

DECISION AND ORDER

Decision Issue Date: Wednesday, July 27, 2022

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): BRUCE STEWART

Applicant: ALI SHAKERI

Property Address/Description: 191 GOLFDAL RD

Committee of Adjustment Case File Number: 21 247331 NNY 15 MV

TLAB Case File Number: 22 124171 S45 15 TLAB

Hearing date: July 25, 2022

DECISION DELIVERED BY TLAB Panel Member Gerald Swinkin

REGISTERED PARTIES AND PARTICIPANTS

Applicant	ALI SHAKERI
Appellant	BRUCE STEWART
Party (TLAB)	SUZANNE TYSON
Party (TLAB)	MARK CAVANAUGH
Party (TLAB)	MARY ANN HUGHES
Party (TLAB)	SCOTT STEVENS
Party (TLAB)	ARASH KAMALI
Party's Legal Rep	PATRICK HARRINGTON
Participant	NANCY POPE
Participant	MARSHA GIFFEN

Participant	PAUL CONWAY
Participant	BRUCE CAMPBELL
Participant	JUDITH MCKAY
Participant	VALERIE DOWNIE
Participant	RONALD DIMOCK
Expert Witness	MARTIN RENDL

INTRODUCTION

This appeal is proceeding as a settlement hearing in writing at the request of counsel for the Owner, with the consent of the other Parties, pursuant to Rule 19 of the Toronto Local Appeal Body *Rules of Practice and Procedure*.

BACKGROUND

Arash Kamali (the “Owner”) is the owner of the property municipally known as 191 Golfdale Road (the “Property”). The Property is improved with a detached dwelling. The Owner wishes to demolish that dwelling and construct a new two storey dwelling. To that end, the Owner made application to the Toronto Committee of Adjustment (the “Committee”) for zoning variance relief with respect to the maximum Floor Space Index (“FSI”) and maximum side wall height.

The Committee approved the application and imposed two conditions thereon, one concerning the submission of an application to injure a tree on private property and the other with respect to street trees.

That decision of approval was appealed to the Toronto Local Appeal Body (the “Tribunal”) by the abutting neighbour to the west, Bruce Stewart, the owner of 187 Golfdale Road (the “Appellant”).

The Tribunal was advised by counsel for the Owner, Patrick Harrington, that the Owner and the Appellant have resolved the outstanding issues regarding the appeal and have executed formal Minutes of Settlement. The Minutes of Settlement have been executed by the Owner, the Appellant and two interested parties (Mark Cavanaugh and Scott Stevens as President of the Teddington Park Residents Association). That document has been filed with the Tribunal by way of the Affidavit of Martin Rendl. The settlement involves an adjustment of the location of the proposed building on the Property. To this end, revised plans of the project were prepared and formed part of the Minutes of

Settlement. The proposed settlement will endorse the relief granted by the Committee on the two conditions imposed but will add a further condition which will tie development of the Property to the revised plans.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

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.

Rule 19 - *Rules of Practice and Procedure* of the Toronto Local Appeal Body

EVIDENCE

An affidavit deposed by Martin Rendl (the "Affidavit") was filed in support of the settlement. Mr. Rendl is a Registered Professional Planner well known to the Tribunal and qualified on many occasions to offer opinion evidence on land use planning matters. The Affidavit will be taken in as Exhibit 1.

As explained in the Affidavit, the Property is located in a part of the City referred to as Teddington Park, in the Yonge Street and Lawrence Avenue East area. The characteristics of the Property are that it has a Lot Width/Frontage of 15.24 m (50 ft.), a Lot Depth of 38.12 m (125 ft.) and a Lot Area: 580.64 m² (6,250 sq. ft.).

The existing house has a floor area of approximately 239 m², corresponding to an FSI of approximately 0.41 times the area of the lot. The existing FSI is greater than the currently permitted maximum 0.35 FSI. In his experience, this is a common occurrence in older Toronto neighbourhoods where the houses were built before the passing of the Zoning By-laws enacted after World War II.

The redevelopment proposal here is to construct a new two storey dwelling which will comply with the requirements of the Zoning By-law save for two regulations. The application to the Committee was cast as follows:

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

Chapter 10.20.40.40, By-law No. 569-2103

The maximum permitted Floor Space Index (FSI) is 0.35 times the area of the lot. The proposed Floor Space Index (FSI) is 0.56 times the area lot the lot.

Chapter 10.20.40.10, By-law No. 569-2103

The maximum permitted side wall height is 7.5 m. The proposed side wall height is 7.8 m.

The requested relief was granted on the two following conditions:

The requirements of the Parks and Recreation, Urban Forestry Division;

1. Submission of a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection.

2. Where there is no existing street tree, the owner shall provide payment in lieu of planting of one street tree on the City road allowance abutting each of the sites involved in the application. The current cash-in-lieu payment is \$583/tree.

The Affidavit discloses that there was a discussion amongst the Parties and interested persons which resulted in shifting the proposed residential dwelling nine (9) inches to the west, resulting in a 1.3 metre west side yard setback and a 1.75 metre east side yard setback.

