



PLANNING AND BUILDING SERVICES

Town of Newmarket

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Planning Report

TO: Committee of Adjustment

FROM: Janany Nagulan
Planner, Development

DATE: October 20, 2021

RE: Application for Minor Variance **D13-A20-21**
582 Gorham Street
Town of Newmarket
Made by: VINITSKY Kosta and YUZAYEVA, Nailya

1. Recommendations:

That Minor Variance Application D13-A20-2021 be approved, subject to the following conditions:

1. That the variance(s) pertain only to the request as submitted with the application;
2. That the development be substantially in accordance with the information submitted with the application;
3. That the applicant submit the following to the Town to be approved by Engineering Services:
 - a. Site specific grading plan prepared and sealed by the design Engineer (P. Eng), complying with Town standards for grading and drainage requirements;
 - b. A sealed letter from the design Engineer confirming the proposed construction/grading of the site will not cause adverse impacts to adjacent lands or affect slope stability of abutting sites;
 - c. Drawings signed and stamped by a Professional Engineer for the proposed retaining wall in the front yard;
4. That the Owner be required to obtain a demolition permit and remove the existing dwelling on the lot;
5. That the applicant be advised that prior to the issuance of any building permit, compliance will be required with the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy; and
6. That the development of the subject property shall not affect the heritage attributes on the adjacent property (588 Gorham Street) designated under Part IV, Section 29 of the Ontario Heritage Act, 1990.
7. That the Owner be required to provide to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. Three white prints of the deposited reference plan showing the lands that have been voluntarily conveyed to the Town;
 - b. The required transfer to effect the voluntary conveyance(s).

8. 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 Number 2010-40 as amended, to facilitate the construction of a new two-storey single-detached dwelling. The requested variances are below.

Relief	By-law	Section	Requirement	Proposed
1	2010-40	Section 4.2 Encroachments in Required Yards	A covered porch is permitted to encroached 2.4 metres into the required yard.	To permit the covered porch to encroach 3.35 metres into the exterior side yard.
2	2010-40	Section 4.2 Encroachments in Required Yards	A portico is permitted to be located 1.5 metres from the front lot line	To permit the portico to be located 1.2 metres from the front lot line.
3	2010-40	Section 6.2.2 Zoning Standards Residential Zones	The required front yard is to be one metre less than the average of the front yard of adjacent dwellings located within 60 m, of the subject property on the same road but shall not be closer to the street line than 3m. The average front yard setback is 4.8 m therefore the required minimum front yard setback is 3.8 m.	To reduce the front yard setback from 3.8m to 2.9m.
4	2010-40	Section 6.2.2 Zoning Standards Residential Zones	The required minimum setback from the interior side yard is 1.8m.	To reduce the interior side yard from 1.8m to 1.14m
6	2010-40	Section 6.2.2 Zoning Standards Residential Zones	A maximum building height of 8.5m.	A maximum building height of 9.26m.
7	2010-40	Section 6.2.2 Zoning Standards Residential Zones	A maximum finished first floor height of 1.2m	A maximum finished first floor height of 2.4 metres.

The above-described property (herein referred to as the “subject property”) is located in a residential neighbourhood, on Gorham Street, east of Water Street. There is currently a one-story residential detached dwelling on the property.

3. Planning considerations:

The request for variances are to facilitate a new proposed two-storey single-detached dwelling on the property.

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 “Residential Areas” in the Official Plan. This designation permits a range of residential built form types. Regarding this designation, the Town’s Official Plan states:

It is the objective of the Residential Area policies to:

- a. Provide for a range of residential accommodation by housing type, tenure, size and location to help satisfy the Town of Newmarket’s housing needs in a context sensitive manner.
- b. Maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighbourhood.
- c. Recognize the desirability of gradual ongoing change by allowing for contextually-sensitive development through *Planning Act* applications, to permit development which contributes to a desirable urban structure, diversifies housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with and complementary to the surrounding neighbourhood.
- d. Encourage a range of innovative and affordable housing types, zoning standards and subdivision designs where it can be demonstrated that the existing physical character of the Residential Area will be maintained.

The “Residential Areas” permits single detached dwellings in a range of sizes and built forms. The Official Plan allows for compatible design and the gradual change and improvement of homes through *Planning Act* applications. Subject to the recommended conditions of approval, the requested variances are considered 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 Detached Dwelling 15.0m (R1-D) according to By-law 2010-40, as amended by By-law Number 2020-63 and single detached dwellings are permitted within the zone.

Section 4.2 of the Zoning By-law speaks to the encroachments permitted in required yards for accessory, mechanical, structural, and ornamental structures for principal buildings. The general intent of the encroachment is to permit specific structures, which have minimal impacts within the

required yard. The subject property is a corner lot, and the applicant has proposed a porch and portico, which uses design elements found in the surrounding neighbourhood, many of which require a small degree of encroachment into the front and exterior yards.

Section 6.2.2 of the Zoning By-law sets out the zone standards applicable to residential zones. The general intent of setbacks is to ensure that the use of a property does not infringe on the rights of neighbours and to allow sufficient space for sunlight, airflow, privacy, landscaping, stormwater run-off, traffic safety and movement around the home. The intent is also to ensure compatibility and consistency within the existing neighbourhood. In this case, the proposed dwelling will be located approximately 2.9m from the front lot line and 1.14m from the interior property line, whereas the required minimum front yard setback is 3.8m and the required side yard setback is 1.8m. The proposed reduction to the setbacks appears to maintain a functional space and have minimal impacts to neighbouring properties.

