

Memorandum to the City of Markham Committee of Adjustment

May 28, 2021

File: A/044/21
Address: 38 Galsworthy Drive – Markham, ON
Applicant: Leora Blum
Agent: Cspace Architecture Inc.
Hearing Date: June 9, 2021

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following “Residential One (R1)” zone requirements under By-law 1229, as amended, as it relates to an existing accessory structure located in the rear yard of the property. The requested variance is to permit:

a) By-law 1229, Sec. 11.3 (a)(i):

an accessory building with a height of 13.0 ft (3.96 m), whereas the by-law permits a maximum height of 12.0 ft (3.66 m) for accessory buildings.

BACKGROUND

Property Description

The 958.13 m² (10,313.23 ft²) subject property is located on the west side of Galsworthy Drive, north of Robinson Street, east of Hawkridge Avenue, and south of Bullock Drive. The property is developed with an existing two-storey dwelling, and a one-storey accessory building located in the rear yard.

Proposal

According to City records, a building permit has not yet been obtained for the existing one-storey accessory building (cabana) which the applicant is proposing to legalize with a height of 3.96 m (13.0 ft), and an approximate gross floor area of 32.50 m² (350.0 ft²). The accessory building is located in the rear yard at the northwest corner of the lot, in a similar location to the previously existing accessory building as shown in Appendix “B”.

Notwithstanding the construction of the accessory building, staff’s assessment of the proposed development application is based on whether the requested increase in height meets the four tests of a minor variance under Section 45(1) of *the Planning Act, R.S.O. 1990, c. P. 13, as amended*. In the event that the application is denied, the applicant would be required to fully remove, or make modifications to the accessory building so that it complies with the requirements of the Zoning By-law.

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms.

Zoning By-Law 1229

The subject property is zoned “Residential One (R1)” under By-law 1229, as amended, which permits accessory buildings, provided specific provisions are met. Provisions relevant to the proposal include that the accessory building is/does not:

- exceed a height of 12.0 ft (3.66 m);
- occupy any part of any front yard;

- occupy more than 10.0% of the total lot area;
- erected in any side yard, except for a private garage or carport; and
- erected closer than 4.0 ft (1.22 m) to any lot line.

Previous Minor Variance Approval

Through a previous development application (A/02/19), the following variances relating to the existing two-storey dwelling were approved by the Committee of Adjustment ("the Committee"):

- a minimum front yard setback of 23.45 ft (7.15 m), whereas the By-law requires a minimum front yard setback of 25.0 ft (7.62 m); and
- a maximum building height of 34.68 ft (10.57 m), whereas the By-law permits a maximum building height of 32.15 ft (9.80 m).

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant has confirmed that a ZPR has not been conducted. However, the applicant has received comments from the building department through their building permit process 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:

- 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 13.0 ft (3.96 m), whereas the By-law permits a maximum building height of 12.0 ft (3.66 m) for an accessory building. This is an increase of 1.0 ft (0.30 m).

For accessory buildings, the By-law calculates building height using the vertical distance of a building or structure measured from average grade to the mean height between the eaves and the ridge, and excludes any penthouse, chimney, tower or steeple.

The applicant has constructed an accessory building with a height of 13.0 ft (3.96 m) with setbacks of at least 7.15 ft (2.18 m) from the rear and side lot lines, whereas the By-law permits accessory buildings with a height of 12.0 ft (3.66 m) to be setback a minimum of 4.0 ft (1.22 m) from any lot line. In considering that the constructed accessory building complies with and exceeds the side yard setback requirements of the By-law, and is located at the northwest corner of the property, staff are of the opinion that the requested variance would not adversely impact neighbouring properties.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 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*. Staff are of the opinion that the variance request meets the four tests of the *Planning Act*, and 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.

