

Memorandum to the City of Markham Committee of Adjustment

March 16, 2023

File: A/178/22
Address: 55 Clark Avenue, Markham
Applicant: Arash Farrokhkish
Agent: PMP DESIGN INC. c/o Mehran Heydari
Hearing Date: Wednesday, March 22, 2023

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

The applicant is requesting relief from the following requirements of “Fourth Density Single Family Residential (R4) Zone” in By-law 101-90, as amended, as it relates to a proposed new two-storey single detached dwelling:

- a) **By-law 101-90, Section 1.2 (i):**
a maximum building height of 8.6 m (28.2 ft.), whereas the By-law permits a maximum building height of 8.0 m (26.2 ft.);
- b) **By-law 101-90, Section 1.2 (vii):**
a maximum floor area ratio of 54.8 percent (3,496 ft²), whereas the By-law permits a maximum floor area ratio of 50 percent (3,188 ft²);
- c) **By-law 2237, Section 3.7:**
an east sideyard second floor balcony encroachment of 24 inches, whereas the By-law permits a maximum encroachment of 18 inches into the required side yard;
- d) **By-law 2237, Section 3.7:**
a 2nd floor architectural roof encroachment of 36 inches, whereas the By-law permits a maximum roof encroachment of 18 inches into the required side yard;

BACKGROUND

Property Description

The 603.86 m² (6500 ft²) subject property is located on the south side of Clark Avenue, and east of Yonge Street. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. Mature vegetation exists across the property.

There is an existing 1-storey single detached dwelling on the property, which according to assessment records was constructed in 1947. Mature vegetation exists on the property including several large mature trees in the front yard.

Proposal

The applicant is proposing to demolish the existing 1-storey dwelling and construct a 325 m² (3,496 ft²) two-storey single detached dwelling.

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 single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighbourhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

The property is also subject to the Thornhill Area and Site Specific policies under Section 9.18.5 of the Official Plan. The intent of these policies is to ensure that new dwellings and additions to existing dwellings are limited by their size and massing to respect and reflect the existing pattern and character of adjacent development.

Zoning By-Law 2237

The subject property is zoned “Fourth Density Single Family Residential (R4) Zone” under By-law 2237, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the maximum side yard encroachments requirements for the second storey.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the 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 the maximum building height and maximum floor area ratio.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on August 30, 2022 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 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.

Increases Maximum Floor Area Ratio Variance

The applicant is requesting relief to permit a floor area ratio of 54.8 percent, whereas a maximum floor area ratio of 50 percent is permitted. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 324.8 m² (3,496 ft²), whereas a maximum floor area of 296.2 m² (3,188 ft²) is permitted. This represents an increase in floor area of 28.6 m² (308 ft²) or approximately 9.6 percent.

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 building layout meets all other zoning provisions (such as setbacks and lot coverage) that establish the prescribed building envelope, which ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. The proposed gross floor area is also consistent with the recent infill development trend, including a number of nearby infill homes that have obtained variance approval for similar increase in floor area ratio ranging between 54 percent and 58 percent. Staff are of the opinion that the requested variance is minor in nature.

Increased Maximum Building Height Variance

The applicant is requesting relief to permit a maximum building height of 8.6 m (28.2 ft.), whereas a maximum building height of 8.0 m (26.2 ft.) is permitted. This represents an increase of 0.6 m (2.0 ft.). The variance is considered by staff to be minor in nature and has minimal impact on the character of the existing community. It is consistent with height variances that have been obtained by nearby infill homes in the area.

Increased Maximum Eaves/roofed Encroachment Variances

The applicant is requesting a maximum eaves encroachment of 36 inches (0.91 m) into the required side yard, whereas a maximum eaves encroachment of 18 inches (0.46 m) is permitted.

The applicant is also requesting an east sideyard second floor balcony encroachment of 24 inches (0.61 m), whereas a maximum encroachment of 18 inches (0.46 m) is permitted.

Staff consider the above-noted encroachment variances to be minor in nature and will not create any adverse impacts to the adjacent properties. Staff further note that the Applicant is not seeking any variances to minimum required side yard setbacks.

Development Engineering

Development Engineering staff has commented that the Applicant will be required to contact the City's Operations Department to schedule and pay for any proposed curb cut/fill all at the Owners expense.

Tree Protection

Staff recommend that should the Committee see merit in the application that conditions in relation to Tree Protection are adopted to ensure that the applicant installs the appropriate tree protection barriers. Tree Protection is required for trees on the subject property and neighbourhood properties near the proposed construction. It is recommended that the Applicant contact mgoldsworthy@markham.ca prior to construction to verify tree preservation requirements.

