

Memorandum to the City of Markham Committee of Adjustment

May 1st, 2018

File: A/40/18
Address: 53 Busch Avenue, Markham
Applicant: Robert & Shiela Scherz
Agent: Penguin Basements (Jon Reece)
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 177-96, R2*456, as amended:

a) Section 6.5:

a second dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot;

b) Parking By-law 28-97, Section 3.0:

a minimum of 2 parking spaces whereas the by-law requires a minimum of 3 parking spaces,

as it relates to a proposed basement apartment;

Property Description

The 285.69 m² (3,075.14 ft²) subject property is located on the south side of Busch Avenue, north of 16th Avenue and east of Kennedy Road. The property is situated within a new residential neighbourhood comprised of a mix of detached, semi-detached and townhouse units. There is an existing 246.94 m² (2,658 ft²) single detached dwelling on the property constructed circa 2014.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposal includes a new separate entrance at the rear of the building for the proposed secondary suite. 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."

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 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 rowhouse 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

Zoning By-law

The subject property is zoned R2*456 under By-law 177-96, as amended, which does not permit a secondary suite.

Parking Standards By-law 28-97

The proposed secondary suite also does not comply with the standard of the Parking By-law 28-97 with respect to the number of parking spaces. Further details of the parking requirement is provided in the comment section below.

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

According to the information provided by the applicant on the application form, "*The zoning by-law prevents the use of two units on the lot.*"

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 variances in the application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance application(s) may be required to address the outstanding matters and there will be a delay in application processing.

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.

Reduced Parking Spaces

Parking Standards By-law 28-97 requires two parking spaces be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The existing single-car garage and driveway currently provide a total 2 parking spaces.

Requiring an additional parking space would result in changes to the property, such as reduced soft landscaping and increased hard surface area within the front yard; both of which is likely to detract from the visual appearance of the property and have a negative impact on the streetscape. Furthermore, this will reduce the amount of soft surface area that currently provides for the infiltration of rain water, which is an important part of good stormwater management practices.

Staff are of the opinion that to ensure the secondary suite doesn't change the character of the dwelling and neighbourhood, no additional parking should be required. Staff are also of the opinion that the availability of parking is "self-regulating", as the unit would only be of interest to a tenant that does not require a parking space, in the event that both parking spaces are required for use by the owner of the dwelling. It is noted that no overnight parking is permitted on this street, and violators would be ticketed nightly.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 1st, 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 have no objection to the variances relating to secondary suite and parking. The proposal supports the City's goal of promoting affordable and shared housing opportunities and is consistent with the general policies of the 2014 Official Plan, including the provision of a mix of housing alternatives and affordable housing opportunities.

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 228355 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/40/18

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 , to the satisfaction of the Director of Planning and Urban Design or designate;
3. That, if required by the Chief Building Official, the owner submit 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.

PREPARED BY:



Carlson Tsang, Planner II, West District

SURVEYOR'S REAL PROPERTY REPORT

**PART 1
PLAN OF LOTS 521, 522, 523,
524, 525, 526, 527 AND 528
PLAN 65M-4325
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK**

SCALE 1:300
10m 5m 0 10m 20metres

RADY-PENTEK & EDWARD SURVEYING LTD., O.L.S.

METRIC

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

NOTES

- DENOTES MONUMENT SET
- DENOTES MONUMENT FOUND
- IB DENOTES IRON BAR
- SIB DENOTES STANDARD IRON BAR
- SSIB DENOTES SHORT STANDARD IRON BAR
- P.I.N. DENOTES PROPERTY IDENTIFIER NUMBER
- D.U.C. DENOTES DWELLING UNDER CONSTRUCTION
- PL DENOTES PLAN 65M-4325
- P DENOTES PORCH
- (RPE) DENOTES RADY-PENTEK & EDWARD SURVEYING LTD., O.L.S.
- (K) DENOTES KRCMAR SURVEYORS LTD., O.L.S.

