Toronto Local Appeal Body

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DECISION AND ORDER

Decision Issue Date Friday, June 08, 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): HALINA LULKO

Applicant: EMMA TSIMERMAN

Property Address/Description: 146 BROOKSIDE AVE

Committee of Adjustment Case File Number: 17 273106 WET 13 MV

TLAB Case File Number: **18 126703 S45 13 TLAB**

Motion Hearing date: Tuesday, May 22, 2018

DECISION DELIVERED BY D. Lombardi

APPEARANCES

Name	Role	Representative
Martin Mazierski	Party's Legal Representative	
Halina Lulko	Appellant	
Michael Krubnik	Party	
Vitold Noga	Party	

INTRODUCTION AND BACKGROUND

On February 22, 2018, the Committee of Adjustment (the "COA") approved the following Minor Variance to permit the construction of a rear two-storey addition, a rear second storey addition and a rear deck in COA Application A1028/17/EYK, respecting 146 Brookside Avenue (subject property), based on Site Plan drawings prepared by E.S.T. Design Consultants Inc. (Drawings D1-D9, dated Nov. 2, 2017 and Drawing D11 dated Dec. 20, 2017):

1. **Section 10.80.40.40.(1) (A), By-law 569-2013**
   The maximum permitted floor space index is 0.6 times the area of the lot (100.20 m^2).
   The altered dwelling will have a floor space index equal to 0.77 times the area of the lot (127 m^2).

The decision was subject to the following condition(s):

The applicant shall submit an application for permit to injure or remove trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article III.

Mrs. Halina Lulko (Appellant), the property owner at 148 Brookside Avenue, filed a Notice of Appeal of the Variance Decision on March 8, 2018 (Form 1), to the Toronto Local Appeal Body (TLAB).

In response to the Notice of Appeal, the TLAB set a hearing date of August 8, 2018 to hear the appeal.

The TLAB set the following dates for the filing of submissions in accordance with the Rules of Practice and Procedure (the "Rules"):

- **Applicant Disclosure** as per Rule 11 (Form 3) **DUE** no later than May 4, 2018;
- **Notice of Intention** to be a Party as per Rule 12 (Form 4) **DUE** no later than May 9, 2018; or
- **Notice of Intention** to be a Participant as per Rule 13 (Form 4) **DUE** no later than May 9, 2018;
- **Document Disclosure** as per Rule 16 **DUE** no later than May 22, 2018;
- **Witness Statement** as per Rule 16.4 (Form 12) **DUE** no later than June 4, 2018;
- **Participant Statement** as per Rule 16.5 (Form 13) **DUE** no later than June 4, 2018;
- **Expert Witness Statement** as per Rule 16.6 (Form 14) **DUE** no later than June 4, 2018; and
- **Notice of Motion** as per Rule 17 (Form 7) **DUE** no later than June 25, 2018.

On May 5, 2018, the Applicant's solicitor, Martin Mazierski, filed a Notice of Motion (Form 7) seeking an order from TLAB for the following, pursuant to the provisions of Rule 9.1 a) of the TLAB's Rules:

I. Dismissal of the appeal (file # 18 126703 S45 13 TLAB) without a hearing;
II. In the event that the dismissal order requested above is not granted and the decision to this motion is not provided to the parties orally on the motion hearing date (May 22, 2018), an order setting the deadline for filing an expert witness statement (currently set for June 4, 2018 as per TLAB Rule 16.6) at 14 days after the decision on this motion is issued; and
III. Such further and other relief as counsel may request and the TLAB may permit.

The basis upon which the Motion was filed was threefold: the Appellant's Notice of Appeal is deficient in that it does not disclose any land uses planning grounds upon which TLAB could allow all or part of the appeal; the 3 objections in the Notice of Appeal fail to properly challenge the application's consistency with any of the tests listed under Section 45(1) of the *Planning Act* (Act); and, Objection Two in the Notice of Appeal, which addresses the issue of snow load, is outside the jurisdiction of planning legislation and the TLAB's authority.

MATTERS IN ISSUE

Preliminary Matters

Prior to proceeding to address the main Motion at issue at the hearing, the Applicant's solicitor raised a preliminary matter dealing with one of the Parties in attendance.

Mr. Mazierski briefly provided a chronological history of the Notice of Motion, highlighting that he filed the Notice with TLAB on May 5, 2018 using Form 7 as per TLAB Rule 17.2. He noted that the Notice of Motion document was formally received by TLAB on May 7, 2018, which he indicated was fifteen (15) days prior to the Motion Hearing Date of May 22, 2018.

Mr. Mazierski confirmed that Notice of Motion materials were served on all parties listed on TLAB's Notice of Hearing mailing list. He acknowledged that this was done prior to the expiration date for parties filing an intention to be a party for the hearing and noted that the Notice of Intention to be a Party was due on May 9, 208, two (2) days after the official date for filing a motion.

He noted that the Applicant had not received a response to the Notice of Motion from the Appellant or her representative with respect to that motion.

He further noted that he did not serve Mr. Vitold Noga, identified as both a Party and a Participant in this proceeding, with Form 7 within the fifteen (15) day requirement, and he conceded that it was an oversight on his part.

However, he stated that this oversight was due to Mr. Noga's name being absent from the TLAB mailing list. Mr. Mazierski referred to Ms. Robin Lloyd's (property owner) Affidavit (Form 10), dated May 15, 2018, to explain the circumstances of this oversight.

Ms. Lloyd's Affidavit confirmed that Mr. Noga failed to serve his Notice of Intention to be a Party either on the owner or her legal representative, Mr. Masierski, via email or other means, despite the owner's party status declaration.

At the time Mr. Mazierski filed a Notice of Motion to dismiss the hearing on May 5, 2018, he was not aware of Mr. Noga's Notice of Intention to be a Party when servicing the Notice of Motion, nor did he anticipate it, as Mr. Noga was not on TLAB's Notice of Hearing mailing list

Nevertheless, Mr. Mazierski acknowledged that he remedied this oversight through a subsequent mailing of the requisite Notice to Mr. Noga on May 14, 2018 (Exhibit D).

In further addressing this matter, Mr. Mazierski opined that this situation will not prejudice the parties participating in the hearing since he submitted that Mr. Noga does not have standing to be a full party to this hearing, for the following reasons:

- Mr. Noga is not a resident of the neighbourhood in which the subject property is situated and, in fact, resides in the City of Mississauga. In addition, Mr. Noga is the Appellant's brother;
- Mr. Noga was given direction by the TLAB staff to file a Notice of Intention to be a Party (Form 4) even though his connection to the matter is remote; and
- Mr. Krubnik filed a Notice of Intention to be a Party on Mr. Noga's behalf in an abundance of caution to protect Mr. Noga's right to give evidence at the hearing on merits.

In addressing the issue of Mr. Noga's standing in the hearing, Mr. Mazierski referenced Rule 12.1 which addresses party election at a hearing. He noted that the Rule states:

"Persons who receive a Notice of Hearing from the Local Appeal Body and who wish to be a Party, and Persons entitled by law to be a Party, shall disclose their intention to be a Party to the Local Appeal Body."

Mr. Mazierski submitted that Rule 12.1 does not state that receiving a Notice of Hearing overrides a 'lack of entitlement' and, in this matter, Mr. Noga is not entitled by law to be a party or have standing. In arguing this proposition, Mr. Mazierski referred to TLAB Rule 12.4, noting that the wording of this Rule is largely reflective of wording of section 45(12) of the *Act* in addressing who may initiate an appeal ,and deals primarily with what constitutes a person's '*interest in the matter*'.

He submitted that Rule 12.4 identifies three factors in deciding whether a person's status as a party to a proceeding should be denied, at any time, by TLAB:

a. Whether the person's interests may be directly and substantially affected by the proceeding or its result;
b. Whether the person has a genuine interest, whether public or private, in the subject matter of the proceeding; and
c. Whether the person is likely to make a relevant contribution to the Local Appeal Body's understanding of the issues in the proceeding.

In discussing each of these factors, Mr. Mazierski submitted the following:

- 12.4 a) – Mr. Noga's interest in this matter is completely '*derivative*' of the interests of the Appellant (his sister, who is already a party to the hearing);
- 12.4 b) – Mr. Noga's interest is not direct in this matter. Mr. Mazierski questioned whether Mr. Noga has a genuine interest in this application as required in Rule 12.4 b); and
- Mr. Noga is not likely to make a relevant contribution to the TLAB's understanding of the issues in this proceeding. Mr. Mazierski's proposition on this question is addressed more directly later in this decision.

Mr. Mazierski provided case law as guidance in addressing the factors outlined in TLAB Rule 12.4. He submitted three Ontario Municipal Board Decisions ("OMB") which were identified as exhibits:

1. **Exhibit A** – *Victoria Wood Development Corporation v. Jan Davies Ltd. 1979 CarswellOnt 900 2A.C.W.S. 348, 10 O.M.B.R. 47, 25 O.R. (2d) 774*
2. **Exhibit B** – *Campbell v. Collingwood (Town) Committee of Adjustment, 1995 CarswellOnt 5300, (1955) O.M.B.D No. 1799, 33 O.M.B.R. 1.*
3. **Exhibit C** – *Planke, Re, 2007 CarswellOnt 2651, (2007) O.M.B.D. No. 404, 56 O.M.B.R. 39.*

In summary, all three OMB cases deal with appeals of minor variance applications as well as who can be a party in a hearing and how that test relates to a party's 'geographic proximity' to an applicant's location.

In each case, the Board dismissed the appeal based on the general notion that for a respondent in the case to claim to be a "person having an interest in the matter," it would be necessary for it to establish some geographic proximity to the subject lands.

Mr. Mazierski submitted that Mr. Noga cannot be a party in this hearing because he lacks 'geographical proximity' to the subject property. He noted that the Notice of Intention to be a Party (Form 4) listed Mr. Noga's address as 4365 Forest Fire Lane in Mississauga, which is approximately 12 kilometers from the subject property.

As to the issue of whether Mr. Noga is likely to make a relevant contribution to the TLAB's understanding of the issues in this proceeding, Mr. Mazierski questioned whether Mr. Noga was going to provide any relevant contributions to the hearing from the perspective that is unique from one that is purely derivative of Ms. Lulko's property ownership interests.

Mr. Mazierski submitted that all of the filings in this matter have come from Mr. Krubnik, and a lack of filing of materials from Mr. Noga in this proceeding is a likely indicator that no filings are forthcoming in the future. Mr. Mazierski again opined that the probable intent of Mr. Noga filing a Notice of Intention to be a Party was to protect his ability to provide witness testimony in the hearing.

On consent, the Appellant, Mr. Krubnik and Mr. Noga agreed that Mr. Noga would relinquish his role as a party or participant in this hearing, premised on the understanding that the Mr. Noga could provide witness testimony at the full hearing subject to the submission of a witness statement as per TLAB Rule 16.4.

I directed Mr. Noga to serve a notice on all parties and participants as well as to TLAB at the earliest possible date, pursuant to TLAB Rule 12.5, to affect this material change in status, in effect resulting in Mr. Noga relinquishing his status as a party or participant in this hearing.

Main Motion

The Applicant's grounds for a dismissal of the appeal without a hearing are founded on TLAB Rule 9.1 a). The Rule states:

9.1) "In the case of an Appeal under subsection 45(12) of the Planning Act the Local Appeal Body may propose to, upon Motion, dismiss all or part of a Proceeding without a Hearing on the grounds that:

> *a) The reasons set out in Form 1 do not disclose any apparent land use planning ground upon which the Local Appeal Body could allow all or part of the Appeal.*

In the Notice of Appeal (Form 1) filed with TLAB on March 8, 2018, the Appellant listed the following reasons and grounds for her appeal:

1) I contest the Committee of Adjustment Decision under Section 10.80.40.40(1)(A), By-law 569-2013. The maximum permitted Floor Space Index of 0.6 m. and the approved are of 0.77 times the lot area;
2) This will be the only two-storey addition on this side of the street and it directly affects adjacent property at 148 Brookside Avenue; and
3) Both 146 and 148 Brookside Ave. are joint semi-detached homes with flat roofs at the rear. By allowing this addition it creates a snow loading condition on the flat roof at 148 Brookside Ave.

