

Memorandum to the City of Markham Committee of Adjustment

April 28, 2023

File: A/034/23
Address: 163 Fred Varley Drive, Markham
Applicant: ARK Group (Daniel Wong)
Agent: ARK Group (Daniel Wong)
Hearing Date: Wednesday May 3, 2023

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

The Applicant is requesting relief from the following requirements of the “Fourth Density Single Family Residential (R4)” zone requirements under By-law 11-72, as amended, and the City-wide Parking By-law 28-97, as amended, as it relates to a proposed second storey addition, parking location and driveway. The variances requested are to permit:

- a) **By-law 11-72, Section 6.1.1**: a minimum front yard setback of 25 feet and 5 inches, whereas the By-law requires a minimum front yard setback of 27 feet;
- b) **Parking By-law 28-97, Section 6.2.4.1 c)**: motor vehicle parking between an outside wall of an attached private garage on an interior side lot line, whereas the By-law does not permit motor vehicle parking between an attached private garage and an interior side lot line; and,
- c) **Parking By-law 28-97, Section 6.2.4.2 b)**: a maximum driveway width of 9.96 metres, whereas the By-law permits a maximum driveway width of up to 6.1 metres.

BACKGROUND

Property Description

The 907.53 m² (9,768.53ft²) Subject Lands is located on the east side of Fred Varley Drive, generally located south of Carlton Road, and north of Gainsville Avenue (refer to Appendix “A” – Aerial Photo). The Subject Lands are surrounded by 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 225.5 m² (2,427.3 ft²) single detached dwelling on the property, which according to assessment records was constructed in 1968. The Subject Lands contain mature vegetation and two large trees.

Proposal

The Applicant is proposing a 139.96 m² (1,506.5 ft²) second storey addition with an integrated carport on the south side of the house / existing garage (refer to Appendix “B” – Architectural Plans).

Official Plan and Zoning

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

The Subject Lands are designated “Residential Low Rise”, which permits 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 the retention of existing trees and vegetation, the width of proposed garages, and driveways. 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, as amended

The Subject Lands are zoned “Fourth Density Single Family Residential (R4)” under By-law 11-72, as amended, which permits a single detached dwelling. The proposed dwelling does not comply with the By-law requirements with respect to minimum front yard setback.

City-wide Parking Standards - By-law 28-97, as amended

The City-wide Parking Standards By-law 28-97, as amended (the “Parking By-law”), sets out the parking standards for the Subject Lands. Section 6.2.4.1 c) of the Parking By-law restricts “motor vehicle parking between an outside wall of an attached private garage that faces a front lot line, and an interior side lot line or an exterior side lot line.” Section 6.2.4.2 b) of the Parking By-law 28-97, permits a maximum driveway width of “up to 6.1 metres, provided a minimum 40% soft landscaping is provided in the front or exterior side yard in which the driveway is located.”

The proposed integrated carport and driveway width does not comply with the Parking By-law with respect to driveway width and the motor vehicle parking location. Further details of the parking requirement is provided in the comment section below.

Varley Village Infill Area

The Subject Lands are located within an area of the City where there is a trend to build larger houses. In response to concerns with 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) Not Undertaken

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the Applicant'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.

Variance a) Reduction in Front Yard Setback

The Applicant is requesting relief to permit a minimum front yard setback of 25 feet and 5 inches (7.75 metres), whereas the Zoning By-Law 11-72, as amended requires a minimum front yard setback of 27 feet (8.23 metres). This represents a reduction of approximately 1 foot and 7 inches (0.48 metres). The requested variance is attributable to the existing front yard building footprint. The second storey addition proposes to maintain the current 25 feet, 5 inches front yard setback of the existing dwelling.

Staff are of the opinion that the proposed front yard setback which maintains a consistent front wall to accommodate the 2nd storey addition and integrated carport is minor and have no concern with the requested variance.

Variance b) Motor Vehicle Parking Location

The Applicant is requesting relief to permit a motor vehicle parking space located outside of the existing attached two-car garage in the interior side lot line, whereas the Parking By-law does not permit parking in this location.

As previously noted, the Applicant is proposing a second storey addition, with an integrated carport underneath the addition. The proposed integrated carport is located outside of the existing attached two-car garage in the interior side lot line (refer to Appendix "B" – Architectural Plans). Staff note that the proposed motor vehicle parking space (carport) and the second story addition complies with side yard setbacks requirements outlined in Zoning By-Law 11-72, as amended.

Planning Staff have no objections to the location of the proposed motor vehicle parking, underneath the second storey addition, within the integrated carport, located in the side yard.

Variance c) Increase in Maximum Driveway Width

The Applicant is requesting relief to permit a driveway width of 9.96 metres (32 feet 8 inches), whereas the Parking By-law permits a maximum driveway width of up to 6.1 metres, provided a minimum of 40% soft landscaping is provided in the front yard in which the driveway is located.

The current driveway has a width of 5.87 metres (19 feet and 3 inches), whereas the City's Parking By-law 28-97 only permits the driveway width to be 2 metres (6.56 feet) beyond the garage door. As proposed, the requested driveway width is much greater than what the Parking By-law permits.

The proposed variance will result in a loss of soft landscaping area, which will detract from the visual appearance of the neighbourhood. In addition, the increase in hard surfaces will reduce the opportunity for storm water to infiltrate into the ground thereby increasing water runoff into the storm sewer system. However, it should be noted that the Applicant's proposal still maintains the minimum 40% soft landscaping requirement.

Staff have received input from the Operations Department who have expressed concerns with the driveway width at the front yard property line (west property line) and boulevard. The City's Curb Cut Standard Policy would only permit a maximum allowed driveway width of 7.0 metres (22 feet and 11.5 inches) at the front yard property line within the road allowance for this proposed development. This maximum 7.0 metre width, applies to all lands located within the road allowance, which includes the portion of a driveway situated on the boulevard (i.e. the City's grass and sidewalk). Staff note that approval of driveway widening's within the boulevard requires approval from the Director of Operations or their delegate, which is facilitated through a Curb Modification Application.

Staff are not in support of the proposed driveway width of 9.96 metres (32 feet 8 inches) for the entirety of the driveway, as requested by the Applicant and illustrated in Appendix “B” – Plans.

Staff would support a maximum driveway width of 7.0 metres at the front property line, with an appropriate transitional taper from the front property line to a maximum width of 9.96 metres for the purposes of accessing the integrated carport for motor vehicle parking within the carport. Should the recommended variance with driveway tapering be approved, staff recommend that driveway conditions for appropriate tapering and driveway widening’s within the road allowance as outlined in Appendix “D”, be adopted by the Committee.

Tree Preservation

As noted previously, the subject lands contain mature vegetation and large mature trees. 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, 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 that have a diameter at breast height (DBH) of 20.0 cm (7.87 in) or more on the subject property 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 April 28, 2023. 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:

- Variances a) Reduction in Front Yard Setback and b) Motor Vehicle Parking Location meets the four tests of the *Planning Act*. Staff have no objection to the approval of these variances subject to conditions provided in Appendix “C”.
- Variance c) Increase in Maximum Driveway Width as submitted by the Applicant with a proposed driveway width of 9.96 metres (32 feet 8 inches) for the entirety of the driveway is not desirable.

Notwithstanding, as noted previously, Staff would support a maximum driveway width of 7.0 metres at the front property line, with an appropriate transitional taper from the front property line to a maximum width of 9.96

metres for the purposes of accessing the integrated carport for motor vehicle parking within the carport, subject to the conditions outlined in Appendix “D”.

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” and Appendix “D” for conditions to be attached to any approval of this application.

