

Memorandum to the City of Markham Committee of Adjustment

May 30, 2022

File: A/038/22
Address: 3 Towne Court – Markham, ON
Applicant: Robert Devane and Panagiota Devane
Agent: Jun An
Hearing Date: June 8, 2022

The following comments are provided on behalf of the Central District team. The applicant is requesting relief from the following “Fourth Density Single Family Residential – (R4)” zone requirements under By-law 11-72, as amended, as they relate to a proposed two-storey detached dwelling. The variances requested are to permit:

- a) **Section 6.1:**
a minimum front yard setback of 4.57 m (15.0 ft), whereas the By-law requires a minimum front yard setback of 8.23 m (27.0 ft);
- b) **Section 6.1:**
a minimum side yard setback of 1.52 m (5.0 ft), whereas the By-law requires a minimum side yard setback of 1.83 m (6.0 ft);
- c) **Section 6.1:**
a minimum rear yard setback of 5.84 m (19.16 ft), whereas the By-law requires a minimum rear yard setback of 7.62 m (25.0 ft); and
- d) **Section 6.1:**
a maximum lot coverage of 35.0%, whereas the By-law permits a maximum lot coverage of 33.33%.

PROPERTY DESCRIPTION

The 624.77 m² (6,725.0 ft²) subject property is an irregularly shaped lot located on the east side of Towne Court, north of Krieghoff Avenue, and south of Pomander Road. The irregular shape of the property is in part due to its location along a cul-de-sac, which results in the property having a curved front lot line, in addition to the angled south and rear lot lines. There is an existing two-storey detached dwelling, which was constructed in circa 1971 according to the City’s assessment records. Mature vegetation exists throughout the subject property.

The property is located within an established residential neighbourhood comprised of a mix of low rise dwellings. Infill development within this area has typically resulted in the replacement of existing dwellings with larger two-storey dwellings. In response to concerns with these occurrences, local area 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 these concerns with community consultation, and ultimately recommended that no action be taken on an Infill By-law. Development Services Committee endorsed this position on June 19, 2012, and the existing By-law standards apply.

PROPOSAL

The applicant is proposing to demolish the existing two-storey dwelling, and construct a new two-storey detached dwelling with a three car garage. If approved, the dwelling would have a gross floor area of 362.42 m² (3,901.0 ft²).

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. Infill development is required to meet the general intent of the Official Plan with respect to height, massing, and setbacks to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties, and properties along the street, while accommodating a diversity of building styles.

Zoning By-Law 11-72

The subject property is zoned “Fourth Density Single Family Residential – (R4)” under By-law 11-72, 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 minimum front yard setback, minimum side yard setback, minimum rear yard setback, and maximum lot coverage.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The applicant has completed a ZPR on February 18, 2022 to confirm the initial variances required for the proposed development. Following completion of the ZPR process, the applicant submitted new drawings in support of this minor variance application on March 2, 2022. The applicant has not conducted a new ZPR for these drawings. Staff advise that it is the owner’s responsibility to ensure that the application has accurately identified all variances to the Zoning By-law required for the proposed development. If the variances requested in this application contains errors, or if the need for additional variances is identified at the Building Permit review stage, further variance application(s) may be required to address any non-compliance.

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.

Reduction in Minimum Front Yard Setback

The applicant is requesting a minimum front yard setback of 4.57 m (15.0 ft), whereas the By-law requires a minimum front yard setback of 8.23 m (27.0 ft). This is a reduction of 3.66 m (12.0 ft).

The variance is in part attributable to the one-storey portion of the building located on the northern half of the property. This section of the building would provide for a third enclosed parking space, along with a balcony at the second floor level (see “Flat Roof Deck” area in Drawing A1.3 attached as Appendix “B”). The two-storey portion of the building partially

located above the attached garage is setback a distance of 5.76 m (18.90 ft) from the front lot line.

The requested variance does not apply to the entire width of the dwelling, and integrates massing elements such as a second storey stepback, which provides for architectural interest along the streetscape. Staff are of the opinion that the requested variance would result in a front yard setback that is sympathetic to the front yard setback pattern along the street, and have no objections.

Reduction in Minimum Side Yard Setback (Two-Storey Portion)

The applicant is requesting a minimum side yard setback of 1.52 m (5.0 ft), whereas the By-law requires a minimum side yard setback of 1.83 m (6.0 ft) for two-storeys. This is a reduction of 0.31 m (1.0 ft).

