

# Memorandum to the City of Markham Committee of Adjustment

June 28, 2021

**File:** A/079/21  
**Address:** 37 Elm Street, Markham  
**Applicant:** David Hicks  
**Agent:** RN Design (Ravi Patel)  
**Hearing Date:** Wednesday July 21, 2021

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

The applicant is requesting relief from the following requirements of By-law 1229, Residential One (R1) as amended:

- a) **By-law 99-90, Section 1.2 (iii):**  
a building depth of 20.40 m (67 ft), whereas the By-law permits maximum building depth of 16.8 m (55.12 ft);
- b) **By-law 99-90, Section 1.2 (vi):**  
a maximum floor area ratio of 50.06 percent, whereas the By-law permits a maximum floor area ratio of 45.0 percent;
- c) **By-law 1229, Section 11.1:**  
a minimum front yard setback of 6.2 m (20.34 ft), whereas the by-law requires minimum front yard setback of 7.62 m (25 ft);

as it relates to a proposed two-storey addition to the existing detached dwelling.

## BACKGROUND

### Property Description

The 1,565 m<sup>2</sup> (16,845.50 ft<sup>2</sup>) subject property is located on the east side of Elm Street, south of Parkway Avenue and East of Main Street Markham North. There is an existing two-storey 383 m<sup>2</sup> (4,122.6 ft<sup>2</sup>) detached dwelling on the property, which according to the applicant was constructed in 2012. Vegetation is found throughout the property with some trees located along the front (west), side (north) and rear of the property. The property also backs onto Carman Lewis Park.

The property is located within a residential neighbourhood comprised of one and two-storey detached dwellings. The surrounding context can be described as one that is in transition with several examples of newer infill homes that have been developed as larger two-storey dwellings with attached garages than the original home. This includes some examples of homes that have been approved for variances for increased floor area ratio, building depth and building height.

### Related Applications

On July 16, 2020, Council enacted a Part Lot Control By-law on 41 Elm Street (neighbouring property) to establish a new property line and to facilitate a conveyance of a portion of 41 Elm Street to 37 Elm Street. On November 24, 2020, Council enacted a deeming by-law on each respective property to merge legal parcels, which established new municipal property boundaries for 41 Elm Street and 37 Elm Street.

## **Proposal**

The applicant is proposing to construct a two-storey addition to the north side of the existing two-storey detached dwelling. The proposal also includes an addition in the basement and the expansion of the rear one-storey 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. 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 1229

The subject property is zoned Residential One (R1) under By-law 1229, as amended, which permits a single detached dwelling.

## Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the general 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 depth, maximum floor area ratio and, minimum front yard setback.

## **Zoning Preliminary Review (ZPR) Not Undertaken**

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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.

### **Increase in Maximum Floor Area Ratio**

The applicant is requesting relief to permit a floor area ratio of 50.06 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. The variance will facilitate the construction of a two-storey 161 m<sup>2</sup> (1,733 ft<sup>2</sup>) addition to the existing two-storey detached dwelling for a floor area of 544 m<sup>2</sup> (5,855.6 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 490.05 m<sup>2</sup> (5,274.85 ft<sup>2</sup>). This represents an increase of approximately 54 m<sup>2</sup> (581.25 ft<sup>2</sup>).

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 gross floor area is distributed along a portion of the front and side (north) of the dwelling expanding into the rear. The north side of the proposed dwelling maintains more than the required setback from the neighbouring property minimizing the impact on neighbouring development. While a portion of the massing is distributed along the front, the second-storey impact is reduced with a portion of the gross floor attributable to the repurposing existing unfinished attic space.

### **Increase in Maximum Building Depth**

The applicant is requesting relief to permit a maximum building depth of 20.40 m (67 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft). This represents an increase of approximately 3.6 m (11.81 ft).

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line. Given the configuration of the lot, building depth is measured on an angle through the proposed building.

The variance is attributable to a one-storey rear porch and garage projection which add approximately 3.33 m (10.92 ft) and approximately 1.42 m (4.66 ft) to the building depth. The main building, excluding the rear porch and garage projection, has a building depth of 15.65 m (51.34 ft) which complies with by-law requirements.

### **Reduction in Front and Rear Yard Setback**

The applicant is requesting relief to permit a minimum front yard setback of 6.2 m (20.34 ft), whereas the By-law requires a minimum front yard setback of 7.62 m (25 ft). This represents a reduction of approximately 1.42 m (4.66 ft). The detached dwelling is not parallel to the front property line and as such, the front yard setback is measured at an angle. The addition to the north side of the property results in the proposed dwelling being closer to the front property line. The remainder of the existing two-storey dwelling complies with the front yard setback requirement of 7.62 m (25 ft). Given this, staff are of the opinion that the variance request is appropriate.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of June 28, 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, 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.

