

Memorandum to the City of Markham Committee of Adjustment

December 11, 2020

File: A/120/20
Address: 24 Church Street, Markham
Applicant: Xue Mei Wu
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday December 16, 2020

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

The applicant is requesting relief from the following requirements of By-law 1229, R1 as amended to permit:

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

a net floor area ratio of 49.50 percent, whereas the By-law permits a maximum net floor area ratio of 45.0 percent;

b) Parent By-law 1229, Section 11.3(a)(i):

a maximum building height for accessory structure of 4.05 m (13.29 ft), whereas the By-law permits a maximum height of 3.66 m (12 ft);

as it relates to a proposed detached garage located partly on an existing foundation.

BACKGROUND

Property Description

The 845.79 m² (9,104.01 ft²) subject property is located in the Markham Village Heritage Conservation District (See Appendix A – Location Map). The property is a corner lot located on the west side of Franklin Street and north side of Church Street and contains a two and a half story frame dwelling constructed c.1914 with a two-storey addition and parking pad, constructed in 2016. The property is located within an established residential neighbourhood comprised of heritage and non-heritage dwellings with a mix of one and two-storey detached dwellings to the north, east and south of the property, and townhouse dwellings to the east. Mature vegetation exists along the property line between the subject property and the adjacent property to the north.

Proposal

The applicant is proposing to construct a 47.10 m² (506.98 ft²) detached garage (See Appendix B – Site Plan and Elevations). The existing 37.45 m² (403.16 ft²) parking pad will serve as part of the foundation of the new proposed detached garage.

The applicant has also submitted a Site Plan Application (SPC 20 132565) which is being reviewed concurrently by the City. The site plan has been delegated to staff as the approval authority.

Heritage Markham Committee Comments

As the property is located within the Markham Village Heritage Conservation District, Heritage Markham Committee reviewed the application on December 9, 2020. The Committee had no objection from a heritage perspective to the requested variances, but did provide comments on the associated site plan application.

A significant portion of the rear yard had been paved with hard landscaping, with the paved driveway extending to the northerly property line. The Committee were concerned that the 2.33 m setback from the paved driveway to the northerly property line would be used as parking space. As such, the Committee had recommended that the existing planters on site be replaced with soft landscaping to maintain the 2.33 m setback. Committee's comments regarding landscaping will not impact the variances being requested and will be addressed during the review of the Site Plan application.

Official Plan and Zoning

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

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. In addition to the development criteria contained in Section 8.2.3.5, Section 9.13.4.8 of the Official Plan 2014 also includes site-specific policies that apply to this part of Markham Village. These criteria are 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 and within the Markham Village district, development is required to meet the general intent of these development criteria. Regard shall also be had for landscaping and tree preservation.

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 net floor area ratio, and building height for the accessory structure. Staff note that By-law 99-90 includes the areas of detached garages in the calculation of net floor area ratio.

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 Site Plan Control or Building Permit review process, further variance application(s) may be required to address the non-compliance.

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 Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio (FAR) of 49.46 percent, whereas the By-law permits a maximum floor area ratio of 45.0 percent. The proposed variance will facilitate the construction of a detached garage with a floor area of 47.10 m² (506.98 ft²) and a FAR of 6.46 percent. It should also be noted that the applicant has indicated that the existing dwelling has a floor area of 313.73 m² (3,376.96 ft²) and a FAR of 43.0 percent.

Floor Area Ratio is a measure of the interior square footage of the dwelling and garage (detached or attached), as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling and, or, accessory building(s) including detached garages.

The proposed accessory building layout meets all other zoning provisions (such as setbacks and lot coverage), that establish the prescribed building envelope. This ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. Although the proposed garage will be slightly larger than the existing parking pad, with a 9.66 m² (104 ft²) workshop addition located on the east side of the detached garage, its impact to the street and adjacent properties will be minimal in terms of overall massing. As such, staff have no objection to the requested variance and are of the opinion that the variance is minor in nature.