EXTERNAL AGENCIES

CN Rail Requirements

CN Rail provided comments on this application on February 27, 2023 (Appendix C), requiring an environmental easement granted to CN for operational noise and vibration emissions. Staff recommend a condition be added requiring the applicant to satisfy CN Rail's requirements prior to the issuance of a building permit.

PUBLIC INPUT SUMMARY

No written submissions were received as of March 16, 2023. 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.

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

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – CN Rail Comment Letter

PREPARED BY:



Jennifer Kim, Senior Planner, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Senior Planner II, West District

**APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/22**

1. The variances apply only to the proposed development as long as it remains;

That the variances apply only to the subject 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;

2. That the applicant satisfies the requirements of CN Rail, as indicated in their letter and correspondence attached as ‘Appendix C’ to this Staff Report, to the satisfaction of CN Rail and that the Secretary-Treasurer receive written confirmation prior to the issuance of a Building Permit;
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 Manager of By-law Enforcement & Regulatory Services Division 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 Manager of By-law Enforcement & Regulatory Services Division.
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 Manager of By-law Enforcement & Regulatory Services Division;

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to be 'JK', with a large loop at the start and a horizontal stroke at the end.

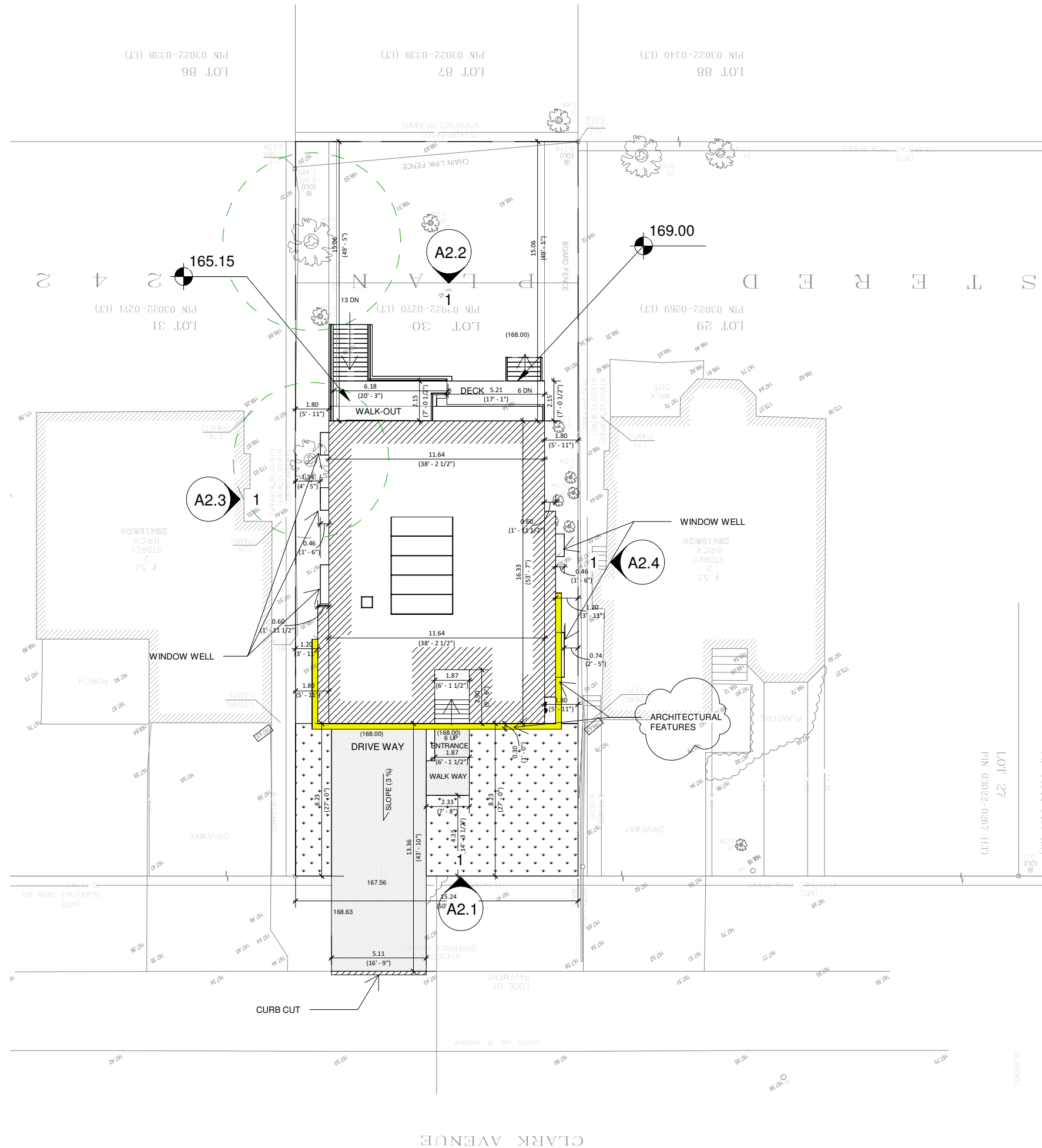
Jennifer Kim, Senior Planner, West District

