

DECISION AND ORDER

Decision Issue Date Monday, November 12, 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): IAN MILLIGAN

Applicant: IAN MILLIGAN

Property Address/Description: 185 DAWLISH AVE

Committee of Adjustment Case File: 17 264823 NNY 25 MV

TLAB Case File Number: **18 117359 S45 25 TLAB**

Hearing date: Thursday, October 11, 2018

DECISION DELIVERED BY L. MCPHERSON

APPEARANCES

NAME	ROLE	REPRESENTATIVE
IAN MILLIGAN	Appellant/ Owner	DAVID MOORE
JANICE ROBINSON	Expert Witness	
ELIZABETH GRAND O'DRISCOLL	Party (TLAB)	WILLIAM ROBERTS
TERRY MILLS	Expert Witness	
THOMAS O'DRISCOLL	Party (TLAB)	
VALERIE CHRISTINE HULL	Party (TLAB)	
ANTHONY WILSON HULL	Party (TLAB)	
CITY OF TORONTO	Party (TLAB)	MATT SCHUMAN
ALEX GRENZEBACH	Participant	
JANET C GRIFFIN	Participant	
LORRAINE J L ROTZ	Participant	

INTRODUCTION

This is an appeal to the Toronto Local Appeal Body (TLAB) by the Applicant of the decision of the Committee of Adjustment (Committee) for the City of Toronto (City) to allow, modify and refuse certain minor variances to permit the construction of a new 3-storey dwelling with integral garage at 185 Dawlish Ave (subject site).

The subject site is located on the south side of Dawlish Ave, east of Mount Pleasant Rd in the Lawrence Park neighbourhood. The subject property is designated Neighbourhoods in the City of Toronto Official Plan (Official Plan) and zoned RD (f15.0; d0.35)(x1432) under Zoning By-law No. 569-2013 (new City By-law) and R1 Z0.35 under former City of Toronto By-law 438-86 (former By-law).

BACKGROUND

On January 25, 2018, the Committee approved the following variances:

2. Chapter 10.20.40.30. (1), By-law No. 569-2013

The maximum permitted building depth is 19.00m.

The proposed building depth is **19.97m**.

5. Chapter 10.20.40.10. (1), By-law No. 569-2013

The maximum permitted building height is 10.00m.

The proposed building height is **10.5m**.

6. Chapter 10.20.40.70. (3), By-law No. 569-2013

The minimum required side yard setback is 1.50m.

The proposed east side yard setback is 1.22m.

9. Section 6(3) Part II 3.B (II), By-law No. 438-86

The minimum required side yard setback is 7.50m for the portion of the dwelling exceeding 17.00m in depth.

The proposed east side yard setback is 1.22m for the portion of the dwelling exceeding 17.00m in depth.

The Committee modified and approved the following variances:

3. Chapter 10.20.40.40. (1), By-law No. 569-2013

The maximum permitted floor space index is 0.35 times the lot area.

The proposed floor space index is 0.54 times the lot area. (Proposed at 0.585 times the lot area.)

7. Section 6(3) Part I 1, By-law No. 438-86

The maximum permitted gross floor area is 0.35 times the lot area.

The proposed gross floor area is 0.54 times the lot area. (Proposed at 0.585 times the lot area)

The Committee refused the following variances:

1. Chapter 10.20.40.20. (1), By-law No. 569-2013

The maximum permitted building length is 17.00m.

The proposed building length is **19.97m**.

4. Chapter 10.20.40.70. (3), By-law No. 569-2013

The minimum required side yard setback is 1.50m.

The proposed west side yard setback is 1.22m.

8. Section 6(3) Part II 3.B (II), By-law No. 438-86

The minimum required side yard setback is 7.50m for the portion of the dwelling exceeding 17.00m in depth.

The proposed west side yard setback is 1.22m for the portion of the dwelling exceeding 17.00m in depth.

Certain changes were made to the variances at the Committee meeting to reduce the proposed fsi from 0.72 to 0.585 and further changes were made subsequent to the filing of the Appeal. The revised plans, dated April 17, 2018 resulted in a revised Zoning Notice (**Exhibit 1**) which identified 4 variances:

V1. In the RD zone with a minimum required lot frontage of 18.0 metres or less, the permitted maximum building length for a detached house is 17.0 metres.

The proposed building length is 18.12 metres.

[10.20.40.20(1)-Maximum Building Length if Required Lot Frontage is in Specified Range]

V2. The permitted maximum floor space index is 0.35 times the area of the lot.

The proposed floor space index is 0.63 times the area of the lot.

[10.20.40.40. (1) Floor Space Index]

V3. The permitted maximum height of a building or structure is 10.0 metres.

The proposed height of the building/structure is 10.50 metres.

[10.20.40.10. (1) Maximum Height]

V4. The required minimum side yard setback is 1.5 metres where the required minimum lot frontage is 15.0 metres to less than 18.0 metres.

The proposed East side yard setback is 1.20 metres. [10.20.40.70. (3) Minimum Side Yard Setback]

It is noted that the Committee approved the variances for building height and side yard setback (V3 and V4, above).

There were three other Parties to the hearing including the City and the adjacent neighbours to the west and east of the subject property. In addition there were four Participants who attended the hearing of which three provided evidence.

MATTERS IN ISSUE

The main issue was the proposed massing of development and its impact on adjacent properties, particularly the adjacent dwelling at 181 Dawlish Ave which is listed on the City's Heritage Registry.

JURISDICTION

Provincial Policy – S. 3

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

Minor Variance – S. 45(1)

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

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

EVIDENCE

Janice Robinson

Ms. Janice Robinson appeared on behalf of the Applicant. She was qualified to give expert evidence in the field of land use planning (Exhibit 3 – Witness Statement).

The subject site has a frontage of 15.07 m and a depth of 51.36 m with a lot area of 774. 2 m². It is currently occupied by a 2-storey dwelling with a 2-car garage which projects out on the east side of the frontage (currently being demolished). There is a City owned tree in the front and cedar hedges along both side lot lines in the rear and along the west side lot line in the front. The current house was built in 1959.

The proposed 3-storey dwelling is intended to accommodate the owner's large family with 4 bedrooms on the second floor and 2 bedrooms on the third floor. Ms. Robinson advised that the third storey is entirely within the slope of the roof which includes 3 dormers facing the street. The driveway is proposed in the same location with a reduced width of 2.6 m. There is a rear deck which is located close to grade. There are no variances required for the balconies or terraces.

The Planning staff report to the Committee recommended that the building length and depth be reduced to 19.95 m, that the height be reduced to 10.5 m and that the fsi be reduced to 0.55 or less to be more in keeping with the intent of the By-laws. As noted the plans have been revised to reduce to the length/depth to 18.11 m, the height to 10.5 m and the fsi to 0.63 m. Ms. Robinson indicated that the fsi would be 0.53 if only the first and second storeys were included in the calculation (noting that the third storey is entirely within the slope of the roof). In her opinion, the massing meets the intent of planning staff's comments. There were no comments from any other City department.

Ms. Robinson identified a Study Area for her review that extended west to Mount Pleasant, north to Cheltenham Ave, south to Strathgowan Ave and east to the former between Toronto and North York (Exhibit 3). She described the neighbourhood as desirable, well maintained, and well served by community facilities, services and public transit. It consists of many original homes built in the early to mid 1900's that are 2 and 3 storeys in height. The Study Area is stable and experiencing some re-investment in the form of renovations and expansions to existing dwellings and replacement dwellings.

Using photos (Exhibit 3 Tab 6) Ms. Robinson described the area noting the variety of houses including original, renovated and replacement dwellings. The area is not a Heritage Conservation District although the house to the west at 181 Dawlish is a listed building on the Toronto Heritage Registry.

Ms. Robinson indicated that it is typical for new construction to require variances for such matters as increased floor space index (fsi), building length/depth, height and reduced side yards. She reviewed Committee and Ontario Municipal Board (OMB) decisions over the past 15 years (Exhibit 3) which demonstrated variances to permit building lengths of greater than 20 m, increases in fsi (notably 109 Dawlish at 0.6279), reduced side yard setbacks and increased height. In her opinion, the fsi standard of 0.35 is development control tool to ensure that proposals in excess of 0.35 are subject to a review process. Ms. Robinson indicated that most new developments have an fsi of 0.5 or above. She noted that a number of the dwellings are 3-storeys in height or have the appearance of 3-storeys with tall pitched roofs. There is no restriction in the By-laws on the number of storeys in this area.

Ms. Robinson concluded that the 4 requested variances for side yard, length, height and fsi are within the numeric range of existing and approved dwellings within the Study Area.

With respect to the historic dwelling at 181 Dawlish Ave abutting the subject site to the west, she noted that the properties are approximately the same size. Ms. Robinson opined that the fsi of the dwelling at 181 Dawlish Ave would have a similar fsi as the proposed development as it is over 3 storeys in height. The 181 Dawlish property was originally much larger and the house was constructed with an east-west orientation. As a result of creating a new lot on either side to the west and east, the original front and back of the house face the side lot lines of the adjacent lots. She noted that the adjacency of the lot lines was established over 100 years ago. The proposed west side yard setback of 1.5 m is an increase over what exists (approximately 1.29 m) and meets the zoning standard. Ms. Robinson referred to the property data map base of her Study

Area to indicate that the pattern of development in the area includes narrow side yard setbacks and deep lots with deep rear yards. The neighbouring properties have side yards abutting the subject site of 1.06 m – 1.08m (west) and 0.73 m (east). Ms. Robinson referred to the site plan and noted that the proposed front wall is behind the front wall of 181 Dawlish and the proposed length and does not extend as far.

With respect to provincial policy, Ms. Robinson summarized that the minor variance application for a replacement dwelling would be considered a local matter. Both the PPS and the Growth Plan indicate that the Official Plan provides policy direction for such local matters and the proposal would not conflict with any of the provincial policies. In her opinion, the approval of the variances would be consistent with the PPS and conform to the Growth Plan. With respect the heritage policies in the PPS, she indicated that the City did not request a Heritage Impact Statement and that heritage staff did not comment on the application. She noted that the setback of the dwelling on 181 Dawlish Ave of approximately one metre to the subject site was established many years ago.

In terms of the Official Plan, Ms. Robinson referred to the Neighbourhoods designation (Map 17) and Policies 2.3, 3.1.2.1, 4.1, 4.1.5 and 4.1.8. The Healthy Neighbourhoods policies recognize that neighbourhoods are stable but not static and that physical change within neighbourhoods will occur over time. Such change should respect and reinforce the existing physical character of the neighbourhood. The Built Form policies in Section 3.1.2.1 direct that development be organized to fit within the existing and planned context. Section 4.1.5 states that development in established neighbourhoods will respect and reinforce the existing physical character of the neighbourhood and sets out criteria for new development. Section 4.1.8 of the Official Plan indicates that the Zoning By-law will contain performance standards for various matters to ensure compatibility.

Based on her review of the site plan and the character of the Study Area, in her opinion, the proposed development will be compatible with the physical character of the neighbourhood and meets the built form objectives of the Official Plan. With respect to the heritage policies, she noted again that heritage staff did not comment on the application and staff did not raise any concerns that would require further study. With respect to the development criteria in Section 4.1.5, in her opinion, the proposal fits within the range of what exists and what has been approved and is virtually the same size as the adjacent dwelling. The design incorporates the third storey into the roofline with dormers for natural light. There are examples of third storeys with dormers that may or may not include livable space. She noted that if the third floor did not include any habitable space, the fsi would be 0.53 and would still have the same massing. Ms. Robinson opined that the proposal is in keeping with the massing and character of the neighbourhood. In her opinion the side yards, fit within the character of the neighbourhood which includes narrow side yards as evidenced on both sides of the subject site. The front yard, rear yard and landscape open space meet the by-law requirements. With respect to the conservation of the heritage resources, she notes that there is no change in context on this lot with respect to the lot next door. The proposal is a replacement dwelling with similar side yard setbacks and in her opinion will have no impact on the heritage dwelling. Section 4.1.8 indicates that zoning by-laws will contain numeric standards to achieve compatible development. Ms. Robinson noted that many of the provisions are met and the height and density is compatible with the

neighbourhood which is composed of large and tall dwellings. Further, it is Ms. Robinson's opinion that the proposal conforms to OPA 320 which is under appeal. In summary, it is Ms. Robinson's opinion that the proposal meets the general intent and purpose of the Official Plan.