ALL FOUND MONUMENTS BY DAVID B. SEARLES SURVEYING LTD., O.L.S.
ALL TIES TO CONCRETE FOUNDATIONS.

BEARINGS ARE GRID AND ARE REFERRED TO THE SOUTH LIMIT OF BUSCH AVENUE AS SHOWN ON PLAN 65M-4325 HAVING A BEARING OF N71°06'45"E

PART 2 (SURVEY REPORT)

REGISTERED EASEMENTS AND/OR RIGHT-OF-WAYS: NONE
THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING BY-LAWS

SURVEYOR'S CERTIFICATE

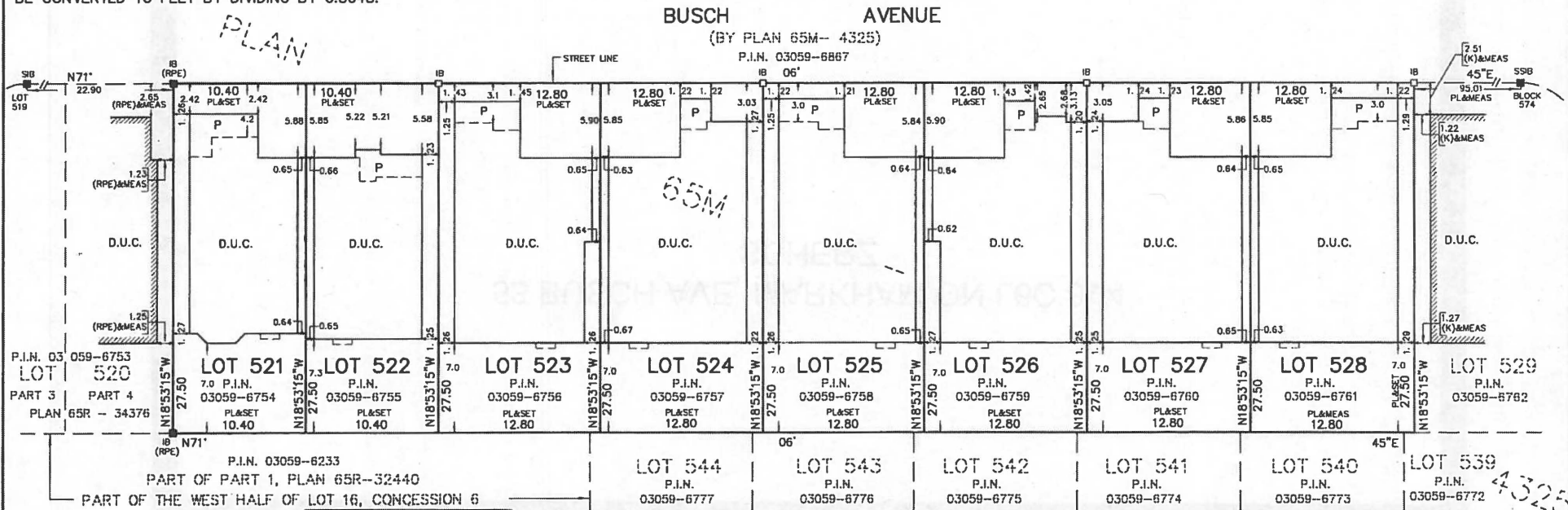
I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 1ST DAY OF Aug., 2013

DATE Sept. 18, 2013

T. Singh
T. SINGH
ONTARIO LAND SURVEYOR



THIS REPORT WAS PREPARED FOR
ARISTA HOMES
AND THE UNDERSIGNED ACCEPTS NO
RESPONSIBILITY FOR USE BY OTHER PARTIES.