Mr. Mazierski submitted that the Appellant's failure to provide planning grounds for the appeal in Form 1 grants TLAB the authority to dismiss the appeal under TLAB Rule 9.1 a), as well as under the nearly verbatim language of subsection 45(17)(a)(i) of the *Planning Act.*

Mr. Mazierski opined that the wording of TLAB Rule 9.1 a) is also consistent with subsections 51(53)(a)(i) and 53(3)(a)(i) of the *Planning Act*, as well as the language

formerly employed (prior to the changes brought about by Bill 139) under subsections 17(45)(a)(i), 34(25)(a)(i), and 47(11) of the *Act*, making any precedents under those provisions applicable to this particular motion.

In referencing the Appellant`s Notice of Appeal (Form 1), Mr. Mazierski noted that the Appellant attempted to enumerate grounds for the appeal in Paragraphs 2 and 3 under Part 6 (which hereinafter will be referred to as 'Objection One' and 'Objection Two'. respectively). However, he questioned the relevance of Paragraph 1 in Part 6 of Form 1, as the Appellant merely names the subject minor variance being requested by the Applicant and states that it is being contested.

Mr. Mazierski submitted that neither Objection One nor Objection Two disclose any land use planning grounds upon which TLAB could allow all or part of the appeal. In support of this proposition, Mr. Mazierski referenced the Affidavit (Form 10) of Theodore Cieciura (Exhibit K), a professional land use planner retainer by the Applicant to provide an affidavit opinion in this regard.

In his Affidavit, Mr. Cieciura opined that the reasons set out in the Notice of Appeal do not disclose any apparent land use planning grounds upon which the TLAB could allow all or part of the appeal by overturning the decision of the COA.

Further, Mr. Cieciura's Affidavit notes that with respect to Objection One, the Appellant has:

- *Failed to properly challenge the application's consistency with any of the tests listed under Section 45(1) of the Planning Act;*
- *Failed to tie Objection One to any land use provisions;*
- *Made Objection One too narrow in focus to translate to a neighbourhood concern under the Official Plan; and*
- *Made Objection One a general comment about effect but failed to identify any unacceptable impact on abutting properties.*

In addition to Mr. Cieciura's Affidavit, Mr. Mazierski provided numerous (28 in total) precedents in case law for guidance. These are identified in Exhibit E, attached as Attachment 1, forming documentary evidence submitted to TLAB in the form of the Applicant's Notice of Motion (Form 7), Part 4 (Documents 1 to 28).

Mr. Mazierski cited many of these cases in his review of the deficiencies in each of the Objections listed in the Notice of Appeal.

Objection One

Mr. Mazierski opined that Objection One fails to reference any land use planning provisions and specifically cited *Re Greenwald 2007, CarswellOnt 5400 (OMB)*, noting that in Paragraph 15 of that decision, the Board identified the appellant's failure to tie an official plan related complaint to specific land use planning provisions as a deficiency in

providing land use planning grounds per the language of subsection 45(17)(a)(i) of the Act.

He submitted that Objection One also focuses too narrowly on a single side of the street and not on the official plan question of consistency with the neighbourhood. Mr. Mazierski cited *Graham v. DeBenedictis, 2014 CarswellOnt 11621 (OMB)* (Exhibit E – Document 6), where at Paragraph 7 in the affidavit provided by the applicant's expert witness planner, the planner argued that; *"the appellant's comments represent her thoughts on the character of the neighbourhood but have nothing to do with land use planning principles."*

In that decision, the Board concurred with the expert witness whilst concurrently concluding that the complaint failed to raise a genuine planning argument.

In Re Weston, 22012 CarswellOnt 3670 (OMB) (Exhibit E - Document 8), Mr. Mazierski noted that in Paragraph 5, an appeal was dismissed on a motion after the appellant argued that *"the proposed minor variances will result in a building that is too large for the lot and different in appearance from the four adjacent homes…the renovations proposed by the moving party offend the existing physical character of the neighbourhood."*

Mr. Mazierski submitted that the Appellant's choice to focus on the one side of the street can be read as an implicit admission of the fact that similar properties to the one proposed do appear elsewhere in the neighbourhood. He supported this proposition by referencing Paragraph 23 in the Affidavit (Exhibit I) provided by Emilia Tsimerman, the Applicant's architect, and Paragraph 8 of Ms. Lloyd's Affidavit, which suggested the existence of homes in the surrounding neighbourhood that extend out as two-storey structures to a similar depth to what is being proposed.

Mr. Mazierski further submitted that Objection One is too narrow in scope to raise issues of consistency with the Official Plan by virtue of its limited focus on 'additions', as it fails to address the existence of homes that extend as two-storey structures but may not themselves have been the result of an addition.

Referencing Exhibit E (Document 9) and the Applicant's Affidavit in support of dismissal (Exhibit J), Mr. Mazierski identified four (4) dwellings (at 122, 112, 110 and 82 Brookside Avenue) on the same side of Brookside Avenue as the subject property, which extend as two-storey structures to a similar depth to the addition being proposed. He submitted that the existence of these four properties was illustrative of the Appellant's inadequate consideration of the scale and massing of the homes in the neighbourhood.

Mr. Mazierski submitted that Objection One references an effect but fails to elaborate on any particular impacts on the enjoyment of the abutting property. In this regard, Mr. Mazierski submitted that the Appellant falls short of establishing planning grounds for an appeal, citing *Rugge v. Elizabethtown-Kitley (Township) Committee of Adjustment 2004 CarswellOnt 7778 (OMB)* (Exhibit E – Document 10)..

In addressing the Appellant's contention that the requested variance is not minor, Mr. Mazierski submitted that the Appellant must dispute the issue of 'impact'. Mr. Mazierski opined that not only does 'impact' have to be argued but it has to be argued in relation to the actual variance(s) being appealed, and the Appellant must link any actual complaints to the subject variance(s). He submitted that general statements about effects are insufficient as suggested in the above-referenced *Rugge* OMB case.

At Paragraph 8 in that Decision, the Board stated that,

"The Notice of Appeal raised a number of issues which relate to minor technical defects in the application for a building permit. Although Mr. Rugge in his Notice of Appeal uses some of the language of s. 45(1) with respect to the tests which must be met by an applicant for variances, he does not give particulars on any impacts of his enjoyment of his property. The Board finds that the grounds set out in the Notice of Appeal clearly do not raise any land use planning concerns upon which it could allow all or part of the appeal."

Finally, Mr. Mazierski submitted that the Appellant has failed to note in Objection One that the proposed dwelling will be smaller in scale relative to building height, depth and length than that permitted as-of-right under the Zoning By-law 569-2013.

In support of this proposition, Mr. Mazierski referred to Ms. Tsimerman's Affidavit (Exhibit I), Paragraphs 9-13, which outlined the permitted building height of walls, depth and length of buildings permitted in the new By-law, and the corresponding dimensions of the proposed dwelling.

He also cited *Re Black, 2012 CarswellOnt 9221 (OMB),* Paragraph 14, where considerations of the as-of-right envelope were factored in by the OMB when evaluating the necessity of a full hearing on merits.

Objection Two

Mr. Mazierski submitted that Objection Two, which addresses the issue of snow load, is outside the jurisdiction of planning legislation and of the TLAB. In arguing this proposition, Mr. Mazierski referenced Paragraphs 13 and 14 in Mr. Cieciura's Affidavit (Exhibit K), in which Mr. Cieciura opined that:

- *Paragraph 13 – The snow load concern raised under Objection Two is not a planning issue; and*
- *Paragraph 14 – In my 22+ years as a planner I have never seen snow load, or a similar issue, successfully raised as a planning concern at a committee of adjustment hearing or an appeal of a committee of adjustment decision.*

Mr. Mazierski submitted that Objection Two can be dealt with through civil proceedings, highlighting Mr. Cieciura's statement in his Affidavit that, "*If the City were to have jurisdiction over a matter like 'snow load' it would be through the building permit process. Snow load matters can be dealt with privately and through civil proceedings."*

Mr. Mazierski submitted that snow load concerns are referred to in subsection 4.1.6 of Division B within Regulation 332/12 (Volume 1) under the Building Code Act, and Ministry of Municipal Affairs and Housing supplementary standard SB-1 (Volume 2) (Exhibit E – Document 15).

Onus on the Appellant

Mr. Mazierski opined that the Appellant has the right to remediate the defect in the Notice of Appeal, but he submitted that this will necessarily have to occur at the motion to dismiss, prior to the hearing on merits, given that such a motion has been brought forward by the Applicant. In support of his proposition, Mr. Mazierski cited the following cases: (Exhibit E – Document 16) *Luigi Stornelli Ltd. V. Centre City Capital Ltd., 1985 CarswellOnt 677 (Ont. Div. Crt.).;*and, (Exhibit E – Document 17) *Re Lutterworth (Township), 1988 CarswellOnt 3506 (OMB).*

He further argued that because the Notice of Appeal is deficient, the onus and obligation is on the Appellant to rectify the defect, citing (Exhibit E – Document 18) *Deer Run Shopping Centre Ltd. V. Mississauga (City) Committee of Adjustment, 1994 CarswellOnt 5069 (OMB)*, at Paragraph 24, and (Exhibit E – Document 19) *Chinguacousy Farms Ltd. V. Brampton (City), 2007 CarswellOnt 5389 (OMB),* at paragraph 58, for guidance.

Furthermore, Mr. Mazierski submitted that the Appellant is required not only to name valid planning grounds, but also to prove the planning issues to be worthy of adjudication and to demonstrate, through their conduct in pursuing the appeal, including gathering evidence to make their case, that the issues raised justify a hearing.

Additionally, he submitted that this, in itself, requires the Appellant to put forward proof of the existence of cogent evidence at the dismissal motion hearing upon which the Tribunal could rely to satisfy the Appellant's onus.

In addressing the Appellant's failure to respond to the Applicant's Notice of Motion to dismiss, Mr. Mazierski submitted that the Appellant's lack of response should be treated as an indicator of the Appellant's lack of preparation for the consequent hearing on merits and as grounds for dismissing the appeal without holding a full hearing. He cited (Exhibit E – Document 5) *Re Greenwald* and Document 24 – *Maclean v. Strathroy-Caradoc (Township), 2017 CarswellOnt 21406 (OMB),* at Paragraph 27, for guidance.

Applicant's Request for an Alternative Order

Mr. Mazierski submitted that if the Appellant is able to somehow rectify the deficient Notice of Appeal, the Applicant asks that the TLAB set a due date for filing an expert witness statement (currently set for June 4, 2018 as per Rule 16.6) at 14 days after the decision on this motion is issued.

Mr. Mazierski noted that this extension request on the deadline for the filing of an expert witness statement is made on the grounds that the Applicant would like to first establish that a full hearing on merits is necessary before engaging an expert witness to prepare a comprehensive and costly document. He noted that the Applicant's intentions are that the deadline extension will apply to all parties to the proceeding, thereby preventing any prejudice by not favouring one party over another.

In doing so, Mr., Mazierski submitted that setting a new deadline for expert witness statements, based on the parameters outlined above, would still allow for expert witness statements to be submitted well in advance of a hearing on merits, if one is needed.