Ms. Robinson advised that the general intent and purpose of the Zoning By-laws is to identify permitted uses and performance standards, which result in a development that implements the Official Plan, does not result in any adverse planning impacts on the immediate and broader area and will be suitable for the subject site and be compatible with neighbouring developments.

In Ms. Robinson's opinion, the revised variances both individually and cumulatively maintain the general intent and purpose of the Zoning By-laws. The height is lower than the neighbouring house and within the range of other recent approvals. The east yard setback increases the current setback and provides for adequate access to the side and rear yard. The length does not extend the entire width of the house, is setback from the main walls and is compatible with the adjacent dwellings. The intent of the fsi provision is to control the size and mass of a dwelling. In her estimation, the proposal effectively has the same massing the dwelling to the west and is compatible. The additional gfa is within the slope of the roof and would be indiscernible from attic space. The photo evidence demonstrates there are dwellings with substantial height in the neighbourhood and in her opinion the proposal is not excessive.

With respect to the test for minor, in Ms. Robinson indicated that there are two parts to the test, the magnitude and the impact. In her opinion, the magnitude of the proposed variances is numerically minor, as they do not give rise to adverse planning impacts on adjacent properties or the study area. In the context, it is her opinion that the massing will be keeping within the character of the neighbourhood and the proposal would not stand out as larger than other houses. The proposal is within a neighbourhood where the character includes larger houses.

With respect to building depth, she noted that the proposal is similar in length to the adjacent dwellings. With respect to the fsi, there are comparable dwellings in the area and the resulting massing will not be out of keeping with the character of the neighbourhood where the built form includes narrow side yards. The proposed height is considered minor in context as there are homes in the vicinity with similar or higher heights.

In Ms. Robinson's opinion, the revised proposal represents reinvestment in a neighbourhood that has experienced expansion and replacement dwellings. The revisions to the application results in standards that are appropriate and will be contribute to the character and stability of the neighbourhood. Ms. Robinson is satisfied that the application is desirable and appropriate development of the land and building.

In conclusion, Ms. Robinson recommends the variances as set out in **Exhibit 1** be approved subject to a condition that the dwelling be constructed substantially in accordance with the revised drawings to ensure that the length and other elements are adhered to.

Terry Mills

Mr. Terry Mills appeared on behalf of the Appellants residing at 181 and 187 Dawlish Ave, the properties abutting the subject site to the west and east. He was qualified to give expert evidence in the field of land use planning (Exhibit 3 – Witness Statement).

Mr. Mills explained that the original inspiration behind Lawrence Park was derived from the Garden City Movement, with estate scaled homes within a natural context. It was known as a Garden Suburb. There remain examples of the Arts and Crafts Movement including 181 Dawlish Ave, which, as has been noted, is listed on the Toronto Heritage Registry. He described the Lawrence Park Garden Suburb as a complete, stable neighbourhood, within the former City of Toronto. The area has developed streetscapes with heavy tree canopies with similar treed features in the interiors. There is significant separating distance between the rear wall of buildings and hedges are placed to allow open views across neighbouring properties. In addition, traditional driveways separations and soft landscaping between houses produces a pattern of 'green fingers'.

Mr. Mills noted that the replacement houses remain subject to a maximum fsi of 0.35 which he opines was the established density of the original homes. His Study Area was smaller than the area established by Ms. Robinson, with 171 houses focused on 3 streets to the north and one to the south of the subject property, west to Mount Pleasant Road. In addition, he denoted an area identified as in immediate proximity to the subject site. His analysis of the City's building database, updated by Committee decisions, indicated that the median and average house density in his Study Area 0.37 fsi. He noted that the original houses generally had driveways accessing rear yard parking which established separating distances between houses with side yard setbacks being a secondary measure to address the sides of houses where there are no driveways.

Within Mr. Mills' Study Area, there have been 15 replacement houses with an fsi above 0.5 within the last 10 years. Further, there are only 8 properties exceeding an fsi of 0.55. He noted that 181 Dawlish Ave has an fsi of 0.554 which is a result of the subsequent severances which resulted in the current lot size.

Mr. Mills provided considerable evidence related to the heritage of 181 Dawlish Ave which was listed on the City's Heritage Registry in 1983. As has been noted, 181 Dawlish Ave was originally oriented east west with extensive front and rear grounds incorporating the current adjoining properties including the subject site. The north and south elevations were originally sidewalls. They were not intended to accommodate principal windows but rather to play subordinate role. As a result, the current rear yard is the former south facing side yard and the elevation facing Dawlish Avenue lacks any principal windows. The true former rear elevation along with its principal windows face what was originally the back yard, and is now the east side lot line setback abutting the subject site. He identified the policy framework associated with a heritage property as outlined below:

'Ontario Heritage Act

(1.2) In addition to the property listed in the register under subsection (1.1), the register may include property that has not been designated under this Part but

that the council of the municipality believes to be of cultural heritage value or interest and shall contain, with respect to such property, a description of the property that is sufficient to readily ascertain the property.
[Ontario Heritage Act 2005 – Register 27(1.2) 2005, c.6, s.15]

Toronto Official Plan

Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular: h) conservation of heritage buildings, structures and landscapes.
[Official Plan Policy 4.1.5 (h) – p.4-3]

Proposed alterations, development, and/or public works on or adjacent to, a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained, prior to work commencing on the property and to the satisfaction of the City. Where a Heritage Impact Assessment is required in Schedule 3 of the Official Plan, it will describe and assess the potential impacts and mitigation strategies for the proposed alteration, development or public work.
[Official Plan 3.1.5 Policy 5 p.3-12]

HERITAGE IMPACT ASSESSMENTS

Heritage Impact Assessment will evaluate the impact of a proposed alteration to a property on the Heritage Register, and/or to properties adjacent to a property on the Heritage Register, to the satisfaction of the City.
[Official Plan 3.1.5 Policy 23 p.3-15]

Heritage Impact Assessment will be required for the proposed demolition of a property on the Heritage Register. Where demolition of a property adjacent to a property on the Heritage Register is proposed, the City may require a study on the implications of the demolition on the structural integrity of the property on the Heritage Register.
[Official Plan 3.1.5 Policy 24 p.3-15]

DEVELOPMENT ON PROPERTIES ON THE HERITAGE REGISTER

New construction on, or adjacent to, a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it.
[Official Plan 3.1.5 Policy 26 p.3-15]

VIEWS OF HERITAGE PROPERTIES

The policies for the protection of views to heritage properties of this section should also be read with specific regard for the view policies in Section 3.1.1 of this Plan, where applicable.
[Official Plan 3.1.5 Policy Views p.3-18]

Mr. Mills also provided definitions to demonstrate that the subject site would be considered an adjacent property. He noted that the proposed development would obstruct the view of 181 Dawlish Avenue far beyond the extent of the current house intended to be demolished. The proposed density represents an increase of 67% beyond the permitted density and surpasses the median and average density in his Study Area. In order to achieve this density, the proposal is to position its front main wall approximately 5 metres forward of the northwest corner of the current house on the subject site.

Further, he noted that the accommodation of this increased density is in an additional third floor level with a substantial and steep pitched roof, whereas the current house has a modest low-pitched hip roof. In his opinion, the mass and siting of the current house already obstructs the view of 181 Dawlish Avenue to an undesirable degree and any additional obstruction of view would make the condition substantially worse and would not meet the requirement to respect and reinforce the existing physical character of the neighbourhood.

With respect to provincial policy, Mr. Mills identified Policy 1.1.3.3 of the PPS which identifies that the Official Plan as the most important instrument for implementing its policies and Policy 2.6, Cultural Heritage and Archaeology which directs that significant built heritage resources and significant cultural heritage landscapes shall be conserved. With respect to the Growth Plan, he referenced Section 2.1 and 4.1 which indicates that in managing growth, it is important to protect what is valuable in built up areas and affirms that heritage assets are of public interest.

With respect to the Official Plan, in Mr. Mills opinion, the proposed development does not maintain the general intent of the Official Plan, which sets out in Section 2.3.1, Healthy Neighbourhoods, that respecting and reinforcing the existing physical character of neighbourhood buildings and streetscapes is “a cornerstone” of the Plan. He indicated that the density charts illustrate that the physical character within the Study Area's four streets involves a much lower median and average density of only 0.37 FSI, whereas this proposal requests variances for a density of 0.63 FSI. In his view, the large houses (over 0.5 fsi) fail to respect and reinforce the existing character of the neighbourhood, as the lot widths in the Study Area maintain a relatively consistent 15m width with few exceptions. In his opinion, the proposed increase in density will have adverse impacts because of the resulting scale, form and proportions and fails to fit harmoniously as required by the Official Plan (3.1.2 b, c, d and e). In particular, the residents of 181 Dawlish Ave are concerned with adequate light and privacy because of the side orientation of the principle windows (14 in number) and a glass door. In addition, Mr. Mills was concerned with the narrow passageway on each side of the proposed dwelling which would eliminate the ‘green fingers’ views to the rear opens space. Finally, the proposed steep roof is not the prevailing roof pitch in the area. In terms of the development criteria (4.1.5 c, f, g and h), Mr. Mills’ indicated that the raised rear terrace, which extends beyond the permitted building length and penetrates into the rear yards and side yard setbacks, is out of character with the general practice of ground level outdoor living spaces.

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In Mr. Mills' opinion, the Heritage Conservation Policies should be applied to the proposal, as it is immediately adjacent to the listed property. He opined that the proposed development should "be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it" (3.1.5). Further, he does not believe that the increase in density has been justified as required in Policy 5.6.13. In his opinion, the proposed development will have a negative impact on flooding because of the enlarged footprint and hard surface patio.

With respect to the Zoning By-law, Mr. Mills identified additional and revised variances which he believed should have been included in the Zoning Examiner's notice. I advised that the TLAB would only be dealing with the variances that were before the Committee, as updated by the Zoning Examiner, and requested by the Applicant, as the Applicant did not request that any additional variances be added.

In terms of building length, Mr. Mills noted that the rear of the existing house does not extend as far as the two adjacent houses. The west flank is 11 m with the front wall set back such that 5.6 m of the flank of the house at 181 Dawlish Ave is visible from the street and the windows are unobstructed. With respect to the east side yard setback, as the proposal has an integral garage there is not the typical side yard on one side. In his opinion, reducing the side yard from 1.5 m to 1.22 m eliminates the opportunity to incorporate effective landscaping into the restricted passageway. He is also concerned with stormwater runoff as the adjacent house has a side door entry onto the side yard, as is proposed for the subject site.

The increase in density is a result of the habitable space in the third floor which affects the pitch of the roof and therefore the height. In Mr. Mills' opinion, the height variance should be refused which would result in a more traditional roof pitch and a more compatible built form.

In summary, it is Mr. Mills' opinion that the proposed variances do not meet the general intent and purpose of the Zoning By-law.

With respect to the test for minor, Mr. Mills' opined that the application should not be considered minor as the density is beyond the neighbourhood's density profile, the proposal is not sensitive, gradual and does not generally 'fit'; it fails to respect and reinforce the existing physical character of the neighbourhood. In his opinion, the proposal does not respect the adjacent listed property at 181 Dawlish Ave as required by the Official Plan and a Heritage Impact Assessment has not been undertaken.

In Mr. Mills' opinion, the proposed variances are not desirable for the appropriate development of the site. The density would be beyond the physical character of the existing neighbourhood and would obstruct the view of the listed property. The proposed length would extend the rear main wall beyond the pattern of building depths along the south side of Dawlish Ave. The side yard setback reductions would result in constrained passageway to the rear yards whereas the neighbourhood character provides separations wider than the zoning standards. The height variance comes into effect closer to the sidewalk than in the traditional house forms. Of particular concern is the impact on the views of 181 Dawlish facing east towards the subject site.

