

Memorandum to the City of Markham Committee of Adjustment

March 14, 2022

File: A/201/21
Address: 29 Fred Varley Drive – Markham, ON
Applicant: Gary Luk
Agent: Henry Wen
Hearing Date: March 23, 2022

The following comments are provided on behalf of the Central District Team. The applicant is requesting relief from the following “Single Family Residential – (R3)” zone requirements under By-law 122-72, as amended, as they relate to a proposed two-storey detached dwelling. The variances requested are to permit:

a) By-law 122-72, Section 5.7:

an uncovered and unenclosed rear walk-up stair and its retaining foundation wall to encroach 7.68 ft (2.34 m) into the required rear yard, whereas the by-law permits stairs to encroach a maximum of 18.0 in (0.46 m) into any required yard;

b) By-law 122-72, Section 11.2:

a minimum side yard setback of 4.04 ft (1.23 m) for a two-storey building, whereas the by-law requires a minimum side yard setback of 6.0 ft (1.82 m); and

c) By-law 122-72, Section 11.2:

a maximum lot coverage of 35.70%, whereas the by-law permits maximum lot coverage of 33.33%.

PROPERTY DESCRIPTION

Located on the north side of Fred Varley Drive, west of Main Street Unionville, the 604.71 m² (6,509.04 ft²) subject property is currently developed with a one-storey single detached dwelling and accessory building (shed), and contains trees in the front and rear yards. According to City mapping, the property is entirely within the Toronto and Regional Conservation Authority’s (TRCA) Regulated Area.

The property is located within an established residential neighbourhood, which predominantly contains low rise housing. Commercial uses are also located within close proximity to the property, found immediately across Fred Varley Drive at the ground floor of a four-storey mixed use building, and to the east along Main Street Unionville. While the property is within close proximity to the Unionville Heritage Conservation District (UHCD), the property is not designated under the *Heritage Act, R.S.O. 1990, c. O.18, as amended*.

PROPOSAL

The applicant is proposing to demolish the existing dwelling and shed, to construct a two-storey detached dwelling, with a 43.20 m² (464.95 ft²) uncovered walk-out terrace in the rear yard.

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 the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation.

The Official Plan provides direction for staff to review any applications for development approval or site alteration 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 is maintained.

The subject property is wholly located within a Special Policy Area (SPA). These areas have historically existed within the floodplain, where site specific policies approved by the Province provide for the continued viability of existing uses, which are generally small scale. Section 3.4.1.15 of the Official Plan requires that applicants proposing development on lands wholly or partially within a SPA must obtain approval and permits from the TRCA in accordance with applicable criteria, procedures, standards and regulations prior to the issuance of a building (or site alteration) permit.

Zoning By-Law 122-72

The subject property is zoned “Single Family Residential – (R3)” under By-law 122-72, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the by-law requirements with respect to the maximum lot coverage, the minimum side yard setback for a two-storey portion, and maximum encroachment into the rear yard.

Varley Village Infill Area

The subject property is within an area of the City where there is a trend to build larger houses. In response to concerns within 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 recommended that no action be taken on an infill by-law at this time. Development Services Committee endorsed this recommendation on June 19, 2012. As such, the existing by-law standards continue to apply.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The applicant completed a ZPR on December 17, 2021 to confirm the variances required for the proposed development.

COMMENTS

The *Planning Act, R.S.O. 1990, c. P.13, as amended*, states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the “Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Stair and Foundation Wall Encroachment

The applicant is requesting a maximum stair and uncovered and unenclosed rear walk-up stair and its retaining foundation wall to encroach 7.68 ft (2.34 m) into the required rear yard, whereas the by-law permits stairs to encroach a maximum of 18.0 in (0.46 m) into any required yard.

Rear yards often provide for open and usable amenity space on similar residential lots occupied by single detached dwellings within the Unionville community. Staff are of the opinion that the terrace maintains this function by providing for below grade amenity space, and consider the variance to appropriately maintain the general intent and purpose of the By-law.

Reduction in Minimum Side Yard Setback

The applicant requests a minimum side yard setback of 4.04 ft (1.23 m) for a two-storey building, whereas the By-law permits a minimum side yard setback of 4.0 ft (1.22 m) for one-storey, and 6.0 ft (1.83 m) for two-storeys. This is a reduction of 1.96 ft (0.60 m) for the two-storey portion of the dwelling.

The dwelling has a minimum setback of 4.04 ft (1.23 m) along the east property line, and 4.79 ft (1.46 m) along the west property line. While the proposed development meets the minimum requirement for a one-storey building, it would not comply with the two-storey side yard setback requirement, and the applicant therefore requests relief on either side of the building. Engineering staff have not identified any concerns respecting drainage. Planning staff are of the opinion that the proposed development is consistent and compatible with existing residential homes along the street, and that any impacts are minor in nature.

Increase in Maximum Lot Coverage

The applicant is requesting a maximum lot coverage of 35.70%, whereas the By-law permits a maximum floor area ratio of 33.33%.

The front covered porch is included in the lot coverage, which adds approximately 7.0 m² (75.35 ft²) to the overall building area. Excluding the front covered porch, the building would have a lot coverage of 34.56%. Staff are of the opinion that the increase in lot coverage will not significantly add to the scale and massing of the dwelling on this lot, and is minor in nature.

