

# Memorandum to the City of Markham Committee of Adjustment

March 29, 2023

**File:** A/261/22  
**Address:** 71 Proctor Avenue, Thornhill  
**Applicant:** Allera Engineering and Construction Inc. (Ally Yi)  
**Agent:** Allera Engineering and Construction Inc. (Ally Yi)  
**Hearing Date:** Wednesday, April 5, 2023

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

The applicant is requesting relief from the following requirements of “Second Density Single Family Residential (R2) Zone” of By-law 2237, as amended, as it relates to a proposed two-storey single detached dwelling:

**a) By-law 2237, Amending 101-90, Section 1.2 (vii):**

To permit a floor area ratio of 55 percent, whereas the By-law permits a maximum floor area ratio of 50 percent; and,

**b) By-law 2237, Amending 101-90, Section 1.2 (iv):**

To permit a building depth of 18.33 metres, whereas the By-law permits a maximum building depth of 16.8 metres;

## BACKGROUND

### Property Description

The 774 m<sup>2</sup> (8,334 ft<sup>2</sup>) subject property is located on the south side of Proctor Avenue, and west of Sprucewood Drive. 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. There is an existing single detached dwelling on the property, which according to property assessment records, was built in 1965. Mature vegetation exists across the property.

### Proposal

The applicant is proposing to construct a 425.87 m<sup>2</sup> (4,584.03 ft<sup>2</sup>) two-storey single detached dwelling (refer to Appendix “B” – Plans).

### Official Plan and Zoning

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

The Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Section 4.1.2.6 of the Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the

surrounding neighborhood. These criteria include polices with respect to height, massing, setbacks, and protection of existing vegetation.

The proposed development is also subject to the Thornhill Area and Site Specific polices of the Official Plan. The intent of these policies is to ensure that new dwellings and additions to existing dwellings are limited by their size and massing to respect and reflect the existing pattern and character of the adjacent development.

#### Zoning By-Law 2237

The subject property is zoned "Second Density Single Family Residential (R2) Zone" under By-law 2237, as amended, which permits a single detached dwelling.

#### Residential Infill Zoning By-law 101-90

The property is also subject to the Residential Infill Zoning By-law 101-90. 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 maximum floor area ratio, and maximum building depth requirements for the dwelling.

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

The owner has completed a Zoning Preliminary Review (ZPR) on December 12, 2022 to confirm the original variances required for the proposed development. The applicant submitted revised drawings on March 30, 2022. The applicant has not conducted Zoning Preliminary Review of 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 in 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.

#### Increased Maximum Floor Area Ratio Variance

The applicant has revised the proposed design to reduce the Floor Area Ratio from 58.1% (449.84 m<sup>2</sup>) to 55% (425.87 m<sup>2</sup>).

The applicant is now requesting relief to permit a floor area ratio of 55 percent, whereas a maximum floor area ratio of 50 percent is permitted. The revised variance will facilitate the construction of a two-storey detached dwelling with a floor area of 425.87 m<sup>2</sup> (4,584.03 ft<sup>2</sup>), whereas a maximum floor area of 387.13 m<sup>2</sup> (4,167 ft<sup>2</sup>) is permitted. This represents an increase of approximately 38.74 m<sup>2</sup> (675 ft<sup>2</sup>). Staff note that a previous Minor Variance for the subject property (A/75/13 – Appendix 'D') was previously approved by the Committee of Adjustment to permit a maximum floor area ratio of 55% (425.843 m<sup>2</sup>) which was not pursued.

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 all other zoning provisions (such as setbacks and lot coverage), with exception to building depth, 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, in terms of building massing. Staff are of the opinion that the requested variance is minor in nature.

#### Increased Maximum Building Depth Variance

As a result of the above-noted reduced floor area ratio, the proposed building depth has also been reduced from 18.92 metres to 18.33 metres. The applicant is now requesting relief to permit a maximum building depth of 18.33 metres (60 feet and 2 inches), whereas the By-law permits a maximum building depth of 16.8 metres (55 feet and 2 inches). This represents an increase of approximately 1.53 m (5 feet).

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.

The requested variance has been requested to allow a front covered porch and a bay window in the rear which adds approximately 2.08 metres (6 feet and 10 inches) to the overall depth of the building. The main component of the building, excluding the porch and window, has a depth of 16.83 metres (55 feet and 3 inches). Staff are of the opinion that the requested variance is minor in nature.

#### Tree Preservation Comments

Tree Preservation staff provided comments on this application on January 27<sup>th</sup>, 2023, bringing attention to the city owned mature Manitoba Maple tree, which would require removal due to the relocated driveway (from Proctor Avenue to Sprucewood Drive). The applicant has submitted an arborist report, which identifies this tree as a potential hazard due to its poor health. Based on the findings in the Arborist report, the Forestry Department has no objections to the removal of the above-noted Manitoba Maple.

## **EXTERNAL AGENCIES**

### CN Rail Requirements

CN Rail provided comments on this application on January 26<sup>th</sup>, 2023 (Appendix “D”), requiring a list of mitigation measures be implemented to attenuate the impact generated by the railway located northwest of the property. Staff recommends that a condition be added requiring the applicant to satisfy CN Rail’s requirements prior to the issuance of a building permit.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 31, 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 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” – Aerial Photo

Appendix “B” – Architectural Plans

Appendix “C” – Notice of Decision (A/075/13)

Appendix “D” – CN Rail Comments

Appendix “E” – Conditions of Approval – A/261/22

PREPARED BY:



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

REVIEWED BY:

*Rick Cefaratti*

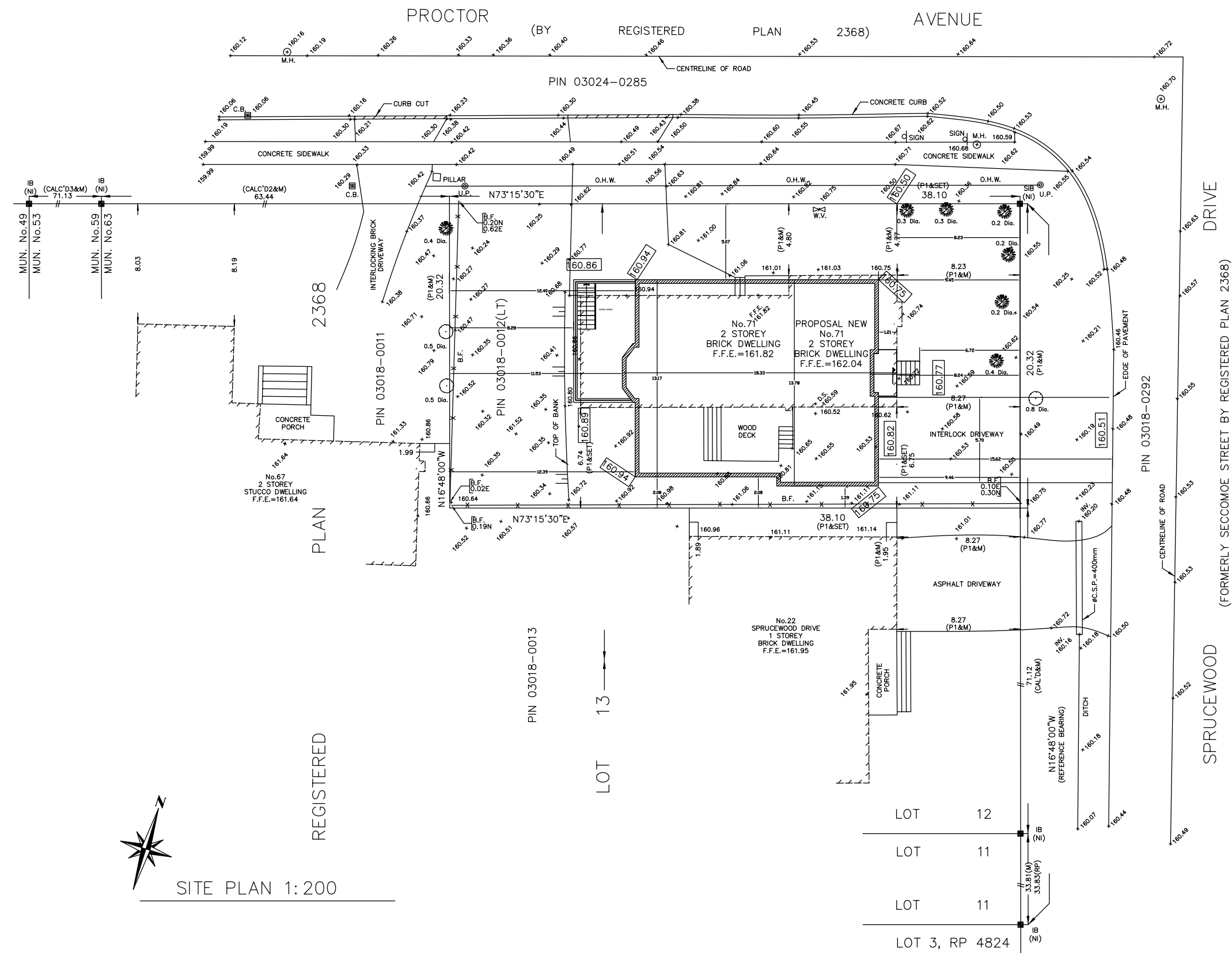
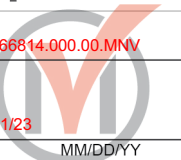
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Rick Cefaratti, MCIP, RPP, Senior Planner II, West District









