

Memorandum to the City of Markham Committee of Adjustment

January 31, 2025

File: A/110/24
Address: 94 Babcombe Drive, Thornhill
Agent: Hirman Architects Inc. (Mani Yeganegi)
Hearing Date: Wednesday, February 5, 2025

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

The applicant is requesting relief from the following requirements of By-law 2024-19, Residential - Established Neighbourhood Low Rise (RES-ENLR), as amended, to permit:

- a) **By-law 2024-19, Section 5.3.6(a):**
a private garage intended to occupy a single motor vehicle to provide a minimum length of 5.89 m, whereas the by-law requires a minimum length of 6.0 m;
- b) **By-law 2024-19, Section 6.2.1(b):**
a roof projection of 1.82 m above the maximum outside wall height, whereas the by-law permits a roof structure with a pitch of less than 25 degrees to project only a maximum of 1.0 m above the maximum outside wall height;
- c) **By-law 2024-19, Section 6.3.2.2(c):**
a main building coverage of 35.9% (2,803 ft²) for the first storey and 35.9% (2,803 ft²) for the second storey, whereas the by-law permits a maximum main building coverage of 30% (2,342 ft²) of the lot area for the first storey and 20% (1,561 ft²) of the lot area for any storey above the first;
- d) **By-law 2024-19, Section 6.3.2.2(d):**
a lot coverage of 36.3% (2,836 ft²), whereas the by-law permits a maximum lot coverage of 35% (2,732 ft²);
- e) **By-law 2024-19, Section 6.3.2.2(e):**
a main building distance of 17.88 m from the established building line for the second storey, whereas the by-law permits a maximum distance of 14.5 m for any storey above the first from the established building line;
- f) **By-law 2024-19, Section 6.3.2.2(i):**
a combined interior side yard setback on both side of 3.66 m, whereas the by-law requires a combined interior side yard setback on both sides of 4.57 m; and
- g) **By-law 2024-19, Special Standards (xiv):**
a combined main building coverage of 521 m², whereas the by-law permits a maximum combined main building coverage of 500 m²;

as it relates to the construction of a new two-storey single-detached dwelling.

On January 29th, 2025, the Applicant submitted revised drawings which eliminated the variances for private garage length, lot coverage, combined side yard setback and combined main building coverage. Staff has had further correspondence with the applicant on reductions to the remaining variances. The updated variances being requested are as follows:

a) By-law 2024-19, Section 6.2.1(b):

a roof projection of 1.82 m above the maximum outside wall height, whereas the by-law permits a roof structure with a pitch of less than 25 degrees to project only a maximum of 1.0 m above the maximum outside wall height;

b) By-law 2024-19, Section 6.3.2.2(c):

a main building coverage of 33.07% (2,581.99 ft²) for the first storey and 29.52% (2,304.49 ft²) for the second storey, whereas the by-law permits a maximum main building coverage of 30% (2,342 ft²) of the lot area for the first storey and 20% (1,561 ft²) of the lot area for any storey above the first;

c) By-law 2024-19, Section 6.3.2.2(e):

a main building distance of 17.58 m from the established building line for the second storey, whereas the by-law permits a maximum distance of 14.5 m for any storey above the first from the established building line;

as it relates to the construction of a new two-storey single-detached dwelling.

BACKGROUND

Property Description

The 725.14 m² (7805.4ft²) subject property is located on the east side of Babcombe Drive, north of Steeles Avenue East and east of Bayview Avenue. There is an existing 154 m² (1657.64 ft²) two-storey detached dwelling on the subject property with mature vegetation located throughout the lot. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Surrounding uses include a mix of one and two-storey detached dwellings, parks and a rail corridor.

Proposal

The applicant is proposing to construct a two-storey single family dwelling and pool house on the subject property. The existing two-storey dwelling and shed are expected to be demolished to facilitate this.

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 a range of lower-scale residential buildings in established neighbourhoods, including single detached dwellings.

Area Specific Policy 9.18.5 also applies to the Subject Property and intends to provide a set of development standards in the zoning by-law that limits the size and massing of new dwellings or additions, ensuring infill development respects the existing pattern and character of adjacent development. This includes lot coverage, building depth, floor area ratios, height, number of storeys, garage projections, and garage widths.

Zoning By-Law 2024-19

The Subject Property is zoned “Residential – Established Neighbourhood Low Rise” (RES-ENLR) under By-law 2024-19, which permits detached dwellings. The proposal does not comply with respect to the roof projection, main building coverage, and distance

of the main building from the established building line. Further details on the variances are provided in the comment section below.

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, *"NEEDING MORE LIVABLE SPACE"*.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) on December 5th, 2024 to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on January 29th, 2025. The applicant has not conducted a Zoning Preliminary Review for 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 variances requested 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.

Roof Projection Variance

The Applicant is requesting relief for a roof projection of 1.82 metres above the maximum outside wall height, whereas By-law 2024-19 permits a roof structure with a pitch of less than 25 degrees to project only a maximum of 1.0 metre above the maximum outside wall height. This represents an increase of 0.82 metres.

The intent of the maximum roof projection is to maintain a consistent roofline and prevent excessive height that may negatively impact the surrounding adjacent dwellings. It should be noted that the design of the roof, specifically the slope at the front of the roof is consistent with the character of the neighbourhood, and in line with the intent of the By-law to provide massing to the second storey that is smaller in size than the first storey. Staff are of the opinion that the proposed encroachment is minor in nature, as it maintains an appropriate roofline between neighbouring dwellings, and as such, have no concerns.

