

# Memorandum to the City of Markham Committee of Adjustment

February 14, 2019

**File:** A/10/19  
**Address:** 96 Briarwood Rd, Markham  
**Applicant:** Cunrui Li  
**Agent:** AND Architecture Inc. (Sam Wu)  
**Hearing Date:** Wednesday February 20, 2019

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

The applicant is requesting relief from the following requirements of By-law 11-72, R3, as amended:

**a) Section 6, Schedule B:**

a minimum side yard setback of 4' 3/8' and 4' 3-1/2', whereas the By-law permits a minimum side yard setback of 6 ft;

**b) Section 6, Schedule B:**

a maximum building height of 28' 4-3/4', whereas the By-law permits a maximum height of 25 ft;

as it relates to a proposed addition to a residential dwelling.

## BACKGROUND

### Property Description

The 696.6 m<sup>2</sup> (7,498.14 ft<sup>2</sup>) subject property is located on the south side of Briarwood Road, south of 16<sup>th</sup> Avenue and east of Warden Avenue, within the neighbourhood known as Varley Village. The neighbourhood is characterized by mature vegetation with a mix of one to two-storey single detached dwellings on lots which range in area and shape. There is an existing one-storey detached 214.8 m<sup>2</sup> (2,312.09 ft<sup>2</sup>) dwelling on the property, which according to assessment records was constructed in 1978. Mature vegetation exists across the rear of the property.

### Proposal

The applicant is proposing to construct a second-storey addition on the existing one-storey detached dwelling. The proposal includes a second-storey rear yard balcony and a new front covered porch.

### Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further 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 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and also generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard must also be had for retention of existing trees and vegetation, as well as the width of proposed garages and driveways. Planning staff have had regard for the infill development criteria in the preparation of the comments provided below.

### Zoning By-Law 11-72

The subject property is zoned R3 – ‘Third Density Single Family Residential’ in By-law 11-72, as amended, which permits a single detached dwelling. The proposed development does not comply with the by-law with respect to maximum building height and maximum side yard setback.

### 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 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 as 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.

### **Applicant’s Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with Zoning is, “1. By-law build height calculated from avg. grade as the grade at rear is 7’ lower than the front. 2. This is an addition on existing one-storey building side yard set back is existing.”

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

The applicant submitted an incomplete Zoning Preliminary Review which confirms some variances required for the proposed development, however information was not provided for a complete review. It is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

### **COMMENTS**

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

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

### **Reduced Side Yard Setback (two-storey portion)**

The applicant is requesting a minimum (east) side yard setback of 4.03 ft (1.23 m) and a minimum (west) side yard setback of 4.29 ft (1.31 m) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6 ft (1.83 m) for the two-storey portion of the dwelling.

The requested variance only applies to the new two-storey portion of the building, which the applicant proposes to construct in line with the main floor level, which complies with the minimum side yard setback requirement. Excluding the rear balcony and front covered porch, the proposed

addition maintains the existing building footprint. Engineering staff have reviewed the application and have no concern with the requested side yard setback variance respecting drainage.

**Increase in Maximum Building Height**

The applicant is requesting relief to permit a maximum building height of 8.66 m (28.41 ft), whereas the By-law permits a maximum building height of 7.62 m (25 ft). This represents an increase of approximately 1.04 m (3.41 ft). Height is measured as an average around the building, as such the variance is necessitated by the property's grading (walkout condition at rear), which affects the average grade. The requested variance is being sought as a result of the applicant's proposal to construct an addition over the existing dwelling.

The proposed addition will maintain the existing side yard setbacks and provides a front and rear yard setbacks of approximately 11.28 m (37 ft) and 12.8 m (42 ft) respectively. The proposed addition is over the existing building, does not span the full building footprint, and provides generous front and rear yard setbacks.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of February 14, 2019. 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. 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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

  
\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:

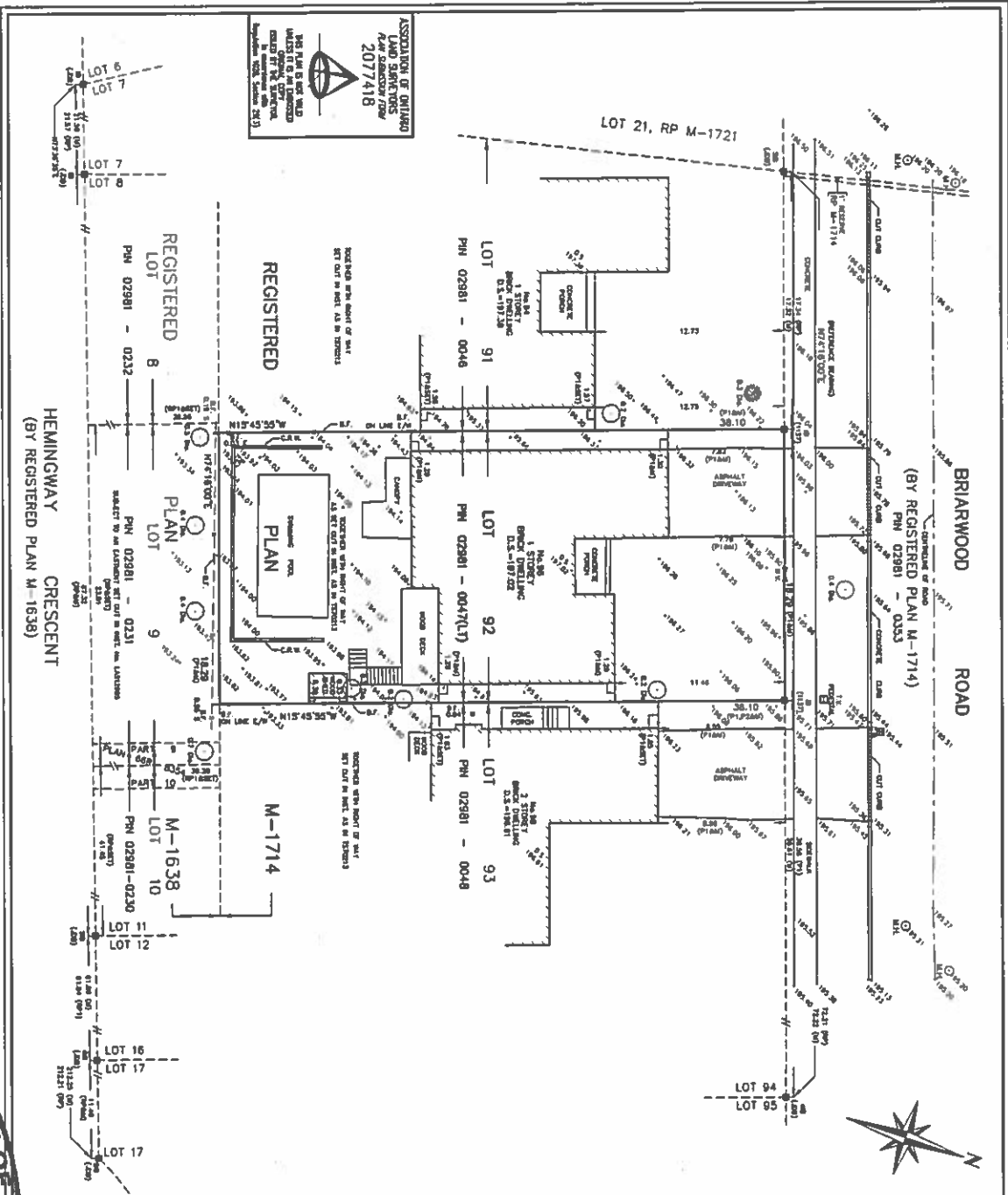
  
\_\_\_\_\_  
Richard Kendall, Development Manager, Central District  
File Path: Amanda\Files\19 110857 \Documents\District Team Comments Memo

