

Memorandum to the City of Markham Committee of Adjustment

July 13, 2021

File: A/061/21
Address: 44 Sir Bodwin Place – Markham, ON
Applicant: Ishaan Arora
Agent: Mark Coroza
Hearing Date: July 21, 2021

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

The applicant is requesting relief from the following “Residential One (R1)” zone requirements under By-law 1229, as amended, as they relate to a proposed addition, and widening of the existing single car garage. The variances requested are to permit:

- a) **By-law 1229, as amended by By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 50.40%, whereas the By-law permits a maximum floor area ratio of 45.0%;
- b) **By-law 1229, as amended by By-law 99-90, Section 1.2 (ii):**
a maximum number of three-storeys, whereas the By-law permits a maximum number of two-storeys;
- c) **By-law 1229, Section 11.2 (c)(i):**
eaves to project a maximum of 24.0 in (0.61 m) into a required yard, whereas the By-law permits eaves to project a maximum of 18.0 in (0.46 m) into a required yard; and
- d) **By-law 28-97, Section 6.2.4.7:**
a parking garage attached to the dwelling unit to have finished floor elevations lower than the elevation of the laneway where it meets the streetline (lot line), whereas the by-law requires that the finished floor elevation of the garage is to be higher than the elevation of the public street from which access to the parking garage is provided, measured at the mid-point of the private driveway where it meets the streetline.

BACKGROUND

Property Description

The 613.58 m² (6,604.52 ft²) subject property is located on the east side of Sir Bodwin Place, north of Parkway Avenue, south of Ramona Boulevard, and west of Wooten Way North. There is an existing two-storey split level detached dwelling on the property with an attached single car garage, and an unenclosed parking area which is currently provided via a reverse slope driveway (i.e. a driveway that slopes downwards towards the garage).

The subject property is located within an established residential neighbourhood which contains low rise housing forms, including one and two-storey detached dwellings. There are a few examples of infill houses along the street, and the surrounding area is undergoing a transition with newer dwellings being developed to replace the original housing stock built circa 1972. Mature trees exist in the front yard, and along the interior lot line of the rear yard of the subject property.

Proposal

The applicant is proposing to increase the footprint of the existing dwelling, by constructing a new addition in the rear yard, and increase the number of storeys. The applicant is also proposing a widening of the existing single car garage area to a two car garage. The above noted variances are associated with the proposed renovations, and new building areas. Including the proposed building addition, the resulting house would have a total gross floor area of 309.24 m² (3,328.63 ft²).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and 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 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, and the width of proposed garages and driveways.

Zoning By-Law 1229

The subject property is zoned “Residential One (R1)” under By-law 1229, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law requirement with respect to the maximum eaves encroachment.

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, floor area ratio, height, and number of storeys. The proposed development does not comply with the Infill By-law requirements with respect to the maximum floor area ratio, and maximum number of storeys.

Parking Standards By-law 28-97

The subject property is also subject to the Parking By-law. The proposed development does not comply with the Parking By-law requirements with respect to the garage floor elevation in relation to a public street.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant confirmed that a ZPR has not been conducted. It is the applicant’s responsibility to ensure that the application has accurately identified all of the variances 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 with the By-law.

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.

Increase in Maximum Floor Area Ratio

The applicant is requesting a maximum floor area ratio of 50.40%, whereas the By-law permits a maximum floor area ratio of 45.0%. The variance would facilitate the construction of a detached dwelling with a floor area of 309.24 m² (3,328.63 ft²), whereas the By-law permits a dwelling with a maximum floor area of 275.95 m² (2,970.30 ft²). This is an increase of 33.29 m² (358.33 ft²).

Staff consider the proposed development to be in keeping with the scale of dwellings along the street, and within the surrounding area, and have no objections to the requested variance.

Increase in Maximum Number of Storeys

The applicant is proposing a dwelling with a maximum number of three storeys, whereas the By-law permits a maximum number of two storeys. The applicant is proposing to add a third storey which does not occupy an entire ground floor. The third storey would be located at, and apply to the front and rear portions of the northern half of the dwelling.

It should be noted that when viewed from the street, the placement of windows assist in the integration of a concealed third-storey that could be comparable to, and consistent with a two-storey dwelling with greater floor heights, and the height requirements of the By-law.

Additionally, staff note that a separate provision of the By-law regulates building height. While not the subject of this variance request, the By-law would allow the proposed dwelling to have a maximum height of 9.80 m (32.15 ft) which the proposed house complies with. From established grade at the front elevation, the northern half of the dwelling has a greater height than that of which is shown on the southern half of the dwelling. However, staff note that the top of roof is level with the two-storey height proposed at the southerly half of the dwelling, and the applicant is not seeking a variance relating to maximum height. Staff are of the opinion that the requested variance can be supported in accordance with the four tests of the *Planning Act* given the nature of the proposed third storey that is not visible from the street, and does not occupy an entire ground floor.

Increase in Maximum Eaves Encroachment

The applicant is requesting a maximum eaves projection of 24.0 in (0.61 m) into a required yard, whereas the By-law permits eaves to project a maximum of 18.0 in (0.46 m) into a required yard. This is an increase of 6.0 in (0.15 m), and staff have confirmed this would not encroach into the adjacent property. Engineering staff have not raised any concerns or objections to the variances with respect to water runoff, and Planning staff are of the opinion that the requested variance is minor in nature.

Reverse Slope Driveway

The applicant is proposing to expand the existing single car garage area to a two car garage, and thus requires a driveway widening to the south of the existing driveway. The

applicant is requesting relief to permit a private driveway leading to a private garage to have a floor elevation lower than the elevation of the public street, whereas the by-law requires that the garage floor elevation be higher than the elevation of the public street, in order to prevent reverse slope driveways.

