

# Memorandum to the City of Markham Committee of Adjustment

November 15, 2021

**File:** A/160/21  
**Address:** 60 Peter Street – Markham, ON  
**Applicant:** George Samir  
**Agent:** Homeland (Arjang Behesht)  
**Hearing Date:** November 24, 2021

The following comments are provided on behalf of the East District team.

The applicant is requesting relief from the following “Residential One – (R1)” zone requirements under By-law 1229, as amended, as they relate to a new two-storey detached dwelling. The variances requested are to permit:

**a) By-law 28-97, Sec. 6.2.4.5(a)(i):**

a minimum main building setback 7.62 m (25.0 ft) from the street line, whereas the by-law requires a lot with a circular driveway to have a minimum main building setback of 8.0 m (26.25 ft) from the street line;

**b) By-law 1229, Sec. 11.2(c)(i):**

a maximum porch encroachment of 23.0 in (0.58 m) into the required front yard, whereas the by-law permits a maximum porch encroachment of 18.0 in (0.46 m) into a required yard;

**c) By-law 142-95, Sec. 2.2(b)(i):**

a maximum deck projection of 5.49 m (18.01 ft), whereas the by-law permits a maximum deck projection of 3.0 m (9.84 ft); and

**d) Amending By-law 99-90:**

a maximum floor area ratio of 50.0%, whereas the by-law permits a maximum floor area ratio of 45.0%.

## BACKGROUND

### Property Description

The 801.02 m<sup>2</sup> (8,622.11 ft<sup>2</sup>) subject property is located on the west side of Peter Street, north of Bullock Drive, east of Main Street Markham North, and south of 16<sup>th</sup> Avenue. A one-storey detached dwelling currently exists on the property, along with an accessory building (shed) located in the rear yard. Mature vegetation exists in the front and rear yards of the property.

The property is located in a residential neighbourhood comprised of one and two-storey detached dwellings. Peter Street can be described as one that is in transition with examples of original dwellings being redeveloped into larger two-storey dwellings. The subject property is within close proximity to the Markham Village Heritage Conservation District (MVHCD); however, staff note that the subject property is not designated under the *Heritage Act, R.S.O. 1990, c. O.18, as amended*.

### Proposal

The applicant is proposing to demolish the existing one-storey dwelling, to construct a two-storey dwelling with a deck, front covered porch, and circular driveway. The dwelling would

have a ground floor area of 225.85 m<sup>2</sup> (2,431.0 ft<sup>2</sup>), and a second floor area of 127.65 m<sup>2</sup> (1,374.0 ft<sup>2</sup>), for a total gross floor area of 353.50 m<sup>2</sup> (3,805.0 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 infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of these development criteria. Regard shall also be had for the retention of existing trees and vegetation.

### Zoning By-Law 1229

The subject property is zoned “Residential One – (R1)” under By-law 1229, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law with respect to the maximum encroachment into a required yard.

### Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill By-law 99-90. 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, floor area ratio, height, and number of storeys. The proposed development does not comply with the Infill By-law with respect to the maximum floor area ratio.

### Deck By-law 142-95

The proposed development does not comply with the Deck By-law with respect to the maximum deck projection.

### Parking Standards By-law 28-97

The proposed development does not comply with the Parking By-law with respect to the main building setback from the street line.

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

The applicant completed a ZPR on October 4, 2021 to confirm the variances required for the proposed development.

### **COMMENTS**

Section 45(1) of 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 (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.

#### Reduction in Minimum Main Building Setback from the Street Line

The applicant is requesting a minimum front yard setback of 7.62 m (25.0 ft) from the street line, whereas the by-law requires a lot with a circular driveway to have a minimum main building setback of 8.0 m (26.25 ft) from the street line. The reduction of 0.38 m (1.25 ft) is partially attributable to the angular front lot line, and applies to a portion of the dwelling. Staff consider the reduction to be minor, and have no objections.

#### Increase in Maximum Porch Encroachment

The applicant is requesting a maximum porch encroachment of 23.0 in (0.58 m) into the required front yard, whereas the by-law permits a maximum porch encroachment of 18.0 in (0.46 m) into a required yard. The porch is located in the front of the property, and adds visual interest to the front façade of the house without adversely affecting the streetscape. Staff consider the reduction to be minor, and have no objections.

#### Increase in Maximum Deck Projection

The applicant is requesting a maximum deck projection of 5.49 m (18.01 ft), whereas the by-law permits a maximum deck projection of 3.0 m (9.84 ft). The proposed deck which has a height of approximately 1.45 m (4.76 ft) complies with the additional provisions under the Deck By-law, which require the deck to have:

- a minimum rear yard setback of 3.0 m (9.84 ft); and
- minimum side yard setbacks to be the same as the dwelling.

Staff have no objections, and consider the requested variance to be minor in nature, and appropriately maintain the general intent and purpose of the by-law.

