

DECISION AND ORDER

Decision Issue Date: Monday, September 17, 2018

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

Appellant(s): CHRISTOPHER LAU

Applicant: EPIC DESIGNS

Property Address/Description: 220 BARTON AVE

Committee of Adjustment Case File: 16 249790 STE 19 MV (A1102/16TEY)

TLAB Case File Number: 18 151352 S45 19 TLAB

Hearing date: Thursday, August 16, 2018

DECISION DELIVERED BY S. MAKUCH

REGISTERED PARTIES AND PARTICIPANTS

Owner	Christopher Lau
Applicant	Epic Designs
Appellant	Christopher Lau
Appellant's Legal Rep.	Marco Veira
Party	City of Toronto
Party's Legal Rep.	Matthew Longo
Participant	Navin Bhat
Participant	Serge Aublant
Participant	Grace Yoon
Participant	Nair Craveiro
Participant	Giorgio Vincent De

INTRODUCTION

This is an appeal of a refusal of an application which would result in the demolition of an existing one story dwelling and its replacement with a three story dwelling, with the third story set back. The application requires four minor variances, two related to density (FSI and GFA under the City's old and new bylaws, respectively), one related to the floor area of the proposed garage and another related to the height of the exterior main walls facing a side lot line. The latter two variance are under the City's new bylaw. The actual variances are set out in Appendix 1.

BACKGROUND

The City planning department made no comment on the application to the Committee of Adjustment. Urban Forestry requested a standard condition if the variances were approved. The City solicitor, appeared in opposition to the application, although he presented no evidence. Three participants gave evidence in opposition on their own behalf and on behalf of a number of other neighbours. Evidence was given on behalf of the applicant/appellant by a planner qualified to give expert opinion evidence.

MATTERS IN ISSUE

The matters in issue related mainly to height. Thus, the variance to allow exterior side wall heights of 9.70m instead of the permitted 7.5 m was the main concern. There is no limit on the number of stories permitted. The size of the ancillary structure, a two car

garage accessed off of a rear lane, was not a major concern as a neighbouring property had a larger garage. The issue of the density variance which allowed a dwelling 382 square feet larger than permitted was not an issue except as related to the height. Conformity and consistency with provincial policy documents was not an issue.

JURISDICTION

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

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

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

EVIDENCE

Expert evidence in support of the application was given by Mr. Romano, who has given evidence before TLAB on many occasions. In his view the application respects and reinforces the physical character of the neighbourhood and its built form is not out of keeping with the surrounding area. It is thus in conformity with the City's official plan policies in his opinion. He noted that this is a neighbourhood in which a number of sites had been redeveloped. The proposed dwelling, he said, was as tall or taller than many of the new dwellings but did not appear so because of a the third floor set back. In his view the height, massing and scale of this single residential dwelling with a third floor set back is consistent with nearby residential dwellings and the prevailing building type of the neighbourhood. It thus meets the general intent of the Official Plan.

In his view the height variance also meets the general intent of the zoning bylaw which is to implement the Official Plan. Moreover, it is appropriate, desirable and minor, in his opinion, because it results in no adverse impact as shown by a shadow study. It thus meets the four tests of the Planning Act. His opinion was that the other two variances are not out of keeping with development in the neighbourhood, had no adverse impact and meets the four tests as well. The variances thus cumulatively and individually meet Planning Act requirements. Finally, in his opinion, the application conformed with the Growth Plan and was consistent with the PPS.

The participants were of a different opinion. They had two basis for their disagreement: (1) Mr. Romano did not consider the height of neighbouring dwellings. Ms. Yoon pointed out that he did not show photos of the bungalows on either side of the proposed dwelling. She stated that the character of the adjacent properties to the west was one of low buildings. She was supported by other participants in this opinion. A

concern was also stated that there was already a tall dwelling amongst those neighbouring properties to the west and that it protruded above the bungalows and thus that building did not fit among the bungalows.. The proposal would add to the lack of symmetry by placing another tall dwelling between two bungalows as well as a bungalow between two tall buildings. (2) There was in fact an adverse impact. Ms. Craveiro who lives adjacent to the site to the west stated that the proposed dwelling would impact on her garden. Mr. De Giorgio, who lives at 19 Pendrith St., spoke on behalf of his father who lives in the bungalow to the east of the site. He stated that the height would impact on his father's bungalow, as the main entrance to his father's bungalow was on the side facing the proposed dwelling. His father would thus face a high wall when using that door. He also had a concern regarding the shadow. All participants were of the opinion that the proposed dwelling did not fit the character of the area. The participants encouraged me to visit the area and the site and see its character for myself.

ANALYSIS, FINDINGS, REASONS

On evaluating the evidence of the planner and participants I conclude the variances should be allowed. The physical characteristic of the area is eclectic; that is, a mixture of building forms, heights and massing. The proposed residential building which is two and one half story in appearance fits the residential neighbourhood which has a mix of house forms, including: singles, semis and town houses of various heights. This results in a neighbourhood which varies in massing and height and stories. Indeed, as the participants point out, the buildings on the neighbouring properties themselves vary. Between two bungalows is a semi - detached dwelling which is much taller; while another property has the appearance of being vacant as a result of being covered in vegetation.

With respect to the issue of shadowing on gardens, I note that on the property to the west, most of the rear yard is paved and the narrow garden along its east boundary ~~and~~ should not be affected. With respect to the property to the east, the garden is separated by a driveway and part of that garden is already shadowed by its garage. Shadow studies show no significant impact from the proposed increase in height. Moreover, with respect to that eastern property, I am not convinced that the unusual placement of a main entrance at the side of the house is a sufficient reason for preventing a portion of the side wall from being 2.2m higher than permitted.

For these reasons I accept the evidence of Mr. Romano as delivered orally and included in his witness statement, Exhibit 1 to these proceedings.

The plans reviewed for the purposes of this hearing are those plans which are part of the Document Disclosure on the Appellant, Exhibit 2, filed with the TALB by C. Lau on May 28, 2018 and June 4, 2018.

