

DECISION AND ORDER

Decision Issue Date Wednesday, June 22, 2022

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

Appellant(s): COLIN MCKENNA, BETH LOWENFELD

Applicant: ARKLAB INC

Property Address/Description: 141 Glencairn Ave.

Committee of Adjustment Case File Number: 21 216157 NNY 08 MV (A0656/21NY)

TLAB Case File Number: **21 241112 S45 08 TLAB**

Hearing date: Friday, June 17, 2022

DECISION DELIVERED BY *TLAB Panel Member G. Swinkin*

REGISTERED PARTIES

Appellant	Colin McKenna
Appellant	Beth Lowenfeld
Appellant's Legal Rep.	Marc Kemerer
Applicant	Arklab Inc.
Owner's Legal Rep.	David Bronskill
Owner/Party (TLAB)	Rajni Singhal
Owner	Samir Gupta
Party	Kenneth Pritzker

INTRODUCTION

Rajni Singhal and Samir Gupta (“the Owners”) are the owners of the property municipally known as 141 Glencairn Avenue (“the Property”). The Owners wish to demolish the single family detached dwelling which is currently on the Property and replace it with a new single family detached dwelling. The proposed dwelling does not comply with various regulations in the governing zoning by-law, Zoning By-law 569-2013, as amended, and in order to address these deficiencies, the Owners made application to the Committee of Adjustment for variance relief.

BACKGROUND

The Committee of Adjustment was requested to grant nine heads of relief, including building height (under By-law 438-86 as well), building length, building depth, floor space index, side yard setbacks, rear yard platform setback and front porch stairs encroachment into the side yard setback.

Objections were raised by neighbours at the Committee of Adjustment, including the neighbours of the immediately adjoining properties at 145 Glencairn Ave. (Lowenfeld and McKenna) and 139 Glencairn Ave. (the Pritzkers).

The Committee approved the application and granted the requested nine heads of relief. The Appellants appealed that decision.

The Toronto Local Appeal Body (“the Tribunal”) appeal hearing was scheduled for May.26, 2022 and did commence on that date.

At the outset of the hearing, counsel for the Parties advised the Tribunal that active discussions had taken place among the Parties and that a provisional settlement had been achieved. However, the final details as well as revised plans and a formal set of Minutes of Settlement had not at that point been documented. Counsel requested time to complete those matters and asked for a future date to continue the hearing as a settlement hearing.

That request was granted by this panel and the date for continuation of the hearing was fixed for June 17, 2022.

The hearing continued on June 17, 2022 and the Tribunal heard consent evidence from the Owners’ land use planning consultant as well as submissions from counsel for the Parties.

JURISDICTION

Section 45 of the *Planning Act* and TLAB Rule 19 of its Rules of Practice and Procedure (Settlements)

EVIDENCE

As noted above, the Tribunal received evidence concerning the application, the issues spawned by it, the resultant appeal and its resolution amongst the Parties from the Owners' land use planning consultant, Martin Rendl. Mr. Rendl is a Registered Professional Planner with long experience in the field of land use planning. He was qualified by the Tribunal to offer opinion evidence on the land use planning issues raised in the proceeding.

As the resolution of the appeal involved modifications to the building proposal, this precipitated modifications to various heads of the variance relief sought and also resulted in the deletion of two particular variance requests.

In light of this, Mr. Bronskill requested that the Tribunal exercise its authority under Section 45 (18.1) of the *Planning Act* to allow the application to be modified before the Tribunal and, further, pursuant to Section 45 (18.1.1), to deem those modifications to be minor and not requiring further notice of the modifications. On the submissions of counsel and consideration of the modest changes resulting from the settlement, the Tribunal exercised its authority to waive any further notice.

The **modified list of variance relief** sought is as follows:

1. Chapter 10.20.40.10.(1), By-law 569-2013

The maximum permitted building height is 10.0 metres.

The proposed building height is 10.6 metres.

2. Chapter 10.20.40.20.(1), By-law 569-2013

The maximum permitted building length is 17.0 metres.

The proposed building length is 19.0 metres.

3. Chapter 10.20.40.30., By-law 569-2013

The maximum permitted building depth is 19.0 metres.

The proposed building depth is 20.0 metres.

4. Chapter 10.20.40.40.(1), By-law 569-2013

The maximum permitted floor space index is 0.35 times the lot area.

The proposed floor space index is 0.598 times the lot area.

5. Chapter 10.20.40.70.(3)(D), By-law 569-2013

The minimum required side yard setback is 1.5 metres

The proposed east side yard setback is 1.22 metres

6. Chapter 10.5.40.60.(3), By-law 569-2013

Exterior stairs may encroach into a required setback provided they are no wider than 2.0 metres.

The proposed front porch stairs are 2.87 metres in width.

7. Section 4(2), By-law 438-86

The maximum permitted building height is 10.0 metres,

The proposed building height is 10.93 metres.

Mr. Rendl had filed a witness statement which addressed the four tests under Section 45 of the *Planning Act*, which witness statement specifically canvassed the Built Form and Neighbourhood policies under the City's official plan and concluded that the original proposal was in conformity with those policies and that the proposed construction would be compatible with development in the neighbourhood. When asked by the panel whether that opinion held true in light of the modifications, he affirmed that it did.

