

## **Encroachment Appeal - Basement Walkout Appeal - 459 Ossington Avenue**

**Date:** September 26, 2023

**To:** Toronto and East York Community Council

**From:** Director, Permits and Enforcement, Transportation Services

**Wards:** Ward 11, University-Rosedale

### **SUMMARY**

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This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is for Toronto East York Community Council to consider an appeal from the property owner of 459 Ossington Avenue regarding their encroachment application. The encroachment consists of a basement walkout, which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking approval from Toronto and East York Community Council to allow the basement walkout to be constructed and maintained within the public right-of-way at 459 Ossington Avenue, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

### **RECOMMENDATIONS**

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The Director, Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council not authorize the City to enter into an encroachment agreement with the owners of 459 Ossington Avenue permitting the construction and maintenance of the basement walkout as it contravenes City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

### **FINANCIAL IMPACT**

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There are no financial impacts resulting from the adoption of the recommendations in this report.

## **DECISION HISTORY**

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This report addresses a new initiative.

## **COMMENTS**

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An encroachment application was received on May 1, 2023, from the owners of 459 Ossington Avenue requesting permission to construct and maintain a basement walkout within the public right-of-way on Ossington Avenue fronting the subject premises.

The proposed basement walkout ranges from a depth of 2.54 metres below grade, including footings, to a height of 0.99 metres above grade with aluminum railings, fronting the subject property on Ossington Avenue.

Transportation Services has reviewed the application and the property located at 459 Ossington Avenue. Under Code Chapter 743, the General Manager of Transportation Services does not have authority to enter into encroachment agreements for basement walkouts with a depth greater than 1.20 metres, or with railings higher than 0.90 metres, measured from the surface of the adjoining boulevard. As the proposed depth of the basement walkout exceeds maximum allowable depth and proposed railings exceed the maximum allowable height, Community Council approval is required. An encroachment agreement between the City and the property owner will set out the property owner's responsibilities for the maintenance, repair and operation of the basement walkout.

The applicant was notified that the basement walkout is not eligible for an encroachment agreement and an appeal was subsequently received from the property owner.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

A site plan and proposed drawings of the basement walkout encroachment is shown in Attachment 1-8.

### **Alternate Recommendations**

If, despite the findings above, Toronto and East York Community decides to authorize the General Manager, Transportation Services to enter into an encroachment agreement with the property owner of 459 Ossington Avenue permitting the basement walkout, it may approve the following:

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to negotiate and enter into an encroachment agreement with property owner of 459 Ossington Avenue, to permit the construction and maintenance of the basement walkout, subject, but not limited to, the following conditions:

- a. Indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;
- b. Maintain the basement walkout at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. Remove the basement walkout upon receiving written notice to do so;
- e. The property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right of way with no obligation to replace them;
- f. The basement walkout is to have a minimum setback of 0.5 metres from the rear edge of the sidewalk;
- g. Obtain clearances and/or sign-offs from all affected utilities and satisfy all conditions imposed by any utilities that may be affected by the installation and maintenance of the basement walkout;
- h. The property owner must retain valid property insurance for the duration of the encroachment installation on the right-of-way in an amount and with coverages satisfactory to the General Manager, Transportation Services; and
- i. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.

The Ward Councillor has been advised of the recommendations in this report.

## **CONTACT**

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Elio Capizzano, Manager, Permits and Enforcement - Transportation Services, 416-392-7878, [Elio.Capizzano@toronto.ca](mailto:Elio.Capizzano@toronto.ca)

## **SIGNATURE**

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Antonia Markos  
Director, Permits and Enforcement, Transportation Services