Main Building Coverage Variance

The applicant is requesting to permit a main building coverage of 33.07% for the first storey and 29.52% for the second storey, whereas the by-law permits a maximum main building coverage of 30% of the lot area for the first storey and 20% of the lot area for any storey above the first. The intent of the maximum building coverage requirements includes, but are not limited to, ensuring that appropriate angular planes are provided and that the built form and character of the neighbourhood is maintained.

It should be noted that the Applicant has made revisions to the massing of the dwelling to ensure compatibility with dwellings along Babcombe Drive. The intent of the By-law is to regulate the massing of the dwelling by requiring a second storey that is smaller in size than the first storey. The proposed second-storey building coverage has been revised to include a 2.49 m setback from the front yard of the dwelling, providing articulation from the first storey of the dwelling.

The building line is consistent with the existing dwellings neighboring the subject property. The proposed building is set back 9.04 m from the front lot line, which is generally consistent with the established front yard pattern in the neighbourhood. Given that the proposal maintains appropriate interior side yard setbacks on both sides, and there remains a generous rear yard (13.03 m from the main building) to accommodate for the existing trees and proposed pool house in the rear yard, facilitating the increase in building coverage will not significantly add to the scale of the building envelope. Staff is of the opinion that the requested variance to building coverage maintains the established scale and character of the neighbourhood, and have no concerns.

Building Distance Variance

The applicant is requesting relief to permit a main building distance of 17.58 m from the established building line for the second storey, whereas the by-law permits a maximum distance of 14.5 m for any storey above the first from the established building line.

Staff note that the established building line is defined as “a line that is the average distance between the front lot line and the nearest wall of the main building facing the front lot line on the two neighbouring lots fronting the same street”. The intent of this By-law provision is to regulate the building depth and massing in relation to the neighbouring dwellings.

The building layout maintains the depth, setbacks and lot coverage of the existing building envelope, which adheres to the intended scale of residential infill developments for the neighbourhood. The increase of the second storey building depth will not extend beyond the footprint and established building line of the first storey. Staff are of the opinion that the requested variance is minor in nature as the proposed changes to the distance from the established building line will have limited impact on the streetscape and scale of the neighbouring properties.

EXTERNAL AGENCIES

Metrolinx Comments

The subject property is located within 300 m of Metrolinx's Bala Subdivision which carries Metrolinx's Stouffville GO Train service. Metrolinx provided comments on this application on October 1st, 2024 (Appendix “C”), requiring that an environmental easement is provided in accordance with Section 3.9 of the Federation of Canadian Municipalities and Railway Associate of Canada's Guidelines for New Development in Proximity to Railway Operations. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.

Additionally, the Applicant is asked to provide a warning clause in any all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor

Staff recommend that the proposed development is subject to the associated condition of Approval regarding the environmental easement and warning clause provided in Appendix "A". Further comments on the proposal are provided in Appendix "C".

PUBLIC INPUT SUMMARY

No written submissions were received as of January 31st, 2025. 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.

PREPARED BY:



Theo Ako-Manieson, Planner I, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Acting-Development Manager, West District

File Path: Amanda\File\ 24 191990 \Documents\District Team Comments Memo

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/110/24

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 that the Secretary Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. Submission of a Tree Assessment and Preservation Plan, prepared by a Qualified Tree Expert in accordance with the City’s Tree Assessment and Preservation Plan (TAPP) Requirements (2024) as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Tree Preservation By-law Administrator 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, neighbouring properties, and 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 By-law Administrator.
5. If required as per Tree Preservation review, tree securities and/or tree fees be paid to the City and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation By-law Administrator.
6. That the applicant satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of Metrolinx, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

CONDITIONS PREPARED BY:



Theo Ako-Manieson, Planner I, West District

Appendix B

File: **24.191990.000.00.MNV**

Date: **1/31/2025**
MM/DD/YYYY



ISSUED FOR
ZONING REVIEW 2024-06-24
COA 2024-09-08
REVISED 2024-12-05
REVISED 2025-01-28

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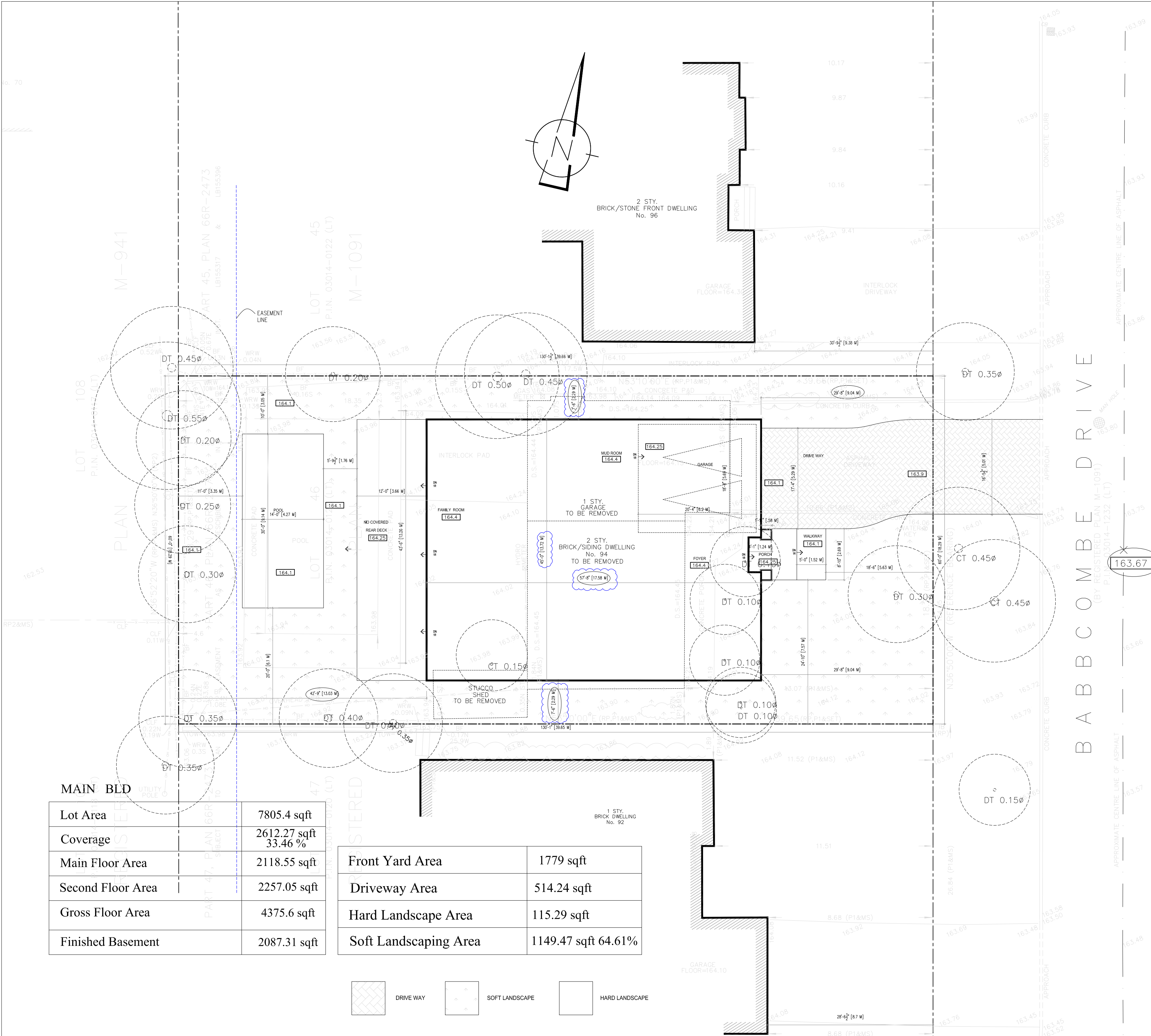
SHEET TITLE: **SITE PLAN**

SCALE: **3/32"=1'-0"**
PAPER SIZE: **18"x24"**

ARCHITECTURAL DESIGN
HIRMAN ARCHITECTS INC.
46 MCCALLUM DRIVE
RICHMOND HILL, ON., L4C 7S8
Tel: (647) 401-3922

PROJECT:
**94 BABCOMBE DRIVE
, MARKHAM**

SHEET NUMBER: **A0**



Lot Area	7805.4 sqft
Coverage	2612.27 sqft 33.46 %
Main Floor Area	2118.55 sqft
Second Floor Area	2257.05 sqft
Gross Floor Area	4375.6 sqft
Finished Basement	2087.31 sqft

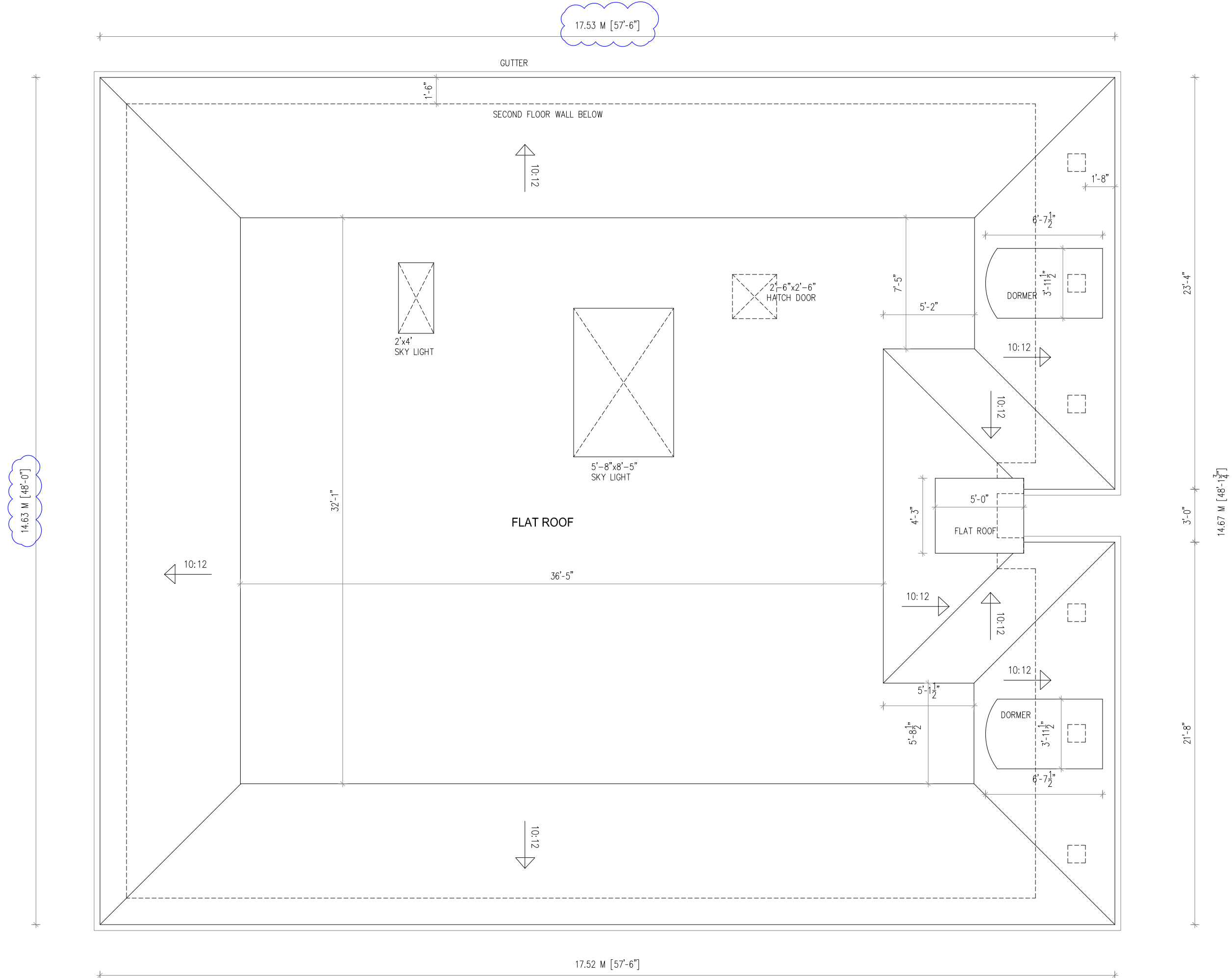
Front Yard Area	1779 sqft
Driveway Area	514.24 sqft
Hard Landscape Area	115.29 sqft
Soft Landscaping Area	1149.47 sqft 64.61%



