

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): QUANG ZHENG

Applicant: KYLE ZHENG

Property Address/Description: 93 BOSTON AVE

Committee of Adjustment Case File Number: 17 196919 STE 30 MV (A0767/17TEY)

TLAB Case File Number: **17 266946 S45 30 TLAB**

Hearing date: Wednesday, March 28, 2018

DECISION DELIVERED BY L. MCPHERSON

REGISTERED PARTIES AND PARTICIPANTS

Name	Role	Representative
Yan Wen Chen	Owner	
Kyle Zheng	Applicant	
Quang Zheng	Appellant	
Adrian Ng	Party	

INTRODUCTION

This is an appeal to the Toronto Local Appeal Body (the “TLAB”) by the Applicant of the decision of the Committee of Adjustment (“Committee”) for the City of Toronto (“City”) to refuse minor variances to alter the existing two-storey semi-detached dwelling by constructing a rear two-storey addition and a third storey addition at 93 Boston Avenue (the “subject property”).

The subject property is located on the east side of Boston Avenue between Queen Street East and Dundas Street East. The subject property is designated Neighbourhoods in the City of Toronto Official Plan (“Official Plan”) and zoned R under Zoning By-law No. 569-2013 (“new City By-law”) and R3 under former City of Toronto By-law 438-86 (“former By-law”).

BACKGROUND

On November 8, 2017, the Committee of Adjustment refused the following variances:

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

The maximum permitted height of all front and rear exterior main walls is 9.5 m.

The height of the front and rear exterior main walls will be 10 m.

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

The maximum permitted floor space index of a semi-detached dwelling is 0.60 times the area of the lot (115.54 m²).

The altered dwelling will have a floor space index equal to 0.92 times the area of the lot (176.55 m²).

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

The maximum permitted gross floor area of a semi-detached dwelling is 0.60 times the area of the lot (115.54 m²).

The altered dwelling will have a gross floor area equal to 0.92 times the area of the lot (176.55 m²).

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

The minimum required side lot line setback of a semi-detached dwelling is 0.45 m where the side wall contains no openings.

The altered dwelling will be located 0 m from the north side lot line.

There were no other Parties or Participants. Prior to the TLAB hearing, the Applicant submitted revised drawings through the Applicant Disclosure Form 3. Revisions were made to the front elevation to address comments of a Committee member regarding the style of roofline. The revision does not affect the requested variances.

MATTERS IN ISSUE

The matter at issue is whether the revised variances meet the applicable tests under Section 45(1) of the Planning Act and provincial policy.

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

Mr. Zheng, the designer of the dwelling, outlined the proposal. He noted that at the Committee meeting there was no concern raised regarding the size or height of the proposed dwelling. There was a concern by a member that the third floor addition was a box-like shape and that it did not fit in with the neighbourhood. It is noted that of the 4 Committee members, 2 voted to refuse the application, one dissented and one abstained.

Mr. Zheng produced photographs of the street which indicate that the majority of 3rd storeys have dormers (Exhibit 1). As a result the plans were revised to incorporate a dormer (Exhibit 2). He noted that the size and the height of the dwelling was in keeping with other dwellings in the area. An application at 97 Boston Avenue was approved at 0.926 fsi. He explained that there was another dwelling on the street to the north that had a box style addition; however, the owners decided to revise the plans to address the Committee concerns. He noted letters of support from the neighbours to the south and north (the other half of the dwelling).

Mr. Zheng indicated that the revised front elevation will appear smaller from the street as the dormer has a sloped roof and is recessed.

The proposed side lot line variance is under the former By-law. The current dwelling has a 0 m north side yard and the addition maintains the 0 m setback and is abutting an existing dwelling to the north that has a 0 m setback. The majority of the houses on the street have 3rd storey dormers so the character will be the same. The size of the

dwelling is similar to other approvals in the neighbourhood. Mr. Zheng advised that he spoke with the City planner who had no objection as evidenced by the absence of a Planning staff report to the Committee.

In Mr. Zheng's opinion, the variances are minor and the resulting dwelling fits within the neighbourhood character.

Further, it was his opinion that the variances meet the 4 tests of the Planning Act and provincial policy and should be approved.

ANALYSIS, FINDINGS, REASONS

The Applicant has made a revision to the front elevation of the proposed addition to address a comment made by a member of the Committee. There were no comments from Planning staff and there were no objections from the community.

The proposed rear two-storey addition and third storey addition have been designed to fit within the immediate and overall context of the neighbourhood.

The TLAB is satisfied the revised variances meet the criteria set out in Section 45(1) of the Planning Act. The general purpose and intent of the Official Plan and Zoning By-laws is maintained. The proposal fits within the physical character of the area. The proposal results in an appropriate and desirable development for subject property and the variances are considered minor in the context.

DECISION AND ORDER

The appeal is allowed and the following variances authorized:

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

The maximum permitted height of all front and rear exterior main walls is 9.5 m.

The height of the front and rear exterior main walls will be 10 m.

