

DECISION AND ORDER

Decision Issue Date Monday, May 27, 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): SAHAND NOROUZI-FARSANGI

Applicant: OE DESIGN

Property Address/Description: 159 RIDLEY BLVD

Committee of Adjustment Case File Number: 18 216745 NNY 16 MV

TLAB Case File Number: 18 250148 S45 16 TLAB

Hearing date: Tuesday, May 14, 2019

DECISION DELIVERED BY JUSTIN LEUNG

APPEARANCES

Name	Role	Representative
OE Design	Applicant	
Sahand Norouzi-Farsangi	Owner/Appellant	Amber Stewart
David Anderson	Party	
Diane Anderson	Party	
Franco Romano	Expert Witness	
South Armour Heights Residents Association	Participant	
Kathy Guilfoyle	Participant	

INTRODUCTION

This is an appeal from a decision of the North York Committee of Adjustment (COA) which had refused a series of 10 variances for 159 Ridley Boulevard (subject property).

The variances, if allowed by the Toronto Local Appeal Body (TLAB), would permit the construction of a new two storey detached dwelling.

This property is located in the Cricket Club neighbourhood in the North York district of the City of Toronto (City) which is situated south of Wilson Avenue and bounded by Avenue Road to the west and Yonge Street to the east. The property is located on Ridley Boulevard, south of Wilson Avenue and north of Brooke Avenue.

At the beginning of the hearing, I informed all parties in attendance that I had performed a site visit of this subject property and the immediate neighbourhood.

BACKGROUND

With respect to this TLAB appeal as filed by the original minor variance applicant, the applicant has made revisions to their proposal which is outlined in the attached document as Attachment 1 (and entered as Exhibit 1).

A revised site plan which shows a re-configured driveway for this proposed detached dwelling was also submitted by the applicant as 'Sheet No. A0.01' prepared by OE Design Ltd. and attached herein as Attachment 2. Elevations relating to this revised proposal were also provided by the applicant as part of their 'Expert Witness Statement of F. Romano' and attached as Attachment 3.

MATTERS IN ISSUE

The applicant's legal counsel, Amber Stewart, had requested the panel to allow the revised variances.

Ms. Stewart indicated that changes have been made to their original proposal which has resulted in a reduced number of variance requests and other modifications to their proposal which she contends is a more appropriate form of development.

The revised variances in comparison to the original variance requests are outlined below:

Decision of Toronto Local Appeal Body Panel Member: J. LEUNG
TLAB Case File Number: 18 250148 S45 16 TLAB

Original variances requested to COA:	Revised variances presented to TLAB:
Chapter 10.5.40.70(1)(B), By-Law No. 569-2013: The minimum required front yard setback is 7.9m. The proposed dwelling will have a front yard setback of 7.3m.	<i>This variance request has been withdrawn.</i>
Chapter 10.5.40.60.(3)(A)(ii), By-Law No. 569-2013: Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no wider than 2m. The proposed dwelling will have stairs that are 3.05m wide.	<i>This variance request has been withdrawn.</i>
Chapter 10.20.30.40.(1)(A), By-Law No. 569-2013: The maximum permitted lot coverage is 35% of the lot area. The proposed lot coverage is 35.6% of the lot area.	<i>This variance request has been withdrawn.</i>
Chapter 10.20.40.10.(2), By-Law No. 569-2013: The maximum permitted height of the exterior portion of main walls for a detached house is 7.5m for either (A) for no less than 60% of the total width of all front main walls and all rear main walls or (B) all side main walls: (i) for no less than 60% of the total width of the side main walls facing a side lot line that abuts a street; and (ii) for no less than 100% of the total width of the side main walls that do not face a side lot line that abuts a street. The proposed dwelling will have a height of the exterior main wall of 8.78m.	Chapter 10.20.40.10.(2), By-Law No. 569-2013: The maximum permitted height of the exterior portion of main walls for a detached house is 7.5m for either (A) for no less than 60% of the total width of all front main walls and all rear main walls or (B) all side main walls: (i) for no less than 60% of the total width of the side main walls facing a side lot line that abuts a street; and (ii) for no less than 100% of the total width of the side main walls that do not face a side lot line that abuts a street. The proposed dwelling will have a height of the exterior main wall of 8.78m (<i>remain unchanged</i>).
Chapter 10.20.40.20.(1), By-Law No. 569-2013: The maximum permitted building length is 17m. The proposed dwelling will have a building length of 19.39 m.	Chapter 10.20.40.20.(1), By-Law No. 569-2013: The maximum permitted building length is 17m. The proposed dwelling will have a building length of 18.57 m (<i>reduction in request</i>).

