

DECISION AND ORDER

Decision Issue Date Thursday, September 6, 2017

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): JEAN-MARIE BARKER

Applicant: MARCO VIEIRA

Property Address/Description: 37 FRATER AVE

Committee of Adjustment Case File Number: 17 259858 STE 31 MV (A1241/17TEY)

TLAB Case File Number: 18 160968 S45 31 TLAB

Hearing date: Thursday, August 23, 2018

APPEARANCES

Jean-Marie Barker - Appellant

Christina Kapelos - Owner/Applicant's Legal Counsel

Lynsay Henderson - Participant

Cory Berkoff - Participant

Arthur Roth - Participant

Marion Scott - Participant

DECISION DELIVERED BY S. MAKUCH

INTRODUCTION

This is an appeal of a decision approving an application for variances to construct a two story dwelling with an integral garage, subject to one condition relating to the injury or removal of City trees.

BACKGROUND

The application would result in the demolition of the existing dwelling on site. Urban Forestry requested a condition to require an application for permit to injure or remove City trees. There were no other comments from the City. The variances being sought are found in the notice in Appendix 1. The notice contains two minor changes: (1) a reduction in the building height from 9.21 m to 8.78 m. and (2) reduction in the height of the exterior main wall from 8.79 to 8.33. Since those variations to the variances are minor reductions they do not require new notice.

JURISDICTION

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

MATTERS IN ISSUE

Neither the appellant nor the participants reside or own property adjacent to the subject site and so none is directly affected by the variances. Their issues relate, therefore, much more to the size of the variances; the proposed dwelling's appearance including such issues as: its design; its appearance in relationship to neighbouring buildings; its proportionality to its lot size; its impact on the public realm; and, generally, whether it respected and reinforced the physical character of the neighbourhood. In addition there was a concern about the impact of the driveway on parking. There was no substantive issue raised regarding Provincial Policy and the Growth Plan.

EVIDENCE

The evidence was presented in favour of the the application by Mr. Romano, a qualified and experienced planner who has given evidence in favour and in opposition to development many times and has represented residents, municipalities and developers. In his opinion the variances meet the four tests and are consistent with the Growth Plan and the PPS. He surveyed the neighbourhood and in his opinion the

application respected and reinforced the character of the neighbourhood. He noted that side yards would be increased on both sides of the proposed dwelling in comparison to the existing dwelling and that there would be an increase in parking spaces as two spaces would continue on street and one would be added on site. He also pointed out that there would not be a significant increase in density and that the bulk of the roof would be under the bylaw height limit. The character of the neighbourhood consisted of an eclectic building typology with differences in heights, first floor elevations and stories. He also described it as a compact neighbourhood with densities similar or in excess of that proposed.

The residents had a different point of view although, Ms. Henderson agreed with Mr. Romano's description of the neighbourhood's character. They did not believe a design with an integral garage was appropriate and believed it was out of keeping with the neighbourhood's character. A concern was also expressed as to the height of the proposal vis a vis the adjacent dwellings and its size in comparison to its lot size. Many concerns were expressed in terms of the mathematical or comparative size of the variances. A clear opinion was also expressed that the proposed building would have an adverse effect on the view from the public realm and the loss of a parking space, in an area where parking was in short supply, was of concern. In their opinion the appearance of a three story building which was out of proportion with its lot, was not in harmony with this neighbourhood.

ANALYSIS, FINDINGS, REASONS

While I sympathize with the opinions of the residents, my visit to the neighbourhood, encouraged by the residents, led me to conclude that the evidence of Mr. Romano should be preferred. The neighbourhood is eclectic in terms of building typology, with various heights and types of dwellings in a compact urban setting. A new dwelling with a design which includes an integral garage will fit within that neighbourhood character. In my opinion the proposed dwelling will not detract but will respect and reinforce that character. The variances will permit a dwelling which, the evidence suggests, will have no significant adverse impacts on neighbouring properties or the surrounding area, which is compact and a mixture of old and new dwellings. I do not accept that there will be a negative impact on the public realm or on views from it, or that the proposed dwelling will be out of proportion to its lot size. Finally, I note that an analysis of variances on the basis of their numerical size alone is not, as the courts have stated, a basis for evaluating whether a variance is minor. The Committee of Adjustment was correct in approving the variances, and the variances as reduced, cumulatively and individually, meet the four tests and meet Provincial standard with respect to the PPS and the Growth Plan.

