

## DECISION AND ORDER

**Decision Issue Date** Thursday, September 28, 2017

PROCEEDING COMMENCED UNDER subsection 45 (1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): David J Congram, Kaicene Cheng

Applicant: Culmone and Associates Ltd

Counsel or Agent: N/A

Property Address/Description: 10 Robin Hood Rd

Committee of Adjustment Case File Number: 17 135632 WET 04 MV (A0297/17EYK)

TLAB Case File Number: 17 165688 S45 04 TLAB

**Hearing date:** Friday, September 08, 2017

**DECISION DELIVERED BY Gillian Burton**

### APPEARANCES

#### Parties

Lucia Faraone, Carlo Faraone

Kaicene Cheng

David Congram

(\* indicates counsel)

#### Representative

Mary Flynn-Guglietti\*

Kailey Sutton\*

Self-represented

Self-represented

## INTRODUCTION

Mr. and Mrs. Faraone (the Applicants’), the new owners of 10 Robin Hood Road in Etobicoke (the 'subject property'), applied to the Committee of Adjustment (the “COA”) for minor variances to permit the construction of a new two storey dwelling on the lot, with a two-car garage. The COA approved the application, as amended, on May 4, 2017, with conditions respecting the trees on the site.

This approval was then appealed to the Toronto Local Appeal Body (“TLAB”) under s. 45(12) of the *Planning Act* (the “Act”) by two neighbours, Mr. David Congram at 18 Robin Hood, and Ms. Kaicene Cheng next door at number 10 ('no. 10'). Several neighbours filed notices that they wished to be Participants in the hearing. In the end, Ms. Carmelanna Ruggiero, 5 Robin Hood, and Mr. James Darling at 7 Robin Hood, gave evidence in opposition to the application.

The Applicants retained Mr. James Levac to provide professional land use planning evidence in support of the application.

## BACKGROUND

These are the variances approved by the COA, as amended at the Committee Hearing:

### **1. Section 10.20.30.40.(1)(A), By-law 569-2013 & Section 320-59(C)**

The maximum permitted lot coverage is 33% of the lot area (152.9 sq m).

The new dwelling will have a lot coverage of 43.73% of the lot area (202.64 sq m).

### **2. Section 900.3.10(28)(C), By-law 569-2013 & Section 1.(b)(1), By-law 1992-24**

The maximum permitted gross floor area is 0.5 times the lot area (231.7 sq m).

The new dwelling will have a gross floor area of 0.75 times the lot area (346.4 sq m).

### **3. Section 10.20.40.70.(6)(B), By-law 569-2013**

The minimum required side yard setback is 3 m for a corner lot where there is an adjacent lot fronting on the street abutting the side lot line.

### **Section 320-41.B**

The minimum required side yard setback abutting a street is 3 m.

**Section 10.20.40.70.(6)(B), By-law 569-2013 & Section 320-41.B**

The new dwelling will be located 2.38 m from the west side lot line abutting a street (Cudworth Place).

**4. Section 10.20.40.70.(2)(B), By-law 569-2013 & Section 320-42(B)**

The minimum required rear yard setback is 8.42 m.

The new dwelling will be located 4.02 m from the rear lot line.

**5. Section 320-41(D)**

The minimum required side yard setback for eaves is 0.4 m.

The eaves of the new dwelling will be located 0.37 m from the east side lot line.

**6. Section 320-41.E.**

The maximum permitted porch projection is 1.6 m from the main side wall.

The proposed porch along the Cudworth Place side lot line will project 1.88 m from the main side wall.

**7. Section 10.5.40.60.(1)(E), By-law 569-2013**

A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required side yard setback a maximum of 1.5 m, if it is no closer to the side lot line than 0.3 m.

The proposed platform will encroach 2.65 m into the required side yard setback.

**8. Section 10.20.40.20. (1), By-law 569-2013**

The maximum permitted dwelling length is 17 m.

The new dwelling will have a length of 21.34 m.

**9. Section 10.20.40.30. (1), By-law 569-2013**

The maximum permitted dwelling depth is 19 m.

**Section 1. (d)(1), By-law 1992-24**

The maximum permitted dwelling depth is 16.5 m.

**Section 10.20.40.30.(1), By-law 569-2013 & Section 1.(d)(1), By-law 1992-24**

The new dwelling will have a depth of 21.34 m.

There were conditions attached relating to the extensive trees on the site:

1. The applicant shall submit an application for permit to injure or remove trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article III.
2. The applicant shall submit an application for permit to injure or remove City trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article II.

In summary, minor variances are sought to increase the lot coverage, gross floor area ("gfa"), building length and depth, as well as for decreased rear, side yard and eaves setbacks.

There had been reductions in many of the variances initially proposed to the COA, and which had evoked concerns among the neighbours at the Committee. The Committee decision reflects these revisions. Revised plans indicating these changes, and one technical alteration as outlined below, were filed with the TLAB on July 7, 2017 (Exhibit 6). These represent the current variances now sought from TLAB. Respecting Variance No 1, above, Ms. Flynn-Guglietti pointed out that a technical alteration to this variance resulted from a subsequent architect's review of the Committee's approved figures. The lot coverage should be 45.98 % (213.10 sq m.) and not 43.73 %. The TLAB determined that no further notice of this alteration was required under s.45 (18.1) of the Act, which would require such notice if the change was not found to be a minor one.

## **JURISDICTION AND MATTERS IN ISSUE**

On an appeal, the TLAB must be satisfied that each of the variances sought meets the tests in subsection 45(1) of the Act. This involves a reconsideration of all of the variances considered by the Committee, in the physical and planning context. The subsection requires a conclusion that each of the variances:

- is desirable for the appropriate development or use of the land, building or structure;
- maintains the general intent and purpose of the official plan;
- maintains the general intent and purpose of the zoning by-law; and
- is minor.

These are usually expressed as the “four tests”, and all must be satisfied for each variance. In addition, TLAB must have regard to matters of provincial interest as set out in section 2 of the Act, and the variances must be consistent with provincial policy statements and conform with provincial plans as set out in s. 3 of the Act. A decision of the TLAB must therefore be consistent with the 2014 Provincial Policy Statement (‘PPS’) and conform to (or not conflict with) any provincial plan such as the Growth Plan (‘Growth Plan’) of the Greater Golden Horseshoe, for the subject area.

## **EVIDENCE**

Mr. Jim Levac was qualified and provided professional evidence on the planning background for the application. As can be seen from the variances outlined, the proposed design requires a variances from both the Etobicoke Zoning Code and By-law 1992-24 (the “Etobicoke by-laws), as well as from the new City of Toronto Harmonized Zoning By-law No. 569-2013 (under appeal to the Ontario Municipal Board – the “City by-law.”) The site is designated 'Neighbourhoods' in the Official Plan, and is zoned R2 under the Etobicoke by-laws, and RD (f13.5, a510, d.45 (x28) in the City by-law.

