

# Memorandum to the City of Markham Committee of Adjustment

June 17, 2021

**File:** A/069/21  
**Address:** 23 Hagerman Boulevard – Markham, ON  
**Applicant:** Jing Hua Zhou  
**Agent:** AND Architecture Inc. (Sam Wu)  
**Hearing Date:** June 23, 2021

The following comments are provided on behalf of the Central 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) By-law 11-72, Section 6.1:**

a minimum side yard setback of 4.0 ft (1.22 m) for a two-storey portion, whereas the By-law requires a minimum side yard setback of 6.0 ft (1.83 m) for a two-storey portion;

**b) By-law 11-72, Section 6.1:**

a maximum lot coverage of 38.38%, whereas the By-law permits a maximum lot coverage of 33.33%; and

**c) By-law 11-72, Section 6.1:**

a maximum height of 26.46 ft (8.07 m), whereas the By-law permits a maximum height of 25.0 ft (7.62 m).

**NOTE:** The applicant initially applied for a maximum height of 27.76 ft (8.46 m). In consultation with staff, the applicant has submitted revised plans with a reduced height of 26.46 ft (8.07 m).

## BACKGROUND

### Property Description

The 593.72 m<sup>2</sup> (6,390.75 ft<sup>2</sup>) subject property is located on the south side of Hagerman Boulevard, north of Carlton Road, east of Warden Avenue, and west of Village Parkway. The property is currently developed with an existing two-storey single detached dwelling. Mature trees and vegetation are primarily located in the rear yard. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area has experienced some physical change with respect to newer dwellings replacing the original housing stock as infill developments, with examples along nearby streets such as Summerfeldt Crescent, Braithwaite Road, and Hagerman Boulevard.

### Proposal

The applicant is proposing to demolish the existing two-storey single detached dwelling, and construct a new two-storey single detached dwelling. Including the garage space, the dwelling would have a ground floor area of 219.14 m<sup>2</sup> (2,359.0 ft<sup>2</sup>) and a second floor area of 191.76 m<sup>2</sup> (2,064.0 ft<sup>2</sup>), for a total gross floor area of 410.90 m<sup>2</sup> (4,423.0 ft<sup>2</sup>).

## **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 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 this minor variance application for development approval in a “Residential Low Rise” area, 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.

## 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 with respect to the minimum side yard setback for a two-storey portion of the building, maximum lot coverage, and maximum building height.

## Previous Committee of Adjustment Approval

The Committee of Adjustment (“the Committee”) previously approved a minor variance application (A/33/18) in 2018, where the following variances were requested under Zoning By-law 11-72, as amended, to permit:

- A minimum front yard setback of 21.82 ft (6.65 m), whereas the By-law requires a minimum front yard setback of 27.0 ft (8.23 m).
- A maximum height of 26.57 ft (8.10 m), whereas the By-law requires a maximum height of 25.0 ft (7.62 m).

Staff note that the current minor variance application (A/069/21) is separate from that made in 2018. In the event of any full, or partial approval of the current minor variance application, the variances from the previous application would not apply to the proposed development.

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

The applicant submitted an incomplete ZPR, which confirms the side yard setback variance required for the proposed development. The ZPR notes that an approved lot grading plan will need to be provided to confirm the exact building height at the Building Permit stage. After receipt of the initial ZPR, the applicant has since submitted a revised site plan which shows a proposed lot coverage of 38.38%, and reduced height. The applicant has not completed a new ZPR for the revised drawings. Consequently, it is the applicant’s responsibility to ensure that the application has accurately identified all of the variances to the By-law required for the proposed development. If the variances requested in this application contains errors, or if the need for additional variance(s) are identified at the building permit stage, further variance application(s) may be required to address the 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:

- 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.

### **Reduced Side Yard Setback (Two-Storey Portion)**

The applicant is requesting a minimum side yard setback of 4.0 ft (1.22 m) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6.0 ft (1.83 m) for the two-storey portion of the dwelling. This is a reduction of 2.0 ft (0.61 m) on either side.

The requested variance only applies to the two-storey portion of the building. The ground floor complies with the minimum side yard setback requirement of 4.0 ft (1.22 m). Engineering staff have reviewed the application and have not identified any concerns with respect to drainage. The requested variance would result in a proposed development that is similar in residential built form to infill developments within the surrounding area, and staff have no objections.

### **Increase in Maximum Lot Coverage**

The applicant is requesting a maximum lot coverage of 38.38%, whereas the By-law permits a maximum lot coverage of 33.33%. This equates to an increase of 5.05%, or 29.98 m<sup>2</sup> (322.70 ft<sup>2</sup>) of additional buildable space on the subject lands.