The panel was advised that much of the change in design was driven by the desire to ensure that what is referred to as Boundary Tree 4 on the property line between the Property and 145 Glencairn not be adversely impacted by the construction. This resulted in the creation of a non-excavation area at the southwest corner of the proposed dwelling and the use of what is referred to as a floating patio over the area of the tree's root system. This also eliminated the need for the originally requested west side yard setback relief.

Mr. Rendl asserted that the four tests under Section 45(1) of the *Planning Act* were met by the modified proposal and that it was appropriate for the Tribunal to allow the appeal, in part, and authorize the modified variance requests. The Tribunal accepts that evidence.

The panel was also advised by counsel that the settlement amongst the Parties involved a request that certain conditions be imposed by the Tribunal. Mr. Rendl asserted that the imposition of those conditions would be appropriate.

The requested **conditions** are as follows:

1. The new dwelling be constructed substantially in accordance with the Revised Plans (which are prepared by Arklab and dated June 8, 2022, and attached as a Schedule to this Decision), including that:

I) the front line of the house is pushed back south by one metre from that shown on the plans presented to the Committee;

II) the building length is reduced to 19 metres and the western side yard setback is increased to 1.5 metres; and

III) there be no excavation under Boundary Tree #4 (the "tree"). That excavation will be replaced by a floating stone patio.

2. The Owners work with, and obtain a permit or clearance from, City Urban Forestry staff to ensure that the Tree is not injured.

ANALYSIS, FINDINGS, REASONS

The panel has considered the submissions of counsel, the evidence filed and led in the proceeding and determines that the modified variances meet the four tests set forth in Section 45(1) of the *Planning Act*. As such, the variances as modified are appropriate for approval on the conditions advanced, and assented to, by the Owners.

DECISION AND ORDER

The appeal is allowed, in part, and the Tribunal hereby authorizes the modified variance relief as detailed above on the conditions which are detailed above.

A handwritten signature in black ink, appearing to read 'G. Swinkin', with a stylized flourish at the end.

G. Swinkin
Panel Chair, Toronto Local Appeal
Body

Schedule of Revised Plans

LIST OF DRAWINGS

000	COVER
100-1	SITE PLAN
101	LANDSCAPE STATISTICS
102	BASEMENT FLOOR PLAN
103	FIRST FLOOR PLAN
104	SECOND FLOOR PLAN
105	THIRD FLOOR PLAN
106	ROOF PLAN
107	NORTH ELEVATION
108	SOUTH ELEVATION
109	EAST ELEVATION
110	WEST ELEVATION

SITE LOCATION | RD (f15.0; d0.35) (x1409)

PROJECT STATISTICS		
LOT MEASUREMENTS		
	IMPERIAL	METRIC
LOT DEPTH	190' - 0"	57.91 m
FRONTAGE	50' - 0"	15.24 m
LOT AREA	9499 SF	882.52 m²
SETBACKS		
FRONT YARD	27' - 5"	7.36 m
REAR YARD	93' - 8"	28.55 m
SIDE YARD (EAST)	4'	1.22 m
SIDE YARD(WEST)	4' - 11"	1.50 m
PROPOSED DWELLING		
LEGNTH (ZONING)	62' - 4 1/4"	19.00 m
WIDTH	41 - 1'	12.52 m
HEIGHT	34' -9 1/4"	10.60 m
LOT COVERAGE	2677 SQF	248.70 SQM
FLOOR AREA CALCULATIONS		
FIRST FLOOR	2322 SF	215.69 m²
SECOND FLOOR	2520 SF	234.13 m²
THIRD FLOOR	836 SF	77.63 m²
GRAND TOTAL	5677 SF	527.45 m²
FSI= 0.598		
BASEMENT (INCLUDING MECHANICAL)	2358 SF	219.07 m²
BASEMENT (NOT INCLUDING MECHANICAL)	2228 SF	206.97 m²
GARAGE	331 SF	30.73 m²
NUMBER OF PARKING SPACE	2	2
FRONTYARD LANDSCAPING STATISTICS		
FRONTYARD AREA	1369 SF	127.22 m²
DRIVEWAY AREA (37%)	503 SF	46.69 m²
LANDSCAPING AREA(63%)	854 SF	79.37 m²
STEPS, PORCH AND WALKWAY	130 SF	12.06 m²
SOFT LANDSCAPING AREA(82.73%)	725 SF	67.32 m²
WEST SIDEYARD LANDSCAPING		
WEST SIDEYARD AREA	307 SF	28.50 m²
SOFT LANDSCAPING AREA	307 SF	28.50 m²
EAST SIDEYARD LANDSCAPING		
EAST SIDEYARD AREA	240 SF	22.33 m²
SOFT LANDSCAPING AREA	240 SF	22.33 m²
REAR YARD LANDSCAPING		
REARYARD AREA	4896 SF	454.89 m²
PATIO, STEPS AND WALKOUT AREA	821 SF	76.25 m²
SOFT LANDSCAPING AREA	4076 SF	378.63 m²

