

# Memorandum to the City of Markham Committee of Adjustment

February 28, 2022

**File:** A/186/21  
**Address:** 58 Peter Street – Markham, ON  
**Applicant:** Srikandarajah Kanagaratnam  
**Agent:** Kirupakaran Ehamparam  
**Hearing Date:** March 9, 2022

The following comments are provided on behalf of the East District Team. The applicant is requesting relief from the following “Residential One – (R1)” zone requirements under By-law 1229, as amended, as it relates to an existing accessory building. The requested variances are to permit:

**a) By-law 1229, Section 11.3 (vi):**

a minimum side yard setback of 0.43 m (1.41 ft), whereas the By-law requires a minimum setback of 1.22 m (4.0 ft) to any lot line; and

**b) By-law 1229, Section 11.3 (vi):**

a minimum rear yard setback of 0.30 m (1.0 ft), whereas the By-law requires a minimum setback of 1.22 m (4.0 ft) to any lot line.

## PROPERTY DESCRIPTION

The subject property is located on the west side of Peter Street, north of Bullock Drive, east of Main Street Markham North, and South of 16<sup>th</sup> Avenue. A two-storey detached dwelling currently exists on the property, along with an accessory building (shed) which is located in the rear yard. Mature trees are located on the property: one in the front yard, and the other in the rear yard, adjacent to the existing shed (see Site Plan Drawing S-01, Appendix “A”).

## PROPOSAL

Through request of the above noted variance, the applicant seeks to recognize the existing 9.30 m<sup>2</sup> (100.10 ft<sup>2</sup>) accessory building which is setback 0.30 m (0.98 ft) from the west (rear) lot line, and 0.43 m (1.41 ft) from the north (side) lot line. From the floor to the peak of the roof, the shed has an approximate height of 2.28 m (7.48 ft).

## 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.

### Zoning By-Law 1229

The subject property is zoned “Residential One – (R1)” under By-law 1229, as amended, which permits an accessory buildings subject to meeting specific requirements. The existing accessory building does not comply with the By-law with respect to the minimum setback requirement of 1.22 m (4.0 ft) to any lot line.

### Previous Minor Variance Approval (A/131/16)

In 2016, the Committee of Adjustment (the “Committee”) approved the following minor variances requested under Zoning By-law 1229, as amended, to permit:

- a maximum floor area ratio of 51.60%, whereas the By-law permits a maximum floor area ratio of 45.0%;
- a maximum building height of 10.86 m (35.63 ft), whereas the By-law permits a maximum building height of 9.80 m (32.15 ft); and
- a maximum building depth of 19.40 m (63.65 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft).

Approval of this minor variance application was conditional that the requested variances:

- apply only to the proposed development for as long as it remains;
- that the development substantially conforms with the plans; and
- that tree protection and compensation related conditions be satisfied.

### **ZONING PRELIMINARY REVIEW (ZPR) NOT UNDERTAKEN**

The applicant has confirmed that a ZPR has not been conducted. It is the applicant's responsibility to ensure that the application has accurately identified the variance(s) 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 any non-compliances.

### **COMMENTS**

The *Planning Act, R.S.O. 1990, c. P.13, as amended*, 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.

### Reduction in Side Yard and Rear Yard Setback

The applicant requests minimum side and rear yard setbacks of 0.43 m (1.41 ft) and 0.30 m (0.99 ft) respectively, whereas the By-law requires that no accessory buildings shall be erected closer than 1.22 m (4.0 ft) to any lot line.

In 2009, staff undertook study and recommended changes which pertain to zoning standards for residential accessory structures. At the time it was determined that setbacks from the rear and interior side lot lines vary from 0.30 m (0.98 ft) to 0.60 m (1.97 ft). Existing Zoning By-laws include setback requirements of between approximately 0.60 m (1.97 ft) and 1.20 m (3.94 ft) from the rear and interior side lot lines. The June 2009 staff report includes recommendations of setbacks of 1.20 m (3.94 ft) from the rear and interior lot lines, which may be reduced to 0.50 m (1.64 ft) if there are no openings facing these lot lines. Following receipt of the submitted grading plan, Engineering staff has not identified any concerns with the variance with respect to drainage.

Staff note that the applicant has chosen to build first and has submitted a minor variance application to recognize the existing shed, which does not currently comply with the minimum setback requirements. The applicant would therefore be required to fully remove,

or make modifications to the accessory building to ensure compliance with the requirements of the Zoning By-law, should this variance application be denied. It is in part for this reason that staff highly recommend any property owners and applicants alike to contact City staff prior to starting any development works on their properties. Notwithstanding completion of construction, assessment of this variance application is based on whether the development as proposed, meets the four tests of the *Planning Act*.

