

Memorandum to the City of Markham Committee of Adjustment

December 09, 2019

File: A/146/19
Address: 126 Church St – Markham, ON
Applicant: Mark Cullen
Agent: Robert Hurlburt Homes Ltd.
Hearing Date: Wednesday January 22, 2020

The following comments are provided on behalf of the East Team.

The applicant is requesting relief from the following Residential (R1) zone requirements of By-law 1229, as amended, as it relates to a garage projection as part of the proposed new two storey detached dwelling:

a) Section 1.2 (iv), as amended by By-law 99-90:

To permit a garage projection of 4.14 m (13.58 ft); whereas the By-law allows a maximum garage projection of 2.1 m (6.89 ft).

BACKGROUND

Property Description

The 2,327.11 m² (25,048.80 ft²) subject property is located on the north side of Church Street, east of Elm Street and west of Wooten Way North. Mature trees exist in both the front and rear yards of the property.

The property is located within an established residential neighbourhood generally comprised of one and two-storey detached dwellings with lots of varying size, frontages, and depths. The surrounding area is undergoing a transition with several instances of newer dwellings in the form of infill development.

Proposal

The applicant is proposing to demolish the existing one storey single detached dwelling, and construct a new 339.57 m² (3,655.10 ft²) two storey single detached dwelling on the subject property, including an attached garage. The proposed garage projects 4.14 m (13.58 ft) into the front yard, which is the subject of this variance 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. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

The property is also subject to the Markham Village Site Specific Policy Area, whereby the intent is to limit the size and massing of new dwellings to ensure infill development respects and reflects the existing pattern and character of adjacent development including building depth, and height.

Zoning By-Law 1229

The subject property is zoned Residential One “R1” Zone under By-law 1229, as amended, which permits one single detached dwelling per lot.

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 requirement for garage projections as permitted in the infill By-law.

Applicant’s Stated Reason for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with the zoning is because,

“Tree #10 as shown on the Site Plan is a Crimson King Maple (located north of the proposed dwelling’s rear building line). Everyone wants to keep this tree and by moving the garage slightly forward, the tree protection zone will be maintained.”

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a ZPR on November 13, 2019 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 Garage Projection

In efforts to reduce injury and preserve the existing mature tree in the rear yard, the applicant is requesting a maximum garage projection of 4.14 m (13.58 ft), whereas the By-law permits a maximum garage projection of 2.1 m (6.89 ft). This is an increase of 2.04 m (6.69 ft) and would permit the front of the garage to project 4.14 m (13.58 ft) from the south side of the covered porch towards the front lot line.

The proposed development maintains a generous front yard setback of 15.13 m (46.64 ft). Staff are of the opinion that the proposed development is appropriate for the

development of the lands and the preservation of the tree. Staff are satisfied that the variance is minor, satisfies the general intent of the zoning by-law and the Official Plan. Should the Committee of Adjustment approve the variance, it is recommended that the proposed development be subject to the conditions provided in Appendix "A".

PUBLIC INPUT SUMMARY

No written submissions were received as of December 9, 2019. 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.

