

# Addendum to the City of Markham Committee of Adjustment

December 7, 2022

**File:** A/075/22  
**Address:** 20 Elizabeth Street, Markham, ON  
**Applicant:** John Andreacchi  
**Hearing Date:** December 7, 2022

The following comments are provided on behalf of the East District Team. The Owner is requesting relief from the following "Residential One (R1)" zone requirements under Zoning By-law 1229, as amended (the "Zoning By-law"), as they relate to a proposed accessory dwelling unit. The variances requested are to permit:

- a) **By-law 1229, Section 6.1:**  
an accessory dwelling unit, whereas the Zoning By-law permits no more than one dwelling unit on the lot; and
- b) **Parking By-law 28-97, Section 3.0:**  
two parking spaces, whereas the Zoning By-law requires a minimum of three parking spaces.

## COMMENTS

As it relates to the above noted requests to permit an accessory dwelling unit and associated parking reduction, staff advise that *Bill 23, More Homes Built Faster Act, 2022* ("Bill 23") received Royal Assent on November 28, 2022, which implements immediate changes to the *Planning Act, R.S.O. 1990, c. P.13, as amended* (the "*Planning Act*") to limit the authority of municipalities to pass a Zoning By-law under Section 34 of the *Planning Act* that prohibits additional dwelling units within a detached house, semi-detached house or rowhouse, or within a structure ancillary to a detached house, semi-detached house, or rowhouse. These amendments also limit the authority of municipalities to pass a By-law which would regulate the requirement of more than one parking space associated with a permitted residential unit. Accordingly, this Staff Addendum serves to update the comments provided in the initial Staff Report, also published on November 28, 2022. Under the newly introduced Provincial legislation, both the accessory dwelling and reduction in parking are now permitted and do not require approval from the Committee of Adjustment. For further details, please see the Briefing Note attached as Appendix "A" to the Addendum.

## APPENDICES


Appendix "A" – Briefing Note: Bill 23 Impacts on Accessory Dwelling Units

Appendix "B" – Initial Staff Report: November 29, 2022

PREPARED BY:

  
Aleks Todorovski, MCIP, RPP  
Planner II, East District

REVIEWED BY:

  
Stephen Corr, MCIP, RPP  
Senior Planner II, East District

**APPENDIX “A”**

**BRIEFING NOTE: BILL 23 IMPACTS ON ACCESSORY DWELLING UNITS**

**Date:** December 6, 2022  
**Prepared by:** Greg Whitfield  
**Prepared for:** City of Markham Committee of Adjustment  
**Subject:** Bill 23 Impacts on Additional Dwelling Unit Requests

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This briefing provides an overview of the impacts the passing of Bill 23 has on requests for additional dwelling units as it relates to the Committee of Adjustment (CoA).

## BACKGROUND

### PROVINCIAL POLICIES

#### More Homes, Built Faster Act, 2022

The *More Homes, Built Faster Act, 2022*, S.O. 2022 – (Bill 23) received Royal Assent on November 28, 2022. Portions of Bill 23 amended the *Planning Act*, R.S.O. 1990, c. P.13, as amended (The Act), to limit the authority of municipalities to pass a by-law under Section 34 of The Act that would prohibit the use of additional dwelling units within a detached house, semi-detached house or rowhouse, or within a structure ancillary to a detached house, semi-detached house, or rowhouse. These amendments also limit the authority to pass a by-law which would regulate the floor area of additional dwelling units, as well as requirements for more than one parking space to be provided in connection with additional dwelling units.

### OFFICIAL PLAN AND ZONING

#### Zoning Provisions

City of Markham by-laws generally do not permit additional dwelling units within a detached, semi-detached or rowhouse dwelling as-of-right, necessitating the need for owners and applicants to seek approval from the CoA. The implications of Bill 23 eliminate the need for variance approvals related to requests for additional dwelling units in specific instances, as outlined under [Section 35.1](#) of The Act, without requiring a formal amendment to the in force Zoning By-law.

Zoning standards including, but not limited to, height, lot coverage, setbacks, depth, or standards for ancillary buildings or structures containing a dwelling unit shall continue to apply, as required, in the prevailing By-laws.

### COMMENTS

While approval to allow an additional dwelling unit(s), as outlined above, will no longer require approval from the CoA, owner's will still be required to obtain a building permit which ensures the unit(s) comply with Building Code and Fire Code Regulations. Compliance with the Building Code includes, but is not limited to: ensuring sufficient natural light is provided to living and bedrooms;

ensuring there is proper egress or exiting in the event of an emergency; and, ensuring there is proper fire separation between dwelling units.