This variance is attributable to the new driveway area, and Planning staff generally do not support reverse slope driveways. The flooding of dwellings has been a growing problem in many parts of Markham, and reverse slope driveways are a contributing factor. With reverse slope driveways, catchbasins that drain the driveway are at a lower elevation in relation to the road, and therefore subject the dwelling to the risk of possible flooding. It is for this reason that City Council approved an amendment to the Parking By-law in 2012 in order to ban further development of reverse slope driveways throughout Markham. However, through working with staff, the applicant has proposed new grading as it relates to the slope of the driveway that would allow only part of the driveway to drain toward the garage, with the majority of the driveway draining towards the street. The proposed grading has been reviewed by Engineering staff, with no objections. As such, staff are of the opinion that the requested variance is minor in nature, and have no objections, provided that the condition which would require that a lot grading plan be submitted by the applicant to the satisfaction of Engineering is adopted by the Committee.

Tree Protection and Compensation

There are existing trees located in the front and rear yard of the property, in relative proximity to the proposed works. Adequate tree protection measures may be required prior to the start of construction, or if agreed upon with City staff, that replacement trees or fees are to be provided where removal is deemed necessary. In the event of approval, staff recommend that the tree protection and compensation conditions are adopted by the Committee.

PUBLIC INPUT SUMMARY

No written submissions were received as of the writing of this report. 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*, and are of the opinion that the variance request meets the four tests. 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 of Approval

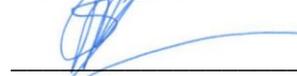
Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/061/21

1. The variances apply only to the subject development as long as it remains.
2. 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 their designate that this condition has been fulfilled to their 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 Director of Planning and Urban Design, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by Tree Preservation Technician, or their designate to the satisfaction of the Director of Planning and Urban Design, or their designate.
5. Submission of a detailed Siting, Lot Grading, and Servicing Plan stamped by a Professional Engineer/Ontario Land Survey/Landscape Architect to be reviewed and approved by the Director of Engineering, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/061/21

PROJECT STATISTICS			
ADDRESS:	44 SIR BODWIN PLACE, MARKHAM, ON L3P 2X8		
ZONING:	R1		
LOT AREA:	613.58 sq.m		
LOT FRONTAGE:	18.28 .m		
BUILDING HEIGHT (MAX 9.8m)			
ESTABLISHED GRADE:	199.89 m		
HEIGHT TO HIGHEST RIDGE:	8.88 m		
FLOOR AREA (MAX 45%) - PROPOSED NET FLOOR AREA = 50.4%			
	EXISTING	PROPOSED	TOTAL
SPLIT LEVEL FLOOR:	113.60 sq.m	28.98 sq.m	142.34 sq.m
SECOND FLOOR:	---	122.24 sq.m	122.24 sq.m
GARAGE:	21.30 sq.m	23.36 sq.m	44.66 sq.m
BASEMENT LEVEL(converted):	26.39 sq.m	CONVERTED INTO GARAGE AREA	0 sq.m
TOTAL GFA:	161.29 sq.m	174.58 sq.m	309.24 sq.m
LOT COVERAGE (MAX 35%) - PROPOSED LOT COVERAGE = 25.1%			
	EXISTING	PROPOSED	TOTAL
DWELLING FOOTPRINT:	113.60 sq.m	28.74 sq.m	142.34 sq.m
VINYL SHED:	11.56 sq.m	---	11.56 sq.m
TOTAL LOT COVERAGE:	125.16 sq.m	28.74 sq.m	153.90 sq.m

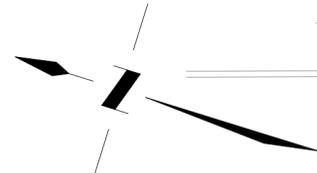
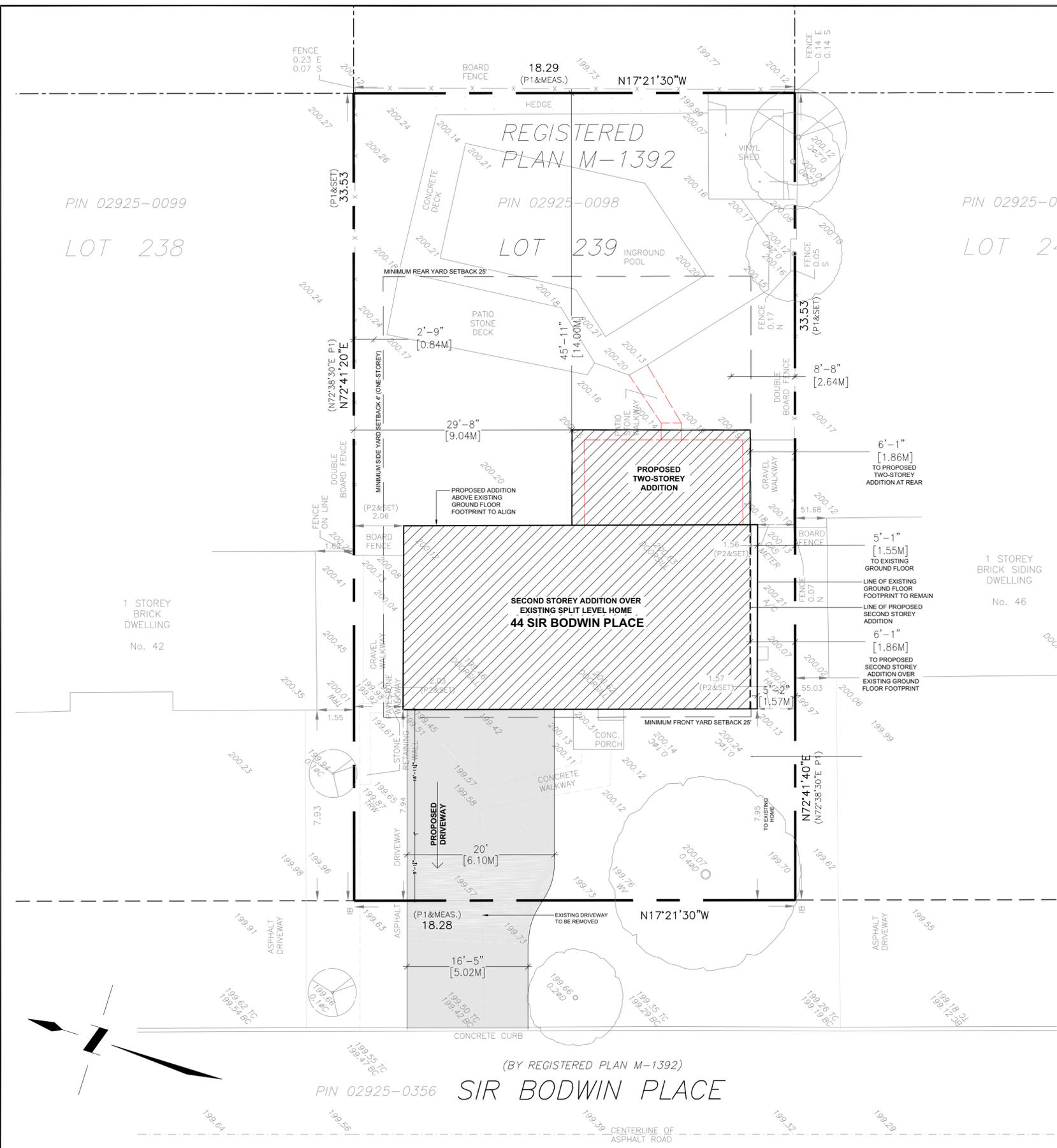
EXISTING CHIMNEY REMOVED = 0.24 sq.m

