Memorandum to the City of Markham Committee of Adjustment

December 10, 2018

File: A/167/18

Address: 41 Hawkridge Ave, Markham

Applicant: Jie Zhou

Agent: Vince Emam Jomeh

Hearing Date: Wednesday January 23, 2019

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) In-fill By-law 99-90, Sec. 1.2 (vi):

a maximum floor area ratio (FAR) of 49.96 percent, whereas the By-law permits a maximum FAR of 45 percent; as it relates to a proposed two storey detached dwelling.

Comments

The Committee of Adjustment deferred the application on November 28, 2018, due to concerns regarding the size of the proposed dwelling. In response to the Committee of Adjustment's comments, the applicant submitted revised drawings on December 06, 2018 (Appendix 'B1') showing a reduced height of the front balcony roof and reduced floor area ratio. The applicant is requesting relief to permit a floor area ratio of 49.96 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. This is a reduction from the original request for a floor area ratio of 51.62 percent. The variance will facilitate the construction of a two-storey detached dwelling with a total floor area of approximately 383.15 m² (4,124.2 ft²), whereas the By-law permits a dwelling with a maximum floor area of 345.11 m² (3714.75 ft²). This represents an increase of approximately 38.04 m² (409.45 ft²). Staff's comments dated November 20, 2018 (Appendix 'C1') remain applicable.

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. 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.

PUBLIC INPUT SUMMARY

As of December 10, 2018, the City received 1 letter expressing concerns over the massing of the proposed dwelling. 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. Staff are of the opinion that the variance request for floor area ratio meets the four tests of the Planning Act and, 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:

Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:

Stacia Muradali, Senior Rianner, East District

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Appendices

Appendix A1 – Conditions

Appendix B1 - Plans

Appendix C1 – Staff Report (November 20, 2018)

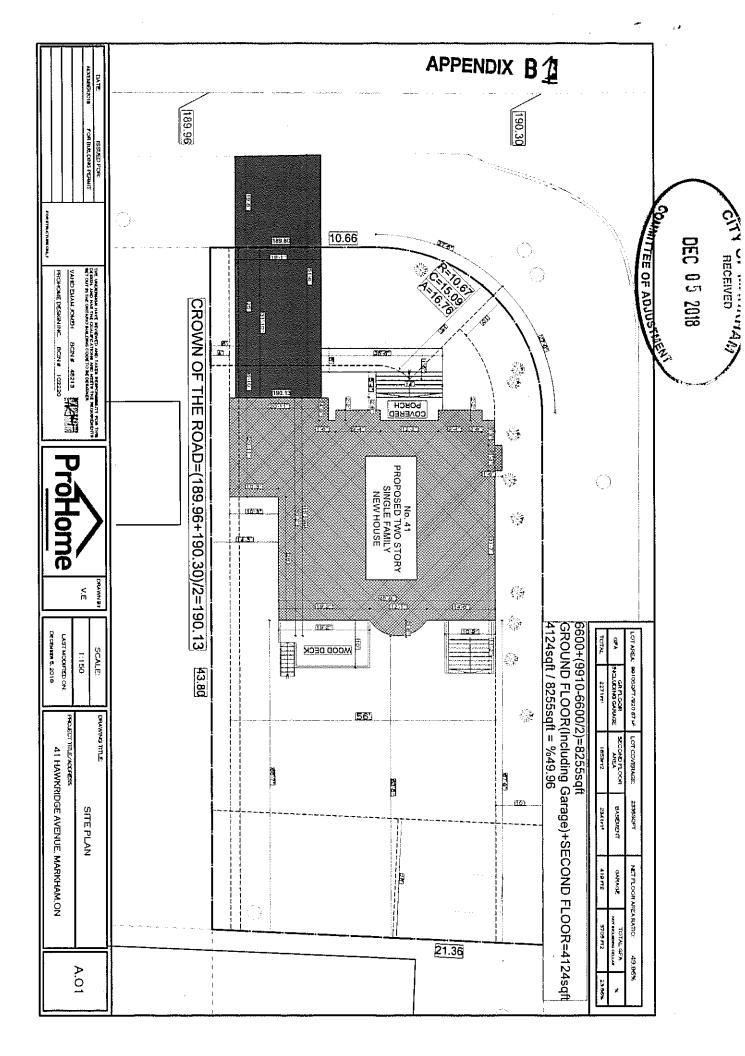
APPENDIX "A1" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/167/18

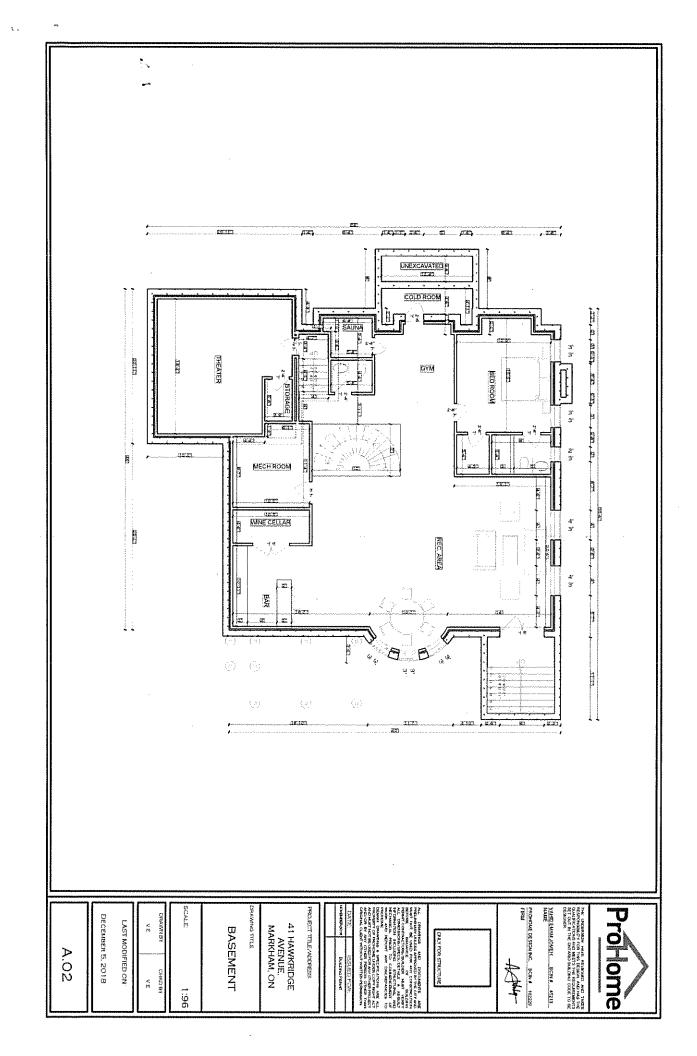
- 1. That the front and rear balcony remain unenclosed;
- 2. The variances apply only to the proposed development as long as it remains;
- 3. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report received by the City of Markham on December 05, 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.
- 4. 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.
- 5. 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.
- 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;