Mr. Rendl indicates that he is able to support the above-noted shifting of the proposed dwelling and the resulting side yard setbacks as an appropriate means of settling this matter.

To ensure implementation of the accord, it is proposed that a further condition be imposed as follows:

“3. Development of the site shall proceed in substantial accordance with the revised drawings dated July 12, 2022 by Ali Shakeri-Nezhad.”

These drawings are attached as Schedule B to the Minutes of Settlement which are appended to the Affidavit as Exhibit C.

Without detailing it in this Decision, in the Affidavit, Mr. Rendl fully canvasses the relevant planning policy and statutory provisions and concludes as follows:

1. The minor variances before the Toronto Local Appeal Body meet the four tests of Section 45(1) of the *Planning Act* and are appropriate for the development of 191 Golfdale Road;
2. The variances are consistent with the 2020 Provincial Policy Statement and conform to the 2019 Growth Plan for the Greater Golden Horseshoe.
3. The variances are minor and create no adverse impacts on nearby properties;
4. The variances maintain the general intent and purpose of the Toronto Official Plan and Zoning By-law;
5. The variances respect and reinforce the existing physical character of the neighbourhood and properties in the immediate vicinity; and,
6. The variances represent good planning.

ANALYSIS, FINDINGS, REASONS

The Tribunal accepts the opinion evidence of Mr. Rendl and finds it appropriate to endorse the variances approved by the Committee on the conditions imposed by the Committee while implementing the settlement amongst the Parties and interested persons by imposing a further condition as advanced in the Minutes of Settlement.,

DECISION AND ORDER

The Tribunal allows the appeal, in part, for the purpose of imposing a third condition. The Tribunal thus approves the variances approved by the Committee on the two conditions imposed by the Committee, all as above noted, and hereby imposes a third condition as follows:

“3. Development of the site shall proceed in substantial accordance with the revised drawings dated July 12, 2022 by Ali Shakeri-Nezhad.”

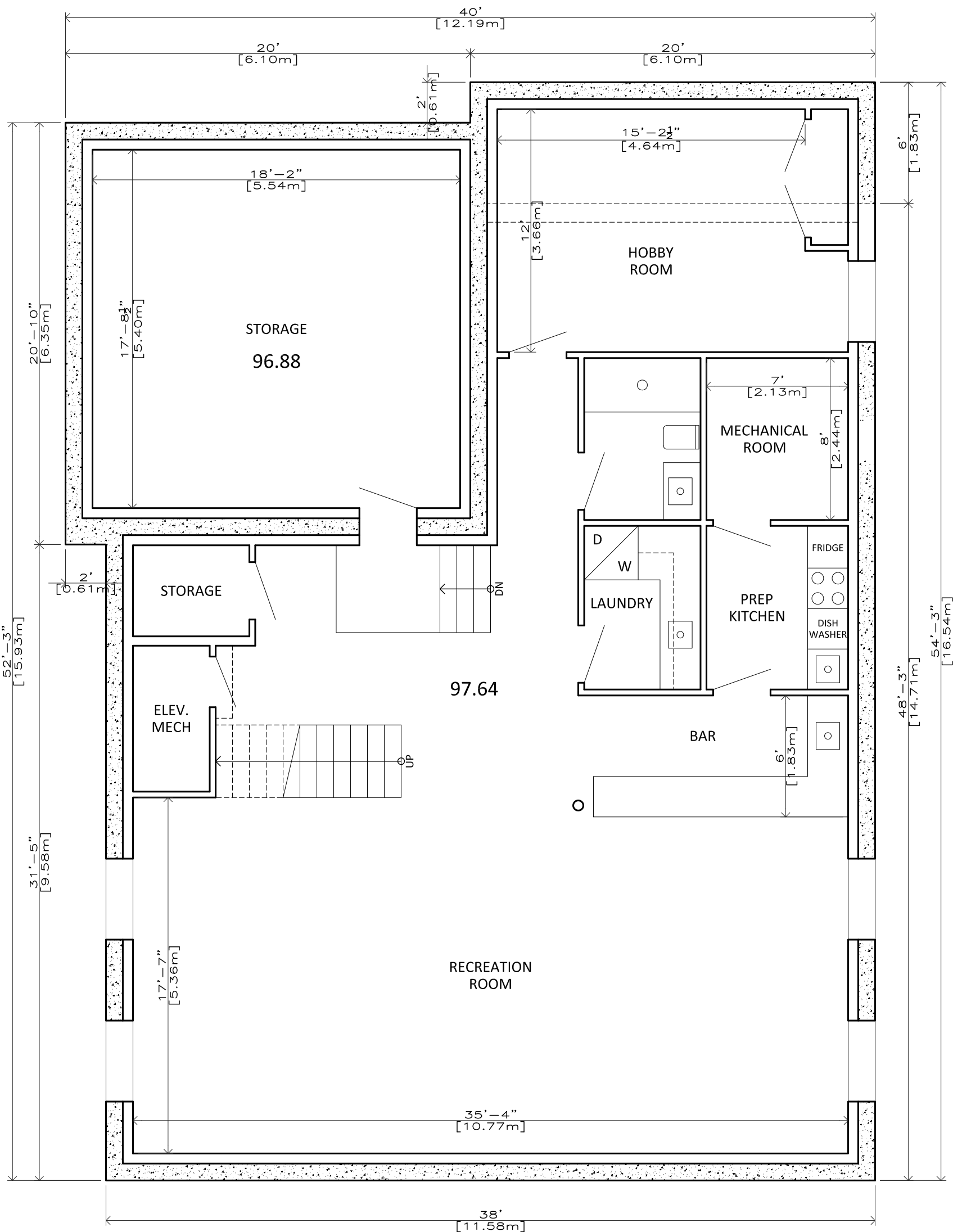
Decision of Toronto Local Appeal Body Panel Member: G. Swinkin
TLAB Case File Number: 22 124171 S45 15 TLAB

