



Toronto Local Appeal Body

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Toronto, Ontario M4R 1B9

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Website: www.toronto.ca/tlab

DECISION AND ORDER

Decision Issue Date Monday, December 17, 2018

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

Appellant(s): FRANK PLESKO

Applicant: EPIC DESIGNS INC

Property Address/Description: 56 FRANCES AVE

Committee of Adjustment Case File Number: 17 119727 WET 05 CO, 17 119731 WET 05 MV, 17 119732 WET 05 MV

TLAB Case File Number: **17 216598 S45 05 TLAB, 17 216599 S45 05 TLAB, 17 220424 S53 05 TLAB**

Hearing date: Thursday, December 06, 2018

DECISION DELIVERED BY S. Gopikrishna

APPEARANCES

Name	Role	Representative
Epic Designs Inc.	Applicant	
Andrew Alfredo Lazzaro	Owner	
Frank Plesko	Appellant	
Jose Goncalves	Party/Primary Owner	Russell Cheeseman
Franco Romano	Expert Witness	

INTRODUCTION AND BACKGROUND

The owner of 56 Frances Ave, Mr. Jose Goncalves, had originally applied for permission to the Committee of Adjustment (COA) to sever the property at 56 Frances

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 17 216598 S45 05 TLAB, 17 216599 S45 05 TLAB, 17
220424 S53 05 TLAB**

Avenue, and build a house on each of the severed lots. The COA heard the application on 27 July, 2017, and approved the severance, as well as the variances for the proposed houses on the 2 lots. Mr. Frank Plesko, the neighbor at 58 Frances Ave, appealed the decision to the Toronto Local appeal Body (TLAB) on 22 August, 2017. I heard the Appeal on the 10 March, 2018 and in a Decision dated 26 July, 2018, approved the consent to sever, as well as all the variances except the height related variances under both the Etobicoke By-Law and the Harmonized By-Law. The height variance refusal impacted the proposed flat roof, with a height on 9.36 m, on both lots. In my Decision, I imposed the following as a condition:

"The variances approved by this decision are subject to the Applicant providing revised elevation plans for Part 1 and Part 2 consistent with the approved variances herein, within three (3) months of the date of this decision, failing which the appeal is allowed in its entirety and the variances are refused. Such elevations, upon receipt, shall form part of the Decision and Order as Attachment 1. In the event there is difficulty arising from the decision herein, including the requirement to produce compliant elevation plans, the TLAB may be spoken to."

Mr. Cheeseman wrote to the Tribunal on September 7, 2018 indicating that revised elevations had been prepared, and that the Applicant had been informed that the Decision and Order of July 26, 2018 could not be complied with, without the necessity of an additional variance. Mr. Cheeseman requested for a meeting to discuss the additional variance; The TLAB scheduled a hearing date for December 7, 2018.

MATTERS IN ISSUE

The additional variance being sought for both lots is:

1) Maximum Height of Specified Pairs of Main Walls

10.20.40.10.(2)(B)(ii); By-law 569-2013

The maximum height of all side exterior main walls facing a side lot line is 7 metres.

The proposed height of the side exterior walls facing a side lot line 8.37 metres on the south side 8.37 metres and 8.46 metres on the north side.

JURISDICTION

Provincial Policy – S. 3

Section 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

At the hearing held on 6 December, 2018, the Applicant was represented by Mr. Russell Cheeseman, lawyer and Mr. Franco Romano, expert witness and land use planner.

Mr. Cheeseman provided a brief introduction behind his request for a meeting with the TLAB to approve a variance for side wall height that had arisen as a result of my earlier order dated 26 July, 2018. He said that the main change brought about by my earlier order was that the Appellant had opted for a sloped roof, instead of a flat roof design as originally presented to the TLAB, and that there was a need for a side wall variance. Mr. Cheeseman said that the sloped roof had different angles on the two sides, and complied with the overall height, but needed approval of different heights at the north and south side walls.

I asked Mr. Cheeseman if notice was required under Section 45(18.1), to which he replied in the negative, given the minor nature of the changes.

Mr. Romano provided land use planning evidence on this additional variance and indicated that it was his professional opinion that the variances met the four tests of Section 45(1) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. Mr. Romano referred me to the corpus of COA Decisions included in the package submitted for the original hearing, and demonstrated that many applications with side wall variances, comparable to what was being sought, had been approved. Mr Romano asserted that there was no impact on the neighbouring properties, and that sloped roofs of the variety that were proposed were very common in the neighbourhood.

ANALYSIS, FINDINGS, REASONS

I note that the consent to sever the property into two lots was not discussed at the hearing on 6 December, 2018, since it did not have to be varied from my original order dated 26 July, 2018.

By way of editorial comment, I have relied on the original Decision, where fulsome evidence was presented to demonstrate that the proposal complied with Sections 51(24) and 45 of the Planning Act. It was not necessary to delve into the details of that evidence, since it had been assessed and accepted. The evidence provided by Mr. Romano in the original hearing, held on 10 March, 2018, as well as his remarks on 6 December, 2018, have been relied upon by me to evaluate the compatibility of this proposal with the four tests under Section 45(1).

The height of the side walls, exceeds what is as-of-right under By-law 569-2013, on the north and south sides. The side yard setbacks between the proposed houses, and the existing houses at 54 and 58 Frances Ave. exceed what is required. As noted by Mr. Romano, the proposed sidewalls create no adverse impacts on the neighbouring properties

When the additional variances are juxtaposed against the original evidence with references to Sections 2.3.1 and 3.1.2 (Built Form), I conclude that the proposed variances help the structure “fit” into the community, which has seen other comparable developments, and therefore does satisfy the test of compatibility with the Official Plan. The proposed height of the side walls helps maintain a two storey residential built form, not dissimilar to other dwellings in the neighbourhood, fulfilling requisite performance standards under By law 569-2013. This means that the proposal has satisfied the test of compatibility with the only applicable By-law, namely 569-2013. The lack of impact on the neighbouring properties, helps the proposal satisfy the tests respecting appropriate development, and the test of being minor, while maintaining a reasonable building form.