Mr. Mills concluded that the proposal and requested variances, individually and cumulatively, do not achieve the intent of the By-laws, do not represent good planning and should be refused.

Valerie Hull

Ms. Valerie Hull and her husband Mr. Anthony Hull are the owners of the house to the immediate east, 187 Dawlish Ave and Ms. Hull was speaking on behalf of both.

Ms. Hull was concerned that the proposed variances will negatively impact her house, family, and neighbourhood as she believed that the size of the fsi variance is simply too big. First, she referenced the third story, with the 'cumbersome mansard-style roof,' which will negatively impact her property by blocking natural light and hindering air circulation. From the front sidewalk view, she believed that this will appear as a large and bulky roofline and will not be in keeping with the aesthetics of the neighbourhood. Ms. Hull referenced that Mr. Mills had proposed an alternate roof design which she felt would be more appropriate.

Ms. Hull was concerned with the 18.21m length variance that included the box bay windows on the first floor. She described how the length variance would extend the first-floor wall 2 m beyond the rear main wall of her house. This would compromise the extended panorama view Ms. Hull and her family have enjoyed for the past 30 years. Ms. Hull also referred to her 3 m tall cedar hedge which runs along the length of her back garden next to 185 Dawlish. This hedge is planted on Ms. Hull's side of the lot line and grows very near to where the proposed variance begins. With the proposed variance, Ms. Hull was concerned that her hedge will be at risk during construction, and further reduce the level of privacy that this hedge was planted to maintain. She is also concerned that the hedge will suffer further damage by this variance, as it will experience reduced air circulation and sunlight. Ms. Hull also referred to the windows on the second story of the proposed plans that would be installed with the approval of the length variance. She remarked how the windows would look directly onto her rear-garden and her pool area, which would negatively impact the privacy and amenity of her property, both of which she noted is very important to her and her family. She requested that the proposed build be reduced in length to the existing by-law of 17 m, which she commented was also approved by the Committee.

Ms. Hull was also concerned with the rear platform of the proposed dwelling, which would extend 5.0 m beyond the rear of her house and would be situated 1.2 m from her west-side lot line. She believed this would impact her privacy, as the platform would extend too long and too close to her property. She noted that the grade level of the front section of the backyard on 185 Dawlish Ave is higher than her own property, which would raise the proposed platform even higher in reference to her backyard. She believed that this would impact privacy of her property, as the platform would act as a raised stage next to her garden. Ms. Hull referenced the other properties on this side of the street/neighbourhood and described how many of the rear yards slope down and away from the houses, with decks that are typically small and adjacent to the first floor. She described that those with larger terraces have built these beyond the decks and oriented them at or close to the downward sloping ground level. In this way, the

overview between neighbouring houses in the rear yard is minimized and privacy is maintained. She believed that the proposal should comply with this pattern.

In addition, Ms. Hull is concerned with the plans for the kitchen/barbeque situated on the eastern edge of the platform, as the associated smells, smoke, and noise next to her property would be highly unpleasant and could impact the hedge which provides privacy. She requested that the rear platform be centred on the property, reduced in depth, and lowered closer to the ground.

Ms. Hull indicated that the east side-yard setback of 1.22 m is a serious concern, as it would impact the passageway between her house and 185 Dawlish Ave. She noted that this is a shared pathway and that it is used as the main access to her back garden, leading to the rear yard gate. She has a side door that also leads onto this pathway which provides an exit from the ground floor of the house, is indented to hold her garbage bins, and acts as a fire escape. She noted that the west yard setback for her own house is only 0.73 m due to the age of the home and the original property lines, and so this passage way is already limited. Ms. Hull recalled issues with the previous owners of 185 Dawlish, who had left bicycles and garbage, leading to unpleasant congestion. Ms. Hull was concerned that the 1.22 m setback, with additional plans for a step(s), will only further congest this pathway due to limited space for storage and garbage, and further impede drainage, snow removal, and adequate access to her rear yard. She referred back to the height and length variances which would only further reduce light and accessibility to her property, and in sum believed the 1.22 setback is not appropriate nor desirable for her own property.

Finally, Ms. Hull was concerned with the large mass and proximity of the proposed dwelling and its impact on drainage. She commented that Lawrence Park has a history of flooding and outdated sewer systems which is recognized by the City. She referred to the significant grade difference between the proposed house and her own house and the higher possibility for flooding. As well, she had concerns relating to the excess runoff from such a large building into this pathway, which could lead to icy, slippery conditions in the winter and flooding in the other seasons.

In summary, Ms. Hull believed that proposal is an overdeveloped house and that the new owners have little interest in maintaining the character of the street and neighbourhood or respecting the neighbours of Lawrence Park and the nearby heritage home. She asked that the TLAB to consider these concerns and that the plans be modified to those proposed by Mr. Mills.

Ms. Elizabeth Grant

Ms. Elizabeth Grant and Mr. Thomas O'Driscoll are the owners of the home at 181 Dawlish Ave. Ms. Grant was speaking on behalf of both. She described her close ties to Lawrence Park, having lived on Dawlish Ave for 20 years and in her current house for 4 years. She had admired the heritage house at 181 Dawlish since childhood and it is very important to her.

Ms. Grant reaffirmed the importance of the heritage home and noted the support of other neighbours and groups within the area. The house was built in 1914, is part of the

Lawrence Park Walking Tour, and is used to host heritage events. She believes that it is important to ensure the character and value of heritage homes within the City are recognized and to ensure that these heritage homes are livable and sustainable. She believes the 2 adjacent houses built on the original property of 181 Dawlish Ave had been planned with great consideration for the needs of the heritage home.

She recalled how the original property of 181 Dawlish Ave allowed for the house to be oriented differently than the rest of the neighbourhood, facing perpendicular to the street. The house has a 'side entrance' at the front of the house facing the street, and it appears larger in the plans than in reality due to the flat roof (sleeping porch/tradesman's entrance) facing the west. Notably, the sides of the house face north south so that the main windows of the house could face east west to receive ample sunlight. She commented that there are only a handful of houses with these characteristics in the neighbourhood. Together with the heritage status, the considerations of the variances for 185 Dawlish Ave should be made under a different context than a normal house.

Ms. Grant is first concerned with variance 1- the excess length of 18.21 m. The west side of the original 185 Dawlish Ave home abutted the back of 181 Dawlish and so partially blocked the main windows. However, the shorter length of 185 Dawlish Ave and the low roofline allowed some light to come in. In her view, extending the length by 1.21 m would fully block the main windows of 181 Dawlish lengthwise. Additionally, the roofline of the new build is significantly different than the original house which took into account the heritage home and sloped away from the house. The new roofline would have a steeper pitch and block additional light.

Ms. Grant is concerned that the new 3 –storey dwelling will block all light into her kitchen. She already has little light coming into the back portion of her home and would like to preserve it, and requested that the length be kept at 17 m.

Ms. Grant further maintained that the new build would impact the enjoyment of their home. She referred to the proposed extension with a main-floor breakfast room and a second-floor bathroom, both of which are on the west side of the 185 Dawlish property and abuts their property. Ms. Grant is concerned that these living spaces positioned on the west side of the house will affect the privacy of her property, particularly with the number and size of windows that are shown.

Ms. Grant is also concerned with the proposed fsi of 0.63. She discussed how this would further reduce the amount of light received through the main windows, which her home relies on for adequate, livable lighting. Although some light enters through the north and south, these walls provide the main support of the house, with walls that are triple thick with 4-ft-thick chimneys, blocking much of the natural light. She reaffirmed how the home was never designed to receive north-south lighting.

Second, Ms. Grant is concerned that the 0.63 fsi and the associated greater massing will have an even greater impact on the heritage home than with other houses in the neighbourhood. As a heritage home, the house is meant to stand out in the neighbourhood. However, the fsi is only 0.55 despite how large it appears on the plans, whereas the proposed dwelling has an fsi of 0.63 which, in her view, will critically impact

the look and character of the heritage home. In her opinion, the proposed massing does not show any deference to the heritage of the house or the home itself.

Also related to the proposed fsi, Ms. Grant is concerned with how the third-floor is designed with the main living space on the west side of the property and closest to 181 Dawlish Ave. She believed it is placed in an area that has the most impact to her home instead of being placed elsewhere. The third floor living space is not centred within the massing of the rest of the house, which is not in keeping with the pattern of the other houses in the neighbourhood. Furthermore, Ms. Grant referred to the evidence of Mr. Mills that the new dwelling will look like it has an fsi of 0.70 regardless of whether the third floor is half or partially used. She requested that the fsi be kept to 0.50, which is not only in more keeping with the aesthetic of the neighbourhood but is more deferential to their home.

In light of these concerns, Ms. Grant concluded that as she lives in a heritage home she couldn't alter the design of the house or make any structural changes to alter the home to mitigate the impact of the proposed variances, which include blocking the light into her living areas.

The City Solicitor did not call any witnesses but participated in the hearing through cross-examination and submissions. He indicated that the City is in opposition to the appeal and requested that the TLAB have regard for the Committee's decision. Mr. Schuman noted that the City does not believe that the Zoning Examiner missed any variances.

Participants

Ms. B. Chan lives at 189 Dawlish Ave. She is concerned that the proposed density of 0.63% fsi will set a precedent and standard within the neighbourhood, with the impending renovations of the neighbouring properties. Her neighbours at 191 Dawlish Ave have recently moved to the neighbourhood in April with potential plans to develop the property. According to Ms. Chan, the house on 191 Dawlish is not a "Lawrence Park" house, and is much more aged and underdeveloped than the rest of the neighbourhood and is in need of a renovation. Additionally, the house adjacent to this property, 193 Dawlish, belongs to an older woman who will be selling the house soon, and the new owners may also renovate the property.

Ms. Chan was concerned that the 0.63 fsi, the three stories, and the depth of over 17 m does not match the rest of the properties on her block and would change the look of the neighbourhood. She noted both the general lack of modern and three-story houses on the block. Furthermore, she was concerned with her view as she exits her home. The front of her house is currently in-line with 187 Dawlish Ave, as are most of the properties in the neighbourhood, yet the proposed setback would set back her house and others on the street behind the front of 185 Dawlish, and a brick wall would obscure her view.

Ms. Chan was also concerned that the houses within her block will become massive 'cookie-cutter' houses with no driveways or green spaces. She noted that the property across from her home has undergone renovations with an approved 0.57 fsi, which is

much less than the proposed 0.63 fsi and has maintained green space by planting numerous trees at the front of the property.

Mr. A. Grenzebach was in attendance to represent the Lawrence Park Heritage Committee, of which he is the Chair. He provided historical background for the house on 181 Dawlish Ave. The Heritage Committee is opposed to the variances because of the impact on the property at 181 Dawlish Ave. This house was built in 1914 for Magistrate Jones, a notable figure, and designed by the official architects of Lawrence Park- Chadwick, and Beckitt. Another house in the neighbourhood, 117 Dawlish, is approximately the same age. In 1914, the dwelling at 181 Dawlish was built on a large property that stretched to the east, west, and south of the house. This area was vacant for a long time, and as such the house is oriented differently from the rest of the neighbourhood; the front of the house faces west and the back of the house backs onto where 185 Dawlish is now, and was formerly the gardens for 181 Dawlish Ave. Additionally, the lots on the south side of Dawlish are larger than the standard Lawrence Park properties. While the standard size is 50 ft. by 150 ft., the south side lots are 50 ft. x 168 ft., allowing for the construction of larger houses. From a heritage point of view, Mr. Grenzebach noted that the size of the house at 181 Dawlish Ave is a feature that distinguishes it from the rest of the neighbourhood. While the construction of the rest of the neighbourhood has lessened the appreciation of this feature, the house still stands out as a large heritage home.