X



G. Swinkin
Panel Chair, Toronto Local Appeal Body

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3. DO NOT SCALE DRAWINGS.
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5. USE ONLY LATEST VERSION OF DRAWINGS
6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION



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project:
191 GOLFDAL ROAD

drawing:
BASEMENT FLOOR PLAN

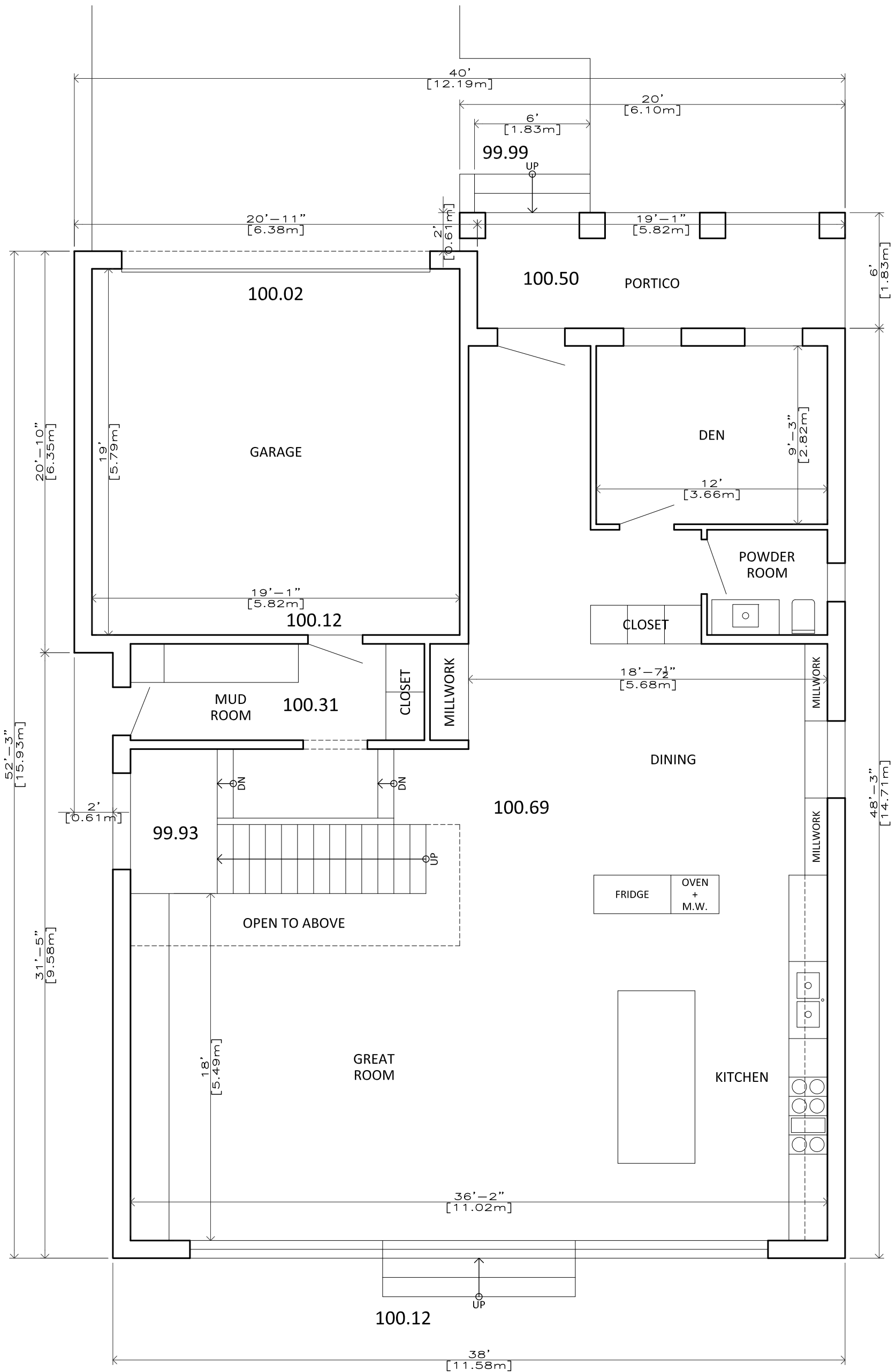
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revisions:
NOV.30, 2021 - issued for COA1