Increase in Maximum Accessory Building Height

The applicant is requesting relief to permit a maximum accessory building height of 4.05 m (13.29 ft), whereas the By-law permits a maximum building height of 3.66 m (12 ft). This represents an increase of 0.39 m (1.29 ft).

Given the distance from the adjacent homes and that all setback requirements are being met, staff are of the opinion that the variance is minor and will have minimal impacts on the street and adjacent properties.

URBAN DESIGN AND ENGINEERING COMMENTS

An arborist's report had been submitted with the Site Plan Control application (see Appendix C – Arborist Report). Removal of trees will not be required, however the adjacent Sugar Maple may be injured to accommodate the excavation of the new slab on grade for the proposed workshop attached to the garage. Urban Design recommends that tree preservation measures be implemented to protect the Sugar Maple and that the proposed workshop area be shifted further south away from the impacted tree on the property line.

Engineering has reviewed the proposal and has no objection to it as long as there are no changes in grading or servicing. Otherwise, an accepted lot grading and servicing plan will be required prior to any work being undertaken on the property.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 11, 2020. 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, subject to site plan approval. 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 see Appendix "D" for conditions to be attached to any approval of this application.

PREPARED BY:



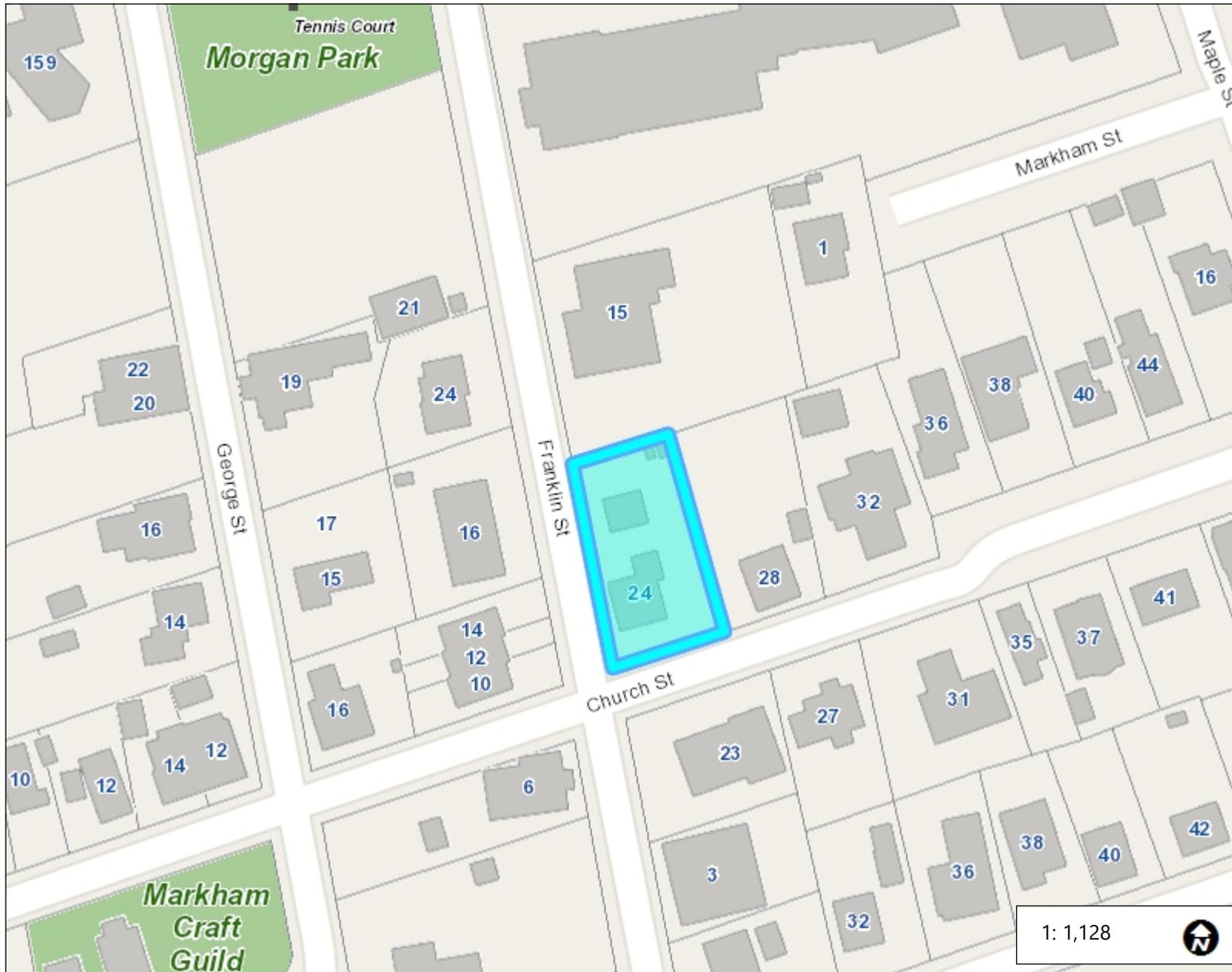
Melissa Leung, Development Technician

REVIEWED BY:

A handwritten signature in black ink, appearing to read "R. Hutcheson". The signature is written in a cursive, flowing style.