Mr. Grenzebach was concerned that the proposed size of 185 Dawlish will overwhelm 181 Dawlish and diminish the features that distinguish the house as a heritage house. He cited Official Plan Section 3.1.5(26), which states "New construction on or adjacent to a property on the heritage register will be designed to conserve the cultural heritage values, attributes, and character of that property and to mitigate visual and physical impact on it." To Mr. Grenzebach, this statement applies to the proposed impact that 185 Dawlish will have on 181 Dawlish, due to its large size.

Mr. Grenzebach also referred to the earlier comment that City staff did not initially comment on issues of heritage conservation and therefore were not concerned with this aspect of 185 Dawlish, or that it does not conflict with zoning laws. He refuted this observation by attributing the lack of concern to a matter of staffing. He explained that Heritage Preservation Services have a very small staff and have been prioritizing other issues such as heritage conservation districts, and appearing before Council. He noted that there are over 8,000 buildings on the heritage registry and staff cannot always be involved with all cases of new construction near heritage homes, particularly in an area such as Lawrence Park, where 181 Dawlish Ave is one of many.

Finally, Mr. Grenzebach was concerned with the precedent of allowing such a large dwelling at 185 Dawlish Ave. Another infill house, built on the west side of 181 Dawlish, is about to be redeveloped. If the precedent is set for the neighbourhood that houses may be built to such a large size, 181 Dawlish Ave will become sandwiched between two very large houses. Mr. Grenzebach, who has lived in Lawrence Park all of his life, noted the creeping effect within the neighbourhood of larger and larger houses being built. If the plans for 185 Dawlish are approved, he believes this will continue the trend of larger and larger houses and sets a dangerous precedent. He acknowledged that 185

Dawlish Ave will still be a very large house and will diminish the heritage attributes of 181 Dawlish Ave even if the proposed size is not approved. However, by refusing the proposed fsi variance for 185 Dawlish Ave, the house will still be large yet not as overwhelming as it would have been. Refusal, in his view, will prevent such a precedent from being set within the neighbourhood, which would otherwise continue to diminish the cultural heritage value of Lawrence Park and its heritage homes.

Ms. Griffin was a Participant appearing on behalf of the Lawrence Park Ratepayers Association, of which she is the Chair (Exhibit 7-Participant Statement). Ms. Griffin referred to the initial Committee hearing for 185 Dawlish where the Ratepayers Association made numerous objections to the initial proposal. With respect to the current, revised proposal, Ms. Griffin was concerned with preserving the pattern of land use within the neighbourhood. She recognized that homeowners with the opportunity to redevelop would opt for a home of larger scale and scope than the existing house, however she believes that plans for redevelopment should still respect and reinforce the existing pattern of land use.

Ms. Griffin indicated that the Committee approved a number of variances for the subject site and while imperfect, she believed the Committee did a reasonable job of trying to balance the need for redevelopment against the protection of a heritage home. The variances approved by the Committee for 185 Dawlish allowed for a greater FSI of 0.54, a 5% increase in height to 10.5 m, and no increases in length. The Committee asked the homeowners to respect the new By-law for side yard setbacks on the west side of the property with regards to the heritage home in the neighbouring lot. However, it did not apply the same concern to the east side, which was allowed at a narrower side yard setback.

Ms. Griffin provided contextual evidence of other properties in the area to show the existing pattern of land use. Her first point of evidence was concerned with the proposed fsi of 0.63. She referred to the photographic evidence in Exhibit 3 provided by Ms. Robinson and noted that the 11 redeveloped houses on the block had an fsi ranging from 0.50 to 0.628. The houses that did not have an fsi listed in Exhibit 3, 170 Dawlish and 158 Dawlish, had an FSI of 0.49 and 0.40 respectively. A recently redeveloped house, which was renovated in 2017, had an fsi of 0.48. The average fsi across these properties is 0.52. The fsi approved by the Committee of 0.54 is already higher than this average. In her opinion, the house that had an fsi of 0.628 is not only an outlier compared to the other 10 houses, but is the furthest away from the subject site, and still less than the proposed 0.63 fsi for 185 Dawlish Ave. Ms. Griffin believed that approving an fsi of 0.63 would not be respecting and reinforcing the existing pattern of land use and that the TLAB should consider the current context of the neighbourhood by maintaining an fsi closer to the average, as opposed to an outlier.

With respect to the proposed length of 18.12 m, Ms. Griffin referred again to Exhibit 3, and noted that only 2 of the 17 houses on the chart have a length variance while the majority of houses are at the permitted length of 17 m or less. In her view, approving an 18.12 m variance for 185 Dawlish would not preserve the pattern of land use for the rest of the neighbourhood.

Ms. Griffin provided an historical context to the neighbourhood, explaining how Lawrence Park is known as the 'Garden Suburb of Toronto' since it was built in the early 1900s. She referred to the site plan of the new dwelling showing the rear yard terrace. The plan shows the basement construction with a block wall and a terrace that has full footings which extend approximately another 3 m. Ms. Griffin pointed that this was not noted as being unexcavated and therefore did not understand why it was not included within the total length. The terrace is shown as being 1 m above ground. Ms. Griffin is concerned that the terrace will be only 1.2 m away from the neighbouring lot and that it is at a height with an unfair level of overlook that is inappropriate for the neighbourhood and not consistent with a 'garden suburb.' Furthermore, Ms. Griffin discussed how this 3 m of paved-over space would affect water run-off as it will remove and replace an area that would otherwise be able to absorb rain. Ms. Griffin believed that the previously approved variance of 1.2 m should have been kept to 1.5 m but accepted that this was a reasonable decision.

Finally, Ms. Griffin did not agree with the observation made earlier in the hearing that the 0.63 fsi is a result of the gfa being counted in the third floor and otherwise the fsi would only be at 0.53. She countered that if this were true, a height variance would not be needed and that if they were prepared to give up the height variance than perhaps all Parties would be able to proceed further in the discussion.

ANALYSIS, FINDINGS, REASONS

The TLAB has reviewed the considerable evidence provided at the hearing. The proposed variances before me are the third iteration of the variances that have been proposed. With respect to density, which is a key issue in the hearing, the original application was for 0.72 fsi, the Applicant revised it at the Committee to 0.585 fsi (although there were no accompanying plans) and the current proposal is for 0.63 fsi, as filed with the witness statement of Ms. Robinson.

I accept that the proposed revisions are minor from the Application before the Committee as the original notice for the Committee hearing included an fsi of 0.72 times the lot area and the other revisions to the variances either eliminate or reduce the number and extent of the variances. As a result I find that no further notice or consideration is required under s. 45 (18) 1.1 of the Planning Act. I consider the variances identified in **Exhibit 1** to be the variances under consideration in this matter.

While a number of issues were raised about the potential for additional variances not identified by the Zoning Examiner, as noted, only the variances identified and being requested by the Applicant are under consideration in this hearing. The City Zoning Examiner has the responsibility to interpret the by-laws. There are no variances required for the front yard setback or the raised patio. In addition, issues related to stormwater and drainage are appropriately addressed by qualified City staff during the normal building permit process. This would be the case in any new development whether a minor variance application is required or not.

One of the main issues raised by the other Parties (other than the City) and Participants was with respect to heritage matters related to the adjacent the listed property at 181

Dawlish Ave. I understand this concern and have given it careful consideration. I have reviewed the policy context for properties adjacent to a property on the Heritage Register. Policy 3.1.5 of the Official Plan states that “proposed alterations, development, and/or public works on or adjacent to, a property of the Heritage Register will ensure that the integrity of the heritage property’s cultural heritage value and attributes will be retained, prior to work commencing on the property and to the satisfaction of the City”

The City Planning Division, which includes Heritage Preservation Services, commented on the application (Community Planning) and did not identify an issue with respect to heritage matters and did not request a Heritage Impact Assessment (HIA). There is no evidence to explain whether this was a lack of concern on behalf of staff or a lack of resources. Regardless, in this circumstance I do not find that the onus is on the Applicant to provide a HIA in the absence of any such direction or concern from staff.

The owner of the listed property did not prepare an HIA to determine if the proposal would negatively impact the listed property as outline above. I understand that this may be cost prohibitive. The Heritage Property Detail for 181 Dawlish Ave from the City’s website included in the filings simply states “Magistrate J. E. Jones House, 1914, Chadwich & Beckett”. This does not provide much detail on the property’s cultural heritage value and attributes. I agree that it is a large house with an unusual orientation in the context of the neighbourhood. The history of the original context of the house and the resulting adjacent lots explains the current physical orientation of the house and the location of windows and doors. I agree with Ms. Robinson that the context of 181 Dawlish Ave was largely established when the lands on either side were severed and new lots with houses were created. The issue to determine is what impact will the proposed variances have on 181 Dawlish Ave. The impact must be measured in terms of the as-of-right zoning as the application, subsequent Committee decision, and this appeal are the result of variances to the otherwise permitted development. The zoning-by-law would permit a dwelling that is 17 m in length, 10 m in height, and 1.5 m from the property line. The location and number of windows on the first and second levels are permitted as-of-right.

In terms of neighbourhood character, both planners identified a study area for the purposes of their analysis. While both Study Areas can be justified, I prefer the larger Study Area identified by Ms. Robinson as representing the neighbourhood, as I consider the Study Area identified by Mr. Mills too limited in scope to understand the character of a neighbourhood. I also find that while a review of previous variance decisions is helpful in determining the type and scope of approvals in an area, an averaging of the statistics, particularly as it relates to density, does not provide a meaningful comparison as it does not take into consideration the specific circumstances of individual sites or the emerging character of an area, particularly an older area which is experiencing regeneration.

The dwelling at 181 Dawlish Ave has an east side yard setback adjacent to the subject site of 1.06 to 1.08 m, which is less than the current by-law requirement of 1.5 m. The existing house on the subject site has a west side yard setback of approximately 1.29 m. The relationship between of the dwellings in terms of their common side yard condition was established in 1959. While it is acknowledged that the proposed dwelling on the subject site is situated closer to the street than the original dwelling and will have an impact on the view of 181 Dawlish Ave from what currently exists, the proposed front

yard setback meets the By-law requirements and a variance to this provision is not required and not before the TLAB. I have reviewed the Official Plan policy referred to by Mr. Mills regarding views of heritage buildings and conclude that it applies to the heritage properties identified on Schedule 4 of the Plan which does not include the site at 181 Dawlish Ave. As a result, the location of the front wall of the building is permitted as of right.

The proposed additional building length does not extend the entire width of the dwelling. The additional length of 0.75 m (west extension) and 1.12 m (east extension) is set back from the main walls. The eastern extension accommodates a one-storey box bay window. The western extension accommodates a one-storey box bay window and a smaller second storey bump out which is further setback from the west main wall. There are no windows facing west on the second storey bump out.

I do not find from the evidence that the westerly 0.75 m extension as it is proposed will block the main windows of 181 Dawlish Ave or significantly impact the sunlight or views from the windows on the east wall of 181 Dawlish Ave. As noted, the extension is set back from the main wall and the bulk of the building length is 17 m as permitted by the By-law. Similarly, with respect to the easterly bay box extension, I do not agree that this will have an undue negative impact on the privacy or views of the property to the east. The windows on the east side overlooking 187 Dawlish Ave are within the 17 m permitted length and are confined to the first and second storeys. As such, there are no variances required for the windows.

With regard to the east side yard variance (1.2 m vs. 1.5 m), the proposed setback is a modest increase from the current setback of approximately 1.07 m. Mr. Mills referred to 'green fingers' between the buildings as part of the neighbourhood character. However, the setback relationship of the current house to the adjacent lot lines is being maintained. The original house did not have driveway extending the length of the side yard providing a greater setback, the driveway was in front. In addition, similar variances for side yard setbacks (1.2 m and lower) have been approved within the neighbourhood. In terms of the concern related to garbage and bicycle storage, as noted, the proposed variances generally maintain the current context and an additional 0.3 m (less than 12 inches) is not expected to significantly affect the storage. As noted, issues related to stormwater and runoff will be dealt with by the Building Department at time of building permit.

