

# Memorandum to the City of Markham Committee of Adjustment

October 2, 2018

**File:** A/116/18  
**Address:** 137 Sherwood Forest Drive, Markham  
**Applicant:** Sanjida Begum  
**Agent:** Sanjida Begum  
**Hearing Date:** Wednesday October 10, 2018

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

The applicant is requesting relief from the following requirements of By-law 1229 R1, as amended:

- a) **Infill By-law 99-90, Section 1.2 (iii):** a maximum building depth of 17.53 m, whereas the By-law permits a maximum building depth of 16.8 m;
- b) **Infill By-law 99-90, Section 1.2 (vi):** a maximum net floor area ratio of 50.79 percent, whereas the By-law permits a maximum net floor area ratio of 45 percent;
- c) **Section 6.1 (a):** a secondary suite (basement apartment), whereas the By-law does not permit secondary suites;

as it relates to a proposed basement apartment, second-storey addition and garage extension to an existing residential dwelling.

## BACKGROUND

The 612.64 m<sup>2</sup> (6594.40 ft<sup>2</sup>) subject property is located on the south side of Sherwood Forest Drive, east of Laidlaw Boulevard and north of Highway 7 East. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There is an existing one-storey detached dwelling on the property, which according to assessment records was constructed in 1963. Vegetation exists on the property including one large mature tree in the front yard.

## Proposal

The applicant is proposing to construct a second-storey addition over the existing one-storey detached house and, a garage extension. The applicant is also requesting permission for a secondary suite in the basement of the existing dwelling. The proposed secondary suite would have direct and separate access provided by a proposed entrance at the rear of the building.

## 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 subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. Infill development is required to meet the general intent of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and also generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard must also be had for retention of existing trees and vegetation, as well as the width of proposed garages and driveways. Planning staff have had regard for the infill development criteria in the preparation of the comments provided below.

The 2014 Official Plan defines "Secondary Suite" as "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

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29<sup>th</sup>, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

### **Zoning By-Law 1229**

The subject property is zoned R1 'Residential' under By-law 1229, as amended, which permits a residential detached dwelling. The proposed development does not comply with the by-law with respect to the secondary suite.

### **Residential Infill Zoning By-law 99-90**

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to maximum building depth and maximum floor area ratio.

### **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, *"We require more living areas to accommodate our growing family. This is an 'addition' and not a 're-build' project. The unique shape of the existing house & garage allows us to re-use all of its footings/foundations and minimize demolition, disturbance and cost impact in trade of a slightly oversized garage. Most of the extra floor areas are due to the oversized garage (due to constraint of re-using existing foundation) and covered patio. Re-using existing structure and materials are cost effective and will have least impact on environment"*.

### **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 September 10, 2018. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. 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 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.

### **Increase in Maximum Building Depth**

The applicant is requesting relief to permit a maximum building depth of 17.53 m (57.51 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft). This represents an increase of approximately 0.73 m (2.39 ft).

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line.

The variance includes a front covered porch which adds approximately 1.98 m (6.5 ft) to the overall depth of the building. The main component of the building, excluding the porch but including the garage, has a depth of approximately 16.02 m (52.58 ft) which complies with the by-law requirement. Given that the proposed porch occupies a small portion of the front width of the dwelling and, that the principle dwelling maintains the existing front yard and rear yard setbacks, Staff are of the opinion that the requested variance will have no adverse impacts and is minor in nature.

### **Increase in Maximum Floor Area Ratio**

The applicant is requesting relief to permit a floor area ratio of 50.79 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of approximately 311.30 m<sup>2</sup> (3350.78 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 250.72 m<sup>2</sup> (2968.74 ft<sup>2</sup>). This represents an increase of approximately 35.49 m<sup>2</sup> (382.04 ft<sup>2</sup>).

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area. It is not a definitive measure of the mass of the dwelling, since it does not include "open to below" areas that may exist within the dwelling (e.g. two-storey foyers, atriums and/or stairs). In addition to the space associated with the stairs, there is an approximately 36.18 m<sup>2</sup> (389.49 ft<sup>2</sup>) open to below area on the second floor above the foyer which is excluded from the gross floor area calculation under the by-law.

Staff had concerns with the original minor variance requests for a maximum building depth of 17.53 m and a maximum net floor area ratio of 55.1 percent as the variances combined produced a dwelling that was not in keeping with the character of the neighbourhood. The applicant responded to Staff concerns by stepping back the garage to reduce impacts to the street and reduced the net floor area ratio request to a maximum net floor area ratio to 50.79 percent. Records indicate that there is one (1) other home on Sherwood Forest Drive which has been approved for an increase in maximum net floor area ratio. While the proposed dwelling is larger than existing homes on the street, the building footprint meets other zoning provisions (such as setbacks, height and lot coverage) that establish the prescribed building envelope. The proposed dwelling is within the prescribed building envelope, except for the floor area ratio which is considered to be minor and as a result, the proposed dwelling will be in keeping with the character of the neighbourhood.