PREPARED BY:



Dinal Manawadu, Committee of Adjustment Development Technician, Zoning and Special Projects

REVIEWED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

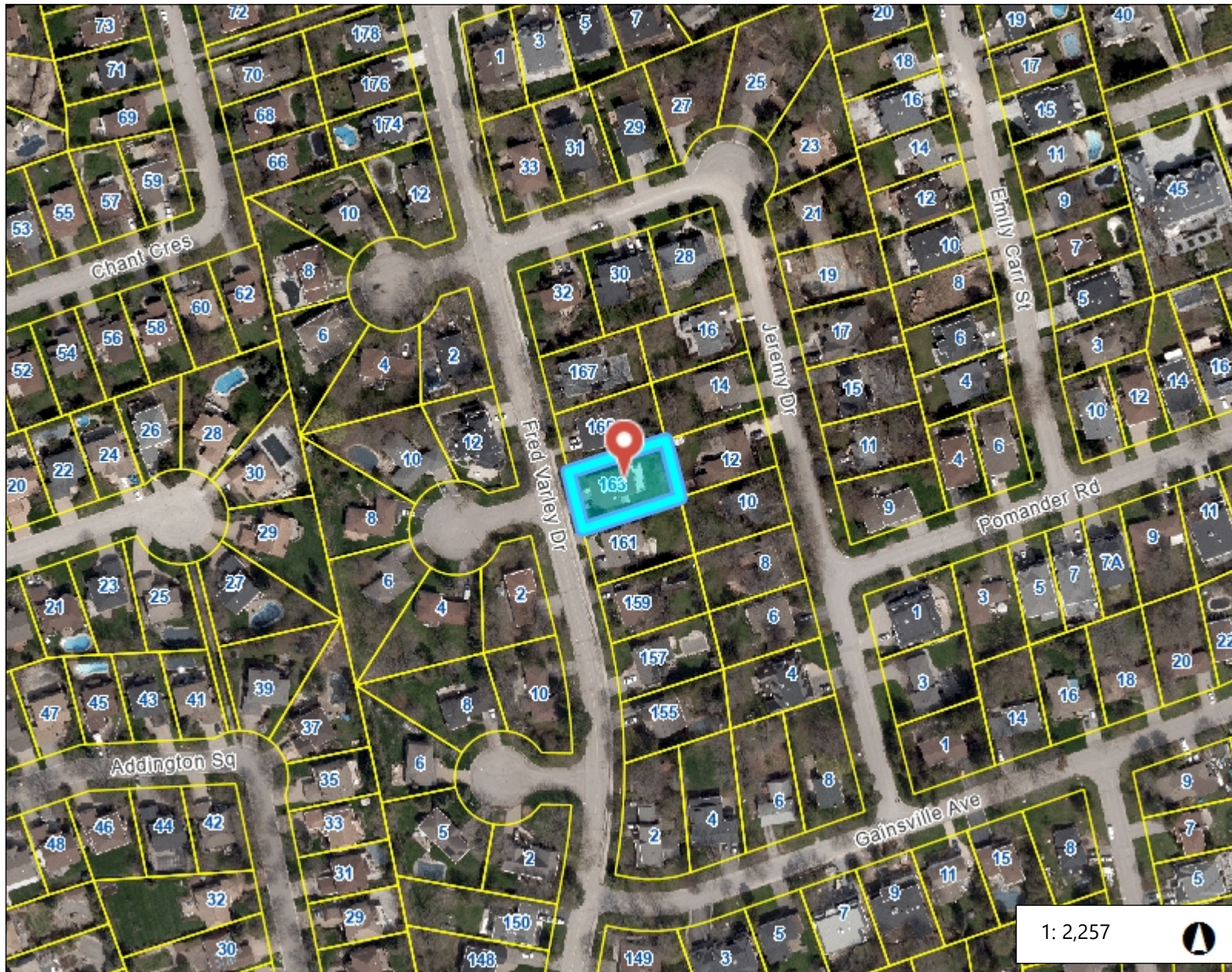
APPENDICES

Appendix “A” – Aerial Context Photo

Appendix “B” – Plans

Appendix “C” – Conditions of Approval - Variances a) and b)

Appendix “D” – Conditions of Approval - Variance c)



Legend

Subject Lands

1: 2,257



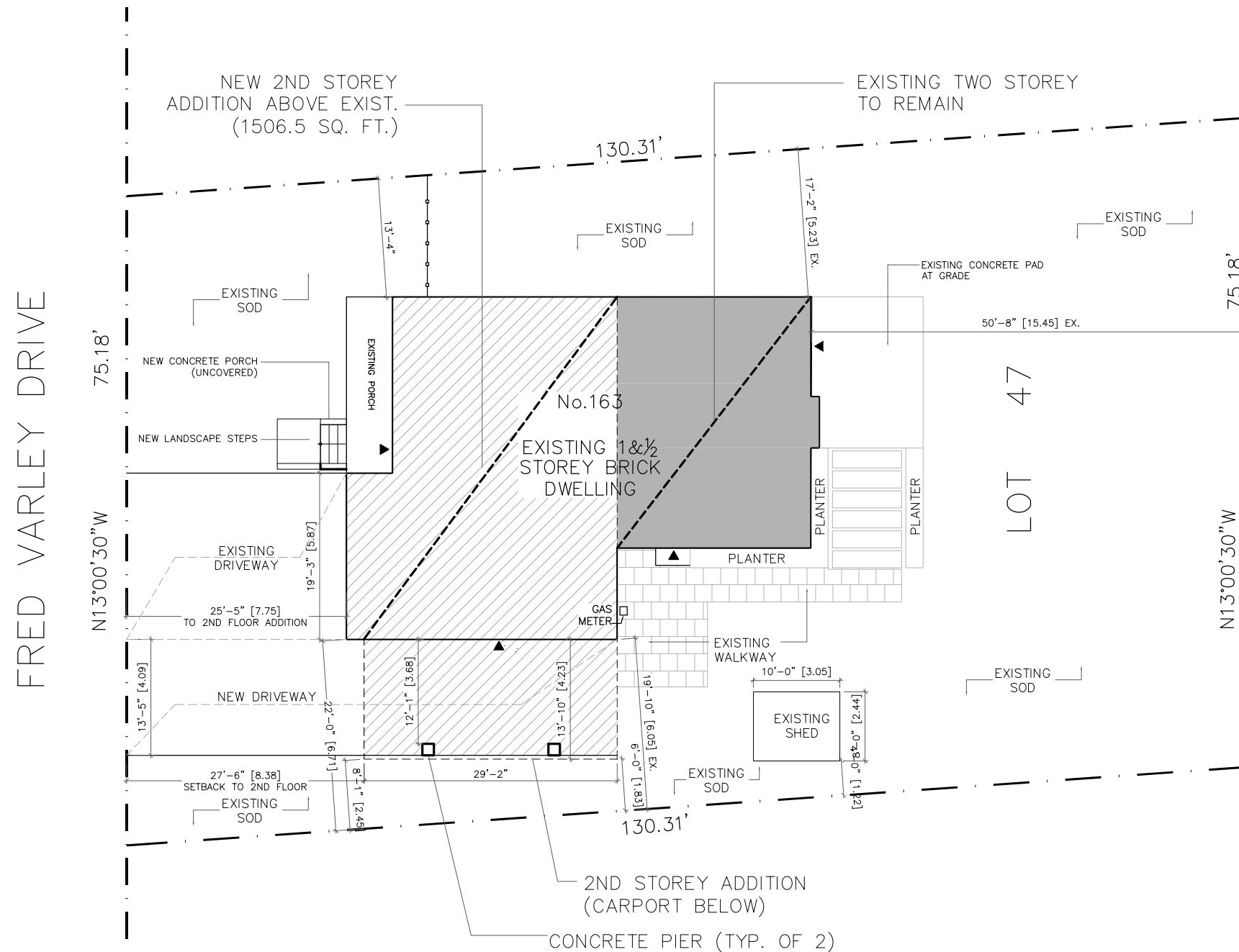
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Notes

Appendix B

File: 23.115835.000.00.MNV

Date: 05/01/23
MM/DD/YY



SITE STATISTICS:

LOT FRONTAGE	75.18 FT	
LOT AREA	9772.84 SQ.FT.	
GFA	EXISTING	PROPOSED
BASEMENT (EXCL. CRAWLSPACE)	612.0 ft ²	612.0 ft ²
MAIN FLOOR (INCL. GARAGE)	1765.2 ft ²	1765.2 ft ²
2ND FLOOR	662.1 ft ²	2168.6 ft ²
TOTAL (1ST+2ND)	2427.3 ft ²	3933.8 ft ²
TOTAL ADDITION GFA:		1506.5 ft²
EXISTING PORCH COVERAGE		108.8 ft ²
EXISTING SHED COVERAGE		80.0 ft ²
TOTAL BUILDING FOOTPRINT COVERAGE		2357.4 ft ²
		24.1%

SURVEY REFERENCE:

SITE PLAN IS PREPARED BASED ON A PLAN OF SURVEY OF LOT 45, 46, & 47, REG'D PLAN 7566, TOWNSHIP OF MARKHAM, COUNTY OF YORK, PREPARED BY P.SALNA O.L.S., DATED JULY 20, 1968

1 SITE PLAN
A000 1/16" = 1'-0"

No.	Description	Date	By
1	ISSUE FOR MINOR VARIANCE	02/13/2023	DW

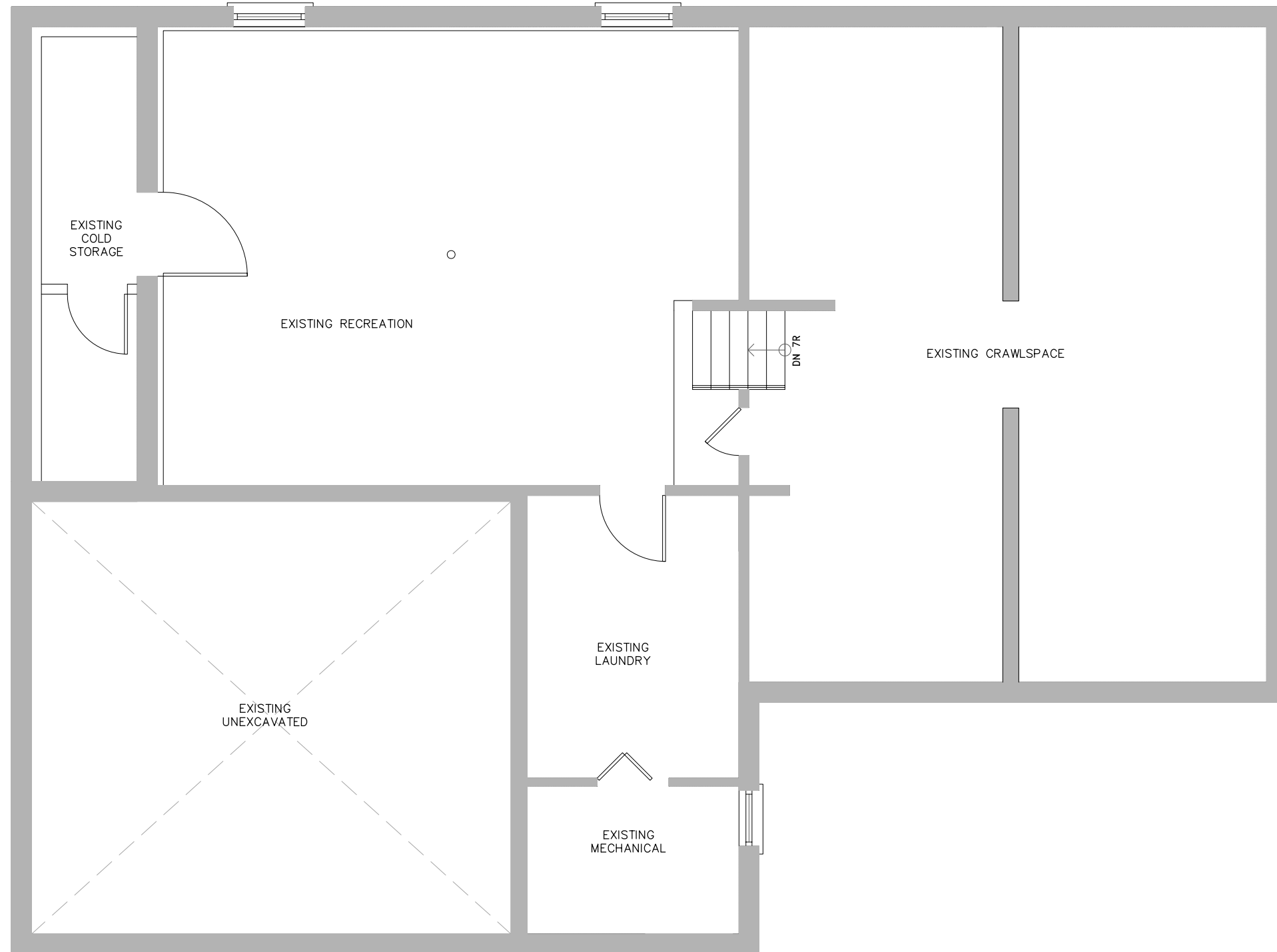
CY WONG & ASSOCIATES INC.
33 FERRIER STREET, UNIT 6-8
MARKHAM, ON L3R 3K6
t: 905 940 3134 | EMAIL: CYWONGINC181@GMAIL.COM

DRAWING NAME Site Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A000
Project Number 22002	Drawn by DW	

Appendix B

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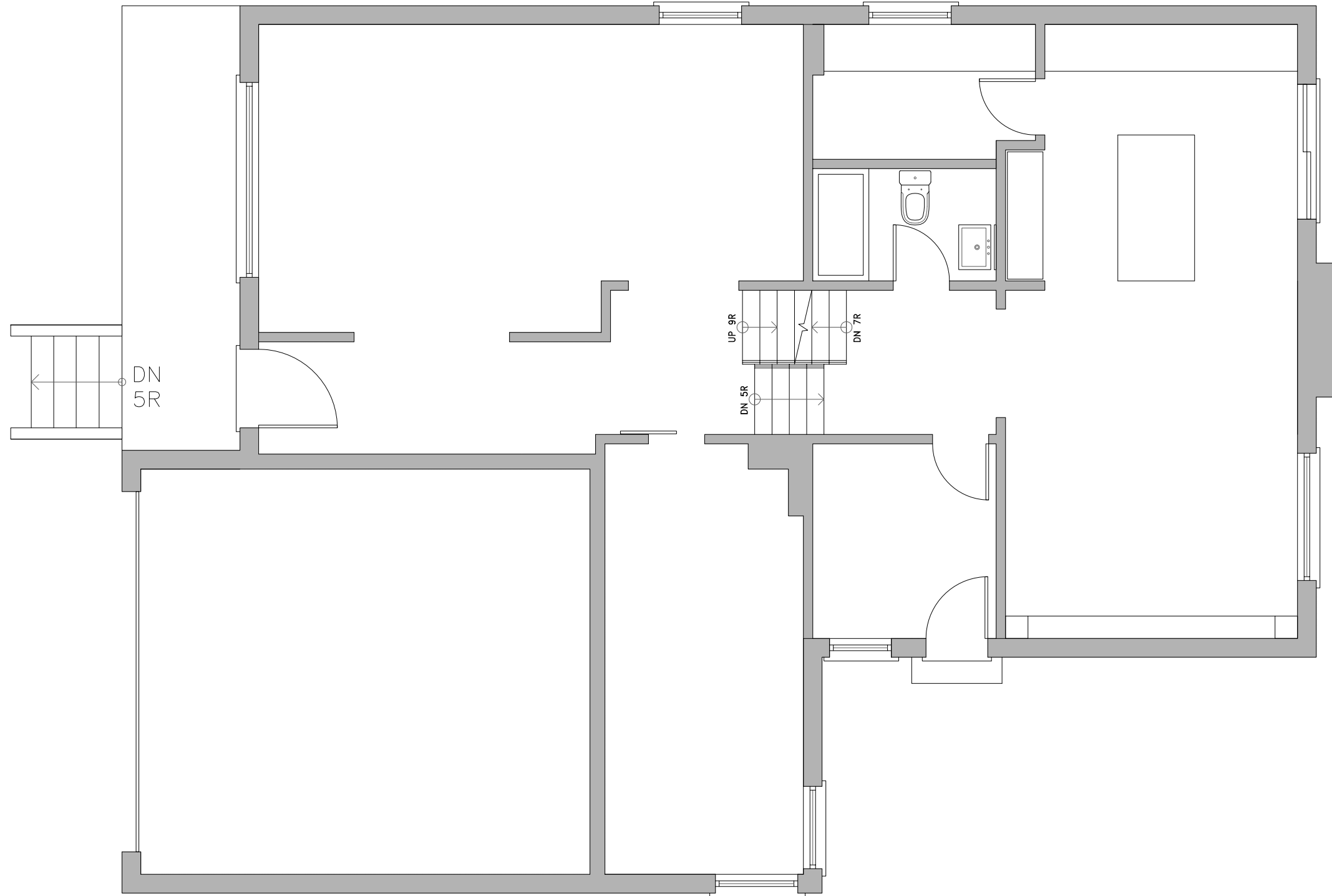
DRAWING NAME Existing Basement Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A100
Project Number 22002	Drawn by DW	

