

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 m² (16,845.50 ft²) 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 m² (4,122.6 ft²) 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 m² (1,733 ft²) addition to the existing two-storey detached dwelling for a floor area of 544 m² (5,855.6 ft²), whereas the By-law permits a dwelling with a maximum floor area of 490.05 m² (5,274.85 ft²). This represents an increase of approximately 54 m² (581.25 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 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\Fire 21 123624 \Documents\District Team Comments Memo

APPENDIX “A”

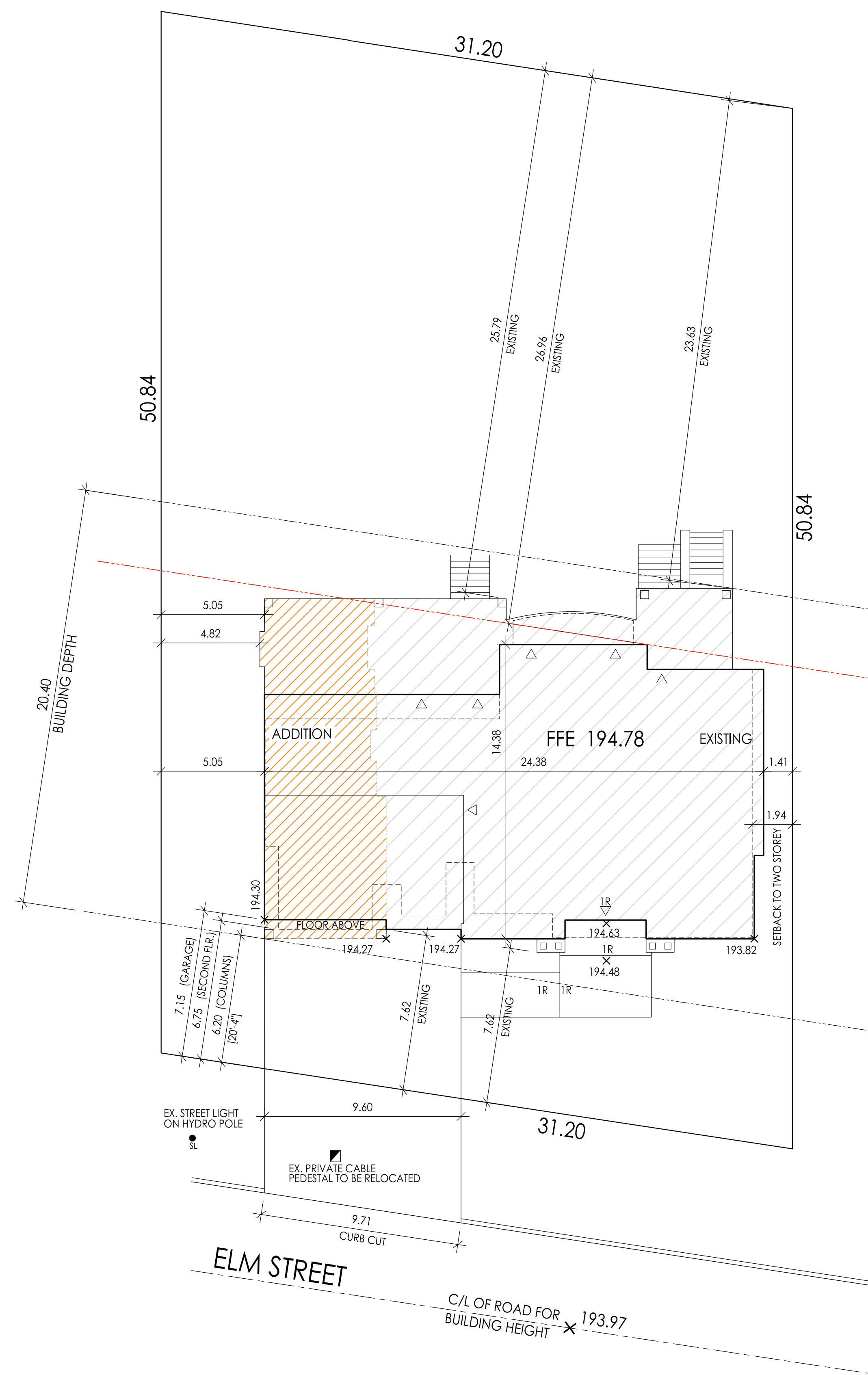
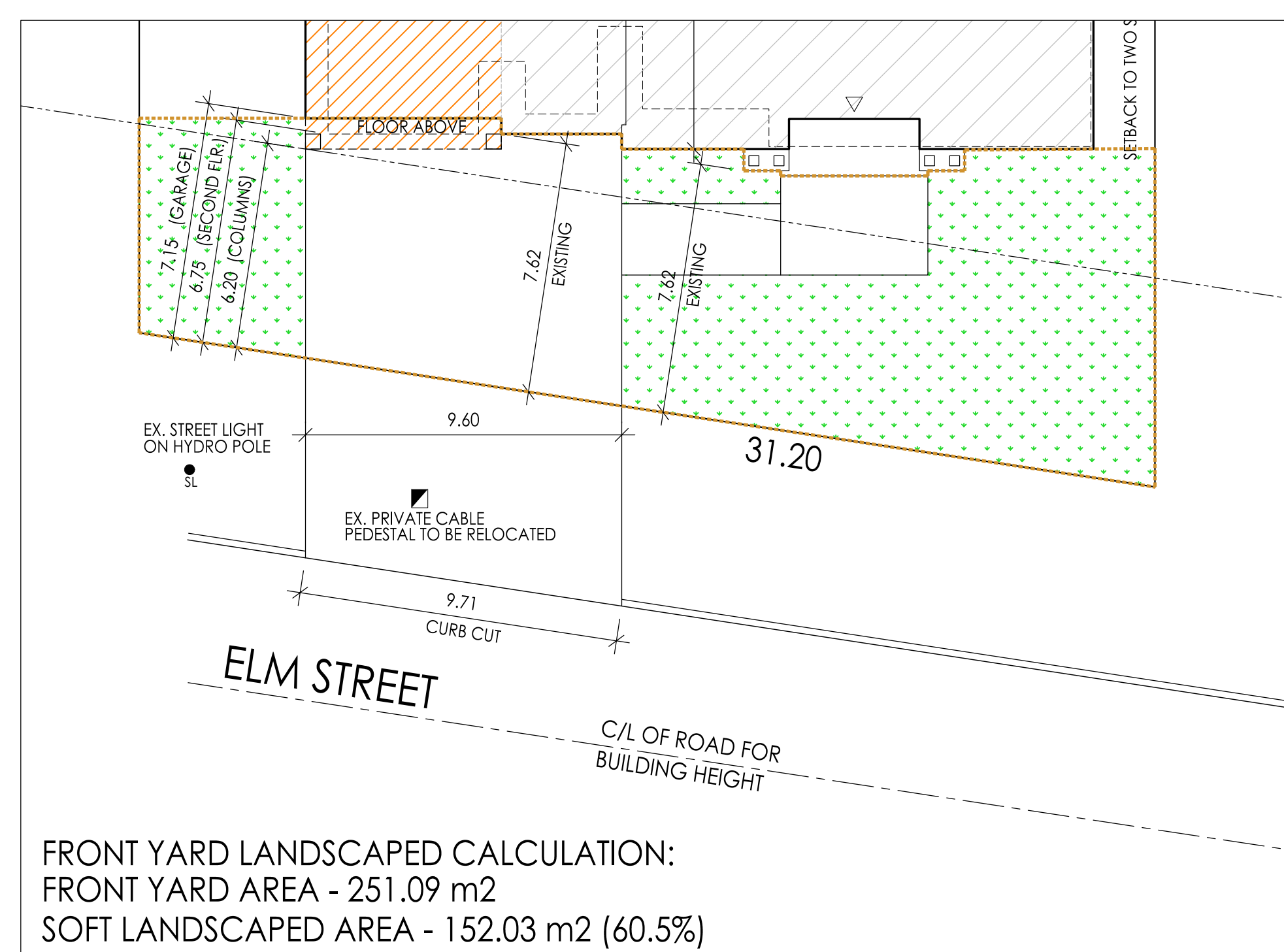
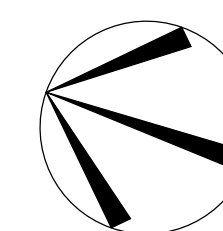
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/079/21

