

# **Memorandum to the City of Markham Committee of Adjustment**

January 24, 2020

**File:** A/154/19  
**Address:** 11 Worsley Court – Markham, ON  
**Applicant:** Bo Wang  
**Agent:** Brutto Consulting  
**Hearing Date:** Wednesday February 05, 2020

The following comments are provided on behalf of the Central Team. The Applicant requests relief from the following requirements of the “Fourth Density Single Family Residential (R4) Zone” under By-law 11-72, as amended, as it relates to a proposed two-storey single detached dwelling (“the proposed development”):

**a) Section 6, Schedule B:**

To permit a maximum height of 26 ft 11 in (8.2 m), whereas the By-law permits a maximum height of 25 ft (7.62 m).

## **BACKGROUND**

### **Property Description**

The 696.77 m<sup>2</sup> (7499.97 ft<sup>2</sup>) subject property is located on the south side of Worsley Court, east of Village Parkway, south of Kreighoff Avenue, and west of Rycroft Drive. There are existing and mature trees located in the front and rear yards of the subject property. The subject property is located within an established residential neighbourhood, comprised of a mix of one and two-storey single detached dwellings, which is experiencing a transition of newer infill development.

The subject property is partially within the Toronto and Region Conservation Authority (“TRCA”) regulated area.

### **Proposal**

The Applicant proposes to demolish the existing one-storey single detached dwelling and to construct a two-storey single detached dwelling with the requested height variance.

### **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 single detached dwellings. The 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that the proposed development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, 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 “Fourth Density Single Family Residential (R4) Zone” under By-law 11-72, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the maximum building height for a single detached dwelling.

### 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.

### Tree Preservation By-law 2008-96 & 2008-97

Various trees exist in the front and rear yards of the property. The City received a Tree Preservation Plan and Arborist Report which was completed on August 22, 2019. The report recommended the removal of two ash trees located in the rear yard of the subject property. Should the variance be approved, staff recommend that the remaining three trees be subject to the related tree preservation and protection conditions in accordance with the City’s tree by-laws, as provided in Appendix “A”.

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

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

*“the house is within the TRCA regulated area, no walkout is allowed and the basement opening should be kept at a minimum of 30 cm above the floodplain. In order to achieve this, it is proposed that the height of the house be raised.”*

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

The Applicant has confirmed that a ZPR has not been conducted. 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.

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

The applicant is requesting relief to permit a maximum building height of 26 ft 11 in (8.2 m), whereas the By-law permits a maximum building height of (25 ft) 7.62 m. This represents an increase of 1 ft 11 in (0.58 m). The subject property is located in between two, two-storey single detached dwellings. Staff are of the opinion that the proposed development is similar in height to other two-storey dwellings along Worsley Court, and what is permitted by the By-law. Staff believe that the proposed development is minor in nature, and have no objection.

### **TRCA Comments**

The subject property is partially within the TRCA regulated area. TRCA provided comments on January 24, 2020, which confirms the TRCA has issued a permit on September 25, 2018, and has no objections to the proposed variance.

### **PUBLIC INPUT SUMMARY**

Four written submissions were received as of January 20, 2020, in support of the requested variance from neighbouring residents along Worsley Court. 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*. 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.

### **APPENDICES**

Appendix "A" – Conditions List

Appendix "B" – Plans

Appendix "C" – Comments

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



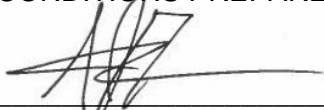
Stephen Lue, Development Manager, Central District

## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/154/19**

1. The variance applies only to the proposed development as long as it remains;
2. That the variance apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report and received by the City of Markham on December 16, 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. 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;
4. 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;
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 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 attached as Appendix "C" to this Staff Report, 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.

CONDITIONS PREPARED BY:



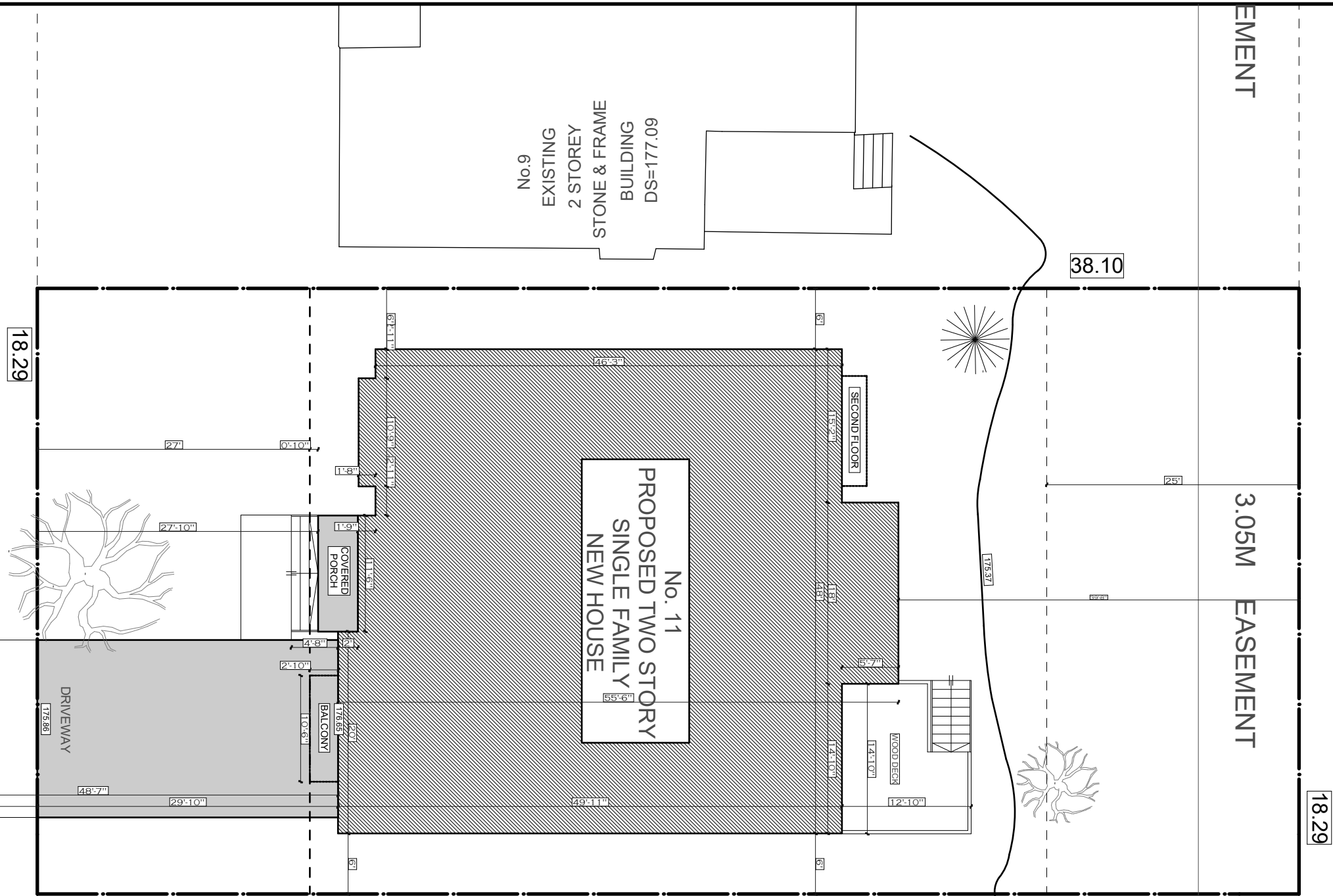
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Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/154/19**

WORSLEY COURT



LOT AREA: 698.91 M <sup>2</sup>		LOT COVERAGE: 232.72 M <sup>2</sup>				
GFA	GR FLOOR EXCLUDING GARAGE	SECOND FLOOR AREA	BASEMENT	GARAGE	TOTAL GFA NOT INCLUDING CELLAR	%
TOTAL	1992FT <sup>2</sup> /185.06 M <sup>2</sup>	2502FT <sup>2</sup> /232.44 M <sup>2</sup>	2058FT <sup>2</sup> /191.19 M <sup>2</sup>	439 FT <sup>2</sup> /40.78M <sup>2</sup>	4494FT <sup>2</sup> /417.50 M <sup>2</sup>	33.30%

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ECO-REVIVAL Consulting Ltd.

5 Anvil Millway  
Toronto, ON. M2L 1P9  
Tel: 416 428-5858

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V.E

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DRAWING TITLE:

SITE PLAN

PROJECT TITLE/ADDRESS:

