

# Memorandum to the City of Markham Committee of Adjustment

January 28, 2019

**File:** A/182/18  
**Address:** 5 Emily Carr St, Markham  
**Applicant:** Zhi Hui Liang & Suhe Yao  
**Agent:** TAES Architects Inc. (Shenshu Zhang)  
**Hearing Date:** Wednesday February 06, 2019

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

The applicant is requesting relief from the following requirements of By-law 11-72, R3 as amended:

- a) **Schedule 'B':**  
a maximum building height of 27 feet (8.23 metres) whereas the By-law permits a maximum building height of 25 feet (7.62 metres);
- b) **Schedule 'B':**  
a maximum lot coverage of 36 percent whereas the By-law permits a maximum lot coverage of 33 1/3 percent;
- c) **Schedule 'B':**  
a minimum north side yard setback of 5 feet 8 1/2 inches (1.74 metres) whereas the By-law requires a minimum side yard setback of 6 feet (1.83 metres);

as they relate to a proposed new residential dwelling.

## **BACKGROUND**

### **Property Description**

The 731.22 m<sup>2</sup> (7,870.84 ft<sup>2</sup>) subject property is located on the east side of Emily Carr Street, north of Pomander Road and west of Main Street Unionville. The property is located within a residential neighbourhood known as Varley Village and is comprised of a mix of one and two-storey detached dwellings. There is an existing two-storey detached 218.42 m<sup>2</sup> (2,351 ft<sup>2</sup>) dwelling on the property, which according to assessment records was constructed in 1971. Vegetation exists across the property.

### **Proposal**

The applicant is proposing to construct a new two-storey detached 263.38 m<sup>2</sup> (2,835 ft<sup>2</sup>) dwelling with an attached garage, a rear uncovered deck and, a rear uncovered basement walkout.

### **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 11-72

The subject property is zoned R3 'Third Density Single Family Residential' in By-law 11-72, as amended, which permits a single detached dwelling. The proposed development does not comply with the by-law with respect to maximum building height, maximum lot coverage and minimum side yard setback (north).

### Varley Village Infill Area

The subject property is within an area of the City where there is a trend to build larger houses. In response to concerns within this trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee, a Committee of Council, undertook a review of this issue with community consultation, and ultimately recommend that no action be taken on an infill by-law at this time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law as not adopted, the Committee should be aware of Council's and the community's concerns with regard to variances and maintaining the current standards of the Zoning By-law. Consequently, the Committee should consider public input before making a decision.

### **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, *"to provide required living space for the owner's family"*.

### **Zoning Preliminary Review Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not 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 Building Height**

The applicant is requesting relief to permit a maximum building height of 8.23 m (27 ft), whereas the By-law permits a maximum building height of 7.62 m (25 ft). This represents an increase of approximately 0.61 m (2 ft). The proposed two-storey detached dwelling will replace an existing two-storey detached dwelling. It will be taller than dwellings originally developed in the 1970s but similar in scale to other infill residential developments on the street and in the surrounding area. When considering the proposed building height in the context of the overall massing and design of the dwelling, staff are of the opinion that it will have limited impact on the street.

**Increase in Maximum Lot Coverage**

The applicant is requesting relief for a maximum lot coverage of 36 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent. The proposed lot coverage includes a front unenclosed covered porch and a rear projection which add approximately 2.98 m<sup>2</sup> (32.07 ft<sup>2</sup>) and 5.11 m<sup>2</sup> (55 ft<sup>2</sup>) respectively to the overall building area. Excluding the front unenclosed covered porch and the minor rear projection, the building has a lot coverage of approximately 34.91 percent. The minor rear projection does not span the full width of the rear wall of the dwelling. Given this and that the covered porch is unenclosed, staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling and, that the resultant dwelling is generally consistent with what the by-law permits.

**Reduced Side Yard Setback**

The applicant is requesting a minimum north side yard setback of 5' 8½" (1.74 m) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6 ft (1.83 m) for the two-storey portion of the dwelling. This represents a difference of approximately 0.3 ft (0.09 m). Engineering staff have reviewed the application and have no concern with the variance respecting drainage. Staff are of the opinion that the variance request for a minimum north side yard setback of 5' 8½" (1.74 m) is minor in nature and have no objections.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of January 28, 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.

