

# Memorandum to the City of Markham Committee of Adjustment

October 31, 2019

**File:** A/121/19  
**Address:** 32 Fred Varley Dr – Markham, ON  
**Applicant:** Ruiyun Cai  
**Agent:** Allera Engineering and Construction Inc.  
**Hearing Date:** Wednesday November 27, 2019

The Central Team provides the following comments. The Applicant requests relief from the following requirements of By-law 122-72, R3 – “Single Family Residential Zone”, as amended:

**a) Section 11.2 (c):**

To permit an east side yard setback of 1.3 m (4.27 ft) and west side yard setback of 1.5 m (4.92 ft), whereas the By-law requires a minimum side yard setback of 1.83 m (6 ft) for a two-storey dwelling; and

**b) Section 5.7:**

To permit uncovered and unenclosed steps with a cold cellar below to encroach 1.8 m (6 ft) into the required front yard.

## BACKGROUND

### Property Description

The 797.95 m<sup>2</sup> (8,589.06 ft<sup>2</sup>) subject property is located on the south side of Fred Varley Drive, west of Main Street Unionville, and within an established residential neighbourhood primarily comprised of one and two-storey detached dwellings. The neighbourhood currently experiences numerous infill developments and the redevelopment of existing residential lots with new dwelling units. The lands east of the subject property were recently developed as an existing four-storey building consisting of ground floor retail and residential above.

The subject property was previously within a regulated floodplain area of the Toronto and Region Conservation Authority (“TRCA”). The TRCA recently updated their floodplain modelling for the Unionville area and based on their review, the TRCA regulated floodplain area no longer impacts the subject property.

### Proposal

The Applicant proposes to demolish the existing one-storey single detached dwelling and to replace it with a new single detached dwelling with a height of 10.67 m (35 ft) (the “proposed development”).

To facilitate the new construction, the Applicant proposes minimum side yard setbacks of 1.3m (along the east property line) and 1.5 m (along the west property line). The side yard reductions translates to a proposed setback relief of 0.53 m and 0.33 m, respectively, whereas the by-law requires a minimum of 1.83 m (6 ft) for a two-storey dwelling. The Applicant further proposes to permit uncovered and unenclosed steps that encroach 1.8 m (6 ft) into the front yard.

## **Official Plan & Zoning**

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

The 2014 Official Plan designates the subject property 'Residential Low-Rise', which permits low-rise residential dwellings, including single detached dwellings, up to three storeys in height. In considering infill applications for development approval, the proposed development must meet the general intent of the 2014 Official Plan as it relates to height, massing and setbacks to ensure that the development is appropriate for the site, compatible with the character and pattern of adjacent and surrounding development, and generally consistent with zoning requirements.

The proposed development is generally consistent with infill development occurring within the existing neighbourhood.

## **Zoning By-Law 122-72**

The subject property is zoned R3 – "Single Family Residential Zone" under By-law 122-72, as amended, which permits a single family detached dwelling with a maximum building height of 10.67 m (35 ft). The proposed development does not comply with the by-law requirements with respect to the minimum side yard setbacks and the encroachment of unenclosed and uncovered steps into the front yard.

## **Varley Village Infill Area**

The subject property is within an area of the City where there is a trend to build larger houses. In response to concerns within this trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee, a Committee of Council, undertook a review of this issue with community consultation, and ultimately recommend that no action be taken on an infill by-law at this time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

## **Applicant's Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with the Zoning By-law is that, *"side yard setbacks are being proposed which are less than the minimum required by the by-law to accommodate for the library room that would otherwise be too narrow."*

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

The Applicant submitted an application on October 24, 2019, for a ZPR with fees paid in full on November 6, 2019, to confirm the variances required for the proposed development.

The Applicant completed a ZPR to confirm the initial variances required for the proposed development. The ZPR was completed on November 12, 2019, and the Applicant submitted an amended application form along with revised drawings on November 13, 2019. The Applicant has conducted a ZPR for the revised drawings on November 19, 2019. Consequently, it is the Owner's (Applicant'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.

### **Reduced Side Yard Setback (two-storey portion)**

The Applicant requests a minimum side yard setback of 1.3 m (4.2 ft) along the east property line, and a minimum side yard setback of 1.5 m (4.92 ft) along the west property line. The By-law permits a minimum side yard setback of 1.22m (4 ft) for one-storey, and 1.83m (6 ft) for two-storeys.

