

Memorandum to the City of Markham Committee of Adjustment

November 15, 2021

File: A/143/21
Address: 18 Berger Ave, Markham
Applicant: KBK Studios Inc. (Kyle Khadra)
Agent: KBK Studios Inc. (Kyle Khadra)
Hearing Date: Wednesday November 24, 2021

The following comments are provided on behalf of the East Team:

The applicant is requesting relief from the following requirements of By-law 177-96, R2*224*323 as amended:

a) By-law 177-96, Section 6.5:

a second dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot;

b) By-law 177-96, Section 5.1, Table B2(e):

a minimum interior side yard setback of 0.36 m, whereas the By-law requires a minimum interior side yard setback of 1.2 m;

as it relates to a proposed secondary suite (basement apartment).

BACKGROUND

Property Description

The 409.52 m² (4,408 ft²) subject property is located on the north side of Berger Avenue, east of 9th Line and south of 14th Avenue. The property is occupied by a two-storey single detached dwelling with an integral double-car garage. The garage and driveway provide a total of four parking spaces on the property. The property is located within a low rise residential neighbourhood, and is in close proximity to the Box Grove Community Centre and an elementary public school.

Proposal

The applicant is proposing an accessory dwelling unit in the basement with direct and separate access via an existing side entrance on the east side of the building.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan)

Sections 2.2.1.4 c), and 2.2.6 a)i. of the *Growth Plan* requires municipalities to provide a diverse range and mix of housing options including additional residential units to support complete communities.

Official Plan and Zoning

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 including semi-detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states:

“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and,*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 177-96

The subject property is zoned “R2*224*323” under By-law 177-96, as amended, which permits one single detached dwelling per lot. The proposed accessory dwelling unit does not comply with the by-law requirement. The landing for the existing side entrance on the

east side of the building does not comply with the minimum side yard setback requirement.

Zoning Preliminary Review (ZPR) Not Undertaken

A ZPR has not been conducted for the application. However, the applicant has received comments from the building department through their permit process to confirm the variances required for the proposal.

COMMENTS

The *Planning Act* 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.

Accessory Dwelling Unit

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability and supply of different housing forms, which can provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the Official Plan for the establishment of a secondary suite, and support its approval.

Interior Side Yard Setback

The applicant is requesting relief to allow a minimum east side yard setback of 0.36 m (1.18 ft), whereas the by-law requires a minimum side yard setback of 1.2 m (3.93 ft). The variance applies to the landing for the existing side entrance on the east side of the building. The main dwelling will maintain its existing side yard setback from the property line. Engineering staff have no concern with the variance respecting drainage. Planning staff have no objection to the approval of the requested variance.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 16, 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 requested variances meet 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:



Carlson Tsang, Senior Planner, East District

REVIEWED BY:



Stacia Muradali, Development Manager, East District

File Path: Amanda\File\ 21 138473 \Documents\District Team Comments Memo

APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/143/21**

1. That the variance applies only to the proposed development for as long as it remains;
2. That the variance applies only to the proposed 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. That the side yard setback variance only applies to the proposed landing for the side entrance on the east side of the dwelling;
4. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

PREPARED BY:

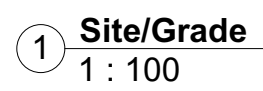


Carlson Tsang, Senior Planner, East District

38473.000.00.MNV
8/21
MM/DD/YY

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

4408ft² (409.51 m²)
889 ft² (82.59 m²)



SITE PLAN

File: 21.138473.000.00.MNV
Date: 11/18/21
MM/DD/YY

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

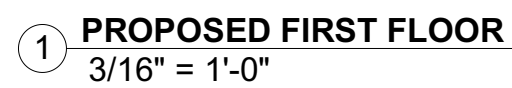
PROPOSED BASEMENT

38473.000.00.MNV
8/21
MM/DD/YY

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

10.05.2021
H.A. AKBARI
100190660
PROVINCE OF ONTARIO

PROPOSED FIRST FLOOR



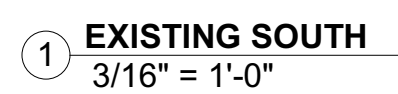
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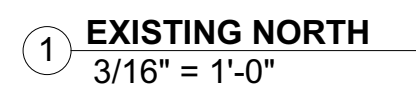
A circular professional engineer seal for the Province of Ontario. The outer ring contains the text "LICENSED PROFESSIONAL ENGINEER" at the top and "PROVINCE OF ONTARIO" at the bottom. The center of the seal features the date "10.05.2021", the name "H. AKBARI" in a stylized font, and the license number "100190660". Below the license number is a stylized graphic of a bridge or arch.

