

# Memorandum to the City of Markham Committee of Adjustment

February 14, 2019

**File:** A/155/18  
**Address:** 44 Gainsville Ave, Markham  
**Applicant:** Weimin Wang  
**Agent:** PMP DESIGN INC. (MEHRAN HEYDARI)  
**Hearing Date:** Wednesday February 20, 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, R4, as amended:

- a) **Section 6, Schedule B:**  
a minimum two-storey side yard setback of 4 ft (east) and 4 ft 7 in (west), whereas the By-law requires a minimum two-storey side yard setback of 6 ft;
- b) **Section 6, Schedule B:**  
a maximum lot coverage of 35.89 percent, whereas the By-law permits a maximum lot coverage of 33 1/3 percent;
- c) **Section 3.7:**  
an unenclosed stair projecting no more than 5 ft 4 1/2 in into the rear yard;

as they relate to a proposed residential dwelling.

## BACKGROUND

### Property Description

The 580.04 m<sup>2</sup> (6,243.52 ft<sup>2</sup>) subject property is located on the north side of Gainsville Avenue, west of Main Street Unionville, north of Highway 7 East, within the neighbourhood known as Varley Village. The neighbourhood is characterized by mature vegetation with a mix of one to two-storey single detached dwellings on lots which range in area and shape. There is an existing one-storey detached 166.11 m<sup>2</sup> (1,788 ft<sup>2</sup>) dwelling on the property, which according to assessment records was constructed in 1971. Mature vegetation exists on the property including one large tree in the front yard.

### Proposal

The applicant is proposing to construct a new two-storey detached 400.74 m<sup>2</sup> (4,313.6 ft<sup>2</sup>) dwelling with an attached two car garage. The applicant is also proposing a rear yard deck and rear 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 R4 – 'Fourth Density Single Family Residential' under 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 the minimum (east and west) two-storey side yard setback, maximum lot coverage and, the unenclosed stair projection.

#### 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 be consistent to building in the neighbourhood"*.

#### **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.

#### **Reduced Side Yard Setback**

The applicant is requesting a minimum side yard setback (east) of 4 ft (1.22 m) and a minimum side yard setback (west) of 4.58 ft (1.4 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 2 ft (0.61 m) and 1.42 ft (0.43 m) respectively.

Varley Village community is characterized by lots which range in area and frontage and generous side yard setbacks typically of 6 feet or more. City records indicate that side yard setbacks have been reduced in one instance on the street by variances to 4 ft (1.22 m) for only the interior side yard and, in conjunction with a severance application (18 & 20 Gainsville). The east side yard setback applies to the front garage and second-storey portion above the garage. Excluding the garage and second-storey portion above the garage, the proposed dwelling maintains a setback of approximately 8.33 ft (2.54 m) on the east side. The reduced west side yard setback applies to the full length of the proposed dwelling. Planning staff have concerns with the reduced westerly side yard setback. Engineering staff however have no concern with the reduced side yard setback variance respecting drainage.

#### **Increase in Maximum Lot Coverage**

The applicant is requesting relief for a maximum lot coverage of 35.89 percent, whereas the By-law permits a maximum floor area ratio of 33.33 percent. The proposed lot coverage includes a front covered porch and rear minor projection which add approximately 3.26 m<sup>2</sup> (35.16 ft<sup>2</sup>) and 8.87 m<sup>2</sup> (95.93 ft<sup>2</sup>) to the overall building coverage. Excluding the front covered porch, the building has a lot coverage of 33.24 percent and would comply with the by-law requirement. Given that the front covered porch is unenclosed, complies with the front yard setback and that both the front covered porch and minor rear projection are one-storey, 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 the resultant dwelling is generally consistent with what the by-law permits.

#### **Unenclosed Stair Projection**

The applicant is requesting unenclosed stairs to project 5.38 ft (1.64 m) into the rear yard. The requested variance applies to only a portion of the stairs associated with the basement walkout. The proposed stairs maintain a side yard setback of approximately 4.56 ft (1.39 m) from the west property line and will remain unenclosed. Staff are of the opinion that the requested variance is minor in nature and appropriate for the lot.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of February 14, 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 for lot coverage and stair projection 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.

