# Memorandum to the City of Markham Committee of Adjustment April 11, 2019

File:	A/27/19
Address:	107 Wootten Way N, Markham
Applicant:	Rustom Sethna
Agent:	Barrett Municipal Consulting (Graham Barrett)
Hearing Date:	Wednesday May 08, 2019

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

The applicant is requesting relief from the following requirements of By-law 163-78, R6 as amended:

## a) Section 7.2:

a minimum front yard of 4.99 m for a 1 storey building, whereas the By-law requires a minimum of 6.0 m;

## b) Section 5.7(b):

an uncovered stair to project 2.21 m into the front yard, whereas the By-law permits a maximum of 1.5 m to project into the required front or rear yard only;

## c) Section 7.2:

a minimum side yard setback of 1.71 m for a 2 storey building, whereas the By-law requires a minimum side yard setback of 1.8 m;

## d) Section 7.2:

a maximum lot coverage of 37.2 percent, whereas the By-law permits a maximum lot coverage of 33-1/3 percent;

### e) Section 7.2:

one secondary dwelling suite, whereas the By-law permits a Single Family Dwelling;

## f) Section 5.7:

an uncovered and unenclosed walk-up stair to project 0.47 m into the required side yard, whereas the By-law permits a maximum of 1.5 m to project into the required front or rear yard only;

## g) Section 5.7(a):

a canopy to project a maximum of 0.48 m into the required yard, whereas the By-law permits a maximum projection of 0.45 m into the required yard;

## h) Parking By-law 28-97, Section 6:

a minimum size of parking space of 2.6 m x 5.1 m, whereas the By-law requires 2.6 m x 5.8 m for the 2 required parking space in the existing private garage;

as they relate to a proposed addition to a residential dwelling under construction.

## BACKGROUND

### **Property Description**

The 510.06 m<sup>2</sup> (5,490.24 ft<sup>2</sup>) subject property is located on the east side of Wooten Way North, south of 16<sup>th</sup> Avenue and west of Ninth Line. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There is an existing two-storey detached 274.52 m<sup>2</sup> (2,955 ft<sup>2</sup>) dwelling on the property, which according to

assessment records was constructed in 1982. Mature vegetation exists across the property including one large mature tree in the front yard.

#### Proposal

The applicant has received a building permit to demolish and re-construct portions of the first and second storeys of the existing residential dwelling. The applicant is proposing a basement and ground floor addition to the dwelling currently under construction. The proposal also includes a secondary suite in the existing basement of the dwelling. The proposed secondary suite would have direct and separate access provided by a proposed door on the north (left) side of the dwelling.

### Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures
- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the Strong Communities through Affordable Housing Act, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

#### Official Plan and Zoning

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

The definition of a "Secondary Suite" in the 2014 Official Plan is "a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons."

Section 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided for in the zoning by-law including: The building type in which the secondary suite is contained;

- a) The percentage of the floor area of the building type devoted to the secondary suite;
- b) The number of dwelling units permitted on the same lot
- c) The size of the secondary suite;
- d) The applicable parking standards; and
- e) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29<sup>th</sup>, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

#### Zoning By-Law 163-78

The subject property is zoned R6 – 'Sixth Density – Single Family Residential' under By-law 163-78, as amended, which permits a single detached dwelling. The proposed development does not comply with the infill By-law requirements with respect to minimum front yard, maximum lot coverage, minimum side yard setback, uncovered stair projection, uncovered and unenclosed walk-up stair, secondary dwelling suite and the maximum canopy projection.

#### Parking Standards By-law 28-97

The proposed secondary suite also does not comply with the standard of the Parking By-law 28-97 with respect to minimum size of parking spaces in the garage.

#### 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, *"variances are required to provide additional space for family and allow secondary basement suite"*.

#### Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the <u>initial</u> variances required for the proposed development. The applicant submitted revised drawings on April 04, 2019. The applicant has <u>not</u> conducted a Zoning Preliminary Review for the revised drawings. Consequently 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.

#### **Requested Variances**

The applicant has requested variances for minimum front yard, maximum lot coverage, minimum side yard setback, uncovered stair projection, uncovered and unenclosed walk-up stair, secondary dwelling suite, parking and the maximum canopy projection. It is unclear to Staff from the plans submitted by the applicant with this minor variance application, whether the requested variances are attributable to the proposed additions, original home and/or, the "existing dwelling".

Wooten Way North is characterized by modest one and two-storey detached dwellings. Staff have concerns with the overall impact of the proposed dwelling and encroachments on the character of the street and on neighbouring properties. Additionally, the requested variance to reduce the dimensions of the parking spaces in the garage will also set an undesirable precedent in the City and have City-wide implications. As such, while Staff have supported variances for secondary suites in the past, the culmination of the variances as shown in the proposal attached as appendix B will result in an undesirable development. According to digital records maintained by the City of Markham there are 4 other homes along Wooten Way North which have applied for Minor Variances since 1973. Of the variances requested, none has been to the extent requested in this application.