The applicant has requested an increase to the maximum height for the two-storey dwelling from 8.5m to 9.26m. The proposed dwelling will have to exceed the maximum height permitted to facilitate the development. The applicant has stated that this is primarily due to grading challenges on the site. The property is relatively low in comparison to the neighbouring properties to the north and west because Court Street is located on a hill and drops down to Gorham Street. However, the proposed dwelling will still appear similar in height to the neighbouring properties. The proposed increase in height will not create an additional storey and will be taking design elements from the existing neighbourhood for enhanced integration. For these reasons, the proposed height is not anticipated to have a negative impact on the existing neighbourhood.

The maximum finished floor height permitted in the zone is 1.2m. The applicant has requested an increase to the finished first floor height to 2.4m. The intent of the maximum height is to have the first floor close to the street, which provides opportunities for porches and a close relationship between the dwelling and the street. However, due to grading challenges on the site, the applicant has requested an increase to the height of the first floor. The finished floor elevation is proposed to be higher however, this is sufficient from an urban design perspective because the porch and portico can be accommodated which will reduced the impact of the elevated first floor. The southern portion of the first floor will be close to Gorham Street, and the proposed porch and portico will create connectivity between the dwelling and the street.

Based on the Town's proposed road allowance widening on Gorham Street, the applicant has voluntarily conveyed a 1.9m strip of land from the north side of the property. The owner has also voluntarily conveyed a 5m by 5m daylight triangle on the north-west portion of the property. The land conveyances will affect the area and lot coverage of the subject property. However, section 4.11 of the By-Law states that if a public authority acquisition results in a contravention of the zoning standards, the land affected is deemed to comply with the By-Law to the extent that it complied with on the day before the acquisition was finalized. This means that a building or structure may be built with the lot coverage as would have been allowed for the lot, as it existed before conveyance. The other variances requested are based on the proposed design of the dwelling; if approved the variance will bring the home into compliance on the existing lot, and will still comply once the land conveyances are completed.

The requested variances represent multiple minor changes due to the design features and grading challenges of the lot. The proposal is to enhance the current property and streetscape and will not significantly impact the neighbouring properties. This test is met.

Desirable for the appropriate development of the land

It is generally desirable to allow a property owner to invest in their property and arrange it in a manner that suits their needs, subject to the limits of the zoning by-law and impacts on neighbouring properties. As the requested relief would allow the property owner to invest in their property and arrange the property to suit their needs without significant impact to neighbours or the community, the variances are desirable for the appropriate development of the lot. This test is met.

Minor nature of the variance

When considering if the variance is minor, it is not just the numerical value that is considered; the Committee is requested to consider the overall impact of the variance. The overall impact of the proposed variance appears to be minimal as despite the reduced setbacks, increased lot coverage, and increased dwelling height the proposed dwelling would still be compatible with the overall diversity of dwelling types within the neighbourhood. In addition, significant impacts to surrounding properties are not anticipated. This test is met.

In consideration of the above, the proposed variance meets the four tests under the *Planning Act*.

4. Other comments:

Heritage

The property is not designated under the Ontario Heritage Act or on the municipal list of non-designated properties. However, the property adjacent to the subject property at 588 Gorham Street is individually designated under the Ontario Heritage Act.

Commenting agencies and departments

The Chief Building Official has no objection to this application subject to compliance with the Ontario Building Code.

Engineering Services has requested that the applicant submit site specific grading plans prepared and sealed by the design Engineer (P. Eng) as well as a sealed letter from the design Engineer confirming the proposed construction/grading of the site will not cause adverse impacts to adjacent lands or affect slope stability of abutting sites. Also, the applicant is to submit drawings signed and stamped by Professional Engineer for the proposed retaining wall in the front yard. Finally, Engineering Services requires that an R-plan showing the land conveyance to the Town to be submitted. These are reflected in within the conditions.

York Region has no comments with regard to this application

Lake Simcoe Region Conservation Authority has no comments with regard to this application

Effect of Public Input

The Owner at 590 Pearson Street has concerns regarding the sight lights at the corner of Court and Gorham Street.

The Owners at 285 Court Street has concerns regarding the integration of the proposed dwelling with the existing neighbourhood and visibility at the corner of Court and Gorham street.