**APPENDIX "A"**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/10/19**

1. That the front covered porch and rear deck remain unenclosed;
2. The variances apply only to the proposed development as long as it remains;
3. 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 *January 24, 2019*, 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.
4. 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 Director of Operations 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.
5. 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 Director of Operations.
6. 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 Director of Operations

CONDITIONS PREPARED BY:

  
\_\_\_\_\_  
Aqsa Malik, Planner, Zoning and Special Projects



ASSOCIATION OF ONTARIO  
LAND SURVEYORS  
2077418



CITY OF MARKHAM  
RECEIVED  
JAN 24 2019  
COMMITTEE OF ADJUSTMENT

**SURVEYOR'S REAL PROPERTY REPORT**  
PART 1 - PLAN OF  
REGISTERED PLAN M-1714  
LOT 92  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK

SCALE 1:200

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

**LEGEND**

- DENOTES MONUMENT SET
- DENOTES STAKE
- DENOTES TYPING ROD BURN
- DENOTES BOUND NAIL
- DENOTES REGISTERED PLAN M-1714
- DENOTES REGISTERED PLAN M-1638
- DENOTES PLAN OF SURVEY BY R.C. MADDOCK LTD., O.L.S. DATED FEBRUARY 12, 1984
- DENOTES PLAN OF SURVEY BY R.C. MADDOCK LTD., O.L.S. DATED FEBRUARY 12, 1984
- DENOTES PROPERTY EXHIBITOR NUMBER
- DENOTES REGISTERED PLAN M-1714
- DENOTES R.C. MADDOCK, O.L.S.
- DENOTES BOUND FENCE
- DENOTES FINISHED SILL ELEVATION AT ENTRY
- DENOTES CONCRETE
- DENOTES URILITY POLE
- DENOTES WATER VALVE
- DENOTES CATCH BASIN
- DENOTES CONTIGUOUS TREE
- DENOTES REDWOODS TREE

**BENCHMARK NOTE**

ALL LINES TO CONCRETE FOUNDATION, UNLESS NOTED OTHERWISE, BEARINGS SHOWN HEREON ARE ASTROMERIDIC AND ARE REFERRED TO THE B.M.-1174, HAVING A BEARING OF N17° 1' 0" E.

**PART 2 (SURVEY REPORT)**

1. REGISTERED EXHIBITORS AND/OR RIGHT OF WAYS, TOGETHER WITH RIGHT OF WAY AS SET OUT BY REF. AS IN TYPICAL
2. ADDITIONAL COMMENTS: NOTE THE LOCATION OF THE TYPICAL BOUND FENCE, EXHIBITOR AND RESTRICTED WAYS OF THE REGISTERED PROPERTY.
3. THIS PLAN DOES NOT CARRY COMPLIANCE WITH ZONING BY-LAWS.

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

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

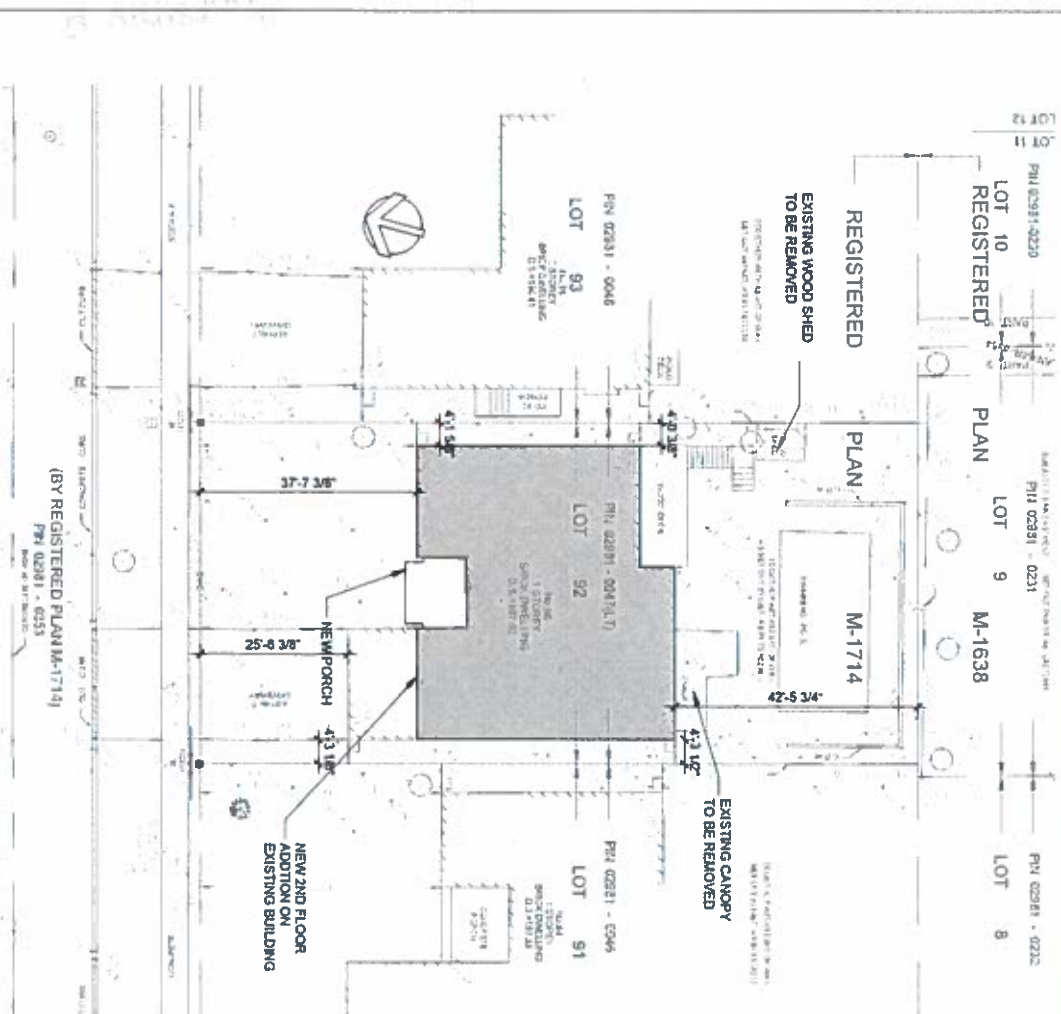
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYOR'S ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 20th DAY OF JANUARY, 2019

JANUARY 11, 2019

DATE

2. ZONE: *2.3*

MANDARIN SURVEYORS LIMITED  
ONTARIO LAND SURVEYOR  
1000 SHEPPARD AVENUE EAST, SUITE 100  
SCARBOROUGH, ONTARIO M1S 1T7  
PHONE: (416) 291-1368 FAX: (416) 291-4065  
E-MAIL: MANDARIN@MANDARINSURVEYORS.COM  
C/O 164-164-025887 C/O 164-164-025887