Mr. Romano's uncontested evidence as an Expert Witness is accepted, and the additional side wall height variances are approved for both lots. The original Decision of 26 July, 2018, is now amended such that the Decision to sever the property is not changed, and the approval of variances on the two lots are amended to include the approval of the side wall heights as proposed in this Application. Lastly, the Condition about talking to the TLAB, referred to in Paragraph 6 of the Decision and Order, is now removed, because this condition has been satisfied.

DECISION AND ORDER

1. The Decision of July 30, 2018 is hereby confirmed with respect to the consent to sever the properties.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 17 216598 S45 05 TLAB, 17 216599 S45 05 TLAB, 17
220424 S53 05 TLAB**

2. The Decision of July 30, 2018 is amended in respect of the variances being sought, by confirming the variances that were approved in that Decision, and by approving the additional variance to each of 56 Frances Street (Part 1) and 56 Frances Street (Part 2), all is set out below:

REQUESTED ADDITIONAL VARIANCE TO THE ZONING BY-LAW:

9. Section 10.20.40.10.(2)(B)(ii), By-law 569-2013

The maximum height of all side exterior main walls facing a side lot line is 7 metres.

The proposed height of the side exterior walls facing a side lot line are south side 8.37 metres and north side 8.46 metres.

3. Condition 6 of the Decision of July 30, 2018 is hereby deleted and replaced with the following condition imposed on all of the variances which were approved for both the retained and conveyed parts, 56 Frances Street (Part 1) and 56 Frances Street (Part 2) respectively:

a) The variances approved by this decision are approved provided that the buildings to be constructed are substantially in accordance with the Site Plan and Elevations attached to this Decision



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body

SURVEY INFORMATION:

INFORMATION TAKEN FROM SURVEYORS REAL
LOCATION OF - PLAN OF LOT 123 REGISTERED PLAN 1706
CITY OF TORONTO (FORMERLY CITY OF NORTH YORK)

PREPARED BY: FRONT TOP SURVEYING INC., ONTARIO
LAND SURVEYORS
DATED: AUG 25, 2016

LOT 11

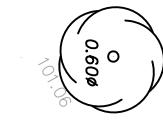
PART	LOT	REG'D PLAN	ALL OF PIN	AREA (m ²)
1	31	M428	07503-0070	325.14
2				325.14

SITE STATISTICS

ZONED AS: RD (f13.5, a510, d0.45)
LOT AREA = 325.14m² (3513.55 SQ. FT.)

REGISTERED

LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



LOT 30



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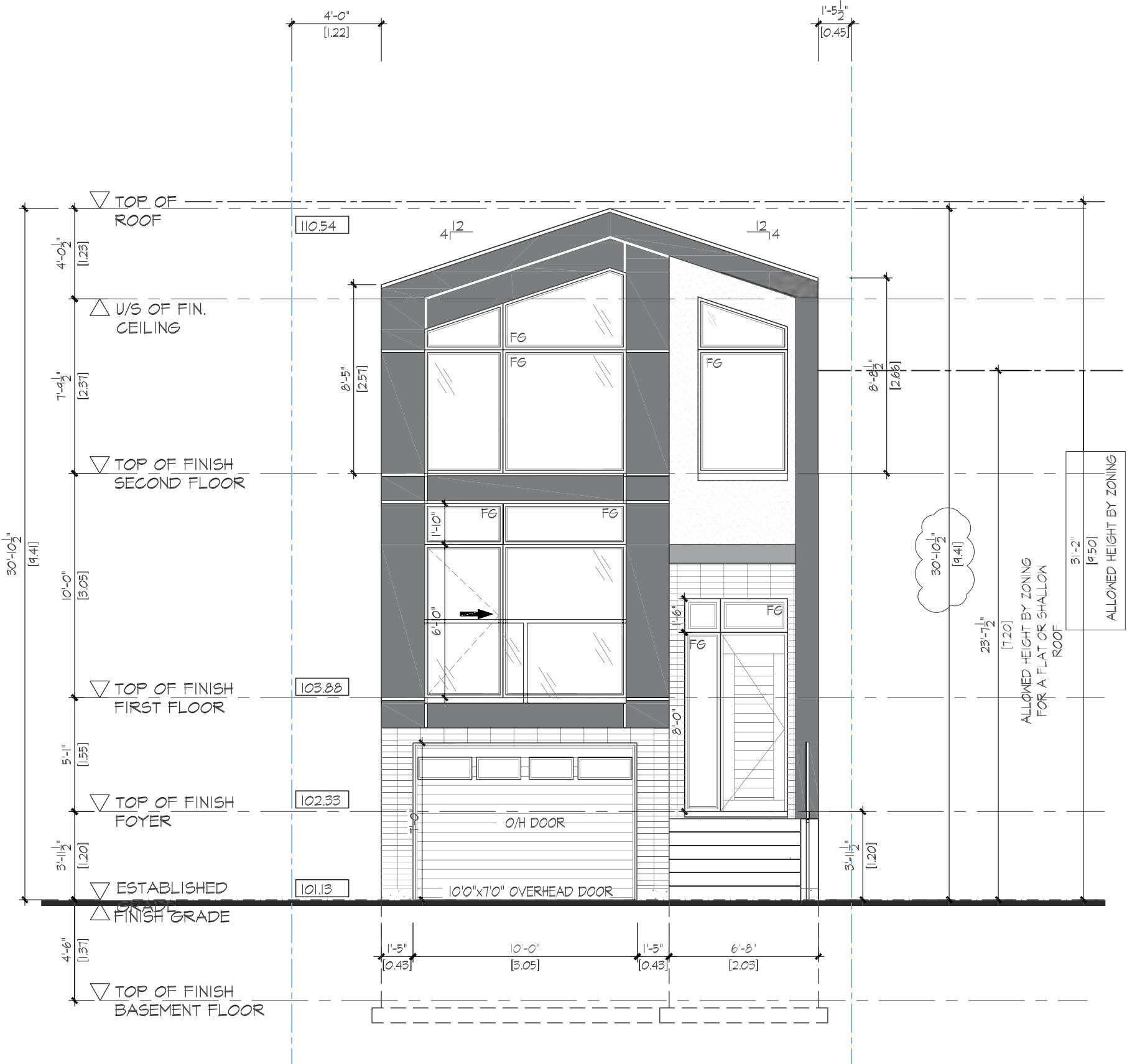


