

Memorandum to the City of Markham Committee of Adjustment

May 7, 2025

File: A/033/25
Address: 17 Chiavatti Drive, Markham
Agent: Weston Consulting (Jane McFarlane)
Hearing Date: Wednesday, May 14, 2025

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

The Applicant is requesting relief from the following requirements of the “Residential – Established Neighbourhood Low Rise (RES-ENLR)” zone under By-law 2024-19, as amended, to permit:

- a) **By-law 2024-19, Section 6.3.2.2(F)**: a minimum front yard setback of 1.0 metre, whereas the by-law requires a minimum front yard setback of 16.26 metres;
- b) **By-law 2024-19, Section 6.3.2.2(I)**: a minimum combined interior side yard of 6.14 metres, whereas the by-law requires a minimum combined interior side yard of 7.5 metres;

as it relates to a proposed below grade addition for general storage and vehicles for an existing two-storey residential dwelling.

BACKGROUND

Property Description

The 1,756.75 m² (18,909.50 ft²) subject lands are located on the south side of Chiavatti Drive, east of Alai Circle, and generally south of 14th Avenue and east of Kennedy Road (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey detached dwellings.

There is an existing two-storey detached dwelling on the Subject Lands, which according to assessment records was constructed in 2001.

Proposal

The Applicant is proposing to construct a 155.03 m² (1,668.73 ft²) below grade addition under the existing driveway (the “Proposed Development”) (refer to Appendix “B” – Plans).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the Subject Lands as “Residential Low Rise”, which permits 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. These criteria are

established to ensure that infill developments are 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 the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-Law 2024-19

The Subject Lands are zoned “Residential – Established Neighbourhood Low Rise” (RES-ENLR) under By-law 2024-19, as amended, which permits one single detached dwelling per lot.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The Applicant submitted revised drawings on April 23, 2025. The Applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently, it is the Applicant’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.

Reduction in Front Yard Setback

The Applicant is requesting relief to permit a minimum front yard setback of 1.0 m (3.28 ft), whereas the By-law requires a minimum front yard setback of 16.26 m (53.35 ft). This represents a reduction of approximately 15.26 m (50.07 ft). This variance is entirely attributable to the proposed below grade addition located in the front yard, below the existing driveway.

Staff note that the above-grade front yard setback to the existing dwelling is 15.88 m (52.10 ft) which is a minor deviation from what the By-law permits and is generally consistent with the established front yard setback pattern on the street. This is noteworthy, as Staff are of the opinion that this setback can be interpreted as the front yard setback and meets the intent of the Official Plan and Zoning By-law. Furthermore,

Staff are also of the opinion that the proposed below grade addition will have minimal impacts on the surrounding properties and neighbourhood streetscape.

Given that the proposed addition is entirely underground, Staff recommend that should the Committee approve the requested variance, a condition of approval should ensure that the variance applies only to the below grade portion of the Proposed Development by requiring that the above-grade portion of the building maintain a minimum front yard setback of 15.88 m (52.10 ft). This recommendation is outlined in the conditions in Appendix "C" of this report.

Reduced Side Yard Setback

The Applicant is requesting a minimum combined interior side yard setback of 6.14 m (20.14 ft), whereas the By-law requires a minimum combined interior side yard setback of 7.5 m (24.61 ft).

The requested variance was identified during the initial ZPR conducted on March 27, 2025. The purpose of this variance is to recognize the existing setbacks of the main building, which was built prior to the passing of By-law 2024-19.

Staff are of the opinion that the variance is minor in nature, and is in keeping with the character of the neighbourhood.

