

Memorandum to the City of Markham Committee of Adjustment
May 17, 2022

File: A/188/21
Address: 63 Elgin Street, Thornhill
Applicant: Leila Maham
Hearing Date: Wednesday, May 25, 2022

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

The Owner is requesting relief from the following requirements of the Third Density Single Family Residential (R3) zone in By-law 2237, as amended, to permit:

- a) **Amending By-law 101-90, Section 1.2 (v):**
a maximum garage projection of 9.6 metres, whereas the By-law permits a maximum garage projection of only 2.1 metres beyond the point of the main building closest to the front lot line;
- b) **By-law 2237, Section 4.4.1:**
a detached garage (accessory building) to be erected in the front yard, whereas the By-law permits detached accessory buildings only in the rear yard;
- c) **By-law 2237, Section 6.1:**
a minimum front yard setback of 12.45 feet to a detached garage, whereas the By-law requires a minimum front yard setback of 27.0 feet;

as it relates to a proposed detached garage (accessory building).

BACKGROUND

Property Description

The approximately 770 m² (8,288 ft²) subject property is located on the south side of Elgin Street, east of Yonge Street and south of John Street. There is an existing two storey single-detached dwelling on the property, which according to assessment records was constructed in 1993. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. The subject property is located partially within TRCA's Regulated Area as the rear portion of the site is traversed by a valley corridor associated with the Don River Watershed.

Proposal

The Owner is proposing to construct a 37.08 m² (399.13 ft²) detached garage in the front yard.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The subject property is designated "Residential Low Rise", which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines infill development criteria for the 'Residential Low Rise' designation with respect to height, massing and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning

requirements for adjacent properties and properties along the same street. 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 these development criteria. 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.

Zoning By-Law 2237

The subject property is zoned Third Density Single Family Residential (R3) under By-law 2237, as amended, which permits single detached dwellings.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. The intent of this By-law is to ensure the built form of new residential construction will generally 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 maximum garage projection.

Zoning Preliminary Review (ZPR) Undertaken

The Owner has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on May 10, 2022. However, an updated Zoning Preliminary Review has not been conducted to reflect revised drawings. Consequently, Staff advise that 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 requests in this application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance application(s) may be required to address the instances of non-compliance.

Tree Preservation

The City's Operations Department is not in support of the current proposal. Operations notes that the proposed garage and driveway removal will encroach into the minimum tree protection zone (TPZ) of neighbouring trees, and may cause long term injury or put trees at risk of failure. Operations will require confirmation that any proposed garage inside the minimum TPZ does not put neighbouring trees at risk of failure. Staff recommend that any approval of the application include the conditions attached in Appendix 'A'.

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.

Garage Projection

The Owner is requesting relief to permit a maximum garage projection of 9.6 m (31.50 ft.); whereas, the By-law permits a maximum garage projection of 2.1 m (6.89 ft.) beyond the point of the main building closest to the front lot line.

On May 10, 2022, the Owner updated their plans, reducing the size of the proposed detached garage. The Owner has confirmed that their variance should be revised as follows:

a) Amending By-law 101-90, Section 1.2 (v):

a maximum garage projection of 8.10 metres, whereas the By-law permits a maximum garage projection of only 2.1 metres beyond the point of the main building closest to the front lot line.

Accessory Building

The applicant is requesting relief to permit a 37.08 m² (399.13 ft²) detached garage in the front yard, whereas the By-law permits accessory buildings only in the rear yard.

Reduction in Front Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 12.45 ft. (3.79 m), whereas the By-law requires a minimum front yard setback of 27 ft. (8.23 m). This represents a reduction of approximately 14.55 ft. (4.44 m).

After consulting with Staff, the applicant updated their plans on May 10, 2022, which included the reduction of the area of the proposed garage. The detached garage was reduced from 7.64 m in length to 6.09 m. After reviewing the revised plans, Staff continue to be concerned with the location of the proposed detached garage. As the requested variances are interrelated, Staff's comments are provided below for all three requested variances.