#### Increase in Maximum Floor Area Ratio

The applicant is requesting a maximum floor area ratio of 50.0%, whereas the by-law permits a maximum floor area ratio of 45.0%. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 353.50 m<sup>2</sup> (3,805.0 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 318.19 m<sup>2</sup> (3,424.95 ft<sup>2</sup>). This is an increase of 35.31 m<sup>2</sup> (380.07 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. With exception to the above noted variances, the building layout meets all other zoning provisions (such as setbacks and lot coverage) which assist in establishing the prescribed building envelope, ensuring the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. Staff are of the opinion that the requested variance would result in a dwelling that is compatible with other homes along the street.

#### Heritage Comments

Heritage staff have reviewed the application with respect to the City's Official Plan policies regarding development applications for properties that are within 60.0 m (196.85 ft) of designated heritage properties. The front yard of the subject property is located within this 60.0 m (196.85 ft) buffer area, as properties located within the Markham Village Heritage Conservation District (MVHCD) along Markham Main Street North are designated under Part V of the *Ontario Heritage Act*.

As the designated heritage properties front onto a different street (Markham Main Street North), and are well separated from the proposed low rise dwelling, Heritage staff has no concerns to the variance application. The application went to the Heritage Markham Committee on November 10, 2021, following a review by Heritage staff. At this meeting, Heritage staff's recommendation for no comment was adopted by the Heritage Committee.

#### Tree Protection and Compensation

The applicant is required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees having a diameter at breast height (DBH) of 0.20 m (0.66 ft), or greater. This application was circulated to Operations staff who expressed concerns relating to the proposed removal of the front yard tree, and injury of certain trees in the rear yard. Based on the plans, all four trees having a DBH of greater than 0.20 m (0.66 ft) would require a tree permit.

It is the responsibility of the applicant to consult with Operations staff to determine whether a tree can be removed, or injured. Planning staff advised the applicant of these concerns, and recommended that the applicant submit tree permit applications with their variance application to confirm whether tree permits would be granted for the proposed removal or injury of certain trees prior to proceeding to a hearing. To date, staff have not received any documentation. In the event that this minor variance application is approved, staff note that should tree permit(s) not be granted, revisions to the plans could result in additional non-compliances with the By-law, and therefore would require an additional variance application.

Staff note the applicant confirmed their desire to proceed without any changes to their application. In the event of approval of this minor variance application, Planning staff recommend that the Committee adopt the tree related conditions detailed in Appendix "A".

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 15, 2021. It is noted that additional information may be received after the writing of this 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 meet the four tests, in principle; however, staff note that it may be most appropriate to defer the application to provide the applicant with time to determine tree removal permissions on site. The applicant has not submitted any additional documentation to staff which confirms the permitted removal or injury of said trees, and note that any revisions to the plans could result in new non-compliances with the zoning by-law.

Staff recommend that the Committee consider public input and the conditions of approval in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

#### **APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



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Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



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Stacia Muradali, Development Manager, East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/160/21**

1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the 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 their designate, 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 their designate.
4. That tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, 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 their designate.
5. 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 the Tree Preservation Technician, or their designate, 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 their 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/160/21**

**SITE DATA:**

ZONING: R1  
 LOT AREA: 801.02 m<sup>2</sup> (8622 SF)  
 GROSS FLOOR AREA (FOR F.A.R. CALCULATION): 353.48 m<sup>2</sup> (3805 SF)  
 NET LOT AREA = MIN. LOT AREA + 1/2(LOT AREA - MIN. LOT AREA): 707.06 m<sup>2</sup> (7611 SF)  
 FLOOR AREA RATIO: GROSS FLOOR AREA / NET LOT AREA: 50%  
 BUILDING AREA: 225.83 m<sup>2</sup> (2431 SF)  
 LOT COVERAGE: LOT AREA X 28%

