

# DECISION AND ORDER

**Decision Issue Date** Monday, September 17, 2018

PROCEEDING COMMENCED UNDER section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): BARNET KUSSNER

Applicant: HOMELAND

Property Address/Description: 19 TALWOOD DR

Committee of Adjustment Case File Number: 18 101584 NNY 25 MV

TLAB Case File Number: **18 141303 S45 25 TLAB**

**Hearing date:** Thursday, September 13, 2018

**DECISION DELIVERED BY L. MCPHERSON**

## APPEARANCES

Name	Role
Amber Stewart	Applicant's Legal Rep
Tonu Naelapea	Appellant
S. Rouleau	Appellant's Legal Rep (All Appellant's)
Franco Romano	Expert Witness (Applicant)

## INTRODUCTION

On March 21, 2018, the Committee approved certain minor variances to permit the construction of a new two-storey single detached dwelling with integral garage at 19 Talwood Drive (the site). The decision was appealed by a number of neighbours. The TLAB was advised at the hearing that a Settlement had been reached and the Parties appeared in support of the Settlement.

## **BACKGROUND**

At the March 21, 2018 Committee hearing, the applicant made certain changes to the variances to reflect concerns that had been raised by the neighbours; however, there were no updated plans available at the hearing for the resident's to ensure that their concerns had been addressed which generally had to do with the size of the garage, and the size and projection of certain patios and decks. As a result, they appealed the Committee's approval. Since that time, revised drawings have been prepared to reflect the variances approved by the Committee. The only change from the Committee decision is the imposition of a condition to required the building to be substantially in accordance with the revised plans (Exhibit 1- Revised Plans). The proposed variances are as follows:

1. **Chapter 10.20.40.20. (1), By-Law 569-2013**  
The permitted maximum building length is 17.0m.  
The proposed building length including the rear one-storey extension is 25.88m.
2. **Chapter 10.20.40.30. (1), By-Law 569-2013**  
The permitted maximum building depth is 19.0m.  
The proposed building depth including the rear one-storey extension is 20.98m.
3. **Chapter 10.5.40.60. (3)(a)(ii), By-Law 569-2013**  
Exterior stairs providing pedestrian access to a building may encroach into a required building setback if the stairs are no wider than 2.0m.  
The proposed stairs at the front are 6.10m wide.
4. **Chapter 10.20.40.50. (1)(a), By-Law 569-2013**  
The permitted maximum number of platforms at or above the second storey located on the (front/rear) wall of a detached house is 1.  
The proposed number of platforms located on the rear wall is 2.
5. **Chapter 10.20.40.50. (1)(b), By-Law 569-2013**  
The permitted maximum area of each platform at or above the second storey of a detached house is 4.0m<sup>2</sup>.  
The proposed area of the front platform at or above the second storey is 5.85m<sup>2</sup>
6. **Section 13.2.5A, By-Law 7625**  
The maximum permitted building length is 16.8m.  
The proposed building length including the rear one-storey extension is 23.45m.
7. **Section 13.2.6A, By-Law 7625**  
The maximum permitted balcony area is 3.8m<sup>2</sup> and one balcony is permitted on each wall of the dwelling.  
The proposed front balcony area is 5.85m<sup>2</sup> and there are two balconies proposed along the rear wall of the dwelling.
8. **Section 6(24)(a), By-Law 7625**  
Unexcavated porches and decks shall not exceed 5% of the lot area or 56m<sup>2</sup>,

whichever is less.

The proposed rear decks area 89.93m<sup>2</sup>.

**9. Section 6(24), By-Law 7625**

Decks which are greater than 1m in height above all points of the adjacent ground are limited to projecting 2.1m from the wall and area not to be greater than 50% of the width of the building at the building's widest point.

The proposed deck projects 4.27m from the rear wall and is 57.72% of the width of the building.

## **MATTERS IN ISSUE**

The matter at issue is whether the proposed variances meet the applicable tests.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Minor Variance – S. 45(1)**

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

## **EVIDENCE**

Mr. Franco Romano provided expert planning opinion evidence on behalf of the Applicant in support of the variances (Exhibit 2- Witness Statement and Attachments). The site is located in the Don Mills community. The lot is an irregular shape with its frontage on the curvature of Talwood Drive. The dwelling has been sited to have a good alignment with adjacent dwellings. The third garage has been eliminated and replaced with a window. The building depth and length variances related to irregular shape of the lot and how the rear yard is determined. The actual building length is 16.8 m extending to 19.4 m for a single storey bump out in the rear. The condition requiring the building

to be constructed substantially in accordance with the site plan will ensure that the neighbours concerns are addressed.

Mr. Romano advised that the neighbourhood is undergoing regeneration in the form of new construction with newer buildings generally having larger footprints than the dwellings they replace. In his opinion, the proposal is in keeping with the regeneration that is occurring.

In his opinion, the Settlement represents good planning and satisfies all of the 4 tests, is consistent with the PPS and conforms to the Growth Plan. The site is within a Neighbourhood designation and the proposal respects and reinforces the physical character of the neighbourhood with no undue adverse impacts. The purpose of the zoning by-law is to ensure orderly and compatible site development. Some of the variances relate to the irregular shape of the lot. The platforms/patios have been designed to be subordinate to the main dwelling and do not have any unacceptable adverse impacts. In his opinion, the proposal represents an appropriate and desirable regeneration of the site.

Mr. Romano recommended that the proposed variances be authorized subject to the condition described above.

