

DECISION AND ORDER

Decision Issue Date: Friday, October 12, 2018

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

Appellant(s): KATHRYN KOTRIS

Applicant: MICHAEL FLYNN

Property Address/Description: 93 LAKE PROMENADE

Committee of Adjustment Case File Number: 17 262420 WET 06 MV

TLAB Case File Number: **18 149850 S45 06 TLAB**

Hearing date: Friday, September 21, 2018

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

Name	Role	Representative
Michael Flynn	Applicant	
Sahil Jaggi	Party/Owner	Mary Flynn-Guglietti
Kathryn Kotris	Appellant	
Simon West	Expert Witness	
Tom Bradley	Expert Witness	
David Sajecki	Expert Witness	
David Matoc	Participant	
Walter Koller	Participant	

INTRODUCTION

This is an appeal, by a neighbouring property owner, from a decision granting eleven variances to permit the construction of a new detached dwelling with an attached garage on an existing lot abutting Lake Ontario.

BACKGROUND

The appellant neighbour is the only party in the hearing in addition to the applicant. City planning staff had approved a revised plan and resulting variances and there was no opposition from any residents groups at the hearing. The appellant was represented by counsel and was prepared to call a planning witness. The hearing had been adjourned at the request of the applicant's counsel once and notice of a motion for costs related to that adjournment had been filed. The applicant was prepared to call four witness, including a City planner. At the commencement of the hearing, at which the appellant was to present evidence first, the parties agreed to a recess in order to discuss a settlement.

MATTERS IN ISSUE

During the recess the parties reached a settlement and there were, therefore, no issues in dispute. The hearing became a settlement hearing at which I heard evidence as to why the application met the four tests of the Planning Act, conformed with the Growth Plan, and was consistent with Provincial Policy Statement. Moreover, I heard evidence as to the proposed settlement which was to move the new detached dwelling forward to the street, and thus away from the Lake, by two feet. This was a revision to which the City planner did not object and which was very minor in nature.

JURISDICTION

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

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

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

EVIDENCE

Uncontradicted and unchallenged evidence in support of the application, as revised by the settlement, was presented by Mr. Romano. He is a planner who has been qualified to give land use planning opinion evidence before the TLAB on numerous occasions. His written evidence, in support of the application, is set out clearly in The Expert's Witness Statement, filed July 23, 2018. That statement sets out why the original application meets the four tests and provincial requirements for approval. There is no need to repeat it here, although I wish to note that natural trees are incorporated into the design and that the integral garage is also incorporated into the design so that the garage is subordinate to the front door in appearance. Mr. Romano also gave oral evidence that the moving of the dwelling .61 m. away from the Lake did not modify his original opinion. In his opinion the change was minor and the plans for the building, as relocated, remained the same, except, perhaps, for a very minor alteration to a cantilever on the west side. He noted that moving the dwelling forward enhanced the protection of the Natural Feature designation along the Lake frontage. It was also his opinion that approval of this application did not set a precedent on the south side of Lake Promenade as each lot on the south side is unique as a result of its location on the jagged edge of Lake Ontario. He also gave evidence that the proposal as amended conformed with the Lakeshore Neighbourhood Character Guidelines as: no trees are to be destroyed; and tree injury is minimized; the front yard setback is staggered; and the building footprint is appropriate resulting in adequate/generous rear and side yards.

I was requested to withhold my decision pending the filing of revised plans demonstrating the relocation of the dwelling and informed that the motion for costs should be dismissed.

ANALYSIS, FINDINGS, REASONS

Based on the evidence of Mr. Romano I find that the variances cumulatively and singularly, as modified by the settlement and attached as **Appendix 1**, meet the four tests of the Planning Act and meet Provincial requirements. This conclusion is based on the oral and written evidence of Mr. Romano and the plans submitted by counsel for the applicant, on September 23, 2018. Those plans are attached as **Appendix 2**. I find the settlement varies the application in a very minor way and no new notice is required by virtue of section 45 (18.1.1) of the Planning Act. .

DECISION AND ORDER

The variances attached as **Appendix 1** are hereby approved subject to the condition that the proposed dwelling be constructed substantially in accordance with the plans attached as **Appendix 2**. The motion for costs is dismissed.

X 

S. Makuch

Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Section 10.20.40.40.(1)(a), by-law 569-2013
The maximum permitted floor space index is 0.35 times the lot area (65.99 m²).

