

DECISION AND ORDER

Decision Issue Date Monday, November 13, 2017

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

Appellant(s): City of Toronto

Applicant: Homeland

Counsel or Agent: Matthew Longo

Property Address/Description: 90 Bevdale Rd

Committee of Adjustment Case File Number: 17 138623 NNY 23 MV (A0337/17NY)

TLAB Case File Number: 17 197314 S45 23

Hearing date: Thursday, November 09, 2017

DECISION DELIVERED BY Ian James Lord

INTRODUCTION

This is an appeal by the City of Toronto (the 'City') in respect of variances approved by the City's North York Panel of the Committee of Adjustment ('COA') in respect of 90 Bevdale Road (the 'subject property').

A total of 10 variances were granted by the COA, five from the new City Zoning By-law 569-2013 (the 'new By-law') currently under appeal, and five from the existing, in- force North York By-law 7625 (the 'NY By-law').

Matthew Longo appeared on behalf of the City, appellant. Ms. Amber Stewart appeared on behalf of the applicant, who is not an appellant. Ms. Stewart had a planner and architect present, together with pre-filed and posted evidence; Mr. Longo had not provided filings of any kind, as required by the Rules of the Toronto Local Appeal Body (the 'TLAB').

The Parties indicated that they had reached an accord.

BACKGROUND

The subject property is located south of Finch Avenue and east of Bathurst Street, internal to a substantial residential neighbourhood undergoing extensive regeneration through new construction on a generally uniform lot fabric, established by plan of subdivision.

This Member advised the Parties that a site attendance had been conducted and the pre-filed materials had been reviewed.

The COA had approved requested variances to the exterior main wall height, lot frontage, building depth, building length, height and side yard setbacks.

The subject property consists of a 'pie' shaped property, located on the north side curvature of a right angled reverse 'L' bend of Bevdale Road. The rear lots backing on the rear of the subject property front on Finch Avenue West. One and one-half storey bungalows or original construction are adjacent the subject property, to the east and west.

The proposal, facilitated by the requested variances, is the demolition of an existing dwelling with attendant outbuildings and their replacement with a two-storey detached dwelling with integral garage.

MATTERS IN ISSUE

The absence of filings by the City was partly explained by an accord reached prior to the commencement of the proceeding. As described by both counsel, it included the filing of revised variances and conditions, in part, and a revised site plan. The TLAB heard evidence on all variances with particular attention to the revisions proposed by joint submission.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

Minor Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

Ms. Stewart called Mr. Franco Romano to give professional planning opinion evidence; Mr. Romano was qualified and admitted as a professional planner, on consent.

The planner spoke to the revised set of variances and conditions requested. These were admitted as Exhibit 1 and are found as Attachment 1, attached hereto and forming part of this decision. He also addressed the revised Site Plan, introduced and admitted as Exhibit 2 and identified as Attachment 2, attached hereto and forming part of this decision.

In describing the application, Mr. Romano noted the undersized frontage of the property at 10.5 m in width, as opposed to most lots in the neighbourhood having a lot frontage of 15.25 m, consistent with the R4 zoning standard in the NY By-law. The aberration stems from the pie shaped lot located on the curvature of the street. He noted the lot itself was substantial and the proposed building design, consisting of an expansion in width and built form as it proceeded deeper into the lot, reflected the lot shape and prevailing investment pattern for larger, replacement dwellings with integral garages.

He provided Exhibit 4, being a record of 34 files of variances approved in the area, including of the type proposed in Exhibit 1. The application was described as producing a built form, recognizing the lot shape, that is consistent with existing and approved regeneration of local housing stock, both with and without a record of variances.

Using Exhibit 1, Attachment 1, he described each variance in turn: its characteristics; rationale; relationship to the site; the accord reached; and the relevant tests - above noted under 'Jurisdiction'.

