

**Toronto Local Appeal Body** 

40 Orchard View Blvd, Suite 211 Toronto, Ontario M4R 1B9 
 Telephone:
 416-392-4697

 Fax:
 416-696-4307

 Email:
 tlab@toronto.ca</tlab</tr>

 Website:
 www.toronto.ca/tlab

# **DECISION AND ORDER**

Decision Issue Date Tuesday, July 03, 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): LISA SWIMMER

Applicant: LORNE ROSE ARCHITECT INC (LORNE ROSE)

Property Address/Description: 201 ARMOUR BLVD

Committee of Adjustment Case File Number: 17 269909 NNY 10 MV (A1053/17NY)

TLAB Case File Number: 18 117776 S45 10 TLAB

Hearing date: Monday, June 11, 2018

**DECISION DELIVERED BY S. Gopikrishna** 

## **REGISTERED PARTIES AND PARTICIPANTS**

Name	Role			
Lisa Swimmer	Appellant/ Owner	Representative		
Oz Kemal	Expert Witness	Aaron Platt		

# INTRODUCTION AND BACKGROUND

This decision reflects the disposition of the Appeal respecting 201 Armour Blvd. on the basis of the Expert Witness' affidavit and the oral hearing completed through a teleconference on the morning of 11 June, 2018.

The hearing scheduled for 11 June, 2018 is the consequence of a Motion hearing in person respecting the same property heard on 13 April, 2018. The purpose of the Motion hearing was to seek:

a) Relief in the form of accepting the Expert Witness' Affidavit in lieu of an Expert Witness Statement, dispense with the requirement to hold a complete Hearing and determine the outcome of the Appeal at the Motion, dispense with the requirement for notice on a new variance, and grant the Appeal.

b) Alternative relief in the form of admitting the Expert Witness' affidavit in lieu of an Expert Statement, providing written notice regarding the new variances, adjourn the hearing and proceed to an oral hearing as originally scheduled.

I granted the Alternative relief sought by the Appellants with reasons as discussed in my decision dated 8 May, 2018. It may be pertinent to note that one of the reasons behind my granting only the Alternate relief was to allow community members to inform themselves of the updated variances through an updated Zoning Notice and obtain information to satisfy themselves, as appropriate.

The follow up hearing was then scheduled for the 11<sup>th</sup> of June, 2018 to be heard by teleconference.

# **MATTERS IN ISSUE**

The following is the list of variances submitted for approval to the Toronto Local Appeal Body:

A) The permitted maximum lot coverage is 30% of the lot area.

The proposed lot coverage is 35% of the lot area.

#### Chapter 10.20.40.10.(1), By-law 569-2013

A) The permitted maximum height of a structure is 10 m.

The proposed height of the structure is 10.55 m.

#### Chapter 10.20.40.10.(2), By-law 569-2013

(A)(i) The permitted maximum height of all front exterior main walls is 7.5 m.

The proposed height of the front exterior main walls is 9.59 m.

#### Chapter 10.20.40.10.(1), By-law 569-2013

The permitted maximum building length for a detached house is 17.0 m. The proposed building length is 21.59 m.

#### Chapter 10.20.40.30.(1), By-law 569-2013

The permitted maximum building depth for a detached house is 19.0 m.

The proposed building depth is 21.40 m.

#### Chapter 10.20.40.70.(1), By-law 569-2013

The required minimum front yard setback is 5.89 m.

The proposed front yard setback is 3.54 m.

#### Chapter 10.20.40.70.(3), By-law 569-2013

C) The required minimum side yard setback is 1.2 m.

The proposed south side yard setback is 0.9 m.

#### Chapter 10.5.40.60.(1). By-law 569-2013

B)(ii) A canopy not covering a platform must encroach in a side yard, a maximum of 1.5 m.

The proposed canopy encroaches 1.56 m.

# Chapter 10.5.40.60.(1), By-law 569-2013

E) A platform may encroach in the required side yard setback a maximum of 1.5 m. The proposed platform encroaches 1.68 m into the required side yard setback.

# Chapter 10.5.80.40.(3), By-law 569-2013

B) Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street.

Proposed vehicle access to a parking space is not from a flanking street.

# Chapter 10.20.40.70.(6), By-law 569-2013

The required minimum side yard setback is 3.0 metres for a corner lot where there is an adjacent lot fronting on the street abutting the side lot line.

The proposed north side yard setback is 1.22 metres and the proposed south side yard setback is 0.9 m.

## Section 14-A (5)(a), By-law 7625

The minimum required front yard setback is 6.0 m.

The proposed front yard setback is 3.54 m.

#### Section 14-A (5)(c), By-law 7625

The minimum required south side yard setback is 1.2 m.

The proposed south side yard setback is 0.9 m.

#### Section 6(9)(h), By-law 7625

The maximum projection of a porch in the side yard is 1.6 m.

The proposed porch projects 1.68 m.

#### Section 6(9)(i), By-law 7625

The maximum permitted area of a canopy in a side yard is 2.3 sq m.

The proposed north canopy is 5.28 sq m.

# JURISDICTION

## Minor Variance - S. 45(1)

In considering the applications for variances form 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 hearing began at 9:00 AM on 11 June, 2018. The Appellant was represented by Mr. Aaron Platt, Lawyer and Mr. Oz Kemal, Land Use Expert. The hearing commenced with my swearing Mr. Oz Kemal as the Expert Witness. I was then advised by Mr. Platt

that a new notice had been given to the neighbours on 25 May, 2018, as a result of my decision.

Mr. Platt drew my attention to an email from Ms. Betty Abrams of 198 Armour Blvd. in response to the new notice dated 25 May, 2018. In this email, she objected to the variances respecting vehicle access as well as the north and side yard setbacks. Ms. Abrams' concern was that while the former variance created a safety issue, the latter would result in a long house, very near to the curb of the street, which would detract from the beauty of the area. Mr. Platt stated that he had replied to Ms. Abrams explaining that the positioning of the house had not changed from the previous proposal and that the extra variance had not been uncovered until the time of the TLAB appeal though it always existed. Mr. Platt also pointed out that Ms. Abrams was neither a Party nor Participant, and that the email consequently did not have to be entered into evidence. I concurred with his conclusion, and hope that his reply to Ms. Abrams helped allay her concerns about the new variance.