11 WORSLEY Ct. MARKHAM, ON

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MARKHAM, ON

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BASEMENT

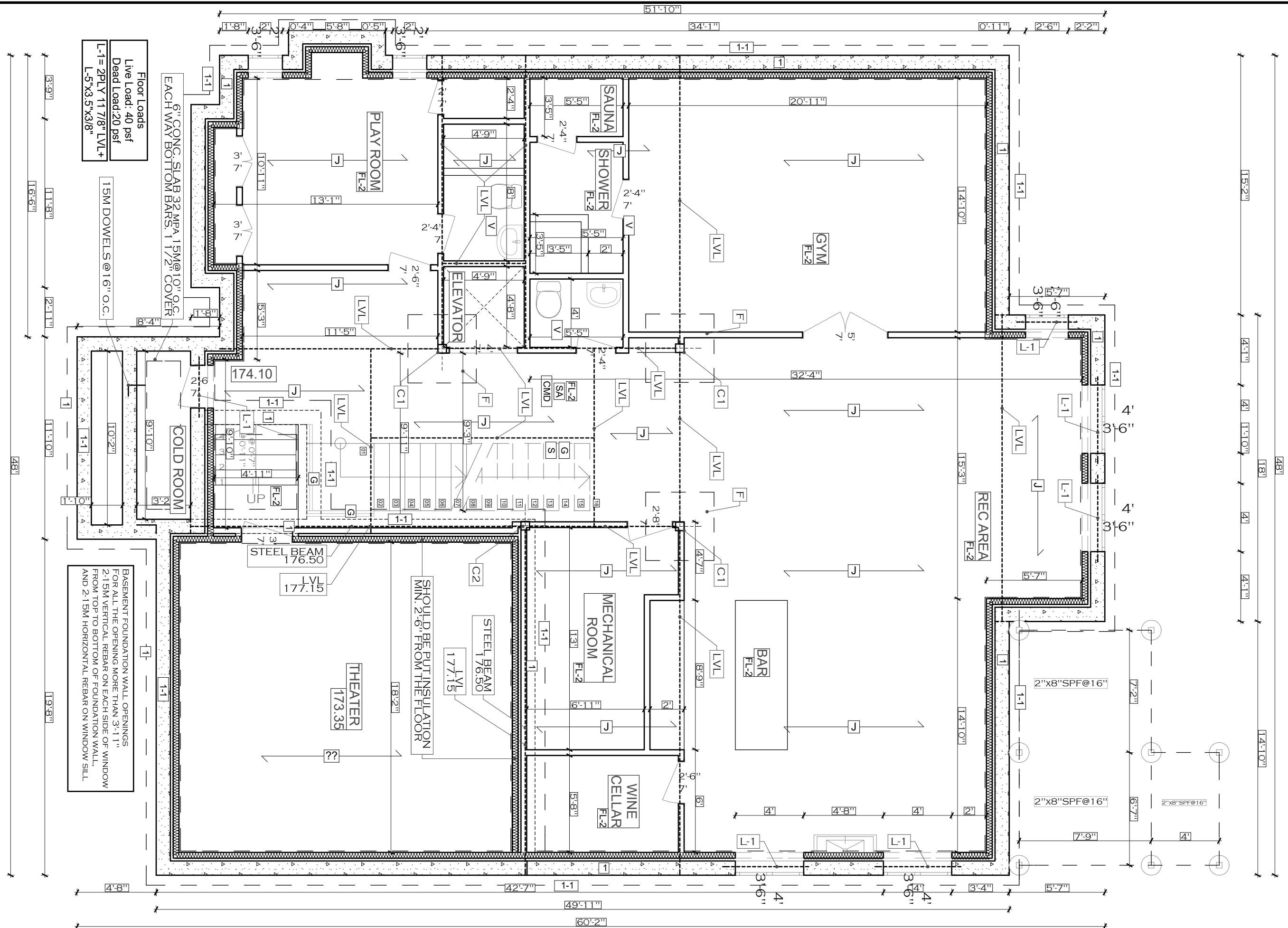
