

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 16th 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 16th 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:



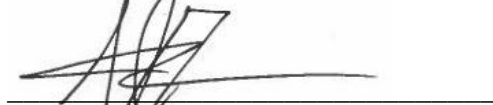
Stacia Muradali, MCIP, RPP
Development Manager, East District

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:



Aleks Todorovski, MCIP, RPP
Planner II, East District

APPENDIX “B”

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

Appendix B

ISSUED FOR BUILDING PERMIT SEPTEMBER-2019

ISSUED FOR BUILDING PERMIT JANUARY-2018

File: 22-117854.000.00.MNV

ISSUED FOR BUILDING PERMIT NOVEMBER-2017

Date: 11/29/22

MM/DD/YY

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

Revisions	Date
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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**

Scale: 3/32"=1'-0"	Date: SEPTEMBER-2019
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Drawn by:	Drawing No.
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Designed by:	
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Approved by:	A-0
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A-0

—TREE PROTECTION ZONE

PROPERTY LINE

LANDSCAPE

29'-11 1/2"

NEW SECOND
STOREY ADDITION

DRIVE WAY

WOOD DECK

EXISTING DETACHED
2 STOREY HOUSE
AT 20 ELIZABETH STREET

● TREE 1

LANDSCAPE

PROPERTY LINE

SITE PLAN

Scale: $3/32'' = 1'-0''$

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

NEIGHBOR'S PROPERTY

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

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

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

Revisions	Date
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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**

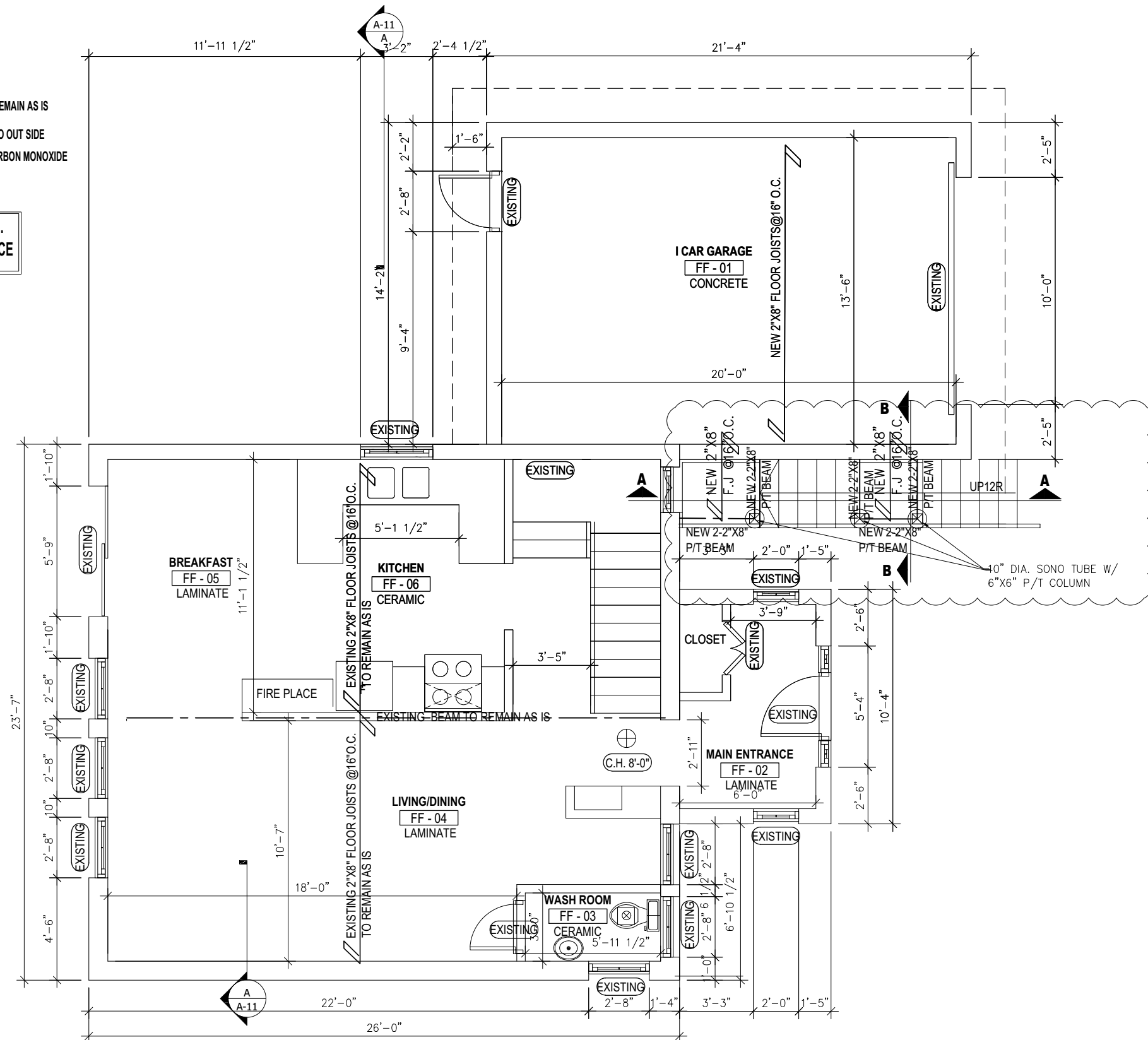
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Drawn by:	Drawing No.
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Designed by:

Approved by:

A-2



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

Appendix B

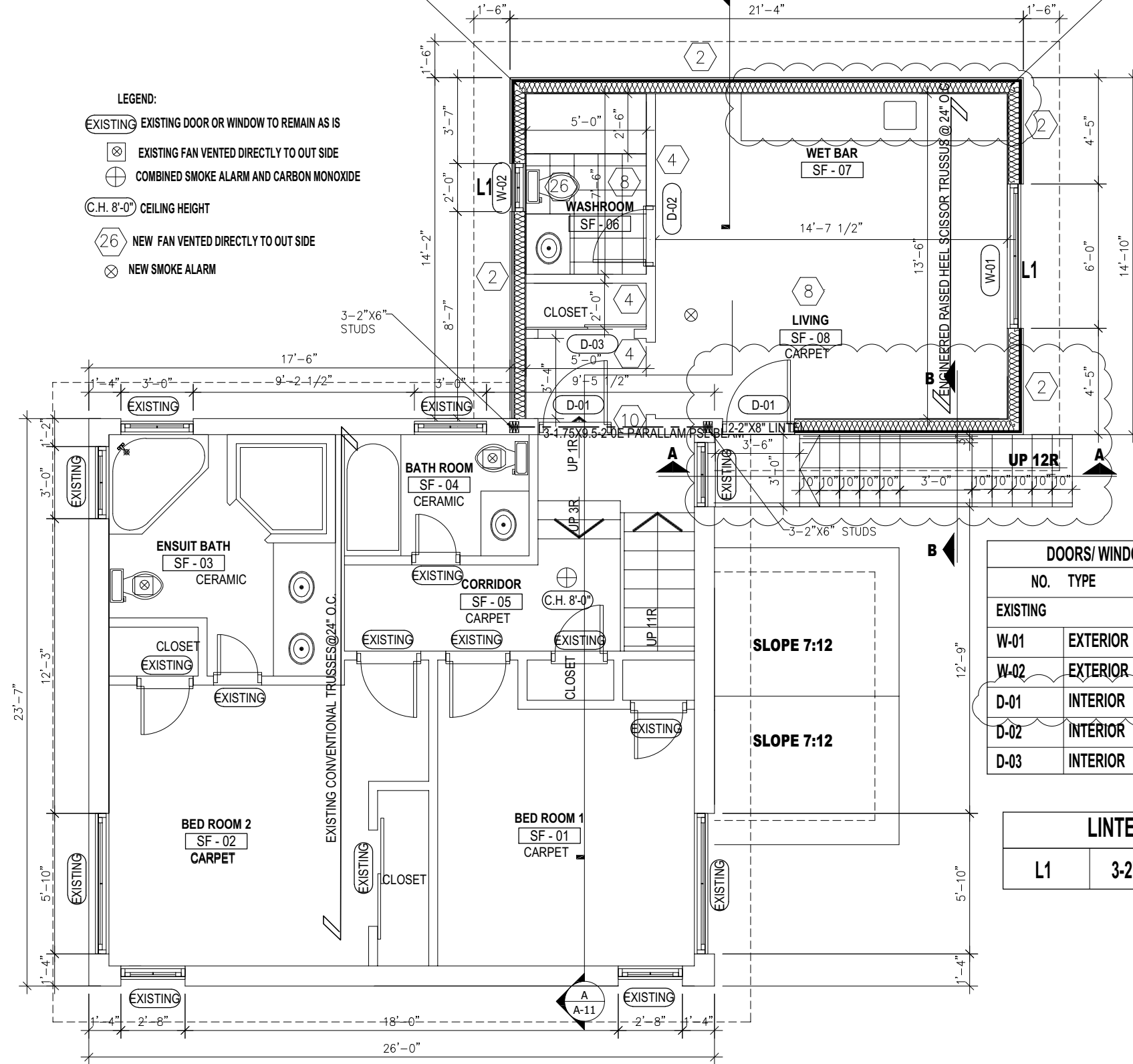
ISSUED FOR BUILDING PERMIT SEPTEMBER-2019
 File: 22.117854.000.00.MNV
 ISSUED FOR BUILDING PERMIT NOVEMBER-2017
 Date: 11/29/22
 MM/DD/YY

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
- 26 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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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

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



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



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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.

