

# Memorandum to the City of Markham Committee of Adjustment

December 11, 2024

**File:** A/189/23  
**Address:** 38 Elm Street, Markham  
**Applicant:** 10292702 Canada Inc.  
**Hearing Date:** Wednesday, December 18, 2024

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

The applicant is requesting relief from the following requirements of By-law 1229, as amended, as they relate to a proposed two-storey single detached dwelling. The requested variances are to permit:

- a) **By-law 99-90, Section 1.2(i):**  
a maximum building height of 10.8 metres, whereas the by-law permits a maximum building height of 9.8 metres;
- b) **By-law 99-90, Section 1.2 (ii):**  
a maximum building depth of 21.4 metres, whereas the by-law permits a maximum building depth of 16.8 metres; and
- c) **By-law 99-90, Section 1.2(vi):**  
a maximum Floor Area Ratio of 53.1 percent, whereas the by-law permits a maximum Floor Area Ratio of 45 percent;

## BACKGROUND

### Property Description

The 1164.75 m<sup>2</sup> (12,537.26 ft<sup>2</sup>) subject property is located on the west side of Elm Street, north of Highway 7 East, and east of Main Street Markham North. The property is located within an established residential neighbourhood comprised 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. Mature vegetation exists across the property.

There is an existing single storey detached dwelling on the property, which according to assessment records was constructed in 1955. The subject property is located within the Markham Village Heritage Conservation District buffer.

### Proposal

The applicant is proposing to construct a two-storey detached dwelling with a total gross floor area of 468.86 m<sup>2</sup> (5,046.76 ft<sup>2</sup>). The total building depth proposed is 21.4m (70.21 ft), including a 2.0 m (6.54 ft) front porch.

### Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of surrounding neighborhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

### Zoning By-Law 1229, as amended

The subject property is zoned R1 under By-Law 1229, as amended, which permits detached dwellings.

### 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 infill By-law requirements with respect to building height, depth and floor area ratio.

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

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on 11/11/2024. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. 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;
- 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 10.80 m (35.43 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This is an increase of approximately 1.0 m (3.28 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 and highest point of the roof surface. The requested variance is consistent with newer infill homes in the area, and staff have no objection to the approval of this variance.

### **Increase in Maximum Building Depth**

The applicant is requesting a maximum building depth of 21.40 m (70.21 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft). This is an increase of approximately 4.60 m (15.09 ft).

Building depth is measured from the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling nearest and the other through the point farthest from the front lot line.

The variance includes a front covered porch which adds approximately 2.0 m (6.54 ft) to the overall depth of the building. The main component of the building, excluding the porch, has a depth of 20 m (65.63 ft). Staff have no concern with this variance as it is generally consistent with the adjacent properties.

### **Increase in Maximum Floor Area Ratio**

The applicant is requesting a floor area ratio of 53.10 percent, whereas the By-law permits a maximum of 45 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 568.86 m<sup>2</sup> (5,046.76 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 397.35 m<sup>2</sup> (3,526 ft<sup>2</sup>). This is an increase of approximately 171.50 m<sup>2</sup> (1,520 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.

The building layout meets other zoning provisions (such as setbacks and lot coverage) that establish the prescribed building envelope, which ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. The proposed gross floor area is also consistent with the recent infill development trend, including a number of nearby infill homes that have obtained variance approval for similar increase in floor area ratio ranging between 50.06 percent and 54.5 percent.

Considering that the proposed gross floor area is consistent with the recent infill development trend, Staff are of the opinion that the requested variance is appropriate and that the increased floor area will not negatively impact the character of the neighborhood. However, Staff note that the Applicant has not applied for an updated Zoning Preliminary Review for the updated drawings, and the onus is on the Applicant to ensure that the proposed development is in full compliance with all applicable zoning requirements and standards.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of December 16, 2024. 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 "A" for conditions to be attached to any approval of this application.

