

DECISION AND ORDER

Decision Issue Date Wednesday, October 31, 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): YASSER PHILOBES

Applicant: ARMANDO BARBINI PLANNING & PERMIT SERVICES

Property Address/Description: 116 BRIAR HILL AVE

Committee of Adjustment Case File: 17 118467 NNY 16 CO, 17 118476 NNY 16 MV, 17 118478 NNY 16 MV, 17 273928 000 00 OA, 17 273944 000 00 OA, 17 273952 000 00 OA

TLAB Case File Number: **17 274122 S53 16 TLAB, 17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB**

Hearing date: **May 14, August 27 and 28 and September 28, 2018**

DECISION DELIVERED BY G. BURTON

APPEARANCES

NAME	ROLE	REPRESENTATIVE
ARMANDO BARBINI	APPLICANT	
YASSER PHILOBES	APPELLANT	AMBER STEWART
FRANCO ROMANO	EXPERT WITNESS	
DAVID ADAM GOLUBOFF	PARTY (TLAB)	JENNIFER MEADER
SUE-ANNE FOX	PARTY (TLAB)	JENNIFER MEADER
TERRY MILLS	EXPERT WITNESS	
GLENN ROBIN MILLER	PARTICIPANT	
GRANT RUTHERFORD	PARTICIPANT	
DANUSIA APPLEBEE	PARTICIPANT	
LAURENCE OLIVO	PARTICIPANT	
JENNIFER JANE KACABA	PARTICIPANT	
KEVEN WILSON	PARTICIPANT	
SUSAN M CARELESS	PARTICIPANT	
BARRY THOMAS APPLEBEE	PARTICIPANT	

INTRODUCTION

This was an appeal to the Toronto Local Appeal Body (TLAB) by the owner of 116 Briar Hill Avenue in the Yonge and Eglinton area of the City of Toronto, from the Committee of Adjustment's (COA) refusal of a **consent** to sever the parcel, and for **variances** to permit the construction of two dwellings, one on each of the severed lots.

The property is located on the north side of Briar Hill Ave. in the second block west of Yonge St. It is a few properties west of Duplex Avenue and almost across from St Clement's Church, which is on the south west corner at Duplex. The lot has a 13.74 m frontage, 40.2 m depth, and is 552.6 sq. m in area.

The subject site is designated Neighbourhoods on Map 17 of the Toronto Official Plan (OP). It is zoned R (f7.5; u2; d0.6) (x949) under By-law No. 569-2013 (the New By-law, not yet entirely in force), and is also subject to Zoning By-law No. 438-86, as amended, wherein the zone is R1S Z0.6 (the Old By-law).

BACKGROUND

This appeal was extensively presented and argued over an entire four-day period, with two neighbours as parties and eight neighbours as participants. Both the owner and the neighbouring parties were represented by counsel, and two professional planners testified. The requested severance was not altered, but amendments and reductions had been made to the variances prior to the hearing. As required, the applicant had filed the proposed changes to the application in TLAB Form 3. The amended list of variances was also tendered in evidence.

MATTERS IN ISSUE

The revisions were made largely to address a Planning Staff Report dated November 14, 2017, an Urban Forestry Report dated November 13, 2017, and a Development Engineering Report of March 29, 2017. All of these reports had been submitted to the COA prior to its decisions made on November 23, 2017. Staff had recommended certain reductions or eliminations of the variances sought. This appeal was launched on December 11, 2017. Subsequently on February 13, 2018 the appellant filed Form 3, the Applicant's Disclosure, wherein further alterations to the plans were outlined.

To the extent that the variances requested in this hearing differ from those before the COA, I accept that the Applicant's proposed revisions as set out below are all reductions from the original application. As such, I find that no further notice is required pursuant to s. 45 (18.1.1) of the Act, and that the revisions can be considered. In any event, the neighbours most affected were all present to hear the appeal.

Following the reductions, the principal issue appeared to be whether a severance of the existing lot would meet the tests in the planning instruments, both the provincial plans and the City's Official Plan and Zoning By-laws. Secondary to this issue are the reduced variances still required for the proposed dwellings.

JURISDICTION

On an appeal of a consent application, the TLAB must be satisfied that the relevant provisions on subsection 51(24) of the Act are satisfied. Subject to my editorial deletions of some of the clauses for this matter (based on my assessment of the evidence provided) the subsection reads:

"(24)... 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;

(b) whether the proposed subdivision is premature or in the public interest;

(c) whether the plan conforms to the official plan

(d) the suitability of the land for the purposes for which it is to be subdivided;...

- (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;....
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy;....

Respecting the variance appeals, the TLAB must ensure that each of the variances sought meets the tests in subsection 45(1) of the Act. This involves a reconsideration of the variances considered by the COA in the physical and planning context. The subsection requires a conclusion that each of the variances, individually and cumulatively:

- is desirable for the appropriate development or use of the land, building or structure;
- maintains the general intent and purpose of the official plan;
- maintains the general intent and purpose of the zoning by-law; and
- is minor.

These are usually expressed as the “four tests”, and all must be satisfied for each variance.

In addition, TLAB must have regard to matters of provincial interest as set out in section 2 of the Act, and the variances must be consistent with provincial policy statements and conform with provincial plans (s. 3 of the Act). A decision of the TLAB must therefore be consistent with the 2014 Provincial Policy Statement (PPS) and conform to (or not conflict with) any provincial plan such as the Growth Plan for the Greater Golden Horseshoe (Growth Plan) for the subject area.

Under s. 2.1(1) of the Act, TLAB is also to have regard for the earlier Committee decision and the materials that were before that body.

EVIDENCE

The Applicant/Appellant's planning evidence was provided by Mr. Franco Romano, a well-qualified professional planner accepted as an expert for this purpose. He outlined the proposal for the site, where at present there is a single detached residential building on the existing lot. Briar Hill Avenue is a local street that runs east two blocks to Yonge, and west to the Allen Expressway. He emphasized that in this area it is part of a compact, low rise residential neighbourhood, consisting of a tapestry of lot sizes and dwelling types. There is no uniformity of lot or dwelling size, either on the street or in the immediate neighbourhood. Similarly, nearby dwellings have site designs and architectural features that are heterogeneous, yet compatible in their setting.

In his Witness Statement (Ex. 3) he summarized it in this way:

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

“3.1.3. The neighbourhood lot fabric contains rectangular-shaped lots that range in lot frontage from approximately 4.88m to 21.0m and lot areas between approximately 167.2m² to 659.5m². Lots coexist next to or nearby one another throughout the neighbourhood with similar and/or varying sizes. In a similar fashion, dwellings of the same, practically identical or different size also co-exist. All lots of record, regardless of origin/date, are capable of accommodating residential development for a dwelling type permitted by the zoning by-law(s).”

The application for a severance would result in two lots each having frontages of 6.87 m, while the New By-law requires a lot width of 7.50 m. The COA decision set out the severance application as:

“CONVEYED - PART 1

Part 1 has a lot frontage of 6.87 m and a lot area of 276.3 m². The lot will be redeveloped with a new detached dwelling.

RETAINED - PART 2

Part 2 has a lot frontage of 6.87 m and a lot area of 276.4 m². The lot will be redeveloped with a new detached dwelling.”

Mr. Romano described the proposal in these terms:

“On each lot, a new two storey detached dwelling with integral garage is proposed to be constructed with the following features:

- A building footprint position that reflects a:
 - o Front yard setback of Part 1 – minimum 4.66m and Part 2 – minimum 5.04m to create an appropriate front wall alignment along Briar Hill Avenue.
 - o Side yard setbacks of exterior 0.45m.
 - o Rear yard setback of over 18.4m.
 - o Building length from front wall to rear wall of 16.74m.
- A building height of two storeys and 10.0m to the top of the sloped roof and 7.47m to the eaves (and main wall).
- A split first floor level that incorporates a front and rear height measurement of 1.18m.
- Required parking to be located behind the main front wall of the dwelling within an integral garage.
- A gross floor area of approximately 198m².”

It is to be noted that all proposed dimensions comply with the zoning By-laws except the frontages, the FSI, the length and the proposed integral garage on the reduced lot size.

Variances Requested at the TLAB:

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

The variances requested for each of Part 1 and Part 2 are as follows:

1. Chapter 10.10.30.20.(1), By-law No. 569-2013
The required minimum lot frontage is 7.50 m.
The proposed lot frontage is 6.87 m.
2. Chapter 10.10.80.40.(1), By-law No. 569-2013
Vehicle entrances through the front main wall of the building are permitted provided the lot has a minimum frontage of 7.6 m.
The proposed lot frontage is 6.87 m.
3. Chapter 10.10.40.40.(1), By-law No. 569-2013
The permitted maximum floor space index is 0.6 times the area of the lot.
The proposed floor space index is 0.70 times the area of the lot.
4. Chapter 900.2.10 Exception R 949, By-law No. 569-2013
The maximum building length is 14.0 m.
The proposed building length is 16.74 m.
5. Section 12(2)112, By-law 438-86
No person shall, within the area hereinafter described (The area designated R1Z Z0.6 lying to the north of Roselawn Ave and west of 909-88 Yonge Street), erect a building part of which extends further back than 14 m from the main front wall of the building.
The proposed building extends 16.74 m from the main front wall of the building.

As mentioned, the Applicant made revisions to the original plans that were refused by the COA. These were altered with Mr. Romano's assistance to eliminate certain variances and to reduce the order of magnitude of other variances, as staff reports had suggested. The revised Site Plan can be seen at p. 7 of Ex. 3. I set out the revisions here, as a great deal of hearing time was spent in discussing the various aspects of the design, and there appeared to be some misunderstandings:

- The dwellings have been shifted 0.05 m toward the **exterior** lot lines, **so that all side yard setbacks now comply** with the zoning standards.
- The windows on the interior walls have been replaced with skylights.
- The roof plan has been revised to ensure that side yard setbacks to the eaves comply with zoning standards.
- The rear balconies have been removed and replaced with Juliette balconies.
- The front yard setbacks now comply with the zoning standards. (*emphasis added*).

Ms. Stewart clarified the changes made in the new proposals and plans:

As mentioned, minor variances are now required **only for lot frontage, floor space index, building length and a garage** on a lot with the proposed frontage.

Because of the elimination of windows in the side walls of the proposed dwellings, the New By-law permits a reduction in the required side yard setback from 0.9 m to 0.45 m. No variance is now required for **any** side yard setback in the proposed design of the two dwellings. They were shifted to the exterior by 5 cm., which she termed an imperceptible difference. It can be seen from Mr. Romano's lot statistics (at the end of Ex. 3) that the length variance sought has been granted in other COA and appeal decisions in the area.

Ms. Stewart's conclusion, based on Mr. Romano's statement, was that both the severance and the proposed built form are now consistent with the existing neighbourhood fabric and character. They are not unusual given the approvals nearby. The appropriate test for refusing a variance is a strict one of "undue adverse impact of a planning nature". As Mr. Romano went on the state, this proposal does not rise to this level. It meets all applicable provincial policies for intensification and creation of additional housing units.

The Study Area: Mr. Romano explained his choice of study area for assessment of this proposal, being somewhat smaller than that chosen by City Planning staff. However, his conclusions were similar. The Planning Staff Report of November 14, 2017 had said:

"The application request (*sic*) variances to permit a lot frontage of 6.87 metres whereas under Zoning By-Law 569-2013, the minimum frontage required is 7.5 metres. Lot frontage requirements are devised, in part, to ensure a consistent pattern of development. **Staff conducted a review of the lotting pattern on Briar Hill Avenue and the surrounding neighbourhood and the proposed lots have a frontage that is consistent with the existing general physical character of the neighbourhood.**" (emphasis added).

Mr. Romano's area was from Craighurst Avenue to the north, east to Yonge Street excluding properties on its west side, south to St Clements Ave., and west to the east side of Rosewell Avenue. This includes the east-west streets Albertus Avenue, Briar Hill and St. Clements Avenue. There are 386 lots in this study area.

In his witness statement (Ex. 3), he made the following comment about the choice of a study area in general, for the proper evaluation of a development proposal:

"3.1.6 The neighbourhood's physical context is important to the evaluative consideration of the proposal because the policy framework directs us to review matters such as the compatibility and fit of a proposal within the neighbourhood context. The evaluation is also to be undertaken in toto – the neighbourhood as a whole, not just individual criteria or segmented components of a neighbourhood. Similarly, the planning evaluation is not to be determined by a mathematical exercise that would render a singular majority attribute to be determinative (i.e., the majority of lot sizes are X, therefore any new lot must be at least the equivalent of size X in order to respect and reinforce the physical context). This

type of evaluation impugns the valid existence and contribution of other lots and the lot fabric as a whole to the physical character context.”

Mr. Romano noted the many lots of differing sizes and different dwelling types next to or across from each other within the study area. These are exhaustively illustrated in the photos of virtually every dwelling in his study area (Ex. 3), and also reviewed in evidence. His conclusions were that the requested consent and minor variances are within the characteristics that can be found on properties elsewhere in the neighbourhood. In general, new construction does not replicate existing built form, he testified, as regeneration is usually different than what exists, and the structures are usually larger, occupying more of the lot.

Frontage: Respecting frontage, he testified that no planning instrument requires that lot size be compared, either on a street or block basis. In his study area here, if lots of 6.87 m and smaller are studied, it can be seen that 18% of them (70 of 386) are that width or smaller. 27.2% of these have a slightly larger lot frontage of 7.49 m and smaller. Even on Briar Hill itself to the west of the subject lot, are lots that are narrower (5.7 m, and 6.4 m). In both his study area and the greater area included in the City staff study (963 lots, versus his 386), the lot frontages range from 4.88 m to 21.0 m. and 4.3m to 27.2m, respectively. His study began with the frontage allowed in the zoning, then he looked for smaller lots, but the results do not differ significantly from the City's. In his opinion this would be an imperceptible lot size change from the permitted. The proposed lots of 6.87 m frontage represent a size that will contribute appropriately to the existing lot fabric, in a manner that respects and reinforces the neighbourhood characteristics.

FSI/GFA: Respecting GFA/FSI measurements, he found a range of 0.20 to 1.05 times the area of the lot. This range is also seen in the many minor variances in the area over the last 10 years, statistics as supplied by the City (Ex. 3, last pages). He concluded that the proposed 0.7 times the area of the lot is in keeping with this range (Ex. 3, para. 3.1.7). He testified in detail as to the many frontage and GFA variances exceeding the By-laws, on three streets – Albertus, Briar Hill and Craighurst. There were 41 of the GFAs, out of 186 files. As one example, 99 Briar Hill, recently severed from the St. Clement's Church property, has an FSI of 0.79, while 101 next door is at 0.39 times the lot area. His photos demonstrate this significant variety, and show the differing styles of the recent builds – most frequently a driveway, high front steps, 2 living levels above, dormers on the second floor, and also an integral garage.

