

Memorandum to the City of Markham Committee of Adjustment
December 11, 2024

File: A/136/24
Address: 88 Lee Avenue, Markham, Ontario
Agent: STEP Design Studio Inc. (Stepan Sukiasyan)
Hearing Date: Wednesday, December 18, 2024

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

The Applicant is requesting relief from the following requirements from the “SUR3 - Suburban Residential Third Density” zone in By-law 193-81, as amended, by Amending By-law 2008-151 and Parking Standards By-law 28-97, to permit:

Amending By-law 2008-151

- a) **Section 7 (a)(iii)**: a minimum front yard setback of 8 metres, whereas the by-law requires a minimum front yard setback of 12.19 metres;

Parking By-law 28-97

- b) **Section 6.2.4.4(b)(i)**: a driveway with a minimum setback of 6.95 metres to the rear lot line, whereas the by-law requires a driveway to be located a minimum of 8 metres to the rear lot line; and

By-law 193-81

- c) **Section 6.1(c)**: a maximum lot coverage of 32.53%, whereas the by-law permits a maximum lot coverage of 25%;

as it relates to a proposed two-storey residential dwelling.

BACKGROUND

Property Description

The 931.59 m² (10,027.55 ft²) subject lands is a vacant corner lot located at the north-east intersection of Lee Avenue and Sunman Court, and generally west of Brimley Avenue (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo).

The Subject Lands is part of a recently registered plan of subdivision to facilitate the development of 13 detached dwellings located along Sunman Court. The surrounding area to the west and south of the Subject Lands is comprised of an established neighbourhood area that is undergoing a transition with newer dwellings being developed as infill developments. To the east of the Subject Lands is a single detached dwelling and a private school (Yip’s Music and Montessori School).

Proposal

The Applicant is proposing to construct a 289.04 m² (3,111.20 ft²) two-storey detached dwelling (the “Proposed Development”) (refer to Appendix “B” – Plans). Vehicular

access to the Proposed Development is from Sunman Court, which is deemed the exterior side yard under the Zoning By-law.

This Proposed Development (also referred to as Lot 1) is associated with a previous variance application (A/028/22) which was approved by the Committee of Adjustment (the “COA”) on July 20, 2022 for increased lot coverage. As noted in the [Staff Report](#) for A/028/22, the Applicant did not submit a Zoning Preliminary Review to confirm the variances required for the Proposed Development. Through the building permit review, Zoning Staff have identified additional non-compliance with the By-law, thereby triggering the need for the additional variances outlined in this report.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the Subject Lands as “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. These criteria are established to ensure that infill developments are appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Comprehensive Zoning By-law 2024-19, as amended

The Subject Lands are zoned “Residential – Established Neighbourhood Low Rise (RES-ENLR)” under By-law 2024-19, as amended, which permits detached dwellings. By-law 2024-19, as amended, is the Comprehensive Zoning By-law (CZBP), approved by City Council on January 31, 2024. Section 1.7 of the CZBL provides transition policies allowing the former Zoning By-law to remain applicable for ‘applications in process’ prior to the CZBL coming into full force and in effect for three years. A building permit (HP 22 264203) was submitted in December 2022, requiring the Owner to obtain a variance to the By-laws prior to the CZBL coming into full force and affect only. If this variance application is approved, the building permits is required to be obtained by January 31, 2027.

Zoning By-law 193-81 and Amending By-law 2008-151

The Subject Lands are zoned “SUR3 - Suburban Residential Third Density” under By-law 193-81, as amended. The “Suburban Residential Third Density” zone permits a single detached dwelling.

Staff note that site-specific Amending By-law 2008-151 was enacted in 2008 to facilitate the initial subdivision development application, and establishes site-specific standards

relating to minimum lot frontages and lot areas. The Proposed Development does not comply with the Zoning By-law and Amending By-law as it relates to front yard setback and maximum lot coverage.

Parking Standards By-law 28-97

The Proposed Development also does not comply with the standards of the Parking By-law 28-97 with respect to rear yard setback for the proposed driveway located in the exterior side yard. Further details of the driveway setback requirement are provided in the comment section below.

Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the Applicant has received comments from the building department through their permit process (HP 22 364203) to confirm the variances required for the proposed development. Nonetheless, it is the Applicant'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.

