

# **Memorandum to the City of Markham Committee of Adjustment**

September 13, 2022

**File:** A/088/22, A/089/22, B/002/22  
**Address:** 28 Station Street, Markham Village  
**Applicant:** David Johnston Architect Ltd. (David Johnston)  
**Agent:** David Johnston Architect Ltd. (David Johnston)  
**Hearing Date:** Wednesday September 21, 2022

The following comments are provided on behalf of Heritage Section staff:

The applicant is proposing to retain the existing dwelling at 28 Station Street (the 'subject property', the 'property' or the 'heritage building/dwelling') and sever the rear portion of the property to create a new building lot to be municipally-known as 11 Backus Court.

## **Consent Application B/002/22**

Pursuant to the provisions of Section 53 of *The Planning Act*, R.S.O. 1990, c.P.13, as amended, and Ontario Regulation No. 197/96, the applicant is requesting provisional consent to:

**a)** Sever and convey a parcel of land with an approximate lot frontage of 23.78 meters (78.01 feet) and an approximate lot area of 485.38 square meters (5224.58 square feet) (Part 1).

**b)** Retain a parcel of land with an approximate lot width of 23.78 meters (78.01 feet) and an approximate lot area of 456.73 square meters (4916.20 square feet) (Part 2). The retained lot will not have frontage on a public street.

## **Minor Variance Applications**

### **A/088/22 - 28 Station Street**

The applicant is requesting relief from By-law 153-80, as amended, as it relates to the proposed detached dwelling on the retained lot, to permit:

#### **a) By-law 153-80 Section 7.2(b):**

A front yard setback of 4.6 meters, whereas the By-law requires a minimum of 6.0 meters;

#### **b) By-law 153-80 Section 7.2(b):**

A rear yard setback of 2.4 meters, whereas the By-law requires a minimum of 7.5 meters.

#### **c) By-law 153-80, Section 5.4:**

a lot without frontage on a street; whereas the by-law requires a lot upon which a building or structure is erected to abut or front a public street.

### **A/089/22 - 11 Backus Court**

The applicant is requesting relief from the requirements of By-law 153-80, as amended, as it relates to the proposed detached dwelling on the severed lot, to permit:

**a) By-law 153-80 Section 7.2(b)**

A front yard setback of 4.6 meters, whereas the By-law requires a minimum of 6.0 meters.

**BACKGROUND**

- Location
  - The subject property is municipally known as 28 Station Street and is 960 m<sup>2</sup> (10,333 ft<sup>2</sup>) in size. The subject property is located on the north side of Station Street between Snider Drive to the east and Cedar Valley to the west. The portion of Station Street between Snider Drive and Cedar Valley is a privately-owned right-of-way owned by 26 Station Street with 28 Station Street having an access easement.
  - Adjacent built form and land-use consists of single-detached residential properties that date from the 19th century along Station Street, and late 1970s/early 1980s along Snider Drive and Backus Court. This dichotomous relationship is a result of the subject property's location at the periphery of the Markham Village Heritage Conservation District.
  - The subject property, including the proposed severed lot, is partially located within a Toronto Region and Conservation Authority (TRCA) Regulated Area of the Rouge River Watershed (it is within 15 metres of a flood plain hazard which is located to the southwest of the subject property). However, the proposed development on the severed lot does not appear to be within a TRCA Regulated Area.
- Existing Structures and Lot Usage
  - The subject property is currently occupied by a 1 ½ storey, single-detached dwelling built c.1873 as per MPAC records with a c1960s rear addition
- Heritage Status
  - The property is located within the Markham Village Heritage Conservation District ('MVHCD' or the 'District'), which is designated under Part V of the *Ontario Heritage Act*. The property/buildings are classified as Class 'A' in the District Plan and the dwelling is identified as the Jacob and Ann Reesor House.
- Lot Fabric History
  - Both 26 and 28 Station Street are properties with heritage structures which front onto Station Street and back onto Backus Court, a street within an adjacent modern residential subdivision created in 1980.
  - Both of these dwellings have driveway access onto an existing right-of-way to Snider Drive over Block 60, Plan M-1976, which is a portion of the former road allowance of Station Street now in private ownership. This block is 10.15m wide.
  - In 1985, the owner was successful in obtaining approval from the Committee of Adjustment to sever these two properties which were formerly separate holdings, but had become consolidated into the same title.

- As a condition of approval, a development agreement between the municipality and the owner to provide for the conditions of possible future redevelopment was required.
  - There was a report to Planning Committee (June 18, 1985) which provided Council's recommendation to the Committee of Adjustment Consent application.
  - In March 1988, the applicant entered into the required development agreement. The Agreement notes that in the event that the existing dwellings (which were acknowledged as heritage resources during this process) are demolished and new single or semi-detached dwellings are proposed on each lot (26 and 28 Station St), certain development conditions must be satisfied such as access off of Backus Court and that the Station Street block would become a pedestrian walkway (This former development agreement would not be applicable as per the current proposal).
- Existing vegetation:
    - There are a number of mature trees on the subject property.
  - Proposed New Construction
    - A site plan application has not been submitted for the new dwelling on the proposed new lot. A conceptual site plan was submitted to demonstrate that a dwelling could be introduced on the new lot and that the existing dwelling could accommodate an addition and garage. The property is within a site plan control area.

## **Proposal**

### **28 Station Street**

The applicant is proposing to retain and modify the existing heritage building. The rear addition, constructed in the mid-1960s, is proposed to be removed and replaced with a 1 ½ storey L-shaped addition with integrated two-car garage. The existing house is also proposed to be relocated approximately 0.5m to the south, and 0.4m to the west in order to accommodate the addition. Proposed rear yard amenity space is concentrated in the northwest portion of the property and measures approximately 6.9m in depth with a width of 12.9m.

### **11 Backus Court**

The applicant is proposing to construct a two-storey dwelling with integrated two-car garage on the severed portion of the subject property fronting Backus Court. The proposed dwelling is rectangular in plan with a rear amenity area measuring approximately 6.3m in depth with a width of 19.3m.

Three mature trees are proposed to be removed to accommodate the proposed dwelling. As per the applicant's Arborist report, all three are Norway maple, an invasive species that are in fair/poor condition. While contained within the MVHCD, the proposed dwelling will be most visible from Backus Court which is outside of the District. Vehicular and pedestrian access to the new property will also be achieved solely from Backus Court.

## COMMENTS

Consent application are evaluated in the context of Section 51 (24) of the *Planning Act*, as well as provincial and local land division related policies.