The neighbours had stated in filings that they would prefer a semi-detached building type on the lot. Mr. Romano stated that nothing precludes any building type that is in fact permitted by the By-laws. Though some small lots in the study area have semi-detached dwellings, all are lots of record. Thus semi-detached could even be replaced with detached, as both are permitted. The two are not related, and are not so restricted.

His conclusion was that the proposal was in keeping with other built forms, lot sizes, building size and position, within the neighbourhood. He emphasized that Planning staff had said in their November 14, 2017 report to the COA that the proposed lots have a frontage that is consistent with the existing general physical character of the

neighbourhood. Landscaping in rear yards is generally modest. Side yard setbacks permit access where no driveway to rear parking exists. The proposed integral garages appear elsewhere here. There is no street parking on the north side to be impacted. The proposed front walls would be close to the present, so the streetscape is preserved.

Length and depth: There was a misunderstanding about the proposed location of the rear walls. The interaction between length and depth requirements in the By-laws mean that the rear walls of the dwellings could be placed **as of right** where they are shown on the site plan. The buildings as of right could be

1) shorter from front wall to rear wall (the length variance is for 16.74 versus the By-law at 14 m), but

2) could then be placed deeper into the lot than proposed.

This is illustrated at p. 426 of the Applicant's Document Book, Ex. 2. The required rear yard setback of 7.5 m is well exceeded in the placement of the rear walls, at 18.8 m. The neighbours to the west at 122 Briar Hill (the Applebees) are also longer than the By-law permits, which is not unusual in the area. There is a proposed grade-related deck of 2.5 m by 2.9 m attached to the rear wall, allowing just for access to the rear yard, a BBQ and/or a small table.

It is necessary to consider the impact of the building form that could be placed on the lot, even without a severance. He testified that there are no variances sought here for the height, mass or scale of the proposed dwellings. The first floor is still close to grade, as access to the living area is gained by interior steps. There are no landscape variances. Interlocking pavers will provide adequate water absorption. There would be no adverse shadowing, he stated – it is mostly as of right, as heights and eaves projections comply with the zoning requirements.

Parking: In Mr. Romano's opinion, integral garages are a common modern parking solution regardless of lot size. The Transportation staff did not object to the integral garages here. This feature appropriately implements the balanced approach to managing parking in this type of neighbourhood. It therefore meets the general intent and purpose of the zoning, even given the 1996 provision relating to integral garages on lots less than 7.62m frontage. He had reviewed the study "Preserving Neighbourhood Streetscapes – Parking Solutions for Low Density Residential Neighbourhoods" and was satisfied that the integral garages on these lots are desirable and appropriate, and are found elsewhere in the neighbourhood.

City Tree: Urban Forestry's earlier report had stated that the design would require the destruction of one healthy city-owned tree, to permit driveway access for Lot 1 to the west. It stated that the tree would not survive the injury resulting from the proposed or any other access configuration, and removal would be required. Therefore the design was amended. The westerly driveway was shifted to the right side of its lot in order to wrap around the tree. In any event, even if approved, the proposal could not proceed without the required permit for the City tree. He is satisfied that the proposed condition respecting a permit will meet the concern for tree preservation.

Provincial Policies

Mr. Romano testified that the proposal properly implements the policy thrust and direction in the PPS, particularly as it relates to achieving an appropriate mix and range of housing, optimizing the use of land, and making more efficient use of existing infrastructure. There is similar compliance with the intensification policies of the Growth Plan, to achieve complete communities with transit-oriented development. This growth should be focused within settlement areas in “delineated built up areas” (this is one) where a diverse range and mix of residential uses is to be achieved. He reviewed each relevant section and policy in detail. The City has not yet updated its OP to include the targets for intensification within built up areas, so the proposal must be considered within this policy framework. Maintaining the existing housing formats and sizes would not advance aspects of these policies of either the PPS or the Growth Plan.

The Official Plan regime for the Neighbourhoods designation is met with this application, he testified. In chapter 2’s section concerning Healthy Neighbourhoods, the explanatory text for Policy 2.3 acknowledges that neighbourhoods are “stable but not static” and that “neighbourhoods will not stay frozen in time.” Physical change is expected to occur in neighbourhoods like this over time through enhancements, additions and infill housing. The objective is to reinforce the stability of the neighbourhood by ensuring new development respects the existing physical character of the area. Regeneration is therefore an important aspect of stability, and the OP clearly anticipates physical change by replacement housing.

Built Form policies applying throughout the City include consideration of the planned context as well as the existing – an important consideration here. The sidebar to Policy 3.1.2.1 says that the planned context refers to what is intended in the future. In stable areas such as *Neighbourhoods* the planned context typically reinforces the existing context. However, given the direction of Policy 2.3 that they will not remain static, development such as anticipated here will fit in this context.

Policy 3.1.2 was reviewed in detail, with Mr. Romano finding compliance with the requirements there, with minimal impact on the neighbourhood. He stressed that the test of “compatibility” in planning means “capable of co-existing in harmony with” and not “replicate”.

The intent of Policy 2.3.1.1 regarding change in stable neighbourhoods is further expressed in Policy 4.1, which sets out the policies for the Neighbourhoods designation. Changes to established neighbourhoods are expected to be “sensitive, gradual and generally ‘fit’ the existing physical character” by respecting and reinforcing the general physical patterns in neighbourhoods.

Policy 4.1.5 also requires that development in established Neighbourhoods respect and reinforce the existing physical character of the neighbourhood. The intent is further expressed in a series of development criteria which are to be considered in assessing the appropriateness of the development. These include:

- a) respect and reinforce the existing physical character of the neighbourhood,...;
- b) size and configuration of lots;

- c) heights, massing, scale and dwelling type of nearby residential properties;
- d) prevailing building type(s);
- e) setbacks of buildings from the street or streets;
- f) prevailing patterns of rear and side yard setbacks and landscaped open space;....

Policy 4.1.8 requires that zoning By-laws contain numerical site standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building setbacks from lot lines, landscaped open space and any other performance standards, to ensure that new development will be compatible with the physical character of established residential *Neighbourhoods*. As mentioned, “compatible” here means “capable of co-existing in harmony with” and not “replicate”. The zoning standards in this area, Mr. Romano testified, have not been complied with rigidly, as both old and new construction in this neighbourhood illustrate differing lot sizes, building design and built form. However, the requested variances here do, in his view, meet the general intent and purposes of both the OP and the applicable zoning By-laws.

He then addressed the variances individually. The frontage of 6.87 m is an appropriate one within the site’s physical context, and this lot size is well represented in the neighbourhood. The variance for a vehicle entrance in the front main wall on a reduced lot frontage addresses the issue of compatibility – here, there is no interference with street parking or with required landscaping. Thus the 1996 study for integral garages on undersized lots is met, even if there was a subsequent restriction of them. Integral garages are found elsewhere here; they are not prohibited, and sight lines here are good. The proposed driveway sizes do not differ from the double one that could be installed if there was only a single dwelling on the site. The FSI variance of 0.7 % is seen in his decision summary table elsewhere in the neighbourhood, and represents appropriate deployment of the dwellings on the lots.

The length variance is of concern to the participants, but as he explained, the proposed dwellings could be placed even further back into the lot and not require a rear yard setback. They are located so as to ensure they are oriented toward the front of the lot, and to avoid building into the rear for the neighbours’ sake. The zoning By-laws usually require a maximum 17 or 19 m length. The present 14 m length standard in both By-laws (Variances 4 and 5), he explained, is a development control tool to facilitate a review of this type of application. The requested length is seen elsewhere here, and is appropriate development for the site.

His conclusion is that the variances, individually and cumulatively, meet the general intent and purposes of the OP and the zoning By-laws, are desirable for this site, and are minor in magnitude, without any unacceptable adverse impact of a planning nature. The proposal will not cause any unacceptable adverse impacts relating to such matters as shadowing, privacy, overlook, vegetation or drainage. Overall, a single dwelling on the site could be built taller, longer, and closer to the side lot lines than the proposed. He was also satisfied from his review of the consent criteria in subsection 51 (24) of the Act that they would be properly addressed by this proposal.

In cross examination Mr. Romano reiterated that appropriate lot frontage is not merely a mathematical exercise. The neighbourhood here is not a mere two blocks long, and examples of frontages less than the By-law requirement are found throughout his study area. One cannot rely on only a segment of a neighbourhood because the policy instruments require that there be some logic in the choice – for example, same OP designation, same zoning, boundaries or natural features. Exceptions would be where there was improper implementation of a policy framework, or a physical boundary such as a cul de sac or a ravine. Then the choice could become a slightly more subjective one. Nonetheless, he said, he would have to be considering an estate subdivision to accept a study area of less than 100 lots. There are over 300 in his study area here. It does not matter what percentage of the “neighbourhood” that the proposed frontages form. Gradations in frontages between 7.62 and 6.87 m are imperceptible, and the planning instruments do not require consideration of the look of lots in any event. From his physical observations of lots in his study area, he arrived at his opinion that 6.87 m is a reasonable and appropriate frontage. The colour-coded chart in his Witness Statement illustrates the lot sizes observed.

He was asked if the “vast majority” of the smallest lots found were developed with a semi-detached dwelling rather than detached. He replied that he would have to do a visual inspection to respond, as the 2010 property map illustrates footprints only as of that date, and cannot be relied on for this question. After inspection, he confirmed that there are 16 lots with semis out of the 105 lots in the smallest category, which is 4% of all lots in his study area. He was asked many questions about massing of semi-detached dwellings versus two single detached on lots of the same width. His response was that there was insufficient information to respond – he could only say that the width and height would be similar but not the same. Nor could he say if the proposed two dwellings would be the only example of identical detached homes on undersized lots in his study area – he would have to physically verify this. He was taken to the photographs in an attempt to respond, but this was found to be impossible from photos.

He testified in response to many such questions that any lot of record could be redeveloped, regardless of the size of the lot. He had looked at the existing lots and structures, and also what could occur under the planning instruments, as neighbourhoods are not frozen in time. Lots can be redeveloped with a building type permitted in the By-law, and reflect either the existing or the planned context. He was asked many times about redevelopment of single detached homes with semi-detached. He agreed that variances probably would be required in this case to create a reasonable site design. If a complying one could be designed, it would not necessarily be better than one requiring zoning relief. He was asked if he had shown only new construction in his photos, which he denied – he illustrated what was presently there. Nonetheless, he was asked to review many photos (almost all) to prove this, and other matters of lot sizes and other issues. There was one relevant question about the single photo showing undersized lots on Briar Hill, nos.117/119 (6.1 m) with semis. The proposed dwellings for 116 would be more articulated, he stated, with more softening of the features than these dwellings.

Respecting the size of the proposed structures, Mr. Romano emphasized again that these were not the higher structures with many stairs to the front, elevated first floors,

large living room windows and garage door that the New By-law discouraged. These were the type proscribed by the Preserving Neighbourhood Streetscapes study of 1996. He stressed that the Streetscape study did not recommend prohibition of integral garages on undersized lots, but merely set out the appropriate elements to be achieved in this case. Contrary to the question whether features of the subject dwellings were greater than 80 Briar Hill, a newer construction on a larger lot, Mr. Romano stated that it was in fact the reverse. He was taken again through the Urban Forestry report of November 13, 2017, in which it was stated definitively that the proposal would require the removal of the City tree in the boulevard. He was asked many questions respecting the neighbour's tree in the rear at 112, and replied that he did not know whether it was accurately portrayed on the survey.

Another long review of his photos occurred for the issues of side yard setbacks and building lengths, and cars parked on driveways. Information resulting from this line of questioning was the fact that the west side yard setback of 0.4 m at 112 next door, owned by the appellants, is in fact less than the By-law requires. It is also less than the complying setback of 0.45 m proposed for the subject dwellings. The height of the proposed dwelling on Lot 2, because of the grade difference, will be higher than 112. The structure will extend to the rear beyond 112 by approximately 2 metres. However, the established grade is not being altered, and the Building Department determines any alterations required.

To the argument that the GFA requirements should control the development envelope on the severed lots, Mr. Romano noted that the difference for the proposed would be only 0.1 %, an insignificant amount. If a lesser GFA was pursued the dwellings would be different, but not to the extent there would be a substantial alteration to the height, massing and definitely not to the building position or setback. Thus, in his opinion, there would be no unreasonable or undue adverse impact from the windowless extensions beyond the rear of 112 or 122. The architectural topology and building material will be similar to others nearby.

Mr. Goluboff and Ms. Fox

Mr. David Goluboff and Ms. Sue-Ann Fox reside next door to the east at 112. They provided evidence of their concerns about the proposal (to be addressed later.) Mr. Terry Mills provided expert planning evidence on their behalf in opposition to the proposal.

Mr. Mills was qualified to provide expert testimony to the TLAB, as he has done before. In Exhibit 5, his Witness Statement, he presented similar area photos and a "broader character area" (his Maps, p. 3) for identifying his study area (para. 8), together with both "adjacent character areas" (his Maps, p. 5) and a "MAIN CHARACTER NEIGHBOURHOOD", which includes the Subject Site. This is described in para. 16:

"The Main Character Area extends from the rear boundary of the Yonge Street CR-3 zone through to Rosewell Avenue which was used as the west boundary line. The study focused on the east-west streets: Craighurst Avenue, Albertus Avenue, Briar Hill Avenue and St. Clements Avenue that reside in the R (f7.5m;u2;d0.6) district."

Notwithstanding this initial area, he testified that Briar Hill itself has a distinct character, particularly in the vicinity of the subject site. For example, he found that only 10.5 % of the lots on Briar Hill are less than 6.87 m wide, whereas 42% on Craighurst Ave. are less than this. He addressed this by calculating medians and averaging shown in charts in his materials (Ex. 5). He prepared a similar lot size chart to Mr. Romano's, using different colours (Ex. 5, p. 12).

He provided a very interesting historical rationale for the early development of this area into its current lot formation, building forms and architecture. Duplex Avenue was constructed later, and segmented the eastern block of Briar Hill from the west where the subject site is located. Notwithstanding this he found evidence of the former continuous blocks in the lots and construction in this block of Briar Hill west of Duplex. He included this in his identification of a much-reduced segment of Briar Hill alone as the relevant "Neighbourhood" as required by the OP policies. He concluded his study of severances and variances in this way:

"[27] Upon the completion of this analysis, the 'Briar Hill Neighbourhood' was determined for testing the appropriateness of the variances, consisting of the 290m eastern half of Briar Hills Avenue (sic) as outlined in red on the St. Clement's Church Square diagram, was the appropriate context for evaluating the variances and consent. [Maps p.13]." (Ex. 5).

In his testimony he reiterated that this less than two block Briar Hill corridor is the appropriate context to determine if the proposal meets the OP policies.