**SITE STATISTICS**  
**ZONING CATALOGORY: R3**  
**LOT AREA: 696.8 M<sup>2</sup> (7,498 FT<sup>2</sup>)**

DESCRIPTION	PERMITTED	PROPOSED	EXISTED
LOT COVERAGE	33.33% MAX.	28.1 1/2%	32.57%
BUILDING HEIGHT	25 FT MAX.	27 FT MIN.	37' 7 1/2"
FRONT YARD SETBACK	20 FT MIN.	0 FT MIN.	25.6 1/2"
FRONT YARD SETBACK (GARAGE)	20 FT MIN.	0 FT MIN.	4' 11 1/2" / 4' 3 1/2"
SIDE YARD SETBACK	25 FT MIN.	25 FT MIN.	42.5 3/8"

**GROSS FLOOR AREA (GFA)\***

FLOOR	PROPOSED
GROUND FLOOR	2,313 FT <sup>2</sup> (214.6m <sup>2</sup> )
SECOND FLOOR	1,871 FT <sup>2</sup> (173.6m <sup>2</sup> )
TOTAL	4,184 FT <sup>2</sup> (388.2m <sup>2</sup> )

\* GROSS AREA DOES NOT INCLUDE BASEMENT



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**Project:**  
 DETACHED HOUSE ADDITION  
 66 BRIARWOOD RD MARKHAM

**Drawing Name:**  
 SITE PLAN

**Date:**  
 07/15/19

**Drawn by:**  
 SW

**Project No:**  
 AND19002

**Drawing No:**  
 A1.1



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**Project :**  
 DETACHED HOUSE ADDITION  
 96 BRAMWOOD RD MARKHAM

**Drawing Name :**  
 BASEMENT FLOOR PLAN (EXISTING)

**Date :**  
 01/15/19

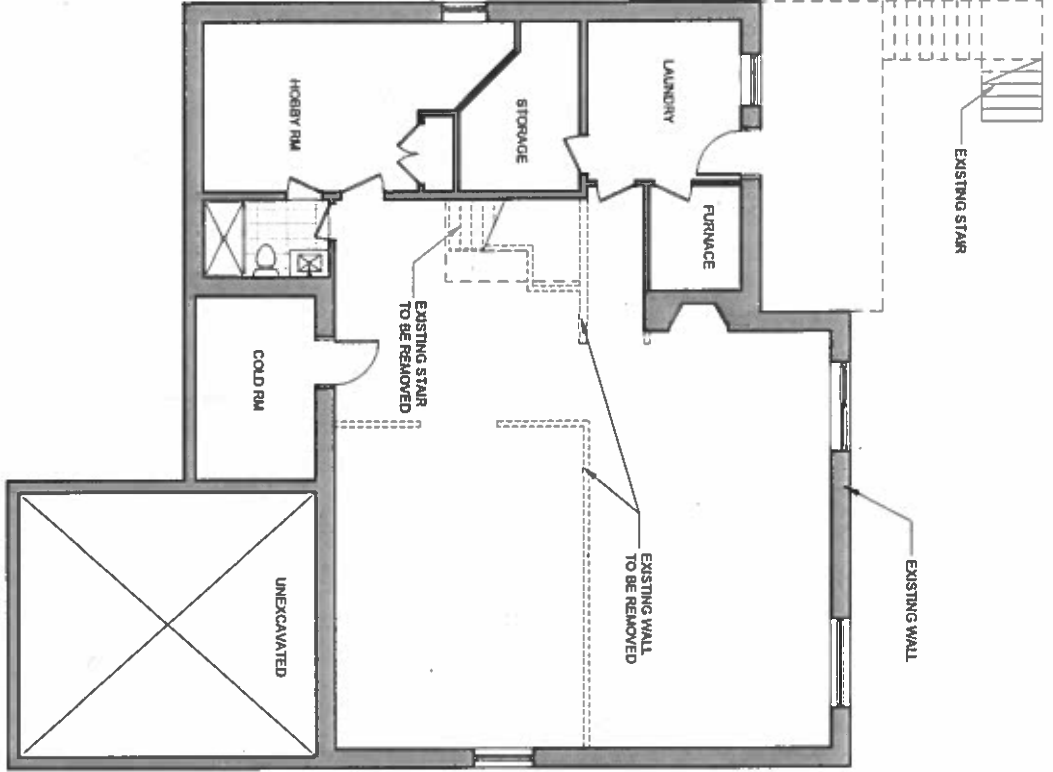
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**Drawn by :**  
 SW

**Checked by :**  
 HW

**Project No**  
 AND19002

**Drawing No :**  
 A2.1



**1 BASEMENT DEMOLISH PLAN**  
 1/8" = 1'-0"

AREA: 188.8 MF (2,933 FT<sup>2</sup>)



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**Project :**  
 DETACHED HOUSE ADDITION  
 46 BRURWOOD RD MARKHAM

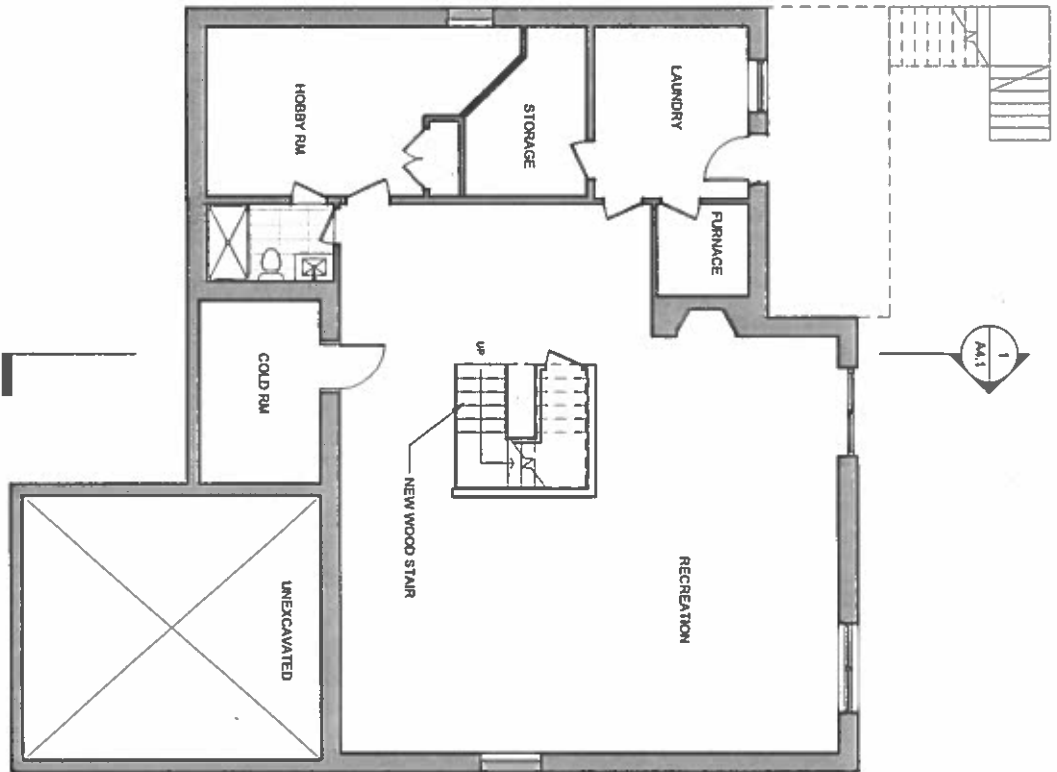
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 01/15/19  
**Scale :**  
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**Drawn by :**  
 SW  
**Checked by :**  
 HW

