

# Memorandum to the City of Markham Committee of Adjustment

November 30, 2022

**File:** A/190/22  
**Address:** 11 Gainsville Avenue, Markham  
**Applicant:** Paar Design Inc. (Nikol Paar)  
**Agent:** Paar Design Inc. (Nikol Paar)  
**Hearing Date:** Wednesday, December 7, 2022

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

The Applicant is requesting relief from the “Fourth Density Single Family Residential (R4)” in By-law 11-72, as amended, as it relates to a proposed two-storey detached dwelling. The variances requested are to permit:

- a) **Section 6.1:**  
a maximum lot coverage of 36.3 percent, whereas the By-law permits a maximum lot coverage of 33-1/3 percent; and
- b) **Section 6.1:**  
a maximum building height of 27ft (8.23m), whereas the By-law permits a maximum building height of 25ft (7.62m).

## BACKGROUND

### Property Description

The 905.76 m<sup>2</sup> (9,749.94 ft<sup>2</sup>) subject lands are located on the south side of Gainsville Avenue, generally west of Main Street Unionville and south of Carlton Road. The property is located within an established residential neighbourhood comprised primarily 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.

There is an existing two-storey single detached dwelling on the property, which according to assessment records was constructed in 1968. Mature vegetation exists on the property including two mature trees in the rear yard.

### Proposal

The Applicant is proposing to construct a 328m<sup>2</sup> (3,540.22 ft<sup>2</sup>) two-storey detached dwelling with an attached garage.

### Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the subject lands as “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. These criteria are established to ensure that the infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a

“Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

#### Zoning By-Law 11-72

The subject property is zoned “Fourth Density Single Family Residential (R4)” under Bylaw 11-72, as amended, which permits one detached dwelling per lot.

The proposed dwelling does not comply with the by-law requirements as it relates to maximum lot coverage and maximum building height.

#### Varley Village Infill Area

The subject lands are within an area of the City where there is a trend to build larger houses. In response to concerns within this trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee, a Committee of Council, undertook a review of this issue with community consultation, and ultimately recommend that no action be taken on an infill by-law at this time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law was not adopted, the Committee should be aware of Council’s and the community’s concerns with regard to variances and maintaining the current standards of the Zoning By-law. Consequently, the Committee should consider public input before making a decision.

#### **Zoning Preliminary Review (ZPR) Undertaken**

The Owner completed a Zoning Preliminary Review (ZPR) on August 8, 2022 to confirm the variances required for the proposed development.

Staff note that the ZPR indicated that the exact building height cannot be verified without an approved lot grading plan. Consequently, 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 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; and
- d) The general intent and purpose of the Official Plan must be maintained.

### **Increase in Maximum Lot Coverage**

The Applicant is requesting relief for a maximum lot coverage of 36.3 percent, whereas the By-law permits a maximum lot coverage of 33-1/3 percent. The proposed lot coverage includes the second floor accessible balcony which adds approximately 4.5 m<sup>2</sup> (48 ft<sup>2</sup>) to the overall building area. The lot coverage also includes the front covered porch which adds approximately 6 m<sup>2</sup> (64.48 ft<sup>2</sup>) to the overall building area. Excluding the front balcony and front covered porch, the dwelling has a lot coverage of 35 percent.

Given the front covered porch is unenclosed, and that the porch and front balcony add visual interest and contribute to a positive street frontage, and that the dwelling complies with front, rear and side yard setbacks, staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling and the resultant dwelling is generally consistent with what the by-law permits.

### **Increase in Maximum Building Height**

The Applicant is requesting relief to permit a maximum building height of 8.23 m (27 ft), whereas the By-law permits a maximum building height of 7.62 m (25 ft). This represents an increase of 0.61 m (2 ft).

The By-law calculates building height using the vertical distance of a building or structure measured between the level of the crown of the street and highest point of the roof surface. The Applicant has indicated that the proposed grade of the front of the house is approximately 0.34 m (1.1 ft) above the crown of road.

