## Memorandum to the City of Markham Committee of Adjustment

July 12th, 2019

File:

A/27/19

Address:

107 Wootten Way North, Markham

Applicant:

**Rustom Sethna** 

Agent:

**Barrett Municipal Consulting** 

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 Sixth Density – Single Residential (R6) zone requirements of By-law 163-78, as amended, as they relate to a proposed addition to a residential dwelling currently under construction and basement apartment unit on the subject property (107 Wootten Way North), to permit:

## a) <u>Section 7.2:</u>

a minimum front yard of 5.39 m for a 2 storey building, whereas the By-law requires a minimum of 6.0 m:

## b) Section 5.7(b):

an uncovered stair to project 2.14 m (7.02 ft) 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 (5.61 ft) for a 2 storey building, whereas the Bylaw requires a minimum side yard setback of 1.8 m (6 ft);

## d) Section 7.2:

a maximum lot coverage of 35.2 percent, whereas the By-law permits a maximum lot coverage of 33-1/3 percent; and

### e) Section 7.2:

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

#### **BACKGROUND**

## **Property Description**

The 510.06 m² (5,490.24 ft²) 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 340.78 m² (3,666.79 ft²) 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 storey of the existing residential dwelling (See Appendix A). 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 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 'Sixth Density Single Residential' (R6) under By-law 163-78, as amended, which permits a single detached dwelling. Section 6.5 of the By-law permits only one dwelling on a lot, and the applicant has therefore submitted a variance application to permit an accessory unit that is proposed in the basement of the existing dwelling. The proposed development also does not comply with the By-law requirements with respect to minimum front yard setback, maximum lot coverage, minimum side yard setback and, uncovered stair projection.

## 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 July 3<sup>rd</sup>, 2019 but has <u>not</u> conducted a Zoning Preliminary Review for the revised submission. Ultimately, 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 Front Yard Setback and Increased in Uncovered Stair Projection

The applicant is requesting a minimum front yard setback of 5.39 m (17.68 ft) whereas the Bylaw requires a minimum front yard setback of 6 m (19.7 ft). This is a reduction of approximately 0.61 m (2 ft). The variance is entirely attributable to the front unenclosed covered porch. The main front wall of the building provides a front yard setback of 6.08 m (19.95 ft) which complies with the by-law.

The applicant is also requesting a maximum uncovered stair projection of 2.14 m (7.02 ft) into the front yard, whereas the By-law permits a maximum uncovered stair projection of 1.5 m (5 ft). This represents an increase of approximately 0.61 m (2.02 ft). While the proposed covered porch and steps will be closer to the front property line than the neighbouring dwellings, the main component of the dwelling will maintain the required setback. Given this, Staff are of the opinion that the request for front yard setback and front porch encroachment as they relate to the front covered porch are minor in nature.

## **Reduced Side Yard Setback**

The applicant is requesting a minimum side yard setback of 1.71 m (5.61 ft) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 1.8 m (6 ft) for the two-storey portion of the dwelling. This is a reduction of approximately 0.09 m (0.29 ft). The requested variance only applies to the two-storey portion of the building. The main floor complies with the minimum side yard setback requirement of 1.2 m (4 ft). Engineering staff have reviewed the application and have no concern with the reduced side yard variance with respect to any anticipated impact respecting onsite drainage.

## **Increase in Maximum Lot Coverage**

The applicant is requesting a maximum lot coverage of 35.2 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent.

The proposed lot coverage includes the front covered porch which adds approximately 8.55 m² (92.03 ft²) to the overall building area. Excluding the front covered porch, the building with the proposed addition has a building footprint of 171.12 m² (1,841.92) and a lot coverage of approximately 33.55 percent. Given that the front covered porch is unenclosed, 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 that the resultant dwelling is generally consistent with what the bylaw permits.

#### Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

## **PUBLIC INPUT SUMMARY**

As of July 12<sup>th</sup>, 2019 the City received 2 letters expressing concerns over the character of the proposed dwelling, 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 meet 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 "B" for conditions to be attached to any approval of this application.