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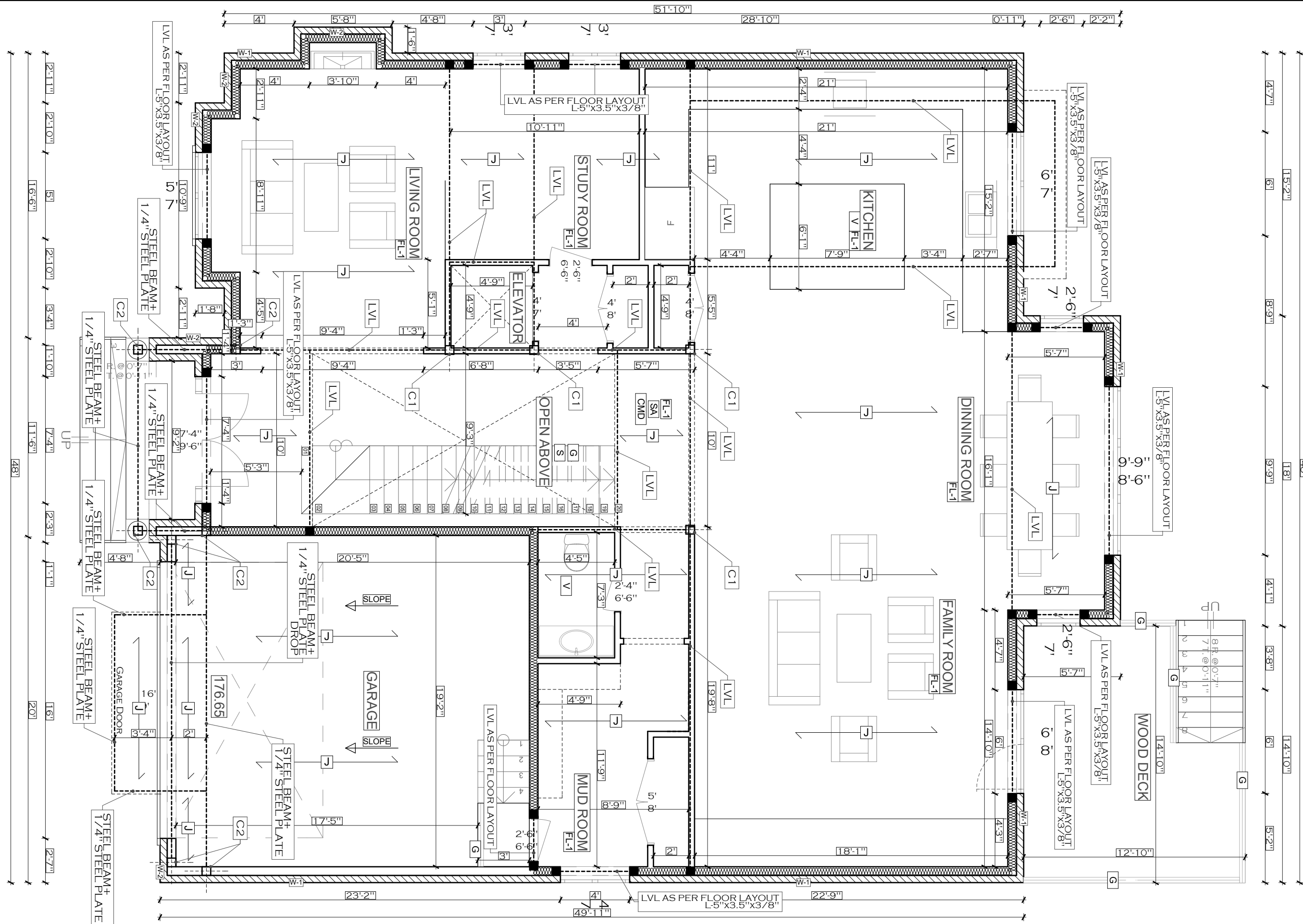
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**GROUND FLOOR**