Staff have no objections to the requested variance, as a rear yard setback of at least 34.0 ft (10.36 m) to the main wall of the dwelling is maintained, and a useable rear yard amenity space of approximately 164.25 m<sup>2</sup> (1,768.0 ft<sup>2</sup>) is provided.

### **Increase in Maximum Building Height**

The applicant is requesting a maximum height of 26.46 ft (8.07 m), whereas the By-law permits a maximum height of 25.0 ft (7.62 m). This is an increase of 1.46 ft (0.45 m).

Staff are of the opinion that the requested height is a minor increase that, even when coupled with the requested side yard setback reduction and increase in lot coverage, would be of minimal impact to neighbouring properties and result in a dwelling that is consistent with other infill developments within the surrounding area.

### **Tree Protection and Compensation**

Trees and vegetation exist across the subject lands, primarily in the rear yard. Operations staff have reviewed the variance application with respect to the proposed development. In the event of approval, staff recommend that the tree related conditions detailed in Appendix "A" be adopted by the Committee to ensure the applicant provides the appropriate tree protection hoarding, and compensation for trees proposed to be removed. It is noted that the applicant is required to apply for a tree permit from the City for any proposed injury or removal of trees. Further mitigation may be required as part of the Residential Infill Grading and Servicing process to ensure the appropriate protection of certain trees.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of June 17, 2021. 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*, and are of the opinion that the requested variances individually and collectively meet the four tests of the *Planning Act*, and have no objections. 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.

**APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



\_\_\_\_\_  
Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



\_\_\_\_\_  
Sabrina Bordone, Senior Planner, Central District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/069/21**

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 batch stamped 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 designate, 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/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, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by City Staff to the satisfaction of the Director of Planning and Urban Design or designate.
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 Director of Planning and Urban Design or designate.

CONDITIONS PREPARED BY:



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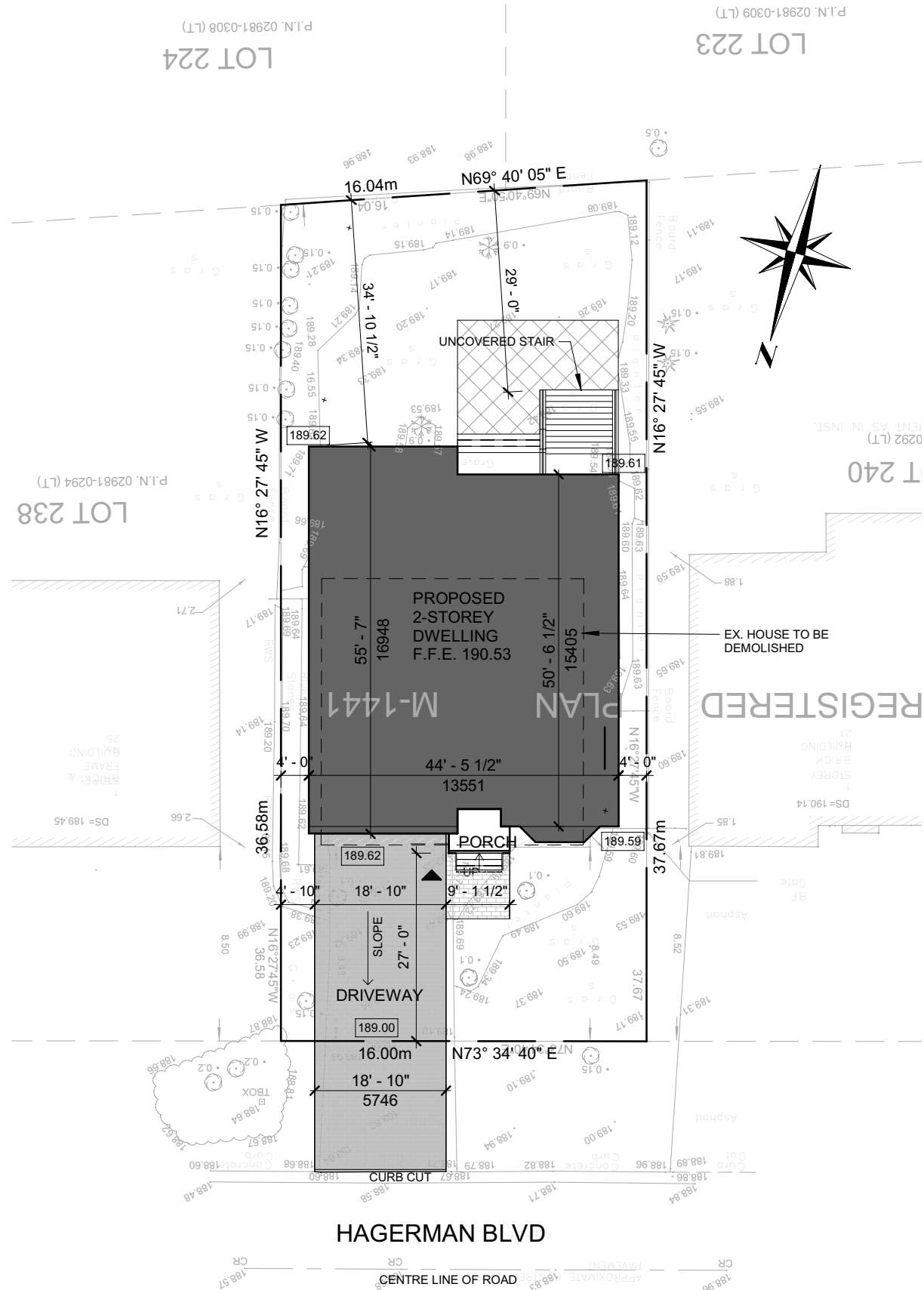
Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/069/21**