Building heights within the Varley Village neighbourhood vary, with older dwellings being replaced with newer dwellings that are generally taller. The proposed height is generally consistent with the height variances approved for other new dwellings in the area. Accordingly, Staff are of the opinion that the proposed height variance will not result in a dwelling that is incompatible or out of character with its surrounding context and have no concerns with the requested variance.

### **Tree Protection and Compensation**

As noted previously, the subject lands contain mature trees in the rear yard. During the review of the application, the City's Tree Preservation Technician indicated concern with removal of the mature trees in the rear yard and requested that the house design be modified to accommodate the preservation of the trees.

The Applicant has further revised their plans to comply with City of Markham Tree Preservation Staff. The Applicant revised the plans to reduce the area of the proposed uncovered deck in the rear yard. Although this change does not impact lot coverage or building height, this design change will allow for retention of the trees during construction to maintain the existing mature tree canopy which contributes to the character of the area.

Staff recommend that the tree related conditions, as outlined in Appendix "C", be adopted by the Committee to ensure the Applicant installs the appropriate tree protection barriers and provides compensation to the City, if necessary. Staff note the Applicant is required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees with a trunk diameter of 20 centimetres (approximately 8 inches) or more, measured at 1.37 metres (approximately 54 inches) above the ground at the base of the tree on the subject lands or neighbouring properties. Further mitigation through

these processes may also be required to ensure the protection of certain trees is achieved.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 30, 2022. 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 "C" for conditions to be attached to any approval of this application.

PREPARED BY:



---

Elizabeth Martelluzzi, MCIP RPP, Senior Planner, Central District

REVIEWED BY:



---

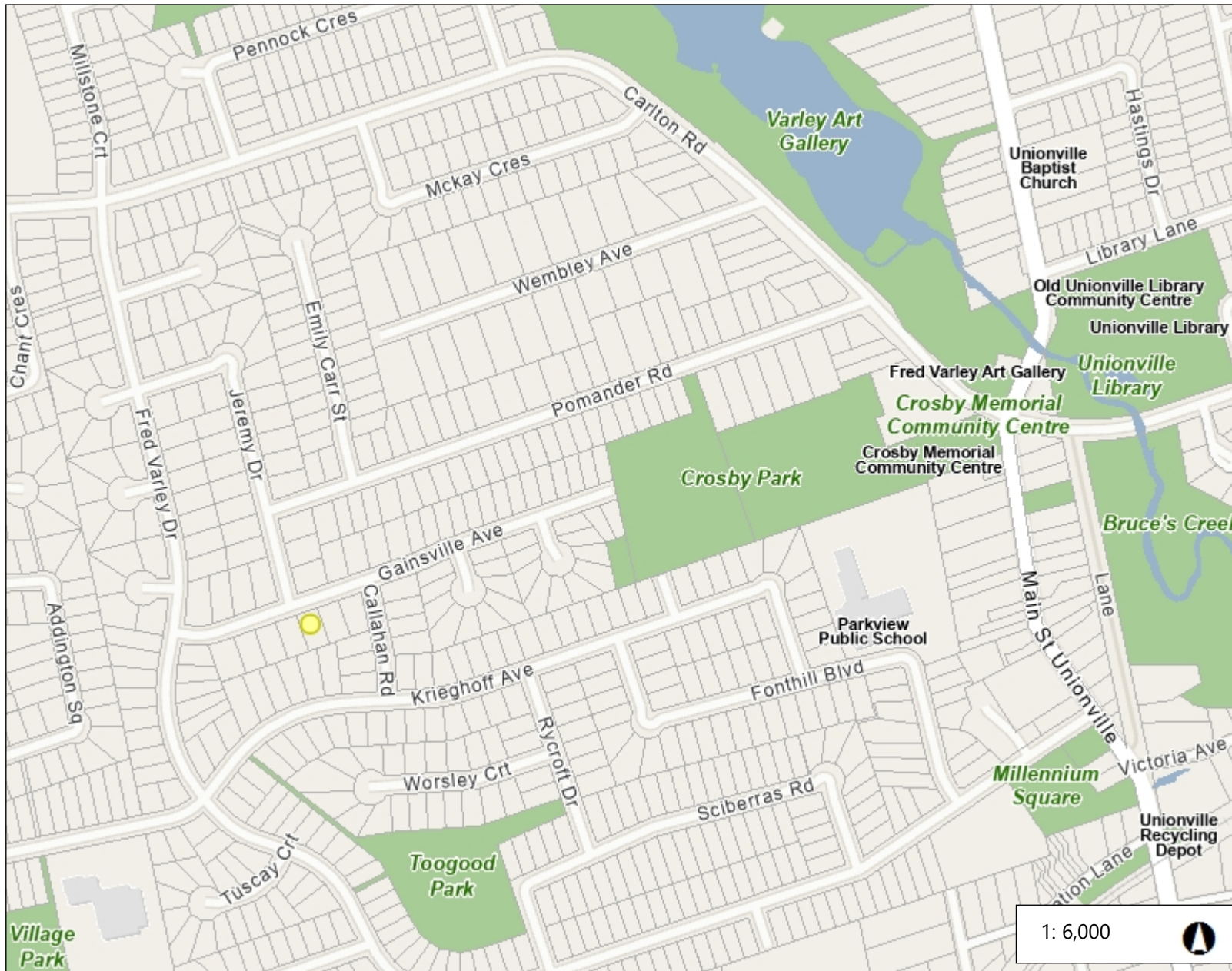
Deanna Schlosser, MCIP RPP, Senior Planner, Central District

