

## DECISION AND ORDER

**Decision Issue Date** Monday, January 29, 2018

PROCEEDING COMMENCED UNDER subsection 45(12), R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): AMANDA PERUMAL

Applicant: ROBERTSON AND KEITH

Property Address/Description: 412a ROUGE HILLS DR

Committee of Adjustment Case File Number: 15 208382 000 00 MV

TLAB Case File Number: 17 224259 S45 44 TLAB

**Hearing date:** Friday, January 19, 2018

**DECISION DELIVERED BY S. Makuch**

### INTRODUCTION

This is an appeal from a decision of the Committee of Adjustment which authorized the following consent and two variances. The appeal is only with respect to the variances granted.

The consent is to sever the land at 412 Rouge Hills Dr. into two lots for single family houses. The proposed lot, known as Part 1, would have a frontage of 15.31 m on Rouge Hills Drive and a lot area of approximately 1,046 m<sup>2</sup>. The proposed lot known as Part 2 would have a frontage of 15.39 m and a lot area of approximately 1,075 m<sup>2</sup>.

The variances are for Part Lot 1 only and are as follows,

By-law No. 569-2013 & By-law No. 12077:

1) The proposed lot frontage is 15.3 m Whereas the minimum required lot frontage is 18 m.

By-law No. 12077:

2) The proposed building height is 9.2 m Whereas the maximum permitted building height is 9 m.

## **BACKGROUND**

In approving the variances the Committee imposed two conditions;

- 1) The Owner shall submit an arborist report and a complete application for permit to injure or remove privately owned tree(s), to the satisfaction of Toronto Urban Forestry.
- 2) The dwelling shall maintain a 1.2 metre setback from the south lot line.

The Appellant, Amanda Peramul and the applicant, Nadia Negah, owner of the property, were both in attendance at the hearing before the TLAB, having reached Minutes of Settlement, Attachment 1 to this decision.

The Minutes allow for the variances sought and provide for the following conditions:

- 1) The submission of an arborist report and permit application to the satisfaction of Toronto Urban Forestry
- 2) The dwelling unit to be set back 1.2 metres from the south lot line
- 3) The driveway on Part 1 be situated on the north side of the lot
- 4) The air conditioning unit on Part 1 be located in the rear yard on the north side of the lot
- 5) Part 1 be developed substantially in accordance with the site plan and elevations attached as schedule 1 to the Minutes of Settlement. .

## **MATTERS IN ISSUE**

A settlement having been reached, there were no matters in issue between the parties.

## **JURISDICTION**

Under s. 3 of the Planning Act 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').

Under s. 45(1) of the Planning Act 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.
- The Committee of Adjustment or the TLAB have authority under s. 45(9) to impose conditions which are, in its opinion, advisable.

## **EVIDENCE**

Mr. Cheeseman effectively representing both parties with respect to the Minutes of Settlement presented the evidence in support of the Minutes through Mr. Eldon Theodore, who has been qualified to give expert opinion planning evidence before the OMB in the past, is registered as a Professional Planner in Ontario and is a specialist in land use planning and urban design. In addition he recognized his duty to give impartial and truthful evidence to the TLAB. He had given evidence before the Committee of Adjustment on this matter.

It was Mr. Theodore's evidence that the variance and conditions represented good planning, met all four tests of s. 45 of the Planning Act, and was consistent with all relevant provincial policies. His opinion with respect to the conditions to be imposed was similar. His evidence was based on studies he had undertaken of the area and given to the Committee of Adjustment as well as a review of the plans.

## **ANALYSIS, FINDINGS, REASONS**

Mr. Theodore's evidence respecting the variances and the Minutes of Settlement agreed to by the parties, as well as Mr. Cheeseman's submissions, all supported the granting of the variances. The TLAB has no reason to question any of the evidence presented, and the appellant in attendance raised no objection to it.