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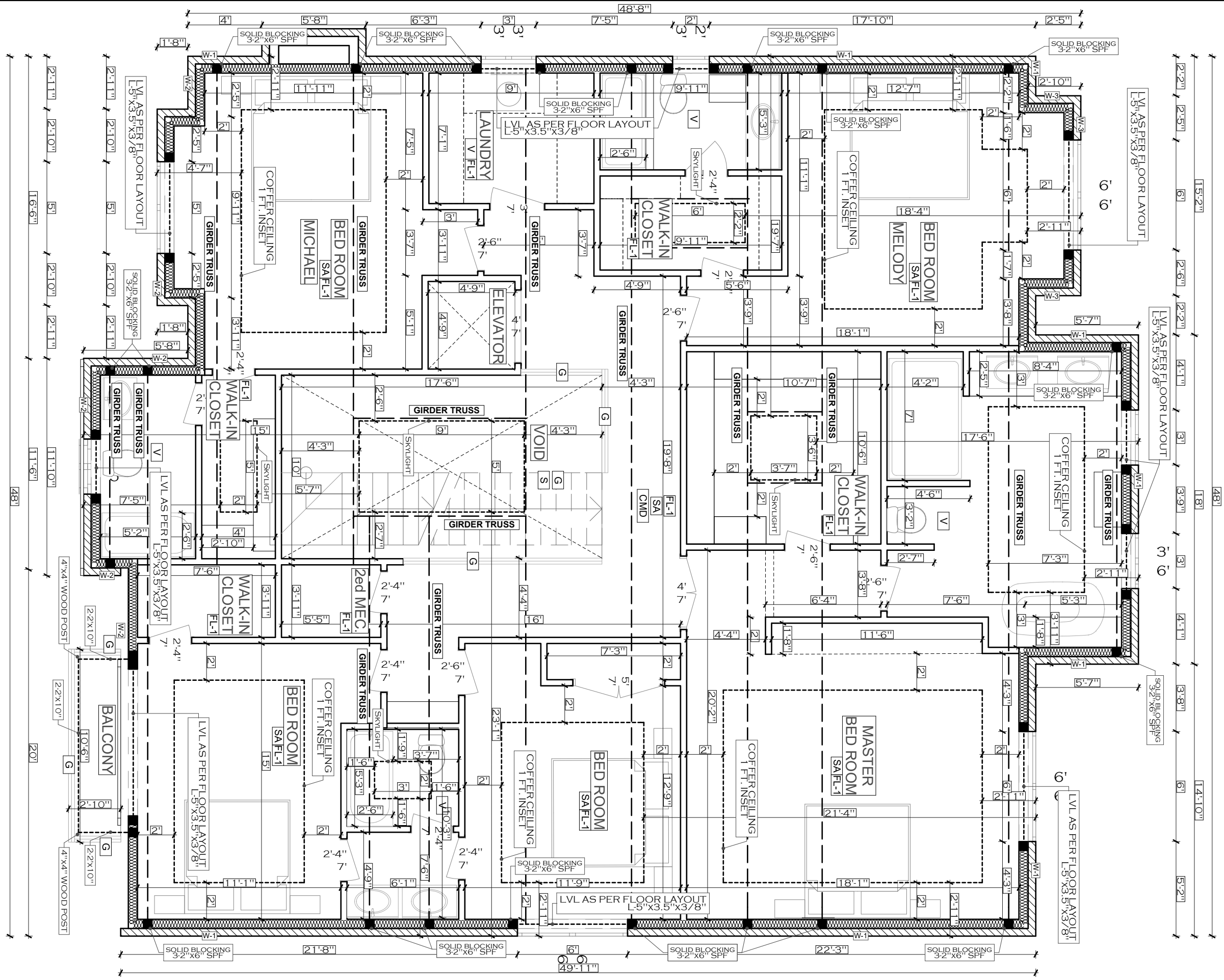
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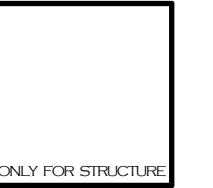