#### 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 where appropriate. 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.

#### **PUBLIC INPUT SUMMARY**

As of October 2, 2018 the City received 3 letters expressing concerns over the massing of the proposed development, the impact to the streetscape, concerns about trees, and the secondary suite being used as a rental unit. 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.

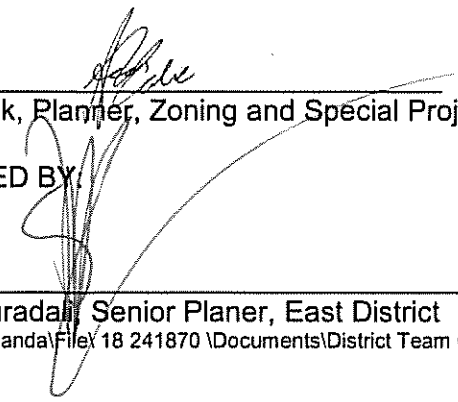
#### **CONCLUSION**

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:



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Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:

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Stacia Muradali, Senior Planer, East District


File Path: Amanda\Files\18 241870 \Documents\District Team Comments Memo

## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/116/18**

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 and dated September 10, 2018 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;
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;
5. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
6. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations;
7. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.

CONDITIONS PREPARED BY:

  
Aqsa Malik, Planner, Zoning and Special Projects

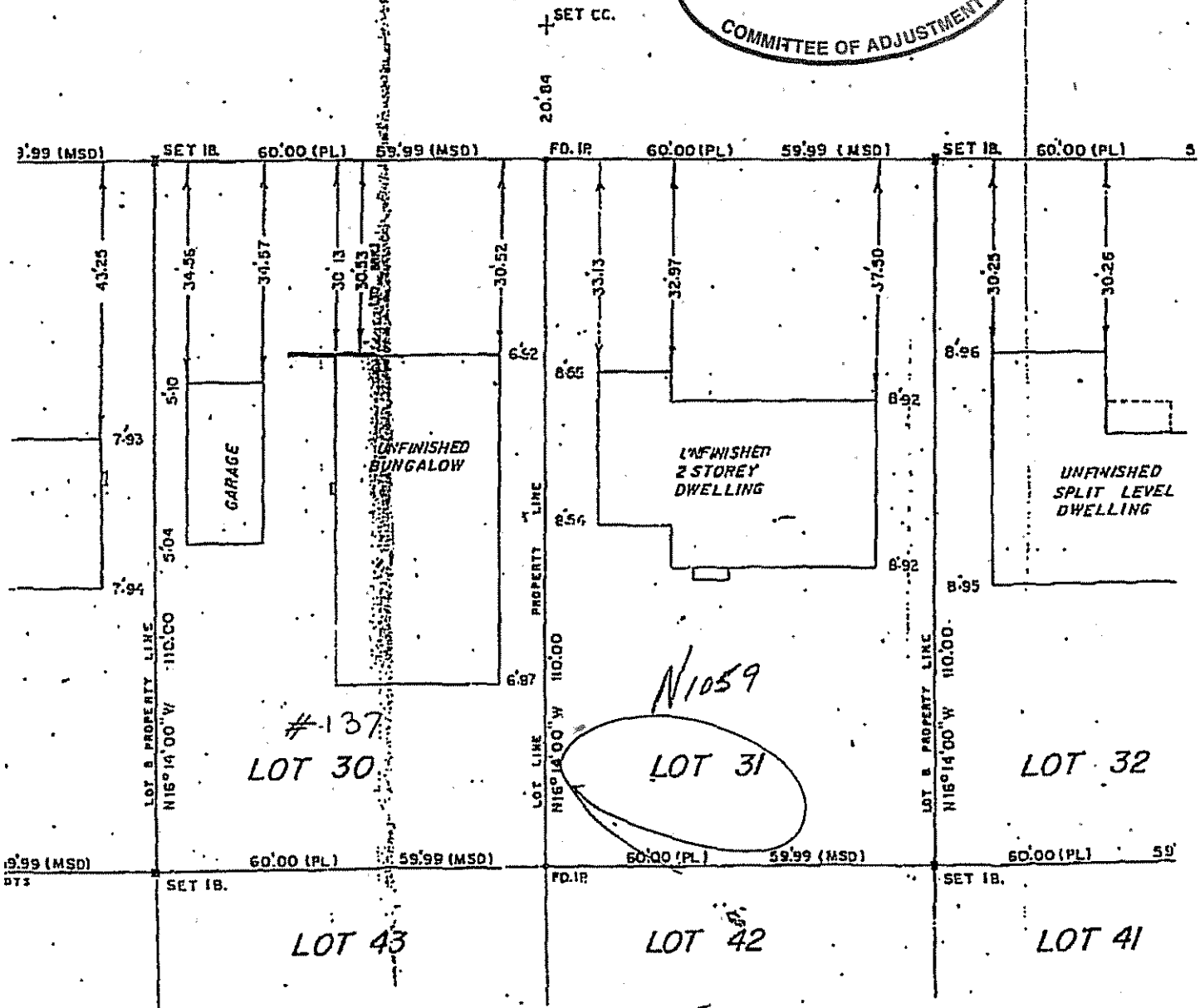
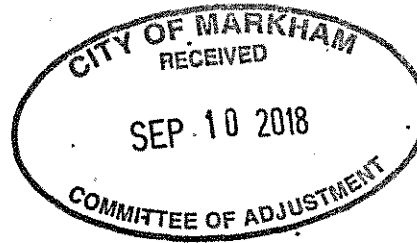
# APPENDIX B