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. Fonthill Boulevard and the adjacent property municipally known as 1 Fred Varley Drive provide for separation from the properties to the east that are located within the UHCD. Properties on the south side of Fred Varley Drive similarly provide for a buffer to the properties located within the UHCD to the south.

The properties within the UHCD are well separated from the proposed new dwelling, and Heritage staff have no objections to the variance application from a heritage perspective. The Heritage Markham Committee considered the application on February 9, 2022, which indicated it had no comment on the minor variance application.

Natural Heritage Comments

Natural Heritage staff have reviewed the application with respect to the City's Official Plan policies regarding development applications where properties are wholly or partially located within a SPA. Through the City's update, the subject property is proposed to be removed from the SPA based on the reduction of the floodplain in this area, and Natural Heritage staff have no objections to the proposed development.

Tree Protection and Compensation

Staff recommend that the Committee adopt the tree related conditions of approval listed in Appendix "A" to ensure that the applicant installs any necessary tree protection barriers, and provides appropriate compensation to the City. Staff also note that 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 may be required to ensure the protection of certain trees is achieved.

EXTERNAL COMMENTS

TRCA Comments

The subject property is located within the TRCA Regulated Area, as it is partially within and adjacent to the flood plain associated with the Rouge River Watershed. The property is also situated entirely within a SPA for flood plain management that has been approved by the Province. The TRCA indicates that they have no concerns subject to conditions outlined in their letter dated January 28, 2022, which requests that the applicant:

- must obtain a permit from the TRCA prior to site alteration and development taking place; and
- remits the appropriate review fee for the subject application.

Metrolinx Comments

The subject property is located within 300.0 m (984.25 ft) of a railway corridor. Accordingly, the applicant is advised that there may be alterations to, or expansions of the rail facilities on such right of way in the future, including the possibility that Metrolinx or any of their assigns or successors may expand their operations, which 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 dwellings. Metrolinx has advised that they will not be responsible for any complaints or claims arising from use of such facilities and operations on, over, or under the previously mentioned right of way.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 14, 2022. Additional information may be received after the writing of the report, and the Acting Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

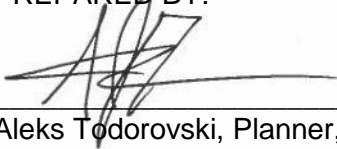
With respect to Section 45(1) of the *Planning Act*, staff are of the opinion that the variance application meets the four tests. Staff recommend that the Committee consider the subsequent conditions of approval, and public input in reaching a decision. The onus is ultimately on the applicant to demonstrate 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

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:




Dimitri Pagratis, Senior Planner, Central District

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/201/21

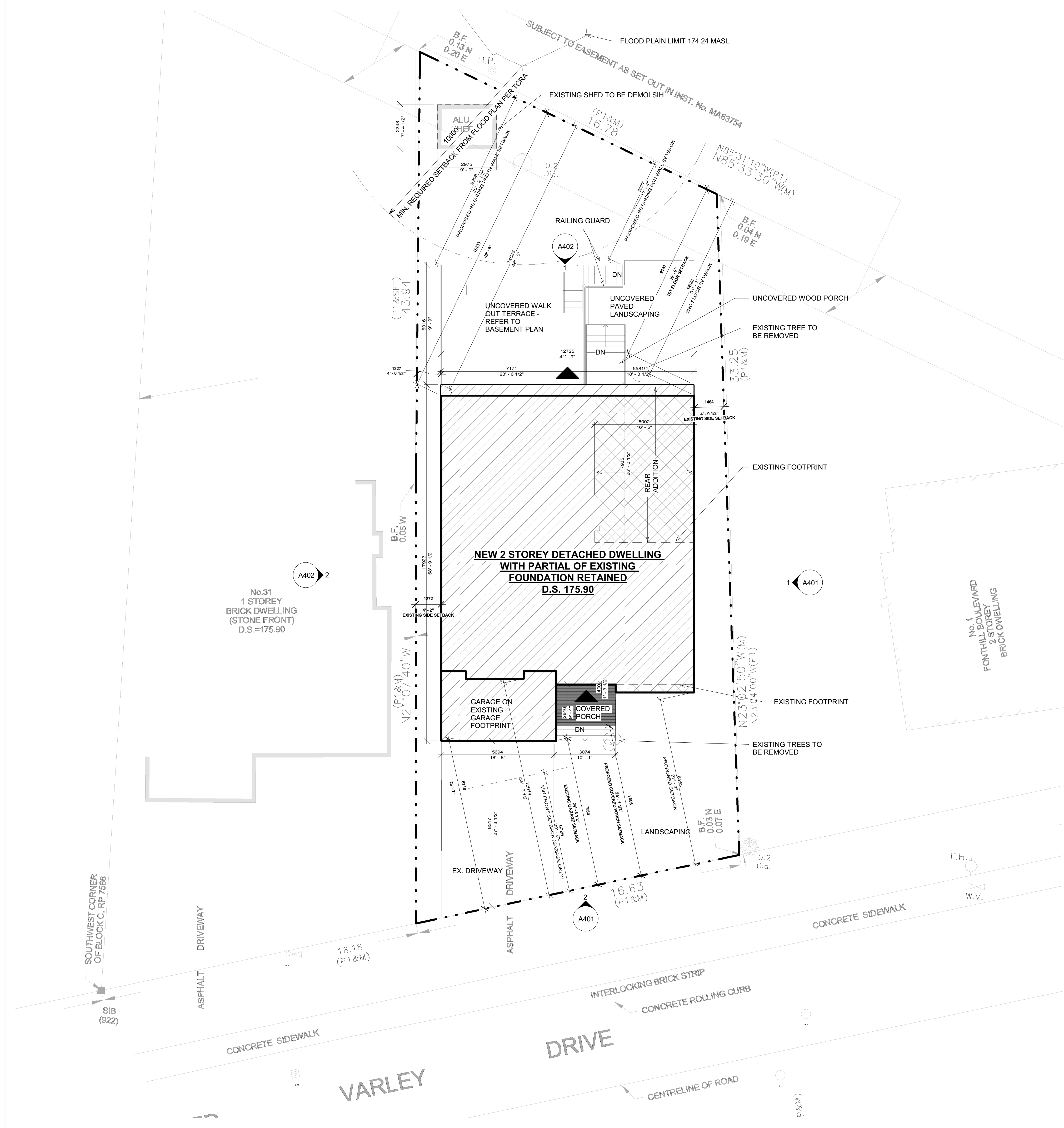
1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix “B” to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the 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.
6. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter dated January 28, 2022 to the Secretary Treasurer, and that the Secretary Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/201/21