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**ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
1883207**



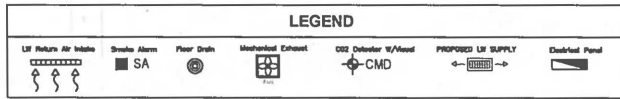
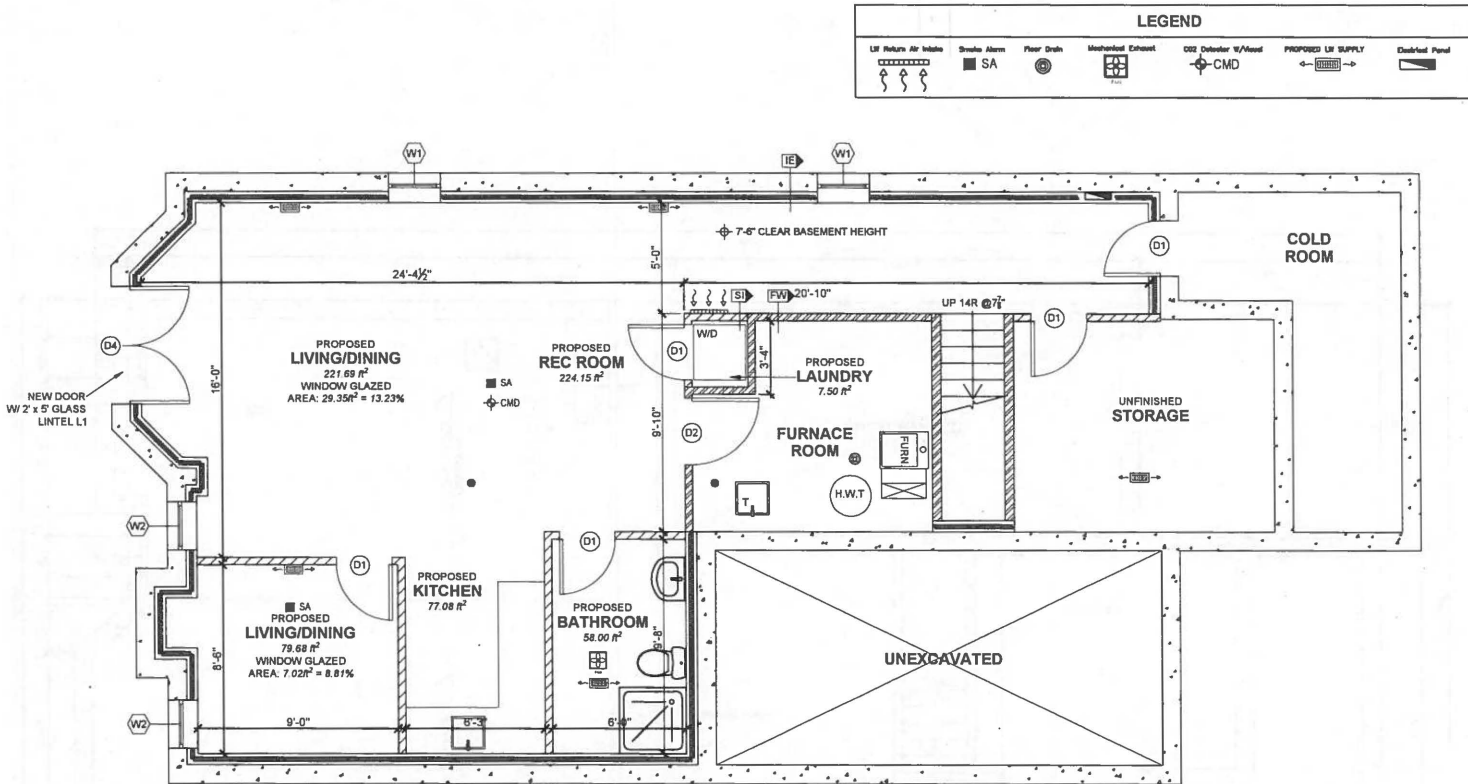
THIS PLAN IS NOT VALID
UNLESS IT IS AN EMBOSSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR
IN accordance with
Regulation 1422, Ontario 2003.