In addition, an approved additional dwelling unit(s) must be registered with the Fire Department prior to the occupancy of the unit.

## **NEXT STEPS**

For applications scheduled on the December 7<sup>th</sup> and December 14<sup>th</sup> Committee of Adjustment hearings that include a request for additional dwelling units, Committee will not be required to make a decision on the additional dwelling unit permission. Committee may also not be required to make a decision on an associated reduction in parking if the proposed number of spaces complies with the City's zoning by-law, and the *Planning Act* under Bill 23.

Committee may still be required to render decisions on applications where other deficiencies not addressed by Bill 23 still exist under the zoning by-law.

Staff will provide guidance to Members and the Public at upcoming meetings as to which applications will no longer require consideration.

PREPARED BY:



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Greg Whitfield, Supervisor, Committee of Adjustment

REVIEWED BY:



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Brad Roberts, Manager, Development Facilitation Office

**APPENDIX “B”**  
**INITIAL STAFF REPORT: NOVEMBER 29, 2022**

# Memorandum to the City of Markham Committee of Adjustment

November 28, 2022

**File:** A/075/22  
**Address:** 20 Elizabeth Street, Markham, ON  
**Applicant:** John Andreacchi  
**Hearing Date:** December 7, 2022

The following comments are provided on behalf of the East District team. The Owner is requesting relief from the following “Residential One (R1)” zone requirements under Zoning By-law 1229, as amended (the “Zoning By-law”), as they relate to a proposed accessory dwelling unit. The variances requested are to permit:

**a) By-law 1229, Section 6.1:**

an accessory dwelling unit, whereas the Zoning By-law permits no more than one dwelling unit on the lot; and

**b) Parking By-law 28-97, Section 3.0:**

two parking spaces, whereas the Zoning By-law requires a minimum of three parking spaces.

## PROPERTY DESCRIPTION

20 Elizabeth Street (the “Subject Property”) is located on the west side of the street, north of Deer Park Lane, east of Main Street Markham North, and south of 16<sup>th</sup> Avenue. A two-storey detached dwelling and mature vegetation exist on the Subject Property. The dwelling currently contains a one-storey attached garage accessed by a one-car driveway, which collectively provides for two legal sized parking spaces.

The Subject Property is located within a residential neighbourhood which contains a mix of low rise dwellings. The Markham Village Heritage Conservation District (the “MVHCD”) immediately abuts the Subject Property to the west; and the Markham Road/Mount Joy Corridor area – which contains a mix of commercial and employment uses – is in close proximity to the Subject Property.

## PROPOSAL

The Owner is requesting permission for an accessory dwelling unit, which would be accessed by stairs located at the front of the dwelling and abutting the existing garage. Associated with the additional dwelling unit, the Owner also proposes a reduction in the number of required parking spaces. Although the second storey addition located above the garage would be newly constructed, staff advise that no variances are being requested for this building addition.

## ZONING PRELIMINARY REVIEW (ZPR) NOT UNDERTAKEN

The Owner has confirmed that a ZPR has not been conducted. However, the Owner identified that a Building Permit application was submitted, where Building staff would have confirmed or identified non-compliances relating to the proposed development. Building staff were unable to locate the file identified by the Owner, and staff attempted to contact the Owner prior to the hearing to confirm the file number.

Staff advise that it is the Owner’s responsibility to ensure that the application has accurately identified all 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 are identified at the Building Permit review process, further variance application(s) may be required to address any non-compliances.

## **COMMENTS**

The *Planning Act*, R.S.O. 1990, c. P.13, as amended (the “*Planning Act*”) states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the “Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

### Secondary Suite

Staff are satisfied that the proposed development would meet the criteria under [Section 8.13.8](#) of the Official Plan for the establishment of a secondary suite, and support its approval in accordance with the requirements under Section 16(3) of the *Planning Act*.

The associated parking reduction may be considered “self regulating”, as the accessory dwelling unit would only be of interest to an occupant that does not require a parking space, in the event that both parking spaces are required for use by the Owner of the dwelling. Additionally, the property is within walkable distances to accessible transit routes located at various intersections along 16<sup>th</sup> Avenue and Main Street Markham North and local commercial uses along the Markham Road/Mount Joy Corridor. Approval of the associated parking reduction would allow for the future development of the proposed accessory dwelling unit. Staff are of the opinion that the associated parking reduction is minor in nature and appropriately maintains the general intent of the Zoning By-law.