ESTABLISHED GRADE CALCULATION:
 $(175.35 + 175.3) / 2 = 175.33$

ZONING INFORMATION:

ZONING: R3 UNDER BYLAW 122-72 AS AMENDED
 LOT AREA: 604.71 SM (6509.07 SF)
 ALLOWABLE LOT COVERAGE: 33%
 EXISTING BASEMENT: 130.77 SM (1407.59 SF)
 EXISTING GROUND FLOOR: 137.21 SM (1476.92 SF)
 + EXISTING GARAGE: 32.7 SM (351.1 SF)
 PROPOSED BASEMENT: 170.18 (1831.80 SF)
 PROPOSED GROUND FLOOR: 177.29 (1908.33 SF)
 PROPOSED SECOND FLOOR: 154.20 SM (1659.76 SF)

PROPOSED GFA (EXCL GARAGE): 501.67 SM (5399.93 SF)
 WITHOUT BASEMENT: 331.49 SM (3568.13 SF)

SETBACKS:

	ALLOWABLE	PROPOSED/EXISTING	CONFORM
FRONT:	7.62 M (25 FT)	8.45 M (27.74 FT)	YES
GARAGE ONLY:	6.10 M (20 FT)	7.69 M (24.71 FT)	YES
REAR:	7.62 M (25 FT)	9.144 M (30.0 FT)	EXISTING YES
FDN WALL ONLY:	-	5.28 M (17.33 FT)	N/A
SIDE (WEST):	1.83 M (6 FT)	1.23 M (4.04 FT)	EXISTING NO
SIDE (EAST):	1.83 M (6 FT)	1.71 M (5.61 FT)	EXISTING NO
BUILDING HEIGHT:	10.67 M (35 FT)	9.0 M (29.53 FT)	EXISTING YES
LOT COVERAGE:	33.3%	216 SM @ 35.7%	NO
MINIMAL LOT FRONTAGE:	16.63 M (54.56 FT)	16.63 M (54.56 FT)	EXISTING YES