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**FRONT  
ELEVATION**

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### REAR ELEVATION

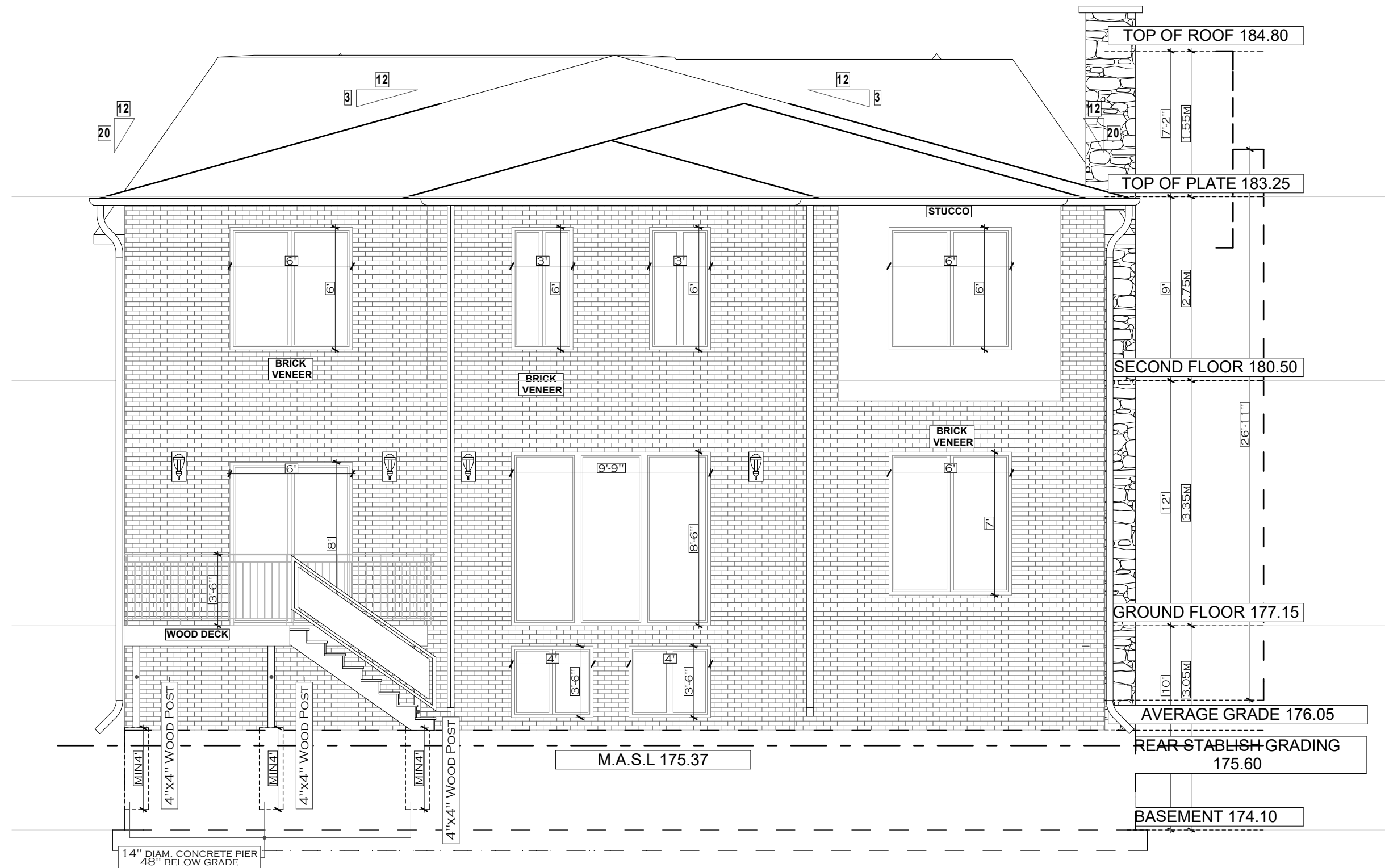
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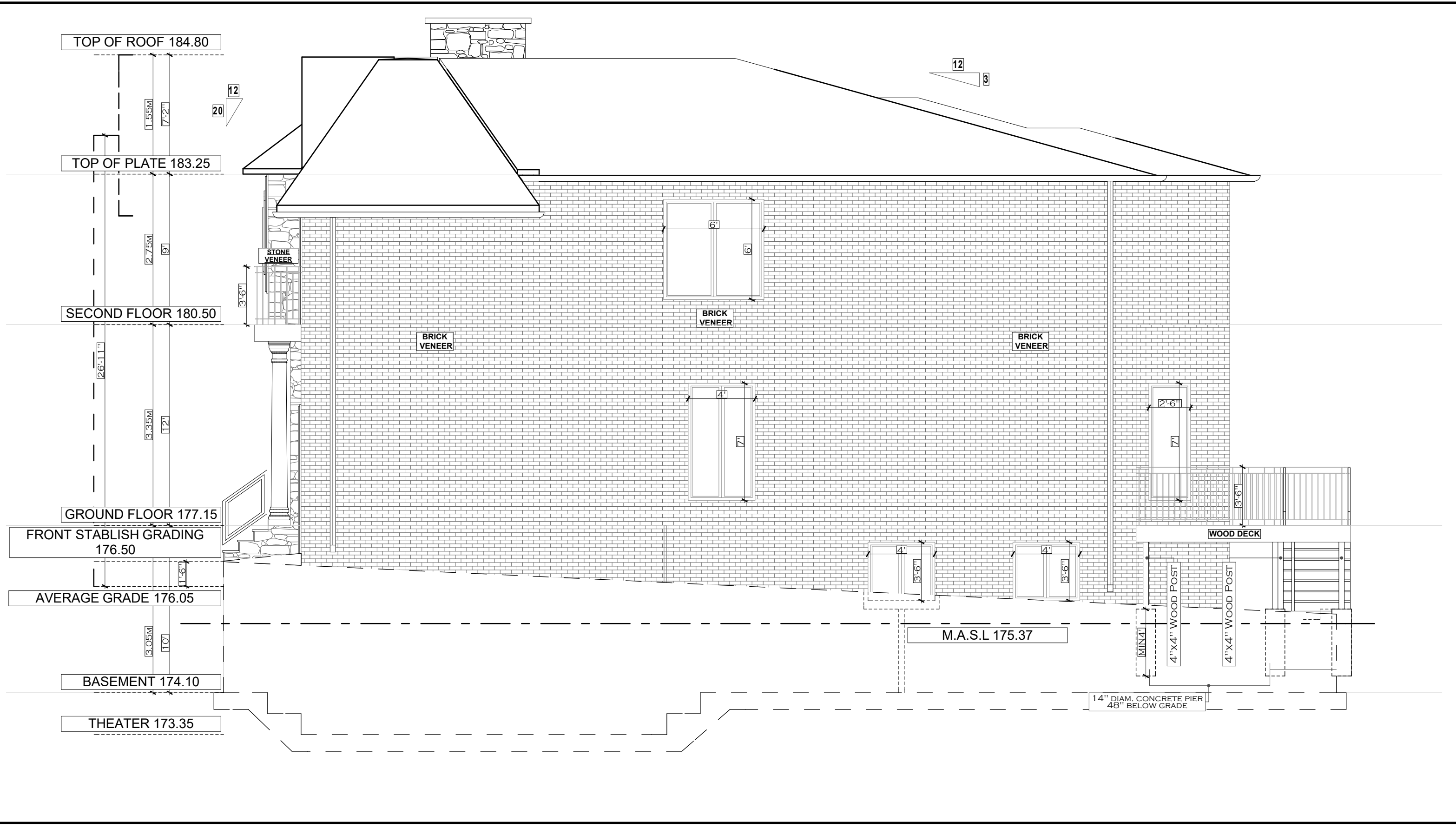