The Owner should be aware that overnight parking is not permitted on residential streets in Markham, unless a permit or exemption is obtained through the City’s [Overnight Street Parking Request](#).

### Heritage Markham

Heritage staff have reviewed the application with respect to the City’s Official Plan policies regarding development applications for properties that are adjacent to, and within 60.0 m (196.85 ft) of designated heritage properties. As the proposed development complies with the minimum setback and maximum height standards required by the Zoning By-law, Heritage staff do not have any concerns regarding the protection of the MVHCD. While staff have no objections to the proposed development, it is recommended that the Committee implements a condition requiring that support is obtained from Heritage Markham.

### Metrolinx Rail Agency

Metrolinx provided comments on November 25, 2022, requesting that the Owner grant Metrolinx an environmental easement for operational emissions and for the purposes of providing notification to those who may acquire an interest in the Subject Property in order to reduce the potential for future land use conflicts. For reference purposes, a copy of the wording for the Environmental Easement is attached as Appendix “C” to this Staff Report. Metrolinx also requests confirmation that a warning clause be inserted into all

Development Agreements, Offers to Purchase, and Agreements of Purchase and Lease to advise any future purchasers or occupants of potential alterations or expansions of the railway facilities that may affect the living environment of occupants within the vicinity. Staff accordingly recommend that the Committee implements the associated condition of approval detailed in Appendix "A".

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 28, 2022. Additional information may be received after the writing of this 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*, and are of the opinion that the requested variances meet the four tests. Staff recommend that the Committee consider public input and the subsequent conditions of approval in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

### **APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

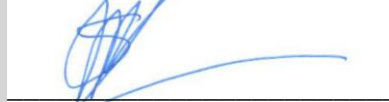
Appendix "C" – Metrolinx Comments: November 25, 2022

PREPARED BY:



Aleks Todorovski, MCIP, RPP  
Planner II, East District

REVIEWED BY:



Stacia Muradali, MCIP, RPP  
Development Manager, East District



## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/075/22**

1. That the variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, 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 their 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 Secretary-Treasurer receive written confirmation that Heritage Markham Committee supports the requested variances, or has no comments.
5. That the applicant fulfills Metrolinx requirements as indicated in their comments attached as Appendix "C" to this Staff report, and that the Secretary-Treasurer receive written confirmation from Metrolinx that this condition has been fulfilled to their satisfaction.

CONDITIONS PREPARED BY:



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Aleks Todorovski, MCIP, RPP  
Planner II, East District

**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/075/22**

ISSUED FOR BUILDING PERMIT SEPTEMBER-2019

ISSUED FOR BUILDING PERMIT JANUARY-2018

ISSUED FOR BUILDING PERMIT NOVEMBER-2017

File: 22.117854.000.00.MNV

Date: 11/29/22 MM/DD/YY

Date: 11/29/22  
MM/DD/YY

	Revisions	Date



BENAN HANOUDI ARCHITECT

1442 Bridgeport Street  
Oshawa, Ontario L1K 2P5, Canada  
Tel: 289.404.0422  
Email: [benan\\_hanoudi@yahoo.ca](mailto:benan_hanoudi@yahoo.ca)  
[www.mycustombuilding.com](http://www.mycustombuilding.com)