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ONTARIO LAND SURVEYORS
643 Chrislea Road, Suite 7
Woodbridge, Ontario L4L 8A3
Tel. (416) 635-5000 Fax (416) 635-5001
Tel. (905) 264-0881 Fax (905) 264-2099
Website: www.r-pe.ca
DRAWN: V.K. CHECKED: G.P./T.S.
CAD FILE No. 4325-521 JOB No. 12-254

53 BUSCH AVE, MARKHAM ON L6C 0V4
SCHERZ

Reviewed by: Jonathan Reece, BCIN: 103797



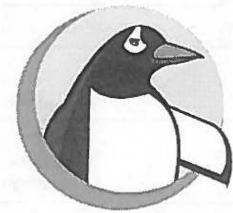
CEILING(TYP): NEW 15.0mm THK TYPE x GYPSUM WALL BOARD WITH ROXUL RESILIENT CHANNEL TO COMPLY WITH OBC 2012 S82-2.3.4 (A) AND (C)
 ALL SUPPLY AND RETURN DUCT WORK SERVING BASEMENT TO BE BELOW F.R.R. G.W.B. CEILING 50 STC

SPRINKLERED FURNACE RM. (NO FIRE RATED CEILING) [AS PER OBC PART 11: C152 & C153]
 PLEASE SEE ADDITIONAL REF. EXTRACTS FROM THE OBC AND ONTARIO FIRE CODE

FURNACE MAY SERVE BOTH UNITS PROVIDED A SMOKE DETECTOR IS INSTALLED IN THE SUPPLY OR RETURN AIR DUCT SYSTEM WHICH WOULD TURN OFF THE FUEL SUPPLY OR ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH DETECTOR.

SMOKE ALARMS WITH VISUAL STROBE AND INTERCONNECTED WITHIN UNIT.

MECHANICAL EXHAUST
 50 cfm
 EXHAUST TO EXTERIOR, 5'



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The Designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., information shown on this drawing. Refer to the appropriate consultant's drawings before proceeding with the work.

Construction must conform to all applicable codes and requirements of authorities having jurisdiction.

The contractor working from drawings not specifically marked 'For Construction' must assume full responsibility and bear costs for any corrections or damages resulting from his work.

The undersigned has reviewed and takes responsibility for this design and has the qualifications and meets the requirements set out in the Ontario Building Code to be designer.

QUALIFICATION INFORMATION: Required unless design is exempt under 3.2.5.1 of Division "C" of the Ontario Building Code

Jonathan Reccé *[Signature]* 103797
 Name SIGNATURE BCIN

QUALIFICATION INFORMATION: Required unless design is exempt under 3.2.5.1 of Division "C" of the Ontario Building Code

