



The Corporation of the Town of Milton

Report To:	Council
From:	Barbara Koopmans, Commissioner, Development Services
Date:	September 13, 2021
Report No:	DS-073-21
Subject:	Authorization for Submission of a Minor Variance Application on lands municipally known as 42 Victoria Street, Milton

Recommendation: THAT Report DS-073-21 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 42 Victoria Street.”, dated September 13, 2021 be received;

AND THAT in accordance with the provisions of subsections 45(1.4) of the *Planning Act; R.S.O. 1990, c.P. 13*, as amended, the Owner shall through this Resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 081-2020, before the second anniversary of the day on which the by-law was approved by Council.

EXECUTIVE SUMMARY

- On October 19, 2020, as recommended through the Mature Neighbourhoods Character Area Study, Milton Council enacted Town-initiated Official Plan Amendment 60 and Zoning By-law 081-2020.
- The amendments introduced new policies and standards that apply to low-density residential development in the Downtown Character Area to ensure that new development is sympathetic to the existing neighbourhood.
- The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution.
- The intent of the prohibition is to prevent changes to newly approved policies and zoning provisions, but the effect may hinder legitimate applications that do not negatively affect the general intent and purpose of the new provisions.
- This report recommends that the owner of 42 Victoria Street be permitted to apply to the Committee of Adjustment, as the proposal is considered minor in nature and maintains the intent of the Mature Neighbourhood Character Area amendments.

REPORT

Background

On December 3, 2015, the Province of Ontario enacted Bill 73 “Smart Growth for Our Communities Act, 2015” which amended the *Planning Act* and *Development Charges Act, 1997*. Several changes to the *Planning Act* came into force on July 1, 2016. One of the changes to the *Planning Act* is the introduction of a two year moratorium (or “freeze”) on three types of amendments, subject to Council’s discretion to provide relief from the prohibition:

1. Amendments of a new Official Plan;
2. Amendments of a new comprehensive Zoning By-law; and
3. Minor variance of a by-law that has already been amended for the land, building or structure.

The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance of a by-law for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution, as detailed below.

Section 45 (1.3)

Subject to subsection (1.4), no person shall apply for a minor variance from the provision of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c.26,s.

The only exception to this rule is where Council has declared by resolution, pursuant to Section 45(1.4) of the *Planning Act* that an application can proceed. Section 45(1.4) of the *Planning Act* allows Council to exempt by resolution a specific application, class of applications, or application generally from the two year moratorium.

Section 45(1.4)

Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, class of application or in respect of such applications generally. 2015, c.26, s. 29(2)

Discussion

The Owner of 42 Victoria Street has indicated their desire to submit a Minor Variance Application to seek relief from the maximum lot coverage provision of the Residential Low Density 1 (RLD1) Zone (i.e. to allow a lot coverage of 27.43%, whereas the by-law allows a maximum of 25%) to facilitate the rebuild of a new single-detached dwelling.

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the



Discussion

second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.

In this instance, staff recommends that Council authorize the Owner to apply to the Committee of Adjustment for variances from the provisions of Zoning By-law 081-2020 for the following reasons:

- The proposed rebuild is compatible with and sympathetic to the existing built form in the neighbourhood in terms of height, massing, setback, scale and architectural design;
- The proposed new dwelling is respectful of and consistent with the character of the surrounding neighbourhood. The porch, window layout, façade materials and the garage setback from the main dwelling face represent a positive contribution to preserving neighbourhood character; and
- The maximum lot coverage provision was not revised or made more restrictive through the recent Character Area zoning by-law amendment and therefore the proposal does not contradict the purpose or intent of the new zoning provisions.

Any Minor Variance Application submitted for the subject lands would go through the standard review process, which involves an evaluation by staff of the appropriateness of the Minor Variance Application, through the lens of the four tests set out by Section 45(1) of the *Planning Act*, and a decision of the Committee of Adjustment.

Financial Impact

There are no financial implications associated with this report.