# PUBLIC INPUT SUMMARY

No written submissions were received as of April 10, 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 requests do not meet the four tests of the Planning Act and recommend the application be denied. 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.

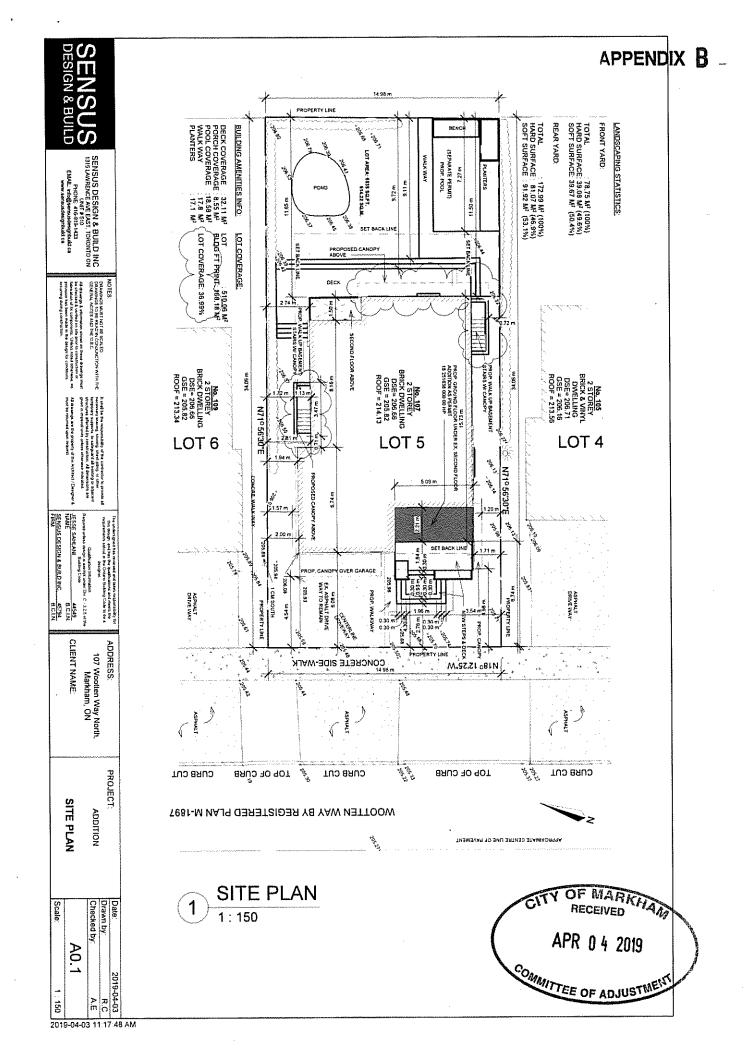
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

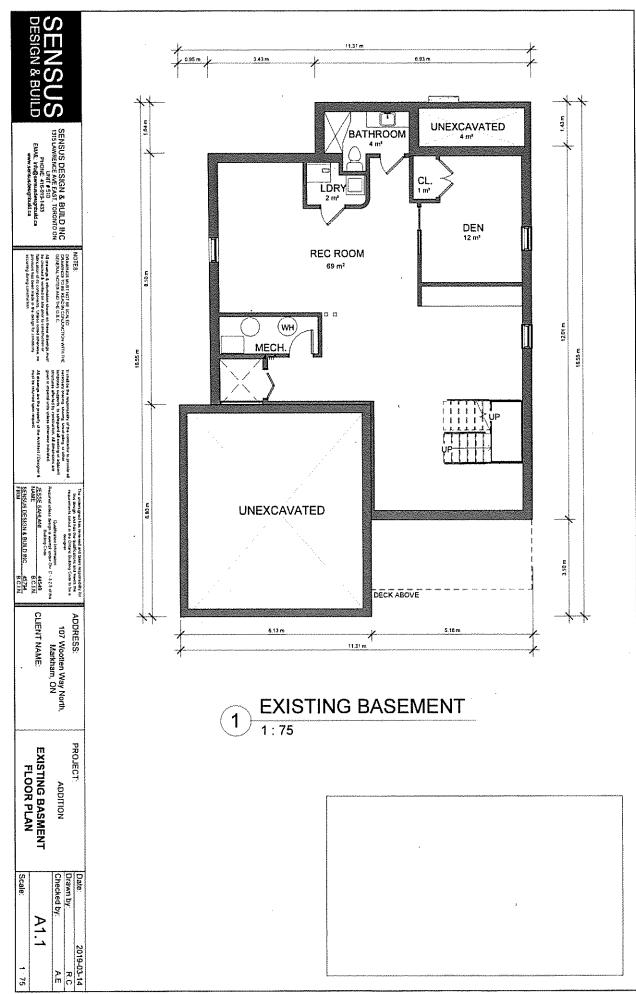
Aqsa Malik, Planner Zoning and Special Projects **REVIEWED B** 