APPENDICES

Appendix "A" – Conditions List

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/146/19

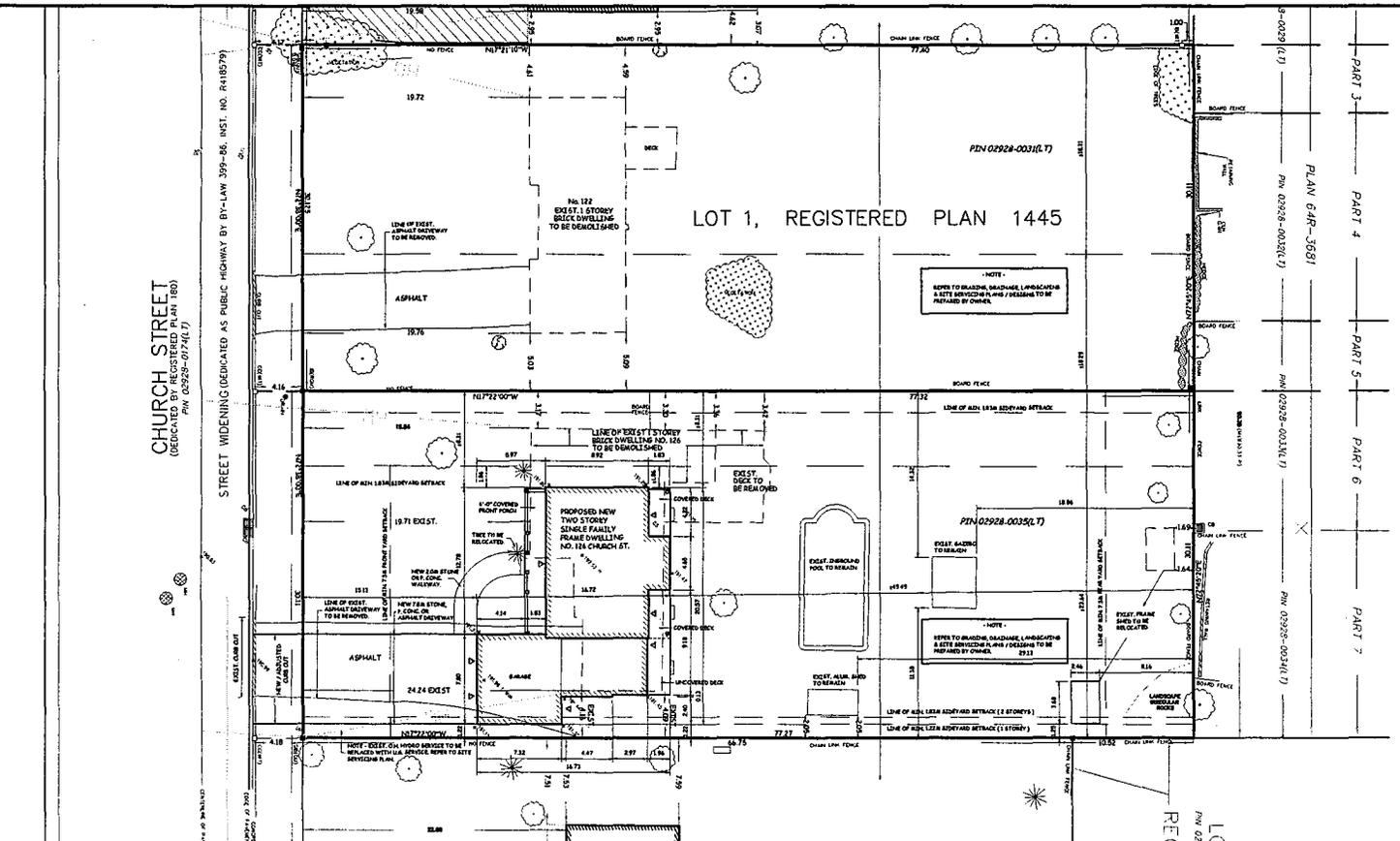
1. That the variances apply only to the subject development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report and received by the City of Markham on November 26, 2019, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction;
2. 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;
3. 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; and
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations.

CONDITIONS PREPARED BY:

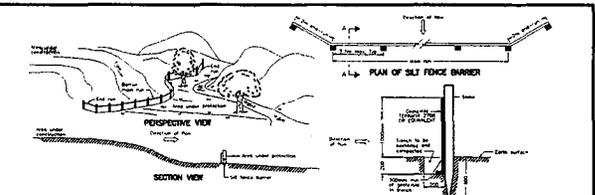


Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/146/19



GENERAL SITE PLAN / GRADING
 SCALE: 1:300



SEDIMENT AND EROSION CONTROL MEASURES

INSTALL SILT FENCE AS INDICATED ON DRAWING PRIOR TO THE START OF CONSTRUCTION. SILT FENCE TO BE MAINTAINED THROUGHOUT CONSTRUCTION. FENCE SHALL BE REPAIRED AND RELOCATED AS NECESSARY TO MAINTAIN THE DESIGNATED CONSTRUCTION AREA WHICH SHALL BE RE-VEGETATED WHEN CONSTRUCTION IS COMPLETE. ALL DISTURBED AREAS SHALL BE RE-VEGETATED SO THAT A PERMANENT VEGETATION COVER IS ESTABLISHED. SOIL CHECKS SHALL BE PERFORMED IN THE OTHER AREAS AND CONSTRUCTION FROM THE CONSTRUCTION AREA SPILLS AND LEAKS TO BE CLEANED UP IMMEDIATELY. SILT FENCE SHALL BE PLACED DOWNSTREAM OF THE CONSTRUCTION AREA. SILT FENCE SHALL BE MAINTAINED AS REQUIRED DURING THE CONSTRUCTION PERIOD. ALL DISTURBED AREAS SHALL BE RE-VEGETATED WITH THE SAME SPECIES AND PLANTING RATE AS THE UNDISTURBED AREAS. ANY VEGETATION TO BE REMOVED SHALL BE REPLACED BY SILET FENCING LOCATED AT THE SAME LINE.