Variance 1: He noted that under the new By-law, not yet in force, exterior main wall height had been regulated since 2013 at 7.5 m. The building design has window fenestration affecting height perception and a measurement at 8.62 m, taken to the top of the wall plate at the gable. In all other elevations and the majority of the proposed building, the proposed height at the eaves is compliant.

Variances 2, 3 and 9 relate to the maximum building length and depth. The planner described the influence of the pie shaped lot and the objectives of these standards to ensure that the built form does not intrude unduly into the lot or compromise the rear yard amenity space. He noted that the building length of 16.8 m is consistent with the NY By-law but in the case of both by-laws, is required to be measured from the front yard setback. In the design proposed, a projection outward on

the first floor and at the rear of the dwelling extends the central portion some 2 m in depth/length beyond the standard. The extension meets and far exceeds the required side yard setbacks applicable in this location; it leaves a generous rear yard, for recreational pursuits.

Mr. Romano noted that the multiple desires of accommodating the narrower frontage of the lot, coupled with the replication of the line of building faces creating a setback from the street with the curvature itself, all warranted the modest revisions proposed in building depth and length standards.

He noted that approval of the site plan and attached elevation drawings would protect against excessive design changes, massing or increased coverage. He described a component of the accord with the City to be a narrowing of the widest part of the proposed structure at the rear, by some two feet, as fixed in the revised site plan, Exhibit 2, Attachment 2 hereto. Regrettably, the lot coverage calculation on Exhibit 2 had not been revised to reflect the reduced size of the rear of the building.

Variances 4,5,7,8 relate to the side yard setbacks. As a result of the accord, both the east and west side yard setbacks are proposed to be enlarged from 1.5 m to 1.6 m, closer to the standard in both By-laws of 1.8 m. This is a set of revisions, proposed on consent, that is acceptable to this Member without resort to additional notice pursuant to s. 45 (18.1.1) of the Planning Act. Its rationale, again, extends from balancing the below standard lot frontage for the subject property with the demand of design considerations: fitting a two car integral garage entrance and a symmetrical front door egress feature into a narrow frontage. These were described as component features similar to the typology of new construction in the immediate neighbourhood. The planner explained that, at 1.6 m, the setback requirements were adequate to protect its purposes: adjacent building separation and access to the rear of the subject property. He suggested consideration of this relief was appropriate given the lot configuration and the examples of such similar relief being given in the neighbourhood, Exhibit 4.

Variance 6, to provide for a minimum lot frontage of 13.9 m whereas the standard is 15 m, reflects the existing condition of the lot design in this existing lot of record.

Variance 10 was noted to arise by virtue of the NY By-law defining grade as the crown of the road with the height measurement to the mid-point of the roof. This request, to increase the standard of 8.8 m to 9.18 m was described as minor.

Mr. Romano noted that the reduction in the rear building width, above described, would further reduce the lot coverage below 24%, (as shown on that unrevised calculation shown on the site plan), Attachment 2, even further below the by-law standard of 30%. This underscores that no variance is required for this measure of bulk, massing and built form, despite the large gross floor area of the proposed residence.

The planner then applied the relevant evaluation criteria to the application and the accord standards. He concluded consistency with the Provincial Policy Statements and conformity with the objectives and designations of the Growth Plan. With respect to

the City Official Plan, he noted the primary objective of the 'Neighbourhoods' designation was to 'respect and reinforce', in Chapters 2, 3 and 4, the existing built form. He said the proposal accomplishes this, including the application of height, scale, built form and setback attributes of buildings that reflected the existing neighbourhood character.

In particular, when asked, he opined that the proposal, including the relief required to effect it, was proportionate to the lot size and the building configuration proposed responded appropriately to the shape of the lot. He concluded that the scale, mass and size was appropriate and no adverse impact was present. The proposed detached two-story dwelling would contribute to the streetscape and reinforce the evolving character of the area in a positive way, with low rise built form.

