# Memorandum to the City of Markham Committee of Adjustment

April 17, 2018

File:

B/28/17, A/147/17 & A/148/17

Address:

15 Lunar Crescent

Applicant:

Jing Wu

Agent:

JS Barmi Architect (Jagdip Barmi)

**Hearing Date:** 

Wednesday April 25, 2018

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

#### B/28/17

Provisional consent to sever and convey a parcel of land with an approximate area of 675.03 m<sup>2</sup> and lot frontage of 19.52 m (Part 1) while retaining a parcel of land with an approximate area of 675.03 m<sup>2</sup> and lot frontage of 19.52 m (Part 2). The purpose of this application is to facilitate the development of two residential lots. This application is related to minor variance applications A/147/17 and A/148/17.

### A/147/17 (Part 1, Conveyed Parcel)

### a) Amending By-law 2012-13; 7.2.2(i):

A minimum front yard setback of 8.54 metres (basement cold cellar); whereas, the By-law permits a front yard setback of 9.0 metres.

# b) Amending By-law 2012-13; 7.2.2(ii):

A minimum interior side yard of 1.52 metres on both sides; whereas, the By-law permits a minimum side yard setback of 1.8 metres on both sides.

# c) Amending By-law 2012-13; 7.2(ix);

A maximum building depth of 21.64 metres; whereas, the By-law permits a maximum building depth of 19.9 metres.

# d) Section 4.5

A maximum eaves encroachment of 0.51 metres; whereas, the By-law permits a maximum eaves encroachment of 0.45 metres.

#### A/148/17 (Part 2, Retained Parcel)

### a) Amending By-law 2012-13; 7.2.2(i):

A minimum front yard setback of 8.54 metres (basement cold cellar); whereas, the By-law permits a front yard setback of 9.0 metres.

#### b) Amending By-law 2012-13; 7.2.2(ii):

A minimum interior side yard of 1.52 metres on the south side yard and 1.69 metres on the north side yard; whereas, the By-law permits a minimum side yard setback of 1.8 metres on both sides.

#### c) Amending By-law 2012-13; 7.2(ix);

A maximum building depth of 21.32 metres; whereas, the By-law permits a maximum building depth of 19.9 metres.

### d) Section 4.5

A maximum eaves encroachment of 0.51 metres; whereas, the By-law permits a maximum eaves encroachment of 0.45 metres.

#### **BACKGROUND**

#### **Property Description**

15 Lunar Crescent, the "subject property", is situated north of Highway 7 and east of Woodbine Avenue. The subject property contains an existing one-storey dwelling with mature vegetation.

#### OMB Order relating to By-law 2012-13

On August 8, 2012, the Ontario Municipal Board (OMB) issued a decision as it relates to appeals in connection with a By-law (By-law 2012-13) enacted by the City of Markham. The purpose of the By-law is to introduce a series of zoning standards to the subdivision in which the subject lands are situated, so that redevelopment can proceed subject to updated standards. As it relates to lot division, the By-law provides a performance standard for minimum lot frontage set out as 50% of the lot frontage of a lot of record existing on the date of the passing of the by-law amendment, as well as a standard for minimum lot area, also set at 50% of a lot of record existing on the date of the passing of the by-law amendment.

#### COMMENTS

#### The Four Tests

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 the land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained; and,
- d) The general intent and purpose of the Official Plan must be maintained.

As mentioned above, the Owner is proposing to sever an existing parcel of land with an approximate area of 675.03 m² and lot frontage of 19.52 m (Part 1) while retaining a parcel of land with an approximate area of 675.03 m² and lot frontage of 19.52 m (Part 2). The proposal is consistent with the By-law standards as it relates to lot division, which provides for a minimum lot frontage set out as 50% of the lot frontage of a lot of record as well as for minimum lot area, also set out at 50% of a lot of record.

#### Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm all the variances required for the proposed dwellings.

# Applicant's Stated Reason(s) for Not Complying with the Zoning (A/147/18 & A/148/17)

As stated on the application form, the reason for not complying with Zoning is indicated as follows: "Lot configuration is challenging after severance".

The Applicant has met with staff and revised the drawings per staff's comments to minimize the extent of the variance sought and in some cases, eliminated some of the

variances that were originally requested. The variance to reduce the minimum front yard setback applies to a portion of the proposed dwelling(s), the basement cold cellar, with the remainder of the proposed dwelling(s) maintaining the required 9 metres setback. Staff are of the opinion that while reductions to the side yard setbacks are proposed, there is still sufficient distance between the proposed dwellings. Given the angle of the proposed lot line, the side yard setback variance(s) only applies to portions of the proposed dwelling(s) and allows for more regular room configuration(s). The proposed increase in building depth(s) is minor in nature, as the minimum required rear yard setback (10 metres) is maintained and exceeded for both the conveyed and retained parcels. Finally, staff are of the opinion that proposed eaves encroachment is also minor in nature.

#### **Engineering Comments**

The City's Engineering Department advises that both the retained and conveyed parcels must be provided with its own individual water and sewer services. In conjunction with the building permits for each individual lot, the Owner will be required to submit a separate site servicing and grading plan for review and approval by the City. At such time, the Owner will be required to submit an application for the installation and decommissioning of service connections. The connections will be installed by the City at the Owner's expense to be secured through a Development Agreement. The Engineering Department does not have any objections to the approval of the severance applications, subject to the conditions listed in Appendix "A".

#### **Urban Design Comments**

As previously mentioned, the subject lands contains mature vegetation. If approved, the applicant will be required to submit a Tree Assessment and Preservation Plan, to be prepared by a qualified arborist. The Urban Design section does not have any objections to the approval of the severance application, subject to the conditions listed in Appendix "A".

#### **Public Consultation**

At the time this report was prepared there had been no written or oral submissions made by the public on the applications.

#### CONCLUSION

In concluding that the proposal is appropriate, staff have had regard for the criteria in Section 51(24) and 45(1) of the Planning Act and do not object to its approval.

The onus is ultimately on the Owner to demonstrate why they should be granted relief from the requirements of the Zoning By-law, and how they satisfy the rest of the Planning Act requirements for the granting of minor variances.

Please see Appendices "A", "B" and "C" for conditions to be attached to any approval of the applications.