**APPENDICIES**

Appendix 'A' – A/189/23 Conditions of Approval  
Appendix 'B' - Plans

PREPARED BY:



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Aaron Chau, Planner I, East District

REVIEWED BY:



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Stephen Corr, Senior Planner, East District

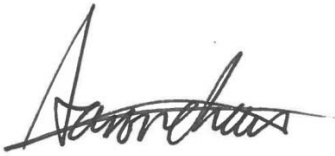
File Path: Amanda\File\ 23 145196 \Documents\District Team Comments Memo

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/189/23**

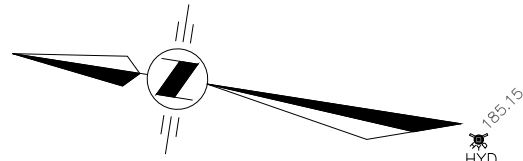
1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on November 11 2024, and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aaron Chau', written over a horizontal line.

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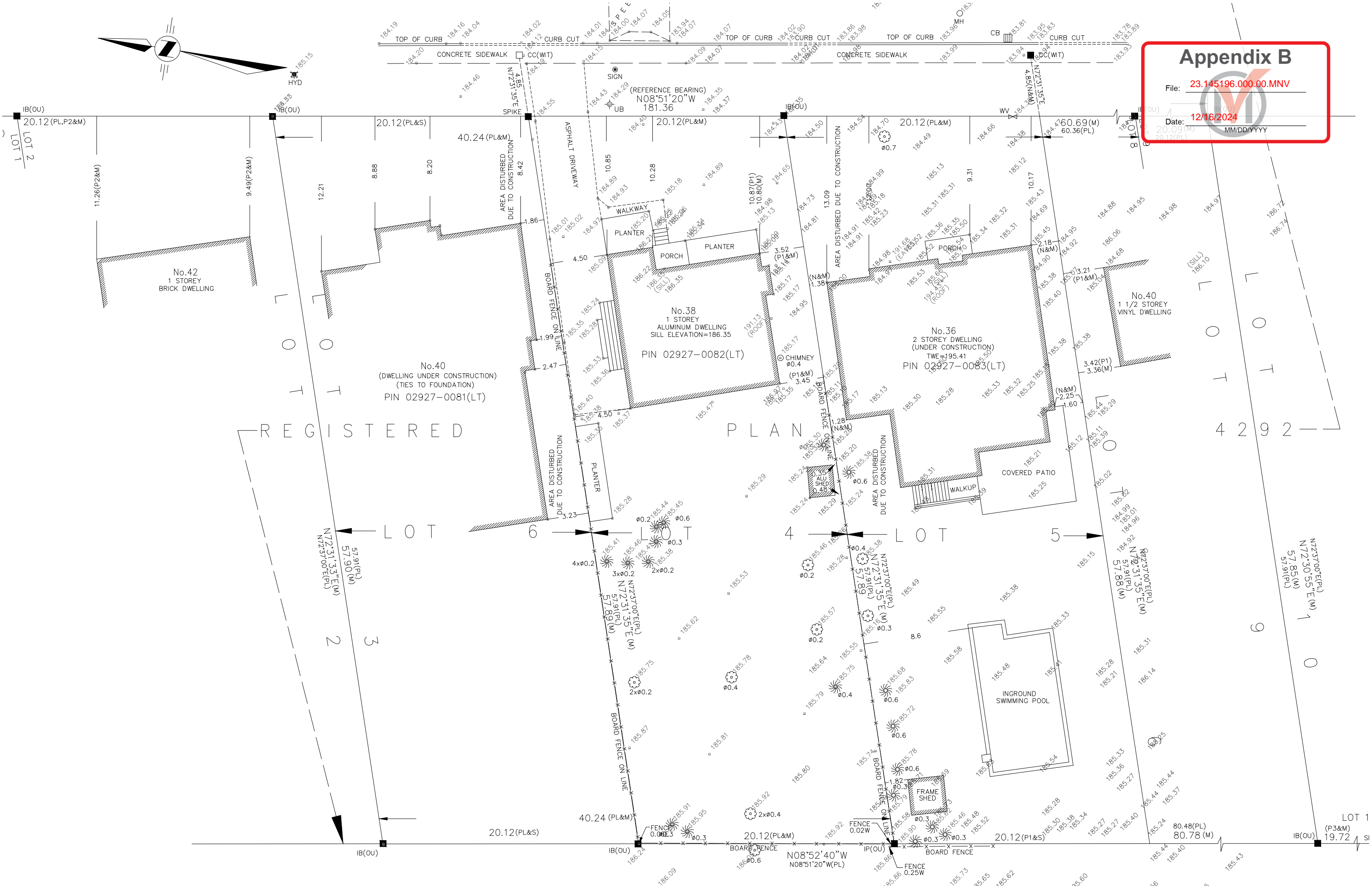
Aaron Chau, Planner I, East District