LOT 30

LOT 10

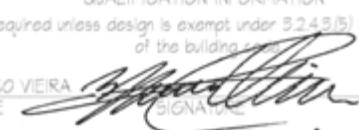
LOT 9

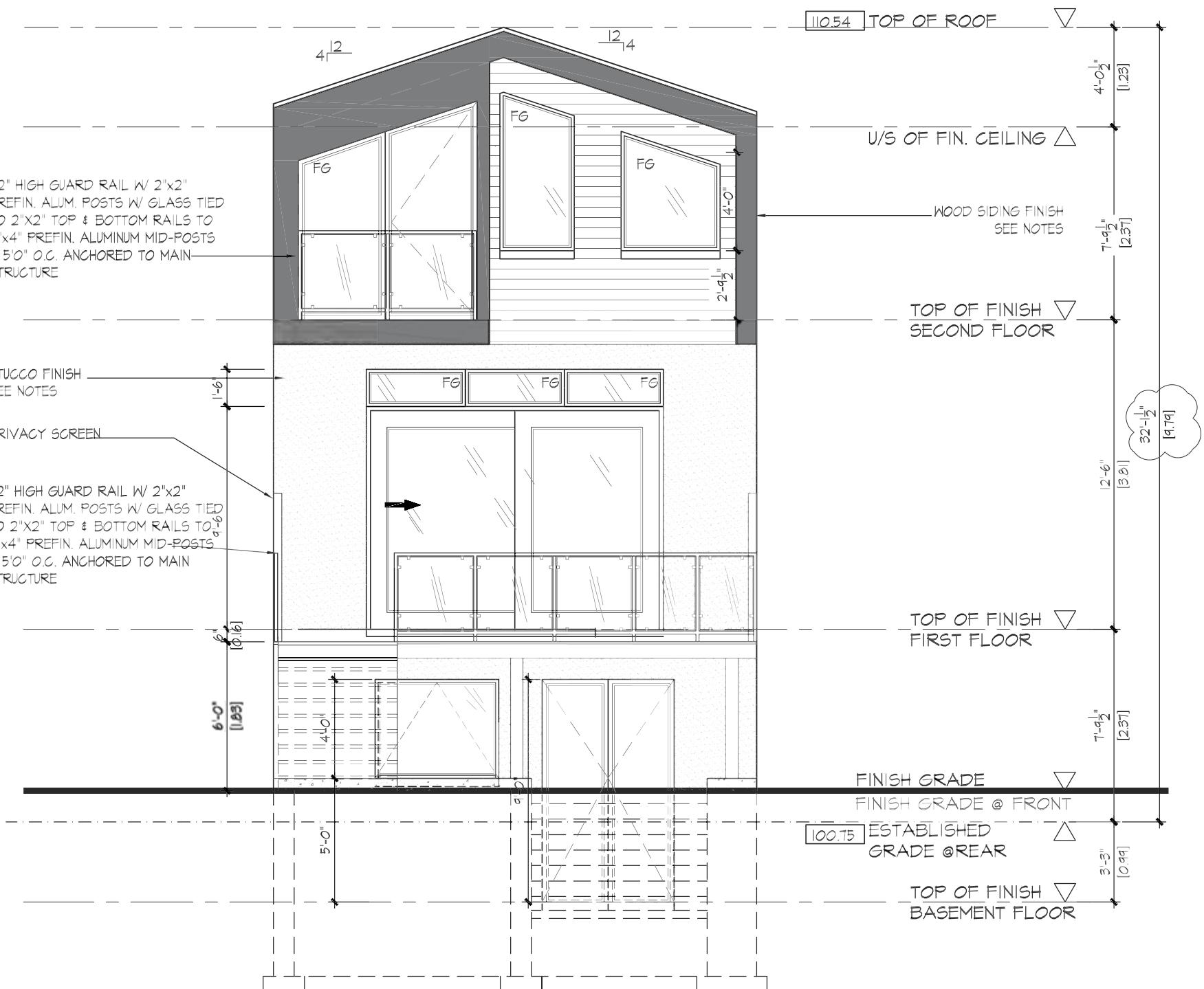
Lot Line



(EAST) FRONT ELEVATION
SCALE : 3/16" = 1' - 0"

UNIT A

 <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO. M6M-1H8 TEL: (416) 564-2435 WWW.EPICDESIGNSINC.CA</p>	<p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on this drawing.</p> <p>QUALIFICATION INFORMATION Required unless design is exempt under 3.2.4.5(5) Division C of the building code.</p> <p>MARCO VIEIRA NAME  REGISTRATION INFORMATION Required unless design is exempt under 3.2.4.1, Division C of the building code</p> <p>EPIC DESIGNS INC. FIRM NAME</p>	<p>DO NOT SCALE DRAWINGS</p> <p>CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS AND SPECIFICATIONS ARE THE PROPERTY OF EPIC DESIGNS INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE WITHOUT PRIOR WRITTEN PERMISSION</p>	<p>DRAWING EAST ELEVATION</p> <p>TLAB-AUG 16 2018</p>
		<p>SCALE 3/16" = 1' - 0"</p>	<p>DRAWN BY P. HENDRAJAT</p>



A-7

(WEST) BACK ELEVATION

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

UNIT A

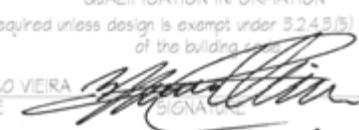
epic
designs inc.

