

DECISION AND ORDER

Decision Issue Date Monday, October 29, 2018

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

Appellant(s): JIANSHENG CHEN

Applicant: JIM PFEFFER

Property Address/Description: 29 GLEN STEWART CRES

Committee of Adjustment Case File: 17 184997 STE 32 CO (B0058/17TEY), 17 185010 STE 32 MV (A0702/17TEY), 17 185005 STE 32 MV (A0703/17TEY)

TLAB Case File Number: 17 258710 S53 32 TLAB, 17 258712 S45 32 TLAB, 17 258711 S45 32 TLAB

Motion Hearing date: Wednesday, August 08, 2018

DECISION DELIVERED BY D. LOMBARDI

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Jim Pfeffer
Appellant/Owner	Jiansheng Chen
Appellant's Legal Rep.	Joe Hoffman
Party	Barry Papoff
Party's Legal Rep.	Raj Kehar
Party	Michael McDonald
Expert Witness	MPLAN Inc (Michael Manett)

Decision of Toronto Local Appeal Body Panel Member: D. Lombardi
TLAB Case File Number: 17 258710 S53 32 TLAB
17 258712 S45 32 TLAB
17 258711 S45 32 TLAB

Participant	Heather De Man
Participant	Grace Kim-Cho
Participant	Heath Thomlinson
Participant	Sunita Doobay
Participant	Doris Seto
Participant	John Charles Harsell
Participant	Michael Thomson
Participant	Paul De Man
Participant	Madeleine Clarke
Participant	Mike Clarke
Participant	Oliver Mahon
Participant	Chloe Stewart
Participant	Fleming Pavlovski
Participant	Evelyn Mousseau
Participant	Marie Barnden
Participant	Taanis Smyth
Participant	Oliver Grant Rathbun
Participant	Violet Isabel Waterer
Participant	Libby Winograd
Participant	Patricia Wenger
Participant	Margot De Man
Participant	Mary Pavloski
Participant	Kim Bowman
Participant	Peter Wood
Participant	Youtaz Irani

INTRODUCTION

This is a matter on appeal from the Toronto and East York District Panel of the City of Toronto's (City) Committee of Adjustment (COA) decision to dismiss applications for the severance of 29 Glen Stewart Crescent (subject property) and associated variances

The Appellant/Owner, Jiansheng Chen, wishes to sever the subject property into two residential lots and to demolish the existing dwelling and construct on each new/proposed lot, a 2½-storey dwelling with an attached, at-grade, front-facing, one-car integral garage. The existing lot frontage of the subject property is 19.20 m.

The subject property is located on the south side of Glen Stewart Crescent in the Upper Beach neighbourhood of Toronto. Generally, the neighbourhood is approximately six blocks east of Woodbine Avenue and one block south of Kingston Road.

The property is designated *Neighbourhoods* pursuant to the City's Official Plan. *Neighbourhoods* are considered stable areas where new development will respect and reinforce the existing physical character.

It is zoned **R1 Z0.35** pursuant to the former City of Toronto By-law 438-86 which permits single detached dwellings with a minimum lot frontage of 10.0 m and **RD (f10.0; d0.35)(x1392)** under the new Harmonized Zoning By-law 569-2013 which permits uses and standards similar to By-law 438-86.

BACKGROUND

The hearing of this matter engaged a number of days, requiring three sittings to hear the appeal. The background and history of this application is offered for context and detailed in the following pages.

1) *Committee of Adjustment Hearing*

On October 25, 2017, the Owner of the subject property presented applications to the COA to obtain consent to sever the subject property into two residential lots and to construct a new 2½-storey detached dwelling with an integral garage on each of the severed lots.

The day prior to the scheduled hearing, the Applicant submitted slightly revised applications and plans to the COA. On the day of the hearing, but prior to the actual hearing, the Owner's land use planner, Mr. Michael Goldberg, approached Michael McDonald, the resident at 27 Glen Stewart Crescent abutting the subject property to the west and in opposition to the proposed development, at the request of the Owner, to discuss the revisions filed with the COA. This approach was initiated in the hopes of

reaching a settlement with Mr. McDonald and garnering support for the revised applications.

As Mr. McDonald had not had a fulsome opportunity to review the revisions, nor had any of his neighbours in attendance at the hearing, Mr. McDonald suggested that the Applicant request a deferral of the applications to allow further discussions to occur. Mr. Goldberg advised that this was not an option and that the Owner was anxious to proceed with the hearing.

At the hearing, the COA had before it numerous correspondence from neighbours opposing the applications as well as correspondence from sixteen neighbours requesting a deferral. In addition, five residents appeared in opposition to the applications. In addition, the COA also received comments from City Planning and Engineering and Construction Services staff related to the consent and minor variances applications.

In a memorandum dated October 19, 2017, City Planning staff expressed concerns with the length and depth of the buildings on both proposed lots, particularly the portions of the building at or above the first floor (ground floor level). They recommended that the length and depth of the first floor and the floors above should comply with the 17 m maximum building length provision in the Zoning By-law and recommended that this be a condition if the COA approved the applications.

In addition, Staff commented on the front yard setback of the proposed house on the conveyed lot (Part 1 – west lot) recommending that the front yard setback on the retained lot (Parts 2, 3, and 4 – east lot) should be the average of the adjacent lots, thereby better meeting the general intent and purpose of the Zoning By-law as it relates to the front yard setback averaging.

Engineering and Construction Services staff, in a memorandum dated August 16, 2017, indicated no opposition to the consent and minor variance applications subject to a number of conditions should the consent be approved and the variances granted.

In outlining the revisions being proposed and the amended list of variances being sought, Mr. Goldberg advised the COA that six of the proposed variances in total (three from COA Application File No. A0702/17TEY – West Lot and three from Application File No. A0703/17TEY – East Lot) had been eliminated from the original submission.

In the result, the COA refused the revised consent and minor variance applications (attached as Attachment 1), and the owner subsequently appealed the COA decision to the Toronto Local Appeal Body (the TLAB).

2) Notice of Appeal

A Notice of Appeal (Form 1) was filed by the Owner on November 7, 2017. The following grounds (abbreviated for this document) were listed in the Notice:

- A. A plan of subdivision is not required to facilitate the proposed severances since the requested consent to sever satisfies all of the consent criteria under Subsection 51(24) of the Planning Act;*
- B. The associated minor variance applications meet the four tests of the Planning Act. The proposal represents modest intensification, which respects and reinforces the existing physical character of the neighbourhood, while ensuring a compatible relationship with other buildings in the area;*
- C. The proposal is desirable for the appropriate development and use of the property in that it represents a modest form of intensification as infill housing that is in the public interest and compatible with adjacent uses.*
- D. The proposal will not create undue negative planning impacts.*
- E. City staff did not raise concerns with the proposed form of development and the COA received uncontradicted opinion evidence in the area of land use planning regarding the above-noted matters.*

The TLAB set a hearing date of March 19, 2018, to hear the appeal. However, on January 3, 2018, the owner of the subject property filed a Notice of Motion (Form 7) requesting an adjournment to a new date between June 4, 2018 and June 27, 2018. The motion further requested that new dates be set for document disclosure, service of witness statements and service of participant statements.

The adjournment request was based on the unavailability of the Appellant's expert planning witness, Michael Goldberg, who had conflicting scheduling issues that would prevent him from being available for the March 19th sitting. In requesting an adjournment the Appellant's solicitor (Mr. Hoffman) argued that it was in his client's best interests to have Mr. Goldberg attend the TLAB Hearing to provide opinion evidence regarding land use planning matters and to facilitate a full and fair hearing.

He also noted that the TLAB had been alerted to this issue as early as December 11, 2017, and that a formal motion had been brought forward in a timely fashion and with the relief being supported by all of the Parties to the hearing (Barry Papoff, and Michael McDonald).

3) Notice of Motion Decision and Order

The Motion was heard by the TLAB on January 26, 2018. The Decision and Order issued by Panel Member Makuch on February 14, 2018, allowed the relief requested and adjourned the hearing to June 21, 2018. Member Makuch found that based on the documents filed, a new hearing date would facilitate the parties engaging in potential, without prejudice, settlement discussions, and would also facilitate a hearing process which is just, expeditious, and cost effective.

The Decision and Order was granted pursuant to the TLAB Rules of Practice and Procedure (the Rules), and particularly Rules 2.2 and 22.3, which allows the TLAB to adjourn hearings and set new requisite exchange dates. New dates were set for Document Disclosure (March 29, 2018) and filing of Expert Witness/Witness//Participant Statements (April 13, 2018)

4) Concerns from Other Parties

On April 20, 2018, counsel (Raj Kehar) for Mr. Papoff filed a letter with the TLAB expressing concerns noting that the Appellant had not filed a Form 3 by the revised filing date explaining. He further noted in his correspondence that his client had consented to the adjournment requested by the Appellant for two reasons: to be reasonable and accommodate Mr. Goldberg's scheduling conflict; and in the hopes of providing the parties further time to engage in without prejudice settlement discussions.

In addressing the issue of the Appellant's failure to disclose and to file a Form 3, Mr. Kehar quoted TLAB Rules 11.1 and 11.2, which require an applicant to disclose any intended revisions or modifications to the application that was made to the COA, and that a Form 3 be filed no later than 15 days after a Notice of Hearing is served. Noting that a Form 3 had yet to be filed, Mr. Kehar reiterated that this form should have been filed no later than November 29, 2017 and that, as such, his client had assumed that no revisions to the application were being proposed.

He confirmed that the Document Disclosure filed by the Appellant on April 13, 2018, included a set of plans that contained a different revision date from those filed with the COA, and noted that a review of the summary site statistics chart submitted with the disclosure material suggested that no changes were being made to the variances requested at the COA.

The Appellant did finally submit a revised witness statement from Mr. Goldberg after the revised filing date set by the TLAB of March 29, 2018 that included a list of revised variances. That filing also included a summary chart comparing the existing variances with the proposed, revised variances but without further explanation of these changes. Mr. Kehar noted that the chart included some entirely new variances that had not been presented to the COA.

In view of these discrepancies, Mr. Kehar requested that the Appellant immediately file with the TLAB and the Parties and Participants the following:

- *A complete Form 3;*
- *The set of plans for which the Applicant will seek approval before the TLAB; confirmation of the revised set of variances the Appellant is seeking; and*
- *An updated Witness Statement from Mr. Goldberg that discloses all of the reasons for his land use planning opinion in support of the applications.*

He cautioned in his letter that if this did not occur, his client would take the position that Mr. Goldberg's testimony should not extend to include opinion and/or reasons he has not disclosed in his witness statement in order to maintain procedural and substantive fairness for Mr. Papoff.

On May 15, 2018, Michael McDonald file a letter with the TLAB with parallel concerns expressed by Mr. Kehar as well as questions related to key procedural issues. He also highlighted procedural fairness as an issue and suggested that the Appellant's failure to file a complete appeal application and to comply with TLAB's Rules (i.e., missing disclosure documents and incomplete Form 3) impeded his ability to prepare for the June 21, 2018 hearing.

Mr. McDonald noted that following the COA decision and prior to the TLAB appeal he reached out to the Appellant/Owner requesting a meeting to discuss a possible compromise that would move the development of the subject property in a positive and forward direction. He further noted that Mr. Goldberg's Witness Statement included hand written revisions to the original COA Public Hearing Notice and that their continued to be confusion as to what relief was actually being requested by the Appellant from the TLAB.

He concluded his letter by suggesting that forcing the Appellant to file missing disclosure documents and a revised Form 3, as per Rule 16.1 of the TLAB's Rules, would be sufficient to ensure ample time for other parties to prepare for the scheduled hearing.

In a follow-up letter dated June 13, 2018, Mr. Kehar reiterated his concerns about the accuracy of the revised plans submitted to the TLAB by the Appellant. He restated his client's concerns as to whether the revised plans and list of variances submitted by Mr. Goldberg were indeed reflective of the final revisions proposed by the Appellant. He requested clarification and confirmation of the discrepancies amongst the various iterations of the development application.

TLAB Hearing on June 21, 2018

The hearing was held on June 21, 2018, with the three parties in attendance. The Appellant/Owner was represented at the hearing by her daughter, Ms. Hazel Chen, and by legal counsel, Mr. John Hoffman (Goodmans LLP).

Mr. Papoff, and his wife Gina Ramdial, a Party to the proceedings was not in attendance but was represented by his legal counsel, Mr. Kehar (Wood Bull LLP). The other Party, Mr. McDonald, attended as well, arriving late to the hearing.

The following participants were also in attendance (in no particular order):

- Paul De Man (resident at 17 Glen Stewart Cres.):
- Taanis Smyth (resident at 21 Glen Stewart Cres.):
- Oliver Rathburn (resident at 23 Glen Stewart Cres.): and
- Heath Thomlinson (resident at 36 Glen Stewart Cres.).

I note that nineteen other participants who filed an Intention to be a Participant (Form 4) with the TLAB did not attend the hearing.

At the outset of the hearing, Mr. Hoffman clarified a number of matters for the Member's benefit. He advised that a settlement had been reached very late the evening before with Mr. Papoff, the owner of 31 Glen Stewart Crescent, which abuts the subject property to the east.

He advised that as part of the settlement terms, Mr. Papoff was no longer opposed to the consent and variance applications before the TLAB. He also advised that it was his understanding that Mr. Papoff had notified the other residents identified as being Participants to this matter of the settlement. Mr. Hoffman suggested that this notification would explain their absence at the hearing. However, Mr. Hoffman provided no tangible evidence in this regard.

He offered an outline of the terms of the settlement, noting the two specific components which he suggested improved the revised plans submitted to the TLAB (dated March 29, 2018). The Appellant had agreed:

- That the houses to be constructed on each of the severed lots would be moved 1.5 m north on each lot towards the front lot line; and
- That the proposed length of the house above grade at the first floor and above to be constructed on the severed easterly lot (Parts 2, 3, and 4) would be reduced by 1 m.

These revisions were agreed to and would be implemented to address privacy and overlook concerns raised by Mr. Papoff related the enjoyment of his rear yard. He confirmed that as a result of this settlement, Variance #6 related to the east lot (Parts 2, 3, and 4) was revised to provide for the new front yard setback of 5.4 m.

Mr. Hoffman then addressed the issue of notification and procedure as it related to the *Planning Act (Act)*. He referenced section. 45(18) of the *Act* for direction in this regard noting that the subsection 45(18.1.1) 'Exception' states that, "*the Tribunal is not required to give notice under subsection 18.1 if, in its opinion, the amendment to the original application is minor.*"

He argued that regardless of the revisions, section 45(18) of the *Act* allows the TLAB to adjudicate an amended application and that the only question the TLAB must consider is whether further notice is required.

In arguing that no further notice is required, he addressed two issues for the TLAB's consideration. The first is whether there is a 'substantial' (emphasis added) change to the original application, and the second is whether the revisions have any adverse impacts.

His position on each was clear. With respect to the issue of substantive changes to the application, he argued that the revised plans keep the same built form but simply move the buildings north by 1.5m. The building length of the house on the east lot has also been reduced.

He submitted that by correlation this addresses the second issue related to impact on the abutting neighbor. He argued that this speaks directly to the issue of impact and the proposed revisions to the front yard setback are a direct response to satisfy Mr. Papoff's concerns.

Mr. Hoffman argued that when considered collectively, no further notice is required and he respectfully requested that the TLAB proceed to hear the evidence and make a final decision without delay.

In his opening remarks, Mr. Kehar submitted that there continued to be general confusion surrounding this application, an issue raised by Parties and Participants. He advised that his client had on numerous occasions requested clarification and confirmation from the Appellant of the revisions to the proposed plans and the corresponding variances being sought. He noted that this had not been provided in a timely manner largely because, in his opinion, the Appellant had failed to disclosure documents as per the TLAB Rules.

He, again, reiterated that in view of the settlement reached with the Appellant, and the understanding that the applications are moving forward, his client no longer has an objection to the development although he strongly noted that his client was not supporting it either.

He explained that the settlement had been reached very late the evening before the hearing and that his client had attempted to circulate the settlement terms and the revised plans to a number of the Participants in this matter as well as to the other Party, Mr. McDonald.

