

DECISION AND ORDER

Decision Issue Date Thursday, May 28, 2020

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): DANOUSH HOSSEINZADEH

Applicant: DANOUSH HOSSEINZADEH

Property Address/Description: 82 HANNA RD

Committee of Adjustment Case File: 19 181910 NNY 15 MV

TLAB Case File Number: 19 248153 S45 15 TLAB

Hearing date: Monday, March 09, 2020

DECISION DELIVERED BY S. GOPIKRISHNA

APPEARANCES

Name	Role	Representative
Danoush Hosseinzadeh	Owner/Appellant	Meaghan Barrett
City of Toronto	Party	Marc Hardiejowski
Leaside Residents Association Party		Geoff Kettel
Franco Romano	Expert Witness	
Kevin Bolger	Participant	
Christine Bolger	Participant	
Scott Martin	Participant	
Elizabeth Gibson	Participant	

INTRODUCTION AND BACKGROUND

It would be appropriate to summarize the highlights of what happened with this case before the completion of the Hearing on March 9, 2020.

Shortly before the scheduled Hearing of March 9, 2020, the Parties reached a Settlement with the Parties and Participants listed in the "Appearances" Section. Mr. Romano, the Appellants' Expert Witness, addressed the Settlement at the Hearing completed on March 9, 2020, and spoke to the four variances in front of the TLAB. At the Hearing, the Appellants requested for an Interim Order approving the Settlement Plan for the building to be constructed at the Site, and followed by a Final Order approving the variances, after the latter had been confirmed by the Zoning Examiner.

Consequently, I issued an Interim Order on March 30, 2020, approving the Settlement Plan.

On May 19, 2020, the TLAB forwarded me an email from the Appellants, requesting for the Final Decision and Order, accompanied by a listing of the updated set of variances, based on the Zoning Examiner's Notice, dated May 14, 2020, and the Plans and Elevations of the dwelling to be constructed at the Subject Site. It is important to note that the three requested variances, for which approval is sought, are identical to the list of variances canvassed at the Hearing, with the exception of a fourth variance, respecting the width of the stairs, which is now deemed to be unnecessary.

MATTERS IN ISSUE

The revised set of variances, based on the Zoning Examiner's Notice dated May 14, 2020, is as follows:

1. 10.20.40.20.(1), Zoning By-law No. 569-2013

The permitted maximum building length for a detached house is 17.0 meters.
The proposed building length is 17.8 metres.

2. 10.20.40.40.(1), Zoning By-law No. 569-2013

The permitted maximum floor space index is 0.6 times the area of the lot.
The proposed floor space index is 0.64.

3. 10.20.40.70.(3), Zoning By-law No. 569-2013

The required minimum side yard setback is 1.2 metres where the required minimum lot frontage is 12.0 metres to less than 15.0 metres.

The proposed northern side yard setback is 0.9 meters.
The proposed southern side yard setback is 0.95 meters.

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 for 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

It is not necessary to repeat the evidence provided by the Expert Witness, Mr. Romano, because it was recited in detail in my Interim Decision, dated March 31, 2020. However, it is important to recite the requested conditions to be imposed on the approval of the proposal, based on the Settlement reached by the Parties prior to the Hearing held on March 9, 2020:

1. The applicant shall apply to Urban Forestry Services, City of Toronto (North York District) for a permit to injure or remove street trees, pursuant to City of Toronto Municipal Code, Chapter 813, Article II.
2. Prior to the submission of a building permit application, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the General Manager, Parks, Forestry & Recreation, Urban Forestry Services.
3. The front yard and driveway shall be constructed in substantial conformity with the Tree Protection Plan, as approved by Urban Forestry Services (the "Driveway Plans").
4. The proposed development, irrespective of the Driveway Plans, shall be constructed in substantial conformity with the plans and elevations dated May 1, 2020

ANALYSIS, FINDINGS, REASONS

I summarize below, the analysis provided in my Interim Decision dated March 31, 2020, before stating my conclusions on this matter.

The revised proposal, as presented to the TLAB, is a result of a Settlement reached between the Appellant, Mr. Hosseinzadeh, the City of Toronto, four neighbours who elected for Participant Status, and the Leaside Residents Association.

Mr. Romano's evidence demonstrated that the proposal is consistent with the higher level Provincial Policies, namely the PPS (2014), and conforms to the Growth Plan (2019), through its emphasis on the use of existing infrastructure. I am in agreement with Mr. Romano that the proposal satisfies the Official Plan, based on his evidence respecting Built Form Policies, Urban Forestry, and the Development Criteria listed in Policy 4.1.5.

