

Memorandum to the City of Markham Committee of Adjustment

May 18, 2021

File: A/025/21
Address: 29 Jerman Street, Markham
Applicant: Lawrence & Marie Croutch
Agent: David Johnston Architect Ltd. (David Johnston)
Hearing Date: Wednesday May 26, 2021

The following comments are provided on behalf of the Heritage District Development Team:

The applicant is requesting relief from the following requirements of By-law 1229, R2 as amended, as it relates to an accessory dwelling unit and a 1-storey rear addition to the existing heritage dwelling. The variances requested are to permit:

- a) **Section 1.2 (iii):**
a maximum depth of 18.9 metres; whereas the by-law permits a maximum of 16.8 metres;
- b) **Section 1.2 (vi):**
a maximum floor area ratio of 50 percent; whereas the by-law permits a maximum of 45 percent;
- c) **Section 6.1:**
an accessory dwelling unit; whereas the by-law does not permit the use;
- d) **By-law 28-97, Sec. 3.0:**
a reduction of 1 parking space, whereas the By-law requires 1 parking space for an accessory dwelling unit.

BACKGROUND

Property Description

The 503.82 m² (5423.07 ft²) subject property is located on the east side of Jerman Street, east of Main Street Markham North, north of Highway 7 East in the Markham Village Heritage Conservation District (See Figure 1-Location Map) The building on the property is designated under Part V of the Ontario Heritage Act and classified as Class 'A' which reflects the heritage character of the Markham Village Heritage Conservation District (see Figure 2 –Photograph of the existing heritage dwelling). The property is located within an established residential neighbourhood predominantly comprised of one and two-storey detached dwellings. According to assessment records, the existing one and a half storey dwelling was constructed in 1863 and a two storey rear addition was constructed in 2016. Mature vegetation exists on the property.

Proposal

The applicant is proposing to construct a 27.2 m² (293 ft²) one storey addition at the rear of the existing dwelling on the subject property in order for the ground floor of the heritage portion of the existing dwelling to be converted into a secondary suite. Variances to the Zoning By-law are required to permit an increase in the maximum building depth to 18.9 metres (62 feet), a maximum floor area ratio of 50 percent, an accessory dwelling unit and a reduced number of parking spaces.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

Official Plan and Zoning

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

The City’s Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states:

“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...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 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the 'Residential – Low Rise' designation with respect to height, massing, setbacks and other development standards. This criteria is established 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. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, 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 1229

The subject property is zoned "Residential Two (R2)" under By-law 1229, as amended, which permits various low rise housing forms, including single detached dwellings. Section 1.2, (iii) & (vi) permits a maximum building depth of 16.8 m and a maximum floor area ratio of 45 percent. The proposed addition does not comply with these requirements. Furthermore, Section 6.1 of the Zoning By-law does not permit an accessory dwelling unit on the property.

Parking Standards By-law 28-97

The subject property is subject to the City of Markham Parking Standards By-law 28-97. The proposed use increases the parking requirement for the site to a total of 3 parking spaces. Consequently, the applicant is requesting relief to not require the additional 1 parking space for the secondary suite. Further details related to a parking reduction are provided in the comment section below.

Zoning Preliminary Review (ZPR) Undertaken

The owner completed a Zoning Preliminary Review (ZPR) on March 8, 2021, to confirm the variances required for the proposed development.

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.

Secondary Suite

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, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

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.

Reduced Parking Spaces

Parking Standards By-law 28-97 requires two parking spaces be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The existing asphalt driveway currently provides a total 2 tandem parking spaces.

Requiring an additional parking space would result in a marked increase in the amount of hard surfaces within the front yard which is likely to detract from the visual appearance of the property and would have a negative impact on the surrounding streetscape. Furthermore, meeting the required parking standard would reduce the amount of soft landscaped surface area that currently provides for the infiltration of rain water, which is an important part of effective stormwater management practices.

Staff are of the opinion that to ensure the second suite remains inconspicuous from the street, and that the character of the dwelling and neighbourhood does not change, no additional parking should be required. Staff are also of the opinion that the parking matter may be considered as “self-regulating”, as the unit would only be of interest to a tenant that does not require a parking space in the event that both parking spaces are required for use by the owner of the dwelling. It is noted that no overnight parking is permitted on this street, and violators would be ticketed nightly.

Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 18.9m (62.0 ft.), whereas the By-law permits a maximum building depth of 16.8m (55.1ft.). This represents an increase of 2.1m (6.9 ft.).

The requested variance can be considered minor as the proposed addition is only one storey in height, is not as wide as the main dwelling, and it does not protrude beyond the rear wall of the dwelling to the south. Although it does protrude beyond the rear wall of the house to the north, the one storey height would reduce any significant adverse impacts to the privacy of the property owner to the north's rear yard.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 50 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. This variance can be considered minor in nature as it results from a proposed one storey addition that is not visible from Jerman Street and would appear to have minimal impacts to neighbouring property owners. The resulting house is compatible in scale with other recently restored heritage dwellings and the net floor area ratio resulting from the proposed one storey addition is a reflection of the relatively small size of the lot, which at 5,423 ft² is 1,177 ft² smaller than the minimum lot size required by the By-law.

Urban Design and Engineering

The City's Urban Design Section has no objection to the requested variances subject to the receipt of a satisfactory Tree Inventory and Preservation Plan. The City's Engineering Department provided no comments on the application.

Heritage Markham

The Heritage Markham Committee reviewed the design of the proposed addition and the associated variances at their meetings of March 10, 2021 and May 12, 2021 and had no objection to their approval.

PUBLIC INPUT SUMMARY

As of May 17, 2021 the City received a letter from a resident of Jerman Street expressing concerns over how the proposed increase in floor area could cause flooding to their garage and driveway, the appearance of a larger house, and the potential for increased noise and traffic generated by an additional dwelling unit.

The proposed addition is one storey in height, has a footprint of 27.2m² (293 ft²) and is roughly 17.5 ft. by 16 ft. located at the rear of the existing house in an area currently occupied by a large rear yard deck. It is also positioned further away from the neighbouring driveway to the north than any portion of the existing house, and greater than the minimum setback of 4 ft. for a one storey portion required by the Zoning By-law.

The proposed one storey addition only represents a 14% increase to the size of the existing house and has little impact on neighbouring property owners due to its one storey height and generous setbacks from the property lines. In the opinion of planning staff, a 2,445.1 ft² dwelling does not represent a particularly large dwelling by current standards, and the requested variance to permit a net floor area ratio of 50% is more a reflection of the lot being 1,176.9 ft² smaller than the minimum lot size of 6,600 ft² required by the By-law, than it is of an inappropriately sized dwelling.

The proposed addition and accompanying grading plan will also be reviewed by the City's Engineering Department through the site plan approval process and will not be approved if it indicates that storm run-off will be directed on to neighbouring properties.

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

PREPARED BY:



Peter Wokral Senior Heritage Planner

REVIEWED BY:



Regan Hutcheson, Development Manager, Heritage District

FIGURE 1- LOCATION MAP

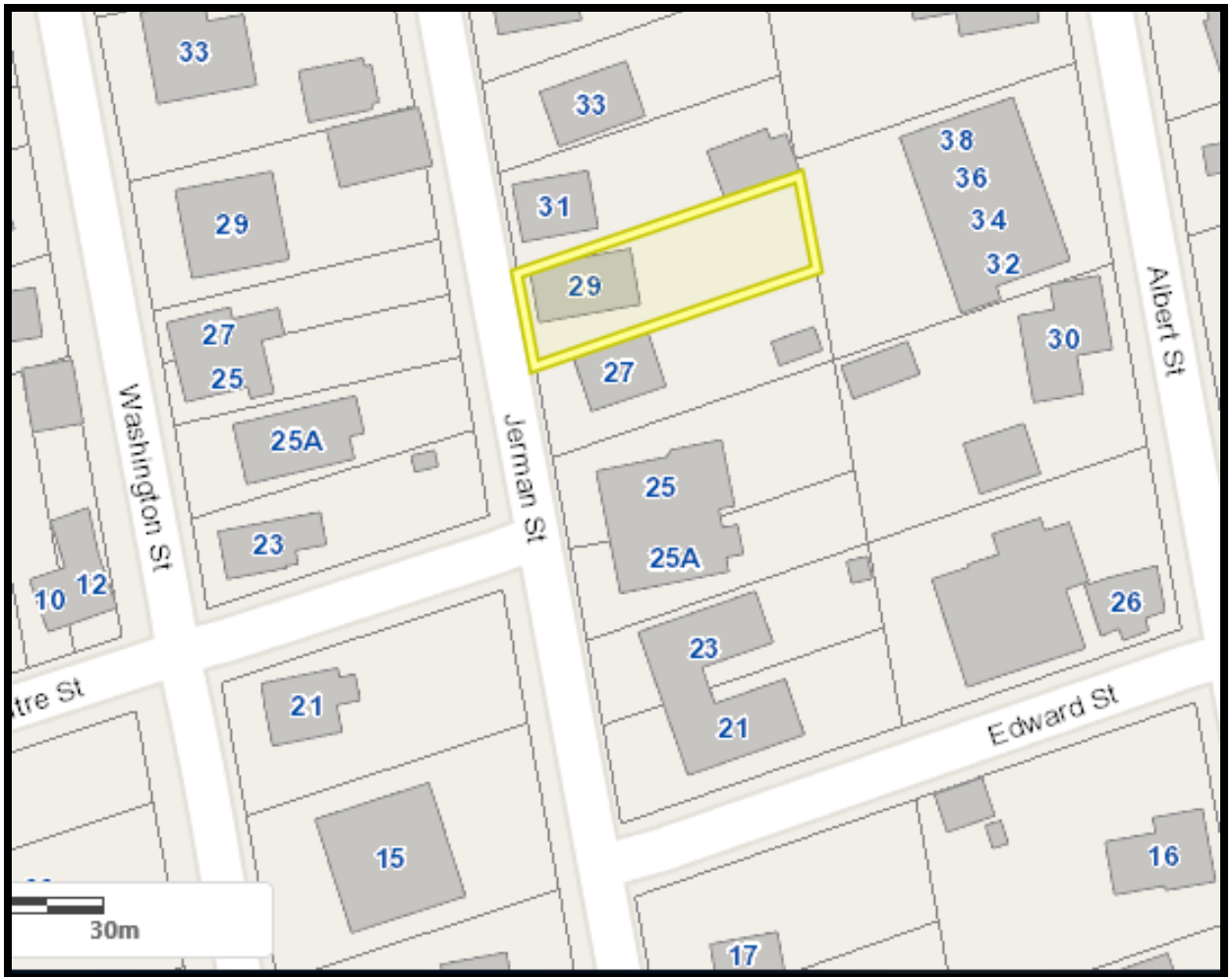


FIGURE 2-PHOTOGRAPH OF THE EXISTING HERITAGE DWELLING



APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/025/21

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 plans attached as 'Appendix C' to this Staff Report and received by the City of Markham, 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. 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.

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Peter Wokral', written in a cursive style.

Peter Wokral, Senior Heritage Planner

APPENDIX 'B'- Heritage Markham Extracts of March 10 and May 12, 2021

Heritage Markham Extract of March 10, 2021

5.3 SITE PLAN CONTROL APPLICATION

PROPOSED REAR ADDITION

29 JERMAN STREET

MARKHAM VILLAGE HERITAGE CONSERVATION DISTRICT (16.11)

FILE NUMBER:

SPC 20 132562

Extracts:

R.Hutcheson, Manager, Heritage Planning

P. Wokral, Senior Heritage Planner

Recommendation:

THAT Heritage Markham has no objection from a heritage perspective to the proposed design of the one storey rear addition to 29 Jerman Street and the proposed net floor area ratio of 50% and the maximum, building depth of 18.9m, and delegates final review of the Site Plan application to Heritage Section staff;

AND THAT the applicant enter into a Site Plan Agreement with the City including the standard conditions regarding windows, materials, colours etc.

Carried

Heritage Markham Extract of May 12, 2021

6.4 SITE PLAN CONTROL AND COMMITTEE OF ADJUSTMENT VARIANCE APPLICATIONS

29 JERMAN STREET

MARKHAM VILLAGE HERITAGE CONSERVATION DISTRICT

PROPOSED REAR ADDITION AND SECONDARY SUITE (16.11)

FILE NUMBERS:

- SPC 20 132562
- A/025/21

Extracts:

R.Hutcheson, Manager, Heritage Planning

P. Wokral, Senior Heritage Planner

Regan Hutcheson, Manager of Heritage Planning, presented the staff memorandum on the proposed rear addition and secondary suite at 29 Jerman Street in the Markham Village Heritage Conservation District.

Mr. Wokral advised that the committee previously reviewed this application, and that it has been brought back to the committee to approve the accessory dwelling unit and variance for the reduction of one parking spot.