PUBLIC INPUT SUMMARY

Two written submissions in support of the Proposed Development were received as of May 7, 2025. 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 and have no objection. 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Brendan Chiu, Planner I, Central District

REVIEWED BY:



Melissa Leung, Senior Planner, RPP MCIP, Central District

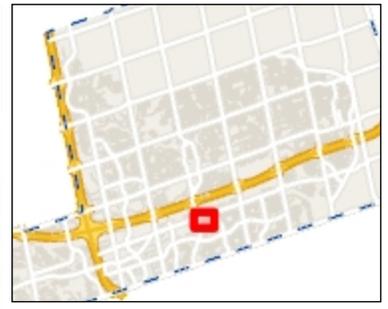
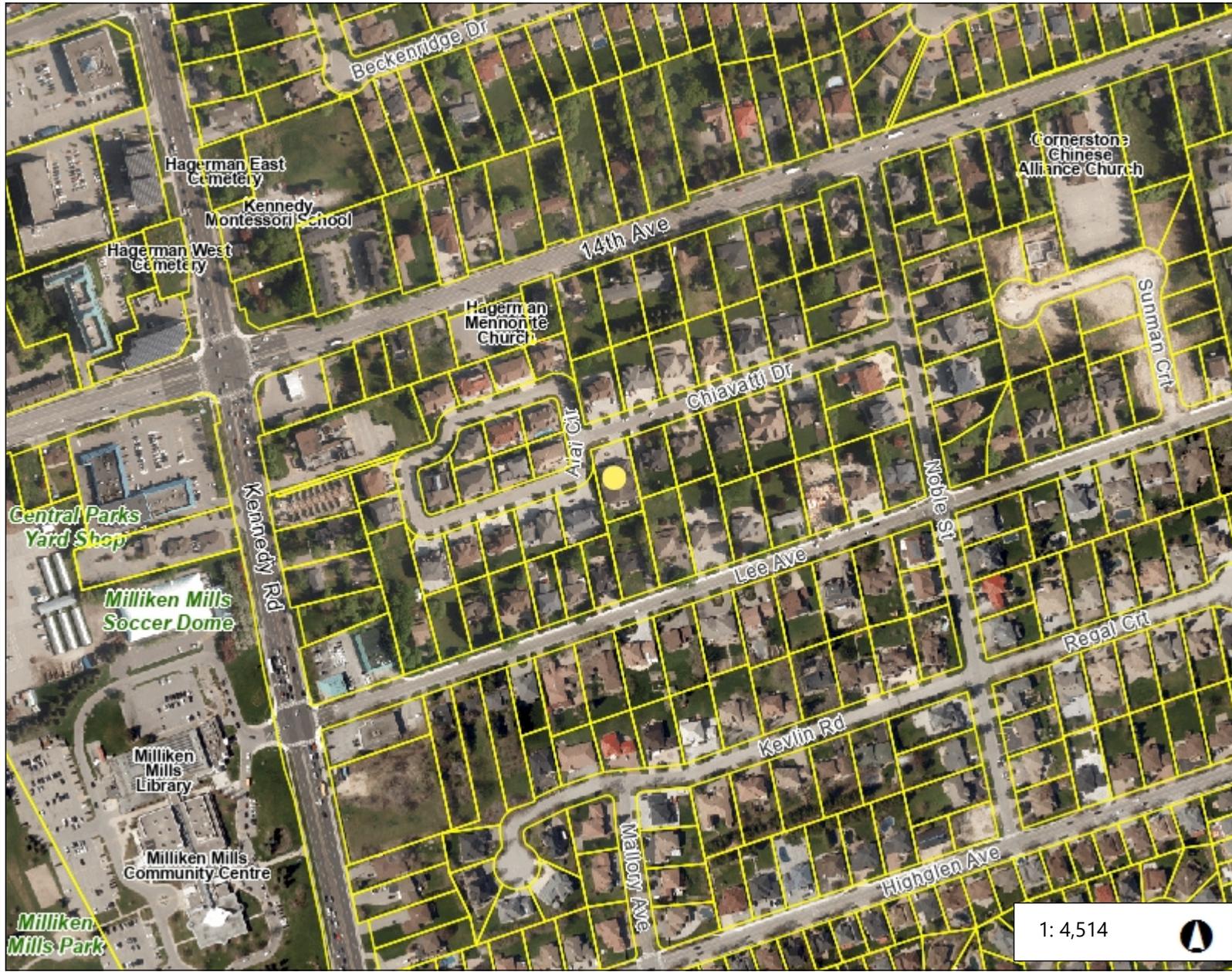
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APPENDICES

Appendix "A" – Aerial Context Photo

Appendix "B" – Revised Plans

Appendix "C" – Conditions of Approval for A/033/25



Legend

- Subject Lands
- 17 Chivatti Drive

Notes

1:4,514

229.3 0 114.66 229.3 Meters

NAD_1983_UTM_Zone_17N
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DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.