Respectfully submitted,

Barbara Koopmans, MPA, MCIP, RPP, CMO
Commissioner, Development Services

For questions, please contact: Taylor Wellings, MCIP, RPP Phone: Ext. 2311
Development Planner

Attachments

Figure 1 Location Map
Figure 2 Proposed Drawings & Elevations

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

FIGURE 1 LOCATION MAP



Council Meeting Date:
September 13, 2021

Scale: 1: 1,600

Files: DS-073-21

Development Services Department



Subject Property

**FIGURE 2
DS-073-21**

NO.	DATE	ISSUE / REVISION
1	05-04-21	CUSTOMER APPROVAL
2	08-19-21	FOR COUNCIL REVIEW
3		
4		
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GENERAL NOTES:

THE CONTRACTOR IS TO VERIFY ALL DIMENSIONS AND INFORMATION SHOWN ON THESE DRAWINGS WITH CONDITIONS ON SITE AND ANY DISCREPANCIES ARE TO BE REPORTED TO THE DESIGNER PRIOR TO CONSTRUCTION AND FABRICATION OF ITS COMPONENTS. SHOULD EXISTING CONDITIONS OR SERVICES BE FOUND TO VARY FROM THAT INDICATED ON THE DRAWINGS, THE DESIGNER MUST BE NOTIFIED IMMEDIATELY.

ALL DRAWINGS AND RELATED DOCUMENTS SHALL REMAIN THE PROPERTY AND COPYRIGHT OF DETAILS MATTER.

USE LATEST REVISED DRAWINGS.

MAKE GOOD ALL AREAS OF WORK AND SURFACES DISTURBED BY CONSTRUCTION WHETHER SHOWN ON THE DRAWINGS OR NOT.

DO NOT SCALE DRAWINGS.

THESE DRAWINGS ARE IN ACCORDANCE TO THE 2012 O.B.C.

QUALIFICATION INFORMATION

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONT. BUILDING CODE TO BE A DESIGNER. REQUIRED UNLESS DESIGN IS EXEMPT UNDER DIVISION 'C' SECTION 3.2 OF THE O.B.C.

SHANE K WILSON
FIRM NAME: DETAILS MATTER 39141



Details Matter

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ENGINEER:

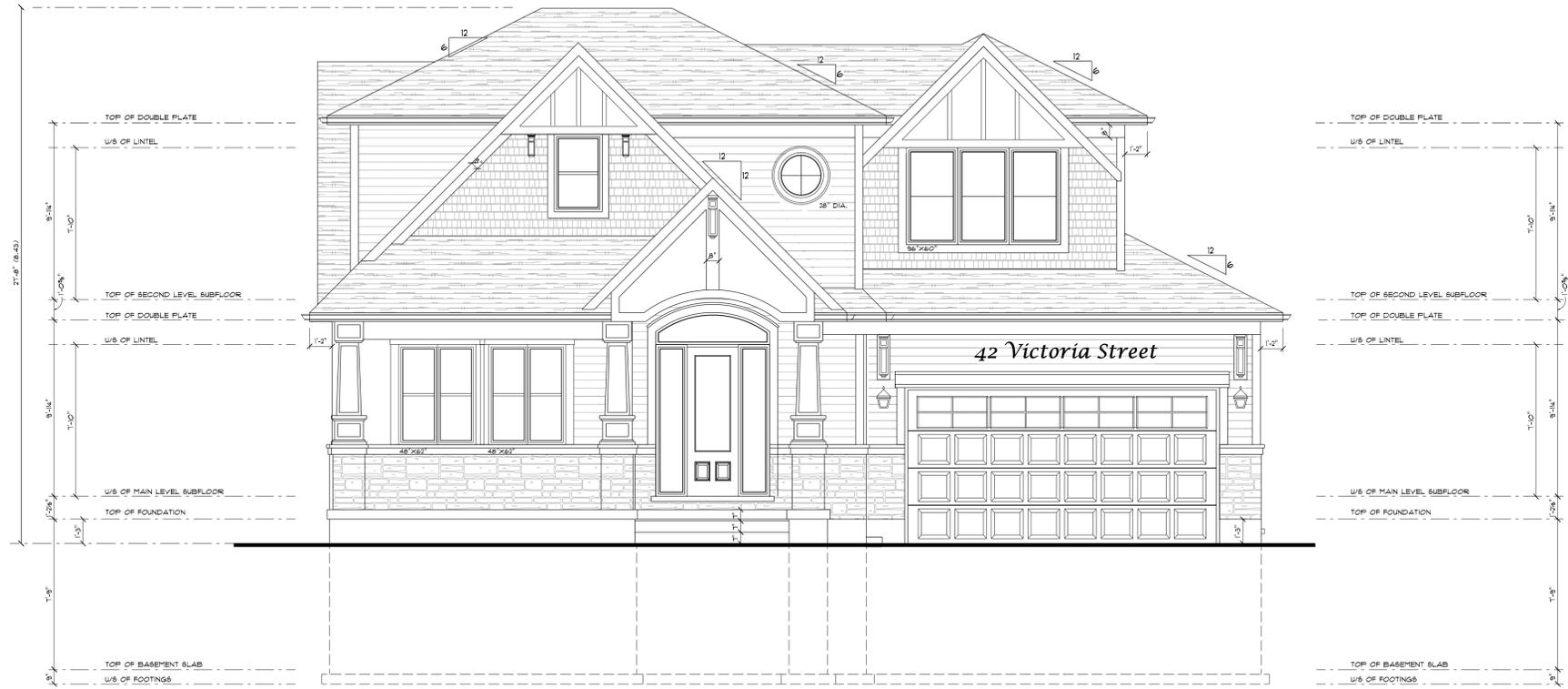
PROJECT:
42 VICTORIA STREET
MILTON, ONTARIO

