

# Memorandum to the City of Markham Committee of Adjustment

August 28, 2024

**File:** A/074/24  
**Address:** 1 Settlement Park Avenue, Markham  
**Applicant:** Pylons Architecture Inc. (Rafik Nassif)  
**Hearing Date:** Wednesday, September 11, 2024

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

The applicant is requesting relief from the following requirements of By-law 177-96, R2\*5\*8\*119 as amended, as it relates to a proposed walk-up entrance for the existing basement, to permit:

**a) By-law 177-96, Section 6.3.1.2:**

a setback of 3.98 metres of the detached private garage to the main building on the lot, whereas the by-law requires a minimum setback of 6 metres

## **BACKGROUND**

### **Property Description**

The 371.95 m<sup>2</sup> (4,003.64 ft<sup>2</sup>) subject property is located on the south side of Settlement Park Avenue, east of Ninth Line, and north of Church Street. The property is located within an established residential neighbourhood comprised of a mix of two-storey detached, semi detached and townhouse dwellings. Mature vegetation exists across the property.

There is an existing single family detached dwelling with detached garage on the property, which according to assessment records was constructed in 2001.

### **Proposal**

The applicant is proposing to construct walk-up stairs for an entrance to the existing basement.

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)  
Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighborhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

### Zoning By-Law 177-96

The subject property is zoned R2\*5\*8\*119 under By-law 177-96, as amended, which permits Single Detached, Semi-Detached, Duplex, Triples, Fourplex and Townhouse Dwellings, in addition to Home Occupations and Home Child Care. Exceptions \*5, \*8 relates to specific and additional permitted uses, zone standards, and special site provisions, and is not applicable. However, exception \*119 restricts permitted uses to Single Detached and Semi-Detached Dwellings only.

### Zoning By-law 2024-19

The subject property is zoned RES-LR4 under By-law 2024-19, as amended, which is currently under appeal at the Ontario Land Tribunal (OLT). The RES-LR4 zone permits Single Detached and Semi-Detached Dwellings, in addition to Home Occupations and Home Child Care. As per the transition clauses within Section 1.7 of By-law 2024-19, an application accepted prior to the passing of By-law 2024-19 on January 31<sup>st</sup>, 2024 shall continue to be subject to the applicable By-law in force on the day before the effective date of this by-law. A permit application (23.149261 HP) was accepted prior to the passing of By-law 2024-19, and as such, the provisions of By-law 2024-19 shall not apply to this application.

### **Zoning Preliminary Review (ZPR) Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the applicant has received comments from the building department through their permit process to confirm the variances required for the proposed development.

### **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 Setback from Main Building**

The applicant is requesting relief to permit a setback from the main building of 3.98 m (13.06 ft), whereas the By-law requires a setback of 6 m (19.69 ft). This represents a reduction of approximately 2.02 m (6.63 ft). The variance is entirely attributable to the proposed basement walk-up stairs in the rear of the building. The main rear wall of the building provides a setback of 6.30 m (20.67 ft) to the existing detached garage. Staff note there is still adequate outdoor amenity space. The proposed reduction of the setback to the main building will be restricted to the walkout stairs and will not be allowed to the main wall of the building which is reflected in the conditions of approval.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of August 29, 2024. 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.

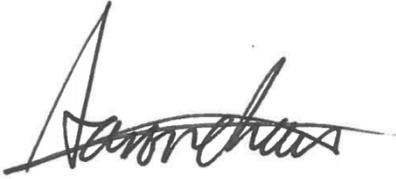
Please refer to Appendix "A" for conditions to be attached to any approval of this application.

**APPENDICIES**

Appendix 'A' – A/074/24 Conditions of Approval

Appendix 'B' - Drawings

PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aaron Chau', written in a cursive style.

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Aaron Chau, Planner I, East District

REVIEWED BY:

A handwritten signature in black ink, appearing to read 'Stacia Muradali', written in a cursive style.