The proposed dwelling will have a floor space index of 1.48 times the lot area (279.64 m²).
2. Section 10.5.40.70.(1)(b), by-law 569-2013 & section 330-23.a.(6) the minimum required front yard setback is 16.78 m.
The proposed dwelling will be located 11.88 m from the front lot line.
3. Section 10.20.40.70.(3)(c), by-law 569-2013
The minimum required side yard setback is 1.2 m.
The proposed dwelling will be located 0.91 m from the east and west side lot lines.
4. Section 10.20.40.20.(1), by-law 569-2013
The maximum permitted dwelling length is 17 m.
The proposed dwelling will have a length of 22.29 m.
5. Section 10.20.40.10.(1)(a), by-law 569-2013 & section 320-23.a.(10)(a) the maximum permitted dwelling height is 9.5 m.
The proposed dwelling will have a height of 10.28 m.
6. Section 10.20.40.10.(2)(a)(ii), by-law 569-2013
A minimum of 60% of rear exterior main walls shall have a height less than 7 m.
A total of 0% of the proposed rear exterior main walls will have a height less than 7 m.
7. Section 10.20.40.50.(1), by-law 569-2013
The maximum permitted area of a platform at or above the second storey is 4 m².
The proposed rear deck at or above the second storey will have an area of 8 m².
8. Section 5.10.40.1.(3), by-law 569-2013
On lands under the jurisdiction of the Toronto and Region Conservation Authority, if a stable top-of-bank crosses a lot, no building or structure may be located on the portion of the lot below that stable top-of-bank. The proposed dwelling extends beyond the shoreline hazard limits.

9. Section 5.10.40.1.(3), by-law 569-2013

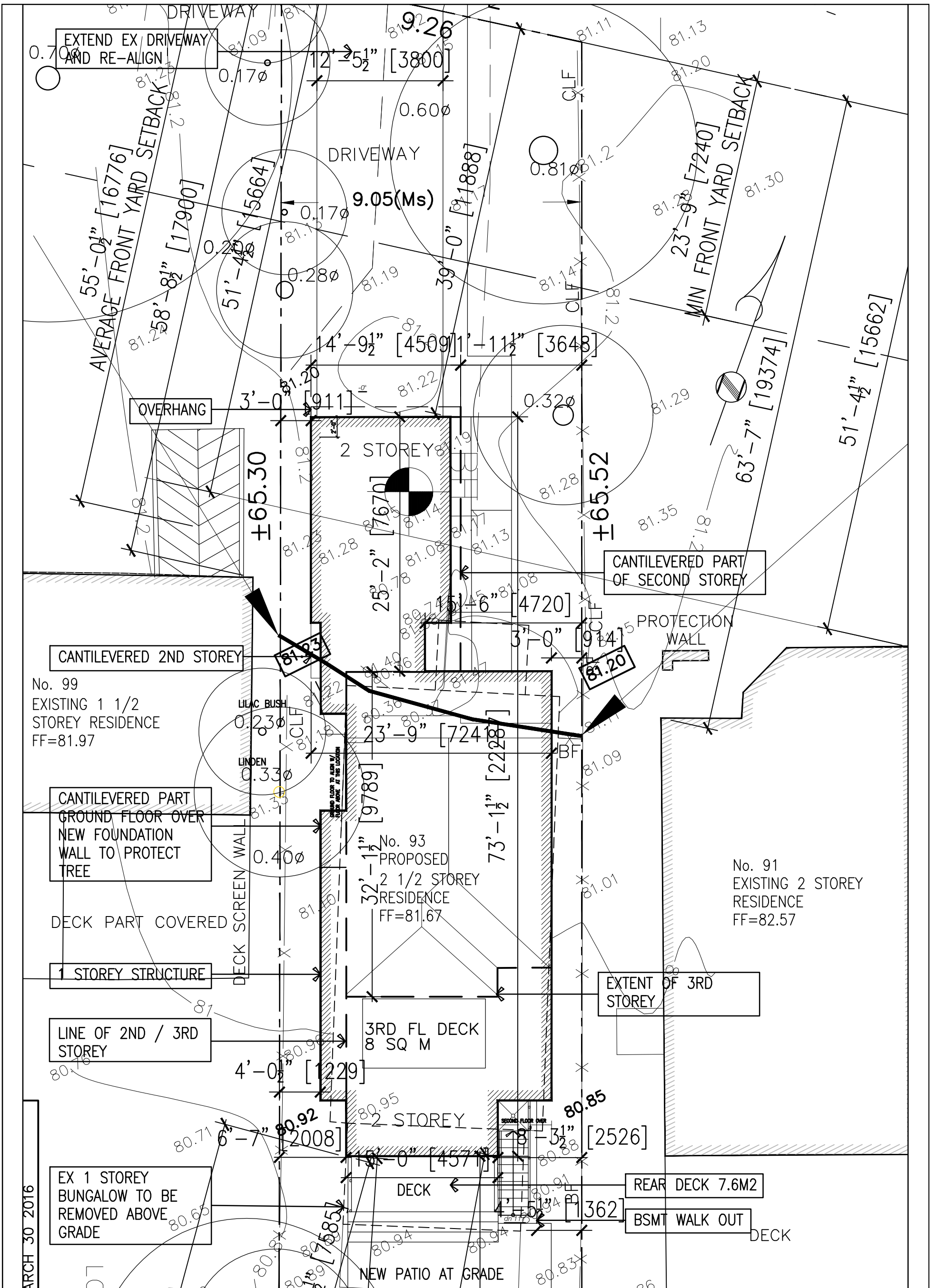
On lands under the jurisdiction of the Toronto and Region Conservation Authority, if a stable top-of-bank crosses a lot, no building or structure may be located on the portion of the lot below that stable top-of-bank. The proposed rear yard deck and balcony extend beyond the shoreline hazard limits.