SILTATION FENCE
 SCALE: 1:300

BUILDING AND ZONING

PROPERTY SUBJECT TO CITY OF MARKHAM RESIDENTIAL, R1, INCLUDING ZONING BY-LAW 224 AS AMENDED BY BY-LAW 99-04

SITE ANALYSIS

LOT AREA (124 CHURCH ST.) = 42227.31 SQ. M (102551.78 SQ. FT.)

GRAND FLOOR BUILDING AREA = 137.10 SQ. M (2951.12 SQ. FT.)

NEW RESIDENCE 1ST FLOOR AREA = 137.10 SQ. M (2951.12 SQ. FT.)

NEW RESIDENCE ATTACHED GARAGE AREA = 20.32 SQ. M (438.40 SQ. FT.)

NEW RESIDENCE ATTACHED PORCH AREA = 14.75 SQ. M (318.40 SQ. FT.)

NEW RESIDENCE SCHEDULED PORCH AREA = 14.75 SQ. M (318.40 SQ. FT.)

NEW RESIDENCE UNCOVERED REAR DECK = 24.83 SQ. M (534.67 SQ. FT.)

NEW RESIDENCE TOTAL BUILDING AREA = 207.44 SQ. M (4478.78 SQ. FT.)

EXIST. GARAGE AREA = 14.84 SQ. M (321.72 SQ. FT.)

EXIST. FRAME SHED AREA = 40.23 SQ. M (862.70 SQ. FT.)

EXIST. ASPHALT DRIVE = 91.42 SQ. M (1964.24 SQ. FT.)

TOTAL BUILDING AREA = 302.92 SQ. M (6547.72 SQ. FT.)

LOT COVERAGE = 13.02%

GRAND FLOOR AREA

NEW RESIDENCE 1ST FL. BUILDING AREA = 137.10 SQ. M (2951.12 SQ. FT.)

NEW RESIDENCE ATTACHED GARAGE AREA = 20.32 SQ. M (438.40 SQ. FT.)

NEW RESIDENCE SCHEDULED PORCH AREA = 14.75 SQ. M (318.40 SQ. FT.)

NEW RESIDENCE UNCOVERED REAR DECK = 24.83 SQ. M (534.67 SQ. FT.)

NEW RESIDENCE TOTAL FLOOR AREA = 177.00 SQ. M (3793.22 SQ. FT.)

NEW RESIDENCE GROSS FLOOR AREA = 179.57 SQ. M (3853.22 SQ. FT.)

NEW RESIDENCE FLOOR AREA (W/O) = 179.57 SQ. M (3853.22 SQ. FT.)

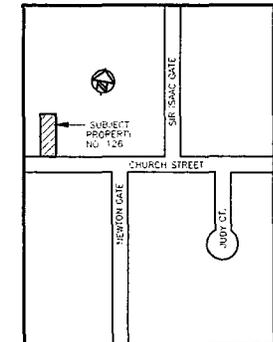
EXIST. FRAME SHED AREA = 40.23 SQ. M (862.70 SQ. FT.)

EXIST. ASPHALT DRIVE = 91.42 SQ. M (1964.24 SQ. FT.)

LOT RESIDENCE BUILDING HEIGHT = 7.70 METERS (25.26 FEET)