Project: **20 ELIZABETH STREET  
SECOND STOREY ADDITION ON  
TOP OF THE GARAGE**

Project No: **2017-22**

For: **JOHN ANDREACCHI**

Drawing Title: **SITE PLAN**

Location: **MARKHAM-ONTARIO**

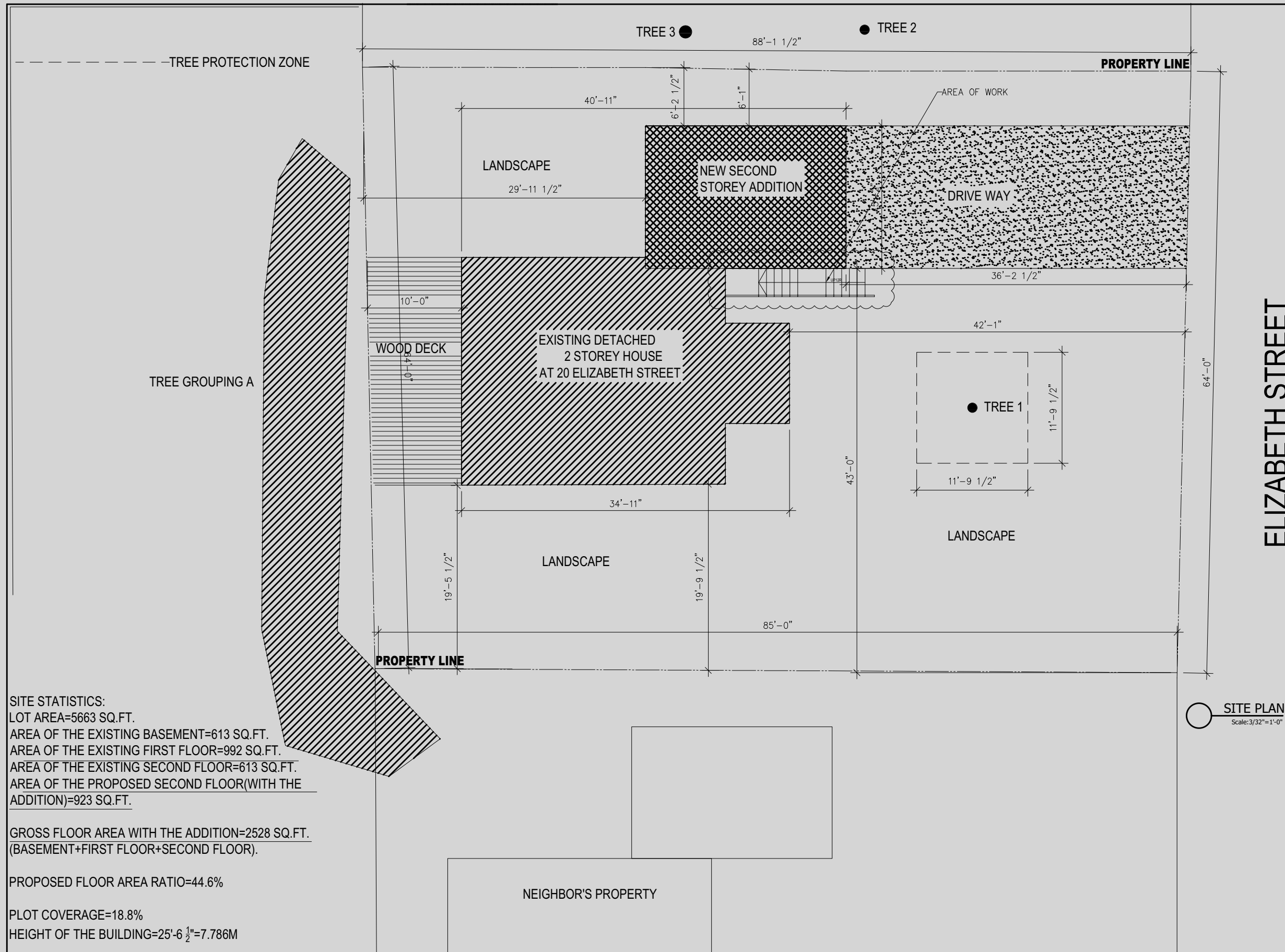
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Drawn by:	Drawing No.
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Designed by:

Approved by:
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**A-0**



SITE STATISTICS:  
 LOT AREA=5663 SQ.FT.  
 AREA OF THE EXISTING BASEMENT=613 SQ.FT.  
 AREA OF THE EXISTING FIRST FLOOR=992 SQ.FT.  
 AREA OF THE EXISTING SECOND FLOOR=613 SQ.FT.  
 AREA OF THE PROPOSED SECOND FLOOR(WITH THE  
 ADDITION)=923 SQ.FT.

GROSS FLOOR AREA WITH THE ADDITION=2528 SQ.FT.  
(BASEMENT+FIRST FLOOR+SECOND FLOOR).

