

Memorandum to the City of Markham Committee of Adjustment

November 14, 2022

File: A/169/22
Address: 9 Marie Court, Markham
Applicant: Mehrdad Bakhtiari
Agent: Nafiss Design Inc. (Nafiseh Zangiabadi)
Hearing Date: Wednesday, November 23, 2022

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

The applicant is requesting relief from the following requirements of the “Third Density Single Family Residential (R3) Zone” of By-law 2237, as amended, to permit:

a) **Section 6.1:**

A minimum north side yard setback of 1.23 m (4.0 ft) whereas the By-law requires a minimum side yard setback of 1.80 m (5.9 ft).

BACKGROUND

Property Description

The 699.04 m² (7,524.4 ft²) subject property is located on the east side of Marie Court, south of John Street 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.

There is an existing single detached dwelling on the property, which according to assessment records was constructed in 1969. Mature vegetation exists on the property including one large mature tree in the front yard.

It is partially within TRCA’s Regulated Area as the front lot line abuts the TRCA Floodline. The property is also located within the 60m buffer of the Thornhill Heritage Conservation District boundary. On November 9, 2022, Heritage Markham Committee endorsed the staff recommendation that Heritage Markham have no comment from a heritage perspective on the Minor Variance application for 9 Marie Court.

Proposal

The applicant is proposing to construct an 81.3 m² (874.64 ft²) second storey addition above the existing garage. The proposal also includes an extension to the existing front porch.

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 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 “Third Density Single Family Residential (R3) Zone” under By-law 2237, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the minimum side yard setback requirement 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 complies with the infill By-law requirements.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on August 29, 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.

Reduced Side Yard Setback Variance

The applicant is requesting a minimum north side yard setback of 1.23 m (4.0 ft.) whereas a minimum side yard setback of 1.8 m (5.9 ft.) is required.

The requested variance only applies to the second-storey portion of the dwelling. The main floor complies with the minimum side yard setback requirements and will remain unchanged. The requested variance maintains the general intent of the Zoning By-law and Official Plan, is considered to be minor in nature, and is an appropriately sized addition to the dwelling. Furthermore, the proposed reduction to the minimum side yard setbacks to the second storey of the dwelling is consistent with those found in the surrounding neighbourhood.

As such, Staff are of the opinion that the requested variance is minor in nature and will not result in adverse impacts to neighbouring properties.

Heritage Markham Committee

On November 9, 2022, Heritage Markham Committee endorsed the staff recommendation that Heritage Markham have no comment from a heritage perspective on the Minor Variance application for 9 Marie Court.

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 neighbouring properties near the proposed construction. It is recommended that the Applicant contact kdowell@markham.ca prior to construction to verify tree preservation requirements.

EXTERNAL AGENCIES

TRCA Comments

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. The subject property is adjacent to, and partially within, a Regional Storm flood plain to the west.

TRCA provided comments on November 1, 2022 (Appendix B), indicating that after further review, the proposed development is sufficiently setback from the Regional Storm flood plain hazard. Consequently, TRCA staff have no concerns subject to the applicant obtaining a permit with the TRCA and satisfying conditions outlined in their above noted letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 14, 2022. 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" – TRCA Comment Letter

Appendix "C" – Plans

PREPARED BY:

A handwritten signature in black ink, appearing to be 'JK' with a large loop and a trailing flourish.

Jennifer Kim, Senior Planner, West District

REVIEWED BY:

A handwritten signature in black ink, appearing to be 'Rick Cefaratti' in a cursive style.


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

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/169/22

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 plan(s) attached as 'Appendix C' to this Staff Report and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
3. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter and correspondence attached as Appendix B to this Staff Report, to the satisfaction of the TRCA and that the Secretary-Treasurer receive written confirmation that the applicant has obtained a permit from the TRCA prior to the issuance of a Building Permit.
4. That the Secretary-Treasurer receive written confirmation that Heritage Markham Committee supports the requested variance, or has no comments.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by the Tree Preservation Technician, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.

CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to be 'JK' or similar, with a large loop at the start.

Jennifer Kim, Senior Planner, West District

APPENDIX “B”
TRCA COMMENT LETTER

Appendix B

File: 22.258197.000.00.MNV

Date: 11/16/22
MM/DD/YY

From: Joshua Lacaria
To: Kim, Jennifer
Subject: A/169/22 - CFN 66440.16 - 9 Marie Court, Markham
Date: November 1, 2022 11:37:51 AM
Attachments: image001.png

Dear Jennifer,

Thank you for the opportunity to review the Minor Variance application received by Toronto and Region Conservation Authority (TRCA) on September 29, 2022. The purpose of this letter is to provide our comments for A/169/22 at 9 Marie Court in the City of Markham.

Understanding of the Proposal:

It is our understanding that the applicant is requesting a Minor Variance from the provisions of By-law 2237, as amended, to permit:

- i. A minimum north side yard setback of 1.23 metres, whereas the By-law requires a minimum side yard setback of 1.80 metres.

The noted variances are being requested to permit the construction of a second storey addition above the garage and an addition to the front porch.

Policies and Regulations:

TRCA Regulation and Policy:

The subject property is located within a TRCA Regulated Area under Ontario Regulation 166/06 as it is adjacent to and partially contains a Regional Storm flood plain to the west of the subject property. In accordance with Ontario Regulation 166/06, as amended, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- 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.