The request meets the minimum requirement for a one-storey portion of a dwelling, and is requesting relief of 0.53 m (1.74 ft) on the east side yard, and 0.33 m (1.08 ft) on the west side yard for the two-storey portion of the dwelling, which equates to a reduction of 29% and 25%, respectively. The proposed side yard reductions would not impact the character of the neighbourhood.

Staff support the variance requested as it is consistent with the overall context of the neighbourhood and general intent of the zoning by-law, however design staff have raised concern with regards to the requested east setback as it relates to visual impact and height transition with the easterly property for Committee to consider.

### **Increase in Maximum Permitted Front Yard Encroachment**

The Applicant requests relief to permit uncovered and unenclosed steps, which proposes an encroachment of 1.83 m (6 ft) into the front yard, whereas the By-law requires, *“every part of a required yard shall be open and unobstructed from the ground to the sky by any structure (...), which may project no more than eighteen inches (18 in) into any required yard for uncovered platforms into the rear yard.”* This represents an increase front yard encroachment of approximately 1.34 m (4 ft 4 in). The proposed encroachment would not impact the character of the neighbourhood.

### **TRCA Comments**

The entire subject property was previously located within TRCA's Regulated Area. TRCA provided comments on November 15, 2019. The comments indicate that the TRCA has recently updated the floodplain modelling for the Unionville area, and based on a review of the data, the TRCA regulatory floodplain area no longer impacts the subject property.

### **Metrolinx Comments**

Comments were received from Metrolinx on November 19, 2019 in relation to the application made, as the subject site is located within 300m of the Metrolinx Uxbridge Subdivision buffer. Metrolinx has no objections to the application; however requests that a Warning clause be inserted to development agreements and offers to purchase and agreements to Purchase and Sale or Lease. Metrolinx have requested that the Owner shall grant Metrolinx an environmental easement for operational emissions, registered on title against the subject residential dwelling in favour of Metrolinx.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 18, 2019. 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* and have no objection. Staff recommend that the Committee consider public input in reaching a decision, and that the applicant work with City staff.

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:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 139037 \Documents\District Team Comments Memo

## **APPENDICES**

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

**APPENDIX "A"**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/121/19**

1. That the Applicant implement and maintain all of the works required in accordance with the conditions of this variance application;
2. The variances apply only to the proposed development as long as it remains;
3. That the variances apply only to the proposed development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and received by the City of Markham on October 30, 2019, 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;
4. That the Applicant satisfies the requirements of the Toronto and Region Conservation Authority ("TRCA"), financial or otherwise, as indicated in their letter to the Secretary-Treasurer, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of TRCA.
5. That the Applicant satisfies the requirements of Metrolinx, as indicated in their e-mail, to the satisfaction of Metrolinx, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

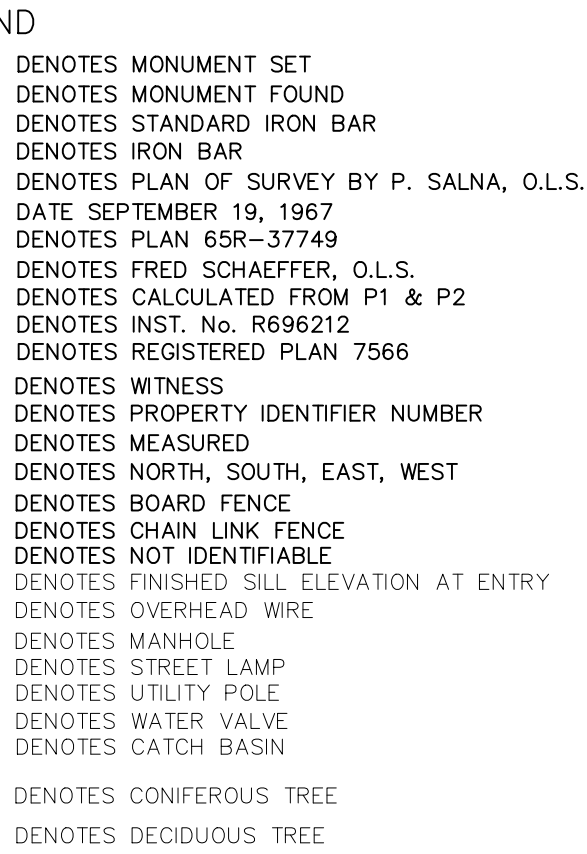
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner I, Zoning and Special Projects

**APPENDIX “B”**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/121/19**

10m 5 0 10 METRES  
MANDARIN SURVEYORS LIMITED, O.L.S.