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project:
191 GOLFDALE ROAD

drawing:
MAIN FLOOR PLAN

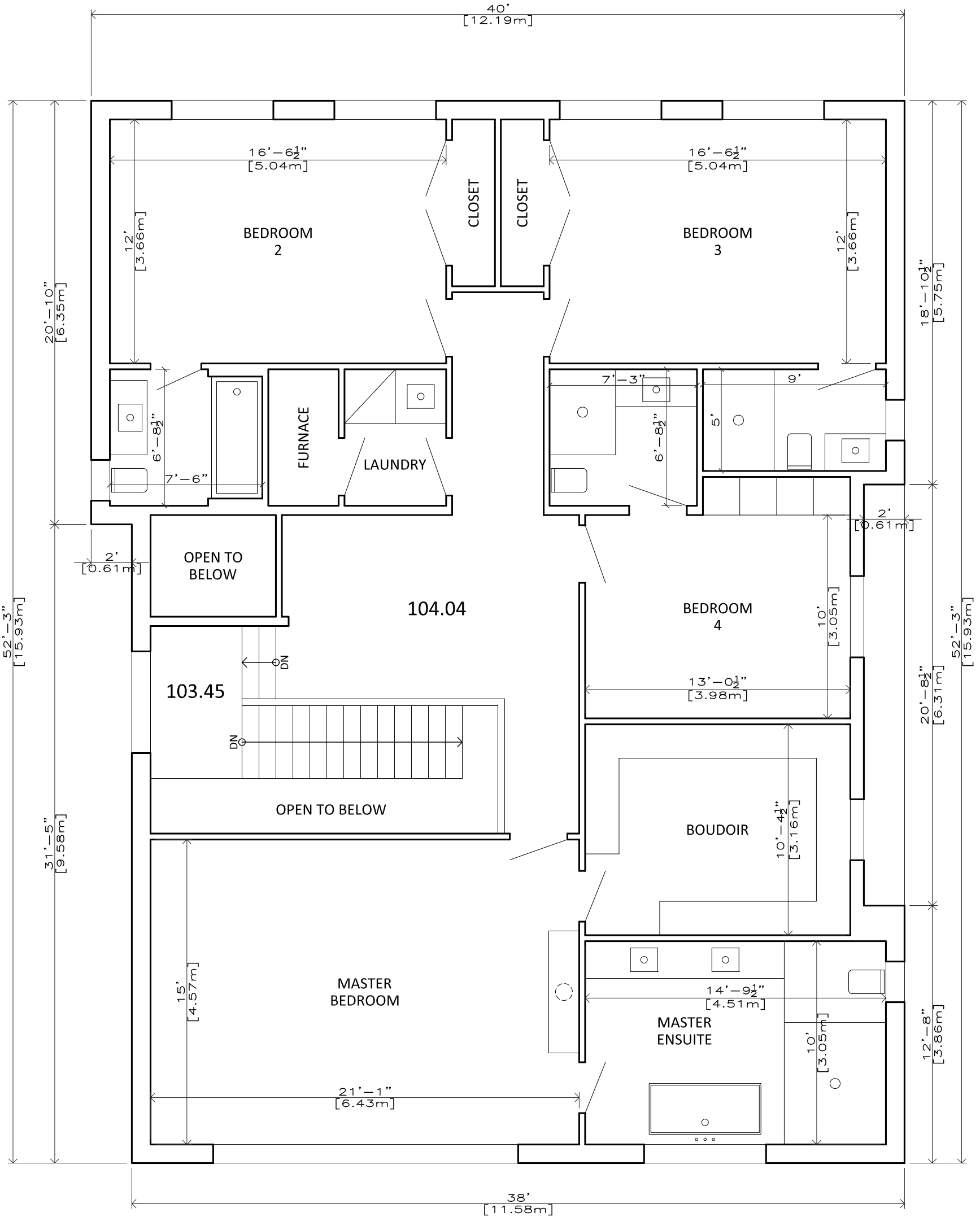
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project:
191 GOLFDALE ROAD