PREPARED BY:

Aqsa Malik, Planne II, East District

**REVIEWED BY:** 

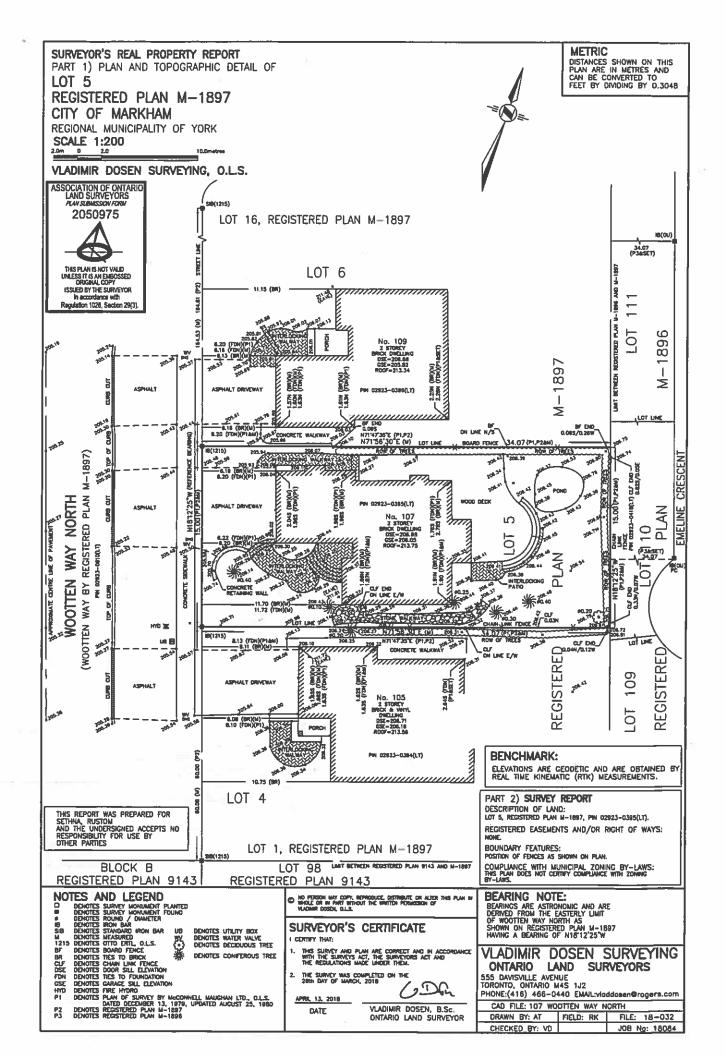
Stephen Corr, Senior Planner, East District
File Path: Amanda\File\ 19 115003 \Documents\District Team Comments Memo

# APPENDIX "B" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/27/19

- 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 A' to this Staff Report and received by the City of Markham on *July 3<sup>rd</sup>*, *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;
- 7. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite;
- 8. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

**CONDITIONS PREPARED BY:** 

Aqsa Malik, Planner Éast District



## SITE STATISTICS

MUNICIPAL ADDRESS	107 Wootten Way North	107 Wootten Way North				
ZONING	Lot 5, registered plan M-1879					
LOT AREA	510.06 m²	5490.23	fl <sup>2</sup>			

ZONING INFORMATION	PERMITTED		EXISTING		PROPOSED		
	(metre)	(feet)	(metre)	(feet)	(metre)	(feet)	
FRONTAGE		49.2	15.00	49.20	~ 15.	49.20	
FRONT YARD SETBACK	6	19.68	6 09	19 98	5.39	17.68	
SIDE (NORTH) YARD SETBACK	1.8	5.90	1.93	6.33	1.93	6:33	
SIDE (SOUTH) YARD SETBACK	1.8	5.90	1.71	5.61	1.71	5.61	
REAR YARD SETBACK	7,50	24 60	11.50	37.72	11.50	37.72	
BUILDING LENGTH	17.00	55.76	16.50	54 12	16.50	54.12	
BUILDING DEPTH	16.80	55.10	16.40	53.79	16.40	53.79	
BUILDING HEIGHT	10.70	35.10	7.83	25 68	7.83	25.68	