Name BCIN

PROJECT ADDRESS:
 53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

DRAWING:
 PROPOSED BASEMENT FLOOR PLAN

DESIGNER:
 Jonathan Reccé

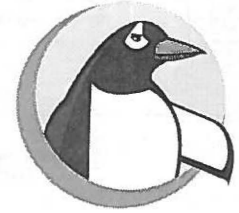
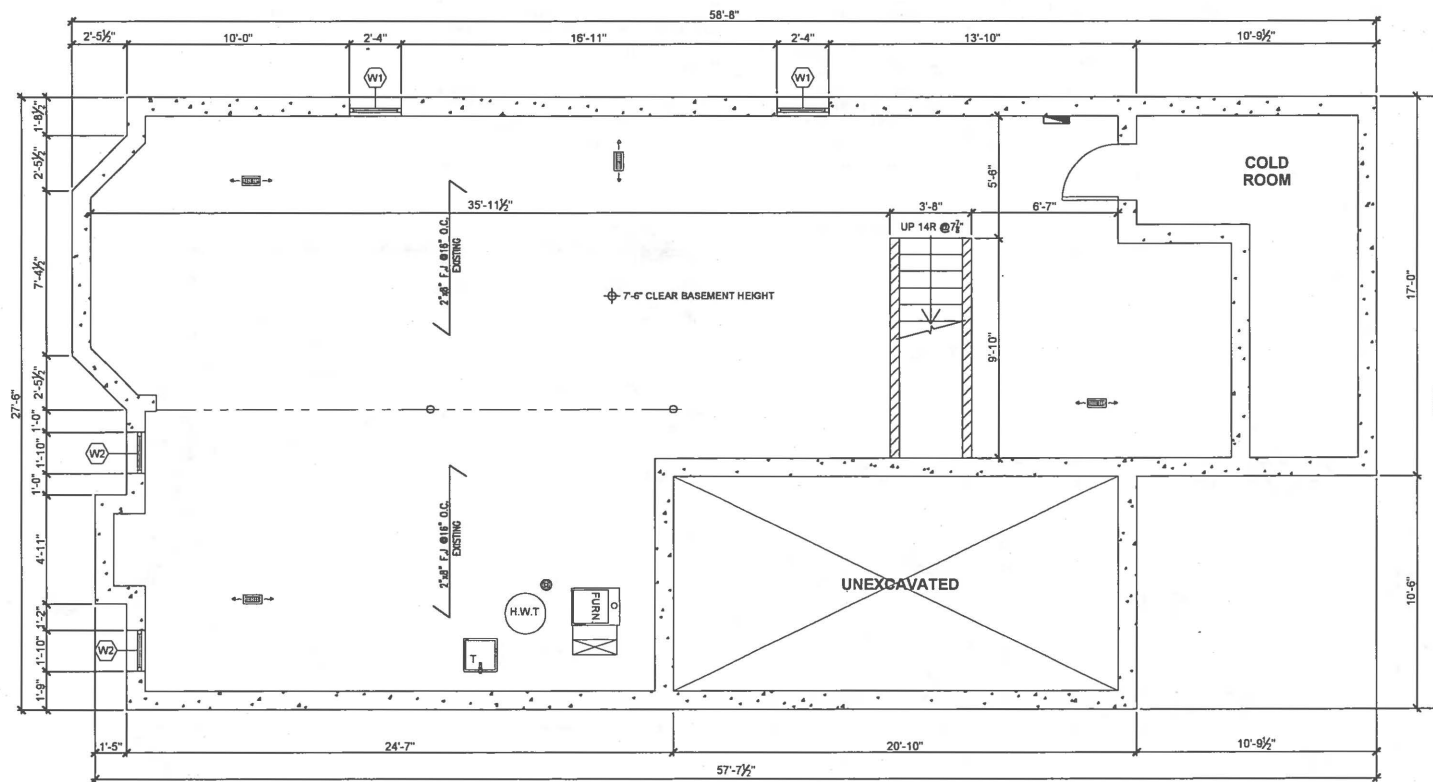
VERSION:
 1

DATE: MARCH 8 2018

SCALE: $\frac{3}{16} = 1:0'$

SHEET NO.

A-1



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Jonathan Reece	103797
Name	SIGNATURE BCIN

QUALIFICATION INFORMATION- Required unless design is exempt under 3.2.5.1 of Division "C" of the Ontario Building Code

Name	BCIN
------	------

PROJECT ADDRESS:
 53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

DRAWING:
 EXISTING BASEMENT FLOOR PLAN

DESIGNER:
 Jonathan Reece

VERSION:
 1

DATE: MARCH 8 2018

SHEET NO.

