

Memorandum to the City of Markham Committee of Adjustment

September 28, 2021

File: A/105/21
Address: 135 Royal Orchard Boulevard – Markham, ON (Thornhill)
Applicant: Hongmei Li
Agent: Henry Wen
Hearing Date: October 6, 2021

The following comments are provided on behalf of the West District Team. The applicant is requesting relief from the following “Second Density Single Family Residential - (R2A)” zone requirement under By-law 2150, as amended, to permit:

a) By-law 2150, Section 5.1:

an accessory dwelling unit within basement, whereas the By-law permits no more than one dwelling unit on a lot.

BACKGROUND

Property Description

The subject property is located on the south side of Royal Orchard Boulevard, east of Bay Thorn Drive, north of Royal Orchard Park, and west of Bayview Avenue. There is a single detached dwelling on the property, with mature vegetation existing across the lot. The existing driveway and garage area provides for a minimum of four parking spaces on the lot. The property is located within an established residential neighbourhood which contains a mix of one and two-storey detached dwellings, and is within close proximity to a mix of uses including commercial and office uses along Yonge Street, schools, park space, and places of worship.

Proposal

The applicant is requesting permission for a secondary suite to be located in the basement of the existing dwelling. The proposed secondary suite would have direct and separate access provided by an existing walk-out door at the south side (rear) of the lowest floor level of the dwelling (see Drawing A4 in Appendix “B”).

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, R.S.O. 1990, c. P.13, as amended*, to require Official Plans to contain policies providing for two residential units in detached, semi-detached, and rowhouse (townhouse) 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 options including second units to support complete communities.

Official Plan and Zoning

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

The 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.

Zoning By-Law 2150

The subject property is zoned “Second Density Single Family Residential - (R2A)” under By-law 2150, as amended, which permits one single detached dwelling per lot.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a ZPR on July 16, 2021 to confirm the variance 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 (“the Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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 which can provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the proposed development is appropriate for the lot as it meets the criteria under Section 8.13.8 of the Official Plan for the establishment of a secondary suite, and support its approval.

TRCA Comments

The property is partially within a Toronto and Regional Conservation Authority (TRCA) regulated area as it is adjacent to a valley corridor of the Don River Watershed. TRCA provided comments on September 22, 2021, indicating that they have no concerns subject to the conditions outlined in their letter (Appendix “C”). In the event of approval, staff recommend that the Committee adopt the associated condition of approval detailed in Appendix “A” of this report.

PUBLIC INPUT SUMMARY

One written submission was received as of September 28, 2021, objecting to the proposed secondary suite. 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*, and are of the opinion that the variance request meets the four tests. Staff recommend that the Committee consider public input, and the conditions of approval attached as Appendix “A” in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

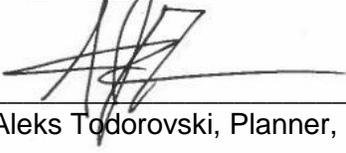
APPENDICES

Appendix “A” – Conditions of Approval

Appendix “B” – Plans

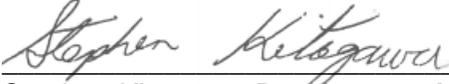
Appendix “C” – TRCA Comments: September 22, 2021

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Kitagawa, Development Manager, West District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/105/21