257 DUNRAVEN DRIVE
TORONTO, ONTARIO. M6M-1H8
TEL: (416) 564-2435
WWW.EPICDESIGNSINC.CA

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on this drawing.

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MARCO VIEIRA
NAME 
SIGNATURE

25562
BCN

REGISTRATION INFORMATION

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EPIC DESIGNS INC.
FIRM NAME

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PROJECT

PROPOSE TWO STOREY DWELLING AT

No. 56 FRANCES AVENUE
CITY OF TORONTO

DRAWING

WEST ELEVATION

TLAB-AUG 16 2018

SCALE
3/16" = 1'-0"

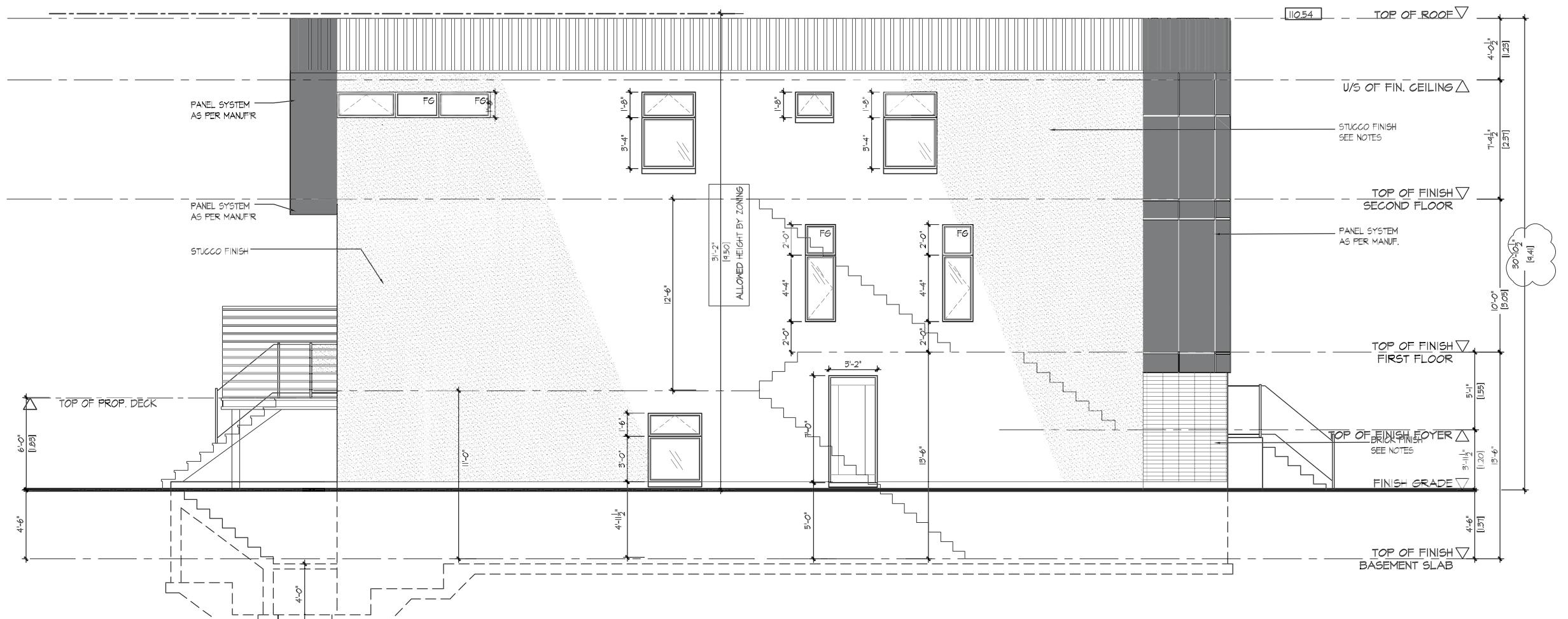
DRAWN BY
P. HENDRAJAT

DATE
Aug. 25, 2016

APPROVED BY
M.V.

PROJECT No.
2016-55

DRAWING No.
A-7



The undersigned has reviewed and takes responsibility for this design and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the drawings.		<input type="checkbox"/> NOT SCALE DRAWINGS	
QUALIFICATION INFORMATION		CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY DISCRENCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.	
Required unless design is exempt under 3.24(5) Division C of the Building Code.		ALL PRINTS AND SPECIFICATIONS ARE THE PROPERTY OF EPIC DESIGNS INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, WITHOUT PRIOR WRITTEN PERMISSION	
PROJECT PROPOSE TWO STOREY DWELLING AT No. 56 FRANCES AVENUE CITY OF TORONTO		DRAWN BY P. HENDRAJAT APPROVED BY M.V.	
25562 BCIN		DATE AUG. 25, 2016	
2016 BCIN		PROJECT No. 2016-55	
FIRM NAME		DRAWING No. A-8	

epic designs inc.

