

# DECISION AND ORDER

**Decision Issue Date** Friday, March 29, 2019

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

Appellant(s): CAMERON SQUIRES

Applicant: CINDY MCPHEE

Property Address/Description: 18 GORMLEY AVE

Committee of Adjustment Case File: 18 158257 STE 22 MV

**TLAB Case File Number: 18 245268 S45 22 TLAB**

**Hearing date:** Tuesday, March 19, 2019

**DECISION DELIVERED BY S. GOPIKRISHNA**

## APPEARANCES

NAME	ROLE	REPRESENTATIVE
CINDY MCPHEE	APPLICANT	
CAMERON SQUIRES	APPELLANT/OWNER	MEAGHAN MCDERMID
TAE RYUCK	APPELLANT	EXPERT WITNESS
CITY OF TORONTO	PARTY (TLAB)	CIGDEM ILTAN JASON DAVIDSON
PAMELA TAYLOR	PARTICIPANT	

## INTRODUCTION AND BACKGROUND

Cameron Squires is the owner of 18 Gormley Crescent, located in the Municipal Ward of St. Paul, in the Municipality of the City of Toronto. He applied to the Committee of Adjustment (COA) to construct a new three-storey detached dwelling, with a front third storey balcony and a rear detached garage. The COA heard the application on 3 October, 2018, and refused the application. On 19 October, 2018, Mr. Squires appealed

the COA's decision to the Toronto Local Appeal Body, which scheduled a hearing on 18 March, 2019. The City of Toronto elected to be a Party while Ms. Pamela Taylor, the neighbour at 20 Gormley Crescent, elected to be a Participant.

A few days before the hearing, I was made aware that a Settlement had been reached between the City of Toronto and the Appellant, and that the Settlement would be presented at the hearing scheduled on 19 March, 2019.

## **MATTERS IN ISSUE**

To construct a new three-storey detached dwelling with a front third storey balcony and a rear detached garage.

**1. Chapter 10.5.50.10.(1), By-law 569-2013**

A minimum of 75% (28.20m<sup>2</sup>) of the required front yard landscaped open space shall be in the form of soft landscaping. In this case, 68.11% (25.61m<sup>2</sup>) of the required front yard landscaped open space will be in the form of soft landscaping.

**2. Chapter 10.5.60.50.(2)(B), By-law 569-2013**

The maximum total floor area of all ancillary buildings or structure on the lot is 40.0m<sup>2</sup>. The rear detached garage will have a floor area of 52.05m<sup>2</sup>

**3. Chapter 10.10.40.10.(2)(A)(i)&(ii), By-law 569-2013**

The maximum permitted height of all front and rear exterior main walls is 8.5m. The height of the front and rear exterior main walls will be 10.95m.

**4. Chapter 10.10.40.70.(1), By-law 569-2013**

The minimum required front yard setback is 5.13m. The detached dwelling will be located 4.61m from the front lot line.

**5. Chapter 10.10.60.20.(1)(A), By-law 569-2013**

The minimum required rear yard setback for an ancillary building or structure is 1.0m. In this case, the rear garage will be located 0.26m from the north lot line.

**6. Chapter 10.10.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index of a detached dwelling is 0.60 times the area of the lot (164.40m<sup>2</sup>). The detached dwelling will have a floor space index equal to 0.95 times the area of the lot (260.50m<sup>2</sup>).

**7. Chapter 10.5.40.60(3)(A)(iii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 m. The front yard stairs will be located 0.45m from the east lot line.

## **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**

At the hearing held on 19 March, 2019, the Appellant was represented by Ms. Meaghan McDermid, a lawyer, and Mr. Tae Ryuck, a land use planner. The City of Toronto was represented by Ms. Cigdem Itan and Mr. Jason Davidson, both of whom are lawyers.. In her opening statement, Ms. McDermid confirmed that a Settlement had been reached with the City, and that the planner, Mr. Ryuck would present evidence consistent with the Settlement. She said that as part of the Settlement, the following changes had been agreed to by the Parties, and that the corresponding Plans and Elevations had been submitted to the TLAB:

- 1) The balcony roof and west side on the third storey at the front of the proposed dwelling are reduced to project 0.6 m from the front wall.
- 2) The proposed third storey balcony would be setback at a distance of 5.15 m from the front yard property line.

The City of Toronto advised that they would not be calling an expert witness. Ms. Pamela Taylor was also present to give evidence.

Mr. Ryuck was sworn in and recognized as an Expert Witness; he began with a description of the area in which the project is located. He stated that his study area

was bounded by: Kilbarry Road to the north, Lawton Boulevard to the east, Lonsdale Road to the south, and Oriole Parkway to the west. He said that the Subject Site was located in a stable residential neighbourhood., which consisted of a mixture of dwelling types including single and semi-detached dwellings of 2 to 3 storeys, in addition to walkup apartments of 3 to 4 storeys. According to Mr. Ryuck, the neighbourhood was best described as a tightly knit urban area, consisting of a mixture of lot areas and frontages with differing dwelling types, where regeneration manifested itself in the form of redevelopment and additions.

He then described the building currently located at the property as a 2-storey single detached dwelling with a one-car garage, and driveway, which could be accessed via Brentdale Drive. He cited the Site Statistics ( Lot Area – 274.00 sq. m, Lot Frontage – 7.62m and a Lot Depth of approximately 35.96m), and said that the Proposal was to construct a new 3 storey single detached dwelling, and rear yard detached garage. He added that the proposal recognized and respected the tight urban characteristic of the neighbourhood because the side yard (both east and west) setbacks for the dwelling complied with what as of right, as well as the proposed front and rear walls of the dwelling were consistent with the adjacent properties and the neighbourhood.

Mr. Ryuck then discussed the compatibility of the proposal and the Provincial Policy Statement, 2014 (PPS ) and the Golden Horseshoe Growth Plan, 2017 (Growth Plan). He said while the proposal did not have issues that specifically rose to the level of provincial concern, the proposal was consistent with the objectives of both because it provided for modest intensification of the Subject Site, and made more efficient use of a property located in close proximity to transit and other services.

Mr. Ryuck then addressed the compatibility of the proposal with the Official Plan (OP). Noting that the Subject Site was designated “Neighbourhoods” in the OP, he discussed how the proposal was consistent with Section 2.3 - Stable but not Static. Mr. Ryuck said that proposed single detached dwelling respected and reinforced the existing physical character of the neighbourhood through the creation of a modest home, and a building envelope consistent with the neighbourhood context. Given that this transformation was consistent with the existing physical character of the neighbourhood, which was experiencing regeneration and intensification in the form of redevelopment and additions, Mr. Ryuck concluded that this proposal would not impact the stability of the neighbourhood.

He then discussed compatibility with Section 4.1, and stated that the proposal reinforced and respected the general character of the area. Drawing my attention specifically to Section 4.1.5, he recited various components of the policy and said that Sections a, b, g and h of the policy were not applicable. Through the use of a Area Context Map, and a corpus of Decisions from the COA and OMB, Mr. Ryuck demonstrated that there was a broad range of densities and other variances granted in the Study Area, and that what was being proposed was consistent with what other projects had been approved for . Mr. Ryuck pointed out that the proposal was in compliance with the overall building height in the applicable zoning at 10.80m, whereas a maximum of 11.0m was permitted. He added that the proposal was compliant with side yard setbacks, rear yard setback, building length and depth, and that no variances were required in respect of any of these parameters.

Mr. Ryuck asserted that the proposed front and rear exterior main walls are located so as to align with the adjacent properties, and that the massing created by the proposed front and rear exterior walls would not be incompatible with the streetscape and neighbourhood. He also stated that the height was designed such that it would not protrude above other dwellings, but would integrate appropriately into the neighbourhood. Notwithstanding the request for a variance for the front yard setback, Mr. Ryuck maintained that it was consistent with the front yard setbacks of the adjacent dwellings. He added that the proposed side yard setbacks were in compliance with the by-law, and added that the proposed rear setback variance related to the detached garage only, which was consistent with the existing garage on the site and the other detached garages along the south side of Brentdale Drive.

Based on this discussion, Mr. Ryuck concluded that the proposal was consistent with the OP.

Mr. Ryuck next discussed the compatibility between the proposal and the City Wide Zoning By-law 569-2013. He stated that the general intent of the City zoning by-law was to ensure a compatible built form within an area, and that there were no unacceptable adverse impact on the streetscape and adjacent properties. He then discussed how each group of variances satisfied the corresponding performance standard.

He said that the intent and purpose of the main wall provisions was to ensure that unacceptable massing was not created towards the streetscape and adjacent dwelling. In this proposal, he said, the proposed front exterior main wall did not encompass the entire width of the dwelling, but was limited to the canopy over the second storey balcony and west wall that supported it, resulting in a building that did not change the physical character of the neighbourhood. Lastly, he also pointed out that the LPAT (Local Appeal Planning Tribunal) had referred the provision regarding main wall height back to the City for review and reconsideration.

Mr. Ryuck then discussed the variance respecting the soft landscaping, and reviewed the steps undertaken by the Appellants to increase the soft landscaping from the previous application to the COA from 41% to 68.11%. He referred to the City tree located at the front of the dwelling, and said that the Applicant's desire was to preserve the tree. He then linked the preservation of the tree to the minor deficiency to preserve the proposal soft landscaping area. He said that the L shaped walkway was proposed outside the tree protection zone, and that it required a greater amount of hard landscaping than would otherwise be required for a straight walkway. He also asserted that the deficiency in soft landscaping would be indiscernible from the street perspective and consistent with other dwellings in the neighbourhood with reduced soft landscapes.

Discussing the rear setback and floor area variances pertaining to the ancillary structure, Mr. Ryuck said that the proposed garage was consistent in terms of size and rear setback with other garages accessed via Brentdale Drive, and added that the setback was consistent with the setback of the existing garage on the Subject Site. He concluded that the planned garage would not result in a structure that was uncharacteristic of the small segment of Gormley Avenue with garages onto Brentdale Drive.

Mr. Ryuck next discussed the front yard setback variance, and said that the purpose of the front yard setback requirement is to ensure that dwellings are aligned creating a consistent streetscape. He stated that proposal would bring the new dwelling forward to Be consistent with the adjacent homes, creating a more consistent streetscape. He concluded that the proposed front yard setback variance resulted in a dwelling that would not protrude beyond the adjacent dwellings or other homes in the neighbourhood.