NAME OF PROJECT: PROPOSED 2ND FLOOR ADDITION RESIDENCE		OBC REFERENCE								
LOCATION: 29 FRED VARLEY DR. UNIONVILLE, ON L3R 2J6		References are to Division B unless noted [A] for Division A or [C] for Division C.								
NO:	ONTARIO'S 2012 BUILDING CODE DATA MATRIX PART 3 OR 9									
1	PROJECT DESCRIPTION: <input type="checkbox"/> NEW <input checked="" type="checkbox"/> ADDITION <input type="checkbox"/> CHANGE OF USE <input type="checkbox"/> ALTERATION	<input type="checkbox"/> PART 11 11.1 TO 11.4	<input type="checkbox"/> PART 3 2.1.1 [A] 9.10.1.3							
2	MAJOR OCCUPANCY(S): GROUP C RESIDENTIAL OCCUPANCY	3.1.2.1.(1)	9.10.2							
3	BUILDING AREA (m2): EXISTING: 140.53 NEW: 134.76 TOTAL: 275.29	1.4.1.2 [A]	1.4.1.2 [A]							
4	GROSS AREA (m2): EXISTING: 140.53 NEW: 134.76 TOTAL: 275.29	1.4.1.2 [A]	1.4.1.2 [A]							
5	NUMBER OF STOREYS ABOVE GRADE: 2 BELOW GRADE: 1	1.4.1.2 [A] & 3.2.1.1	1.4.1.2 [A] & 9.10.4							
6	NUMBER OF STREETS/FIRE FIGHTER ACCESS	3.2.2.10 & 3.2.5	9.10.20							
7	BUILDING CLASSIFICATION: GROUP C COMBUSTIBLE (PART 9)	3.2.2.20-83	9.10.2							
8	SPRINKLER SYSTEM PROPOSED: <input type="checkbox"/> ENTIRE BUILDING <input type="checkbox"/> SELECTED COMPARTMENTS <input type="checkbox"/> SELECTED FLOOR AREAS <input type="checkbox"/> BASEMENT ONLY <input type="checkbox"/> IN LIEU OF ROOF RATING <input checked="" type="checkbox"/> NOT REQUIRED	3.2.2.20-83 3.2.1.5 3.2.2.17	9.10.8.2 INDEX INDEX							
9	STANDPIPE REQUIRED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	3.2.9	N/A							
10	FIRE ALARM REQUIRED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	3.2.4	9.10.18							
11	WATER SERVICE/SUPPLY IS ADEQUATE <input checked="" type="checkbox"/> YES (MUNICIPAL) <input type="checkbox"/> NO	3.2.5.7	N/A							
12	HIGH BUILDING <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	3.2.6	N/A							
13	CONSTRUCTION RESTRICTIONS: <input type="checkbox"/> NON-COMBUSTIBLE PERMITTED <input checked="" type="checkbox"/> COMBUSTIBLE REQUIRED <input type="checkbox"/> BOTH	3.2.2.20-83	9.10.6							
14	MEZZANINE(S) AREA (m2): N/A	3.2.1.1.(3)-(8)	9.10.4.1							
15	OCCUPANT LOAD BASED ON: <input type="checkbox"/> m2/PERSON <input checked="" type="checkbox"/> DESIGN OF BUILDING BASEMENT: OCCUPANCY ___ LOAD ___ PERSONS 1st FLOOR: OCCUPANCY ___ LOAD ___ PERSONS 2nd FLOOR: OCCUPANCY C LOAD 8 PERSONS 3rd FLOOR: OCCUPANCY ___ LOAD ___ PERSONS ROOF: OCCUPANCY ___ LOAD ___ PERSONS	3.1.17	9.9.1.3							
16	BARRIER-FREE DESIGN <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (EXPLAIN) BUILDING IS A HOUSE (exempt)	3.8	9.5.2							
17	HAZARDOUS SUBSTANCES <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	3.3.1.2. & 3.3.1.19	9.10.1.3(4)							
18	REQUIRED FIRE RESISTANCE RATING (FRR) HORIZONTAL ASSEMBLIES FRR (HOURS) FLOORS 0 HOURS ROOF 0 HOURS MEZZANINE N/A HOURS FRR OF SUPPORTING MEMBERS FLOORS 0 HOURS ROOF 0 HOURS MEZZANINE N/A HOURS	LISTED DESIGN No. OR DESCRIPTION (SG-2) 3.2.2.20-83 3.2.1.4 LISTED DESIGN No. OR DESCRIPTION (SG-2)	9.10.8 9.10.9							
19	SPATIAL SEPERATION - CONSTRUCTION OF EXTERIOR WALLS	3.2.3	9.10.14							
	WALL AREA of EBF (m2)	L/D (m)	L/H OR H/L	PERMITTED MAX % OF OPENINGS	PROPOSED % OF OPENINGS	FRR (HOURS)	LISTED DESIGN OR DESCRIPTION	COMB. CONST.	COMB. CONST. NON-C. CLADDING	NON-COMB. CONST.
	NORTH 119.93	11.2		100%	18.4%			<input checked="" type="checkbox"/>		
	SOUTH 119.93	7.69		49%	8%			<input checked="" type="checkbox"/>		
	EAST 156.91	1.71		7%	7%			<input checked="" type="checkbox"/>		
	WEST 156.91	1.23		7%	3%			<input checked="" type="checkbox"/>		

luk architecture inc.