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

The maximum permitted floor space index of a semi-detached dwelling is 0.60 times the area of the lot (115.54 m²).

The altered dwelling will have a floor space index equal to 0.92 times the area of the lot (176.55 m²).

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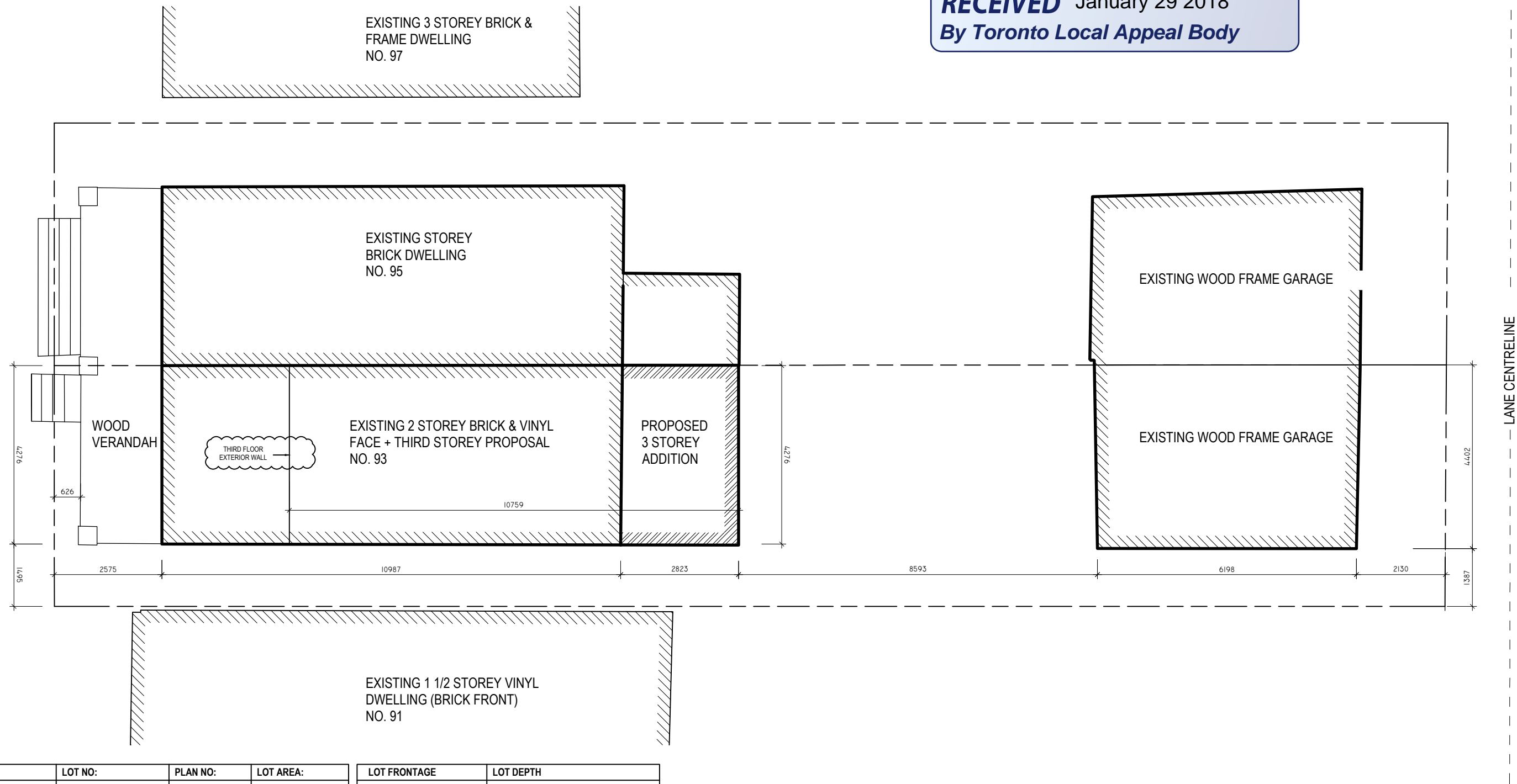
The altered dwelling will be located 0 m from the north side lot line.

Condition:

1. The new two-storey detached dwelling shall be constructed substantially in accordance with the plans filed as Exhibit 2 attached hereto and forming part of this order.

X 

L. McPherson
Panel Chair, Toronto Local Appeal Body



ZONING	LOT NO:		PLAN NO:		LOT AREA:	
R2 20.6	LOT 32		718		192.58m²	
DESCRIPTION	EXISTING	ADDITION	TOTAL	%	ALLOWED	%
LOT COVERAGE	81.41m²	19.20m²	100.61m²	0.91	115.55m²	60
GROSS FLOOR AREA	158.52m²	78.48m²	237.00m²	37	57.77m²	30
LANDSCAPE AREA	111.17m²	(19.2m²)	91.97m²			
HEIGHT	7.55m	2.45m	10.0m			
WIDTH	4.57m		4.57m			
DEPTH	12.11m	2.72m	14.83m			