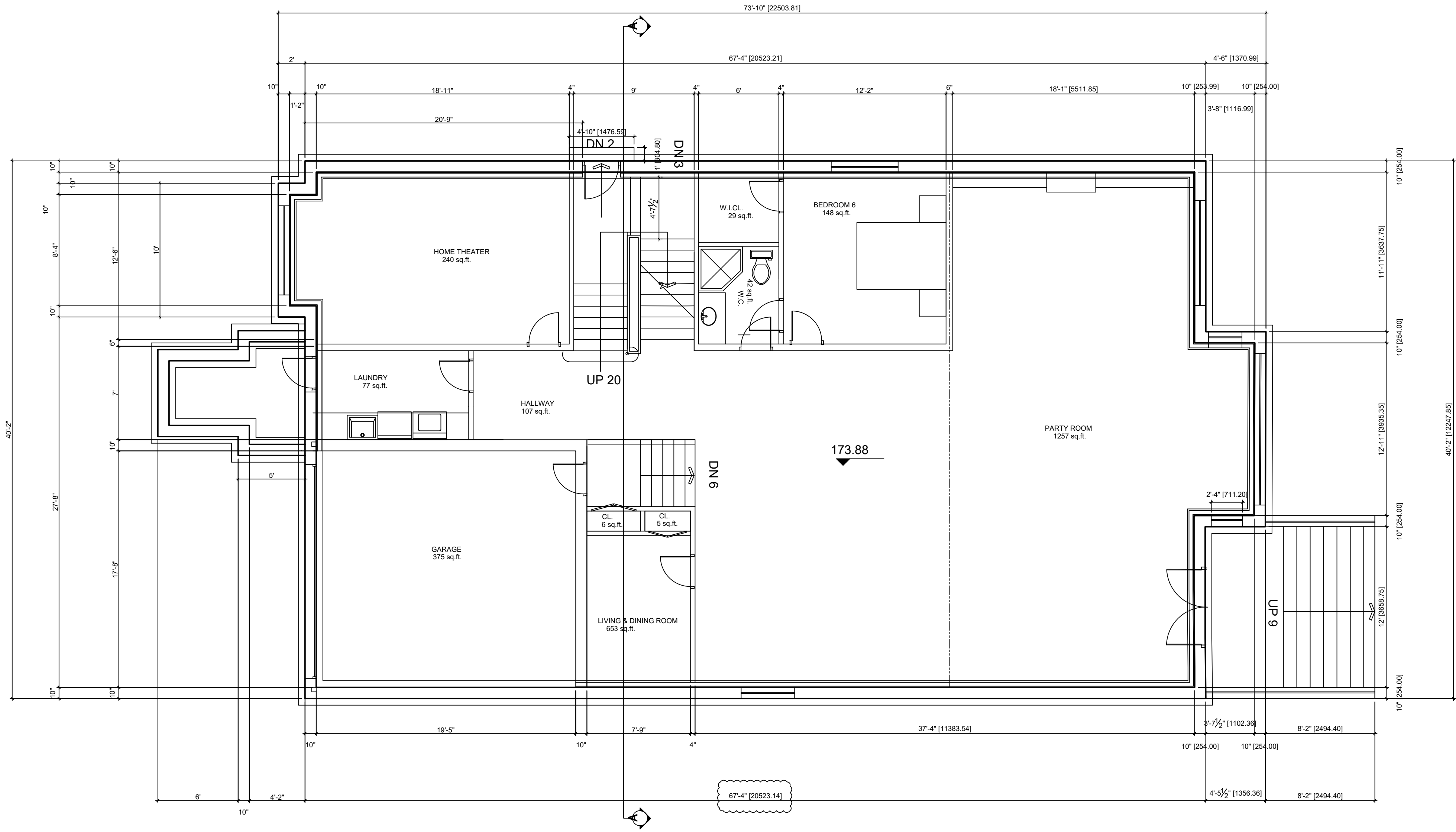
LOT AREA  
 797.95 sq.m  
 PROPOSED LOT COVERAGE :  
 264.22 sq. m/797.95sq.m =33.26%  
 FRONT ( M. ).....9.78m  
 SIDE (East) .....1.3m  
 SIDE ( West ) .....1.5m  
 REAR.....22.72m  
 BUILDING HEIGHT .....10.67m

BUILDING AREA	
GROUND FLOOR	LIVABLE AREA = 2815 sq.ft.
	GARAGE = 375 sq.ft.      PORCH = 42.00 sq.ft.
	TOTAL GROUND FLOOR AREA = 2815sq.ft./ 281.52 sq.m.
SECOND FLOOR	LIVABLE AREA = 2757sq.ft.
	Open Area / Above Foyer = 51.53sq.ft. Stair =6.77sq.ft.
	TOTAL SECOND FLOOR AREA = 2757sq.ft./ 256.11sq.m.
BUILDING AREA	LIVABLE AREA = 5572sq.ft. / 517.66sq.m.
	TOTAL AREA ( including Open Area and Garage) = 5630sq.ft. / 523sq.m.
BASEMENT FLOOR	TOTAL BASEMENT FLOOR AREA = 2229 sq.ft. / 207 sq.m.



