

# Memorandum to the City of Markham Committee of Adjustment

November 28, 2019

**File:** A/130/19  
**Address:** 28 Hemingway Cres – Markham, ON  
**Applicant:** Wu Xue Jing  
**Agent:** Edwin Cheng  
**Hearing Date:** Wednesday December 11, 2019

The Central Team provides the following comments. The Applicant requests relief from the following requirements of the R4 Zone – “Fourth Density Single Family Residential Zone” under By-law 11-72, as amended, as it relates to a second storey addition to an existing dwelling:

- a) **By-law 11-72, Section 6.1:**  
To permit a building height of 8.61 m (28 ft 3 in); whereas the By-law permits maximum building height of 7.62 m (25 ft) from average grade to midpoint;
- b) **By-law 11-72, Section 4.11:**  
To permit flankage setback of 3.74 m (12 ft 3 in); whereas the By-law requires a minimum flankage setback of half the building's height at 4.3 m (14 ft 1.5 in); and
- c) **By-law 11-72, Section 6.1:**  
To permit a front yard setback relating to bay window section of 7.93 m (26 ft); whereas the By-law requires minimum front yard setback of 8.23 m (27 ft).

## BACKGROUND

### Property Description

The 640.10 m<sup>2</sup> (6,889.98 ft<sup>2</sup>) rectangular-shaped subject property is located on the southeast corner of Hemingway Crescent and Hagerman Boulevard and is generally located north of Carlton Road, east of Warden Avenue, south of 16<sup>th</sup> Avenue, and west of Village Parkway. An existing 1974 two-storey, split detached dwelling is located on the subject property where mature vegetation and trees exist.

The subject property is 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 development.

### Proposal

The Applicant proposes to retrofit the two-storey portion of the existing detached dwelling with the addition of a second storey addition (the “proposed development”).

### 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 permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines development criteria for the “Residential - Low Rise” designation respecting height, massing, and setbacks. The criteria ensures that the proposed development is appropriate for the subject property and generally consistent with the zoning requirements

for adjacent properties and properties along the same street. In considering this minor variance application, 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 11-72

The subject property is zoned R4 – “Fourth Density Single Family Residential Zone”, under By-law 11-72, as amended, which permits one single detached dwelling per lot.

#### **Applicant’s Stated Reason for Not Complying with Zoning**

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

*“current zoning restrictions as it relates to height and setbacks do not permit the expansion of the dwelling unit to facilitate the needs of a modern family unit”.*

#### **Zoning Preliminary Review (“ZPR”) Not Undertaken**

The Applicant confirmed that a ZPR has not been conducted. It is the Applicant’s responsibility to ensure that this 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.

#### **Increase in Maximum Building Height**

The Applicant requests relief to permit a maximum building height of 8.61 m (28 ft 3 in), whereas the By-law permits a maximum building height of 7.62 m (25 ft), which represents an increase of 0.99 m (3 ft 3 in).

The surrounding residential neighbourhood consists of a mix of one and two-storey single detached dwellings. Staff are of the opinion that the proposed increase in height is compatible and appropriate for the context of the site, and that the variance would not appear to have adverse impacts on the overall character of the street.

#### **Reduced Side Yard Setback (Flankage)**

The Applicant requests a minimum side yard setback of 3.74 m (12 ft 3 in) for the flankage yard, whereas the By-law requires a minimum flankage setback of 3.66 m (12 ft) or half of the buildings height at 4.28 m (14 ft 1.5 in); whichever is greater. Based on the Applicant’s

proposed development, a minimum setback of the latter would apply. This translates to a requested relief of approximately 0.54 m (2 ft 1.5 in).

Staff are satisfied that the requested variance maintains a generous flankage side yard setback, and is consistent with the general intent of the zoning by-law. Staff are of the opinion that the requested variance is minor in nature.

#### **Reduction in Front Yard Setback**

The Applicant requests relief to permit a minimum front yard setback of 7.93 m (26 ft) relating to a bay window, whereas the By-law requires a minimum front yard setback of 8.23 m (27 ft). The proposed variance is entirely attributed to the bay window, which represents a reduction of approximately 0.31 m (1 ft) to the front yard setback, and is a minor encroachment that should not have an impact to the overall character of the street.

Staff are of the opinion that the proposed variance is generally consistent with the established front yard setbacks along on the street, and have no objection to the proposed variance.