# Appendix B

File: 23.145196.00.MNV

Date: 12/16/2024  
MM/DD/YYYY



# Appendix B

File: 23.145196.000.00.MNV

Date: 12/16/2024

MM/DD/YYYY



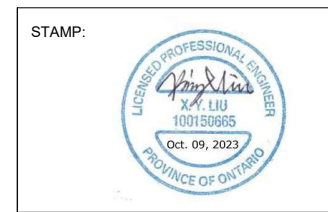
PROPOSED SITE PLAN

BY-LAWS.

LOT INFORMATION		GROSS FLOOR AREA		SETBACK INFORMATION		LANDSCAPING	
LOT FRONTAGE:	20.12 M	PRO.CELLAR	200.52 M <sup>2</sup> (2158.42 SF)	NORTH SIDE SETBACK:	1.80 M/2.56M ( PROPOSED)	FRONT YARD AREA:	248.22 M <sup>2</sup>
NET LOT AREA:	882.99M <sup>2</sup> (9504.48 SF)	PRO.GROUND FLOOR	265.65 M <sup>2</sup> (2859.43 SF)	SOUTH SIDE SETBACK:	1.80 M/5.59M ( PROPOSED)	LANDSCAPED AREA:	135 M <sup>2</sup>
TOTAL GFA	468.86 M <sup>2</sup> (5046.76 SF)	(INCLUDING GARAGE)		REAR YARD SETBACK:	26.1 M (PROPOSED)	FRONT YARD LANDSCAPING:	54.4% > 50%
(INCLUDING GARAGE, NOT INCLUDING CELLAR)		PRO.2ND FLOOR:	203.21 M <sup>2</sup> (2187.33 SF)	FRONT SETBACK:	10.93 M (PROPOSED)	REAR YARD AREA:	512 M <sup>2</sup>
FLOOR INDEX	53.1%	(EXCLUDING STAIR, OPENING)				LANDSCAPED AREA:	454M <sup>2</sup>
BUILDING HEIGHT:	10.80 M	PRO.GARAGE:	73.62 M <sup>2</sup> (792.45 SF)			REAR YARD LANDSCAPING:	88.6% > 50%
BUILDING DEPTH:	21.40 M	PRO. TOTAL GFA:	468.86 M <sup>2</sup> (5046.76 SF)				
		(NOT INCLUDING CELLAR)					



Oaple Design 647-924-2654



- THE CONTRACTOR MUST VERIFY AND ACCEPT RESPONSIBILITY FOR ALL DIMENSIONS AND CONDITIONS ON SITE AND MUST NOTIFY THE DESIGNER/ENGINEER OF ANY VARIATIONS FROM THE SUPPLIED INFORMATION.
- THE DRAWING IS NOT TO BE SCALED.
- CONSTRUCTION MUST CONFORM TO ALL APPLICABLE CODES AND REQUIREMENTS OF AUTHORITIES HAVING JURISDICTION.
- THE DESIGNER IS NOT RESPONSIBLE FOR THE ACCURACY OF SURVEY, MECHANICAL, ELECTRICAL, ETC. INFORMATION SHOWN ON THESE PLANS. REFER TO THE APPROPRIATE CONSULTANTS DRAWINGS BEFORE PROCEEDING WITH WORK.
- THE DRAWINGS, AS AN INSTRUMENT OF SERVICE, IS PROVIDED BY AND IS THE PROPERTY OF DESIGNER. THE DESIGNER RETAINS OWNERSHIP OF COPYRIGHT IN ALL THESE DRAWINGS.

