

# DECISION AND ORDER

**Decision Issue Date**      **Thursday, March 29, 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): JUSTIN MCCARTNEY

Applicant: JUSTIN MCCARTNEY

Property Address/Description: 18 CEDAR AVE

Committee of Adjustment Case File Number: 17 189882 STE 32 MV (A0781/17TEY)

TLAB Case File Number: **17 260633 S45 32 TLAB**

**Hearing date:**      Monday, March 26, 2018

**DECISION DELIVERED BY S. MAKUCH**

## APPEARANCES

Role	Name	Representative
Appellant	Justin McCartney	Amber Stewart (Counsel)

## INTRODUCTION

This is an appeal of the minor variance application, submitted by Justin McCartney, to vary City of Toronto Zoning By-law 569-2013, as amended, and former City of Toronto Zoning By-law 438-86, as amended, for property municipally known as 18 Cedar Ave. The property is in the Beaches area, north of Queen St. East. The purpose of the variances is allow the construction of a third floor addition above an existing two story dwelling.

The following are the variances refused by the Committee of Adjustment:

- Chapter 10.10.40.40.(1)(A), By-law 569-2013  
The maximum permitted floor space index of a detached dwelling is 0.6 times the area of the lot (125.42 m<sup>2</sup>).  
The altered dwelling will have a floor space index equal to 1.02 times the area of the lot

(213.62 m<sup>2</sup>).

2. Chapter 10.10.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7.0 m. The height of the front exterior main walls will be 9.65 m.

3. Chapter 10.10.40.10.(2)(A)(ii), By-law 569-2013

The maximum permitted height of all rear exterior main walls is 7.0 m. The height of the rear exterior main walls will be 9.55 m.

1. Section 6(3) Part I 1, By-law 438-86

The maximum permitted gross floor area of a detached dwelling is 0.6 times the area of the lot (125.42 m<sup>2</sup>).

The altered dwelling will have a gross floor area equal to 1.02 times the area of the lot (213.62 m<sup>2</sup>).

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

The minimum required setback from the side wall of an adjacent building that contains openings is 1.2 m.

The altered dwelling will be located 0.98 m from the side wall of the east adjacent building at 20 Cedar Avenue.

3. Section 6(3) Part II 3.B(I), By-law 438-86

The minimum required side lot line setback for a detached dwelling is 0.45 m for a depth not exceeding 17.0 m and where the side walls contain no opening.

The altered dwelling will be located 0.41 m from the west side lot line.

## **BACKGROUND**

The envelope of the first and second storey will not change. The dwelling will have the same lot coverage as it has today. The ground floor building coverage is 71.2 m<sup>2</sup> representing a lot coverage of 34.1%. The second and third floor will have the same floor area, 71.2 m<sup>2</sup> per floor, for a total gross floor area of 213.62 m<sup>2</sup>. With a lot area of 208.1 m<sup>2</sup>, the resulting floor space index is 1.02 times the lot area, whereas both Zoning By-laws permit a floor space index of 0.6.

The third floor will cover the same area as the second floor and will be used as a master bedroom and study. The second floor will continue to have three bedrooms. The proposed roof will be flat with a dormer roof treatment at the front of the building. The overall building height will be 9.85 metres, which is below the maximum building height of 10.0 metres permitted by both Zoning By-laws. The proposed dwelling will be three storeys in height but there is no limit in the number of storeys permitted under either of the two Zoning By-laws. Access will remain the same; a private lane to a two car garage at the rear of the property.

There are no parties or participants in opposition to the appeal. City staff did not report on the application to the Committee of Adjustment and no one appeared at the Committee to object to it.

## **MATTERS IN ISSUE**

As there are no objections there are no matters in issue.

## **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 only person to give evidence was Mr. Julius de Ruyter, a professional planner qualified to give expert planning opinion evidence. He has resided in the area for many years and furthermore studied the neighbourhood which he appropriately defined as an area within a five minute walk of the site. He prepared a Witness Statement (Exhibit 1) based in part on the following visual evidence which he also prepared

- Location Map

- Enlarged Location Map
- Copies of other Committee of Adjustment decisions within this neighbourhood
- Chart summarizing other Committee of Adjustment decisions within this neighbourhood
- Property Characteristics chart
- Architectural plans prepared by TH Design Inc.
- Property survey prepared by Young & Young Surveying dated August 15, 2017
- Google Earth Aerial photos
- Photographs of subject property and surrounding neighbourhood prepared on January 4, 2018

His description of the neighbourhood (from his Witness Statement, page 7) is as follows:

The neighbourhood is developed similar to a number of inner city neighbourhoods which consist of a wide range of residential building types including single detached, semi-detached, duplex, triplex, row houses and low and higher rise apartment buildings. Building heights vary between two, two and one-half and three storeys. The lots exhibit a compact community with generally narrow frontage lots.