# Appendix B

File: 21.121915.000.00.MNV

Date: 06/17/21  
MM/DD/YY



## SITE STATISTICS

ZONING CATEGORY: R4  
LOT AREA: 593.72 m<sup>2</sup>

DESCRIPTION	PERMITTED/REQUIRED	PROPOSED
<b>LOT COVERAGE</b>	33.33% MAX.	38.38% *
BUILDING HEIGHT	25'-0" MAX.	26'-5 1/2"
FRONT YARD SETBACK	27'-0" MIN.	27'-0"
REAR YARD SETBACKS	25'-0" MIN.	35'-3"
SIDE YARD SETBACKS	6'-0" MIN.	4'-0"

\* LOT COVERAGE INCLUDING THE FRONT PORCH AND 2ND FLOOR BALCONY

## GROSS FLOOR AREA (GFA)\*

FLOOR	GFA
GROUND FLOOR	179.17 m <sup>2</sup> (1,929 SF)
SECOND FLOOR	191.76 m <sup>2</sup> (2,064 SF)
<b>TOTAL</b>	<b>370.93 m<sup>2</sup>* (3,993 SF)</b>

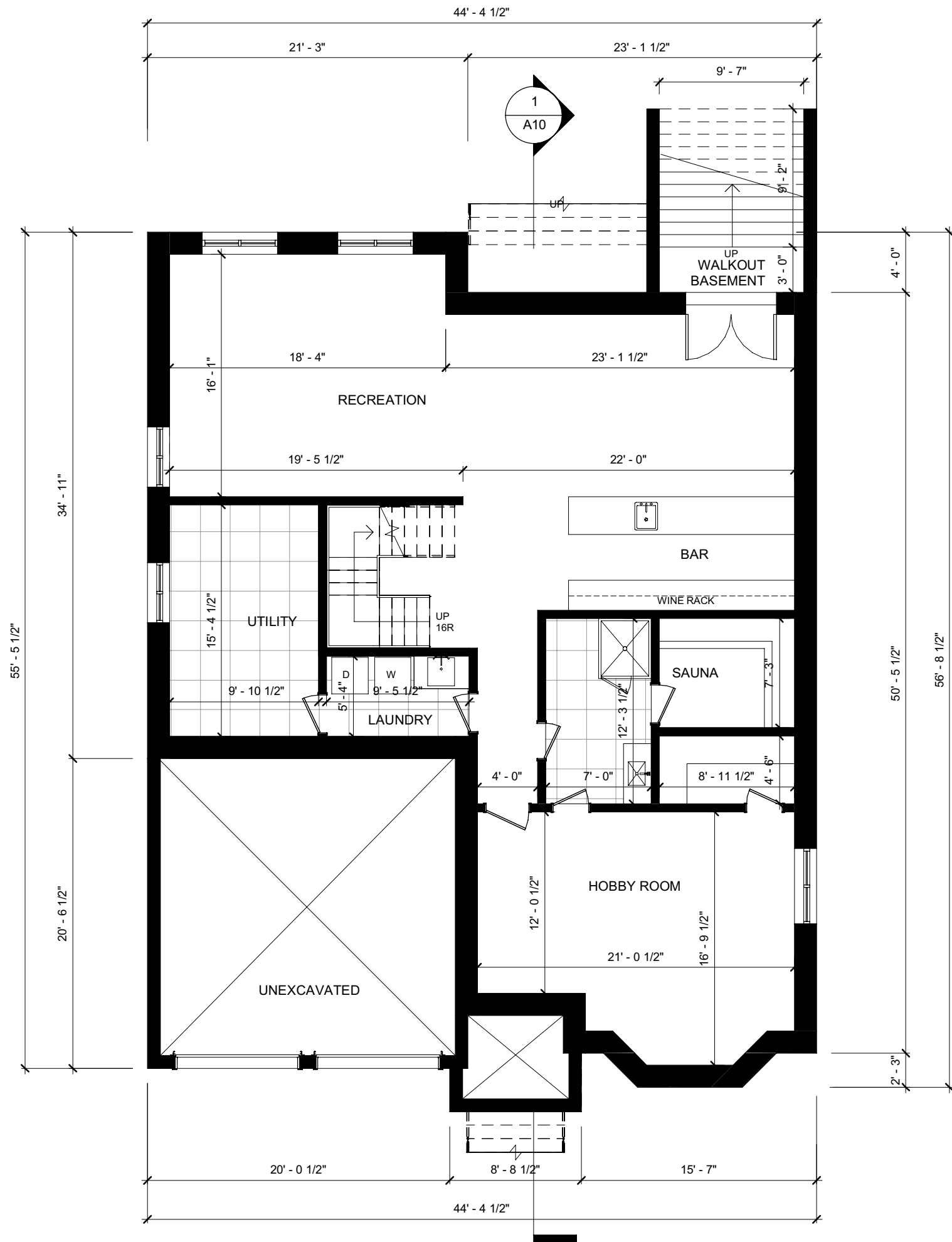
BASEMENT 177.91 m<sup>2</sup> (1,928 SF)  
GARAGE 39.97 m<sup>2</sup> (430 SF)