### Land Division

In order for land division to occur under the *Planning Act*, a public process is required that ensures provincial interests and local planning concerns are both satisfied. In Markham, land division is regulated within a policy-led planning system that consists of a number of inter-related types of legislation and policies including:

- The *Planning Act*
- The Provincial Policy Statement (PPS)
- Other Provincial Plans
- Markham Official Plan
- Community Improvement Plans
- Local Zoning By-laws (or Minister's Zoning Order)
- Site Plan Control Area By-law

### 1. The Planning Act

The *Planning Act* in Ontario provides the framework for the province's policy-led planning system. All decisions regarding consent applications must:

- Have regard to the matters of provincial interest listed in section 2 of the Act;
- Have regard to criteria listed in subsection 51(24) which relates to the subdivision of land, and includes, but is not limited to:
  - Lot dimensions and shapes;
  - Restrictions of the land;
  - Interrelationship with site plan control matters

Each of these criteria is explored below:

#### a) Matters of Provincial Interest

The subject property at 28 Station Street does involve a matter of provincial interest, that being section 2(c) "*the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest*". The property contains a significant cultural heritage resource.

#### b) Lot Dimensions and Shapes

This is a matter that is addressed in the comments on land severance policies of the Markham Official Plan (see section 3 of this memo).

#### c) Restrictions on the Land

The restrictions on the subject property relate to the fact that the property is officially designated pursuant to Part V of the *Ontario Heritage Act*. Council has adopted a heritage conservation district plan through a specific by-law. This heritage plan provides policies and design guidelines to guide alterations and development. The owner must obtain a "Heritage Act" permit from the municipality to alter any part of the property, or to erect, demolish or remove any building on the property. Therefore any new development (lot creation and any future building) is subject to the restrictions and guidance found in the heritage conservation district plan as well as those in the Official Plan.

d) Interrelationship with Site Plan Control Matters

The subject property is also located within a site plan control area. See section 5 of this memo.

**2. Consistency with the Provincial Policy Statement**

The Provincial Policy Statement (PPS) sets the policy foundation for regulating the development and use of land in Ontario. Decisions in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement.

Section 2.6 of the PPS addresses cultural heritage resources. The policy requires that significant built heritage resources and significant cultural heritage landscapes (a heritage conservation district) shall be conserved. The term 'conserved' is defined as "*the identification, protection, use and/or management of cultural heritage and archaeological resources in such a way that their heritage values, attributes and integrity are retained*".

No built heritage resources will be lost, and the creation of a new lot is not viewed as being detrimental to the heritage attributes of the property as well as the overall character and integrity of the heritage conservation district.

**3. Conformity with the Official Plan**

The Official Plan represents a municipality's chief planning tool to provide direction to approval authorities and the public on local planning matters. It contains land use planning objectives as well as policies in areas such as land use, land division and conservation of cultural heritage resources.

Section 10.5 of the Markham Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18), notes that it is the policy of Council that the Committee of Adjustment shall be guided by the general intent and purpose of the Plan in making decisions on minor variances to the zoning by-law and consent applications.

Land Use Policies

In the Official Plan, the subject property is designated "Residential - Low Rise" which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the "Residential Low Rise" designation with respect to height, massing and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a "Residential Low Rise" area, which includes variances, development is required to meet the general intent of these development criteria. Regard shall also be had for the retention of existing trees and vegetation.

The Markham Official Plan also includes applicable policies respecting **land severance** (Section 10.3.2 - Consents) and **heritage conservation** (Section 4.5 – Cultural Heritage Resources).

Land Severance Policies

For land severance, regard is to be given to matters under Section 51(24) of the *Planning Act*, including having regard to adjacent land uses, access and services. Section 10.3.2.4. of the Official Plan provides for additional development criteria that must be

considered including that the lot(s) comply with the cultural heritage protection policies in Sections 4.5.3.9 and 4.5.3.10.

The proposed new lot will front onto an existing, open, public road allowance, and services are both existing and adequate. Adjacent uses are residential and the proposed use of the new lot is residential. However, the retained lot with the existing dwelling will not have frontage of a public street and this needs to be addressed through a variance to the zoning by-law. The existing cultural heritage resource is being protected.

As to adjacent uses, regard is also to be given to the compatibility of the size, shape and proposed use of the lots to be created. The historic context of the subject property has already been fundamentally altered by the subdivision of adjacent lands in the late 1970s/early 1980s to create Snider Drive and Backus Court. The proposed severance, therefore, is a continuation of a process of land division that has been occurring for several decades. The configuration of the proposed lot fronting Backus Court also responds to the existing lot pattern of the street, creating a compatible new layer of growth.

#### Heritage Conservation Policies

From a heritage conservation policy perspective, two of the overall goals of the Official Plan are “to protect established neighbourhoods, heritage conservation districts...by ensuring that new development is compatible and complementary in terms of use, built form and scale” and “to celebrate Markham’s unique character by protecting cultural heritage resources and archaeological resources...to foster interaction between people and connections to their community” (Section 2.2.2).

Section 4.5 provides policy guidance on identification/recognition, protection, and development approvals. Two key development approval policies of Council are:

- To provide for the protection and conservation of cultural heritage resources or the mitigation of adverse effects on cultural heritage resources as a condition of minor variance and severance approval and associated agreements (Section 4.5.3.9); and
- To evaluate each land severance and variance proposal that directly affects a cultural heritage resource itself and adjacent lands on its own merits and its compatibility with the heritage policies of this Plan and the objectives and policies of any applicable heritage conservation district plan. This shall include the preservation of the existing lot fabric or historical pattern of lot development on the specific street or in the immediate neighbourhood where it contributes to the uniqueness, and forms part of, the historical character of the area. (Section 4.5.3.10)

The retained lot is of a sufficient size and configuration to conserve the heritage attributes of the property while allowing a compatible addition, and the heritage district is not negatively impacted. It is recommended that as a condition of the consent approval, a Heritage Easement Agreement be obtained to further protect the cultural heritage resources. Markham Council approved a policy regarding when a heritage easement should be secure as part of development approval including when a heritage structure is to be retained on either the retained or conveyed parcel as a result of a consent application to the Committee of Adjustment, the municipality will recommend that a Heritage Conservation Easement be secured as a condition of approval

The applicant has indicated an intention to design a complementary dwelling on the new lot, and comply with the heritage conservation district design policies.

#### Markham Village Heritage Conservation District Plan

The key goal of the District Plan is to conserve the historical ambience and heritage of the district while at the same time fostering the change and growth necessary to enhance the quality of life for the people in the area. One of the objectives is to assist in guiding future development proposals such that their design is compatible with existing historical character.

It is extremely important to protect Type 'A' buildings/properties and this is reflected throughout the Plan. The District Plan provides a number of related policies that should be taken into consideration when reviewing proposals of this type including guidance on new construction and additions to existing heritage buildings.

The District Plan notes that "in addition to heritage permit applications, all matters relating to the official plan, zoning, site plan control, severances, variances, demolitions, etc. within the boundary of the heritage conservation district will require review by Heritage Markham. There are no specific policies or guidelines related to land division.

Based on the above review, the proposed consent application does conform to the land division and heritage conservation policies of the Official Plan, including the policies of the Markham Village Heritage Conservation District Plan as adopted by Council. As such, it is the opinion of Staff that the impact of the consent application on both the cultural heritage value of the subject property, and the built-form character of Backus Street are minimal, and that the application can be supported from an Official Plan conformity perspective.