Regan Hutcheson, Development Manager, Heritage District

File Path: Amanda\File\ 20 132564 \Documents\District Team Comments Memo



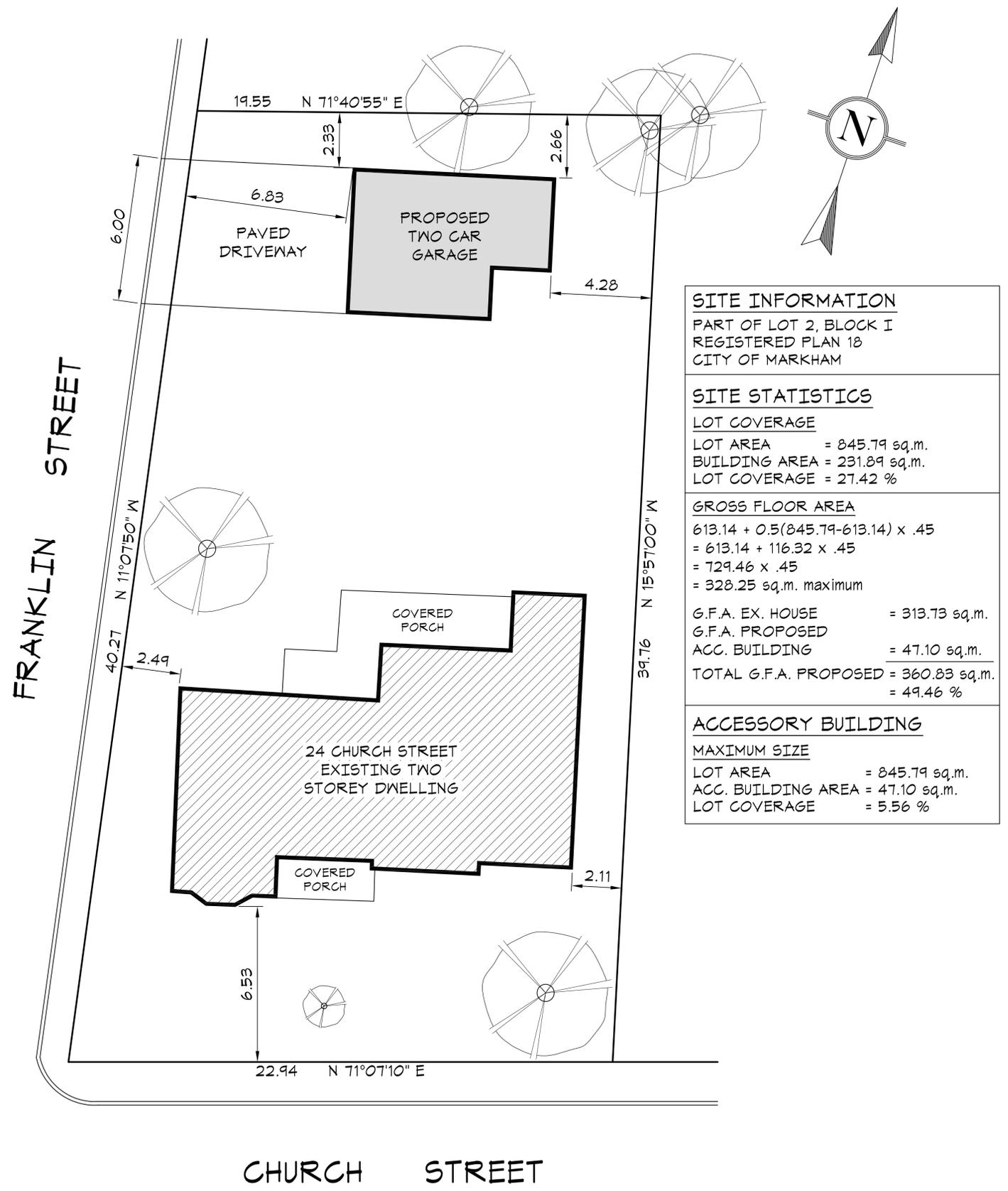
Legend

- LANDMARKS_6000
- SLRN_6000
- PARKS_6000
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Park Facilities
- Parks**
- <all other values>
- Under Development

1: 1,128



Notes



SITE INFORMATION	
PART OF LOT 2, BLOCK I REGISTERED PLAN 18 CITY OF MARKHAM	
SITE STATISTICS	
LOT COVERAGE	
LOT AREA	= 845.79 sq.m.
BUILDING AREA	= 231.89 sq.m.
LOT COVERAGE	= 27.42 %
GROSS FLOOR AREA	
613.14 + 0.5(845.79-613.14) x .45	
= 613.14 + 116.32 x .45	
= 729.46 x .45	
= 328.25 sq.m. maximum	
G.F.A. EX. HOUSE	= 313.73 sq.m.
G.F.A. PROPOSED	= 47.10 sq.m.
ACC. BUILDING	= 47.10 sq.m.
TOTAL G.F.A. PROPOSED	= 360.83 sq.m.
	= 49.46 %
ACCESSORY BUILDING	
MAXIMUM SIZE	
LOT AREA	= 845.79 sq.m.
ACC. BUILDING AREA	= 47.10 sq.m.
LOT COVERAGE	= 5.56 %

GENERAL NOTES:

ALL CONSTRUCTION IS TO CONFORM TO SECTION "9" OF THE ONTARIO BUILDING CODE (LATEST EDITION).

CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.

DO NOT SCALE DRAWINGS.

OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE TO RE-CLAIM AND DESTROY ALL PREVIOUS AND UN-REVISED COPIES OF THIS DRAWING.

THESE DRAWINGS ARE THE PROPERTY OF THE GREGORY DESIGN GROUP AND / OR ITS CLIENTS ONLY.

BUILDING PERMITS TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25825
 Firm B.C.I.N. - 30506