Appendix B

File: 25.115287.000.00.MNV

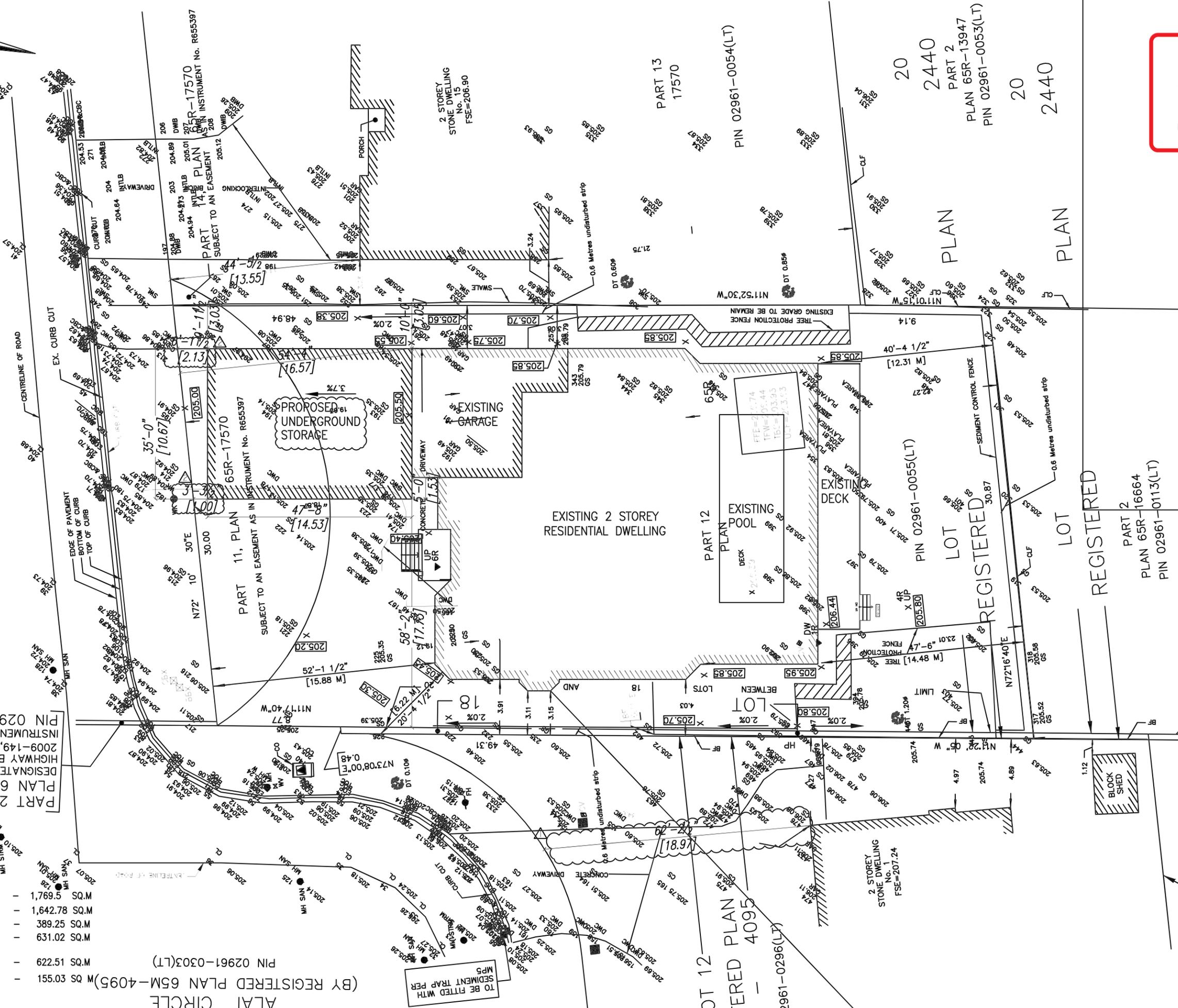
Date: 5/7/2025

MM/DD/YYYY

CHIAVATTI DRIVE
 DEDICATED AS PUBLIC HIGHWAY BY BY-LAW NO. 77-95, INSTRUMENT NO. R658811
 PART 19, PLAN 65R-17570
 PIN 02961-0048(LT)

PART 21
 PLAN 65R-17570
 DESIGNATED AS A PUBLIC
 HIGHWAY BY BY-LAW NO.
 2009-149, AS SET OUT IN
 INSTRUMENT NO. YR1389226
 PIN 02961-0119(LT)

- STATISTICS:**
- ZONING: SUR3
 - LOT AREA: 1,769.5 SQ.M
 - EXISTING HOUSE AREA(GFA): 1,642.78 SQ.M
 - EXIST. BASEMENT: 389.25 SQ.M
 - EXIST. GRND FLR W/EXIST.POOL: 631.02 SQ.M
 - AND EXIST. GARAGE
 - EXIST. 2ND FLR: 622.51 SQ.M
 - PROPOSED UNDERGROUND STORAGE: 155.03 SQ.M



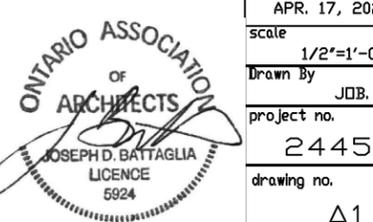
NO.	ISSUE/REVISION	DATE
2	AS PER CITY COMMENTS	4-17-25
1	AS PER CITY COMMENTS	3-20-25

The contractor shall check and verify all dimensions and report all errors and omissions to the Architect before proceeding with the work. This drawing is the property of the Architect and must be returned on completion of the work. Do not scale drawings.

BATTAGLIA ARCHITECT INC.
 1050 MCNICOLL AVE., UNIT 14 SCARBOROUGH, ONT.
 TEL: (416) 492-7772

Project
UNDERGROUND STORAGE FOR 17 CHIAVATTI DR. MARKHAM, ONTARIO

drawing
SITE PLAN


 JOSEPH D. BATTAGLIA
