

# Memorandum to the City of Markham Committee of Adjustment

September 13, 2021

**File:** A/118/21  
**Address:** 61 Peter Street – Markham, ON  
**Applicant:** Vijayakanthan Kunarathnam  
**Agent:** Rockim Design Inc. (Rock Kim)  
**Hearing Date:** September 22, 2021

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 they relate to a new detached dwelling. The variances requested are to permit:

**a) By-law 99-90, Section 1.2 (I):**

a maximum height of 10.56 m (34.65 ft), whereas the By-law permits a maximum height of 9.80 m (32.15 ft);

**b) By-law 99-90, Section 1.2 (ii):**

a maximum depth of 17.0 m (55.77 ft), whereas the By-law permits a maximum depth of 16.80 m (55.12 ft); and

**c) By-law 99-90, Section 1.2 (vi):**

a maximum floor area ratio of 49.90%, whereas the By-law permits a maximum floor area ratio of 45.0%.

## BACKGROUND

### Property Description

The 800.55 m<sup>2</sup> (8,617.05 ft<sup>2</sup>) subject property is located on the east side of Peter Street, north of Bullock Drive, east of Main Street Markham North, and south of 16<sup>th</sup> Avenue. A one-storey detached dwelling currently exists on the property, along with a one-storey detached garage, and an accessory structure (tree house) located in the rear yard. Assessment records indicate the buildings were constructed in 1952. Mature vegetation exists across the property. The property’s irregular shape is due to the front and rear lot lines that are situated on an angle in relation to the side lot lines (Appendix “C”).

The property is located within a residential neighbourhood comprised of one and two-storey detached dwellings. Peter Street can be described as one that is in transition with examples of original dwellings being redeveloped to accommodate larger two-storey dwellings. While the Markham Village Heritage Conservation District (MVHCD) abuts the subject property to the east, the subject property is not a designated heritage property under the *Heritage Act, R.S.O. 1990, c. O.18, as amended*.

### Proposal

The applicant is proposing to demolish the existing one-storey dwelling and garage, to construct a new two-storey detached dwelling at a height of 10.56 m (34.65 ft) with a one-storey covered patio located in the rear yard. Including the garage, the dwelling would have a ground floor area of 187.0 m<sup>2</sup> (2,012.85 ft<sup>2</sup>), a second floor area of 165.92 m<sup>2</sup> (1,785.95 ft<sup>2</sup>), for a total gross floor area 352.92 m<sup>2</sup> (3,798.80 ft<sup>2</sup>).

## **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 infill development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that 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 these development criteria. Regard shall also be had for the retention of existing trees and vegetation.

The Official Plan provides direction for staff to review any applications seeking minor variance approval on lands adjacent to cultural heritage resources (which includes individual properties, or properties within heritage conservation districts), and to provide for mitigation, or alternative development approaches to ensure the integrity of these cultural heritage resources are maintained.

### 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.

### 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 with respect to the maximum height, maximum depth, and maximum floor area ratio requirements.

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

The applicant submitted a ZPR dated July 13, 2021, which confirmed the variances required for the proposed development.

**NOTE:** While the applicant has requested a floor area ratio of 49.90%, the site plan shows a gross floor area of 352.92 m<sup>2</sup> (3,798.80 ft<sup>2</sup>) which equates to a floor area ratio of 49.92%.

If the applicant is seeking a maximum floor area ratio of 49.92%, staff recommend that the application be deferred by the Committee of Adjustment (“the Committee”) to allow for proper notice. Alternatively, the variance can be adjusted at the meeting if, the Committee determines that the increase is minor, and that proper notice has been given.

It is the applicant’s responsibility to ensure that the application has accurately identified all required variances to the By-law to permit the proposed development. If the variance request in this application contains errors, or if the need for additional variances are identified during the Building Permit review process, further variance applications or minor changes to the plans may be required at the building permit stage to comply with the floor area ratio variance of 49.90%, if approved.

## **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:

- 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 Building Height

The applicant is requesting a maximum building height of 10.56 m (34.65 ft), whereas the By-law permits a maximum building height of 9.80 m (32.15 ft). This is an increase of 0.76 m (2.50 ft).

