

DECISION AND ORDER

Decision Issue Date Monday, August 27, 2018

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): PENMAR ACQUISITIONS INC

Applicant: MARIO FARRONE

Property Address/Description: 81 APTED AVE

Committee of Adjustment Case File Number: 17 216060 WET 07 CO, 17 216071 WET 07 MV, 17 216072 WET 07 MV

TLAB Case File Number: **18 127924 S53 07 TLAB, 18 127928 S45 07 TLAB, 18 127930 S45 07**

TLAB

Hearing date: Monday, July 30, 2018

DECISION DELIVERED BY D. Lombardi

APPEARANCES

Name	Role	Representative
Mario Farrone	Applicant	
Penmar Acquisitions Inc.	Appellant/Owner	Russell Cheeseman
Theodore Cieciura	Expert Witness	
Paolo Meo	Interested Party	
Grant Evers	Interested Party	
Michael Evers	Interested Party	

INTRODUCTION

This is a matter on appeal from the Etobicoke York Panel of the City of Toronto's (City) Committee of Adjustment (COA) decision to dismiss applications for severance of 81 Apted Avenue (subject property) and associated minor variances.

The Owner/Appellant, Penmar Acquisitions Inc., proposed to sever the subject property into two undersized residential lots and to construct a new detached residential dwelling with an integral garage on each of the newly created lots. The two newly created residential lots would front onto Muir Avenue at the municipal address of 81 Apted Avenue.

The subject property is located south of Steeles Avenue West, east of Kipling Avenue, and west of Islington Avenue East. More specifically, the subject property is located on the east side of Apted Avenue, at the south east corner of Apted Avenue and Muir Avenue, approximately two blocks west of Islington Avenue.

The subject property is currently occupied by a one storey single detached 'cottage-style' residential dwelling and an attached garage, which will be demolished. The existing lot is a four-sided polygon, with a 28.35 m frontage and a 22.86 m depth. The total area of the lot is 638.7 m².

The property is designated *Neighbourhoods* in the City's Official Plan. *Neighbourhoods* are considered physically stable areas where new development will respect and reinforce the existing physical character. It is zoned RD (f15.0;a550)(x5) Residential Detached under City-wide Zoning By-law No. 569-2013 (new By-law), and R4 under the former North York Zoning By-law No. 7625 (former By-law).

The surrounding land uses are characterized by single detached residential dwellings to the north, east, west and south of the subject property. Some semi-detached residential dwellings are also evident in the southern part of the neighbourhood.

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BACKGROUND

On February 22, 2018, the COA heard the subject applications to sever the existing lot to create one additional single detached lot, and to construct a total of two single detached dwellings with associated variances for rear yard setback, lot frontage, lot area and lot coverage to the new By-law.

The applications before the COA proposed two single detached dwellings to front onto Muir Avenue, representing a reorientation of the lot from addressing Apted Avenue, to Muir Avenue.

In reviewing the applications, the COA received comments from City Planning Staff, Engineering and Construction Services Staff, as well as from Urban Forestry.

City Planning Staff, in their report dated October 31, 2017, referenced Policies 4.1.5 and 4.1.8 of the Official Plan noting that these policies establish that development will respect and reinforce the existing physical character of the neighbourhood, including, in particular, the size and configuration of lots, massing and scale of nearby residential properties. In addition, Staff noted that Policy 4.1.8 states that Zoning By-laws will contain numerical site standards for matters such as density, lot sizes, lot depths, lot frontages, landscaped open space and any other performance standards to ensure that new development will be compatible with the existing physical character of established residential *Neighbourhoods*.

In this regard, Planning Staff identified concerns with the proposed lot areas and lot frontages of the development, noting that the proposed lot frontages of 11.4 m and lot areas of approximately 319 m² would be the smallest in the immediate 100 m radius of the subject site. Staff further expressed concern that the introduction of new lots that are significantly smaller than others found throughout the neighbourhood, as well as the reduced rear yard setbacks for the proposed dwellings, would not be in keeping with, and not respect and reinforce the character of the area.

Planning Staff, therefore, did not support the proposed severance and recommended that the consent and related minor variance applications be refused.

Urban Forestry Staff, in their report dated February 6, 2018, and a subsequent follow-up report dated February 15, 2018, identified four healthy privately-owned trees that would require injury or removal if the requested variances are approved. Two of the trees identified by Urban Forestry Staff, a 54cm in diameter Norway Spruce and a 54cm in diameter Silver Maple, were actually located on the subject property.

Urban Forestry Staff objected to the requested variances; however, they recommended conditions of approval in the event the COA approved the applications.

Engineering and Construction Services Staff had no objection to the consent and minor variance applications but also recommended standard conditions should the applications be approved.

On February 22, 2018, the COA refused the consent and associated variances, and the owner subsequently appealed the COA decision to the Toronto Local Appeal Body (TLAB). The TLAB set a hearing date of July 30, 2018 to hear the appeal.

A Notice of Appeal (Form 1) was filed by the owner on March 12, 2018, on the following grounds:

- *The COA erred in its decision in respect of the applications for consent, and the proposal does in fact satisfy all of the matters that the COA ought to have regard for pursuant to Section 51(24) of the Planning Act;*
- *The relief sought by the applications is minor in nature, desirable for the appropriate development of the lands and buildings, and in keeping with the general intent and purpose of the Official Plan and applicable zoning by-laws;*
- *The homes to be constructed on the new lots will fit with the existing neighbourhood. The variances required would result in no unacceptable adverse impacts on the other properties in the neighbourhood, and when seen as a total package, amount to good planning for the lands and the neighbourhood; and*
- *The proposed new construction amounts to infill development that would meet the policy objectives of the Provincial Policy Statement (PPS) and the Official Plan.*

Mr. Russell Cheeseman, the Owner/Appellant's solicitor, noted a slight revision to the applications for consent and minor variances that were refused by the COA. The COA Notice of Decision is attached to this decision Attachment No. 1 and referenced as Exhibit A – Tab 14.

Mr. Cheeseman advised that the requested variances were vetted against the recent March 1, 2018 decision from the former Ontario Municipal Board (OMB) approving portions of the City's Harmonized new Zoning By-law 569-2013. This resulted in the elimination of Variance 5 to the former By-law (an amending By-law to By-law 569-2013), which is no longer required by the Appellant. Mr. Cheeseman referenced email correspondence dated May 11, 2018 (Exhibit A – Tab 30) from the City's Zoning Examiner confirming this opinion.

In this regard, I am satisfied that this modification is of a minor nature and results in the betterment of the relief required. Accordingly, no further notice is required.

In the result, the Appellant is now requesting approval from the TLAB of the following consent and minor variances for the subject property:

Consent

Retained – Part 2

The lot frontage will be 11.4m and the lot area will be 319.32m². The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in COA Application A0714/17EYK.

Conveyed – Part 1

The lot frontage will be 11.4m and the lot area will be 319.38m². The existing dwelling will be demolished and the property redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in COA Application A0713/17EYK.

Requested Variances to the Zoning By-law

To construct a new detached dwelling with an attached garage as per Minor Variance Application (Part 1): COA File No. A0713/17EYK, the existing dwelling will be demolished:

1. Section 10.20.30.20.(1), By-law 569-2013

The minimum required lot frontage is 15 m.
The lot frontage will be 11.4 m.

2. Section 10.20.30.10.(1)(A), By-law 569-2013

The minimum required lot area is 550 m².
The lot area will be 319.38 m².

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

The maximum permitted lot coverage is 30% of the lot area (95.81 m²).
The proposed dwelling will have a lot coverage of 36.13% of the lot area (115.4 m²).

4. Section 10.20.40.70.(2)(A), By-law 569-2013

The minimum required rear yard setback is 7.5 m.
The proposed dwelling will be located 3.54 m from the rear lot line.

To construct a new detached dwelling with an attached garage as per Minor Variance Application (Part 2): COA File No. A0714/17EYK, the existing dwelling will be demolished:

1. Section 10.20.30.20.(1)(A), By-law 569-2013

The minimum required lot frontage is 15 m.
The lot frontage will be 11.4 m.

2. Section 10.20.30.10.(1)(A), By-law 569-2013

The minimum required lot area is 550 m².
The lot area will be 319.32 m².

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

The maximum permitted lot coverage is 30% of the lot (95.79 m²).

The proposed dwelling will have a lot coverage of 36.09% of the lot area (115.24 m²).

4. Section 10.20.40.70.(2)(A), By-law 569-2013

The minimum required rear yard setback is 7.5 m.

The proposed dwelling will be located 4.64 m from the rear lot line.

With the exception of Mr. Paolo Meo, a resident of 82 Whitfield Avenue, and Mr. Grant Evers and Mr. Michael Evers, of the Humber Summit Residents' Association, no other individuals or associations appeared in opposition to the applications.

MATTERS IN ISSUE

This type of dispute is a familiar one and the applications and appeal before the TLAB were neither unprecedented nor complicated. In my view, at issue is whether the Appellant's severance of the lot for the purpose of introducing infill housing as a form of 'modest' intensification in this neighbourhood is appropriate and fits the physical character of the area.

Resulting from the severance was the need to address zoning relief in the form of minor variances for lot frontage, lot area, lot coverage, and rear yard setbacks, in order to permit construction of the proposed detached dwellings on undersized lots.

From a planning perspective, a number of questions arise as a result of the proposed severance and corresponding variances; the key one being whether both of the lots being created by severance are considered substandard in size. More specifically, do the proposed lot sizes respect and reinforce the established dimensions and configuration of the existing lots in the neighbourhood.

The typical issues, all of which were in play in this appeal to greater or lesser degrees, include the following:

- New lots optimizing in a modest way the efficient use of land through modest intensification versus it is not good planning to permit oversized homes on undersized lots that do not fit the neighbourhood;
- Will the overall neighbourhood character of larger lots and homes be altered by allowing smaller lots and correspondingly larger homes thereby impacting adjacent neighbours; and
- The importance of lot frontage as a defining characteristic of the neighbourhood's existing physical character.

JURISDICTION

Provincial Policy – S. 3

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').

Consent – S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;

(j) the adequacy of school sites;

(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;

(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and

(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

Minor Variance – S. 45(1)

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

Mr. Cheeseman called Theodore (TJ) Cieciura, principal at Design Plan Services Inc., to provide land use planning evidence in support of the consent and minor variances being requested by the Appellant.

I qualified Mr. Cieciura as a professional land use planner capable of giving expert opinion testimony on land use planning matters. Mr. Cieciura was initially retained in May 2018 related to the applications that had been refused by the COA and later appealed by the Owner/Appellant.

He advised that he undertook a 'top down' review of the consent and variance applications from higher order planning documents such as provincial policies to the City's Official Plan and Zoning By-laws.

In his witness statement (Exhibit B) and evidence (Exhibit A – Appellant's Document Disclosure Book – Tab 3 – 4), Mr. Cieciura gave a brief description of the

proposal, outlining the context of the subject property and summarizing the dimensions of the two lots to be created through consent.

At this juncture in the hearing, I advised that pursuant to the standing direction of Council to the TLAB, I had visited the subject property and surrounding streets to familiarize myself with the area.

In providing context, he referred to the survey of the property (Exhibit A – Tab 4) noting that the legal zoning frontage of the subject property is actually on Muir Avenue. He further advised that the subject property is nevertheless addressed and has its front door on Apted Avenue.

Mr. Cieciora characterized the shape of the subject lot as a ‘four-sided polygon’ comprised of front and rear lot lines that are skewed slightly to the side lot lines. He suggested that this lot shape is reflective of the existing common condition in the neighbourhood.

In addressing the neighbourhood, Mr. Cieciora first described the immediate context surrounding the property, and then depicted how the wider macro neighbourhood exhibited its physical character.

In doing this, he employed what I agreed was a rather generous Study Area (Exhibit A – Tab 23, pg. 538), bounded by the Etobicoke Creek and the valley system to the west, Steeles Avenue West and the valley system to the north, Islington Avenue (excluding the lots fronting onto the street) to the east, and Rowntree Mill Road/valley lands to the south. He utilized a 400 m radius around the subject property, which he equated to a ‘five minute walk’ from the property, to delineate his Study Area margins.

He confirmed that the majority of the lots in the Study Area were within the same neighbourhood context, similarly designated as *Neighbourhoods* in the Official Plan, and zoned for low rise residential purposes. A total of 791 lots were included within this study area.

Mr. Cieciora submitted a number of studies and analyses and attendant colour mapping as evidence, including a *Neighbourhood Photo Book* (Exhibit A – Tab 23), a *Lot Frontage Study* (Exhibit A – Tab 25) and *Lot Frontage Compliance Analysis* (Exhibit A – Tab 26), and a *Lot Area Compliance Analysis* (Exhibit A – Tab 28), in addition to a *Neighbourhood Minor Variance Decision Chart* (Exhibit A – Tab 20).

He described the immediate context of the subject property in the following manner:

- *Apted Avenue is a short road that runs north from Rowntree Mill Road to Riverside Drive;*
- *There is only one single detached residential dwelling fronting onto Apted Avenue between Muir Avenue and Whitfield Avenue, within the same block*

as the subject property. The majority are considered as 'flankage' lots except for the subject property;

- *There are 26 single detached residential dwellings fronting on Muir Avenue between Apted Avenue and Larchmere Avenue, on the same segment of the road as the subject property (both sides of Muir Ave.);*
- *Nine of the twenty six dwellings are two storeys in height; and*
- *This is a pleasant and quiet neighbourhood of mainly residential uses that is well served by transit along Steeles Avenue West and Islington Avenue.*

In the broader neighbourhood context within his Study Area, Mr. Cieciura opined that the neighbourhood consists of a variety of lot sizes and that the neighbourhood lot fabric has not remained static. New lots have been created as part of the evolution of the area and the varied lot sizes are in keeping with that lot fabric, which includes those that are undersized relative to the zoning by-law standards.

He further opined that the neighbourhood has been experiencing reinvestment and regeneration in the form of new dwellings and building additions which have resulted in dwellings that are larger – in footprint, mass and scale – occupying more space on each lot.

In support of this opinion, Mr. Cieciura referred to his *Neighbourhood Photo Book* (Exhibit A – Tab 23) and specifically to photograph #'s 17 – 64 to demonstrate the variety of architectural styles within the Study Area, as well as examples of similar types of dwellings as proposed by the Appellant. This was a rather extensive collection of photos depicting dwellings on almost all of the streets within the Study Area.

In referencing this visual evidence, he opined that the relief being sought through the proposed variances and the development were in keeping with what is found in the neighbourhood in terms of the order of magnitude.

Mr. Cieciura then provided an overview of the policy and regulatory framework for the subject property and provided opinion evidence that the consent and associated minor variances, specifically, and the proposed development more generally, represented good land use planning. In particular, he opined that the consent and variances are in accordance with the *Planning Act* (Act), are consistent with the Provincial Policy Statement (PPS), conform to the Growth Plan for the Greater Golden Horseshoe (Growth Plan), and the consent meets the criteria set out in Section 51(24) of the Act.

