

# Memorandum to the City of Markham Committee of Adjustment

April 3<sup>rd</sup>, 2018

**File:** A/31/18  
**Address:** 7822 9th Line, Markham  
**Applicant:** Mian Saeed  
**Agent:** NIA Architects Inc. (Nadeem Irfan)  
**Hearing Date:** Wednesday April 11, 2018

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following requirements of By-law 194-82 - RRH, as amended:

- a) **Section 7.2(c):**  
a minimum side yard setback (north lot line) of 2.13 metres; whereas the by-law requires 3 metres;
- b) **Section 7.2(c):**  
a minimum side yard setback (south lot line) of 2.10 metres; whereas the by-law requires 3 metres;
- c) **Parking By-law 28-97, Section 6.2.4.4(a)(i):**  
a driveway to be located 2.41 metres from the (north) interior side lot line; whereas the by-law requires 3 metres; as they relate to a proposed residential dwelling.

## BACKGROUND

### Property Description

The 922.22 m<sup>2</sup> (9,926.69 ft<sup>2</sup>) subject property is on the west side of 9<sup>th</sup> Line, between Winterberry Drive and 14<sup>th</sup> Avenue. An existing gas station is located immediately north of the property. The surrounding area is a mature residential neighbourhood which consists of lots that vary between approximately 524 m<sup>2</sup> (5,640.28 ft<sup>2</sup>) and 2,682 m<sup>2</sup> (28,868 ft<sup>2</sup>) in size. The property currently contains a 144.93 m<sup>2</sup> (1560 ft<sup>2</sup>) one-storey detached dwelling which according to assessment records was constructed in 1956.

### Proposal

The applicant is proposing to demolish the existing home and construct a 593.46 m<sup>2</sup> (6,388 ft<sup>2</sup>) two-storey detached dwelling.

### Official Plan and Zoning

2014 Official Plan (partially approved on Oct 30/15, May 26/16, Mar 10/17, April 21/17, Nov 24/17)

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. This type of 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 shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways. Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

### Zoning By-Law

The subject property is zoned RRH under By-law 194-82, as amended, which permits single detached dwellings. The proposed development does not comply with the by-law with respect to the side yard and driveway setbacks.

### Parking By-law 28-97

The subject property is also subject to Parking Standards By-law 28-97. The proposed driveway does not meet the by-law requirement with respect to minimum driveway setback.

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

No reasons were provided by the applicant on the application form.

### **Zoning Preliminary Review Undertaken**

The applicant has completed that a Zoning Preliminary Review (ZPR) to confirm all the variances required for the application.

### **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.

### **COMMENTS**

#### Reduction in Side Yard Setback

The applicant is requesting relief from the By-law to permit a north side yard setback of 2.13 m (6.98 ft) and south side yard setback of 2.1 m (6.88 ft), whereas the by-law requires a minimum side yard setback of 3 m (9.84 ft).

Engineering staff indicate the proposed dwelling will provide sufficient room for drainage along both side yards and therefore have no objection to the approval of the variances.

While a number of nearby homes on 9<sup>th</sup> Line have more generous side yard setbacks, they are typically larger lots with much wider frontages ranging between 30 m (98.4 ft) and 50 m (164 ft). The subject property has a frontage of 21.95 m (72 ft), which makes it one of the narrowest lots on the street. Many properties in the area with comparable frontages, such as the lots immediately to the west on Cottontail Avenue, contain homes with similar side yard setback. Also, a proposed home to be constructed at 7846 9<sup>th</sup> Line obtained minor variance approval last year for a reduced side yard setback of 1.22 m (4 ft), which is approximately 0.91 m (2.98 ft) less than what is being requested.

The north side yard setback variance only applies to the garage, while the main component of the dwelling including all livable space on the main floor and the entire second storey portion complies with the by-law requirement. Furthermore, given the property to the north is a gas station, staff do not anticipate the variance will result in any privacy issues. On the south side of the building, the main wall is setback approximately 2.39 m (7.84 ft) from the property line. Combined with the setback provided by the adjacent dwelling to the south, there will be separation of approximately 5.32 m (17.45 ft) between the main walls of the two buildings.