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street at the mid-point of the front lot line and highest point of the ridge of a gable, hip, gambrel or other pitched roof.

It is noted that the proposed grade of the front of the house is approximately 1.0 m (3.28 ft) above the crown of road. Therefore, the height from established grade at the front of the dwelling is approximately 9.56 m (31.36 ft). In giving consideration to the difference in grade from the dwelling to the street, and that the high point of the roof is located towards the mid-point of the dwelling, staff are of the opinion that the mass of the dwelling assists in minimizing any impacts to adjacent properties. Further, the requested variance creates for a dwelling that is compatible and consistent with the transitional character Peter Street which contains dwellings that vary from one to two storeys in height.

### Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 17.0 m (55.77 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft). This is an increase of 0.20 m (0.66 ft).

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line. Including the rear covered porch, the building measures approximately 16.46 m (54.0 ft) front to back, which would comply with the depth requirement on a rectangular lot. Given the configuration of the lot and similarly, other lots along Peter Street, the depth of the building is measured on an angle through the dwelling at 17.0 m (55.77 ft). Staff are of the opinion that the requested variance is minor in nature, and are attributable to the lot's configuration.

### Increase in Maximum Floor Area Ratio

The applicant is requesting a maximum floor area ratio of 49.90%, whereas the By-law permits a maximum floor area ratio of 45.0%. The variance would facilitate the construction of a two-storey detached dwelling with a floor area of 352.72 m<sup>2</sup> (3,796.65 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 318.09 m<sup>2</sup> (3,423.89 ft<sup>2</sup>). This is an increase of 34.63 m<sup>2</sup> (367.76 ft<sup>2</sup>).

Floor area ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area; however, it is not a definitive measure of the mass of the dwelling. With exception to the requested increase to height, and building depth, the proposed development meets all other zoning provisions that establish the prescribed building envelope such as yard setbacks and lot coverage, which assists in ensuring that the proposed dwelling will be in keeping with the intended scale of the community. Staff are of the opinion that the requested floor area ratio would result in a dwelling that is compatible with original dwellings in the area, and newer infill development along Peter Street.

#### Tree Protection and Compensation

The applicant is no longer proposing a circular driveway, and has made modifications to its configuration, including a tapering of the driveway to lessen impacts and better protect trees on the property. Staff note that the applicant is required to apply for and obtain a tree permit from the City for any proposed injury or removal of trees that have a Diameter at Breast Height (DBH) of 20.0 cm (0.66 ft), or greater. Staff recommend that the conditions of approval provided in Appendix "A" be adopted by the Committee to ensure that the applicant installs appropriate tree protection, and provides the required compensation for trees that are approved to be removed through the City's tree permit process. If this variance application is approved, further mitigation may be required at the Residential Grading and Servicing (RGS) stage to ensure that the appropriate protection of certain trees is achieved.

#### Markham Heritage Comments

Heritage staff have reviewed the application with respect to the City's Official Plan policies regarding development applications for properties that are adjacent to, and within 60.0 m (196.85 ft) of designated heritage properties. The rear yard of the subject property abuts the rear yards of properties fronting Markham Main Street North which are designated under Part V of the *Ontario Heritage Act*, as they are located within the boundaries of the MVHCD.

As the adjacent properties front onto a different street (Markham Main Street North), and are well separated from the proposed new dwelling by the minimum rear yard setbacks required by the By-law, Heritage staff has no objection to the variance application from a heritage perspective. Following a review by Heritage staff, the application subsequently went to the Heritage Markham Committee. Staff recommended that the Heritage Markham Committee provide no comment on the application at their meeting on September 9, 2021. The Heritage Markham Committee adopted staff's recommendation accordingly.