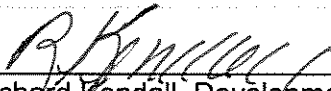
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



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

REVIEWED BY:



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Richard Kendall, Development Manager, Central District  
File Path: Amanda\File\ 18 252989 \Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/155/18**

1. That the front covered porch remain unenclosed;
2. The variances apply only to the proposed development as long as it remains;
3. 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 *February 05, 2019*, 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.
4. 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.
5. 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.
6. 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

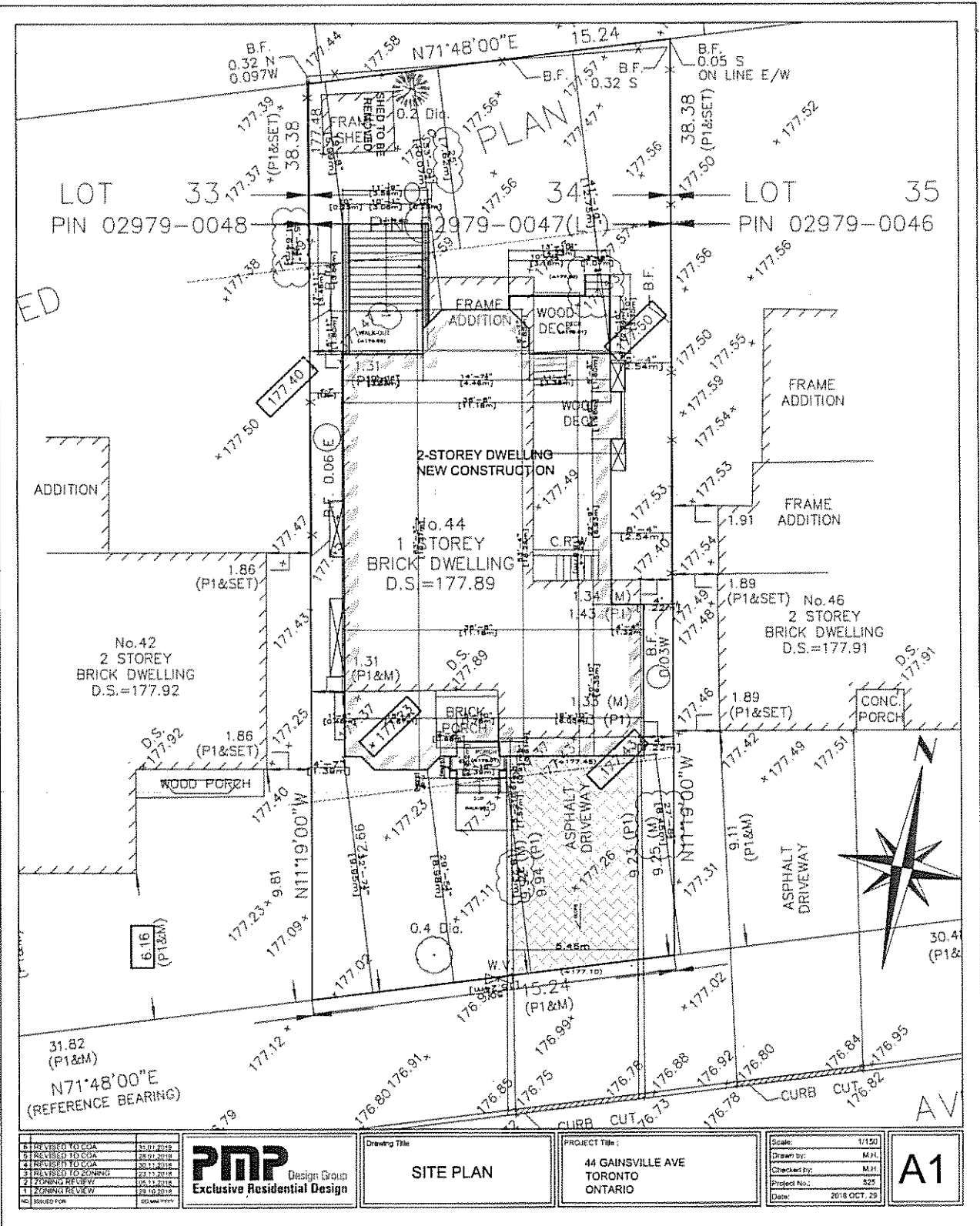
CONDITIONS PREPARED BY:



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







4	REVISED TO COA	17.01.2018
3	REVISED TO COA	28.01.2018
2	REVISED TO COA	20.11.2018
1	TRAVELLED TO ZONING	23.11.2018
1	ZONING REVIEW	16.11.2018
1	ZONING REVIEW	29.10.2018
1	REVISED FOR	30.09.2018

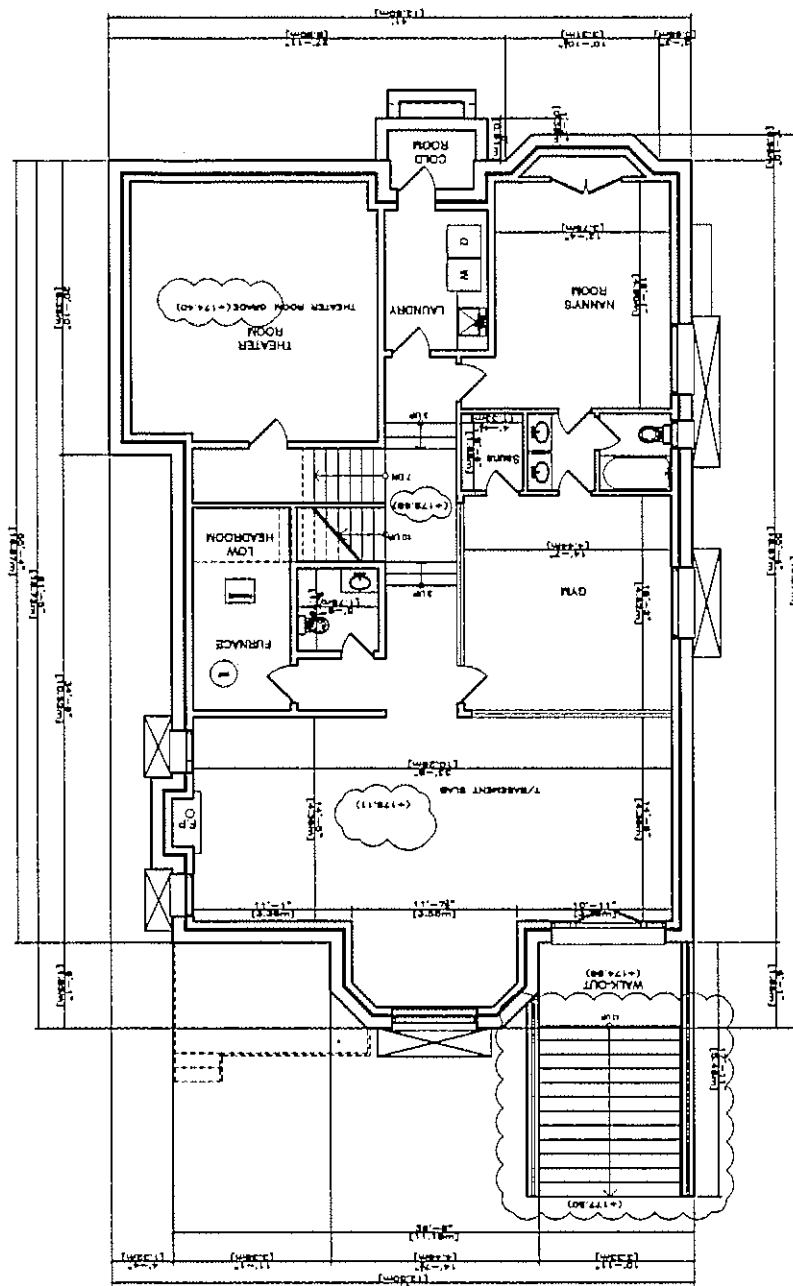
**PMP** Design Group  
Exclusive Residential Design

Drawing Title  
**SITE PLAN**

PROJECT TITLE:  
**44 GAINSVILLE AVE  
TORONTO  
ONTARIO**

**A1**





1	PROPOSED TO OSA	11.01.2018
2	REVISED TO OSA	24.01.2018
3	REVISED TO OSA	30.11.2018
4	REVISED TO ZONING	23.11.2019
5	ZONING REVIEW	05.11.2019
6	ZONING REVIEW	29.10.2019
NO	PRELIM FOR	04.04.2019