PREPARED BY:

REVIEWED BY:

Richard Kendall, Development Manager

File Path: Amanda\File\17 160926\Documents\District Team Comments Memo

# APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/28/17

- Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
- 2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/28/17, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
- Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
- 4. Make satisfactory arrangements with the Director of Engineering or his or her designate to confirm that there are no existing easements registered on title in favour of the City that will be impacted by the proposed severance.
- 5. Provide confirmation that any and all existing services for the retained lot do not traverse the severed lot.
- 6. 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 Director of Planning and Urban Design or designate that this condition has been fulfilled to his/her satisfaction.
- 7. That subject to the review and approval of the Tree Assessment and Preservation Plan, tree protection fencing be erected and inspected in accordance with the City's Streetscape Manual (2009), as amended, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate.
- 8. That subject to the review and approval of the Tree Assessment and Preservation Plan, tree replacements are provided and/or tree replacement fees be paid to the City if required, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate.
- 9. Submission of an Appraisal Report prepared by a member of the Appraisal Institute of Canada in accordance with the City's terms of reference respecting the proposed new lot shown as Part 1 on the draft reference plan submitted with the application; to be reviewed and approved by the City; payment of cash-in-lieu of parkland dedication in accordance with By-law 195-90, as amended, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate.

- 10. The Owner shall enter into a Development Agreement with the City to the satisfaction of the Director of Planning and Urban Design, the City Solicitor, and the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including but not limited to:
  - i. Assessment, preservation and canopy replacement compensation as they relate to significant existing vegetation, subject to review and approval by the Director of Planning and Urban Design;
  - ii. Erection and inspection by City staff of tree protection fencing, in accordance with the City's Streetscape Manual (2009), as amended, and the Tree Assessment and Preservation Plan;
  - Siting of buildings, garages/driveways, lot grading and servicing plans as they relate to preservation of vegetation and replacement plantings, subject to review and approval by the Director of Planning and Urban Design;
  - iv. Submission of cost estimates(s) respecting any works required, Letter of Credits required by the City to ensure compliance with any works required, and payment of all applicable fees in accordance with the City's fee by-law;
  - v. Notice that the lands may not be connected to the City's water system, sewage system and/or drainage system (the "Municipal Services"), and that in order to connect to the Municipal Services, the Owner must submit an application to the City and pay for the connections to the Municipal Services, which shall be installed by the City; and,
  - vi. Payment of cash-in-lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate.
- 11. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
- 12. That the Owner provide confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all the requirements of the applicable Zoning By-law, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate.
- 13. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990. c.P.13.

CONDITONS PREPARED BY:

# APPENDIX "B" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/147/17

- 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 "D" to this Staff Report and dated February 13, 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.

**CONDITIONS PREPARED BY:** 

# APPENDIX "C" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/148/17

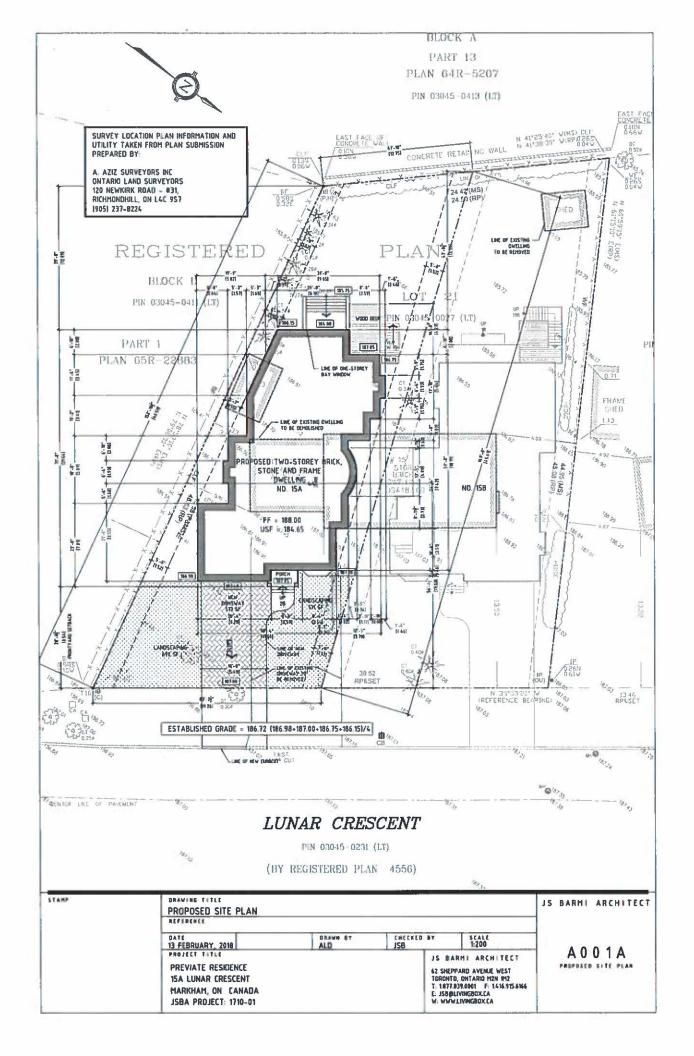
- 1. The variances apply only to the proposed development as long as it remains;
- 2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as Appendix "E" to this Staff Report and dated February 13, 2018 and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.

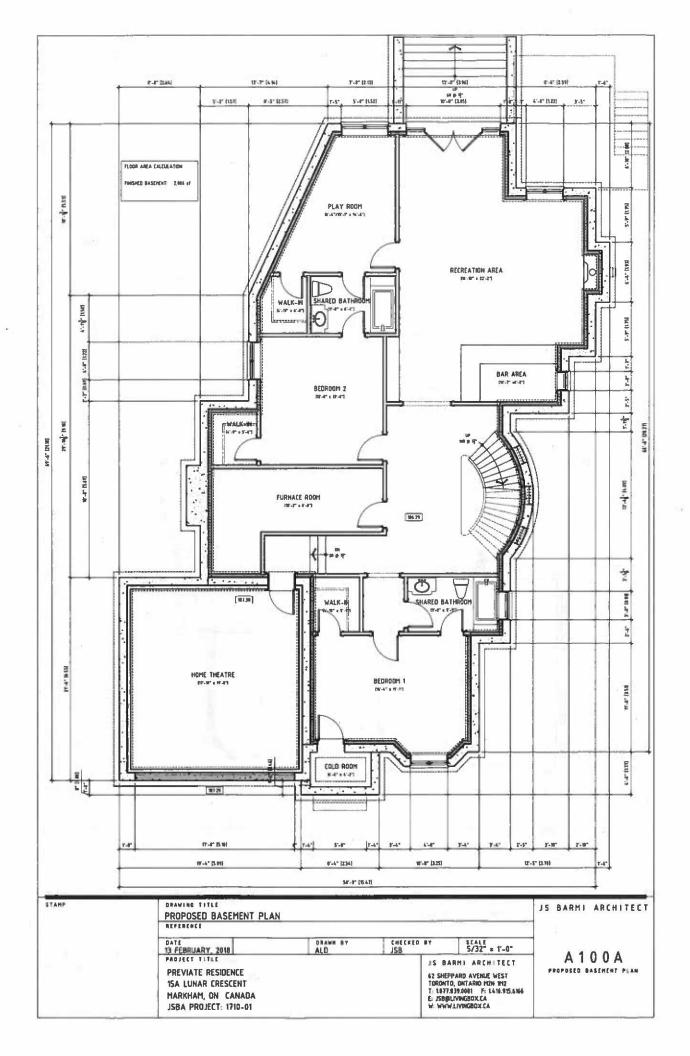
CONDITONS PREPARED BY:

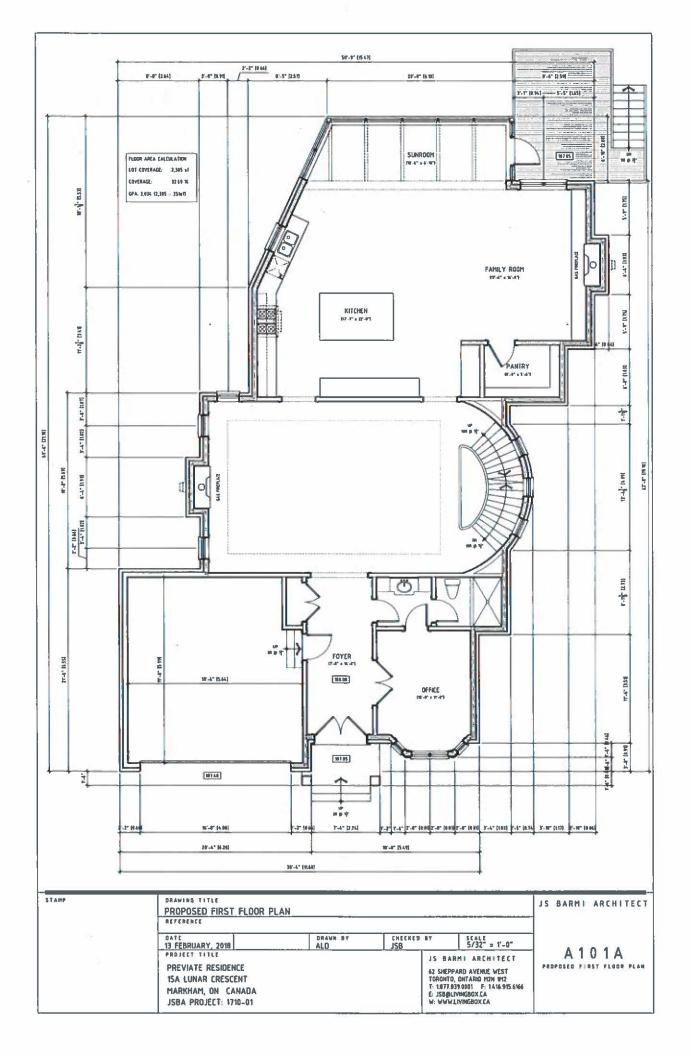
# Appendix D

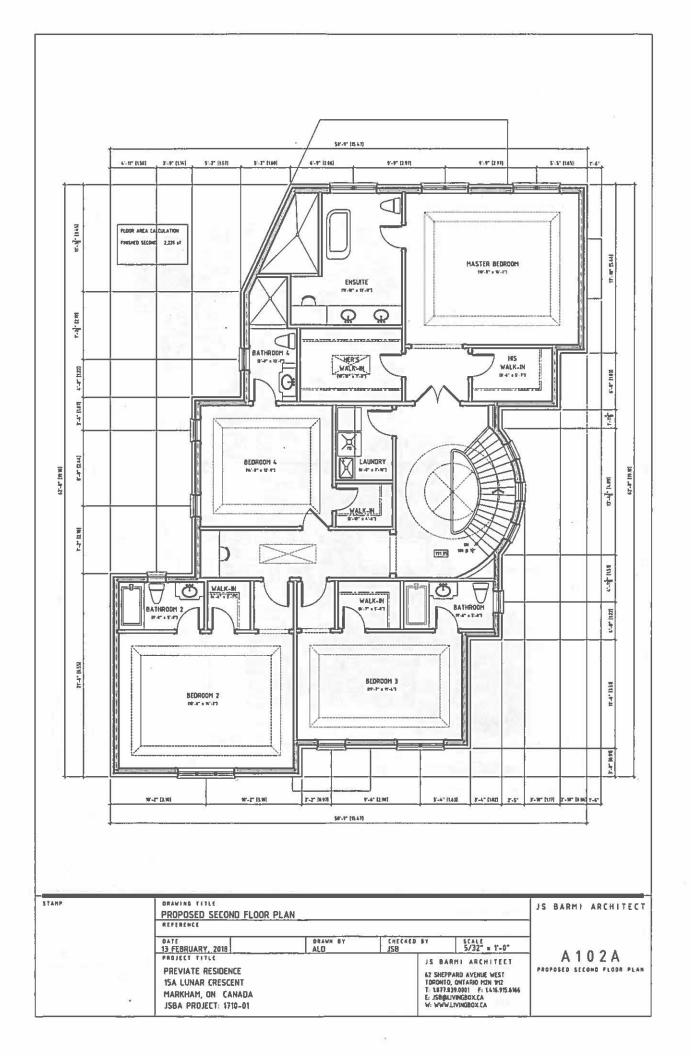
		PRIVATE RESIDENCES				
LEGAL ADDRESS:		15A & B LUNAR CRESCENT, TORONTO, DNTARIO LOT 21, PART 1&2 REGISTEREO PLAN 4556, CITY OF MARKHAM				
SITE STATISTICS		PROP	OSED 15A	PRO	POSED 158	
LOT #	- 11	ı	DT 2L PART 1	1	LOT 21, PART 2	
ZOWIG			R3+2	11	R3+7	
LOT AREA			675.03 SM		675.03 5/1	
LOT DEPTH			42.27-43.50 M		4350-4467 M	
LOT FRONTAGE:			19.26 11	1	19.76 H	
LOT COVERAGE:		(220.4	4 SM) 32.69%	1210 61 SHD 3/20%		
BURDING TYPE:	_	_	DETACHED	1	DETACHED	
GROSS FLOOR AREA (A-B):		4262 SF	395.98 SM	4041 SF \	ATS 45 SH	
GROUND FLOOR (A):		2034 SF	169.96 521	1697 SF	115.32 SM	
SÉCONO FLOOR AREA (B):		2228 SF	206.99 SM	2154 SF	V 200.13 SH	
BUILDING HEIGHT IMAX. PERMITTEDI:	9.8 25	100 march 200	8 21 PI		A 824 M	
MUMBER OF STORIES.	2		2 STORES		2 STORES	
				7		
FRONTYARD SETBACK	9 H		9 H		) 9 H	
REAR YARD SETBACK	10 M		12.09/13.32 M		14.59/\$.71 M	
NORTH SIDE YARD SETBACK	18/2.0 M		1,55 M		169 M	
SOUTH SIDE YARD SETBACK	18/2.0 M		1.55 M		1.37 M	
FRONTYARO AREA:	-	1	173.07 SH	-/-	172.54 501	
DRIVEWAY AREA:		49.86 SM		1/	42.90.54	
SOFT LANDSCAPING AREA:		311.30 SM		1/	110.16 SH	
TOTAL FRONTYARD HUNUS DRIVEWAY		123.21 SM		1/	121.86 SH	
TOTAL FRONTYARD SOFT LANDSCAPING		(11130/12320z108 = 9033X		1/ 1010 10 1021 01	1×100 = 90.42%	