DECISION AND ORDER

The appeal is allowed and the variances in Appendix 1 are approved subject to the Condition set out in that Appendix

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

VARIANCES

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

1. Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013
The maximum permitted height of all side exterior main walls facing a side lot line is 7.5 m.
The height of the side exterior main walls facing the side lot lines will be 9.70 m.
2. Chapter 10.10.40.40.(1)(A), By-law 569-2013
The maximum permitted floor space index of a building is 0.60 times the area of the lot (258.86 m²).
The new detached dwelling will have a floor space index equal to 0.68 times the area of the lot (294.35 m²).
3. Chapter 10.5.60.50.(2)(B), By-law 569-2013
The maximum permitted floor area of all ancillary buildings or structures on a lot is 40.0m².
The new detached garage will have a floor area of 56.96 m².
4. Section 6(3) Part II, By-law 438-86
The maximum permitted gross floor area of a building is 0.6 times the area of the lot (258.86 m²).
The new detached dwelling will have a floor space index equal to 0.68 times the area of the lot (294.35 m²).

CONDITIONS OF APPROVAL

1. The new detached dwelling and associated garage will be built substantially in accordance with the site plan, third floor plan and elevation drawings prepared by Epic Designs Inc. dated July 2017 filed on June 4, 2018 by c. Lau, page 280 to the Toronto Local Appeal Body proceeding no. 18 151352 S45 19.

2. The owner shall submit a payment in lieu of planting one street tree on the City road allowance abutting the property. The current cost of planting a tree is \$583.00, but is subject to change.

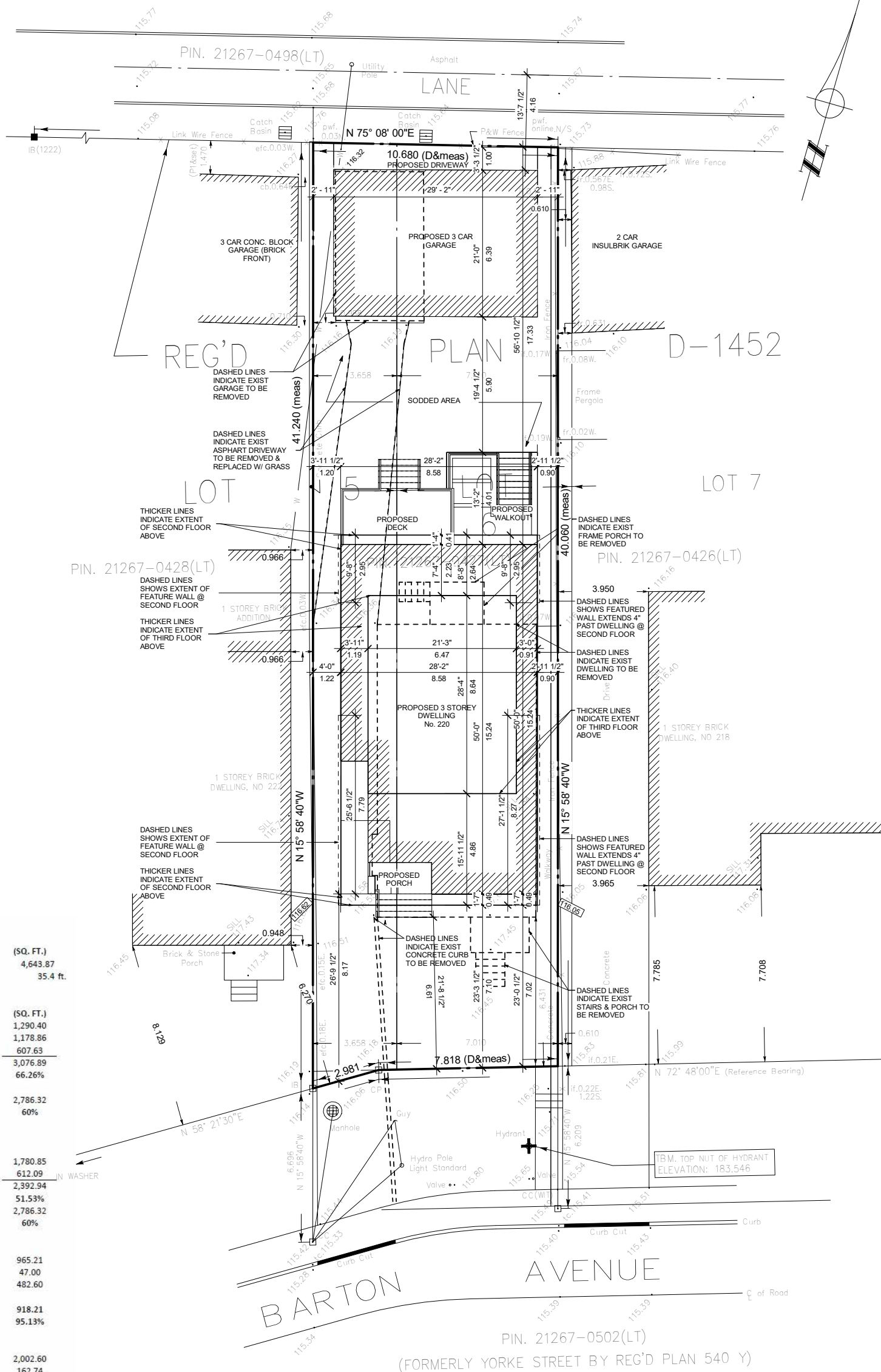
INFORMATION TAKEN FROM:
ONTARIO LAND SURVEYORS
PLAN OF SURVEY
LOT 5 & 6, REGISTERED PLAN D-1452
CITY OF TORONTO

REVISED
9:41 am, Jan 12, 2018

CREATED BY: DONALD E ROBERTS

DATE: JULY 21, 2016

SHORING TO BE INSTALLED
AS REQUIRED BY THE CITY



SITE STATISTICS:
ZONED AS RD (d0.6)

	m2	(SQ. FT.)
LOT AREA=	431.43	4,643.87
LOT FRONTAGE @ STREET LINE=	10.80 m	35.4 ft.