## **ANALYSIS, FINDINGS, REASONS**

The TLAB is satisfied that the variances as approved by the Committee, together with the proposed condition, meet the criteria set out in Section 45(1) of the Planning Act.

The proposed dwelling maintains the single detached dwelling character of the neighbourhood. The depth and length variances are generally a result of the location of the lot on the street and the resulting shape. Any potential impacts have been addressed through the site plan and elevations which will be included as a condition of approval.

The general purpose and intent of the Official Plan and Zoning By-laws is maintained. The proposal results in an appropriate and desirable development for the subject property and the variances are considered minor in the context. The TLAB is satisfied that the variances are consistent with the Provincial Policy Statement and conform to the Growth Plan.

## **DECISION AND ORDER**

The appeal is allowed, in part. The variances as approved by the Committee and the condition as set out in Attachment 1 to this decision are approved.

**X** 

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Laurie McPherson  
Panel Chair, Toronto Local Appeal Body

## **19 Talwood Drive – List of Variances and Conditions**

**1. Chapter 10.20.40.20.(1), By-Law 569-2013**

The permitted maximum building length is 17.0m.

The proposed building length including the rear one-storey extension is 25.88m.

**2. Chapter 10.20.40.30.(1), By-Law 569-2013**

The permitted maximum building depth is 19.0m.

The proposed building depth including the rear one-storey extension is 20.98m.

**3. Chapter 10.5.40.60.(3)(a)(ii), By-Law 569-2013**

Exterior stairs providing pedestrian access to a building may encroach into a required building setback if the stairs are no wider than 2.0m.

The proposed stairs at the front are 6.10m wide.

**4. Chapter 10.20.40.50.(1)(a), By-Law 569-2013**

The permitted maximum number of platforms at or above the second storey located on the (front/rear) wall of a detached house is 1.

The proposed number of platforms located on the rear wall is 2.

**5. Chapter 10.20.40.50.(1)(b), By-Law 569-2013**

The permitted maximum area of each platform at or above the second storey of a detached house is 4.0m<sup>2</sup>.

The proposed area of the front platform at or above the second storey is 5.85m<sup>2</sup>

**6. Section 13.2.5A, By-Law 7625**

The maximum permitted building length is 16.8m.

The proposed building length including the rear one-storey extension is 23.45m.

**7. Section 13.2.6A, By-Law 7625**

The maximum permitted balcony area is 3.8m<sup>2</sup> and one balcony is permitted on each wall of the dwelling.

The proposed front balcony area is 5.85m<sup>2</sup> and there are two balconies proposed along the rear wall of the dwelling.

**8. Section 6(24)(a), By-Law 7625**

Unexcavated porches and decks shall not exceed 5% of the lot area or 56m<sup>2</sup>, whichever is less.

The proposed rear decks area 89.93m<sup>2</sup>.

**9. Section 6(24), By-Law 7625**

Decks which are greater than 1m in height above all points of the adjacent ground are limited to projecting 2.1m from the wall and area not to be greater than 50% of the width of the building at the building's widest point.

The proposed deck projects 4.27m from the rear wall and is 57.72% of the width of the building.

## **Conditions of Approval**

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan and the Elevations dated September 11, 2018, prepared by Homeland Architects and filed as Exhibit 1.



NOTE:

THIS SET OF DRAWINGS IS THE PROPERTY OF "HOMELAND" AND ANY REPRODUCTION OR USE FOR OTHER PROJECTS, IN WHOLE OR IN PART, WITHOUT A WRITTEN CONSENT OF THE DESIGNER IS FORBIDDEN.

THE DESIGNER IS NOT RESPONSIBLE FOR THE ACCURACY OF SURVEY, MECHANICAL, ELECTRICAL, ETC. AND OTHER ENGINEERING INFORMATION SHOWN ON THE DRAWINGS. REFER TO THE APPROPRIATE ENGINEERING DRAWINGS BEFORE PROCEEDING WITH WORK.

CONTRACTOR SHALL CHECK ALL DIMENSIONS ON THE WORK AND REPORT ANY DISCREPANCIES TO THE DESIGNER BEFORE PROCEEDING. CONSTRUCTION MUST CONFORM TO ALL APPLICABLE CODES, REQUIREMENTS AND BY-LAWS OF AUTHORITIES HAVING JURISDICTION.

THESE DRAWINGS ARE NOT TO BE SCALED.

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Toronto Local Appeal Body

EXHIBIT #

Case File Number: 18 141303 S45 25  
Property Address: 19 Talwood Dr.  
Date Marked: September 13, 2018