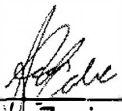
**CONCLUSION**

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. 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.

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:

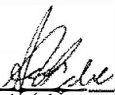


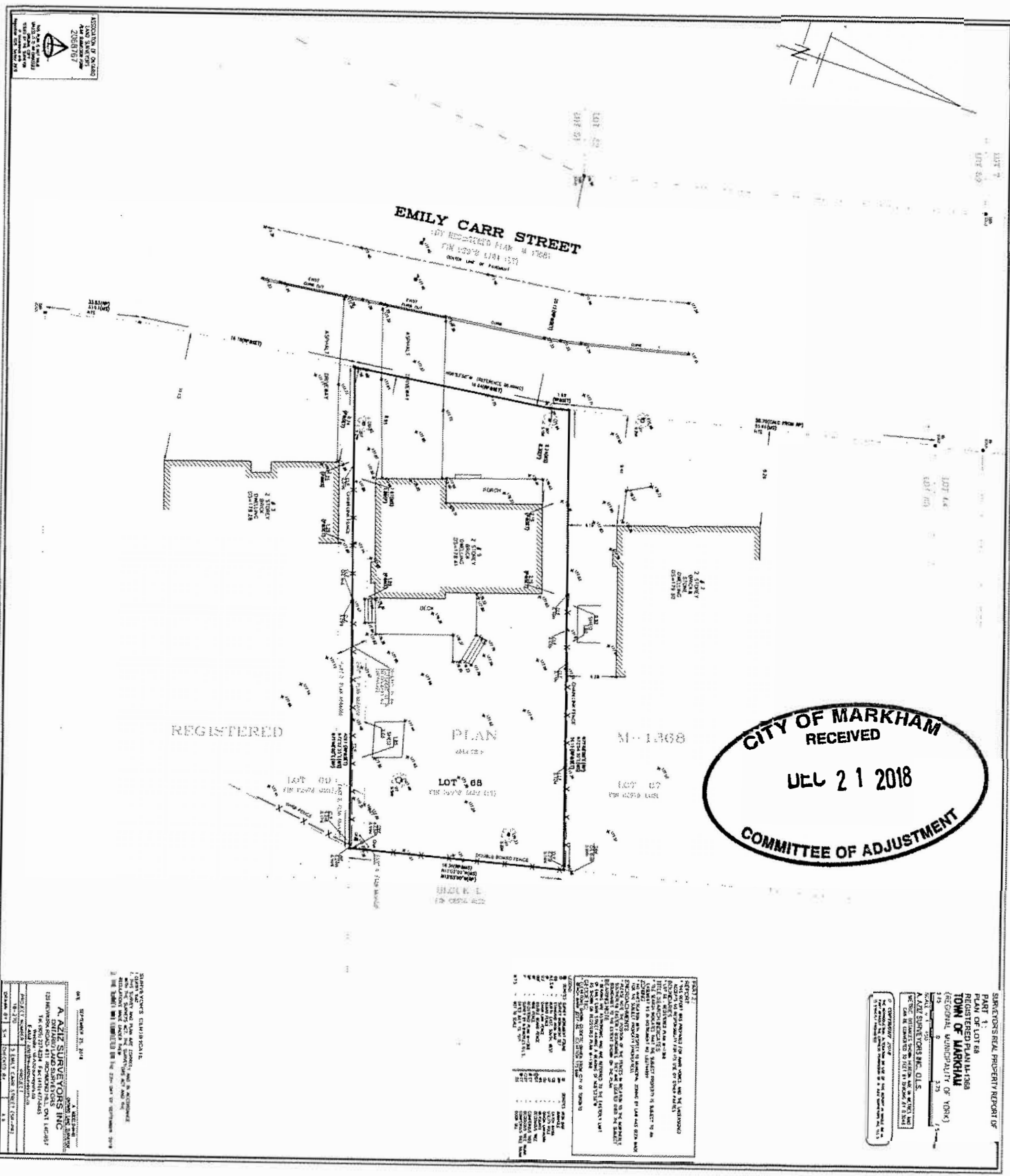
Richard Kendall, Development Manager, Central District  
File Path: Amanda\File\ 18 258975 \Documents\District Team Comments Memo

