

**PLANNING AND BUILDING SERVICES****Town of Newmarket**

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**Planning Report**

To: Committee of Adjustment

From: Janany Nagulan,  
Planner

Date: February 18, 2021

Re: Application for Minor Variance D13-A02-21  
125 Prospect Street  
Town of Newmarket  
Made by: DEWAR, Caroline & CHALMERS, Nelia Melo

**1. Recommendations:**

That Minor Variance Application D13-A02-21 be approved, subject to the following conditions:

- i. That the variance pertains only to the request as submitted with the application; and
- ii. That the development be substantially in accordance with the information and drawing submitted with the application
- iii. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

**2. Application:**

An application for a minor variance has been submitted by the above –noted owner to request relief from Zoning By-law 2010-40 as amended, to permit reconstruction of a second- story balcony supported by vertical uprights other than from the exterior wall. By contract, the By-law defines a balcony as a raised platform or structure in excess of 3 meters above grade which is not supported by vertical uprights other than from the exterior wall of the building which it projects and is only accessible from within the building.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	3 Definition of Balcony	A balcony is defined as: a raised platform or structure in excess of 3 metres above grade which is not supported by vertical uprights other than from the exterior wall of the building from which it projects and is only accessible from within the building.	To allow balcony to be defined as: a raised platform or structure in excess of 3 metres above grade which can be supported by vertical uprights other than from the exterior wall and is only accessible from within the building.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, on Prospect Street, south of Queen Street. There is a Triplex on the subject property, and it is abutted by single detached dwellings to the north and south, and backs on to open space to the east.

### **3. Planning considerations:**

The applicant is requesting relief from the By-law in order to permit the reconstruction of an existing rear second-storey balcony supported by the enclosed porch located on the rear of the existing single detached dwelling. The Zoning By-law defines a balcony as a platform or structure in excess of 3 meters above grade which is not supported by vertical uprights other than from the exterior wall of the building from which it projects. In this case, the existing balcony is supported by the existing porch therefore the reconstruction of the balcony will require that uprights through the enclosed porch underneath to maintain the character of the existing home.

In order to authorize a variance, Committee must be satisfied that the requested variance passes the four tests required by the Planning Act. In this regard, staff offer the following comments:

#### **Conformity with the general intent of the Official Plan**

The subject property is designated "Stable Residential" in the Town's Official Plan. This designation permits a range of residential accommodation built form types including Triplex, which is the main use of the subject property. The use is pre-existing and the Town's Official Plan permits multi-unit buildings in the "Stable Residential" area where they are pre-existing.

The proposed application does not seek to change this pre-existing use of the lot and therefore the application is found to conform to the Official Plan, and therefore, this test is met.

#### **Conformity with the general intent of the Zoning By-law**

The subject property is zoned Residential Multiple Unit Dwelling 1(R3-L) by By-law 2010-40, as amended. There currently is a legal non-conforming Triplex on the property. The use will continue without any interruption as the balcony and porch are proposed to be reconstructed.

Section 3 of the Zoning By-law defines the terms and uses of the Zoning By-law. The section sets out a definition of balcony as stated in the chart above. Definitions are provided in the Zoning By-law to ensure consistent interpretation. In order to use the Zoning By-law and apply the standards and rules contained therein, a balcony must fit a defined term in order to define the structure, in order to distinguish if it is permitted and which standards are to be applied. In this case, the request for variance is to permit a balcony to be supported by the enclosed porch beneath rather than by the exterior wall of the building from which it projects. This is to maintain the existing construction where the existing balcony is supported by the existing porch beneath.

The general intent of the definition of balcony in the Zoning By-law is to ensure the balcony structure would be supported by the exterior wall of a building and provide access to the balcony within the building. The proposed reconstruction of the balcony will be supported by the enclosed porch underneath which will maintain the existing construction of the balcony and existing dwelling. Therefore, the variance requested maintains the general intent of the zoning by-law. This test is met.

