

# Memorandum to the City of Markham Committee of Adjustment

May 1, 2018

**File:** A/37/18  
**Address:** 41 Elgin Street, Thornhill  
**Owner:** Mohammad Reza Eskandari  
**Applicant:** KLM Planning Partners Inc. (Roy Mason)  
**Hearing Date:** Wednesday May 9, 2018

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

The applicant is requesting relief from the following requirements of By-law 2237, as amended By Infill By-law 101-90 to permit:

- a) **Section 6.1:**  
a minimum west side yard setback of 1.52 metres (4.98 ft.); whereas, the by-law permits a minimum side yard setback of 1.8 metres (5.90 ft.) on each side;
- b) **Infill By-law 101-90; Section 1.2(iv):**  
a maximum building depth of 21.47 metres (70.44 ft.); whereas, the by-law permits a maximum building depth of 16.8 metres (55.12 ft.);
- c) **Infill By-law 101-90; Section 1.2 (i):**  
a maximum building height of 10.6 m (34.77 ft.); whereas, the by-law permits a maximum building height of 9.8 m (32.15 ft.);

The variances relate to a proposed two storey dwelling.

## BACKGROUND

### Property Description

The 2,377 m<sup>2</sup> (25,586 ft<sup>2</sup>) subject property is located on the south side of Elgin Street, approximately 120 m (394 ft.) east of Dudley Avenue in Thornhill. A two storey dwelling circa 1964 and mature vegetation currently exists on the property. Elgin Street primarily consists of large detached dwellings on large properties containing mature vegetation. The property abuts a recently constructed two storey dwelling to the west (39 Elgin Street) and an older dwelling to the east (43 Elgin Street) constructed in 1964.

### Previous Proposal Denied

A previous variance application for a two storey 528.86 m<sup>2</sup> (5,692.60 ft<sup>2</sup>) dwelling with a proposed increased building height of 10.6 m (32.15 ft.), whereas a maximum of 9.8 m (32.17 ft.) is permitted, an increased building depth of 23.46 m (76.96 ft.), whereas a maximum of 16.8 m (55.12 ft.) is permitted, and reduced east and west side yards of 1.52 m (4.98 ft.), whereas a minimum of 1.8 m (5.9 ft.) is required, was denied by the Committee of Adjustment on September 27, 2017 (File No. A /64/17).

### Current Proposal

The applicant is now proposing to construct a two storey dwelling with an approximate gross floor area of 519.77 m<sup>2</sup> (5,594.00 ft<sup>2</sup>), They are requesting 3 variances. These are an increased maximum building height, an increased maximum building depth and reduced minimum west side yard setback, as noted above.

### **Site Plan Approval Required**

The property is subject to Site Plan Control. Staff are currently reviewing an associated Site Plan application for the proposed dwelling under file SC 17 134485.

### **Applicant's Stated Reason(s) for Not Complying with Zoning**

According to the applicant, the reason for not complying with zoning is due to "design restriction and to be in line with the aesthetic and scale of other houses in the area".

### **Zoning Preliminary Review Undertaken**

Prior to submitting the current variance application, the applicant completed a Zoning Preliminary Review (ZPR) to confirm the variances required for a proposed two storey dwelling on the subject property. The plans submitted with the variance application were revised after the ZPR was completed. 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 variances in the application contains errors, or if the need for additional variances are identified during the Site Plan application review process, further variance application(s) may be required to address the outstanding matters and there will be a delay in application processing.

### Official Plan

The subject property is designated "Residential – Low Rise" under the 2014 Markham Official Plan. This designation provides for single detached dwellings. The Official Plan specifies that new infill development respects the existing pattern and character of adjacent development and that new buildings shall have a complementary relationship with existing buildings, while accommodating a diversity of building styles, materials and colours. In addition, front and rear yard setbacks for new buildings shall be consistent with the front and rear yards that exist on the same side of the street.

### Zoning

The subject property is zoned Single Family Residential (R2) by By-law 2237, as amended.

### Residential Infill By-law

The property is also subject to Residential Infill Zoning By-law 101-90. The intent of the by-law amendment is to ensure that the residential redevelopment reflects the neighbourhood character. The infill By-law specifies zoning standards for building depth, garage projection, garage width, floor area ratio, height, front yard setback, and number of storeys.