Mr. Romano's discussion of how the variances individually and collectively satisfy the performance standards of each relevant category, was succinct, and comprehensive- I am satisfied that the proposal maintains the intent, and purpose of By-Law 569-2013.

I agree with Mr. Romano that the proposal satisfies the test of minor by virtue of the absence of demonstrable adverse impact on the neighbouring properties, and that the proposal satisfies the test of appropriate development through its promoting regeneration in the community, while preserving features important to the community, such as the maple tree at the front of the house.

Based on this discussion, I find that the Appeal may be allowed, because the proposal has satisfied all the four statutory tests under Section 45.1 of the Planning Act- consequently the decision of COA decision dated October 23, 2019, is set aside.

The purpose of the conditions requested by the City of Toronto, is to ensure the protection of the maple tree, irrespective of the final positioning, and configuring of the driveway. The conditions, have been agreed to by the Appellant, and are consequently imposed on the Final Decision and Order. The conditions, are recited in the Evidence Section, and are consequently not repeated in this Section.

FINAL DECISION AND ORDER

1. The Appeal respecting 82 Hanna Rd is allowed in part; the decision of the Committee of Adjustment, dated October 23, 2019, is set aside.
2. The following variances are approved:

I. 10.20.40.20.(1), Zoning By-law No. 569-2013

The permitted maximum building length for a detached house is 17.0 meters.
The proposed building length is 17.8 metres.

II. 10.20.40.40.(1), Zoning By-law No. 569-2013

The permitted maximum floor space index is 0.6 times the area of the lot.
The proposed floor space index is 0.64.

III. 10.20.40.70.(3), Zoning By-law No. 569-2013

The required minimum side yard setback is 1.2 metres where the required minimum lot frontage is 12.0 metres to less than 15.0 metres.

The proposed northern side yard setback is 0.9 meters.
The proposed southern side yard setback is 0.95 meters.

3. The following conditions are imposed on the approval:

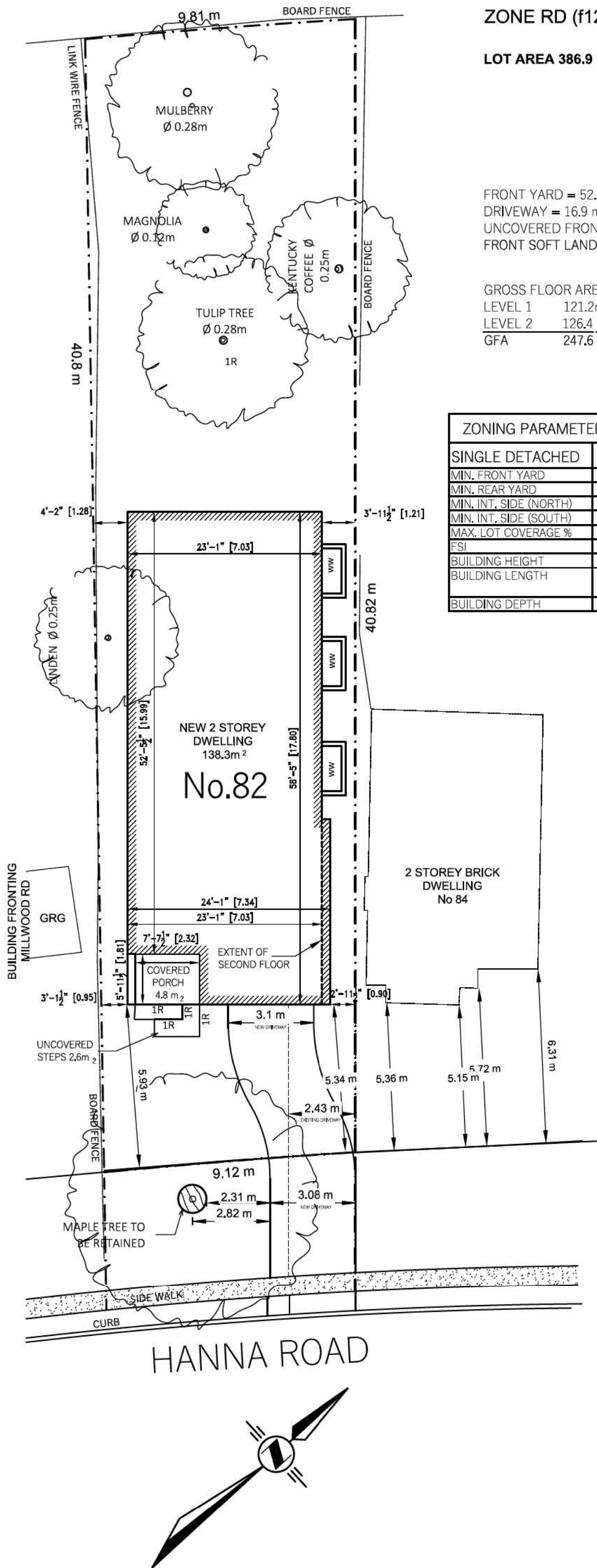
- I. The applicant shall apply to Urban Forestry Services, City of Toronto (North York District) for a permit to injure or remove street trees, pursuant to City of Toronto Municipal Code, Chapter 813, Article II.
- II. Prior to the submission of a building permit application, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the General Manager, Parks, Forestry & Recreation, Urban Forestry Services.
- III. The front yard and driveway shall be constructed in substantial conformity with the Tree Protection Plan, as approved by Urban Forestry Services (the "Driveway Plans").
- IV. . The proposed development, irrespective of the Driveway Plans, shall be constructed in substantial conformity with the plans and elevations dated May 1, 2020, attached to this Decision.

