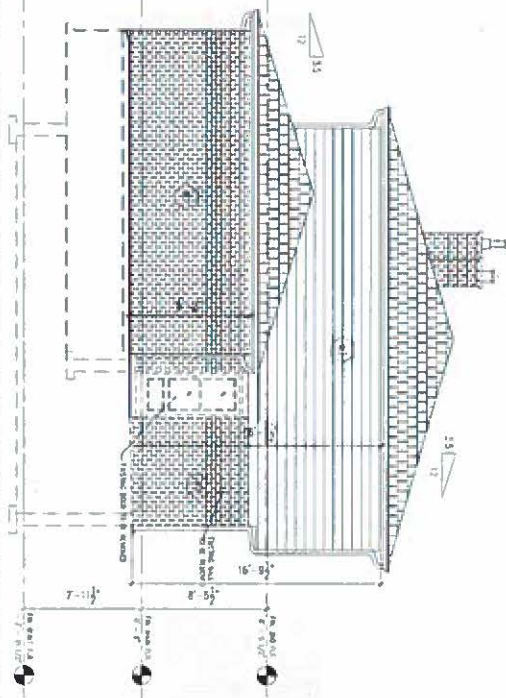
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ARCHITECTS  
ASSOCIATION  
LICENCE  
1580

**FRONT + REAR ELEVATIONS - EXISTING / PROPOSED**  
**RESIDENTIAL ADDITION**  
**WHITEHEAD**  
39 WILD CHERRY LANE - MARKHAM  
SCALE: 1" = 1/8"  
PROJECT No: DD16-35

22-09-01 ISSUED FOR COMMITTEE OF ADJUSTMENT  
2018-09-20 ISSUED FOR BUILDING PERMIT  
DATE: 2018-09-07  
A5





CHAMBERLAIN  
FEDERAL

PROPOSED (EAST) REAR ELEVATION

SEP 07 2018

COMMITMENT

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 618 372 8200 ext 2100  
 618 372 8200 ext 2100  
 618 372 8200 ext 2100  
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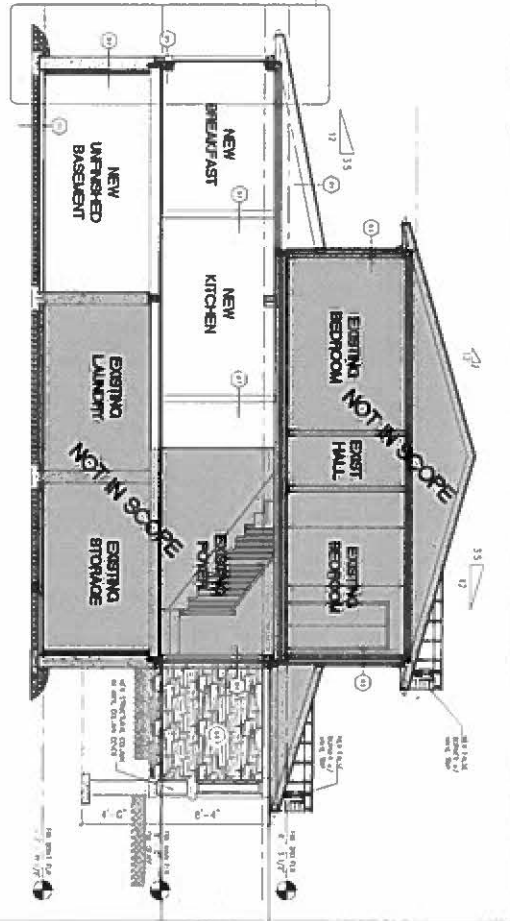


**SIDE ELEVATIONS - EXISTING/DEMO + PROPOSED**  
**RESIDENTIAL ADDITION**  
**WHITEHEAD**  
**39 WLD CHERRY LANE - MARKHAM**  
 SCALE: 1" = 1/8"  
 PROJECT No. DD16-35

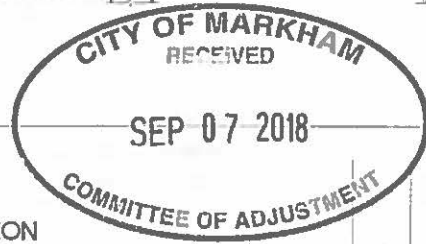
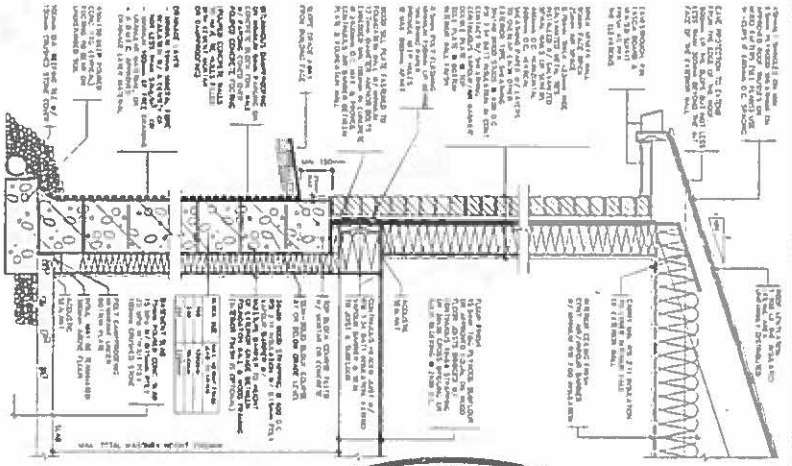
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 DATE: 27-8-09-C

2010-09-01 ISSUED FOR CHANGE FILE OF #SALVAGE		
2010-08-20 ISSUED FOR BUILDING PERMIT		
DATE	ISSUE	PH
A6		

**BUILDING SECTION**  
SCALE: 1/8" = 1'-0"



**WALL SECTION**  
NOT TO SCALE



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**BUILDING + WALL SECTION**  
RESIDENTIAL ADDITION  
WHITEHEAD  
39 WILD CHERRY LANE - MARKHAM  
SCALE AS SHOWN  
PROJECT No DD16-35

2016-09-27 PREPARED FOR COMMITTEE OF ADJUSTMENT	DATE	ISSUE	BY
2016-09-27 PREPARED FOR BUILDING PERMIT			

A7

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COMMITTEE OF ADJUSTMENT