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PROPOSED DEVELOPMENT AT:
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DRAWN BY:	B.A
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08 JUN 2022	
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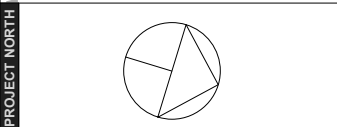
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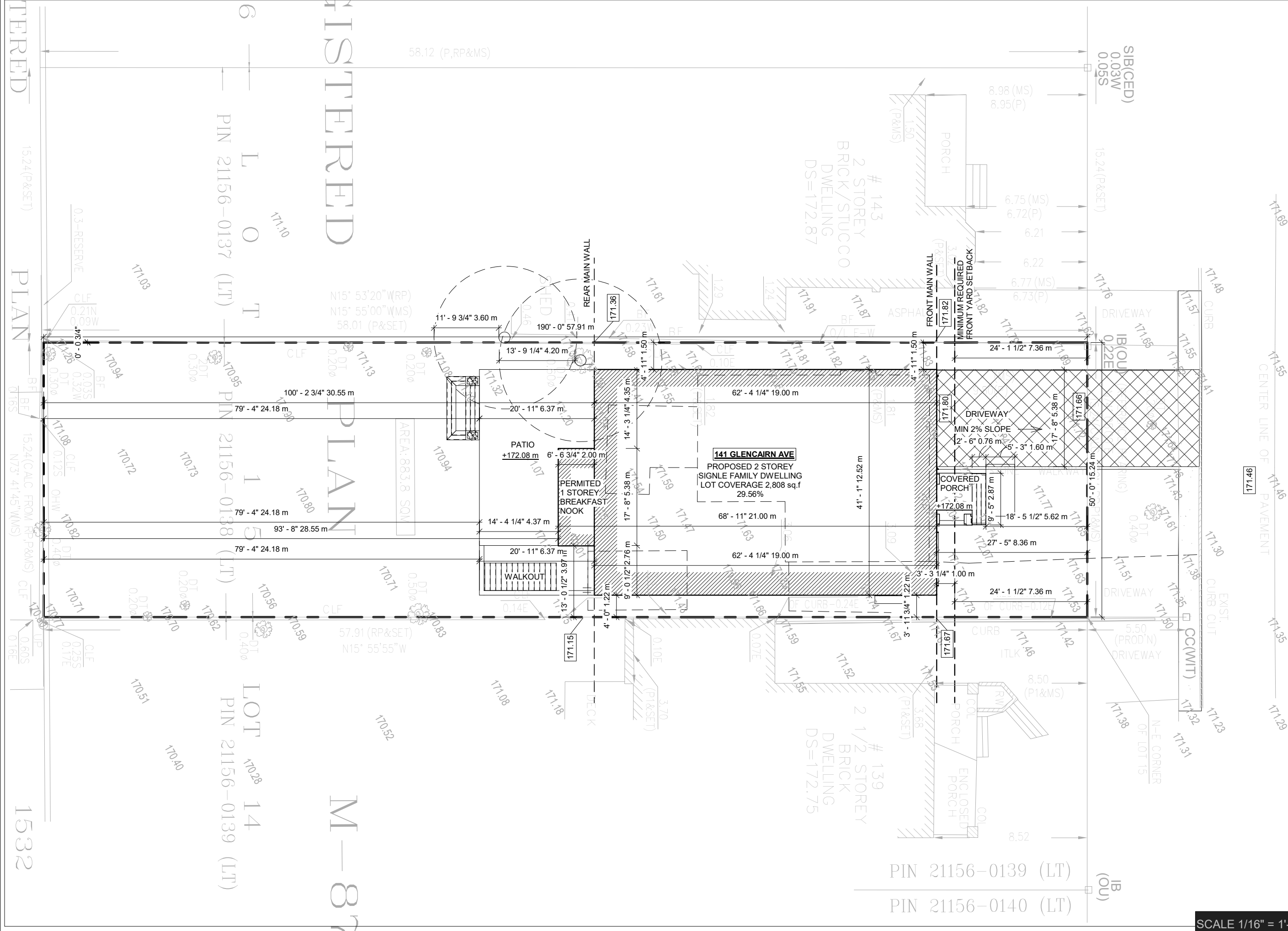
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PROJECT NORTH



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BASEMENT (NOT INCLUDING MECHANICAL)	2228 SF	206.97 m ²
GARAGE	331 SF	30.73 m ²
BASEMENT (INCLUDING MECHANICAL)	2358 SF	219.07 m ²

SCALE 1/8" = 1'-0"