PROPOSED G.F.A.:

	m2	(SQ. FT.)
FIRST FLOOR AREA=	119.88	1,290.40
SECOND FLOOR AREA=	109.52	1,178.86
THIRD FLOOR=	56.45	607.63
TOTAL PROP. G.F.A.=	285.85	3,076.89
		66.26%

MAX ALLOWED G.F.A.=
LOT AREA X 0.60

	258.86	2,786.32
		60%

PROPOSED LOT COVERAGE:

	m2	(SQ. FT.)
AREA OF DWELLING=	165.45	1,780.85
PROP. GARAGE AREA=	56.87	612.09
TOTAL PROPOSED COVERAGE =	222.31	2,392.94
		51.53%

MAX. ALLOWED LOT COVERAGE=
LOT AREA X 0.60

	258.86	2,786.32
		60%

FRONT YARD AREAS:

	m2	(SQ. FT.)
FRONT YARD AREA=	89.67	965.21
PROPOSED FRONT PORCH & STAIRS=	4.37	47.00
REQUIRED FRONT YARD LANDSCAPE=	44.84	482.60
OPEN SPACE (50%)		
PROPOSED FRONT YARD LANDSCAPE=	85.31	918.21
OPEN SPACE		95.13%

REAR YARD AREAS:

	m2	(SQ. FT.)
REAR YARD AREA=	186.05	2,002.60
PROPOSED BASEMENT WALKOUT=	15.12	162.74
PROPOSED GARAGE=	56.87	612.14
PROPOSED DRIVEWAY AREA=	9.67	104.09
PROPOSED DECK AREA=	15.84	170.47
REQUIRED REAR YARD SOFT=	93.02	1,001.30
LANDSPACE (50%)		
PROPOSED REAR YARD SOFT=	88.55	953.16
LANDSPACE		47.60%

1
A1 **SITE PLAN**
Scale: 1:200

epic designs inc.

MARCO VIEIRA
Basc. Arch. Sci., Dip. Arch. Tech.

257 DUNRAVEN DRIVE
TORONTO, ONTARIO. M6M-1H8
TEL: (416) 564-2435
FAX: (647) 351-3742

The undersigned had 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 exemp under 3.2.4.7.(5) Division C of the building code

MARCO VIEIRA 25562
NAME SIGNATURE BCIN

REGISTRATION INFORMATION

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EPIC DESIGNS INC. 30718
FIRM NAME BCIN

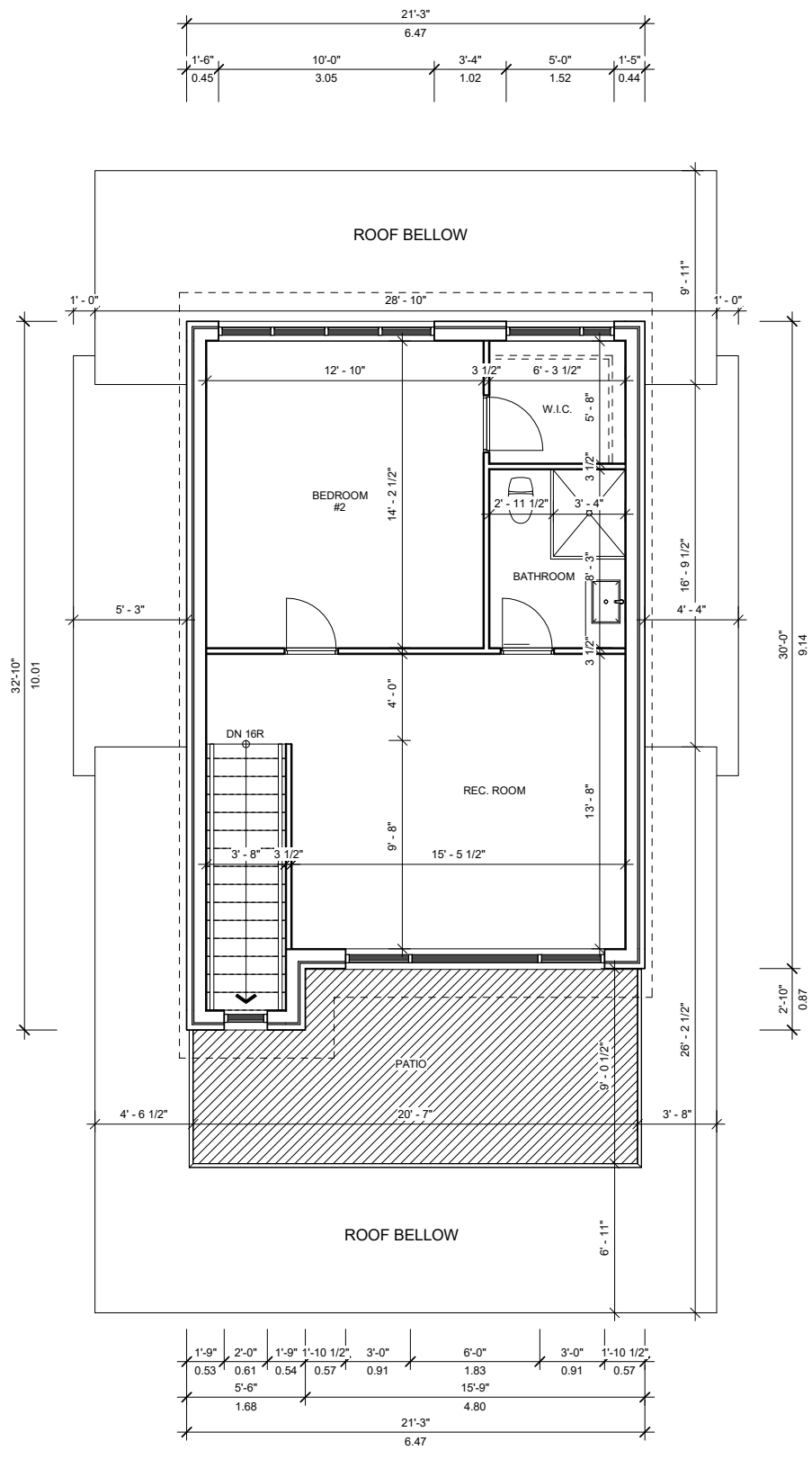
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CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.

