

DECISION AND ORDER

Decision Issue Date Friday, October 19, 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): JINWU HUANG

Applicant: NAVID ARBABI

Property Address/Description: 978 CARLAW AVE

Committee of Adjustment Case File Number: 17 160616 STE 29 MV (A0559/17TEY)

TLAB Case File Number: **17 242284 S45 29 TLAB**

Motion Hearing dates: Feb 12, 2018 and Monday, April 30, 2018

DECISION DELIVERED BY S. Gopikrishna

APPEARANCES

Name	Role	Representative
Jinwu Huang	Owner/Appellant	Amber Stewart
Navid Arbabi	Applicant	
Eldon Theodore	Expert Witness	
City Of Toronto	Party	Gabe Szobel
Jamie Bennett	Participant	
Paula Needham	Participant	
Aisha Mary Sauve	Participant	
Monica Tossos	Participant	
Jacqueline Benish	Participant	

Name	Role
Michael Benish	Participant
David Marc Sauve	Participant
Patrick McCartney	Participant
Lynda Clendinning	Participant
William Fraser	Participant
Michele Fraser	Participant

INTRODUCTION AND BACKGROUND

Jinwu (Rocky) Huang is the owner of 978 Carlaw Ave, located in Ward 29 of the Municipality of the City of Toronto. He applied to the Committee of Adjustment (COA), to make a number of alterations to the one hand half storey detached dwelling, including a rear three storey addition, rear ground floor deck, rear basement walkout, a front third storey addition, and other changes. The COA heard the application on September 13, 2017, and refused the proposal.

On 5 October, 2017, Mr. Huang appealed the COA's decision to the TLAB. Besides a significant number of neighbours who indicated interest in participating in the Appeal as Participants, the City of Toronto (City) also took a position in opposition to the Appeal on 25 October, 2017, and elected to be a Party. However, shortly before the first day of hearings on 12 February, 2018, I was informed that the City and the Appellant had settled with each other.

At the hearing, after the Participants were made aware of the City's settling with the Appellants, they indicated that they were still in opposition. Hearings were held on 12 February and 30 April, 2018.

MATTERS IN ISSUE

The following variances are requested:

City Wide Zoning By-Law 569-2013

- 1) Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no longer than 1.5 horizontal units for each 1.0 vertical unit above grade at the point where the stairs meet the building or structure
WHEREAS The proposed stairs are 1.67 horizontal units for each 1.0 vertical unit above grade at the point where the stairs meet the building or structure.
- 2) The permitted maximum lot coverage is 35 percent of the lot area: 81.29 square metres.

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WHEREAS The proposed lot coverage is 40.6 percent of the lot area: 94.33 square metres.

- 3) The permitted maximum height of a building or structure is 8.5 metres.
WHEREAS The proposed height of the building is 9.14 metres.
- 4) The permitted maximum height of all side exterior main walls facing a side lot line is 7.0 metres.
WHEREAS The proposed height of the side exterior main walls facing a side lot line is 9.14 metres.
- 5) The permitted maximum floor space index is 0.75 times the area of the lot: 174.2 square metres.
WHEREAS The proposed floor space index is 0.96 times the area of the lot: 223.16 square metres.

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- 6) The minimum required side yard setback is 0.60 metres.
WHEREAS The proposed North side yard setback is 0.44 metres.
- 7) The permitted maximum lot coverage is 35 percent of the lot area: 81.29 square metres.
WHEREAS The proposed lot coverage is 40.6 percent of the lot area: 94.33 square metres.
- 8) The permitted maximum floor space index is 0.75 times the area of the lot: 174.2 square metres.
WHEREAS The proposed floor space index is 1.01 times the area of the lot: 234.38 square metres.
- 9) The maximum permitted building height is 8.5 metres.
WHEREAS The proposed building height is 9.14 metres.

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').

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.

ISSUES AND MATTERS

EVIDENCE

Before the evidence is presented, I would like to begin with an introductory note.

My preferred practice is to present the evidence from all Parties and Participants in significant detail, including a near verbatim reproduction of oral evidence, where necessary. The intention behind stating the evidence in that level of detail is to specifically link what was said to who said what, thereby specifically acknowledging everybody who provided evidence. However, after reviewing the entire tape and analyzing the evidence in this case and, I have concluded that it would be appropriate to group the opposition's evidence and present it together, as opposed to referencing who said what, as per my usual practice.

The reasons for this are presented in the Analysis, Findings and Reasons section.

At the hearings held on 12 February, 2018 and 30 April, 2018, the Appellants were represented by Ms. Amber Stewart, Lawyer and Mr. Eldon Theodore, a Registered land use planning expert. Mr. Gabe Szobel, a lawyer, represented the City of Toronto while the Participants, listed below, represented themselves.

At the onset of the hearing, both Ms. Stewart and the lawyer for the City, Mr. Szobel, said that they had settled, as a result of the Appellant's making some changes, which addressed the concerns of the City. Mr. Szobel stated that the City would not be calling any witnesses. Ms. Stewart provided a brief overview of the changes to the proposal, and stated that none of the requested variances were impacted by the settlement.

The Participants who provided evidence over the two days on which this case was heard include:

- Mr. Jaime Bennett of 954 Carlaw Ave.
- Mr. William. and Ms. Michelle Fraser of 976 Carlaw Ave.
- Mr. Michael Benish of 980 Carlaw Ave
- Mr. David Sauve of 974 Carlaw Ave.
- Ms. Lynda Clendinning of 972 Carlaw Ave.

After Ms. Stewart introduced Mr. Eldon Theodore and went over his educational qualifications and professional experiences, he was recognized as an Expert Witness in the area of land use planning.

Mr. Theodore described the neighbourhood, as a way of contextualizing the evidence. He said that the subject lands were located in the Broadview North neighbourhood of Toronto. He said that in his evaluation of the area, the “neighbourhood” included Pape Avenue on the East, Broadview Avenue on the West, Bloor Avenue on the South and Cosburn Avenue to the North. However, this study area excluded the following notwithstanding their location within the study area:

- The mixed-use corridor along Pape Avenue to the east
- The apartment neighbourhoods along Cosburn Avenue to the north

Mr. Theodore then described the subject lands as being located on the west side of Carlaw Avenue, south of Mortimer Avenue, one block west of Pape Avenue and four blocks east of Broadview Avenue. He added that the subject lands have a lot area of 232.784 sq m (2,506 sq ft), a lot frontage of 7.62 m (25 ft) on Carlaw Avenue and a lot depth of 30.48 m (100 ft), and that the existing dwelling had a front yard setback of 4.58 m, a north side yard setback of 0.43 m, and a south side yard setback of 1.09 m. He also noted that a wooden shed and wood garage were located in the rear of the yard, accessible via a shared right-of-way on the south side of the property, shared with 976 Carlaw Avenue).

The proposal was then described as an alteration to the existing dwelling through:

- a three-storey addition with rear ground floor deck and a rear basement walkout
- a complete second-storey addition with a front balcony; and
- a front third-storey addition and new covered front porch and stairs

After describing the application before the COA, Mr. Theodore reviewed the history of the application, discussions with the City and consequent modifications, before reciting the variances, as stated in the “Matters in Issue” Section.

Mr. Theodore then provided evidence to demonstrate that the proposal was consistent with the Provincial Policy Statement (2014)(PPS) in his opinion. He pointed out that the PPS directs development to established built-up areas where there is existing municipal infrastructure, and that intensification and redevelopment is encouraged as is a range and mix of housing types and densities. Remarking that the approval of the proposed variances would permit the proposed renovation and investment within a built-up area, compatible with adjacent uses and which would utilize existing infrastructure, he concluded that the proposal was consistent with the PPS.

Mr. Theodore then described the proposal’s interaction with the Growth Plan for the Greater Golden Horseshoe (2017) (Growth Plan). He described the Growth Plan as setting out broad policies for the development of urban areas in the Greater Golden Horseshoe, including the promotion of compact urban form through the intensification of existing urban areas.

The intent was described, as a better use of land and infrastructure, and avoidance of the outward expansion of communities. He described the proposal, as exemplifying intensification, as discussed in Policies 2.2.1.2 (a) and 2.2.1.4 (e) and (f). Based on this

description, Mr. Theodore concluded that the proposed variances conformed to the policy objectives of the Growth Plan.

Mr. Theodore next discussed the compatibility of the proposal with the Official Plan. He pointed out that the proposal is located in an area designated “Neighbourhoods” in the Official Plan, and described the designation as “intended to provide a full range of residential uses including detached houses, semi-detached houses, duplexes, triplexes, townhouses, and walk-up apartments that are four storeys or less”. Mr. Theodore referenced Chapter 2.3 and Policies 3.2.1.1, 3.2.1.2 and 4.1.5 of the Official Plan to explain the City’s recognition of how neighbourhoods are in a constant state of evolution and the criteria that govern such growth and evolution. Through the use of COA decisions, Mr. Theodore demonstrated that variances similar to what was sought at 978 Carlaw Ave. had been granted in the close vicinity of the subject property, and stated that the proposed house would be consistent with the heights, massing, scale of the dwellings that already existed in the study area. He noted that the standard respecting main wall height provision was introduced only in 2013, and that proposals built before 2013 didn’t require such a variance though they may need such a variance under contemporaneous circumstances. Mr. Theodore then provided examples from the neighbourhood, where buildings exist with three floors or a third storey built into the roofline, with or without dormers. There were 4 buildings approved in the study area and two examples of houses with approved main wall height variances approved in the immediate vicinity of the project. He pointed out that the lot coverage of the proposal, at 40.6%, if approved, would be consistent with the 34 out of 263 properties, in the study area, with lot coverages of more than 40%.