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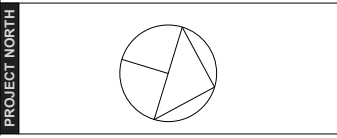
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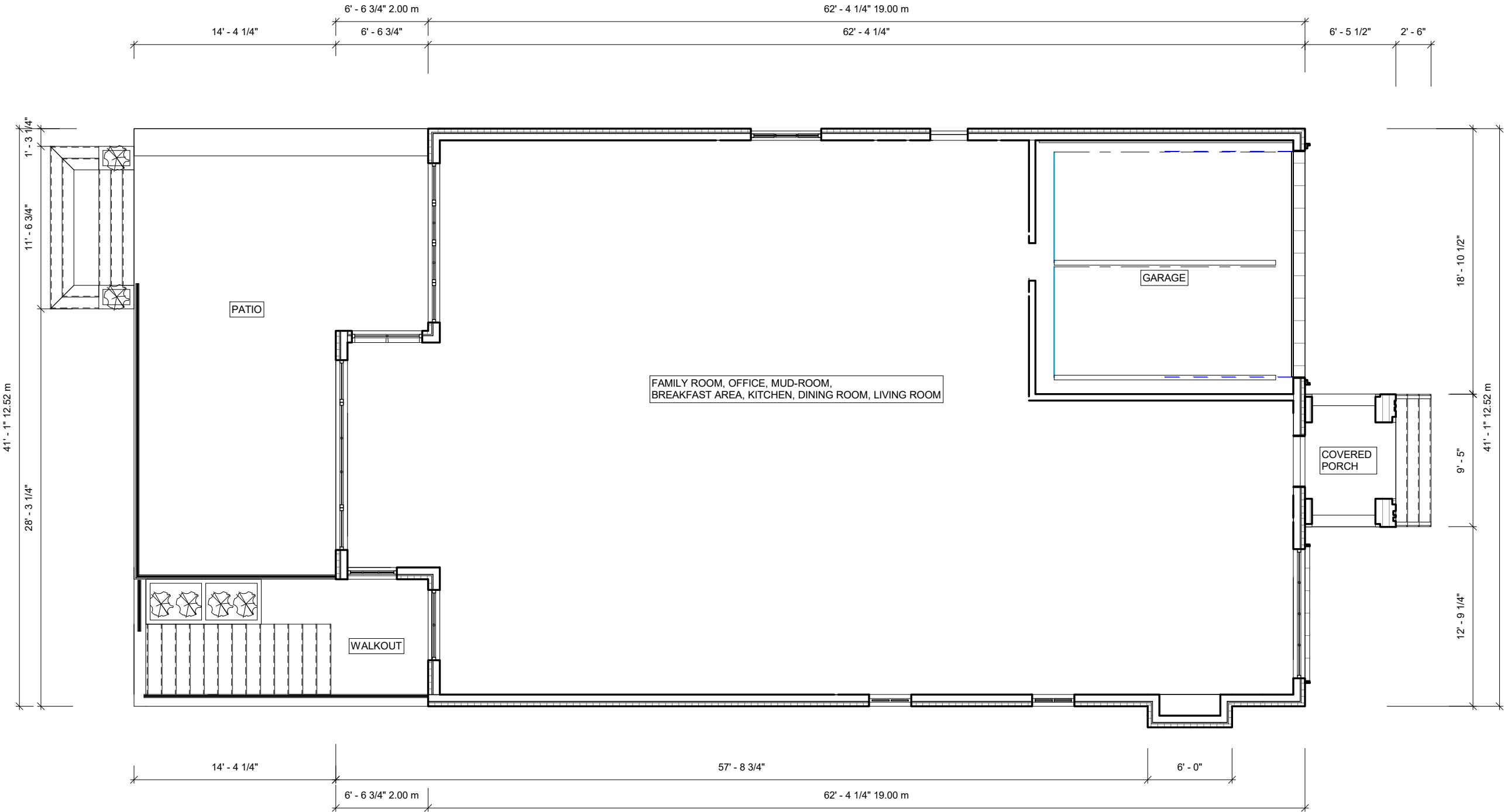
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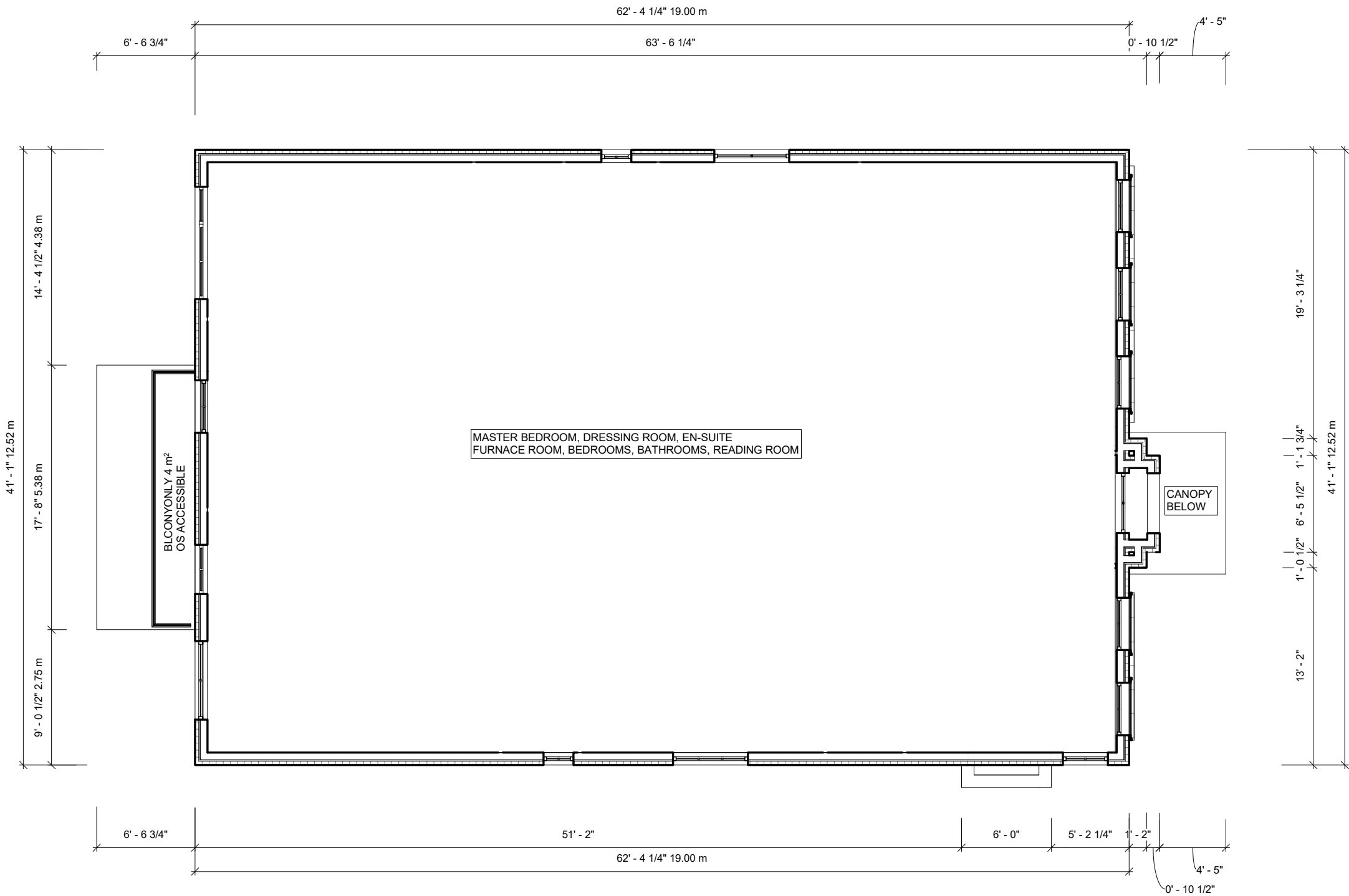