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PROJECT
PROPOSED 3 STOREY DWELLING & GARAGE @
No. 220 BARTON AVENUE
CITY OF TORONTO

DRAWING SITE PLAN	
SCALE AS SHOWN	DRAWN BY CLARA CUNHA
DATE JULY, 2017	APPROVED BY M.V.
PROJECT No. 2016 - 48	DRAWING No. A1

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9:41 am, Jan 12, 2018



1
A5 **3RD FLOOR PLAN**
SCALE: 3 / 16" = 1' - 0"
THIRD FLOOR: 607.63 SQ.FT.



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NAME SIGNATURE BCIN

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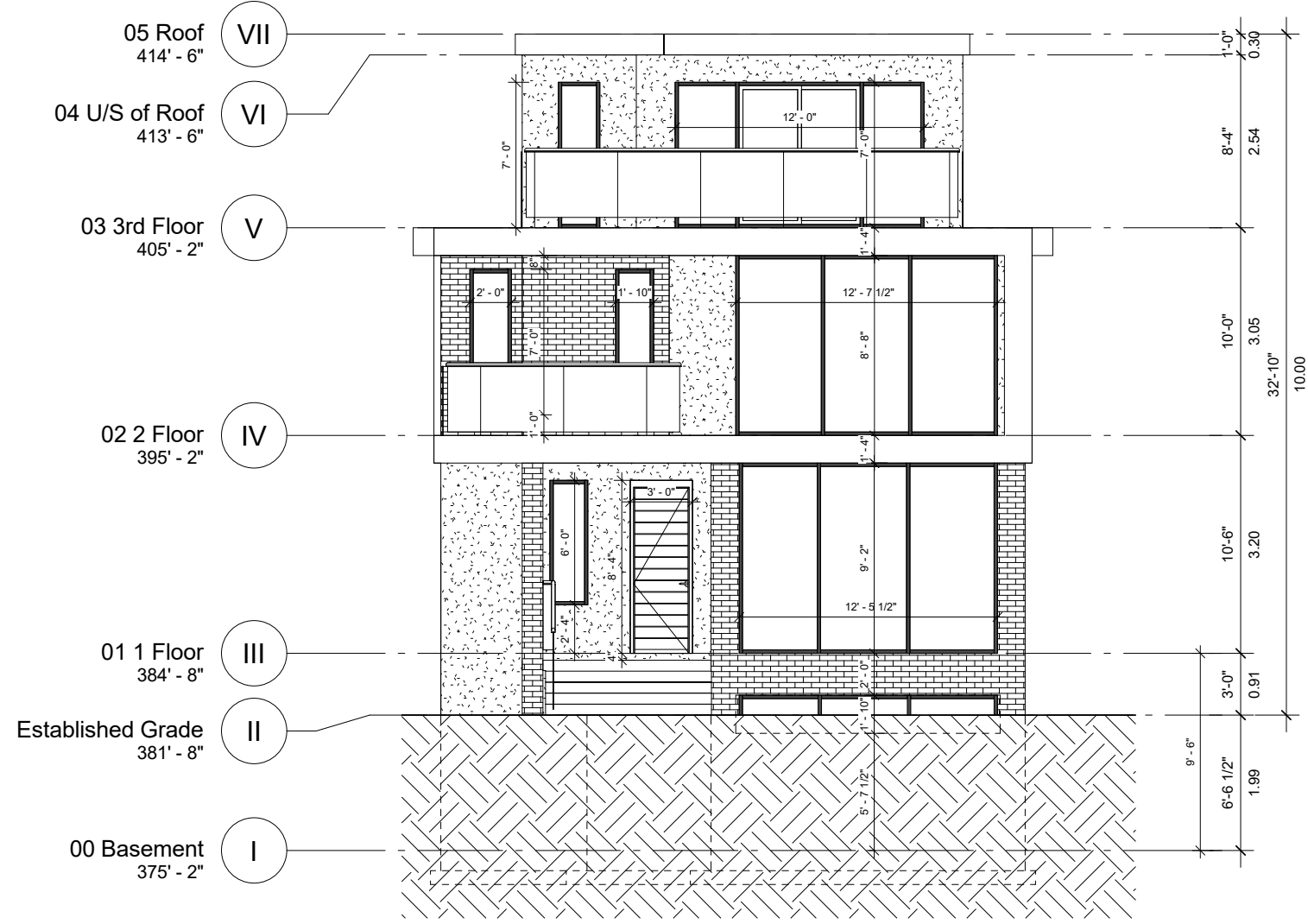
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DRAWING 3RD FLOOR PLAN	
SCALE AS SHOWN	DRAWN BY CLARA CUNHA
DATE JULY, 2017	APPROVED BY M.V.
PROJECT No. 2016 - 48	DRAWING No. A5



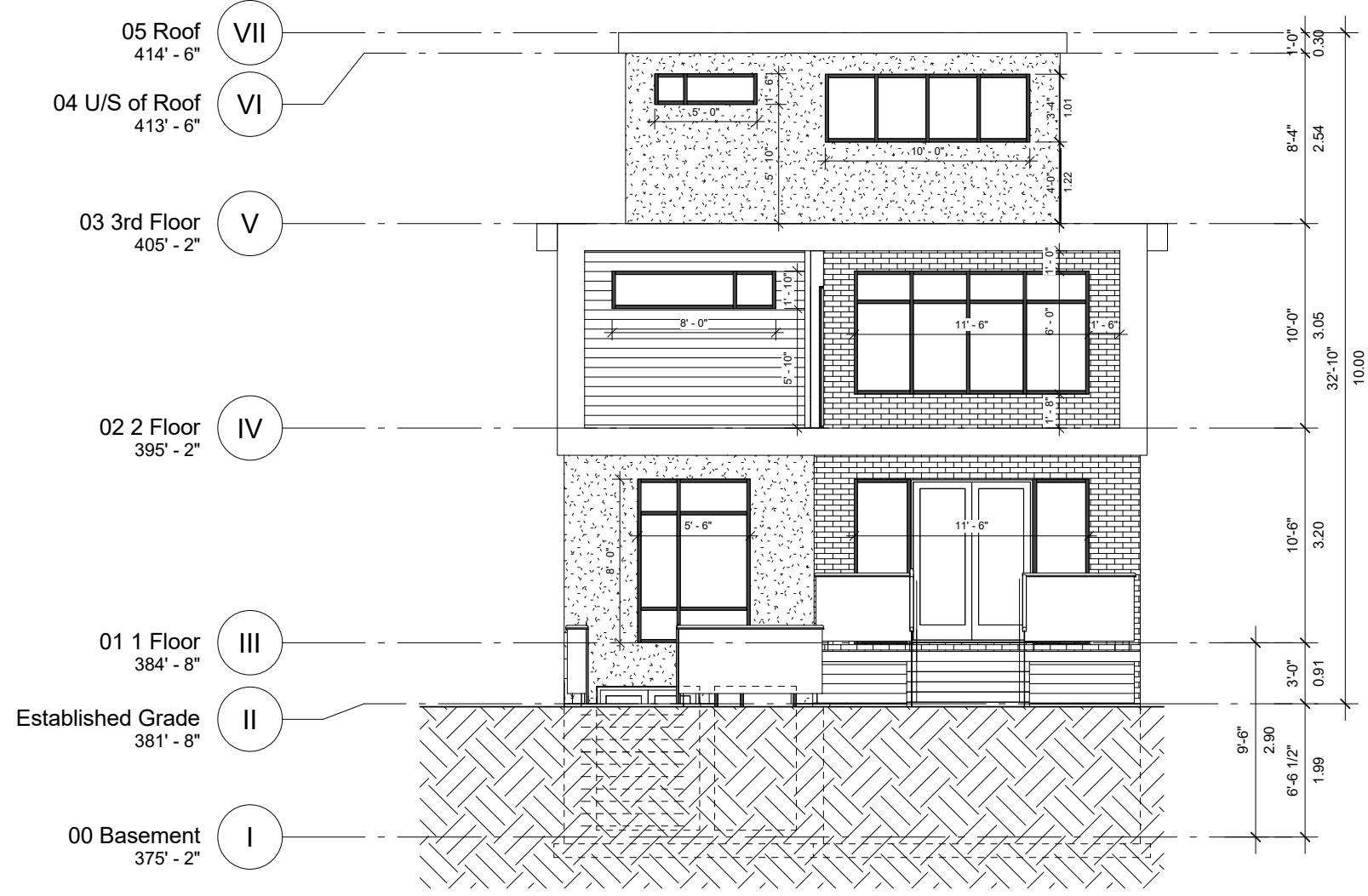
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1
A7 **SOUTH ELEVATION PLAN**
Scale: 1 / 8" = 1' - 0"