Mr. Platt then drew my attention to the extensive filings in Mr. Kemal's Affidavit dated March 29, 2018. The highlights of Mr. Kemal's planning evidence, with specific reference to the 4 tests under Section 45 (1) of the Planning Act, are provided below:

The Property is located within the Armour Heights neighbourhood of Toronto, located east of Bathurst and north of Wilson Avenue and Highway 401 as the latter meanders northward from west to east. The delineation of the boundaries of the study area reflect the changes between the residential areas within the area bounded by Earl Bales Park to the north, Don Valley Gulf Course and ravine to the east, mixed use area to the west, and Highway 401 to the south, all of which have been excluded from the study area.

According to Mr. Kemal, the City of Toronto's Official Policy (OP) designates the Property *Neighbourhoods*, which are predominantly stable residential areas that are expected to physically change over time. The OP acknowledges that *Neighbourhoods* are not static and will not stay frozen in time. It provides that the occurring changes will respect and reinforce the existing physical character and streetscapes of existing *Neighbourhoods*, *inter alia*. Mr. Kemal then demonstrated how the Subject Application respects and reinforces the existing physical character of the adjacent neighbourhood.

Mr. Kemal stated the Subject Application facilitates stability in the form of re-investment by way of the construction of a new, single detached home in an area where such residences are the predominant housing form. The proposed new home is consistent with the neighbourhood pattern, and the variances are is in-line with similar variances granted by the Committee in the neighbourhood. As a result, the variances will not create any undue impacts or new benchmarks that would serve to destabilize the adjacent neighbourhood. In Mr. Kemal's view, the built form permitted by the Subject Application will establish a compatible building within the neighbourhood and adjacent context, as well as meet the relevant urban design policies contained within the OP. Based on these observations, Mr. Kemal concluded that the proposal maintained the intent and purpose of the Official Plan.

Mr. Kemal then discussed the Zoning By-Laws applicable to the property. The property has to be assessed through two sets of Applicable Zoning By-Laws, City of Toronto Zoning By-law 569-2013 (the "New By-law") or North York Zoning By-law 7625 (the "Old By-law"). The New By-law zones the Property *as Residential Detached Zone (RD)* which permits a single detached building form, whereas the Old By-law zones the Property *One-Family Detached Dwelling Sixth Density Zone (R6)*, which permits a single detached building form. Mr. Kemal then discussed the intent of each of the By-laws and applied it to the proposal respecting 201 Armour Blvd.

Mr. Kemal pointed out that the intent of the lot coverage standard is to control the form and size of a structure on an individual lot. In this instance, the variance for increased lot coverage reflects an opportunity to efficiently utilize the available lot area of the Property, located within an urban setting, while ensuring that sufficient ground area and open space are maintained for landscaping, pedestrian accesses and parking areas. Based on this evidence, Mr. Kemal opined that the lot coverage variance met the intent and purpose of the zoning by-law.

Discussing he building height standards next, Mr. Kemal said that the intent of the height standard is to ensure compatibility and consistency with surrounding structures by limiting certain undue impacts often attributed to height, for example, shadow and overlook. The additional height sought applies only to the roof portion of the proposed home, which does not contain any windows. The roof design also provides a transition in scale and massing in relation to the adjacent properties. According to Mr. Kemal, there are no undue impacts from shadow or overlook as a result of the increase in height. Based on these conclusions, Mr. Kemal stated that the height variance met the purpose and intent of the zoning by-law.

Mr. Kemal then discussed the variances respecting the height of the exterior main walls. He stated that the intent of provision related to main wall height is to ensure and limit potential undue impacts from a flat roof by encouraging a pitched roof. In this instance, the relief sought for the main wall height only applies to a portion of the north and west elevations, and is required as a result of an architectural feature, namely dormers. This architectural feature is appropriate and will fit within the character of the neighbourhood, which demonstrates that the variances related to height of exterior main wall are also consistent with the Zoning By-laws.

According to Mr. Kemal, the relief sought for building length and depth is required under the New Bylaw. This relief reflects the Property's ample depth, a characteristic of the neighbourhood. Given that many variances comparable to what was being requested had been approved by the COA in the neighbourhood, Mr. Kemal concluded that that the building length and depth would not destabilize the community. He concluded that the building length and depth met the general intent and purpose of the by-law.

Mr. Kemal then discussed the front and side yard setbacks. He stated that the variance from the front yard setback standard reflects the reality that the property is located along the curved portion of the Armour Boulevard road allowance which widens at the property's frontage. This condition serves to artificially decrease the front yard setback of the many properties fronting both Armour Boulevard and Sandringham Drive. Mr.

Kemal pointed out that there were seven COA approvals for a similar variance in the area, and added that the relief sought to the side yard setbacks will continue to maintain the general intent of the By-laws as access to the rear yard will still be permitted. He asserted that there will be minimal impact to privacy especially given the Property is a corner lot.

Mr. Kemal then discussed the zoning requirements respecting the variances related to Platform and Canopy encroachment. He stated that the general intent and purpose of this provision is to prevent privacy concerns between abutting properties caused by the use of a platform. In this instance, the relief is sought for a raised entrance on the north wall of the property, which is a corner lot, flanking on to Sandringham Drive. Mr. Kemal concluded that there would be no privacy concerns resulting from the positioning of the canopy, and that he variances consequently meet the purpose and intent of the by-law.

Lastly, Mr. Kemal discussed the issue of the vehicle access from the main street. The general purpose and intent of this provision is to maximize landscaping on the streetscape and to minimize disruption of traffic flow along streets with higher volumes. Since the intersection of Armour Boulevard and Sandringham Drive is a 4 way stop, he opined that the subject application will not disrupt the flow of traffic. Mr. Kemal also pointed out that the proposed vehicle access from Armour Boulevard will allow for sufficient and appropriate landscaping to be maintained. The built form will also align with 207 Armour Boulevard to the immediate north which amongst other properties in the neighbourhood, has obtained similar variances for vehicle access. Mr. Kemal concluded by stating that the relief for vehicle access will meet the general intent and purpose of the New By-law, and is supported by the Transportation Dept. Mr. Kemal drew attention to the support from the Transportation Department since they had opposed the same variance at the COA hearing.

