

Memorandum to the City of Markham Committee of Adjustment

December 1, 2021

File: A/166/21
Address: 51 Sprucewood Drive – Markham, ON (Thornhill)
Applicant: Sara Rahimi
Agent: Ali Shams
Hearing Date: December 8, 2021

The following comments are provided on behalf of the West Markham District team. The applicant is requesting relief from the following “Third Density Single Family Residential – (R3)” zone requirements under By-law 2237, as amended, as they relate to a proposed detached dwelling. The variances requested are to permit:

a) By-law 101-90, Sec. 1.2(I):

a maximum height of 8.20 m (26.90 ft), whereas the by-law permits maximum height of 8.0 m (26.25 ft);

b) By-law 101-90, Sec. 1.2(vii):

a maximum floor area ratio of 55.0%, whereas by-law permits maximum floor area ratio of 50.0%.

PROPERTY DESCRIPTION

The 1,120.48 m² (12,060.70 ft²) subject property is located on the east side of Sprucewood Drive, north of Proctor Avenue, south of the CN Rail Corridor, and west of Bayview Avenue. The property currently contains a one-storey single detached dwelling with a single car garage, with mature vegetation throughout the property. The property backs onto Charlie Clifford Park, which can be accessed by a walkway that immediately abuts the subject property to the north. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There are several examples of infill developments along the street, and within the surrounding area.

PROPOSAL

The applicant is proposing to demolish the existing dwelling, and construct a new two-storey single detached dwelling with a ground floor area of 271.33 m² (2,920.57 ft²), a second floor area of 228.89 m² (2,463.75 ft²), for a total gross floor area of 500.22 m² (5,384.32 ft²).

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 2237

The subject property is zoned “Third Density Single Family Residential – (R3)” under By-law 2237, as amended, which permits one single detached dwelling per lot. The proposed development.

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, 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 the maximum height, and maximum floor area ratio.

Previous Committee of Adjustment Approvals (Files CA/78/96 and A/101/19)

In 1996, the Committee of Adjustment (the “Committee”) approved the following minor variance requested under Zoning By-law 2237, as amended:

- to reduce the required side yard setback for an existing garage from 4.0 ft (1.22 m) to 3.55 ft (1.08 m).

Approval of this variance was conditional that the variance would apply only to the existing garage only so as long as it remains on site in its present location. With its removal, it would no longer apply.

In 2019, the Committee approved the following minor variance requested under Zoning By-law 2237, as amended, to permit:

- a maximum floor area ratio of 53.88%, whereas the By-law permits a maximum floor area ratio of 50.0%.

Approval of this variance was conditional that the variance would apply only to the proposed development for as long as it remains. The applicant has submitted new drawings, and is requesting an increase to the maximum floor area ratio, and an increase to the maximum height to accommodate a new dwelling.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The applicant completed a ZPR on October 19, 2021 to confirm the variances required for the proposed development. In addition to the two variances requested, non-compliances relating to a reduction in front yard setback, and increase in building depth were initially identified.

The applicant submitted revised plans on November 15, 2021, and removed two of the variance requests identified on the ZPR. A new ZPR was not completed for the revised drawings. It is the applicant’s responsibility to ensure that the application has accurately identified all of 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 are identified at the building permit stage, further variance application(s) may be required to address any non-compliances with the by-law.

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.

Increase in Maximum Building Height

The applicant is requesting a maximum building height of 8.20 m (26.90 ft), whereas the By-law permits a maximum building height of 8.0 m (26.25 ft) for dwellings with a flat roof. This is an increase of 0.20 m (0.65 ft).

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface, and staff consider the requested variance to be minor in nature.

Increase in Maximum Floor Area Ratio

The applicant is requesting a maximum floor area ratio of 55.0%, whereas the By-law permits a maximum floor area ratio of 50.0%. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 499.74 m² (5,379.19 ft²), whereas the By-law permits a dwelling with a maximum floor area of 454.31 m² (4,890.18 ft²). This is an increase of 45.43 m² (489.01 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. With exception to the requested building height, the building meets all other zoning provisions which assist in establishing the prescribed building envelope. Staff are of the opinion that the proposed dwelling is compatible, and would be in keeping with the intended scale and size of residential infill developments within the neighbourhood.

CN Rail Requirements

As the subject property is within close proximity to the rail corridor, CN Rail has provided comments on this application (see Appendix "C"), requesting a list of mitigation measures be implemented to attenuate the impacts generated by the railway located north of the property. CN Rail also recommends that a warning clause relating to noise and vibration in any development agreements, offers to purchase, and agreements of Purchase and Sale or Lease be provided by the applicant. Accordingly, staff recommend that the conditions detailed in Appendix "A" be adopted by the Committee to ensure that these measures are implemented to the satisfaction of CN Rail prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 1, 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.