DRAWING	SOUTH ELEVATION PLAN
SCALE AS SHOWN	DRAWN BY CLARA CUNHA
DATE JULY, 2017	APPROVED BY M.V.
PROJECT No. 2016 - 48	DRAWING No. A7

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

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

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MARCO VIEIRA
NAME
SIGNATURE
25562
BCIN

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FIRM NAME
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BCIN

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PROPOSED 3 STOREY DWELLING & GARAGE @
No. 220 BARTON AVENUE
CITY OF TORONTO

DRAWING
NORTH ELEVATION PLAN

SCALE
AS SHOWN

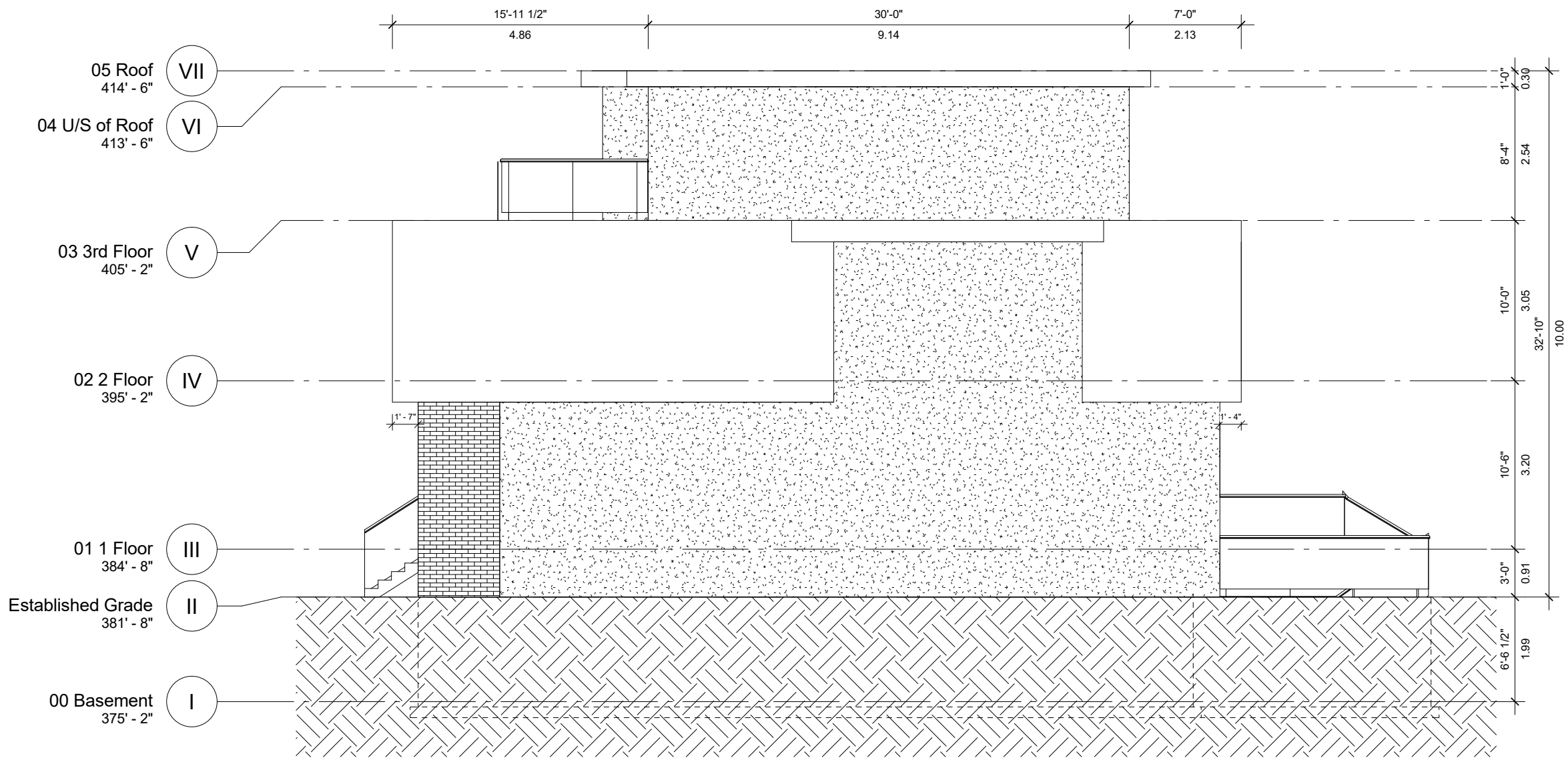
DATE
JULY, 2017

PROJECT No.
2016 - 48

DRAWN BY
CLARA CUNHA

APPROVED BY
M.V.

