

Memorandum to the City of Markham Committee of Adjustment

July 12, 2021

File: A/050/21
Address: 4 Marie Court Thornhill
Applicant: F & A Associate Ltd. (Ali Shakeri)
Hearing Date: Wednesday, July 21, 2021

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

The applicant is requesting relief from the following requirements of the Third Density Single Family Residential (R3) zone in By-law 2237, as amended:

- a) **Amending By-law 101-90, Sec. 1.2(I):**
a maximum flat roof building height of 8.67 m, whereas by-law permits building height of 8.0 m;
- b) **Section 6.1:**
a minimum front yard setback of 20 ft, whereas the by-law requires setback of 27 ft;
- c) **Parking By-law 28-97, Sec. 6.2.4.5 a)l):**
a second 3.7 m wide driveway with a main building setback of 6.1 m from the streetline, whereas the by-law requires main building to be setback minimum of 8.0 m from the streetline;
- d) **Amending By-law 101-90, Sec. 1.2(vii):**
a maximum floor area ratio of (52.3 percent) 4093 ft², whereas the by-law permits maximum floor area ratio of (50 percent) 3907 ft²;

as it relates to a proposed single detached dwelling.

BACKGROUND

Property Description

The 755.02 m² (8127 ft²) subject property is located on the west side of Marie Court, south of John Street and east of Yonge Street. There is an existing two storey single detached dwelling on the property, which according to assessment records was constructed in 1968. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. Mature vegetation exists across the property.

The subject property is partially located within TRCA's Regulated Area as the rear portion of the site is within and adjacent to a regulatory flood plain associated with the Don River Watershed.

Proposal

The applicant is proposing demolish the existing dwelling and construct a new 380.30 m² (4093.48 ft²) two storey single detached dwelling.

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. Section 8.2.3.5 of the 2014 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 applications for development approval in a 'Residential Low Rise' area, which includes 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 neighbourhood.

Zoning By-Law 2237

The subject property is zoned Third Density Single Family Residential (R3) under By-law 2237, as amended, which permits single detached dwellings. The subject property does not comply with the requirements of By-law 2237 with respect to the minimum front yard setback.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the infill By-law requirements with respect to maximum building height and maximum floor area ratio.

Parking Standards By-law 28-97

The proposal also does not comply with the standards of Parking By-law 28-97 with respect to the second driveway. Further details of the parking requirement is provided in the comment section below.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on April 20, 2021 to confirm the variances required for the proposed development.

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.

This application was previously deferred at the May 26, 2021 Committee of Adjustment meeting to allow the application to first be reviewed by the Heritage Markham Committee. Heritage Markham Committee comments are outlined in the below.

Increase in Maximum Building Height

The applicant has submitted revised plans requesting a reduced building height from the previous submission. The applicant is now requesting relief to permit a maximum building height of 8.67 m (28.44 ft), whereas the By-law permits a maximum building height of 8.0 m (26.25 ft). This represents an increase of 0.67 m (2.20 ft). Staff are of the opinion the proposed building height is minor in nature and have no concerns with the proposed building height.

Reduction in Front Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 20 ft (6.1 m), whereas the By-law requires a minimum front yard setback of 27 ft (8.23 m). This represents a reduction of approximately 7 ft (2.13 m). Given the curved front lot line, portions of the building are setback further than 20 ft (6.1m) and the proposed front yard setback is generally consistent with the established front yard setback pattern on the street. It should also be noted that the rear of the property is located within the TRCA's regulated area and any revisions to the proposed dwelling would need to be reviewed by the TRCA. Staff have no concerns with the proposed front yard setback variance.

Second Driveway

The applicant is requesting relief to permit a second 3.7 m wide driveway with a main building setback of 6.1 m from the streetline, whereas the by-law requires the main building to be setback a minimum of 8.0 m from the streetline. This variance is in part attributed to the curved front lot line. Portions of the main building are setback further than 6.1 m. Staff are of the opinion the proposed second driveway is minor in nature and will be in keeping with the character of the neighbourhood.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 52.3 percent, whereas the By-law permits a maximum floor area ratio of 50 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 380.30 m² (4093.48 ft²), whereas the By-law permits a dwelling with a maximum floor area of 362.97 m² (3907 ft²). This represents an increase of approximately 17.33 m² (186.54 ft²).

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling. The building layout meets zoning provisions such as side yard setbacks, rear yard setback, and lot coverage that establish the prescribed building envelope, which helps to ensure the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood.

Staff are of the opinion the proposed floor area ratio will not adversely impact the character of the neighbourhood, and have no objection to the proposed floor area ratio.

Tree Preservation

Tree preservation comments will be provided during the required Residential Infill Grading and Servicing (RGS) application. The applicant will be required to provide a Tree Assessment and Preservation Plan so Staff can review and assess any potential impacts.

Staff recommend that any approval of the application include the tree protection and compensation conditions attached in Appendix A.