SITE PLAN 1:200

**SURVEYOR'S REAL PROPERTY REPORT**  
 PART 1 - PLAN OF SURVEY OF  
 PART OF LOT 14  
 REGISTERED PLAN 2368  
 CITY OF MARKHAM  
 REGIONAL MUNICIPALITY OF YORK

SCALE 1:200  
 10m 5 0 10 METRES

MANDARIN SURVEYORS LIMITED, O.L.S. ©  
 METRIC  
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE  
 CONVERTED TO FEET BY DIVIDING BY 0.3048

**LEGEND**

- DENOTES MONUMENT SET
- DENOTES MONUMENT FOUND
- SIB DENOTES STANDARD IRON BAR
- IB DENOTES IRON BAR
- P1 DENOTES PLAN OF SURVEY BY JOHN McSKIMMING, O.L.S. DATE JUNE 28, 1965
- RP DENOTES REGISTERED PLAN 2368
- CAL'D DENOTES CALCULATED FROM RP AND P1
- CAL'D2 DENOTES CALCULATED FROM RP AND INSTRUMENT No.MA55770
- CAL'D3 DENOTES CALCULATED FROM RP AND INSTRUMENT No.R527258
- PIN DENOTES PROPERTY IDENTIFIER NUMBER
- M DENOTES MEASURED
- N,S,E,W DENOTES NORTH, SOUTH, EAST, WEST
- B.F. DENOTES BOARD FENCE
- NI DENOTES NOT IDENTIFIABLE
- O.H.W. DENOTES OVERHEAD WIRE
- F.F.E. DENOTES FINISHED FLOOR ELEVATION AT ENTRY
- C.S.P. DENOTES CORRUGATED STEEL PIPE
- M.H. DENOTES MANHOLE/VALVE
- U.P. DENOTES UTILITY POLE
- × C.V. DENOTES CATCH BASIN
- C.B. DENOTES CATCH BASIN
- DENOTES CONIFEROUS TREE
- DENOTES DECIDUOUS TREE

**STATISTICS :**

LOT AREA  
 8334 sq.ft. 774 sq.m  
 PROPOSED LOT COVERAGE :  
 225 sq.m/774sq.m =29.07%  
 PROPOSED GFA RATIO :  
 425.87 sq.m/774sq.m =55%  
 FRONT ( M. ) ..... 8.24 m  
 SIDE ( North ) ..... 5.07 m  
 SIDE ( South ) ..... 2.08m  
 REAR ..... 11.53 m  
 BUILDING HEIGHT ..... 9.80m

BUILDING AREA	
LIVABLE AREA	= 1910 sq.ft.
GROUND FLOOR	Open Area / Stair =25.00 sq.ft. PORCH = 49 sq.ft. GARAGE =435sq.ft. TOTAL GROUND FLOOR AREA = 2370sq.ft. / 220.18sq.m.
SECOND FLOOR	LIVABLE AREA = 2214 sq.ft. Open Area / Stair =110.00 sq.ft. TOTAL SECOND FLOOR AREA = 2214 sq.ft. / 205.69 sq.m.
BUILDING AREA	LIVABLE AREA = 4124sq.ft. / 383.13sq.m. TOTAL AREA = 4584 sq.ft. / 425.87sq.m.
BASEMENT FLOOR	BASEMENT AREA = 1935sq.ft. COLD ROOM 35 sq.ft. TOTAL BASEMENT AREA = 1935 sq.ft./179.77 sq.m.



ALLERA ENGINEERING & CONSTRUCTION INC.

245 FINCH AVE. V., TORONTO, ON  
 Tel: (416) 571-8855 E-mail: allera@allera.com

Allera JOB NO. #2202-15

PROPOSED SINGLE FAMILY DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6	
DESIGNED BY	CHECKED BY ALLY
DATE FEB 15, 2022	SCALE 1:200
DRAWING NO. A02	

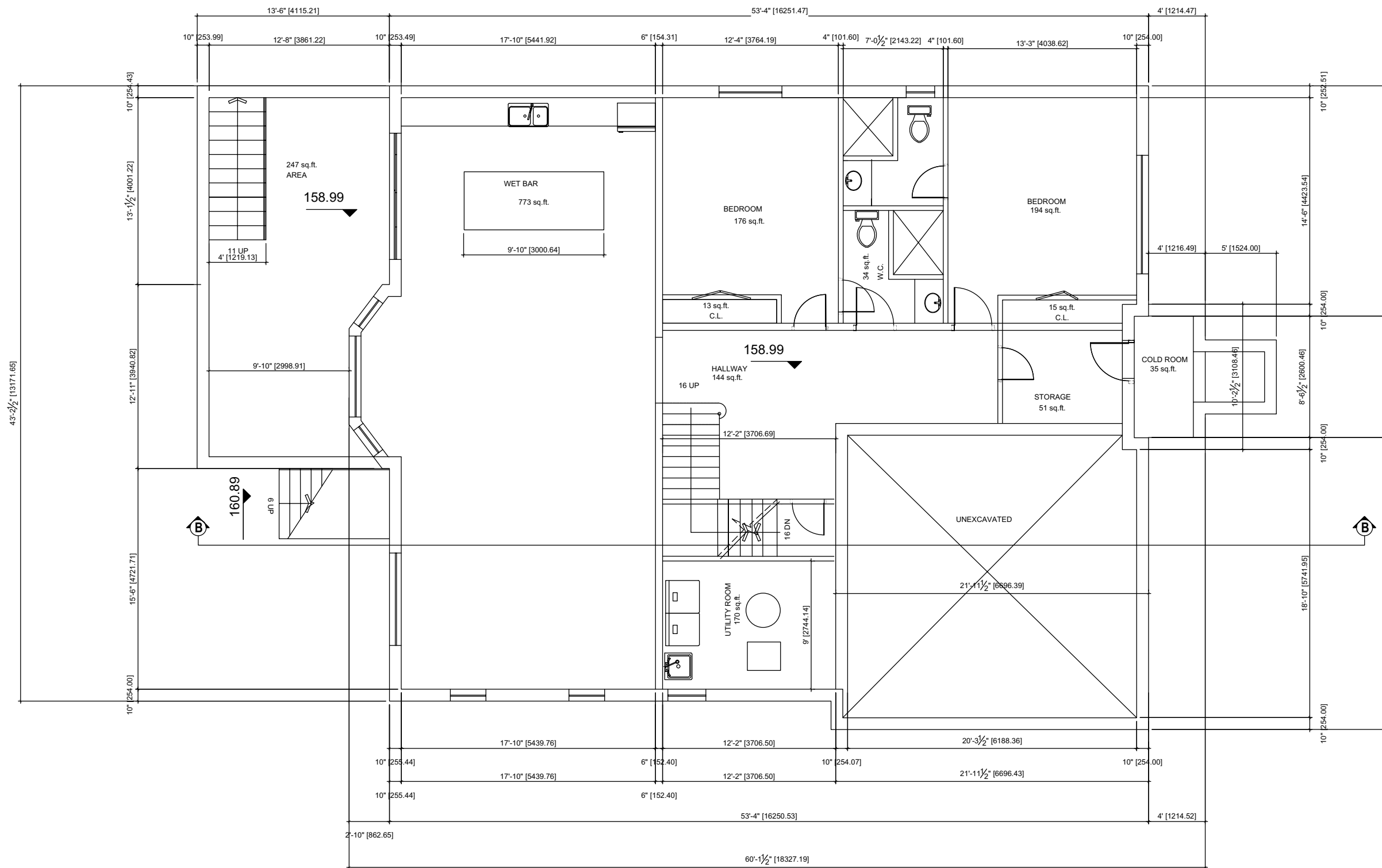
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CONTRACTORS MUST CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND MUST REPORT ANY DISCREPANCIES TO THE ENGINEER BEFORE PROCEEDING WITH CONSTRUCTION.