DRAWING No.
A8



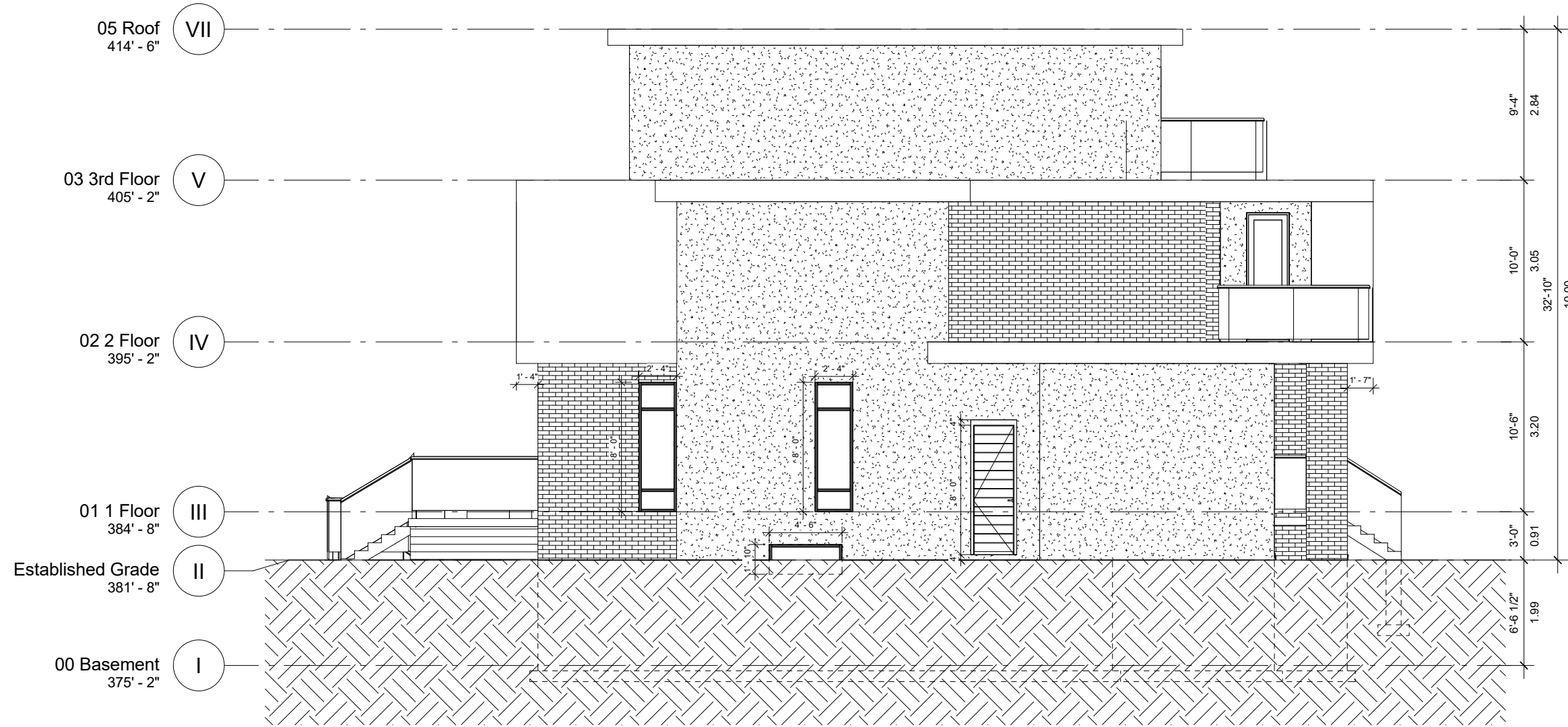
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A9

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

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DRAWING EAST ELEVATION PLAN	DRAWN BY CLARA CUNHA	288
	SCALE AS SHOWN	
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	PROJECT NO. 2016 - 48	
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MARCO VIEIRA NAME	SIGNATURE	25562 BCIN
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EPIC DESIGNS, INC. FIRM NAME		30718 BCIN





1
A10 **WEST ELEVATION PLAN**
Scale: 1 / 8" = 1' - 0"

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MARCO VIEIRA
NAME
SIGNATURE
25562 BCIN

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PROJECT
PROPOSED 3 STOREY DWELLING & GARAGE @ No. 220 BARTON AVENUE CITY OF TORONTO

DRAWING
WEST ELEVATION PLAN

SCALE
AS SHOWN

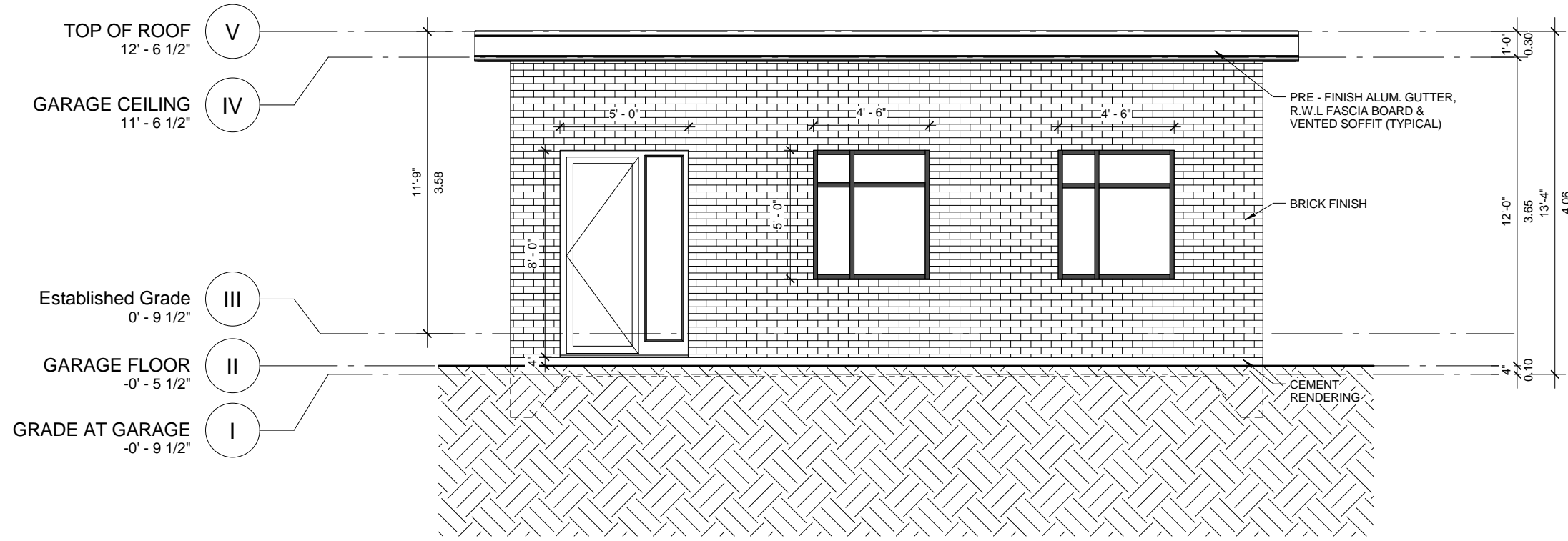
DATE
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PROJECT No.
2016 - 48