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 28, 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 to the requested variances. 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:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 139956 \Documents\District Team Comments Memo

**APPENDIX "A"**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/130/19**

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 and after November 13, 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 implement and maintain all of the works required in accordance with the conditions of this variance.
4. 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.
5. 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.
6. 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:



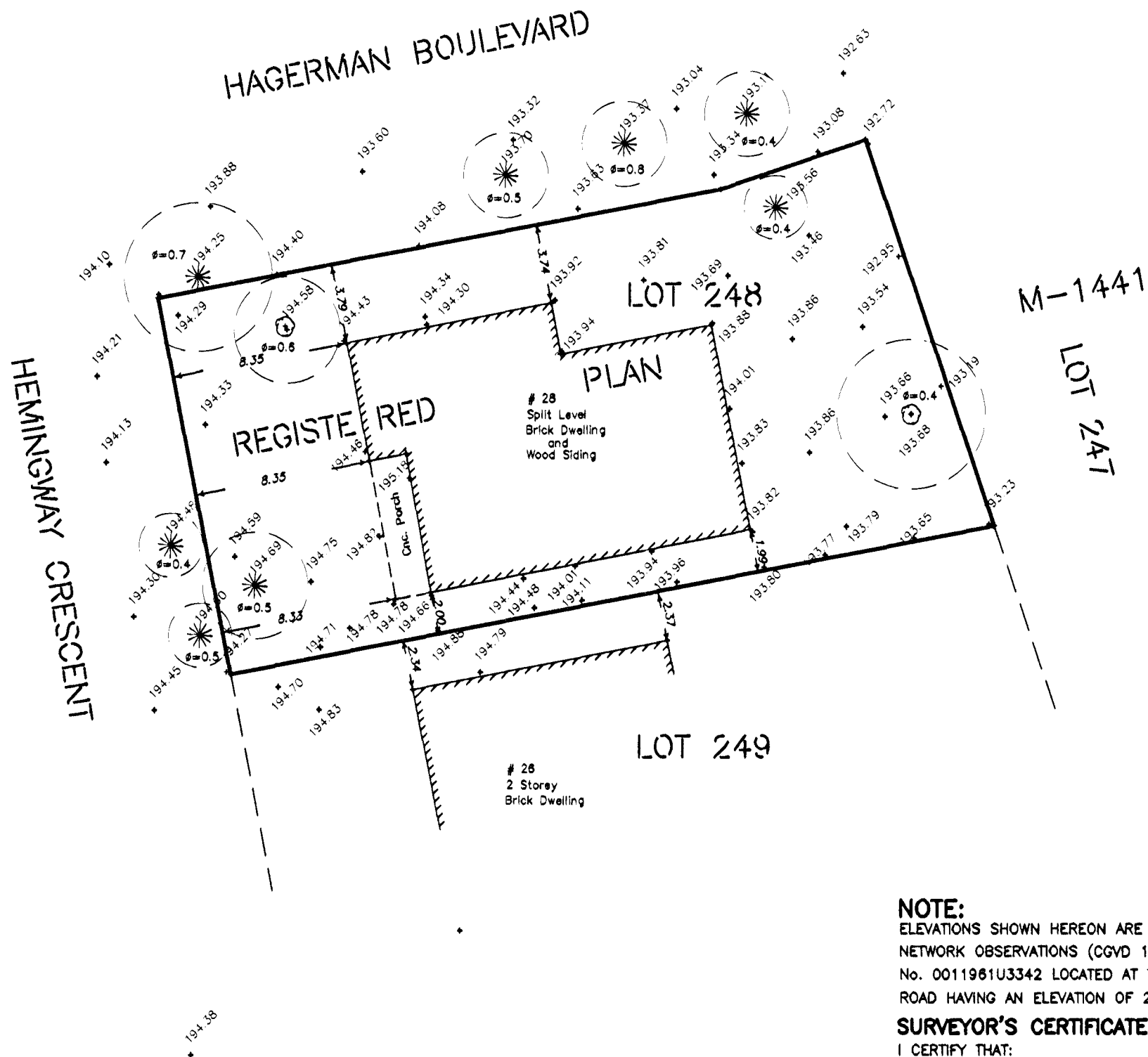
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Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/130/19**

TOPOGRAPHIC SKETCH PREPARED FOR  
**LOT 248, PLAN M-1441**  
 CITY OF MARKHAM  
 REGIONAL MUNICIPALITY OF YORK

5 m 0 5 10 15 20 25 meters  
 SCALE 1 : 250



**NOTE:**

ELEVATIONS SHOWN HEREON ARE GEODETIC AND DETERMINED BY REALTIME CAN-NET NETWORK OBSERVATIONS (CGVD 1928, 1978 ADJUSTMENT). CONFIRMED WITH BENCHMARK No. 0011961U3342 LOCATED AT THE INTERSECTION OF BASELINE ROAD AND McCOWAN ROAD HAVING AN ELEVATION OF 230.415m.