When I asked Mr. Kehar to confirm the list of Participants who were circulated the plans and settlement terms, and to corroborate those who actually received notification, he was unable to do so citing the timing of the settlement. He did, however, offer the same general observation as previously suggested by Mr. Hoffman that the absence of some of the Participant's at the hearing was evidence that notification had been received.

In closing, Mr. Kehar advised that he had filed an Expert Witness Statement from Michael Manett (MPlan Inc), a professional land use planner, providing planning opinion evidence in written form. However, he noted that Mr. Manett would not be called as a witness as his client, Mr. Papoff, is not opposing the applications before the TLAB.

Procedurally, Mr. Hoffman requested that the hearing proceed and that he be allowed to call Mr. Goldberg as an expert witness to present further details of the settlement terms. He further suggested that this be allow the two other Parties present to express concerns with the settlement, if any, and then allow Mr. Goldberg to give evidence in chief in response.

Prior to providing a procedural ruling on the request, I asked to hear from Mr. McDonald, who had arrived late.

Mr. McDonald stated that both he, by way of correspondence to the TLAB dated May 15, 2018 letter, and Mr. Papoff, through correspondence from his solicitor, had raised similar procedural issues in relation to the Appellant's late filings. He suggested that the Appellant's lack of a timely response and the numerous and on-going changes to then the original COA applications had prejudiced his ability to present a factual defense against the proposed development and to adequately prepare for the hearing.

He characterized the Appellant's proposed development as a '*moving target*' (his words, emphasis added) and that he only receive a copy of the revised plans reflecting the settlement terms at 10:45 pm the evening before the TLAB hearing. In briefly reviewing those plans, he was dismayed to find that further changes were apparent.

He confirmed that several of his neighbours oppose the development which he argued was evidenced by the number of names on the TLAB's List of Appellants, Parties, and Participants as well as the five Participants in attendance at the hearing in opposition. Speaking on their behalf, he questioned whether he and his neighbours had had a fair opportunity to respond to the consent and minor variance applications before the TLAB and requested that the TLAB consider adjourning the hearing to allow all the Participants to review the revised plans.

I provided Mr. Hoffman an opportunity to respond. He disagreed with Mr. McDonald's characterization of the applications as unclear but did admit to some internal discrepancies with the revised plans and the list of variances. He submitted those issues had now been '*cleaned up*'. He proposed that the plans before the TLAB have not changed substantially but, more importantly, they respond to the issues raised by abutting neighbors and represented an iterative process.

In arguing that the hearing should proceed, he provided case law – *Sener v. Toronto (City) 2004 O.M.B.D. No. 338 (PL031309) March 4, 2004 ('Sener') re 220 Ava Road* - for guidance. I deal with the summary ratio decidendi of the referenced case below.

This case involves an appeal of a COA decision for minor variances and severance relief and the amendment of the plans in an effort to eliminate certain variances. Mr. Hoffman suggested that this is a case where the former Ontario Municipal Board (OMB) addressed the question of how to determine when revisions to an application are considered minor. He argued that the *Planning Act* clearly contemplates that applications can be amended before a hearing and, if considered minor, then no further notice is required pursuant to the legislative provision under section 45(18.1.1).

He highlighted Paragraph 9 on page 3 of that Decision in which Member Rogers stated that,

"To determine whether the variances are minor so as to require no notice pursuant Section 45(18.1.1) of the Planning Act, the Board must look to whether the changes substantially change the project, and whether the changes will result in a reduction of the

impact, thus rendering the project in closer conformity with the requirements of the zoning by-law."

Member Rogers further wrote that,

"The Board finds that individually and cumulatively, the changes operate to reduce the impact of the proposal and can therefore be considered minor."

Mr. Hoffman argued that based on *Sener v. Toronto*, and the fact that the plans have not changed substantially and have been brought forward as part of a settlement, no further notice is required.

However, he also posited that if the TLAB finds that further notice should be issued then the *Act* has clear provisions in s. 45 which direct that the Tribunal is permitted to hold a hearing, make a decision and then withhold its order pending notice. If the TLAB receives no objections within the thirty day appeal period after notice, the Tribunal can then finalize its order with no further hearing.

He highlighted section 45(18.1) of the *Act* which states that, *"the tribunal will make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under section 5."*

In this regard, Mr. Hoffman concluded that the minor revisions made by the Appellant to the plans clearly meet the test for an exception pursuant to section 45(18.1.1) and that the hearing should proceed.

In considering his argument, I asked Mr. Hoffman to explain why the Appellant failed to submit disclosure documents (Form 3) and revised plans when required as per direction from the TLAB. He advised that he was not the original solicitor on this file and had been assigned the case after the appeal had been filed with the TLAB.

He clarified that revised drawings were submitted with Mr. Goldberg's Witness Statement on April 16, 2018, but a new Zoning Examiner's Notice was requested in order to formalize the revisions to the plans and variances. He, again, argued that the revised plans before the TLAB were not substantially different but did acknowledge that a Form 3 should have been filed by the required date as set out in the Decision and Order issued by the TLAB on February 14, 2018.

After hearing submissions, I advised that I shared Mr. McDonald's concerns regarding the applications and was still somewhat uncertain as to the final plans and variances for which the Appellant was seeking approval for.

I suggested that there appeared to be a number of iterations of the plans and list of variances that had created confusion for the Parties and Participants. I expressed my apprehension that this was not representative of a proper filing with the TLAB and that, in my judgement, the circumstances of the filings had not provided the Party and Participants with an opportunity to review the revised plans in a timely manner.

I acknowledged that the Appellant has attempted to respond to concerns raised by the abutting neighbours and has made revisions to the plans and the requested variances in response to these concerns. I also, however, expressed my puzzlement as to why Mr. Goldberg submitted with his Witness Statement, plans and a list of variances with hand written, red-lined revisions. The response was that negotiations were on-going with the neighbours.

In response, I noted that when questioned earlier, Mr. Goldberg suggested both Mr. Papoff and Mr. McDonald were involved in settlement negotiations although only Mr. Papoff chose to settle. As previously established by Mr. McDonald, he confirmed that he had not been a party to any settlement discussions with the Appellant nor had he been notified of the revisions to the applications pursuant to the TLAB Rules.

After an extensive review of this file and after hearing from the Parties, I advised Mr. Hoffman that I had a very significant concern with proceeding with the hearing given that the plans and list of variances contained a number of inconsistencies and no final set of plans could be properly referenced.

As a result, I ruled to adjourn the hearing and to reconvene on a time and date convenient to all of the Parties and Participants. In doing so, I noted that I was concerned that no final set of drawings and corresponding finalized list of requested variances had been provided by the Appellant nor could I be assured that all of the Parties and Participants had been notified of the settlement terms and in what manner.

In coming to this determination, I had considered the TLAB Rules, specifically Rules 2.1, 2.2, 2.5, 11.1, 11.2, 11.3, 19, and 23.

Upon canvassing of those in attendance a new hearing date of August 8, 2018 was set.

August 8, 2018 TLAB Hearing

At the sitting on the new hearing date of August 8, 2018, the three Parties, including Mr. Hoffman representing the Appellant/Owner, Mr. Kehar representing the neighbor at 31 Glen Stewart Crescent, and Mr. McDonald, were in attendance. Also in attendance were Mr. Goldberg and the following three Participants: Taanis Smyth; Oliver Rathburn, and Heath Tomlinson, who indicated their attendance in opposition to the Appellant's consent and minor variance application.

At the outset of the sitting, Mr. Kehar requested that he be given an opportunity to speak prior to the other two Parties. In doing so, he noted, for the record, that his clients, Mr. Papoff and Ms. Ramdial, had reached a settlement with the Appellant/Owner which required his clients to not directly or indirectly oppose the subject application. However, he reiterated that his clients in no way support the approval of the application.

He suggested that he would be asking for certain agreed to conditions of approval be imposed as part of any TLAB decision and order approving the consent and variances being requested.

Mr. Hoffman, in his opening statement, confirmed that the Appellant/Owner provided notice of the terms of settlement reached with the owner of 31 Glen Stewart Crescent to the requisite Parties and Participants as directed by the TLAB at the June 21, 2018 hearing, including a hard copy of the finalized plans and revised list of variances reflecting the settlement reached with the abutting neighbour.

He also advised that the conditions of approval referenced by Mr. Kehar and agreed to with Mr. Papoff were acceptable to the Appellant/Owner and that the conditions would be outlined in greater detail in testimony from Mr. Goldberg.

As an overview of the proposed development, Mr. Hoffman described the subject property as a large, wide lot with a lot frontage of 19.2 m and a unique topography, with the lands sloping markedly from front to rear.

Pursuant to the standing direction of Council to the TLAB, I advised that I had visited the subject property and surrounding streets, and was very familiar with the Beach area in general having lived there in my youth.

He noted that the Appellant is proposing to sever the property to create two new lots and only one of the new lots requires a small variance to the proposed lot frontage (Exhibit 7 - attached as Attachment 2). He also confirmed that no lot area variances are being requested as part of the subject application.

He submitted that Mr. Goldberg's evidence will substantiate that over 53% of the lots in his study area have lot frontage of 10 m or less. As to the proposed dwellings to be constructed on the severed lots, Mr. Hoffman noted that it will be Mr. Goldberg's expert opinion that the type, scale and style of the dwellings are not unusual for the neighbourhood.

No height variances are being requested, and the variances for the building length and depth are actually for the basement portion of the dwellings below grade only. The portions of the dwellings at grade and above are within the required zoning permissions.

In his opening statement, Mr. McDonald's stated that he and many of his neighbours have concerns with the proposed development and opposed the approval of the consent and minor variance applications. His objection is focused on the Appellant/Owner's attempt, in his words, *'to subdivide the 29 Glen Stewart Cres. property and to squeeze two massive structures exceeding 3,500 square feet homes not including the 1,400 square foot walk out basement level below grade...on to the subdivided lots'*.

He suggested that, in his opinion, other than slight revisions to the proposed list of variances before the TLAB the development proposal had not changed substantially from that refused by the COA. He suggested that the COA refused the application because the variances were not considered minor and they failed to meet the remaining tests in the *Planning Act*.

In his view, the 'Beach' has an eclectic character and each street can be viewed as unique in its own right. In fact, he opined that Glen Stewart Crescent, as an example, has its own specific character in so far as the south side of the street is distinct from the north side. He suggested that lots on the south side are typically larger, have sloping topography and modestly sized homes with spacious side yard setbacks and significant green spaces between lots allowing for views to the street whereas the north side consists mostly of equal sized lots with identical homes built in the 1950's.

He reiterated with some conviction that he is not opposed to redevelopment and reinvestment in the neighbourhood but questions the wisdom of creating smaller lots with homes that are out of character with the streetscape.

In fact, he opined that the subject property was more suitable as a large single family residential detached dwelling that could be built within the existing zoning by-law permissions which he concluded would be more in keeping with the character of Glen Stewart Crescent.

MATTERS IN ISSUE

The application and appeal before the TLAB were, in my view, neither unprecedented nor complicated. At issue was whether the Appellant's severance of the subject property for the purpose of introducing infill housing as a form of modest and 'gentle' intensification in this Beach neighbourhood, was appropriate and fit the physical character of the area.

Resulting from the severance was the need to address zoning relief in the form of twenty four minor variances in total to permit construction of the specific dwellings proposed on the two lots, one with a slightly deficient lot frontage..

From a planning perspective, a number of questions arise as a result of the proposed severance and corresponding variances: the key one being whether the lot frontage of the east or conveyed lot created by the severance is considered substandard. More specifically, do the proposed lot frontages respect and reinforce the established dimensions and configuration of lots in the neighbourhood.

A second question that arises is whether the massing of the proposed dwellings to be constructed on each of the severed lots is too large for each lot and out of keeping with the homes in the neighbourhood. A corollary question is will the scale and massing of the proposed dwelling result in overshadow the abutting properties.

In opening remarks, the contrasting position of the Appellant and Mr. McDonald were succinctly expressed by counsel for the Appellant. Namely, new lots optimizing in a modest way the efficient use of land through what counsel termed 'modest' intensification: versus, it is not good planning to permit oversized homes on undersized lots that do not 'fit' the street.

In raising concerns over the massing of the proposed dwellings, Mr. McDonald questioned whether the new dwellings would overshadow his home, impede his enjoyment of the ravine at the rear of his property, and fit the smaller lots being created.

From his perspective, the question is will the new, narrower lots from the existing large lot also result in reduced side yard setbacks between the two dwellings thereby removing green space and south facing streetscape that incorporates ravine views. Gaps between houses on Glen Stewart Crescent currently allow the ravine to be viewed from the street.

Finally, Mr. McDonald raised the issue of the visceral look and feel of the established immediate area. He questioned whether the overall neighbourhood character (of modestly sized homes on larger lots he considers the norm on the south side of the street) be altered by allowing smaller lots and '*squeezing and shoehorning*' (his words – emphasis added) oversized homes on to those undersized lots.

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. Hoffman called Michael Goldberg to provide expert land use planning evidence in support of the consent and minor variances being requested by the Appellant.

I qualified Mr. Goldberg as a professional land use planner capable of providing expert opinion testimony on land use planning matters. Mr. Goldberg was originally retained by the Appellant/Owner prior to October 2017 to provide evidence at the COA hearing on October 25, 2017. His retainer was extended to include providing fair, objective and non-partisan opinion evidence in support of the appeal before the TLAB.

In his Witness Statement (Exhibit 11) and evidence (Exhibit 7 – Final Plans and List of Variances), Mr. Goldberg provided a brief description of the proposal, the context of the subject property, and summarized the dimensions of the two lots to be created through consent.

Mr. Goldberg described the subject property as a large and deep urban lot, rectangular in configuration with a frontage of 19.2 m and a depth of 46.48 m. The property is currently occupied by a two-storey single detached dwelling with no garage and will be demolished.

He noted that there is no physical feature or terrain that constrains the proposed development (Exhibit 6 – Survey), but highlighted the considerable drop in grade from the front of the property to the rear of the lot due to the ravine topography of the general area.

He illustrated this condition through numerous photos (Exhibit 5 – Area Photo Book), and particularly Photo #4, which showed the rear deck of 31 Glen Stewart Crescent with clear site lines over the rear yard of the subject property and the neighbour at 27 Glen Stewart Cres.

He noted that there is a 1.8 m wide easement existing along the east side of the subject property which was granted to the benefit of 31 Glen Stewart Crescent for light and air. He confirmed that no buildings can be constructed within this easement.

The Proposal

The Appellant is proposing to sever the property to create two residential lots described as follows:

- *Conveyed – Part 1 (West Lot) – 416.6 m² area and 9.14 m frontage;*
- *Retained – Parts 2, 3, and 4 (East Lot) – 477.4 m² with a 10.06 m frontage.*

The proposal is to construct on each new/proposed lot a 2½-storey dwelling with an attached, at-grade, front facing, one-car integral garage.

	West Lot	East Lot
Gross Floor Area (0.35)	0.76	0.63
Front Yard Setback (8.16 m)	5.4 m	5.4 m
Side Yard Setback (0.90 m)	0.61 m (east)	0.61 m (west)
	0.91 m (outside)	1.83 m outside)*
Rear Yard Setback (11.62 m)	18.44 m	19.82 m
Building Length (Basement)	21.79 m (17 m)	21.67 m (17 m)
	(First Floor) 16.00 m	17.00 m
Building Depth (basement)	21.79 m (19 m)	21.67 m (19 m)
Building Height (10 m)	10 m	10 m

New By-law (569-2013) standard *italicized and in brackets* for comparison.

* Respects the existing easement

Landscaping – Landscaped open space and front yard soft landscaping fully compliant with the zoning by-laws.

In addressing the criteria for severance and variances, Mr. Goldberg provided an Area Context Map (Exhibit 1) and employed a 'generous' Study Area bounded by the commercial properties on the south side of Kingston Road to the north, Winthorpe Road to the east, Beaufort Road and the lots fronting onto Glen Ames to the south, and Lee Avenue to the west.

Mr. Goldberg opined that the Study Area includes a mix and range of lot frontages and single detached 1½ and 2-storey pre- and post-war dwellings and was chosen as it is reflective of what a resident would experience in this neighbourhood.