He believes that this would conform to the intent of the recently adopted (but not yet in force) OP Amendment 320. This essentially limits a neighbourhood, in a way that Mr. Mills said was a Ministerial correction, such that a "street must be defined as the end of a block to the end of block". He therefore chose 130 Briar Hill as the westerly limit of his segment, as the lot sizes and the sidewalk boulevard tapers down in size at this location. He testified that the scale and proportion of the houses also tended to reduce to the west of this point. His segment can be seen at Ex. 5, Maps 21. The rationale is described there in this way:

"The significant difference about Briar Hill Avenue relative to the other four street profiles is the clustering of substantially wide lots in the vicinity of Duplex Avenue. The properties on the west side of Duplex Avenue, up to and including 130 Briar Hill Avenue on the north Side and 131 Briar Hill Avenue on the south side, form a group of lots with a wider frontage pattern than found elsewhere throughout the Main Character Area" (Ex. 5, para. 21).

His Witness Statement sets out almost to the letter the same photos, applicable planning documents and many of the same facts about the relevant nearby properties as Mr. Romano's. It is expressed in an equally comprehensible way. I will address only some of the differences he points out. He did perform a shadow study to address both the as-of-right and the extended length of the subject properties. He foresees extra shadowing in the four times per day and in spring and fall (March 21 and September 21)

that he studied (Maps, p. 14). He considers that the neighbours at 112 will be compromised in their use of the backyard and deck at these times.

Mr. Mills focused much attention on side yard setbacks in his neighbourhood photos – these included his larger area, quite similar to Mr. Romano's. In a property-by-property review of the photos, he opined that 0.9 m "works well", whereas the proposed 0.45 for the subject properties does not suffice. There needs to be sufficient space for both access to the rear, and mechanicals in side yards, he opined. He suggested that a geotechnical engineer be hired to configure the side yards for this proposal, as he sees potential for flooding and water spillage onto his clients' neighbouring properties.

He then focused on the issue of frontages. Basically, his evidence highlighted the variety of frontages and built forms on the nearby streets. East of Duplex Ave. along Briar Hill, he sees older homes with some replacements, with reasonable space between them. He then drew attention to 92/94, the rebuilt dwellings mentioned by Mr. Romano. The recently severed lot widths exceed the By-laws at 7.7 m, with adequate space between the dwellings. He pointed out that the properties on each side of the subject lot at 112 and 122, are "12 m. plus" in width, and are thus not likely to be able to be severed or reconstructed with integral garages. Of 8 properties of 15 m or greater width, only 6 could be severed here, so he sees a very small likelihood for undersized lots within these blocks in the future. In 10 years of changes by home replacements plus renovations and additions, he sees only 3 severances per year, or about a 1% rate. He stated that the By-law length limitation of 14 m is not typical in an R district, but aims for a smaller scale of building, a more traditional one.

His conclusions are well expressed in his paragraph on the test of OP compliance:

"[34] In my opinion, all consolidated four variances breach this Development Criteria, and in so doing, the proposal fails to fit, respect and reinforce the existing context which is abundantly clear in the proposal's immediate surroundings. The failure to provide adequate width side yard passageways to the rear yards I find particularly vexing in that there has been a longstanding practice in addressing this consideration that is evident in the existing physical context. The undersized lot frontage and the associated integral garage adversely impact the physical character of the Neighbourhood's landscaped streetscape and its integral tree canopy. The FSI becomes contorted on the proposed substandard lots into massing proportions that are not reflective the existing physical character of this Briar Hill Neighbourhood. On the wider existing lots the density represented by the FSI has been accomplished in a less abrupt fashion, both vertically and horizontally. It has not required projecting building depths in the rear yards on the individual properties and in so doing has avoided the adverse impacts upon the aggregate rear yard open space that neighbouring properties enjoy as a shared open space system rich in its spaciousness, greenery, vistas and views through and about including sky views. Where there has been depth projections (sic), these have come about as a result of spatial considerations in front yards and side yards, and transferring the density to the rear has been considered an appropriate offset." (Ex. 5).

In Mr. Mills' opinion the PPS policies respecting energy efficiency have not been met here, as Policy 1.1.3.2 a) 3 requires. Creating narrow single structures presents an

additional 30% of surface area of heat loss, versus a semi-detached with a party wall. Semis would also meet the PPS and GP policies for housing intensification. He called "intensification" the provision of dwelling units, not of square footage. He termed this proposal for two separate dwellings a "vanity project" (and other terms: "a complete travesty", "a little bit vulgar" and "targeted to the outlier range of price").

Addressing some of the OP policies, he said that the sidebar to the Built Form policies in 3.1.2 means that the planned context is more important than the existing one. Each new building should promote and achieve the overall objectives of the Plan. He then clarified that there should be a balance between the two. He found non-compliance with Policy 3.1.2.3, in that the four variances together would create narrow lot widths, non-complying garages, FSI and length. He stated that they would fail the tests set out in this policy for a harmonious fit, and limiting adverse impacts of massing, form, proportion, transition, shadowing and regard for open spaces. This would include the streetscape corridor and the aggregated rear yards' open space. Respecting the Neighbourhood policies in Policy 4 of the OP, he finds that the proposal does not respect or reinforce the general or prevailing physical patterns of the existing context, again referring to the immediate two-block area chosen as his neighbourhood. This would also not meet the OP goals for affordable housing.

He raised the issue of removal of the tree in front as another instance of non-compliance with the OP policies respecting retention of the tree canopy. He was reminded about the necessity of a permit, which is under the control of Urban Forestry.

He argued against the proposal meeting the general intent and purpose of the zoning By-laws, another of the tests in subsection 45(1). This segment of Briar Hill is where it is critical to uphold the frontage standard, in his opinion. The scale of the proposed would not meet the prevailing or predominant lot or building size here. The present lot is only 13.74 m wide, less than the size to sever within the By-laws, and there are only 4 lots left here even at a 15 m width. Severance of larger lots will not occur as there are so few, in his view.

He objected to the integral garages, saying that the garage doors would be half of the front elevations, with an elevated window in the living rooms, the very issue that the Streetscapes Study addressed. Similarly, the FSI sought does not meet the By-law requirements, contorted as it is, causing the dwellings to resemble "a fat person sitting in a narrow chair." He sees that 110 Albertus was permitted at .68 FSI, but the 0.7 times lot area sought here would be preferable if it had a more appropriate frontage.

The By-law standard of 14 m for building length makes sense here, he opined, because of the existing housing stock, although other R districts are allowed 17 m. He worries about the rear projection of the proposed dwellings here for shadows as well as overviews of the neighbours. Despite severances elsewhere within these blocks (92/94) they were sufficiently wide lots in the end, so the variances were not too large to be considered minor. The proposed are not minor by any stretch, he opined. Nor are they desirable, as the rhythm of Briar Hill's streetscape would be interrupted by larger structures on smaller lots. This is exacerbated by the probable continued existence of the wider lots at 112 and 122 on either side of these narrow, tall, blank walls as

proposed. He suggested alternate building forms such as a semi-detached, or condos or co-ops with a driveway to a garage at the rear, perhaps with an L-shaped parcel to accommodate the driveway.

In cross examination Mr. Mills agreed with or did not seriously dispute the following:

- There are competing objectives even within applicable planning policy documents, so that intensification could be in conflict with preservation of the natural environment, as one example. This requires consideration of the entire document, not a “cherry-picking” of one policy to the exclusion of the others. Then there must be a balancing of competing objectives for a given situation.
- Zoning by-laws, on the other hand, contain actual regulatory standards for each zoning area. The Planning Act permits these to be altered by the minor variance process. Many structures exist that do not meet these standards. Severances are not proscribed, indeed are available by application for less than the by-law limitation, and may even contribute to the stability of a neighbourhood. He continued to say that the By-laws should be adhered to, unless there is careful examination of a proposal. He did agree that if the zoning by-laws permit a certain standard, it is by definition compatible with adjacent development.
- Under the Growth Plan, intensification is intended to occur within delineated built up areas, and a complete range of housing is a goal. However, Toronto has not yet adopted a housing strategy under this recently-adopted Plan (2017). A full range of housing would include single detached in a low rise configuration. He said that it would also include “little old ladies” renting rooms to students, but would not include severances as the only mechanism for intensification in existing neighbourhoods. He agreed that the Housing policies in 3.2.1 of the OP had not been updated since 2006, but that construction of single detached homes is now “cannibalizing all the old housing stock” to build luxury homes. He has a bias, he said, toward affordable housing.
- The Built Form policies in the OP apply to all new development, which is required to fit harmoniously within its existing neighbourhood. There is no definition of “infill” in the OP, but this development could be considered to be intensification, as it is one way to implement the OP policy for such. He does not agree that the requirement for a harmonious fit means compatibility; he says compatibility means that there is no conflict, and that it does not apply to houses within a neighbourhood and therefore this project.
- He agreed in the end with Ms. Stewart’s interpretation of the Zoning By-law here as permitting only building types of single, secondary, townhouse, duplex (U2) and not triplex or fourplex. A U2 restriction is a clawback of the permitted building types of triplex and greater densities in R zones.
- Policy 4.1 of the OP respecting Neighbourhoods refers to continual change, and does not direct a rigid replication of the existing area. It speaks of “generally fitting” the physical pattern and character, not a duplicate. There can be more than one physical pattern in a neighbourhood - he called it a “jarful of buttons”, and reiterated that the context must govern.
- Policy 4.1.5 requires that a neighbourhood be established, so that the test of respecting and reinforcing its existing physical character can be assessed. He admitted that his choice of the two-block area of Briar Hill was conducted without

the usual “walking the dog” test, but rather from similarities on the block. He saw an edge where he drew his “rectangle”. He acknowledged that one must consider the whole neighbourhood, but that he did not see it applied equally within the entire neighborhood. Following his identification of new construction on the five nearby streets, he narrowed his identified “neighbourhood” to the 'Briar Hill Neighbourhood', one of a more “fine-grained character” for testing the appropriateness of the variances and consent.

- None of the factors in Policy 4.1.5 can be given special importance in determining a neighbourhood for evaluation purposes. If the issue is the frontage on a severance application, there is no test in the section of the “prevailing” size and configuration of lots as yet, as OPA 320 is not yet in force. Thus there is no test of a fit with a “majority” of the frontages in the neighbourhood. The sidebar to Policy 4.1.5 is: “Physical changes to our established *Neighbourhoods* must be sensitive, gradual and generally “fit” the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a *Neighbourhood*.”

It can be seen that the test of “prevailing” occurs in Policy 4.1.5 itself:

“Development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- a) patterns of streets, blocks and lanes, parks and public building sites;
- b) size and configuration of lots;
- c) heights, massing, scale and dwelling type of nearby residential properties;
- d) **prevailing** building type(s);
- e) setbacks of buildings from the street or streets;
- f) **prevailing** patterns of rear and side yard setbacks and landscaped open space;

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.

The **prevailing** building type will be the predominant form of development in the neighbourhood....”.

Following an exhaustive examination of all of the lot data he supplied, Mr. Mills agreed that there is indeed variety in lot sizes even within his “oval” or rectangle, but said the pattern was not as extreme as elsewhere. He did agree that if there was any pattern, it was toward the smaller size of lot rather than larger (7.5 vs 12 – 15 m.) The proposed lot frontages worked out to be better represented on Briar Hill than the present frontage of the lot, following a percentage analysis of all the lots in the two planners’ study areas (386 vs. 396).

- He did not appear to have revised his opinion on the design of the front of the properties, even though he acknowledged the changes to it. Transportation made no comment on the integral garages or driveways, which would have occurred if they had had objections. The proposed dwellings no longer fell

into the undesirable category of elevated front doors, or higher first floors. If developed as a single dwelling as advocated, the driveway could be 6 m wide. He retained concerns about parking on the driveways rather than in the garages. He called the design of 92/94 a “shining model” for a severance application. It is different on small lots, he stated, but he agreed that 92/94 at 7.62 m wide are only about a half metre wider than the proposed lots here. Once this was figured out exactly, it is only a 0.29 m difference in width.

- He accepted that GFA is a measure of the outside perimeter wall less exception areas. It is a ratio of accountable space divided by the area of the lot, and is not related to the frontage.

Participants:

There had been over 50 letters of objection to the COA prior to its hearing, and about 20 persons registered as participants in the TLAB hearing. Six of these spoke of their objections at the hearing. Most noted the lack of consultation with the neighbours about the owner’s plans. Mr. Laurence Olivo at 103 Albertus (directly behind the subject) expressed what became a common theme, the distinctive nature of this unique urban setting, “almost park-like”. What he termed the “usual townhouse high towers” such as the proposed, would destroy this otherwise almost homogeneous street. The severance at 92 and 94 Briar Hill had resulted already in undersized lots, he said, damaging the setting that is worth preserving. He agreed with Ms. Stewart that the neighbourhood included more than this block of Briar Hill. While he could see 112 Briar Hill, he was not directly affected.

Mr. Keven Wilson resides at 109 Briar Hill, located across from the subject property. He regrets the possible loss of this “period” home, certain to qualify for a heritage designation if application were made. He emphasized the COA refusal that was based especially on the vote of one of the members who lives in the area. This section of Briar Hill is not consistent with undersized lot development. No consultation had taken place with neighbours.

Mr. Glenn Robin Miller of 103 Briar Hill is concerned about certainty in development standards, although he does not oppose intensification. He had not objected to the severance or development of 92/94 as their width respected the zoning requirement of 7.62 m. The subject proposal would undermine this requirement, leading to serious compromise of the certainty of the planning instruments, and discourage reinvestment.

Ms. Sue Careless resides at 160 Briar Hill. She is opposed to any removal of the existing tree canopy, especially the attractive native City tree on the boulevard. Construction would cause root death and then likely that of the entire tree. It now tolerates pests and pollution, provides shade and harbours wild life. Storm water runoff would be increased. Ms. Stewart stressed the necessity to obtain a permit before the tree could be involved or removed, leaving control in the City’s hands.

Ms. Cynthia Luks lives at 68 Briar Hill, the second west of Duplex. She worries about flooding and tree removal, and also the proposed coverage (I presume she meant FSI). She had objected to an earlier approval by the OMB of excess coverage and tree

removal for the structure next to her at 72 Briar Hill. She acknowledged that this was now part of the neighbourhood.

