

Memorandum to the City of Markham Committee of Adjustment

January 20, 2020

File: A/158/19
Address: 139 Kenborough Crt – Markham, ON
Applicant: Chen Min & Zhao Yingqing
Agent: Henry Wen
Hearing Date: Wednesday February 05, 2020

The Central Team provides the following comments. The Applicant requests relief from the following requirements of the “Fourth Density Semi-detached Residential (RSD4) Zone” under By-law 90-81, as amended, as it relates to an existing basement apartment (secondary suite):

a) Section 5.2.1:

To permit a Second Dwelling Unit, whereas the By-law permits no more than one (1) semi-detached dwelling on one (1) lot.

BACKGROUND

Property Description

The 447.27 m² (4,814.37 ft²) subject property is located on the northern part of the Kenborough Court cul-de-sac, which runs parallel to and east of McCowan Road. An existing two-storey semi-detached dwelling exists on the subject property, which was constructed in 1994 according to assessment records. While the dwelling may visually appear to be single detached, the dwelling links to the adjacent dwelling by a common foundation, and is considered a semi-detached dwelling by definition of the By-law.

The subject property is located within an established residential neighbourhood comprised of two-storey dwellings. By definition, the residential area includes a mix of two-storey single detached and semi-detached dwellings, and street townhouses. The subject property backs on to a retail plaza to the north and is within walking distance of local amenities, parks, and recreational facilities.

Proposal

The Applicant proposes to legalize the existing secondary suite in the basement of an existing semi-detached dwelling, as shown in the plans attached in Appendix “B”. The proposed secondary suite has direct and separate access provided by an existing door on the west side of the dwelling. The Applicant is not proposing any changes to the exterior of the dwelling or subject property.

Provincial Policies

Strong Communities through Affordable Housing Act – Province of Ontario

In 2011, the *Strong Communities through Affordable Housing Act* amended various sections of the *Planning Act* to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures; and

- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, “Second Units” also known as secondary suites are defined as,

“self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings.”

Official Plan and Zoning

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including semi-detached dwellings. The definition of a “Secondary Suite” in the 2014 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 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided in the 2014 Official Plan, that Council shall be satisfied that an appropriate set of development standards are provided in the zoning by-law, including the following:

- 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.

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of secondary suites within the City. On May 29, 2018, Council voted not to permit secondary suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 90-81

The subject property is zoned “Fourth Density Semi-detached Residential (RSD4) Zone” under By-law 90-81, as amended, which permits either one (1) semi-detached dwelling, or one (1) single detached dwelling per lot.

Applicant’s Stated Reasons for Not Complying with Zoning

According to the information provided by the Applicant, the reason for not complying with Zoning is to:

1. *“Comply with the policies of the Growth Plan;*
2. *Utilize the high value property to its full capacity;*

3. *Provide affordable housing; and*
4. *Increase housing supply.”*

Zoning Preliminary Review (“ZPR”) Undertaken

The Applicant completed a ZPR on November 26, 2019, to confirm the initial variances required for the proposed secondary suite. Based on the submitted plans, the ZPR highlighted that more information is required in order to identify whether the proposed parking spaces would meet the minimum dimensions in accordance with Parking By-law 28-97. The Applicant submitted revised plans, and a second review was completed on January 8, 2020 which confirms the minimum dimensions for parking spaces are met.

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; and
- d) the general intent and purpose of the Official Plan must be maintained.

Secondary Suites

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing and 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 2014 Official Plan for the establishment of a secondary suite and, therefore, have no objections.

Fire and Emergency Services Department have 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 that ensures the secondary suite will be in compliance with Building and Fire Code regulations, and will be required to register the secondary suite with the Fire and Emergency Services Department prior to the occupancy of the unit.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 20, 2020. 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.

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.

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 142611 \Documents\District Team Comments Memo

APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/158/19**

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 plans attached as Appendix "B" to this Staff Report and received by the City of Markham on December 23, 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.
3. 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.