LOT FRONTAGE	LOT DEPTH		
5.77m	33.33m		
SETBACKS	REQUIRED	EXISTING	PROPOSED
FRONT YARD	2.34m	2.58m	2.58m
REAR YARD	7.5m	16.94m	16.94m
SIDE SETBACK	0.9m	1.49m	1.49m

No.	DATE	DESCRIPTION

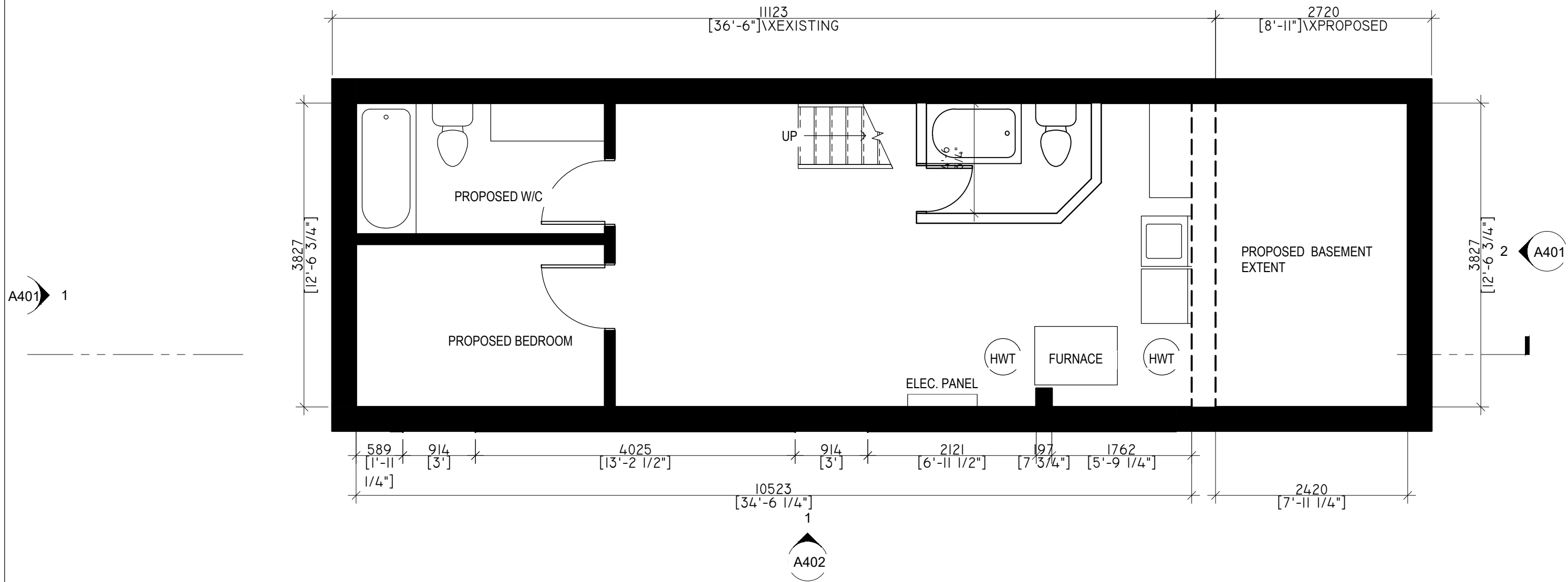
PROPOSED SITE PLAN



Scale: 1 : 100

Project #:
Date:
Sheet #:

93 Boston Addition Proposal
1701 93 Boston Avenue
05/07/17 Toronto, ON
A102



No.	DATE	DESCRIPTION

PROPOSED BASEMENT

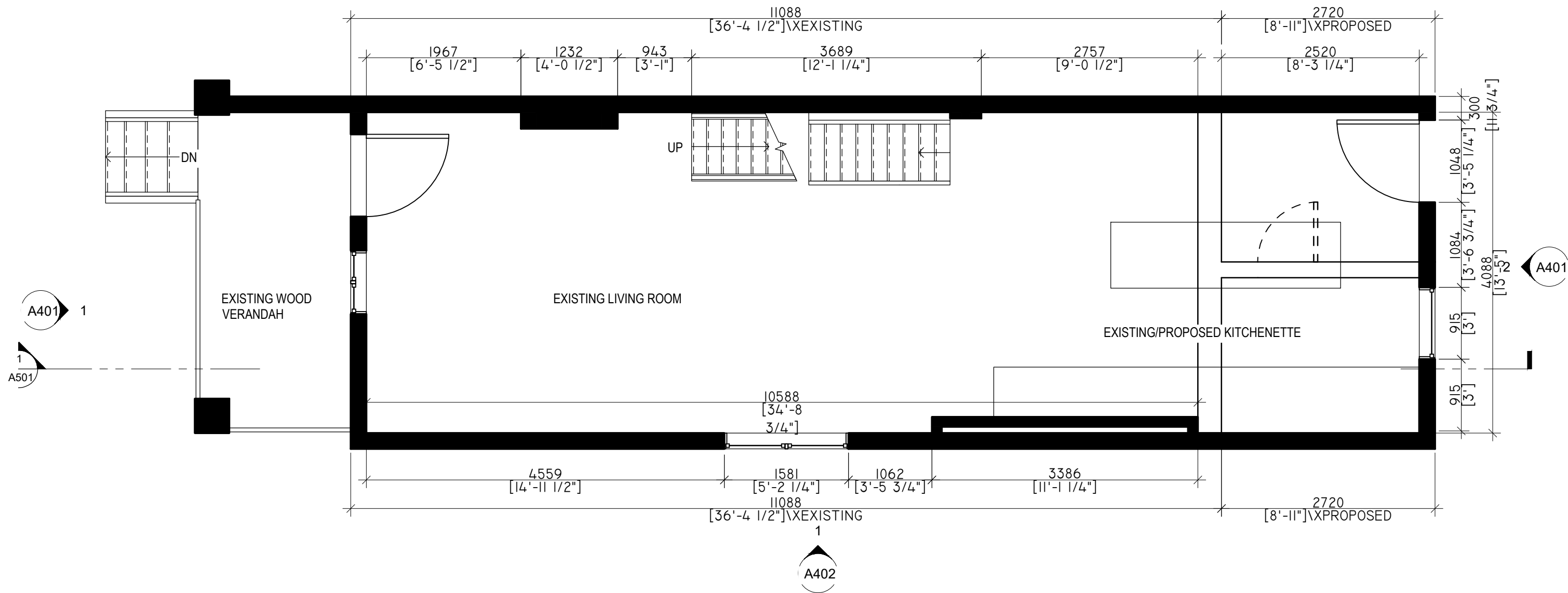


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93 Boston Addition Proposal
1701 93 Boston Avenue
05/07/17 Toronto, ON
A200



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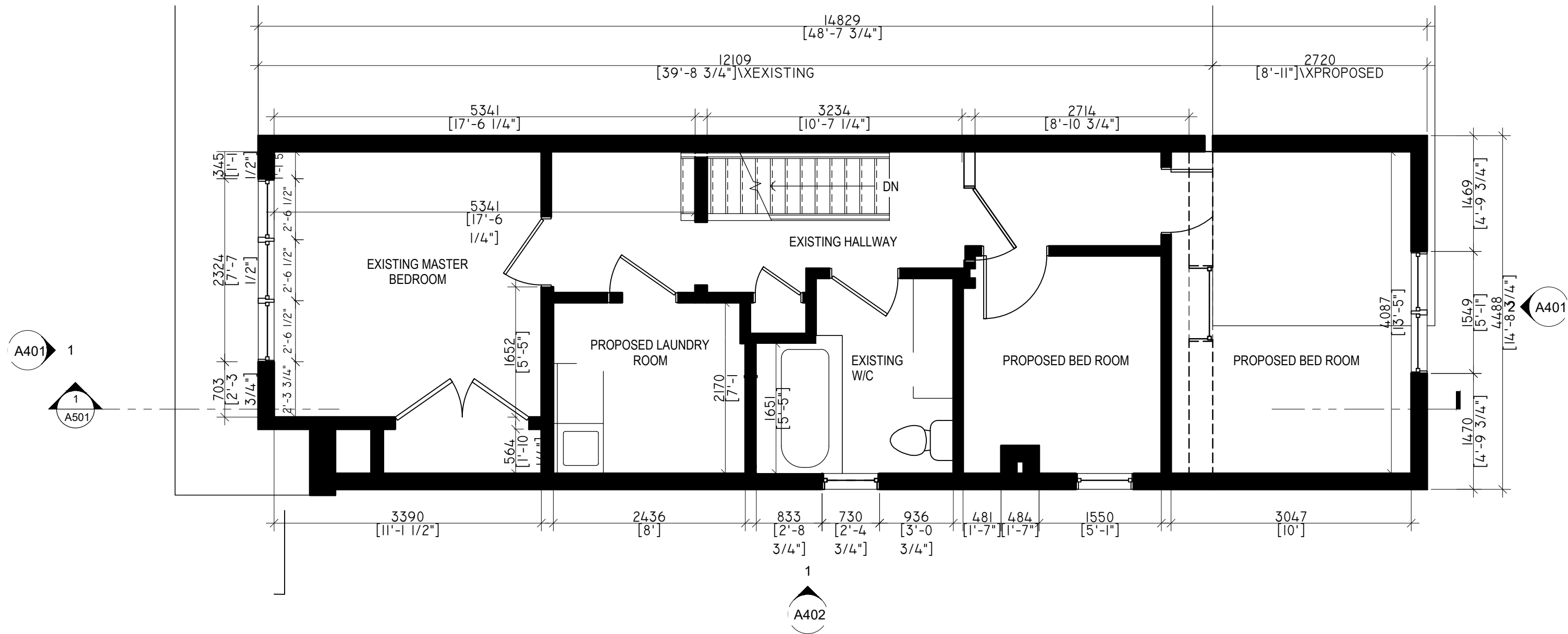
PROPOSED GROUND FLOOR