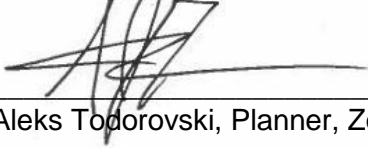
Please see Appendix "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval


Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



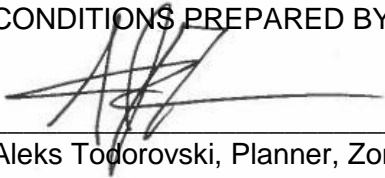
Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/044/21

1. The variances apply only to the proposed accessory building for as long as it remains.
2. That the variances apply only to the proposed accessory building, 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.

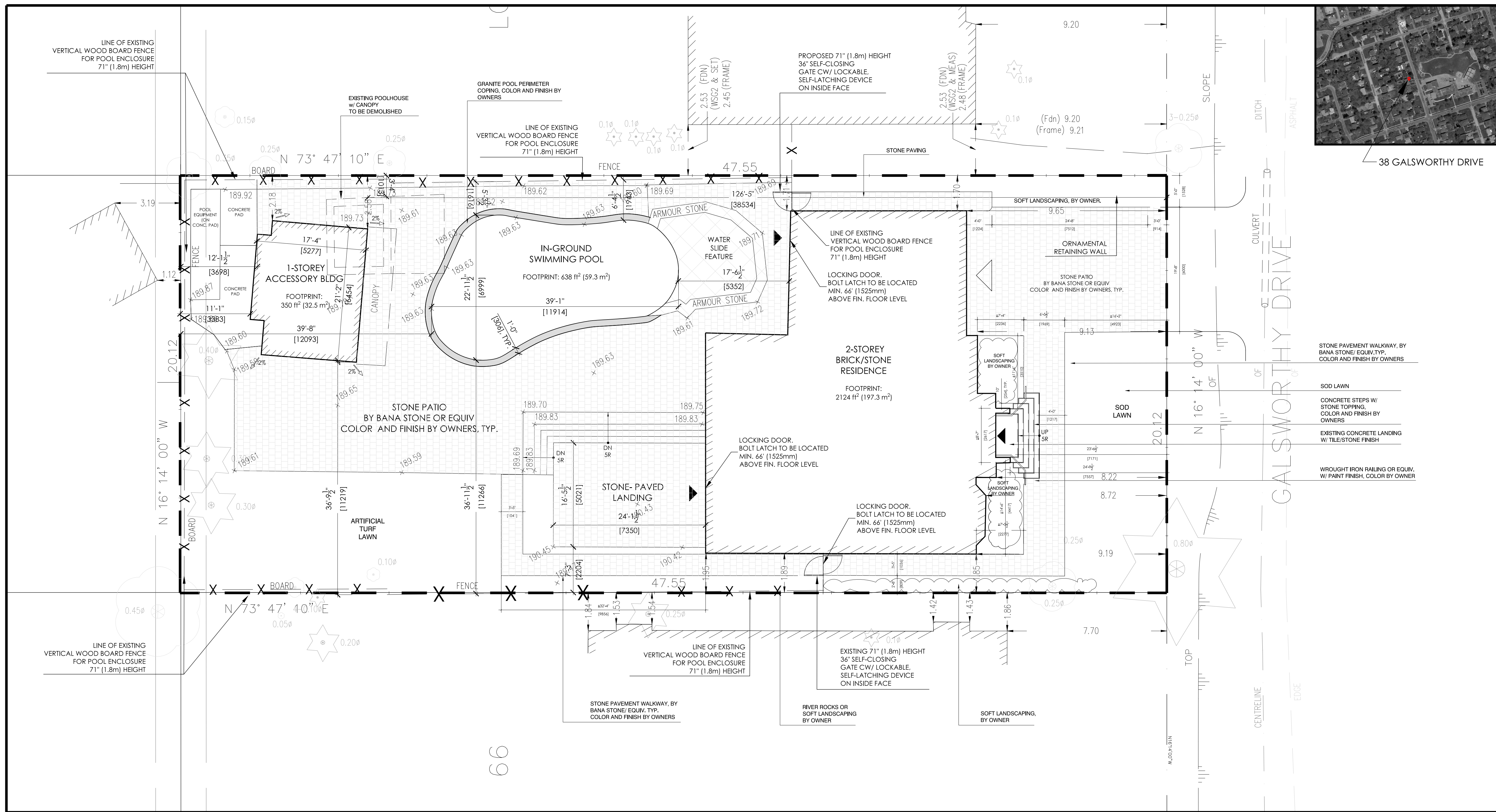
CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks Todorovski', is written over a horizontal line.

Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/044/21



NO.	DATE	REVISION
7.	21.03.16	REVISED FOR PERMIT
6.	21.02.17	REVISED FOR PERMIT
5.	20.11.30	REVISED FOR PERMIT
4.	20.11.23	FOR PERMIT
3.	20.11.20	FOR REVIEW
2.	20.09.18	FOR ACCESSORY BLDG PERMIT
1.	20.09.17	FOR POOL ENCLOSURE PERMIT

IT IS THE RESPONSIBILITY OF THE APPROPRIATE CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS ON SITE AND REPORT ALL ERRORS AND OR OMISSIONS TO THE ARCHITECT.

ALL CONTRACTORS MUST COMPLY WITH ALL PERTINENT CODES AND BY-LAWS.

DO NOT SCALE DRAWINGS.

THIS DRAWING MAY NOT BE USED FOR CONSTRUCTION UNTIL SIGNED.

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CSPACE ARCHITECTURE

58-8841 GEORGE BOLTON PKWY
BOLTON, ONT. L7E 2X8
647.588.1784
info@cspace.ca

1 SITE PLAN
A101 SCALE 1/8" = 1'-0"

GENERAL NOTES & SYMBOLS LEGEND

MAN DOOR
GARAGE DOOR
PROPERTY LINE
EXISTING ASPHALT/BRICK/CONC PAVING
EXISTING GRADING
DIRECTION AND SLOPE OF DRAINAGE FROM NEW BUILDING

SURVEY INFORMATION TAKEN FROM:
GENESIS LAND SURVEYING INC.
ONTARIO LAND SURVEYORS
SEPTEMBER 15, 2020.

LOT 65, REGISTERED PLAN 4949
CITY OF MARKHAM

SITE STATISTICS		
ACCESSORY BUILDING - POOLHOUSE	EXISTING	PROPOSED
LOT AREA	958.13 m2	NO CHANGE
FRONT YARD SETBACK	N/A	38.53 m
INTERIOR SIDE YARD SETBACK - NORTH	1.01 m	2.18 m
INTERIOR SIDE YARD SETBACK - SOUTH	15.34 m	11.22 m
REAR YARD SETBACK	7.03 m	3.38 m
BUILDING FLOOR AREA - ACCESSORY BUILDING	11.4 m2	32.5 m2
LOT COVERAGE - ACCESSORY BUILDING	1.2 %	3.4 %
LOT COVERAGE - ALL BUILDINGS	21.8 %	24.0 %
BUILDING HEIGHT - MIDPOINT OF SLOPED ROOF BUILDING HEIGHT - PEAK OR SLOPED ROOF	-	3.95 m
SOFT LANDSCAPING - FRONT YARD (AREA = 183.3 m2)	-	97.2 m2 = 53.0 %