CONTRACTORS MUST CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND MUST REPORT ANY DISCREPANCIES TO THE ENGINEER BEFORE PROCEEDING WITH CONSTRUCTION.

No.	DATE	DESCRIPTION
1	Sep 22, 19	Issue for ZC Application
2	Nov 14, 19	Issue for COA Application
3		
4		
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01 BASEMENT  
A03 SCALE 3/16"=1'-0" AREA 2790 SF

Allera

ENGINEERING & CONSTRUCTION INC.

245 FINCH AVE. W.,TORONTO, ON.  
Tel: (416) 671-1855 E-mail: ally1658@outlook.com

Allera JOB NO. #

PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK			
DESIGNED BY		CHECKED BY ALLY	
DATE Sep 22, 2019		SCALE	
DRAWING NO.		A03	

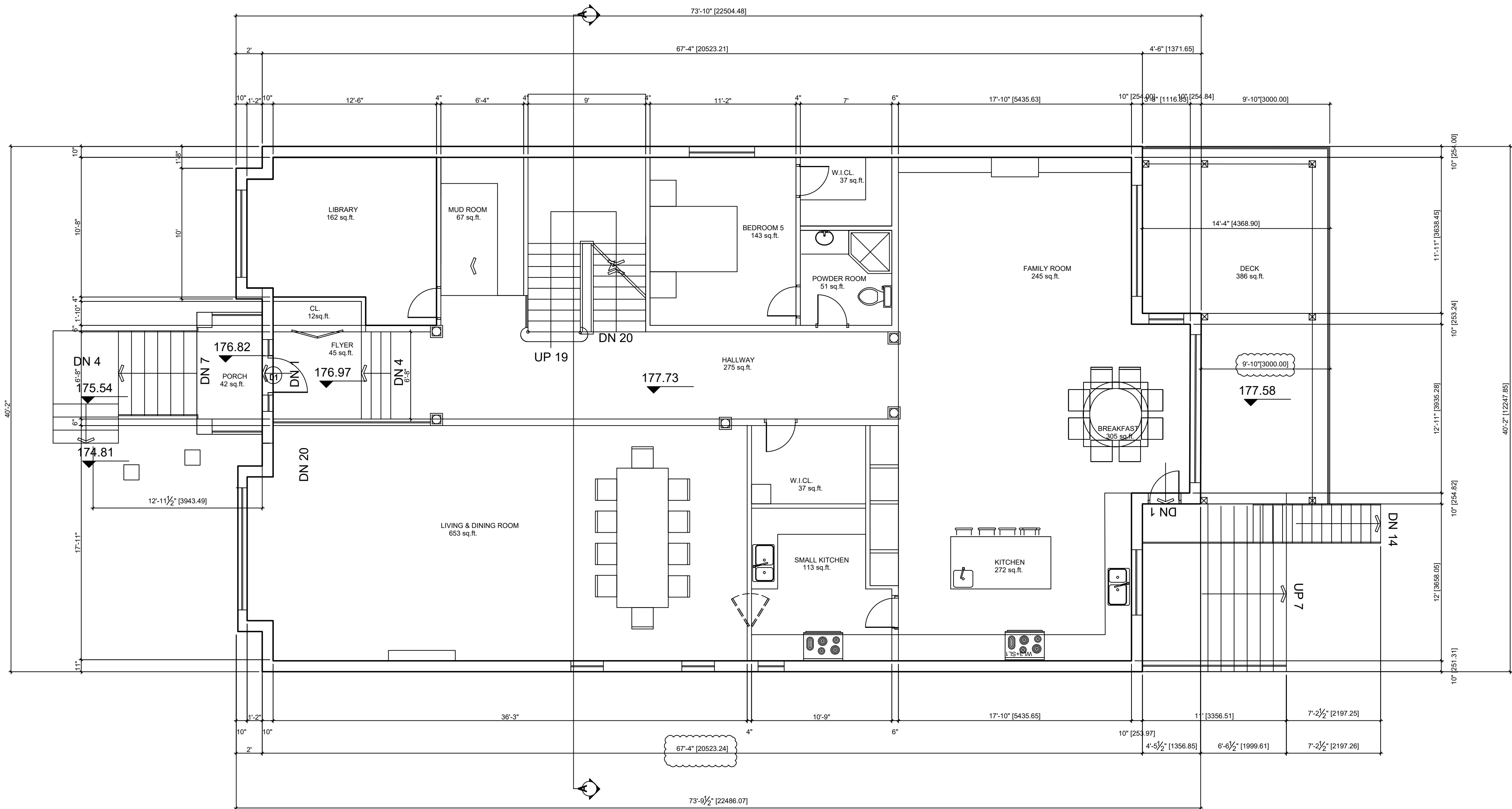
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3) DO NOT SCALE DRAWINGS.