In addressing the PPS, Mr. Cieciura opined that the applications and variances will represent a more efficient development and use of the subject land, will contribute to regeneration in the neighbourhood and enhance and maintain the existing range and mix of housing, and will provide a form of housing that is permitted and found throughout the neighbourhood.

Turning his attention to the Growth Plan, Mr. Cieciora opined that the proposal to create two lots and develop two single detached residential dwellings will maintain and enhance the compact form on the lots. In fact, he suggested that severing the existing lot into two and constructing two new homes represents modest intensification within an area defined for growth by the Growth Plan.

Mr. Cieciora also reviewed the proposed consent having regard for Part 1, Section 2 of the Act and the consent criteria of Section 51(24). He opined that there were no substantive implications on matters identified in numerous sections of Section 2 and concluded that in his opinion all the matters under Section 51(24) are satisfied and there will be no adverse impacts on the neighbourhood, the City or the Province.

In short, Mr. Cieciora was of the opinion that the proposal properly implements the policy thrust and direction provided for in provincial policy, and supports optimization of the use of the land, encouragement of compact urban form, and redevelopment and intensification.

The Four Tests

1. Maintain the General Intent and purpose of the Official Plan

Mr. Cieciora found applicable policy direction in the City Official Plan, especially applicable to the “*Neighbourhoods*” designation. He opined that the Official Plan contains policies that recognize that change within neighbourhoods will occur over time and that such changes should respect and reinforce the physical character of the neighbourhood. He further opined that the policies do not require replication of existing physical character but, rather, that new development should fit the general physical patterns.

Referring to Policies 2.3.1, 3.2.1 and 4.1.5 in the Official Plan, he submitted that the proposed lot frontages, lot depths and lot areas of the proposed development fit well with those found in the neighbourhood. Additionally, he opined that the proposed building siting, size, height, scale and massing is appropriately proportioned to each lot and compatible with the area.

Mr. Cieciora conceded that there had not been a tremendous amount of redevelopment activity in the neighbourhood but he also submitted that regeneration and transition is occurring. He opined that the proposal “*continues a slow and steady evolution of development in the neighbourhood.*”

To support this opinion, he referred to the chart (Exhibit A – Tab 20) highlighting *COA Decisions for Minor Variances and Consents* within the Study Area. The data, representing information from the City’s database using a ten-year timeframe, yielded 14 decisions in total which Mr. Cieciora suggested were indicative of ‘modest’ regeneration within the neighbourhood. Five of the fourteen decisions, or 36%, were consent approvals.

With respect to lot coverage, the COA has granted approvals ranging from 32.90% to 38.89% in an area where 30% is the maximum permitted lot coverage permitted by the By-law. Comparatively, Mr. Cieciora noted that the Appellant is requesting lot coverage variances of 36.13% (Part 1) and 36.09% (Part 2), which he opined were consistent with other recently approved variances in the area. He submitted that the proposal was in keeping with the way the neighbourhood is evolving.

As examples, Mr. Cieciora highlighted the properties at 23 Muir Avenue, 76 Larchmere Avenue, and 88 Rowntree Mill Road as illustrative of recent COA approvals of consent and variances which are similar to the subject proposal.

2. Maintain the General Intent and Purpose of the Zoning By-law

Mr. Cieciora opined that the variances also meet the general intent and purpose of the Zoning By-law, as they will facilitate dwellings that are compatible with the built form of the surrounding area. He further noted that although relief was being sought from the new By-law, the proposed severance and associated dwellings do not require any relief from the former By-law.

In addressing each of the variances individually, he opined that the design of the proposed dwellings was intended to minimize the look of height and maintain the pedestrian scale of building by utilizing horizontal architectural elements to reduce the overall massing appearance of dwellings, even though no height variances are required. He noted that this was done in response to issues directly raised by neighbouring residents.

Variances Requested

I. Lot Frontage

Mr. Cieciora referred to the proposed Site Plan (Exhibit A – Tab 6) noting that the Appellant's proposal will subdivide the existing lot into two lots, each with a frontage of 11.4 m. The required minimum lot frontage is 15 m.

He posited that the neighbourhood in which the subject property is found is an older area of the City that is fully urbanized. As such, he suggested that smaller lot sizes and frontages are common in order to provide a wider variety of living choices for residents wanting to reside in this area.

In this regard, he proposed that there are numerous examples of lots that reflect smaller lot frontages than required by the By-law and a wide variety of lot sizes and shapes within the neighbourhood, in general, and along Apted Avenue and Muir Avenue, in particular.

Utilizing a *Lot Frontage Compliance Analysis* (Exhibit A – Tab 26) and attendant mapping, he submitted that approximately 22% (177 lots) within the Study Area do not meet the minimum frontage requirements of that zoning category. He noted that that percentage increased to 37.7% (304 lots) when the analysis included lot frontages that are at or below the minimum lot frontage requirement.

II. Lot Area

Mr. Cieciora prepared a *Lot Area Compliance Chart* and mapping (Exhibit A – Tab 28) and analyzed lot areas in the Study Area. He indicated that his analysis showed that 126 lots (15.6%) had lot areas smaller than the minimum lot area requirements in the By-law. The majority of these lots are located in the immediate vicinity of the subject property, along Muir Avenue, Whitfield Avenue, and Riverside Drive.

On a more macro scale, he noted that 428 lots (54.2%) of the total number of lots within the Study Area are smaller in area than the lot area proposed by the Appellant. He concluded that in his opinion, the proposed lot areas will not be out of character and, in fact, will be similar to what is seen throughout the neighbourhood.

III. Lot Coverage

Mr. Cieciora noted that the requested lot coverage variances, 36.13% for Part 1 and 36.09% for Part 2, represent statistically small increases from the maximum lot coverage permitted in the By-law. The requested variances represent an average increase of approximately 6.1%. As a result, he suggested that the proposed dwelling to be constructed on each new lot will appear to be of a scale and proportion that is appropriate for the lot size.

He further suggested that since there are no side yard setback variances being requested, the proposed lot coverage will not be noticeable from the street and there will be no visual impact to the streetscape and the neighbourhood. He supported this position by noting that COA variance decisions (Exhibit A – Tab 20) in the Study Area indicated that there were numerous approvals for lot coverage at or greater than 36%..

IV. Rear Yard Setback

Mr. Cieciora addressed this variance from two perspectives. He first noted that the required rear yard setback under the new By-law is 7.5 m, whereas the proposed setbacks are 3.54 m for Part 1 and 4.64 m for Part 2. He further noted

that the rear yard setbacks are measured from the bay window on the proposed dwellings (Exhibit A – Tab 6) which extends beyond the main rear wall and that, in fact, the rest of the rear main wall for each dwelling is set back a minimum of 4.33 m from the rear lot line for Part 1, and 5.13 m for Part 2.

He then reiterated that the subject property is a parallelogram shaped lot and that the rear yard setbacks are measured from the ‘pinch points’ between the proposed dwellings and the rear lot line. He explained that as a result of these ‘pinch points’ the distance between the proposed dwelling on each lot and the rear lot line ranges in size – from 3.54 m to 5.79 m for Part 1, and 4.64 m to 6.18 m for Part 2.

He also confirmed that the rear yard setback of the existing dwelling of 4.9 m does not currently meet the zoning By-law requirement of 7.5 m. In this regard, he noted that the existing rear yard setback falls within the range of rear yard setbacks proposed by the Appellant and, therefore, opined that the proposed rear yard setbacks simply maintain the existing condition

Mr. Cieciura then addressed rear yard setback conditions within the Study Area and referenced a *Rear Yard Setback Summary Chart* and mapping (Exhibit A – Tab 29). He opined that his analysis demonstrated that many lots within the neighbourhood have similar or smaller rear yard setbacks when compared to the setbacks being proposed.

He specifically highlighted the following lots that are immediately adjacent to the subject property noting existing rear yard setbacks:

- 51 Muir Avenue – 3.59 m;
- 54 Muir Avenue – 4.98 m;
- 82 Whitfield Avenue – 7.19 m; and
- 83 Apted Avenue - 1.98 m.

Mr. Cieciura opined that the variances meet the general intent and purpose of the zoning by-law, as they will facilitate dwellings that are compatible with the built form of the surrounding area

3. Desirable for the Appropriate Development of the Land

Mr. Cieciura suggested that the proposal represents an appropriate, reasonable and compatible development for this neighbourhood, and submitted that the variances will facilitate for each new lot, reasonably-sized dwellings with appropriate standards, interface and a functional design that is desirable and compatible with recent development trends.

He submitted that it would not be feasible or marketable to develop the subject lot with an ‘as-of-right’ residential dwelling which he suggested would

result in a residential dwelling of approximately 4,200 m² in size. He posited that such a large dwelling would be more out of character in the neighbourhood than the two smaller homes being proposed.

4. Minor in Nature

In addressing the last statutory test, whether the proposal is minor, he opined that the proposal would create no unacceptable adverse impact such as shadowing, privacy or overlook to adjacent dwellings. He submitted that the minor variance decision summary sampling chart in Exhibit A – Tab 20 of his evidentiary materials illustrated that the proposed variances are in keeping with the numeric range of approvals within the area and, in fact, the proposed rear yard setback variances are in line with adjacent dwellings located along Muir Avenue.

In summary, Mr. Cieciura submitted that the subject property's physical and planning instruments context support the proposal, and the proposed consent and minor variances will result in a lot size site development that is reflective of the neighbourhood's physical context in a manner that respects and reinforces that context with no unacceptable adverse impacts on neighbours. In his professional opinion, the proposal represents good planning.

On a general invitation to hear from individuals who were present with an interest in the matter, two individuals requested an opportunity to address the TLAB. Mr. Paolo Meo, a resident at 82 Whitfield Avenue submitted a letter of objection to the TLAB regarding the proposal on July 12, 2018. Mr. Meo did not file a Notice of Intention to be a Party or a Participant to the matter nor did he submit any disclosure documents as per the requirements of the TLAB Rules.

Mr. Grant Evers, President of the Humber Summit Residents' Association (HSRA), also requested to provide testimony in opposition to the appeal. He submitted a letter of objection and corresponding visual documentation on July 16, 2018 and July 24, 2018, respectively, to the TLAB approximately one week prior to the scheduled hearing. The HSRA also did not file a notice to be a party or participant and did not submit disclosure documents.

Mr. Cheeseman raised an objection to both individuals being heard by the TLAB on the basis that the individuals failed to adhere to the TLAB Rules and indicated no intentions to be either a Party or Participant in the matter nor had they filed Party or Participant statements. I took a short recess to formulate a ruling on the objections.

After reconvening the hearing, I declined to hear a presentation from Grant Evers of the HSRA. In making my ruling I noted that the Association had been in existence since 2016, which is prior to the commencement of the first TLAB sitting, had made no filings pursuant to the Rules, had not sought any status and had not identified itself as an entity of interest until submitting its letter of objection and visual document on July 16,

2018 and July 24, 2018. Mr. Evers confirmed to me that no formal meeting or resolution of the Association had authorized his attendance.

In his July 16, 2018 letter to the TLAB, Mr. Evers confirmed that although he submitted arguments in opposition to the proposed development to the CAO the Committee classified his submission as 'post hearing' and he suggested this as a reason his Association was unaware of the date for the TLAB hearing.

In considering the information before me, I declined to hear from Mr. Evers, with apologies, on the grounds that I considered a representative corporation to hold and be in a different capacity with different responsibilities than a lay individual. I noted that the filings made by the HSRA were received by TLAB staff because they are directed to do so, and it is the discretion of the Panel Member to make a ruling on its admissibility.

As such, I did not feel it appropriate or fair, at this late stage of hearing conclusion, to admit into evidence a corporate presentation, regardless of its position on the Applications, that had not been disclosed, addressed or that had not respected the Rules that had governed the Parties and Participants, in respect of the subject property. I noted that this ruling is consistent with other rulings made by TLAB Panel Members, including the TLAB Chair.

With respect to Mr. Meo, I agreed to hear his lay evidence as the property that he owns with his wife, at 82 Whitfield Avenue, abuts the subject property to the south and would be directly impacted by the proposed development. He advised that he was surprised that he had not received notification of the hearing but wanted an opportunity to present his concerns. His testimony will go to weight.

Mr. Cheeseman noted that he had no objection to my ruling but indicated that Mr. Meo was identified as a party of interest to the hearing and had been served notice of all documents. I noted this point for the record.

Mr. Meo testified that the 'cottage style' dwelling on the subject property is one of the few remaining unique homes in the neighbourhood, and suggested that over the last three years many have been replaced with larger more modern residential detached dwellings.

He noted that his property is immediately adjacent to the proposed development and that if he had been made aware of the proposal to sever the subject property and construct what he characterized as a '*semi-detached*' structure when he purchased his home in 2015, he would not have moved to the neighbourhood. Ultimately, he is concerned that the value of his property will be negatively impacted by this development.

He stated that he is not opposed to redevelopment in principle; however, his main concerns relate to the reorientation of the severed lots to front onto Muir Avenue, as the resulting rear yards of the new dwellings would abut his property and visually all he

would see are large, overbearing structures. Additionally, he was concerned about the reduced rear yard setbacks creating privacy concerns, as well as the removal of a large mature privately owned tree.

Mr. Meo concluded that he is in support of redevelopment in neighbourhood but would prefer a proposal that was fair and equitable for all those affected. However, he did acknowledge that the Appellant had addressed some concerns through concessions incorporated into the design that is before the TLAB, although he did not describe or elaborate on those allowances.

On cross examination, Mr. Cheeseman suggested that only 75% of Mr. Meo's rear yard abuts the subject property and, therefore, Mr. Meo's concerns regarding the proposed development are somewhat exaggerated.

Mr. Cheeseman also clarified that the proposal is for two detached dwellings and not one semi-detached residential structure as suggested by Mr. Meo.

Mr. Cheeseman noted for the witness that the as-of-right zoning for the subject property would permit a larger residential dwelling in excess of 4,200 m² to be developed with smaller side yard setbacks (1.83 m) than what is being proposed. He suggested to Mr. Meo that this type of development would be more intrusive than the development before the TLAB.

In response, Mr. Meo was adamant that the Appellant should consider downsizing his proposal to fit the zoning standards for the subject property.

With respect to the impact on privately-owned trees that may need to be injured or removed to accommodate the proposal, Mr., Cheeseman clarified that this is a separate permit process that the Appellant would be required to pursue through the City and that a condition would be added to the decision if the applications were approved.

Finally, Mr. Cheeseman suggested that many factors impact the value of a property but that reinvestment in a neighbourhood is a good thing, to which Mr., Meo agreed. Mr. Meo again reiterated his support for redevelopment and infill within the neighbourhood but expressed his disappointment that the proposed redevelopment of the subject property would not be similar to his property.

In closing remarks, Mr. Cheeseman submitted that I make a decision in this matter based on the land use planning evidence from a land use planner qualified to give opinion evidence in this regard. He opined that there is a distinction to be made between perceptions of impacts and concerns and concerns that actually rise to the level of being adverse planning impacts sufficient to justify denying an application.