#### Reduction in Driveway Setback

That applicant is requesting relief to permit the driveway to be located 2.41 m (7.9 ft) from the north side lot line, whereas the by-law requires a minimum separation of 3 m (9.84 ft). This is to allow the driveway to be built in line with the garage that is subject to the aforementioned north side yard setback variance.

The proposed driveway will be located approximately 0.66 m (2.16 ft) farther away from the side property line than the existing driveway which was possibly constructed before the passing of the Parking Standard By-law. The total area of the driveway will be reduced by approximately 9.48 m<sup>2</sup> (102.04 ft<sup>2</sup>).

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of April 3<sup>rd</sup>, 2018. 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**

Staff recommend that the Committee consider public input in reaching a decision and consider the four tests of Section 45(1) of the Planning Act, R.S.O. 1990, c.P.13, as amended.

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:



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Carlson Tsang, Planner II, West District

REVIEWED BY:



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Stacia Muradali, Senior Planner, East District

File Path: Amanda\file\ 18 110441 \Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/22/18**

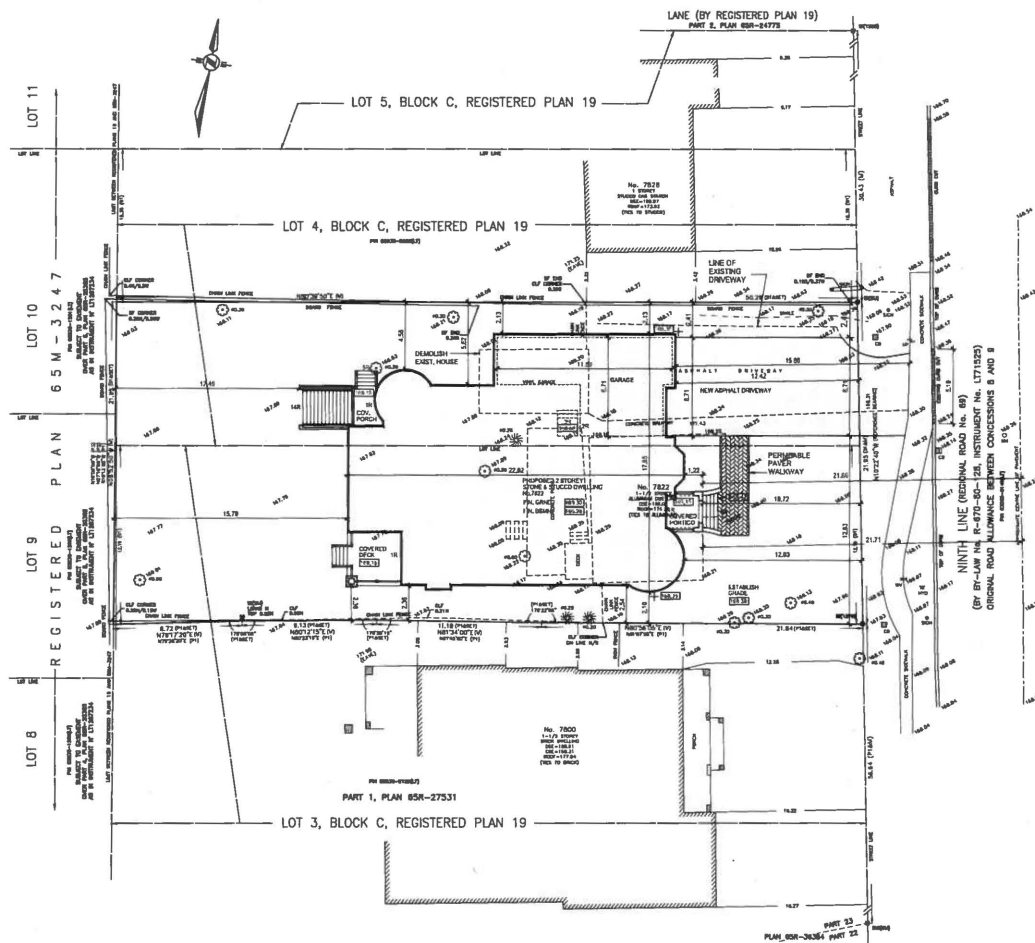
1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix A' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the 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;