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M. LAY & VERESHCHAK

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## DRIVE

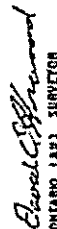


### NOTE

SIB DENOTES 1" SQ IRON BAR  
 IB " 3/8" " "  
 IP " IRON PIPE  
 " " SET IRON PIPE  
 CC " CUT CROSS  
 TITLE SURVEYS 16 AUG. 1993

**B. J. HAYNES**  
 PROFESSIONAL ENGINEER & ONTARIO LAND S  
 1720, LAWRENCE AVENUE EAST  
 SCARBOROUGH, ONT.  
 - PLYMOUTH 7-2836

# DRIVE



CALL 1:20  
DATE 27 JULY 1963  
OR CH-07  
PROJECT NR 63-117

**B. J. HAYNES**  
PROFESSIONAL ENGINEER & COSTARIO LAND SURVEYOR  
1770, LAWRENCE AVENUE EAST  
SCARBOROUGH, ONT.  
- PLYMOUTH 7-2834

NOTE: 1. DEMOTES 1" TO FROM DAN  
IN " 9/2" -  
IP " IRON PIPE  
" " SET IRON PIPE  
CC " CUT CHAIR  
TITLE SURTYPE IN ALL ARE



# SECOND STORY ADDITION & GARAGE EXTENSION

137 SHERWOOD FOREST DRIVE, MARKHAM

LOT INFORMATION	
Lot Frontage	60 ft
Lot Depth	110 ft
Lot Area	6600 SF

FLOOR AREAS	Area	% of Lot Area	Remarks
Ground Floor Area (Proposed & Existing)	1,275 SF		
Existing Garage Area	300 SF		
Proposed Garage Area	586.01 SF	10.19%	
Garage Addition	286.01 SF		
Proposed 2nd Story Area	1,491.01 SF		Excluding Balcony
Open to Below/Double Height Area	389.49 SF		

## List of Drawings

A 01: Cover Page
A 02: Existing Site Plan
A 03: Proposed Site Plan & Garage Extension
A 04: Proposed 2nd Floor
A 05: Elevation, West & Building Height
A 06: Elevation, North, East & South
A 07: Finished Site Layout
A 08: Basement Plan
A 09: Proposed First Floor Plan
A 10: Proposed 2nd Floor Plan

	Min. Req.	Max. Allowed	Proposed	Remarks
Setback - Front Yard	25 ft	N/A	25 ft 6 in	Existing 30 ft 6" per survey. Proposed setback excludes porch stair 18"
Setback - Side Yard West/Garage Side (1-story portion)	4 ft		5 ft 1 in	
Setback - Side Yard West/Garage Side (2-story portion)	6 ft		7 ft 1 in	
Setback - Side Yard East Side (1-story portion)	4 ft		7 ft 0 in	
Setback - Side Yard East Side (2-story portion)	6 ft		7 ft 0 in	
No. of Storeys		2	2	
Building Height		9.8m or 32 ft	31 ft 10 in	
Building Depth		16.8m or 55 ft	17.53m or 57ft 6 in	from porch stair to rear of building
Lot Coverage		35%	28.80%	1,275 SF Ground Fl, 586.01 SF Garage, 40 SF Porch
Net Floor Area Ratio		45%	50.79%	1,491.01 SF Second Floor. TOTAL NFA = 1,275+586.01+1,491.01

REVISIONS	
DATE	REVISIONS
1 2016.06.2016	REVISED FOR ZONING REVIEW
2 07.25.2016	REVISED FOR LUNDA VARIANCE APPLICATION
3 08.25.2016	N/A REDUCED, SUBMITTED FOR ZONING REVIEW
4 11.11.2016	
5 11.11.2016	
6 11.11.2016	