In furthering orderly, compatible residential built form, he opined that the by-law expectations of spatial separation, large rear yard and consistent height and design treatment constituted reasonable, appropriate and compatible development that was both desirable and minor in its revisions to the zoning standards.

As such, he concluded that the intent and purpose of the Official Plan and zoning by-law(s) was maintained, and that the relief requested was desirable and minor, being sensitive to the site and in keeping with the evolving surroundings.

He recommended the two conditions expressed in Exhibit 1, Attachment 1 hereto, as being appropriate. They ensure the Forestry Division condition is reflected in any approval and that the site plan proposed would govern development of the subject property, to the standard of general application.

On questioning by Mr. Longo and the Member, Mr. Romano advised that neither the redevelopment of properties fronting on Finch Avenue West nor the description of the subject property as at an 'edge' location influenced his recommendations or opinions on the variances he supported.

ANALYSIS, FINDINGS, REASONS

I have recited the opinions and evidence of the applicant's planner for completeness. The evidence was delivered essentially on consent and was uncontested. I find that it was succinct, logical, relevant and applicable; as such, there is no need to supplement or provide commentary beyond accepting the evidence and opinions above recited in its entirety.

The proposed variances and conditions, as approved by the COA with the modifications agreed to, are appropriate on the opinion evidence received, with which I agree.

DECISION AND ORDER

The appeal is allowed but only to the extent necessary to give effect to the following:

1. The variances noted as 'proposed' and as listed in Attachment 1, are approved subject to the two Conditions also identified and recited in Attachment 1; and,
2. The Site Plan referenced in Condition 2 listed on Attachment 1, to which substantial construction compliance is required, is Attachment 2 hereto; and
3. The elevation drawings referenced in Condition 2 listed on Attachment 1, to which substantial construction compliance is required, are Attachment 3 hereto.

X



Ian Lord
Chair, Toronto Local Appeal Body
Signed by: Ian Lord

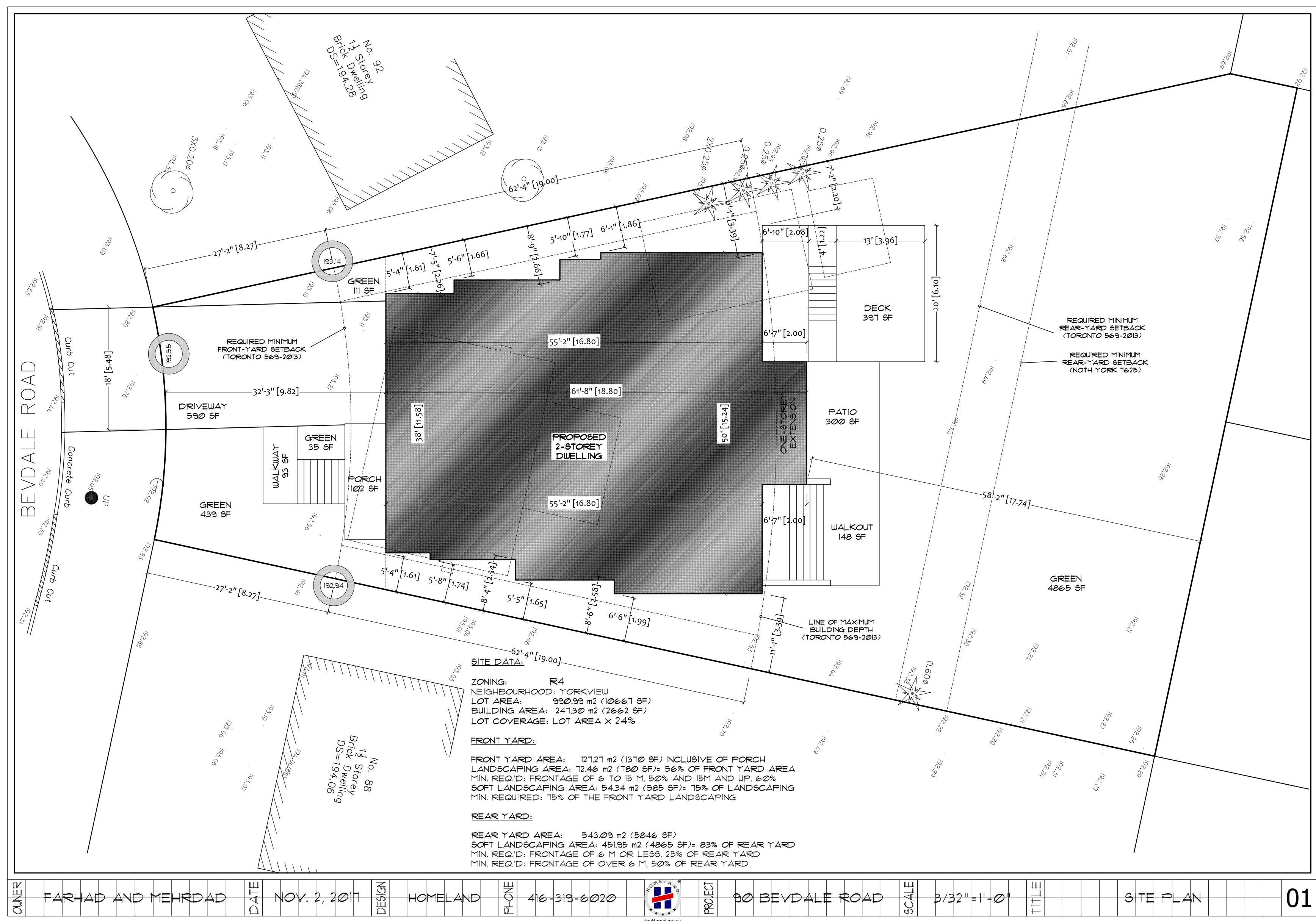
90 Bevdale Road – List of Revised Variances and Conditions