#### **Desirable for the appropriate development of the land**

The variance is considered desirable for the development and the use of the land. The balcony and dwelling are an existing situation therefore it is considered desirable to permit the land owner to improve their property and renew the existing dwelling.

### **Minor nature of the variance**

The impact of the proposed variance appears to be minimal as a balcony has existed in this location previously with no noted impacts.

In consideration of the above, the proposed variance is deemed to meet the four tests under the Planning Act and is recommended to be approved subject to conditions.

#### **4. Other comments:**

##### **Heritage**

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated properties.

##### **Commenting agencies and departments**

Comments from the Chief Building Official were not available as of the date of this report.

Engineering Services has no comment on the application.

The Regional Municipality of York has no comment on the application.

##### **Effect of Public Input**

No public input was received as of the date of writing this report.

#### **5. Conclusions:**

The relief as requested:

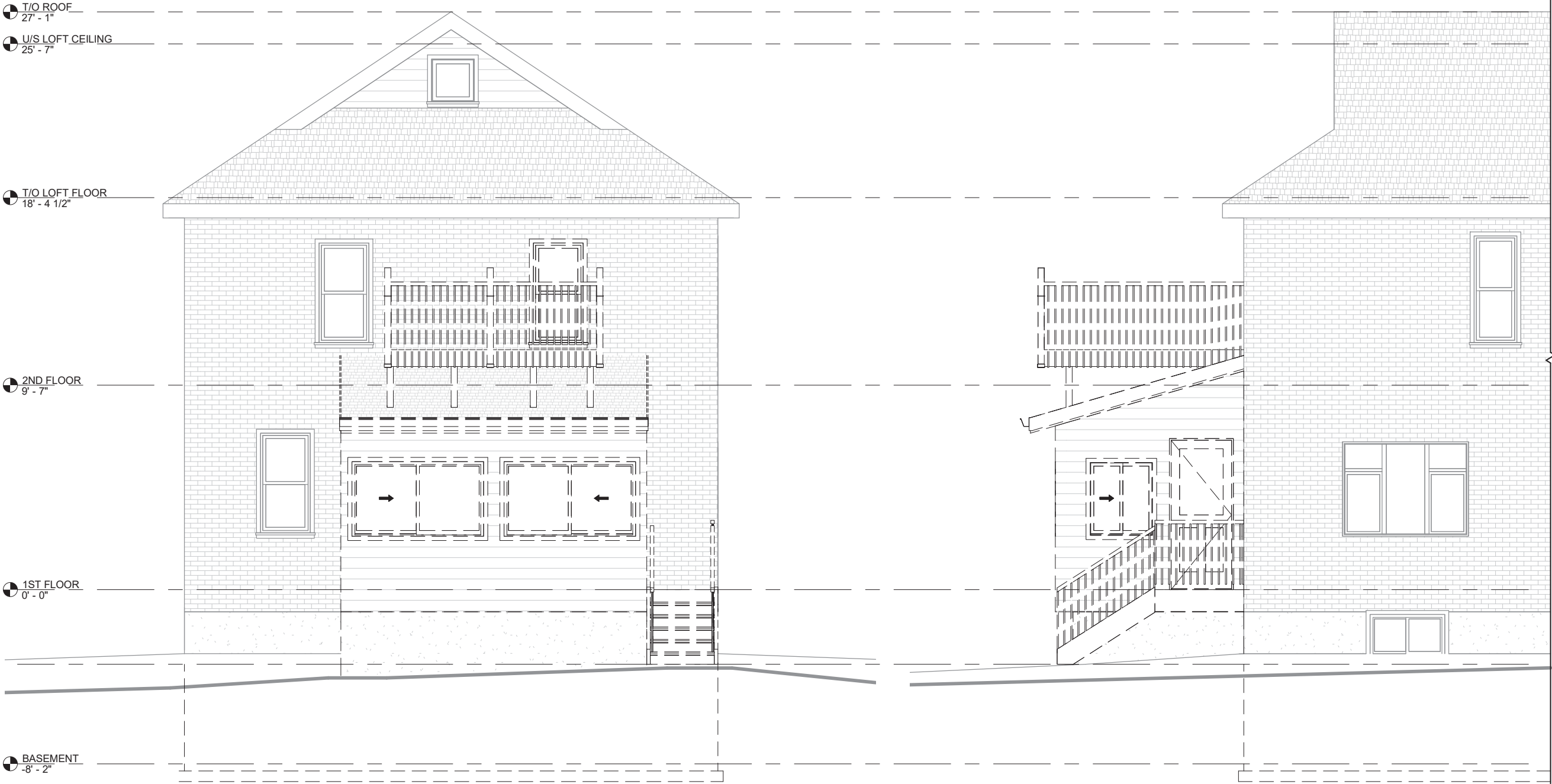
- 1) is minor in nature;
- 2) conforms to the general intent and purpose of the Official Plan and Zoning By-law; and
- 3) is considered desirable for the appropriate development of the lot.