- GRADING - GENERAL NOTES:**
- SEDIMENT AND EROSION CONTROL MEASURES SHALL BE IMPLEMENTED TO PREVENT MIGRATION OF SILT AND SEDIMENT FROM THE SUBJECT LOT TO ANY ADJACENT LOT, INCLUDING MUNICIPAL OR PUBLIC RIGHT-OF-WAY. SPECIAL CARE SHALL BE TAKEN TO ENSURE THAT SILT AND SEDIMENT LADEN SURFACE WATER DOES NOT ENTER ANY WATERCOURSES OR ENVIRONMENTALLY SENSITIVE AREAS, EITHER OVERLAND OR THROUGH THE STORM DRAINAGE SYSTEM. THE OWNER/BUILDER/APPLICANT SHALL COMPLY WITH ALL DIRECTIVES ISSUED BY ANY APPLICABLE ENVIRONMENTAL AGENCY.
 - INTERIM GRADING MEASURES MAY BE REQUIRED DURING BUILDING CONSTRUCTION TO ENSURE THAT DRAINAGE DOES NOT ADVERSELY AFFECT THE NEIGHBORING PROPERTIES. ROUGH GRADING OF THE PROPERTY SHALL BE COMPLETED SUCH THAT DRAINAGE IS CONTAINED ON SITE OR CONTROLLED TO A POSITIVE OUTLET.
 - ALL DOWNSPOUTS, SUMP PUMP AND OTHER DRAINAGE DISCHARGE POINTS SHALL DISCHARGE ON TO A SPLASH PAD OR APPROVED EQUIVALENT. DRAINAGE DIRECTLY TO A MUNICIPAL DITCH IS NOT PERMITTED, WHICH INCLUDES ROOF LEADERS, BASEMENT SUMPS AND FOUNDATION DRAINS.
 - THE OWNER/BUILDER/APPLICANT IS RESPONSIBLE FOR OBTAINING UTILITY AND SERVICING LOCATES PRIOR TO ANY WORKS.
 - A COPY OF "ACCEPTED FOR CONSTRUCTION" DRAWINGS ARE TO BE ON SITE FOR REFERENCE AT ALL TIMES DURING CONSTRUCTION.
 - THE BUILDING ELEVATIONS HAVE BEEN SET SUCH THAT THERE IS NO RISK OF HYDROSTATIC PRESSURE AFFECTING THE BUILDING.
 - POST CONSTRUCTION AND UPON COMPLETION OF THE LOT GRADING, THE OWNER IS RESPONSIBLE TO REPAIR ANY SETTLEMENTS IN ORDER TO MAINTAIN POSITIVE DRAINAGE AWAY FROM THE BUILDING AT ALL TIMES.
 - POST CONSTRUCTION AND UPON COMPLETION OF THE LOT GRADING, THE OWNER IS RESPONSIBLE TO MAINTAIN ALL DOWNSPOUTS AND TO ENSURE THAT NO SUBSEQUENT MODIFICATIONS TO THE GRADING OF THE LOT ARE MADE WHICH WILL ADVERSELY AFFECT THE DRAINAGE OF ADJACENT LOTS.

ONTARIO ASSOCIATION OF ARCHITECTS
CHRISTOPHER CLARKE PRETOTTO
LICENCE 6706

PROJECT
POOLHOUSE w/ IN-GROUND POOL
38 GALS WORTHY, MARKHAM, ON, L3P 1T1

DRAWING TITLE
SITE PLAN

SCALE
AS NOTED

PROJECT NO.
20.205

DRAWN BY
AB

APPROVED
CCP

DATE
20.09.14

DRAWING NO.
A101



NOTES:

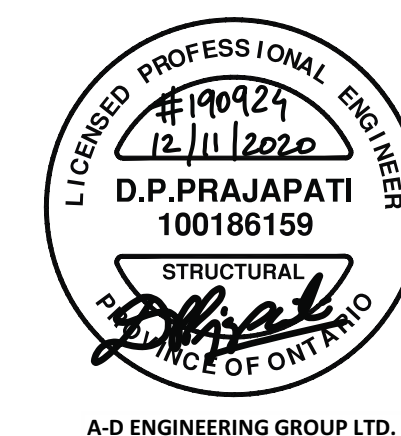
1. ALL TJI JOISTS AND LVLS ARE BY WAYERHAUSER. ALL LVLS TO BE MICROLLAM 2.0E.
2. PROVIDE 2-PLY KING STUDS TO ALL JACK POST FOR STABILITY.
3. OFFSET LAST JOIST BY 24" PARALLEL TO EXTERIOR WALL AND PROVIDE SOLID BLOCKING OR JOIST @ 16" oc FOR STABILITY.