Markham Heritage Committee

The subject property is located adjacent, as defined within the 2014 Official Plan, to the Thornhill Heritage Conservation District (THCD). The 2014 Official Plan directs staff to review any application for development approval on lands adjacent to cultural heritage resources (individual or a district) to ensure the integrity of those resources is maintained. This review includes minor variance applications. Heritage Section staff has indicated no objection to the variances from a heritage perspective, and on June 9, 2021, the Heritage Markham Committee indicated no objection from a heritage perspective to the requested variances to permit a new detached residential dwelling at 4 Marie Court.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The rear portion of the site is within and adjacent to a regulatory flood plain associated with the Don River Watershed. TRCA provided comments on May 11, 2021 indicating that they have no major concerns with the proposal subject to the conditions outlined in their letter (Appendix C).

PUBLIC INPUT SUMMARY

As of July 12, 2021 the City has received seventeen letters of objection and fourteen letters of support. 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 see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Hailey Miller, Planner I, West District

REVIEWED BY:

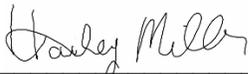


Stephen Kitagawa, Acting Development Manager, West District

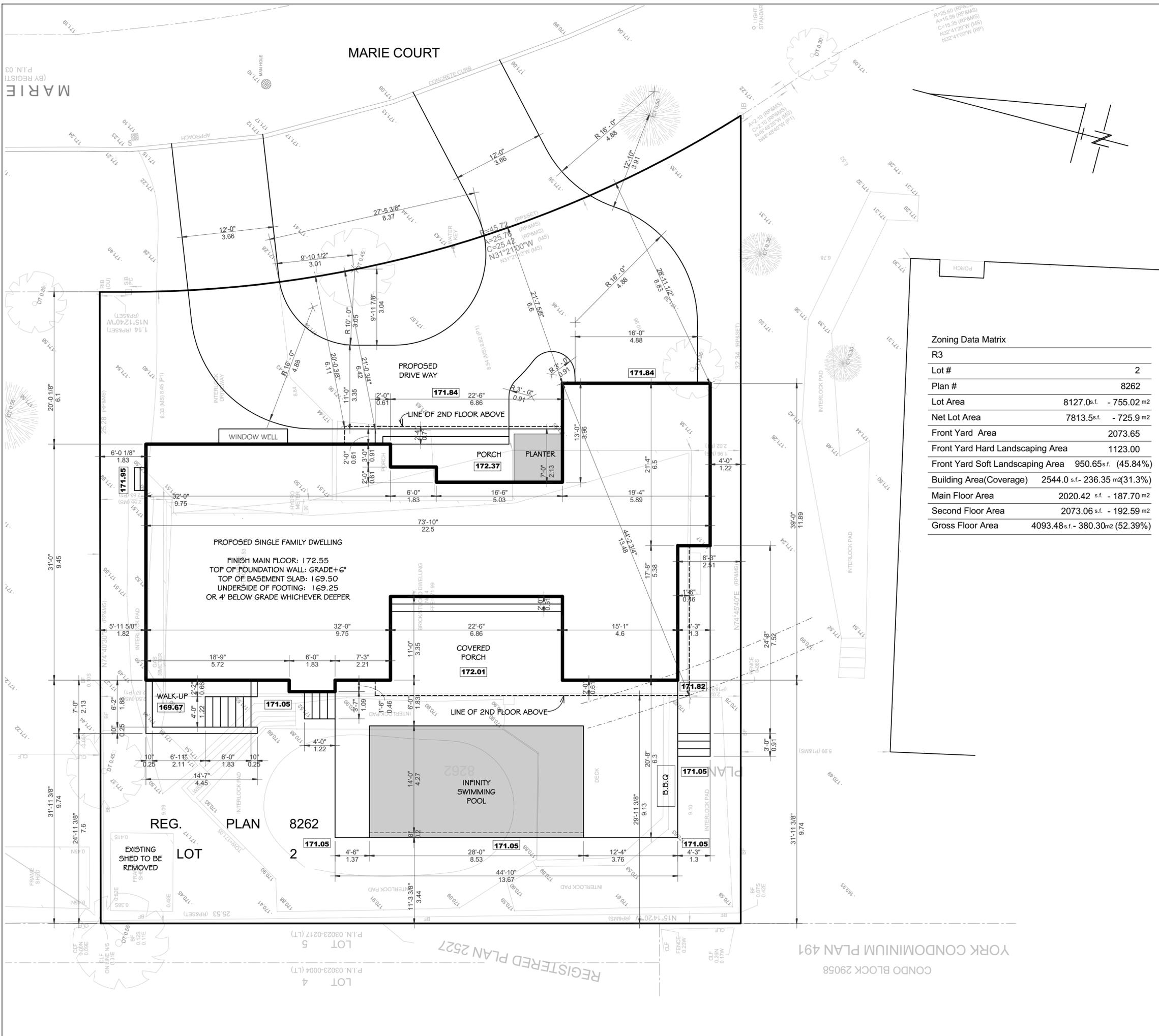
APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/050/21

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 plan(s) 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 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;
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 Director of Operations.
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 Director of Operations;
6. That the applicant satisfies the requirements of the *Toronto and Region Conservation Authority (TRCA)*, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of the *TRCA*, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of *the TRCA*.