Russ Gregory
 NAME SIGNATURE

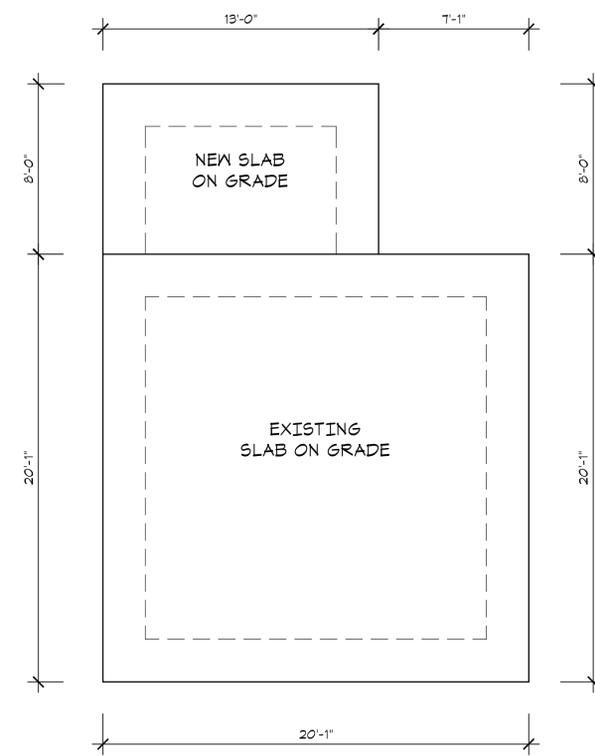
PROJECT TITLE

PROPOSED GARAGE
24 CHURCH STREET
CITY OF MARKHAM

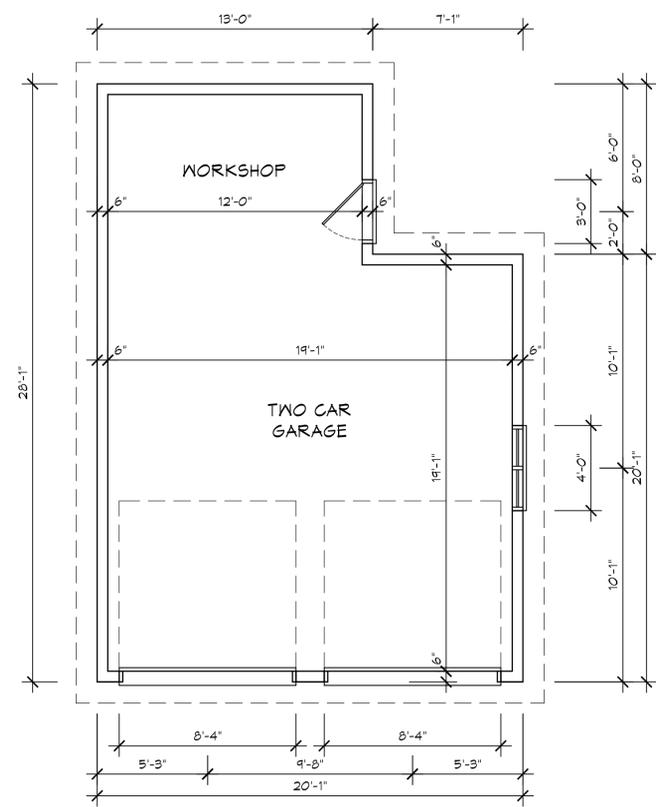
THE GREGORY DESIGN GROUP

16 CHURCH STREET
 MARKHAM, ONTARIO L3P 2L6
 416-520-0978
 shane@gregorydesigngroup.net

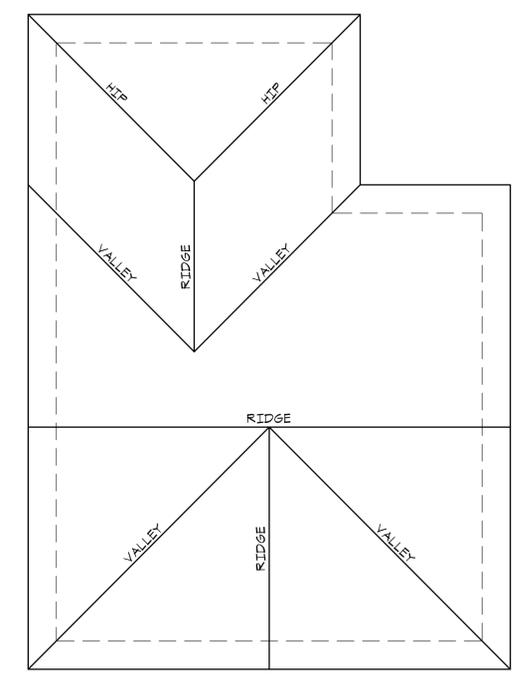
SCALE	DATE
1:100	11/03/20
PROJECT NUMBER	SHEET NUMBER
2231-20	SP-1
DRAWN BY	CHECKED BY
S.Gregory	R.G.



FOUNDATION PLAN
PROPOSED LAYOUT



GARAGE PLAN
PROPOSED LAYOUT
 BUILDING AREA = 507 sq.ft.
 = 47.10 sq.m.