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DRAWING TITLE	DRAWING #
FIRST FLOOR PLAN	103



FIRST FLOOR AREA CALCULATIONS		
FIRST FLOOR	2322 SF	215.69 m²
SCALE 1/8" = 1'-0"		



SECOND FLOOR AREA CALCULATIONS

SECOND FLOOR	2520 SF	234.13 m²
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SCALE 1/8" = 1'-0"

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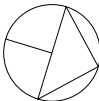
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SECOND FLOOR PLAN

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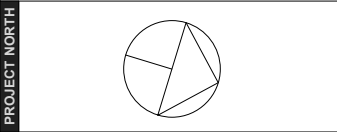
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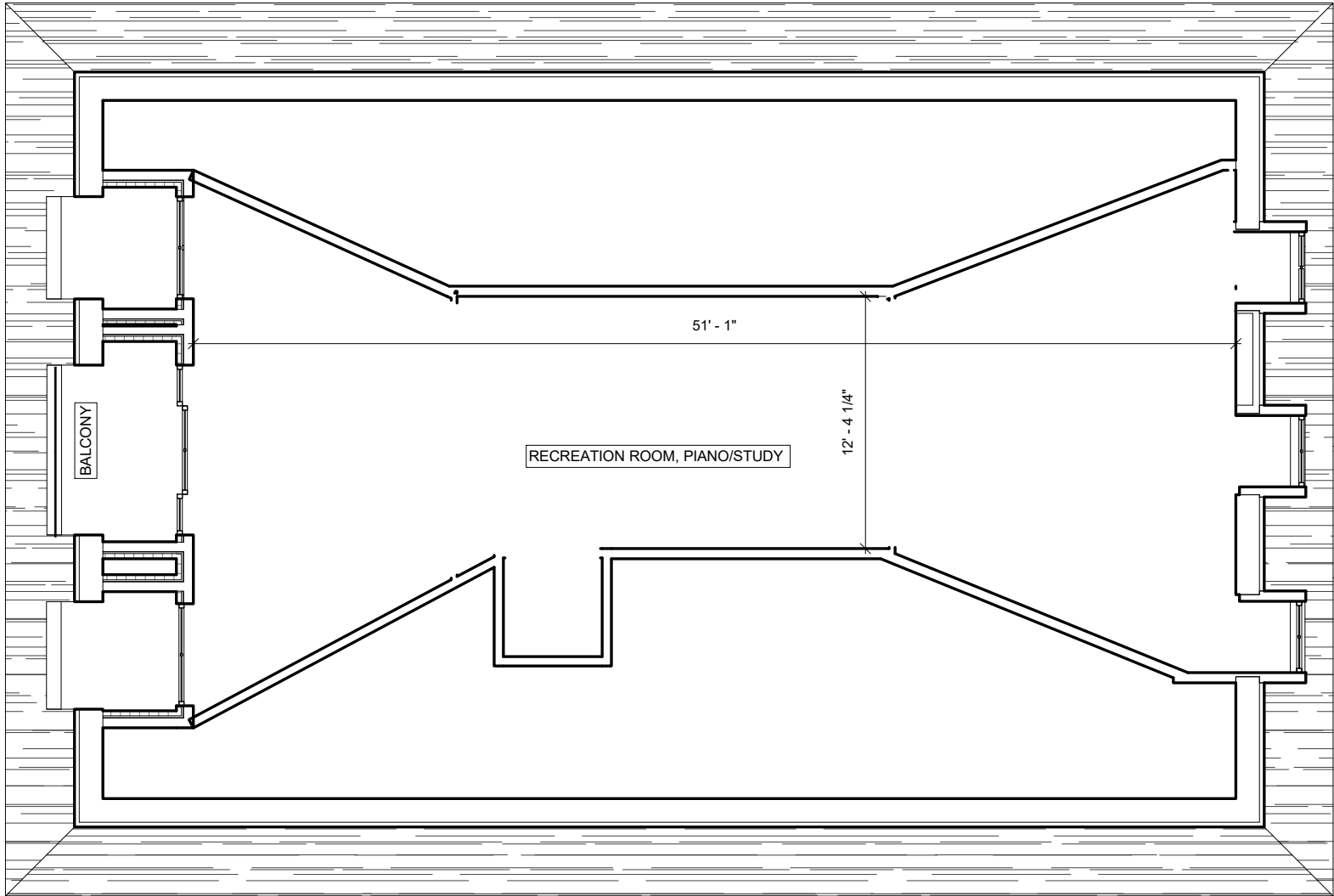
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DRAWING TITLE	DRAWING #
THIRD FLOOR PLAN	105