Appendix B

File: 24.191990.000.00.MNV

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ISSUED FOR	
ZONING REVIEW	2024-06-24
COA	2024-09-08
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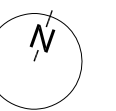
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SHEET TITLE: ROOF

SCALE: 3/16"=1'-0"
PAPER SIZE: 18"x24"

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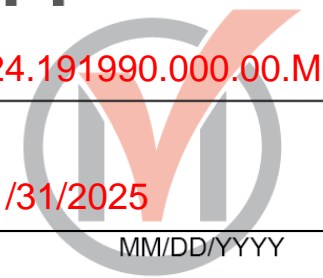
PROJECT:
**94 BABCOMBE DRIVE
, MARKHAM**

SHEET NUMBER: **A4**

Appendix B

File: 24.191990.000.00.MNV

Date: 1/31/2025
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SHEET TITLE:
MAIN (EAST) ELEVATION

SCALE: **3/16"=1'-0"**
PAPER SIZE: **18"x24"**

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PROJECT:
**94 BABCOMBE DRIVE
, MARKHAM**

SHEET NUMBER: **A5**

Appendix B

File: 24.191990.000.00.MNV

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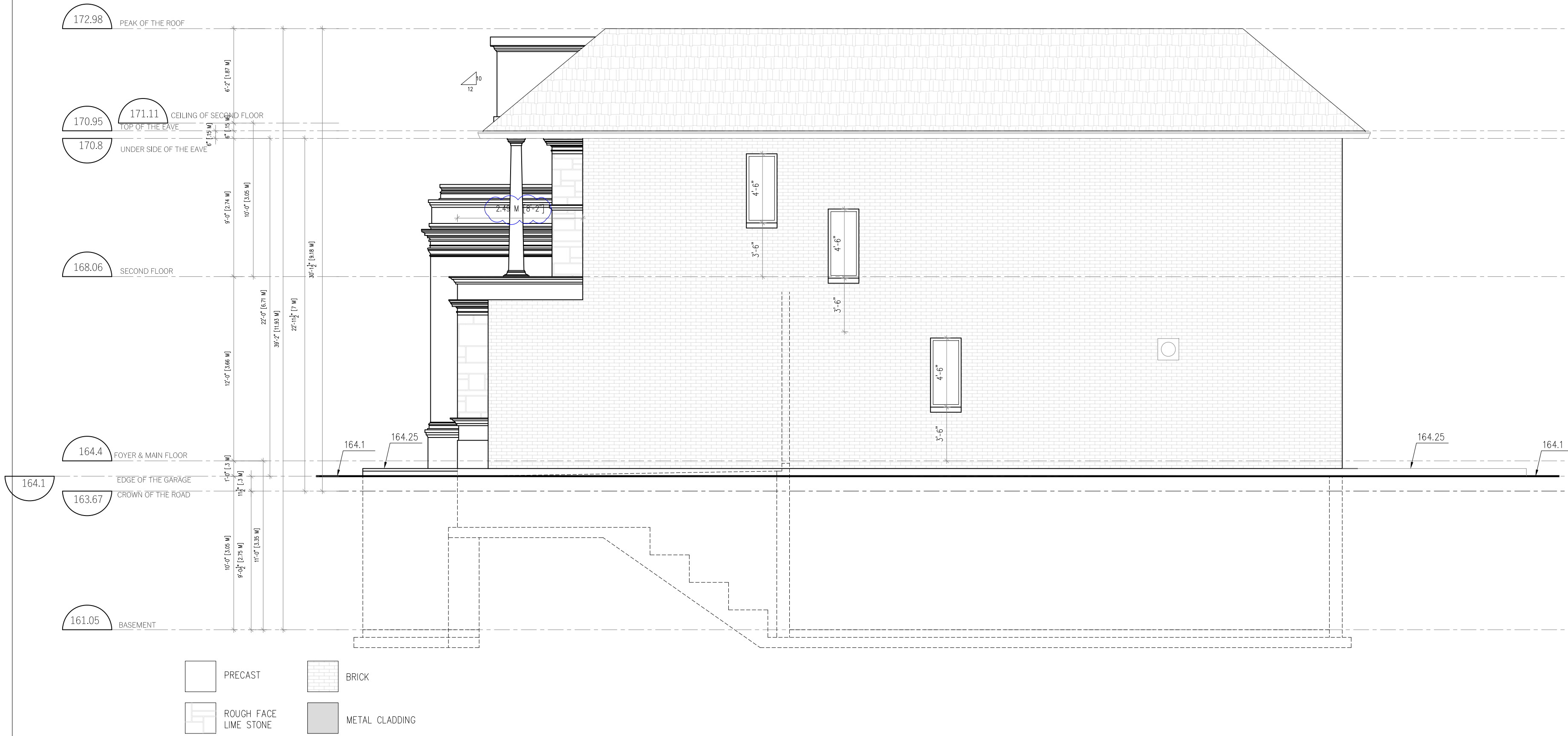
SHEET TITLE: SIDE (NORTH) ELEVATION