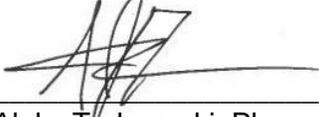
CONCLUSION

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. Staff recommend that the Committee consider public input, and the conditions of approval attached in Appendix "A" 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
- Appendix "C" – CN Rail Comments

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Mary Caputo, Development Manager, West District

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/166/21

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 CN Rail, as indicated in their comments provided, and that the Secretary-Treasurer receive confirmation that this condition has been fulfilled to the satisfaction of CN Rail.
7. That the owner submits a third party noise and vibration study prepared by a professional engineer licensed in the Province of Ontario, verifying that the proposed design submitted in the building permit application package is in compliance with the acoustical and structural mitigation measures recommended by CN Rail to the satisfaction of the Chief Building Official (CBO), or their designate, as follows: forced air ventilation systems with central; air conditioning; the exterior wall siding of buildings closest to the railway line to be brick or a masonry equivalent for the exposed facades; acoustically upgraded windows meeting the minimum requirements of the Ontario Building Code and providing a maximum 35 dBA indoor limit for bedrooms and 40 dBA for living rooms; locating

noise sensitive rooms away from the railway side; Noise barrier fence providing a maximum 55 dBA limit for outdoor living areas; lining the outside of the foundation walls with a resilient layer; isolating the upper floors from the foundation wall and any internal column supports using rubber pads designed to deflect 5 to 20mm under load, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled the satisfaction of the CBO, or their designate.

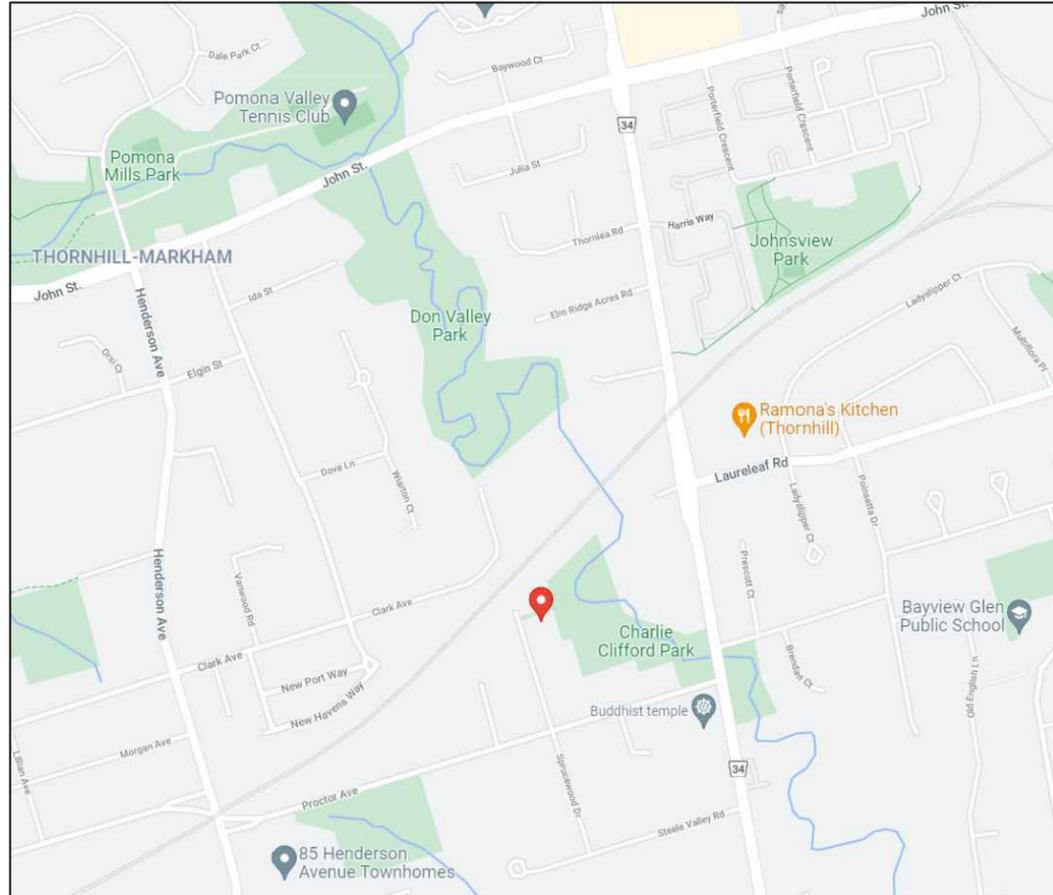
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/166/21

LOCATION MAP



LIST OF DRAWINGS:

- A-0.0 STATISTICS
- A-0.1 SITE PLAN
- A-1.1 BASEMENT FLOOR PLAN
- A-1.2 GROUND FLOOR PLAN
- A-1.3 SECOND FLOOR PLAN
- A-1.4 ROOF PLAN
- A-2.1 FRONT (WEST) ELEVATION
- A-2.2 REAR (EAST) ELEVATION
- A-2.3 SIDE (SOUTH) ELEVATION
- A-2.4 SIDE (NORTH) ELEVATION