RECEIVED

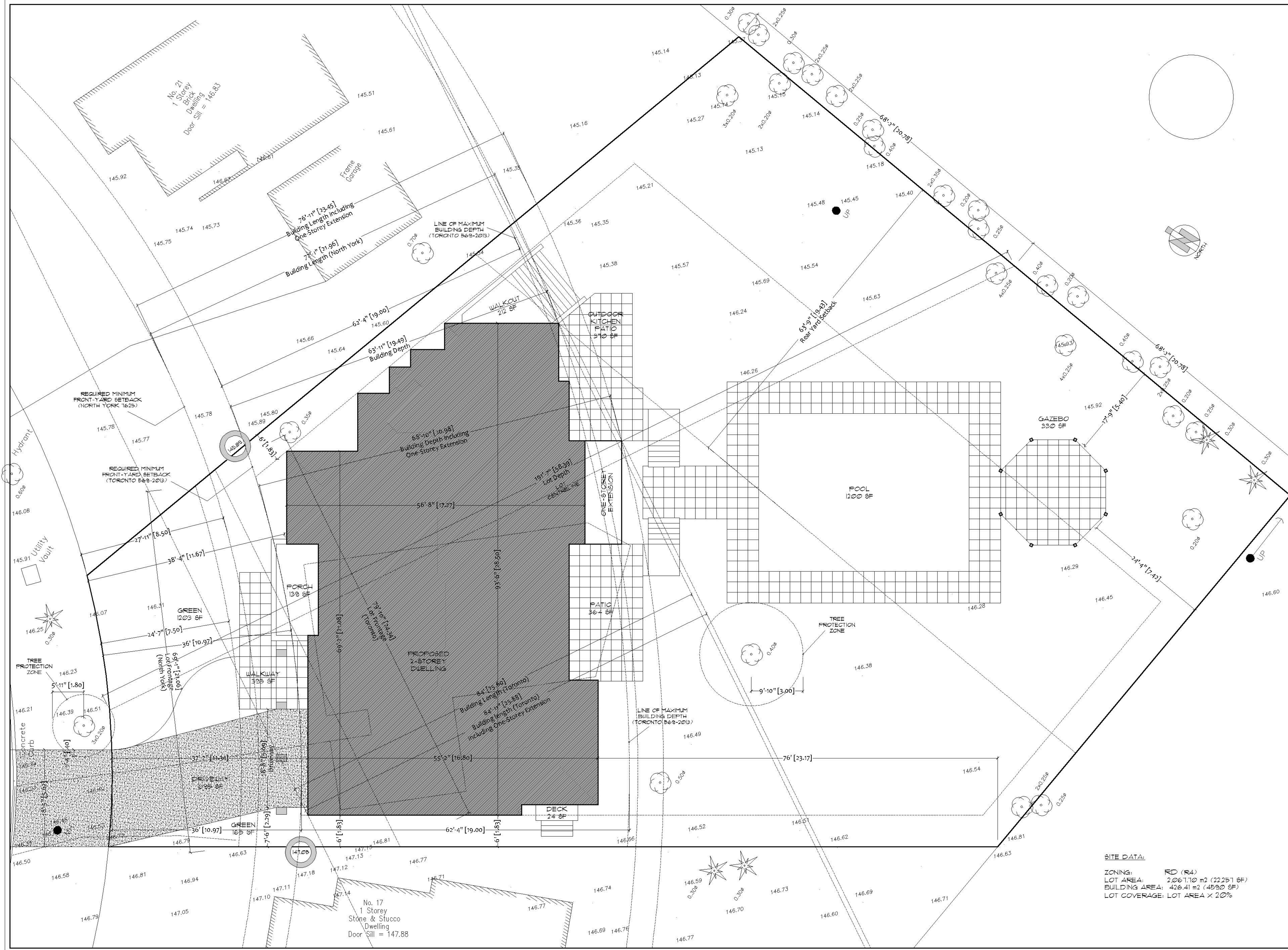
By Toronto Local Appeal Body at 8:59 am, Sep 13, 2018

PROPOSED 2-STOREY DWELLING TO  
19 TALWOOD DR.  
NORTH YORK, ON.  
M3B 2P4

LIST OF ARCHITECTURAL DRAWINGS	
00	COVER SHEET
01	SITE PLAN
02	BASEMENT PLAN
03	FIRST FLOOR PLAN
04	SECOND FLOOR PLAN
05	ROOF PLAN
06	FRONT ELEVATION
07	LEFT ELEVATION
08	REAR ELEVATION
09	RIGHT ELEVATION
10	WALL SECTION
11	GENERAL NOTES
12	N/A