PROP. SECOND FLOOR



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

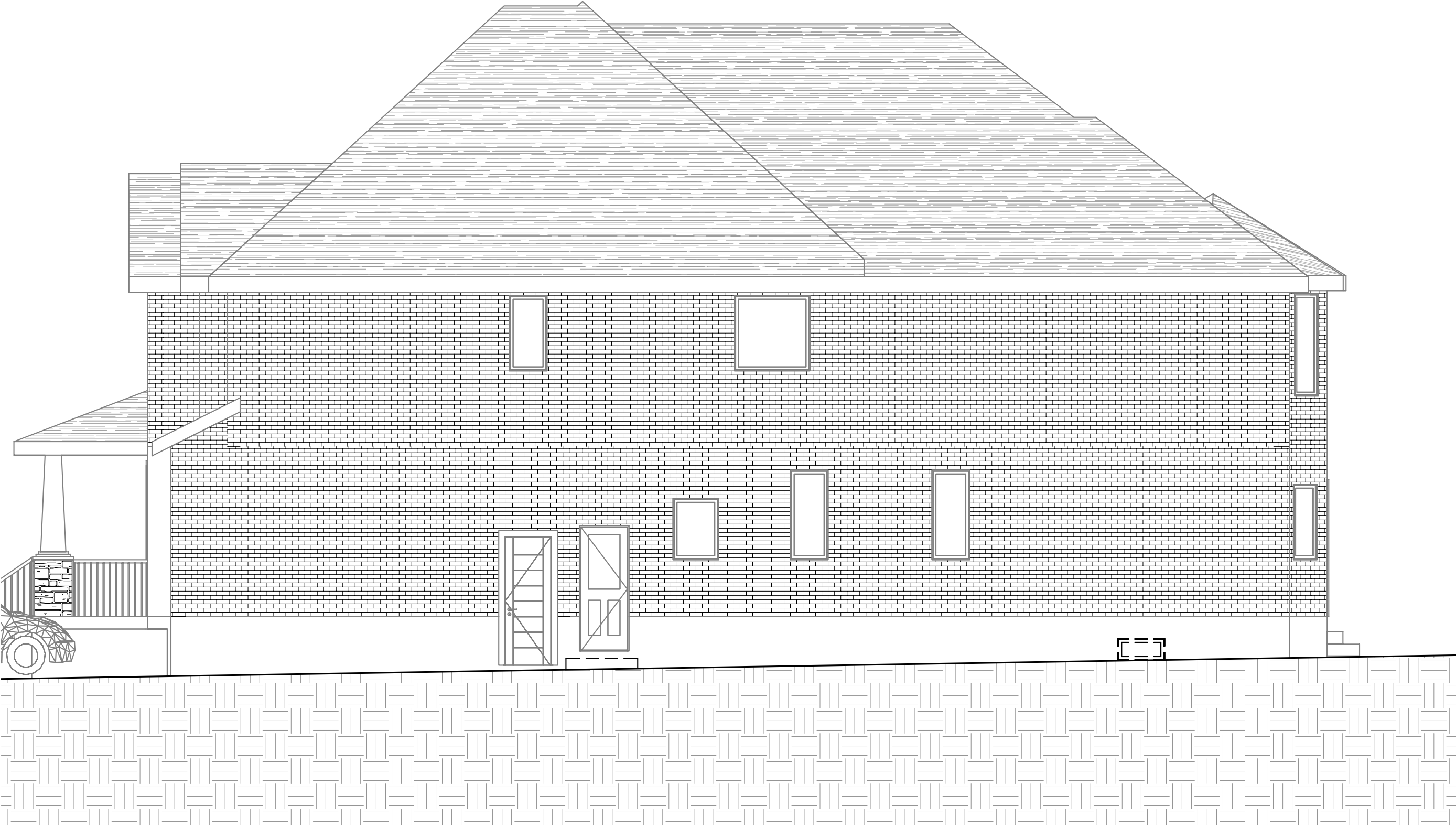
EXISTING SOUTH



File: 21.138473.000.00.MNV
Date: 11/18/21
MM/DDYY

Date	Revision
Drawn By	HA
Checked By	HA
Date	10.05.2021

EXISTING NORTH



① **EXISTING EAST**
3/16" = 1'-0"