\* GROSS AREA DOES NOT INCLUDE GARAGE AND BASEMENT

1 SITE PLAN  
1 : 250

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3	2021.06.11	REISSUED FOR C.O.A.	SW
No.	Date:	Issued/Revision:	By
Project : PRIVATE RESIDENCE		Date : Issue Date	Project No
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		Checked by : HW	A1

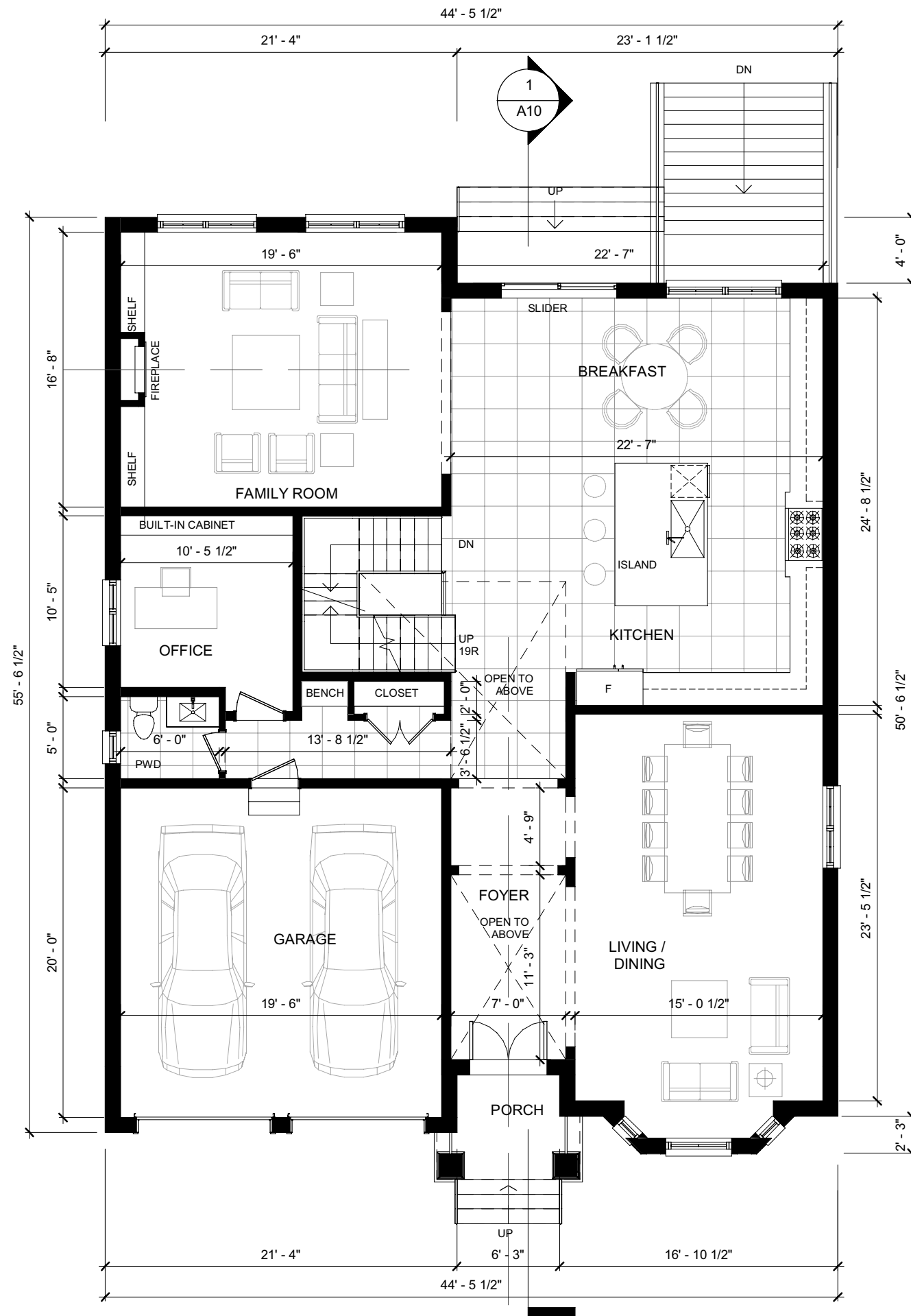


**1** BASEMENT PLAN  
1/8" = 1'-0"

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PRIVATE RESIDENCE		Issue Date	21013
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<b>Drawing Name :</b>		Drawn by :	Drawing No
BASEMENT PLAN		JW	A2
		Checked by : HW	