CONDITIONS PREPARED BY:



Hailey Miller, Planner I, West District



notes:

Appendix B

File: 21-11774-000.00.MNV

Date: 07/16/21

MMDDYYYY

Zoning Data Matrix

| | |
|----------------------------------|---|
| R3 | |
| Lot # | 2 |
| Plan # | 8262 |
| Lot Area | 8127.0 s.f. - 755.02 m ² |
| Net Lot Area | 7813.5 s.f. - 725.9 m ² |
| Front Yard Area | 2073.65 |
| Front Yard Hard Landscaping Area | 1123.00 |
| Front Yard Soft Landscaping Area | 950.65 s.f. (45.84%) |
| Building Area (Coverage) | 2544.0 s.f. - 236.35 m ² (31.3%) |
| Main Floor Area | 2020.42 s.f. - 187.70 m ² |
| Second Floor Area | 2073.06 s.f. - 192.59 m ² |
| Gross Floor Area | 4093.48 s.f. - 380.30 m ² (52.39%) |

designed by:

ALI SHAKERI
T.416 8166651 F.416 2508900

ARCICA INC.
326 SHEPPARD AVENUE EAST,
M2N 3B4
TORONTO, ONTARIO, CANADA,

revisions:

- JAN. 13, 2021- Issued for COA 1
- JAN. 29, 2021- Issued for COA 2
- MAR. 08, 2021- Issued for COA 3

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 DRAWINGS.
4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
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project: 4 MARIE COURT

drawing: SITE PLAN

scale: 1/8" = 1'-0"
page: A 01

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

Ali Shakeri
BCIN#24574
F&A Associates Ltd.
BCIN#30998



MARIE
(BY REGIST)
P.L.N. 03

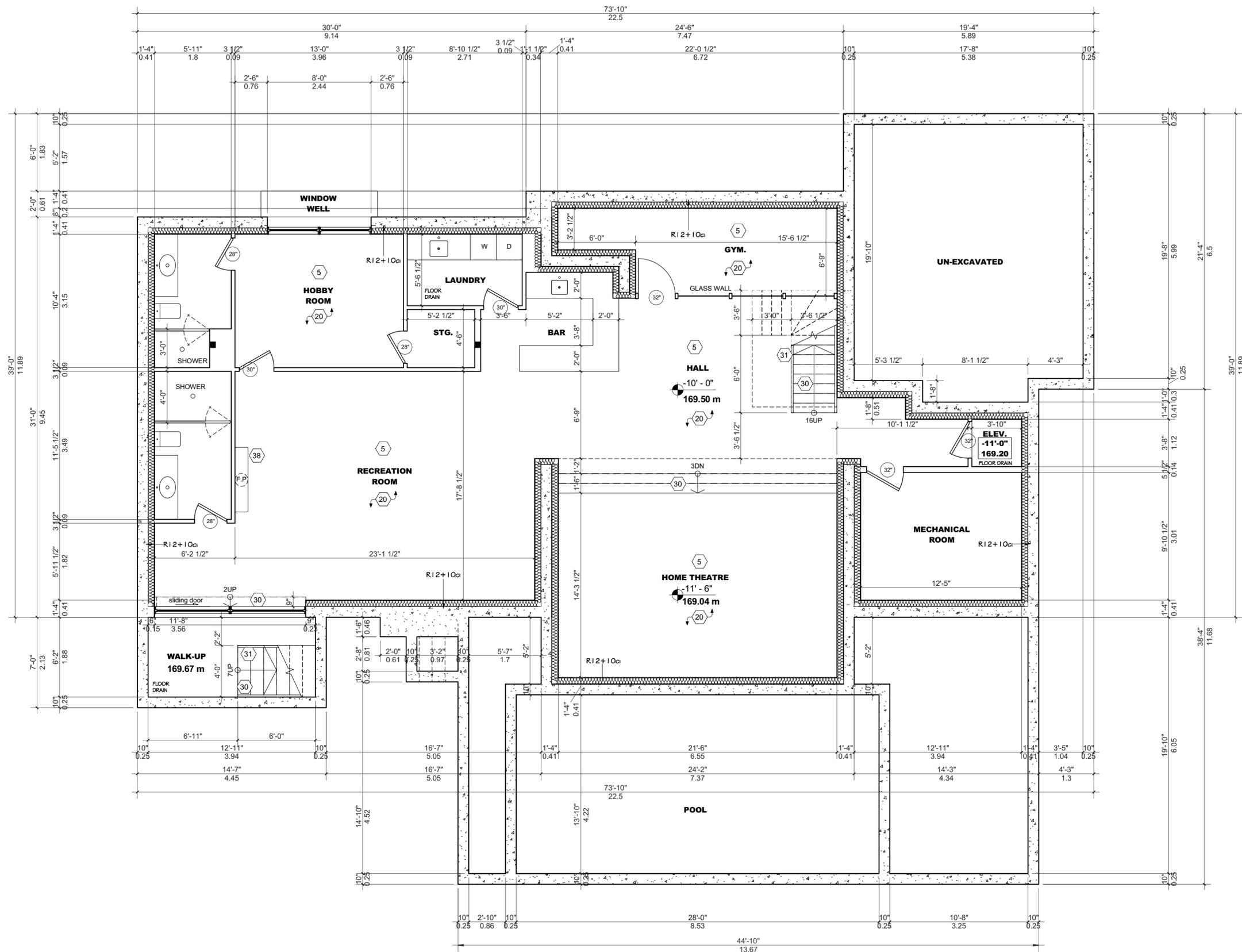
REGISTERED PLAN 2527
CONDO BLOCK 29058
YORK CONDOMINIUM PLAN 491

notes:

Appendix B

File: 21.11774.000.00.MNV

Date: 07/16/21



NOTE:
ALL INTERIOR WALL
DIMENSIONS SHOW
FACE OF STUDS

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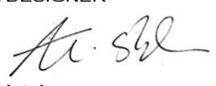
project: **4 MARIE COURT**

drawing: **BASEMENT PLAN**

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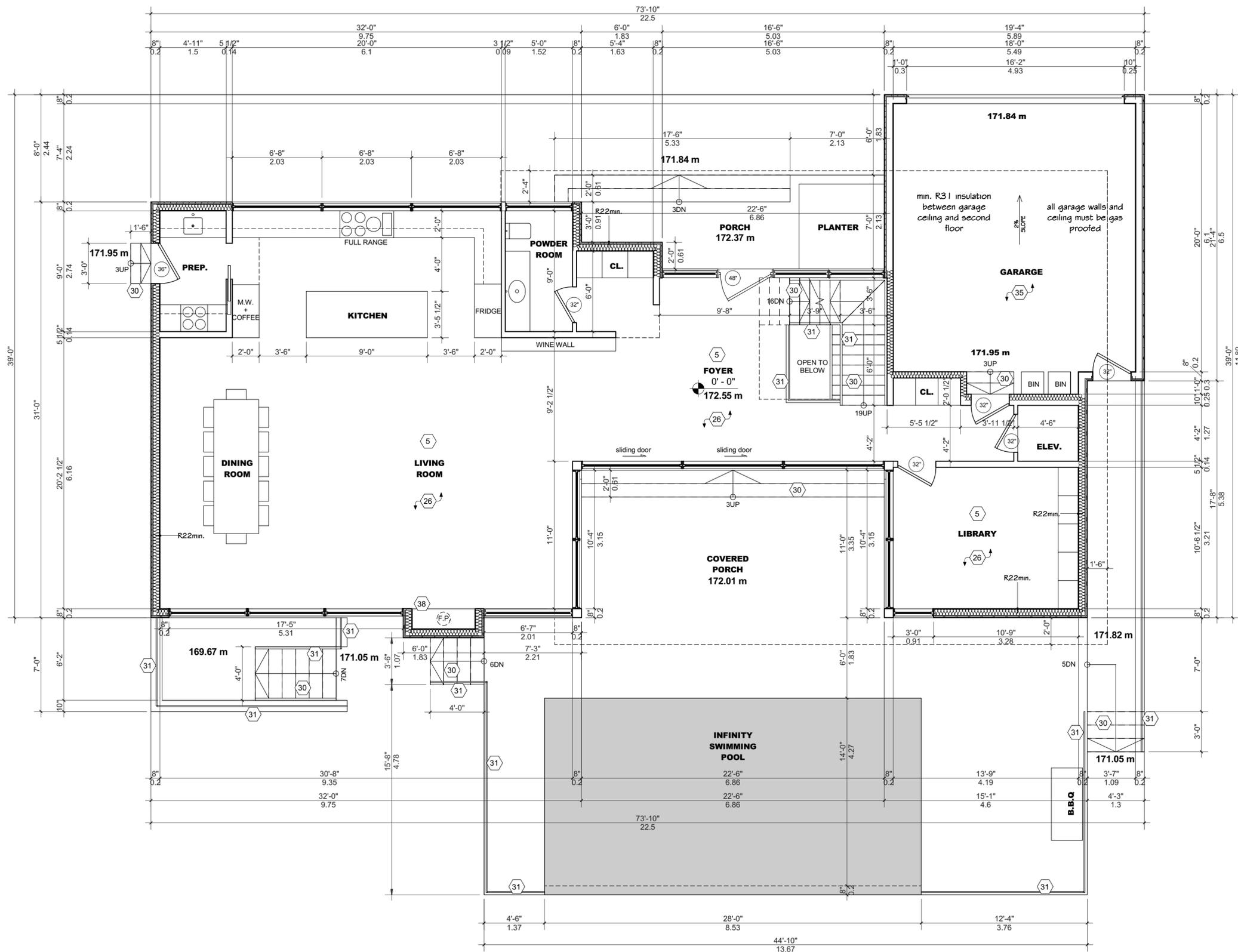


notes:

Appendix B

File: 21.11774.000.00.MNV

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project:

4 MARIE COURT

drawing:

1st FLOOR PLAN

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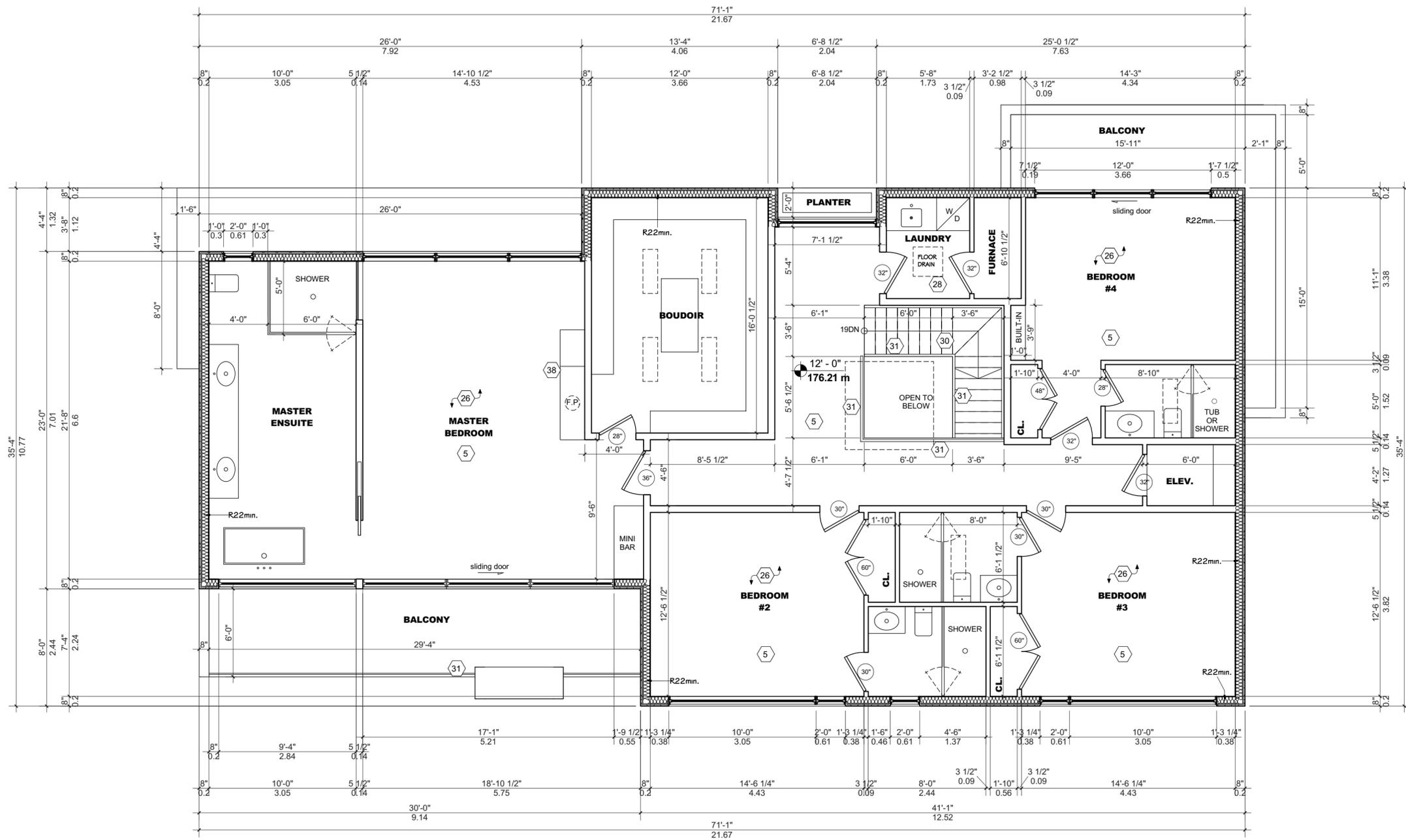
NOTE:
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notes:

Appendix B

File: 21.11774.000.00.MNV

Date: 07/16/21



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project:

4 MARIE COURT

drawing:

2nd FLOOR PLAN

scale:

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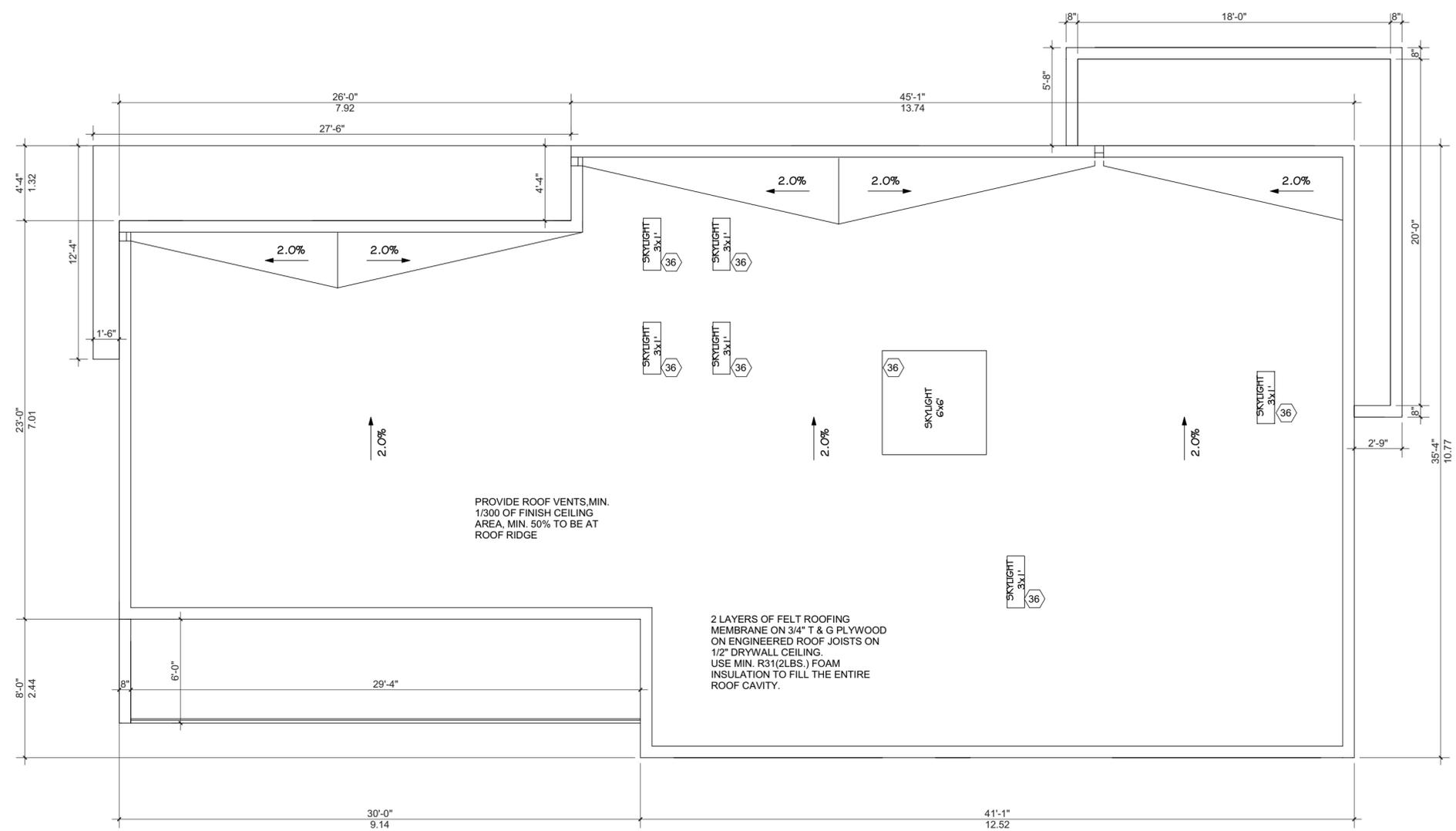
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Appendix B