Appendix B

File: 21-138478.000.00.MW
Date: 11/18/21
MM/DD/YY

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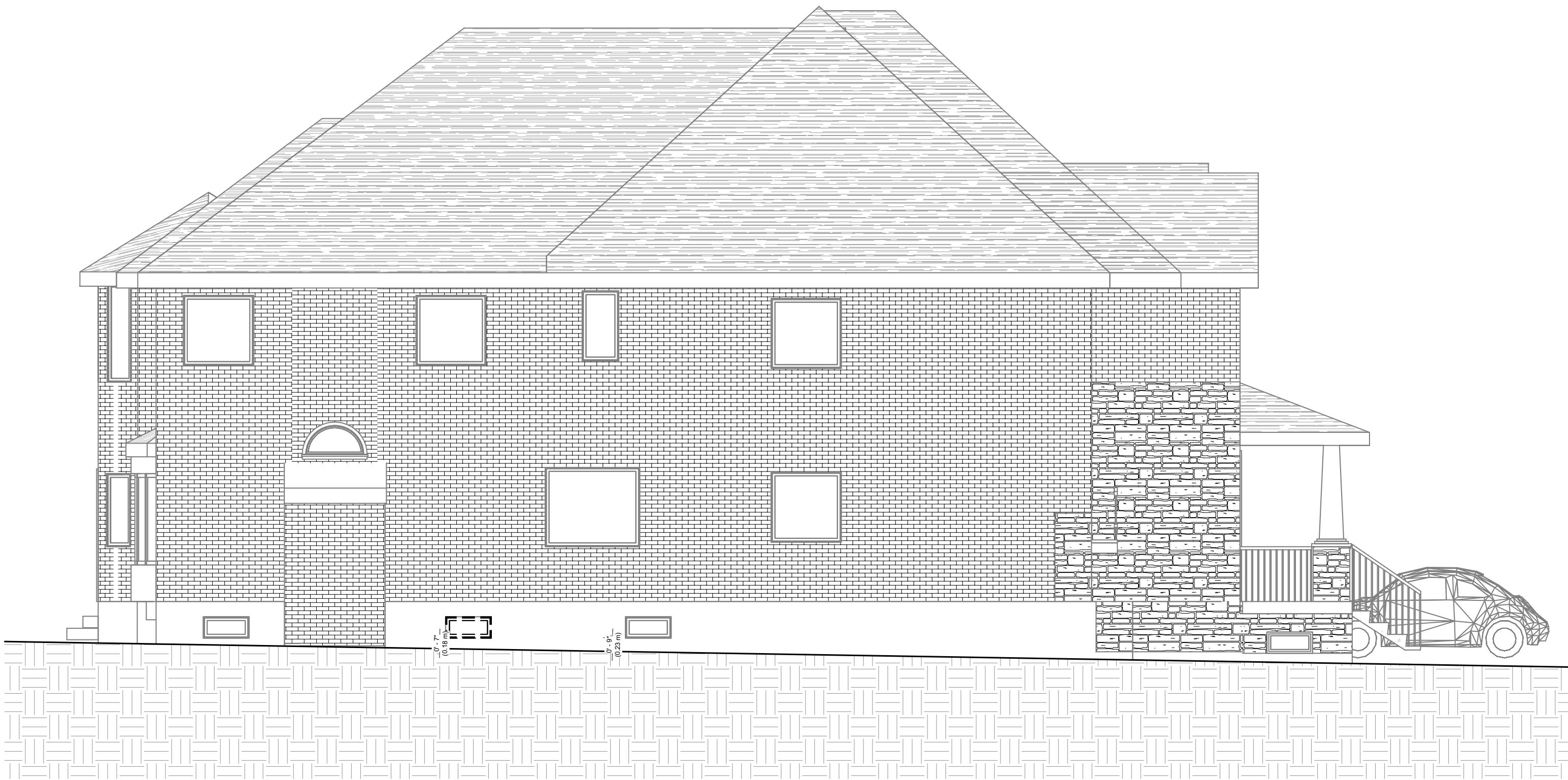
**13025 Yonge Street, Suite 201G,
Richmond Hill, ON, L4E1A5**