DO NOT SCALE DRAWINGS.

No.	DATE	DESCRIPTION
1	FEB 15,22	Issue for ZC Application
2	JUN 13 ,22	Issue for ZC Application R1
3	OCT 26,22	Issue for ZC Application R2
4	MAR 29,23	Issue for COA Application
5		
6		

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01 BASEMENT FLOOR  
SCALE 3/16"=1'-0" AREA 1935 SF

DESIGNED BY		CHECKED BY ALLY	
DATE Feb 15, 22		SCALE	
DRAWING NO. A03		BASEMENT FLOOR	

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NOTES:  
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5		
6		

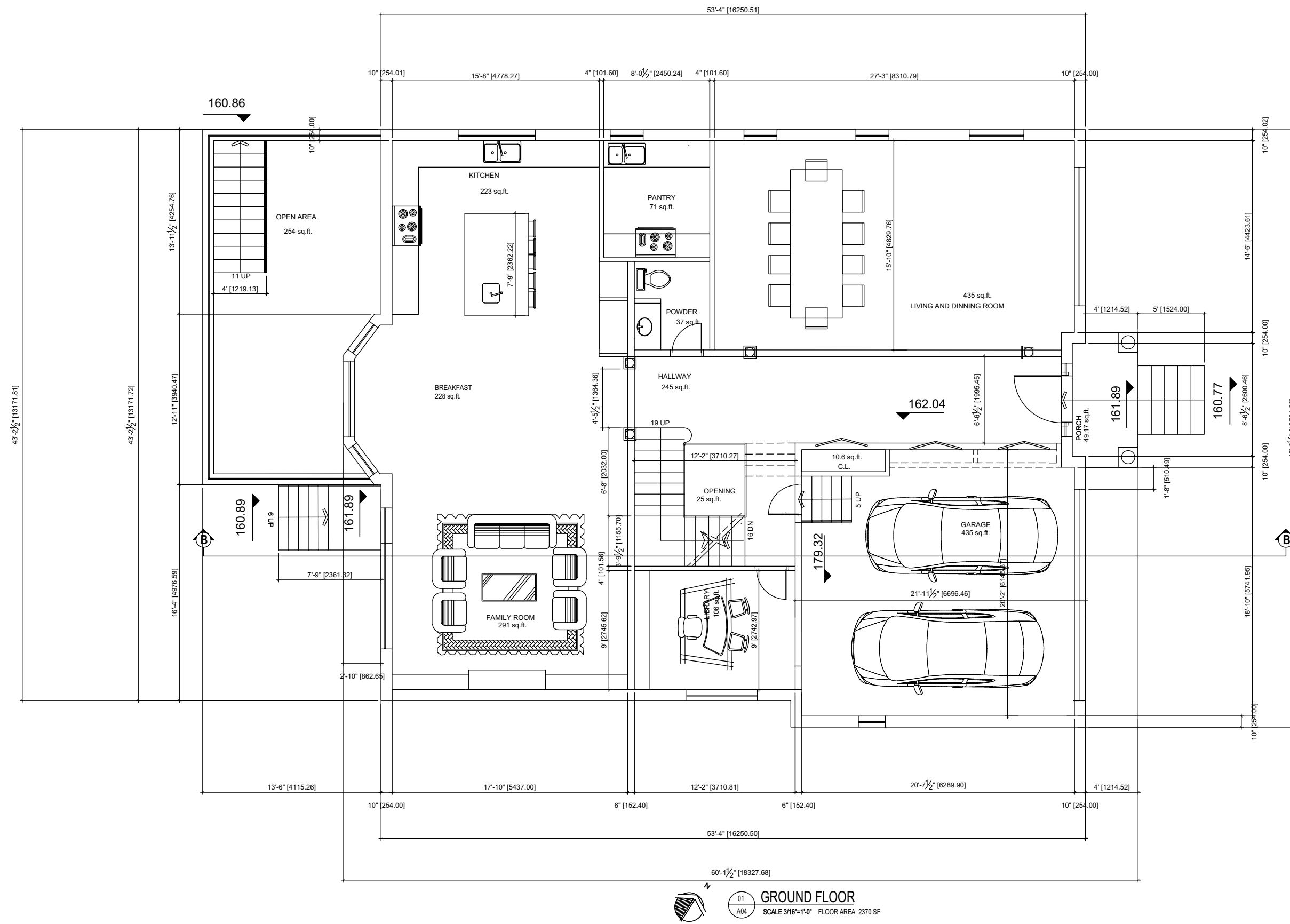


**Appendix B**

File: 22.266814.000.00.MNV

Date: 03/31/23

MMDDYY



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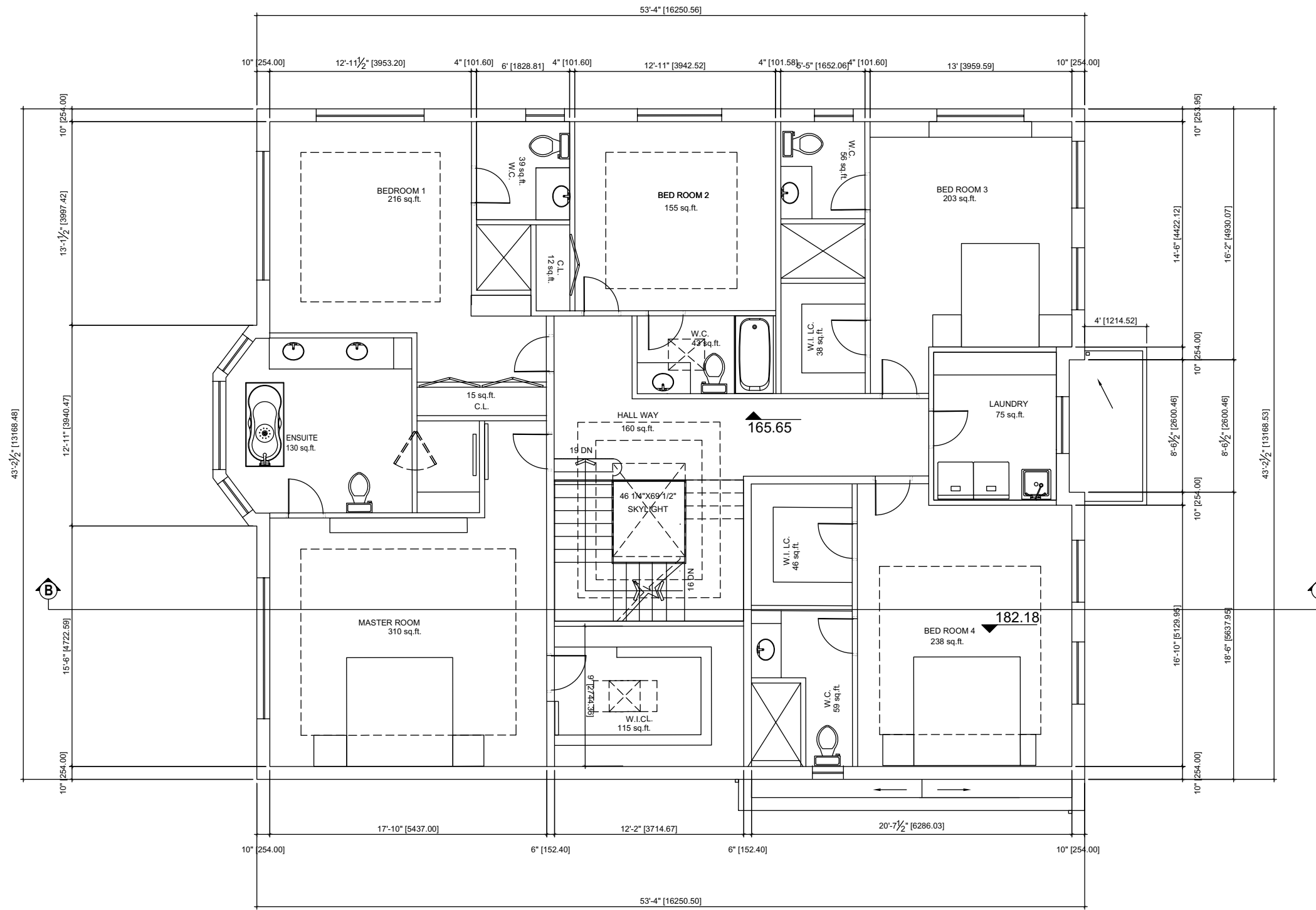
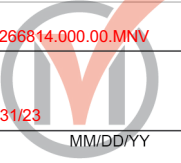
Allera JOB NO. 2020-0110

PROPOSED SINGLE FAMILY DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6	
DESIGNED BY	CHECKED BY ALLY
DATE Feb 15, 22	SCALE
DRAWING NO. <b>A04 GROUND FLOOR PLAN</b>	