So orders the Toronto Local Appeal Body

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body



ZONE RD (f12.0, a370, d0.6)

LOT AREA 386.9 M²

FRONT YARD = 52.0 m₂
DRIVEWAY = 16.9 m₂
UNCOVERED FRONT STEPS = 2.6 m₂
FRONT SOFT LANDSCAPE= 32.5m₂ (62.5%)

GROSS FLOOR AREA
LEVEL 1 121.2m₂
LEVEL 2 126.4 m₂
GFA 247.6 m₂ FSI=0.64

ZONING PARAMETERS RD (f12.0, a370, d0.6)		
SINGLE DETACHED	REQ.	PROPOSED ft (m)
MIN. FRONT YARD	5.12m	5.34m
MIN. REAR YARD	7.5m	15.61m
MIN. INT. SIDE (NORTH)	1.2	0.9m (front) / 1.21m (rear)
MIN. INT. SIDE (SOUTH)	1.2m	0.95m (front)/ 1.28m (rear)
MAX. LOT COVERAGE %	35%	33%
FSI	0.6	0.64
BUILDING HEIGHT	8.5m	8.5m
BUILDING LENGTH	17m	17.8m (MAIN LEVEL)
BUILDING DEPTH	19m	17.8m (SECOND LEVEL)

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 DESIGNER

QUALIFICATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 2.17.3.1. OF THE BUILDING CODE
GLENN RUBINOFF 22370
SIGNATURE BCIN/BCDN

REGISTRATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 2.17.4.1. OF THE BUILDING CODE
RUBINOFF DESIGN GROUP 27293
FIRM NAME BCIN/BCDN