DECISION AND ORDER

The appeal is dismissed and variances in Appendix 1 are approved subject to the conditions set out in Appendix 1.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

Variances

1. The maximum permitted lot coverage is 35% of the lot area (83.73 sqm). The proposed lot coverage is 41.08% of the lot area (98.27 sqm).

10.40.30.40(1)

2. A) The permitted maximum height of a building or structure is 8.5 metres. The proposed height of the (building/structure) is 8.78 metres.

[10.40.40.10.(1) Maximum Height]

3. A)(i) The permitted maximum height of all front exterior main walls is 7 metres. The proposed height of the front exterior main walls is 8.33 metres.

A)(ii) The permitted maximum height of all rear exterior main walls is 7 metres. The proposed height of the rear exterior main walls is 8.33 metres.

[10.40.40.10.(2) Maximum Height of Specified Pairs of Main Walls]

4. A) The permitted maximum floor space index is 0.75 times the area of the lot: 179.42 square metres. The proposed floor space index is 0.7565% times the area of the lot: 180.95 square metres.

[10.40.40.40.(1) Floor Space Index]

5. A) The required minimum side yard setback is 0.9 metres where the required minimum lot frontage is less than 12.0 metres. The proposed East side yard setback is 0.61 metres.

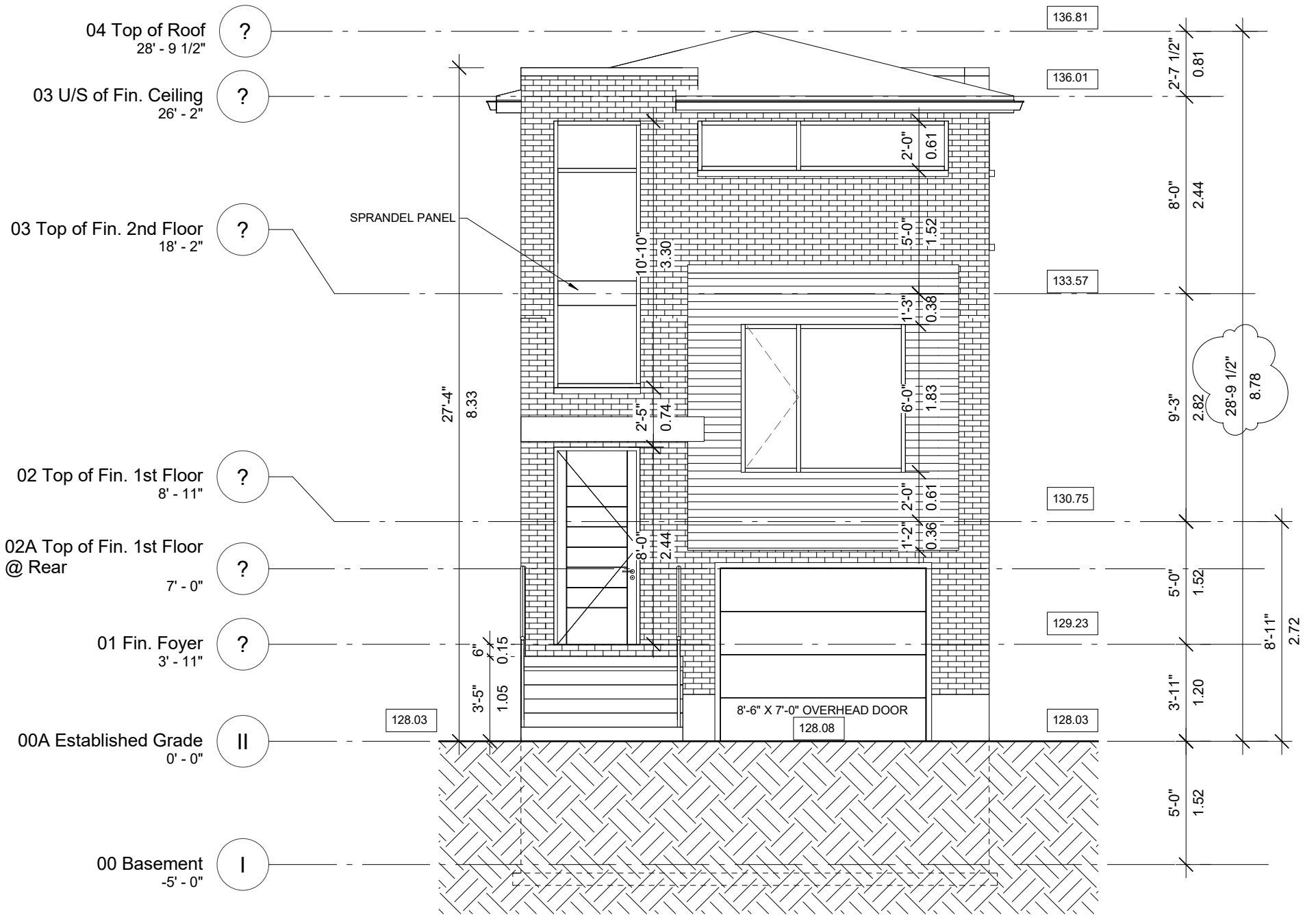
[10.40.40.70.(3) Minimum Side Yard Setback]