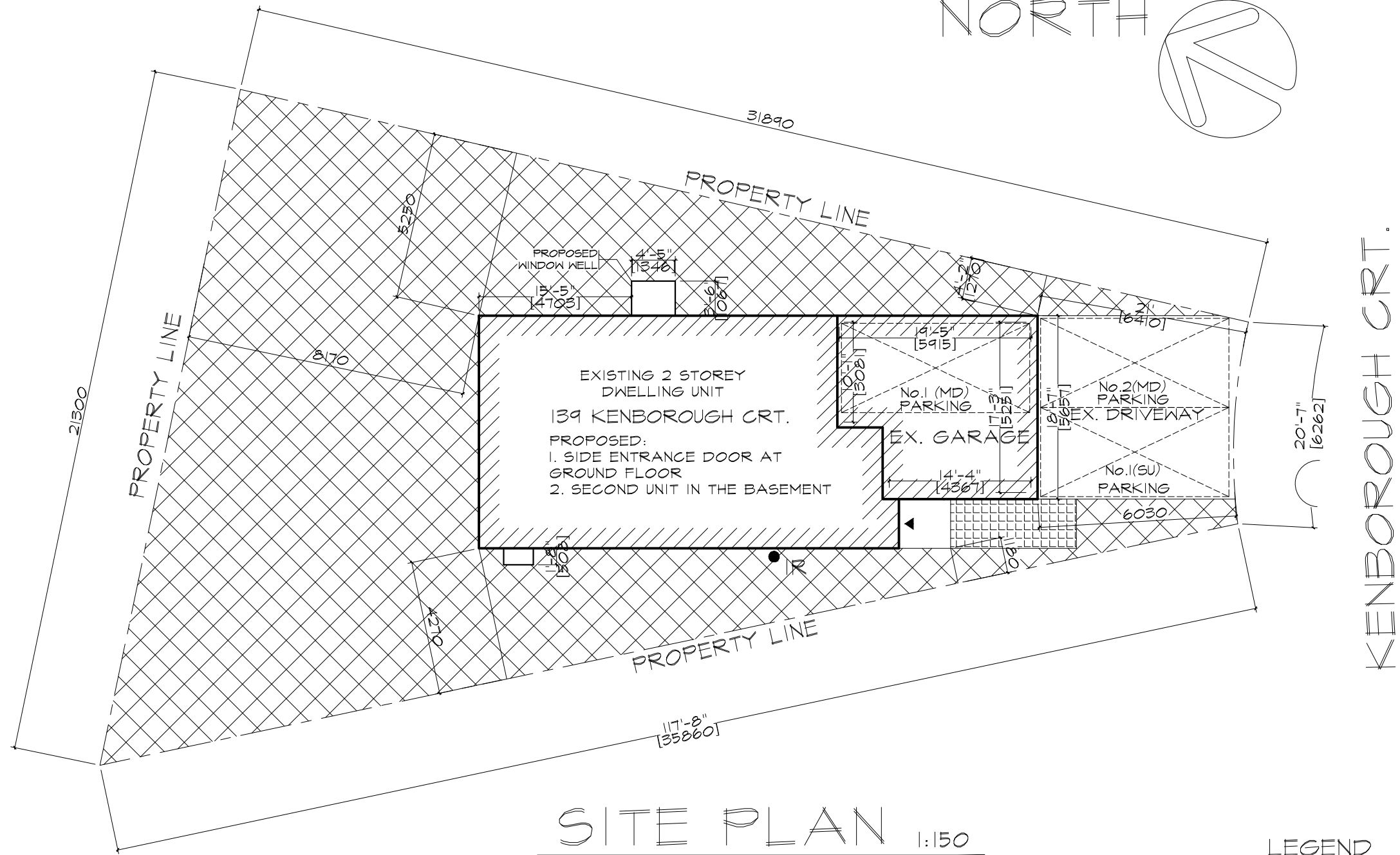
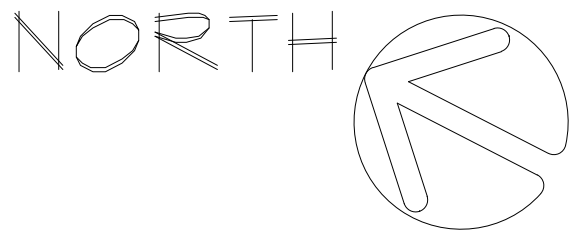
CONDITIONS PREPARED BY:

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/158/19



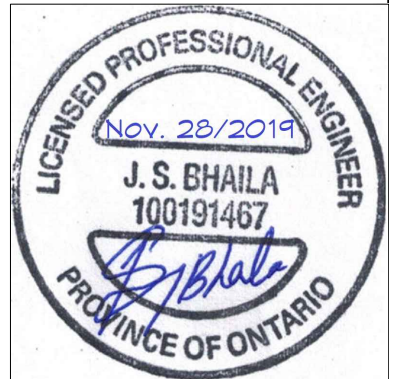
SITE PLAN 1:150

DESCRIPTION	FLOOR AREA	TOTAL	SETBACKS	
GROUND FLOOR	86.8M ²	277.0M ²	FRONT YARD	NO CHANGE
SECOND FLOOR	103.4M ²		REAR YARD	
BASEMENT	86.8M ²	26.1%	INTERIOR SIDE (WEST)	
SECOND UNIT	72.2M ²		INTERIOR SIDE (EAST)	