He submitted that the TLAB is charged with making a planning decision based on the planning merits of the case. In this regard, he asked that I prefer the uncontested

planning evidence of Mr. Cieciura, which he suggested was objective, non-partisan, comprehensive, not subject to cross-examination, and not undermined.

He noted that the only contrary evidence the TLAB heard was from Mr. Meo, the abutting neighbor, which Mr. Cheeseman suggested was not unusual. He submitted that Mr. Meo acknowledged that redevelopment has been and is occurring in the neighbourhood and that he is not against change.

As to the three issues raised by Mr. Meo, they were addressed by Mr. Cheeseman in the following manner:

- *Property Value* – Mr. Meo provided no evidence to quantify or qualify this concern;
- *Tree removal* – This is a separate permit process and a condition has been agreed to by the Appellant that will be incorporated into a decision if the appeal is granted;
- *Impacts on his Property* – Mr. Cheeseman submitted that Mr. Meo failed to raise any material issues of impact related to overlook, shadowing or privacy. He simply asserted that he would be forced to view the rear of dwellings too close to his rear yard, a condition that Mr. Cheeseman suggested is common in the neighbourhood.

Mr. Cheeseman argued that the propose lot sizes are appropriate to accommodate the size of homes contemplated and he suggested that the severed lots would not represent anomalies within the neighbourhood. Instead, he suggested that evidence provided by Mr. Cieciura indicates that they are similar in size to existing lots in the area and lots being proposed through severances.

He submitted that the proposal satisfied the four tests and was not inconsistent with the PPS and Growth Plan. He therefore asked that provisional consent be granted subject to the standard consent conditions in the TLAB's Practice Direction No. 1, and that I authorize the associated variances subject to the conditions in Exhibit A – Tab 12 from Urban Forestry.

ANALYSIS, FINDINGS, REASONS

As stated under '*Matters in Issue*', the applications and appeal before this Body, in my opinion, are neither unprecedented nor complicated; a severance approval with associated variances to permit construction of two detached residential dwellings.

After careful consideration of the evidence by the Appellant's land use planner and the testimony provided by Mr. Meo, the abutting neighbour, I conclude that the consent should be given, with conditions. I also find on the evidence presented that the requested minor variances to enable the development should be authorized, with

conditions, and do so authorize the minor variances, all of which is reflected in the Decision and Order.

I concur with Mr. Cieciura that if a severance is allowed, two contemporary dwellings as proposed could be constructed on the resultant lots that could function independently. Indeed, the proposed dwellings are reflected throughout many neighbourhoods in the City; the design of an at-grade integral garage on a narrow lot can become a mainstay of development and redevelopment initiatives over time.

The capability to erect the dwellings on the proposed lots and their ability to accommodate the dwellings was not put in issue or directly challenged. Rather, the challenge to the application from the abutting neighbor, Mr. Meo, focused on lot frontage, suitability, assessment criteria, and impacts.

As acknowledged by Mr. Cieciura, there has not been a great deal of consent activity in the neighbourhood, however, such activity cannot be said to be either an anomaly or unknown in the Study Area. I find that based on Mr. Cieciura's evidence that consent activity has occurred; that the resulting house form development is very similar to what the Appellant proposes to construct; and the severance of one lot into two lots will result in a form of residential development that already forms part of the fabric of lot pattern development in the neighbourhood.

From a streetscape perspective, the front façades of the houses that the Appellant proposes to build are remarkably similar in their design elements, height and treatment to other smaller lots that exist in the area and on which new house form development has occurred. In my view, the proposed development is entirely compatible with the example of house form development depicted in the photographic and visual evidence provided by Mr., Cieciura.

I find that Mr. Cieciura's supporting planning evidence and documentation were comprehensive and persuasive. I find that the evidence provided by Mr. Cieciura was persuasive in determining that the planning tests as articulated in the Act for the consent and accompanying variances were met.

I did not find that the degree of numerical variation requested in the corresponding variances between what is being sought and the By-law's performance standards to be significant and no persuasive evidence was provided that these created adverse impacts on the surrounding properties or in the overall study area.

The proposed development is certainly smaller than what could be built on a 28.35 m wide lot or on what is expected on a 15 m wide lot, but the resulting built forms mirror what already exists on other smaller properties.

On the evidence and particularly the fact that 54.2% of the lots in the Study Area have a smaller lot area than what is being proposed forming part of the neighbourhood

is persuasive to this Body. Like the larger lots, they too inform the character of the area and are part of the neighbourhood.

I agree with Mr. Cieciura that the neighbourhood, including both the immediate context on Apted Avenue and the broader neighbourhood, is not uniform. A variety of lots and configurations exist in the area, which have been created over time through both original lot registration/development, and through historical and more recent land division applications.

I concur with Mr. Cieciura that this has resulted in an eclectic mix of lots and built forms, and that the proposed consent will respect and reinforce the general lot patterns in the neighbourhood. I agree that one criterion for establishing neighbourhood character is the size and configuration of lots. I accept that the proposed lot dimensions will be compatible with the existing physical character, not represent anything anomalous, and fit the surrounding neighbourhood fabric.

I accept that the proposed built form of the detached dwellings is appropriate in scale to the immediate context and that dwelling heights, massing, and scale are similar to and compatible with replacement and original dwellings in the neighbourhood.

I accept Mr. Cieciura's proposition that the proposed built form represents an appropriate, high quality design. I agree that the proposed lot coverages (36.13% and 36.09%), and comparatively generous side yard setbacks relative to the By-law requirements will result in a built form that is typical with modern standards for replacement dwellings in the neighbourhood. I also accept that the Appellant has shown that two lots with reduced lot frontages can still fit harmoniously within the existing context while respecting and reinforcing the varied pattern of lot development despite the 15 m standard.

I accept that the proposal is minor, in both quantitative and qualitative terms, and that the proposed dwellings will appropriately frame the streetscape and will not give rise to any undue adverse impacts of a planning nature on adjacent properties.

As to Mr. Meo's testimony, and his concerns that the proposed development represents too much development for too small a piece of property and will move the proposed dwellings too close to his backyard, I accept that these are legitimate and relevant concerns. I also accept that his expressed concern regarding his property value is sincere although, perhaps, unfounded.

The question I must ask is whether he has demonstrated actual adverse impacts of a planning nature. I find he has not. As Mr. Cheeseman pointed out, the existing side yard condition on the subject property is very similar to what is being proposed for the rear yard setbacks of the proposed dwellings. As such, the proposed condition is not actually exacerbating the situation,

Also, Mr. Meo has incorrectly characterized this proposal as a 'semi-detached' development, which it is not. In listening to his testimony, it appeared that Mr. Meo may have misunderstood the type of development proposed on the subject property.

What is more, there are no planning provisions that require preservation of existing size and lot configuration in residential development applications. So long as the existing pattern of residential development can be respected and reinforced through design, the development proposal can be supported in the planning context.

And, Mr. Cieciura has demonstrated persuasively how new development on smaller lots can still contribute to the stable residential character of the street and the broader neighbourhood. Mr. Meo acknowledged on numerous occasions in his testimony, and upon cross-examination, that he does not oppose redevelopment in this area and that a larger, as-of-right development would be comparatively more impactful on his property.

Finally, there is no evidence before me to suggest that the proposed consent and associated variances would result in the creation of unacceptable adverse impacts to the abutting property owner, Mr. Meo, or the neighbourhood as a whole.

In my view, that which is of significantly greater importance in the determination of this matter is whether the proposed new homes can be accommodated on the proposed lots in a manner and form which is compatible with, and in character with other properties in the neighbourhood. Based on the evidence before me, I am satisfied they can.

In light of the foregoing, having considered the decision of the COA, the applicable statutory tests and evidence, and the lack of substantive planning concerns, I find that the consent and associated variances, as listed below, together with the conditions, meet the criteria set out in Section 45(1) and 51(24) of the Planning Act. They are appropriate and desirable, minor in nature and in keeping with the intent and purpose of the City Official Plan and Zoning By-law.

In addition, I am satisfied that the applications are supportive of and consistent with the Provincial Policy Statement and the Growth Plan, and represent good land use planning, for the reasons reviewed.

DECISION AND ORDER

I authorize the following variances and grant provisional approval to the consent requested. The earlier decision of the COA is set aside.

Requested Variances to the Zoning By-law

To construct a new detached dwelling with an attached garage as per Minor Variance Application (Part 1): COA File No. A0713/17EYK, the existing dwelling will be demolished:

1. Section 10.20.30.20.(1), By-law 569-2013

The minimum required lot frontage is 15m.

The lot frontage will be 11.4m.

2. Section 10.20.30.10.(1)(A), By-law 569-2013

The minimum required lot area is 550m².

The lot area will be 319.38m².

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

The maximum permitted lot coverage is 30% of the lot area (95.81m²).

The proposed dwelling will have a lot coverage of 36.13% of the lot area (115.4m²).

4. Section 10.20.40.70.(2)(A), By-law 569-2013

The minimum required rear yard setback is 7.5m.

The proposed dwelling will be located 3.54m from the rear lot line.

To construct a new detached dwelling with an attached garage as per Minor Variance Application (Part 2): COA File No. A0714/17EYK, the existing dwelling will be demolished:

1. Section 10.20.30.20.(1)(A), By-law 569-2013

The minimum required lot frontage is 15m.

The lot frontage will be 11.4m.

2. Section 10.20.30.10.(1)(A), By-law 569-2013

The minimum required lot area is 550m².

The lot area will be 319.32m².

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

The maximum permitted lot coverage is 30% of the lot (95.79m²).

The proposed dwelling will have a lot coverage of 36.09% of the lot area (115.24m²).

4. Section 10.20.40.70.(2)(A), By-law 569-2013

The minimum required rear yard setback is 7.5m.

The proposed dwelling will be located 4.64m from the rear lot line.

CONDITIONS OF MINOR VARIANCE APPROVAL

1. The proposed dwellings shall be constructed substantially in accordance with the Site Plan and Elevation drawings, prepared by GPF Design Services Inc., dated June 7, 2017 for Part 1 and July 14, 2017 for Part 2, attached as Attachment No. 2. Any other variance(s) that appear on these plans but are not listed in the written decision are **NOT** authorized.
2. The applicant shall submit an application(s) for permission to injure or remove city-owned and privately-owned trees to Urban Forestry, and comply with the City of Toronto Municipal Code, Chapter 813, Articles II (city-owned trees) and Article III (privately-owned trees).

CONDITIONS OF CONSENT APPROVAL

(1) The applicant shall submit one revised site plan (scale of 1:200 or 1:250) illustrating the requirements specified in the following points to the satisfaction of Engineering and Construction Services and Transportation Services, at no cost to the City:

- a) Site plan drawings should illustrate a positive slope from the roadway to the garage with a minimum of 2% and the portion of the driveway within the public road allowance has a slope between 2-4%.
- b) Provide elevations of driveways at garage, property line and curb.
- c) Show basic existing grading on site plan for both parts.
- d) The site plans must be revised to clearly show the curb lines of Muir Avenue and Apted Avenue.
- e) The site plans must be revised to clearly indicate the restoration of the redundant portion of curb cuts for the former driveway with sod and raised concrete curb, and new curb cuts for the proposed dwellings, all of which shall be designed to municipal standards.
- f) The site plans must be revised to include a notation on the drawings stating: "All proposed curb cuts shall comply with all applicable City of Toronto Design Standards and requirements and must be constructed at no cost to the municipality."
- g) The site plans must be revised to include a notation on the drawing stating: "The applicant must provide a Municipal Road Damage Deposit (MRDD) for the proposed new driveway construction within the municipal boulevard." The applicant must contact Ms. Joanne Vecchiarelli of our Right-of-Way Management Section at 416-338-1045 in this regard.
- h) The site plans must be revised to include a notation on the drawing stating: "The applicant must obtain all required permits to construct any proposed new driveway from the Right-of-Way Management Section of Transportation Services."

- (2) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
- (2) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
- (3) Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.
- (4) Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- (5) Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
- (6) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (7) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

X 

Dino Lombardi
Panel Chair, Toronto Local Appeal Body

Attachment 1

Committee of Adjustment
2 Civic Centre Crt, 4th Floor
Toronto, Ontario M9C 5A3
Tel: (416) 394-8060
Fax: (416) 394-6042

Thursday, February 22, 2018

NOTICE OF DECISION
CONSENT
(Section 53 of the Planning Act)

File Number:	B0075/17EYK	Zoning	RD & R4
Owner(s):	PENNMAR ACQUISITIONS INC	Ward:	York West (07)
Agent:	MARIO FARRONE	Heritage:	Not Applicable
Property Address:	81 APTED AVE	Community:	
Legal Description:	PLAN 2388 PT LOT 6		

Notice was given and the application considered on Thursday, February 22, 2018, as required by the Planning Act.

THE CONSENT REQUESTED:

To obtain consent to sever the property into two undersized residential lots.

Retained - Part 2

Address to be assigned

The lot frontage will be 11.4 m and the lot area will be 319.32 m². The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in Application A0714/17EYK.

Conveyed - Part 1

Address to be assigned

The lot frontage will be 11.4 m and the lot area will be 319.38 m². The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in Application A0713/17EYK.

File numbers B0075/17EYK, A0713/17EYK and A0714/17EYK will be considered jointly.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

The Consent Application is Refused

In the opinion of the Committee, the application does not satisfy the requirements of Section 51(24) of the Planning Act and is **NOT** approved for the following reason(s):

- The proposed land division is premature.
- The proposed land division does not conform to the policies of the official plan.
- The suitability of the land for the purposes for which it is to be subdivided has not been demonstrated.
- The suitability of the dimensions and shapes of the proposed lots has not been demonstrated.

SIGNATURE PAGE

File Number:	B0075/17EYK	Zoning	RD & R4
Owner(s):	PENNMAR ACQUISITIONS INC	Ward:	York West (07)
Agent:	MARIO FARRONE	Heritage:	Not Applicable
Property Address:	81 APTED AVE	Community:	
Legal Description:	PLAN 2388 PT LOT 6		

Allan Smithies (signed)

Denise Graham (signed)

Douglas Colbourne (signed)

DATE DECISION MAILED ON: Friday March 2, 2018

LAST DATE OF APPEAL: Thursday March 22, 2018

CERTIFIED TRUE COPY

Barbara Bartosik
Manager & Deputy Secretary Treasurer
Etobicoke York Panel

Appeal Information

All appeals must be filed with the Deputy Secretary Treasurer, Committee of Adjustment by the last date of appeal as shown on the signature page.

Your appeal to the **Toronto Local Appeal Body (TLAB)** should be submitted in accordance with the instructions below unless there is a related appeal* to the Ontario Municipal Board (OMB) for the same matter.

TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS

To appeal this decision to the TLAB you need the following:

- ☐ a completed TLAB Notice of Appeal (Form 1) in **digital format** on a CD/DVD
- ☐ \$300 for each appeal filed regardless if related and submitted by the same appellant
- ☐ Fees are payable to the **City of Toronto** by cash, certified cheque or money order (Canadian funds)

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB web site at www.toronto.ca/tlab.

ONTARIO MUNICIPAL BOARD (OMB) APPEAL INSTRUCTIONS

To appeal this decision to the OMB you need the following:

- ☐ a completed OMB Appellant Form (A1) in **paper format**
- ☐ \$300.00 with an additional reduced fee of \$25.00 for each connected appeal filed by the same appellant
- ☐ Fees are payable to the **Minister of Finance** by certified cheque or money order (Canadian funds).

To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.

*A **related appeal** is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the [Application Information Centre](#) and contact the assigned planner if necessary. If there is a related appeal, your appeal to the **Ontario Municipal Board** should be submitted in accordance with the instructions above.

NOTE: Only individuals, corporations and public agencies may appeal a decision. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

Thursday, February 22, 2018

NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0713/17EYK	Zoning	RD & R4
Owner(s):	PENNMAR ACQUISITIONS INC	Ward:	York West (07)
Agent:	MARIO FARRONE	Heritage:	Not Applicable
Property Address:	81 APTED AVE - PART 1	Community:	
Legal Description:	PLAN 2388 PT LOT 6		

Notice was given and a Public Hearing was held on Thursday, February 22, 2018, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new detached dwelling with an attached garage.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. **Section 10.20.30.20.(1), By-law 569-2013**
The minimum required lot frontage is 15 m.
The lot frontage will be 11.4 m.
2. **Section 10.20.30.10.(1)(A), By-law 569-2013**
The minimum required lot area is 550 m².
The lot area will be 319.38 m².
3. **Section 10.20.30.40.(1)(A), By-law 569-2013**
The maximum permitted lot coverage is 30% of the lot area (95.81 m²).
The proposed dwelling will have a lot coverage 36.13% of the lot area (115.4 m²).
4. **Section 10.20.40.70.(2)(A), By-law 569-2013**
The minimum required rear yard setback is 7.5 m.
The proposed dwelling will be located 3.54 m from the rear lot line.
5. **Section 9.(5), By-law 1676-2013**
A minimum of 10 m² of the first floor must be within 4 m of the front main wall.
A total of 10 m² of the first floor will be located within 6.3 m of the front main wall.

File numbers B0075/17EYK, A0713/17EYK and A0714/17EYK will be considered jointly.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

SIGNATURE PAGE

File Number:	A0713/17EYK	Zoning	RD & R4
Owner:	PENNMAR ACQUISITIONS INC	Ward:	York West (07)
Agent:	MARIO FARRONE	Heritage:	Not Applicable
Property Address:	81 APTED AVE- PART 1	Community:	
Legal Description:	PLAN 2388 PT LOT 6		

Allan Smithies (signed)

Denise Graham (signed)

Douglas Colbourne (signed)

DATE DECISION MAILED ON: Friday March 2, 2018

LAST DATE OF APPEAL: Wednesday March 14, 2018

CERTIFIED TRUE COPY

Barbara Bartosik
Manager & Deputy Secretary Treasurer
Etobicoke York Panel

Appeal Information

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- ☐ \$300 for each appeal filed regardless if related and submitted by the same appellant
- ☐ Fees are payable to the **City of Toronto** by cash, certified cheque or money order (Canadian funds)
- ☐

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ONTARIO MUNICIPAL BOARD (OMB) APPEAL INSTRUCTIONS

To appeal this decision to the OMB you need the following:

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- ☐ \$300.00 with an additional reduced fee of \$25.00 for each connected appeal filed by the same appellant
- ☐ Fees are payable to the **Minister of Finance** by certified cheque or money order (Canadian funds).

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Thursday, February 22, 2018

NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0714/17EYK	Zoning	RD & R4
Owner(s):	PENNMAR ACQUISITIONS INC	Ward:	York West (07)
Agent:	MARIO FARRONE	Heritage:	Not Applicable
Property Address:	81 APTED AVE- PART 2	Community:	
Legal Description:	PLAN 2388 PT LOT 6		

Notice was given and a Public Hearing was held on Thursday, February 22, 2018, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new detached dwelling with an attached garage.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. **Section 10.20.30.20.(1)(A), By-law 569-2013**
The minimum required lot frontage is 15 m.
The lot frontage will be 11.4 m.
2. **Section 10.20.30.10.(1)(A), By-law 569-2013**
The minimum required lot area is 550 m².
The lot area will be 319.32 m².
3. **Section 10.20.30.40.(1)(A), By-law 569-2013**
The maximum permitted lot coverage is 30% of the lot area (95.79 m²).
The proposed dwelling will have a lot coverage 36.09% of the lot area (115.24 m²).
4. **Section 10.20.40.70.(2)(A), By-law 569-2013**
The minimum required rear yard setback is 7.5 m.
The proposed dwelling will be located 4.64 m from the rear lot line.
5. **Section 9.(5), By-law 1676-2013**
A minimum of 10 m² of the first floor must be within 4 m of the front main wall.
A total of 10 m² of the first floor will be located within 6.3 m of the front main wall.

File numbers B0075/17EYK, A0713/17EYK and A0714/17EYK will be considered jointly.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

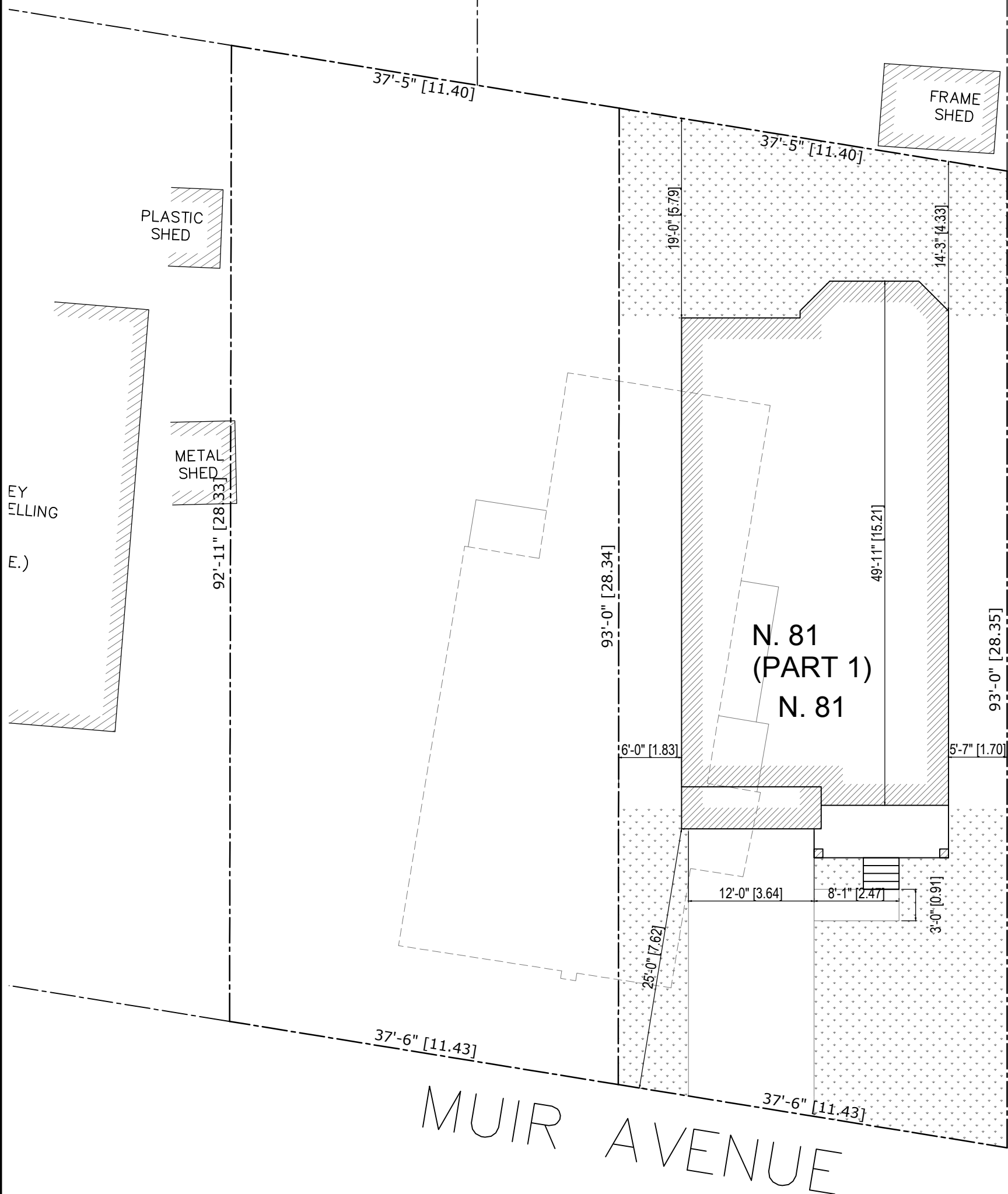
Attachment 2

SKETCH OF SURVEY OF
PART OF LOT 6
REGISTERED PLAN 2388
CITY OF TORONTO
(FORMERLY CITY OF NORTH YORK)

PROP. LOT - 3438.2 ft.²(319.4m²)
F.S.I. - 2178.3 ft.²
PROP. HOUSE - 1251 ft.²

<u>FRONT YARD</u>	
AREA	– 1095.7 ft. ²
PORCH & STAIRS	– 72.6 ft. ²
WALKWAY	– 24.3 ft. ²
DRIVEWAY	– 315.8 ft. ²
SOFT LANDSCAPE	– 653.1 ft. ² (82.7%)

REAR YARD
AREA - 585.5 ft.²



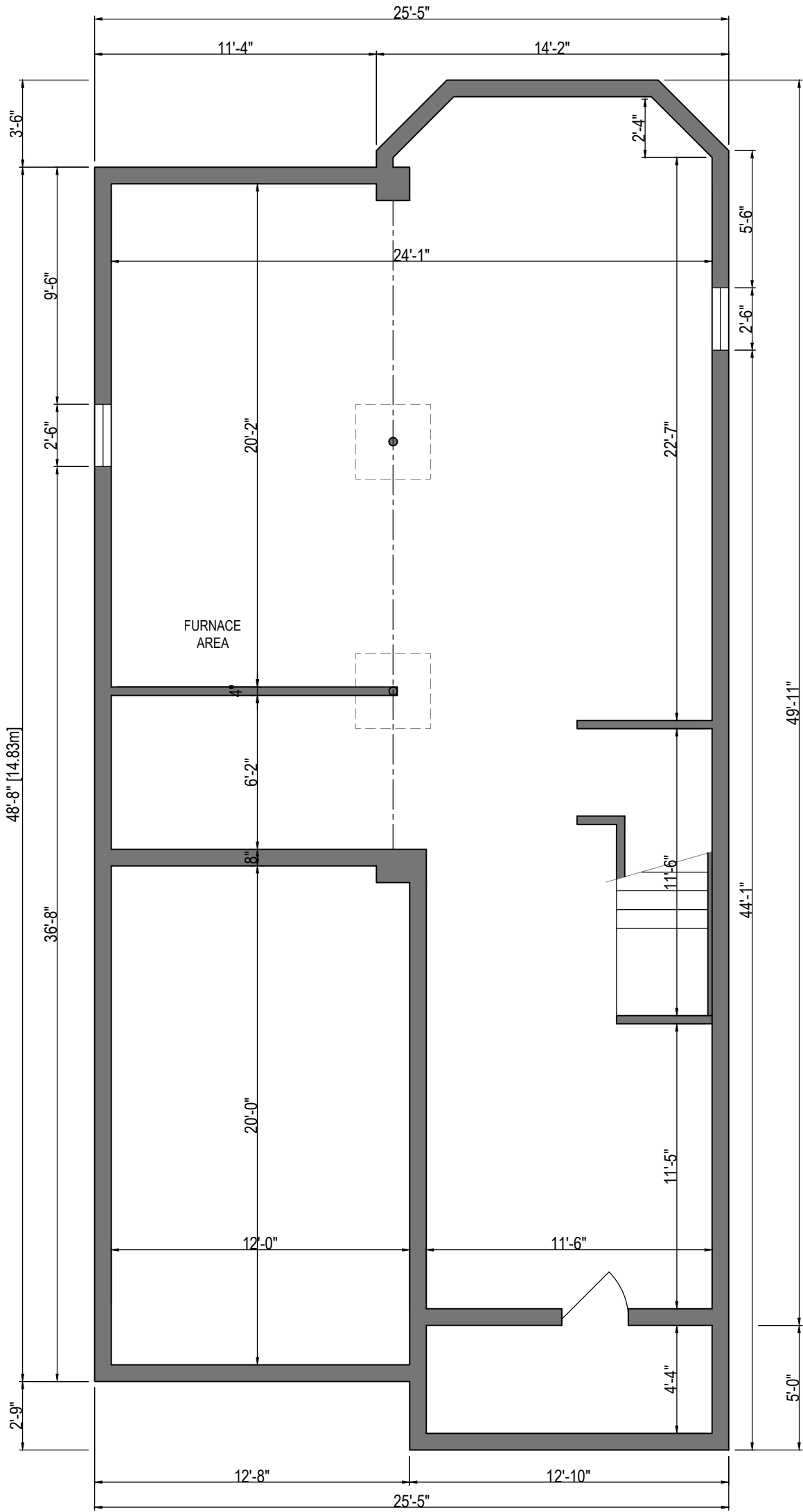
GPF Design Services Inc. 2572,
Eglinton Avenue West Toronto,
Ontario M6M 1T4
Tel. 416-656-0134
Fax 416-656-5343
B.C.I.N28087

4.			
3.			
2.			
1.	ISSUED TO CLIENT	17-06-07	
No.	Description	Date	By

REVISIONS

CLIENT: _____
PROJECT: 81 Apted Ave (Part 1)
Toronto, ON

SHEET TITLE:	SITE PLAN		
SCALE:	$\frac{3}{32}" = 1'-0"$	A0	



GPF De

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No.	ription	Date	By
Revisions			

Client:

Project:

81 Apted Ave (Part 1)
Toronto, ON

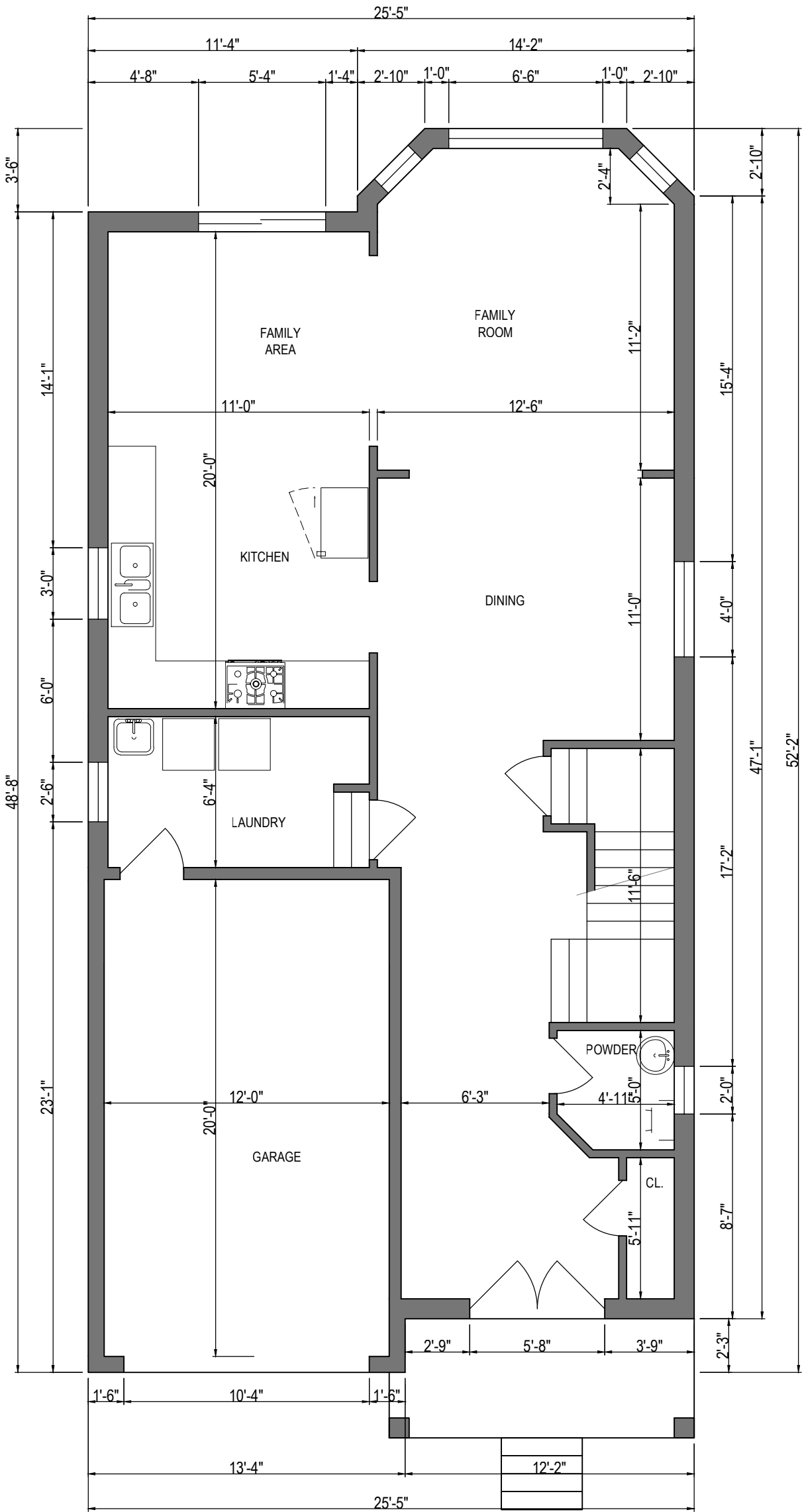
Sheet Title:

BASEMENT PLAN

Scale:

1/16"=1'-0"

A1



GPF De

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1.	ISSU	T	17-06-07
No.	ription	Date	By
Revisions			

Client:

Project:

81 Apted Ave (Part 1)
Toronto, ON

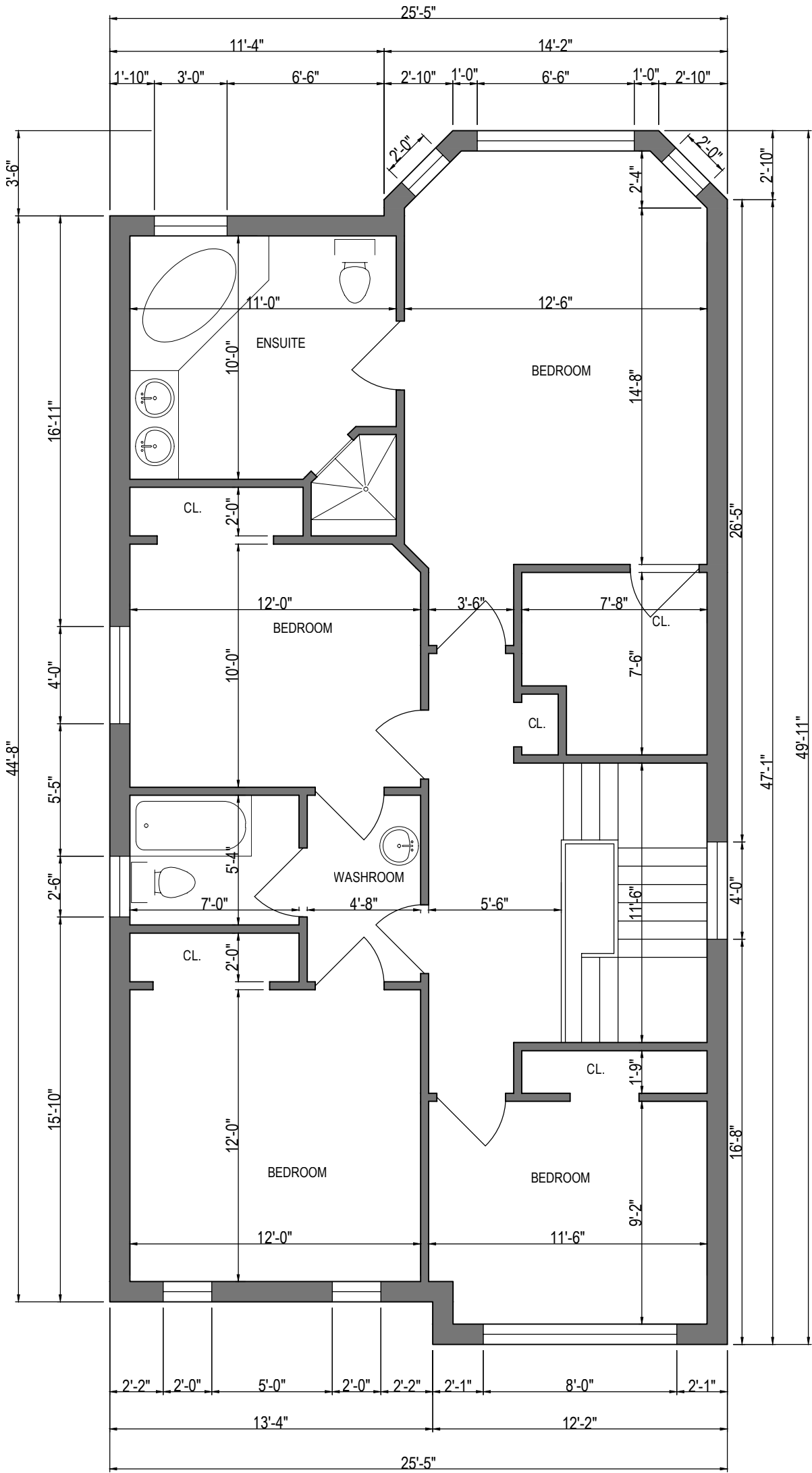
Sheet Title:

1st FLOOR PLAN

Scale:

1/16"=1'-0"

A2



GPF De

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81 Aptd Ave (Part 1)
Toronto, ON

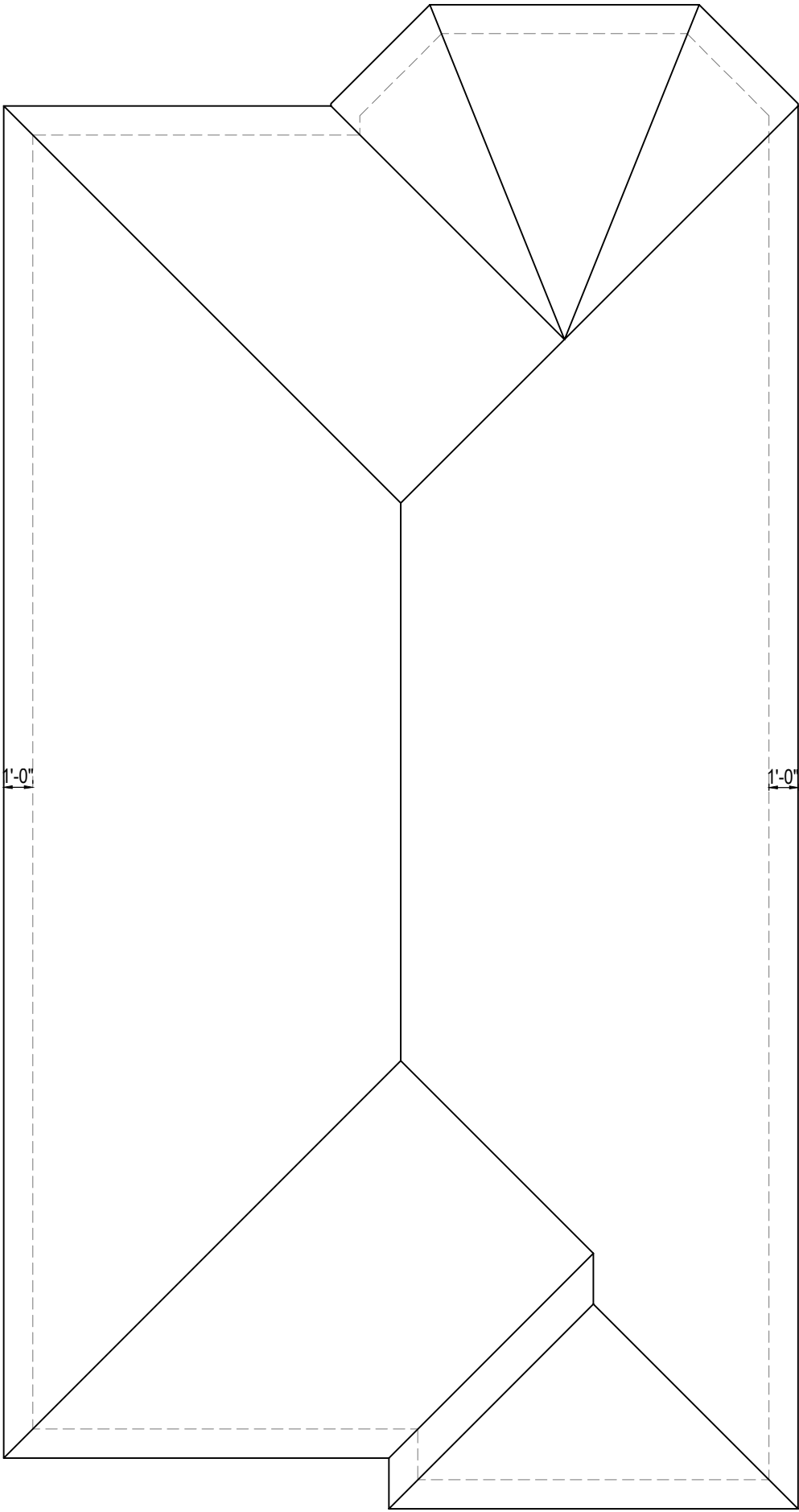
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2nd FLOOR PLAN

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A3



GPF De

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By			
Revisions			

Client:

Project:

81 Apted Ave (Part 1)
Toronto, ON

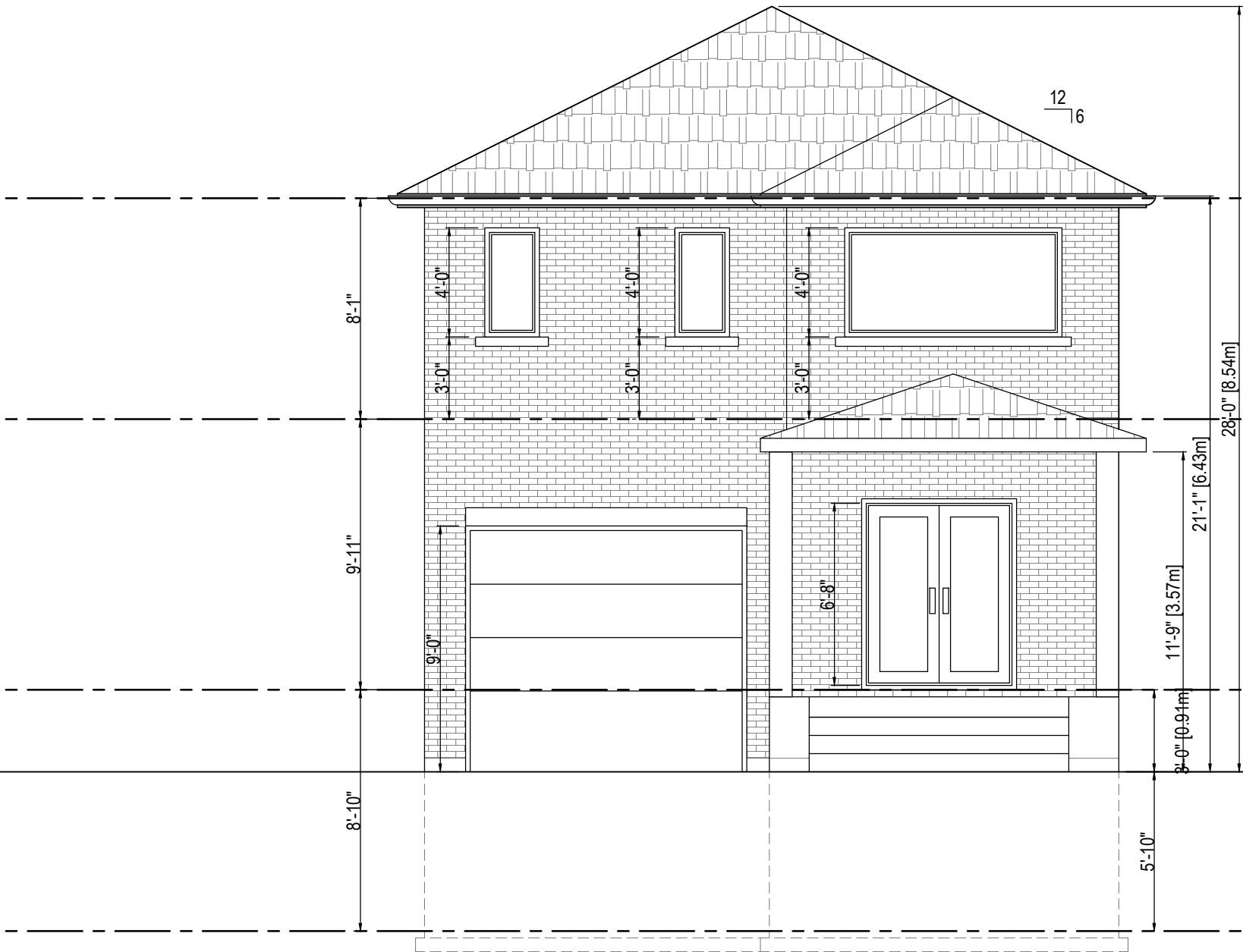
Sheet Title:

ROOF PLAN

Scale:

3/16"=1'-0"

A4



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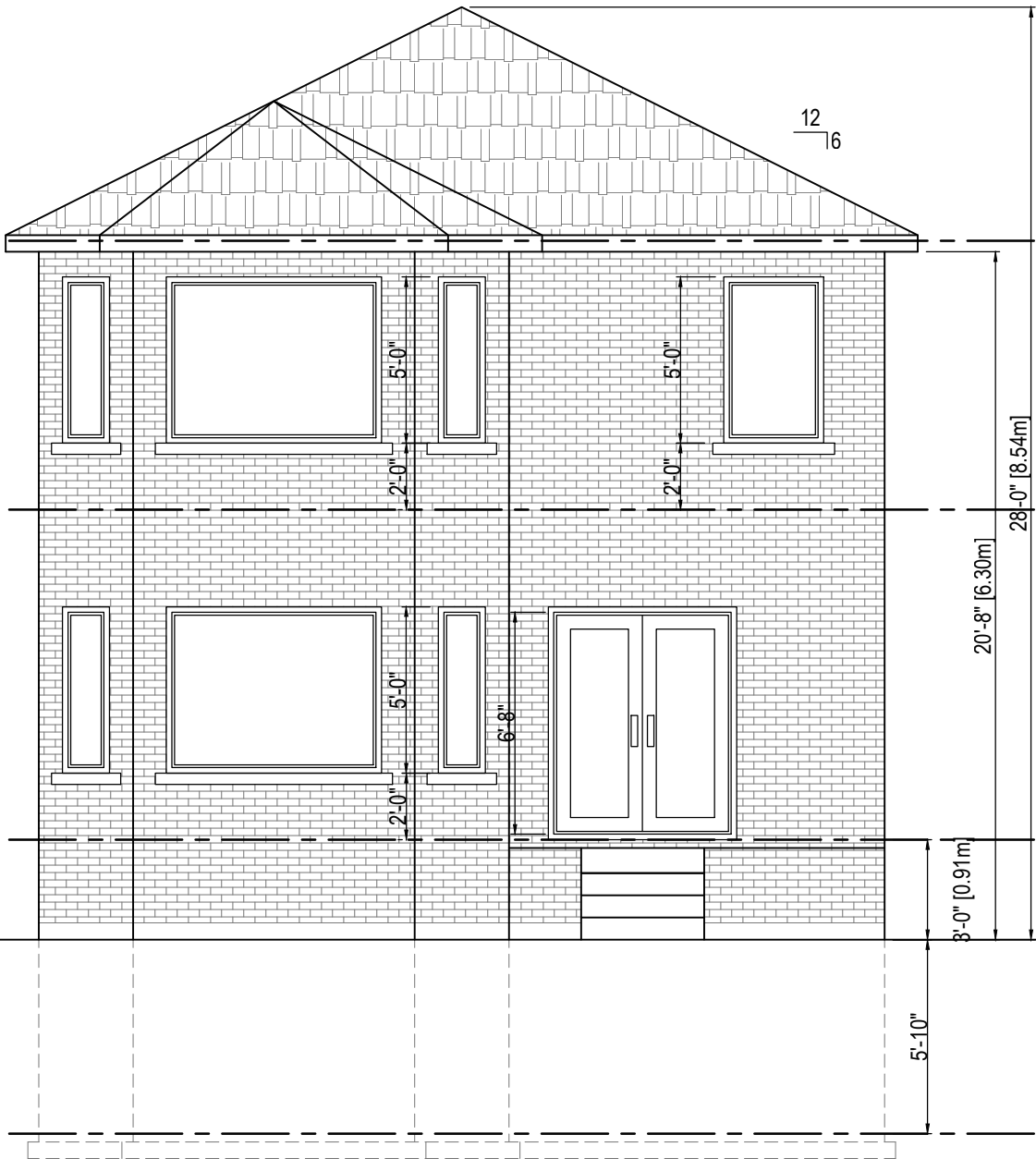
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1.	ISSUED TO CLIENT	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 1)
Toronto, ON

SHEET TITLE: FRONT ELEVATION (NORTH)

SCALE: 3/16"=1'-0"

A5

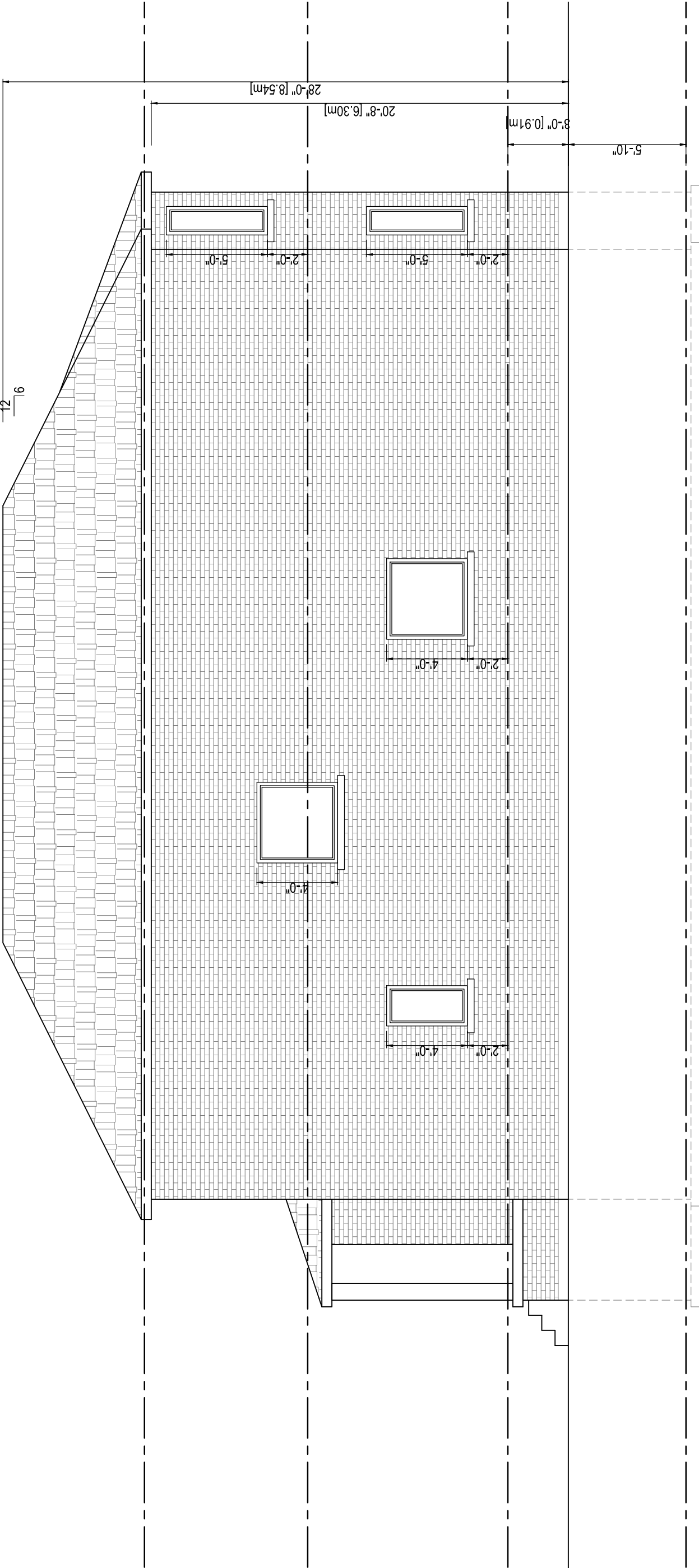


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4.			
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1.	ISSUED TO CLIENT	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 1)
Toronto, ON

SHEET TITLE: REAR ELEVATION (SOUTH)
SCALE: $\frac{3}{16}"=1'-0"$
A6

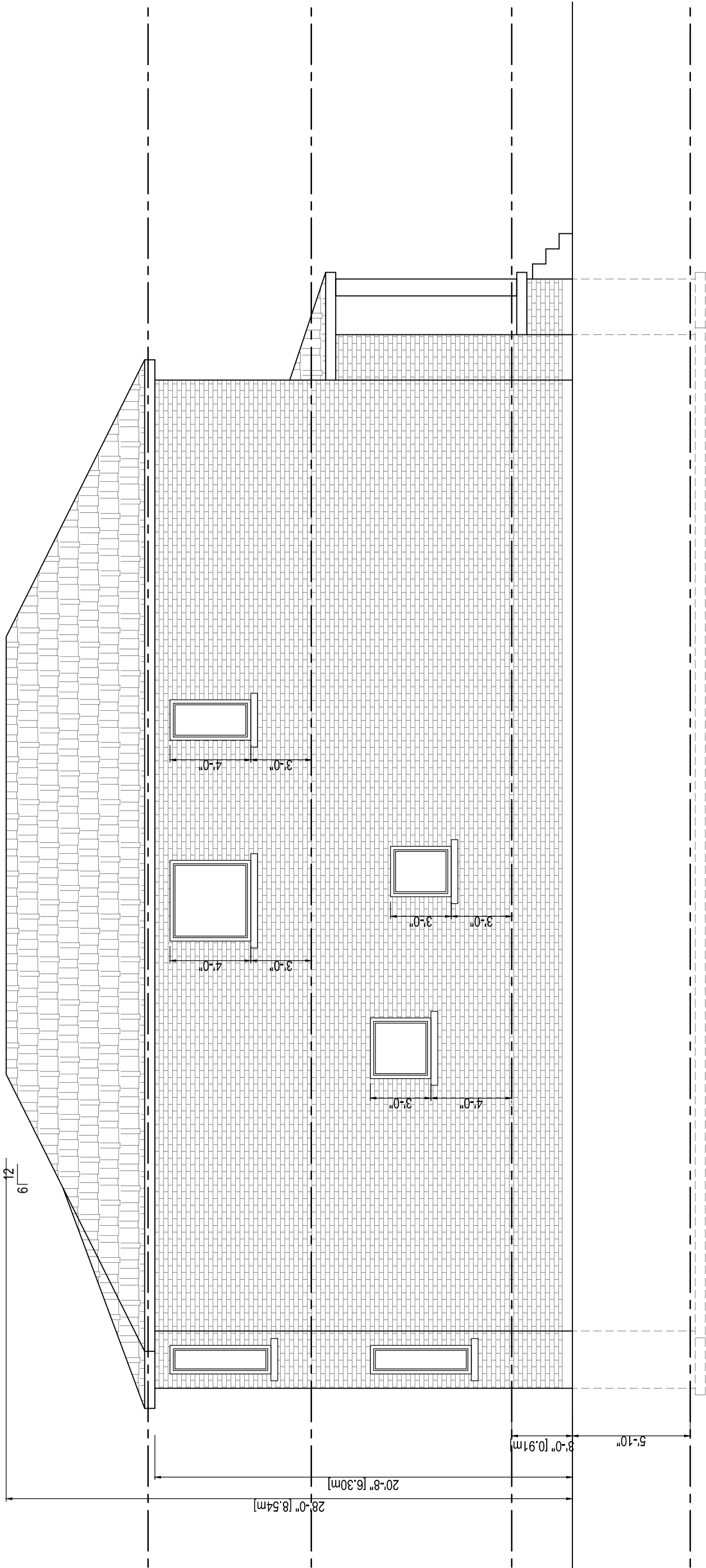


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4.			
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1.	ISSUED TO CLIENT	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT: _____
PROJECT: 81 Apted Ave (Part 1)
Toronto, ON

SHEET TITLE:	SIDE ELEVATION (WEST)
SCALE:	$\frac{3}{16}"=1'-0"$
A7	



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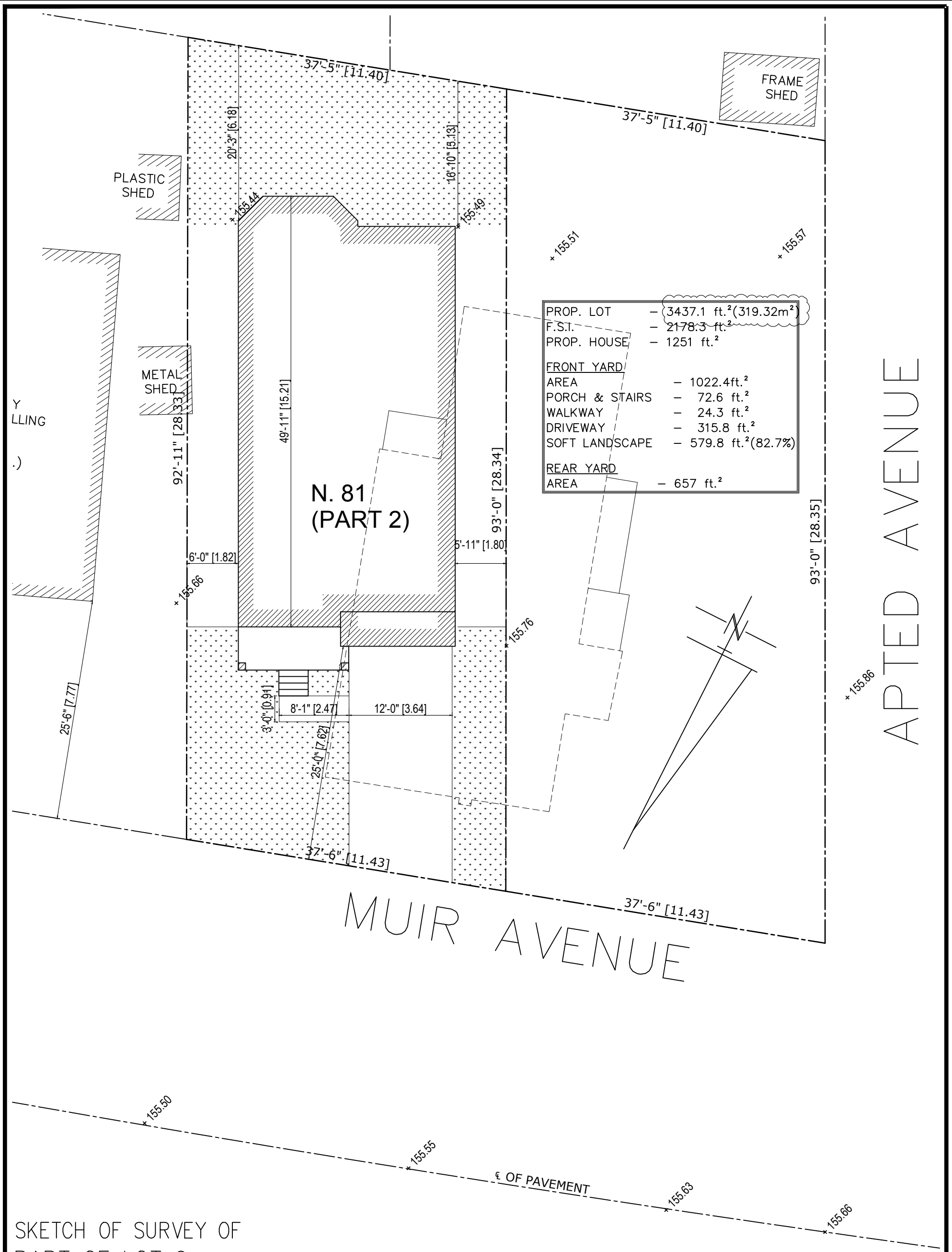
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2.			
1.	ISSUED TO CLIENT	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 1)
Toronto, ON