Mr. Theodore emphasized that, in terms of massing, the proposed top floor would be setback 4.2 m from the front of the building, resulting in, what he opined, would a more appropriate transition in height and massing towards the rear of the property. He added that from the streetscape, the building would present as a two-storey building, with the third perspective of the third storey being diminished by the setback. Commenting on the side yard setback, Mr. Theodore observed that the setback is consistent with most dwellings in the neighbourhood and immediate area, which had reduced side yard setbacks on one side and slightly larger side yards on the opposite side, based on the photographs shown. He added that many of the original dwellings did not comply with the required side yard setbacks on at least one side of the dwelling.

Based on these observations, Mr. Theodore concluded that the project met the general intent and purpose of the Official Plan.

Mr. Theodore addressed the compatibility of the proposal with the Zoning By-laws governing the area. He pointed out that the area is governed by 2 by-laws: The City Wide by-law 569-2013 and East York By-Law 6725.

Explaining the compatibility between each group of variances (e.g. building height, coverage etc.), Mr. Theodore began his discussion with the height related variances. He said that the general intent and purpose of a maximum permitted building height provision is to ensure that the massing, scale and shadowing of each dwelling fits with the surrounding streetscape as to not create issues of shadowing or overlook.

Notwithstanding the “slightly” higher height variances sought in this project, Mr. Theodore opined that the impact would be no different from the height variances of other buildings approved in the neighbourhood, and provided examples of the same. He added that the additional height was also set back from the street, “allowing for a softening of the building façade as it relates to abutting dwellings to the north and south along Carlaw Avenue”. Mr. Theodore then referred to variances related to main wall height, and stated that the general intent and purpose of the main wall height provision is to provide an appropriate main wall height relative to the overall roof height. In this proposal, he added that the variance is required to support the third storey component of the proposed dwelling, which has a smaller floor plan than the floors below, and is stepped back from both the front and rear facades. He opined that from the street, the building would come across as being two storeys, due to the third floors being setback from the street, and that these setbacks from the front and rear facades, mitigate the bulk and massing of the third storey.

Discussing the general intent and purpose of a maximum floor space index, Mr. Theodore stated that the purpose is to maintain a scale and massing of development that is compatible with the neighbourhood; and to minimize impacts such as shadowing or overlook. He pointed out that the majority of the buildings mass would be towards the back of the house because of the 4.3 metre setback, resulting in appropriate transition from the street to the rear of the building. Mr. Theodore also alluded to the green roof, proposed on top of the second and third storeys, which he claimed, would visually soften the dwelling’s appearance, and not visually overpower or dominate the streetscape.

Lastly, Mr. Theodore discussed the purpose and intent of the side yard setback as allowing access to the rear yard and sidewalls for maintenance purposes, and reduce the overlook. He pointed out that the existing sidebacks were not being altered in any way, and concluded that these variances were “technical” in nature. He added that no windows were proposed on the north side of the building, eliminating any concerns related to privacy or overlook.

Based on these discussions, Mr. Theodore concluded that the proposal met the intent and purpose of the Zoning By-Law.

Addressing the test of “Appropriate development of the land”, Mr. Theodore drew my attention to the fact that the requested side yard setbacks were not going to be altered, and that their impact was already evident. He again referred to the gradual transition between the street and the portion of the house, which would have a third floor, and added that the impact would be mitigated through the provision of the green roofs on the 2nd and 3rd floors of the house, as well as the step back of the third floor. Adding that the proposed coverage is “typical” of existing medium density built form in the neighbourhood, and that the proposed reinvestment exemplifies what is desirable and appropriate for the City, Mr. Theodore concluded that the development is desirable for the appropriate development of the subject lands.

Lastly, Mr. Theodore addressed the test of the variances being “minor”. He pointed out that the test of developments deemed to be minor related to disproportionate negative impact, as opposed to no impact. He reiterated that the variances would have no impact on the streetscape as the bulk of the additional massing on the site will be setback from the front of the dwelling and focused at the rear, and that the absence of windows on both side walls, there would be limited impact to the adjacent neighbours, with respect to privacy, and overlook. Based on these discussions, Mr. Theodore concluded that the proposal satisfied the test of being minor.

Mr. Theodore concluded that the proposal met the four tests under Section 45(1) of the Planning Act, and recommended that the Appeal be allowed, and the proposal approved.

The Appellants referenced the OMB decisions respecting 2 Dilworth Crescent, and 208 Mortimer, both of which are within the study area, and less than 200 m from the Subject property, and were approved for houses with similar massing, heights and three storeys.

Mr. Szobel, representing the City of Toronto, said that he had no questions for Mr. Theodore.

The opposition then presented its case- it may be noted that the names of the speakers are provided at the beginning of this section.

The opposition discussed, in some detail, the concept of “geographical neighbourhoods”, as defined in the City of Toronto’s Official Plan Amendment 320 (OPA 320). According to documentation from the City of Toronto’s Planning Department, a “ geographic neighbourhood will be delineated by considering the context within the Neighbourhood in proximity to the development site, including: zoning; prevailing dwelling type and scale; lot size and configuration; street pattern; pedestrian connectivity; and natural and human-made dividing features. The physical character of the geographic neighbourhood includes both the physical characteristics of the entire geographic area and the physical characteristics of the properties in the same block that also face the same street as the development site. The evaluation of the appropriateness of new development will consider whether the development is consistent with the prevailing character in both instances.”

Based on this definition, two “Geographic Neighbourhoods” were identified within the earlier study area identified by the Appellants; the two “Geographic Neighbourhoods” aligned with the zoning governing the former cities of East York (By Law 7625) and Toronto (By Law 438-86). The opposition held that the character of the houses within the Geographic Neighbourhood with the East York zoning, was distinguished by small, 2 storeyed detached houses, while the houses governed by the Toronto By Law were bigger , indeed substantial detached homes. The opposition acknowledged that while there were developments approved by the OMB, such as 2 Dilworth Crescent and 208 Mortimer, these developments were compatible with the older, smaller houses that dominated the study area, because of their “context”.

Under detailed cross-examination of multiple witnesses, there was no clear explanation of what the “context” was, or how 2 Dilworth Crescent and 208 Mortimer could be distinguished from the subject property through the difference in “context”.

The Opposition complained that the proposed house was extremely tall, with “inappropriate massing”. A common complaint that the proposed house had 3 bedrooms, and 5 bathrooms, and the presence of an open loft, through the second floor, and a skylight on the third floor. The opposition members were concerned that the proposed green roof would morph into a large roof deck.. They asserted that there would be a negative impact on airflow and views, due to the size of the proposed house. Some of the neighbours said that at this point in time, they could wave to each other from their backyards, but this would not be possible if the new house were constructed, as proposed. There were complaints about the impact on privacy of the neighbours, due to the overlook.

The neighbours also complained about the loss of light; the need to stare at a “30 feet wall”, impact on drainage, and questioned how many people would be living in the house given that there would be 3 bedrooms and 5 bathrooms. The opposition also stated repeatedly, that the proposed house did not represent “intensification” as defined in any of the policy documents, but exemplified overdevelopment.

The opposition pointed out that not only did the proposed house exceed the max height of 8.5 m, it also had a flat roof, which was different from all the other houses in the community.

The opposition also expressed concerns that the house was huge because of the numbers of bedrooms, and the use of an open loft through the 2nd floor and skylight on the 3rd floor, and commented that this was an “inefficient use of space” within the house. They were of the uniform opinion that the variances related to FSI were the result of such “inefficient use” of space.

Specific concerns were expressed about the green roof, and questions were asked about the proposed green roof’s ability to address underlying storm water issues. The neighbours claimed that much of the greenspace was being converted to hard surface, and requested for a report prepared by a Professional Engineer to demonstrate that the green roof offset the hardscaped rear yard.

The opposition also introduced pictures which photoshopped a mock up of the proposed house juxtaposed onto the existing in the neighbourhood to demonstrate the incongruity of the proposal. Under cross examination, the opposition members who introduced the picture acknowledged that they were juxtaposing a 2 Dimensional picture on a 3 Dimensional picture, and that this was not “an apples to apples” comparison. There were also attempts made to introduce pictures of a house built at 970 Logan Ave, because they claimed that presented the very contrast that would result between existing houses and the proposal.

Notwithstanding the Appellants’ willingness to engage in a discussion about 970 Logan Ave., after initial objections based on late disclosure, I did not permit the introduction of

the evidence because it was well outside the study area, in addition to being disclosed late.

Many witness stated, repeated, iterated and reiterated all of the recited evidence in this section, or substantial parts of it, and would punctuate their comments with how they had not been consulted, and could have suggested an “intelligent design” if consulted.

It is important to remark on the acrimony and frustration which marked, or more accurately marred the proceeding. I present two examples from the evidence to illustrate the level of acrimony.

One of the Participants, in the process of describing how huge the proposed house would be, stated that the new house would resemble “Godzilla over Tokyo”, to the accompaniment of laughter from many members of the opposition. In a response to the Appellants if the opposition had sought permission from the former in order to go onto the Subject Property to take pictures introduced as evidence, one of the opposition members stated “You mean- get permission from somebody who is never seen, or heard from? How do you do that?”

As a finding. I find this manner of conduct to be unnecessary and unhelpful, when not discourteous to the Hearing.

ANALYSIS, FINDINGS, REASONS

I would like to start by pointing out that the variances to be ruled on by the TLAB, were the consequence of a Settlement between the Appellants and the City of Toronto, the only Parties involved in the Appeal.

