**Memorandum to the City of Markham Committee of Adjustment** May 16, 2024

File:	A/037/24
Address:	71 Lyndhurst Drive, Markham (Thornhill)
Applicant:	Artruction Design Consultants Inc. (Purvi Shah)
Hearing Date:	Wednesday, June 5, 2024

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. As By-law 2024-19 is currently under appeal with the Ontario Land Tribunal (OLT), any Applications under Section 45 of The *Planning Act* that do not benefit from the transition clauses under Section 1.7 of By-law 2024-19 must comply with By-law 2024-19 and any previous By-laws in effect.

The following comments are provided on behalf of the West District Team. The Applicant is requesting relief from the following "Single Family Detached Special Residential Density (R8)" zone requirements of By-law 72-81 and "Residential Established Neighbourhood Low Rise (RES-ENLR), as amended, to permit:

# a) By-law 2024-19, Section 6.3.2.2 c):

a main building coverage for the second storey of 27.6 percent (1,511 square feet), whereas the by-law permits a maximum second-storey coverage of 20 percent (1,095 square feet) of the lot area;

The requested variance relates to a proposed second-storey addition to an existing two-storey residential dwelling.

# BACKGROUND

# **Property Description**

The 504.78 m<sup>2</sup> (5,433.41 ft<sup>2</sup>) Subject Lands are located on the west side of Lyndhurst Drive, east of Cummings Court and generally, west of Highway 404 (refer to Appendix "A" – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised of two-storey detached dwellings. Mature vegetation exists across the property with several mature trees in the front and rear yards. There is an existing 346.85 m<sup>2</sup> (3,733.25 ft<sup>2</sup>) two-storey detached dwelling on the Subject Lands which was constructed in 1962, according to assessment records. The Subject Lands are partially within TRCA's Regulated Area as the rear portion of the property is traversed by a valley corridor associated with the Don River Watershed.

# Proposal

The Owner is proposing to construct a new second-storey addition above the existing garage with a gross floor area of 33.23 m<sup>2</sup> (357.68 ft<sup>2</sup>), as shown in Appendix "B".

# **Official Plan and Zoning**

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

## <u>9/18)</u>

The Subject Lands are designated "Residential Low Rise", which permits low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines development criteria for the "Residential Low Rise" designation with respect to height, massing and setbacks. The purpose of this development criteria is 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. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

## Zoning By-Law 72-81, as amended and 2024-19

The Subject Lands are zoned "Single Family Detached Special Residential Density (R8)" zone under By-law 72-81 and "Residential Established Neighbourhood Low Rise (RES-ENLR) under By-law 2024-19 which permits single detached dwellings. The proposed development does not comply with By-law 2024-19 with respect to the second-storey building coverage, but has been deemed to be in compliance with the requirements of By-law 72-81.

# Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However, the Applicant has received comments from the building department through their permit process (HP 24 164807) 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.

# Increase in Maximum Building Coverage

The Applicant is requesting to permit a maximum second-storey building coverage of 27.6 percent (1,511 square feet), whereas a maximum second-storey building coverage of 20 percent (1,095 square feet) of the lot area is permitted. The proposed second-storey building coverage includes the second-storey addition above the existing garage which adds approximately 33.23 m<sup>2</sup> (357.68 ft<sup>2</sup>) the overall gross floor area. Excluding the second-storey addition, the building with the proposed addition has a second-storey building lot coverage of

approximately 21.06 percent (1,152.92 square feet) and would generally be consistent with the by-law requirement.

In view of the fact that the proposed second-storey addition above the existing garage does not extend beyond the existing building footprint and there is no changes to the existing lot coverage, Staff are of the opinion that the proposed increase in the second-storey building coverage will not significantly add to the scale and massing of the dwelling and the resultant dwelling is generally consistent with what the by-law permits.

### **TRCA Comments**

The Subject Lands are located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area as it is within a valley corridor associated with the Don River watershed. The TRCA provided comments on May 21, 2024, advising the that TRCA Staff have no objection to this minor variance application, and have issued a permit for the proposed works (TRCA Permit No. C240351; CFN 70236).