1
A100 **EXISTING BASEMENT PLAN**
3/16" = 1'-0"

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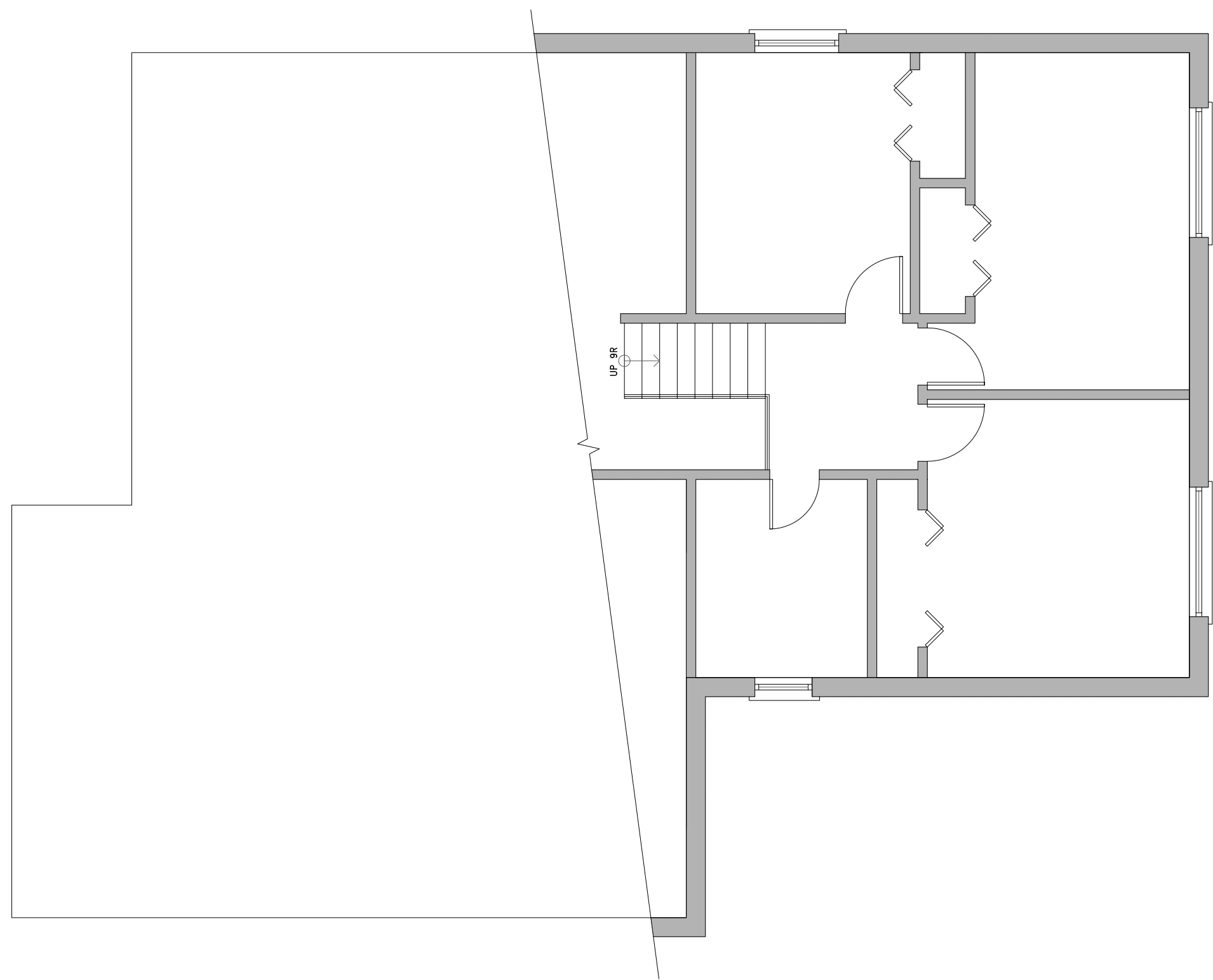
DRAWING NAME Existing Main Floor Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A101
Project Number 22002	Drawn by DW	

1
A101
EXISTING MAIN FLOOR PLAN
 3/16" = 1'-0"

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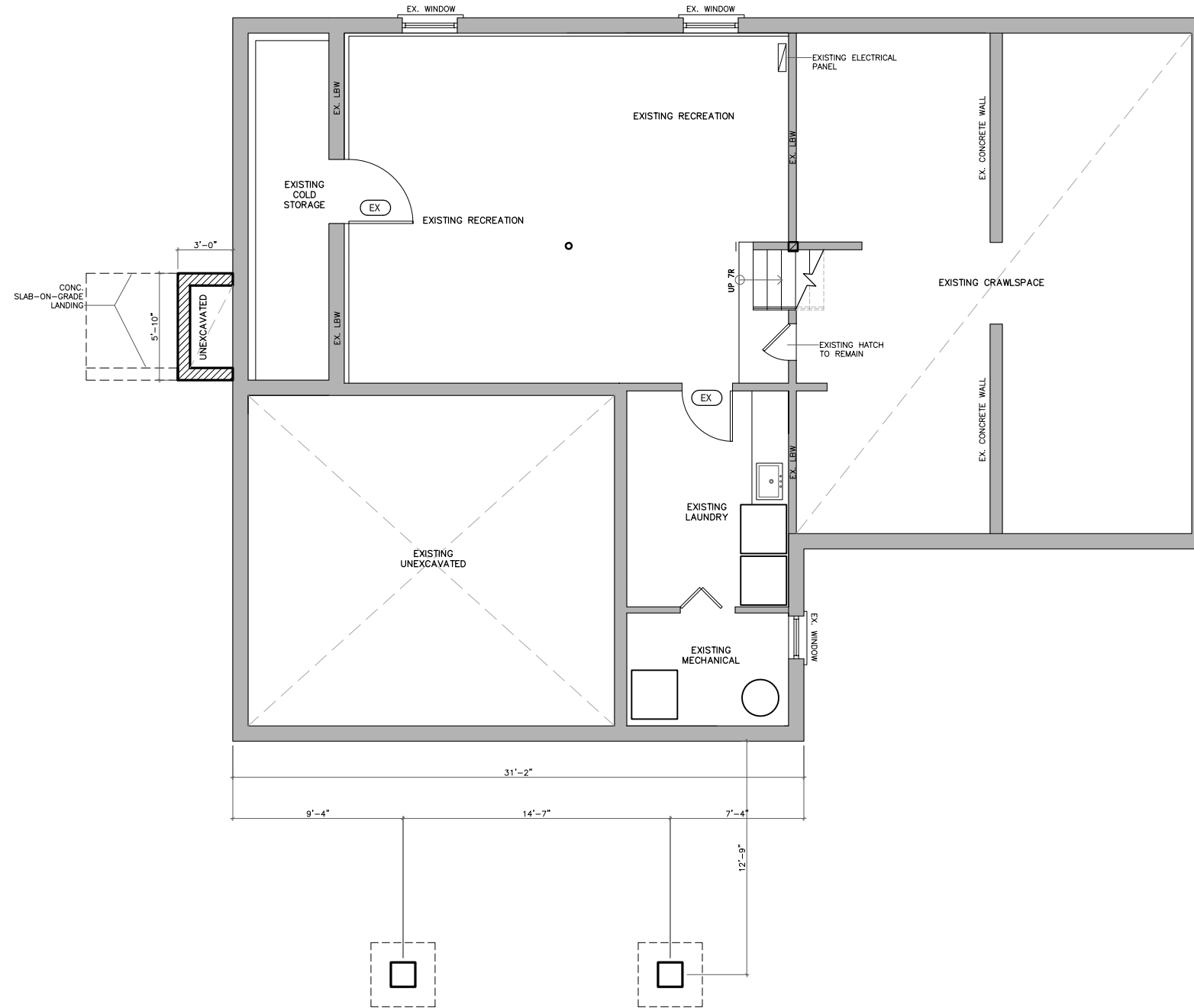
DRAWING NAME Existing 2nd Floor Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A102
Project Number 22002	Drawn by DW	

