

# DECISION AND ORDER

**Decision Issue Date** Thursday, July 05, 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): DEJAN BOJIC

Applicant: TACCON INC

Property Address/Description: 82 GOVERNMENT RD

Committee of Adjustment Case File Number: 17 196228 WET 05 MV

TLAB Case File Number: 17 248317 S45 05 TLAB

**Hearing date:** Friday, June 29, 2018

**DECISION DELIVERED BY G. Burton**

## APPEARANCES

Name	Role	Representative
Dejan Bojic	Appellant	Douglas Allen
Taccon Inc.	Party	D. Artenosi
Veronika Bojic	Party	
Svetlana Bojic	Party	
Jo-Anne Kupiek	Participant	
Paul Doughty	Participant	

## INTRODUCTION

This was an appeal to the Toronto Local Appeal Body (TLAB) from a decision of the Committee of Adjustment (COA) dated September 28, 2017 that approved certain variances for 82 Government Road. The land is located at the northeast corner of Government Road and Prince Edward Drive in Etobicoke. It is designated Neighbourhoods in the Official Plan (OP) and zoned RD under the comprehensive City

By-law 569-2013, and R2 by the former Etobicoke Zoning By-law. The neighbours to the east at 80 Government Road objected to the decision, and appealed it.

## **BACKGROUND**

The steps leading up to this final Decision are complicated. In the end result it is not necessary to provide detail, because on May 25, 2018 (well prior to the original scheduled oral hearing date of August 7, 2018) the applicant Taccon and the appellants entered into Minutes of Settlement. This means that the parties are now agreed on the design of the dwelling and the requested variances. However, the TLAB must still receive sufficient evidence to be satisfied that the variances sought meet the statutory tests. It is a hearing *de novo* by the TLAB, almost as if the COA hearing had not taken place.

The hearing of the appeal commenced on March 5, 2018, but there was a motion for adjournment and other relief made then by the appellants. A decision on this motion was issued on March 12, 2018. The hearing was adjourned until April 27, with the directive that there would be no further adjournment of the hearing except on the consent of all parties.

The applicant Taccon made a motion returnable on March 30, 2018 to permit it to provide professional land use planning evidence in the resumed hearing. Both sides then requested a further adjournment of the hearing until after July 23, 2018. In a decision of April 9, 2018, this panel ordered a new hearing date of August 7, 2018. A new Notice of Hearing was issued, with a filing date of June 25 for Notices of Motion. However, following the settlement on May 25, and at the request of the parties, TLAB provided for a Written Hearing on June 29, 2018, by Notice of Written Hearing dated June 4, 2018.

## **MATTERS IN ISSUE**

The applicant has provided professional land use planning evidence in this Written Hearing. As mentioned, even though the parties have resolved their outstanding issues, TLAB must be satisfied that the statutory tests have been met before it can approve the requested variances.

## **JURISDICTION**

For variance appeals, the TLAB must ensure that each of the variances sought meets the tests in subsection 45(1) of the Act. This involves a reconsideration of the variances considered by the Committee in the physical and planning context. The subsection requires a conclusion that each of the variances, individually and cumulatively:

- is desirable for the appropriate development or use of the land, building or structure;
- maintains the general intent and purpose of the official plan (OP);

**Decision of Toronto Local Appeal Body Panel Member: G. Burton**  
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- maintains the general intent and purpose of the zoning by-law; and
- is minor.

These are usually expressed as the “four tests”, and all must be satisfied for each variance, individually and collectively. TLAB must hear sufficient evidence to enable it to assess the requested variances. This is a hearing *de novo* of the variance application, and not merely an appeal from the COA decision.

In addition, TLAB must have regard to matters of provincial interest as set out in section 2 of the Act, and the variances must be consistent with provincial policy statements and conform with provincial plans (s. 3 of the Act). A decision of the TLAB must therefore be consistent with the 2014 Provincial Policy Statement (PPS) and conform to (or not conflict with) any provincial plan such as the Growth Plan for the Greater Golden Horseshoe (Growth Plan) for the subject area.

Under s. 2.1 (1) of the Act, TLAB is also to have regard for the earlier COA decision and the materials that were before that body.

## **EVIDENCE**

The applicant’s evidence in this Written Hearing was provided in affidavit form by Mr. Franco Romano, a very experienced professional land use planner. As I have qualified him to provide expert evidence before, I have no hesitation in relying on his affidavit evidence in this matter.

In paragraph 6 of the Minutes of Settlement of May 25, entered as Exhibit 1 in this Written Hearing, it is stated that both parties agree to the variances now put forward. They also agreed that an expert witness would provide the applicant’s planning evidence. The appellants also confirmed that they would not provide any witnesses or evidence in the hearing (Exhibit 1, para. 7, although it should have been 8, a typing error only). The appellants also agree not to object to any later approvals required to implement the decision, should the TLAB approve it (para. 10).