257 DUNRAVEN DRIVE
TORONTO, ONTARIO. M6M-1H8
TEL: (416) 564-2435
WWW.EPICDESIGNSSINC.CA

TLAB-AUG 16 2016

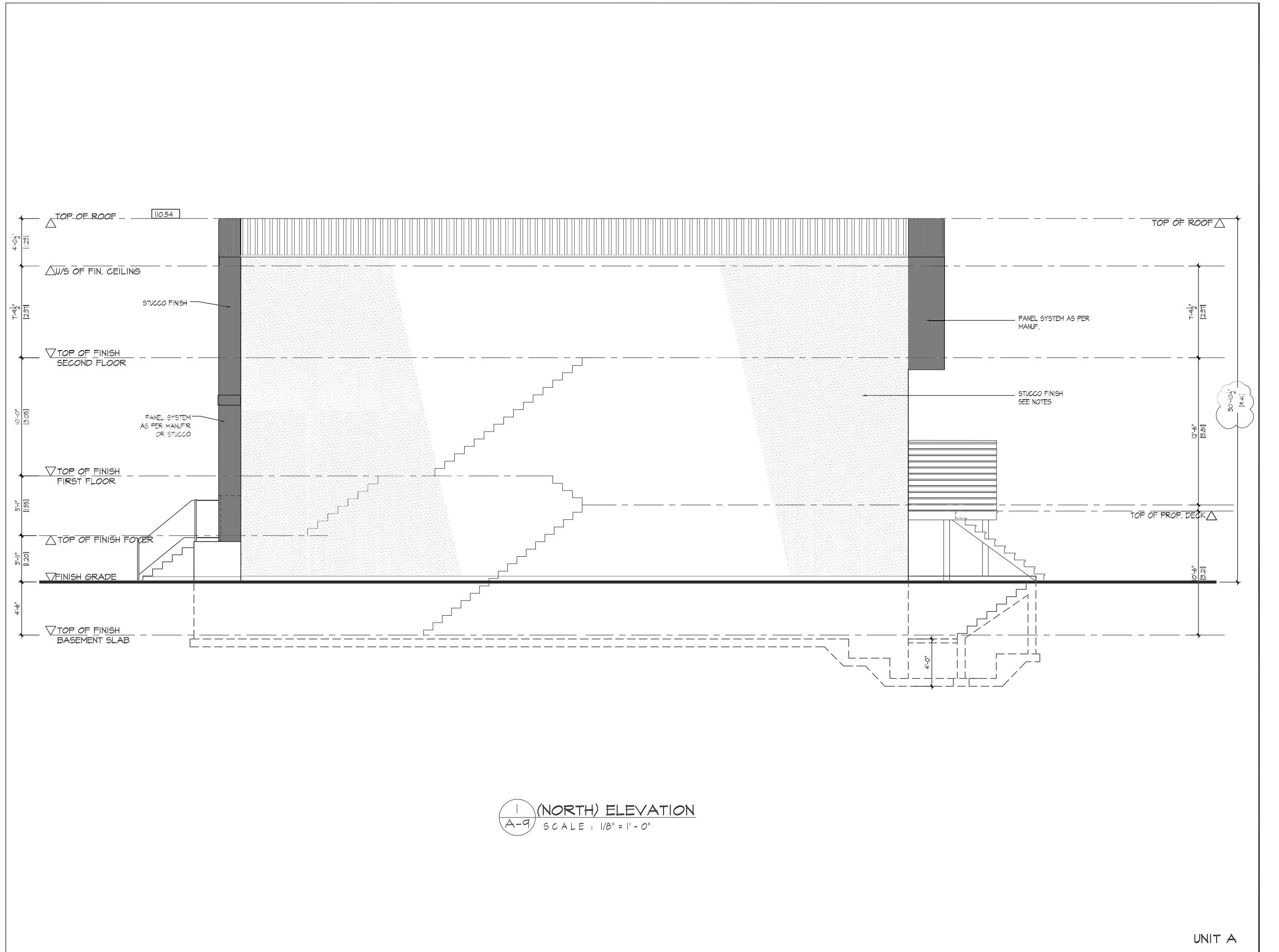
MARCO VERA
NAME

REGISTRATION INFORMATION

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MARCO VERA, BCIN 25562	
REGISTRATION INFORMATION	
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EPIC DESIGNS INC.	FIRM NAME
257 DUNRAVEN DRIVE TORONTO, ONTARIO. M6M-1H8 TEL: (416) 564-2435 WWW.EPICDESIGNSSINC.CA	
NOTICE: THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY DISCRENCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.	
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DATE AUG. 25, 2016	DATE
PROJECT No. 2016-55	PROJECT No.
DRAWING No. A-q	DRAWING No.
TLAB-AUG 16 2016	DRAWN BY P. HENDRAJAT
APPROVED BY M.V.	APPROVED BY
PROJECT PROPOSE TWO STOREY DWELLING AT NO. 56 FRANCES AVENUE CITY OF TORONTO	PROJECT PROPOSE TWO STOREY DWELLING AT NO. 56 FRANCES AVENUE CITY OF TORONTO

SURVEY INFORMATION:

INFORMATION TAKEN FROM SURVEYORS REAL
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CITY OF TORONTO (FORMERLY CITY OF NORTH YORK)

PREPARED BY: FRONT TOP SURVEYING INC., ONTARIO
LAND SURVEYORS
DATED: AUG 25, 2016

LOT 11

LOT 10

LOT 9

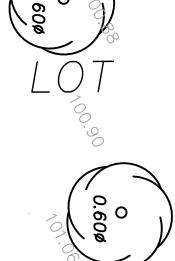
PART	LOT	REG'D PLAN	ALL OF PIN	AREA (m ²)
1	31	M428	07503-0070	325.14
2				325.14

SITE STATISTICS

ZONED AS: RD (f13.5, a510, d0.45)
LOT AREA = 325.14m² (3515.55 SQ. FT.)