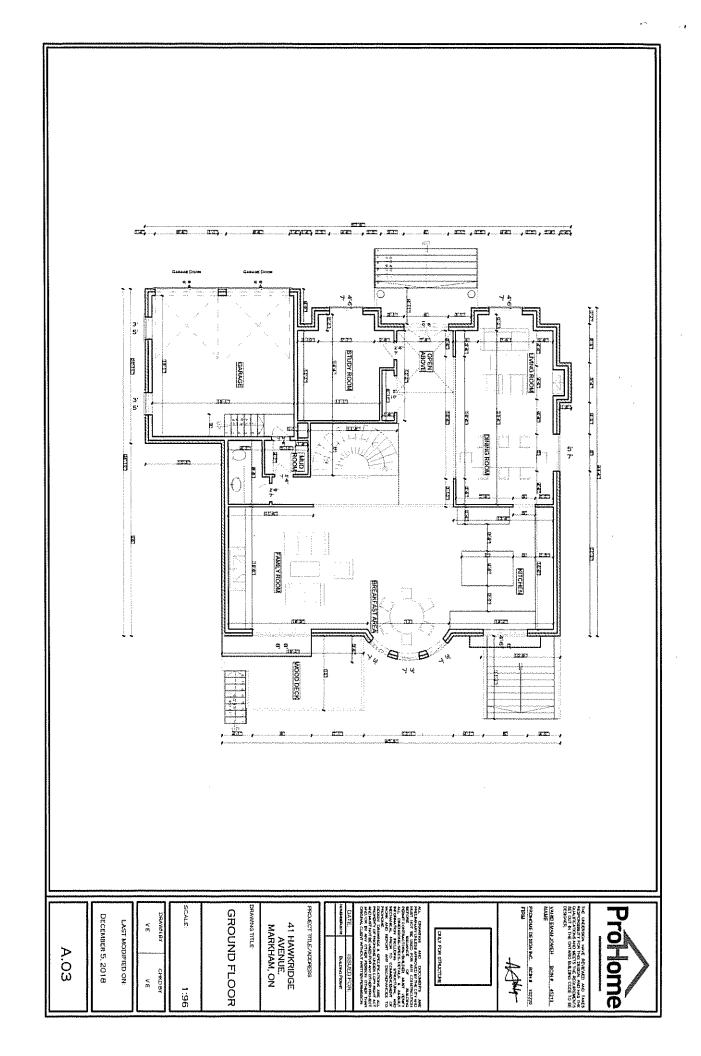
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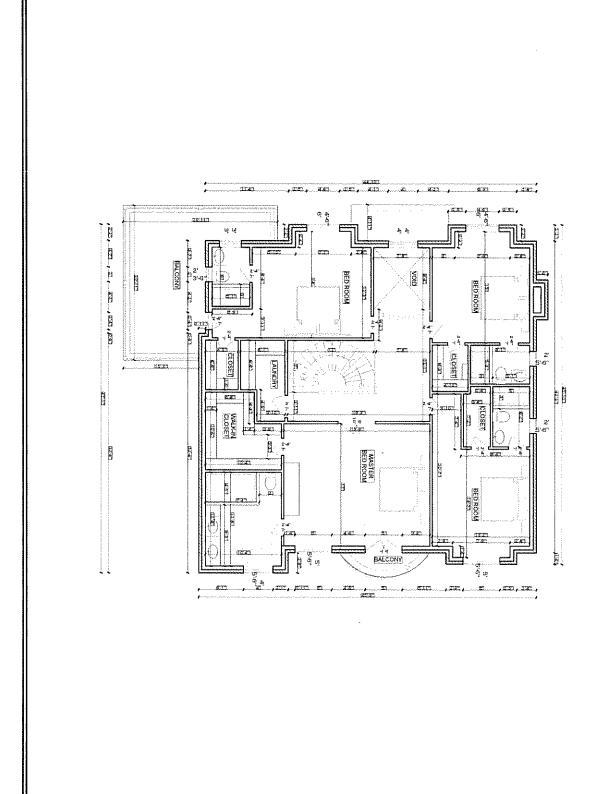
Aqsa Malik, Planner, Zoning and Special Projects