Based on this discussion, Mr. Kemal concluded that the variances, cumulatively and individually, maintained and fulfilled the intention and purpose of the by-laws.

Mr. Kemal then discussed how the variances were "minor". He pointed out that the consideration of 'minor' is not simply, or even primarily, a statistical or numeric analysis, but requires consideration of the end-effect and impacts, if any, arising from an approval of the variances. Mr. Kemal asserted that no unacceptable adverse impacts or undue impact of any kind, to adjacent or abutting properties would result if the variances were to be approved. He linked the lack of opposition from the neighbours to the lack of adverse impact of the variances, which consequently could be interpreted to mean that the variances were individually and cumulatively, minor.

Lastly, he discussed how the variances satisfied the test for "Appropriate Development of the Property". Mr. Kemal stated that the proposal would result in the continued use of the property as a single detached dwelling. He also stated that the design helped ensure that suitable indoor space and a sizeable rear yard outdoor space would exist in a manner that would be appropriate with the adjacent lots and building. Based on this discussion, Mr. Kemal concluded that the development was appropriate for the property.

Mr. Kemal's affidavit also discussed the fit between the proposal and the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe. According to Mr. Kemal, the Growth Plan guides and helps implement the creation of "complete communities" which envisions a diverse range and mix of housing options to support the needs of all household sizes and incomes, and seeks to focus the implementation of this vision within existing urban areas. Given that the Growth Plan is a higher order plan, the proposal fit generally with the intent of housing options and did not raise any specific concerns. Mr. Kemal therefore concluded that the proposal was consistent with the Growth Plan. Mr. Kemal then discussed the PPS, and its application to the proposal. The PPS encourages efficient land use planning to create and maintain strong communities and a healthy environment while promoting cost effective development patterns and standards. The Subject Application represents an opportunity to promote redevelopment as a way to minimize land consumption, efficiently utilize existing services and infrastructure, and therefore did not raise any issues of significance with respect to the PPS.

Based on this discussion, Mr. Kemal concluded that the proposal satisfied the 4 tests and was not inconsistent with the PPS and Growth Plan. He therefore asked that the proposal be approved.

Based on these written submissions, Mr. Platt asked if I had any questions or needed clarifications. When I stated that I did not have any substantive questions,. Mr. Platt requested that I issue an oral order approving the variances. I responded in the affirmative and orally stated that the appeal was allowed in its entirety and that all variances were approved, subject to the condition that the building be constructed in substantial accordance with the drawings and elevations submitted 22 March, 2018, with written reasons to follow.

# ANALYSIS, FINDINGS, REASONS

I must begin by acknowledging the letter from Ms. Abrams of 198 Armour Blvd. While her letter could not be admitted into evidence since she had not elected for Party or Participant status, it nevertheless reinforced my belief that notice ought to be given on a new variance and that the process should be sufficiently inclusive to accept questions from community members. Even if the variance is not to the neighbour's satisfaction, it is important that they appreciate that the granted variance will not impact their property in any significant fashion

I accept the uncontroverted evidence from the Expert Planner, Mr. Kemal. His evidence demonstrated that the requested variances, collectively and singly, were consistent with the intention of the Official Plan and zoning requirements. The evidence pointed out that many of the variances similar to those requested, had been approved in the community. Mr. Kemal's evidence supported the view that there were no adverse impacts rising from the variances and that the variances were appropriate and desirable. Given the granularity of individual proposals, it is difficult to argue that they are not consistent with the PPS or the Growth Plan.

Mr. Kemal's evidence had multiple references to similar variances being approved throughout the neighbourhood, which demonstrated that the variances sought were not out of the ordinary, and would therefore not destabilize the neighbourhood.

It may be pertinent to briefly comment on the vehicle access related variances since they were opposed by the Transportation Department at the Committee of Adjustment (COA) hearing. Mr. Kemal's evidence pointed out that similar variances had been approved on other properties in the vicinity and that City Transportation reversed its view and supported the proposal after discussions with the Appellants. Likewise, the new side yard setback, which was discovered by Mr. Kemal, demonstrates no significant impact on the neighbouring properties, and satisfies the 4 tests under Section 45(1) of the Planning Act.

Based on these discussions, I conclude that the Appeal may be allowed in its entirety and that all variances be approved. The earlier decision of the COA may be set aside.

# **DECISION AND ORDER**

1. The Appeal is allowed in its entirety, and the decision of the Committee of Adjustment (COA) dated 8 February, 2018 is set aside.

2. The following variances are now approved:

A) The permitted maximum lot coverage is 30% of the lot area.

The proposed lot coverage is 35% of the lot area.

#### Chapter 10.20.40.10.(1), By-law 569-2013

A) The permitted maximum height of a structure is 10 m.

The proposed height of the structure is 10.55 m.

#### Chapter 10.20.40.10.(2), By-law 569-2013

(A)(i) The permitted maximum height of all front exterior main walls is 7.5 m. The proposed height of the front exterior main walls is 9.59 m.

#### Chapter 10.20.40.10.(1), By-law 569-2013

The permitted maximum building length for a detached house is 17.0 m.

The proposed building length is 21.59 m.

#### Chapter 10.20.40.30.(1), By-law 569-2013

The permitted maximum building depth for a detached house is 19.0 m. The proposed building depth is 21.40 m.

#### Chapter 10.20.40.70.(1), By-law 569-2013

The required minimum front yard setback is 5.89 m.

The proposed front yard setback is 3.54 m.

#### Chapter 10.20.40.70.(3), By-law 569-2013

C) The required minimum side yard setback is 1.2 m.

The proposed south side yard setback is 0.9 m.

#### Chapter 10.5.40.60.(1). By-law 569-2013

B)(ii) A canopy not covering a platform must encroach in a side yard, a maximum of 1.5 m.