File: 21.11774.000.00.MW

Date: 07/16/21



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project: **4 MARIE COURT**

drawing: **ROOF PLAN**

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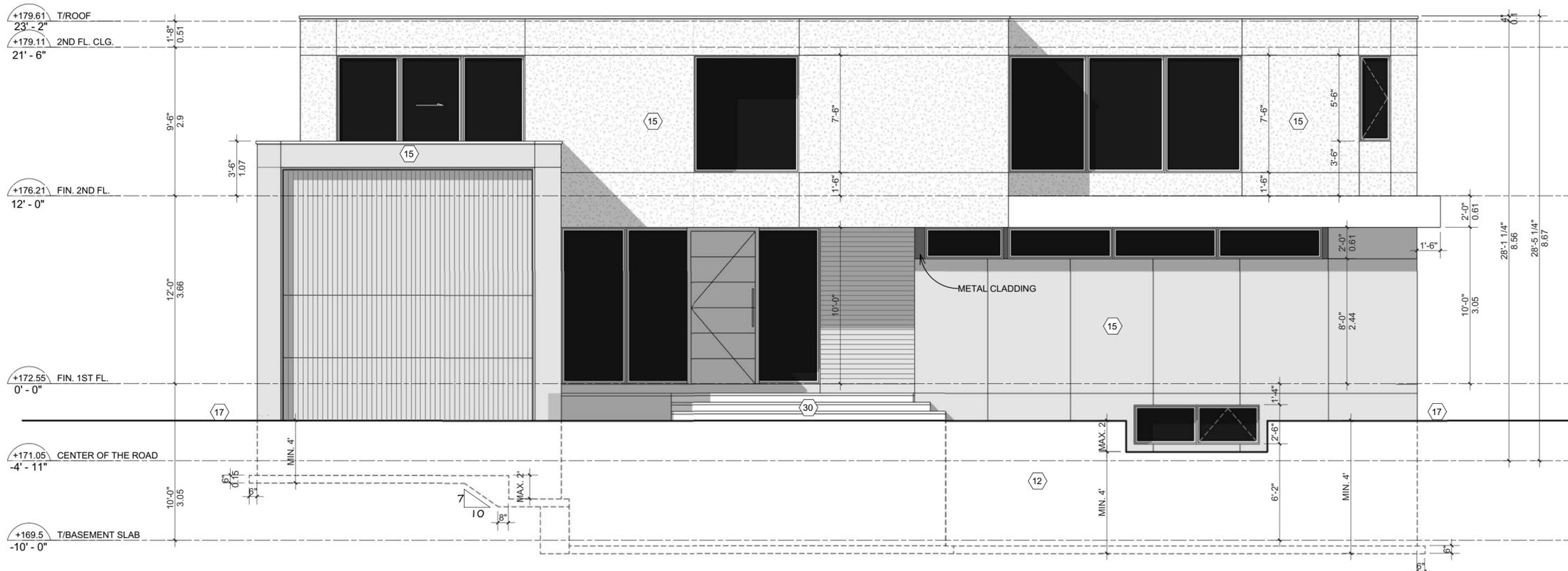