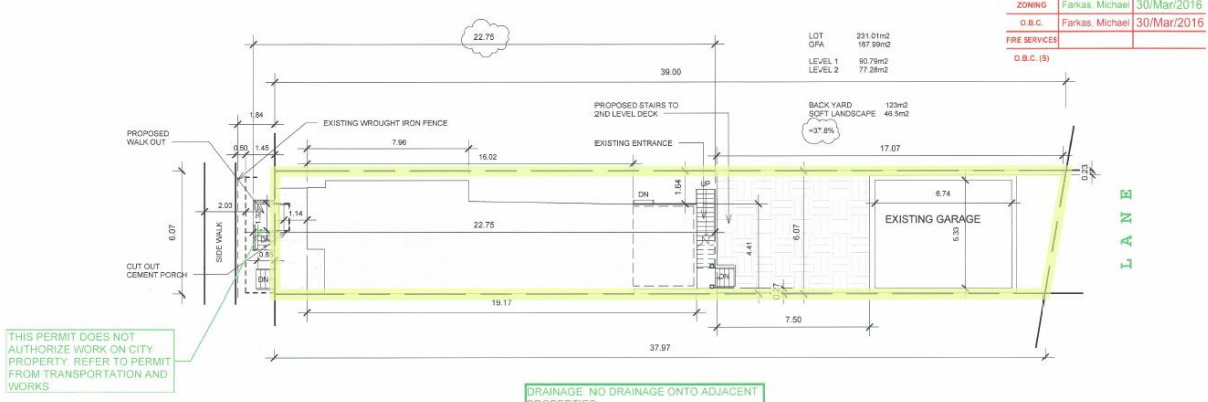
## **ATTACHMENTS**

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Attachment 1: Site Plan of Proposed Encroachment - 459 Ossington Avenue  
Attachment 2: Basement Drawing No. A1 - 459 Ossington Avenue  
Attachment 3: Floor Level 1 Drawing No. A2 - 459 Ossington Avenue  
Attachment 4: North Elevation Drawing No. A4 - 459 Ossington Avenue  
Attachment 5: West Elevation Drawing No. A5 - 459 Ossington Avenue  
Attachment 6: South Elevation Drawing No. A7 - 459 Ossington Avenue  
Attachment 7: Section Drawing No. A8 - 459 Ossington Avenue  
Attachment 8: Under Pin Schedule Drawing No. A9 - 459 Ossington Avenue

## Attachment 1: Site Plan of Proposed Encroachment - 459 Ossington Ave

<b>TORONTO ZONING BY-LAWS APPLICABLE</b> 559-2013 AND 438-05		<b>THIS PERMIT HAS BEEN REVIEWED FOR THE PROPOSED FRONT BASEMENT WALKOUT, REAR SECOND FLOOR DECK AND INTERIOR ALTERATIONS ONLY. ANY OTHER WORK IS BEYOND THIS REVIEW.</b>		<b>PROPOSAL TO COMPLY IN ALL RESPECTS WITH COMMITTEE OF ADJUSTMENT DECISION #A0947/1157EY AND ZONING CERTIFICATE #15 131472 Z2C 00 ZR</b>		<b>Toronto Building</b> PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE 16 129342 BLD 00	
				ZONING: <b>Farkas, Michael</b> 30/Mar/2016 O.B.C.: <b>Farkas, Michael</b> 30/Mar/2016 FIRE SERVICES: <b>Farkas, Michael</b> 30/Mar/2016 O.B.C. (B)			

**1 SITE PLAN**  
1:150

**DRAINAGE:** NO DRAINAGE ONTO ADJACENT PROPERTIES  
**ENCROACHMENTS:** NO ENCROACHMENTS ONTO ADJACENT PROPERTIES ABOVE OR BELOW GRADE, INCLUDING EAVES, OVERHANGS, AND FOOTINGS