Discussing the exterior stair side yard setback, Mr. Ryuck opined that the proposed front stairs, that rose three steps up, was not a large element , which was located “appropriately” to reflect the existing streetscape of the neighbourhood. Given these design elements, he concluded any impacts that would be considered unacceptable within this neighbourhood context.

Mr. Ryuck completed this discussion by concluding that the evidence demonstrated that the variances maintained the intent and purpose of the Zoning By-law.

Mr. Ryuck next spoke to the test of how the proposal represented appropriate planning, and development. He said that the proposed 3-storey dwelling was of a size and type that fit within the character of the neighbourhood, and did not create any additional or excessive shadows, nor overlook uncharacteristic of the existing context. He also asserted that the removal of the small tree of approximately 0.20m in diameter located in the rear yard of the Subject Site would not create additional views nor increase privacy concerns, because it did not diminish the overall density of the canopy. Given these features, Mr. Ryuck opined that the proposed intensification was appropriate, and that the proposal was appropriate for the development of the Subject lands.

Lastly, Mr. Ryuck discussed how the proposal satisfied the test of “being minor”. He pointed out that the test for “minor” was not that there would be no impact, but whether the impact would be considered unacceptable. He emphasized that the proposal had been designed in a manner such that it did not test the limits of “unacceptable”. He said that the proposed deployment of massing, for the most part, fit within the building envelope intended by the applicable zoning, and did not create adverse impacts in terms of overlook and shadows. He reiterated that the proposed dwelling and detached garage would not destabilize the neighbourhood, as the proposed setbacks, massing and height are characteristic of the streetscape and neighbourhood context.

Based on these discussions, Mr. Ryuck recommended that the Appeal be allowed, and that the requested variances be approved. He advised that standard conditions relating to forestry, as well as requiring Appellants to construct the building in substantial accordance with building plans and elevations be imposed.

Ms. Pamela Taylor , the resident of 20 Gormely Ave. spoke next, and indicated her appreciation of all the changes made by the Appellant. However, she said that she was concerned by the impact of the Appellants’ decision to remove the tree at the back of the house. She pointed out that a high-rise, apartment complex was no more than 20 metres away, and said that the removal of the tree would mean that there was nothing to prevent the residents of the high rise building from looking into the back of her house, resulting in a significant loss of privacy for her family. She therefore asked if the Appellants could modify the Settlement to state that the tree being removed in the

backyard of the house would be replaced by another tree. Through her cross examination of Ms. Taylor, Ms. McDermid indicated that her client would also experience a reduced loss of privacy, and that the issue of planning trees at the back of the house to replace the lost tree would be decided by the Forestry Department, during the course of issuing the permit. She suggested that this matter lay outside the jurisdiction of the TLAB.

I thanked the Parties and Participant for their evidence, and reserved my Decision.

## **ANALYSIS, FINDINGS, REASONS**

It is important to note that the two Parties involved in the hearing had reached a Settlement, and made a few modifications that were noted by Counsel for the Appellants at the beginning of the hearing.

The uncontroverted evidence of the Expert Witness, Mr. Ryuck is accepted in its entirety. He demonstrated that the proposal was consistent with the purpose and aims of the higher level Provincial Policies, relevant and important policies from the OP such as Section 2.3, and 4.1.5 and demonstrated the proposal's compliance with these policies. He then discussed how the proposal satisfied the performance standards established under By-law 569-2013, and relied on conclusions from the first two tests to demonstrate that the proposal also satisfied the tests of appropriate development, and being minor.

Given these discussions and the Settlement, I conclude that the Appeal be allowed, and that all the requested variances be approved.

The Appellants seem to have paid close attention to critiques of earlier version of their proposal, and done their utmost to address the raised concerns, as was evident from the appreciation expressed by Ms. Taylor, the Participant in opposition. The concerns brought by Ms. Taylor related primarily to the loss of privacy. I am satisfied that the permit granting process is robust, and has the ability to address Ms. Taylor's concerns about the removal of trees from the backyard of the Subject property. Given the parameters of the permits process and the jurisdiction of the TLAB, I believe that the planting of trees is best left to the process governing the issuance of a permit.

The Appellants also proposed that two conditions be imposed, one with respect to the Forestry condition governing the removal of trees, while the other is a standard condition requiring applicants to build in substantial conformity with the submitted plans and elevations. These conditions are fairly standard conditions, and are hereby imposed on the approval of the application

## **DECISION AND ORDER**

1. The Appeal is allowed in its entirety, and the decision of the Committee of Adjustment dated 3 October, 2018, is hereby set aside.

2. The following variances are approved:

**1. Chapter 10.5.50.10.(1), By-law 569-2013**

A minimum of 75% (28.20m<sup>2</sup>) of the required front yard landscaped open space shall be in the form of soft landscaping. In this case, 68.11% (25.61m<sup>2</sup>) of the required front yard landscaped open space will be in the form of soft landscaping.

**2. Chapter 10.5.60.50.(2)(B), By-law 569-2013**

The maximum total floor area of all ancillary buildings or structure on the lot is 40.0m<sup>2</sup>. The rear detached garage will have a floor area of 52.05m<sup>2</sup>

**3. Chapter 10.10.40.10.(2)(A)(i)&(ii), By-law 569-2013**

The maximum permitted height of all front and rear exterior main walls is 8.5m. The height of the front and rear exterior main walls will be 10.95m.

**4. Chapter 10.10.40.70.(1), By-law 569-2013**

The minimum required front yard setback is 5.13m. The detached dwelling will be located 4.61m from the front lot line.

**5. Chapter 10.10.60.20.(1)(A), By-law 569-2013**

The minimum required rear yard setback for an ancillary building or structure is 1.0m. In this case, the rear garage will be located 0.26m from the north lot line.

**6. Chapter 10.10.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index of a detached dwelling is 0.60 times the area of the lot (164.40m<sup>2</sup>). The detached dwelling will have a floor space index equal to 0.95 times the area of the lot (260.50m<sup>2</sup>).

**7. Chapter 10.5.40.60(3)(A)(iii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 m. The front yard stairs will be located 0.45m from the east lot line

3. No other variances, other than the ones listed in (2) above, are approved.

4. The approval is subject to the following conditions:

- a) The building has to be constructed in substantial accordance with the Plans and Elevations submitted on Dec 12, 2018, prepared by First Step Design, and date stamped December 3, 2018 (**Site Plan Drawings and Elevations**),



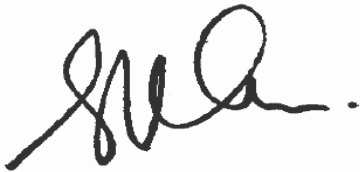
**Decision of Toronto Local Appeal Body Panel Member: S. GOPIKRISHNA**  
**TLAB Case File Number: 18 245268 S45 22 TLAB**

and as revised with respect to the Third Floor Plan, and the East elevations prepared by First Step Design in the **Minutes of Settlement**, dated 13 March, 2019.

- b) The Appellant will submit a complete application for permit to injure or remove City owned trees under Municipal Code Chapter 813 Article II, Trees on City Streets, to the City of Toronto's Forestry Department, and pay any fees as required.

So orders the Toronto Local Appeal Body

X



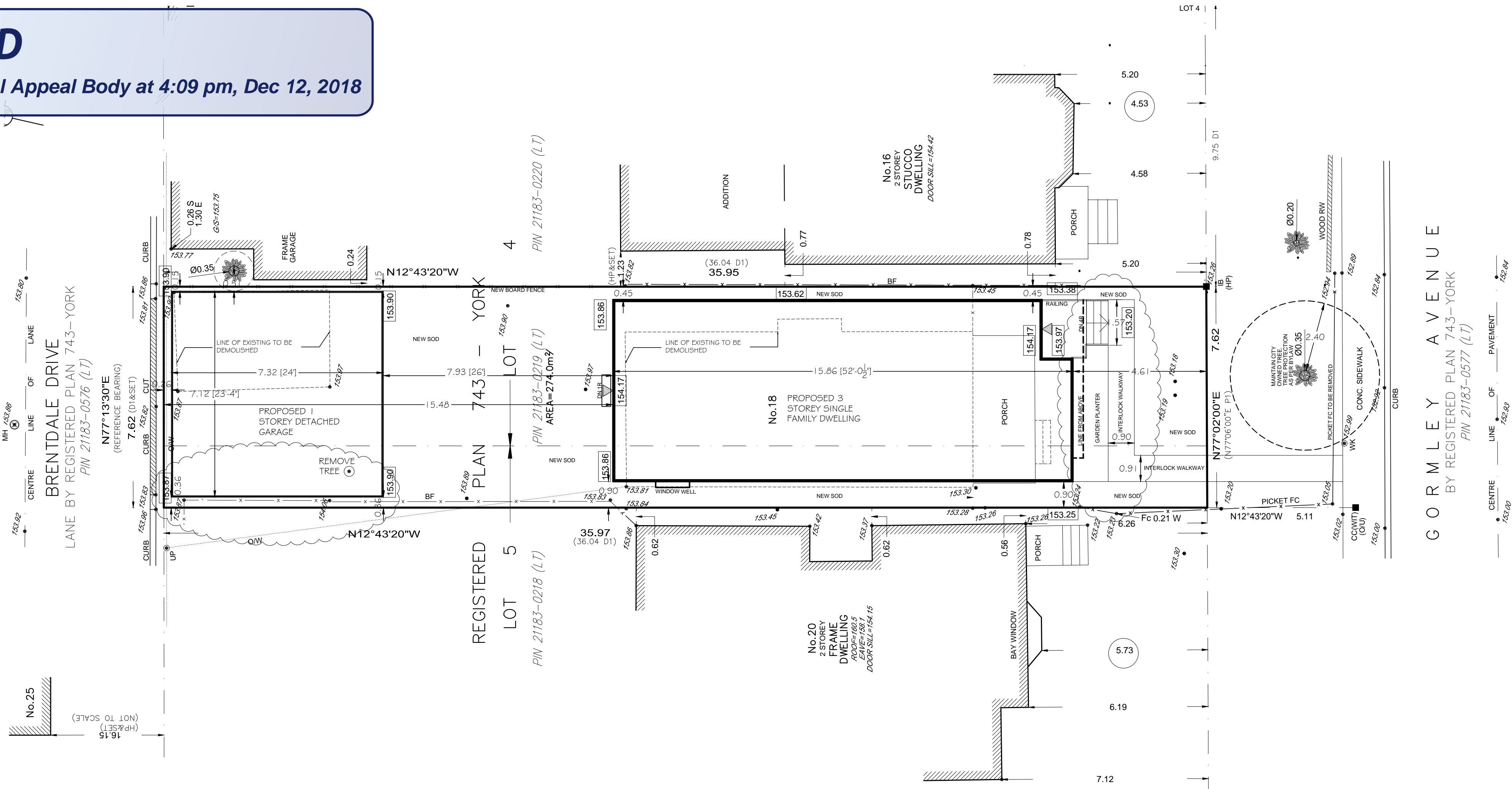
---

S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body

THE APPLICANT SHALL OBTAIN THE NECESSARY AUTHORIZATIONS AND PERMITS FROM THE CITY'S RIGHT OF WAY MANAGEMENT UNIT BEFORE EXCAVATING WITHIN OR ENCROACHING INTO THE MUNICIPAL ROAD ALLOWANCE.  
THE APPLICANT SHALL ALSO SUBMIT A MUNICIPAL ROAD DAMAGE DEPOSIT (MRDD) PRIOR TO OBTAINING A BUILDING PERMIT)