<h1>BYLAW 2237</h1>		
<h2>51 SPRUCEWOOD DR. THORNHILL ON L3T 2P8</h2>		
ZONING DESIGNATION		R3- SINGLE DETACHED RESIDENTIAL
NEW 2-STOREY SINGLE FAMILY DWELLING		
SITE STATISTICS		
MINIMUM LOT AREA	7500 FT ²	
EXISTING LOT AREA	12060.7 FT ² [1120.48 M ²]	
NET LOT AREA	(7500 + ((12060.7-7500)/2))= 9780.35 FT ²	
MIN. LOT AREA + ((EXIST. LOT AREA - MIN. LOT AREA) / 2)		
FLOOR AREA RATIO		
	MAX. PERMITTED	PROPOSED
	0.5X NET LOT AREA 454.31 M ² [4890 FT ²]	0.550X NET LOT AREA 500.22 M ² [5384.4 FT ²]
COVERAGE		
	MAX. PERMITTED	PROPOSED
	33.33% OF NET LOT AREA 302.55 M ² [3256.7 FT ²]	31.96% OF NET LOT AREA 290.39 M ² [3125.7 FT ²]
HEIGHT		
	MAX. PERMITTED	PROPOSED
SLOPED ROOF HEIGHT	9.80 M	
FLAT ROOF	8.00 M	8.20 M
ESTABLISHED GRADE CALCULATIONS:		
	160.42	
CROWN OF THE ROAD:	160.36	
DEPTH		
	MAX. PERMITTED	PROPOSED
BUILDING DEPTH	16.80 M	16.66 M
SETBACKS		
	MIN. REQUIRED	PROPOSED
FRONT YARD SETBACK/WEST	27 FT [8.22 M]	29'-00" [8.84 M]
REAR YARD SETBACK /EAST	25 FT [7.62 M]	78'-04" [23.87 M]
INTERIOR SIDE YARD SETBACK/NORTH	5.9 FT [1.80 M]	06'-06" [1.98 M]
INTERIOR SIDE YARD SETBACK/SOUTH	5.9 FT [1.80 M]	06'-0 1/2" [1.84 M]
DRIVEWAY		
	MAX. PERMITTED	PROPOSED
DRIVEWAY WIDTH		6.12 M
GROSS FLOOR AREA CALCULATIONS		
	PROPOSED	
GROUND FLOOR	271.33 M ² [2920.6 FT ²]	
SECOND FLOOR	228.89 M ² [2463.8 FT ²]	
TOTAL	500.22 M ² [5384.4 FT ²]	
CELLAR	235.98 M ² [2540.1 FT ²]	

Appendix B

File: 21.142805.000.00.MNV

Date: 12/01/21

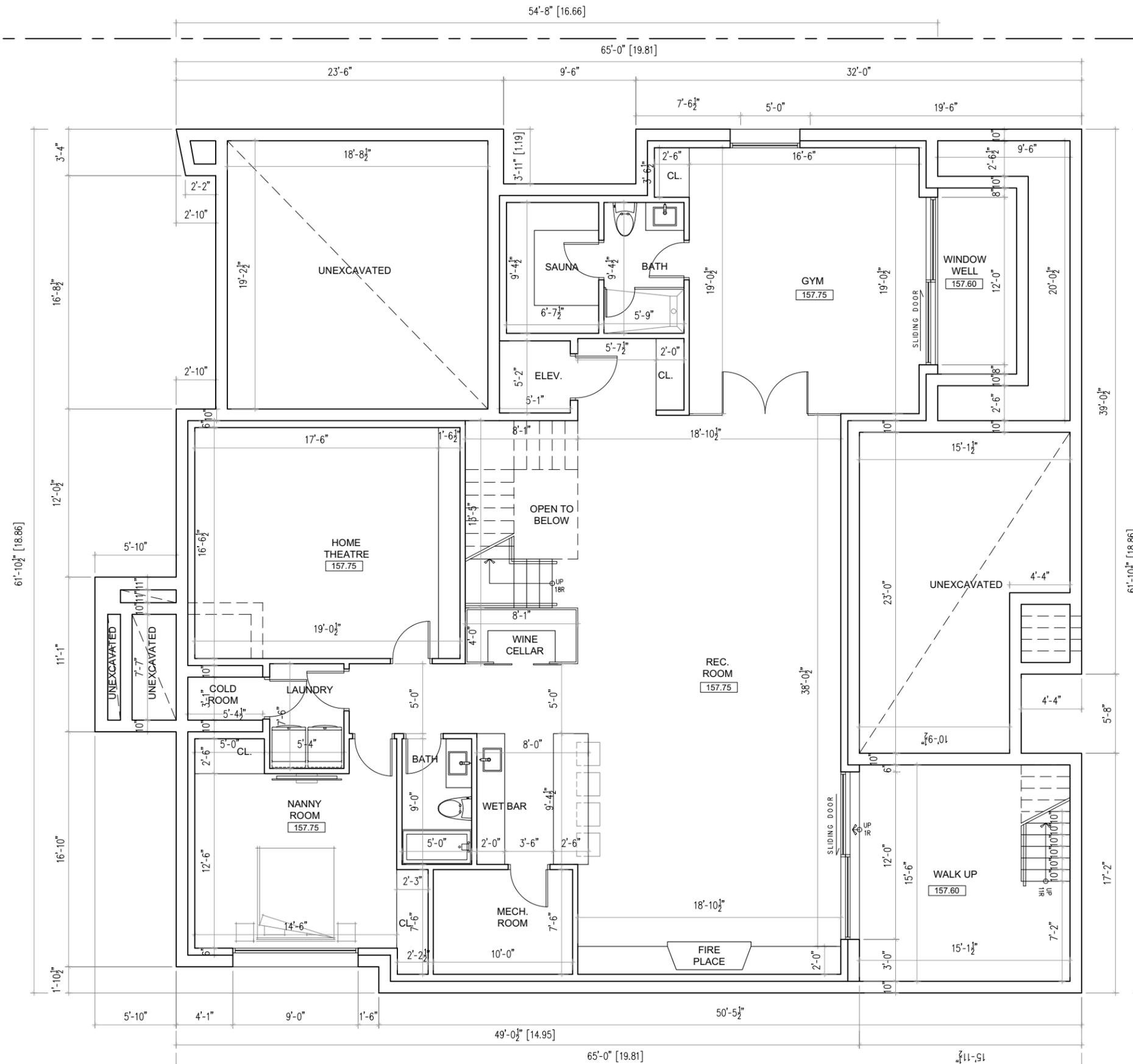
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02	2021-10-21	ISSUED FOR C of A	CITY
01	2021-09-28	ISSUED FOR REVIEW	CITY
NO.	DATE	DESCRIPTION	TO
DESIGNED BY: MINIMAL DESIGN STUDIO			
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SHEET TITLE: STATISTICS SCALE: NTS			
SCALE:.			
DRAWING NO.:			A0-0
STAMP		NORTH	