## DECISION AND ORDER

The TLAB, therefore, grants the appeals in part and thus approves the variances on the conditions set out in The Minutes of settlement, Attachment 1 to this decision, and so orders.

X 

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S. Makuch  
Panel Chair, Toronto Local Appeal



17 224259 S45 44 TLAB

## TORONTO LOCAL APPEAL BODY

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*,  
R.S.O. 1990, c. P. 13, as amended

Appellant(s):	Amanda Perumal
Applicant(s)	Nadia Negah
Subject:	Minor Variance
Property Address/Description:	412 Rouge Hills Drive
Committee of Adjustment Files:	A276/15SC, A277/15SC
TLAB Case File Number(s):	17 224259 S45 44 TLAB

## MINUTES OF SETTLEMENT

B e t w e e n:

**NADIA NEGAH**  
("Negah")

-and-

**AMANDA PERUMAL**  
("Perumal")

**WHEREAS** Negah is also the owner of lands described as Plan 284, Lots 176 and 177, known municipally as 412 Rouge Hills Drive, in the City of Toronto;

**AND WHEREAS** Negah made an application for minor variances in respect of these lands which were assigned File Nos. A276/15SC and A277/15SC by the Committee of Adjustment, Scarborough Panel, Toronto;

**AND WHEREAS** the Committee of Adjustment approved the requested variances on Thursday, August 10, 2017, with conditions (the "Decisions");

**AND WHEREAS** Perumal appealed the Decisions to the Toronto Local Appeal Board on August 27, 2017, and were assigned Case File Number 17 224259 S45 44 TLAB (the "Appeal");

**AND WHEREAS** the parties to these Minutes of Settlement are desirous of avoiding the need for holding a costly and adversarial Hearing in respect of the within matters;

**AND WHEREAS** as a result of mediation efforts of the Mediation Pilot Project of the City of Toronto and the co-operation between the parties to narrow and resolve issues between them, the parties hereto have come to a resolution on the appropriate form of the wording of the Minor Variance approval and conditions;


**NOW THEREFORE** these Minutes of Settlement hereby witness that the parties hereto, in exchange of the sum of \$2.00 and for other good and valuable consideration, each provided by each part to the other, agree as follows:

1. The parties acknowledge that the recitals set out above are true:
2. The parties agree to settle the Perumal appeal in respect of Case File Number 17 224259 S45 44 TLAB by asking the Toronto Local Appeal Body to allow the appeal in part, and to grant the minor variances sought by Negah as set out in the Decisions, with the following conditions:
  - (i) the Owner shall submit an arborist report and a complete application for permit to injure or remove privately owned tree(s), to the satisfaction of Toronto Urban Forestry.
  - (ii) the proposed dwelling on Part 1 in connection with File A276/15SC shall maintain a 1.2 metre setback from the south lot line.
  - (iii) the driveway of the proposed dwelling to be erected on Part 1 will be situated on the north side of the lot.
  - (iv) the air conditioning unit for the proposed dwelling to be erected on Part 1 will be located in the rear yard on the north side of the lot and will be suitably screened.
  - (v) the property shall be developed substantially in accordance with the site plan and elevation drawings attached as Schedule 1 to these Minutes of Settlement.
5. The parties agree to have the drawings attached as Schedule 1 to these Minutes of Settlement entered as an exhibit before the Toronto Local Appeal Body.
6. The parties agree to have a fence erected from the front of the proposed residence to the rear lot line on the lot boundary between Part 1 and 408 Rouge Hills Drive. The particulars of the fence are as follows:
  - the first part of the fence extending from a point in front of the proposed dwelling to the rear of the proposed dwelling will be constructed of a "tight"

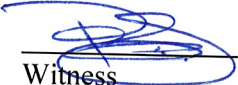
wood nature, in accordance with the maximum height in the City of Toronto Fence By-law:

- the second part of the fence extending from the rear of the proposed dwelling (at the limit of the tight board fence) to the rear of the lot will be constructed of a "chain-link" fence of 1.2 metres in height;
  - the parties will get two estimates of the cost of the installation of a chain link fence that would extend from a point in front of the proposed dwelling to the rear lot line at a height of 1.2 metres. The parties will agree on the most appropriate estimate to accept, and each party will pay for the cost of half of the fence, that is 50/50;
  - the difference in cost between a chain link fence and the tight board fence, for the length of the tight board fence, will be borne by Negah;
7. The parties to these Minutes agree that costs of these proceedings before the Toronto Local Appeal Body will not be sought by any party.
  8. The parties consent to having these Minutes of Settlement filed with the Toronto Local Appeal Body in respect of Case File Number 17 224259 S45 44 TLAB.
  9. The laws of the Province of Ontario and the laws of Canada applicable shall govern these Minutes of Settlement.
  10. Time is of the essence of these Minutes of Settlement and each of its provisions.

**IN WITNESS HEREOF**, the parties hereto have duly executed these Minutes of Settlement by their own hands:

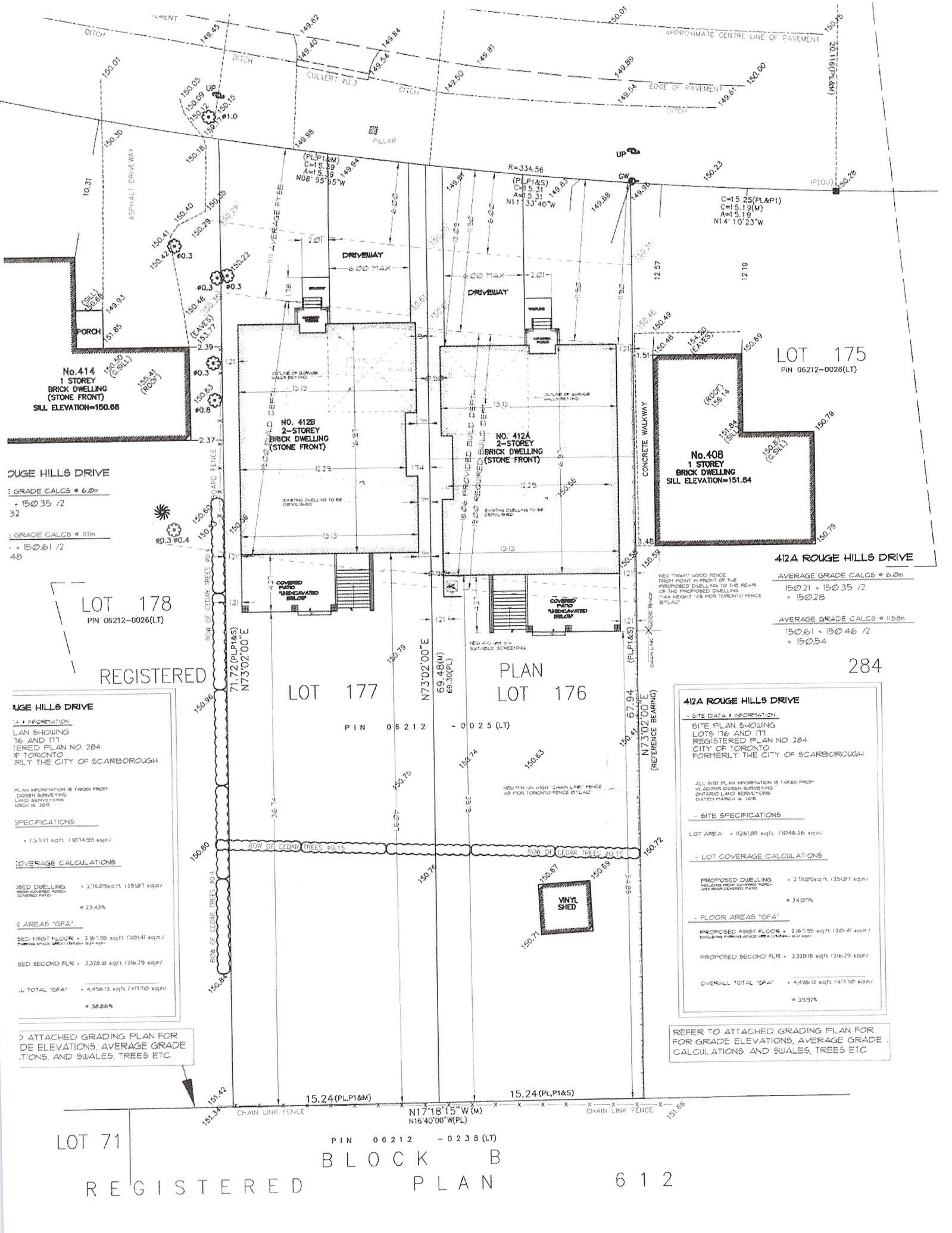
  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
**NADIA NEGAH**