The requested variance applies to a small two-storey portion of the building at the southwest corner, which is partly due to a pinch point caused by the angled side lot line. Staff are of the opinion that the requested variance is minor in nature, and therefore have no objections.

Reduction in Rear Yard Setback

The applicant is requesting a minimum rear yard setback of 5.84 m (19.16 ft), whereas the By-law requires a minimum rear yard setback of 7.62 m (25.0 ft).

The requested variance applies to the northeast corner of the building, which extends 1.78 m (5.84 ft) into the rear yard along the north wall; this is partly due to a pinch point caused by the angled rear lot line. The majority of the rear building wall complies with the setback requirement of 7.62 m (25.0 ft), and staff are of the opinion that the variance is minor in nature and maintains the general intent of the By-law.

Increase in Maximum Lot Coverage

The applicant is requesting a maximum lot coverage of 35.0%, whereas the By-law permits a maximum lot coverage of 33.33%.

The proposed lot coverage includes the one-storey front covered porch, and the balcony area located above the garage at the second floor level. Cumulatively, these features add approximately 13.03 m² (140.27 ft²) to the overall building area. Excluding these features, the building with the proposed development would have a lot coverage of 32.92%, which would comply with the By-law requirement. The front covered porch is unenclosed, and the garage extension is one-storey in height. Staff are of the opinion that these features provide for massing elements that will not significantly add to the scale and mass of the dwelling, and consider the requested variance to be appropriate for the site, and generally consistent with the By-law requirements.

Tree Protection and Compensation

Staff recommend that the tree related conditions be adopted by the Committee to ensure that the applicant installs the appropriate tree protection barriers and provides compensation to the City, if necessary. Staff also note that property owners are required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees that have a diameter at breast height (DBH) of 20.0 cm (7.87 in) or more on the subject property or neighbouring properties. Further mitigation through these processes may also be required to ensure the protection of certain trees is achieved.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 30, 2022. Additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

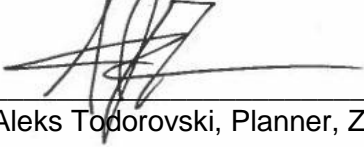
Planning staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, and are of the opinion that the requested variances meet the four tests. Staff recommend that the Committee consider the subsequent conditions of approval and public input in reaching a decision. The onus 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/038/22