## SECOND STORY ADDITION & GARAGE EXTENSION

ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM



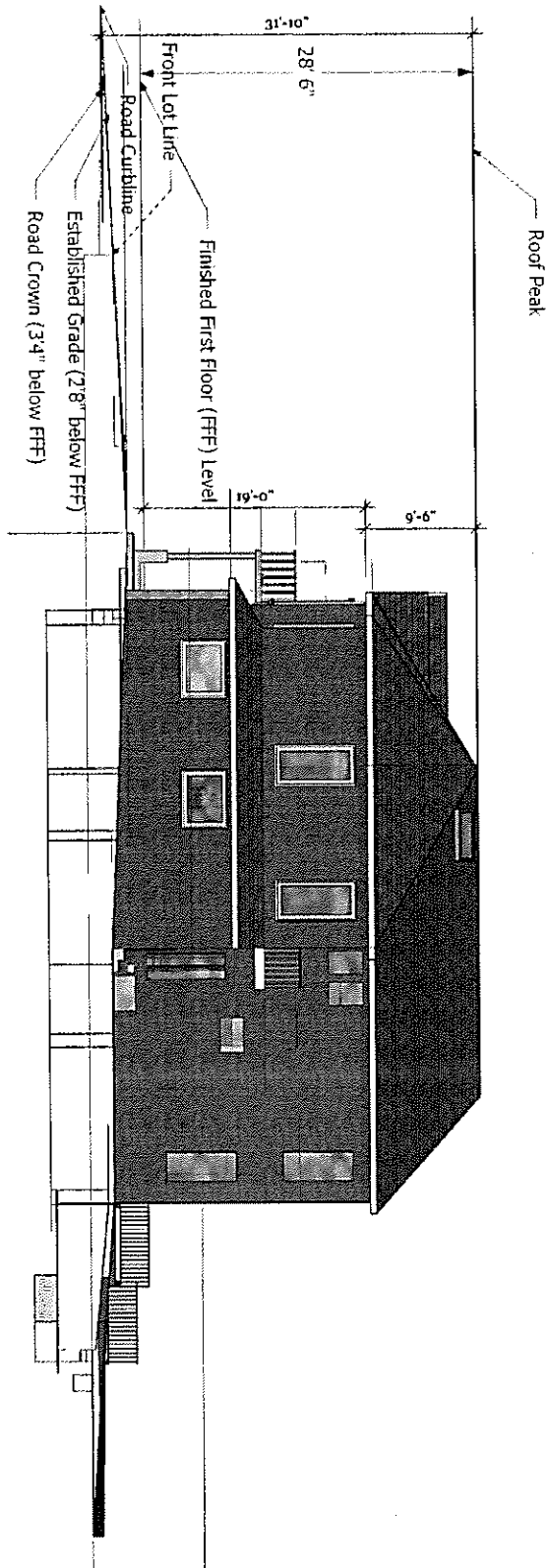
Cover Page  
Not to Scale  
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A 01






