

## Memorandum to the City of Markham Committee of Adjustment

February 24, 2020

**File:** A/014/20  
**Address:** 52 Glenbourne Park Dr – Markham, ON  
**Applicant:** Anise & Tamara Kara  
**Agent:** Giancarlo's Design Services  
**Hearing Date:** Wednesday March 04, 2020

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of By-law 304-87, Rural Residential Estate (RRE) Zone as amended, as it relates to a proposed cabana and in-ground swimming pool, to permit:

a) **Section 7.6:**

An accessory building erected in the side yard, whereas an accessory building is only permitted in the rear yard;

b) **Section 5.5:**

An accessory building located minimum of 30.42 m (99.80 ft) from the arterial road, whereas no part of any structure shall be constructed within 40.0 m (131.23 ft) of the centre line of any arterial road;

c) **Section 7.5 b)(iv):**

A minimum rear yard setback of 3.76 m (12.34 ft) for the accessory building, whereas the By-law requires a minimum of 7.5 m (24.61 ft).

### BACKGROUND

#### Property Description

The 4,096.51 m<sup>2</sup> (1.01 Ac) subject property is located at the southeast corner of Major Mackenzie Drive East and Glenbourne Park Drive, east of Warden Avenue. The property is within an established residential neighbourhood comprised of one and two-storey single detached dwellings. A single detached dwelling with an attached garage currently exists on the property. The exterior side yard northwest of the dwelling is rectangular in shape, and the property also has a triangular shaped rear yard which contributes to its irregular shape. Mature trees are generally located along the north, east, and south property lines, which in combination with existing privacy fencing along the Major Mackenzie Drive East corridor provide for buffering and screening. The rear yard amenity space is limited by the existing trees, deck, and playground structure. There is also an existing easement on the property, which was transferred to the Hydro-Electric Power Commission of Ontario in 1962.

#### Proposal

The applicant is proposing to construct an in-ground swimming pool, and cabana surrounded by a concrete patio within the exterior side yard, northwest of the attached garage.

#### Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and updated on April 9/18)

The 2014 Official Plan designates the subject property "Residential Low Rise" which provides for low rise housing forms.

### Zoning By-Law 304-87

The subject property is zoned Rural Residential Estate (RRE) Zone under By-law 304-87, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law with respect to constructing an accessory building within a side yard, the minimum setback from the centre line of an arterial road, and minimum rear yard setback.

### **Applicant's Stated Reasons for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with Zoning is because, *"the backyard is too small to accommodate a cabana and pool"*.

### **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a ZPR on January 28, 2020 to confirm the variances required for the proposed development.

### **COMMENTS**

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

### **Accessory Building Location (Exterior Side Yard)**

The applicant is proposing that one (1) in-ground swimming pool, and one (1) cabana structure be located within the exterior side yard, whereas the By-law does not permit an accessory building to be located anywhere except in the rear yard. The flankage yard provides for an amenity area which is more rectangular in shape than that of the rear yard.

There is an existing easement registered on title to the benefit of Alectra Utilities. Alectra has provided comments, requesting that the property owner must abide by the terms of the easement as registered on title, for which a condition is provided in Appendix "B" should Committee approve the variance application. The easement is located within the interior side yard, outside of the limits of the proposed development. Therefore, staff do not have any concerns that the easement would be impacted. Given the shape of the usable amenity space in the exterior side yard in contrast to that of the rear yard, staff are of the opinion that the variance is appropriate for the lot.

### **Reduction in Arterial Road (Centre Line) Setback**

The applicant is requesting a minimum setback of 30.42 m (99.80 ft) from the centre line of Major Mackenzie Drive East, whereas the By-law requires a minimum setback of 40.0 m (131.23 ft) from the centre line of any arterial road. Staff do not have any concerns with the proposed variance.

### **Reduction in Rear Yard Setback**

The applicant is requesting a minimum rear yard setback of 3.76 m (12.34 ft), whereas the By-law requires a minimum rear yard setback of 7.5 m (24.61 ft). This represents a reduction of approximately 3.74 m (12.27 ft).