1 GROUND FLOOR  
1/8" = 1'-0"

**Appendix B**

File: 21.121915.000.00.MNV

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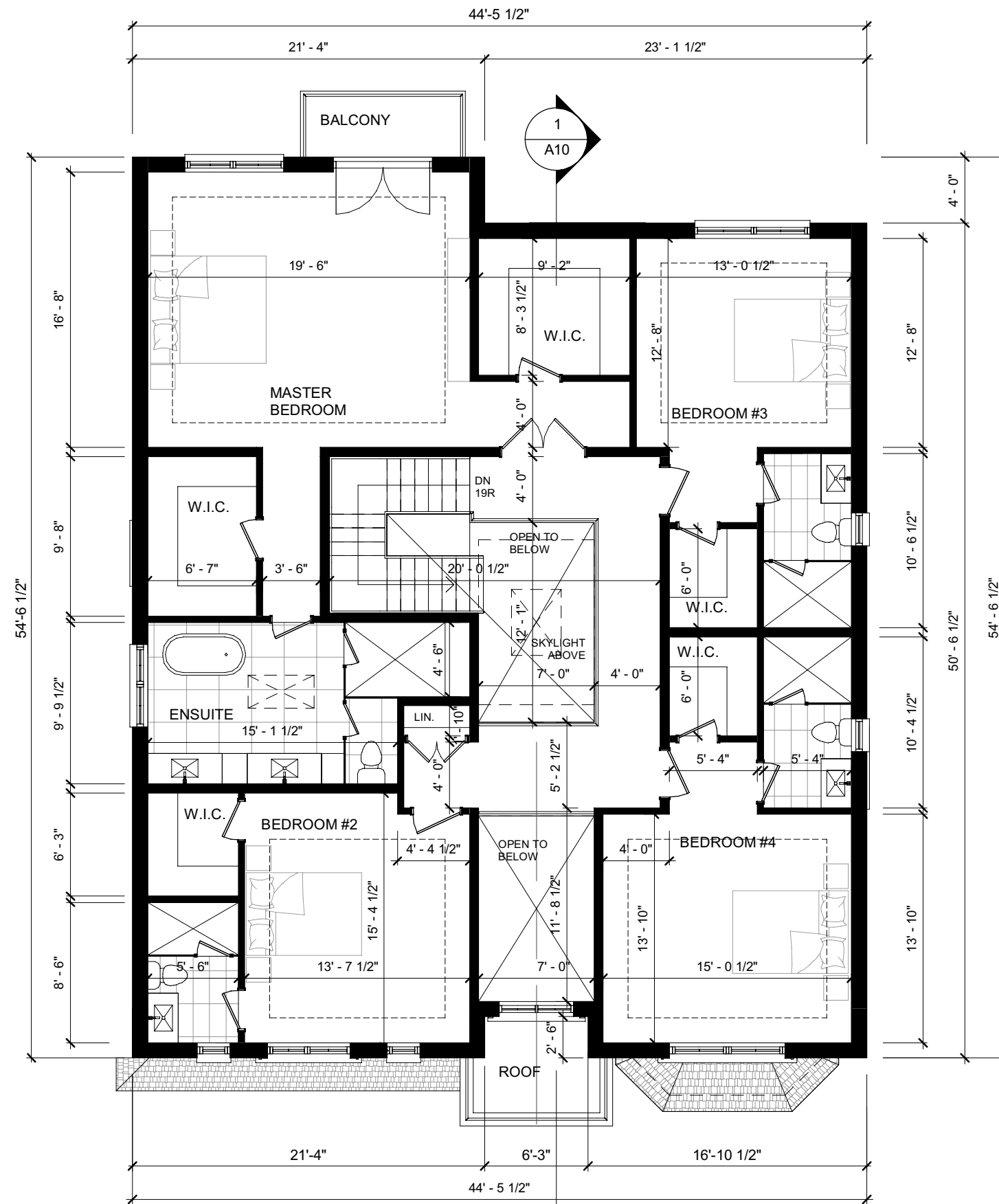