He also stated that this timeframe would provide both parties with sufficient opportunity to prepare for a full hearing with complete knowledge of the opposing expert witness' positions, and with considerable time to negotiate a potential settlement, as consistent with the spirit, if not the exact timelines, of TLAB Rule 16.6.

Finally, Mr. Mazierski submitted that the Applicant respectfully requests that when making its decision on whether to allow for the hearing to proceed, TLAB have regard for the intentions of the legislature, which granted the Body with the authority to dismiss appeals without a hearing in order to avoid the financial and other burdens of unsubstantiated proceedings.

The Applicant requests that TLAB keep these same cost considerations in mind in the event that the Appellant is able to rectify their 'deficient' Notice of Appeal, and that TLAB consider the alternative relief being requested by the Applicant in extending the deadline for the submission of expert witness documents.

Mr. Mazierski reminded the panel member that the preparation of those documents prior to establishing whether a full hearing is warranted would eliminate a significant portion of the financial relief afforded by an early dismissal of the matter pursuant to TLAB Rule 9.1.

In response, Mr. Krubnik submitted that none of the properties identified by Mr. Mazierski in Exhibit E (Document 9), which provide photographic evidence of the four dwellings on the same side of the street as the subject property, are similar, as suggested by the Applicant. Instead, Mr. Krubnik submitted that they are single detached dwellings, unlike 146 and 148 Brookside Avenue, which are semi-detached dwellings.

Referring again to Exhibit E (Document 9), Mr. Krubnik submitted that the entire block of dwellings on the west side of Brookside Avenue is characterized by a series of semi-detached dwellings with single-storey additions and flat roofs. He submitted that allowing a second storey addition as proposed by the Applicant will directly impact the attached dwelling.

He referred to Chapter 4 - 'Development Criteria in Neighbourhoods in the Official Plan, noting that *"no changes will be made through zoning, minor variances, consents or other public actions that are out of keeping with the physical character of the neighbourhoods."* Mr. Krubnik submitted that the proposed additions should not be approved since they are not permitted within the City's Official Plan.

Mr. Krubnik noted that the Appellant, Ms. Lulko, was most concerned about the impacts of snow loading on the rear first storey roof of her home, as a consequence of any proposed addition to 146 Brookside Avenue. In testimony, Ms. Lulko acknowledged that snow loading is already a concern and that it will only get worse if the rear second storey addition is permitted.

Mr. Krubnik also raised a concern as to what exactly the Applicant was intending to build on the subject property. He noted that the drawings submitted to the COA do not match those filed with the TLAB, specifically noting that the drawings submitted to TLAB appear to indicate that in addition to the construction of a second storey and a two-storey alteration at the rear of the subject dwelling, the attached garage is also to be rebuilt.

He stated that the Appellant is concerned that the application before TLAB has changed materially to the application that was before the COA.

In response, Mr. Mazierski confirmed that the drawings submitted to TLAB relating to the appeal were mistakenly mislabeled and that the attached garage is not part of the application before this Body.

JURISDICTION

Under Rule 9 of TLAB's Rules of Practice and Procedures, in the case of an Appeal under subsection 45(12) of the Planning Act, the TLAB may, upon a Motion, dismiss all or part of a Proceeding without a Hearing on a variety of grounds.

ANALYSIS, FINDINGS, REASONS

I have carefully considered the submissions of the parties to this motion hearing, and I find that this is a case where the motion for dismissal of the Notice of Appeal without a hearing on merits should be granted.

The Appellant's Notice of Motion listed three (3) reasons or grounds for an appeal of the COA Decision that granted approval of the only variance requested by the Applicant. In reviewing the list of grounds under Part 6 on Page 4 of the Notice of Appeal (Form 1), I note that the first objection listed is simply a recitation of the section of Zoning By-law 569-2013 relating to the variance being sought and provides no rational for why this variance is being appealed.

I agree with the Applicant, and I find that this objection merely names the variance and states that it is being contested, and nothing more. As such, I dismiss it as a legitimate objection as it provides no relevance to the grounds for the appeal.

As to Objections One and Two as identified in this Decision, I note that under Part 6 (*Appeal Specific Information*) in Form 1 of the Notice of Appeal, the Appellant is specifically instructed to provide the reasons and grounds for the appeal, and to be specific in providing only land use planning reasons.

With respect to Objection One, I find that the Appellant has failed to disclose any land use grounds upon which I could allow all or part of the appeal, and has failed to properly challenge the application's consistency with any of the tests listed under Section 45(1) of the Planning Act. I find that the Appellant has failed to tie her objections in the Notice of Appeal to any land use planning provisions and that the objections are too narrow and general in scope.

I find that Objection Two is not a planning matter and is one that can be dealt with privately and through civil proceedings. I find that the Appellants rights are already protected/acknowledged elsewhere in the legal system.

I find that neither Objection One nor Two are properly linked to the actual variance being appealed, rendering both incapable of establishing planning grounds for an appeal. Consequently, pursuant to TLAB Rule 9.1 a), I have the authority to dismiss all or part of a Proceeding without a Hearing on the grounds that the reasons set out in Form 1 do not disclose any apparent land use planning grounds upon which I could allow all or part of an appeal.

DECISION AND ORDER

The Motion to dismiss the Appeal is granted. In the result, the appeal is dismissed and the decision of the Committee of Adjustment is final and binding.

1. **Section 10.80.40.40.(1) (A), By-law 569-2013**
   The maximum permitted floor space index is 0.6 times the area of the lot (100.20 m^2).
   The altered dwelling will have a floor space index equal to 0.77 times the area of the lot (127 m^2).

Conditions:

1) The proposed dwelling shall be constructed substantially in accordance with the Site Plan drawings submitted to the Committee of Adjustment, attached,

prepared by E.S.T. Design Consultants Inc., date November 2, 2017 (Drawings D1-D9) and December 20, 2017 (Drawing D11). Any other variance(s) that may appear on these plans but are not listed in the written decision are NOT authorized.

2) The owner shall submit an application for permit to injure or remove trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article III.

The original hearing date of August 8, 2018 is released and the TLAB file is closed.

X

Dino Lombardi
Panel Chair, Toronto Local Appeal Body

Part 5: List of Documentary Evidence to be used in the motion

(Materials in support must be served and filed electronically in accordance with TLAB Rules and Practice Directions)

NOTE: Electronic service and filing of Notice of Motion and supporting documents (Part 5) and supporting Affidavits (Part 6) may be done by sending more than one email. In the event more than one email is required to serve and file the Notice of Motion, the emails should clearly identify that they relate to the same Notice of Motion.

Document numbers (ordered based on order of appearance in Part 4 of Form 7):

1. zoning notice (issued on 2017-11-22, posted on TLAB site on 2018-01-03).
2. Urban Tree Management Group arborist report from 2018-03-21
3. COA notice of decision (issued 2018-03-05)
4. Form 1 notice of appeal (marked as a 2018-03-08 submission on the TLAB website)
5. Re Greenwald 2007 CarswellOnt 5400 (OMB)
6. Graham v DeBenedictis, 2014 CarswellOnt 11621 (OMB)
7. (notice of appeal from) Graham v DeBenedictis, 2014 CarswellOnt 11621(OMB))
8. Re Weston, 2012 CarswellOnt 3670 (OMB)*
9. screen capture exhibit (Google maps 3D view showing 122, Brookside Ave, 112 Brookside Ave, 110 Brookside Ave and 82 Brookside Ave)
10. Rugge v. Elizabethtown-Kitley (Township) Committee of Adjustment, 2004 CarswellOnt 7778 (OMB)
11. Re Black, 2012 CarswellOnt 9221(OMB)
12. (excerpt from) by-law 569-2013
13. Re Xavier, 2010 CarswellOnt 8184 (OMB)
14. (excerpt from) Reg 332/12 (Vol 1) under Building Code Act (subsection 4.1.6 of Division B)
15. (excerpt from) Ministry of Municipal Affairs and Housing supplementary standards (SB-1)
16. Luigi Stornelli Ltd. v. Centre City Capital Ltd, 1985 CarswellOnt 677 (Ont. Div. Ct.)
17. Re Lutterworth (Township), 1988 CarswellOnt 3506 (OMB)
18. Deer Run Shopping Centre Ltd. v. Mississauga (City) Committee of Adjustment, 1994 CarswellOnt 5096 (OMB)
19. Chinguacousy Farm Ltd. v. Brampton (City) 2007 CarswellOnt 5389 (OMB)
20. Lowery v. Temagami (Municipality), 2016 CarswellOnt 5160 (OMB)
21. Draskovic v. Toronto (City) Committee of Adjustment 2006 CarswellOnt 5251 (OMB)
22. Whiteley v. Guelph (City), 1999 CarswellOnt 4855 (OMB)
23. Toronto (City) v. East Beach Community Assn., 1996 CarswellOnt 5740 (OMB)
24. MacLean v. Strathroy-Caradoc (Township), 2017 CarswellOnt 21406 (OMB)
25. Hill v. Toronto (City) Committee of Adjustment, 2006 CarswellOnt 1256 (OMB)
26. 922012 Ontario Ltd. v. Wonderland Power Centre Inc, 2005 CarswellOnt 3751(OMB)
27. Wonderland Power Centre Inc. v. 922012 Ontario Ltd., 2006 CarswellOnt 2112 (Ont. Div. Ct.)
28. Milijasevis v. Toronto, 2016 CarswellOnt 15301 (OMB)
29. Such further and other documentary evidence as counsel may advise and the TLAB may permit

RECEIVED
By Toronto Local Appeal Body at 9:01 am, May 07, 2018

CASE FILE #: 18 126703 S45 13 TLAB
ADDRESS: 146 Brookside Ave.

FORM 7: PART 4 – ON THE GROUNDS THAT:

File History

[1] Robin Lloyd (hereinafter referred to as "Ms. Lloyd") is the owner of the Property (from hereinafter referred to as the "Property") at 146 Brookside Ave.

[2] Ms. Lloyd's architect, Emilia Tsimerman, filed a Committee of Adjustment ("COA") application requesting a single variance (an FSI of 0.77 whereas by-law 569-2013 only permits an FSI of 0.6) to accommodate a project involving a rear two-storey addition, a rear second storey addition, and a new rear deck for the Property. The zoning notice (document 1) has been submitted with this notice of motion. It indicates that the property is situated in an RM zone under by-law 569-2013.

[3] The city planning department did not raise any concerns about the application (see paragraph 14 of the affidavit provided by Emilia Tsimerman), which is typically indicative of their belief that the application meets the four-part test under Section 45(1) of the Planning Act (see paragraph 18 of the affidavit provided by TJ Cieciura).

{4] The forestry department did raise a concern with the application, although Ms. Lloyd has since engaged an arborist to mitigate some of those concerns (see document 2, Urban Tree Management Group arborist report from 2018-03-21)

[5] The city councillor did not communicate any issues to the COA (see paragraph 16 of the affidavit provided by Emilia Tsimerman).

[6] A COA hearing was held on February 22 2017.

[7} The owner of the neighboring property at 148 Brookside Avenue attended the COA hearing and had a representative speak in opposition of the application on her behalf (see paragraph 19 of the affidavit provided by Emilia Tsimerman).

[8] The COA approved the one variance requested in the application. The COA notice of decision (document 3) has been submitted with this notice of motion.

[9] The decision was appealed on March 8 2018 by the property owner at 148 Brookside Ave, Halina Lulko (the "Appellant"), represented by Michael Krubnik. The Form 1 notice of appeal (document 4) has been submitted with this notice of motion.

Deficient Notice of Appeal

[10] The Appellant's notice of appeal is required to disclose land use planning ground upon which TLAB could allow all or part of the appeal.

[11] A failure to provide planning grounds for the appeal on Form 1 grants TLAB the authority to dismiss the appeal under TLAB Rule 9.1(a), as well as under the nearly verbatim language of subsection 45(17)(a)(i) of the Planning Act.