SCALE: $\frac{3}{16}'' = 1'-0''$

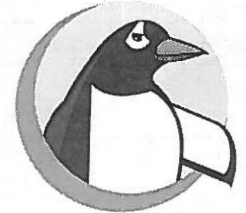
A-2



TOTAL WALL AREA: 731.46 ft²

TOTAL WINDOW GLAZING: 127.74 ft²

TOTAL GLAZED AREA: 17.46 %



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Jonathan Reece  103797
 Name SIGNATURE BCIN

QUALIFICATION INFORMATION- Required unless design is exempt under 3.2.5.1 of Division "C" of the Ontario Building Code

Name BCIN

PROJECT ADDRESS:
 53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

DRAWING:
 SOUTH ELEVATION

DESIGNER:
 Jonathan Reece

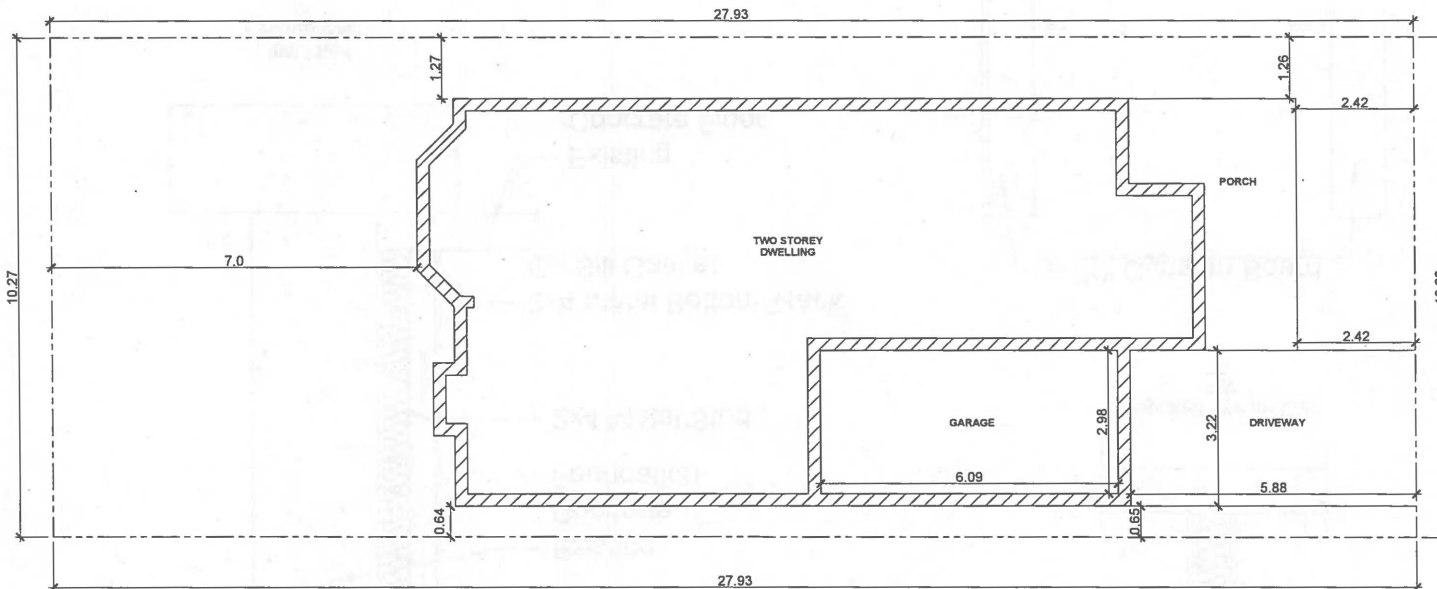
VERSION:
 1

DATE: MARCH 8 2018

SHEET NO.