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of September 13, 2021. 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 variances meet the four tests. Staff recommend that the Committee consider public input, and the conditions of approval attached as Appendix "A" in reaching a decision. 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

Appendix "C" – Subject Property: Lot Configuration

PREPARED BY:



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Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/118/21**

1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed 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 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 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 tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, 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 Director of Planning and Urban Design, or their designate.
5. 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 the Tree Preservation Technician, 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:



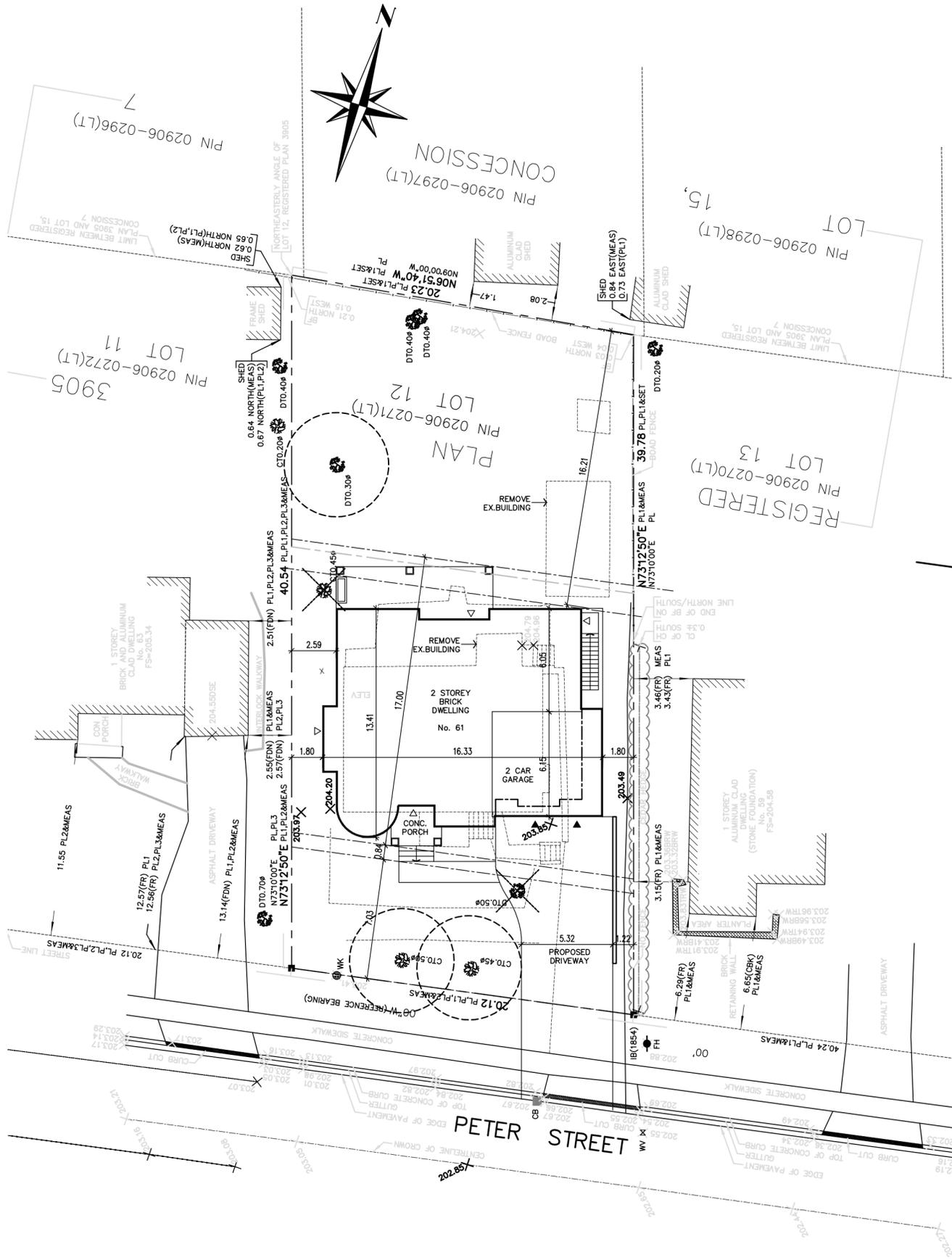
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Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/118/21**