[12] The wording of TLAB Rule 9.1(a) is also consistent with Planning Act subsections 51(53)(a)(i) and 53(31(a)(i), as well as the language formerly employed (prior to the changes brought about by Bill 139) under subsections 17(45)(a)(i), 34(25)(a)(i), 45((12.1)(a)(i), and 47(11) of the Planning Act, making any precedents under those provisions applicable to this particular motion.

[13] The Appellant's notice of appeal attempts to enumerate grounds for the appeal in paragraph number 2 and paragraph number 3 under Part 6 of Form 1 (from hereinafter referred to as "Objection One" and "Objection Two" respectively), as paragraph number 1 under Part 6 of Form 1 merely names the variance and states that it is being contested.

[14] Objection One states that:

> "This will be the only 2-storey addition on this side of the street and it directly effects adjacent property at 148 Brookside Ave."

[15] Objection Two states that

> "Both 146 and 148 are joint semi-detached homes with flat roofs at the rear. By allowing this addition it creates a snow loading conditions on the flat roof at 148 Brookside Ave."

[16] Neither Objection One or Objection Two disclose any land use planning ground upon which the Toronto Local Appeal Body ("TLAB") could allow all or part of the appeal (see paragraph 8 of the affidavit provided by TJ Cieciura).

[17] Objection One fails to properly challenge the application's consistency with any of the tests listed under Section 45(1) of the Planning Act (see paragraph 9 of the affidavit provided by TJ Cieciura).

[18] Objection One does not reference any land use planning provisions (see paragraph 10 of the affidavit provided by TJ Cieciura; see also document 5, *Re Greenwald 2007,* CarswellOnt 5400 (OMB) at para 15, where the Board identified a failure to tie an official plan-related complaint to a specific land use planning provisions as a failure to provide land use planning grounds as per the language of subsection 45(17((a)(i) of the Planning Act).

[19] Objection One focuses narrowly on a single side of the street and not the official plan question of consistency with the neighborhood (as per paragraph 11 of the affidavit provided by TJ Cieciura; see also document 6 & Document 7, *Graham v DeBenedictis*, 2014 CarswellOnt 11621 (OMB) where at para 7 the affidavit provided by the applicant's expert witness planner argued that "the appellant's comments represent her thoughts on the character of the neighborhood but have nothing to do with land use planning principle", which the Board concurred with at para 8 whilst concurrently concluding that the complaint failed to raise a genuine planning argument; and document 8, *Re Weston*, 2012 CarswellOnt 3670 (OMB) at para 5, where an appeal was dismissed at a motion after the appellant argued that "the proposed minor variances will result in a building that is too large for the lot and different in appearance from the four adjacent homes.….the renovations proposed by the moving party offend the existing physical character of the neighbourhood"). The Appellant's choice to focus on the one side of the street can be read as an implicit admission of the fact that similar properties to the one proposed do appear elsewhere in the neighborhood. Paragraph 23 the affidavit provided by Emilia Tsimerman, and paragraph 8 of the affidavit provided by Ms. Lloyd also point to the existence of homes in the surrounding neighborhood that extend out as two-storey structures to a similar depth to what is being proposed via the addition.

[20] Objection One is also too narrow to raise issues of consistence with the official plan by virtue of its limited focus on "additions", as it fails to address the existence of homes that extend out as two-storey structures to a similar depth as the proposed addition but that may not themselves have been the result of an addition. The Appellant's choice of words may be read as an implicit acknowledgement of the existence of such homes., Notably, paragraph 24 of the affidavit provided by Emilia Tsimerman, as well as paragraph 9 of the affidavit provided by Ms. Lloyd, both point to four homes on the same side of Brookisde Ave as the Property (at 122, Brookside Ave, 112 Brookside Ave, 110 Brookside Ave and 82 Brookside Ave) that extend out as two-storey structures to a similar depth to what is being proposed via the addition. The screen capture exhibit (document 9) created by Ms. Lloyd and noted in paragraph 10 of her affidavit, shows the location and scale of these four properties. The presence of these four properties is not technically inconsistent with the Appellant's statement, but it is illustrative of the Appellant's inadequate consideration of the scale and massing of the homes in the neighbourhood.

[21] Objection One references an effect but does not elaborate on it. The statement does not give particulars of any impacts on the enjoyment of the property and therefore falls short of establishing planning grounds for an appeal (see paragraph 12 of the affidavit provided by TJ Cieciura; see also document 10, *Rugge v. Elizabethtown-Kitley (Township) Committee of Adjustment*, 2004 CarswellOnt 7778 (OMB) at para 8)

[22] Objection One also implies that the Appellant has not taken note of the fact that the proposed property is shorter with respect to height, depth, and length than permitted as-of-right (see paragraph 9-12 of the affidavit provided by Emilia Tsimerman) under by-law 569-2013 (see *Re document 11, Black*, 2012 CarswellOnt 9221 (OMB) at para 14 where considerations of the as-of-right envelope were factored in by the OMB when evaluating the necessity of a full hearing on merits – although that analysis was undertaken only once the onus was reversed as per the principle outlined in paragraph 28 below). The relevant excerpts of by-law 569-2013 are attached as document 12.

[23] Objection Two, which addresses the snow load, is outside the jurisdiction of planning legislation and the TLAB (see paragraph 13-14 of the affidavit provided by TJ Cieciura).

[24] Objection Two can be dealt with through civil proceedings (see paragraph 16 of the affidavit provided by TJ Cieciura), and since the Appellant's rights are already protected/acknowledged elsewhere in the legal system the dispute should not proceed to a further hearing in front of a planning tribunal (see document 13, *Re Xavier*, 2010 CarswellOnt 8184 (OMB) at para 7).

[25] If any snow load issues were to be dealt with by the city, the city's jurisdiction would have to come through the building permit process and not zoning (see paragraph 15 of the affidavit provided by TJ Cieciura). Snow load concerns are referred to in (document 14) subsection 4.1.6 of Division B within Regulation 332/12 (Volume 1) under the Building Code Act, and (document 15) Ministry of Municipal Affairs and Housing supplementary standard SB-1 (Volume 2).

[26] Neither Objection One or Objection Two are properly linked to the actual variance (see paragraph 17 of the affidavit provided by TJ Cieciura), rendering both incapable of establishing planning grounds for an appeal (see document 6 & document 7, *Graham v DeBenedictis*, 2014

CarswellOnt 11621 (OMB) at para 8 , where the Board took issue with the fact that the complaints raised were not expressly tied to the single variance in that application).

Onus on the Appellant

[27] The Appellant has the right to remediate the defect in the notice of appeal (see document 16, *Luigi Stornelli Ltd. v. Centre City Capital Ltd*, 1985 CarswellOnt 677 (Ont. Div. Ct.) at para 9-10, citing and adopting Lord Denning in Howard v. Secretary of State for the Environment, [1975] Q.B. 235, [1974] 1 All E.R. 644), but will have to do so at the motion to dismiss, prior to the hearing on merits, given that such a motion has been brought forward (see document 17, *Re Lutterworth (Township)*, 1988 CarswellOnt 3506 (OMB))

[28] Because the notice of appeal is deficient, the onus is on the Appellant to rectify the defect. The Appellant's obligation was first recognized in (document 18) *Deer Run Shopping Centre Ltd. v. Mississauga (City) Committee of Adjustment*, 1994 CarswellOnt 5096 (OMB) at para 24, although the creation of the onus is remarked on more overtly in (document 19) *Chinguacousy Farm Ltd. v. Brampton (City)*, 2007 CarswellOnt 5389 (OMB) at para 58. The Appellant is required to not only name valid planning grounds, but to prove the planning issues to be worthy of adjudication and to demonstrate, through their conduct in pursuing the appeal, including the gathering of evidence to make their case, that the issues raised justify a hearing, which itself requires that the Appellant put forward proof of the existence of cogent evidence (at the dismissal motion hearing) upon which the tribunal could rely on to satisfy the appellant's onus (see document 20, *Lowery v. Temagami (Municipality)*, 2016 CarswellOnt 5160 (OMB) at para 11; see also document 21, *Draskovic v. Toronto (City) Committee of Adjustment*, 2006 CarswellOnt 5251 (OMB) where the Board noted that appellant's failure to meet their onus at para 7).

[29] The onus placed on the Appellant requires the tribunal "to go further than just determining whether the appellant has raised any triable issues…to determine the likelihood of success of the appellant with respect to the land use planning grounds the appellant is raising" (see document 22, *Whiteley v. Guelph (City)*, 1999 CarswellOnt 4855 (OMB) at para 20, where the Board addressed the distinction between the dismissal provisions under the Development Charges Act and the Planning Act; see also the interpretation of subsection 45(17)(a)(i) of the Planning Act in document 10, *Re Black*, 2012 CarswellOnt 9221(OMB) at para 9, where the legislation is said to anticipate the possibility of a "planning ground" that might despite its existence be insufficient to allow an appellant to succeed). The Appellant must demonstrate that the appeal grounds constitute genuine, legitimate and authentic planning reasons (see document 23, Toronto (City) v. East Beach Community Assn., 1996 CarswellOnt 5740 (OMB) at para 9).

[30] If the Appellant fails to diligently respond to this motion it should be treated as an indicator of the Appellant's lack of preparation for the consequent hearing on merits and as grounds for dismissing the appeal without holding a full hearing (see document 5, *Re Greenwald*, 2007 CarswellOnt 5400 (OMB) at para 16; and document 24, *MacLean v. Strathroy-Caradoc (Township)*, 2017 CarswellOnt 21406 (OMB) at para 27, although the motion associated with the latter file took place on the date scheduled for the hearing on merits).

[31] On the date that this motion is heard (May 22 2018), the Appellant will have had 75 days since they filed the notice of appeal (March 8 2018 as per the posting date on the TLAB website) to prepare their case. This 75 days does not factor in the additional 14 days between the COA hearing (which the Appellants and her representative attended) and the notice of appeal date.

March 22 2018 is also the documentary disclosure due date for this file, as set under TLAB Rule 16.2 and outlined in the notice of hearing issued on April 19 2018. Meaning that if the Appellant is conducting herself as a responsible party would conduct itself in preparation for a hearing, and following TLAB Rules by gathering their disclosure documents, then on May 22 the Appellant should be able to properly articulate her appeal grounds and provide an indication of what evidence she will rely on.

[32] If in an attempt to remediate the notice of appeal the Appellant tries to support the newly raised grounds by putting forward questionable evidence, then the potential merits of this evidence should be screened at the motion hearing (see for example document 25, *Hill v. Toronto (City) Committee of Adjustment*, 2006 CarswellOnt 1256 (OMB) at para 29-30; or document 26, *922012 Ontario Ltd. v. Wonderland Power Centre Inc*, 2005 CarswellOnt 3751(OMB) at para 22, where leave to appeal was dismissed on the same grounds in *Wonderland Power Centre Inc. v. 922012 Ontario Ltd.*, 2006 CarswellOnt 2112 (Ont. Div. Ct.) at para 25, attached here as document 27), and the invalidation of any such evidence should add to the grounds for dismissing the appeal without holding a full hearing.

[33] If during the dismissal motion hearing the Appellant does not voice an intention to call an expert witness at the hearing on merits, such an admission will be an indicator of the Appellant's inability to put forward evidence at the hearing on merits, one that contributes to the grounds for dismissing the appeal without holding a full hearing (see document 5, *Re Greenwald*, 2007 CarswellOnt 5400 (OMB) at para 16, document 20, *Lowery v. Temagami (Municipality)*, 2016 CarswellOnt 5160 (OMB) at para 9, document 24, *MacLean v. Strathroy-Caradoc (Township)*, 2017 CarswellOnt 21406 (OMB) at para 27, and document 28, *Milijasevis v. Toronto*, 2016 CarswellOnt 15301 (OMB) at para 9, all hearings where the Board explicitly noted an appellant's intention, or lack thereof, to call an expert witness at a future hearing).