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DESIGNED BY:
MINIMAL DESIGN STUDIO

PROJECT TITLE:
51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8

SHEET TITLE:
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SCALE: 1/8"=1'-0"

SCALE:

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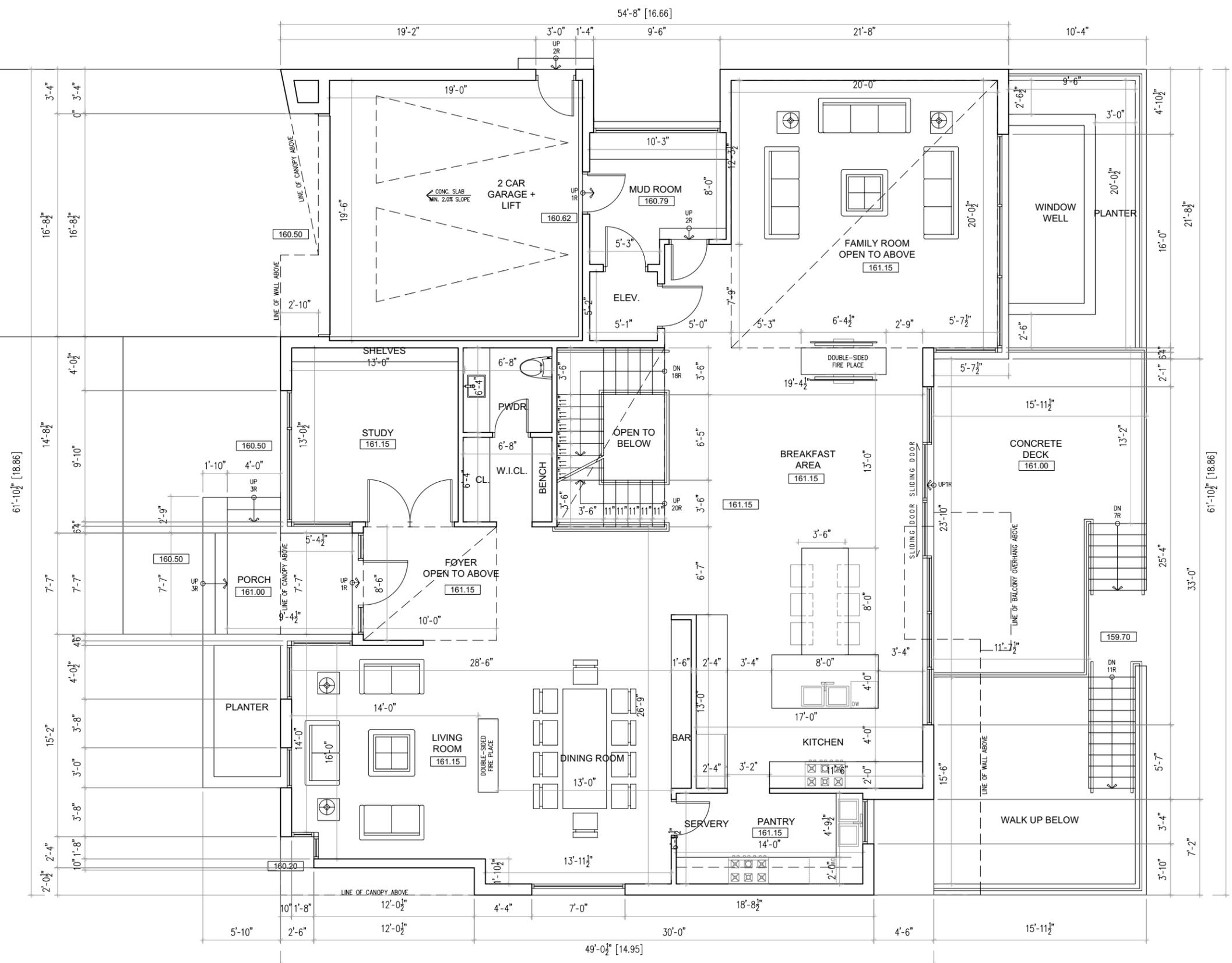
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DESIGNED BY:
MINIMAL DESIGN STUDIO

PROJECT TITLE:
**51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8**

SHEET TITLE:
GROUND FLOOR PLAN
SCALE: 1/8"=1'-0"

SCALE:

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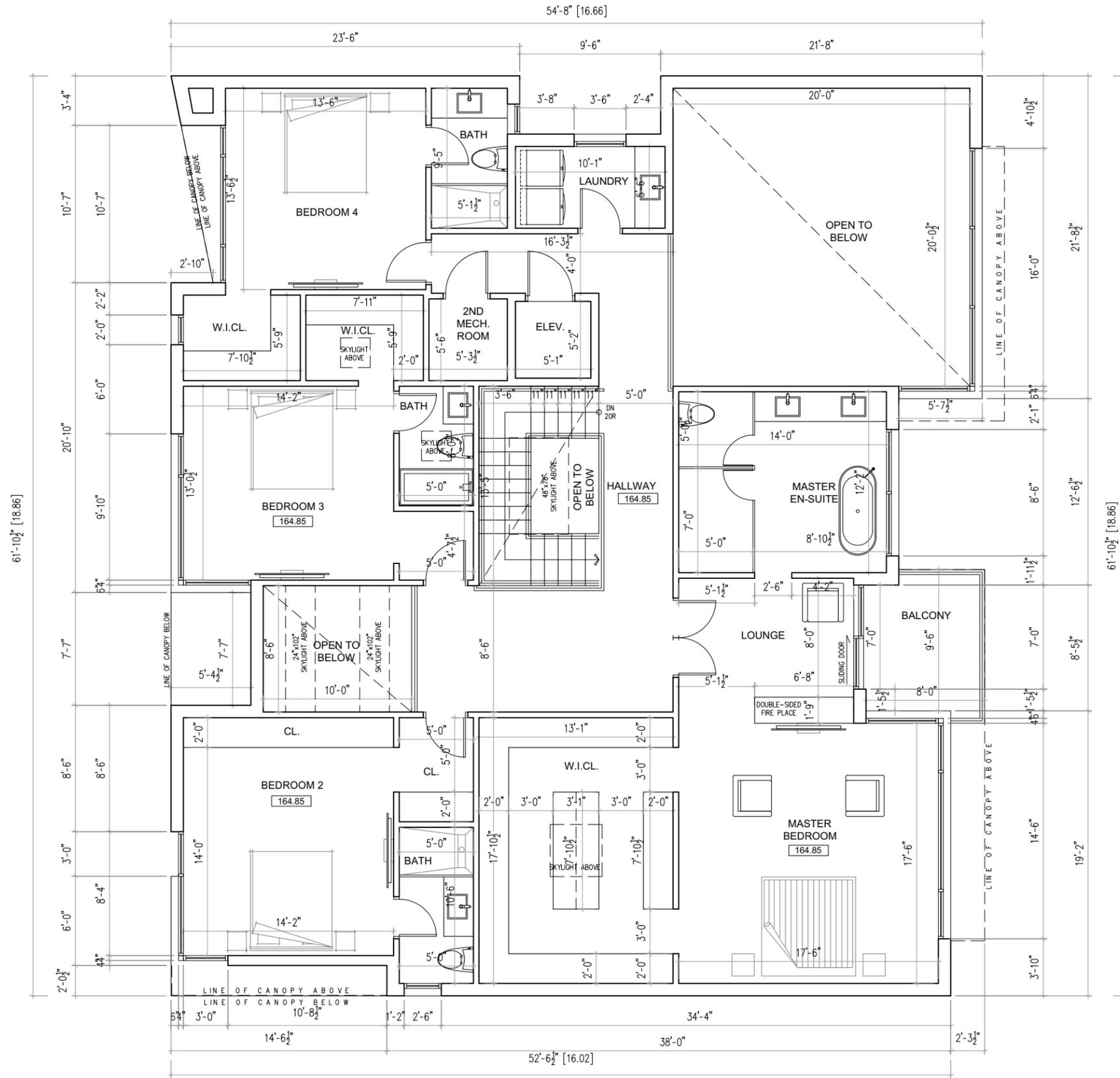
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MINIMAL DESIGN STUDIO

PROJECT TITLE:
**51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8**

SHEET TITLE:
SECOND FLOOR PLAN
SCALE: 1/8"=1'-0"

SCALE:

DRWAING NO.: **A1-3**

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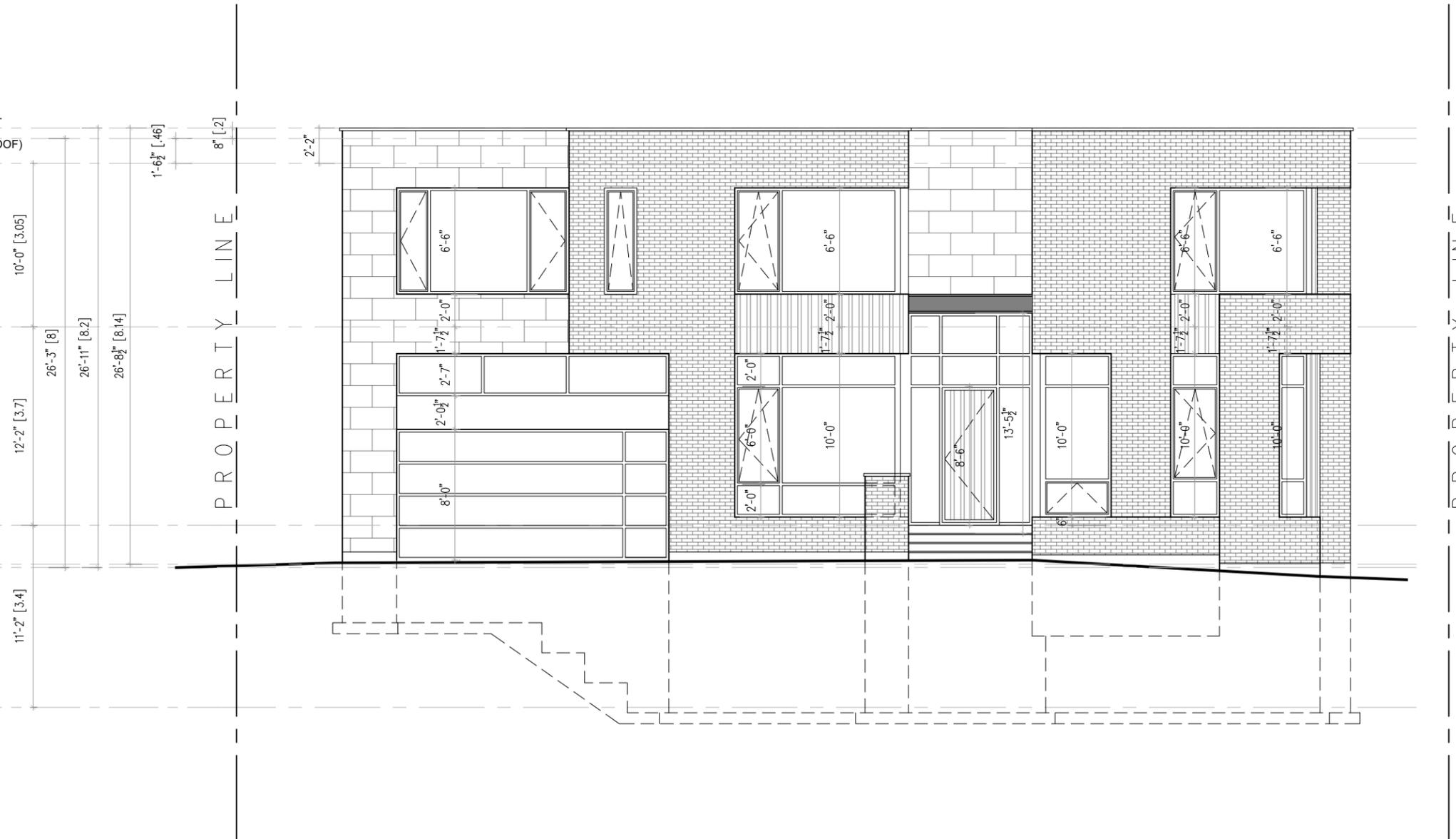
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- 167.90 U/S OF CEILING

164.85 FINISHED SECOND FLOOR

161.15 FINISHED FIRST FLOOR

160.42 FRONT ESTABLISHED GRADE
160.36 CROWN OF THE ROAD

157.75 FINISHED BASEMENT FLOOR



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DESIGNED BY:
MINIMAL DESIGN STUDIO

PROJECT TITLE:
51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8

SHEET TITLE:
FRONT (WEST) ELEVATION
SCALE: 1/8"=1'-0"