The height variance of 0.5 m would result in a dwelling that is higher than the dwelling at 187 Dawlish Ave and lower than the dwelling at 181 Dawlish Ave. Based on the evidence, I do not consider that the absolute height of the dwelling to be the issue as much an issue as the style of the roof and the resulting massing which permits additional gfa.

I accept Ms. Robinson's evidence that the proposed massing as viewed from the street would be permitted by the Committee approval even without the proposed fsi or length variance. The photo evidence shows that the massing from the street is similar to other new dwellings in the neighbourhood. The massing from the street could look very similar at 10.0 m as permitted by the By-law. In addition, there dwellings in the neighbourhood that are 3-storeys in height or have the appearance of 3-storeys

With respect to the relationship with 181 Dawlish Ave, the west elevation of the proposed dwelling includes a set of doors and a juliet balcony at the third floor level which would not otherwise be proposed if there were no habitable space in the attic or if the space were configured differently. Taken together, while the dwelling may look the same from the street, the combination of additional gfa, height, length and reduced east yard setback results in a dwelling that is at the high end of the density approvals within the neighbourhood. Mr. Mills identified a concern that additional density could be created in the large attic space, while acknowledging that a further variance for fsi would be required.

I am satisfied that the variances for building length, building height and east side yard setback meet the criteria set out in the Planning Act. As noted, the Committee approved the building height and east side yard variances.

The proposed fsi variance is to accommodate livable space in the third floor. The issue is the potential impact this would have on the adjacent dwellings, specifically 181 Dawlish Ave, as the third floor living space is proposed along the west wall of the dwelling. This could be addressed by a condition that prohibits openings on the east and west elevations of the third level. This would move the livable area to the centre of the floor plan and limit the amount of the third floor that could be used as habitable space. I recognize that an appropriate fsi is difficult to determine in the absence of plans. A density of 0.585 fsi was proposed at the Committee. While there have been densities approved in excess of 0.60 fsi in the area, these are in the minority. Without the benefit of the specific details of these approvals as a comparison, I am not satisfied that an fsi of 0.63 is appropriate for the subject lands. Based on a review of the evidence and past decisions, I consider that the fsi proposed at the Committee (rounded to 0.59) would provide for some additional space in the third storey while being consistent with other approvals for new dwellings in the neighbourhood. This will not necessarily address the massing of the dwelling from the street, however; these restrictions could result in a redesign of the roof which addresses the concerns of the residents.

I am satisfied that the revised variances, together with the proposed conditions, meet the criteria set out in Section 45(1) of the Planning Act, are consistent with the Provincial Policy Statement and conform to the Growth Plan.

DECISION AND ORDER

The appeal is allowed, in part, and the following variances to By-law 569-2013 are approved subject to the conditions listed.

1. Chapter 10.20.40.20. (1), By-law No. 569-2013
The maximum permitted building length is 17.00m.
The proposed building length is 18.12 m.

2. Chapter 10.20.40.40. (1), By-law No. 569-2013

Decision of Toronto Local Appeal Body Panel Member: L. McPherson
TLAB Case File Number: 18 117359 S45 25 TLAB

The maximum permitted floor space index is 0.35 times the lot area.
The proposed floor space index is 0.59 times the lot area.

3. Chapter 10.20.40.10. (1), By-law No. 569-2013
The maximum permitted building height is 10.00m.
The proposed building height is 10.5 m.

4. Chapter 10.20.40.70. (3), By-law No. 569-2013
The minimum required side yard setback is 1.50m.
The proposed east side yard setback is 1.22m.

Conditions:

1. The proposal shall be constructed substantially in accordance with the site plan and elevations dated April 17, 2018, attached, with the exclusion of Drawing No A-8
2. There shall be no openings on the west or east elevation of the third floor level.

X 

Laurie McPherson
Panel Chair, Toronto Local Appeal Body




DAWLISH AVENUE
BY REGISTERED PLAN 1534-YORK
PIN 21139-0433 (LT)



**SURVEYOR'S REAL PROPERTY REPORT
PART 1:
PLAN OF PART OF LOT 267
REGISTERED PLAN 1534-YORK
CITY OF TORONTO**

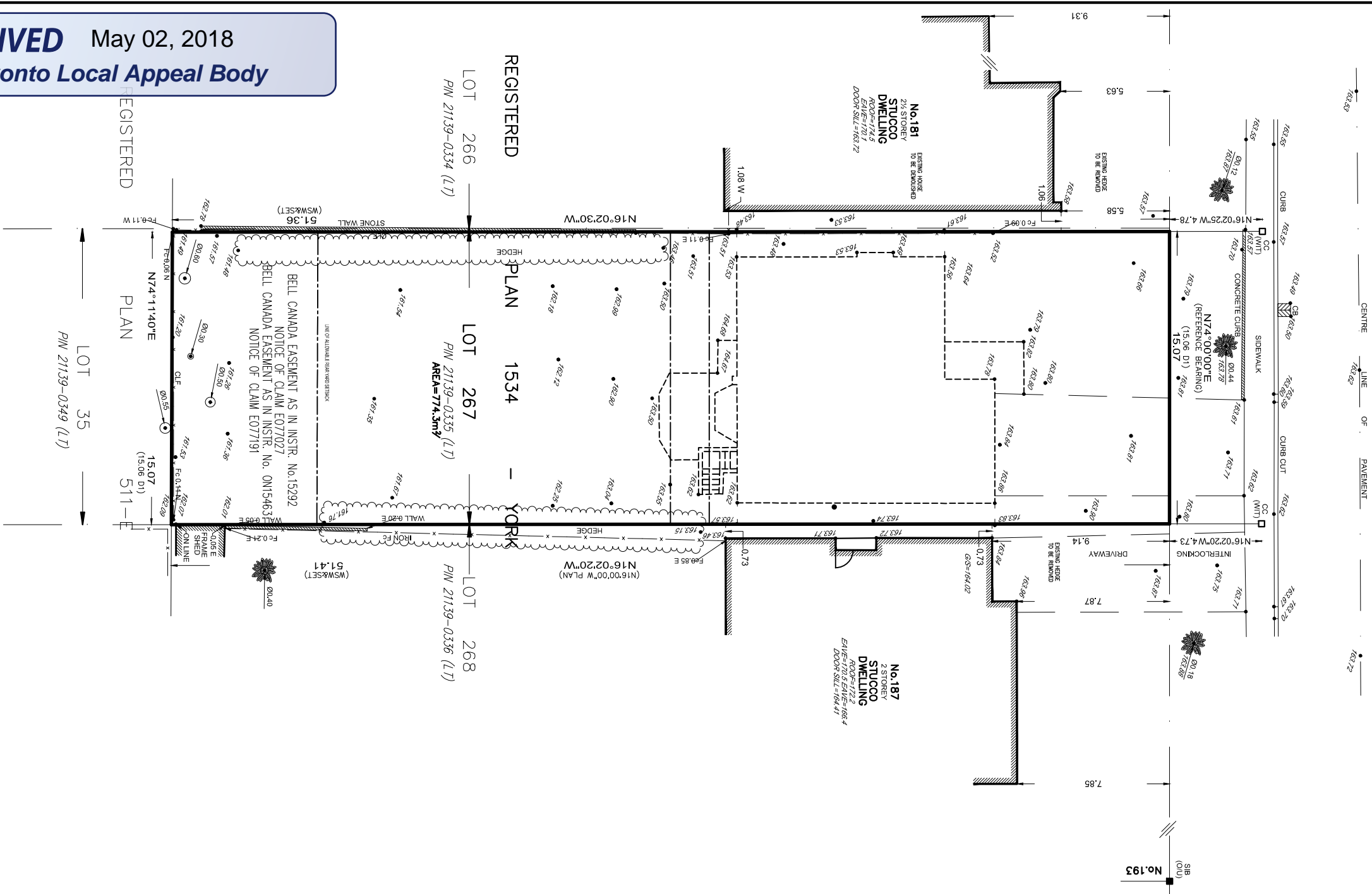
SCALE 1 : 150




A horizontal scale bar with markings at 0, 1, 2, 3, 4, 5, 10, and 15m. The bar is divided into segments corresponding to these measurements.

AKSAN PILLER CORPORATION LTD.

PART 2:
PREPARED FOR IAN MILLIGAN
LOCATION OF THE BUILDING: WHOLLY ON THE PROPERTY,
ENTIRELY ON PART 1,
LANDS: AS SHOWN ON PART 1,
WALLS: AS SHOWN ON PART 1,
DECKS: AS SHOWN ON PART 1,
SWIMMING POOL: NONE,
EXISTING FENCES: GENERALLY ALONG THE PROPERTY
LINES, WITH DEVIATIONS AS SHOWN
ON PART 1,
EASEMENTS: AS SHOWN ON PART 1,
DRIVEWAY: AS SHOWN ON PART 1,



	LEGEND:	
■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT PLANTED
●	DENOTES	IRON BAR
○	DENOTES	STANDARD IRON BAR
△	DENOTES	SHORT STANDARD IRON BAR
◇	DENOTES	CUT CROSS
×	DENOTES	CONCRETE PIN
+	DENOTES	WITNESS MONUMENT
*	DENOTES	ORIGIN UNKNOWN
#	DENOTES	NORTH
@	DENOTES	EAST
%	DENOTES	SOUTH
\$	DENOTES	WEST
£	DENOTES	FENCE
¥	DENOTES	CHAIN LINK FENCE
€	DENOTES	BOARD FENCE
£	DENOTES	POST AND WIRE FENCE
£	DENOTES	INST. No. CA317247
£	DENOTES	W.S. WINTERS, OLS (AUG 8, 1986)
£	DENOTES	REGISTERED PLAN 1534--YORK
£	DENOTES	CATCH BASIN
£	DENOTES	GARAGE SILL

METRIC:
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

BEARING NOTE:
BEARINGS ARE REFERRED TO THE SOUTHERLY LIMIT OF
DAMLISH AVENUE/AS SHOWN ON REGISTERED PLAN 1534--YORK
HAVING AN ASTRONOMIC BEARING OF N74°00'00"E.

ELEVATIONS NOTE:
ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE DERIVED FROM THE CITY OF TORONTO BENCH MARK C191,
ELEVATION = 165.496m.

CAUTION:
TREE CALIPERS ARE NOT TO ARBORIST STANDARDS
AND ARE DEFINED AT 1.4m ABOVE GRADE AT TREE
FOR ARBORIST CALIPER REFER TO ARBORIST REPORT.

SURVEYOR'S CERTIFICATE:
I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYOR'S ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM;
2. THE SURVEY WAS COMPLETED ON THE 19th DAY OF JUNE, 2017.