1. Chapter 10.20.40.10.(2), By-law No. 569-2013
The maximum permitted height of all side exterior main walls facing a side lot line is 7.5 m.
The proposed height of the side exterior main walls facing a side lot line is 8.62 m.
2. Chapter 10.20.40.20.(1), By-law No. 569-2013
On a lot with a minimum required lot frontage of 18.0 m or less, the permitted maximum building length for a detached house is 17.0 m.
The proposed building length is 18.8 m.
3. Chapter 10.20.40.30.(1), By-law No. 569-2013
The permitted maximum building depth for a detached house is 19.0 m.
The proposed building depth is 20.4 m.
4. Chapter 900.3.10(5), By-law No. 569-2013
The minimum required side yard setback is 1.8 m.
The proposed west side yard setback is 1.6 m.
5. Chapter 900.3.10(5), By-law No. 569-2013
The minimum required side yard setback is 1.8 m.
The proposed east side yard setback is 1.6 m.
6. Section 13.2.1 and 6(8), By-law No. 7625
The minimum required lot frontage and lot width is 15 m.
The existing lot frontage and lot width is 13.9 m.
7. Section 13.2.3(b), By-law No. 7625
The minimum required side yard setback is 1.8 m.
The proposed east side yard setback is 1.6 m.
8. Section 13.2.3(b), By-law No. 7625
The minimum required side yard setback is 1.8 m.
The proposed west side yard setback is 1.6 m.
9. Section 13.2.5A, By-law No. 7625
The maximum permitted building length is 16.8 m.
The proposed building length is 20.12 m.
10. Section 13.2.6, By-law No. 7625
The maximum permitted building height is 8.8 m.
The proposed building height is 9.18 m.