 LICENCE 5924

date	APR. 17, 2025
scale	1/2"=1'-0"
Drawn By	JOB.
project no.	2445
drawing no.	A1

Appendix B

File: 25.115287.000.00.MNV

Date: 5/7/2025
MM/DD/YYYY



CROSS SECTION A-A
AT FRONT OF HOUSE

FRONT ELEVATION

NO.	ISSUE/REVISION	DATE

The contractor shall check and verify all dimensions and report all errors and omissions to the Architect before proceeding with the work. This drawing is the property of the Architect and must be returned on completion of the work. Do not scale drawings.

BATTAGLIA ARCHITECT INC.
1050 McNicoll Ave., Unit 14 Scarborough, Ont.
Tel: (416) 492-7772

Project
UNDERGROUND STORAGE FOR 17 CHIAVATTI DR. MARKHAM, ONTARIO

drawing
FRONT ELEVATION

	date	JAN. 22, 2025
	scale	3/32"=1'-0"
	Drawn By	JDB.
	project no.	2445
	drawing no.	A5

APPENDIX “C”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/033/25

1. The variances apply only to the Proposed Development as long as it remains;
2. That the variances apply only to the Proposed 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 Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction; and
3. That the above-grade portion of the building maintains a front yard setback of 15.88 m (52.10 ft)

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District