### **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.

### **Nature of the Variances**

#### Increased Building Height Variance

The applicant is requesting to permit a maximum building height of 10.6 m (34.77 ft.), whereas a maximum height of 9.8 m (32.15 ft.) is permitted. This represents an increased height of 0.8 m (2.62 ft.) or 8.16 percent. The proposed maximum building height is generally consistent with other infill homes in the surrounding community. Staff does not anticipate any adverse impacts and, therefore, have no objections to the requested building height variance.

#### Increased Building Depth Variance

Building depth is defined as the shortest distance between two lines, both parallel to the front lot line, one passing through the point of the dwelling which is nearest and the other through the point of the dwelling which is farthest from the front lot line. The applicant is requesting a building depth of 21.47 metres (70.44 ft.) for the proposed dwelling, whereas a maximum building depth of 16.80 m (55.10 ft.) is permitted. This represents an increase in building depth of 4.67 m (15.32 ft.) or approximately 27.8 percent. The requested building depth relates to a covered front porch as well as a breakfast nook and second floor master bedroom at the rear of the proposed dwelling. It is noted that the rear building projection above the covered lower porch/uncovered deck does not extend the full width of the building. Without these projections, the building length is approximately 19.0 m (62.33 ft.). Staff has no objections to the requested building depth variance.

Staff further note that, based on the plans submitted with the variance application, the proposed stairs and landings at the rear of the dwelling could create an undesirable overlook condition due to the walkout condition at the rear. The applicant should consider providing visual mitigation of these stairs by maintaining some of the existing vegetation in the rear yard as well as additional planting and/or privacy screening. Staff will work with the applicant to address this matter through the Site Plan approval process.

#### Reduced Side Yard Setback

The applicant is requesting a minimum side yard setback of 1.52 m (5.0 ft.) for the west side of the proposed dwelling, whereas the By-law requires a minimum side yard setback of 1.8 m (6.0 ft.) for both sides. It is noted that the proposed west side yard setback is identical to the west side yard setback for the existing dwelling on the property. Staff does not anticipate any adverse impacts and, therefore, have no objections to the requested building variance.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of May 1, 2018. Additional information may be received after the writing of this report. The Secretary-Treasurer will provide information on this at the meeting.

### **CONCLUSION**

Staff are of the opinion that the requested variances satisfy the four tests of the Planning Act. It is recommended 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 for the granting of minor variances.