Alternate Order

[34] If the Appellant is able to somehow rectify the deficient notice of appeal, Ms. Lloyd asks that the TLAB set the due date for filing an expert witness statement (currently set for June 4 2018 as per TLAB Rule 16.6) at 14 days after the decision on this motion is issued.

[35] The extension request on the deadline for the expert witness statement is made on the grounds that Ms. Lloyd would like to first establish that a full hearing on merits is necessary before engaging an expert witness to prepare such a comprehensive and costly document. Ms. Lloyd's intentions are that the deadline extension apply to all the other parties to the proceedings, thereby preventing any prejudice by not favoring one party over another.

[36] Setting a new deadline for the expert witness statements, based on the parameters outlined above, should still allow for the expert witness statements to be submitted well in advance of a hearing on merits, if one is indeed necessary, leaving both parties with plenty of time to prepare for such a hearing with full knowledge of the opposing expert's position, and with considerable time to negotiate a potential settlement, as consistent with the spirit if not the exact timelines of TLAB Rule 16.6.

[37] The TLAB has the express discretion to extend the deadline under TLAB Rule 16.6 by virtue of TLAB Rule 4.4 and 4.5.

Financial Considerations

[38] Ms. Lloyd respectfully requests that the tribunal, when making its decision on whether to allow for the hearing to proceed, have regard for the intentions of the legislature, which granted the tribunal with the authority to dismiss appeals without a hearing (via Planning Act language that has made its way into TLAB Rule 9.1) in order to avoid the financial (and other) burdens of unsubstantiated proceedings (see document 23, Toronto (City) v. East Beach Community Assn., 1996 CarswellOnt 5740 (OMB) at para 8).

[39] Ms. Lloyd further respectfully requests that the tribunal keep these same cost considerations in mind in case the Appellant is able to someway rectify the deficient notice of appeal and the tribunal deems it necessary to consider the alternative relief of extending the deadline for the expert witness statements – because having those statements prepared prior to establishing that a full hearing is necessary would eliminate a significant portion of the financial relief afforded by an early dismissal under TLAB Rule 9.1. Extending the deadline for the expert witness statement in such circumstances would be consistent with TLAB Rule 2.2, which directs the TLAB to interpret its Rules liberally in the name of several listed objectives including cost-effectiveness.

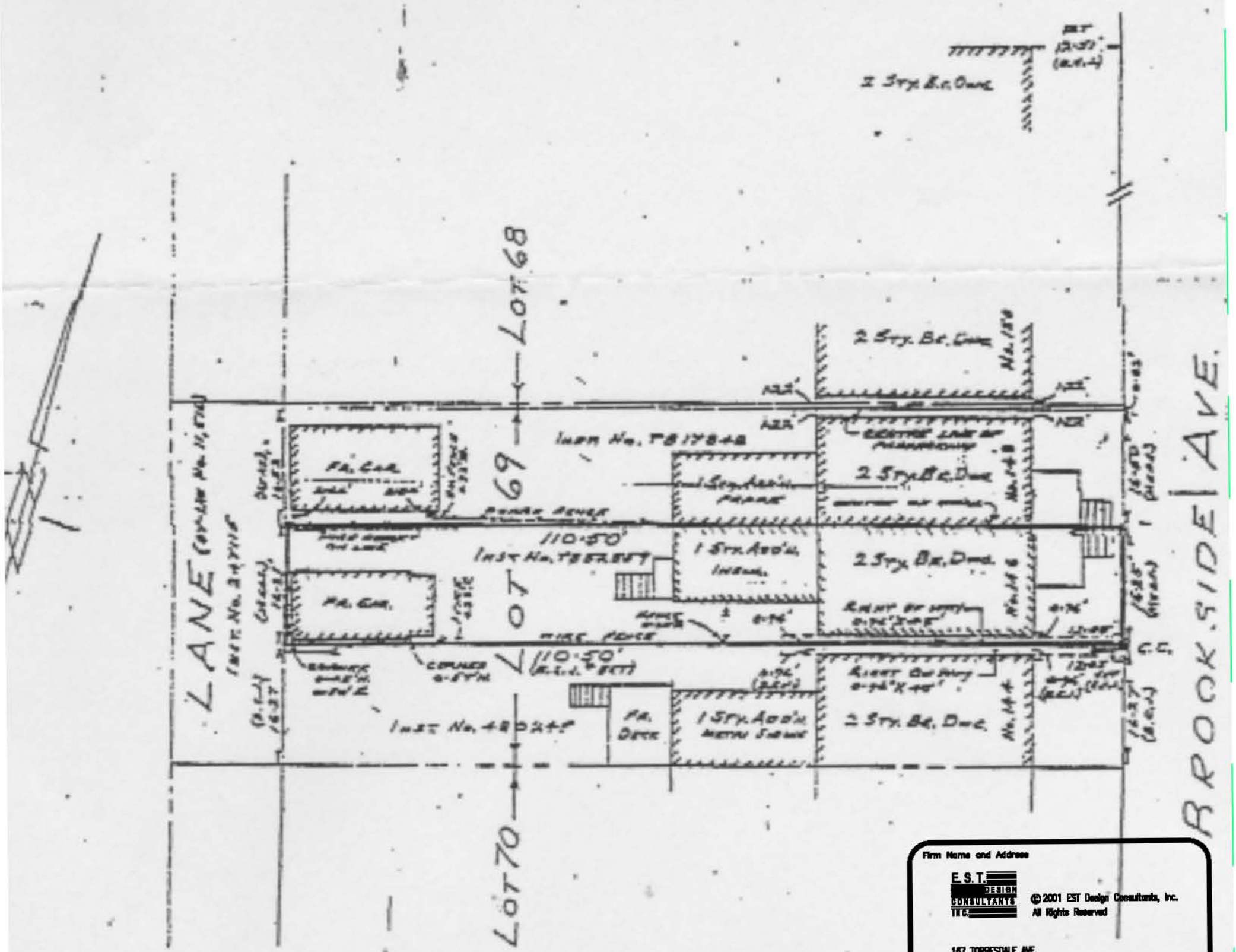
Other Grounds

[40] Such further and other grounds as counsel may advise and the TLAB may permit.

BUILDING LOCATION SURVEY OF
PART OF LOT 69, PLAN 878
CITY OF YORK
MUNICIPALITY OF METROPOLITAN TORONTO

SCALE: 1 IN. = 15 FT.

G. RENTIS
ONTARIO LAND SURVEYOR
1984



LEGEND

- ⊡ DENOTES SURVEY MONUMENT SET
- C.C. " CUT CROSS
- B.C.L. " SCRIBED CIRCLE ON BACK OF CURB

G. RENTIS
ONTARIO LAND SURVEYOR
52 LAWRENCE AVE. EAS
TORONTO, ONT.
M4N 1S3 483-7881

REF No. 84-7

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
THE FIELD SURVEY REPRESENTED ON THIS PLAN WAS COMPLETED ON THE 4TH DAY OF APRIL, 1984

APRIL 4, 1984

G. Rentis
G. RENTIS
ONTARIO LAND SURVEYOR

Firm Name and Address

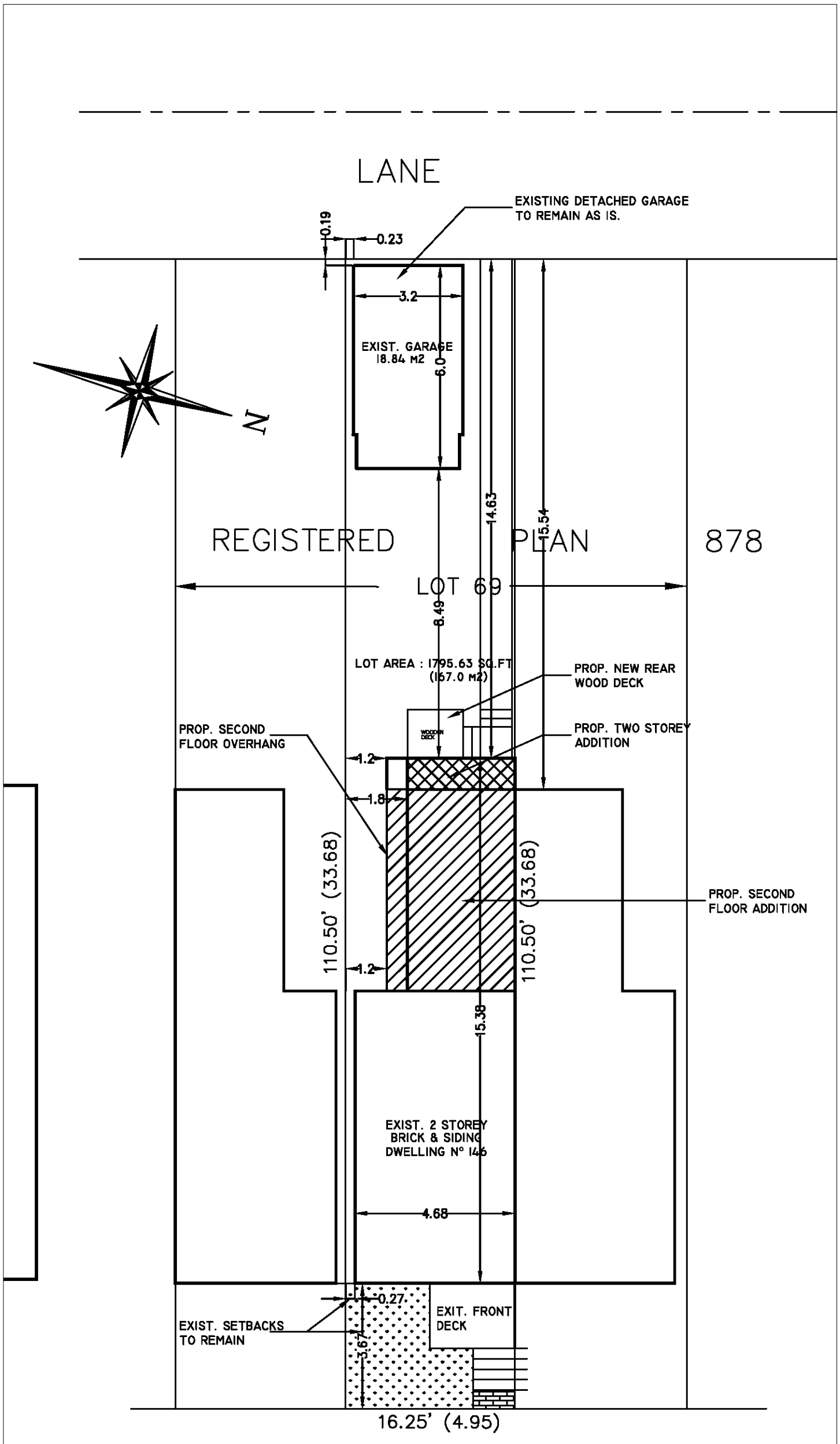
E.S.T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project: SURVEY	Sheet: D1
Date: Nov. 02, 2017	
Scale: AS SHOWN	



1 / A1 **Site Plan**

scale: 3/32"=1'-0"