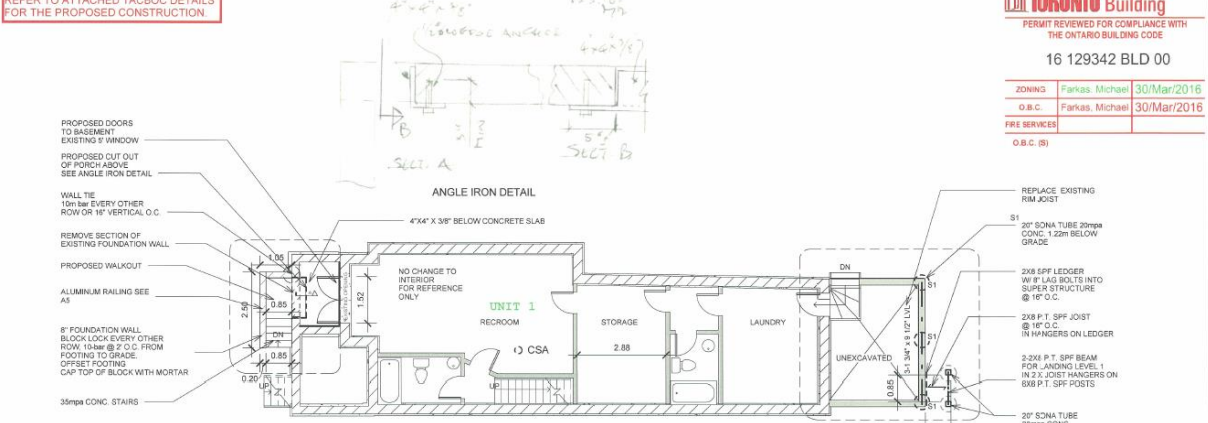
**THE ISSUANCE OF THIS BUILDING PERMIT DOES NOT INCLUDE THE AUTHORITY TO ENTER OR ENCLOSE ONTO ADJACENT PROPERTY, OR DISTURB THE GROUND OF THE ADJACENT PROPERTY, WITHOUT THE AUTHORIZATION OF THE ADJACENT OWNERS. IF AUTHORIZATION IS NOT GRANTED, A PERMIT MUST BE OBTAINED FOR ACCESS FROM MUNICIPAL LICENSING AND STANDARDS DIVISION AS PER THE PROVISIONS OF THE RIGHT-OF-ENTRY BY-LAW (CITY OF TORONTO ACT, SECTION 101).**

<b>AJTDESIGN CA</b> 147 SHERIDAN AVE TORONTO ON M6K 2H6 416 573 7625 obcperrmits@gmail.com		The undersigned has reviewed and taken responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer. QUALIFICATION INFORMATION: Required unless design is exempt under 2.0.3.3 of the building code. Name: <b>Andrew Trotter</b> Signature: _____ REGISTRATION INFORMATION: Required unless design is exempt under 2.0.3.3 of the building code. Name: _____ Signature: _____ OCN: _____		<b>"DO NOT SCALE"</b> CONTRACTOR MUST VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF WORK. ALL PERMITS AND SPECIFICATIONS ARE THE PROPERTY OF THE DESIGNER AND MUST BE RETURNED UPON COMPLETION OF THE WORK. THE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER JOB THAN THE ONE FOR WHICH THEY ARE PREPARED.		<b>459 Ossington Ave</b> <b>M6G 3T3</b>		<b>SITE PLAN</b> Project number: 2015 Date: 2015 Drawn by: <b>Andrew J Trotter AATO</b> Checked by: _____ Checker: _____ Scale: 1:150		<b>AS</b>	
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RECEIVED 24/Mar/2016

## Attachment 2: Basement Drawing No. A1 - 459 Ossington Avenue

<b>REFER TO ATTACHED TACBOC DETAILS FOR THE PROPOSED CONSTRUCTION.</b>		<b>Toronto Building</b> PERMIT REVIEWED FOR COMPLIANCE WITH THE ONTARIO BUILDING CODE 16 129342 BLD 00	
		ZONING: <b>Farkas, Michael</b> 30/Mar/2016 O.B.C.: <b>Farkas, Michael</b> 30/Mar/2016 FIRE SERVICES: <b>Farkas, Michael</b> 30/Mar/2016 O.B.C. (B)	