## PUBLIC INPUT SUMMARY

No written submissions were received as of May 21, 2024. 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 requested variance 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:

Mohannad

Hussnain Mohammad, Planner 1, Development Facilitation Office



Rick Cefaratti, MCIP RPP, Senior Planner, West District

APPENDICES Appendix "A" – Aerial Context Photo Appendix "B" – Plans Appendix "C" – A/037/24 Conditions of Approval



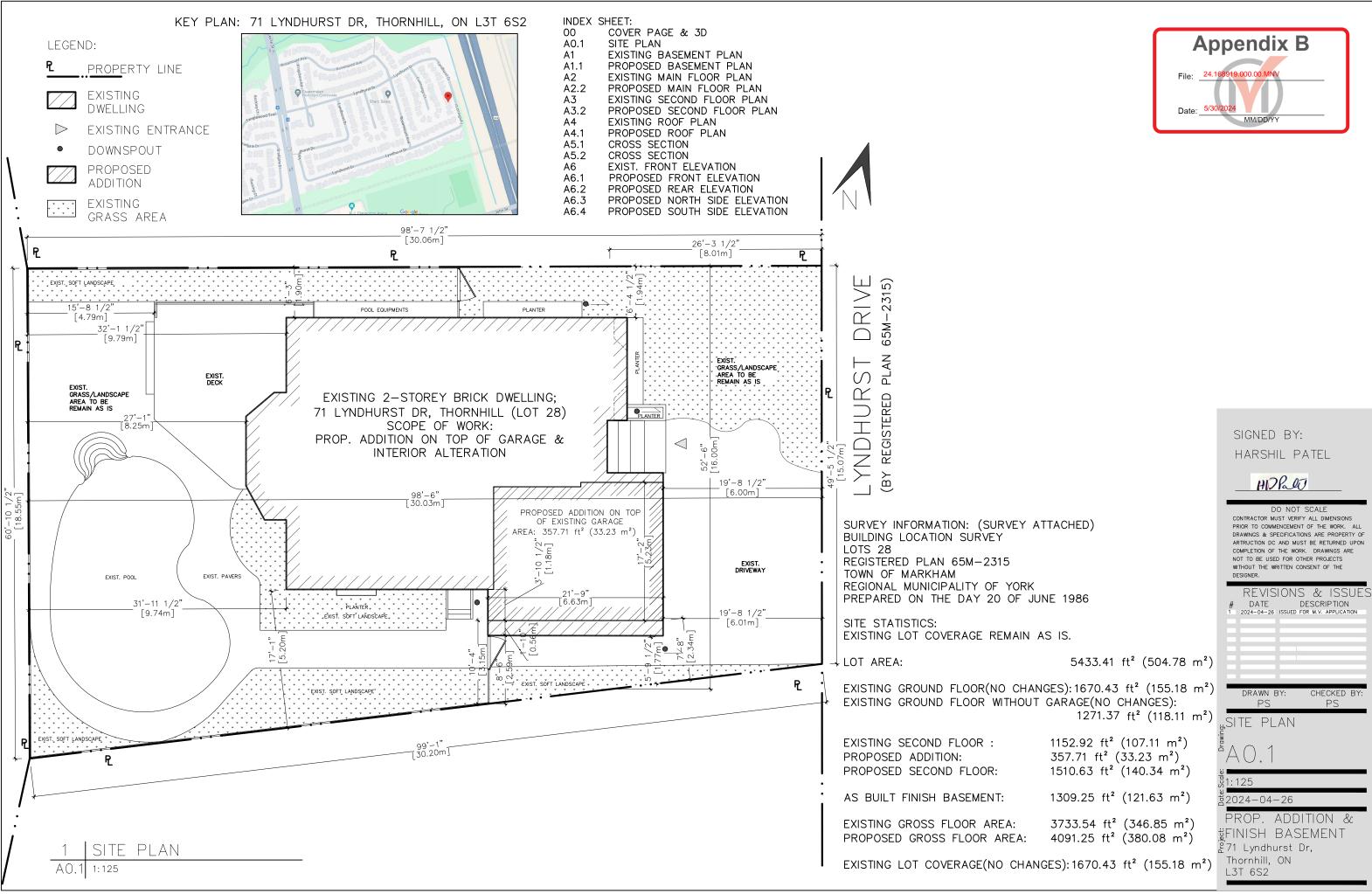
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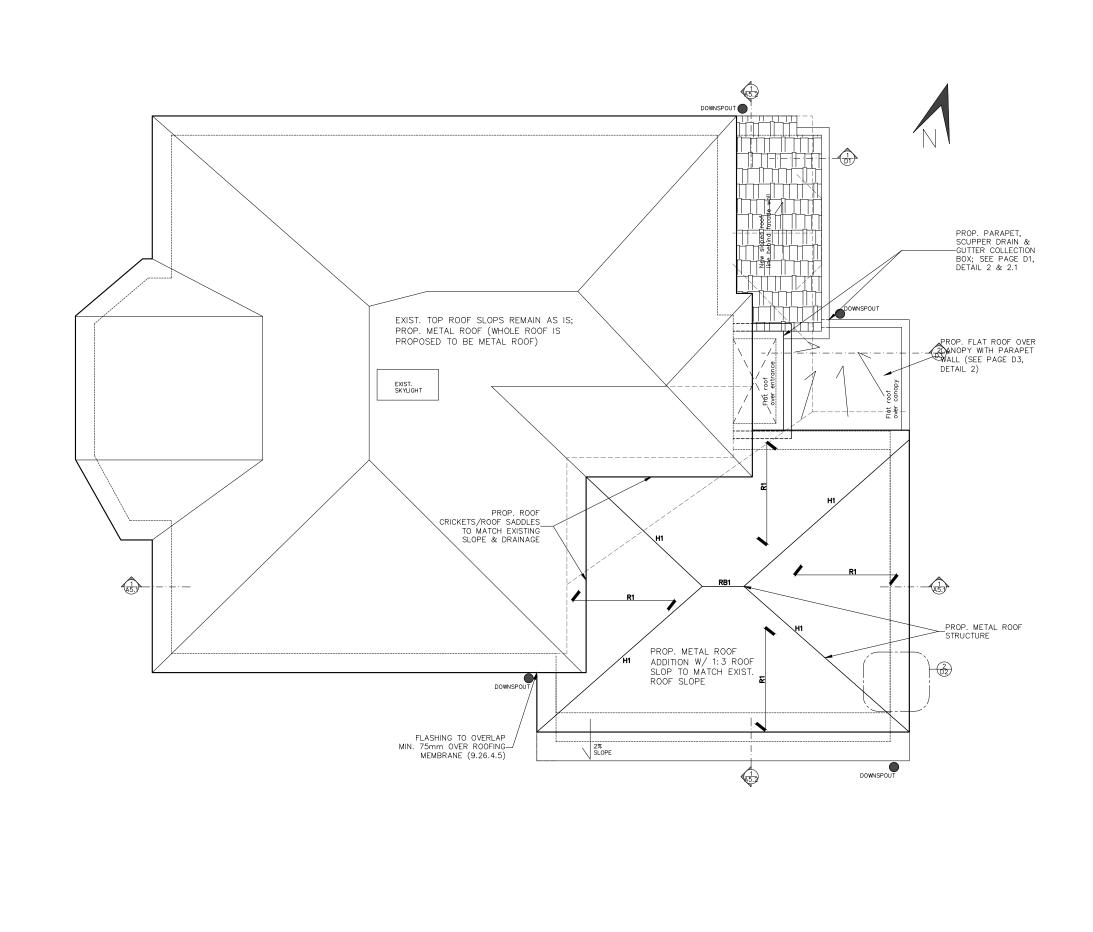