Mr. Romano provided an Affidavit and Report (filed June 13, 2018) that will be Exhibit 2 in this hearing. In Schedule H of this Affidavit he provided the revised Variances requested following the settlement. They have been further reduced in number. These are also found in the June 13, 2018 filing by the Applicant dated May 25, 2018 entitled “Redline – Revised Variances May 25, 2018, filed by D. Artenosi”. I have considered whether additional notice of these variations would be required, as set out in subsection 45(18.1) of the Act. I find that no additional notice is needed as the variances are reduced in number, leaving scope for fewer objections. In any event, by Minutes of Settlement, the appellants have had notice and have accepted the alterations. No notice need be given to other interested parties at the COA, as they took no part in the appeal.

I am satisfied that the variances meet the statutory tests for acceptability. The variances now sought are:

1. Section 10.20.30.40.(1)(A), By-law 569-2013 and Section 320-59(C)

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The maximum permitted lot coverage is 33% of the lot area (126.58 m.).

**Section 10.20.30.40.(1)(A), By-law 569-2013**

The altered dwelling will cover 36.2% of the lot area (139.05 m.).

**Section 320-59(C)**

The altered dwelling will cover 37% of the lot area (141.8 m.).

**2. Section 900.3.10.(35)(A), By-law 569-2013**

The maximum permitted gross floor area of a detached dwelling, including an attached or detached garage, is 150 m. plus 25% of the lot area (245.9 m.), with a floor space index of 0.5 (191.8 m.).

**Section 1.a), By-law 1993-108**

The maximum permitted gross floor area of a detached dwelling, including an attached or detached garage, is 150 m. plus 25% of the lot area (245.9 m.).

**Section 900.3.10.(35)(A), By-law 569-2013 and Section 1.a), By-law 1993-108**

The altered dwelling, including the attached garage, will have a gross floor area of 150 m. plus 27.78% of the lot area (256.58 m.), with a floor space index of 0.67 (256.58 m.).

**3. Section 10.5.40.70.(1)(A), By-law 569-2013 and Section 320-40.A(1)**

The minimum required front yard setback is 6.59 m.

The altered dwelling will be located 5.9 m from the front lot line.

**4. Section 320-41.B.**

The minimum required side yard setback from a side lot line abutting a street is 5.39 m.

**Section 10.20.40.70.(6)(A), By-law 569-2013 and Section 320-41.B.**

The altered dwelling will be located 3.52 m from the west side lot line along Prince Edward Drive.

**5. Section 320-42.1.B.(2)**

The maximum permitted soffit/ eaves overhang height for a peaked roof dwelling is 6.5 m.

The altered dwelling will have a soffit/eaves overhang height of 6.97 m.

**6. Section 10.5.80.10.(3), By-law 569-2013 and Section 320-44.A.**

A parking space may not be in a front or side yard abutting a street.

The proposed parking space is located in the side yard abutting Prince Edward Drive.

**7.. Section 200.5.1.(3)(A), By-law 569-2013 and Section 320-18.A.(4)**

The minimum required access driveway width is 6 m in front of a parking space.

The proposed access driveway will have a width of 3.82 m in front of the proposed parking space.

**8. Section 320-41.F.(1)**

A minimum of 6 m must be provided in front of a garage door/wall facing a flanking street.

The garage door/wall will be located 3.82 m from the flanking street (Prince Edward Drive).

It can be seen that the property is governed by two zoning By-laws, the new Comprehensive By-law No. 569-2013 and a former Etobicoke By-law 1993-108. Variances are required from both. It has a Neighbourhoods OP designation. The lot has a frontage of 12.51 m. (less than the 13.5 permitted) and a depth of 30.25 m. Its area is 383.6 sq. m., significantly less than the 510 sq. m. permitted. The Revised Plans dated April 25, 2018 are included in two submissions – in the Minutes of Settlement, Exhibit 1, where they are Schedule D; and in Mr. Romano's Affidavit, Exhibit 2, they are found at Schedule G.

Mr. Romano outlined the proposal as revised. It would create building additions to the existing two storey dwelling on this residential lot, whose location would not change. The principal alterations from the previous disputed application are the removal of a mudroom at the rear (north), and also a window on the rear east side wall to which the appellants next door at 80 Government Road had objected. The proposed height complies with the zoning limitations. In Mr. Romano's opinion, the footprint and floor area proposed achieve an appropriate deployment of height, mass and scale, reflective of the site's physical context and the neighbourhood character. The first floor height is lower than the by-law requirement, and the front yard setback proposed is very close to the existing. This will maintain the approximate front yard alignment along Government Road. Altering the front entrance to the south on the Government side will enhance the

streetscape, providing views and activity in the front yard. Side yard setbacks requested are also similar to many in the area.

There will also be landscaping included on all sides, as well as the retention of the mature trees presently on the rear of the site and the boulevard. Entrance to the parking and internal garage will continue to be from Prince Edward Drive North.

Mr. Romano chose as his study area to assess the nature of the neighbourhood Dundas Street West, the Humber River, Queen Anne Rd. and the Kingsway. It is in a stable well-established residential neighbourhood, with significant variety in lot size, building styles and coverage. It is experiencing a slow transition, with older homes being added to or replaced, and some severances creating smaller lots. The result is a varied yet compatible neighbourhood, one of stability as the OP requires. Mr. Romano provided a chart of COA decisions in the area, indicating the scope of permissions granted nearby (Ex. 2, Schedule D).