EXISTING BASEMENT LEVEL REMOVED = 26.39 sq.m

BUILDING SETBACKS (m)			
	EXISTING	PROPOSED	ALLOWED
FRONT YARD:	7.94 m	NO CHANGE	NO CHANGE
SIDE YARD (NORTH)	2.03 m	NO CHANGE	NO CHANGE
SIDE YARD (SOUTH)	1.57 m	6'1" (1.86m)	6 FT.
REAR YARD	58'10" (17.94m)	45'11" (14.00m)	25 FT

LANDSCAPED SOFT AREA (sq.m)	
FRONT YARD AREA:	145.14 sq.m
PROPOSED DRIVEWAY AREA:	47.70 sq.m
TOTAL SOFT LANDSCAPING AREA:	67% 97.44 sq.m

AVERAGE GRADE CALCULATIONS (m):	
ELEVATION POINTS	
199.51, 199.45, 199.42, 200.13, 200.11, 200.14, 200.24, 200.13	
SUM OF GRADE ELEVATIONS:	1,599.13 m
ESTABLISHED GRADE: (SUM DIVIDED BY 8)	199.89 m



(BY REGISTERED PLAN M-1392)
 PIN 02925-0356 SIR BODWIN PLACE

Architectural Drawings

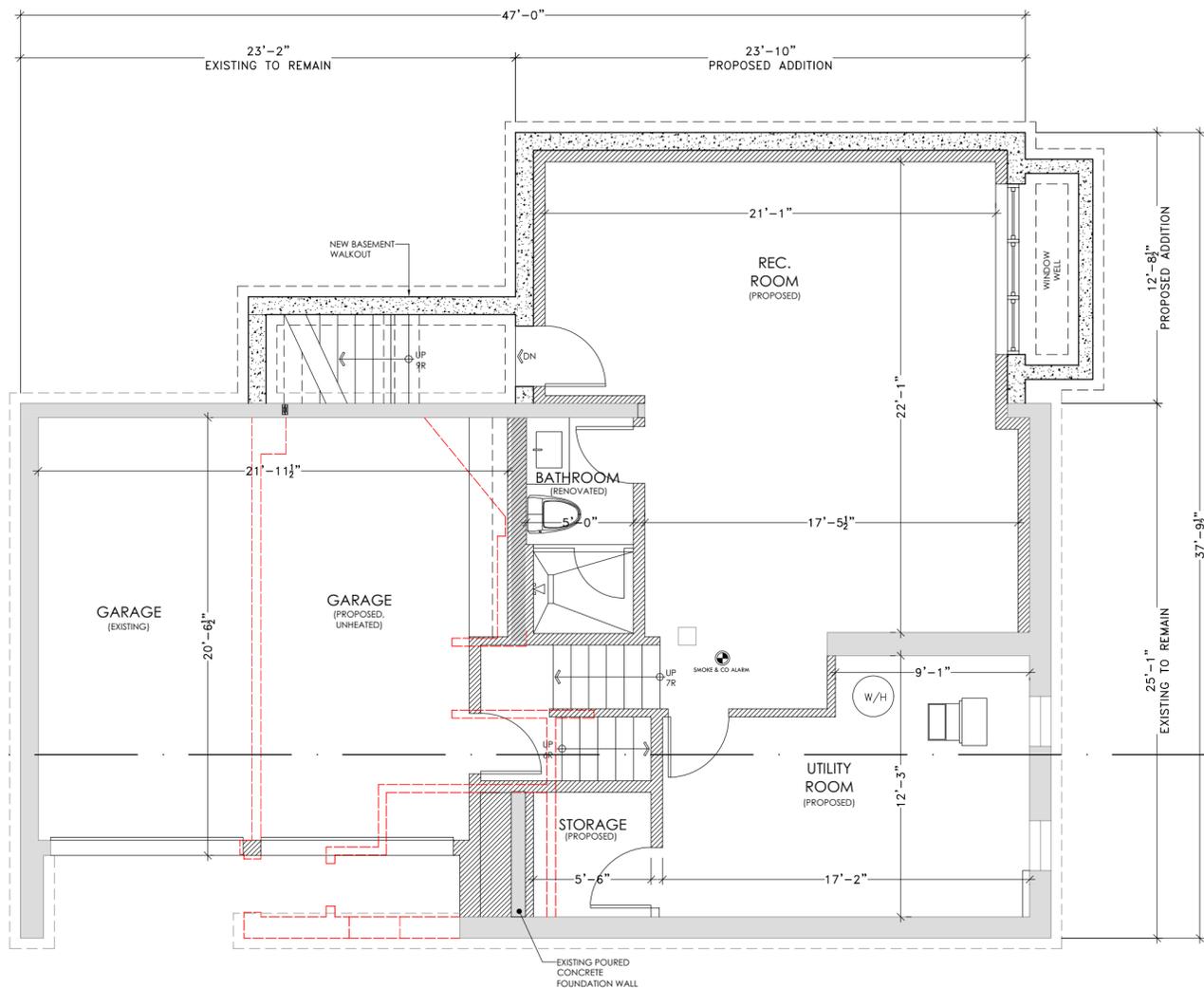
THE CONTRACTOR MUST VERIFY AND ACCEPT RESPONSIBILITY FOR ALL DIMENSIONS AND CONDITIONS ON SITE AND MUST NOTIFY THIS DESIGNER OF ANY VARIATIONS IN SUPPLIED INFORMATION BEFORE PROCEEDING WITH WORK. THIS DESIGNER IS NOT RESPONSIBLE FOR THE ACCURACY OF CONSULTANT INFORMATION SHOWN ON THIS DRAWING.
 CONSTRUCTION MUST CONFORM TO ALL APPLICABLE CODES AND REQUIREMENTS OF AUTHORITIES HAVING JURISDICTION.

