

Memorandum to the City of Markham Committee of Adjustment

January 13, 2023

File: A/219/22
Address: 76 Fred Varley Drive, Markham
Applicant: Dang Chi Thuan
Agent: Arani Architecture (Shadi Arani)
Hearing Date: Wednesday January 18, 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, as it relates to a proposed two-storey detached dwelling. The variances requested are to permit:

a) Section 6.1:

a maximum lot coverage of 37.44 percent, whereas the By-law permits a maximum lot coverage of 33.33 percent; and,

b) Section 6.1:

a maximum building height of 26 feet (7.92 metres), whereas the By-law permits 25 feet (7.62 metres).

BACKGROUND

Property Description

The 580.64 m² (6,250 ft²) Subject Lands is located on the south side of Fred Varley Drive, generally located east of Sciberras Road, and north of Highway 7 East (refer to Appendix “A” – Aerial Photo). Surrounding land uses include a municipal park to the north, and an established residential neighbourhood comprised primarily of a mix of one and two-storey detached dwellings to the east, south, and west. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments.

There is an existing 168.76 m² (1,816.52 ft²) single detached dwelling on the property, which according to assessment records was constructed in 1966. The Subject Lands contain mature vegetation and one large mature tree in the front yard.

Proposal

The Applicant is proposing to demolish the existing dwelling and construct a 410.63 m² (4,420.00 ft²) two-storey detached dwelling (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 Official Plan designates the Subject Lands “Residential Low Rise”, which provides for low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 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 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 minor variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways, and the overall orientation and sizing of new lots within a residential neighborhood. 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

The Subject Lands are zoned “Fourth Density Single Family Residential (R4)” under By-law 11-72, as amended, which permits one single detached dwelling per lot. The proposed dwelling does not comply with the By-law requirements with respect to maximum lot coverage and maximum building height.

Varley Village Infill Area

The Subject Lands are 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) Undertaken

The Applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. However, in response to comments received during the processing of this application, the Applicant submitted revised drawings on January 3, 2023 (refer to the Tree Protection and Compensation subsection of this report for additional details).

The Applicant has not conducted a ZPR for the revised drawings. Consequently 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.

Increase in Maximum Building Height

The Applicant is requesting relief to permit a maximum building height of 26 feet (7.92 metres), whereas the By-law permits a maximum building height of 25 feet (7.62 metres). This represents an increase of 1 foot (0.3 metres). Staff are of the opinion that the proposed maximum building height is minor and have no concern with the requested variance.

Increase in Maximum Lot Coverage

The Applicant is requesting relief for a maximum lot coverage of 37.44 percent, whereas the By-law permits a maximum floor area ratio of 33.33 percent. Staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling and the resultant dwelling is generally consistent with what the By-law permits. Therefore, Staff have no objections to the approval of the requested variance.

Tree Protection and Compensation

As noted previously, the Subject Lands contain mature vegetation and large mature trees. During the review of the application, the City's Tree Preservation Technician indicated concern that the construction of the proposed structure would potentially injure the mature Silver Maple between 74 Fred Varley Drive, and 76 Fred Varley Drive and requested that the owner of 74 Fred Varley provide consent to the potential damages to the shared tree.

The Applicant adjusted their design to accommodate for the concerns brought forth by the Tree Preservation Technician by removing a proposed pool to decrease the potential of injury to the trees in the backyard. Additionally, the

Applicant indicated that they received written consent, from the owner of 74 Fred Varley Drive, regarding the potential injury to the mature silver maple.

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 Lands or neighbouring properties. Further mitigation through these processes may also be required to ensure the protection of certain trees is achieved.

PUBLIC INPUT SUMMARY

As of January 13, 2023, the City received one (1) letter of objection for the submission that is the subject of this minor variance report. The letter of opposition expressed concern over the proposed variances. 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 “C” 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 Photo