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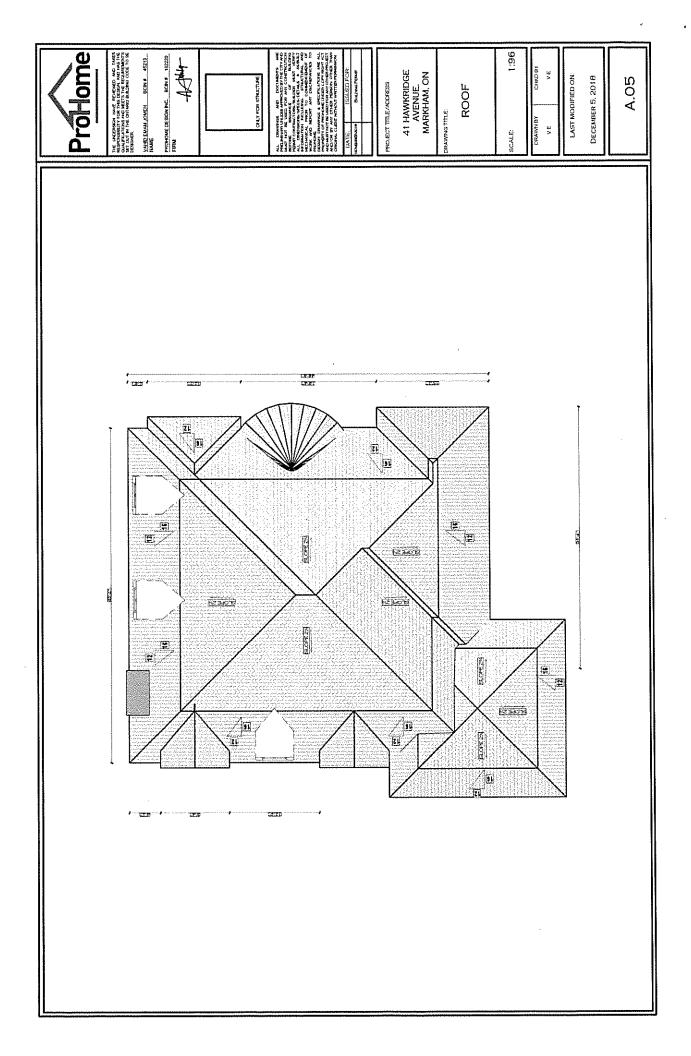
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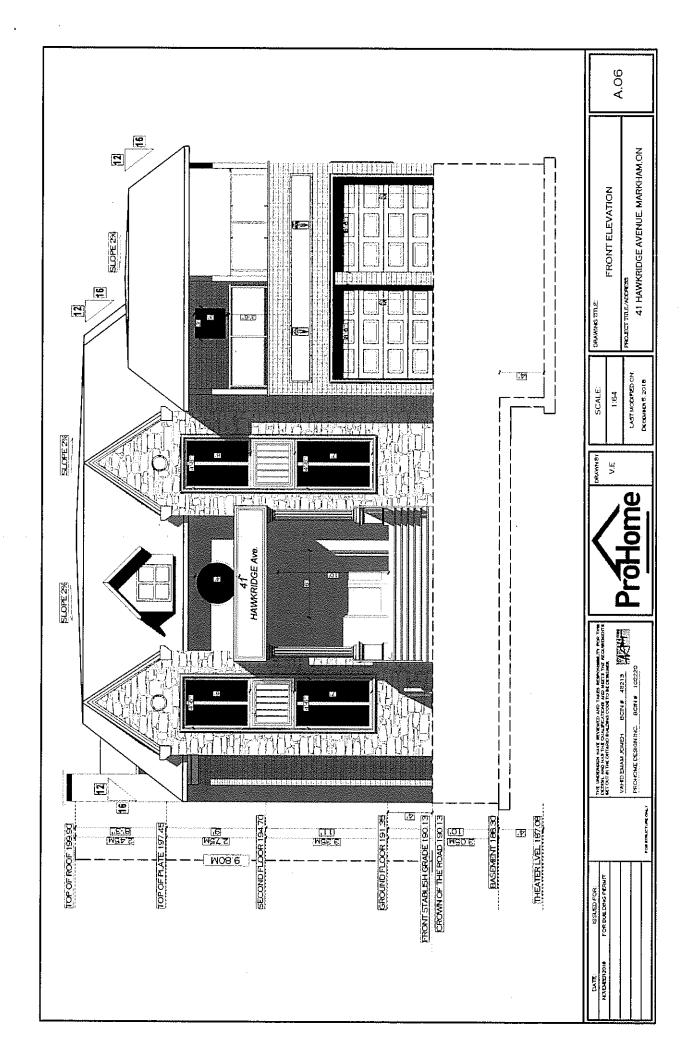
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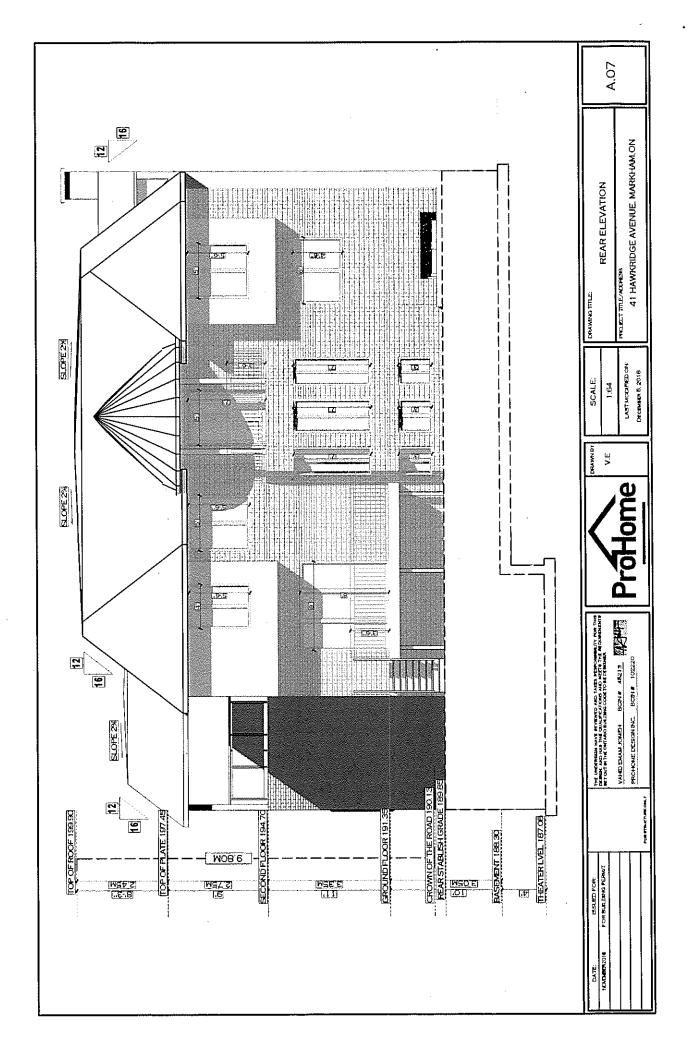