**FRONT YARD:**

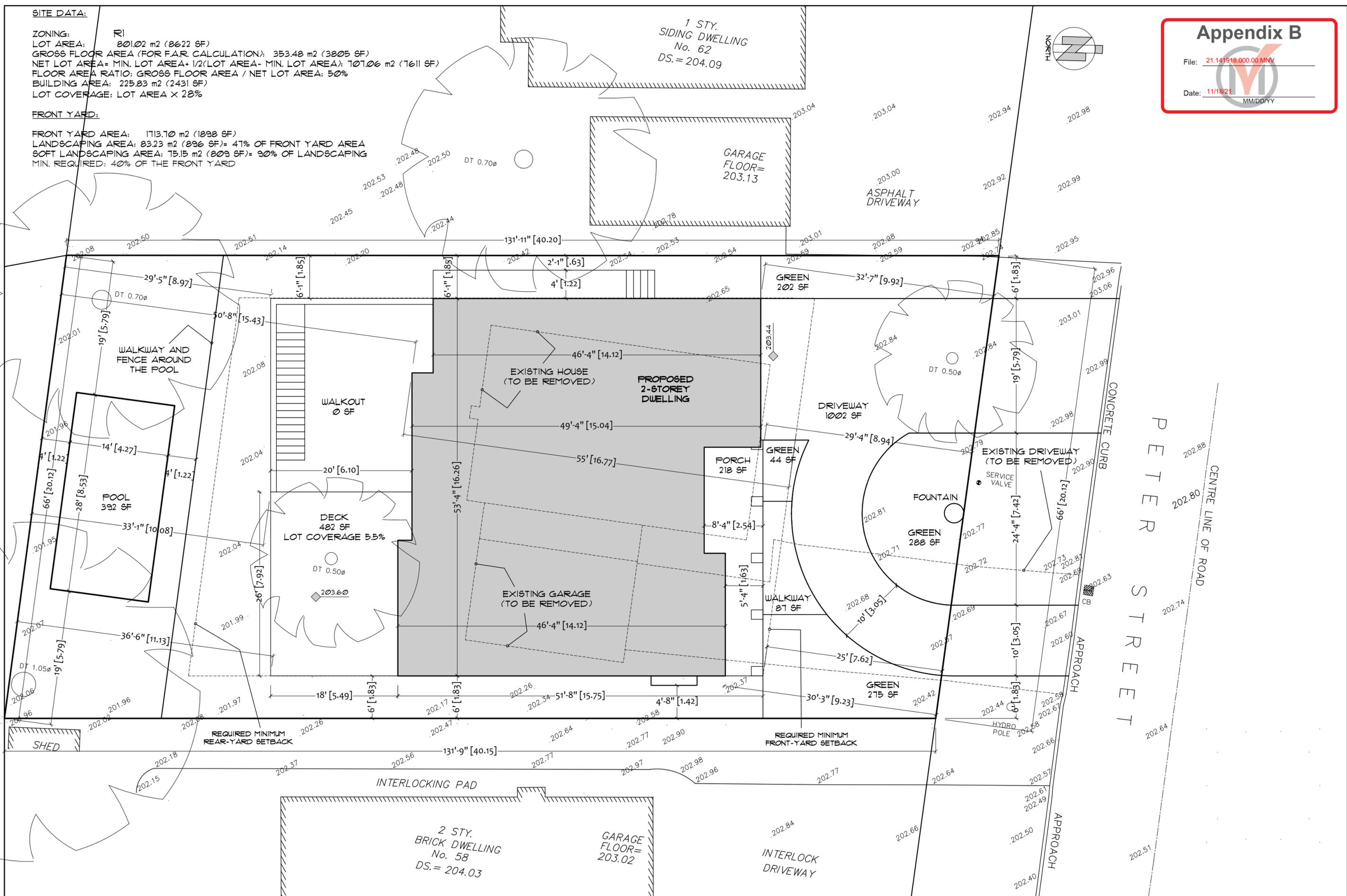
FRONT YARD AREA: 1713.70 m<sup>2</sup> (1838 SF)  
 LANDSCAPING AREA: 83.23 m<sup>2</sup> (896 SF) = 47% OF FRONT YARD AREA  
 SOFT LANDSCAPING AREA: 75.15 m<sup>2</sup> (809 SF) = 90% OF LANDSCAPING  
 MIN. REQUIRED: 40% OF THE FRONT YARD