Stacia Muradali. Senior Planner, East District

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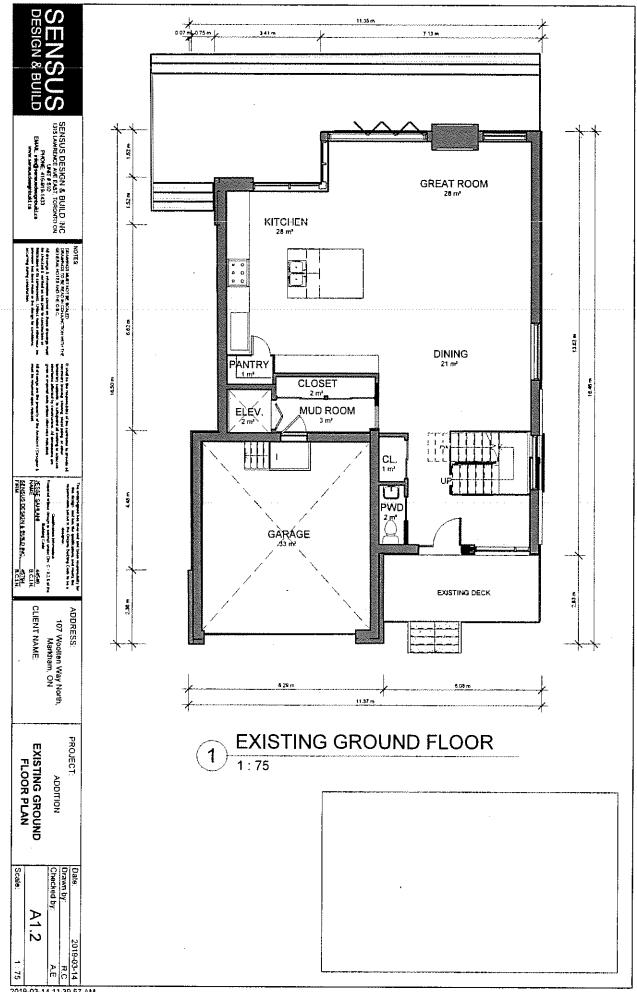
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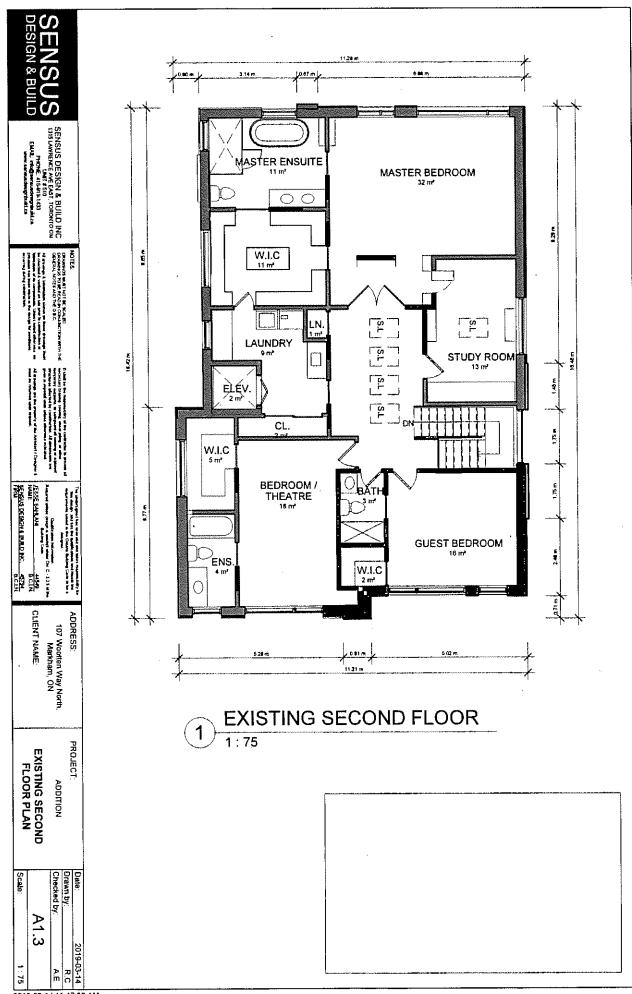
