

## DECISION AND ORDER

**Decision Issue Date:** Thursday, May 31, 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): ROSMARIE MISHAIEL

Applicant: KIERAN JAMES RANDALL

Property Address/Description: 617 OSSINGTON AVE

Committee of Adjustment Case File Number: 17 158246 STE 19 MV (A0535/17TEY)

TLAB Case File Number: 17 267797 S45 19 TLAB

**Hearing date:** Thursday, May 24, 2018

**DECISION DELIVERED BY S. MAKUCH**

### APPEARANCES

**Name**

Owner - Rosmarie Mishaiel

Party- Christine Chow

## **INTRODUCTION**

This is an appeal of the refusal to grant minor variances for a front three story addition, a rear two story addition and a third story addition and a front basement walkout to an existing two story detached dwelling. It is opposed by the next door neighbour at 619 Ossington Ave.

## **BACKGROUND**

Planning staff opposed a variance related to soft landscaping at the front of the dwelling, objected to a front basement walk up and recommended a 17m restriction on the length of the third story addition. The appellant has made changes to the design to take into account staff's concerns. These changes are minor and do not require new notice. As a result the variances now being sought are found in Appendix 1 to this decision.

## **MATTERS IN ISSUE**

The only issues raised by Ms. Chow, the neighbour in opposition, are the blocking of two windows in her house and the closeness of the appellant's dwelling to her own.

## **JURISDICTION**

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.

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 [for the subject area \('Growth Plan'\)](#).

## **EVIDENCE**

Mr. R. Al-Rawi, an engineer who has been qualified to give planning evidence before the Ontario Municipal Board, gave evidence on behalf of the appellant that the

variances met the four test of the Planning Act. A neighbourhood study of variances was undertaken which provided evidence in support of this. The study was unchallenged. Photos were also presented to demonstrate that the variances would result in a dwelling which respected and reinforced the character of the Neighbourhood. The plans presented demonstrated that the dwelling would reflect staff's concerns. All this evidence can be found in Supporting Documentation on file with the TLAB.

Ms. Chow gave evidence that her ground floor window would be blocked by the front addition and that her second floor window, which is currently partially blocked would be further blocked by the third floor addition. However, her house, which is already three floors, is bright and she keeps her sheer curtains closed to reduce the sunlight. Her primary concern was access to her side wall for repair and maintenance.

### **ANALYSIS, FINDINGS, REASONS**

I have a great deal of sympathy for Ms. Chow's concerns but she recognized she was partially in an existing situation since the two dwellings are currently very close. Her dwelling is built to the property line. The additions will be largely within an existing building footprint. Moreover they do not, in my mind, detract from the use and enjoyment of Ms. Chow's property. They may cause some additional difficulty with respect to the maintenance of part of one wall, but that is a preexisting condition to some extent and is to be expected in this neighbourhood. The variances not only meet the general intent of the official plan and zoning bylaw as the study of variances presented as evidence demonstrates, but are minor and appropriate in this neighbourhood as many houses are extremely close together, as the photos in evidence show. There is no question raised of non-compliance with the PPS and the Growth Plan.

### **DECISION AND ORDER**

The variances set out in Appendix 1 are approved subject to the condition that construction is substantially in accordance with the plans attached as Appendix 2.

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S. Makuch

Panel Chair, Toronto Local Appeal

## APPENDIX 1

### Revised List of Variances – 617 Ossington Ave

City-wide Zoning By-law No. 569-2013 Property zoned R (d0.60 (x735)

1. 10.10.40.70. (4) (A) Reduced Minimum Side Yard for Walls with No Windows or Doors on Specified Buildings. The required minimum side yard setback for a detached house is 0.45 metres.

The proposed three storey front and rear additions will have a side yard setback of 0.43 metres on the north side and 0.33 metres on the south side.

2. 10.10.40.30. (1) (A) Maximum Building Depth. The permitted maximum building depth for a detached house is 17.00 metres.

The proposed three storey rear addition will increase the overall building depth to 21.60 metres.

3. 10.10.40.10. (2)(B)(ii) Maximum Height of Specified Pairs of Main Walls. The permitted maximum height of all side exterior main walls facing a side lot line is 7.50 metres.

The height of the side exterior main walls facing a side lot line for the proposed three storey front and rear additions is 10 metres.

4. 10.10.40.40. (1)(A) Floor Space Index. The permitted maximum floor space index is 0.60 times the area of the lot: 105.68 square metres.

The proposed three storey front and rear additions will increase the existing floor space index to 1.17 times the area of the lot: 206 square metres.