6. The proposed rear deck is permitted to project a maximum of 2.5m from the rear wall, the proposed projects 3.31m. (10.5.40.50(4))

7. The maximum permitted building height is 8.5m. The proposed building height is 8.78m. [7.5.3 - Building Height]

Conditions

- 1) Submission of complete application for permit to injure or remove privately owned trees under Municipal Chapter 813 Article III, Private trees.
- 2) Submission of complete application for permit to injure or remove City owned trees under Municipal Chapter 813 Article II, Street trees.
- 3) Where there are no existing street trees, the owner shall submit a payment in lieu of planting one street tree on the City road allowance abutting each of the sites involved in the application or elsewhere in the community if there is no space. The current cost of planting a tree is \$583.00, subject to changes. Construction of the proposed dwelling must be substantially in accordance with the following plans: Plans filed by T. Kapelos under Zoning V2 August 17
- 4) Construction of the proposed dwelling must be substantially in accordance with the following plans:



1
A6 **NORTH ELEVATION**
Scale: 3 / 16" = 1' - 0"



257 DUNRAVEN DRIVE
TORONTO, ONTARIO. M6M - 1H8
TEL: (416) 564 - 2435
WWW.EPICDESIGNSINC.CA

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the

QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.4.7.(5) Division C of the building code

MARCO VIEIRA
NAME SIGNATURE 25562 BCIN
REGISTRATION INFORMATION

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EPIC DESIGNS INC. 30718
FIRM NAME BCIN

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PROPOSED NEW 2 STOREY
SINGLE FAMILY DWELLING
AT
No. 37 FRATER AVENUE
CITY OF TORONTO