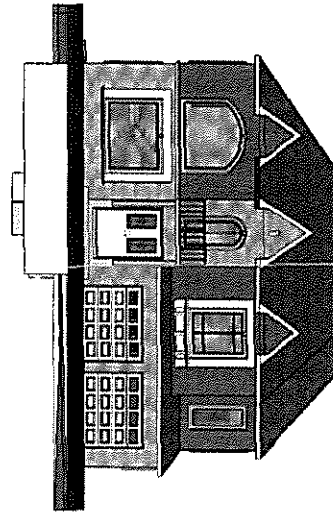




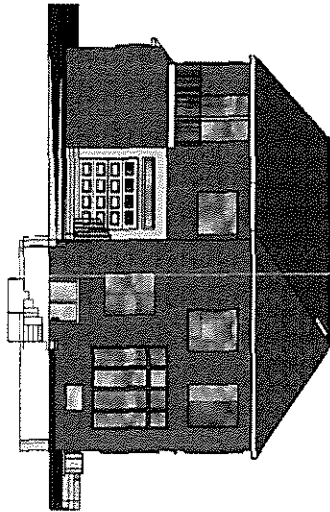
Elevation - West

NOTE: STONE  
/ BRICK, DOOR AND  
WINDOW TRIM  
COLORS MAY VARY

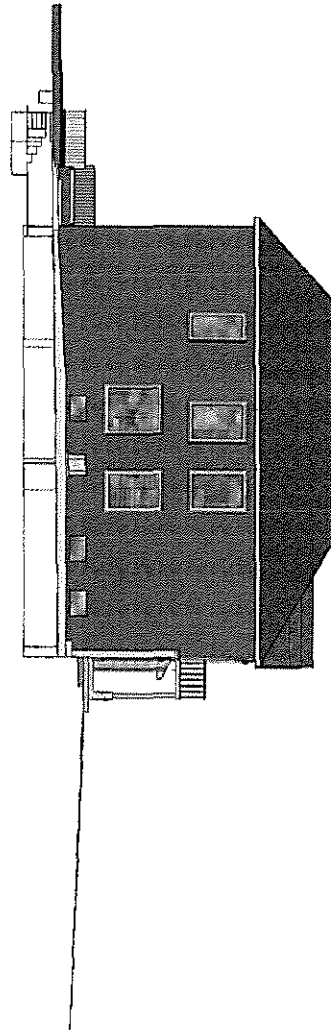
A	05	Elevation - West & Building Height Not to Scale		SECOND STORY ADDITION & GARAGE EXTENSION	REVISIONS	
					DATE	REMARKS
		MODEL/DRAFTING BY: AR, CHECKED BY: SB		ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM	07/16/2016	REVISED FOR ZONING REVIEW
					07/25/2016	REVISED FOR MINOR VARIANCE APPLICATION
					08/25/2016	NOTA REDUCED, NOT SUBMITTED FOR ZONING REV.