LUK ARCHITECTURE INC.
 96 SAINT PATRICK ST. SUITE PH05
 TORONTO, ON M5T1V2

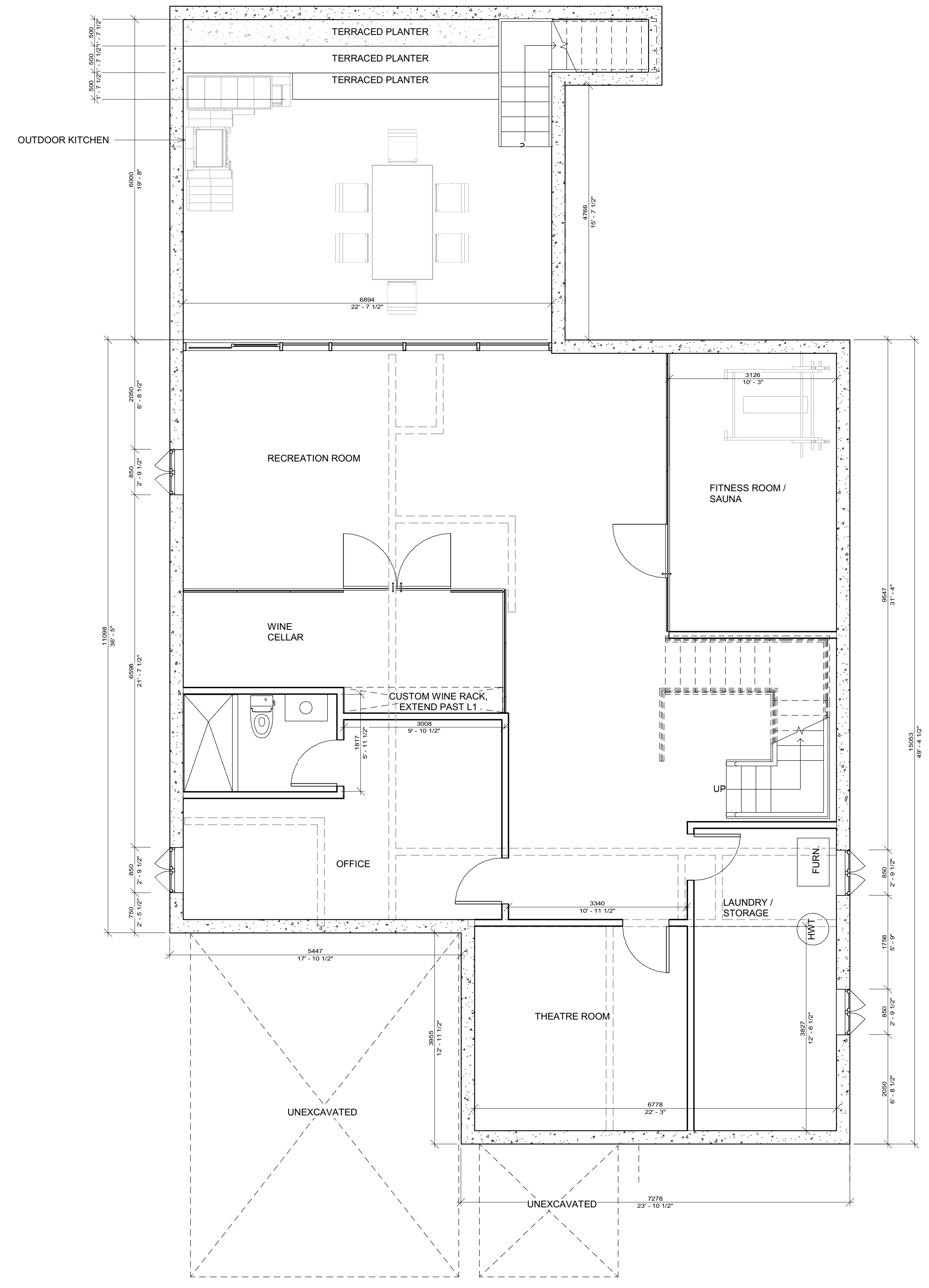
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2	ISSUED FOR ZR #2	2021-12-30
3	ISSUED FOR MNV	2021-12-30

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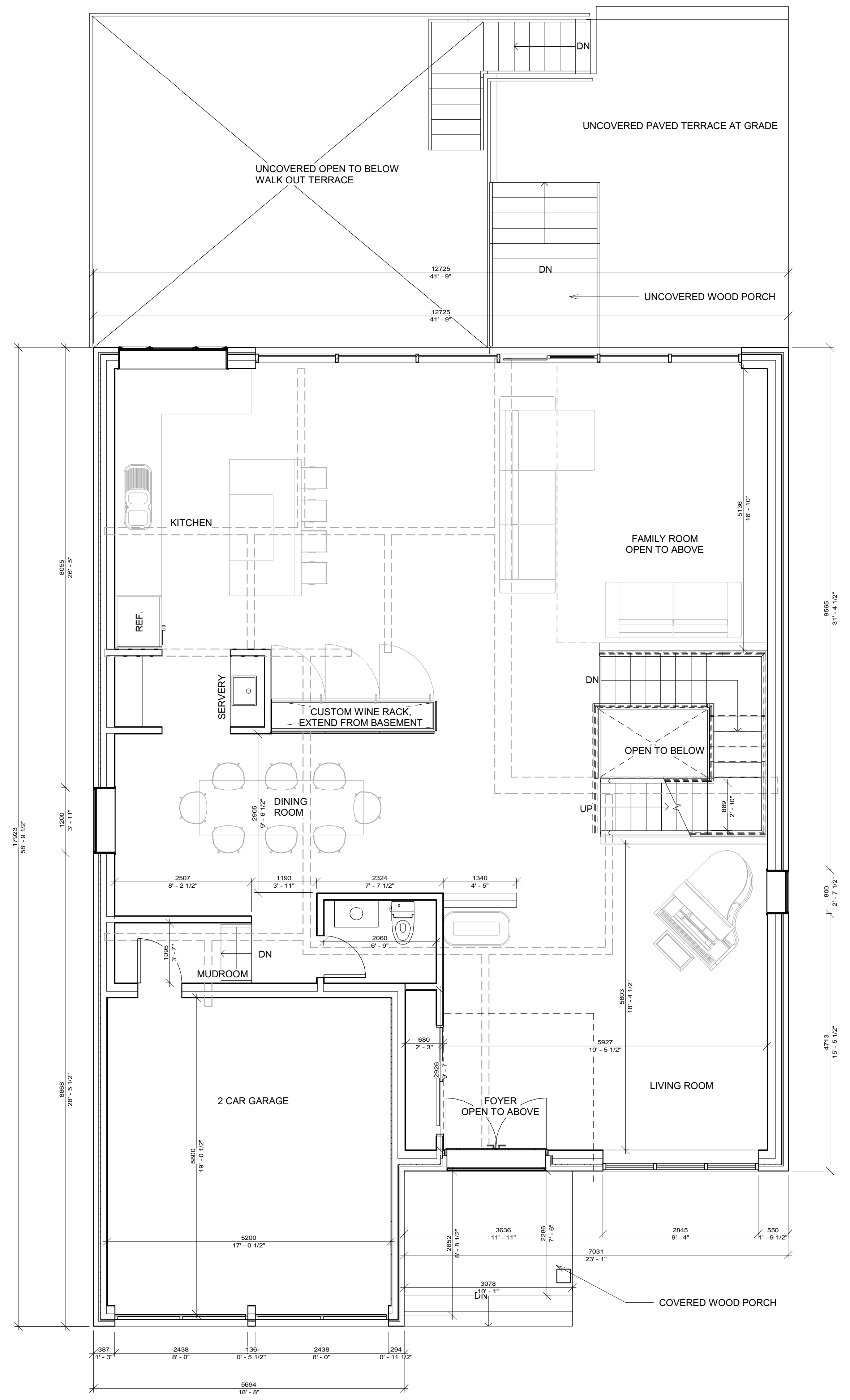
29 FRED VARLEY DR
 SITE PLAN