#### Zoning by-law

The subject property is located in the former municipality of Toronto and is subject to Zoning, as amended.

Based on Zoning By-law No. 438-86, the property is zoned R2 Z0.6.

Toronto Zoning By-law No. 438-86

5. 6(3) Part II 3(I) - Setback from Adjacent Building without Openings. The by-law requires a building to be located no closer than 0.90 metres to the side wall of an adjacent building that contains no openings.

The proposed three storey front and rear additions will be located 0.33 metres from the adjacent building on the south side.

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6. [6(3) Part II 3.B (I) - Side Lot line Setback, 0.45 m Min (Depth Not Exceeding 17 M, Walls No Openings). The by-law requires a detached house in a R2 district to have a minimum side lot line setback of 0.45 metres for a depth not exceeding 17.00 metres where the side walls contain no openings.

The proposed three storey front addition will have a side lot line setback of 0.43 metres on the north side and 0.33 metres on the south side.

7. 6(3) Part II 3.B (II) - Side Lot line Setback, 7.5 m Min (Depth Exceeding 17 M). The by-law requires a detached house in an R2 district, to have a minimum side lot line setback of 7.50 metres from the side lot line for that portion of the building exceeding 17.00 metres in depth.

The proposed three storey rear addition exceeds the permitted building depth by 4.60 metres and will have a side lot line setback of 0.43 metres on the north side and 0.33 metres on the south side.

8. 6(3) Part II 3(II) - Setback From Adjacent Building With Openings The by-law requires that the proposed building be located no closer than 1.20 metres to the portion of the side wall of an adjacent building that contains openings.

The proposed three storey front and rear additions will be located 0.43 metres from the adjacent building on the north side.

9. 6(3) Part I 1 - Residential Gross Floor Area. The by-law limits the residential gross floor area in an area zoned 0.6 to 0.60 times the area of the lot: 105.68 square metres.

The proposed three storey front and rear additions will increase the existing residential gross floor area of the building to 1.17 times the area of the lot: 206 square metres.

## **APPENDIX 2**

LAB Drawings for 617 Ossington Ave  
May 2018

# **Project Statistics**

Address: [617 Ossington Ave, Toronto](#) Front setback: 3.04 m  
North side setback: 0.43 m  
South side setback: 0.33 m

Rear setback: 10.96 m  
Building length: 24.95 m  
Project height: 10.0 m  
Basement area: 62.1 m  
First floor area: 76.94 m<sup>2</sup>  
Second floor area: 81.97 m<sup>2</sup>  
Third floor area: 46.7 m<sup>2</sup>  
Total area (excluding basement): 205.61 m<sup>2</sup>

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Zoning label: R (d0.6) (x735)  
Address on survey: parts of lots 47&48 block 1 registered plan D  
– 198 city of Toronto  
Lot area: 176.13 m<sup>2</sup>  
Green roof area: 81.13 m<sup>2</sup>  
Cold roof area: 17.48 m<sup>2</sup>  
Lot coverage: 83.6 m<sup>2</sup> (house) +27.7 m<sup>2</sup> (garage) = 111.3 m<sup>2</sup>  
Front landscaped area: 13.8 m<sup>2</sup>  
Front soft landscaped area: 10.8 m<sup>2</sup>  
Front hard landscaped area: 3.0 m<sup>2</sup>  
Rear landscaped area: 20.83 m<sup>2</sup>  
Garage area: 27.7 m<sup>2</sup>