**Appendix B**

File: 21.141918.000.00.MNV

Date: 11/18/21

MM/DD/YY



OWNER	JOSEPHINE AND GEORGE	DATE	JULY 20, 2021	DRAWN	HOMELAND	PHONE	416-319-6020	PROJECT	60 PETER ST.	SCALE	3/32" = 1'-0"	TITLE	SITE PLAN	01
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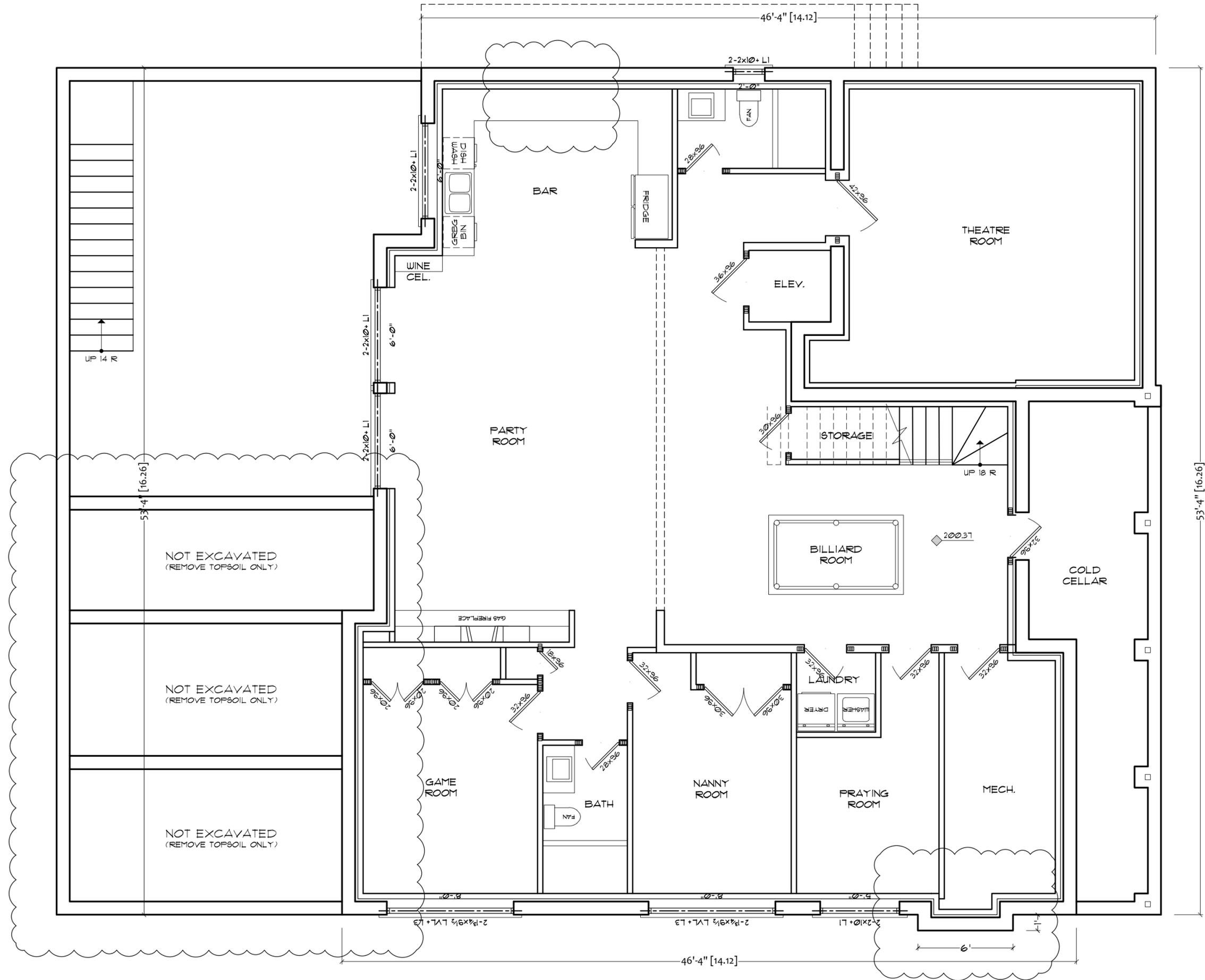
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File: 21.141918.000.00.MNV