### **APPENDICES**

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – A/190/22 Conditions of Approval



Subject Lands

- 11 Gainsville Avenue

1: 6,000



304.8 0 152.40 304.8 Meters

Notes

# Appendix B

File: 22.259547.000.00.MNV

Date: 12/02/22

MM/DD/YY

SURVEYOR'S REAL PROPERTY REPORT  
PART 1 - PLAN OF  
LOT 26  
REGISTERED PLAN 7566  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK

### SITE INFORMATION

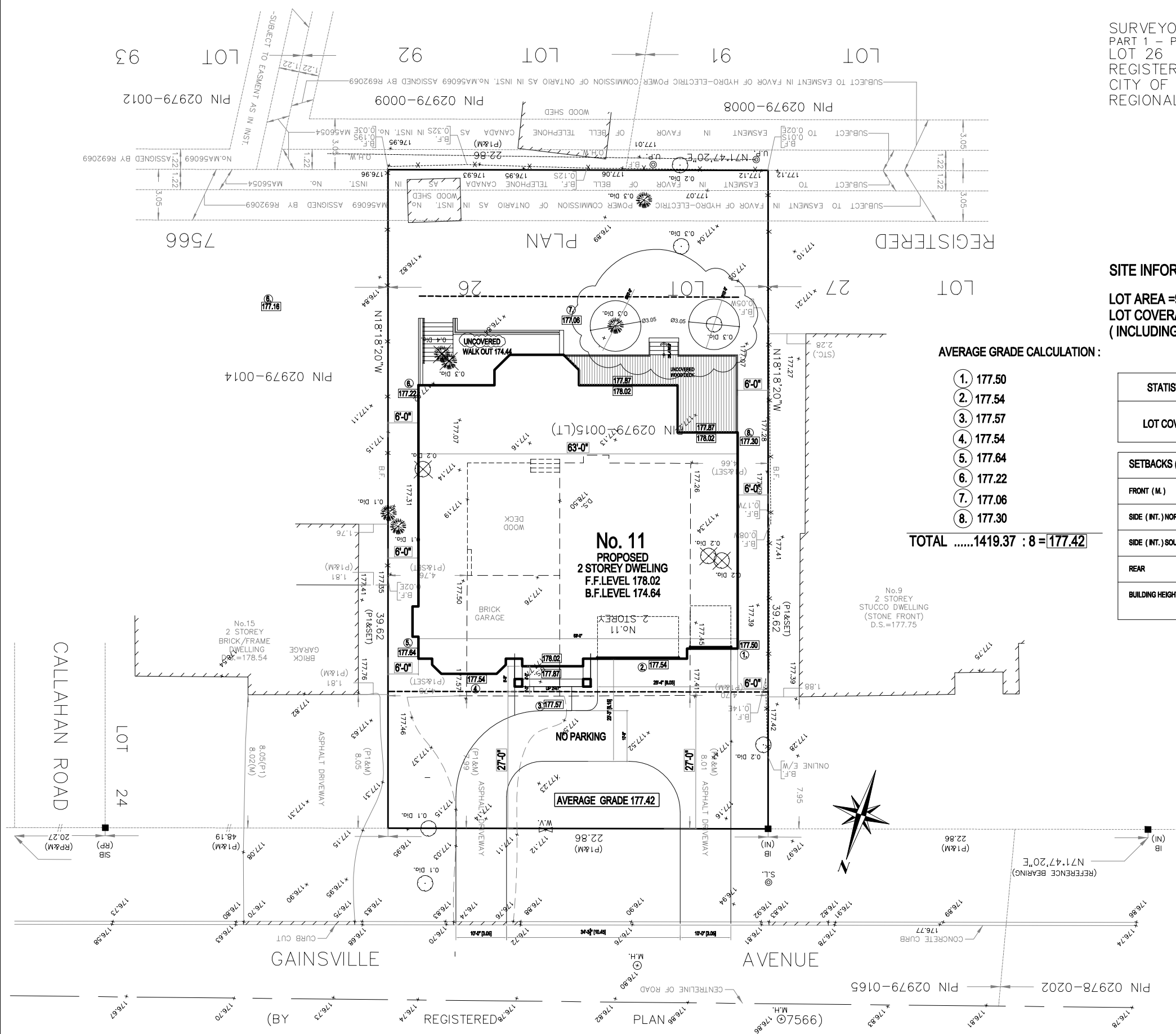
LOT AREA = 9749.94 Sq Ft / 905.76 SQ.M.  
LOT COVERAGE = 36.3% ( 3540.22 SQ.FT. )  
( INCLUDING COVERED PORCH AREA )

### AVERAGE GRADE CALCULATION :

1. 177.50
2. 177.54
3. 177.57
4. 177.54
5. 177.64
6. 177.22
7. 177.06
8. 177.30

TOTAL .....1419.37 : 8 = 177.42

STATISTICS	PROPOSED
LOT COVERAGE	36.3 % 3540.22 SQ.FT. ( INCLUDING PORCH AREA )
SETBACKS ( M. )	PROPOSED
FRONT ( M. )	27'-0"
SIDE ( INT. ) NORTH	6'-0"
SIDE ( INT. ) SOUTH	6'-0"
REAR	39'-0"
BUILDING HEIGHT ( M. )	27'-0" ( to Midpoint of ROOF ) 31'-5 1/2" ( to TOP of ROOF )



MARK	DATE	DESCRIPTION
1.	22 10 2019	ISSUED FOR ZONING REVIEW
2.	10 11 2022	REVISION

DESIGN	PROJECT :
The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Code to be a designer. Qualification Information Required unless design is exempted under Division C-3.2.5.1. of the 2006 Ontario Building Code Zoran Paar 34546 BCIN / BCDN PAAR Architecture and Interior Design Inc. 31765 BCIN / BCDN Firm Name	<b>No. 11 GAINSVILLE AVENUE City of Markham 2 STOREY DWELLING SITE PLAN</b>

PAAR DESIGN INC.	scale 3/64"=1'-0"	A0.1
22 BLUE FOREST DR. TORONTO ON. M3H 4W2 p: 416 630 2106 www.paardesign.com info.paardesign.com		

# Appendix B

File: 22.259547.000.00.MNV

Date: 12/02/22  
MM/DD/YY



MARK	DATE	DESCRIPTION
1.	22 10 2019	ISSUED FOR ZONING REVIEW
2.		