Ms. Danusia Applebee has lived next door at 122 Briar Hill for 21 years. She spoke of this “sector” of the street from Rosewell to Duplex, which she “lives and breathes”. She believes that the identification of a “neighbourhood” for planning purposes is a subjective one, and that planners choose one that suits them. This section of Briar Hill is not comparable to other segments, she said, or to nearby streets. There are much larger frontages on the north side of Briar Hill here; none are comparable to the lesser frontages granted for 92/94 on the south. Three other dwellings here have been rebuilt, meeting the width requirement without severances, as well as those at 109 and 99 on the south side, thus preserving the neighbourhood character. She had added only a one-storey addition to the rear of 122, maintaining the necessary balance between development rights and neighbourhood character. The wider boulevard here leads to the “green” aspect, and increased driveway space as proposed would destroy more of the boulevard. She agreed that there had been a severance at 53/55 Briar Hill, but said that this was in another sector between Yonge and Duplex. The severance of 99 from the church property fit into the neighbourhood because it retained the required 25-foot frontage, even though it was modern in design. She admitted that this had greater side yard setbacks, height and length than the proposed. Similarly, she objected to the paved driveway at 92/94, but felt the severance was acceptable because the lots were kept to 25 feet. The driveway widths for the subject property as reduced are acceptable as they meet the by-law requirements. Ms. Applebee did not commit to whether the neighbourhood could be said to extend further than she first expressed (although she did mention persons walking a dog, who presumably would proceed farther than one block.)

Mr. Barry Applebee of 122 provided additional views respecting the proposal next door. He too believed that Mr. Romano’s choice of neighbourhood was too wide. He fears a precedent in the severance, and stated that the driveways were too small. He feared runoff from the eaves of the new home on the west lot next to his, as has occurred from 126 to his west. He believes even though the variances have been reduced, including elimination of the side yard and eaves setback, they should not be approved. He objected to a “10 by 16 wall” next door, saying one cannot assume that no adverse shadow, overlook or privacy issues would result. All the variances constitute overdevelopment of the site. He did say that the proposed severance could in fact be favourable to him, as they could then use the precedent to subdivide theirs at 122. He believes that despite variances granted for nearby properties, as pointed out by Ms. Stewart, a non-complying property affects the neighbourhood, “period.” If there is compliance he would not object. Ms. Stewart would draft a condition to ensure that water not be allowed to reach his property.

Ms. Jennifer Kacaba resides at 80 Briar Hill. She said in her Participant’s Statement that “ The North side of Briar Hill Avenue running west across from St. Clement’s Church has always had a varied, interesting and desirable selection of traditional houses rather than modern box structures designed to obtain maximum square footage and land coverage.” She desires that these be maintained, with no loss of trees. She agreed that there were fewer trees than she originally stated, and that the City could

control the existing boulevard tree on the subject property. She pointed out that this type of development is being proposed in multiple sections on the same part of Briar Hill Avenue – it already happened at 92 Briar Hill Avenue, and was proposed at 86 Briar Hill Avenue in 2017. These houses are all on the same side of the street within the same block of one another. She fears a negative precedent. Such development should occur through zoning changes, where there could be full input and consideration.

Evidence of Mr. Goluboff:

Mr. Goluboff testified as to the perceived effect of the development on the property to the east at 112, where he and Ms. Fox live. He foresees adverse impact on their light, access, and enjoyment of the home and rear yard should the construction proceed as proposed. The wall of the east dwelling would be within arm's length of their home, and an unarticulated blank wall would both shadow and cause privacy issues for their rear deck and yard. The wide grass boulevard in this section of Briar Hill would be destroyed, along with the City tree. He had discovered in speaking with the City planner who prepared the lot study for this proposal that the lot frontages included were inaccurate. 22.6 % have discrepancies of .5 feet or greater, so that lots shown as 25 feet are really only 24.5 feet. He termed this a significant error, confirmed in an email from Mr. Pressick. It affected the number of undersized lots in the area.

Respecting the City tree and the Arborist's second Report (Nov. 13, 2017), Urban Forestry had stated: "The tree would not survive the injury resulting from the proposed access configuration and removal would be required. There is no alternate access alignment on the lot that would allow for preservation of the tree." He objected that no such application had been made. He addressed the other trees on the two existing lots, fearing that there would be damage to the rear tree on his lot, and also to the tree to the rear of present 116.

The presence of a large wall to the west of their property would cut off light to all of their many windows and skylights. There are 6 windows and 4 skylights in 112 that offset the need for artificial lighting for significant periods of the day. Not only is this energy efficient, it is a significant contributing factor to the enjoyment of their home, he said in his Witness Statement. One of these created an emergency backup exit. If opened, it would strike the proposed wall to the west.

In cross examination Ms. Stewart reminded Mr. Goluboff that there is no side yard setback variance required for the east wall of the new dwelling. In addition, their home at 112 is located at a non-conforming distance from their west lot line. If their emergency window opened over the land at 116, it would in fact constitute an encroachment. It is important that the east wall could be built as of right where it is proposed, so that any impact is a permitted one. Even a duplex, which the neighbours seem to prefer, could be built to the permitted setback of 0.45 m. The dwelling proposed next to his would not reach the canopy of his rear yard tree, as he feared. No City witness was there to object to this application, as is usual if Urban Forestry considers the matter to be serious. An application for a permit to remove a City tree is not processed until a planning application is approved. He continued to state that cumulatively, the variances are unacceptable here.

Ms. Sue-Anne Fox also resides at 112 Briar Hill. She supported the objections made, and focused on the lack of consultation by the owner here, although such was contemplated in the COA deferral. It did not happen. She sees that the majority of smaller lots in this area have semi-detached dwellings, not detached. There are fewer undersized lots on Briar Hill than on surrounding area streets. From personal observations in the area, she stated that Mr. Romano's finding of 15 undersized, or 18.1 % of the total lots on Briar Hill is misleading. 10 of these have semis. Only 5 of these have detached (52, 135, 138, 180 and 181.) Even this may be overstating it, she testified, as two (180, 181) are in fact undersized because of errors in the City lot study as outlined by Mr. Goluboff. The resulting percentage of detached dwellings on undersized lots is more like only 6%. This is not a characteristic of the neighbourhood. Such errors were not attributed to Mr. Romano. She had sought frontages from MPAC (Municipal Property Assessment Corporation) data.

Ms. Fox had observed only 10 integrated garages along Briar Hill, but she stated that none are in detached dwellings on undersized lots. She foresees a likelihood that cars will be parked on the proposed driveways, as seems usual in the area, creating two spaces (garage and driveway) rather than one. It is objectionable that when these plans were being altered, the space between the two dwellings was increased, yet there was no improvement in setbacks next to neighbouring properties. She had concerns about the fact that 116 is a half metre higher than 112, foreseeing runoff and drainage issues with increased construction at front and rear. Despite Mr. Romano's view that landscaping is modest here and mostly in rear yards, she contrasted the wide boulevard and trees in this immediate area.

In cross examination Ms. Stewart noted that MPAC states up front that its data cannot be used for any other purpose and cannot be disclosed. Ms. Fox stated that she used it here as she was told that it could be used "for commercial purposes". Ms. Stewart disputed the identification of detached dwellings versus semis from the property location maps used by the COA, as the lot lines are not distinct. She had reassessed these by encircling those with detached dwellings, concluding that many of these were on smaller lots than identified. These are all older dwellings. She reiterated that it is possible to build detached homes on lots of less than 7.5 m, because these already exist at 5.4, 6.4 and 6.87 m widths nearby. To the issue of parking on driveways, Ms. Stewart emphasized that there is no variance for parking space here. Nor is there a variance for soft landscaping. Ms. Fox responded to the question of a semi by saying that they prefer no severance, and only one dwelling type on the lot. In redirect she said there were only 15 examples of detached dwellings on undersized lots in the entire study area.

In redirect Mr. Romano reiterated that a permit for tree injury or removal is considered only following the completion of the severance and variance approvals process. The tree in the rear of 112 is a private tree, and a TPZ would also be required for it. From his aerial photo of the area he confirmed that the rear building envelopes of the proposed dwellings would not interfere with the neighbours' tree at 112 or its canopy. The buildings would extend perhaps 1 m into the tree canopy, so there is no issue for either the birch on the subject property or the neighbours' tree. It must be recalled that the

dwelling are not placed at the maximum permitted depth here, he emphasized. They could be still deeper into the lot. If there was any alleged error in his lot study width, it was based, as all are, on the statistics provided by the City. Occasionally there are errors or gaps. There was an in depth comparison of 92 Briar Hill, which the neighbours found acceptable as an appropriate severance on a compliant lot. He finds very little difference in measurements with the proposed. On a further site visit as promised, Mr. Romano found 17 lots in the study area of less than 7.5 m with detached dwellings (excluding 123 Albertus, a lot addition).

Mr. Romano added in additional cross by Ms. Meader that there could be deeper structures without a severance. The structures could be 17 m. in length, which is permitted and is not, he stressed, related to the FSI variance. The buildings have not been reduced to meet the GFA. There is no need to reduce the length either at the front or rear to meet the 14 m length limitation. The buildings must be 14 m from front wall to rear wall, so anything beyond 14 m that is not a building wall can be constructed. The reason is that building elements can be constructed beyond 14 m that do not count as length, and the building volume can be longer than 14 m and it will not count as FSI. With an as-of-right length, he was asked, how could the building be configured? He said this was not an appropriate approach to assessing what could occur on a property. Starting with the applicable tests (OP, zoning) he evaluates what could be built, and compares. The east wall here could be in exactly the same location even if the requested 2.74 additional FSI were removed, as length could be increased. A different deployment of floor area could be built that would match the height, mass and scale of the proposed, and not be a completely different building. The requested FSI variance of .7 vs .6 is not a significant difference.

In Ms. Meader's summation she emphasized that these would be the only detached dwellings on undersized lots in the neighborhood and the broader study area. She found errors in Mr. Romano's statement that planning evaluation is not based on numbers, as he appeared to do just this. His emphasis on the planned context is not in accord with the OP approach that new development respect and reinforce the existing neighbourhood character. The vast majority of undersized lots here are developed with semis. The proposed would not fit within the general character of the area. She disputes the analogy to 92/94 Briar Hill, as the lots there are larger and most other measurements less. She foresees lasting undesirable impact on here clients at 112 from the blank wall to the west, and potential drainage issues because of the land's height difference. The dwellings' and driveways' design will detract from the streetscape. She decried the lack of an arborist's report respecting all of the trees on the site, saying the applications were premature prior to such evidence. She tendered a recent decision of the Chair of the TLAB (15 Stanley Avenue, Sept. 18, 2018, 18 126898 S53 06 TLAB) wherein he found from the City's professional arborist evidence that four trees might be at risk. He decided that the OP policies favouring the natural environment and tree retention mitigated strongly against the severance appeal (there were no variance appeals in that matter.) Her clients and most residents who testified prefer a duplex configuration on this site as there would be only one driveway, and the tree might be preserved.

ANALYSIS, FINDINGS, REASONS

An inordinate and, I consider, an inappropriate amount of time was spent in this hearing providing similar evidence, and asking the same questions repeatedly in different words. It was difficult to control, as I did not want to appear unfair. One minor example was whether integral garages are prohibited on undersized lots – the response was that they are not prohibited, but merely regulated by the necessity to get a variance for them for an undersized lot. While zoning by-laws can prohibit a use or feature, these By-laws do not do so, but merely set out a numerical requirement for compliance. This subject was addressed frequently, and should have been well known. The proposed integral garages do not offend the intent of the Streetscape Report or the resulting By-law provision. They appear frequently in this neighbourhood, as seen in the photos. Even though nos. 92/94 are on lots of 7.62 m width, the integral garages there are now present, and with greater paved surface in front than the proposed. I agree that the difference in lot width between these and the proposed will be almost imperceptible from the street.

Mr. Mills is correct in his testimony that even if about 20% of the buildings' FSI seen in the wider study area exceeds the limitation of 0.6 times the lot area, this means that 80% if the structures do not meet it. His contention was that if the lot size is smaller, any increase in FSI would lead to more mass to the rear or sides. I agree with Mr. Romano that FSI could be configured differently and not lead to this conclusion. As Ms. Stewart said, FSI is proportionate to the lot size. There are many examples of larger FSI in Mr. Romano's COA decision table (Ex. 3, last pages). One of these is 118 Albertus Ave., where even though a larger lot, 0.75 FSI was granted, and without a length variance. Greater depth is also permitted in this neighbourhood. There are many examples of decisions on slightly larger lots for longer length and higher FSI than the proposed. Similarly, length variances were granted without FSI increases. Thus it is not accurate to say that increased FSI leads to length variances. Mr. Mills did not study building lengths related to FSI in this area.

I place no reliance on photo reviews when the issue is the distance between structures. I find that Mr. Mills' oft-expressed objections to the existing side yard setback standard here of 0.45 m (he called it a "complete travesty") can only be resolved by Council – it is present in the By-laws. As Ms. Stewart said, with four such setbacks in the proposal, four times 0.45 m would be seen here, not just two times. Or the issue of semi-detached structures on undersized lots – this intensive search in my view was in the end fruitless and unnecessary. One cannot rely on the Location Map in the COA materials for definitive conclusions about what is presently on the ground in the neighbourhood, or for statistics. Mr. Romano found semis on a variety of lot sizes, both small and large. The neighbours evidently feel that semis would better fit on the proposed narrower lots. Even if this is true, trees on the lot would face similar threats, and two driveways would probably still be present. A similar length could be requested. I must consider the present application, not a wish list.

Some comments on concerns expressed by neighbours:

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

Mr. Applebee of 122 Briar Hill did not seem to be aware of the elimination of the variances that were of concern to him. The side yard setback of 0.45 m next to 122 is allowed. The owner did consult with him, because the proposed rear balconies were removed after a discussion with him. He stated that if certain aspects of the proposal complied (e.g. garages, driveways) he would not object. I find that a condition that the dwellings be constructed in substantial compliance with the revised plans would provide assurance that no balconies would be constructed, as he feared.

Ms. Kacaba pointed out that there had been development applications for the very block in question. This is reason to find that there ARE changes occurring, as provided for by the OP policies. This neighbourhood should not be frozen in time in contradiction of the OP intent, even though the neighbours would prefer this. She said that this type of development is being proposed in multiple areas in the same part of Briar Hill Avenue, on the same side of the street, and within the same block of one another. Thus it is clear that the neighbours cannot likely preserve the existing lots and structures forever. This application is not the proverbial straw that would break the camel's back.

The new two storey detached dwellings respect and reinforce the existing physical character of the neighbourhood as selected by Mr. Romano. I reject the much narrower "neighbourhood" of a less than two block section of Briar Hill alone, as not realistic for either preservation or development of the neighbourhood as envisaged by the PPS, GP or OP policies. His identification of a two block segment as a Neighbourhood was, he stated, in accordance with the Ministerial correction of OPA 320. However, this is not yet in force. I agree with Ms. Stewart that that the Official Plan requires an assessment of new development on the character of a whole neighbourhood, as usually determined, and selected here by Mr. Romano, and not an "anatomized" segment, excluding what does not suit one's position. Mr. Mills stated that one needed to walk around this area to see the difference in character, the good and bad construction. I find that this statement is actually contradictory to his establishment of a relevant area of only two blocks. The existing physical character consists of predominantly two storey detached dwellings on lots of vastly varying sizes within a three-street area. Mr. Mills originally selected this as his study area, similar to Mr. Romano's.