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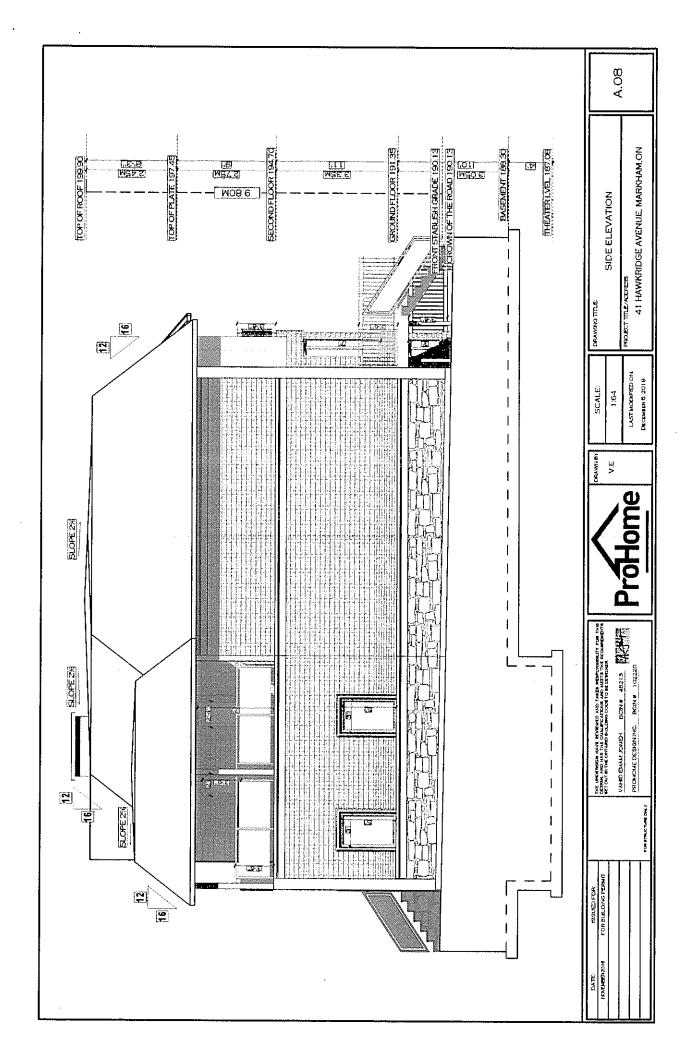
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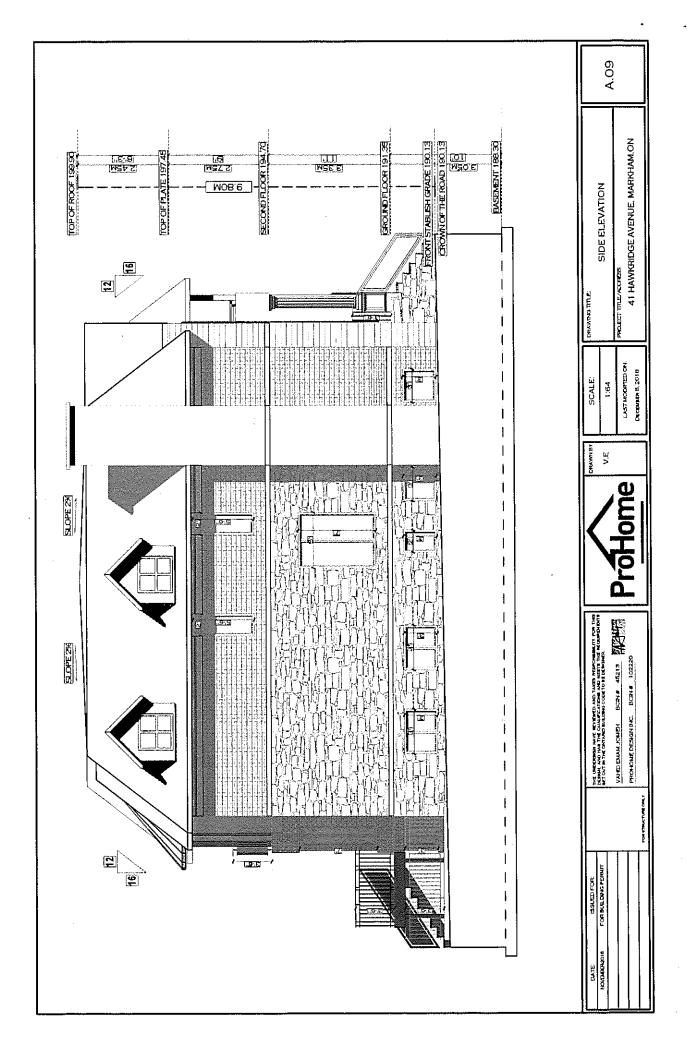
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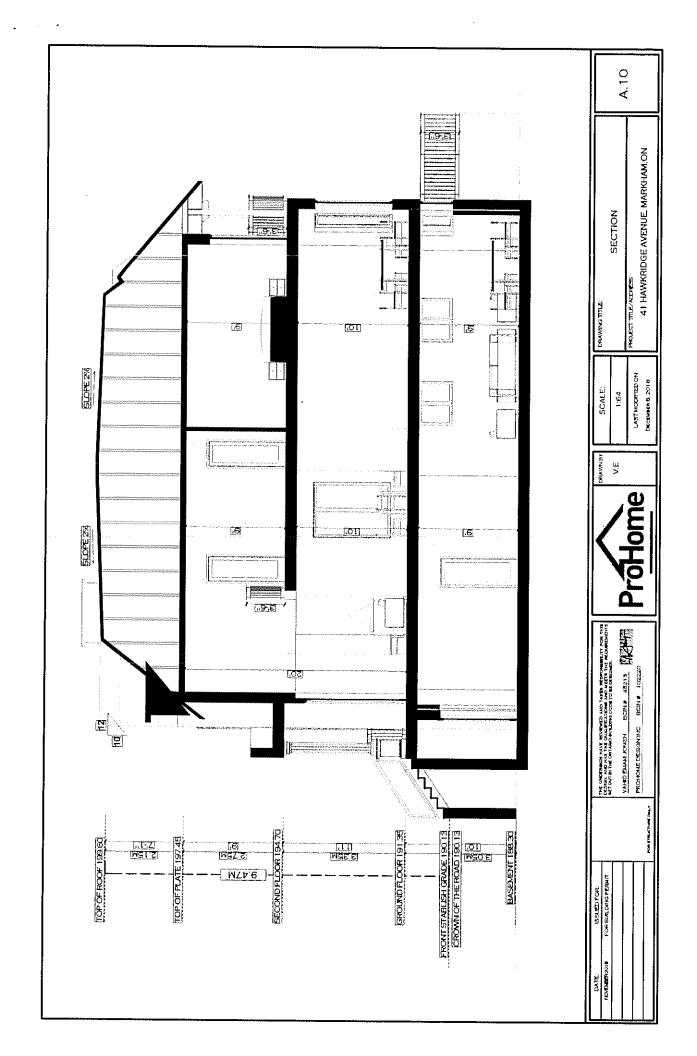