He suggested that the Study Area has experienced reinvestment over the last few decades in the form of additions and replacement dwellings. He characterized the replacement dwellings as being larger, taller, and longer in comparison to the original vintage dwellings, and incorporating different architectural expressions with a common element of a front facing integral garage.

He submitted that these renovations and replacement dwellings have required minor variance approvals which are reflected in a COA Decision Analysis Table (Exhibit 8) attached to his witness statement. The table reflects prior COA applications, both approvals and refusals, within the Study Area since 2000 using City of Toronto data.

The Table is organized by streets and includes variance applications in his study area with variances similar to those being requested by the Appellant. Mr. Goldberg concluded from them support and maintenance for other similar lots to those requested. Specifically, with respect to FSI, the variances being sought by the Appellant at 0.76 and 0.63 are within the numeric range of other approvals within the Study Area, with the highest FSI being 0.87.

Mr. Goldberg confirmed that all of the lots within his Study Area are within the same neighbourhood context, are similarly designated as *Neighbourhoods* in the City's Official Plan, and are similarly zoned as the subject property. He noted that the study area yielded a total of 359 lots.

Utilizing attendant coloured mapping and a corresponding Lot Frontage Width Chart (Exhibit 4), Mr. Goldberg opined that the neighbourhood consists of a variety of lot frontages ranging from less than 8.5 m to greater than 13.0 m wide, and that the lot frontage of the subject property, at 19.2 m, is one of the widest in the study area.

Of the 359 lots in the Study Area 53.76% (193) had a lot frontage of 10 m or less. When lots with a frontage of between 10.01 m and 11.5 m were included the overall percentage of lots with frontages at the zoning by-law requirement or within 1.5 m increased to 81.76%.

In summary, his analysis suggests a distribution of lots with a frontage width similar in size to that of the proposal in close proximity to the subject site on Glen Stewart Crescent, as well as within the Study Area. He opined that this co-existence of smaller lots side-by-side with larger lots forms a neighbourhood with an 'eclectic' mix of lot frontages.

He opined that the frontage of the existing lot is not commonly represented in the Study Area. If redeveloped as is with a large single-family dwelling as preferred by Mr. McDonald and some of the residents, such construction could result in a dwelling that is much larger than the housing sizes forming the character of the Study Area.

Mr. Goldberg demonstrated his understanding of this condition through an extensive photographic record (Exhibit 5) which illustrated many replacement dwellings in the Study Area with similar frontages as the proposal. His photographic evidence included examples not only of a variety of frontage but also side yard setback conditions many of which are narrower than those proposed.

In speaking specifically to the terms of the settlement with the abutting owners of 31 Glen Stewart Crescent, he reiterating that the Appellant had agreed to shift the proposed dwellings on the two new lots by approximately 1.5 m forward towards the north lot line.

In addition, the length of the portion of the living level, above grade, of the proposed dwelling on the East (retained) Lot had been reduced by 1 m. As a result, no building length or depth for either of the proposed dwellings would exceed 17 m in the

result, explaining that the length and depth variances (Variances # 2 and #3 for each lot) being requested arise from the basement level (Exhibit 7) condition only.

Mr. Goldberg then reviewed City Staff comments to the COA respecting the original application. He noted that Planning Staff (Exhibit 10) had no objection to the consent and minor variance approval subject to revisions to the front yard setback of the West Lot/dwelling and the building length variance for both lots/dwellings, recommending that the ground floor level and the level above be limited to 17 m.

He submitted that the settlement terms responded to these issues through revisions noted above. He confirmed that these revisions are memorialized in the conditions of approval agreed to by the Appellant.

As to Development Engineering Staff comments, Mr. Goldberg confirmed that the Staff had no objection to the consent and variances subject to conditions set out in the August 16, 2017 memorandum (Exhibit 9). Conditions 1 and 2 on Page 1 in that memorandum will be incorporated into the conditions of approval should the TLAB authorize the variances and grant provisional consent.

Urban Forestry did not provide any comments with respect to the application.

The Statutory Tests

In addressing the statutory tests, Mr. Goldberg was of the opinion that the proposal properly implements the policy thrust and direction provided for in the provincial policy. The proposal contributes to and reinforces the policy objectives of the Provincial Policy Statement and Growth Plan encouraging residential intensification where municipal services and public transit are available.

He found applicable policy direction also in the City's Official Plan, specifically 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 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 Sections 2.3.1, 3.1.2.1, 4.1.5 and 4.1.8, in the Official Plan, he submitted that the proposed lot frontage, lot depth and lot area fit well with those found in the neighbourhood. He further opined that the proposed built form is appropriately proportional to each proposed lot and compatible with development occurring in the area.

He concluded that in his opinion, the minor variances, both individually and collectively, maintain the general intent and purpose of the official Plan.

Mr. Goldberg opined that the variances also meet the general intent and purpose of the zoning by-law, as they will facilitate a building compatible with the subject land and neighbourhood developments and will not result in adverse planning impacts on the immediate or broader neighbourhood.

He suggested that the proposal represents an appropriate, reasonable and compatible development that will contribute to the ongoing stability of the neighbourhood. Additionally, the proposed variances will facilitate reasonably-sized dwellings with appropriate standards, interface and a functional design for each new lot that is consistent with recent development trends in the area.

With respect to the last test, whether the variances are minor, he opined that the application is within the order of magnitude to be considered numerically minor and do not give rise to any adverse planning impacts such as shadowing, privacy or overlooks. He submitted that his COA decision analysis sampling table, highlighted in Exhibit 8 of his evidentiary materials, supports his opinion that the proposed variances are in keeping with the numeric range of approvals within the neighbourhood.

Finally, Mr. Goldberg's testimony addressed 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 subsections of Section 2, while Subsections 2 d), e), f), h) and r) are appropriately addressed and the proposal satisfies each. He concluded that no Plan of subdivision is required and, individually and cumulatively, the subject proposal meets the requirement of the *Act*.

In summary, Mr. Goldberg opined that he had provided an extensive examination of the neighbourhood both at a granular level immediately surrounding the subject property and at a broader scale utilizing the proxy of his Study Area to understand how the neighbourhood was conceived and how it is evolving.

In his professional opinion, the proposal is a meritorious application that represents good planning and is in the public interest. He recommended that the TLAB grant the appeal in part to authorize the consent and requested variances for construction substantially in accordance with the plans in Exhibit 7, subject to the conditions identified previously.

In cross-examination by Mr. Kehar, he confirmed that the side yard setback for the East Lot (Parts 2, 3, & 4) adjacent to 31 Glen Stewart Crescent is subject to the existing 1.83 m easement in favour of his client. No structures, including eaves, other than a set of proposed stairs, with a width totaling 1.07 m, and a strip of green space proposed at a width of 0.76 m wide, would be permitted (Exhibit 7).

Mr. Goldberg also confirmed that the maximum length of the first floor of the proposed dwelling on the East Lot would be 16 m as per the terms of the settlement with Mr. Kehar's client.

Mr. McDonald's cross-examination of Mr. Goldberg was extensive but focused primarily on two main areas of disagreement that can be summarized as follows:

1) COA Decision Analysis and Chart

Mr. McDonald questioned the validity of Mr. Goldberg's COA Decision Chart and analysis (Exhibit 8) suggesting that a small number of decisions contained in the chart (only 7 of the 75 total decisions) were actually comparatively similar to the subject proposal. Consequently, he argued that each application should be considered in isolation and reviewed on its own merits.

In response, Mr. Goldberg reiterated that the Chart was an order of magnitude analysis, not a determinate document, and the decisions highlighted were not offered as precedents. As a planner he places a greater degree of weight on the qualitative as opposed to a quantitative assessment of individual applications and suggested his evidence reflected this approach. Acknowledged that this was the best approach, Mr. McDonald remained unconvinced of Mr. Goldberg's evidence.

2) Official Plan 'Neighbourhoods' Policies

Mr. McDonald questioned Mr. Goldberg's approach to defining 'neighbourhood' as it relates to the subject property suggesting the use of a broader definition of neighbourhood failed to respect the uniqueness of particular streets in the Beach. For example, he proposed that houses on Lee Avenue were built at an earlier time and with different architecture than those on Glen Stewart Crescent, suggesting a comparative analysis would be difficult.

Mr. Goldberg responded by positing that his was a planning analysis guided by Official Plan policies which require new development to '*respect and reinforce the general physical character of the neighbourhood*'. The Official Plan holds out for special attention to be paid to its 'Neighbourhoods' and, in his opinion, it talks 'about big 'N' and small 'n' neighbourhoods'. It is clear in direction in his opinion, and contrary to Mr. McDonald's position, that "*one street does not make a neighbourhood.*"

Mr. Goldberg noted that he identified a Study Area which the Official Plan encourages, even refines it through emphasis on the policy obligations of planning decisions. He reiterated that his Study Area is an appropriate proxy for the neighbourhood, both from a qualitative and quantitative perspective, and it reflects prior approvals patterns.

Mr. McDonald's Testimony

Mr. McDonald restated his position that he is not against redevelopment and reinvestment in his neighbourhood but confirmed his principle concern that the proposed dwellings are much larger than currently exist on Glen Stewart Crescent and will not fit the particular character of the street.

While respecting Mr. Goldberg's experience and professional opinion, he strongly disagreed with Mr. Goldberg's assessment of this particular neighbourhood asserting his different sense of his street's character because he actually lived there. He highlighted Chapter 4 of the Official Plan and specifically Section 4.1 - Development Criteria in Neighbourhoods and Policy 5, submitted as part of his Disclosure Documents

"Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood...No changes will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood."

In this regard, he argued that the 'existing physical character' should include consideration of scale and massing, front and side yard setbacks, and lot frontages, and that the zoning by-law is specific about these standards. He referenced an extensive Photo Book (Exhibit 12) to illustrate examples of homes throughout both immediate and the broader neighbourhood.

His first four photos were homes on Glen Stewart Crescent that were redeveloped within the existing zoning permissions including 23 Glen Ames, which is currently under construction with a large addition. Many of the photos included homes on the Glen Stewart cul-de-sac (the elbow, if you will) in the vicinity of the subject property.

Mr. McDonald highlighted these photos to demonstrate examples of homes that have been renovated in compliance with the existing zoning by-law. They were also introduced to show the unique character of south side of Glen Stewart Crescent.

Finally, he referenced a number of photos (which I identified as #15, #16 and #34 for my own notes) located on Long Crescent. These particular photos were of large homes on large lots in the broader neighbourhood that did not require FSI variances and were introduced to show that streets within the area, like Long Crescent, are characteristically different than Glen Stewart. A photo of his home was referenced to illustrate a moderately sized home at 167.5 m² in size with a two storey profile to encapsulating the character of the south side of the street.

On questioning by Mr. Hoffman, Mr. McDonald acknowledged that the photos contained in his Photo Book matched those addresses in Mr. Goldberg's COA Decision Analysis Chart and he agreed that the examples highlighted by Mr. McDonald, particularly 23 Glen Ames, represented examples of 'good' development in the neighbourhood.

Mr. Hoffman established that 23 Glen Ames was actually the subject of numerous minor variances (Exhibit 8) including a variance for a 0.5 m side yard setback which is smaller than any of the side yard setbacks in the proposed application. In fact, Mr. Goldberg's evidence confirmed that there had been 11 COA approvals of side yard setback variances on Glen Ames.

Similarly, on Glen Stewart Crescent, the COA had approved three applications for side yard setback, the most recent in 2017 at 46 Glen Stewart Cres, allowing a setback of 0.46 m.

In addition, Mr. Hoffman established that the owner of 23 Glen Ames was successful in receiving COA permission for an FSI variance of 0.745 times the area of the lot, which is greater than the relief being sought for West Lot and about the same as what is proposed for the East Lot. The COA had approved FSI variances up to 0.69 on Glen Stewart Crescent.

Mr. McDonald reiterated his preference for the development of a single home on the subject property, noting concerns for the scale and massing of the structures if the property is severed and the two homes built. He suggested that the rear basement level walkout condition for both proposed homes simply adds to the overall gross floor area of the proposed dwellings and the intended massing will adversely impact his enjoyment of his rear yard relative to light, shadows and privacy.

Mr. McDonald also raised a concern regarding the proposed rear balconies noting their overlook to his property.

In response, Mr. Hoffman noted that no height variance being requested as part of the development proposal and that the Appellant has agreed to move the proposed homes forward by 1 m as part of the settlement with Mr. Papoff. He submitted that Mr. Goldberg's evidence supported his position that the Appellant has attempted to minimize any adverse impacts.

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

He submitted that while all submissions are relevant, 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 planning evidence of Mr. Goldberg, which he suggested was professional, objective, non-partisan, comprehensive and not undermined.

Mr. Hoffman reminded me that City Planning staff's comments to the COA raised no issues with the consent application for the simple reason that the proposed lot frontage of the East Lot is compliant with both the former Zoning By-law and the new By-law, and the lot frontage of the West Lot is only slightly less (0.9 m) than the required minimum. He suggested from street level this difference was visually imperceptible and indiscernible compared with adjacent properties.

Mr. Hoffman requested that the TLAB approve the consent and minor variance applications before it. He submitted that it was Mr. Goldberg's planning opinion that the proposed scale and massing of the dwellings is appropriate, respects and reinforces the

existing physical character of the neighbourhood and meets all four tests of the *Planning Act*. He concurred with Mr. Goldberg's opinion that constructing the two dwellings as proposed is more in keeping with the neighbourhood than constructing a larger single home on the subject property.

Mr. Kehar reiterated his client's position that he had reached a settlement with the Appellant and, therefore, is not opposed to the proposed development. However, he again noted that his client is in no way supportive of the approval of the consent and minor variances.

He stated that his client is not opposing the TLAB's approval of the proposed consent and minor variances in order to formalize the terms of the settlement reached with the Appellant. This will permit his client to benefit from the modifications agreed to and shown on the plans as proposed in Exhibit 7.

Mr. McDonald submitted that the consent is not appropriate for the street and that the variances being requested are not minor, particularly the lot frontage variance of 9.14 m for the West Lot. He suggested that there is significant opposition to this development proposal from his neighbours and that the prevailing sentiment is that the subject property provides an opportunity for the owner to build a large single residential dwelling on a large lot similar to those he highlighted in his photo book.

He argued that the Beach is an eclectic mix of neighbourhoods with each street having a unique character of its own. In providing his own interpretation of the '*Neighbourhoods*' section of the Official Plan in this regard, he highlighted Policy 4.1.5 and particularly Policies b), c) and f):

b) size and configuration of lots;

c) heights, massing, scale and dwelling types of nearby residential properties; and

f) prevailing patterns of rear and side yard setbacks and landscaped open space,

He proposed these as the real descriptors of what the existing physical character of a neighbourhood should be. He concluded that, "*the character of our area and the people who maintain that character are what makes us unique.*"

ANALYSIS, FINDINGS, REASONS

As stated under '*Matters in Issue*', the application and appeal before this Body, in my opinion, are neither unprecedented nor complicated: a severance approval with variances to permit construction of two dwellings. However, trying to determine the parameters of what the Appellant was seeking approval for was, in my opinion, convoluted, hence the need to complete three sittings, in total, to hear this matter.

I concur with Mr. Goldberg 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 internal garage on a narrower lot had become a significant mainstay of development and redevelopment initiatives many times over.

The capacity to erect the dwellings on the proposed lots and their ability to accommodate the dwellings was not put at issue or directly challenged. Rather, the challenge to the applications from Mr. McDonald focused principally on lot frontage, scale and massing, suitability, and assessment criteria. It is these issues that need to be resolved within the ambit of the statutory considerations and the evidence, including those above recited.

I accept Mr. Goldberg's testimony that there is no issue with the application of the Provincial Policy Statement or the Growth Plan. The proposed variances are consistent with the policy objectives of the PPS. The approval of the proposed consent and minor variances would permit redevelopment and 'gentle' intensification within the built-up area that is compatible with adjacent uses and which would utilize existing infrastructure.