#### **4. Compliance with the Zoning By-law**

A zoning by-law is a planning tool in the *Planning Act*, which enables Council or the Committee of Adjustment to implement the vision set out in the official plan. It identifies the permitted land uses and the required development standards. Any development, including the creation of a new lot, must comply with the applicable zoning by-law or seek an appropriate variance.

Therefore, the zoning standard attempts to regulate in general what lot size provisions would be generally appropriate for new development in this zone category not withstanding that there may be a wide variations in sizes, especially in the heritage area.

The *Planning Act* states that all four tests must be met in order for a variance to be granted:

- 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 the 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.

The creation of the proposed new lot through consent and the identified dwelling units on each lot will result in the need for four variances to the zoning by-law. The subject property is zoned (H)RSD3\_under By-law 153-80 as amended, which permits one single-detached dwelling per lot. The "H" refers to a hold provision on the property. The owner completed

a Zoning Preliminary Review (ZPR) in February 2022 to confirm the variances required for the proposed development.

### 28 Station Street

#### Reduction in Front and Rear Yard Setback

The applicant is requesting relief to permit a minimum front yard setback 4.6 meters, whereas the By-law requires a minimum of 6.0 meters, and a rear yard setback of 2.4 meters, whereas the By-law requires a minimum of 7.5 meters.

The requested variance for the reduced front yard setback generally reflects an existing rather than proposed condition as the location of the heritage dwelling relative to the front lot line is currently non-conforming. While the heritage dwelling is proposed to be relocated 0.5m closer to the front lot line relative to its current position, it will not significantly alter its location within the property, or how it is perceived from the former Station Street (now a private right-of-way). Further, relocation of the heritage dwelling closer to the front lot line will increase the size of the property's proposed rear yard amenity area.

As noted above, the proposed addition to the heritage dwelling is L-shaped in plan, creating a variable rear yard setback. While the creation of a new lot to the rear (north) of the subject property will reduce the size of the existing (generous) rear yard, the L-shaped plan of the proposed addition provides sufficient rear yard amenity space measuring approximately 6.9m (depth) by 12.9m (width) at the property's northwest corner. Further, the proposed addition enabled by the variances is deferential in siting, scale, and form relative to the existing heritage dwelling, maintaining its prominence as viewed from the former Station Street. As such, it is the opinion of Staff that both proposed variances are minor in nature, desirable and maintain the general intent and purpose of the Official Plan and Zoning By-law.

### Lack of Frontage on a Street

Due to the proposed severance of the rear portion of the property that previously provided official street access on Backus Court, the retained lot will not have frontage on a public street (as this portion of Station Street is now owned by 26 Station Street). However, 28 Station Street does enjoy an access easement over the former Station Street right-of-way that allows it to be connected to Snider Drive to the east. A variance for a lot without frontage on a street is supportable in this unique circumstance. Note that the variance as described earlier in the report refers to "width" rather than "frontage" as the relevant portion of Station Street is privately rather than municipally-owned. Only properties that border a municipally-owned right-of-way can be described as having "frontage".

### 11 Backus Court

#### Reduction in Front Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 4.6 meters, whereas the By-law requires a minimum of 6.0 meters. While the proposed siting is non-conforming, there already exists a variable front yard setback along Backus Court as a result of the road configuration and its impact on lot size, creating setbacks that vary from approximately 6m to 15m. Given the considerable variability in front yard setback along the street, the applicant's request to site the proposed dwelling 1.4m closer to the front lot line than permitted within the by-law can be considered supportable.



#### Other Zoning Related Requirements

The subject property currently has a hold provision on the zoning. According to the by-law, where a zoning symbol is preceded by the letter “H”, the provisions of the by-law with respect to the zone shall be the prime use category and the provisions shall only apply to the zone after 1) the approval of a site plan satisfactory to the municipality; and 2) passage of an amendment to the zoning by-law to remove the hold. Therefore the hold provision cannot be removed until the owner obtain site plan endorsement and Council approves a hold removal by-law.

#### **5. Compliance with Site Plan Control Area By-law**

Site plan control provides the municipality with the added ability to control the design and the development of a site. All of the City’s heritage conservation districts are site plan control areas, and in contrast to most of the remainder of the City, includes the approval of new single detached dwellings and additions to existing dwellings.

Therefore, the subject property is located within a site plan control area, and prior to obtaining a building permit for any new development, site plan approval and execution of a site plan control agreement is required (in Markham’s heritage districts, the Agreement is the required Heritage Act Permit).

A site plan application has not been submitted for the new dwelling on the proposed new lot. A conceptual site plan was submitted to demonstrate that a dwelling could be introduced on the new lot as well as an appropriate addition and garage for the retained lot.

#### **Staff/Agency Comments**

##### Heritage Section Staff Comments

Staff note that a future Hold Removal application will be required. A Heritage Easement Agreement should be a condition of severance approval to provide additional protection for the existing cultural heritage resource.

##### Heritage Markham Committee

Heritage Markham reviewed the application at its meeting on July 13, 2022 and had no objection to the requested land division and variances. Refer to Appendix “F” for a copy of the meeting extract.

##### Urban Design Staff

The City’s Urban Design Section has indicated that they support the requested land division and variances subject to the approval of a Tree Assessment and Preservation plan, which will be submitted as part of the Site Plan Control (SPC) process.

##### Engineering

The City’s Engineering Department also supports the requested land division and variances subject to the approval of a Lot Grading and Servicing Plan, which will be submitted during the SPC process.

##### Fire Services

Currently, fire access to the property is achieved via Backus Court as the municipal right-of-way is of sufficient width to meet Ontario Building Code standards as they relate to fire safety. The existing access route in front of 26 and 28 Station Street is in private ownership and as currently configured is not code compliant in this regard. Once the property is

severed, appropriate access to 26 Station Street must be provided. It is the understanding of Staff that the applicant has provided a solution to the satisfaction of the Fire Chief (i.e. installing sprinklers within 28 Station Street).

#### External Agencies

##### Toronto and Region Conservation Authority (TRCA)

TRCA provided comments via email dated July 13, 2022 indicating that they have no objection to the consent and minor variance applications subject to conditions outlined in Appendix "G" of his report.

##### Metrolinx

Metrolinx provided comments via memorandum dated June 21, 2022 indicating that they have no objection to the consent and minor variance applications subject to conditions outlined in Appendix "H" of his report.

#### **Public Input - Comments from Community**

Written submissions have been received from six interested parties.

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.

#### **Staff Recommendation**

Planning Staff have reviewed the applications with respect to Sections 45(1) and 51 (24) of *The Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance and consent requests are supportable given direction as contained within the Act. Staff recommend that the Committee consider public input in reaching a decision should any be provided.

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 refer to Appendix "E" for conditions to be attached to any approval of this application.