Respectfully submitted,

Janany Nagulan  
Planner

SUBJECT OF MINOR VARIANCE APPLICATION

THIS APPLICATION ASKS FOR THE PROPOSED 2ND-STOREY WALK-OUT TO BE STRUCTURALLY SUPPORTED BY THE SCREENED PORCH BENEATH.



1 EAST ELEVATION - EXISTING  
3/16" = 1'-0"

2 NORTH ELEVATION - EXISTING  
3/16" = 1'-0"

EXISTING ELEVATIONS  
NOV 10, 2020  
1:40 PM

U:\20server\20014 - Alterations - 125 Prospect Street, Newmarket\00 Revit & AutoCAD\20014 - 125 Prospect St, Newmarket - 2020-11-10 - MINOR VARIANCE.rvt

No	Description	Date	By

PROPOSED RESTORATION  
**125 PROSPECT STREET**  
125 Prospect St, Newmarket, ON

CAROLINE  
DEWAR  
&  
NELIA  
CHALMERS

DAVID  
JOHNSTON  
ARCHITECT  
  
No. 8 Maple Lane  
Unionville, Ontario L3R 1R2  
Phone: (905) 479-9992  
Fax: (905) 479-9995

ONTARIO ASSOCIATION  
OF  
ARCHITECTS  
  
DAVID JOHNSTON  
LICENCE  
2292

MINOR VARIANCE  
APPLICATION

Drawn by YS
Date 2020-11-10
Scale 3/16" = 1'-0"
Project Number 20014
DRAWING NAME EX. ELEVATIONS
SHEET NUMBER A-2.1