ROOF PLAN
PROPOSED LAYOUT

GENERAL NOTES:
 ALL CONSTRUCTION IS TO CONFORM TO SECTION "9" OF THE ONTARIO BUILDING CODE (LATEST EDITION).
 CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.
 DO NOT SCALE DRAWINGS.
 OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE TO RE-CLAIM AND DESTROY ALL PREVIOUS AND UN-REVISED COPIES OF THIS DRAWING.
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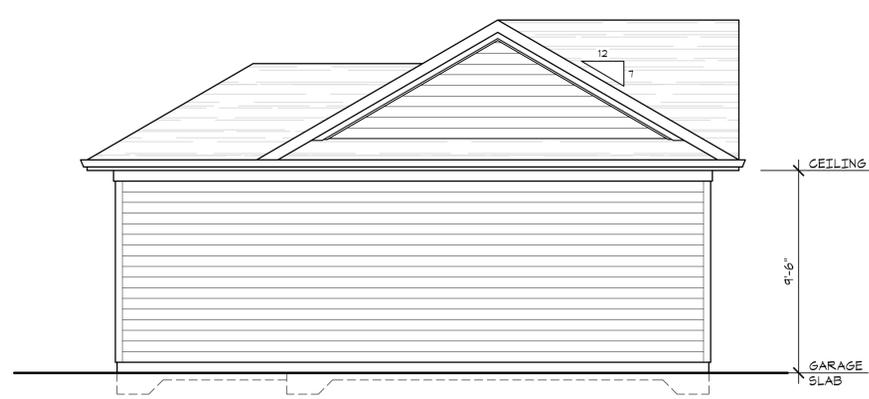
REVISIONS AND DATA	DATE

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025
 Firm B.C.I.N. - 30506
 Russ Gregory
 NAME SIGNATURE

PROJECT TITLE
 PROPOSED GARAGE
 24 CHURCH STREET
 CITY OF MARKHAM

THE GREGORY DESIGN GROUP
 16 CHURCH STREET
 MARKHAM, ONTARIO L3P 2L6
 416-520-0978
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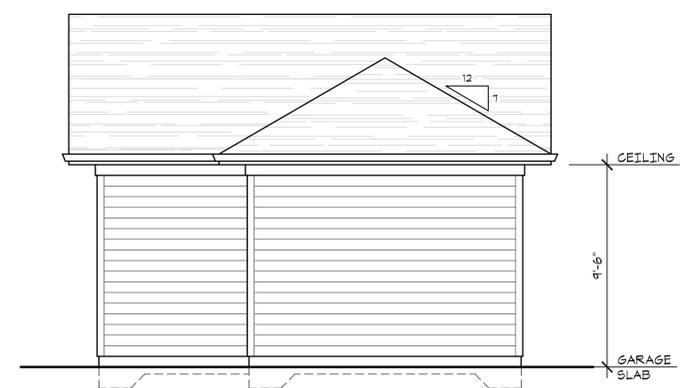
LEFT SIDE ELEVATION



FRONT ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION

SCALE 1/4"=1'-0"	DATE 11/03/20
PROJECT NUMBER 2231-20	SHEET NUMBER A-1
DRAWN BY S.Gregory	CHECKED BY R.G.

Tree Inventory and Preservation Plan Report
24 Church Street
Markham, Ontario

Appendix C

File: 20.132564.000.00.MNV

Date: 12/11/20
MM/DD/YY



prepared for

Gregory Designs
16 Church Street
Markham, Ontario L3P 2L6

prepared by



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146 Lakeshore Road West
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5 April 2016, revised 10 November 2020

KUNTZ FORESTRY CONSULTING INC Project P1130

Introduction

Kuntz Forestry Consulting Inc. was retained by Gregory Designs to complete a Tree Inventory and Preservation Plan in support of a development application for the property located at 24 Church Street in Markham, Ontario. The property is located on the northeast corner of Church Street and Franklin Street within a residential area.