Reduction in Front Yard Setback

The Applicant is requesting relief to permit a minimum front yard setback of 8 m (26.25 ft), whereas the By-law requires a minimum front yard setback of 12.9 m (42.32 ft). This represents a reduction of approximately 37.98% (4.9 m or 48.88 ft).

Staff note that by definition, the lot line abutting Lee Avenue is considered the front lot line and the lot line abutting Sunman Court is considered the exterior side yard. This is noteworthy as the proposed dwelling faces and is accessed from Sunman Court, the exterior side yard.

The intent of a front yard setback is to provide sufficient space for the garage and driveway and to provide adequate setback from the public realm. Given the orientation of the Proposed Development, in which the main front entrance and vehicular access is from Sunman Court, Staff are of the opinion that the proposed setback from Lee Avenue can be interpreted as an exterior side yard setback. The requirement for side yard setbacks in this zone is 3.0 m (9.84 ft) which the Proposed Development meets.

Additionally, Staff considers the Subject Lands to be located at the periphery of the Lee Avenue neighbourhood and are satisfied that the dwelling is sufficiently setback from Lee Avenue and will not negatively impact the public realm or the character of the neighbourhood.

Reduction in Driveway Setback

The Applicant is requesting relief to permit a minimum rear yard setback of 6.95 m (22.80 ft) for a driveway located in an exterior side yard, whereas the By-law requires that driveways in an exterior side yard be located “no closer to a rear lot line than the minimum distance requirement for the main building from the rear lot line” or a minimum rear yard setback of 8.0 m (26.25 ft). This represents a reduction of approximately 13.13% (1.05 m or 3.44 ft).

This variance is attributed to the irregular shape of the lot as shown in the Site Plan in Appendix “B”. The alignment of the proposed driveway is perpendicular to both Sunman Court and the proposed dwelling, resulting in a rear yard (north) setback that ranges between 6.95 m (22.80 ft) and 8.0 m (26.25 ft) and an average setback of 7.48 m (24.54 ft) from the rear lot line.

Staff further note that the reduction in the driveway setback from the rear yard moves the main entrance for 88 Lee Avenue further away from the intersection of Lee Avenue and Sunman Court. The increased setback from the intersection and daylight triangle will mitigate any dangers from traffic in and out of Sunman Court. Therefore, Staff have no objections to the requested variance and are of the opinion that the variance is minor in nature and the general intent and purpose of the Zoning By-law are maintained.

Increase in Maximum Lot Coverage

The Applicant is requesting relief for a maximum lot coverage of 32.53% (303.08 m² or 3,262.33 ft²), whereas the By-law permits a maximum lot coverage of 25% (232.91 m² or 2,506.97 ft²). This represents an approximate increase of 30.12% (70.17 m² or 755.30 ft²) to the permitted lot coverage (or additional 7.53% coverage to the permitted building footprint).

As previously noted, the Proposed Development received COA approval in 2022 to permit a maximum lot coverage of 31.1% (289.73 m² or 3,118.67 ft²). The current proposal represents a minor increase (of 13.35 m² or 143.70 ft²) from what was previously approved by the COA and is attributed with the proposed covered porch located on the northwest corner of the dwelling. Staff are of the opinion that the requested maximum lot coverage will not significantly add to the scale and massing of the dwelling and proposed lot coverage is generally consistent with the other infill developments along Sunman Court.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 11, 2024. 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* and have no objection. 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Brendan Chiu, Planner I, Central District

REVIEWED BY:



Melissa Leung, Senior Planner, Central District

File Path: Amanda\File\ 24 197555 \Documents\District Team Comments Memo

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – A/136/24 Conditions of Approval