PROJECT STATUS:
 PRELIMINARY CONSTRUCTION
 PERMIT C OF A

PROJECT NAME:
 TWO-STOREY ADDITION
 44 SIR BODWIN PLACE, MARKHAM, ON
 PLOT DATE:
 06/15/2021

DRAWING TITLE:
 EXISTING SITE PLAN
 DRAWN BY:
 SCALE:
 M.C
 1:125

DRAWING NO.
S-1



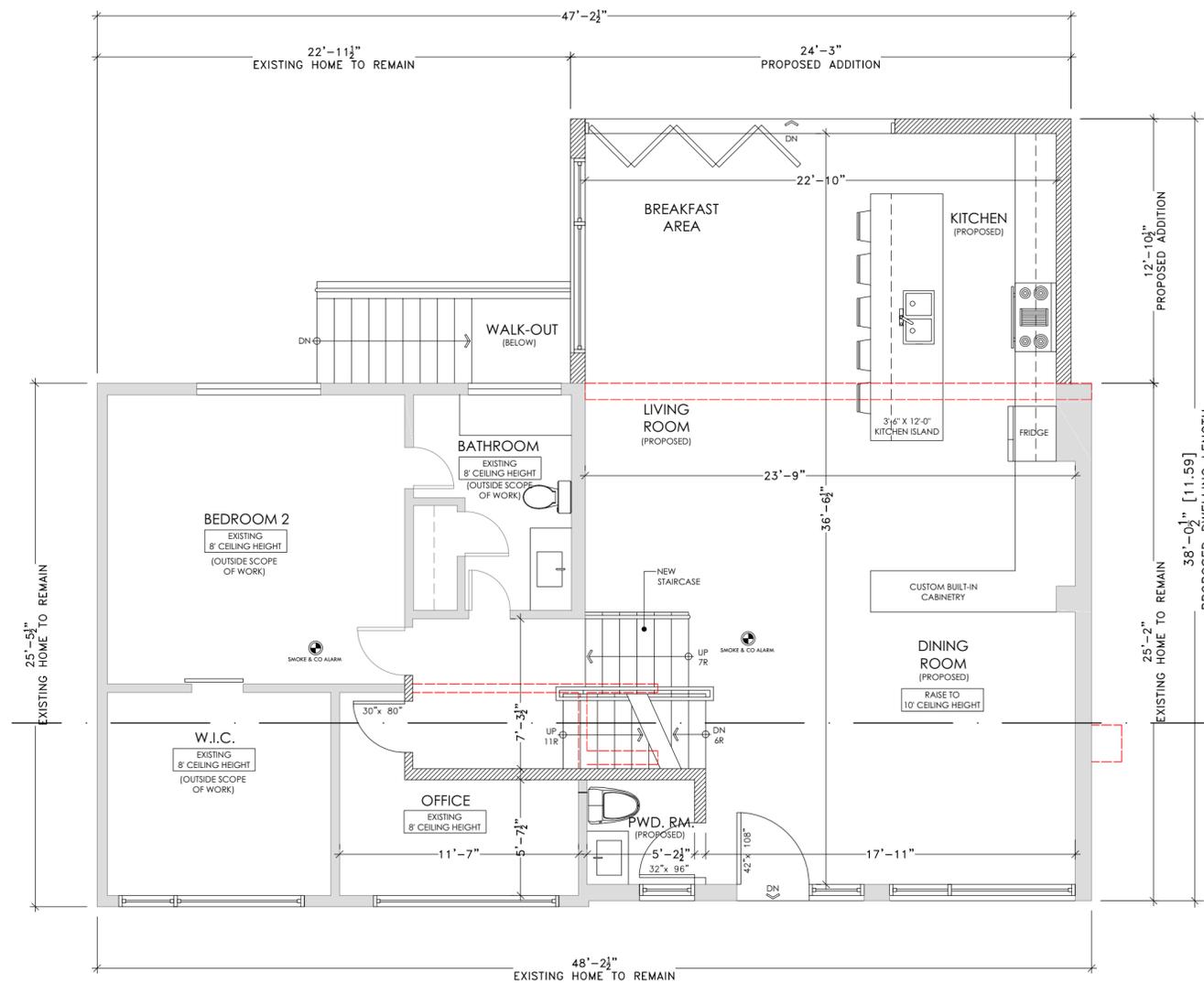
PROPOSED BASEMENT FLOOR PLAN

SCALE: 3/16" = 1'