LEGEND

- ▣ PARKING SPACE : 2750X5800
- ▣ SOFT LANDSCAPE ° DOWN PIPE
- ▲ ENTRANCE OF MAIN DWELLING UNIT
- ENTRANCE OF SECOND DWELLING UNIT
- ▣ WALK WAY(WIDTH:1200mm)

GROUND FLOOR AREA
(INCLUDING GARAGE): 119.6M²



PROJECT ADDRESS:
139 KENBOROUGH
CRT., MARKHAM

PROJECT NUMBER: 19173

DRAWING SHEET:
SITE PLAN

SCALE: 1:150

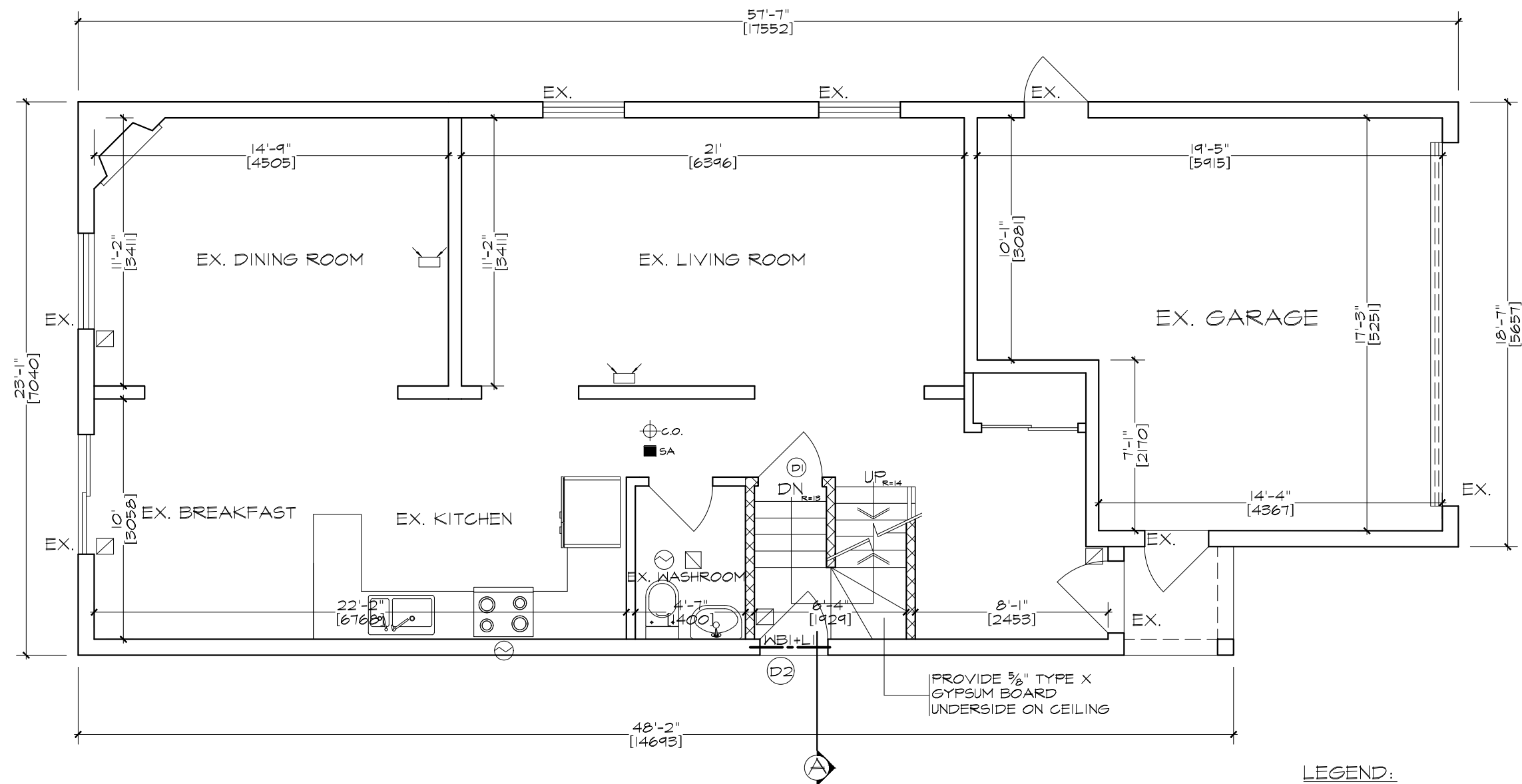
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STEEL LINTEL SCHEDULE