Mr. Theodore provided sufficient evidence to demonstrate satisfactory compatibility between the proposal and the four tests under Section 45(1). The evidence presented the following features, which individually and collectively, mitigate the impact of what comes across as the erection of an imposing house, at first sight:

- The step back of the third floor from the front house, with a 4.3 metre gap between the front of the house and the actual construction of the third floor
- The development of green roofs at the 2nd and 3rd floor levels of the house
- The lack of windows on the north side of the house, and the maintenance of the side yard setbacks.

The impact of the house itself, notwithstanding these features, is comparable to other developments, at 2 Dilworth Crescent and 208 Mortimer Ave., both of which were approved as a result of decisions from the OMB. The approvals from the COA and OMB reflect not only a community in transition but also the evidence demonstrated that buildings comparable to what is proposed already exist in the neighbourhood, and that their impact is not overwhelming, to the extent of destabilizing the neighbourhood

It may be pointed out that the opposition did not dispute the existence of buildings where variances comparable to what was being requested at 978 Carlaw had been

approved; the complaint seemed to focus on the fact that there was no development which had requested all the variances requested in this proposal.

The substantial body of evidence presented by the Opposition, focused on how the proposal was not consistent with OPA 320, using the concept of “geographical neighbourhoods. However, jurisprudence to date has held that OPA 320, has been deemed to be informative, but not determinative.- even the Opposition did not dispute this important conclusion. Some opined that there was a need to follow OPA 320 as a result of approval by the Toronto City Council; however, this view is not supported anywhere in jurisprudence. The evidence of the Appellants about the study area is therefore preferred. No extraordinary weight is assigned to the discussion of Geographic Neighbourhoods, and it is not necessary to definitively evaluate the proposal in that context.

I would also like to remark on the Opposition’s conclusion, that there were 2 identifiable neighbourhoods with very different characteristics, within the study area, distinguished by their alignment with the zoning governing the former cities of East York and Toronto respectively . I made multiple site visits, before and after the hearings, to ascertain if the community fabric was so noticeably different, as suggested. I am not convinced by the evidence presented at the hearing, that the average objective could agree that such a sharp transition or contrast is visible, even when made aware of the different zoning regimes.

I paid close attention to the concerns expressed about how the “green roof” would translate into problems, and any possible impact on storm water management, in case the proposal was to be approved. I drew the attention of the Appellants to this issue, on more than one occasion, to clarify what the green roof would consist of. Their written submissions state that the roof would be governed by Section 492 of the Toronto Municipal Code; the submission also advise that the compatibility between the green roof and Section 492 of the Toronto Municipal Code may also be imposed as a condition.

The reminder of the evidence from the Opposition focused on possible solutions to what they saw as overdevelopment, with specific reference to the skylight, and what lies beneath it. They also focused on demonstrating that the proposal was unique, and did not have any comparators, as suggested by the Appellants in their evidence. While they did not refute the existence of the approvals by the OMB , as evidenced by Appellants, the Opposition attempted to distinguish between these approvals and the proposal at hand, through repeated references to how the other developments could be distinguished on the basis of “context”. Notwithstanding numerous attempts in cross examination to identify what the distinguishing feature of the “context” was, there was no clear definition of the criterion/criteria that helped distinguish between the approved projects and the subject property.

Some of the members in opposition attempted to demonstrate the purported outlandishness of the proposal by juxtaposing a 3 D picture of the proposal alongside a 2 D picture of a different proposal outside the neighbourhood. They acknowledged that they were aware that comparison of 2 D pictures alongside 3 D pictures did not present an “apples to apples” comparison. The attempts of Opposition members to introduce the

aforementioned comparisons notwithstanding their acknowledgement and knowledge of the shortcoming is puzzling, and results in a no inference being drawn from this analysis.

It may be remarked that the other interesting feature of the evidence from the opposition is that the impact of the Subject property on individual properties seems to be independent of the separation between the proposal and the location of the specific witness giving evidence. In other words, curiously, the stated impact is not a function of the separation distance between 978 Carlaw and where the specific opposition member lived.

Unless each member in opposition was speaking on behalf of the whole neighbourhood, it seems unlikely for such uniform impact in a tight knit, urban context. Given the preference for the neighbours to speak individually as opposed to appointing a spokesperson, I assign limited weight to the significant volume of testimony from many residents, all of whom asserted the same, or similar impact, if the proposal were approved.

The assertions of the same impacts are also the underlying reason behind my decision to refer to the evidence from the Opposition collectively, as opposed to individually acknowledgement of who said what. If the evidence provided by each opposition member were listed specifically and separately, the decision would probably be repetitive and twice as long with no significant addition to the evidence.

It is therefore reason that the TLAB generally asks Participants of like interest, wherever possible to condense the number of speakers on similar points. Repetition of the same point does not gain importance simply by virtue of being recited numerous times.

Many of the Opposition members complained that they had not been consulted. While there is no legal compulsion to consult the neighbours, it may be in the interest of neighbourliness and community spirit (both of which are outside the jurisdiction of the TLAB) on the part of Applicants/Appellants to consult, and obtain input. The acrimony, and resentment, resulting from the lack of consultation, was very palpable, and flared throughout the evidence from the Opposition. I believe that the proceeding may have greatly benefitted if the Appellants made efforts for a genuine discussion and dialogue, with the neighbours

I find it important to remark on the length of the hearing, which spanned 1.5 days, notwithstanding my increasingly vigorous interventions to curtail repetition of evidence. The Appellants' unusual decision of pre-empting the Opposition (notwithstanding their right of reply) added significant time to the proceeding. This was exacerbated by individual members of the Opposition repeating the same evidence multiple times, notwithstanding my requests, entreaties and interventions to limit repetition.

Given all of the above conclusions, the evidence of the Appellants is preferred, and the Appeal is allowed. Conditions relating to the green roof construction, and a standard condition, which requires the Appellants to build in substantial conformity with the Submitted Plans, and Elevations, is appropriate.

I find it appropriate that the conditions of approval include a standard condition to build in accordance with the submitted Plans and Elevations, and that the proposed green roof be constructed to include standards articulated in the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code. It is also my understanding that the City of Toronto's Transportation Department had requested for the imposition of a condition requiring the parking pad to be paved with permeable materials.

All of the aforementioned conditions are to be imposed are imposed on the Approval.

DECISION AND ORDER

1. The proposal is allowed, and the Decision of the Committee of Adjustment dated 13 September, 2017, is set aside.
2. The following variances are approved:

City Wide Zoning By-Law 569-2013

- 1) Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no longer than 1.5 horizontal units for each 1.0 vertical unit above grade at the point where the stairs meet the building or structure
WHEREAS The proposed stairs are 1.67 horizontal units for each 1.0 vertical unit above grade at the point where the stairs meet the building or structure.
- 2) The permitted maximum lot coverage is 35 percent of the lot area: 81.29 square metres.
WHEREAS The proposed lot coverage is 40.6 percent of the lot area: 94.33 square metres.
- 3) The permitted maximum height of a building or structure is 8.5 metres.
WHEREAS The proposed height of the building is 9.14 metres.
- 4) The permitted maximum height of all side exterior main walls facing a side lot line is 7.0 metres.
WHEREAS The proposed height of the side exterior main walls facing a side lot line is 9.14 metres.
- 5) The permitted maximum floor space index is 0.75 times the area of the lot: 174.2 square metres.
WHEREAS The proposed floor space index is 0.96 times the area of the lot: 223.16 square metres.

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- 6) The minimum required side yard setback is 0.60 metres.
WHEREAS The proposed North side yard setback is 0.44 metres.
- 7) The permitted maximum lot coverage is 35 percent of the lot area: 81.29 square metres.
WHEREAS The proposed lot coverage is 40.6 percent of the lot area: 94.33 square metres.
- 8) The permitted maximum floor space index is 0.75 times the area of the lot: 174.2 square metres.
WHEREAS The proposed floor space index is 1.01 times the area of the lot: 234.38 square metres.
- 9) The maximum permitted building height is 8.5 metres.
WHEREAS The proposed building height is 9.14 metres.
3. No other variances, other than the ones stated above, are approved.
4. The approval is subject to the following conditions:
- A) The development is to be constructed in substantial accordance with the Site Plan and Elevations prepared by Bananarch, revised January 19, 2018. The Site Plan and Elevations are attached to the Decision.
- B) The roof on top of the second storey at the front of the dwelling shall not be accessible, unless a green roof is constructed, in which case it shall only be accessible as required for maintenance purposes in accordance with the requirements of the Toronto Green Roof Construction Standard set out in Chapter 492 of the City of Toronto Municipal Code.
- C) Should the existing licensed front yard parking space situated partially on private property and partially on the City Boulevard fronting the property be re-paved, that the parking pad be paved with semi-permeable materials, to the satisfaction of the Manager, Right of Way Management, Transportation Services, Toronto and East York District.

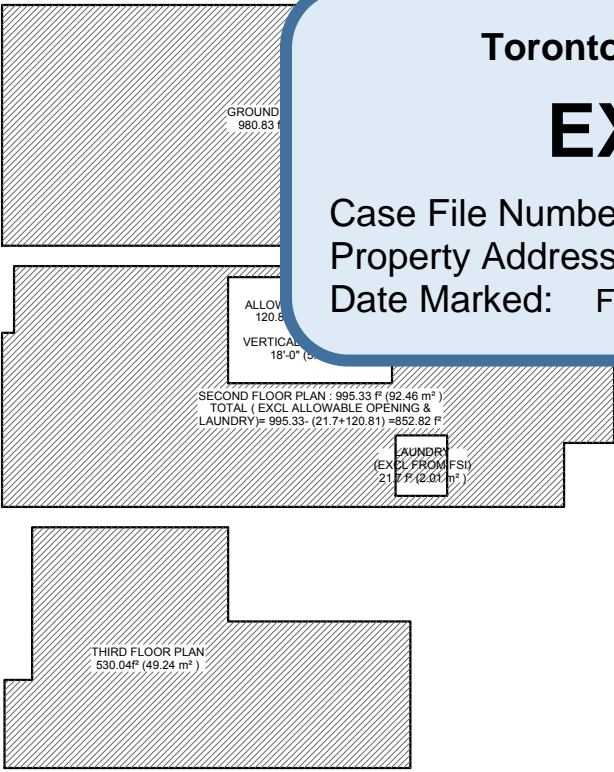
So orders the Toronto Local Appeal Body.