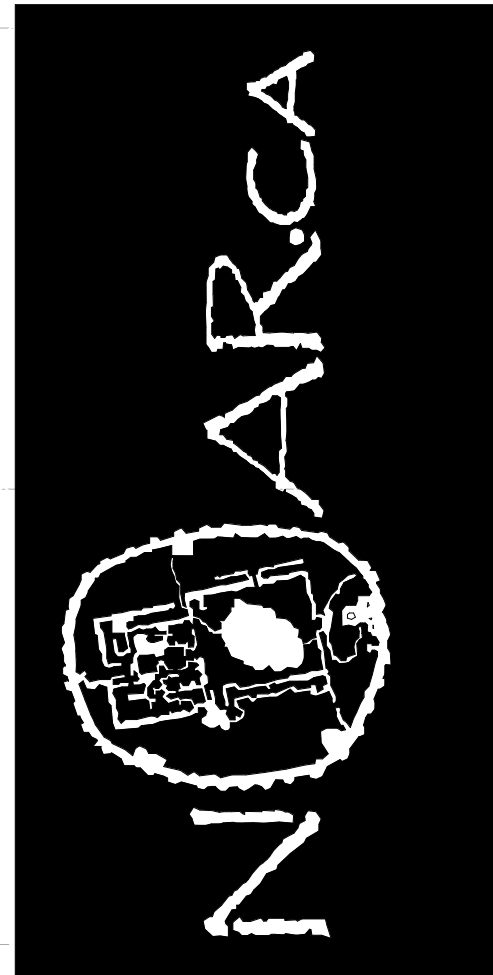
5. Conclusions:

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.

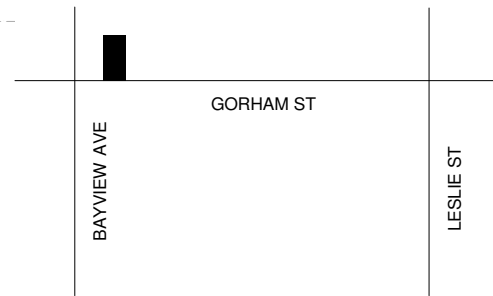
Respectfully submitted,

Janany Nagulan
Planner, Development

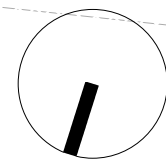


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PROJECT
582 GORHAM STREET
Newmarket, ON L3Y 1L3
START DATE 2021-04-15



No.	Description	Date
1	PLANERS	2021-08-30

SCALE 1 : 100

TITLE

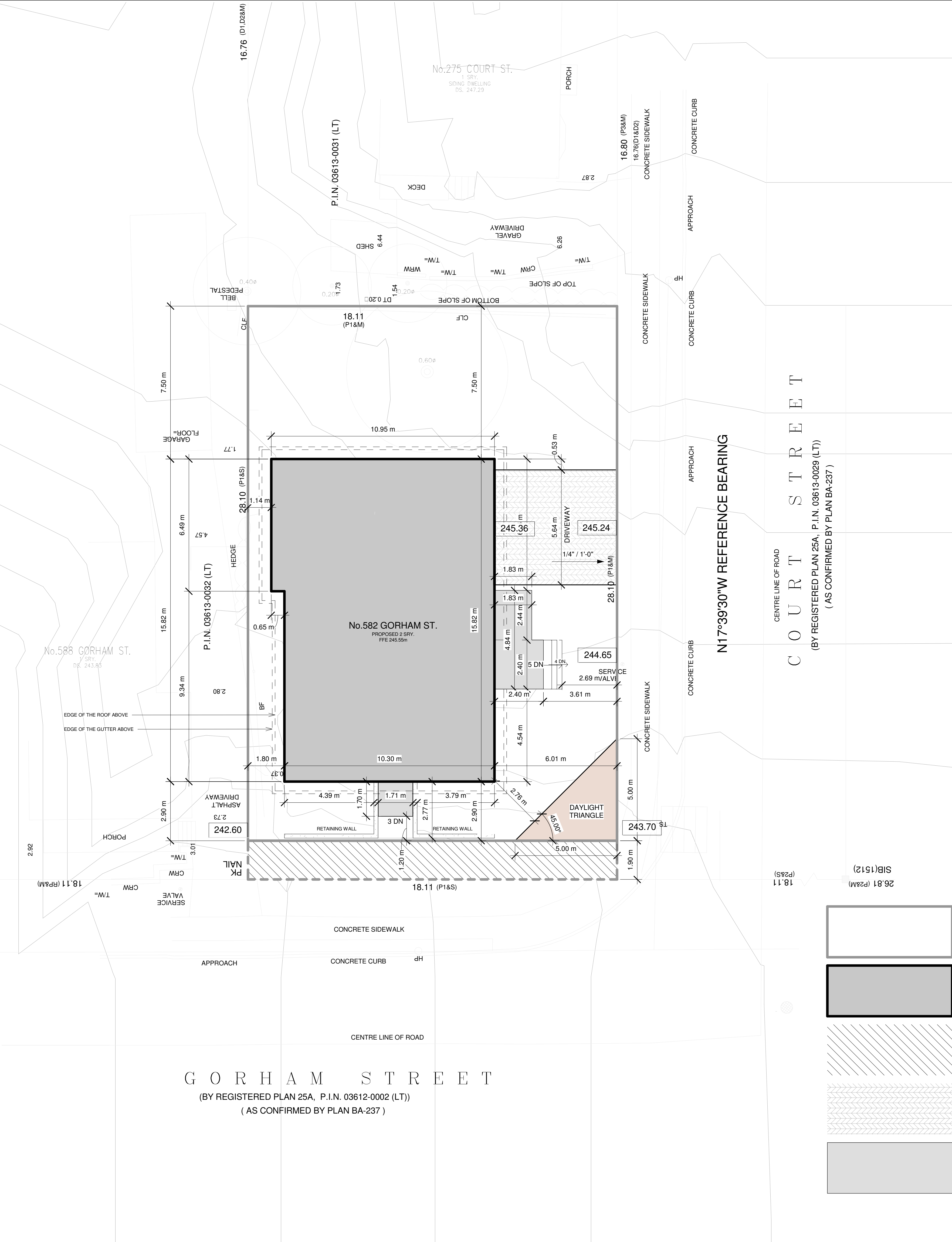
SITE PLAN

SHEET NO.