The Transportation Department had provided comments to the COA, outlining the issues concerning parking, driveway size and a curb cut. It requested conditions to be applied to any approval, but did not object to the proposal.

## **ANALYSIS, FINDINGS, REASONS**

I accept Mr. Romano's conclusions respecting compliance with the PPS and conformity with the Growth Plan, as the proposal does achieve appropriate intensification within existing infrastructure.

I am also satisfied that the tests in subsection 45(1) of the Act are met.

The revised proposal better meets the OP goal (Policy 2.3.1) that changes should respect and reinforce the existing physical character of the neighbourhood. It contributes a revitalized structure to the neighbourhood, similar to the built forms nearby, without compromising privacy, views, or shadowing. Removal of the rear portion (mudroom) reduces the impact on the appellants' home. In my view Policy 3.2.1 is met. Respecting development criteria in Policy 4.1.5, the proposed floor area, height, massing and scale are sufficiently similar to those nearby that the policy is satisfied. While some of the development criteria addressed in Policy 4.1.8 are not met, I accept that this is fairly typical of this area, and that the variances proposed will still permit acceptable integration into the surrounding neighbourhood.

The variances from the zoning standards are also minor in measurement and impacts. As Mr. Romano stated, the variance for Floor Space Index (FSI) results in a still-modest dwelling that features setbacks, stepbacks and dormers that reduce the built form appearance and function. The rear yard setback has been removed, as have depth, length and side yard setbacks. The parking space variance will permit a second space in front of the integral garage but will not dominate the side wall, and the size of the access is not a significant change from the present. As Mr. Romano said, the Transportation Department made no objection to these variances.

All told, I find the variances to be both minor and desirable. They have been significantly reduced in number and impact from those approved by the COA.

## **DECISION AND ORDER**

The appeal is denied and the variances to set out below in **Attachment 1** are authorized, some being contingent upon the relevant provisions of By-law 569-32013 coming into force and effect.

The following conditions will apply:

1. The applicant shall submit an application for a permit to injure or remove trees to Urban Forestry, as per City of Toronto Municipal Code Chapter 813, Article III.
2. The following conditions shall be fulfilled to the satisfaction of Traffic Planning/Right of Way Management:

2.1 The site plan must be revised to illustrate the proposed new driveway and curb cut within the abutting Prince Edward Drive municipal boulevard, the removal of the redundant portions of the existing driveway and restoration of the redundant curb cut with raised concrete curb in accordance to the applicable City Design Standards;

2.2 The site plan must be revised to illustrate the existing hydro pole and tree within the Prince Edward Drive public boulevard along the site frontage, and the applicant must obtain approval from the respective agencies if the proposed new driveway requires any removal or relocation of the existing hydro pole and tree;

2.3. The site plan must be revised to include the following notations:

- a. *“The proposed new driveway shall be constructed to the applicable City of Toronto Design Standard(s)”;*
- b. *“The applicant must provide a Municipal Road Damage Deposit (MRDD) for the proposed driveway construction within the municipal boulevard. “*
- c. *“The applicant must obtain all required permits for work within the public road allowance from the Right-of Way Management Section of Transportation Services”.*

3. The additions shall be constructed substantially in accordance with the Revised Architectural Drawings filed in Exhibit 2, Exhibit G, and attached as **Attachment 2** to this decision. Any other variances that may appear on these plans that are not listed in this decision are not authorized.

## **ATTACHMENT 1 – VARIANCES**

### **1. Section 10.20.30.40.(1)(A), By-law 569-2013 and Section 320-59(C)**

The maximum permitted lot coverage is 33% of the lot area (126.58 m.).

### **Section 10.20.30.40.(1)(A), By-law 569-2013**

The altered dwelling will cover 36.2% of the lot area (139.05 m.).

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**ATTACHMENT 2 – PLANS (EXHIBIT 2, “EXHIBIT G”)**

X 

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G. Burton

Panel Chair, Toronto Local Appeal Body

This is Exhibit <sup>"G"</sup> referred to in the  
affidavit of Francis Romano  
sworn before me, this 13<sup>th</sup>  
day of June 2018.

EXHIBIT "G"

Revised Architectural Drawings

  
A COMMISSIONER FOR TAKING AFFIDAVITS



This plan shall be the responsibility of the applicant. The applicant shall be responsible for obtaining all necessary permits from the appropriate authorities. The applicant shall be responsible for obtaining all necessary permits from the appropriate authorities. The applicant shall be responsible for obtaining all necessary permits from the appropriate authorities.