**APPENDIX "A"**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/182/18**

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 B' to this Staff Report and received by the City of Markham on *December 21, 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.
3. 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.
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.
5. 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

CONDITIONS PREPARED BY:

  
\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects



**CITY OF MARKHAM**  
 RECEIVED  
 JUL 21 2018  
 COMMITTEE OF ADJUSTMENT

SURVEYOR'S REAL PROPERTY REPORT OF  
 PLAN OF LOT 68  
 REGISTERED PLAN M-1368  
 TOWN OF MARKHAM  
 (REGIONAL MUNICIPALITY OF YORK)  
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**SITE STATISTICS (Markham 11-72)**

<b>ZONING</b>	R3 (BY LAW 11-72 28-97, 142-95)	<b>LOT NO.</b>	68
<b>PLAN NO.</b>	M-1368	<b>LOT AREA</b>	7870.84 SF (731.225 SM)
<b>LOT FRONTAGE</b>	60' - 0 1/2" (18.30M)	<b>LOT DEPTH</b>	131' - 1 1/2" (39.97 M)

DESCRIPTION	EXISTING	PROPOSED	REQUIRED	SECTION
MIN. LOT FRONTAGE		60' - 0 1/2" (18.30M)	60' - 0"	
MIN. LOT AREA		7870.84 SF (731.225 SM)	7500 SF	
MAX. BUILDING HEIGHT		27' - 0" * (8.23M)	25' - 0" (7.62M)	
NO. OF STORIES	2	2	2	
DRIVEWAY WIDTH	16'-8" (5.08 M)	21'-0 1/2" (6.41 M)		
BUILDING AREA		2835.03 SF (263.38 SM)		
GROSS FLOOR AREA (INC. GARAGE)		5497.99 SF (510.78 SM)	1500 SF (MIN.)	
MAX LOT COVERAGE		2835.03 SF (263.38 SM)	38% * 33.3%	
FRONT YARD LANDSCAPING AREA		1197.38 SF (111.24 SM)	59.43%	
FRONT YARD SOFT LANDSCAPING AREA		1169.50 SF (108.65 SM)	97.67%	
GARAGE		2 CARS		
<b>SETBACK</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED</b>	
FRONT (WEST)		28'-3" (8.61 M)	27'-0" (8.23 M)	
SIDE (NORTH)		5'-8 1/2" * (1.74 M)	6'-0" (1.82 M)	
SIDE (SOUTH)		6'-0" (1.82 M)	6'-0" (1.82 M)	
REAR (EAST)		36'-9" (11.21 M)	25'-0" (7.62 M)	

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No.	Revision	Date	By
1	Variance Application	2018-12-19	MM