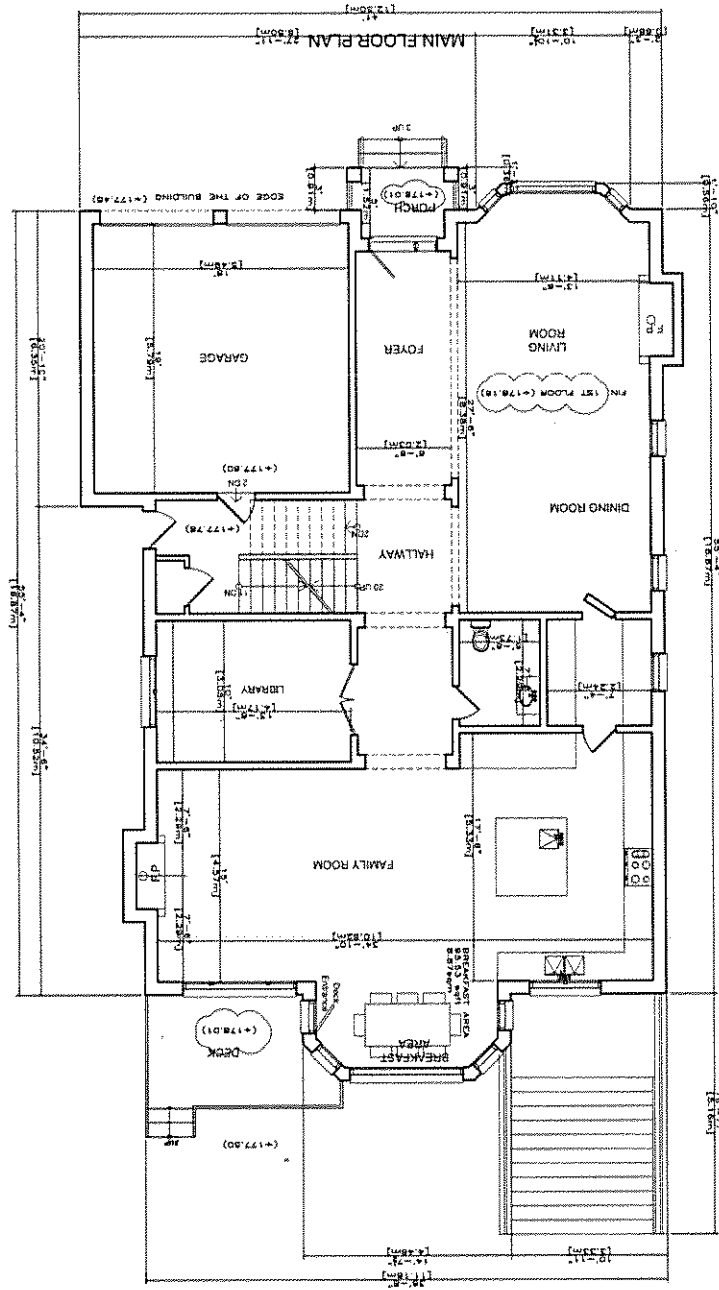
**PMP** Design Group  
Exclusive Residential Design

Drawing Title:  
**BASEMENT PLAN**

PROJECT Title:  
**44 GAINSVILLE AVE  
TORONTO  
ONTARIO**

Scale:	1/100
Drawn by:	M.H.
Checked by:	M.H.
Project No.:	625
Date:	2018 OCT. 29

**A2**



6	REVISED TO CGA	31.01.2019
5	REVISED TO CGA	28.01.2019
4	REVISED TO CGA	29.11.2018
3	REVISED TO ZONING	23.11.2018
2	ZONING REVIEW	20.11.2018
1	ZONING REVIEW	29.10.2018
HC	ISSUED FOR	20.09.2018