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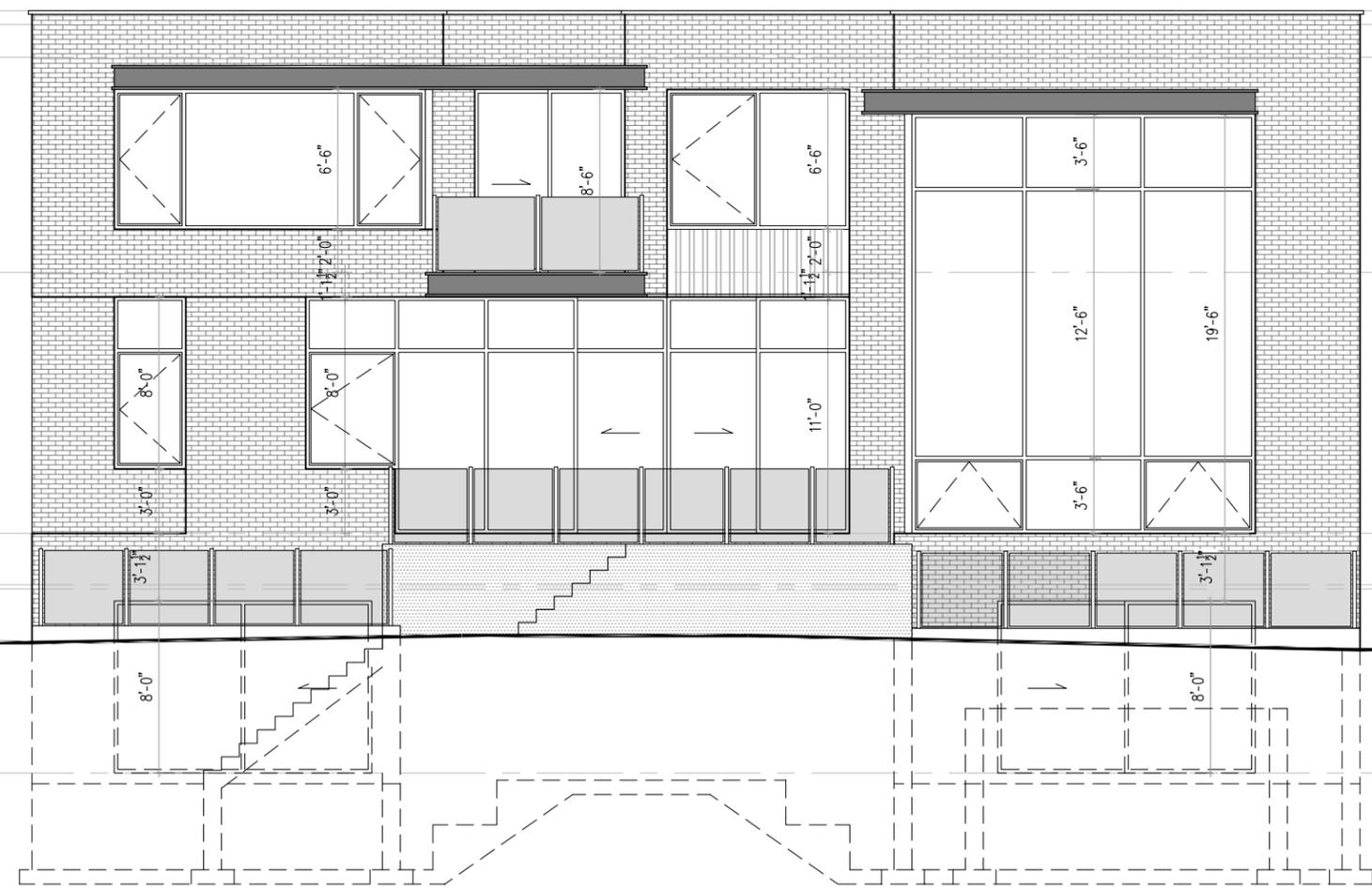
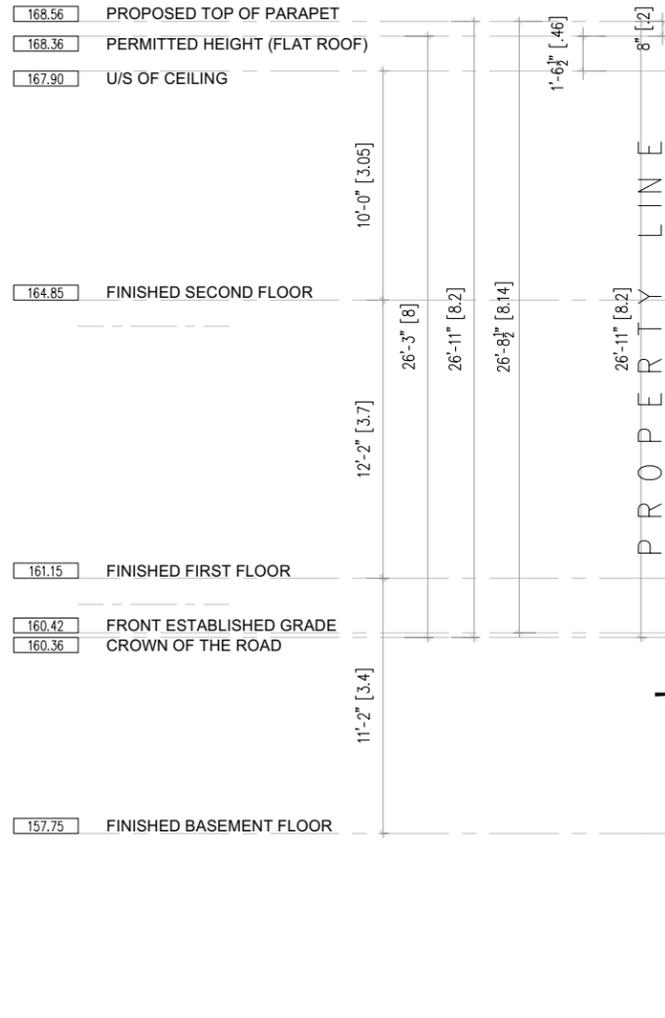
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Date: 12/01/21
MM/DD/YY