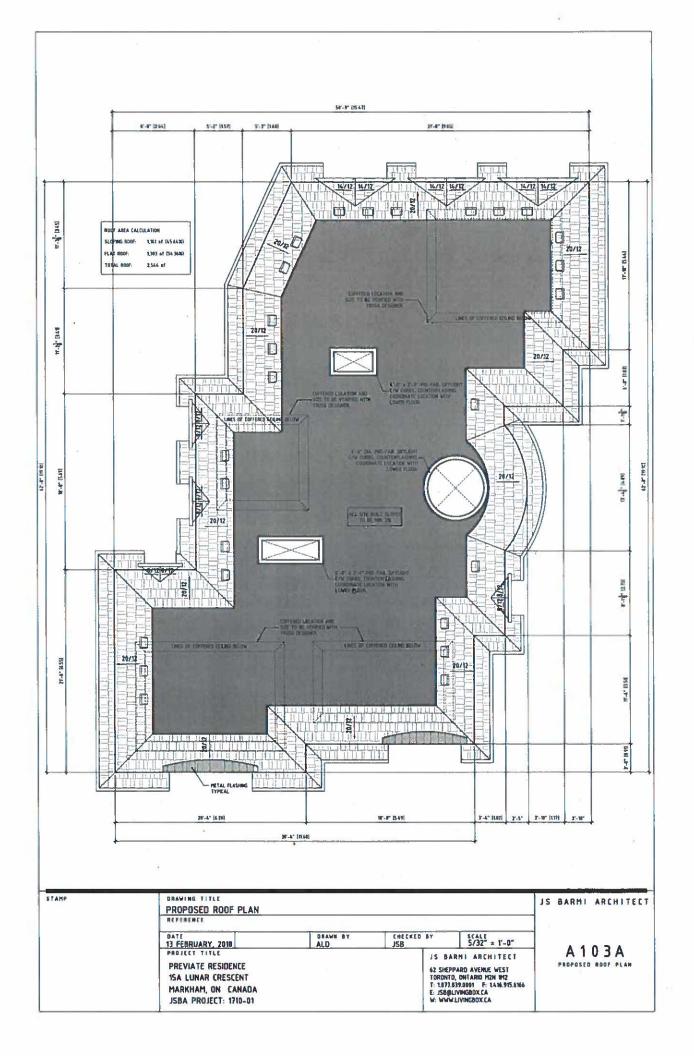
STAMP	SITE DATA REFERENCE	SITE DATA					
	DATE 13 FEBRUARY, 2018  PROJECT TITLE  PREVIATE RESIDENCE 15A LUNAR CRESCENT  MARKHAM, ON CANADA  JSBA PROJECT. 1710-01  GRAWN BY  SCALE  JSBA PROJECT STATE  ALO  JSBA PROJECT  JS BARNI ARCH 11  62 SHEPPARD AVENUE W  TORONTO, ONTARIO HEN  E. ISBRUTWINGBOXCA  W. SHEUTWINGBOXCA  W. WALVENWEBBOXCA			SARMI ARCHITECT  EPPARD AVENUE WEST  VTO, ONTARIO H2N 912  178898001 F: L616.915.6166	A O O O A		