**Project No**  
 AND19002

**Drawing No :**  
 A2.2



**1 BASEMENT PLAN**  
 1/8" = 1'-0"  
 AREA: 184.8 SF (2,033 FT<sup>2</sup>)





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Project :  
 DETACHED HOUSE ADDITION  
 88 BRIARWOOD RD MARKHAM

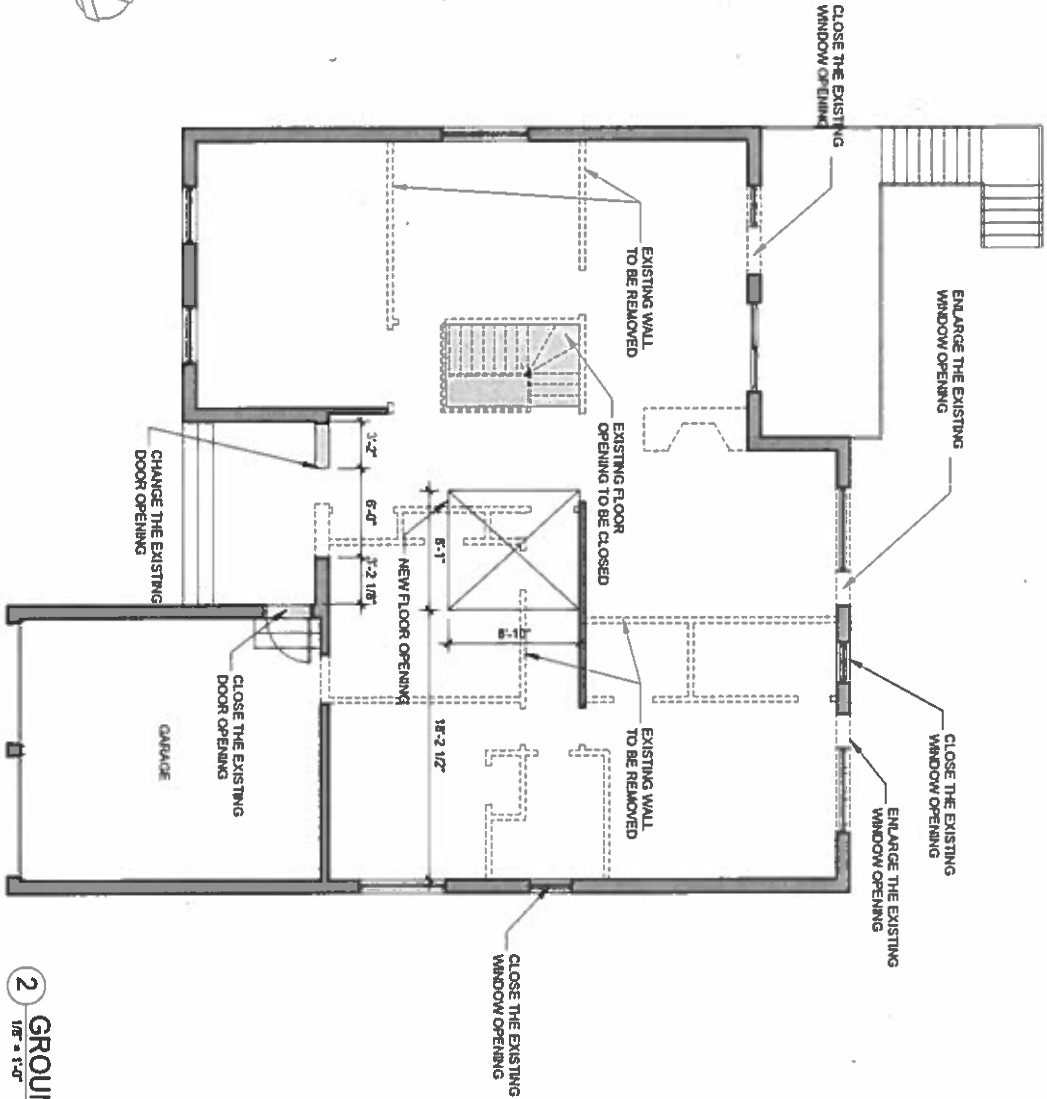
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 GROUND FLOOR PLAN (EXISTING)

Date :  
 01/15/18  
 Scale :  
 1/8" = 1'-0"

Drawn by :  
 SW  
 Checked by :  
 HW

Project No  
 AND19002

Drawing No :  
 A2.3

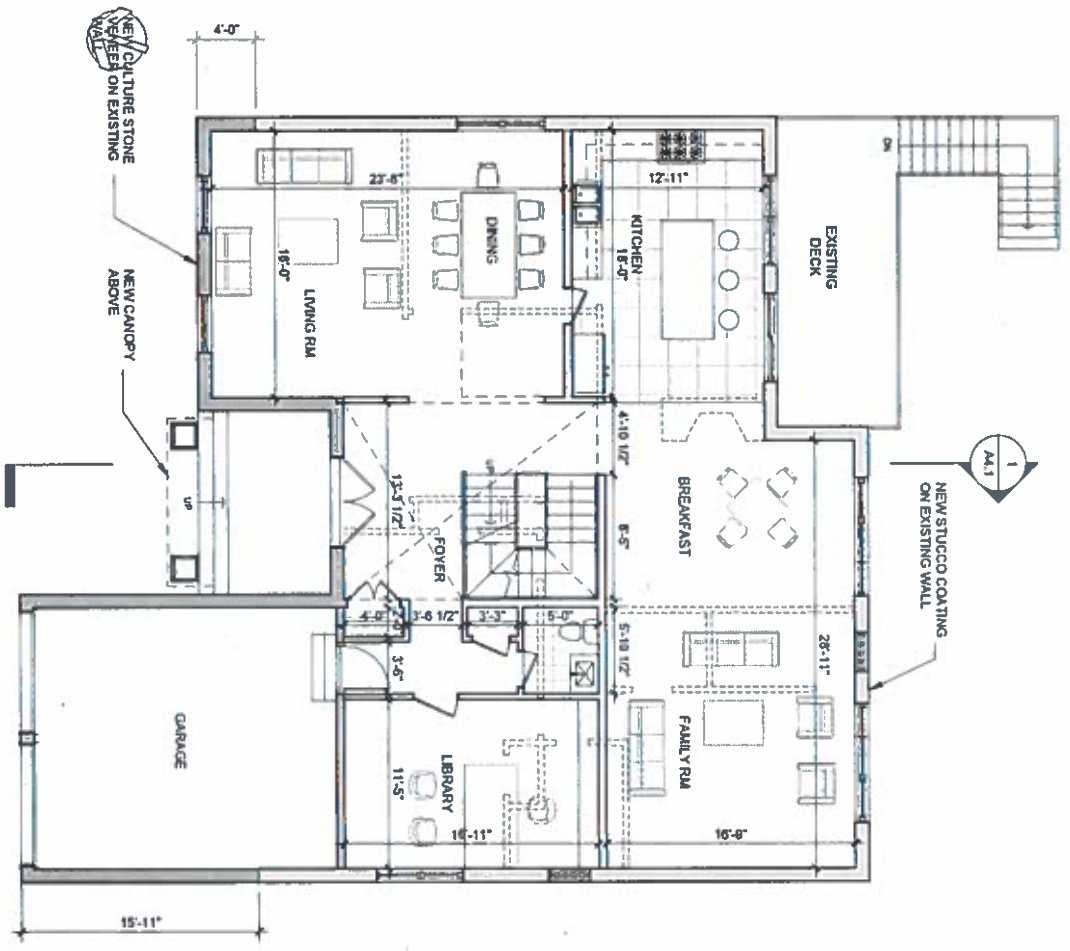


2 GROUND FLOOR DEMOLISH PLAN  
 1/8" = 1'-0"

**Project :**  
 DETACHED HOUSE ADDITION  
 96 BRANWOOD RD MARKHAM

**Drawing Name :**  
 GROUND FLOOR PLAN

<b>Date :</b> 01/15/19	<b>Drawn by :</b> SW	<b>Project No</b> AND19002	<b>Drawing No</b> A24
<b>Scale :</b> 1/8" = 1'-0"	<b>Checked by :</b> HW		



