

Memorandum to the City of Markham Committee of Adjustment

July 20, 2023

File: A/178/22
Address: 55 Clark Avenue, Markham
Applicant: Arash Farrokhkish
Agent: PMP DESIGN INC. c/o Mehran Heydari
Hearing Date: Wednesday, July 26, 2023

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

The applicant is requesting relief from the following requirements of “Fourth Density Single Family Residential (R4) Zone” in By-law 101-90, as amended, as it relates to a proposed new two-storey single detached dwelling:

- a) **By-law 101-90, Section 1.2 (i):**
a maximum building height of 8.6 m (28.2 ft.), whereas the By-law permits a maximum building height of 8.0 m (26.2 ft.);
- b) **By-law 101-90, Section 1.2 (vii):**
a maximum floor area ratio of 54.8 percent (3,496 ft²), whereas the By-law permits a maximum floor area ratio of 50 percent (3,188 ft²);
- c) **By-law 2237, Section 6.1:**
A side yard setback of 1.52 m (5.0 ft.) for the 2nd storey portion of the dwelling, whereas the By-law requires a minimum side yard setback of 1.8 m (6.0 ft.) for the 2nd storey portion of the dwelling;
- d) **By-law 2237, Section 3.7:**
a second floor roof eave encroachment of 30 inches, whereas the By-law permits a maximum roof eave encroachment of 18 inches into the required side yard;

BACKGROUND

The application was deferred by the Committee of Adjustment (the “Committee”) at the March 22, 2023 hearing, to provide the applicant an opportunity to address the Committee’s concern over the proposed development including the overall massing, privacy concerns, architectural style, and encroachments (Refer to Minutes – Appendix “E”).

Proposal

On June 19, 2023, the applicant submitted revised drawings that reduced the proposed eave encroachment, providing additional side yard setbacks, and

changing the architectural style of the proposed dwelling. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently, it is the owner's responsibility to ensure that the applicant has accurately identified all the variances to the Zoning By-law required for the proposed development.

COMMENTS

Increased Maximum Floor Area Ratio Variance

The applicant is requesting the same relief to permit a floor area ratio of 54.8 percent, whereas a maximum of 50 percent is permitted. Staff remain of the opinion that the proposed floor area ratio will not result in an overdevelopment of the site and consistent with similar floor area ratio increases ranging between 54 percent and 58 percent in the surrounding area.

Increased Maximum Building Height Variance

The applicant is also requesting the same relief to the maximum building height of 8.6m (28.2 ft.), whereas a of 8.0m (26.2 ft.) is permitted. Staff remain of the opinion that the proposed height will not result in an overdevelopment of the site and consistent with height variances that have been obtained by nearby infill homes in the area.

Increased Maximum Eaves Encroachment Variance

The applicant has reduced the eave encroachment since their previous proposal. The applicant is requesting a maximum eaves encroachment of 30 inches (0.76 m) into the required side yard, whereas a maximum eaves encroachment of 18 inches (0.46 m) is permitted. Staff continue to consider the above-noted encroachment variance to be minor in nature and does not create any adverse impacts to the adjacent properties.

Reduced Side Yard Setback Variance for the 2nd Storey Portion

The applicant had previously proposed a 1.2 m setback for the ground level and 1.8 m setback on the second floor level with various balcony and eave encroachments. The applicant is now proposing a 1.5m setback on both sides of the proposed dwelling. The applicant has removed any balcony encroachments and further provides an increased easterly side yard setback of 2.39m for the rear portion of the dwelling. Staff consider the above-noted side yard setback variance to the 2nd storey portion of the building to be minor in nature and will not create any adverse impacts to the adjacent properties.

Development Engineering

Development Engineering staff has commented that the Applicant will be required to contact the City's Operations Department to schedule and pay for any proposed curb cut/fill all at the Owners expense.

Tree Protection

Staff recommend that should the Committee see merit in the application that conditions in relation to Tree Protection are adopted to ensure that the applicant

installs the appropriate tree protection barriers. Tree Protection is required for trees on the subject property and neighbourhood properties near the proposed construction. It is recommended that the Applicant contact mgoldsworthy@markham.ca prior to construction to verify tree preservation requirements.

EXTERNAL AGENCIES

CN Rail Requirements

CN Rail provided comments on this application on February 27, 2023 (Appendix C), requiring an environmental easement granted to CN for operational noise and vibration emissions. Staff recommend a condition be added requiring the applicant to satisfy CN Rail's requirements prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 20, 2023. 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 requests meet 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 "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – CN Rail Comment Letter

Appendix "D" – Staff Report Dated March 16, 2023

Appendix "E" – Minutes Extract

PREPARED BY:



Jennifer Kim, Senior Planner, West District

REVIEWED BY:

A handwritten signature in black ink, appearing to read "Rick Cefaratti". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

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

APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/22

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

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;

2. That the applicant satisfies the requirements of CN Rail, as indicated in their letter and correspondence attached as ‘Appendix C’ to this Staff Report, to the satisfaction of CN Rail and that the Secretary-Treasurer receive written confirmation prior to the issuance of a Building Permit;
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 Manager of By-law Enforcement & Regulatory Services Division 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 Manager of By-law Enforcement & Regulatory Services Division.
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 Manager of By-law Enforcement & Regulatory Services Division;

CONDITIONS PREPARED BY:

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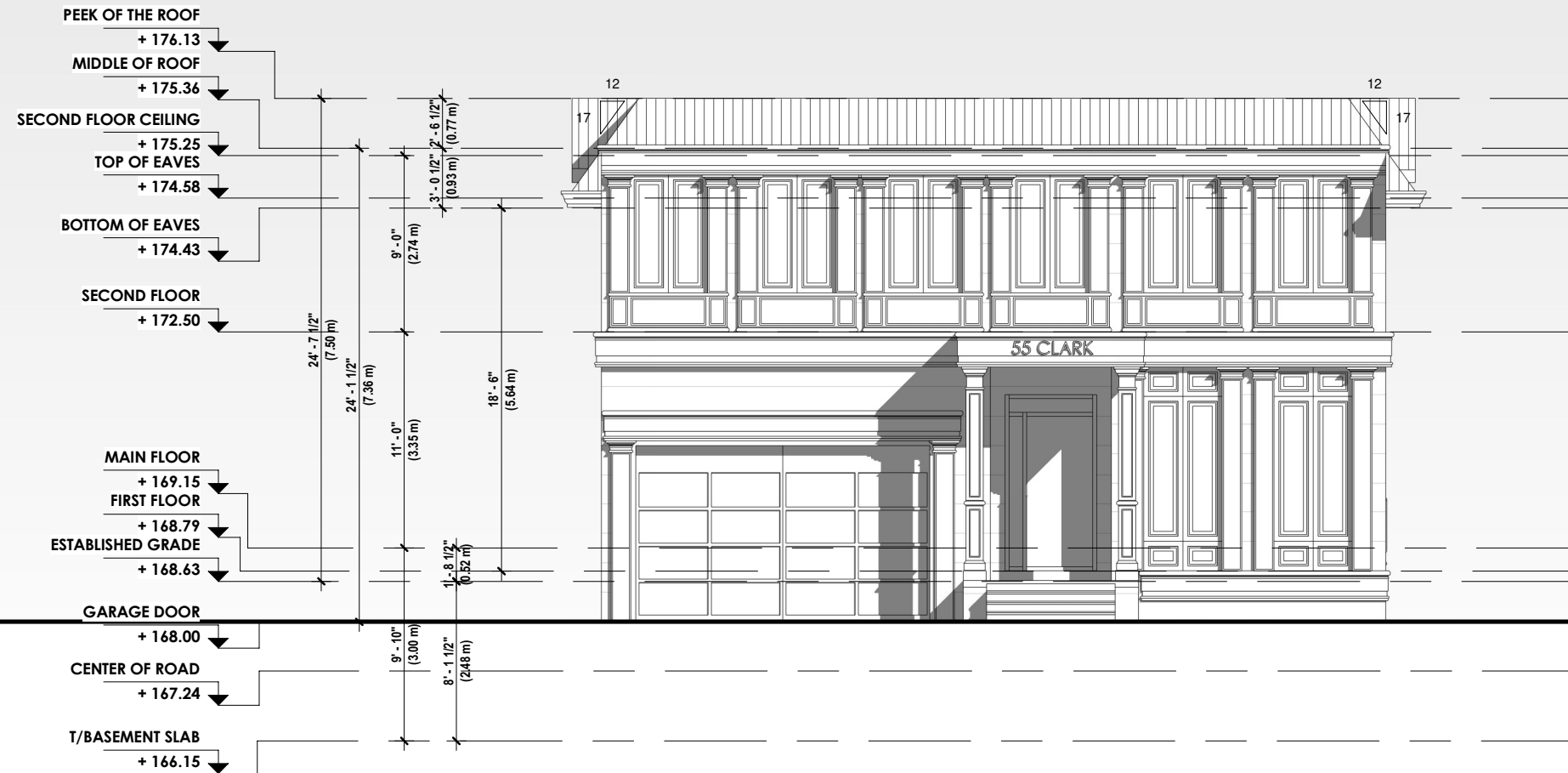
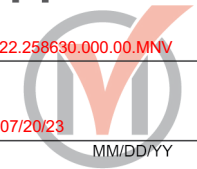
Jennifer Kim, Senior Planner, West District