CONDITIONS PREPARED BY:



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Carlson Tsang, Planner II, West District



NO.	REVISION	DATE
1	ZEMUSHEW & GIBSON ARCHITECTS	11.8.2018
2	COMMITTEE OF ADJACENT OWNERS	MAY 19, 2019

SITE SUMMARY	
zoning	R01 (R-42)
lot area	1 182.11 sq.m.
provided	% AGE PERMITTED
lot coverage	222.47 sq.m. 23.81%

FLOOR AREAS			
FLOOR NO.	EXISTING	NEW	TOTAL
	sq.m.	sq.m.	sq.m.
GROUND FLOOR AREA	628	787	2 415
SECOND FLOOR AREA	628	242.36	2 869
TOTAL FLOOR AREA	628	1 029.36	4 447

SETBACKS			
	REQUIRED	PROPOSED	REMARKS
FRONT YARD	7.5	18.77	
REAR YARD	7.5	15.79	
SIDEYARD (R)	1.5	2.13	
SIDEYARD (S)	1.5	2.19	

**SURVEYOR:**  
 SURVEY FOR DEDICATION OF HIGHWAY ON THIS DRAWING IS MADE HEREBY.  
 DRAWING PROVIDED BY:  
 VLADIMIR DOSEK SURVEYING  
 ONTARIO LAND SURVEYING  
 140 GERRARD STREET EAST  
 TORONTO, ONTARIO M5C 1S4  
 PHONE: (416) 461-8888  
 REFERENCE NO: 2017-02

**SUBJECT'S REAL PROPERTY REPORT:**  
 PART 11 PLAN AND TOPOGRAPHIC SURVEY OF  
 PART OF LOTS 3 AND 4, IN BLOCK C  
 REGISTERED PLAN 19  
 CITY OF MARKHAM  
 IN ORIGINAL MUNICIPALITY OF YORK

- LEGEND:**
- RAIN WATER LEADER
  - CAN SPLASH PADE
  - ARROW INDICATES DIRECTION OF FLOW
  - 121.25 PROPOSED SPOT ELEVATION
  - 127.22 EXISTING SPOT ELEVATION
  - EXISTING TREE TO REMAIN
  - EXISTING TREE TO BE REMOVED

**GENERAL NOTES:**  
 ALL DRAWINGS ARE THE PROPERTY OF THE ARCHITECT AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN CONSENT FROM THE ARCHITECT.  
 CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE ARCHITECT.  
 DO NOT SCALE DRAWINGS.  
 ALL CONSTRUCTION TO BE ACCORDING TO BEST CONSTRUCTION PRACTICE AND COMPLY TO THE CANADIAN BUILDING CODE.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS ORDERED BY THE ARCHITECT