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Drawn By	HA
Checked By	HA
Date	10.05.2021

A7

EXISTING EAST



1 EXISTING WEST
3/16" = 1'-0"

Appendix B

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Richmond Hill, ON, L4E1A5



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A8

EXISTING WEST

Appendix B

File: 21.138473.000.00.MNV

Date: 11/18/21

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Appendix B

File: 21.138473.000.00.MNV

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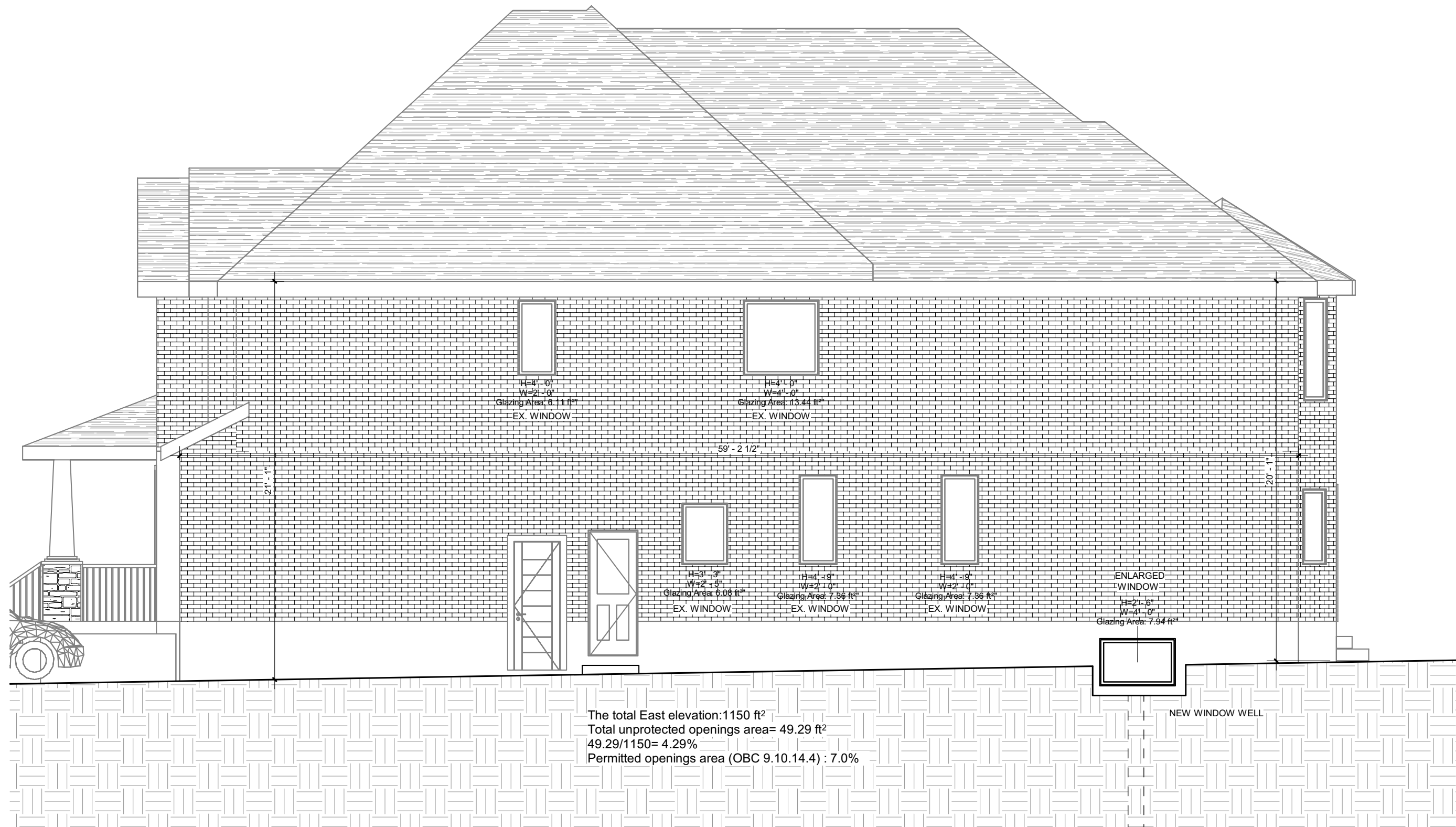
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Checked By	HA
Date	10.05.2021