SCALE: 3/16"=1'-0"
PAPER SIZE: 18"x24"

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PROJECT:
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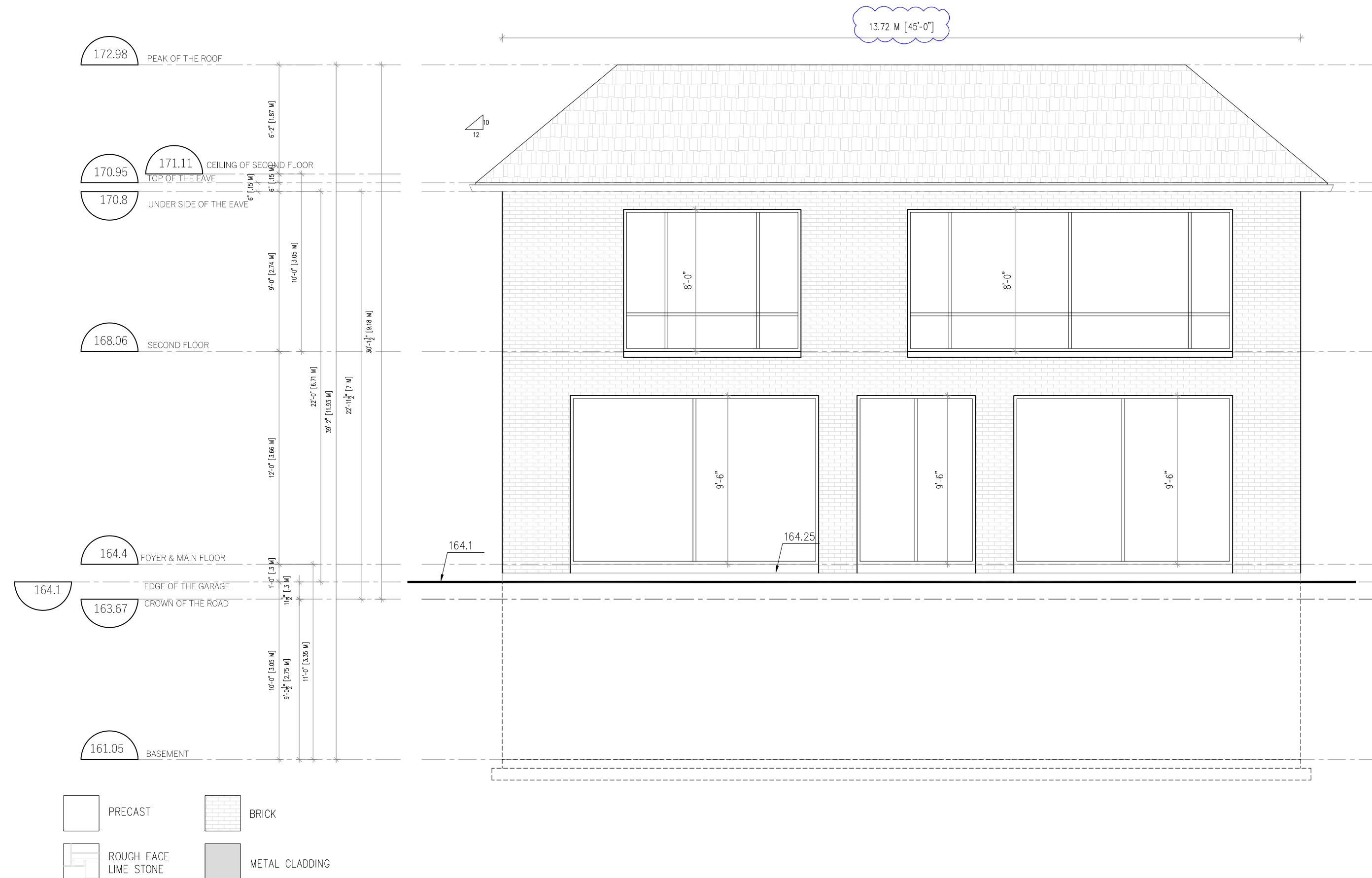
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Appendix B

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SHEET TITLE:
REAR (WEST) ELEVATION

SCALE: 3/16"=1'-0"

PAPER SIZE: 18"x24"

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Tel: (647) 401-3922

PROJECT:

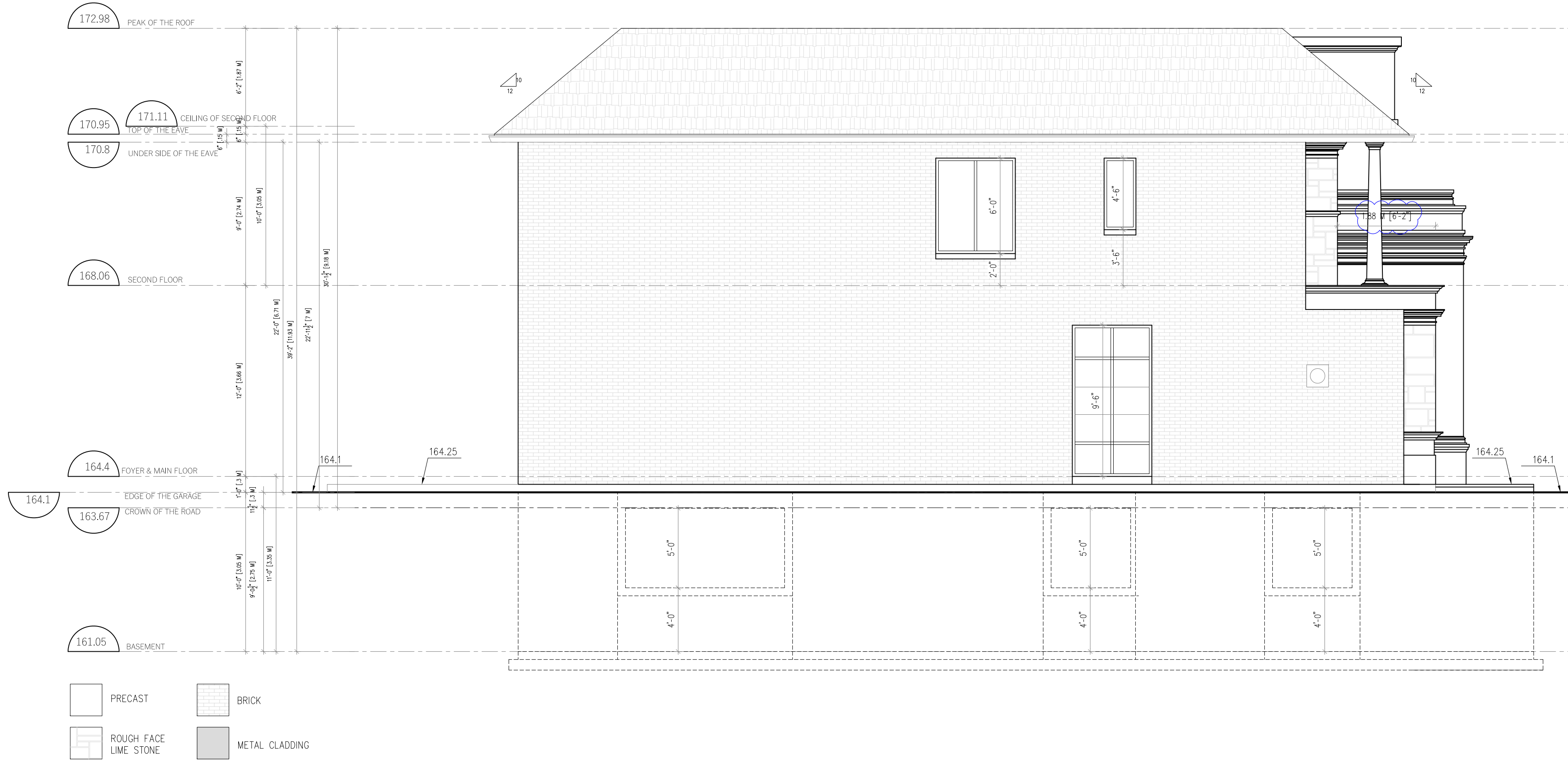
94 BABCOMBE DRIVE
, MARKHAM

SHEET NUMBER: **A7**

Appendix B

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SHEET TITLE: SIDE (SOUTH) ELEVATION
SCALE: 3/16"=1'-0"
PAPER SIZE: 18"x24"

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RICHMOND HILL, ON., L4C 7S8
Tel: (647) 401-3922