PROPOSED FLOOR AREA RATIO=44.6%

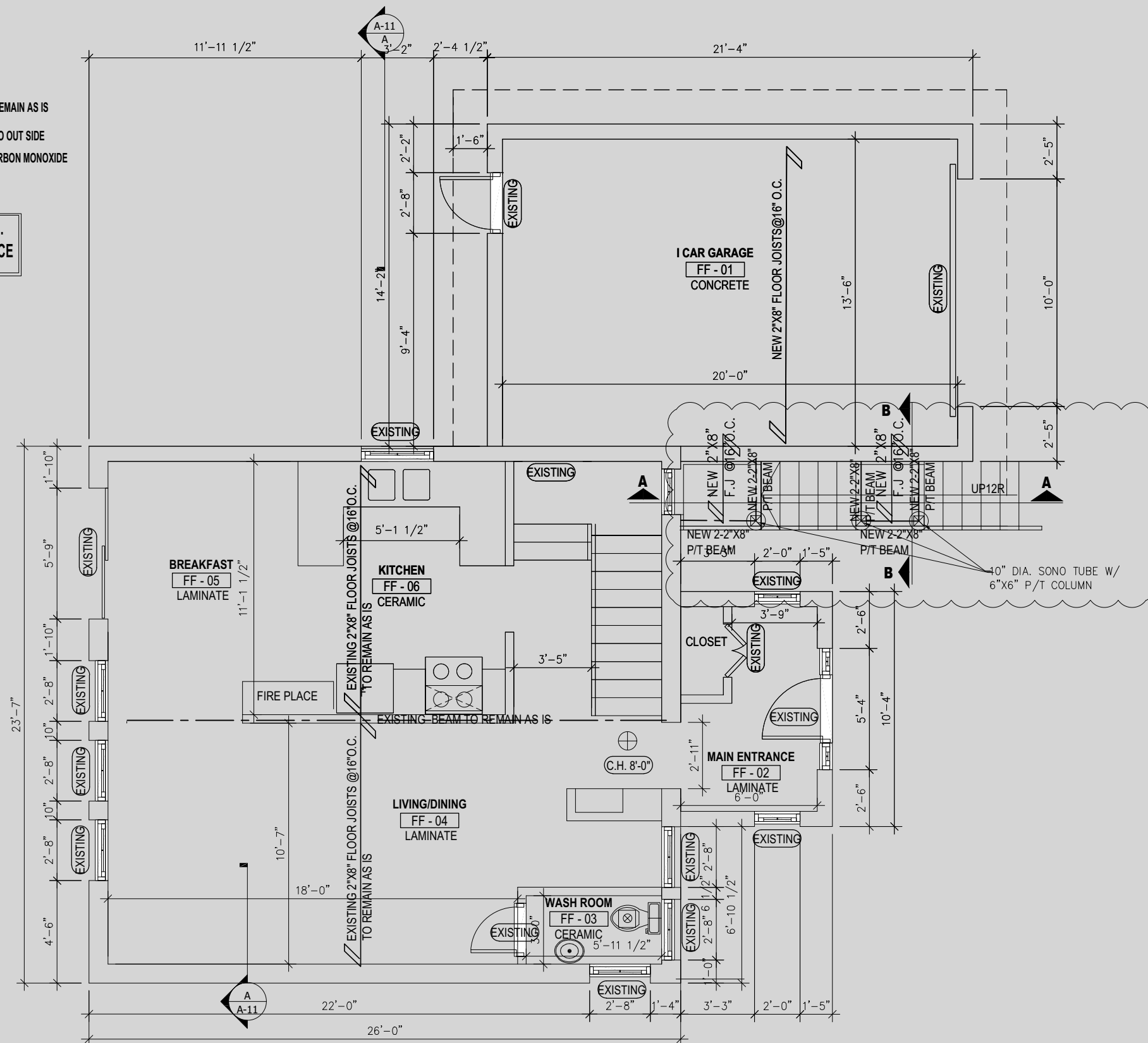
PLOT COVERAGE=18.8%  
HEIGHT OF THE BUILDING=25'-6  $\frac{1}{2}$ "=7.786M

## Appendix B

ISSUED FOR BUILDING PERMIT SEPTEMBER-2019  
File: 22.117854.000.00.MNV  
ISSUED FOR BUILDING PERMIT NOVEMBER-2017  
Date: 11/29/22  
MM/DD/YY

- LEGEND:
- EXISTING EXISTING DOOR OR WINDOW TO REMAIN AS IS
  - EXISTING FAN VENTED DIRECTLY TO OUTSIDE
  - COMBINED SMOKE ALARM AND CARBON MONOXIDE
  - C.H. 8'-0" CEILING HEIGHT

NOTE: CHIMNEY IS NOT ACTIVE.  
IT IS NOT USED BY THE FURNACE



PROPOSED SECOND FLOOR PLAN  
Scale: 3/16" = 1'-0"



### BENAN HANOUDI ARCHITECT

1442 Bridgeport Street  
Oshawa, Ontario L1K 2P5, Canada  
Tel: 289.404.0422  
Email: benan\_hanoudi@yahoo.ca  
www.mycustombuilding.com

Project: **20 ELIZABETH STREET  
STAIRCASE ADDITION**

Project No: **2017-22**

For: **JOHN ANDREACCHI**

Drawing Title: **PROPOSED FIRST FLOOR  
PLAN**

Location: **MARKHAM-ONTARIO**

Scale: 3/16" = 1'-0"

Date: SEPTEMBER-2019

Drawn by:

Drawing No.