* ALL DIMENSIONS ARE TO FINISHED FACES

- EXISTING WALLS TO REMAIN
- WALLS TO BE REMOVED
- PROPOSED NEW WALLS

FLOOR AREA:		G.F.A.:	
BASEMENT AREA AS DEFINE BY THE ZONING BY-LAWS.		INCLUDING EXTERIOR WALLS	
GARAGE AREA, EXCLUDES CELLAR AREAS			
DOUBLE CAR GARAGE:	481 SQ. FT.	G.F.A.:	44.66 M2
TOTAL	481 SQ. FT.	G.F.A.:	44.66 M2



PROPOSED MAIN FLOOR PLAN (SPLIT LEVEL)

SCALE: 3/16" = 1'

* ALL DIMENSIONS ARE TO FINISHED FACES

- EXISTING WALLS TO REMAIN
- WALLS TO BE REMOVED
- PROPOSED NEW WALLS

FLOOR AREA:		G.F.A.:	
LIVABLE SPACE (HEATED SPACE) WITH STAIRS INCLUDED IN SPLIT LEVEL FLOOR		INCLUDING EXTERIOR WALLS	
SPLIT LEVEL:	1,532 SQ. FT.	SPLIT LEVEL:	142.34 M2
2nd. FLOOR:	1,316 SQ. FT.	2nd. G.F.A.:	122.24 M2
TOTAL:	2,848 SQ. FT.	TOTAL G.F.A.:	264.58 M2

Architectural Drawings

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PROJECT STATUS:

- PRELIMINARY
- CONSTRUCTION
- PERMIT
- C OF A

PROJECT NAME:

TWO-STOUREY ADDITION
44 SIR BODWIN PLACE, MARKHAM, ON

PLOT DATE:
06/15/2021

DRAWING TITLE:

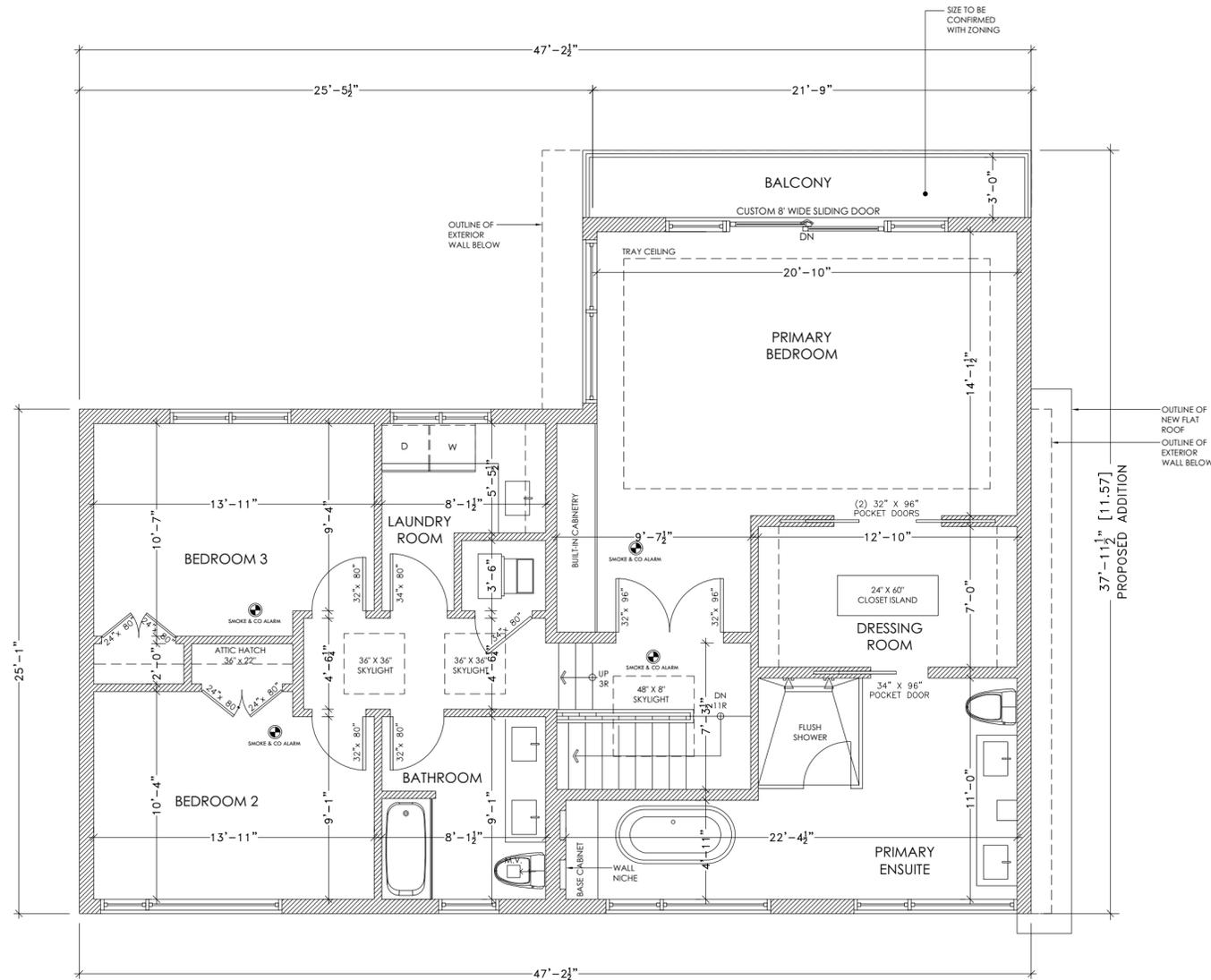
AS NOTED

DRAWN BY:
SCALE:

M.C
3/16" = 1'-0"

DRAWING NO.