A16

PROPOSED EAST



The total East elevation: 1150 ft²
 Total unprotected openings area= 49.29 ft²
 49.29/1150= 4.29%
 Permitted openings area (OBC 9.10.14.4) : 7.0%

1 **PROPOSED EAST**
3/16" = 1'-0"

Appendix B

File: 21.138473.000.00.MNV

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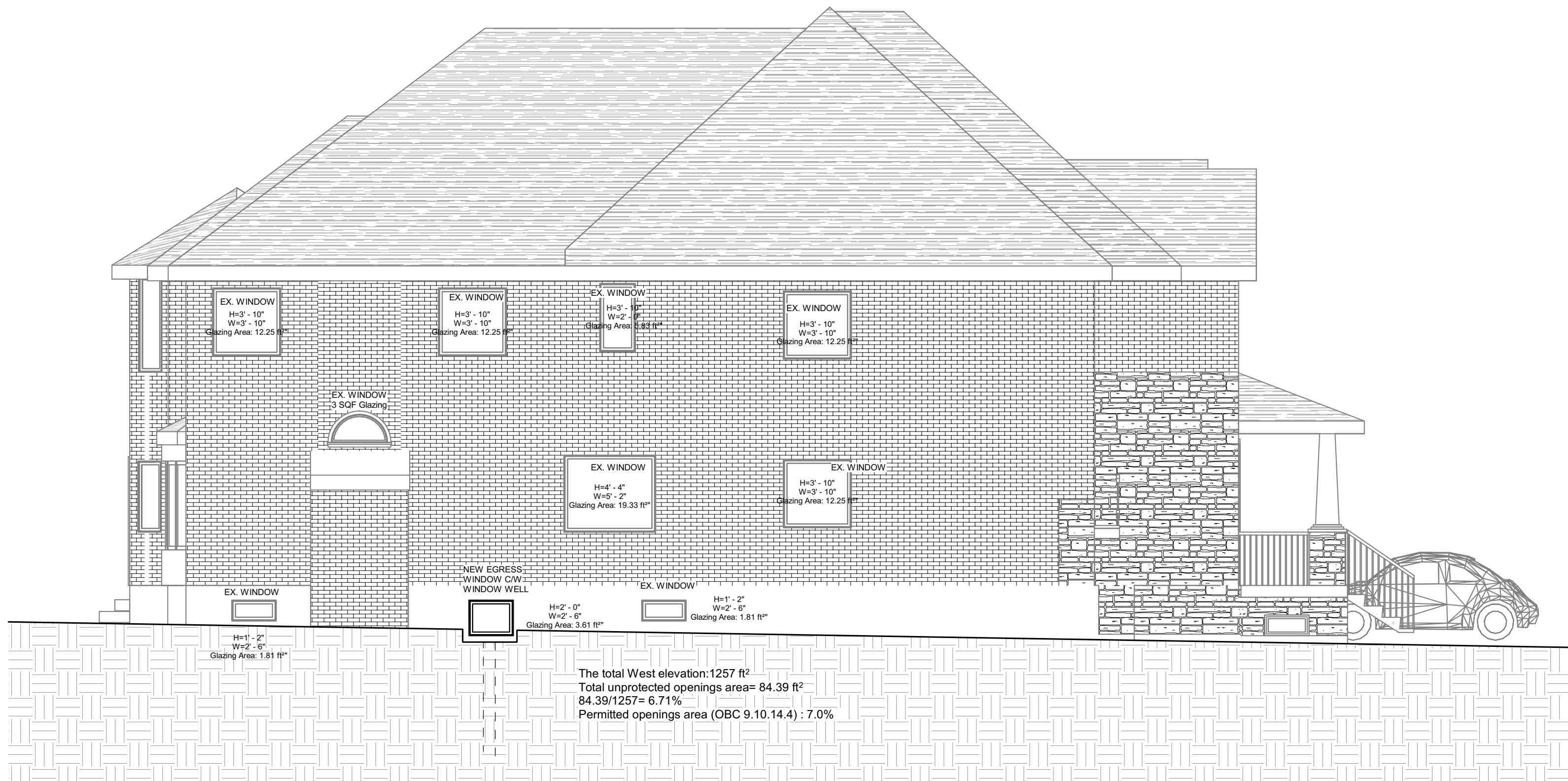
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A17

PROPOSED WEST ELEV.