SCALE: $\frac{3}{16}'' = 1'-0''$

A-4



BUSCH AVENUE



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Jonathan Reece		103797
Name	SIGNATURE	BCIN

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Name	BCIN
------	------

PROJECT ADDRESS :
 53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

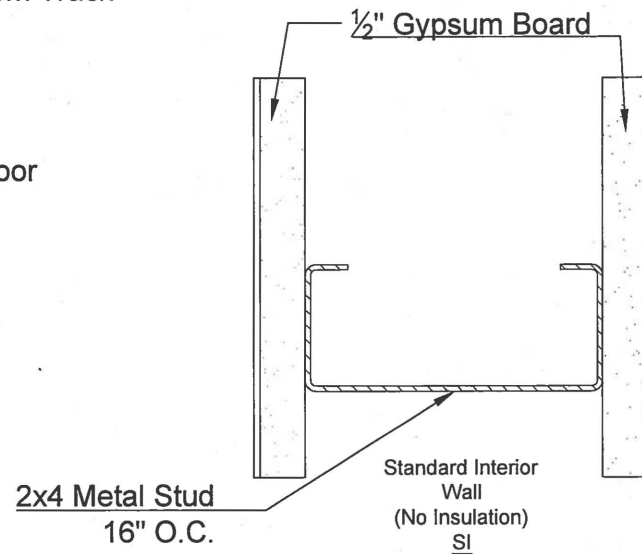
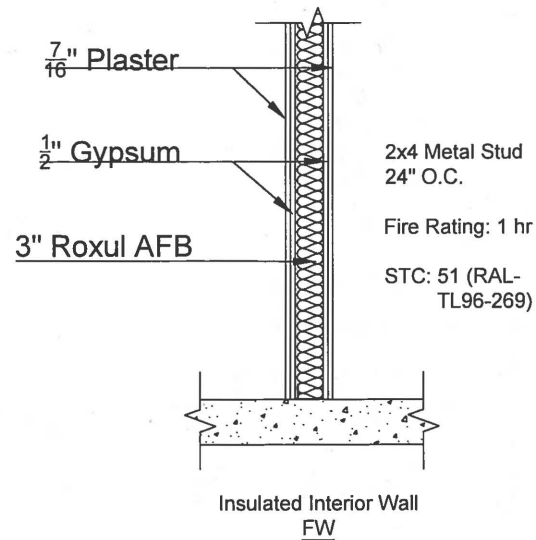
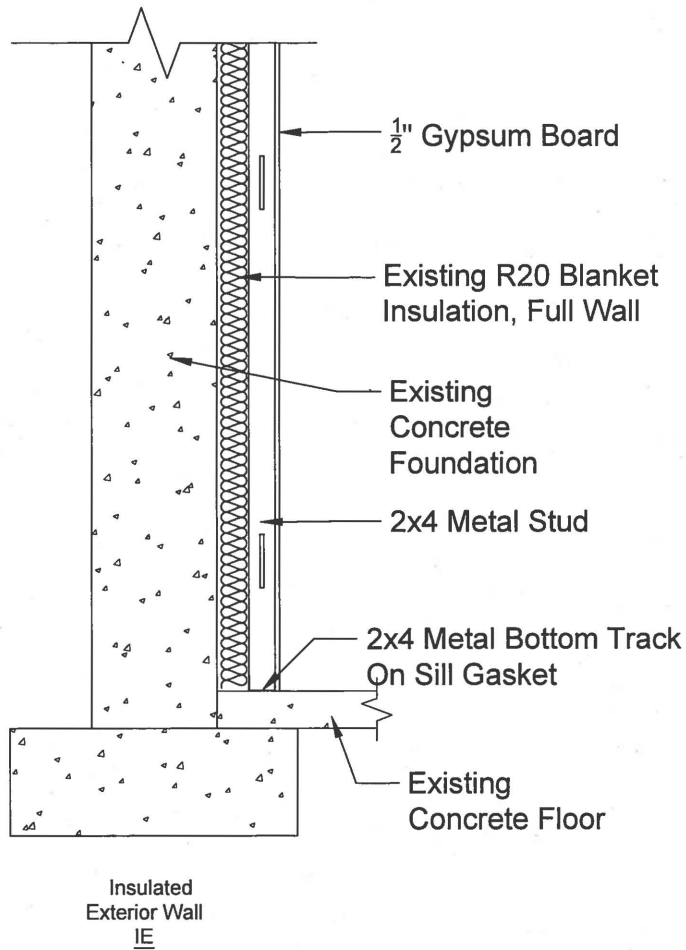
DRAWING :
 SITE PLAN