**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/37/18**

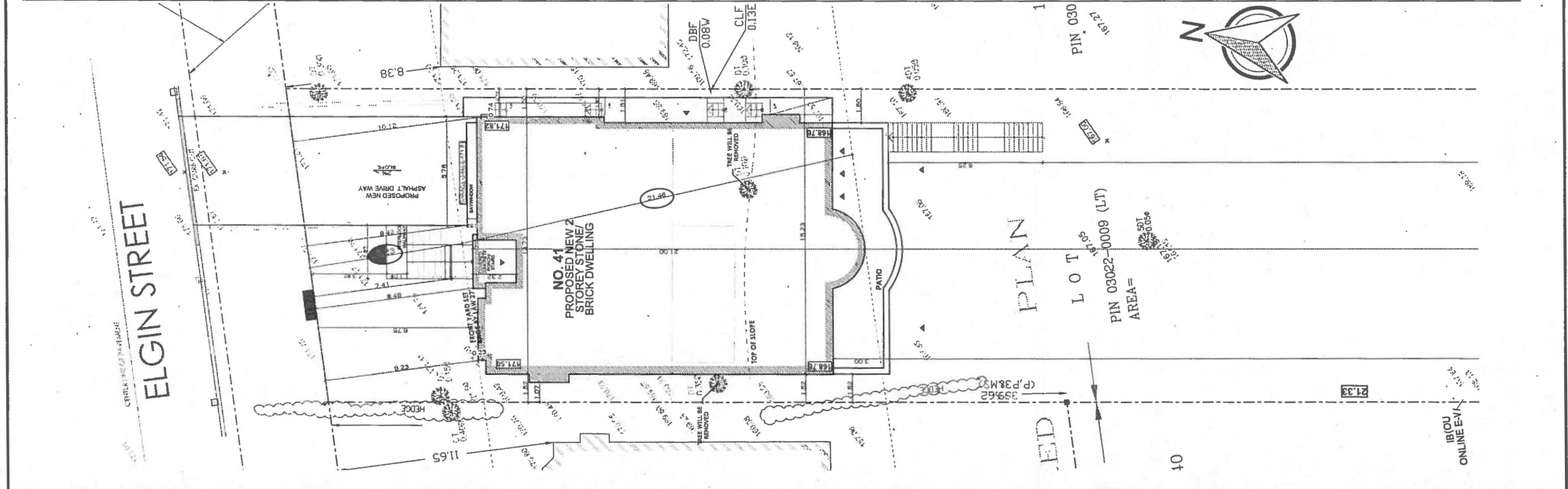
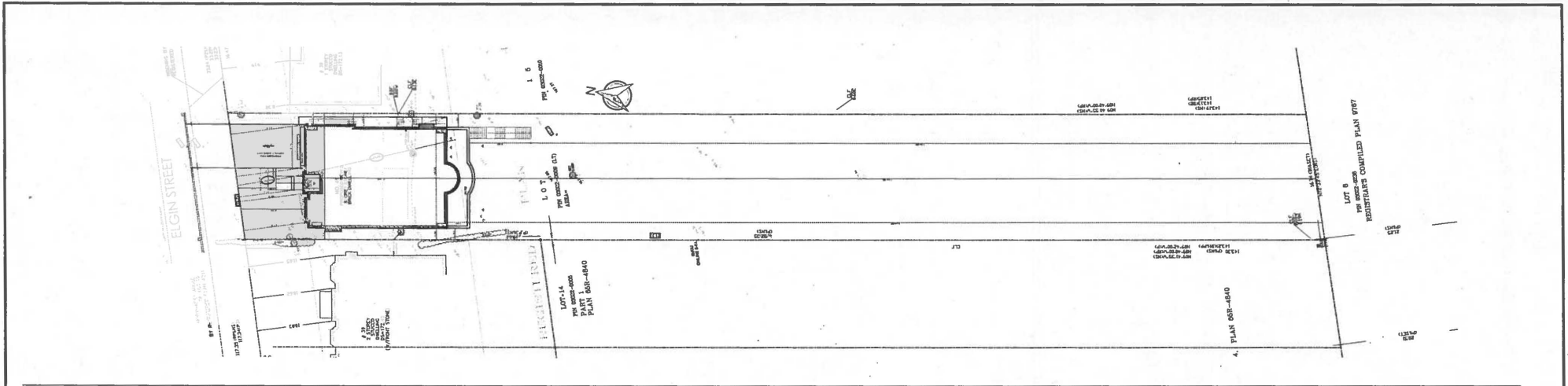
1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix A' to this Staff Report and dated April 4, 2018, and that the Secretary-Treasurer receive written 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 the Director of Planning and Urban Design or designate that this condition has been fulfilled to his/her satisfaction of, 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 around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Director of Planning and Urban Design or their designate.
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 Director of Planning and Urban Design or designate;
6. That the applicant obtains Site Plan approval.

CONDITIONS PREPARED BY:



Rick Cefaratti, MCIP, RPP, Planner II, West District





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DATE:	ISSUED FOR:
FEB 29 2018	FOR ZONING REVIEW APPLICATION
MAR 30 2018	FOR COA APPLICATION

DRAWING TITLE:
- 1. SITE PLAN - 2
PROJECT TITLE/ADDRESS:
41 ELGIN ST, MARKHAM

DRAWN BY:
D.N.
CHKD BY:
S.T.

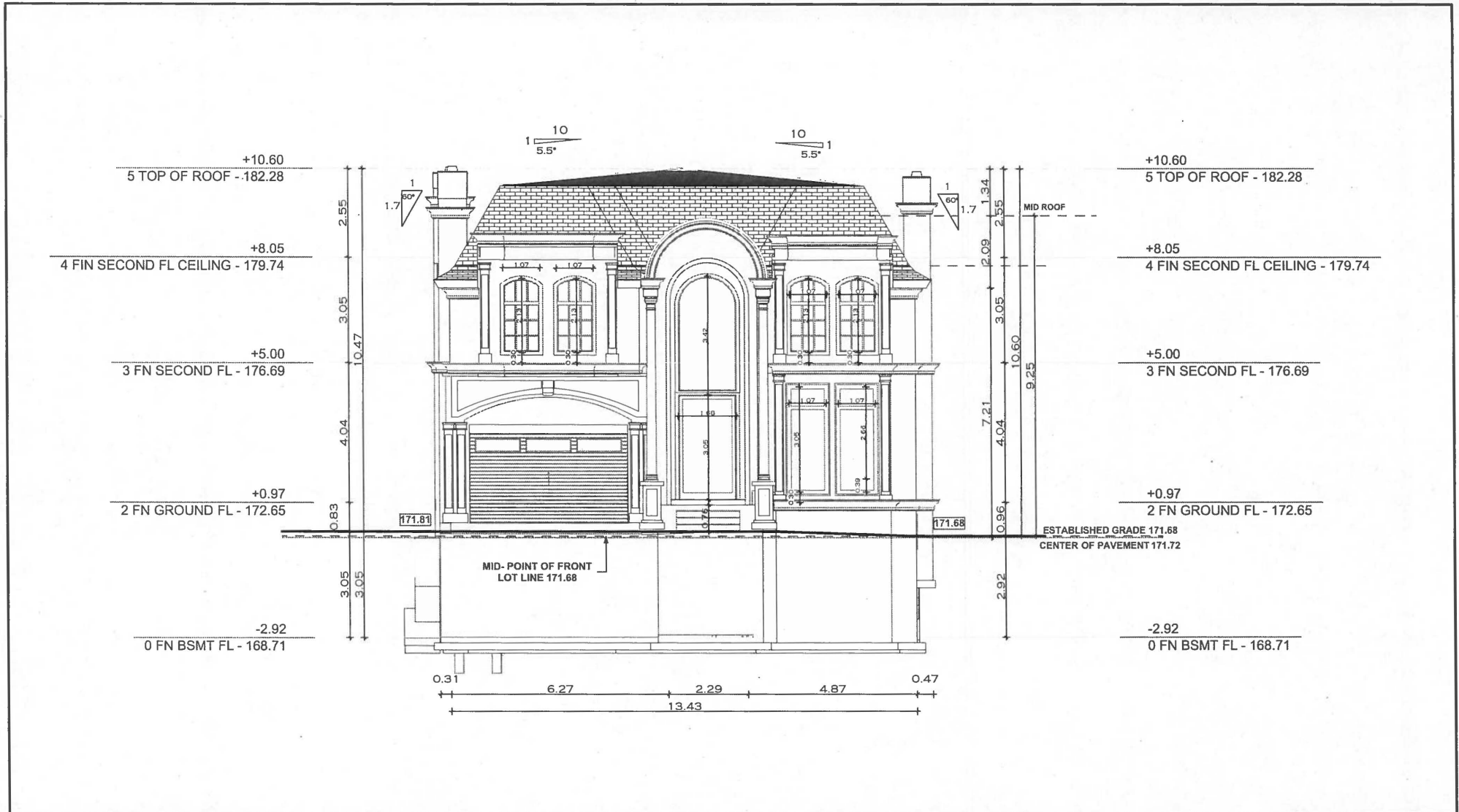
SCALE:
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LAST MODIFIED ON:
Wednesday, April 4, 2018



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A.04



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DATE:	ISSUED FOR:
FEB 29-2018	FOR ZONING REVIEW APPLICATION
MAR 30-2018	FOR COA APPLICATION

<b>DRAWING TITLE:</b>	<b>E-04 SOUTH_FRONT ELEV</b>
<b>PROJECT TITLE/ADDRESS:</b>	<b>41 ELGIN ST, MARKHAM</b>

<b>DRAWN BY:</b>	D.N.
<b>CHECKED BY:</b>	S.T.

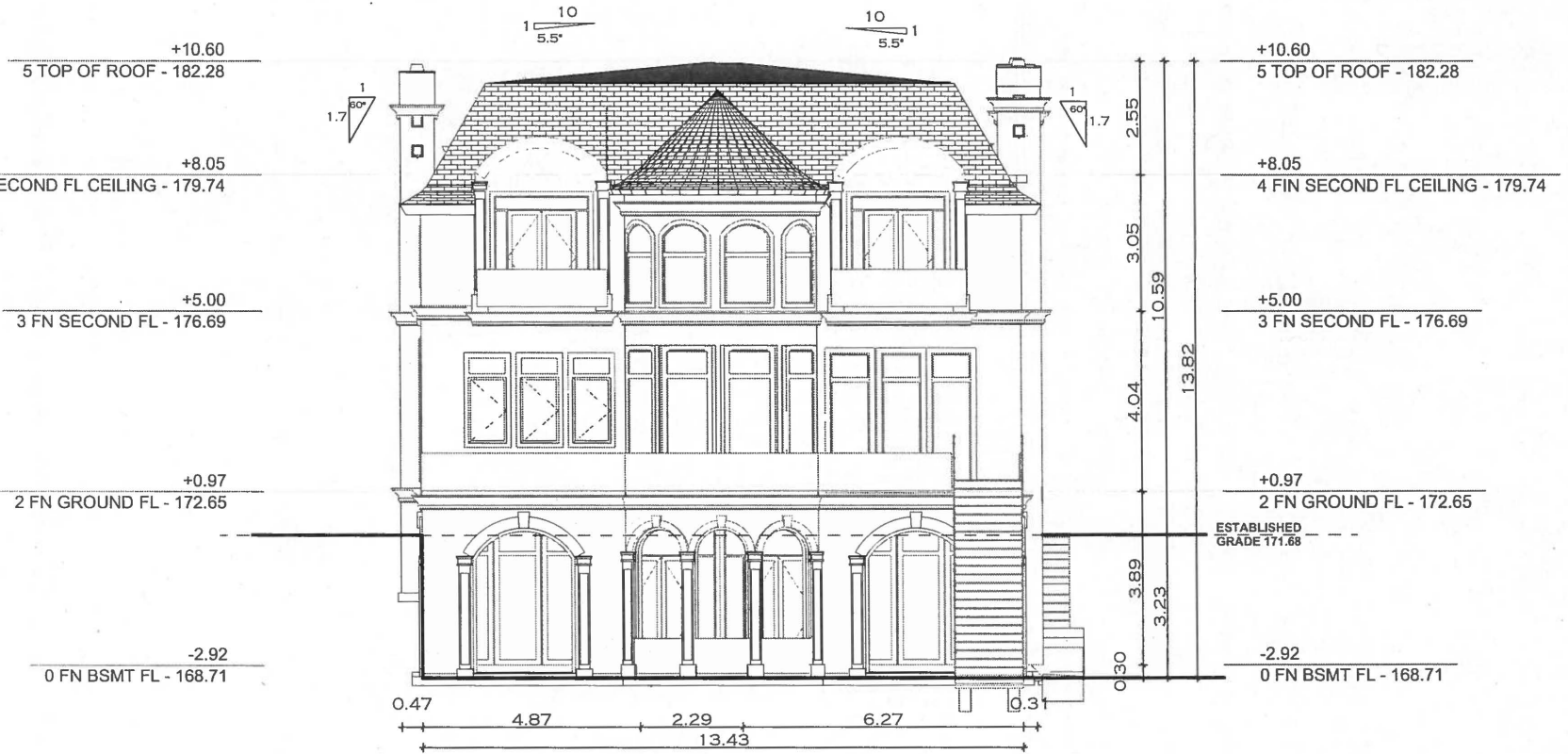
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<b>LAST MODIFIED ON:</b>	Wednesday, April 4, 2018



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**A.10**



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DATE:	ISSUED FOR:
FEB 29-2018	FOR ZONING REVIEW APPLICATION
MAR 30-2018	FOR COA APPLICATION

<b>DRAWING TITLE:</b>
<b>E-03 NORTH_REAR ELEV</b>
<b>PROJECT TITLE/ADDRESS:</b>
<b>41 ELGIN ST, MARKHAM</b>

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<b>DRAWN BY:</b>
D.N.
<b>CHKD BY:</b>
S.T.