The variance applies to the proposed one-storey cabana as an accessory structure. A generous open space amenity area is still maintained in the rear yard, east of the dwelling. The proposed variance is partially attributable to the irregular shape of the rear yard, and staff do not have any concerns that the location of the proposed development will adversely impact adjacent lands.

The applicant will be required to submit an Arborist Report, and Tree Preservation Plan as the submitted site plan shown in Appendix "B" indicates that the proposed location will result in the removal of two trees. The applicant will be further required to provide compensation or replacement in accordance with the tree preservation conditions provided in Appendix "A" should the proposed development be approved.

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of February 24, 2020. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

#### **CONCLUSION**

Planning Staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the *Planning Act* and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

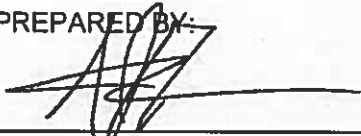
Please see Appendix "A" for conditions to be attached to any approval of this application.

#### **APPENDICES**

Appendix "A" – Conditions

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Kitagawa, Acting-Development Manager, West District

File Path: Amanda\File\20 107699 \Documents\District Team Comments Memo

**APPENDIX "A"**  
**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/014/20**

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report and received by the City of Markham on January 29, 2020, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. That the applicant satisfies the requirements of Alectra Utilities, financial or otherwise, as it relates to providing written confirmation that the applicant will comply with the terms of the easement registered on title, to the satisfaction of Alectra Utilities and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Alectra Utilities.
4. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Director of Operations that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations.
6. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations.

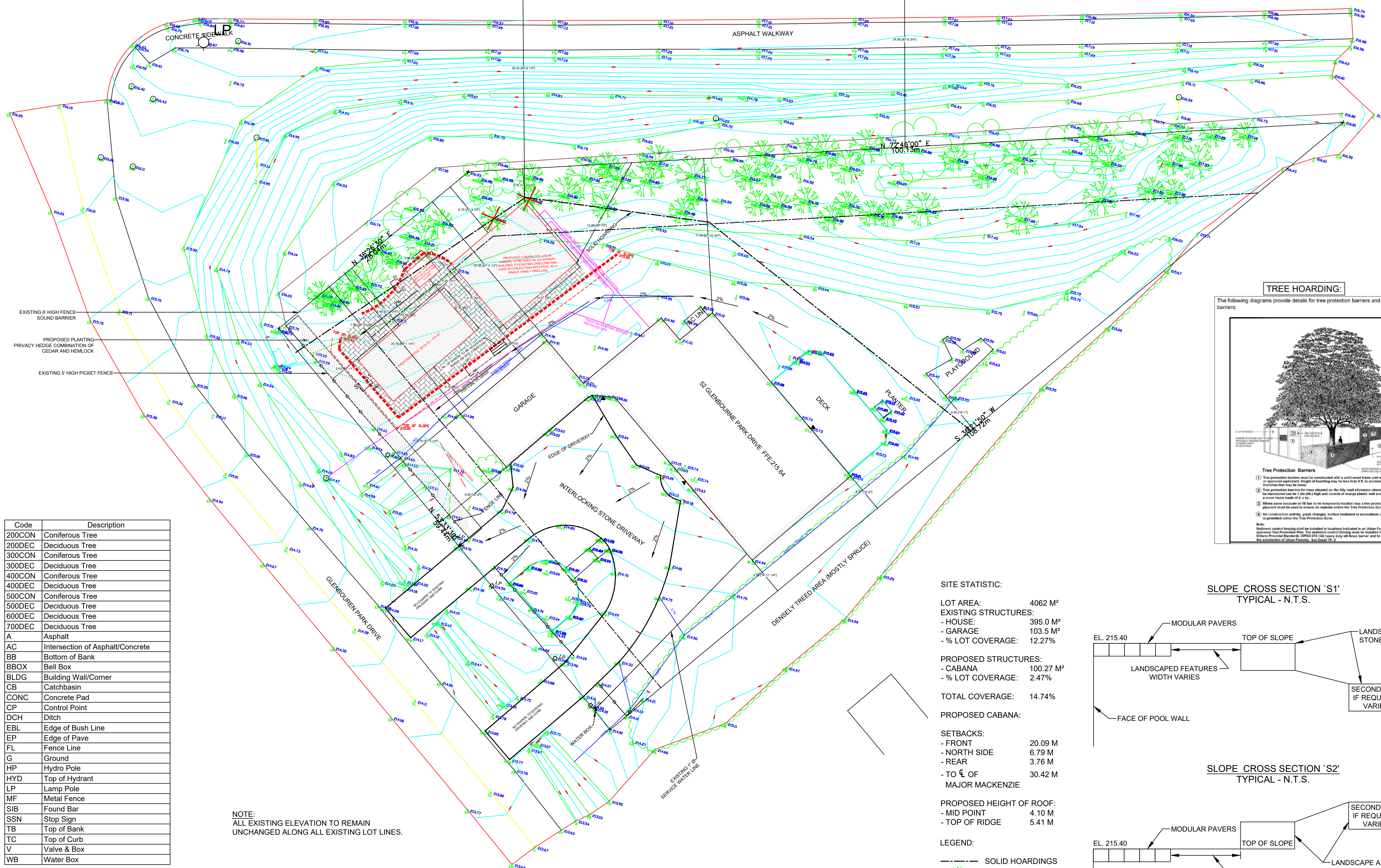
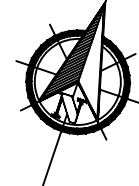
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX "B"**  
**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/014/20**