SHEET TITLE: SIDE ELEVATION (EAST)

SCALE: 3/16"=1'-0"

A7



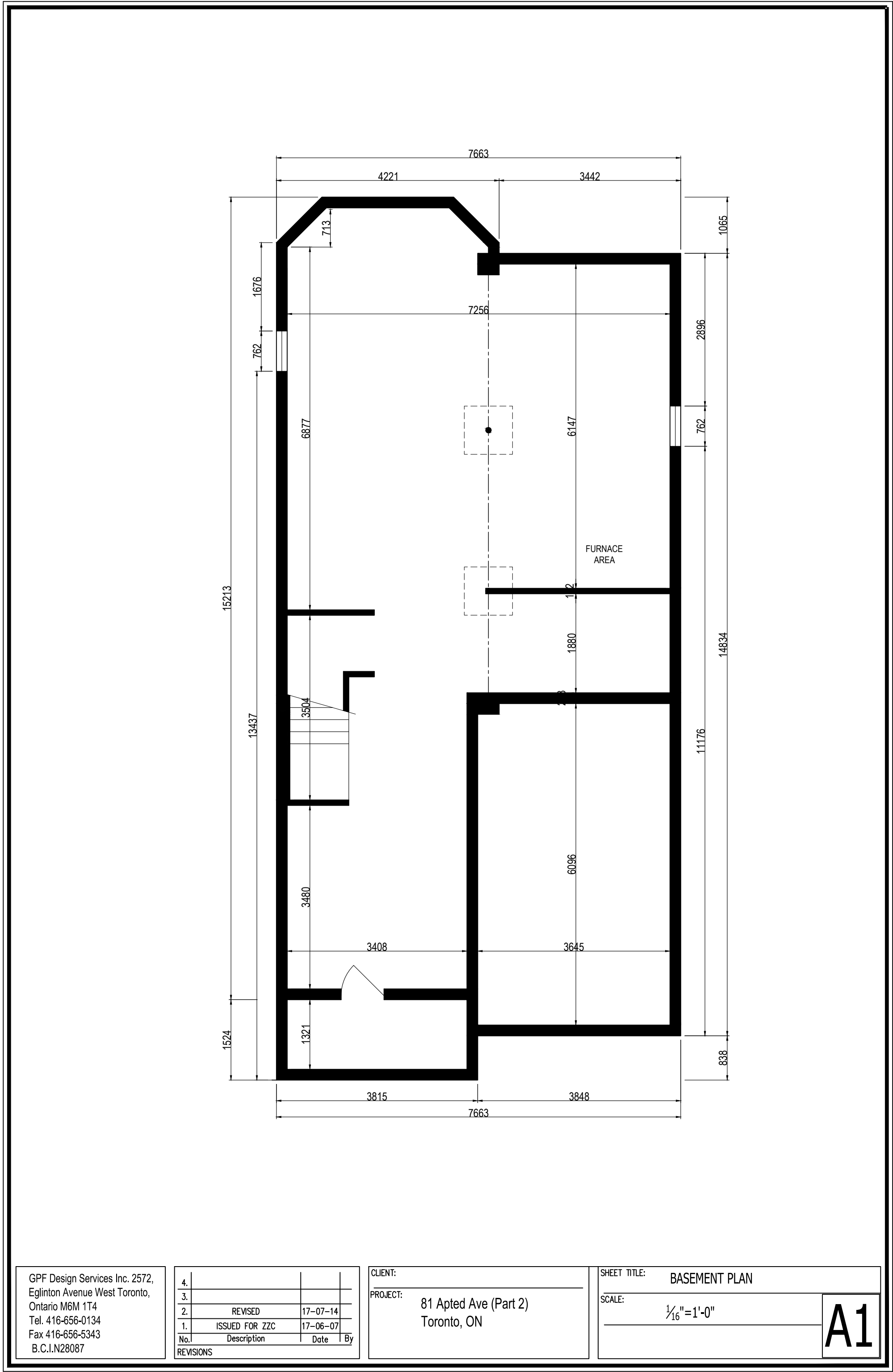
SKETCH OF SURVEY OF
PART OF LOT 6
REGISTERED PLAN 2388
CITY OF TORONTO
(FORMERLY CITY OF NORTH YORK)

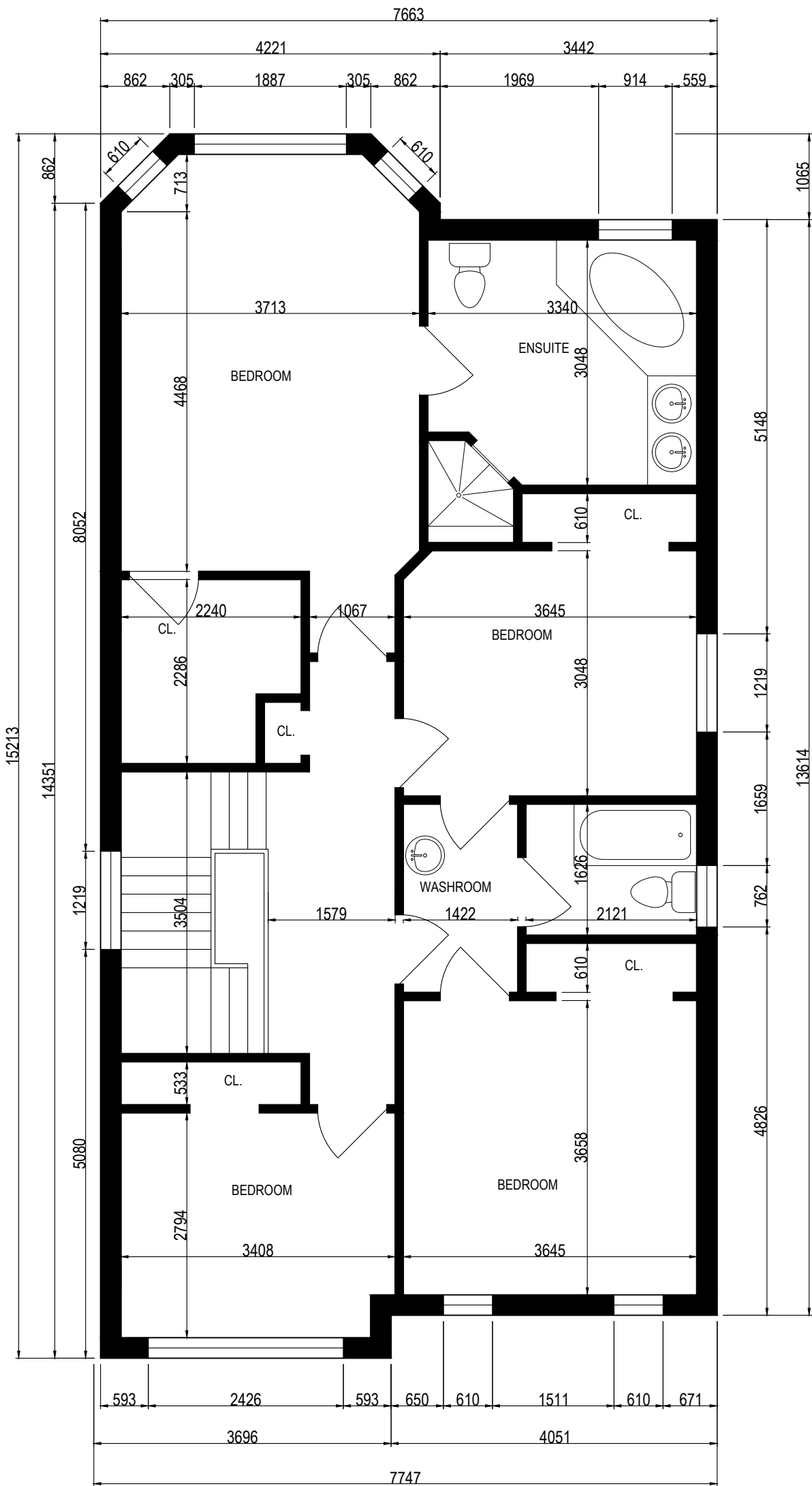
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4.			
3.			
2.	REVISED	17-07-14	
1.	ISSUED FOR ZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: SITE PLAN
SCALE: $\frac{3}{32}" = 1'-0"$
A0



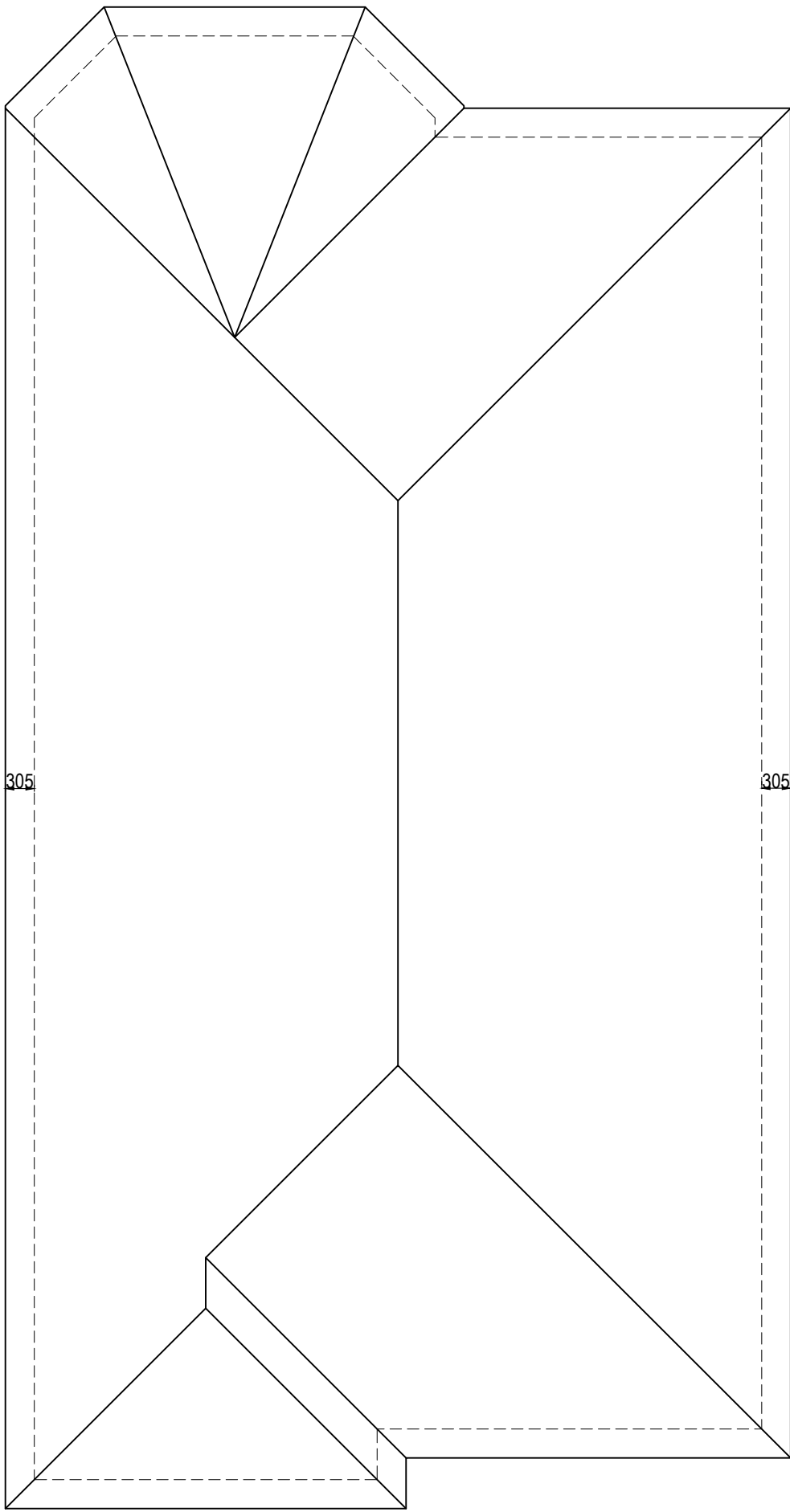


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2.	REVISED	17-07-14	
1.	ISSUED FOR ZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: 2nd FLOOR PLAN
SCALE: 3/16"=1'-0"
A3



AT EACH BUILT-UP GIRDER TRUSS BEARING POINT PROVIDE POST 2.
BUILT FROM SAME NUMBER OF STUDS AS THE NUMBER OF
MEMBERS IN THE SUPPORTED GIRDER TRUSS.

ALL BUILT UP WOOD POSTS TO BE CONTINUOUS TO FOUNDATION 3.
WALL OR SUPPORTING LINTEL. PROVIDE SQUASH BLOCKS BETWEEN
JOISTS FOR CONTINUOUS SUPPORT AT POST LOCATIONS.

TRUSS LEGEND: 4.
= COMMON TRUSS CT
= GIRDER TRUSS GT

ROOF FRAMING NOTES:

ROOF TRUSSES DESIGN CRITERIA:
DESIGN LOADING (UNFACTORED)

TRUSSES TOP CHORD:
22.5 PSF LIVE LOAD =
12 PSF (SHINGLES) DEAD LOAD =

TRUSSES BOTTOM CHORD:
10 PSF TOTAL LOAD =

ALL ROOF TRUSSES SHALL BE DESIGNED FOR THE ADDITIONAL
LOAD FROM CONVENTIONAL ROOF FRAMING ATTACHED.