**1 BASEMENT**  
1:100

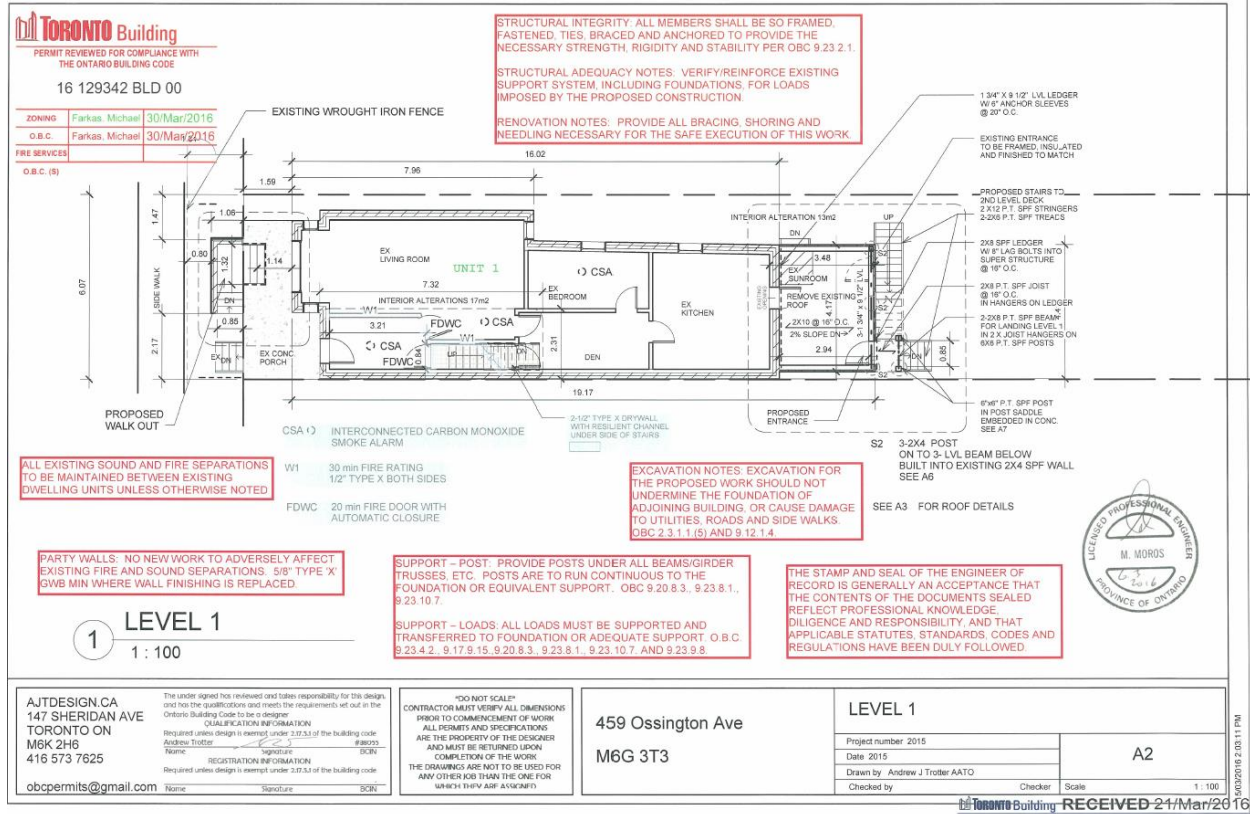
**General Notes:**

- All construction to conform to Ontario Building Code, latest edition.
- All work shall be performed in compliance with the Occupational Health and Safety Act.
- All footings to rest on undisturbed soil.
- All concrete to be min. 30 MPa at 28 days with 5-7% entrained air.
- Rebar: Min. lap length = 30 diam.  
Min. concrete covers in mm:  
25 to exposed surfaces  
60 to granular fill  
75 to earth
- Masonry work to be performed in accordance with CSA Standard S304. Mortar for masonry to be type "S", unless noted otherwise on drawings.
- All LVLS to be of grade: 2950Fb-2.0E
- Lumber to be SPF Select Structural, unless noted otherwise.
- All joint connections to be made with Simpson Strong-Ties unless noted otherwise.
- Shoring to be reviewed by engineer before proceeding with work.