Legend

- Subject Lands
- 88 Lee Avenue

1: 2,257

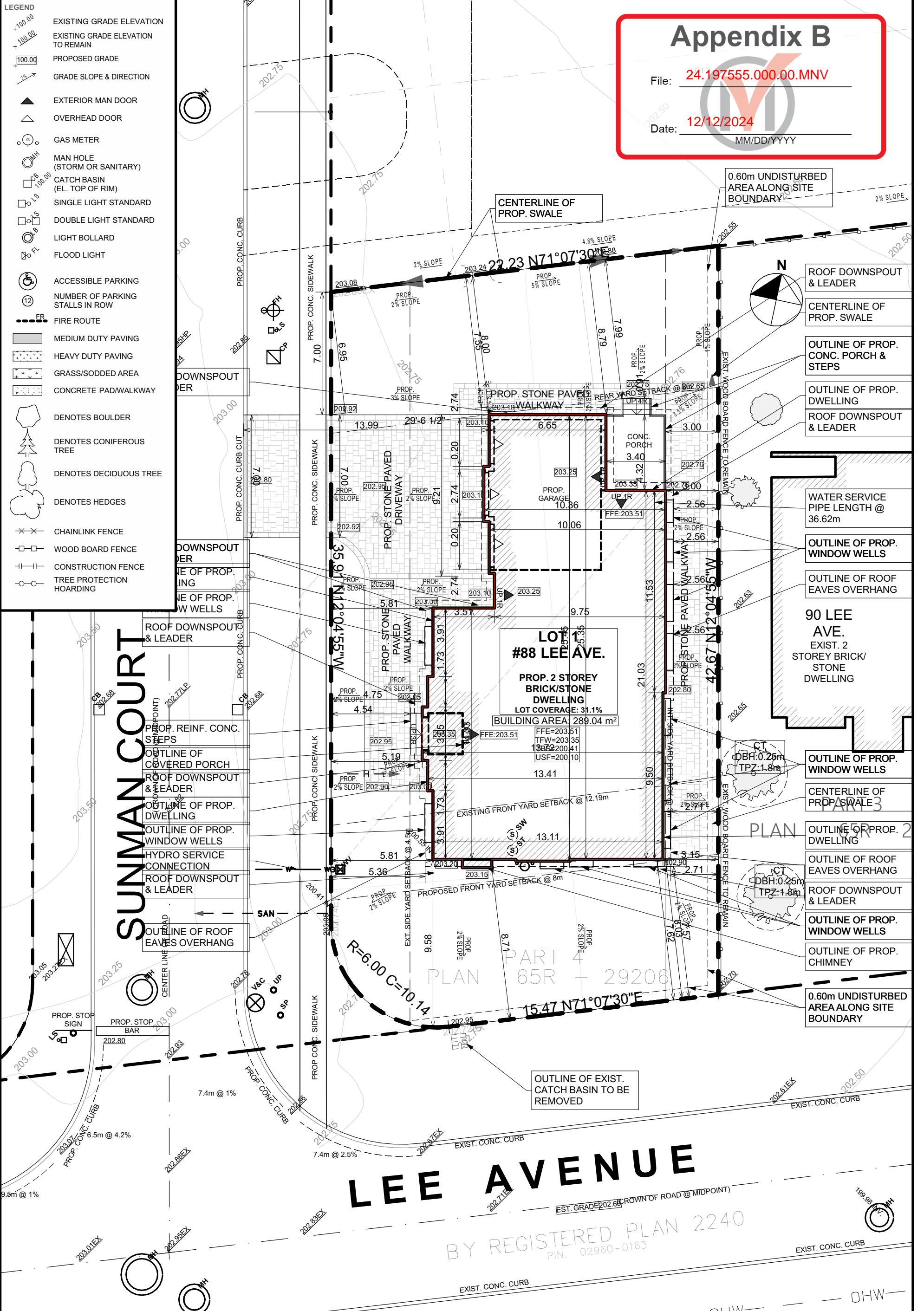
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Notes

Appendix B

File: 24.197555.000.00.MNV

Date: 12/12/2024
MM/DD/YYYY



1 SITE PLAN
A1.1 SCALE: 1:200

Appendix B

File: 24.197555.000.00.MNV

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1
A3.1

WEST ELEVATION

SCALE: 1/8" = 1'-0"



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115 APPLE CREEK BLVD. | UNIT 209 | MARKHAM