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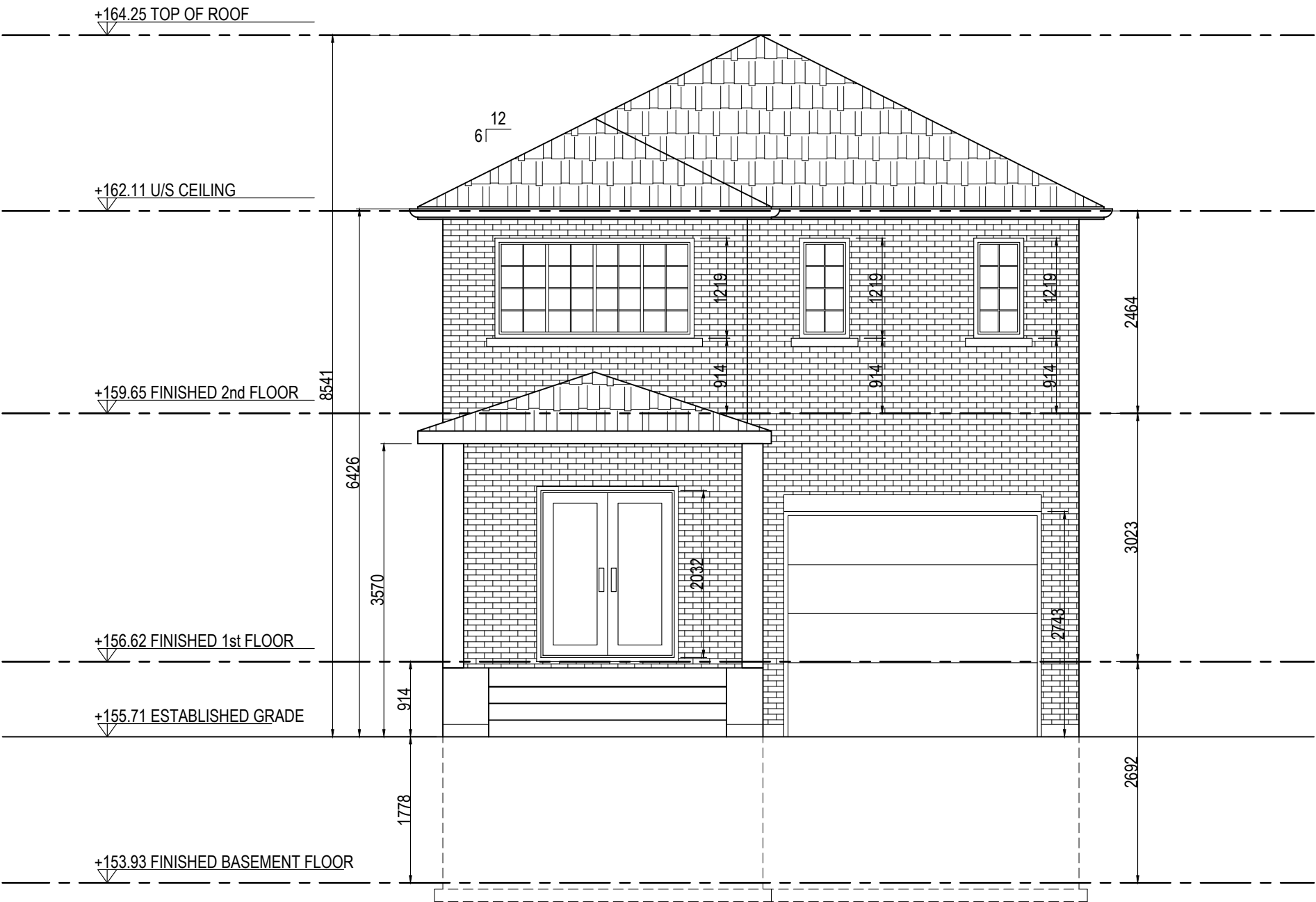
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2.	REVISED	17-07-14	
1.	ISSUED FOR ZZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: ROOF PLAN

SCALE: $\frac{3}{16}"=1'-0"$

A4



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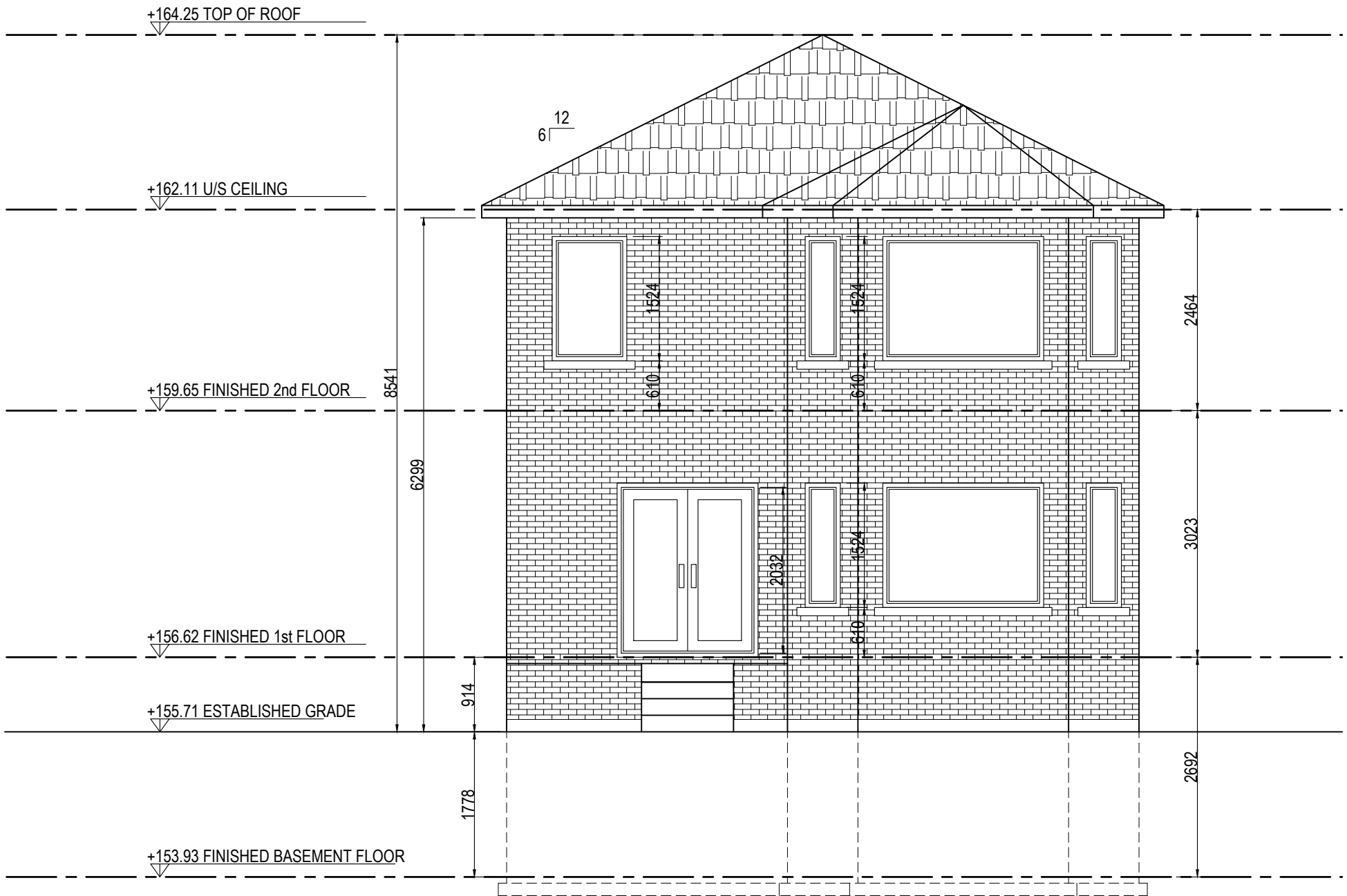
4.			
3.			
2.	REVISED	17-07-14	
1.	ISSUED FOR ZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: FRONT ELEVATION (NORTH)

SCALE: 3/16"=1'-0"

A5



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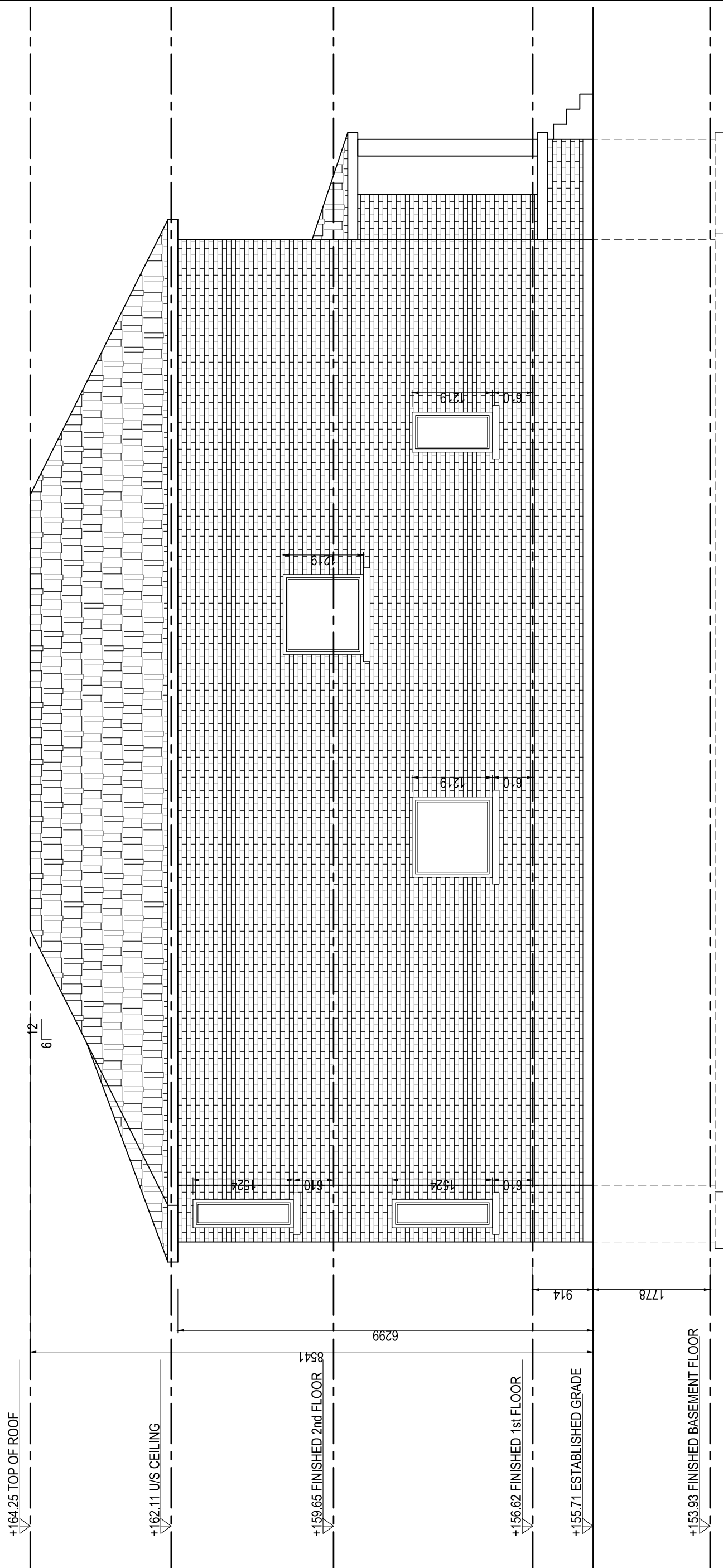
4.			
3.			
2.	REVISED	17-07-14	
1.	ISSUED FOR ZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: REAR ELEVATION (SOUTH)

SCALE: 3/16"=1'-0"

A6



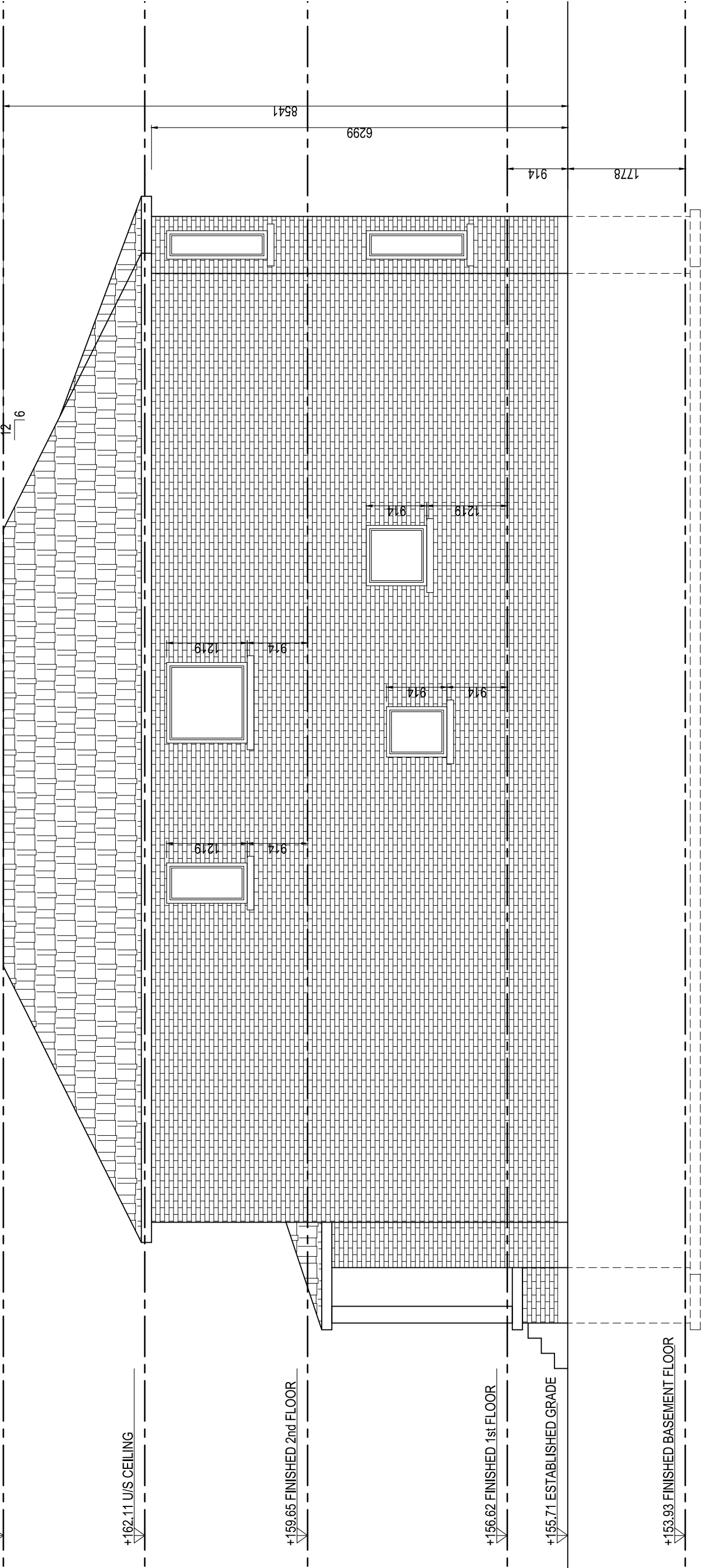
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4.			
3.			
2.	REVISED	17-07-14	
1.	ISSUED FOR ZCZ	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT:

PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE:	SIDE ELEVATION (EAST)		
SCALE:	$\frac{3}{16}" = 1'-0"$		A7



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4.			
3.			
2.	REVISED	17-07-14	
1.	ISSUED FOR ZC	17-06-07	
No.	Description	Date	By
REVISIONS			

CLIENT: _____
PROJECT: 81 Apted Ave (Part 2)
Toronto, ON

SHEET TITLE: SIDE ELEVATION (WEST)

SCALE: 3/16"=1'-0"

A8