THIRD FLOOR AREA CALCULATIONS

THIRD FLOOR	836 SF	77.63 m²
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SCALE 1/8" = 1'-0"

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141 GLENCAIRN AVE,
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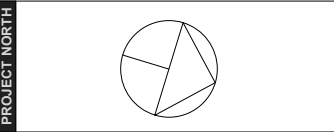
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ROOF CALCULATIONS		
FLAT ROOF AREA	22%	649 SF
ROOF AREAS WITH SLOPE GREATER THAN (1:4)	54%	1569 SF
ROOF AREAS WITH SLOPE GREATER THAN (1:10)	24%	714 SF

SCALE 1/8" = 1'-0"

DRAWING TITLE	DRAWING #
ROOF PLAN	106

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5	14 SEP 2021	ISSUED FOR COA
6	21 OCT 2021	ISSUED FOR CLIENT REVIEW
7	25 OCT 2021	REVISED FOR COA
8	04 APR 2022	ISSUED FOR T-LAB
9	19 MAY 2022	REVISED FOR T-LAB
10	25 MAY 2022	REVISED FOR T-LAB
11	01 JUN 2022	REVISED FOR T-LAB
12	08 JUN 2022	REVISED FOR T-LAB

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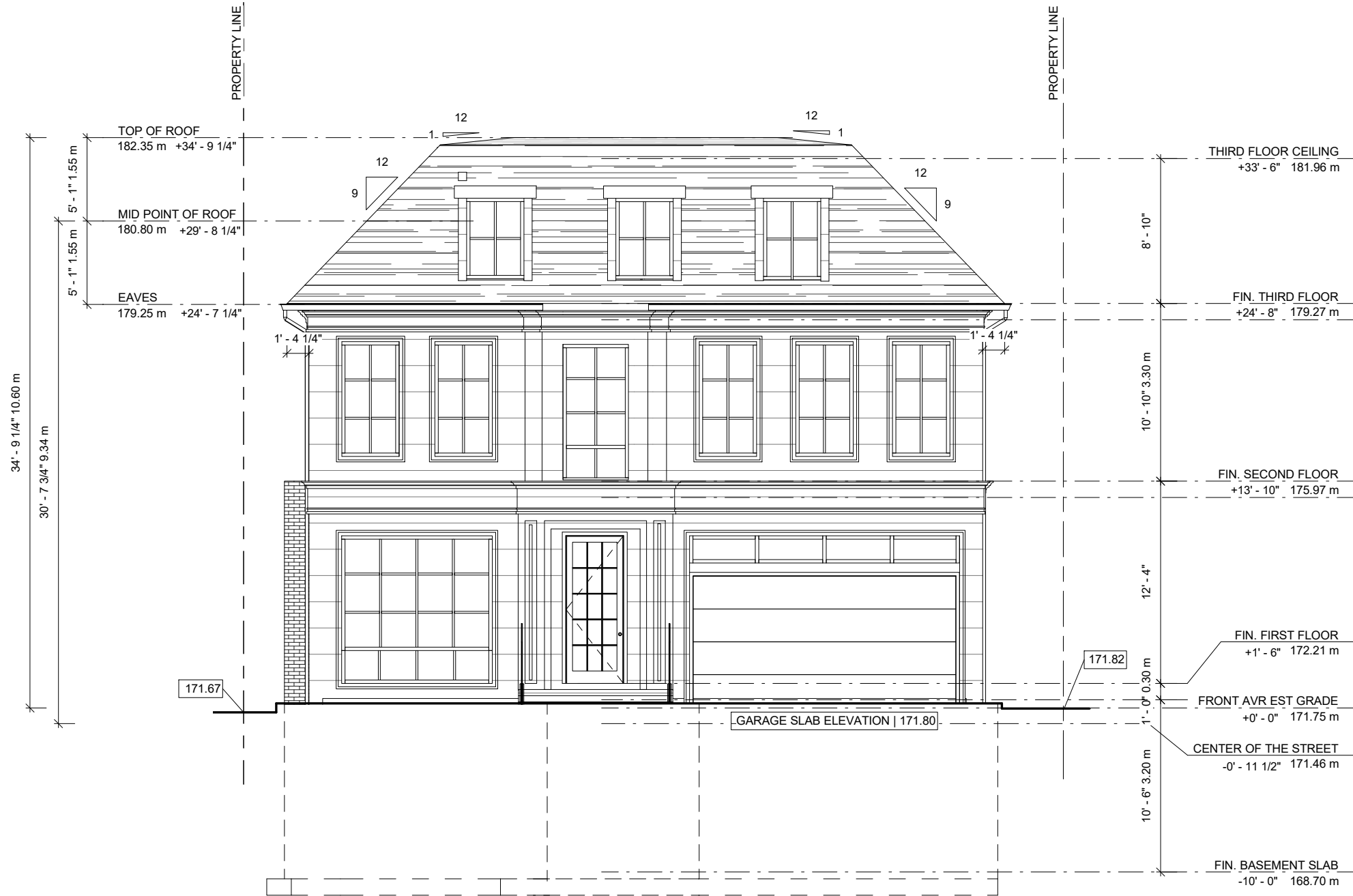
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* FOR ACCURATE ROOF PLANS, ELEVATIONS AND DETAILS PLEASE REFER TO THE TRUSS COMPANY DRAWINGS