He outlined his review of the files before both tribunals, and his investigation of the site and the surrounding neighbourhood. The site is unique for several reasons, presenting a challenge to redevelopment. It has approximately 14.1 m of frontage onto Robin Hood Road, which is deemed to be the lot frontage under the Zoning bylaws, as it is the smallest frontage onto a public street. However, the lot does not function this way, as it has no driveway access onto Robin Hood Road, and the main front face of the dwelling is actually located on Cudworth Place. He categorized it as a “wide shallow” configuration. This leaves the nominal front yard on Robin Hood as the functional side yard amenity area, and the north rear portion of the lot as a side yard as well.

Thus the “front” of the property on Robin Hood would be an exterior side yard. This is the same situation as presently exists on the other corner at Cudworth, number 14 Robin Hood. Mr. Levac points out this lot is almost identical in size, and replicates the exact condition as seen on the subject lot. He called it the “mirror image” of no. 10. The frontage is effectively on Cudworth, with the technical front and rear portions of the lot functioning as amenity areas. In his opinion, these lots help define the character of the immediate neighbourhood. They form a unique entrance into a small cul-de-sac, an "enclave" of homes around the circular street known as Cudworth Place. Both 10 and 14 Robin Hood Road form part of and define the character of this enclave of attractive and well maintained Cudworth Place homes, some of which are original bungalows and some of which are two-storey replacement homes.

Another feature of the two corner lots, 10 and 14, is their size. They are the smallest lots within this circle of homes. 10 Robin Hood Road is 463 m<sup>2</sup>, and 14 is 469 m<sup>2</sup>, while the balance of the homes located at 2, 3, 4, 5, 6, 7, 8, 9 and 10 Cudworth Place range in area from 500 m<sup>2</sup> to 984 m<sup>2</sup>. Mr. Levac states that this is somewhat unconventional, as corner lots typically tend to be larger in size than interior lots, to accommodate large exterior side yards and corner roundings, which improve sight lines and visibility. The size of no. 10 is consequently more of a challenge for siting a dwelling on the lot.

The dwelling on the adjoining lot to the north along Cudworth is set back significantly from the street—and the front portion is heavily vegetated, creating a visual barrier between it and the subject property. There are also nine mature trees on the subject property, five on the City boulevard and three on the private property. These are one of the principal concerns of the neighbours.

While establishing the appropriate neighbourhood within which to assess the proposal, the planner included Cudworth, but also the dwellings on both sides of Robin Hood Rd. He noted that these two corner lots are smaller even than the other lots to the east and west along the north side of Robin Hood Road, although they do maintain the uniform building setbacks along that north side.

However, there is a difference across on the south side of Robin Hood, as the lots located at 5 to 21 Robin Hood Road are all approximately 80 m<sup>2</sup> -100 m<sup>2</sup> larger. They range in area from 550 m<sup>2</sup> to 600 m<sup>2</sup>. There is a mix of older bungalows and new two-storey rebuilds along both sides of the street. Despite the changes, the neighbourhood in his opinion qualifies as a stable one.

In examining the proposed site plan, Exhibit 4, on which can be seen a shadowy outline of the existing home, Mr. Levac stated that the main difference from that home would be the double car garage, causing the extension of the wall next to Ms. Cheng's property. It would otherwise be mainly located within the outline of the existing structure. He stressed that in his opinion the design would be a significant improvement – the “front” wall on Cudworth would include a one-storey great room, with a peak up to the roof level, and there would be a porch feature on that side. These features, in addition to the roof pitch and window locations, would result in less perceived massing on the site. He emphasized that there was no increase in height for the proposal, so that no variance is required for height.

Respecting the east wall next to Ms. Cheng at number 8, there are only four windows proposed, and they are small, proving light into stairwells and bathroom only, with no overlook as from a bedroom. The north wall, the side wall of the garage, has only four small windows overlooking the reduced rear yard. The applicants had moved the garage away from the east side of the design, where it was before the COA, to leave more distance between Ms. Cheng's yard and the subject lot. Mr. Levac stressed that there is no variance required (other than the eaves) for the side yard setback next to Ms. Cheng.

He addressed the variances in turn, stressing the reduction in the numbers from the original proposal. In his opinion, Variance 1, for lot coverage from 33% in the

Bylaws to 45.98 %, and Variance 2, the gfa from the 0.50 to 0.75 are both desirable and minor as the design is greatly improved. The length of the building (Variance 8, 21.34 m rather than the permitted 17 m), and Variance 9, the depth (21.34, vs the 19 and 16.5 permitted, as the depth requirement is measured differently in the two by-laws) are required to permit a double car garage, a modern necessity. They are similarly acceptable, and minor. He stated that the reduction in the required rear yard setback of 8.42 m to 4.02 m would have little impact on the neighbouring property belonging to Ms. Cheng. This would be compensated for as there is no reduction in the side yard setback next to her, although there is a slightly reduced setback of .09 m. for the eaves.

Variance 6 restricts the porch projection on the Cudworth side to 1.6 m. while 1.88 m is proposed. This will be similar to the existing. Variance 7, a small reduction in the side yard setback, would facilitate the construction of the “front door” porch.

Respecting the trees on the site, the subject of a Report to the COA from Urban Forestry (referenced in the Committee Conditions, above), Mr. Levac pointed out that neither the appellants nor the City had submitted reports to TLAB on the subject of tree protection.

Regarding the Official Plan policies for the 'Neighbourhood' designation, Mr. Levac addressed Policy 2.3 which states that neighbourhoods should be stable, but not static. The Neighbourhoods designation permits detached homes. Section 2.3.1.1 notes that “Development within Neighbourhoods ... will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas”. Respecting Policy 2.3.1 concerning Healthy Neighbourhoods, in his opinion this redevelopment will respect and reinforce the streetscape, and improve upon the character of the existing building. The functional amenity space to be provided duplicates that across at no. 14, and thus the Plan requirement is met.

The planner pointed out as well that section 3.1.2.1 provides that “New development will be located and organized to fit with its existing and/or planned context.” This encourages in his view changes in neighbourhoods that are sensitive to their character, that are compatible. This does not mean “the same as”, but able to co-exist without adverse impacts. Section 3.1.2 is satisfied with this proposal, as it will create better conditions of prominence for the corner lot. The design for the family room area is more interesting than a blank wall. The front porch will permit eyes on the street, but the window placements will preserve privacy. The boulevard and private trees, the special landscape feature mentioned in the Official Plan, would be safeguarded. The Plan requires parking and access, and the two-car garage and driveway is better located where proposed, rather than on Robin Hood.

Shadow studies were performed, and show no unacceptable adverse impacts on the property at No. 8.

His conclusion respecting the character of the neighbourhood is that it is in fact a 50/50 mixture of older bungalows and more modern rebuilds. This redesign would reinforce the nature of the two “bookends” at the intersection of Cudworth. The massing is constrained, and the architectural style of the newer structures is retained, as are the uniform setbacks along Robin Hood to the east.

Respecting the test in section 45(1) of the Act that the proposal maintain the general intent and purpose of the zoning by-law, in Mr. Levac's opinion, the by-law tests are met. Given all of the factors stated above – two-storey, compatible design, proposed amenities, tree preservation, adding value to the neighbourhood – the applicable policy and by-law provisions are satisfied.

Respecting the standard that the variances be minor in nature, he concluded that they are minor, both individually and cumulatively. No undue adverse impact would occur, as massing would be kept in the acceptable range, especially since there were minimal side yard setbacks variances needed, and the so-called "entrance" to the cul-de-sac would be improved.