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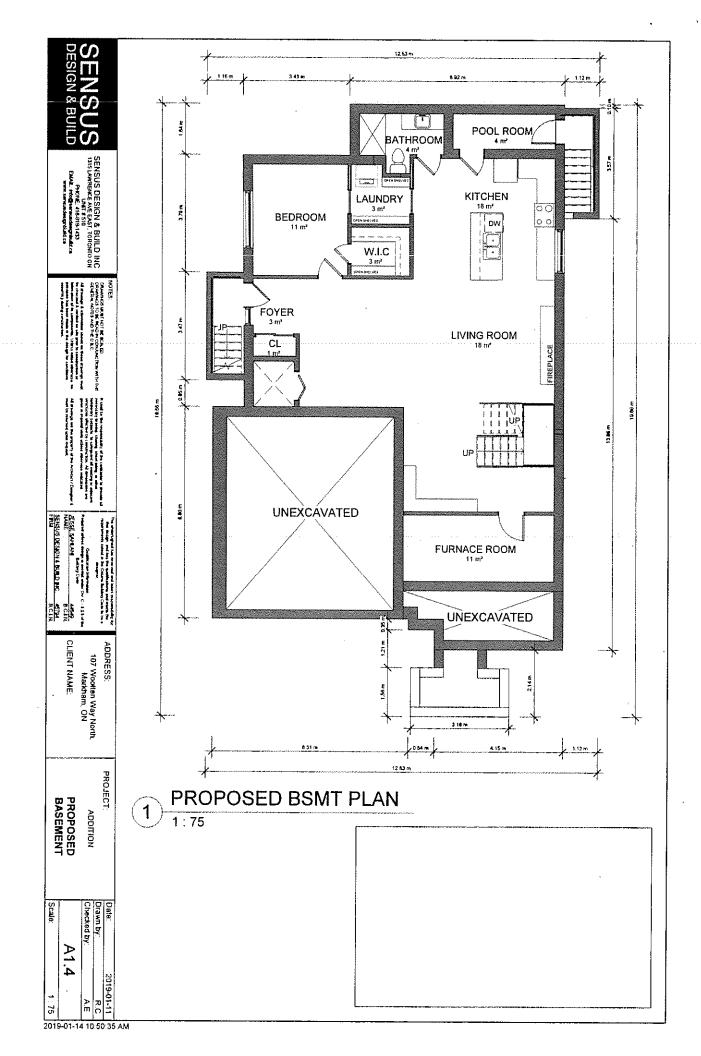
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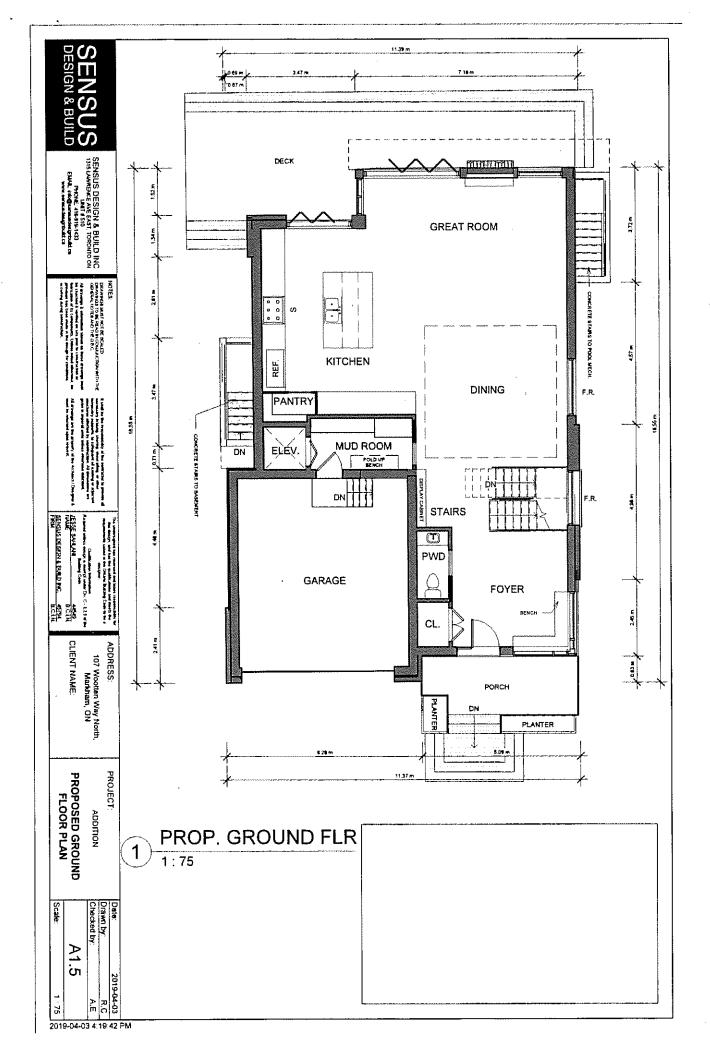