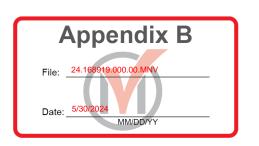


Appendix B
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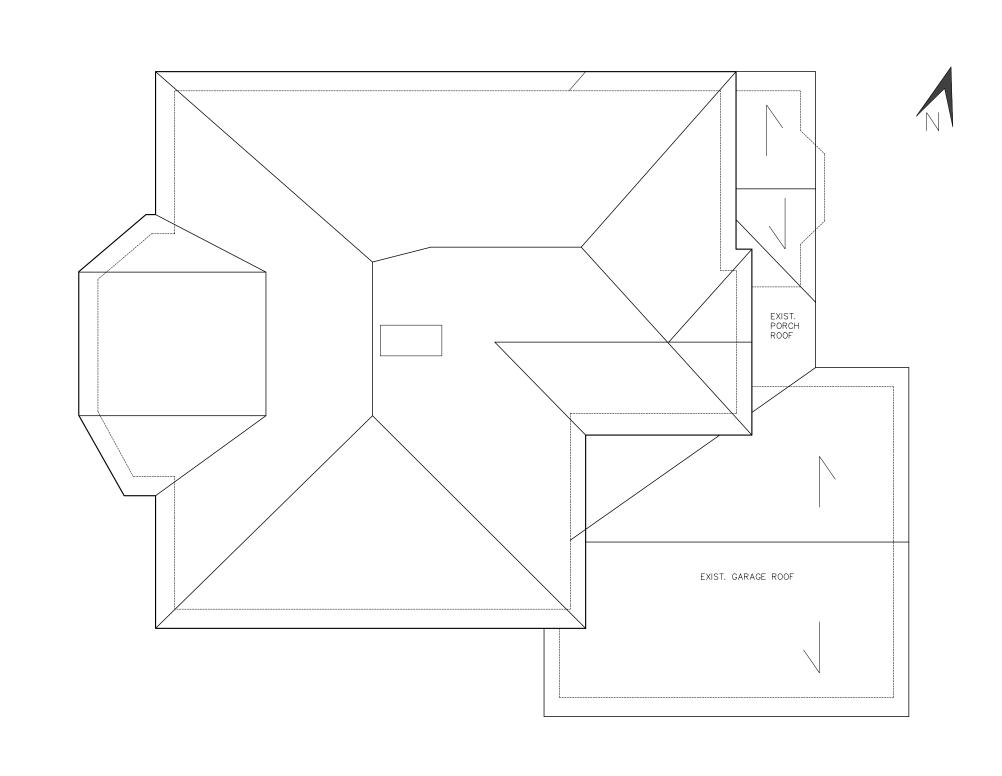




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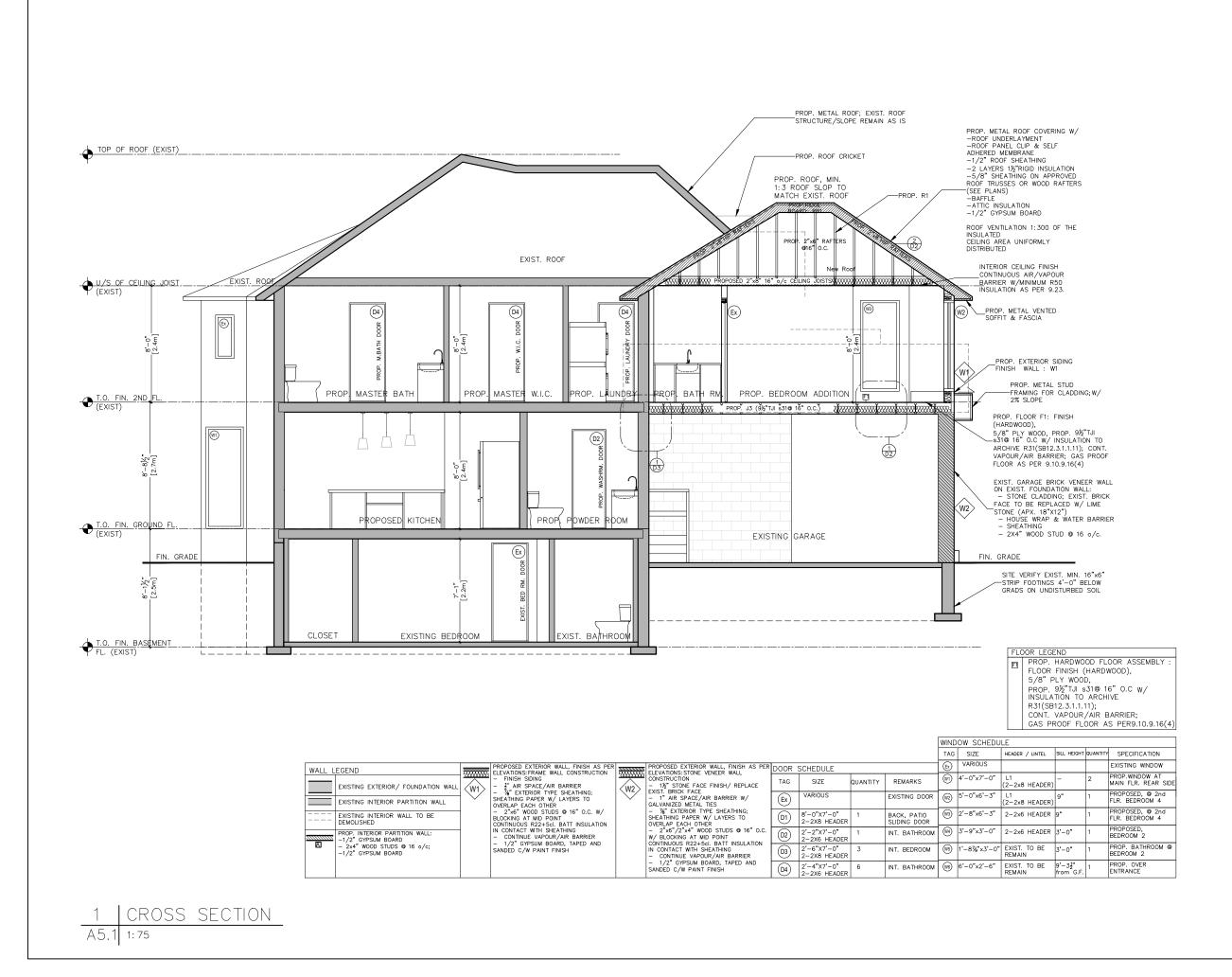