drawing:
2ND FLOOR PLAN

scale:
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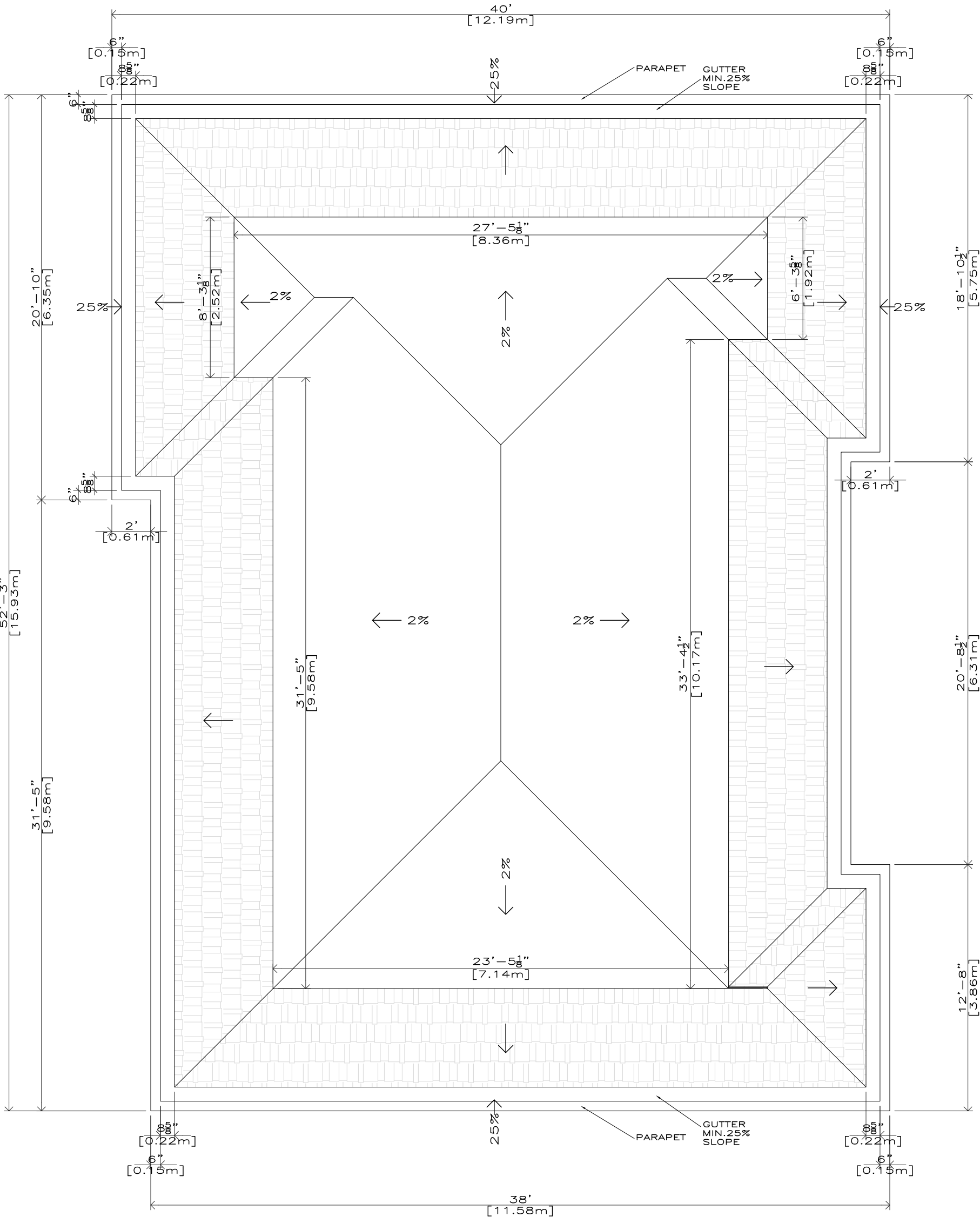
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TOTAL ROOF AREA = 1985.75 S.F.
FLAT ROOF AREA (2% SLOPE) = 958.58 S.F. (48.27%)