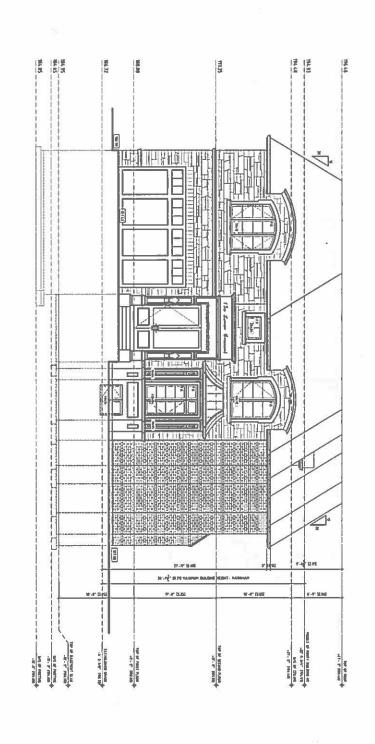




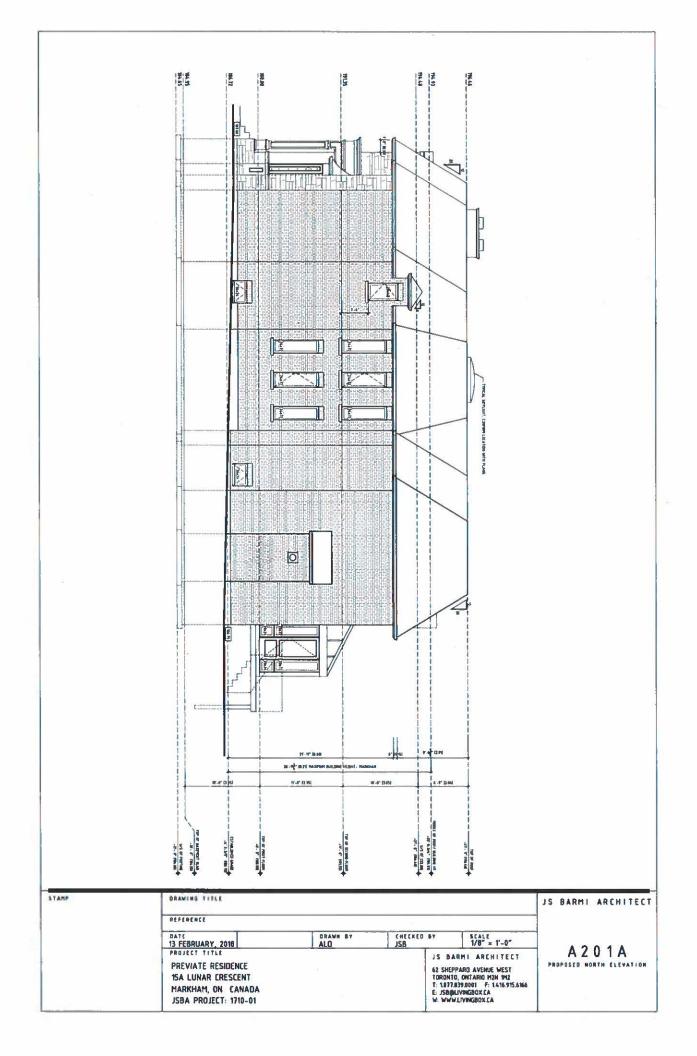


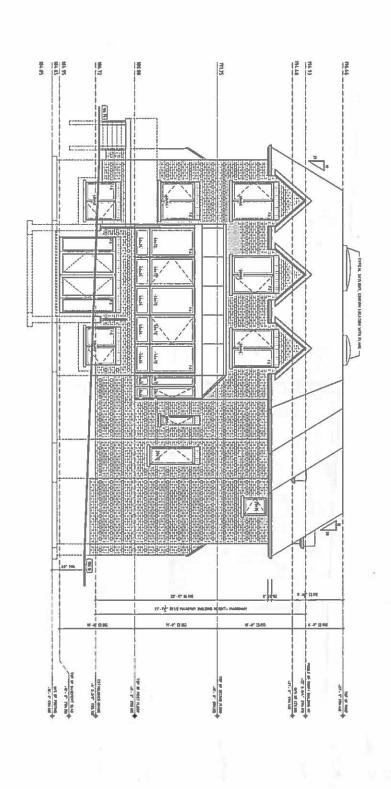




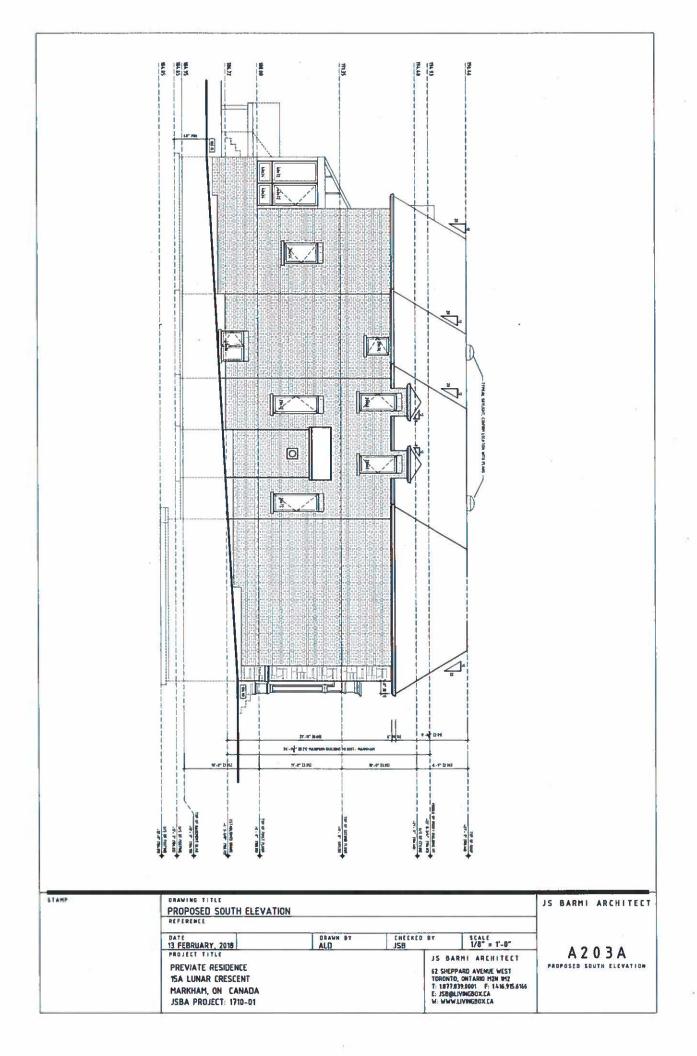


STAMP	PROPOSED MAIN ELEVATION	PROPOSED MAIN ELEVATION					
	DATE 13 FEBRUARY, 2018 PROJECT TITLE PREVIATE RESIDENCE	ALO ALO	CHECKED JSB	JS BAR	SCALE 1/8" = 1'-0"  MI ARCHITECT  ARD AVENUE WEST	A 2 0 0 A	
	15A LUNAR CRESCENT MARKHAM, ON CANADA JSBA PROJECT: 1710-01			T: 1877.83 E: JSB@LIV	ONTARIO MEN 1112 9.0001 F: 1.416.915.6146 /INGBOX.CA IVINGBOX.CA		