Conditions of Approval

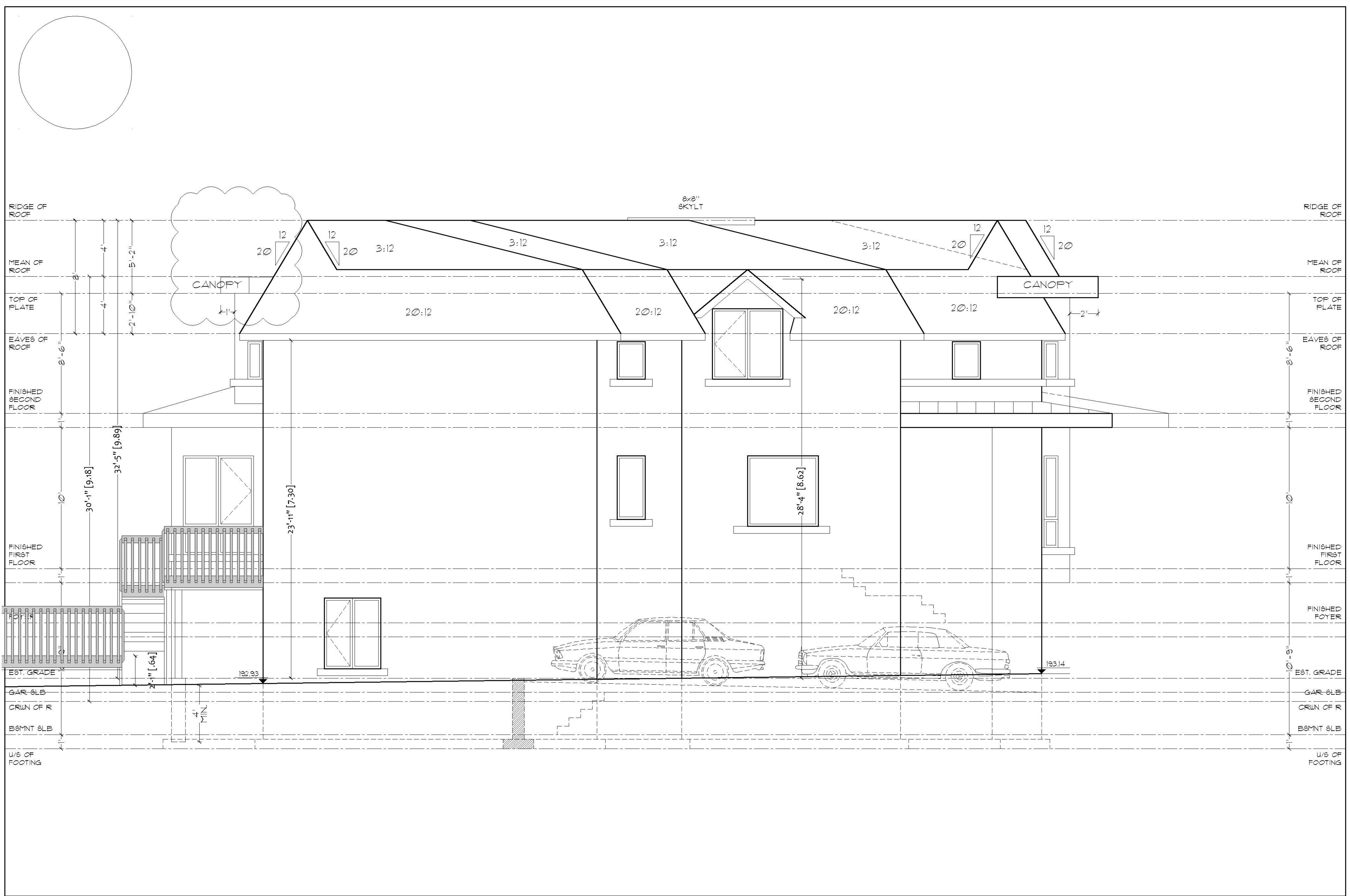
1. The requirements of the Parks and Recreation, Urban Forestry Division:
 - i) Where there are no existing street trees, the owner shall provide payment in lieu of planting one street tree on the City road allowance abutting each of the sites involved in the application. The current cost of planting a tree is \$583.
2. The proposal shall be developed substantially in accordance with the Revised Site Plan dated November 2, 2017, and with the Elevations dated June 12, 2017 (except that the Front and Rear Elevations shall be revised to be consistent with the Revised Site Plan).