L1	UP TO 4'-6" OPENING	L 3½"X3½"X½"
L2	UP TO 5'-6" OPENING	L 4"X3½"X½"
L3	UP TO 6'-6" OPENING	L 5"X3½"X½"
L4	UP TO 7'-6" OPENING	L 5"X3½"X¾"
L5	UP TO 9'-10" OPENING	L 6"X4"X¾"
L6	UP TO 11'-0" OPENING	L 7"X4"X¾"

WOOD LINTEL SCHEDULE

WB1	UP TO 3'-6" OPENING	3-2"X6"
WB2	UP TO 5'-6" OPENING	3-2"X8"
WB3	UP TO 6'-6" OPENING	3-2"X10"
WB4	UP TO 7'-6" OPENING	3-2"X12"

GROUND FLOOR PLAN

SCALE: 3/16" = 1'-0"

DOOR & WINDOW SCHEDULE

No.	SIZE	DESCRIPTION
Ⓛ1	32"X80"	FIRE DOOR(20 MIN) WITH SELF CLOSER
Ⓛ2	34"X80"	EXTERIOR DOOR, NO GLAZED OPENING

LEGEND:

- Ⓛc.o. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
- ▤ INTERIOR PARTITION WALL AS 30 MINUTES FIRE SEPARATION : 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE W/ SOUND INSULATION IN THE CAVITY AS 50 STC
- ▭ EXISTING INTERIOR PARTITION: 2X4 OR 2X6 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
- ▨ NEW INTERIOR PARTITION 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
- ☒ EXISTING VENT SUPPLY FOR HEATING
- ⊙ EXHAUST VENT, MIN. 50 CFM
- ⌞ LOWER WALL AIR RETURN
- ⌞ HIGH WALL AIR RETURN
- KEEP EX. ½" REGULAR GYPSUM BOARD CEILING
- NO CHANGE FOR HVAC & PLUMBING



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DRAWING SHEET:
GROUND FLOOR PLAN

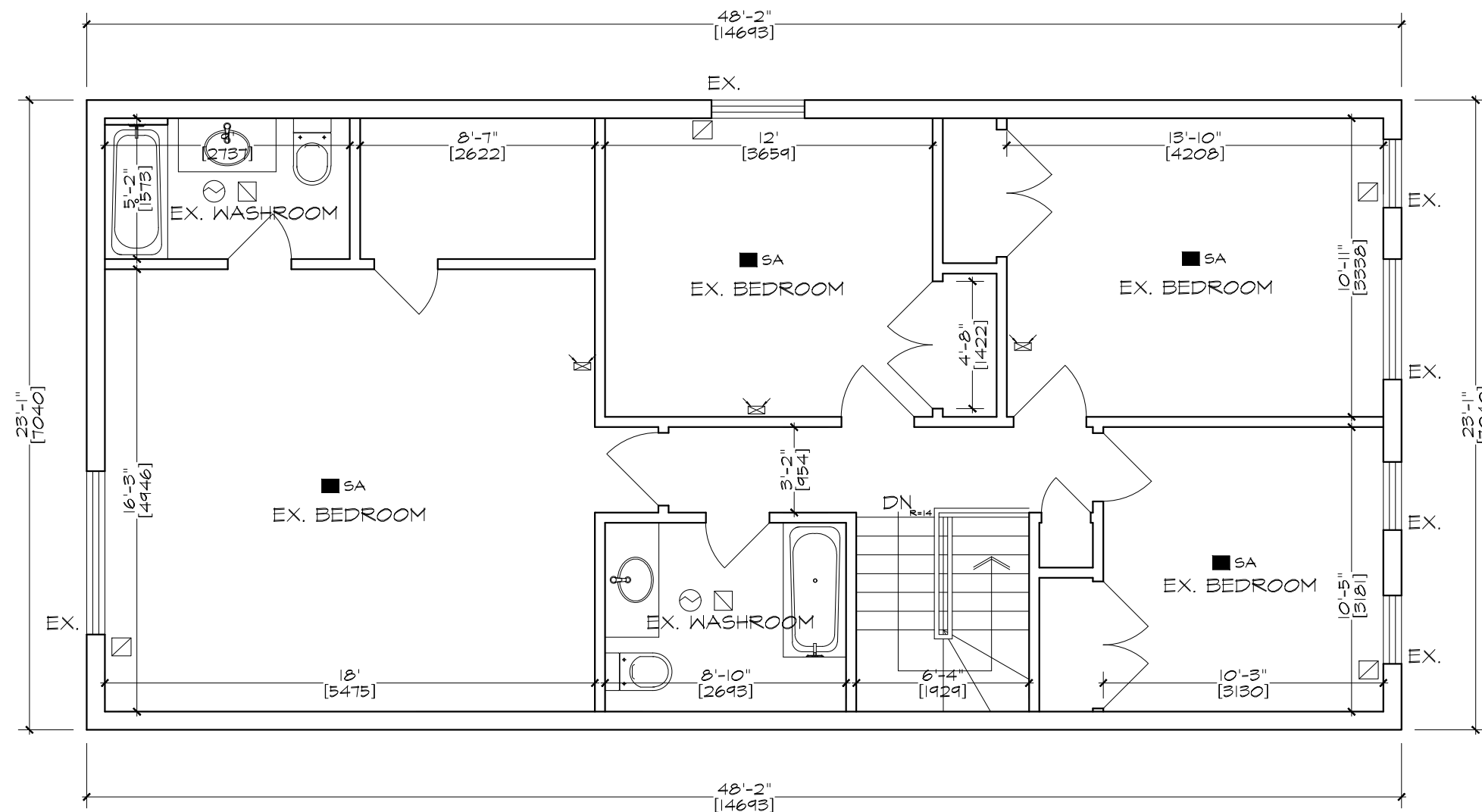
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SECOND FLOOR PLAN