Staff are of the opinion that the setback of the proposed detached garage is not consistent with the front yard setbacks established on the street. The proposed detached garage will be significantly closer to the front lot line than other dwellings or structures on the street, including the main dwelling directly to the east and west. City records indicate that no variances have been requested on Elgin Street to facilitate a detached garage in the front yard. Approval of the requested variances would result in a built form and massing on the subject lands that is dominated by the detached garage, which is inconsistent with Section 8.2.3.5b) and c) of the 2014 Official Plan, which states:

b) the proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street;

c) front and rear yard setbacks for the new building(s) shall be consistent with the front and rear yards that exist on the same side of the street;

Therefore, Staff are of the opinion that the requested variances are not desirable and are not in keeping with the general intent and purpose of the Official Plan and the Zoning By-law.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The rear portion of the site is traversed by a valley corridor associated with the Don River Watershed. TRCA provided comments on May 13, 2022 (Appendix C), indicating that they have no concerns subject to conditions outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 17, 2022. 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.

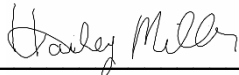
CONCLUSION

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 variances requested 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:



Hailey Miller, Planner I, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Senior Planner, West District

**APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/188/21**

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 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;
3. 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;
4. 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;
5. 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;
6. That the applicant undertake exploratory trenching, to be manually dug by an ISA certified arborist in order to verify any root impacts, and provide a report for review and approval by the City’s Tree Preservation Technician, in advance of any construction or site alteration; and,
7. That the applicant satisfies the requirements of the *TRCA*, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as ‘Appendix C’ to this Staff Report, to the satisfaction of the *TRCA*, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of *TRCA*.

CONDITIONS PREPARED BY:



Hailey Miller, Planner I, West District

SITE GRADING PLAN OF PART OF LOT 7 REGISTERED PLAN 8 CITY OF MARKHAM (REGIONAL MUNICIPALITY OF YORK)
 SCALE = 1 : 200
A. AZIZ SURVEYORS INC., O.L.S.
 METRIC: DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

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 THE REPRODUCTION ALTERATION OR USE OF THIS REPORT IN WHOLE OR IN PART WITHOUT THE EXPRESS PERMISSION OF A. AZIZ SURVEYORS INC. O.L.S. IS STRICTLY PROHIBITED.

- LEGEND:**
- MH DENOTES MANHOLE
 - HP HYDRO POLE
 - FFP FINISHED FLOOR
 - HP-H HIGH GRADING POINT
 - OW OVERHEAD WRES
 - DT DECIDUOUS TREE
 - CT CONIFEROUS TREE
 - TREE TO BE REMOVED
 - PROPOSED ELEVATION
 - EXISTING ELEVATION
 - OHW OVERHEAD WRES
 - RW RETAINING WALL
 - DS DOOR SILL
 - PROP. PROPOSED
 - DOWNSPOUT
 - EXISTING
 - EX EXISTING
 - TREE PROTECTION FENCE
 - SEEDMENT CONTROL FENCE
 - TREE PROTECTION ZONE
 - SHEET DRAIN

CAUTION
 THIS IS NOT A PLAN OF SURVEY AND SHOULD NOT BE USED FOR ANY REAL ESTATE TRANSACTIONS.
GEODETIC:
 ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE DERIVED FROM THE TOWN OF MARKHAM BENCH MARK # 0011931004, ELEVATION 174.548 M