X

A handwritten signature in black ink, appearing to read 'S. Gopikrishna', is written over a light gray rectangular background.

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body

FSI CALCULATION



FSI CALCULATION

$$FSI = \frac{980.83 + 852.82 + 530.04}{2499.99} = 0.94$$

978 CARLAW AVE.
TORONTO, ON

PROJECT INFORMATION:

DESIGNER:

BANANARCH

design + build
(416) 414-4900
INFO@BANANARCH.COM

ENGINEER:

BUILDER:

2
A 0 KEY PLAN
N.T.S.



PROJECT STATISTICS ZONE = RS

ESTABLISHED AVERAGE GRADE	(120.46, 120.32)=120.39	
	METRIC	IMPERIAL
SITE AREA	232.25 m²	2499.99 F
LOT FRONTAGE	7.62 m	25' 0"
LOT DEPTH	30.48 m	100' 0"

SETBACKS	METRIC	IMPERIAL
FRONT YARD	4.58 m	15' - 0 1/2"
REAR YARD	10.65 m	34' - 11 1/2"
SIDE YARD (NORTH)	0.44 m	1' - 5 3/4"
SIDE YARD (SOUTH)	1.07 m	3' - 6"

PROPOSED DWELLING	METRIC	IMPERIAL
LENGTH	15.24 m	50' - 0"
WIDTH	6.11 m	20' - 0 1/2"
HEIGHT	8.99 m	29' - 6"
LOT COVERAGE	94.43m² (40.6%)	1016.5 F (40.6%)
FSI	219.58 m² (94%)	2363.69 F (94%)

FLOOR AREA CALCULATIONS METRIC IMPERIAL

GROUND FLOOR	91.12 m²	980.83 F
SECOND FLOOR	81.24 m²	874.52 F
THIRD FLOOR	49.24 m²	530.04 F
TOTAL GFA	221.60 m²	2385.39 F
BASEMENT (NOT INCLUDING MECHANICAL)	82.95 m²	892.94 F
BASEMENT (INCLUDING MECHANICAL)	90.12 m²	970.11 F
ALLOWABLE OPENING	17.41 m²	187.49 F
PROPOSED OPENING	11.22 m²	120.81 F

ARCHITECTURAL DRAWING LIST

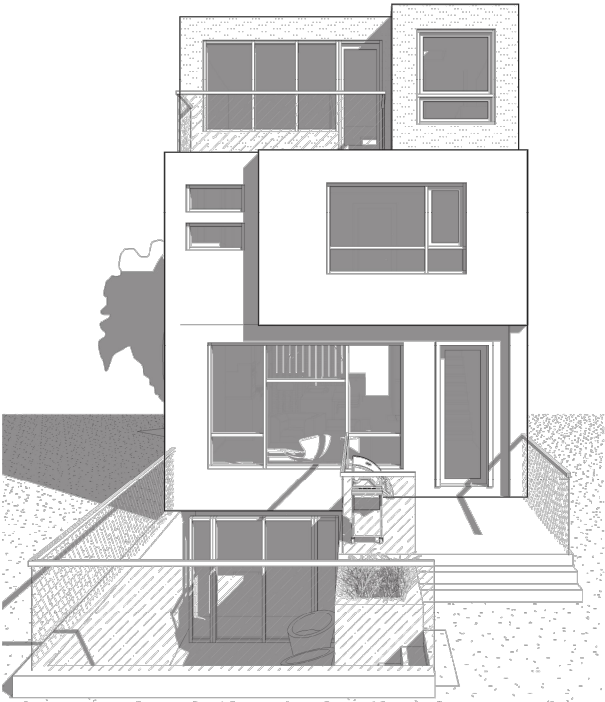
- A 000 GENERAL NOTES
A 001 SITE PLAN
A 100 EXISTING BASEMENT FLOOR PLAN
A 101 EXISTING GROUND FLOOR PLAN
A 200 PROPOSED BASEMENT FLOOR PLAN
A 201 PROPOSED GROUND FLOOR PLAN
A 202 PROPOSED SECOND FLOOR PLAN
A 203 PROPOSED THIRD FLOOR PLAN
A 204 PROPOSED ROOF PLAN
A 300 FRONT ELEVATION
A 301 REAR ELEVATION
A 302 SIDE ELEVATION (NORTH)
A 303 SIDE ELEVATION (SOUTH)

3
A 0 DRAWING LIST

A 400 SECTION A

RECEIVED February 9 2018
By Toronto Local Appeal Body

NOTE:
REFER TO STRUCTURAL DRAWINGS FOR
ALL STRUCTURAL INFORMATION



LANDSCAPING STATISTICS ZONE = RS

FRONT YARD	METRIC	IMPERIAL
FRONT YARD AREA	35 m²	376.81 F
LANDSCAPING AREA	3.41 m²	36.81 F
STEP, PORCH & WALKWAY AREA	9.93 m²	106.98 F
SOFT LANDSCAPING AREA	24.09 m²	259.37 F

REAR YARD	METRIC	IMPERIAL
REAR YARD AREA	81.19 m²	873.98 F
AREA OF WALKOUT & STEPS	35.25 m²	379.43 F
SOFT LANDSCAPING AREA	45.94 m²	494.55 F

SIDE YARDS	METRIC	IMPERIAL
SIDE YARD AREA (SOUTH)	16.26 m²	175.08 F
SOFT LANDSCAPING AREA (SOUTH)	16.26 m²	175.08 F
SIDE YARD AREA (NORTH)	6.67 m²	71.85 F
SOFT LANDSCAPING AREA (NORTH)	6.67 m²	71.85 F

PROJECT
NORTH

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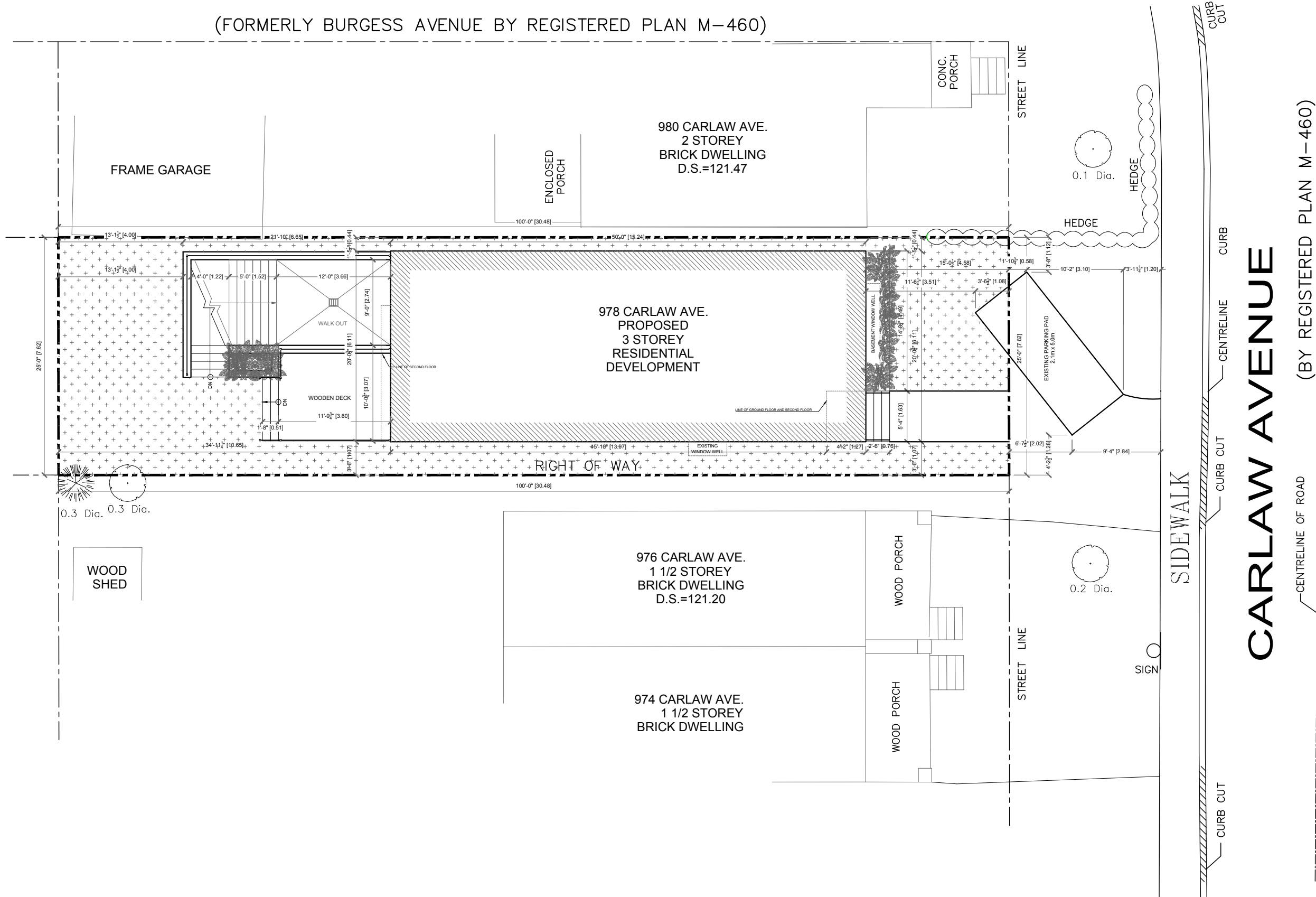
TEL: (416) 414-4900
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PROJECT: PROPOSED DEVELOPMENT AT:
978 CARLAW AVE.
TORONTO