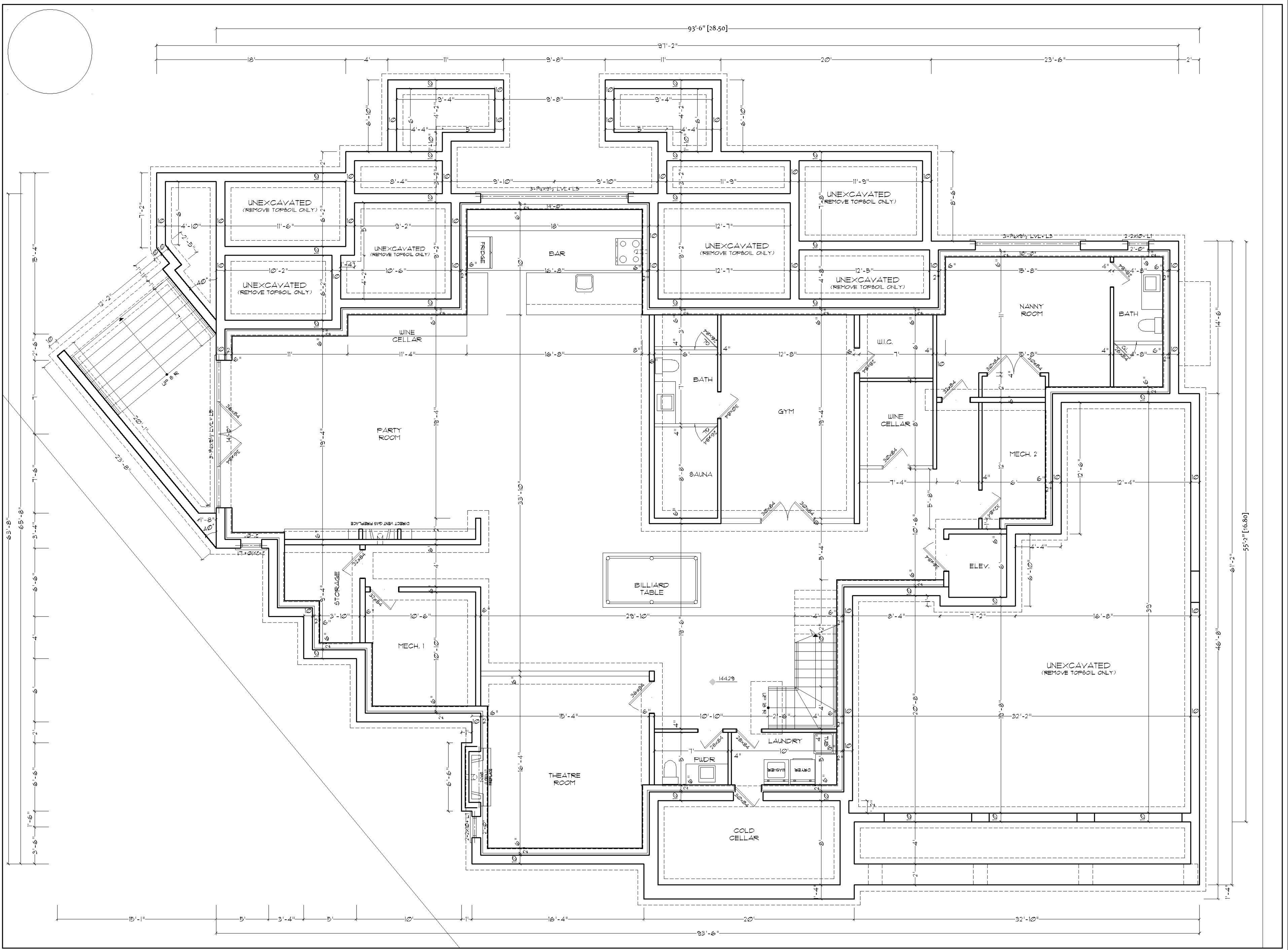
AREA SCHEDULE (TORONTO)		
FIRST FLOOR AREA	3629	
SECOND FLOOR AREA	4343	
TOTAL FLOOR AREA	7972	
FINISHED BASEMENT	3617	
GROSS FLOOR (DEFINITION)	11589	
FINISHED BASEMENT	- 3617	-
50% OF BASE (10540.40) 3A	- N/A	-
VOID AREA (10540.40) 3B	- 778	-
GROSS FLOOR (CALCULATION)	7194	
FORCH AREA	139	
BUILDING COVERAGE	3629	
GARAGE COVERAGE	961	
LOT COVERAGE	4590	
	S.F.	M <sup>2</sup>





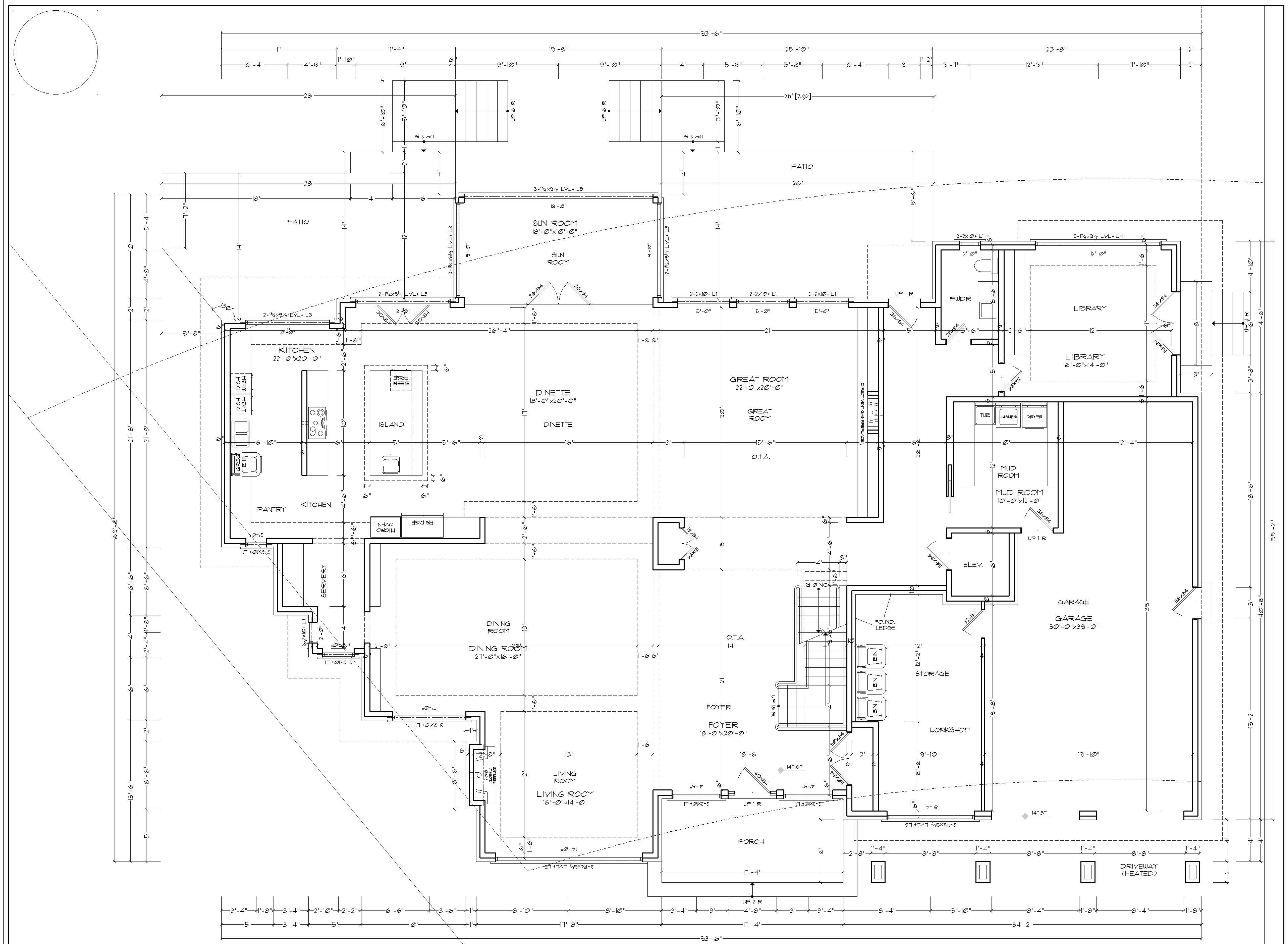
**SITE DATA:**  
ZONING: RD (R4)  
LOT AREA: 2067.10 m<sup>2</sup> (22251 SF)  
BUILDING AREA: 426.41 m<sup>2</sup> (4590 SF)  
LOT COVERAGE: LOT AREA X 20%