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01	2021-09-28	ISSUED FOR REVIEW	CITY

DESIGNED BY:
MINIMAL DESIGN STUDIO

PROJECT TITLE:
**51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8**

SHEET TITLE:
**REAR (EAST) ELEVATION
SCALE: 1/8"=1'-0"**

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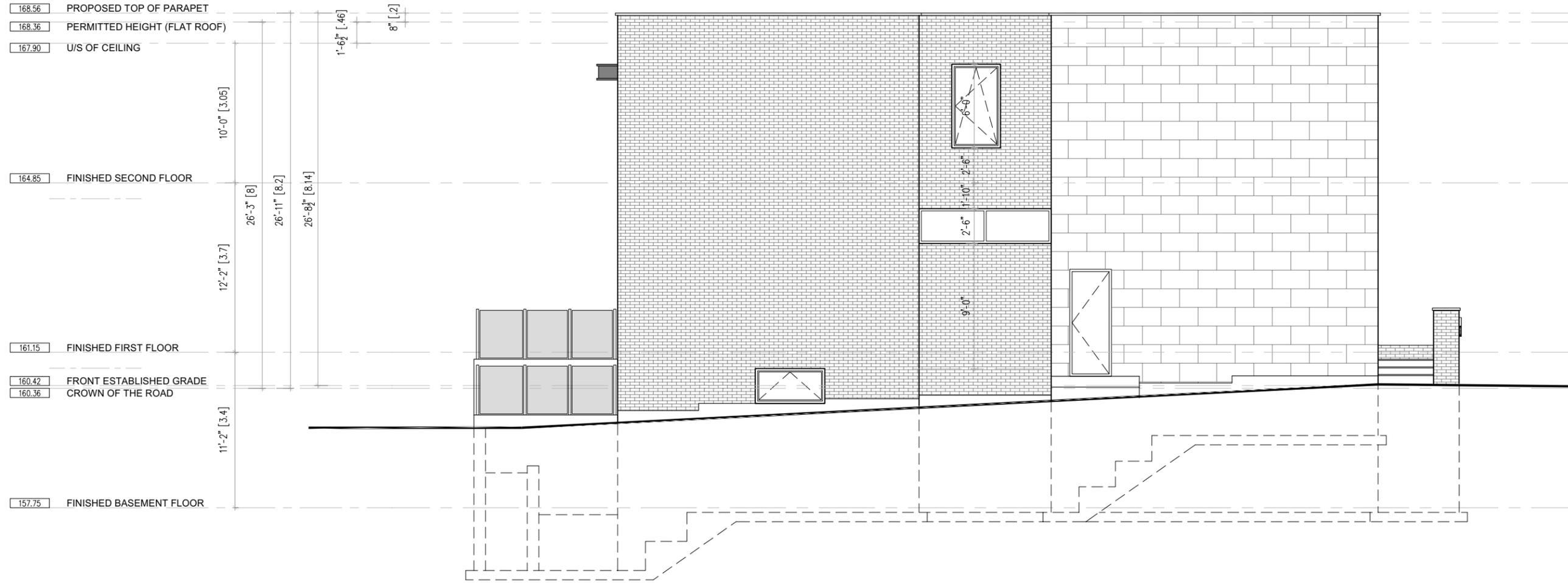
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01	2021-09-28	ISSUED FOR REVIEW	CITY

DESIGNED BY:
MINIMAL DESIGN STUDIO

PROJECT TITLE:
51 SPRUCEWOOD DRIVE
THORNHILL ON L3T 2P8

SHEET TITLE:
SIDE (NORTH) ELEVATION
SCALE: 1/8"=1'-0"

SCALE.:

DRWAING NO.: **A2-4**

STAMP NORTH

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Reviewer	Reviewer Comments
CN Rail Reviewer	<p>Thank you for consulting CN on the application mentioned in subject. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval: - The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way." The implementation of mitigation measures in the dwelling design and construction such as: ? Forced air ventilation systems with central air conditioning, ? The exterior wall siding of buildings closest to the railway line to be brick or a masonry equivalent for the exposed facades, ? Acoustically upgraded windows meeting the minimum requirements of the Ontario Building Code and providing a maximum 35 dBA indoor limit for bedrooms and 40 dBA for living rooms, ? Locating noise sensitive rooms away from the railway side, ? Noise barrier fence providing a maximum 55 dBA limit for outdoor living areas, ? Lining the outside of the foundation walls with a resilient layer, ? Isolating the upper floors from the foundation wall and any internal column supports using rubber pads designed to deflect 5 to 20mm under load. Thank you</p>