I find that the proposed consent meets the statutory requirements for consent under Section 51(24) of the Planning Act and that the proposal supports the intent of efficient use of land and energy by providing a modest form of intensification in an area where municipal services and public transit are available.

There is no contest that the subject property is designated 'Neighbourhoods' and that the proposed development complies with the use provisions of this designation.

I find Section 2.3.1 (Preamble) of the Official Plan to be a good starting point and of relevance in this matter in the issue of what describes a 'physically stable area'. The application and relevance is required to be addressed, as regard must be had to whether the proposal conforms to the Official Plan pursuant to Section 51(24) (c), and for the variances, in testing of each element in maintaining the general intent and purpose of the Official Plan.

Clearly, the Official Plan holds out special attention to be paid to its 'Neighbourhoods' as they are not targeted for robust waves of intensification. Change is to be sensitive and gradual, just as these neighbourhoods have been developed and built up in the past. The general intent and purpose of this designation is to create and define stable residential areas within the City to ensure compatibility of land uses and built form.

Mr. Goldberg submitted that the 'Neighbourhoods' designation is not one to be frozen in time or to be held 'static'. It is essential as with any organism that revitalization, regeneration and renewal take place. As well, the delicate balance to which attention is called in this appeal is in the manner and means as to how that change occurs.

Mr. Goldberg identified a Study Area by which he sought to assess a norm or description of the character of the neighbourhood, reflective of the proposal. The Official Plan encourages this effort, even refines it through emphasis that the policy obligation of planning decisions is to 'respect and reinforce the existing physical character of building, streetscapes and open space patterns'. That definition is further honed by intended reference to attributes, measures and features that are describable and replicable.

I find that the delineation of a study area is a necessary first step by planning practitioners to attempt to encapsulate measures that replicate the existing physical character of a neighbourhood. In this case, I find that the Study Area provided by Mr. Goldberg is sufficiently broad and the scale appropriate to take the pulse of the neighbourhood's physical character.

I agree with Mr. Goldberg that the neighbourhood, including both the immediate context of Glen Stewart Crescent and the broader neighbourhood, is not uniform and can be described as eclectic (a term used by both Mr. Goldberg and Mr. McDonald). A variety of lots and configurations exist in the area, which have been created over time both pre- and post-war, through original lot registration/development and more recent consent applications.

I concur with Mr. Goldberg's opinion that this has resulted in a varied mix of lots and built forms, and that the proposed consent will respect and reinforce the general lot patterns in the neighbourhood. I agree with his submission that one criterion for establishing neighbourhood character is lot frontages and configuration of lots. I accept that lots similar in width are distributed throughout the Study Area as well as in close proximity to the subject site on Glen Stewart Crescent, and that the proposed frontages are a good fit with the surrounding neighborhood 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 compatible with replacement and original dwellings in the neighbourhood. While I understand Mr. McDonald's position that Glen Stewart Crescent has a unique physical character that is, in his opinion, different than other streets in the area, I agree with Mr. Goldberg that one street does not make a neighbourhood. The type, style and scale of the proposed dwellings and the size of the lots are not unusual for the area as Mr. Goldberg was able to illustrate in his extensive evidentiary materials.

I accept Mr. Goldberg's proposition that the proposed built form represents an appropriate, high quality design. I agree that the proposed lot frontages, lot coverage and comparatively generous rear 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.

In this regard, the Appellant requires no variances for lot area and building height for the proposed development. Additionally, no variances are required for side yard setbacks in relation to the abutting properties. The only side yard setback variances

requested relate to the interior side yard setbacks between the two severed lots. Each of the proposed setbacks is 0.61 m, for a total overall separation distance of 1.22 m. The proposed setback variances either meet or exceed variances approved in the neighbourhood.

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 abutting properties.

I also accept Mr. McDonald's concerns regarding the massing of the proposed dwellings and the corresponding overshadowing of his property as legitimate and relevant. The question I must ask is whether Mr. McDonald through his testimony and evidentiary materials has demonstrated unequivocally that the proposal will in fact unduly adversely impact his property. I find that he has not.

Mr. McDonald submitted that by permitting the Appellant to 'squeeze' (his word) two homes each exceeding 325 m² above ground on each sloping lot, with an additional 130 m² of below grade (basement) living space with a walk out at the rear, this will result in overall massing that will dwarf his home and other homes on the street. In his opinion, it will also result in impeding his enjoyment of the ravine to the south.

I accept Mr. Goldberg's submission that the rear building walls of the existing abutting homes, such as Mr. McDonald's, reflect differences from one property to another. This, at times, is the way homes were originally built and in other instances reflect the different vintages of adjacent dwellings. This is particularly the case where a replacement dwelling is built adjacent to an original vintage dwelling. He opined that original vintage dwellings often times do not utilize the zoning right of such elements as building length/depth and when they do, there is likely to be a difference in the rear building line, as between properties.

I also accept his submission that another characteristic element in this tightly knit urban residential neighbourhood is the ability to overlook from one property to another. This is enabled by the narrow nature of lots and by the close relationship from one lot to another. In this particular context, there is a considerable drop in grade from the front of the subject lot and the abutting properties on the south side of Glen Stewart Crescent due to the ravine topography. As a result, some limited amount of overlook and shadowing impact is expected.

However, the Appellant has minimized these impacts as noted in the terms of the settlement with the owner of 31 Glen Stewart Crescent by agreeing to shift both proposed dwellings forward (north) by 1.5 m and to reduce the length of the proposed dwelling on the East Lot by 1 m. In effect, the length and depth of the first floor and above of both proposed dwellings will not exceed 17 m.

I find on the evidence that Mr. McDonald is not opposed to redevelopment on his street or in the neighbourhood but that he believes a 9.14 lot frontage is not appropriate. He himself on numerous occasions and when cross-examined by Mr. Hoffman

conceded that he would prefer that the subject property be redeveloped with one larger dwelling. Mr. McDonald acknowledged that if one were to compare the proposal and redeveloping the property with one residential dwelling with 'as-of-right' permissions, there would be no incremental shadow impacts on his property.

While I agree with Mr. McDonald's position that one can readily perceive the difference between two houses on two smaller lots where once a larger lot existed, the visual evidence presented by Mr. Goldberg supports his opinion that the condition of larger lots juxtaposed with smaller lots exists in the area, and such lots form part of the lot pattern and neighbourhood fabric.

I do not accept and cannot agree with Mr. McDonald's argument that the lot frontage relief sought is likely to have a destabilizing effort on his street, as I find that the character of the neighbourhood is not limited to one particular street and it is neither influenced nor defined by lot frontages.

In light of the foregoing, having considered the decision of the COA, the applicable statutory test and evidence, and the lack of substantive planning concerns from the City. I find that the consent and associated minor variances, as listed below, together with the conditions, meet the criteria set out in Section 45(1) 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-laws.

In addition, I am satisfied that the Appeal can be allowed in its entirety and I authorize all of the variances and approve the consent requested.

DECISION AND ORDER

I authorize the following variances and approve the consent requested. The earlier decision of the Committee of Adjustment is set aside.

Requested Variances

To construct a new 2½ -storey detached dwelling with an integral garage on the conveyed lot described in consent application B0058/17TEY and as per Minor Variance Application (Part 1- West Lot): COA File No. A0702/17TEY.

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

The minimum required lot frontage is 10 m.

The frontage of the conveyed lot will be 9.14 m.

2. Chapter 10.20.40.20.(1), By-law 569-2013

The maximum permitted building length for a detached dwelling is 17 m.

The new detached dwelling will have a building length of 21.79 m.

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

The maximum permitted depth of a detached dwelling is 19 m.

The new detached dwelling will have a depth of 21.79 m.

4. Chapter 10.20.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index of a detached dwelling is 0.35 times the area of the lot (145.91 m²).

The new detached dwelling will have a floor area index equal to 0.76 times the area of the lot (318.46 m²).

5. Chapter 10.20.40.50.(1)(A), By-law 569-2013

The maximum permitted number of platforms at or above the second storey on the rear wall of a detached house is one.

In this case, the new detached dwelling will have two platforms at or above the second storey on the rear wall.

6. Chapter 10.20.40.50.(1)(B), By-law 569-2013

The maximum permitted area of each platform at or above the second storey of a detached dwelling is 4.0 m².

The proposed area of the second floor rear deck is 4.98 m².

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

The minimum required front yard setback is 8.16 m.

The new detached dwelling will be located 5.4 m from the front lot line.

1. Section 6(3) Part I1, By-law 438-86

The maximum permitted gross floor area of a detached dwelling is 0.35 times the area of the lot.

The new detached dwelling will have a gross floor area equal to 0.76 times the area of the lot (318.46 m²).

2. Section 6(3) Part II 2(II), By-law 438-86

The minimum required front yard setback is 8.16 m.

The new detached dwelling will be located 5.4 m from the front lot line.

3. Section 6(3) Part II 3.B (II), by-law 438-86

The minimum required side lot line setback for the portion of a detached dwelling not exceeding a depth of 17 m is 0.9 m.

The portion of the new detached dwelling not exceeding a depth of 17 m will be located 0.61 m from the east side lot line.

4. Section 6(3) Part II 3.B(II), By-law 438-86

The minimum required side lot line setback for the portion of the building exceeding a depth of 17 m is 7.5 m.

The portion of the new detached dwelling exceeding the 17 m depth will be located 0.61 m from the east side lot line and 0.9m for the west side lot line.

5. Section 6(3) Part VII 1(I), By-law 438-86

The minimum required frontage of a lot is 10 m.

In this case, the conveyed lot will have a frontage of 9.14 m.

To construct a new 2½-storey detached dwelling with an integral garage on the retained lot described in consent application B0058/17TEY and as per Minor Variance (Parts 2, 3 & 4 – East Lot): COA File No. A0703/17TEY

1. Chapter 10.20.40.20.(1), By-law 569-2013

The maximum permitted building length for a detached dwelling is 17 m.

The new detached dwelling will have a building length of 21.67 m.

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

The maximum permitted depth of a detached dwelling is 19 m.

The new detached dwelling will have a depth of 21.67 m.

3. Chapter 10.20.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index of a detached dwelling is 0.35 times the area of the lot (145.91 m²).

The new detached dwelling will have a floor area index equal to 0.63 times the area of the lot (318.46 m²).

4. Chapter 10.20.40.50.(1)(A), By-law 569-2013

The maximum permitted number of platforms at or above the second storey on the rear wall of a detached house is one.

In this case, the new detached dwelling will have two platforms at or above the second storey on the rear wall.

5. Chapter 10.20.40.50.(1)(B), By-law 569-2013

The maximum permitted area of each platform at or above the second storey of a detached dwelling is 4.0 m².

The proposed area of the second floor rear deck is 4.98 m².

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

The minimum required front yard setback is 8.16 m.

The new detached dwelling will be located 5.4 m from the front lot line.

7. Chapter 10.20.40.70.(3)(B)

The minimum required side yard setback is 0.9 m.

The new detached dwelling will be located 0.61 m from the west side lot line.

1. Section 6(3) Part I1, By-law 438-86

The maximum permitted gross floor area of a detached dwelling is 0.35 times the area of the lot. (167.07 m²)

The new detached dwelling will have a gross floor area equal to 0.63 times the area of the lot (298.50 m²).

2. Section 6(3) Part II 2(II), By-law 438-86

The minimum required front yard setback is 8.16 m.

The new detached dwelling will be located 5.4 m from the front lot line.

3. Section 6(3) Part II 3.B (II), by-law 438-86

The minimum required side lot line setback for the portion of a detached dwelling not exceeding a depth of 17 m is 0.9 m.

The portion of the new detached dwelling not exceeding a depth of 17 m will be located 0.61 m from the east side lot line.

4. Section 6(3) Part II 3.B(II), By-law 438-86

The minimum required side lot line setback for the portion of the building exceeding a depth of 17 m is 7.5 m.

The portion of the new detached dwelling exceeding the 17 m depth will be located 0.61 m from the west side lot line and 1.83 m for the east side lot line.

Any other variance(s) that may appear on these plans are not listed in the written decision are NOT authorized.

CONDITIONS FOR MINOR VARIANCE APPROVAL

1. The construction of any residential dwelling on PART 1 and PART 2, 3, and 4 shall be completed substantially in accordance with the Site Plan and elevation drawings, dated June 20, 2018, attached in Schedule "A" attached, provided that in no instance shall the rear main wall of any residential dwelling, on the ground floor and above, on PART 1 and PART 2, 3, and 4, extend beyond the limits shown on the Revised Plans filed as Exhibit 7 to the TLAB.
2. The building length of the ground floor and above for any residential dwelling on PART 1 shall not exceed 17.0 metres and each such floor shall comply with the lengths as shown on the Revised Plans; and
3. The building length of the ground floor and above for any residential dwelling on PART 2, 3, and 4 shall not exceed 16.0 metres and each such floor shall comply with the lengths shown on the Revised Plans.

CONDITIONS OF CONSENT APPROVAL

1. Submitting a revised draft Reference for the property in metric units and integrated with the Ontario Co-ordinate System and showing the coordinate values on the face of the plan at the main corners of the property, to the Executive Director, Engineering and Construction Services, for review and approval prior to it being deposited in the Land Registry Office..
2. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
3. 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.
4. 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.

5. 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.
6. 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.
7. Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
8. 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 

D. Lombardi

Panel Chair, Toronto Local Appeal Body

Attachment 1



City Planning Division

Committee of Adjustment
Toronto and East York District

100 Queen Street West, 1st Floor
Toronto, Ontario M5H 2N2
Tel: 416-392-7565
Fax: 416-392-0580

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

File Number:	A0702/17TEY	Zoning	RD (f10.0; d0.35) & R1 Z0.35 (ZZC)
Owner(s):	JIANSHEG CHEN	Ward:	Beaches-East York (32)
Agent:	JIM PFEFFER	Heritage:	Not Applicable
Property Address:	29 GLEN STEWART CRES - PART 1	Community:	Toronto
Legal Description:	PLAN M568 LOT 43 PT LOT 44		

Notice was given and a Public Hearing was held on **Wednesday, October 25, 2017**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new 2½-storey detached dwelling with an integral garage on the conveyed lot described in consent application B0058/17TEY.

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

- Chapter 10.20.30.20.(1)(A), By-law 569-2013**
The minimum required lot frontage is 10 m.
The frontage of the conveyed lot will be 9.14 m.
- Chapter 10.20.40.20.(1), By-law 569-2013**
The maximum permitted building length for a detached dwelling is 17 m.
The new detached dwelling will have a building length of 21.79 m.
- Chapter 10.20.40.30.(1), By-law 569-2013**
The maximum permitted depth of a detached dwelling is 19 m.
The new detached dwelling will have a depth of 21.79 m.
- Chapter 10.20.40.40.(1)(A), By-law 569-2013**
The maximum permitted floor space index of a detached dwelling is 0.35 times the area of the lot (145.91 m²).
The new detached dwelling will have a floor space index equal to 0.76 times the area of the lot (318.0 m²).

5. **Chapter 10.20.40.50.(1)(A), By-law 569-2013**
The maximum permitted number of platforms at or above the second storey on the rear wall of a detached house is one.
In this case, the new detached dwelling will have two platforms at or above the second storey on the rear wall.
6. **Chapter 10.20.40.70.(1), By-law 569-2013**
The minimum required front yard setback is 8.16 m.
The new detached dwelling will be located 7.77 m from the north front lot line.
7. **Chapter 10.20.40.70.(3)(B), By-law 569-2013**
The minimum required side yard setback is 0.9 m.
The new detached dwelling will be located 0.61 m from the east side lot line.
1. **Section 6(3) Part I 1, By-law 438-86**
The maximum permitted gross floor area of a detached dwelling is 0.35 times the area of the lot (145.91 m²).
The new detached dwelling will have a gross floor area equal to 0.76 times the area of the lot (318.0 m²).
2. **Section 6(3) Part II 2(II), By-law 438-86**
The minimum required front yard setback is 8.16 m.
The new detached dwelling will be located 7.77 m from the north front lot line.
3. **Section 6(3) Part II 3.B(II), By-law 438-86**
The minimum required side lot line setback for the portion of a detached dwelling not exceeding a depth of 17 m is 0.9 m.
The portion of the new detached dwelling not exceeding a depth of 17 m will be located 0.61 m from the east side lot line.
4. **Section 6(3) Part II 3.B(II), By-law 438-86**
The minimum required side lot line setback for the portion of the building exceeding a depth of 17.0 m is 7.5 m.
The portion of the new detached dwelling exceeding the 17 m depth will be located 0.61 m from the east side lot line and 0.9 m for the west side lot line.
5. **Section 6(3) Part VII 1(I), By-law 438-86**
The minimum required frontage of a lot is 10 m.
In this case, the conveyed lot will have frontage of 9.14 m.

