

Memorandum to the City of Markham Committee of Adjustment

December 09, 2019

File: A/146/19
Address: 126 Church St – Markham, ON
Applicant: Mark Cullen
Agent: Robert Hurlburt Homes Ltd.
Hearing Date: Wednesday January 22, 2020

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

The applicant is requesting relief from the following Residential (R1) zone requirements of By-law 1229, as amended, as it relates to a garage projection as part of the proposed new two storey detached dwelling:

a) Section 1.2 (iv), as amended by By-law 99-90:

To permit a garage projection of 4.14 m (13.58 ft); whereas the By-law allows a maximum garage projection of 2.1 m (6.89 ft).

BACKGROUND

Property Description

The 2,327.11 m² (25,048.80 ft²) subject property is located on the north side of Church Street, east of Elm Street and west of Wooten Way North. Mature trees exist in both the front and rear yards of the property.

The property is located within an established residential neighbourhood generally comprised of one and two-storey detached dwellings with lots of varying size, frontages, and depths. The surrounding area is undergoing a transition with several instances of newer dwellings in the form of infill development.

Proposal

The applicant is proposing to demolish the existing one storey single detached dwelling, and construct a new 339.57 m² (3,655.10 ft²) two storey single detached dwelling on the subject property, including an attached garage. The proposed garage projects 4.14 m (13.58 ft) into the front yard, which is the subject of this variance application.

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. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

The property is also subject to the Markham Village Site Specific Policy Area, whereby the intent is to limit the size and massing of new dwellings to ensure infill development respects and reflects the existing pattern and character of adjacent development including building depth, and height.

Zoning By-Law 1229

The subject property is zoned Residential One “R1” Zone under By-law 1229, as amended, which permits one single detached dwelling per lot.

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 requirement for garage projections as permitted in the infill By-law.

Applicant’s Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with the zoning is because,

“Tree #10 as shown on the Site Plan is a Crimson King Maple (located north of the proposed dwelling’s rear building line). Everyone wants to keep this tree and by moving the garage slightly forward, the tree protection zone will be maintained.”

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a ZPR on November 13, 2019 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.

Increase in Maximum Garage Projection

In efforts to reduce injury and preserve the existing mature tree in the rear yard, the applicant is requesting a maximum garage projection of 4.14 m (13.58 ft), whereas the By-law permits a maximum garage projection of 2.1 m (6.89 ft). This is an increase of 2.04 m (6.69 ft) and would permit the front of the garage to project 4.14 m (13.58 ft) from the south side of the covered porch towards the front lot line.

The proposed development maintains a generous front yard setback of 15.13 m (46.64 ft). Staff are of the opinion that the proposed development is appropriate for the

development of the lands and the preservation of the tree. Staff are satisfied that the variance is minor, satisfies the general intent of the zoning by-law and the Official Plan. Should the Committee of Adjustment approve the variance, it is recommended that the proposed development be subject to the conditions provided in Appendix "A".

PUBLIC INPUT SUMMARY

No written submissions were received as of December 9, 2019. 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.

APPENDICES

Appendix "A" – Conditions List

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/146/19

1. That the variances apply only to the subject development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report and received by the City of Markham on November 26, 2019, 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;
2. 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;
3. 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; and
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.