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93 Boston Addition Proposal
93 Boston Avenue
Toronto, ON



PROPOSE SECOND FLOOR PLAN

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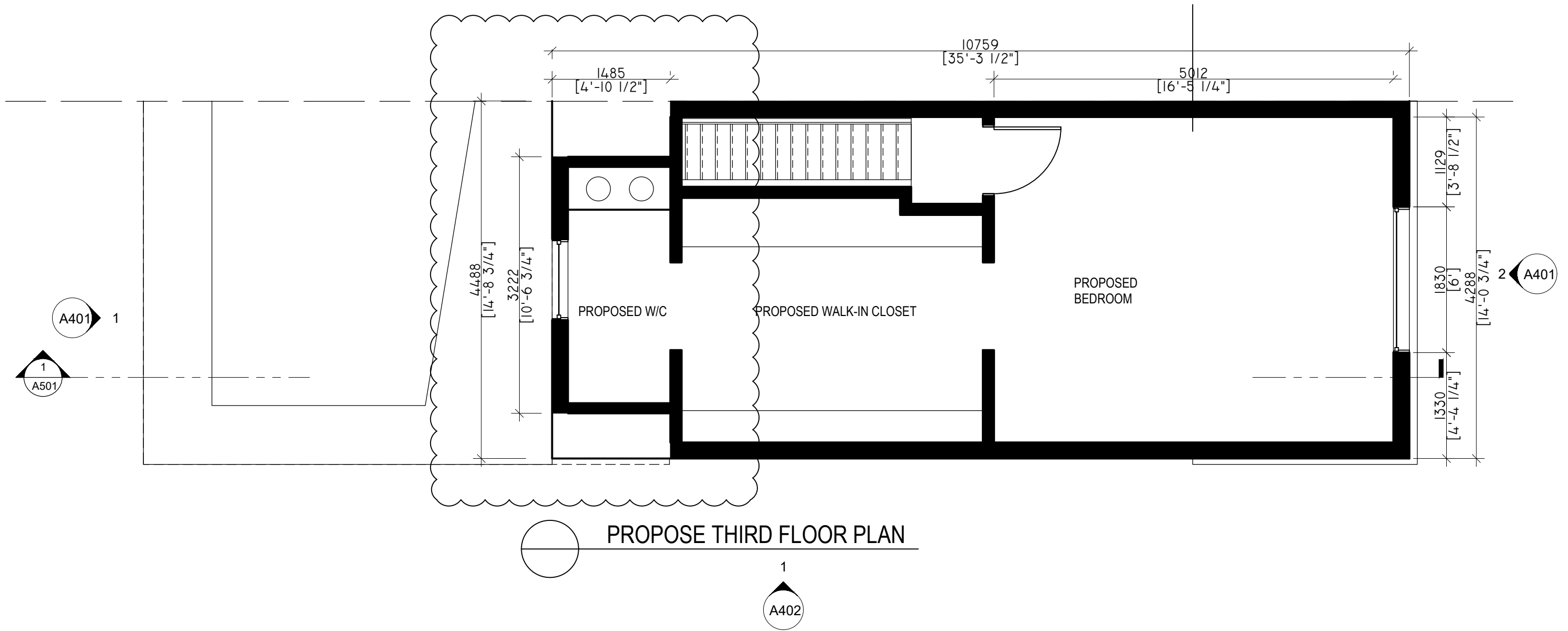
PROPOSED SECOND FLOOR



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93 Boston Addition Proposal
93 Boston Avenue
Toronto, ON



