

Memorandum to the City of Markham Committee of Adjustment

December 03, 2018

File: A/128/18
Address: 41 Lillian Avenue, Thornhill
Applicant: Angela Tzu Ting Liao
Agent: AND Architecture Inc. (Henry Wang)
Hearing Date: Wednesday December 12, 2018

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

The applicant is requesting relief from the following requirements of By-law 2237, R4, as amended:

- a) **Section 6.1:**
a minimum side yard setback of 1.52 m (south); whereas, the by-law requires a minimum side yard setback of 1.8 m on each side;
- b) **Section 6.1:**
a minimum side yard setback of 1.53 m (north); whereas, the by-law requires a minimum side yard setback of 1.8 m on each side;
- c) **Infill By-law 101-90; Section 1.2 (i):**
a maximum building height of 9.1 m; whereas, the by-law permits a maximum building height of 8.6 m;
- d) **Infill By-law 101-90; Section 1.2 (vii):**
a maximum floor area ratio of 55 percent (3,649 sq.ft.); whereas, the by-law permits a maximum floor area ratio of 50 percent (3,321 sq. ft.);

as they relates to a proposed residential dwelling.

Comments

The Committee of Adjustment deferred the application on September 26, 2018. In response to public and staff concerns, the applicant submitted revised drawings on November 27, 2018 (Appendix 'B'), which shows a reduction in floor area ratio from 60% to 55% and a reduction in side yard setback from 1.22 m (4 ft) on both sides to 1.53 m (5.02 ft) and 1.54 m (5.05 ft). The proposed height remains the same as originally submitted.

The proposed floor area ratio will facilitate the construction of a two-storey detached 339.41 m² (3,653.36 ft²) dwelling, whereas the By-law permits a dwelling with a maximum floor area of 308.55 m² (3321.21 ft²). This represents an increase of approximately 30.86 m² (332.17 ft²) or, approximately 10 percent. The request for the reduced side yard setback is to accommodate the second storey directly above the first storey of the proposed dwelling. City records indicate that there is one other property (34 Pheasant Valley) in the immediate vicinity has been approved for minor variances for floor area ratio and side yard setbacks to a similar scale as the proposed dwelling. With respect to the proposed height, staff's previous comments dated September 26, 2018 (Appendix C) remain applicable.

While the proposed dwelling will be larger than existing one-storey homes on the street, which were originally developed in the late 1970s, the proposal is consistent with the scale of

development of the infill By-law. Without variances, a dwelling larger than existing one-storey homes on the street could be built. Staff note that the proposed dwelling will result in the removal of mature trees on the north side of the property. This will be reviewed upon the submission of a Tree Preservation Plan which is a recommended condition of any approval.

Applicant's Stated Reason(s) for Not Complying with Zoning

The applicant has not provided a reason as to why they cannot comply with Zoning.

Zoning Preliminary Review 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 November 28, 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.

TRCA Comments

The subject property is partially located within TRCA's regulated area. The rear portion of the site is traversed by a valley corridor associated with the Don River Watershed. TRCA provided comments on August 30, 2018 (Appendix D), indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

As of November 28, 2018 the City received 3 letters expressing concerns over the size of the proposed dwelling, the removal of trees, and privacy. 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 meet the four tests of the Planning Act.

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.

PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:


David Miller, Development Manager, West District

File Path: Amanda\File\ 18 248436 \Documents\District Team Comments Memo

APPENDIX "A"

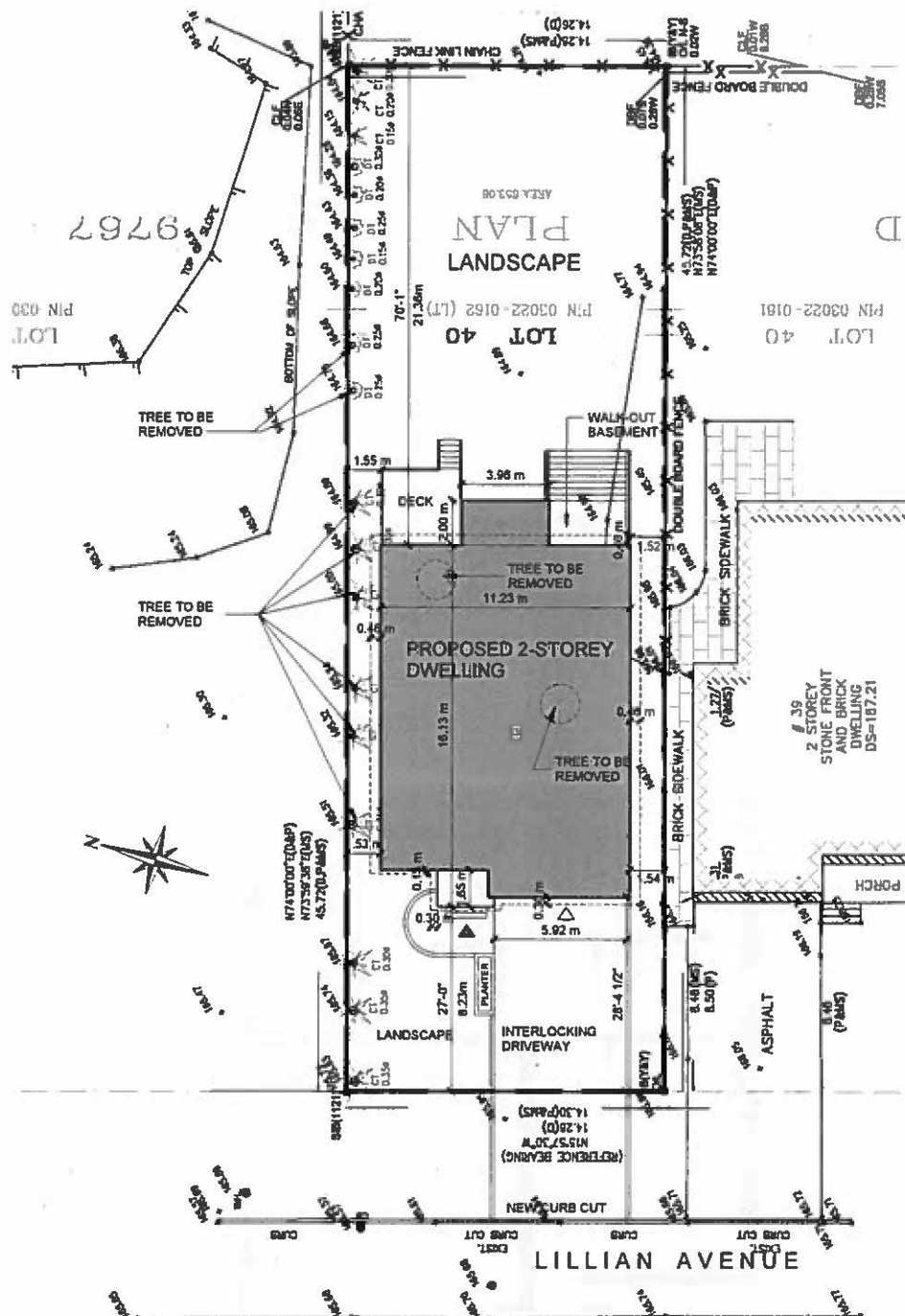
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/128/18

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 November 27, 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. 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 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;
4. 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;
5. 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



SITE STATISTICS

ZONING CATEGORY: R4
 LOT AREA: 653.35 m² / 7,012 Ft²
 NET LOT AREA: 616.97 m² / 6,641 Ft²

DESCRIPTION	PERMITTED/REQUIRED	PROPOSED
LOT COVERAGE	33.3% MAX.	27.9%
FLOOR AREA RATIO	50% MAX.	55%
HEIGHT	8.6m MAX.	9.1m
FRONT YARD SETBACK	27' MIN.	27'
SIDE YARD SETBACKS	1.80m MIN.	1.53m / 1.54m
REAR YARD SETBACK	25' MIN.	70'-1"
DEPTH	18.8m MAX.	18.13m
GROSS FLOOR AREA (GFA)*		
FLOOR	GFA	
GROUND FLOOR	178.3 m ² (1,920 SF)	
SECOND FLOOR	180.6 m ² (1,729 SF)	
TOTAL	338.9 m ² (3,649 SF)	
BASEMENT	138.6 m ² (1,492 SF)	