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project: 4 MARIE COURT

drawing: MAIN ELEVATION

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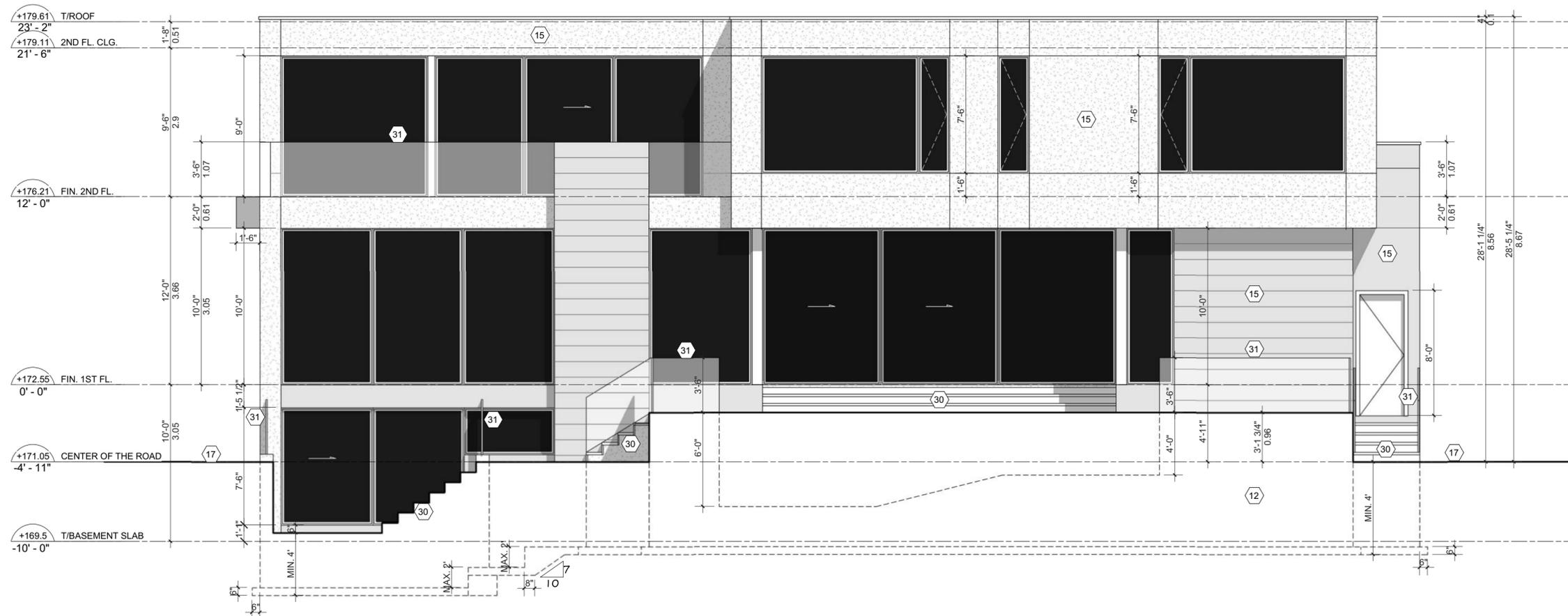


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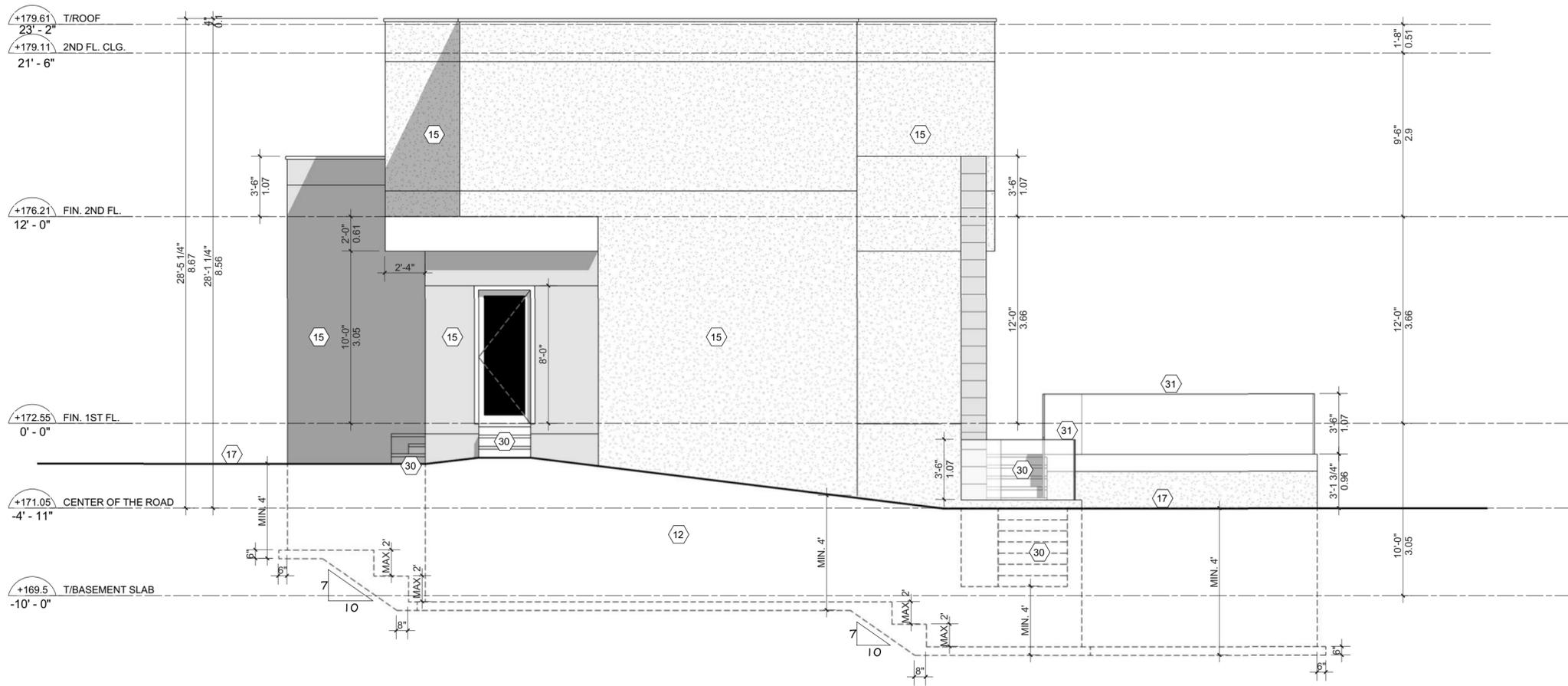
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| project: | 4 MARIE COURT | |
| drawing: | SIDE ELEVATION(NORTH) | |
| scale: | 3/16" = 1'-0" | page: |
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BCIN#30998