**TAES Architects Inc.**

88 SCARSDALE ROAD  
TORONTO, ON M8B 2R7  
CANADA  
T. 416 800 3284  
F. 416 890 3455

Residence

New Construction

5 Emily Carr St. Markham, ON

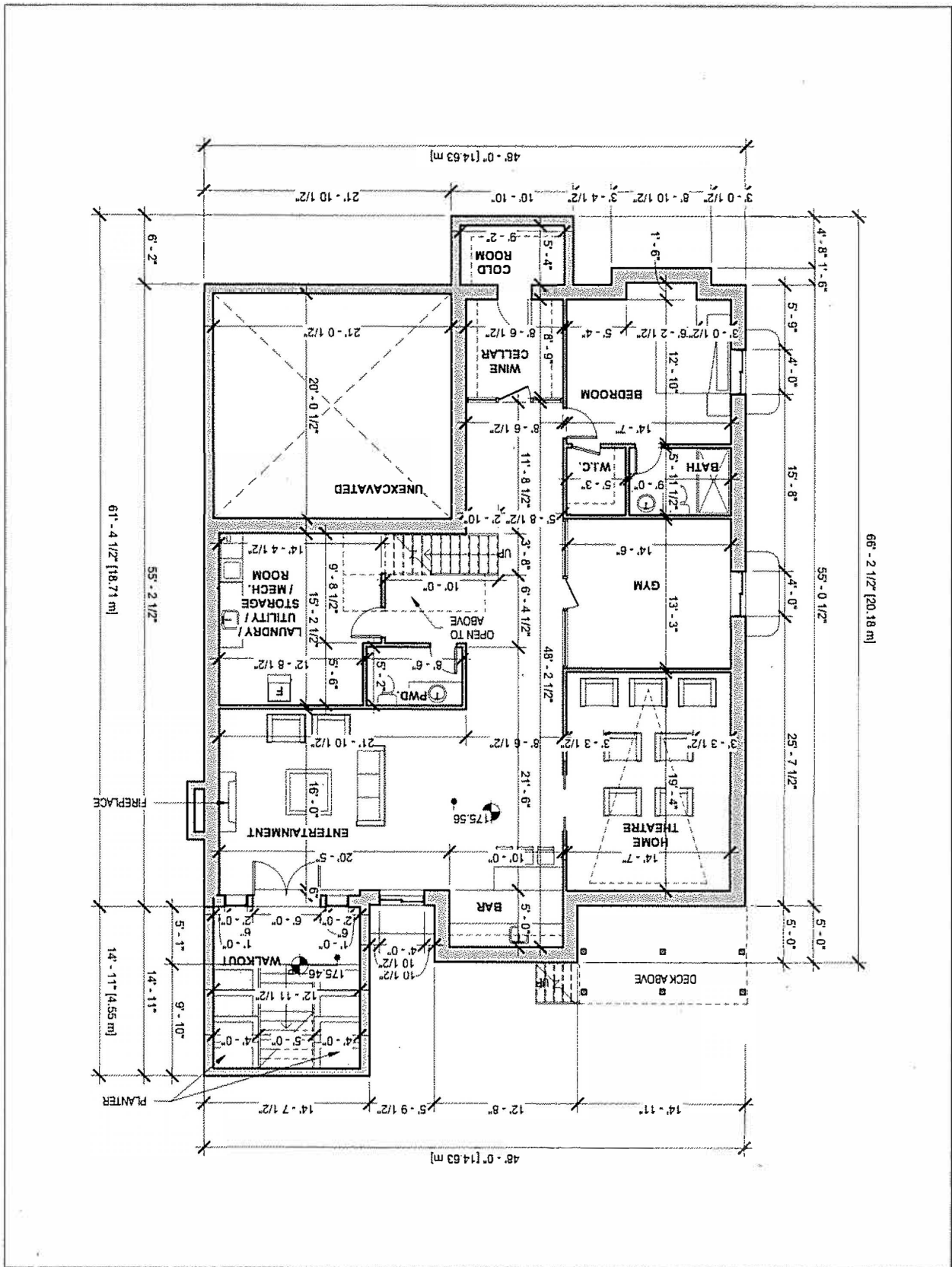
Project number 12018066

Drawn Scale 5" = 1'-0"

Checked Date Dec 2018

**Statistics**

Drawing No. **A002**



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No.	Revision	Date	By
1	Issue Application	2016-07-19	TAES