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
**AMANDA PERUMAL**





ROUGE HILLS DRIVE  
GRADE CALC'S @ 6.0m  
+ 150.35 / 2  
32  
GRADE CALC'S @ 11m  
+ 150.61 / 2  
48

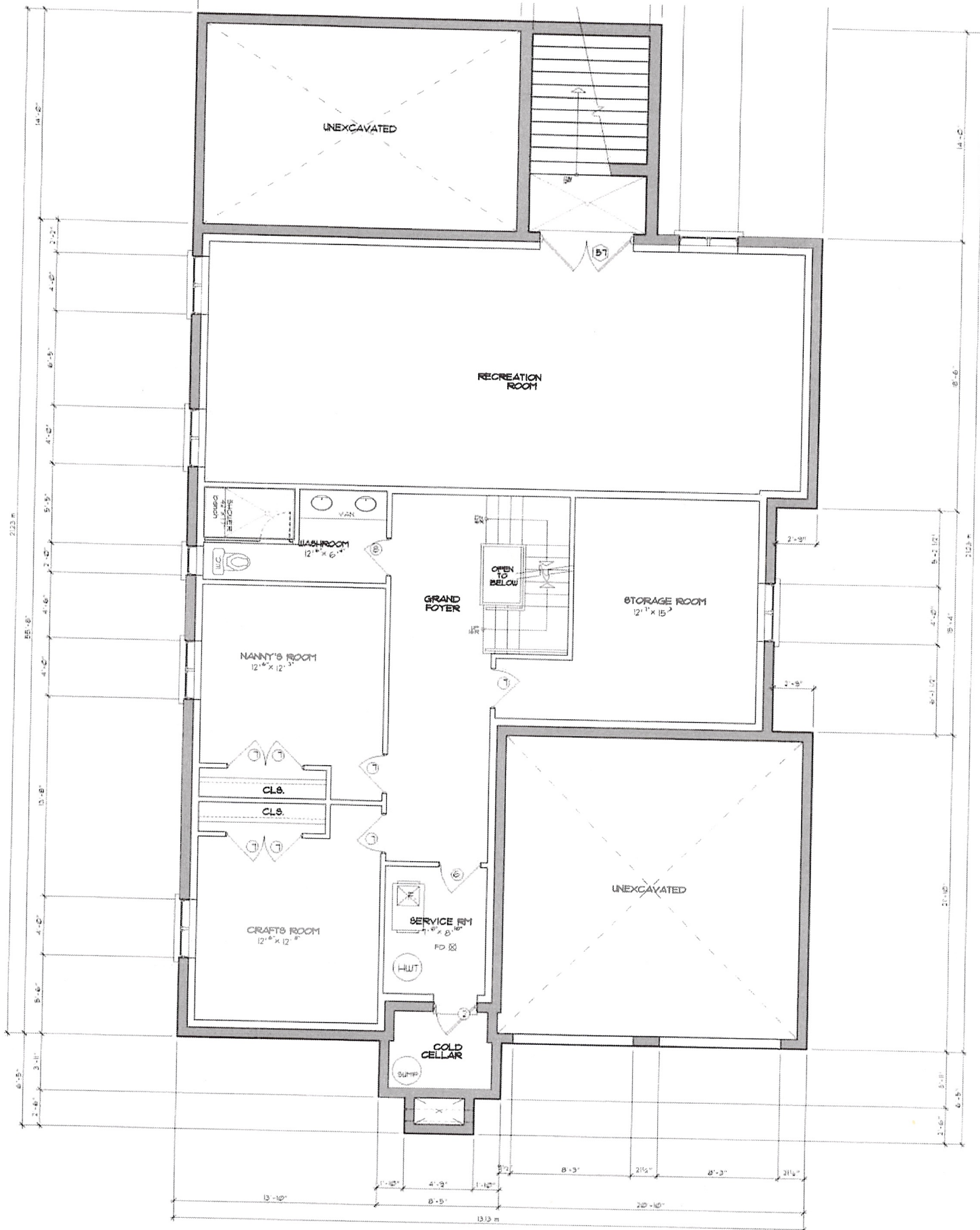
**ROUGE HILLS DRIVE**  
SITE INFORMATION  
PLAN SHOWING  
LOTS 176 AND 177  
REGISTERED PLAN NO. 284  
CITY OF TORONTO  
FORMERLY THE CITY OF SCARBOROUGH  
PLAN INFORMATION IS TAKEN FROM  
CROWN SURVEYING  
LAND SERVICES  
ARCHIVE 385  
SPECIFICATIONS  
+ 151.117 sqft (1074.39 sqm)  
COVERED CALCULATIONS  
PROPOSED DWELLING  
+ 271.02 sqft (25.181 sqm)  
+ 23.43%  
FLOOR AREAS "GFA"  
PROPOSED FIRST FLOOR + 236.795 sqft (201.41 sqm)  
PROPOSED SECOND FLOOR + 232.08 sqft (216.29 sqm)  
TOTAL "GFA" + 449.875 sqft (417.70 sqm)  
+ 38.86%

ATTACHED GRADING PLAN FOR  
DE ELEVATIONS, AVERAGE GRADE  
CALCULATIONS, AND SWALES, TREES ETC

**412A ROUGE HILLS DRIVE**  
SITE DATA & INFORMATION  
SITE PLAN SHOWING  
LOTS 176 AND 177  
REGISTERED PLAN NO. 284  
CITY OF TORONTO  
FORMERLY THE CITY OF SCARBOROUGH  
ALL SITE PLAN INFORMATION IS TAKEN FROM  
CROWN SURVEYING  
LAND SERVICES  
ARCHIVE 385  
SITE SPECIFICATIONS  
LOT AREA + 1126.185 sqft (10442.26 sqm)  
LOT COVERAGE CALCULATIONS  
PROPOSED DWELLING  
+ 271.02 sqft (25.181 sqm)  
+ 24.07%  
FLOOR AREAS "GFA"  
PROPOSED FIRST FLOOR + 236.795 sqft (201.41 sqm)  
PROPOSED SECOND FLOOR + 232.08 sqft (216.29 sqm)  
OVERALL TOTAL "GFA" + 449.875 sqft (417.70 sqm)  
+ 39.92%

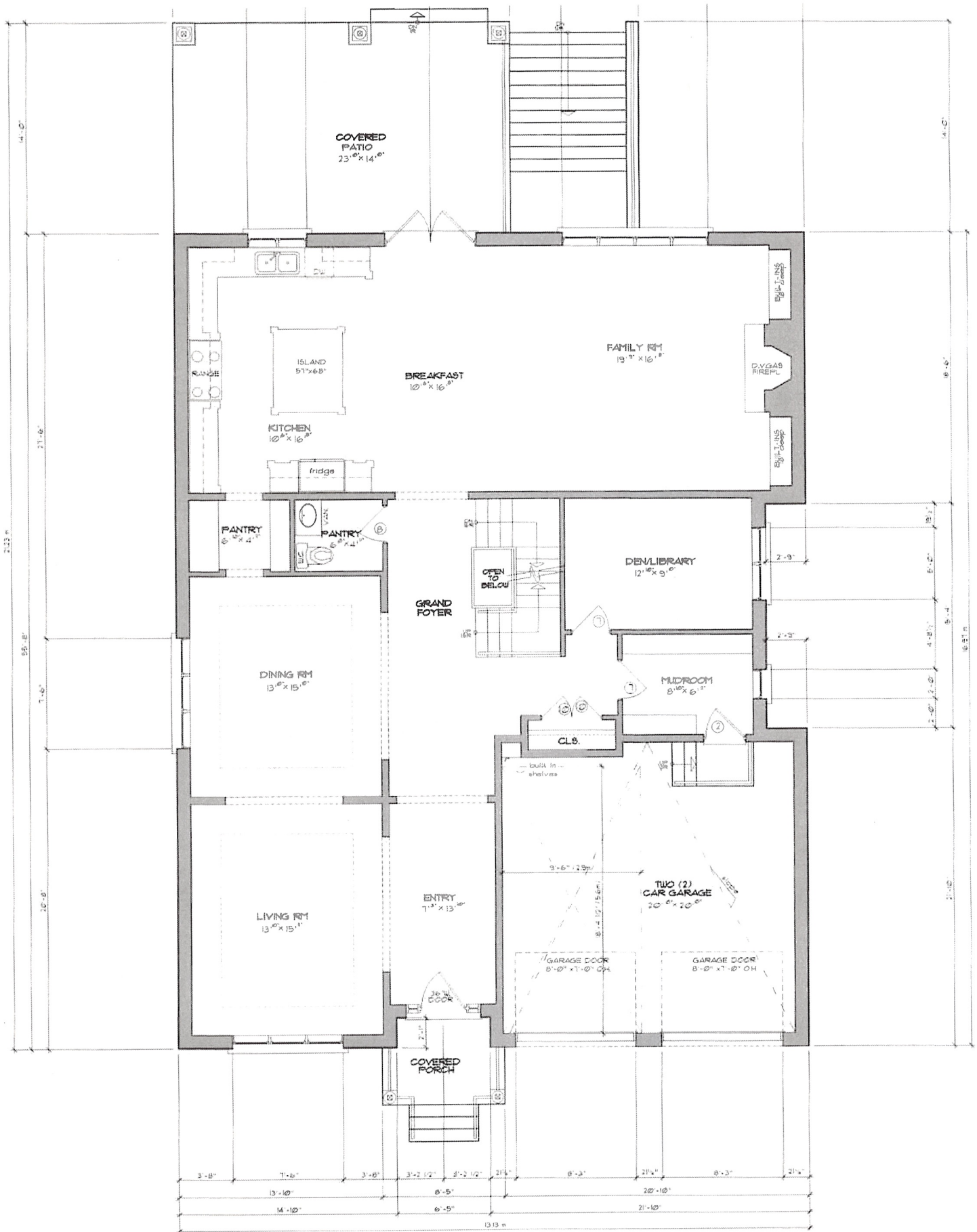
REFER TO ATTACHED GRADING PLAN FOR  
FOR GRADE ELEVATIONS, AVERAGE GRADE  
CALCULATIONS AND SWALES, TREES ETC