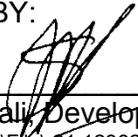
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

  
\_\_\_\_\_  
Aqsa Malik, Planner, East District

REVIEWED BY:

  
\_\_\_\_\_  
Stacia Muradali, Development Manager, East District  
File Path: Amanda\Flev 21 123624 \Documents\District Team Comments Memo

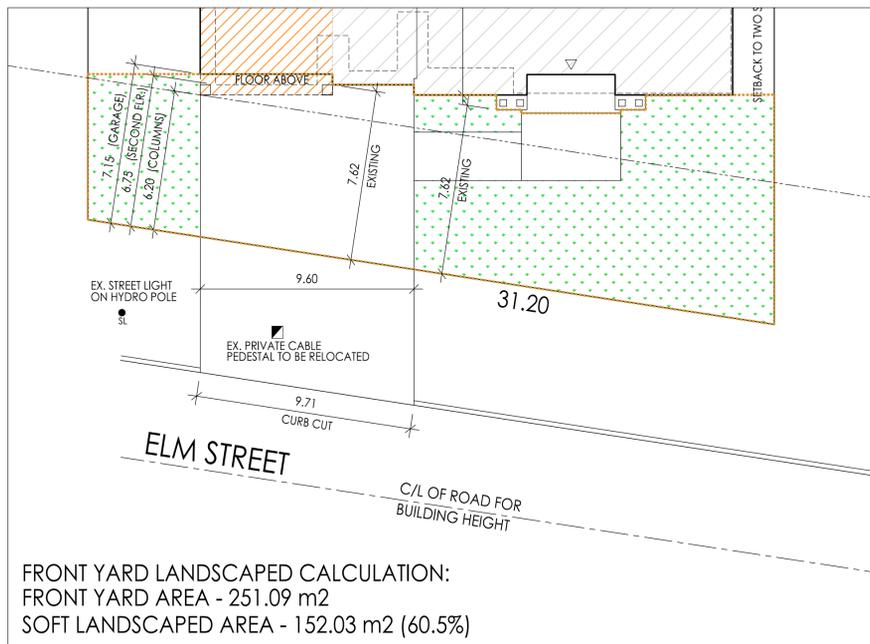
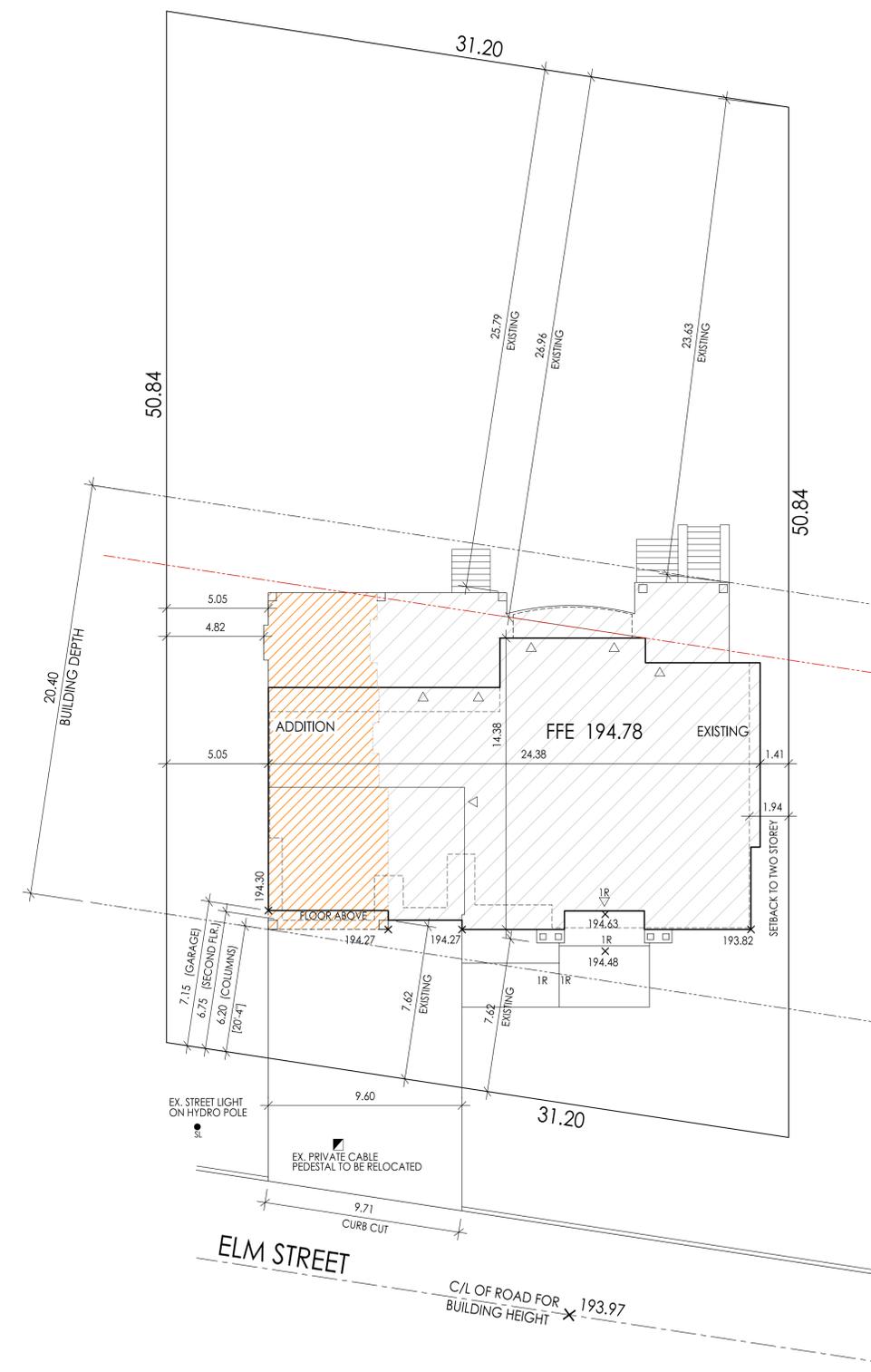
**APPENDIX “A”**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/079/21**