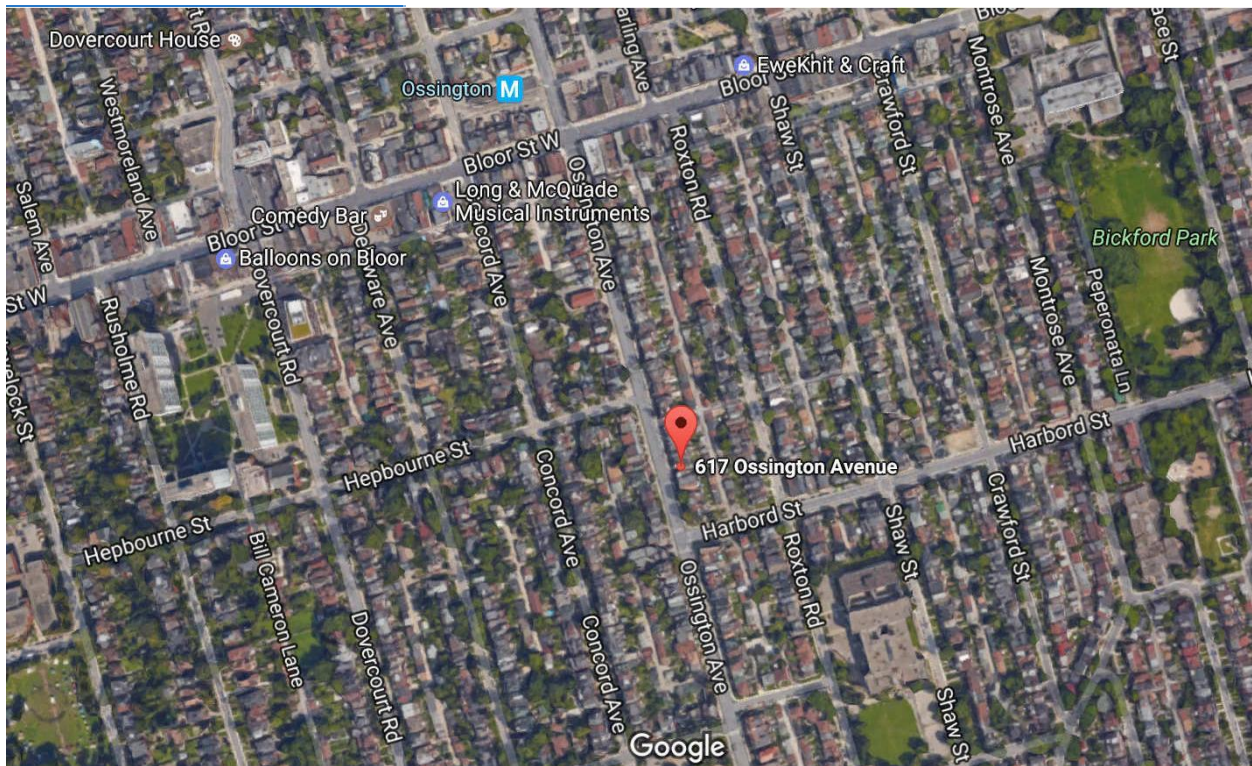
## Project Description

Property Address: 617 Ossington Ave

A residential addition to an existing residential detached house. The addition consists of a three-story addition at the front and a second story addition over an existing infill area on level one already enclosed.