The proposed canopy encroaches 1.56 m.

#### Chapter 10.5.40.60.(1), By-law 569-2013

E) A platform may encroach in the required side yard setback a maximum of 1.5 m. The proposed platform encroaches 1.68 m into the required side yard setback.

#### Chapter 10.5.80.40.(3), By-law 569-2013

B) Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street.

Proposed vehicle access to a parking space is not from a flanking street.

#### Chapter 10.20.40.70.(6), By-law 569-2013

The required minimum side yard setback is 3.0 metres for a corner lot where there is an adjacent lot fronting on the street abutting the side lot line.

The proposed north side yard setback is 1.22 metres and the proposed south side yard setback is 0.9 m.

#### Section 14-A (5)(a), By-law 7625

The minimum required front yard setback is 6.0 m.

The proposed front yard setback is 3.54 m.

#### Section 14-A (5)(c), By-law 7625

The minimum required south side yard setback is 1.2 m.

The proposed south side yard setback is 0.9 m.

#### Section 6(9)(h), By-law 7625

The maximum projection of a porch in the side yard is 1.6 m.

The proposed porch projects 1.68 m.

#### Section 6(9)(i), By-law 7625

The maximum permitted area of a canopy in a side yard is 2.3 sq. m.

The proposed north canopy is 5.28 sq m.

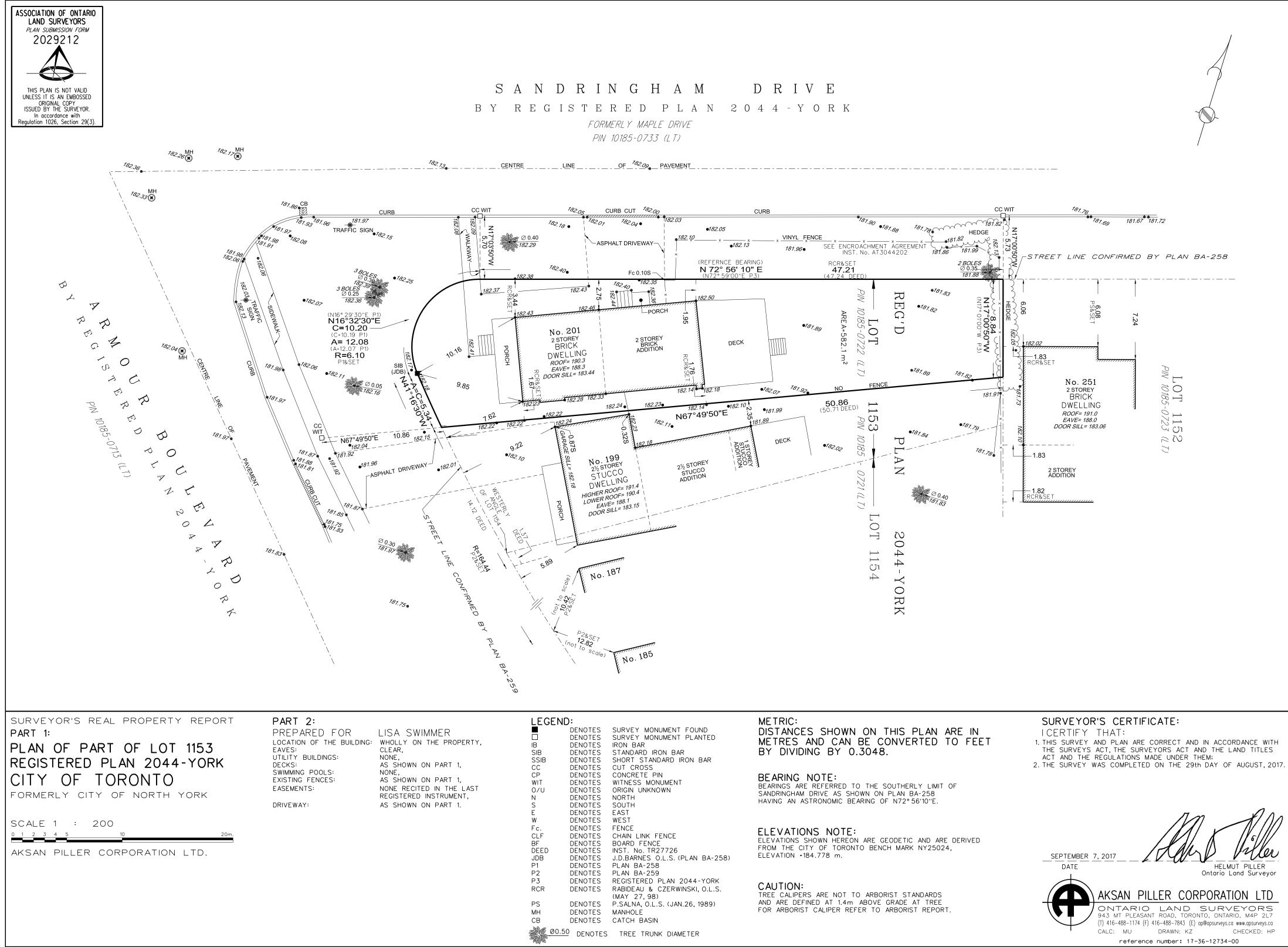
4. The condition imposed on the approval is that the buildings be constructed in substantial accordance with the Plans and Elevations, prepared by Architect Lorne Rose, dated 23 March, 2018.