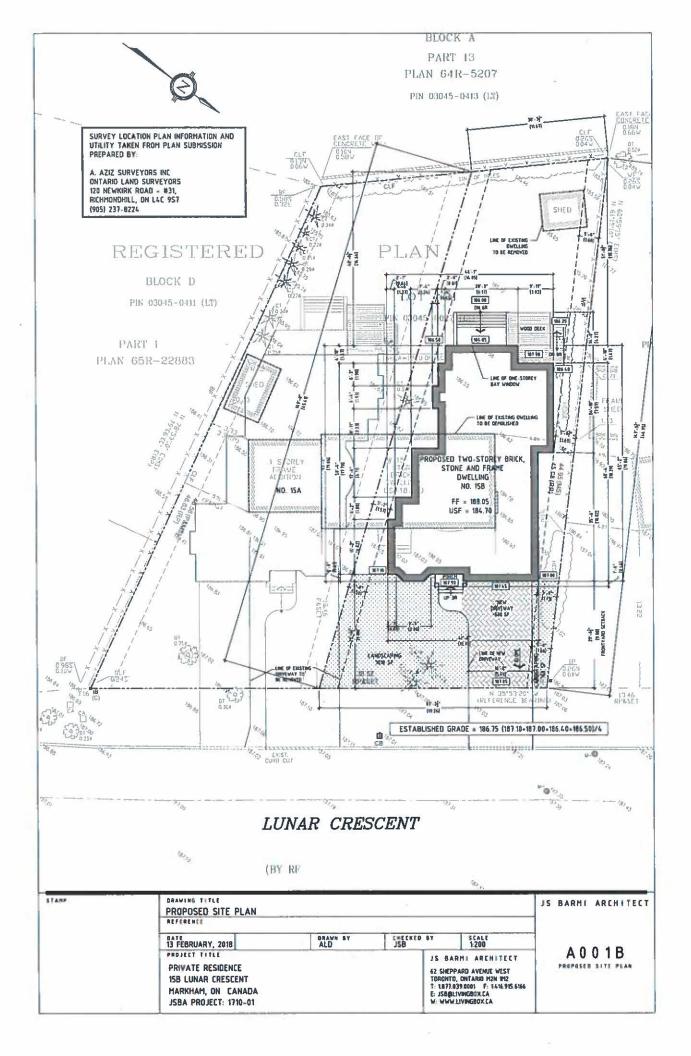


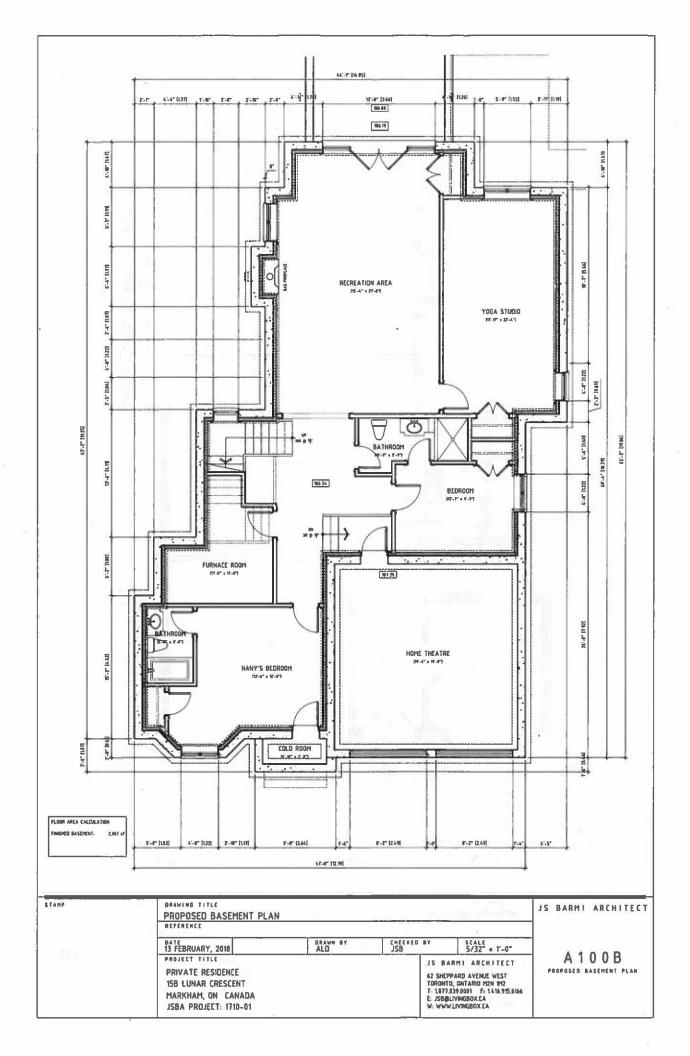
STAMP	PROPOSED WEST ELEVATOR	JS BARMI ARCHITEC			
	DATE 13 FEBRUARY, 2018	DRAWN BY	CHECKED BY	1/8" = 1'-0"	1
	PROJECT TITLE PREVIATE RESIDENCE 15A LUNAR CRESCENT MARKHAM, ON CANADA JSBA PROJECT: 1710-01			BARM ARCHITECT SHEPPARIJ AVENUE WEST RONTO, ONTARIO M2N 1912 1877.879.0001 F. 1416.915.616 SEBBLIYMEDOX.CA WWW.INMEDOX.CA	A 2 0 2 A PROPOSED WEST ELEVATION