Application Numbers B0058/17TEY, A0702/17TEY & A0703/17TEY will be considered jointly.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:


The Minor Variance Application is Approved Refused

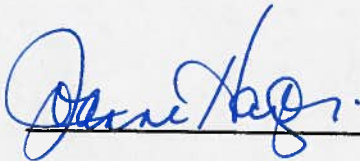
It is the decision of the Committee of Adjustment to refuse this variance application for the following reasons:

- 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:	A0702/17TEY	Zoning	RD (f10.0; d0.35) & R1 Z0.35 (ZZC)
Owner(s):	JIANSHENG CHEN	Ward:	Beaches-East York (32)
Agent:	JIM PFEFFER	Heritage:	Not Applicable
Property Address:	29 GLEN STEWART CRES - PART 1	Community:	Toronto
Legal Description:	PLAN M568 LOT 43 PT LOT 44		


Edmund Carlson


Joanne Hayes


Ewa Modlinska

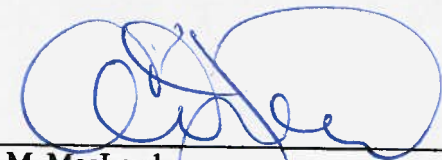
DISSENTED

Nancy Oomen

DATE DECISION MAILED ON: **TUESDAY, OCTOBER 31, 2017**

LAST DATE OF APPEAL: **TUESDAY, NOVEMBER 14, 2017**

CERTIFIED TRUE COPY


Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

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).

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City Planning Division

Committee of Adjustment
Toronto and East York District

100 Queen Street West, 1st Floor
Toronto, Ontario M5H 2N2
Tel: 416-392-7565
Fax: 416-392-0580

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

File Number:	A0703/17TEY	Zoning	RD (f10.0; d0.35) & R1 Z0.35 (ZZC)
Owner(s):	JIANSHENG CHEN	Ward:	Beaches-East York (32)
Agent:	JIM PFEFFER	Heritage:	Not Applicable
Property Address:	29 GLEN STEWART CRES - PARTS 2, 3 & 4	Community:	Toronto
Legal Description:	PLAN M568 LOT 43 PT LOT 44		

Notice was given and a Public Hearing was held on **Wednesday, October 25, 2017**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new 2½-storey detached dwelling with an integral garage on the retained lot described in consent application B0058/17TEY.

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

- Chapter 10.20.40.20.(1), By-law 569-2013**
The maximum permitted building length for a detached dwelling is 17 m.
The new detached dwelling will have a building length of 21.79 m.
- Chapter 10.20.40.30.(1), By-law 569-2013**
The maximum permitted depth of a detached dwelling is 19 m.
The new detached dwelling will have a depth of 21.79 m.
- Chapter 10.20.40.40.(1)(A), By-law 569-2013**
The maximum permitted floor space index of a detached dwelling is 0.35 times the area of the lot (167.07 m²).
The new detached dwelling will have a floor space index equal to 0.66 times the area of the lot (316.0 m²).
- Chapter 10.20.40.50.(1)(A), By-law 569-2013**
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The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:


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It is the decision of the Committee of Adjustment to refuse this variance application for the following reasons:

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File Number:	A0703/17TEY	Zoning	RD (f10.0; d0.35) & R1 Z0.35 (ZZC)
Owner(s):	JIANSHENG CHEN	Ward:	Beaches-East York (32)
Agent:	JIM PFEFFER	Heritage:	Not Applicable
Property Address:	29 GLEN STEWART CRES - PARTS 2, 3 & 4	Community:	Toronto
Legal Description:	PLAN M568 LOT 43 PT LOT 44		


Edmund Carlson


Joanne Hayes


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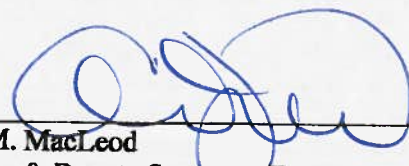
DISSENTED

Nancy Oomen

DATE DECISION MAILED ON: **TUESDAY, OCTOBER 31, 2017**

LAST DATE OF APPEAL: **TUESDAY, NOVEMBER 14, 2017**

CERTIFIED TRUE COPY


Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

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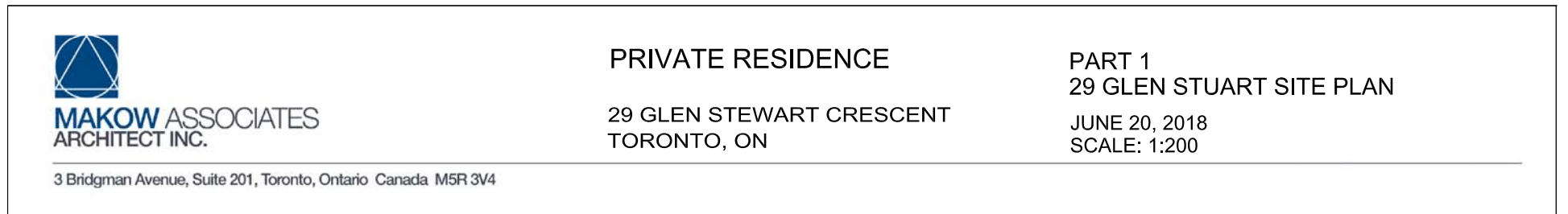
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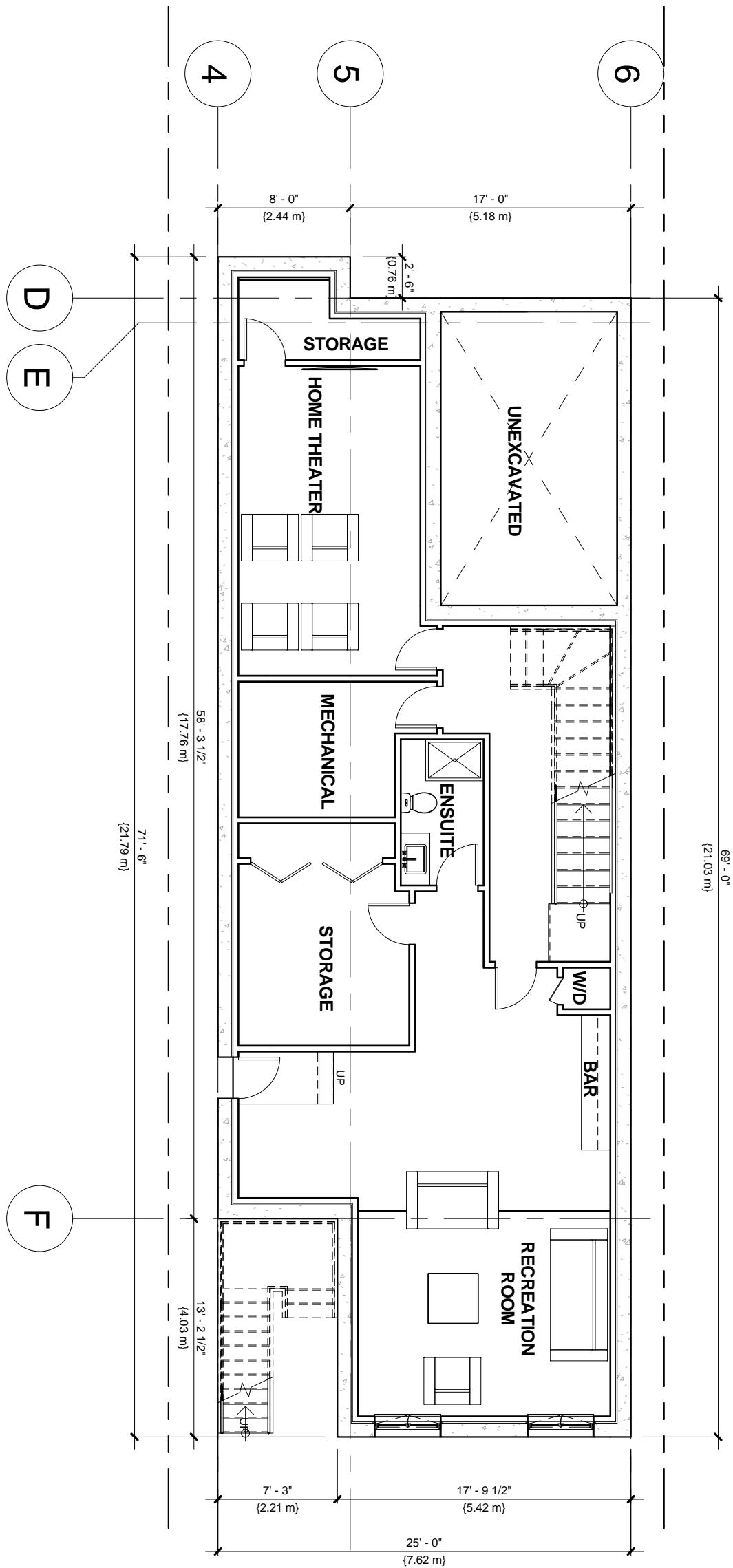
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ZONING INFORMATION		Zoning By-law #569-2013						
ADDRESS:		29 GLEN STEWART CRESCENT - PART 1						
LEGAL DESCRIPTION:		PART OF LOT 43 AND PART OF LOT 44 REGISTERED PLAN M-568						
NEIGHBOURHOOD:		63 - THE BEACHES						
WARD		32 - BEACHES - EAST YORK						
ZONING:	RD							
LOT AREA:	ALLOWABLE	3,229.17	SQ. FT.	=	300.00	SQ. M.	(MINIMUM)	
PER 10.20.30.10	PROPOSED	4,487.28	SQ. FT.	=	416.80	SQ. M.		
LOT FRONTAGE:	ALLOWABE	10.00	M	=	32.81	FEET	(MINIMUM)	
PER 10.20.30.20	PROPOSED	9.14	M	=	29.99	FEET		
GROSS FLOOR AREA:	ALLOWABLE	1,570.29	SQ. FT.	=	145.88	m ²	= 0.35 X LOT AREA	
	BSMNT FLOOR	1,433.00	SQ. FT.	=	133.13	m ²		
	FIRST FLOOR	1,075.00	SQ. FT.	=	99.87	m ²		
	SECOND FLOOR	1,334.84	SQ. FT.	=	124.01	m ²		
	THIRD FLOOR	1,018.00	SQ. FT.	=	94.58	m ²		
	TOTAL	3,427.84	SQ. FT.	=	318.46	m ²	= 0.76	
BUILDING DEPTH	ALLOWABLE	19.00	m	=	62.34	FEET		
PER 10.20.40.30	PROPOSED	21.79	m	=	71.49	FEET		
BUILDING LENGTH	ALLOWABLE	17.00	m	=	55.77	FEET		
PER 10.20.40.20	PROPOSED	21.79	m	=	71.49	FEET		
ESTABLISHED GRADE	ELEVATION WEST				121.39	M		
PER 800.50.(240)	ELEVATION EAST				122.42	M		
	ESTABLISHED GRADE				121.91	M		
HEIGHT OF BUILDING:	ALLOWABLE	10.00	m	=	32.81	FEET		
PER 10.20.40.10	GEODETIC ELEVATION OF TOP OF ROOF				131.90	M		
	HEIGHT	9.99	m	=	32.78	FEET	3 STORES	
HEIGHT OF MAIN WALL	ALLOWABLE	7.50	m	=	24.61	FEET		
	GEODETIC ELEVATION OF TOP OF WALL				128.90	M		
PER 10.10.40.10	PROPOSED	7.00	m	=	22.95	FEET		
SETBACKS:	27 GLEN STEWART	8.63	m	=	28.31	FEET		
	31 GLEN STEWART	7.68	m	=	25.20	FEET		
PER 10.5.40.70(1)	FRONT							
	ALLOWABLE	8.16	m	=	26.76	FEET		
	PROPOSED	5.40	m	=	17.72	FEET		
PER 10.20.40.70(3)	SIDE (WEST)							
	ALLOWABLE	0.90	m	=	2.95	FEET		
	PROPOSED	0.91	m	=	2.99	FEET		
	SIDE BEYOND 17m	0.91	m	=	3.0	FEET		
PER 10.20.40.70(3)	SIDE (EAST)							
	ALLOWABLE	0.90	m	=	2.95	FEET		
	PROPOSED	0.61	m	=	2.0	FEET		
	BEYOND 17m	0.61	m	=	2.0	FEET		
PER 10.20.40.70(2)	REAR	25% OF LOT DEPTH OF			45.49	M		
	ALLOWABLE	11.37	M	=	37.31	FEET		
	PROPOSED	18.44	M	=	60.50	FEET		
MAX.FIN. FLR. HEIGHT:	ALLOWABLE	1.20	M	=	3.94	FEET		
	GEODETIC ELEVATION OF FIRST FLOOR				121.95	M		
PER 10.20.40.10(6)	PROPOSED	0.05	M	=	0.1	FEET		
DRIVEWAY WIDTH	ALLOWABLE	3.20	M	=	10.50	FEET	(MAXIMUM)	
PER 10.5.100.1	PROPOSED	3.20	M	=	10.5	FEET		
PLATFORM	ALLOWABLE	43.06	SQ. FT.	=	4.00	m ²		
PER 10.20.40.50	PROPOSED WEST	53.60	m	=	4.98	m ²		
	PROPOSED WEST	37.00	m	=	3.44	m ²		
FRONT YARD AREA		501.90	SQ. FT.	=	46.63	m ²		
FRONT YARD	REQUIRED	50.00	%	X	501.90	SQ. FT.	=	250.95 SQ. FT.
LANDSCAPING							=	23.31 m ²
PER 10.5.50.10	PROPOSED	DRIVEWAY		=	185.70	SQ. FT.	=	17.25 m ²
		SOFT LANDSCAPE		=	238.00	SQ. FT.	=	22.11 m ²
		TOTAL LANDSCAPE		=	316.20	SQ. FT.	=	17.25 m ²
							=	63.00 %
	NON DRIVEWAY SOFT							
	REQUIRED	75.00	%	X	316.20	SQ. FT.	=	237.15 SQ. FT.
	PROPOSED				238.00		=	75.27 %

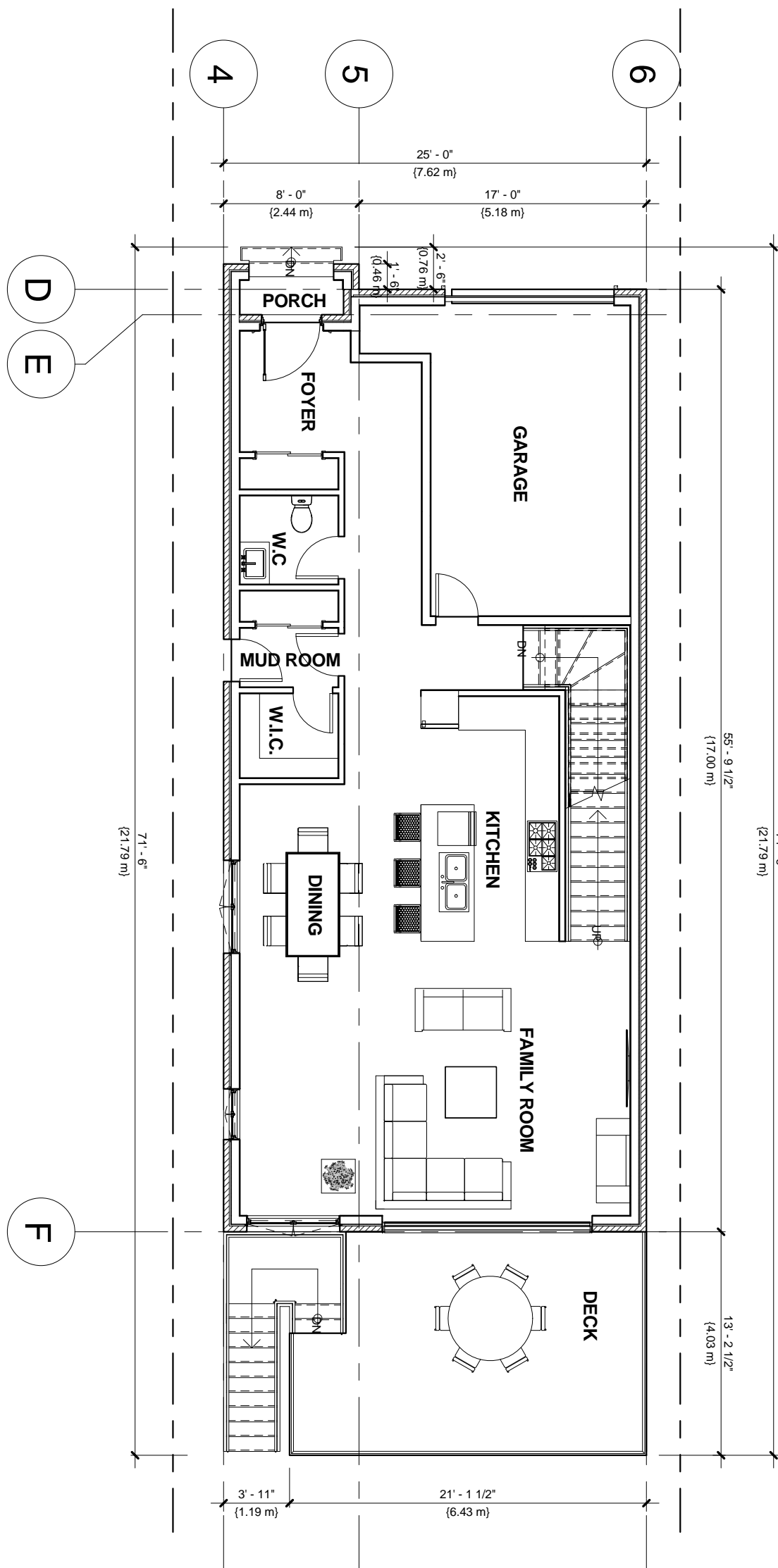




MAKOW ASSOCIATES
ARCHITECT INC.