1 **PROPOSED WEST**
3/16" = 1'-0"

Appendix B

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Date: 11/18/21

MMDDYY

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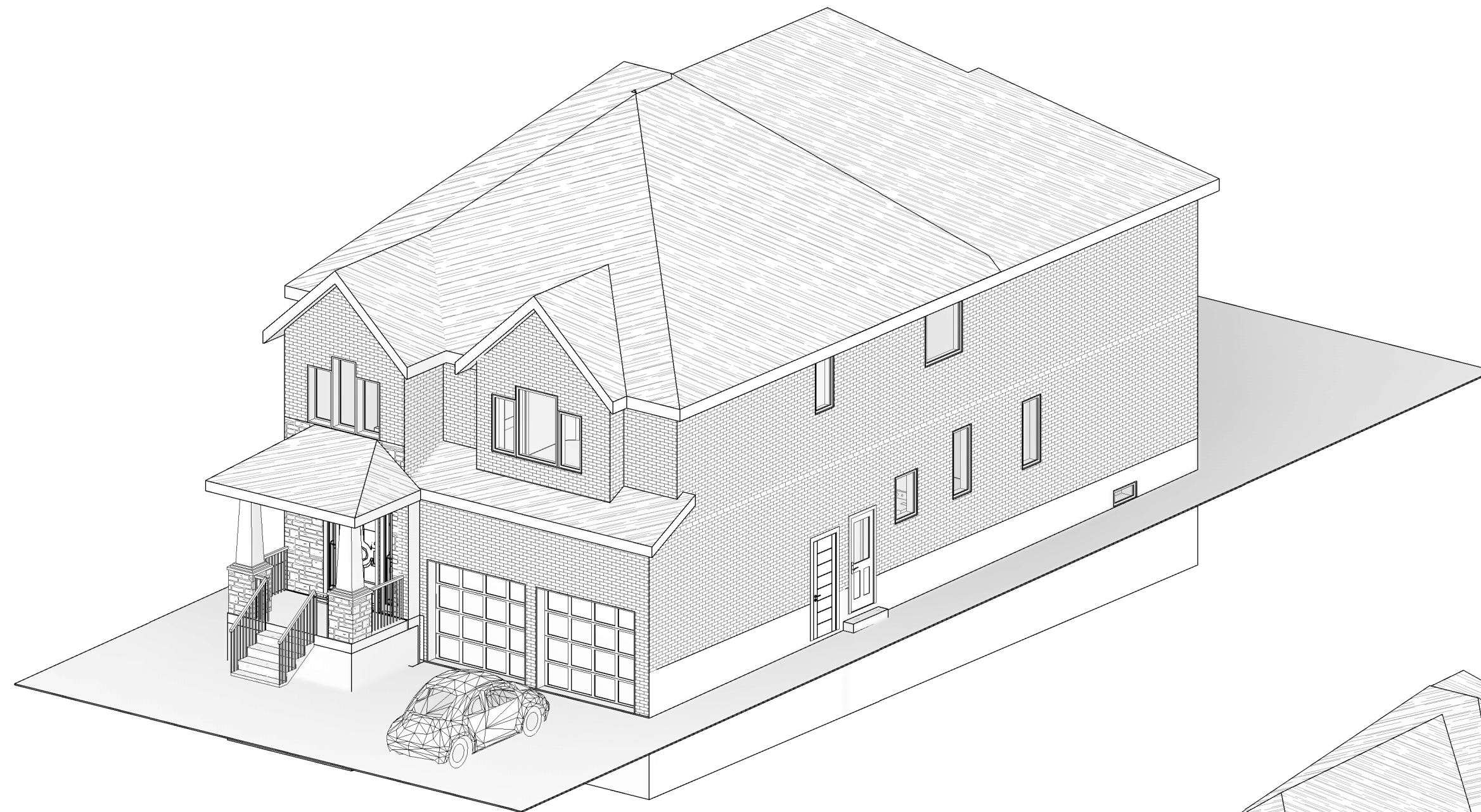
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Appendix B