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

1. THE SURVEY WAS COMPLETED ON THE 18TH DAY OF SEPTEMBER, 2019.

SEPT. 23, 2019

DATE

G. K. Jenkins

G. K. JENKINS  
 Ontario Land Surveyor



**Delph & Jenkins North Ltd.**  
 Ontario Land Surveyors  
 220 Industrial Parkway S., Unit 8, Aurora, Ontario L4G-3V8  
 Tel. 905-841-8528 Fax. 905-841-2496

19276-1

DRAWN BY: LV

CHECKED BY: GKJ

28 HEMMINGWAY CRESENT  
DRAWING LIST:

DRAWING LIST:

- A0.1

COVER SHEET

M1

BASEMENT HVAC PLAN
- A1.1

EX. BASEMENT PLAN

M2

MAIN FLOOR HVAC PLAN
- A1.2

EX. MAIN FLOOR PLAN

M3

SECOND FLOOR HVAC PLAN
- A1.3

EX. SECOND FLOOR
- A1.4

BASEMENT ALTERATION PLAN
- A1.5

MAIN FLOOR ALTERATION PLAN
- A1.6

SECOND FLOOR ALTERATION PLAN
- A1.7

ROOF PLAN
- A2.1

FRONT ELEVATION
- A2.2

REAR ELEVATION
- A2.3

LEFT ELEVATION
- A2.4

RIGHT ELEVATION
- A3.1

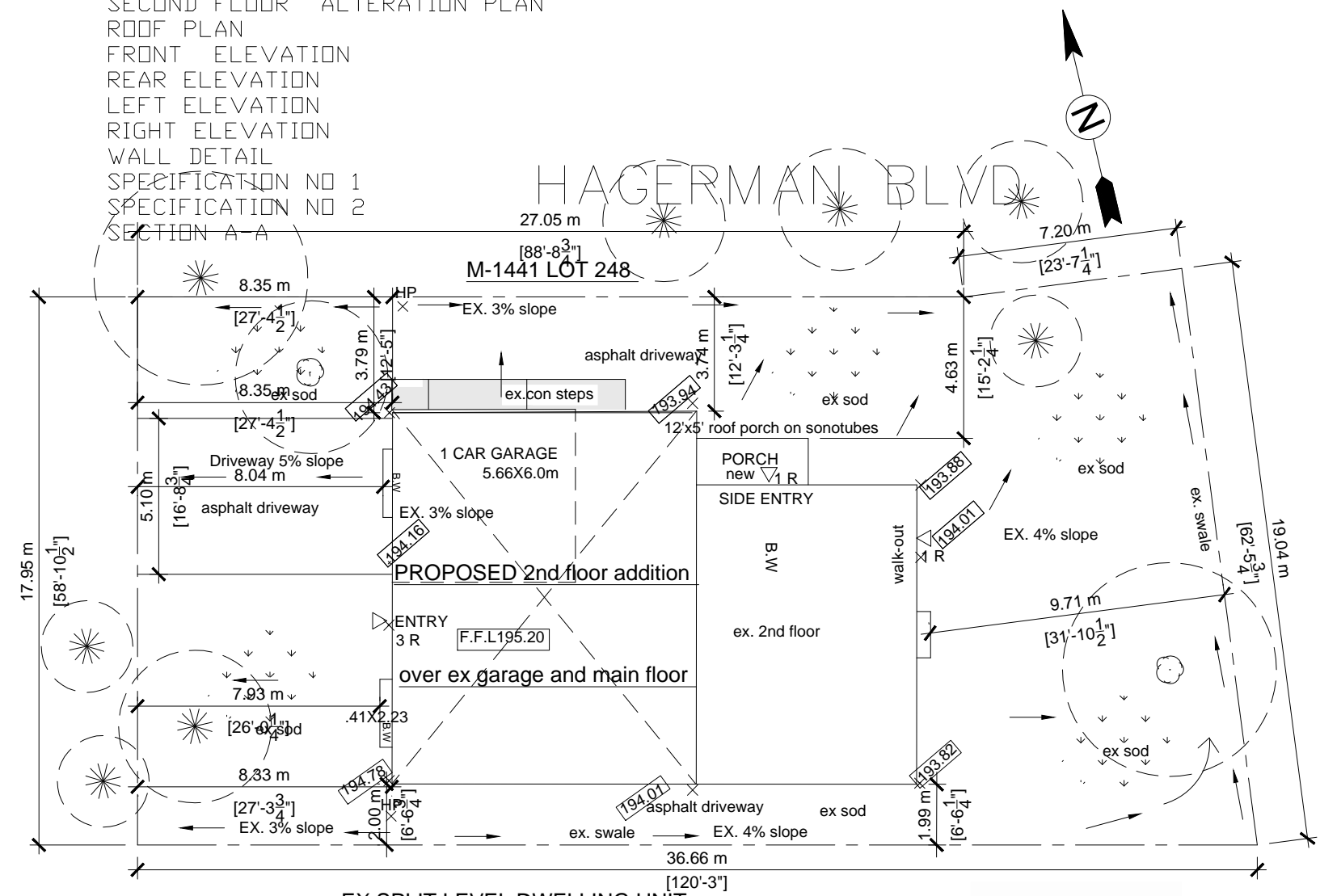