Designed by:

Approved by:

**A-2**

## Appendix B

ISSUED FOR BUILDING PERMIT SEPTEMBER-2019  
File: 22.117854.000.00.MNV  
ISSUED FOR BUILDING PERMIT NOVEMBER-2017  
Date: 11/29/22  
MM/DD/YY

Revisions Date

**BENAN HANOUDI ARCHITECT**

1442 Bridgeport Street  
Oshawa, Ontario L1K 2P5, Canada  
Tel: 289.404.0422  
Email: benan\_hanoudi@yahoo.ca  
www.mycustombuilding.com

Project: **20 ELIZABETH STREET  
STAIRCASE ADDITION**

Project No: **2017-22**

For: **JOHN ANDREACCHI**

Drawing Title: **PROPOSED SECOND FLOOR  
PLAN**

Location: **MARKHAM-ONTARIO**

Scale: 3/16"=1'-0"

Date: SEPTEMBER-2019

Drawn by:

Drawing No.

Designed by:

Approved by:

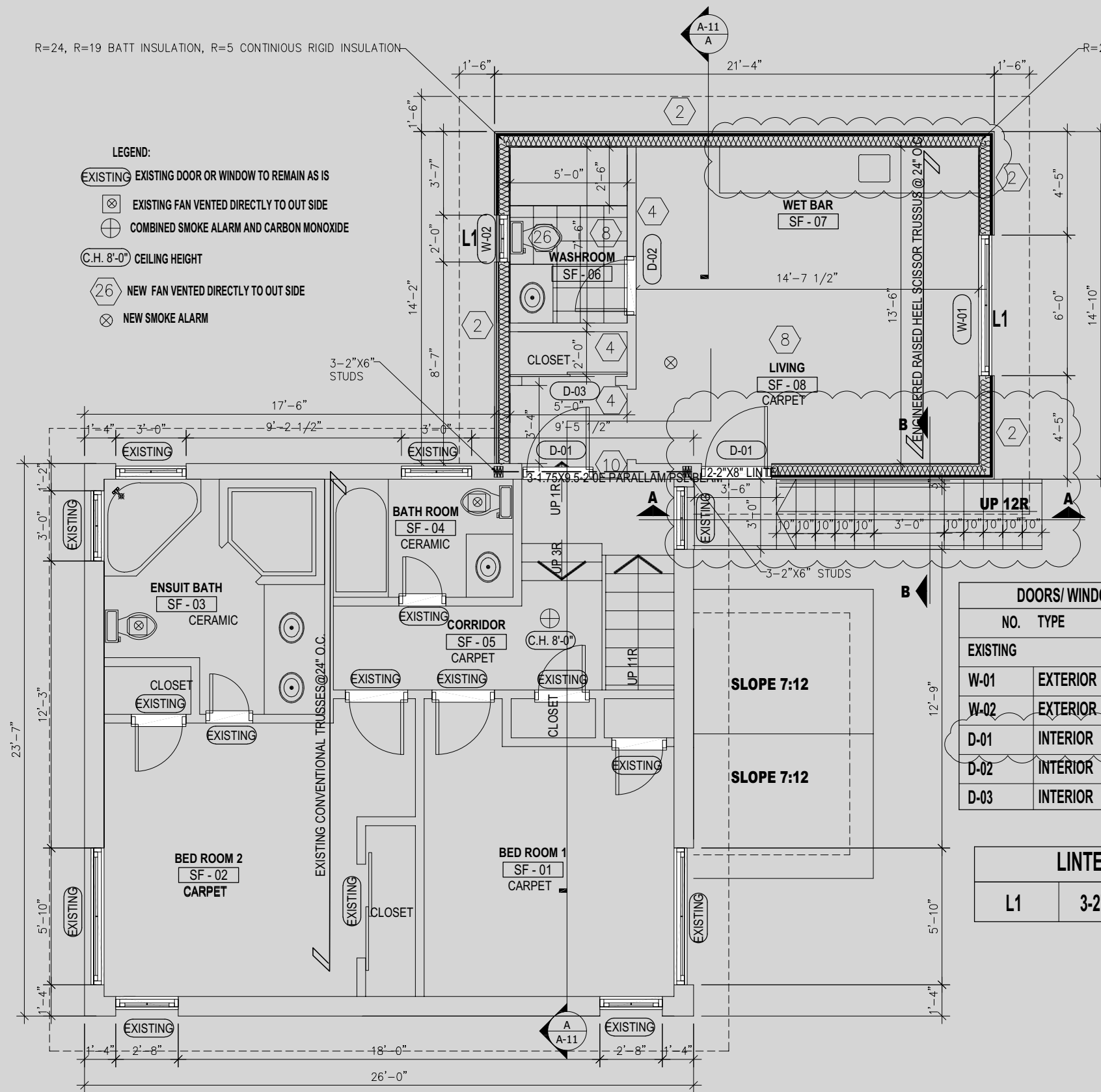
**A-3**

R=24, R=19 BATT INSULATION, R=5 CONTINUOUS RIGID INSULATION

R=24, R=19 BATT INSULATION, R=5 CONTINUOUS RIGID INSULATION

**LEGEND:**

- EXISTING EXISTING DOOR OR WINDOW TO REMAIN AS IS  
EXISTING FAN VENTED DIRECTLY TO OUT SIDE  
COMBINED SMOKE ALARM AND CARBON MONOXIDE  
C.H. 8'-0" CEILING HEIGHT  
NEW FAN VENTED DIRECTLY TO OUT SIDE  
NEW SMOKE ALARM