SHEET TITLE:
**FRONT AND LEFT
ELEVATIONS**

DRAWN BY: S.K.W. CHECKED BY: S.K.W. PROJECT NO: DM20-036

SCALE: 1/4" = 1'-0" DATE: NOVEMBER 2020

DRAWING NO:
A1



FRONT ELEVATION



LEFT ELEVATION



REAR ELEVATION



RIGHT ELEVATION

PROJECT NORTH TRUE NORTH

NO.	DATE:	ISSUE / REVISION
1	05-04-21	CUSTOMER APPROVAL
2	08-19-21	FOR COUNCIL REVIEW
3		
4		
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ENGINEER:

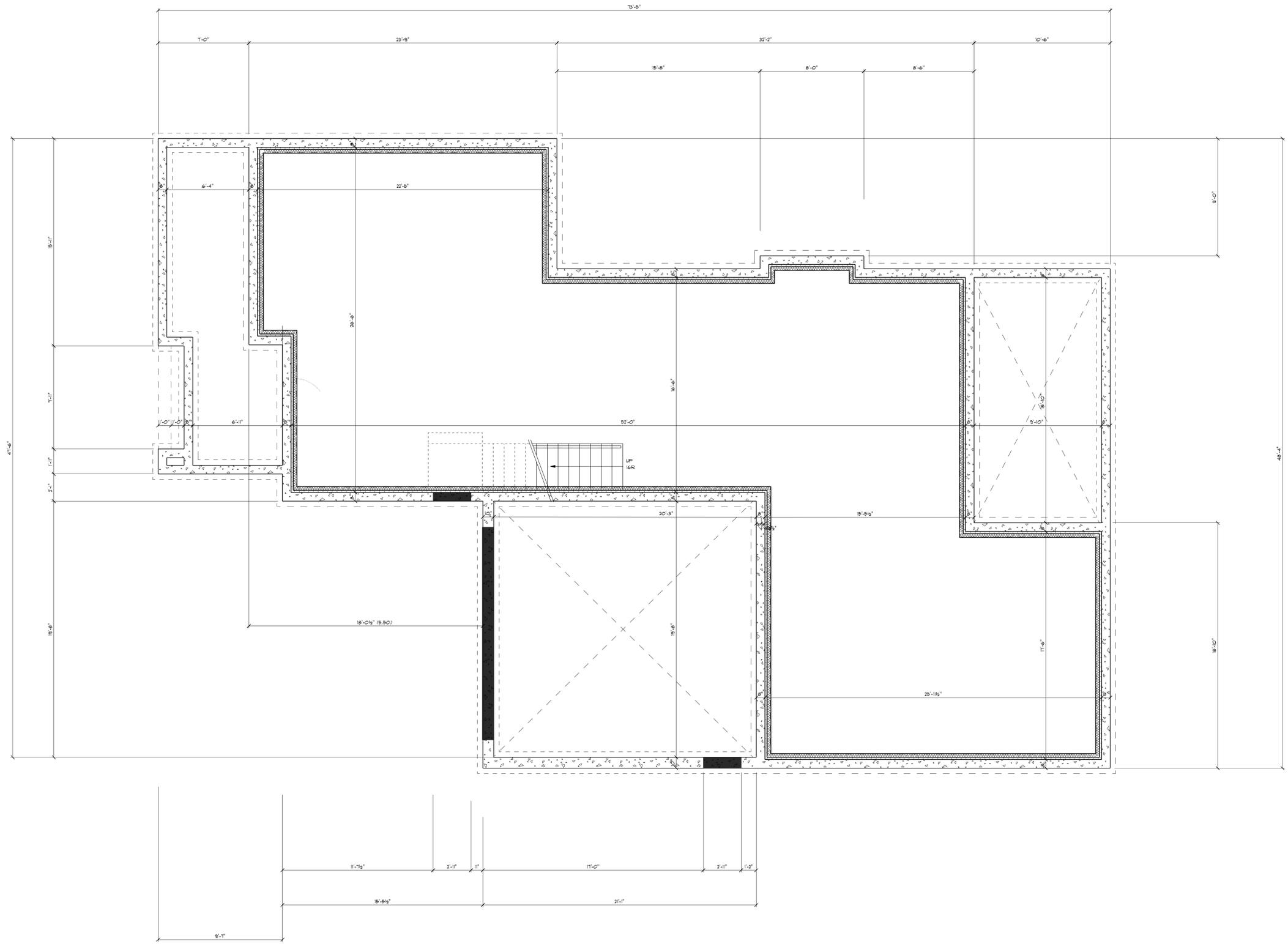
PROJECT:
 42 VICTORIA STREET
 MILTON, ONTARIO

