

# Memorandum to the City of Markham Committee of Adjustment

May 1<sup>st</sup>, 2018

**File:** A/39/18  
**Address:** 38 Ladyslipper Court, Thornhill  
**Applicant:** James Harwood  
**Agent:** So-Arch (Johnathon Benczkowski)  
**Hearing Date:** Wednesday May 09, 2018

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 1767 - R3, as amended:

- a) **Infill By-law 100-90, Section 1.2(i):**  
a maximum building height of 10.27 m, whereas the By-law permits a maximum building height of 9.8 m;
  - b) **Infill By-law 100-90, Section 1.2(iii):**  
a maximum building depth of 18.42 m, whereas the By-law permits a maximum building depth of 16.8 m;
- as they relate to a proposed residential dwelling.

## Property Description

The 983.69 m<sup>2</sup> (10,588.35 ft<sup>2</sup>) subject property is located on the north side of Ladyslipper Court, north of Steeles Avenue and east of Bayview Avenue. The CN railway line is located immediately to the north of the property. The surrounding area is an established residential neighbourhood comprised of two-storey detached dwellings. There is an existing 177.36 m<sup>2</sup> (1,909 ft<sup>2</sup>) two-storey detached dwelling constructed circa 1970. Mature vegetation exists across the site include a number of mature trees in the front and rear yard.

## Proposal

The applicant is proposing to demolish the existing home and construct a 465.54 m<sup>2</sup> (5,011 ft<sup>2</sup>) two-storey detached dwelling on the subject property. The proposed dwelling features a more contemporary architectural character than the existing dwellings originally developed in the neighbourhood. Three trees are proposed to be removed. The applicant will be required to work with the City's Tree Preservation Technician to provide tree replacement and/or compensation in accordance with the City's Streetscape Manual (2009) prior to the issuance of a building permit

## Official Plan and Zoning

Official Plan 2014 (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. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and 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 and the overall orientation and sizing of new lots within a residential neighbourhood. Planning 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 R3 under By-law 1767, as amended, which permits single detached dwellings.

### Residential Infill Zoning By-law

The subject property is also subject to the Residential Infill Zoning By-law 100-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. The proposed development does not comply with the by-law requirement with respect to building depth and building height.

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

According to the information provided by the applicant on the application form, "The variance is *due to the 1.2 m grade change from the crown of the road to the dwelling.*"

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

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. Consequently, 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 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 Building Height

The applicant is requesting relief to permit a maximum building height of 10.27 m (33.69 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of 0.47 m (1.54 ft) or approximately 4.8%.

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface. Staff note the proposed grade at the front of the house is approximately 0.48 m (1.57 ft) above the crown of road. The building height measured between the proposed grade and the peak of the roof is 9.79 m (32.11 ft). It is the opinion of staff that the vertical massing of the proposed dwelling is in keeping with what the Infill By-law intends to provide and therefore will unlikely result in any adverse impact on the character of the streetscape.

### Increase in Maximum Building Depth

The applicant is proposing a maximum building depth of 18.42 m (60.43 ft), whereas the by-law permits a maximum depth of 16.8 m (55.11 ft). This represents an increase of 1.62 m (5.31 ft) or approximately 9.64 percent. Staff note that the existing dwelling on the property was constructed prior to the passing of the by-law. It currently has a depth of approximately 18.71 m (61.38 ft) which already exceeds the by-law requirement by 1.91 m (6.26 ft). The requested variance represents a net decrease in building depth of approximately 0.29 m (0.95 ft) from the existing dwelling.

The proposed depth is generally consistent with many existing homes on Ladyslipper Court that were originally constructed in the 1970s. The existing front and rear yard setback will also generally be maintained to reflect the established wall alignment pattern on the street. Staff do not anticipate the proposed increase in depth will generate any negative impact on adjacent properties or the character of the existing streetscape.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of May 1<sup>st</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.

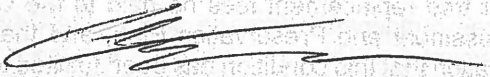
**CONCLUSION**

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 requests meet the four tests of the Planning Act and have no objection.

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.

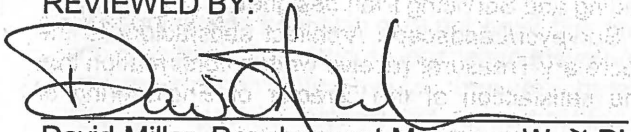
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Carlson Tsang, Planner II, West District

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\ 18 228556 \Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/39/18**

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 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. 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;

PREPARED BY:



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Carlson Tsang, Planner II, West District

**PROJECT INFORMATION**  
 PROPERTY ADDRESS - 38 LADYSLIPPER COURT  
 MUNICIPALITY - CITY OF MARKHAM

**PROPERTY INFORMATION**

Lot Area 984.04 m<sup>2</sup>  
 Lot Frontage 53.71 m  
 Lot Depth 18.29 m

**PROPERTY INFORMATION**

Lot Area 10588.27 sq.ft  
 Lot Frontage 176.21 ft  
 Lot Depth 60.01 ft

**BUILDING INFORMATION**

Proposed FSI 47.33%  
 Proposed Coverage 26.59%  
**Dwelling Statistics**  
 First Floor 255.65 m<sup>2</sup>  
 Second Floor 210.06 m<sup>2</sup>  
 TOTAL 465.71 m<sup>2</sup>  
 Proposed Height 10.27 m