The work plan for this tree preservation study included the following:

- Prepare inventory of the tree resources over 15cm on and within six metres of the subject area and trees of all sizes within the road right-of-way.
- Evaluate potential tree saving opportunities based on proposed development plans; and
- Document the findings in a Tree Inventory and Preservation Plan Report.

Tree resources were assessed utilizing the following parameters:

Tree # - number assigned to tree that corresponds to Figure 1.

Species - common and botanical names provided in the inventory table.

DBH - diameter (centimetres) at breast height, measured at 1.4 m above the ground.

Condition - condition of tree considering trunk integrity, crown structure, and crown vigour. Condition ratings include poor (P), fair (F) and good (G).

Comments - additional relevant detail.

The results of the evaluation are provided below.

Methodology

Trees measuring over 15cm DBH on and within six metres of the subject property and trees of all sizes within the road right-of-way were included in the tree inventory. Trees were located by a topographic survey provided for the property. Trees included in the inventory were numbered 1-4 and 7-9. Trees 5 and 6 were removed for the construction of the existing dwelling. Tree locations are shown on Figure 1. See Table 1 for the results of the inventory.

Existing Site Conditions

The subject property is currently occupied by a two-storey dwelling. Tree resources exist in the form of landscape trees and natural generations. Refer to Figure 1 for the existing site conditions.

Individual Tree Resources

The tree inventory was conducted on 19 October 2015. The inventory documented 7 trees on and within six metres of the subject property. Refer to Table 1 for the full tree inventory and Figure 1 for the locations of trees reported in the tree inventory.

Tree resources were comprised of Manitoba Maple (*Acer negundo*), Sugar Maple (*Acer saccharum*), Tree-of-heaven (*Ailanthus altissima*), White Birch (*Betula papyrifera*), and White Mulberry (*Morus alba*).

Proposed Development

The proposed development includes the construction of a new two-car garage with a paved driveway. The existing dwelling will be retained. Refer to Figure 1 for the proposed development.

Discussion

The following sections provide a discussion and analysis of development impacts and tree preservation relative to the proposed development and existing conditions.

Development Impacts/Tree Removal

The removal of trees is not required to accommodate the proposed development.

Tree Preservation

Preservation of all trees will be possible with the use of appropriate tree protection measures as indicated on Figure 1 with GREEN tree labels. Tree protection measures will have to be implemented prior to development to ensure tree resources designated for retention are not impacted. Refer to Figure 1 for the location of required tree preservation fencing, general Tree Protection Plan Notes, and tree preservation fence details.

Tree 9

Encroachment into the minimum Tree Protection Zone (mTPZ) of Tree 9, a Sugar Maple with approximately 55cm DBH, is required to accommodate the proposed garage. Excavation for the proposed garage is required at 3.0m from Tree 9. Given that Sugar Maple is intolerant to root injury there may be some adverse effects anticipated to the tree such as a reduction in above-ground growth rates until the tree regenerates its lost roots. The following mitigation measures must be implemented to ensure Tree 9 respond well to the impacts of development:

- Prior to the construction of the garage, tree preservation fencing should be installed as indicated on Figure 1;
- Excavation for the proposed building within the mTPZ of Tree 9 adjacent tree preservation fencing should be completed by air spade excavation methods and supervised by a Certified Arborist to ascertain the extent of roots and to ensure the trees would not be destabilized after root pruning;
- Once the air spade excavation has been completed the exposed tree roots should be pruned by a certified arborist in accordance with Good Arboricultural Standards;
- During warm periods and periods of drought the trees should be irrigated weekly; and,
- Compost tea should be injected into the root zone in attempts to aid the tree in regenerating lost roots. Regeneration of lost roots will ensure that the tree has means to absorb nutrients from the soil required to support the crown and remains structurally sound.

Summary and Recommendations

Kuntz Forestry Consulting Inc. was retained by Gregory Designs to complete a Tree Inventory and Preservation Plan in support of a development application for the property

located at 24 Church Street in Markham, Ontario. A tree inventory was conducted and reviewed in the context of the proposed development plan.