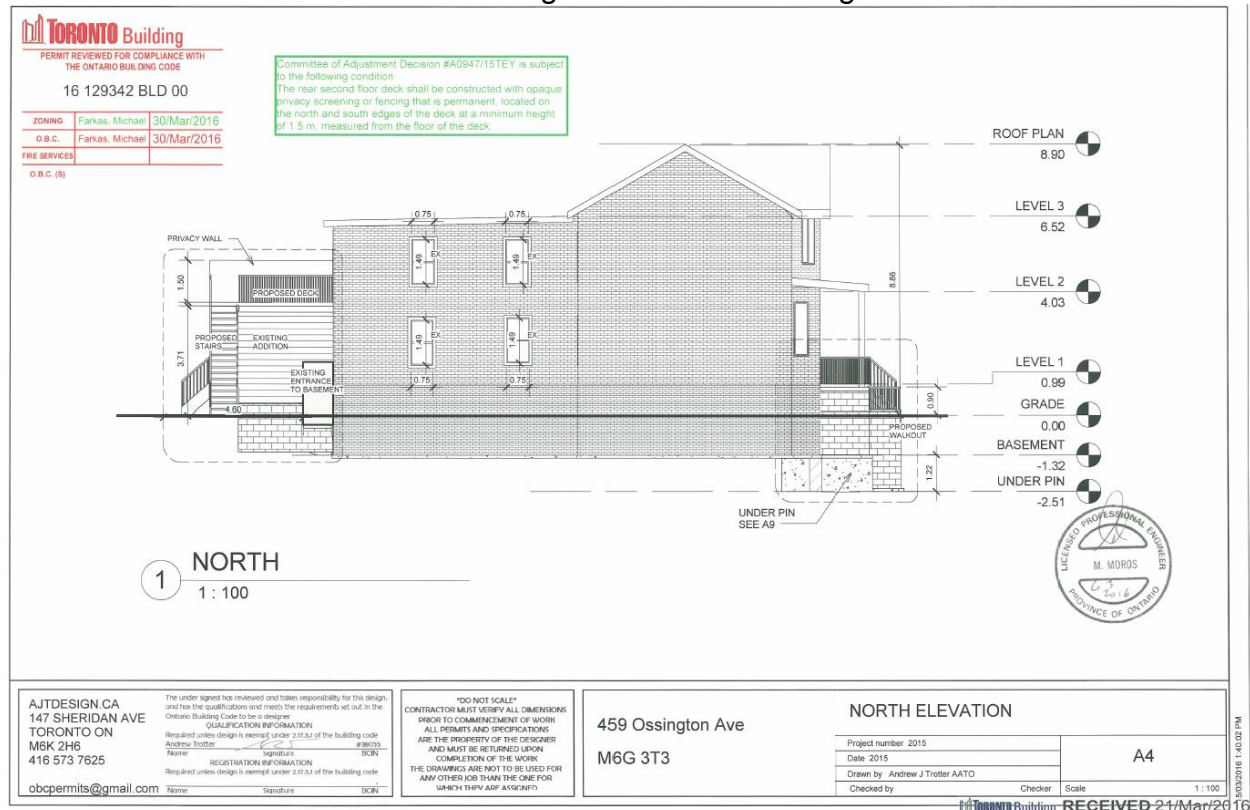
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RECEIVED 24/Mar/2016