10. Section 5.10.40.70.(6), by-law 569-2013

The minimum required setback of a building or structure to the stable top-of-bank is 10 m. The proposed dwelling extends beyond the shoreline hazard limits.

11. Section 5.10.40.70.(6), by-law 569-2013

The minimum required setback of a building or structure to the stable top-of-bank is 10 m. The proposed rear yard deck and balcony extend beyond the shoreline hazard limits.



SIMON WEST Architecture + Design
MULTIDISCIPLINARY DESIGN

3308 LAKESHORE BLVD WEST UNIT 4 TORONTO ON M6P-2H5 T 416 999-1309 inhousedesigns.simon@gmail.com

PROJECT:
PROPOSED RESIDENCE

TITLE:
SITE PLAN DETAIL

LOCATION:
93 LAKE PROMENADE, ETOBICOKE

DESIGNED:
S.W.

DRAWN:
S.W.

DWG NO.:

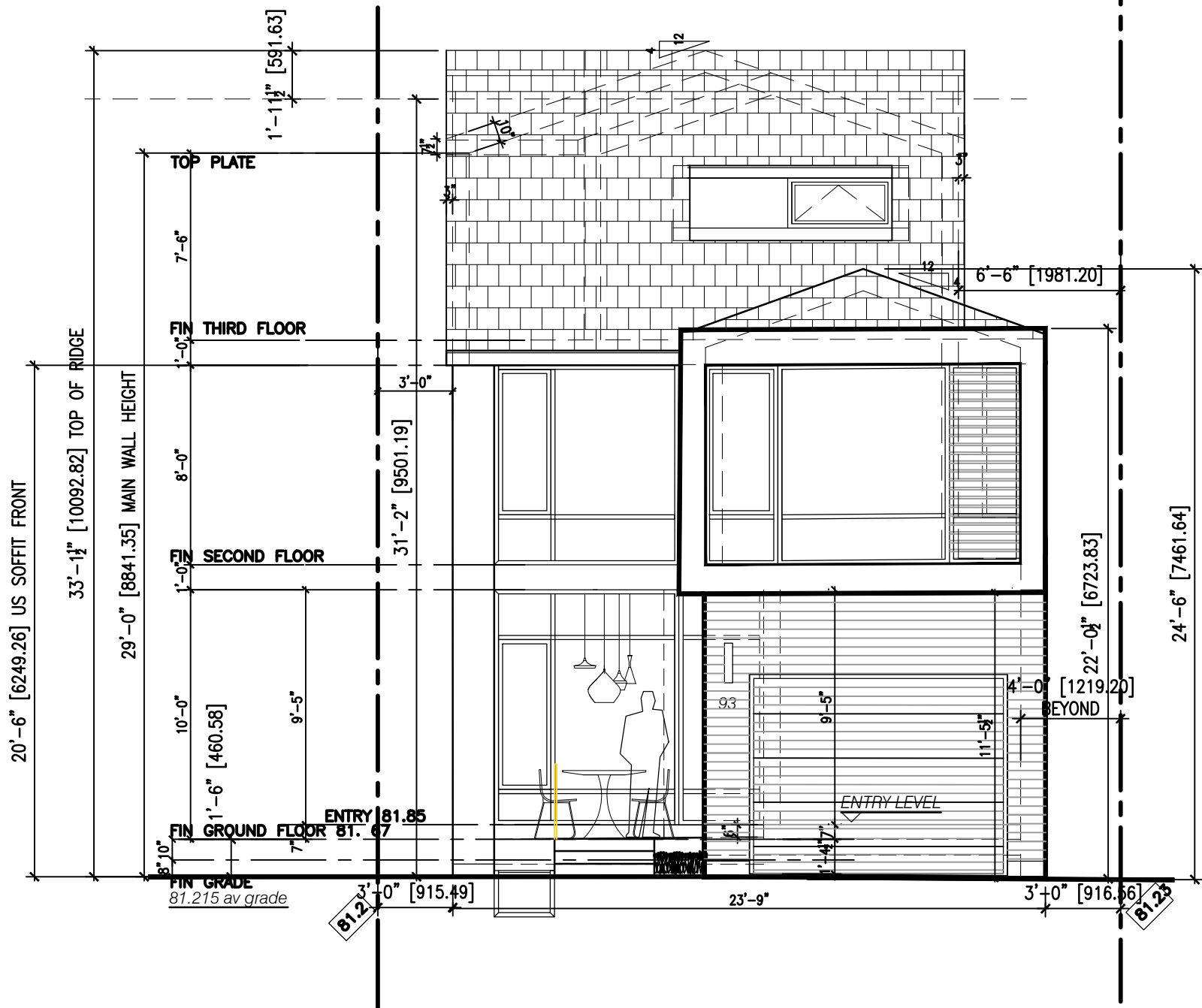
CHECKED:
S.W.

DATE:
SEPT_27_2018

A0-1

SCALE:
1=100

JOB:



REVISED ROOF HEIGHT AS PER COMMUNITY HEARING MARCH 19

SIMON WEST Architecture + Design
 MULTIDISCIPLINARY DESIGN

3308 LAKESHORE BLVD WEST UNIT 4 TORONTO ON M6P-2H5 T 416 999-1309 inhousedesigns.simon@gmail.com

PROJECT:

PROPOSED RESIDENCE

TITLE:

FRONT ELEVATION

LOCATION:

93 LAKE PROMENADE, ETOBICOKE

DESIGNED:

S.W.

DRAWN:

S.W.

DWG NO.:

CHECKED:

S.W.

DATE:

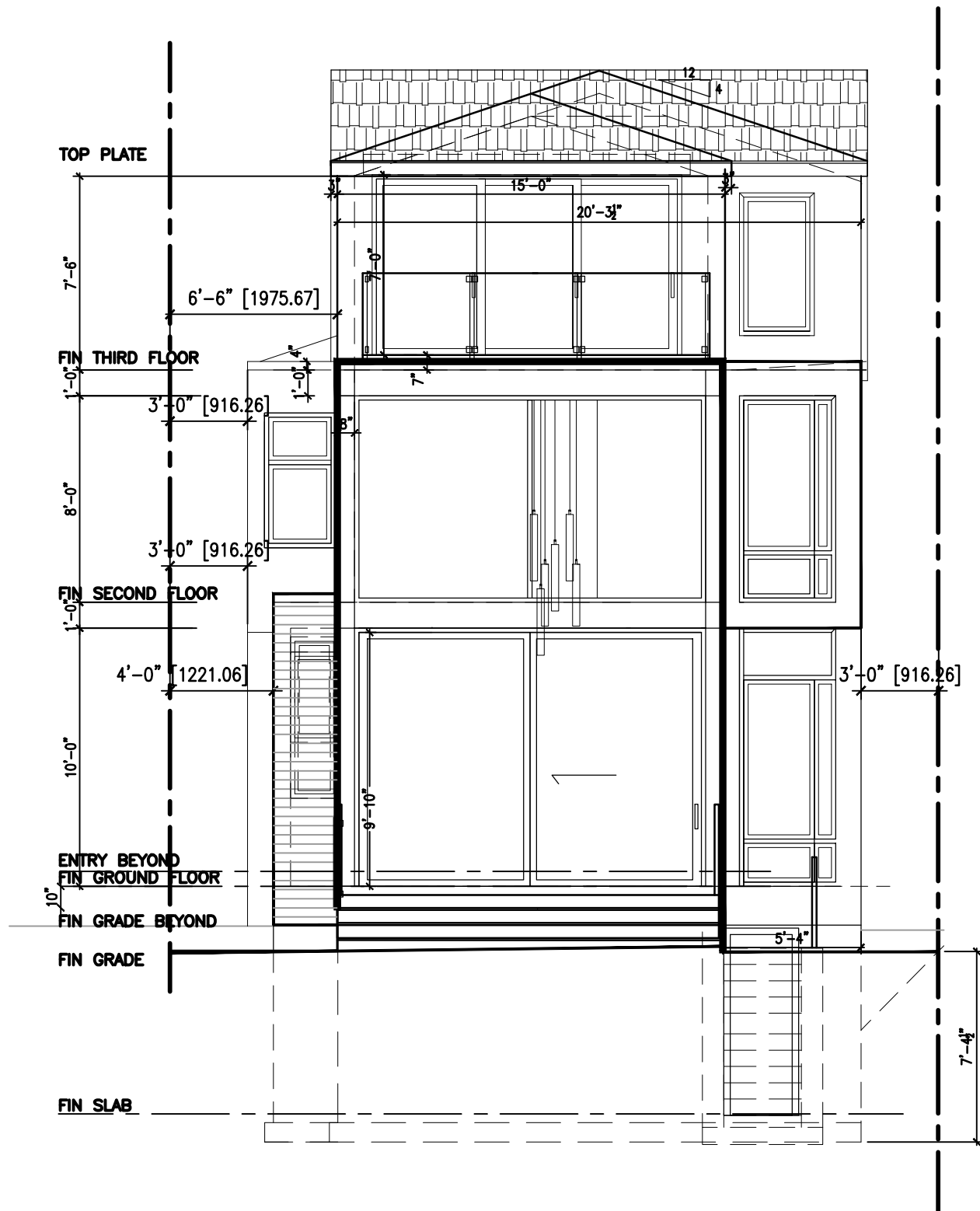
SEPT_27_2018

SCALE:

3/16"=1'-0"

JOB:

A2



REVISED ROOF HEIGHT AS PER COMMUNITY HEARING MARCH 19

SIMON WEST Architecture + Design
MULTIDISCIPLINARY DESIGN

3308 LAKESHORE BLVD WEST UNIT 4 TORONTO ON M6P-2H5 T 416 999-1309 inhousedesigns.simon@gmail.com

PROJECT:

PROPOSED RESIDENCE

TITLE:

REAR ELEVATION

LOCATION:

93 LAKE PROMENADE, ETOBICOKE

DESIGNED:

S.W.

DRAWN:

S.W.

DWG NO.:

CHECKED:

S.W.

DATE:

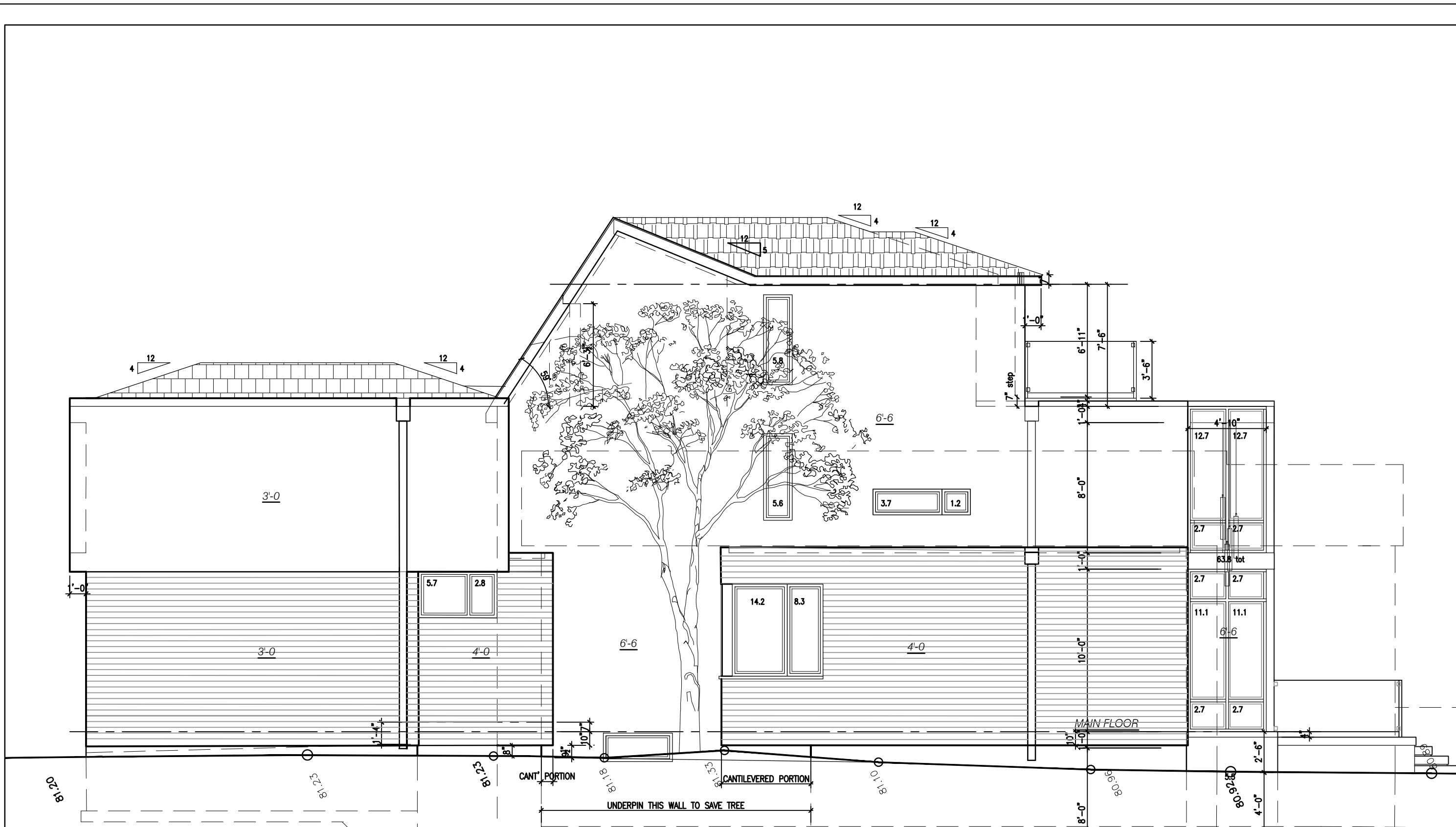
SEPT_27_2018

SCALE:

3/16" = 1'-0"

JOB:

A3



REVISED BUILDING LOCATION (MOVED 24" 0.61M) AS PER FLAB
 REVISED ROOF HEIGHT AS PER COMMUNITY HEARING MARCH 19

SIMON WEST Architecture + Design
 MULTIDISCIPLINARY DESIGN
 3308 LAKESHORE BLVD WEST UNIT 4 TORONTO ON M6P-2H5 T 416 999-1309 inhousedesigns.simon@gmail.com