1. The variances apply only to the proposed development as long as it remains; and
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 received by the City of Markham 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; and
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.

CONDITIONS PREPARED BY:

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



FRONT YARD LANDSCAPED CALCULATION:  
 FRONT YARD AREA - 251.09 m<sup>2</sup>  
 SOFT LANDSCAPED AREA - 152.03 m<sup>2</sup> (60.5%)

GFA Calculation (m <sup>2</sup> )			
	PROPOSED	EXISTING	ADDITION
Ground Floor (Incl. Garage)	310	240	70
Second Floor (w/o Attic space)	234	143	91
<b>TOTAL GFA</b>	<b>544</b>	<b>383</b>	<b>161</b>

SITE STATS				
RES. INFILL-BY-LAW 1299/99-90				
ZONE: R1				
	REQUIRED	PROPOSED	EXISTING	ADDITION
Min. Lot Frontage	18.29 m	30.84 m	21.7	9.14
Min. Lot Area	613 m <sup>2</sup>	1565.00 m <sup>2</sup>	1103 m <sup>2</sup>	462 m <sup>2</sup>
Min. Front Yard	7.62 m	6.20 m		
Min. Side Yard (One Storey Portion)	1.22 m	1.41 m		
Min. Side Yard (Two Storey Portion)	1.83 m	1.94 m		
Min. Rear Yard	7.62 m	26.96 m		
Max. Building Height	9.8 m	9.68 m (Existing)		
Max. Lot Coverage	35%	39.6 m <sup>2</sup> / 25.30%	303 m <sup>2</sup>	93 m <sup>2</sup>
Net Lot Area		1089 m <sup>2</sup>		
Max. Net Floor Area Ratio	45%	544 m <sup>2</sup> / 50.06%	383 m <sup>2</sup>	161 m <sup>2</sup>