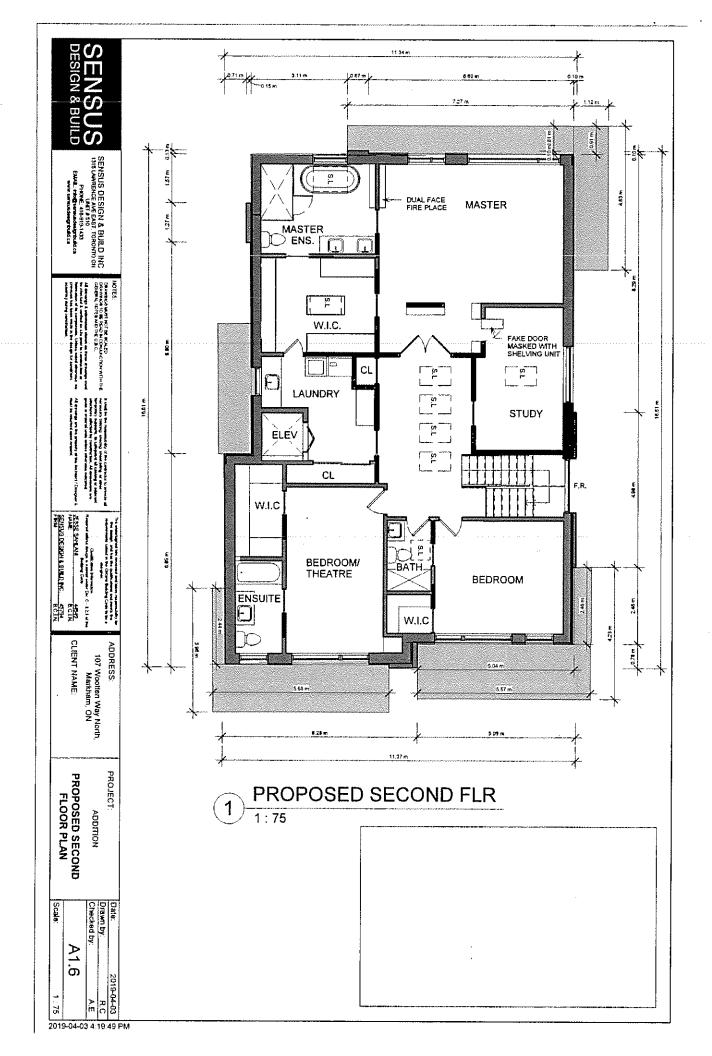
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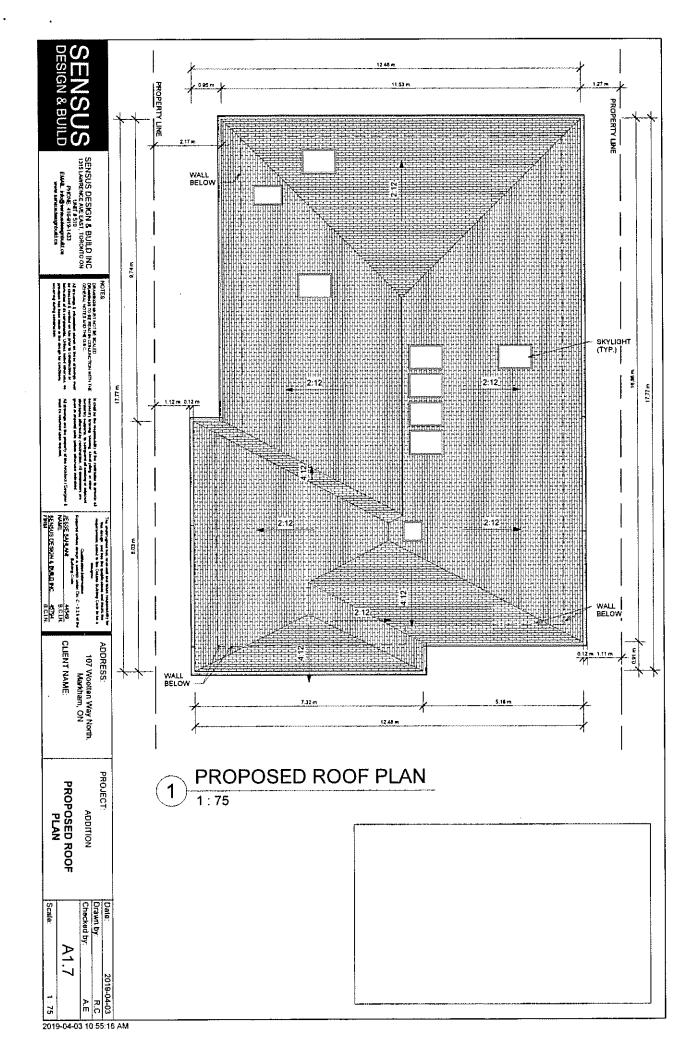
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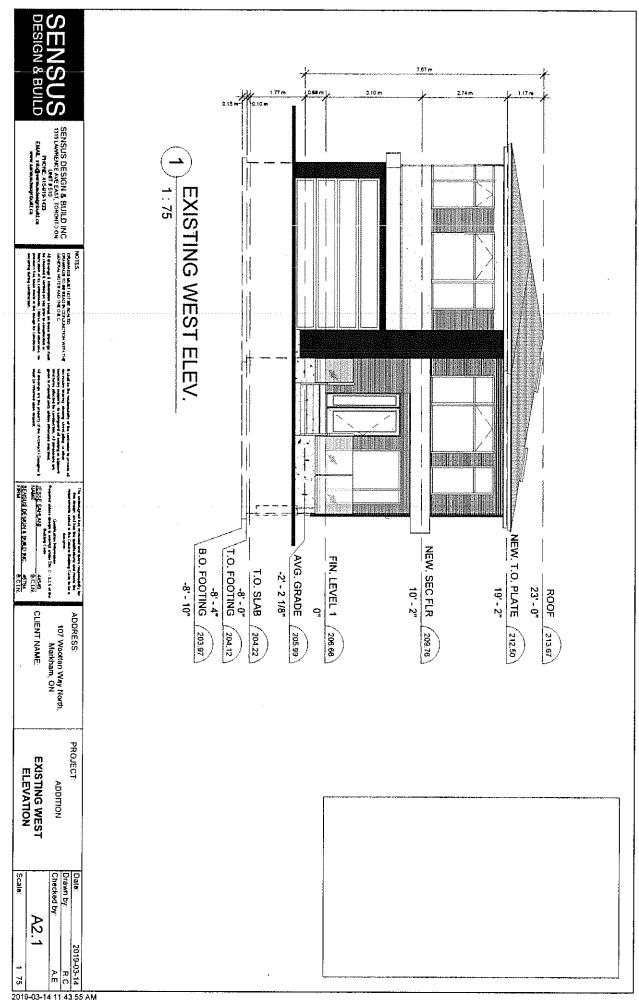