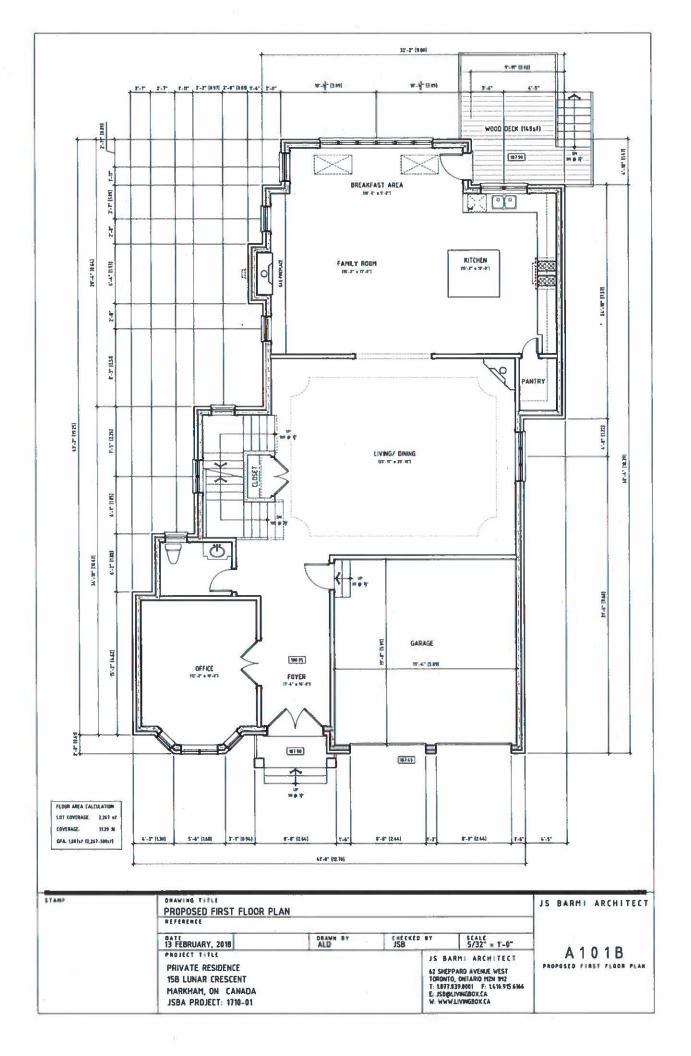


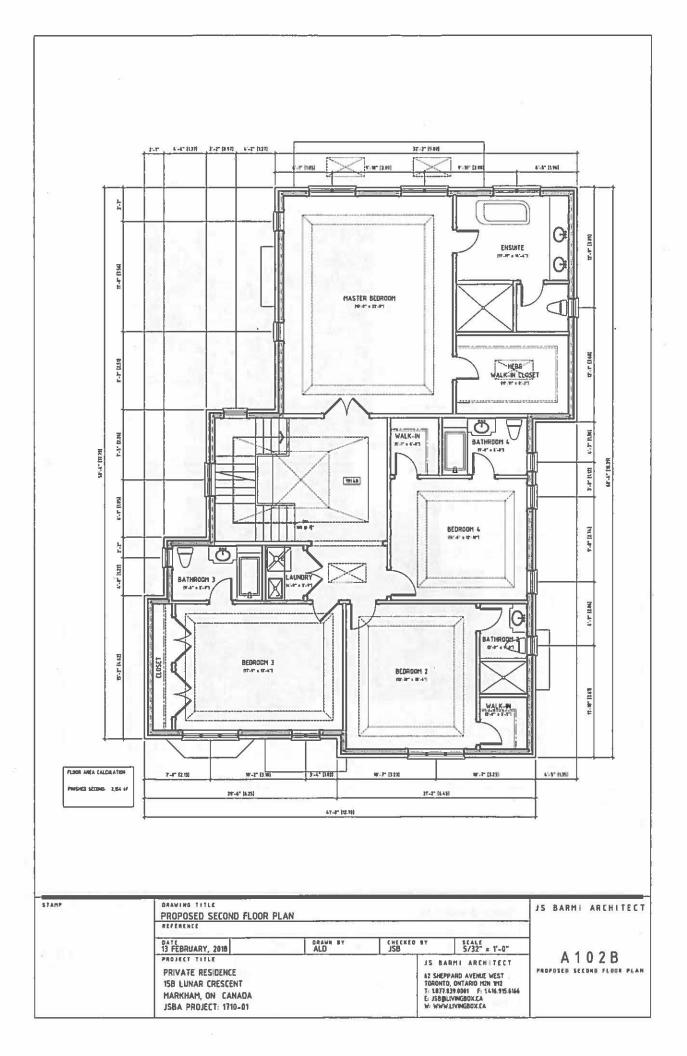
PROJECT NAME:		PRIVATE RESIDENCES						
MUNICIPAL ADDRESS:		15A & B L	ISA & B LUNAR CRESCENT, TORONTO, ONTARIO					
LEGAL ADDRESS:	LOT 21, PA	RT 182						
		REGISTERE	D PLAN 4556,	CITY OF MAR	KHAM			
SITE STATISTICS		\ PRO	POSED 15A /	PROP	PROPOSEO 158			
LOT a		1	LOT 21, PART 1	L	OT 21, PART 2			
ZCHING		11	R3+2		R3+2			
LOT AREA			675.03 S/1		675.03 SM			
LOT DEPTH			42 27-43.50 M		4350-44 63 M			
LOT FRONTAGE:			19.76.11		19.26 H			
LOT COVERAGE:		/(330	64 SM 37.69%	[210.	[210.61 SM] 31.20%			
		\		100				
BUILDING TYPE:		11	DÉTACHED		DETACHED			
GROSS FLOOR AREA (A+B).		4262 SF	/395.98 SM	4841 SF	375.45 SM			
GROUND FLOOR (A):		2034 SF	198.98 581	1007 SF	175.32 SM			
SECONO FLOGR AREA (B):		2228 SF	₩ 206.99 SM	2154 SF	200.13 \$24			
BUILDING HEIGHT BHAX, PERMITTEDI.	91 H		▲ 8.21 H		8.24 H			
HUMBER OF STDRES:	2		2 STORIES		2 STORIES			
		/	'\					
FRONTYARO SETBACK	9.14		) 9 M		9 H			
REAR YARD SETBACK	10 14		12.09/\J.32 H		14.59/15.71 H			
NORTH SIDE YARD SETBACK	18/2 8 M	\\_\\_\\\\\\\\\\\\\\\\\\\\\\\\\\\\		169 P				
SOUTH SIDE YARD SETBACK	18/2.0 H	1 /	1.45 M		157 H			
FRONTYARD AREA:			173.07 \$71		171.84 SM			
DRIVEWAY AREA:		49.06 504		49.98 SF				
SOFT LANDSCAPING AREA:	74190	17	111.30 SM	110.19 SP				
TOTAL FRONTYARD MINUS DRIVEWAY:		17	123.21 SH \	121.86 SH				

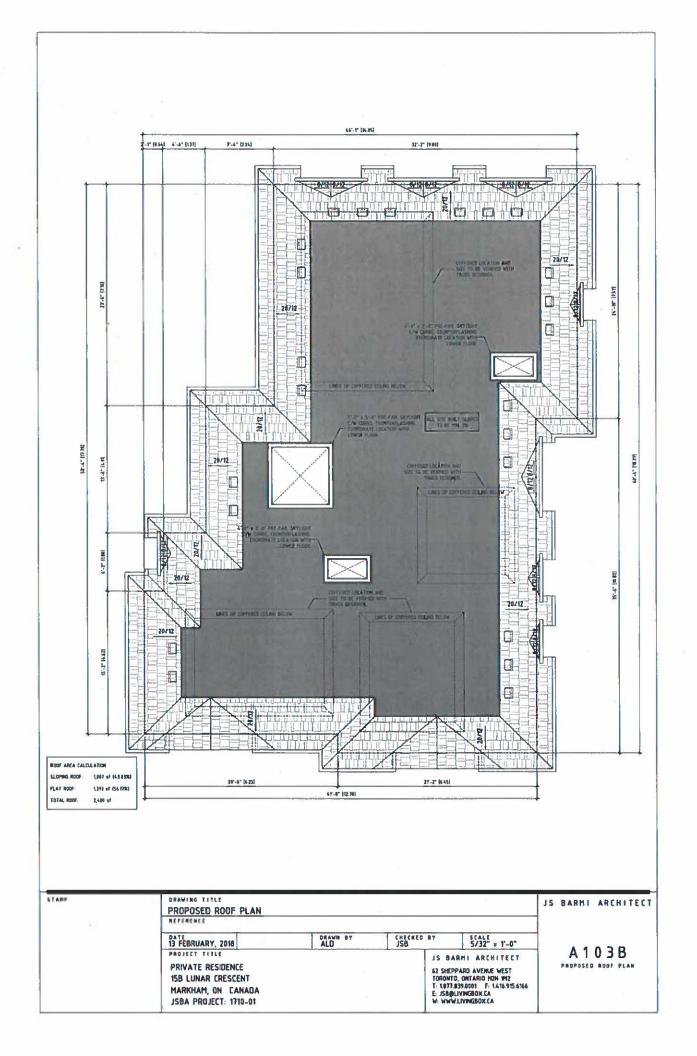
STAMP	SITE DATA REFERENCE	SITE DATA					
	DATE 13 FEBRUARY, 2018	ALD BY	JSB BY	SEALE	1		
	PROJECT TITLE PRIVATE RESIDENCE 15B LUNAR CRESCENT MARKHAM, ON CANADA JSBA PROJECT: 1710-01	PROJECT TITLE  JS BARMI ARCHITECT  PRIVATE RESIDENCE  52 SHEPPARD AVENUE WEST  TORONTO, ONTARIO HIM 1912  MARKHAM, ON CANADA  LISTED BY BOOT F. LANS 95.6166  E. JSBBULVARGONCA  E. JSBBULVARGONCA			A O O O B		