FLOOR AREAS		(m²)	(ft³)		(m²)	(ft²)		(m²)	(ft²)
BASEMENT				8	113.55	1221.76		132.13	1421.72
GROUND FLOOR					139.18	1497,54		168.18	1809.62
SECOND FLOOR					172 60	1857 18		172 60	1857.18
GROSS FLOOR AREA					311.78	3,354.72		340.78	3,666.79
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LOT COVERAGE FSI		33.33%		31%	158.12	1701.36	35.20%	179.67	1933.24
	FSI			FSI	FI	-	FSI A	λ	λ
DENSITY	N/R			0.00	0.00	0.00	0.00	0.00	0.00

<sup>\*\*\*</sup>N/R - NOT RESTRICTED

SENSUS DESIGN & BUILD

SENSUS DESIGN & BUILD INC 1315 LAWRENCE AVE EAST, TORONTO ON INT IS \$10 PRONE: 19-1433 EMAR: Integration design dud.ca www.sensus/design dud.ca

ADDRESS:

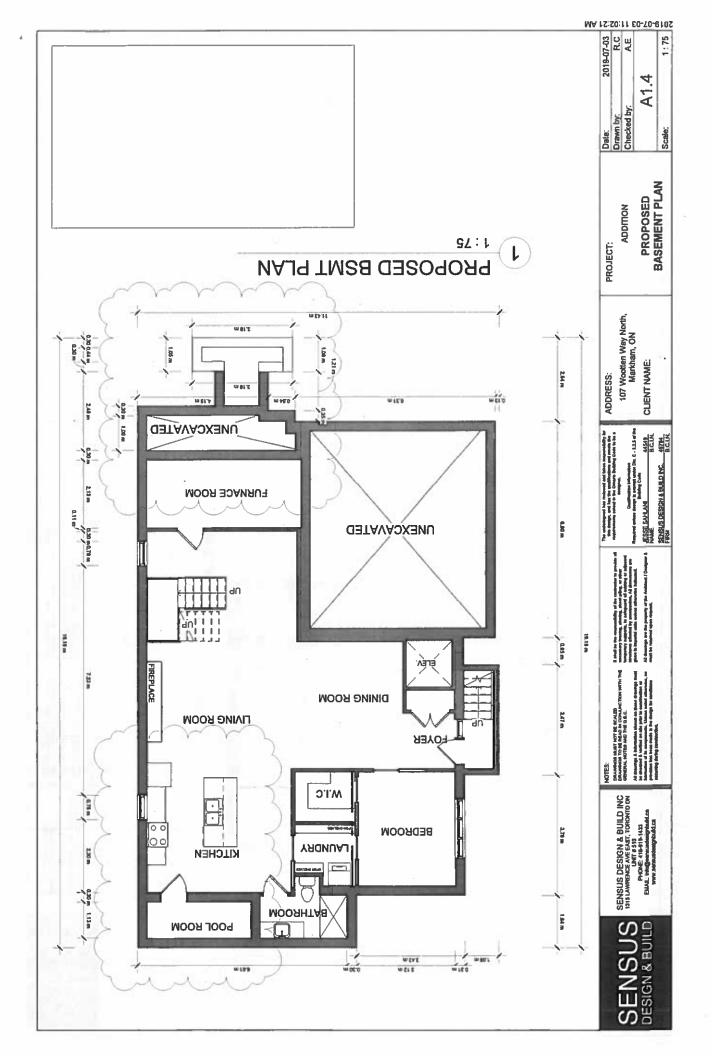
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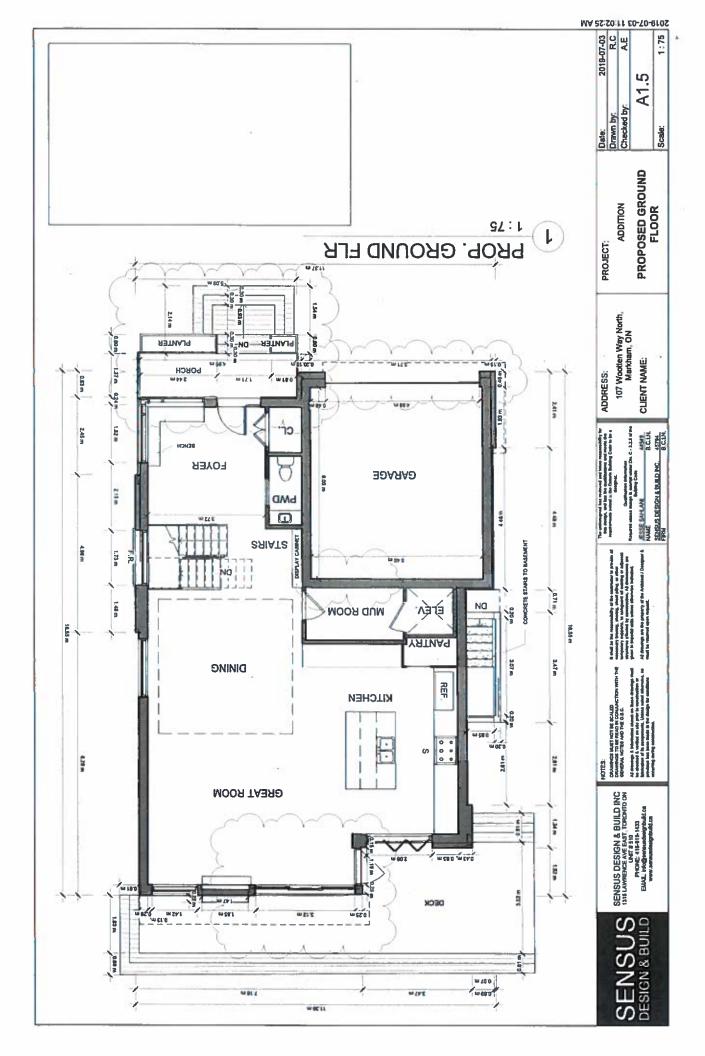
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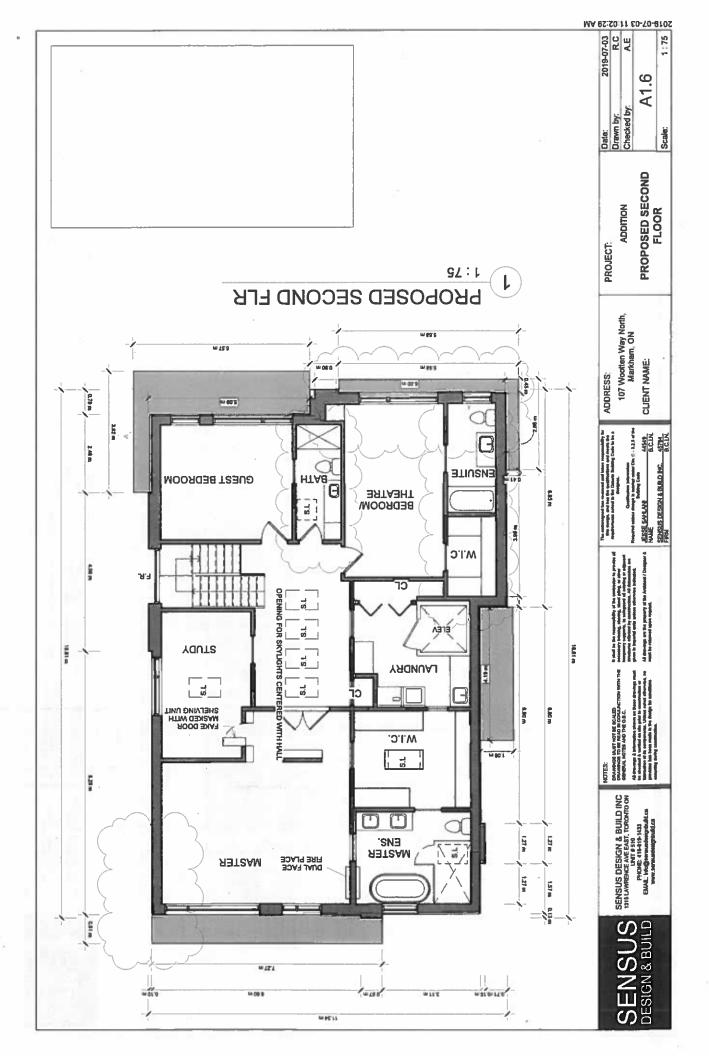
107 Wootten Way North, Markham, ON ADDITION