PROJECT NORTH

STRUCTURAL REVIEW BY



DRAWN BY:	
B.A	
CHECKED BY:	
B.G	
08 JUN 2022	
3247	

REVISIONS / ISSUE DATES		
#	DATE	DESCRIPTION
3	25 JUN 2021	ISSUED FOR CLIENT REVIEW
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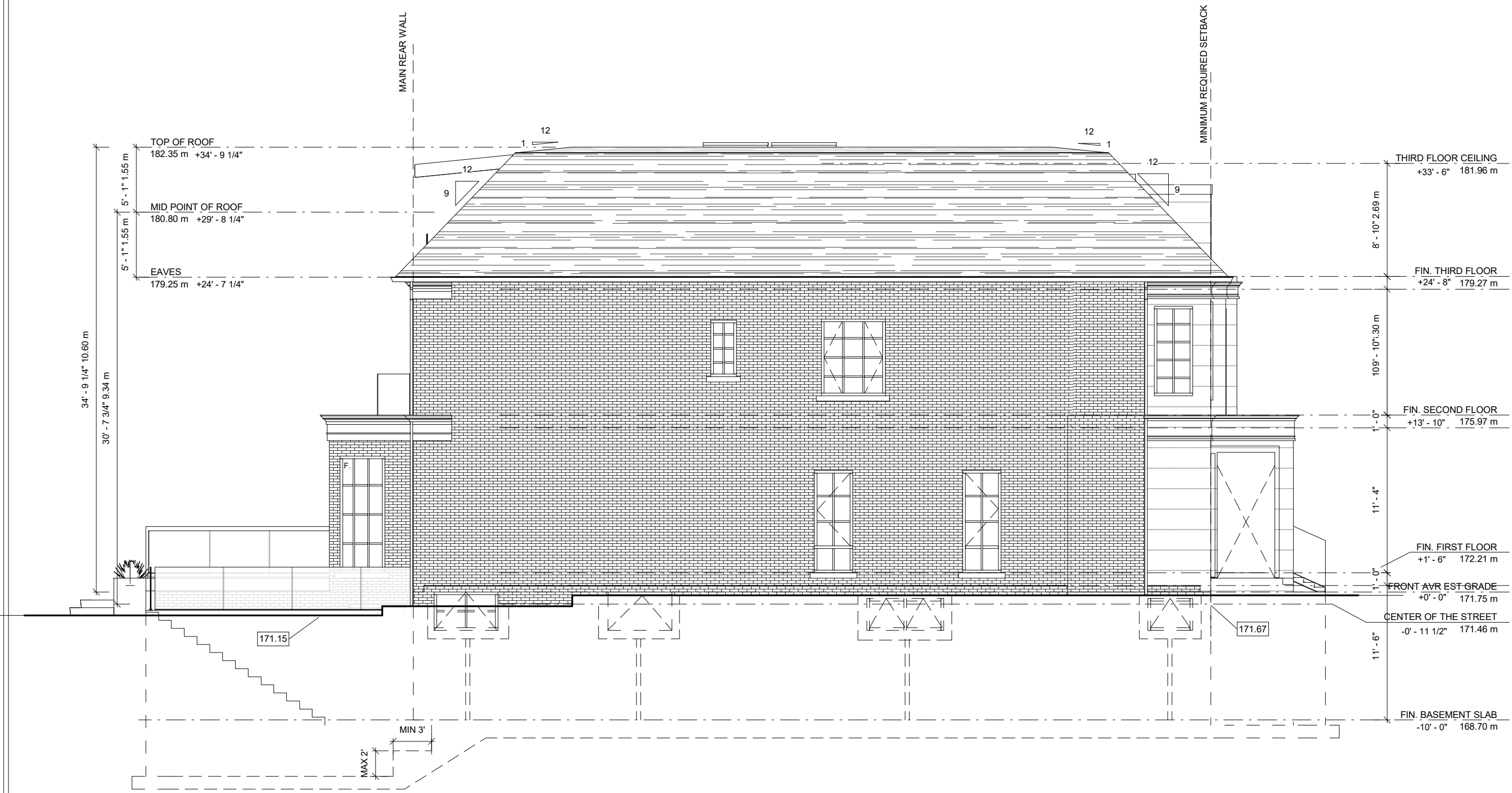
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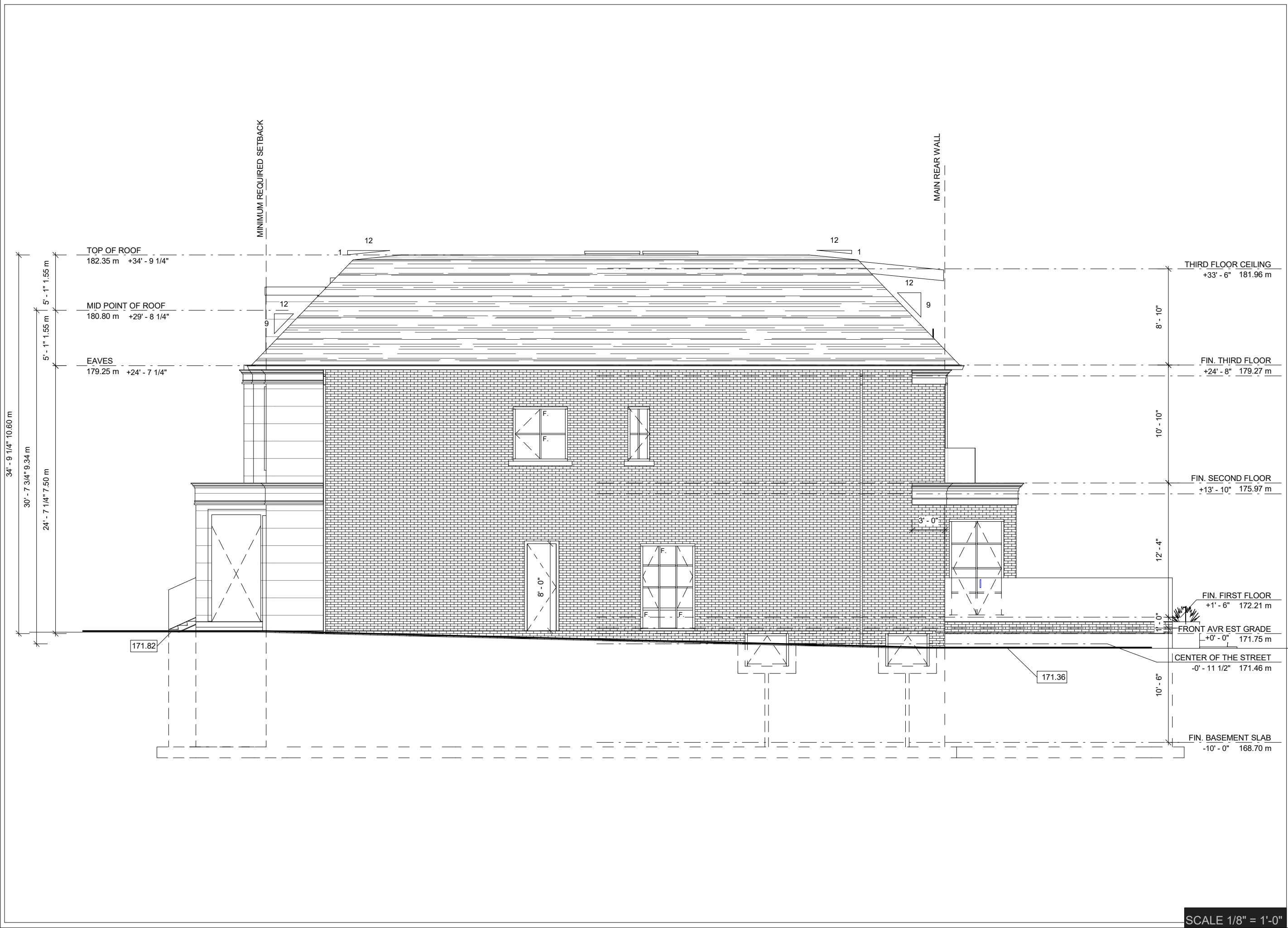
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PROJECT NORTH

STRUCTURAL REVIEW BY





arklab

(647) 290 - 9695
info@arklab.ca

PROPOSED DEVELOPMENT AT:
141 GLENCAIRN AVE,
TORONTO, ON

DRAWN BY:
B.A

CHECKED BY:
B.G

08 JUN 2022

3247

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PROJECT NORTH

STRUCTURAL REVIEW BY

DRAWING TITLE

DRAWING #

WEST ELEVATION

110

SCALE 1/8" = 1'-0"