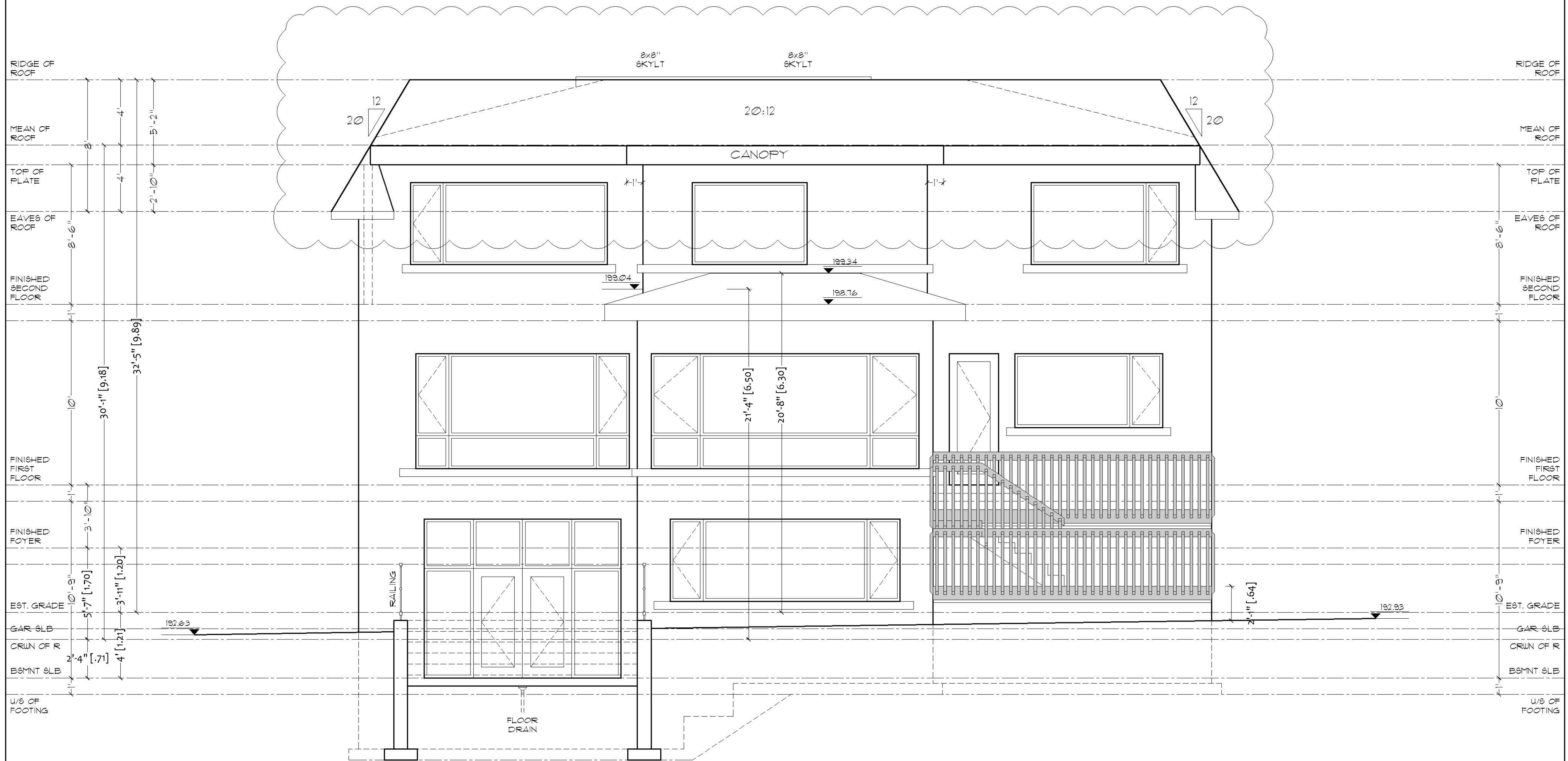