*NOTE: GFA DOES NOT INCLUDE BASEMENT

NEW DETACHED HOUSE

41 LILLIAN AVENUE
 MARKHAM ONTARIO

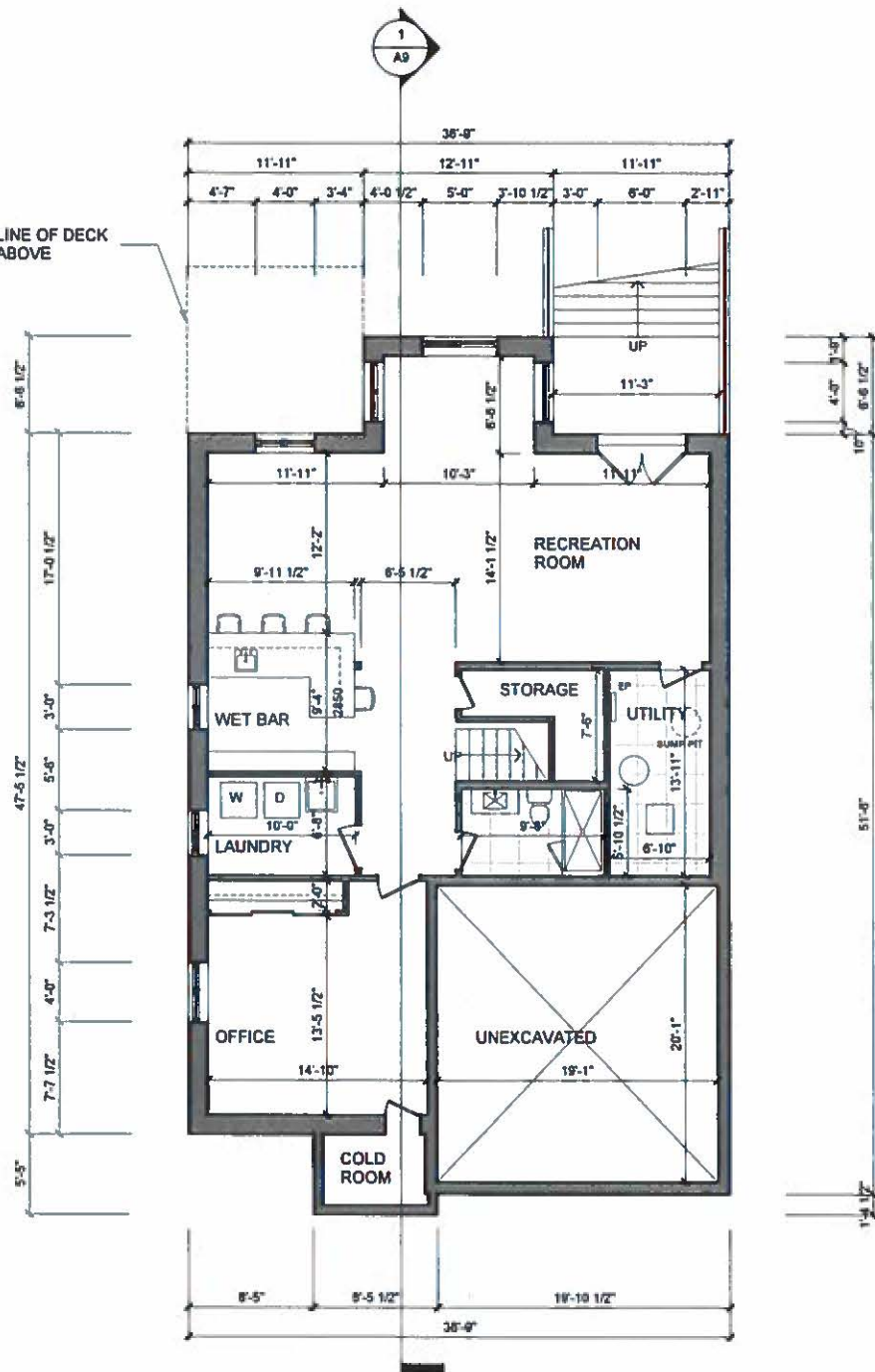


AND Architecture Inc.

3000 Steeles Ave. E. Suite 100, Markham, ON L3R 4T9
 T: 905-604-6980 E: info@andarchitectureinc.com
 www.andarchitectureinc.com

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LINE OF DECK ABOVE



BASEMENT PLAN

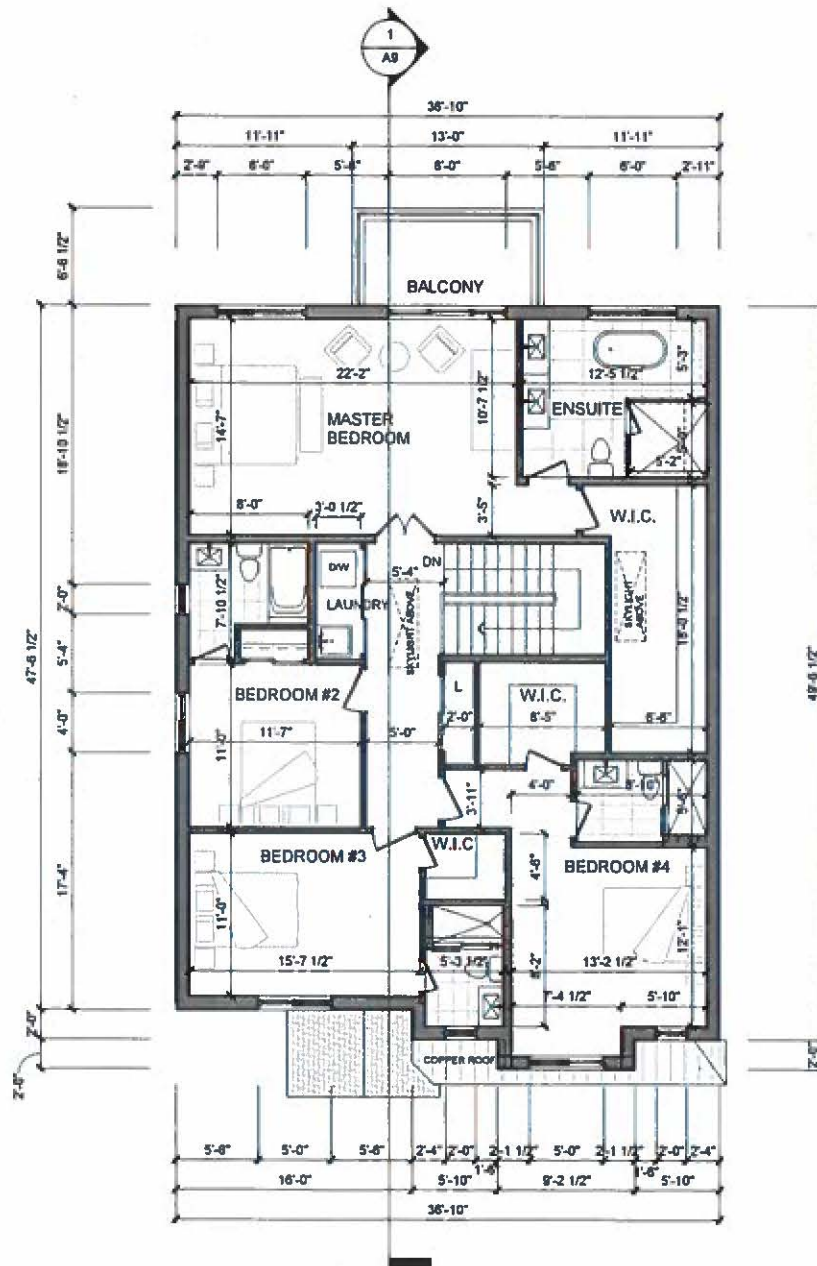
NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO



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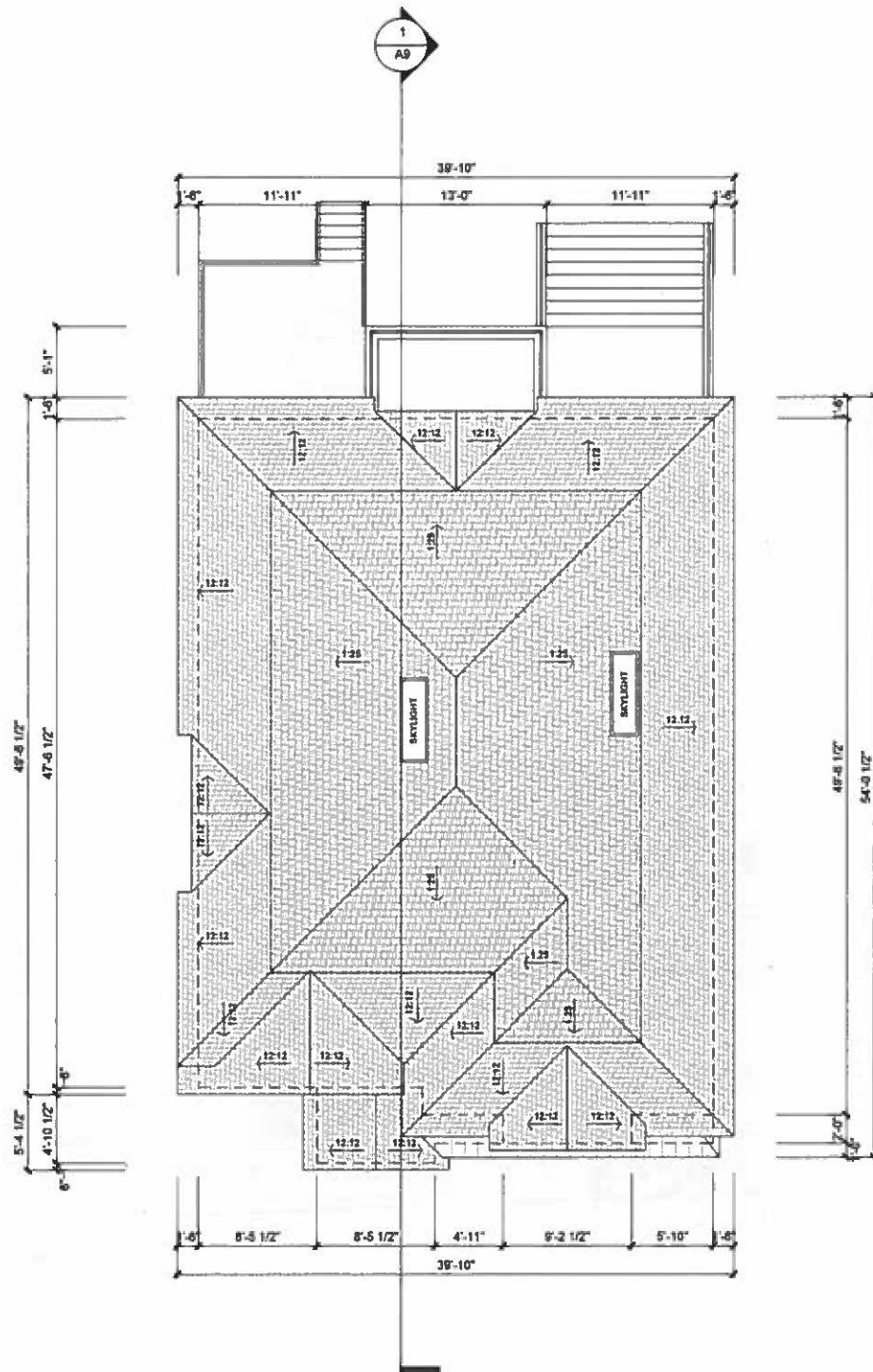
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SECOND FLOOR PLAN

NEW DETACHED HOUSE
41 LILLIAN AVENUE
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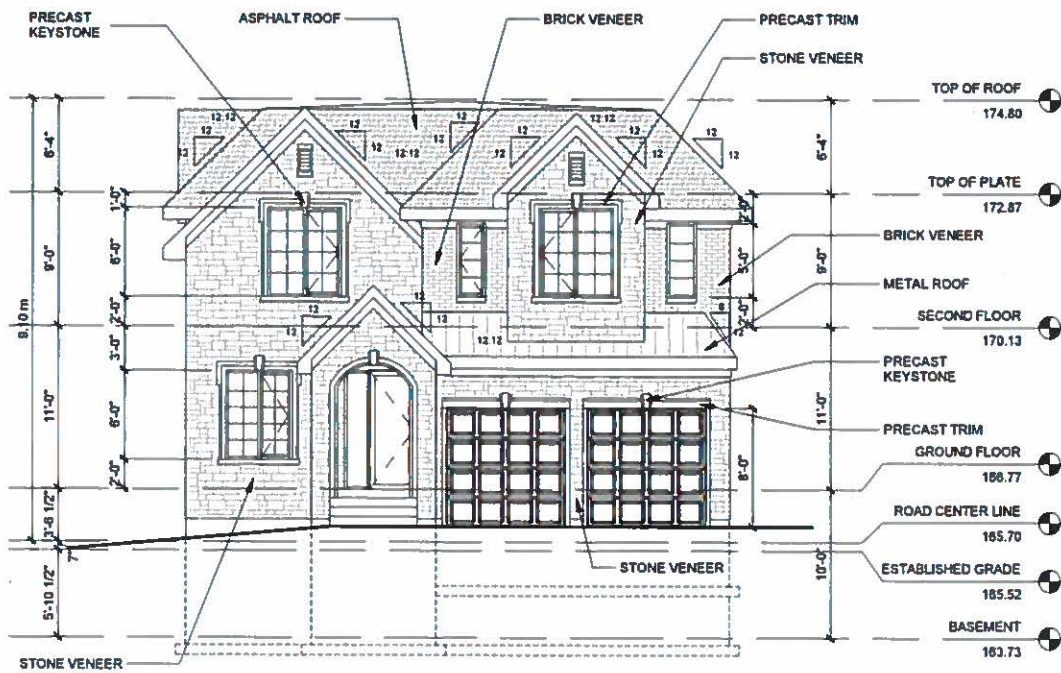
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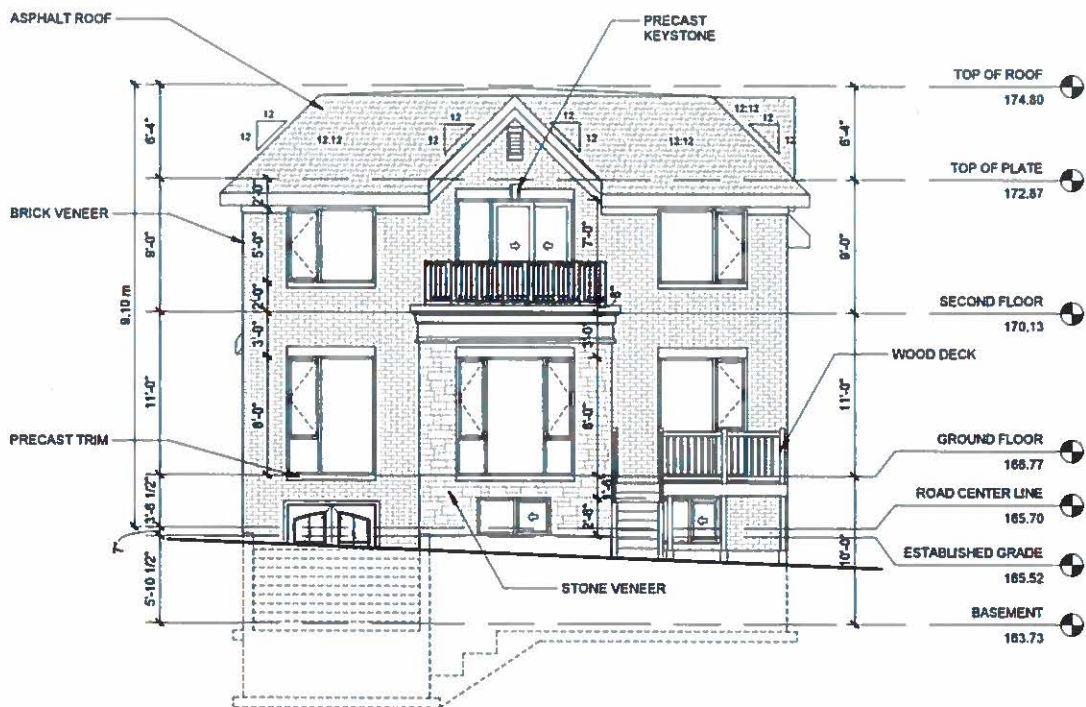
ROOF PLAN

NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO

AND Architecture Inc.
3000 Steeles Ave. E. Suite 100, Markham, ON L3R 4T8
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WEST ELEVATION



EAST ELEVATION

NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO

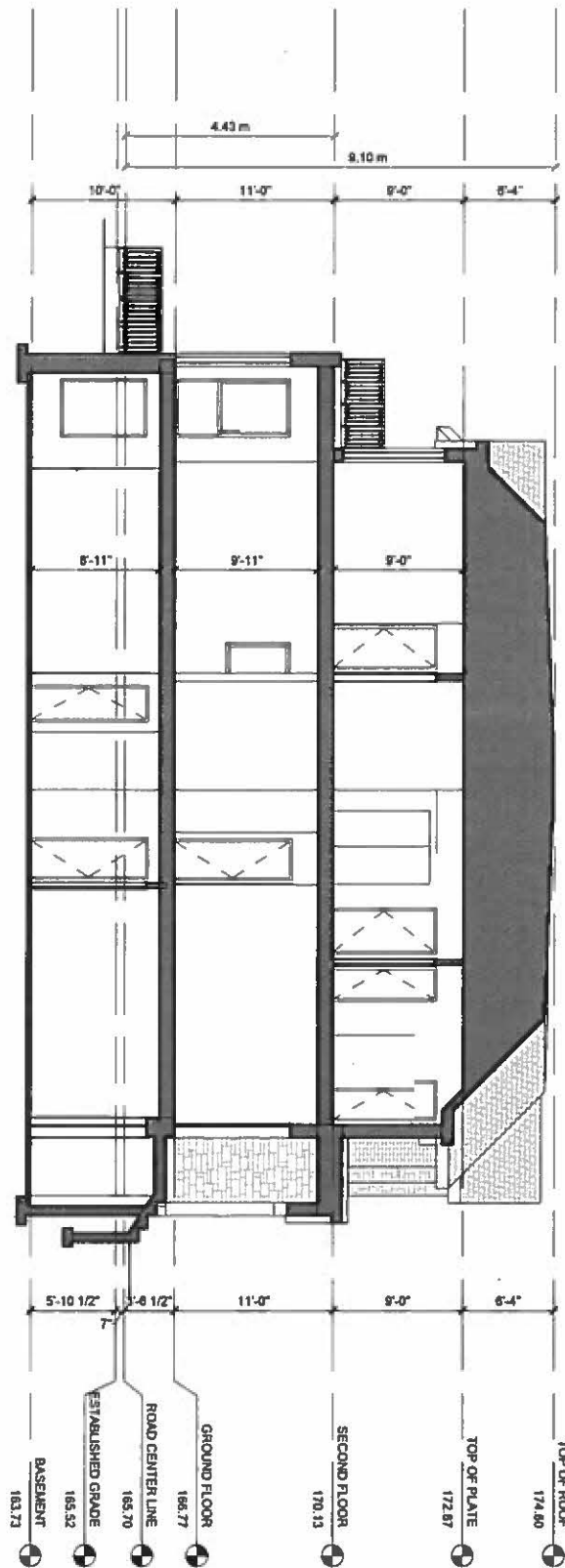


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AND **AND Architecture Inc.**
3000 Steeles Ave. E. Suite 100, Markham, ON L3R 4T9
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www.andarchitectureinc.com
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BUILDING SECTION



NEW DETACHED HOUSE
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AND Architecture Inc.
3000 Steeles Ave. E. Suite 100, Markham, ON L3R 4T9
T: 905-804-8860 E: info@andarchitectureinc.com
www.andarchitectureinc.com
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Memorandum to the City of Markham Committee of Adjustment

September 17, 2018

File: A/128/18
Address: 41 Lillian Avenue, Thornhill
Applicant: Angela Tzu Ting Liao
Agent: AND Architecture Inc. (Henry Wang)
Hearing Date: Wednesday September 26, 2018

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

The applicant is requesting relief from the following requirements of By-law R4, as amended:

- a) **Section 6.1:** a minimum side yard setback of 1.22 m on each side; whereas, the by-law requires a minimum side yard setback of 1.8 m on each side;
- b) **Infill By-law 101-90; Section 1.2 (i):** a maximum building height of 9.1 m; whereas, the by-law permits a maximum building height of 8.6 m;
- c) **Infill By-law 101-90; Section 1.2 (vii):** a maximum floor area ratio of 60 percent (3,987 sq.ft.); whereas, the by-law permits a maximum floor area ratio of 50 percent (3,321 sq. ft.);

as they relate to a proposed residential dwelling.

BACKGROUND

Property Description

The 653.56 m² (7,034.86 ft²) subject property is located on the east side of Lillian Avenue, north of Steeles Avenue and west of Bayview Avenue. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. To the north of the property is the Doreen Quirk Park. The subject property is currently vacant.

The north corner of the property is partially within TRCA's Regulated Area as the rear portion of the site is traversed by a valley corridor associated with the Don River Watershed.

Proposal

The applicant is proposing to construct two-storey detached 331.1 m² (3,564 ft²) dwelling (see Appendix 'A').

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.

Zoning By-Law 2237

The subject property is zoned R4 'Single Detached Residential' under By-law 2237, as amended, which permits a single detached dwelling. The proposed development does not comply with the by-law with respect to side yard setbacks.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. 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 height and maximum floor area ratio.

Applicant's Stated Reason(s) for Not Complying with Zoning

The applicant has not provided a reason as to why they cannot comply with Zoning.

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) 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.

Reduced Side Yard Setback

The applicant is requesting a minimum side yard setback of 4 ft (1.2 m) for the north and south portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6 ft (1.8 m) for each side. There are existing trees along the north property line (with the city park). Staff are concerned that the proposal will impact this existing vegetation.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 9.1 m (29.8 ft), whereas the By-law permits a maximum building height of 8.6 m (28.2 ft). This represents an increase of approximately 0.5 m (1.6 ft).

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface. It should be noted that the proposed grade of the front of the house is approximately 0.18 m (0.59 ft) above the crown of road. The proposed building height is generally consistent with other infill homes in the surrounding area.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 60 percent, whereas the By-law permits a maximum floor area ratio of 50 percent. The variance will facilitate the construction of

a two-storey detached dwelling with a floor area of approximately 370.26 m² (3985.45 ft²), whereas the By-law permits a dwelling with a maximum floor area of 308.55 m² (3321.21 ft²). This represents an increase of approximately 61.71 m² (664.24 ft²).

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). Excluding the space associated with the stairs, there is no other open to below area which is excluded from the gross floor area calculation under the by-law.

Records indicate that no other dwellings within the immediate vicinity has been subject to an increase in floor area ratio and reduction in side yard setback of this scale. Staff are of the opinion that the proposed floor area ratio in combination with the side yard setback and height variance will result in a large dwelling which, is not in keeping with the character of surrounding homes. The intent of the Zoning-By Law is to ensure that newer infill development maintain the character of the neighbourhood. Staff are of the opinion that the proposal does not meet this intent.

TRCA Comments

The subject property is partially located within TRCA's regulated area. The rear portion of the site is traversed by a valley corridor associated with the Don River Watershed. TRCA provided comments on August 30, 2018 (Appendix B), indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 17th, 2018. 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 for building height meets the four tests of the Planning Act. However Staff have concerns with the request for Floor Area Ratio and Side Yard Setback as the variances contribute to a dwelling that is larger than existing homes in the immediate vicinity. The proposed dwelling will result in a deviation from the side yard setback pattern and lead to the potential loss of privacy for the neighbouring resident which, the side yard setback seeks to prevent. Staff encouraged the applicant to reduce the floor area to achieve a built form more in keeping with the intended scale of the infill zoning by-law. The applicant chose to proceed.

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.

PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:


David Miller, Development Manager, West District
File Path: Amanda\File\18 248436 Documents\District Team Comments Memo

SURVEYOR'S REAL PROPERTY REPORT OF
PART 1:
PLAN OF LOT 48
REGISTRAR'S COMPLETED PLAN 8787
TOWN OF MARRICHAM
(REGIONAL MUNICIPALITY OF YORK)

870-546-6600

Responsible persons to
be named in the application
to the Board of Directors
and to the Board of Directors
and to the Board of Directors
and to the Board of Directors

[illegible][illegible]

1947 and 1948 in the Bay of Islands, New Brunswick
by the late Professor Dr. J. H. McNeill, who was
President of the Council of the Bay of Islands
in 1947.