SITE PLAN

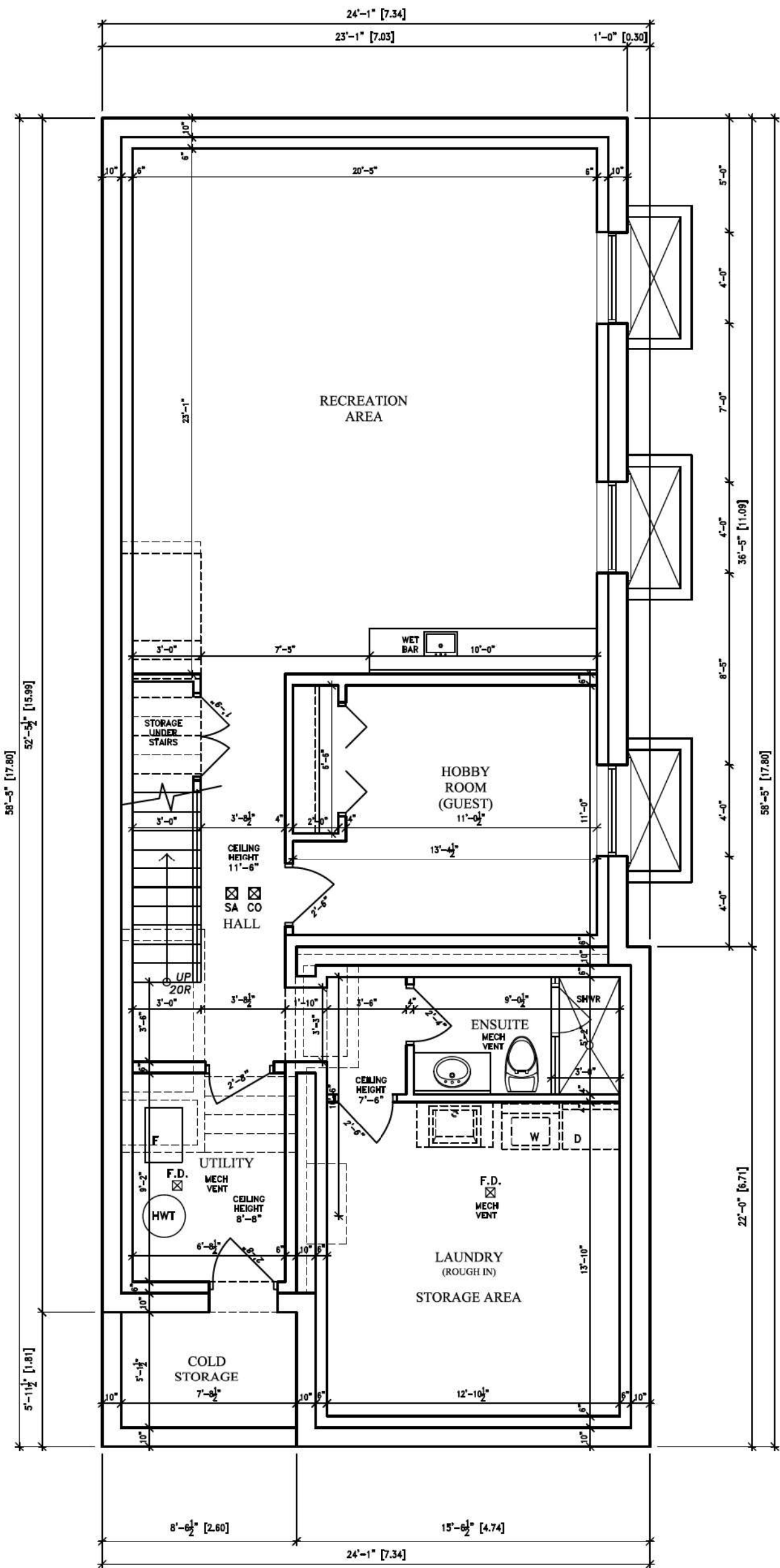
PROJECT: N°82 HANNA ROAD
TORONTO, ONTARIO

PROJECT DESIGNER: G.RUBINOFF
PROJECT NO.
DRAWN BY: G.NOUDELMAN
DATE: May 01, 2020
CHECKED BY:
SCALE: 1:150

Rubinoff Design Group
697 Mount Pleasant Road
Toronto, Ontario M4S 2N4
TEL. 416.667-0322 FAX.416.667.0751 EMAIL: Info@rubinoffdesign.com

PROJECT: DRAWING NO.