### **PUBLIC INPUT SUMMARY**

One written submission was received as of February 28, 2022, objecting to the proposed development on the basis that:

- the proximity of the shed is located too close to the property line;
- the property line for 33 Carpenter Court extends approximately 4.0 in (0.10 m) beyond the fence, as the fences were built entirely on the property of the Carpenter Court side due to the presence of large trees at the time;
- the inability to allow for proper maintenance of the shed or the fence; and
- drainage issues as the shed is located along the swale between properties.

It is noted that additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

### **CONCLUSION**

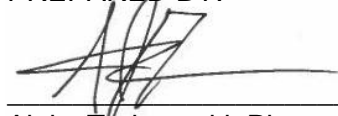
Planning staff have reviewed the application with respect to Section 45(1) of the *Planning Act*. The Committee should consider public input before making a decision. Should the Committee approve this minor variance application, Planning staff recommend the subsequent conditions of approval be imposed. 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

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



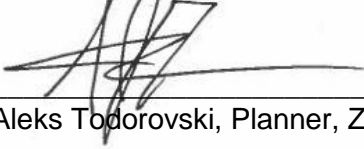
Brad Roberts, Manager, Zoning and Special Projects

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/186/21**

1. That the variance applies only to the existing accessory building (shed) for as long as it remains.
2. That the variance applies only to the existing accessory building, 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.

PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks Todorovski', is written over a horizontal line. The signature is stylized and somewhat illegible.

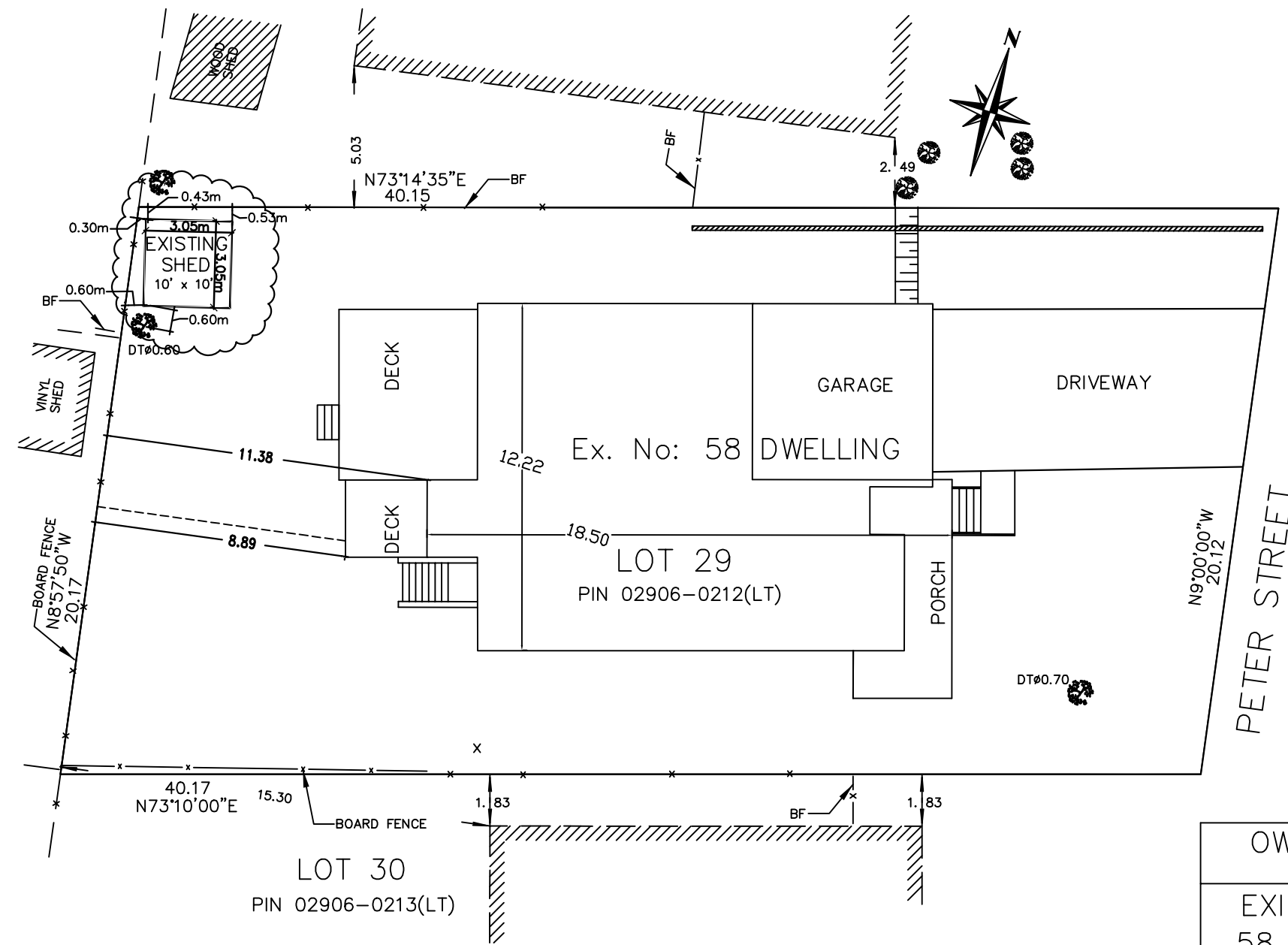
Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/186/21**