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SCALE: 3/32"= 1'-0"		
PROJECT NO: F-0120	DRAWING TITLE: PROJECT STATISTIC	DRAWING NO: A0

MORTIMER AVENUE

(FORMERLY BURGESS AVENUE BY REGISTERED PLAN M-460)



PROJECT
NORTH



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SCALE: 3/32"= 1'-0"		

PROJECT NO: F-0120	DRAWING TITLE: SITE PLAN	DRAWING NO: A001
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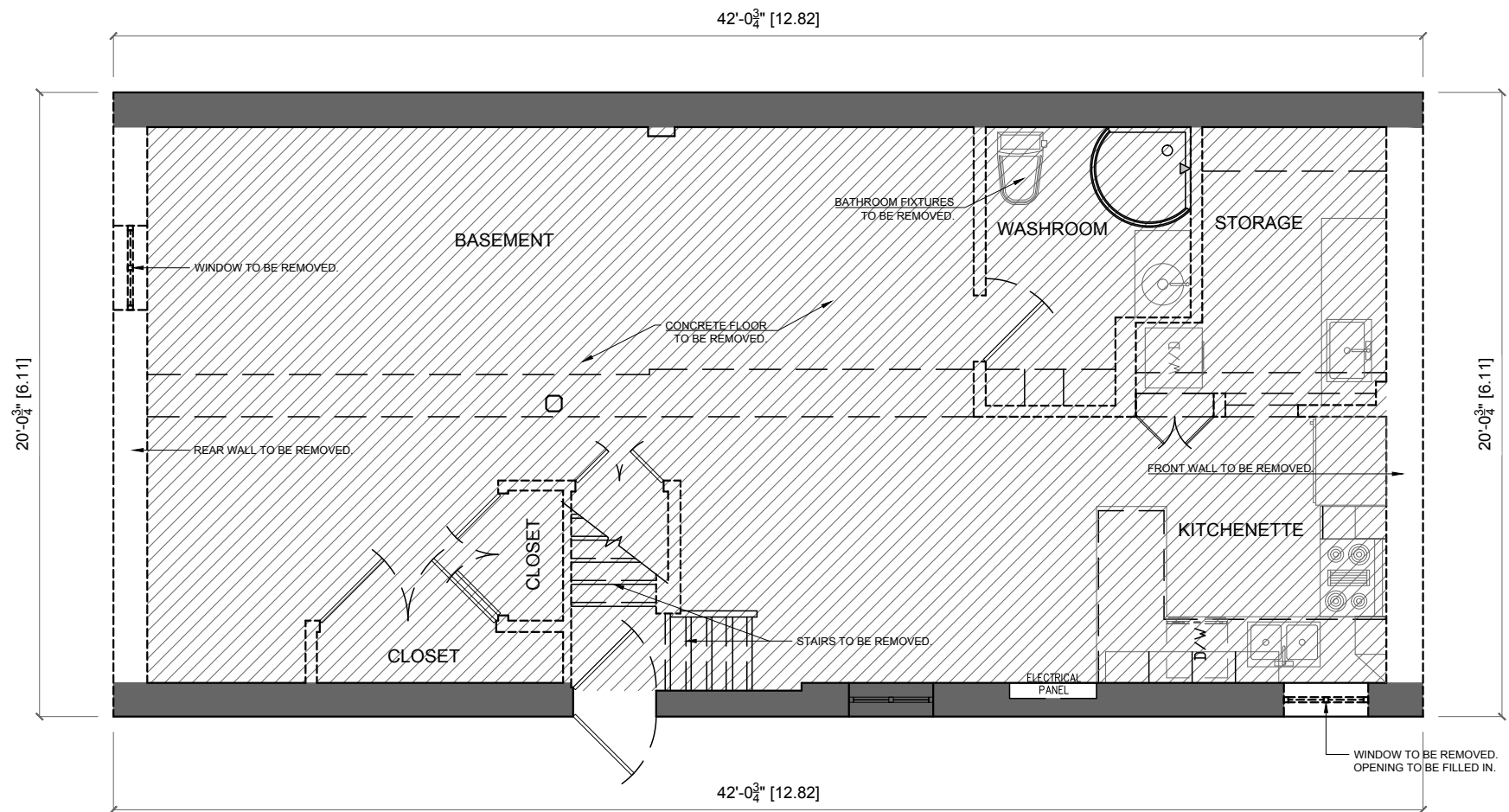
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PROJECT NO: F-0120	DRAWING TITLE: BASEMENT DEMOLITION PLAN	DRAWING NO: A100
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-  EXISTING WALLS TO REMAIN
-  REMOVE FLOOR/ROOF STRUCTURE
-  EXISTING TO BE DEMOLISHED
-  EXISTING WINDOWS TO BE REMOVED
-  EXISTING WINDOWS TO REMAIN
-  EXISTING DOORS/FRAMES TO BE REMOVED

A BASEMENT FLOOR DEMOLITION PLAN
A100 SCALE: 3/16" = 1'-0"

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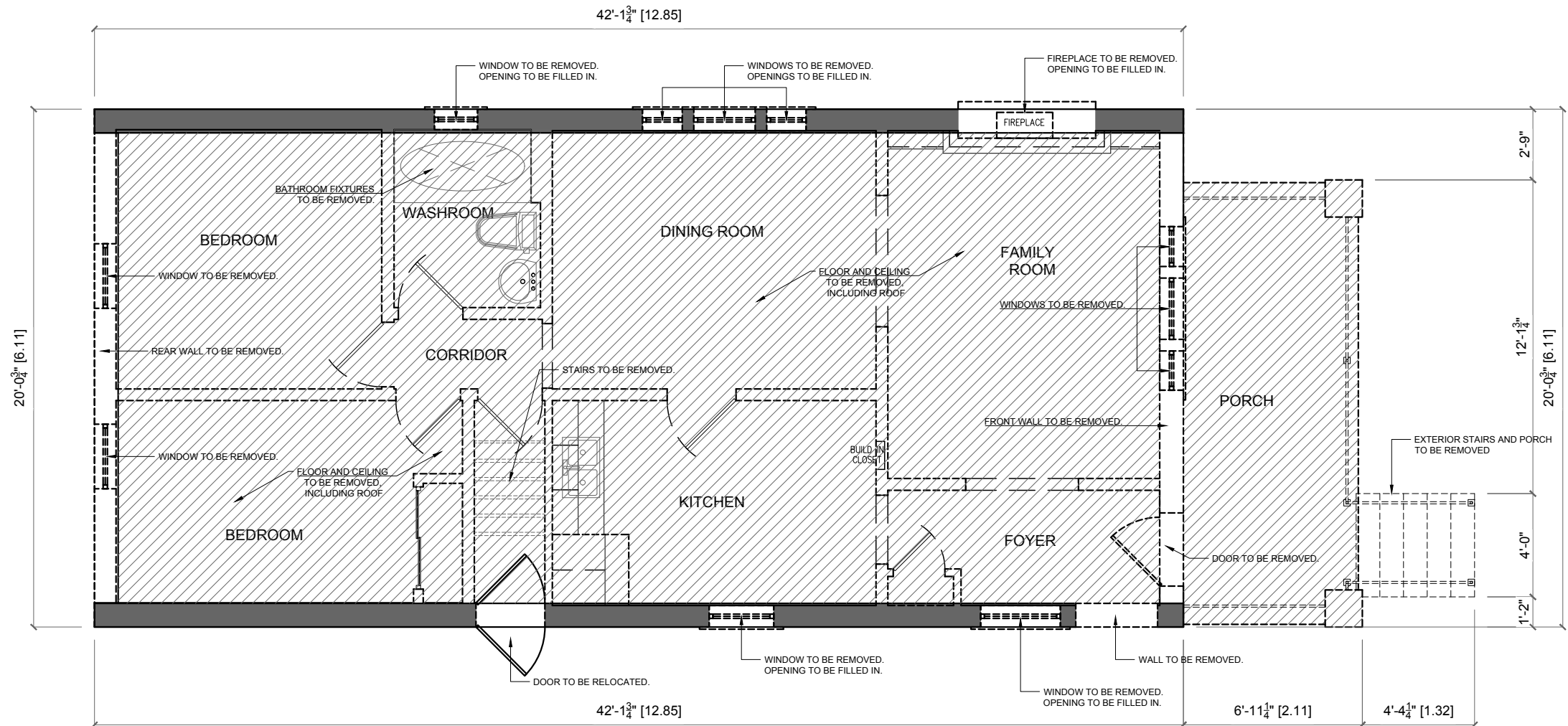
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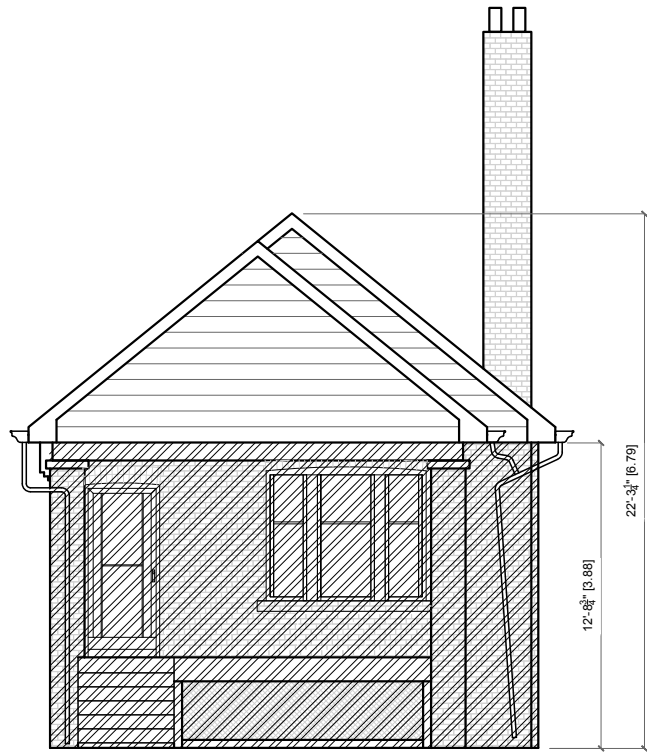
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CHECKED BY: N.A		
SCALE: 3/16"= 1'-0"		