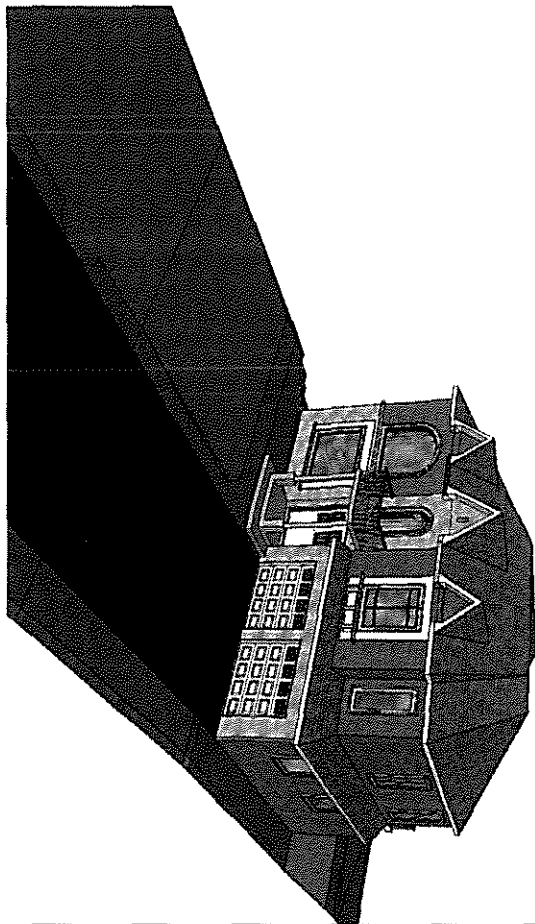
Elevation - North /Front



Elevation - South /Back




Elevation - East



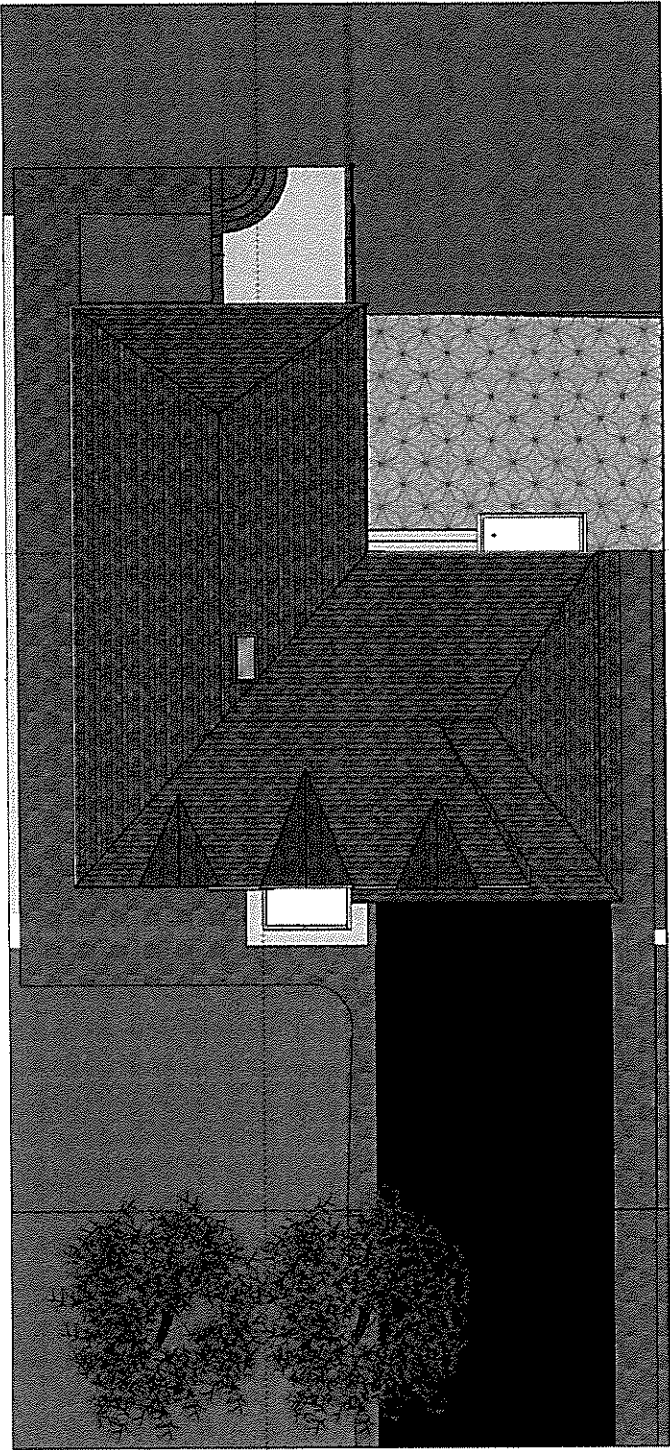
Birds Eye from Street

NOTE: STONE  
/BRICK DOOR AND  
WINDOW TRIM  
COLORS MAY VARY

A	06	Elevation_North, East & South Not to Scale		SECOND STORY ADDITION & GARAGE EXTENSION	REVISIONS	
					DATE/DESCRIPTION	REMARKS
					07/24/2018	REVISED FOR ZONING REVIEW
					07/25/2018	REVISED FOR SHOWR VARIANCE APPLICATION
					08/27/2018	REVISIONS, SUBMITTED FOR ZONING REV.
					1-1	
					1-1	

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ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM



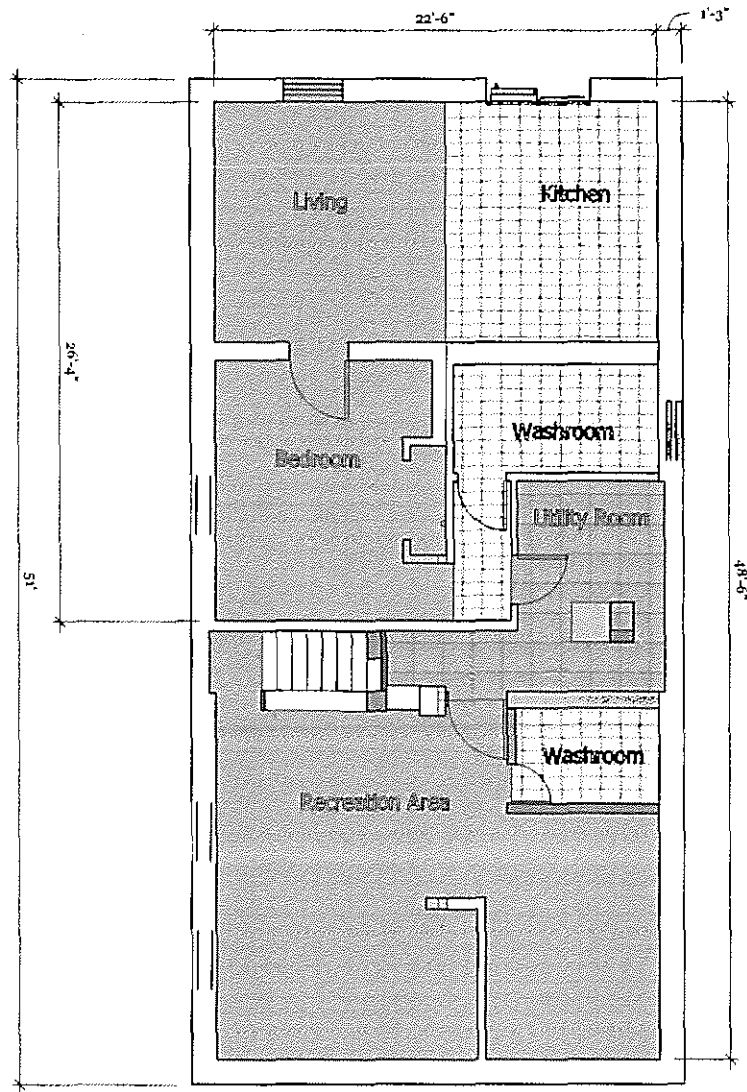
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07