SKETCH SHOWING  
 LOT 12  
 REGISTERED PLAN 3905  
 CITY OF MARKHAM  
 REGIONAL MUNICIPALITY OF YORK

THIS SURVEY INFORMATION IS TAKEN FROM  
 R. SHANMUGARAJAH O.L.S. ON MAY 27, 2021



**LEGEND**

- $\times$ 100.56 Denotes existing Grade
- F.F. Finished First Floor
- T.W. Top Of Foundation Wall
- B.S. Top Of Basement Slab
- U/SF Underside Of Footing
- SW Swale Elevation
- ← Direction Of Drainage
- ▽ Man Door Location
- ▼ Drive-In Overhead Door
- R. Riser
- WOB Walkout Basement

The applicant is required to apply for and obtain a tree permit for any trees proposed to be removed or injured that have a DBH of 20 cm or greater. Staff will be recommending that conditions of approval be adopted including the submission of a TAPP, appropriate compensation/replacement be provided, and protection be installed. Additionally, further mitigation may be required at the RGS process to allow for better protection of certain trees.

**SITE DATA**

Lot Area	800.55 Sq.m
Propose building area	
Ground floor area	147.10 Sq.m
Garage area	39.90 Sq.m
Roof cover patio	32.02 Sq.m
Conc. porch	5.87 Sq.m
Second floor area	165.92 Sq.m
Net Lot area	706.84 sq.m
Total gross floor area	352.92 sq.m (49.9%)
Lot Coverage (incl. patio+porch)	224.89 Sq.m

**GENERAL NOTES:**  
 This drawing, as an instrument of service, is provided by and is the property of the DESIGNER. The contractor must verify and accept responsibility for all dimensions and conditions on site and must notify the DESIGNER of any variations from the supplied information. The Designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., engineering information shown on this drawing. Refer to the appropriated engineering drawings before proceeding with the work. Construction must conform to all applicable codes and requirement of authorities having jurisdiction. This drawing is not to be scaled.