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project:
191 GOLFDAL ROAD

drawing:
ROOF PLAN

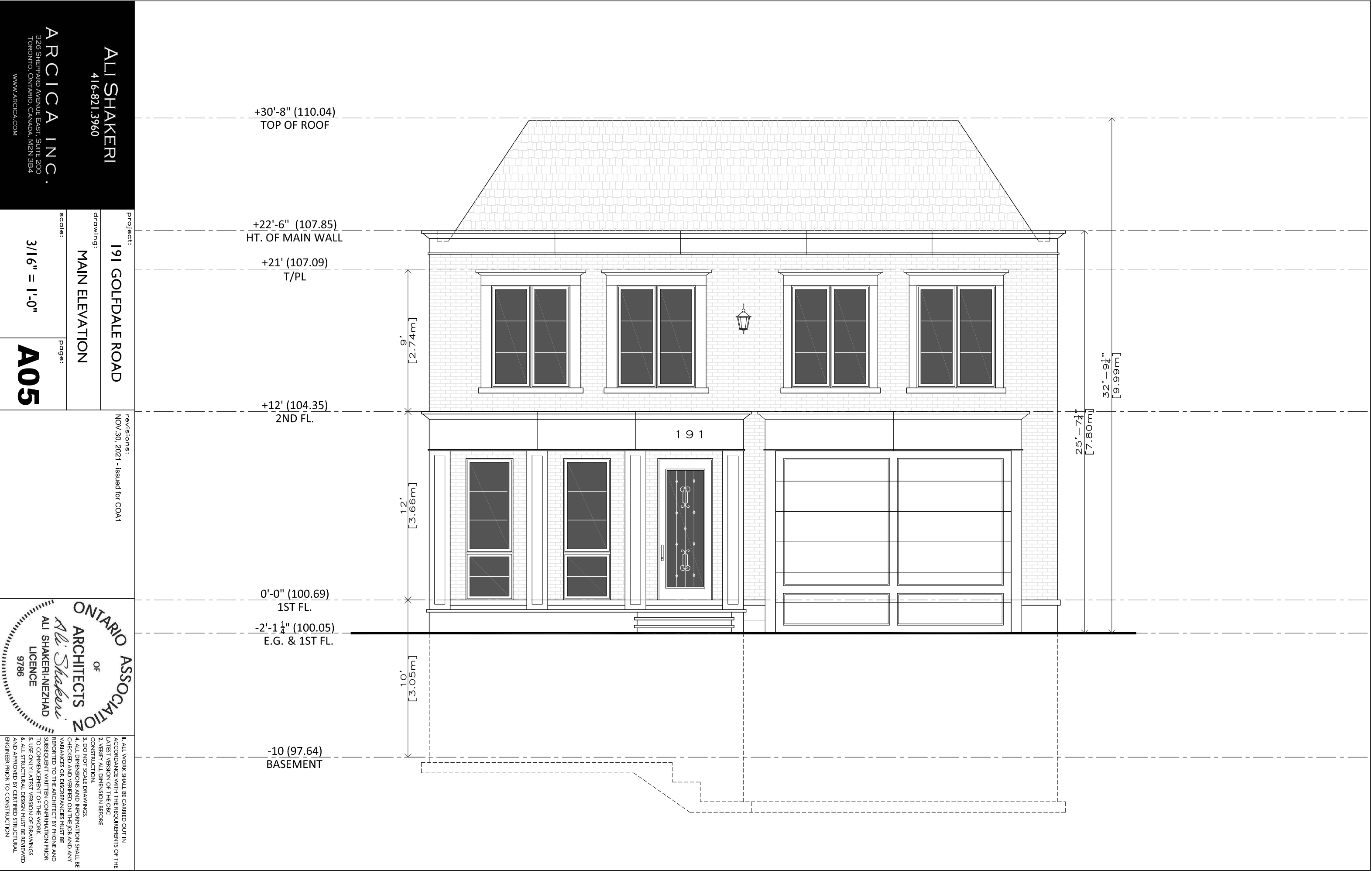
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NOV.30, 2021 - issued for COA1
FEB.07, 2022 - Re-issued



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Project: **191 GOLFDAL ROAD**