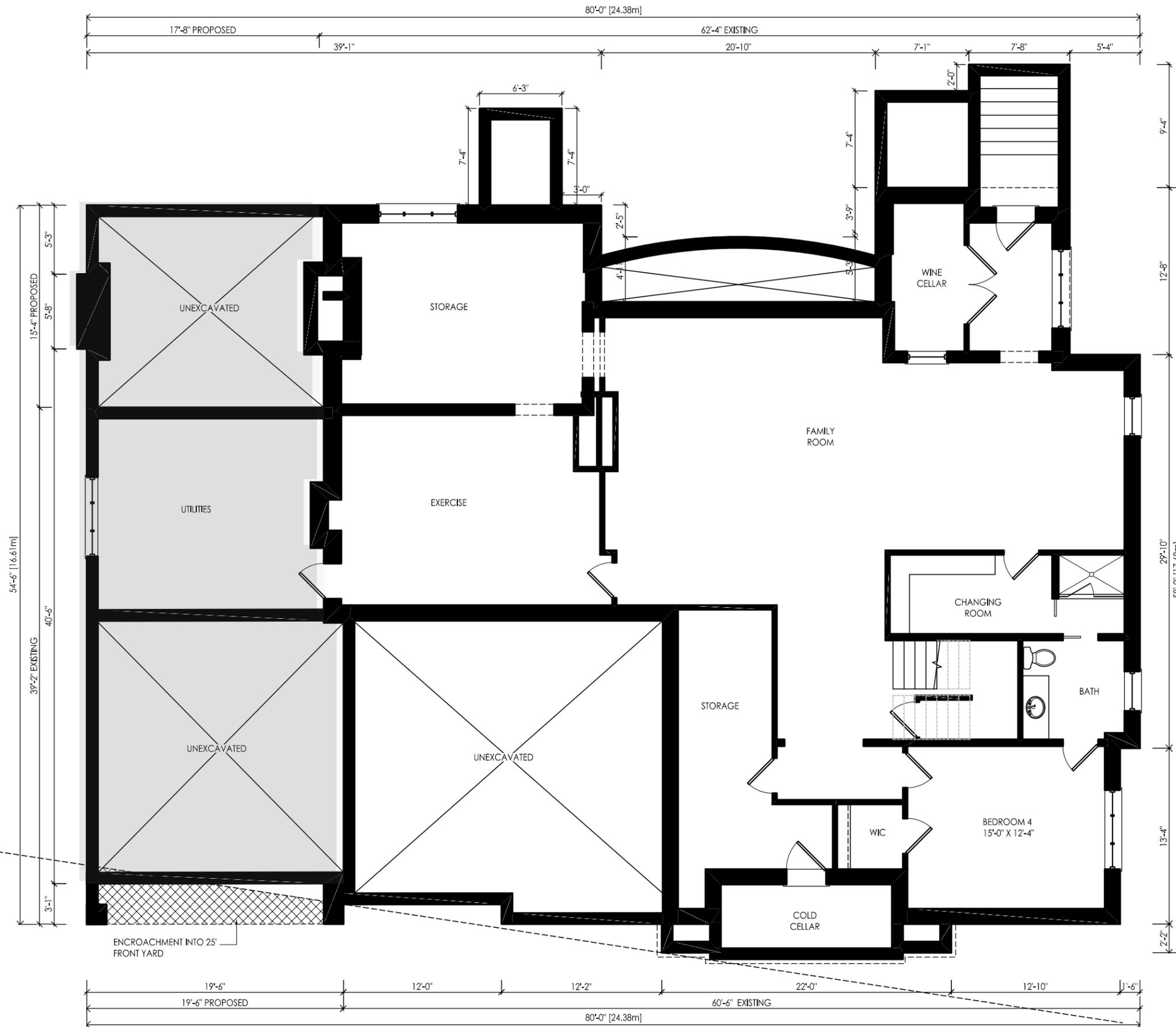
LEGEND	
FFL FINISHED SECOND FLOOR ELEVATION	WATER CONNECTION
FFB FINISHED FLOOR ELEVATION	WATER VALVE
FTW TOP OF FOUNDATION WALL	WASTEWATER
TSS TOP OF BASEMENT FLOOR	WASTEWATER
USF UNDER FLOOR FINISH	WASTEWATER
USFR UNDER FLOOR FINISH @ REAR	WASTEWATER
USFG UNDER FLOOR FINISH @ GARAGE	WASTEWATER
WOD WASTEWATER DUCT	WASTEWATER
LOB LOOKOUT BASEMENT	WASTEWATER
WOB WALL OUT BASEMENT	WASTEWATER
WIB WALL IN BASEMENT	WASTEWATER
REV REVISION PLAN	WASTEWATER
STD STANDARD PLAN	WASTEWATER
2D SECOND FLOOR	WASTEWATER
3D THIRD FLOOR	WASTEWATER
4D FOURTH FLOOR	WASTEWATER
5D FIFTH FLOOR	WASTEWATER
6D SIXTH FLOOR	WASTEWATER
7D SEVENTH FLOOR	WASTEWATER
8D EIGHTH FLOOR	WASTEWATER
9D NINTH FLOOR	WASTEWATER
10D TENTH FLOOR	WASTEWATER
11D ELEVENTH FLOOR	WASTEWATER
12D TWELFTH FLOOR	WASTEWATER
13D THIRTEENTH FLOOR	WASTEWATER
14D FOURTEENTH FLOOR	WASTEWATER
15D FIFTEENTH FLOOR	WASTEWATER
16D SIXTEENTH FLOOR	WASTEWATER
17D SEVENTEENTH FLOOR	WASTEWATER
18D EIGHTEENTH FLOOR	WASTEWATER
19D NINETEENTH FLOOR	WASTEWATER
20D TWENTIETH FLOOR	WASTEWATER
21D TWENTY-FIRST FLOOR	WASTEWATER
22D TWENTY-SECOND FLOOR	WASTEWATER
23D TWENTY-THIRD FLOOR	WASTEWATER
24D TWENTY-FOURTH FLOOR	WASTEWATER
25D TWENTY-FIFTH FLOOR	WASTEWATER
26D TWENTY-SIXTH FLOOR	WASTEWATER
27D TWENTY-SEVENTH FLOOR	WASTEWATER
28D TWENTY-EIGHTH FLOOR	WASTEWATER
29D TWENTY-NINTH FLOOR	WASTEWATER
30D THIRTIETH FLOOR	WASTEWATER
31D THIRTY-FIRST FLOOR	WASTEWATER
32D THIRTY-SECOND FLOOR	WASTEWATER
33D THIRTY-THIRD FLOOR	WASTEWATER
34D THIRTY-FOURTH FLOOR	WASTEWATER
35D THIRTY-FIFTH FLOOR	WASTEWATER
36D THIRTY-SIXTH FLOOR	WASTEWATER
37D THIRTY-SEVENTH FLOOR	WASTEWATER
38D THIRTY-EIGHTH FLOOR	WASTEWATER
39D THIRTY-NINTH FLOOR	WASTEWATER
40D FORTIETH FLOOR	WASTEWATER
41D FORTY-FIRST FLOOR	WASTEWATER
42D FORTY-SECOND FLOOR	WASTEWATER
43D FORTY-THIRD FLOOR	WASTEWATER
44D FORTY-FOURTH FLOOR	WASTEWATER
45D FORTY-FIFTH FLOOR	WASTEWATER
46D FORTY-SIXTH FLOOR	WASTEWATER
47D FORTY-SEVENTH FLOOR	WASTEWATER
48D FORTY-EIGHTH FLOOR	WASTEWATER
49D FORTY-NINTH FLOOR	WASTEWATER
50D FIFTIETH FLOOR	WASTEWATER