Application Specific Comments

As stated above, the subject property is adjacent to and partially within a Regional Storm flood plain to the west of the subject property. The Regional Storm flood plain elevation is approximately 170.42 masl. Based on a review of TRCA's screening map, Lidar data, provincial technical guidelines, and the proposed location of the development (second floor addition and addition to the front porch), it appears the existing dwelling and proposed development are outside of the Regional Storm flood plain. In addition, it appears the proposed development is sufficiently setback from the Regional Storm flood plain hazard. A permit from TRCA will be required for the proposed development as it is within our Regulated Area associated with the Regional Storm flood plain. Accordingly, TRCA has **no concerns** with the proposed variance. The applicant is advised that further details related to grading and erosion and sediment control measures will be required prior to the issuance of a permit from TRCA.

If additional approvals beyond this Minor Variance is required for this property, please circulate the details to TRCA for review.

Application Review Fee

As per TRCA's role as a commenting agency for *Planning Act* application 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. The submitted application is subject to a review fee in the amount of \$875 (2021 TRCA Planning Fee Schedule – Minor Variance Residential - Standard). This fee can be submitted via Checkfront Online Payment System. I have not copied the Agent/Owner to provide the City of Markham the opportunity to review. Please forward this letter to the Agent/Owner upon completion of review.

Recommendation

In light of the above, TRCA staff have **no objection** to the approval of the Minor Variance Application A/169/22 subject to the following condition:

1. That the outstanding review fee in the amount of \$875 (2021 Planning Fee Schedule – Minor Variance Residential - Standard) be remitted to TRCA.
2. That the applicant obtains a permit from the TRCA under Ontario Regulation 166/06, as amended, for the proposed works.

Note: As part of the Permit application, TRCA will require the below items submitted to our office by email:

- Complete Permit Application Form [link](#)
- Legal Survey
- Site Plan demonstrating the location and dimension of the proposed works. Please include the Regional Storm Flood elevation and required setback in the Site Plan.
- Architectural Drawings (elevation drawings shall demonstrate all new openings elevated above the Regional Storm flood plain elevation + flood proofing freeboard of 0.3 metres = **170.72 masl**)
- Grading Plan (grading in the front of the property shall be minimized to avoid on-site and off-site impacts)
- Erosion and Sediment Control Plan (ESC) measures along the limit of disturbance and tree protection measures for the trees on the west and east side of the proposed development. Please refer to the "*Erosion and Sediment Control Design and Submission Requirements*", available at: https://s3-ca-central-1.amazonaws.com/trcaca/app/uploads/2020/01/30/145157/ESC-Guide-for-Urban-Construction_FINAL.pdf.
- Landscape plan if any planting is proposed as part of the current development. If any planting is proposed, please ensure they are native non-invasive to TRCA's jurisdiction.
- TRCA Permit Review fee will be determined once the complete permit application, including the above-noted materials, is received.

I trust these comments are of assistance. Should you have further questions do not hesitate to contact me.

Regards,

Joshua Lacaria, MES (PI)

Planner I - York East Review Area

Development Planning and Permits | Development and Engineering Services

Toronto and Region Conservation Authority (TRCA)

T: [\(437\) 880 2347](tel:437-880-2347)

E: joshua.lacaria@trca.ca

A: [101 Exchange Avenue, Vaughan, ON, L4K 5R6](#) | trca.ca



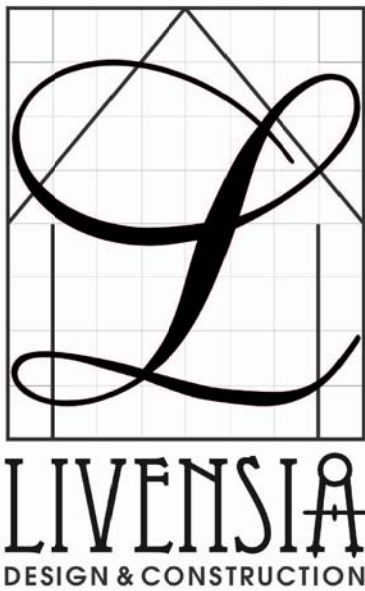
APPENDIX “C”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/169/22

Appendix C

File: 22.258197.000.00.MNV

Date: 11/16/22 MM/DD/YYYY



THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A REGISTERED PROFESSIONAL ENGINEER OR ARCHITECT.

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NAME AND BCIN: NAFISS DESIGN INC 44961

E-MAIL: info@livensia.com Cell Number: (647) 637 3010
Address: 30 Apple Orchard Path, Thornhill, Ontario, L3T 3B6

STRUCTURAL DESIGN

ISSUED FOR:

PERMIT SUBMISSION 2022, JUN. 6th

PAPER SIZE 18X24

DATE 2022, JUNE 6th

PROJECT ADDRESS:
**9 MARIE COURT
MARKHAM
ONTARIO, CANADA**

TITLE
SITE PLAN

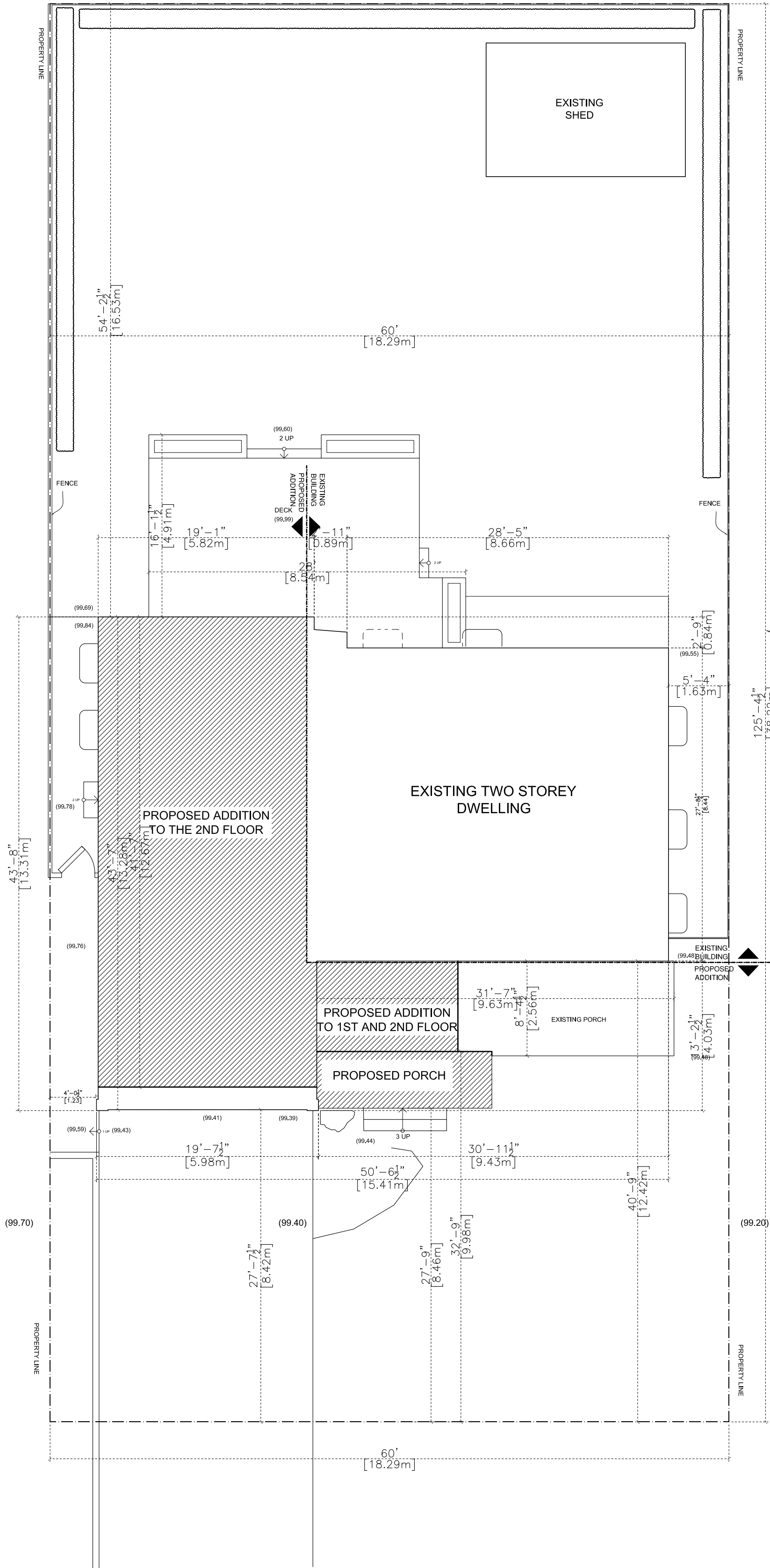
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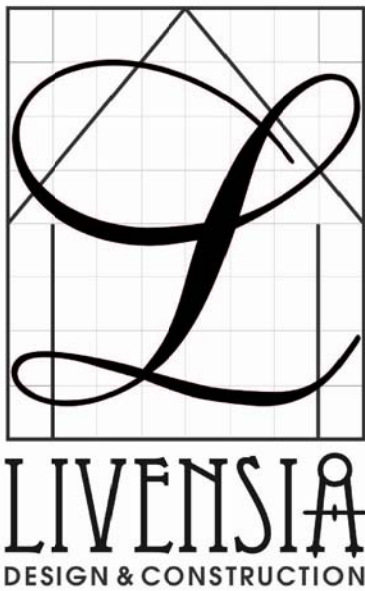
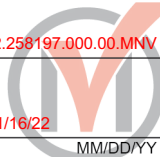
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Appendix C

File: 22.258197.000.00.MW

Date: 11/16/22



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DATE 2022, JUNE 6th

PROJECT ADDRESS:

9 MARIE COURT
MARKHAM
ONTARIO, CANADA

TITLE

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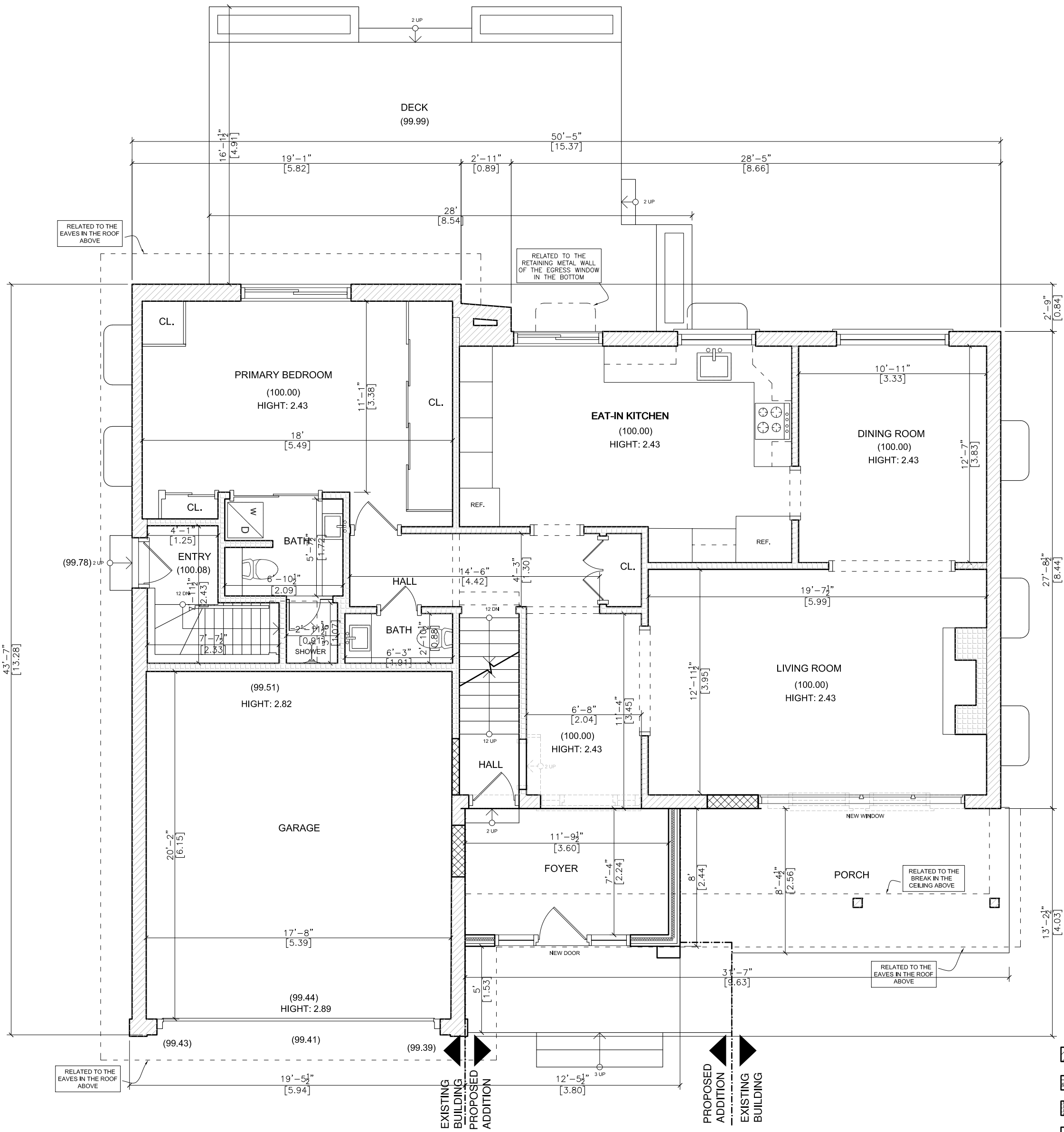
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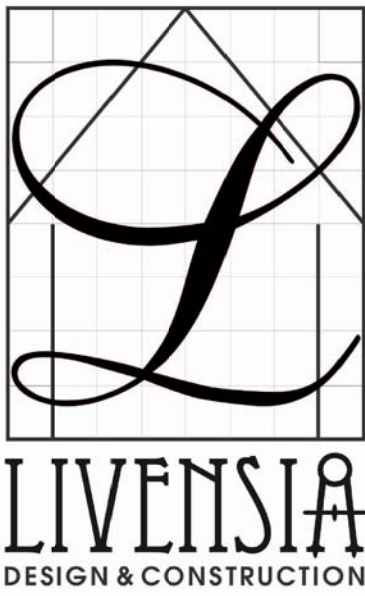
PROPOSED FIRST FLOOR PLAN

Appendix C

File: 22.258197.000.00.MNV

Date: 11/16/22

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DATE 2022, JUNE 6th

PROJECT ADDRESS:

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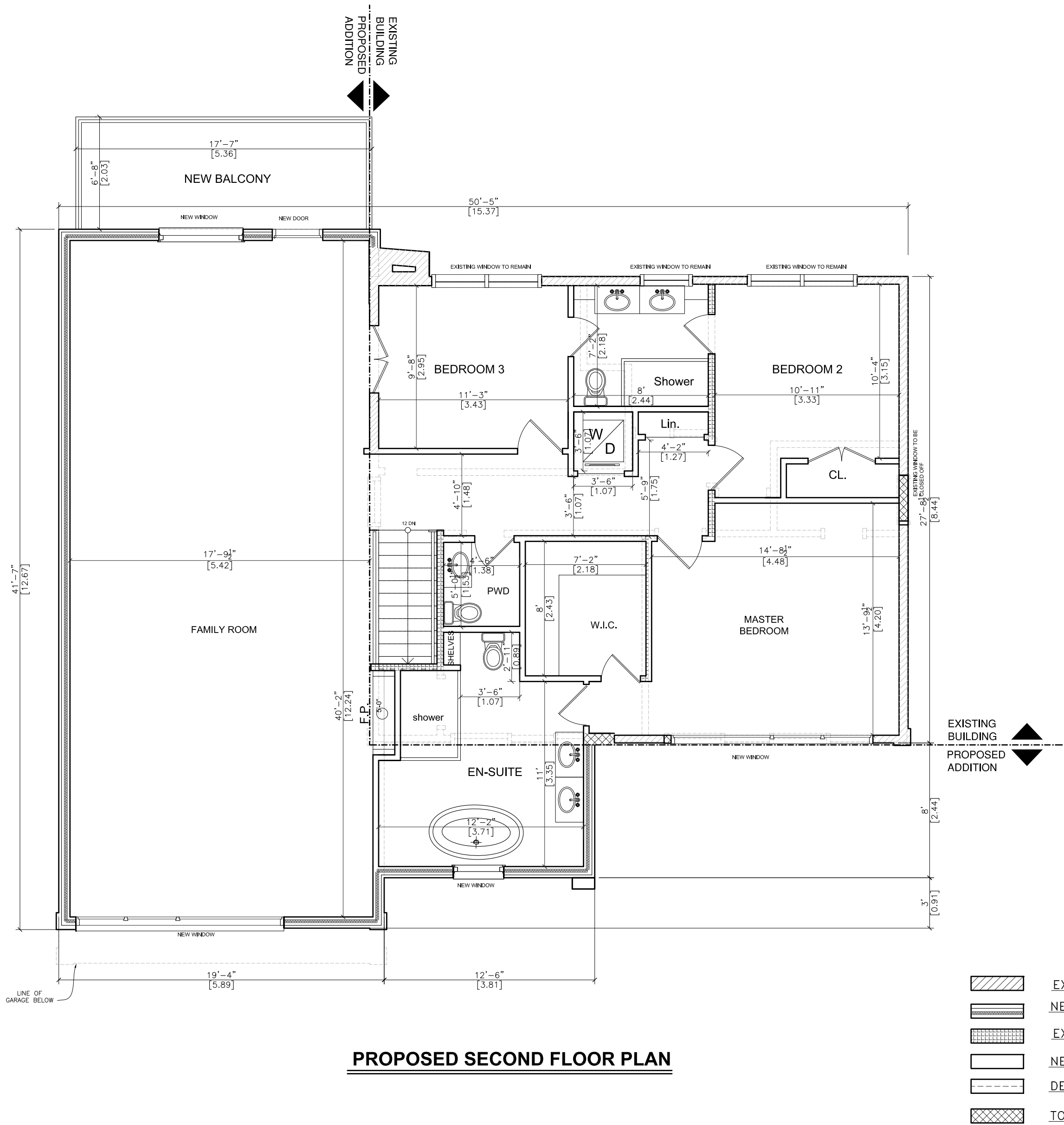
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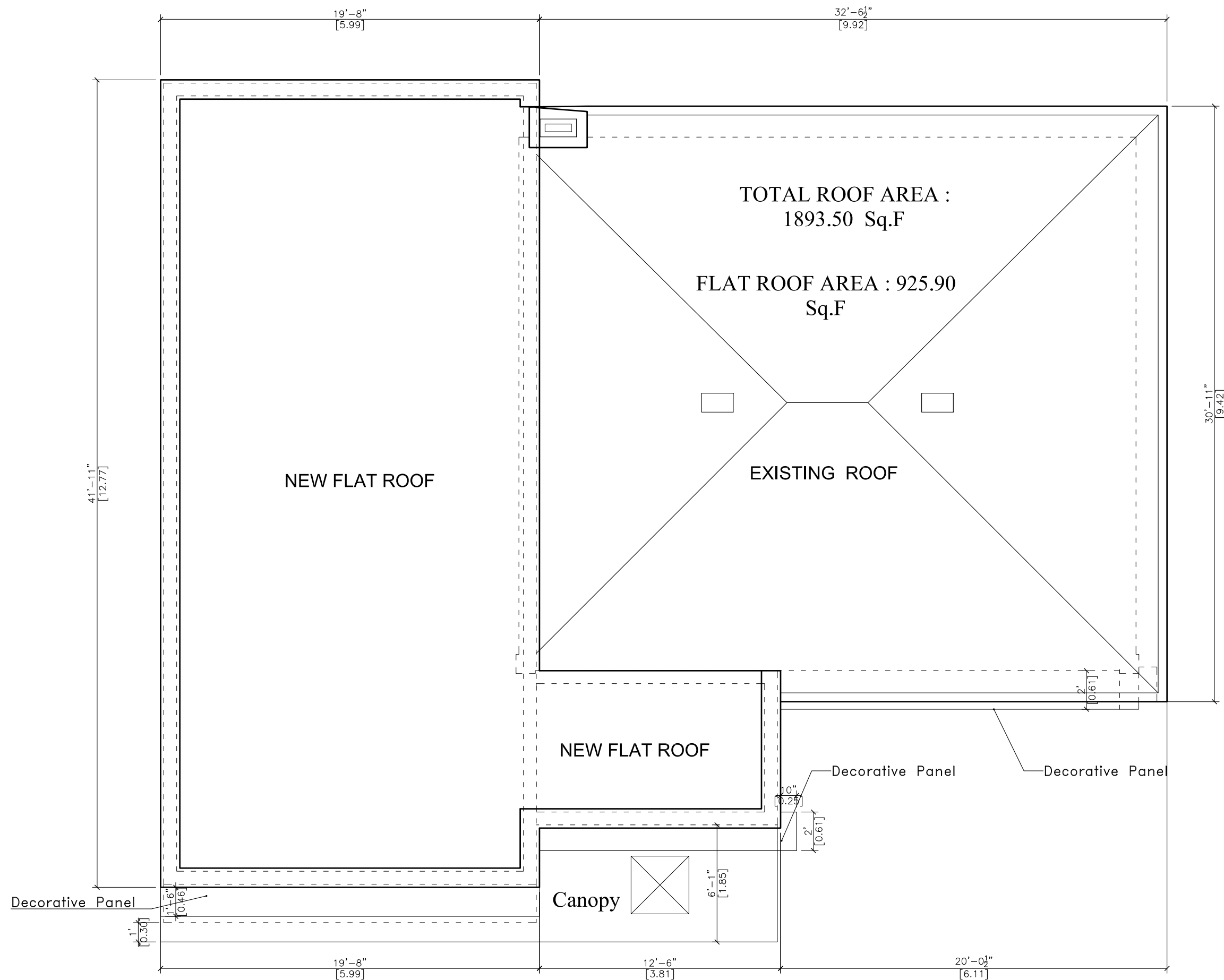
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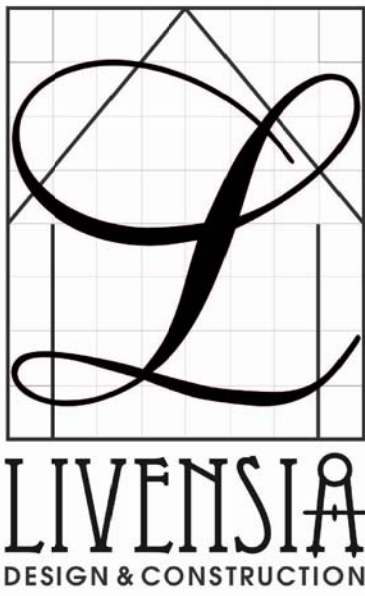
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PROPOSED SECOND FLOOR PLAN