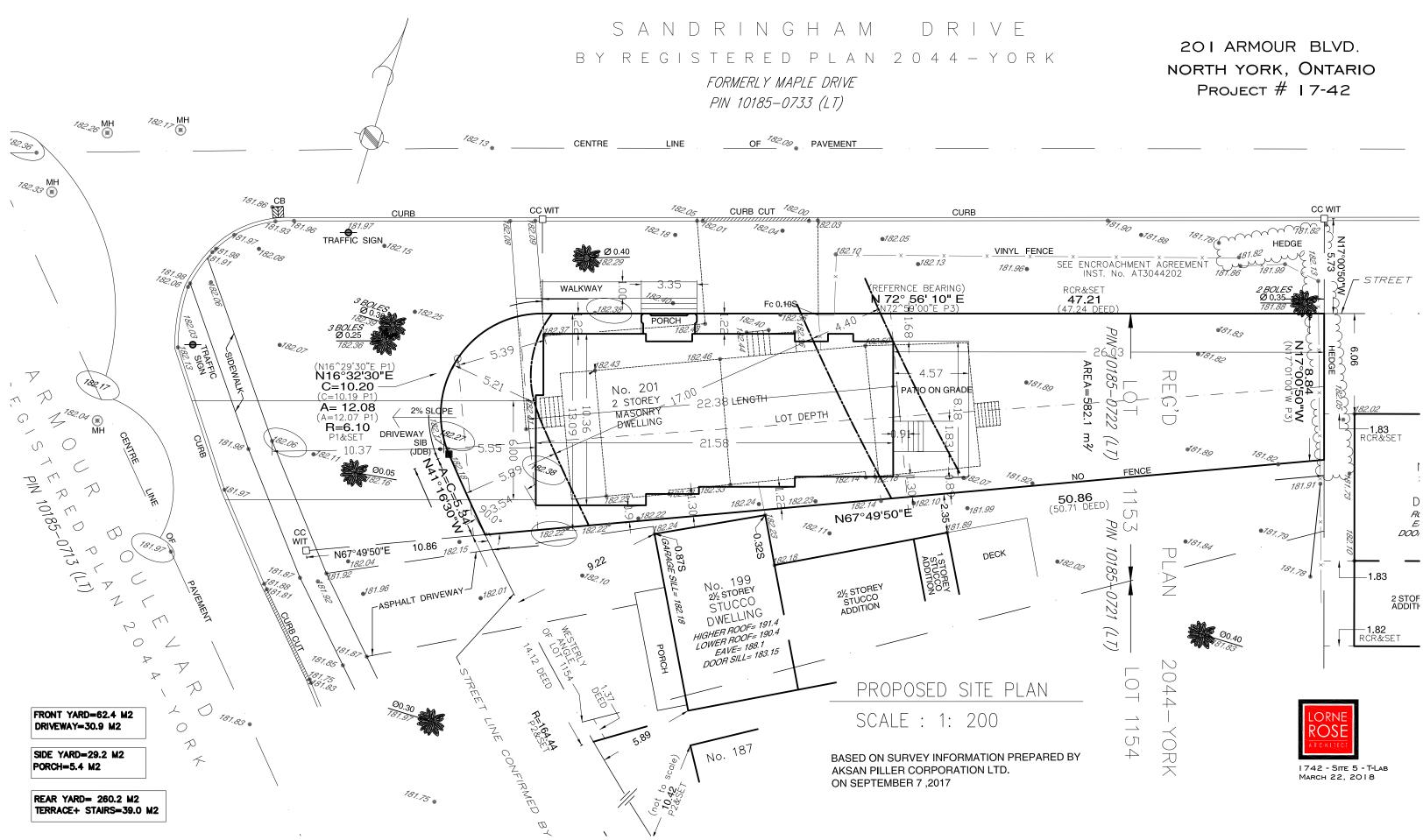
So orders the Toronto Local Appeal Body.