1
A102 EXISTING 2nd FLOOR PLAN
3/16" = 1'-0"

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DRAWING NAME Proposed Basement Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A200
Project Number 22002	Drawn by DW	

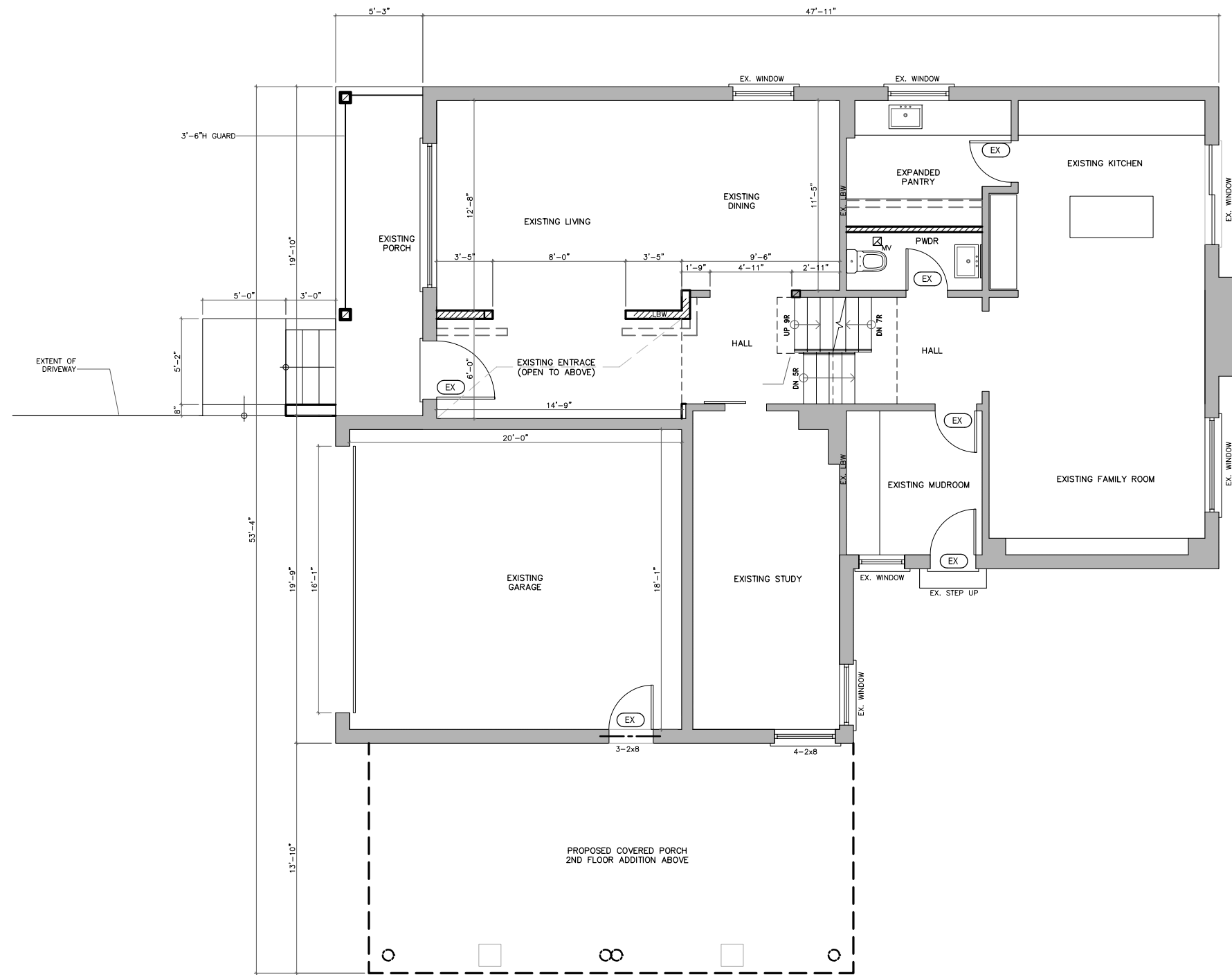
1
A200

PROPOSED BASEMENT PLAN
1/8" = 1'-0"

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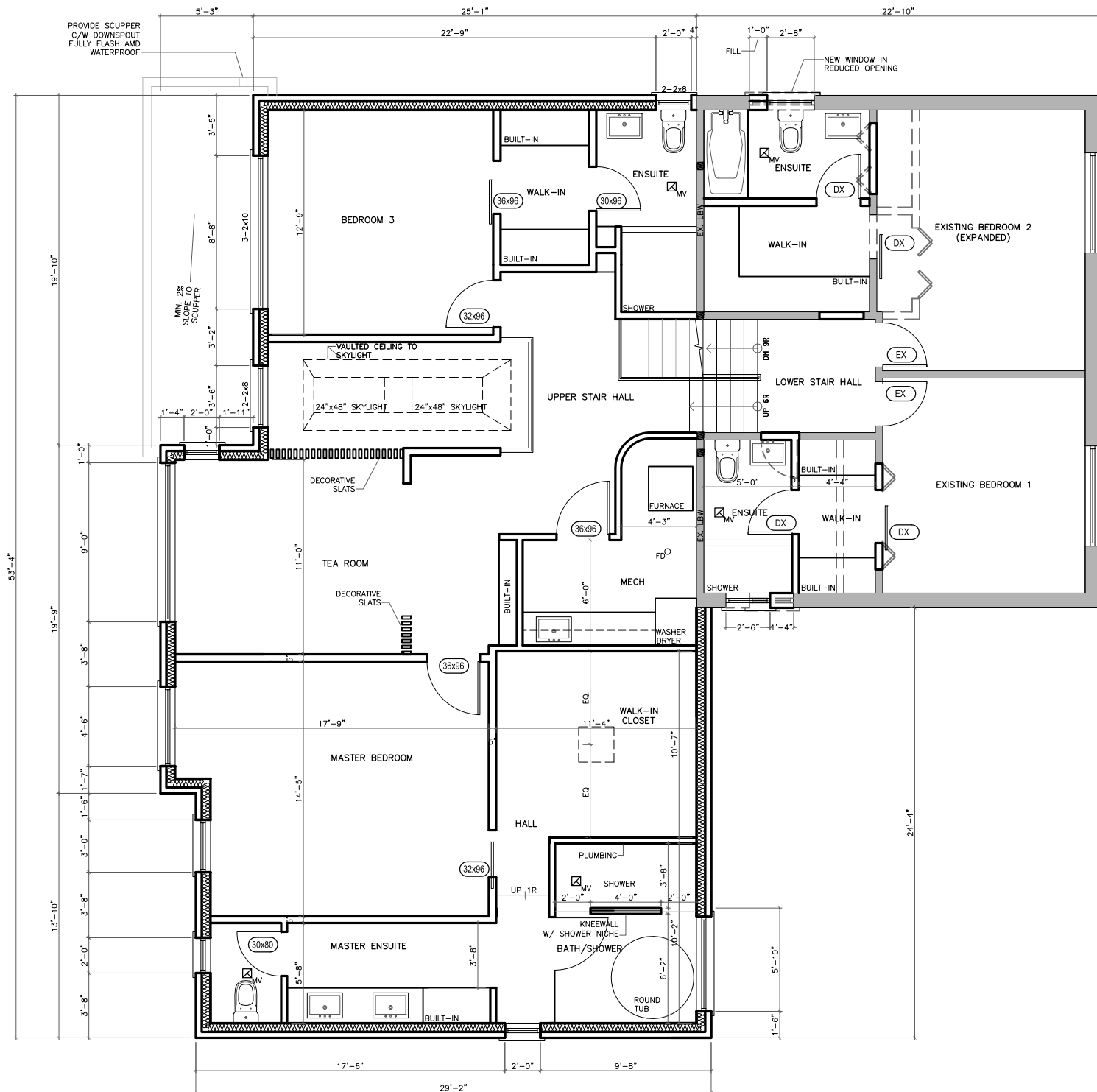
DRAWING NAME Proposed Main Floor Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A201
Project Number 22002	Drawn by DW	