PROPOSED ROOF PLAN



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NAME AND BCIN:
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E-MAIL: info@livensia.com Cell Number: (647) 637 3010
Address: 30 Apple Orchard Path, Thornhill, Ontario, L3T 3B6

STRUCTURAL DESIGN

ISSUED FOR:

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PAPER SIZE 18X24

DATE 2022, JUNE 6th

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

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Appendix C

File: 22.258197.000.00.MNV

Date: 11/16/22 MM/DD/YYYY



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TITLE
PROPOSED MAIN ELEVATION

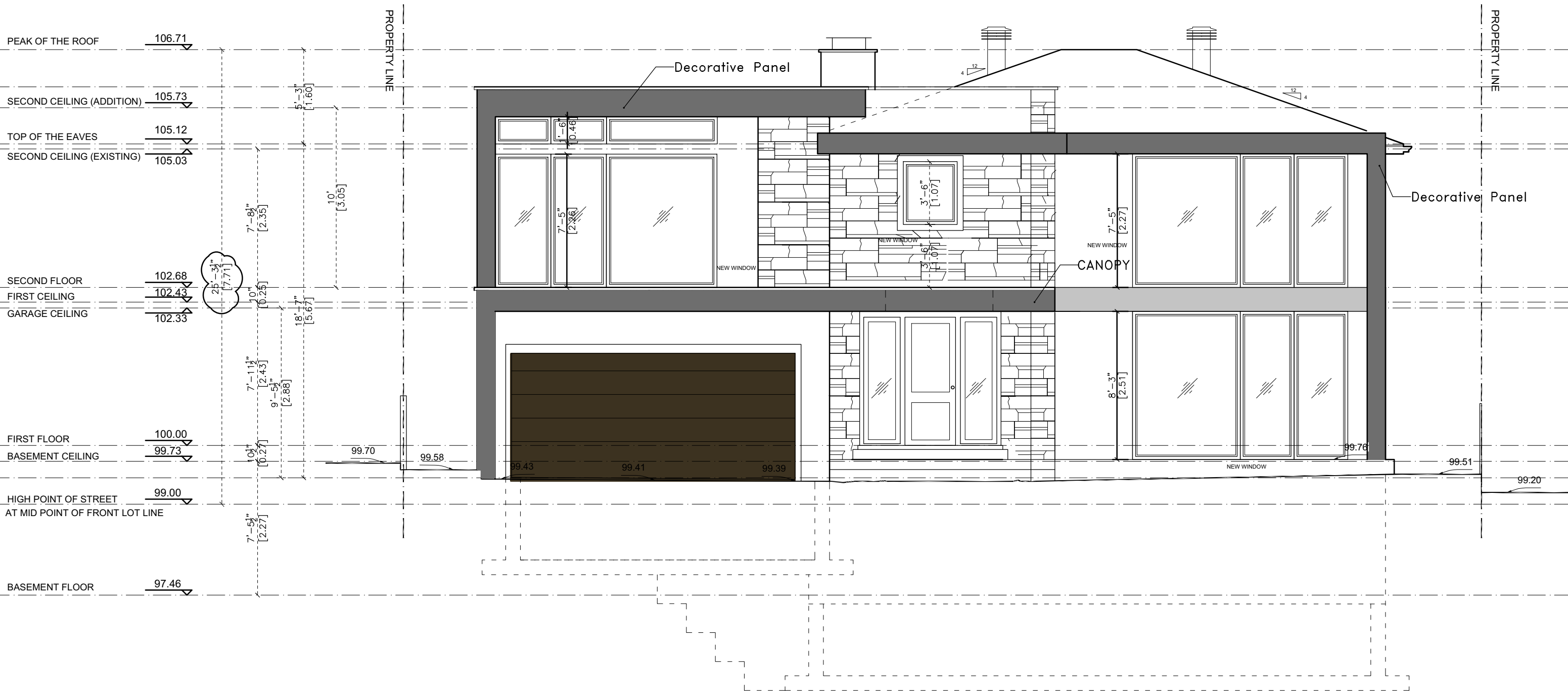
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DRAWING:

A13



PROPOSED MAIN ELEVATION

Appendix C

File: 22.258197.000.00.MKV

Date: 11/16/22

MM/DD/YY

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MARKHAM
ONTARIO, CANADA**

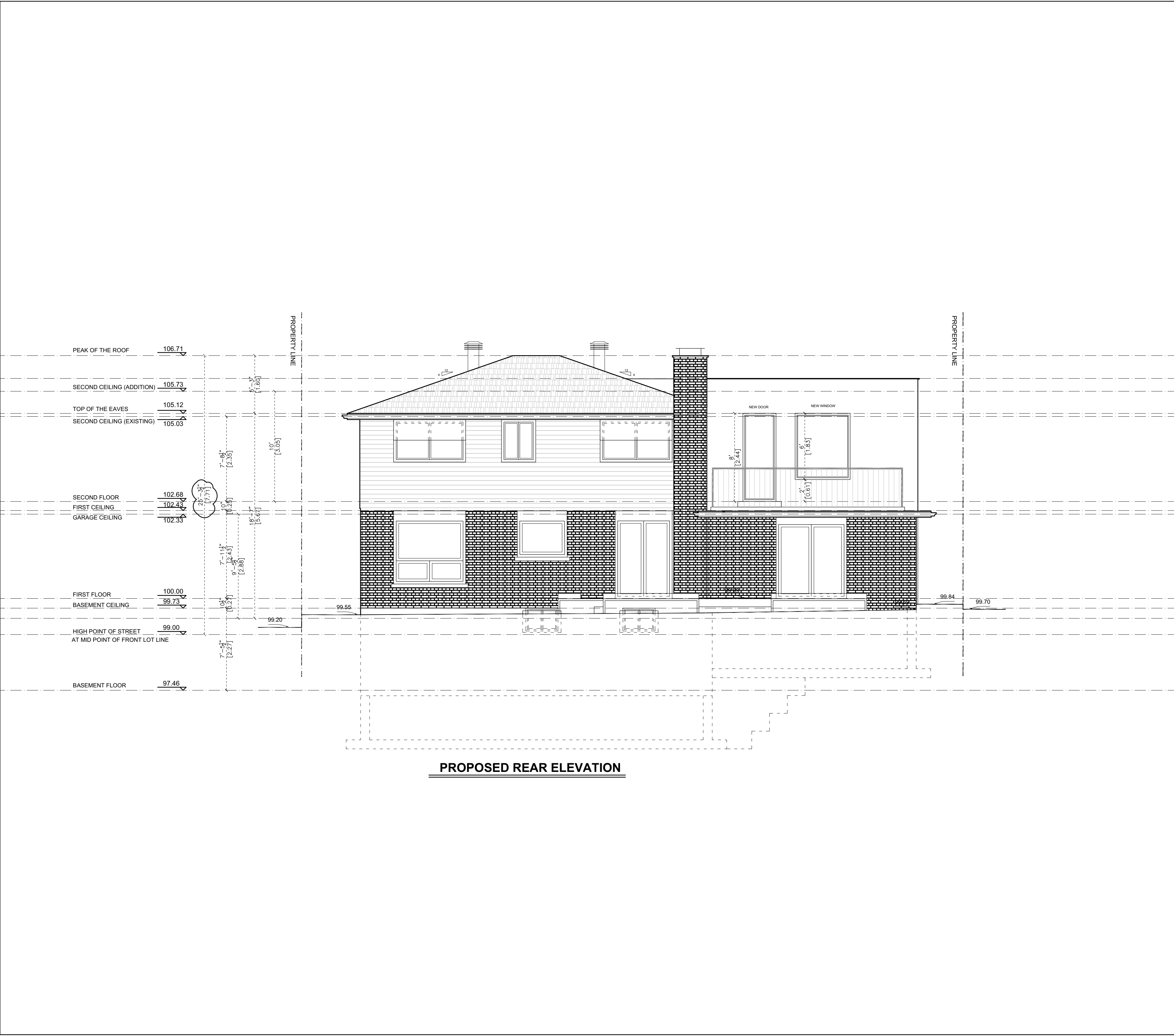
TITLE
PROPOSED REAR ELEVATION

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

GENERAL NOTES:
1. THESE DRAWINGS ARE THE COPYRIGHT PROPERTY OF NAFISS DESIGN INC AND MAY NOT BE REPRODUCED WITHOUT WRITTEN PERMISSION.
2. THESE DRAWINGS ARE FOR PERMIT APPLICATION PURPOSE. CONTRACTOR MUST CHECK ALL APPLICABLE BY-LAWS AND OBC. ANY DISCREPANCY MUST BE REPORTED TO THE DESIGNER.
3. DO NOT SCALE DRAWINGS.
4. ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.
5. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
6. USE ONLY LATEST REVISED DRAWINGS.
7. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB SITE AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO DESIGN FIRM PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.

DRAWING:

A14

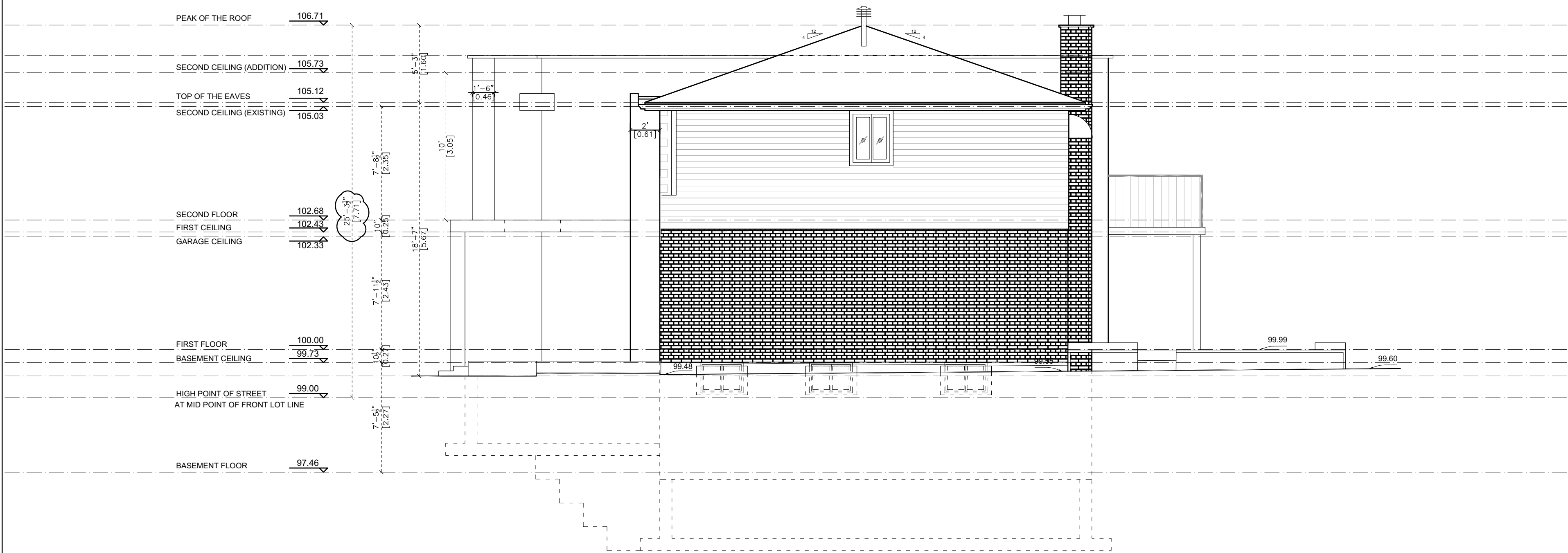


Appendix C

File: 22.258197.000.00.MNV

Date: 11/16/22

MM/DD/YYYY



PROPOSED SIDE ELEVATION

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND WAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.
REGISTRATION INFORMATION:
REQUIRED UNLESS DESIGN IS EXEMPT UNDER DIVISION C - 3.2.4.1. OF THE 2006 O.B.C. (OR 2.17.5.1. OF THE 1997 O.B.C.)

NAME AND BCIN:
NAFISEH ZANGIABADI 43395

REGISTRATION INFORMATION REQUIRED UNLESS DESIGN IS EXEMPT UNDER DIVISION C-3.2.4.1. OF THE 2006 O.B.C. (OR 2.17.5.1. OF THE 1997 O.B.C.)

NAME AND BCIN:
NAFISS DESIGN INC 44961

E-MAIL: info@livensia.com Cell Number: (647) 637 3010
Address: 30 Apple Orchard Path, Thornhill, Ontario, L3T 3B6

STRUCTURAL DESIGN

ISSUED FOR:

PERMIT SUBMISSION 2022, JUN. 6th

PAPER SIZE 18X24

DATE 2022, JUNE 6th

PROJECT ADDRESS:
**9 MARIE COURT
MARKHAM
ONTARIO, CANADA**

TITLE
PROPOSED SIDE ELEVATION

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

GENERAL NOTES:

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DRAWING:

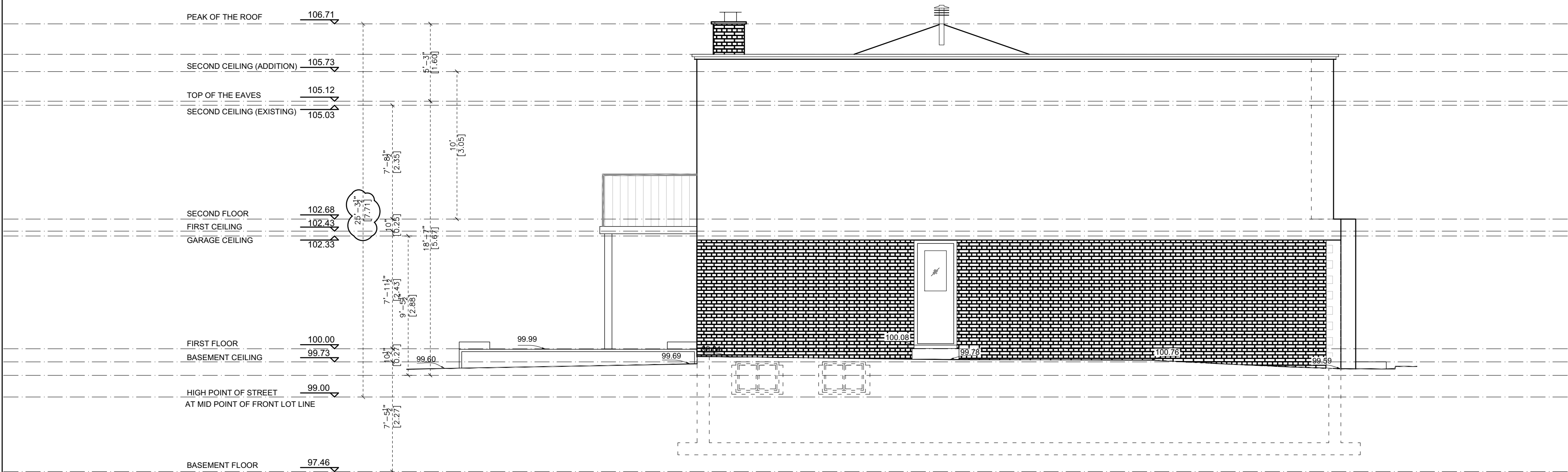
A15

Appendix C

File: 22.258197.000.00.MNV

Date: 11/16/22

MM/DD/YYYY



PROPOSED SIDE ELEVATION

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND WAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGN PROFESSIONAL INFORMATION REQUIRED UNLESS DESIGN IS EXEMPT UNDER DIVISION C - 3.2.4.1. OF THE 2006 O.B.C. (OR 2.17.5.1. OF THE 1997 O.B.C.)

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STRUCTURAL DESIGN

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PAPER SIZE 18X24

DATE 2022, JUNE 6th

PROJECT ADDRESS: 9 MARIE COURT MARKHAM ONTARIO, CANADA

TITLE PROPOSED SIDE ELEVATION

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

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DRAWING: A16