PROPOSE THIRD FLOOR PLAN

No.	DATE	DESCRIPTION

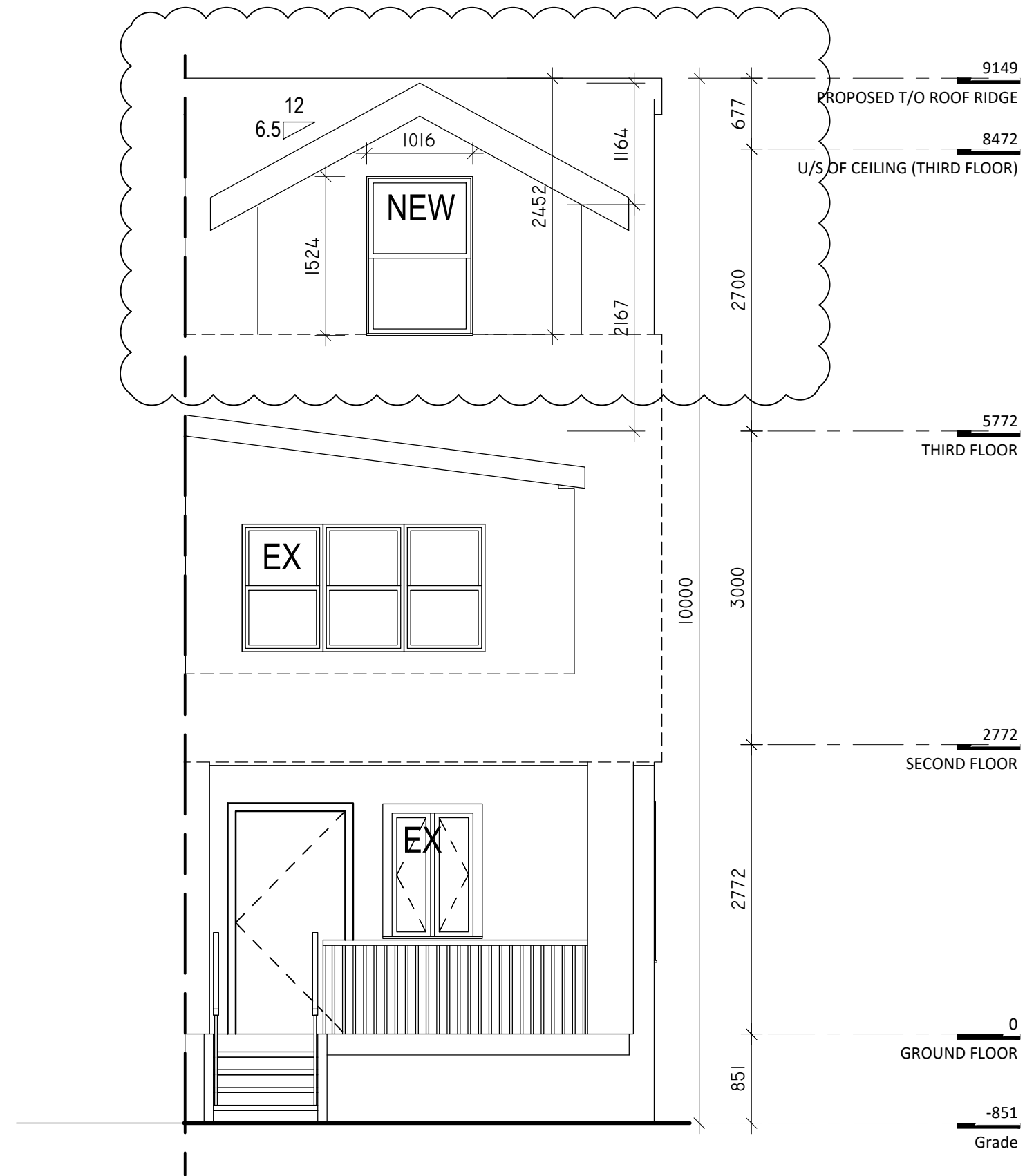
PROPOSED THIRD FLOOR



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93 Boston Addition Proposal
1701 93 Boston Avenue
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No.	DATE	DESCRIPTION