**REVISIONS**

No.	DESCRIPTION	DATE	BY

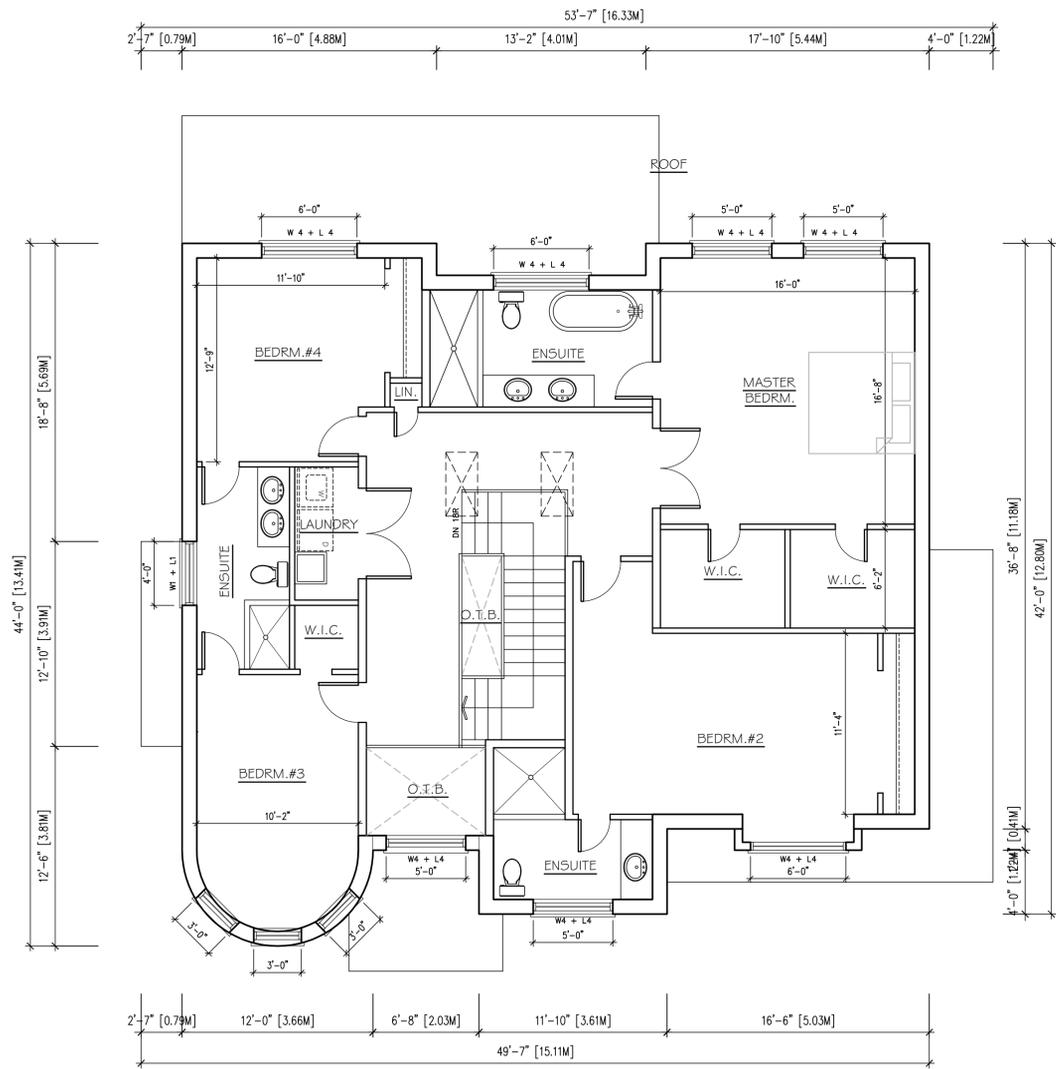
**PROJECT**  
 PROPOSED DWELLING BUILDING  
 61 PETER STREET  
 MARKHAM, ON

**DRAWING TITLE**  
 SITE PLAN

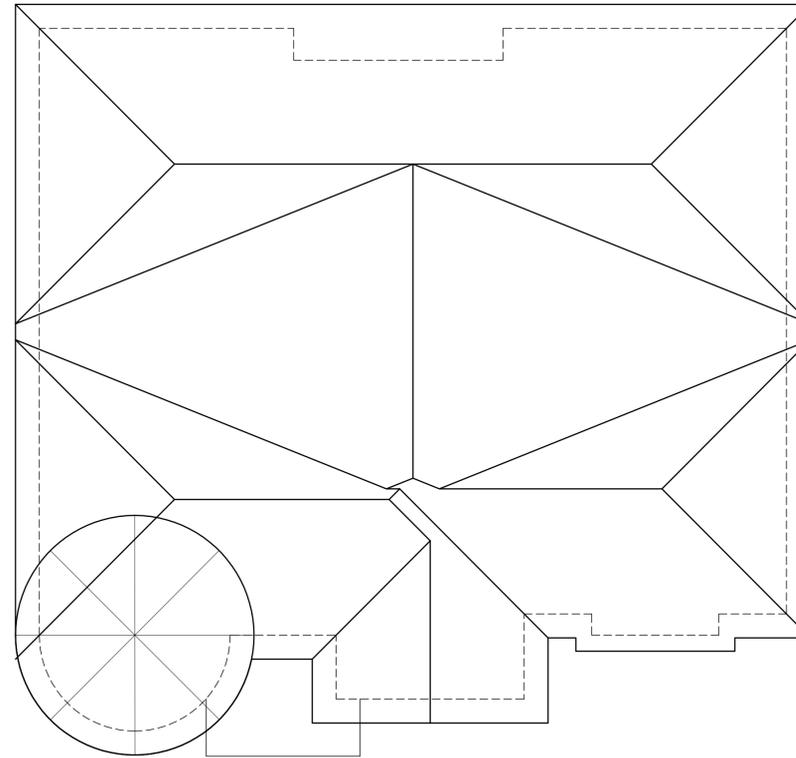
DRAWN BY	R.K.
CHECKED BY	R.K.
SCALE	1:200
DATE	JUN., 2021
PROJECT NUMBER	

DRAWING NUMBER  
**AO.1**





**1** SECOND FLOOR PLAN  
 A1.2 SCALE: 3/16"=1'-0"



**2** ROOF PLAN  
 A1.2 SCALE: 3/16"=1'-0"

**GENERAL NOTE:**  
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No.	ISSUED FOR	DATE
No.	REVISIONS	DATE

**DRAWING TITLE:**  
 FLOOR PLAN  
 /ROOF PLAN

**PROJECT:** PROPOSED  
 DWELLING BUILDING  
 61 PETER STREET  
 MARKHAM, ON

**RockIM**  
 DESIGN INC.  
 ARCHITECTURAL PARTNER  
 TEL 647-466-2767 rockkim22@gmail.com

The undersigned has reviewed & taken 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 31.3.1 of the building code	
ROCKIM	36340
	BNF
Signature	FEB. 24, 2020
	Date
REGISTRATION INFORMATION	
Required unless design is exempt under 31.4.1 of the building code	
ROCKIM DESIGN	45379
Firm Name	BNF