DRAWING
NORTH ELEVATION
TLAB REVISION: 08/16/2018

SCALE
AS SHOWN

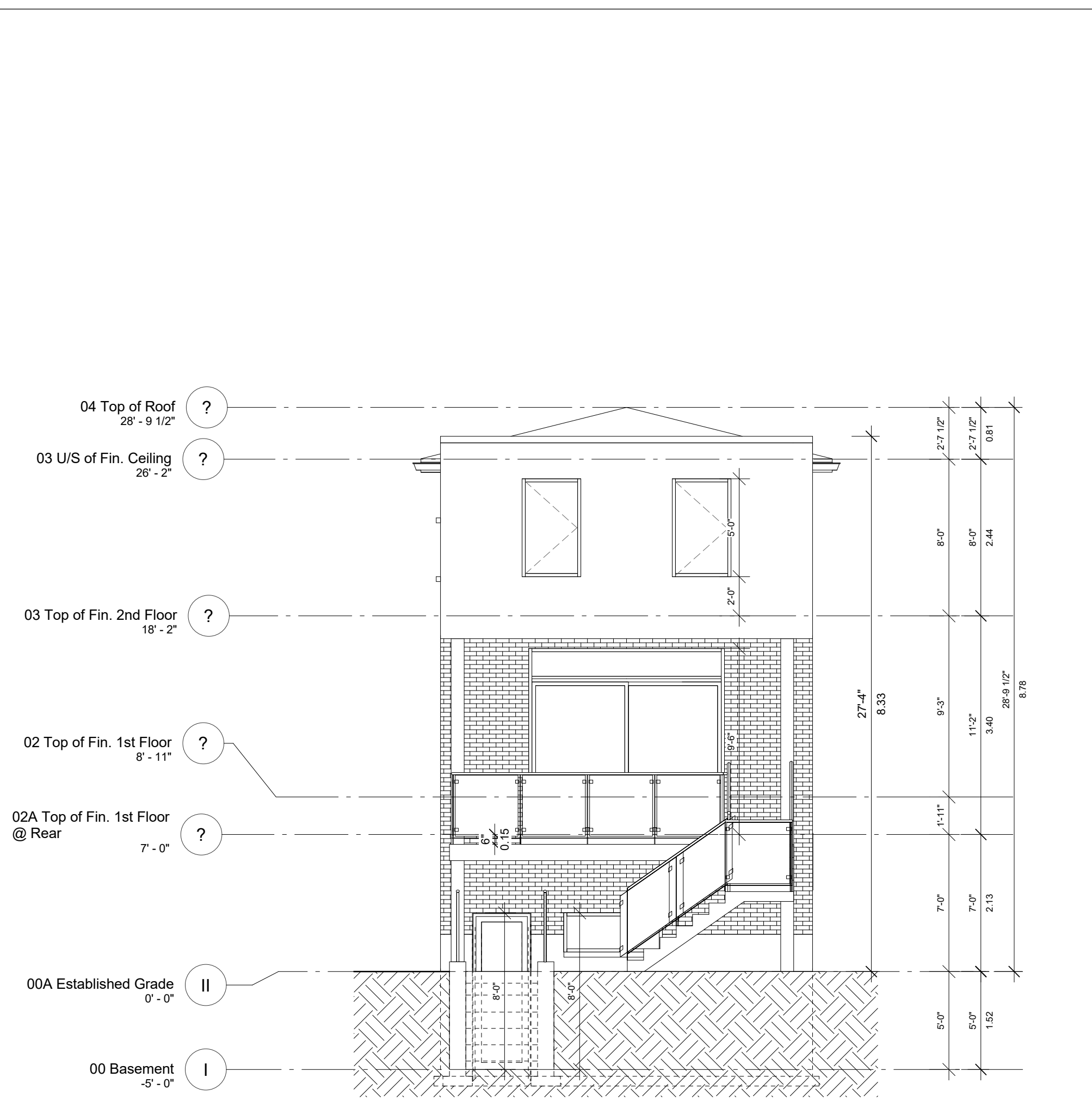
DRAWN BY
P. HENDRAJAT

DATE
APRIL 17, 2017

APPROVED BY
M.V.