**1**  
 1/8" = 1'-0"  
 GROUND FLOOR PLAN  
 FLOOR AREA: 2,313 Ft<sup>2</sup> (214.8 M<sup>2</sup>)

**Project:**  
 DETACHED HOUSE ADDITION  
 95 BRIMWOOD RD MARKHAM

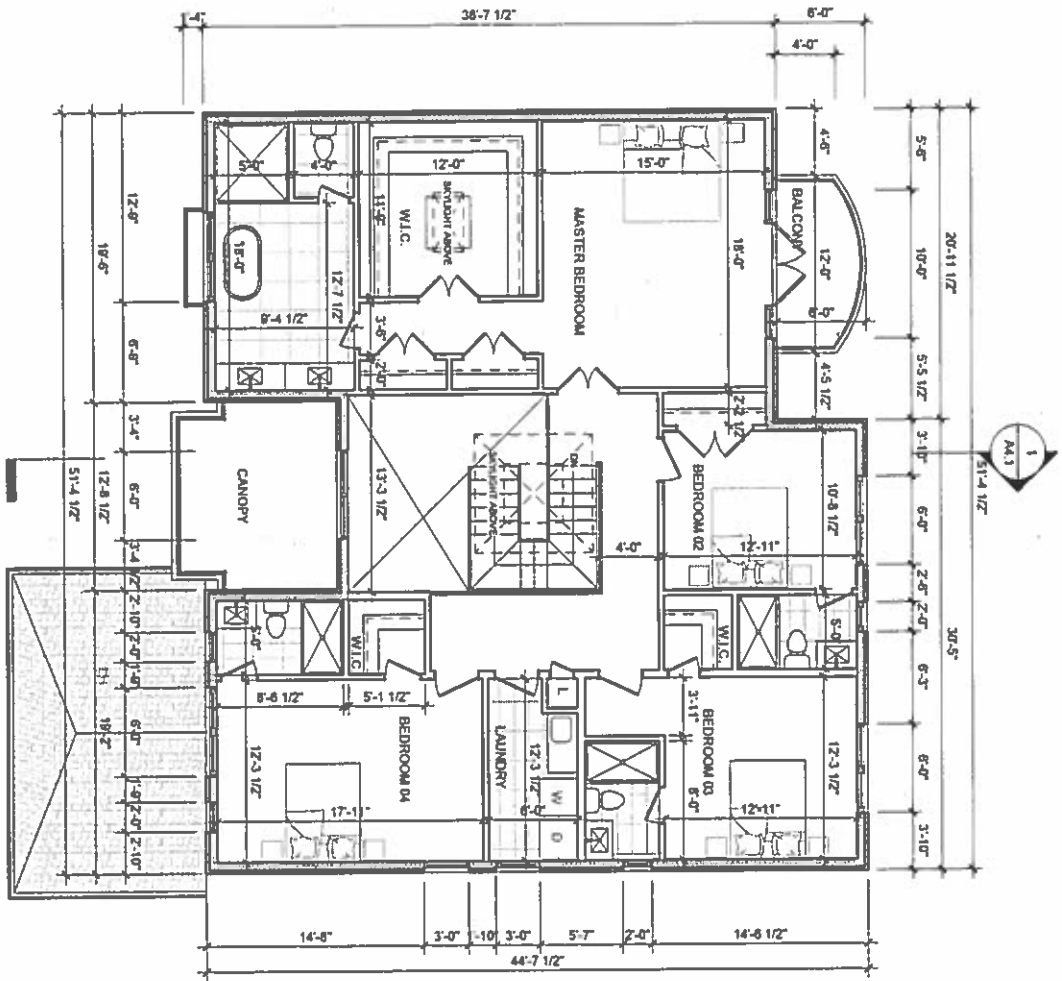
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 SECOND FLOOR PLAN

**Date:**  
 01/15/19  
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**Drawn by:**  
 SW  
**Checked by:**  
 HW

**Project No:**  
 AND19002

**Drawing No:**  
 A2.5



**1 SECOND FLOOR PLAN**  
 1/8" = 1'-0"  
 FLOOR AREA 1,871 SF (173.8 M<sup>2</sup>)

**Project :**  
 DETACHED HOUSE ADDITION  
 98 BRURWOOD RD MARKHAM

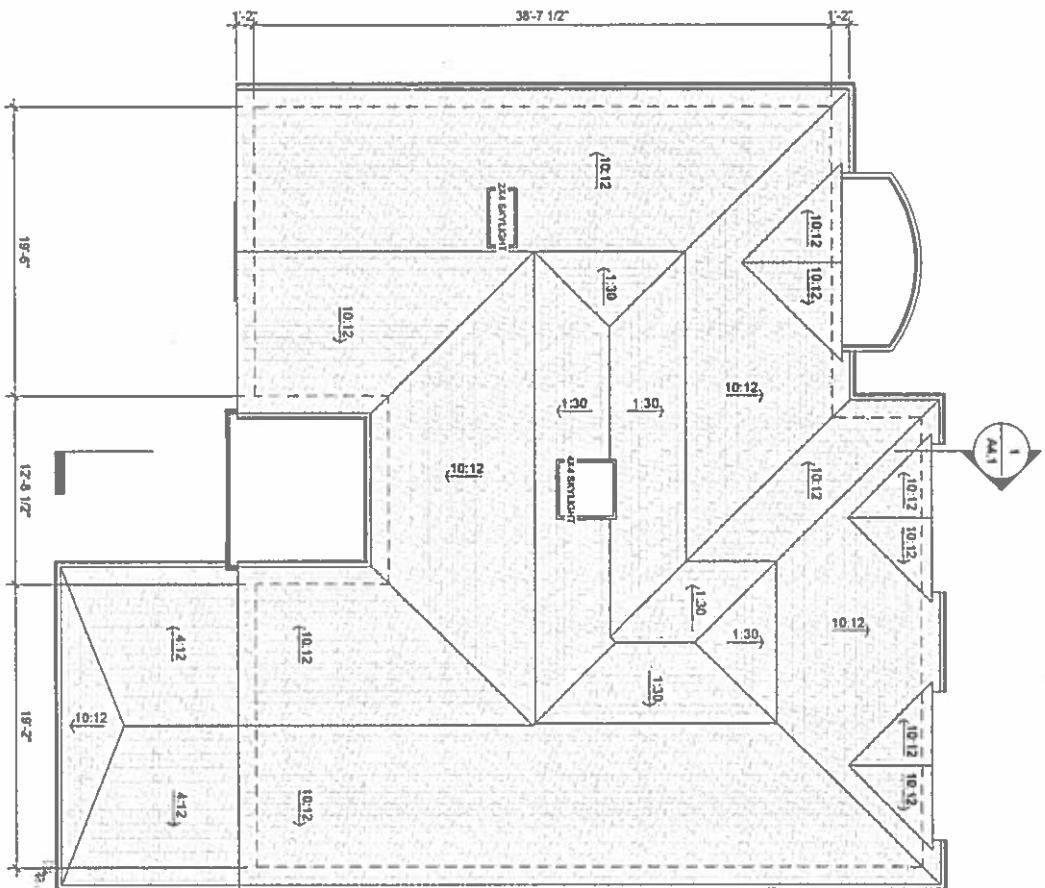
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 ROOF PLAN