SCALE: $\frac{3}{16}" = 1'-0"$

LEGEND:

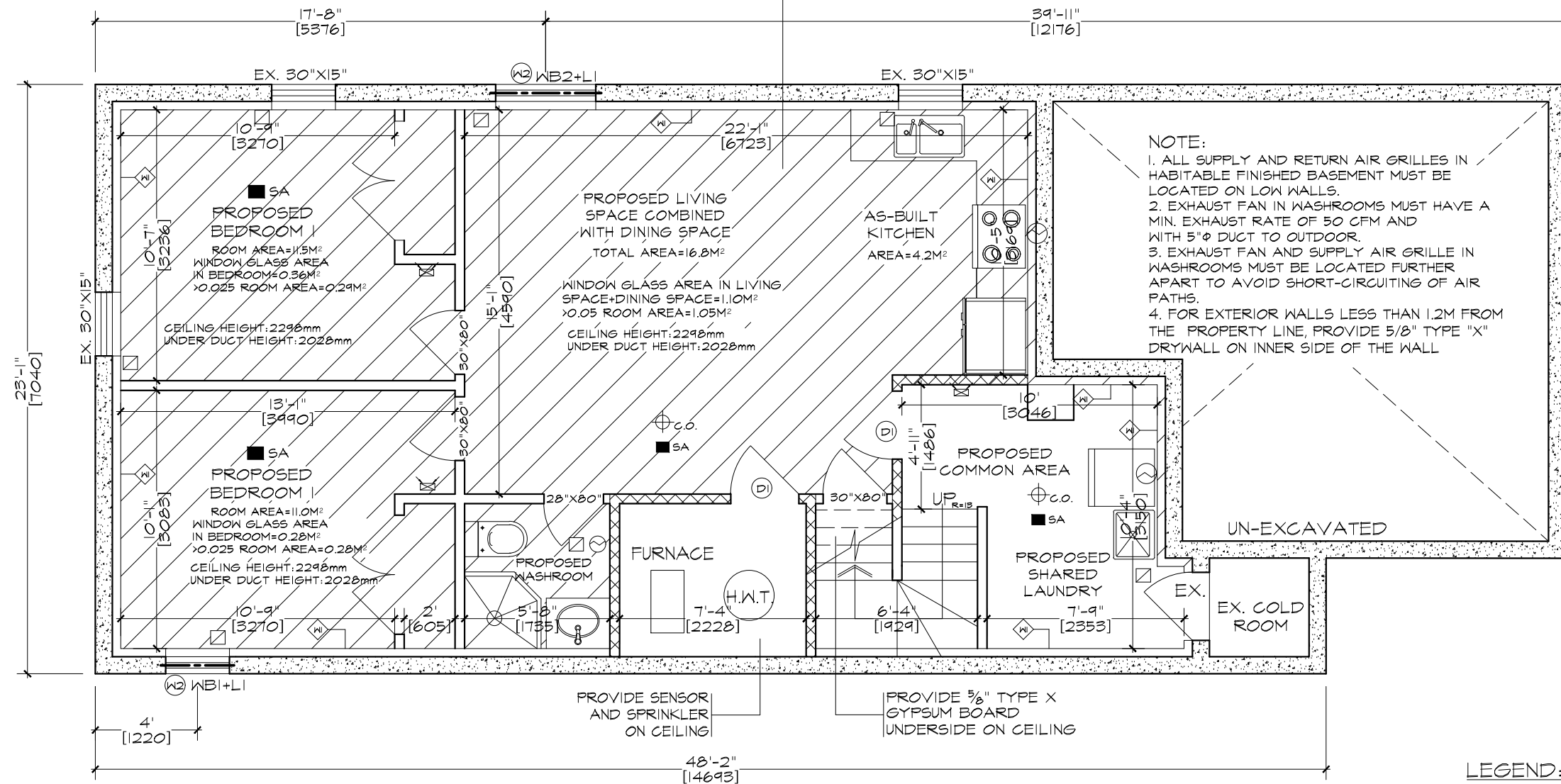
- \oplus CO. INTERCONNECTED C.O. DETECTOR ALARM
 - SA INTERCONNECTED SMOKE ALARM
 - XXX INTERIOR PARTITION WALL AS 30 MINUTES FIRE SEPARATION : 2X4 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE W/ SOUND INSULATION IN THE CAVITY AS 50 STC
 - EXISTING INTERIOR PARTITION: 2X4 OR 2X6 WOOD STUDS @ 16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
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NO CHANGE FOR HVAC & PLUMBING