1
A201 PROPOSED MAIN FLOOR PLAN
 1/8" = 1'-0"

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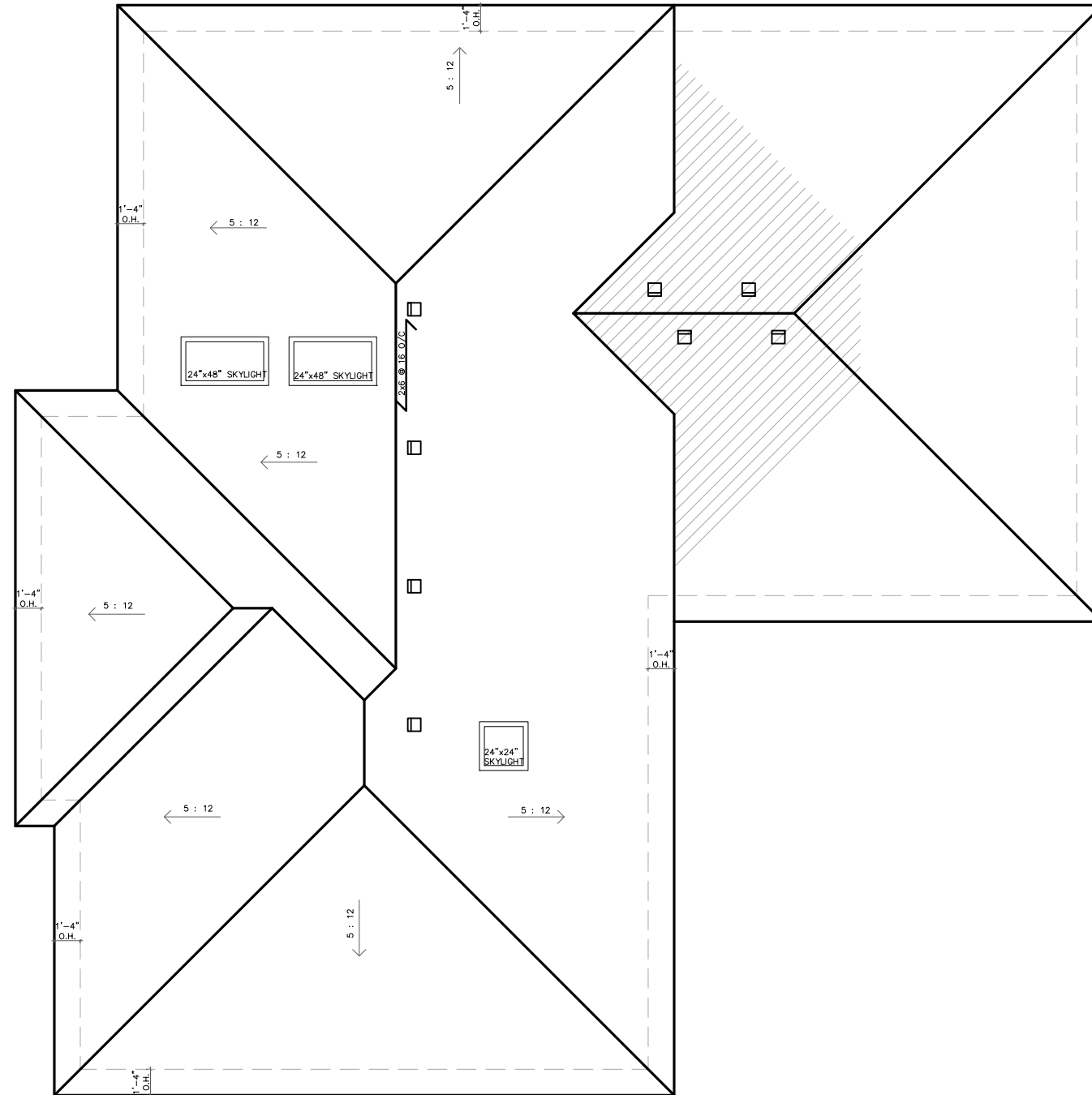
DRAWING NAME Proposed 2nd Floor Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A202
Project Number 22002	Drawn by DW	

1 PROPOSED 2nd FLOOR PLAN
A202 1/8" = 1'-0"

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DRAWING NAME Proposed Roof Plan		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A203
Project Number 22002	Drawn by DW	

1 PROPOSED ROOF PLAN
 A203 1/8" = 1'-0"

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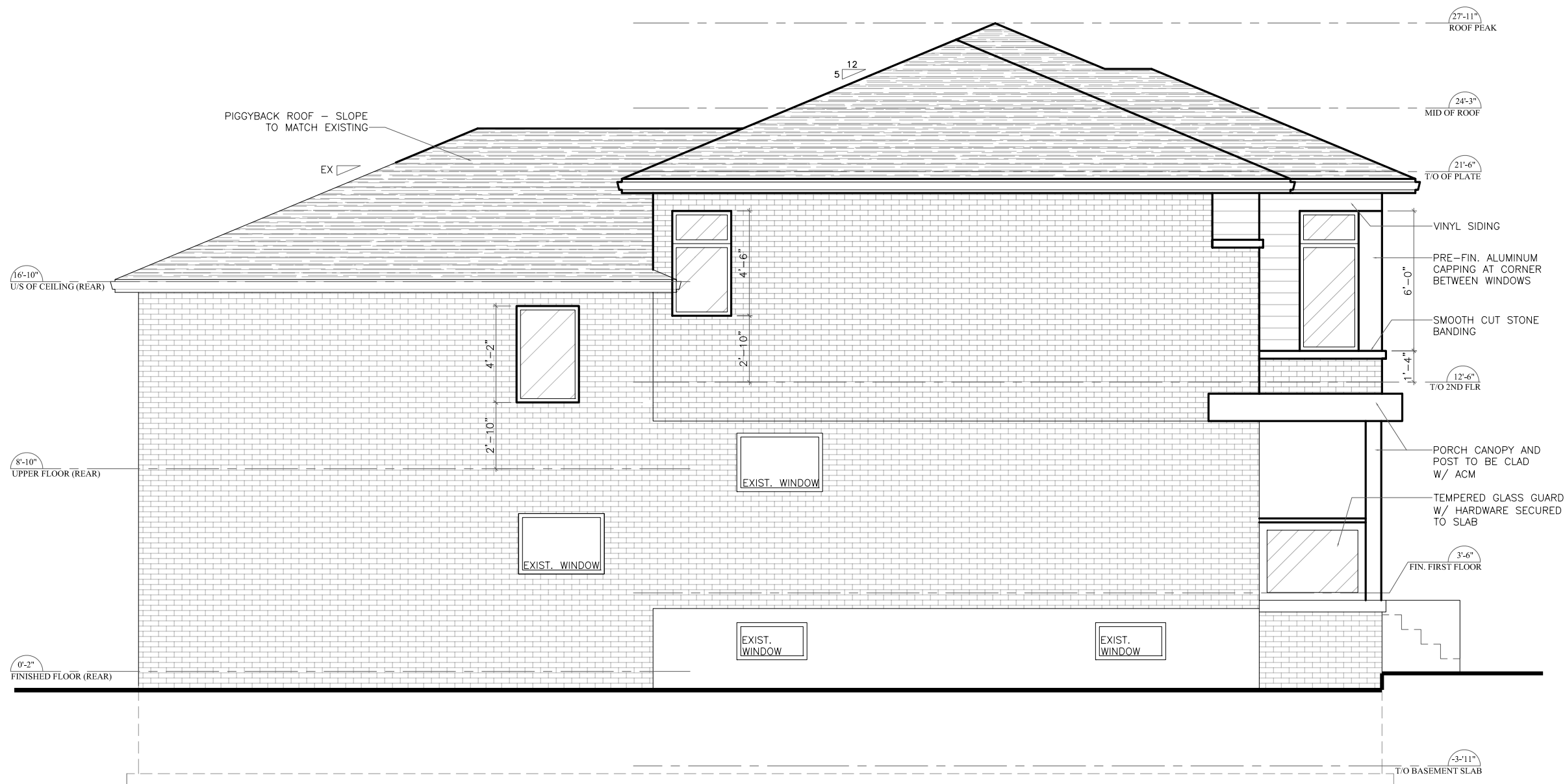
DRAWING NAME Proposed West Elevation		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A300
Project Number 22002	Drawn by DW	