Code	Description
200CON	Coniferous Tree
200DEC	Deciduous Tree
300CON	Coniferous Tree
300DEC	Deciduous Tree
400CON	Coniferous Tree
400DEC	Deciduous Tree
500CON	Coniferous Tree
500DEC	Deciduous Tree
600DEC	Deciduous Tree
700DEC	Deciduous Tree
A	Asphalt
AC	Intersection of Asphalt/Concrete
BB	Bottom of Bank
BBBOX	Bell Box
BLDG	Building Wall/Corner
CB	Catchbasin
CONC	Concrete Pad
CP	Control Point
DCH	Ditch
EBL	Edge of Bush Line
EP	Edge of Pave
FL	Fence Line
G	Ground
HP	Hydro Pole
HYD	Top of Hydrant
LP	Lamp Pole
MF	Metal Fence
SIB	Found Bar
SSN	Stop Sign
TB	Top of Bank
TC	Top of Curb
V	Valve & Box
WB	Water Box

NOTE:  
ALL EXISTING ELEVATION TO REMAIN  
UNCHANGED ALONG ALL EXISTING LOT LINES.

**SITE STATISTIC:**  
 LOT AREA: 4062 M<sup>2</sup>  
 EXISTING STRUCTURES:  
 - HOUSE: 395.0 M<sup>2</sup>  
 - GARAGE: 103.5 M<sup>2</sup>  
 - % LOT COVERAGE: 12.27%  
 PROPOSED STRUCTURES:  
 - CABANA: 100.27 M<sup>2</sup>  
 - % LOT COVERAGE: 2.47%  
 TOTAL COVERAGE: 14.74%  
 PROPOSED CABANA:  
 SETBACKS:  
 - FRONT: 20.09 M  
 - NORTH SIDE: 6.79 M  
 - REAR: 3.76 M  
 - TO  $\nabla$  OF MAJOR MACKENZIE: 30.42 M  
 PROPOSED HEIGHT OF ROOF:  
 - MID POINT: 4.10 M  
 - TOP OF RIDGE: 5.41 M