There is a diversity of housing types, housing sizes, architectural styles and building materials within this neighbourhood.

There is evidence of significant reinvestment in this neighbourhood, including renovations, additions and rebuilds. There have been a number of consent applications in the recent past where larger single detached lots are split into two lots. There is clearly evidence of a neighbourhood undergoing a healthy transition and where the housing stock is being improved. The renovations and rebuilds result in generally larger homes to meet the needs of the homeowners. To achieve the additional floorspace, buildings are becoming longer, covering more of the

lot, and are becoming taller where the loft above the second floor is being converted to habitable floorspace. It is quite common within this neighbourhood for these renovations and rebuilds to result in a three-storey dwelling.

The witness statement also included reference to numerous minor variances granted in the area to permit larger dwellings.

## **ANALYSIS, FINDINGS, REASONS**

Based on Mr. De Ruyter's evidence, both written and oral, I conclude that the proposed minor variances fit with the existing physical character of this neighbourhood. The proposed building height and massing is within the varied range of building heights and massing of other dwellings within this neighbourhood. This is an area of generally smaller lots where the side yard condition between buildings is narrow. The variances maintain the general intent and purpose of the official plan.

Moreover, it is my opinion that the proposed development conforms to and maintains the general intent and purpose of the Zoning By-laws. The general intent and purpose of the Zoning By-laws are to maintain a compatible building relationship with the neighbourhood with respect to such matters as height, massing and building setbacks and coverage, all of which are satisfactorily addressed by the proposed third storey addition which does not extend beyond the existing footprint of the dwelling and is not out of keeping with heights in the neighbourhood.

I also find that the variances are consistent with relevant Provincial policies and plans as the proposed development is a compatible and efficient use of land and is located within a built-up area.

## **DECISION AND ORDER**

The TLAB approves the following variances:

1. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index of a detached dwelling is 0.6 times the area of the lot (125.42 m<sup>2</sup>).

The altered dwelling will have a floor space index equal to 1.02 times the area of the lot (213.62 m<sup>2</sup>).