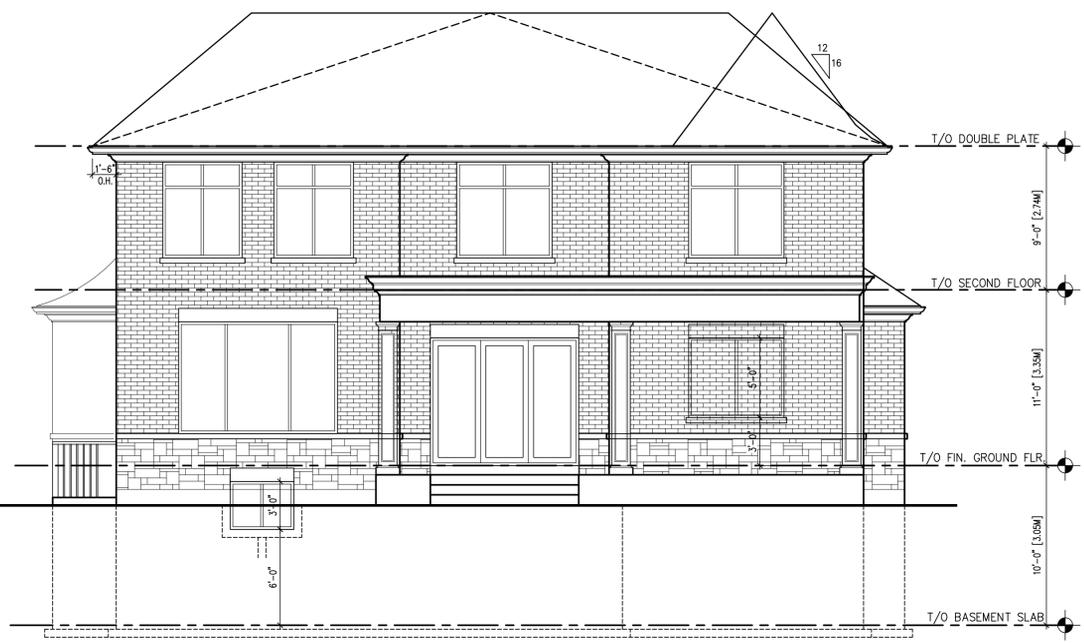
	DRAWING No.
SCALE: AS NOTED	<b>A1.2</b>
DRAWN: R.K.	
CHECKED BY:	
FILE NO:	
DATE: JUN., 2021	