**Date :**  
 01/15/19

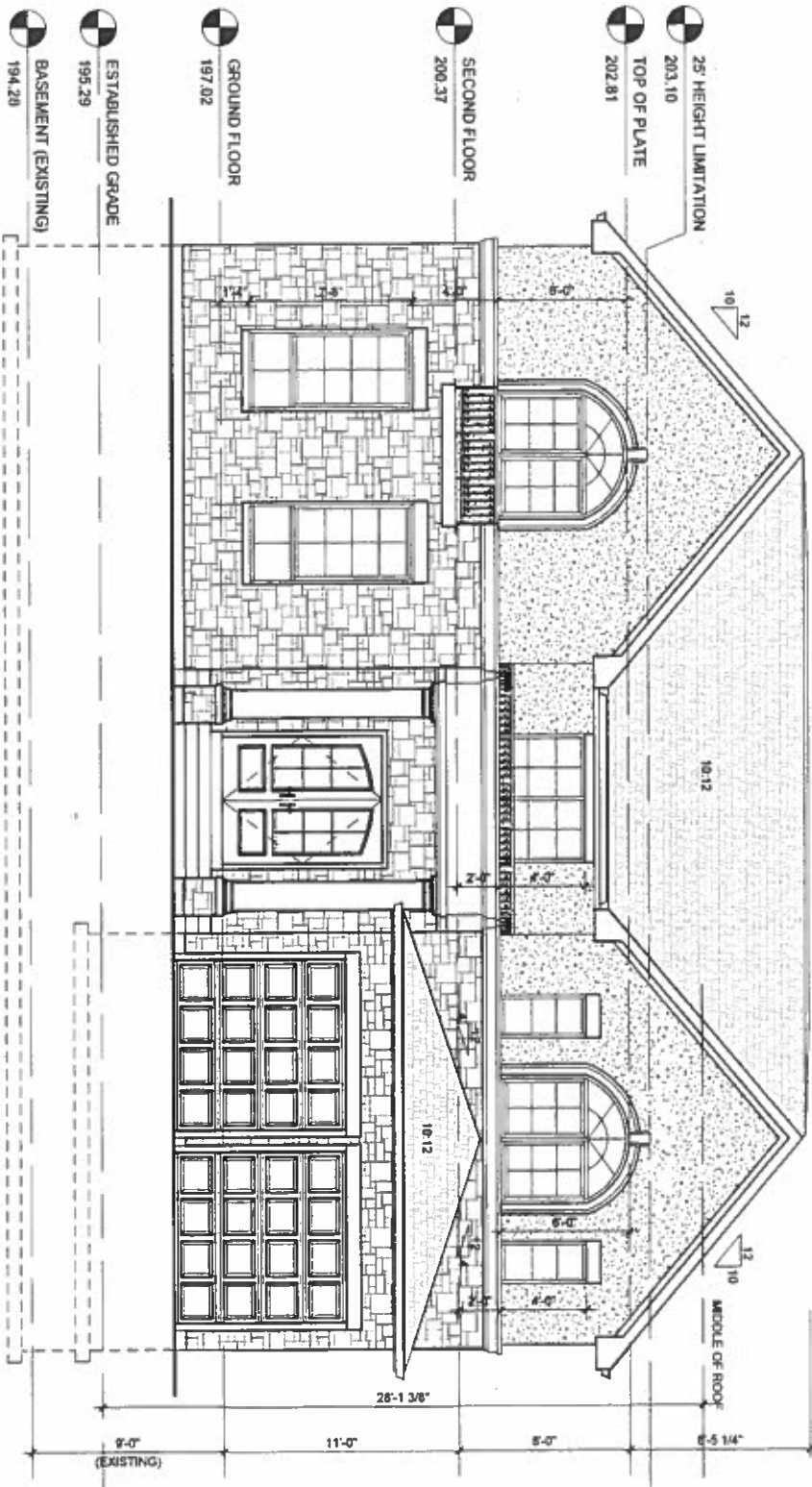
**Drawn By :**  
 SW

**Project No :**  
 AND19002

**Drawing No :**  
 A2.6



**1** ROOF PLAN  
 1/8" = 1'-0"



**2** SOUTH ELEVATION  
3/16" = 1'-0"

- 25' HEIGHT LIMITATION
- 203.10 TOP OF PLATE
- 202.81
- SECOND FLOOR
- 200.37
- GROUND FLOOR
- 197.02
- ESTABLISHED GRADE
- 195.29
- BASEMENT (EXISTING)
- 194.28

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**Project :**  
 DETACHED HOUSE ADDITION  
 96 BRANWOOD RD MARIPHA