**LEGEND:**  
 SOLID HOARDINGS  
 TREES TO BE REMOVED  
 PAVERS

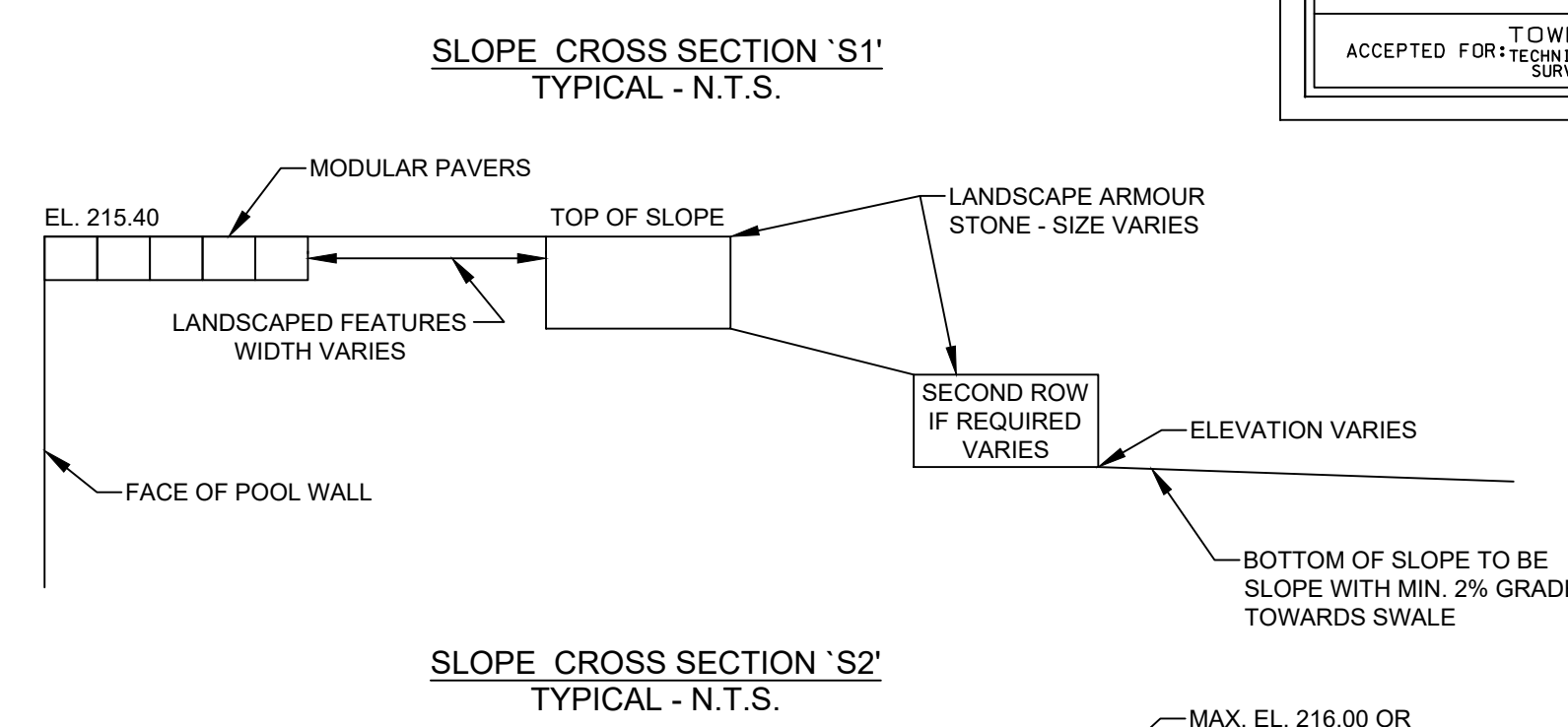
**TREE HOARDING:**

The following diagrams provide details for tree protection barriers and sediment protection barriers.

**Tree Protection Barriers**

- Tree protection barriers shall be constructed with a solid wood frame with approved or approved equivalent. Height of hoarding may be less than 8 ft. to accommodate any existing trees that are to be retained.
- Tree protection barriers to be installed on the City road allowance where visibility must be maintained shall be 3.0 m high and consist of orange plastic with white hoarding on the inside.
- Where access is required an 8 ft. gate shall be temporarily located over a tree protection barrier. Approval must be obtained from the Markham City Engineering Department.
- No construction activity, grade change, surface treatment or excavations of any kind is permitted within the Tree Protection Zone.

Note:  
Sediment control hoarding shall be installed in locations indicated in an Urban Forestry approved Tree Protection Plan. This sediment control hoarding may be installed in Green Infrastructure (GI) areas. GI areas shall be marked with orange plastic and be approved by the City of Markham.