DATE	
1. PREPARED BY	
2. CHECKED BY	
3. APPROVED BY	

**architectural design**  
 2727 VICTORIA PARK AVE #603  
 TORONTO, ONTARIO, M1T 1A6  
 TEL: 447.942.5022  
 email: tahajidiparcell@gmail.com

**QUALIFICATION INFORMATION**  
 Name: TAHAJIDIPARCELL  
 Signature: [Signature]  
 Title: ARCHITECT  
 BCIN: 4817

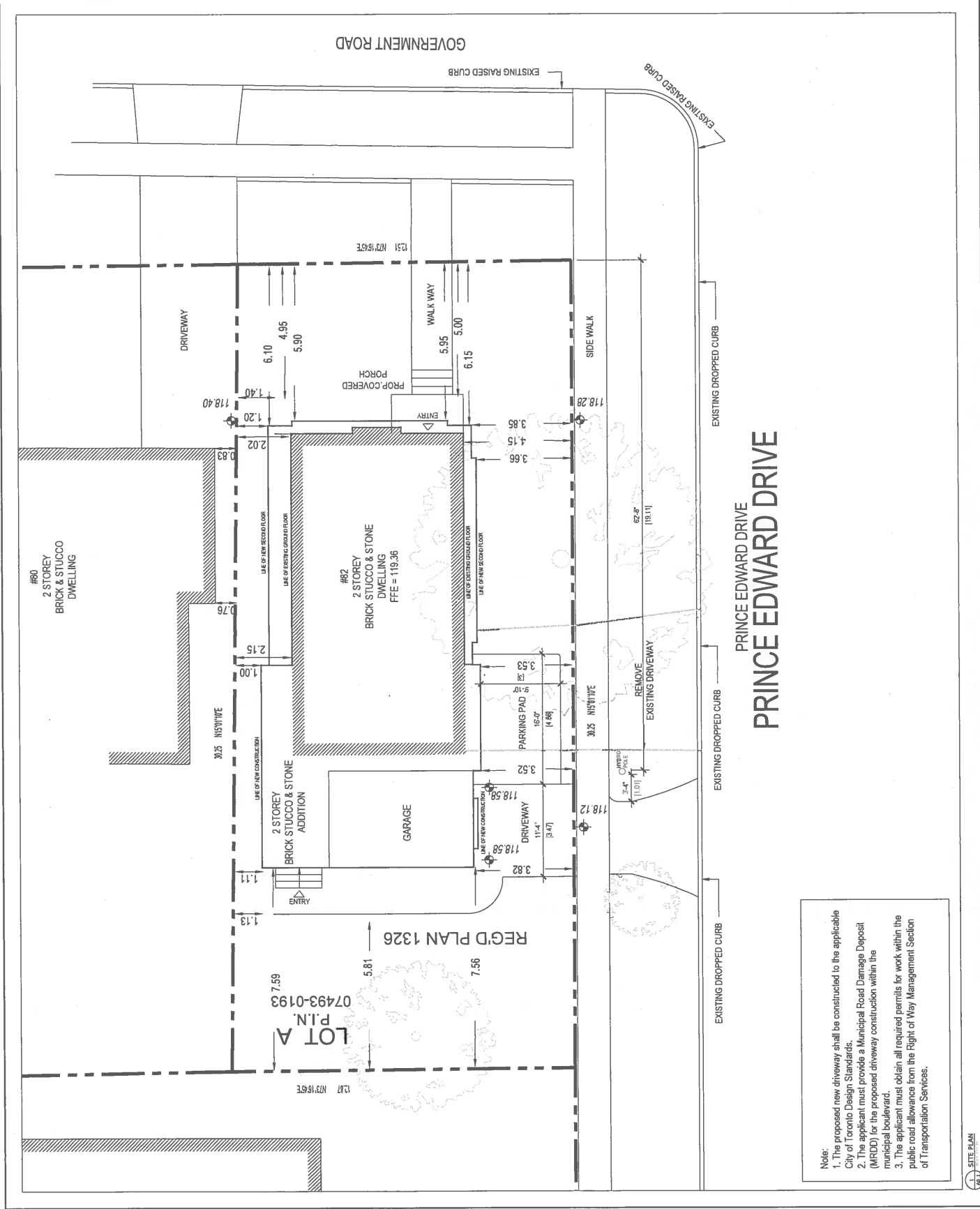
**REGISTRATION INFORMATION**  
 Firm Name: TAHAJIDIPARCELL  
 Firm No: 194275  
 BCIN: BCIN

**PROJECT**  
 2 STOREY BRICK & STUCCO DWELLING UNIT  
 ADDITION & ALTERATION  
 85 GOVERNMENT RD  
 TORONTO, ONTARIO  
 D040401000

**SITE PLAN**

DATE: 2018-07-18  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]

**A0.1**



**Note:**

1. The proposed new driveway shall be constructed to the applicable City of Toronto Design Standards.
2. The applicant must provide a Municipal Road Damage Deposit (MRDD) for the proposed driveway construction within the municipal boulevard.
3. The applicant must obtain all required permits for work within the public road allowance from the Right of Way Management Section of Transportation Services.

THESE PLANS SHALL BE CONSIDERED TO BE THE PROPERTY OF ARCHITECTURAL DESIGN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THIS DOCUMENT AND FOR THE RETURN OF THIS DOCUMENT TO ARCHITECTURAL DESIGN UPON COMPLETION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THIS DOCUMENT AND FOR THE RETURN OF THIS DOCUMENT TO ARCHITECTURAL DESIGN UPON COMPLETION OF THE PROJECT.