He further briefly concluded that the proposal was consistent with section 1.1.3 of the PPS, as it makes efficient use of existing infrastructure and promotes compatible redevelopment. Thus it also conforms generally with the Growth Plan.

Mr. David Congram, at 18 Robin Hood Road, appealed from the COA decision to the TLAB. His main objection was incompatibility with the character of the area. The home would be too extensive, and the variances too large – for example, coverage, gfa and length- given the size of the lot. Another issue is the slope from this "highest point" on Robin Hood. The structure would be more visible. He did not object to the increase for the garage. He has experienced water runoff from the higher lands on Cudworth, causing damage to his home. He believes that there is an underground stream from Cudworth near his home. Thus he objects to what he sees as possible compaction of the soil caused by the development, especially from the east side extension, leading to still more runoff over his land. His concerns also extend to the preservation of the trees on the parcel. In his view the cedar hedge now present on no. 14 is dangerous, cutting off vision around the corner. He thus objects to any such privacy screen installed on the subject parcel, as suggested by Mr. Levac. Mr. Congram was reassured that there would be no excavation under the garage portion or front porch of the new home, which might lead to compaction of the soil. He also received the Applicant's promise to install a sump pump to forestall any runoff concerns.

Ms. Kaicene Cheng, the other appellant, resides next door at number 8 Robin Hood. She had similar concerns regarding the water issue. Her testimony focused heavily on the possibility of increased water damage to her property as a result of the development. Since Cudworth is about one metre higher in elevation, she envisages soil compaction. That, with possible paving of the decreased side yard and the fact that there was mould in the existing basement of the home, are in her view indications that the development should not be approved. She objected to the increases in most of the variances, especially lot coverage, gfa and rear yard setback. The reduction in the rear yard because of the two-car garage would cut off sunlight to her garden, and provide insufficient amenity space to function as such. She especially indicated concern over possible root damage to the trees on the site, including one in her rear yard. Respecting larger construction on a corner lot, she pointed to photos of the corners at Robin Hood and Wimbledon to the east. While containing reconstructed larger homes, their lots were considerably larger.



The Participants, Ms. Carmelanna Ruggiero and Mr. James Darling, both objected that their homes, at 5 and 7 Robin Hood Road on the south side of the street, were left out of the “neighbourhood” study conducted by Mr. Levac. Ms. Ruggiero objected to the increase in lot coverage on the small lot, comparing it with the corner lot referred to by Ms. Cheng at Wimbledon, which is also a small corner but not so covered by the home built there. There was insufficient green space left. Mr. Darling thought that the many bungalows in the area had not been sufficiently considered in Mr. Levac’s assessment. Such extensive variances would be a precedent and destabilize the neighbourhood. He had conformed to the by-laws in adding to his property, and he felt that the proposed garage and side porch particularly constituted overbuilding.

Because the City Forestry Department and many neighbours had objected to the application at the COA, Mr. Tom Bradley was engaged by the applicants to provide expert evidence on the state of the trees on the site. He is a very experienced Registered Consulting Arborist. He was tasked with providing an Arborist Report on the current health and structural condition of all the trees with a D.B.H of 30 cm or greater (Diameter Breast Height, the location of the usual measurement of the trunks) on and within 6 metres of the subject property. His Arborist Report and Tree Preservation Plan addresses the City of Toronto's Municipal Code Chapter 813 Article II *Trees on City Streets* and Article III *Private Tree Protection*, and Toronto's *Tree Protection Policy and Specifications for Construction Near Trees* (Articles II and III as referred to in the COA conditions.) If a tree is less than 30 cm, no permit is required to remove it. Over this size, a permit from the City must be obtained.

He referred to each of the trees, both on City property on the boulevard and on the applicants’ and neighbor’s lands, and specified the hoarding required to protect them while construction proceeded. He found 10 trees that may be affected by the proposed site plan, 9 to be preserved, and one which must be removed. However, that tree is below the 30 cm. size controlled by the by-law. His outline of the site’s trees is found at page 19 of his Expert Witness Report (Exhibit 3).

There are 5 City trees in the boulevard area of the lot. These 5 trees would be protected by the required hoarding around the Tree Protection Zone (TPZ) shown on the Plan for the duration of the proposed construction activities, and no injury is anticipated (tree #1, 2, 3, 4 and 5). There are 3 private trees located in the north side yard. These must also be protected, and no injury to them is anticipated (trees #6, 7 and 8).

Respecting tree #3 belonging to the City, he stated that excavation for the building foundation (including an anticipated 90cm over-dig) will encroach within 2 m into the east side of the minimum 6.0m TPZ for Tree #3. Thus he recommends an Air Spade/Hydro-Vac investigation of the area 4m east of Tree #3's base. This would determine the size and quantity of tree roots that might be affected. Then if required, any roots in the immediate area of the excavation would be properly pruned by the attending Certified Consulting Arborist. This would minimize the extent of root injury caused by the excavating equipment. The assessment would be compared to Urban Forestry’s published standards for acceptable levels of root injury.

One tree, # 10, will be removed. The City of Toronto requires completion of an "Application to Injure or Destroy Trees" for all trees 30 cm or greater to be injured or destroyed. Tree #10 conflicts with the proposed site plan, and must be removed to grade level prior to any construction activities. However, this tree is below the 30 cm DBH threshold for protection under the City of Toronto's *Private Tree Protection By-law*, and may be removed without a permit.

Tree #9 is located in the rear yard of the Cheng property, east of the subject site. It will also be protected for the construction activities on the subject site, and an arborist present during construction would ensure that it suffered no damage. It is unlikely that any roots extend far from this tree because of the presence of the retaining wall to the north. Full implementation of the Tree Care recommendations, Tree Preservation Plan and Tree Preservation Guidelines at p. 10 of Mr. Bradley's report should, he states, result in the tree's survival.

The base of the proposed covered porch on the Cudworth side will be above grade level, and will likely not affect Tree #4, if properly within its TPZ.

In questioning by Mr. Congram, Mr. Bradley explained that the root zone is twice the size of the tree canopy, and feeder roots extended far beyond this. The number of metres required for tree protection is a factor of six times the DBH of the tree (6 m, for a tree of 100 cm.) Most roots on the site would not be affected by the construction – he compared it to cutting a fingernail – and would survive. To Ms. Cheng, he assured that there would be sufficient soil for tree # 9's root mass, and no compaction from the construction. City Forestry would have to sign off on removal of the hoarding after construction. An accurate measurement of tree # 9 on her property would be taken by the supervising architect.

A tree replacement plan is not required for the development, as no trees 30 cm or greater are to be removed to accommodate the site plan.

## **ANALYSIS, FINDINGS, REASONS**

The TLAB has evaluated very carefully the evidence of the applicants as well as the concerns of the neighbours. Overall it accepts the opinion of Mr. Levac that the policy analysis and planning rationale supports this application. In general, the proposal is consistent with the objectives of the PPS, conforms to the GP and the applicable policies of the OP.