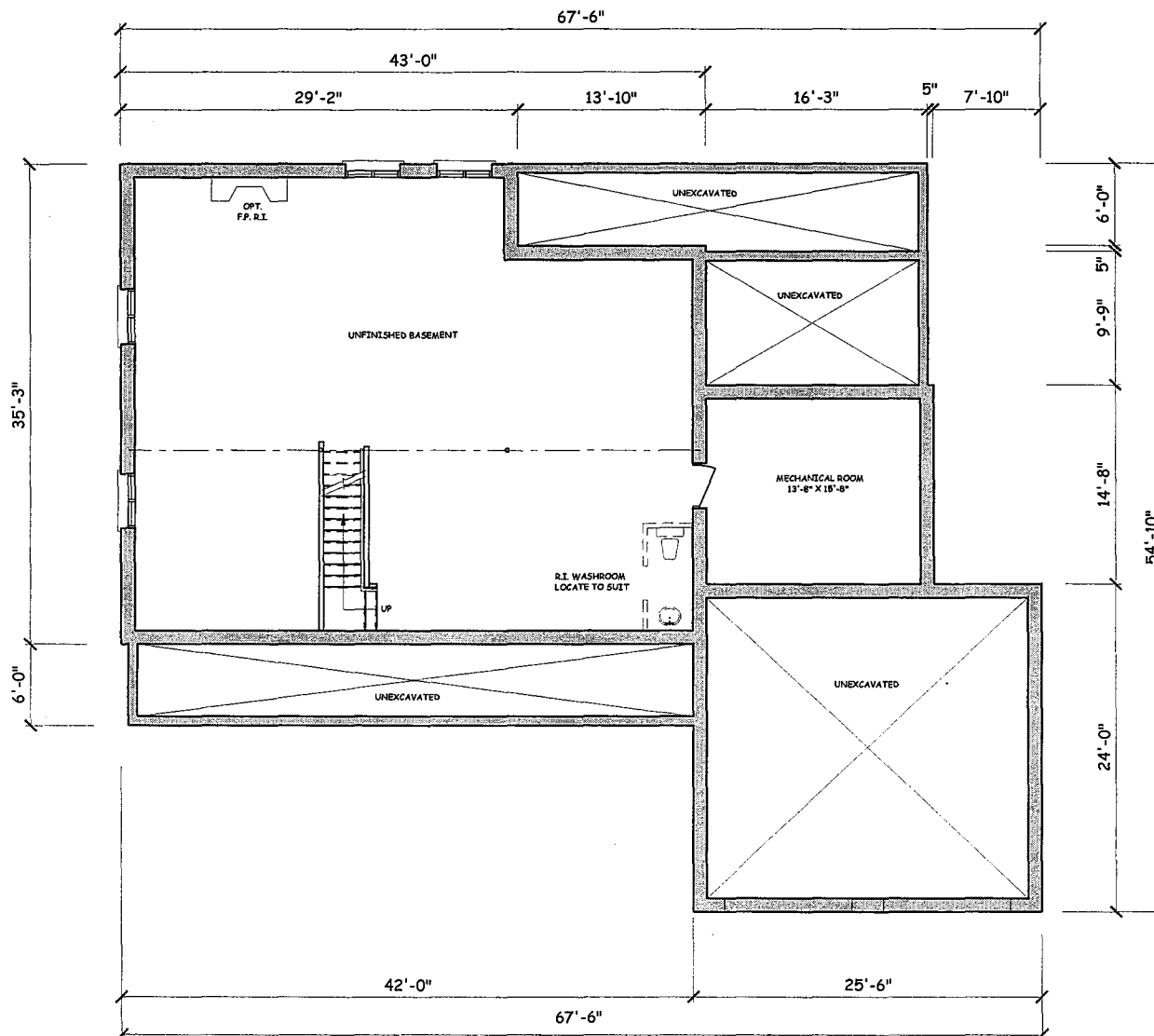
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/146/19



**Arrowsmith
AND ASSOCIATES**
ARCHITECTURE & DEVELOPMENT
642-1719
STOUFFVILLE ONTARIO

**CULLEN
NEW RESIDENCE**
126 CHURCH ST. MARKHAM ONTARIO

THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY ERRORS TO ARROWSMITH & ASSOCIATES PRIOR TO PROCEEDING WITH CONSTRUCTION. DO NOT SCALE DRAWINGS. ALL CONSTRUCTION SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE LATEST EDITION OF THE ONTARIO BUILDING CODE. THESE DRAWINGS ARE THE PROPERTY OF ARROWSMITH & ASSOCIATES AND SHALL NOT BE LOANED, COPIED, OR REPRODUCED WITHOUT THE EXPRESS WRITTEN CONSENT OF ARROWSMITH & ASSOCIATES. THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION UNLESS COUNTER SIGNED BY D. ARROWSMITH FOR ARROWSMITH & ASSOCIATES.

The undersigned has reviewed and takes responsibility for this design and for the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 2.17.4.1 of the Building Code