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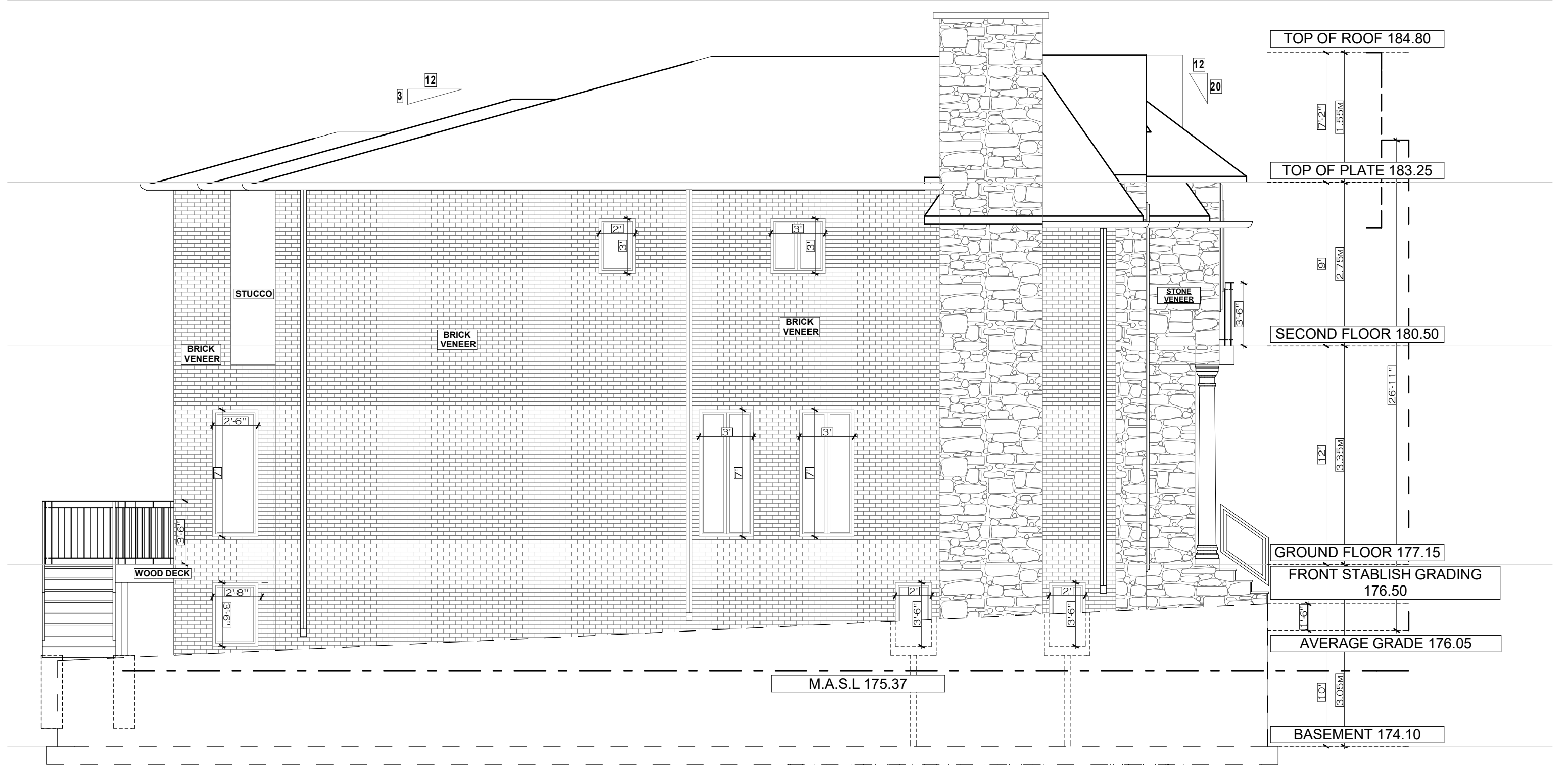
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NOV-2019		FOR COA						V.E		3/16" = 1'-0"		SIDE ELEVATION		
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**APPENDIX “C”**