PROJECT NAME
LOT 1 - 88 LEE AVE.
MARKHAM, ON

DRAWING NAME
WEST ELEVATION

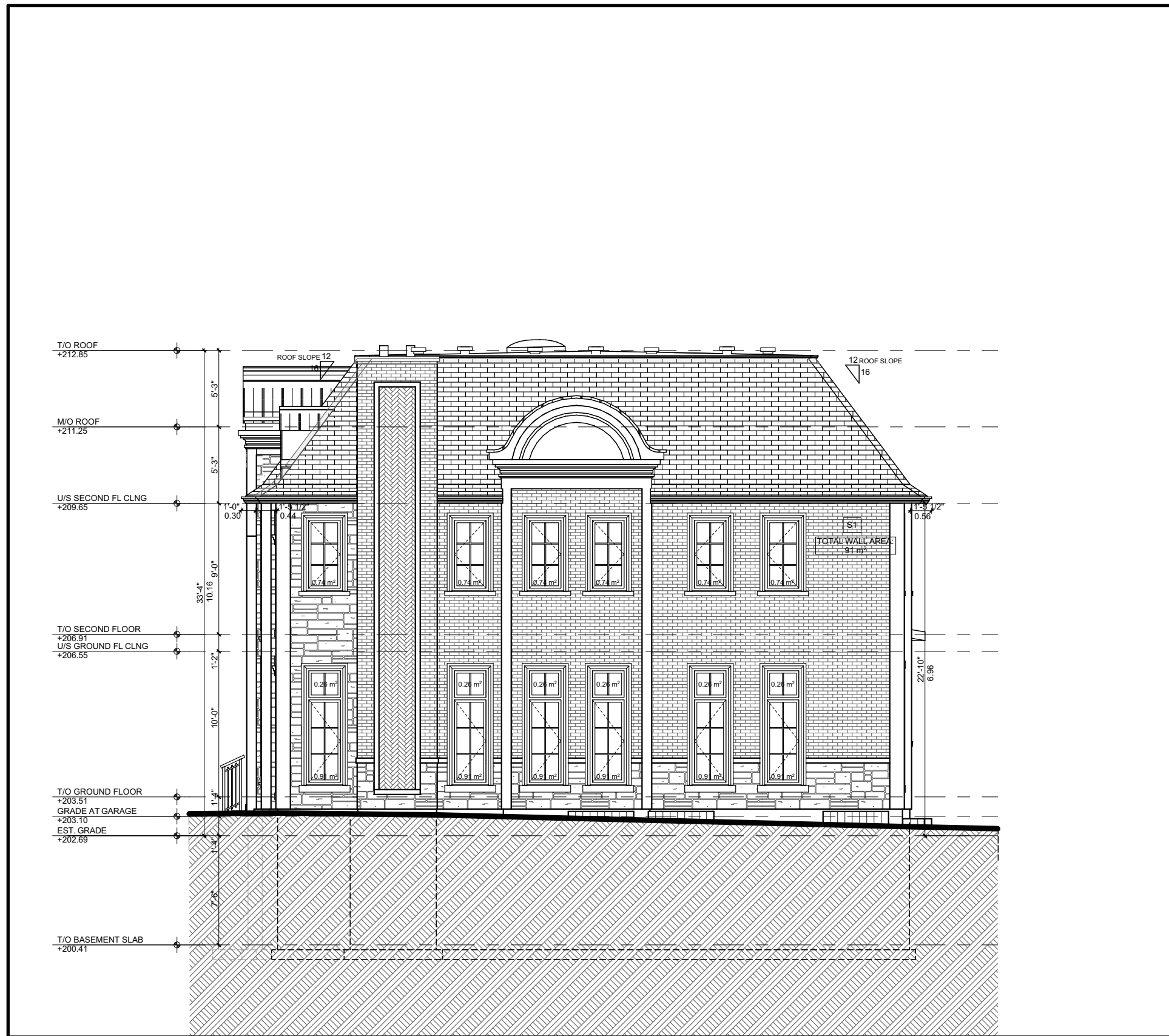
PROJECT DATE
11/15/2024
PREPARED BY
CARLOS. C.
CHECKED BY
STEPAN S.

PROJECT NUMBER
21.35
REVISION NUMBER
5.1-2.3
DOCUMENT NUMBER
A3.1

Appendix B

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1 SOUTH ELEVATION
A3.2 SCALE: 1/8" = 1'-0"



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MARKHAM, ON
DRAWING NAME
SOUTH ELEVATION

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CHECKED BY
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A3.2