BRUCE ARROWSMITH 21042
Name Signature BCN

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.4.1 of the Building Code

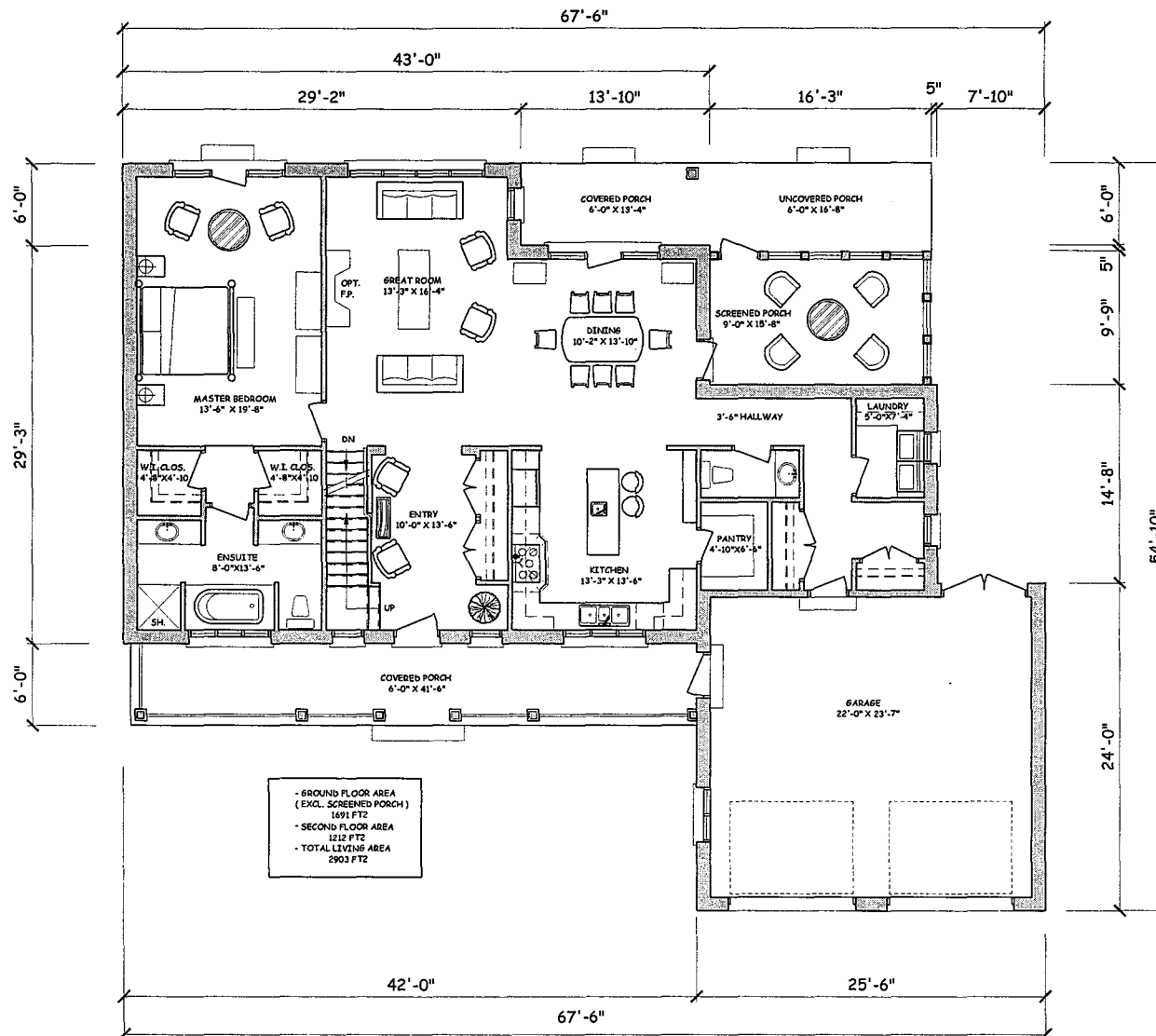
ARROWSMITH & ASSOCIATES 27429
FIRM NAME BCN

NO.	REVISIONS	DATE

**BASEMENT
PLAN**

DESIGNED BY: BA DATE: SEPTEMBER 2019
CHECKED BY: BA DATE: -
SCALE: AS NOTED DATE: -
FILE NO. A-2

ARROWSMITH & ASSOCIATES
27429
BCN



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AND ASSOCIATES**
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The undersigned has reviewed and takes responsibility for this design, and for the qualifications and extent of the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt pursuant to 2.1 of the Building Code

BRUCE ARROWSMITH 21042
Name Signature BCN

REGISTRATION INFORMATION
Registered unless design is exempt under 2.1.7.1 of the Building Code