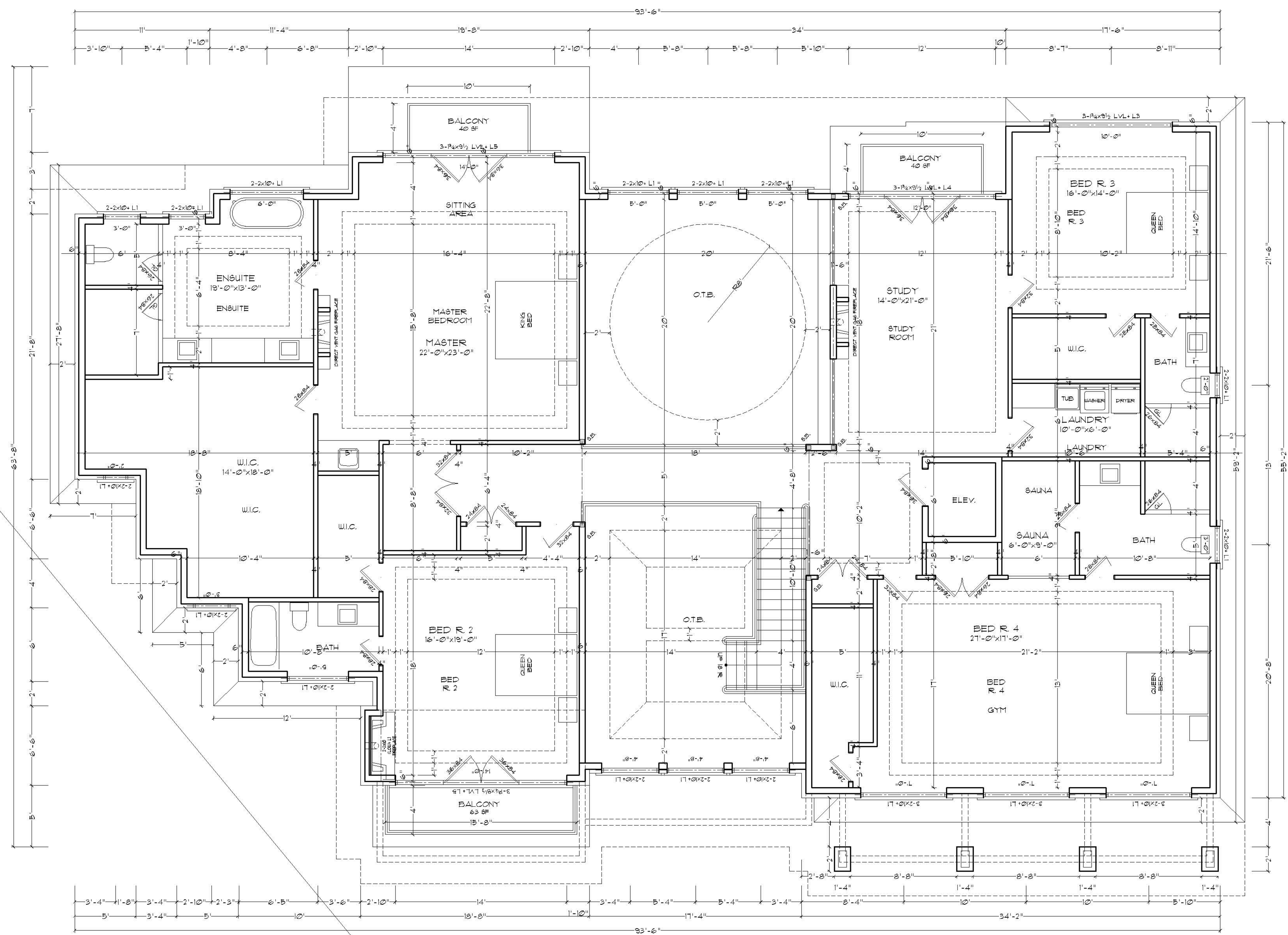
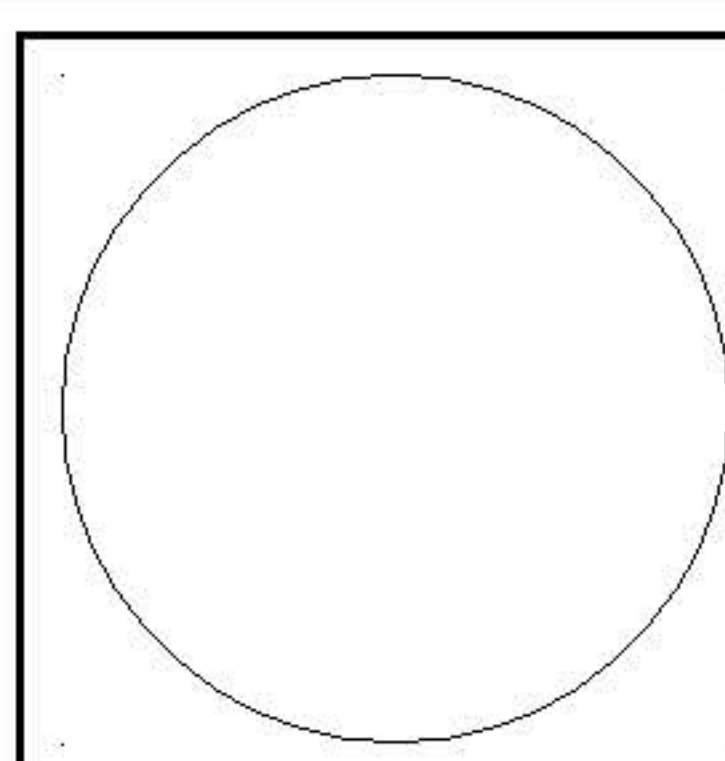