DATE _____

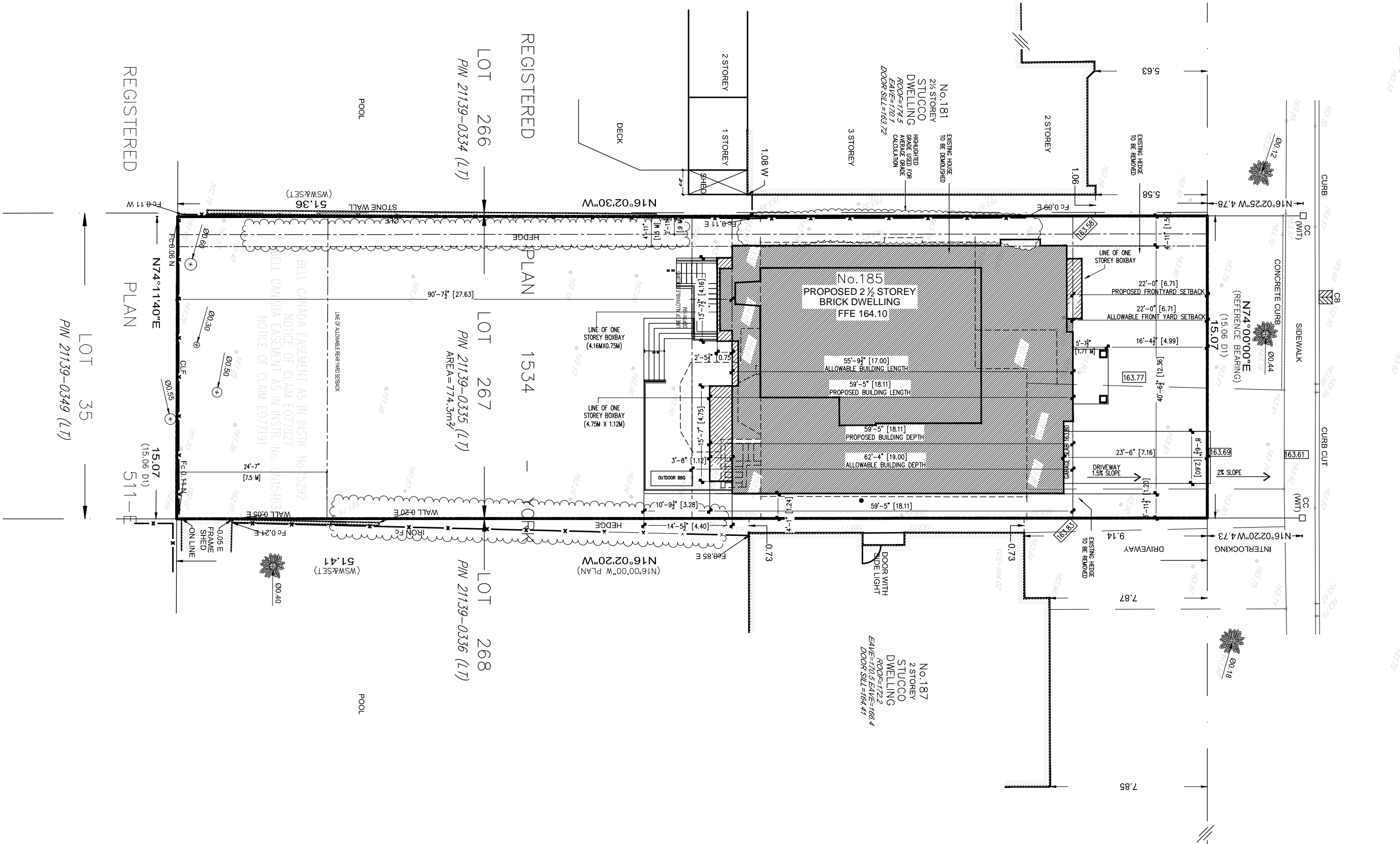
HELMUT PILLER _____



AKSAN PILLER CORPORATION LTD
ONTARIO LAND SURVEYORS
943 MT PLEASANT ROAD, TORONTO, ONTARIO, M4P 2L7
(T) 416-468-1174 (F) 416-468-7843 (E) ops@surveyors.ca www.opsurveyors.ca
CALC: MU DRAWN: VF
reference number: 17-36-12595-00 CHECKED: HP

DAWLISH AVENUE
BY REGISTERED PLAN 1534-YORK
PIN 21139-0433 (LT)

CENTRE LINE OF PAVEMENT



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
4	NOV 13-17	REVISED/ISSUED TO CLIENT
5	DEC 12-17	REVISED/REISSUED FOR ZC
6	MAR 16-18	ISSUED FOR CLIENTS REVIEW
7	APR 08-18	ISSUED FOR TLAB REVIEW
8	APR 17-18	SITE PLAN /STATS. ISSUED FOR TLAB REVIEW

BUILDERS SHALL VERIFY ALL DIMENSIONS AND ALL JOB SITE CONDITIONS PRIOR TO PROCEEDING WITH CONSTRUCTION AND REPORT ANY DISCREPANCIES IMMEDIATELY TO THE ARCHITECT.

ONLY THE LATEST APPROVED DRAWINGS ARE TO BE USED FOR CONSTRUCTION.

IT IS THE BUILDER'S DUTY TO ENSURE THAT THEY HAVE THE LATEST APPROVED DRAWINGS IN HAND.

These architectural drawings are the property of Peter Higgins Architect Inc. 124 Merton Street, Suite 204, Toronto, Ontario.

In consideration for full payment of the architectural services rendered, the use of these drawings and any supporting attachments, is granted to the client/agency responsible for the construction of the forementioned titled project, as designed, depicted and detailed on these drawings.

These architectural drawings shall not be reproduced or used for any other purpose at any other address by any other person, firm or corporation without the written consent of Peter Higgins Architect Inc.



PETER HIGGINS
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TORONTO, ONTARIO, M4S 2Z2
TEL.: (416) 481-6229
FAX: (416) 481-8084



PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY CS	DATE: 14SEPT17
CHECKED BY: PJH.	BCIN 4208 3486
SCALE: 1'-0" = 1/16"	DRAWING SITE PLAN
PROJECT NO: 17-035	

DRAWING NO:

A-1

185 DAWLISH AVENUE ZONING INFORMATION (TORONTO BYLAW)

ZONING:	R1 0.35	
LOT AREA:	8334.5 sq.ft.	774.3 sq.m.
ALLOWABLE GFA	2,917.1 sq.ft.	271 sq.m.
PROPOSED MAIN FLOOR(EXCL. GARAGE)	2144.32 sq.ft.	199.21 sq.m.
PROPOSED 2ND FLOOR	2223.65 sq.ft.	206.58 sq.m.
PROPOSED LOWER FLOOR	2227.88 sq.ft.	206.97 sq.m.
PROPOSED THIRD FLOOR(possible)	881.99 sq.ft.	81.93 sq.m.
GARAGE	250.36 sq.ft.	23.25 sq.m(19.2sqm ALLOWABLE).

PROPOSED TOTAL GFA: 63.00% 5250.73 sq.ft. 487.80 sq.m. ———VARIANCE

SETBACKS	ALLOWABLE	PROPOSED
FRONT YARD SETBACK	22’–0” (6.71M)	22’–0” (6.71M)
REAR	24’–7 1/4” (7.5M)	78’–5”” (23.90M)
SIDE (WEST)	2.95’ (0.9M)	4’–11” (1.5M)
SIDE (WEST) AFTER 17M OF BUILDING LENGTH	24’–7” (7.5M)	4’–11” (1.5M)–VARIANCE
SIDE (EAST)	2.95’ (0.9M)	3’–11 1/2” (1.2M)
BUILDING LENGTH	N/A	N/A
BUILDING DEPTH	N/A	N/A
BUILDING HEIGHT	32’–10” (10.0M)	29’–5” (8.98)
WALL HEIGHT	N/A	N/A
TOP OF FIRST FLOOR	4’–0” (1.2M)	1’–10” (0.56M)

185 DAWLISH AVENUE ZONING INFORMATION (CITY WIDE BYLAW)

ZONING:	RD (f15.0; d0.35)(X1432)	
LOT AREA:	8334.5 sq.ft.	774.2 sq.m.
ALLOWABLE FSI	2,917.1 sq.ft.	271 sq.m.
PROPOSED MAIN FLOOR(EXCL. GARAGE)	2144.32 sq.ft.	199.21 sq.m.
PROPOSED 2ND FLOOR	2223.65 sq.ft.	206.58 sq.m.
PROPOSED LOWER FLOOR	2227.88 sq.ft.	206.97 sq.m.
PROPOSED THIRD FLOOR	881.99 sq.ft.	81.93 sq.m.
GARAGE	250.36 sq.ft.	23.25 sq.m(19.2sqm ALLOWABLE).

PROPOSED TOTAL GFA: 63.00% 5250.73 sq.ft. 487.80 sq.m. ———VARIANCE

SETBACKS	ALLOWABLE	PROPOSED
FRONT (AVERAGE OF 2 EXISTING ADJ. HOUSES: 5.58 +7.85)	22’–0” (6.71M)	22’–0” (6.71M)
REAR	24’–7 1/4” (7.5M)	90’–4” (27.94M)
SIDE (WEST)	4’–11” (1.5M)	4’–11” (1.5M)
SIDE (EAST)	4’–11” (1.5M)	3’–11 1/2” (1.2M)–VARIANCE
BUILDING LENGTH	55’–9” (17.0M)	59’–5” (18.11M)———VARIANCE
BUILDING DEPTH	62’–4” (19.0M)	59’–5” (18.11M)
BUILDING HEIGHT	32’–10” (10.0M)	34’–5” (10.50M) ———VARIANCE
WALL HEIGHT	22’–11 5/8” (7.0M)	22’–6” (6.76)
TOP OF FIRST FLOOR	4’–0” (1.2M)	1’–3 3/4” (0.40M)

REVISIONS / ISSUE DATES			<div><p>BUILDERS SHALL VERIFY ALL DIMENSIONS AND ALL JOB SITE CONDITIONS PRIOR TO PROCEEDING WITH CONSTRUCTION AND REPORT ANY DISCREPANCIES IMMEDIATELY TO THE ARCHITECT.</p><p>ONLY THE LATEST APPROVED DRAWINGS ARE TO BE USED FOR CONSTRUCTION.</p><p>IT IS THE BUILDER'S DUTY TO ENSURE THAT THEY HAVE THE LATEST APPROVED DRAWINGS IN HAND.</p></div> <div><p>These architectural drawings are the property of Peter Higgins Architect Inc. 1560 Bayview Avenue, Suite 302, Toronto, Ontario.</p><p>In consideration for full payment of the architectural services rendered, the use of these drawings and any supporting attachments, is granted to the client/agency responsible for the construction of the forementioned titled project, as designed, depicted and detailed on these drawings.</p><p>These architectural drawings shall not be reproduced or used for any other purpose at any other address by any other person, firm or corporation without the written consent of Peter Higgins Architect Inc.</p></div>
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7	APR 08-18	ISSUED FOR TLAB REVIEW	
8	APR 17-18	SITE PLAN /STATS. ISSUED FOR TLAB REVIEW	



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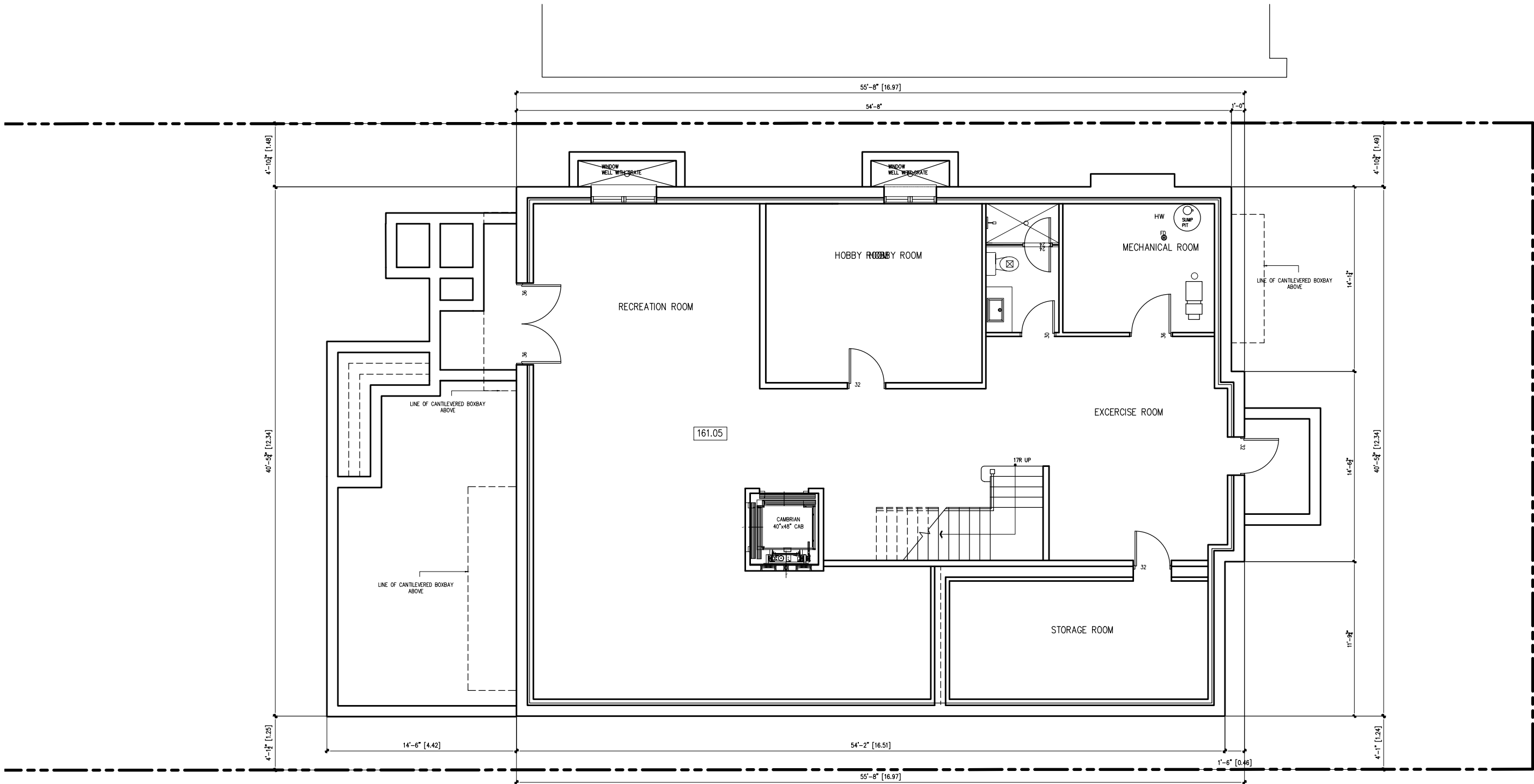
PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: ZONING STATS
PROJECT NO: 17-035	