Appendix B

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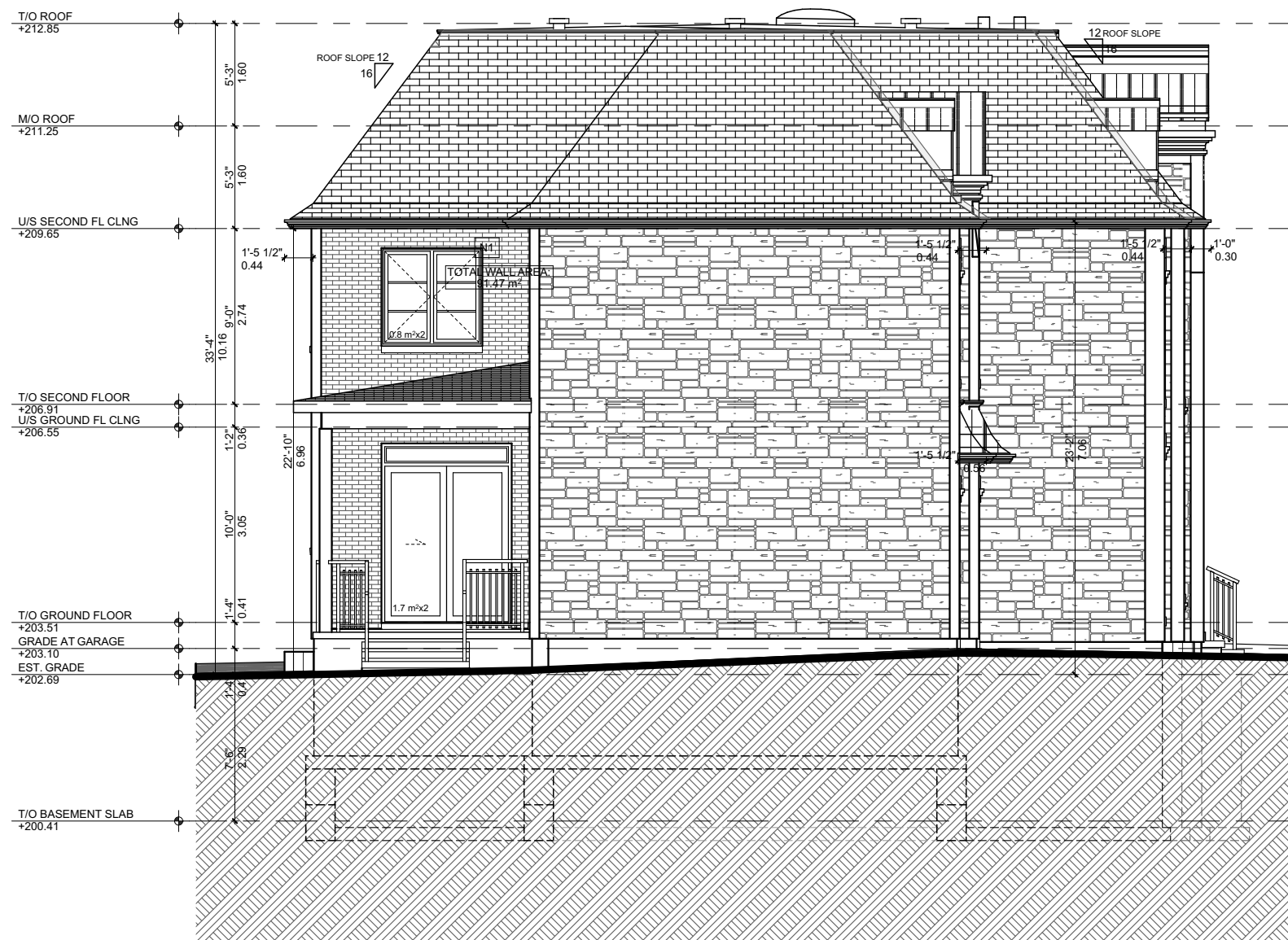


1 EAST ELEVATION
A3.3 SCALE: 1/8" = 1'-0"

Appendix B

File: 24.197555.000.00.MNV

Date: 12/12/2024
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1 NORTH ELEVATION
A3.4 SCALE: 1/8" = 1'-0"

APPENDIX “C”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/136/24

1. The variances apply only to the Proposed Development as long as it remains;
2. That the variances apply only to the Proposed Development, in substantial conformity with the plan(s) attached as ‘Appendix B’ to this Staff Report and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the proposed porch located on the northwest corner of the dwelling shall remain unenclosed;
4. Submission of a Tree Assessment and Preservation Plan, prepared by a Qualified Tree Expert in accordance with the City’s Tree Assessment and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Tree Preservation By-law Administrator 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.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, neighbouring properties, and 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 By-law Administrator.
6. If required as per Tree Preservation review, tree securities and/or tree fees be paid to the City and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation By-law Administrator.

CONDITIONS PREPARED BY:



Brendan Chiu, Planner I, Central District