Date: 11/18/21  
MM/DD/YY



2431 SF



OWNER	JOSEPHINE AND GEORGE	DATE	AUG. 26, 2021	DRAWN	HOMELAND	PHONE	416-319-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	BASEMENT PLAN	02
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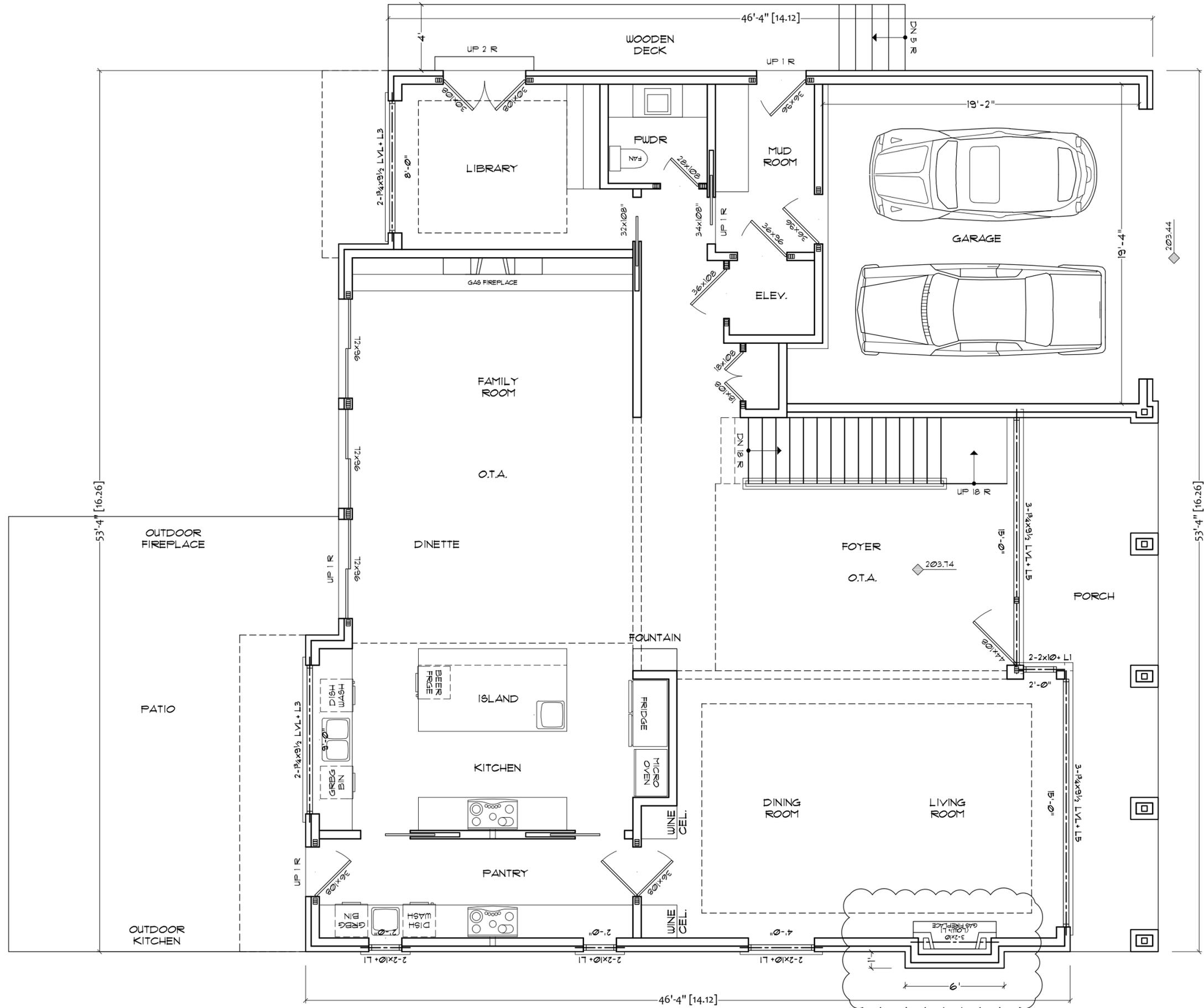
# Appendix B

File: 21.141918.000.00.MNV

Date: 11/18/21



MM/DD/YY



2431 SF

OWNER	JOSEPHINE AND GEORGE	DATE	AUG. 26, 2021	DRAWN	HOMELAND	PHONE	416-313-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	FIRST FLOOR PLAN	03
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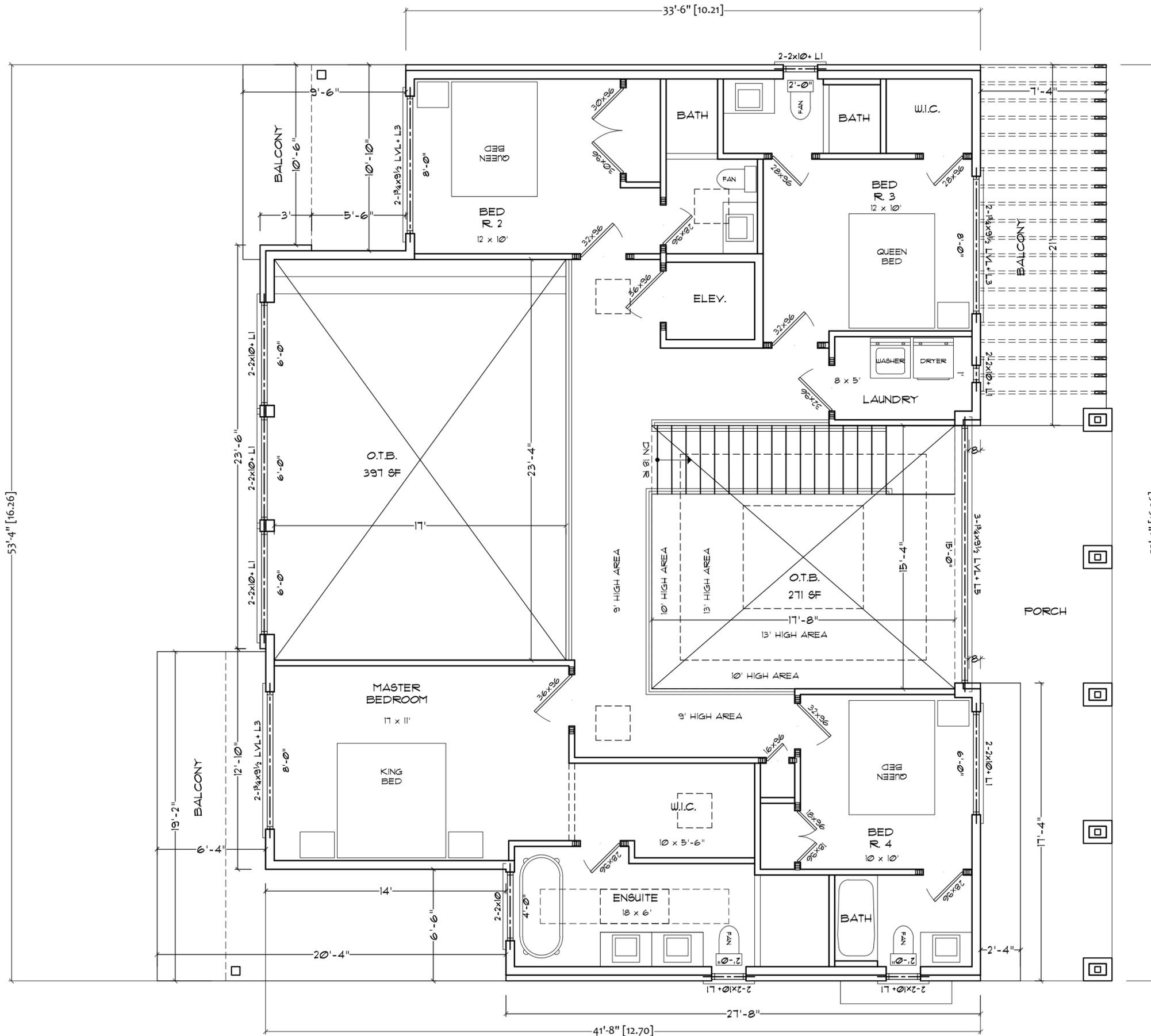
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File: 21.141918.000.00.MNV