TREE NOTE
 TREES LOCATED WITHIN THE PROPOSED DWELLING AND DRIVEWAY TO BE REMOVED

NOTES

1. PRIOR TO SUBMITTING A BUILDING PERMIT APPLICATION, THE BUILDER SHALL HAVE INDIVIDUAL STING PLANS FOR EACH LOT APPROVED BY THE SUBDIVIDES CONSULTING ENGINEER, WHICH COMPLY WITH THE APPROVED SUBDIVISION GRADING PLANS AND COMPLETE UTILITY PLANS. STING PLANS SHALL INCLUDE AS CONSTRUCTED SANITARY AND STORM SERVICE CONNECTION INVERT ELEVATION AT THE STREET LINE FOR EACH LOT.
2. WHERE INDICATED ON THIS PLAN, LOTS WHICH ABUT THE SUBDIVISION LIMIT SHALL BE GRADED TO PROVIDE A MINIMUM 0.6 METER STRIP OF UNDISTURBED LAND ADJACENT TO THE SUBDIVISION LIMIT. ALL EMBANKMENTS REQUIRED FOR THE GRADING OF THE LOTS SHALL COMMENCE AT THE INSIDE EDGE OF THIS STRIP OF LAND.
3. DRAINAGE SWALES SHALL BE CONSTRUCTED BY THE BUILDER ON THE PROPERTY LINE AND TO THE GRADES, DEPTHS AND SECTIONS SPECIFIED HEREIN.
 MINIMUM DEPTH= 0.15M, MAXIMUM DEPTH= 0.50M
 MINIMUM GRADIENT= 2.00%, MAXIMUM GRADIENT= 5.00%
4. ALL EMBANKMENTS FORMED DURING LOT GRADING SHALL HAVE A MAXIMUM FIVE (5) HORIZONTAL TO ONE (1) VERTICAL SLOPE.
5. DRIVEWAYS SHALL NOT BE USED AS AN OUTLET FOR ANY SIDE YARD SWALES.
6. DRIVEWAYS SHALL HAVE A GRADIENT BETWEEN 2.00% TO 8.00%
7. RETAINING WALL DESIGNS SHALL BE AS PER MANUFACTURER'S SPECIFICATIONS AND ARE TO BE STAMPED BY THE STRUCTURAL DESIGN ENGINEER. ALL RETAINING WALLS ARE TO BE INSPECTED BY A CONSULTING ENGINEER DURING CONSTRUCTION AND CERTIFIED UPON COMPLETION PRIOR TO RELEASE OF GRADING DEPOSIT.
8. WHEN A SEPARATION BETWEEN HOUSES IS LESS THAN 3.0 METRES, PLACE 19MM OF CLEAR STONE TO A DEPTH OF 100MM IN PLACE OF TOPSOIL & SOD. A POSITIVE GRADE AWAY FROM THE HOUSE AT SUB GRADE LEVEL IS MANDATORY.
8. WHEN A SEPARATION BETWEEN HOUSES IS LESS THAN 3.0 METRES, PLACE 19MM OF CLEAR STONE TO A DEPTH OF 100MM IN PLACE OF TOPSOIL & SOD. A POSITIVE GRADE AWAY FROM THE HOUSE AT SUB GRADE LEVEL IS MANDATORY.
9. UNDERSIDE OF BASEMENT FLOOR SHALL BE MIN . 0.5M ABOVE THE 100 YEAR HYDRAULIC GRADE LINE.
10. THE PROPOSED SERVICING ON PRIVATE PROPERTY REQUIRES PLUMBING APPROVAL UNDER THE ONTARIO BUILDING CODE, AND ACCORDINGLY APPLICATION FOR THE NECESSARY PERMIT SHOULD BE MADE TO THE BUILDING STANDARDS DEPARTMENT. IN THE CASE OF ANY CONFLICT BETWEEN THE DRAWINGS AND THE REQUIREMENT OF THE ONTARIO BUILDING CODE, THE BUILDING CODE SHALL PREVAIL.
11. PRIOR TO THE START OF CONSTRUCTION ON SITE THE FOLLOWING ARE REQUIRED:
 I. ARRANGE AND ATTEND A PRE-CONSTRUCTION MEETING WITH THE CITY'S MUNICIPAL INSPECTION PRIOR TO THE COMMENCEMENT OF ANY ONSITE SERVICING WORK (CONTACT KAY MAN POON, MANAGER OF MUNICIPAL INSPECTIONS, AT 905-477-7000 X2897).
 II. OBTAIN A BUILDING PERMIT FROM THE CITY'S BUILDING STANDARDS DEPARTMENT.
 III. OBTAIN A ROAD OCCUPANCY PERMIT FROM THE CITY OPERATIONS DEPARTMENT FOR ANY ACTIVITY THAT MAY CAUSE A CITY PUBLIC ROAD TO BE BLOCKED IN ANY WAY, INCLUDING CURB OR CULVERT MODIFICATIONS, RESTRICTING ACCESS, DISRUPTING VEHICULAR/PEDESTRIAN TRAFFIC FLOW AND/OR PLACING MATERIALS OF ANY KIND ON THE ROADWAY REQUIRES. (CONTACT OPERATIONS DEPARTMENT AT OCC@MARKHAM.CA FOR PERMITTING).