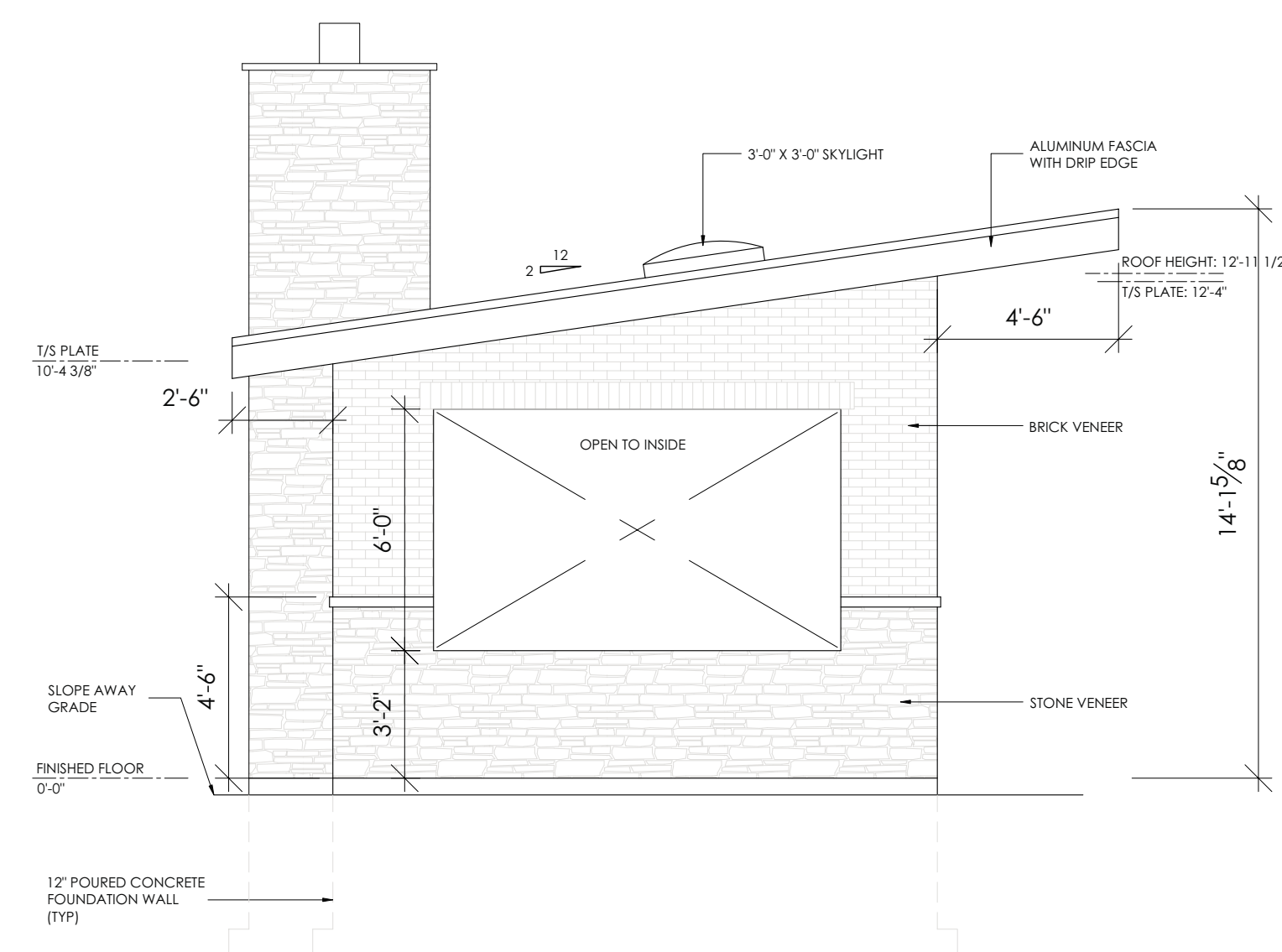
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