Date: 11/18/21



MM/DD/YY



2042 SF

OWNER	JOSEPHINE AND GEORGE	DATE	JULY 20, 2021	DRAWN	HOMELAND	PHONE	416-319-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	SECOND FLOOR PLAN	04
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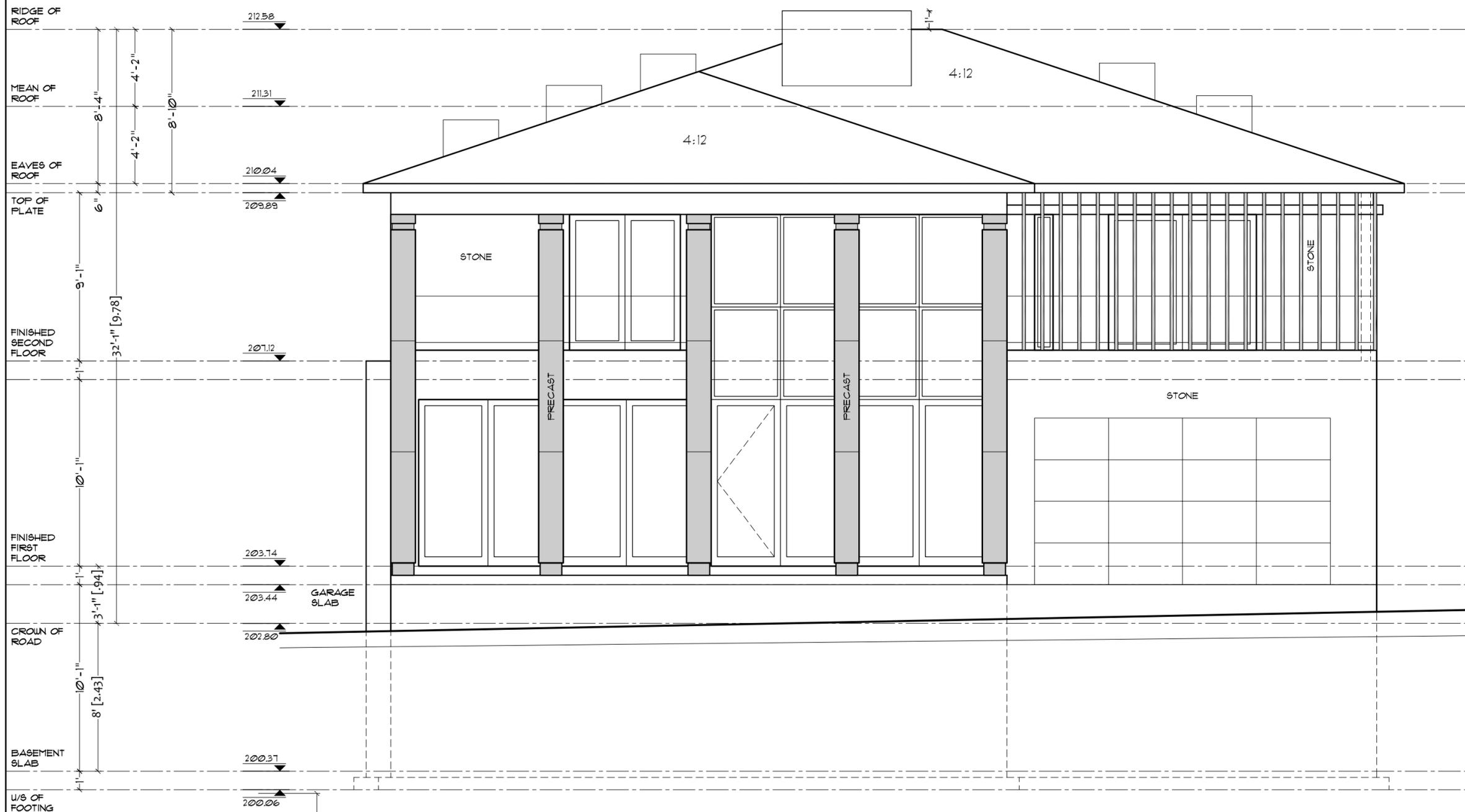
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NORTH ELEVATION