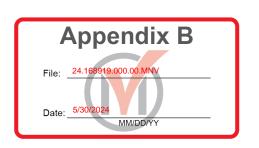
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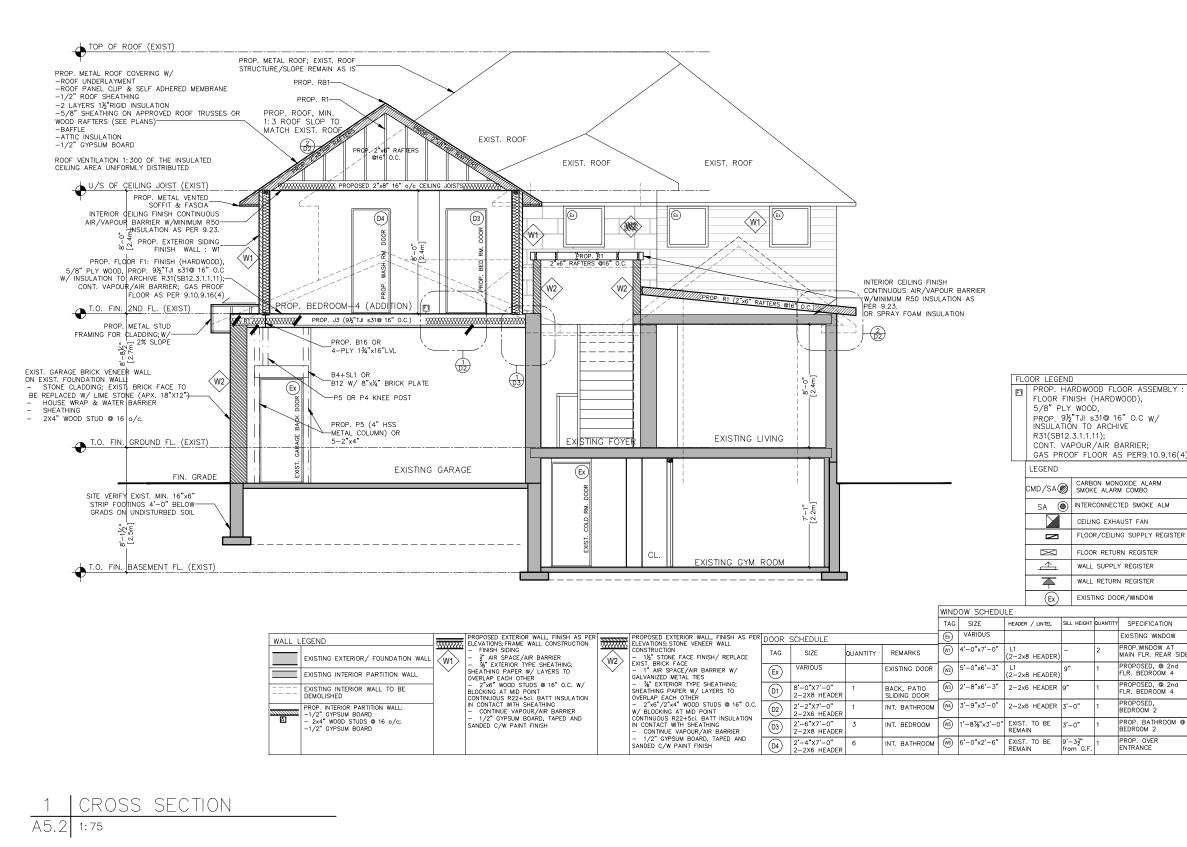