A



BASEMENT PLAN

N°82 HANNA ROAD

Rubinfoff Design Group

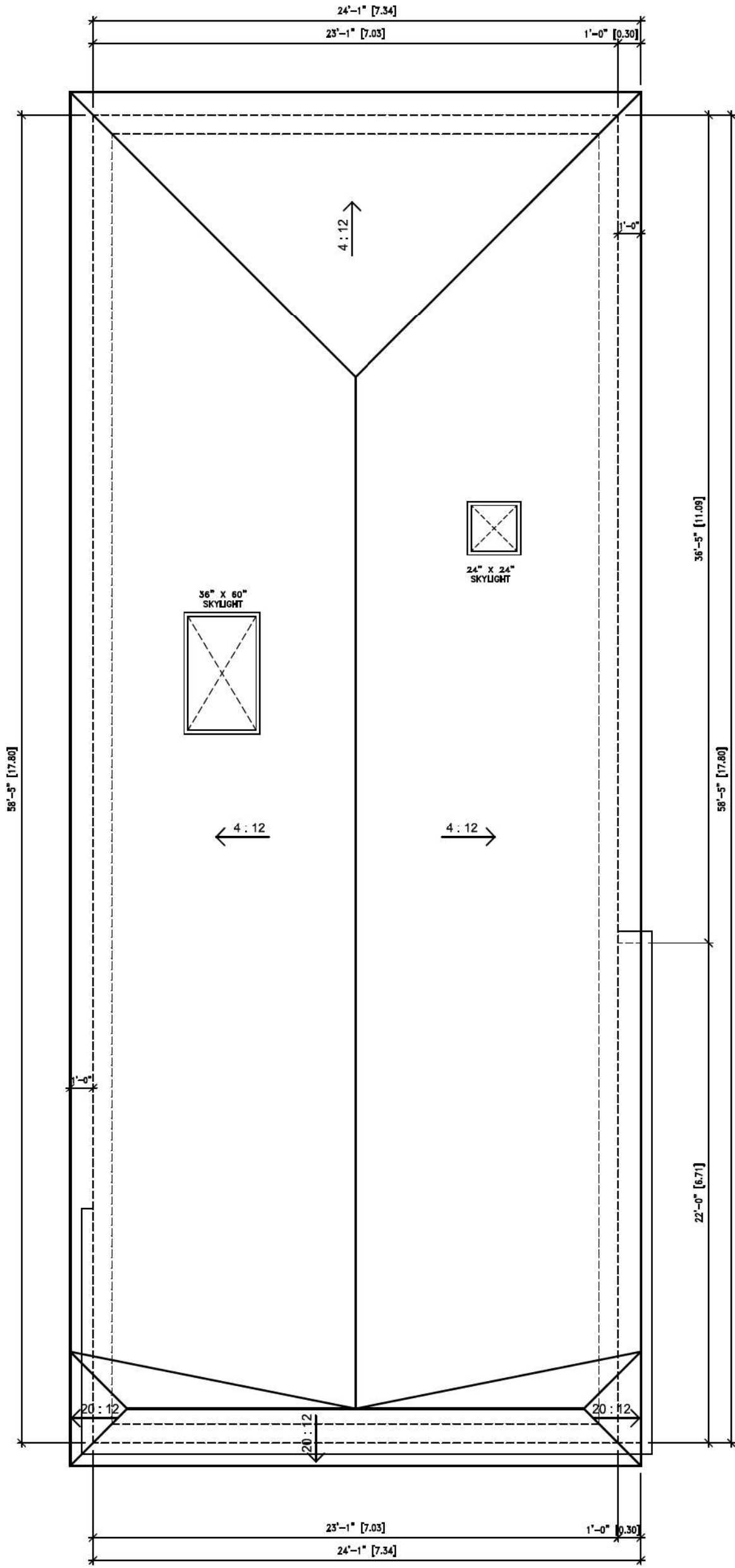
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TEL: 416.667-0322 FAX: 416.667.0751 EMAIL: Info@rubinfoffdesign.com

