

Memorandum to the City of Markham Committee of Adjustment

November 18, 2019

File: A/92/19
Address: 28 Church St. Markham Village Heritage Conservation District
Applicant: Ken Wong
Agent: Stefano Di Giulio, SDG Design
Hearing Date: November 27, 2019

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

The applicant is requesting relief from the following requirements of By-law 1229, as amended, to permit:

- a) Infill By-law 99-90, Section 1.2 (iii): a maximum building depth of 24.18m (79.33 ft.), whereas the By-law permits a maximum building depth of 16.8m (55.12 ft.);
- b) Infill By-law 99-90, Section 1.2 (vi): a maximum net floor area ratio of 46.1 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;
- c) Section 11.1: a minimum front yard setback of 2.13m (7 ft.), whereas the By-law requires a minimum front yard setback of 7.62 m (25 ft.);

as it relates to a proposed two-storey addition to an existing heritage dwelling.

BACKGROUND

Property Description

The subject property is located on the north side of Church Street one property east of the intersection of Franklin Street within the historic residential neighbourhood of the Markham Village Heritage Conservation District (See Location Map-Figure 1). The property is occupied by a modest, 97.5m² (1,050 ft²) one storey heritage dwelling constructed circa 1855, that has been unsympathetically altered over time (See photograph of the existing dwelling-Figure 2).

Official Plan and Zoning

Official Plan 2014

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 development criteria for the 'Residential – Low Rise' designation with respect to height, massing and setbacks. 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, 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 1229

The subject property is zoned R1 under By-law 1229, as amended, which only permits single detached dwellings.

Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will 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 the proposed maximum building depth, maximum net floor area ratio and minimum required front yard setback.

Applicant's Stated Reasons for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with the Zoning By-Law is, *"This building's design and depth are the result of maintaining the existing heritage dwelling (22'-2") required to remain close to the front of the property and by adding its new heritage front porch (7'-2"), thus contributing to a 29'-4" (8.94m) of building depth. This front dwelling depth required to be preserved by heritage, in combination with the client's desire to design for a new "L-shaped custom home that allows the family with two young children to use and enjoy a safe inner west facing courtyard with an inner covered porch design. There has also been a conscious decision to have an attached 2 car garage, in lieu of erecting a detached accessory building/garage structure in the rear yard. All these items result in this proposed deep dwelling design. Furthermore, by designing a rear 1-storey exterior covered porch, this exterior unenclosed structure contributes an additional 1.84m (6'-0 1/2") extension to the rear of the build. There is 10.78m of building depth dedicated to the 1-storey heritage home with its new front porch being restored and added accurately to c. 1855, c/w adding the rear single storey covered porch."*

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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.

Initial Proposal

The applicant originally applied for five variances to the By-law in September 2019 including:

- a maximum lot coverage of 40 percent, whereas the By-law permits a maximum lot coverage of 35 percent;
- a maximum height of 10.04 m (32.93 ft.), whereas the By-law permits a maximum height of 9.8 m (32.15 in);
- a maximum building depth of 29.44 m (96.59 ft.), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft.);
- a maximum floor area ratio of 51.3 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;

- a minimum front yard setback of 2.43 m (8 ft.), whereas the By-law requires a minimum front yard setback of 7.62 m (25 ft.).

These requested variances supported a design proposal that was reviewed by Heritage Section staff and Heritage Markham, and found to be incompatible with neighbouring homes, and was therefore not supported. The applicant agreed to defer the Committee of Adjustment hearing and to modify the design based on the feedback received by Staff and the Heritage Committee on October 9, 2019.

Current Proposal

The applicant proposes to demolish the rear portion of the existing dwelling, which is not historic, reposition the heritage portion of the dwelling further to the east and further away from the front property line, construct a two storey addition with an attached garage to bring the total size of the dwelling to 344.0 m² (3,703 ft²), and restore the heritage dwelling to its original appearance (See Proposed Site Plan, Elevations and Perspective Views-Figures 3-8).