PREPARED BY:



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Evan Manning, Senior Heritage Planner

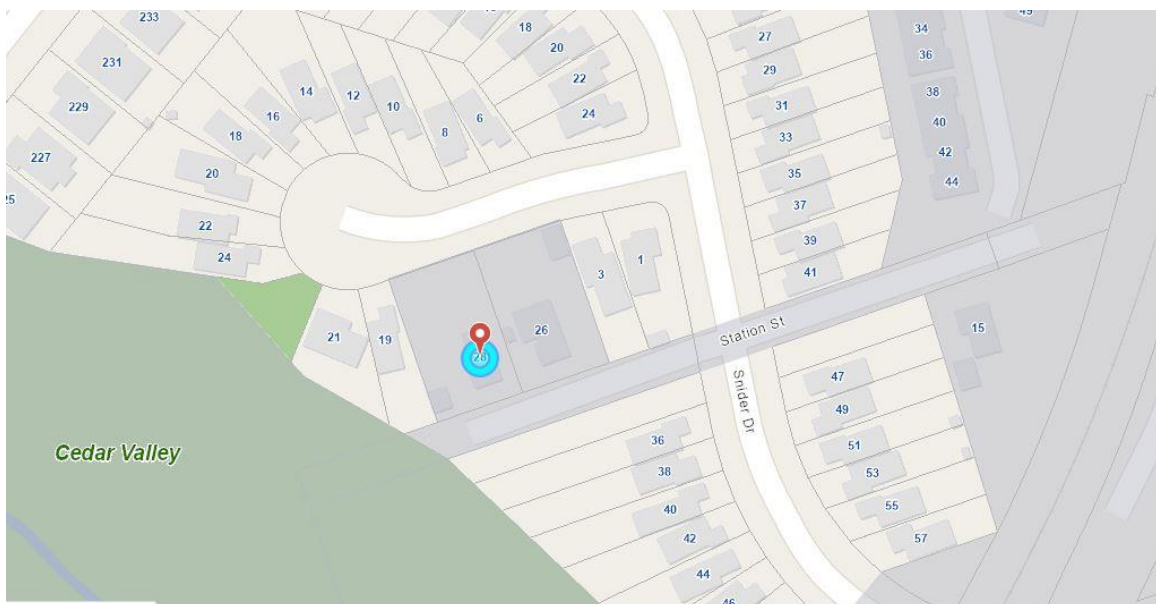
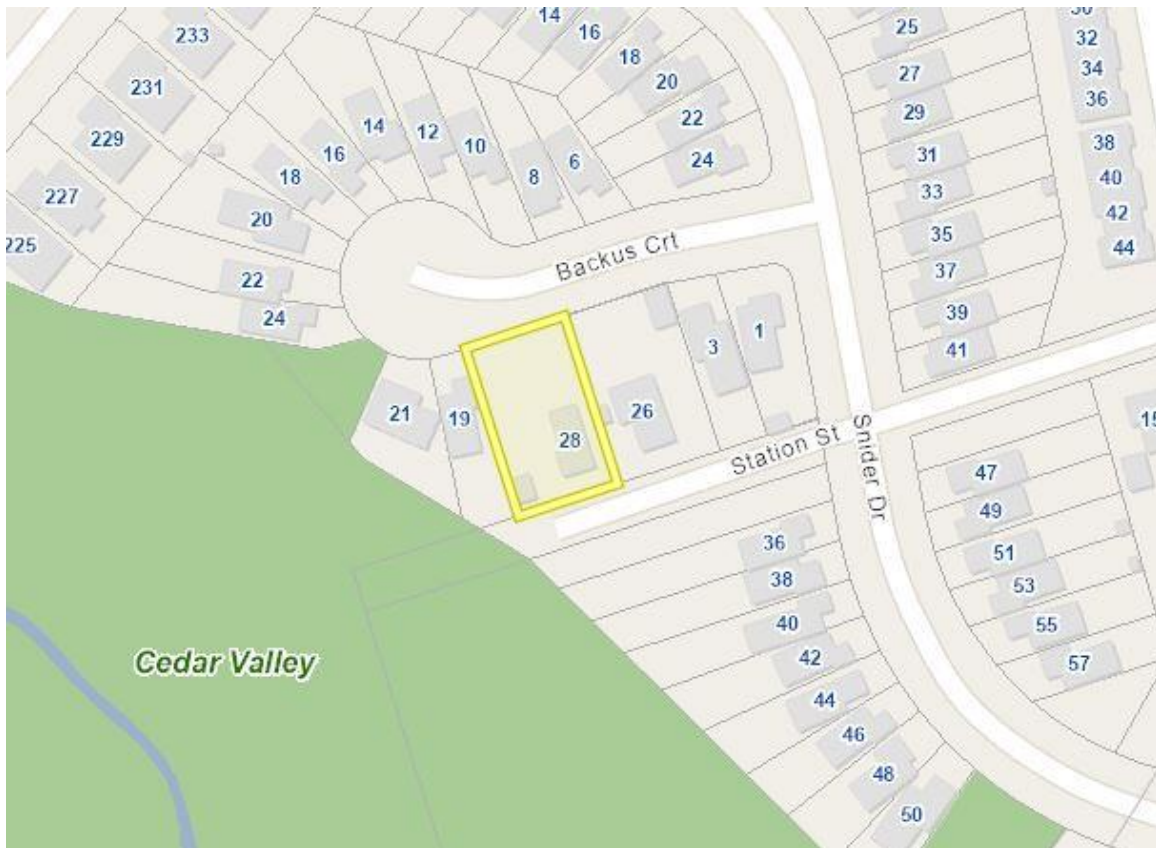
REVIEWED BY:



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Regan Hutcheson, Manager, Heritage Planning