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/22

Appendix B

File: 22.258630.000.00.MNV

Date: 07/20/23
MM/DD/YY



#	DATE	DESCRIPTION	BY
1	2023-06-16	ISSUED FOR ZONING	AD



PROJECT

55 CLARCK

**55 Clark Ave
Markham
Ontario, Canada**

DRAWING

Front Elevation (North)

SHEET ISSUE DATE 2023-06-16	PROJECT # 21110009
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DRAWN BY
A.B-P.K

CHECKED BY
M.E.HE

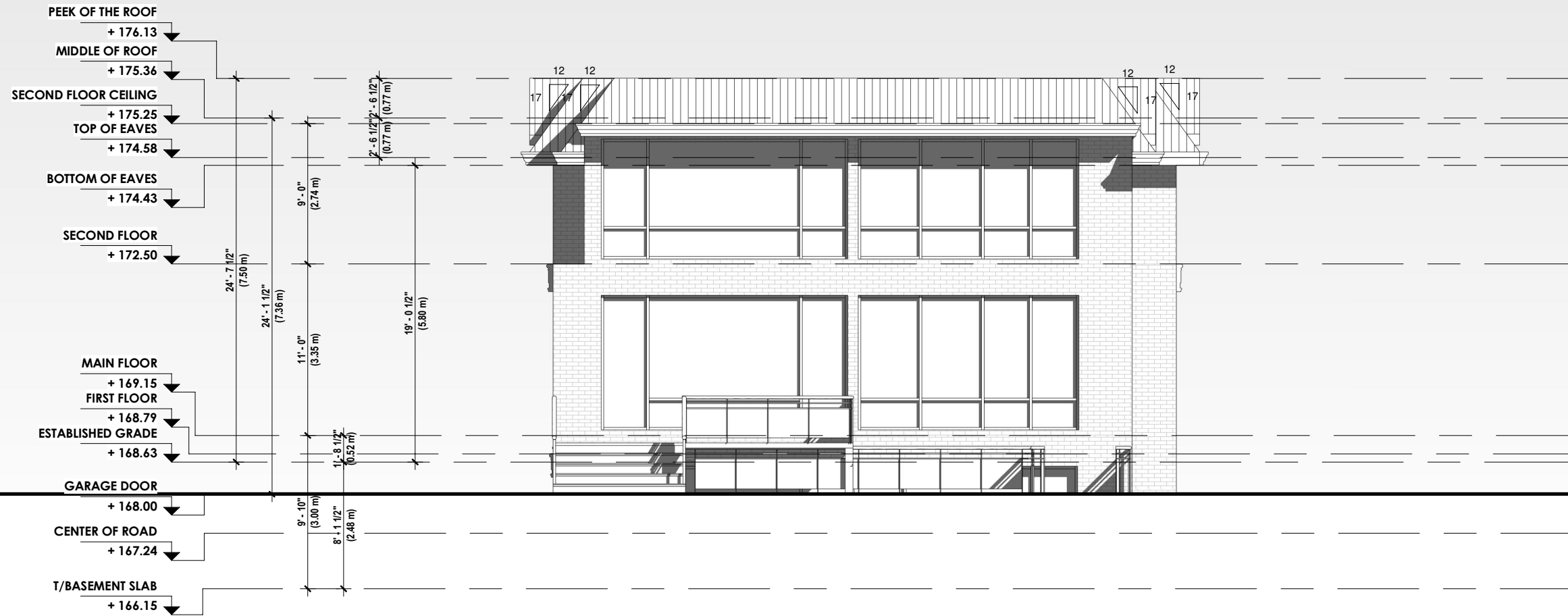
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DRAWING NO. A2.1	REV. 1
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Appendix B

File: 22.258630.000.00.MNV

Date: 07/20/23
MM/DD/YY



#	DATE	DESCRIPTION	BY
1	2023-06-16	ISSUED FOR ZONING	AD



PROJECT

55 CLARCK

**55 Clark Ave
Markham
Ontario, Canada**

DRAWING

Rear Elevation (South)

SHEET ISSUE DATE 2023-06-16	PROJECT # 21110009
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DRAWN BY
A.B-P.K

CHECKED BY
ME.HE

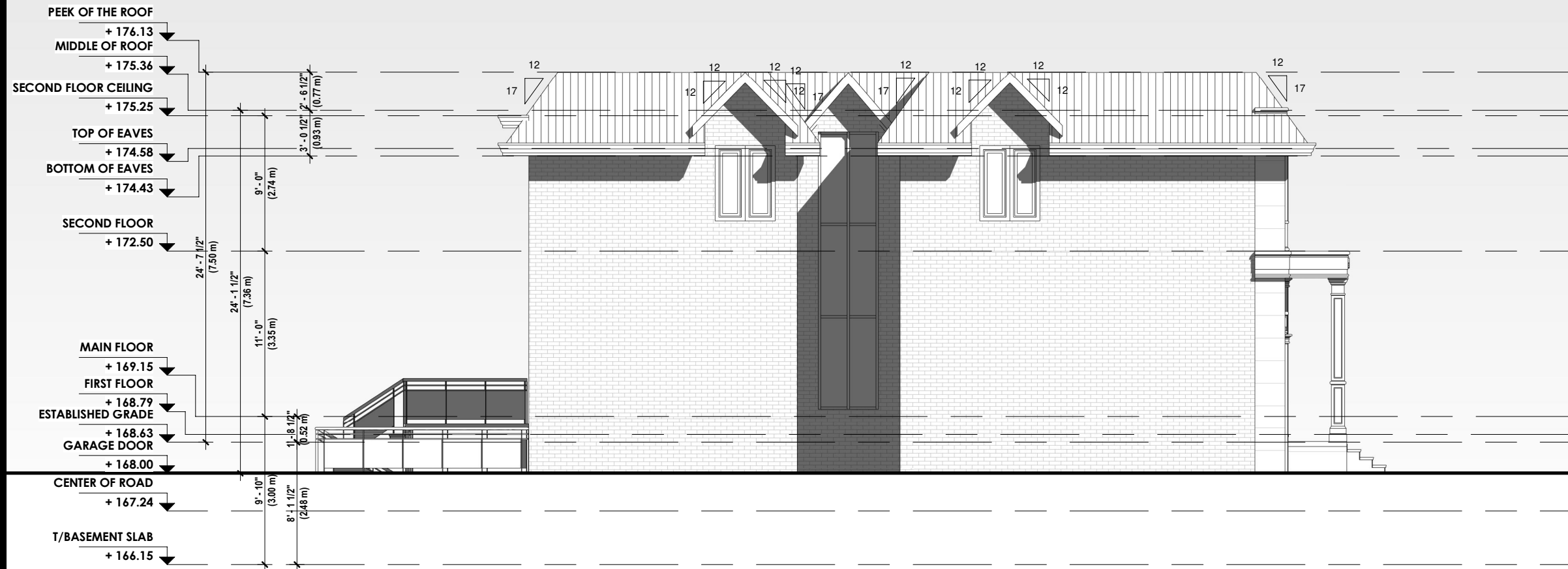
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Appendix B