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/178/22

Appendix B

File: 22.258630.000.00.MNV

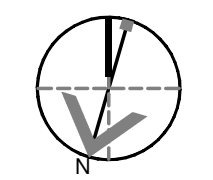
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MM/DD/YY



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5	9-02-2022	ISSUED BY ZONING	AD
4	7-28-2022	ISSUED BY ZONING	AD
3	6-15-2022	LAYOUT REVISION	RJ
2	2-7-2022	ISSUED BY ZONING	ALI
1	1-24-2022	ISSUED BY ZONING	ALI



PROJECT
55 Clark Ave
55 Clark Ave
Markham
Ontario, Canada



DRAWING
SITE PLAN

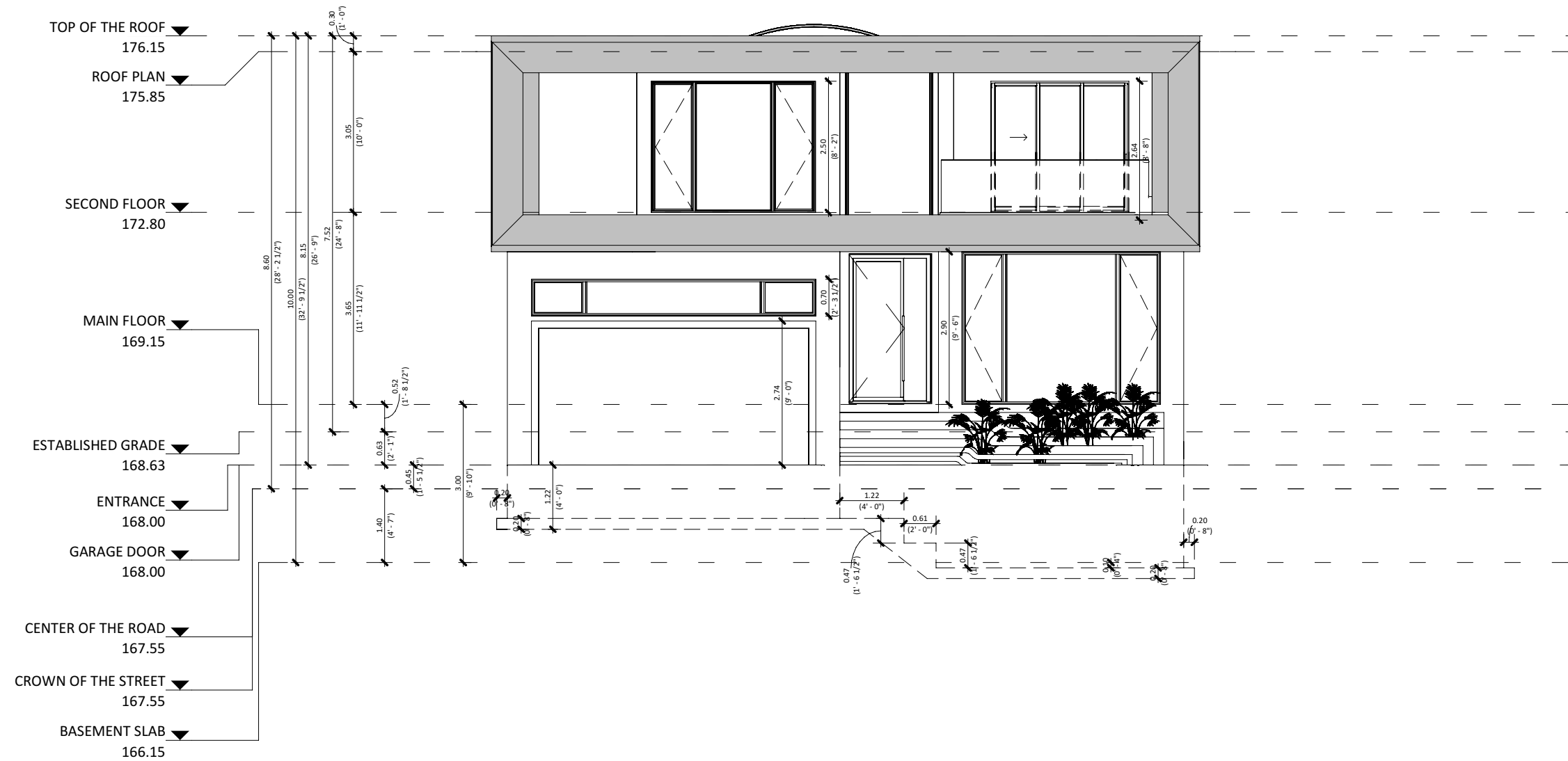
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DRAWING NO. A0.2	REV. 6