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01  
A04

GROUND FLOOR  
SCALE 3/16"=1'-0" AREA 2915 SF COVERAGE 261.52/797.95=32.77%

**Allera**  
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ALLERA ENGINEERING & CONSTRUCTION INC.  
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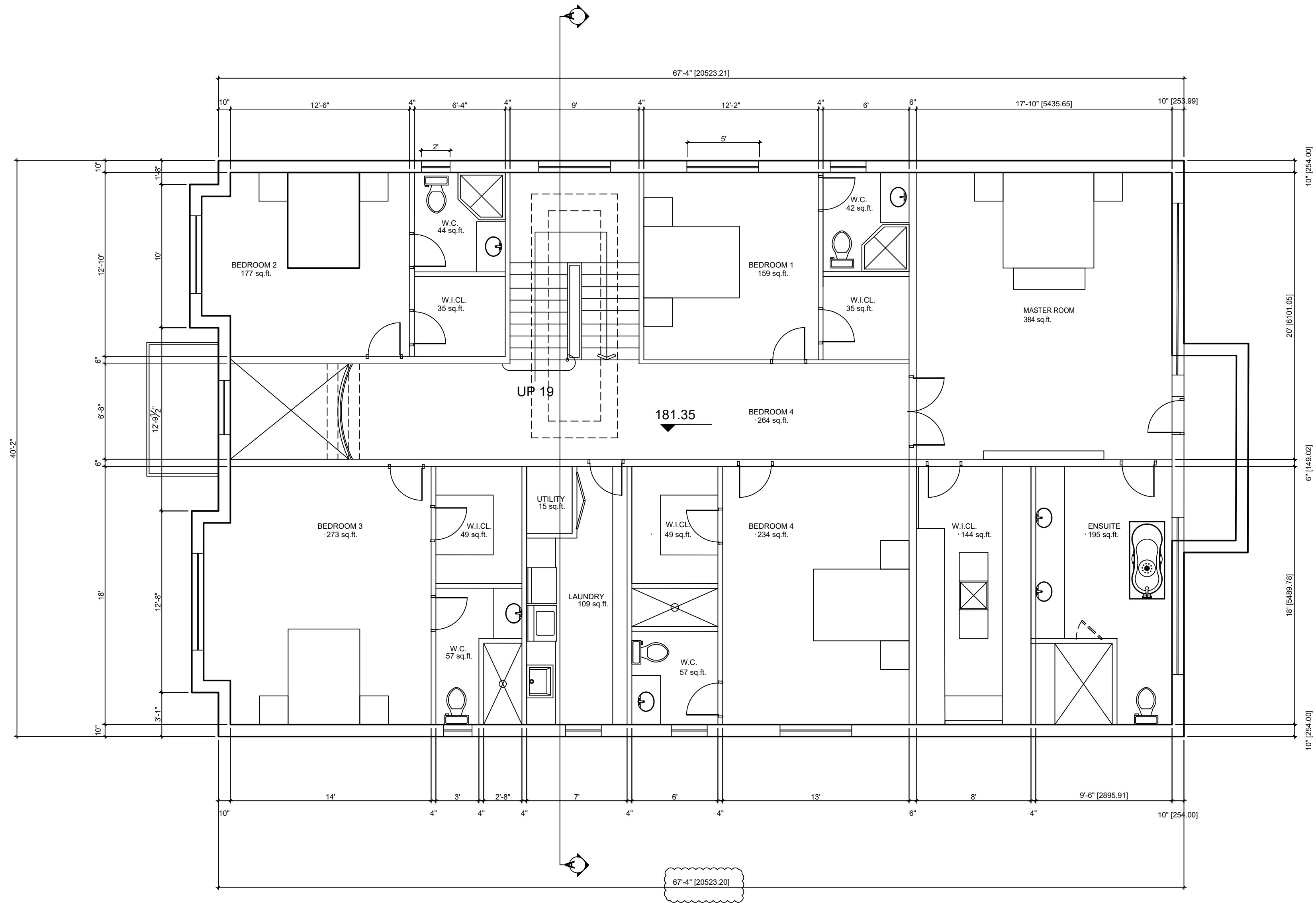
PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK			
DESIGNED BY		CHECKED BY ALLY	
DATE Sep 22, 2019		SCALE	
DRAWING NO.		A04	