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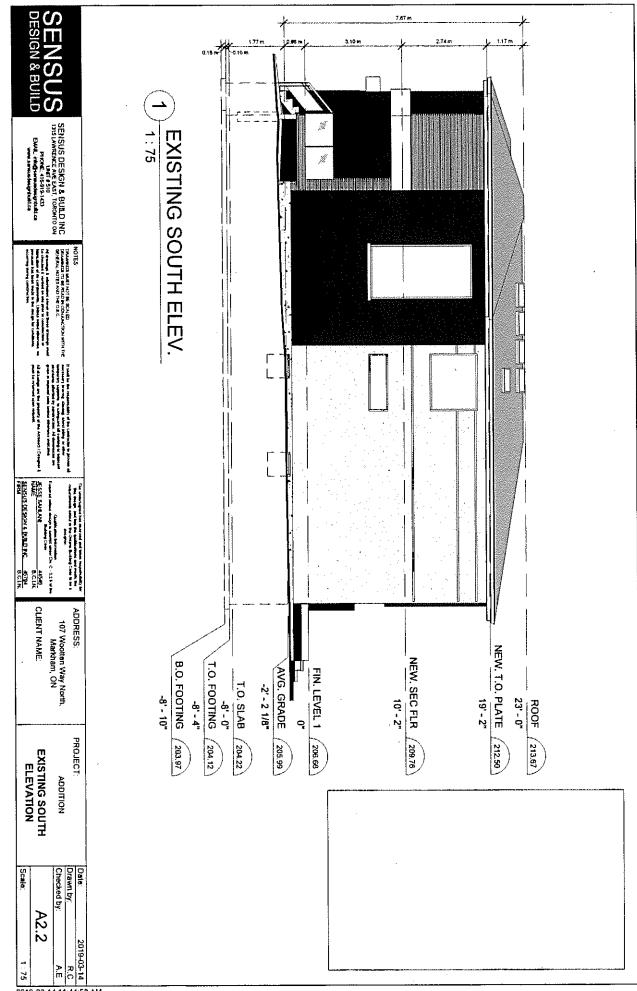