82 HANNA ROAD


SCALE : 1:75 APRIL 30, 2020

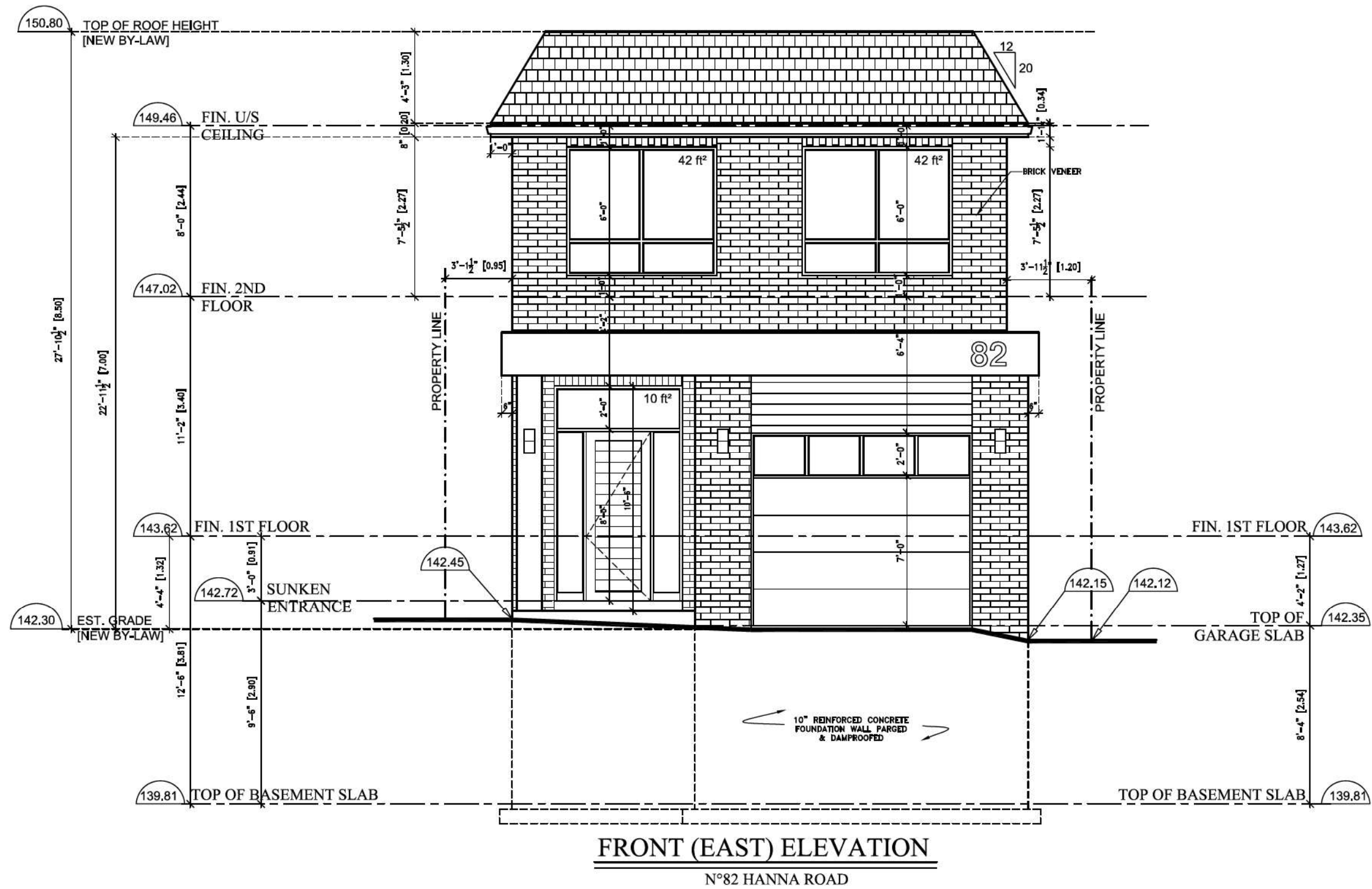


APRIL 30, 2020



ROOF FRAMING PLAN
N°82 HANNA ROAD

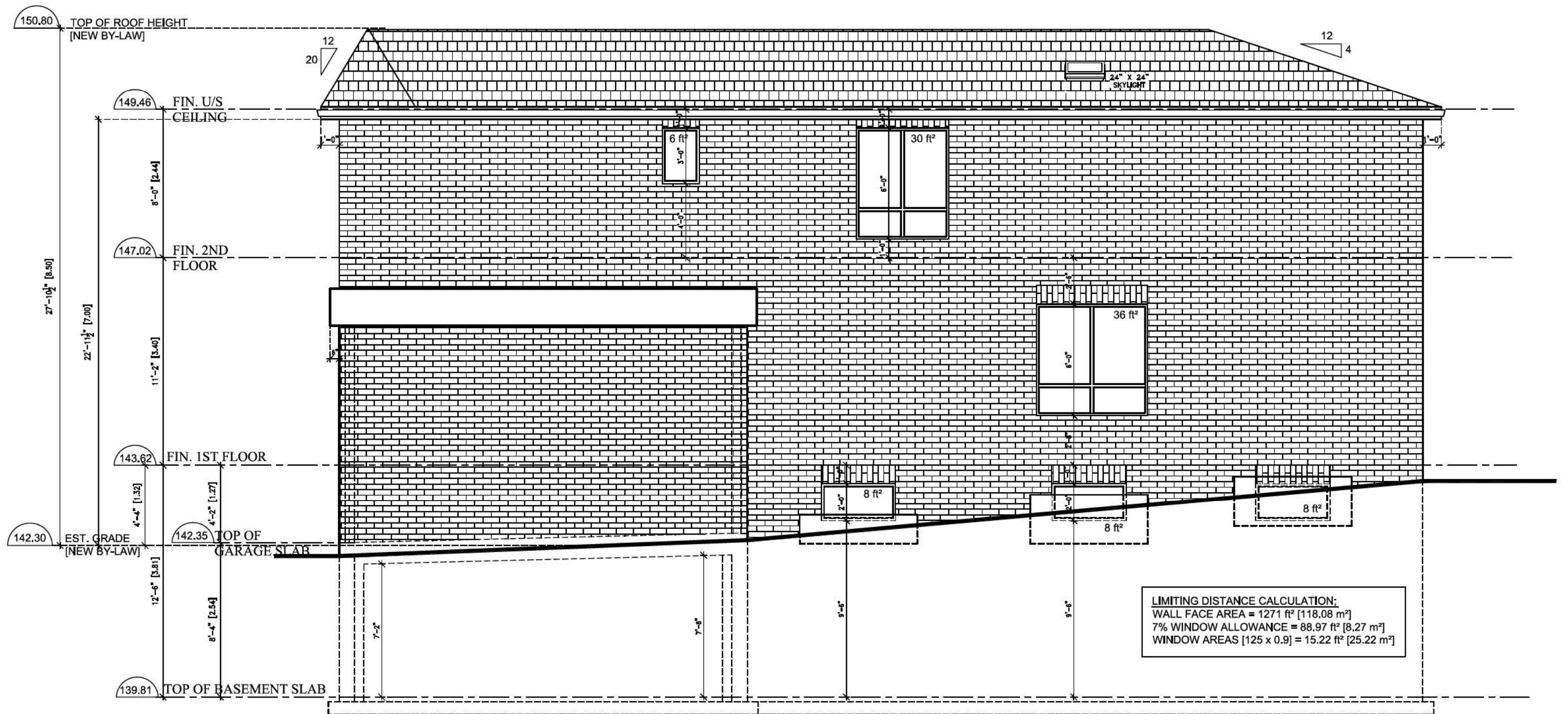