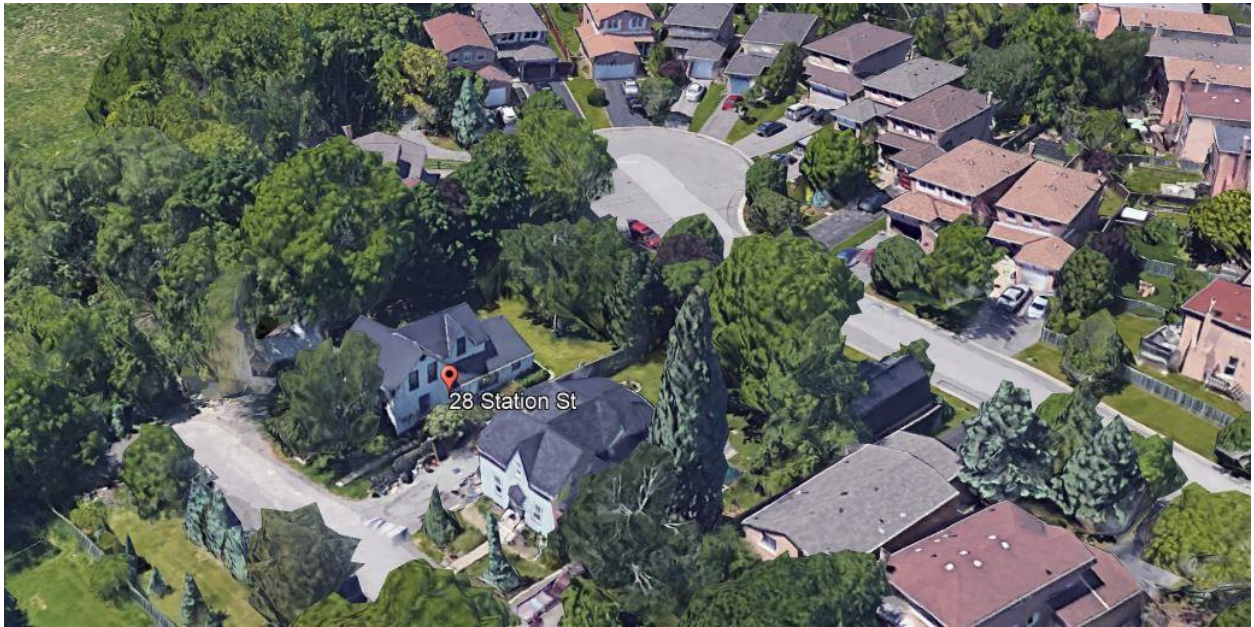
## APPENDIX "A" LOCATION MAPS



The subject property outlined in blue [above] and the boundary of the MVHCD [below]  
(Source: City of Markham)



**APPENDIX “B”**  
**PHOTOGRAPHS OF THE SUBJECT PROPERTY**



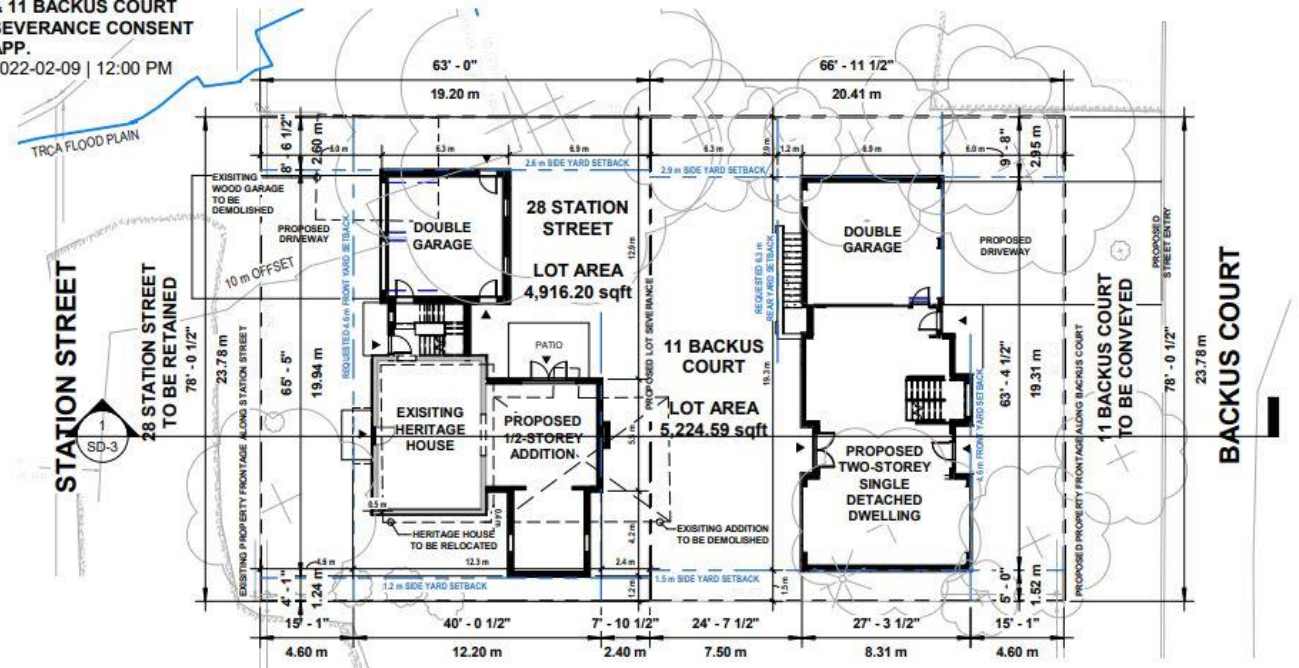
An aerial image of the subject property with Backus Court visible to the rear (north)  
(Source: Google)



The rear of subject property [the potential future site of 11 Backus Court] (Source: Google)

## APPENDIX "C" SITE PLAN AND STATISTICS

19008 - 28 STATION ST  
& 11 BACKUS COURT  
SEVERANCE CONSENT  
APP.  
2022-02-09 | 12:00 PM



SITE STATISTICS [BY-LAW 153-80, 78-86 AS AMENDED]	SECTION 7 - R9 PERMITTED	SINGLE-DETACHED EXISTING	28 STATION ST PROPOSED	11 BACKUS CT PROPOSED
MIN. LOT FRONTAGE	12 m	23.78 m	EXISTING	EXISTING
MIN. LOT AREA	371.5 sqm [3998.79 sqft]	942.11 sqm [10,140.8 sqft]	456.73 sqm [4,916.20 sqft]	485.38 sqm [5,224.59 sqft]
MAX. COVERAGE	40.0 %	10.34 %	33.32 % [1,637.90 sqft]	30.41% [1,588.82 sqft]
MIN. FRONT YARD SETBACK	6 m	5.9 m	4.6 m	4.6 m
MIN. SIDE YARD SETBACKS	1.2 m [1-STY] 1.8 m [2-STY]	3.9 m [EAST] 12.1 m [WEST]	1.2 m [EAST] 2.6 m [WEST]	1.5 m [EAST] 2.9 m [WEST]
MIN. REAR YARD SETBACK	7.5 m	19.4 m	2.40 m	6.30 m
MAX. BUILDING HEIGHT	10.7 m	± 8.2 m	EXISTING	9.6 m

(Source: Applicant)

**APPENDIX “D”**  
**BUILDING ELEVATIONS**



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1 28 STATION - NORTH ELEVATION  
1/8" = 1'-0"

21001 - 28 STATION STREET  
SEVERANCE CONSENT APP.  
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CITY OF MARKHAM ePLAN

28 STATION / 11 BACKUS - SEVERANCE

28 STATION STREET, MARKHAM, ON.

GRAHAM DEWAR & CAROLINE DEWAR  
OLD VILLAGE CONSTRUCTION



No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985



SEVERANCE CONSENT APPLICATION

No	Description	Date	By	Drawn by YS
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				Scale 1/8" = 1'-0"
				Project Number 21001
				DRAWING TITLE 28 STATION NORTH ELEVATION
				SHEET NUMBER 1A-2.3

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1 28 STATION - WEST ELEVATION  
1/8" = 1'-0"

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28 STATION / 11 BACKUS - SEVERANCE  
28 STATION STREET, MARKHAM, ON.