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



GFA Calculation (m2)			
	PROPOSED	EXISTING	ADDITIONAL
Ground Floor (Incl. Garage)	310	240	70
Second Floor (w/o Attic space)	234	143	91
TOTAL GFA	544	383	161

SITE STATS				
RES. INFILL-BY-LAW 1299/99-90				
ZONE: R1				
	REQUIRED	PROPOSED	EXISTING	ADDITIONAL
Min. Lot Frontage	18.29 m	30.84 m	21.7	9.14
Min. Lot Area	613 m ²	1565.00 m ²	1103 m ²	462 m ²
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%	396 m ² 25.30%	303 m ²	93 m ²
Net Lot Area		1089 m ²		
Max. Net Floor Area Ratio	45%	544 m ² 50.06%	383 m ²	161 m ²

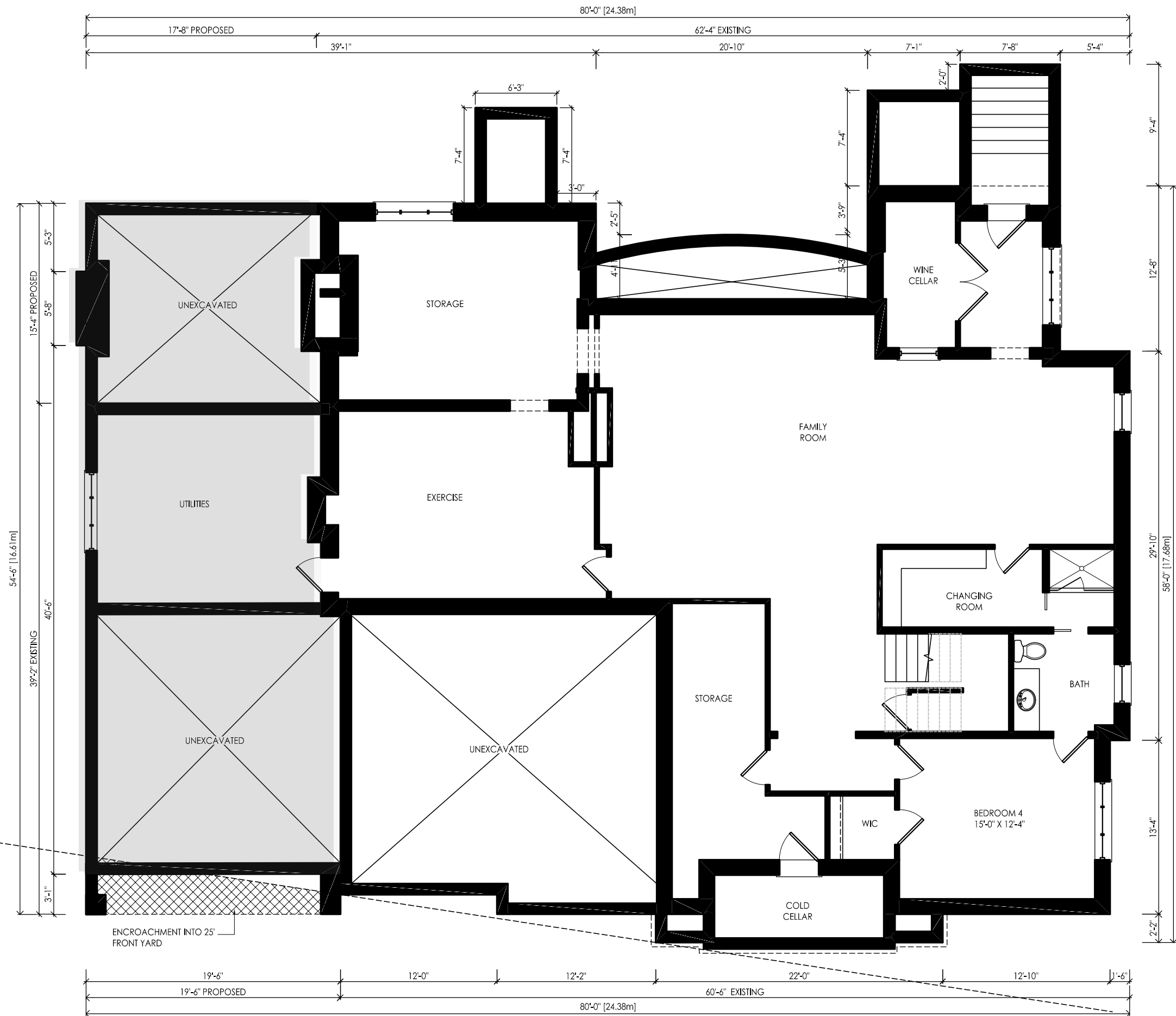
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RN
DESIGN