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GROUND FLOOR  
 SCALE: 3/16"=1'-0" SECOND FLOOR AREA 2324SF-STAIR AREA 110SF=2214SF  
 TOTAL FLOOR AREA = 2370SF+2214SF=4584 SF

PROPOSED SINGLE FAMILY DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6	
DESIGNED BY	CHECKED BY ALLY
DATE Feb 15, 22	SCALE
DRAWING NO. <b>A05</b> SECOND FLOOR	

ENGINEER STAMP

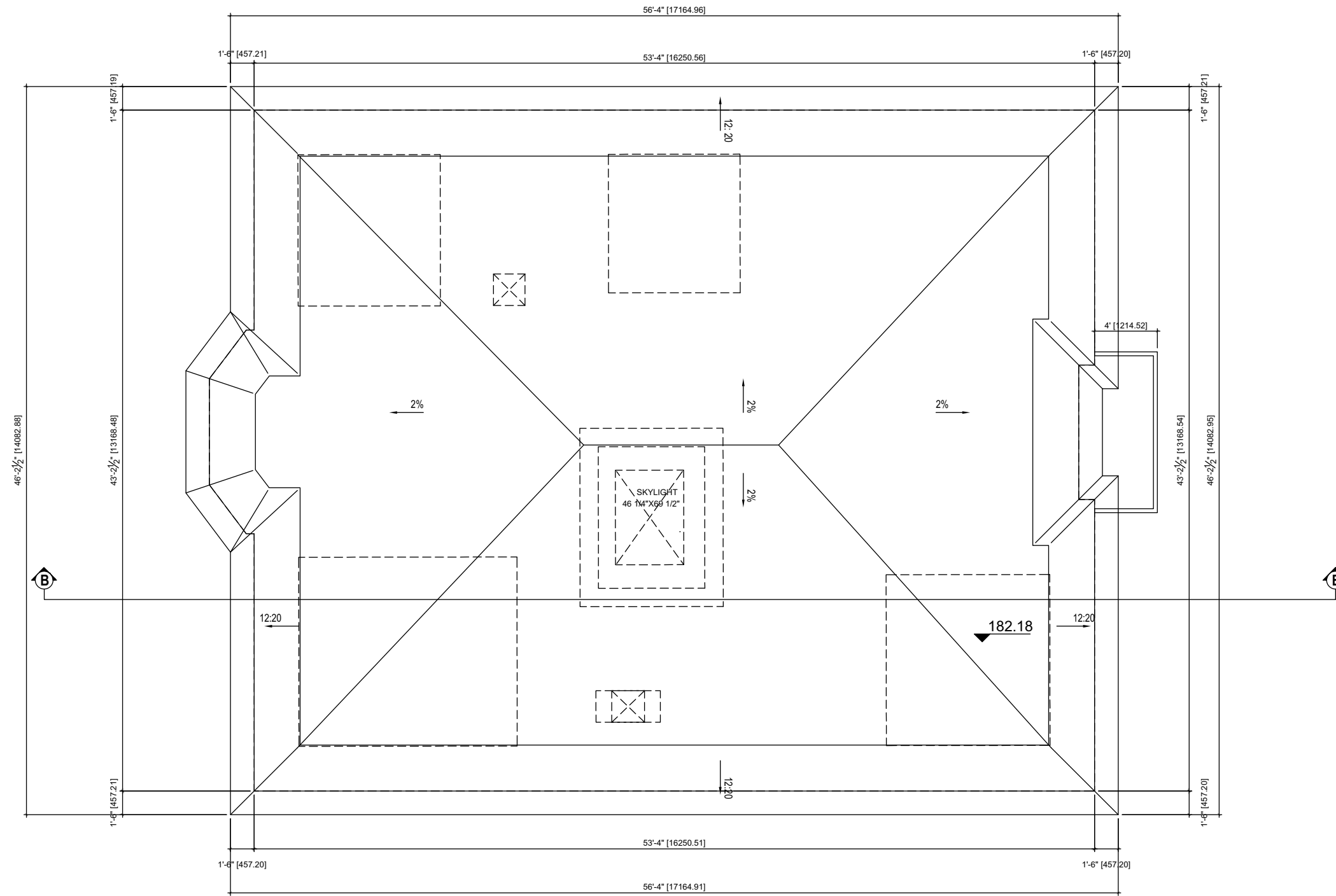
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**Appendix B**

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Date: 03/31/23  
MMDDYY



**ROOF PLAN**  
SCALE 3/16"=1'-0"

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Allera JOB NO. 2020-0110

PROPOSED SINGLE FAMILY  
DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6

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DRAWING NO. <b>A06</b> <b>ROOF PLAN</b>	

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Appendix B

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01 EAST ELEVATION  
A07 SCALE 3/16"=1'-0"