Decision of Toronto Local Appeal Body Panel Member: J. LEUNG
TLAB Case File Number: 18 250148 S45 16 TLAB

Chapter 10.20.40.70.(3), By-Law No. 569-2013: The minimum required side yard setback is 1.8m. The proposed dwelling will have an east side yard setback of 1.52m.	Chapter 10.20.40.70.(3), By-Law No. 569-2013: The minimum required side yard setback is 1.8m. The proposed dwelling will have an east side yard setback of 1.52m (<i>remain unchanged</i>).
Chapter 10.20.40.70.(3), By-Law No. 569-2013: The minimum required side yard setback is 1.8m. The proposed dwelling will have a west side yard setback of 1.52m.	Chapter 10.20.40.70.(3), By-Law No. 569-2013: The minimum required side yard setback is 1.8m. The proposed dwelling will have a west side yard setback of 1.52m (<i>remain unchanged</i>).
Chapter 200.5.1.10.(2), By-Law No. 569-2013: The minimum required width of a parking space is 2.9m. The proposed dwelling will have a parking space(s) width of 2.8m.	<i>This variance request has been withdrawn.</i>
Section 12.7, By-Law No. 7625: The maximum permitted building height is 8.8m. The proposed dwelling will have a height of 9.74m.	Section 12.7, By-Law No. 7625: The maximum permitted building height is 8.8m. The proposed dwelling will have a height of 9.74m (<i>remain unchanged</i>).
Section 6A(3), By-Law No. 7625: The minimum required parking space size is 5.6m x 2.9m. The proposed dwelling will have a parking space size of 5.6m x 2.8m.	<i>This variance request has been withdrawn.</i>

The proposed conditions for approval, as prepared by the applicant, are described here:

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan (revision dated January 18, 2019) and Elevations (revision dated April 17, 2019), prepared by OE Design Ltd. Revision.
2. For greater certainty, the driveway shall be positioned towards the east side of the lot, as shown on the Site Plan.
3. The overall dwelling height under By-law 569-2013 shall be a maximum of 9.6 m, as shown on the Front Elevation.
4. The Applicant shall satisfy all matters related to City and Privately-owned trees pursuant to Chapter 813 of the Municipal Code, Articles II and III.

It should be noted that condition 1 is similar to a condition as recommended by Planning staff in their report prepared for this minor variance proposal (dated October 2, 2018, prepared by Yishan Liu). However, the applicant is requesting that

this condition wording be altered so that it reflects the more recently submitted site plan which shows the re-configured driveway.

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 *Planning 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

The applicant had called one expert witness, Mr. Franco Romano, a Registered Professional Planner, who was qualified to provide professional land use planning evidence.

Mr. Romano stated that revisions in their proposal have been made which has resulted in a reduction in the number of variance requests. He contends that this would comply with Planning Act requirements and no further public notification would have to occur and that the TLAB would have authority to consider such a revised proposal.

Mr. Romano goes on to describe that in-fill development is a common pattern within this neighbourhood. He had assessed the housing type for an area bounded by Wilson Avenue to the north, Avenue Road to the west, Yonge Street to the east and Brooke Avenue to the south. With this, his assessment found that there is a mix of old and new housing stock with diverse housing style being the norm for this area.

Mr. Romano also made a research request to the City to acquire information on previously approved variances for this immediate area. With this information, he has made a comparison of these past variances which had been allowed to his client's current variance request.