**RECEIVED**

By Toronto Local Appeal Body at 4:09 pm, Dec 12, 2018



1

## SITE PLAN

Scale: 1:100

This Site Plan is based on a Plan prepared by  
AKSAN PILLER LAND SURVEYORS dated May 9, 2017

2

## SITE STATISTICS

City of Toronto Zoning By-law 569-2013 R d0.6 (x905)		
LOT AREA:	274.0 m <sup>2</sup>	
GROSS FLOOR AREA	EXISTING	PROPOSED
GROUND FLOOR	65.03 m <sup>2</sup>	97.37 m <sup>2</sup>
SECOND FLOOR	65.03 m <sup>2</sup>	89.08 m <sup>2</sup> - 0.56 OPEN TO ABOVE - 88.52
THIRD FLOOR		75.19 m <sup>2</sup> - 0.56 OPEN TO ABOVE - 74.63
SUM	130.06 m <sup>2</sup>	260.52 m <sup>2</sup>
FSI	0.47	0.95
SETBACKS	PERMITTED	PROPOSED
FRONT (SOUTH) YARD	5.13 m	4.61 m
EAST SIDE YARD	0.45m	0.45 m
WEST SIDE YARD	0.9m	0.9 m
REAR YARD	7.5 m	15.48 m
MAX LENGTH	17m	15.86 m
MAX DEPTH	19m	15.86 m
MAX. HEIGHT ESTABLISHED GRADE 153.31m	11 m	10.80 m (164.11)
SOFT FRONT YARD SOFTSCAPING		15.55 m FRONT YARD AREA - 37.60 m <sup>2</sup> PROPOSED FRONT YARD SOFTSCAPING AREA - 25.61 m <sup>2</sup> PROPOSED PERCENTAGE - 68.11%

### ANCILLARY BUILDINGS - DETACHED REAR YARD GARAGE

City of Toronto Zoning By-law 569-2013 R d0.6 (x905)		
LOT AREA:	274.0 m <sup>2</sup>	
GROSS FLOOR AREA	EXISTING	PROPOSED
	17.09 m <sup>2</sup>	52.05 m <sup>2</sup> 19%
SETBACKS	PERMITTED	PROPOSED
FRONT (SOUTH) YARD	m	m
EAST SIDE YARD	1.0 m	0.15 m
WEST SIDE YARD	1.0 m	0.36 m
REAR YARD	1.0 m	0.26 m
MAX. HEIGHT AVERAGE GRADE	4 m	4 m

ALL CONSULTANTS AND CONTRACTORS SHALL  
CHECK ALL DIMENSIONS ON SITE AND REPORT  
ANY DISCREPANCIES TO FIRST STEP DESIGN.

THIS DRAWING IS COPYRIGHTED INSTRUMENT  
OF SERVICE AND IT REMAINS THE PROPERTY  
OF FIRST STEP DESIGN. USE AND  
REPRODUCTION OF THIS DRAWING IS  
ALLOWED ONLY WITH THE WRITTEN CONSENT  
OF FIRST STEP DESIGN.

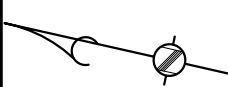
THE DRAWING IS NOT ISSUED FOR  
CONSTRUCTION UNLESS IT IS STAMPED AND  
SIGNED AND THE DATED REVISION FIELD  
STATES:  
ISSUED FOR CONSTRUCTION.

DO NOT SCALE DRAWING.

7		
6		
5	2018/ 12/03	REVISIONS FOR TLAB
4	2018/ 09/28	COMMITTEE OF ADJUSTMENT
3	2018/ 04/25	REVIEW
2	2018/ 03/08	REVIEW
1	2017/ 11/23	REVIEW
NO.	DATE	DESCRIPTION

REVISIONS

NORTH:



PROJECT ADDRESS:

18 GORMLEY AVE.  
TORONTO, ON

DRAWING TITLE:

SITE PLAN

PROJECT NUMBER:

1734

DRAWN BY:

CM

DATE:

NOV. 2017

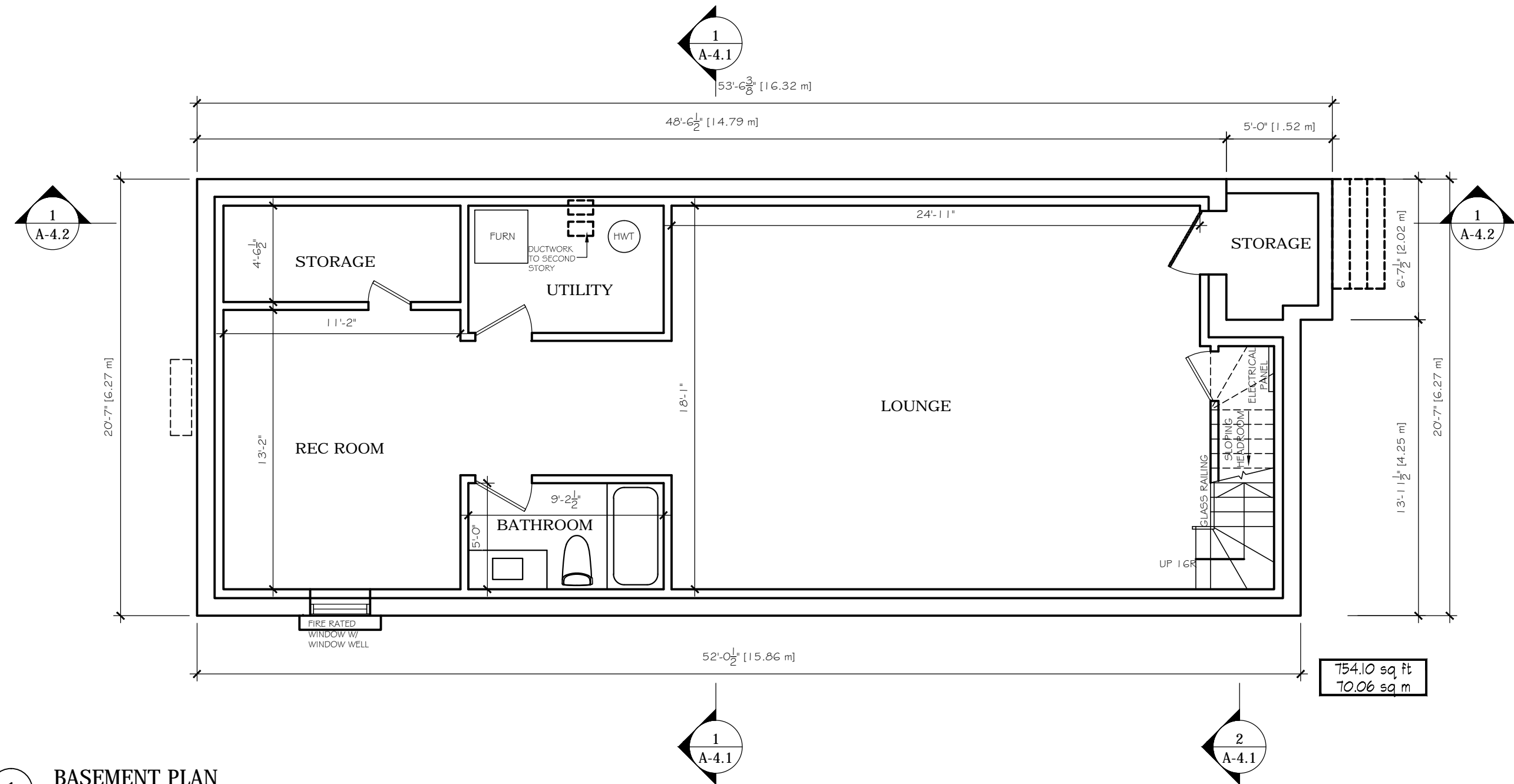
SCALE:

1:150

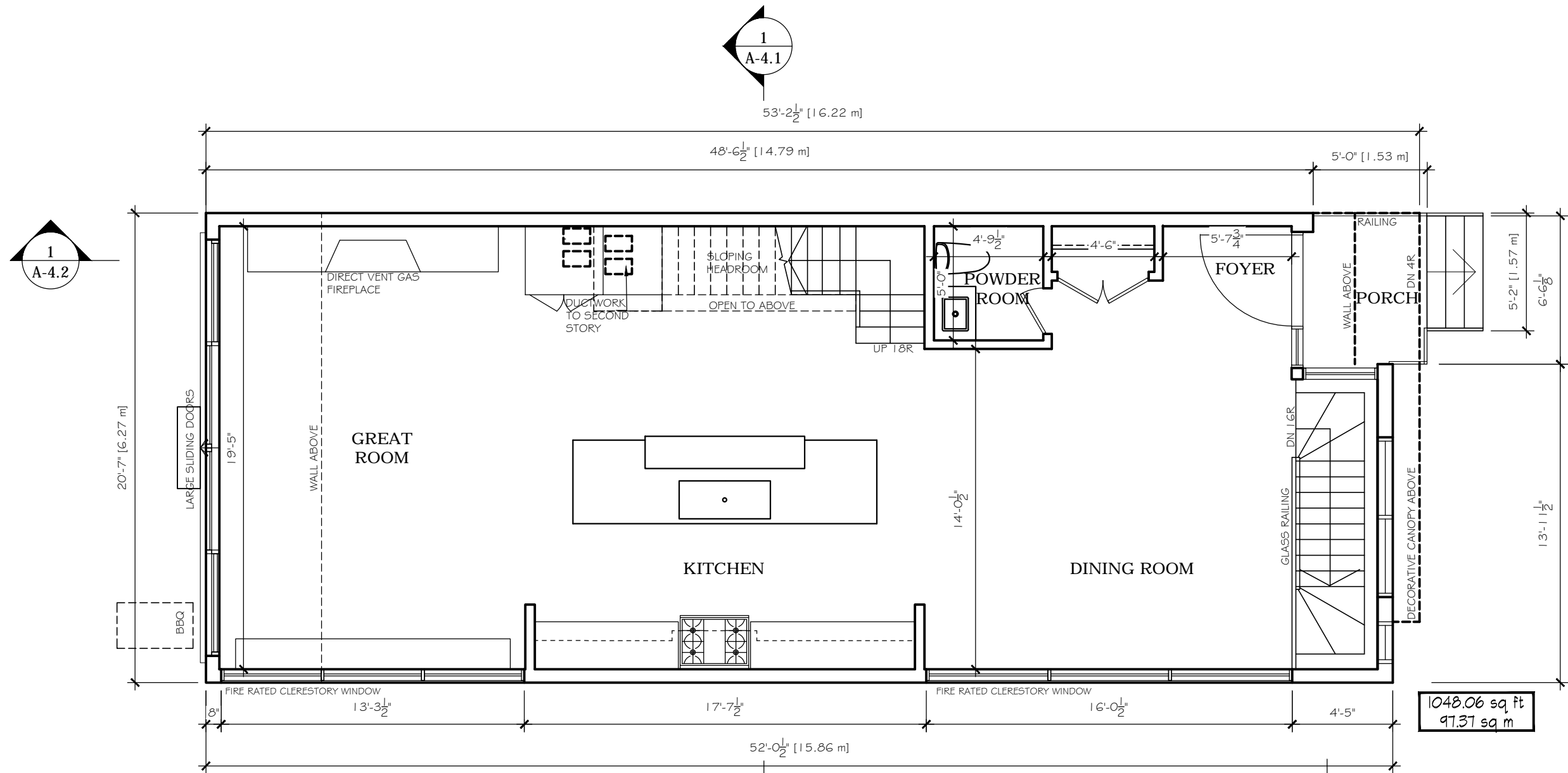
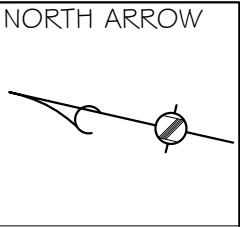
DRAWING NUMBER:

A-1.0

NORTH ARROW



1 BASEMENT PLAN  
Scale: 3/16" = 1'-0"

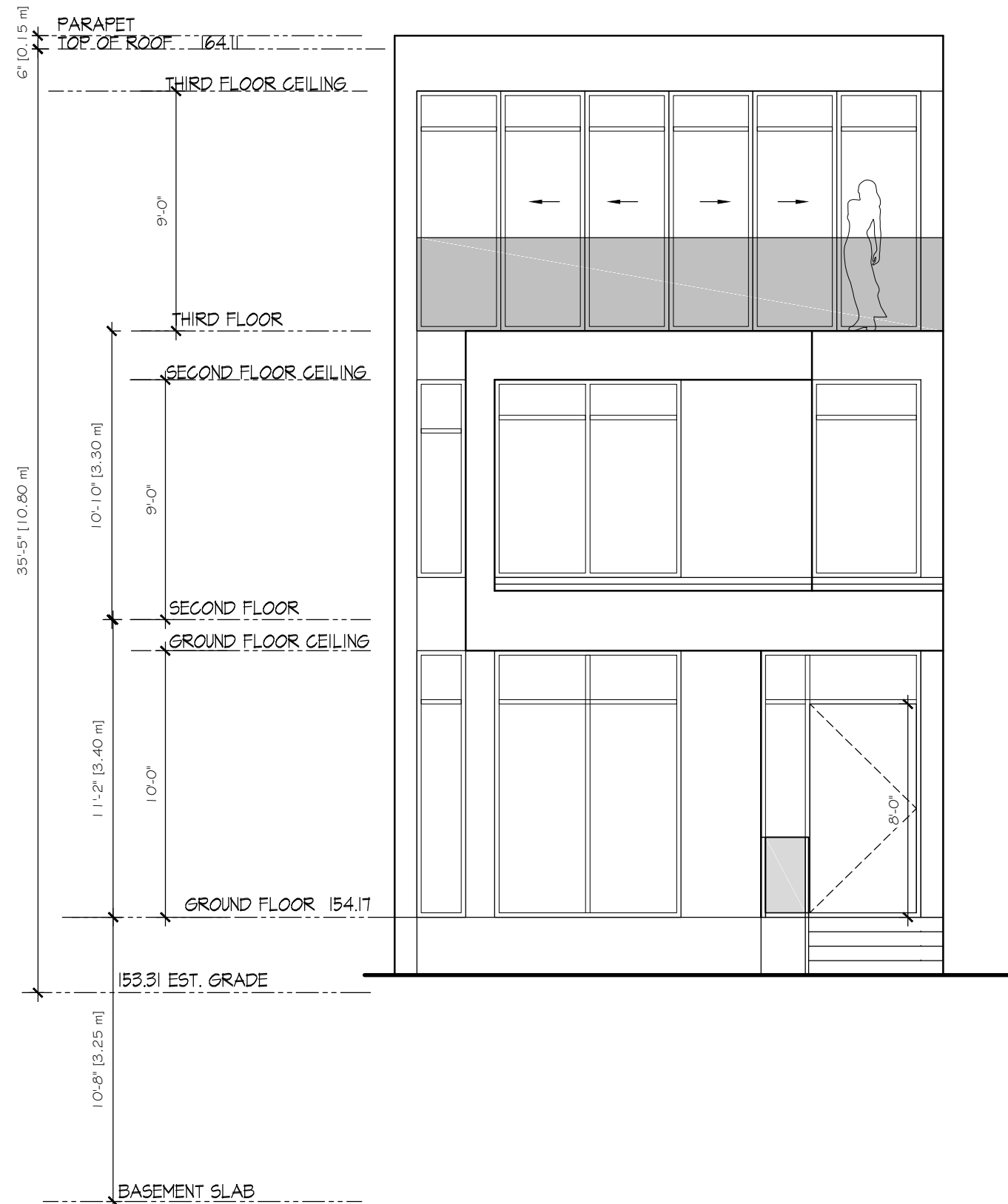


1 GROUND FLOOR PLAN  
Scale: 3/16" = 1'-0"

18 GORMLEY AVE.  
TORONTO, ON







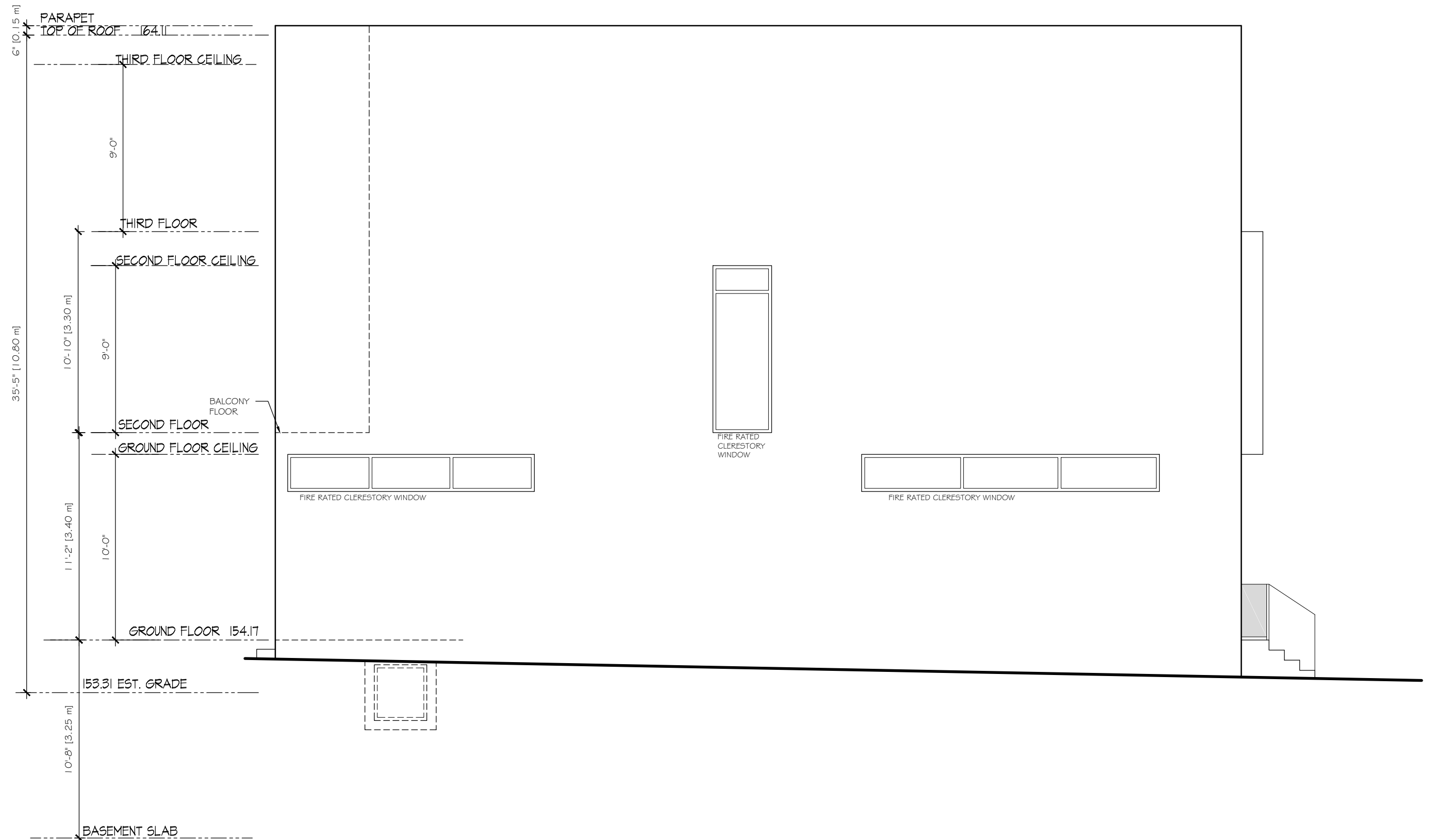
DEC. 3, 2018  
MAY 4, 2018  
MAR. 8, 2018