Memorandum to the City of Markham Committee of Adjustment

November 20, 2018

File:

A/167/18

Address:

41 Hawkridge Ave, Markham

Applicant:

Jie Zhou

Agent:

Vince Emam Jomeh

Hearing Date:

Wednesday November 28, 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) In-fill By-law 99-90, Sec. 1.2 (vi):

a maximum floor area ratio (FAR) of 51.62 percent, whereas the By-law permits a maximum FAR of 45 percent; as it relates to a proposed two storey detached dwelling.

BACKGROUND

Property Description

The 920.67 m² (9,910 ft²) subject property is a corner lot located on the east side of Hawkridge Avenue, north of Highway 7 East and west of Main Street Markham. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There is an existing one-storey detached 123.75 m² (1,332 ft²) dwelling on the property, which according to assessment records was constructed in 1952. Mature vegetation exists across the property.

Proposal

The applicant is proposing to construct a new two-storey detached 395.86 m² (4,261 ft²) dwelling with a rear yard deck and a basement walkout. The proposal also includes a front covered porch and covered balcony and a rear covered balcony. The ground floor of the proposed dwelling will have a floor area of 217.39 m² (2,340 ft²) while the second floor will have a floor area of 178.46 m² (1,921 ft²)

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 1229

The subject property is zoned "One Family Detached Dwellings (R1)" in By-law 1229, as amended, which permits a single detached dwelling.

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 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, "the garage is included in FAR, since the owner has large family and their parant live with them. The permitted floor area doesn't need their needs".

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. 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 Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 51.62 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 total floor area of 395.86 m² (4,261 ft²), whereas the By-law permits a dwelling with a maximum floor area of 345.11 m² (3714.75 ft²). This represents an increase of approximately 50.75 m² (546.27 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). In addition to the space associated with the stairs, there is approximately 5.92 m² (63.81 ft²) of open to below area on the second floor above the foyer which is excluded from the gross floor area calculation under the by-law. The proposed dwelling is also designed to include a front covered balcony on top of the garage and a rear covered balcony which, are unenclosed and excluded from the calculation of Floor Area Ratio. If the balconies were to be enclosed the proposed Floor Area Ratio would increase.

Excluding Floor Area Ratio, the building layout meets all other zoning provisions (such as setbacks and lot coverage) that establish the prescribed building envelope, which ensures the

proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood.

While the proposed dwelling will be larger than the existing homes developed originally in the 1950s-1960s, it is consistent with recent infill development on the street including a number of nearby infill homes that have obtained variance approval for a similar increase in floor area ratio ranging between 47.5 percent and 53 percent. Given that the balconies are unenclosed and, that the proposed floor area ratio is generally consistent with newer in-fill developments on the street, Staff are of the opinion that the proposal meets the general intent and purpose of the infill By-law and is appropriate for the lot.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 20, 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. Staff are of the opinion that the variance request for floor area ratio meets the four tests of the Planning Act and, 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:

REVIEWED BY:

Aqsa Malik, Planne A Zoping and Special Projects

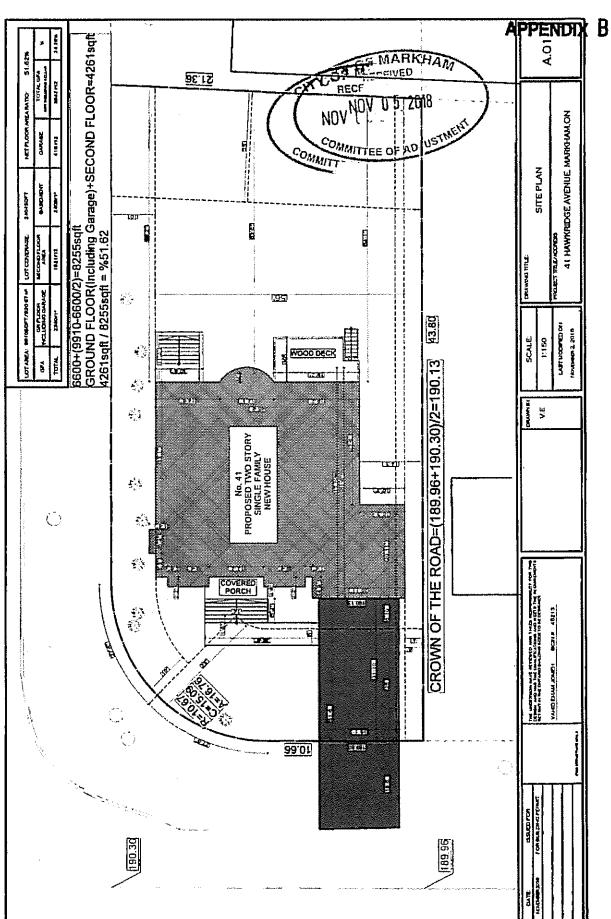
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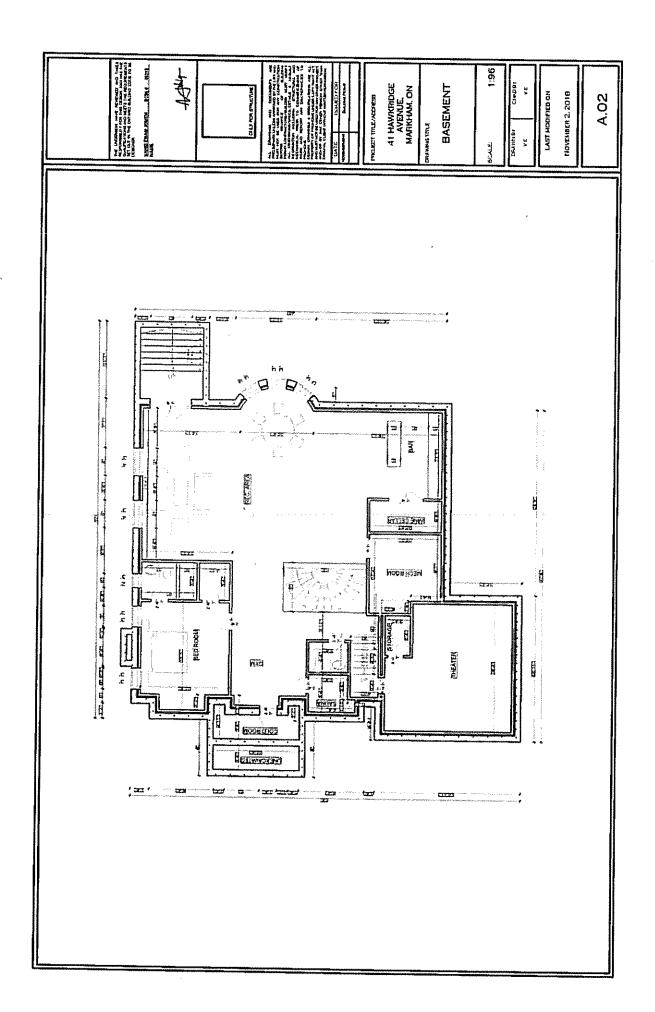
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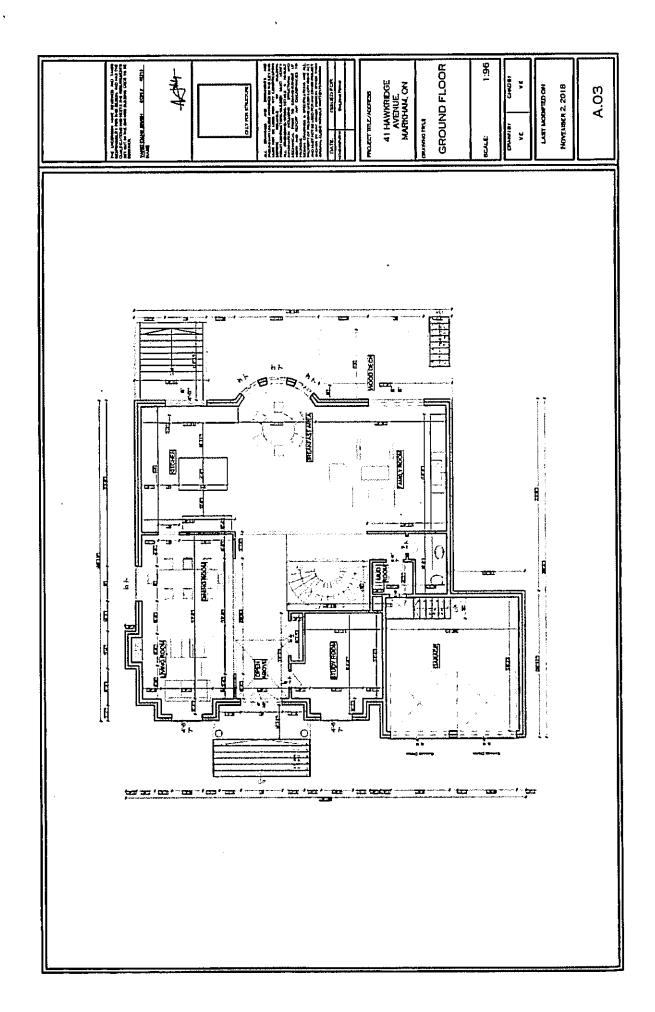