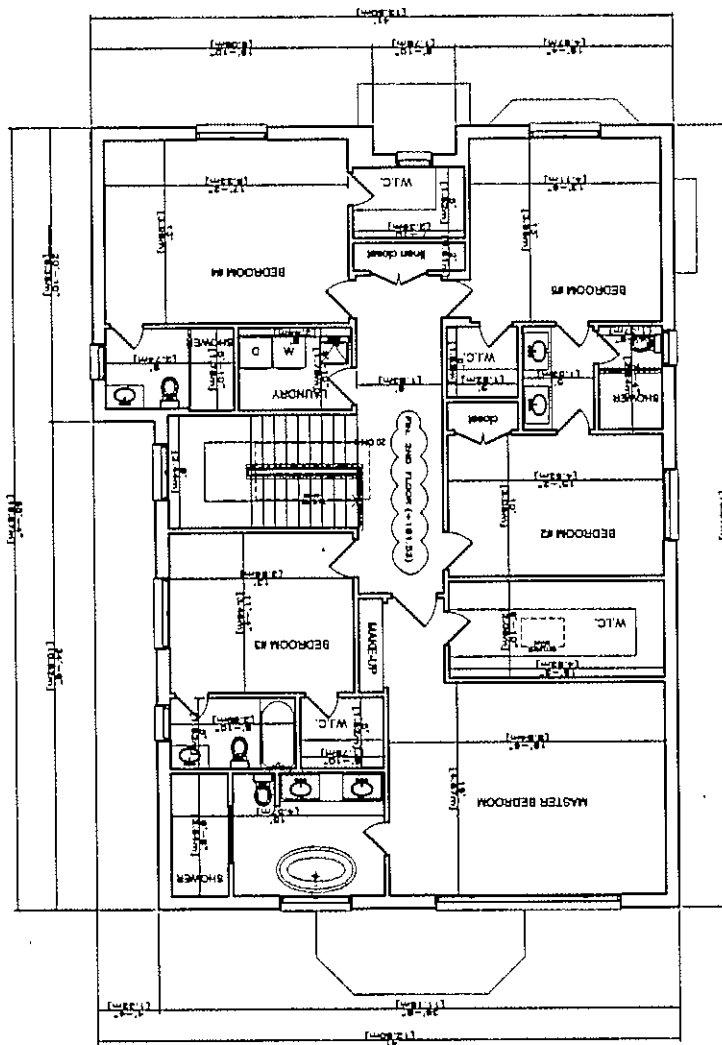


Drawing Title  
**MAIN FLOOR PLAN**

PROJECT TITLE:  
**44 GAINSVILLE AVE  
 TORONTO  
 ONTARIO**

Scale: 1/100  
 Drawn by: M.H.  
 Checked by: M.H.  
 Project No.: 525  
 Date: 2018 OCT. 29

**A3**



5	REVISED TO OGA	11.01.2018
4	REVISED TO OGA	28.01.2019
4	REVISED TO OGA	30.11.2018
3	REVISED TO ZONING	22.11.2018
2	ZONING CHECK	05.12.2018
1	ZONING REVIEW	28.10.2018
NO	ISSUED FOR	02.09.1777

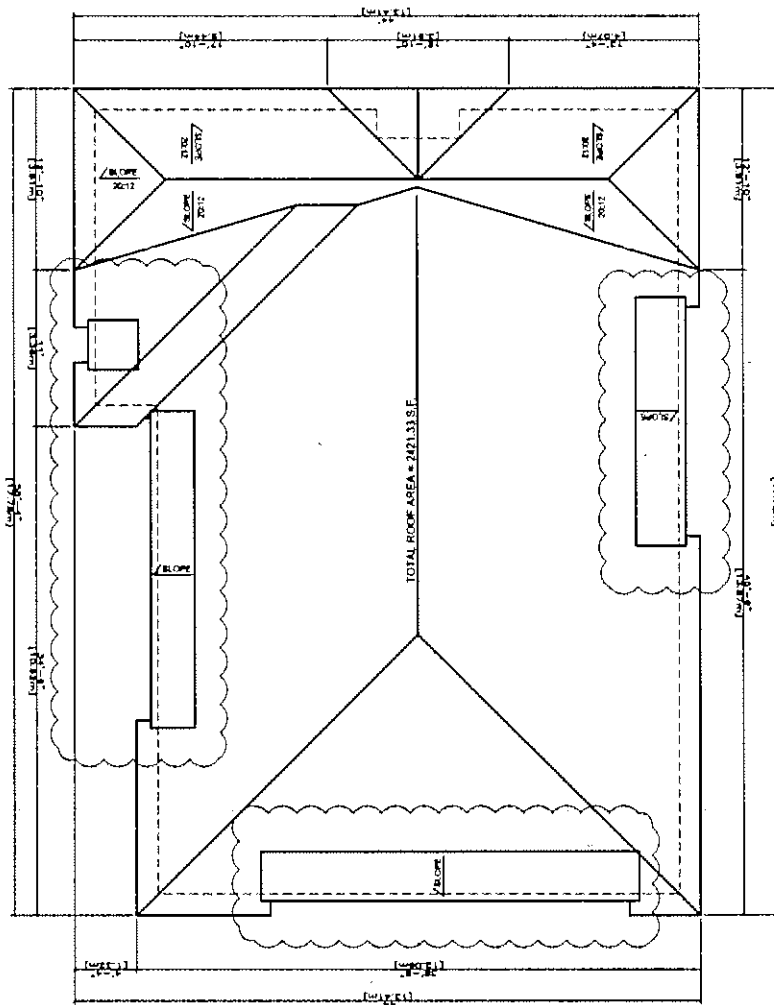
**PMP** Design Group  
Exclusive Residential Design