**TAES Architects Inc.**  
98 SCARSDALE ROAD  
TORONTO, ON M1R 3P7  
T: 416.603.2344  
F: 416.603.2148

**Residence**  
New Construction  
5 Emily Carr St. Markham, ON

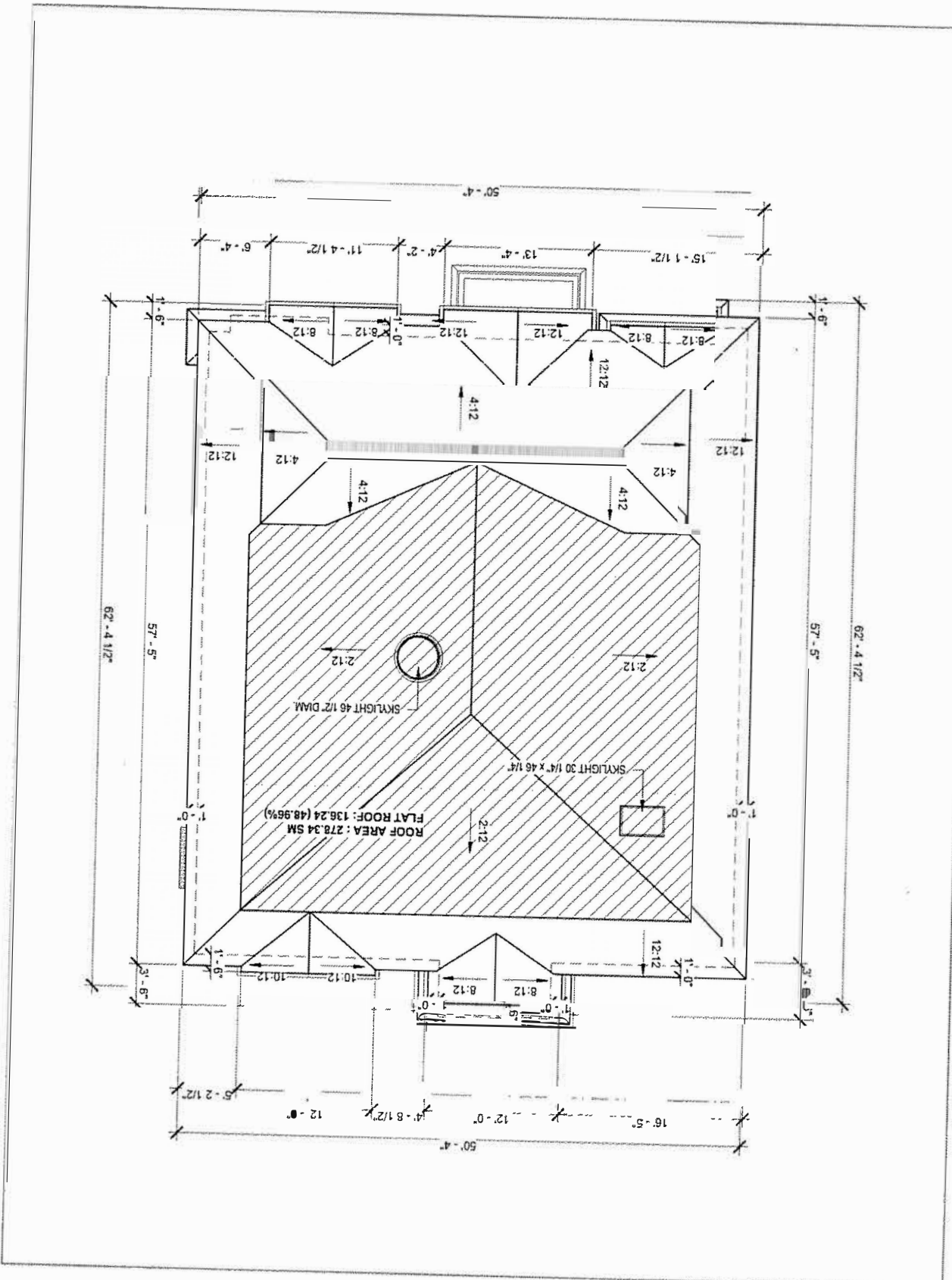
Project: 12016008  
Date: Dec 2016  
Scale: 1/8" = 1'-0"

Checked: [Signature] Date: Dec 2016

Basement Floor  
Drawing Title: A101







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No.	Revision	Date	By
1	Issue for Construction	2018-12-19	JA



**TAES Architects Inc.**

88 SCARSDALE ROAD  
TORONTO, ONTARIO M1S 2Y4  
416-291-1334  
416-291-1335

**Residence**

New Construction

5 Emily Carr St Markham, ON

Project Number: 1726-0005  
 Drawn: JAG 1/07  
 Checked: Date: Dec 2018

**Roof Plan**

Sheet No. **A01 4**





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No.	Revision	Date	By
1	Variance Application	2016-12-19	MLB