PROJECT No.
2017 - 16

DRAWING No.
A6



1
A7
SOUTH ELEVATION
 Scale: 3 / 16" = 1' - 0"

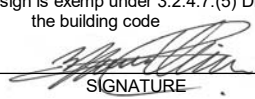


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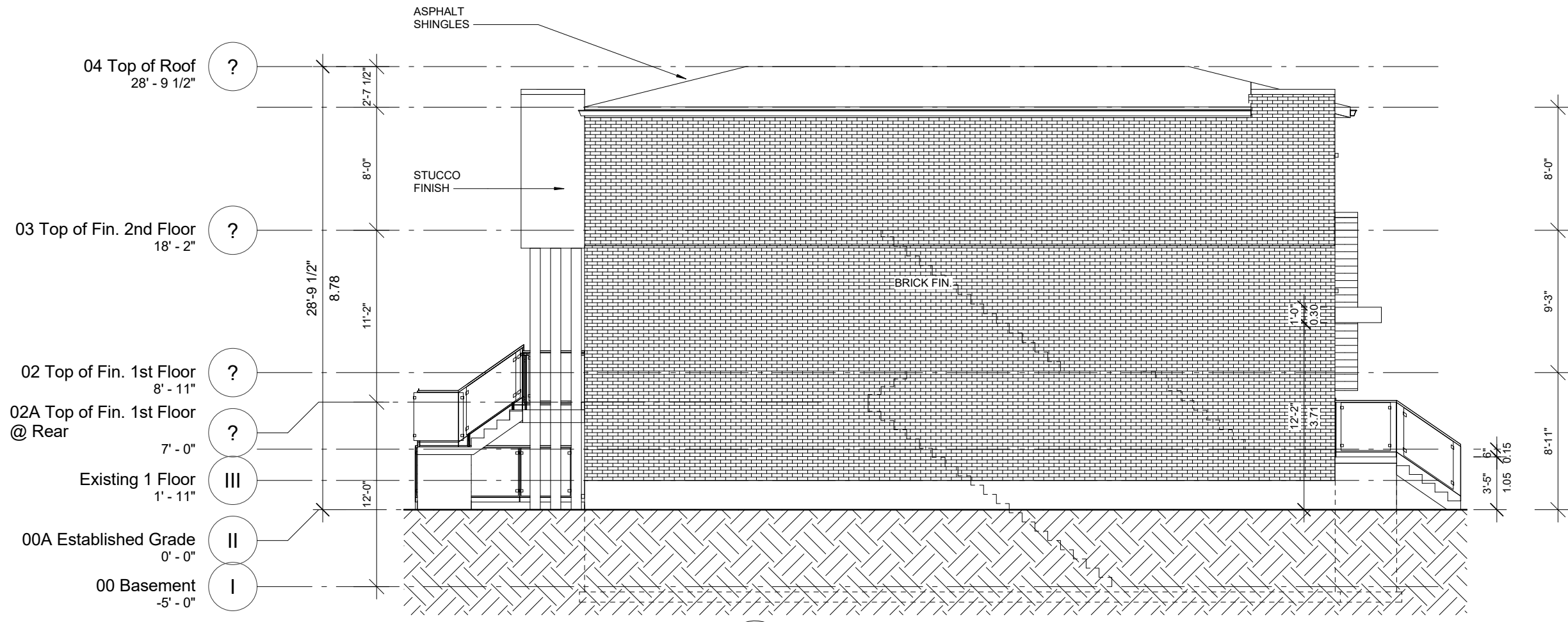
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PROPOSED NEW 2 STOREY
 SINGLE FAMILY DWELLING
 AT
 No. 37 FRATER AVENUE
 CITY OF TORONTO

DRAWING SOUTH ELEVATION TLAB REVISION: 08/16/2018	
SCALE AS SHOWN	DRAWN BY P. HENDRAJAT
DATE APRIL 17, 2017	APPROVED BY M.V.
PROJECT No. 2017 - 16	DRAWING No. A7



1
A8 **EAST ELEVATION**
Scale: 1 / 8" = 1' - 0"

DRAWING EAST ELEVATION TLAB REVISION: 08/16/2018	DRAWN BY P. HENDRAJAT
SCALE AS SHOWN	APPROVED BY M.V.
DATE APRIL 17, 2017	DRAWING No. A8
PROJECT No. 2017 - 16	

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PROPOSED NEW 2 STOREY
SINGLE FAMILY DWELLING
AT
No. 37 FRATER AVENUE
CITY OF TORONTO

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QUALIFICATION INFORMATION

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MARCO VIEIRA 25562 BCIN
NAME SIGNATURE

REGISTRATION INFORMATION

Required unless design is exempt under 3.2.4.7.(5) Division C of the building code