SOUTH ELEVATION

MARCH 2018

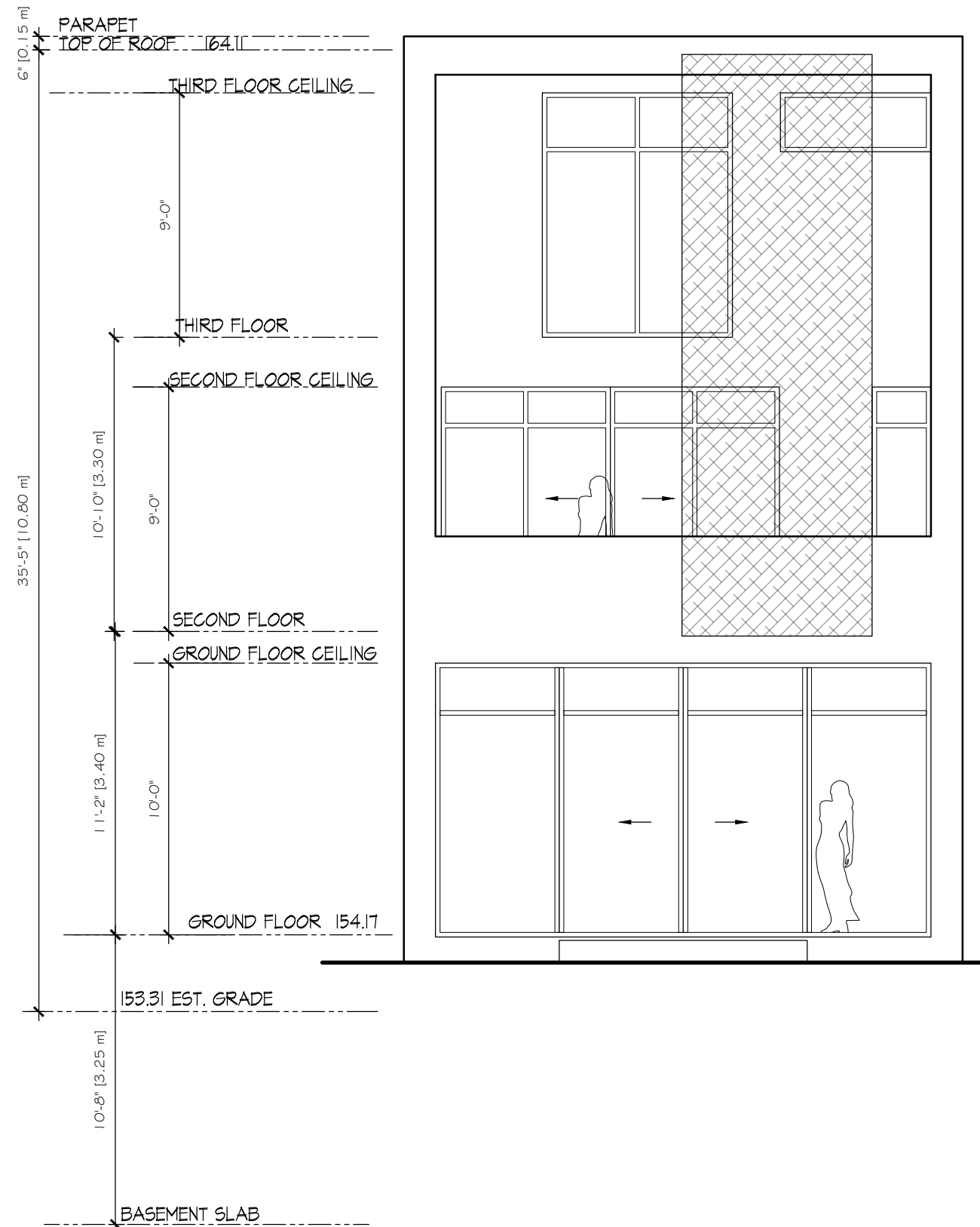
A-3.1

18 GORMLEY AVE.  
TORONTO, ON



1 WEST ELEVATION  
Scale: 3/16" = 1'-0"





1

# **NORTH ELEVATION**

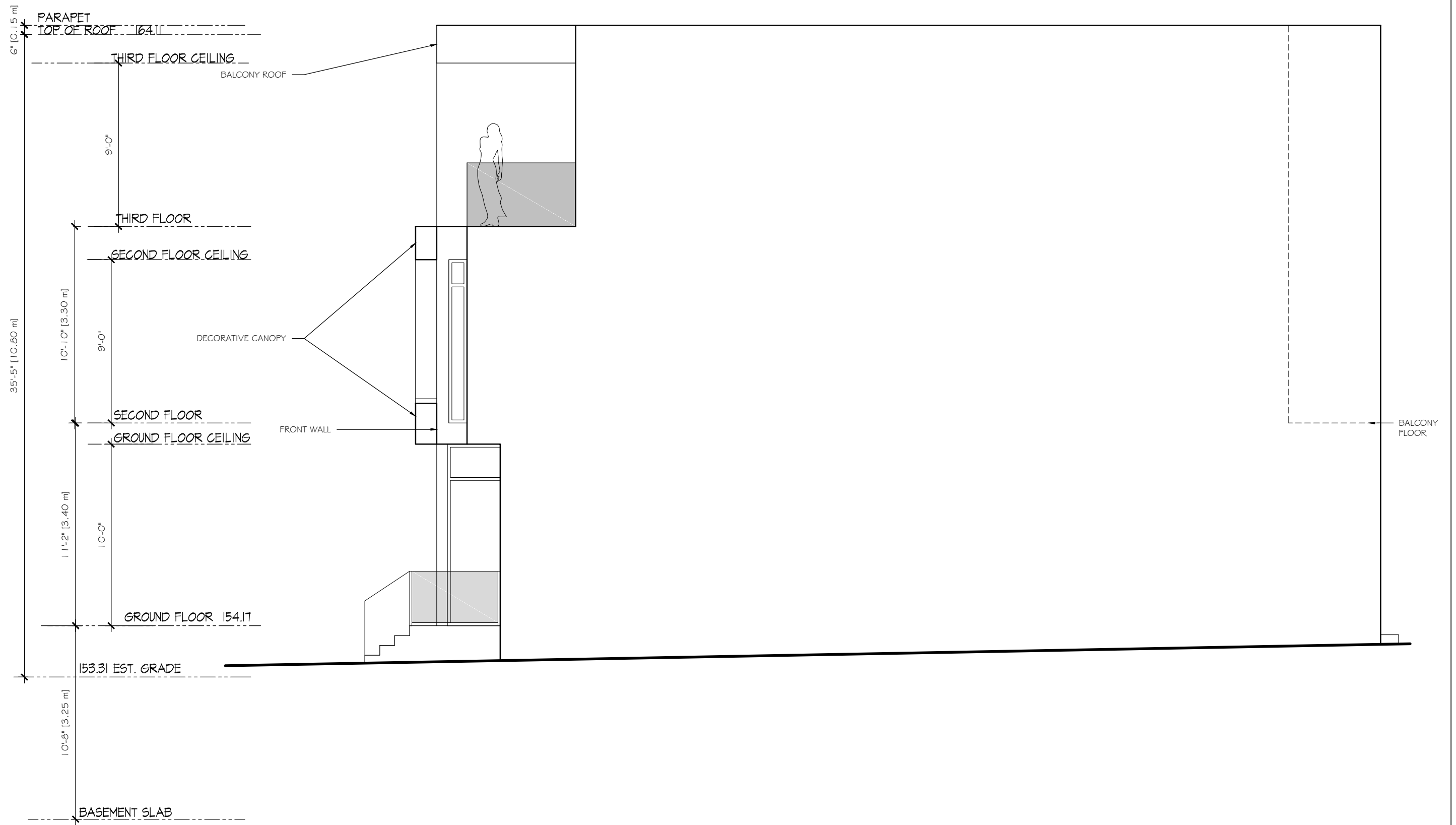
Scale: 3/16" = 1'-0"