The findings of the study indicate a total of seven trees on and within six metres of the subject property. All trees can be saved provided appropriate tree protection measures are installed prior to the demolition.

The following recommendations are suggested to minimize impacts to trees identified for preservation. Refer to Figure 1 for additional tree preservation notes and the preservation fence detail.

- Tree protection barriers and fencing should be erected at locations as prescribed on Figure 1. All tree protection measures should follow the guidelines as set out in the tree preservation plan notes and the tree preservation fencing detail.
- No construction activity including surface treatments, excavations of any kind, storage of materials or vehicles, unless specifically outlined above, is permitted within the area identified on Figure 1 as a tree protection zone (TPZ) at anytime during or after construction.
- Branches and roots that extend beyond prescribed tree protection zones that require pruning must be pruned by a qualified Arborist or other tree professional. All pruning of tree roots and branches must be in accordance with Good Arboricultural Standards.
- Site visits, pre, during and post construction is recommended by either a certified consulting arborist (I.S.A.) or registered professional forester (R.P.F.) to ensure proper utilization of tree protection barriers. Trees should also be inspected for damage incurred during construction to ensure appropriate pruning or other measures are implemented.

Respectfully Submitted,
Kuntz Forestry Consulting Inc.

Kaho Hayashi

Kaho Hayashi, B.Sc., M.Sc.F.
Associate Forest Ecologist
ISA Certified Arborist #ON-2153A

References

Town of Markham, 2008. Tree Preservation Bylaw. Adopted June 24, 2008 by By-law No. 2008-96.

Table 1. Tree Inventory

Location: 24 Church Street, Markham

Date: 19 October 2015

Surveyors: KH

Tree#	Common Name	Scientific Name	DBH	TI	CS	CV	CDB	mTPZ	Owner	Comments	Protected by City Tree Bylaw
1	White Birch	<i>Betula papyrifera</i>	37,34.5,22	F/G	G	F/G		3.6	Private	Union at base (3 stems), lean (L), bow (M) to south and southeast, asymmetrical crown (L)	Yes
2	White Mulberry	<i>Morus alba</i>	18	F	F/G	F/G		1.8	Private	Drooping cultivar, union at 1.6m, stem wound (M), asymmetrical crown (M)	No
3	Sugar Maple	<i>Acer saccharum</i>	32.5	G	G	F/G		2.4	Private		Yes
4	Sugar Maple	<i>Acer saccharum</i>	44.5	G	G	G		3	Private		Yes
7	Tree-of-heaven	<i>Ailanthus altissima</i>	~50,25	F/G	G	F/G		3.6	Neighbour	Union at 0.5m but merged at 4m, asymmetrical crown (L)	Yes
8	Manitoba Maple	<i>Acer negundo</i>	~15	P/F	F	F/G		1.8	Neighbour	Lean (H) to south, epicormic branches (H)	No
9	Sugar Maple	<i>Acer saccharum</i>	~55	F/G	F/G	F	10	3.6	Neighbour	Union at 2m (4 stems), dead branches (L), epicormic branches (L)	Yes

Codes		
DBH	Diameter at Breast Height	(cm)
TI	Trunk Integrity	(G, F, P)
CS	Crown Structure	(G, F, P)
CV	Crown Vigor	(G, F, P)
CDB	Crown dieback	%
mTPZ	minimum Tree Protection Zone	(m)
Owner	Private, neighbour, city	
P = poor, F = fair, G = good, ~ = estimate, (VL) = very light, (L) = light, (M) = moderate, (H) = heavy		

APPENDIX “D”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/120/20

1. That the proposed 9.66 m² (104 ft²) workshop area be shifted to the south further away from the trees on the property line;
2. The variances apply only to the proposed development as long as it remains;
3. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as ‘Appendix B’ to this Staff Report; or further revised by any site plan ‘endorsed’ or ‘approved’ drawings under File SPC 20 132565.
4. 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 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;
5. 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.
6. 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 Director of Operations;

CONDITIONS PREPARED BY:



Melissa Leung, Planner, Zoning and Special Projects