WWW.RNDESIGN.COM
T:905-738-3177
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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

CUSTOM

project #

18058

scale

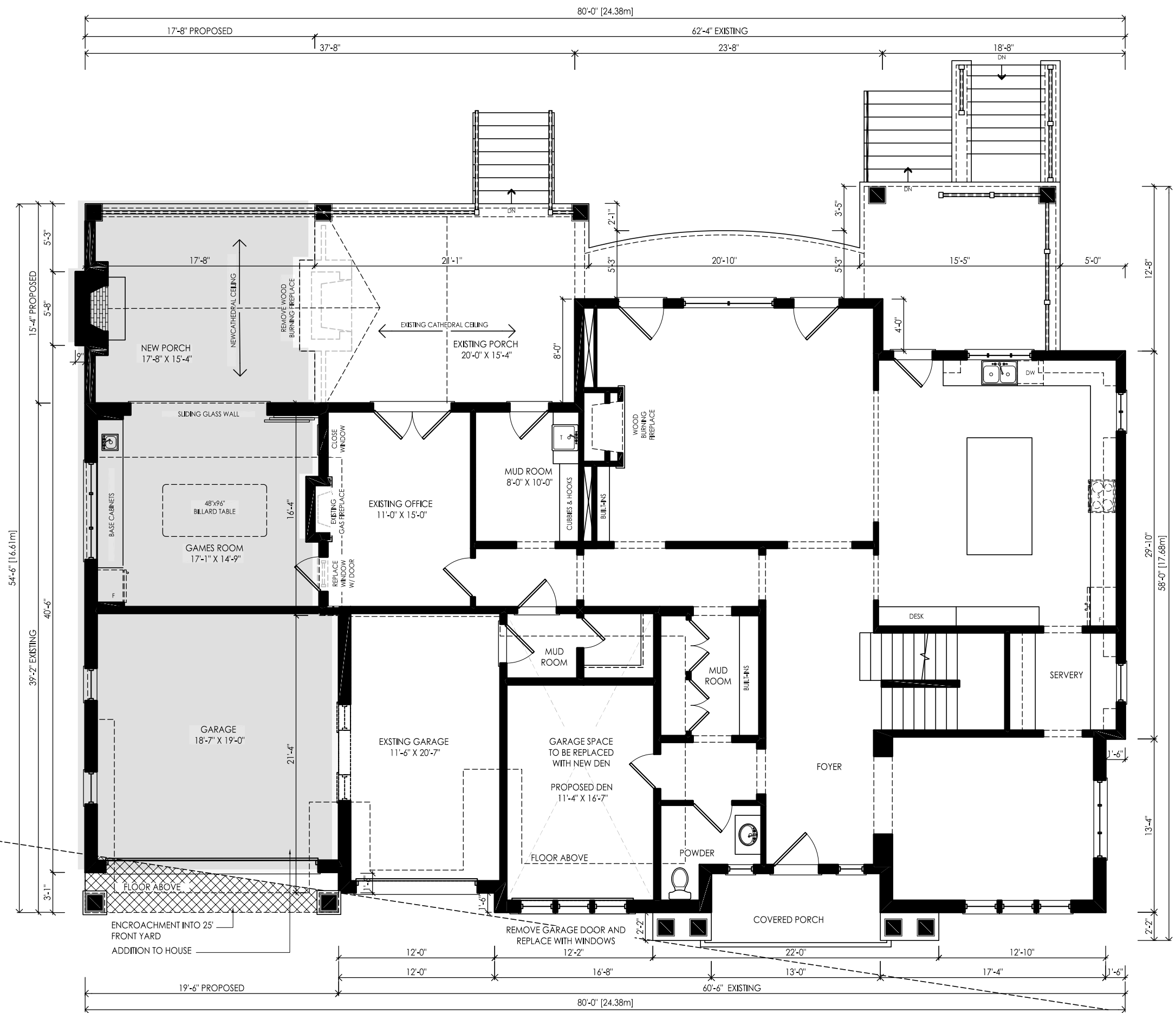
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revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20