**DESIGN**  
The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Code to be a designer.  
**Qualification Information**  
Required unless design is exempted under Division C-3.2.5.1. of the 2009 Ontario Building Code  
Zoran Paar 24546  
**Registration Information**  
Required unless design is exempted under Division C-3.2.4.1. of the 2009 Ontario Building Code  
PAAR Architecture and Interior Design Inc. 31785  
Firm Name BCIN / BCDN

**PROJECT:**  
No. 11  
GAINSVILLE AVENUE  
City of Markham  
2 STOREY DWELLING

DRW :  
FRONT / NORTH ELEVATION

**PAAR**  
DESIGN

PAAR DESIGN INC.  
22 BLUE FOREST DR.  
TORONTO ON.  
M3H 4W2  
p: 416 630 2106  
www.paardesign.com  
info.paardesign.com

scale 1/8"=1'-0" **A2.1**

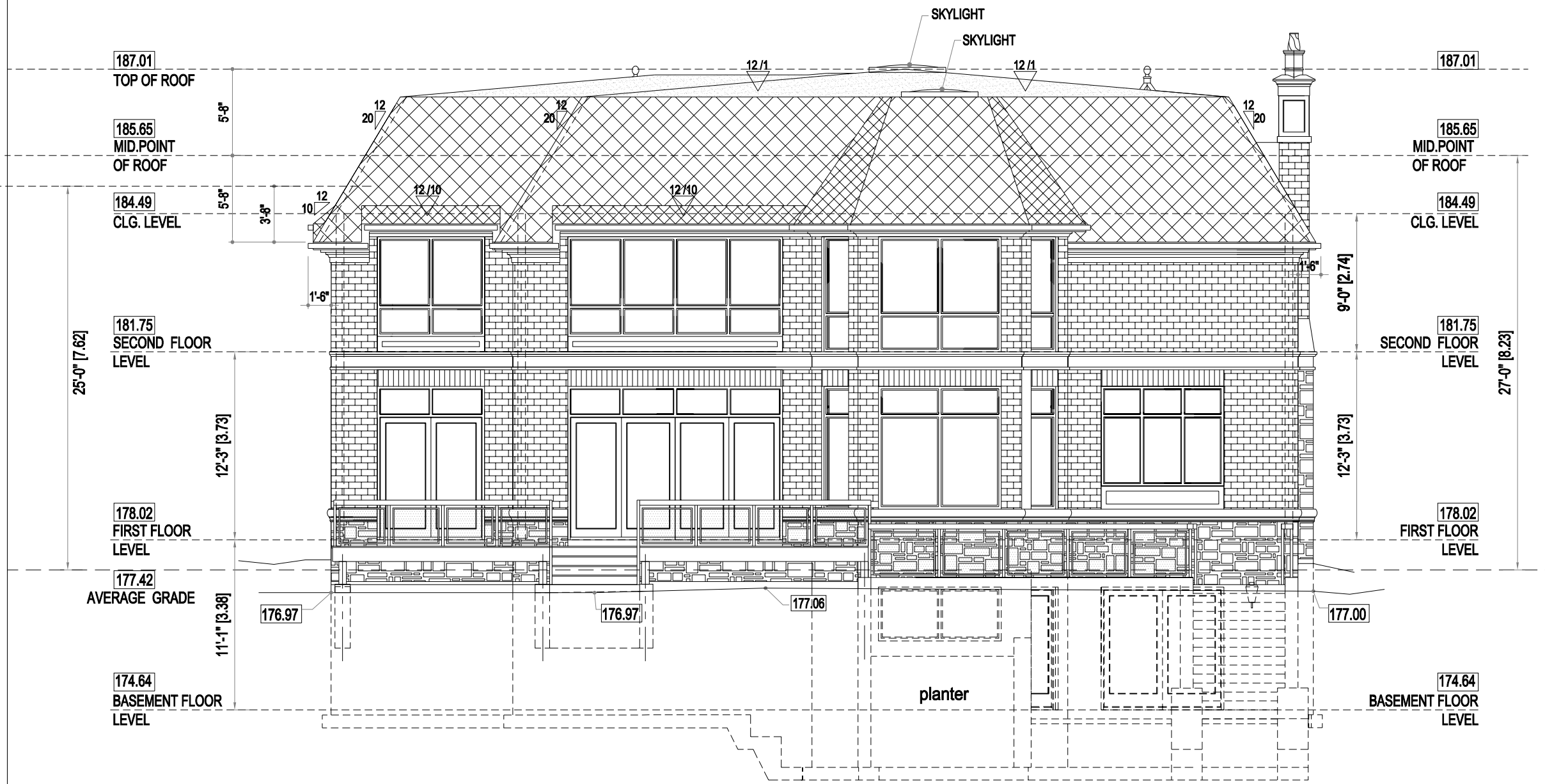




# Appendix B

File: 22.259547.000.00.MNV

Date: 12/02/22  
MM/DD/YY



MARK	DATE	DESCRIPTION
1.	22 10 2019	ISSUED FOR ZONING REVIEW
2.		

<p><b>DESIGN</b></p> <p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Code to be a designer.</p> <p><b>Qualification Information</b></p> <p>Required unless design is exempted under Division C-3.2.4.1. of the 2009 Ontario Building Code</p> <p>Zoran Paar  24546 BCIN / BCDN</p> <p><b>Registration Information</b></p> <p>Required unless design is exempted under Division C-3.2.4.1. of the 2009 Ontario Building Code</p> <p>PAAR Architecture and Interior Design Inc.  31785 Firm Name BCIN / BCDN</p>	<p><b>PROJECT:</b></p> <p>No. 11 GAINSVILLE AVENUE City of Markham 2 STOREY DWELLING</p> <p>DRW : REAR / SOUTH ELEVATION</p>
---	--