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ACCESSORY
DWELLING UNIT



BASEMENT PLAN

SCALE: 3/16"=1'-0"

WOOD LINTEL SCHEDULE

WB1	UP TO 3'-6" OPENING	3-2"x6"
WB2	UP TO 5'-6" OPENING	3-2"x8"
WB3	UP TO 6'-6" OPENING	3-2"x10"
WB4	UP TO 7'-6" OPENING	3-2"x12"

STEEL LINTEL SCHEDULE

L1	UP TO 4'-6" OPENING	L 3 1/2"x3 1/2"x3/8"
L2	UP TO 5'-6" OPENING	L 4"x3 1/2"x3/8"
L3	UP TO 6'-6" OPENING	L 5"x3 1/2"x3/8"
L4	UP TO 7'-6" OPENING	L 5"x3 1/2"x3/8"
L5	UP TO 9'-10" OPENING	L 6"x4"x3/8"
L6	UP TO 11'-0" OPENING	L 7"x4"x3/8"

DOOR & WINDOW SCHEDULE

No.	SIZE	DESCRIPTION
(D)	32"x80"	FIRE DOOR (20 MIN) WITH SELF CLOSER
(W1)	47"x36"	EGRESS SLIDING WINDOW GLASS AREA: 0.82M ²
(W2)	30"x24"	SLIDING WINDOW GLASS AREA: 0.28M ²

NOTE: PROVIDED A SMOKE DETECTOR IS INSTALLED IN THE SUPPLY OR RETURN AIR DUCT SYSTEM SERVING THE ENTIRE BUILDING WHICH WOULD TURN OFF THE FUEL SUPPLY AND ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH DETECTOR

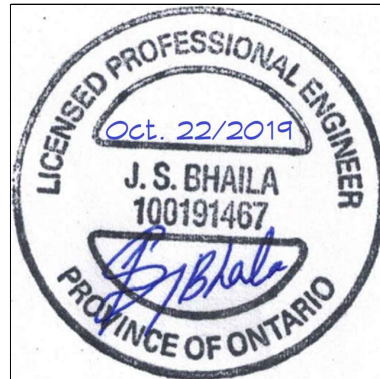
WALL/CEILING SCHEDULE

(WI)	EXTERIOR INSULATED WALL
	*EX. 8" CONCRETE FOUNDATION WALL
	*EX. R12 FOUNDATION WALL BLANKET BATT. INSULATION C/W 6MIL POLY VAPOUR BARRIER
	*1" AIR SPACE
	*2X4 @16" o.c. WOOD STUDS WITH 6 MIL POLY UNDER BOTTOM PLATE
	*1/2" REGULAR GYPSUM BOARD