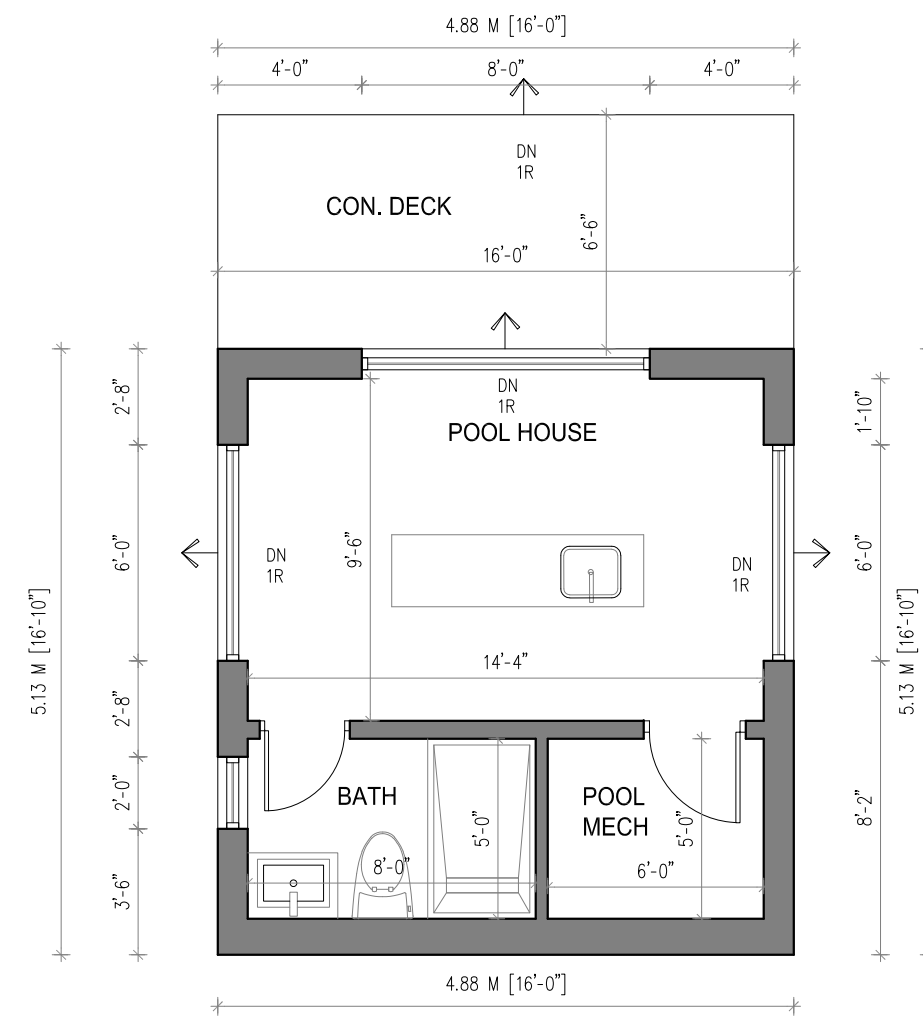
PROJECT:
94 BABCOMBE DRIVE
, MARKHAM

SHEET NUMBER: A8

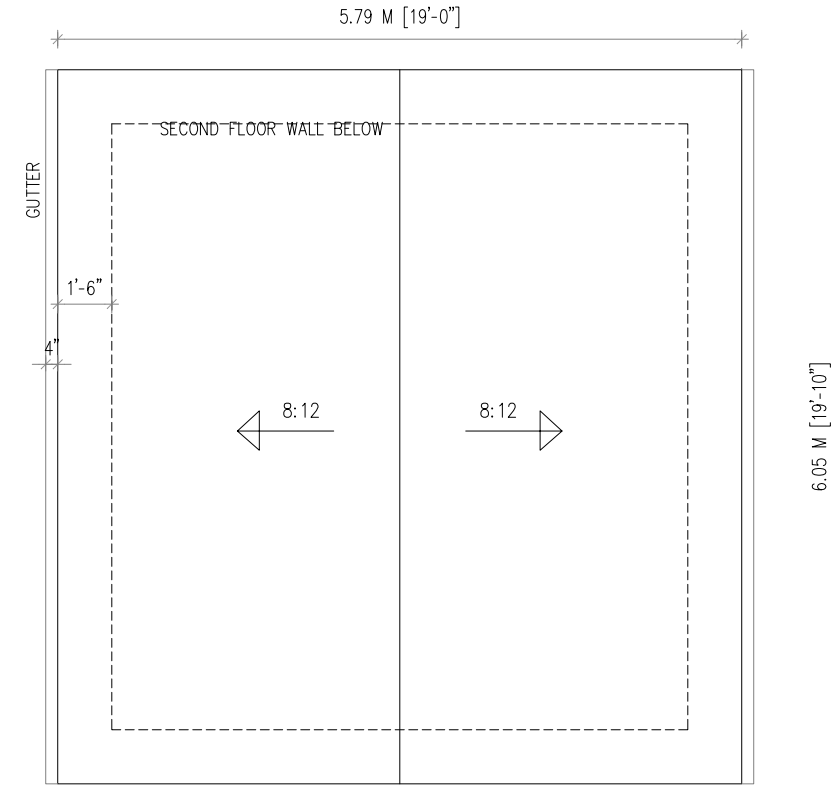
Appendix B

File: 24.191990.000.00.MNV

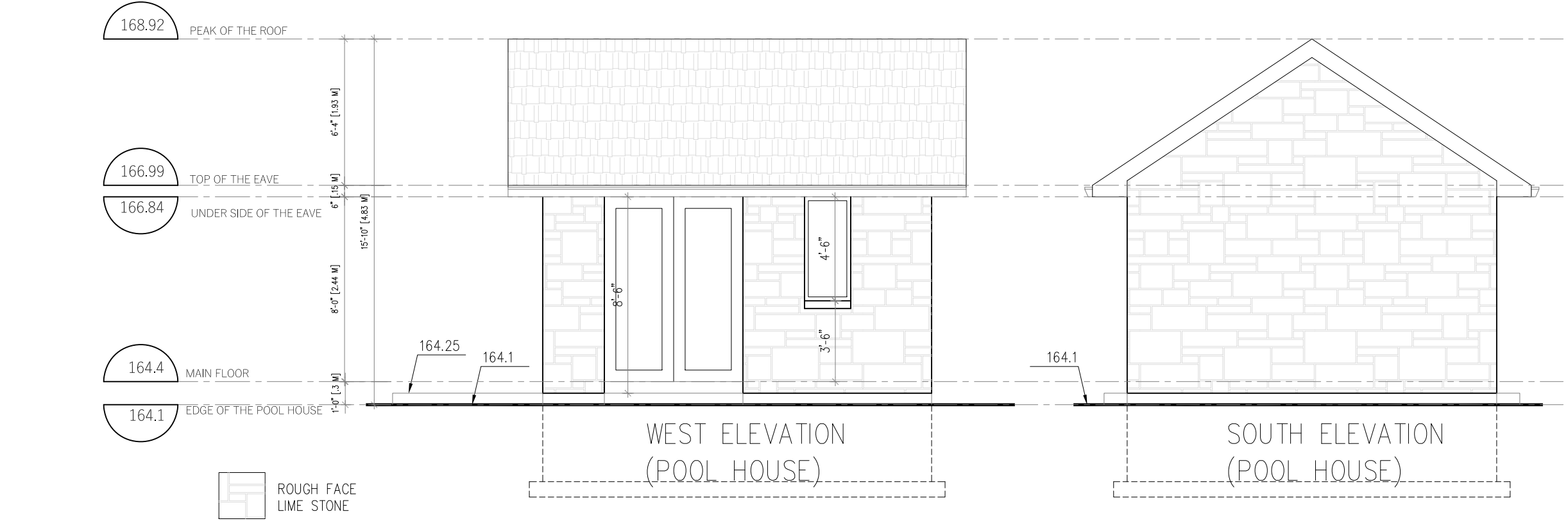
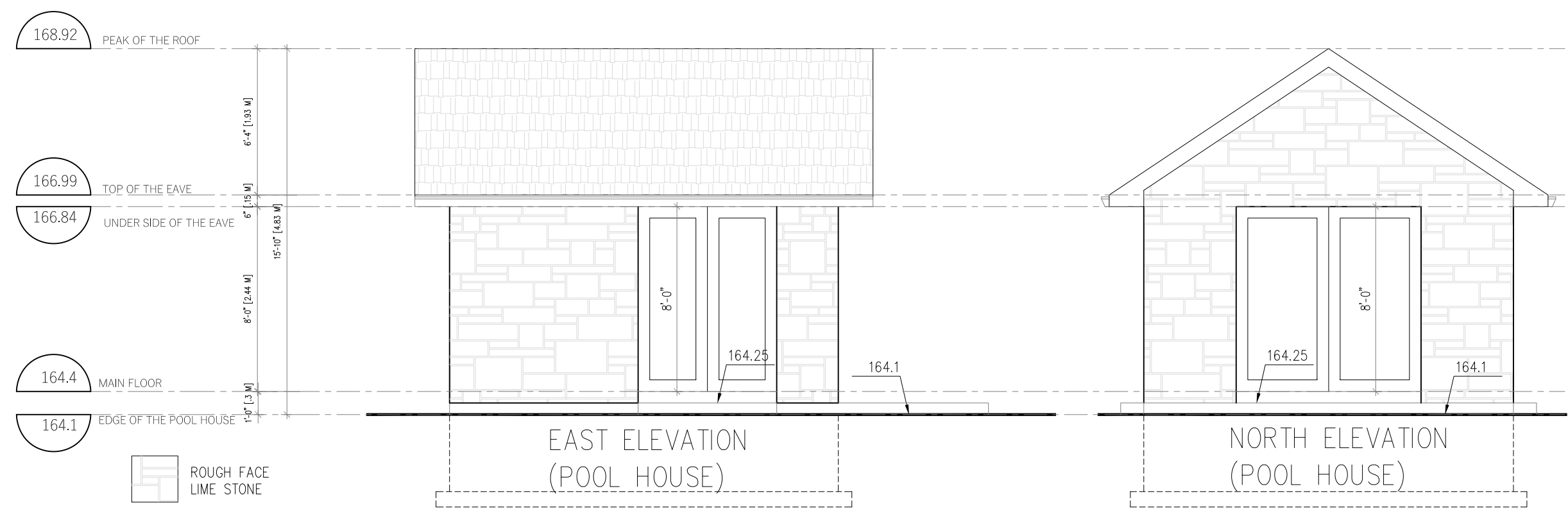
Date: 1/31/2025
MM/DD/YYYY



MAIN FLOOR
(POOL HOUSE)



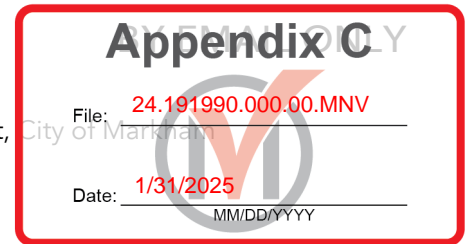
ROOF
(POOL HOUSE)



GENERAL NOTES:
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ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED. VERIFY DIMENSIONS. DO NOT SCALE THIS DRAWING.
REPORT INCONSISTENCIES AND OMISSIONS TO THE CONSULTANT FOR CLARIFICATION BEFORE COMMENCING WITH THE WORK.
DEVIATIONS FROM THE CONTRACT DOCUMENTS WITHOUT WRITTEN APPROVAL FROM THE CONSULTANT ARE SUBJECT TO CORRECTION AT THE CONTRACTOR'S EXPENSE.
ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.
USE ONLY LATEST REVISED DRAWINGS.
ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO THE DESIGN FIRM BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION.



SHEET TITLE: **POOL HOUSE**
SCALE: 3/16"=1'-0"
PAPER SIZE: 18"x24"
ARCHITECTURAL DESIGN
HIRMAN ARCHITECTS INC.
46 MCCALLUM DRIVE
RICHMOND HILL, ON, L4C 7S8
Tel: (647) 401-3922
PROJECT:
**94 BABCOMBE DRIVE
, MARKHAM**
SHEET NUMBER: **A9**



TO: Shawna Houser, Secretary-Treasurer, Committee of Adjustment,
DATE: October 1, 2024
RE: Adjacent Development Review: A/110/24
94 Babcombe Dr, Markham, ON
Minor Variance

Dear Committee of Adjustment,

Metrolinx is in receipt of the Minor Variance application for 94 Babcombe Dr, Markham, to facilitate the construction of a new two-storey single-detached dwelling as circulated on September 18th, 2024, and to be heard by the Committee as early as October 30th, 2024. Metrolinx's comments on the subject application are noted below:

- The subject property is located adjacent of Metrolinx's Bala Subdivision which carries Metrolinx's Richmond Hill GO Train service.

GO/HEAVY-RAIL - CONDITIONS OF APPROVAL

- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
 - **Warning:** The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns, please contact Farah.Faroque@metrolinx.com.

Best Regards,
Farah Faroque
Project Analyst, Third Party Project Review
Metrolinx | 10 Bay Street | Toronto | Ontario | M5J 2S3
T: (437) 900-2291

Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**").

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.