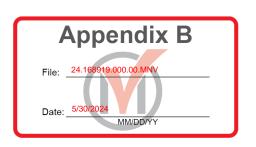


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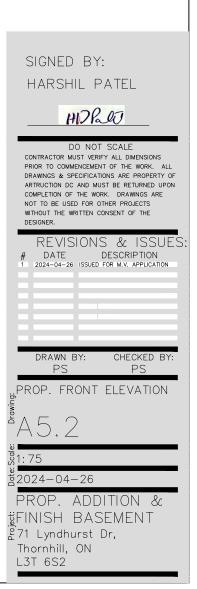
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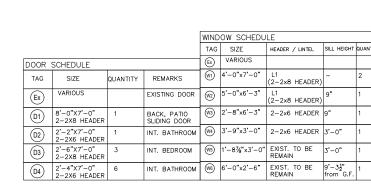




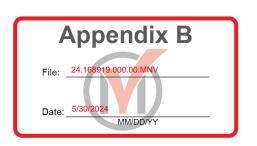




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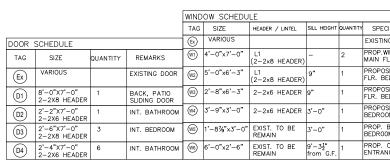




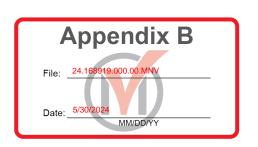
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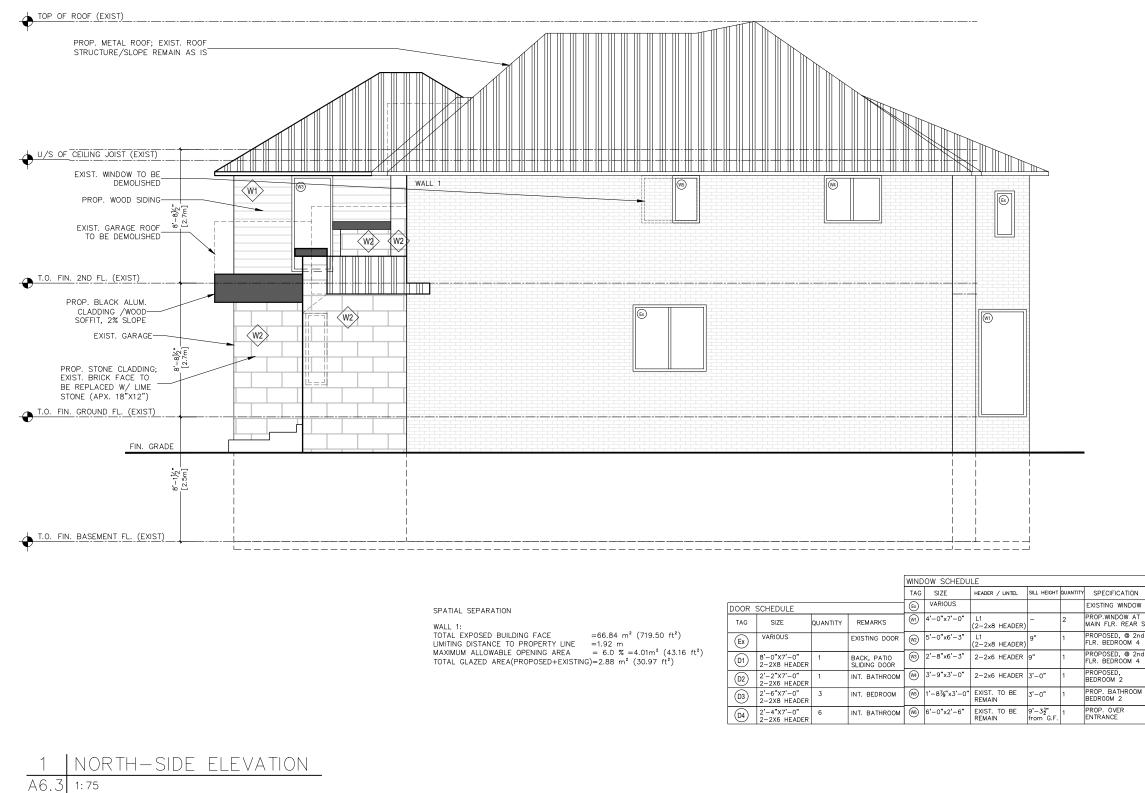