SUBJECT OF MINOR VARIANCE APPLICATION

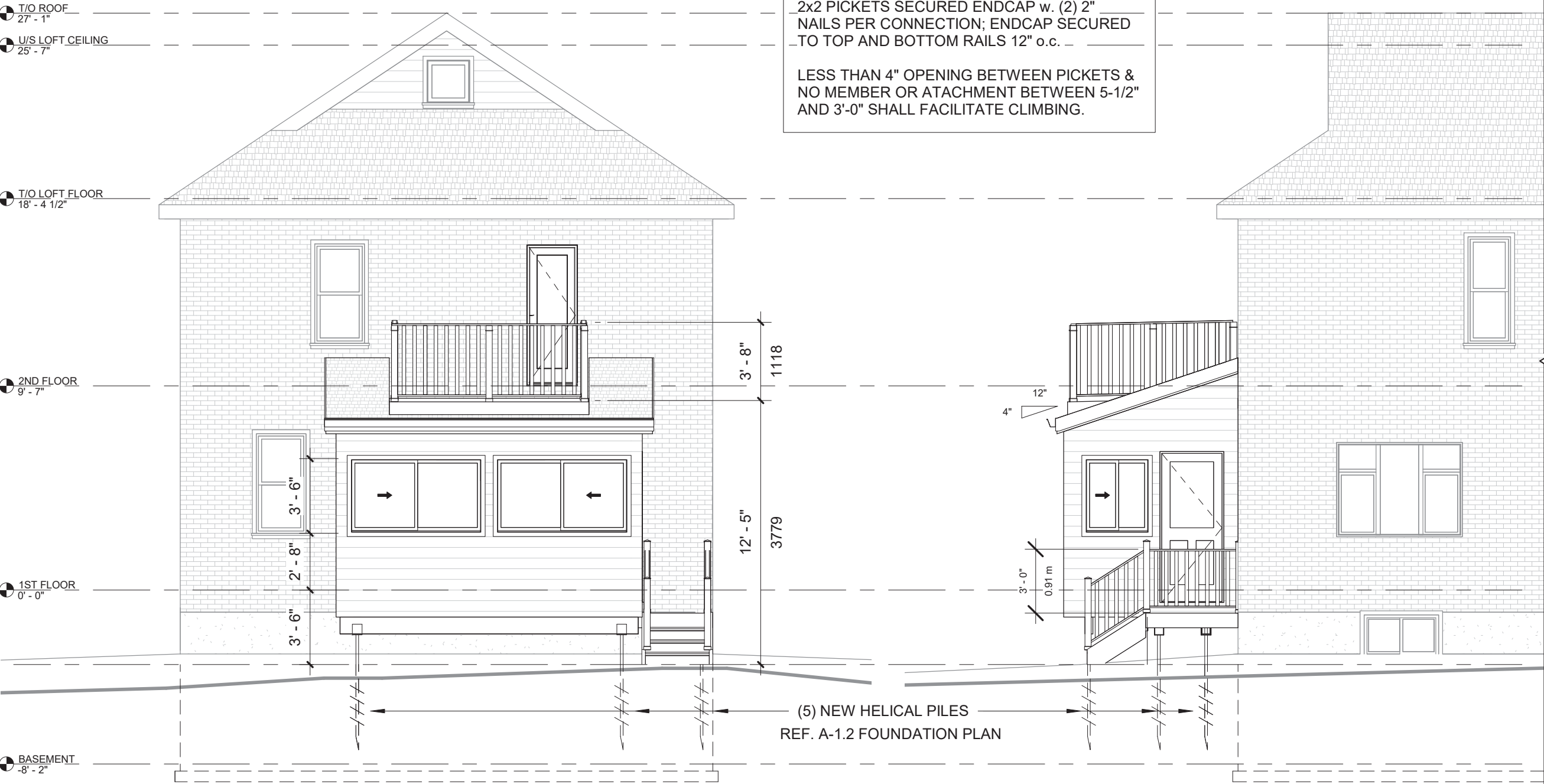
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GUARDRAIL NOTE:

CONTINUOUS 2x4 TOP AND BOTTOM RAIL  
SECURED w.(2) 3" NAILS PER CONNECTION;  
SKEW NAILED

2x2 PICKETS SECURED ENDCAP w. (2) 2"  
NAILS PER CONNECTION; ENDCAP SECURED  
TO TOP AND BOTTOM RAILS 12" o.c.

LESS THAN 4" OPENING BETWEEN PICKETS &  
NO MEMBER OR ATTACHMENT BETWEEN 5-1/2"  
AND 3'-0" SHALL FACILITATE CLIMBING.



1 EAST ELEVATION - PROPOSED  
3/16" = 1'-0"

2 NORTH ELEVATION - PROPOSED  
3/16" = 1'-0"

NOTE: GUARDS TO BE INSTALLED IN COMPLIANCE WITH O.B.C. 9.8.8.

PROPOSED ELEVATIONS  
NOV 10, 2020  
1:40 PM

No	Description	Date	By

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125 Prospect St, Newmarket, ON

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MINOR VARIANCE  
APPLICATION

Drawn by  
YS  
Date  
2020-11-10  
Scale  
3/16" = 1'-0"  
Project Number  
20014  
DRAWING NAME  
PROPOSED  
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SHEET NUMBER  
A-2.2