WINDOW AREA IN LIVING SPACE & DINING SPACE >0.05 SPACE AREA
WINDOW AREA IN EVERY BEDROOM >0.025 ROOM AREA

LEGEND:

- ⊕c.o. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
- ||||| INTERIOR PARTITION WALL AS 30 MINUTES FIRE SEPARATION: 2X4 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE W/ SOUND INSULATION IN THE CAVITY AS 50 STC
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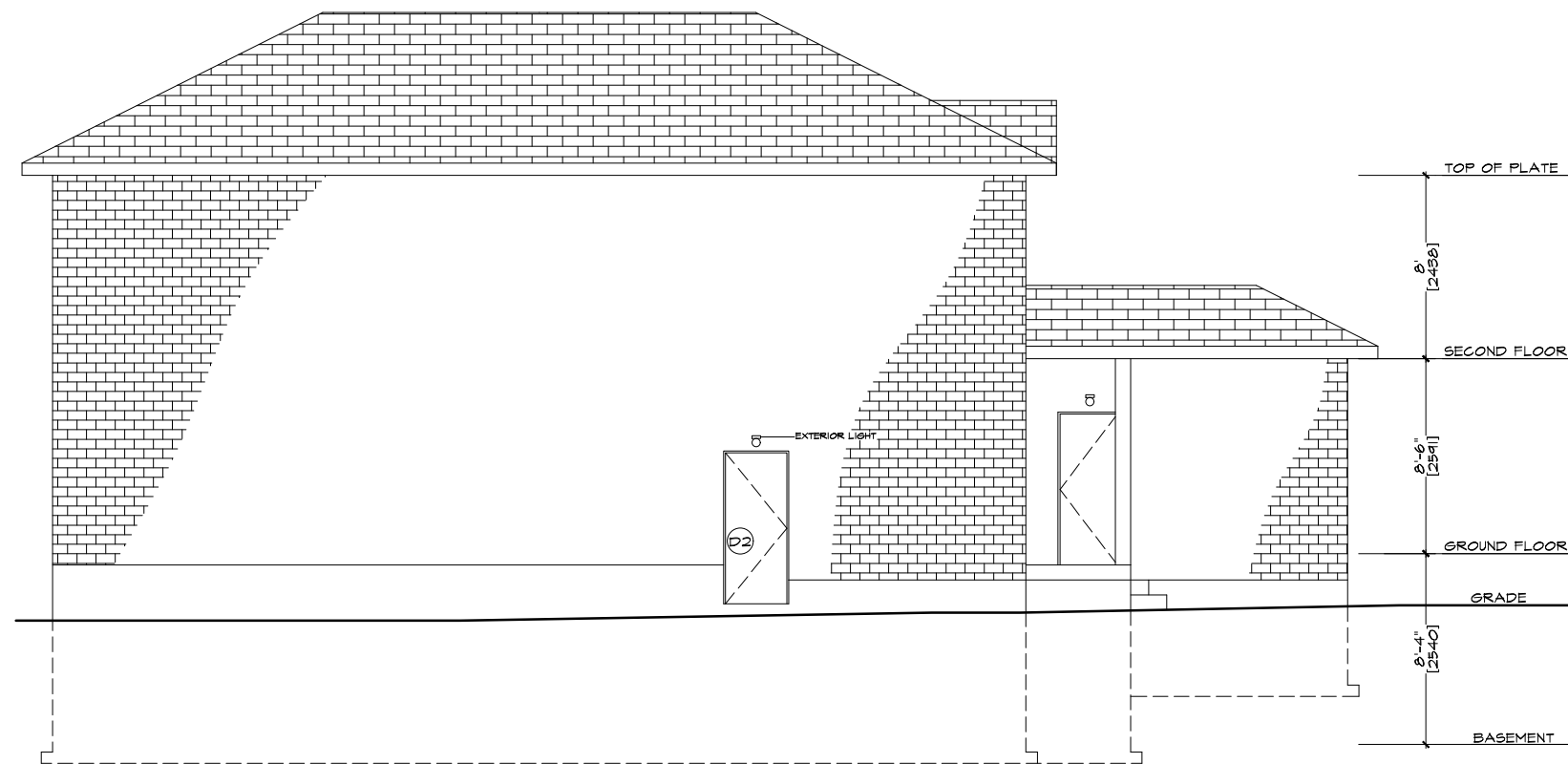