**TOWN OF MARKHAM**  
WORKS COMMISSION  
ENGINEERING DEPARTMENT

ELEVATION: 212.428 metres BENCHMARK NUMBER: M-22-013

**DETAIL**  
 MONUMENT TYPE: BRASS TABLET SET VERTICALLY IN CONCRETE MONUMENT  
 BENCHMARK NUMBER: M-22-013 ELEVATION: 212.428 metres  
 DESCRIPTION: BRASS TABLET SET VERTICALLY IN CONCRETE MONUMENT ON THE NORTH SIDE OF ROYAL WEST RD ACROSS FROM NORTHERLY PRODUCTION WEST SIDE OF HOUSE NO. 52

MONUMENT EST. BY: J.D. BARNES DATE: AUGUST 2014  
 ELEVATION EST. BY: J.D. BARNES DATE: AUGUST 2014  
 EQUIPMENT: LIECA DNA 03 & FIBRE GLASS RODS PRECISION: 2nd ORDER

COORDINATES FOR LOCATION PURPOSE ONLY  
 COMMENTS: NAD 83 UTM17: EASTING 635634m NORTHING 4861386m

TOWN OF MARKHAM  
ACCEPTED FOR TECHNICAL SERVICES SURVEY DIVISION  
 AUGUST 22, 2014



Project Name  
**PROPOSED CABANA FOR ANISE KARA & TAMARA KARA**  
52 GLENBOURNE PARK DR. MARKHAM, ON. L6C 1H4

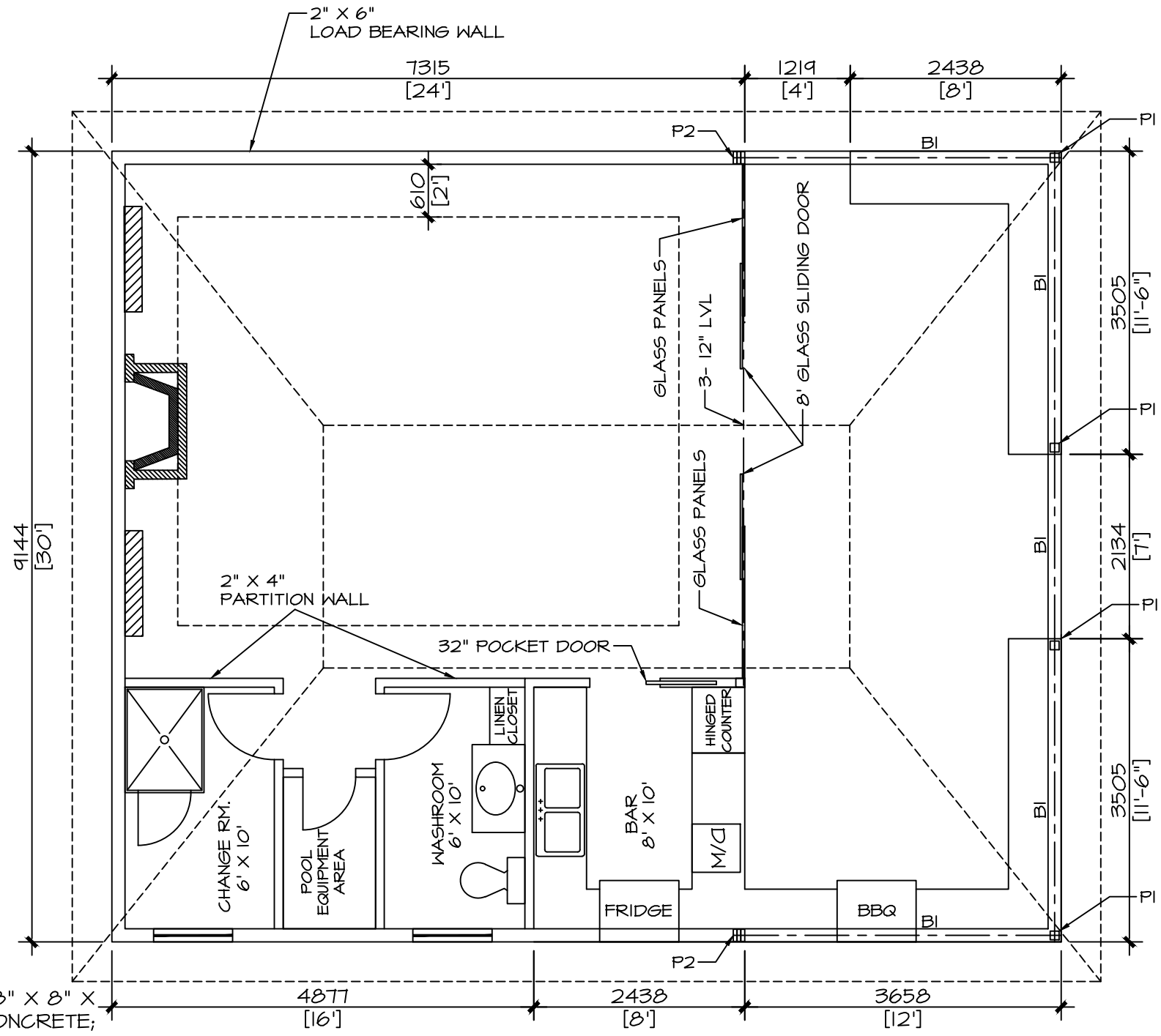
NOTE:  
THE CONTRACTOR WILL CHECK AND VERIFY ALL DIMENSION AND JOB CONDITIONS ON THE JOB AND REPORT ANY DISCREPANCY TO THE DESIGNER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THIS DRAWING MUST NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL APPROVED BY THE DESIGNER. ALL DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND MAY NOT BE COPIED, REPRODUCED OR ALTERED WITHOUT WRITTEN PERMISSION FROM THE DESIGNER.  
DO NOT SCALE.