**BUILDING INFORMATION**

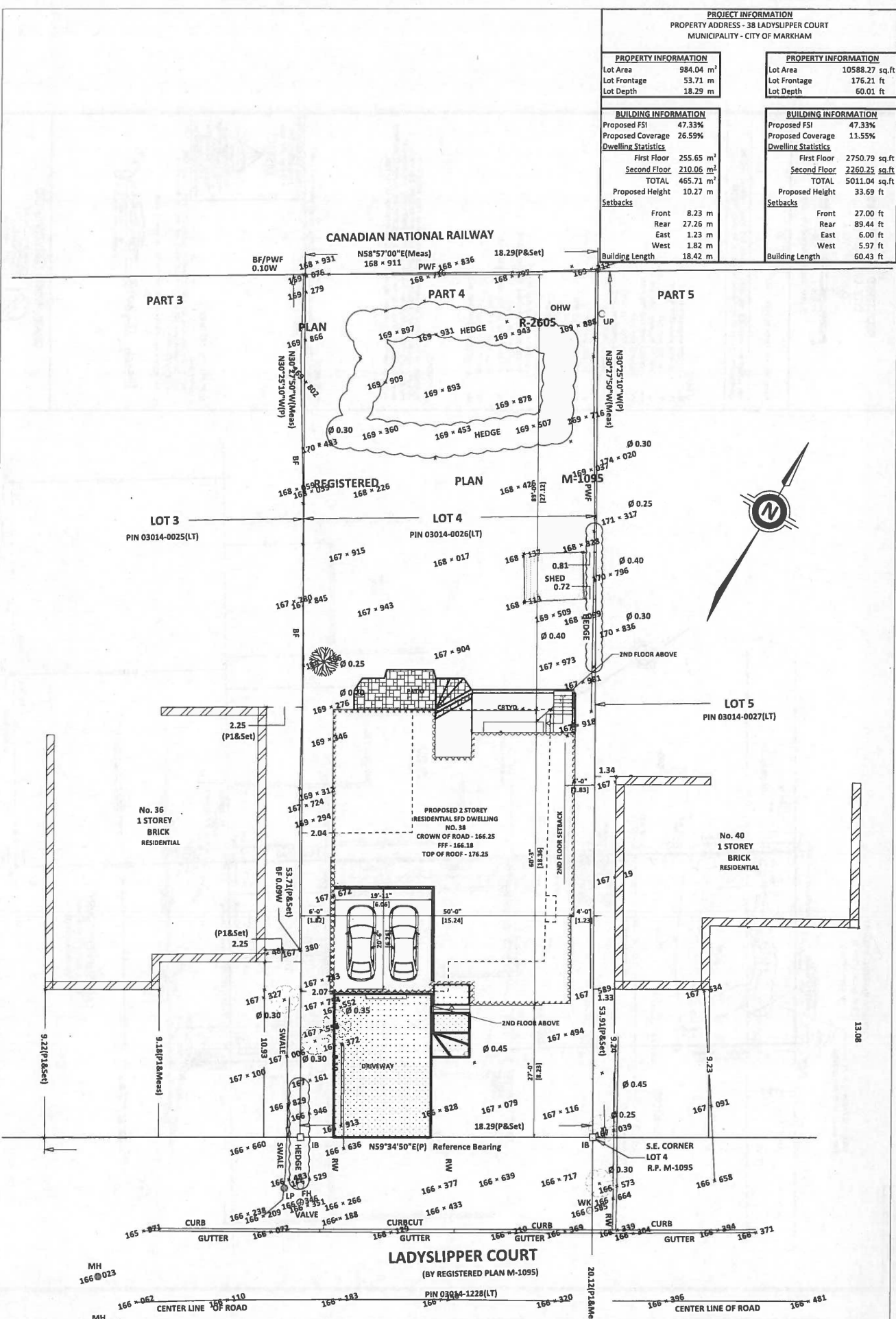
Proposed FSI 47.33%  
 Proposed Coverage 13.55%  
**Dwelling Statistics**  
 First Floor 2750.79 sq.ft  
 Second Floor 2260.25 sq.ft  
 TOTAL 5011.04 sq.ft  
 Proposed Height 33.69 ft

**Setbacks**

Front 8.23 m  
 Rear 27.26 m  
 East 1.23 m  
 West 1.82 m  
 Building Length 18.42 m