**Drawing Name :**  
 SOUTH ELEVATION

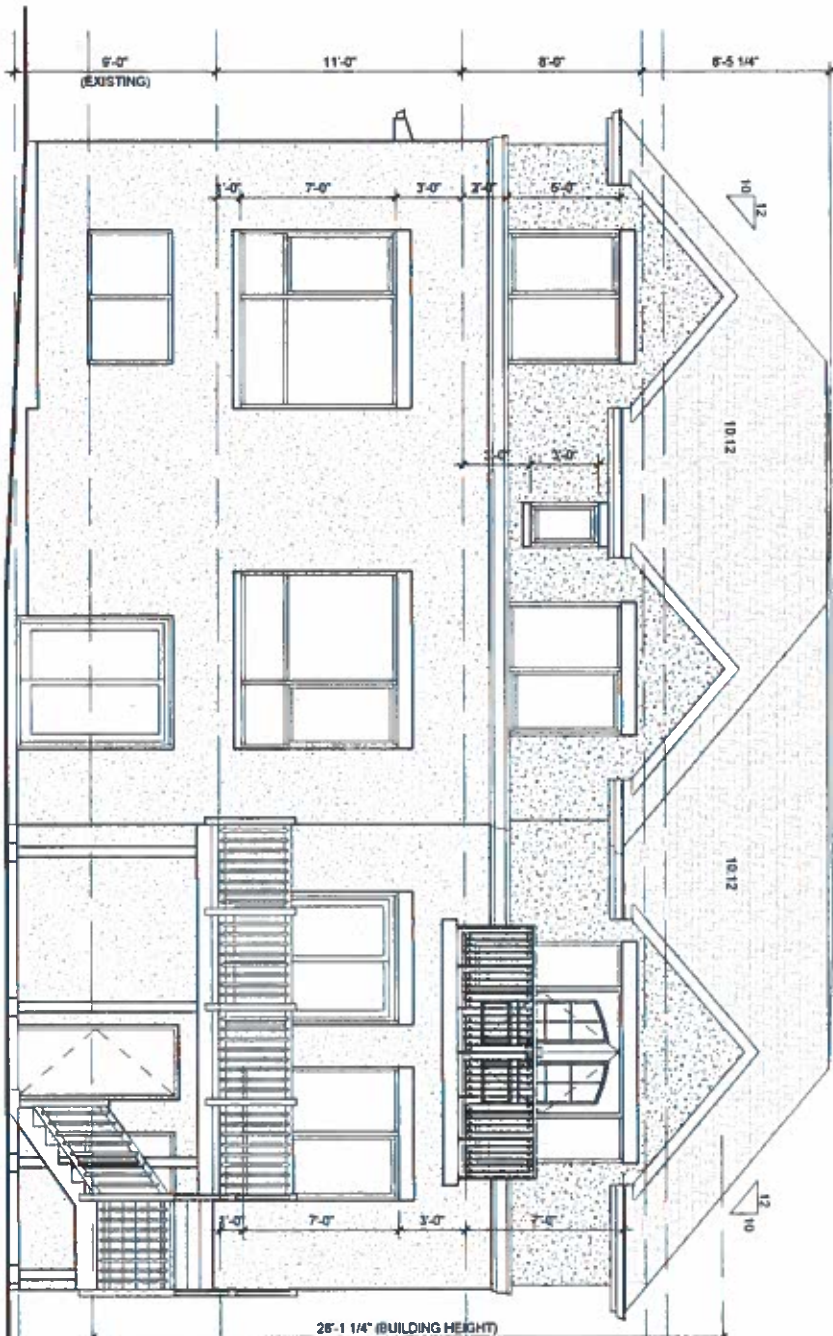
**Date :**  
 01/15/19

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

**Down By :**  
 SW  
**Checked by :**  
 HW

**Project No**  
 AND19002

**Drawing No**  
 A3.1



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

- CENTER OF ROOF
- 25' HEIGHT LIMITATION 203.10
- TOP OF PLATE 202.81
- SECOND FLOOR 200.37
- GROUND FLOOR 197.02
- ESTABLISHED GRADE 195.29
- BASEMENT (EXISTING) 194.28

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**Project :**  
 DETACHED HOUSE ADDITION  
 66 BRIARWOOD RD MARKHAM

**Drawing Name :**  
 NORTH ELEVATION

**Date :**  
 01/15/19

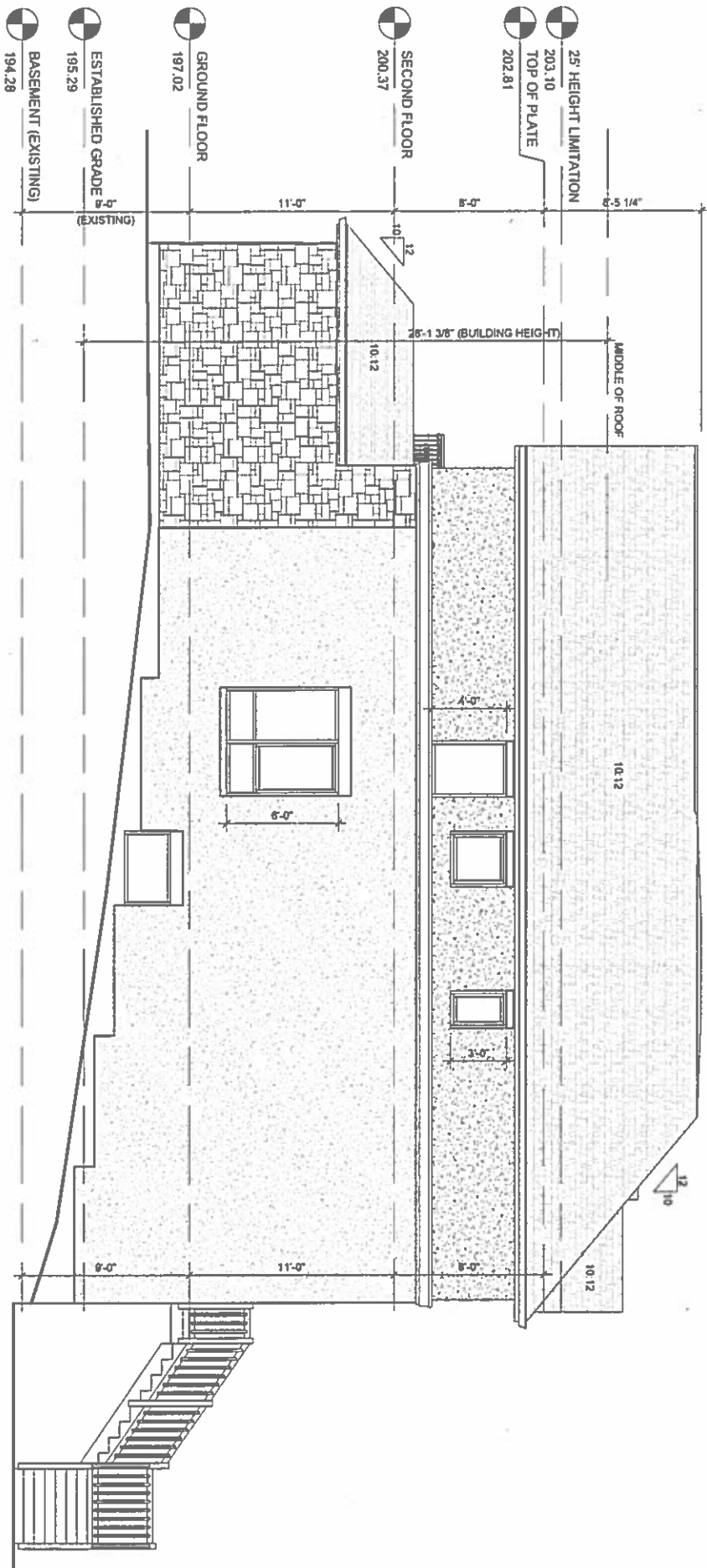
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 3/16" = 1'-0"

**Down By :**  
 SW

**Checked By :**  
 HW

**Project No**  
 AND19002

**Drawing No :**  
 A3.2



1 EAST ELEVATION  
3/16" = 1'-0"

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**Project :**  
 DETACHED HOUSE ADDITION  
 64 BRANWOOD RD MARHAM