In response to an inquiry from the committee, staff advised that the application does not include the addition of a garage.

Recommendation:

THAT Heritage Markham has no objection from a heritage perspective to the requested variance to permit:

- an accessory dwelling unit; whereas the by-law does not permit the use.
- a reduction in 1 parking space, whereas the By-law requires 1 parking space for an accessory dwelling unit

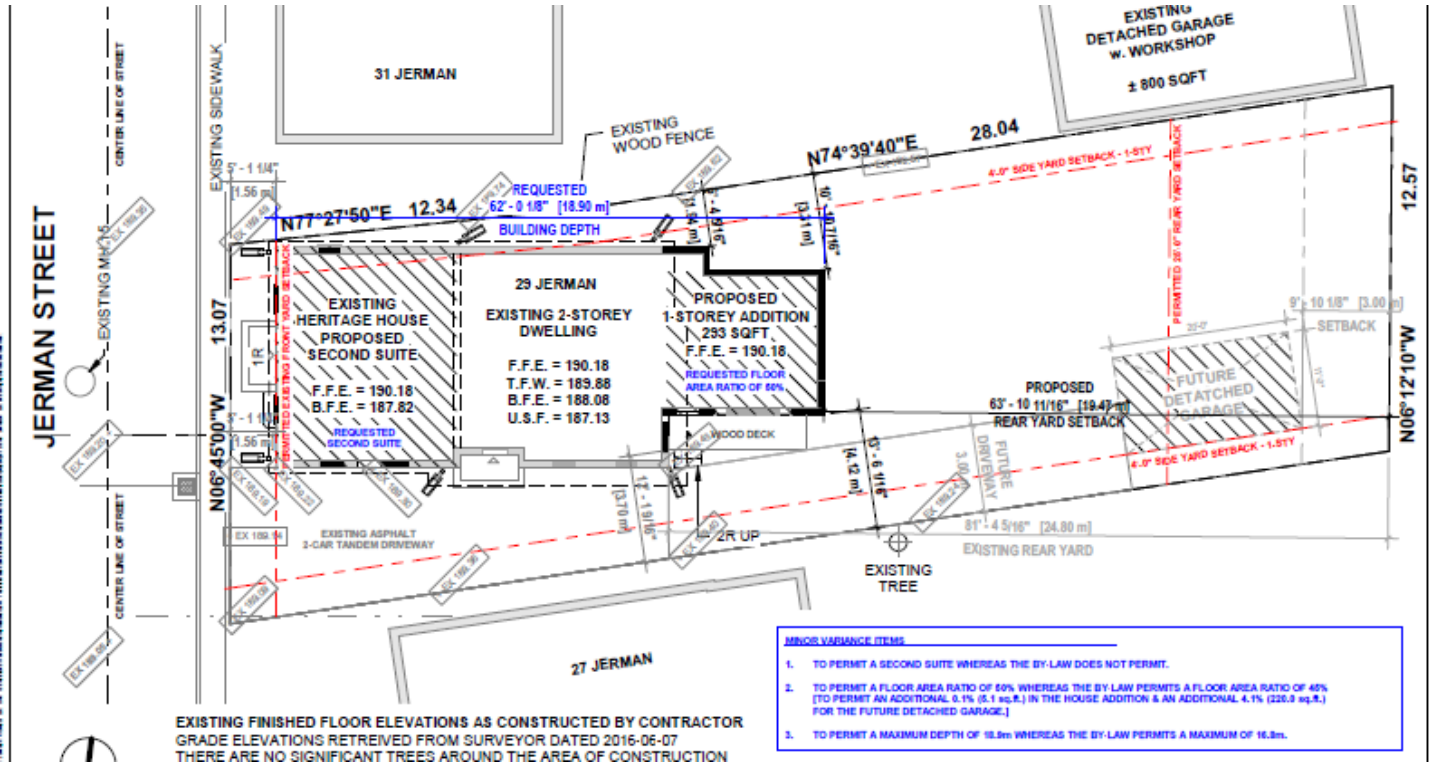
at 29 Jerman Street in Markham Village as they relate to the proposed rear addition to the existing dwelling.

AND THAT final review of the variance application A/025/21 be delegated to Heritage Section staff.