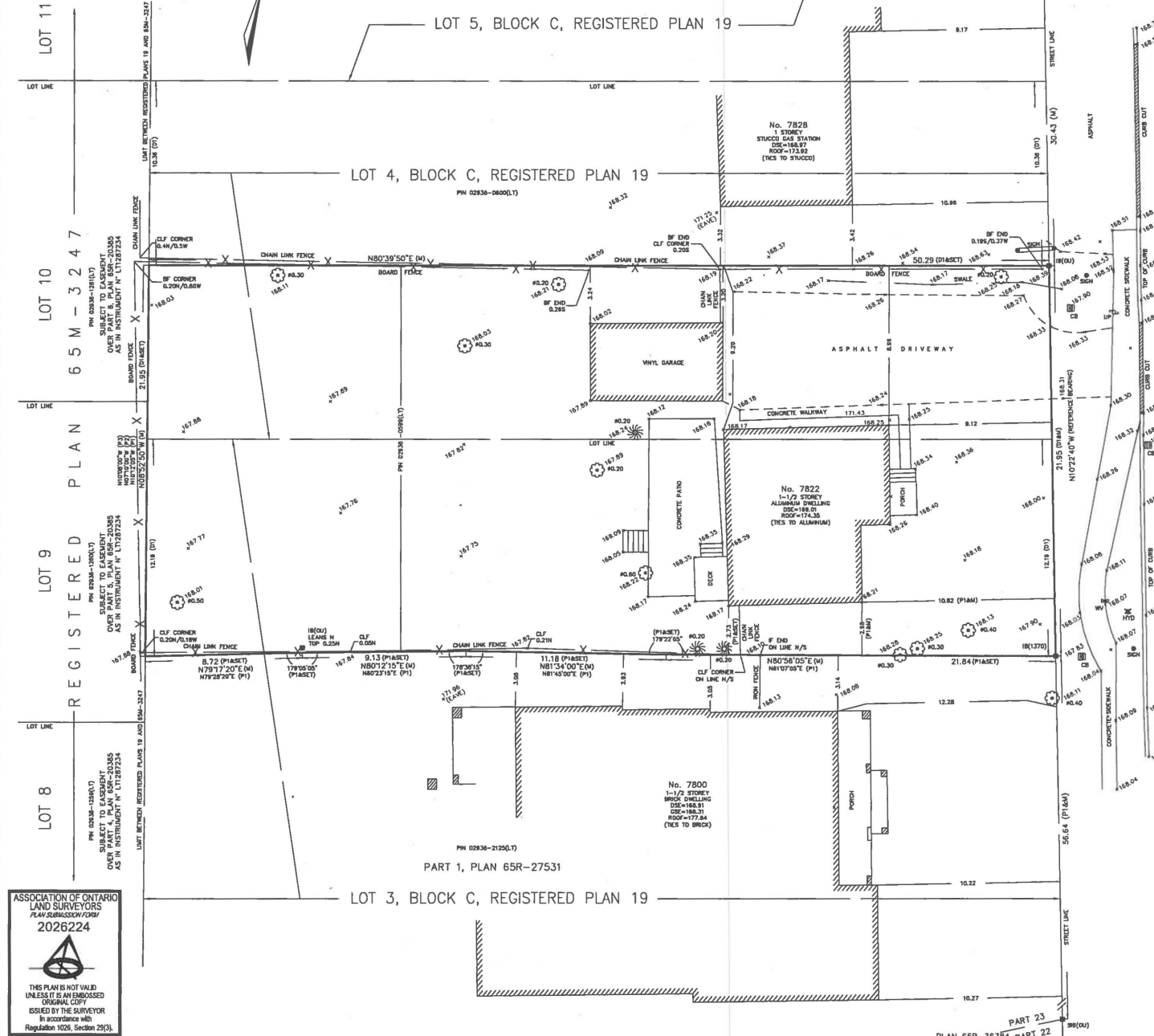
**NIA Architects Inc.**  
 10 MILNER BUSINESS COURT, SUITE 710  
 TORONTO, ONTARIO M1B 3C8  
 WWW.NIAARCHITECTS.COM E: info@niaarch.com  
 T: 416-278-7810 F: 416-206-4434

PROJECT  
**PROPOSED RESIDENCE**  
 7726-8TH LINE  
 MARKHAM, ONTARIO

DRAWING  
**SITE PLAN, SITE STATS & LOT GRADING PLAN**

DRAWN GLEN JR	PROJECT NO. 2017-04
PROJECT STARTED SEPT. 28, 2017	DRAWING NO. 10000000
PROJECT DATE MARCH 28, 2018	SCALE 1:50
CHECKED N1	<b>SP1</b>

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



**SURVEYOR'S REAL PROPERTY REPORT**  
PART 1) PLAN AND TOPOGRAPHIC DETAIL OF  
PART OF LOTS 3 AND 4, IN BLOCK C  
REGISTERED PLAN 19  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK  
SCALE 1:150

**VLADIMIR DOSEN SURVEYING, O.L.S.**

NO PERSON MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS  
PLAN IN WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION  
OF VLADIMIR DOSEN, O.L.S.