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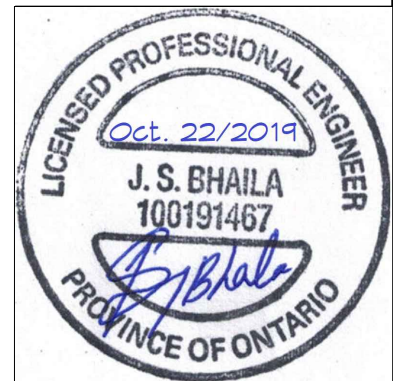
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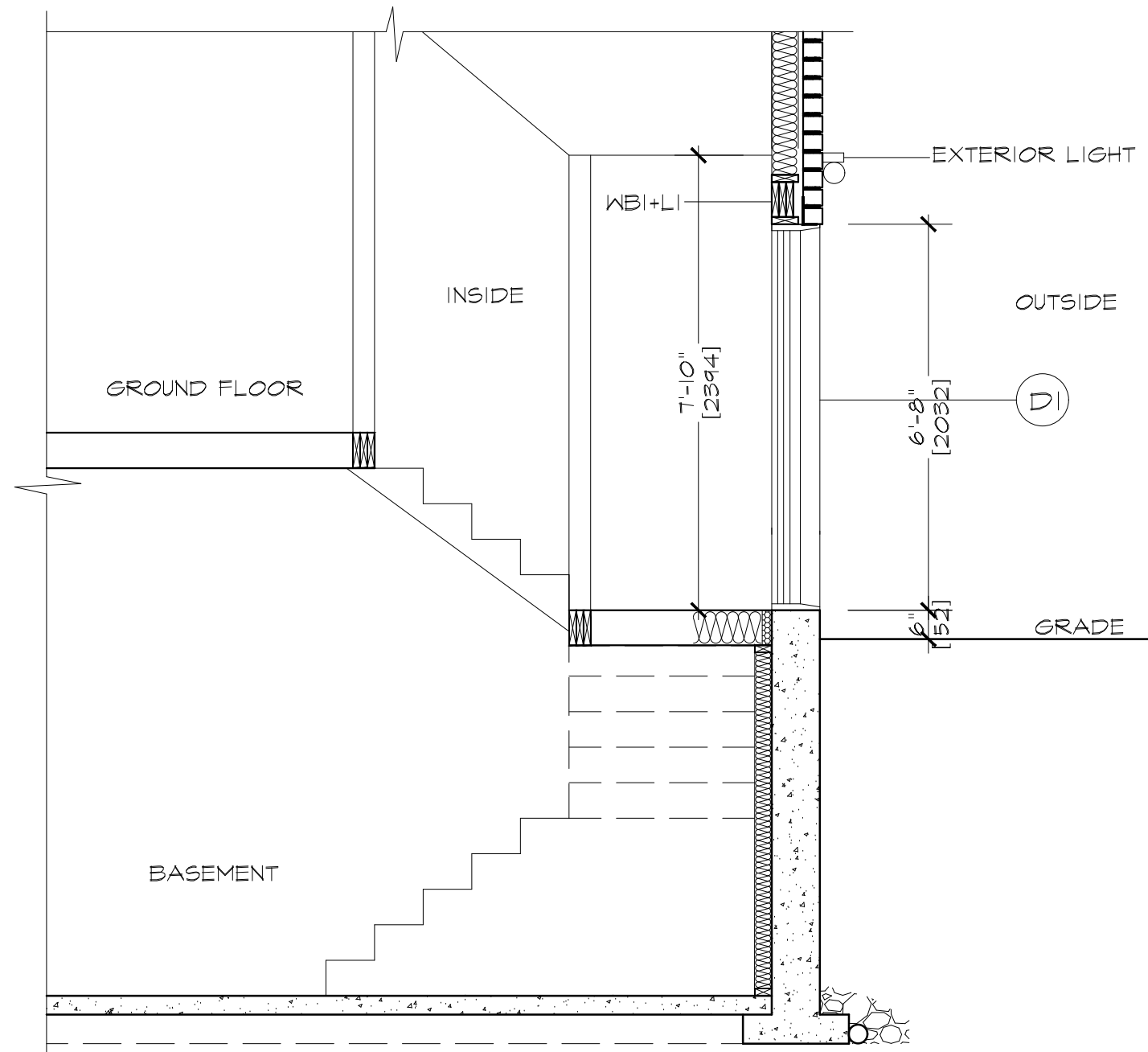
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WEST ELEVATION
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SECTION A

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