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L3P 2V5

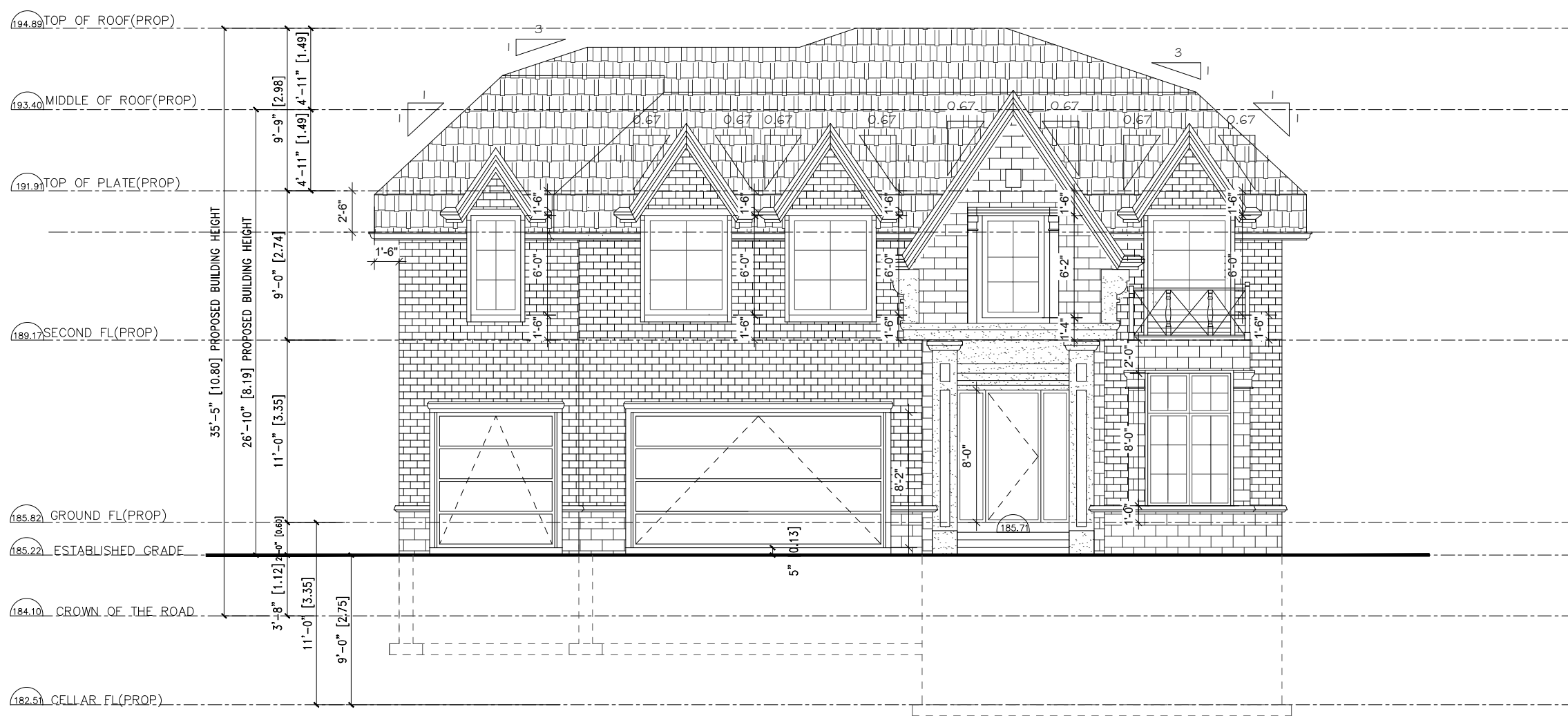
No.	Description	Date
1	Building permit application	2023-10-20

Proposed Site Plan		Sheet Number:
Project :	NEW DWELLING	A 1.0
Drawing by:	T.H	
checked by:		
Date:	2024/11/10	
Scale:	1/32" = 1'-0"	