A0.3

STATISTICS;

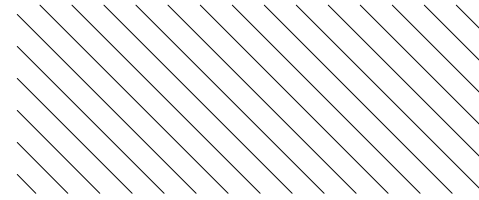
LOT AREA:	474.62 m ²
FRONTAGE:	18.11 m
COVERAGE	
ALLOWABLE COVERAGE	35 %
PROPOSED COVERAGE (INCLUDING PORCH)	38.17 %
FLOORS	
BASEMENT:	167.19 m ²
GARAGE:	37.82 m ²
1ST FLOOR:	129.37 m ²
2ND FLOOR:	167.19 m ²
TOTAL FLOOR AREA (WITHOUT BASEMENT)	296.56 m ²
ALLOWABLE FLOOR SPACE INDEX	0.60
PROPOSED FLOOR SPACE INDEX	0.62
ESTABLISHED GRADE CALCULATION: 242.60+243.70= 486.30/2= 243.15 m	
ALLOWABLE HEIGHT	8.50 m
PROPOSED HEIGHT	9.26 m
FRONT SET-BACK	
ALLOWED:	4.80 m
PROPOSED (NEW LOT):	2.90 m
SIDE SET-BACK (WEST)	
MINIMUM REQUIRED:	6.00 m
PROPOSED:	6.01 m
SIDE SET-BACK (EAST)	
MINIMUM REQUIRED:	1.80 m
PROPOSED:	1.14 m
REAR YARD SET-BACK	
MINIMUM REQUIRED:	7.50 m
PROPOSED:	7.50 m