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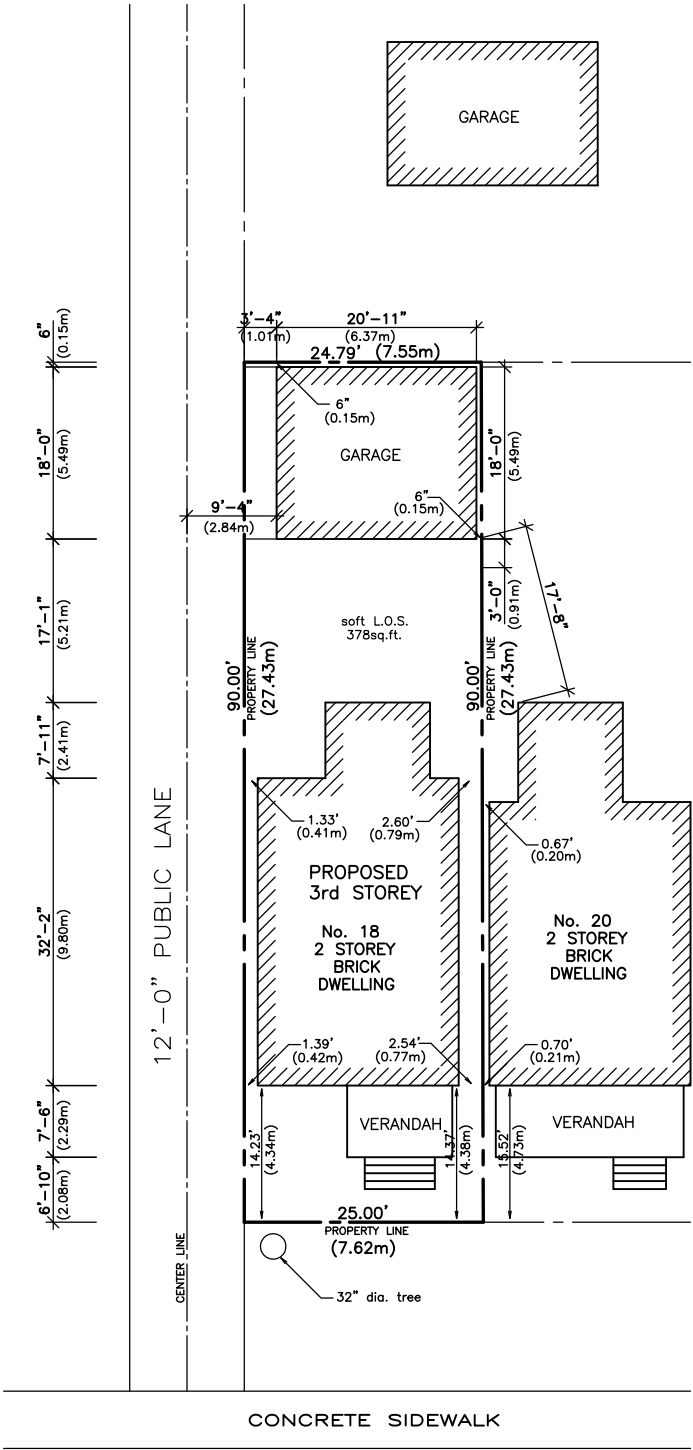
This approval is on condition that the dwelling is substantially constructed in accordance with the site plan dated May 1 2015, and the elevations dated January 27, 2017 all by TH Design Inc. and filed with TLAB on January 5, 2018, attached to this decision as Attachment 1.

**X** 

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S. Makuch

Panel Chair, Toronto Local Appeal



NOTE:  
INFORMATION TAKEN FROM SURVEY  
Pt Lot 21, Reg'D Plan M140  
CITY OF TORONTO,  
PREPARED BY:  
YOUNG & YOUNG SURVEYING INC.  
ONTARIO LAND SURVEYORS  
APRIL 25, 1995



SITE STATISTICS	sq.ft.	m <sup>2</sup>	%
LOT AREA	2240 sq.ft.	208.09 m <sup>2</sup>	
PROPOSED G.F.A.	763 sq.ft.	70.88 m <sup>2</sup>	34.1%
TOTAL G.F.A.	2289 sq.ft.	212.65 m <sup>2</sup>	102%

DRAWING MUST NOT BE SCALED.  
CONTRACTOR SHALL CHECK AND  
VERIFY ALL DIMENSIONS AND MUST  
REPORT ANY INCONSISTENCIES TO  
THE DESIGNERS BEFORE  
PROCEEDING WITH WORK AND BE  
RESPONSIBLE FOR SAME.

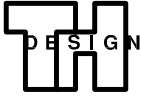
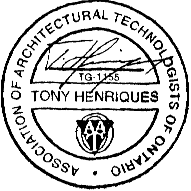
ALL DRAWINGS ARE THE PROPERTY  
OF THIS FIRM AND SHALL NOT BE  
USED WITHOUT THEIR WRITTEN  
CONSENT.

The undersigned has reviewed and  
takes responsibility for this design,  
and has the qualifications and  
meets the requirements set out in  
the Ontario Building Code to  
design the work shown on the  
attached documents.

NAME:  
TONY HENRIQUES BCIN# 30445

SIGNATURE:

FIRM NAME:  
TH DESIGN INC. BCIN# 31787



**TH DESIGN INC.**  
543 CONCORD AVE.  
TORONTO, ONTARIO  
M6H 2R2  
TEL: 416-530-4027  
FAX: 647-560-9843  
thdesign@rogers.com

18 CEDAR AVENUE  
Pt Lot 21,  
REG'D PLAN 733 Y  
CITY OF TORONTO

OWNER:  
Mr.

DRAWN BY: T.H. RSN# 920626

MAY 1, 2015

SCALE: 1" = 12'-0"

SITE PLAN

DRAWING NO.