A. AZIZ SURVEYORS INC.
120 SPAINBURY DRIVE
DORSET, ONTARIO N4W 2Y5
TEL: (905) 235-4235 FAX: (905) 235-4245
E-MAIL: info@azizsurveyors.com
WWW: www.azizsurveyors.com

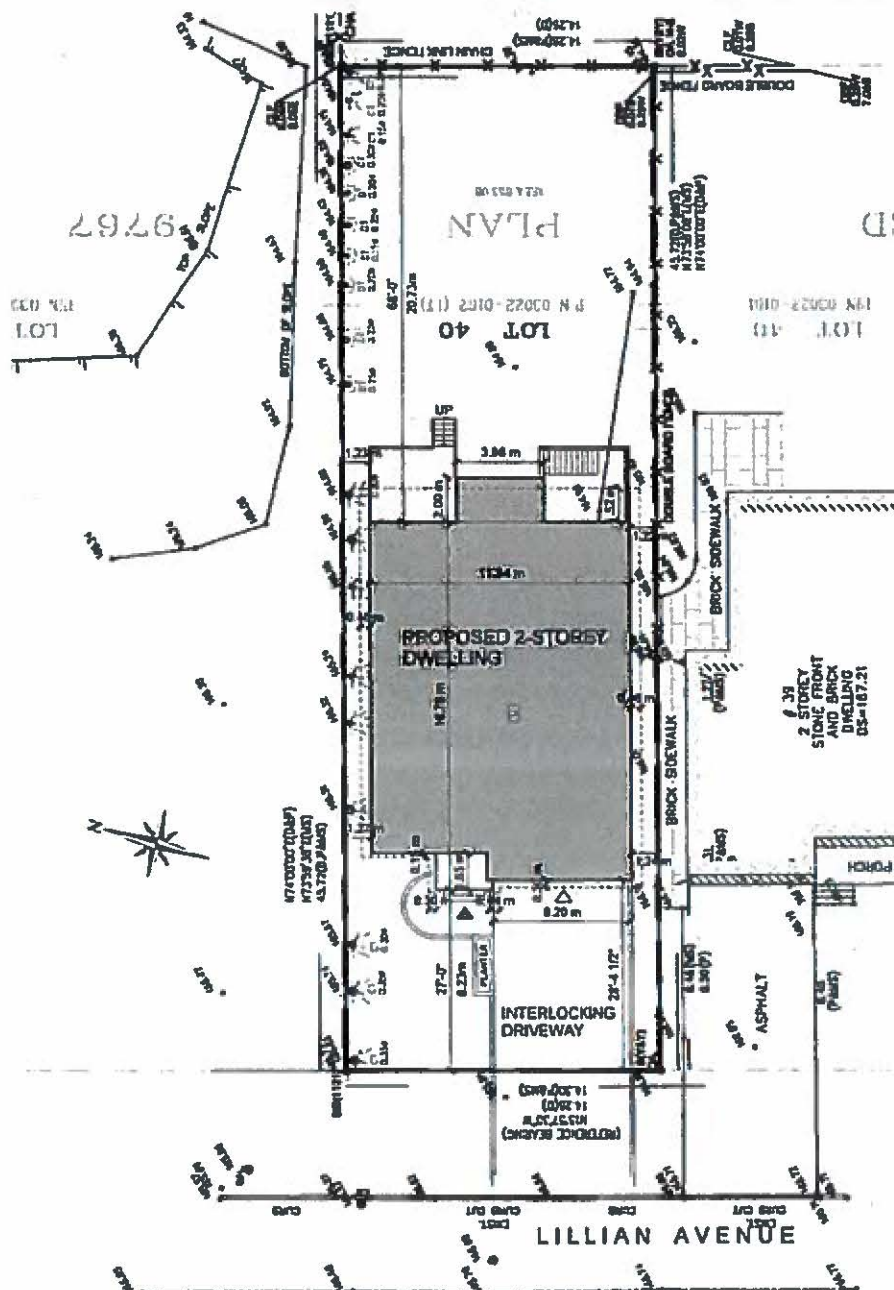
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SPECIAL TIME OF THE YEAR
 (Last Thursday of the Autumn)
 2024 701



THE DAY OF THE YEAR
 2024 701

THE DAY OF THE YEAR
 2024 701



SITE PLAN

SITE STATISTICS

ZONING CATEGORY R4

LOT AREA. 053.35 m²

DESCRIPTION	PERMITTED/REQUIRED	PROPOSED
LOT COVERAGE	33.3% MAX.	30.4%
FLOOR AREA RATIO	88% MAX.	87%
HEIGHT	8.8m MAX.	9.1m
FRONT YARD SETBACK	27' MIN.	27'
SIDE YARD SETBACKS	1.80m MIN.	1.33m
REAR YARD SETBACK	25' MIN.	88'
DEPTH	16.8m MAX	16.76m
GROSS FLOOR AREA (GFA)		
FLOOR	GFA	
GROUND FLOOR	151.4 m ² (1,551 SF)	
SECOND FLOOR	177.7 m ² (1,913 SF)	
TOTAL	329.1 m ² (3,564 SF)	

*NOTE: GFA DOES NOT INCLUDE GARAGE AND BASEMENT

NEW DETACHED HOUSE

41 LILLIAN AVENUE
MARKHAM ONTARIO

MARKHAM ONTARIO



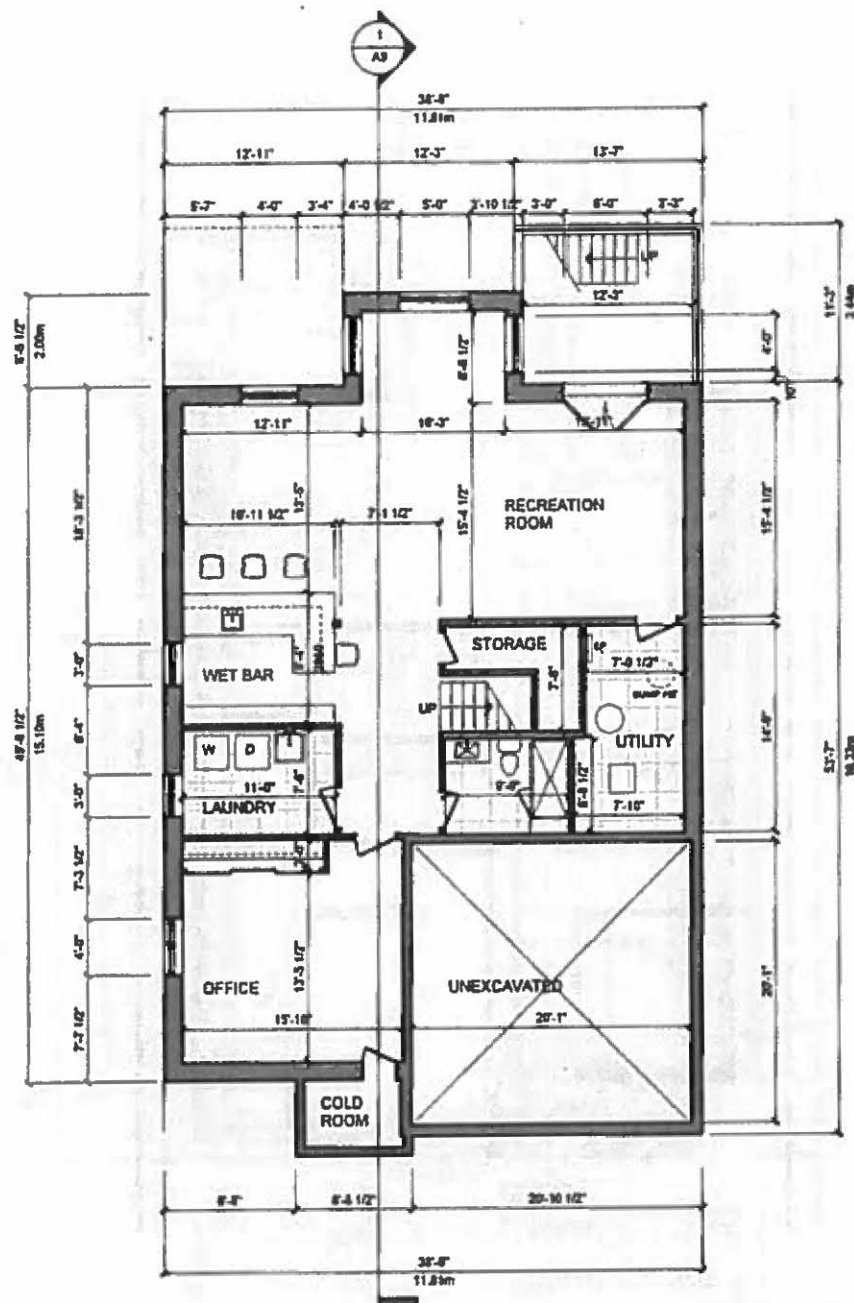
AND Architecture Inc.