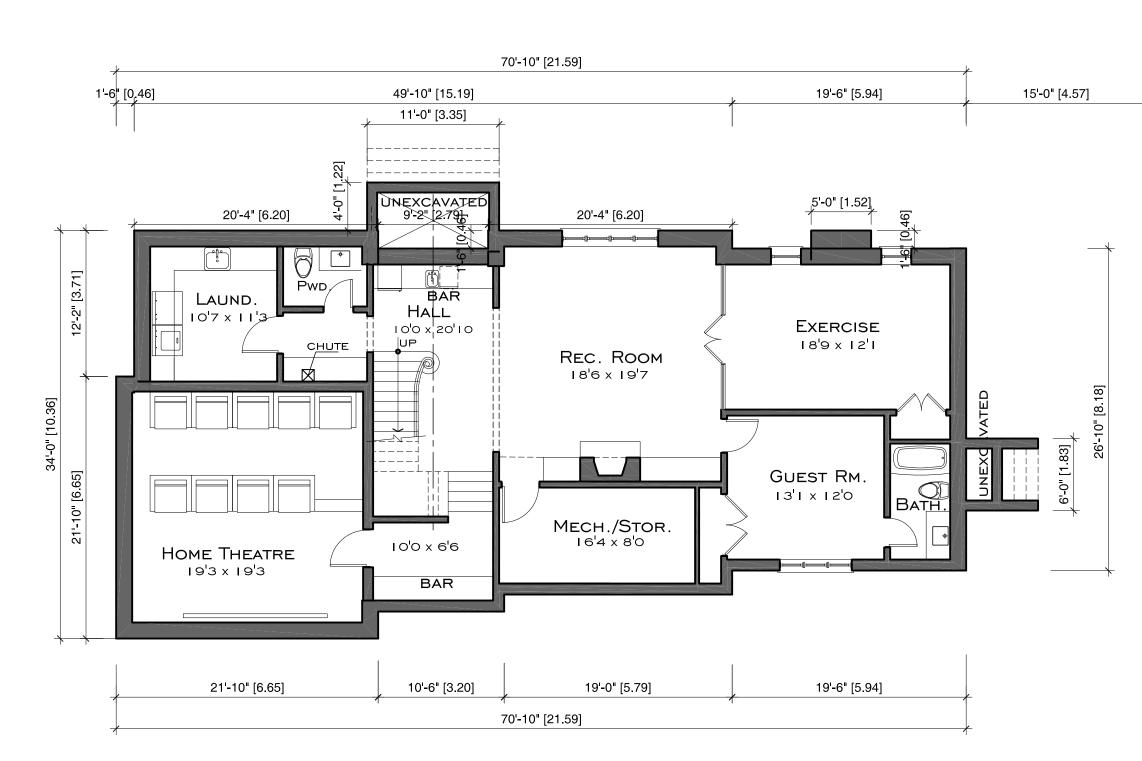
Х

S. Gopikrishna Panel Chair, Toronto Local Appeal Body

	NOTE : STATISTICS ARE FOR GENERAL INFORMATION ONLY AND SHOULD BE REVIEWED BY EXAMINER				201 ARMOUR BLVD	
					NORTH YORK, ONTARIO PROJECT # 17-42	
SITE AREA:	6 266 S.F. (582.I S.M.)		$\psi \ \psi \$	REAR YARD SOFT LANDSCAPING:	MINIMUM PROPOSED	
GROSS FLOOR AREA:			$\psi \ \psi \$		50% 85.0 %	
GROUND FLOOR AREA	75  S.F. (  62.7 s.м.)		$\phi$		(ARD = 260.2 M2	
SECOND FLOOR AREA	2  5  S.F. ( 199.8 s.м.)		$\phi$		PATIO ON GRADE = 39.0 M2	
TOTAL G.F.A.	3 902 S.F. ( 362.	5 s.m.)	<pre>* * * * * * * * * * * * * * * * * * *</pre>	SIDE YARD	MINIMUM PROPOSED	
				SOFT LANDSCAPING:	24.1 M2	
			$\psi$		75% 82.5 %	
LOT COVERAGE	MAXIMUM	PROPOSED	$\phi$	U SIDE Y.	ARD = 29.2 M2	
	2	151 S.F. ( 199.8 s.м.)	* * * * * * * * * * * * * * * * * * * *	PORCH	= 5.4 M2	
	30.0 %	34.3 %		FRONT YARD	MINIMUM PROPOSED	
	MINIMUM	PROPOSED		LANDSCAPING:	31.5 M2 50% 50.5 %	
SETBACKS:						
FRONT	AVG.= 5.89 M	3.54 M	, , , , , , , , , , , , , , , , , , ,	FRONT YARD SOFT LANDSCAPING:	MINIMUM PROPOSED 31.5 M2	
REAR NORTH SIDE	7.5 M / 25% 1.2 M	26.03 M	ψ · · · · · · · · · · · · · · · · · · ·		75% IOO%	
SOUTH SIDE	1.2 M	I.2 M 0.90 M		ŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢŢ	YARD = 62.4 M2	
					VAY = 30.9 M2	
LENDTH OF DWELLING:		PROPOSED	ີຊັ່ Footprint ເ≻ັ ຼີ⊒ I 99.8 м2 ຊີ⊴ັ			
	I 7.0 M	22.38 M	POR *	LOT AREA = 582.1 M2		
HEIGHT OF DWELLING:	NORTH YORK BYLAW MINIMUM	PROPOSED		HOUSE+HARD SURFACES AREA	A = 275.1 M2 (47.3%)	
	8.8 M	8.68 M		LANDSCAPING= 52.7%		
	CITY WIDE BYLAW MINIMUM	PROPOSED				
	10.0 M	IO.55 M		LANDSCAPING CALCULATIONS		
					ROSE ARCHITECT	
SITE STATISTICS					1742 - DESIGN 10	