# Appendix B

File: 23.145196.000.00.MNV

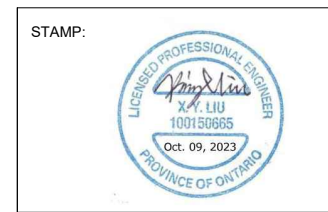
Date: 12/16/2024  
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## PROPOSED EAST ELEVATION



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No.	Description	Date
1	Building permit application	2023/10/20

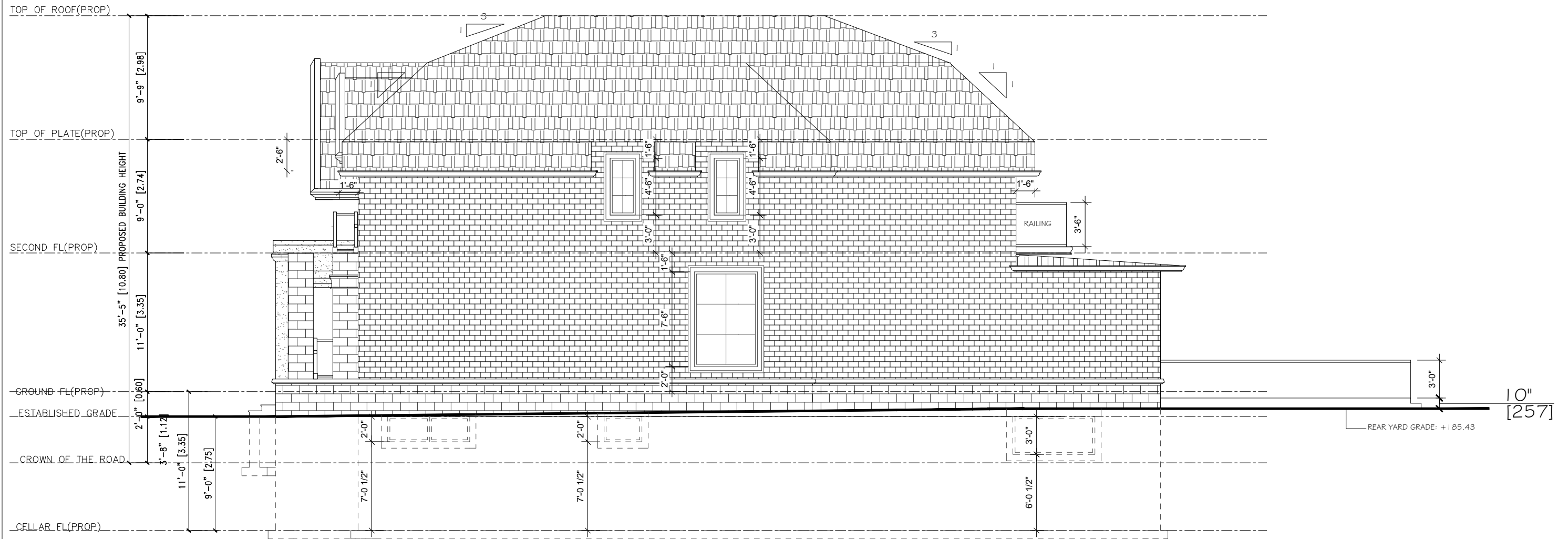
Proposed East Elevation		Sheet Number:
Project :	NEW DWELLING	A 2.1
Drawing by:	T.H	
checked by:		
Date:	2024/11/10	
Scale:	1/8" = 1'-0"	



# Appendix B

File: 23.145196.000.00.MNV

Date: 12/16/2024  
MM/DD/YYYY



PROPOSED NORTH ELEVATION



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L3P 2V5

No.	Description	Date
1	Building permit application	2023/10/20

## Proposed North Elevation

Project : NEW DWELLING

Drawing by: T.H

checked by:

Date: 2024/11/10

Scale: 1/8" = 1'-0"