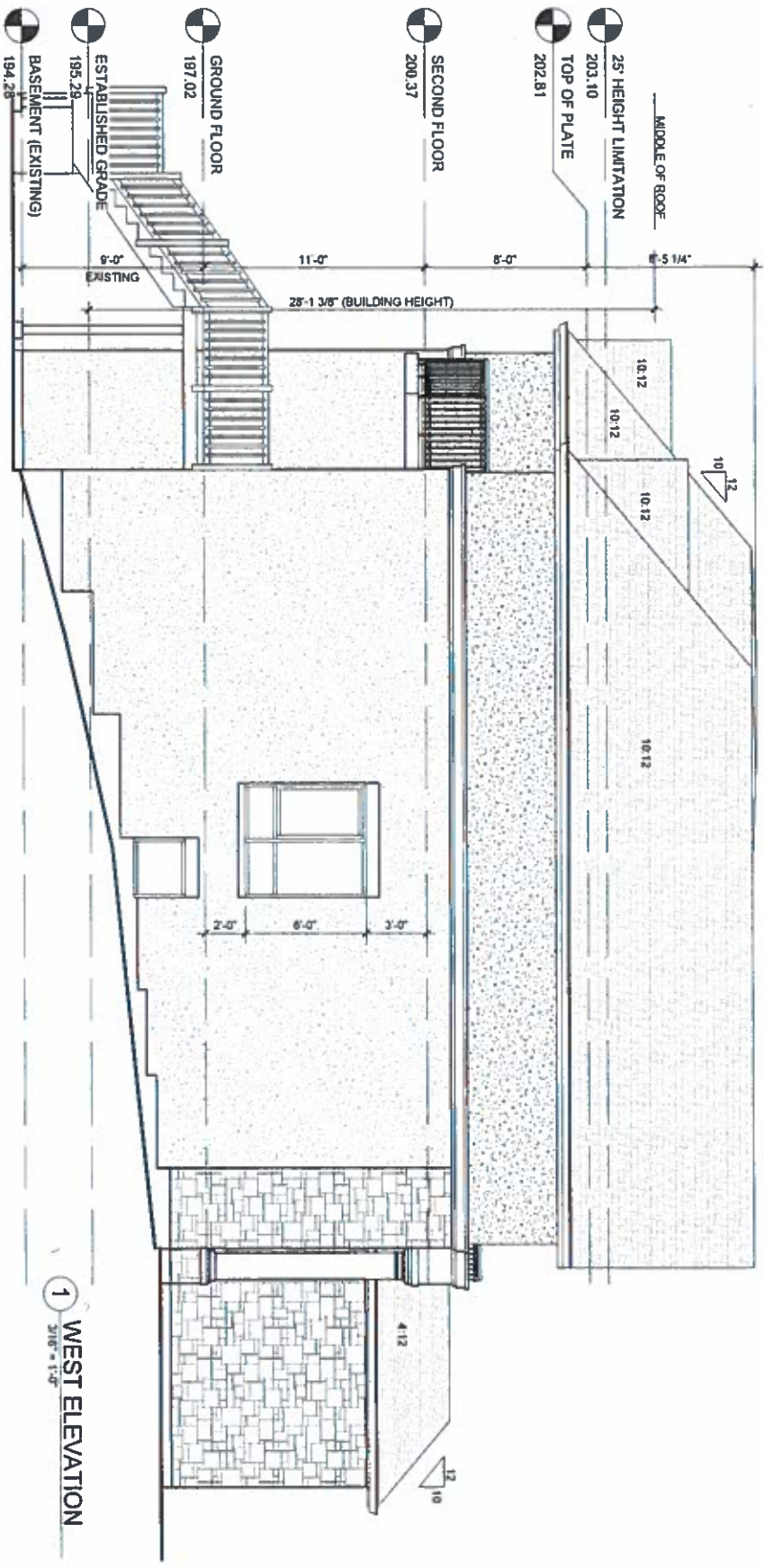
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 EAST ELEVATIONS

**Date:**  
 01/15/18  
**Scale:**  
 3/16" = 1'-0"

**Drawn by:**  
 SW  
**Checked by:**  
 HW

**Project No:**  
 AND19002

**Drawing No:**  
 A3.3



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**Project :**  
 DETACHED HOUSE ADDITION  
 66 BRURWOOD RD MARKHAM

**Drawing Name :**  
 WEST ELEVATION

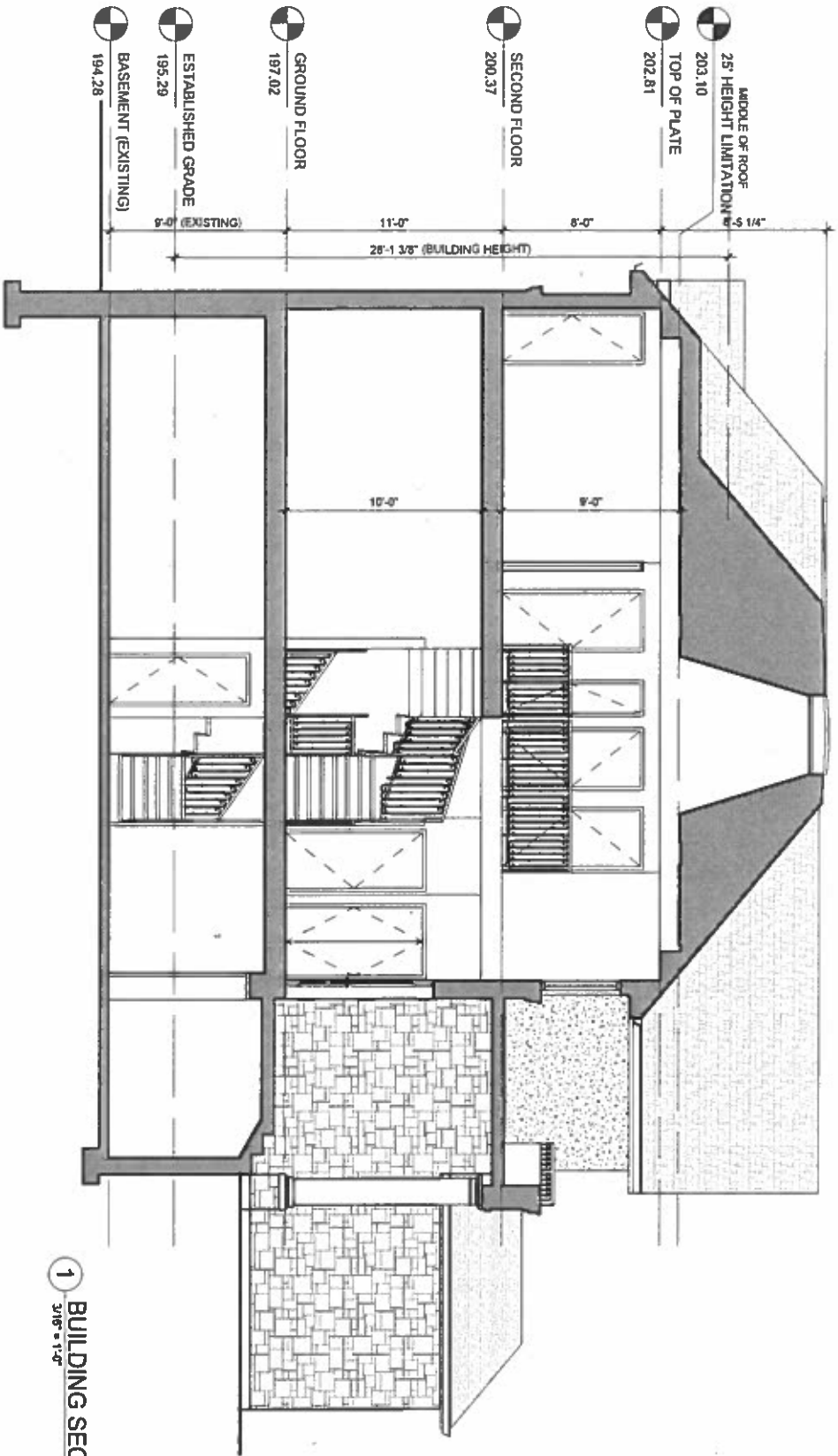
**Date :**  
 01/15/19  
**Scale :**  
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**Drawn By :**  
 SW  
**Checked by :**  
 HW

**Project No**  
 AND19002

**Drawing No**  
 A3.4





**1** BUILDING SECTION  
3/16" = 1'-0"

**AND**  
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**Project :**  
 DETACHED HOUSE ADDITION  
 88 BRURWOOD RD MARKHAM

**Drawing Name :**  
 BUILDING SECTIONS

**Date :**  
 01/15/19  
**Scale :**  
 3/16" = 1'-0"

**Drawn by :**  
 SW  
**Checked by :**  
 HW

**Project No**  
 AND19002

**Drawing No :**  
 A4.1