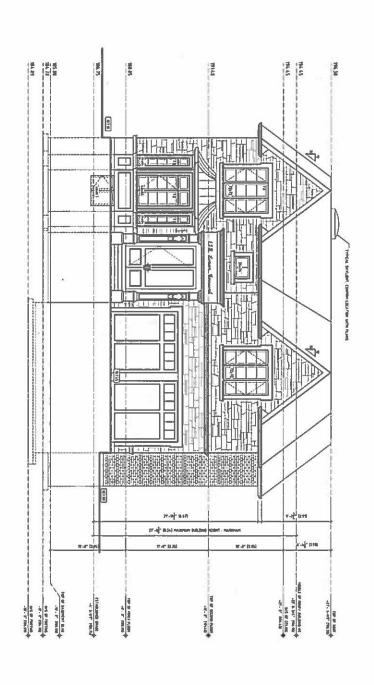




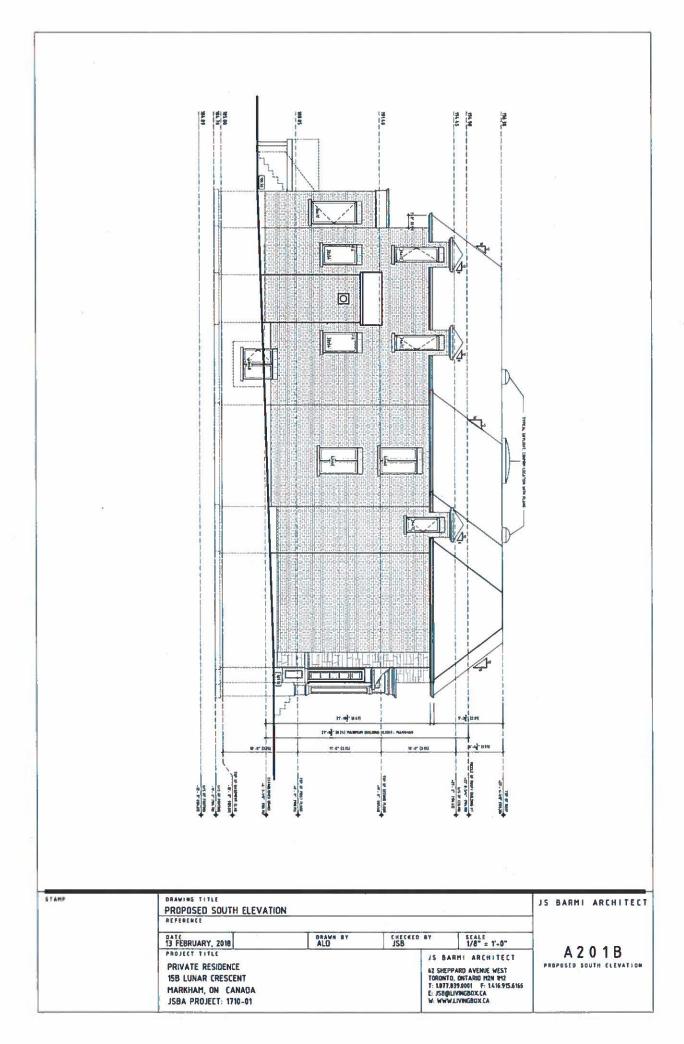


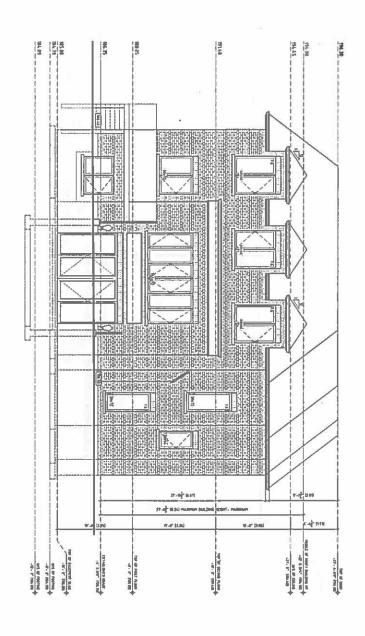






STAMP	PROPOSED MAIN ELEVATIO	PROPOSED MAIN ELEVATION					
n =	13 FEBRUARY, 2018	ALD BY	JSB BY	1/8" = 1'-0"	AZOOR		
	PROJECT TITLE PRIVATE RESIDENCE 15B LUNAR CRESCENT MARKHAM, ON CANADA JSBA PROJECT: 1710-01	15B LUNAR CRESCENT MARKHAM, ON CANADA			A 2 0 0 B PROPOSED MAIN ELEVATION		





STAMP	PROPOSED WEST ELEVATION REFERENCE	PROPOSED WEST ELEVATION					
	13 FEBRUARY, 2018	ALO SY	JSB BY	SCALE 1/8" = 1'-0"	A 2 0 2 B		
	PROJECT TITLE PRIVATE RESIDENCE 15B LUNAR CRESCENT MARKHAH, ON CANADA JSBA PROJECT: 1710-01	158 LUNAR CRESCENT MARKHAM, ON CANADA			PROPOSED WEST ELEVATION		