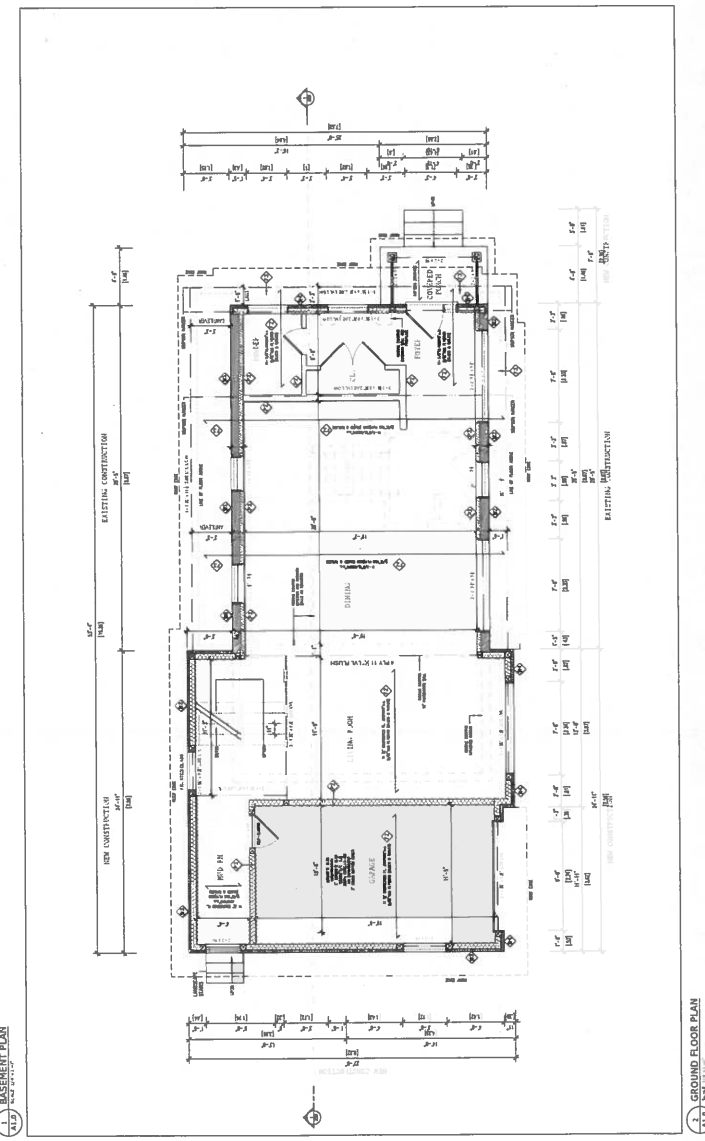
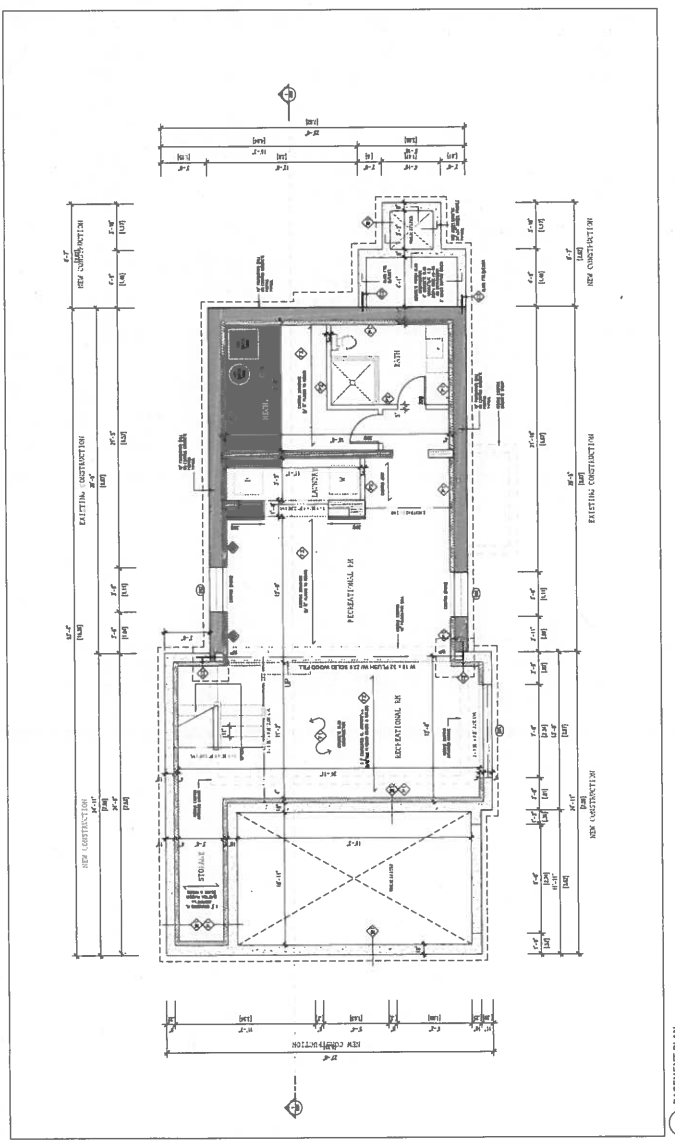
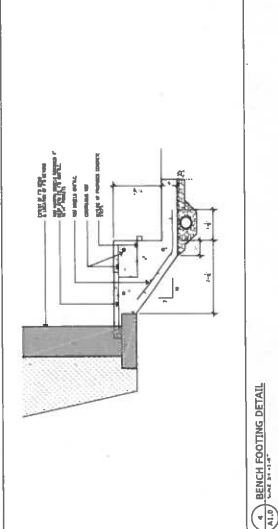
Table with 4 columns: REV, DESCRIPTION, DATE, and DRAWN BY. Contains revision records for the plans.