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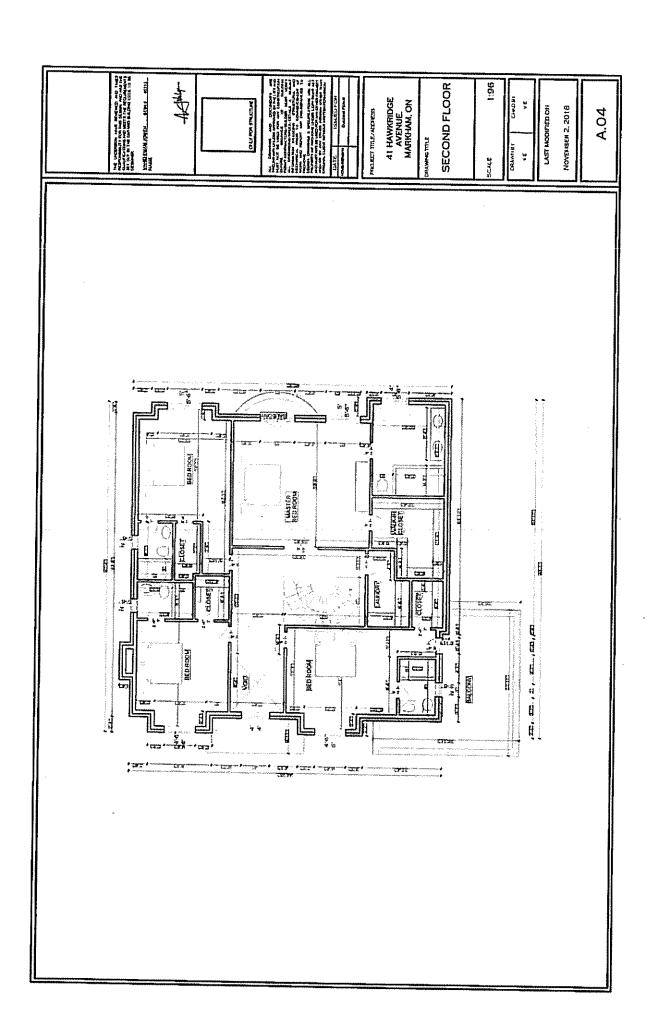
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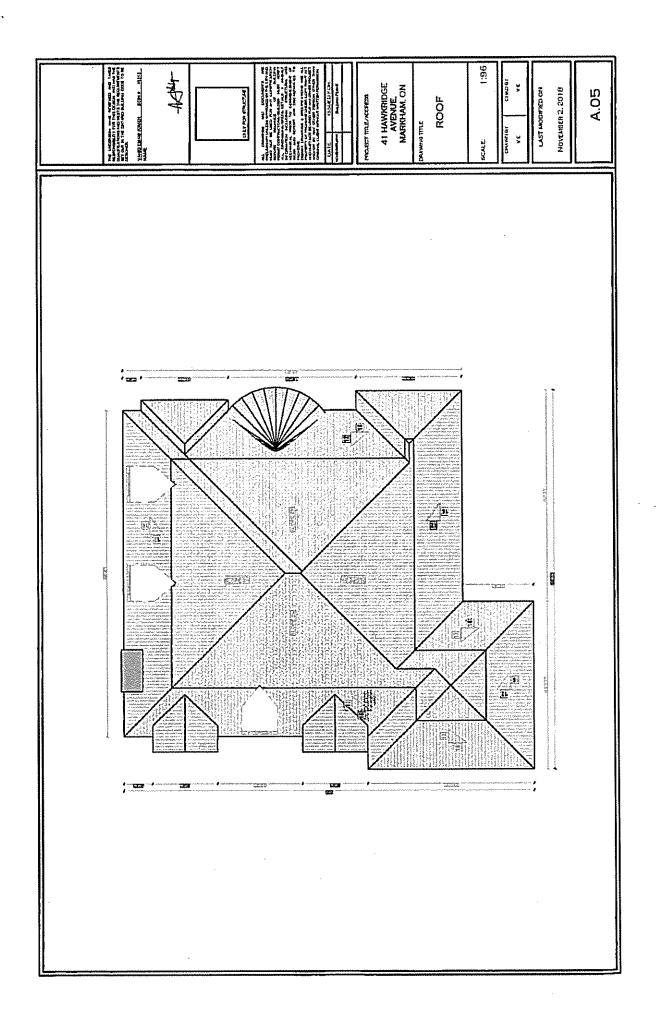
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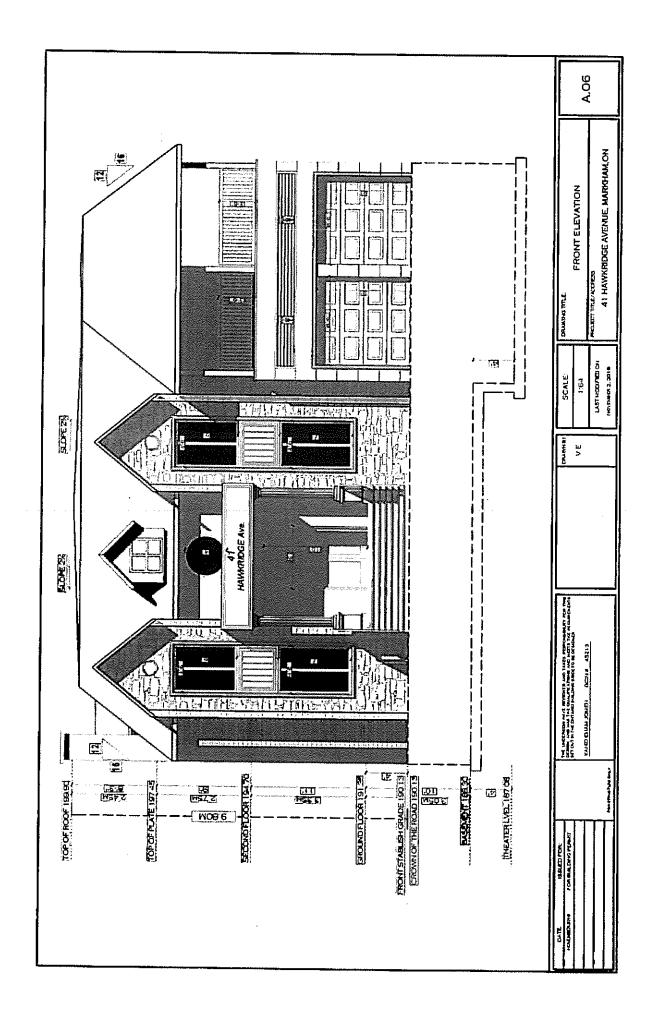