DESIGNER :
 Jonathan Reece

VERSION :
 1

DATE : MARCH 8 2018	SHEET NO.
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SCALE : 1/4" = 1'-0"	A-5
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Jonathan Reece  103797
Name SIGNATURE BCIN

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Name BCIN

PROJECT ADDRESS:
53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

DRAWING:
WALL SECTIONS

DESIGNER:
Jonathan Reece

VERSION:
1

DATE: MARCH 8 2018

SHEET NO.

SCALE: 3/4" = 1'-0"

A-6

Any use of the plans, or modifications of the plans, by purchasers, builders or others is done at their own risk. The information contained within the construction documents is intended to depict design and basic construction detailing. It is the builder's responsibility to provide standard construction details and practices which will result in a structurally sound and weatherproof finished product.

Names of materials and manufacturers shown on the Plans do not represent an endorsement or recommendation by the Designer. Final selections of materials are the responsibility of the home Client and/or builder, including, but not limited to proper installation of materials, nailing, gluing, caulking, insulating, flashing, roofing, weatherproofing and many other small items and details not necessarily indicated on the Plans, and over which the Designer has no control or responsibility. The Designer shall not be held liable for any errors, omissions, or deficiencies in any form by any party whatsoever.

It is the responsibility of the builder to assure that all work is in accordance with the latest edition of all applicable National, Provincial, and Local Building Codes. It is the builder's responsibility to ensure that all work is conducted in accordance with the latest edition of all applicable Construction Standards.

It is the responsibility of the builder to ensure that all manufactured articles, material, and equipment are applied, installed, connected, erected, used, cleaned, adjusted, operated and conditioned as directed by the manufacturers. Builder shall follow all instruction to sustain and preserve all expressed or implied warranties and guarantees.

It is the responsibility of the builder to assure that all materials, equipment and components are new and of good quality.

It is the responsibility of the builder to check all dimension and details for overall accuracy appropriate to the local conditions and the final selection of materials such as masonry, floor joists, lumber, structural members, construction panels, roofing, etc., all of which can create variations in dimension and details. For example, if standard lumber joists are used in place of engineered floor joists, the floor-to-floor dimension would vary from the Plans and require revised stair dimension and framing.

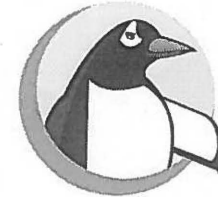
This set does not constitute a Building Permit until it has received approval, and the appropriate Stamps from the Municipality in which the building is located.

Window Schedule			
Mark	Width x Height	Count	
W1	28" x 12"	2	2.3333 SQ. FT.
W2	46" x 22"	2	7.0277 SQ. FT.

Door Schedule			
Mark	Width x Height	Count	Specs
D1	30" x 78"	5	Wood
D2	36" x 78"	1	Fire Door w/ Self Closing, 20 min rated

Wall Schedule		
Mark	Type	Cross Section
IE	Insulated Exterior Wall	
SI	Standard Interior Wall	
FW	Interior Insulated Wall	

Lintel Schedule			
Mark	Dimensions	Length	Material
L1	90 x 90 x 6mm	1016mm	Steel



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Jonathan Reece 103797
 Name SIGNATURE BCIN

QUALIFICATION INFORMATION- Required unless design is exempt under 3.2.5.1 of Division "C" of the Ontario Building Code

Name BCIN

PROJECT ADDRESS:
 53 BUSCH AVE, MARKHAM ON L6C 0V4

SCHERZ

DRAWING:
 CONSTRUCTION NOTES

DESIGNER:
 Jonathan Reece

VERSION:
 1

DATE: MARCH 8 2018

SHEET NO.

SCALE: N.T.S

A-7