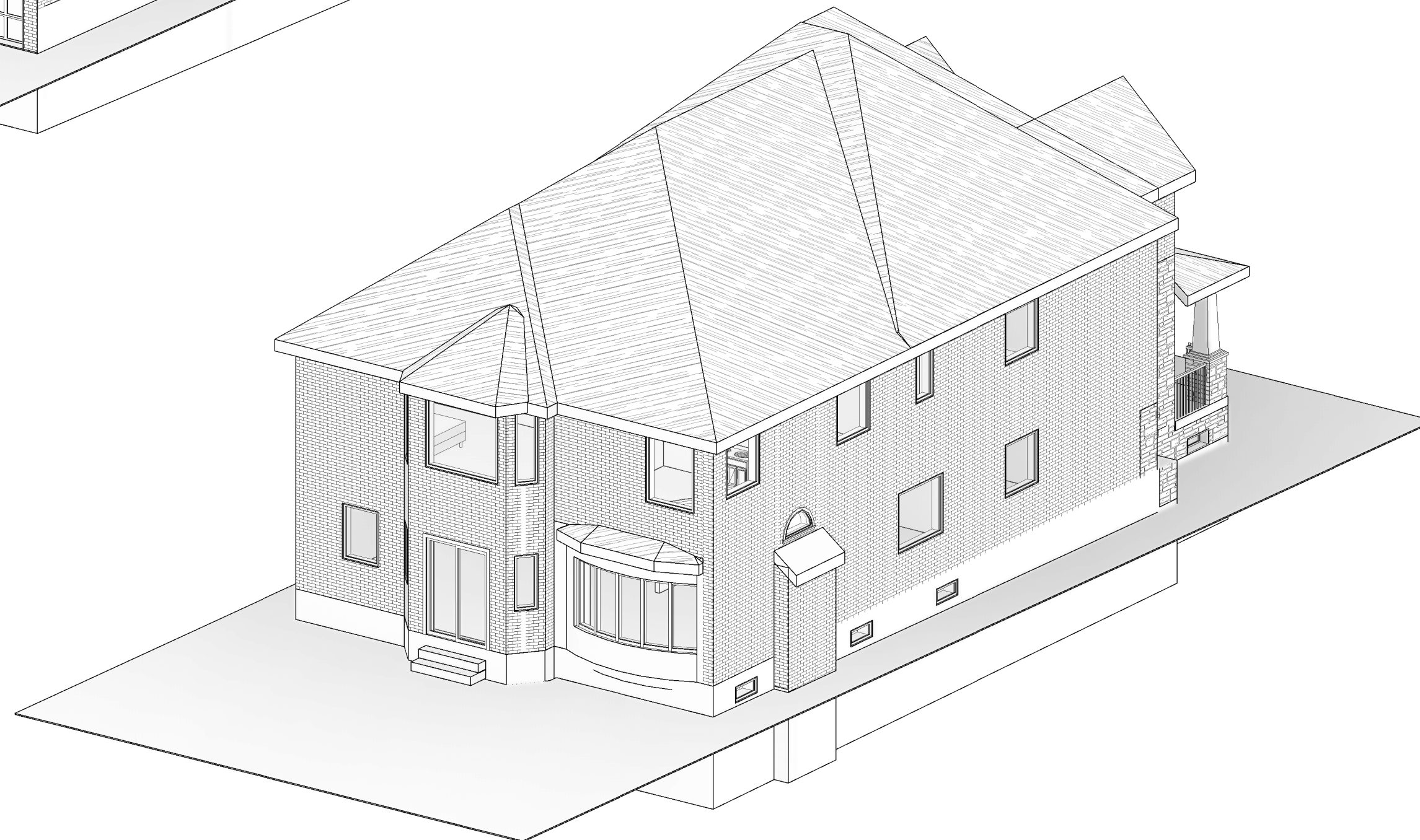
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Date: 11/18/21

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1 EXISTING 3D FRONT




2 EXISTING 3D REAR

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
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Date	10.05.2021

A9

EX. 3D

Appendix B

File: 21.138473.000.00.MNY

Date: 11/18/21

MM/DD/YY

Appendix B

File: 21.138473.000.00.MNY

Date: 11/18/21

MM/DD/YY

Appendix B

File: 21.138473.000.00.MNY

Date: 11/18/21

MM/DD/YY



Section 1
3/16" = 1'-0"

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A15

SECTION