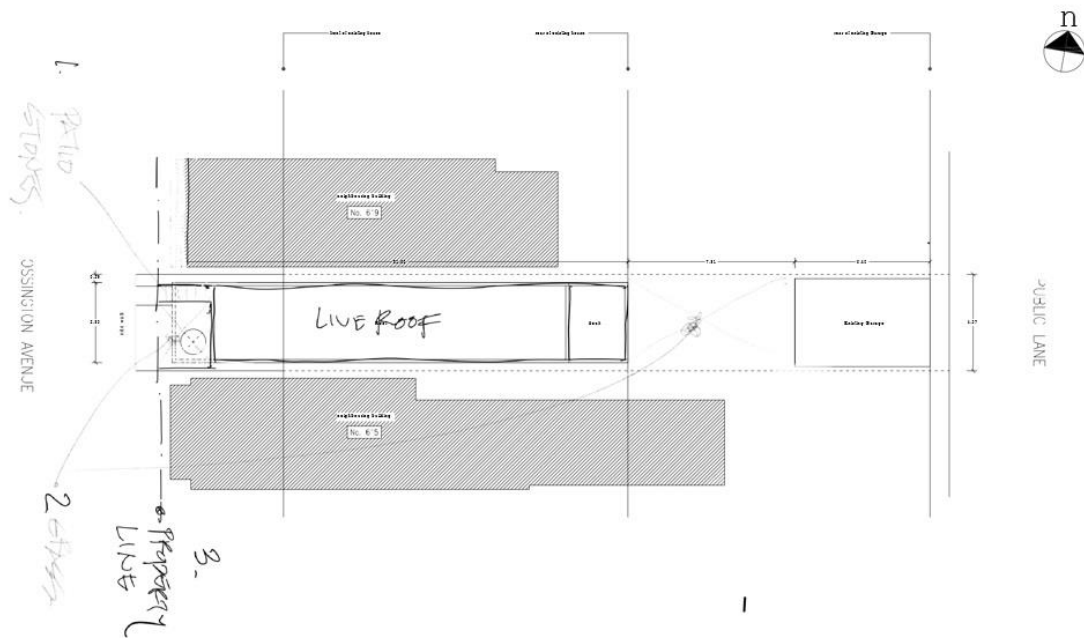
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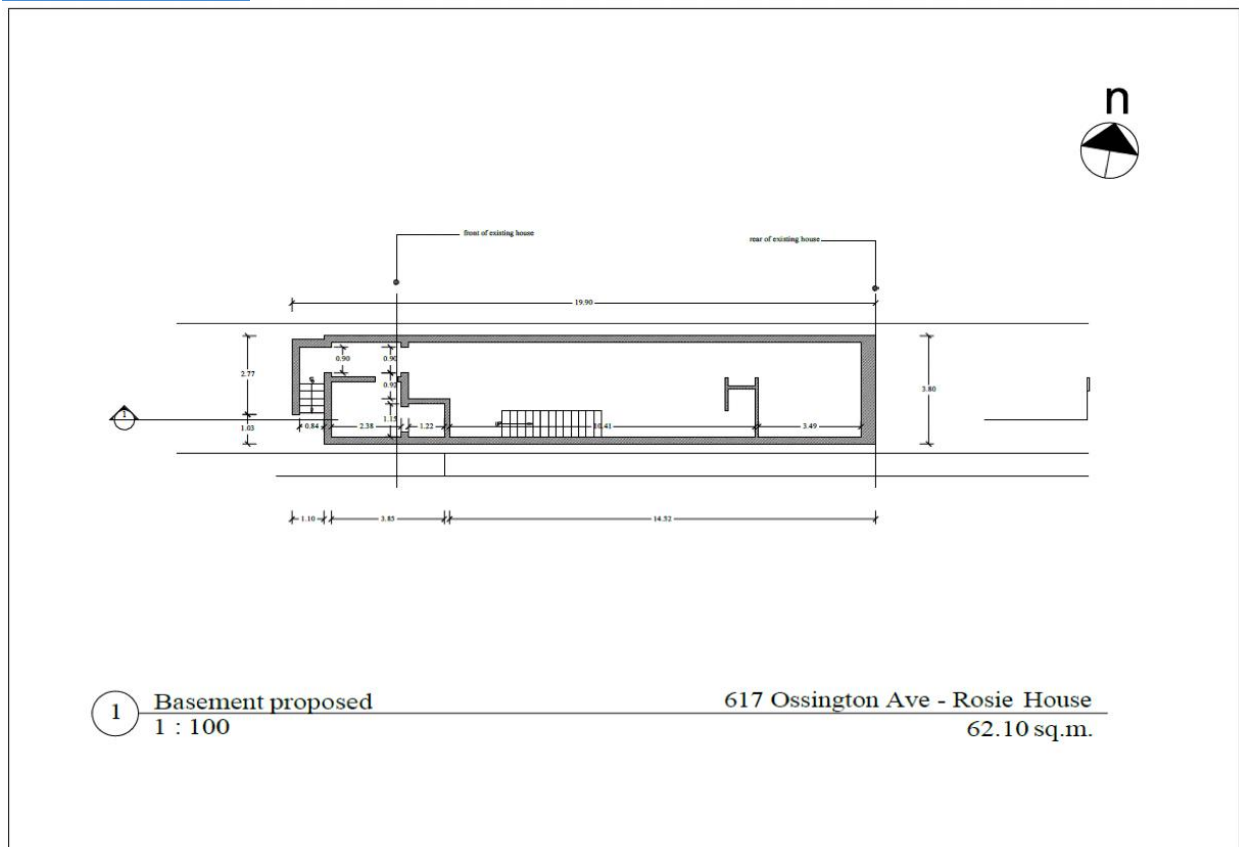
1 Site Plan Proposed  
1 : 200