Project number 21003
 Drawn by GL

A100
 Scale 1 : 100



1 PROPOSED BASEMENT
 1 : 50



2 PROPOSED GROUND FLOOR
 1 : 50

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 96 SAINT PATRICK ST. SUITE PH05
 TORONTO, ON M5T1V2

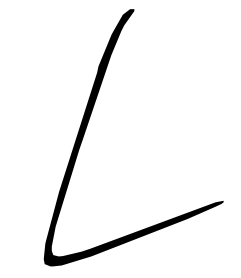
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2	ISSUED FOR ZR R2	2021-12-10
3	ISSUED FOR MNV	2021-12-20

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29 FRED VARLEY DR
BASEMENT / GROUND FLOOR

Project number **21003**
 Drawn by **GL**

A201
 Scale **1 : 50**

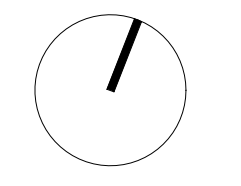


luk architecture inc.

LUK ARCHITECTURE INC.
 98 SAINT PATRICK ST. SUITE PH05
 TORONTO, ON M5T1V2

No.	Description	Date
1	ISSUED FOR ZR	2021-11-18
2	ISSUED FOR ZR R2	2021-12-19
3	ISSUED FOR MNV	2021-12-20

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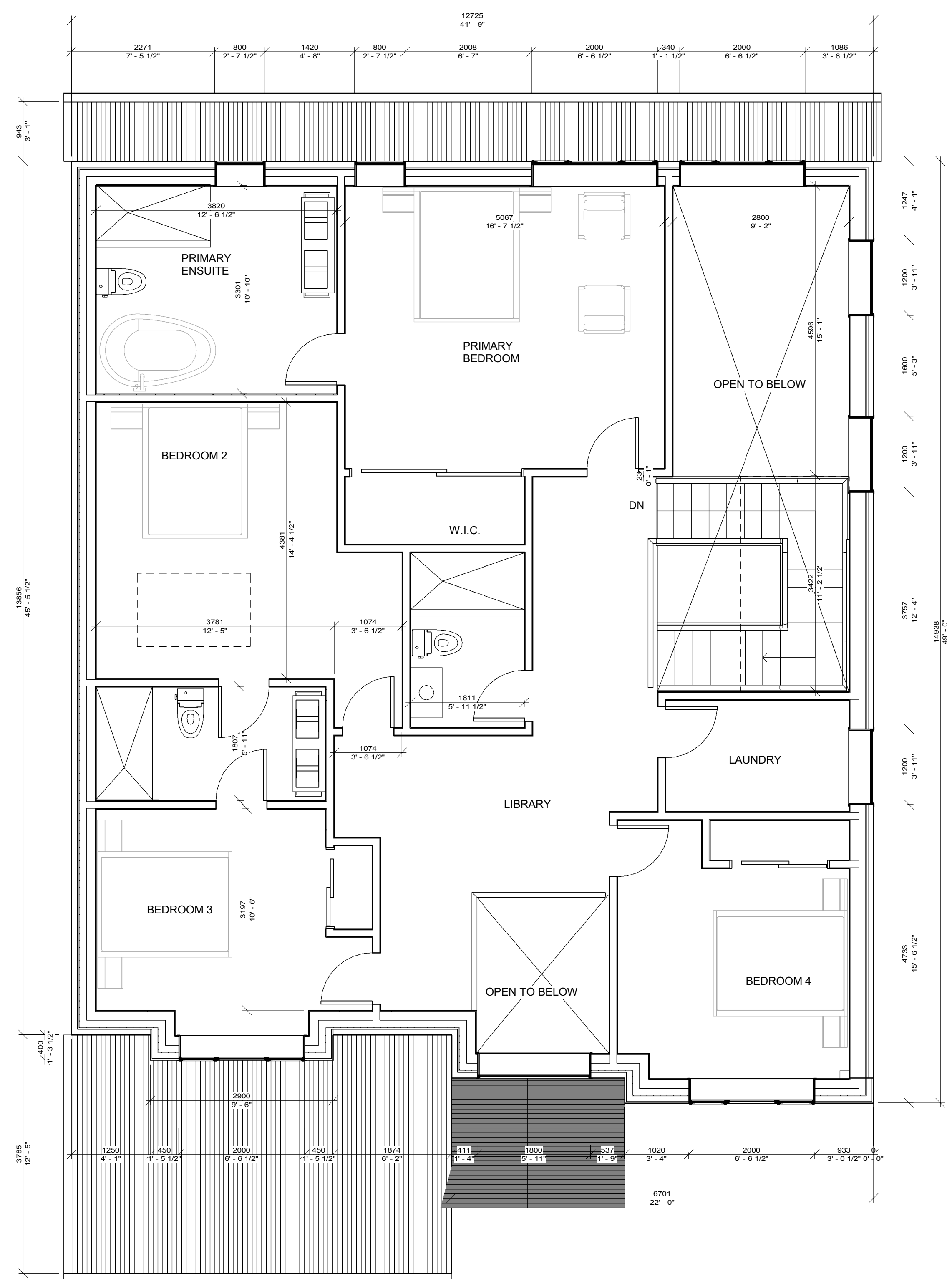
**29 FRED
 VARLEY DR
 SECOND FLOOR
 / ROOF**