GRAHAM DEWAR & CAROLINE DEWAR  
OLD VILLAGE CONSTRUCTION



No. 8 Maple Lane  
Unionville, ON  
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Fax: (905) 479-9985



DAVID JOHNSTON  
LICENCE  
2292

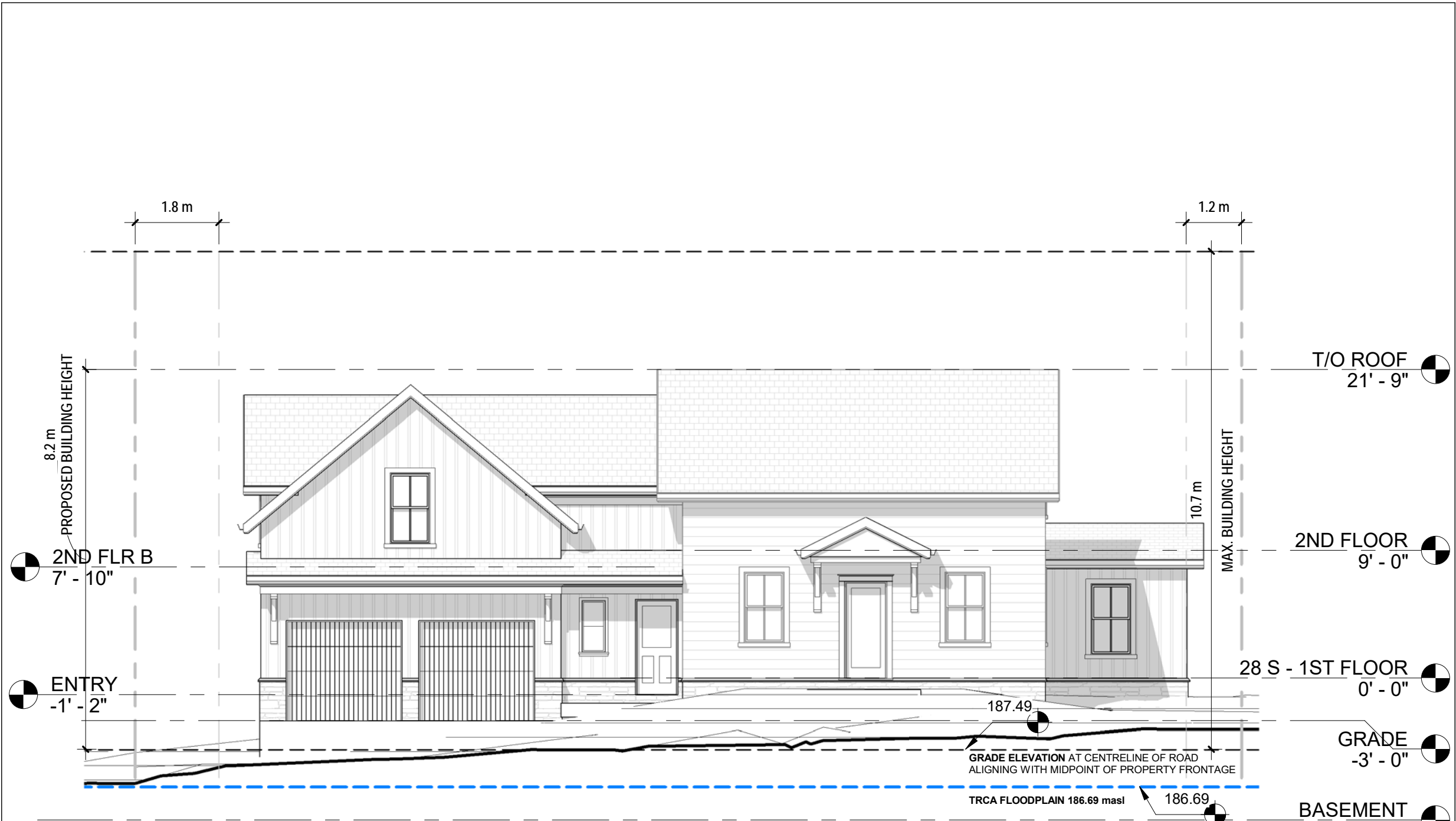
SEVERANCE CONSENT APPLICATION

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				SHEET NUMBER 1A-2.2

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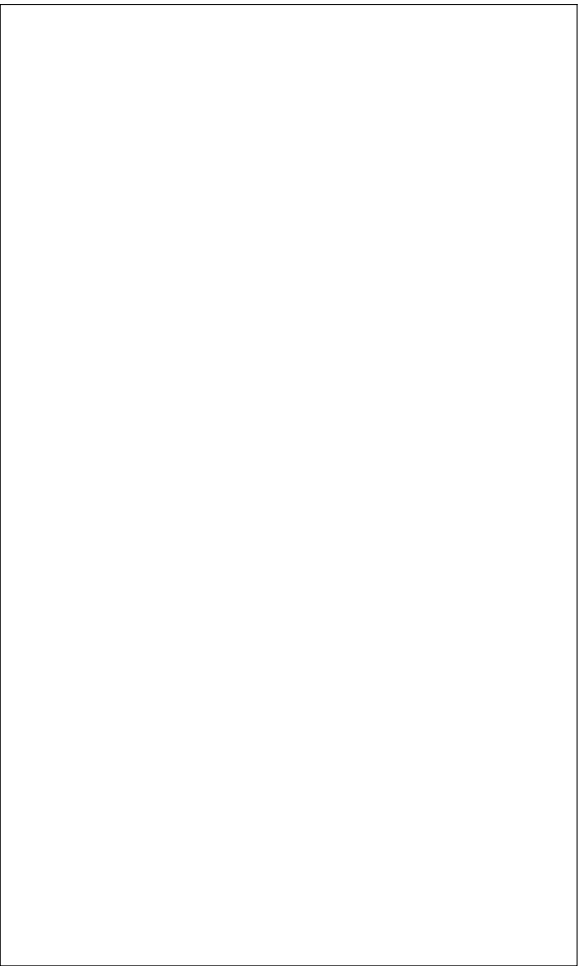
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1 28 STATION - SOUTH ELEVATION  
1/8" = 1'-0"