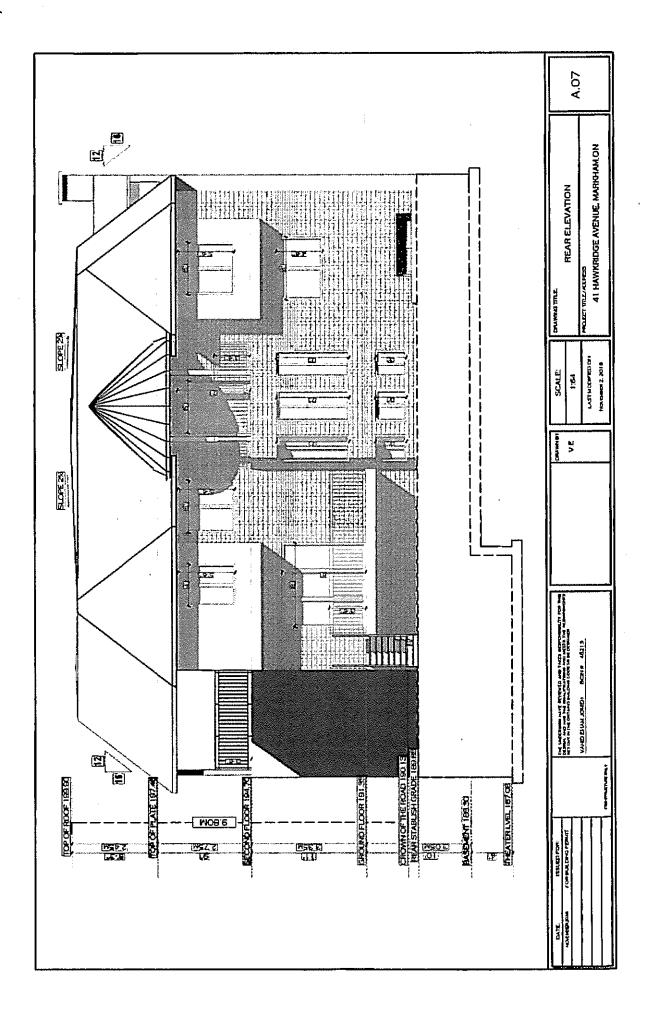


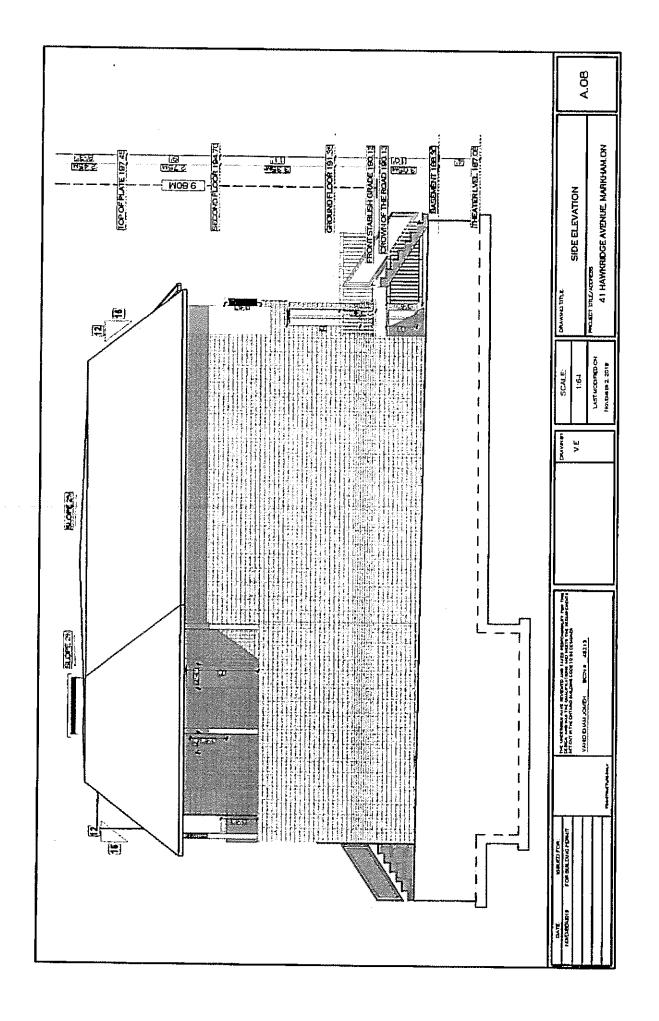


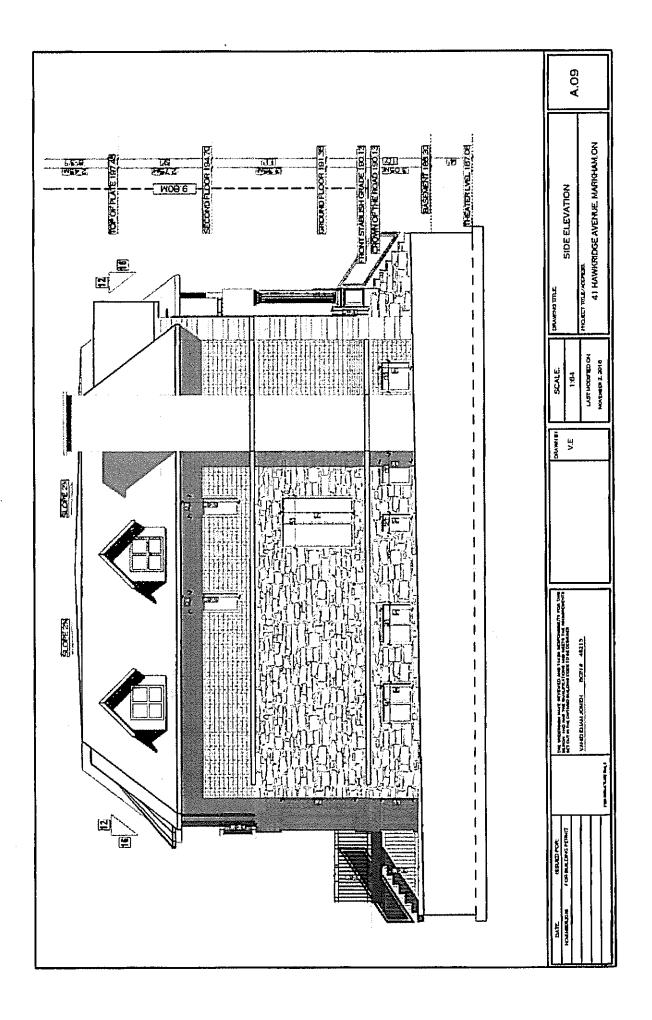


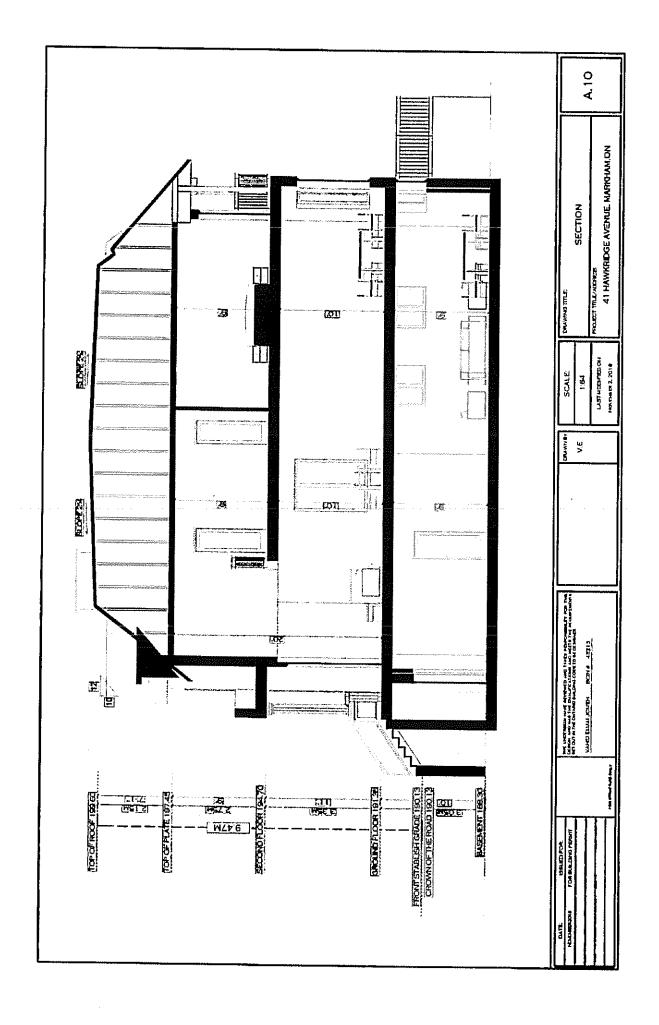


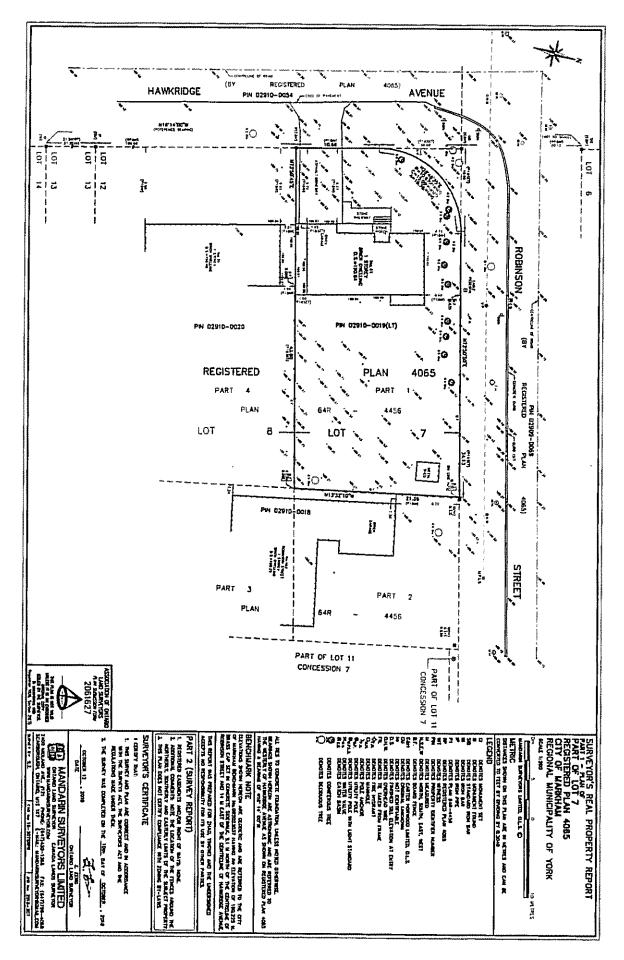












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