1 PROPOSED WEST ELEVATION
 A300 3/16" = 1'-0"

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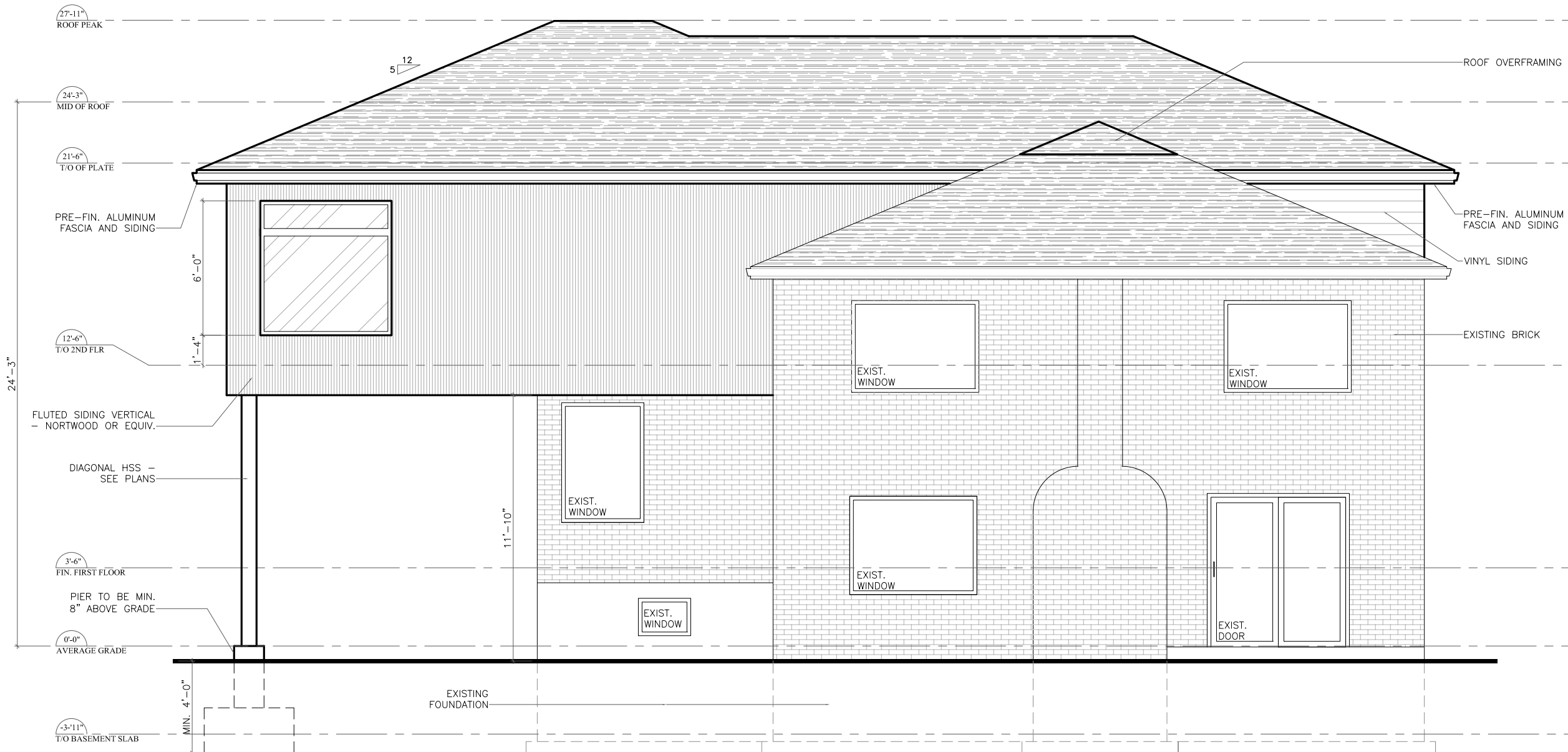
DRAWING NAME Proposed North Elevation		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A301
Project Number 22002	Drawn by DW	

1
A301
PROPOSED NORTH ELEVATION
 3/16" = 1'-0"

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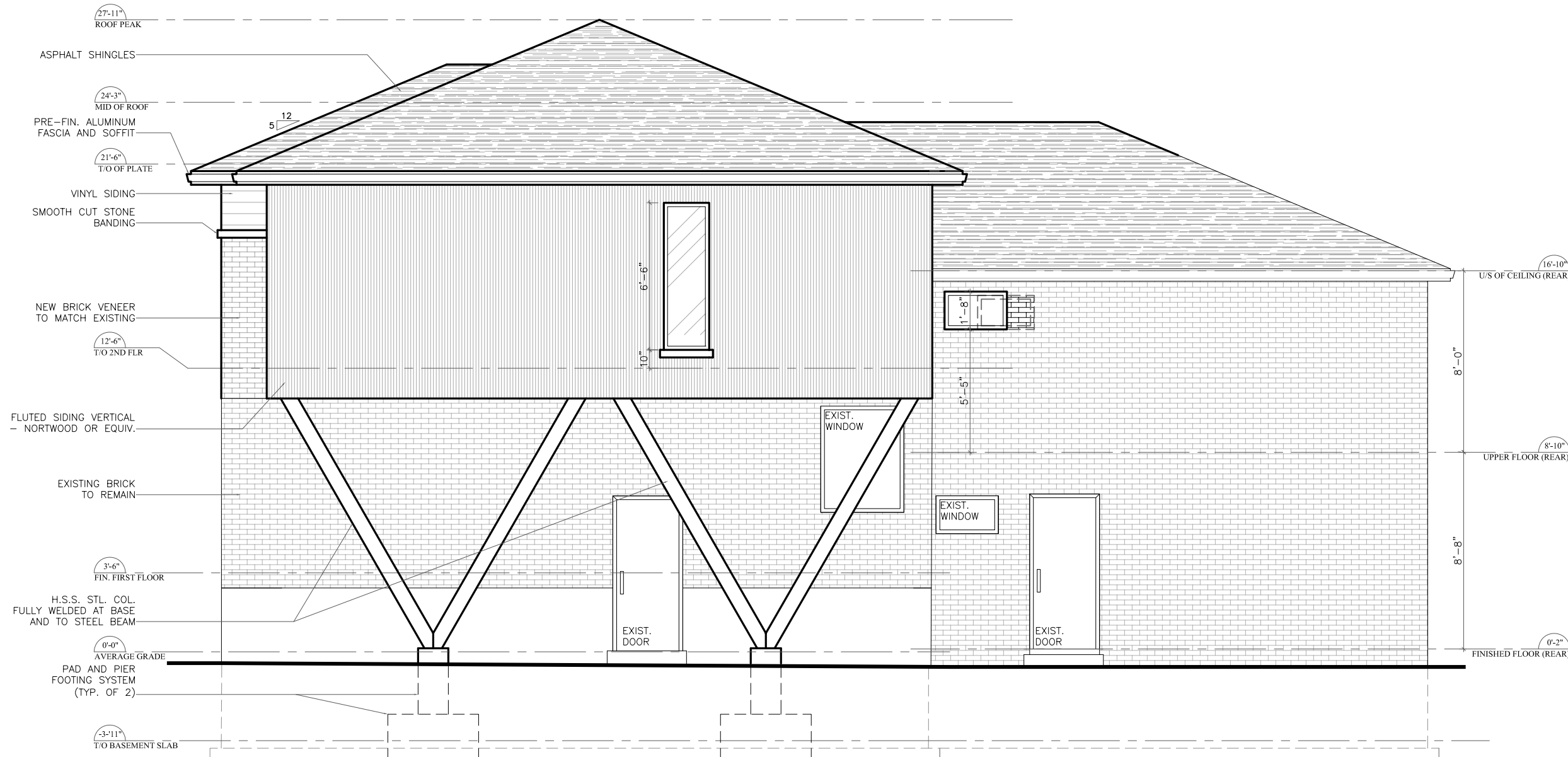
DRAWING NAME Proposed East Elevation		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A302
Project Number 22002	Drawn by DW	