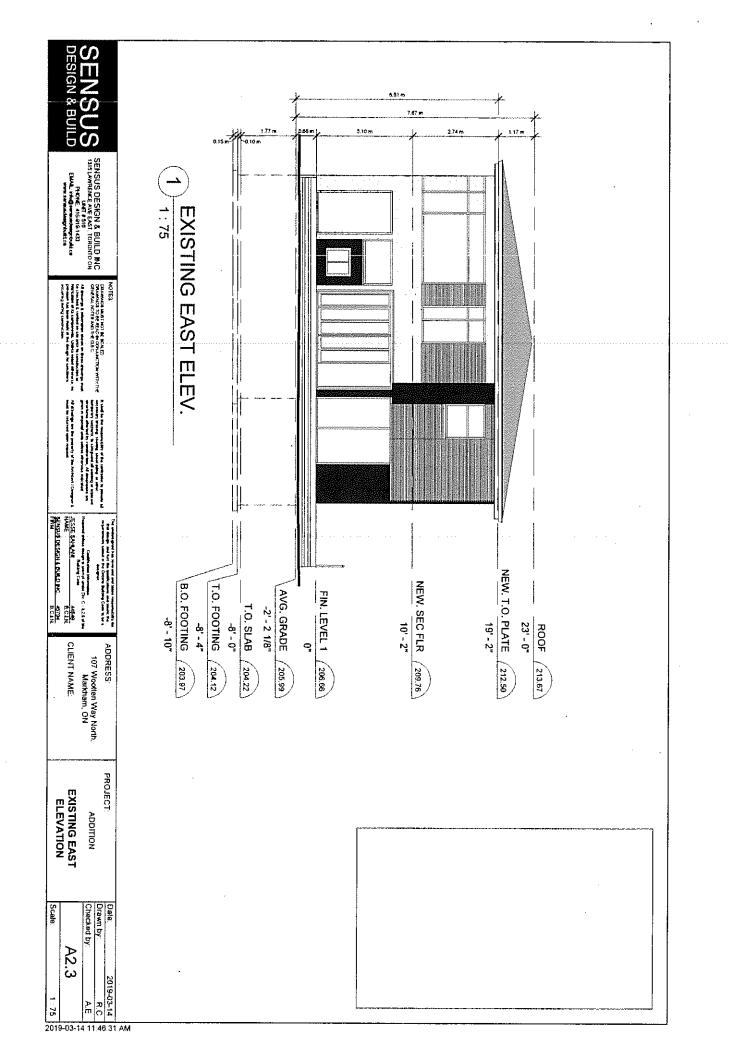


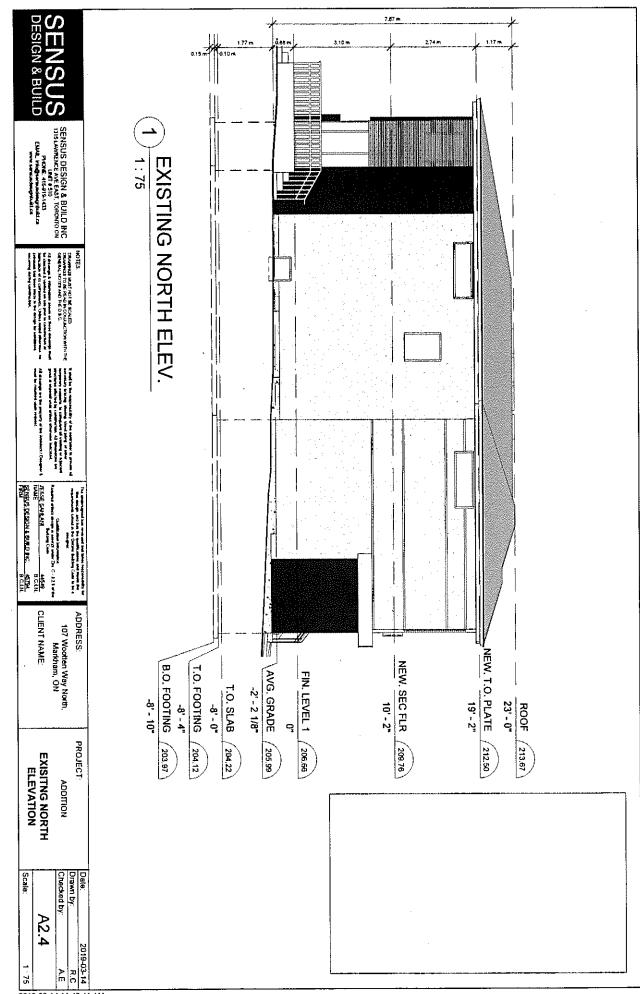
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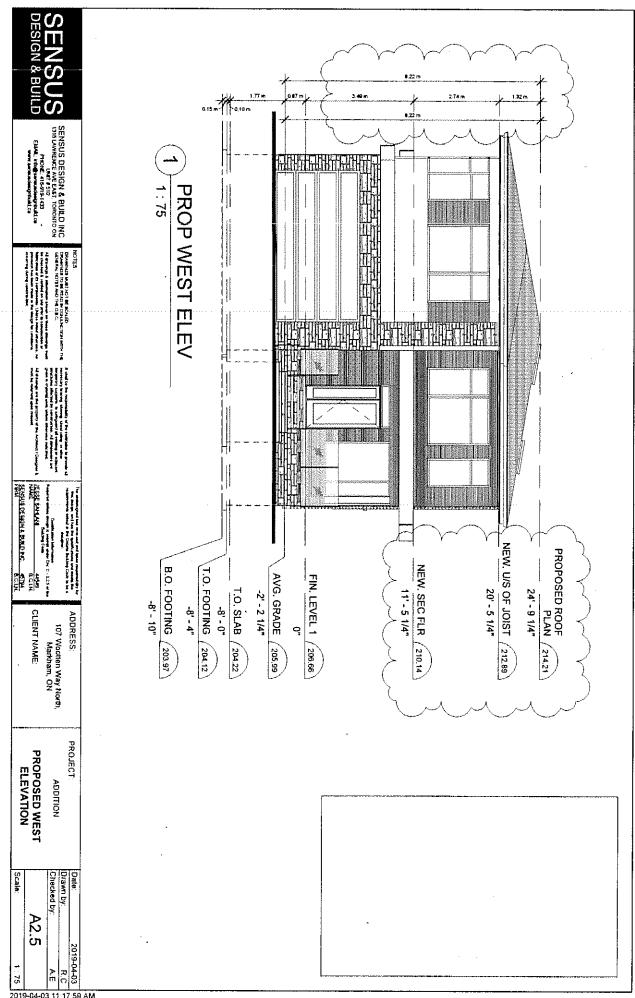