WALL DETAIL
- A3.2

SPECIFICATION NO 1
- A3.3

SPECIFICATION NO 2
- A4.1

SECTION A-A

HEMMINGWAY CRESENT



- FLOW ARROW

×

HP

—

HIGH POINT
- △

ENTRY
- 3 R

NO RISER
- ×

EX ELEVATION
- 194.78

AVERAGE GARDE 194.20
- B.W

BAYWINDOW

EX SPLIT LEVEL DWELLING UNIT  
28 HEMMINGWAY CRESENT  
MARKHAM, ON

CONTACT: RAYMOND LIU  
SUITE 1508 ,DON MILLS  
ON M3C 3M8 (416) 721 9669

EX. SITE PLAN

SCALE 1: 200



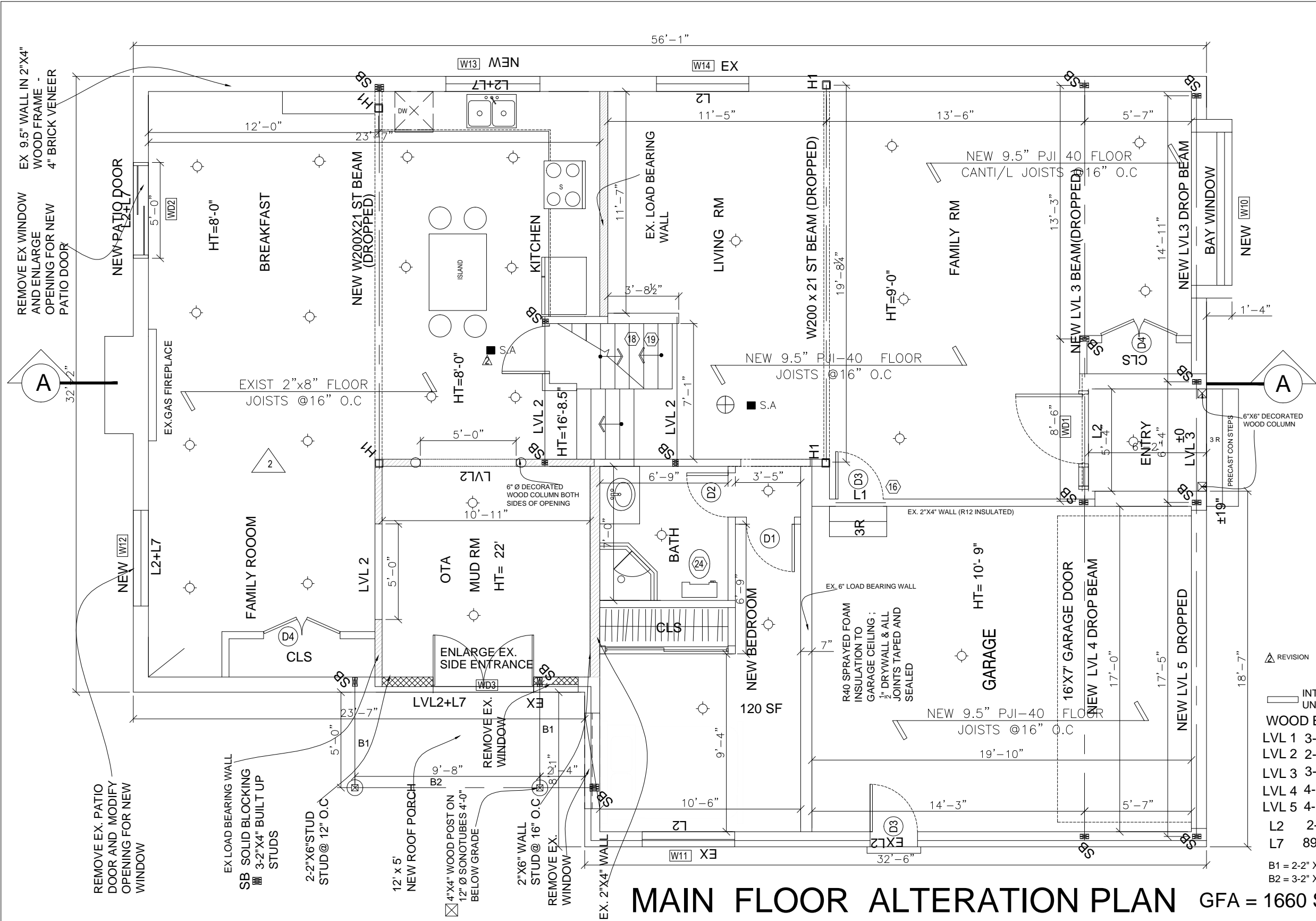
INFO BASED ON SURVEYOR CERTIFICATE BY G.L JENKINS  
DATED SEP 16, 2019

ZONED R4 BY-LAW NO 11-72

BUILDING SUMMARY			Area = 640.10 sq.m
Main Residence			
Finished Basement Area	N/A	N/A	
Finished First Floor Area	154.20 sq.m.	1,660 sq.ft.	
Finished second Floor Area	192.00 sq.m.	2,067 sq.ft.	
Deduct open space (OTA)	10.80 sq.m.	116.0 sq.ft.	
Covered Porch Area	9.3 sq.m.	100.0 sq.ft.	
GROSS FINISHED FLOOR AREA	335.40 sq.m.	3,631.23 sq.ft.	