Site COA

Appendix B

File: 22.258630.000.00.MNV

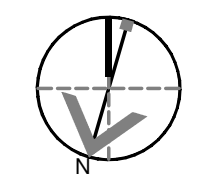
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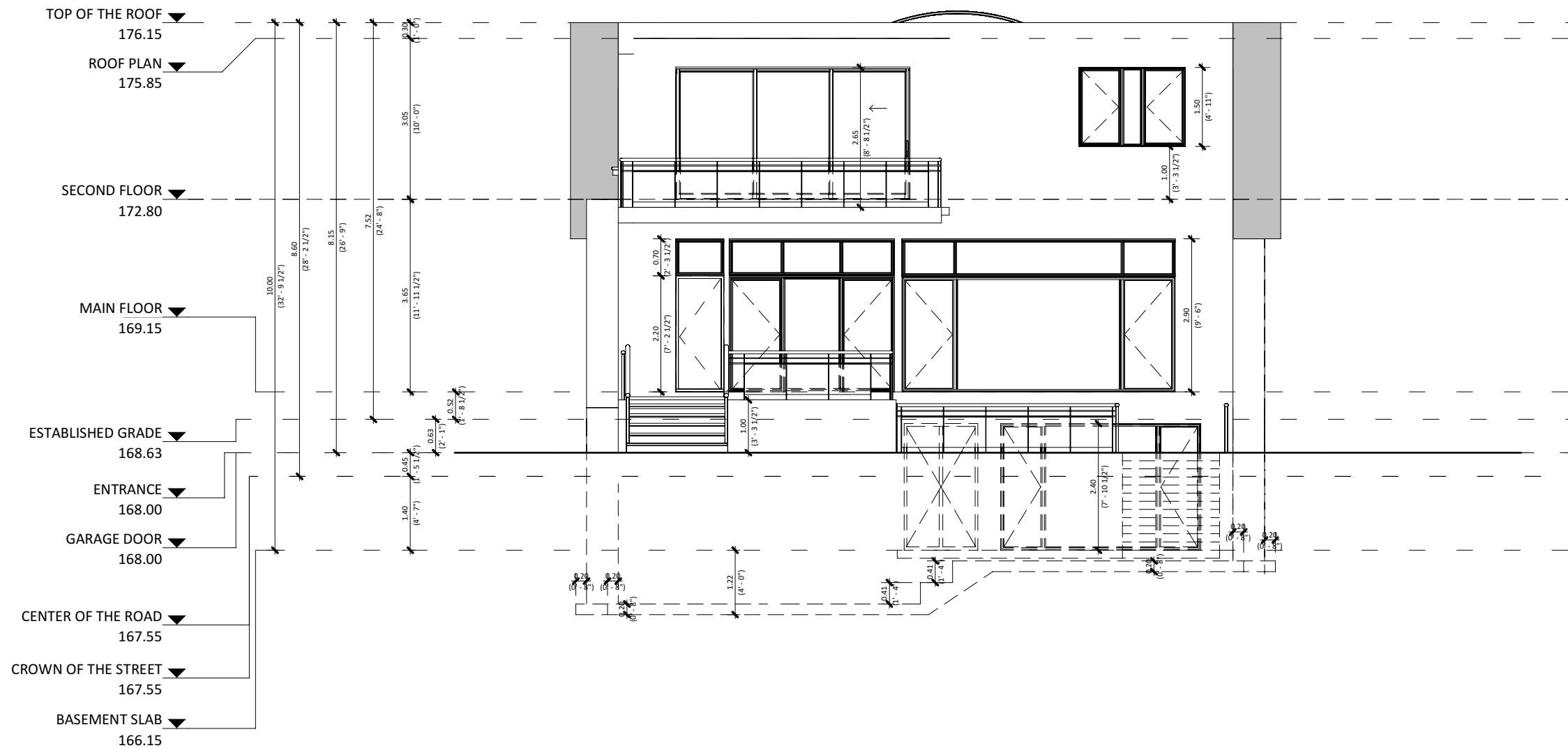
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FRONT ELEVATION (NORTH)