I distinguish this fact situation, where both planners originally selected the same study area, from the facts in the OMB decision tendered by Ms. Meader. This involved a similar application for severance and variances at 82 Roxaline Street (PL160574). Member David Lanthier found differences in scope and a reasonable rationale (different zoning, physical changes) in finding that the planner's definition of neighbourhood was incorrect there. I disagree with Mr. Mills and Ms. Meader here: namely, that this somewhat less than two-block area of Briar Hill is sufficiently distinctive from the rest of the nearby streets, and especially of only half of the block ending at Rosewell to the west, that it can be called a separate "neighbourhood" for consideration of the OP policies. There are larger lots, yes, but do they a "neighbourhood" make for assessment of OP policies? I see many exceptions within the two blocks, so I cannot agree. Mr. Wilson testified here that the COA member who

made the motion for rejection at the Committee hearing lives in the area, and considers it distinctive.

The “prevailing” building type, as mentioned only briefly in Policy 4.1.5 d) of the Neighbourhood policies in the OP, is detached residential, and not semi-detached. On a further site visit as promised, Mr. Romano found 17 lots in the area of less than 7.5 m with detached dwellings (excluding 123 Albertus, a lot addition). I agree that while impressive visually, Mr. Mills’ bar charts respecting lot widths did not assist in this matter as it was difficult to know which properties were included in the charts, and certain of the size metrics seemed to be inaccurate. Ms. Stewart had a valid point when she said that the properties on the north side of Briar Hill to the west of 130 (chosen as the west limit of Mr. Mills’ rectangle) were all **smaller** than those included on this same block. A wider border for his rectangle might have been a more correct representation of the character of those in this “neighbourhood”. Ms. Stewart termed the study area chosen initially and essentially by both planners to be a neighbourhood of lots “on the small side”, and an eclectic one. 27 % of the lots are undersized, and these, seen in blue in Mr. Romano’s chart (Ex. 3, following site photos) are found on every street. Smaller lots under 9 m., shown in blue and purple there, are in the **majority**. I find that even the slightly narrower lot width and the building length do not differ more than slightly from that severance and new construction granted just down the street at 92/94 (frontage 7.65, GFA 0.68). This is within Mr. Mills’ rectangle (Ex. 5, Maps, p. 13). I find no obligation within Policy 4.1.5 of the OP that limits a proposal to the prevailing character or prevailing patterns of lot sizes and configurations. Respecting built form, I prefer Ms. Stewart’s definition of “compatibility” to Mr. Mills. She said that compatibility means “coexisting in harmony”, while his is, “does not conflict with”. I find that the built form proposed here “fits” or will coexist in harmony with this pleasant neighbourhood, considering both the existing and the planned context.

The proposed dwellings are detached, which is the prevailing building and dwelling type in the area. The neighbours expressed serious concerns about the protrusion they see of the proposed structures behind the existing dwellings at 112 and 122. I rely on the evidence of Mr. Romano that the rear walls of these dwellings could be exactly where they are proposed to be, as of right. The rear walls may be at least 17 m from the front walls, and the proposed are less than this. The rear wall of the west dwelling would not be much longer than the Applebee property at 122, and would be less than one foot longer than those at 92/94 (often accepted as a desirable example). As the height is also compliant, the rear walls are permitted to be there by the applicable zoning (the “planned context”) as of right. The effect of the proposed buildings can be seen quite clearly in the shadow studies included in Ms. Stewart’s Document Book at pp. 412 to 419. In an OMB case cited by Ms. Meader respecting 72 Briar Hill, the building length was accepted at 18.44 m. The proposed length is much less at 16.74 m. The conclusion was that a lot having good depth, it was reasonable to relax the 14 m depth requirement. The side yard setbacks are also compliant, despite the overly prolonged discussions about similar setbacks in the whole area. I agree with Mr. Romano that in assessing a minor variance application, one must look at the zoning permissions, as well as the existing context. For similar reasons I also do not rely on the shadow study Mr. Mills presented, as it did not meet the designated Terms of Reference for such studies, and is not required for like small scale residential developments.

City Development Engineering staff would handle the issues of storm water and drainage. I also accept that new standards of energy efficiency would resolve any objections on this issue, despite the potential costs Mr. Mills saw in tearing down existing structures for replacements.

There was a minute examination of the trees on the present site. Both Ms. Stewart and Mr. Romano emphasized that even if the proposal were approved, Urban Forestry and the Community Council had ultimate control over whether removal or injury permits are granted. Nothing in the development process completely prohibits tree removal. The Built Form policies only speak of tree retention “wherever possible”. Ms. Meader finds support from the very recent (September 14, 2018) TLAB decision refusing a severance (without variances), based on threats to four trees on the site. I distinguish this case on the facts, as there is no evidence in this Briar Hill matter from a qualified arborist as to the ultimate disposition of the one boulevard tree, or the others to the rear. The Urban Forestry memos do provide a note of caution, but are not the ultimate word on the disposition of the tree. Design changes within the by-law requirements may still be made, if necessary, to satisfy Urban Forestry. The TLAB Chair Mr. Lord’s decision balanced the environmental policies in the OP with the almost certain destruction of several trees on the lots in question, and he had the evidence of the Chief Arborist for the City and no contrary professional evidence. I do agree that the ultimate disposition of the boulevard tree here is not certain. This is why the Urban Forestry department, and ultimately the Community Council, has the power to consider the required qualified arborist’s report, and make the final determination. No development on the subject site could proceed without these permits. In my experience the permit process is not dealt with until after the planning issues have been determined, as Mr. Romano stated. This application is not then premature. The decision on the other planning issues can proceed. I also agree that the neighbours’ fears for their backyard tree from the rear deck construction are not merited. Thus I do not find that the policy goal of retention of urban canopy trees, if possible, is contravened with this proposed development.

There is no variance for a parking space here, so it is immaterial to speculate on parking in the driveways.

Many neighbours testified that the owner had not consulted with them, despite this being one of the purposes of the adjournment of the COA hearing. This may be, but Mr. Applebee at 122 did admit that proposed balconies had been removed by the owner following discussions with him. Requiring the new structures to be built substantially in accordance with the newest plans would prevent any unwanted additions.

The minor variances are consistent with the PPS’ policies for managing and directing land use to achieve efficient development and land use patterns. I do not agree that the two structures proposed would have an adverse effect on energy efficiency. This development:

- Promotes efficient development and land use patterns (PPS Policy 1.1.1(a));
- Promotes cost-effective development patterns and standards to minimize land consumption and servicing costs (PPS Policy 1.1.1(e));

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

- Is an efficient use of land (PPS Policy 1.1.3.2(a)1);
- Efficiently uses the infrastructure and public service facilities which are available (PPS Policy 1.1.3.2(a) 2).

To the extent the policies of the GP are engaged by the proposal, the severance and variances conform to and do not conflict with the Growth Plan.

The Official Plan

Respecting the test of the general intent and purpose of the OP, I found it helpful to begin with certain of the provisions in Policy 3.1.2.3 in the Built Form section. This requires that new development be massed and its exterior façade be designed to fit harmoniously into its existing and/or planned context, and limit its impact on neighbouring streets and properties by:

- a) massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;....
- c) creating appropriate transitions in scale to neighbouring existing and/or planned buildings.....;
- d) providing for adequate light and privacy;
- e) adequately limiting any resulting shadowing of, ... neighbouring streets, properties and open spaces, having regard for the varied nature of such areas;...

In my view the new dwellings fit this existing physical context with respect to built form, and do not offend any of the Built Form policies. They also meet the Neighbourhood policies in Chapter 4, as they generally fit and respect and reinforce the existing physical character of the neighbourhood (as delineated by Mr. Romano.)

Zoning By-laws The general intent and purpose of the applicable By-laws, both New and former, are also met. Mr. Romano outlined the few variances now required for the lots and structures (frontage, FSI, length and vehicle entrances). No setbacks from lot lines are needed, a factor of great concern to neighbours and seemingly misunderstood by them. I do not agree that the side yard setbacks are insufficient, as such a measurement is permitted by both applicable by-laws. If a semi or single detached dwelling were built on the exiting lot instead, the side yard setbacks from the neighbours could still be 0.45 m. The variances required in this application would not result in a change that is out of keeping with the established and emerging physical character of Briar Hill, or of the surrounding area. Mr. Mills pointed out that the properties on each side of the subject, at 112 and 122, are not likely to be able to be severed or reconstructed with integral garages. There may not have been significant change to Mr. Mills' small segment in the past few years, but there have been past severances and similar structures even within it, so that the proposed is already not without precedent. It seems additional applications are now underway, according to Ms. Kacaba.

The FSI variances are within the range of FSI variances approved for other new dwellings and additions in the neighbourhood, as shown by Mr. Romano in his table (Ex. 3 at the end). I do not find that the numerical size of this severance, or of the

variances, will constitute a precedent for similar applications. As stated by all, there are few sufficiently large lots left in this area.

Contrary to the claims of the neighbours, the severance does not constitute a change that threatens the stability of the neighbourhood. The decrease in lot width over that permitted at 92/94 across the street is, as Mr. Romano concluded, almost imperceptible.

The general intent and purpose of regulating maximum floor area and maximum wall height is to control the massing of a dwelling, and avoid a house that is out of scale with its lot and surroundings. As Mr. Romano stated, built form is determined by several factors acting together. These include maximum FSI, building and wall heights, lot coverage, building length, building depth, and setbacks from lot lines.

Here, despite misconceptions by the neighbours, the proposed FSI of 0.7 times the lot area is entirely within the two storey building envelope prescribed by the By-law, even though the building length is exceeded, as Mr. Romano explained. Thus in my opinion the built form of the dwelling maintains the general intent and purpose of the Zoning By-law. I agree with him that in Toronto neighbourhoods, a By-law limit of 0.6 maximum FSI and 14 m length may reflect only the sizes of the original houses. The limitations are often a trigger for a planning assessment through a minor variance application, where replacement houses are proposed. Mr. Romano's view is that they are set at these figures in order to do just this.

In summary, the severances and variances maintain the general intent and purpose of the Toronto Official Plan and the Zoning By-laws.

The variances are also minor in size, and lack any real impact of a planning nature.

I believe that they are desirable for this pleasant neighbourhood area, as two new and attractive homes will be available on an existing area of land. The proposal for a semi or a duplex with one driveway I find to be even less in the spirit of this area of single detached dwellings.

DECISION AND ORDER

The TLAB orders that:

1. The appeal is allowed and that provisional consent is given to sever 116 Briar Hill Avenue into two Parts in accordance with the Plans for Part 1 and Part 2 (filed as pages 412 to 419 in Exhibit 2 and) attached hereto as **Attachment 4** to this decision, and subject to the conditions included as **Attachment 1** to this decision.

CONVEYED - PART 1

Part 1 has a lot frontage of 6.87 m and a lot area of 276.3 m². The lot will be redeveloped with a new detached dwelling.

RETAINED - PART 2

Part 2 has a lot frontage of 6.87 m and a lot area of 276.4 m². The lot will be redeveloped with a new detached dwelling.

2. The variances to Section 12(2)112, By-law 438-86 for Parts 1 and 2 as listed in **Attachment 2** to this decision are authorized subject to the Conditions applicable to these variances as identified below.

3. The variances to Zoning By-law No. 569-2013 as listed in **Attachment 3** to this decision are authorized, contingent upon the relevant provisions of this By-law coming into force and effect and subject to the Conditions applicable to these variances identified below.

4. The following additional conditions shall apply to the minor variance approvals:

(1) The proposed dwellings shall be constructed substantially in accordance with the Site Plans and Elevations prepared by Giancarlo Garofalo Architect dated December 19, 2017, and attached as **Attachment 4** to this decision. Any other variances that may appear on these plans that are not listed in this decision are not authorized.

(2) For a one family detached dwelling, the elevation of the lowest point of an opening to an area that may be used for parking or storage of a vehicle located inside or abutting the dwelling shall be higher than the elevation of the street the lot abuts measured at its centerline directly across from the driveway leading to the parking space.

(3) The Site Plan shall indicate the existing light standard and its relocation to the satisfaction of Toronto Hydro.

(4) The proposed driveways shall be constructed with permeable pavers.

(5) A fence shall not be installed along the common lot line between Part 1 (West Lot) and Part 2 (East Lot) along the length of the dwellings constructed on those lots, in order to enhance access to the rear yards.

5. No water will be permitted to drain from the roof of Lot 1 onto 122 Briar Hill Avenue.

6. The Applicant shall comply with the City of Toronto Municipal Code Chapter 813, Article II (Private Trees) and Article III (City-Owned Trees).

ATTACHMENT 1: CONDITIONS OF CONSENT

(1) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (7) 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.

ATTACHMENT 2:

Parts 1 and 2: Section 12(2)112, By-law 438-86

No person shall, within the area hereinafter described (The area designated R1Z Z0.6 lying to the north of Roselawn Ave and west of 909-88 Yonge Street), erect a building part of which extends further back than 14 m from the main front wall of the building. The proposed building extends 16.74 m from the main front wall of the building.

ATTACHMENT 3:

Part 1 By-law No. 569-2013

1. Chapter 10.10.30.20.(1), By-law No. 569-2013
The required minimum lot frontage is 7.50 m.
The proposed lot frontage is 6.87 m.

2. Chapter 10.10.80.40.(1), By-law No. 569-2013
Vehicle entrances through the front main wall of the building are permitted provided

Decision of Toronto Local Appeal Body Panel Member: G. Burton
TLAB Case File Number: 17 274122 S53 16 TLAB,
17 274139 S45 16 TLAB, 17 274147 S45 16 TLAB

the lot has a minimum frontage of 7.6 m.
The proposed lot frontage is 6.87 m.

3. Chapter 10.10.40.40.(1), By-law No. 569-2013
The permitted maximum floor space index is 0.6 times the area of the lot.
The proposed floor space index is 0.70 times the area of the lot.

4. Chapter 900.2.10 Exception R 949, By-law No. 569-2013
The maximum building length is 14.0 m.
The proposed building length is 16.74 m.

Part 2 By-law No. 569-2013

1. Chapter 10.10.30.20.(1), By-law No. 569-2013
The required minimum lot frontage is 7.50 m.
The proposed lot frontage is 6.87 m.

2. Chapter 10.10.80.40.(1), By-law No. 569-2013
Vehicle entrances through the front main wall of the building are permitted provided
the lot has a minimum frontage of 7.6 m.
The proposed lot frontage is 6.87 m.