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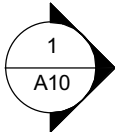
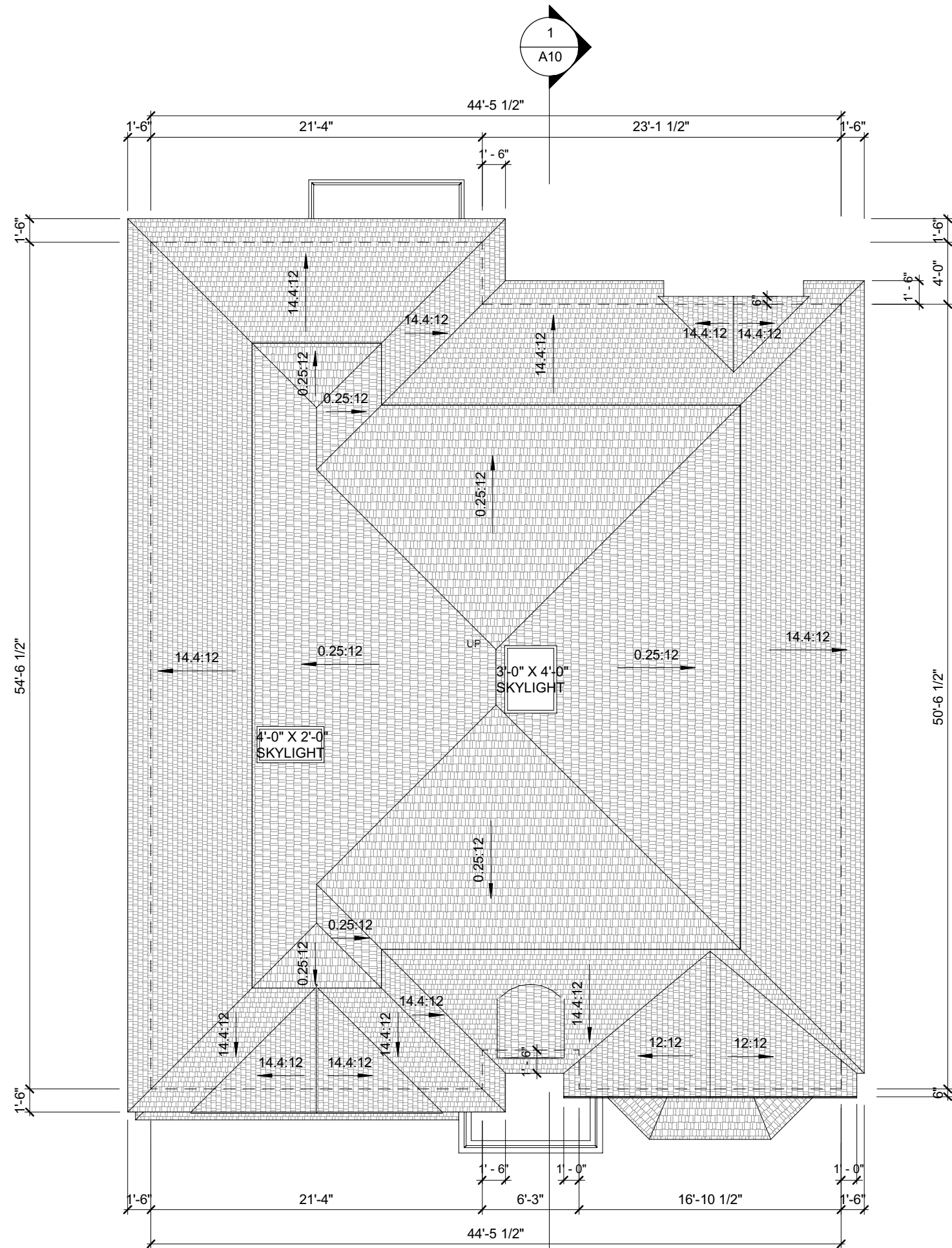
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1 SECOND FLOOR  
1/8" = 1'-0"