**GC DS** GianCarlo's Design Services  
 210 Inglewood Drive, Port Credit, ON. L5G1Y1  
 Email: mdg.1888@sympatico.ca

Drawing **SITE GRADING PLAN** Drawing No.

Scale: 1:250	Drawn: dhaari	Checked: GC	Date: 2019/12/08	Project No.: 1917
Part of Drawing: -	Detail No.: -	Revision No.:	Revision Date:	

**A001**



**LEGEND:**

- PI - HSS 4" X 4" X 3/8" THK WITH BOTTOM PLATE 8" X 8" X 3/8" THK WITH 2 BOLTS EMBEDDED 6" INTO CONCRETE; TOP PLATE SEE DETAIL 1 & 2
- BI - 2 PLY LVL II 7/8" 2.OE
- B2 - 3 PLY LVL II 7/8" 2.OE

Project Name  
**PROPOSED CABANA FOR ANISE KARA & TAMARA KARA**  
 52 GLENBOURNE PARK DR. MARKHAM, ON. L6C 1H4



210 Inglewood Drive, Port Credit, ON. L5G1Y1  
 Email: mdg.1888@sympatico.ca  
 (647) 308-3131

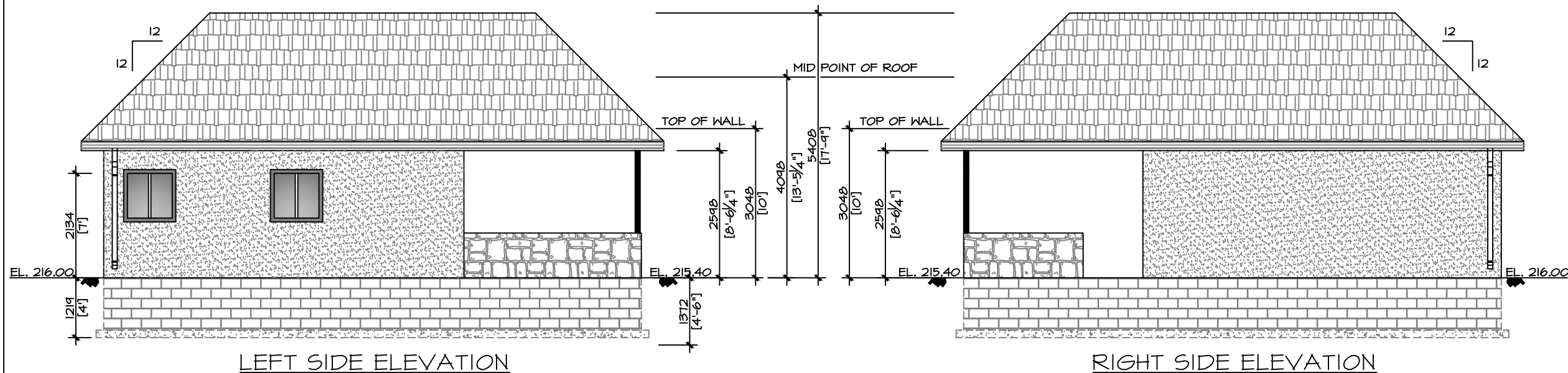