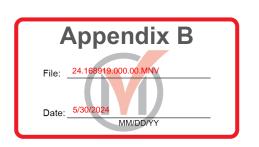




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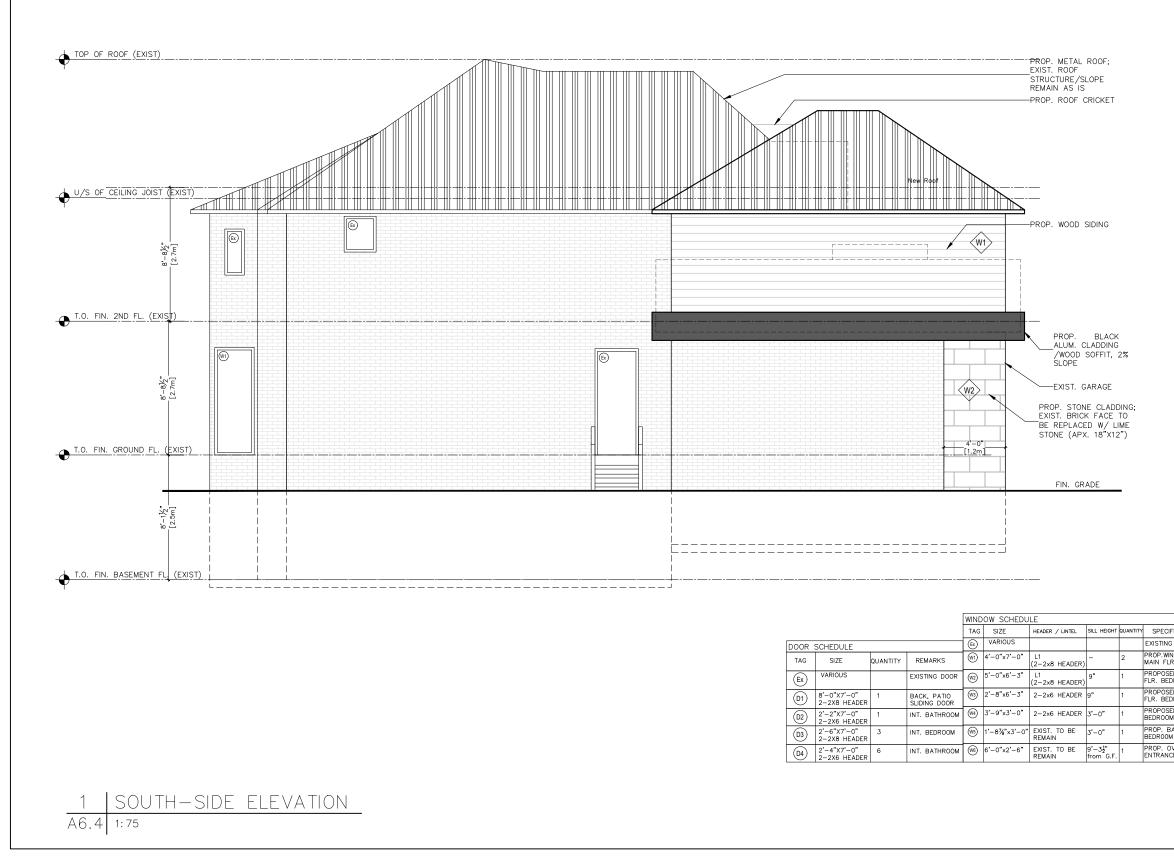