DRAWING NO:

A-2



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
4	NOV 13-17	REVISED ISSUED TO CLIENT
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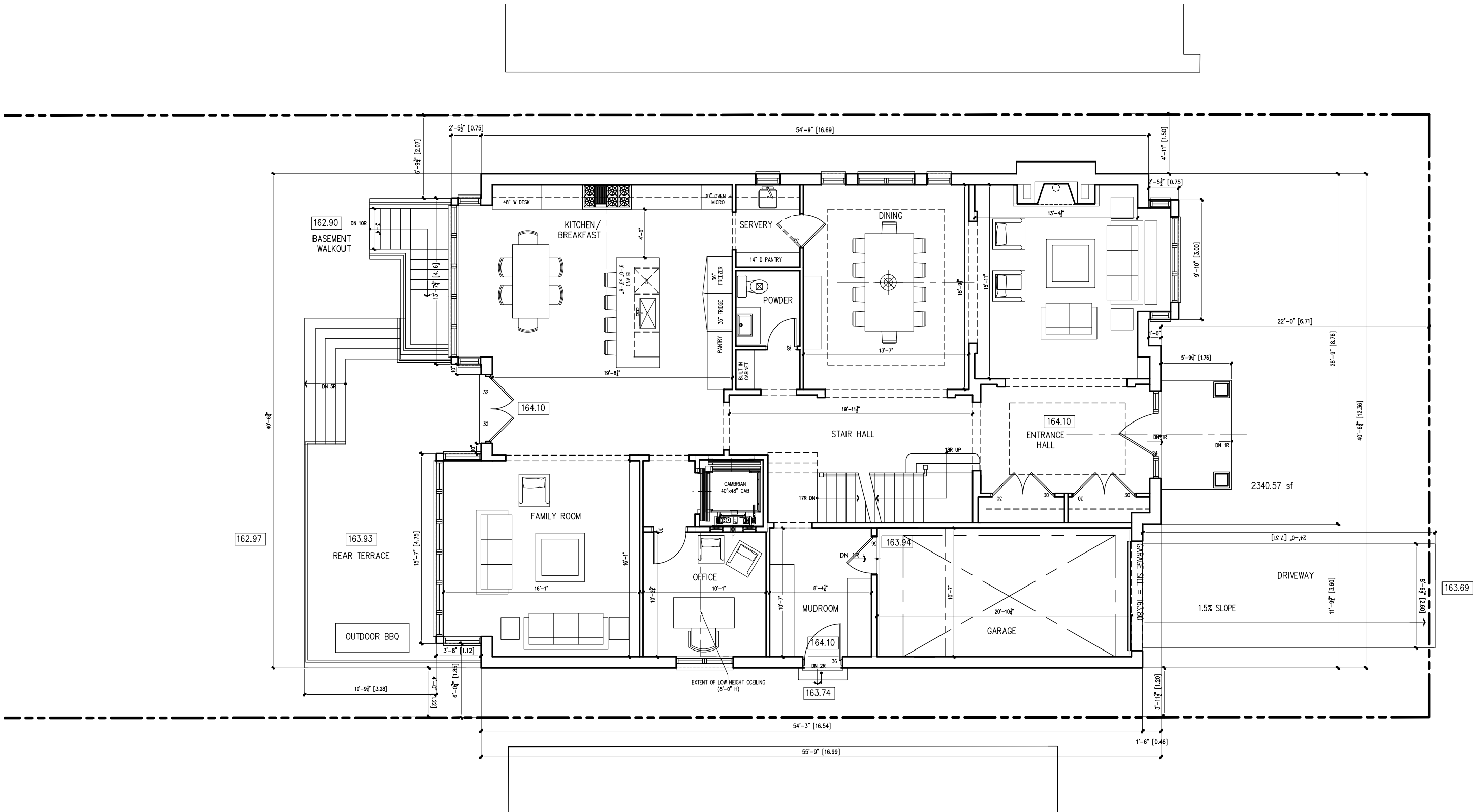
PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: LOWER FLOOR
PROJECT NO: 17-035	

DRAWING NO:

A-3



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
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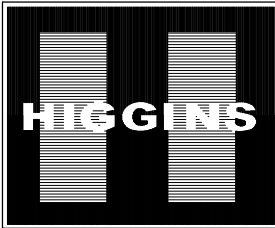
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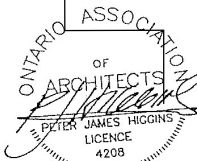
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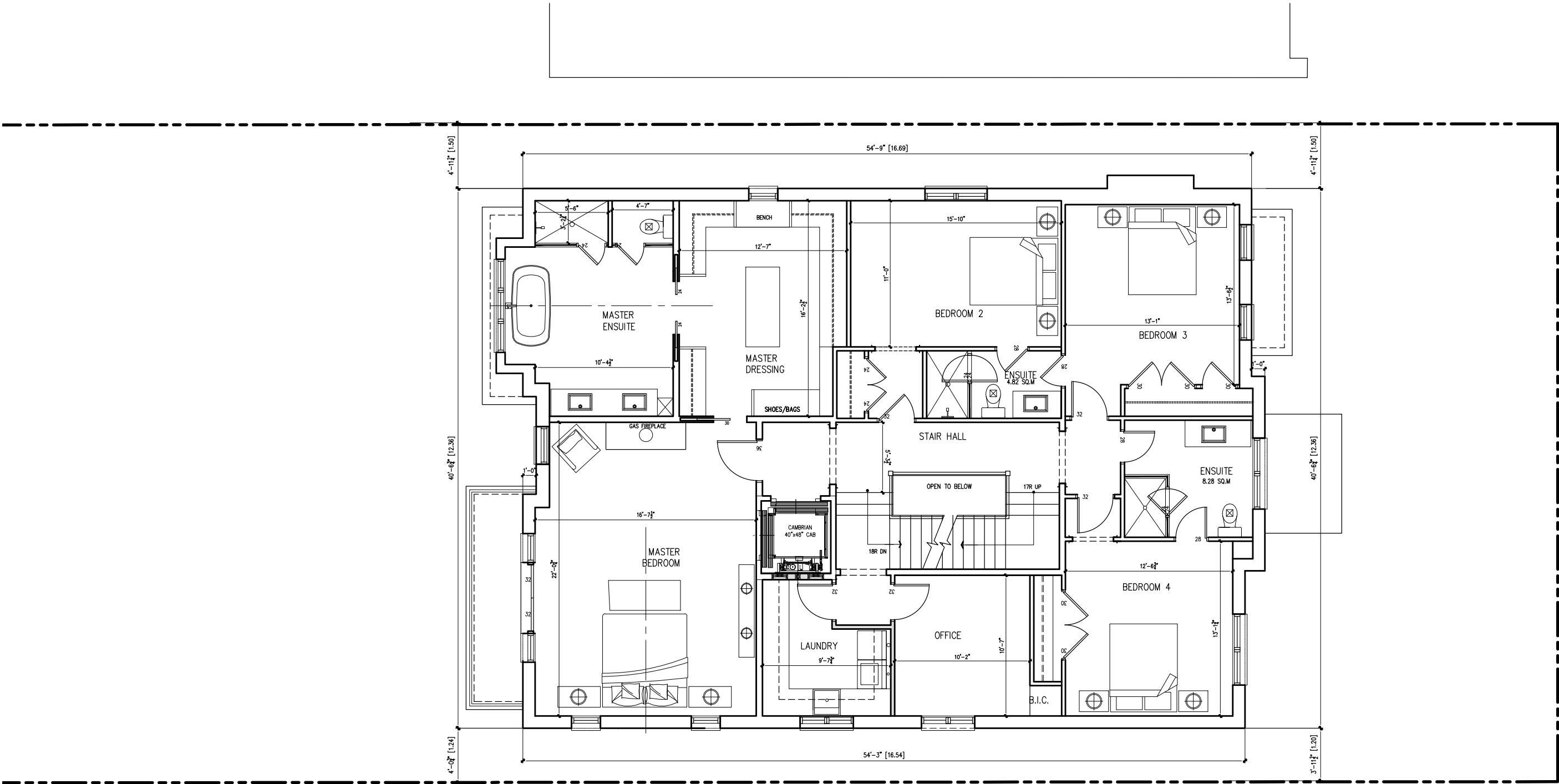
PROJECT:

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185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
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SCALE: 1/8" = 1'-0"	DRAWING: MAIN FLOOR
PROJECT NO: 17-035	

DRAWING NO:

A-4



SECOND FLOOR (EXCL. STAIR OPENING): 2223.65 SQ.FT
STAIRS OPENING : 25.30SQ.FT
TOTAL SECOND FLOOR : 2248.95 SQ.FT



REVISIONS / ISSUE DATES		
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ONTARIO ASSOCIATION
OF
ARCHITECTS
PETER JAMES HIGGINS
LICENCE
A208