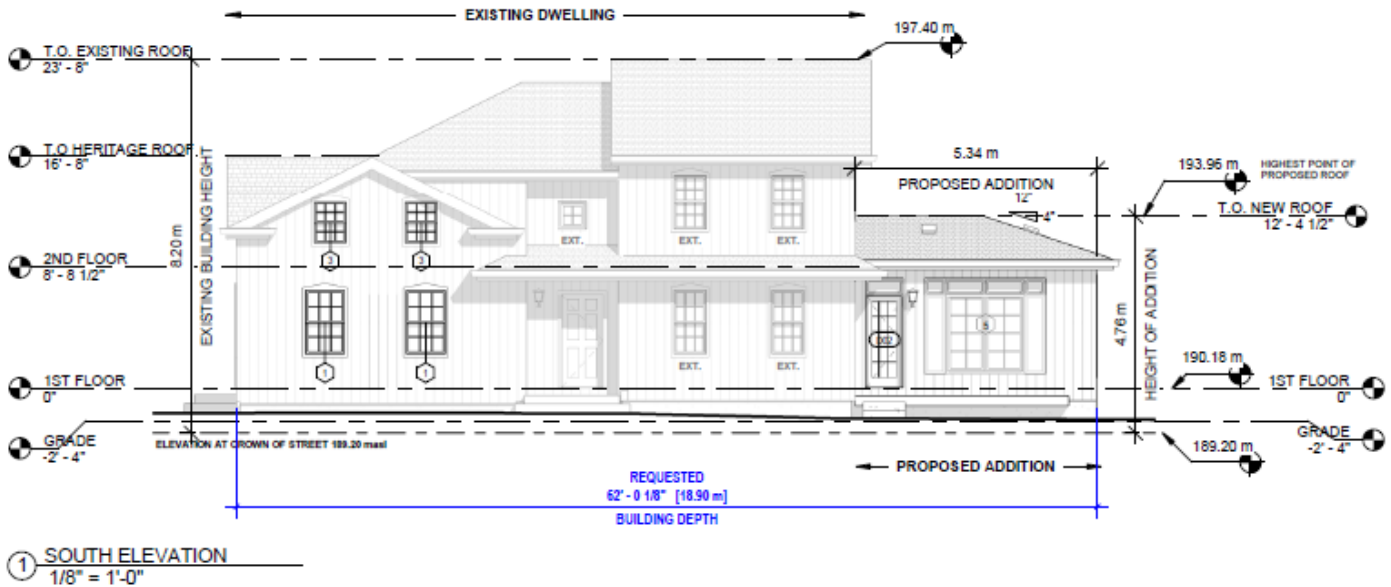
Carried

APPENDIX 'C' PROPOSED SITE PLAN, ELEVATIONS, AND PERSPECTIVE DRAWING

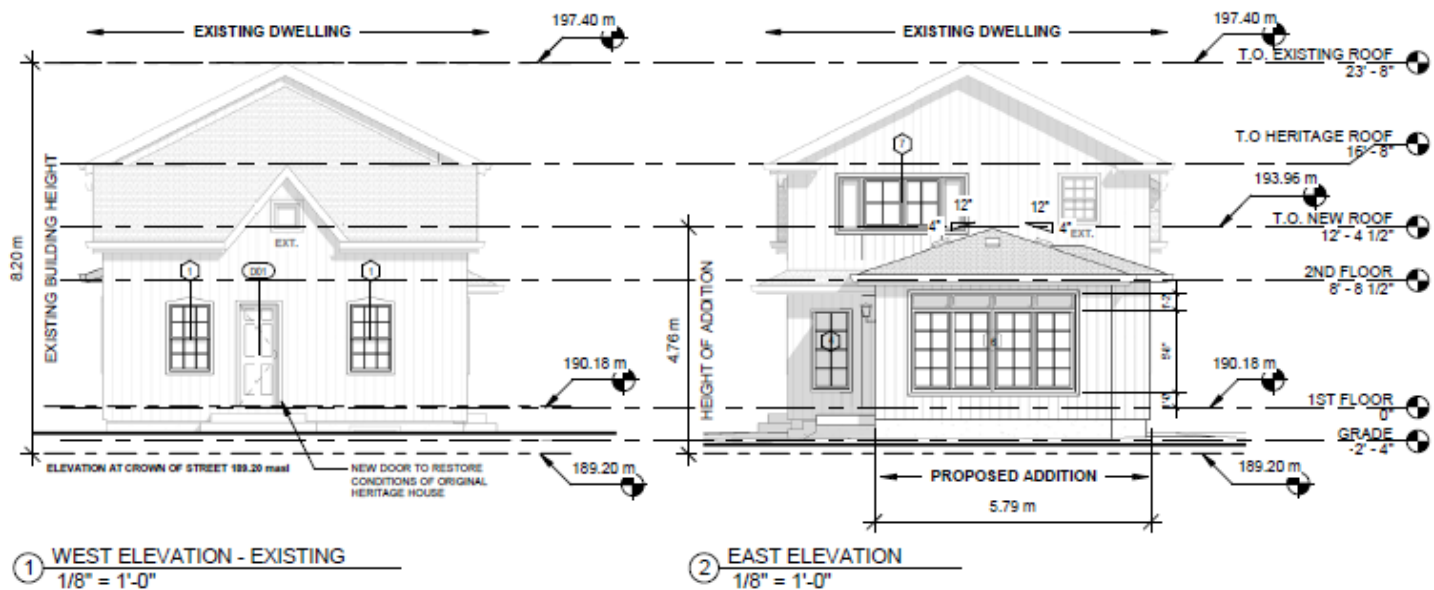
Proposed Site Plan