GENERAL SITE INFORMATION

- REFER TO ALL APPLICABLE LANDSCAPING PLANS & SPECIFICATIONS TO BE SUPPLIED BY OWNER FOR ADDITIONAL DETAILED SITE RELATED WORKS AND INFORMATION
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL CONSTRUCTION AND CONNECTION FEES AND PERMITS REQUIRED FOR BUILDING SERVICES, INCLUDING EXISTING WATERS, WATER SERVICES, TELEPHONE, ETC. AS WELL AS THE REGULATION OF TREE REMOVAL SERVICES
- ALL EXISTING AND NEW UTILITIES, ABOVE AND BELOW GROUND, SHALL BE MAINTAINED OR RELOCATED AS NECESSARY
- WHERE PAVING IS INDICATED, ALL DRIVE AND PAVEMENT SURFACES SHALL BE FINISHED WITH 100MM HOT MIXED BITUMEN (AC) 125MM W/32 & 175MM W/40 ON MAXIMUM 150MM GRANULAR "A" & STONE GRANULAR "B"
- ALL FILL & CURBS SHALL BE CONSTRUCTED WITH 100% GRANULAR "A" AND 150MM W/40 ON MAXIMUM 150MM GRANULAR "B" AND STONE GRANULAR "B"
- UNLESS OTHERWISE AGREED TO IN WRITING, THE OWNER ASSUMES RESPONSIBILITY FOR THE SUFFICIENCY OF ALL SOIL CONDITIONS. ALL DESIGN HAS BEEN BASED ON THE EXISTING UNDISTURBED SOIL WITH AN ALLOWABLE BEARING CAPACITY OF 1000 KPa F
- ALL UTILITIES, ABOVE AND BELOW GROUND, SHALL BE RELOCATED AS REQUIRED TO ACCOMMODATE PROPOSED CONSTRUCTION
- ALL SITE WORK SHALL BE CONSTRUCTED IN STRICT ACCORDANCE WITH CITY OF MARKHAM ZONING, SPECIFICATIONS, AND DETAILS WHICH SHALL BE REVIEWED TO CORRECT PART OF THIS SITE PLAN
- ALL SURFACE DRAINAGE SHALL BE CONTROLLED WITHIN THE BOUNDARIES OF THE OWNER'S PROPERTY EXCEPT AS SPECIALLY PROVIDED
- REFER TO CHANGING SURFACE, STORM WATER MANAGEMENT AND SEWERAGE AND SANITATION BY-LAW 224 AS AMENDED BY BY-LAW 99-04 FOR ALL REQUIREMENTS FOR SURFACE WATER, SEWERAGE AND SANITATION
- MINIMUM SLOPES FOR PAVED OR SURFACED WAYS 1:0% (EXCEPT AS SHOWN OTHERWISE)
- THE GENERAL CONTRACTOR SHALL SHOW ALL FOUNDATION EXCAVATIONS WHERE REQUIRED TO ENSURE THE STABILITY OF THE EXCAVATION TIGHT THAT ADJACENT PROPERTIES WILL NOT BE AFFECTED IN ANY WAY



SITE INFO.
 SCALE: 1:300

PT. LOT 1, REG. PLAN 1445
 CITY OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK

GENERAL SITE INFORMATION

THE INFORMATION FOR THIS SITE PLAN WAS OBTAINED FROM A PLAN OF 2010 (P.O. 2010-01) FOR THE CITY OF MARKHAM.

THE INFORMATION SHOWN HEREON, INCLUDING CHECKS SHALL NOT BE USED FOR ANY PURPOSES OTHER THAN CONSTRUCTION PURPOSES WITHOUT THE WRITTEN CONSENT OF ARROWSMITH & ASSOCIATES. THE INFORMATION SHOWN HEREON IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF ARROWSMITH & ASSOCIATES.

PRELIMINARY PLANS

PROPERTY SUBJECT TO CITY OF MARKHAM R1, HOUSING BY-LAW 1224 (2010) (R1)

DATE: 2010-09-10

SCALE: 1:300

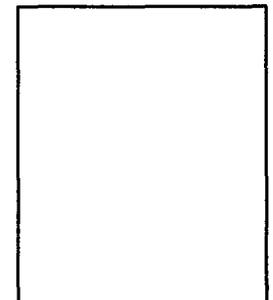
GENERAL INFO.
 SCALE: 1:300

1. SITE STATS

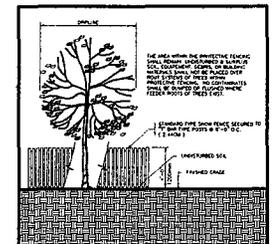
2. GENERAL INFO.

3. KEY PLAN

4. SITE INFO.



RESERVED
 SCALE: 1:300



TREE PRESERVATION
 SCALE: 1:300

ALL EXISTING TREES TO REMAIN ON SITE, OR TO BE MAINTAINED THROUGHOUT CONSTRUCTION, SHALL BE IDENTIFIED AND PROTECTED PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL EXISTING TREES AND OTHER VEGETATION ON THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL EXISTING TREES AND OTHER VEGETATION ON THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF ALL EXISTING TREES AND OTHER VEGETATION ON THE SITE.