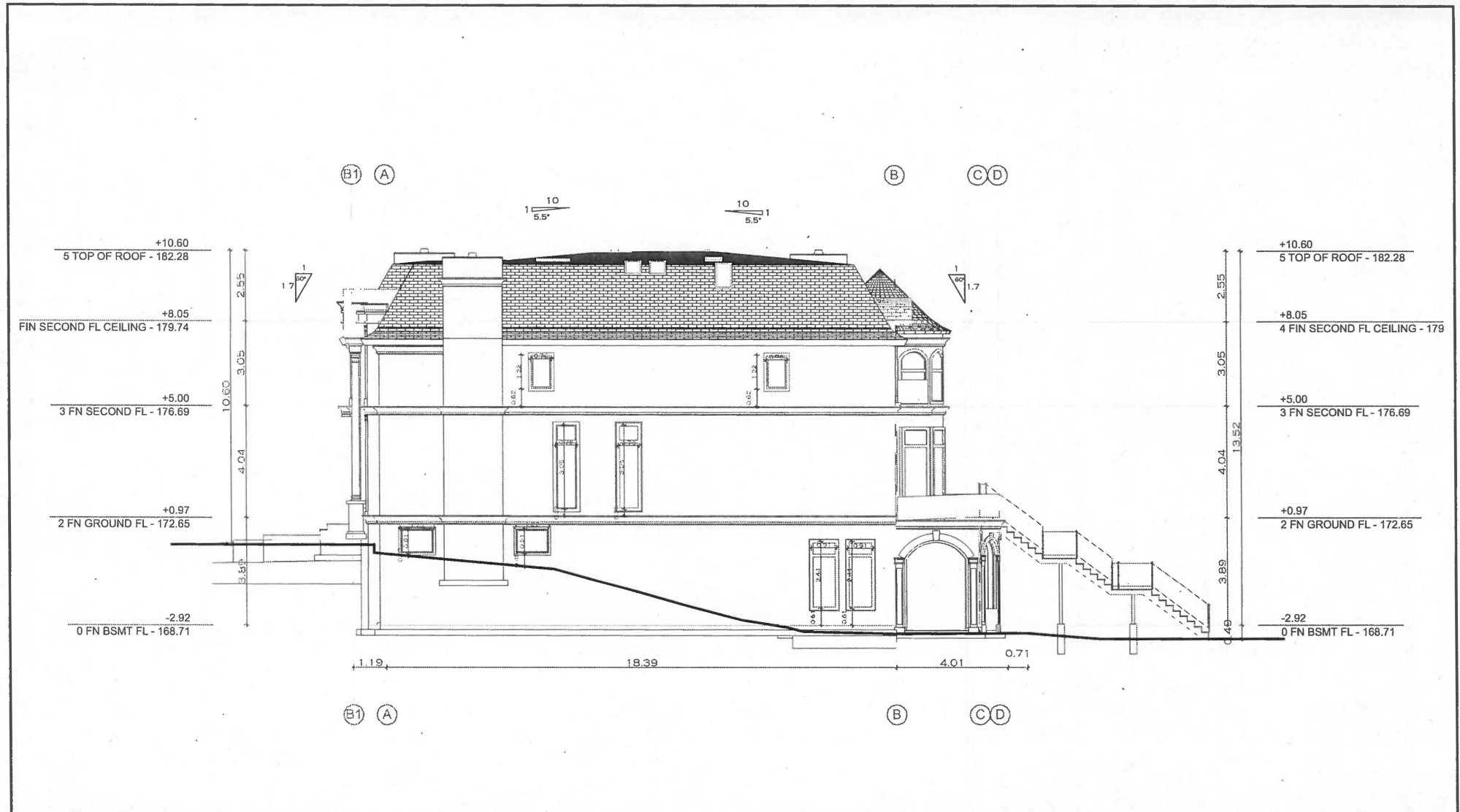
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DATE:	ISSUED FOR:
FEB 27-2018	FOR ZONING REVIEW APPLICATION
MAR 30-2018	FOR COA APPLICATION

<b>DRAWING TITLE:</b>	<b>E-05 WEST ELEV</b>
<b>PROJECT TITLE/ADDRESS:</b>	<b>41 ELGIN ST, MARKHAM</b>

<b>DRAWN BY:</b>	D.N.
<b>CHKD BY:</b>	S.T.