ISSUED OR REVISION COMMENTS			
NO.	DESCRIPTION	DATE	OWN/CHK
1	ISSUED FOR ZONING REVIEW	04 JAN 2021	RP MS
2	ISSUED FOR ZONING REVIEW - ADDED INFORMATION PER TOWN	24 MAR 2021	RP
3	ISSUED FOR COFA	20 APR 2021	RP
3	ISSUED FOR COFA (REMOVED 4TH GARAGE)	23 JUN 2021	RP

**RN DESIGN**  
 WWW.RNDESIGN.COM  
 T: 905-738-3177  
 WWW.THEPLUSGROUP.CA

CLIENT: Karen and David Hicks  
 PROJECT/LOCATION: 37 Elm Street, Markham  
 DRAWING: SITE PLAN

DATE: 20-DEC-2020	SCALE: 1:150
DRAWN BY: RP	CHECKED BY: MS
PROJECT NUMBER: 18058	DRAWING NUMBER: A1



**CELLAR FLOOR ELEV 'A'**  
 Floor Area: N/A FOR ZONING



Appendix B

File: 21.123624.000.00.MNV

Date: 07/02/21

MM/DD/YY

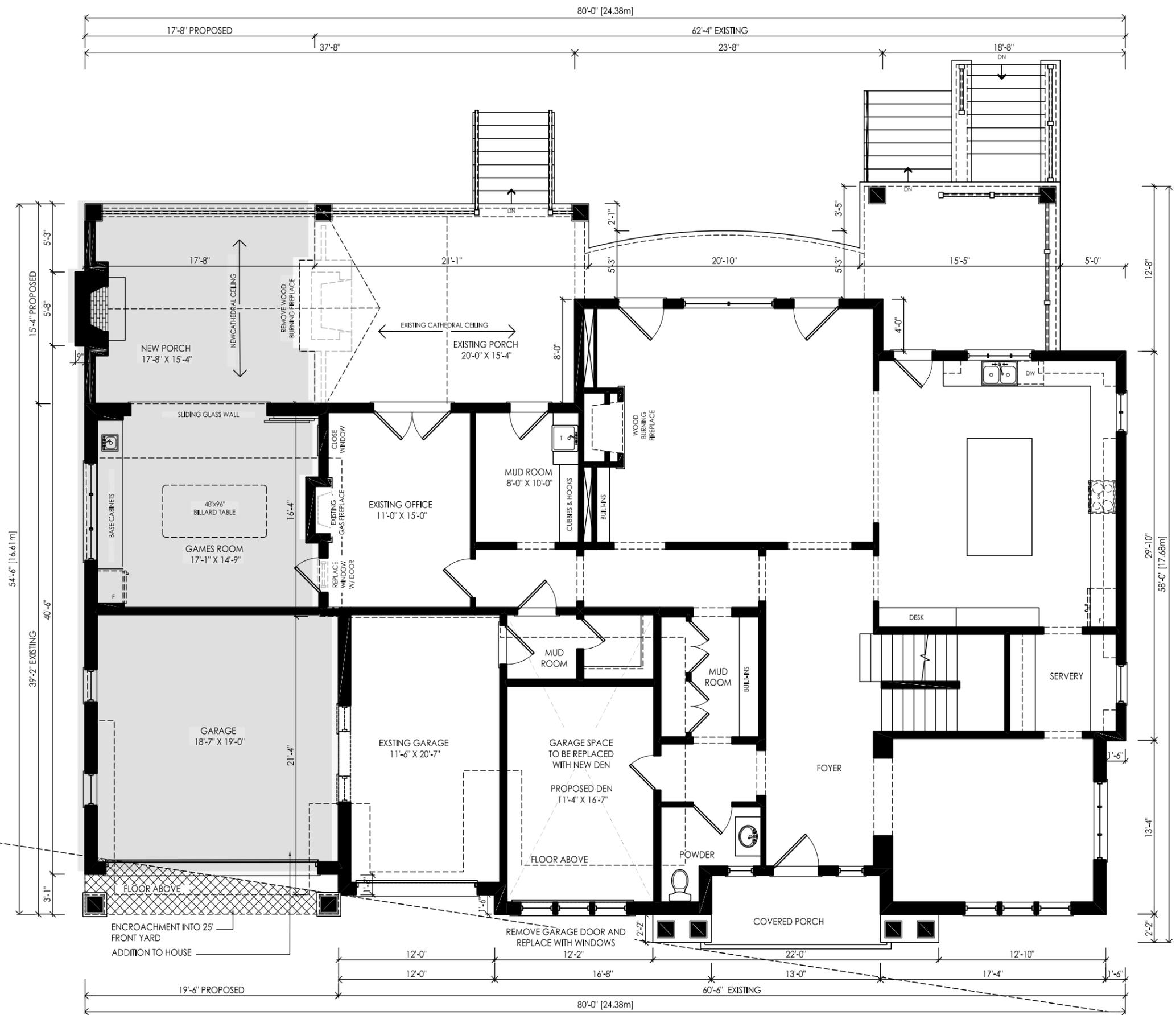


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client	David and Karen Hicks
project	37 Elm Street 37 ELM ST.
model	<b>CUSTOM</b>
project #	18058
scale	1/8" = 1'0"
page	

revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20

FILED: 2018 PROJECT: 18058 Architectural: Visual: 1888-C:\Users\mjs\Documents\18058\18058.dwg 18-Nov-20 10:00 AM



**GROUND FLOOR ELEV 'A'**  
 290 s.f. house addition  
 390 s.f. garage addition  
 270 s.f. rear porch addition



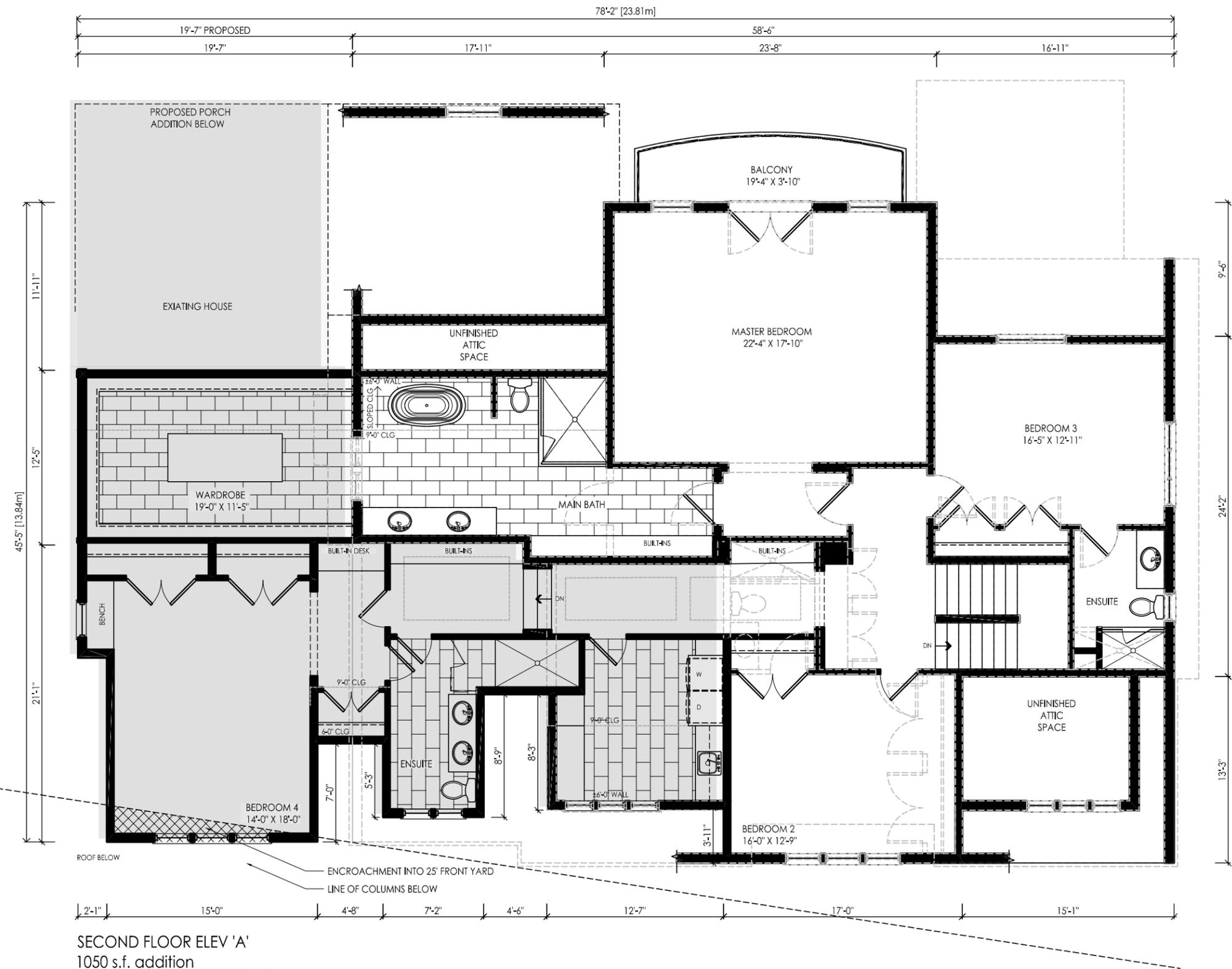
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2 REMOVED 4TH GARAGE	MJS	23-JUN-21