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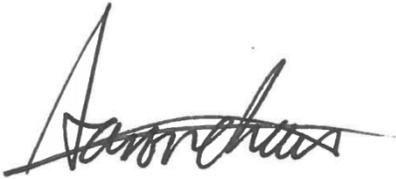
Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/074/24**

1. The variances granted under this approval are strictly limited to the proposed stairs and do not extend to any other part of the main building or property. The variances shall remain in effect only as long as the stairs are maintained in their current location and configuration.;
2. That the variances apply only to the subject stairs, 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;

CONDITIONS PREPARED BY:

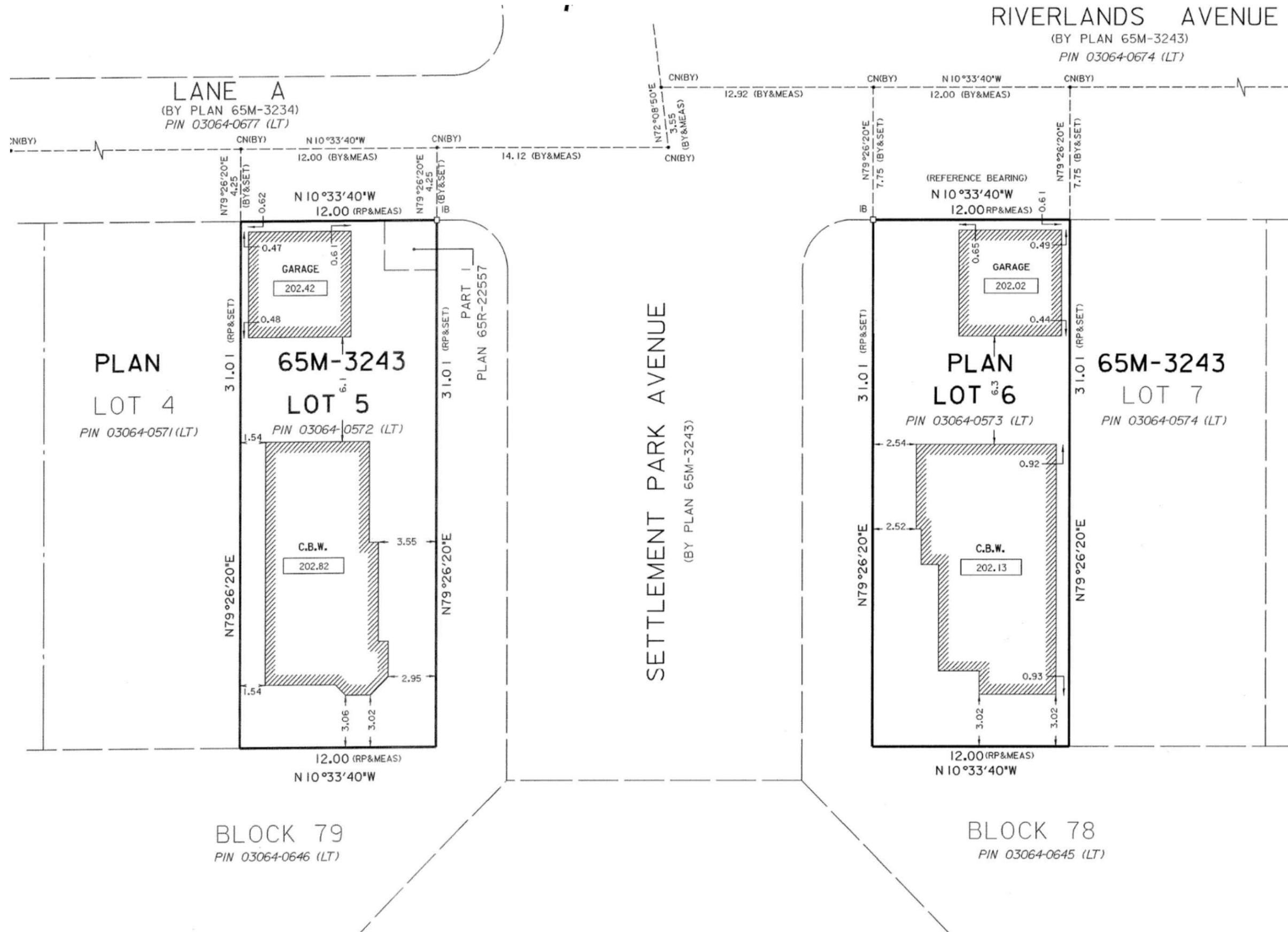
A handwritten signature in black ink, appearing to read 'Aaron Chau', written in a cursive style.