TREE PRESERVATION
 SCALE: 1:300

Arrowsmith AND ASSOCIATES
 ARCHITECTURE & DEVELOPMENT
 642 (905) 1719
 STOUFFVILLE ONTARIO

CULLEN
 NEW RESIDENCE
 124 CHURCH ST. MARKHAM ONTARIO

THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY ERRORS TO ARROWSMITH & ASSOCIATES PRIOR TO PROCEEDING WITH CONSTRUCTION. DO NOT SCALE DRAWINGS ALL CONSTRUCTION SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE LATEST EDITION OF THE ONTARIO BUILDING CODE. THESE DRAWINGS ARE THE PROPERTY OF ARROWSMITH & ASSOCIATES AND SHALL NOT BE USED, COPIED, OR REPRODUCED WITHOUT THE EXPRESS WRITTEN CONSENT OF ARROWSMITH & ASSOCIATES. THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION UNLESS COUNTER SIGNED BY B. ARROWSMITH FOR ARROWSMITH & ASSOCIATES

The undersigned has reviewed and takes responsibility for the design, and has the qualifications and meets the requirements set out in the Ontario Building Code as a designer.

QUALIFICATION INFORMATION
 Returned unless design is exempt under 27.4.1 of the Building Code

NAME	Signature	21042
REGISTRATION INFORMATION		BCN
Required unless design is exempt under 27.4.1 of the Building Code		27429
ARROWSMITH & ASSOCIATES		BCN
FIRM NAME		BCN