AND ARCHITECTURE INC.
3000 Steeles Ave. E. Suite 103, Markham, ON L3R 4T9
T 905-604-8340 E. info@andarchitectureinc.com
www.andarchitectureinc.com

T 803-604-8340 E. info@andarchitectureinc.com
www.andarchitectureinc.com

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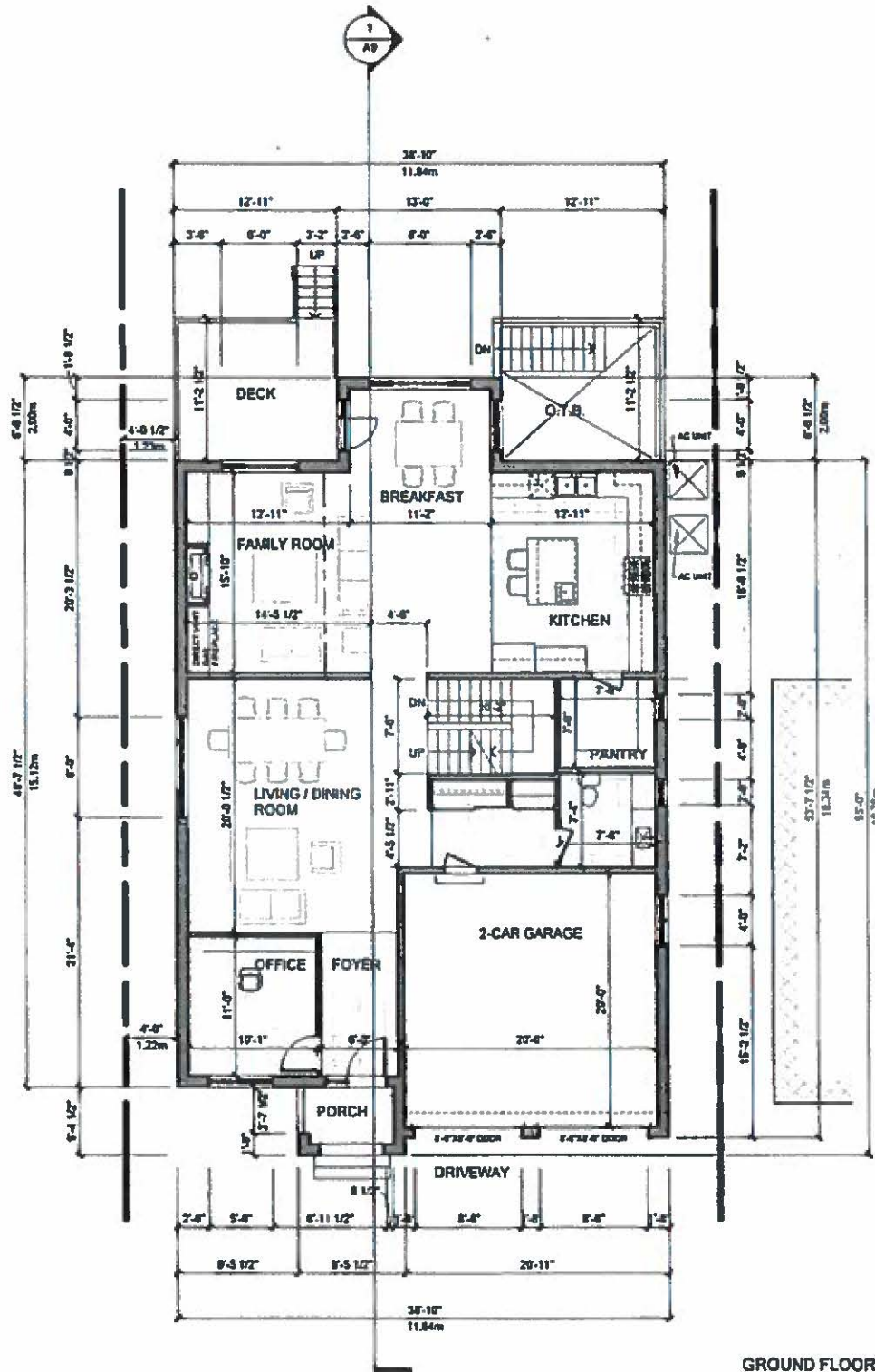


BASEMENT PLAN

NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO



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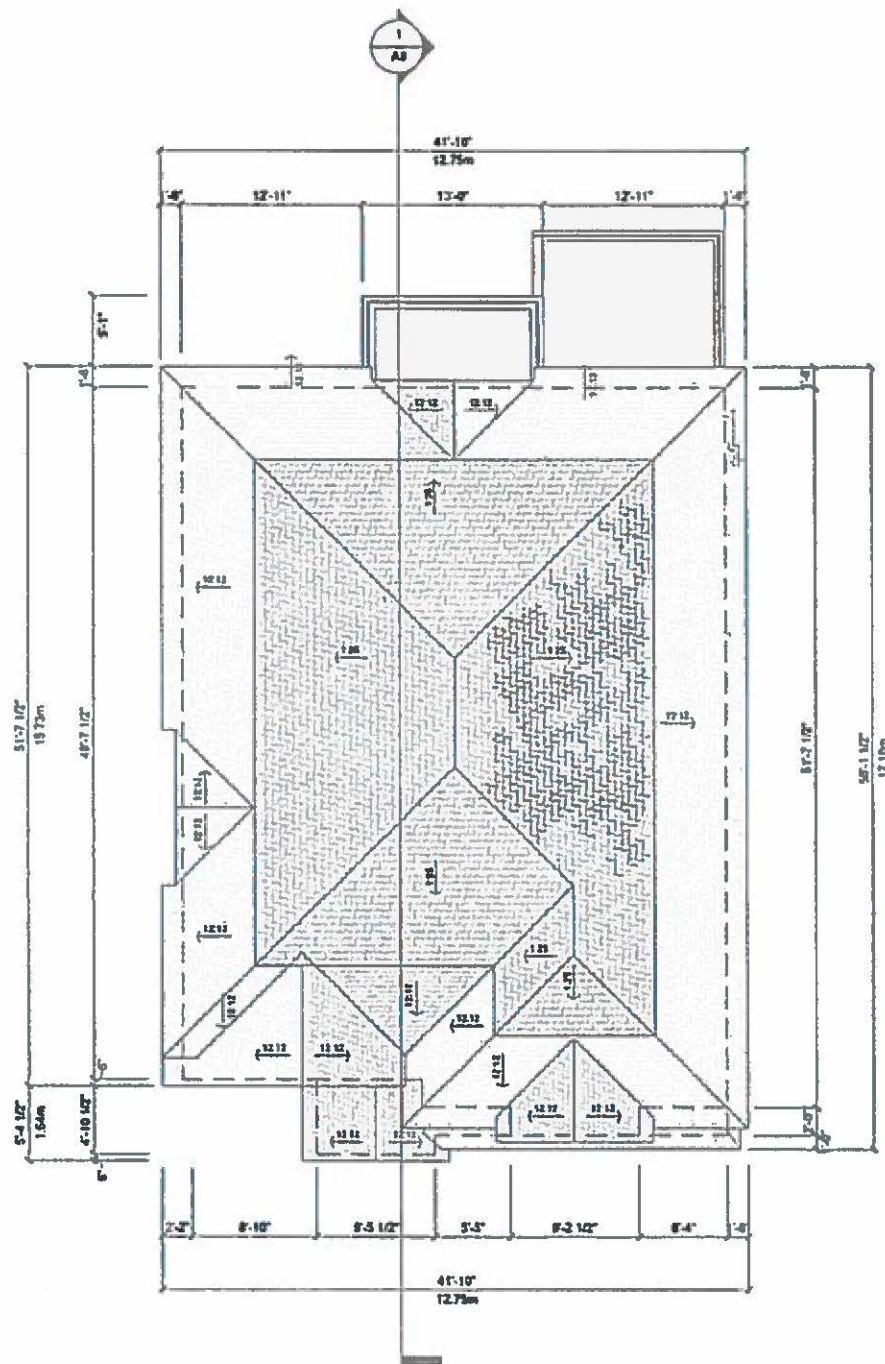
GROUND FLOOR PLAN