**COMMENTS TO BE ATTACHED TO ANY APPROVAL OF FILE A/154/19**

January 24, 2020

CFN 62567.02  
X Ref: 59418

**By Email Only (email: [JLeung@markham.ca](mailto:JLeung@markham.ca))**

Mr. Justin Leung  
Secretary-Treasurer  
Committee of Adjustment  
City of Markham  
101 Town Centre Boulevard  
Markham, ON L3R 9W3

Dear Mr. Leung:

**Re: A/154/19 (Minor Variance Application)**  
**11 Worsley Court, City of Markham**  
**Owner: Bo Wang**  
**Agent: Brutto Consulting (Claudio Brutto)**

This letter acknowledges receipt of the above-noted application. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and our comments are provided herein.

**Purpose of the Applications**

The applicant is requesting relief from the requirements of City of Markham By-law 11-72, as amended, as it relates to a proposed two-storey single detached dwelling.

Requested permission:

- a) Amending Zoning By-law 11-72, Section 6, Schedule B:  
to permit a maximum height of 26 feet 11 inches, whereas the By-law permits a maximum height of 25 feet.

**Applicable TRCA Regulations and Policies**

The TRCA provides our technical review comments through a number of roles. This includes TRCA's commenting role under the *Planning Act*; the Conservation Authority's delegated responsibility of representing the provincial interest of natural hazards encompassed by Section 3.1 of the Provincial Policy Statement (2014); TRCA's Regulatory Authority under Ontario Regulation 166/06, as amended (Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses); and our Memorandum of Understanding with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA's jurisdiction.



**Provincial Policy Statement (2014):**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the Planning Act, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

TRCA's delegated role under the Planning Act to represent the provincial interest in natural hazards. As outlined in the Conservation Ontario / Ministry of Natural Resources and Forestry / Ministry of Municipal Affairs and Housing Memorandum of Understanding (MOU) on Conservation Authorities Delegated Responsibilities, Conservation Authorities have been delegated the responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the PPS 2014.

**Ontario Regulation 166/06, as amended:**

The *Conservation Authorities Act* provides the legal basis for TRCA's mandate to undertake watershed planning and management programs that prevent, eliminate, or reduce the risk to life and property from flood hazards and erosion hazards, as well as encourage the conservation and restoration of natural resources. Under the provisions of Section 28 of the *Conservation Authorities Act*, TRCA administers Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended.

The subject property is partially located within TRCA's Regulated Area, as it is adjacent to a watercourse and Regulatory storm floodplain associated with the Rouge River Watershed. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit may be required from the TRCA prior to any of the following works taking place:

- a. straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b. development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Development is defined as:

- i. the construction, reconstruction, erection or placing of a building or structure of any kind;
- ii. any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- iii. site grading; or,
- iv. the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

**Living City Policies for Planning and Development in the Watersheds of the TRCA:**

The Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. The LCP describes a "Natural System" of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. TRCA policies generally require that natural features within the "Natural System" be protected from development, site alteration and infrastructure. Notwithstanding

additional setbacks prescribed by federal, provincial or municipal requirements, TRCA defines the limit of the “Natural System” as the greater of, but not limited to the following:

- Valley and Stream Corridors: 10 metre buffer from the greater of the long-term stable top of slope (LTSTOS), top of slope (TOS), Regulatory Floodplain, meander belt and any contiguous natural features or areas;
- Woodlands: 10 metre buffer from the dripline and any contiguous natural features or areas;
- Wetlands: 30 metre buffer from Provincially Significant Wetlands (PSWs) and wetlands on the Oak Ridges Moraine, and a 10 metre buffer from all other wetlands and any contiguous natural features or areas.

#### **Application Specific Comments**

1. TRCA staff has no objections to the subject application to increase the proposed height of the building at this time. Please note that based on current technical information, the Regulatory Floodplain elevation in this area is now 174.24 metres above sea level. As such, the TRCA permit issued for the proposed dwelling (C-180866) on September 25, 2018 will not be subject to a Permit revision or re-issuance. However, as the property is partially within TRCA's Regulated Area, future proposed development would be subject to TRCA review.

#### **Application Review Fee**

As per TRCA's role as a commenting agency for Planning Act applications circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services.

This application is subject to a \$580 review fee (2018 TRCA Planning Fees Schedule – Variance – Residential – Minor). The applicant is responsible for fee payment and should forward the fee to our head office within 60 days of the issuance of this letter.

#### **Recommendation**

Based on the information submitted to date, we have no fundamental objections to the minor variance application of A/154/19 to allow the specified building height. As a condition of approval, the applicant is required to provide the above-noted outstanding fee payment to the Conservation Authority.

I trust these comments are of assistance. Should you have any questions, please do not hesitate to contact me at the undersigned.

Sincerely,



Andrea Lam  
Planner I  
Development Planning and Permits  
Extension 5306

AL/lb