3. Chapter 10.10.40.40.(1), By-law No. 569-2013
The permitted maximum floor space index is 0.6 times the area of the lot.
The proposed floor space index is 0.70 times the area of the lot.

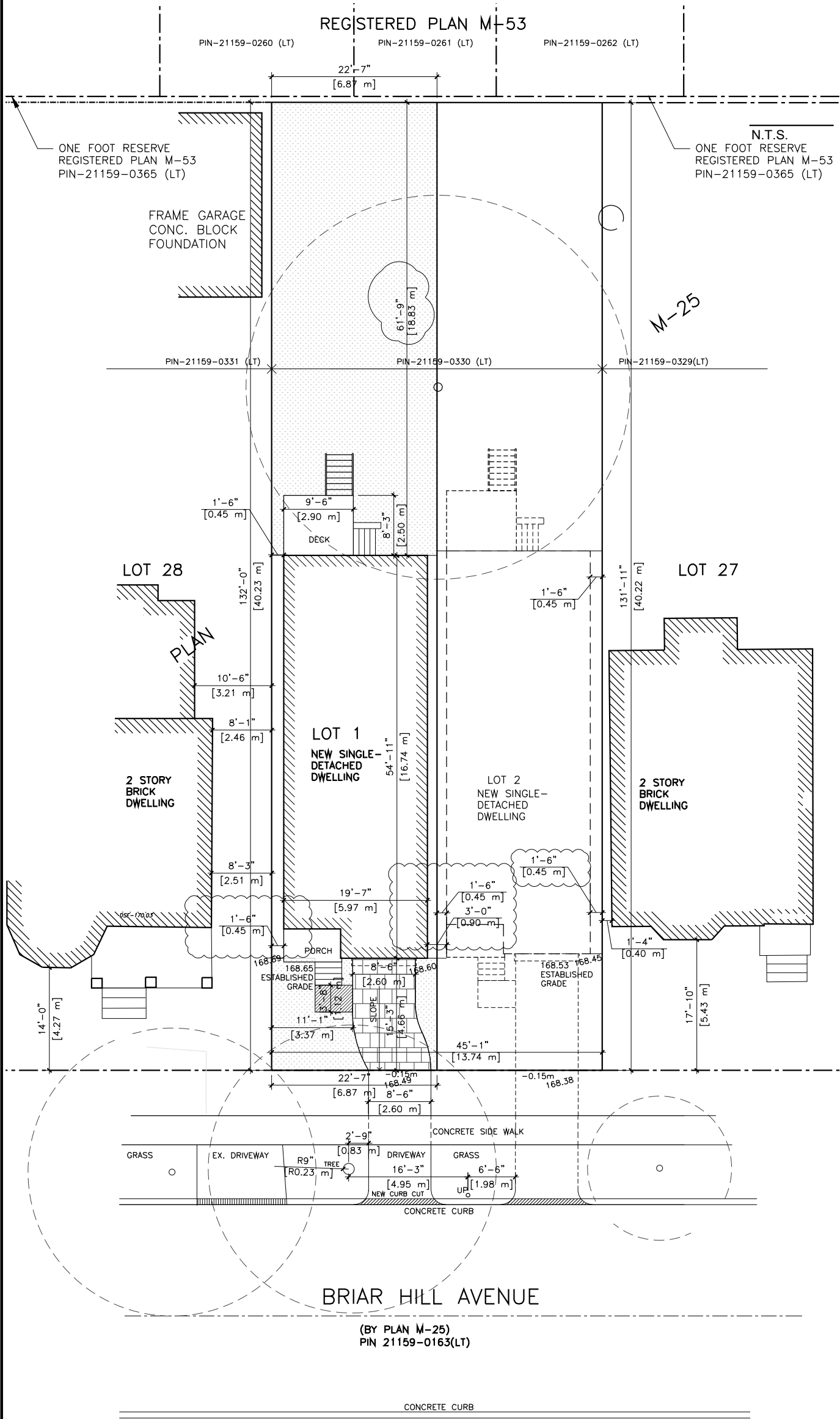
4. Chapter 900.2.10 Exception R 949, By-law No. 569-2013
The maximum building length is 14.0 m.
The proposed building length is 16.74 m.

ATTACHMENT 4: SITE PLANS AND ELEVATIONS – Lots 1 and 2

X 

G. Burton

Panel Chair, Toronto Local Appeal Body



KEY PLAN

LOT 1

SITE STATISTICS (22 33RD STREET)

2-STORY SINGLE FAMILY DETACHED HOUSE

LOT AREA: = 276.31M² (2973.09 FT²)

LOT FRONTAGE = 6.87M

BUILDING COVERAGE = 107.57M² (1157.38 FT²)
(HOUSE, GARAGE, PORCH & DECK) or 38.93%

BUILDING FOOTPRINT (HOUSE): = 97.07M² (1044.45 FT²)
FOOTPRINT WITH PORCH: = 100.32M² (1069.6 FT²)

GARAGE: = 25.38M² (273.160 FT²)
DECK = 7.24M² (77.97 FT²)

GFA CALCULATIONS:

MAIN FLOOR: = 97.07M² (1044.45 FT²)
2ND FLOOR: = 97.07M² (1044.45 FT²)
LOWER LEVEL: = 4.75M² (51.15 FT²)

TOTAL GFA: = 198.90M² (2140.05 FT²)

F.S.I. = 71.99%

SETBACKS:

FRONT = 4.85M (15'-11")
SIDE = 0.45M (1'-6")
SIDE = 0.45M (1'-6")
REAR = 18.64M (61'-2")

BUILDING HEIGHT = 10M
BUILDING LENGTH = 16.74M

FRONT AREA = 32.03M²
DRIVEWAY = 12.52M²
LANDSCAPING = 19.51M² = 60.91%

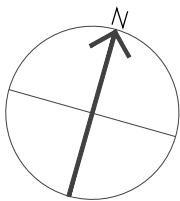
FRONT LANDSCAPE = 19.51M²
(DRIVEWAY AND FRONT PORCH NOT INCLUDED)
SOFTSCAPE = 17.13M²
% OF SOFTSCAPE = 87.80%
HARDSCAPE = 2.83M²
% OF HARDSCAPE = 12.2%

REAR LANDSCAPE = 129.46M²
SOFTSCAPE = 120.97M²
% OF SOFTSCAPE = 93.44%
HARDSCAPE = 8.49M²
% OF HARDSCAPE = 6.56%

1 SITE PLAN: LOT 1
A1 SCALE: 1/16" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



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943 ST. CLAIR AVE. WEST
TORONTO, ON. M6C 1C7
Tel: 416 531-1265 Fax: 416 531-4733
Email: info@ggarofalo.ca

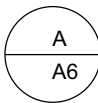
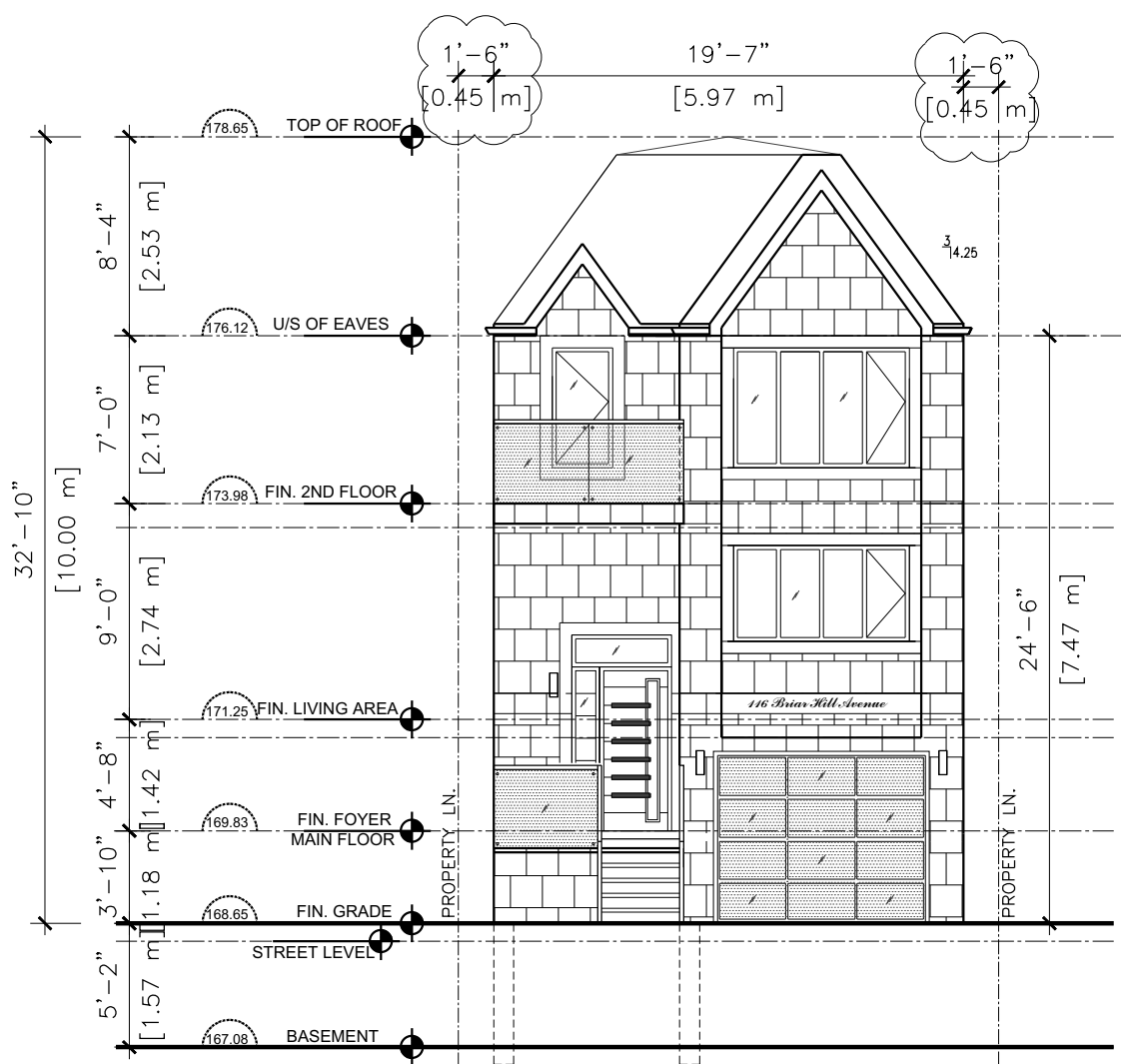
Title:
**116 BRIAR HILL AVE.
TORONTO**

Sheet Title:
SITE PLAN

No.	Revision	Date	Drawn:
5	Issued for ZCZ REVISED	2017/02/17	H.P.
6	Issued for Review-revised	2017/04/26	Checked:
7	Issued for CoA-revised	2017/08/04	G.G.
8	Issued for CoA-revised	2017/10/03	Date:
9	Issued for review	2017/12/19	NOV 2016

Scale:
AS INDICATED
Dwg. No.
A1.1

LOT 1



FRONT ELEVATION

SCALE : 1/8" = 1'-0"

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Title:
**116 BRIAR HILL AVE.
TORONTO**

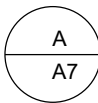
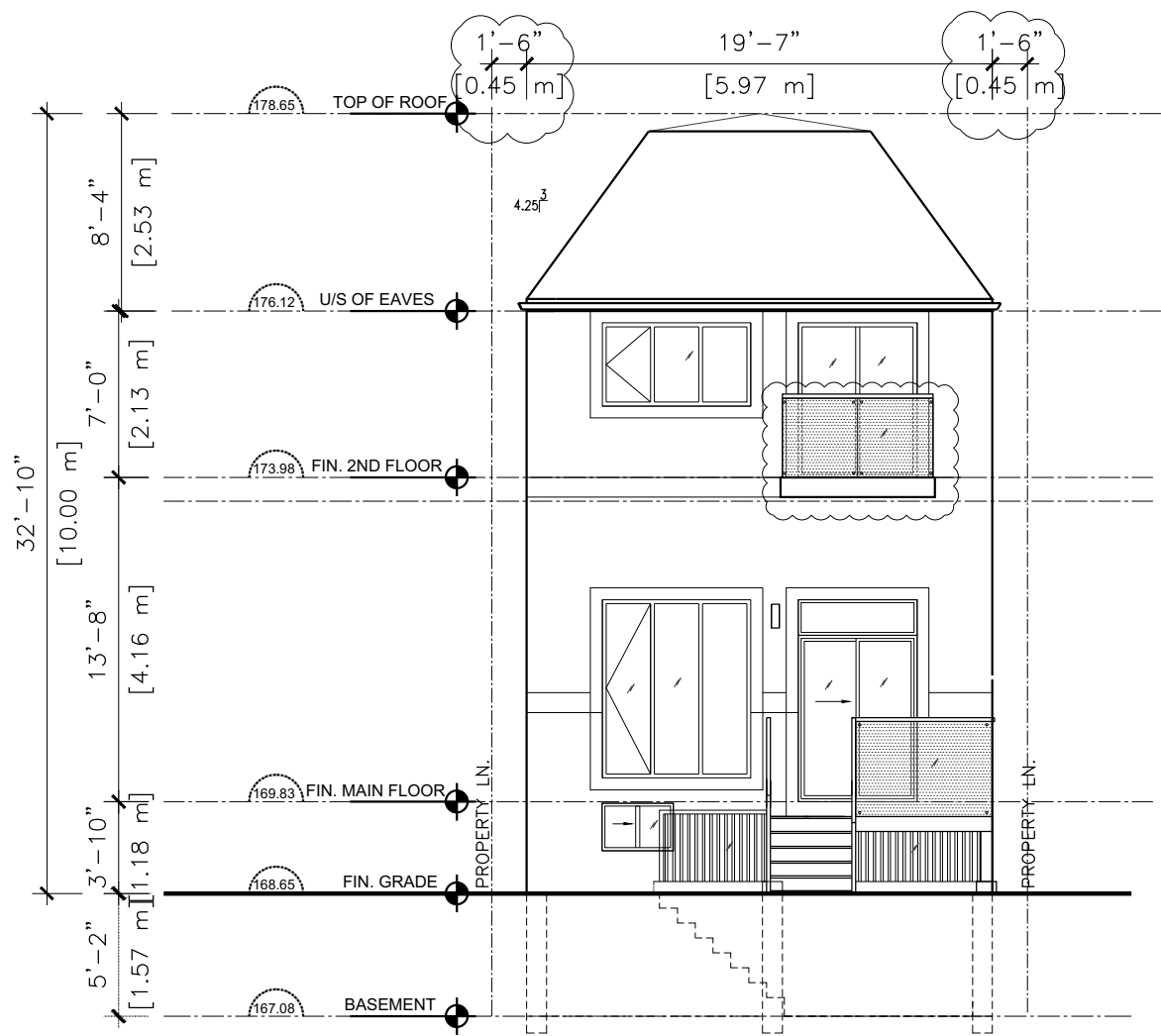
Sheet Title:
FRONT ELEVATION