617 Ossington Ave - Rosie House

2

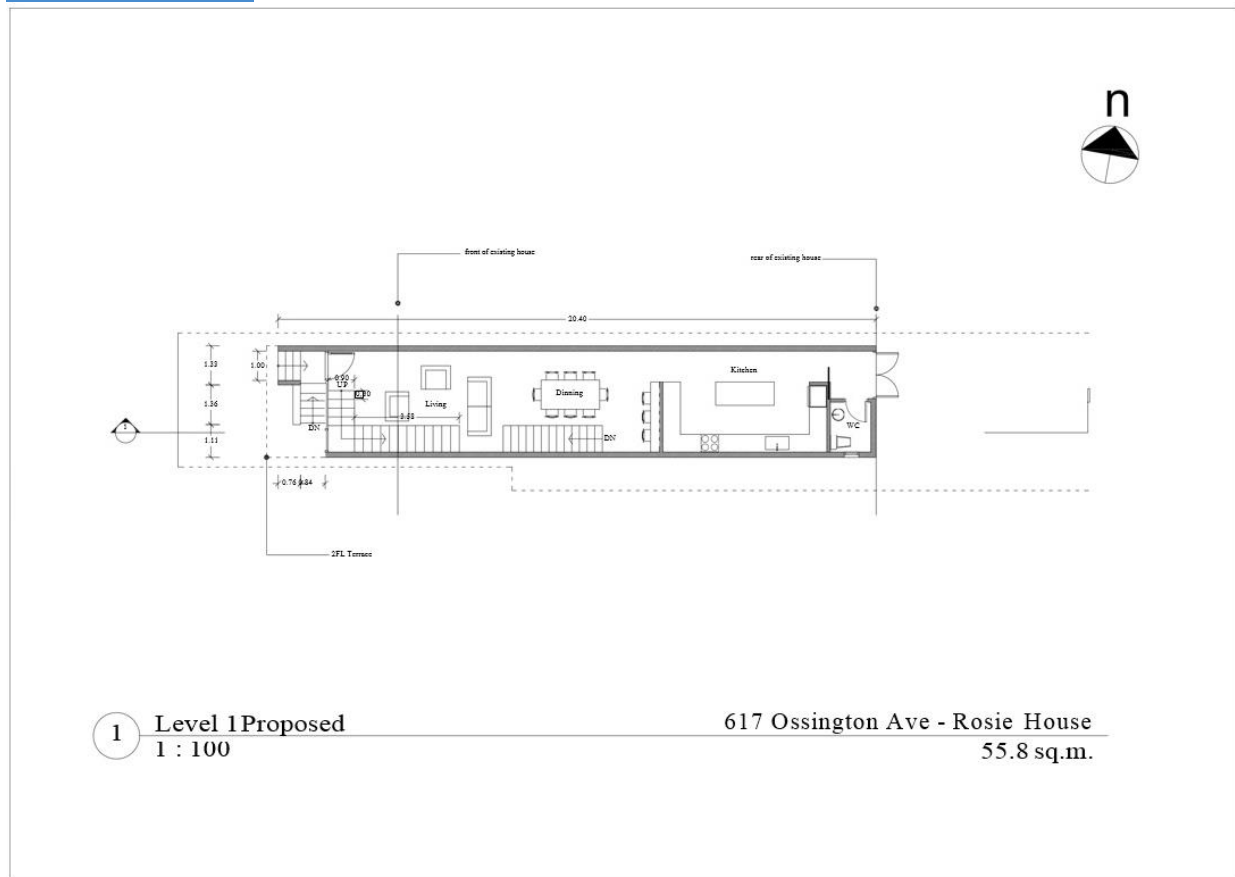
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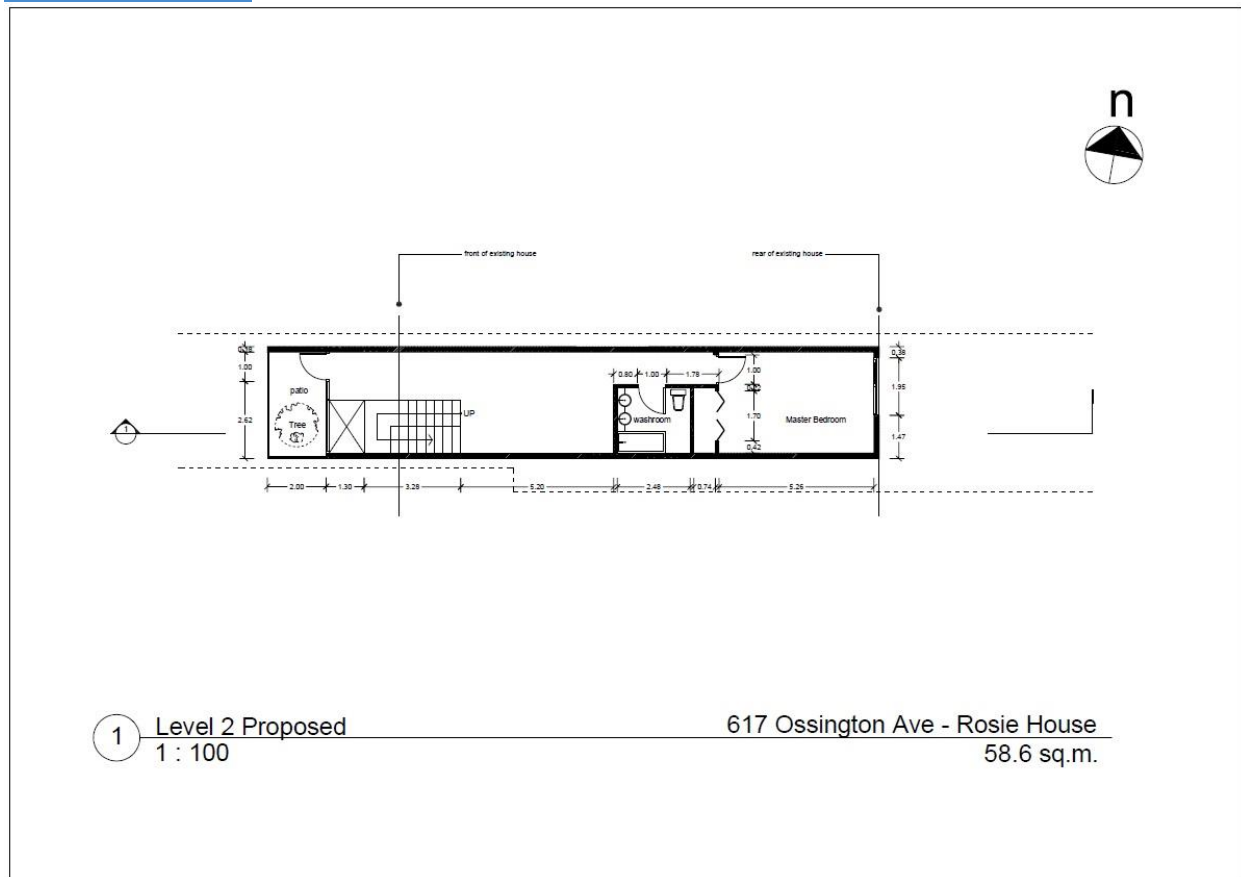