Appendix "B" – Architectural Plans

Appendix "C" – Conditions of Approval – A/219/22



Legend

Subject Lands

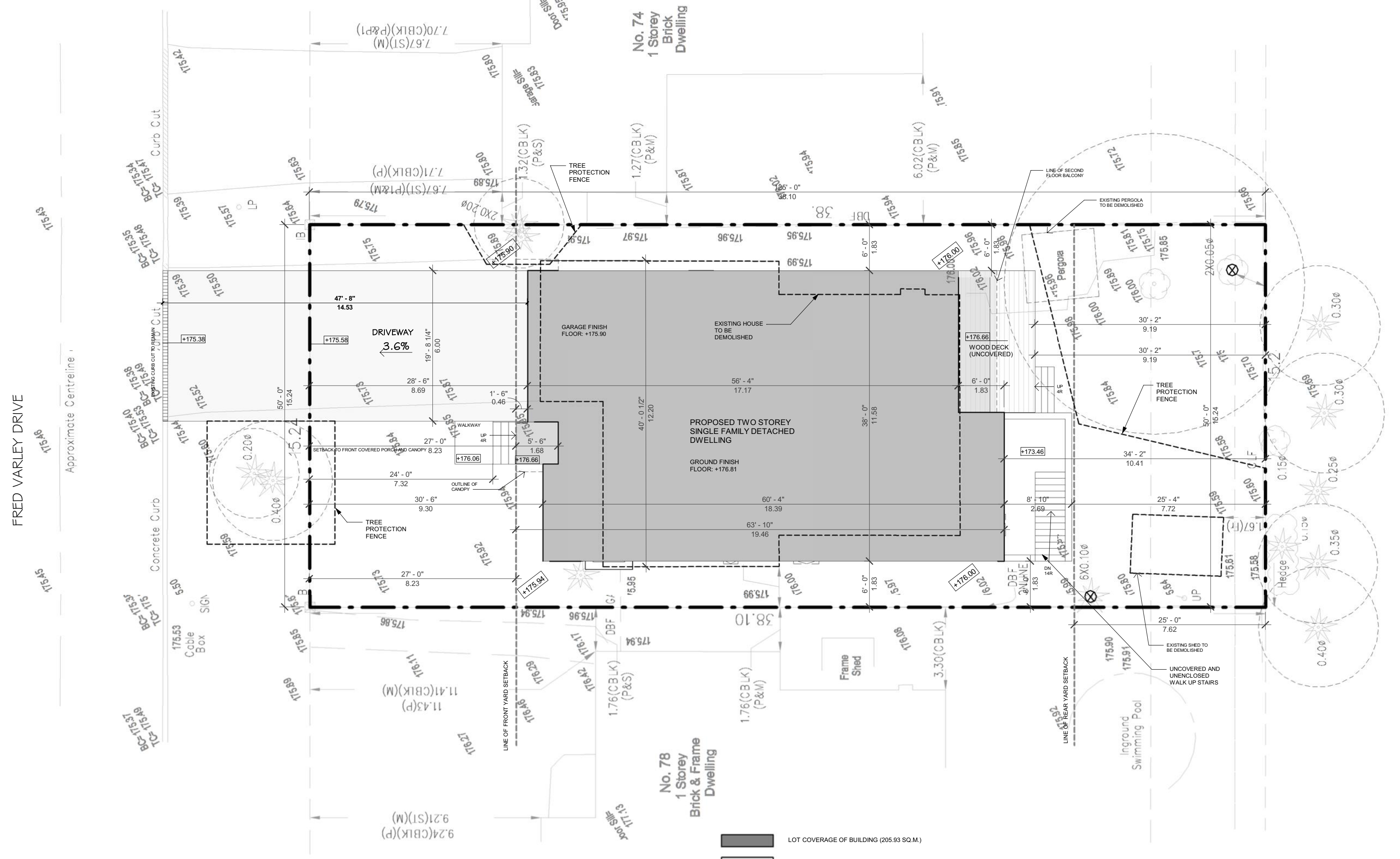
1: 2,257

114.7 0 57.33 114.7 Meters

NAD_1983_UTM_Zone_17N
© City of Markham

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes



FRED VARLEY DRIVE

Approximate Centreline

Concrete Curb

Cable Box

AREA CALCULATION

LOT AREA	580.64 Sq.m.	6250 Sq.ft.
GROUND FLOOR	173.12 m ²	1863.40 m ²
SECOND FLOOR	205.32 m ²	2210.00 m ²
GARAGE	32.20 m ²	346.61 m ²
GFA	410.63 m ²	4420.00 m ²
BASEMENT	172.50 m ²	1856.73 m ²

NOTE:
SURVEY INFORMATION TAKEN FROM SURVEY OF PART 1, PLAN OF PART OF LOTS
351, CITY OF MARKHAM
P.I.N. 02987 - 0004
BY PEARSON & PEARSON SURVEYING LTD.

ZONING BY-LAW 11-72
ZONING LABEL: R4 FOURTH DENSITY SINGLE FAMILY DWELLING

	BY-LAW	PROPOSED
FRONT SETBACK	27 feet	27 feet
SIDE SETBACKS (EAST)	6 feet	6 feet
SIDE SETBACKS (WEST)	6 feet	6 feet
REAR SETBACK	25 feet	25 feet
LOT COVERAGE (217.37 Sq.m.)	33 1/3%	37.44%
ESTABLISHED GRADE	+175.90	-
HEIGHT	25 feet	26 feet

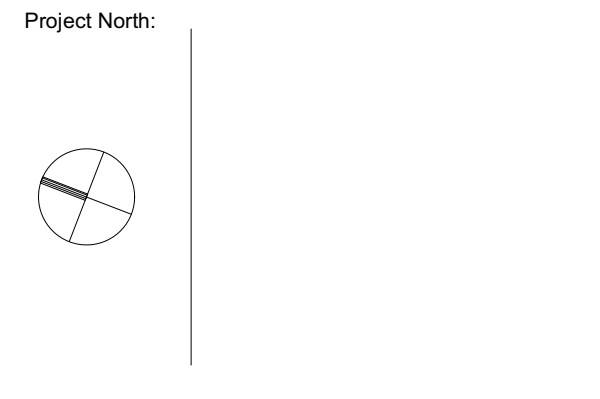
LOT COVERAGE OF REAR DECK: 17.24 SQ.M. (3%)

LOT COVERAGE OF BUILDING (205.93 SQ.M.)
LOT COVERAGE OF COVERED PORCH (2.81 SQ.M.)



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NO.	DESCRIPTION	DATE
3	ISSUED FOR COA	19 DEC 2022
2	ISSUED FOR ZONING	14 JULY 2022
1	ISSUED FOR ZONING	24 JUNE 2022



Architect of Record:
ARANI ARCHITECTURE
685 SHEPPARD AVE E, SUITE 511
TORONTO, ON. M2K 1B6
TEL: 416.223.3333

Project Title:
Fred Varley Residence
Address:
76 Fred Varley Drive
Toronto, ON. M6C 1Z1

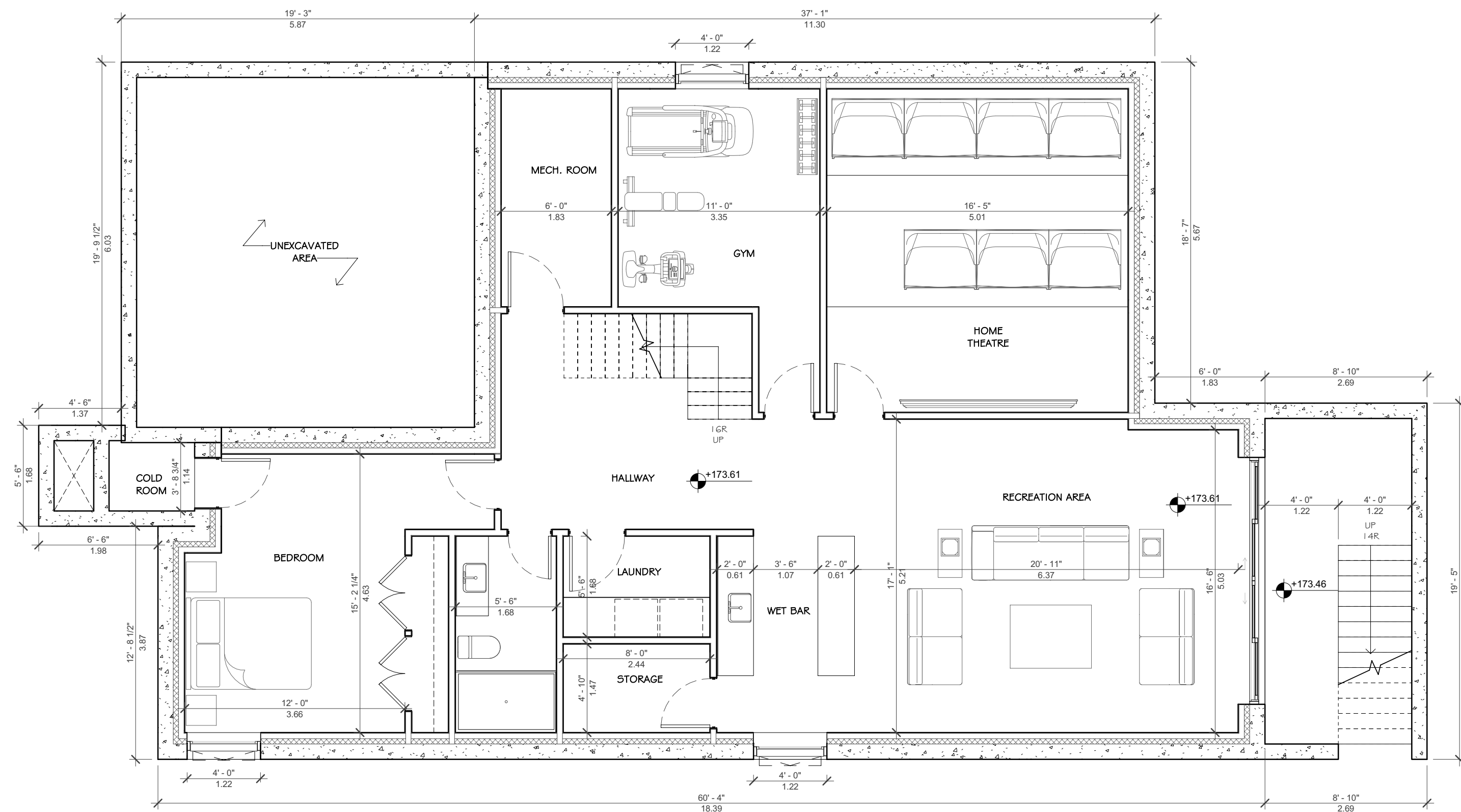
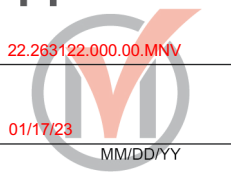
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Drawn by: SA