No.	Revision	Date	Drawn:
5	Issued for ZZC REVISED	2017/02/17	H.P.
6	Issued for Review-revised	2017/04/26	Checked:
7	Issued for CoA-Revised	2017/08/10	G.G.
8	Issued for CoA-Revised	2017/11/10	Date:
9	Issued for review	2017/12/19	NOV 2016

Scale:

Dwg. No.
A6

LOT 1



REAR ELEVATION

SCALE : 1/8" = 1'-0"

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Title:

116 BRIAR HILL AVE.
TORONTO

Sheet Title:

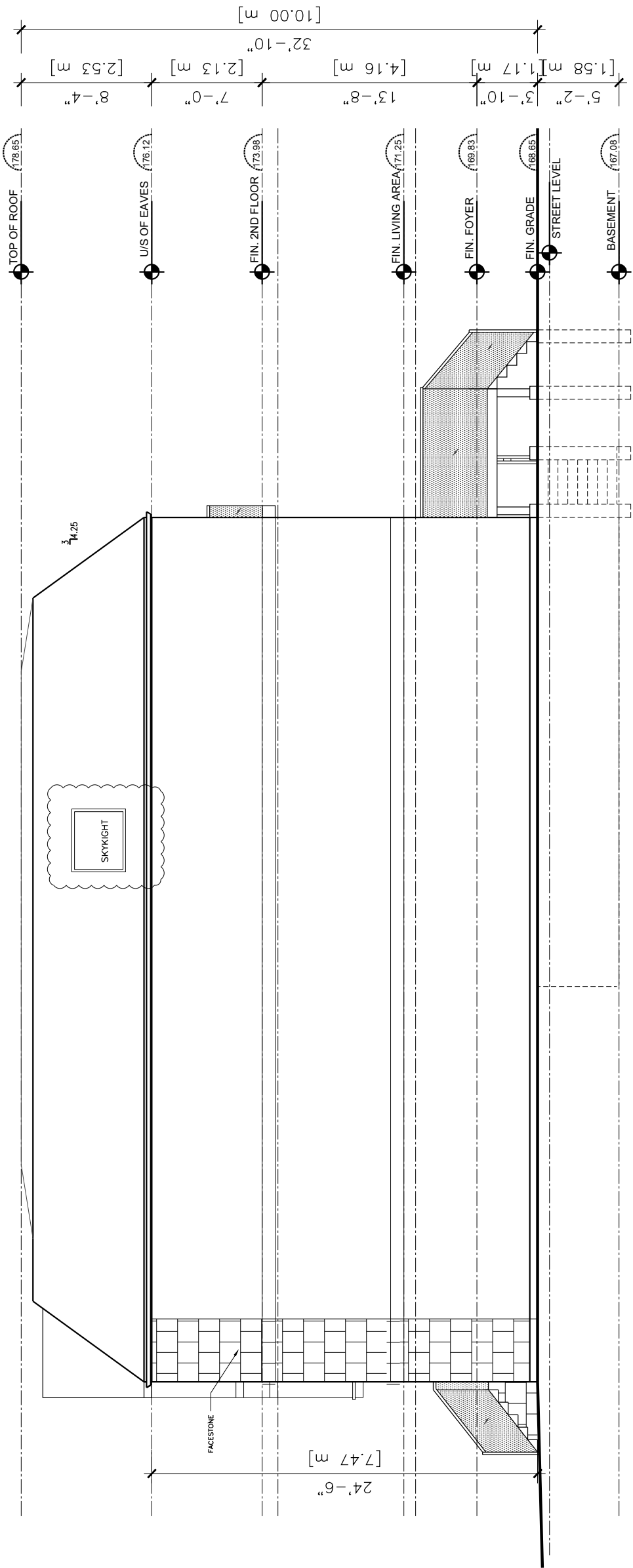
REAR ELEVATION

No.	Revision	Date	Drawn:
5	Issued for ZZC REVISED	2017/02/17	H.P.
6	Issued for Review-revised	2017/04/26	Checked: G.G.
7	Issued for CoA-Revised	2017/08/10	
8	Issued for CoA-Revised	2017/08/10	Date:
9	Issued for review	2017/12/19	NOV 2016

Scale:

Dwg. No.

A7



LOT 1

A
A8 EAST ELEVATION
SCALE : 1/8" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

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GIANCARLO GAROFALO ARCHITECT
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TORONTO, ON. M6C 1C7
Tel: 416 531-1265 Fax: 416 531-4733
Email: info@ggarchitect.ca

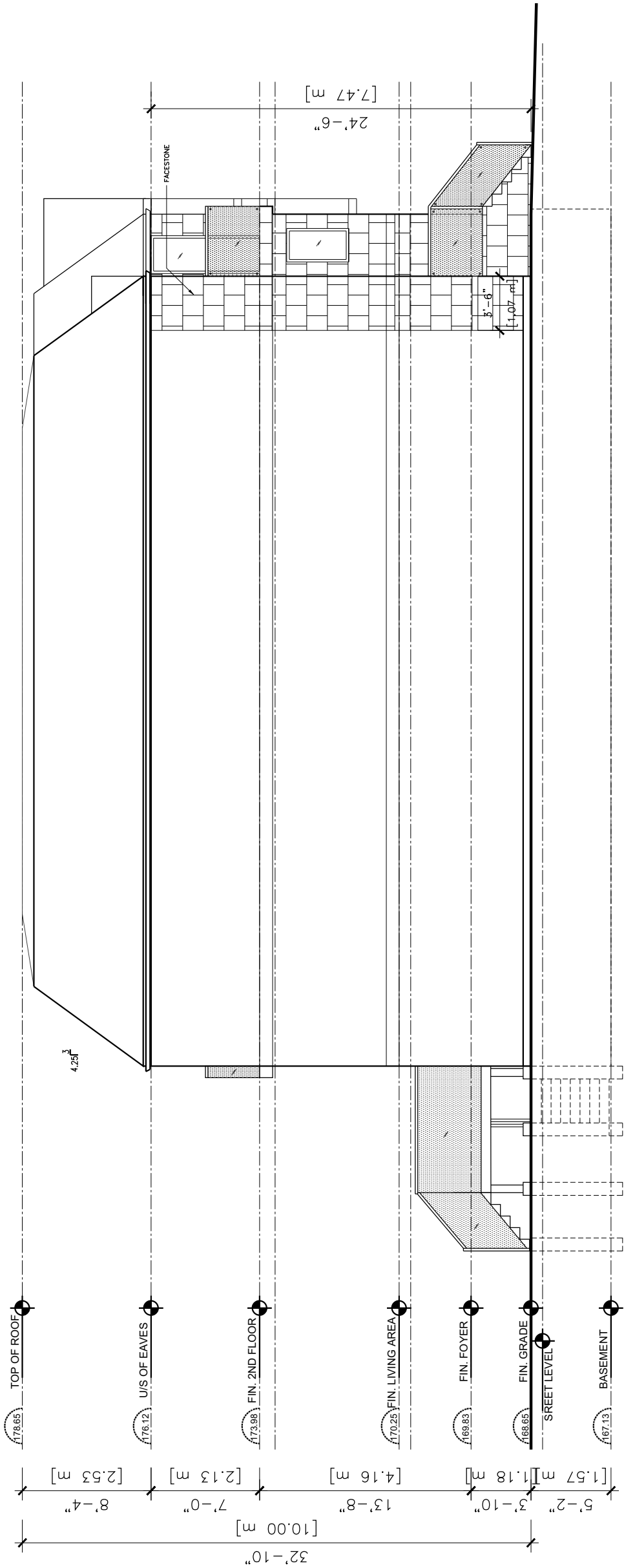
Title:
**116 BRIAR HILL AVE.
TORONTO**

Sheet Title:
EAST ELEVATION

No.	Revision	Date	Drawn:
4	Issued for ZYC	2016/12/21	H.P.
5	Issued for ZYC REVISED	2017/02/17	Checked: G.G.
6	Issued for Review-revised	2017/04/26	
7	Issued for CoA-Revised	2017/08/10	Date:
8	Issued for review	2017/12/19	NOV 2016

Scale:

Dwg. No.
A8



A
A9

WEST ELEVATION

SCALE : 1/8" = 1'-0"

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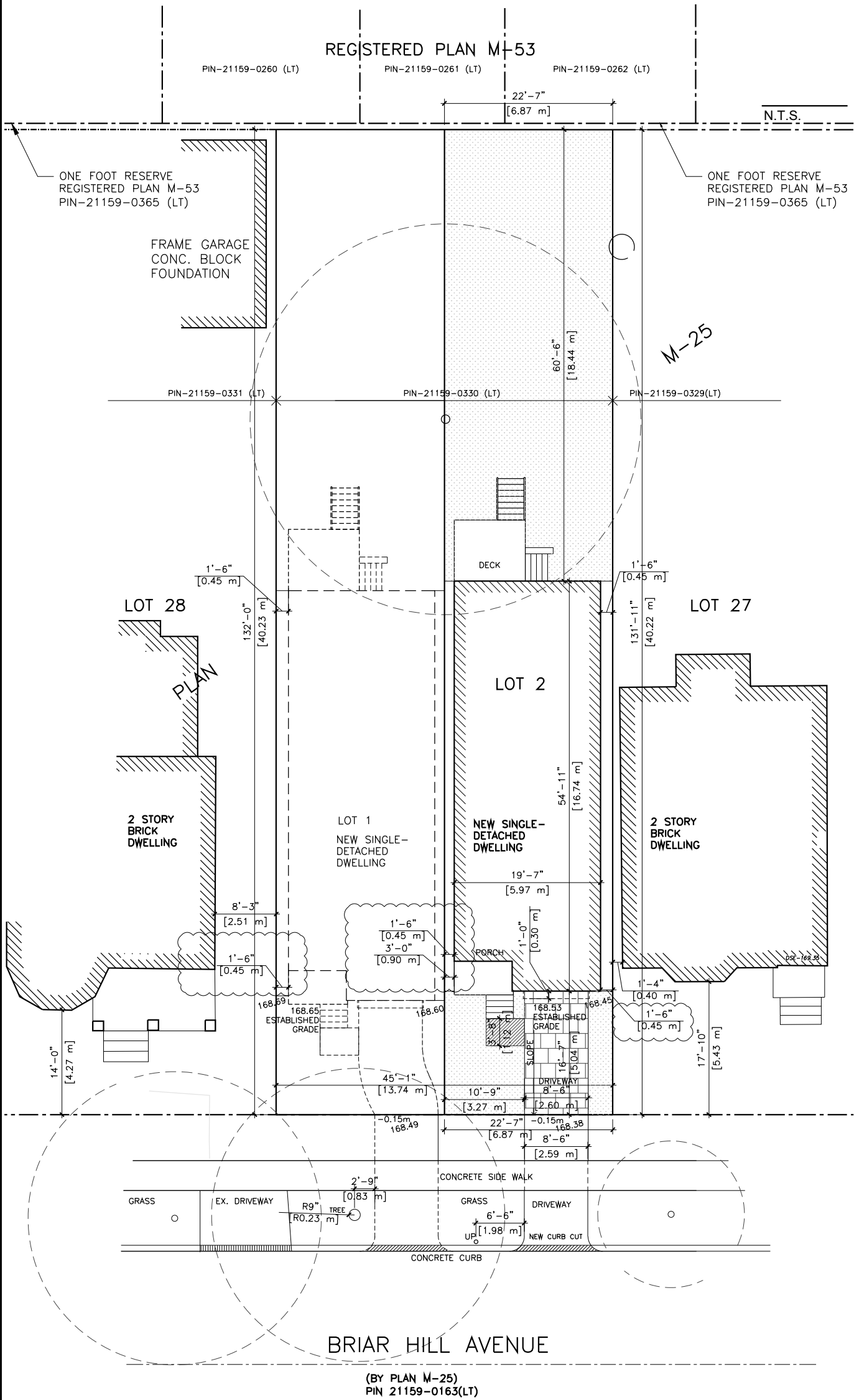
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<div><div><div></div><div></div><div></div></div><div><div>GIANCARLO GAROFALO ARCHITECT</div><div>943 ST. CLAIR AVE. WEST</div><div>TORONTO, ON. M6C 1C7</div><div>Tel: 416 531-1265 Fax: 416 531-4733</div><div>Email: info@ggarchitect.ca</div></div></div>	Title: 116 BRIAR HILL AVE. TORONTO	Sheet Title: WEST ELEVATION	No.	Revision	Date	Drawn:	Scale:
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KEY PLAN

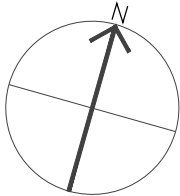


LOT 2		
SITE STATISTICS (22 3RD STREET)		
2-STORY SINGLE FAMILY DETACHED HOUSE		
LOT AREA:	=	276.31M ² (2973.09 FT ²)
LOT FRONTAGE	=	6.87M
BUILDING COVERAGE	=	107.57M ² (1157.38 FT ²)
(HOUSE,GARAGE,PORCH & DECK)	=	or 38.93%
BUILDING FOOTPRINT (HOUSE):	=	97.07M ² (1044.45 FT ²)
FOOTPRINT WITH PORCH:	=	100.32M ² (1069.6 FT ²)
GARAGE:	=	25.38M ² (273.160 FT ²)
DECK:	=	7.24M ² (77.97 FT ²)
GFA CALCULATIONS:		
MAIN FLOOR:	=	97.07M ² (1044.45 FT ²)
2ND FLOOR:	=	97.07M ² (1044.45 FT ²)
LOWER LEVEL:	=	4.75M ² (51.15 FT ²)
TOTAL GFA:	=	198.90M ² (2140.05 FT ²)
F.S.I.	=	71.99%
SETBACKS:		
FRONT	=	4.85M (15'-11")
SIDE	=	0.45M (1'-6")
SIDE	=	0.45M (1'-6")
REAR	=	18.64M (61'-2")
BUILDING HEIGHT	=	10M
BUILDING LENGTH	=	16.74M
FRONT AREA = 34.67M ²		
DRIVEWAY	=	13.13M ²
LANDSCAPING	=	21.54M ² = 62.13%
FRONT LANDSCAPE =21.54M ²		
(DRIVEWAY AND FRONT PORCH NOT INCLUDED)		
SOFTSCAPE = 18.71M ²		
% OF SOFTSCAPE =86.86%		
HARDSCAPE = 2.83M ²		
% OF HARDSCAPE =13.14%		
REAR LANDSCAPE = 126.77M ²		
SOFTSCAPE = 118.28M ²		
% OF SOFTSCAPE =93.30%		
HARDSCAPE =8.49M ²		
% OF HARDSCAPE =6.7%		