OWNER	JOSEPHINE AND GEORGE	DATE	JULY 20, 2021	DRAWN	HOMELAND	PHONE	416-313-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	FRONT ELEVATION	06
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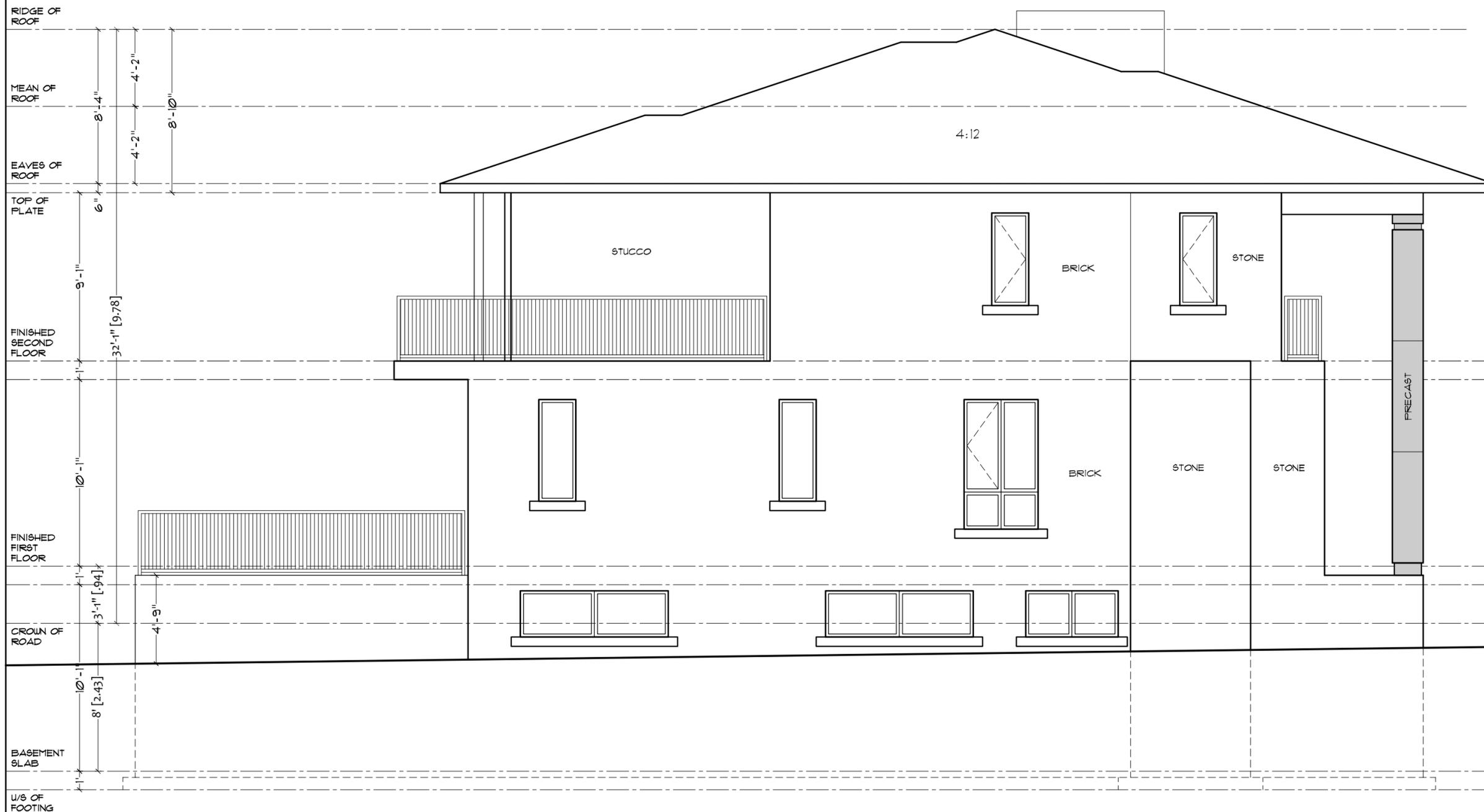
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EAST ELEVATION