There have been some substantial revisions to the initial design which include eliminating the earlier requested variances to permit an increased building height and maximum lot coverage.

Of the remaining three variances, two have been significantly reduced in scope by decreasing the proposed maximum building depth by 5.2m (17 ft.), and the proposed maximum net floor area ratio from 51.3% to 46.1%, which represents a decrease of 38.9m² (419 ft²) and a minor decrease in the minimum required front yard setback of 0.3m (1 ft.) from 2.4m (8ft.) to 2.1m (7 ft.).

A Site Plan Control Application has not yet been submitted to the City.

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.

Maximum Building Depth

The requested maximum building depth of 24.18m (79.33 ft.) whereas the By-law permits a Maximum Building Depth of 16.8m (55.12 ft.) is the most significant of the three requested variances. There are however several reasons why this particular variance can be considered to be minor in nature, desirable for the appropriate

development of the land and consistent with the intent and purpose of the City's Official Plan and Zoning By-law.

The first is due to the positioning of the house on the lot relative to adjacent homes. The porch of the existing dwelling has little to no setback from the front property line. Although the planned repositioning of the heritage dwelling places it 2.13m (7 ft.) back from the front property line, the front yard setback required by the By-law is 7.25m (25 ft.). In this particular case, compliance with the 7.25m front yard setback of the By-law would only exacerbate the potential negative effects of the proposed building depth, while the proposed reduced front yard setback helps mitigate potential negative impacts.

The proposed addition has also been designed to reduce potential negative effects of the proposed building depth by increasing the side yard setbacks for both the ground floor and second storey of the addition. The one storey portions of the addition are positioned 1.47m (4.8 ft.) on the west side and 1.84m (6 ft.) on the east side when the minimum required setback of the By-law for a one storey portion is 1.2m (4 ft.). Furthermore, the portions of the second storey addition which extend beyond the maximum building depth of the By-law on the east side are setback a maximum of 5.6m (18.3 ft.) from the east property line whereas the By-law only requires a minimum side yard setback of 1.8m (6 ft.) for a two storey portion of the building. This again helps minimize any potential negative effects of the proposed building depth.

It is also noteworthy that the neighbouring house to the east at 32 Church Street obtained a variance to the By-law in 2007 to permit a maximum building depth 20.0m (65.7 ft.) and that 3.4m (11 ft.) of the proposed building depth of the addition to 28 Church Street results from both an un-enclosed 1.9 m (6.2 ft.) front veranda and a 1.5 (4.8 ft.) covered rear porch, which are desirable architectural features from a heritage perspective, that do not have same potential negative impacts as a solid two storey building mass.

In terms of massing, the proposed building depth is also desirable from a heritage perspective as it allows space for the proposed addition to gradually and appropriately transition from the lower height of the modest one storey heritage portion of the dwelling, to the highest portions of the proposed modern two storey addition.

Although the proposed addition does protrude beyond the rear walls of the adjacent dwellings, the features of the design mentioned above mitigate the potential negative impacts of the proposed building depth, and support an addition that is generally compatible with the existing heritage dwelling and historic character of the neighbourhood.

Maximum Net Floor Area Ratio

The requested variance to permit a maximum net floor area ratio of 46.1% when the By-law permits a maximum net floor area ratio of 45% can also be considered minor in nature and desirable for the appropriate development of the land given the general compatibility of the restored heritage house and addition with the surrounding neighbourhood.

Minimum Front Yard Setback

The requested variance to permit a minimum front yard setback of 2.13m (7 ft.) is minor in nature and desirable for the appropriate development of the land because it both

helps protect the proposed restored front veranda from potential damage caused by snow plowing of the City sidewalk and because strict compliance with the minimum front yard setback requirement of the By-law does not reflect the historical position of the heritage house relative to neighbouring homes, and would only exacerbate the potential negative impacts of the proposed increase in building depth.