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SECOND FLOOR ELEV 'A'  
1050 s.f. addition



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WEST (FRONT) ELEVATION



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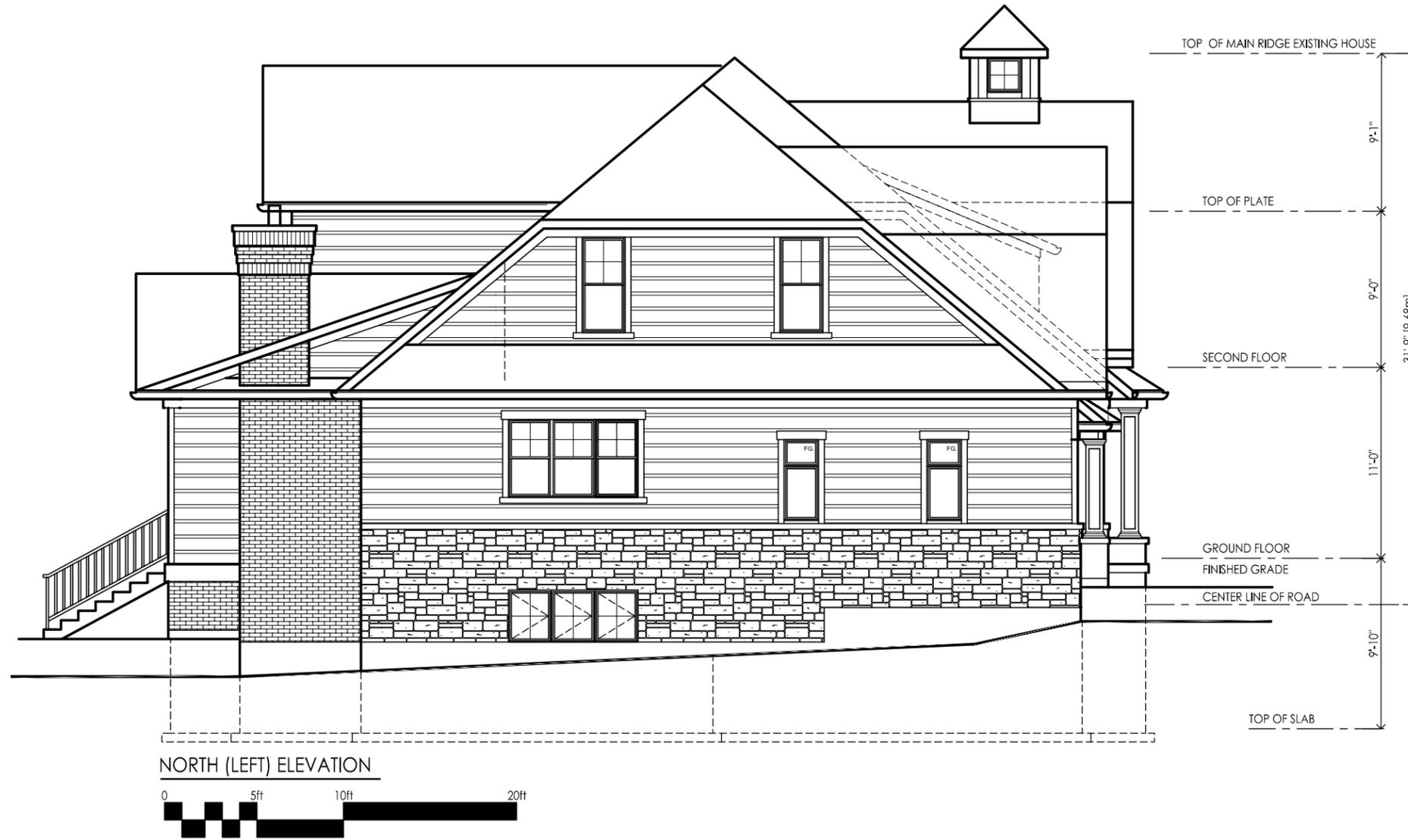
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NORTH (LEFT) ELEVATION