# Appendix B

File: 21.145865.000.00.MNV

Date: 03/04/22  
MM/DD/YY



LEGEND-ZONING DATA		
R1 Zoning under by-law 1229/99-90		
DISCRIPTION	REQUIRED	PROVIDED
LOT AREA	613.47 s.m MIN.	801.59 s.m
LOT AREA-NET		707.53 s.m
FRONTYARD SETBACK	7.62m	9.05m
SIDEYARD SETBACK NORTH	1.22m	3.38m
SIDEYARD SETBACK SOUTH	1.22 m	2.67m
REARYARD SETBACK	7.62m	11.38m
SHED SETBACK	NORTH	1.20m
	WEST	0.30m

SHED HEIGHT = 2.59m

NOTE: -  
SURVEYING INFORMATION  
WAS TAKEN FROM  
THAM SURVEYING LTD.  
8888 KEELE STREET, UNIT 7,  
VAUGHAN, ON. L4K 2N2

OWNER: KIRUPAKARAN  
EHAMPARAM

EXISTING SHED PLAN  
58 PETER STREET  
REGISTERED PLAN 3905  
LOT 29

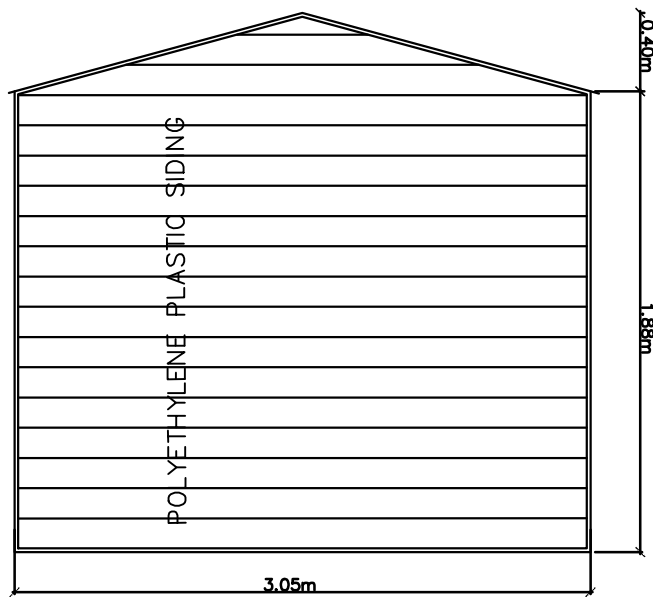
DRAWN BY: S.K.      CHECKEDBY:  
23 NOV, 2021      SCALE: 1:50      DRAWING No: S-01