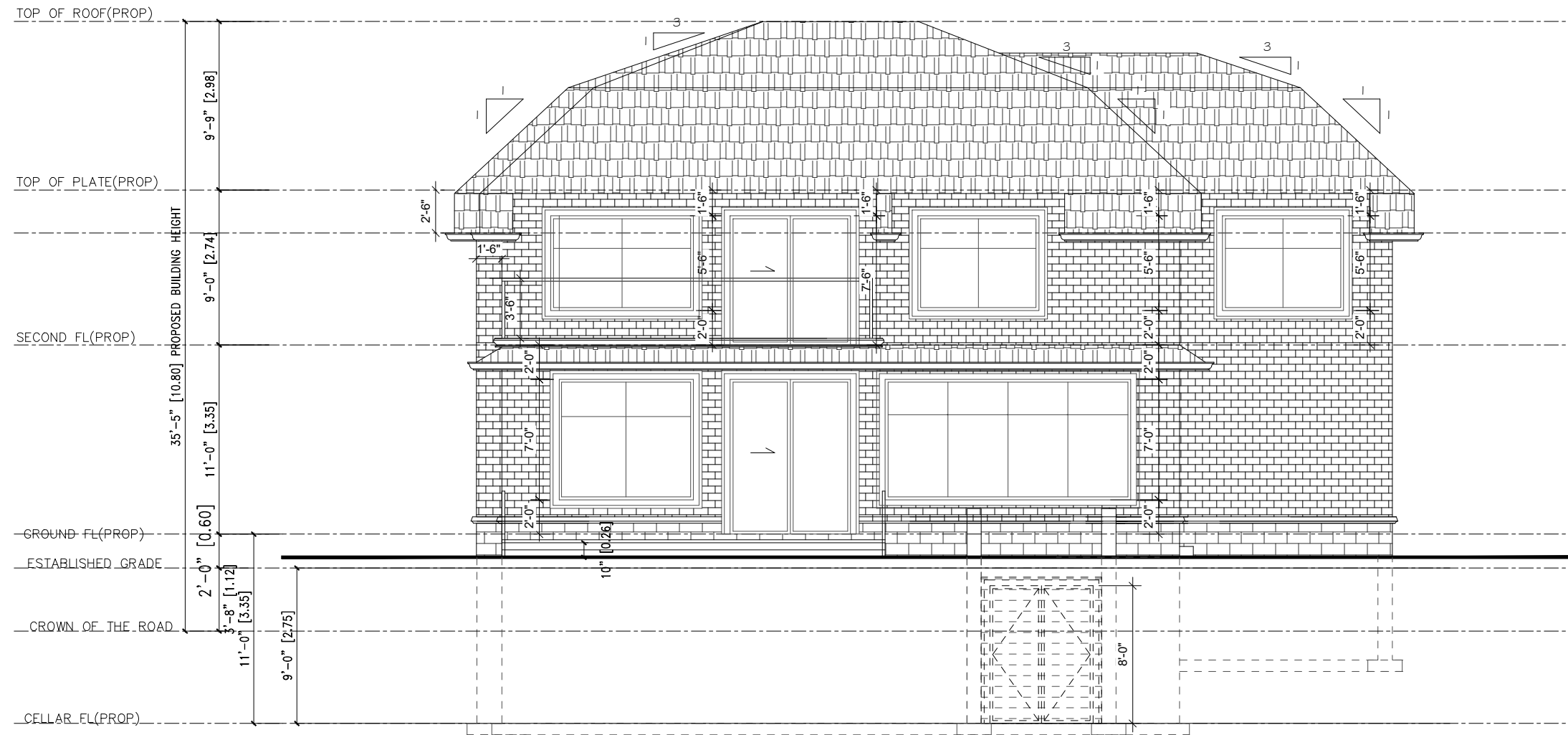
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# Appendix B

File: 23.145196.000.00.MNV

Date: 12/16/2024  
MM/DD/YYYY



**PROPOSED WEST ELEVATION**



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No.	Description	Date
1	Building permit application	2023/10/20

## Proposed West Elevation

Project : NEW DWELLING

Drawing by: T.H

checked by:

Date: 2024/11/10

Scale: 1/8" = 1'-0"