TOP OF MAIN RIDGE EXISTING HOUSE  
9'-1"  
TOP OF PLATE  
9'-0"  
SECOND FLOOR  
31'-9" [9.68m]  
GROUND FLOOR  
FINISHED GRADE  
11'-0"  
CENTER LINE OF ROAD  
9'-10"  
TOP OF SLAB



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EAST (REAR) ELEVATION



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SOUTH (RIGHT) ELEVATION

EXISTING - NO CHANGES



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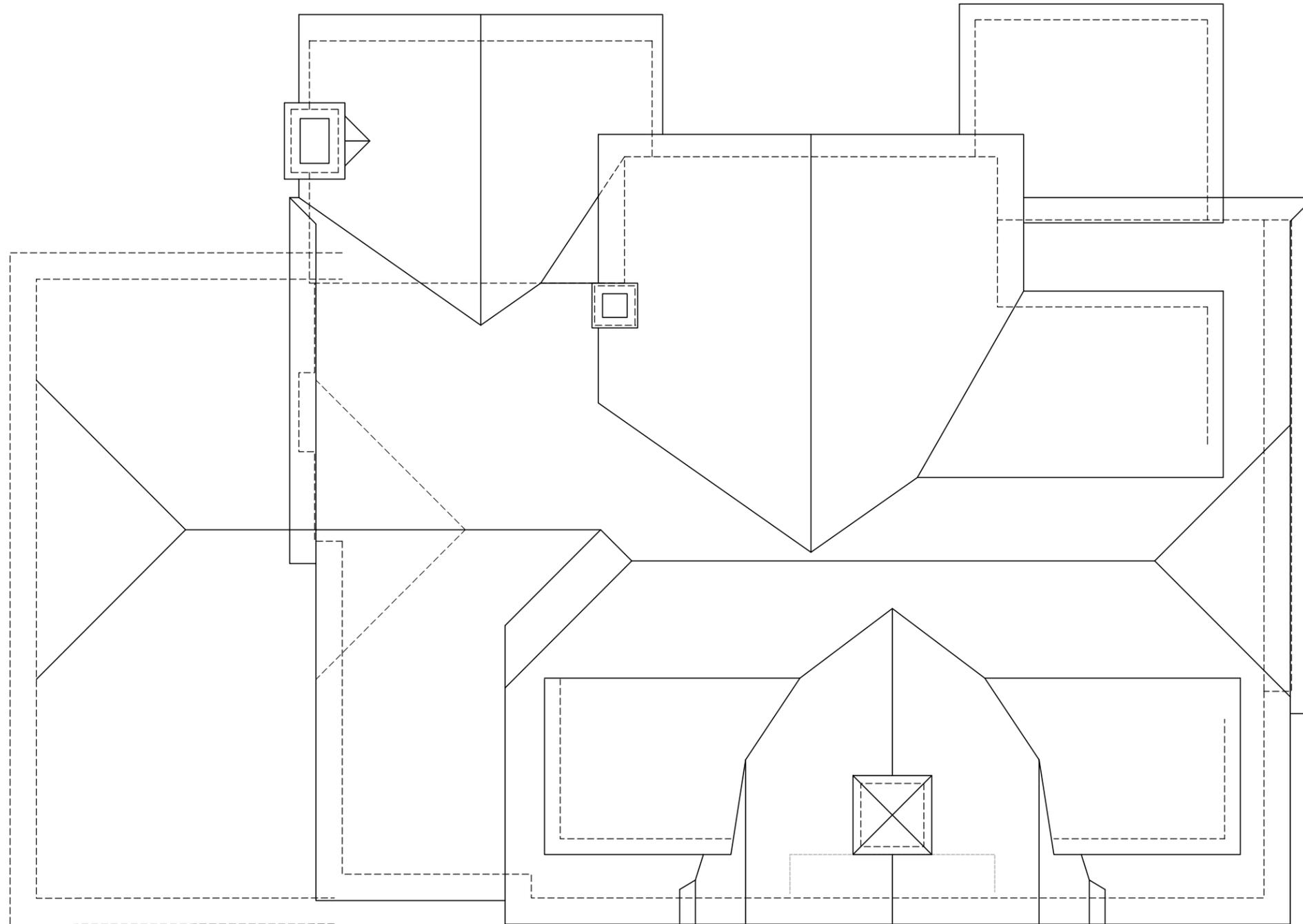
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