File: 22.258630.000.00.MNV

Date: 07/20/23
MM/DD/YY



#	DATE	DESCRIPTION	BY
1	2023-06-16	ISSUED FOR ZONING	AD



PROJECT

55 CLARCK

**55 Clark Ave
Markham
Ontario, Canada**

DRAWING

Left Elevation (East)

SHEET ISSUE DATE 2023-06-16	PROJECT # 21110009
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DRAWN BY
A.B-P.K

CHECKED BY
ME.HE

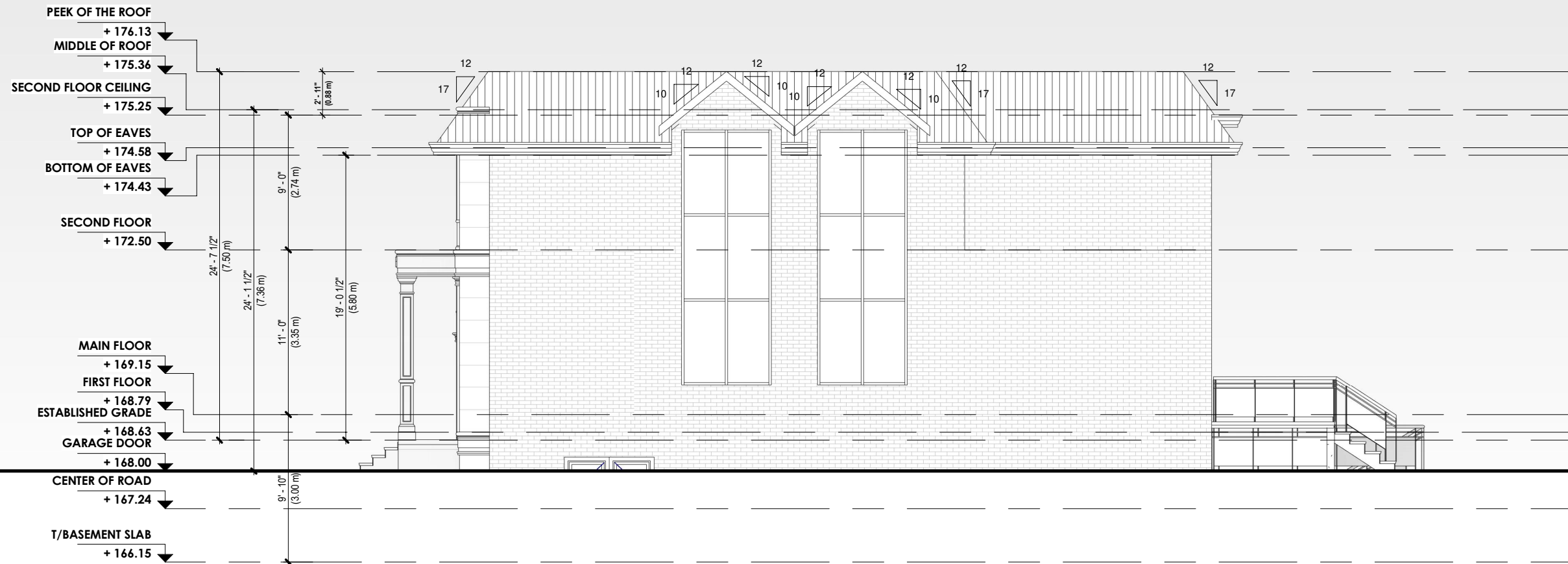
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DRAWING NO. A2.3	REV. 1
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Appendix B

File: 22.258630.000.00.MNV

Date: 07/20/23
MM/DD/YY



1	2023-06-16	ISSUED FOR ZONING	AD
#	DATE	DESCRIPTION	BY



PROJECT
55 CLARCK
55 Clark Ave
Markham
Ontario, Canada

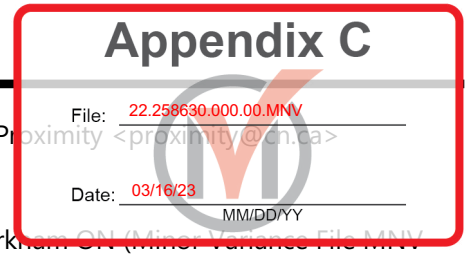
DRAWING
Right Elevation (West)

SHEET ISSUE DATE 2023-06-16	PROJECT # 21110009
DRAWN BY A.B-P.K	
CHECKED BY ME.HE	
SCALE 1 : 100	
DRAWING NO. A2.4	REV. 1

**APPENDIX “C”
CN RAIL COMMENT LETTER**

Kim, Jennifer

From: Saadia Jamil <Saadia.Jamil@cn.ca> on behalf of Proximity <proximity@cn.ca>
Sent: Monday, February 27, 2023 2:33 PM
To: Kim, Jennifer
Subject: 2023-02-27_CN Comments_55 Clark Avenue, Markham, ON (Minor Variance File MNV 22 258630)



CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Hi,

Thank you for circulating CN on the subject application. It is noted that the subject site is located in proximity to the CN railway corridor. CN recommends the following to be implemented as conditions of approval:

- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

Thanks,

Saadia Jamil

Urbaniste sénior / Senior Planner (CN Proximity)
Planning, Landscape Architecture and Urban Design
Urbanisme, architecture de paysage et design urbain



E : proximity@cn.ca
1600, René-Lévesque Ouest, 11e étage
Montréal (Québec)
H3H 1P9 CANADA
wsp.com

APPENDIX “D”
STAFF REPORT DATED March 16, 2023

Memorandum to the City of Markham Committee of Adjustment

March 16, 2023

File: A/178/22
Address: 55 Clark Avenue, Markham
Applicant: Arash Farrokhkish
Agent: PMP DESIGN INC. c/o Mehran Heydari
Hearing Date: Wednesday, March 22, 2023

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

The applicant is requesting relief from the following requirements of “Fourth Density Single Family Residential (R4) Zone” in By-law 101-90, as amended, as it relates to a proposed new two-storey single detached dwelling:

- a) **By-law 101-90, Section 1.2 (i):**
a maximum building height of 8.6 m (28.2 ft.), whereas the By-law permits a maximum building height of 8.0 m (26.2 ft.);
- b) **By-law 101-90, Section 1.2 (vii):**
a maximum floor area ratio of 54.8 percent (3,496 ft²), whereas the By-law permits a maximum floor area ratio of 50 percent (3,188 ft²);
- c) **By-law 2237, Section 3.7:**
an east sideyard second floor balcony encroachment of 24 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required side yard;
- d) **By-law 2237, Section 3.7:**
a 2nd floor architectural roof encroachment of 36 inches, whereas the By-law permits a maximum roof encroachment of 18 inches into the required side yard;

BACKGROUND

Property Description

The 603.86 m² (6500 ft²) subject property is located on the south side of Clark Avenue, and east of Yonge Street. 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. Mature vegetation exists across the property.

There is an existing 1-storey single detached dwelling on the property, which according to assessment records was constructed in 1947. Mature vegetation exists on the property including several large mature trees in the front yard.

Proposal

The applicant is proposing to demolish the existing 1-storey dwelling and construct a 325 m² (3,496 ft²) two-storey single detached dwelling.

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. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighbourhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

The property is also subject to the Thornhill Area and Site Specific policies under Section 9.18.5 of the Official Plan. The intent of these policies is to ensure that new dwellings and additions to existing dwellings are limited by their size and massing to respect and reflect the existing pattern and character of adjacent development.

Zoning By-Law 2237

The subject property is zoned “Fourth Density Single Family Residential (R4) Zone” under By-law 2237, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the maximum side yard encroachments requirements for the second storey.

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 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 maximum building height and maximum floor area ratio.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on August 30, 2022 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.