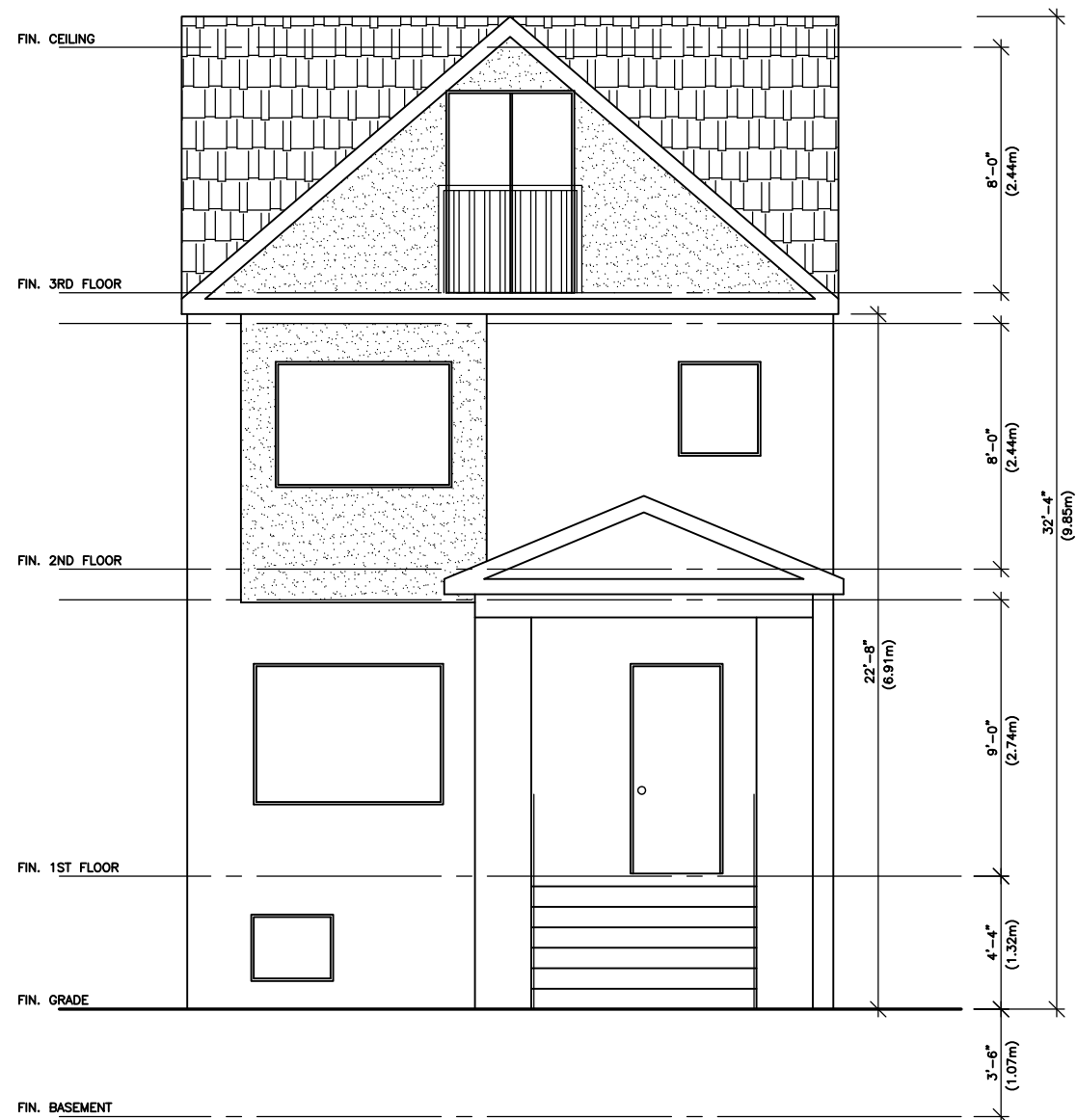
1

PROJECT NO.