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Appendix B

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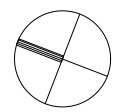
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1	ISSUED FOR ZONING	24 JUNE 2022

Project North:



Architect of Record:

ARANI ARCHITECTURE

685 SHEPPARD AVE E, SUITE 511
TORONTO, ON. M2K 1B6
TEL: 416.223.3333

Project Title:

Fred Varley Residence

Address:

76 Fred Varley Drive
Toronto, ON. M6C 1Z1

Drawing:

BASEMENT PLAN

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Appendix B

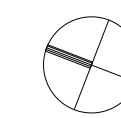
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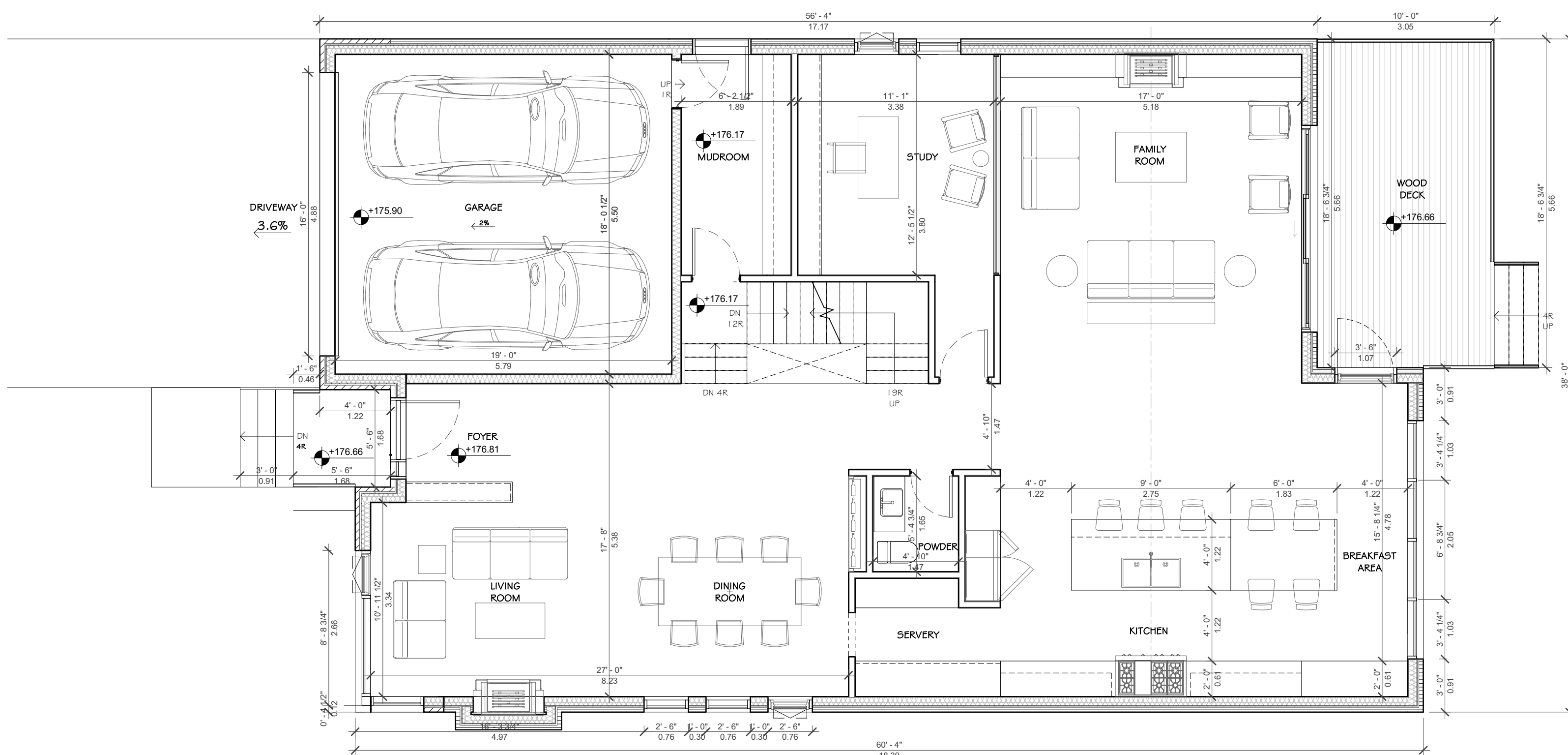
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GROUND FLOOR PLAN