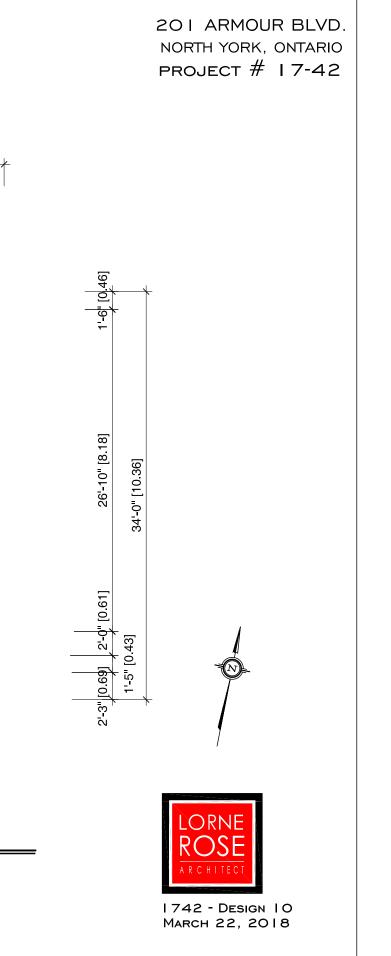




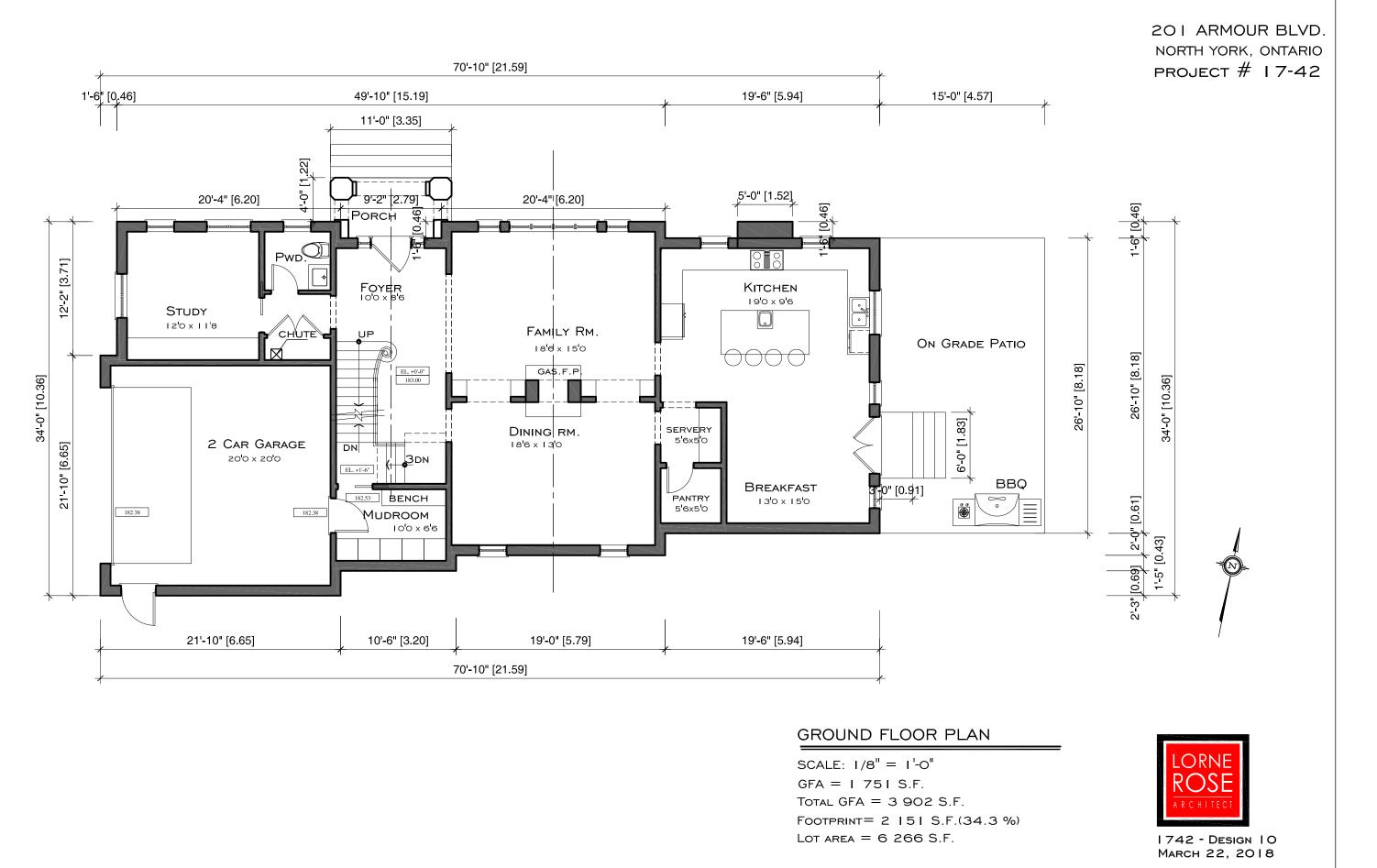


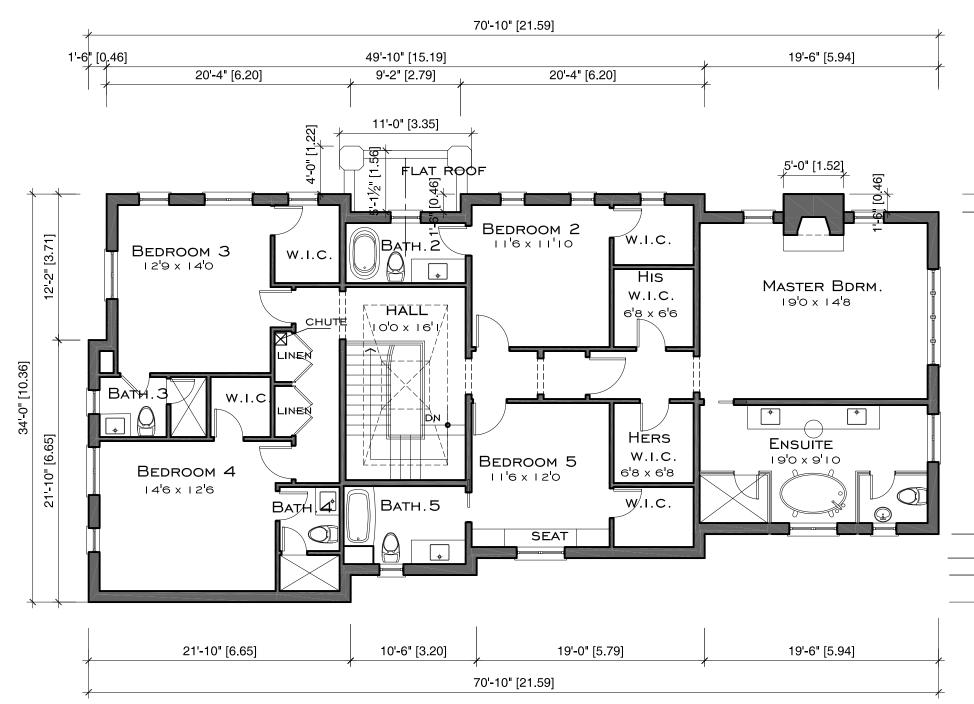
BASEMENT FLOOR PLAN

SCALE: 1/8'' = 1'-0''



139





SECOND FLOOR PLAN

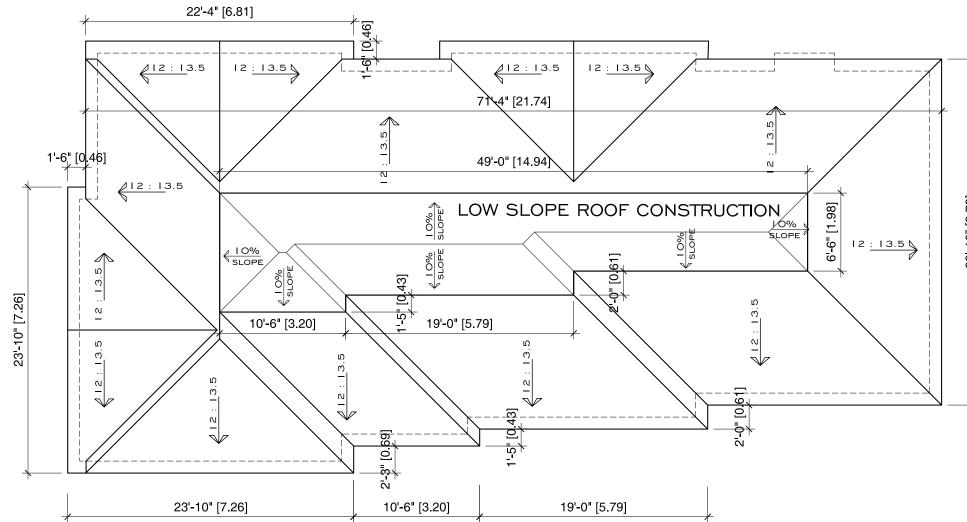
SCALE: 1/8'' = 1'-0''GFA = 2 151 S.F. 201 ARMOUR BLVD. NORTH YORK, ONTARIO PROJECT # 17-42