OWNER	JOSEPHINE AND GEORGE	DATE	JULY 20, 2021	DRAWN	HOMELAND	PHONE	416-313-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	LEFT ELEVATION	07
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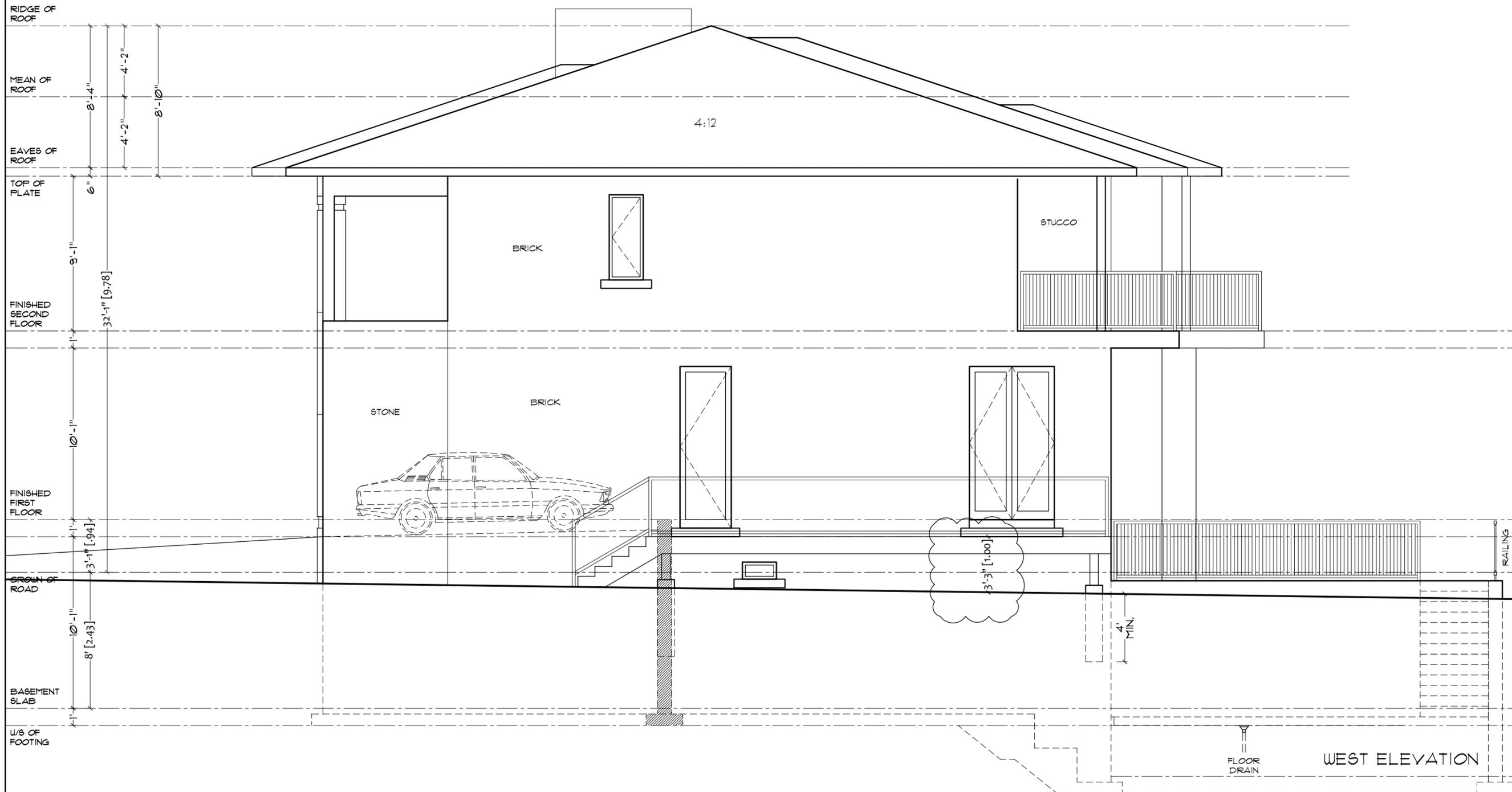
OWNER	JOSEPHINE AND GEORGE	DATE	AUG. 26, 2021	DRAWN	HOMELAND	PHONE	416-313-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	REAR ELEVATION	08
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OWNER	JOSEPHINE AND GEORGE	DATE	AUG. 26, 2021	DRAWN	HOMELAND	PHONE	416-313-6020	PROJECT	60 PETER ST.	SCALE	3/16" = 1'-0"	TITLE	RIGHT ELEVATION	09
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