- NOTES AND LEGEND**
- DENOTES SURVEY MONUMENT PLANTED
  - DENOTES SURVEY MONUMENT FOUND
  - SIB DENOTES STANDARD IRON BAR
  - IB DENOTES IRON BAR
  - M DENOTES MEASURED
  - D1 DENOTES INSTRUMENT No. R564870
  - P1 DENOTES PLAN 65R-27531
  - P2 DENOTES REGISTERED PLAN 19
  - P3 DENOTES REGISTERED PLAN 65M-3247
  - (1225) DENOTES D.B. SEARLES, O.L.S.
  - (1370) DENOTES KRCMAR SURVEYORS LTD., O.L.S.
  - (OU) DENOTES ORIGIN UNKNOWN
  - φ DENOTES DIAMETER
  - BF DENOTES BOARD FENCE
  - CB DENOTES CATCH BASIN
  - CLF DENOTES CHAIN LINK FENCE
  - DSE DENOTES DOOR SILL ELEVATION
  - GSE DENOTES GARAGE SILL ELEVATION
  - GV DENOTES GAS VALVE
  - HY DENOTES FIRE HYDRANT
  - IF DENOTES IRON FENCE
  - MH DENOTES MAN HOLE
  - UP DENOTES UTILITY HOLE
  - DN DENOTES DECIDUOUS TREE
  - CT DENOTES CONIFEROUS TREE

**BENCHMARK:**  
ELEVATIONS ARE GEODETIC AND ARE DERIVED FROM  
CITY OF MARKHAM BENCHMARK No. M37-005  
HAVING AN ELEVATION OF 168.569 METRES.

**BEARING NOTE:**  
BEARINGS ARE ASTRONOMIC AND ARE  
DERIVED FROM THE WESTERLY LIMIT  
OF NINTH LINE AS SHOWN ON  
PLAN 65R-27531, HAVING A  
BEARING OF N10°22'40"W.

THIS REPORT WAS PREPARED FOR  
VAZIR KHAN  
AND THE UNDERSIGNED ACCEPTS NO  
RESPONSIBILITY FOR USE BY  
OTHER PARTIES

**PART 2) SURVEY REPORT**  
DESCRIPTION OF LAND:  
PART OF LOTS 3 AND 4, IN BLOCK C, REGISTERED PLAN 19  
PIN 02936-0599(17).  
REGISTERED EASEMENTS AND/OR RIGHT OF WAYS:  
NONE.  
BOUNDARY FEATURES:  
POSITION OF FENCES AS SHOWN ON PLAN.  
COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:  
THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING  
BY-LAWS.

**SURVEYOR'S CERTIFICATE**  
I CERTIFY THAT:  
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH  
THE SURVEY ACT AND THE REGULATIONS MADE UNDER THEM.  
2. THE SURVEY WAS COMPLETED ON THE 23rd DAY OF AUGUST, 2017