DRAWN BY
CLARA CUNHA

APPROVED BY
M.V.

DRAWING No.
A10



1
A13 **FRONT ELEVATION PLAN**
Scale: 3 / 16" = 1' - 0"

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SIGNATURE
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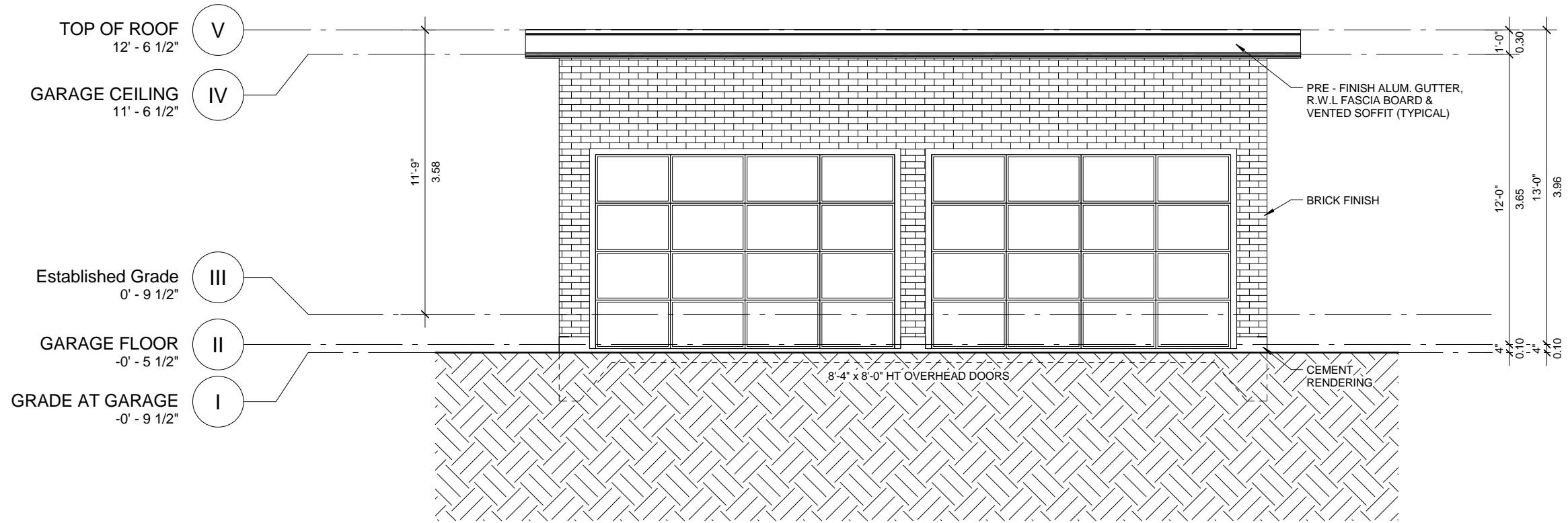
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PROJECT
PROPOSED 3 STOREY DWELLING & GARAGE @ No. 220 BARTON AVENUE CITY OF TORONTO

DRAWING FRONT ELEVATION PLAN	DRAWN BY CLARA CUNHA
	APPROVED BY M.V.
SCALE AS SHOWN	DATE JULY, 2016
PROJECT No. 2016 - 48	DRAWING No. A13

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1
A14 **BACK ELEVATION PLAN**
Scale: 3 / 16" = 1' - 0"

DRAWING BACK ELEVATION PLAN	DRAWN BY CLARA CUNHA
	APPROVED BY M.V.
SCALE AS SHOWN	DATE JULY, 2016
PROJECT No. 2016 - 48	DRAWING No. A14

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PROPOSED 3 STOREY DWELLING & GARAGE @ No. 220 BARTON AVENUE CITY OF TORONTO