**TAES Architects Inc.**  
98 SCARSDALE ROAD  
TORONTO, ON M8S 2R7  
CANADA  
T 416 800 3284  
F 416 800 3465

Residence

New Construction

5 Emily Carr St. Markham, ON

Project number	T2013006	
Drawn	Scale	3/16" = 1'-0"
Checked	Date	Dec 2016

East (Rear) Elevation

Drawing No. **A202**



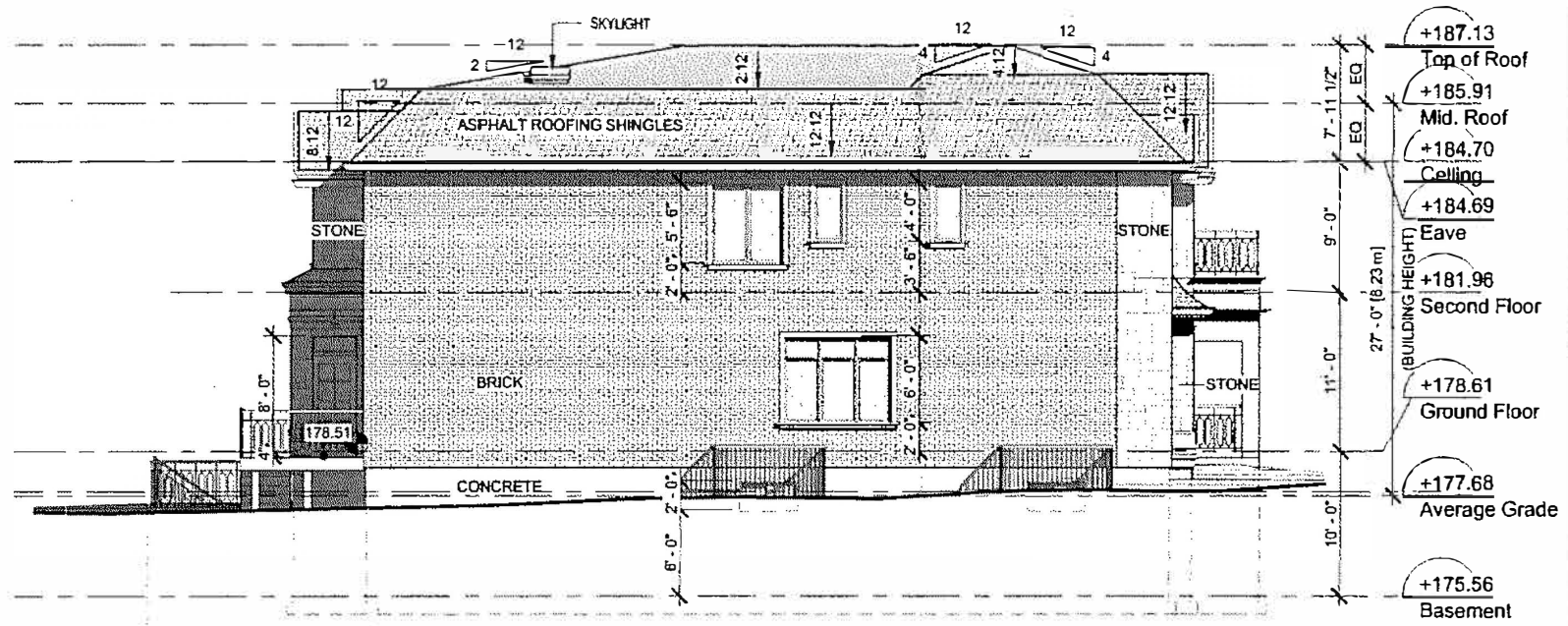
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No.	Revision	Date	By
1	Variance Approval	2018-12-19	MMJ



**TAES Architects Inc.**  
 98 SCARSDALE ROAD  
 TORONTO, ON M3B 2P7  
 CANADA  
 T 416 800 3284  
 F 416 800 3485

**Residence**  
 New Construction  
 5 Emily Carr St. Markham, ON

Project number	12019008
Drawn	Scale 1/8" = 1'-0"
Checked	Date Dec 2018

North Elevation

Drawing No. A204