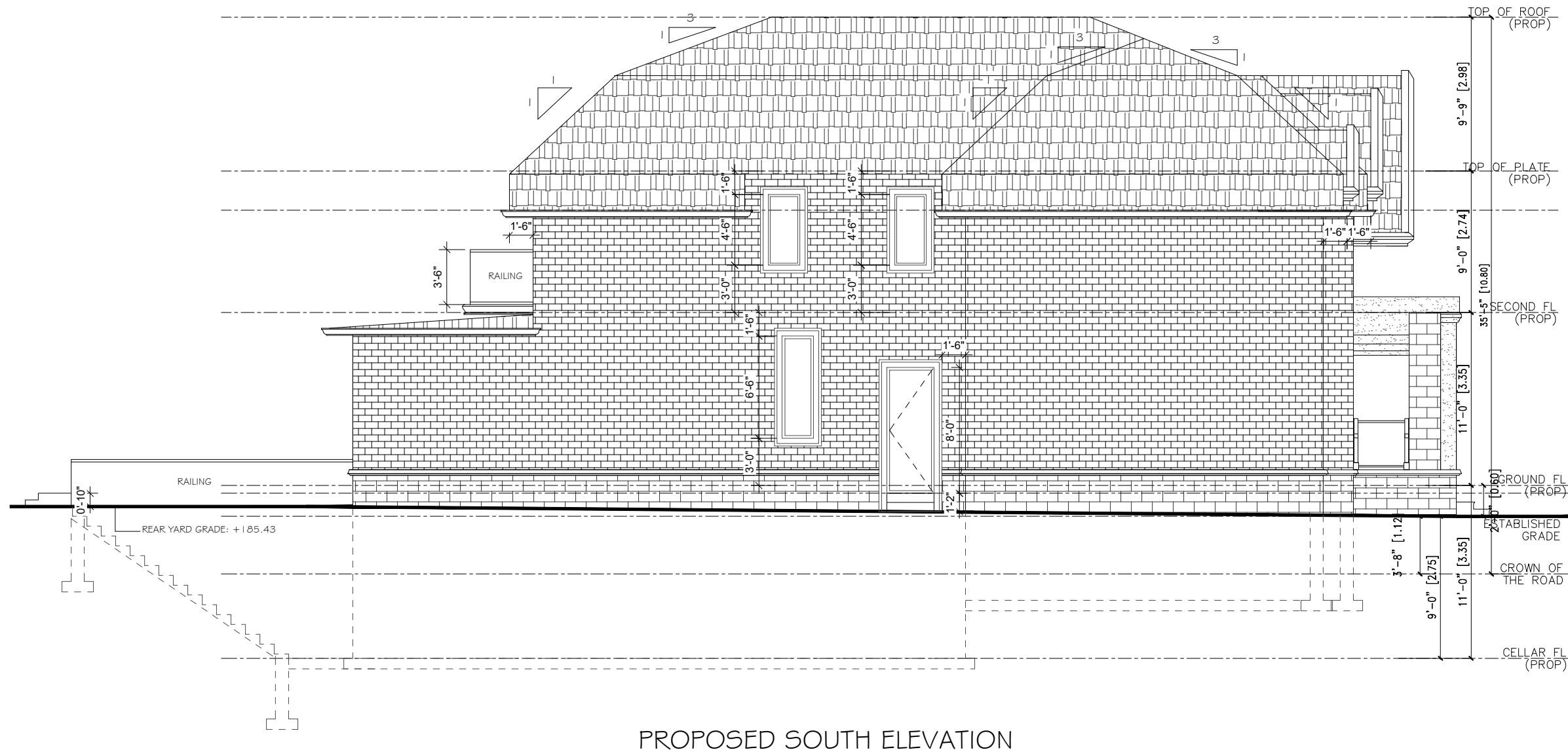
Sheet Number:

**A 2.3**

# Appendix B

File: 23.145196.000.00.MNV

Date: 12/16/2024  
MM/DD/YYYY



**PROPOSED SOUTH ELEVATION**



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Markham, ON  
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No.	Description	Date
1	Building permit application	2023/10/20

## Proposed South Elevation

Project : NEW DWELLING		Sheet Number:
Drawing by: T.H	Date: 2024/11/10	A 2.4
checked by:	Scale: 1/8" = 1'-0"	