Drawing: **MAIN ELEVATION**

Scale: **3/16" = 1'-0"**

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191 GOLFDAL ROAD

REAR ELEVATION

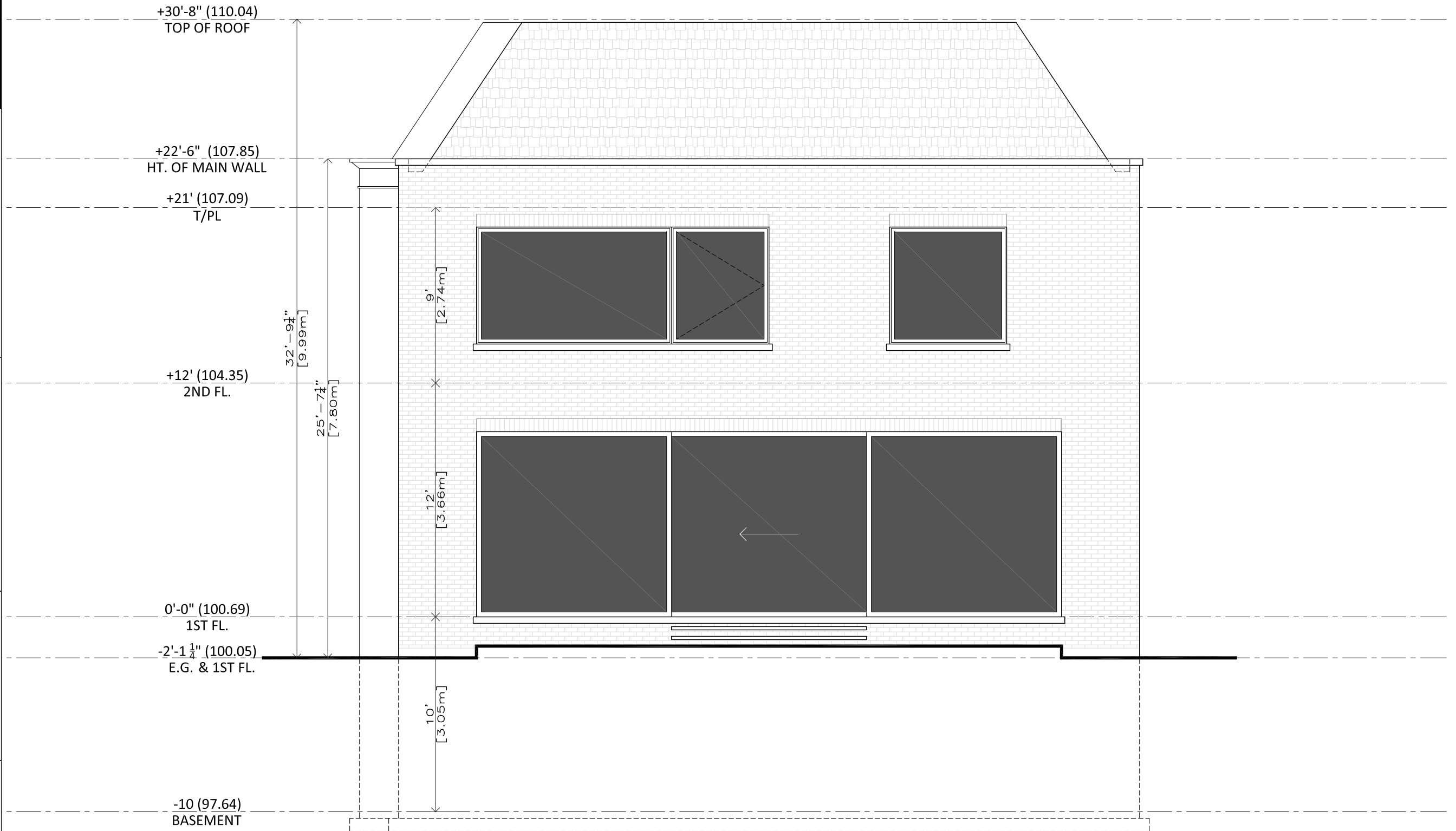
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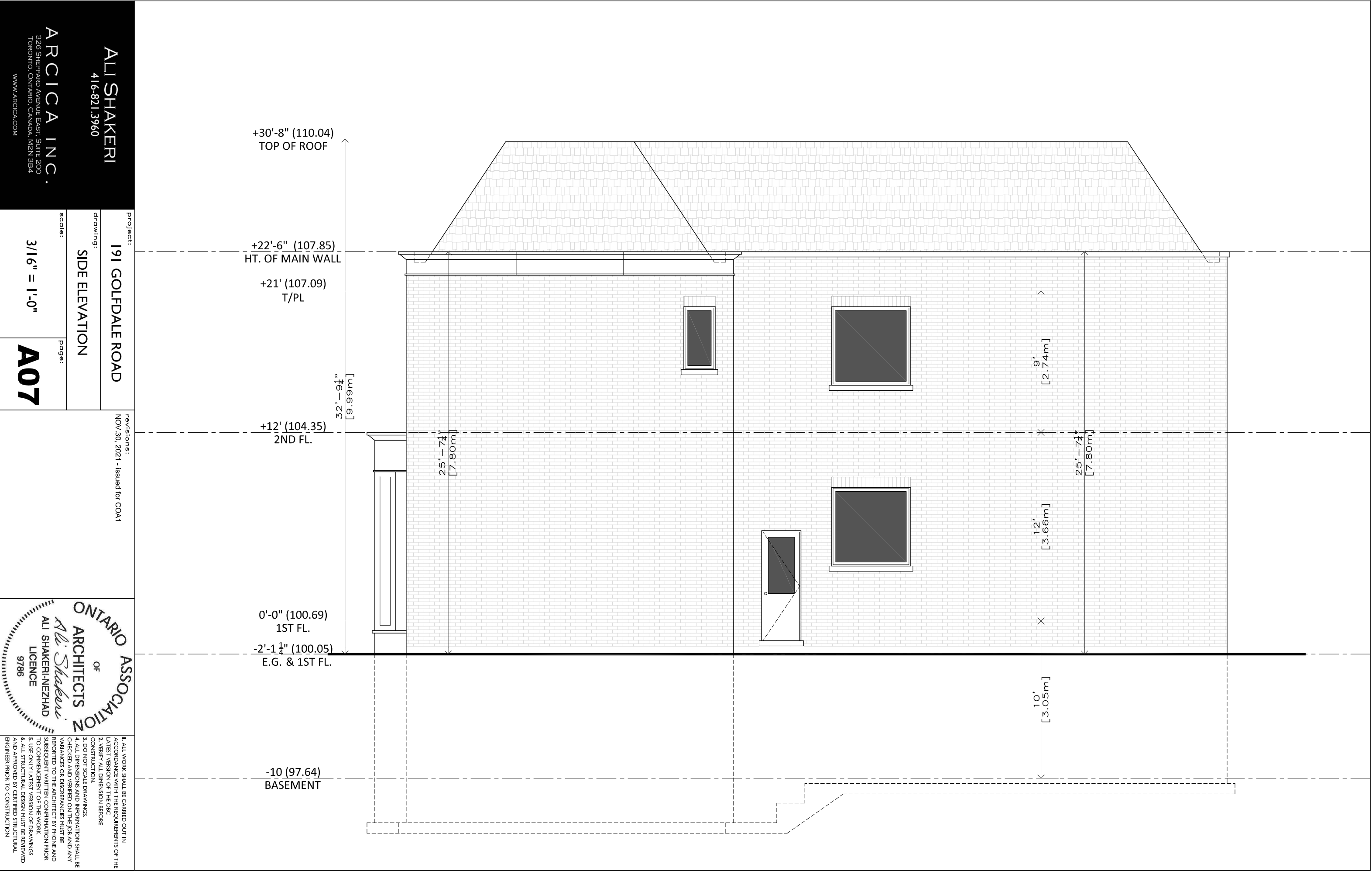
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Project: 191 GOLDALE ROAD