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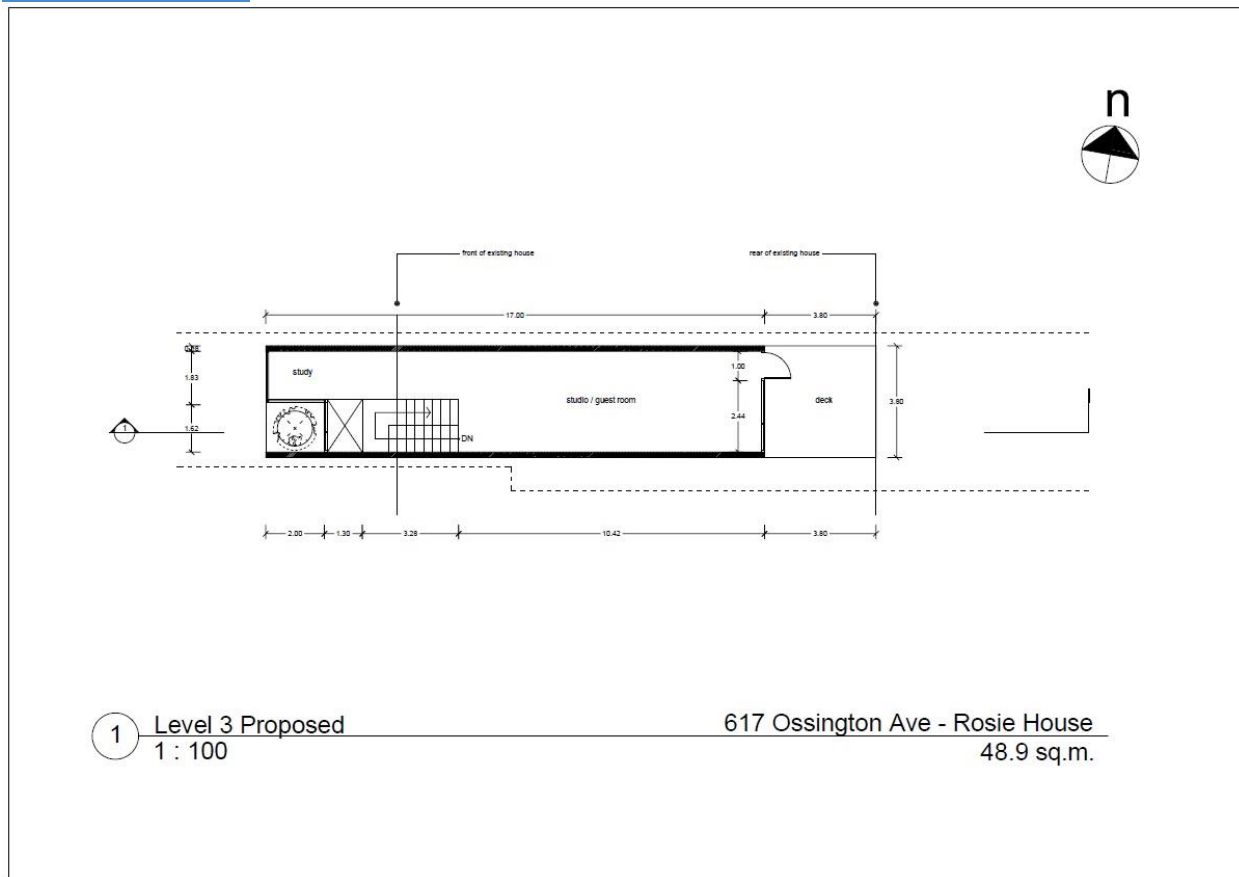
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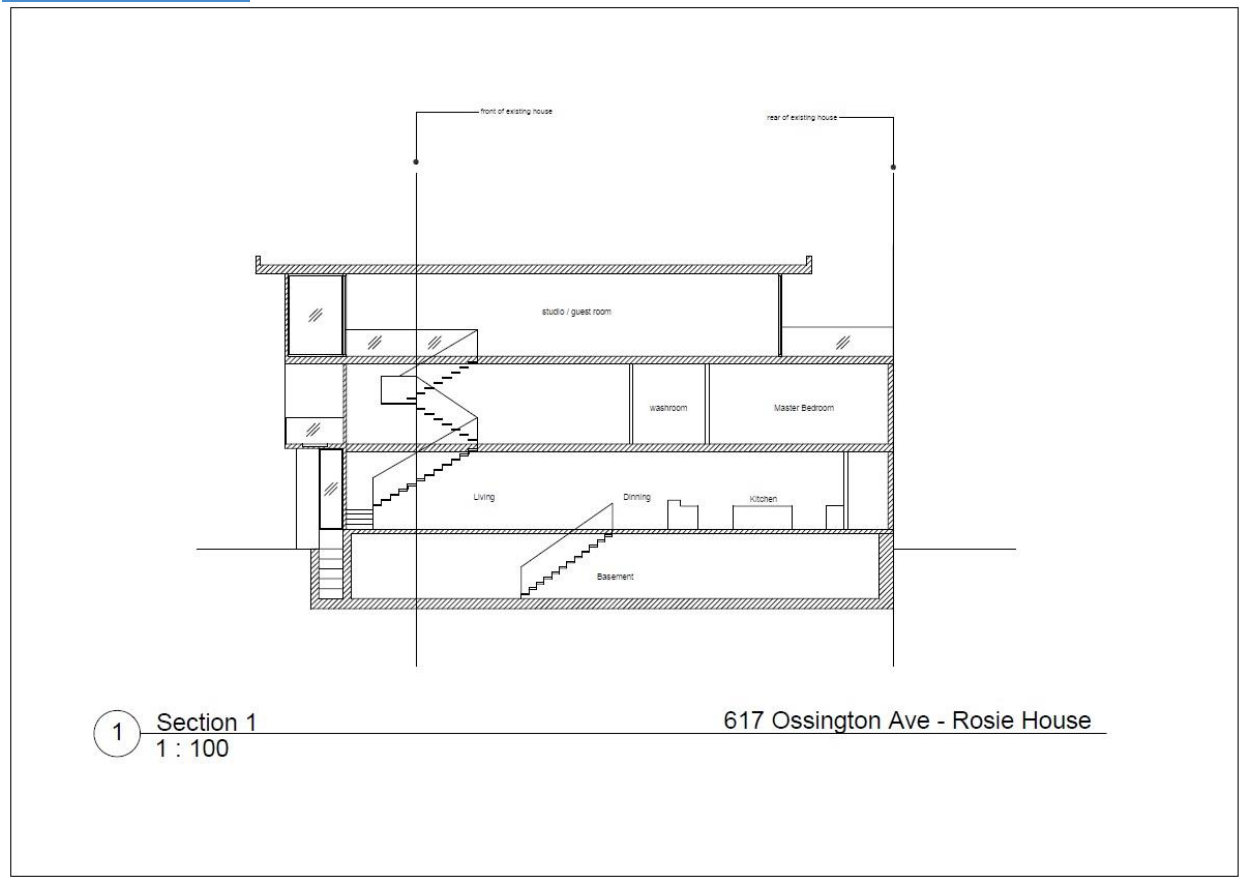