REGISTERED

DASHED LINES
INDICATE EXISTING
STONE WALKWAY
TO BE REMOVED



LOT

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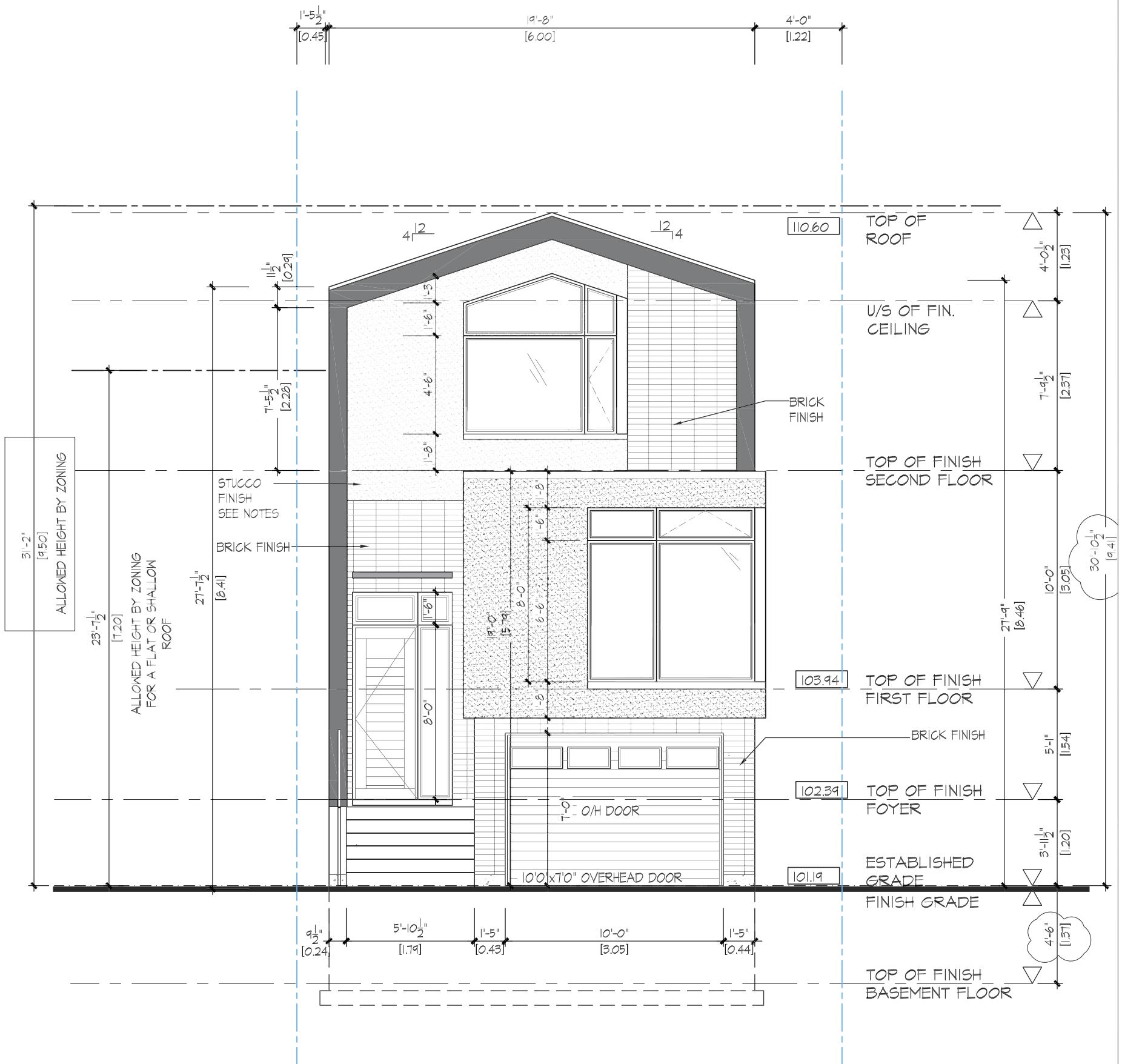
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10



(EAST) FRONT ELEVATION

epic
designs inc.