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Drawn by: SHB

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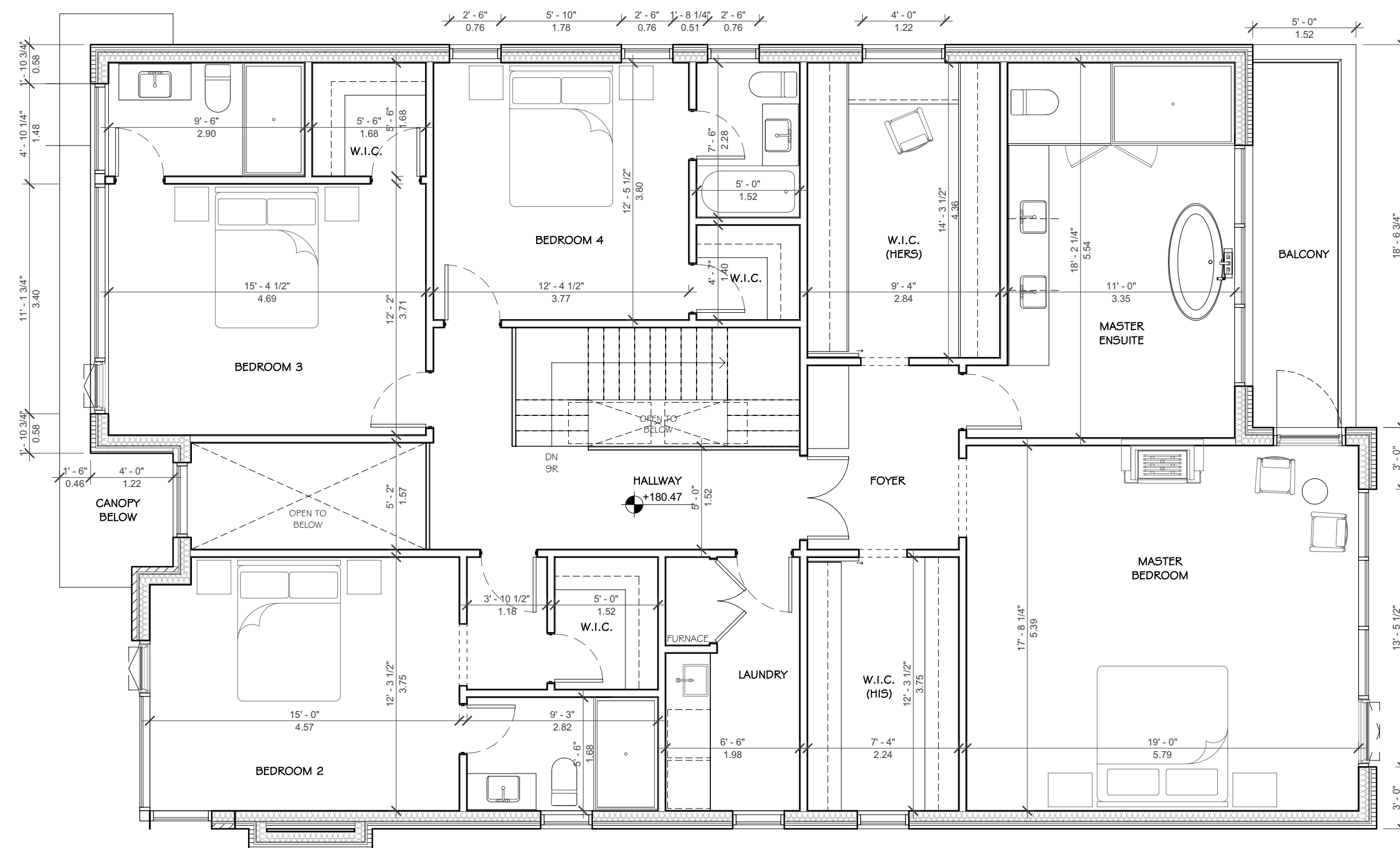
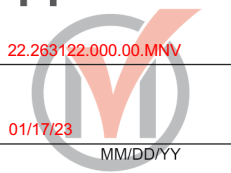
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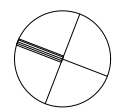
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Drawing:

SECOND FLOOR PLAN

Date: DEC 10, 2021
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Project: 2119
Drawn by: SHB

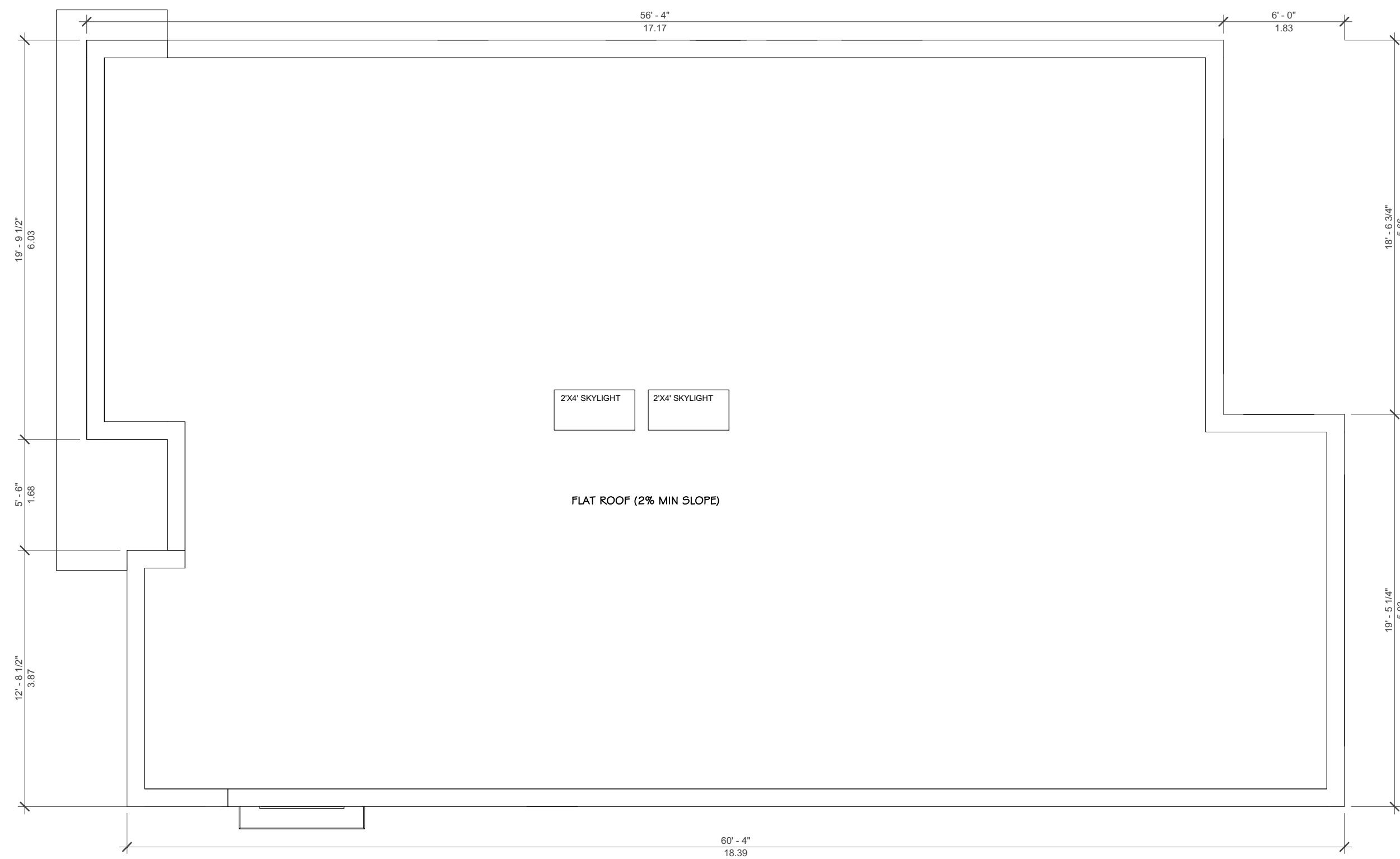
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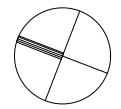
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Drawing:

ROOF PLAN

Date: DEC 10, 2021
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Project: 2119
Drawn by: SA

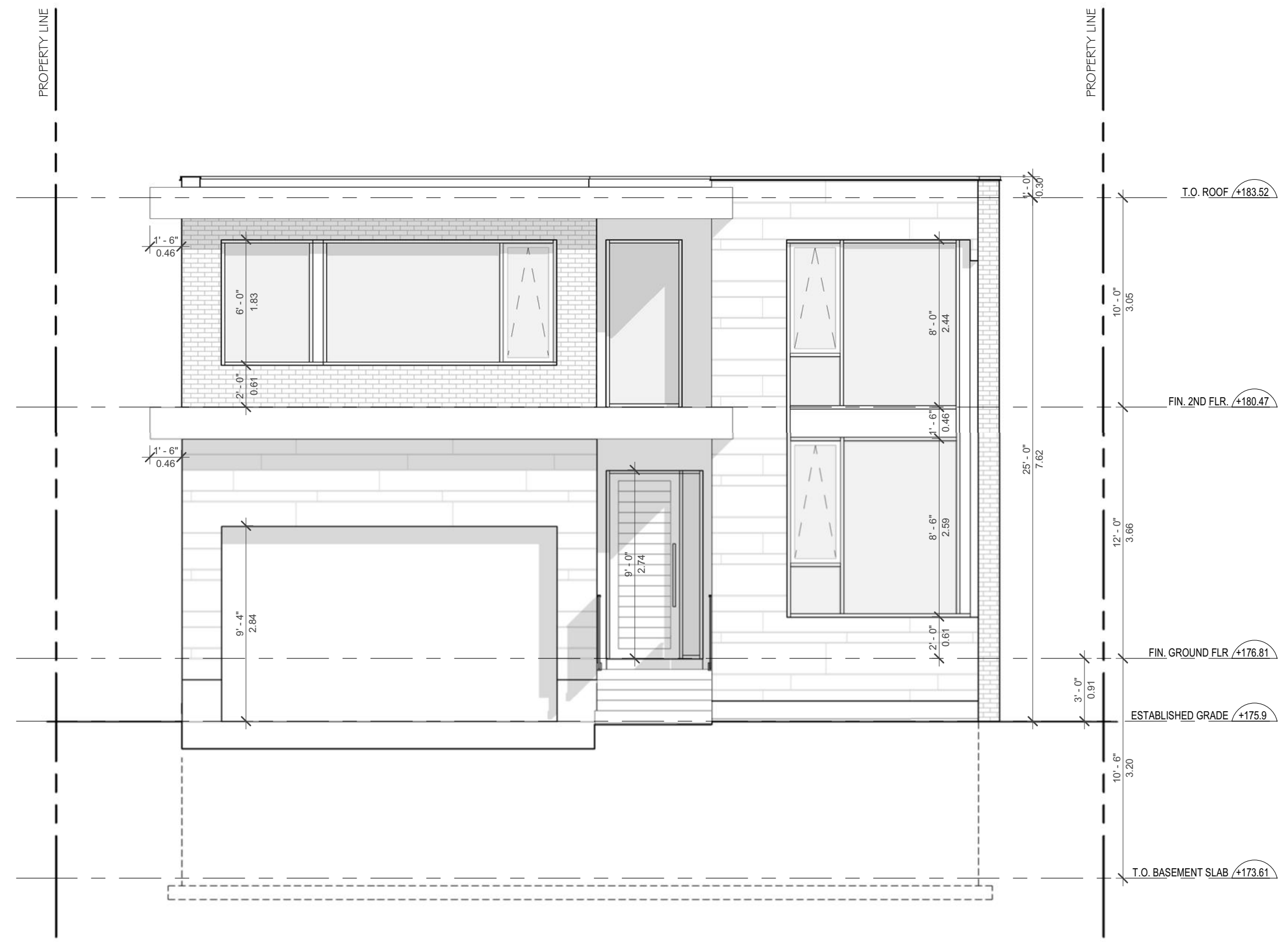
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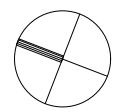
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Drawing:

NORTH ELEVATION

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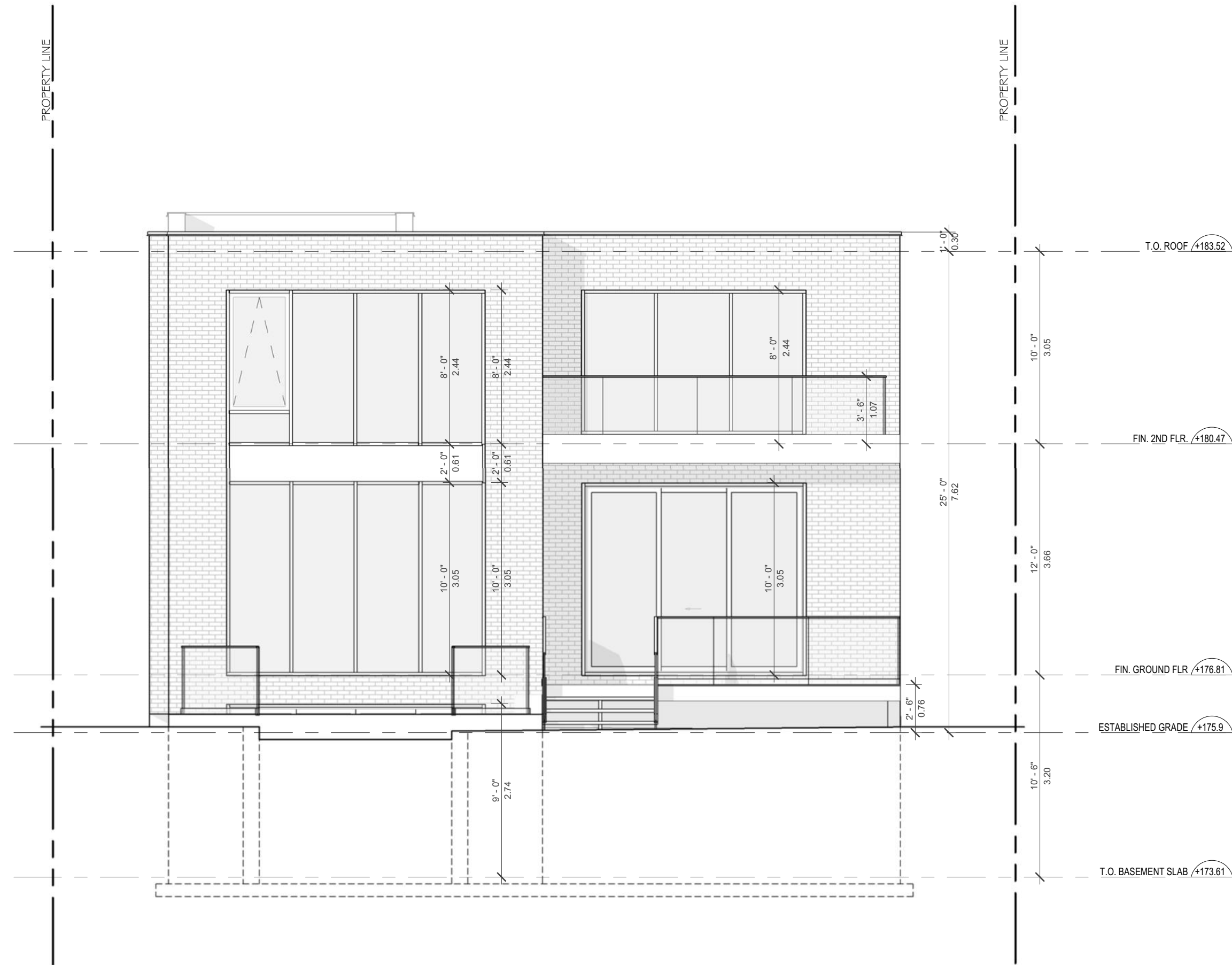
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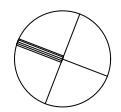
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Drawing:

SOUTH ELEVATION

Date: DEC 10, 2021
Scale: 3/16" = 1' - 0"
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Drawn by: SHB

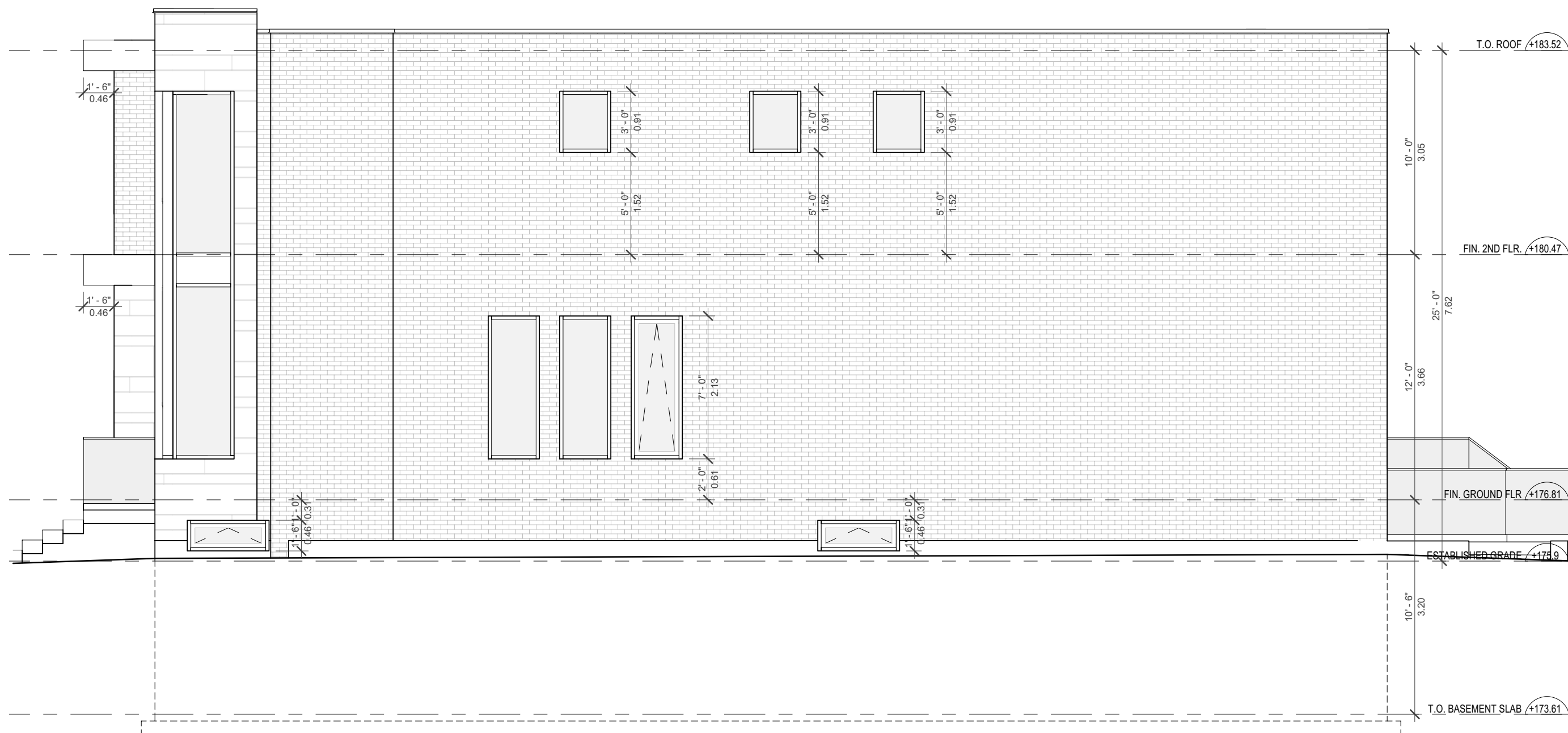
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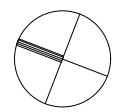
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Drawing:

WEST ELEVATION

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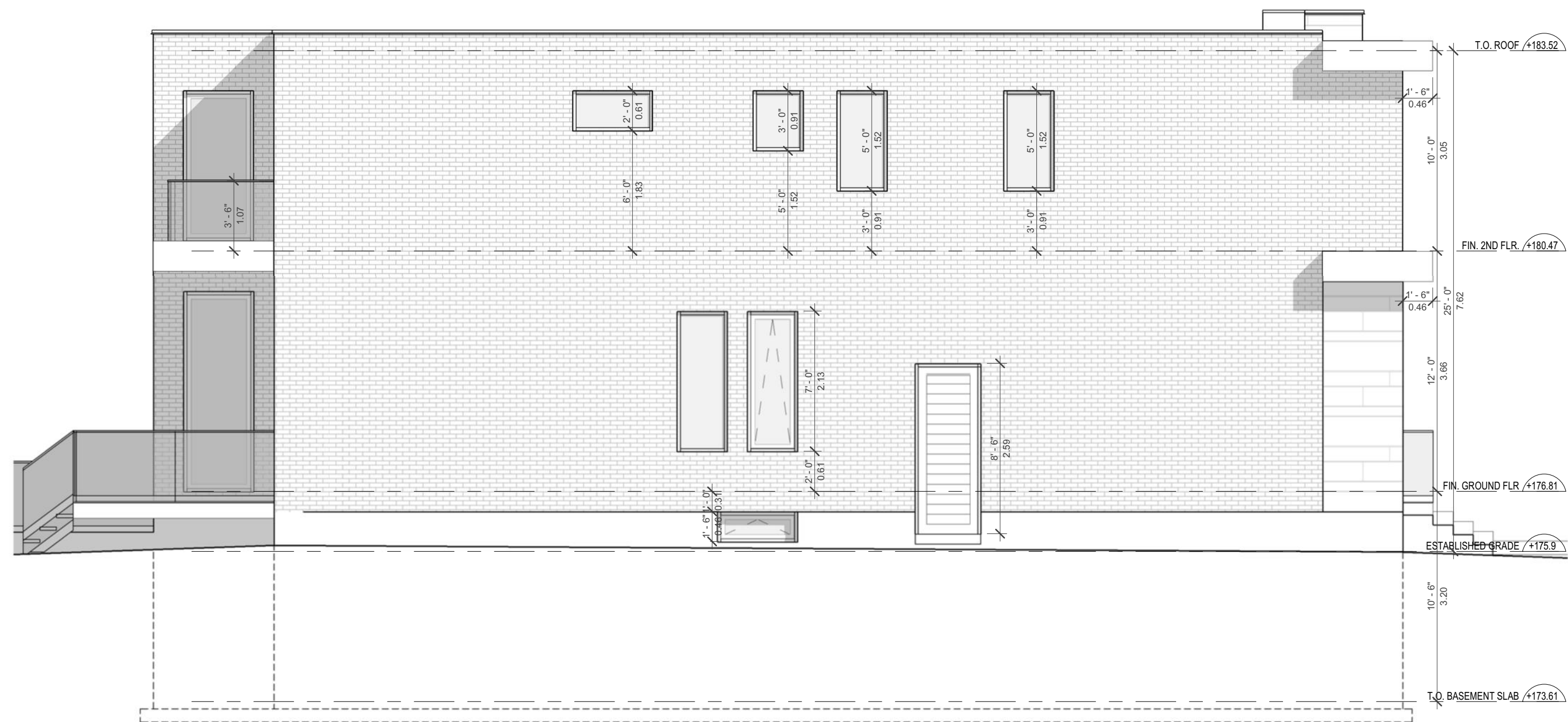
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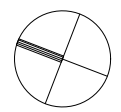
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Drawing:

EAST ELEVATION

Date: DEC 10, 2021
Scale: 3/16" = 1' - 0"
Project: 2119
Drawn by: SHB

Sheet No:

A3.04

FRED VARLEY DRIVE
 PIN 02986 - 0187
 (BY REGISTERED PLAN 7566)

SURVEYOR'S REAL PROPERTY REPORT - **Appendix B**
 PLAN OF SURVEY OF
 LOT 351
 REGISTERED PLAN 7566
 CITY OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK
 File: 22.263122.000.00.MNV
 Date: 01/17/23
 M.M.D.P.P.Y.

SCALE 1:200
 0 5 10 20 Metres
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 PEARSON & PEARSON SURVEYING LTD. 2021
 Ontario Land Surveyors

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

Part 2
 DESCRIPTION OF LAND: LOT 351, REGISTERED PLAN 7566, CITY OF MARKHAM, REGIONAL MUNICIPALITY OF YORK.

REGISTERED EASEMENTS AND/OR RIGHTS OF WAY: SUBJECT TO EASEMENT IN FAVOUR OF THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO AS IN INSTRUMENT No. MA56069 AND SUBJECT TO EASEMENT IN FAVOUR OF THE BELL TELEPHONE COMPANY OF CANADA AS IN INSTRUMENT No. MA56054.

BOUNDARY FEATURES: ALL FENCES, SHEDS, HEDGE ARE SHOWN IN RELATION TO THE BOUNDARY.

COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS: THIS PLAN DOES NOT CERTIFY ZONING COMPLIANCE OR IDENTIFY WHAT ZONING RESTRICTIONS ARE INVOLVED.

THIS REPORT WAS PREPARED FOR NICK DANG AND THE UNDERSIGNED ACCEPTS NO AND RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

ADDITIONAL REMARKS: PART OF THE FRAME SHED IS LOCATED WITHIN THE EASEMENT.