**Setbacks**

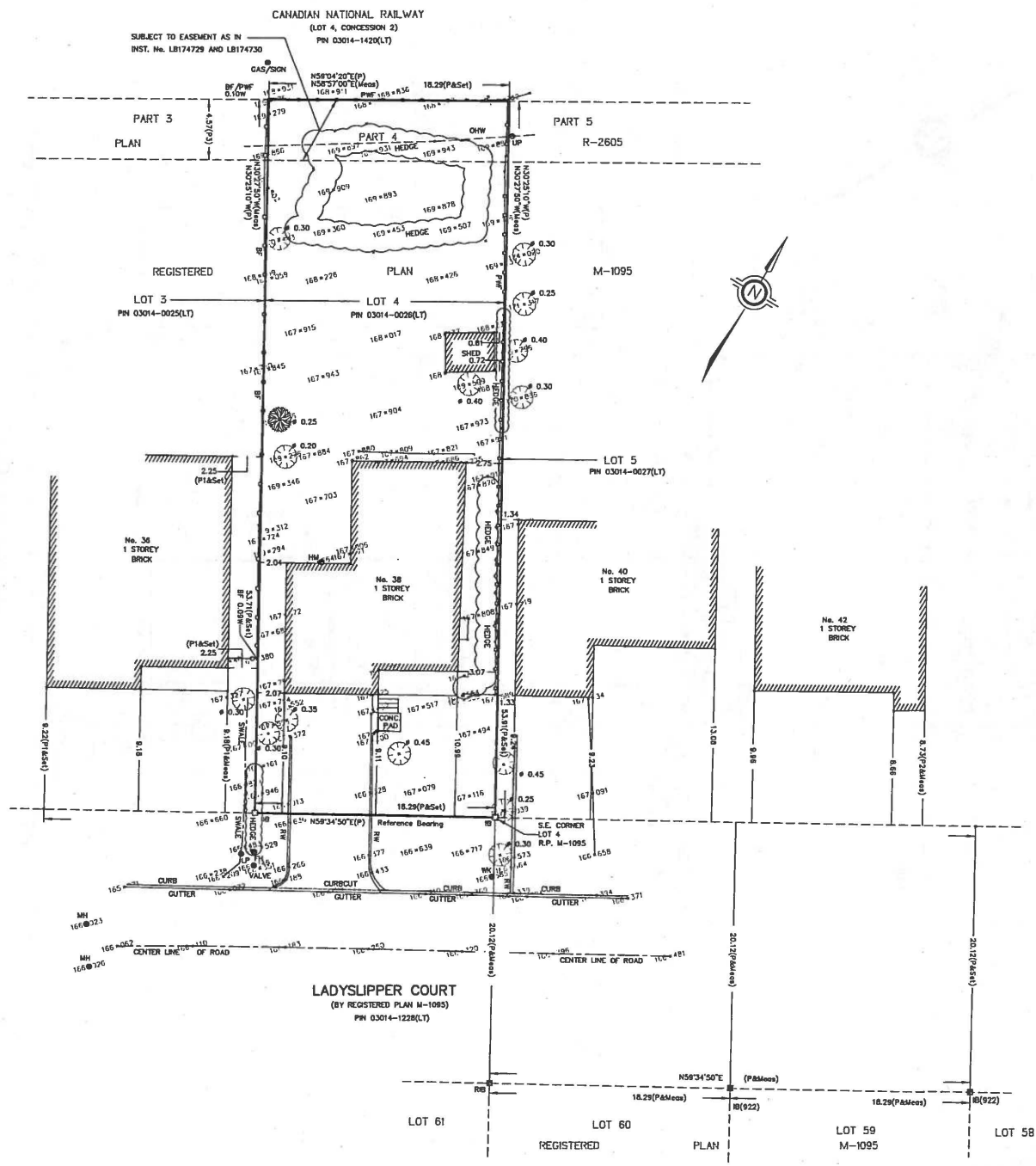
Front 27.00 ft  
 Rear 89.44 ft  
 East 6.00 ft  
 West 5.97 ft  
 Building Length 60.43 ft



**LADYSLIPPER COURT**  
 (BY REGISTERED PLAN M-1095)

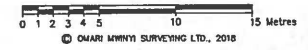
No. DATE ISSUE NOTES MH 166@023 MH 166@026		SOL-ARCH (ARCHITECTURE + PLANNING) 418-884-2446	38 LADYSLIPPER COURT CITY OF MARKHAM	Project Manager J. SMITHMAN	Project No. 11100
				Designer L. SIA	Date 14 MAR 2018
No. DATE ISSUE NOTES			SITE PLAN		Drawing No. AD1

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 OF SURVEY AND TOPOGRAPHIC DETAIL OF

LOT 4  
REGISTERED PLAN M-1095  
CITY OF MARKHAM  
COUNTY OF YORK  
SCALE 1 : 200



PART 2  
HOUSE TIES ARE TAKEN TO BRICK WALL.

THIS REPORT WAS PREPARED FOR JAMES HARWOOD AND DEBBIE HARWOOD AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES.

- LEGEND
- DENOTES MONUMENTS FOUND
  - DENOTES MONUMENTS PLANTED
  - ⊠ DENOTES IRON BAR
  - ⊡ DENOTES STANDARD IRON BAR
  - ⊢ DENOTES POST AND WIRE FENCE
  - MH DENOTES MAN HOLE
  - DENOTES DECIDUOUS TREE
  - ⊙ DENOTES CONIFEROUS TREE
  - UP DENOTES UTILITY POLE
  - WK DENOTES WATER KEY
  - ∅ DENOTES DIAMETER
  - RW DENOTES RETAINING WALL
  - HM DENOTES HYDRO METER
  - BF DENOTES BOARD FENCE
  - FM DENOTES FIRE HYDRANT
  - LP DENOTES LAMP POST
  - P DENOTES REGISTERED PLAN M-1095
  - P1 DENOTES PLAN BY ROGER A. H. SILVERA, O.L.S. DATED APRIL 16, 1968.
  - P2 DENOTES PLAN BY JOHN McSOMMERS, O.L.S. DATED NOVEMBER 4, 1968
  - P3 DENOTES PLAN R-2805
  - 922 DENOTES FRED SCHAEFER, O.L.S.

ELEVATIONS:  
ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE DERIVED FROM BENCH MARK No. 80017, CITY OF TORONTO STEELES AVENUE EAST BRIDGE OVER THE DON RIVER, 60M WEST OF BAYVIEW AVENUE. BENCH MARK IN THE NORTH FACE OF THE SOUTHWEST BRIDGE ABUTMENT, 0.62M EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST ABUTMENT AND 0.48M ABOVE THE CONCRETE SIDEWALK HAVING AN ELEVATION OF 150.133M.

BEARINGS:  
BEARINGS HEREON ARE ASTROMOMIC AND ARE REFERRED TO THE NORTHERLY LIMIT OF LADYSLIPPER COURT, HAVING A BEARING OF N59°34'50"E AS SHOWN ON REGISTERED PLAN M-1095.

ASSOCIATION OF ONTARIO  
LAND SURVEYORS  
PLAN SUBMISSION FORM  
2050301  
  
THIS PLAN IS NOT VALID  
UNLESS IT IS AN EMBOSSED  
ORIGINAL COPY  
ISSUED BY THE SURVEYOR  
IN ACCORDANCE WITH  
REGULATION 1025, SECTION 29(3).

- SURVEYOR'S CERTIFICATE:
- I CERTIFY THAT:
  - THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TILES ACT, AND THE REGULATIONS MADE UNDER THEM.
  - THE SURVEY WAS COMPLETED ON THE 7TH DAY OF MARCH, 2018.