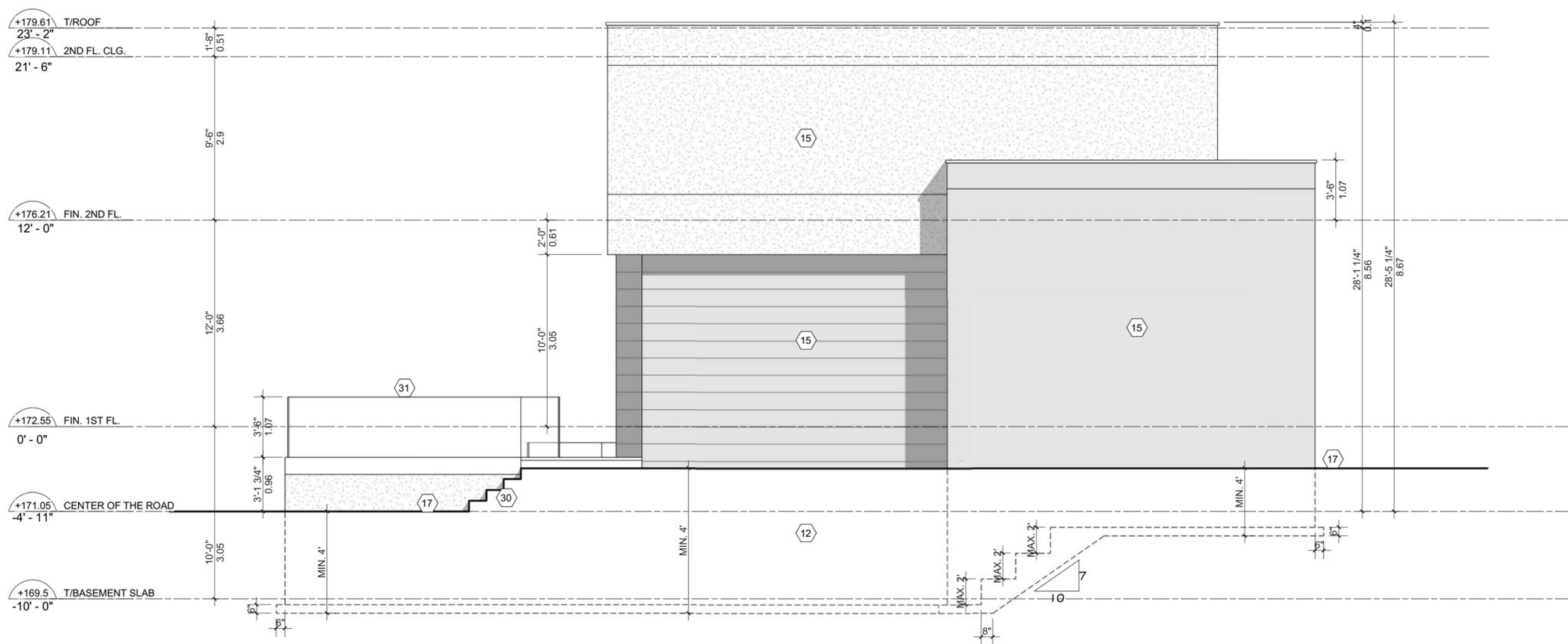


notes:

Appendix B

File: 21.11774.000.00.MKV

Date: 07/16/21



designed by:

ALI SHAKERI
T.416 8166651 F.416 2508900

ARCICA INC.
326 SHEPPARD AVENUE EAST,
M2N 3B4
TORONTO, ONTARIO, CANADA,

- revisions:
- JAN. 13, 2021- Issued for COA 1
 - JAN. 29, 2021- Issued for COA 2
 - MAR. 08, 2021- Issued for COA 3
 - JUNE 16, 2021- Issued for COA 4

- 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 DRAWINGS.
4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED "ISSUED FOR CONSTRUCTION".
6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION

project: **4 MARIE COURT**

drawing: **SIDE ELEVATION(SOUTH)**

scale: **3/16" = 1'-0"** page: **A 09**

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

Ali Shakeri
BCIN#24574
F&A Associates Ltd.
BCIN#30998