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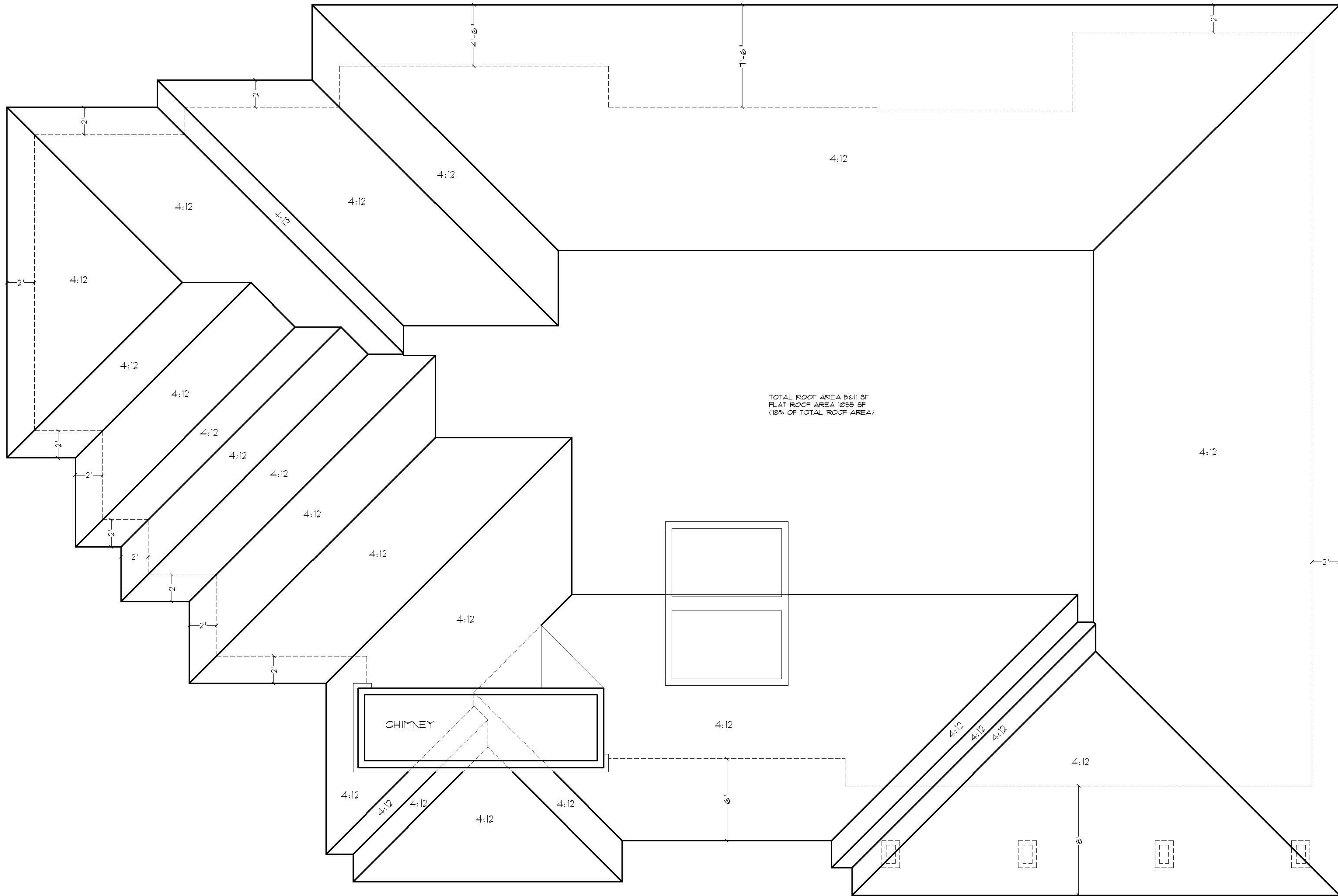
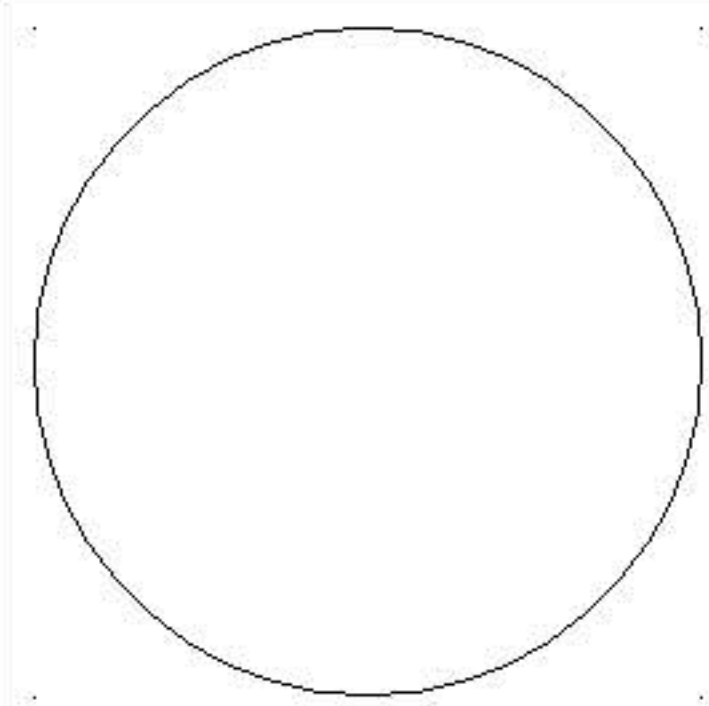