FILED IN 2018 PROJECTS \ 2018 \ Architectural \ Model \ 21.123624.000.00.MNV.dwg Plot Date: 13-Nov-2021 By: poulah



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



revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20
2 REMOVED 4TH GARAGE	MJS	23-JUN-21

Appendix B

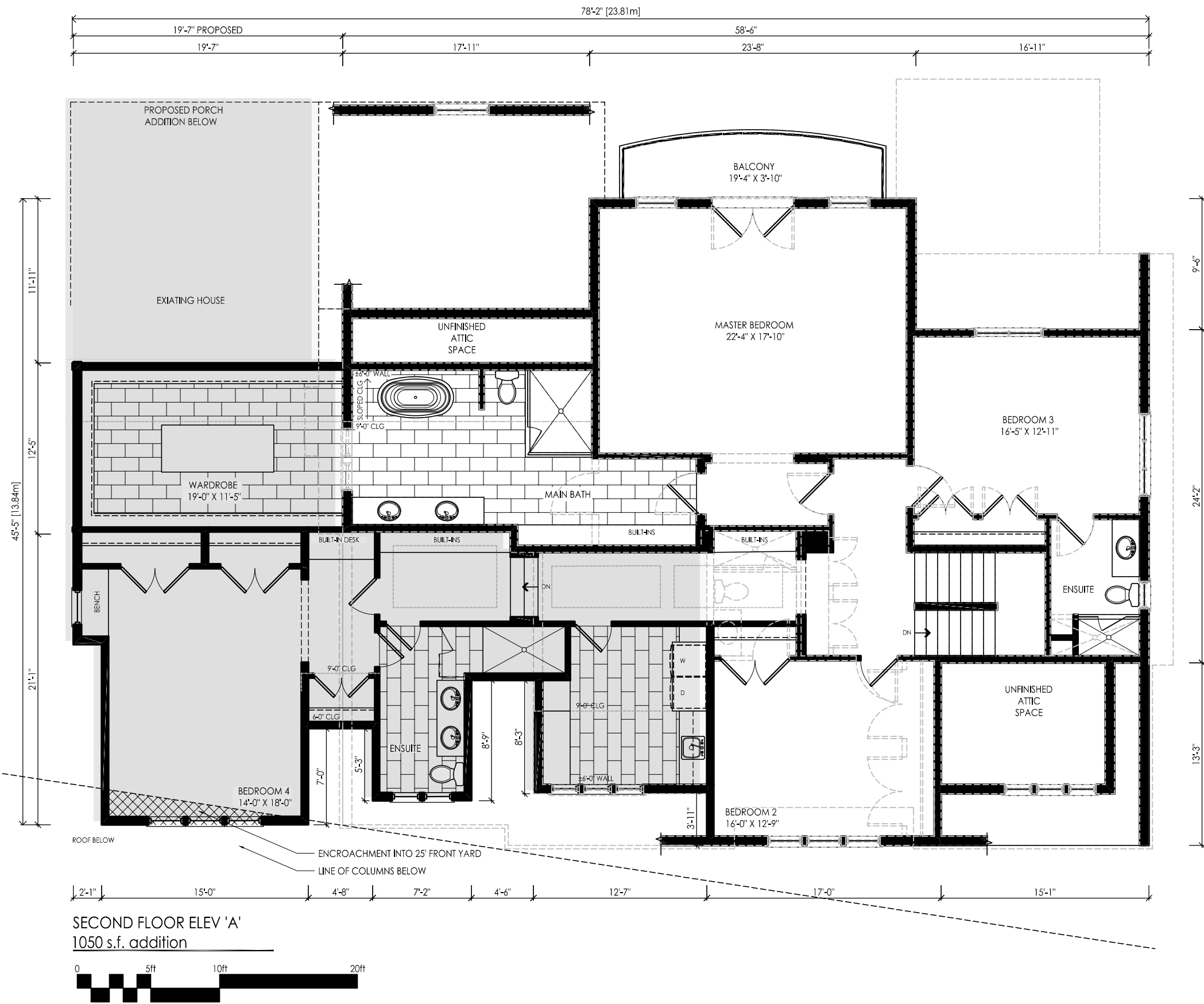
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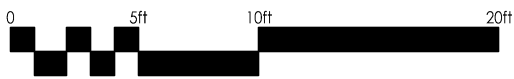
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client	David and Karen Hicks
project	37 Elm Street 37 ELM ST.
model	CUSTOM
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SECOND FLOOR ELEV 'A'
1050 s.f. addition