March 12, 2018 *Omari Mwinnyi*  
DATE SURVEYOR  
OMARI B. MWINYI  
ONTARIO LAND SURVEYOR

OMARI MWINYI SURVEYING LTD

1805 PINECROVE AVENUE  
PICKERING ON, L1V 6T1  
Ph: (905) 831-5485  
Fax: (905) 492-5485

PROJECT	PROJECT No.	
38 LADYSLIPPER COURT	18-018-5	
DRAFTSPERSON	CALCULATIONS	CHECKED BY
SUG	C:\OMSL\18-018-018-018	O.M.

**PROJECT INFORMATION**

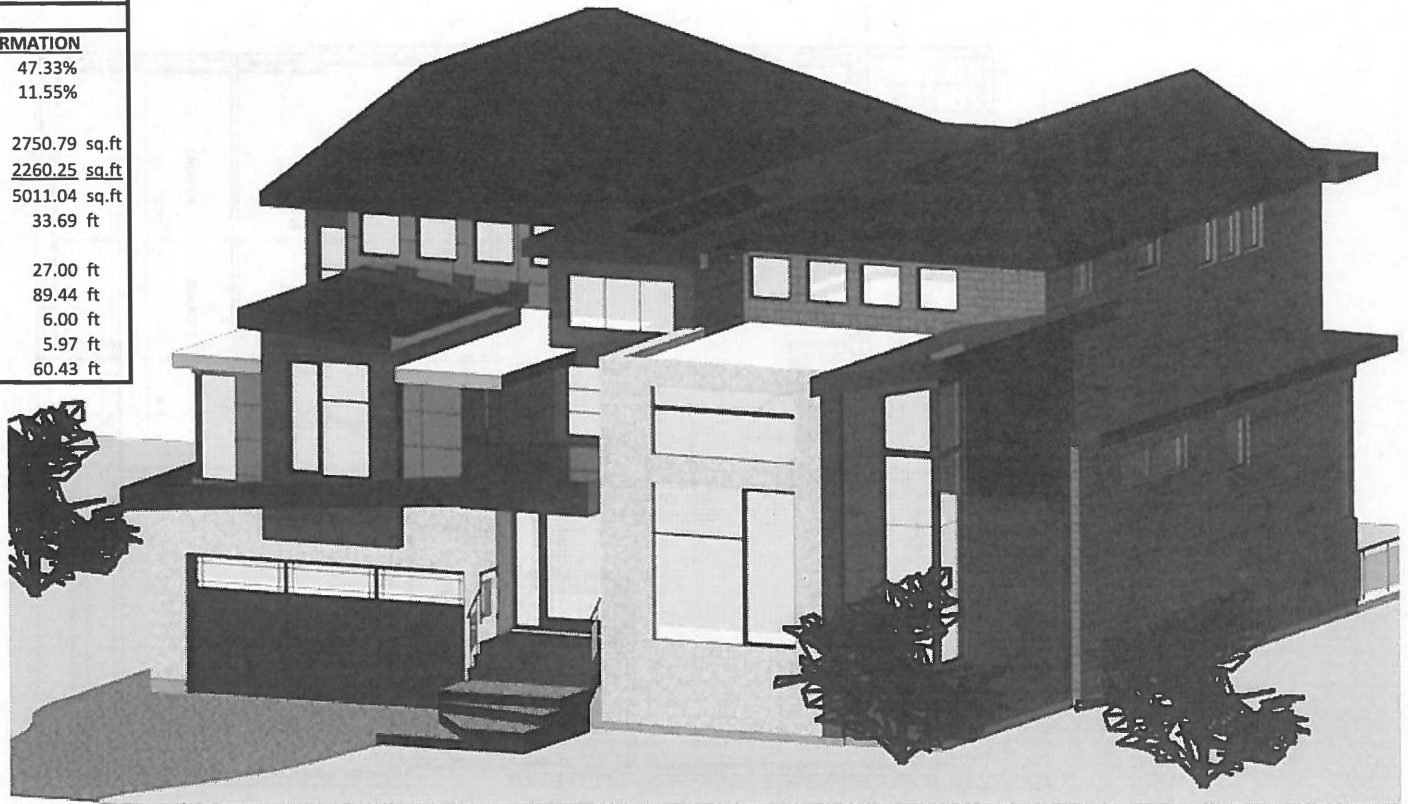
PROPERTY ADDRESS - 38 LADYSLIPPER COURT  
MUNICIPALITY - CITY OF MARKHAM

PROPERTY INFORMATION	
Lot Area	984.04 m <sup>2</sup>
Lot Frontage	53.71 m
Lot Depth	18.29 m