PROJECT NO: F-0120	DRAWING TITLE: BASEMENT DEMOLITION PLAN	DRAWING NO: A101
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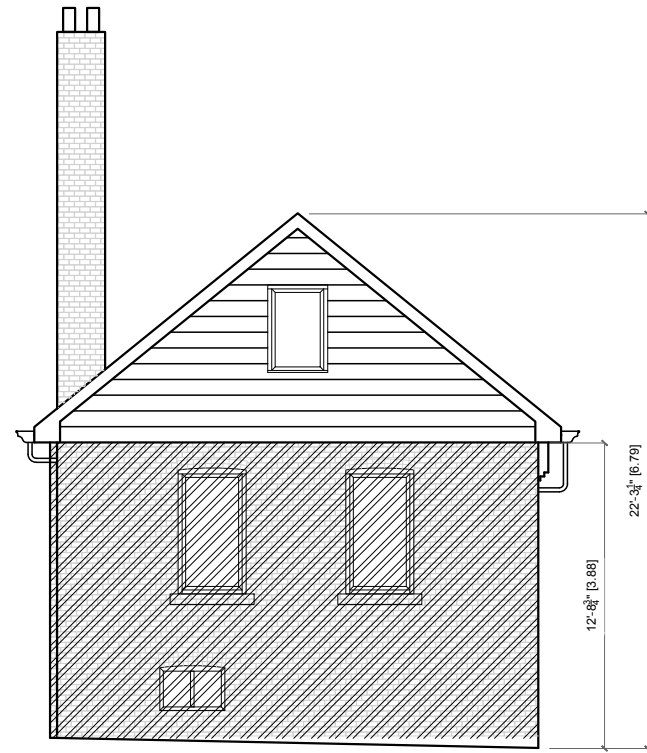
 EXISTING WALLS TO REMAIN
 REMOVE FLOOR/ROOF STRUCTURE
 EXISTING TO BE DEMOLISHED
 EXISTING WINDOWS TO BE REMOVED
 EXISTING WINDOWS TO REMAIN
 EXISTING DOORS/FRAMES TO BE REMOVED



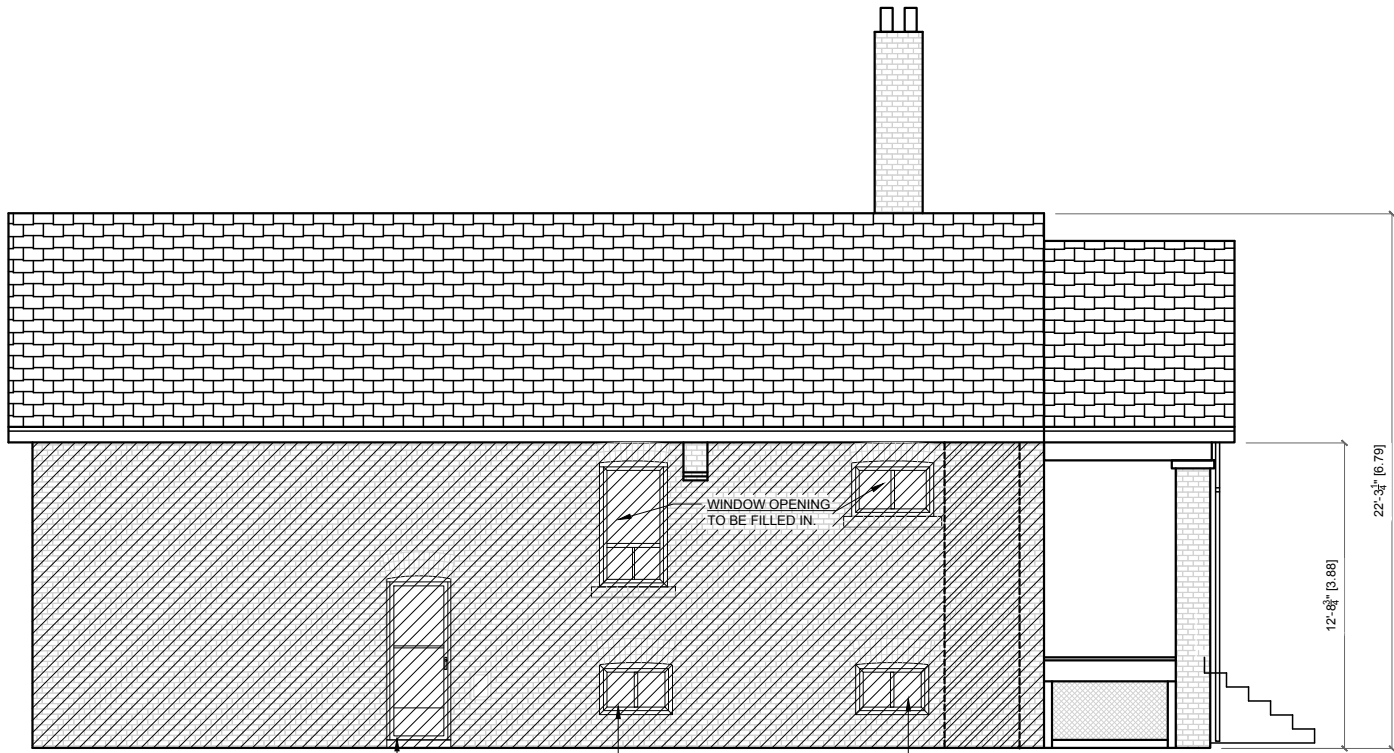
A GROUND FLOOR DEMOLITION PLAN
A101 SCALE: 3/16" = 1'-0"



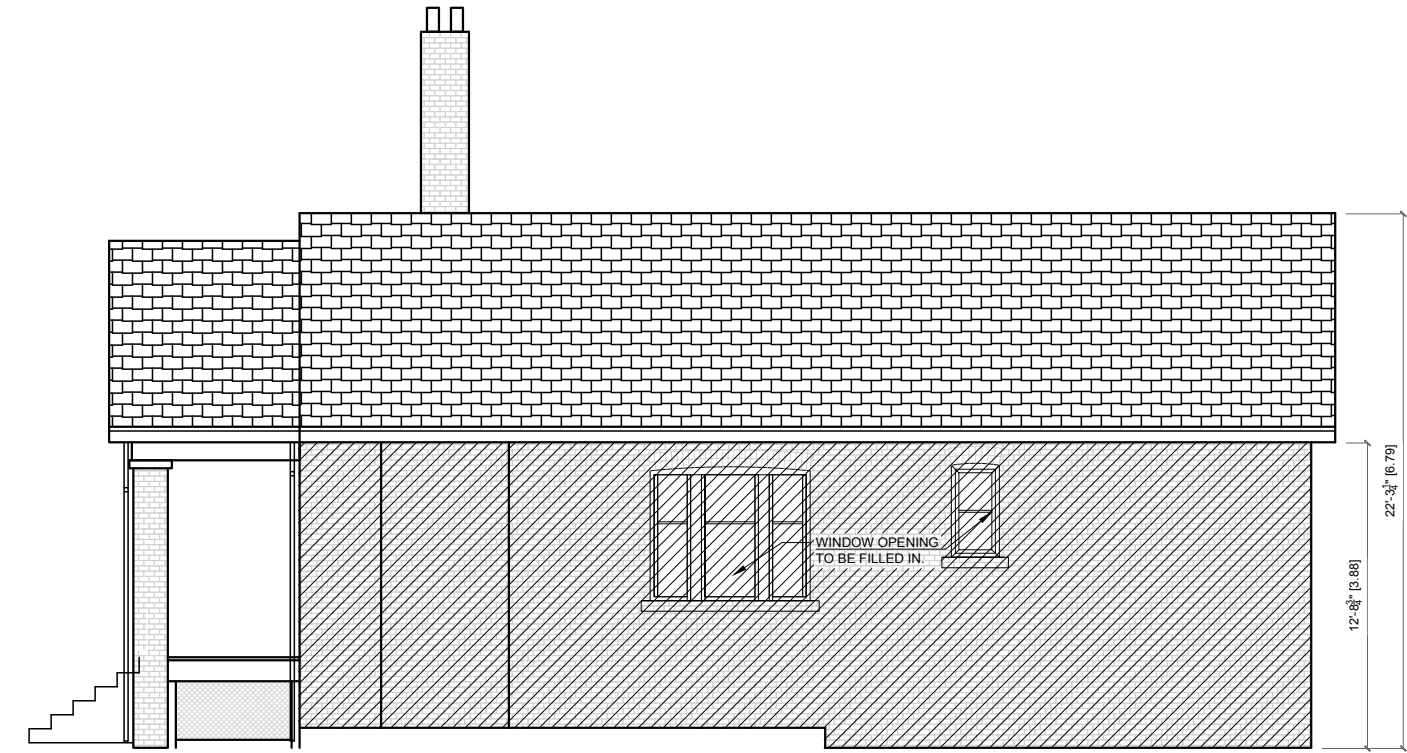
A FRONT ELEVATION
A102 SCALE: 1/8" = 1'-0"