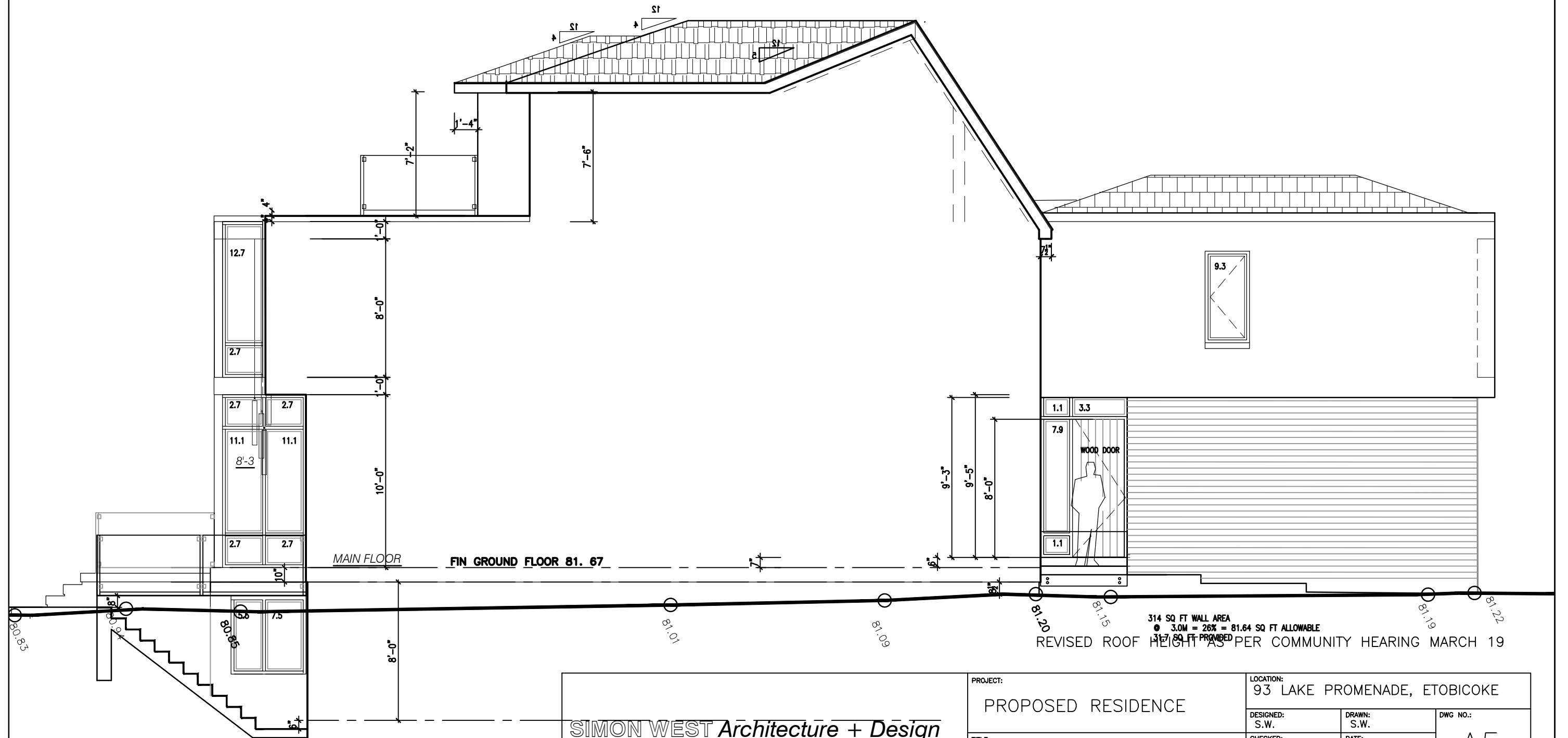
PROJECT:
PROPOSED RESIDENCE
 TITLE:
RIGHT SIDE ELEVATION

LOCATION:
93 LAKE PROMENADE, ETOBICOKE
 DESIGNED:
 S.W.
 CHECKED:
 S.W.
 SCALE:
 3/16"=1'-0"

DRAWN:
 S.W.
 DATE:
 SEPT_27_2018
 JOB:

DWG NO.:
A4

REVISED BUILDING LOCATION (MOVED 24" 0.61M) AS PER TLAB
 REVISED ROOF HEIGHT AS PER COMMUNITY HEARING MARCH 19



314 SQ FT WALL AREA
 ● 3.0M = 26% = 81.64 SQ FT ALLOWABLE
 31.7 SQ FT PROVIDED
 REVISED ROOF HEIGHT AS PER COMMUNITY HEARING MARCH 19

SIMON WEST Architecture + Design
 MULTIDISCIPLINARY DESIGN
 3308 LAKESHORE BLVD WEST UNIT 4 TORONTO ON M6P-2H5 T 416 999-1309 inhousedesigns.simon@gmail.com

PROJECT:
 PROPOSED RESIDENCE
 TITLE:
 LEFT SIDE ELEVATION

LOCATION: 93 LAKE PROMENADE, ETOBICOKE		DWG NO.: A5
DESIGNED: S.W.	DRAWN: S.W.	
CHECKED: S.W.	DATE: SEPT_27_2018	
SCALE: 3/16"=1'-0"	JOB:	