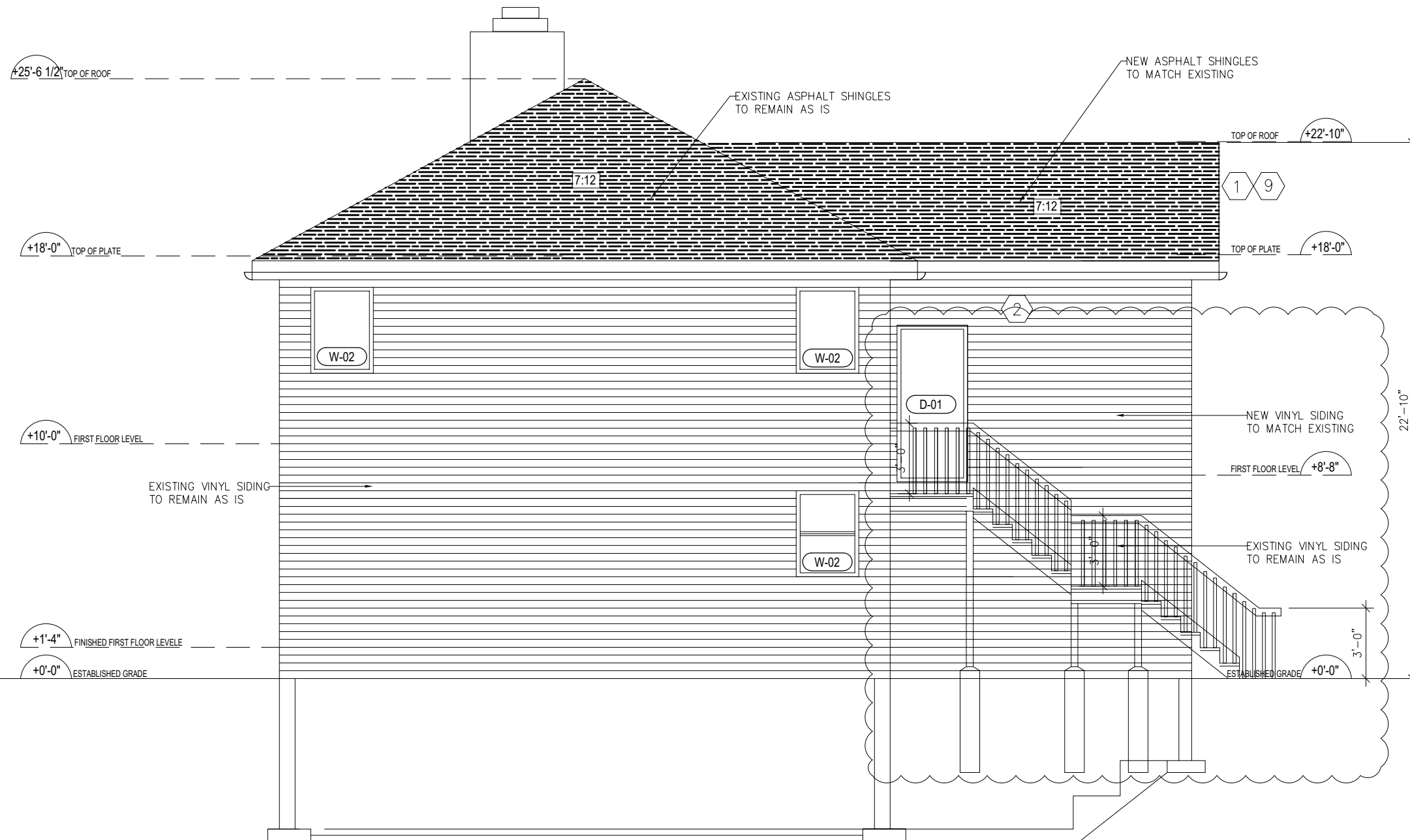
Designed by:

Approved by:

A-4

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



○ SOUTH ELEVATION
Scale: 3/16"=1'-0"



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Project: **20 ELIZABETH STREET
STAIRCASE ADDITION**

Project No: **2017-22**

For: **JOHN ANDREACCHI**

Drawing Title: **SOUTH ELEVATION**

Location: **MARKHAM-ONTARIO**

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

Date: SEPTEMBER-2019

Drawn by:

Drawing No.

Designed by:

Approved by:

A-5

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

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 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.