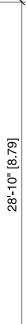


|742 - DESIGN ||- T-LAB MARCH 23, 20|8



ROOF PLAN

SCALE: 1/8'' = 1'-0''ROOF AREA= 2 360 S.F. LOW SLOPE ROOF AREA = 393 S.F.( 16.7 %) 201 ARMOUR BLVD. NORTH YORK, ONTARIO PROJECT # 17-42



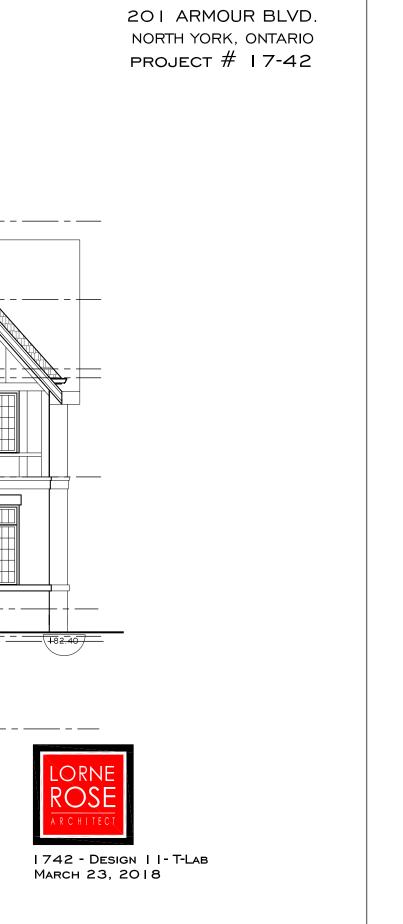


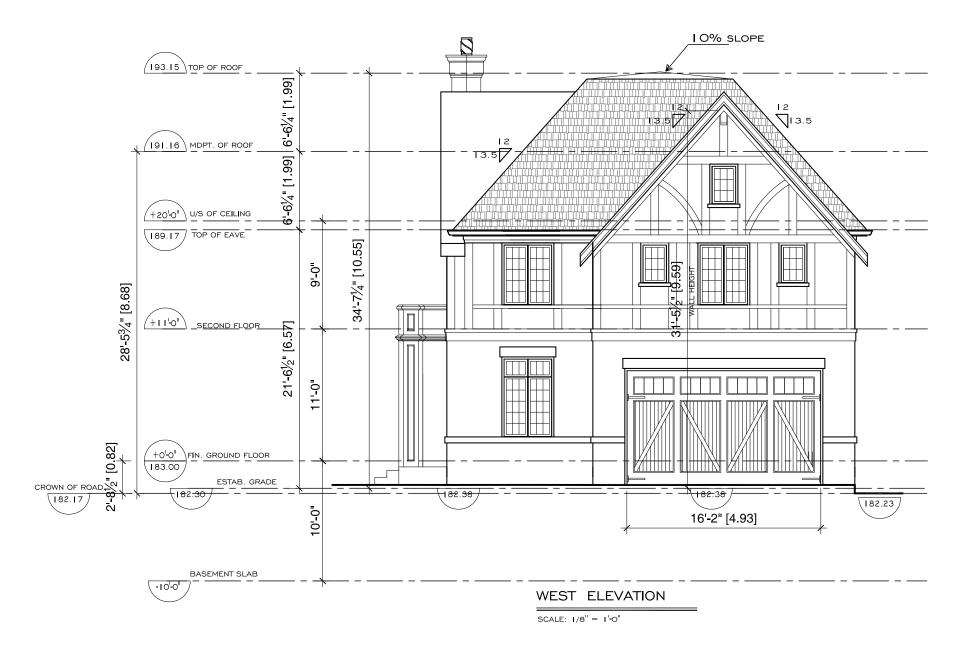


1742 - DESIGN 10 MARCH 22, 2018



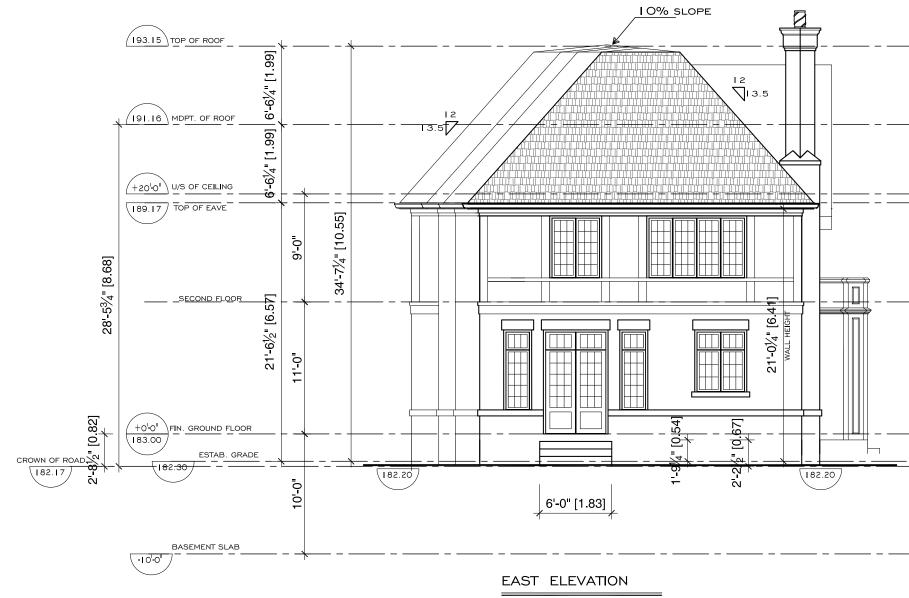
SCALE: 1/8" = 1'-0"







|742 - Design ||- T-Lab March 23, 20|8



SCALE: 1/8" = 1'-0"



|742 - Design |0 March 22, 20|8