I agree with Mr. Levac that section 3.1.2.1 of the OP is met. It provides that "New development will be located and organized to fit with its existing and/or planned context." This would be a change in the neighbourhood, but one sensitive to its character, that is compatible even though it appears to the neighbours to be much larger. As mentioned, compatibility does not mean "the same as", but able to co-exist without adverse impacts. Section 3.1.2 is satisfied with this proposal, as it will enhance this corner lot. There is also Section 3.1.2.3 which provides that "New development will be massed and its exterior facade will be designed to fit harmoniously into its existing and/or planned context by:

- a) massing new buildings to frame adjacent streets ... in a way that respects the existing and/or planned street proportion;
- d) providing for adequate light and privacy;
- e) adequately limiting any resulting shadowing of ... neighbouring streets [and] properties;”

Section 3.1.2.4 provides that “New development will be massed to define the edges of streets, parks and open spaces at good proportion. I find that the proposal meets all of these goals.

The TLAB realises that many neighbours may be inclined to not agree with this assessment. However, it is clear from the photo evidence that replacement homes even larger than the proposed make up at least 50% of the immediate area. There was no evidence provided that these recent rebuilds have destabilized this attractive area. Rather they have enhanced its character, as would the proposed.

Section 4.1.5 of the Plan sets out the specific development criteria for Neighbourhoods. The overall policy framework acknowledges that Neighbourhoods are stable but not static, and that some physical change will occur over time. As it relates to the revised variances, Section 4.1.5 provides that “Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:...

- b) size and configuration of lots;
- c) heights, massing, scale and dwelling type of nearby residential properties;
- d) prevailing building types;
- e) setbacks of buildings from the street;
- f) prevailing patterns of rear and side yard setbacks and landscaped open space;
- ...”

Section 4.1.5 also provides that “no changes will be made through minor variance or other public action that are out of keeping with the physical character of the neighbourhood”.

Although many variances are required for this smaller lot, and the trees must be protected, it does constitute a fitting rebuild, similar to many others in the area. The TLAB is satisfied that the prevailing character of this attractive neighbourhood will not

be altered significantly or be challenged by this single replacement home. The variances meet the criteria set out in s. 45(1) of the Act. It will maintain the general intent and purpose of the OP and the Zoning By-laws, and is a desirable use of this narrow corner property. While the site has challenges that constrain the size and location of the reconstruction, overall it respects the neighborhood as a whole.

Mr. Levac's choice of the appropriate "neighbourhood" was questioned. The Participants focused on the many existing bungalows, but Mr. Levac dealt with many bungalows in his photo evidence – they were not left out of his assessment of the character of the neighbourhood.

The neighbours raise concerns about the variances for gfa, lot coverage and building length and depth. These variances to accommodate the two-car garage seemingly cannot be termed minor in numerical sense. However, from the criterion of impact, it should have very little because of the ample vegetation at the rear and the elevation between the property to the north, 2 Cudworth, and the subject site. Ms. Cheng referred frequently to the narrow space to be left to the north by the variances. However it is clear that even moderate use of the "side" yards would be restricted to that amenity area to the front, beside Robin Hood, where a covered patio is to be constructed.

I agree with Mr. Levac's professional opinion that even these variances, while appearing numerically large, are minor in nature, both individually and cumulatively. As he stated, no undue adverse impact would occur, as massing would be kept in the acceptable range, especially since there are no side yard setbacks needed. This is important in evaluating Ms. Cheng's concern about the increased bulk of the building close to hers. Shadowing would be minimal. The "entrance" to the cul-de-sac would be improved. The home does not require a height variance, and apart from a slight eaves overhang, meets the side yard setback beside Ms. Cheng's property.

On the argument raised by both appellants about water damage, there was no evidence from the City Engineering Department that it had objections to this proposal. I am satisfied from Mr. Levac's evidence that this issue would be dealt with before construction could proceed. The TLAB notes that any new home on the lot, even if built completely within the by-law requirements, would have to manage water runoff and/or leakage. This is no reason to refuse to approve the application.

Section 3.4 of the OP contains the policy that the urban forest be preserved and enhanced by providing suitable growing environments for trees; increasing tree canopy coverage and diversity, especially of long-lived native and large shade trees; and by regulating the injury and destruction of trees. In Mr. Bradley's expert opinion, such protection and preservation is indeed possible. Thus, respecting the City and private trees on the site and on Ms. Cheng's property, the condition attached will ensure that construction cannot proceed unless an application is made to Council, and the Urban Forestry Department gives a final clearance.

This property is a unique one in this area. The TLAB's finding should be evaluated in this light, especially considering the individual circumstances of this heavily


treed, “wide-narrow” corner lot. Thus these approvals should not be the precedent feared by the many objectors at the COA hearing and the TLAB proceedings.

## DECISION AND ORDER

The TLAB orders that the appeals are refused. The-variances from the City of Toronto Zoning By-law No 569-2013, the Etobicoke Zoning Code and By-law 1992-24 as set out above are approved, subject to the following conditions:

- 1) The new two-storey detached dwelling shall be constructed substantially in accordance with the Revised Plans filed with TLAB on July 7, 2017, and appended as Attachment A. Any other variances that may appear on these plans that are not listed in the written decision are not authorized.
- 2) The applicant shall submit an application for permit to injure or remove city trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article II.
- 3) The applicant shall submit an application for permit to injure or remove trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article III.
- 4) The variances to Zoning By-law No. 569-2013 as identified herein are all authorized contingent upon the relevant provisions of that by-law coming into full force and effect, and are subject to the same conditions
- 5) The bathroom window on the second floor of the east side of the new dwelling shall be frosted or translucent.

(Attachment A)