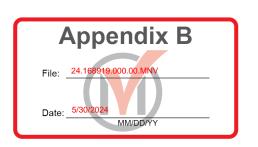
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PROPOSED, BEDROOM 2

PROP. OVER ENTRANCE





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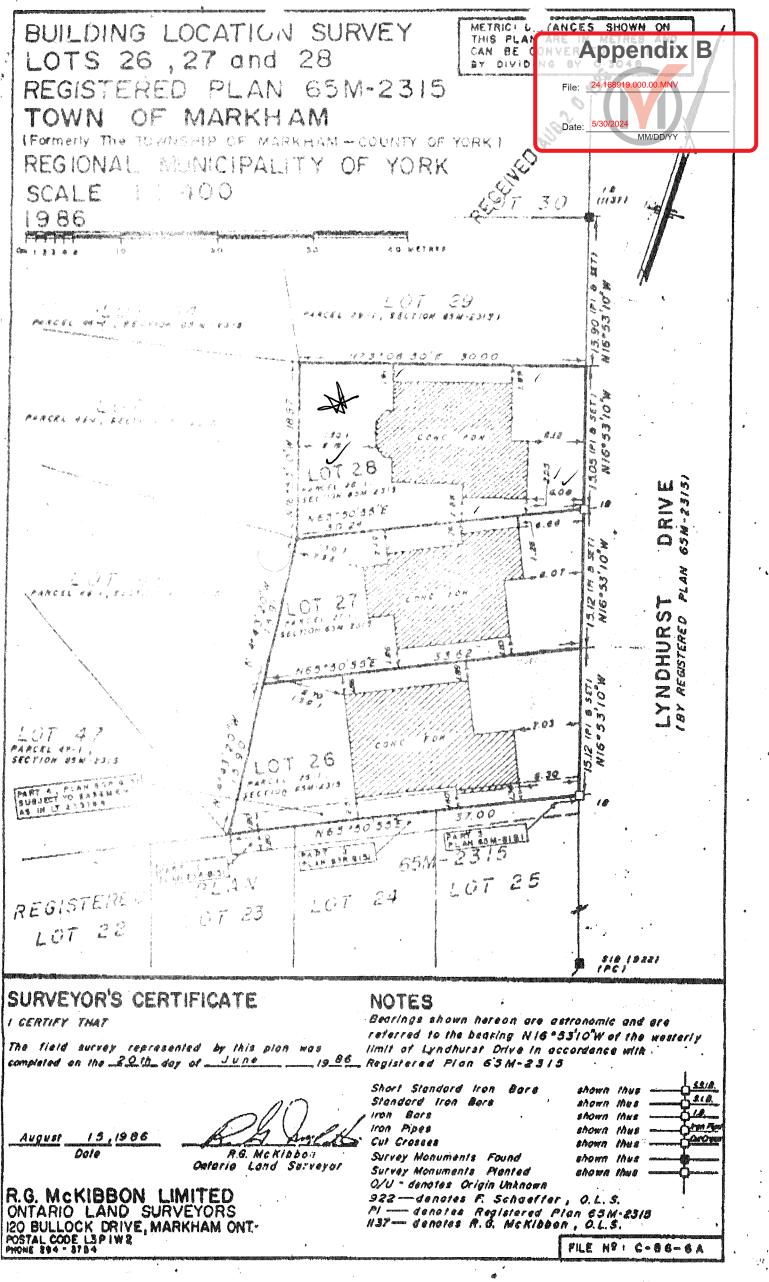
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# APPENDIX "C" – A/037/24 Conditions of Approval

# CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/037/24

- 1. The variances apply only to the proposed development as long as it remains; and
- 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. 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 the TRCA.

CONDITIONS PREPARED BY:

Mohannad

Hussnain Mohammad, Planner 1, Development Facilitation Office