NO.	REVISIONS	DATE

SITE PLAN

DATE: 2010-09-10

SCALE: 1:300

OWNER: SA

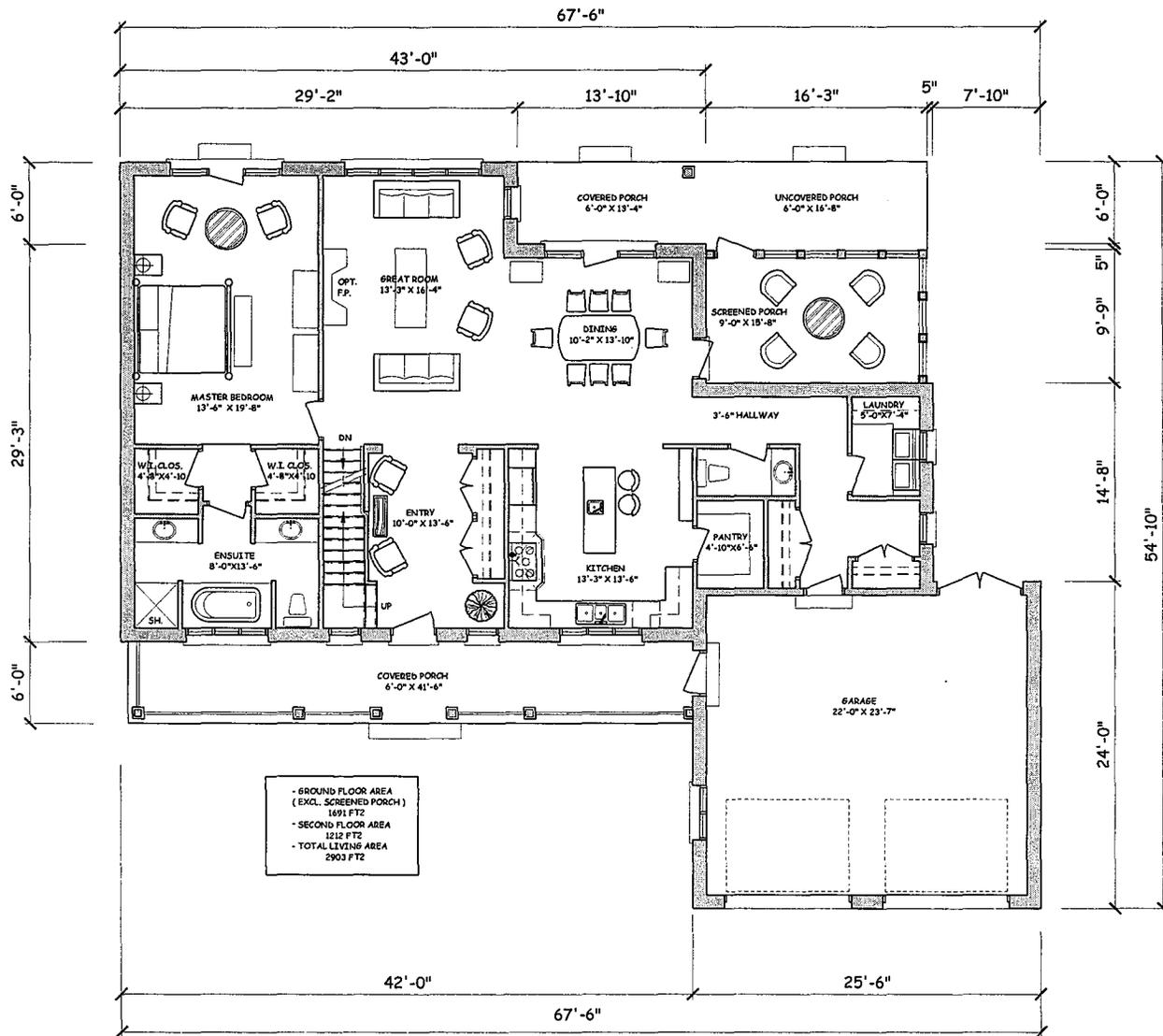
DESIGNER: SA

DATE: SEPTEMBER 2010

SCALE: SEE PLANS

DATE: 09/10/10

FREE NO. A-1



- GROUND FLOOR AREA (EXCL. SCREENED PORCH) 1691 FT²
 - SECOND FLOOR AREA 1212 FT²
 - TOTAL LIVING AREA 2903 FT²

Arrowsmith AND ASSOCIATES
 ARCHITECTURE & DEVELOPMENT
 642 (905) 1719
 STAFFVILLE ONTARIO

CULLEN
 NEW RESIDENCE
 126 CHURCH ST. MARKHAM ONTARIO

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The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFYING INFORMATION
 Required unless design is exempt under 2.17.1.1 of the Building Code

BRUCE ARROWSMITH 21042
 Name Signature BC01

REGISTRATION INFORMATION
 Required unless design is exempt under 2.17.1.1 of the Building Code