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Allera JOB NO. 2020-0110

PROPOSED SINGLE FAMILY DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6

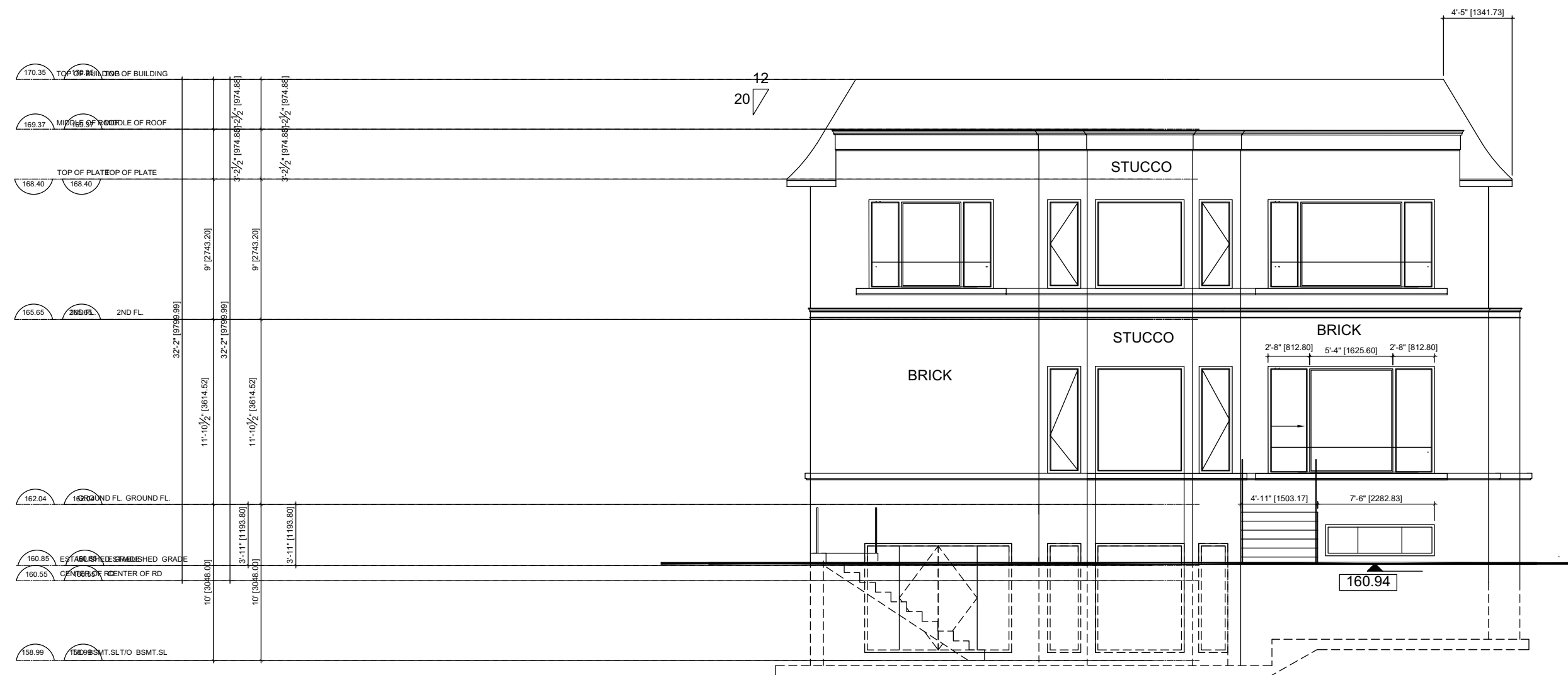
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DATE Feb 15, 22	SCALE
DRAWING NO. A07 EAST ELEVATION	

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01 WEST ELEVATION  
A08 SCALE 3/16"=1'-0"

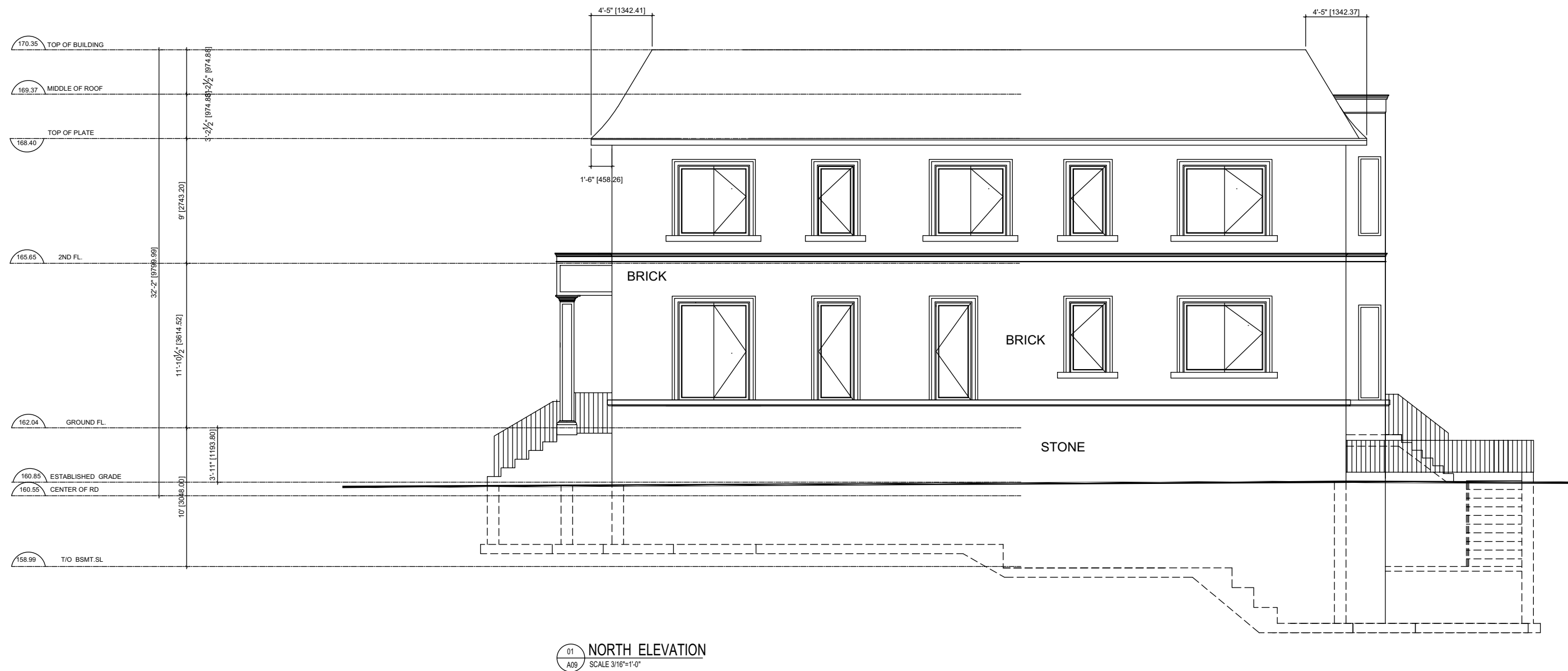
PROPOSED SINGLE FAMILY DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6	
DESIGNED BY	CHECKED BY ALLY
DATE Feb 15, 22	SCALE
DRAWING NO. A08 WEST ELEVATION	

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DESIGNED BY	CHECKED BY ALLY
DATE Feb 15, 22	SCALE
DRAWING NO. A09 NORTH ELEVATION	