B REAR ELEVATION
A102 SCALE: 1/8" = 1'-0"





C SIDE ELEVATION (SOUTH)
A102 SCALE: 1/8" = 1'-0"



D SIDE ELEVATION (NORTH)
A102 SCALE: 1/8" = 1'-0"

LEGEND:

WALL AREA CALCULATION:

-  EXISTING WALLS TO REMAIN
-  REMOVE FLOOR/ROOF STRUCTURE

TOTAL EXISTING WALL AREA: 1564.10 f² (145.30 m²)
TOTAL WALL AREA TO REMAIN: 1014.47 f² (94.24 m²) 65%

PROJECT NORTH



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SCALE: 1/8"= 1'-0"		
PROJECT NO: F-0120	DRAWING TITLE: EXISTING ELEVATIONS	DRAWING NO: A102



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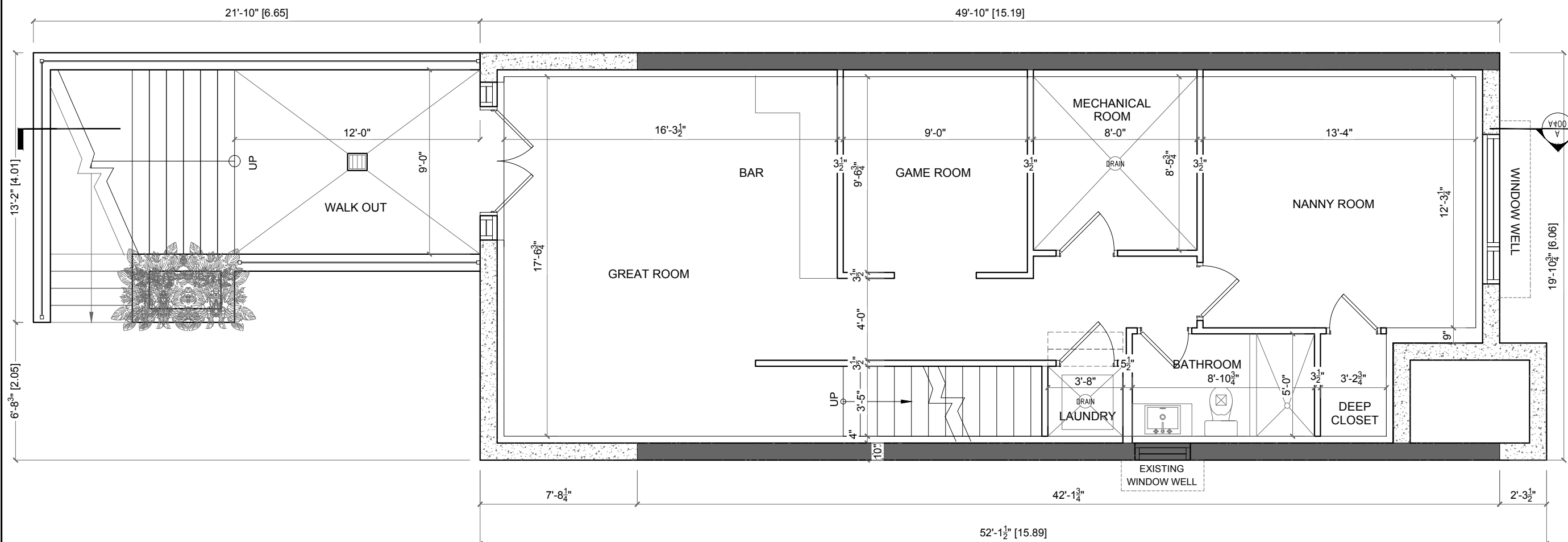
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PROJECT NO: F-0120	DRAWING TITLE: BASEMENT FLOOR PLAN	DRAWING NO: A200
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A BASEMENT FLOOR PLAN
A200 SCALE: 3/16" = 1'-0"

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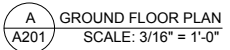
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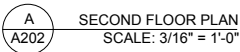
PROJECT NO:	DRAWING TITLE:	DRAWING NO:
F-0120	GROUND FLOOR PLAN	A201



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PROJECT NO:	DRAWING TITLE:	DRAWING NO:
F-0120	SECOND FLOOR PLAN	A202

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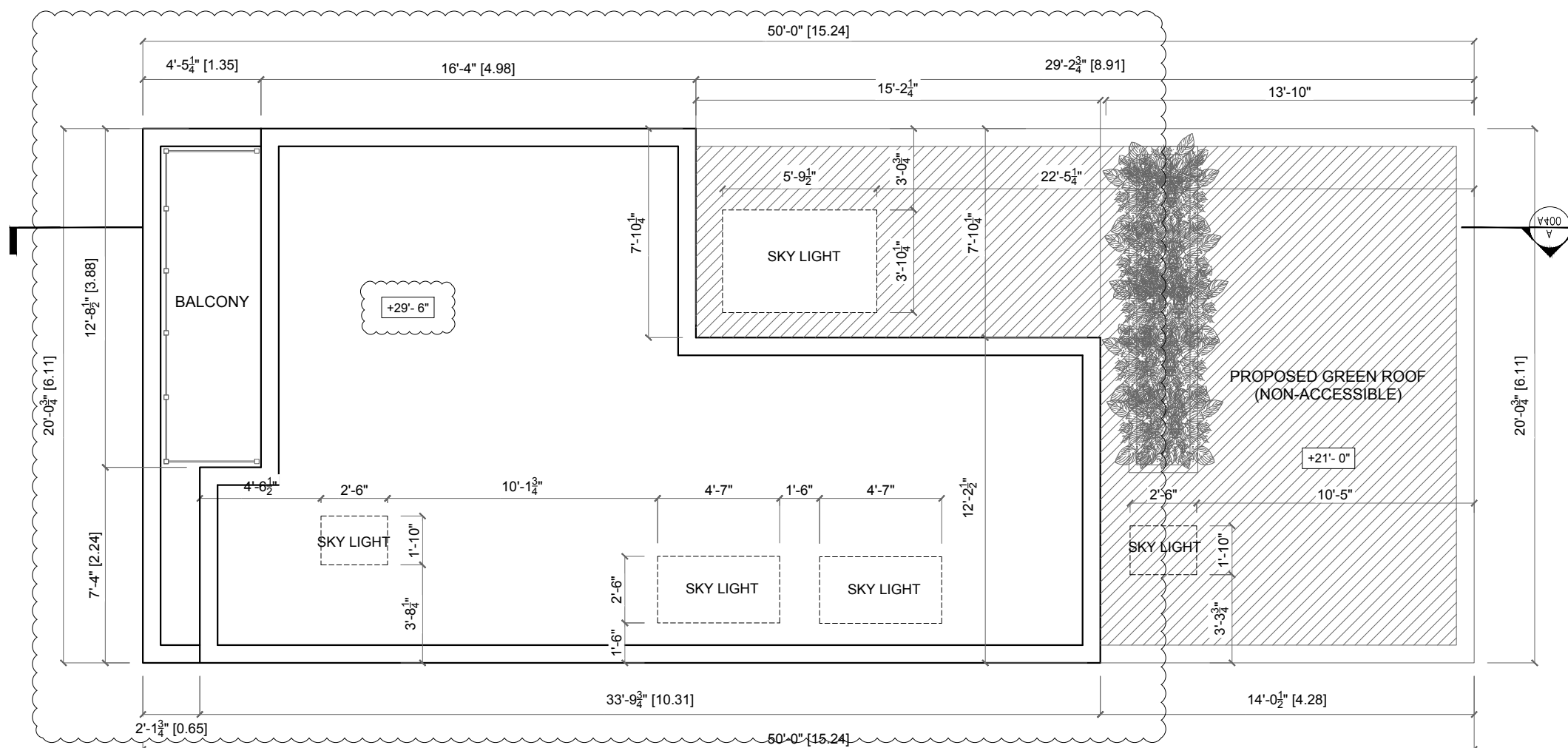
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 THIRD FLOOR PLAN
 SCALE: 3/16" = 1'-0"

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TORONTO

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CHECKED BY: N.A	

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

PROJECT NO: F-0120	DRAWING TITLE: ROOF PLAN	DRAWING NO: A204
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PROJECT
NORTH

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SCALE: 1/4"= 1'-0"		
PROJECT NO: F-0120	DRAWING TITLE: FRONT ELEVATION	DRAWING NO: A300



A
A301 REAR ELEVATION
SCALE: 1/4" = 1'-0"