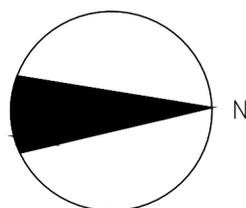
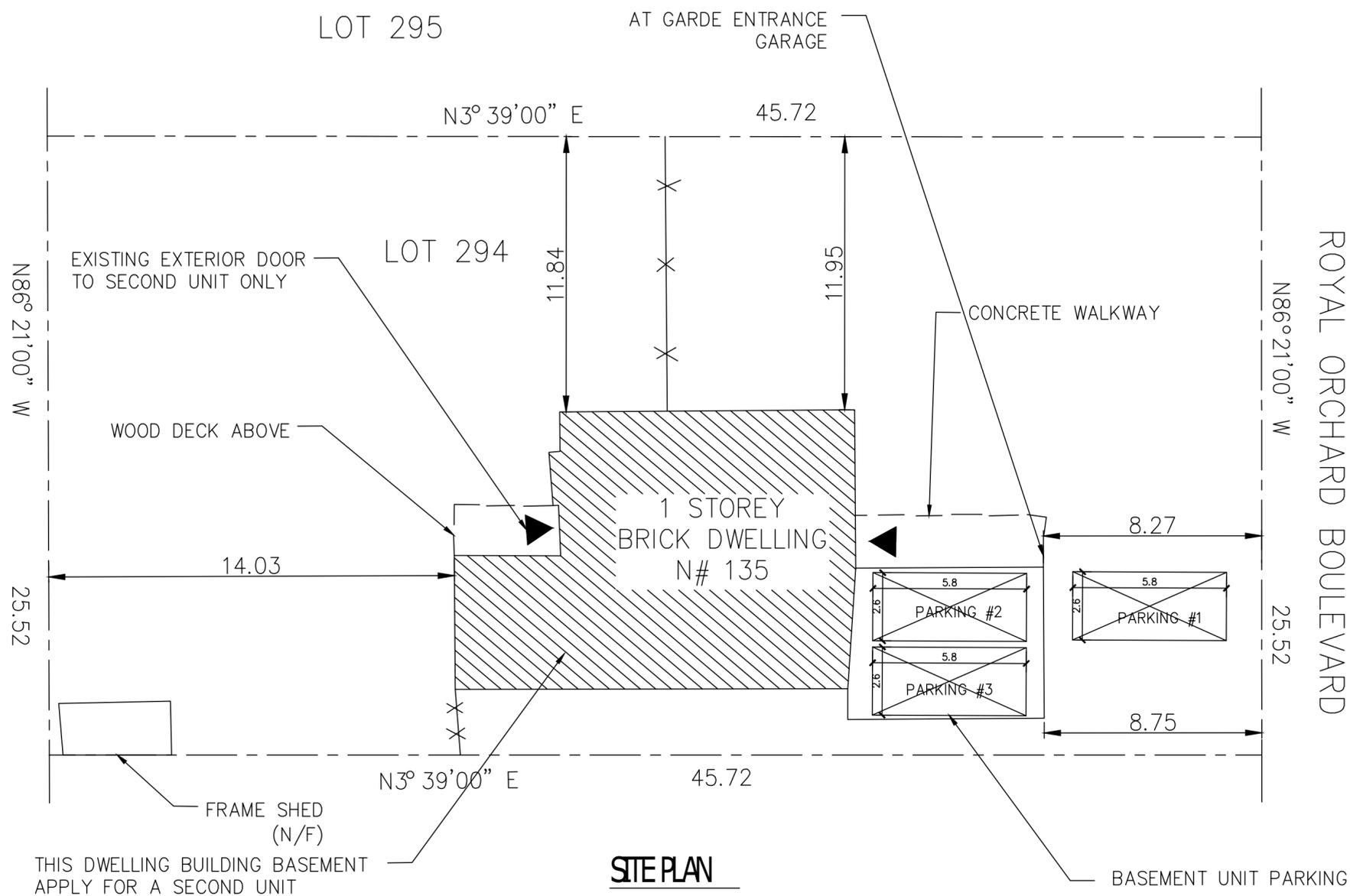
1. The variance applies only to the subject development for as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. 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.
4. That the applicant satisfies the requirements of the Toronto Region and Conservation Authority (TRCA), as indicated in their letter to the Secretary-Treasurer attached as Appendix "C" to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



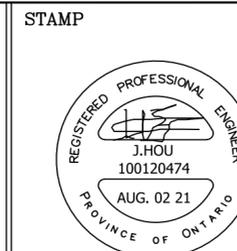
Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/105/21