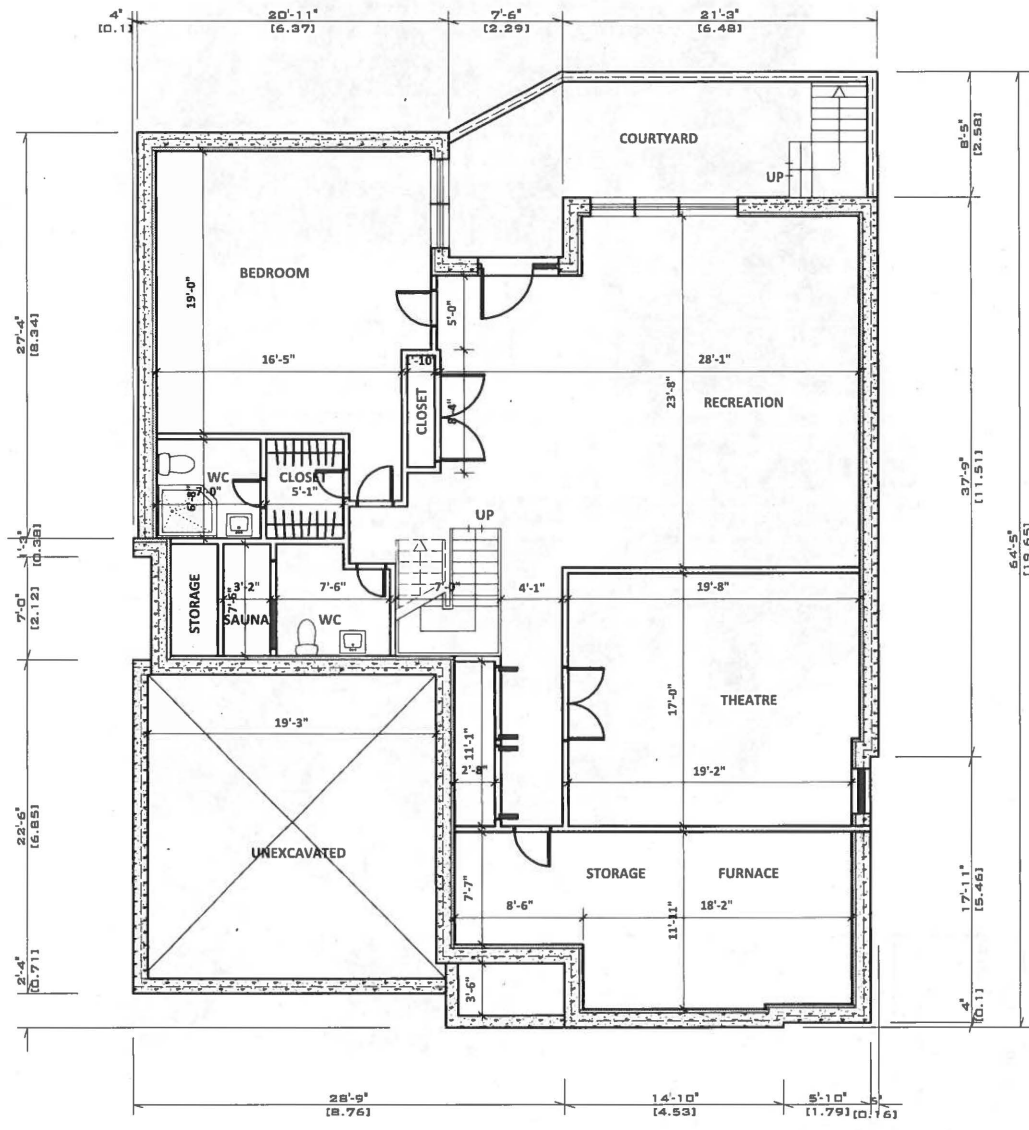
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Lot Frontage	176.21 ft
Lot Depth	60.01 ft

BUILDING INFORMATION	
Proposed FSI	47.33%
Proposed Coverage	26.59%
<u>Dwelling Statistics</u>	
First Floor	255.65 m <sup>2</sup>
Second Floor	210.06 m <sup>2</sup>
TOTAL	465.71 m <sup>2</sup>
Proposed Height	10.27 m
<u>Setbacks</u>	
Front	8.23 m
Rear	27.26 m
East	1.23 m
West	1.82 m
Building Length	18.42 m

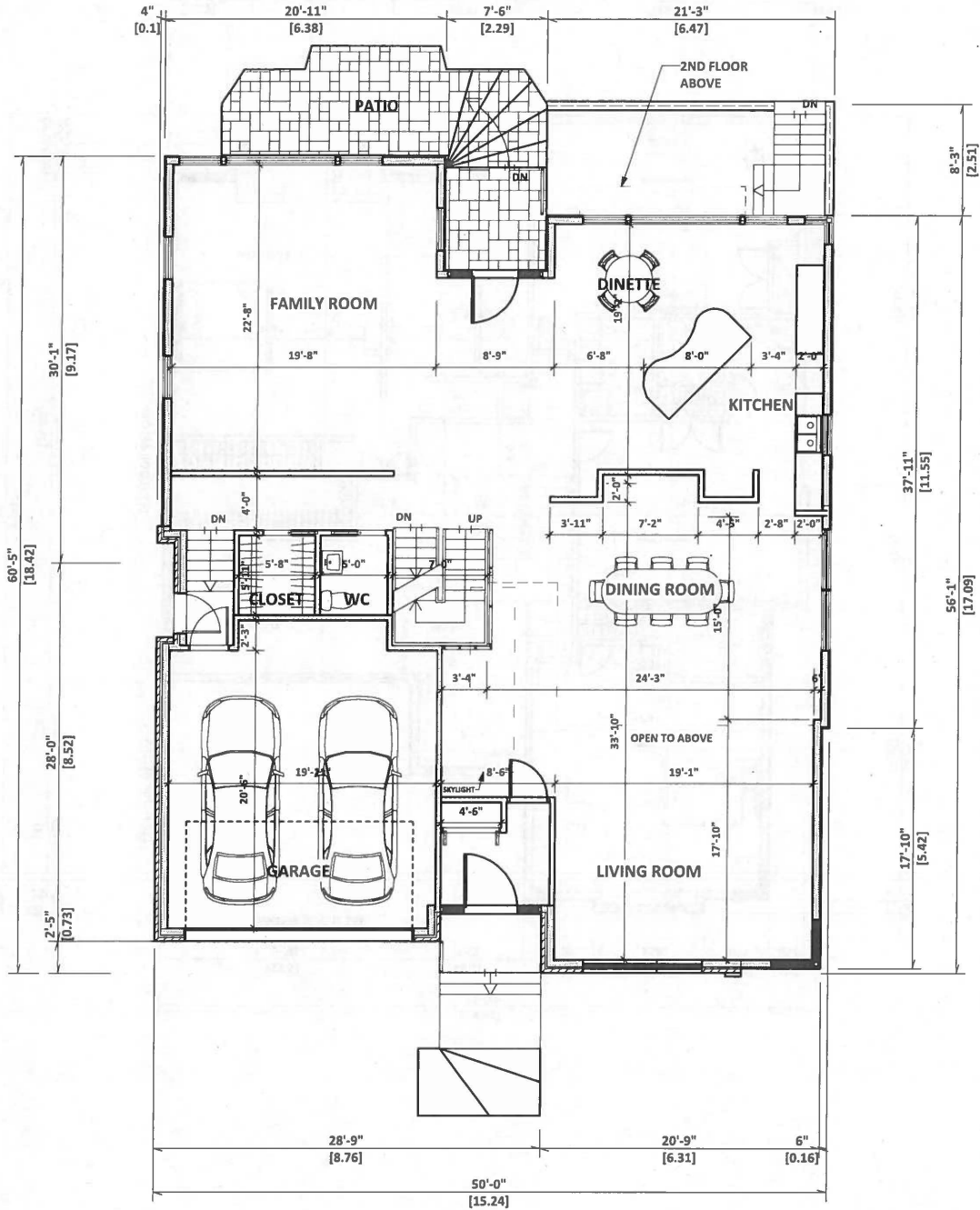
BUILDING INFORMATION	
Proposed FSI	47.33%
Proposed Coverage	11.55%
<u>Dwelling Statistics</u>	
First Floor	2750.79 sq.ft
Second Floor	2260.25 sq.ft
TOTAL	5011.04 sq.ft
Proposed Height	33.69 ft
<u>Setbacks</u>	
Front	27.00 ft
Rear	89.44 ft
East	6.00 ft
West	5.97 ft
Building Length	60.43 ft