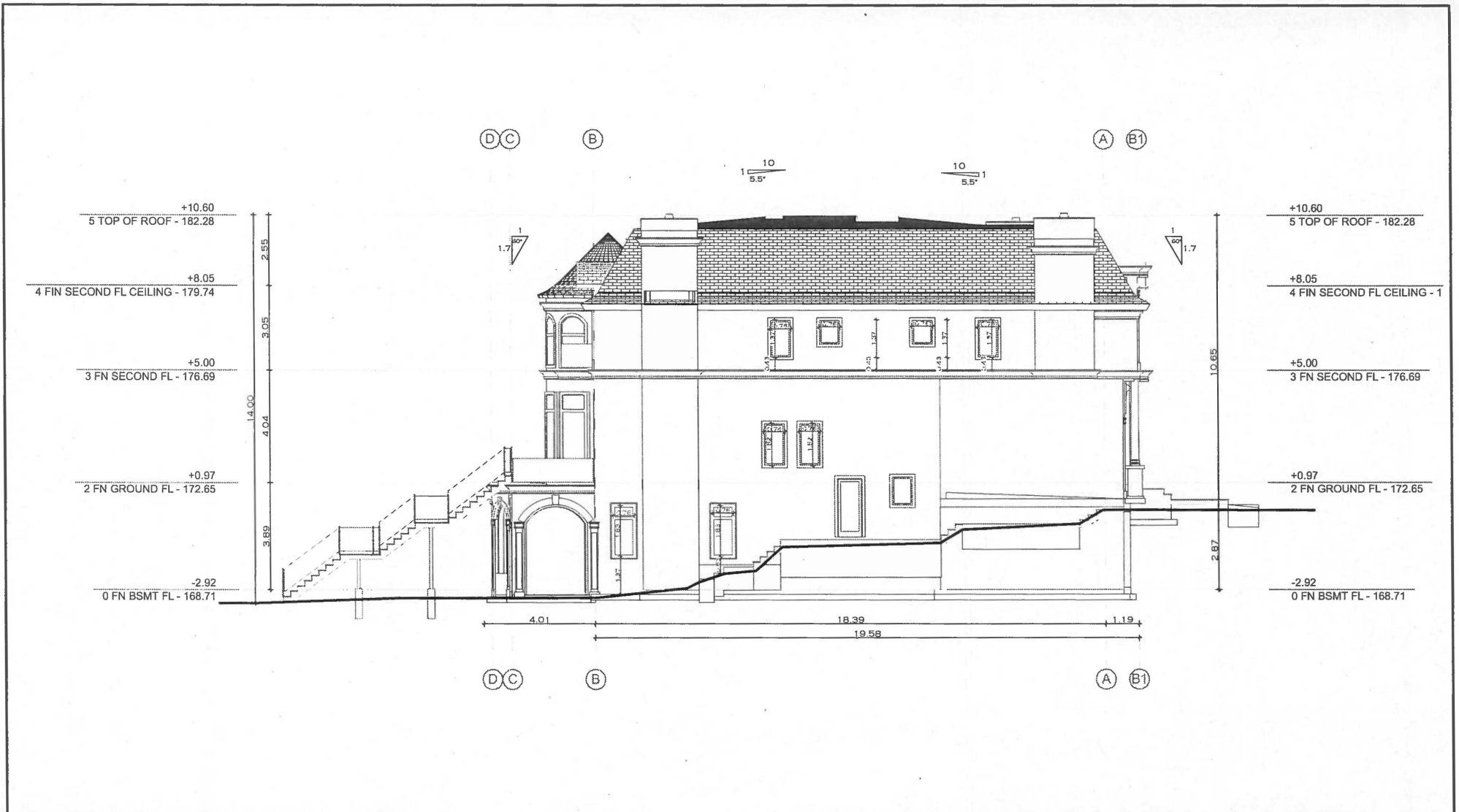
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<b>LAST MODIFIED ON:</b>	Wednesday, April 4, 2018



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DATE:	ISSUED FOR:
FEB 29-2018	FOR ZONING REVIEW APPLICATION
MAR 30-2018	FOR COA APPLICATION

<b>DRAWING TITLE:</b>	<b>E-06 EAST ELEV</b>
<b>PROJECT TITLE/ADDRESS:</b>	<b>41 ELGIN ST, MARKHAM</b>

<b>DRAWN BY:</b>	D.N.
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<b>SCALE:</b>	1:125
<b>LAST MODIFIED ON:</b>	Wednesday, April 4, 2018



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**A.13**