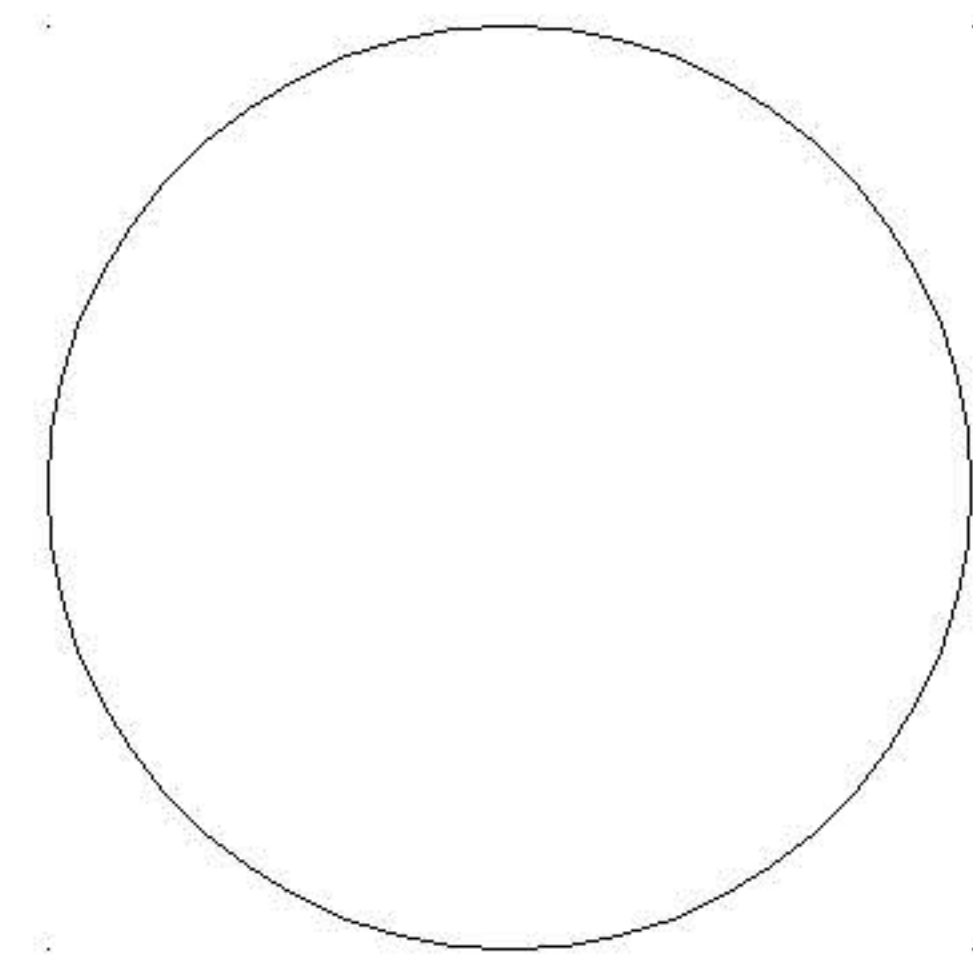
Attachment 2