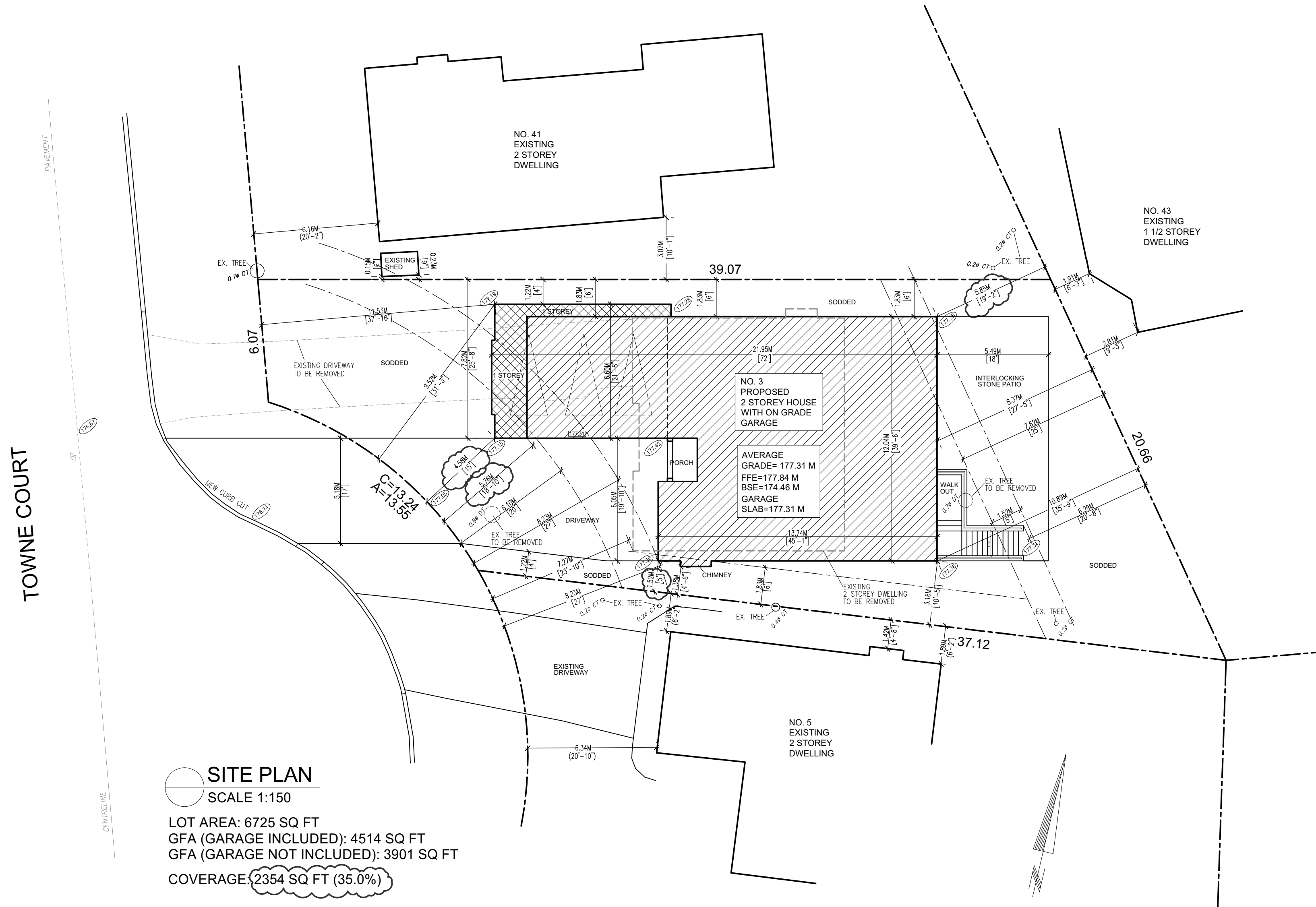
1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the 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.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/038/22



SITE PLAN
SCALE 1:150

LOT AREA: 6725 SQ FT
GFA (GARAGE INCLUDED): 4514 SQ FT
GFA (GARAGE NOT INCLUDED): 3901 SQ FT
COVERAGE: 2354 SQ FT (35.0%)

ZONING: R4 UNDER BY-LAW 11-72 AS AMENDED
ZONING SUMMARY:

	PERMITTED	PROPOSED
USE OF BUILDING	SFD	SFD
MIN. LOT FRONTAGE	50 FEET	47 FEET (EXISTING)
MIN. LOT AREA	6250 SQ.FT.	6725 SQ.FT.
MIN. FRONT YARD SETBACK	27 FEET	15'-0"
MIN. FRONT YARD SETBACK (GARAGE ONLY)	20 FEET	15'-0"
MIN. SIDE YARD SETBACK (NORTH) (2 STOREY OR GREATER)	6 FEET	6'-0"
MIN. SIDE YARD SETBACK (NORTH) (LESS THAN 2 STOREY)	4 FEET	4'-0"
MIN. SIDE YARD SETBACK (SOUTH) (2 STOREY OR GREATER)	6 FEET	5'-0"
MIN. REAR YARD SETBACK	25 FEET	19'-2"
MAX. BUILDING HEIGHT (AVG. GRADE TO MIDPOINT)	25 FEET	25'-0"
MAX. LOT COVERAGE	33 1/3%	35.00%
MIN. GROSS FLOOR AREA (2 STOREY) (GARAGE NOT INCLUDED)	1500 SQ.FT.	3901 SQ.FT.

STATISTICS:

GROSS FLOOR AREA	
GROSS BASEMENT FLOOR AREA	1750 SQ.FT.
GROSS GROUND FLOOR AREA (LIVING)	1711 SQ.FT.
GARAGE AREA	613 SQ.FT.
GROSS SECOND FLOOR AREA	2190 SQ.FT.
TOTAL GROSS FLOOR AREA (BASEMENT AND GARAGE NOT INCLUDED)	3901 SQ.FT.