Legend

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT SET
SIB	DENOTES	STANDARD IRON BAR
IB	DENOTES	IRON BAR
OU	DENOTES	ORIGIN UNKNOWN
S	DENOTES	SET
M	DENOTES	MEASURED
N/S/E/W	DENOTES	NORTH/SOUTH/EAST/WEST
RP	DENOTES	REGISTERED PLAN 7566
P	DENOTES	PLAN OF SURVEY BY HOLDING AND BABBS O.L.S., DATED MAY 15, 1966.
P1	DENOTES	SURVEYOR'S REAL PROPERTY REPORT BY GREATER TORONTO ACRES SURVEYING INC., O.L.S., DATED APRIL 16, 2015.
1902	DENOTES	GREATER TORONTO ACRES SURVEYING INC., O.L.S.
TC	DENOTES	TOP OF CURB
BC	DENOTES	BOTTOM OF CURB
WE	DENOTES	WATER'S EDGE
DBF	DENOTES	DOUBLE BOARD FENCE
CLF	DENOTES	CHAIN LINK FENCE
UP	DENOTES	UTILITY POLE
CBLK	DENOTES	TIES TO CONCRETE BLOCK FOUNDATION
ST	DENOTES	TIES TO STONE
BR	DENOTES	TIES TO BRICK
OHW	DENOTES	OVERHEAD WIRES
LP	DENOTES	LAMP POST
MH	DENOTES	MANHOLE
Ø	DENOTES	DIAMETER (ROUND)
GS	DENOTES	GARAGE SILL ELEVATION
DS	DENOTES	DOOR SILL ELEVATION
☉	DENOTES	DECIDUOUS TREE WITH TRUNK DIAMETER
☎	DENOTES	CONIFEROUS TREE WITH TRUNK DIAMETER

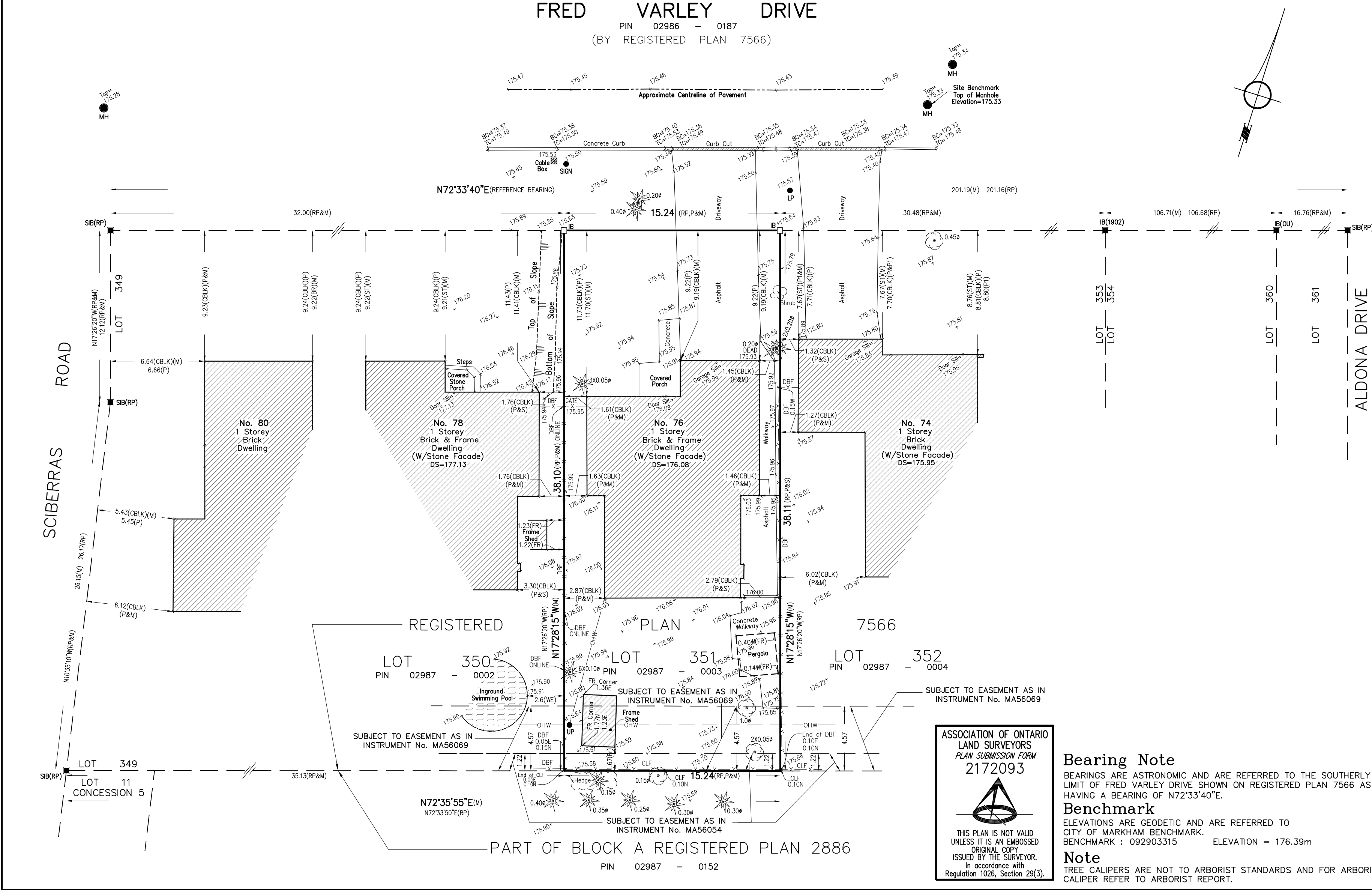
Surveyor's Certificate
 I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 16TH DAY OF AUGUST, 2021.


August 16, 2021
 Date

 Michele Pearson
 Ontario Land Surveyor

10933 JANE STREET, SECOND FLOOR, MAPLE ONTARIO, L6A 1S1
 O. : (289) 553-5453
 E. : michelepearson@pearsonandpearson.ca

 DRAWING : 2219-FredVarleyDrive76-SRPR.DWG PROJECT : 2219
 CALC. BY SH DRAWN BY SH/JM CHECKED BY MP/JM



ASSOCIATION OF ONTARIO LAND SURVEYORS
 PLAN SUBMISSION FORM
 2172093

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

Bearing Note
 BEARINGS ARE ASTROMOMIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF FRED VARLEY DRIVE SHOWN ON REGISTERED PLAN 7566 AS HAVING A BEARING OF N72°33'40"E.

Benchmark
 ELEVATIONS ARE GEODETIC AND ARE REFERRED TO CITY OF MARKHAM BENCHMARK.
 BENCHMARK : 092903315 ELEVATION = 176.39m

Note
 TREE CALIPERS ARE NOT TO ARBORIST STANDARDS AND FOR ARBORIST CALIPER REFER TO ARBORIST REPORT.

LOT 11 CONCESSION 5

REGISTERED PLAN 7566

REGISTERED PLAN 2886

APPENDIX “C”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/219/22

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” – 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