ENGINEER STAMP

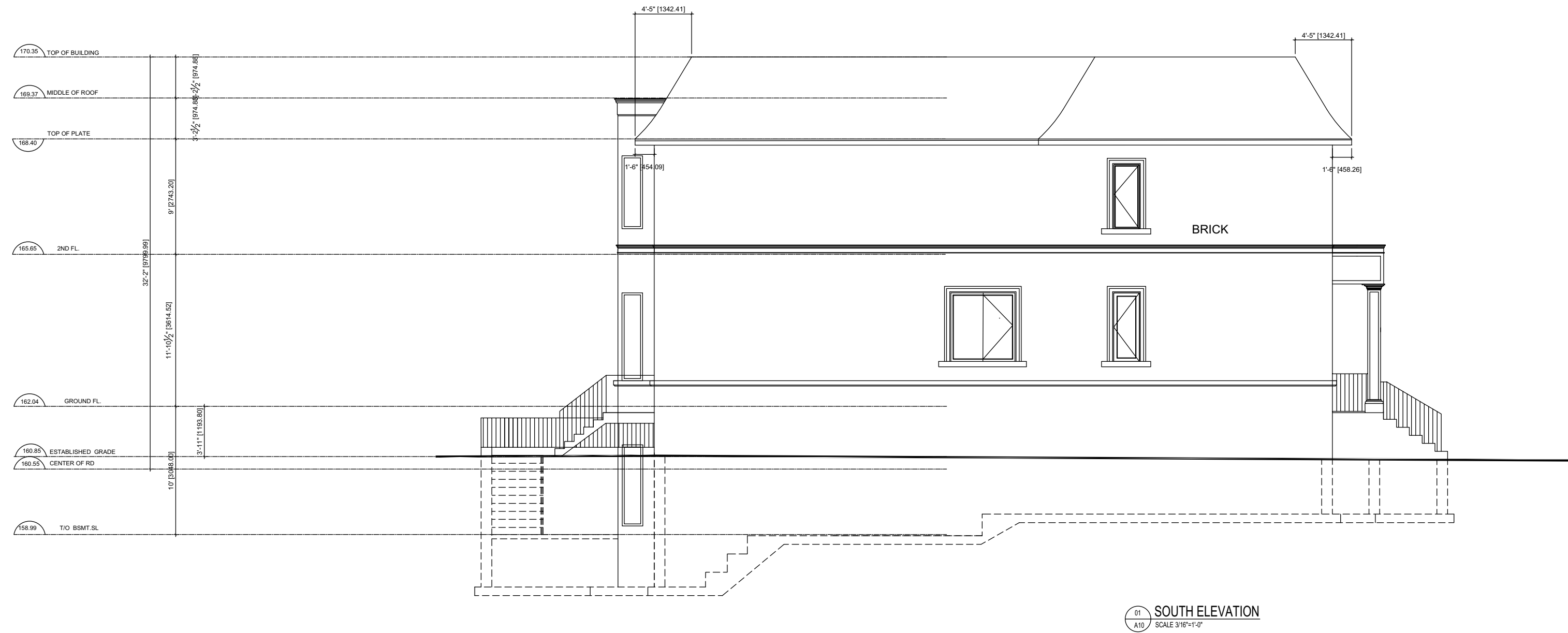
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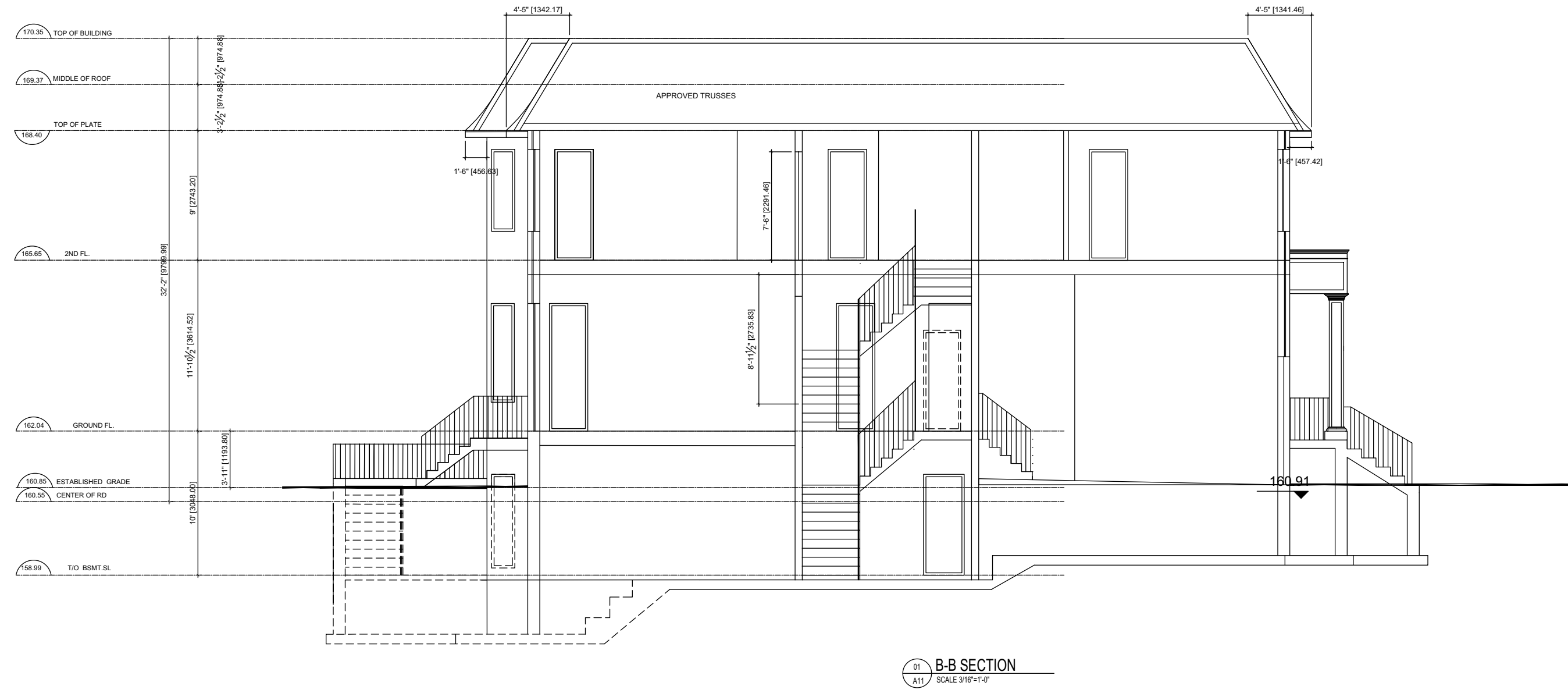
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DESIGNED BY		CHECKED BY ALLY	
DATE	Feb 15, 22	SCALE	
DRAWING NO. <b>A10 SOUTH ELEVATION</b>			

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01 B-B SECTION  
A11 SCALE 3/16"=1'-0"

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Allera JOB NO. 2020-0110

PROPOSED SINGLE FAMILY  
DWELLING AT 71 PROCTOR AVE, MARKHAM, ON L3T 1M6

DESIGNED BY	CHECKED BY ALLY
DATE Feb 15, 22	SCALE
DRAWING NO. A11 B-B SECTION PLAN	

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**SURVEYOR'S REAL PROPERTY REPORT**  
**PART 1 - PLAN OF SURVEY OF**  
**PART OF LOT 14**  
**REGISTERED PLAN 2368**  
**CITY OF MARKHAM**  
**REGIONAL MUNICIPALITY OF YORK**

SCALE 1:200



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**METRIC**

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

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- C.B. DENOTES CATCH BASIN
- DENOTES CONIFEROUS TREE
- DENOTES DECIDUOUS TREE

ALL TIES TO CONCRETE FOUNDATION, UNLESS NOTED OTHERWISE.  
 BEARINGS SHOWN HEREON ARE ASTRONOMIC AND ARE REFERRED TO THE WESTERLY OF SPRUCEWOOD DRIVE AS SHOWN ON REGISTERED PLAN 2368 HAVING A BEARING OF N16° 48' 00"W.

**PART 2 (SURVEY REPORT)**

1. REGISTERED EASEMENTS AND/OR RIGHT OF WAYS: NONE.
2. ADDITIONAL COMMENTS: NOTE THE LOCATION OF THE FENCES AROUND THE SOUTHERLY AND WESTERLY LIMITS OF THE SUBJECT PROPERTY. NOTE THE LOCATION OF THE OVERHEAD WIRE.
3. THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING BY-LAWS.