Architectural Design logo and contact information: 2727 VICTORIA PARK AVE # 603, TORONTO, ONTARIO, M1T 1A6, TEL: 416 962-5022, email: info@architecturaldesign.com

PROFESSIONAL DESIGNER INFORMATION: NAME (TAJIBAH KHALIL), HOME SIGNATURE, REGISTRATION INFORMATION: FIRM (IR4425 BCIN)

Project title: 1 ACCORNI RESIDENCE, 2310 REYNOLDS DRIVE UNIT 18, ADDITION & ALTERATION, 82 GOVERNOR RD, TORONTO, ONTARIO. Includes A1.0 title block and north arrow.

CONSTRUCTION NOTES: EXTERIOR WALL TYPES, PARTITION TYPES, STRUCTURAL NOTES, FLOORING TYPES, ROOF TYPES, and FINISH TYPES. A detailed list of specifications for materials and construction methods.



NO.	REVISION	DATE
1	ISSUED FOR PERMIT	2018-03-28
2	REVISED PER COMMENTS	2018-04-10
3	REVISED PER COMMENTS	2018-04-10

**CONSTRUCTION NOTES**

**EXTERIOR WALL TYPES**

1. EXTERIOR WALLS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGULATION.

2. EXTERIOR WALLS SHALL BE CONSTRUCTED WITH A MINIMUM OF 100mm OF INSULATION.

3. EXTERIOR WALLS SHALL BE CONSTRUCTED WITH A MINIMUM OF 100mm OF INSULATION.

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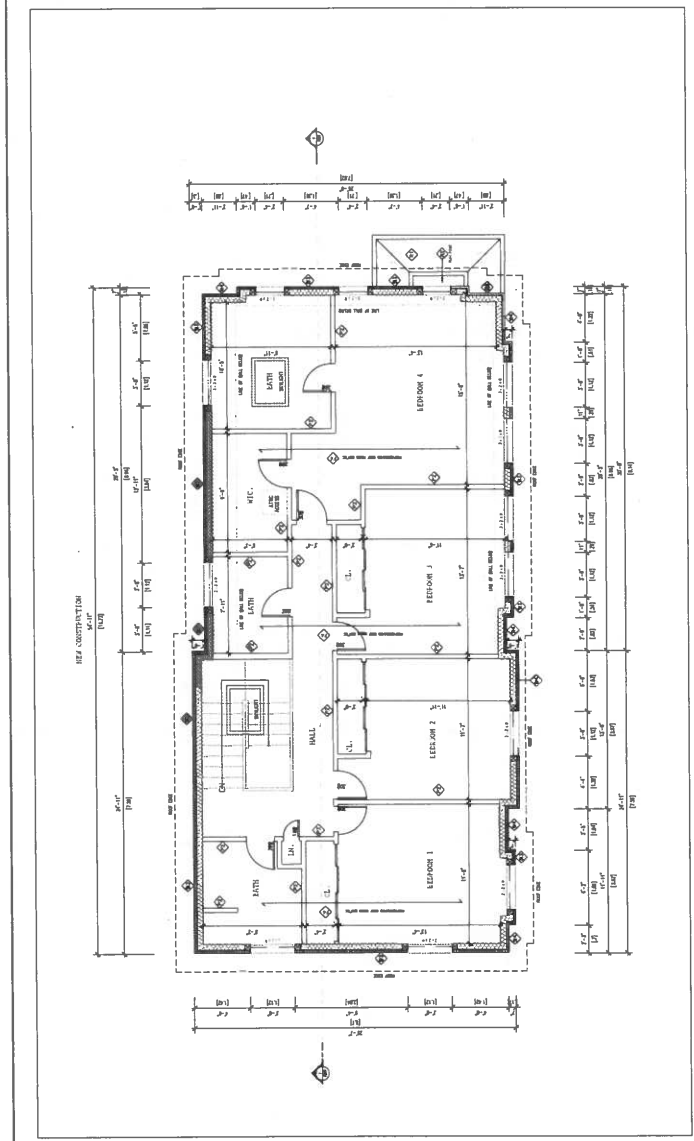
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1.1 SECOND FLOOR PLAN

**architectural design**

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**QUALIFICATION INFORMATION**

REGISTERED ARCHITECT

NAME: [Signature] 4811 BCIN

**REGISTRATION INFORMATION**

Firm Name: TASHROOH DESIGN 18425 BCIN

**CONSTRUCTION NOTES**

**CONCRETE**

1. ALL CONCRETE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGULATION.

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**QUALIFICATION INFORMATION**