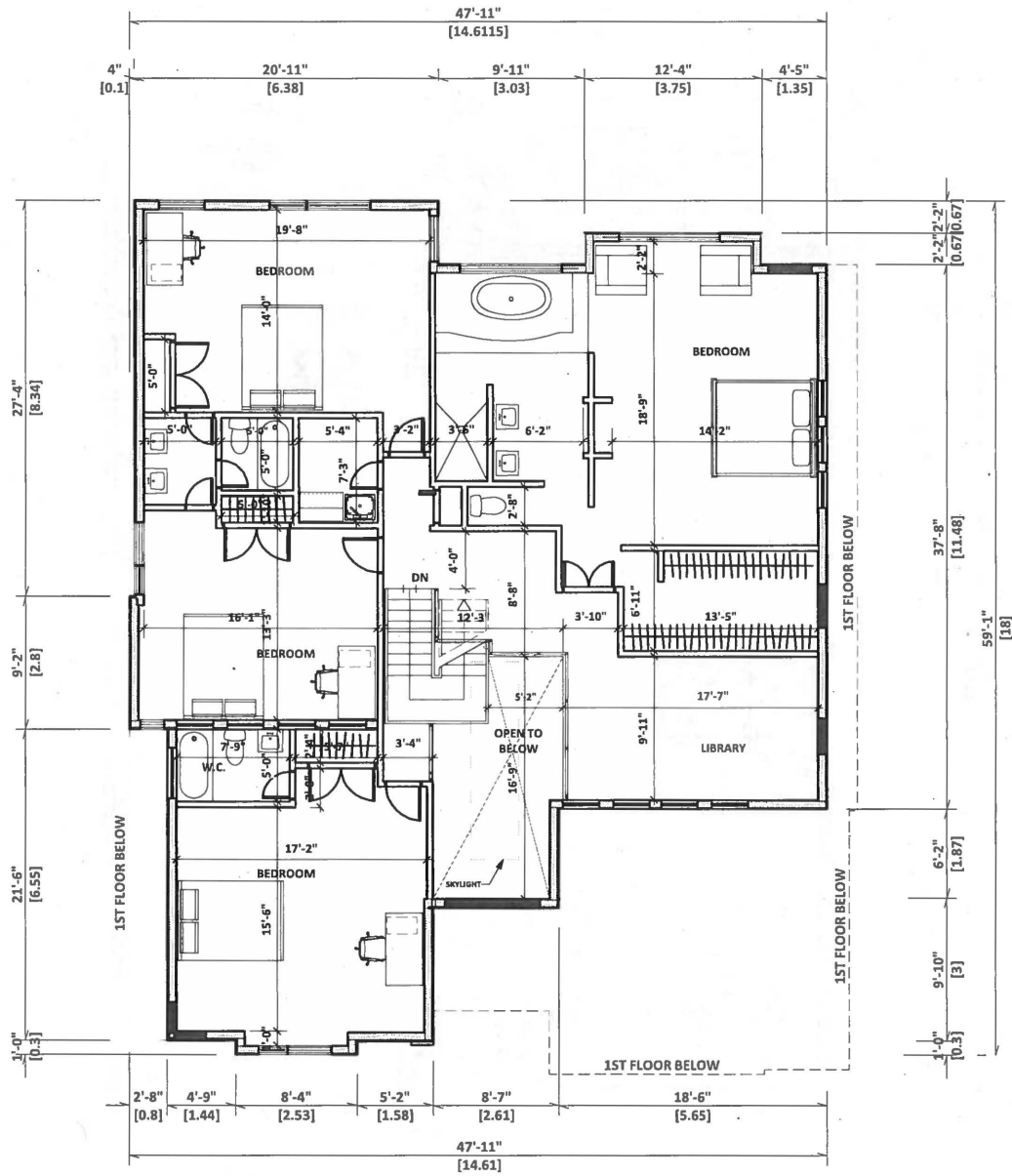
No.	Date	Issue Notes		Design Firm <b>Sol-Arch</b> (ARCHITECTURE + PLANNING) 416-884-3446	Project Title <b>38 LADYSLIPPER COURT</b> City of Markham	Project Manager Jonathan	Project ID
				Consultant	Sheet Title 38 LadySlipper Court	Drawn By Lisa	Scale 3/16" = 1'0"
				Date March 14, 2018	Reviewed By John	Sheet No. <b>A00</b>	
				CAD File Name	of A23		