Urban Design and Engineering

The City's Urban Design Section had no objection to the requested variances, but recommended that a walnut tree located on the neighbouring property be retained rather than removed as proposed by the applicant. A 4m radius tree protection zone is therefore recommended which would necessitate a change to the proposed building footprint in the vicinity of the walnut tree. The City's Engineering Department has provided no comments on the requested variances.

Heritage Markham Committee

The Heritage Markham Committee reviewed the revised design proposal and variances at its meeting on November 13, 2019 and had no objection to the requested variances subject to certain further architectural revisions being made to the current design proposal.

Heritage Staff have also noted some design issues associated with the current proposal which should be addressed through the Site Plan Approval process.

PUBLIC INPUT SUMMARY

As of November 18, 2019 the City received one letter from the neighbouring property owner at 24 Church Street in support of the requested variances.

However, the neighbouring property owner at 32 Church Street has made deputations at both the October 9th and November 13th meetings of Heritage Markham expressing concerns over the proposed building depth and addition with respect to the potential loss of privacy, sunlight and the walnut tree located on their property.

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

It is the opinion of the Planning staff that the requested variances meet the four tests of the Planning Act and can therefore be supported.

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, Manager of Heritage Planning

File Path: Amanda\file\19 134049\Documents\District Team Comments Memo

Figure 1- Location Map

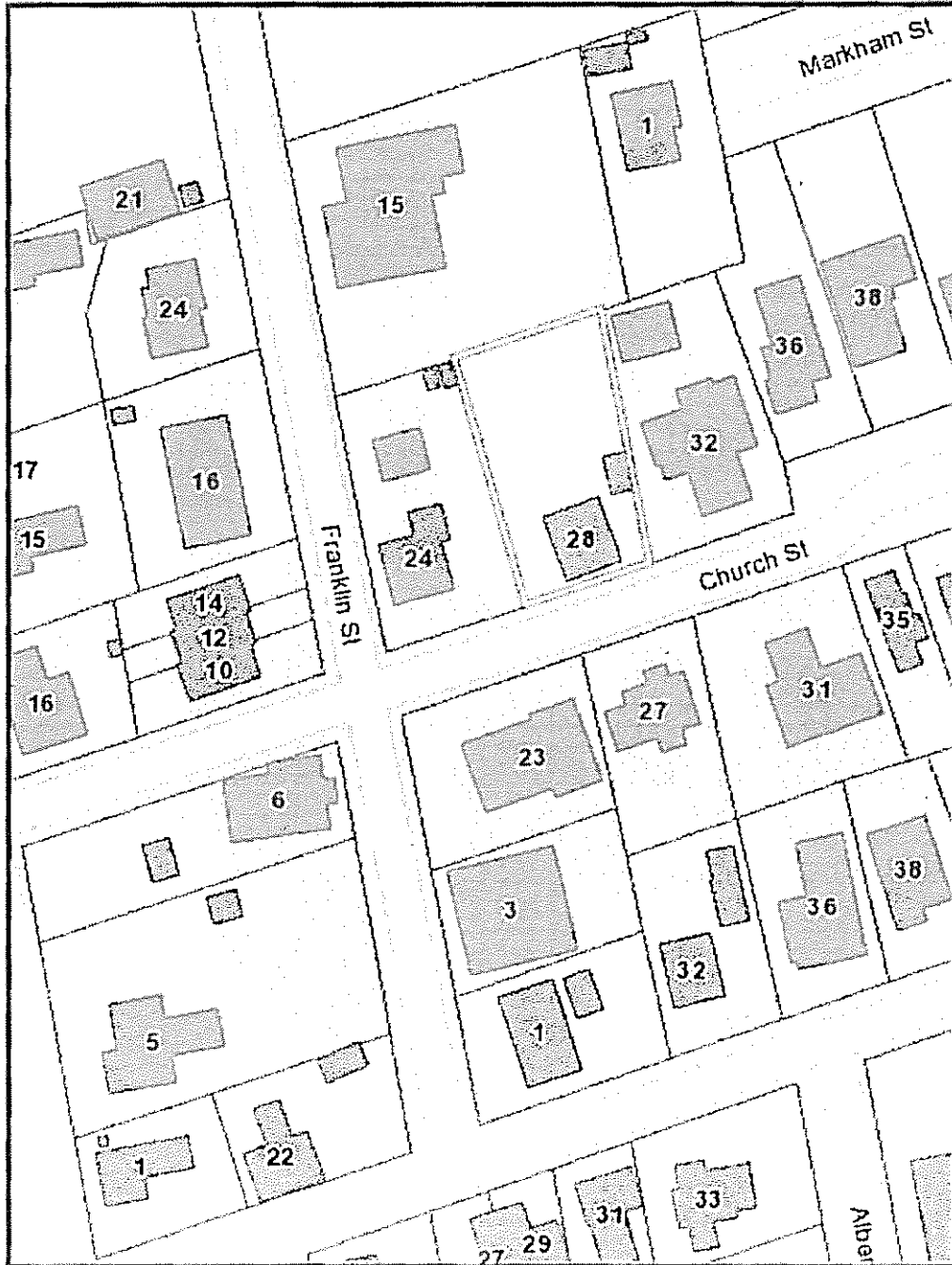
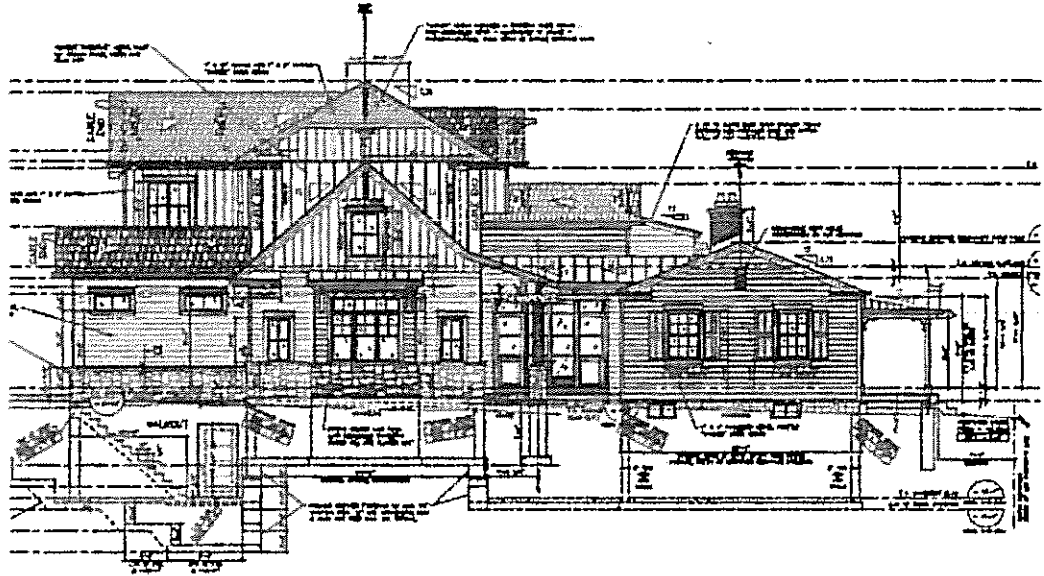