MAY 4, 2018  
APR. 25, 2018  
MAR. 8, 2018

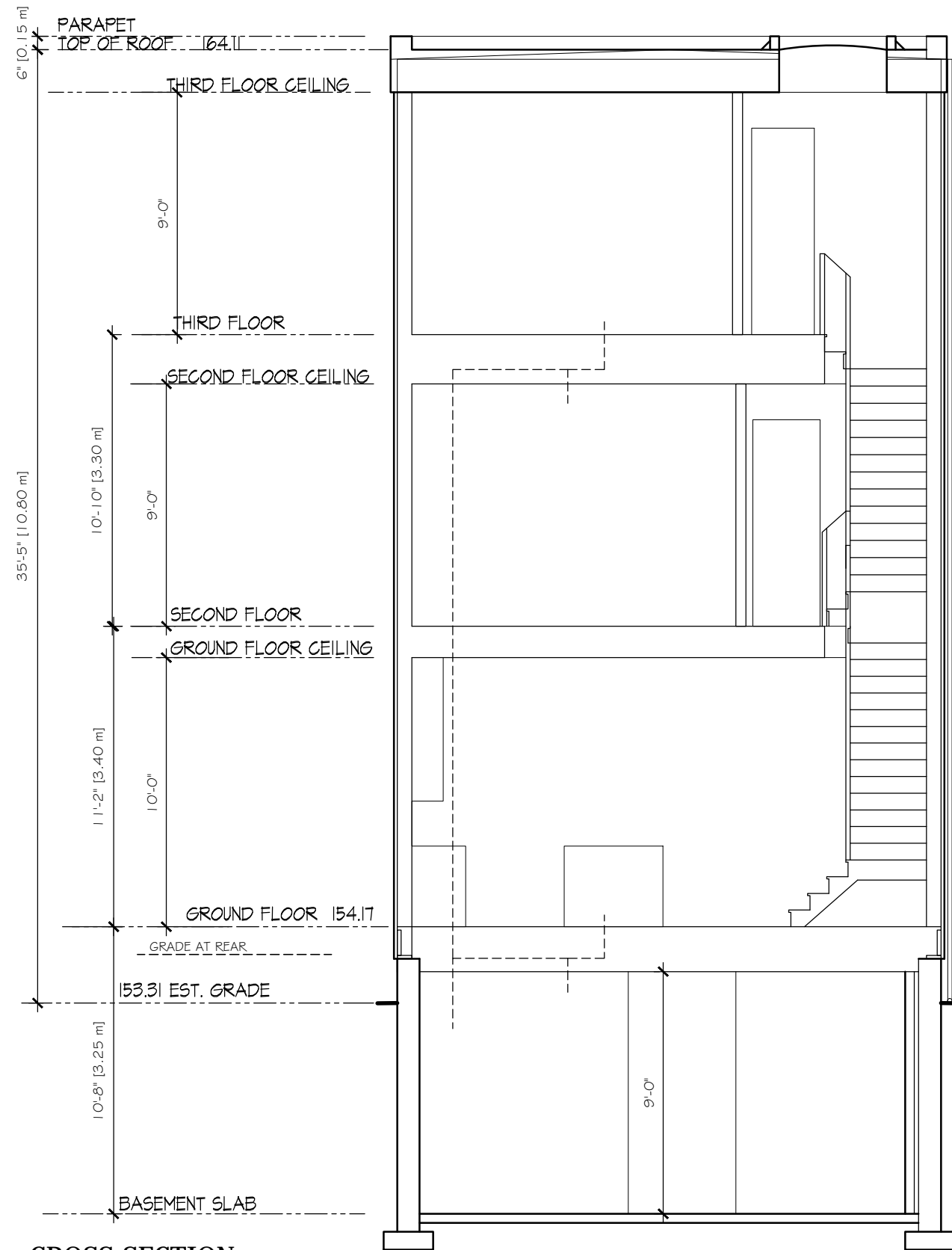
NORTH ELEVATION

MARCH 2018

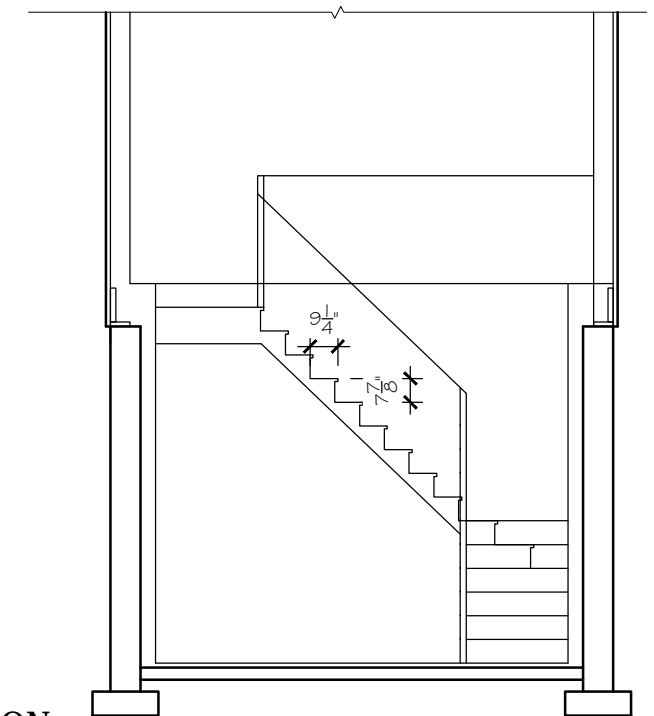
A-3.3



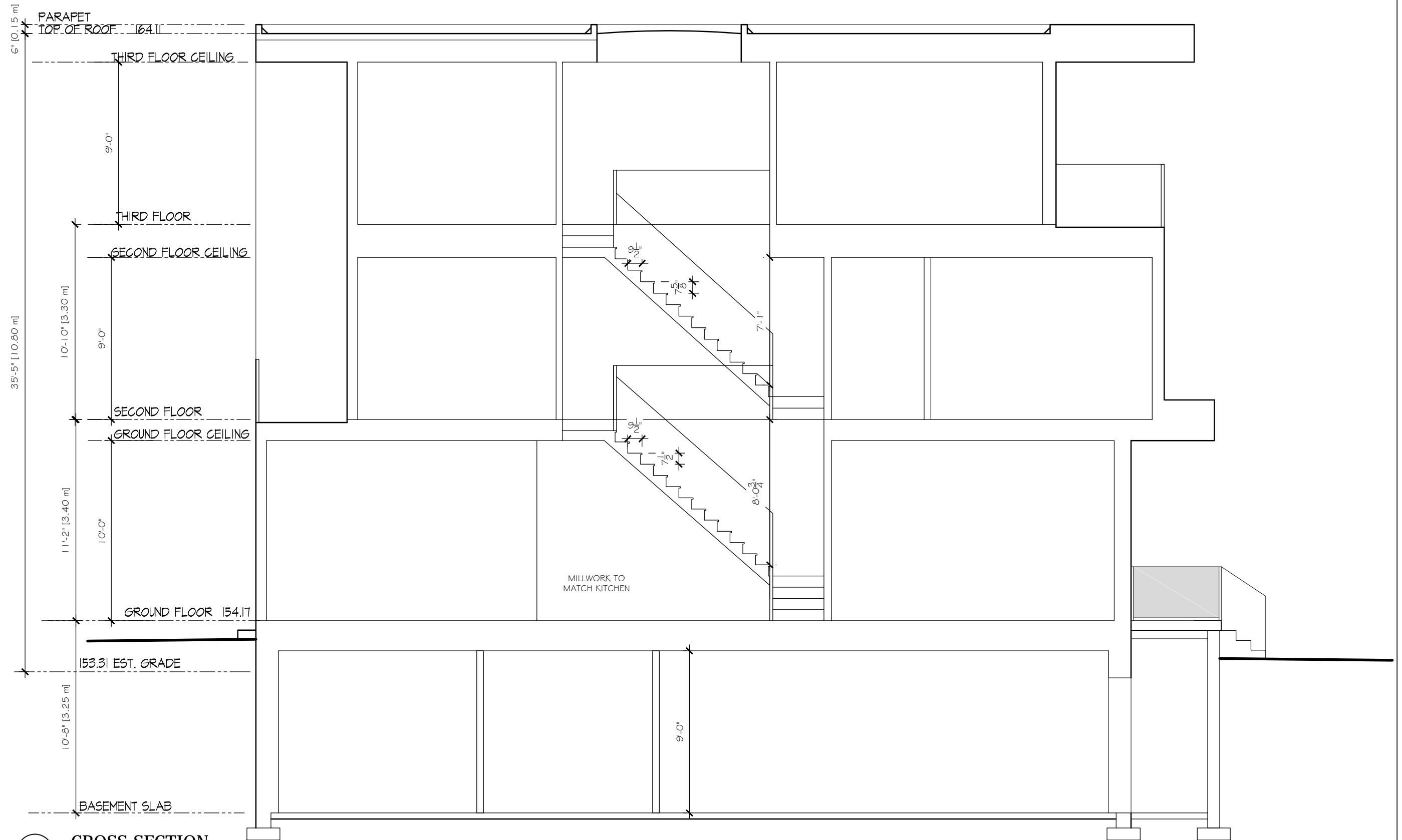
1 EAST ELEVATION



1 CROSS SECTION  
Scale: 3/16" = 1'-0"



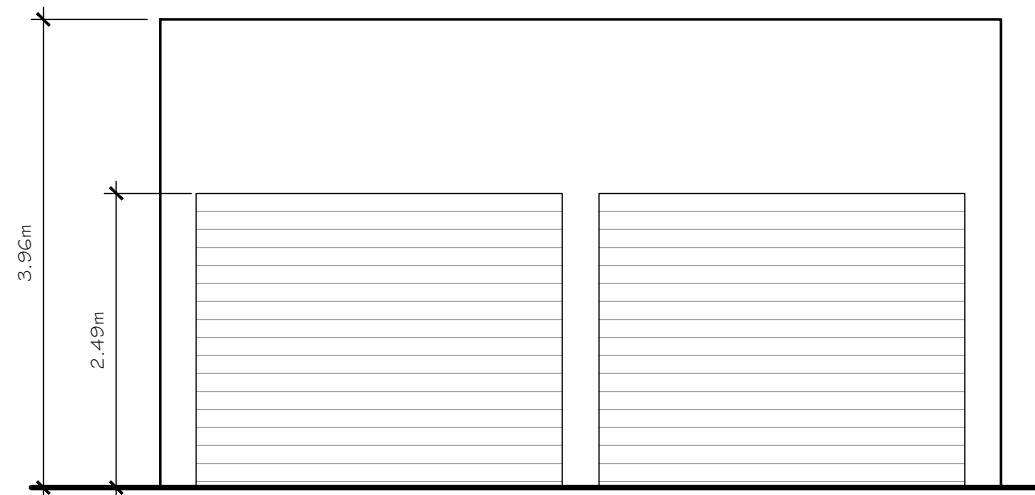
2 CROSS SECTION  
Scale: 3/16" = 1'-0"