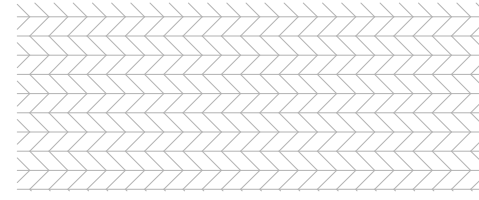
PROPERTY



BUILDING



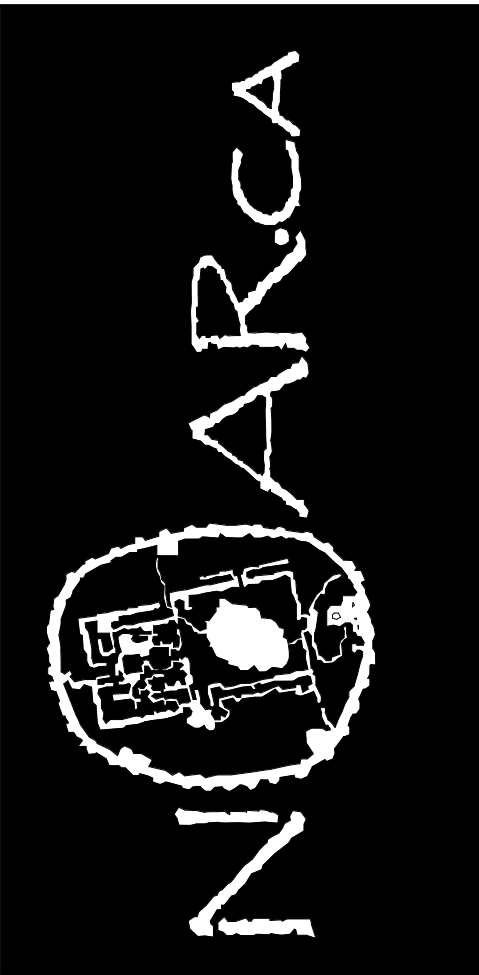
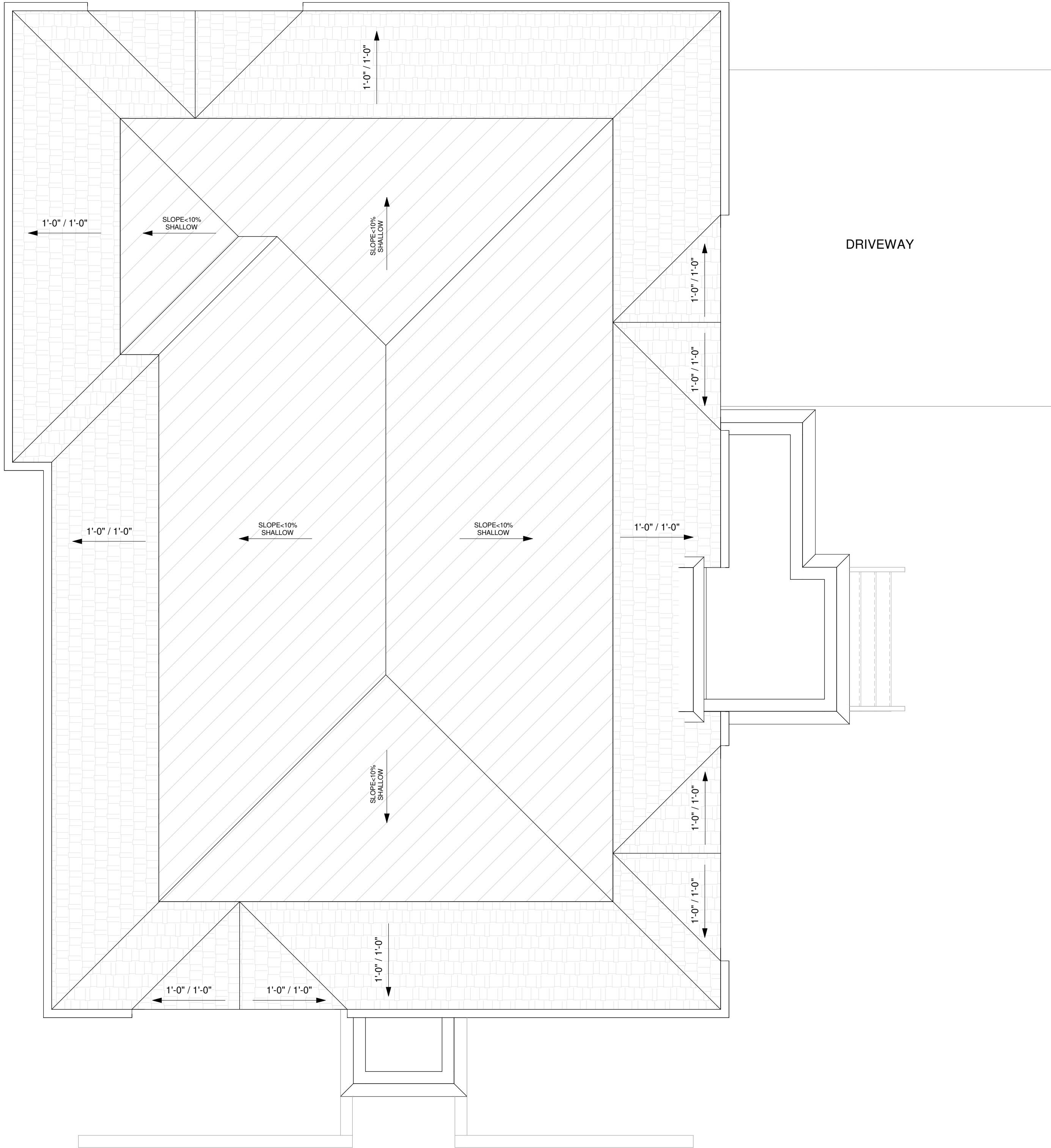
GORHAM WIDENING



DRIVEWAY

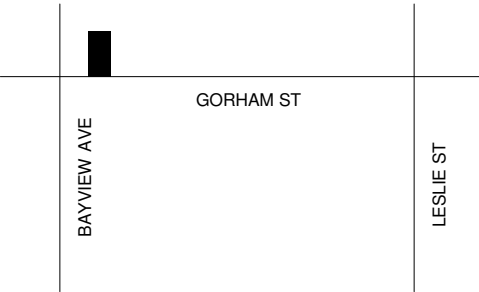


PORCH



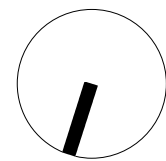
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Newmarket, ON L3Y 1L3

START DATE 2021-04-15



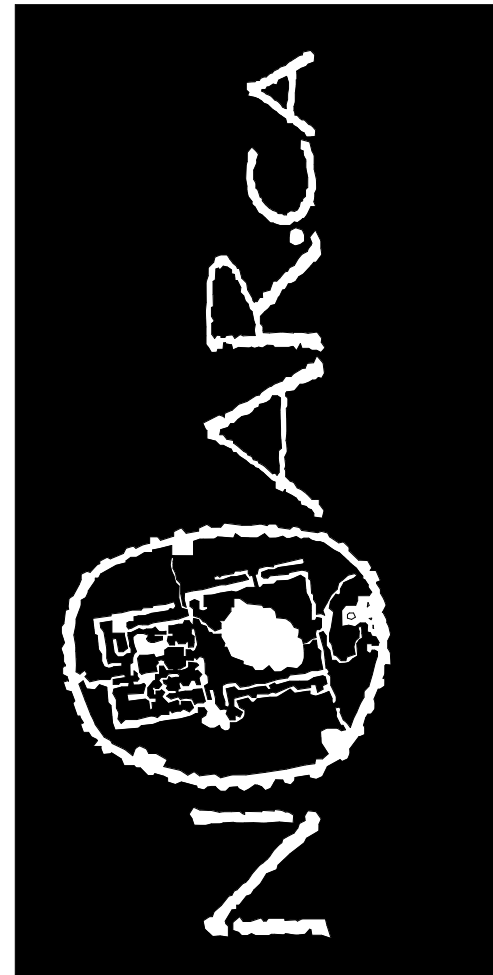
No.	Description	Date
1	PLANERS	2021-08-30

SCALE 1/4" = 1'-0"