257 DUNRAVEN DRIVE
TORONTO, ONTARIO. M6M-1H8
TEL: (416) 564-2435
WWW.ERICDESIGNSINC.CA

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QUALIFICATION INFORMATION

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of the building code

MARCO VIEIRA 
NAME SIGNATURE

REGISTRATION INFORMATION

EPIC DESIGNS INC.
FIRM NAME

No. 56 FRANCES AVENUE
CITY OF TORONTO

DRAWING

EAST ELEVATION

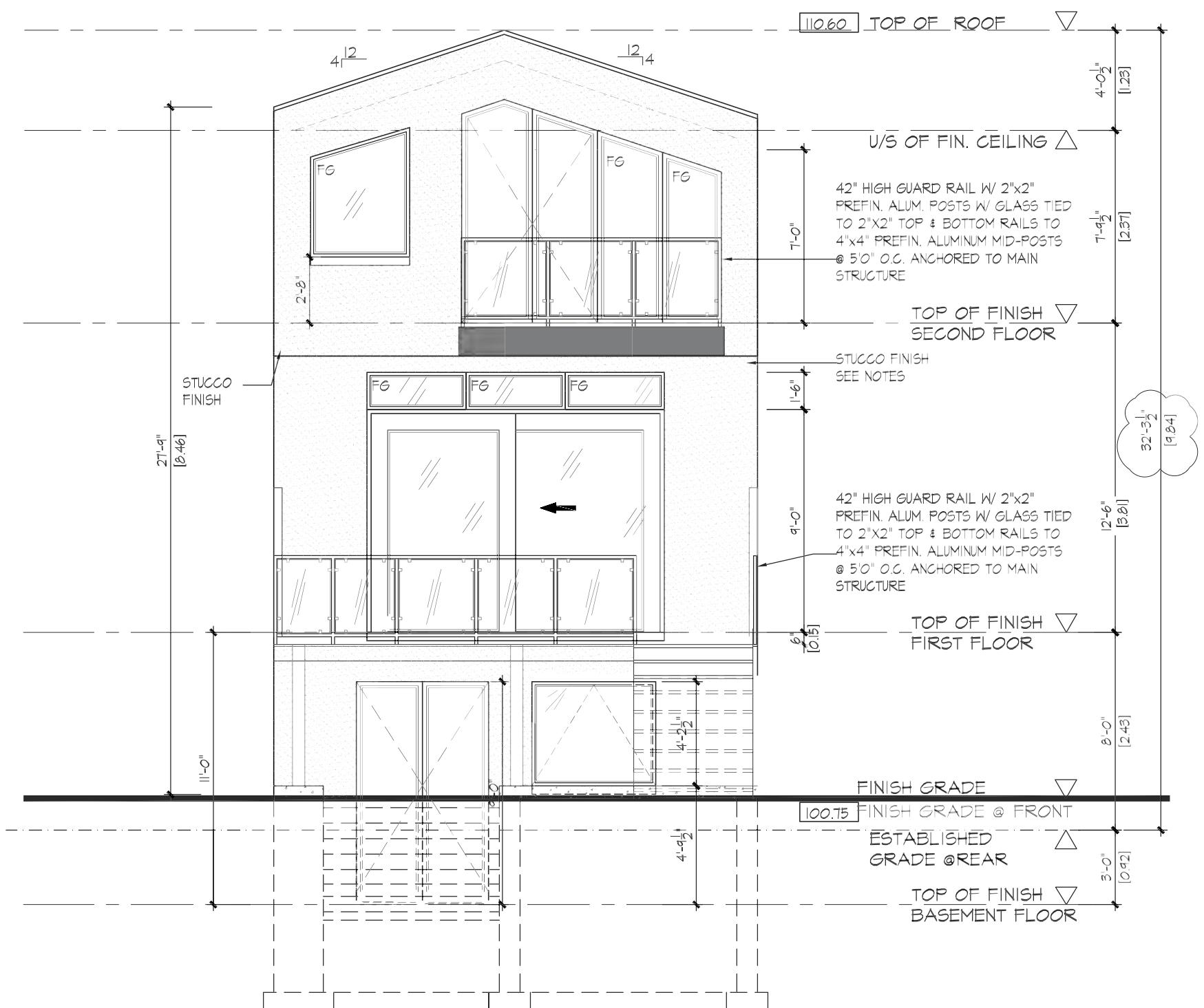
SCALE

DRAWN BY
P. HENDRAJAT

DATE
MAY 19, 2016

APPROVED BY
M.V.

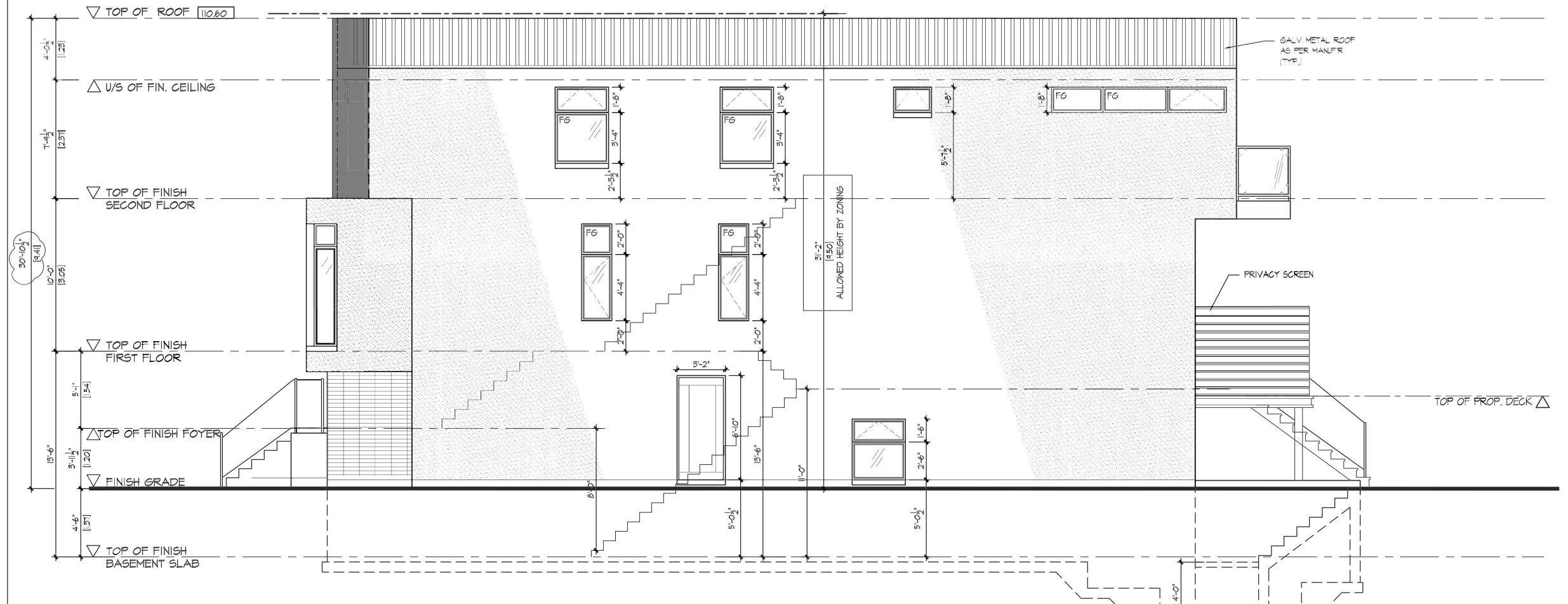
PROJECT No.



(WEST) BACK ELEVATION

UNIT B

 <p>epic designs inc.</p> <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO. M6M-1H8 TEL: (416) 564-2435 WWW.EPICDESIGNSINC.CA</p>	<p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the</p> <p>QUALIFICATION INFORMATION</p> <p>Required unless design is exempt under 3.2.4.3(5) Division C of the building code</p> <p>MARCO VIEIRA  NAME SIGNATURE BCIN 25562</p> <p>REGISTRATION INFORMATION</p> <p>Required unless design is exempt under 3.2.4.1, Division C of the building code</p> <p>EPIC DESIGNS INC. FIRM NAME BCIN 3018</p>	<p>DO NOT SCALE DRAWINGS</p> <p>CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS AND SPECIFICATIONS ARE THE PROPERTY OF EPIC DESIGNS INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE WITHOUT PRIOR WRITTEN PERMISSION</p>	<p>DRAWING WEST ELEVATION TLAB-AUG 16 2018</p> <p>SCALE 3/16" = 1'-0"</p> <p>DRAWN BY P. HENDRAJAT</p> <p>PROJECT PROPOSE TWO STOREY DWELLING AT No. 56 FRANCES AVENUE CITY OF TORONTO</p> <p>DATE Aug. 25, 2016</p> <p>APPROVED BY M.V.</p> <p>PROJECT No. 2016-55</p> <p>DRAWING No. A-7</p>
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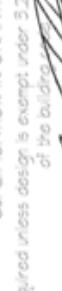