LOT AREA	6725 SQ.FT.
LOT COVERAGE	2354 SQ.FT. (35.00%)
AVERAGE GRADE	177.31 M

LANDSCAPING	
FRONT YARD AREA	1505 SQ.FT.
SOFT LANDSCAPING AREA	1005 SQ.FT. (66.8%)

TOWNE COURT

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THIS UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN, AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE O.B.C. TO BE A DESIGNER.

JUN AN
BCIN: 103596
ANJIA HOME DESIGN INC.
BCIN: 113604

Jun An
SIGNATURE

project: **PROPOSED NEW 2 STOREY DWELLING AT 3 TOWNE COURT, MARKHAM, ONTARIO**

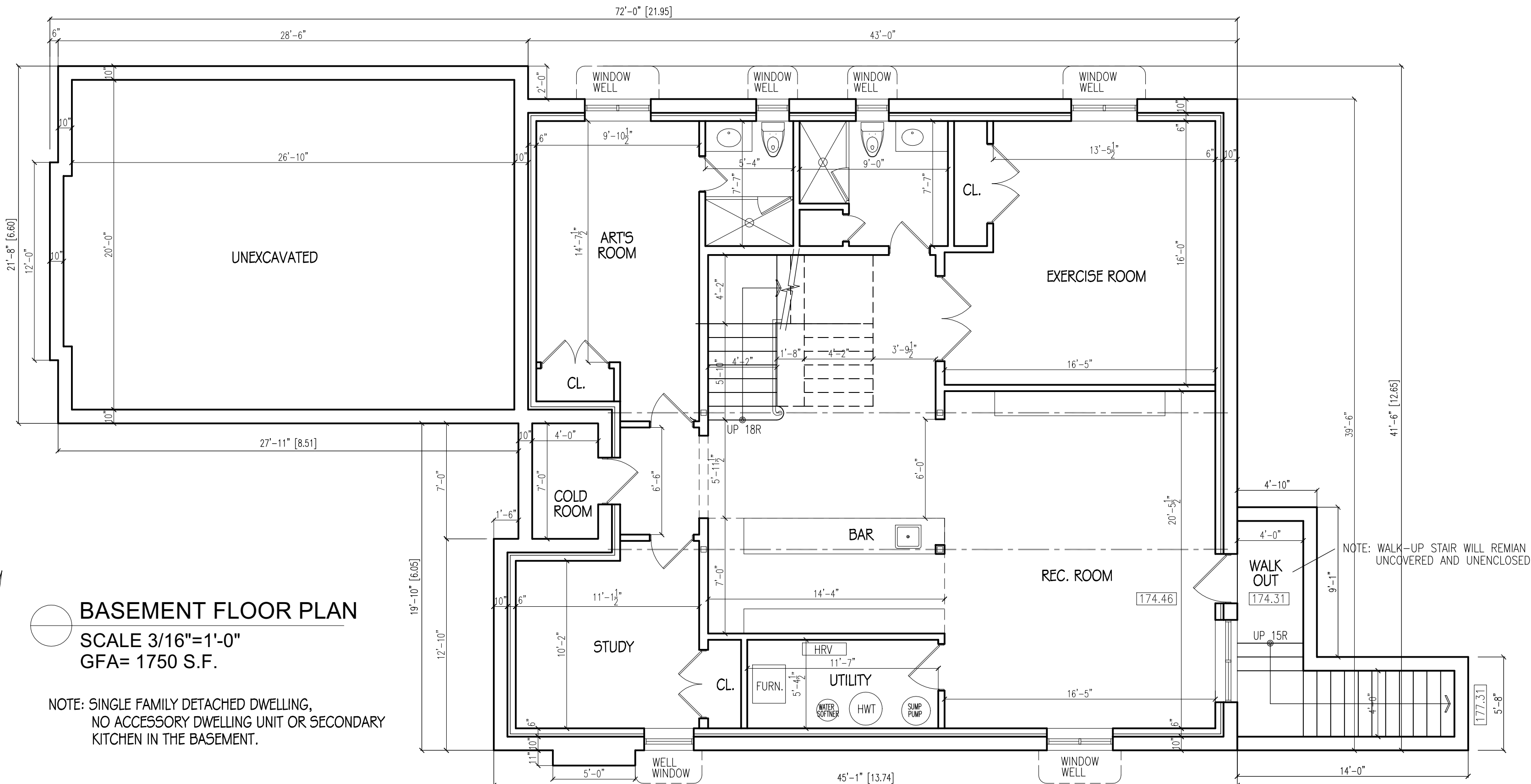
drawing: **SITE PLAN**

scale: **1:150**

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A0.1

NO.	ISSUED FOR	DATE
2	ISSUED FOR COA	FEB 28, 2022
1	ISSUED FOR ZPR	FEB 13, 2022
	ISSUED FOR	DATE



BASEMENT FLOOR PLAN
 SCALE 3/16"=1'-0"
 GFA= 1750 S.F.

