Memorandum to the City of Markham Committee of Adjustment July 30, 2019

File:

A/70/19

Address:

33 Roy Rainey Avenue, Markham

Applicant: Agent:

Mittalkumari & Nilesh Patel ASHRA PROFESSIONALS Inc.

Hearing Date:

Wednesday August 07, 2019

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

The applicant is requesting relief from the following requirements the Residential Two-Special*99 (R2-S*99) zone of By-law 177-96, as amended, as they relate to a proposed basement apartment unit to permit:

a) Amending By-law 119-71, Section 1(9):

a secondary suite in the basement of an existing residential dwelling, whereas the By-law permits no more than one dwelling unit on a lot;

b) 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.

BACKGROUND

Property Description

The subject property is located on the east side of Roy Rainey Avenue, which is north of 16th Avenue and east of Alexander Lawrie Avenue. The property is located within a residential neighbourhood comprised of two-storey detached dwellings. There is an existing two-storey detached dwelling on the property, which according to assessment records was constructed in 2005. Mature vegetation exists across the property.

Proposal

The applicant is requesting permission for a secondary suite in the basement of the existing dwelling. The proposal includes two new egress windows at the rear of the existing dwelling. The proposed secondary suite would have direct and separate access provided by a proposed door at the rear of the dwelling. No other changes are 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

Official Plan 2014 (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 single detached 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:

- a) The building type in which the secondary suite is contained;
- b) The percentage of the floor area of the building type devoted to the secondary suite;
- c) The number of dwelling units permitted on the same lot
- d) The size of the secondary suite;
- e) The applicable parking standards; and
- f) 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 177-96

The subject property is zoned Residential Two - Special (R2S*99) under By-law 177-96, as amended, which permits a single detached dwelling. Exception *99 provides for specific zone standards for:

- Minimum required side yard on a lot where a side lot abuts a lane (1.2 m);
- Minimum setback for a driveway that crosses the front lot line from the interior side lot line (0.3 m);
- Minimum lot depth of a wide shallow lot (24.5 m); and
- That provisions from Table B2 Part 3 and Table B3 Part 3 apply to all lots (which wide-shallow lot standards to be applicable to all types of lots).

Section 6.5 of the By-law permits only one dwelling on a lot the applicant has therefore submitted a variance application to permit an accessory unit that is proposed in the basement of the existing dwelling

Parking Standards By-law 28-97

The proposed secondary suite also does not comply with the parking requirements for the number of spaces required in Parking By-law 28-97. Further details of the parking requirement are provided in the comment section below.

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, "a) The proposed secondary suite would have direct and separate access provided by a door on the East side (back of the house) of the building. B) Building has min. 2 car parking spaces".

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> 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.

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. The existing driveway and front yard are paved, the applicant will be required to comply with soft landscaping requirements provided for in the Parking By-law.

Staff are of the opinion that to ensure the second suite remains inconspicuous from the street, and that the character of the dwelling and neighbourhood does not change, no additional parking should be required. Staff are also of the opinion that the parking issue may be considered "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 July 30th, 2019. 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, Planffer I, East District

REVIEWED BY:

Stephen Corr, Senior Planner, East District

File Path: Amanda File 19 126927 \Documents District Team Comments Memo

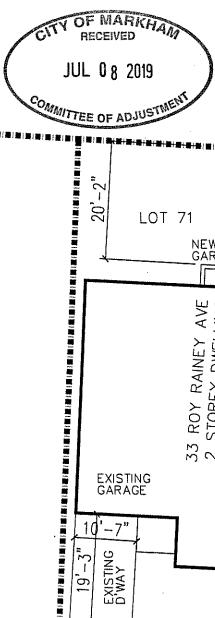
APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/70/19

- 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 received by the City of Markham on July 8th, 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; and
- 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:

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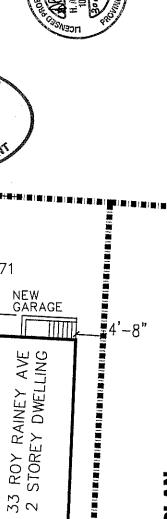
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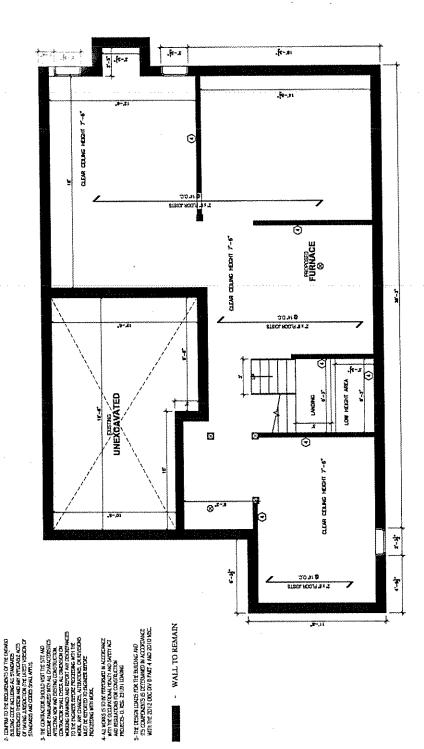


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NOTE: NO CHANGES TO EXISTING GRADES, GFA, FSI, LOT COVERAGE

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GENERAL NOTES

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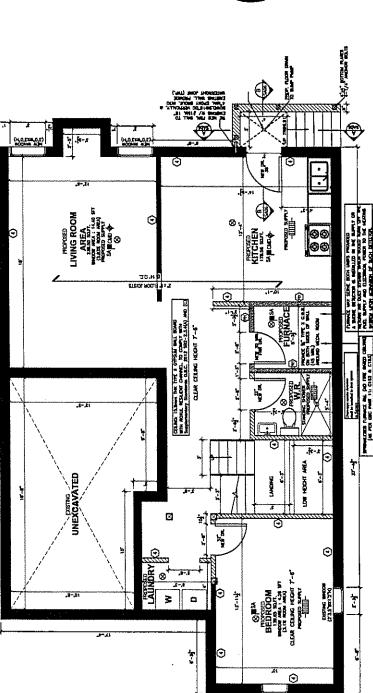
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SA 03

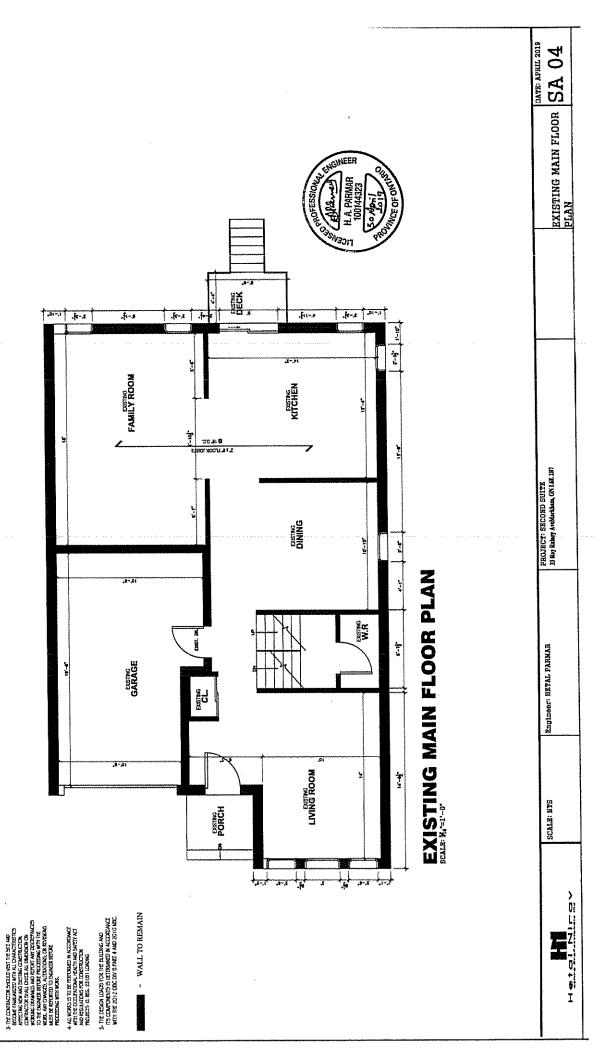
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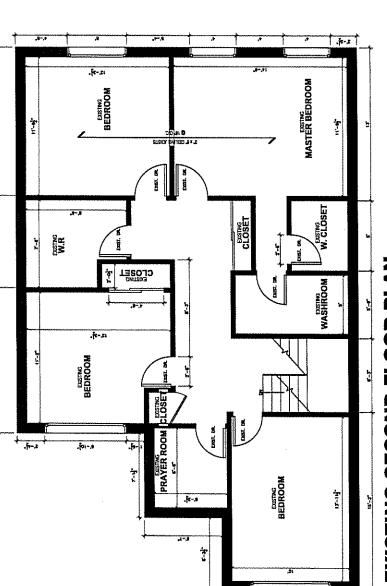