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 3rd DAY OF APRIL, 2021

APRIL 10, 2021  
DATE

Z. ZENG  
ONTARIO LAND SURVEYOR



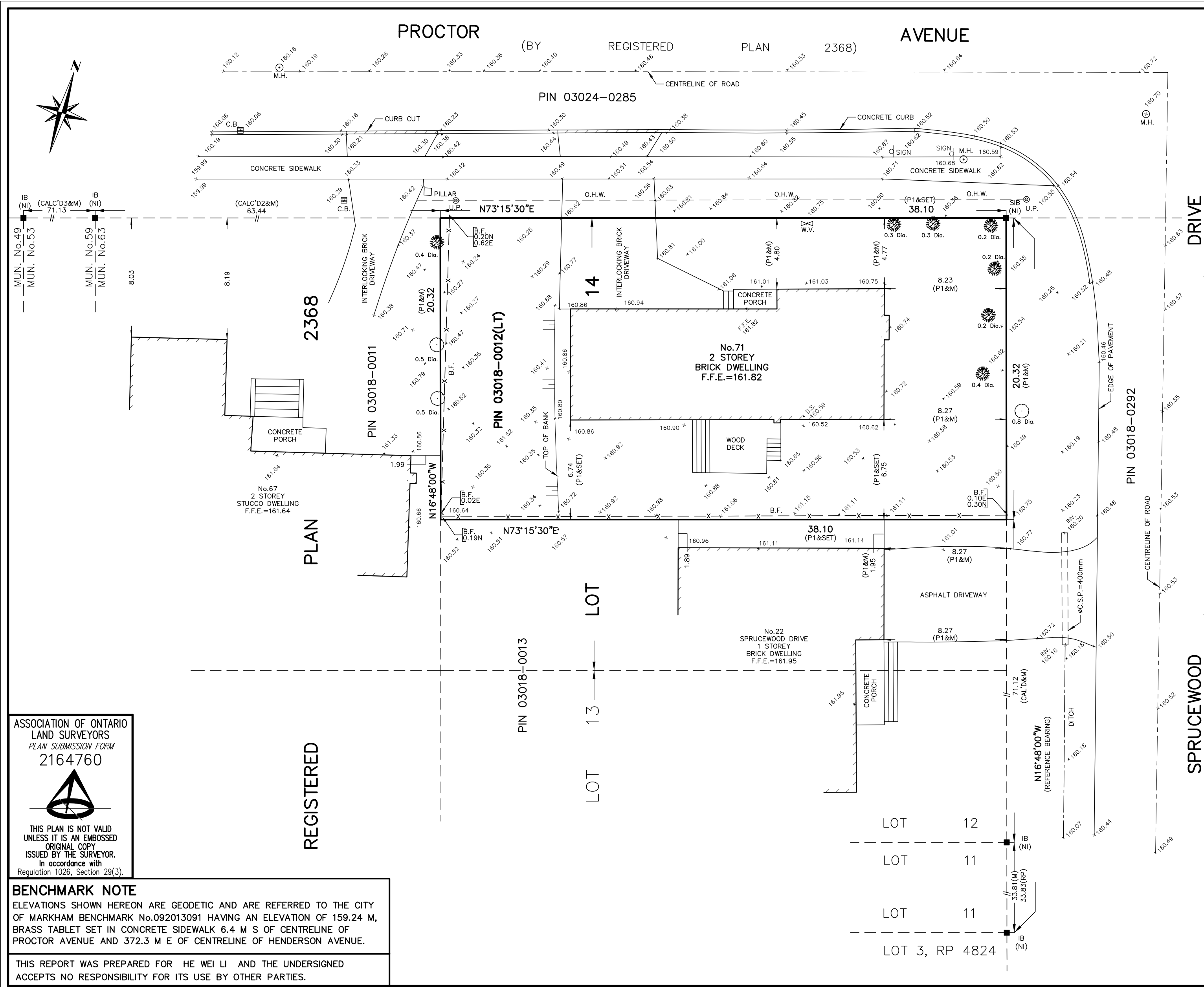
**MANDARIN SURVEYORS LIMITED**  
 ONTARIO LAND SURVEYOR CANADA LANDS SURVEYOR  
 WWW.MANDARINSURVEYOR.COM

2400 MIDLAND AVE., #121 PHONE: (647)430-1366 FAX: (647)799-4068  
 SCARBOROUGH, ONTARIO, M1S 1X7 E-MAIL: MANDARINSURVEYOR@GMAIL.COM

SURVEY BY: S.Z.

CAD No: 21-104SRPR

JOB No: 2021-104



ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2164760

THIS PLAN IS NOT VALID  
 UNLESS IT IS AN EMBOSSED  
 ORIGINAL COPY  
 ISSUED BY THE SURVEYOR.  
 In accordance with  
 Regulation 1026, Section 29(3).

**BENCHMARK NOTE**  
 ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO THE CITY OF MARKHAM BENCHMARK No.092013091 HAVING AN ELEVATION OF 159.24 M, BRASS TABLET SET IN CONCRETE SIDEWALK 6.4 M S OF CENTRELINE OF PROCTOR AVENUE AND 372.3 M E OF CENTRELINE OF HENDERSON AVENUE.

THIS REPORT WAS PREPARED FOR HE WEI LI AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

DRIVE  
 (FORMERLY SECCOMOE STREET BY REGISTERED PLAN 2368)  
 SPRUCEWOOD DRIVE

LOT 12  
 LOT 11  
 LOT 11  
 LOT 3, RP 4824





September 19, 2013

Integral Design Associates (Sabina Rotenberg)  
3671A Bathurst St  
Toronto , Ontario M6A 2E6

Dear Sir/Madam,

**RE: *Firouz Jahaniaval & Shirin Manouchehri***  
***71 Proctor Ave Thornhill***  
***PLAN 2368 N PT LOT 14***  
***A/75/13***

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Attached please find a copy of the Committee of Adjustment resolution of regarding the above, from the meeting of September 18, 2013.

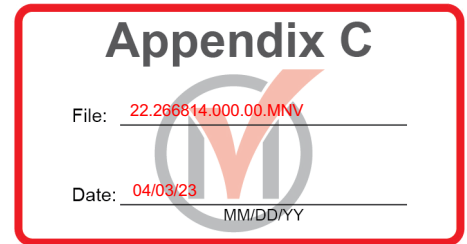
Yours truly,

Andrew Hordylan, MUDs, BaT  
Secretary-Treasurer  
Committee of Adjustment

Attachments

cc Ron Blake, West  
Greg Nelson, Zoning and Compliance  
Building Inspection

File copy





COMMITTEE OF ADJUSTMENT

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NOTICE OF DECISION

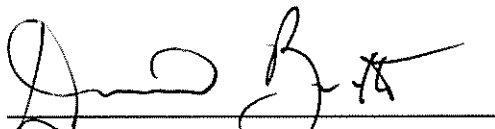
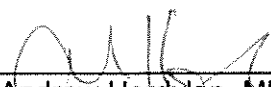
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I hereby certify that the attached is a true copy of the decision of the Committee of Adjustment in the matter of Application No. A/75/13 was **approved** at a hearing held on September 18, 2013. A written appeal of this decision must be received **no later than Tuesday October 8, 2013. After this date the decision becomes final and binding and cannot be appealed.**

Appeals to the Ontario Municipal Board must be served personally or sent by registered mail to the Secretary Treasurer, Committee of Adjustment, accompanied by a cheque in the amount of **\$125.00**, payable to **the Minister of Finance**, and must give reasons for the appeal. When filing an appeal to the Ontario Municipal Board, please note there will be an additional City of Markham administration fee of \$200.00, plus \$26.00 HST (a separate cheque made payable to City of Markham in the amount of **\$226.00**) must be made at the time of the appeal submission to the Committee of Adjustment. **The reasons must be given or it will not be considered an objection. A letter of objection filed prior to the hearing date is not a notice of appeal.**

Only individuals, corporations and public bodies may appeal decisions in respect to variance or consent applications to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Sworn before me at the City of Markham  
September 19, 2013

  
A Commissioner, etc.  
Andrew Hordylan MUDs, BaT.  
Secretary Treasurer,  
Committee of Adjustment,  
City of Markham.