EXISTING SHED PLAN  
MINOR VARIANCE SET BACK

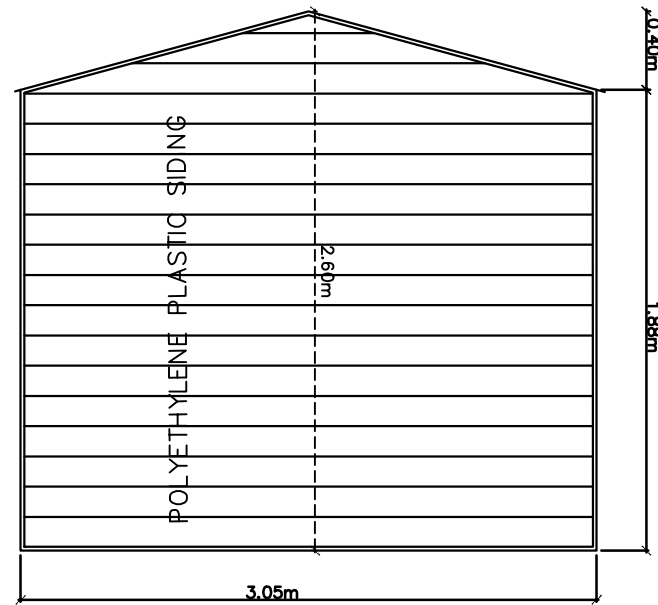
# Appendix B

File: 21.145865.000.00.MNV

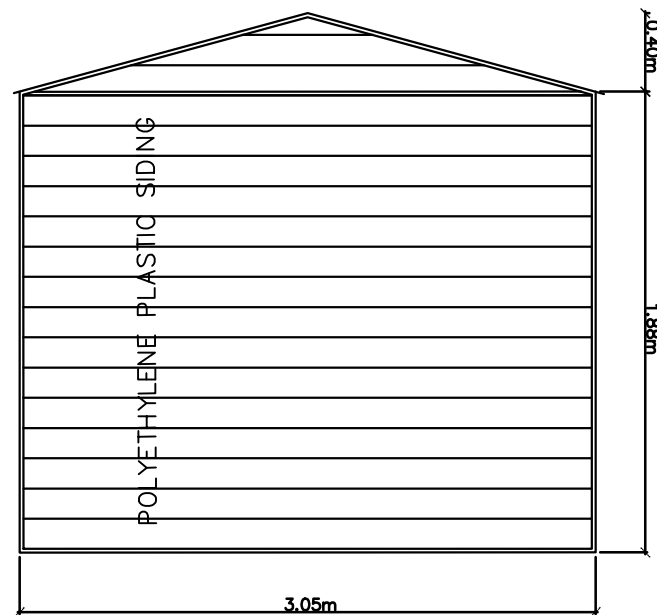
Date: 03/04/22  
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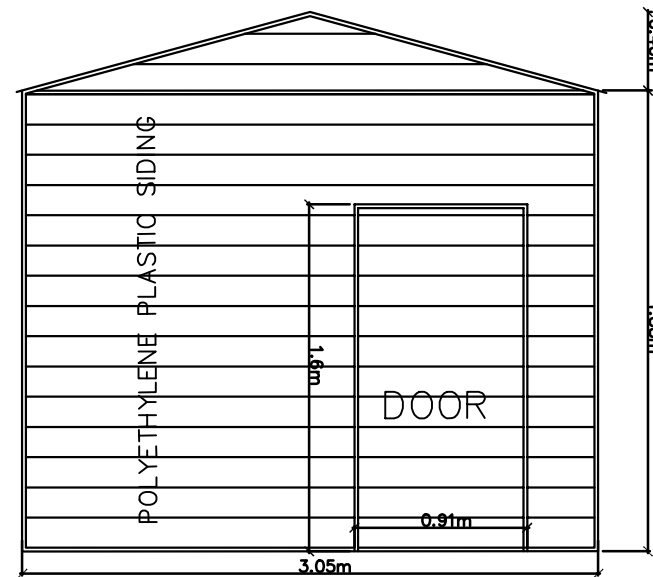
NORTH SIDE ELEVATION



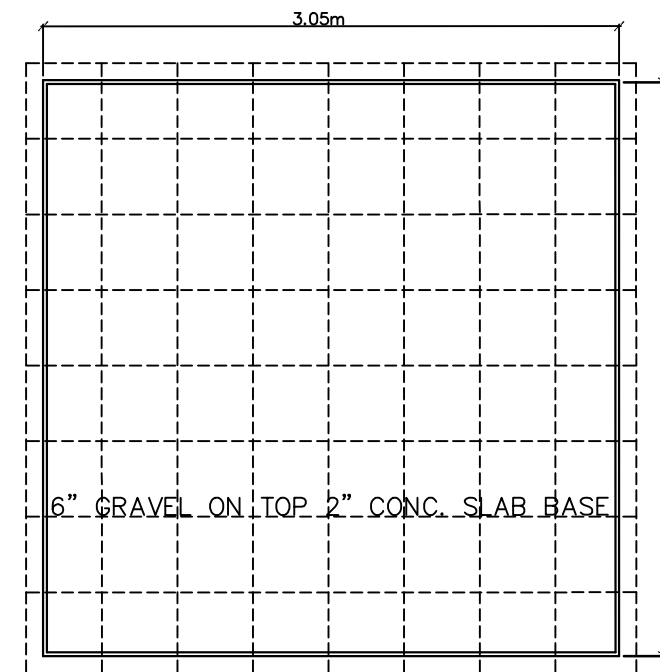
SOUTH SIDE ELEVATION



REAR ELEVATION



FRONT ELEVATION



PLAN

OWNER: KIRUPAKARAN  
EHAMPARAM

EXISTING SHED PLAN  
58 PETER STREET  
REGISTERED PLAN 3905  
LOT 29

DRAWN BY: S.K.

CHECKEDBY:

23 NOV, 2021

SCALE: 1:50

DRAWING No: A-01

EXISTING SHED PLAN  
MINOR VARIANCE SET BACK