

Memorandum to the City of Markham Committee of Adjustment

April 26, 2018

File: A/43/18
Address: 34 Old English Lane Thornhill
Applicant: Muhammad Walid Sbeih
Agent: Randal Dickie
Hearing Date: Wednesday May 09, 2018

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 1767: SR2, as amended, to permit:

- a) **Section 14(i)(c):** a minimum front yard setback of 30 feet; whereas, the By-law requires a minimum front yard setback of 35 feet;
- b) **Section 14(i)(e):** a minimum rear yard setback of 40 feet; whereas, the By-law requires a minimum rear yard setback of 50 feet;
- c) **Infill By-law 100-90; Section 1.2(i):** a maximum building height of 10.72 metres; whereas, the By-law permits a maximum building height of 9.8 metres;
as they relate to a proposed residential dwelling.

BACKGROUND

Property Description

The 1,674.11 m² (18,019.93 ft²) subject property is located on the west side of Old English Lane, north of Steeles Avenue and east of Bayview Avenue. The surrounding area consists of two-storey detached dwellings on large lots. The subject property is bounded by City owned land to the west (see Appendix "B"), and single detached residential dwellings to the south, east, north, and further west. The property contains a 391.96 m² (4,219.02 ft²) two-storey detached dwelling with an attached double-car garage and a swimming pool located in the rear yard. Mature vegetation is a predominant characteristic of the property and the neighbourhood.

Proposal

The applicant is proposing to demolish the existing home and construct a two-storey detached dwelling with a gross floor area of approximately 643.92 m² (6931.1 ft²). The proposed dwelling contains two double-car garages; a detached garage fronting onto the street and an attached garage facing south. The proposal also includes a new swimming pool in the rear yard, and a circular driveway.

Eleven (11) trees are being proposed for replacement, and as a result, the applicant will be required to submit a tree assessment and preservation plan, and tree replacements and/or tree replacement fees to the City as a condition of approval.

Official Plan and Zoning

Official Plan 2014 (partially approved on Oct 30/15, May 26/16, Mar 10/17, April 21/17, Nov 24/17)

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

The subject property is zoned 'SR2 – Single Detached Residential' under By-law 1767, as amended, which permits single detached dwellings. The proposed development does not comply with the by-law with respect to front and rear yard setbacks.

Residential Infill Zoning By-law

The subject property is also subject to the Residential Infill Zoning By-law 100-90. 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 building height.

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

According to the information provided by the applicant on the application form, *"The lot is very shallow compared to the lots in the same neighbourhood and because of the shape of the lot we cannot comply."*

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review to confirm the variances required for the proposed development.

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.

Reduced Front Yard Setback

The applicant is requesting a minimum front yard setback of 30 ft (9.14 m), whereas the by-law requires a minimum front yard setback of 35 ft (10.67 m). This represents an approximately 5 ft (1.52 m) or 14.29% reduction from the requirement. A 30 ft (9.14 m) minimum front yard setback variance was approved in 1966 that facilitated the construction of the existing dwelling.

Although the variance applies to the entirety of the east façade of the proposed dwelling, it would allow for the house to be generally aligned with the front main wall of the neighbouring home to the north. Staff do not anticipate the proposed front yard setback reduction having adverse impacts on neighbouring properties.

Reduced Rear Yard Setback

The applicant is requesting a minimum rear yard setback of 40 ft (12.19 m), whereas the by-law requires a minimum rear yard setback of 50 ft (15.24 m). This represents a decrease of 10 ft (3.05 m), or 20% from the by-law.

The lot's irregular shape makes it difficult to comply with the required 50 ft rear yard setback. Notwithstanding the proposed setback reduction, the dwelling complies with the maximum building depth requirement, and will provide an approximate 375 m² outdoor amenity space to the west side of the house. Impacts from the reduction to the required rear yard setback are, in part, mitigated by the approximately 7.25 m (25 ft) municipally owned lands at the rear of the property. A 40 ft (12.19 m) minimum rear yard setback variance was approved in 1966 that facilitated the construction of the existing dwelling. While Staff do not anticipate the proposed setback reduction will result in any adverse impact on adjacent properties, the requested variance would apply to the majority of the full width of the dwelling's west façade.

Increase in Building Height

The applicant is requesting a maximum building height of 10.72 m (35.17 ft), whereas the by-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of approximately 0.92 m (3 ft) or 9.38% from the by-law.

Although the proposed dwelling will be taller than other existing homes on the street that were originally constructed in the 1960's, the proposed height is generally consistent with the other new infill residential developments in the area. A minor variance for nearby 5 Spirea Court approved an increase in building height from 9.8 m (32.15 ft) to 10.99 m (36.05 ft) in 2011. It is the opinion of staff that the proposed building height is consistent with the recent development trend in the community.

PUBLIC INPUT SUMMARY

No written submissions were received as of April 25, 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.

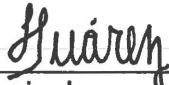
CONCLUSION

Given the context of the immediate area, staff have no objections to the variances related to the front and rear yard setbacks and building height. 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.

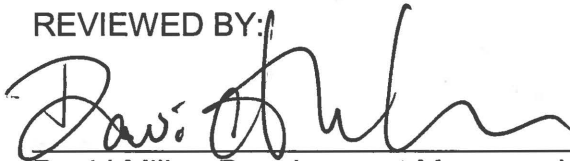
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Luis Juarez, Development Technician, West District

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\ 18 228913 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/81/17

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 dated March 21, 2018, to the satisfaction of the Director of Planning and Urban Design or designate, 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;
3. That the Owner submits a Tree Assessment and Preservation Plan prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended from time to time to the satisfaction of the Director of Planning and Urban Design, or their designate;
4. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree protection fencing is erected in accordance with the City's Streetscape Manual (2009), as amended from time to time and inspected to the satisfaction of the Director of Planning and Urban Design, or their designate;
5. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree replacements are provided and/or tree replacement fees are paid to the City, if required by the Director of Planning and Urban Design, or their designate;
6. That the proposed building elevations/addition be designed and constructed in conformity with the requirements of Markham's Bird Friendly Guidelines 2014, and that architectural plans be submitted to the City demonstrating compliance, to the satisfaction of the Director of Planning and Urban Design or their designate.

CONDITIONS PREPARED BY:



Luis Juarez, Development Technician, West District

APPENDIX B



SURVEYOR'S REAL PROPERTY REPORT
PART 1: PLAN OF LOT 10
REGISTERED PLAN M-1127
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK
SCALE 1 : 200
E.W. BOWYER B.Sc., O.L.S.

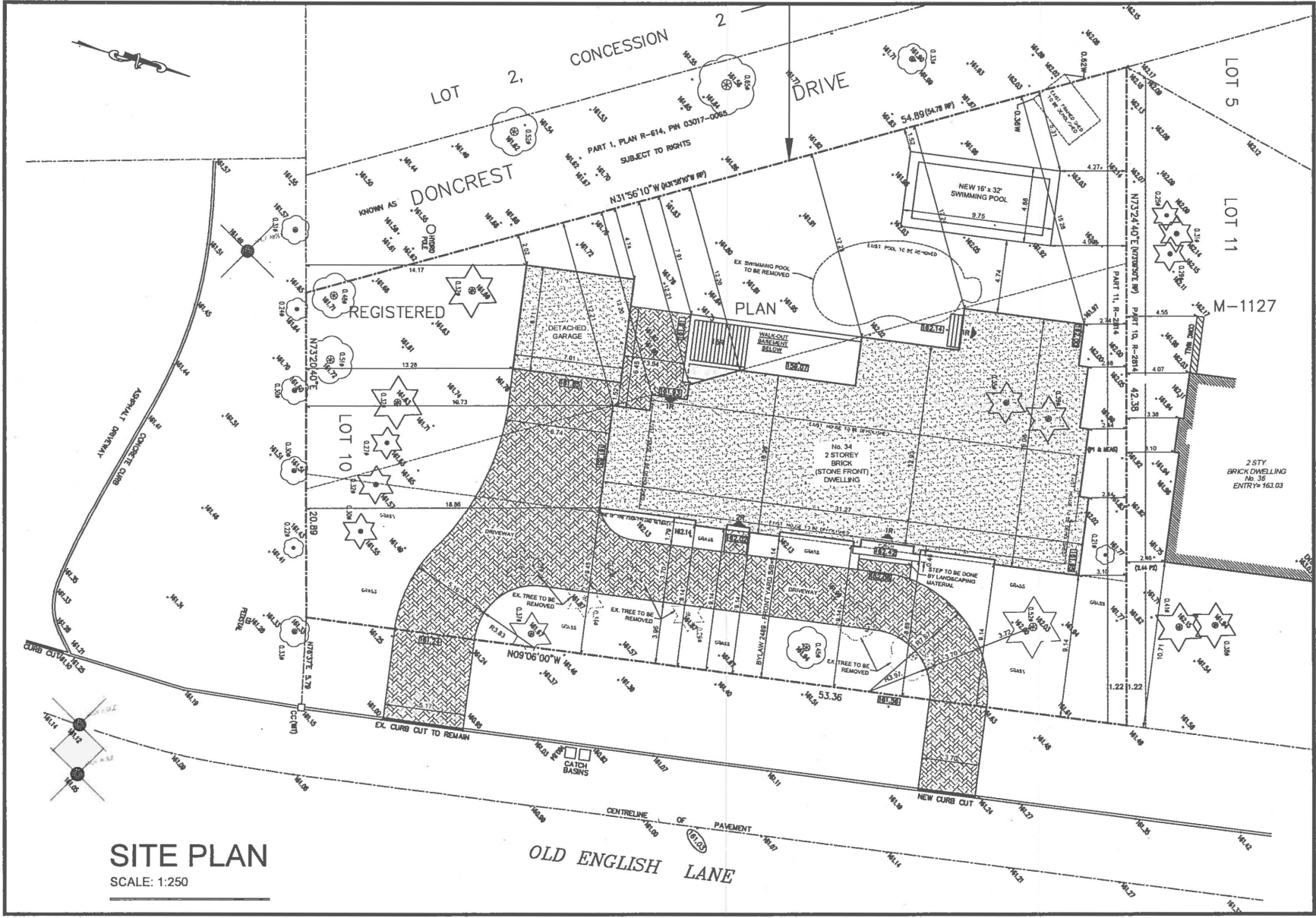
PART 2: REPORT
 1 - THIS REPORT WAS PREPARED FOR M. HAKIM.
 2 - BOUNDARIES CONFORM SUBSTANTIALLY TO REGISTERED PLAN M-1127.
 3 - NO EASEMENTS ARE RECORDED ON TITLE.
 4 - FENCES VARY FROM PROPERTY LINES AS SHOWN.
 5 - NO RESPONSIBILITY FOR USE BY OTHER PARTIES.
NOTES: THIS REPORT CAN BE UPDATED BY THIS OFFICE. NO ADDITIONAL POINTS OF THIS ORIGINAL REPORT WILL BE ISSUED SUBSEQUENT TO THE DATE OF CERTIFICATION.
BENCHMARK
 ELEVATIONS ARE REFERRED TO BM 092901576.
 ELEVATION = 155.79

LEGEND
 [Symbol] DENOTES SURVEY MONUMENT FOUND
 [Symbol] DENOTES SURVEY MONUMENT PLANTED
 [Symbol] DENOTES STANDARD IRON BAR
 [Symbol] DENOTES MARSHALL MADON, MONARCH, O.L.S. APRIL 22, 1968
 [Symbol] DENOTES 4 BENCHMARK, O.L.S. ON OCT. 1981
 [Symbol] DENOTES REGISTERED PLAN M-1127
 [Symbol] DENOTES MEASURED
 [Symbol] DENOTES CONIFEROUS TREES
 [Symbol] DENOTES DECIDUOUS TREES

ASSOCIATION OF ONTARIO LAND SURVEYORS
PLAN SURVEYOR
2013
E.W. BOWYER
 THIS PLANET HOLD UNLESS OTHERWISE NOTED
 DRAWN BY THE SURVEYOR
 ISSUED BY THE SURVEYOR
 In accordance with Reg. 361, Sec. 3(3)

SURVEYOR'S CERTIFICATE
 I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT AND THE REGULATIONS MADE UNDER THEREOF.
 2. THE SURVEY WAS COMPLETED ON 13 JULY 2017.
 3. THE SURVEY WAS COMPLETED ON 19 MARCH 2018.
E.W. Bowyer
E.W. BOWYER B.Sc., O.L.S.

READING NOTE: BEARINGS ARE ASTROMONIC AND ARE REFERRED TO THE WEST LIMIT OF OLD ENGLISH LANE AS SHOWN ON REGISTERED PLAN M-1127 HAVING A BEARING OF N 0° 00' 00" W.
METRIC / IMPERIAL DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.
E. W. BOWYER INC.
ONTARIO LAND SURVEYORS
LAND DEVELOPMENT CONSULTANTS
 8075 MARKHAM ROAD, SUITE 202A
 MARKHAM, ONTARIO L3R 9A9
 TEL: 905-504-4061 FAX: 905-504-4049
 PW 03017-0030 DWG No: M-407 ©VALD/2017/17-12712/00



SITE PLAN
SCALE: 1:250

PAPAPETROU ENGINEERING

41 Headlands Crescent, Whitby, Ontario, L1R 1Z9
Telephone: (905) 435-0883 Fax: (905) 435-0122

LEGEND

165.61	EXISTING ELEVATION
166.17	PROPOSED ELEVATION
80.42	AVERAGE GRADE

DATE	NO.	DESCRIPTION	BY
REVISIONS:			

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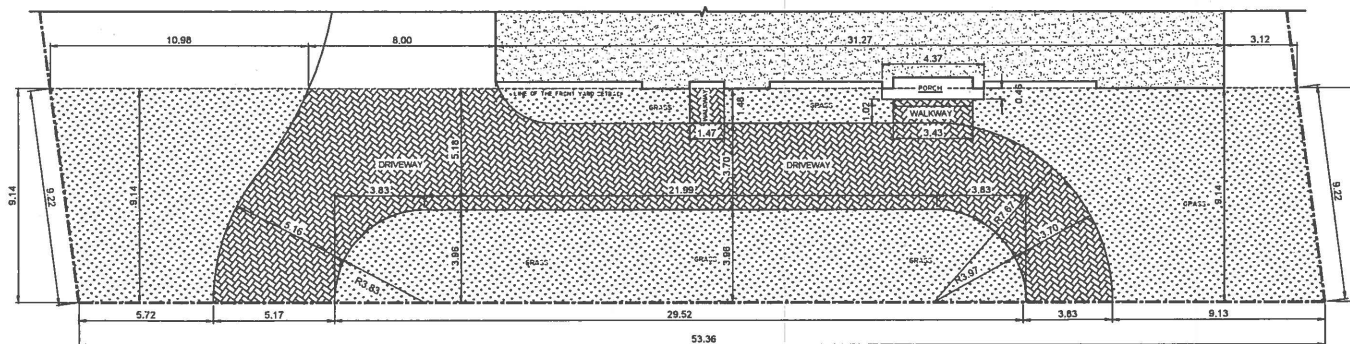


ADDRESS: 34 OLD ENGLISH LANE, MARKHAM, ONTARIO.	
DRAWING TITLE: SITE PLAN	
SCALE: AS NOTED	DRAWN:
DESIGN:	CHECKED:
DATE: MAR. 21, 2018	DRAWING NO: A1
PROJECT NO:	FILE NO:



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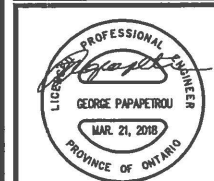
FRONT LANDSCAPING
SCALE: 1:200

FRONT YARD LANDSCAPING	
FRONT YARD AREA	487.98 m ²
DRIVEWAY AREA	176.01 m ²
FRONT YARD LANDSCAPING AREA	487.98 - 176.01 = 311.97 m ²
% OF FRONTYARD LANDSCAPING	311.97 / 487.98 = 63.93%
PORCH AREA (ENCROACHING TO FRONT YARD)	4.37 x 0.46 = 2.01 m ²
WALKWAY & STEPS AREA	1.02 x 3.43 + 1.47 x 1.48 = 5.68 m ²
HARD SURFACE AREA (PORCH, STEPS & WALKWAY)	2.01 + 5.68 = 7.69 m ²
SOFT LANDSCAPE AREA	311.97 - 7.69 = 304.28 m ²
% OF SOFT LANDSCAPING	304.28 / 311.97 = 97.535%
% OF HARD SURFACE	7.69 / 311.97 = 2.465%

DATE	NO.	DESCRIPTION	BY

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DRAWING TITLE:
FRONT YARD LANDSCAPING

SCALE: AS NOTED	DRAWN:
DESIGN:	CHECKED:

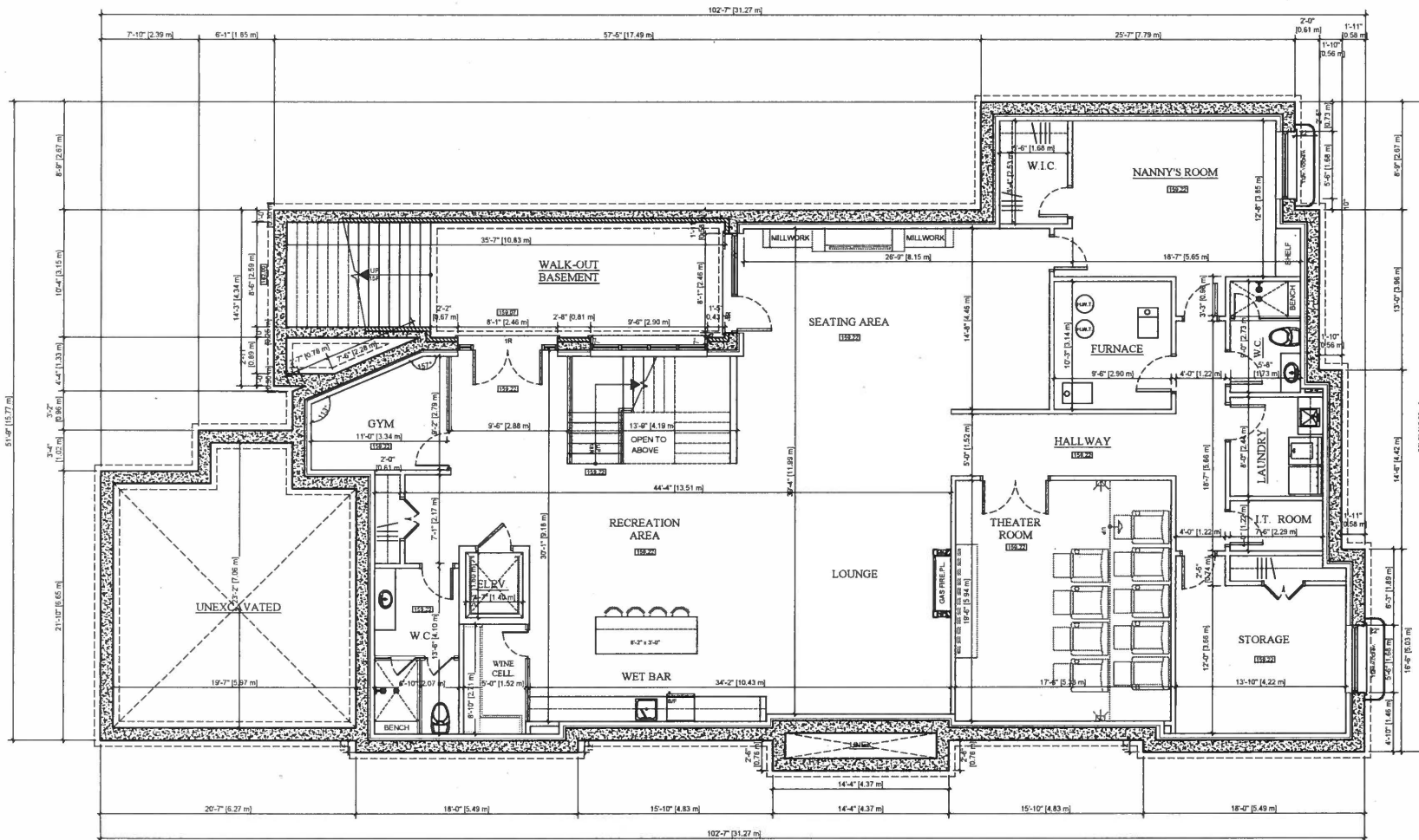
DATE: MAR. 21, 2018	DRAWING NO.
PROJECT NO.:	A3
FILE NO.:	

A3



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BASEMENT FLOOR PLAN
SCALE: 1:100

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ADDRESS:
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DRAWING TITLE:
FLOOR PLAN

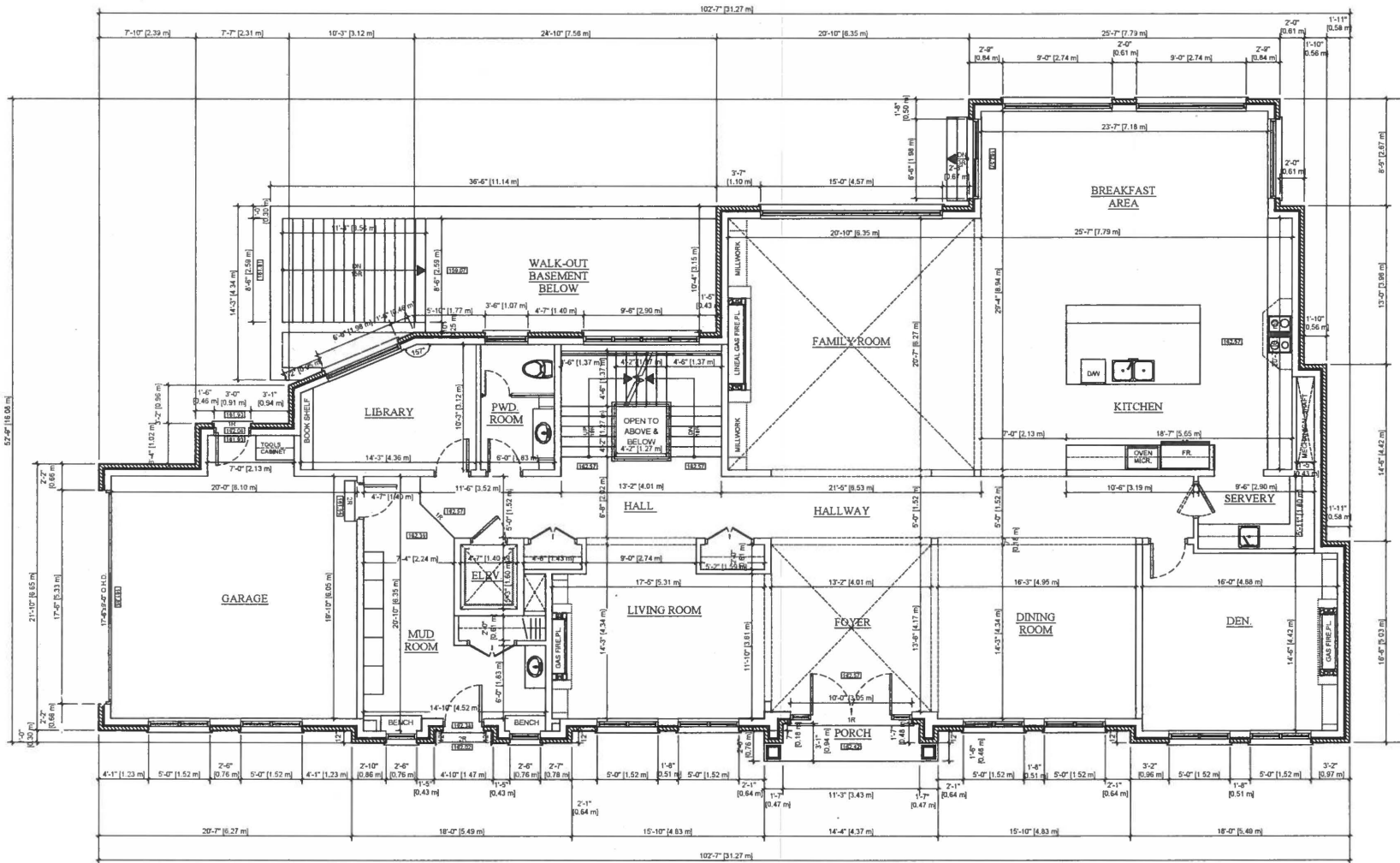
SCALE: AS NOTED DRAWN:

DESIGN: CHECKED:

DATE: MAR 21, 2018 DRAWING NO:

PROJECT NO: A4

FILE NO:



GROUND FLOOR PLAN
SCALE: 1:100



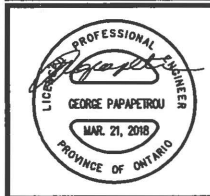
PAPAPETROU
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DATE	NO.	DESCRIPTION	BY

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ADDRESS:
34 OLD ENGLISH LANE,
MARKHAM, ONTARIO.

DRAWING TITLE:

FLOOR PLAN

SCALE: AS NOTED

DRAWN:

DESIGN:

CHECKED:

DATE: MAR. 21, 2018

DRAWING NO.

PROJECT NO:

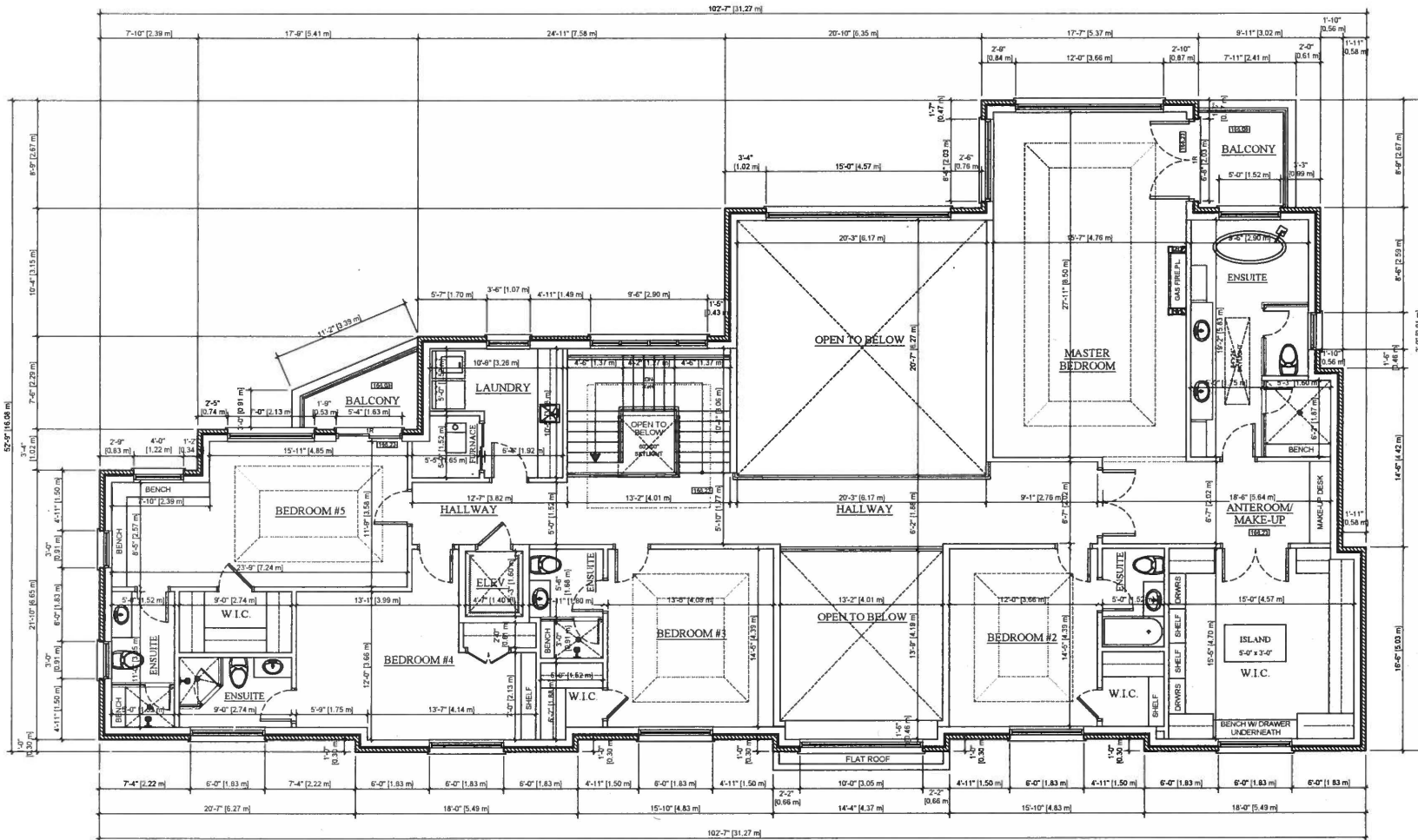
FILE NO:

A5



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SECOND FLOOR PLAN
SCALE: 1:100

DATE	NO.	DESCRIPTION	BY

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DRAWING TITLE:
FLOOR PLAN

SCALE: AS NOTED DRAWN:
DESIGN: CHECKED:

DATE: MAR. 21, 2018 DRAWING NO.
PROJECT NO:

FILE NO: **A6**



**PAPAPETROU
ENGINEERING**

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Telephone: (905) 435-0893 Fax: (905) 435-0122



TOP OF THE ROOF	30'-1"	171.33
TOP OF SLOPED ROOF FRONT	29'-2"	171.44
TOP OF LEAVES (REAR)	21'-4"	188.96
US OF THE CEILING TOP OF THE PLATE	21'-0"	188.97
FINISH SECOND FLOOR	12'-0"	188.23
FINISH MIN FLOOR	0'-0"	188.87
AVERAGE GRADE AT C.E. ST.	-6'-1"	181.96
FINISH BASEMENT	-11'-0"	189.23
US FINISH BASEMENT	-12'-0"	188.91

DATE	NO.	DESCRIPTION	BY

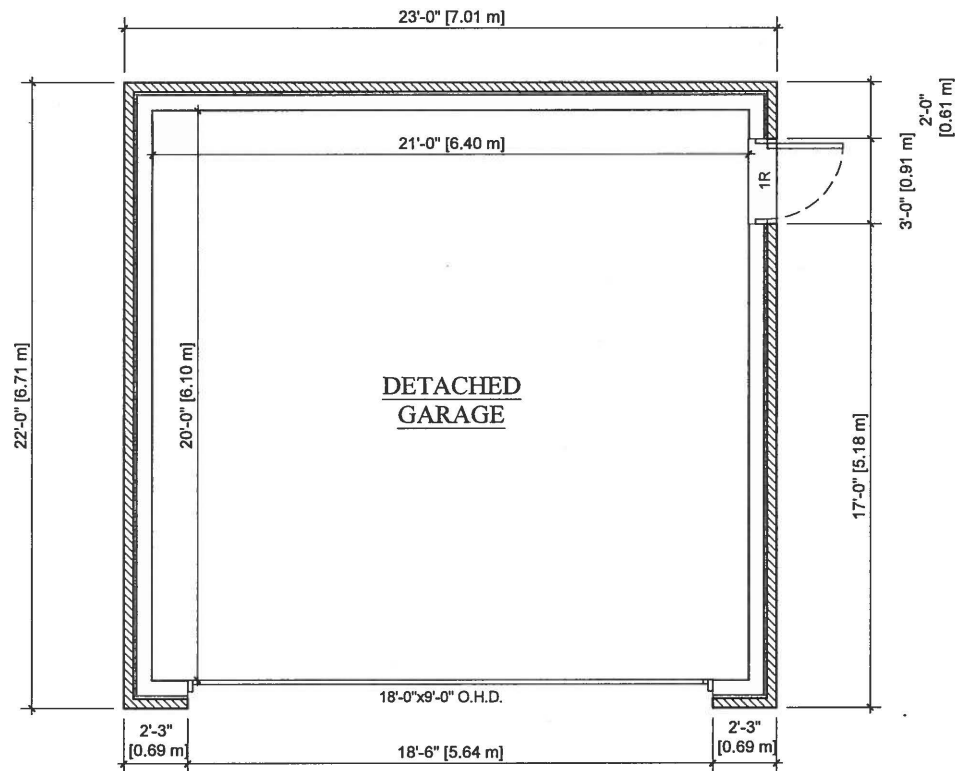
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EAST ELEVATION (FRONT)
SCALE: 1:100

ADDRESS: 34 OLD ENGLISH LANE, MARKHAM, ONTARIO.	
DRAWING TITLE: ELEVATION	
SCALE: AS NOTED	DRAWN:
DESIGN:	CHECKED:
DATE: MAR. 21, 2018	DRAWING NO.
PROJECT NO:	A8
FILE NO:	