Firm Name and Address

E. S. T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE

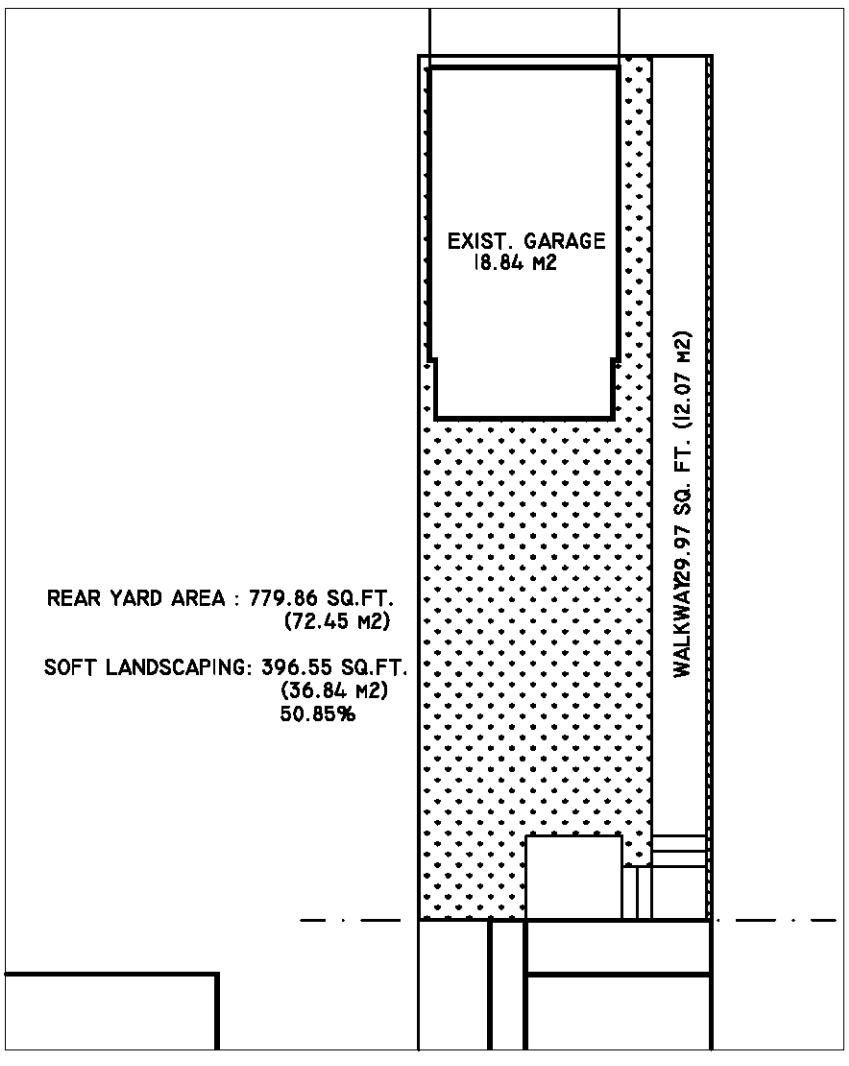
146 Brookside Ave.
Toronto, Ontario

Project	Sheet
SITE PLAN	D2
Date: Nov. 02, 2017	
Scale: AS SHOWN	

SITE DEVELOPMENT FOR LOT 71, PLAN 679, ZONING RM / R2

SITE DATA	EXISTING	PROPOSED
LOT AREA	1795.63 SQ. FT. (167.0 m2)	
BUILT-UP AREA	631.66 SQ. FT. (58.68 m2) HOUSE 202.79 SQ. FT. (18.84 m2) EXIST. DETACHED GARAGE	662.69 SQ. FT. (61.56 m2) HOUSE 202.79 SQ. FT. (18.84 m2) EXIST. DETACHED GARAGE
GFA	1ST FLOOR 631.66 SQ. FT. (58.68 m2) 2ND FLOOR 439.30 SQ. FT. (40.81 m2)	1ST FLOOR 662.69 SQ. FT. (61.56m2) 2ND FLOOR 714.66 SQ. FT. (66.39 m2)
	TOTAL GFA 1070.96 SQ. FT. (99.49 m2)	TOTAL GFA 1377.35 SQ. FT. (127.95 m2)
FLOOR SPACE INDEX	0.6	0.77
FRONT YARD SETBACK	3.67 m	3.67 m
SIDE YARD SETBACK (S)	0.27 m	0.27 m 1.2 m REAR SECOND FLOOR ADDITION
SIDE YARD SETBACK (N)	0 m	0 m
REAR YARD SETBACK	15.54 m	14.63 m
BUILDING HEIGHT	EXISTING TO REMAIN	FLAT ROOF REAR ADDITION HEIGHT – 6.99 m

REAR YARD LANDSCAPING CALCULATION



Firm Name and Address

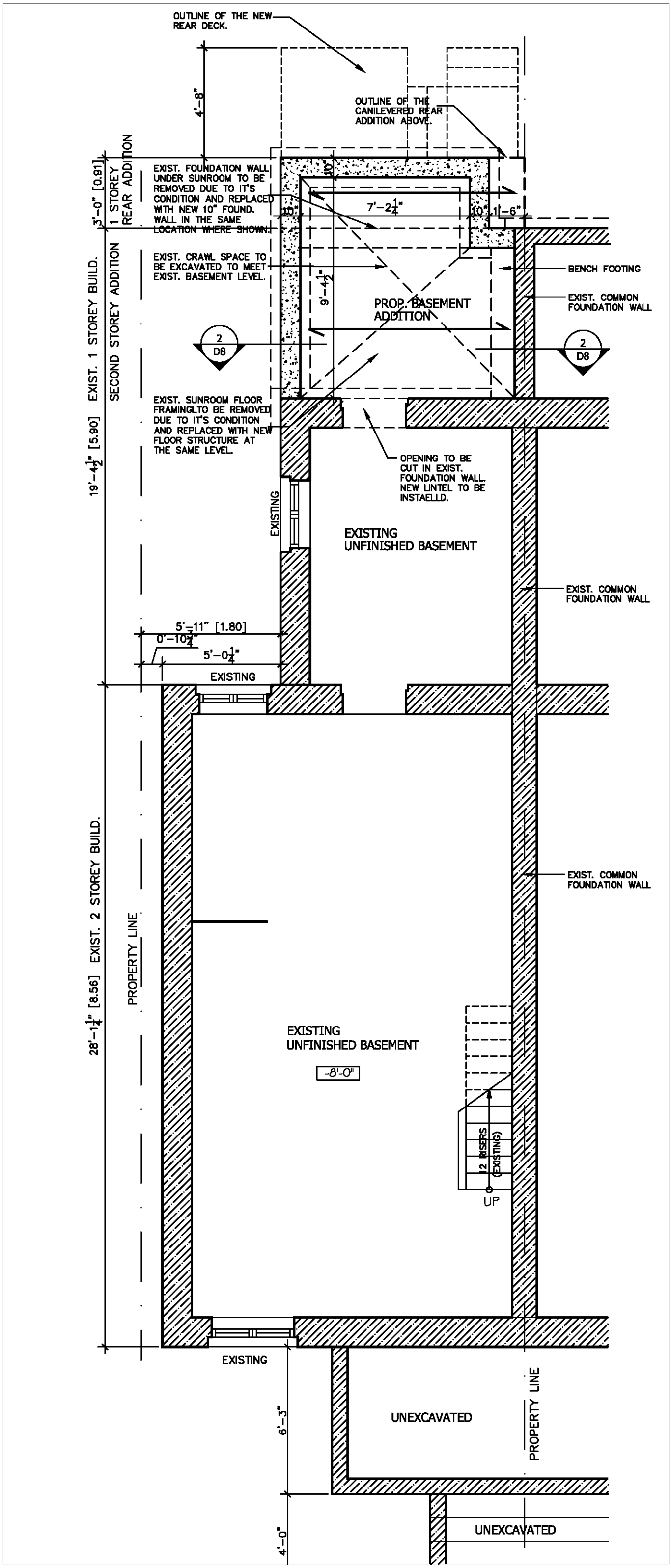
E.S.T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project	Sheet
SITE PLAN STATISTICS	D3
Date: Nov. 02, 2017	
Scale: AS SHOWN	



Basement Plan

scale 3/16"=1'-0"

EXIST. AREA : 557.10 SQ.FT. (51.81 m2)
ADDITION : 101.09 SQ.FT. (9.39 m2)
PROP. AREA: 658.19 SQ.FT. (61.20 m2)

Firm Name and Address

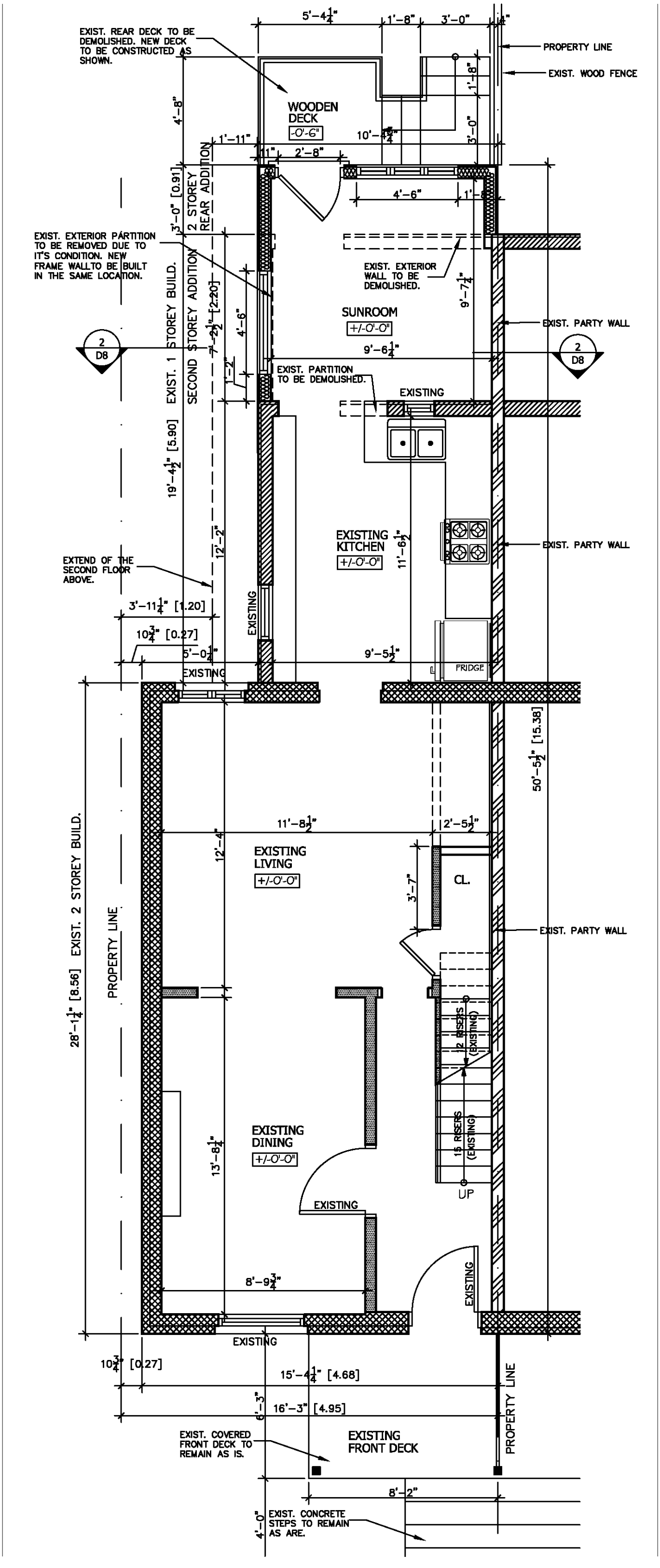
E.S.T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project: BASEMENT PLAN	Sheet: D4
Date: Nov. 02, 2017	
Scale: AS SHOWN	



First Floor Plan

scale 3/16"=1'-0"

EXIST. AREA :	631.66 SQ.FT. (58.68 m2)
ADDITION :	31.03 SQ.FT. (2.88 m2)
FIRST FL. GFA:	662.69 SQ.FT. (61.56 m2)