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Appendix B

File: 22.258630.000.00.MNV

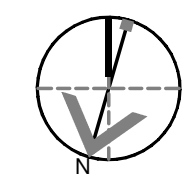
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1	1-24-2022	ISSUED BY ZONING	ALI



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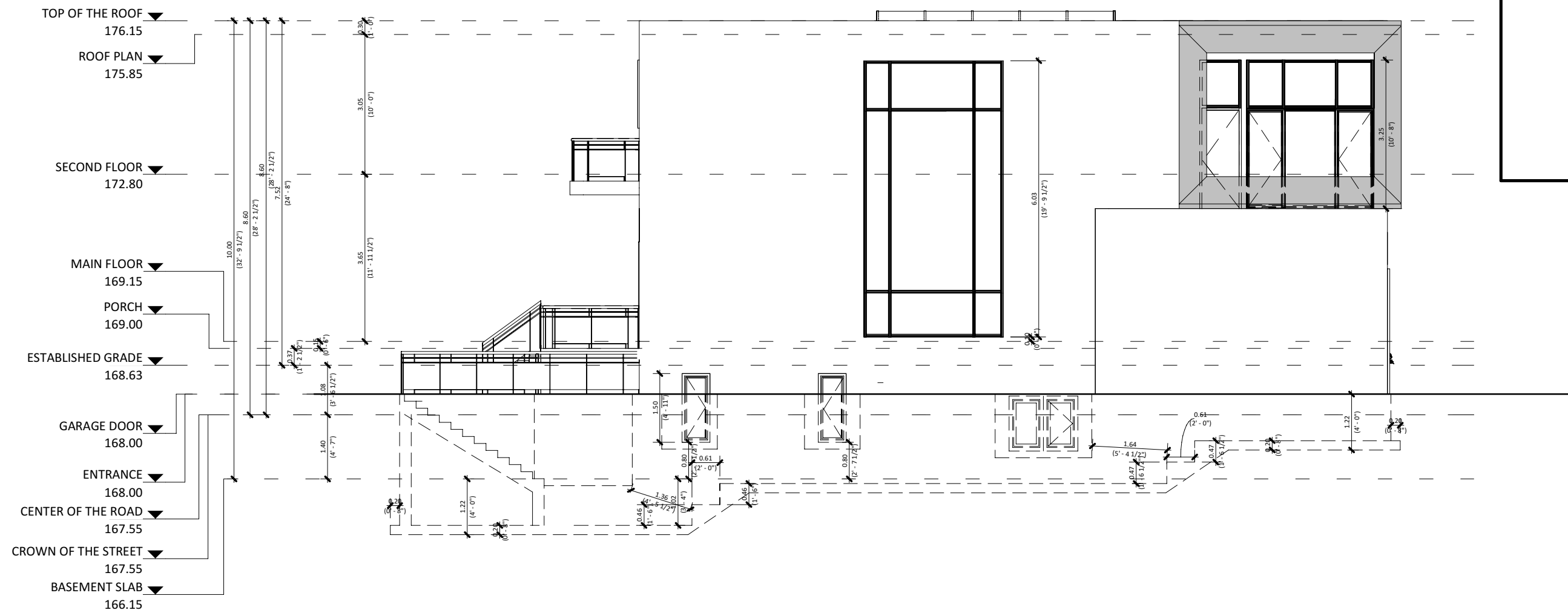


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Appendix B

File: 22.258630.000.00.MNV

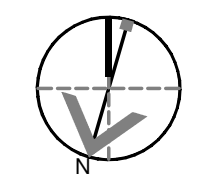
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1	1-24-2022	ISSUED BY ZONING	ALI