X 

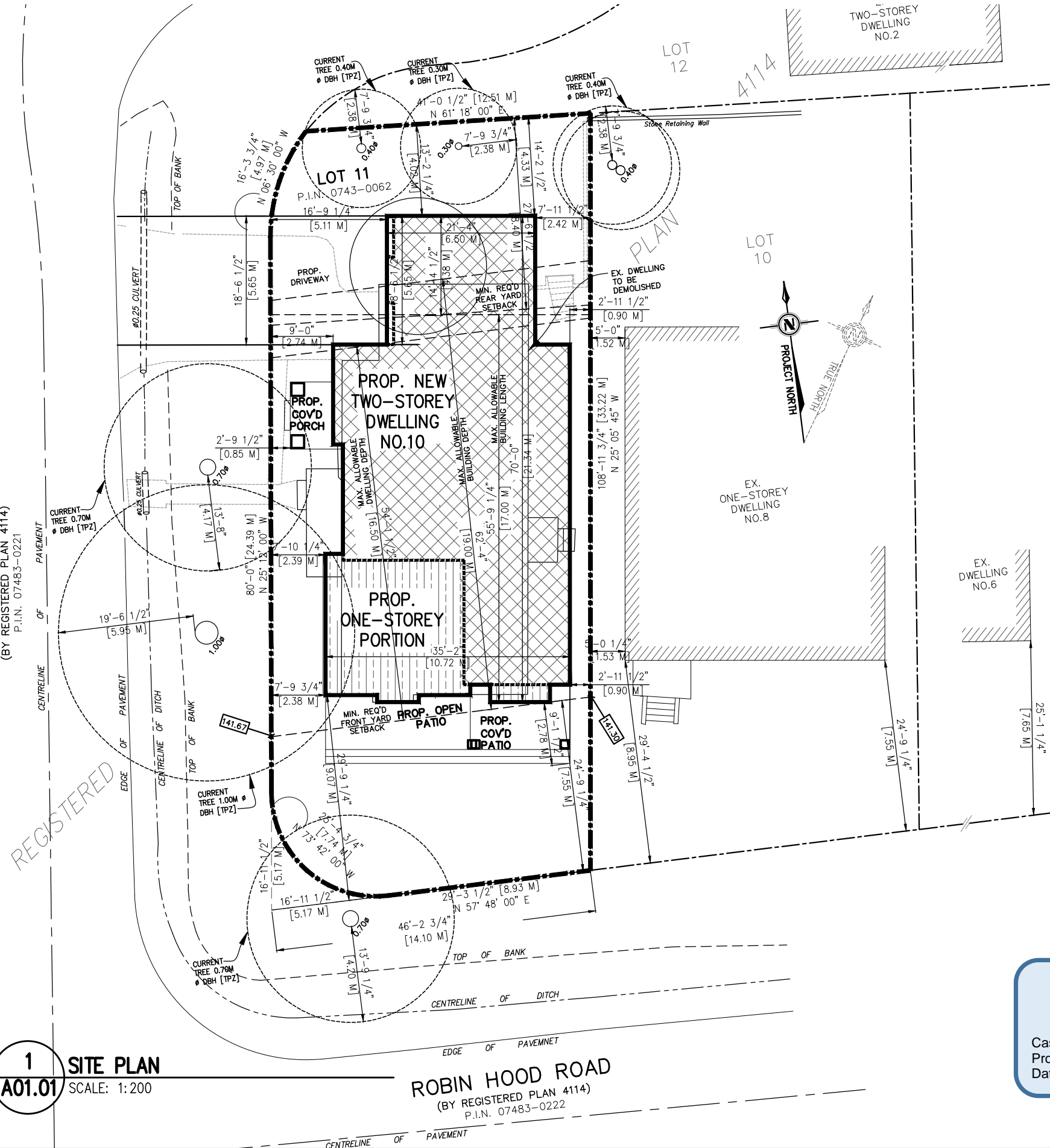
---

Gillian Burton  
Chair, Toronto Local Appeal Body  
Signed by: Gillian Burton

CUDWORTH PLACE  
(BY REGISTERED PLAN 4114)  
P.I.N. 07483-0221

1  
A01.01 SITE PLAN  
SCALE: 1:200

ROBIN HOOD ROAD  
(BY REGISTERED PLAN 4114)  
P.I.N. 07483-0222



SITE STATISTICS

CITY WIDE TORONTO ZONING BY-LAW	RD (f13.5; a510; d0.45) (x28)
ETOBICOKE ZONING BY-LAW	R1, 1992-24
LOT AREA	4988.86 (SQ.FT.) [463.48 SQ.M.]
MAX. COVERAGE (33.00% OF LOT)	1646.32 (SQ.FT.) [152.95 SQ.M.]
ALLOWABLE G.F.A.= 165.00 (SQ.M.)+ 25.00% OF LOT AREA (INCLUDING GARAGE)	3023.32 (SQ.FT.) [280.88 SQ.M.]
UP TO A MAX. F.S.I. OF 0.50	2494.43 (SQ.FT.) [231.74 SQ.M.]
ALLOWABLE MAX. VOID SPACE: 4% OF G.F.A.	120.93 (SQ.FT.) [11.24 SQ.M.]
PROPOSED	
LOT COVERAGE	45.98% 2293.83 (SQ.FT.)
G.F.A (INCLUDING GARAGE)	
GROUND FLOOR AREA	1770.02 (SQ.FT.) [164.44 SQ.M.]
SECOND FLOOR AREA	1691.70 (SQ.FT.) [157.16 SQ.M.]
GARAGE AREA	351.00 (SQ.FT.) [32.61 SQ.M.]
VOID SPACE	-84.09 (SQ.FT.) [-7.81 SQ.M.]
TOTAL AREA	3728.63 (SQ.FT.) [346.40 SQ.M.]
F.S.I.	0.75

FRONT YARD AREA CALCULATION

FRONT YARD AREA	1224.15 (SQ.FT.)	113.73 (SQ.M.)	100.00%
FRONT LANDSCAPE AREA	884.36 (SQ.FT.)	82.16 (SQ.M.)	72.24%
HARD LANDSCAPE AREA	0.00 (SQ.FT.)	0.00 (SQ.M.)	0.00%
SOFT LANDSCAPE AREA	884.36 (SQ.FT.)	82.16 (SQ.M.)	100.00%
PROP. DRIVEWAY	0.00 (SQ.FT.)	0.00 (SQ.M.)	0.00%
PROP. PATIO	339.79 (SQ.FT.)	31.57 (SQ.M.)	27.76%

SIDE YARD AREA CALCULATION

SIDE YARD AREA	762.31 (SQ.FT.)	70.82 (SQ.M.)	100.00%
SIDE LANDSCAPE AREA	385.24 (SQ.FT.)	35.79 (SQ.M.)	50.54%
HARD LANDSCAPE AREA	0.00 (SQ.FT.)	0.00 (SQ.M.)	0.00%
SOFT LANDSCAPE AREA	385.24 (SQ.FT.)	35.79 (SQ.M.)	100.00%
PROP. DRIVEWAY	312.97 (SQ.FT.)	29.08 (SQ.M.)	41.06%
PROP. PORCH	64.10 (SQ.FT.)	5.96 (SQ.M.)	8.41%

SITE INFORMATION TAKEN FROM

PART 1, PLAN OF LOT 11, REGISTERED PLAN 4114  
PLAN OF LOT 11, REGISTERED PLAN 4114  
CITY OF TORONTO (FORMERLY CITY OF ETOBICOKE)  
PREPARED BY YOUNG & YOUNG SURVEYING INC.  
DATE: AUGUST 17TH, 2016.

SCOPE OF WORK

NEW CONSTRUCTION  
PROPOSED TWO-STORY DWELLING 3728.63 SQ.FT. (346.40 SQ.M.)