Firm Name and Address

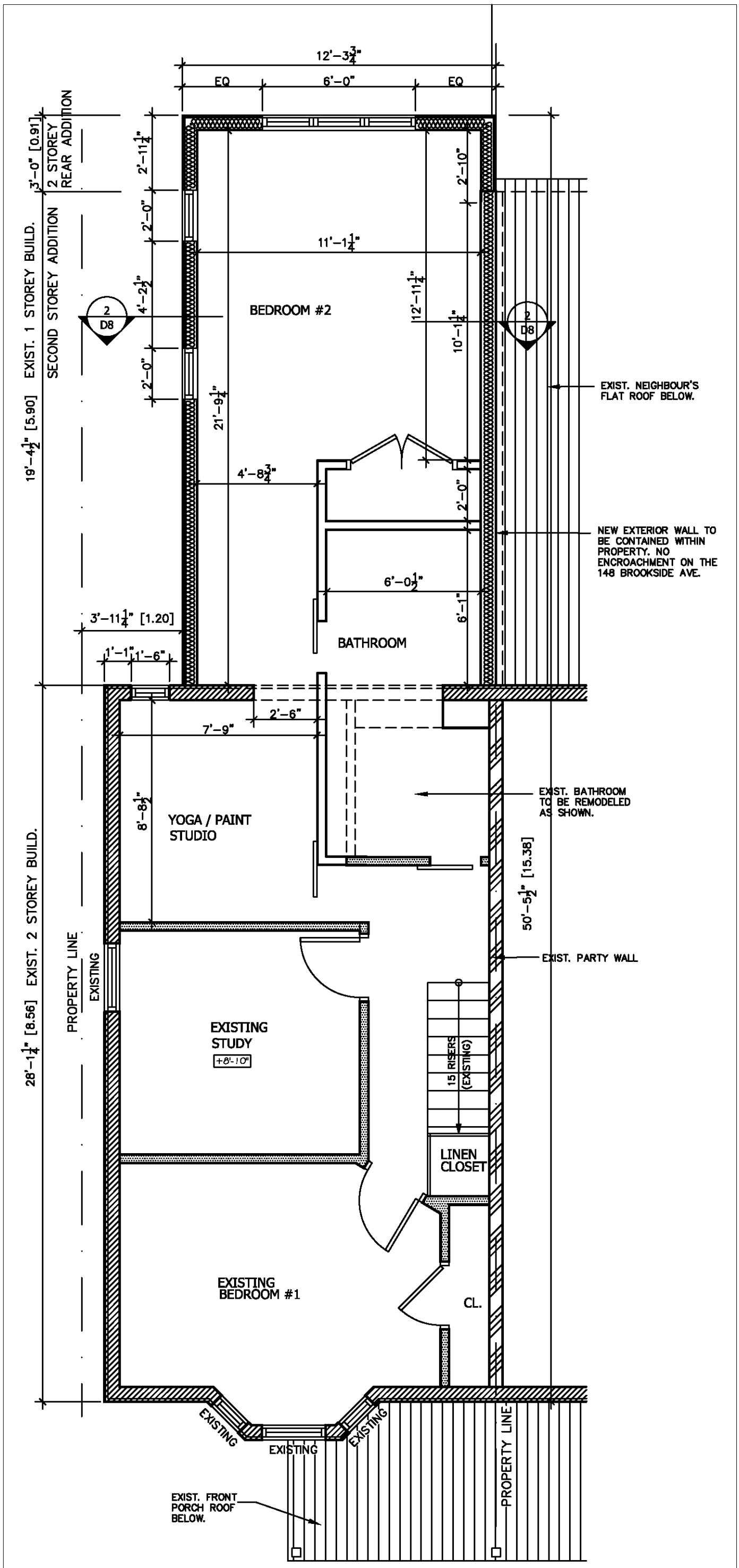
E. S. T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project	FIRST FLOOR PLAN	Sheet
Date	Nov. 02, 2017	D5
Scale	AS SHOWN	



N

Second Floor Plan

scale 3/16"=1'-0"

EXIST. AREA : 439.30 SQ.FT. (40.81 m2)

ADDITION : 238.55 SQ.FT. (22.16 m2)

SECOND FL. GFA: 677.85 SQ.FT. (62.97 m2)

Firm Name and Address

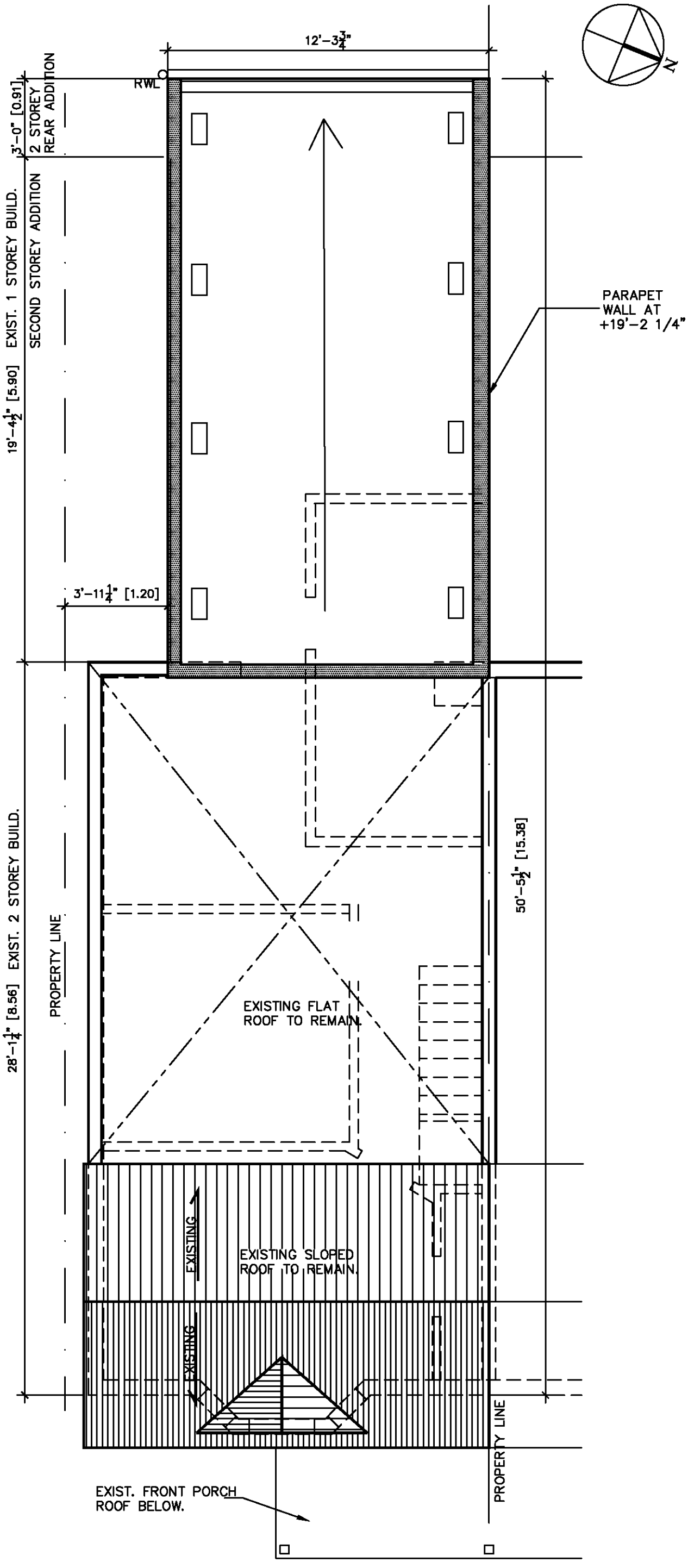
E.S.T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project: SECOND FLOOR PLAN	Sheet: D6
Date: Nov. 02, 2017	
Scale: AS SHOWN	



Roof Floor Plan

scale 3/16"=1'-0"

Firm Name and Address

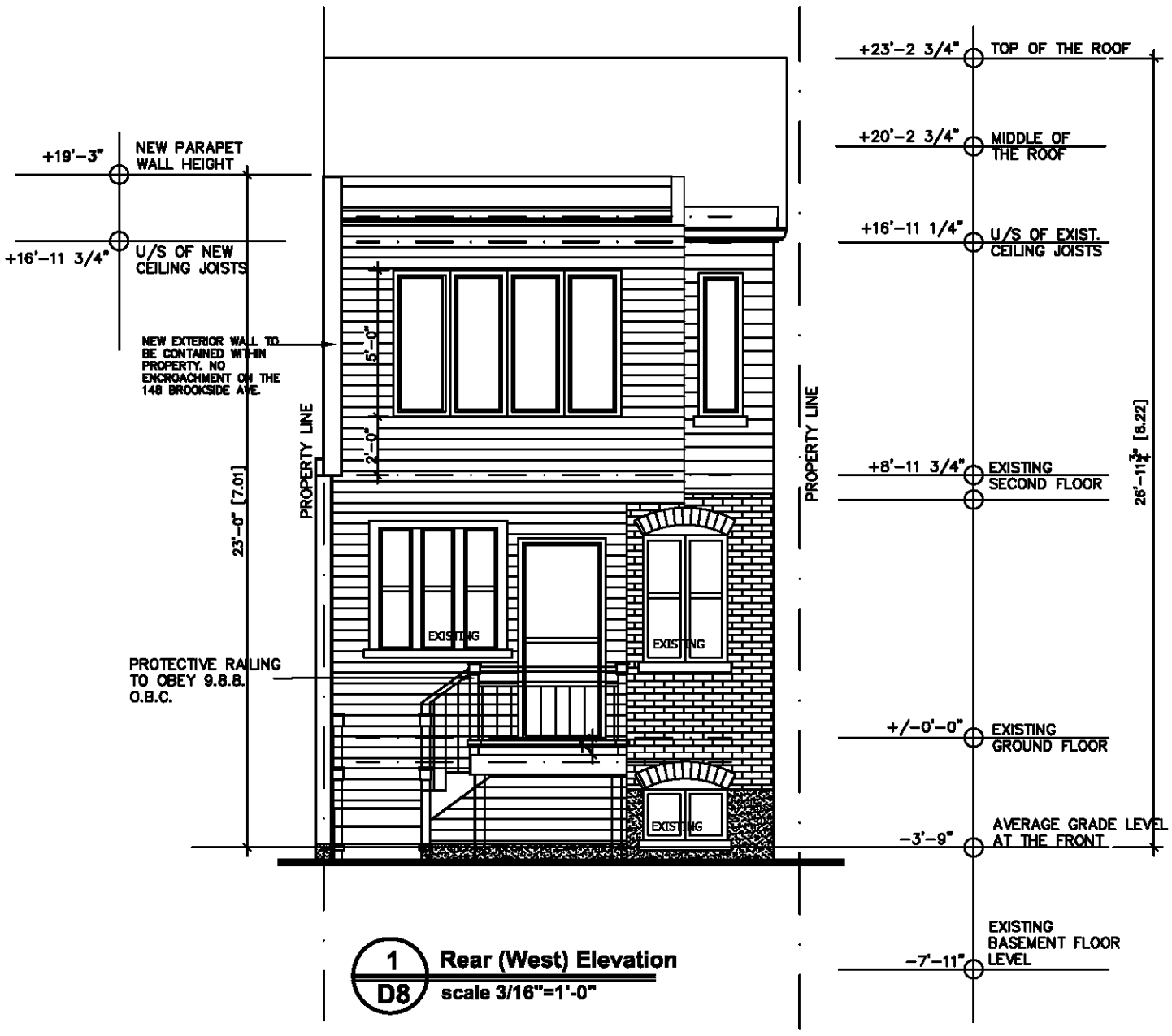
E. S. T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project	Sheet
ROOF PLAN	D7
Date: Nov. 02, 2017	
Scale: AS SHOWN	