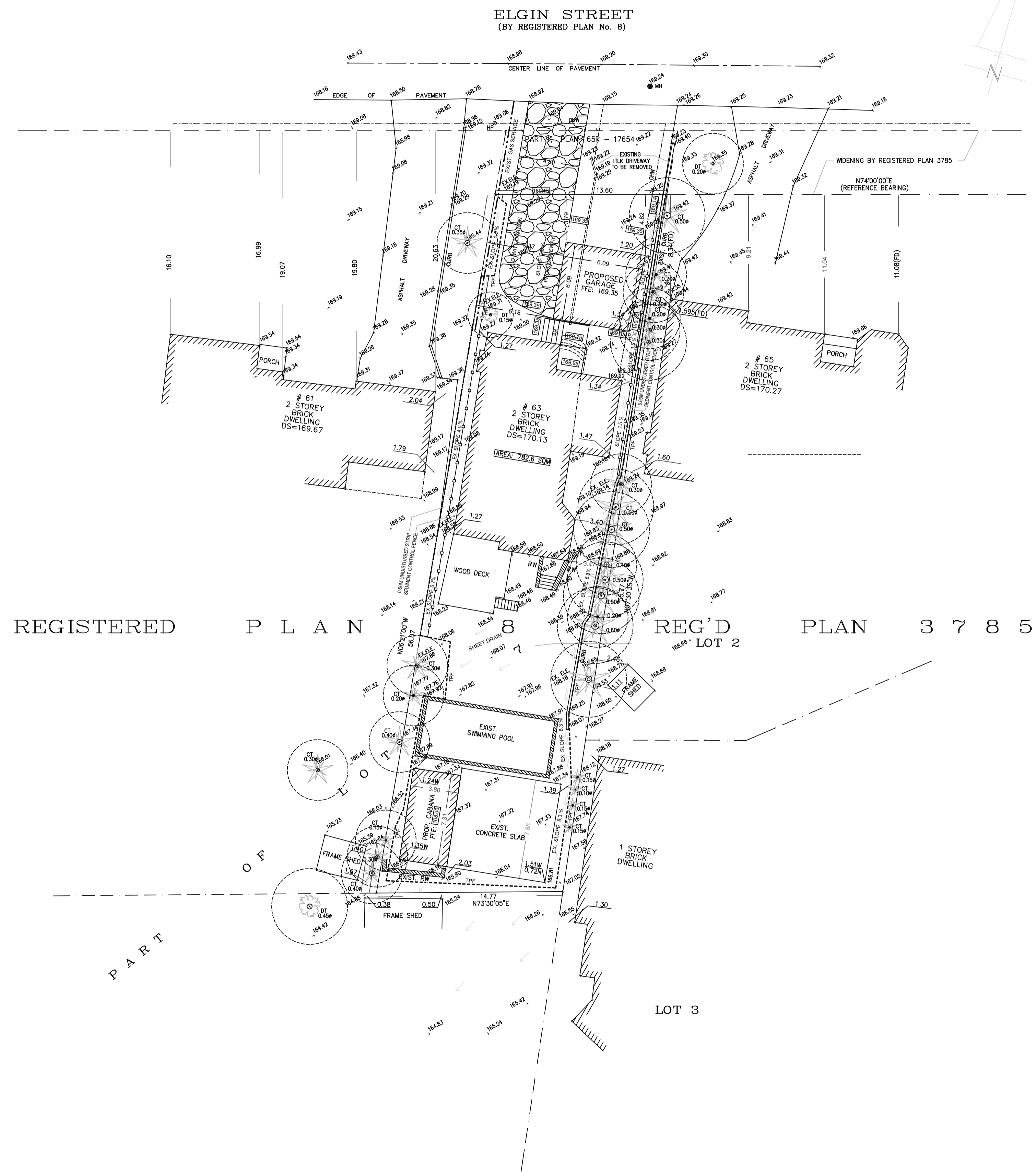
UNDERGROUND SERVICES
 IT IS THE BUILDER OR CONTRACTOR RESPONSIBILITY TO CHECK THE UNDERGROUND SERVICES AND CONNECTIONS PRIOR TO THE EXCAVATION OF THE NEW DWELLING. THE UNDERSOON CLAIMS NO RESPONSIBILITY FOR THE UNDERGROUND INVERTS AND ELEVATIONS OR LOCATIONS.