A-1



PROPOSED 2ND. FLOOR PLAN (SPLIT LEVEL)

SCALE: 3/16" = 1'

* ALL DIMENSIONS ARE TO FINISHED FACES

PROPOSED NEW WALLS

Architectural
Drawings

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- PRELIMINARY CONSTRUCTION
 PERMIT C OF A

PROJECT NAME:

TWO-STOREY ADDITION
44 SIR BODWIN PLACE, MARKHAM, ON

PLOT DATE:
06/15/2021

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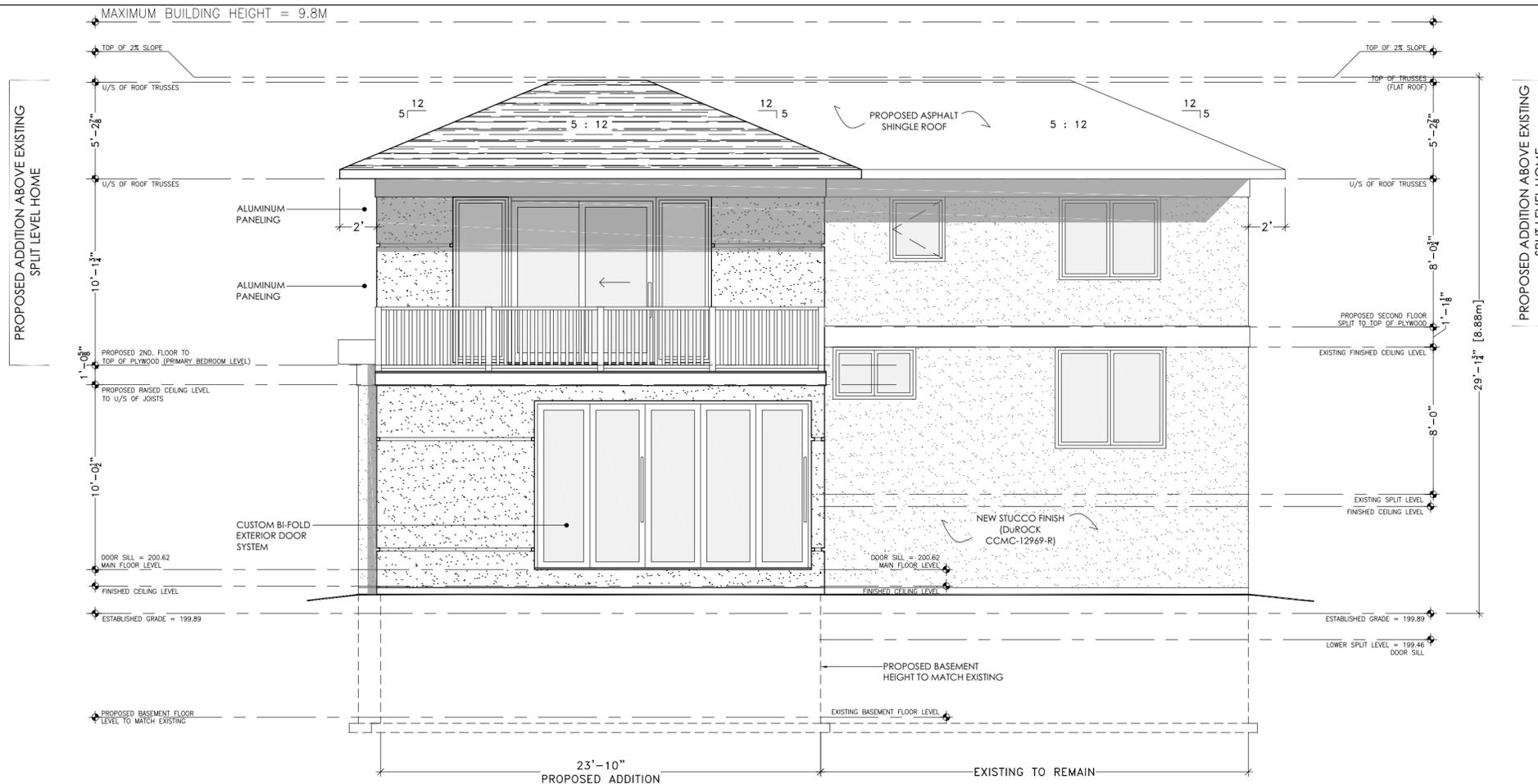
AS NOTED

DRAWN BY:
SCALE:

M.C
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DRAWING NO.