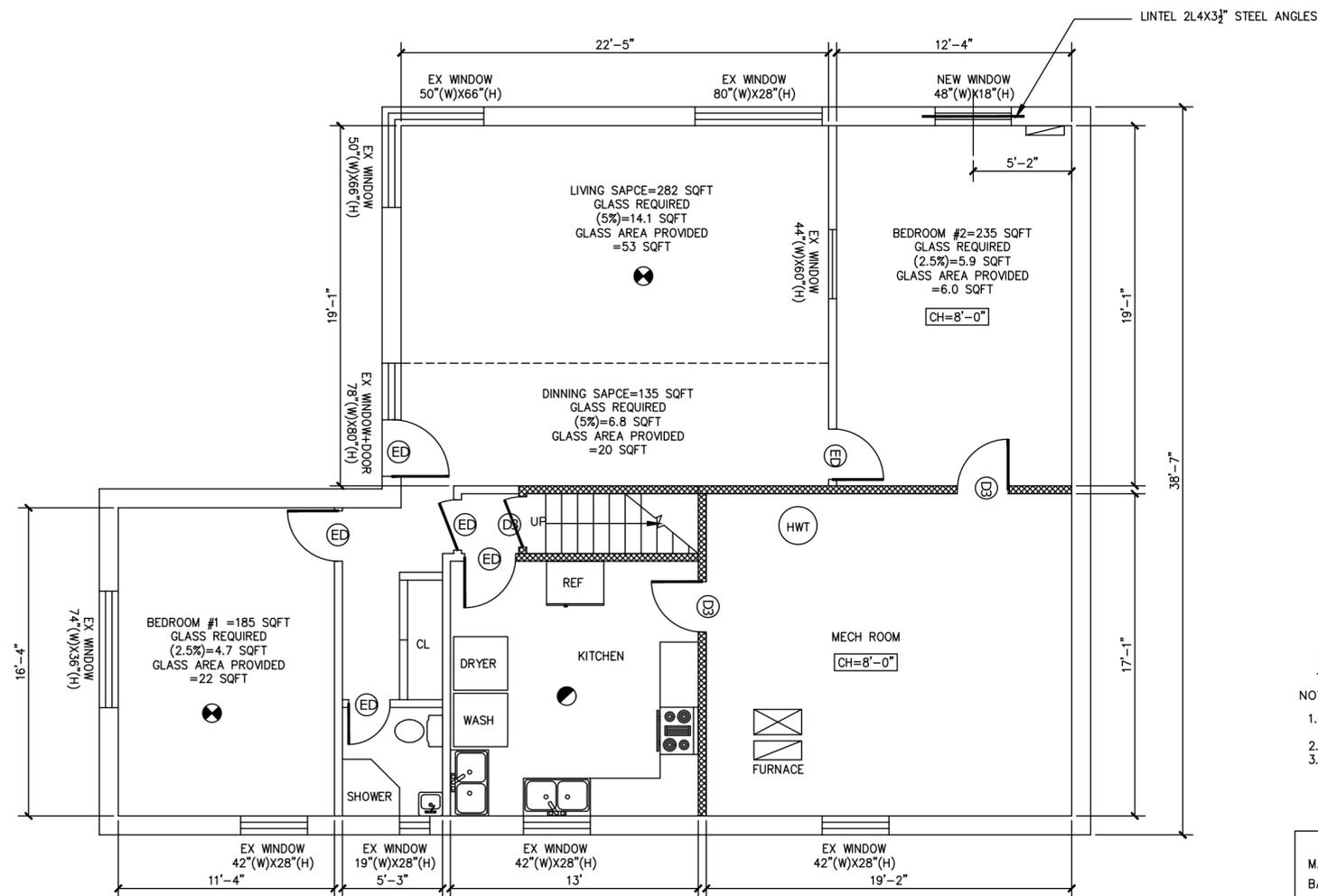


FRONT SETBACK = 8.27 M
 REAR SETBACK = 14.03 M
 WEST SETBACK = 11.84 M
 EAST SETBACK = 1.92 M

STATUS: FOR PERMIT APPLICATION	ISSUED:
 HQ BUILDING DESIGN INC. 932 BLACK CHERRY DRIVE, OSHAWA, ON L1K 0P6 TEL: (647) 863-8956 Email: hqbuildingpermit@gmail.com	