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

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Project : PRIVATE RESIDENCE		Date : Issue Date	Project No
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Drawing Name :		Drawn by : Author	Drawing No
ROOF PLAN		Checked by : Checker	A5

# Appendix B

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1 NORTH ELEVATION  
1/8" = 1'-0"

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23 HAGERMAN BLVD MARKHAM ONTARIO		Scale : 1/8" = 1'-0"	21013
Drawing Name :		Drawn by : Author	Drawing No
NORTH ELEVATION		Checked by : Checker	A6

# Appendix B

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1 SOUTH ELEVATION  
1/8" = 1'-0"

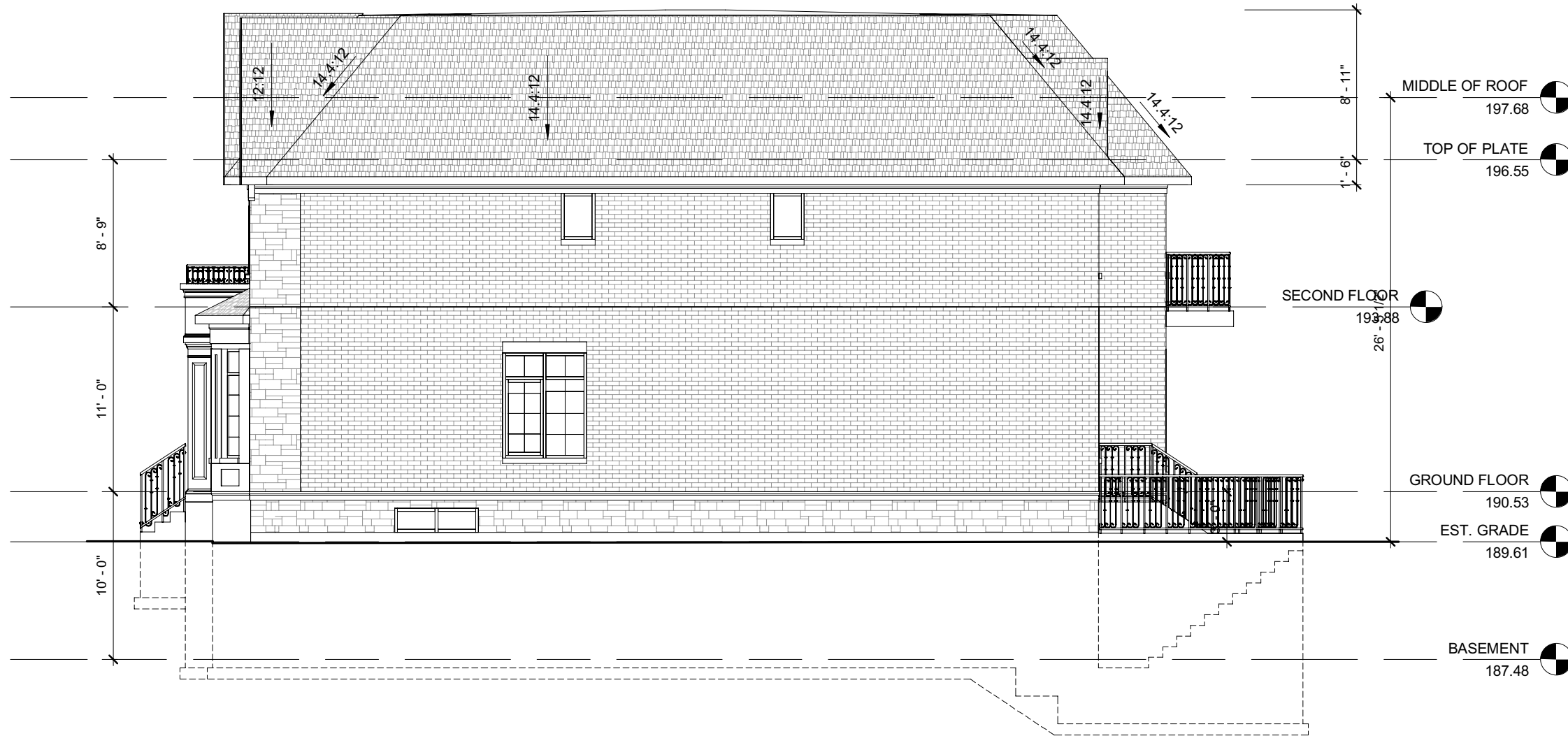
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Drawing Name :		Drawn by : Author	Drawing No
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# Appendix B