ARROWSMITH & ASSOCIATES 21420
Firm Name BCN

NO.	REVISIONS	DATE

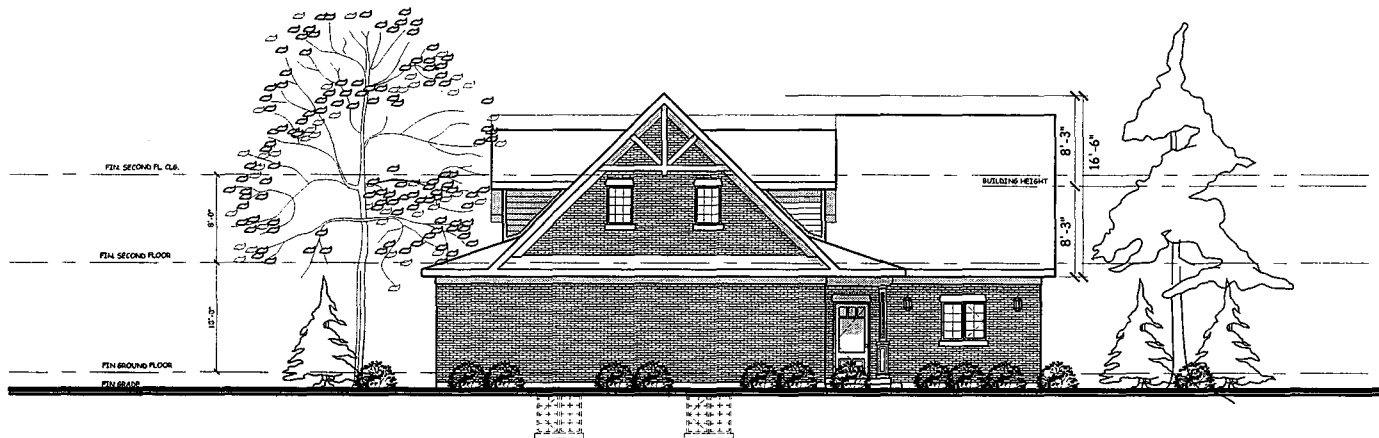
GROUND FLOOR PLAN

DESIGNED BY: SA DATE: SEPTEMBER 2019
CHECKED BY: SA SITE: -
SCALE: AS NOTED DWG. NO.: **A-3**
FILE NO.:

ARROWSMITH & ASSOCIATES
27429
BCN



1 SOUTH ELEVATION
SCALE: 3/16" = 1'-0"



2 WEST ELEVATION
SCALE: 3/16" = 1'-0"

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The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Registered architect design is required under 2.1.1 of the Building Code

BRUCE ARROWSMITH 21042
Name Signature BCN

REGISTRATION INFORMATION
Registered unless design is exempt under 2.1.1.1 of the Building Code

ARROWSMITH & ASSOCIATES 27429
Firm Name BCN

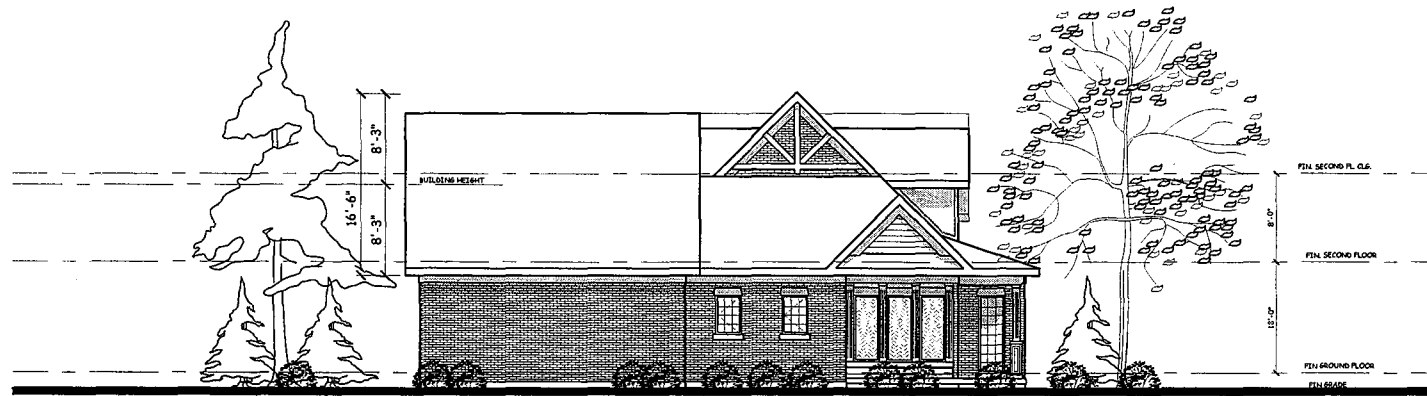
NO.	REVISIONS	DATE

ELEVATIONS

OWNED BY: SA DATE: SEPTEMBER 2019
CHECKED BY: SA DATE: -
SCALE: AS NOTED DWG. NO.: A-5
FILE NO.:



1 NORTH ELEVATION
SCALE: 3/16" = 1'-0"



2 EAST ELEVATION
SCALE: 3/16" = 1'-0"

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The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 7.1.1 of the building code

BRUCE ARROWSMITH 21042
Name Signature BCN

REGISTRATION INFORMATION
Required unless design is exempt under 7.1.1 of the building code

ARROWSMITH & ASSOCIATES 27429
FIRM NAME BCN

NO.	REVISIONS	DATE

ELEVATIONS

DESIGN BY: EA DATE: SEPTEMBER 2010
CHECKED BY: EA DATE: -
SCALE: AS NOTED DWG. NO.: A-6
FILE NO.: