

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, April 10, 2018

PROCEEDING COMMENCED UNDER Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): ELIZABETH A DONALDSON-PAGE, STEPHANIE ANN CARRON

Applicant: JOHN BENCZKOWSKI SOL ARCH

Property Address/Description: 72 CRESCENT RD

Committee of Adjustment Case File Number: 17 125796 STE 27 MV (A0269/17TEY)

TLAB Case File Number: **17 258503 S45 27 TLAB**

**Hearing date:**      Thursday, April 05, 2018

**DECISION DELIVERED BY** Ian James LORD

## INTRODUCTION

This was an appeal by the neighbours at 74 and 68 / 70 Crescent Road from the Toronto and East York District Panel of the Committee of Adjustment ('COA') of the City of Toronto ('City') approving variances at 72 Crescent Road (the 'subject property'). These would permit construction of a two storey rear addition, finished basement and cold storage room. There were seven variances identified: five are from By-law 569-2013 (the 'new Zoning By-law') and two are from By-law 438-86 (the 'old Zoning By-law'). A common variance, in purpose between the two by-laws is to acknowledge an existing driveway width of 7.87m. No changes in the plans requiring revision to the variances sought have occurred to date.

The subject property is located central to the prestigious Rosedale community on the north side of the street, east of both Yonge Street and Cluny Drive, and west of Mount Pleasant Boulevard. This area of Rosedale is located within a Heritage Conservation District and is subject to review by the City's Heritage Preservation Services division.

I indicated to the parties and participants present that I have visited the site and surrounding area, but had not been able to view the rear yard location of the proposed

project on the subject property. The materials posted on the website of the Toronto Local Appeal Body (the 'TLAB') were extensive.

## **BACKGROUND**

Previously, in the vicinity of the proposed construction, there had existed until recently a one storey addition at the east rear of the subject property and a porch, portico and balcony extending to the top of the second storey level, on the west rear side. As a result of a succession of three building permits for various approvals, these former improvements have been demolished, exposing and leaving the main rear wall above grade in an open and partially unprotected state.

As well, former landscaping elements in the rear yard, including some trees, have been removed. The site has been and remains a somewhat unsightly construction site –extending over a lengthy period.

The COA heard the matter of the requested variances on October 18, 2017, after two postponements. The variances and three conditions approved by the COA are found in Exhibit 3, **Attachment 1** hereto, prepared, presented and supported by the Applicant. Condition 1 on Attachment 1 is since proposed by the Applicants as a modest revision component of Exhibit 2 (Tab 11) of Applicants' filings, being the plans that were before the COA. This proposed condition has since been added as insurance that what is to be constructed, if an approval is granted, matches what has been proposed in the considerations and discussions to date.

The subject property as constructed is a partial three storey dwelling with a brick garage structure in the north-west corner of the rear yard.

As was evident from the evidence from the Appellants and the participants, considerable animosity and distrust has developed between immediate neighbours towards the Applicants and their representatives. This arose from alleged inaccuracies in representations made, lack of site care, tree insensitivity and removal, conduct in regard to posting of Notice and a failure to engage in meaningful dialogue.

These aspects are regretful as one would have thought that the development process in the City would have matured to the point that real actions and communications should be constructive, even where agreement cannot be reached.

## **MATTERS IN ISSUE**

Although the proposed two storey addition was described by the Applicants as straightforward and modest, it was the position of those opposed that the project was inconsistent in built form to the neighbourhood, that its massing was not appropriate for the site, and that the proposal was a destabilizing influence that was not minor and would be the cause of adverse impact.

As such, all four tests of the minor variance power were put in issue by those opposed.

## **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**

The Applicants called one witness, Mr. Johnathon Benczkowski, a Registered Professional Planner who I qualified to give professional land use planning opinion evidence. Neither the Appellants nor any of the Participants had counsel or a representative as each had elected to give own evidence.

Mr. Benczkowski had been retained for both the COA application matter and the subsequent TLAB appeal.

In confirming Opening Remarks by the Applicants' counsel Ms. Stewart, he made the following factual observations:

- a. the proposed two storey rear addition, above grade, maintained the same areal extent as the previous one storey addition, portico and elevated patio structure footprint, with planters extending beyond;
- b. an equal or greater amount of 'greenspace' would be provided given the removal of previous landscaping improvements being replaced by 'soft landscaping';
- c. there would be no change to the driveway access or the existing garage structure in the rear yard;
- d. In terms of building envelope, no variances are sought in respect of massing elements of: absolute building height; gross floor area or floor space index; and front and rear yard setbacks;

- e. a building permit existed, based on the prior improvements, the permitted maintenance of building length and depth as measured for zoning purposes;
- f. the proposed extension would meet the east side yard setback of 1.2 m required by the new Zoning By-law, noting the allowable encroachment for a fireplace flue; it would exceed its .9 m west side yard setback due to the existing driveway enhanced by a further modest inward jog of the extension wall expanding the separation distance to the west lot line;
- g. the proposed extension would not meet the 7.5 m setbacks (beyond a 17 m building length) required by the old Zoning By-law; however this standard was recently removed through the March 01, 2018 decision of the Ontario Municipal Board ('OMB'). This decision approved the side yard setback measures above referenced in the new Zoning By-law ( OMB Case NO(S): PL130592);
- h. the building depth variance (to 23.38 m from 19 m maximum) and building length variance (to 23.96 m from 17.0 m maximum) under the new Zoning By-law are overinflated due to:
  - a. a Heritage Preservation Services request to maintain a front yard at-grade 'solarium', some 2.178 m in depth attached to the main front wall;
  - b. including a below grade 'cold storage' room with stone patio atop, even though it included no above grade space;

Without these elements, Mr. Benczkowski asserted that the actual mass and building depth above grade, with the proposed addition, would be some 17.74 m, only slightly in excess of the new and old Zoning By-law permission of 17 m.

- i. he suggested the two storey addition itself was 'modest' floor space given the existing physical character of buildings in the area, at 82.34 square meters; he noted it would re-establish 5.74 m (18'10") from the main rear wall to the northerly limit of the previous one storey extension.

With this back drop, the planner addressed the variances identified in Attachment 1 following his description of the physical characteristics of the area. Notably, he opined that in his defined study area depicted large built form structures, many with rear yard garages and rear building walls that were not uniform, but 'fractured' in the degree to which they projected into their rear yards from adjacent streets. He noted no third floor deck was proposed and that the rear yards and properties generally were heavily treed.

He considered the area as a 'stable' Official Plan 'Neighbourhood' consisting of residential buildings of a variety of types, length, scale and tenure, and including many in the vicinity with greater lot penetrations, in building length and depth. He noted considerable regeneration activity and canvassed a variety of COA approvals of variances, including similar measures required by the proposal, all being within a consistent range of the requests made.

In applying the Official Plan evaluation criteria in section 4.1.5, he stated that his findings were that: having three storeys in the front with a two storey addition in the rear is consistent with neighbourhood patterns; the proposal replicated existing side yards;

the subject property and those in proximity generally enjoyed uncommonly deep rear yards (77 feet) with garages. Taken together, he stated that the proposed addition presented a consistency and 'fit' in accordance with the Neighbourhoods criteria and the Built Form policy, section 3.1.2.3.

He suggested the variance increase sought to the maximum permitted height of the rear exterior main wall (7.62 m v. 7.5 m permitted), was 4 inches, indiscernible to the eye but important to match the existing second floor cornice line.

He felt the extension, despite the second storey component being built to the limit of the footprint of the previous improvements, would have no adverse effect or impact on the neighbourhood, including shadowing impacts (being located on the north side of an east west street), and having very limited side windows. With no third floor balcony, he foresaw no privacy or views of the neighbours that would constitute undue adverse impact, in an urban setting. He asserted that the proposed new kitchen window on the westerly side wall extension would have a 'zero overlook prospect', given the previous porch views and existing fencing.

On questioning, he opined that planning is not a matter determined on numbers or percentages, but rather on an appreciation of impact. He felt the extension, on the same footprint, projecting as it will only slightly northward than the as-of-right permission of properties to the east and west, did not create undue adverse impact. He described the test of 'compatibility' to not mean 'similar' or 'identical' but rather the ability to exist in harmony, as does the existing historical built form character of the neighbourhood.

Mr. Jerome Carron, Appellant and an owner of 68/70 Crescent Road to the west, testified on his own behalf. The Carrons retained Cindy McPhee, an Architectural Technologist, to present expert evidence.

Mr. Carron was critical of the Applicants and their representatives throughout the COA process. In the face of the three permits that he alluded to and the actual demolition, he felt the COA process should have advanced not on the represented figures of then demolished structures, but on an actual 15m building length (not 20.4 m) as that was what existed on the date of the application. He would attribute no weight to the previous footprint of the one storey addition despite its recognition alleged in the issued building permits. He eschewed the use of a survey depicting the identification of improvements and landscaping that were no longer present.

I disallowed the presentation of a video of an excerpt of the COA hearing ruling that it was not germane to the issues of the variances on appeal. The matter before the TLAB related to the merits and demerits of the relief sought, and not the alleged conduct, errors or representations made before the COA.

By site photography and references to letters of opposition before the COA, he established clear concern for the accuracy of representations and information in that forum.

He expressed his genuine apprehension and belief that the proposed addition was inconsistent with neighbourhood examples, was destabilizing, was not minor, had

an adverse impact on his property and did not meet the intent and purpose of the Official Plan and Zoning by-law – suggesting the massing was not appropriate for the subject property.

In cross examination, he agreed that the extension had the same length as the prior improvements “on the one side”. He acknowledged that the stone patio and steps to grade had the same impact as a deck. He felt there was a distinction to be drawn between buildings that had existed for decades and their main rear wall projections – to new construction. He agreed his own property did not comply with the new Zoning By-law side yard setbacks but acknowledged that the proposal would comply.

Ms. Cindy McPhee was qualified not as an urban planner but rather as an expert Architectural Technologist, capable of providing opinion evidence on issues of building design and built form. She said she represented Stephanie Carron.

She addressed her opinion on the criteria of the Official Plan, section 4.1.5, especially subsections c), f), g) and h). She took issue with the two storey mass proposed by the addition calling it a 300% increase in floor area, from 36 to 110 Square meters in floor area. By slides, pictures, research and description, she elaborated on area character advising that residences are not undergoing redevelopment of the nature proposed for the subject property. Her review of active and cleared building permits, 2000-2017, found 17 homes in her relatively tight study area which she described as light or major renovations (8), footprint expansions, rear additions, one storey heights and building lengths, predominantly limited to and recognizing the 17 m zoning building length permission.

She concluded from this survey that none of those improvements affected sight lines, visibility of the neighbours or extended building length.

As a consequence, she said she disagreed that Variances 3 and 5 under the new Zoning By-law, and Variance 2 under the existing By-law were minor.

To the east, she measured that the rebuilt two storey wall would extend 3.66 m beyond No. 74 Crescent Road at a distance of a 1.2 m setback from the property line, at two storeys in height.

To the west, she measured that the two storey wall would extend 9.35 m beyond No. 70 Crescent Road at a distance of 3.96 m setback from the property line. She said this would be a 4.24 m extension if No. 70 were built to its as-of-right depth.

She said the westerly façade of the extension would cause a loss of sunlight, shadowing, loss of sightlines and loss of privacy, as there would be two new windows in the addition and a new one in the existing building.

She believed the side yard setback under the old Zoning By-law was designed to inhibit these consequences of longer buildings. She thought the proposed extension is insensitive, uncharacteristic and would adversely affect the current amenity space at No. 70 Crescent Road.

She provided statistical measures of the degree of the variances sought: Building depth (123%); building length (141%); driveway width (302%); side lot line reduction (625% - east; 208% - west (old By-law)). From this she concluded that five of the seven variances sought were not minor.

In cross examination, Ms. McPhee was stalwart. She would not agree that her opinion on privacy and overlook to the west was in any way mitigated by windows located in a closet, a bathroom (toilet only) or a kitchen, by fencing or other obstructions.

She disagreed with the planner's evidence on an increase in soft landscaping but agreed that area character was determined, in part, by existing building lengths. She felt that one storey additions had 'negligible impact'.

She said that her opinion on building length and depth was based on the Zoning Examiner's identification of a need for variances, but did agree that impact is a function of what is above ground.

She agreed that decks are allowed above grade as of right and that they are 'common' in the area.

She had not performed a shadow impact analysis.

The Appellant, Mr. Alfred Page, spoke as owner of 74 Crescent Road, the property immediately to the east.

His concern was the proposed second floor solid brick addition 1.2 m from the side lot line. He reviewed the five grounds recited in his notice, focusing on his perception of the elements that were not 'minor'. He exhibited a healthy respect for the need to hold accountable the Applicants, given their pattern of alleged inaccurate statements and past actions found unacceptable.

He felt the two storey extension did not reflect the receding pattern of main rear walls to his west, which he believed were a receding pattern away from his residence following on the curvature of Crescent Road.

While he felt the historical one storey addition on the identical footprint 'had no effect and had been in place', the proposed two storey addition covering the same 3.66 m would cause a loss of sun and constituted a 'brick wall that boxed us in': a domination that does not 'respect and reinforce' existing character.

He felt that the presence of a structure below grade would affect drainage and could cause flooding, a condition he had largely avoided with the previous owner who had discharged water to the rear yard planters on the subject property.

He expressed genuine frustration with the process and procedures, both of the COA and the TLAB, the latter in relation to the scope afforded counsel for the Applicant to 'badger beyond belief' earlier witnesses, presumably a reference to Mr. Carron and Ms. McPhee.

**Decision of Toronto Local Appeal Body Panel Member: I. Lord**  
**TLAB Case File Number: 17 258503 S45 27 TLAB**

In cross examination, he was unprepared to accept direction, explanation or 'advice' from the Applicants counsel, Ms. Stewart, as to the use of the term 'substantially', as proposed in Condition 1 in Attachment 1.

His advice to the TLAB, especially in respect of the Plans, is to police the Applicant and their advisors, especially with respect to the potential for a second storey deck, overlooking his rear yard and amenity space.

He would not object to a one storey addition on the same footprint.

He would not release his challenge to the credibility of the planner Benczkowski for his making of a recommendation and 'request' to the TLAB as to how to dispose of the appeal. He felt this to be unprofessional, wrong and indicative of being an advocate, a matter that he felt is not to be the character of a practicing professional.

Alex Murray appeared as a participant on behalf of the South Rosedale Residents Association ('SRRRA').

As a 30-year professor in environmental studies at York University and 40-year member of the Association, he felt the variances sought to be excessive. While agreeing that land use planning was not to be 'by numbers', he thought impact measures are both qualitative and contextual. He felt that it is a "fact" that a two storey brick structure has a negative impact on both adjacent properties.

While not disagreeing that rear building walls in the area are 'fractured' in character, he felt that this is not negative unless there is impact. He acknowledged that there always will be 'impact', but the issue is whether that impact constituted a "lessening of livability".

In this circumstance, he said there would be a lessening of livability due to the effect of overlook, light and view.

In questioning, he admitted there was an uneven pattern of rear main walls in the area (fracturing) and that that was part of area's physical character. As a SERRA Board member, he acknowledged having seen 'a lot of variance applications' and that applications for increased building length were one of the most common.

## **ANALYSIS, FINDINGS, REASONS**

I have made the effort to deal with the evidence in some detail because of the angst this application has generated between neighbours. Each has been articulate and diligent in the filing and preparation of materials, attendances and in their candid expression of matters of concern.

It is, of course, regretful that these matters have unfolded and been experienced in this manner.



**Decision of Toronto Local Appeal Body Panel Member: I. Lord**  
**TLAB Case File Number: 17 258503 S45 27 TLAB**

Regretfully, our planning process has rigidities, inefficiencies and lack of precision due to its inherent nature of being opinion oriented, political to a degree and discretionary.

That said, a system is nothing if it cannot result in a decision; the alternative is unthinkable.

The TLAB is responsible to resolve disputes that come to it by way of appeal. It must do that in accordance with respect for the rule of law, which, in these cases involves the application of policy, law, statutory 'tests', fact, opinion and judgment on the evidence brought before it.

In this process, weighing opinion evidence, facts and policy are all helpful in resolving disputes. There are principles at play: the right to make and the responsibility to defend an application; the right to be heard, for and against aspects or the entirety of a proposal.

It is also a fact that change represents uncertainty and perceptions of impact. It is the measures of these that help the decision maker reach a conclusion. Vague representations of no injury and unfounded expressions of apprehensions are not measures of impact.

The administrative law definition of 'impact', itself a benign term or neutral in its own way, is more severe. All changes have impact, some positive, some negative, some severe in either direction. To be assessed as a negative impact to be attributed weight in the world of land use planning, the common rubric is "undue adverse impact".

Such a standard cries out for some measure of objective measurement or an open, obvious, deleterious consequence of undeniable moment.

I agree with Ms. Stewart that land use planning and the policy guidance from provincial policy on down is to permit change, even encourage it in the form of intensification and reinvestment in neighbourhoods, but also to limit impacts in degree and kind so as to not create undue adverse impact. The intent is not to eliminate impact for that could still the evolution of properties and the continued process of city building. Impacts from change will occur and can be expected, for that is a product of science, physics and common sense.

In essence, for those elements of the variances that are contested, the tests in the Planning Act are a kind of check list of examinations as to acceptable compliance, 'tolerable ranges', capability of 'existence in harmony' or, even more simply, reasonableness.

All of these elements are germane to the above review of the evidence, spoken and pre-filed.

In Attachment 1 there are seven variances listed, by By-law.

Variance 1 and 6 are substantively the same. They reflect an existing condition. No issue was taken with the existing driveway or its recognition and maintenance. I find that the considerations raised under 'Jurisdiction', above, have been met.

Variance 2 relates to soft landscaping in the rear yard. The evidence of the planner is that the amount of soft landscaping, as compared to the previous former planters, patio and pond facilities, will be increased. Although that was debated, no measure was put to the subject. No objection was taken to this specific measure. I accept the evidence of the planner as to the amount and the acceptability of the modest reduction from the standard, of about 20 square meters. The rear yard has an extraordinary depth, some 77 feet above and beyond the extension proposed with the added intention and protection of a condition evaluating tree retention. I find that the considerations raised under 'Jurisdiction' above, have been met.

Variance 3 and 5 relate to building depth and length. The planner explained that depth is measured from the minimum front yard setback, derived from the required averaging of front yard setbacks of adjacent residences. Building length includes the bricks and mortar. Both these measures were the subject of specific evidence and resulting concerns by the neighbours. The reality is that both measures, to a great degree, relate to existing conditions either in terms of original built form or under applicable building permit permission – a circumstance that was not convincingly challenged. While demolition has occurred of the rear yard improvements, I was told that that was permitted subject to permission to rebuild on the same footprint. Challenges were raised to the outstanding building permit permission but no compelling evidence was presented to challenge the representations made by the planner that these permissions remained in good standing. The permits described in themselves do not materially extend the building footprint beyond what the neighbours have experienced during their residency. It would confound logic and perhaps legality to attempt to reverse the building envelope and retrench the limit of new construction. To deny the recognition and maintenance of the building footprint, long established on the subject property, and limit its re-assertion, independent of building permit permission rights, seems an unduly harsh result for residential improvements sought in good faith.

The addition of a second storey has nothing to do with building depth or length. A two storey building is permitted on the lot and no relief is requested for the floor area engaged by the addition of a second storey.

I appreciate that a second storey is targeted as the source of concern for the reduction of sunlight, air, shadows, views and privacy concerns. I have no tangible measure that elevates those concerns to more than apprehensions. I agree with the evidence of Mr. Murray that reductions in these measures are involved here and that there is arguable impact as a 'fact'. However, I agree with the opinion of the planner Benczkowski that impacts are an expected incident of change in an urban setting. The measure of impact is a matter of opinion, in the absence of analytic measurement. In this case, the extension of an additional storey some 3 to 4 meters further north than the as-of-right permission of the neighbours themselves does not present, on the evidence, the degree of undue adverse impact that would warrant the failure of any of the four tests. I find that building overlap is a common attribute of the existing physical character of the area, on all the evidence. I do not believe the additional perceived "enclosure"

expressed by the neighbours is of the degree, magnitude or perception warranted to raise the spectre of incompatibility. Indeed, the proposed extension can enhance the degree of privacy.

Mr. Page and Ms. McPhee both said a single storey addition would be of no concern. There were no shadow studies presented. If a single storey addition were to be constructed with a pitched roof, would the result be so markedly different than the proposal? I have an unqualified professional planning opinion that the addition, in all its attributes, is minor, desirable and meets the intent and purpose of policy and regulatory objectives.

Mr. Page also raised the concern that hard surfacing and below grade space, the cold cellar and patio surfacing, may cause drainage difficulties and flooding, as past circumstances demonstrated and were ameliorated. I have no basis to conclude there is an issue that is either caused or accentuated by the proposal, including the 'cold storage' cellar. In any event, I accept that on-site release and capture of storm water and its drainage are an element of the responsibility of the Chief Building Official and permit issuance. There is clearly sufficient soft landscaping to attempt attenuation of storm water flow and management.

There was a well- expressed concern that privacy could be compromised by the placement of windows and the use of the second storey flat roof as a deck, patio, terrace, balcony or promontory. These were apprehensions which, in questioning, led to a degree of entrenchment by representatives of the neighbouring properties. Despite this, the concerns expressed by Mr. Carron, Ms. McPhee and Mr. Page were strong in their resolve. In the case of the second floor deck, Ms. Stewart acknowledged that it was not her clients' intention to so use the second floor flat roof extension. Nor do the plans show access to this roof.

A condition will go requiring that windows in the second floor closet and toilet room be opaque and that any openings be skywards or towards Crescent Road. I accept that the kitchen extension window onto the driveway not be made subject to that condition for safety, visibility and other reasons, notably, the presence of adequate fencing limiting view planes and angles.

Access to the second floor roof of the extension will be limited to maintenance purposes only. No recreational or other use shall be permitted on that roof area. With these added considerations fixed by way of conditions, I find that the considerations raised under 'Jurisdiction' above, have been met.

Variance 4 would permit the height of the exterior main wall to match the existing level of the second floor. This is a height increase of 0.12 m or approximately 4.7 inches described by the planner as virtually imperceptible to the eye and desirable for building presentation. Ms. McPhee did not take issue with that rationale. I find that the considerations raised under 'Jurisdiction' above, have been met.

Variance 7 requests variation from the old Zoning By-law setback imposition of 7.5 m beyond a building depth exceeding 17 m. To Ms. McPhee, this standard ensures a proper separation distance between buildings of the requisite depth. Mr. Benczkowski

emphasizes the extraordinary lot depth of 57.73 m (189 ft), the slightly increased side yards compliant with the new Zoning By-law and the recent repeal of the old By-law standard by the approval of this aspect of By-law 569 -2013. He noted several examples of building depths within the range and beyond set by the application for recognition and maintenance proposed, as examples of the existing and evolving physical character of the area. The flat roof mitigates against significant shadow impact. I repeat the rationale accepted for Variances 3 and 5, that this side yard setback reduction, if required at all, is appropriate and desirable without causing any undue adverse impact. I find that the considerations raised under 'Jurisdiction' above, have been met.

Although not necessary to the result in this decision, I comment on the challenge made to the planner's credibility. Namely, the suggestion that providing a 'recommendation' to the TLAB on the merits on the relief requested by the application, and making a 'request' as to its disposition, is somehow an indication of bias.

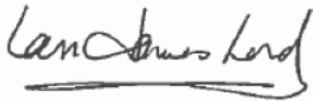
A Registered Professional Planner, both by the Code of Conduct of governance of the profession and by the statutory declaration made to the TLAB (Form 6) to assist the tribunal, is obligated to fully assess the relief proposed in all its aspects and place the paramountcy of the public interest first, foremost and ultimately as a consideration. This requires the planner to provide independent opinion advice and recommendation as to the disposition of an application, as a matter of opinion, in the public interest. It is an evidentiary obligation.

I see the framing of a 'request', if that occurs, as a mere extension of that recommendation and can attribute nothing more to it than that.

## **DECISION AND ORDER**

The appeal is allowed in part. The variances and conditions of approval related thereto are approved as modified and set out in **Attachments 2 and 3** hereto.

X



---

Ian Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord

## Attachment 1

### List of Variances and Conditions – 72 Crescent Road

**1. Chapter 10.5.100.1 (2) (B), , By-law 569-2013**

A driveway that is not located in or does not pass through the front yard may be a maximum of 6.0 m wide.

The driveway will be 7.87 m wide.

**2. Chapter 10.5.50.10 (3) (A), By-law 569-2013**

A minimum of 50% of the rear yard is required to be soft landscaping (230.21 m ).

The rear yard landscaping area will be 45.66% (210.22 m<sup>2</sup>).

**3. Chapter 10.20.40.30 (1), By-law 569-2013**

The maximum permitted building depth for a detached house is 19.0 m.

The building depth will be 23.38 m.

**4. Chapter 10.20.40.10 (2) (A)(ii), By-law 569-2013**

The maximum permitted height of all rear exterior main walls is 7.5 m. The height of the rear exterior main wall will be 7.62 m.

**5. Chapter 10.20.40.20 (1), By-law 569-2013**

The maximum permitted building length for a detached house is 17.0 m.

The building length will be 23.96 m.

**6. Section 6 (3) PART IV 4 (ii) C, By-law 438-86**

The maximum permitted driveway width is 2.6 m.

The driveway width will be 7.87 m.

**7. Section 6(3) Part II 3 B (II) 2, By-law 438-86**

The minimum required side lot line setback is 7.5 m from the side lot line for that portion of the building exceeding 17.0 m in depth.

The east side lot line setback will be 1.20 m.

The west side lot line setback will be 3.60 m.

### Conditions of Approval

1. The proposed dwelling shall be constructed substantially in accordance with the site plan and elevations dated November, 2016.
2. Prior to the issuance of the building permit the applicant shall submit a complete application for permit to injure or remove privately owned trees under Municipal Code Chapter 813, Article III, Private Trees, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.
3. Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details, shall be submitted to the satisfaction of the Senior Manager of Heritage Preservation Services and a heritage permit shall be obtained under the provisions of section 42 of the Ontario Heritage Act.
4. The width of the rear basement walkout shall be reduced to 2 m (from 4 m) so as to increase the east side lot line setback.

## ATTACHMENT 2

### REVISED List of Variances and Conditions – 72 Crescent Road

**1. Chapter 10.5.100.1 (2) (B), , By-law 569-2013**

A driveway that is not located in or does not pass through the front yard may be a maximum of 6.0 m wide.

The driveway will be 7.87 m wide.

**2. Chapter 10.5.50.10 (3) (A), By-law 569-2013**

A minimum of 50% of the rear yard is required to be soft landscaping (230.21 m ).

The rear yard landscaping area will be 45.66% (210.22 m<sup>2</sup>).

**3. Chapter 10.20.40.30 (1), By-law 569-2013**

The maximum permitted building depth for a detached house is 19.0 m.

The building depth will be 23.38 m.

**4. Chapter 10.20.40.10 (2) (A)(ii), By-law 569-2013**

The maximum permitted height of all rear exterior main walls is 7.5 m. The height of the rear exterior main wall will be 7.62 m.

**5. Chapter 10.20.40.20 (1), By-law 569-2013**

The maximum permitted building length for a detached house is 17.0 m.

The building length will be 23.96 m.

**6. Section 6 (3) PART IV 4 (ii) C, By-law 438-86**

The maximum permitted driveway width is 2.6 m.

The driveway width will be 7.87 m.

**7. Section 6(3) Part II 3 B (II) 2, By-law 438-86**

The minimum required side lot line setback is 7.5 m from the side lot line for that portion of the building exceeding 17.0 m in depth.

The east side lot line setback will be 1.20 m.

The west side lot line setback will be 3.60 m.

### Conditions of Approval

1. The proposed two storey rear addition and finished basement shall be constructed substantially in accordance with the site plan and elevations identified as A-1 to A-9 and dated November, 2016, prepared by Guitberg Group Inc., Project R29/11/16, Exhibit 2, attached hereto, save and except in respect of paragraphs 4 ,5, 6 and 7 hereof as attachment 3.
2. Prior to the issuance of the building permit the applicant shall submit a complete application for permit to injure or remove privately owned trees under Municipal Code Chapter 813, Article III, Private Trees, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.
3. Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details, shall be submitted to the satisfaction of the Senior Manager of Heritage Preservation Services and a heritage permit shall be obtained under the provisions of section 42 of the Ontario Heritage Act.
4. The width of the rear basement walkout stairs shall be reduced to 2 m (from 4 m) so as to increase the east side lot line separation distance.

5. The two 'New Windows' in the second storey west elevation, drawing A-8, shall be opaque with any opening views to be to the sky or south, towards Crescent Road.
6. No use, save and except for maintenance and repair, shall be made for any purpose of the second storey rear roof addition and surface and no door for pedestrian access thereto shall be permitted.
7. For greater certainty and despite the variances granted herein in respect of building depth and length, the plans and elevations attached to Condition 1 shall prevail in respect of the limit of construction above and below grade.

# SITE PLAN

## Attachment 3

SCALE 1/24"=1'

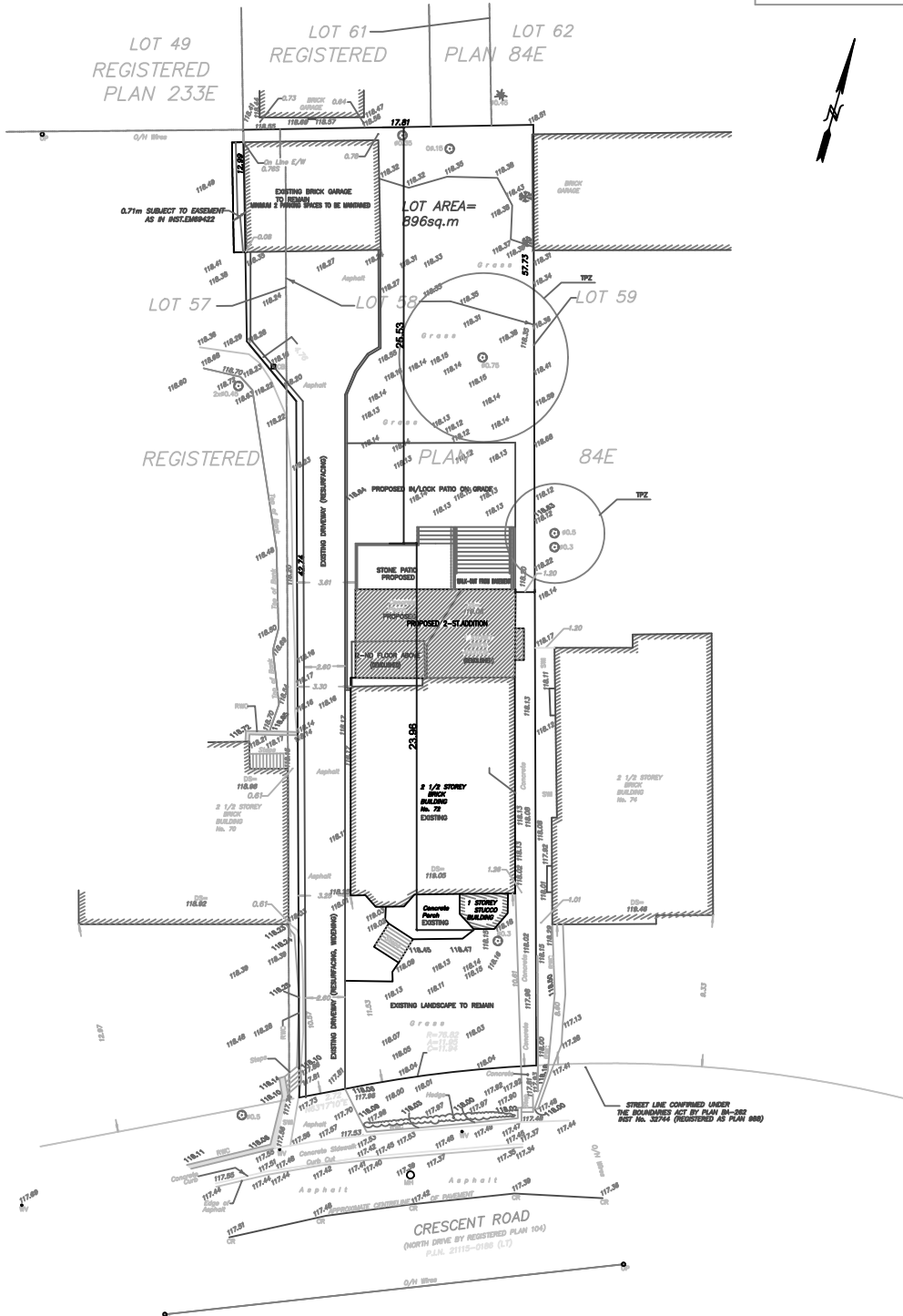
DERIVED FROM

TOPOGRAPHIC SURVEY OF  
PART OF LOTS 57 AND 58  
REGISTERED PLAN 84E  
CITY OF TORONTO

ALEX MARTON LIMITED  
Ontario Land Surveyors  
JANUARY 6, 2017

### Metric

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND  
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048