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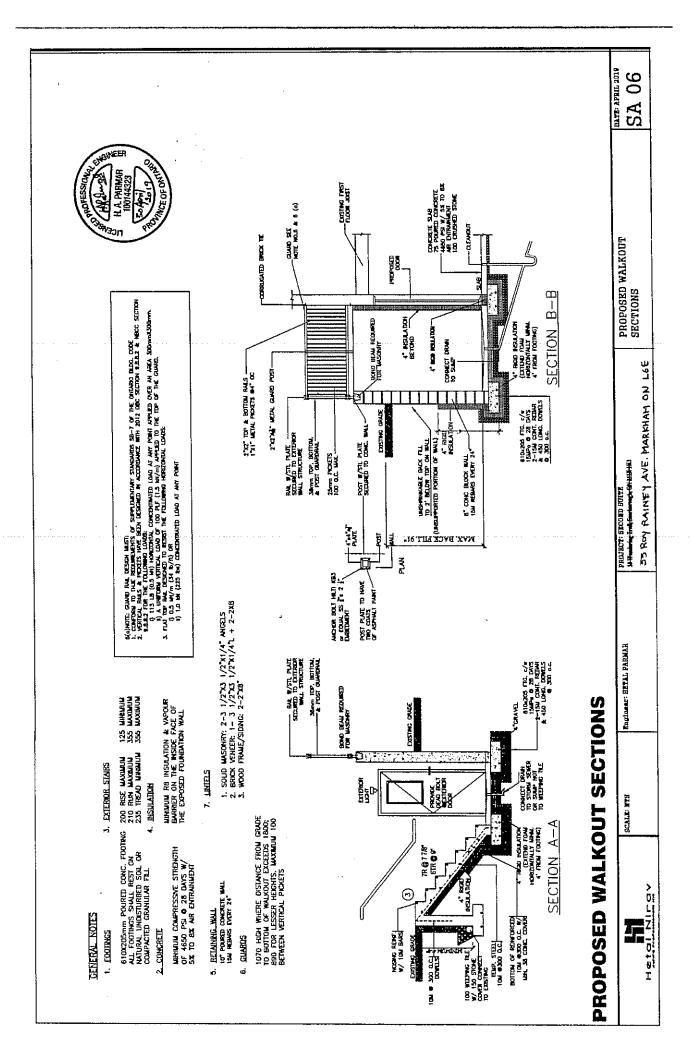
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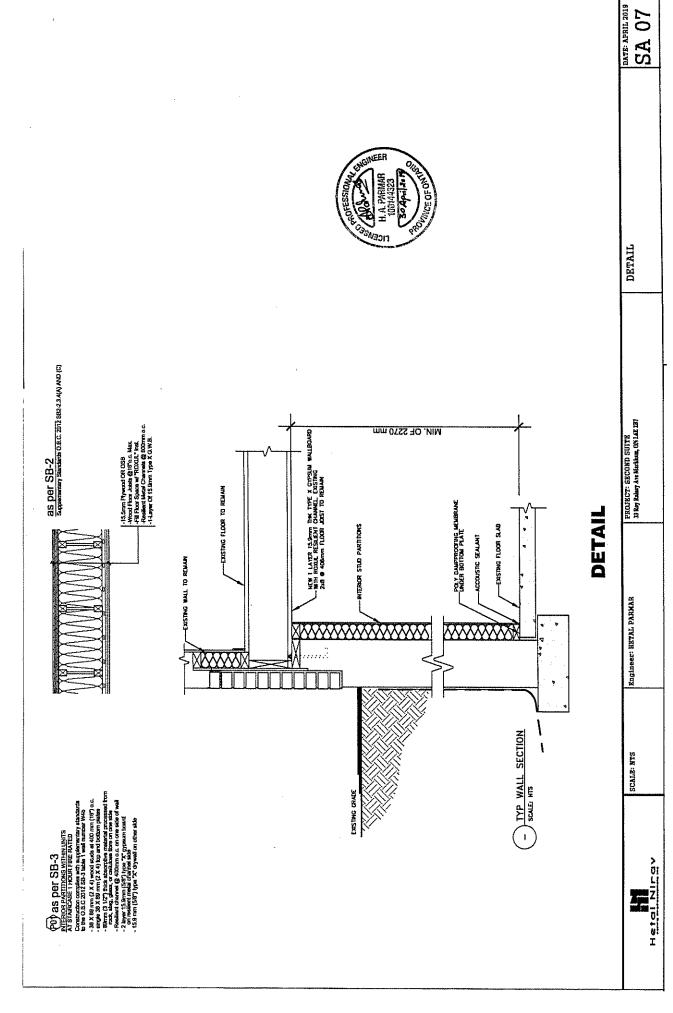
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GENERAL NOTES