1 SITE PLAN: LOT 2
A1 SCALE: 1/16" = 1'-0"

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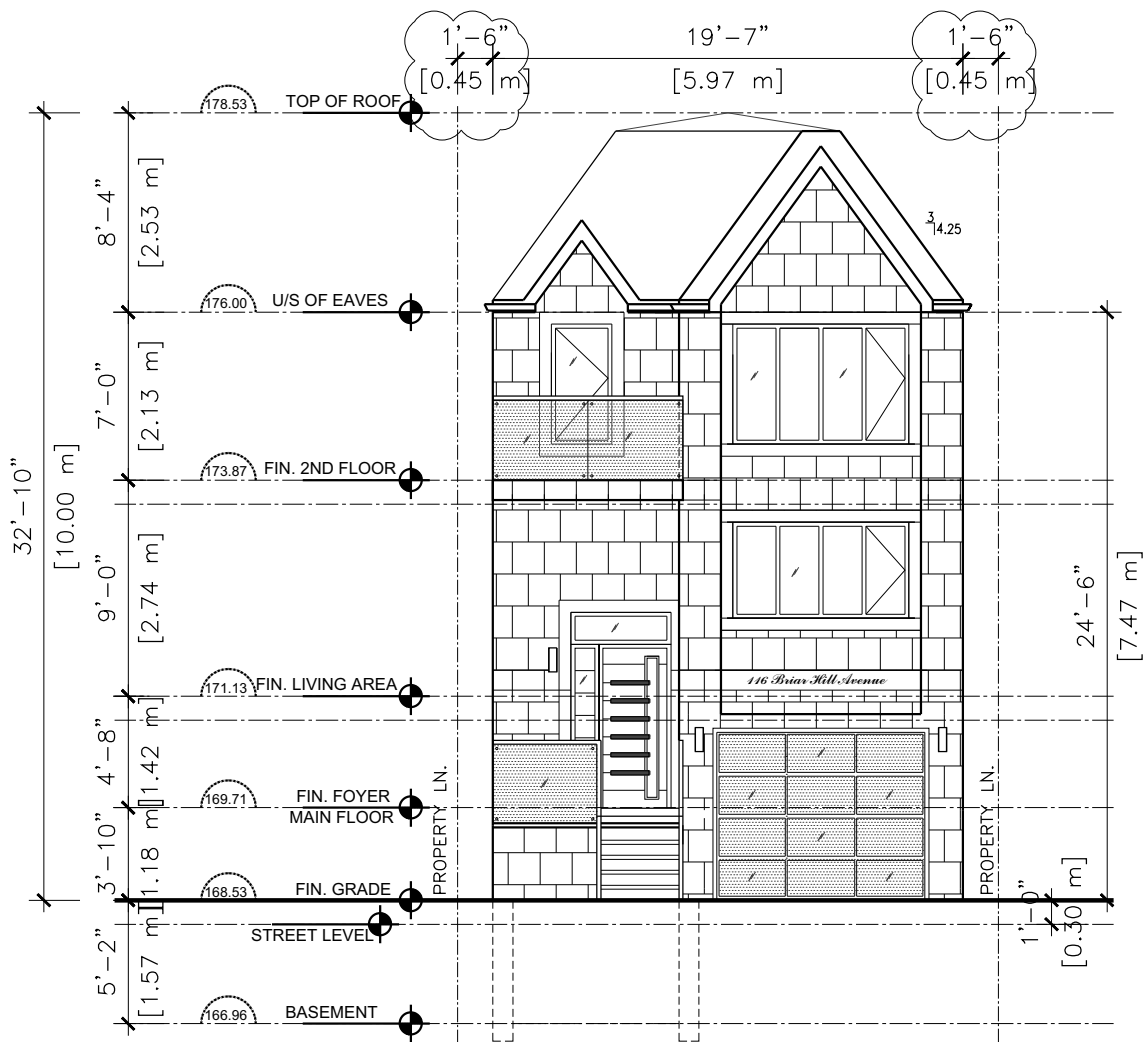
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SITE PLAN

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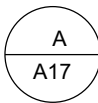
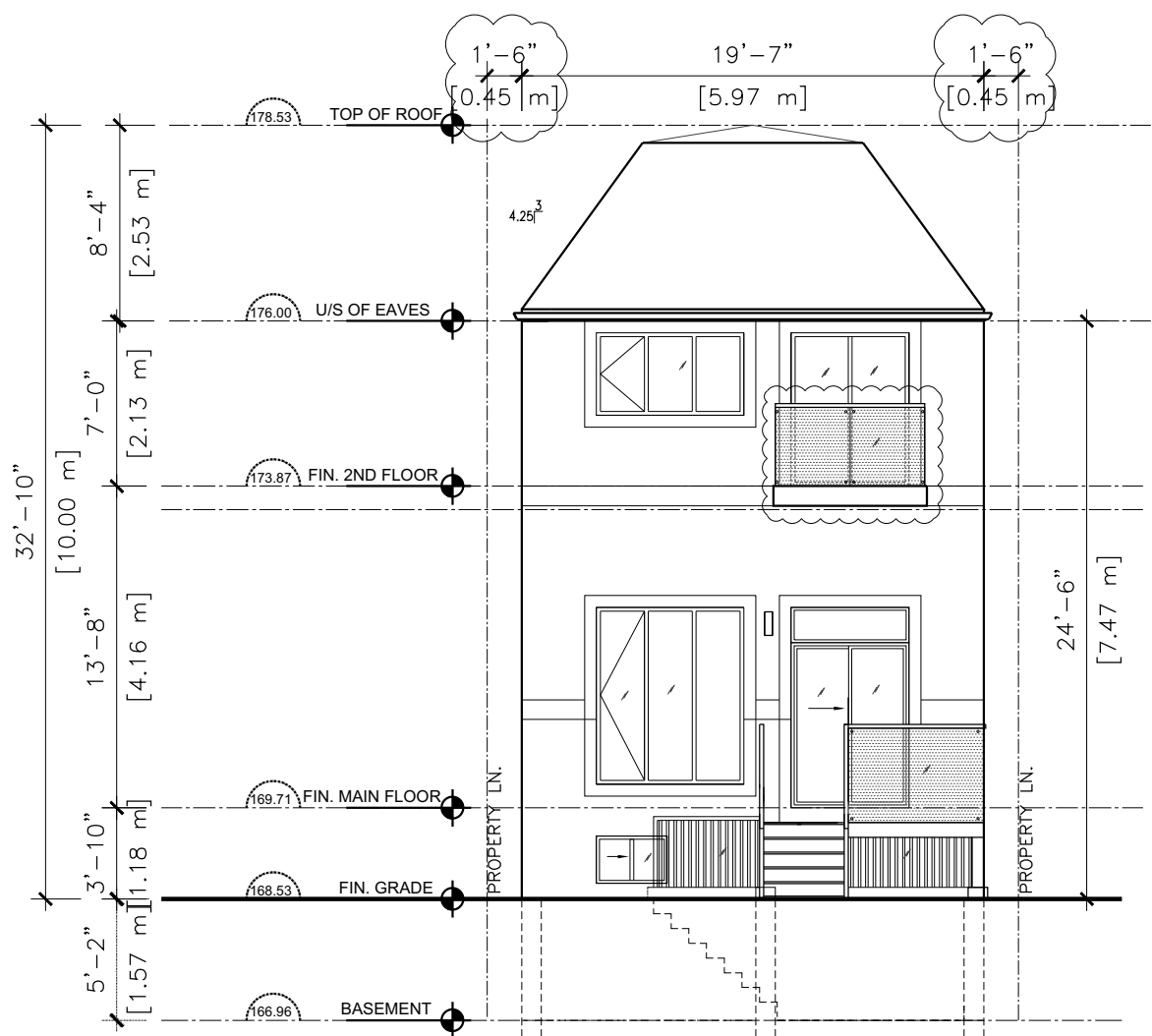
Scale:
AS INDICATED

Dwg. No.
A1.2

LOT 2



LOT 2



REAR ELEVATION

SCALE : 1/8" = 1'-0"

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REAR ELEVATION

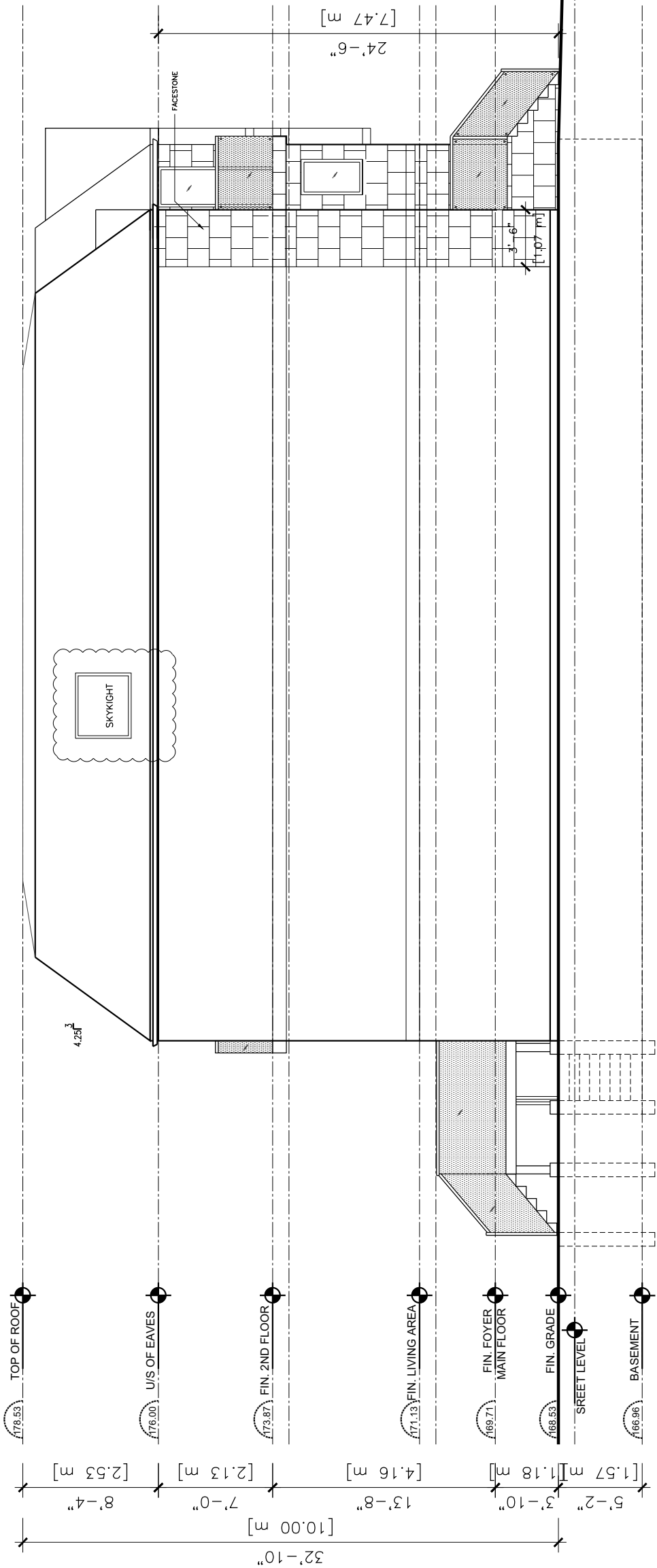
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Scale:

Dwg. No.

A17

LOT 2



A
A18 WEST ELEVATION
SCALE : 1/8" = 1'-0"

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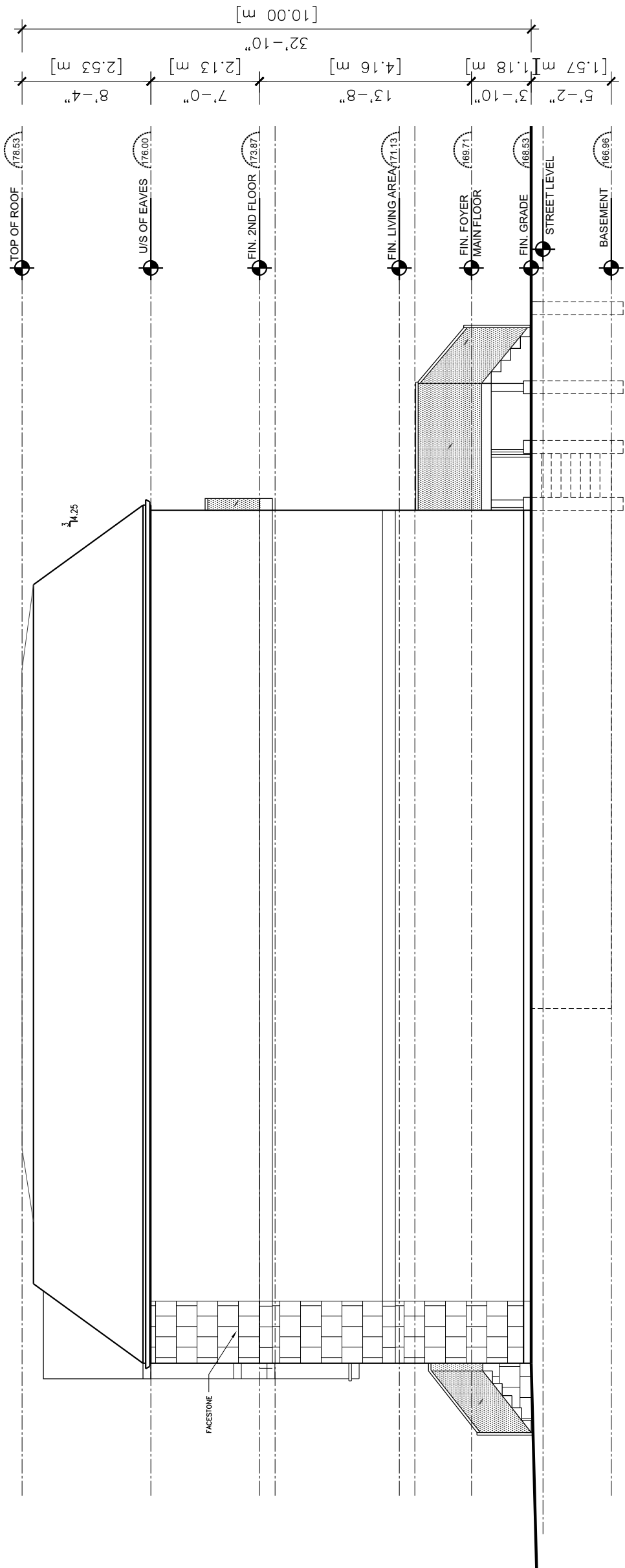
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LOT 2



A
A19 EAST ELEVATION
SCALE : 1/8" = 1'-0"

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A19