ARROWSMITH & ASSOCIATES 21420
 FIRM NAME BC01

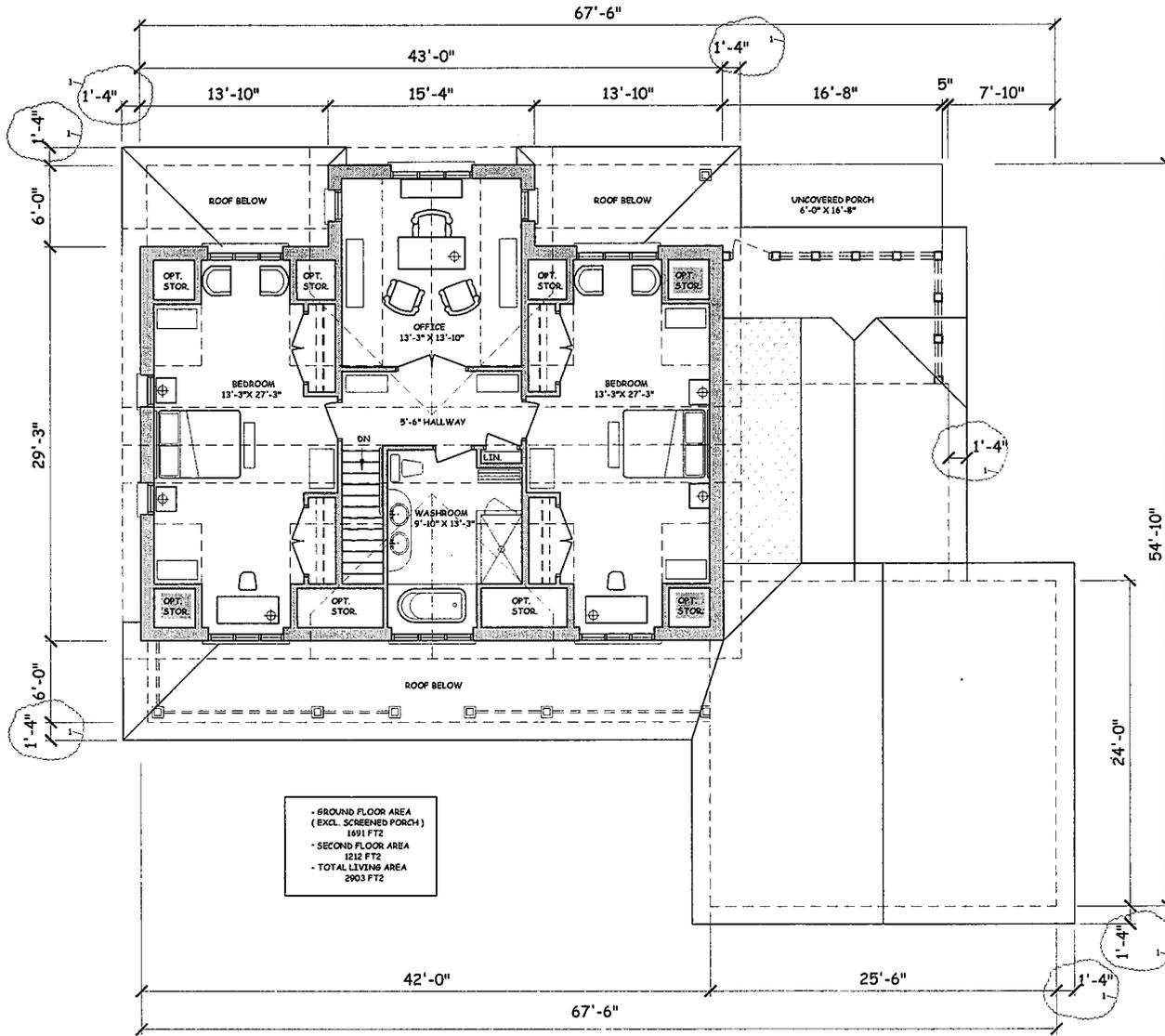
NO.	REVISIONS	DATE

PROFESSIONAL CERTIFICATION & REGISTRATION
 ARROWSMITH & ASSOCIATES
 27429
 BC01

GROUND FLOOR PLAN

DESIGNED BY	BA	DATE	SEPTEMBER 2010
CHECKED BY	BA	SIZE	-
SCALE	AS NOTED	DWG. NO.	-
FILE NO.	-		A-3

1 GROUND FLOOR PLAN
 3 SCALE: 1/4" = 1'-0"



**Arrowsmith
AND ASSOCIATES**

ARCHITECTURE & DEVELOPMENT

642 9923 1719

STUFFVILLE ONTARIO

CULLEN

NEW RESIDENCE

126 CHURCH ST. MARKHAM ONTARIO

THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY ERRORS TO ARROWSMITH & ASSOCIATES PRIOR TO PROCEEDING WITH CONSTRUCTION. DO NOT SCALE DRAWINGS. ALL CONSTRUCTION SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE LATEST EDITION OF THE ONTARIO BUILDING CODE. THESE DRAWINGS ARE THE PROPERTY OF ARROWSMITH & ASSOCIATES AND SHALL NOT BE USED, COPIED, OR REPRODUCED WITHOUT THE EXPRESS WRITTEN CONSENT OF ARROWSMITH & ASSOCIATES. THESE DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION UNLESS COUNTER SIGNED BY B. ARROWSMITH FOR ARROWSMITH & ASSOCIATES

This undertaking has reviewed and takes responsibility for the design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 2.17.7.1 of the Building Code

BRUCE ARROWSMITH *B. Arrowsmith* 21047
Name Signature BCN

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.7.1 of the Building Code

ARROWSMITH & ASSOCIATES 27429
Firm Name BCN

NO.	DATE	REVISIONS	DATE

PROFESSIONAL CERTIFICATION & REGISTRATION
ARROWSMITH & ASSOCIATES
27429
BCN

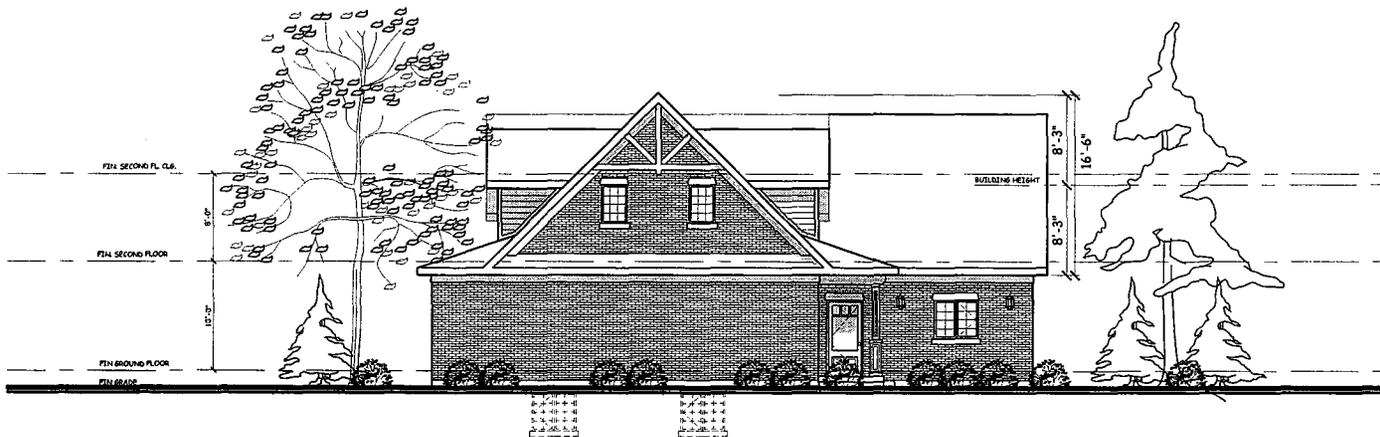
**SECOND FLOOR
PLAN**

DESIGN BY SA DATE SEPTEMBER 2019
CHECKED BY SA DATE
SCALE AS NOTED DWG. NO. A-4
FILE NO.