REGISTERED ARCHITECT

NAME: [Signature] 4811 BCIN

**REGISTRATION INFORMATION**

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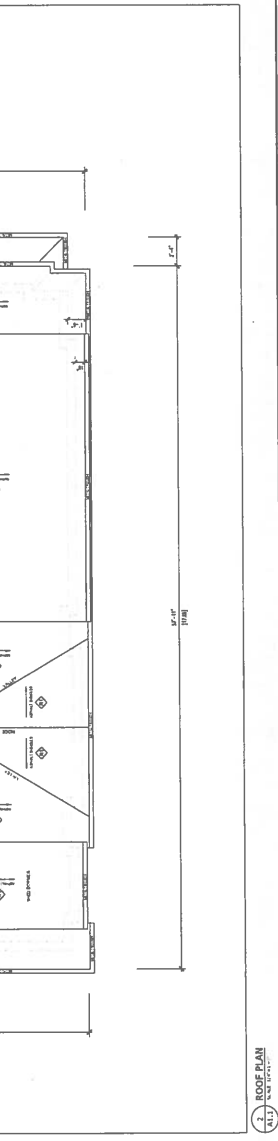
**QUALIFICATION INFORMATION**

REGISTERED ARCHITECT

NAME: [Signature] 4811 BCIN

**REGISTRATION INFORMATION**

Firm Name: TASHROOH DESIGN 18425 BCIN



1.1 SECOND FLOOR DETAIL

**architectural design**

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TEL. 447.942.5022  
email: info@architecturaldesign.com

**QUALIFICATION INFORMATION**

REGISTERED ARCHITECT

NAME: [Signature] 4811 BCIN

**REGISTRATION INFORMATION**

Firm Name: TASHROOH DESIGN 18425 BCIN

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The drawings shall not be taken as a contract. It is intended for use as a guide only. The contractor shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The contractor shall be responsible for ensuring that the work is completed in accordance with the applicable building codes and regulations. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities. The contractor shall be responsible for ensuring that the work is completed in accordance with the applicable building codes and regulations. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities. The contractor shall be responsible for ensuring that the work is completed in accordance with the applicable building codes and regulations.

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	2024.01.15
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3	ISSUED FOR PERMIT	2024.01.15
4	ISSUED FOR PERMIT	2024.01.15
5	ISSUED FOR PERMIT	2024.01.15



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TEL: 447.762.5022  
email: info@tacconberberich.com

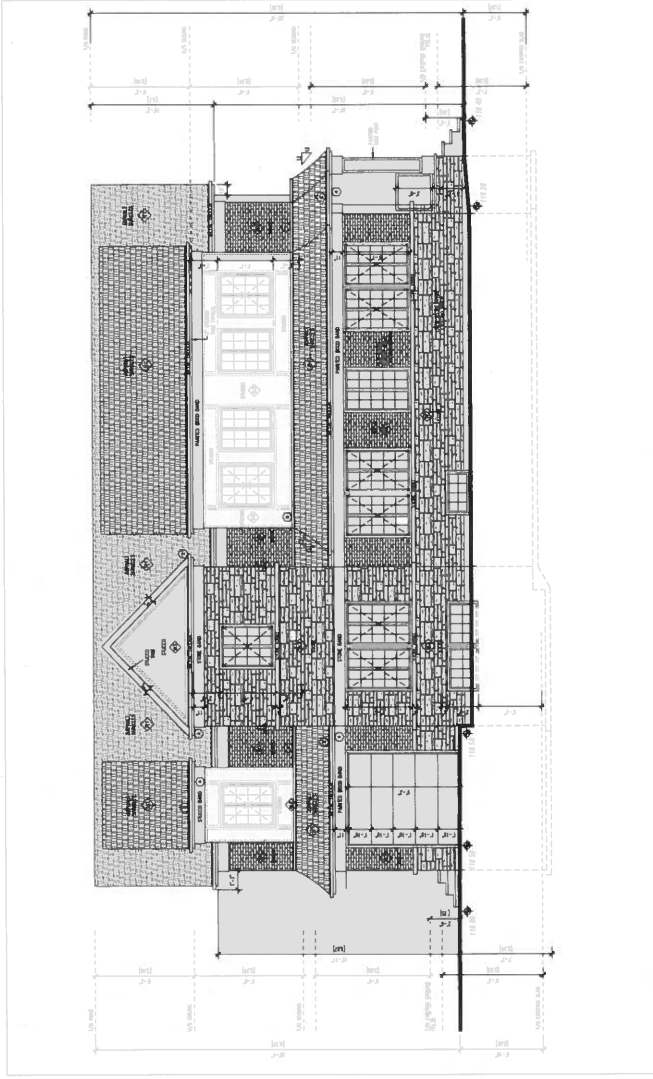
**QUALIFICATION INFORMATION**  
**ALAN TACCON** Architect  
**SCN** Architect  
**REGISTRATION INFORMATION**  
**TACCON BERBERICH**  
**ARCHITECTURE**

PROJECT: TACCON BERBERICH  
 31 STORY SINGLE FAMILY DWELLING USE  
 ADDITION & ALTERATION  
 82 GOVERNMENT RD  
 TORONTO, ONTARIO