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 01 / A05 SECOND FLOOR  
SCALE 3/16"=1'-0" AREA 2815 SF TOTAL AREA 5630SF

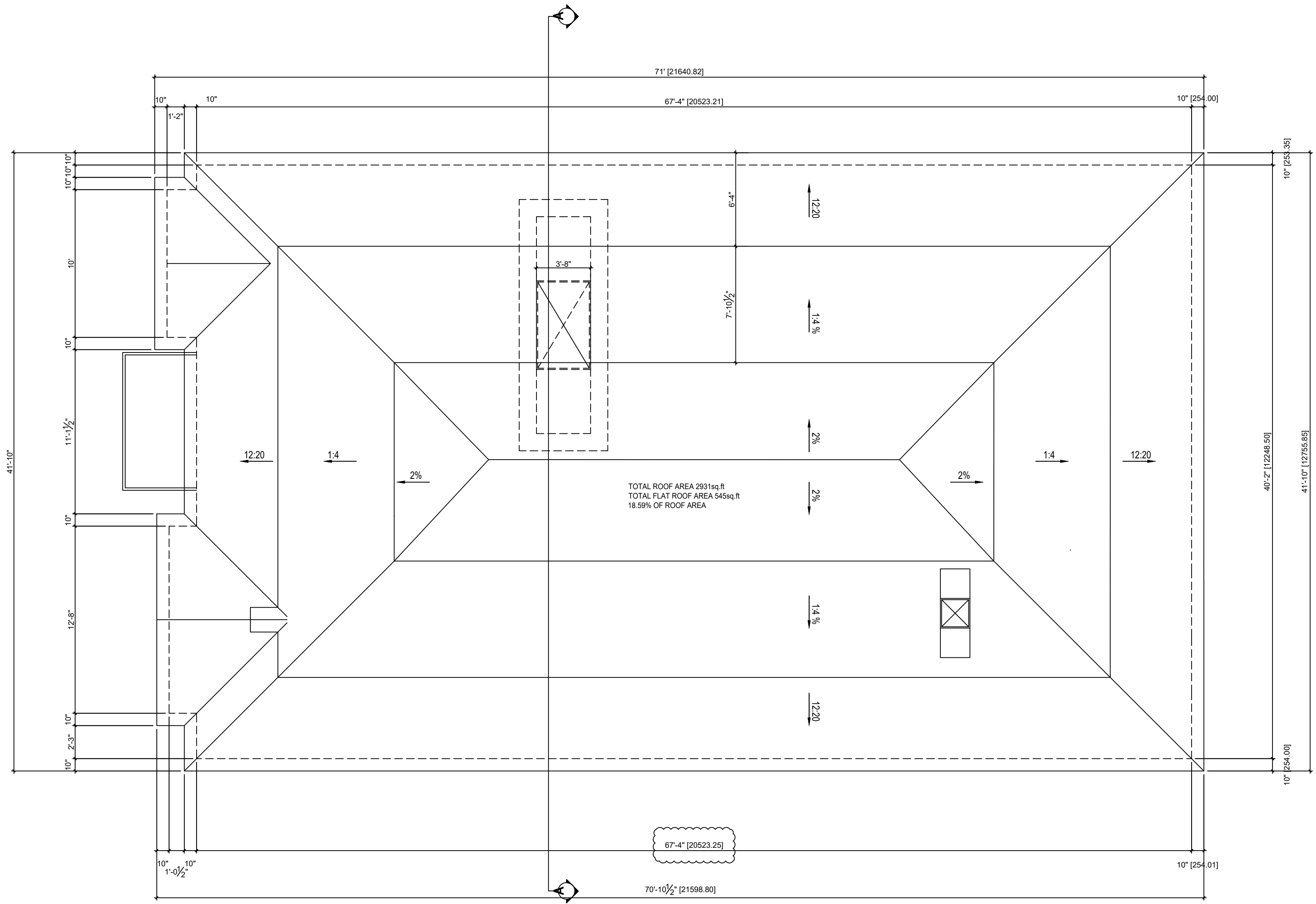
PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK	
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DATE Sep 22, 2019	SCALE
DRAWING NO. A05	