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1 WEST ELEVATION  
1/8" = 1'-0"

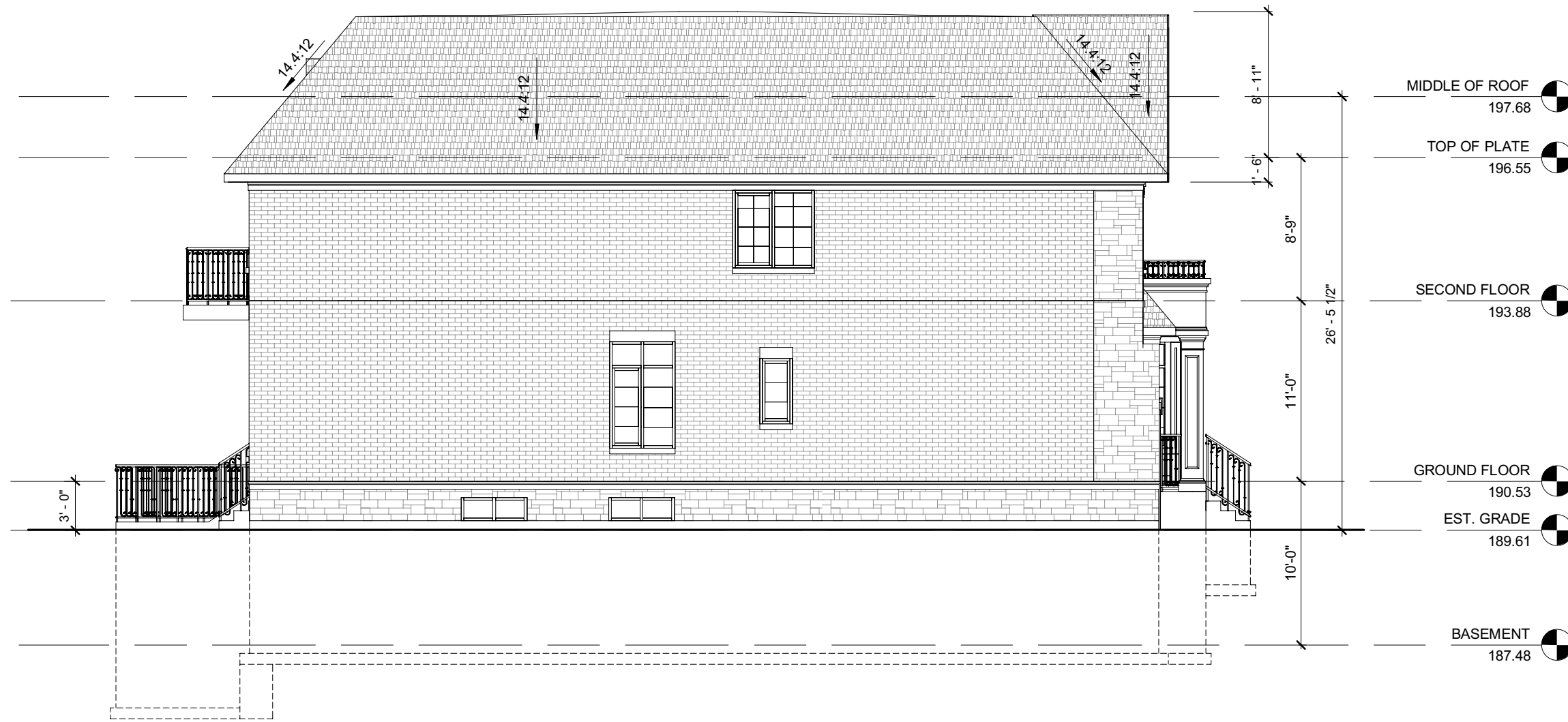
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1 EAST ELEVATION  
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