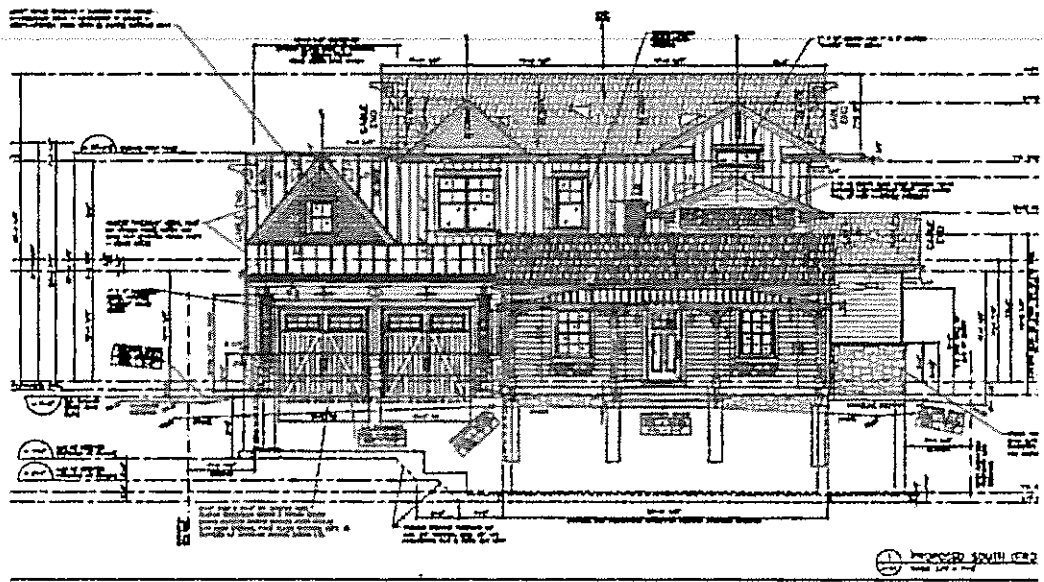
Figure 2- Photograph of the Existing Heritage Dwelling