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	82 HANNA ROAD
SCALE : 1:75	
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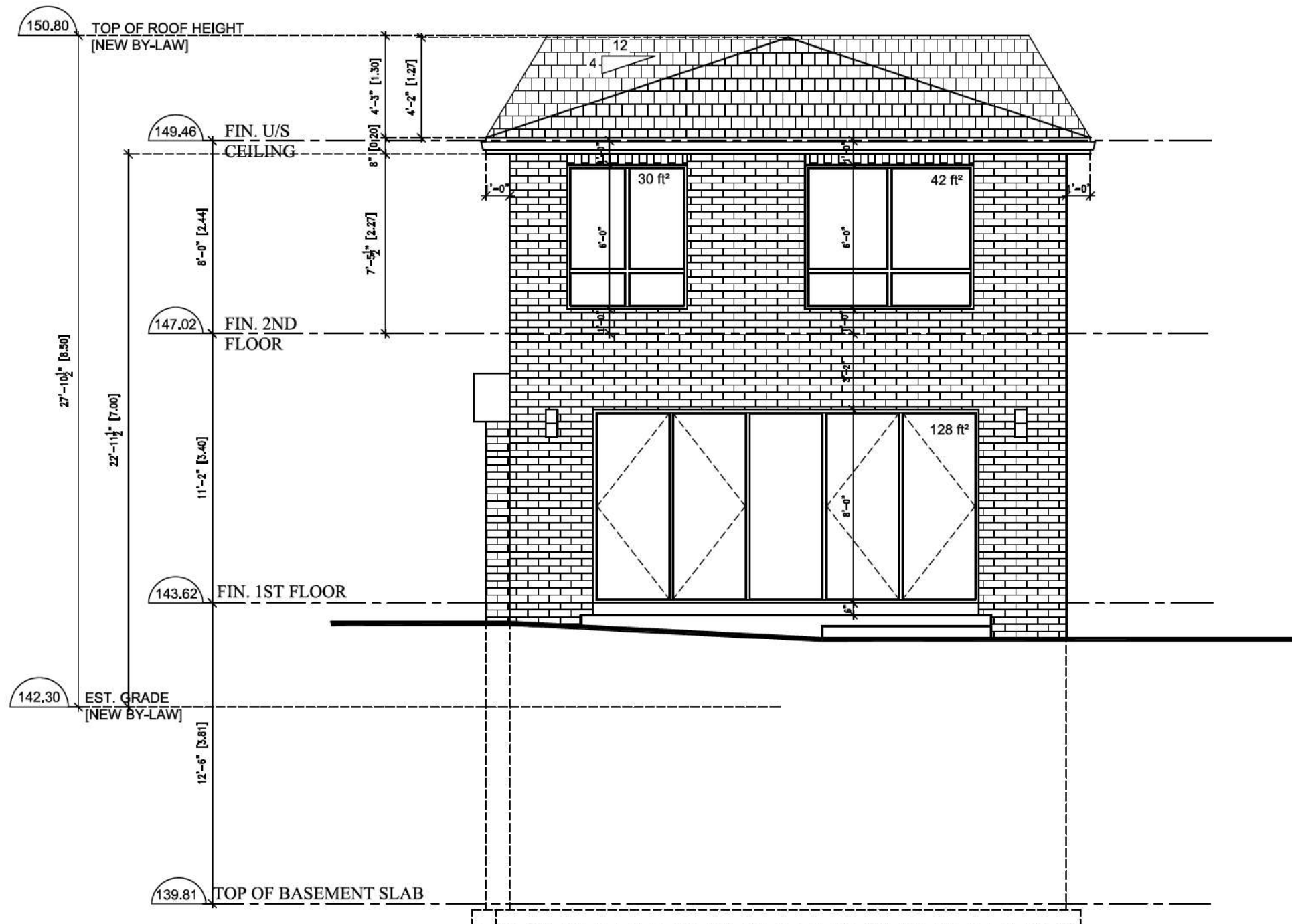
RIGHT (NORTH) ELEVATION