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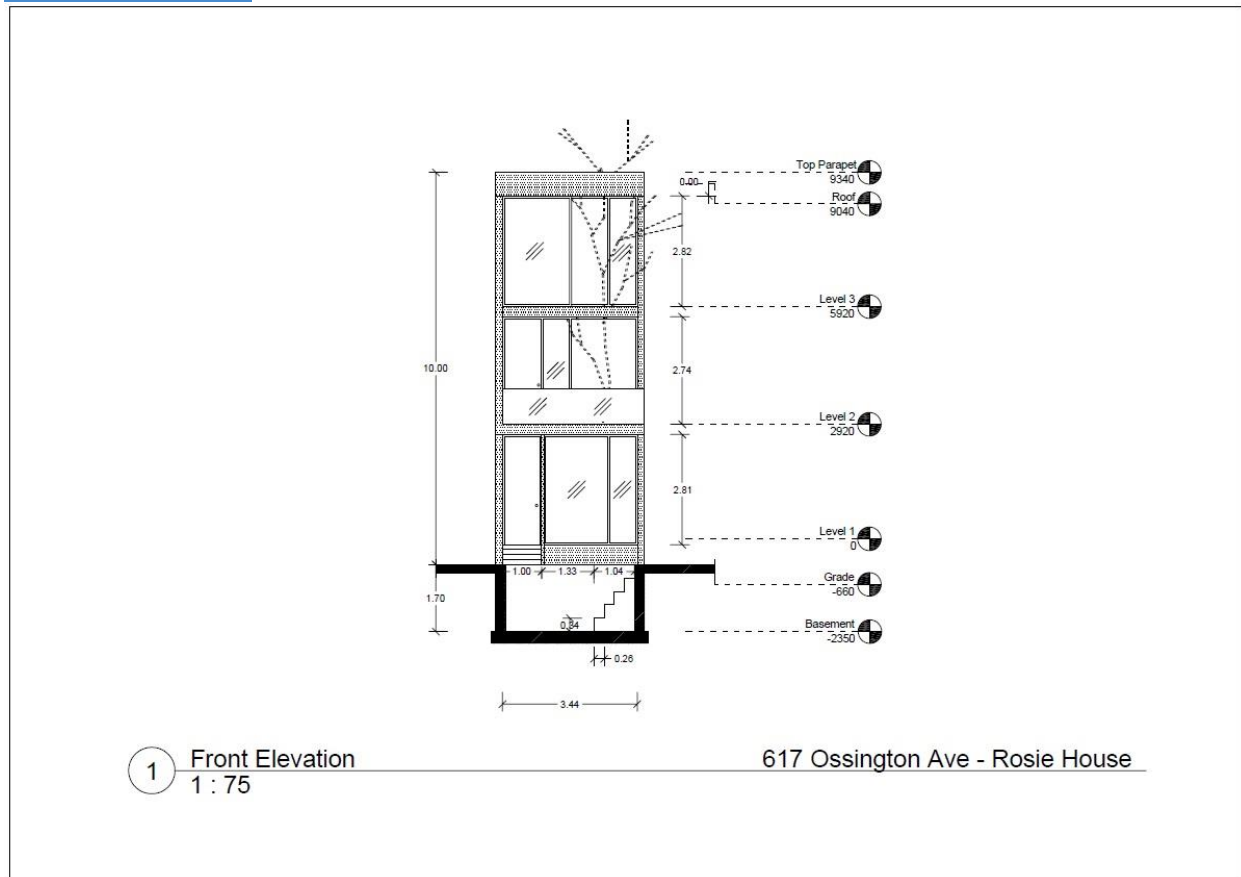
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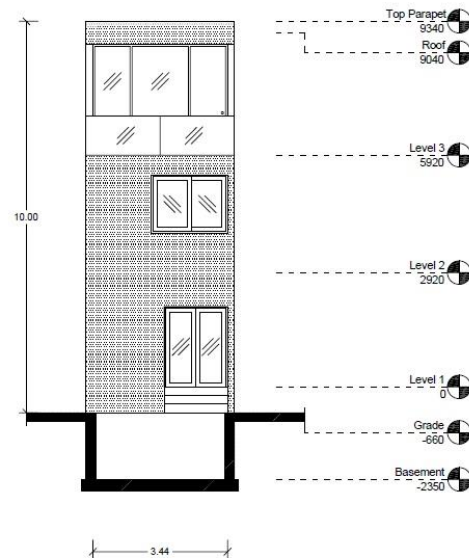
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1 Back Elevation  
1 : 75

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