PROJECT:	
PROPOSED SECOND UNITS 135 ROYAL ORCHARD BOULEVARD, THORNHILL, ON	
SCALE:	DRAWING BY: R.J.Y. CHECKED BY: H.J.
PROJECT NO:	SHEET NUMBER: A1



PROPOSED BASEMENT PLAN

- NOTE:
- ALL SUPPLY AND RETURN AIR GRILLES IN HABITABLE FINISHED BASEMENT MUST BE LOCATED ON LOW WALLS.
 - WASHROOM EXHAUST FAN IS 50 CFM.
 - EXHAUST FAN AND SUPPLY AIR GRILLE MUST BE LOCATED IN FURTHER PART.

MAIN FLOOR AREA = 1550 SQFT
 BASEMENT FLOOR AREA = 1529 SQFT
 TOTAL FLOOR AREA = 3079 SQFT
 ACCESSORY APARTMENT FLOOR AREA = 1186 SQFT
 RATE = 1186 / 3079 = 38.5%

LEGEND

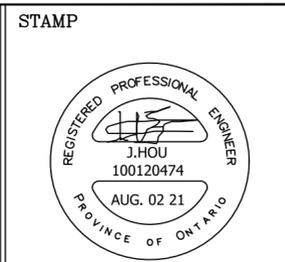
- EXISTING WALL TO REMAIN
- 30 MIN. FIRE SEPARATION WALL (SB-3 W/C)
2X4 SPF WOOD OR METAL STUD @ 16" O/C COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDES SOUND INSULATION FILL STUD CAVITY
- PROPOSED NEW EXTERIOR WALL FINISH BY 1/2" DRYWALL ON ONE SIDE 2X4 WOOD STRAPPING @ 16" O/C MIN. RSI 3.52 INSULATION W/0.15 MM POLY
- D1 EX. 30"x80" DOOR TO REMAIN
- D2 EX. 26"x80" DOOR TO REMAIN
- D3 32"x80" 20 MIN. FIRE RATED DOOR WITH SELF CLOSER
- SMOKE ALARM
- 135° RATE OF RISE HEAT DETECTOR

NO.	DESCRIPTION	DATE

STATUS: FOR PERMIT APPLICATION

ISSUED:

HQ BUILDING DESIGN INC.
 932 BLACK CHERRY DRIVE, OSHAWA, ON L1K 0P6
 TEL: (647) 863-8956 Email: hqbuildingpermit@gmail.com



PROJECT: **PROPOSED SECOND UNITS**
 185 ROYAL ORCHARD BOULEVARD, THORN HILL, ON

SCALE: DRAWING BY: R.J.Y.
 CHECKED BY: H.J.