SURVEYOR'S CERTIFICATE
 I HAVE REVIEWED THIS SITE PLAN FOR THE DWELLING No. 63 ELGIN STREET IT IS MY BELIEF THAT THE GRADES AS SHOWN WILL PRODUCE ADEQUATE SURFACE DRAINAGE WITHOUT DETRIMENTAL EFFECT ON ADJACENT PROPERTIES.

DATE: OCTOBER 06, 2021
 A. AZIZ SURVEYORS INC.
 ONTARIO LAND SURVEYOR

A. AZIZ SURVEYORS INC.
 ONTARIO LAND SURVEYORS
 120 NEWKIRK ROAD #31, RICHMOND HILL, ONT. L4C-9S7
 Tel. (905) 237-8224 Fax: (416) 477-5465
 Website: M-Azizsurveyors.ca
 E-Mail: aziz@m-azizsurveyors.ca

PROJECT NUMBER	PROJECT
21-088	63 ELGIN STREET (GP)
DRAWN BY	CHECKED BY
CH	A.A



REGISTERED PLAN 8 REG'D PLAN 3785 LOT 2 LOT 3



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KEY MAP

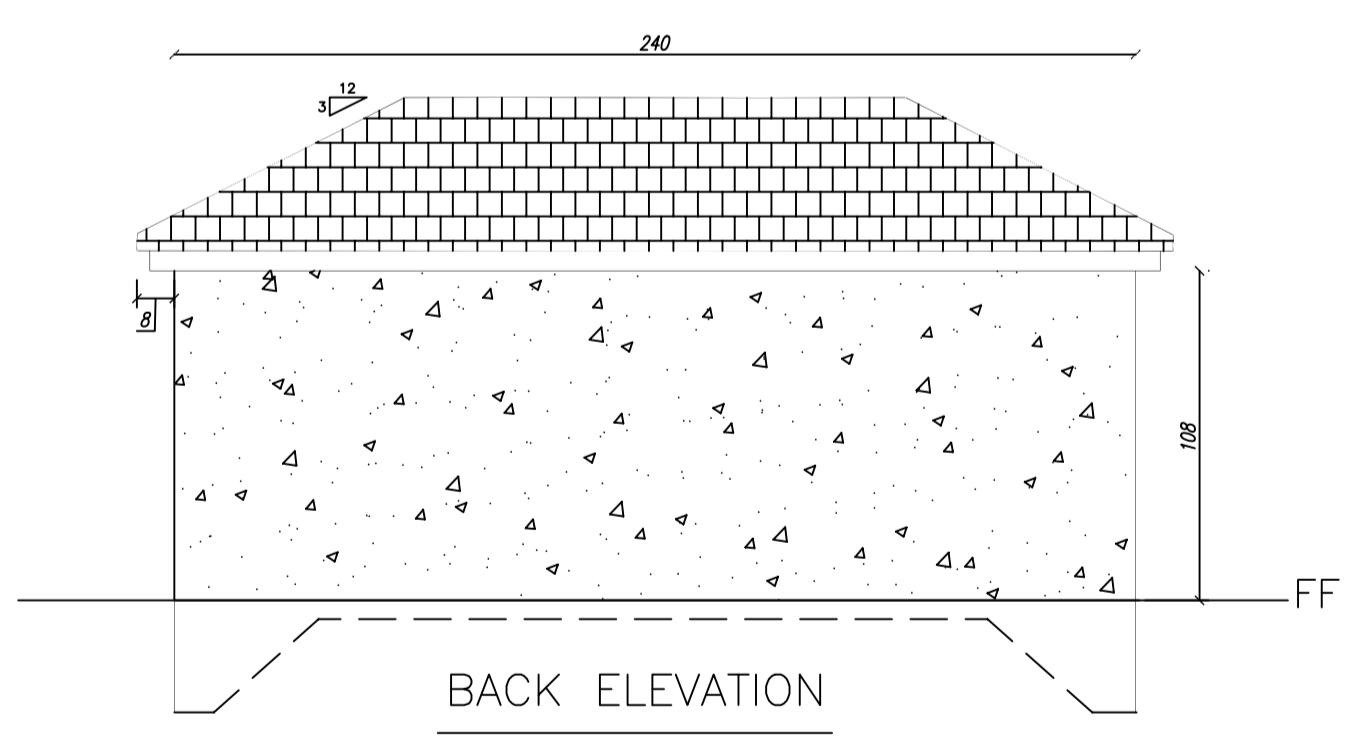
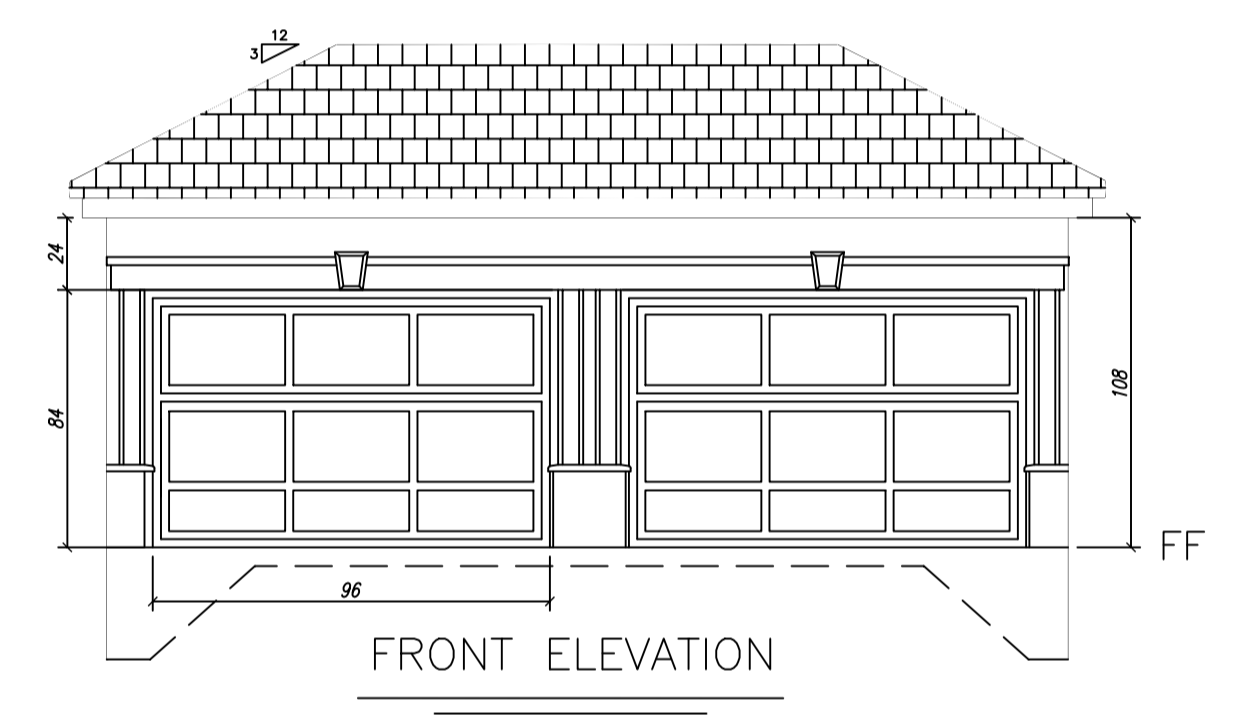


GENERAL NOTES:


1. All work shall meet the requirements of the latest governing building code, municipal ordinances and all authorities having jurisdiction over the project.
2. Contractor and/or the owner shall be responsible for the arrangement of all necessary inspections and follow inspection schedules.
3. Contractor shall provide adequate shoring of existing structure at all times. Shoring must be in place before commencing any modification work.
4. Contractor shall check all existing structural elements and dimensions at site and report any discrepancies to the engineer before proceeding with the work.
5. Nava Engineering Services shall not be responsible for construction safety, means, techniques and construction procedures or any temporary work that may be required by the contractor to build and complete the work. The contractor shall be responsible for the overall project safety and conform to all OHSA guidelines and regulations.
6. Contractor shall properly protect all existing structural elements from any damages caused by new construction.
7. Excavation shall be undertaken in a manner so as to prevent movement which would cause damage to adjacent property, structures, utilities, roads & sidewalks. A maximum 7:10 angle of repose shall be maintained unless otherwise certified by a geotechnical engineer.
8. Weeping tile is to drain to the storm sewer, ditch, drywell or install covered sump pit with an automatic pump.

TIMBER:

1. All wood materials, fabrication and erection to be in accordance with CAN/CSA-086-01. All timber grading to be in accordance with NLGA.
2. All timber shall conform to recognized normal sizes shown on plan and stress ratings for appropriate species. No timber shall be used that does not conform to dimensions and species.
3. All lumber shall be spruce No. 2 grade, unless noted otherwise.



PROPOSED GARAGE FRONT & BACK ELEVATIONS

	PROJECT TITLE 63ELGIN ST CITY OF MARKHAM	DWG. TITLE PROPOSED GARAGE ELEVATIONS		SCALE NTS	DATE 30 April 2022
				DWG. NO. S1-01	