NEW DETACHED HOUSE
41 LILLIAN AVENUE
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3000 Steeles Ave. E. Suite 100, Markham, ON L3R 4T9
T 905-504-8940 E info@andarchitectureinc.com
www.andarchitectureinc.com
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AND Architecture Inc.
3000 Elexes Ave E. Suite 100, Marlham, ON L3R 4T8
T: 905-824-4940 E: info@andarchitectureinc.com
www.andarchitectureinc.com
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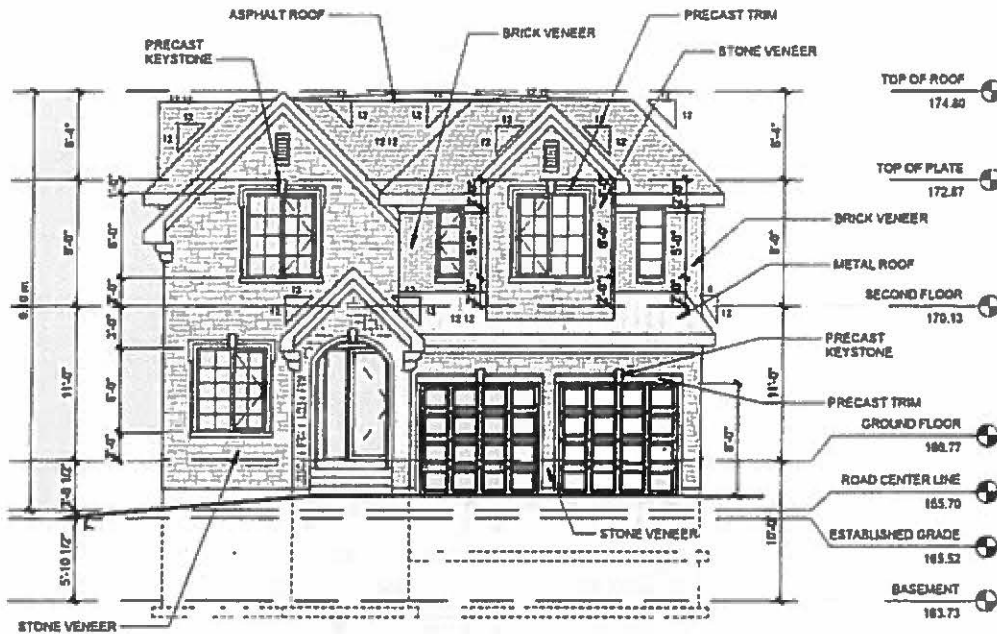


ROOF PLAN

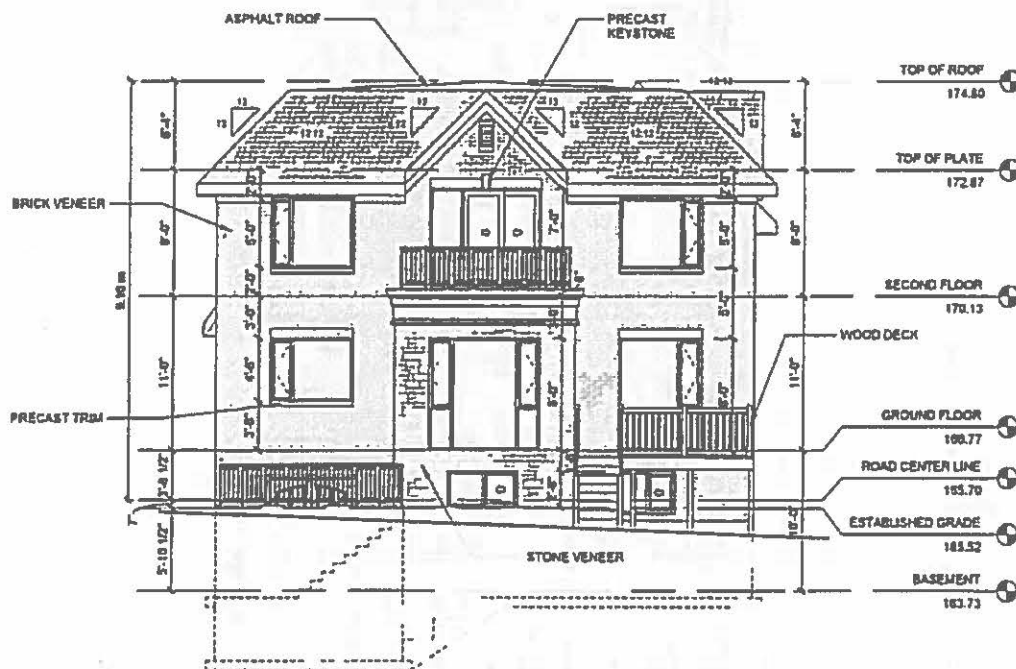
NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO



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WEST ELEVATION

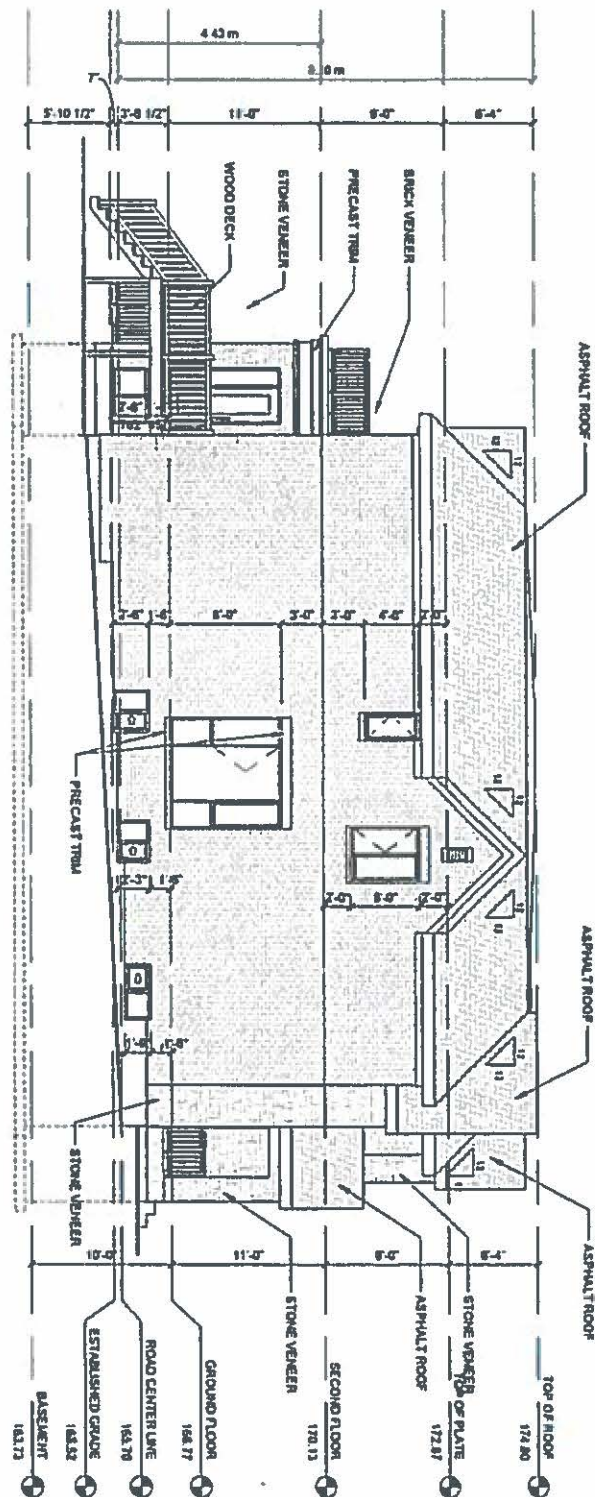


EAST ELEVATION

NEW DETACHED HOUSE
 41 LILLIAN AVENUE
 MARKHAM ONTARIO

AND Architecture Inc.
 3900 Steeles Ave. E. Suite 100, Markham, ON L3R 4T5
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NORTH ELEVATION