**Finished Site Layout**  
Not to Scale  
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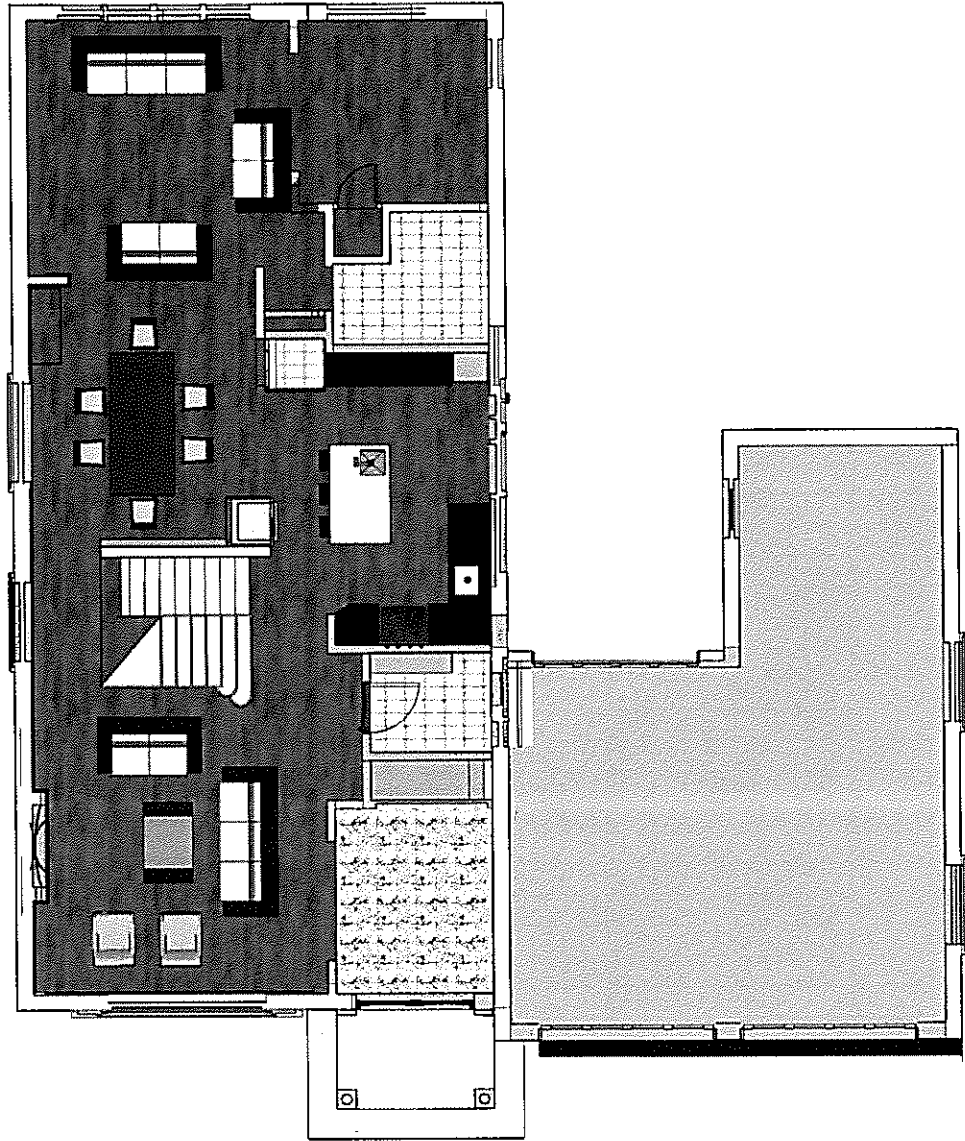
**SECOND STORY ADDITION &  
GARAGE EXTENSION**  
ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM


REVISIONS	
NO.	REMARKS
1	07/16/2016 REVISED FOR ZONING REVIEW
2	07/24/2016 REVISED FOR MINOR VARIANCE APPLICATION
3	08/27/2016 MFA REDUCED, SUBMITTED FOR ZONING REV.
4	
5	