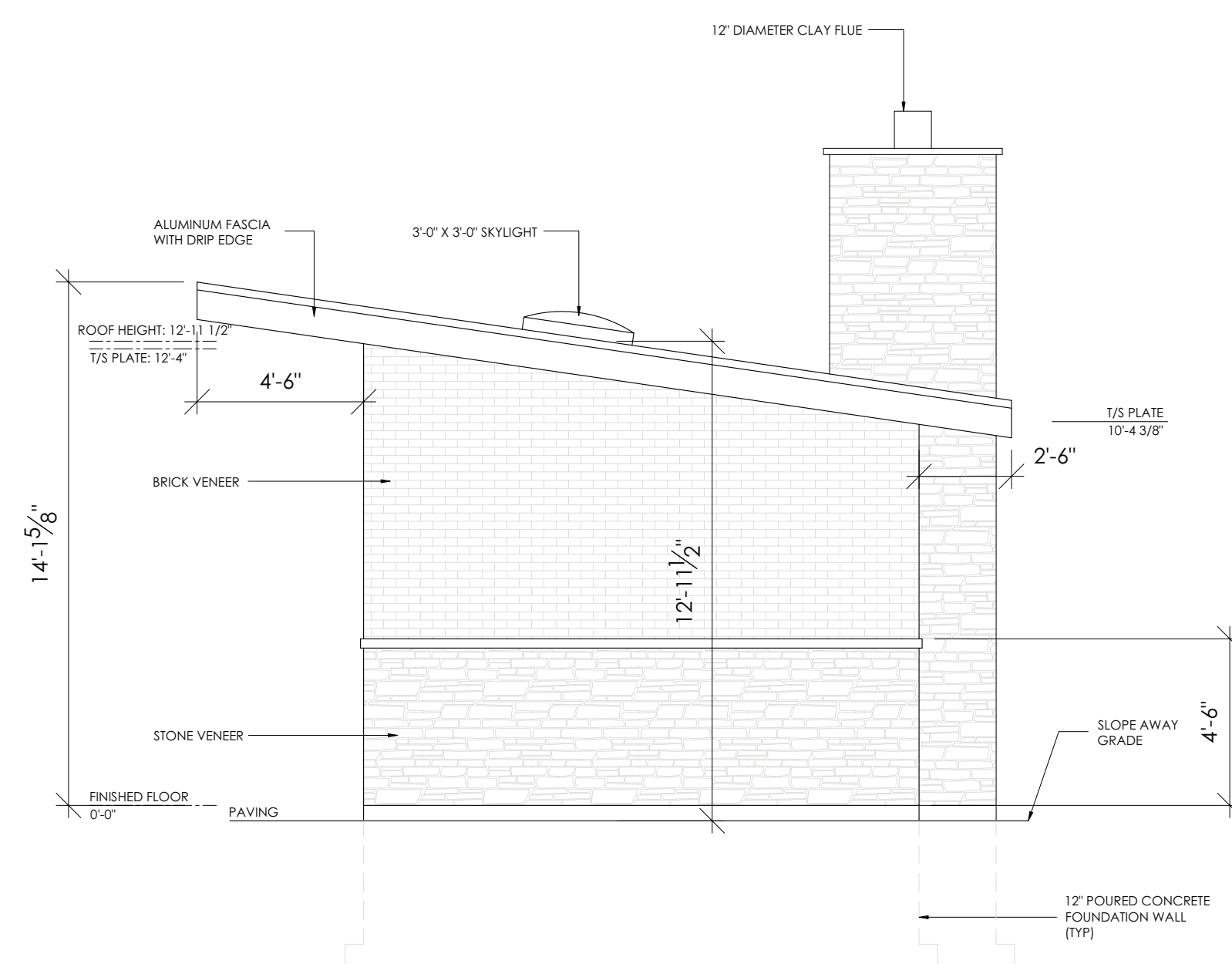
A201