Drawing Title  
**SECOND FLOOR PLAN**

PROJECT Title:  
44 GAINSVILLE AVE  
TORONTO  
ONTARIO

Scale:	1/100
Drawn by:	M.H.
Checked by:	M.H.
Project No.:	535
Date:	2018 OCT. 28

**A4**



6	REVISOR TO OCA	21.07.2019
5	REVISOR TO OCA	28.01.2019
4	REVISOR TO OCA	20.11.2018
3	REVISOR TO ZONING	20.11.2018
2	ZONING REVIEW	08.11.2018
1	ZONING REVIEW	28.10.2018
NO	ISSUED FOR	03.08.2017

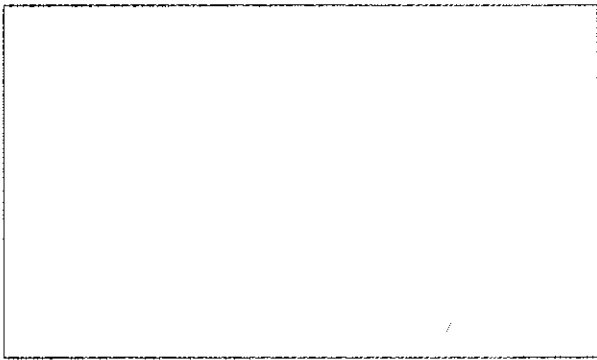
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Exclusive Residential Design

Drawing Title  
**ROOF PLAN**

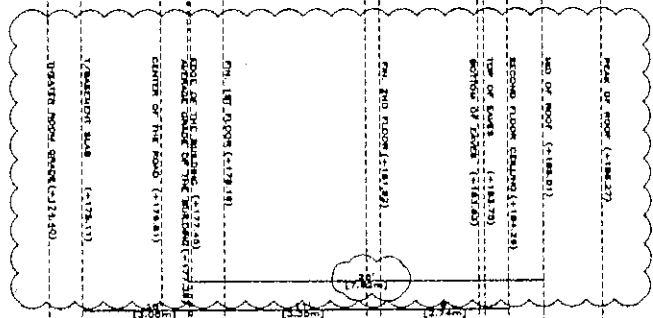
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44 GAINSVILLE AVE  
TORONTO  
ONTARIO