1 / D8 **Rear (West) Elevation**
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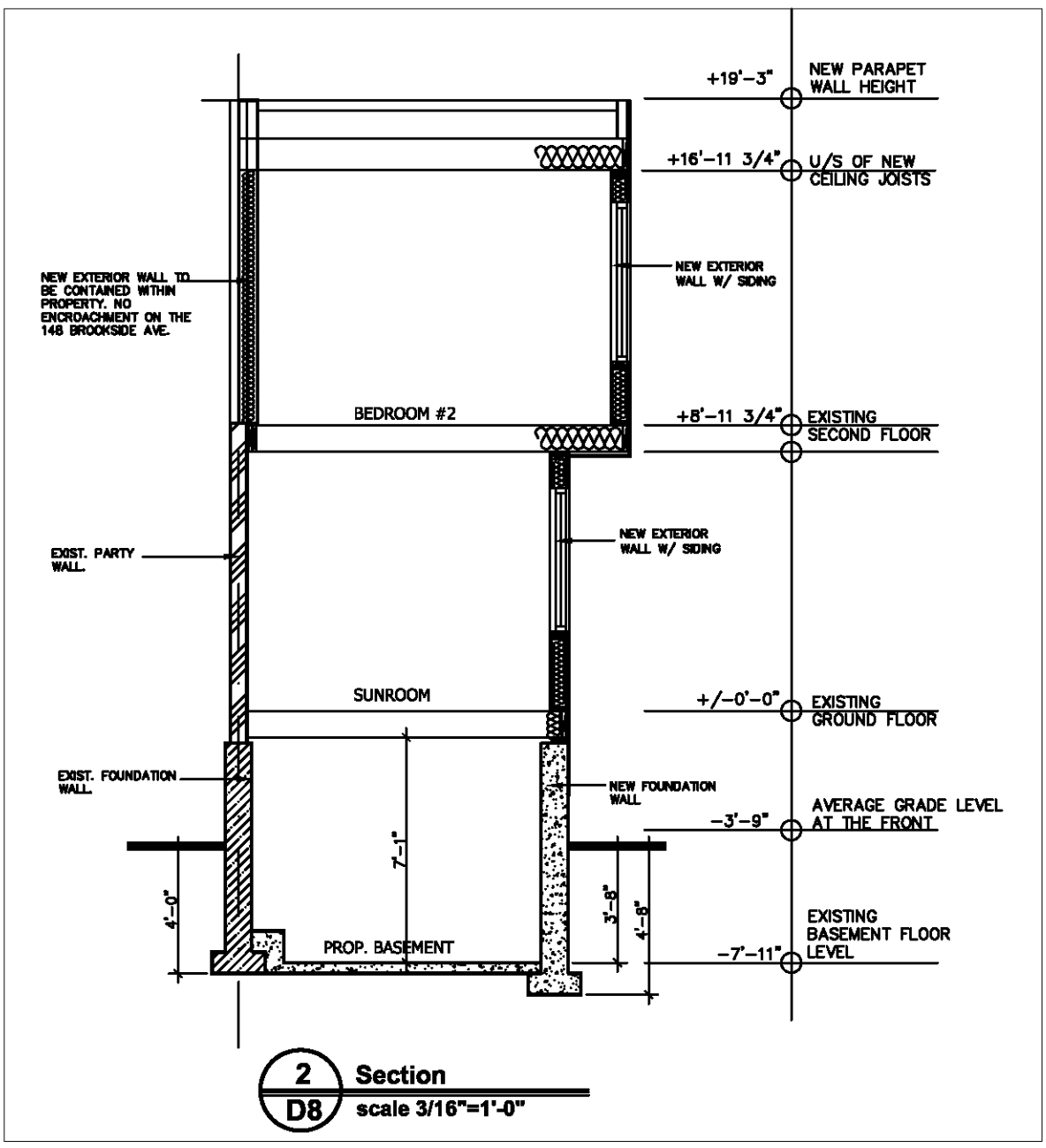


2 / D8 **Section**
scale 3/16"=1'-0"

FRONT ELEVATION TO REMAIN AS IS.

Firm Name and Address

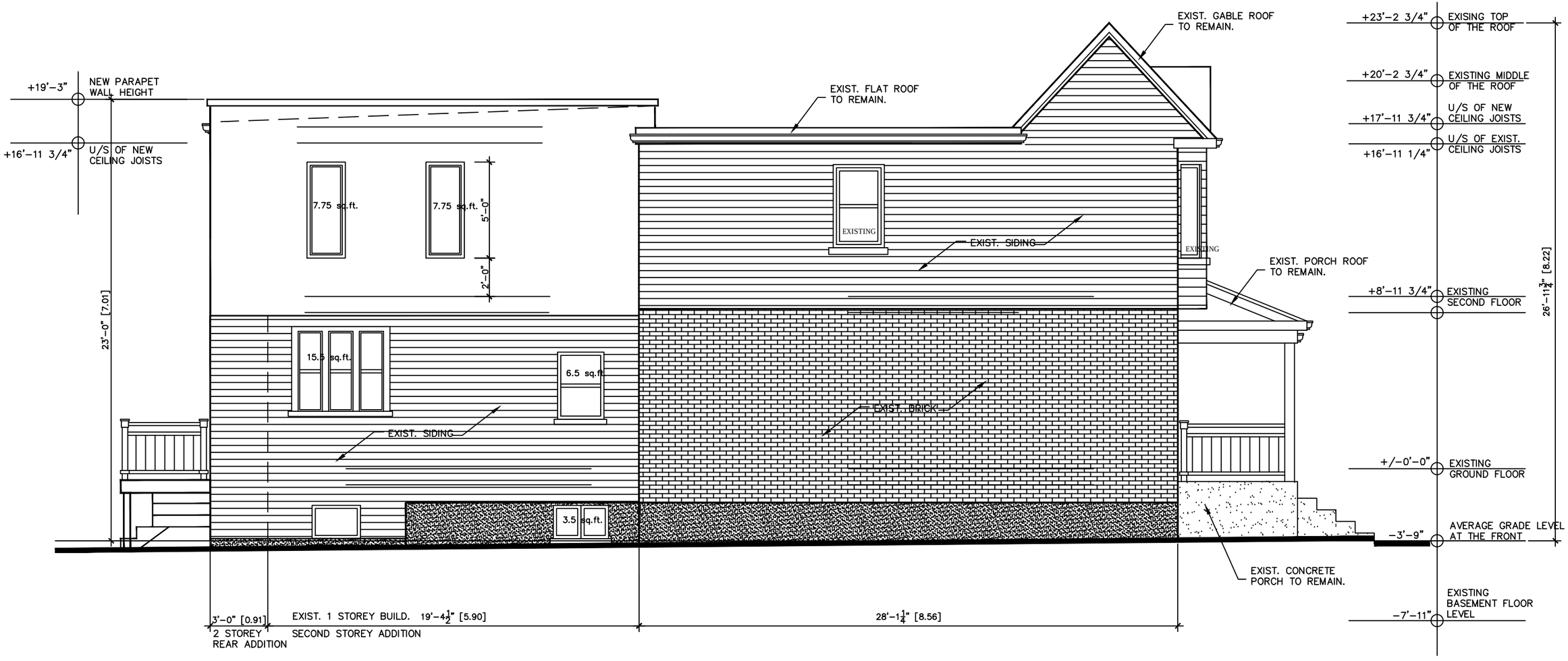
E.S.T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project: ELEVATION & SECTION	Sheet: D8
Date: Nov. 02, 2017	
Scale: AS SHOWN	



Side (South) Elevation

scale 3/16"=1'-0"

Firm Name and Address

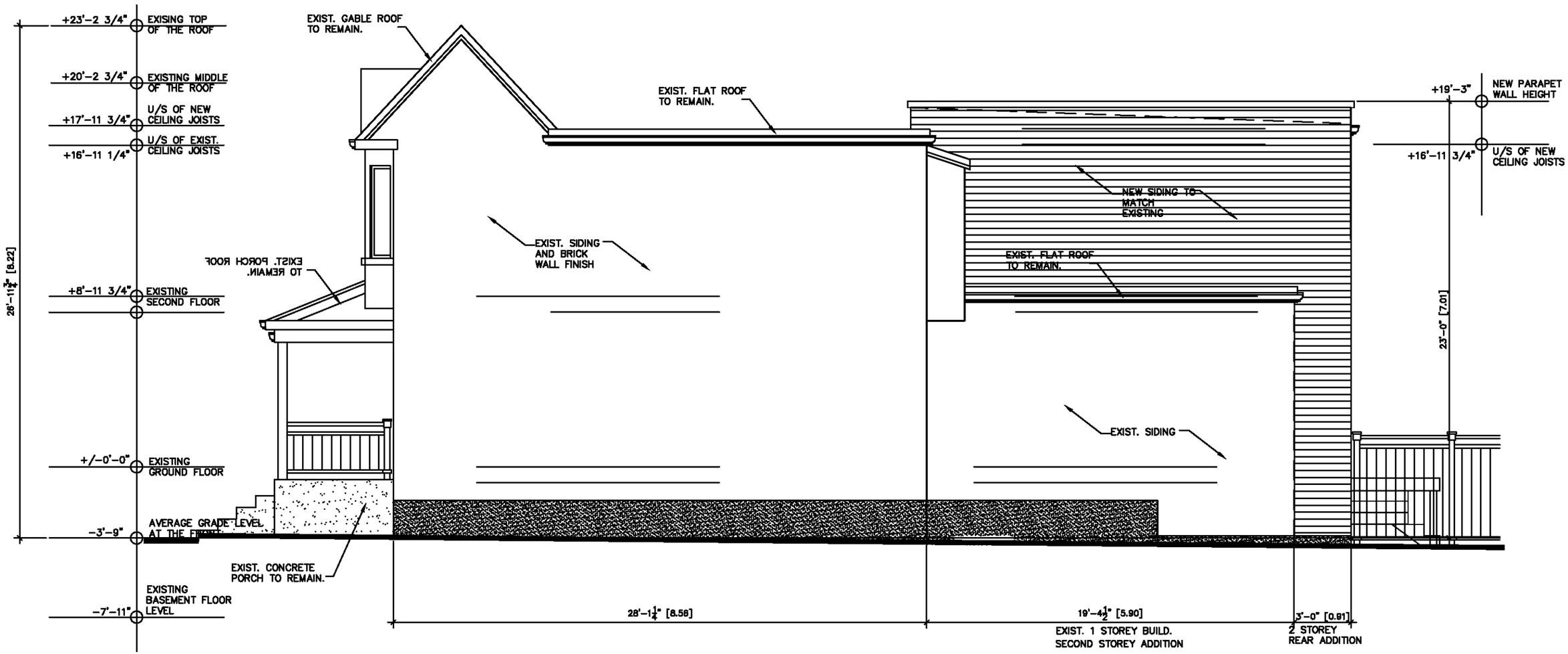
E. S. T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
PHONE: 416 . 667 1140

Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project	Sheet
SIDE ELEVATION	D9
Date: Nov. 02, 2017	
Scale: AS SHOWN	



Side (North) Elevation
scale 3/16"=1'-0"

Firm Name and Address

E. S. T. DESIGN CONSULTANTS INC.

167 TORRESDALE AVE.
NORTH YORK, ONTARIO, M2R 3E3
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Project Name and Address

REAR ADDITION
TO EXIST. HOUSE
146 Brookside Ave.
Toronto, Ontario

Project	Sheet
SIDE ELEVATION	D11
Date: Dec. 20, 2017	
Scale: AS SHOWN	