NEW DETACHED HOUSE
41 LILLIAN AVENUE
MARKHAM ONTARIO

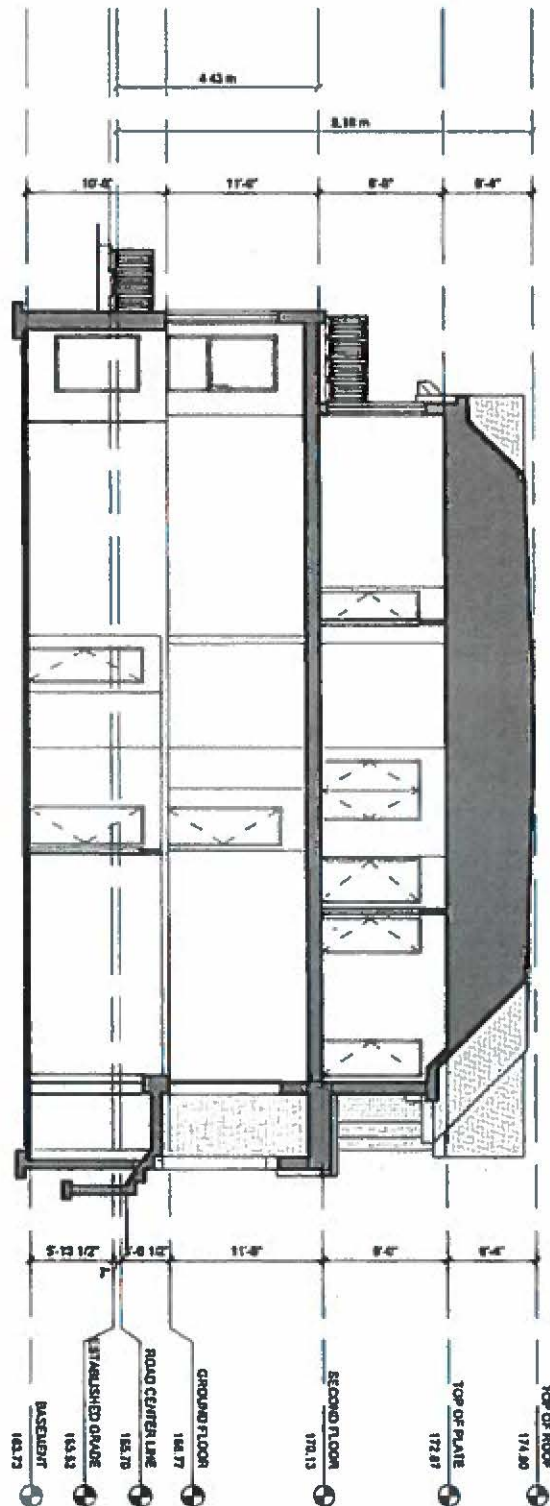


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AND **AND Architecture Inc.**
3005 Steeles Ave. E. Suite 101, Markham, ON L3R 9T3
T 905-664-0860 E info@andarchitectureinc.com
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BUILDING SECTION



NEW DETACHED HOUSE

41 LILLIAN AVENUE
MARKHAM ONTARIO



AND Architecture Inc.

3080 Steeles Ave. E. Suite 100, Markham, ON L3R 4T9
T: 905-604-8900 E: info@andarchitectureinc.com
www.andarchitectureinc.com

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Toronto and Region
Conservation
Authority

August 30, 2018

CFN: 59072.18

BY E-MAIL ONLY

Mr. Justin Leung
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Boulevard
Markham, ON
L3R 9W3

Dear Mr. Leung:

Re: Minor Variance Application – A/128/18
41 Lillian Avenue, Markham, ON
Angela Tzu Ting Liao (Owner)
AND Architecture Inc. (Agent: Henry Wang)

This letter will acknowledge receipt of the above noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and provide the following comments.

PURPOSE OF THE APPLICATION

A/128/18

The applicant is requesting relief from the requirements of By-law 2237, as amended, as it relates to a *new single-detached dwelling*.

Requested Variance(s) to the Zoning By-law:

- a) **Section 6.1:**
A minimum side yard setback of 1.22 metres on each side; whereas, the by-law requires a minimum side yard setback of 1.8 metres on each side;
- b) **Infill By-law 101-90: Section 1.2(i):**
A maximum building height of 9.1 metres; whereas, the by-law permits a maximum building height of 8.6 metres;
- c) **Infill By-law 101-90: Section 1.2 (vii):**
A maximum floor area ratio of 60 percent (3,987 ft²); whereas, the by-law permits a maximum floor area ratio of 50 percent (3,321 ft²).

APPLICABLE TRCA REGULATIONS AND POLICIES

Ontario Regulation 166/06 (as amended):

The rear portion of the subject property is located within TRCA's Regulated Area, as it is adjacent to a valley corridor associated with the Don River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place:

- a. straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b. development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. the construction, reconstruction, erection or placing of a building or structure of any kind;
- ii. any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. site grading;
- iv. the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Roles and Responsibilities

TRCA provides our technical review comments through several roles. This includes TRCA's commenting role under the *Planning Act*; the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement, 2005 and 2014; TRCA's Regulatory Authority under Ontario Regulation 166/06 (as amended), Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses; and our Memorandum of Understanding (MOU) with the Region of York, where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.

TRCA strives to ensure consistency between our comments under the *Planning Act* and our comments under the *Conservation Authorities Act*, the proposed development must meet the tests of our Regulation at the time of application. This means that the TRCA must be satisfied that the form of development can satisfy the tests of Ontario Regulation 166/06, as amended, and demonstrate that there will be 'no negative impacts' in order for TRCA staff to support a permit. Details in respect to TRCA's policies can be found in Section 7 and 8 of TRCA's The Living City Policies.

Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP)

The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the "Natural System" as the greater of, but not limited to the following:

- **Valley and Stream Corridors:** 10 metre buffer from the greater of the long-term stable top of slope (LTSTOS), top of slope (TOS), Regulatory Floodplain, meander belt and any contiguous natural features or areas;
- **Woodlands:** 10 metre buffer from the dripline and any contiguous natural features or areas;
- **Wetlands:** 30 metre buffer from Provincially Significant Wetlands (PSWs) and a 10 metre buffer from all other wetlands and any contiguous natural features or areas.

APPLICATION SPECIFIC COMMENTS

Ontario Regulation 166/06, as amended:

As noted above, the rear of the subject property is located within TRCA's Regulated Area of the Don River Watershed. TRCA staff have reviewed the plans associated with the application and are satisfied that the proposed development is appropriately setback from the natural hazards and features associated with the adjacent valley corridor. Furthermore, a TRCA permit is not required for the construction of the proposed two-storey dwelling at 41 Lillian Avenue, Markham. As such, TRCA have no concerns with the requested variances.

Please note, the TRCA has an interest in any future works on the subject property, as it may be subject to a TRCA permit.

APPLICATION FEE

Please be advised, in addition to TRCA's Regulating responsibilities, TRCA has a role as a commenting agency for *Planning Act* applications circulated by member municipalities to assess whether a proposed development may be impacted by the TRCA. By copy of this letter, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a \$830.00 review fee (2018 TRCA Planning Fees Schedule – Variance – Residential – Standard). The applicant is responsible for fee payment and should forward the fee to this office within 60 days of this letter.

RECOMMENDATION

TRCA has no objections to the approval of Minor Variance Application A/128/18 subject to the following condition being addressed to our satisfaction:

1. The applicant remits the outstanding TRCA Planning Services review fee of \$830.00 for our review of the Minor Variance Application.

I trust these comments are of assistance. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Sincerely,



Aidan Pereira
Planner I, Planning & Development
apereira@trca.on.ca
(416) 661-6600 ext. 5723

AP/as