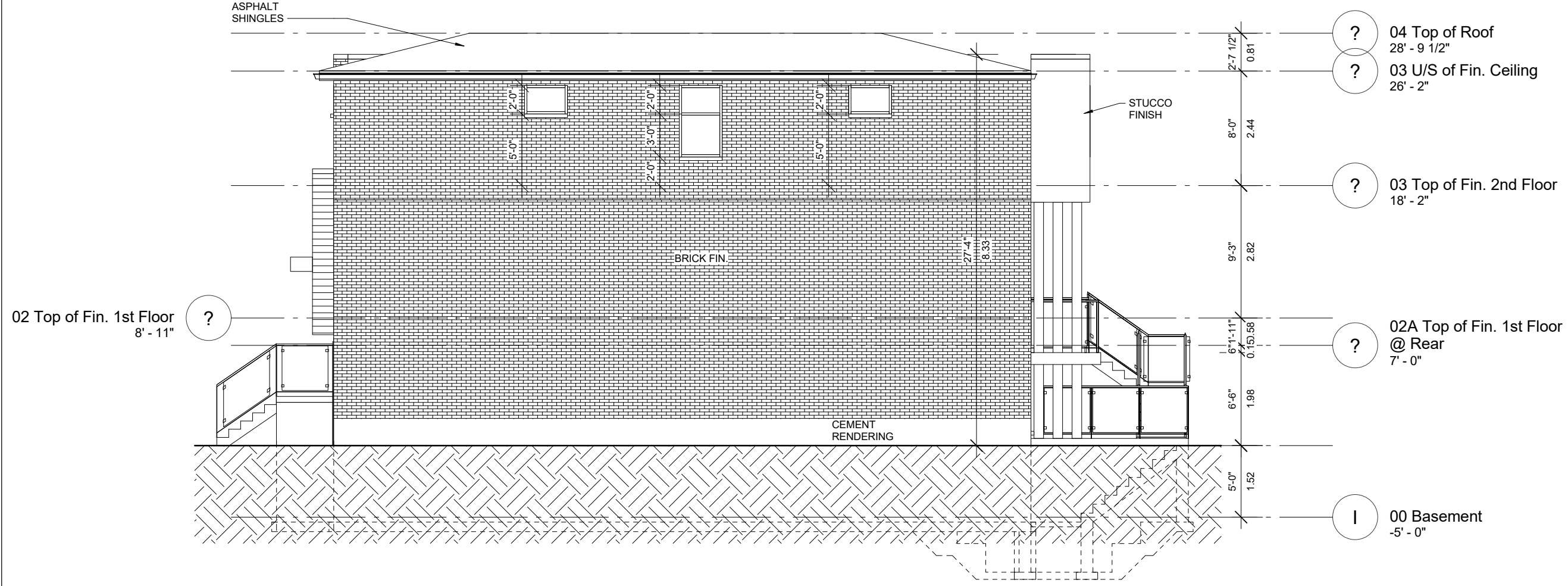
EPIC DESIGNS INC. 30718 BCIN
FIRM NAME

epic

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Basec. Arch, Sci., Dip. Arch. Tech.

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1
A9 **WEST ELEVATION**
Scale: 1 / 8" = 1' - 0"

<p>epic designs inc.</p> <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA</p>	<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE PRIOR WRITTEN PERMISSION PROJECT</p> <p>PROPOSED NEW 2 STOREY SINGLE FAMILY DWELLING AT No. 37 FRATER AVENUE CITY OF TORONTO</p>	<p>DRAWING WEST ELEVATION TLAB REVISION: 08/16/2018</p>	<p>DRAWN BY P. HENDRAJAT</p>
	<p>SCALE AS SHOWN</p>	<p>DATE APRIL 17, 2017</p>	<p>APPROVED BY M.V.</p>
<p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the</p> <p>QUALIFICATION INFORMATION</p> <p>Required unless design is exempt under 3.2.4.7.(5) Division C of the building code</p> <p>MARCO VIEIRA NAME SIGNATURE 25562 BCIN</p> <p>REGISTRATION INFORMATION</p> <p>Required unless design is exempt under 3.2.4.7.(5) Division C of the building code</p> <p>EPIC DESIGNS INC. FIRM NAME 30718 BCIN</p>	<p>02 Top of Fin. 1st Floor 8' - 11" ?</p> <p>04 Top of Roof 28' - 9 1/2" ?</p> <p>03 U/S of Fin. Ceiling 26' - 2" ?</p> <p>03 Top of Fin. 2nd Floor 18' - 2" ?</p> <p>02A Top of Fin. 1st Floor @ Rear 7' - 0" ?</p> <p>00 Basement -5' - 0" </p>	<p>ASPHALT SHINGLES</p> <p>STUCCO FINISH</p> <p>BRICK FIN.</p> <p>CEMENT RENDERING</p>	<p>27'-4" 8.33</p> <p>5'-0" 1.52</p> <p>6'-6" 1.98</p> <p>6'-1'-11" 0.151.58</p> <p>9'-3" 2.82</p> <p>8'-0" 2.44</p> <p>2'-7 1/2" 0.81</p>