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 01 ROOF  
A06 SCALE 3/16\"/>

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245 FINCH AVE. W., TORONTO, ON.  
Tel: (416) 671-1855 E-mail: [ally16384@gmail.com](mailto:ally16384@gmail.com)

Allera JOB NO. #

PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK	
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DATE Sep 22, 2019	SCALE
DRAWING NO. A06	

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01 NORTH ELEVATION  
SCALE 3/16"=1'-0"

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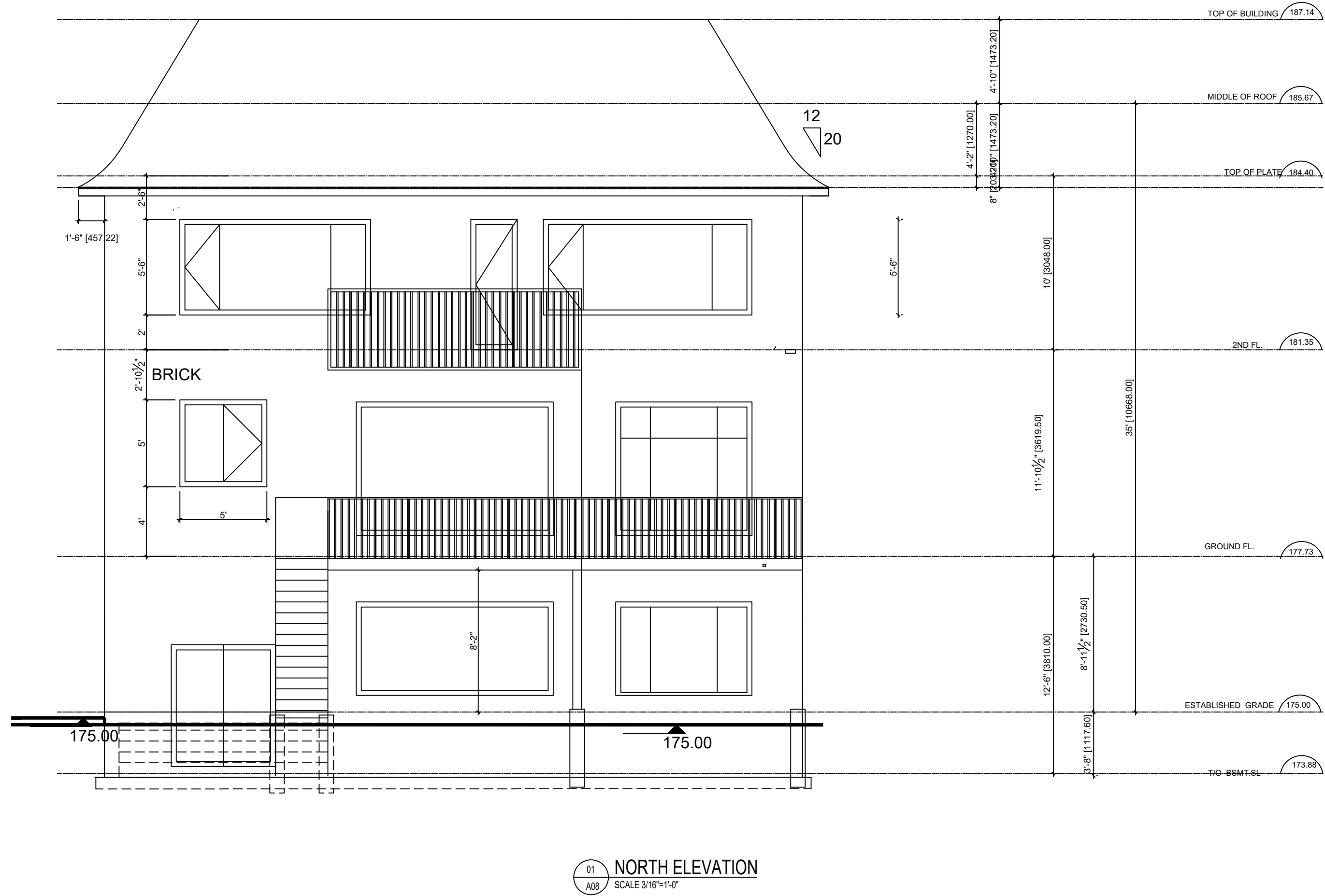
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PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK			
DESIGNED BY		CHECKED BY ALLY	
DATE Sep 22, 2019		SCALE	
DRAWING NO. A07			