NOTE: SINGLE FAMILY DETACHED DWELLING,
 NO ACCESSORY DWELLING UNIT OR SECONDARY
 KITCHEN IN THE BASEMENT.

NOTE: WALK-UP STAIR WILL REMIAN
 UNCOVERED AND UNENCLOSED

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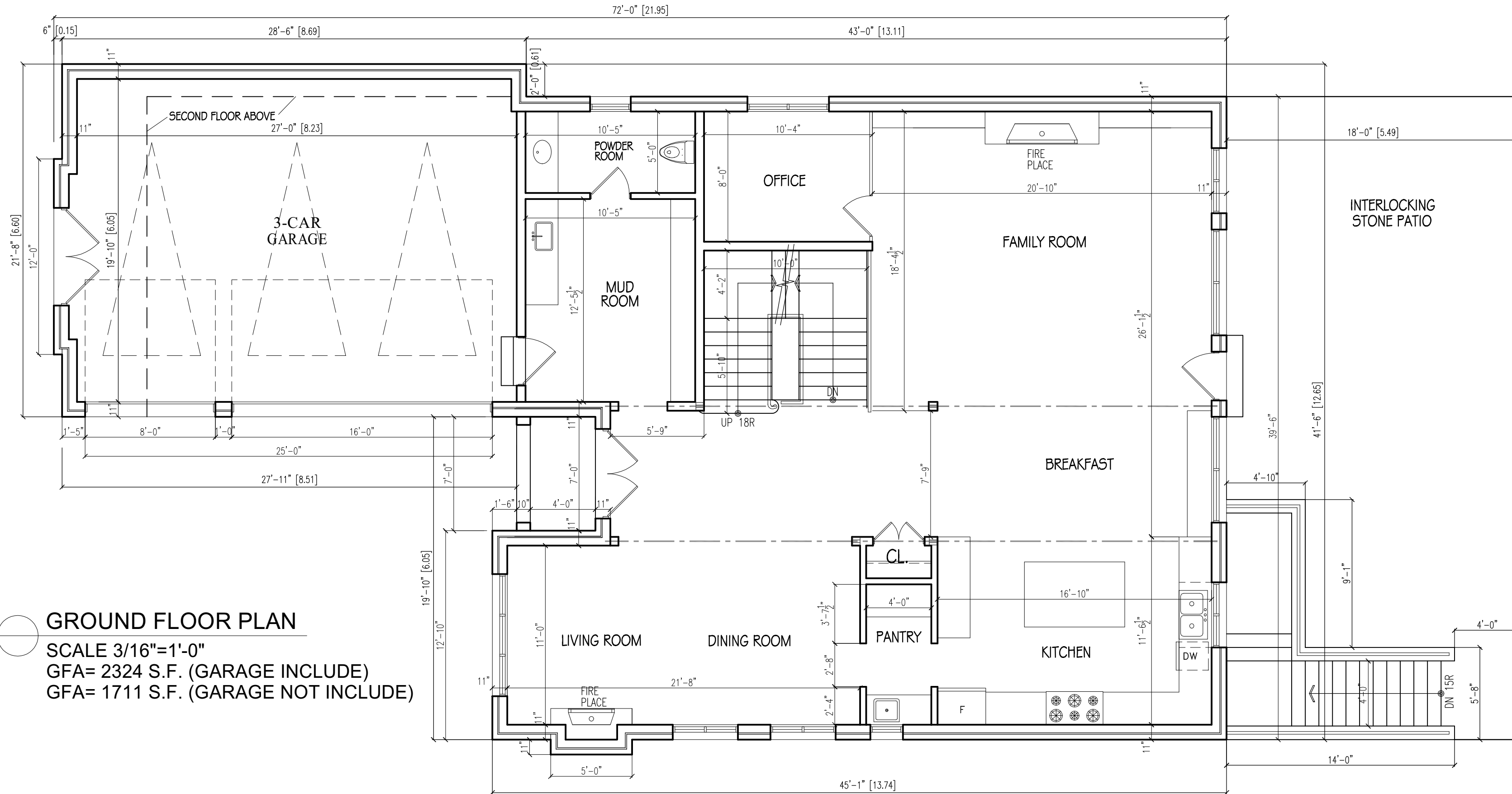
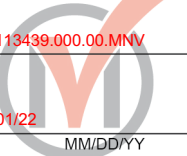
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 drawing: **BASEMENT FLOOR PLAN**