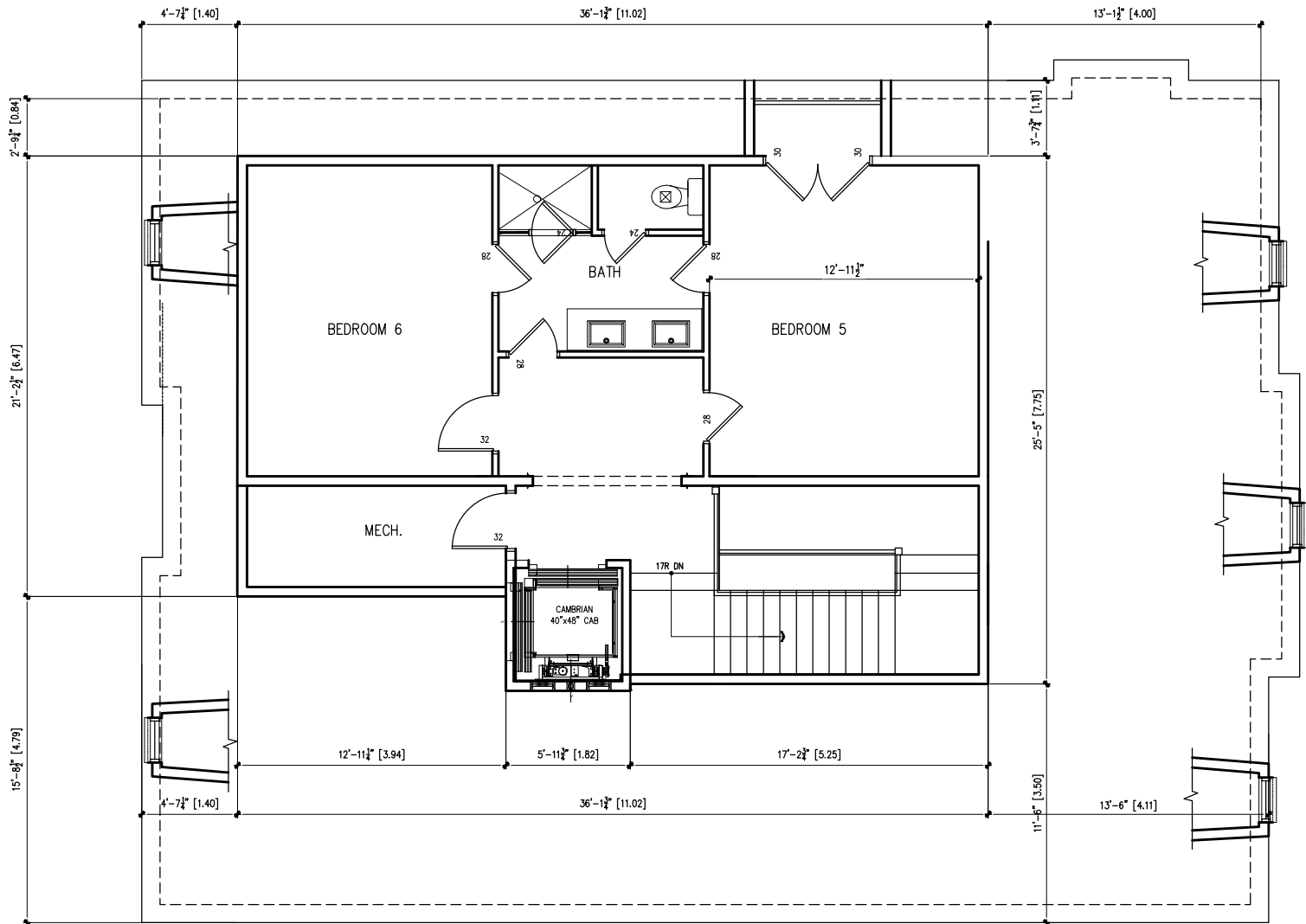
PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: SECOND FLOOR
PROJECT NO: 17-035	

DRAWING NO:

A-5



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
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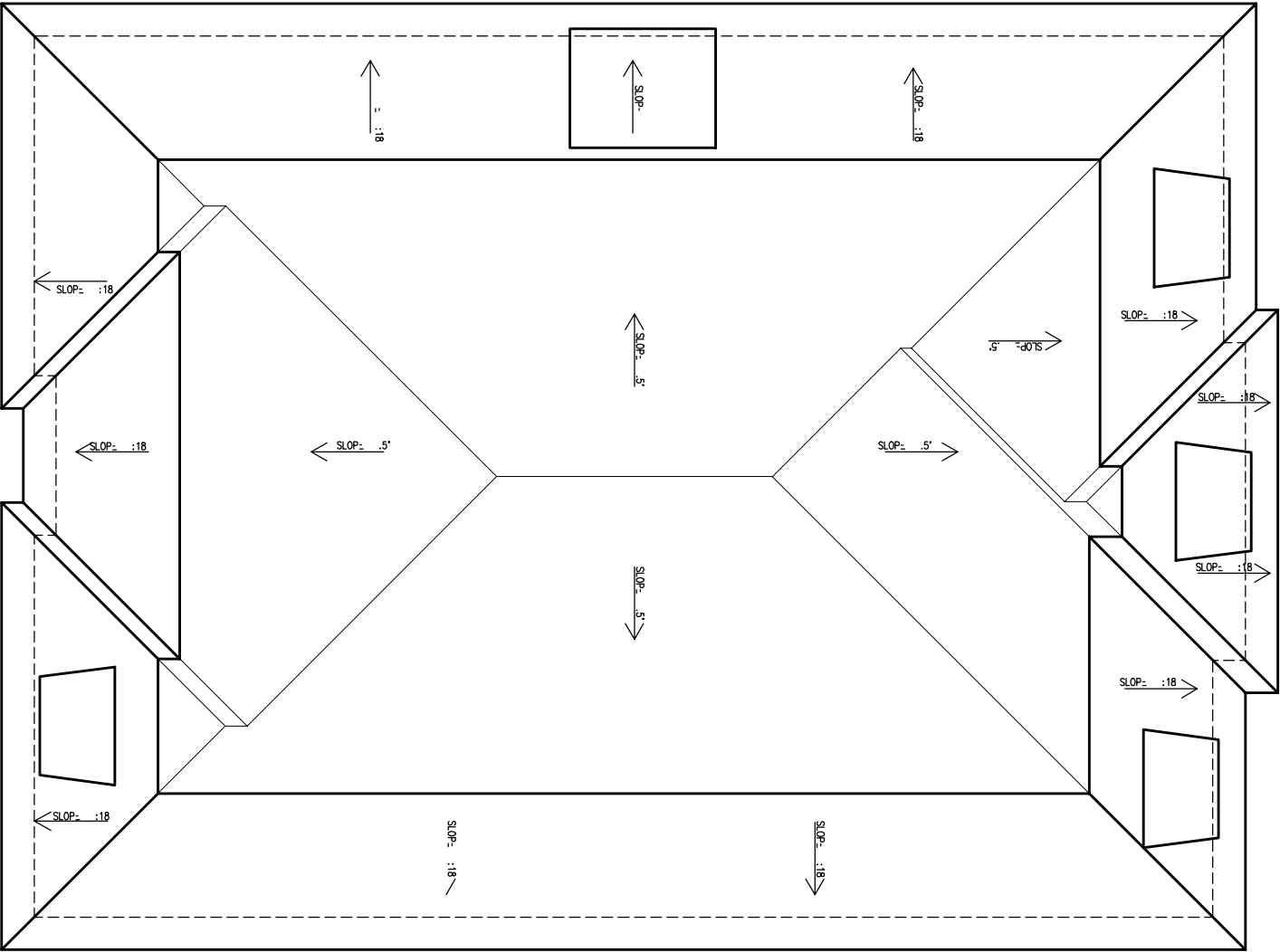
PROJECT:

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185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: THIRD FLOOR
PROJECT NO: 17-035	

DRAWING NO:

A-6



REVISIONS / ISSUE DATES		
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3	OCT 23-17	REVISED/REISSUED FOR ZC
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PROJECT:

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TORONTO, ONTARIO

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SCALE: 1/8" = 1'-0"	DRAWING: ROOF PLAN
PROJECT NO: 17-035	

DRAWING NO:

A-7



FRONT ELEVATION

REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
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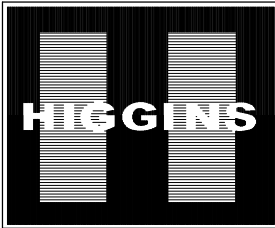
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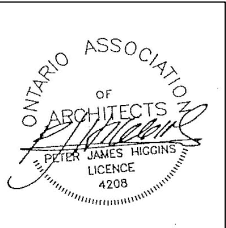
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PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: NORTH ELEVATION
PROJECT NO: 17-035	

DRAWING NO:

A-8



REAR ELEVATION

REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
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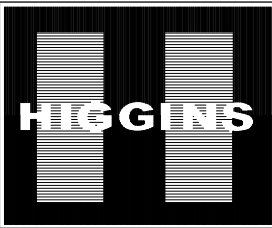
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PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: SOUTH ELEVATION
PROJECT NO: 17-035	

DRAWING NO:

A-9



CITY-WIDE BY-LAW:
ESTABLISHED GRADE CALCULATION:
 $163.58 + 163.83 / 2 = 163.70$

TORONTO BY-LAW:
AVERAGE GRADE AT WEST SIDE:
 $163.52+163.49+163.53+163.48+163.51/5 = 163.51$

REVISIONS / ISSUE DATES			BUILDERS SHALL VERIFY ALL DIMENSIONS AND ALL JOB SITE CONDITIONS PRIOR TO PROCEEDING WITH CONSTRUCTION AND REPORT ANY DISCREPANCIES IMMEDIATELY TO THE ARCHITECT.	These architectural drawings are the property of Peter Higgins Architect Inc. 1560 Bayview Avenue, Suite 302, Toronto, Ontario.
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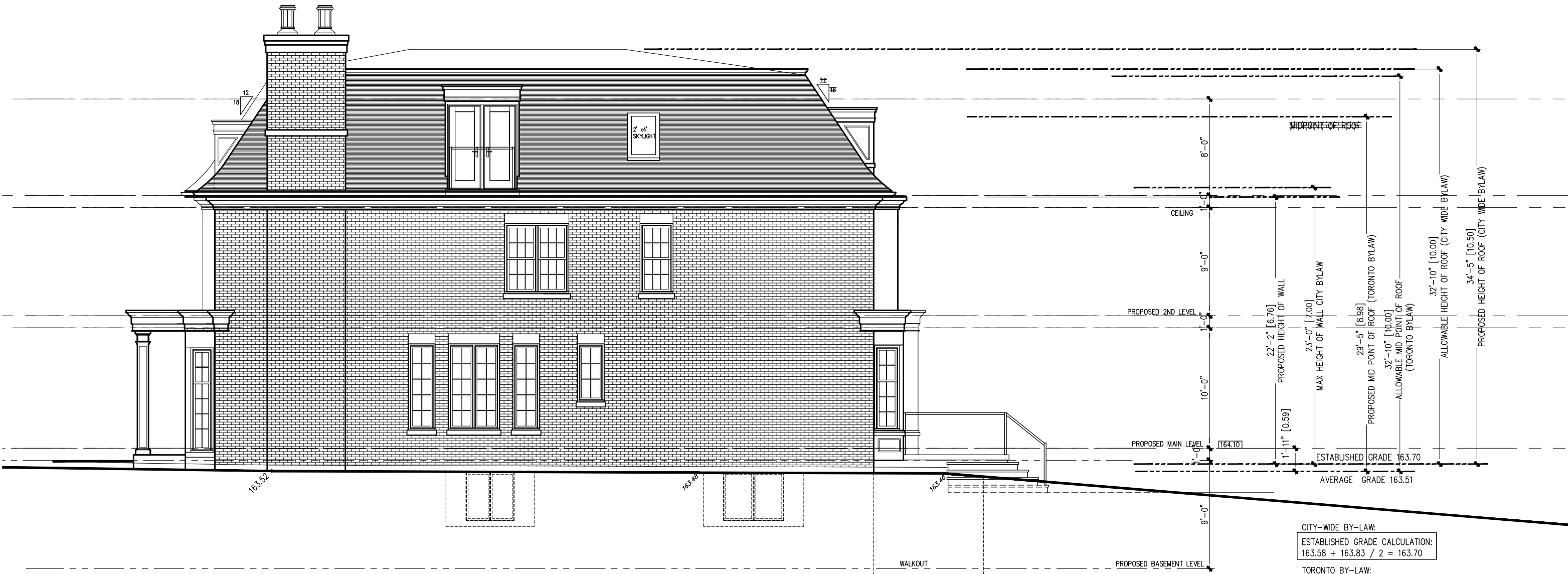
PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: PJH.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: EAST ELEVATION
PROJECT NO: 17-035	

DRAWING NO:

A-10



WEST ELEVATION

REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	OCT 23-17	REVISED/REISSUED FOR ZC
4	NOV 13-17	REVISED ISSUED TO CLIENT
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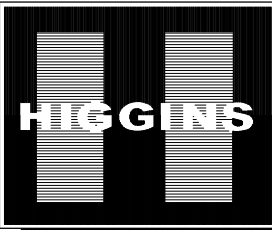
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PROJECT:

PROPOSED RESIDENCE
185 DAWLISH AVE
TORONTO, ONTARIO

DRAWN BY L.B.M./S.A	DATE: JULY 2017
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 1/8" = 1'-0"	DRAWING: WEST ELEVATION
PROJECT NO: 17-035	

DRAWING NO:

A-11