Toronto Local Appeal Body

EXHIBIT # 6

Case File Number: 17 165688 S45 04 TLAB  
Property Address: 10 ROBINHOOD RD  
Date Marked: September 08, 2017

10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

PROJECT:

NEW TWO-STORY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

CULMONE  
& ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578, EMAIL: culmone@on.aibn.com

DRAWN BY: JC  
CHECKED BY: AD

DATE: NOV. 23, 2016.  
SCALE: AS SHOWN

PROJECT NO.:

16-69

DRAWING NO.:

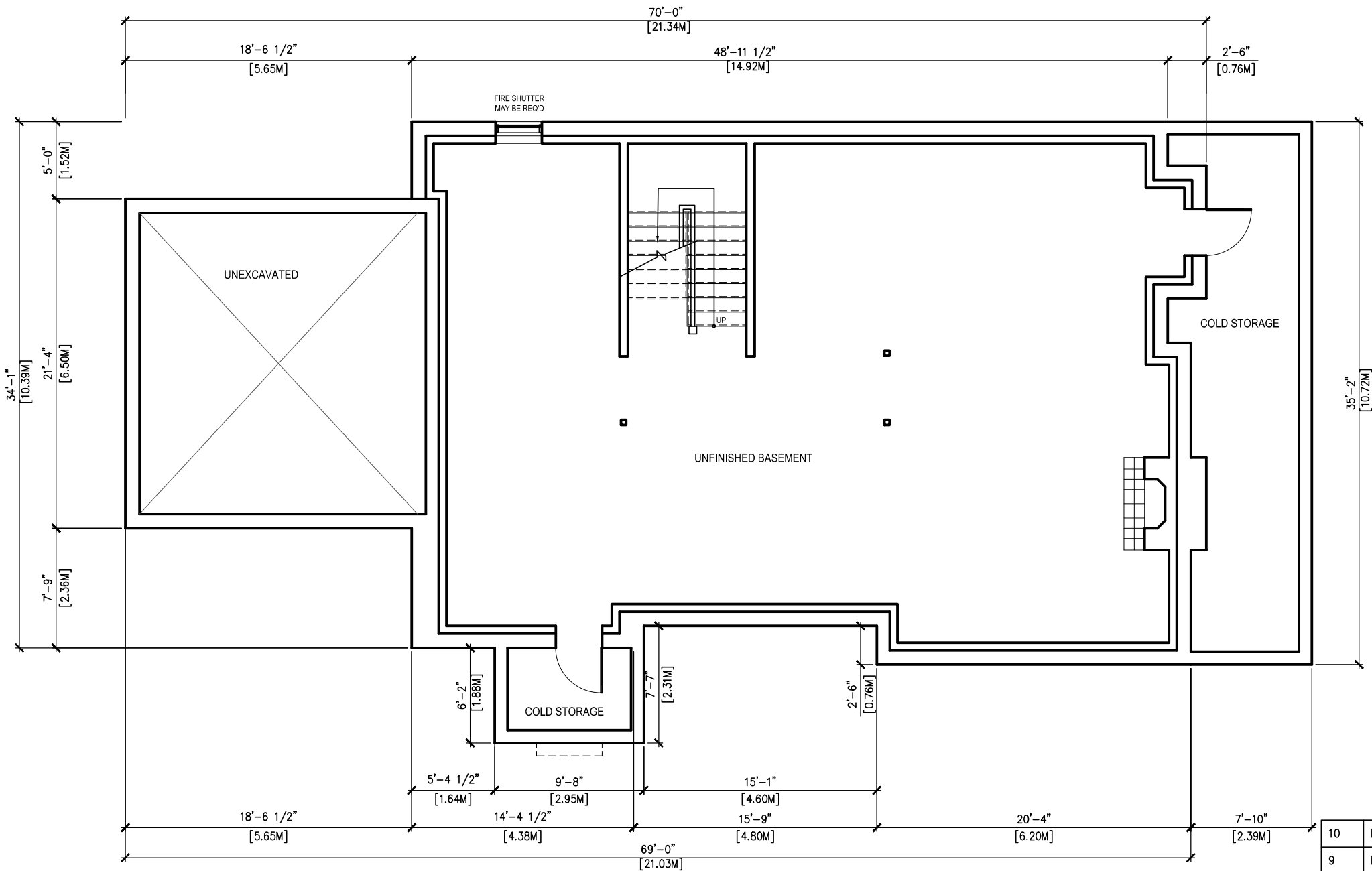
A01.01

1

A02.01

BASEMENT FLOOR PLAN

SCALE: 1:100



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZZC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE & ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578, EMAIL: culmone@on.aibn.com

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY:

AD

CHECKED BY:

JC

DATE:

NOV. 23, 2016.

SCALE:

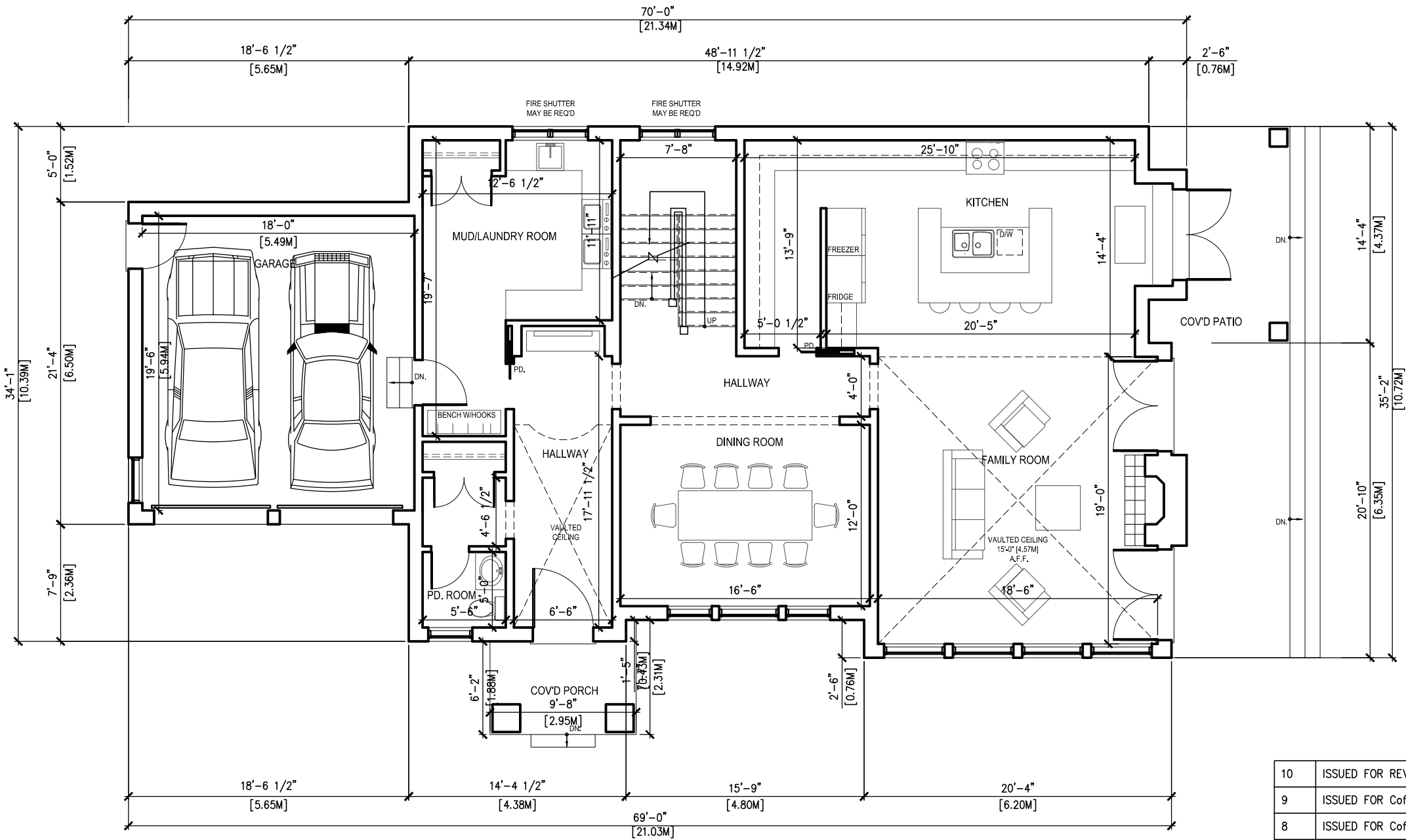
AS SHOWN

PROJECT NO.:

16-69

DRAWING NO.:

A02.01



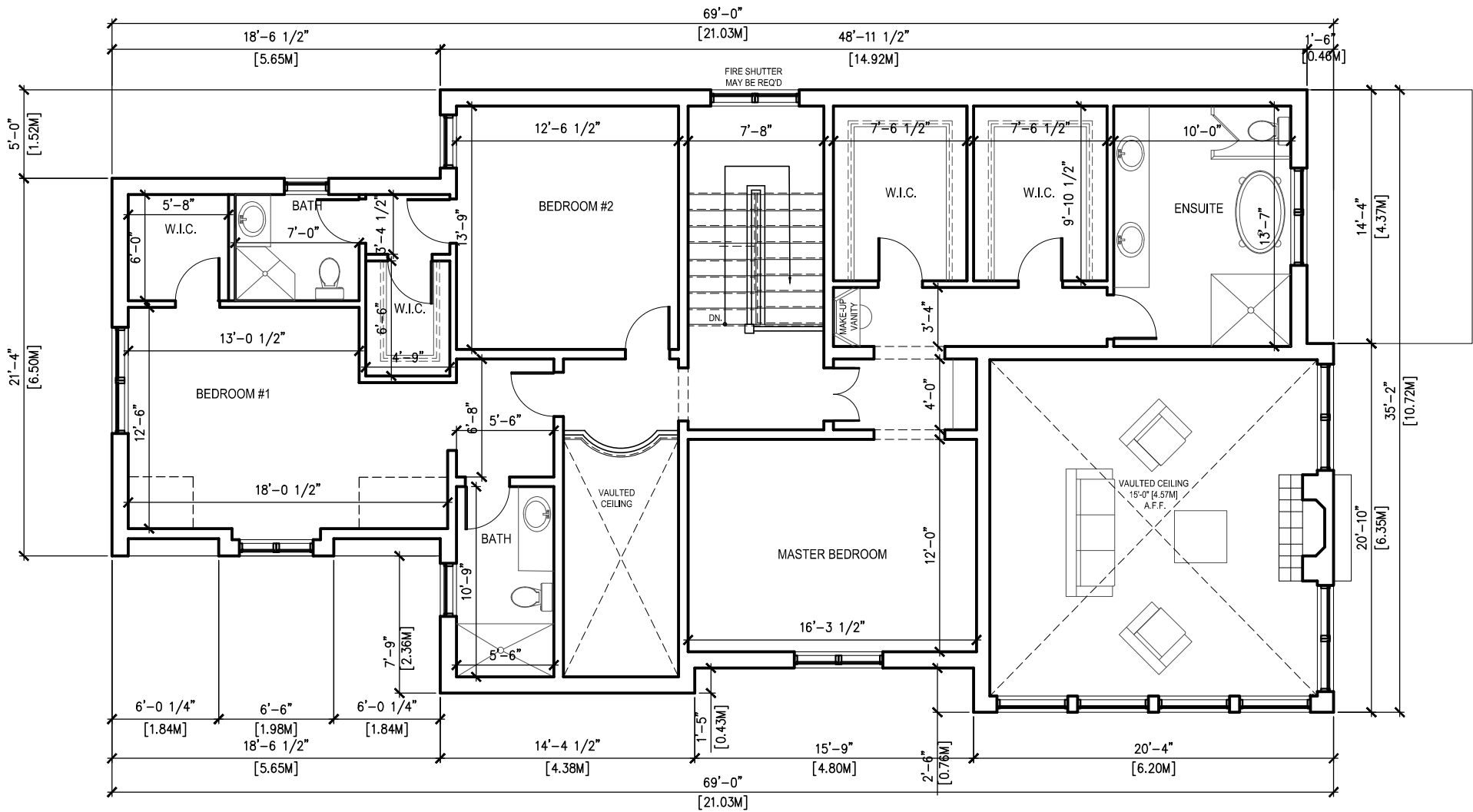
10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016



1  
A02.03

SECOND FLOOR PLAN

SCALE: 1:100



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

**CULMONE**  
& ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

DRAWN BY: AD

DATE: NOV. 23, 2016.

PROJECT NO.:

16-69

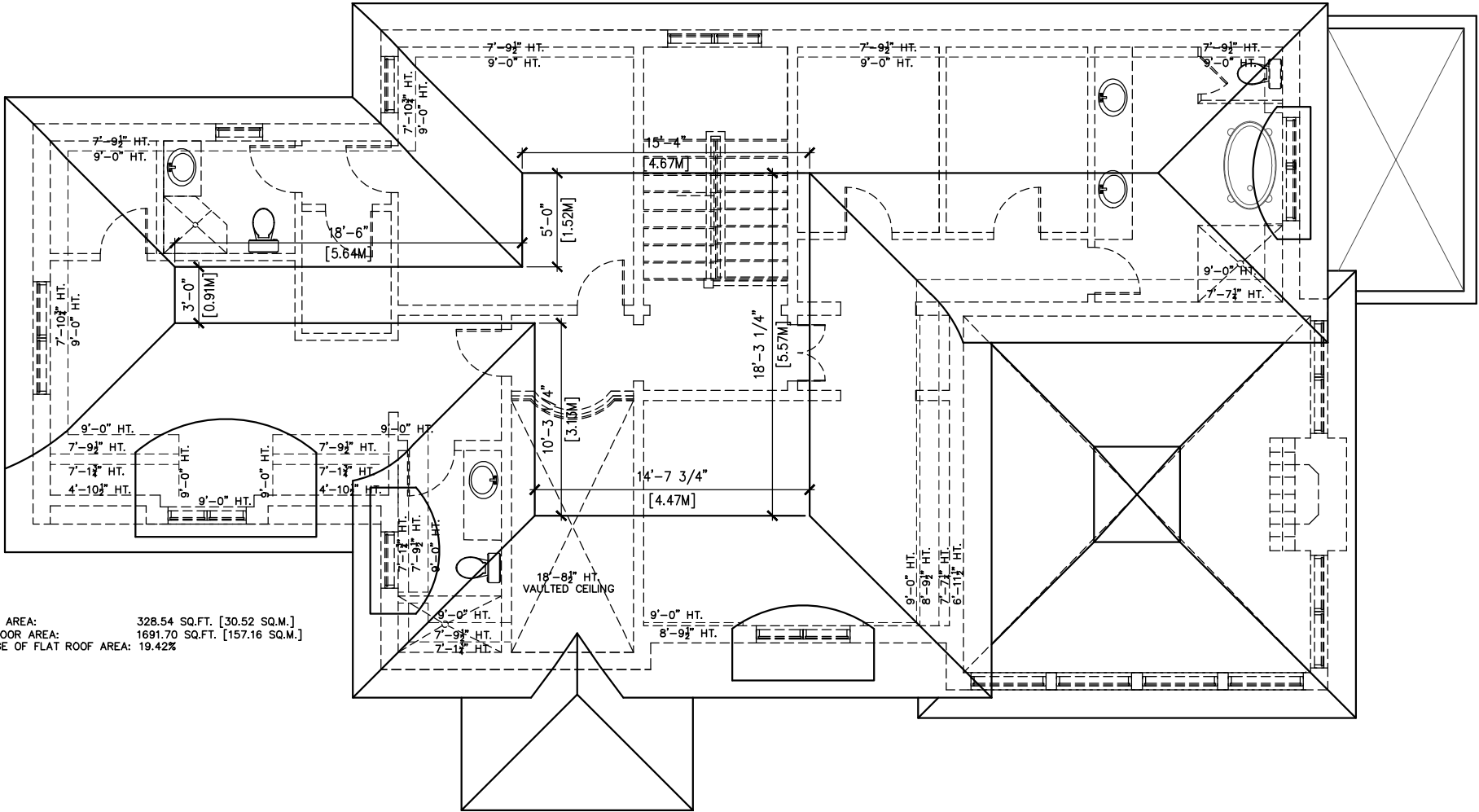
CHECKED BY: JC

SCALE: AS SHOWN

DRAWING NO.:

A02.03

FLAT ROOF AREA: 328.54 SQ.FT. [30.52 SQ.M.]  
SECOND FLOOR AREA: 1691.70 SQ.FT. [157.16 SQ.M.]  
PERCENTAGE OF FLAT ROOF AREA: 19.42%



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE

& ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY:

AD

DATE:

NOV. 23, 2016.

PROJECT NO.:

16-69

CHECKED BY:

JC

SCALE:

AS SHOWN

DRAWING NO.:

A02.04

1

A03.01

WEST ELEVATION

SCALE: 1:100



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE & ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY:

AD

CHECKED BY:

JC

DATE:

NOV. 23, 2016.

SCALE:

AS SHOWN

PROJECT NO.:

16-69

DRAWING NO.:

A03.01

1

A03.02

SOUTH ELEVATION

SCALE: 1:100



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE & ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY:

AD

CHECKED BY:

JC

DATE:

NOV. 23, 2016.

SCALE:

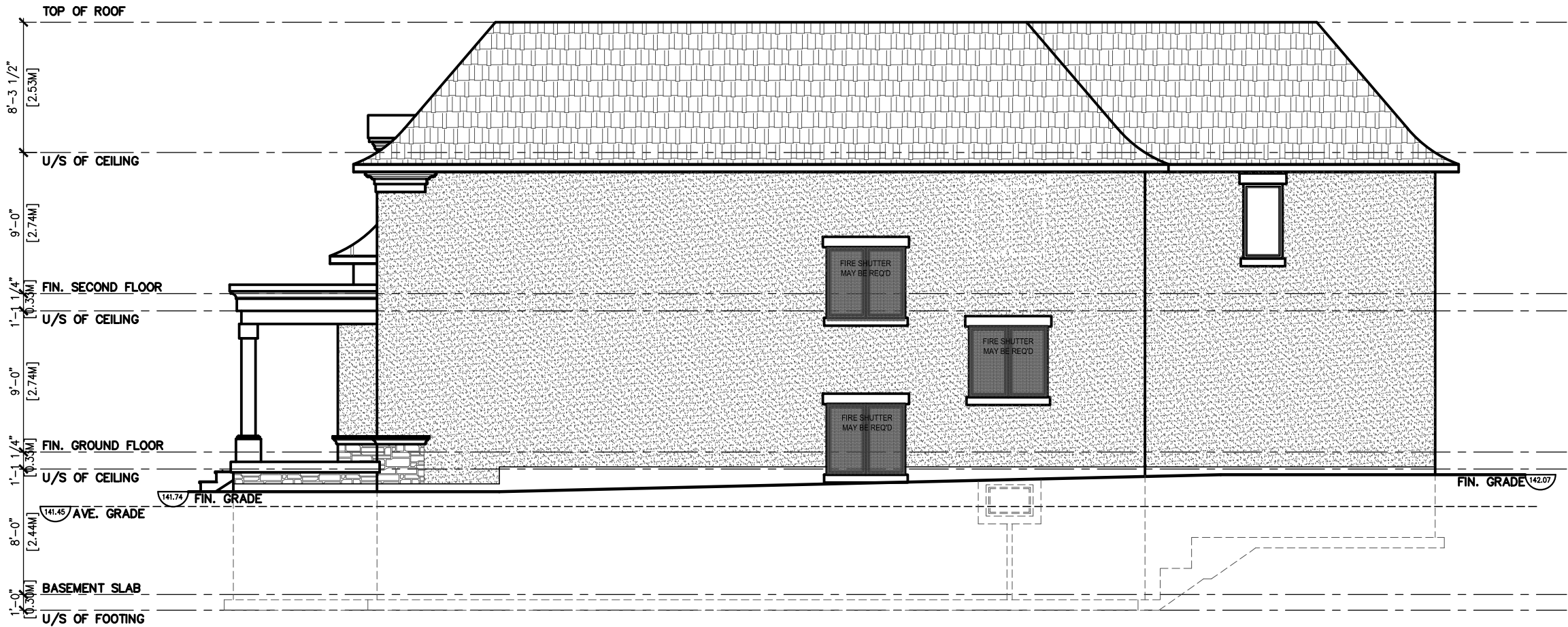
AS SHOWN

PROJECT NO.:

16-69

DRAWING NO.:

A03.02



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZCC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE & ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

PROJECT:

NEW TWO-STOREY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY:

AD

DATE:

NOV. 23, 2016.

PROJECT NO.:

16-69

CHECKED BY:

JC

SCALE:

AS SHOWN

DRAWING NO.:

A03.03

1

A03.04

NORTH ELEVATION

SCALE: 1:100



10	ISSUED FOR REVIEW	JULY 07, 2017
9	ISSUED FOR CofA	MAY 02, 2017
8	ISSUED FOR CofA	MAR. 27, 2017
7	ISSUED FOR ZZC	MAR. 07, 2017
6	ISSUED FOR REVIEW	MAR. 02, 2017
5	ISSUED FOR REVIEW	FEB. 15, 2017
4	ISSUED FOR REVIEW	DEC. 22, 2016
3	ISSUED FOR REVIEW	DEC. 05, 2016
2	ISSUED FOR REVIEW	DEC. 02, 2016
1	ISSUED FOR REVIEW	NOV. 23, 2016

CULMONE & ASSOCIATES LTD.

200 EVANS AVE., SUITE 102, ETOBICOKE, ONTARIO  
TEL: (416) 252-9861 or (416) 252-9867  
FAX: (416) 252-1578 EMAIL: culmone@on.aibn.com

PROJECT:  
NEW TWO-STORY DWELLING  
10 ROBIN HOOD ROAD,  
ETOBICOKE, ON  
M9A 2W7

DRAWN BY: AD

DATE: NOV. 23, 2016.

PROJECT NO.: 16-69

CHECKED BY: JC

SCALE: AS SHOWN

DRAWING NO.: A03.04