EXISTING SECOND FLOOR PLAN

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DATE: APRIL 2019 SA

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6) PROVIDE TOP MOUNT BEAM HANGERS TYPE "SCL" MANUFACTURED BY MGA CONNECTOR LTD. 161. (905) 642-3175 OR EQUAL FOR ALL LYL BEAM TO BEAM CONNECTIONS UNLESS NOTED OTHERWISE.

7) JOIST HANGERS; PROVIDE METAL HANGERS FOR ALL JOISTS AND BULLT-UP WOOD MEMBERS INTERSECTING FLUSH BUILT-UP WOOD MEMBERS.

6) WOOD FRANING NOT TREATED WITH A WOOD PRESERVATIVE, IN CONTACT WITH CONCRETE, SHALL BE SEPARATED FROM THE CONC. BY AT LEAST 2 mil. POLYETHYLENE FILM, No.50 (45bs.) ROLL RODEING OR OTHER DAMPPROOFING MATERIAL, EXCEPT WHERE THE WOOD MEMBER IS AT LEAST 150mm (6") ABOVE THE GROUND.

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FOR FUTURE GRAB BAR INSTALLATION

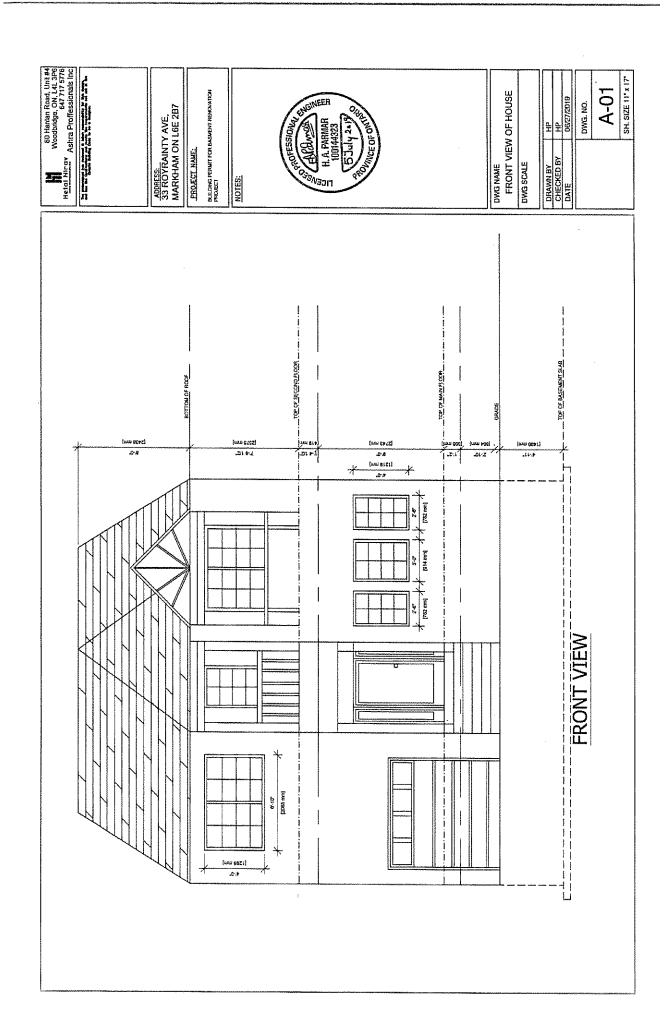
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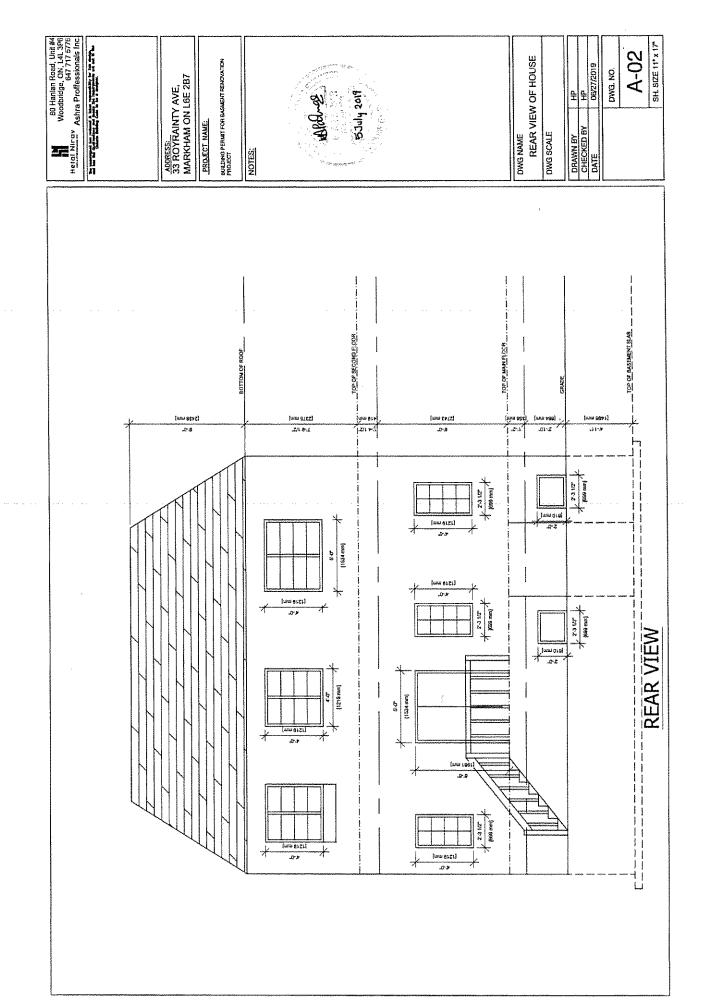
1) STRUCTURAL STEEL SHALL CONFORM TO CAN/CSA-C40-21 GRADE 300W. HOLLOW STRUCTURAL SECTIONS SHALL CONFORM TO CAN/CSA-C40-21 GRADE 350W CLASS H.

2) REINFORCING STEEL SHALL CONFORM TO CSA-G30—18M GRADE 4DDR.

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