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

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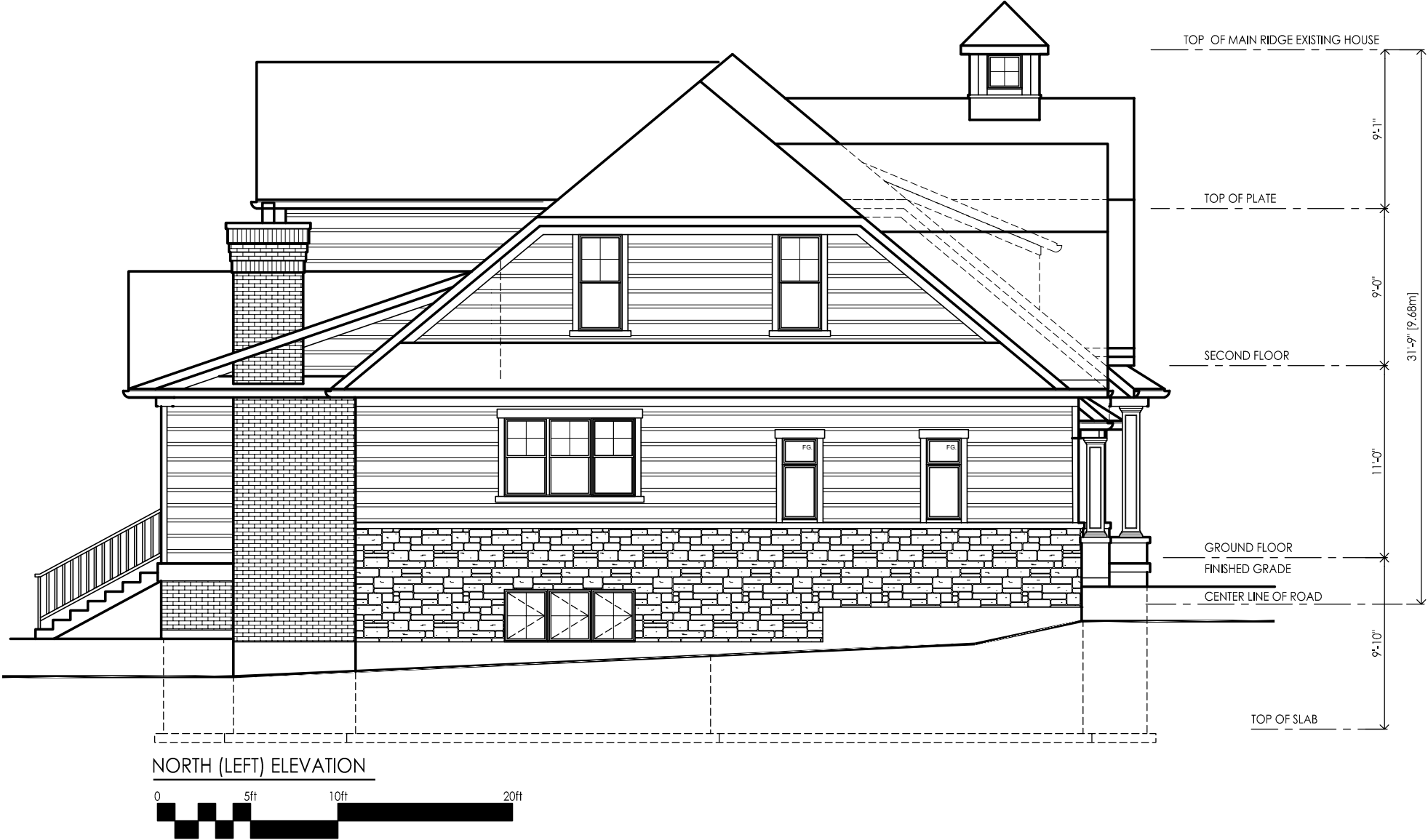
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revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20
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revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20