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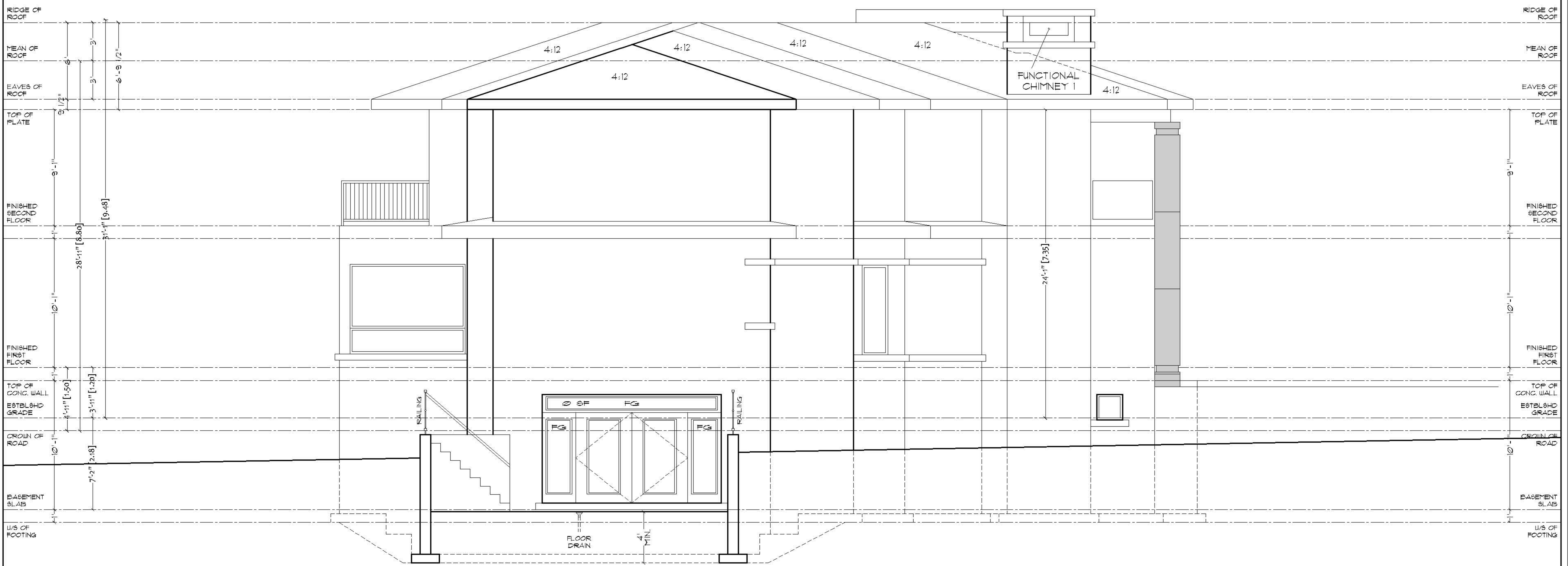
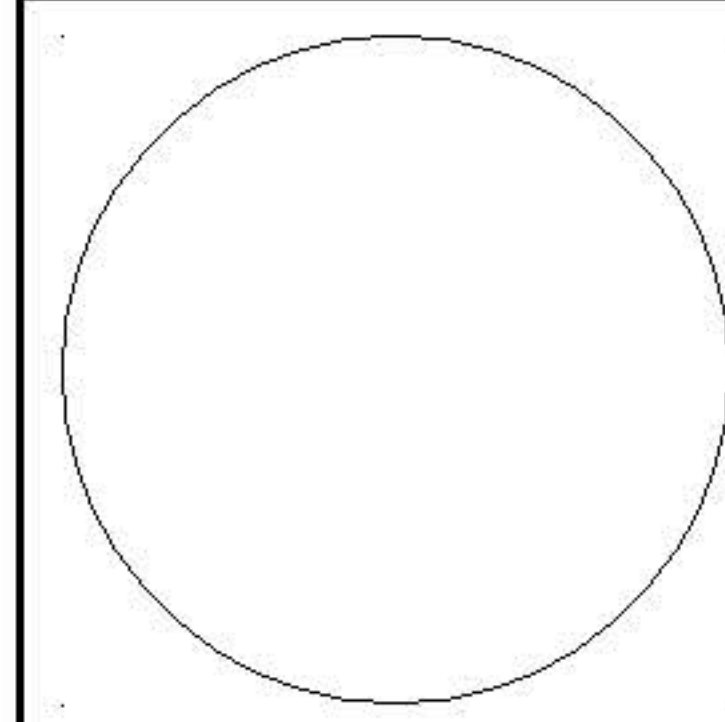