GARAGE FLOOR PLAN

SCALE: 1:50



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ADDRESS:
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DRAWING TITLE:
ACCESSORY BLD. FLOOR PLAN

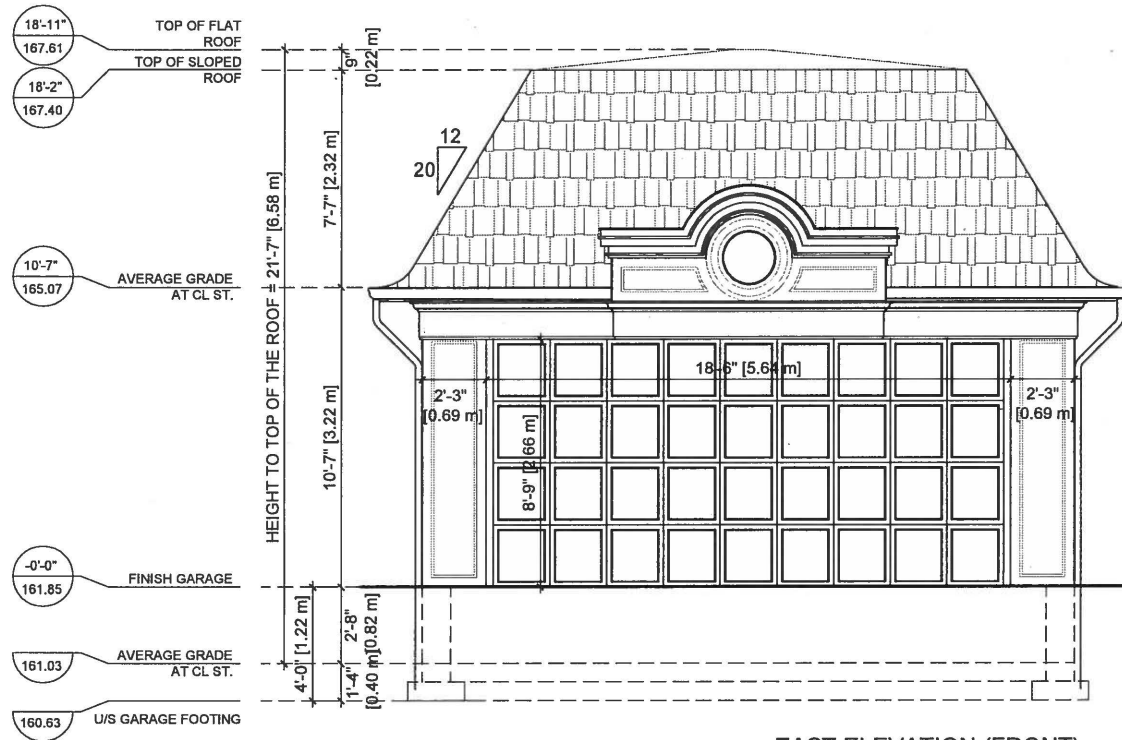
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DESIGN:	CHECKED:

DATE: MAR. 21, 2018	DRAWING NO:
PROJECT NO:	A12
FILE NO:	



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EAST ELEVATION (FRONT)

SCALE: 1:50

DATE	NO.	DESCRIPTION	BY

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ADDRESS:
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DRAWING TITLE:
ACCESSORY BLD. ELEVATION

SCALE: AS NOTED DRAWN:

DESIGN: CHECKED:

DATE: MAR. 21, 2018 DRAWING NO:

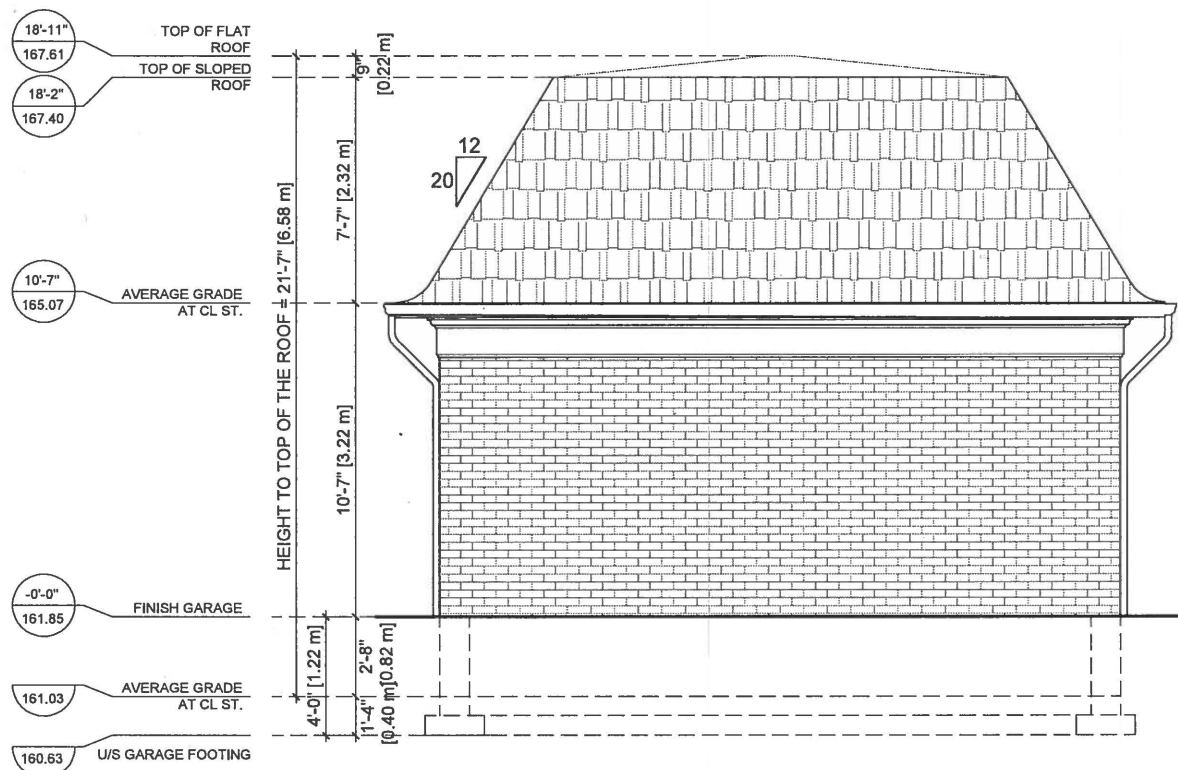
PROJECT NO: **A14**

FILE NO:



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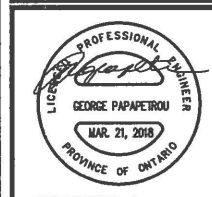


WEST ELEVATION (REAR)
SCALE: 1:50

DATE	NO.	DESCRIPTION	BY

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ADDRESS: 34 OLD ENGLISH LANE, MARKHAM, ONTARIO.	
DRAWING TITLE: ACCESSORY BLD. ELEVATION	
SCALE: AS NOTED	DRAWN:
DESIGN:	CHECKED:
DATE: MAR. 21, 2018	DRAWING NO:
PROJECT NO:	A15
FILE NO:	

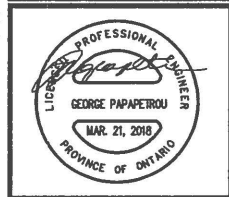


**PAPAPETROU
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DATE	NO.	DESCRIPTION	BY

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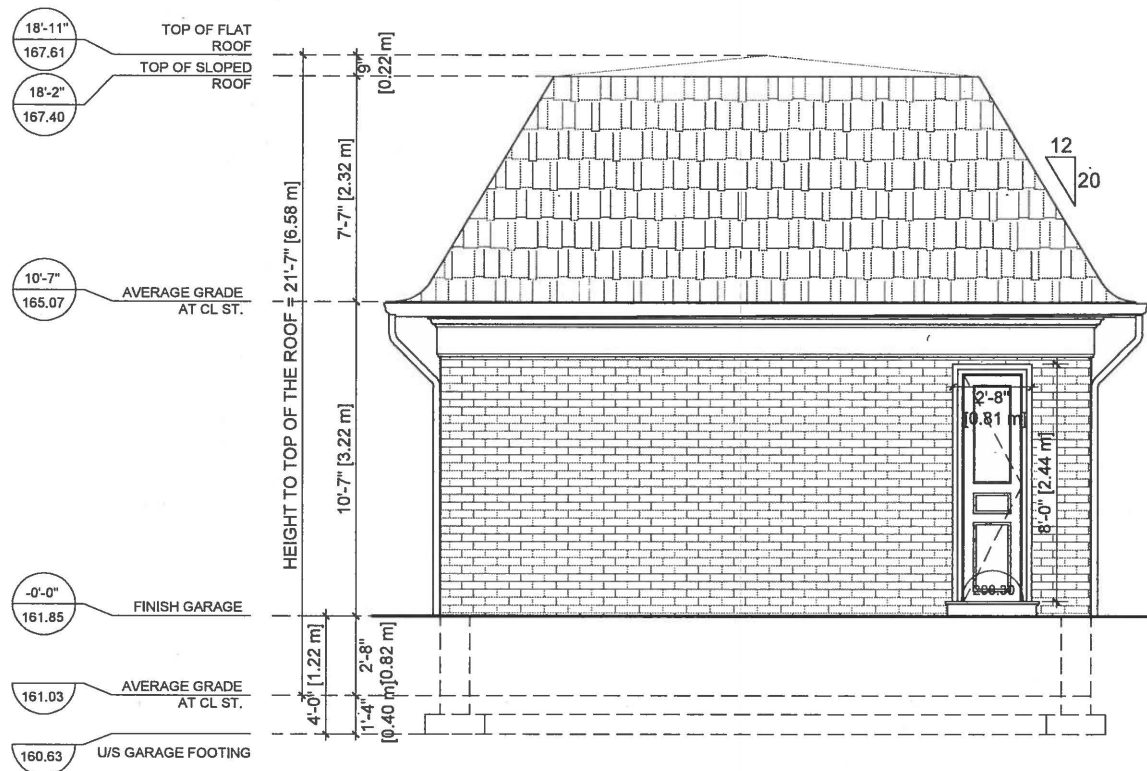


ADDRESS:
34 OLD ENGLISH LANE,
MARKHAM, ONTARIO.

DRAWING TITLE:
ACCESSORY BLD. ELEVATION

SCALE: AS NOTED DRAWN:
DESIGN: CHECKED:

DATE: MAR. 21, 2018 DRAWING NO:
PROJECT NO: **A17**
FILE NO:



NORTH ELEVATION
SCALE: 1/32

APPLICATION CA/66/38

The application has been submitted by Wycliffe Homes Ltd., owners of Lot 10, Plan M-1127. A variance from the provisions of By-law 1767 as amended is requested in order to erect a dwelling 30 ft. from the front lot line rather than 35 ft. and 40 ft. from the rear lot line rather than 50 ft.

No correspondence was received pertaining to the application.

Mr. Sharf was present and explained the application to the Committee.

It was

Moved by: N. R. Reid
Seconded by: H. Collard

That the application be approved.

Resolution carried.

The application is approved as the variances requested are considered minor.