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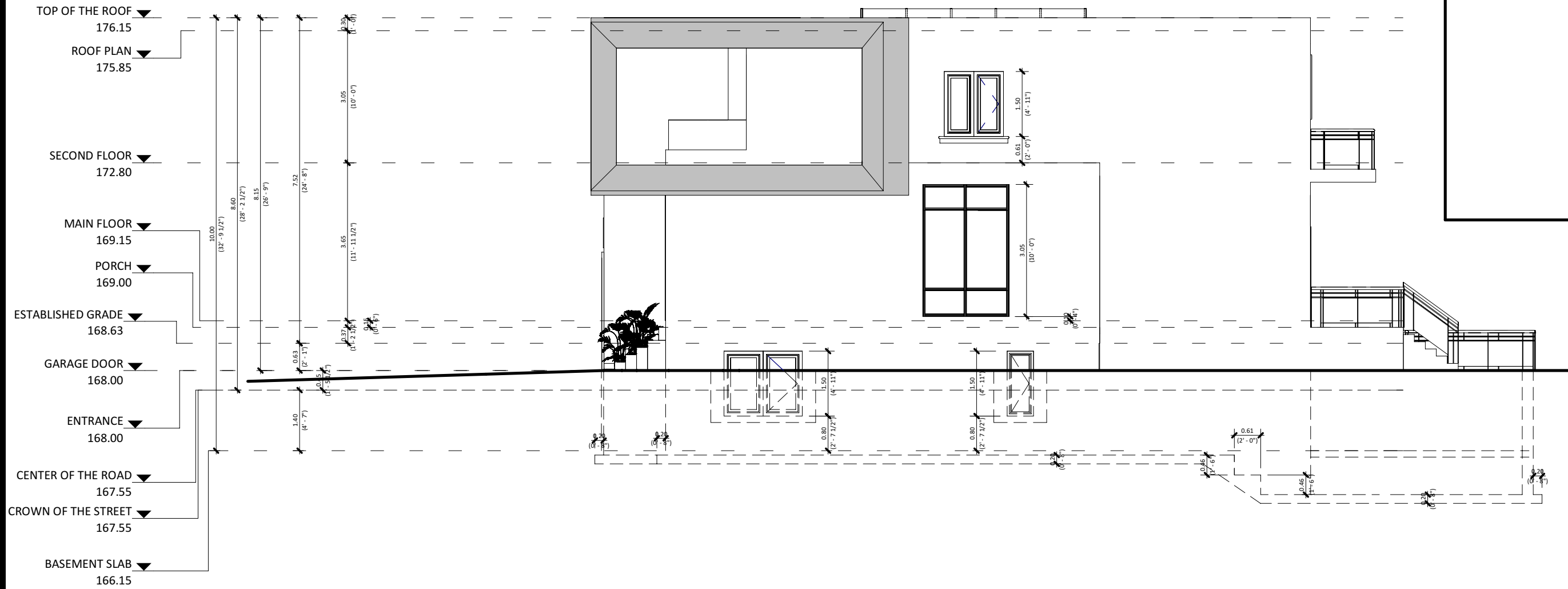
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LEFT ELEVATION (EAST)

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Appendix B

File: 22.258630.000.00.MNV

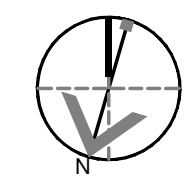
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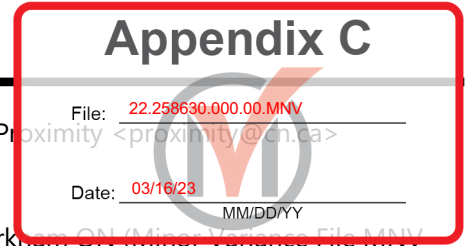


DRAWING	
RIGHT ELEVATION (WEST)	
SHEET ISSUE DATE 09/08/22	PROJECT # 21110009
DRAWN BY Author	
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SCALE 1 : 100	
DRAWING NO. A2.4	REV. 6

APPENDIX "C"
CN RAIL COMMENT LETTER

Kim, Jennifer

From: Saadia Jamil <Saadia.Jamil@cn.ca> on behalf of Proximity <proximity@cn.ca>
Sent: Monday, February 27, 2023 2:33 PM
To: Kim, Jennifer
Subject: 2023-02-27_CN Comments_55 Clark Avenue, Markham, CN (Minor Variance File MNV 22 258630)



CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.

Hi,

Thank you for circulating CN on the subject application. It is noted that the subject site is located in proximity to the CN railway corridor. CN recommends the following to be implemented as conditions of approval:

- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

Thanks,

Saadia Jamil

Urbaniste sénior / Senior Planner (CN Proximity)
Planning, Landscape Architecture and Urban Design
Urbanisme, architecture de paysage et design urbain



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