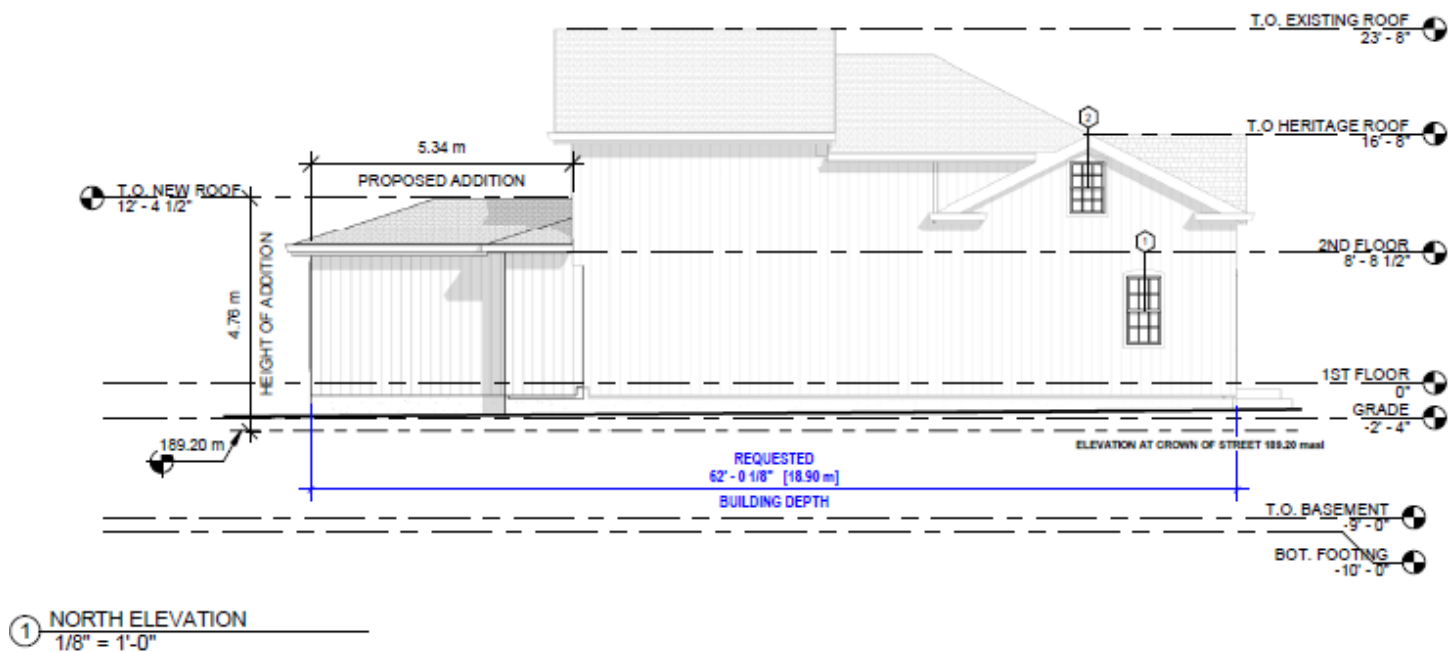
Proposed South Elevation



Proposed West and East Elevations



Proposed North Elevation



Proposed Addition Perspective Drawing