LOT 71  
REGISTERED  
BLOCK B  
PLAN  
612



# BASEMENT FLOOR PLAN

LOT 176

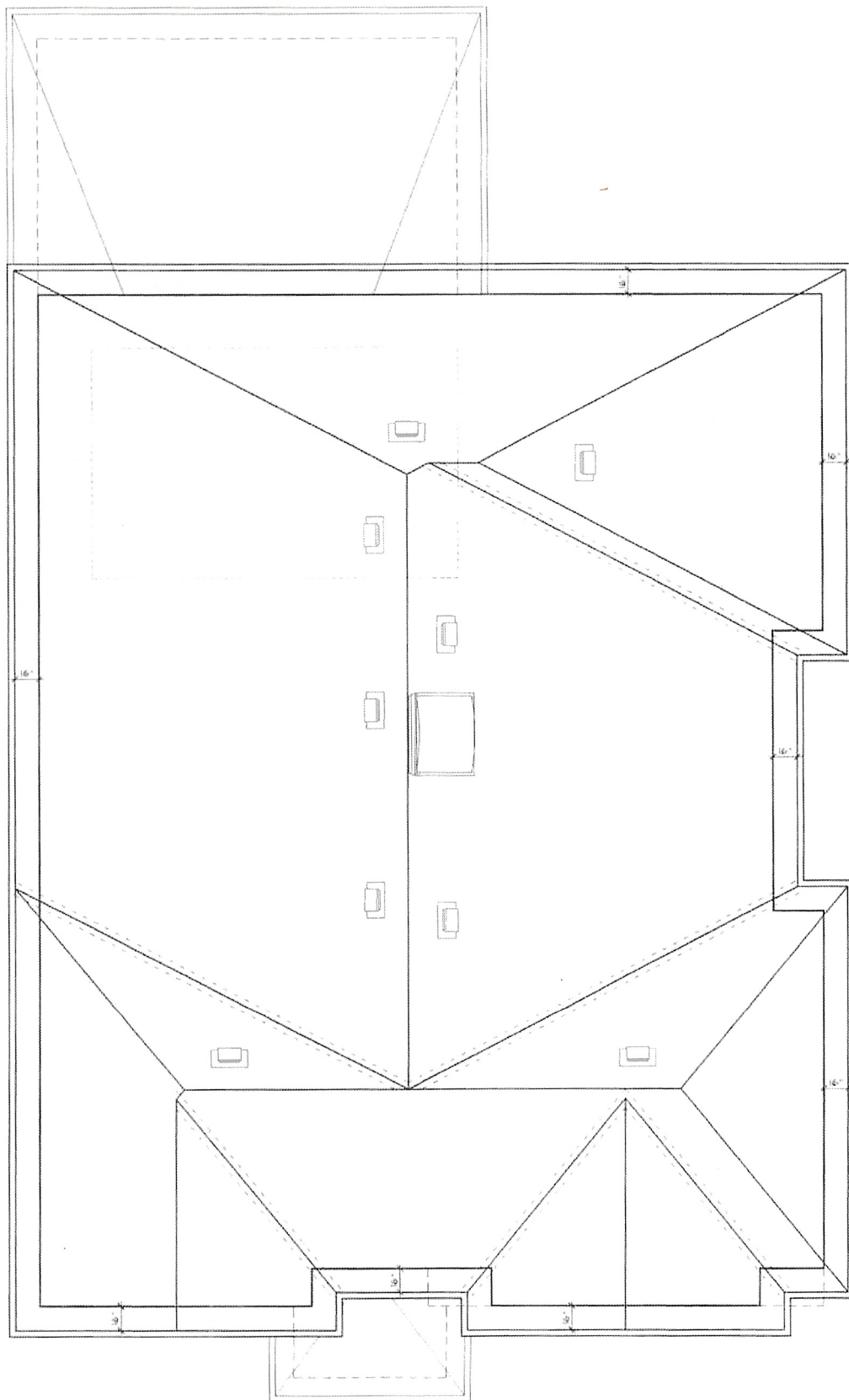


# FIRST FLOOR PLAN

LOT 176







ROOF PLAN

LOT 176





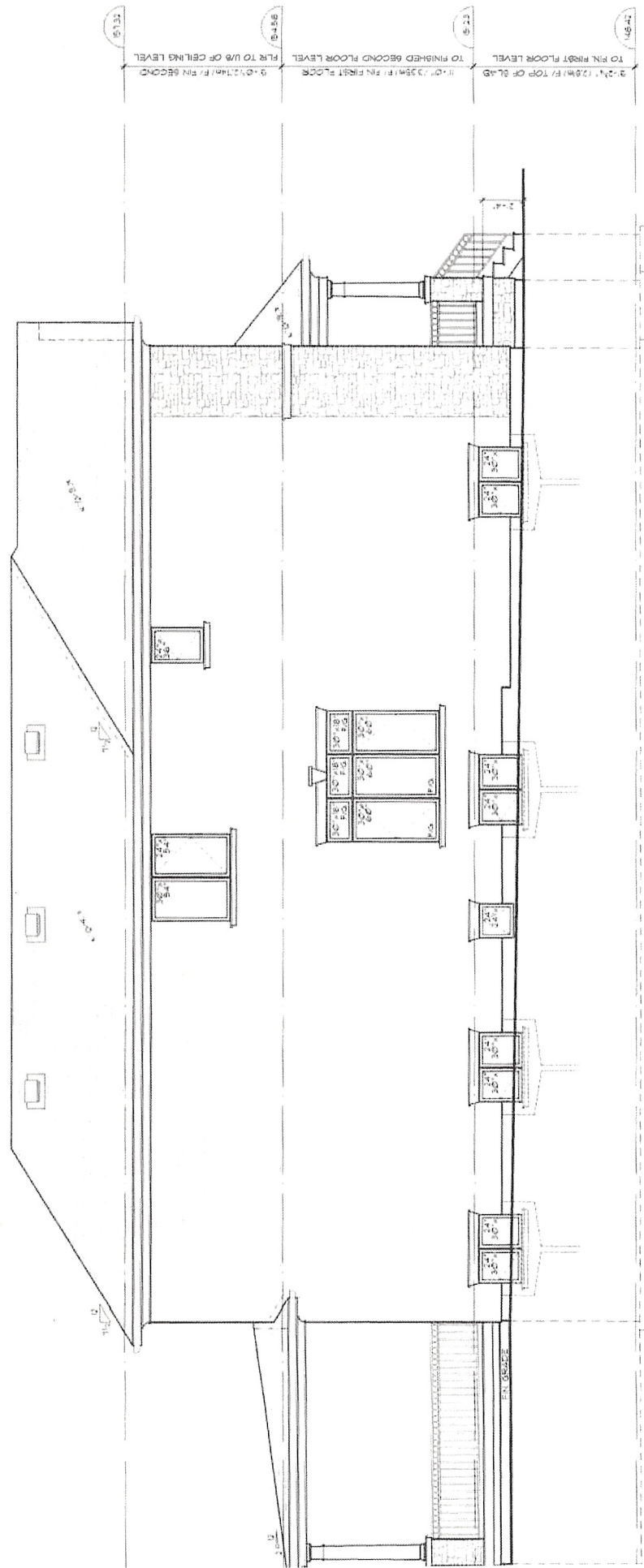
## FRONT ELEVATION

LOT 176



## REAR ELEVATION

LOT 176



# LEFT SIDE ELEVATION

## UNPROTECTED OPENINGS

WALL AREA (1) = 18.2m<sup>2</sup> (195.9sq.ft.)

LIMITING DISTANCE = min 120m

COVERAGE ALLOWED = 12% MAX

UNPROTECTED OPENINGS PROPOSED  
= 1.64m<sup>2</sup> (17.6sq.ft.)

= 6.58%

# LEFT SIDE ELEVATION

## LOT 176



RIGHT SIDE ELEVATION

LOT 176