WEST ELEVATION

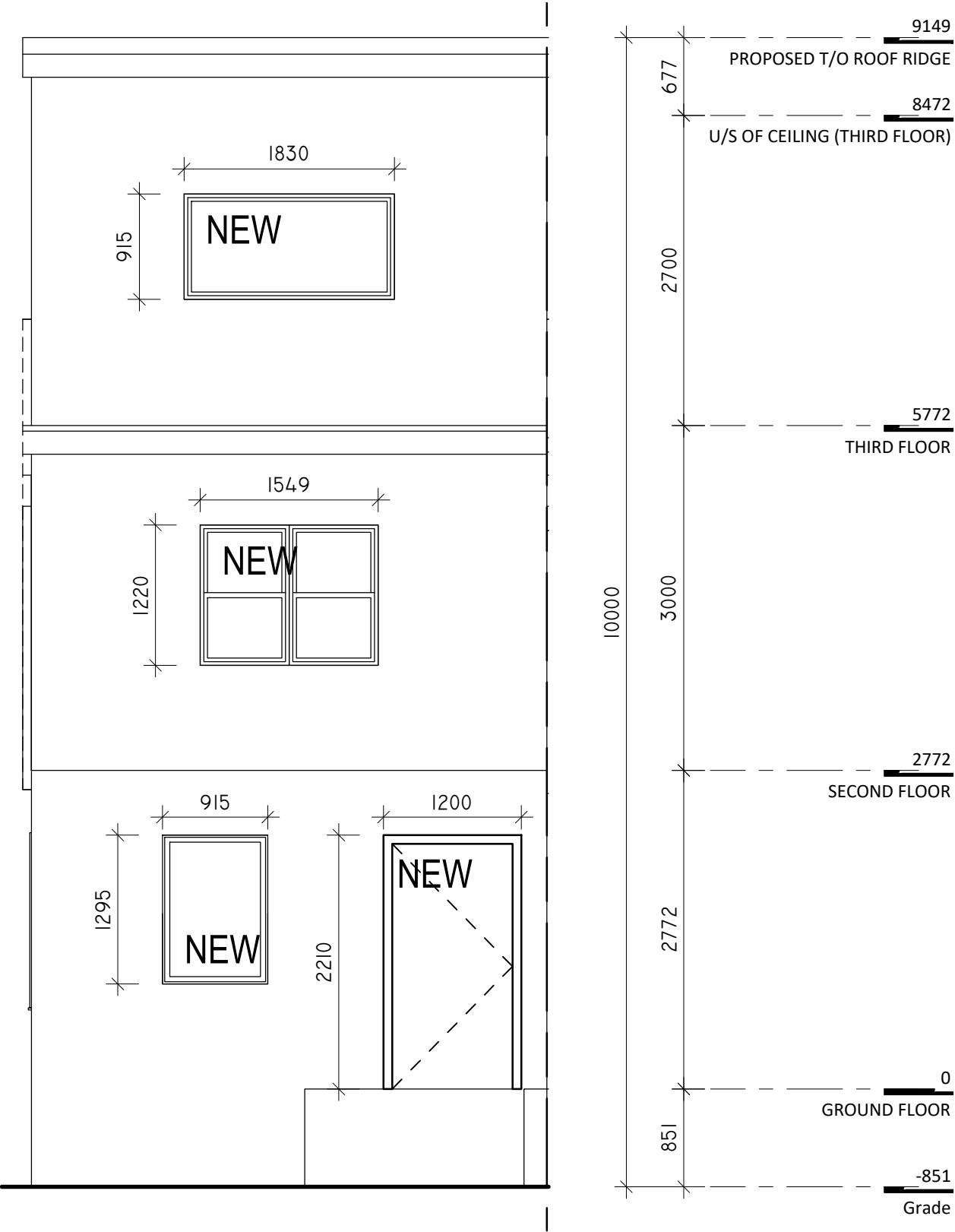


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93 Boston Addition Proposal
1701 93 Boston Avenue
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A402



No.	DATE	DESCRIPTION

EAST ELEVATION



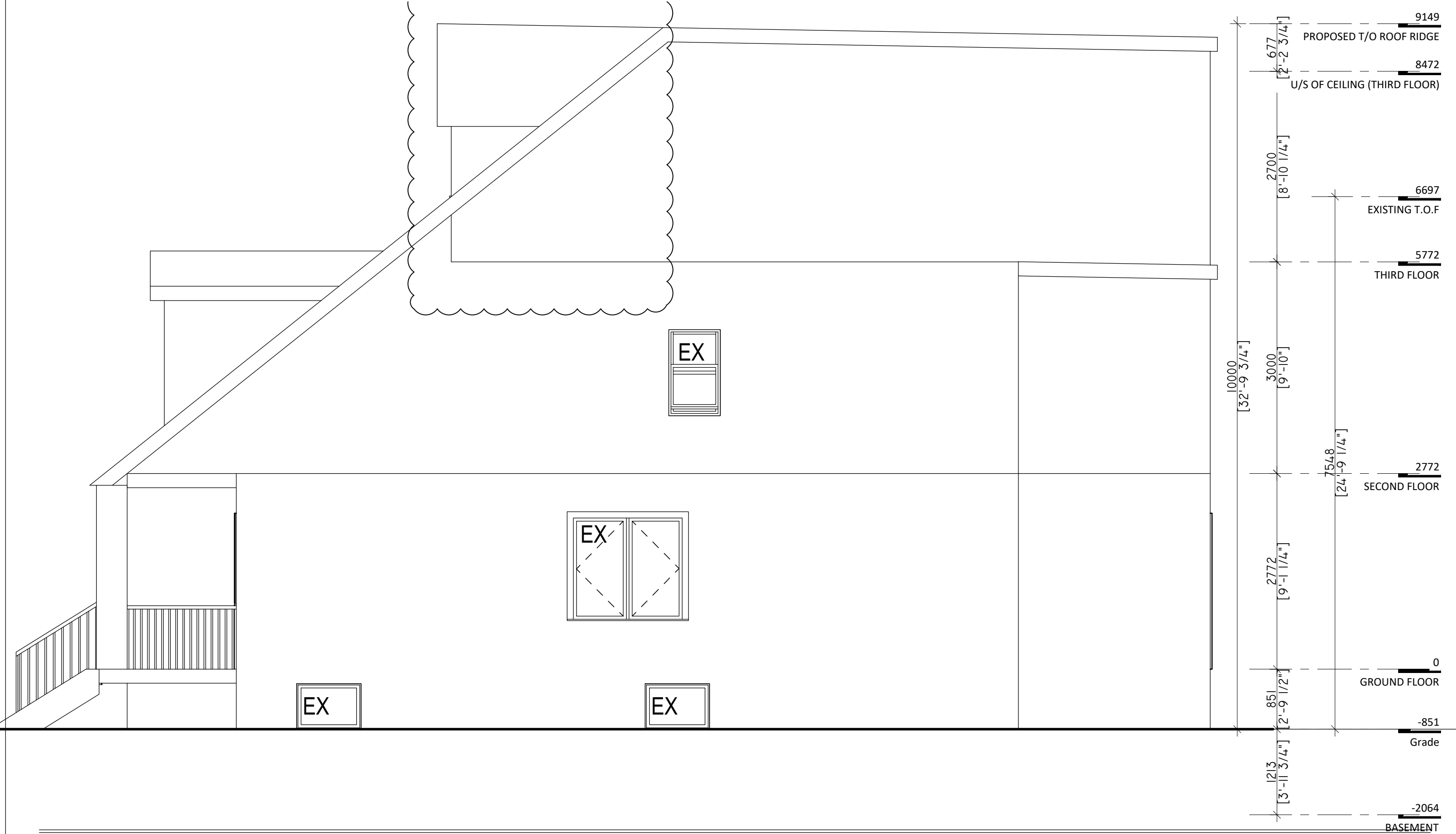
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Sheet #:

1701
05/07/17
A403

93 Boston Addition Proposal
93 Boston Avenue
Toronto, ON



No.	DATE	DESCRIPTION

SOUTH ELEVATION



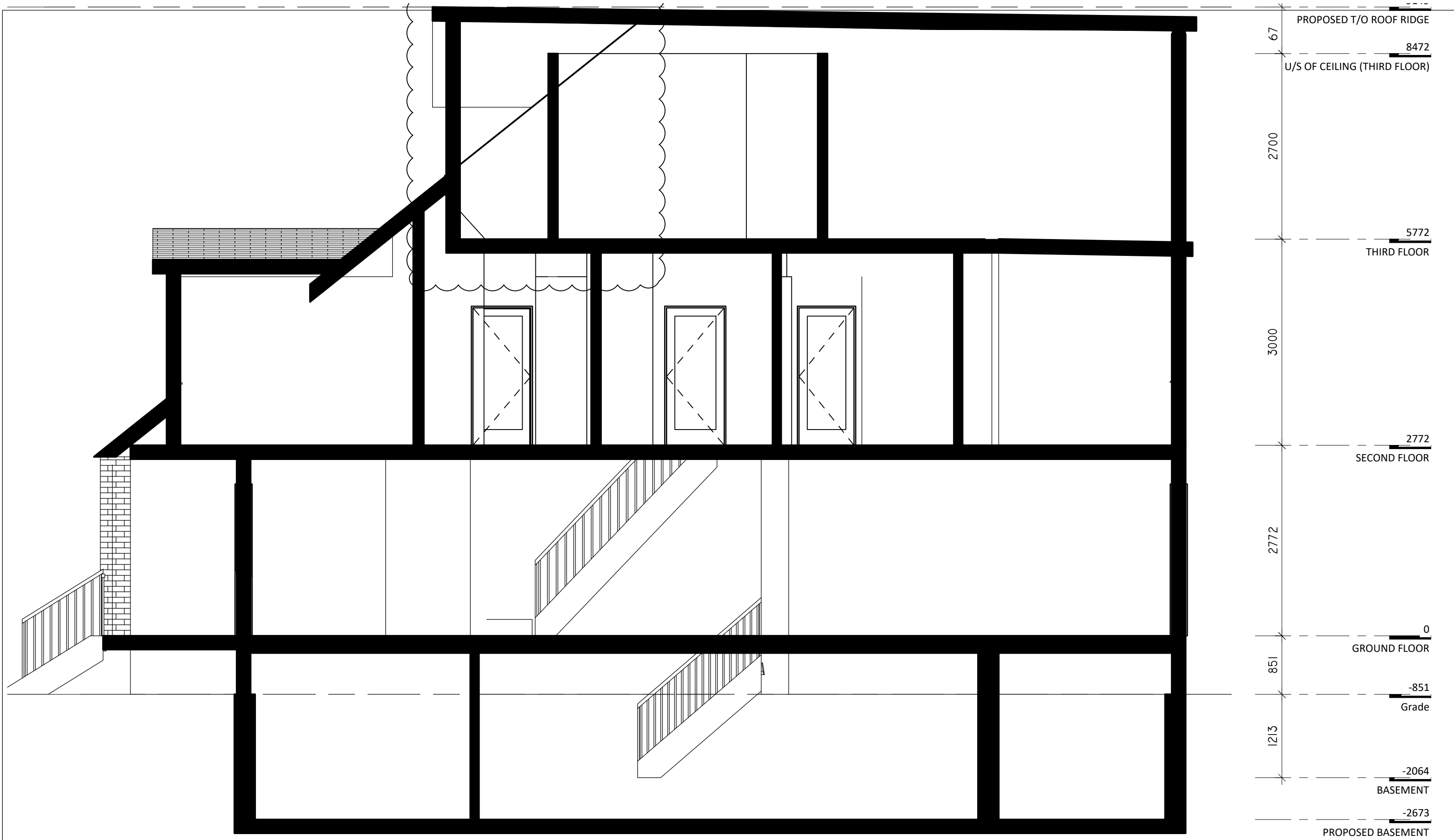
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1701
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A401

93 Boston Addition Proposal
93 Boston Avenue
Toronto, ON



No.	DATE	DESCRIPTION

SECTION



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Project #:
Date:
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93 Boston Addition Proposal
1701 93 Boston Avenue
05/07/17 Toronto, ON
A501