TITLE

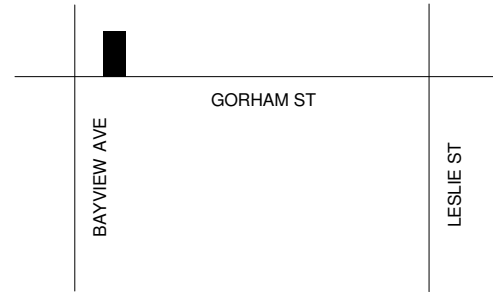
ROOF

SHEET NO.
A1.4



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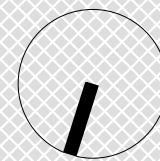
PROJECT

582 GORHAM
STREET

Newmarket, ON L3Y 1L3

START DATE

2021-04-15



No.	Description	Date
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SCALE

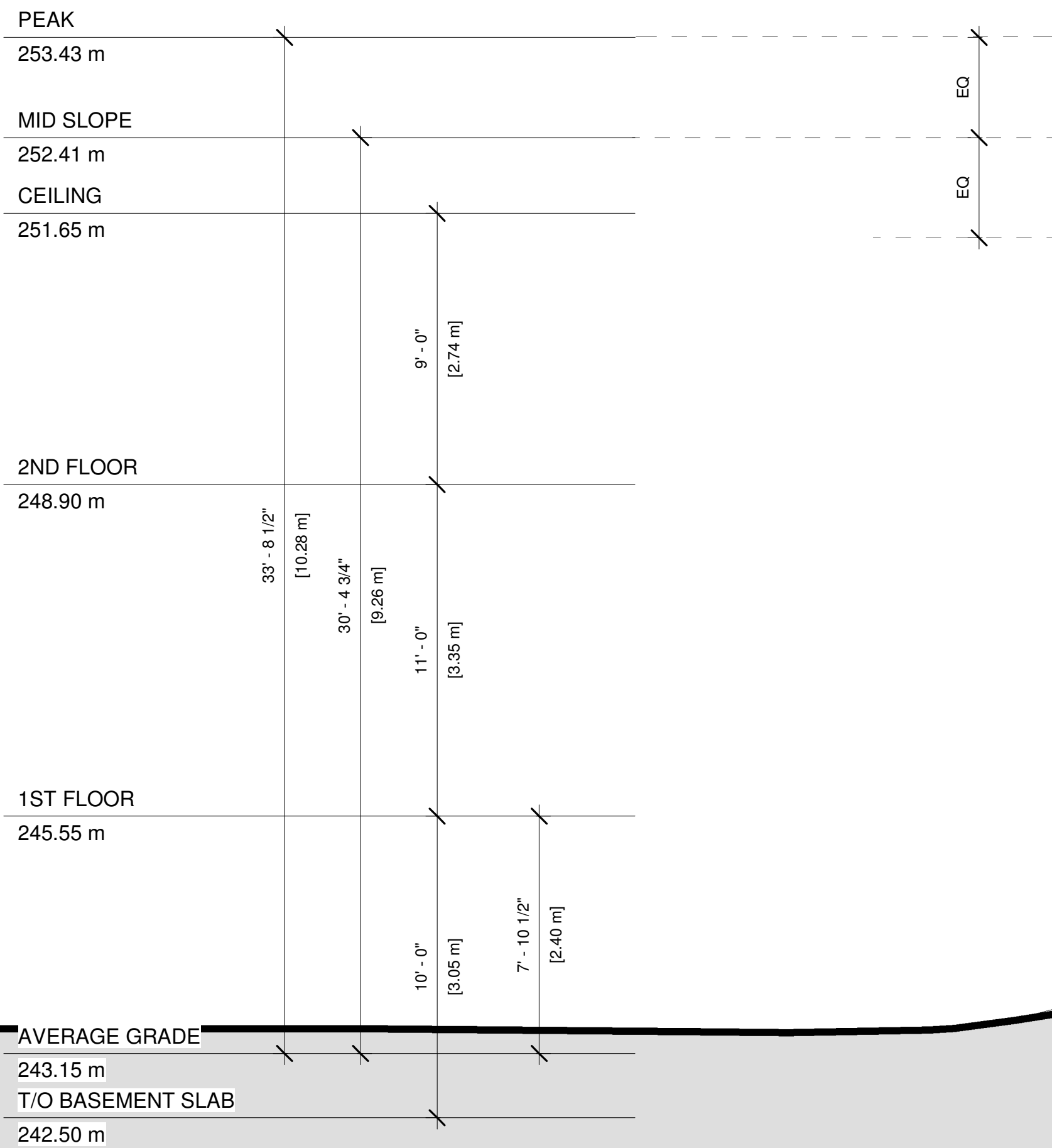
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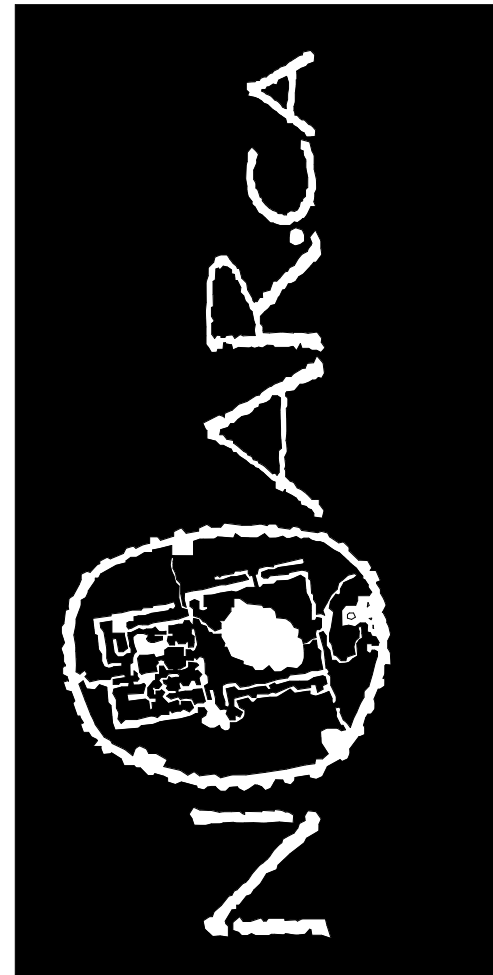
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WEST
ELEVATION