1 PROPOSED EAST ELEVATION
 A302 3/16" = 1'-0"

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DRAWING NAME Proposed South Elevation		Project Location: 163 Fred Varley Drive, Markham, ON
Date Feb. 13/23	Scale As Noted	SHEET NUMBER A303
Project Number 22002	Drawn by DW	

1 PROPOSED SOUTH ELEVATION
A303 3/16" = 1'-0"

Appendix B

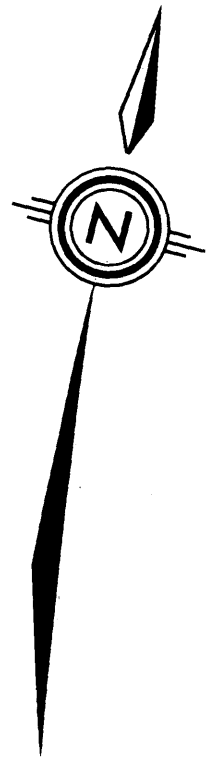
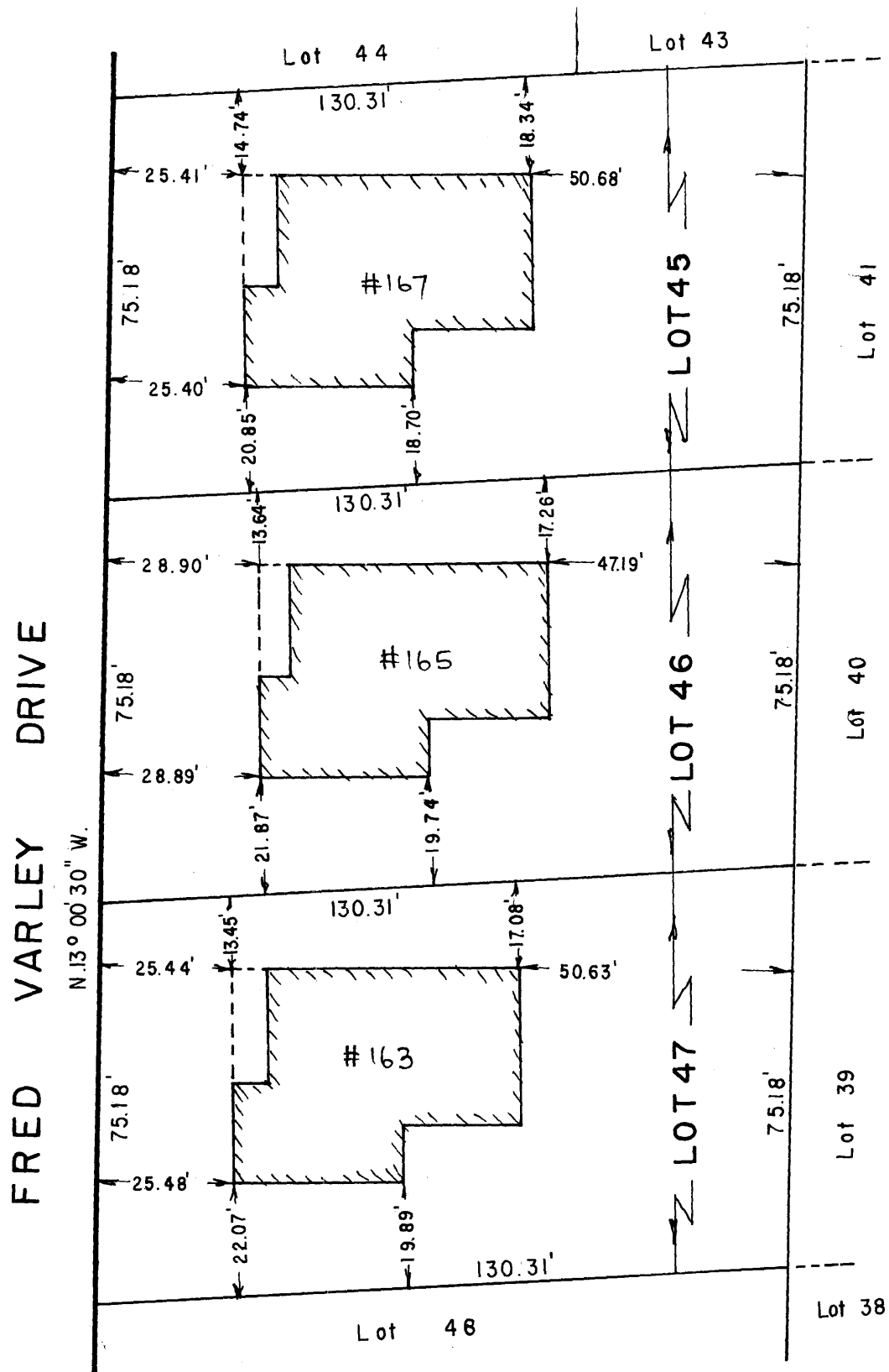
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PLAN SHOWING
LOTS 45, 46, & 47 REG'D PLAN
TOWNSHIP of MARKHAM COUNTY of YORK

SCALE: 1" = 30'



Note
Structures shown hereon
are Brick dwellings under
construction

P. SALNA O.L.S.
125 WELDRICK ROAD,
RICHMOND HILL, ONT.
PHONE: 884-3988.

P. Salna
ONTARIO LAND SURVEYOR
RICHMOND HILL July, 20, 1968

APPENDIX “C” - CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/034/23 associated with Variances a) and b).

1. The variances a) and b) apply only to the proposed development as long as it remains;
2. That the variances a) and b) apply only to the subject development, in substantial conformity with the plan(s) attached as Appendix “B” – Architectural Plans 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 Manager of By-law Enforcement & Regulatory Services Division 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 Manager of By-law Enforcement & Regulatory Services Division; 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 Manager of By-law Enforcement & Regulatory Services Division.

CONDITIONS PREPARED BY:



Dinal Manawadu, Committee of Adjustment Development Technician, Zoning and Special Projects

APPENDIX “D” - CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/034/23 associated with Variance c)

1. The variance c) apply only to the proposed development as long as it remains;
2. That variance c) apply only to the subject development, and that submission of the driveway plans showing the taper layout be reviewed and approved by the City, 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; and
3. Submission of a Curb Modification Application, be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Director of Operations or delegate that this condition associated with the Curb Cut Standard Policy for driveway aprons has been fulfilled to his or her satisfaction.

CONDITIONS PREPARED BY:



Dinal Manawadu, Committee of Adjustment Development Technician, Zoning and Special Projects