PRIVATE RESIDENCE
29 GLEN STEWART CRESCENT
TORONTO, ON

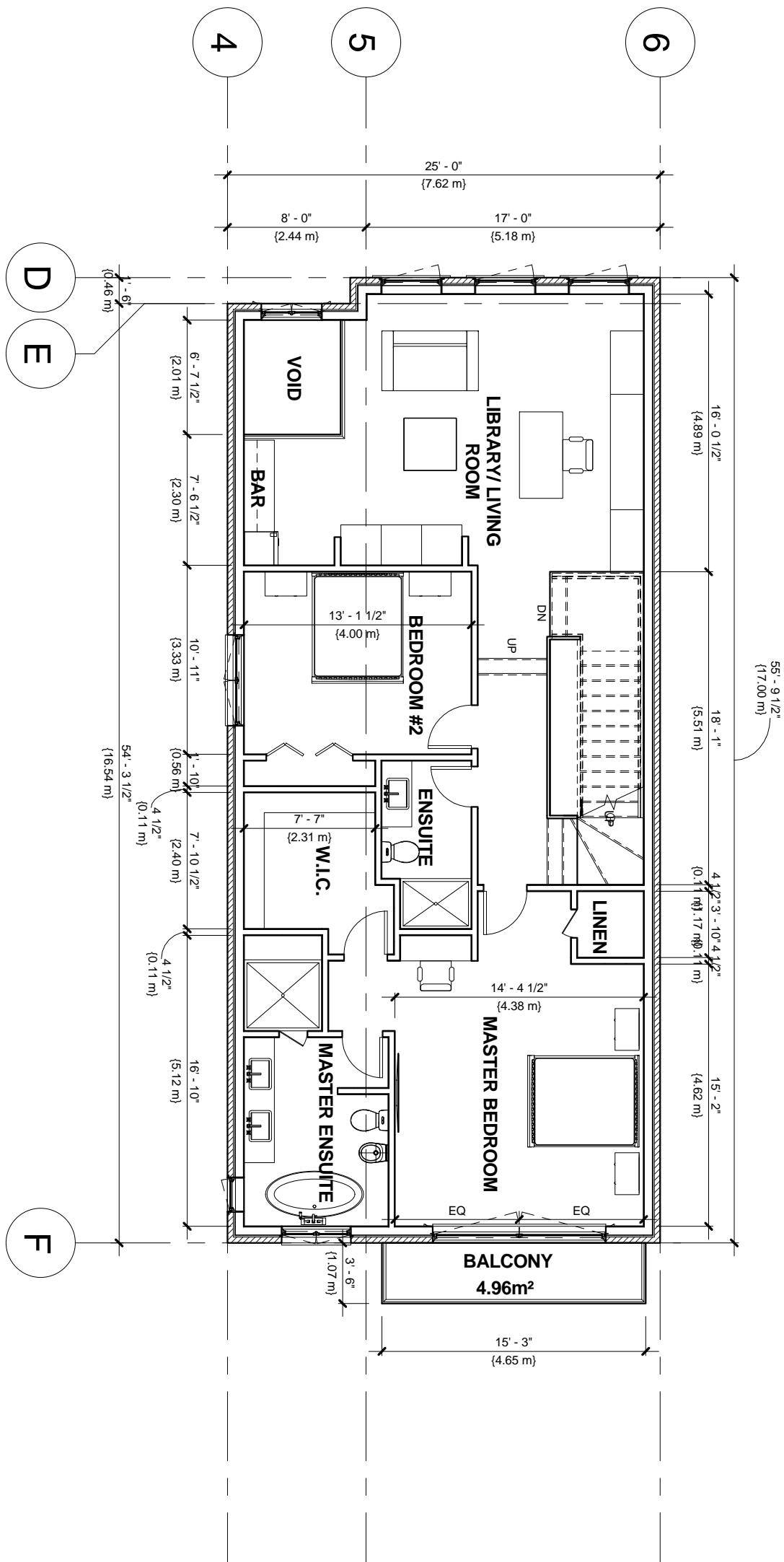
BASEMENT FLOOR PLAN, PART 1
FLOOR AREA: 1433 SF
6/20/2018 10:34:46 AM



MAKOW ASSOCIATES
ARCHITECT INC.

PRIVATE RESIDENCE
29 GLEN STEWART CRESCENT
TORONTO, ON

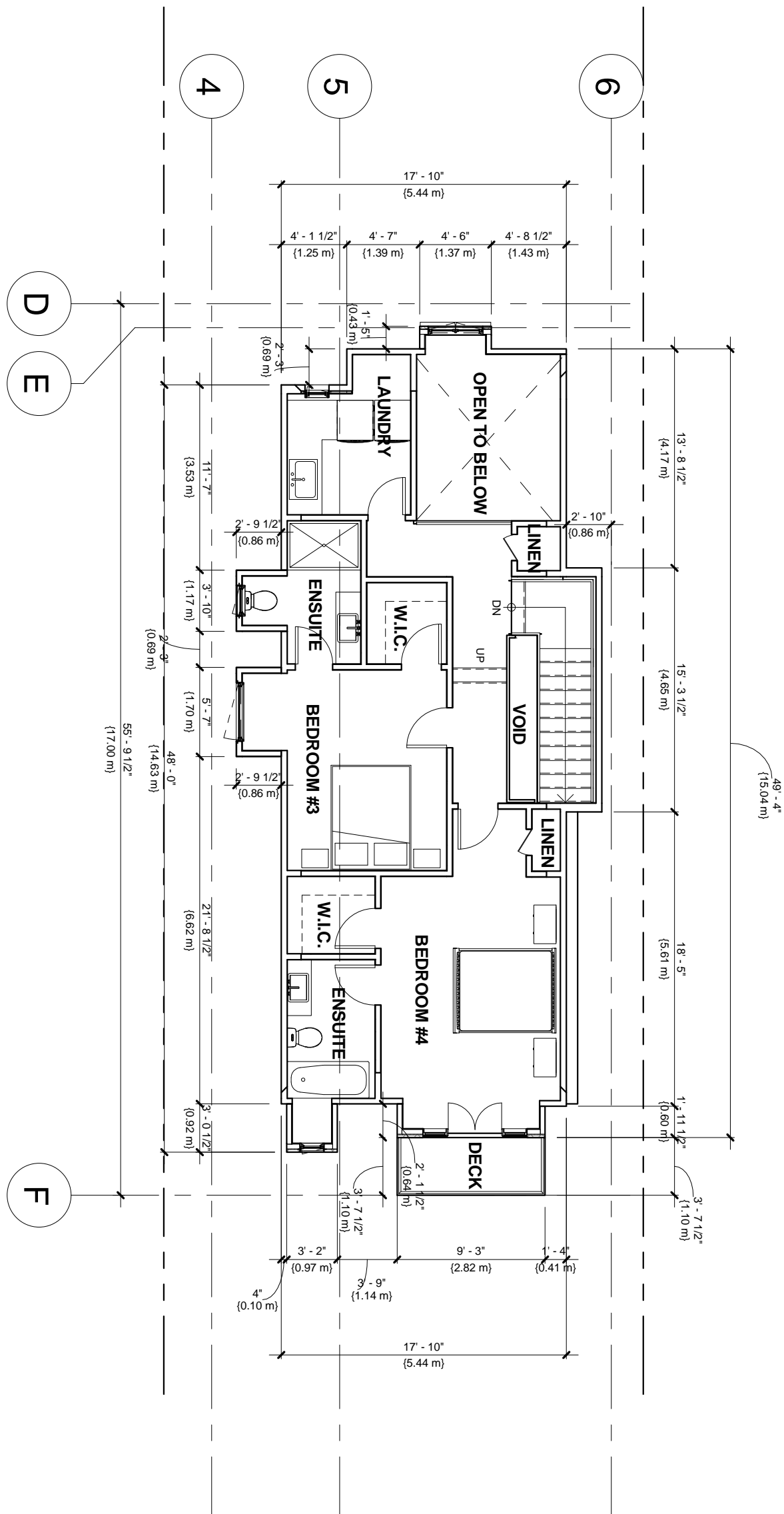
GROUND FLOOR PLAN, PART 1
FLOOR AREA: 1,075 SF
6/20/2018 10:34:49 AM



MAKOW ASSOCIATES
ARCHITECT INC.

PRIVATE RESIDENCE
29 GLEN STEWART CRESCENT
TORONTO, ON

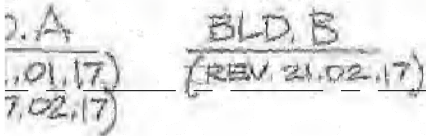
SECOND FLOOR PLAN, PART 1
FLOOR AREA: 1334.84 SF
6/20/2018 10:34:49 AM



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29 GLEN STEWART CRESCENT
TORONTO, ON