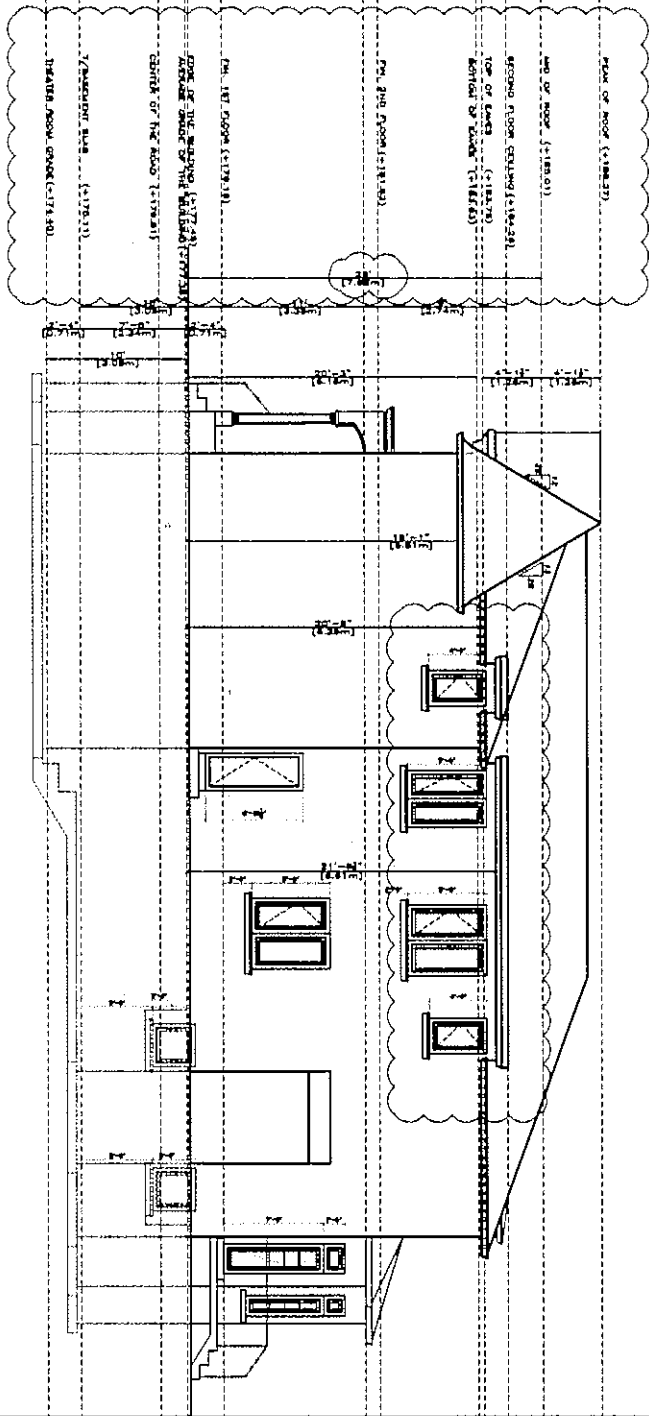
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Checked by: M.H.  
Project No.: 825  
Date: 2018 OCT. 29

**A5**









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2	REVISED TO CDA	28.01.2018
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4	REVISED TO ZONING	22.11.2018
5	ZONING REVIEW	28.10.2018
6	ZONING REVIEW	28.10.2018

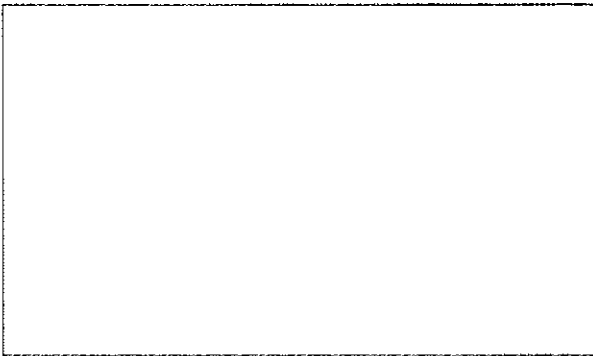
**PMP** Design Group  
Exclusive Residential Design