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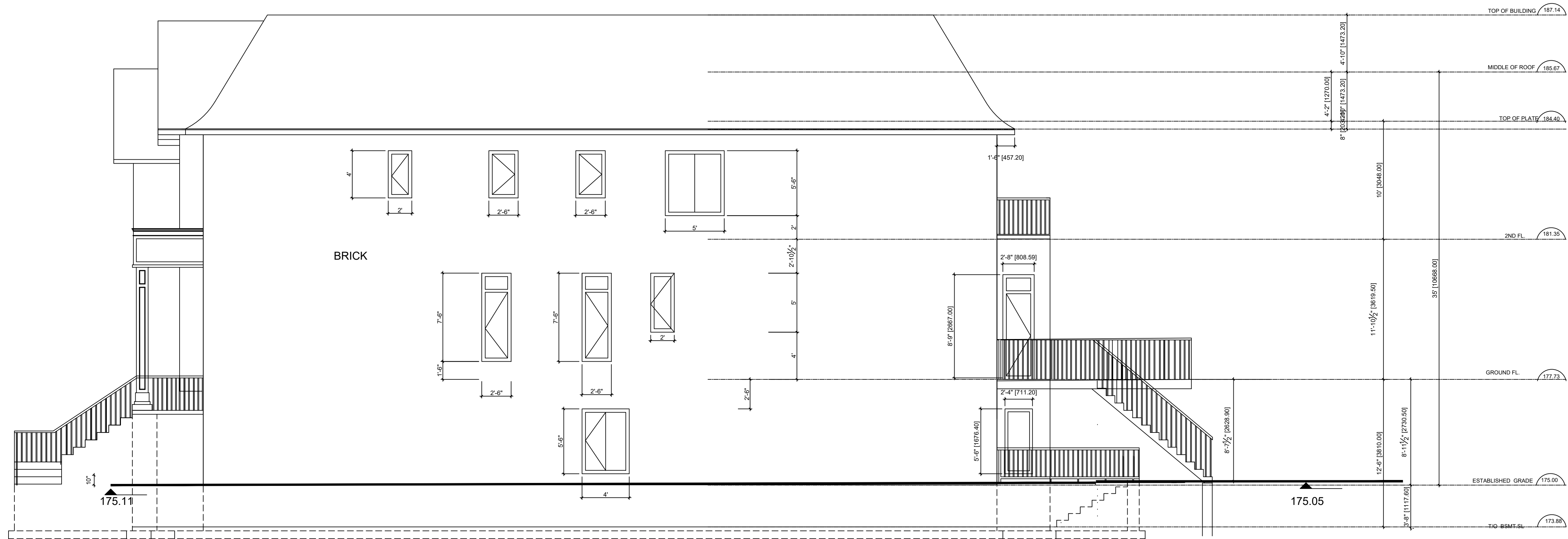
PROPOSED SINGLE FAMILY DWELLING AT 32 FRED VARLEY DR, NORTH YORK	
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DATE Sep 22, 2019	SCALE
DRAWING NO. A08	

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01 WEST ELEVATION  
A06 SCALE 1/8"=1'-0"

OPENING PROVIDED	OPENING ALLOWED	PERMITTING DISTANCE	WALL AREA
13.97m <sup>2</sup> (6.92%)	7.00 %	1.5m	201.72 m <sup>2</sup>
NOTE: CALCULATION ATTACHED			

PROPOSED SINGLE FAMILY  
DWELLING AT 32 FRED VARLEY DR, NORTH YORK

DESIGNED BY	CHECKED BY ALLY
DATE Sep 22, 2019	SCALE
DRAWING NO. A10	

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01 EAST ELEVATION  
A10 SCALE 1/8"=1'-0"

OPENING PROVIDED	OPENING ALLOWED	PERMITTING DISTANCE	WALL AREA
141.35 m <sup>2</sup> ( 8.60% )	7.00 %	1.5 m	201.68 m <sup>2</sup>
NOTE: CALCULATION ATTACHED			

PROPOSED SINGLE FAMILY  
DWELLING AT 32 FRED VARLEY DR, NORTH YORK

DESIGNED BY	CHECKED BY ALLY
DATE Sep 22, 2019	SCALE
DRAWING NO. A03	

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