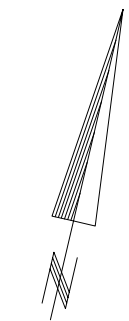
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page: **A1.1**



GROUND FLOOR PLAN

SCALE 3/16"=1'-0"
 GFA= 2324 S.F. (GARAGE INCLUDE)
 GFA= 1711 S.F. (GARAGE NOT INCLUDE)



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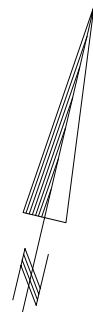
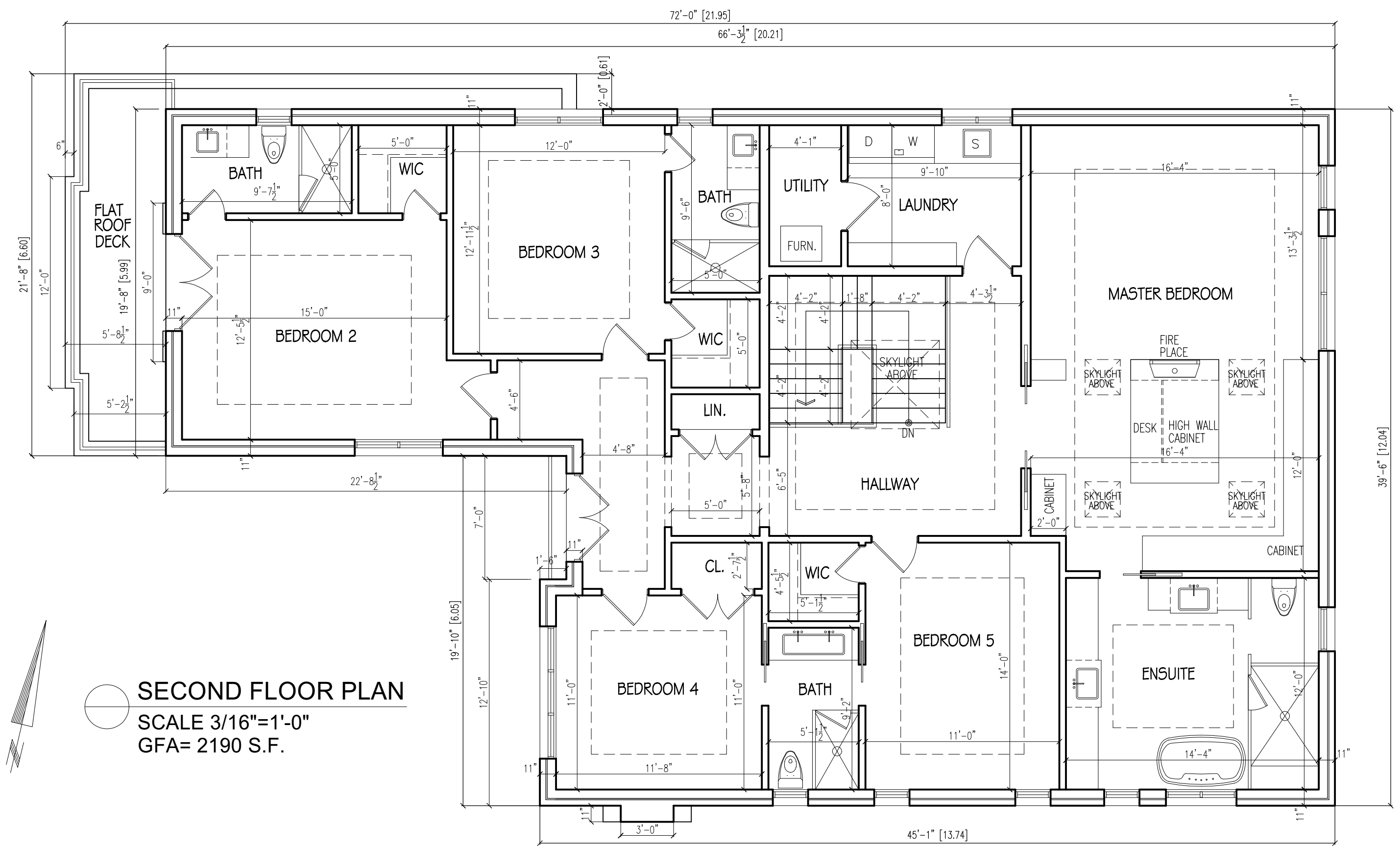
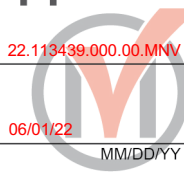
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project: **PROPOSED NEW 2 STOREY DWELLING AT 3 TOWNE COURT, MARKHAM, ONTARIO**