SHEET TITLE:
REAR AND RIGHT ELEVATIONS

DRAWN BY: S.K.W. CHECKED BY: S.K.W. PROJECT NO: DM20-036

SCALE: 1/4" = 1'-0" DATE: NOVEMBER 2020

DRAWING NO:
A2



PROJECT NORTH		TRUE NORTH
NO.	DATE	ISSUE / REVISION
1	05-04-21	CUSTOMER APPROVAL
2	08-19-21	FOR COUNCIL REVIEW
3		
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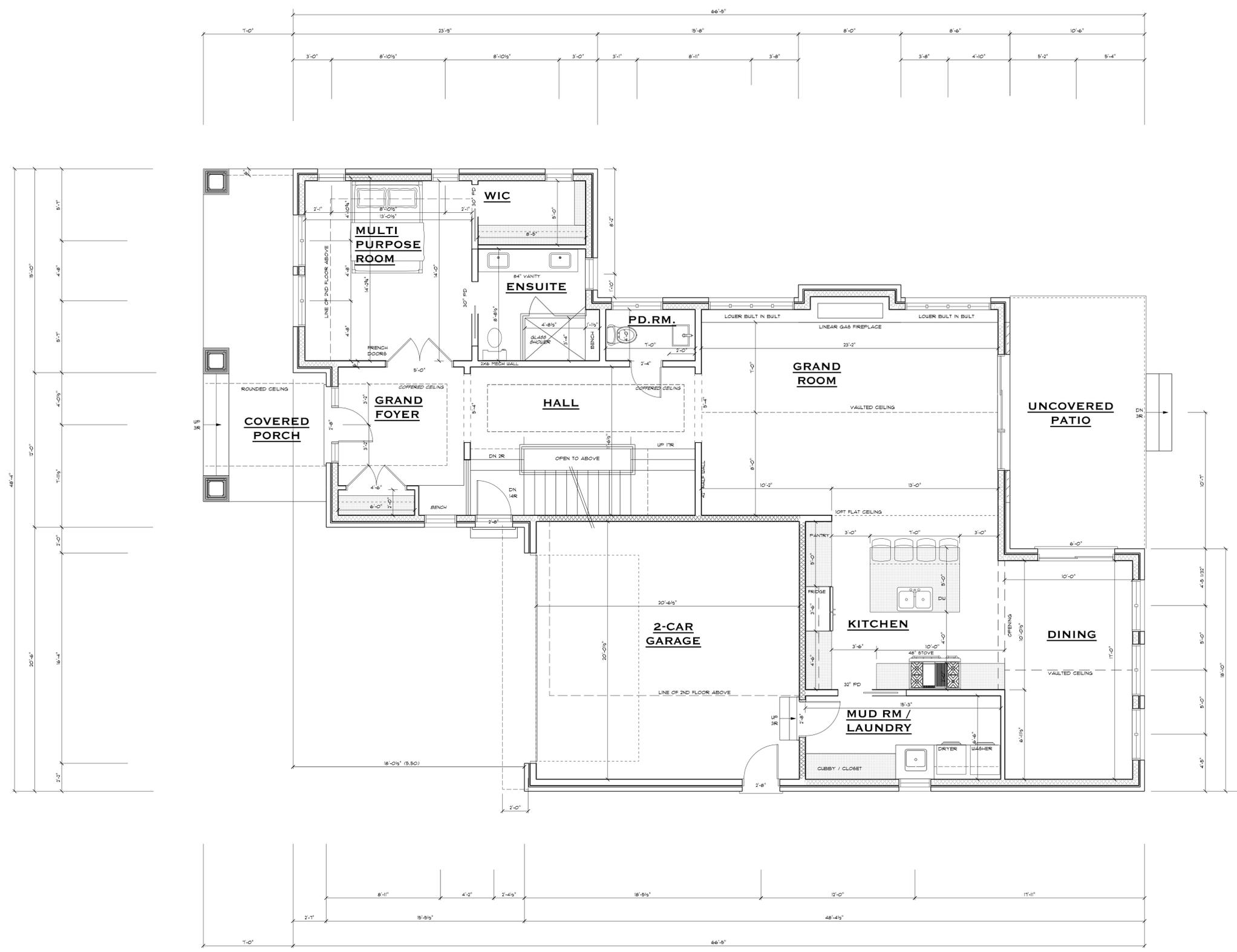
ENGINEER:

PROJECT:
**42 VICTORIA STREET
 MILTON, ONTARIO**

SHEET TITLE:
BASEMENT PLAN

DRAWN BY: S.K.W.	CHECKED BY: S.K.W.	PROJECT NO: DM20-036
SCALE: 1/4" = 1'-0"	DATE: NOVEMBER 2020	

DRAWING NO.
A3



PROJECT NORTH		TRUE NORTH
NO.	DATE	ISSUE / REVISION
1	05-04-21	CUSTOMER APPROVAL
2	08-19-21	FOR COUNCIL REVIEW
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ENGINEER:

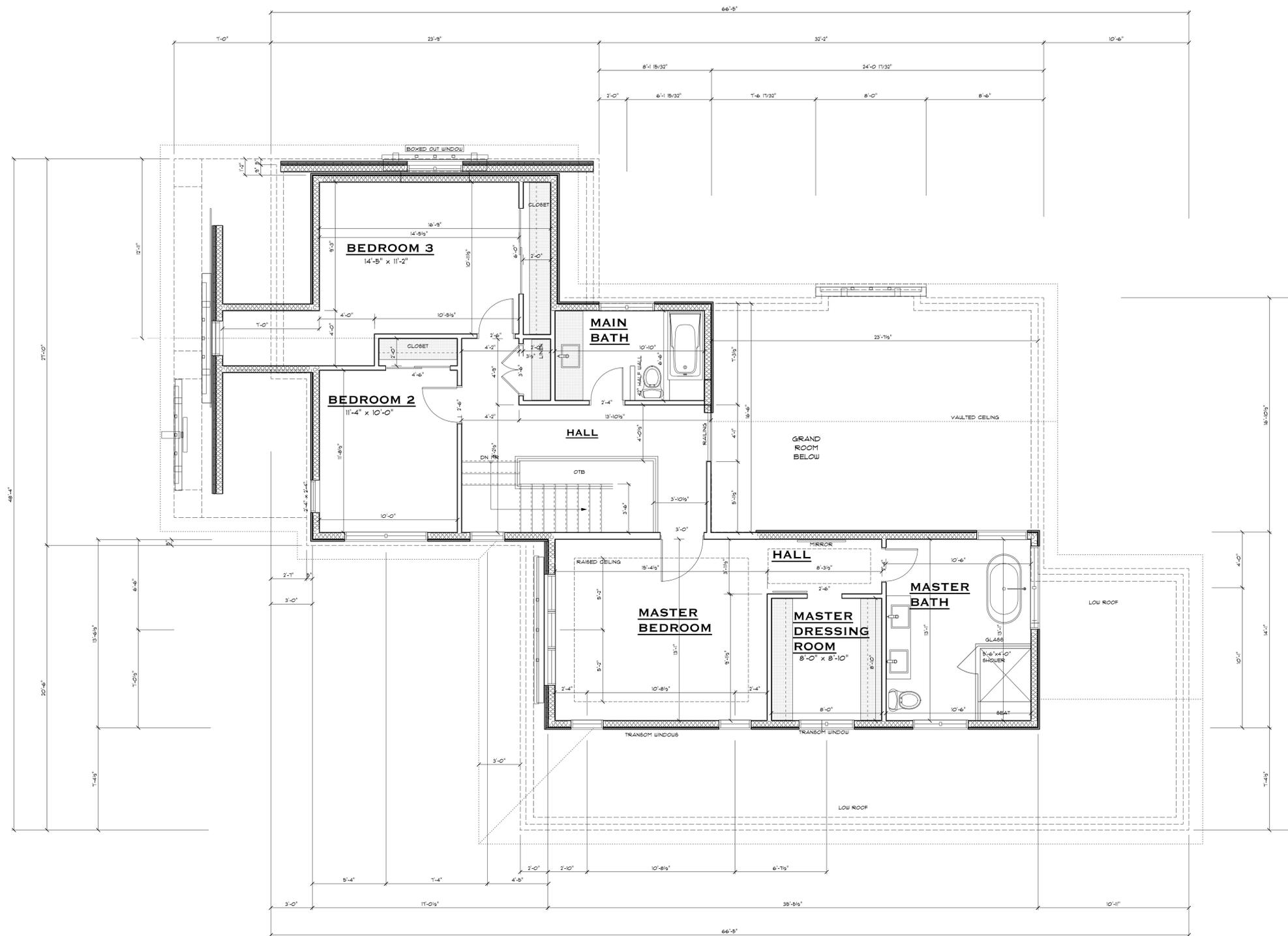
PROJECT:
 42 VICTORIA STREET
 MILTON, ONTARIO

SHEET TITLE:
MAIN FLOOR PLAN

1,738.3 SF

DRAWN BY: S.K.W.	CHECKED BY: S.K.W.	PROJECT NO: DM20-036
SCALE: 1/4" = 1'-0"	DATE: NOVEMBER 2020	

DRAWING NO:
A4



PROJECT NORTH		TRUE NORTH
No.	DATE	ISSUE / REVISION
1	05-04-21	CUSTOMER APPROVAL
2	08-19-21	FOR COUNCIL REVIEW
3		
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ENGINEER:

PROJECT:
**42 VICTORIA STREET
 MILTON, ONTARIO**

SHEET TITLE:
**UPPER FLOOR
 PLAN**

1,102.5 SF

DRAWN BY: S.K.W.	CHECKED BY: S.K.W.	PROJECT NO: DM20-036
SCALE: 1/4" = 1'-0"	DATE: NOVEMBER 2020	

DRAWING NO:
A5