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Aaron Chau, Planner I, East District

# Appendix B

File: 24.181209.000.00.MNV  
Date: 9/3/2024  
MM/DD/YY



**01 existing land survey**  
SCALE | NTS

**PYLONS**  
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ONTARIO ASSOCIATION  
OF  
ARCHITECTS  
Rafik Nassif  
LICENCED ARCHITECT  
LICENCE  
7988

**WALK-UP ENTRANCE**  
1 SETTLEMENT PARK AVENUE,  
MARKHAM, ONTARIO L6B 1B5

**EXISTING LAND SURVEY**

Project No.:  
23-PA33  
Date:  
Sep 14, 2023  
Drawn by:  
SS/AS/RN

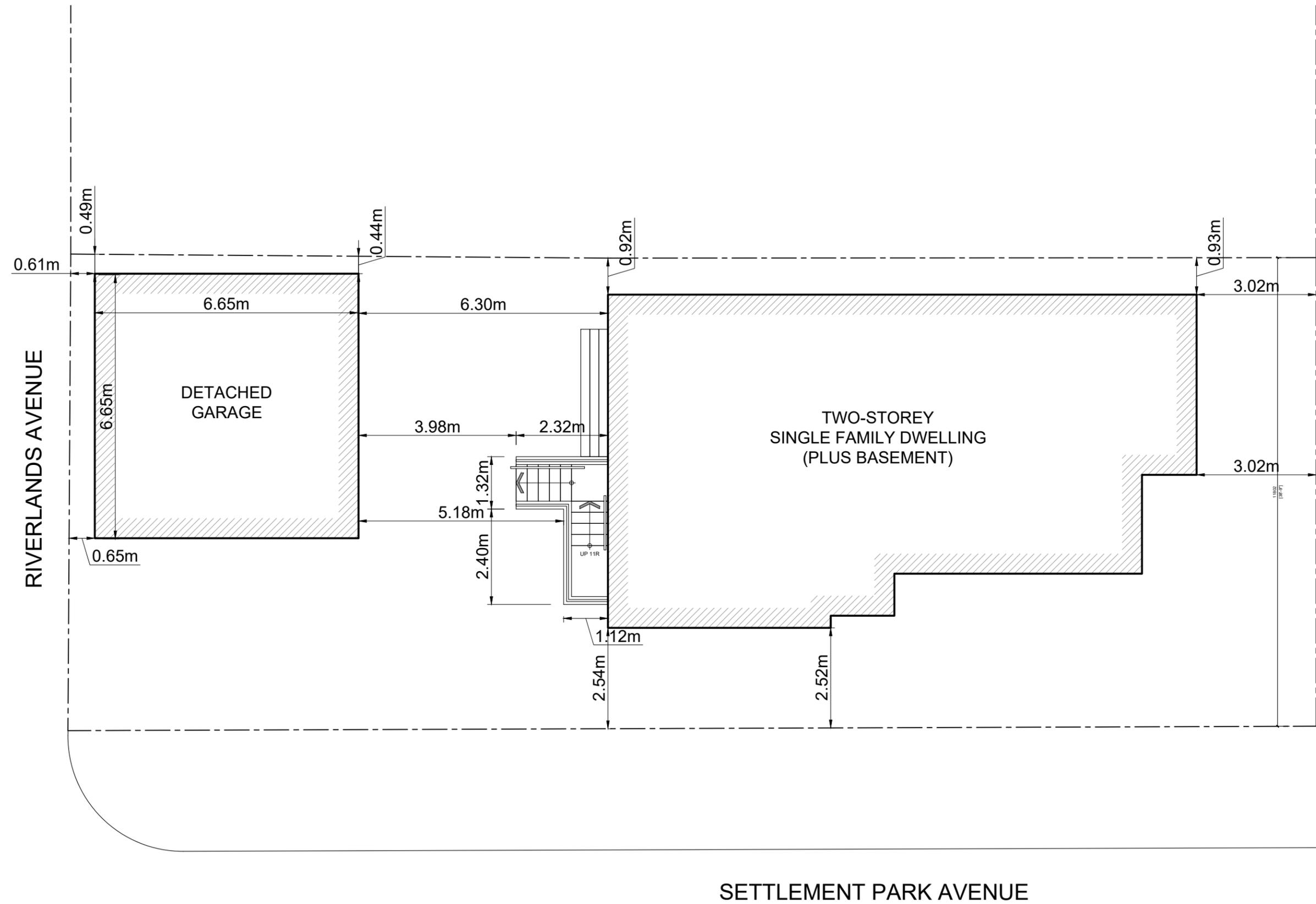
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# Appendix B

File: 24.181209.000.00.MNV  
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**WALK-UP ENTRANCE**  
1 SETTLEMENT PARK AVENUE,  
MARKHAM, ONTARIO L6B 1B5

## PROPOSED SITE PLAN

Project No.: 23-PA33  
Date: Sep 14, 2023  
Drawn by: SS/AS/RN

# A1.3

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