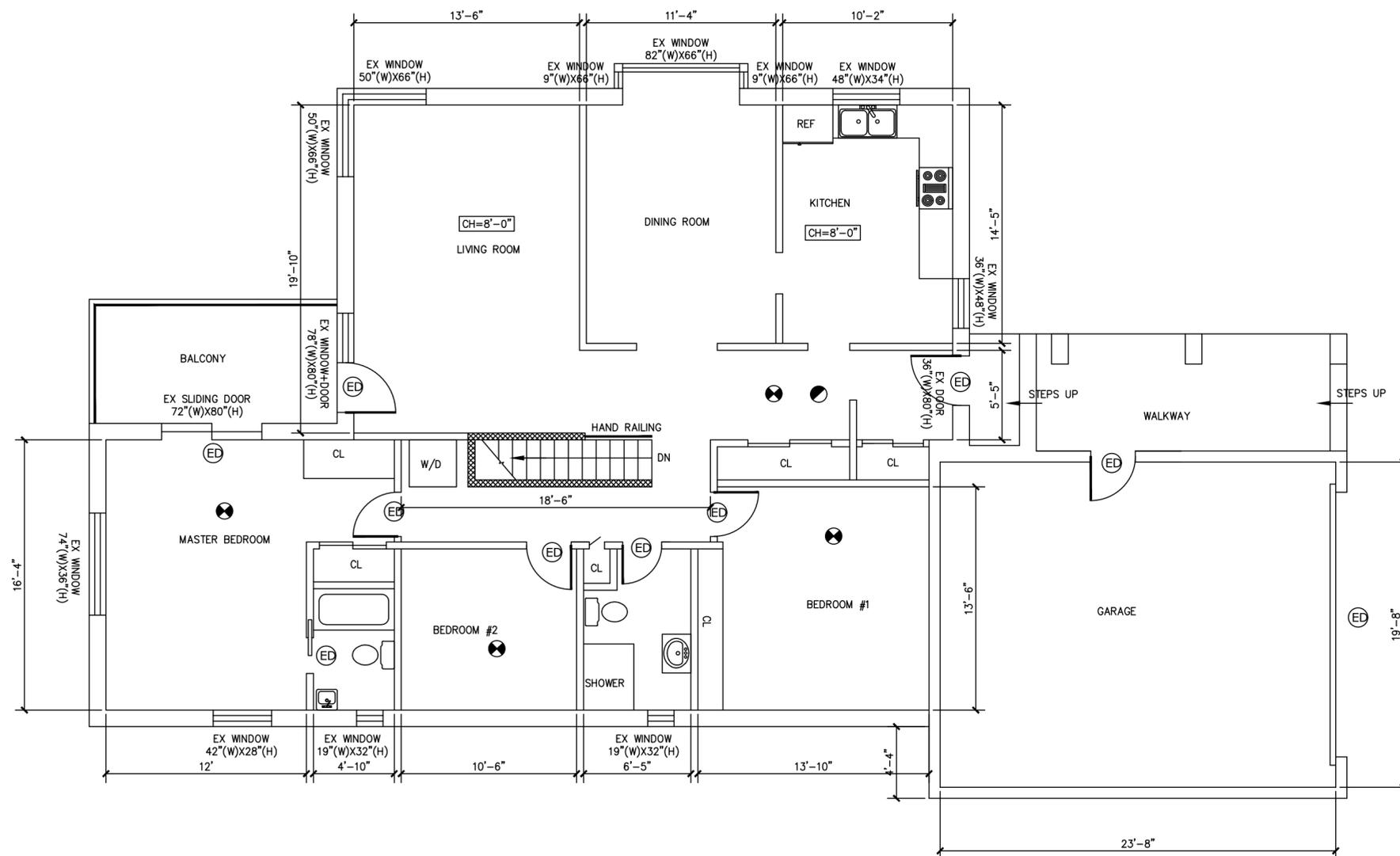
PROJECT NO: SHEET NUMBER: A4

Appendix B

File: 21.130233.000.00.MNV

Date: 09/30/21

MM/DD/YY



PROPOSED GROUND FLOOR PLAN

LEGEND

- EXISTING DOOR TO REMAIN
- NEW 32X80 20 MIN. FIRE RATED DOOR
- SMOKE ALARM
- 135° RATE OF RISE HEAT DETECTOR
- EXISTING WALL TO REMAIN
- 30 MIN. FIRE SEPARATION WALL (SB-3 WIC)
2X4 SPF WOOD OR METAL STUD @ 16" O/C COVERED
BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDES
SOUND INSULATION FILL STUD CAVITY

NO.	DESCRIPTION	DATE

STATUS: FOR PERMIT APPLICATION

ISSUED:

HQ BUILDING DESIGN INC.
932 BLACK CHERRY DRIVE, OSHAWA, ON L1K 0P6
TEL: (647) 863-8956 Email: hqbuildingpermit@gmail.com

STAMP

PROJECT:

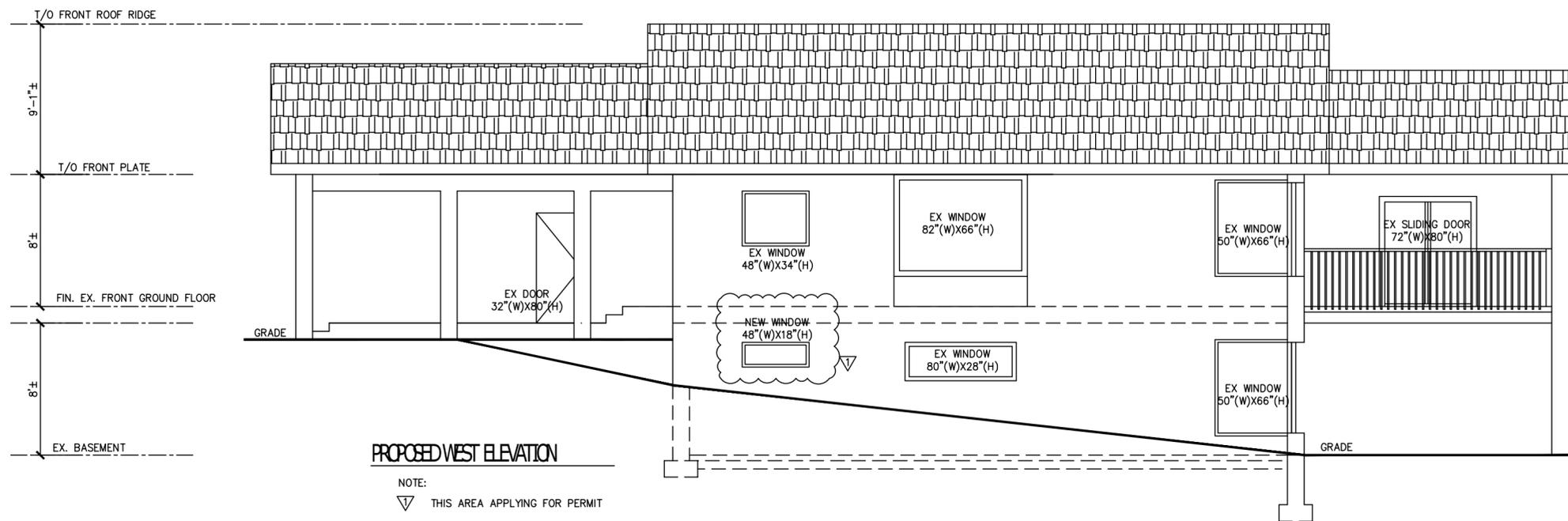
PROPOSED SECOND UNITS
185 ROYAL ORCHARD BOULEVARD, THORN HILL, ON

SCALE:	DRAWING BY: R.J.Y.
	CHECKED BY: H.J.
PROJECT NO:	SHEET NUMBER: A5

Appendix B

File: 21-130233-000.00.MNV

Date: 09/30/21
MM/DD/YY



PROPOSED WEST ELEVATION

NOTE:
▽ THIS AREA APPLYING FOR PERMIT

NO.	DESCRIPTION	DATE

STATUS: FOR PERMIT APPLICATION

ISSUED:

HQ BUILDING DESIGN INC.
 932 BLACK CHERRY DRIVE, OSHAWA, ON L1K 0P6
 TEL: (647) 863-8956 Email: hqbuildingpermit@gmail.com

STAMP

PROJECT:

PROPOSED SECOND UNITS
185 ROYAL ORCHARD BOULEVARD, THORNHILL, ON

SCALE:	DRAWING BY: R.J.Y.
PROJECT NO:	CHECKED BY: H.J.
	SHEET NUMBER: A7

APPENDIX "C"
TRCA COMMENTS: SEPTEMBER 22, 2021

September 22, 2021

CFN 64187.14

Uploaded to E-Plan

Justin Leung
Secretary-Treasurer – Committee of Adjustment
City of Markham
101 Town Centre Blvd
Markham ON L3R 9W3

Dear Mr. Leung:

Re: Minor Variance Application A/105/21
135 Royal Orchard Boulevard
Owner: Hongmei Li
Agent: Henry Wen

This letter acknowledges receipt of the above noted Minor Variance Application in the City of Markham, circulated to Toronto and Region Conservation Authority (TRCA) on September 7, 2021. TRCA staff have reviewed the above noted application, and as per the “Living City Policies for Planning and Development within the Watersheds of the TRCA” (LCP), provides the following comments as part of TRCA’s commenting role under the *Planning Act*; the Authority’s delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2020*; TRCA’s Regulatory Authority under Ontario Regulation 166/06, *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*; and, our Memorandum of Understanding (MOU) with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA’s jurisdiction. A list of the documents received and reviewed can be found in Appendix ‘A’ of this letter.

Purpose of the Application

It is our understanding that the purpose of the application is to request relief from By-law 2150, as amended, as it relates to a proposed secondary suite (basement apartment):

- a) **By-law 2150, Sec. 5.1:** to allow an accessory dwelling unit within basement, whereas by-law permits no more than 1 unit on a lot.

Applicable Policies and Regulations
Provincial Policy Statement (2020)

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the *Planning Act*, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

Section 2.1 provides policies for the protection of natural features and areas. It is of note that

Section 2.1.8 of the PPS states that development and site alteration shall not be permitted on lands adjacent to certain natural features or areas unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Through a MOU between Conservation Ontario, the Ministry of Municipal Affairs and Housing, and the Ministry of Natural Resources and Forestry, the responsibility to uphold the natural hazards section of the PPS (Section 3.1) has been delegated to Conservation Authorities where the province is not involved. TRCA staff note that Section 3.1 of the PPS generally directs development and site alteration to locations outside of hazardous lands that would be impacted by flooding hazards and/or erosion hazards and prohibits development in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access. The PPS also directs planning authorities to consider the potential impacts of climate change that may increase the risk associated with natural hazards.

Ontario Regulation 166/06

Based on the available information at this time, the rear (south) portion of the subject property is located within TRCA's Regulated Area under Ontario Regulation 166/06 as it is adjacent to a valley associated with the Don River Watershed. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

'Development' is defined as:

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- iii) site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Living City Policies

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. These policies describe a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System, and that these lands be conveyed into public ownership for their long-term protection and enhancement. It is these policies, along with those found in other provincial and municipal plans, documents and guidelines that guide TRCA's review of the subject applications.

Application-Specific Comments

The subject property is within a TRCA Regulated Area as it is adjacent to a valley corridor of the Don River Watershed. TRCA staff understand the proposal is to permit an accessory dwelling unit within the basement of the existing dwelling. Based on the proximity of the dwelling to the valley slope, TRCA staff have no objections to this Minor Variance Application. We advise the applicant that a permit from TRCA under Ontario Regulation 166/06 will be required as the existing dwelling

is partially within our Regulated Area and a permit is required for the change in use/increase in dwelling units within the dwelling.

Review Fees

Please be advised that the TRCA has implemented a fee schedule for our planning application review services. The fee for our review of Minor Variance Applications is \$610 (2021 TRCA Planning Fee Schedule – Minor Variance Residential - Minor).

An electronic invoice will be sent via email to the property owner for processing of fees through online payment.

Conclusion

Based on our review of this submission, TRCA staff have no objections to this Minor Variance Application, subject to the following condition:

1. That the applicant remit TRCA's review fee of \$610 for the subject application; and,
2. That the applicant obtains a permit from the TRCA under Ontario Regulation 166/06, as amended, for the proposed works.

TRCA also requests notification of any decisions made by the City on this application and, if applicable, any appeals that may be made to the Local Planning Appeal Tribunal by any party in respect to this application.

We trust these comments are of assistance. Should you have any questions, please contact the undersigned.

Sincerely,

Dan Nguyen
Planner I, Development Planning and Permits
dan.nguyen@trca.ca, 416-661-6600 ext. 5306

DN/mb