PROJECT
NORTH

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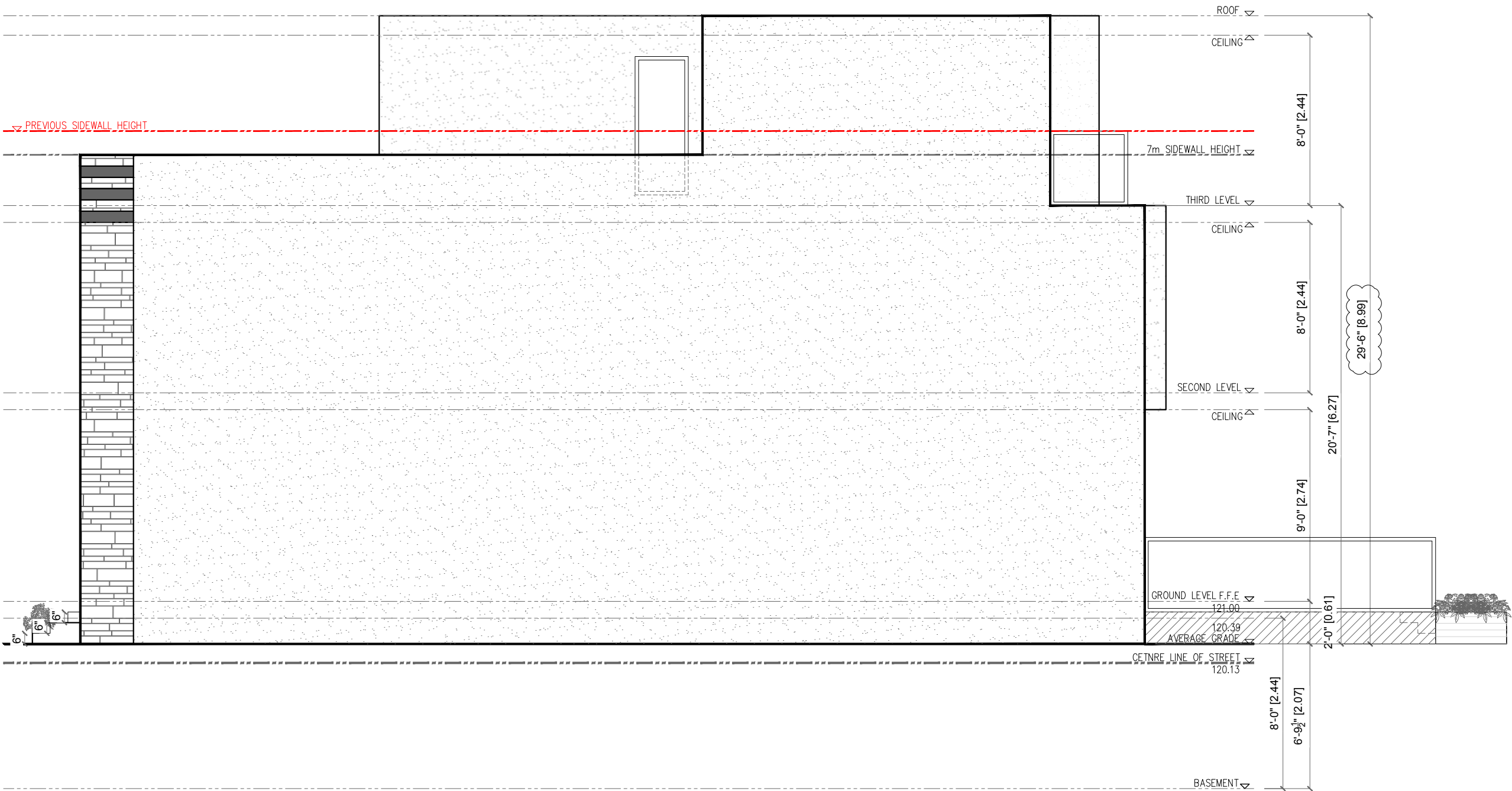
PROJECT: PROPOSED DEVELOPMENT AT:
978 CARLAW AVE.
TORONTO

DRAWN BY: F.M. DATE: JAN 2018

CHECKED BY: N.A.

SCALE: 1/4" = 1'-0"

PROJECT NO: F-0120 DRAWING TITLE: REAR ELEVATION DRAWING NO: A301



A SIDE ELEVATION (NORTH)
A302 SCALE: 3/16" = 1'-0"

PROJECT
NORTH

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4	AUG.31.17	ISSUED FOR CoA
3	MAY.07.17	ISSUED FOR COA
2	MAR.10.17	ISSUED FOR ZCC
1	FEB.27.17	ISSUED FOR CLIENT REVIEW
NO.	DATE	DESCRIPTION
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CHECKED BY: N.A		
SCALE: 3/16"= 1'-0"		

PROJECT NO: F-0120	DRAWING TITLE: SIDE ELEVATION (NORTH)	DRAWING NO: A302
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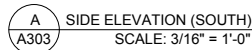
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<div style="border: 3px double black; padding: 10px; display: inline-block;"> <h1 style="margin: 0;">BANANARCH</h1> </div>		
<h2 style="margin: 0;">design + build</h2> <p style="margin: 5px 0;">TEL: (416) 414-4900</p> <p style="margin: 0;">INFO@BANANARCH.COM</p>		
<p>PROJECT: PROPOSED BUILDING AT: <div style="font-size: 24px; font-weight: bold; text-align: center; margin: 10px 0;">978 CARLAW AVE.</div> <div style="text-align: center;">TORONTO</div> </p>		
DRAWN BY: F.M	DATE: JAN 2018	
CHECKED BY: N.A		
SCALE: 3/16"= 1'-0"		
PROJECT NO: F-0120		
DRAWING TITLE: <div style="font-weight: bold; text-align: center;">SIDE ELEVATION (SOUTH)</div>		DRAWING NO: <div style="font-weight: bold; text-align: center;">A303</div>





PROJECT
NORTH

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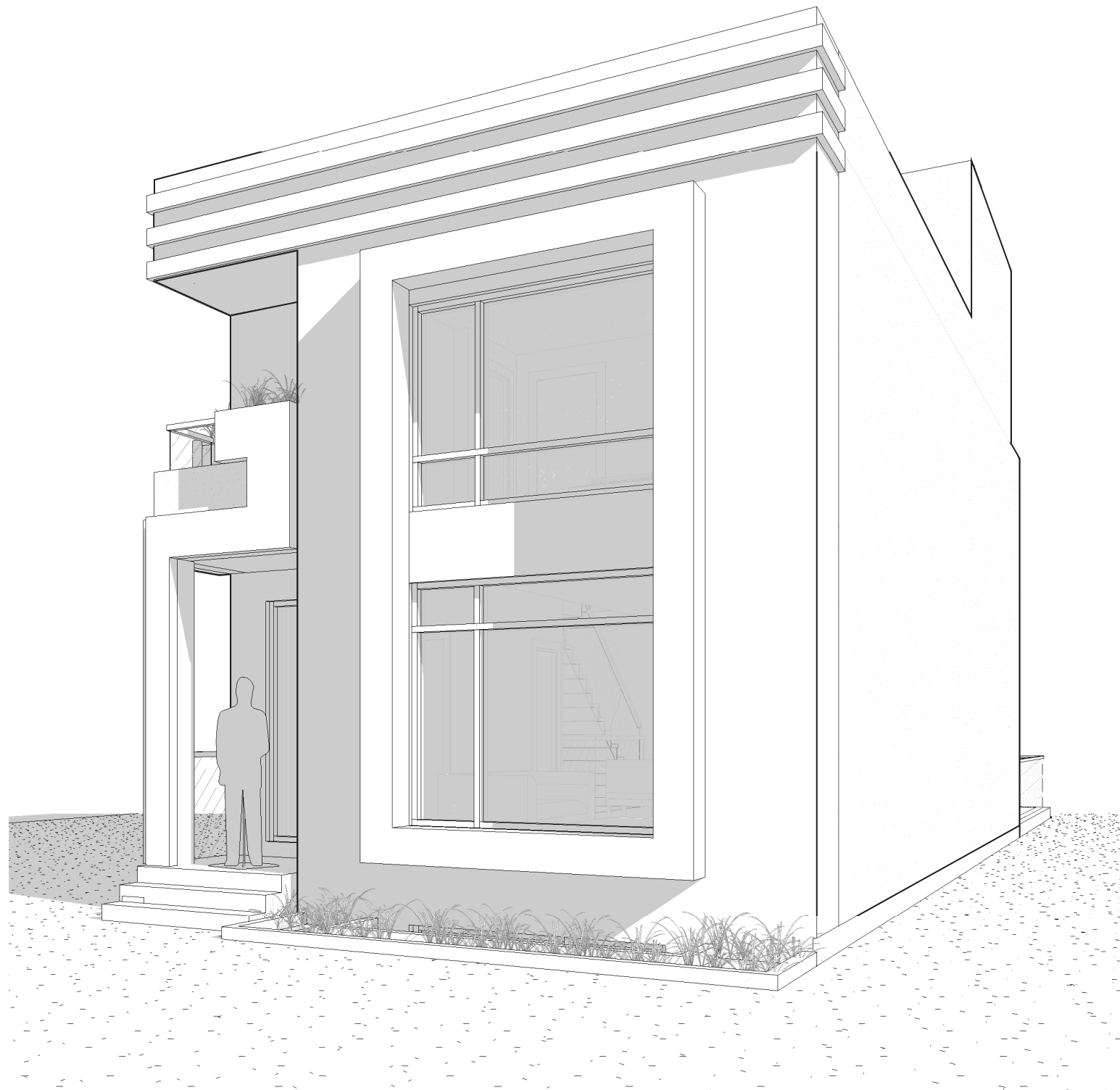
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SCALE: N/A		
PROJECT NO: F-0120	DRAWING TITLE: SECTION A	DRAWING NO: A400



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CHECKED BY: N.A			
SCALE: N/A			
PROJECT NO: F-0120	DRAWING TITLE: 3D VIEW I	DRAWING NO: A401	