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

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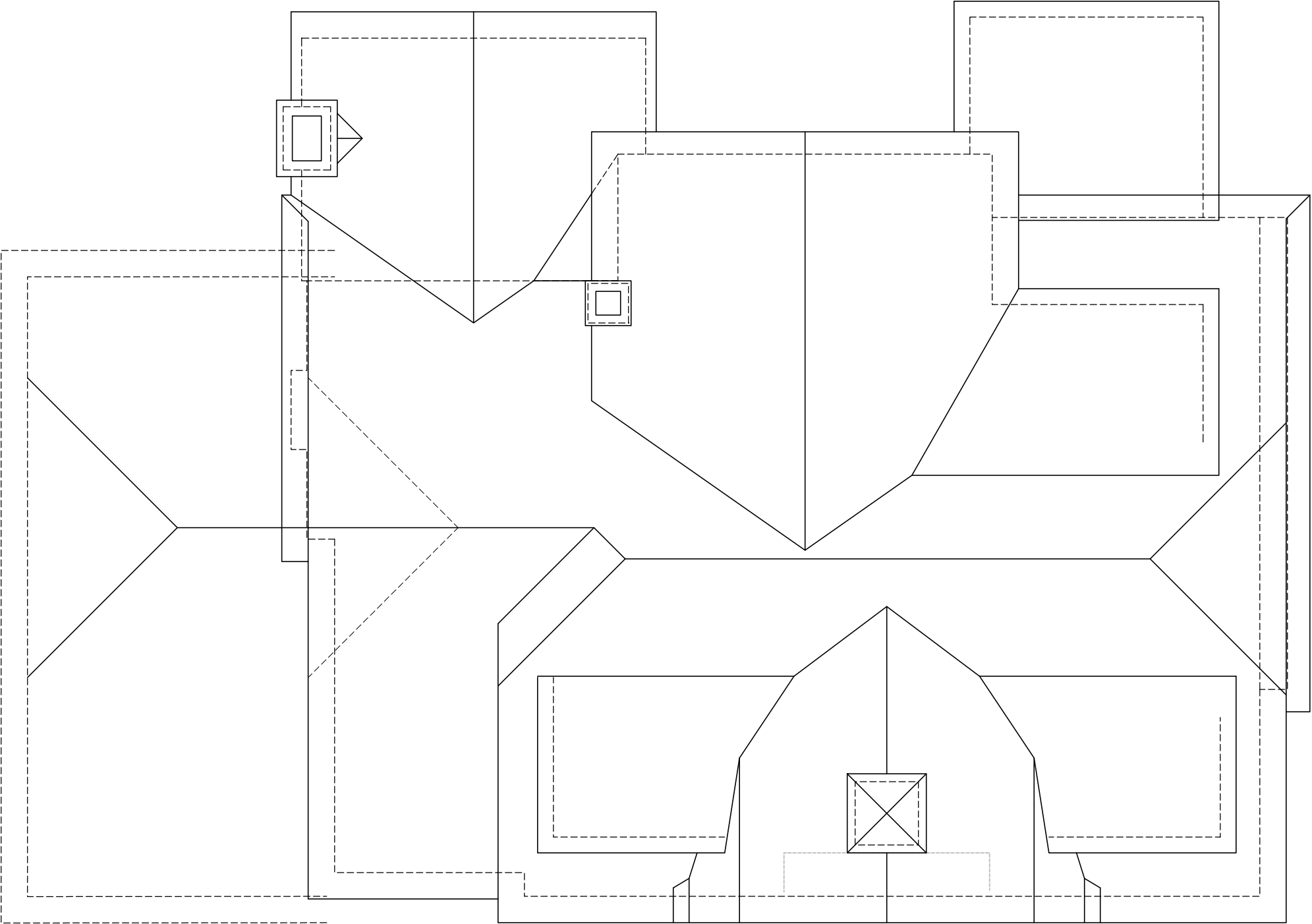
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revisions	initials	date
1 ISSUED FOR REVIEW	MJS	20-Nov-20

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

File: 21.123624.000.00.MNV
Project: 18058
Architectural Model
18058-Client-37 Elm St. - 2021 B7 Rev 1