Increases Maximum Floor Area Ratio Variance

The applicant is requesting relief to permit a floor area ratio of 54.8 percent, whereas a maximum floor area ratio of 50 percent is permitted. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 324.8 m² (3,496 ft²), whereas a maximum floor area of 296.2 m² (3,188 ft²) is permitted. This represents an increase in floor area of 28.6 m² (308 ft²) or approximately 9.6 percent.

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling.

The building layout meets all other zoning provisions (such as setbacks and lot coverage) that establish the prescribed building envelope, which ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. The proposed gross floor area is also consistent with the recent infill development trend, including a number of nearby infill homes that have obtained variance approval for similar increase in floor area ratio ranging between 54 percent and 58 percent. Staff are of the opinion that the requested variance is minor in nature.

Increased Maximum Building Height Variance

The applicant is requesting relief to permit a maximum building height of 8.6 m (28.2 ft.), whereas a maximum building height of 8.0 m (26.2 ft.) is permitted. This represents an increase of 0.6 m (2.0 ft.). The variance is considered by staff to be minor in nature and has minimal impact on the character of the existing community. It is consistent with height variances that have been obtained by nearby infill homes in the area.

Increased Maximum Eaves/roofed Encroachment Variances

The applicant is requesting a maximum eaves encroachment of 36 inches (0.91 m) into the required side yard, whereas a maximum eaves encroachment of 18 inches (0.46 m) is permitted.

The applicant is also requesting an east sideyard second floor balcony encroachment of 24 inches (0.61 m), whereas a maximum encroachment of 18 inches (0.46 m) is permitted.

Staff consider the above-noted encroachment variances to be minor in nature and will not create any adverse impacts to the adjacent properties. Staff further note that the Applicant is not seeking any variances to minimum required side yard setbacks.

Development Engineering

Development Engineering staff has commented that the Applicant will be required to contact the City's Operations Department to schedule and pay for any proposed curb cut/fill all at the Owners expense.

Tree Protection

Staff recommend that should the Committee see merit in the application that conditions in relation to Tree Protection are adopted to ensure that the applicant installs the appropriate tree protection barriers. Tree Protection is required for trees on the subject property and neighbourhood properties near the proposed construction. It is recommended that the Applicant contact mgoldsworthy@markham.ca prior to construction to verify tree preservation requirements.

EXTERNAL AGENCIES

CN Rail Requirements

CN Rail provided comments on this application on February 27, 2023 (Appendix C), requiring an environmental easement granted to CN for operational noise and vibration emissions. Staff recommend a condition be added requiring the applicant to satisfy CN Rail's requirements prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 16, 2023. 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – CN Rail Comment Letter

PREPARED BY:



Jennifer Kim, Senior Planner, West District

REVIEWED BY:



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

APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/22

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

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;

2. That the applicant satisfies the requirements of CN Rail, as indicated in their letter and correspondence attached as ‘Appendix C’ to this Staff Report, to the satisfaction of CN Rail and that the Secretary-Treasurer receive written confirmation prior to the issuance of a Building Permit;
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 Manager of By-law Enforcement & Regulatory Services Division 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 Manager of By-law Enforcement & Regulatory Services Division.
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 Manager of By-law Enforcement & Regulatory Services Division;

CONDITIONS PREPARED BY:

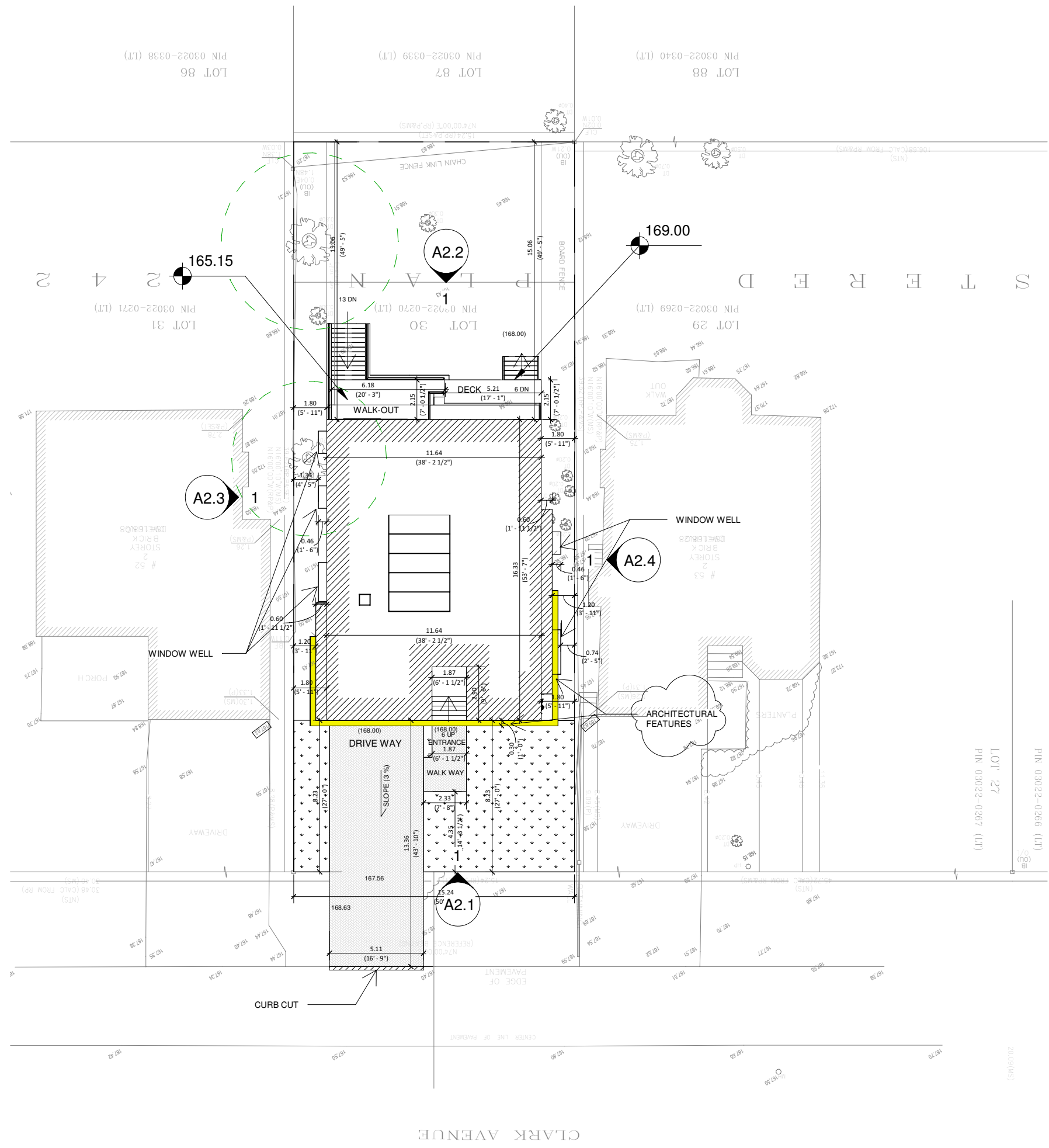
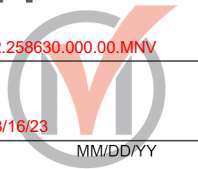
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Jennifer Kim, Senior Planner, West District

Appendix B

File: 22.258630.000.00.MNV

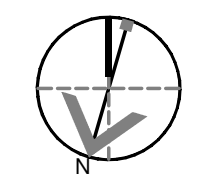
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MM/DD/YY



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5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada



DRAWING
SITE PLAN

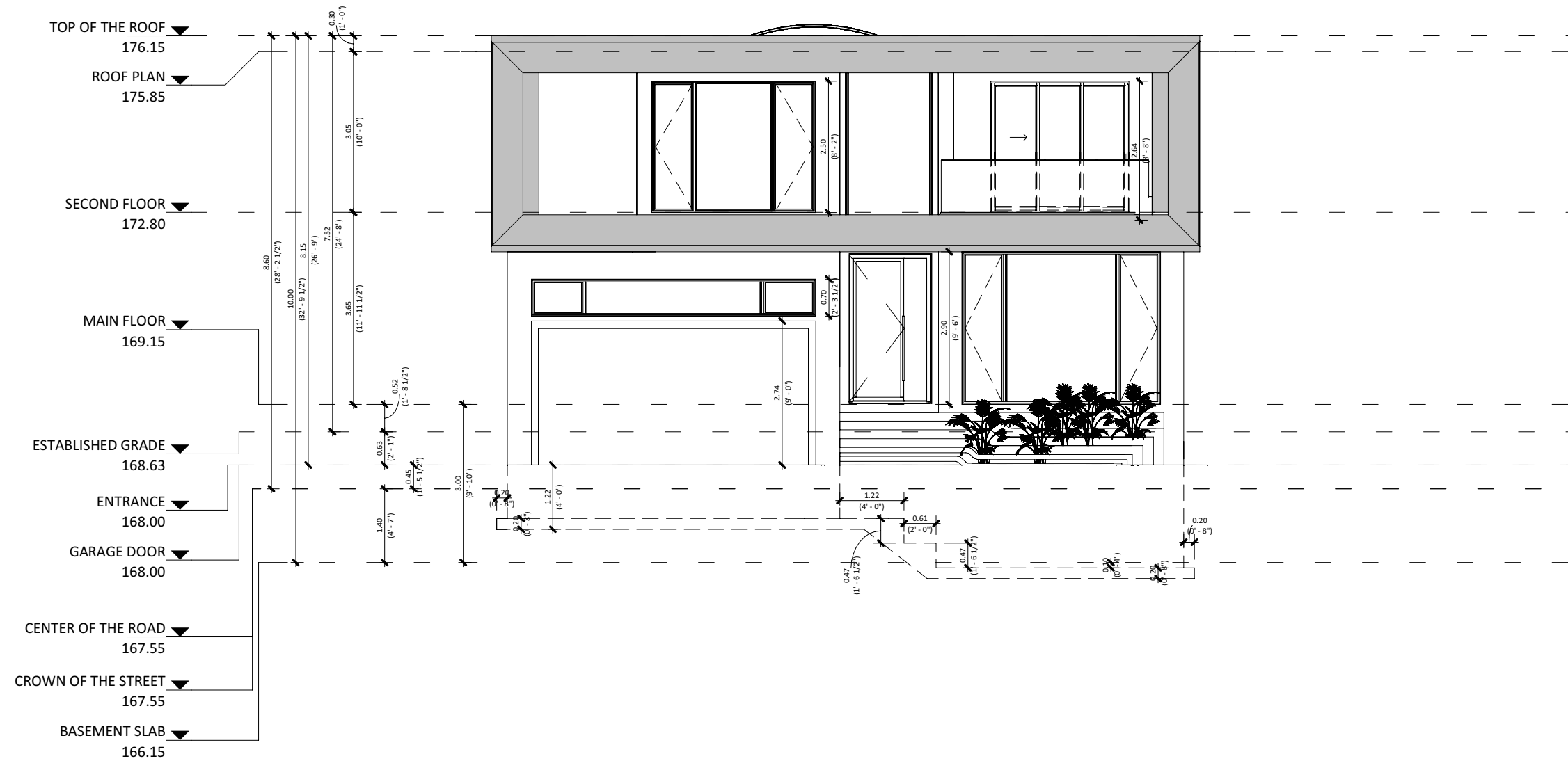
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DRAWING NO. A0.2	REV. 6

Site COA

Appendix B

File: 22.258630.000.00.MNV

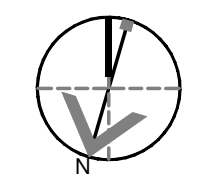
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MM/DD/YY



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5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada



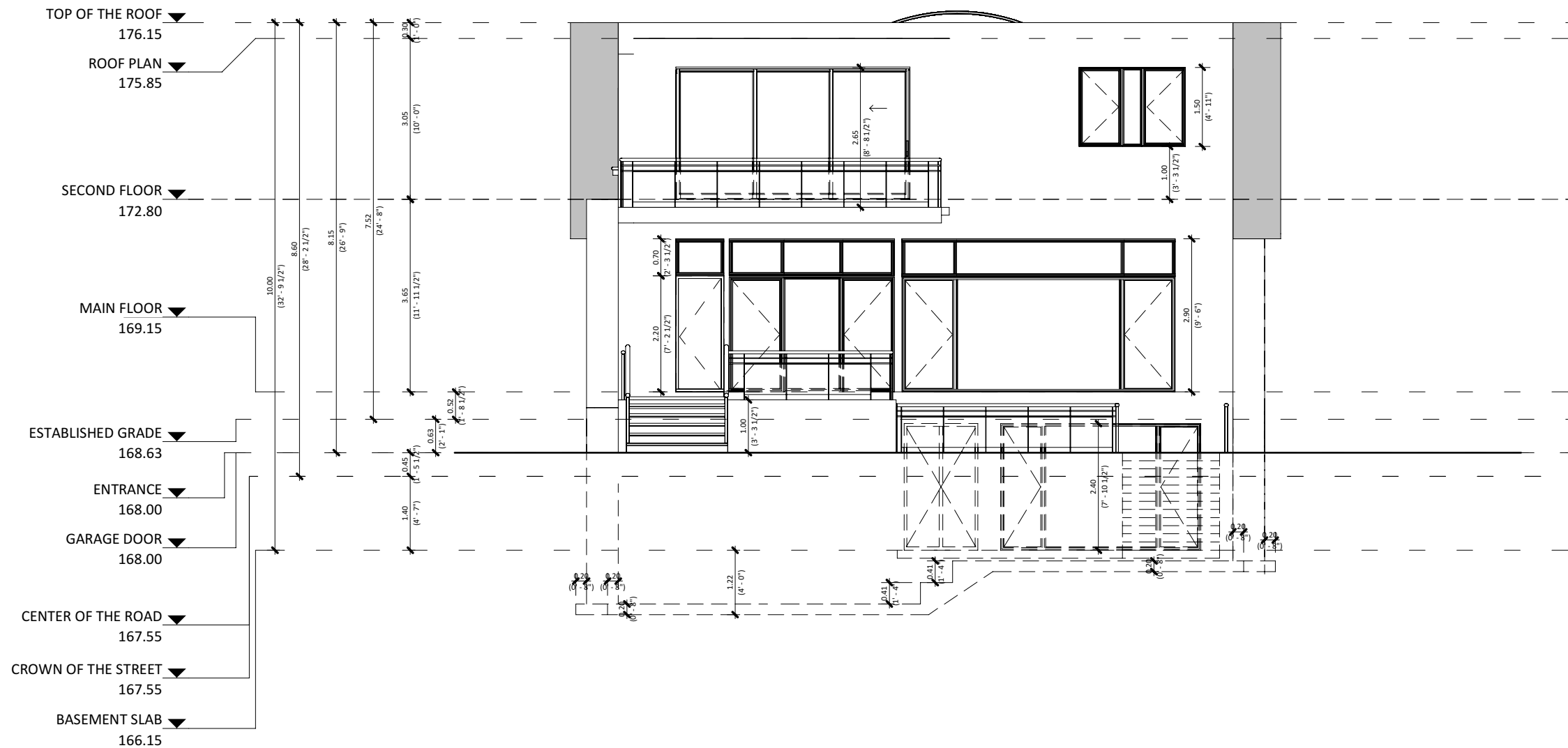
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FRONT ELEVATION (NORTH)

SHEET ISSUE DATE 09/08/22	PROJECT # 21110009
DRAWN BY Author	
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SCALE 1 : 100	
DRAWING NO. A2.1	REV. 6

Appendix B

File: 22.258630.000.00.MNV

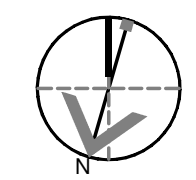
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MM/DD/YY



#	DATE	DESCRIPTION	BY
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5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada



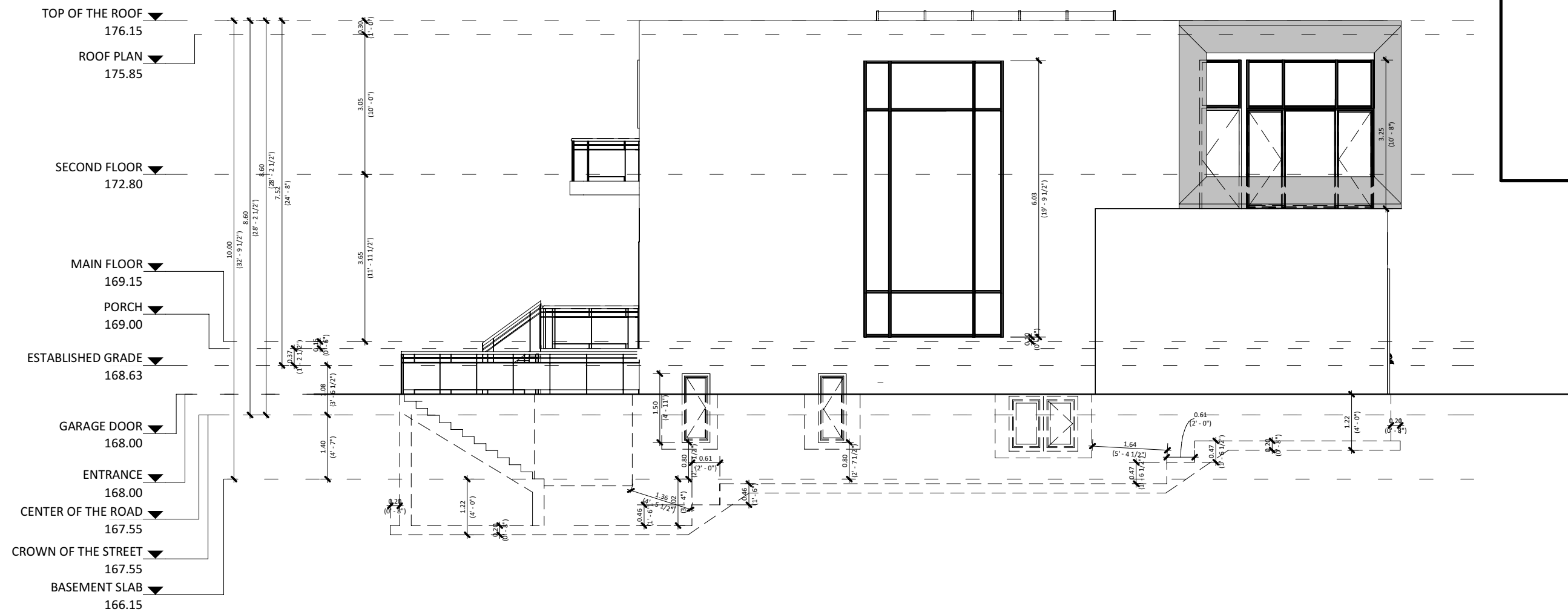
DRAWING
REAR ELEVATION (SOUTH)

SHEET ISSUE DATE 09/08/22	PROJECT # 21110009
DRAWN BY Author	
CHECKED BY Checker	
SCALE 1 : 100	
DRAWING NO. A2.2	REV. 6

Appendix B

File: 22.258630.000.00.MNV

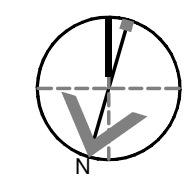
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#	DATE	DESCRIPTION	BY
6	9-08-2022	ISSUED BY COA	AD
5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada

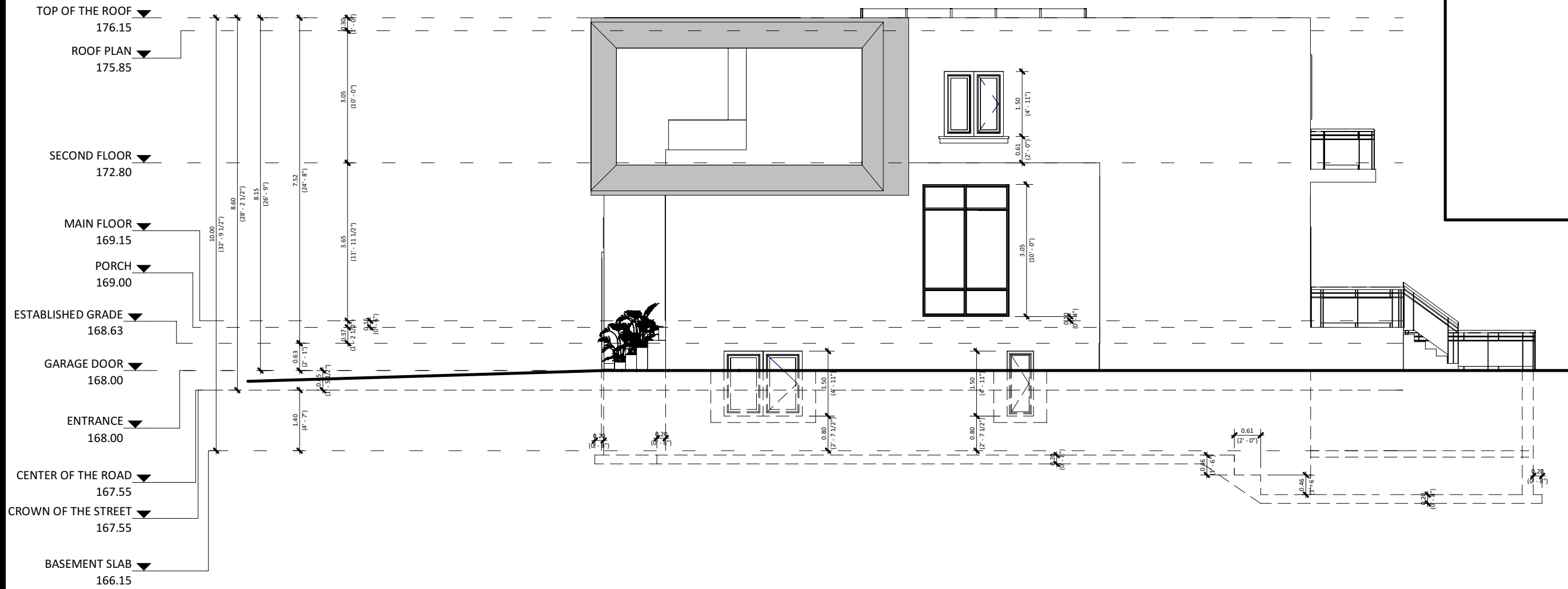


DRAWING	
LEFT ELEVATION (EAST)	
SHEET ISSUE DATE 09/08/22	PROJECT # 21110009
DRAWN BY Author	
CHECKED BY Checker	
SCALE 1 : 100	
DRAWING NO. A2.3	REV. 6

Appendix B

File: 22.258630.000.00.MNV

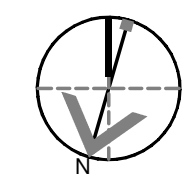
Date: 03/16/23
MM/DD/YY



#	DATE	DESCRIPTION	BY
6	9-08-2022	ISSUED BY COA	AD
5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada

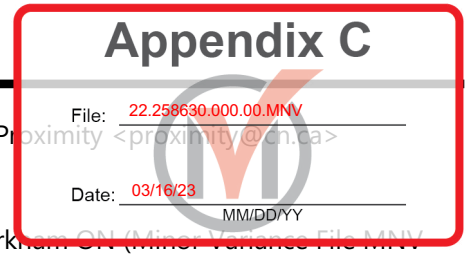


DRAWING
RIGHT ELEVATION (WEST)

SHEET ISSUE DATE 09/08/22	PROJECT # 21110009
DRAWN BY Author	
CHECKED BY Checker	
SCALE 1 : 100	
DRAWING NO. A2.4	REV. 6

Kim, Jennifer

From: Saadia Jamil <Saadia.Jamil@cn.ca> on behalf of Proximity <proximity@cn.ca>
Sent: Monday, February 27, 2023 2:33 PM
To: Kim, Jennifer
Subject: 2023-02-27_CN Comments_55 Clark Avenue, Markham, ON (Minor Variance File MNV 22 258630)



CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Hi,

Thank you for circulating CN on the subject application. It is noted that the subject site is located in proximity to the CN railway corridor. CN recommends the following to be implemented as conditions of approval:

- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

Thanks,

Saadia Jamil

Urbaniste sénior / Senior Planner (CN Proximity)
Planning, Landscape Architecture and Urban Design
Urbanisme, architecture de paysage et design urbain



E : proximity@cn.ca
1600, René-Lévesque Ouest, 11e étage
Montréal (Québec)
H3H 1P9 CANADA
wsp.com

APPENDIX "E"
MINUTES EXTRACT



CITY OF MARKHAM
Virtual Meeting on Zoom

March 22, 2023
7:00 pm

COMMITTEE OF ADJUSTMENT

Minutes

The 5th regular meeting of the Committee of Adjustment for the year 2023 was held at the time and virtual space above with the following people present:

Arrival Time

Gregory Knight Chair	7:00 pm
Arun Prasad	7:00 pm
Jeannie Reingold	7:00 pm
Sally Yan	7:00 pm
Patrick Sampson	7:00 pm

Shawna Houser, Secretary-Treasurer
Greg Whitfield, Supervisor, Committee of Adjustment
Bernie Tom, Development Technician, Zoning and Special Projects
Vrinda Bhardwaj, Development Clerk

Regrets

Kelvin Kwok
Tom Gutfreund

DISCLOSURE OF INTEREST

None

Minutes: March 8, 2023

THAT the minutes of Meeting No. 4, of the City of Markham Committee of Adjustment, held March 8, 2023 respectively, be:

- a) Approved on March 22, 2023.

Moved By: Patrick Sampson
Seconded By: Sally Yan

Carried

REQUESTS FOR DEFERRAL

1. A/001/23

**Owner Name: Calvin Ho Tai Wong
Agent Name: Calvin Ho Tai Wong
118 Romfield Circuit, Thornhill
PLAN M1346 LOT 218**

The applicant was requesting relief from the requirements of By-law 2489, as amended, to permit:

a) Section 6.1:

a maximum lot coverage of 33.60 percent (2,019 sq. feet), whereas the By-law permits a maximum lot coverage of 33 1/3 percent (1,997 sq. feet); and

b) Section 6.1:

a west side yard setback of 4 feet (1.22 metres), whereas the By-law requires a minimum side yard setback of 6 feet (1.83 metres) for the second floor addition;

as it related to a proposed second floor addition.

The Chair introduced the application.

Russ Gregory, the applicant attended the meeting and requested deferral.

Member Yan motioned for deferral.

**Moved By: Sally Yan
Seconded By: Jeamie Reingold**

THAT Application No. **A/001/23** be **deferred** sine die.

Resolution Carried

PREVIOUS BUSINESS

1. A/262/22

**Owner Name: Felicite Dibi
Agent Name: Gregory Design Group (Shane Gregory)
27 Church Street, Markham
PLAN 18 BLK I PT LOT 1**

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

a) Section 11.2(c)(i):

a porch with stairs to project 24.4 inches into a required yard, whereas the By-law permits a projection of 18 inches into a required yard;

b) Table 11.1:

a minimum rear yard setback of 23.6 feet, whereas the By-law requires a minimum rear yard setback of 25 feet;

c) By-law 99-90, Section 1.2 (ii):

a maximum building depth of 17.68 metres, whereas the By-law permits a maximum building depth of 16.8 metres; and

d) By-law 99-90, Section 1.2(vi):

a maximum floor area ratio of 51.05 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Russ Gregory, appeared on behalf of the application, indicating that the project had been revised to reduce the floor area ratio to bring it closer to similar projects.

The Committee received four written pieces of correspondence in addition to the correspondence received at the previous meeting.

Member Reingold appreciated the changes made by the applicant and recognized the neighbour's support, and felt the design was positive for the streetscape.

Member Yan commended the applicant for working with the Committee's comments and adapting the design. The member acknowledged that heritage areas were varied and felt the design would fit the area well, supported the application and motioned for approval with conditions.

Moved By: Sally Yan

Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/262/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

NEW BUSINESS:

2. A/018/23

**Owner Name: Amir Pourafshar
Agent Name: Quadra Building Group (Pendar Soleimani)
1 Lombardy Lane, Thornhill
PLAN M1674 LOT 17**

The applicant was requesting relief from the requirements of By-law 2150, as amended, to permit:

a) **Section 3.7:**

a basement stair encroachment of 36 inches, whereas the By-law permits an encroachment of no more than 18 inches into the required flankage yard;

as it related to walk up access for the basement.

The Chair introduced the application.

The agent, Pendar Soleimani, appeared on behalf of the application.

Member Reingold indicated the lot was well treed with minor visual impacts, and the application met the four tests of the Planning Act.

Member Yan supported the application as it was minor, with minimal impacts to neighbouring properties.

Member Prasad motioned for approval with conditions.

**Moved By: Arun Prasad
Seconded By: Sally Yan**

The Committee unanimously approved the application.

THAT Application No. **A/018/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

3. A/021/23

**Owner Name: Ajit Chander Swaminathan
Agent Name: Prowise Engineering Inc. (Reagan Jing)
1 Fierheller Court, Markham
PLAN 65M4398 LOT 223**

The applicant was requesting relief from the requirements of By-law 177-96, as amended to permit:

a) By-law 142-95, Section 2.2.b.i:

a deck with a maximum projection of 3.72 metres from the rear dwelling wall, whereas the By-law permits a maximum projection of 3 metres;

as it related to an existing rear deck.

The Chair introduced the application.

The agent, Reagan Jing, appeared on behalf of the application.

The Committee received one written piece of correspondence.

Hayden Poon, of 11 Aksel Rinck Drive, spoke to the Committee and supported the application as the project was minor and would not impact neighbours.

Member Reingold noted that the deck existed and that no comments from neighbours indicated negative impacts.

Member Prasad supported the application and motioned for approval with conditions.

Moved By: Arun Prasad
Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/021/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

4. A/142/22

Owner Name: Andrew Ryu
Agent Name: EG Engineering Inc. (Sean Cho)
21 Seinecliffe Road, Thornhill
PLAN M896 LOT 60

The applicant was requesting relief from the requirements of By-law 1767, as amended, to permit:

a) Section 12 (iv)(a):

a flankage setback of 12 feet and 2 inches (3.71 metres), whereas the By-law requires a setback of 35 feet (10.67 metres);

as it related to a proposed gazebo.

The Chair introduced the application.

The agent, Sean Cho, appeared on behalf of the application.

Member Reingold asked for clarification regarding the structure's construction and noted that the large tree on the property had been considered in the staff report.

Member Yan noted it was a corner lot which was nicely treed and would provide an adequate screen for the gazebo in the flankage yard. The member indicated the request was minor, met the four tests of the Planning Act and did not negatively impact the neighbours.

Member Reingold motioned for approval with conditions.

Moved By: Jeamie Reingold
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/142/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

5. A/241/22

Owner Name: Bethany Lodge
Agent Name: 209 Design (Dana Evans)
34 Swansea Road, Markham
CON 6 PT LOT 10 PLAN 65M2520 LOTS 22-24

The applicant was requesting relief from the requirements of By-law 122-72, as amended, to permit:

a) Section 1.5.2 (iii) and Schedule C:

a minimum side yard setback of 8.76 metres (28.74 feet) for Pavilion #1 and 7.76 metres (25.46 feet) for Pavilion #2, whereas the By-law requires a minimum setback of 25 metres (82.02 feet).

as it related to proposed pavilions.

The Chair introduced the application.

The agent, Dana Evans and the facility manager Doug Groat appeared on behalf of the application.

Member Reingold felt the application to replace one pavilion with two made sense and was suitable for residents who required the amenities. The member indicated that the application was minor and met the four tests of the Planning Act.

Member Yan expressed that it was a good idea to expand the covered shelters for the residents while maintaining trees for shade. The member indicated that the request met the four tests of the Planning Act and supported the application.

Member Prasad complimented the agent on the design and motioned for approval with conditions.

Moved By: Arun Prasad

Seconded By: Jeamie Reingold

The Committee unanimously approved the application.