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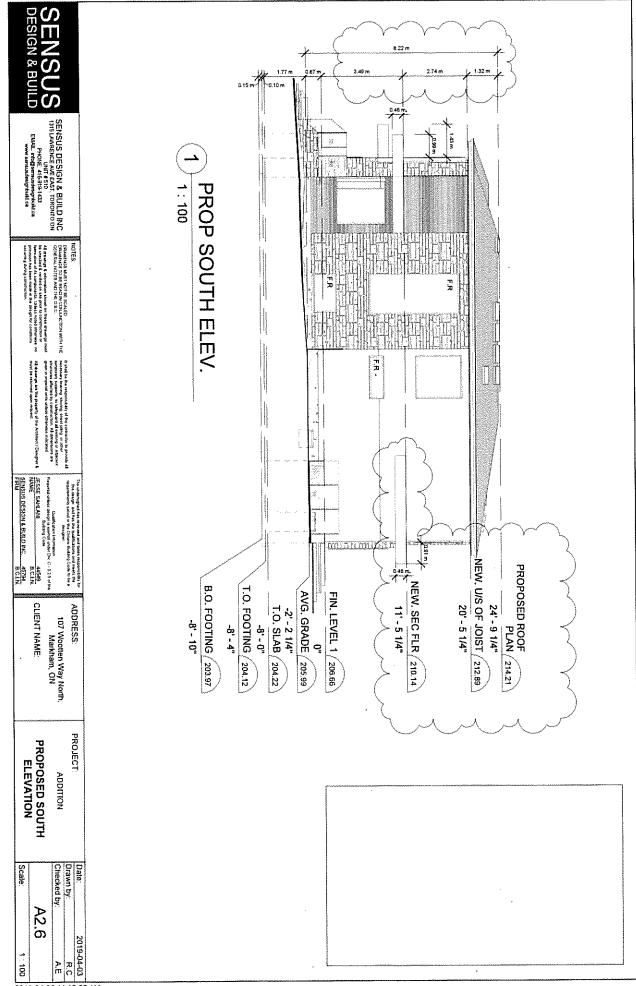




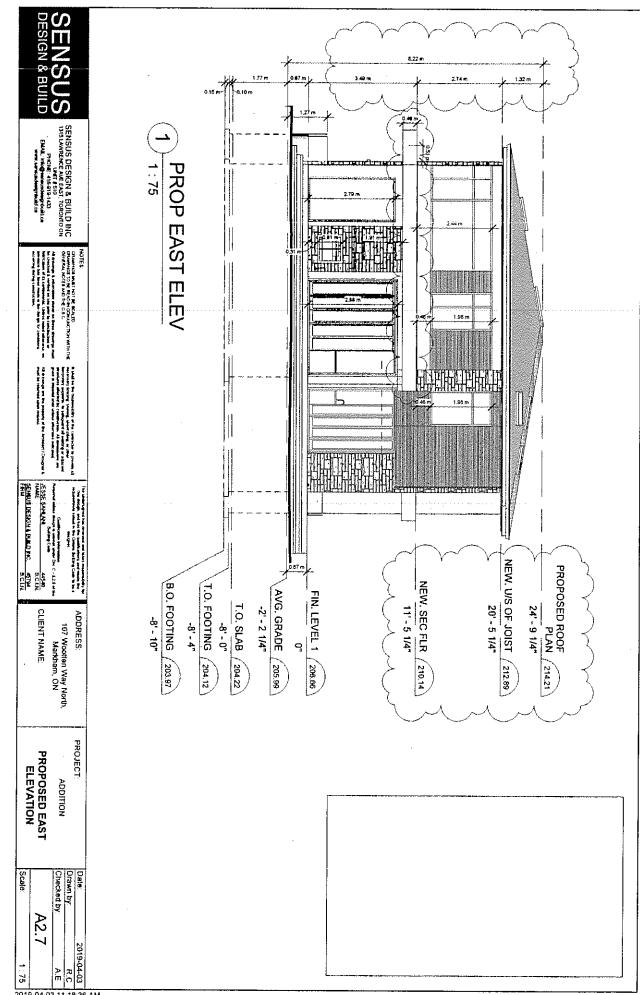
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