THIRD FLOOR PLAN, PART 1
FLOOR AREA: 1,018 SF
6/20/2018 12:37:36 PM





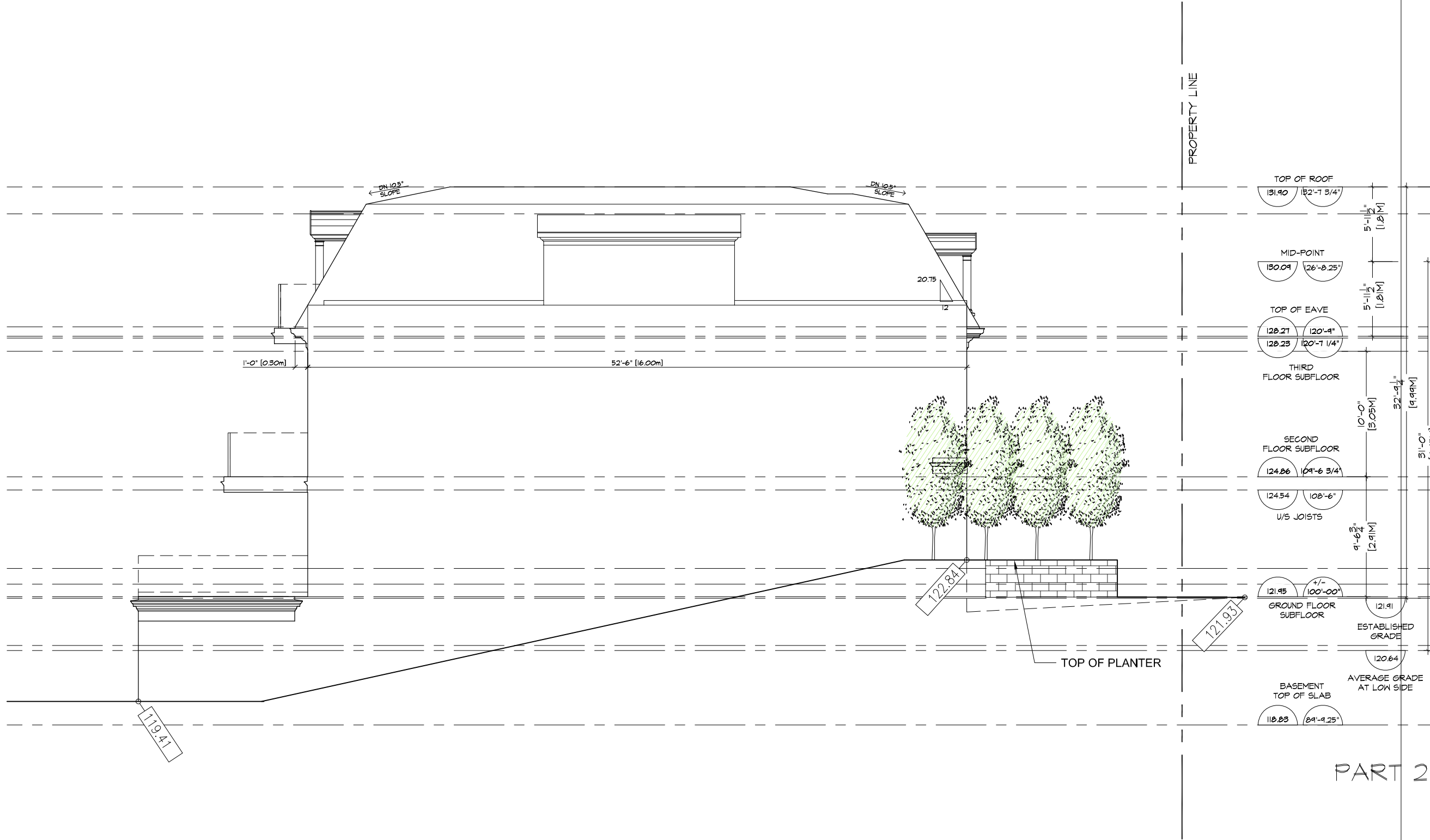
SCHEMATIC DESIGN
REAR ELEVATION - PART 1
JUNE 20, 2018
SCALE: 1:100

PRIVATE RESIDENCE
29 GLEN STEWART CRESCENT
TORONTO, ON



SCHEMATIC DESIGN
WEST SIDE ENVELOPE - PART 1
JUNE 20, 2018
SCALE: 1:125

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TORONTO, ON

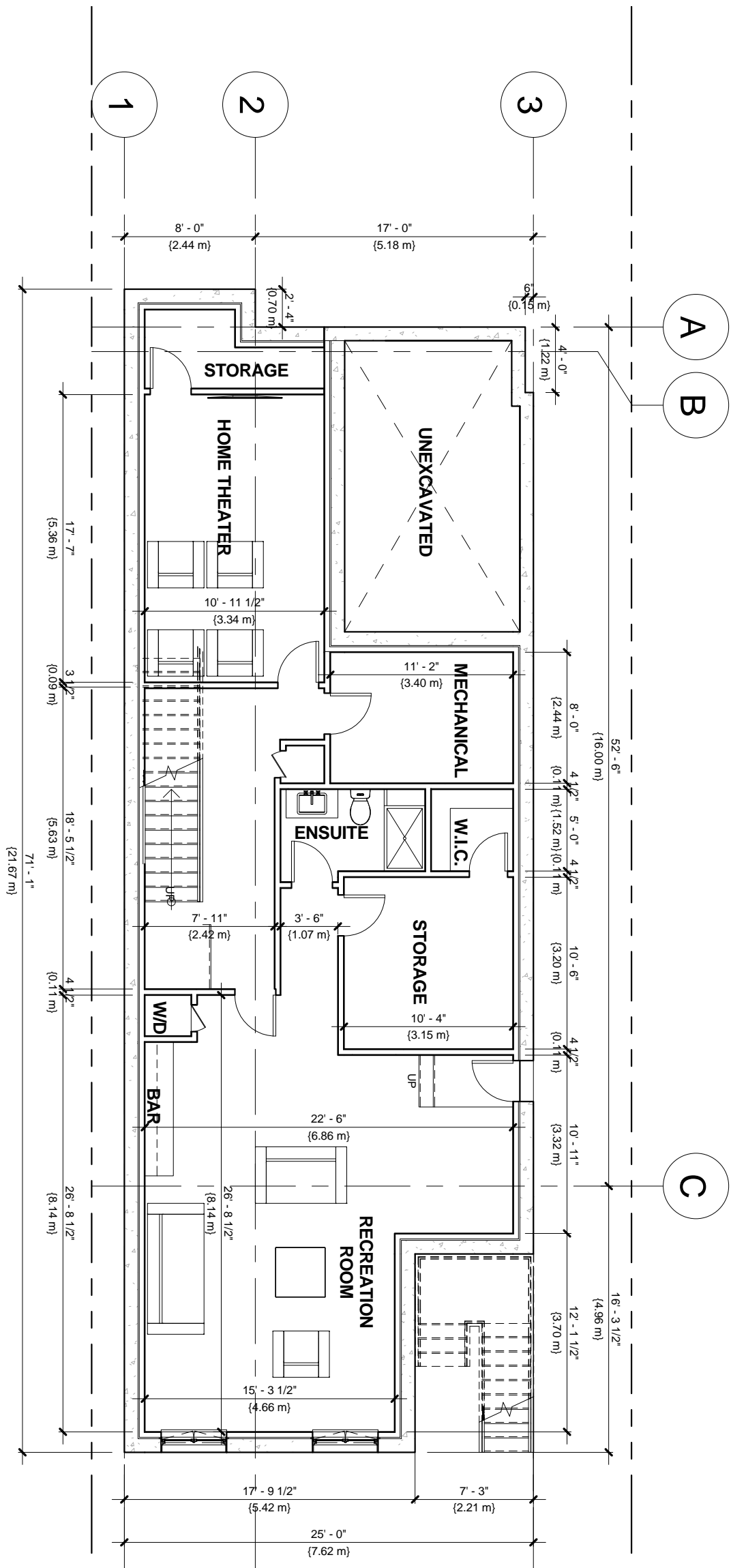


SCHEMATIC DESIGN
EAST SIDE ELEVATION - PART 1
JUNE 20, 2018
SCALE: 1:100

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29 GLEN STEWART CRESCENT
TORONTO, ON

ZONING INFORMATION		Zoning By-law #569-2013					
ADDRESS:		29 GLEN STEWART CRESCENT - PART 2, 3 & 4					
LEGAL DESCRIPTION:		PART OF LOT 43 AND PART OF LOT 44 REGISTERED PLAN M-568					
NEIGHBOURHOOD:		63 - THE BEACHES					
WARD		32 - BEACHES - EAST YORK					
ZONING:	RD						
LOT AREA:	ALLOWABLE	3,229.17	SQ. FT.	=	300.00	SQ. M.	(MINIMUM)
PER 10.20.30.10	PROPOSED	5,138.17	SQ. FT.	=	477.35	SQ. M.	
LOT FRONTAGE:	ALLOWABE	10.00	M	=	32.81	FEET	(MINIMUM)
PER 10.20.30.20	PROPOSED	10.06	M	=	33.01	FEET	
GROSS FLOOR AREA:	ALLOWABLE	1,798.42	SQ. FT.	=	167.07	m ²	= 0.35 X LOT AREA
	BSMNT FLOOR	1,433.00	SQ. FT.	=	133.13	m ²	
	FIRST FLOOR	1,075.00	SQ. FT.	=	99.87	m ²	
	SECOND FLOOR	1,300.00	SQ. FT.	=	120.77	m ²	
	THIRD FLOOR	838.00	SQ. FT.	=	77.85	m ²	
	TOTAL	3,213.00	SQ. FT.	=	298.50	m ²	= 0.6253
BUILDING DEPTH	ALLOWABLE	19.00	m	=	62.34	FEET	
PER 10.20.40.30	PROPOSED	21.67	m	=	71.10	FEET	
BUILDING LENGTH	ALLOWABLE	17.00	m	=	55.77	FEET	
PER 10.20.40.20	PROPOSED	21.67	m	=	71.10	FEET	
ESTABLISHED GRADE	ELEVATION WEST				121.39	M	
PER 800.50.(240)	ELEVATION EAST				122.42	M	
	ESTABLISHED GRADE				121.91	M	
HEIGHT OF BUILDING:	ALLOWABLE	10.00	m	=	32.81	FEET	
PER 10.20.40.10	GEODETIC ELEVATION OF TOP OF ROOF				131.90	M	
	HEIGHT	9.99	m	=	32.78	FEET	3 STORES
HEIGHT OF MAIN WALL	ALLOWABLE	7.50	m	=	24.61	FEET	
	GEODETIC ELEVATION OF TOP OF WALL				128.90	M	
PER 10.10.40.10	PROPOSED	7.25	m	=	23.79	FEET	
SETBACKS:	27 GLEN STEWART	8.63	m	=	28.31	FEET	
	31 GLEN STEWART	7.68	m	=	25.20	FEET	
PER 10.5.40.70(1)	FRONT						
	ALLOWABLE	8.16	m	=	26.76	FEET	
	PROPOSED	5.40	m	=	17.72	FEET	
PER 10.20.40.70(3)	SIDE (WEST)						
	ALLOWABLE	0.90	m	=	2.95	FEET	
	PROPOSED	0.61	m	=	2.00	FEET	
	SIDE BEYOND 17m	0.61	m	=	2.0	FEET	
PER 10.20.40.70(3)	SIDE (EAST)						
	ALLOWABLE	0.90	m	=	2.95	FEET	
	PROPOSED	1.83	m	=	6.0	FEET	
	BEYOND 17m	1.83	m	=	6.0	FEET	
PER 10.20.40.70(2)	REAR	25% OF LOT DEPTH OF			47.46	M	
	ALLOWABLE	11.87	m	=	38.93	FEET	
	PROPOSED	19.82	m	=	65.03	FEET	
MAX.FIN. FLR. HEIGHT:	ALLOWABLE	1.20	M	=	3.94	FEET	
	GEODETIC ELEVATION OF FIRST FLOOR				121.95	M	
PER 10.20.40.10(6)	PROPOSED	0.05	M	=	0.1	FEET	
DRIVEWAY WIDTH	ALLOWABLE	3.20	M	=	10.50	FEET	(MAXIMUM)
PER 10.5.100.1	PROPOSED	3.20	M	=	10.5	FEET	
PLATFORM	ALLOWABLE	43.06	ft2	=	4.00	m ²	
PER 10.20.40.50	PROPOSED WEST	53.40	ft2	=	4.96	m ²	
	PROPOSED WEST	42.41	ft2	=	3.94	m ²	
FRONT YARD AREA		557.00	SQ. FT.	=	51.75	m ²	
FRONT YARD	REQUIRED	50.00	%	X	735.00	SQ. FT.	= 367.50 SQ. FT.
LANDSCAPING							= 34.14 m ²
PER 10.5.50.10	PROPOSED	DRIVEWAY		=	186.00	SQ. FT.	= 17.28 m ²
		SOFT LANDSCAPE		=	279.00	SQ. FT.	= 25.92 m ²
		TOTAL LANDSCAPE		=	371.00	SQ. FT.	= 17.28 m ²
							= 50.48 %
	NON DRIVEWAY SOFT						
	REQUIRED	75.00	%	X	371.00	SQ. FT.	= 278.25 SQ. FT.
	PROPOSED				279.00		= 75.20 %

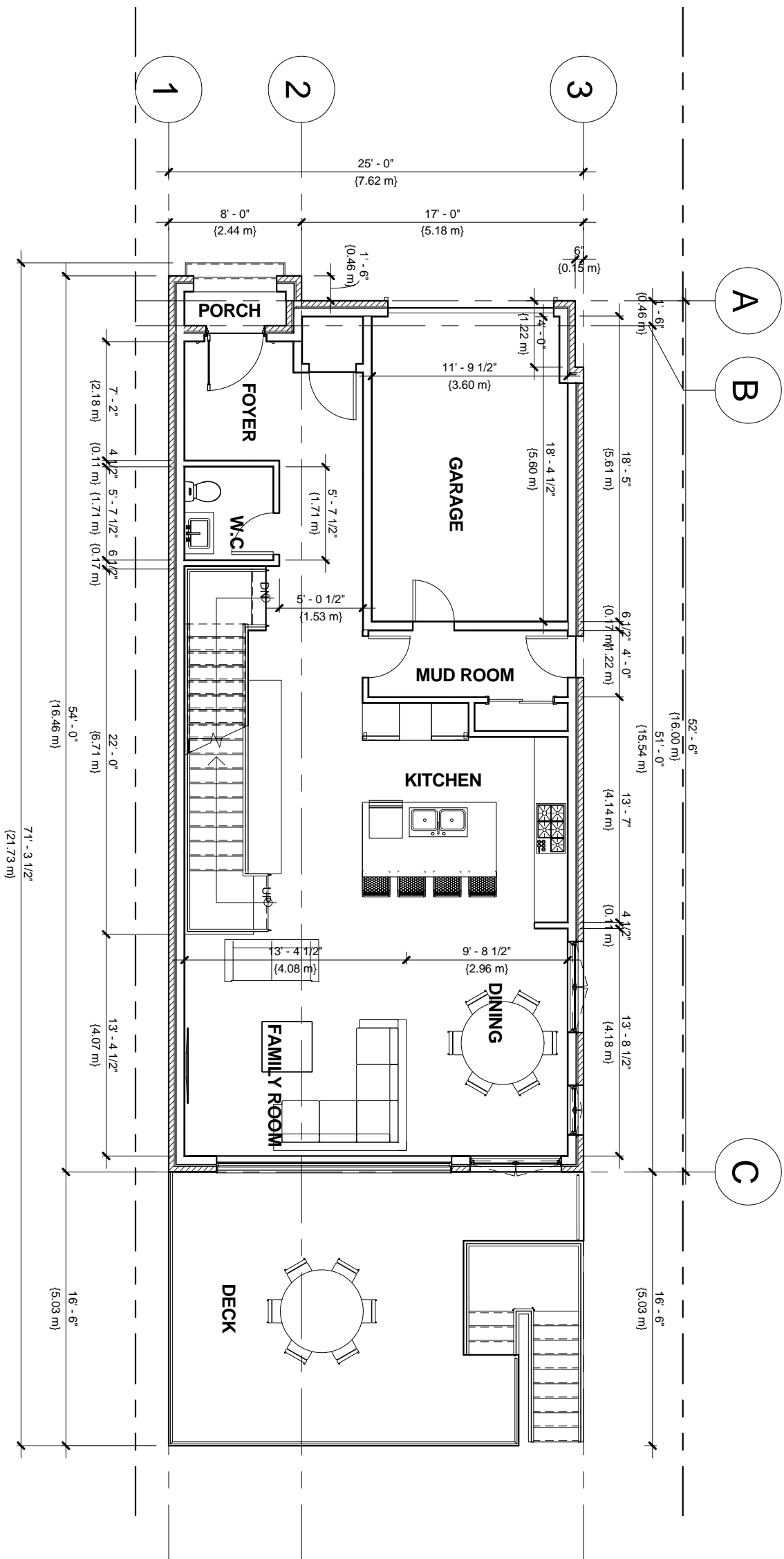




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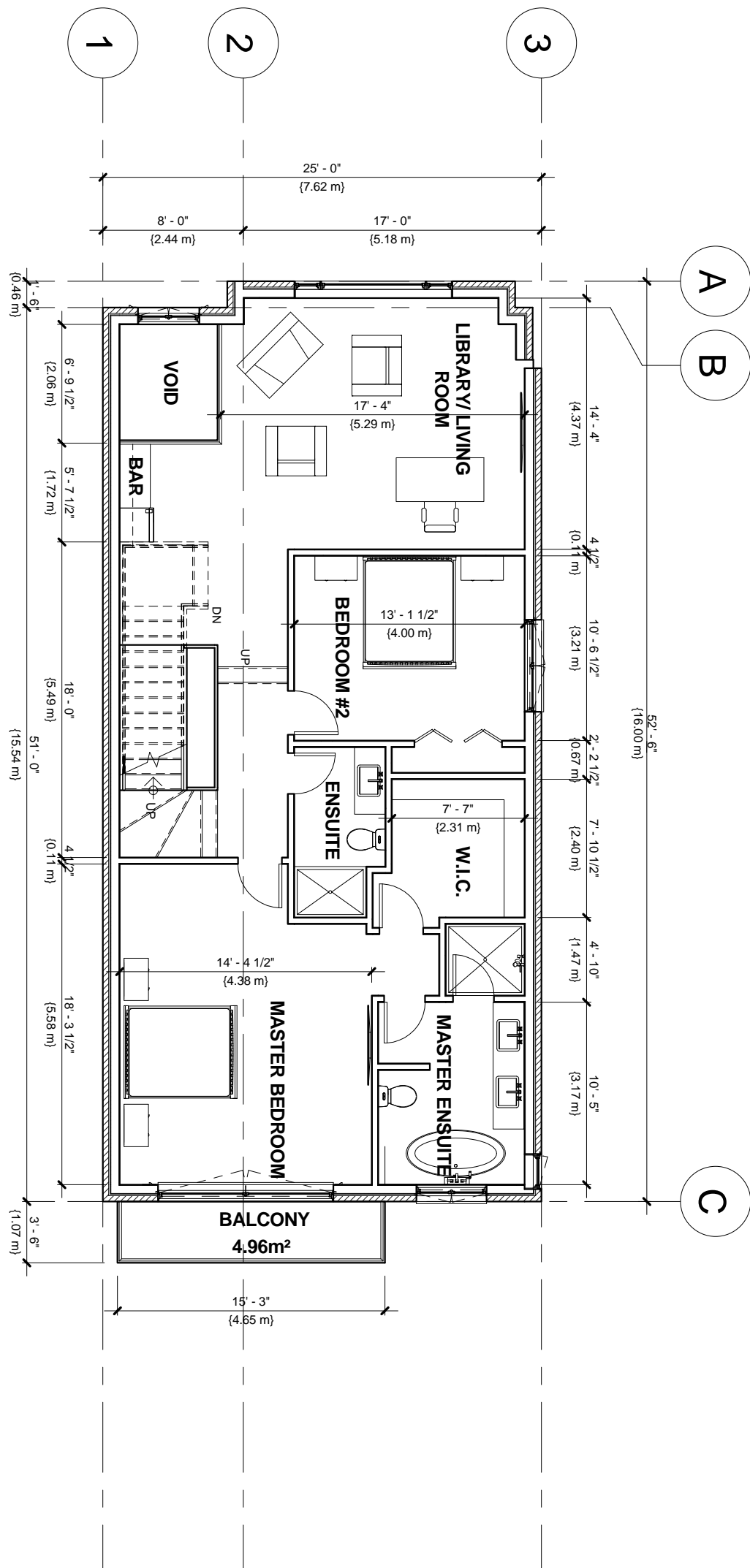
BASEMENT PLAN, PART 2,3 & 4
FLOOR AREA: 1433 SF
6/20/2018 10:35:22 AM