BUILDING AREA (Main floor plus garage)	192.00 sq.m.	2,067.00 sq.ft.	
Lot Coverage without porches		30%	
Lot Coverage(plus porches)		31%	
Frontage	17.95 m	58.88 ft.	

MAX SITE COVERAGE 33.33 %  
MIN FRONT SETBACK 27 FT  
MIN SIDE YARD SETBACK 6 FT ( 2 STOREY)  
MIN REAR YARD SETBACK 25 FT  
MAX HEIGHT 25 FT (AVERAGE GRADE TO MID ROOF)

DWG. NO.  
A0.1



REVISION

USE: FOR SINGLE FAMILY RESIDENTIAL

INT WALL 2"x4" @ 16" O.C  
UNLESS SPECIFIED

WOOD BEAM SCHEDULE:

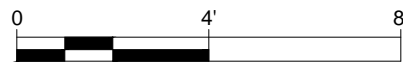
LVL 1	3-1.75 x 9.5	2.0E	LVL
LVL 2	2-1.75 x 11.875	2.0E	LVL
LVL 3	3-1.75 x 11.875	2.0E	LVL
LVL 4	4-1.75 x 11.875	2.0E	LVL
LVL 5	4-1.75 x 14"	2.0E	LVL
L2	2-2"x10"		WOOD LINTEL
L7	89X89X6.4		L ST LINTEL

B1 = 2-2" X 8"    H1 76x76x3.2 HSS COLUMN  
B2 = 3-2" X 8"                      107 kN @3.0m



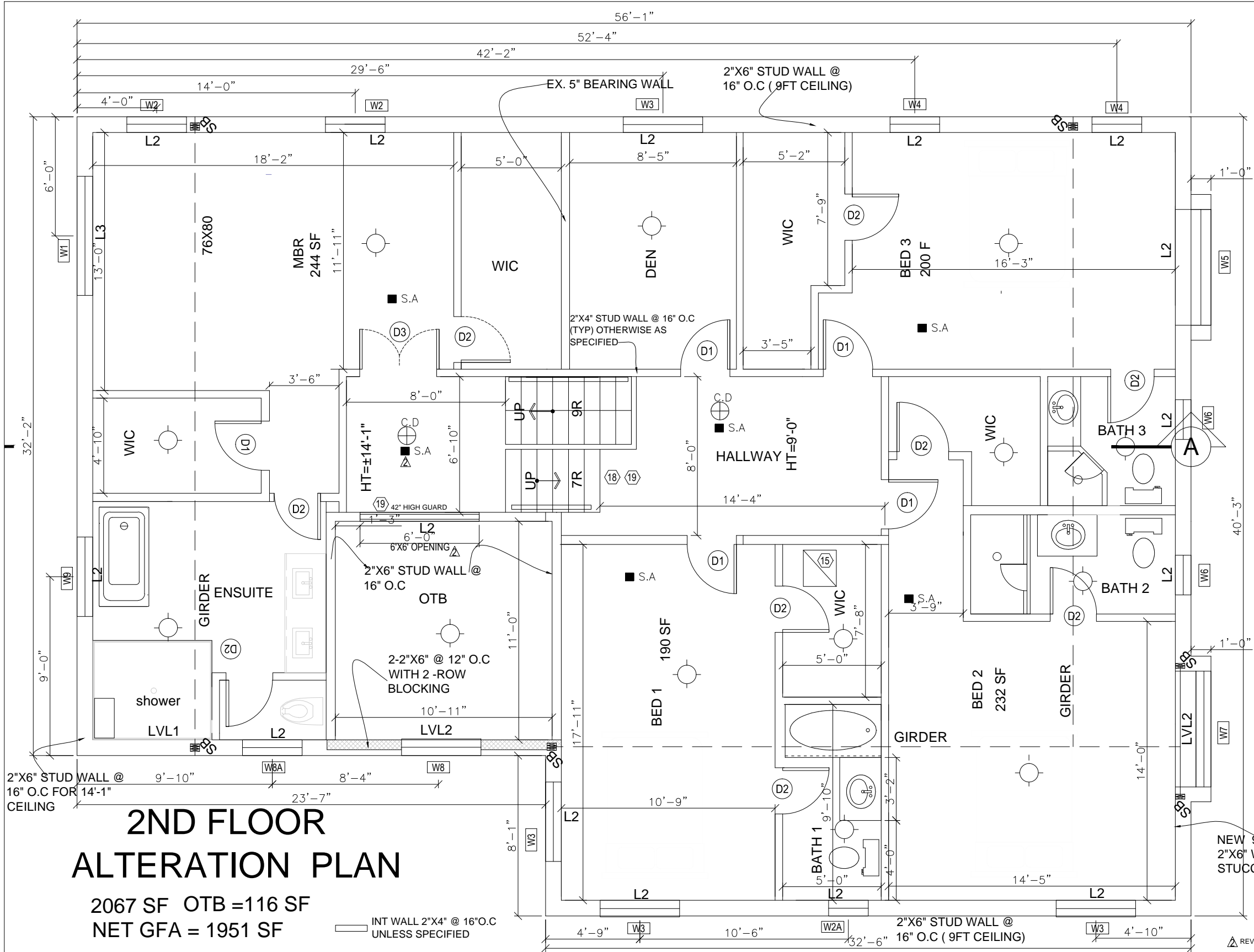
# MAIN FLOOR ALTERATION PLAN    GFA = 1660 SF

CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE, SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR:  WU FAMILY	ADDRESS:  28 HEMMINGWAY CR MARKHAM	LOCATION PLAN: 	DRAWING DATE: November 6, 2019	DATE MEASURED: May 24, 2018	SCALE: 3/16" = 1'-0"	DRAW NO.  A1.5
	DRAWING TITLE:  MAIN FLOOR ALTERATION		DISCLAIMER:  Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW	CHKD BY: RL





# 2ND FLOOR ALTERATION PLAN

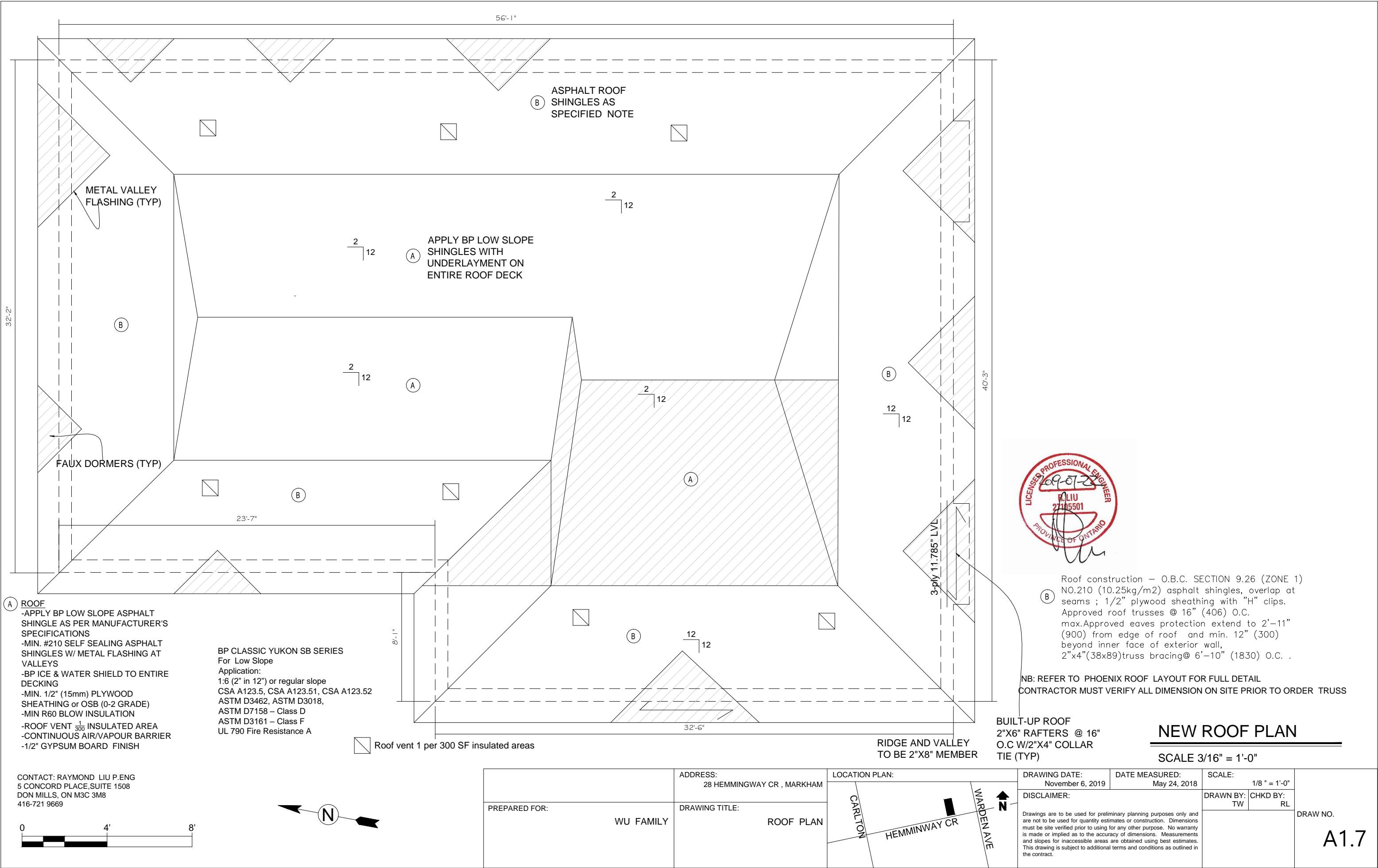
2067 SF OTB =116 SF  
NET GFA = 1951 SF

INT WALL 2"X4" @ 16"O.C  
UNLESS SPECIFIED

CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE,SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR: <b>WU FAMILY</b>	ADDRESS: 28 HEMMINWAY CR MARKHAM	LOCATION PLAN: 	DRAWING DATE: November 6, 2019	DATE MEASURED: May 24, 2018	SCALE: 3/16" = 1'-0"	DRAW NO. <b>A1.6</b>
	DRAWING TITLE: 2ND FLOOR ALTERATION		DISCLAIMER: Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW CHKD BY: RL	