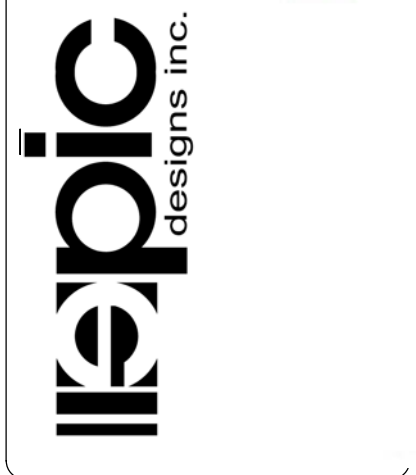
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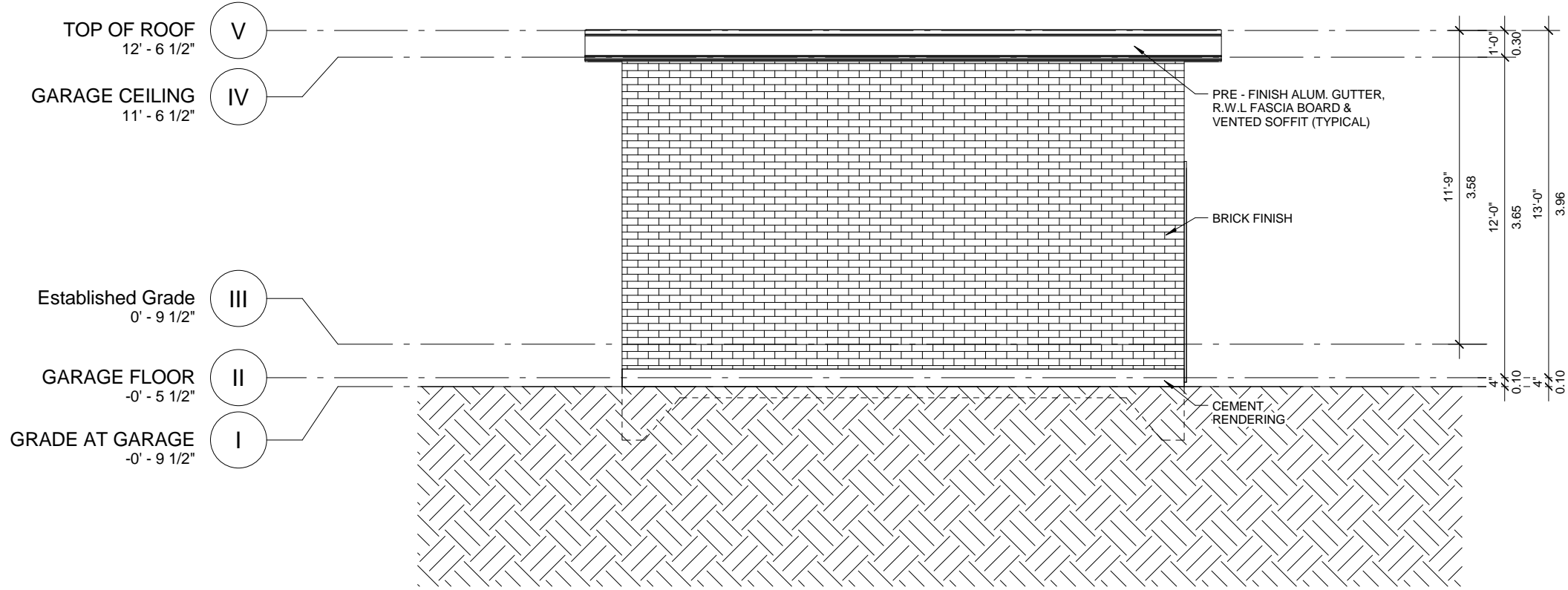
QUALIFICATION INFORMATION
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MARCO VIEIRA
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SIGNATURE
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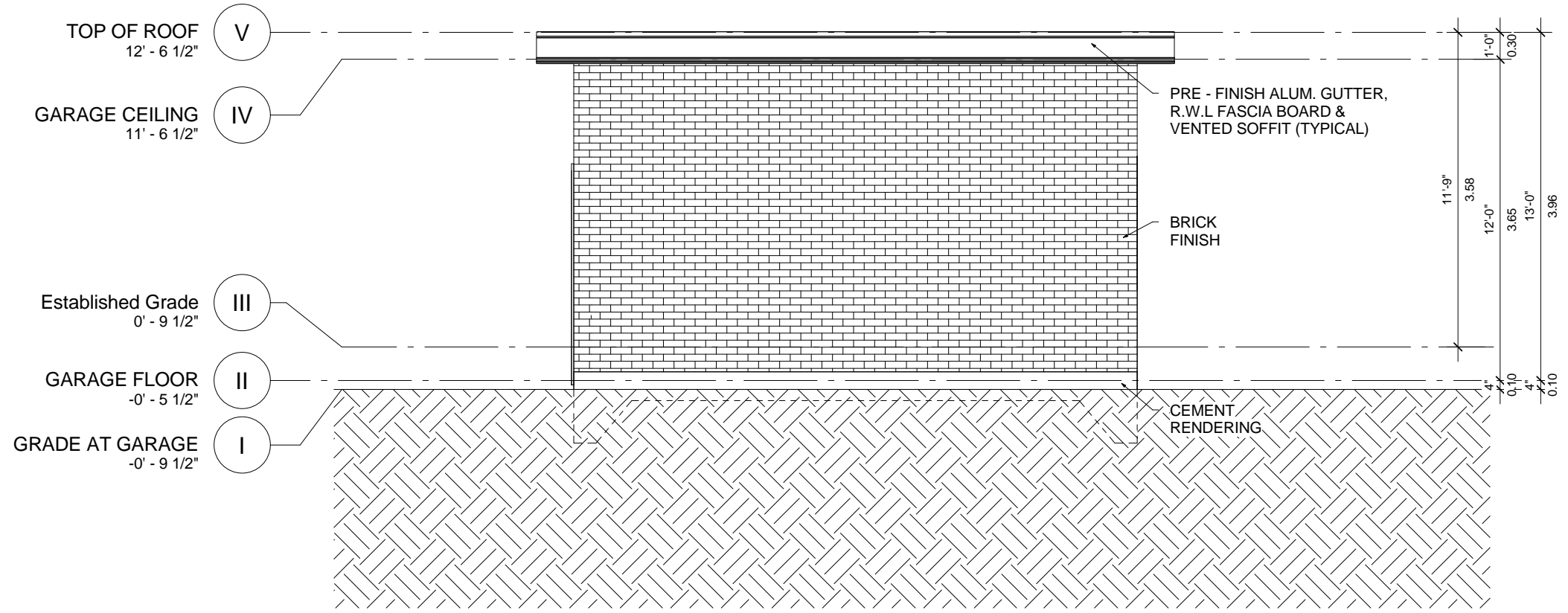
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A15 **LEFT ELEVATION PLAN**
Scale: 3 / 16" = 1' - 0"

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DRAWING LEFT ELEVATION PLAN	DRAWN BY CLARA CUNHA	APPROVED BY M.V.	DRAWING No. A15
	SCALE AS SHOWN	DATE JULY, 2016	PROJECT No. 2016 - 48
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PROJECT PROPOSED 3 STOREY DWELLING & GARAGE @ No. 220 BARTON AVENUE CITY OF TORONTO			
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1
A16 **RIGHT ELEVATION PLAN**
Scale: 3 / 16" = 1' - 0"



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MARCO VIEIRA
NAME
SIGNATURE
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BCIN

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PROPOSED 3 STOREY DWELLING & GARAGE @ No. 220 BARTON AVENUE CITY OF TORONTO

DRAWING RIGHT ELEVATION PLAN	DRAWN BY CLARA CUNHA
	APPROVED BY M.V.
SCALE AS SHOWN	DATE JULY, 2016
PROJECT No. 2016 - 48	DRAWING No. A16