1 CROSS SECTION  
Scale: 3/16" = 1'-0"

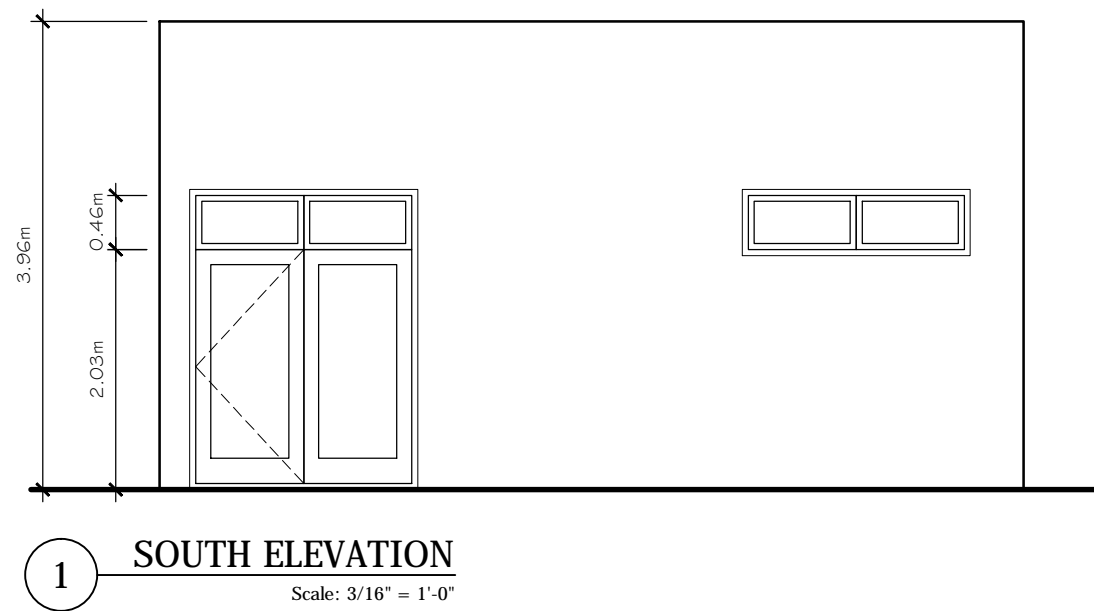
DEC. 3, 2018  
MAY 4, 2018  
APR. 25, 2018



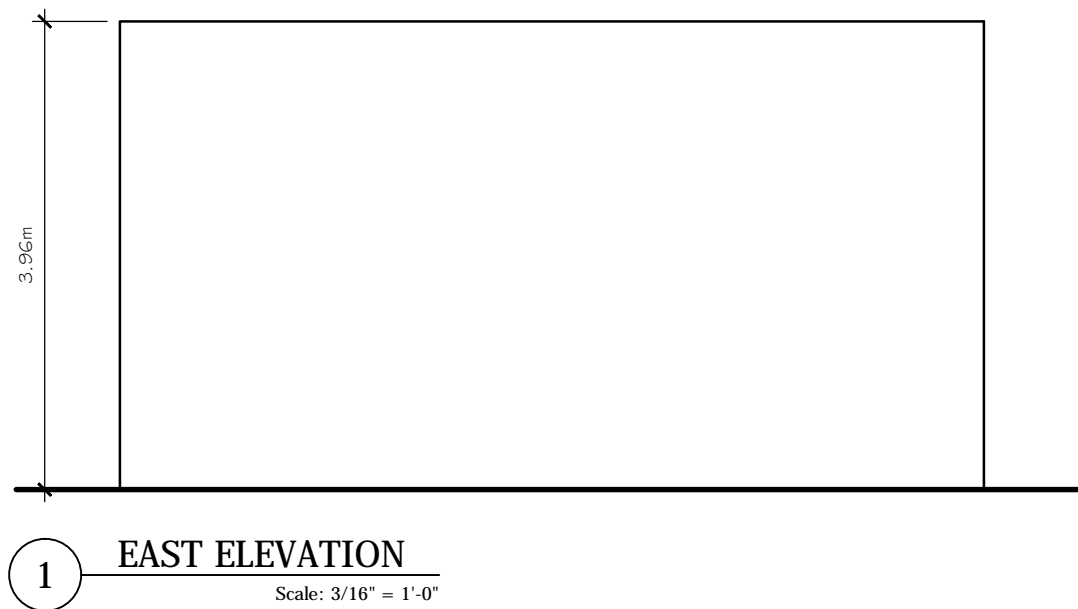


1 NORTH ELEVATION  
Scale: 3/16" = 1'-0"

SEPT. 28, 2018  
MAY 11, 2018  
MAY 4, 2018

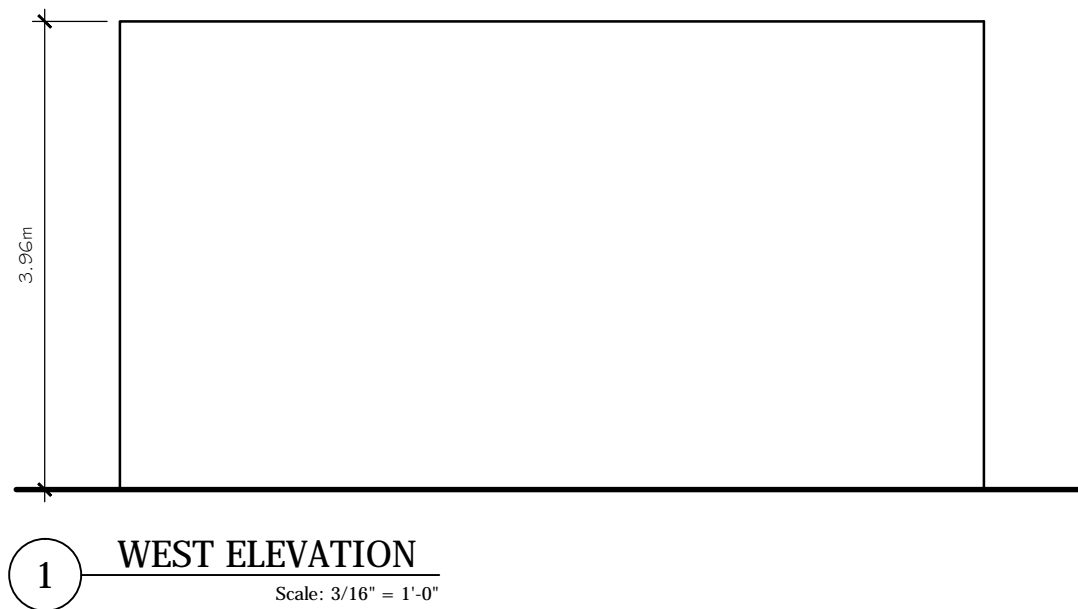


SEPT. 28, 2018  
MAY 11, 2018  
MAY 4, 2018



SEPT. 28, 2018  
MAY 11, 2018  
MAY 4, 2018





SEPT. 28, 2018  
MAY 11, 2018  
MAY 4, 2018

**RECEIVED**

By Toronto Local Appeal Body at 11:38 am, Mar 13, 2019

TLAB Case File Number: 18 245268 S45 22 TLAB

**TORONTO LOCAL APPEAL BODY**

**PROCEEDINGS COMMENCED UNDER** subsections 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

<b>Appellant(s):</b>	Cameron Squires
<b>Applicant(s):</b>	Cindy McPhee
<b>Property Address/Description:</b>	18 Gormley Avenue
<b>Committee of Adjustment File Number(s):</b>	A0502/18TEY
<b>TLAB Case File Number(s):</b>	18 245268 S45 22 TLAB

**MINUTES OF SETTLEMENT**

**B E T W E E N:**

**CAMERON SQUIRES**

- and -

**CITY OF TORONTO**

**WHEREAS** Cameron Squires (the "**Appellant**") is the owner of the property municipally known as 18 Gormley Avenue (the "**Subject Property**"), in the City of Toronto;

**AND WHEREAS** Cindy McPhee, on behalf of the Appellant, filed an application with the Committee of Adjustment in April, 2018 for minor variances required for the proposed construction of a new three-storey detached dwelling with a rear detached garage on the Subject Property (the "Application");

**AND WHEREAS** the Committee of Adjustment heard and refused the Application on October 3, 2018 and the Appellant appealed that decision to the Toronto Local Appeal Body ("TLAB") on October 19, 2018 (the "Appeal");

**AND WHEREAS** the City of Toronto (the "City") filed a Notice of Intention to be a Party Form 4 to obtain party status in the Appeal;

**AND WHEREAS** the Appellant and the City (each a "Party" and collectively, the "Parties") have reached a settlement of the Appeal on the terms set out herein;

**NOW THEREFORE** in exchange for the payment of two dollars (\$2.00) of lawful money of Canada each paid to the other, the receipt and sufficiency being hereby

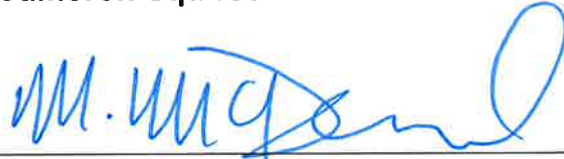
acknowledged, and other good and valuable consideration the Parties hereby covenant and agree as follows:

1. The plans and drawings in respect of the Application shall be revised as shown on the Third Floor Plan and East Elevation prepared by First Step Design, dated February 26, 2019, attached hereto as **Attachment "A"** (the "Revised Plans"), which, for clarity, depict the following revisions:
  - i. The balcony roof and west side wall on the third storey at the front of the proposed dwelling are reduced to project 0.60m from the front wall; and
  - ii. The proposed third floor balcony is set back to a distance of 5.13m from the front yard property line.
2. The Appellant shall build substantially in accordance with the Revised Plans.
3. On the basis of the Revised Plans, the Appellant and the City will support the Application, as revised, and request that the TLAB approve the variances for the Subject Property set out in **Attachment "B"** (the "Variances").
4. The Appellant and the City agree that the amendments contemplated by these Minutes of Settlement are minor and shall jointly request that the TLAB exercise its discretion pursuant to subsection 45(18.1.1) such that no further notice of the revised proposal be required.
5. Upon execution of these Minutes, the Appellant will advise the TLAB of the settlement and will file these Minutes with the TLAB. The Appellant will call evidence in support of the settlement, the Variances and the Revised Plans at the Hearing scheduled for March 18, 2019.
6. The Appellant and the City shall request that these Minutes of Settlement be marked as an exhibit and be made part of the TLAB's record.
7. The Appellant and the City covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be reasonably required to implement and carry out, the true intent and meaning of these Minutes of Settlement;
8. These Minutes of Settlement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts taken together shall be deemed to constitute one and the same instrument. Transmission of an executed signature page by facsimile, e-mail, or other electronic means is as effective as a manually executed counterpart of this Agreement.