*Vladimir Dosen*  
VLADIMIR DOSEN, B.Sc.  
ONTARIO LAND SURVEYOR

DATE: SEPTEMBER 7, 2017

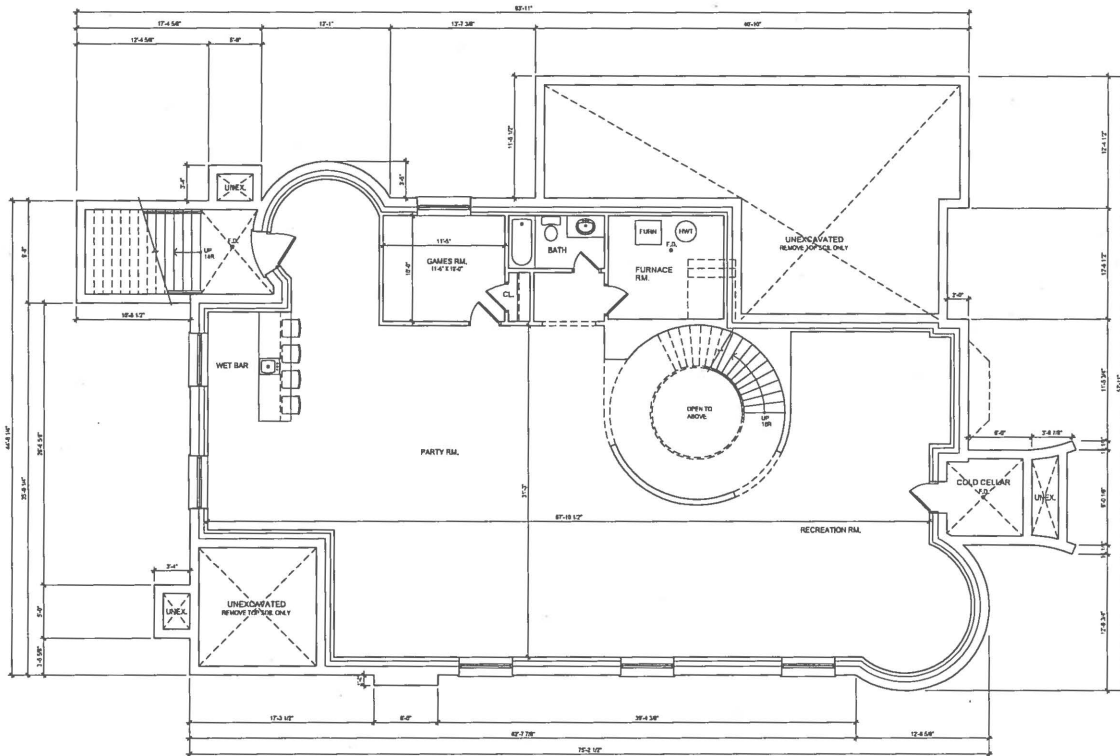
**VLADIMIR DOSEN SURVEYING**  
ONTARIO LAND SURVEYORS  
555 DAVISVILLE AVENUE  
TORONTO, ONTARIO M4S 1J2  
PHONE (416) 466-0440 EMAIL: vldosen@rogers.com

JOB No: 17310	FIELD BY: ROZ
FILE: 17-162	DRAWN BY: AT
CAD FILE: 7822 NINTH LINE-1(GEODETIC ELEV)	CHECKED BY: VD

ASSOCIATION OF ONTARIO  
LAND SURVEYORS  
PLAN SUBMISSION FORM  
2026224

THIS PLAN IS NOT VALID  
UNLESS IT IS AN EMBOSSED  
ORIGINAL COPY  
ISSUED BY THE SURVEYOR  
In accordance with  
Regulation 1026, Section 29(3).

PLAN 65R-36364 PART 22



NO	REVISIONS	DATE

CITY	ZONING REVIEW	JAN. 3, 2017
TO	ISSUED	DATE

**GENERAL NOTES**  
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THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION PURPOSES UNLESS SO INDICATED BY THE ARCHITECT

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 T: 416-270-7810 F: 416-800-6434

PROJECT  
**PROPOSED RESIDENCE**  
 7728-8TH LINE  
 MARKHAM, ONTARIO

DRAWING	
BASEMENT FLOOR PLAN	
DRAWN GLEN J.B.	PROJECT NO 2017-54
PROJECT STARTED SEPT. 28, 2017	FILE NAME
PLOTTED DATE FEB. 5, 2018	DRAWING NO
SCALE 3/16" = 1'-0"	<b>A1</b>
CHECKED ML	

**BASEMENT FLOOR PLAN**  
 SCALE 3/16"=1'-0"