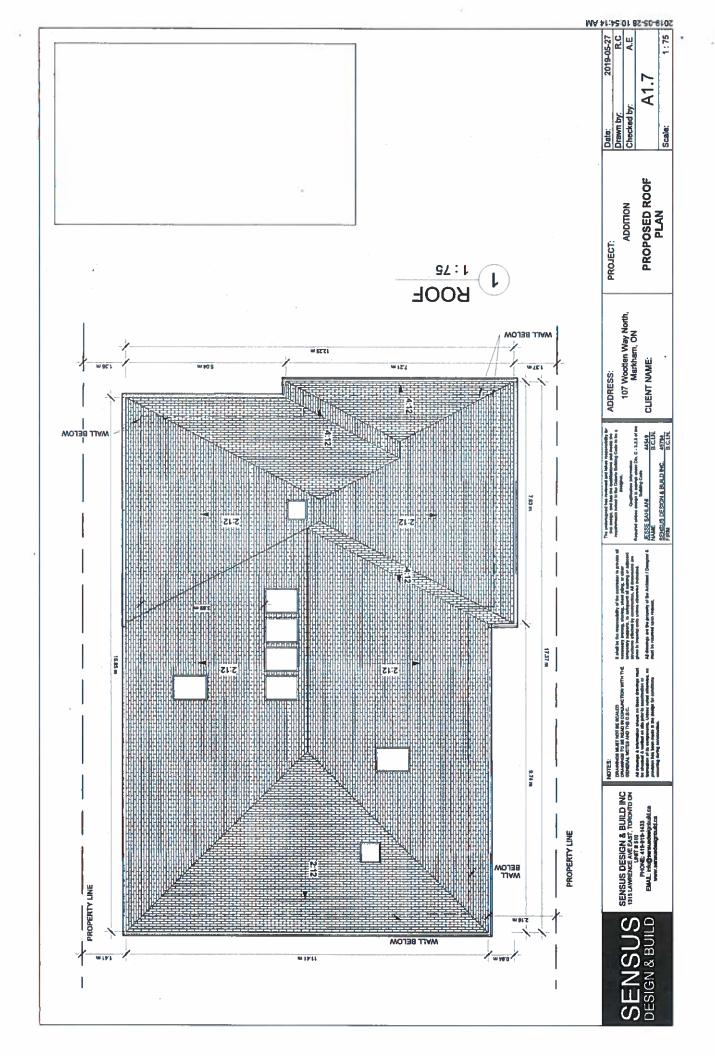
SITE STATISTICS

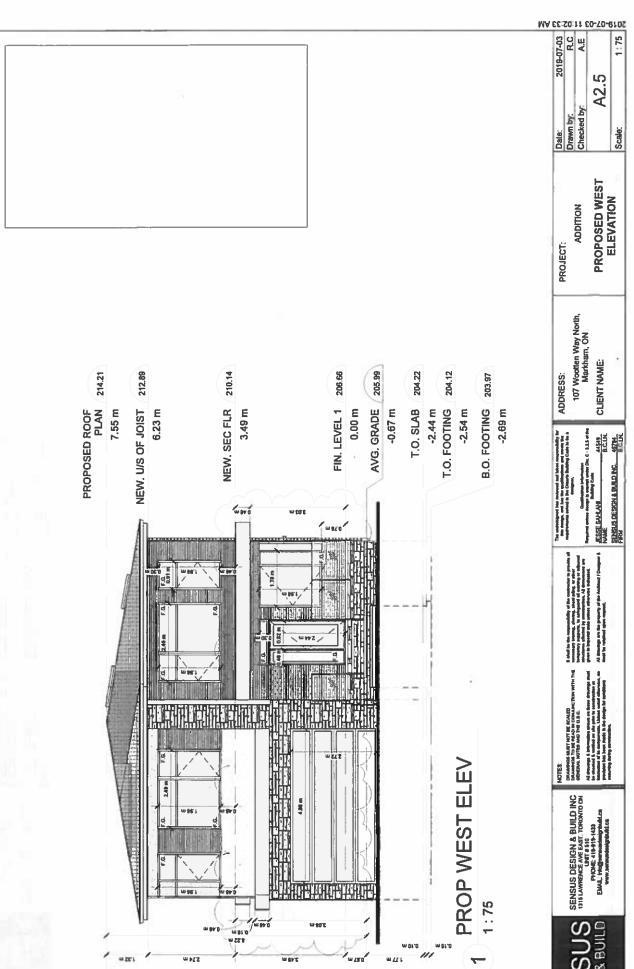
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