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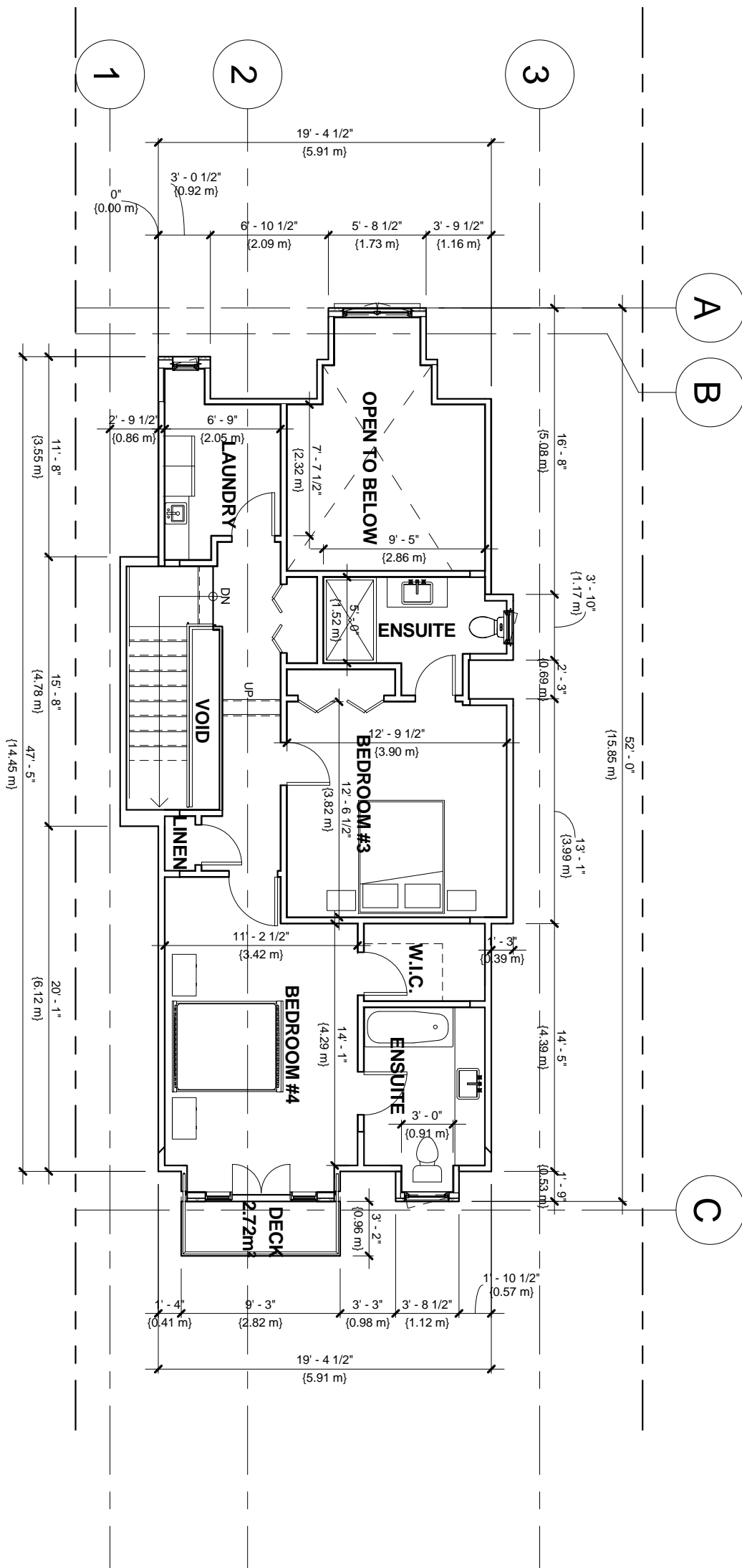
GROUND FLOOR, PART 2,3 & 4
FLOOR AREA: 1,075 SF
6/20/2018 10:35:24 AM



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TORONTO, ON

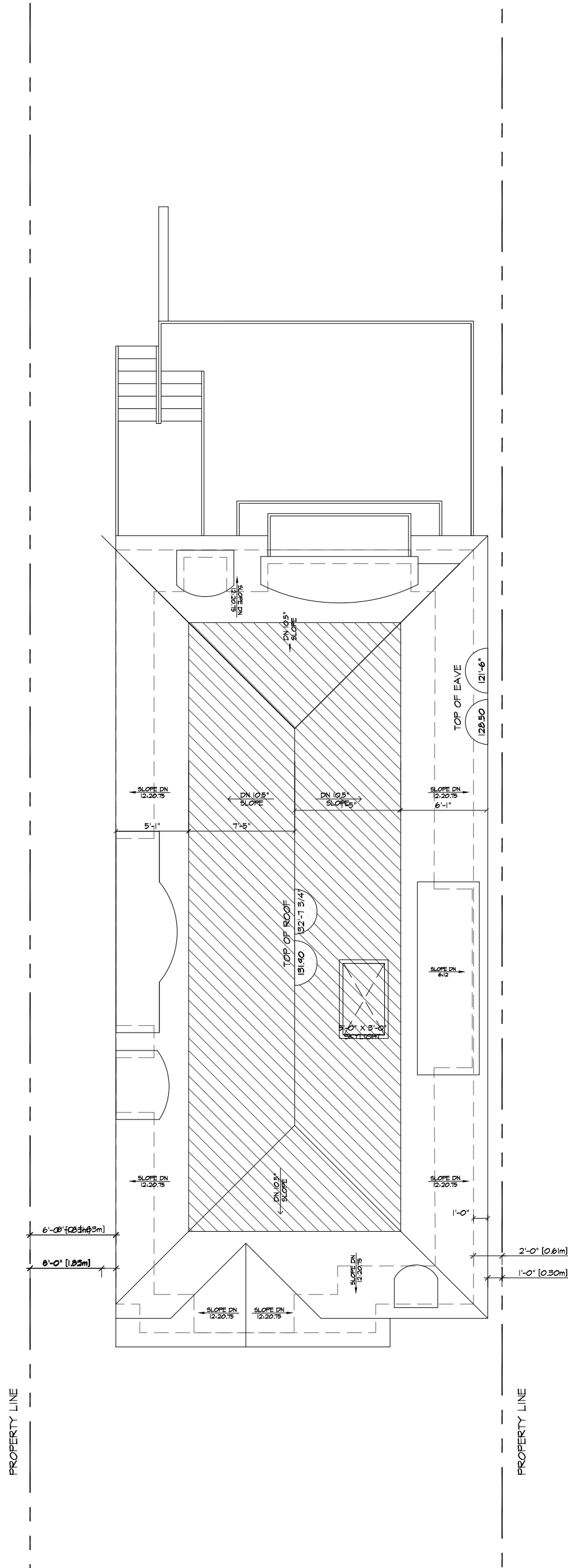
SECOND FLOOR, PART 2,3 & 4
FLOOR AREA: 1,300 SF
6/20/2018 10:35:25 AM



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TORONTO, ON

THIRD FLOOR PLAN, PART 2,3 & 4
FLOOR AREA: 990 SF
6/20/2018 10:35:25 AM



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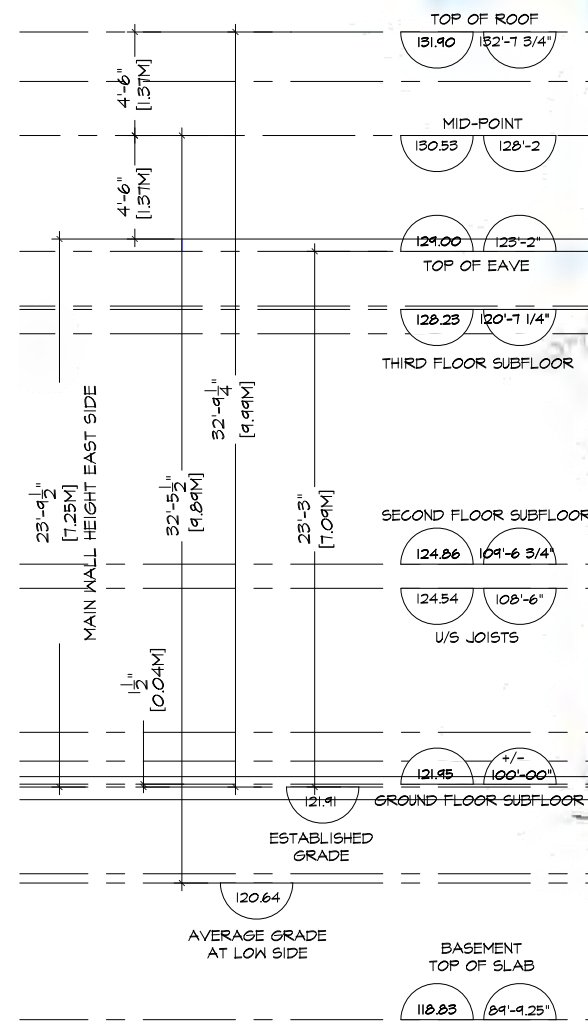
3 Bridgman Avenue, Suite 201, Toronto, Ontario Canada M5R 3V4

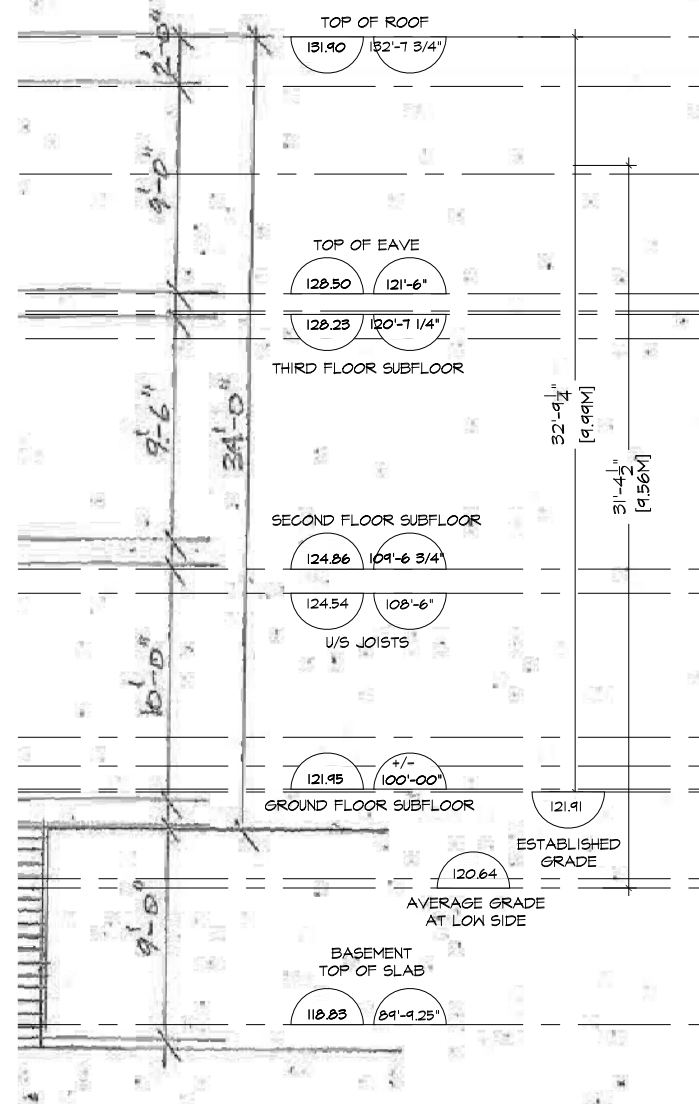
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TORONTO, ON

SCHEMATIC DESIGN - ROOF PLAN
29 GLEN STEWART CRESCENT - PARTS 2, 3 & 4

1:100
JUNE 20, 2018





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3 Bridgman Avenue, Suite 201, Toronto, Ontario Canada M5R 3V4

PRIVATE RESIDENCE

29 GLEN STEWART CRESCENT
TORONTO, ON

SCHEMATIC DESIGN
REAR ELEVATION - PART 2,3 & 4
JUNE 20, 2018
SCALE: 1:100



EAST SIDE ELEVATION/BLDG "A"
SCALE: 1/8" = 1'-0" (11.01.17)



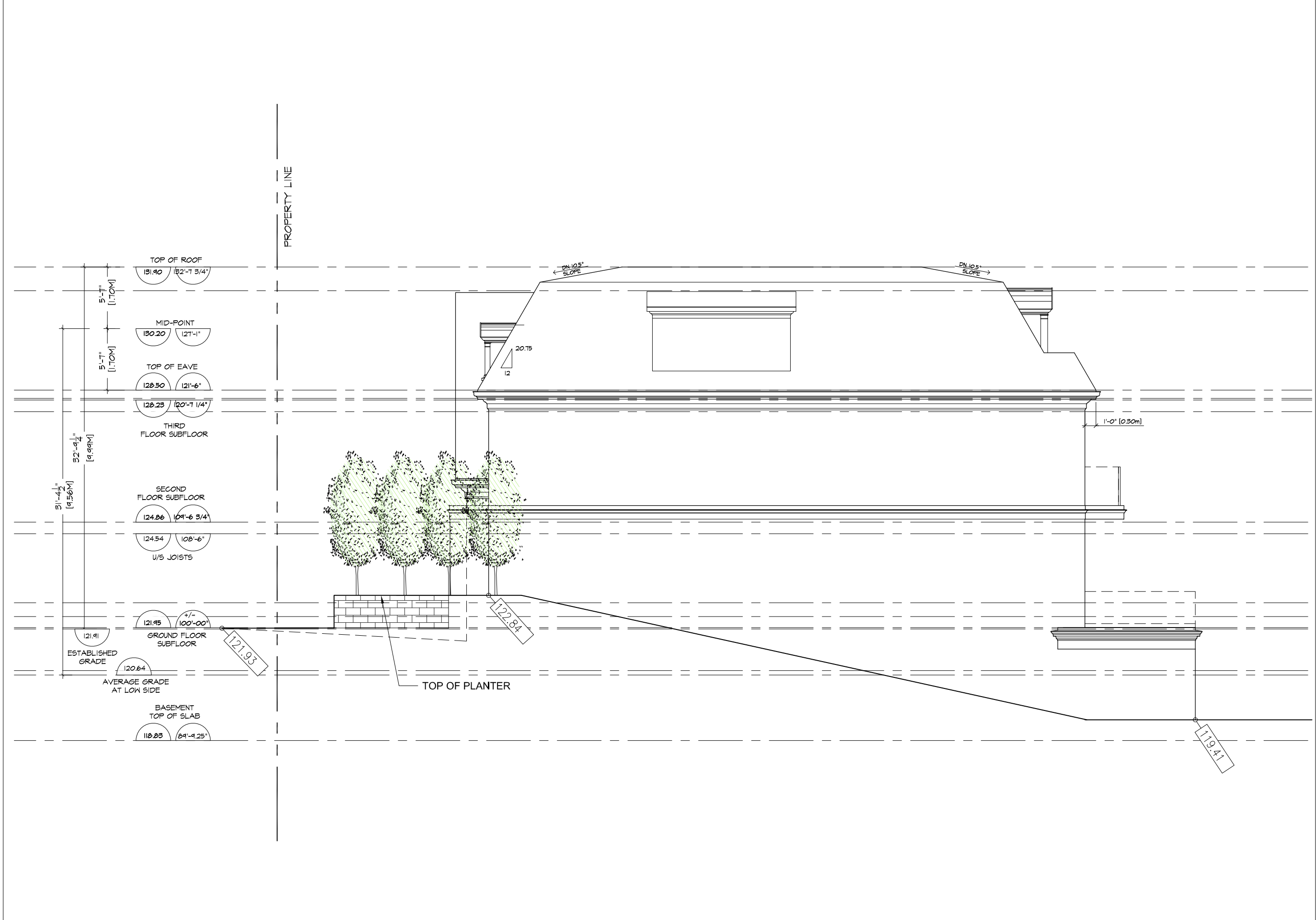
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SCHEMATIC DESIGN
EAST ELEVATION - PART 2,3 & 4
JUNE 20, 2018
SCALE: 1:100



SCHEMATIC DESIGN
WEST ELEVATION - PART 2,3 & 4
JUNE 20, 2018
SCALE: 1:100

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