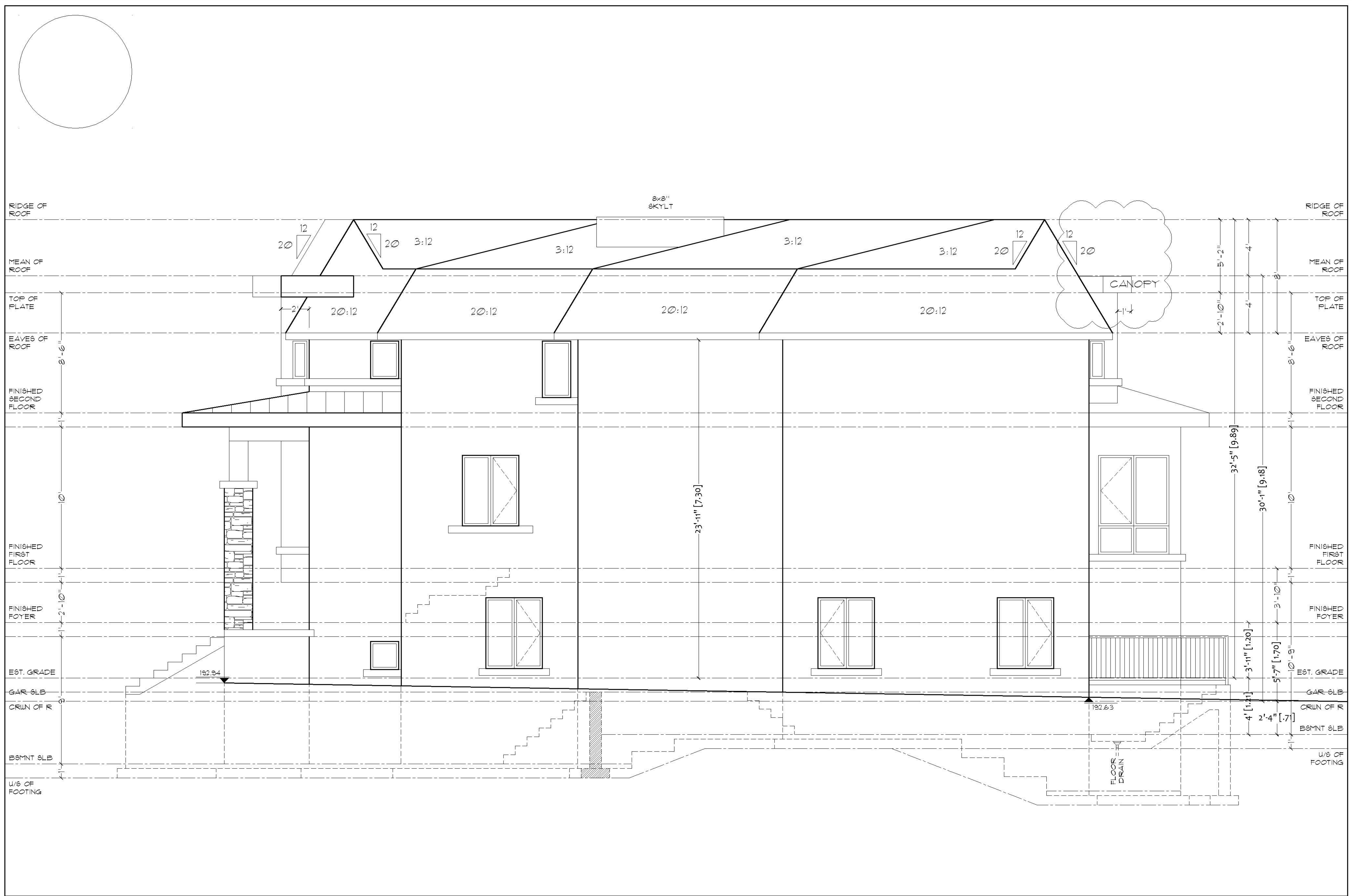


Attachment 3









OWNER	FARHAD AND MELINDA	DATE	MAR. 24, 2017	DESIGN	HOMELAND	PHONE	416-318-6020		PROJECT	30 BEYDALE ROAD	SCALE	3/16" = 1'-0"	TITLE	RIGHT ELEVATION	09
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