SHEET NO.

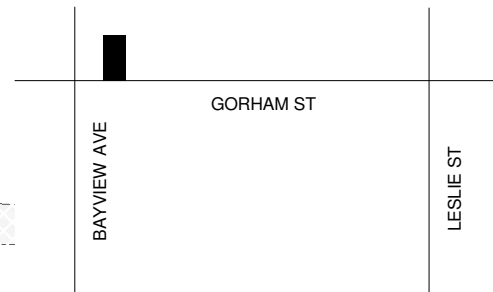
A2.1





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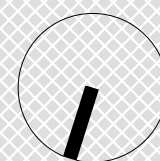
PROJECT

582 GORHAM
STREET

Newmarket, ON L3Y 1L3

START DATE

2021-04-15



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1	PLANERS	2021-08-30

SCALE

1/4" = 1'-0"

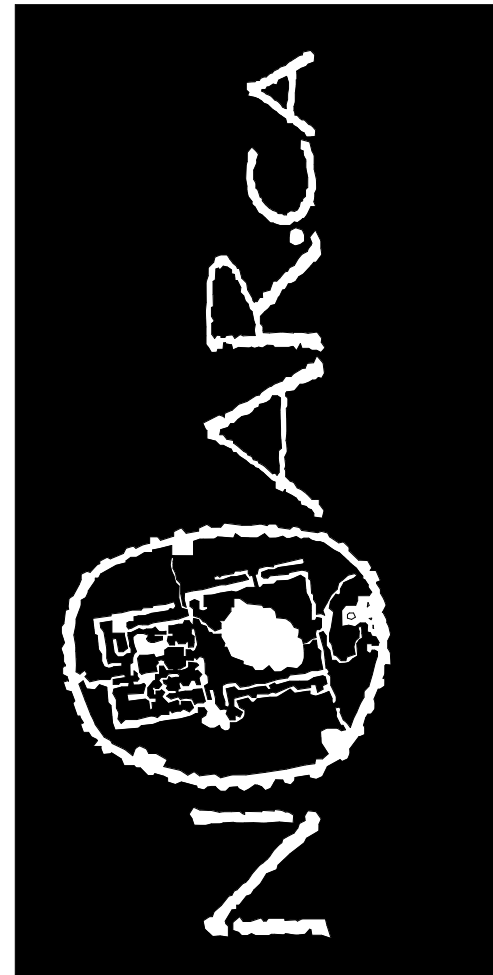
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NORTH
ELEVATION

SHEET NO.