**PROPOSED SECOND FLOOR PLAN**

Scale: 3/16"=1'-0"

**DOORS/ WINDOWS SCHEDULE**

NO.	TYPE	TYPE (DOOR LEAF)	QTY.	DESCRIPTION
EXISTING		EXISTING TO REMAIN AS IS		
W-01	EXTERIOR	72"X68"	1	VINYL WINDOW
W-02	EXTERIOR	24"X36"	1	VINYL WINDOW
D-01	INTERIOR	36"X80"	2	NEW FIBRE BOARD HOLLOW CORE DOOR
D-02	INTERIOR	30"X80"	1	NEW FIBRE BOARD HOLLOW CORE DOOR
D-03	INTERIOR	2-24"X80"	1	NEW SLIDING DOOR

**LINTELS SCHEDULE**

L1	3-2"X8"
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Appendix B

2

ISSUED FOR BUILDING PERMIT SEPTEMBER-2019

1

File: 22.117854.000.00.MNV

ISSUED FOR BUILDING PERMIT NOVEMBER-2017

Date: 11/29/22

MM/DD/YY



**BENAN HANOUDI ARCHITECT**  
1442 Bridgeport Street  
Oshawa, Ontario L1K 2P5, Canada  
Tel: 289.404.0422  
Email: benan\_hanoudi@yahoo.ca  
www.mycustombuilding.com

Project: **20 ELIZABETH STREET  
STAIRCASE ADDITION**

Project No: **2017-22**

For: **JOHN ANDREACCHI**

Drawing Title: **FRONT ELEVATION**

Location: **MARKHAM-ONTARIO**

Scale: 3/16"=1'-0" Date: SEPTEMBER-2019

Drawn by: Drawing No.

Designed by:

Approved by:

# Appendix B

Date: 11/29/22  
MM/DD/YY

ONTARIO ASSOCIATION  
19-09-2019  
OF  
ARCHITECTS  
Benan  
BENAN HANOUDI  
LICENCE  
8741


Project No. **2017-22**Drawing Title: **SOUTH ELEVATION**

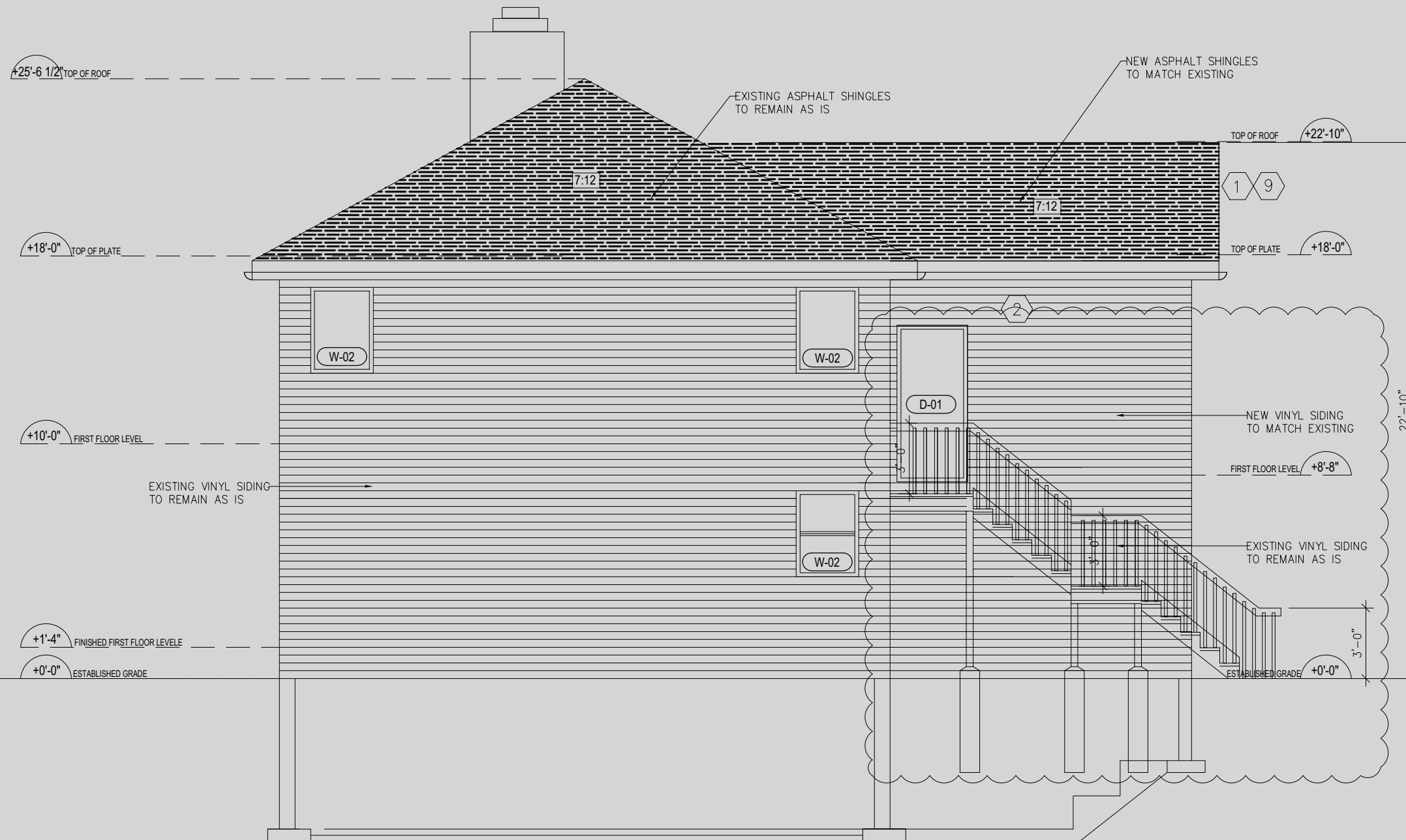
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Drawn by:	Drawing No.
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Designed by:	
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Approved by:	<b>A-5</b>
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 SOUTH ELEVATION  
Scale: 3/16" = 1'-0"



**APPENDIX “C”**  
**METROLINX COMMENTS: NOVEMBER 25, 2022**





To: Markham Committee of Adjustment

From: Farah Faroque, Intern  
*Adjacent Developments GO Expansion - Third Party Projects Review*  
Metrolinx

Date: November 25th, 2022

Re: **22.117854.000.00.MNV**  
**A/075/22 - 20 Elizabeth Street, Markham- MV**

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Metrolinx is in receipt of the minor variance application for 20 Elizabeth St to facilitate the creation of a secondary residential suite for use by existing occupants. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters of Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact [Ryan.Courville@Metrolinx.com](mailto:Ryan.Courville@Metrolinx.com) with questions and to initiate the registration process.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor
  - **Warning:** The Applicant/ Owner / Tenant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns, please do not hesitate to contact me.

Best regards,  
Farah Faroque  
Intern, Third Party Projects Review  
Metrolinx  
20 Bay Street Suite 600, Toronto

### Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**");

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations (herein collectively called the "**Operational Emissions**").

THIS Easement and all rights and obligations arising from same shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, servants, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of each party hereto, if more than one person, shall be joint and several.

Easement in gross.