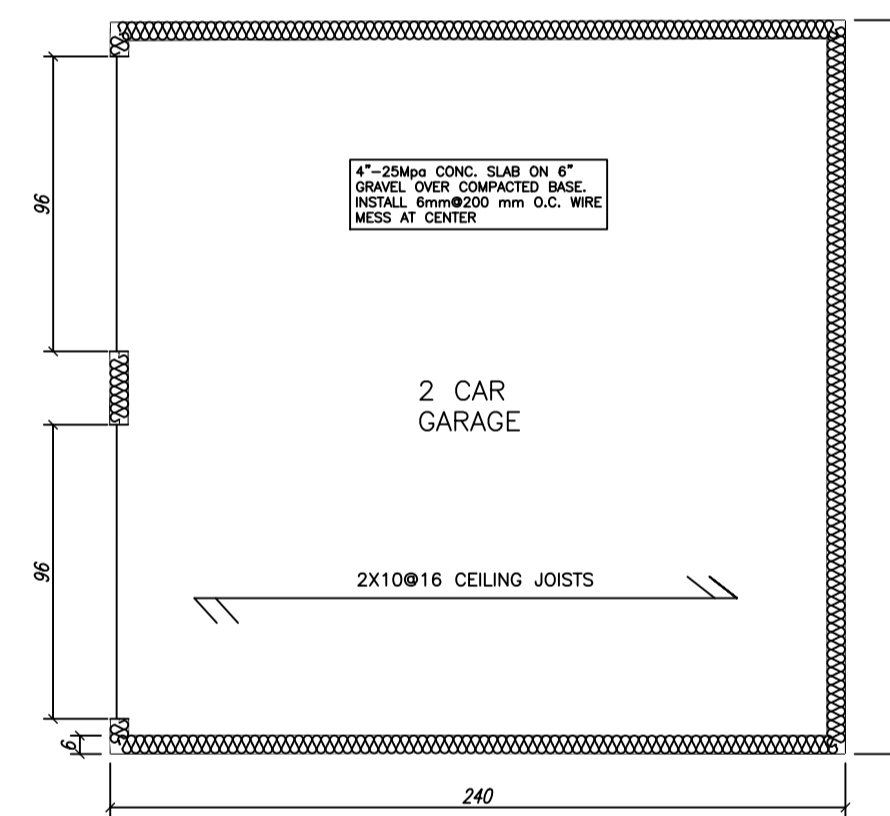


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6. Contractor shall properly protect all existing structural elements from any damages caused by new construction.
7. Excavation shall be undertaken in a manner so as to prevent movement which would cause damage to adjacent property, structures, utilities, roads & sidewalks. A maximum 7:10 angle of repose shall be maintained unless otherwise certified by a geotechnical engineer.
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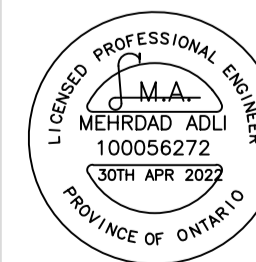
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2. All timber shall conform to recognized normal sizes shown on plan and stress ratings for appropriate species. No timber shall be used that does not conform to dimensions and species.
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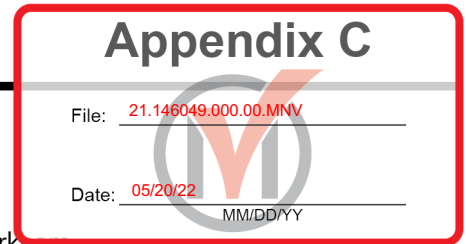


PROPOSED GARAGE FOUNDATION PLAN

	PROJECT TITLE	DWG. TITLE	SCALE	DATE
	63ELGIN ST CITY OF MARKHAM	PROPOSED GARAGE FOUNDATION	NTS	30 April 2022
			DWG. NO.	
			S1-02	



Michelle Bates



From: Michelle Bates
Sent: May 13, 2022 6:03 PM
To: Miller, Hailey
Subject: A/188/21 (MNV 21 146049) - 63 Elgin Street, Markham

Hi Hailey,

Thank you for circulating the above noted application to TRCA for review and comments. Please accept this email as TRCA's comments. A copy of this email will be uploaded to E-Plan.

Background:

It is my understanding that the purpose of this application is to facilitate the development of a proposed detached garage in the front/northeast portion of 63 Elgin Street, City of Markham.

The requested variances to the by-law are below.

- a) Amending By-law 101-90, Section 1.2(v):** to permit a maximum garage projection of 9.6 metres, whereas the By-law permits a maximum garage projection of only 2.1 metres beyond the point of the main building closest to the front lot line;
- b) By-law 2237, Section 4.4.1:** to permit a detached garage (accessory building) to be erected in the front yard, whereas the Bylaw permits detached accessory buildings only in the rear yard;
- c) By-law 2237, Section 6.1:** to permit a front yard setback of 12.45 feet to a detached

The rear/southern portion of the property is located within TRCA's Regulated Area due to its proximity to a valley corridor and flood plain associated with the Don River Watershed. A permit from our office is required for any development within our Regulated Area.

Review Fees:

Please be advised that the TRCA has implemented a fee schedule for our planning application review services. In accordance with our 2021 Planning Services Fee Schedule TRCA requires a review fee in the amount of \$610 (Residential Minor Variance – Minor) for this application.

Recommendation:

As the proposed garage appears to be located outside of TRCA's Regulated Area, TRCA has no objection to the requested variance, subject to the following condition being satisfied:

1. That the owner remit TRCA's review fee for this application in the amount of \$610. Following the issuance of these comments, an invoice containing an online payment link will be provided to the owner.

Other:

Please be advised that the above noted recommendation is only applicable to the proposed garage which is the subject of this application. The plans submitted for this application also show a proposed cabana in the southwest corner of the property which is currently under review by our office through an application for a TRCA Permit. Through our permit application process, TRCA has expressed concerns regarding the proposed cabana design and provided comments regarding alternative design(s) that would satisfy our policies.

If there are any questions, please do not hesitate to contact me at the undersigned.

Regards,

Michelle Bates
Senior Planner

T: [\(416\) 661-6600](tel:(416)661-6600) ext. 5618

E: michelle.bates@trca.ca

A: [101 Exchange Avenue, Vaughan, ON, L4K 5R6](https://www.trca.ca/101-Exchange-Avenue-Vaughan-ON-L4K-5R6) | [trca.ca](https://www.trca.ca)



Please note:

- TRCA's Offices are presently closed to visitors. The plan input and review function continues during the Coronavirus pandemic. In order to reduce the potential of transmission, TRCA requests that development planning and permit applications and materials be submitted digitally in PDF format. Paper submissions are discouraged and may result in extended timeframes for review. All digital submissions and documents (including enquiries / applications) related to properties in York Region municipalities can be submitted to the following e-mail address: yorkplan@trca.ca We thank you for your cooperation as we respond to the current situation.