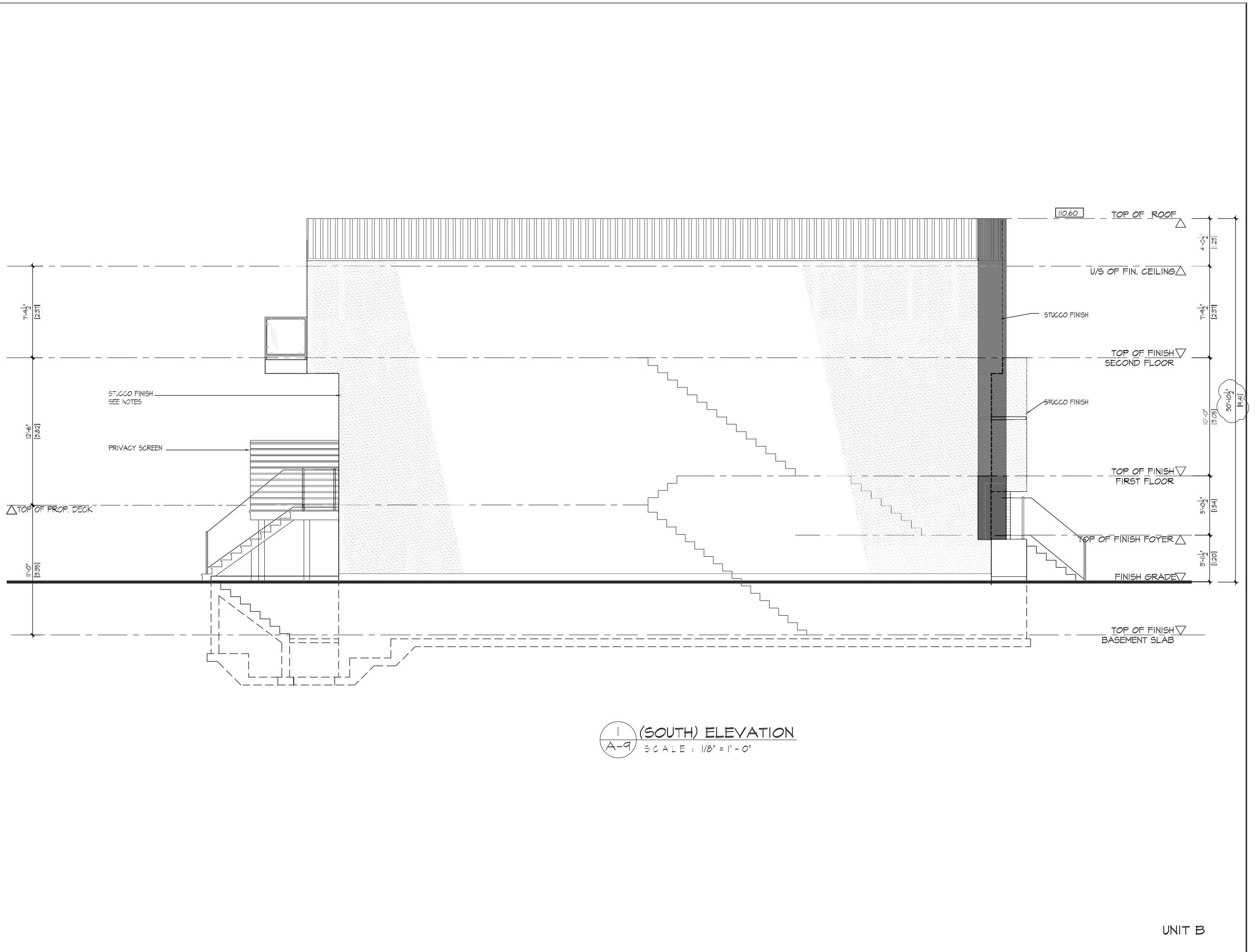
(NORTH) ELEVATION

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

UNIT B



DRAWING		NORTH ELEVATION	
		TLAB-AUG 16 2018	
		DRAWN BY P. HENDRAJAT	APPROVED BY M.Y.
		SCALE 1/8" = 1'-0"	DRAWING No. A-8
		DATE Aug 25, 2016	
		PROJECT PROPOSE TWO STOREY DWELLING AT	PROJECT No. 2016-55
QUALIFICATION INFORMATION		No. 56 FRANCES AVENUE CITY OF TORONTO	
<p>Required unless design is exempt under 3.24.1 Division C of the building code</p>  <p>MARCO VIEIRA NAME</p>		<p>BCN 25562</p> <p>REGISTRATION INFORMATION</p> <p>Required unless design is exempt under 3.24.1 Division C of the building code</p> <p>EPIC DESIGNS INC. FIRM NAME</p>	
		30718 BCN	



epic designs inc.		T LAB-AUG 16 2016
257 DUNRAVEN DRIVE TORONTO, ONTARIO. M6M-1H8 TEL: (416) 564-2435 WWW.EPICDESIGNSSINC.CA		DRAWN BY P. HENDRAJAT
PROJECT POSE TWO STOREY DWELLING AT No. 56 FRANCES AVENUE CITY OF TORONTO		APPROVED BY M.V.
DATE AUG. 25, 2016	PROJECT No. 2016-55	DRAWING No. A-q
<p>The undersigned has reviewed and takes responsibility for this design and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the drawings.</p> <p>QUALIFICATION INFORMATION Required unless design is exempt under 3.24(5), Division C of the Building Code.</p> <p>REGISTRATION INFORMATION MARCO VERA NAME 25562 BCIN Required unless design is exempt under 3.24(7), Division C of the Building Code.</p> <p>EPIC DESIGNS INC. FIRM NAME</p>		
<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY DISCRENCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS AND SPECIFICATIONS ARE THE PROPERTY OF EPIC DESIGNS INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, WITHOUT PRIOR WRITTEN PERMISSION</p>		