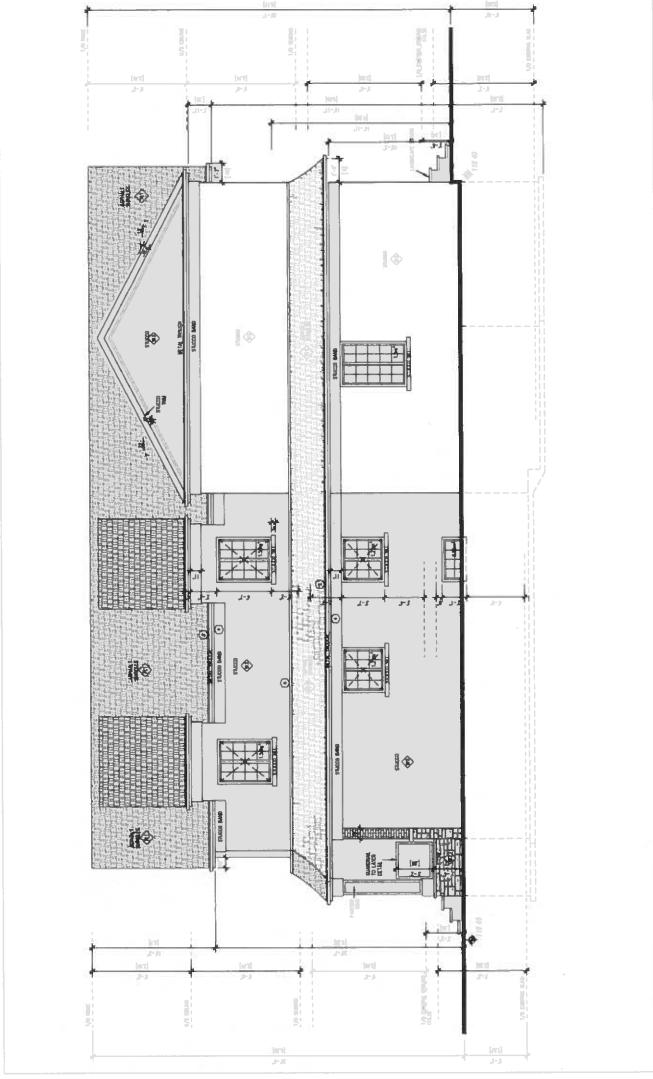
**ELEVATIONS**

PROJECT NO.	2024-001
DATE	2024.01.15
SCALE	1/8" = 1'-0"
DRAWN BY	ALAN TACCON
CHECKED BY	SCN
DATE	2024.01.15

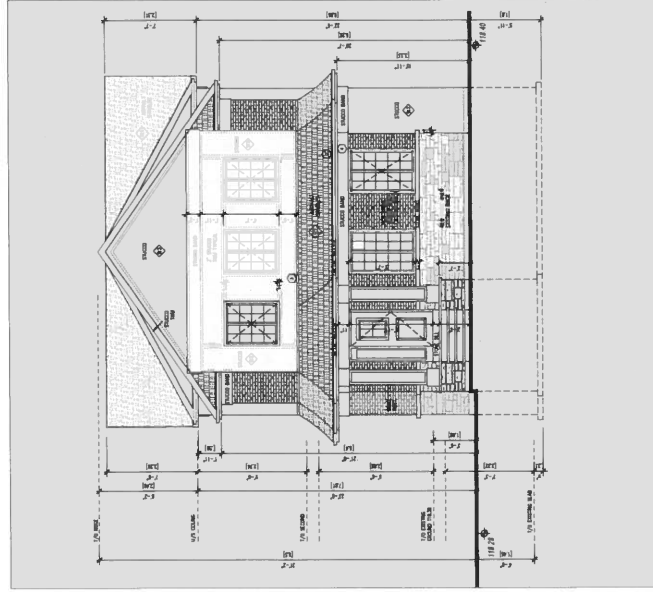
A1.2



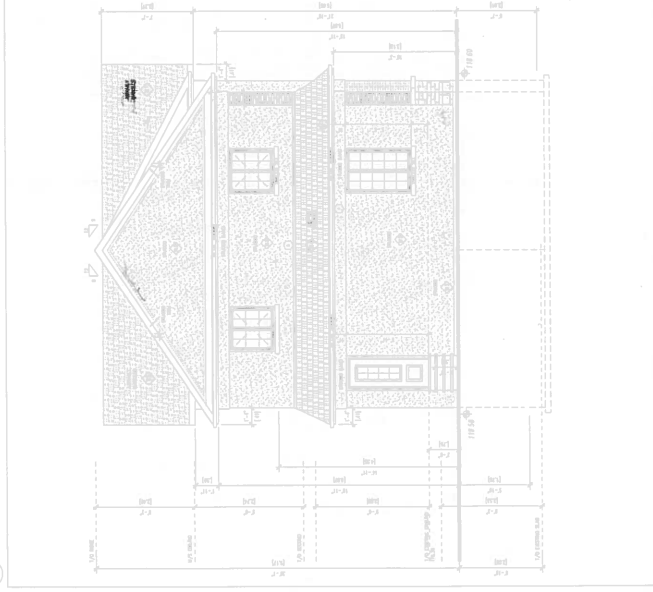
WEST ELEVATION  
SCALE 1/8" = 1'-0"



EAST ELEVATION  
SCALE 1/8" = 1'-0"



SOUTH ELEVATION  
SCALE 1/8" = 1'-0"



NORTH ELEVATION  
SCALE 1/8" = 1'-0"