THAT Application No. **A/241/22** be **approved** subject to conditions contained in the staff report.

Resolution Carried

6. A/014/23

Owner Name: Shirin Ahmadizadeh

Agent Name: Smart Structural Solutions Ltd. (Mobina Farahani)

93 Highland Park Boulevard, Thornhill

PLAN 2446 LOT 84

The applicant was requesting relief from the requirements of By-law 2237, as amended, to permit:

a) Section 4.9:

a flankage yard setback of 10 feet 4 inches, whereas the By-law requires a minimum flankage yard setback of 14 feet 1 inch;

b) Section 3.7:

an unenclosed roofed porch encroachment of 60 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required flankage yard setback; and

c) Section 3.7: an egress window well encroachment of 43 inches, whereas the By-

law permits a maximum encroachment of 18 inches into the required front yard setback;

as it related to a proposed addition.

The Chair introduced the application.

The agent, Hamid Hemati, appeared on behalf of the application.

Member Reingold appreciated the owner creating additions that would utilize the existing structure while adding square footage to meet the family's needs and improve their lifestyle. The member indicated that the request was minor and did not adversely impact neighbours.

Member Sampson motioned for approval with conditions.

Moved By: Patrick Sampson
Seconded By: Arun Prasad

The Committee unanimously approved the application.

THAT Application No. **A/014/23** be **approved** subject to conditions contained in the staff report.

Resolution Carried

8. A/149/22

Owner Name: Yi Huang
Agent Name: Xiaoru Song
98 Clark Avenue, Thornhill
CON 1 PT LOT 28

The applicant was requesting relief from the requirements of By-law 2237, as amended, to permit:

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

a building depth of 17.1 metres, whereas the By-law permits a maximum building depth of 16.8 metres;

b) Amending By-law 101-90, Section 1.2 (iv):

a floor area ratio of 57.5 percent, whereas the By-law permits a maximum floor area ratio of 50 percent;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Victor Guitberg, appeared on behalf of the application.

The Committee received one piece of correspondence.

Michael Birman of 100 Clark Avenue, spoke to the Committee on behalf of his father. Michael requested information regarding the scope of construction, tree protection and timelines.

Jean Hunn, of 99 Clark Avenue, spoke to the Committee and highlighted concerns regarding the wider driveway, hardscaping, runoff and hedge and tree removal. The height of the proposed home was also of concern in comparison to the existing built form of the area. And combined with the increased floor area ratio, it did not fit the style or character of the area.

Joan Honsberger, of 60 Eglin Street, spoke to the Committee on behalf of the Ward 1 Ratepayers Association. Joan spoke regarding retaining the hedges for privacy for the neighbours and birds. Joan noted that the increased house size would significantly impact the neighbours' sunlight and shadows. Additionally, Joan noted the need for a construction management plan to manage construction materials and vehicles and requested that bird-friendly guidelines be implemented for the project.

Charles Pan of 101 Clark Avenue, noted that the height was higher than other homes on the street.

Victor Guitberg indicated that the height and driveway complied, grading would be done according to approved engineering plans, the rear yard would be protected by sediment fencing, and the proposed driveway materials still needed to be determined. It was a modern house, and it had been designed to keep the first floor as close to grade as possible and had roof slopes that would integrate into the area's character. However, as the architect, they were not in control of the construction plan.

Member Reingold indicated that it was a very complex application as no setback variances had been requested and the bulk of the house was on the rear yard with lower visual impact on the street. There was no variance request for height, and the Committee can only consider the requested variances. The house was square and large and did not fit the area's character, and noted that the area was in transition. However, the house needed to be compatible with the neighbouring properties. The member requested changes to the front elevation to reduce visual impacts.

Member Yan indicated that each application needed to be assessed within the planning framework for the area with site-specific considerations. The member expressed that new builds needed to respect the character of the area and the size and massing of the built form. The house appeared overbuilt for the area. The member was concerned with the significant increase in the floor area ratio. Member Yan indicated that having the context of the street and the infill development that had already occurred would have been beneficial. The member asked for additional details regarding the roof.

The architect indicated that the roof had various pitches, with a smaller roof on the garage and dormers to break up the façade.

Member Sampson noted that the Committee considered only two variances, and the height complied. It was a large lot with generous allowances, and there was no justification for the additional space requested and the floor area ratio needed to be below 55 percent.

The Chair indicated they did not see this as being overbuilt. Rather this was the type of application the Committee wanted to see, with the massing within the allowances for height and setbacks and variations to the eaves to provide relief in the façade. In addition, the street was eclectic with no definable character, and the house would bring architectural value to the streetscape. The Chair asked if the agent could work with the Committee to reduce the floor area ratio closer to 55 percent.

The agent agreed to a deferral.

Member Prasad motioned for deferral.

Moved By: Arun Prasad

Seconded By: Patrick Sampson

THAT Application No. **A/149/22** be **deferred** sine die.

Resolution Carried

9. A/178/22

Owner Name: Arash Farrokhkish

Agent Name: PMP DESIGN INC. (Mehran Heydari)

55 Clark Avenue, Thornhill

PLAN 2426 LOT 30

The applicant was requesting relief from the requirements of By-law 2237, as amended to permit:

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

a maximum building height of 8.6 metres, whereas the By-law permits a maximum building height of 8.0 metres;

b) By-law 101-90, Section 1.2 (vii):

a maximum floor area ratio of 54.8 percent (3,496 sq. feet), whereas the By-law permits a maximum floor area ratio of 50 percent (3,188 sq. feet);

c) Section 3.7:

an east side yard 2nd floor balcony encroachment of 24 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required side yard;

d) Section 3.7:

a 2nd floor architectural roof encroachment of 36 inches, whereas the By-law permits a maximum roof encroachment of 18 inches into the required side yard;

as it related to a proposed two-storey single detached dwelling.

The Chair introduced the application.

The agent, Mehran Heydari, appeared on behalf of the application.

The Committee received three written pieces of correspondence.

Joan Honsberger of 60 Eglin Street, spoke to the Committee as a Ward 1 Ratepayers Association representative. Joan noted the proposal was for double the eave encroachment permitted, highlighted the two-storey window that faced into the neighbouring yard and would impact privacy. Additionally, Joan requested that bird-friendly guidelines be implemented on the property during construction. Joan also noted that attention needed to be paid to the infill grading on site due to the high water table.

Diana Moser of 53 Clark Ave East, spoke to the Committee requesting additional details and access to the plans. In particular, Diana was interested in the side yard setbacks, the location of windows, how the height and front wall of the house related to the existing homes on the street, drainage and tree preservation and maintenance.

The agent explained that the large windows facing the side yards would be opaque and that the side yards met the zoning requirements and demonstrated where the house's front wall was related to the neighbouring properties.

Kate Mellors of 51 Clark Ave East, spoke to the Committee regarding grading related to the neighbouring properties.

The Chair requested the agent to address the questions regarding tree preservation and grading.

Mehran Heydari indicated that the cherry tree would be retained and the blue spruce tree was on City property. The grading would be approved through the RIGS permit, and with a flat roof, the runoff was directed in many ways with lower impact.

Member Sampson had concerns regarding scale and design, the considerable open to below space in the project, and the multiple balconies. The member felt the design was out of character for the area.

The Chair indicated the requests were at the higher end of approved area development. The proposal would impact neighbours with many encroachments, including multiple balconies, windows, size, and massing. The Committee needed additional information to decide, including an improved site plan and arborist report and clarification regarding the development of the front yard.

Member Yan indicated that the design required several encroachments which would negatively impact the neighbours, including massing, balconies and glazing.

Member Reingold motioned for deferral.

Moved By: Jeamie Reingold
Seconded By: Patrick Sampson

THAT Application No. **A/178/22** be **deferred** sine die.

Resolution Carried

Adjournment

Moved by: Arun Prasad
Seconded by: Patrick Sampson

THAT the virtual meeting of the Committee of Adjustment was adjourned at 8:58 pm, and the next regular meeting would be held on April 5, 2023.

CARRIED



Secretary-Treasurer
Committee of Adjustment



Chair
Committee of Adjustment