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



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



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



**4 WEST SIDE ELEVATION**  
 SCALE: 3/16"=1'-0"

**GENERAL NOTE:**  
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No.	ISSUED FOR	DATE
No.	REVISIONS	DATE

DRAWING TITLE:  
**ELEVATIONS**

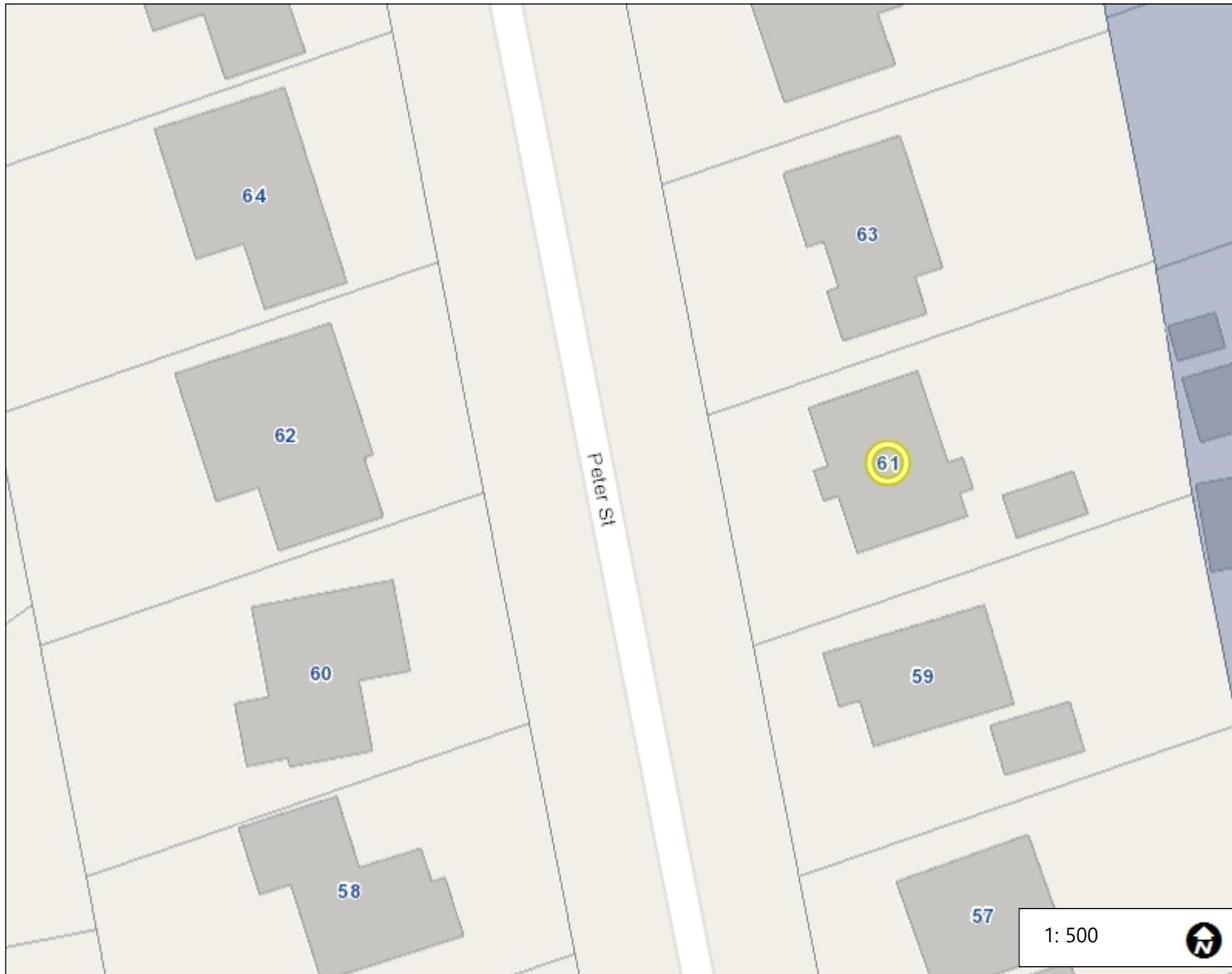
PROJECT: **PROPOSED DWELLING BUILDING**  
 61 PETER STREET  
 MARKHAM, ON

**RockIM DESIGN INC.**  
 ARCHITECTURAL PARTNER  
 TEL 647-466-2767 rockkim22@gmail.com

The undersigned has reviewed & taken 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 3.1.5.1 of the building code  
 ROCKIM 36340  
 Name 85N4  
 Signature Date FEB. 24, 2020  
 Required unless design is exempt under 3.1.4.1 of the building code  
 REGISTRATION INFORMATION  
 ROCKIM DESIGN 45379  
 Firm Name 85N4

	SCALE: AS NOTED	DRAWING No.
	DRAWN: R.K.	<b>A2.1</b>
	CHECKED BY:	
	FILE NO:	
	DATE: JUN., 2021	

**APPENDIX "C"**  
**SUBJECT PROPERTY: LOT CONFIGURATION**



Legend

- LANDMARKS\_6000
- SLRN\_6000
- PARKS\_6000
- Heritage Districts
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Park Facilities
- Parks
  - <all other values>
  - Under Development

1: 500



25.4 0 12.70 25.4 Meters

Notes