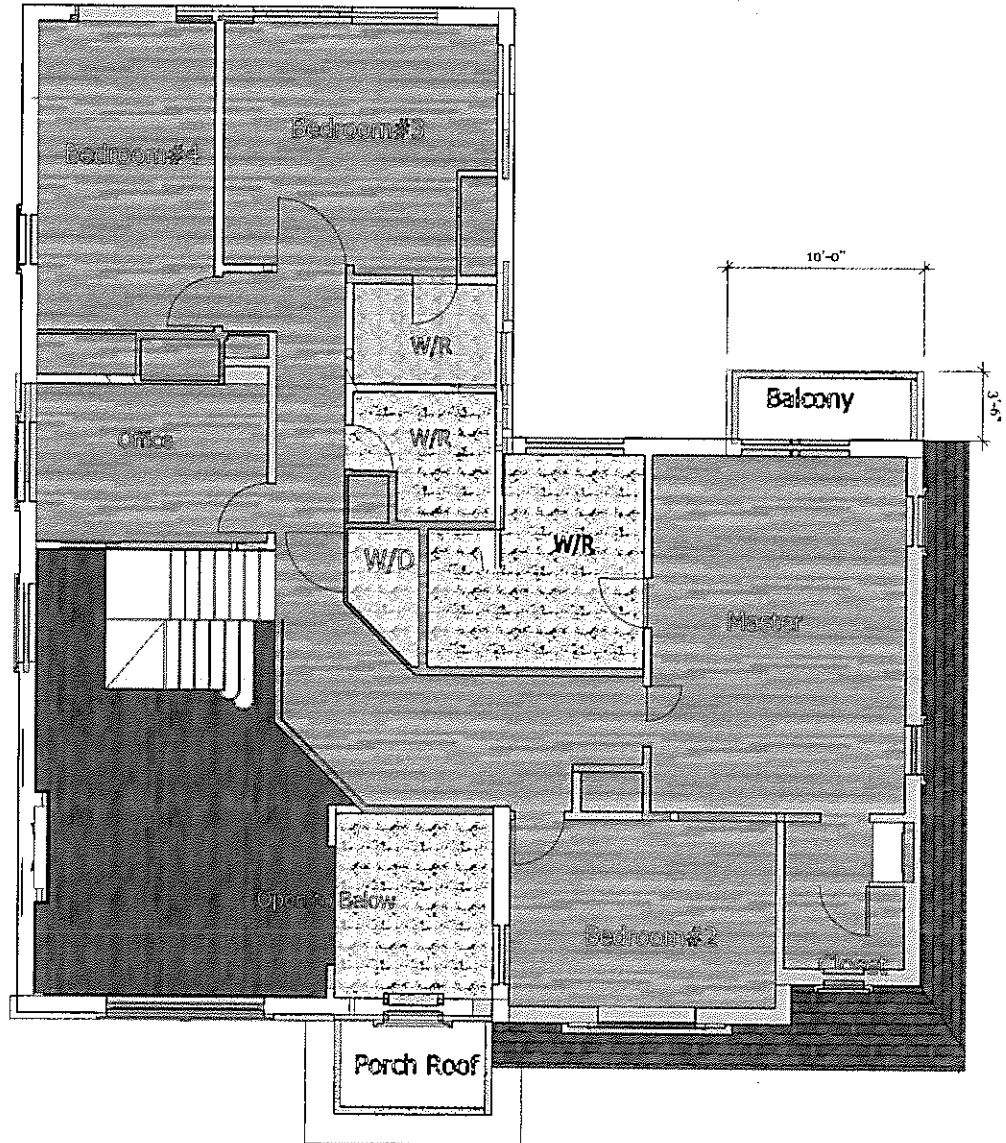



<div> <div>80</div> <div>A</div> </div>	<div> <div>Basement Plan</div> <div>Not to Scale</div> </div>		<div> <div>SECOND STORY ADDITION &amp; GARAGE EXTENSION</div> <div>ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM</div> </div>	REVISIONS	
				MM/DD/YYYY	REMARKS
				07/10/2018	REVISED FOR BUILDING REVIEW
				07/10/2018	REVISED FOR MINOR VARIANCE APPLICATION
				07/27/2018	MPA REDUCED, SUBMITTED FOR BUILDING REVIEW
				07/27/2018	





A  09	Proposed First Floor Plan Not to Scale			SECOND STORY ADDITION & GARAGE EXTENSION		REVISIONS		
	MODEL/DRAFTING BY: AR, CHECKED BY: SB			ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM		104/10/2017		REMARKS
						1	07/10/2018	REVISED FOR ZONING REVIEW
						2	07/24/2018	REVISED FOR MINOR VARIANCE APPLICATION
						3	09/27/2018	MFA REDUCED, SUBMITTED FOR ZONING REV.
						4	1/1/	



A 10	<b>Proposed 2nd Floor Plan</b> Not to Scale MODEL/DRAFTING BY: AR, CHECKED BY: SB		<b>SECOND STORY ADDITION &amp; GARAGE EXTENSION</b> ADDRESS: 137 SHERWOOD FOREST DRIVE, MARKHAM	REVISIONS	
				DATE	REMARKS
				07/14/2018	REVISED FOR ZONING REVIEW
				07/15/2018	REVISED FOR MINOR VARIANCE APPLICATION
				08/27/2018	N/A REDUCED. SUBMITTED FOR ZONING REV.
				09/11/2018	