A-2



Architectural
Drawings

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PROJECT STATUS:
 PRELIMINARY CONSTRUCTION
 PERMIT C OF A

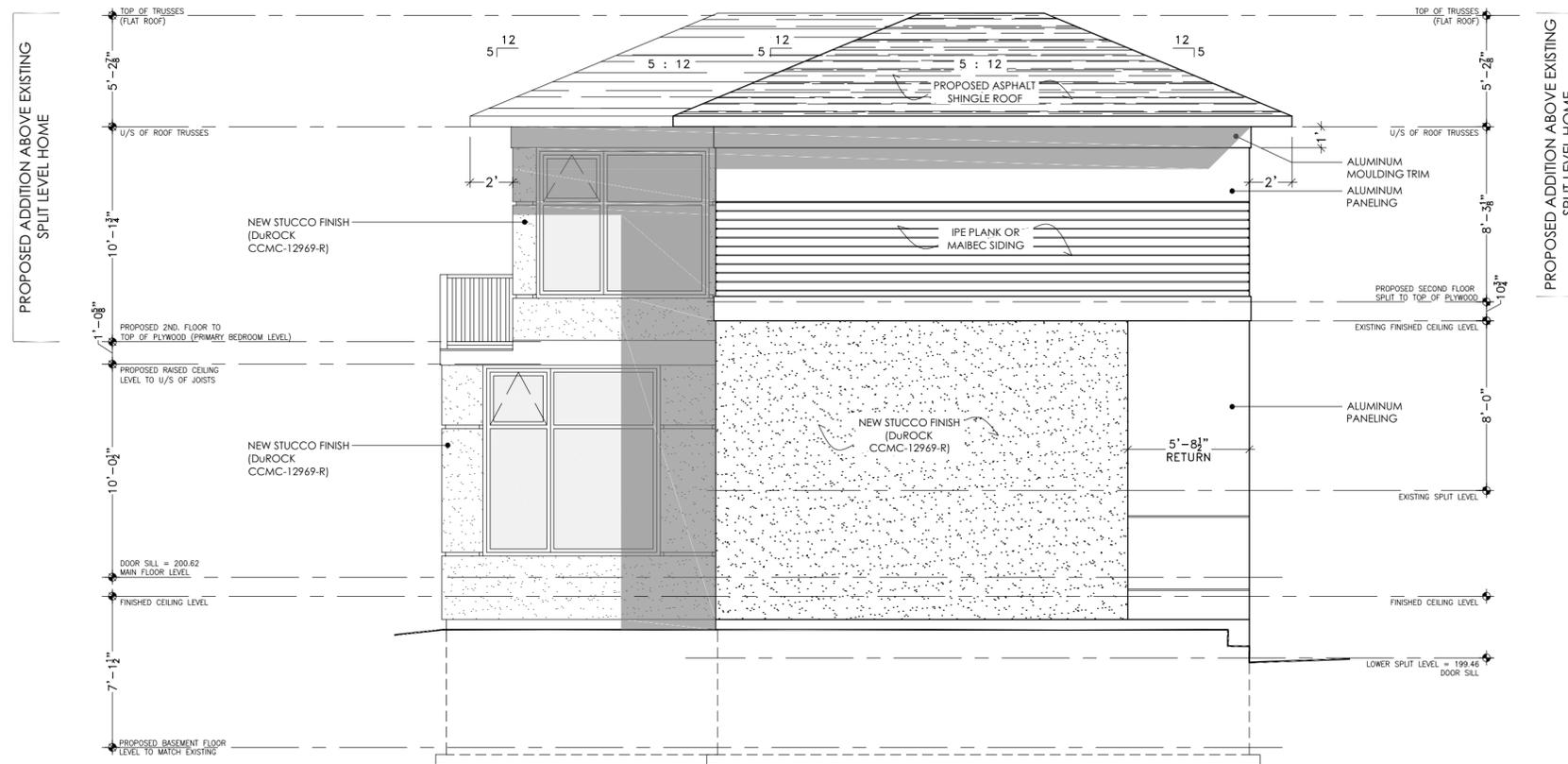
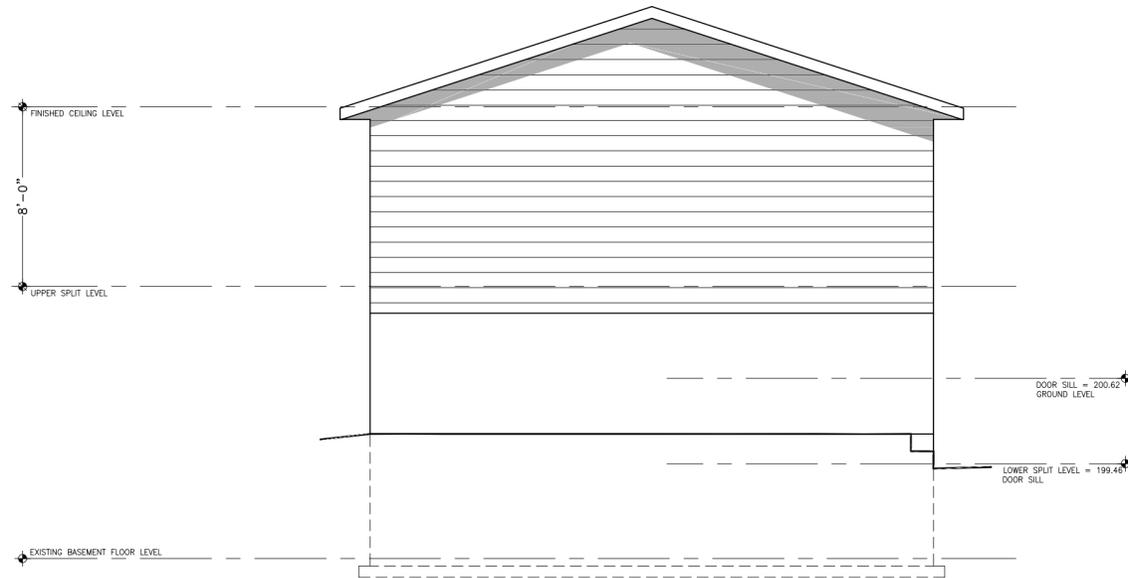
PROJECT NAME:
 TWO-STORY ADDITION
 44 SIR BODWIN PLACE, MARKHAM, ON
 PLOT DATE:
 07/15/2021

DRAWING TITLE:
 EXISTING & PROPOSED
 REAR ELEVATION
 DRAWN BY:
 SCALE:

M.C
 3/16" = 1'-0"

DRAWING NO.