N°82 HANNA ROAD

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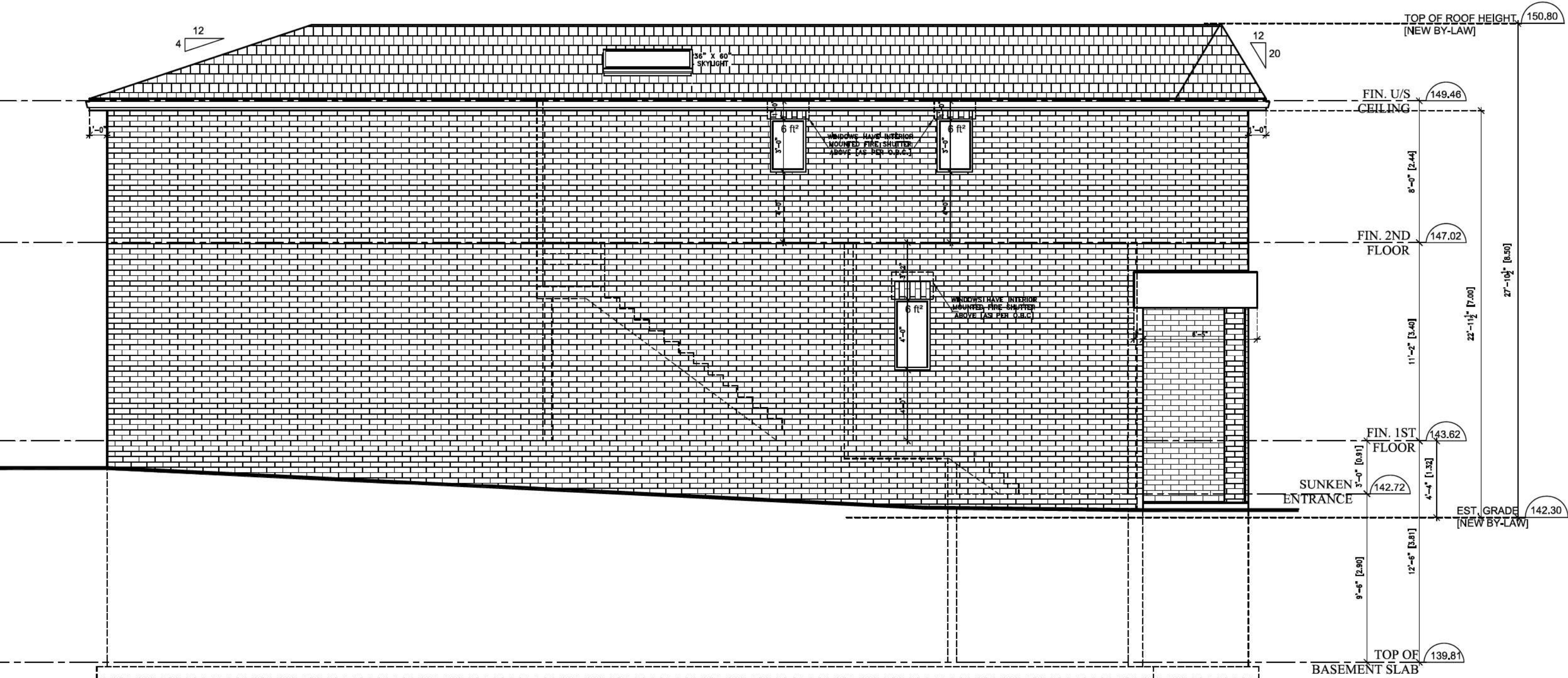


REAR (WEST) ELEVATION
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LEFT (SOUTH) ELEVATION

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