No.	Date	Issue Notes		Sol-Arch (ARCHITECTURE + PLANNING) 416-884-3446	Project Name <b>38 LADYSLIPPER COURT</b> City of Markham	Project Manager Jonathan	Project No.	Drawn By Liza	Scale 1/8" = 10"
Project Title <b>BASEMENT PLAN</b>						Sheet No. <b>A10</b>		of A23	



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	No.	Date	Issue Notes								
	Designer <b>Lisa</b>	Scale <b>1/8" = 1'-0"</b>									
Date <b>March 14, 2018</b>	Sheet No. <b>A11</b>										
Title <b>FIRST FLOOR PLAN</b>	of _____ <b>A23</b>										



No.		Date		Issue Notes				Project Name: Sol-Arch [ARCHITECTURE + PLANNING] 416-884-3446		Project No: 38 LADYSLIPPER COURT City of Markham		Project Manager: Jonathan Designer: Lisa Reviewed By: John Date: March 14, 2018 CAD File Name:		Project No: 1/2" = 1'-0" Sheet No: A12 of A23	
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No.	Date	Issue Notes		Design Firm <b>Sol-Arch</b> (ARCHITECTURE + PLANNING) 416-884-3446	Project Title <b>38 LADYSLIPPER COURT</b> City of Markham	Project Manager <b>Jonathan</b>	Project ID
				Consultant	Sheet Title <b>FRONT ELEVATION</b>	Drawn By <b>Lisa</b>	Scale <b>3/16" = 1'-0"</b>
						Reviewed By <b>John</b>	Sheet No. <b>A20</b>
						Date <b>MARCH 14, 2018</b>	of
						CAB File Name	<b>A23</b>

ROOF  
176.52

EAVE  
174.29

F. 2ND FLOOR  
171.53

FFF  
168.18

CROWN OF ROAD  
166.25

T/S BASEMENT  
165.132

H/S FOOTING  
164.828



No.	Date	Issue Notes		Designer Firm <b>Sol-Arch</b> (ARCHITECTURE + PLANNING) 416-884-3446	Project Title <b>38 LADYSLIPPER COURT</b> City of Markham	Project Manager <b>Jonathan</b>	Project ID
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						CAD File Name	<b>A23</b>

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EAVE  
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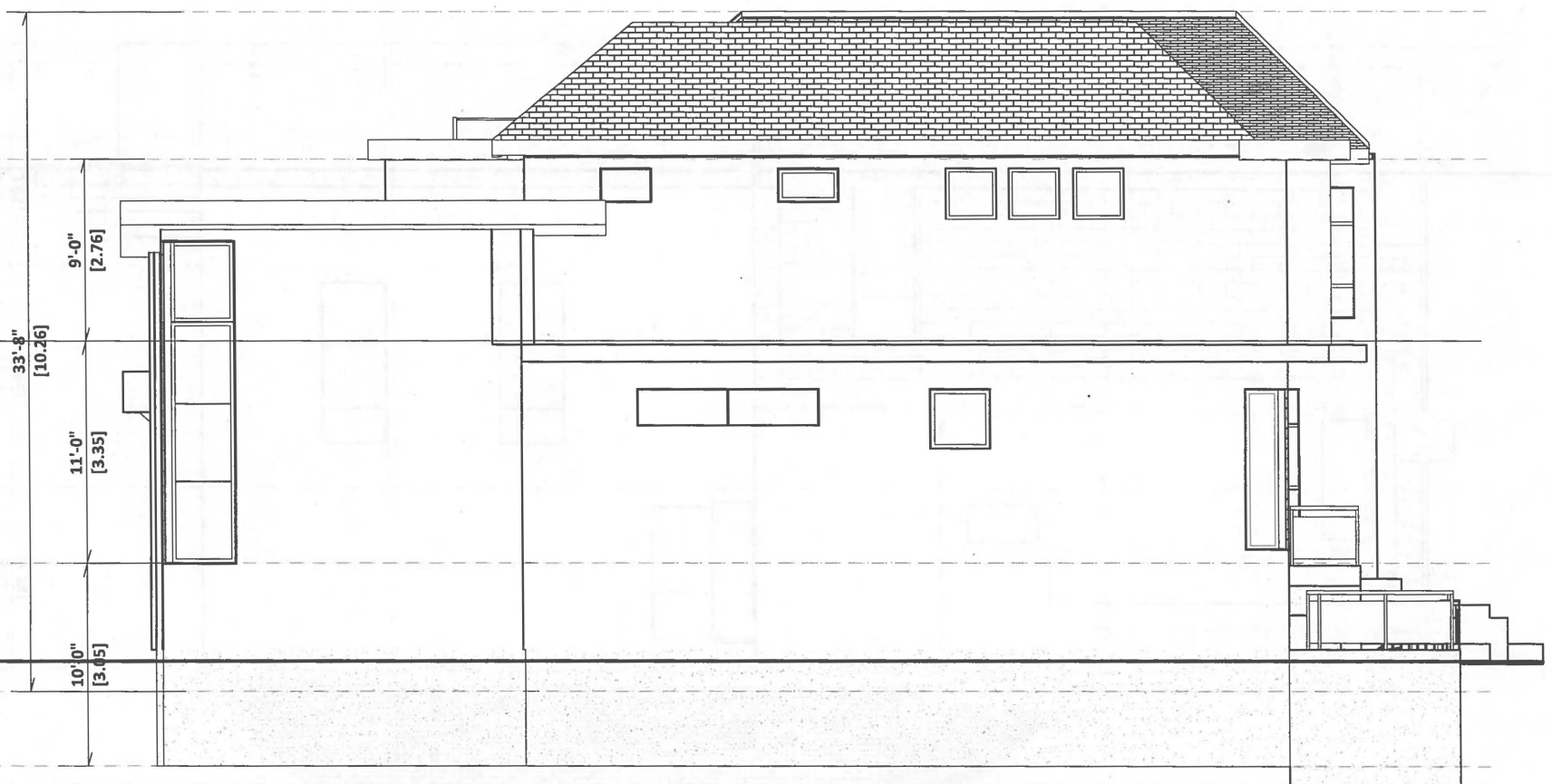
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FFF  
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CROWN OF ROAD  
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T/S BASEMENT  
165.132