drawing: **GROUND FLOOR PLAN**

scale: **3/16"=1'-0"**

page: **A1.2**



SECOND FLOOR PLAN
 SCALE 3/16"=1'-0"
 GFA= 2190 S.F.

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drawing: **SECOND FLOOR PLAN**

scale: **3/16"=1'-0"**

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○ FRONT (WEST) ELEVATION
SCALE 3/16"=1'-0"

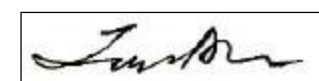
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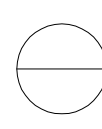
drawing: **FRONT (WEST) ELEVATION**

scale: **3/16"=1'-0"**

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A2.1



 SOUTH SIDE ELEVATION
SCALE 3/16"=1'-0"

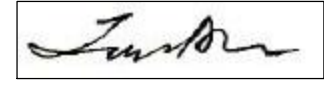
SPATIAL SEPARATION CALCULATIONS
 TOTAL AREA OF EXPOSING BUILDING FACE = 141.58 S.M. (1524 S.F.)
 LIMITING DISTANCE = 1.50M
 PERMITTED GLAZED OPENINGS = 7% = 8.49 S.M. (106.68 S.F.)
 ACTUAL GLAZED OPENINGS = 5.64% (86.00 S.F.)

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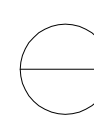
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drawing: **SOUTH SIDE ELEVATION**

scale: **3/16"=1'-0"**

page: **A2.2**



 NORTH SIDE ELEVATION
SCALE 3/16"=1'-0"

SPATIAL SEPARATION CALCULATIONS
 TOTAL AREA OF EXPOSING BUILDING FACE = 141.58 S.M. (1524 S.F.)
 LIMITING DISTANCE = 1.22M
 PERMITTED GLAZED OPENINGS = 7% = 8.49 S.M. (106.68 S.F.)
 ACTUAL GLAZED OPENINGS = 6.82% (104.00 S.F.)


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 5. USE ONLY LATEST REVISED DRAWINGS.
 6. THE DESIGN AND CONTRACT DOCUMENTS ARE THE COPYRIGHT PROPERTY OF THE DESIGNER AND MAY NOT BE REPRODUCED, ALTERED, OR REUSED WITHOUT THE DESIGNER'S WRITTEN AUTHORITY.

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 SIGNATURE

NO.	ISSUED FOR	DATE
2	ISSUED FOR COA	FEB 28, 2022
1	ISSUED FOR ZPR	FEB 13, 2022
	ISSUED FOR	DATE

project: **PROPOSED NEW 2 STOREY DWELLING AT 3 TOWNE COURT, MARKHAM, ONTARIO**

drawing: **NORTH SIDE ELEVATION**

scale: **3/16"=1'-0"**

page: **A2.3**



REAR (EAST) ELEVATION
SCALE 3/16"=1'-0"

1. ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.
2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
3. DO NOT SCALE DRAWING.
4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO THE DESIGNER BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
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project: **PROPOSED NEW 2 STOREY DWELLING AT 3 TOWNE COURT, MARKHAM, ONTARIO**

drawing: **REAR (EAST) ELEVATION**

scale: **3/16"=1'-0"**

page: **A2.4**