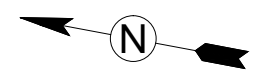


1 FRONT ELEVATION v3  
SCALE 3/16" = 1' - 0"

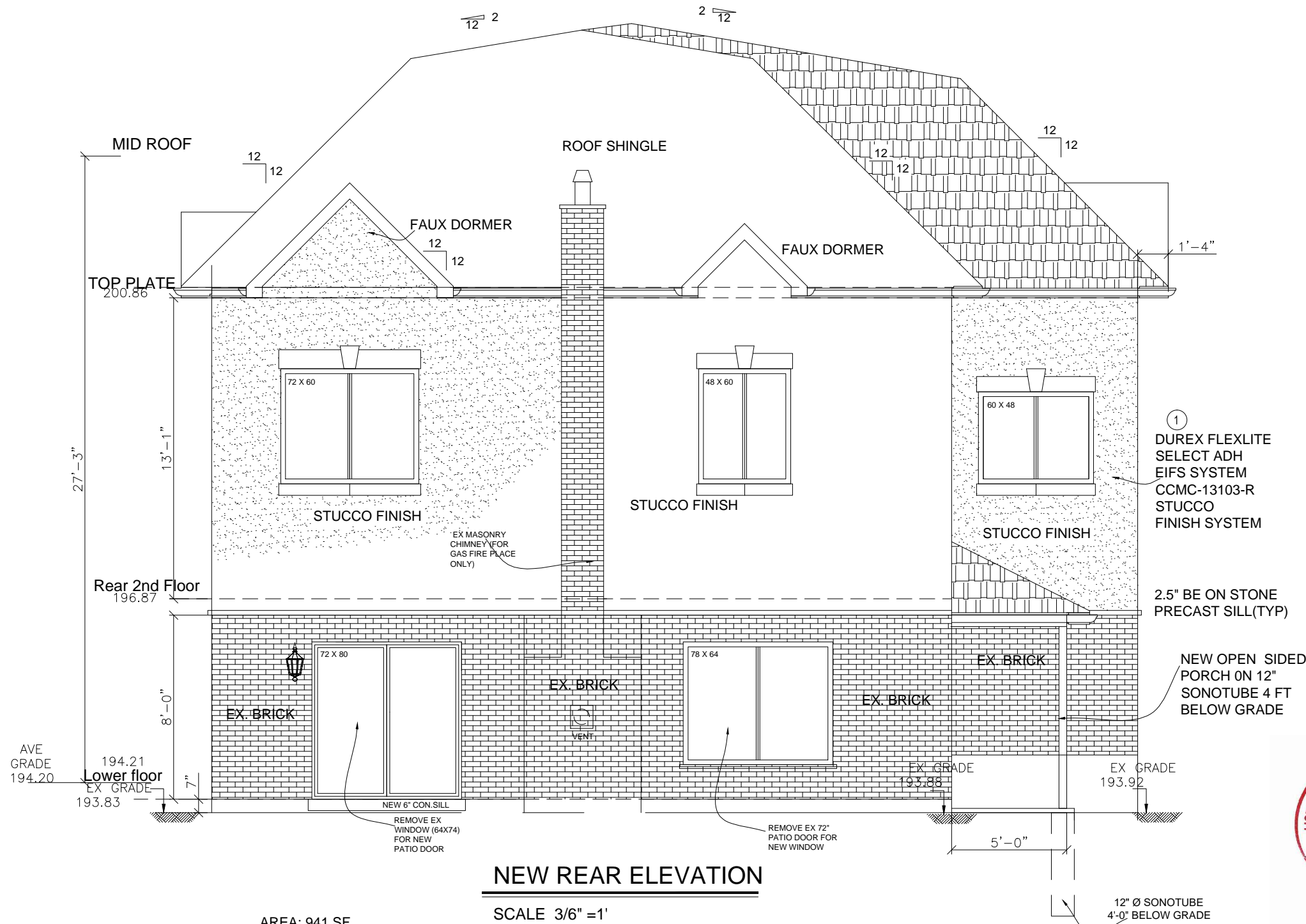
WALL AREA = 4302 SF  
WINDOW/DOOR AREA = 534 SF  
% OF WINDOW/AREA = 12.4%



CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE, SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR:  WU FAMILY	ADDRESS:  28 HEMMINGWAY CR MARKHAM	LOCATION PLAN: 	DRAWING DATE: November 6, 2019	DATE MEASURED: May 24, 2018	SCALE: 1/4" = 1'-0"	DRAW NO.  A2.1
	DRAWING TITLE:  FRONT ELEVATION		DISCLAIMER:  Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW	CHKD BY: DS

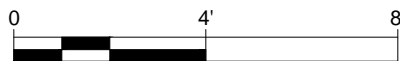


## NEW REAR ELEVATION

SCALE 3/6" = 1'

AREA: 941 SF  
WIN OPENINGS: 145  
SF

CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE, SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR: NAM RESIDENCE	DRAWING TITLE: REAR ELEVATION	LOCATION PLAN: 	DRAWING DATE: October 23, 2019	DATE MEASURED: APRIL 2019	SCALE: 3/16" = 1'-0"	DRAW NO.  A2.2
			DISCLAIMER: Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW	CHKD BY: RL





- ① DUREX FLEXLITE  
SELECT ADH  
EIFS SYSTEM  
CCMC-13103-R  
STUCCO  
FINISH SYSTEM
- ② 2.5" BE ON STONE  
PANEL CLADDING  
(TYP)  
2 LB/SF DEAD LOAD
- ③ METAL ROOF  
1" PLYWOOD DECKING  
2"X6" RAFTERS @ 16" O.C  
SEE BOX WINDOWS FOR  
DETAILS

ALLOWABLE UNPROTECTED OPENINGS	
TOTAL WALL AREA #1	552 SF
LIMITING DISTANCE	57% @ 6.1M
ALLOWABLE OPENINGS	314.00 SF
GLAZED OPENINGS	90.00 SF

12" Ø SONOTUBE  
4'-0" BELOW GRADE

N.B UPO unlimited since LD  