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CITY OF MARKHAM ePLAN

28 STATION / 11 BACKUS - SEVERANCE  
28 STATION STREET, MARKHAM, ON.

GRAHAM DEWAR & CAROLINE DEWAR  
OLD VILLAGE CONSTRUCTION

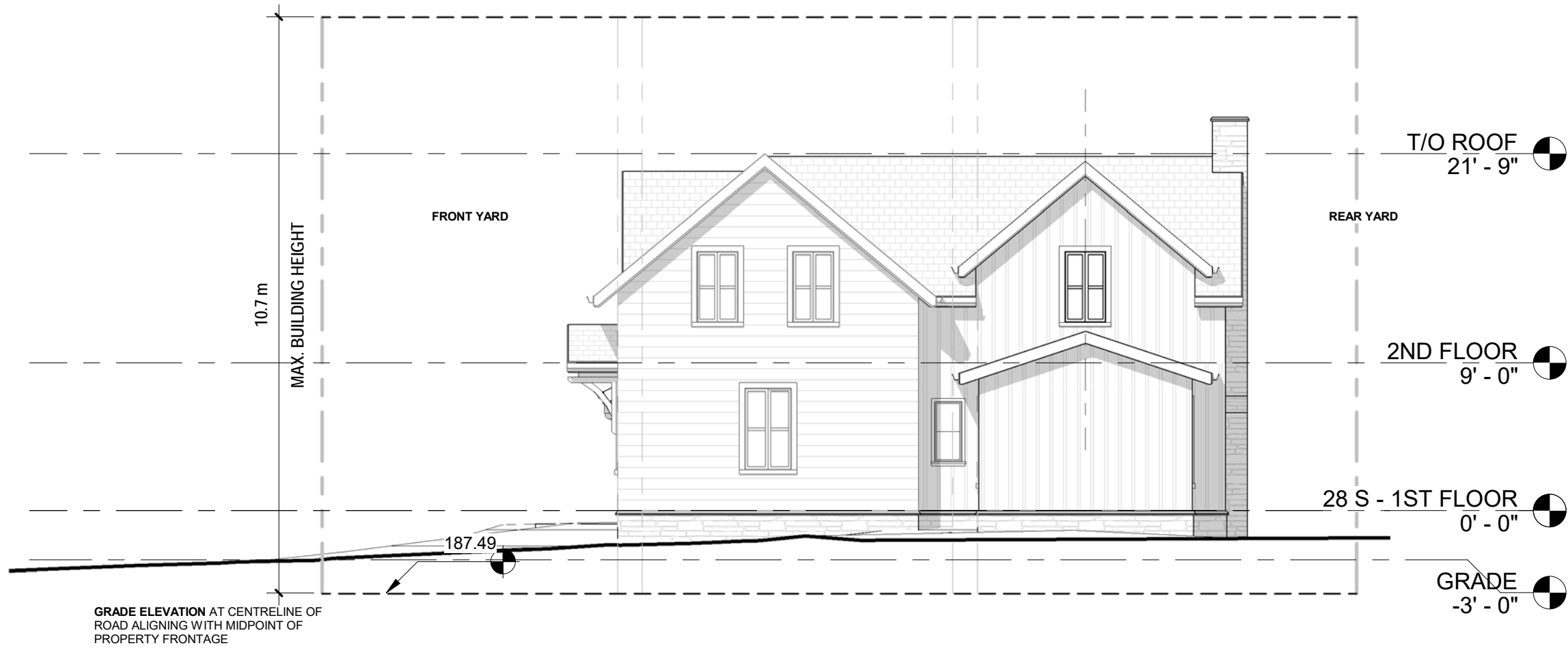
No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985

DAVID JOHNSTON  
LICENCE  
2292

SEVERANCE CONSENT APPLICATION

No	Description	Date	By	Drawn by YS
				Date 2022-02-07
				Scale 1/8" = 1'-0"
				Project Number 21001
				DRAWING TITLE 28 STATION SOUTH ELEVATION
				SHEET NUMBER 1A-2.1

2022-02-09 2:03:28 PM



1 **28 STATION - EAST ELEVATION**  
1/8" = 1'-0"

**21001 - 28 STATION STREET**  
**SEVERANCE CONSENT APP.**  
 2022-02-09 | 12:00 PM

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CITY OF MARKHAM ePLAN

## 28 STATION / 11 BACKUS - SEVERANCE

28 STATION STREET, MARKHAM, ON.

**GRAHAM DEWAR & CAROLINE DEWAR**  
**OLD VILLAGE CONSTRUCTION**



No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985



## SEVERANCE CONSENT APPLICATION

[illegible]



2 11 BACKUS - EAST ELEVATION  
1/8" = 1'-0"

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ONTARIO ASSOCIATION  
OF  
ARCHITECTS  
DAVID JOHNSTON  
LICENCE  
2292

## SEVERANCE CONSENT APPLICATION

[illegible]

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1 11 BACKUS - SOUTH ELEVATION  
1/8" = 1'-0"

19008 - 11 BACKUS COURT  
SEVERANCE CONSENT  
APP.  
2022-02-09 | 12:00 PM

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28 STATION / 11 BACKUS - SEVERANCE  
11 BACKUS COURT, MARKHAM, ON.

GRAHAM DEWAR & CAROLINE DEWAR  
OLD VILLAGE CONSTRUCTION

No. 8 Maple Lane  
Unionville, ON  
L3R 1K2  
Phone: (905) 479-9992  
Fax: (905) 479-9985

DAVID JOHNSTON  
LICENCE  
2292

SEVERANCE CONSENT APPLICATION

No	Description	Date	By	Drawn by YS
				Date 2022-02-09
				Scale 1/8" = 1'-0"
				Project Number 19008
				DRAWING NAME 11 BACKUS SOUTH ELEVATION
				SHEET NUMBER 2A-2.3

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CITY OF MARKHAM ePLAN



### 1 3D View 4

**21001 - 28 STATION STREET**  
**SEVERANCE CONSENT APP.**  
 2022-02-09 | 12:00 PM

CITY OF MARKHAM ePLAN

**28 STATION / 11 BACKUS - SEVERANCE**

28 STATION STREET, MARKHAM, ON.

**GRAHAM DEWAR & CAROLINE DEWAR**  
**OLD VILLAGE CONSTRUCTION**



No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985



## SEVERANCE CONSENT APPLICATION

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**21001 - 28 STATION STREET**  
**SEVERANCE CONSENT APP.**  
 2022-02-09 | 12:00 PM



ONTARIO ASSOCIATION  
OF  
ARCHITECTS  
DAVID JOHNSTON  
LICENCE  
2292

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### 1 3D View 6

**21001 - 28 STATION STREET  
SEVERANCE CONSENT APP.**  
2022-02-09 | 12:00 PM

CITY OF MARKHAM ePLAN

## 28 STATION / 11 BACKUS - SEVERANCE

28 STATION STREET, MARKHAM, ON.

**GRAHAM DEWAR & CAROLINE DEWAR  
OLD VILLAGE CONSTRUCTION**



No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985



## SEVERANCE CONSENT APPLICATION

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**19008 - 11 BACKUS COURT  
SEVERANCE CONSENT  
APP.**  
2022-02-09 | 12:00 PM

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CITY OF MARKHAM ePLAN

**28 STATION / 11 BACKUS - SEVERANCE**

11 BACKUS COURT, MARKHAM, ON.

**GRAHAM DEWAR & CAROLINE DEWAR**  
**OLD VILLAGE CONSTRUCTION**



No. 8 Maple Lane  
Unionville, ON  
L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9985



## SEVERANCE CONSENT APPLICATION

[illegible]

## **APPENDIX “E”**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE B/002/22 (CONSENT)**

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under File B/002/22, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the *Planning Act*.
3. Submission to the Secretary-Treasurer of a reference plan showing the subject lands, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. Provide confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all the requirements of the applicable Zoning By-law, including any development standards for building and structures, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate.
6. That the Secretary-Treasurer receive written confirmation from the Fire Chief that a satisfactory solution has been provided regarding fire services access to 26 Station Street prior to final approval of the severance application;
7. That the applicant satisfies the requirements of the Toronto and Region Conservation Authority, Metrolinx and Electra as indicated in their communication to the Secretary-Treasurer attached as Appendices G, H and I to this Staff Report, and that the Secretary-Treasurer receive written confirmation from these bodies that this condition has been fulfilled to their satisfaction;
8. That the applicant enter into a Heritage Easement Agreement with the City of Markham for the retained parcel to further protect the cultural heritage resource;
9. Fulfillment of all of the above conditions within two years of the date that notice of the decision was given under Section 53(17) or 53(24) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended.