15110

CEDAR AVENUE

SITE PLAN  
SCALE: 1" = 12'-0"



FRONT ELEVATION

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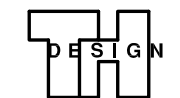
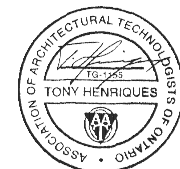
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CITY OF TORONTO

OWNER:  
*Mr. & Mrs.*

DRAWN BY: T.H. RSN# 920626

JANUARY 27, 2017

SCALE:

ELEVATION

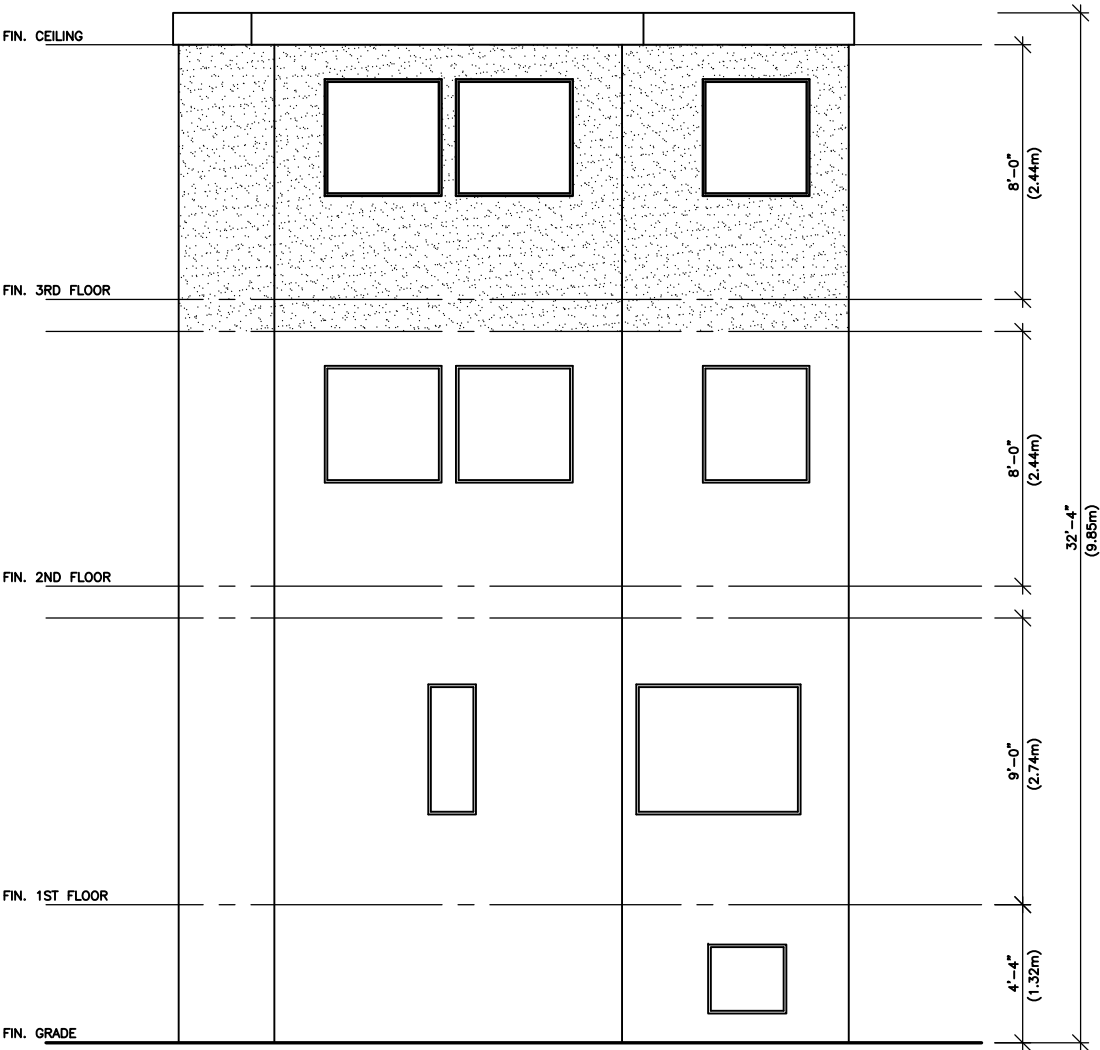
DRAWING NO.

6

PROJECT NO.

16790





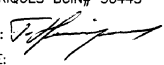
REAR ELEVATION

DRAWING MUST NOT BE SCALED.  
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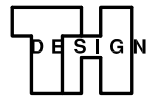
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OWNER:  
Mr. & Mrs.

DRAWN BY: T.H. RSN# 920626

JANUARY 27, 2017

SCALE:

ELEVATION

DRAWING NO. 7

PROJECT NO. 16790