T/S FOOTING  
164.828



				Design Firm <b>Sol-Arch</b> (ARCHITECTURE + PLANNING) 416-884-3446	Project Title <b>38 LADYSLIPPER COURT</b> City of Markham	Project Manager <b>Jonathan</b>	Project ID
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No.	Date	Issue Notes				Date <b>MARCH 14, 2018</b>	of
						CAD File Name	<b>A23</b>

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EAVE  
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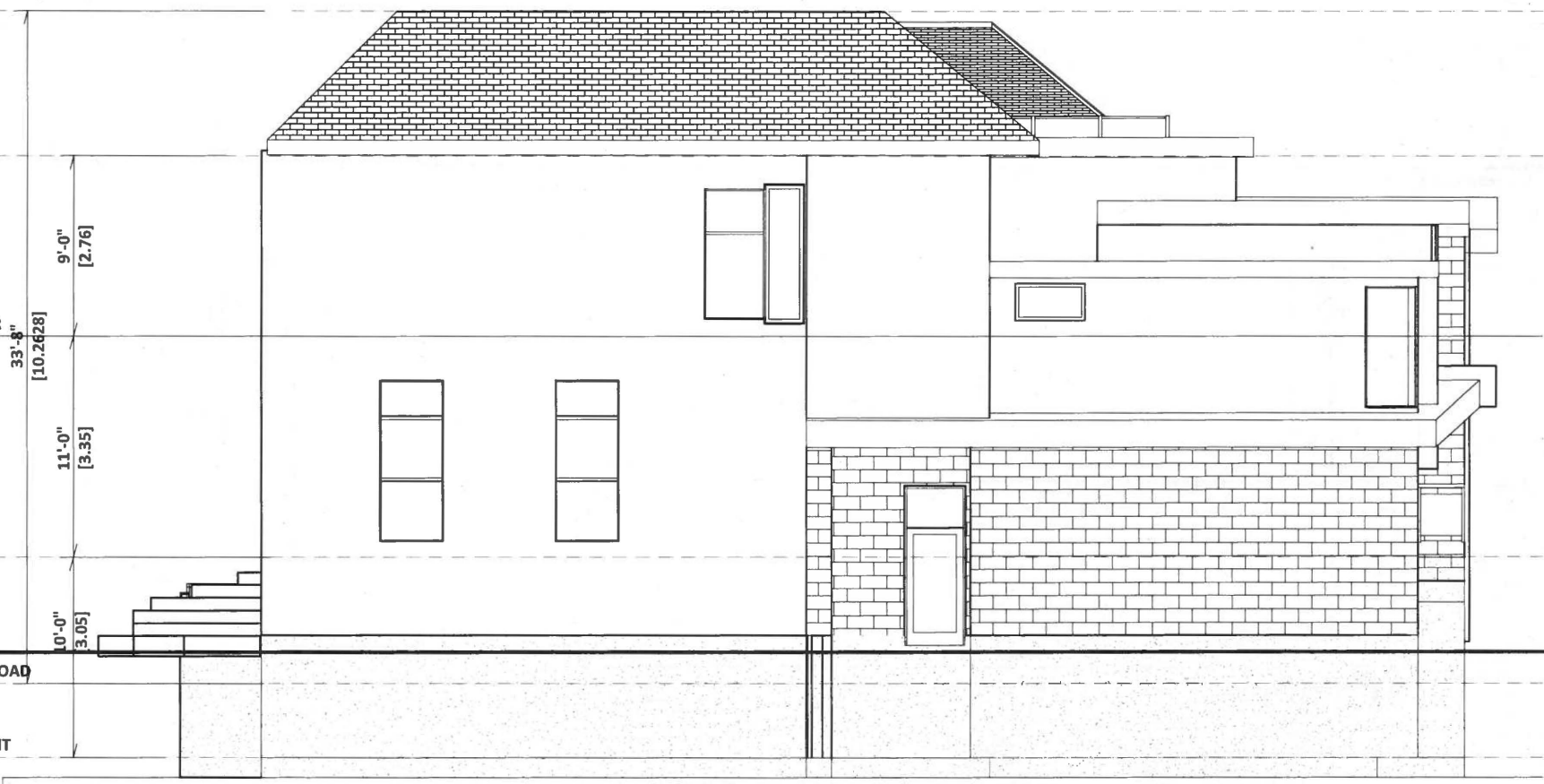
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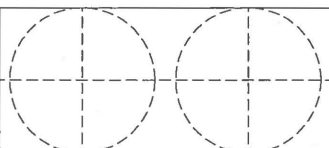
CROWN OF ROAD  
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T/S BASEMENT  
165.132

U/S FOOTING  
164.828



No.	Date	Issue Notes



Design Firm  
**Sol-Arch**  
 (ARCHITECTURE + PLANNING)  
 416-884-3446

Project Title  
**38 LADYSLIPPER COURT**  
 City of Markham

Sheet Title  
**WEST ELEVATION**

Project Manager <b>Jonathan</b>	Project ID
Drawn By <b>Lisa</b>	Scale <b>3/16" = 1'-0"</b>
Reviewed By <b>John</b>	Sheet No. <b>A22</b>
Date <b>March 14, 2018</b>	of
CAD File Name	<b>A23</b>