WEST ELEVATION

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CLIENT	REZA AND DEHZAD	DATE	SEP. 11, 2018	DESIGN	HOMELAND	416-313-6020	PROJECT	13 TALWOOD DR.	SCALE	3/16"=1'-0"	TITLE	LEFT ELEVATION	07
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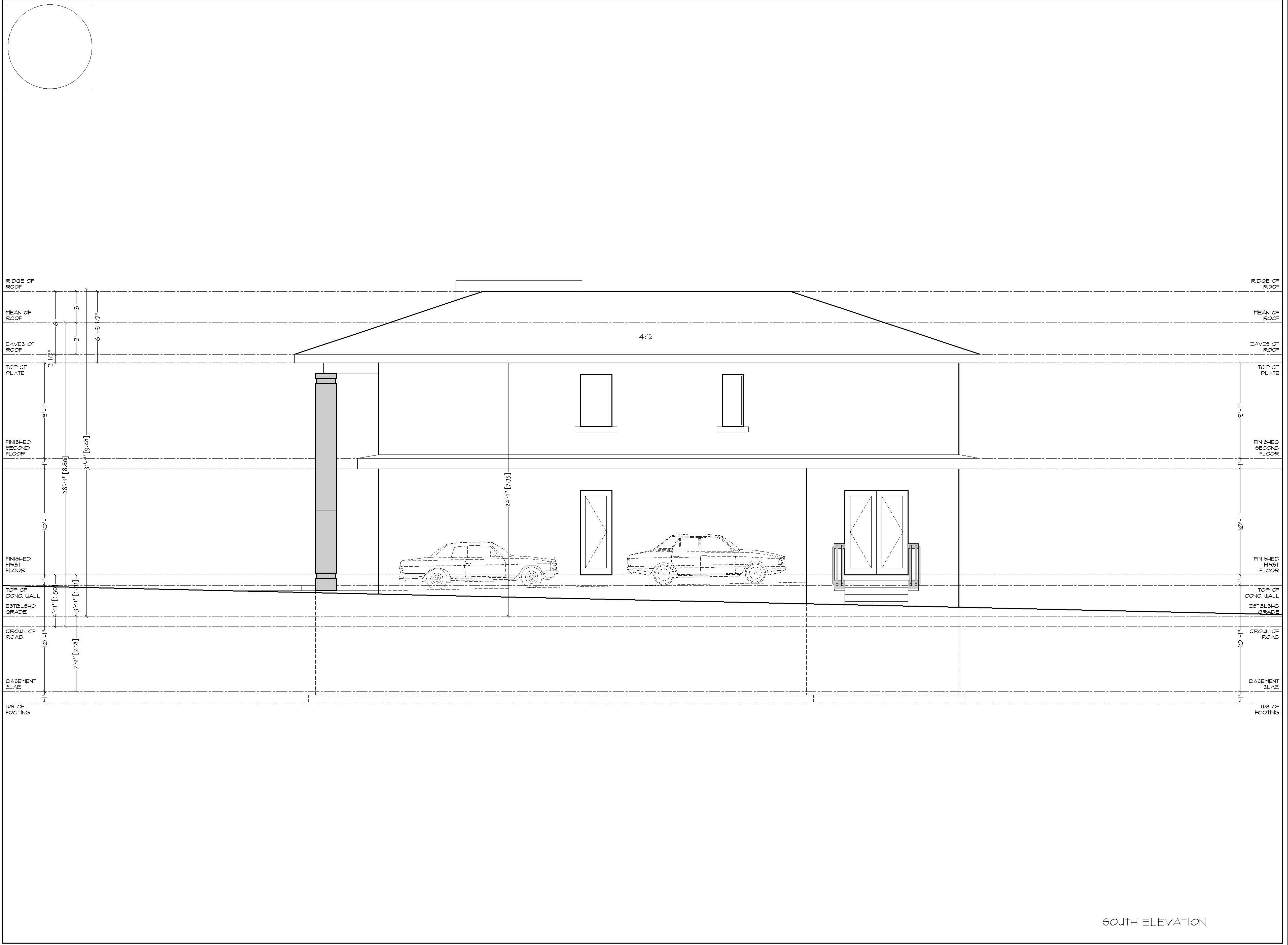




CLIENT	REZA AND DEHZAD	DATE	SEP. 11, 2018	DESIGN	HOMELAND	416-313-6020	PROJECT	13 TALWOOD DR.	SCALE	3/16"=1'-0"	TITLE	REAR ELEVATION	08
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SOUTH ELEVATION

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