### GUITBERG GROUP INC.



33 BELVEDERE CRES.  
RICHMOND HILL,  
ONTARIO, L4C 8W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO, ONTARIO

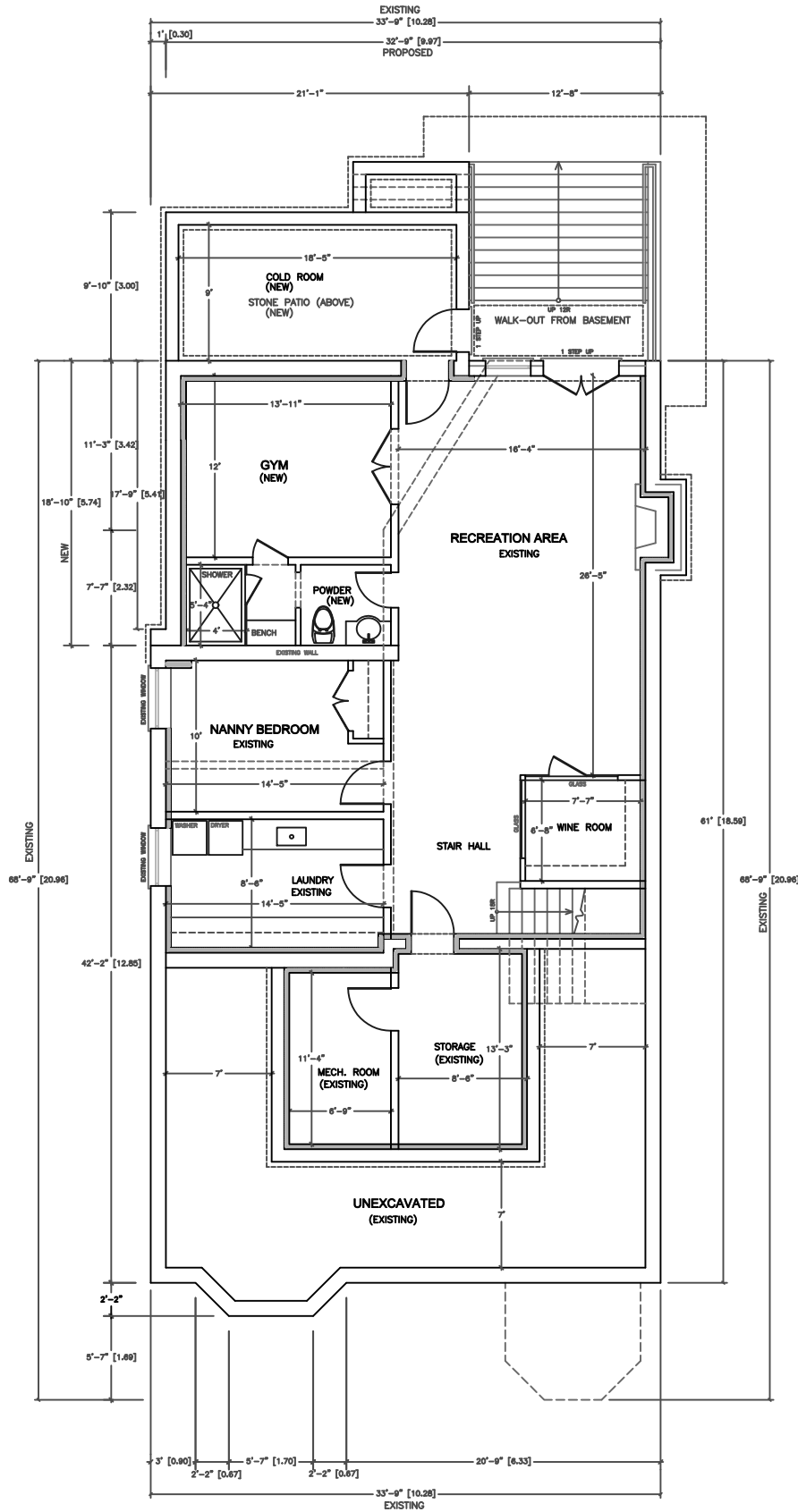
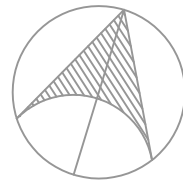
### SITE PLAN

DRAWN BY	CHECKED
SCALE 1/24"=1'	DATE NOVEMBER 16
PROJECT NUMBER R-29/11/16	A - 1

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES  
AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

NOTE: THIS IS NOT A PLAN OF SURVEY AND SHOULD NOT BE USED FOR  
ANY REAL ESTATE TRANSACTIONS.





ALL DIMENTIONS ARE IMPERIAL  
(DIMENTIONS IN BRACKETS ARE METRIC)

GUITBERG GROUP INC.



33 BELVEDERE CRES.  
RICHMOND HILL,  
ONTARIO, L4C 5W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO, ONTARIO

BASEMENT PLAN

DRAWN BY J.M. CHECKED V.G.

SCALE 1/8" = 1'-0" DATE NOVEMBER '16

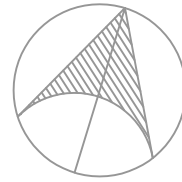
PROJECT NUMBER

R-29/11/16

A - 2

BASEMENT FLOOR PLAN

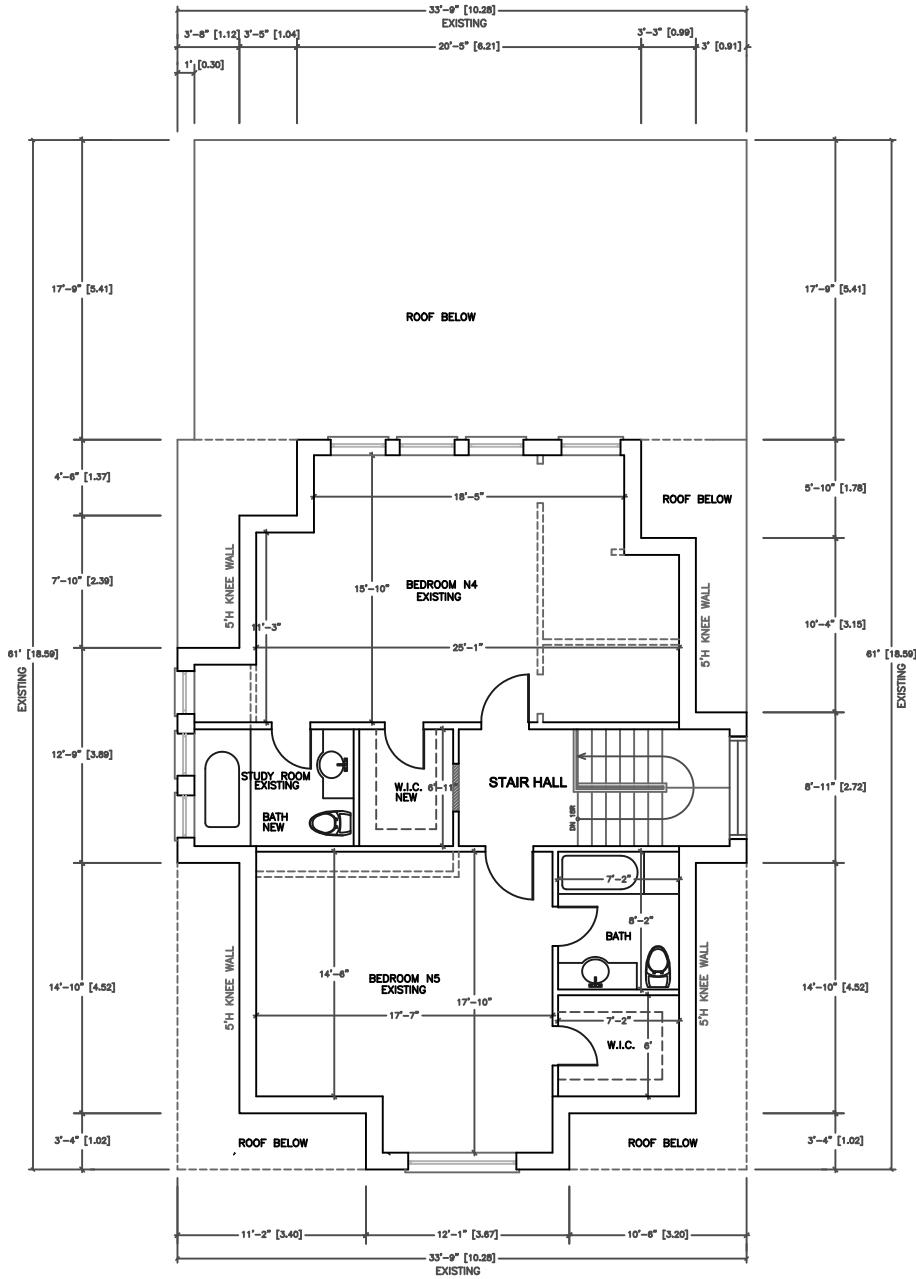
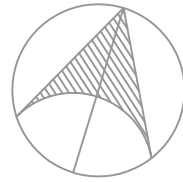
SCALE 1/8" = 1'-0"