Drawing: SIDE ELEVATION

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

Page: A07

Revisions:

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ONTARIO ASSOCIATION OF ARCHITECTS

ALI SHAKERI-NEZHAD

LICENCE 9786

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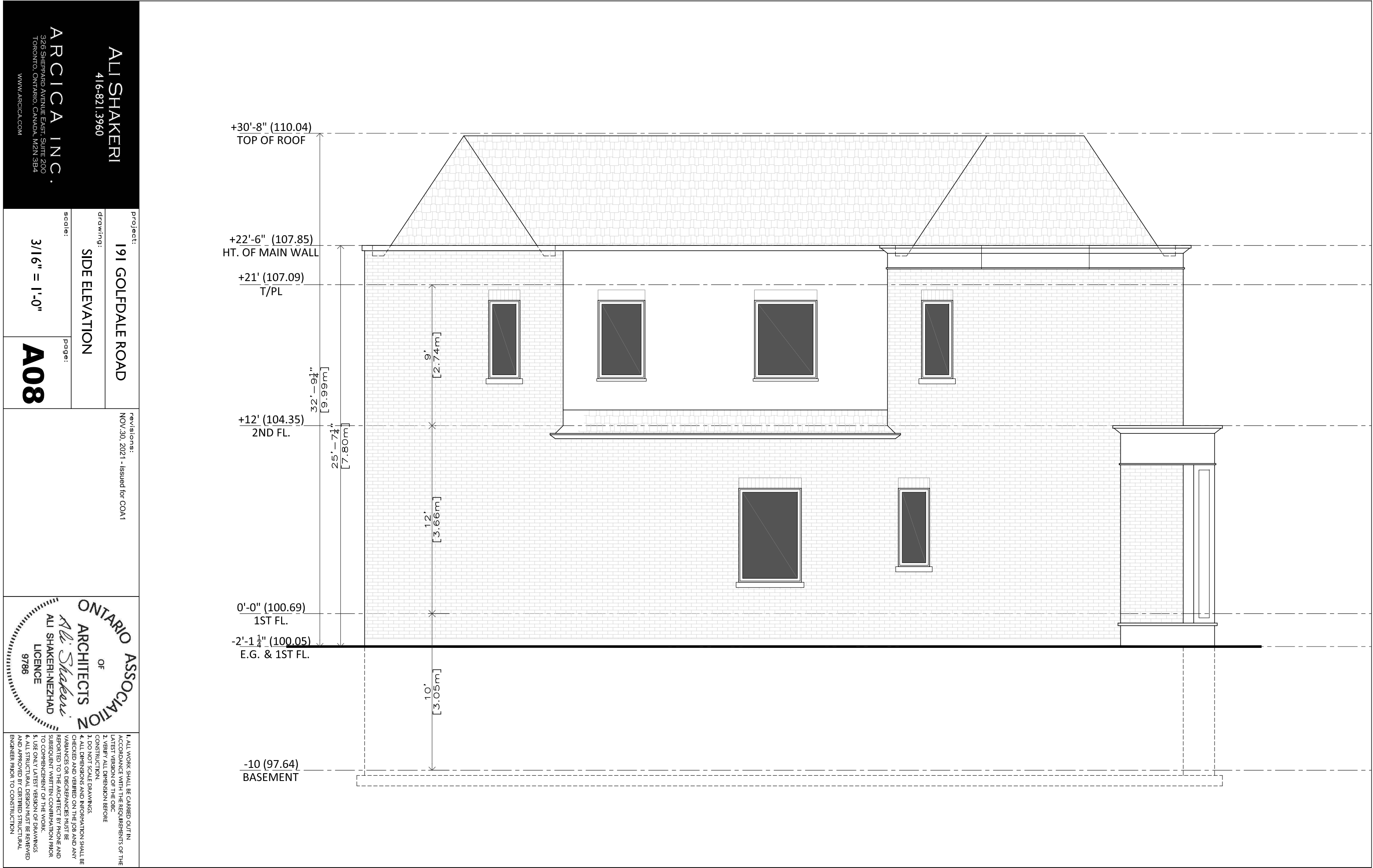
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Project: 191 GOLDALE ROAD		Revisions: NOV.30, 2021 - issued for COA1
Drawing: SIDE ELEVATION		
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<div><div><div>ONTARIO ASSOCIATION OF ARCHITECTS Ali Shakeri-Nezhad ALI SHAKERI-NEZHAD LICENCE 9786</div></div><div><p>1. ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST VERSION OF THE OBC</p><p>2. VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION.</p><p>3. DO NOT SCALE DRAWINGS.</p><p>4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO THE ARCHITECT BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK</p><p>5. USE ONLY LATEST VERSION OF DRAWINGS</p><p>6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION</p></div></div>		