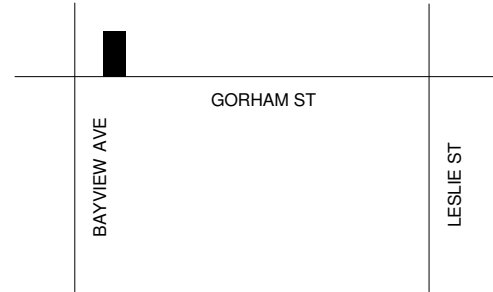
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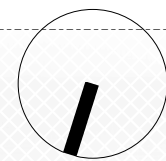
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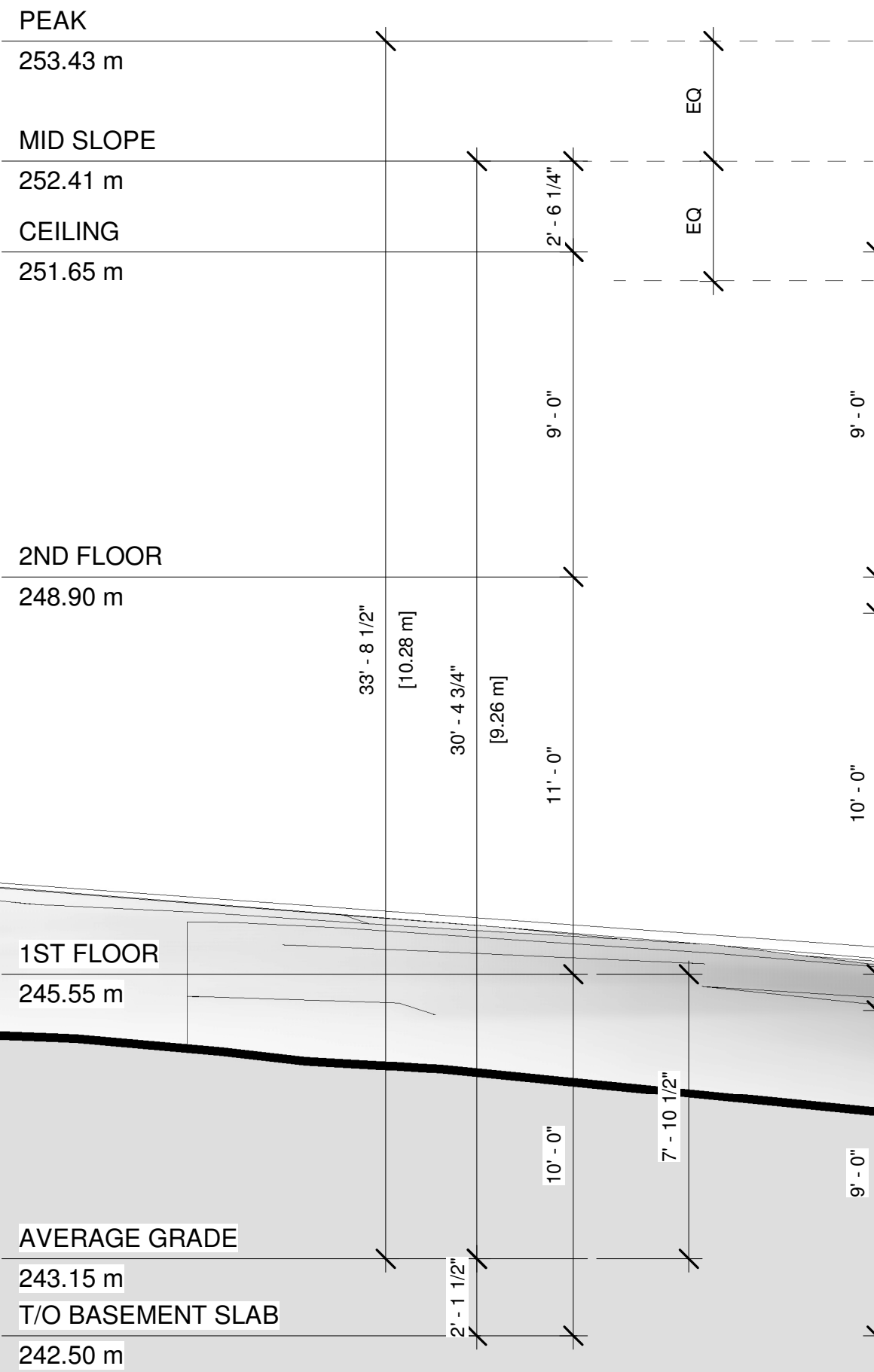
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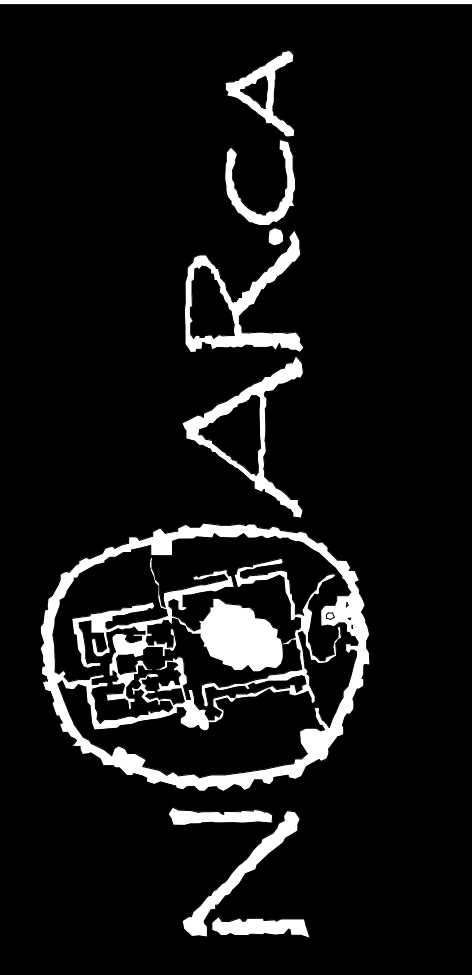
TITLE

**EAST
ELEVATION**

SHEET NO.

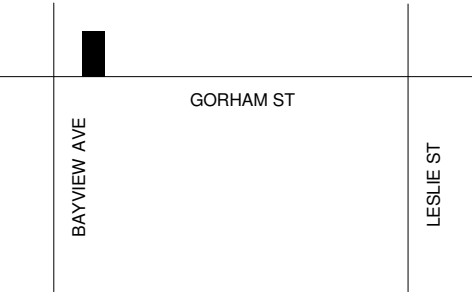
A2.3



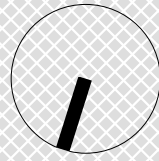


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Newmarket, ON L3Y 1L3
START DATE 2021-04-15



No.	Description	Date
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SCALE 1/4" = 1'-0"

TITLE

SOUTH ELEVATION

SHEET NO.
A2.4