Figure 4- West and Front Elevation



PROPOSED WEST ELEVATION - WEST OF B



PROPOSED FRONT ELEVATION - WEST OF B

Figure 5- East and Rear Elevation

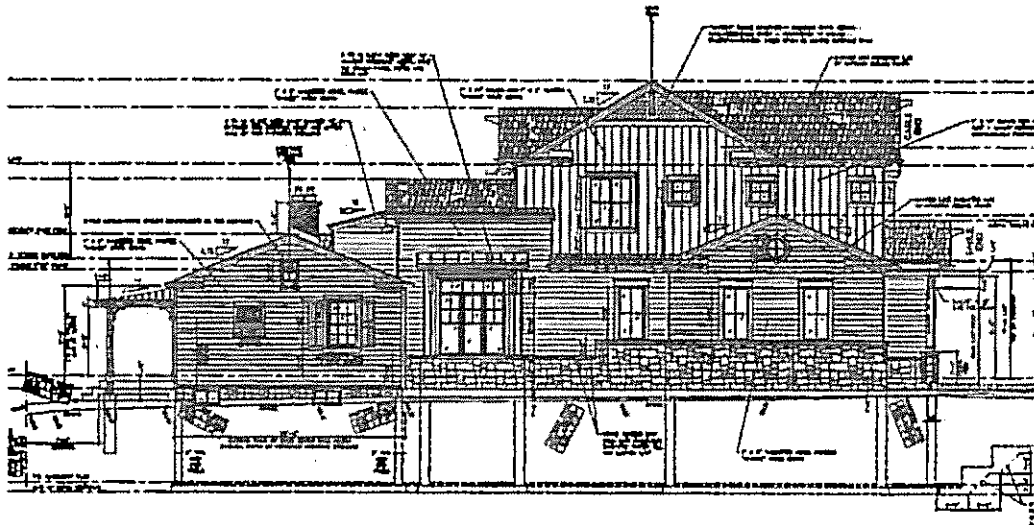
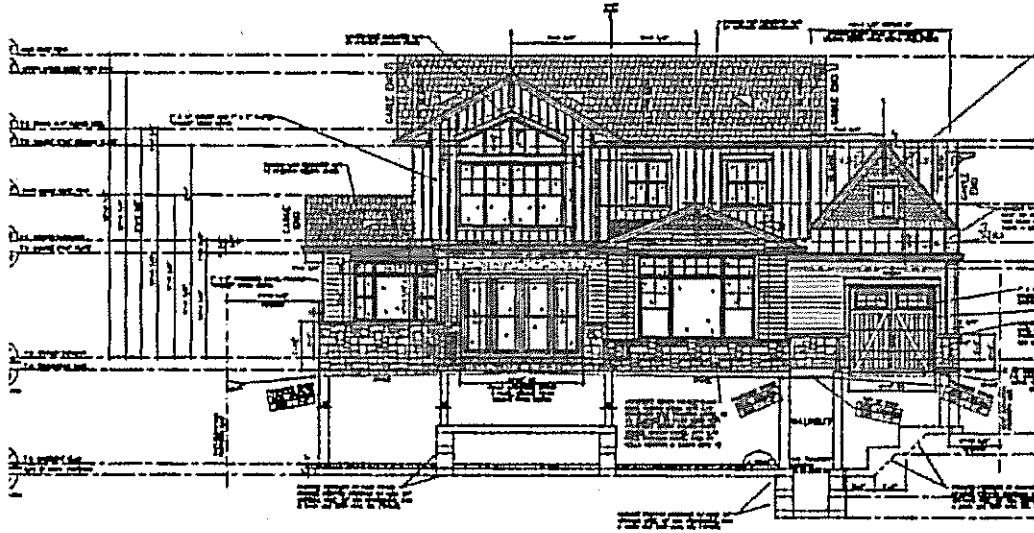
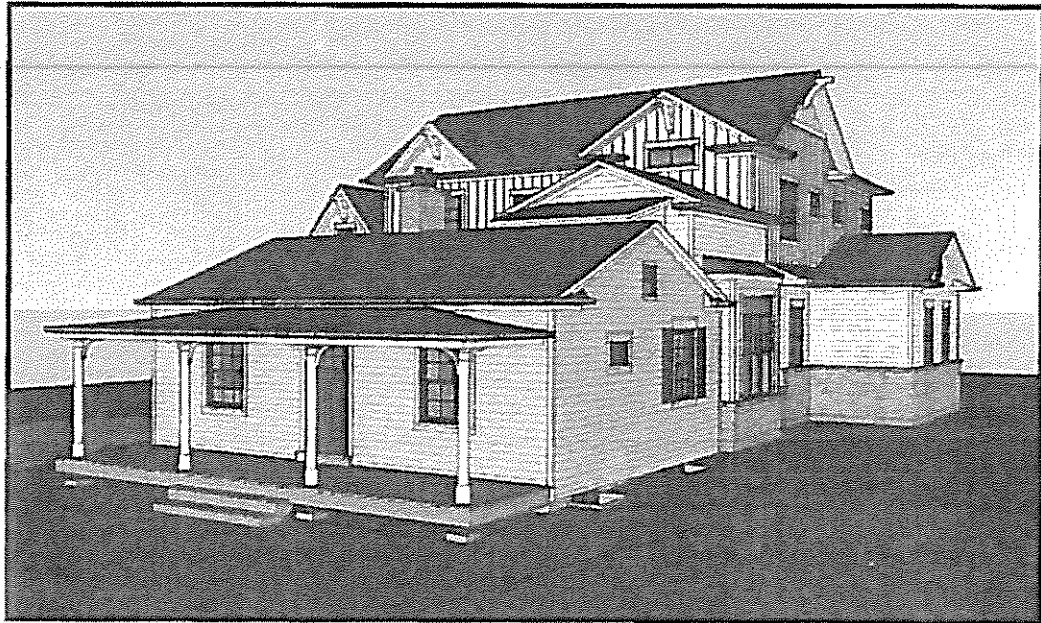
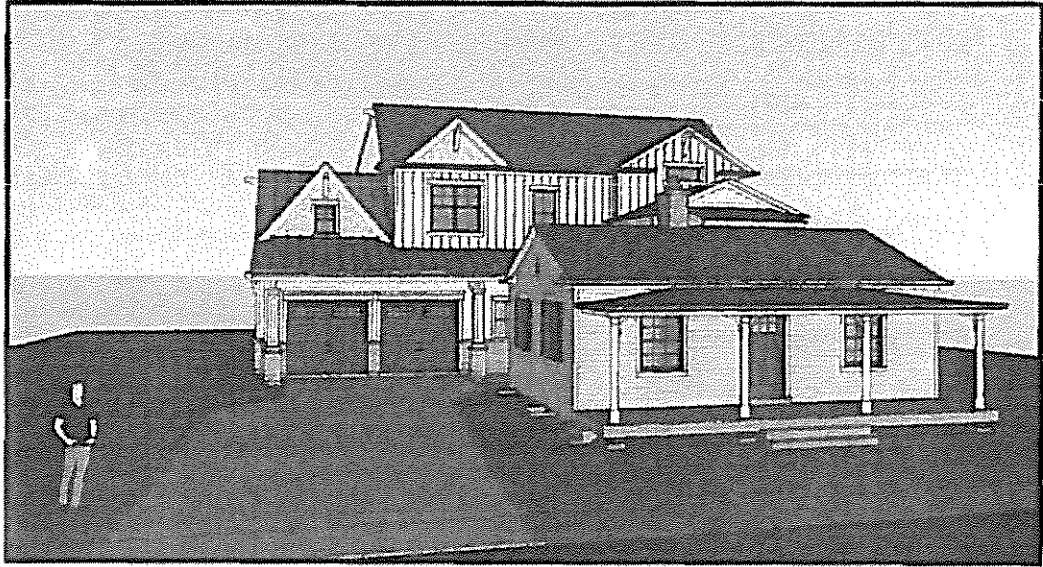