A-4



Architectural Drawings

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PROJECT STATUS:

PRELIMINARY CONSTRUCTION

PERMIT C OF A

PROJECT NAME:

TWO-STOUREY ADDITION
44 SIR BODWIN PLACE, MARKHAM, ON

PLOT DATE:
07/15/2021

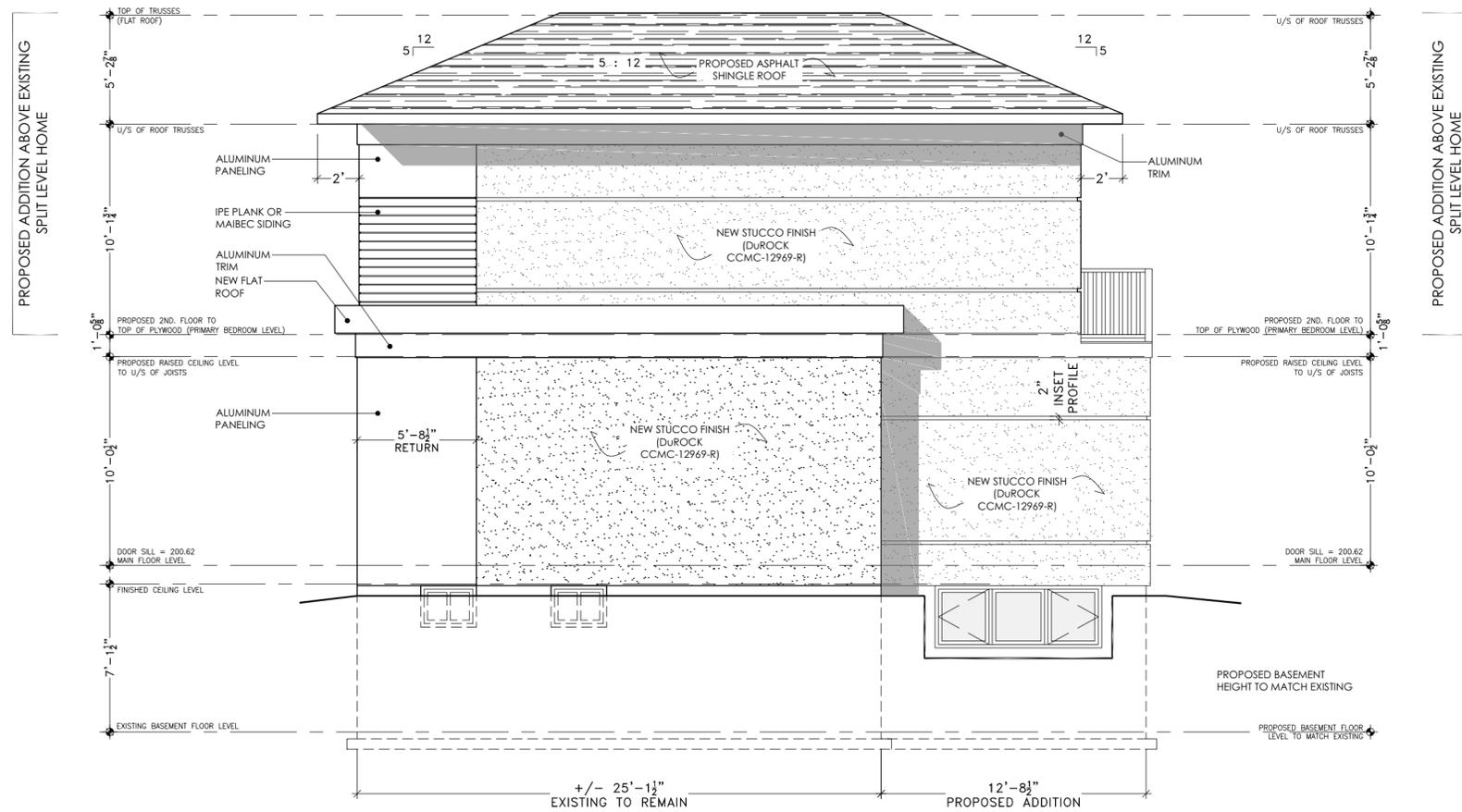
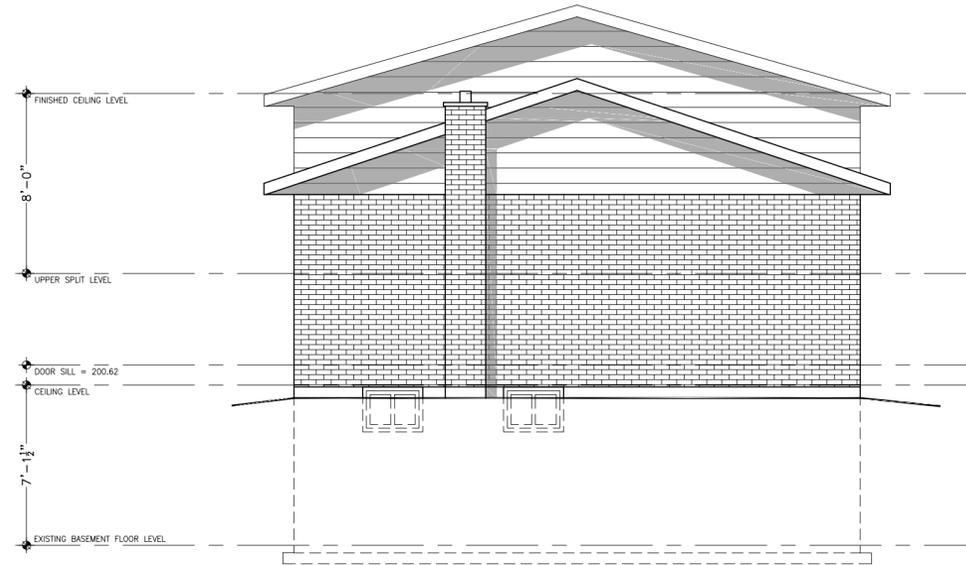
DRAWING TITLE:

EXISTING & PROPOSED
LEFT (NORTH) ELEVATION

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

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A-5



Architectural
Drawings

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 PERMIT C OF A

PROJECT NAME:

TWO-STORY ADDITION
44 SIR BODWIN PLACE, MARKHAM, ON

PLOT DATE:
07/15/2021

DRAWING TITLE:

EXISTING & PROPOSED
RIGHT (SOUTH) ELEVATION

DRAWN BY:
SCALE:

M.C
3/16" = 1'-0"

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A-6