A - 3

SCALE 1/8" = 1' - 0"





ALL DIMENSIONS ARE IMPERIAL  
(DIMENSIONS IN BRACKETS ARE METRIC)

## UPPER FLOOR PLAN

SCALE 1/8" = 1'-0"

## GUITBERG GROUP INC.



33 BELVEDERE CRES.  
RICHMOND HILL  
ONTARIO, L4C 8W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO, ONTARIO

## UPPER FLOOR PLAN

DRAWN BY J.M. CHECKED V.G.

SCALE 1/8" = 1'-0" DATE NOVEMBER '16

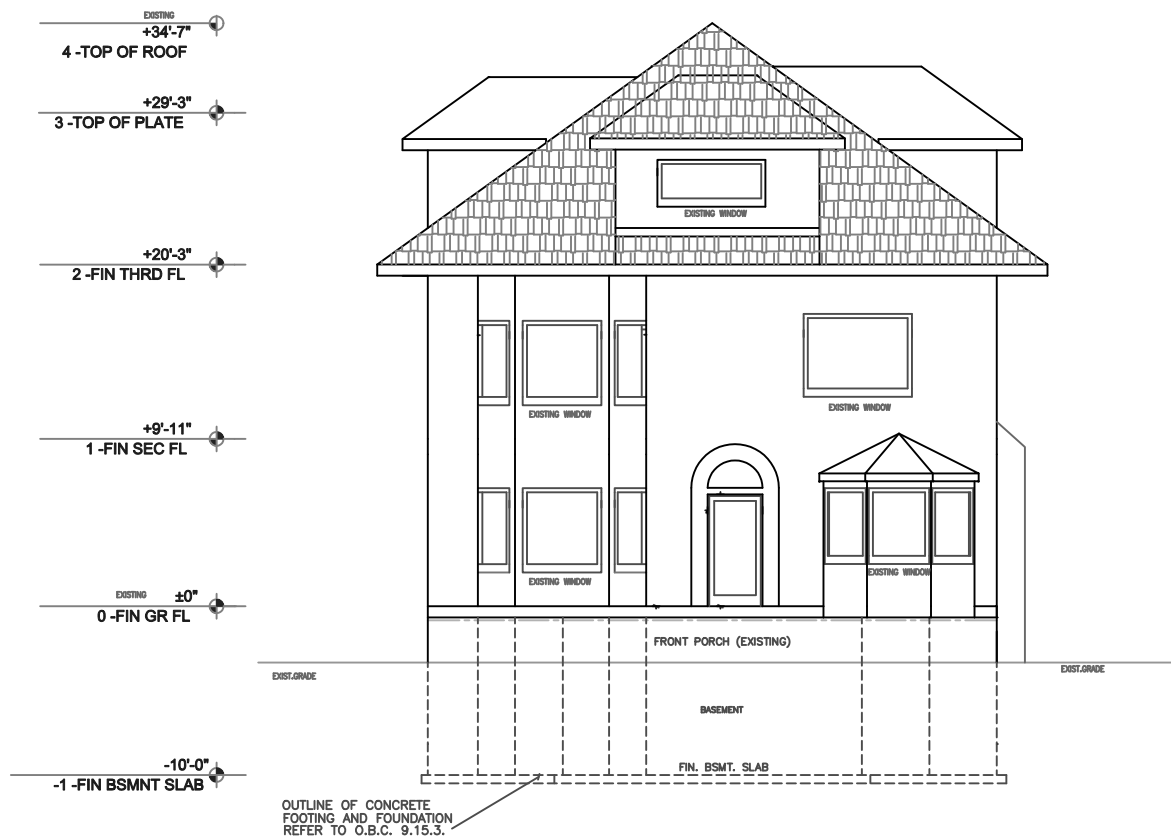
PROJECT NUMBER

R-29/11/16

A - 5

# SOUTH ELEVATION

SCALE 1/8" = 1'- 0"



GUITBERG GROUP INC.



33 BELVEDERE CRES.  
RICHMOND HILL,  
ONTARIO, L4C 8W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO , ONTARIO

SOUTH ELEVATION

DRAWN BY J.M. CHECKED V.G.

SCALE 1/8" = 1'- 0" DATE NOVEMBER'16

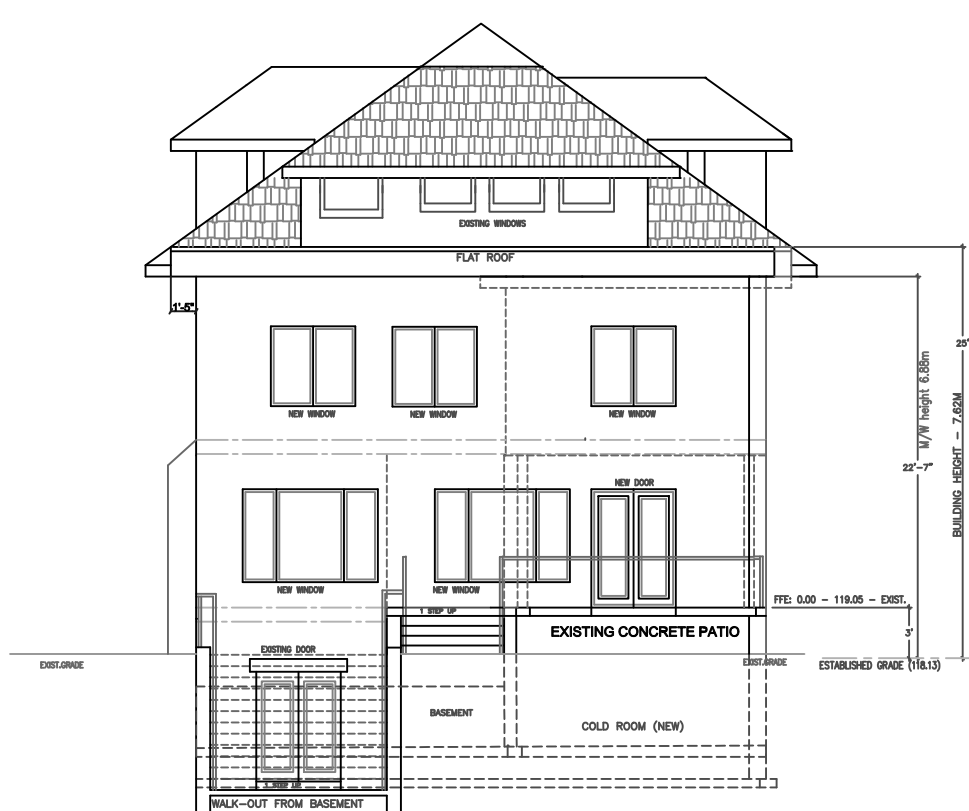
PROJECT NUMBER

R-29/11/16

A - 6

# NORTH ELEVATION

SCALE 1/8" = 1'-0"



GUITBERG GROUP INC.