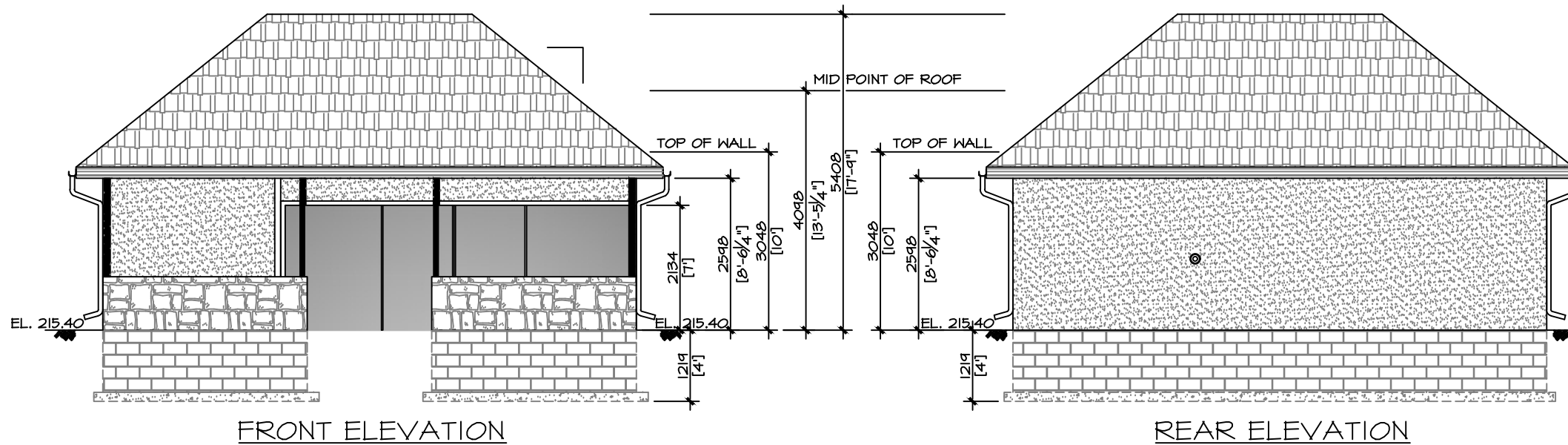
Drawing  
**FLOOR PLAN**

Scale 3/16" = 1"	Drawn dhaari	Checked GC	Date 2019/12/08	Project No. 1917
02			Revision No. 00	Revision Date -
01				
00				
Rev. No.	Description			

Drawing No.  
**A003**

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Project Name  
**PROPOSED CABANA FOR ANISE KARA & TAMARA KARA**  
 52 GLENBOURNE PARK DR. MARKHAM, ON. L6C 1H4



210 Inglewood Drive, Port Credit, ON. L5G1Y1  
 Email: mdg.1888@sympatico.ca  
 (647) 308-3131

Drawing

**ELEVATIONS**

Scale	Drawn	Checked	Date	Project No.
1/8" = 1"	dhaari	GC	2019/12/08	1917
02			Revision No.	Revision Date
01			00	-
00				
Rev. No.	Description			

Drawing No.

**A005**

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