Daniel Ernest Brutto, a Commissioner, etc.,  
Province of Ontario, for  
The Corporation of the City of Markham.  
Expires June 20, 2016.




COMMITTEE OF ADJUSTMENT RESOLUTION

**Application:** A/75/13  
**Hearing Date:** September 18, 2013  
**Name:** Firouz Jahanuaval & Shirin Manouchehri  
**Location:** 71 Proctor Ave., Thornhill  
PLAN 2368 N PT LOT 14

**Last Date of Appeal: Tuesday October 8, 2013**

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Moved by <sup>BT</sup> 

Seconded by <sup>KD</sup> 

THAT Application No. A/75/13, submitted by **Firouz Jahanuaval** and **Shirin Manouchehri** owners of 71 Proctor Ave., Thornhill, PLAN 2368 N PT LOT 14, requesting relief from the requirements of By-law No. 2237, as amended, to permit: a) a minimum flankage side yard setback of 12' 9", whereas the By-law requires a minimum flankage side yard setback of 16' 9", b) a minimum front yard setback of 24' 7"; whereas, the By-law requires a minimum front yard setback of 27'; and c) a building height of 10.2 metres; whereas, the By-law permits a maximum building height of 9.8 metres, and d) a maximum building depth of 20.5 metres; whereas, the By-law permits a maximum building depth of 16.8 metres; and e) a maximum floor area ratio of 55%, whereas, the By-law permits a maximum floor area ratio of 4,168 sq. ft. (50%), as they relate to the construction of a proposed two storey single detached dwelling be **approved** for the following reasons:

- (a) in the opinion of the Committee, the general intent and purpose of the by-law will be maintained;
- (b) in the opinion of the Committee, the general intent and purpose of the Official Plan will be maintained;
- (c) in the opinion of the Committee, the granting of the variance is desirable for the appropriate development of the lot;
- (d) in the opinion of the Committee, the requested variance is minor in nature.



## COMMITTEE OF ADJUSTMENT RESOLUTION

***Application: A/75/13***

Page 2.

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SUBJECT to the following conditions:

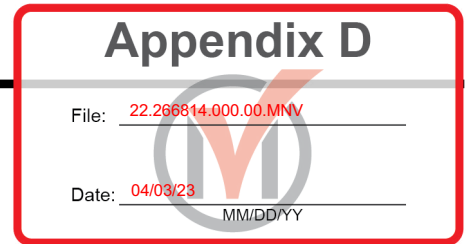
- 1) That the variances apply only to the proposed development as long as it remains;
- 2) That the variances apply to the subject development, in substantial conformity with the plans submitted with the application prepared by Integral Design Associates, dated May 9, 2013, to the satisfaction of the Director of Planning and Urban Design or his designate;
- 3) That the Owner submits an arborist report/tree inventory plan in accordance with the City of Markham, Trees for Tomorrow Streetscape Manual and to the satisfaction of the Director of Planning and Urban Design, or his designate;
- 4) That subject to the review of an arborist report/tree inventory plan, tree protection fencing is erected in accordance with the City of Markham, Trees for Tomorrow Streetscape Manual and inspected to the satisfaction of Urban Design Staff;
- 5) That subject to the review of an arborist report/tree inventory plan, tree replacement fees are paid to the City, if required by the Director of Planning and Urban Design, or his designate;
- 6) That the applicant submits a grading plan which demonstrates that there will be no negative impacts as a result of the proposed 1.21 m (4.00 ft.) south side yard setback to the neighbouring property owner, in terms of surface water drainage, to the satisfaction of the Director of Engineering or his designate, and that if the applicant is not able to do so, that the south side yard setback of the garage from the property line be no less than 1.52 m (5.00 ft.); and,
- 7) That the applicant submits revised drawings to the Secretary Treasurer which demonstrate a revised floor area ratio of 55%.

Resolution carried.

***SPECIAL NOTE TO OWNERS AND AGENTS: It is the responsibility of the owner and/or agent to ensure that all conditions of approval are met through the respective departments noted therein. Failure to do so may result in additional approvals being required.***

## Manawadu, Dinal

**From:** Proximity <proximity@cn.ca>  
**Sent:** Thursday, January 26, 2023 5:09 PM  
**To:** Tom, Bernie (Planning)  
**Cc:** Cefaratti, Rick; Manawadu, Dinal  
**Subject:** 2023-01-25\_CN\_RES\_ A/261/22 - 71 Proctor Avenue - Minor Variance  
**Attachments:** A.261.22 - 71 Proctor Avenue - Circulation Memo.pdf; A.261.22 - 71 Proctor Avenue - Drawings.pdf



**CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.**

Hello Bernie,

Thank you for consulting CN on the application mentioned in subject. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

1. The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way:

“Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

2. The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.
3. The implementation of the following mitigation measures in the dwelling design and construction:
  - Forced air ventilation systems with central air conditioning,
  - Acoustically upgraded windows meeting the minimum requirements of the Building Code and providing a maximum 35 dBA indoor limit for bedrooms and 40 dBA for living rooms,
  - Locating noise sensitive rooms away from the railway side,

Thank you and do not hesitate to contact me with any questions.

Best regards

**Ashkan Matlabi**, Urb. OUQ. MBA

Urbaniste sénior / Senior Planner (CN Proximity)  
Planning, Landscape Architecture and Urban Design  
Urbanisme, architecture de paysage et design urbain





E : [proximity@cn.ca](mailto:proximity@cn.ca)  
T : 1-438-459-9190  
1600, René-Lévesque Ouest, 11e étage  
Montréal (Québec)  
H3H 1P9 CANADA  
[wsp.com](http://wsp.com)

---

**From:** Tom, Bernie (Planning) <[BernieTom@markham.ca](mailto:BernieTom@markham.ca)>  
**Sent:** Wednesday, January 18, 2023 3:29 PM  
**To:** Cefaratti, Rick <[RCefaratti@markham.ca](mailto:RCefaratti@markham.ca)>; Manawadu, Dinal <[DManawadu@markham.ca](mailto:DManawadu@markham.ca)>  
**Subject:** A/261/22 - 71 Proctor Avenue - Minor Variance

**CAUTION: This email originated from outside CN: DO NOT click links or open attachments unless you recognize the sender AND KNOW the content is safe.**  
**AVERTISSEMENT : ce courriel provient d'une source externe au CN : NE CLIQUEZ SUR AUCUN lien ou pièce jointe à moins de reconnaître l'expéditeur et d**

Good afternoon,

An ePLAN Minor Variance application has been received for [71 Proctor Avenue](#) (A/261/22). Please see attached Circulation Memo and associated plans.

Thank you,

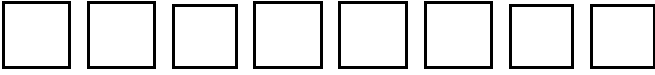
**Bernie Tom**  
Development Technician  
Planning & Urban Design Department | City of Markham  
101 Town Centre Boulevard | Markham | ON | L3R 9W3  
(905) 477-7000 x2264 | [bernietom@markham.ca](mailto:bernietom@markham.ca)

***To enable our continual improvement to the City of Markham's ePLAN system, from 5:00pm on Wednesday, January 18 to 7:00am on Monday, January 23, the City has a planned outage to the system in order to perform the necessary updates to the digital review environment. Prior to this planned outage, you are encouraged to contact your City staff representative from Development Planning to determine any next steps on your respective projects during this time. We apologize for any inconvenience this outage may cause.***



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**APPENDIX “E”**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/261/22**

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 December 24, 2022, 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.
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;
6. That the applicant satisfies the requirements of CN Rail, as indicated in their comments provided as Appendix D of this report, and that the Secretary-Treasurer receives confirmation that this condition has been fulfilled to the satisfaction of CN Rail, or their designate.

CONDITIONS PREPARED BY:



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