Project number 21003

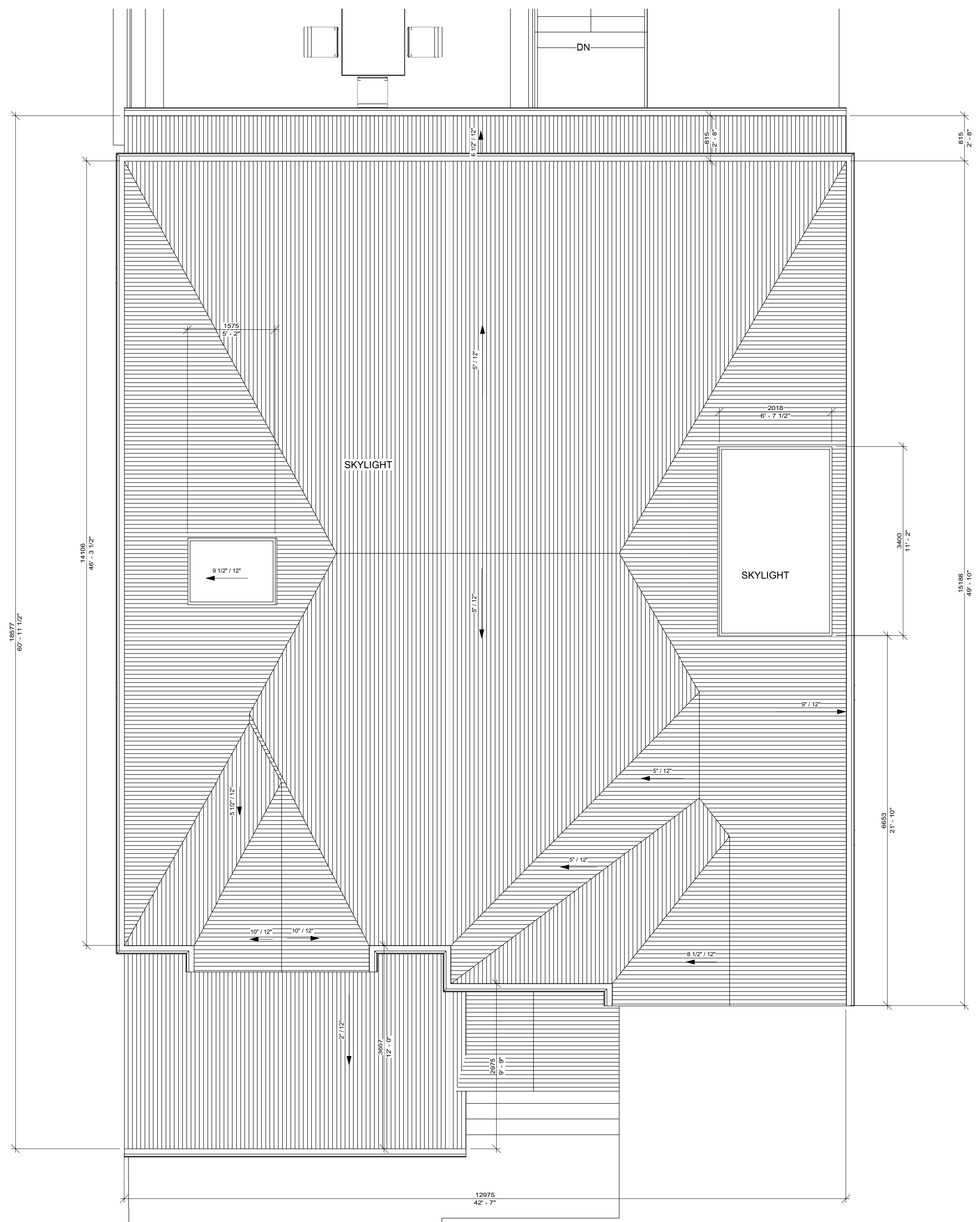
Drawn by GL

A202

Scale 1 : 50



1 PROPOSED 2ND FLOOR
 1 : 50



2 ROOF PLAN
 1 : 50

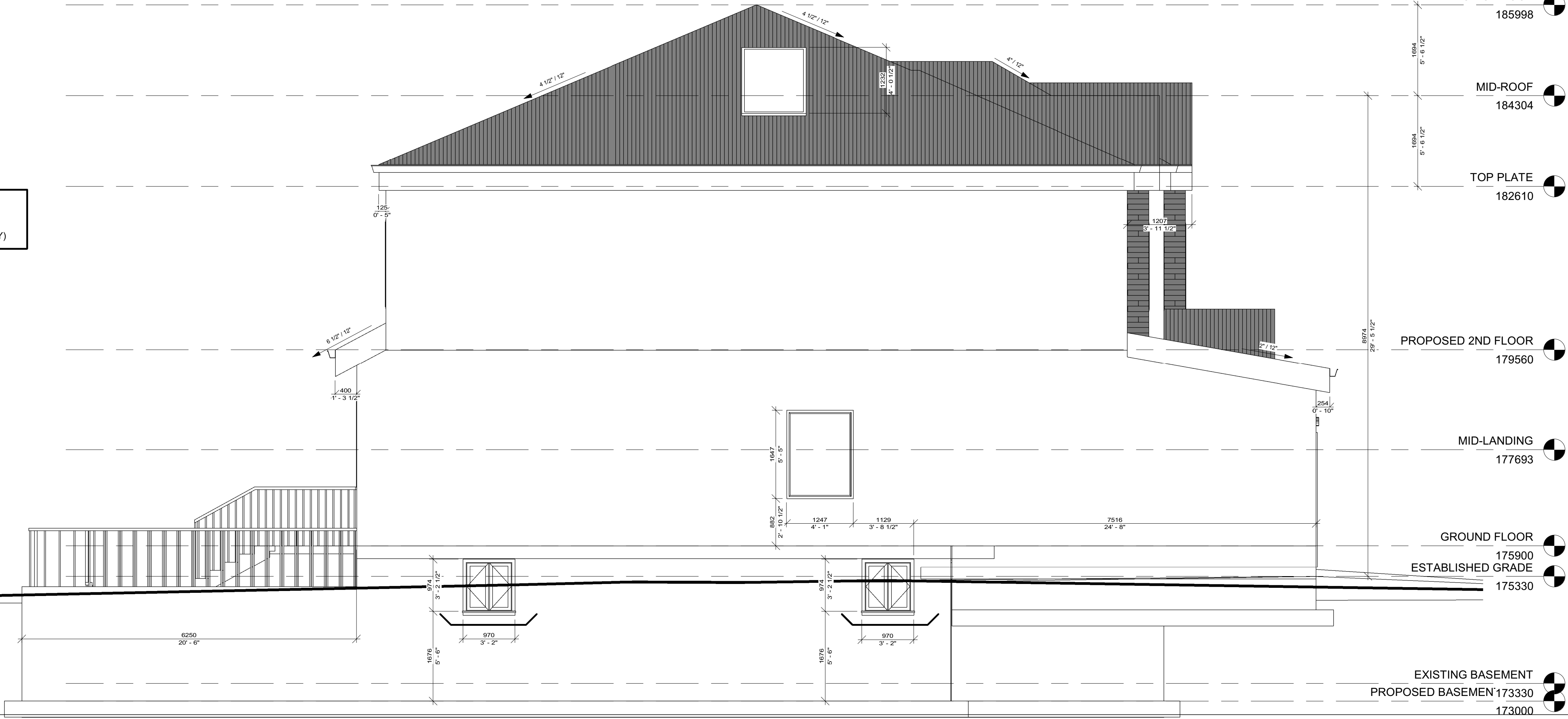
WALL AREA: 1291 SF
 LIMITING DISTANCE: 11.23 @ 100%
 OPENINGS ALLOWED: --
 OPENINGS PROVIDED: 238 SF @ 18.4% (GLASS AREA ONLY)



1 NORTH ELEVATION

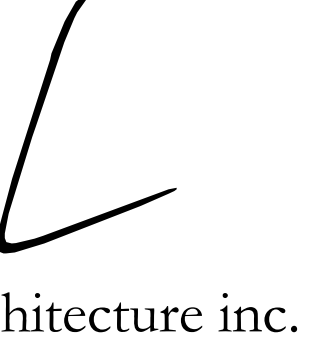
1 : 50

WALL AREA: 1689 SF
 LIMITING DISTANCE: 1.23 @ 7%
 OPENINGS ALLOWED: 118.23 SF
 OPENINGS PROVIDED: 48 SF @ 3% (GLASS AREA ONLY)



2 WEST ELEVATION

1 : 50



LUK ARCHITECTURE INC.
 98 SAINT PATRICK ST. SUITE PH05
 TORONTO, ON M5T1V2

No.	Description	Date
1	ISSUED FOR ZR	2021-11-18
2	ISSUED FOR ZR R2	2021-12-10
3	ISSUED FOR MNV	2021-12-20

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**29 FRED VARLEY DR
 ELEVATIONS**

Project number: 21003
 Drawn by: GL

A402
 Scale: 1 : 50

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