## Attachment 3: Floor Level 1 Drawing No. A2 - 459 Ossington Avenue

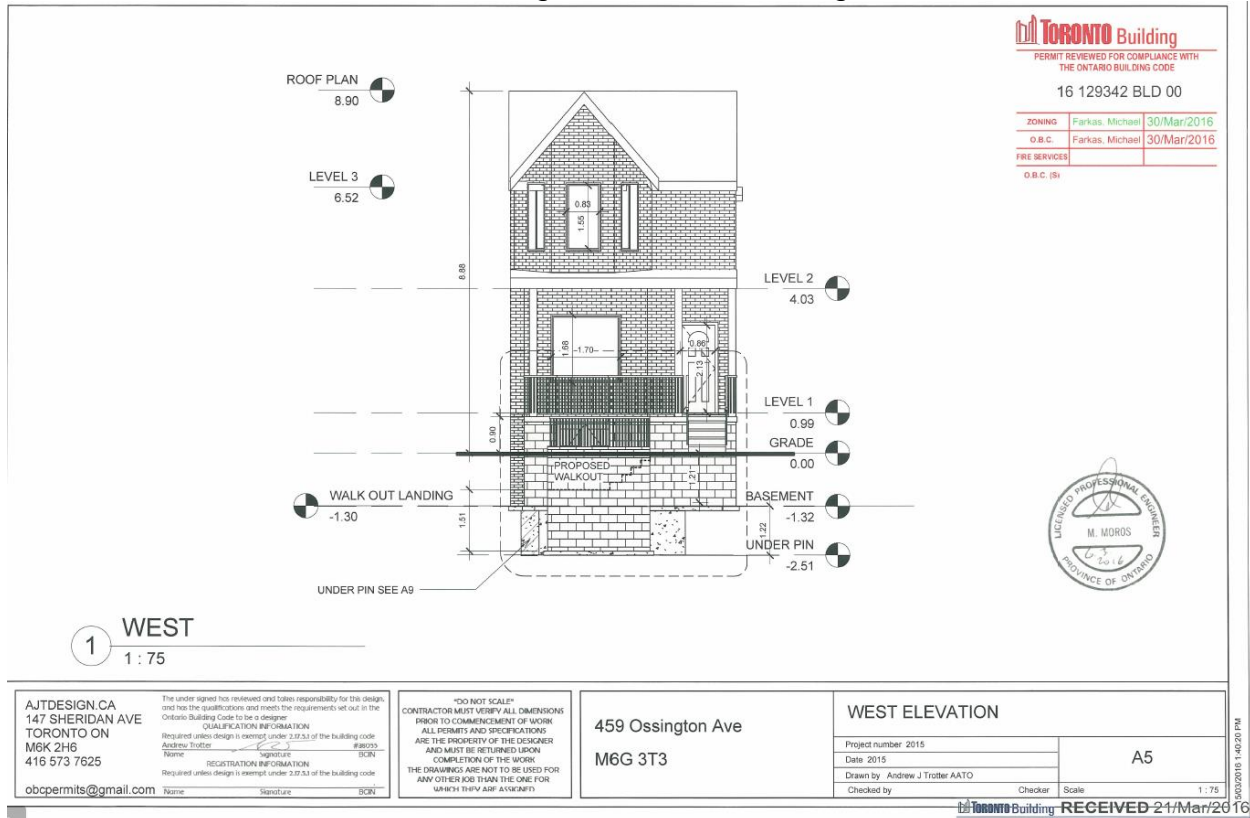


## Attachment 4: North Elevation Drawing No. A4 - 459 Ossington Avenue

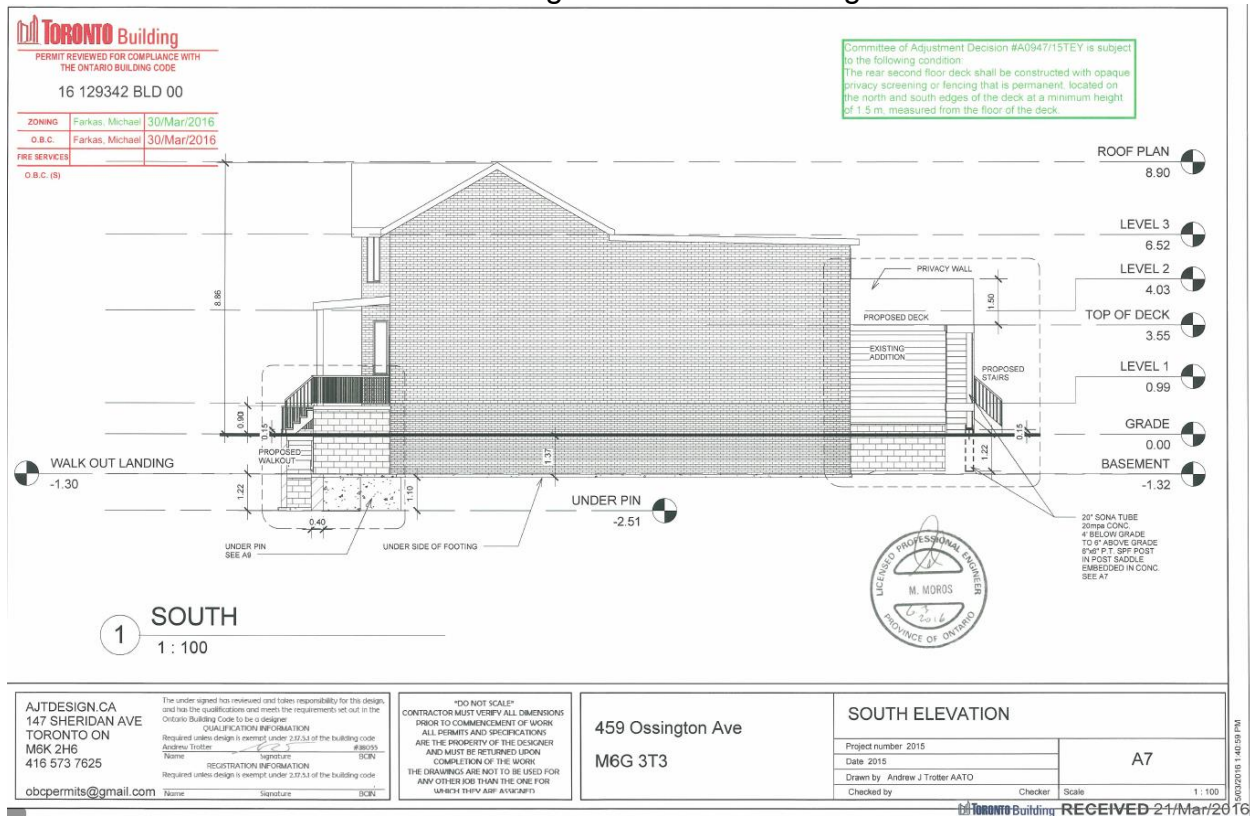




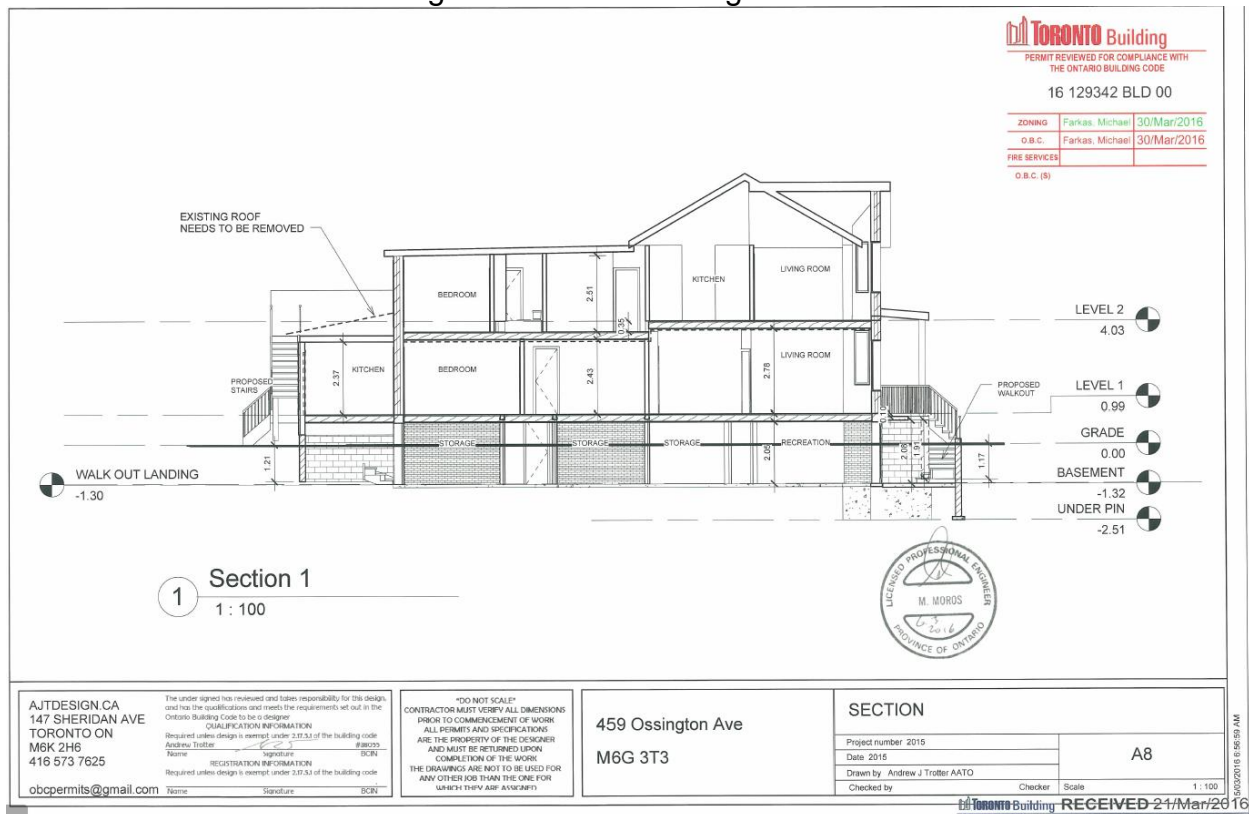
## Attachment 5: West Elevation Drawing No. A5 - 459 Ossington Avenue



## Attachment 6: South Elevation Drawing No. A7 - 459 Ossington Avenue



## Attachment 7: Section Drawing No. A8 - 459 Ossington Avenue



## Attachment 8: Under Pin Schedule Drawing No. A9 - 459 Ossington Avenue