33 BELVEDERE CRES.  
RICHMOND HILL  
ONTARIO, L4C 6W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO, ONTARIO

NORTH ELEVATION

DRAWN BY J.M. CHECKED V.G.

SCALE 1/8" = 1'-0" DATE NOVEMBER'16

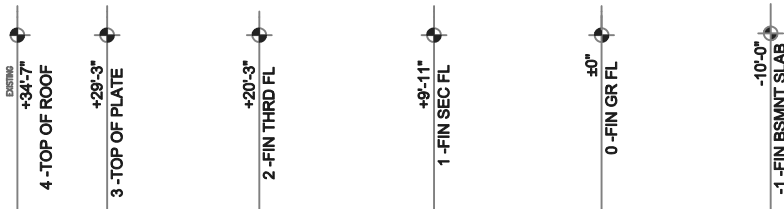
PROJECT NUMBER

R-29/11/16

A - 7

# WEST ELEVATION

SCALE 1/8" = 1'- 0"



**GUITBERG GROUP INC.**

33 BELVEDERE CRES.  
RICHMOND HILL  
ONTARIO, L4C 5W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO, ONTARIO

## WEST ELEVATION

DRAWN BY J.M. CHECKED V.G.

SCALE 1/8" = 1'- 0" DATE NOVEMBER'16

PROJECT NUMBER

R-29/11/16

A - 8

SCALE 1/8" = 1'-0"

+29'-3"  
3 -TOP OF PLATE

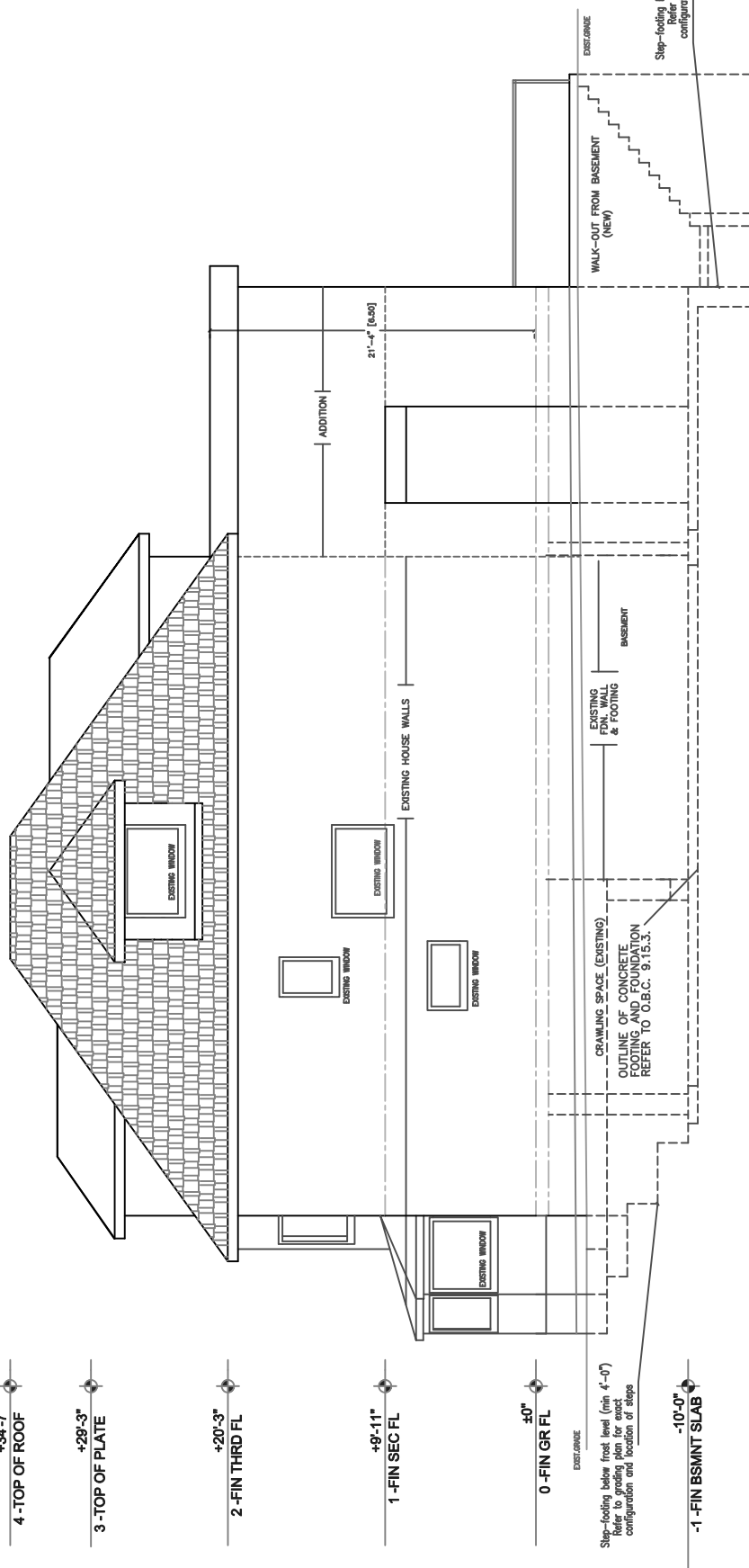
+20'-3"  
2-FIN THRD FL+9'-11"  
1-FIN SEC FL

**0-FIN GR FL**  
**±0"**

-10'-0"  
-1 -FIN BSMNT SLAB

Step—footing below frost level (min 4'-0")  
Refer to grading plan for exact  
configuration and location of steps

Step-footing below frost level (min 4'-0")  
Refer to grading plan for exact  
configuration and location of steps



33 BELVEDERE CRES.  
RICHMOND HILL  
ONTARIO, L4C 8W1  
TEL. (905) 508-7436  
FAX. (905) 508-7453

PRIVATE RESIDENCE  
AT 72 CRESCENT ROAD  
(ADDITION AND RENOVATION)  
CITY OF TORONTO , ONTARIO

EAST ELEVATION

DRAWN BY	J.M.	CHECKED	V.G.
----------	------	---------	------

SCALE	DATE
1/8" = 1'- 0"	NOVEMBER'16

PROJECT NUMBER

R-29/11/16

A - 9