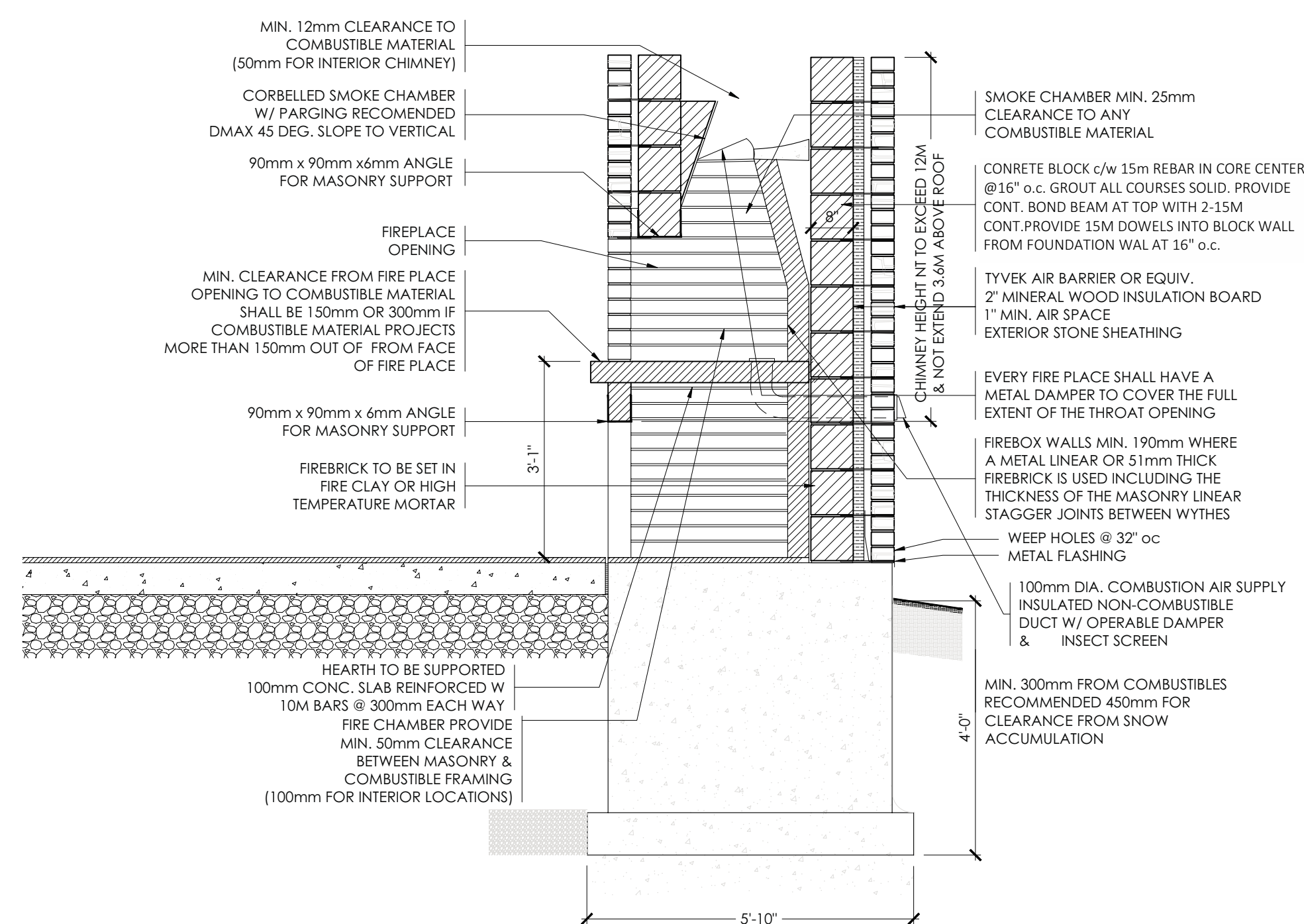
A-D ENGINEERING GROUP LTD



2	LEFT ELEVATION
A301	SCALE 1/4" = 1'-0"



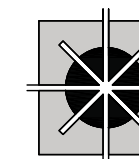
4	RIGHT ELEVATION
A301	SCALE 1/4" = 1'-0"



6 FIRE PLACE SECTION
A301 SCALE 1/2" = 1'-0"

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DRAWING NO.	
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A301