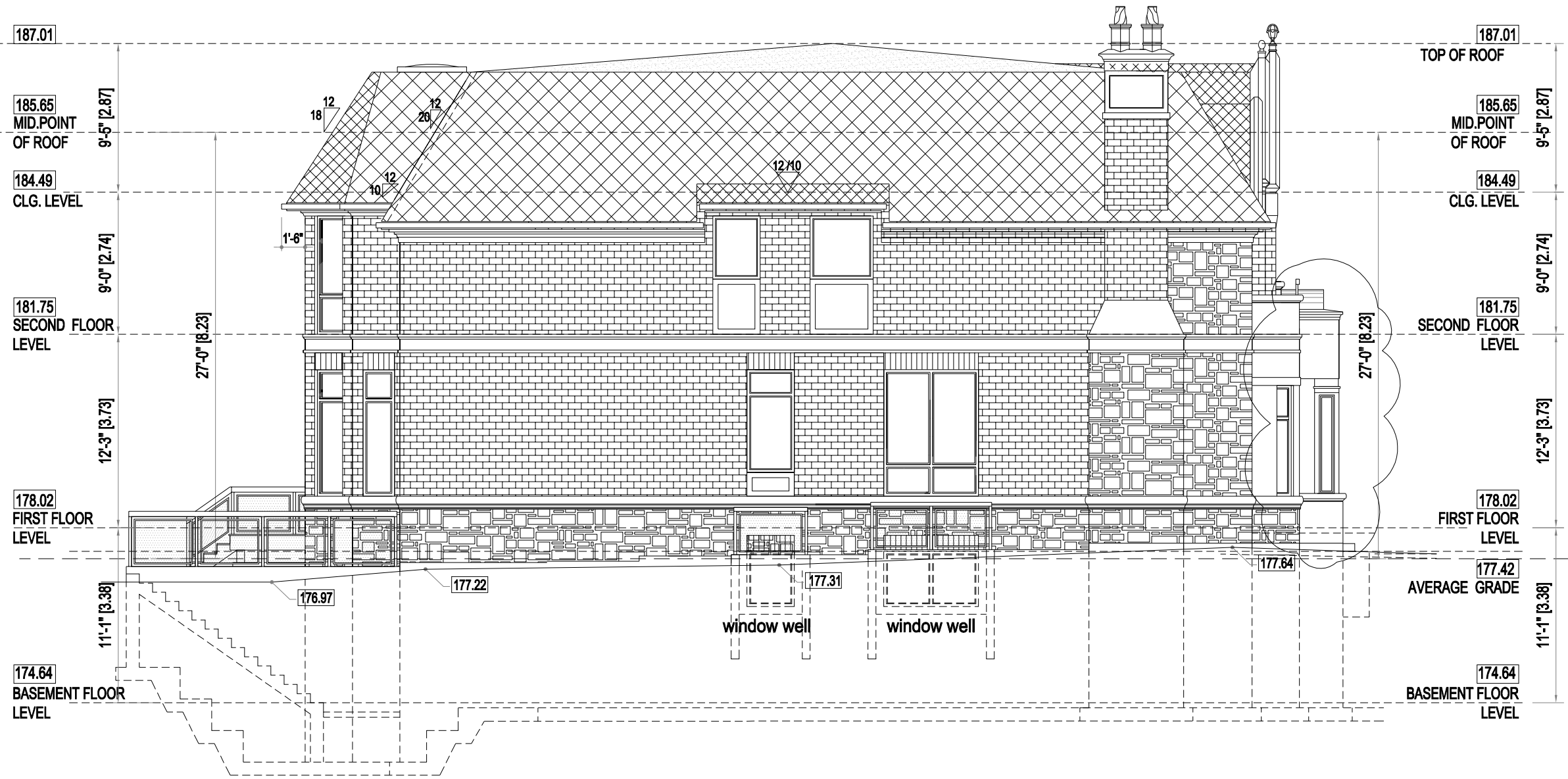
  

<p><b>PAAR DESIGN INC.</b></p> <p>22 BLUE FOREST DR. TORONTO ON. M3H 4W2</p> <p>p: 416 630 2106 www.paardesign.com info.paardesign.com</p>	<p>scale 1/8"=1'-0"</p> <p><b>A2.3</b></p>
--	--

# Appendix B

File: 22.259547.000.00.MNV

Date: 12/02/22  
MM/DD/YY



MARK	DATE	DESCRIPTION
1.	22 10 2019	ISSUED FOR ZONING REVIEW
2.	02 08 2022	REVISION

<p><b>DESIGN</b></p> <p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Code to be a designer.</p> <p><b>Qualification Information</b></p> <p>Required unless design is exempted under Division C-3.2.5.1. of the 2006 Ontario Building Code</p> <p>Zoran Paar  24546 BCIN / BCDN</p> <p><b>Registration Information</b></p> <p>Required unless design is exempted under Division C-3.2.4.1. of the 2006 Ontario Building Code</p> <p>PAAR Architecture and Interior Design Inc.  31785 Firm Name BCIN / BCDN</p>	<p>PROJECT:</p> <p><b>No. 11 GAINSVILLE AVENUE City of Markham 2 STOREY DWELLING</b></p> <p>DRW : <b>WEST ELEVATION</b></p>
---	---

	<p><b>PAAR DESIGN INC.</b></p> <p>22 BLUE FOREST DR. TORONTO ON. M3H 4W2</p> <p>p. 416 630 2106 www.paardesign.com info.paardesign.com</p>	<p>scale 1/8"=1'-0"</p>	<h1>A2.4</h1>
--	--	-------------------------	---------------

## APPENDIX “C” – A/190/22 Conditions of Approval

1. The variances apply only to the proposed development as long as it remains; and
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as Appendix “B” to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. 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;
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; and
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 Director of Operations.

CONDITIONS PREPARED BY:



---

Elizabeth Martelluzzi, MCIP RPP, Senior Planner, Central District