1 SECOND FLOOR PLAN
SCALE 1/4" = 1'-0"



1 SOUTH ELEVATION
SCALE: 3/16" = 1'-0"



2 WEST ELEVATION
SCALE: 3/16" = 1'-0"

Arrowsmith AND ASSOCIATES
ARCHITECTURE & DEVELOPMENT
642 (905) 1719
STOUFFVILLE ONTARIO

CULLEN
NEW RESIDENCE
128 CHURCH ST. MARKHAM ONTARIO

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The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION:
Registered under design as a building designer 3.1 of the Building Code

BRUCE ARROWSMITH *[Signature]* 21042
Name Signature BCIN

REGISTRATION INFORMATION:
Registered under design as a building designer 3.1 of the Building Code

ARROWSMITH & ASSOCIATES 27429
Firm Name BCIN

NO.	REVISIONS	DATE

ARROWSMITH & ASSOCIATES
27429
BCIN

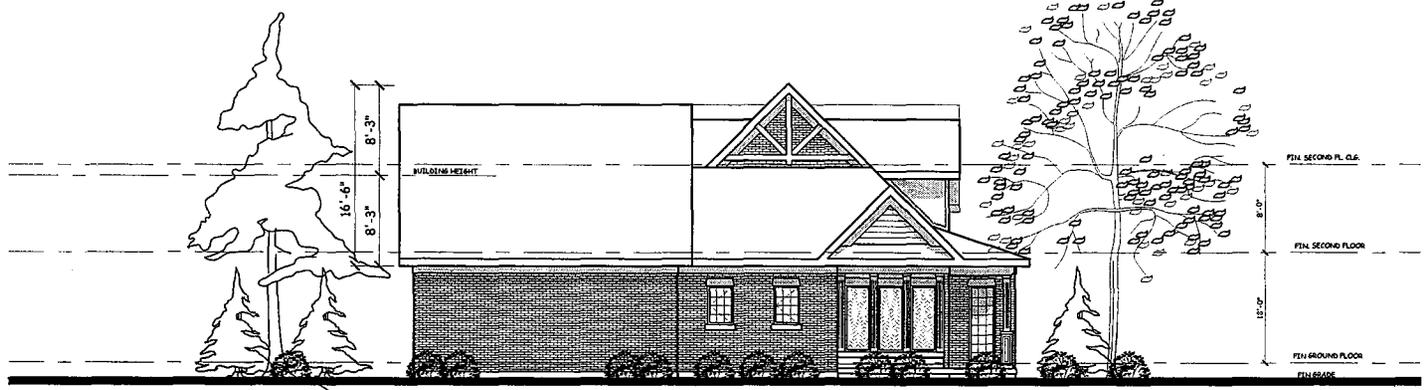
ELEVATIONS

OWNED BY	DATE
BA	SEPTEMBER 2019
BA	
AS NOTED	

SCALE: AS NOTED
FILE NO. **A-5**



1 NORTH ELEVATION
SCALE: 3/16" = 1'-0"



2 EAST ELEVATION
SCALE: 3/16" = 1'-0"

Arrowsmith AND ASSOCIATES
ARCHITECTURE & DEVELOPMENT
642-1719
STURVILLE ONTARIO

CULLEN
NEW RESIDENCE
128 CHURCH ST. WAREHAM ONTARIO

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The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 17.1 of the building code

BRUCE ARROWSMITH 21042
Name Signature BCN

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.1 of the building code

ARROWSMITH & ASSOCIATES 27429
FIRM NAME BCN

NO.	REVISIONS	DATE

PROFESSIONAL REGULATION & CONTROL ACT
ARROWSMITH & ASSOCIATES
27429
BCN

ELEVATIONS

DRAWN BY	EA	DATE	SEPTEMBER 2010
CHECKED BY	EA	DATE	-
SCALE	AS NOTED	DWG. NO.	-
FILE NO.	A-6		