

# DECISION AND ORDER

**Decision Issue Date**      Monday, July 23, 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): BRIANA MIRABELLI

Applicant: JOSHUA DESIGN CO INC

Property Address/Description: 476 ANNETTE ST

Committee of Adjustment Case File Number: 17 198622 WET 13 MV

TLAB Case File Number: **18 117156 S45 13 TLAB**

**Hearing date:**      Friday, July 06, 2018

**DECISION DELIVERED BY**      **S. MAKUCH**

## APPEARANCES

| Name             | Role           | Representative |
|------------------|----------------|----------------|
| Briana Mirabelli | Appellant      |                |
| Franco Romano    | Expert Witness |                |

## INTRODUCTION

This is an appeal by the applicant of a decision of the Committee of Adjustment refusing minor variances to permit the construction of a third story addition above an existing dwelling, a rear three story addition to the dwelling, and to further permit the construction of a garage in the rear yard. Although planning staff and some neighbours raised concerns regarding the application before the Committee of Adjustment, no one appeared in opposition to the appeal before TLAB.

## **BACKGROUND**

The matters in issue before the Committee of Adjustment were primarily the height of a second story garage, the impact on trees, one in the rear and another in the front yard and the impact of the addition on the light to and view from 474 Annette St. Planning Staff also raised concerns regarding the required variances and Urban forestry noted that trees might be injured or destroyed.

## **MATTERS IN ISSUE**

As no one appeared at the hearing in opposition to the appeal there were no specific issues raised at the hearing.

## **JURISDICTION**

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').

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 evidence presented at the hearing was that of Franco Romano, who has been qualified to give expert planning opinion evidence many times before the Ontario Municipal Board and TLAB. His evidence was that the plans had been revised so that the second story had been removed from the garage. He stated: that the tree in the front yard would not be affected by the application as there was no addition to the front of the dwelling; that the tree in the rear could be affected by as of right construction of a garage; and that neighbours now understood the application and that they were no longer in opposition. He also gave evidence, as set out in detail in his witness statement, Exhibit 1, of the reasons for his conclusions that the variances were consistent with the PPS and conformed with the Growth Plan and for his conclusion that the application met the four tests of the Planning Act. In his opinion the variances and plans as revised and set out in his Witness Statement should be approved.

## ANALYSIS, FINDINGS, REASONS

I accept the detailed reasons, which were unchallenged and uncontradicted, as set out in Exhibit 1 respecting the revised plan and find on the basis of those reasons that the variances, cumulatively and individually, meet the four tests of the Planning Act, conform to the Growth Plan and are consistent with the PPS. I do, however, find, as a tree will be injured in the rear the dwelling that the condition requested by Urban Forestry should be imposed.

## DECISION AND ORDER

The variances attached as Appendix 1 are approved subject to the condition that construction occurs substantially in accordance with the plan and elevations in Appendix 1 and subject to the further condition recommended by Urban Forestry in Appendix 2.



X

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Stan Makuch  
Panel Chair, Toronto Local Appeal Body

Toronto Building  
Ann Borooh, Chief Building Official and Executive Director

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2nd Floor  
Toronto, ON M9C 5A3

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Email: MSHEHAT@toronto.ca

**Folder Name: 476 ANNETTE ST**  
**Application Number: 17 142136 ZZC 00 ZR**

## Zoning bylaw Notice

### ITEM DESCRIPTION

#### City-wide Zoning By-law

Your property is subject to the City-wide Zoning By-law No. 569-2013, as amended. Based on By-law No. 569-2013, your property is zoned (R (d0.6) (x737)).

For this review Basement level will be considered as the First Floor as per below definition;  
First Floor means the floor of the building, other than an area used for a parking space, that is closest in elevation to the elevation of established grade.

[ By-law: 1676-2013 ]

#### Main Building

1. A) The permitted maximum floor space index is (0.6) times the area of the lot: (131.55) square metres. The proposed floor space index is (1.29) times the area of the lot: (283.80)square metres.  
[10.10.40.40.(1) Floor Space Index]
2. A) The permitted maximum building depth for a (detached house, semi-detached house) is 17.0 metres. The proposed building depth is (19.19) metres.  
[10.10.40.30.(1) Maximum Building Depth]
3. A) The permitted maximum height of a building or structure is (10.00) metres. The proposed height of the (building/structure) is (10.24) metres.  
[10.10.40.10.(1) Maximum Height]
4. B)(ii) The permitted maximum height of all side exterior main walls facing a side lot line is 7.0 metres. The proposed height of the side exterior main walls facing a side lot line is (10.00) metres.  
[10.10.40.10.(2) Maximum Height of Specified Pairs of Main Walls]
5. (A) The minimum building setback from a side lot line for any addition or extension to the rear or the side of a lawfully existing building or structure on a lot with a lot frontage of less than 9.0 metres, is the side yard setback permitted by regulation 10.5.40.71(1): (0.23) metres. The proposed minimum building side yard setback is (0.22) metres from the (west) lot line.  
[10.5.40.71.(4) Additions to the Rear or Side of Lawfully Existing Buildings on Specified Lots]
6. (A) A lot with a residential building, other than an apartment building, must have a minimum of 50 percent of the rear yard for soft landscaping: (36.75) square metres, if the lot frontage is greater than 6.0 metres. The proposed rear yard landscaping area is (48.42) percent; (35.59) square metres.  
[10.5.50.10.(3) Rear Yard Soft Landscaping for Residential Buildings Other Than an Apartment Building]
7. On a lot with a lot frontage of 12.2 metres or less, the minimum building setback for any addition or extension above a lawfully existing building or structure is the minimum building setback from the respective lot line: (0.23) metres. The proposed minimum building setback is (0.22) metres from the (west) lot line.  
[10.5.40.71.(3) Additions Above Lawfully Existing Buildings on Specified Lots]

#### Toronto Zoning by-law

Your property is located in the former municipality of Toronto and is subject to Zoning By-law No. 438-86, as amended. Based on Zoning By-law No. 438-86, the property is zoned ( R2 Z0.6 )

#### Garage

8. The by-law requires an accessory structure to have a minimum set back of 4.5 metres to an adjacent residential building. The proposed set back to the adjacent building at (474 Annette St) is (3.80) metres. [6(3) Part II 7(II) A - Setback Of 4.5 m Min, Accessory Structure To Residential Bldg]

#### Main Building

9. The permitted maximum height of a building or structure is (10.0) metres. The proposed height of the (building/structure) is (10.24) metre.  
[4(2) (A) Height Limits: Buildings and Structures- Section 4 - Regulations Applying To All Use Districts]

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Toronto Building  
Ann Borooh, Chief Building Official and Executive Director

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**Folder Name: 476 ANNETTE ST**  
**Application Number: 17 142136 ZZC 00 ZR**

## Zoning bylaw Notice

ITEM DESCRIPTION

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### General Requirements

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10. Proposed east roof eave is encroaching into the west neighbour property; no encroachment is allowed over the property line.

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**REVISED**

10:28 am, Aug 31, 2017

**SITE STATISTICS**

|                               |           |
|-------------------------------|-----------|
| <b>LOT AREA:</b>              | 219.25 SM |
| <b>PROPOSED LOT COVERAGE:</b> | 58.3%     |
| <b>EXISTING GFA</b>           |           |
| GROUND FLOOR:                 | 74.5 SM   |
| SECOND FLOOR:                 | 62.7 SM   |
| <b>TOTAL EXIST. GFA:</b>      | 137.2 SM  |
| <b>PROPOSED GFA</b>           |           |
| GROUND FLOOR:                 | 97.5 SM   |
| SECOND FLOOR:                 | 93.6 SM   |
| THIRD FLOOR:                  | 91.1 SM   |
| <b>TOTAL DWELLING GFA:</b>    | 282.2 SM  |
| GARAGE GROUND:                | 33.31 SM  |
| <b>TOTAL GARAGE GFA:</b>      | 33.31 SM  |

**FLOOR SPACE INDEX**

|               |      |
|---------------|------|
| EXISTING FSI: | 0.62 |
| PROPOSED FSI: | 1.56 |

**PROPOSED SETBACKS**

|                  |          |
|------------------|----------|
| FRONT:           | 5.08 m   |
| SIDE (EAST):     | 0.216 m  |
| SIDE (WEST):     | 0.619 m  |
| REAR (DWELLING): | 12.124 m |
| REAR (GARAGE):   | 1.539 m  |

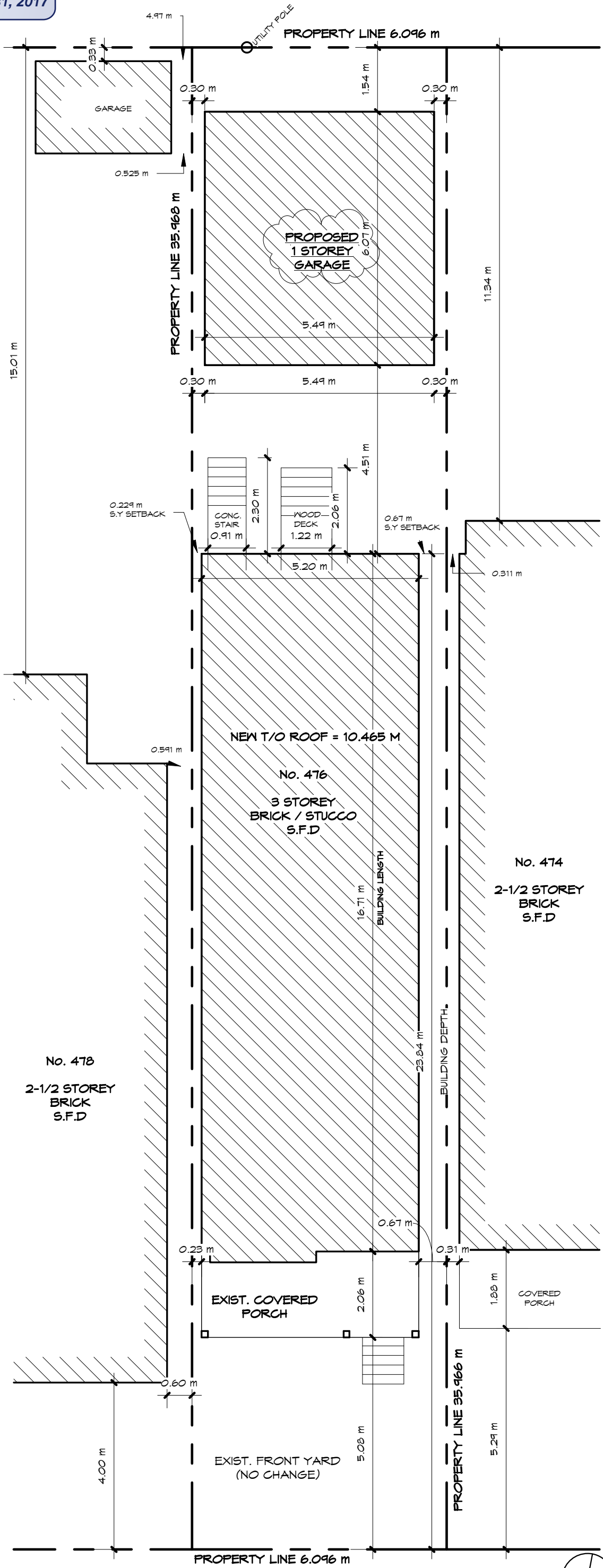
**BUILDING HEIGHT**

|                             |         |
|-----------------------------|---------|
| PROPOSED HEIGHT: (DWELLING) | 9.931 m |
|-----------------------------|---------|

PROPOSED HEIGHT: 3.96 m (GARAGE)

**REAR YARD LANDSCAPING:**

|                               |                   |
|-------------------------------|-------------------|
| REAR YARD AREA                | 73.5 SM           |
| GARAGE FOOT PRINT             | 33.31 SM          |
| WOOD DECK FOOT PRINT          | 2.5 SM            |
| CONC. STAIR FOOTPRINT         | 2.1 SM            |
| <b>SOFT LANDSCAPING AREA:</b> | 35.59 SM / 48.42% |



**REVISED**

10:28 am, Aug 31, 2017

|                    |              |
|--------------------|--------------|
| <b>Site Plan</b>   |              |
| Issue Date         | Feb. 28 2017 |
| Plot Date          | Aug-30-2017  |
| Scale 1/8" = 1'-0" |              |
| <b>A1</b>          |              |

| No. | Description     | Date       |
|-----|-----------------|------------|
| 01  | CoFA Submission | July-12-17 |
| 02  |                 |            |
| 03  |                 |            |
| 04  |                 |            |
| 05  |                 |            |
| 06  |                 |            |

**Joshua Design Co.**  
 10520 Yonge St.  
 Unit 35B, Suite #334  
 Richmond Hill, ON  
 T: 416-508-1590 E: info@joshuadesignco.com

**476 Annette St.**

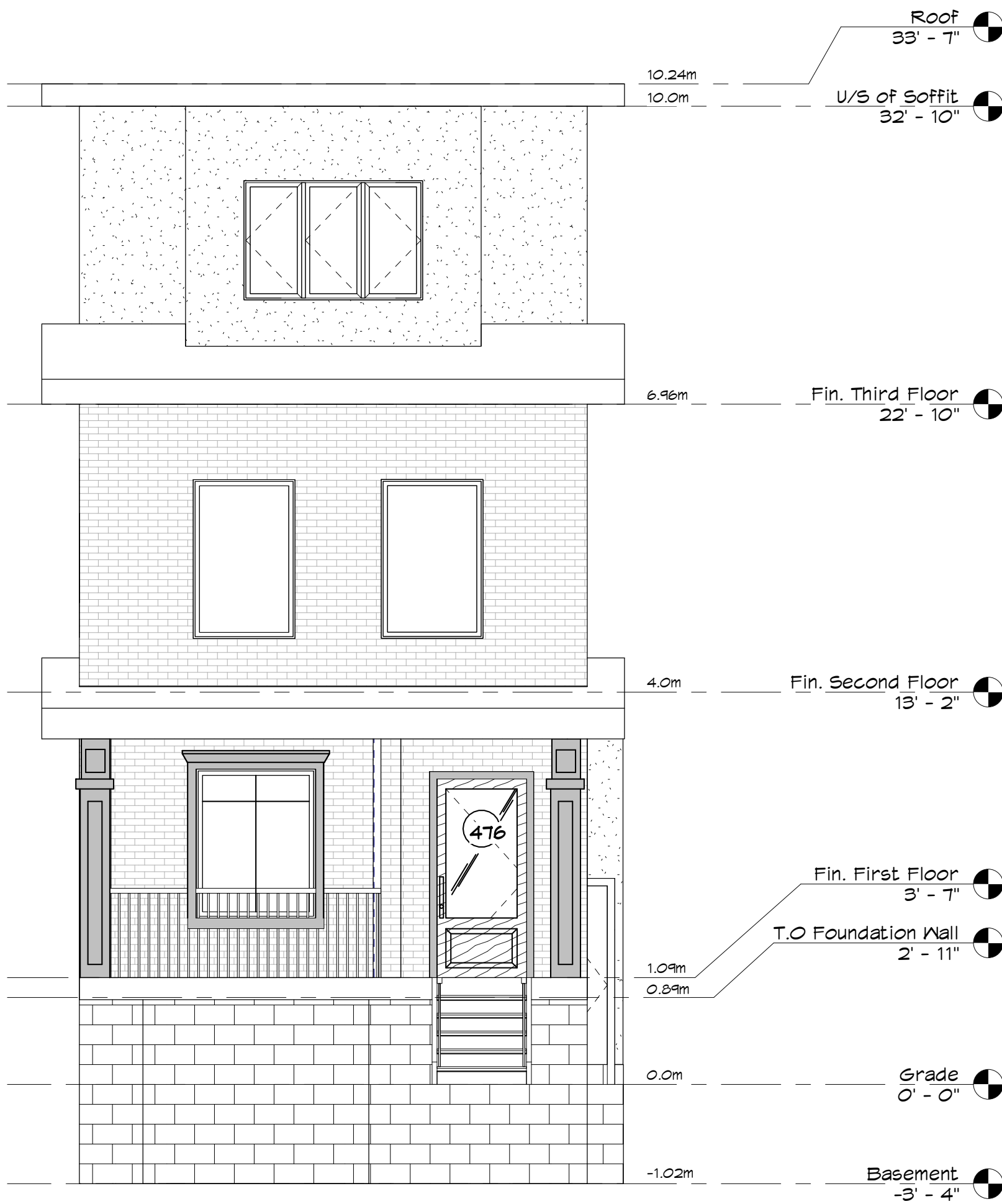
Toronto

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 be a designer.

QUALIFICATION INFORMATION  
 Required unless design is exempt under Division C - 3.2.5.1 of the 2006 Ontario Building Code

ITAY JOSHUA  
 NAME

4289B  
 BCIN



Front Elevation

| No. | Description     | Date       |
|-----|-----------------|------------|
| 01  | CoFA Submission | July-12-17 |
| 02  |                 |            |
| 03  |                 |            |
| 04  |                 |            |
| 05  |                 |            |
| 06  |                 |            |

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**476 Annette St.**  
 Toronto

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QUALIFICATION INFORMATION  
 Required unless design is exempt under Division C - 3.2.5.1 of the 2006 Ontario Building Code

ITAY JOSHUA  
 NAME

*Itay Joshua*  
 4289B  
 BCIN

A6

Issue Date  
Feb. 28 2017

Plot Date  
Aug-30-2017

Scale 1/4" = 1'-0"



# Rear Elevation

| No. | Description     | Date       |
|-----|-----------------|------------|
| 01  | CofA Submission | July-12-17 |
| 02  |                 |            |
| 03  |                 |            |
| 04  |                 |            |
| 05  |                 |            |
| 06  |                 |            |

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 Toronto

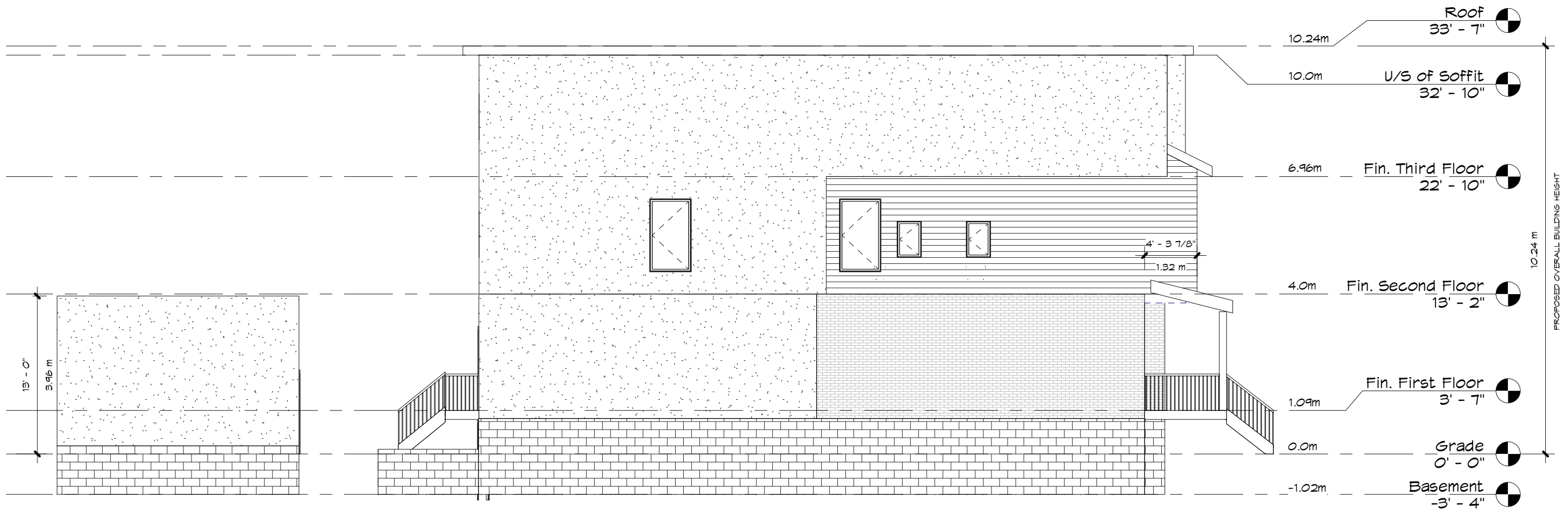
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**QUALIFICATION INFORMATION**  
 Required unless design is exempt under Division C - 3.2.5.1 of the 2006 Ontario Building Code

**ITAY JOSHUA** 4289B  
 NAME BCIN

**A7**  
 Issue Date: Feb. 28 2017  
 Plot Date: Aug-30-2017  
 Scale: 1/4" = 1'-0"





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**QUALIFICATION INFORMATION**

Required unless design is exempt under Division C - 3.2.5.1 of the 2006 Ontario Building Code

ITAY JOSHUA

*Itay Joshua* 42893  
BCIN

NAME

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Toronto

| No. | Description     | Date       |
|-----|-----------------|------------|
| 01  | CofA Submission | July-12-17 |
| 02  |                 |            |
| 03  |                 |            |
| 04  |                 |            |
| 05  |                 |            |
| 06  |                 |            |

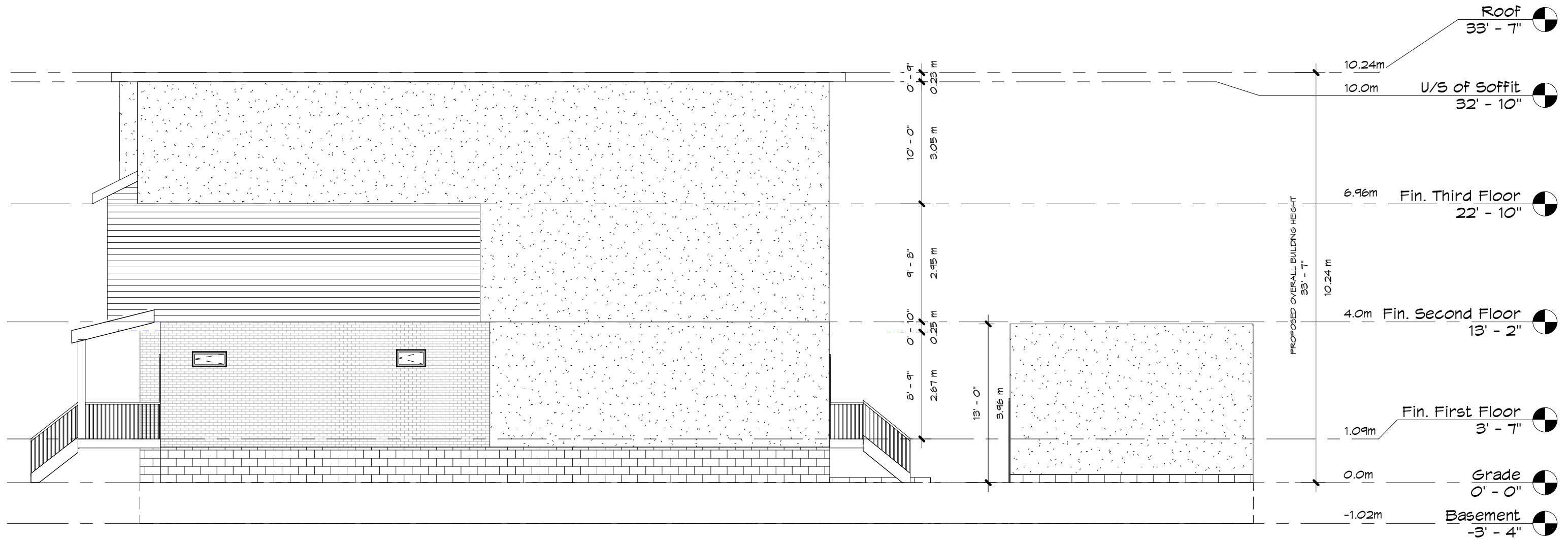
**East Elevation**

Issue Date Feb. 28 2017

Plot Date Aug-30-2017

**A8**

Scale 1/8" = 1'-0"



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**QUALIFICATION INFORMATION**

Required unless design is exempt under Division C - 3.2.5.1 of the 2006 Ontario Building Code

ITAY JOSHUA

NAME

*Itay Joshua* 42893 BCIN

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Toronto

| No. | Description        | Date       |
|-----|--------------------|------------|
| 01  | CofA Submission    | July-12-17 |
| 02  | CofA Rev. - Garage | Aug-30-17  |
| 03  |                    |            |
| 04  |                    |            |
| 05  |                    |            |
| 06  |                    |            |

**West Elevation**

Issue Date Feb. 28 2017

Plot Date Aug-30-2017

**A9**

Scale 1/8" = 1'-0"

**APPENDIX 2**

Prior to the issuance of a demolition permit or building permit, the applicant shall satisfy all matters relating to any City owned or privately owned trees on the site to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review.