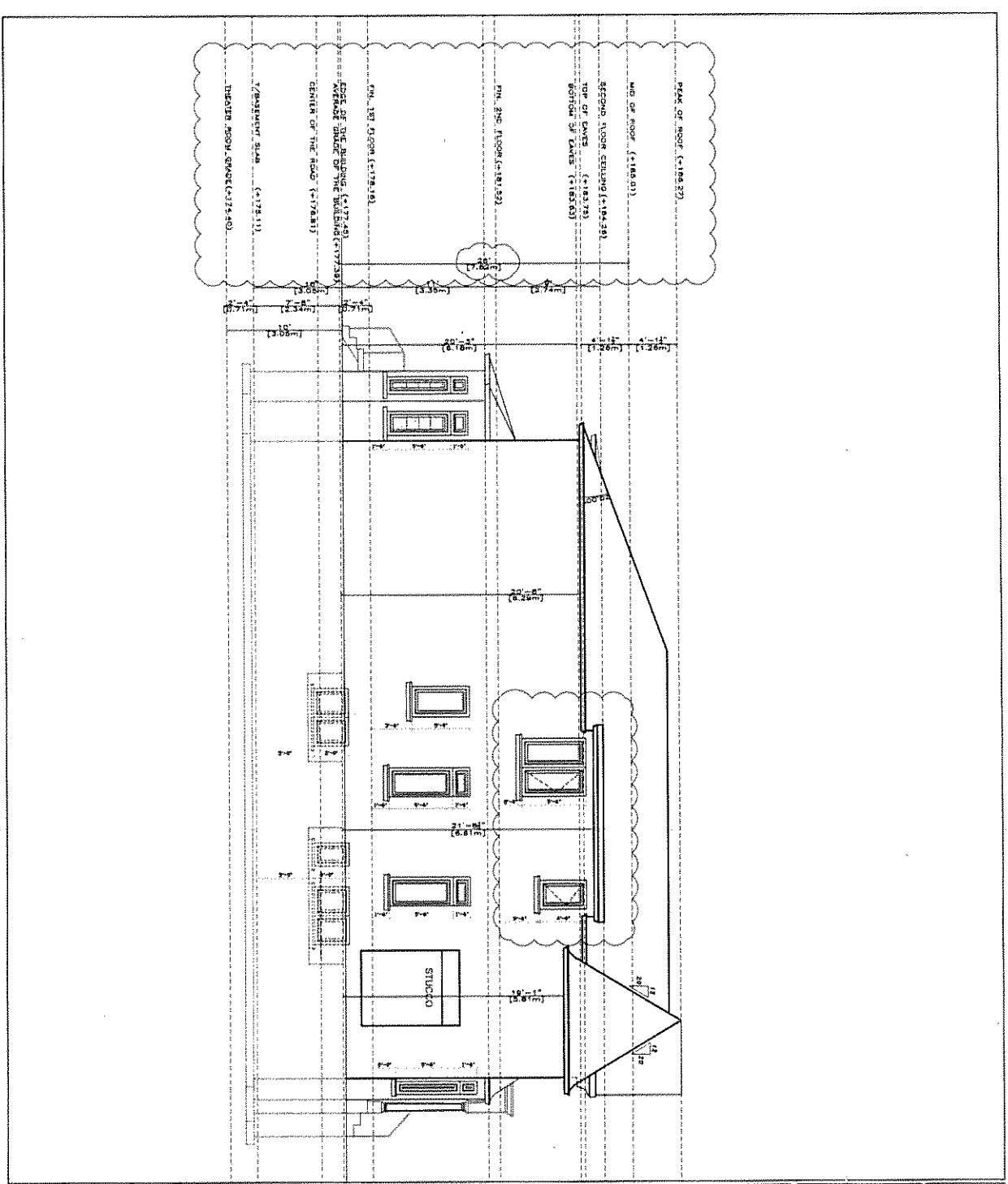
Drawing Title  
**EAST SIDE ELEVATION**

PROJECT TITLE:  
**44 GAINSVILLE AVE  
TORONTO  
ONTARIO**

Scale: 1/100  
Drawn by: M.F.L.  
Checked by: M.F.L.  
Project No.: 625  
Date: 30.10.2018

**A8**





A	REVISED TO CGA	31.01.2018
B	REVISED TO CGA	28.01.2018
C	REVISED TO CGA	25.11.2018
1	REVISED TO ZONING	23.12.2018
2	ZONING REVIEW	10.12.2018
1	ZONING REVIEW	23.10.2018
NO	ISSUED FOR	23.06.1999

**PMP** Design Group  
**Exclusive Residential Design**

Drawing Title  
**WEST SIDE ELEVATION**

PROJECT Title:  
**44 GAINSVILLE AVE  
 TORONTO  
 ONTARIO**

Scale: 1/100  
 Drawn by: M.H.  
 Checked by: M.H.  
 Project No.: 028  
 Date: 2018 OCT. 29

**A9**