measured from centre line of road

### LEFT ELEVATION (NEW)

SCALE 3/16" = 1'-0"

EBF#2 = 723 SF  
GLAZED AREA = 52 SF  
% UPO = 7.1% L.D = 1.5M  
ACUTAL 3.68M

ALLOWABLE UNPROTECTED OPENINGS	
TOTAL WALL AREA #2	723 SF
LIMITING DISTANCE	23% @ 3.8M
ALLOWABLE OPENINGS	166.0 SF
GLAZED OPENINGS	90.00 SF

CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE, SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR:  WU FAMILY	ADDRESS:  28 HEMMINGWAY CR MARKHAM	LOCATION PLAN: 	DRAWING DATE: November 6, 2019	DATE MEASURED: May 24, 2018	SCALE: 3/16" = 1'-0"	DRAW NO.  A2.3
	DRAWING TITLE:  LEFT ELEVATION		DISCLAIMER:  Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW	CHKD BY: RL



**RIGHT ELEVATION (NEW)**

SCALE 3/16" = 1'-0"



CONTACT: RAYMOND LIU P.ENG  
5 CONCORD PLACE, SUITE 1508  
DON MILLS, ON M3C 3M8  
416-721 9669



PREPARED FOR:  WU FAMILY	ADDRESS:  28 HEMMINGWAY CR MARKHAM	LOCATION PLAN: 	DRAWING DATE: November 6, 2019	DATE MEASURED: May 24, 2018	SCALE: 3/16" = 1'-0"	DRAW NO.  A2.4
	DRAWING TITLE:  RIGHT ELEVATION		DISCLAIMER:  Drawings are to be used for preliminary planning purposes only and are not to be used for quantity estimates or construction. Dimensions must be site verified prior to using for any other purpose. No warranty is made or implied as to the accuracy of dimensions. Measurements and slopes for inaccessible areas are obtained using best estimates. This drawing is subject to additional terms and conditions as outlined in the contract.		DRAWN BY: TW CHKD BY: RL	