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/088/22, A/089/22, (VARIANCES)**

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 appended 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. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed development;
4. That the owner implement and maintain all of the works required in accordance with the conditions of this variance;

5. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Trees for Tomorrow Streetscape Manual, to the satisfaction of the Director of Planning and Urban Design, or their designate, through the future Site Plan Approval process;

6. That tree replacements be provided and/or tree replacement fees be paid to the City where required, in accordance with the City's Trees for Tomorrow Streetscape Manual and Accepted Tree Assessment and Preservation Plan, through the future Site Plan Approval process;

7. That prior to the commencement of construction, demolition and/or issuance of building permit, tree protection be erected and maintained around all trees on site, including City of Markham street trees, in accordance with the City's Trees for Tomorrow Streetscape Manual, Accepted Tree Assessment and Preservation Plan, and conditions of the site plan agreement, to be inspected by City staff to the satisfaction of the Director of Planning and Urban Design, or their designate;

8. The Owner shall enter into a Development Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design and/or the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including but not limited to:

- I. Payment of cash-in-lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement;
- II. Submission of an Appraisal report prepared by a member of the Appraisal Institute of Canada in accordance with the City's terms of reference respecting the proposed new lot, to be reviewed and approved by the City.

9. 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;

9. That the owner remove the holding provision from the land use zone category for the subject properties through a Hold Removal By-law.

CONDITIONS PREPARED BY:



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Evan Manning, Senior Heritage Planner

**APPENDIX “F”  
HERITAGE MARKHAM EXTRACT**

**HERITAGE MARKHAM  
EXTRACT**

Date: July 13, 2022

To: R. Hutcheson, Manager, Heritage Planning  
E. Manning, Senior Heritage Planner

EXTRACT CONTAINING ITEM # 6.4 OF THE SIXTH HERITAGE MARKHAM  
COMMITTEE MEETING HELD ON July 13,  
2022

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**6.4 COMMITTEE OF ADJUSTMENT APPLICATIONS**

**CONSENT AND MINOR VARIANCES TO PERMIT A NEW LOT  
AND DWELLING**

**28 STATION STREET AND 11 BACKUS COURT, MARKHAM  
VILLAGE HERITAGE CONSERVATION DISTRICT (16.11)**

Evan Manning, Senior Heritage Planner reviewed the consent application to sever the rear portion of 28 Station Lane in order to create a new building lot to be municipally known as 11 Backus Court.

Mr. Manning further advised that the applicant is also seeking relief from Zoning By-law 153-80, as amended, to permit an addition to 28 Station Street, and a proposed dwelling new dwelling at 11 Backus Court. It is the opinion is Staff that there was sufficient rear yard amenity space following the proposed severance, and noted that the proposed variances permitted a building form that was supportable from a heritage perspective on both properties.

He also noted that the historic context of 28 Station Street has already been fundamentally altered with the subdivision of adjacent lands in the mid/late 1970s, and that the severance application was a continuation of this process of land division. It was also noted that the proposed dwelling on 11 Backus Court would not be accessed from the Markham Village Heritage Conservation District, and would have a minimal visual impact as seen from adjacent heritage properties.

**Recommendations:**

THAT Heritage Markham has no objection from a heritage perspective to the requested consent application and variances to permit a new rear addition with integrated garage at 28 Station Street, and a new two-story dwelling with integrated garage at 11 Backus Court;

AND THAT final review of the future Site Plan Control applications for both properties, and any other development application required to approve the proposed developments, be delegated to Heritage Section staff should the design remain generally consistent with the drawings appended to this memo.



## **APPENDIX “G” TRCA CONDITIONS**

### **Comments**

The Consent Application would facilitate the creation of a severed/new lot located outside of the flood plain (186.69 masl) and its 10 metre setback in accordance with TRCA's Policies, a retained lot that is entirely outside of the flood plain and mostly outside of its 10-metre setback, and access to the severed an retained lots are outside of the flood plain. Accordingly, TRCA has no objection to the proposed Consent Application.

The proposed Minor Variance Applications would allow for a reduced front yard setback and reduced rear yard setback for the retained lot (28 Station Street – A/088/22), and a reduced front yard setback for the new lot (11 Backus Court – A/089/22). TRCA staff have no concerns with these variances. We note that the proposed development on the retained lot (28 Station Street) is within TRCA's Regulated Area and will require a permit from TRCA. However, we find that appropriate measures were included in this submission to satisfy TRCA Regulation and Policies. This includes the removal of the existing wood garage situated almost entirely within the 10 metre setback to the flood plain, an increased development setback to the flood plain (new development is mostly outside of the 10-metre setback, with the exception of a small corner of the garage/addition) and additional buffering from the flood plain by the existing grades. We look forward to reviewing the proposed grading and erosion and sediment control measures as part of the Site Plan and TRCA Permit Application processes.

### **Recommendation**

In light of the above, TRCA staff have no objection to Consent Application B/002/22 and Minor Variance Applications A/088/22 and A/089/22, subject to the following condition:

1. That the outstanding planning Consent – Minor fee (\$1470) be remitted to TRCA.
2. That the owner of 28 Station Street (retained lot) obtain a permit from TRCA for all development within TRCA's Regulated Area under Ontario Regulation 166/06.

As noted above, considerations for future Site Plan and Permit applications include:

- Please show the limit of grading and erosion and sediment control (ESC) measures and demonstrate that all associated construction works will be entirely on the subject property.

Please contact our office for a permit application checklist once you are ready to apply for a TRCA permit. TRCA permits should be issued after Site Plan Approval and prior to the issuance of municipal permits.

## APPENDIX "H" METROLINX CONDITIONS

Committee of Adjustment  
City of Markham  
Markham Civic Centre  
101 Town Centre Boulevard  
Markham, Ontario, L3R 9W3

Attention: Shawna Houser

Re: Application: 22.110789.000.00.CSNT  
28 Station Street, City of Markham

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Metrolinx is in receipt of the Consent to Sever and minor variance application for 28 Station Street to facilitate the severance of the existing property and construction of two new detached dwellings. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters of Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor
  - **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact [Harrison.Rong@Metrolinx.com](mailto:Harrison.Rong@Metrolinx.com) with questions and to initiate the registration process.

Should you have any questions or concerns, please do not hesitate to contact me.

Best regards,

*Harrison Rong*

Harrison Rong  
Project Coordinator, Third Party Projects Review  
Capital Projects Group  
Metrolinx  
20 Bay Street Suite 600, Toronto