Figure 6- Perspective Drawings

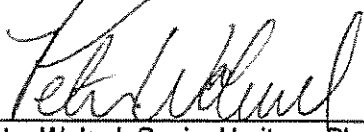


APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/92/19

1. The variances apply only to the proposed development as long as it remains;
2. That the owner submit to the Secretary-Treasurer a copy of the Site Plan Endorsement memo for the proposed future development;
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 the 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.

CONDITIONS PREPARED BY:



Peter Wokral, Senior Heritage Planner

APPENDIX 'B' –Heritage Markham Extract November 13, 2019

APPENDIX 'B' –Heritage Markham Extract November 13, 2019

HERITAGE MARKHAM EXTRACT

DATE: November 21, 2019

TO: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner
J. Leung, Committee of Adjustment

**EXTRACT CONTAINING ITEM #5 OF THE ELEVENTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON NOVEMBER 13, 2019.**

5. **Committee of Adjustment Variance Application,
28 Church Street,
Markham Village Heritage Conservation District,
Proposed Addition to an Existing Heritage Dwelling (16.11)
File Number: A/92/19**
- Extracts: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner
J. Leung, Committee of Adjustment
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Recommendation:

That Heritage Markham has no objection to the requested variance to permit a Minimum Front Yard Setback of 2.23m (7ft.) for the minor relocation of the existing cultural heritage resource at 28 Church Street; and,

That Heritage Markham has no objection to the requested variances to permit a maximum building depth of 24.2m (79.3 ft.) and a maximum net floor area ratio of 46.1% for the addition to the existing heritage dwelling at 28 Church Street conditional upon the owner obtaining Site Plan Approval generally based on the design concept prepared by SDG Design on November 5, 2019; and,

That the Site Plan Control Application address the tree issue and any necessary protection requirements, and the following design revisions related to the proposed addition and restoration of the main house:

- o Incorporation of some of the second storey room volumes within the roof structure to further reduce the height of the addition by 3 feet;
- o the elimination of the shed roof over the rear slope of the heritage portion of the existing dwelling with the connecting link no higher than the ridge of the heritage roof;
- o the deletion of the large wooden ornamental brackets at the peak of the gable roofs of the addition;
- o deletion of the street facing gable above the garage; and
- o replacement of the proposed Arts & Crafts front door in the heritage portion of the house with a historically appropriate, solid wood, six, or four panel door;

CARRIED