9. These Minutes of Settlement shall enure to and be binding upon the successors and assignees of the parties to these Minutes of Settlement.
10. These Minutes of Settlement constitute a legally binding agreement which shall be governed by and construed in accordance with the laws of the Province of Ontario.
11. Each Party shall bear its own costs in respect of the Appeal.

**IN WITNESS WHEREOF** the Parties, through their duly authorized legal counsel, have executed these Minutes as of the 13th day of March, 2019:

**Cameron Squires**



---

Meaghan McDermid, counsel to Cameron Squires

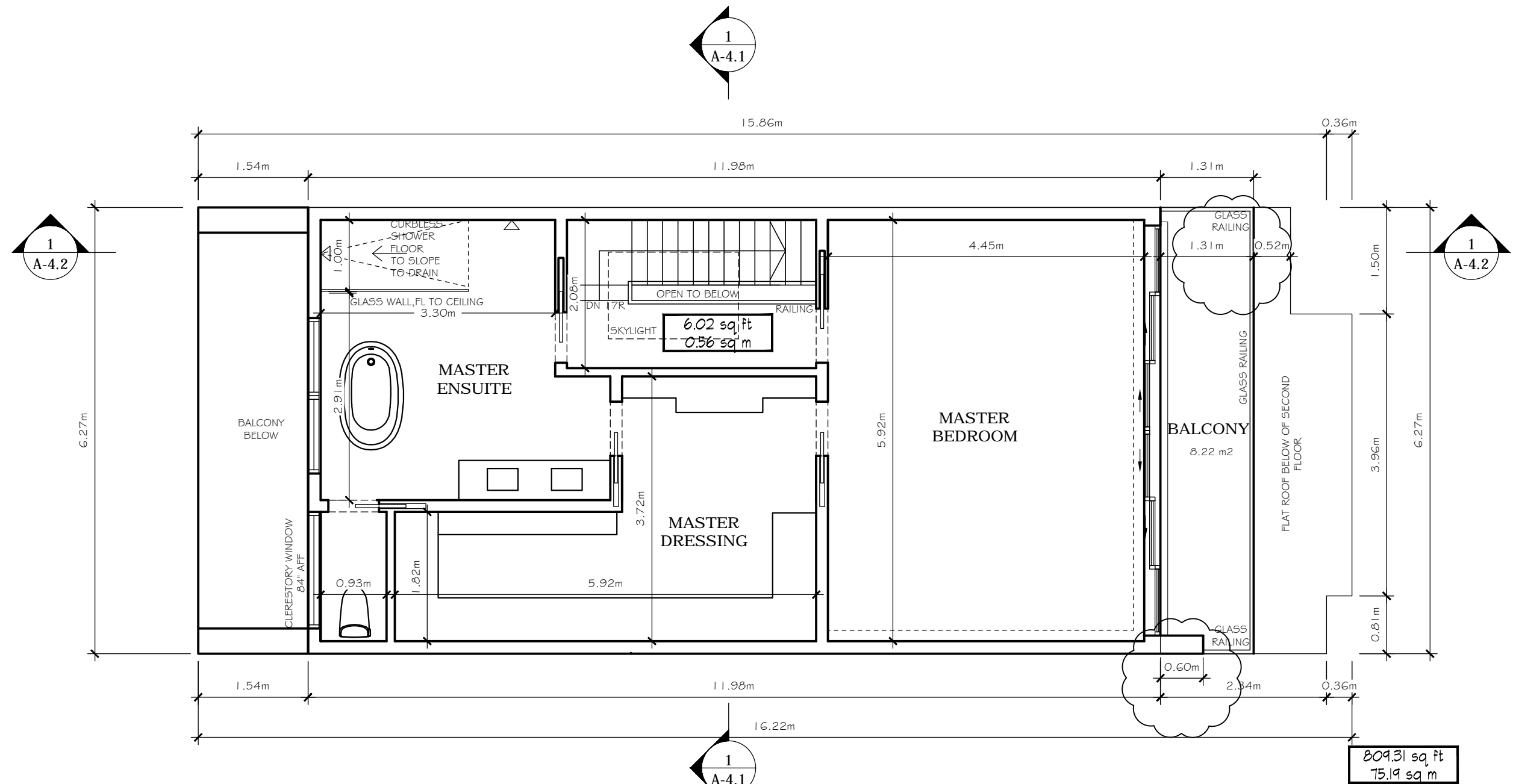
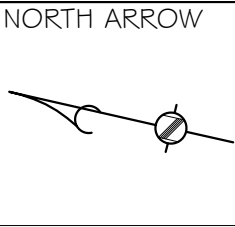
**City of Toronto**

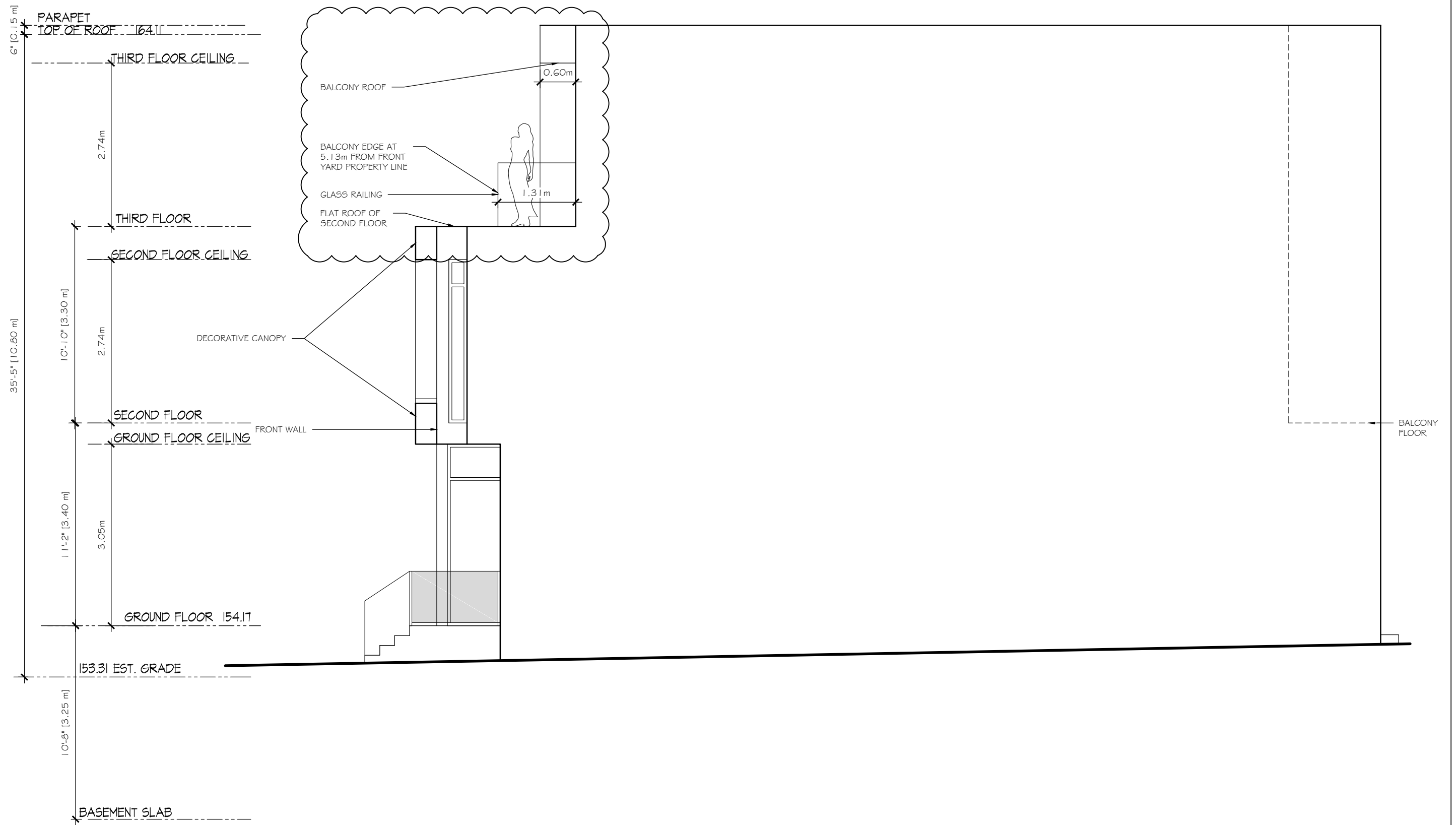
---

Jason Davidson, counsel to the City of Toronto

---

## **ATTACHMENT "A"**





## **ATTACHMENT "B"**

### **Variances**

**1. Chapter 10.5.50.10.(1), By-law 569-2013**

A minimum of 75% (28.20m<sup>2</sup>) of the required front yard landscaped open space shall be in the form of soft landscaping.

In this case, 68.11% (25.61m<sup>2</sup>) of the required front yard landscaped open space will be in the form of soft landscaping.

**2. Chapter 10.5.60.50.(2)(B), By-law 569-2013**

The maximum total floor area of all ancillary buildings or structure on the lot is 40.0m<sup>2</sup>.

The rear detached garage will have a floor area of 52.05m<sup>2</sup>

**3. Chapter 10.10.40.10.(2)(A)(i)&(ii), By-law 569-2013**

The maximum permitted height of all front and rear exterior main walls is 8.5m.

The height of the front and rear exterior main walls will be 10.95m.

**4. Chapter 10.10.40.70.(1), By-law 569-2013**

The minimum required front yard setback is 5.13m.

The detached dwelling will be located 4.61m from the front lot line.

**5. Chapter 10.10.60.20.(1)(A), By-law 569-2013**

The minimum required rear yard setback for an ancillary building or structure is 1.0m.

In this case, the rear garage will be located 0.26m from the north lot line.

**6. Chapter 10.10.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index of a detached dwelling is 0.60 times the area of the lot (164.40m<sup>2</sup>).

The detached dwelling will have a floor space index equal to 0.95 times the area of the lot (260.50m<sup>2</sup>).

**7. Chapter 10.5.40.60(3)(A)(iii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a building setback if the stairs are no wider than 2.0m.

The front yard stairs will be located 0.45m from the east lot line.