The housing stock of the area has a variety of roof styles, with some constructed with integral garages. Hard and soft scape landscaping for residential lots is also interspersed throughout this neighbourhood. In terms of building height, again there is a mix of house designs for this area with the tallest residential dwellings in this area at three storeys. The setbacks relating to this proposal are seen as wide in comparison to other setbacks as expressed in other residential dwellings of the area. Their proposal would be similar to the overall regeneration which is occurring in the area.

The sloped roof design, as proposed, would be more visible along the side elevations of this dwelling as opposed to the front. There is one tree which has been determined needs to be removed. Mr. Romano states that any tree-related works on this site are done in accordance with City of Toronto Urban Forestry requirements.

In relation to comments made in the staff report (as previously described in the 'Matters in Issue' section), staff had recommended approval of the proposal contingent on some of the variance requests being removed. The applicant did this at the COA meeting. However, the COA refused this proposal in this instance. Mr. Romano goes on to describe an email from City Planner Yishan Liu, dated October 9, 2018, where the Planner acknowledges discussions which the neighbouring resident had with the applicant to revise the proposal whereby the building length portion would not extend beyond 19.48 meters or a full build-out. This revision to the proposal should also be captured in Planning staff's original recommended condition on the proposal to be in substantial conformity with the submitted site plan and related drawings.

Pertaining to their main building wall height, Mr. Romano indicated that this provision as contained in the City's Zoning By-law 569-2013. It is currently under appeal to the Local Planning Appeal Tribunal (LPAT) and contended by some appellants to this as unreasonably restricting building height requirements. Finally, Mr. Romano states that it is in his professional opinion that this proposal represents good planning and meets the four tests for a minor variance as contained in the *Planning Act*.

Mr. David Anderson of 161 Ridley Boulevard, an interested party for this appeal, asked Mr. Romano if, as part of the rear portion of the proposed detached dwelling, a doorway would be constructed to the second storey balcony. Mr. Romano responded that there is no door proposed. The applicant's legal counsel also indicated that they were agreeable to an additional condition to address this.

Mr. Anderson proceeded to provide testimony to the panel. He outlined that he had three concerns pertaining to this development. The first related to the driveway location, the second was the proposed building length and the final as the building height. Mr. Anderson did indicate that the first 2 concerns he raised had subsequently been addressed by the applicant in their submission to TLAB. However, he still has concerns about the building height and to how the building mass is expressed along the front elevation towards Ridley Boulevard. He stated that in the last 20 years he has resided in the neighbourhood, in-fill development has begun to change the character of the area.

He outlines how the roof design results in a roof which is more prominent at the front of the building. Mr. Anderson stated that he and the applicant, just prior to the hearing, had an initial discussion on this proposal which included on the interpretation of building height.

Ms. Stewart responded that there is a variety of roof style in the neighbourhood. In addition, the main wall height provision is only in effect as of 2013. Ms. Stewart contends there are houses of similar height in this neighbourhood which were built prior to this 2013 zoning provision coming into force.

Sheila Dunlop of the South Armour Heights Residents Association (SAHRA) provided testimony to the TLAB next. Ms. Dunlop concurred that the reconfiguration of the driveway is acceptable to the Association. In terms of building length, the initial proposal had a building length which exceeded that of the adjacent 157 Ridley Boulevard which had been appealed to the Ontario Municipal Board (recently reorganized as the Local Planning Appeal Tribunal). The subsequent revision to reduce this provides a more acceptable proposal to SAHRA. With respect to trees, the preparation of an arborist report is beneficial in identifying which trees are to be preserved and which are to come down, in accordance with Toronto Urban Forestry requirements. Overall, the revised proposal is now more acceptable to SAHRA.

It is noted that Kathryn Guilfoyle of 159 Ridley Boulevard who had submitted an 'Election Participant Status' form was not in attendance at the hearing.

ANALYSIS, FINDINGS, REASONS

The applicant has attempted to establish a dialogue with SAHRA and neighbouring residents to outline changes to their proposal. The elimination of 5 variance requests and reduction in other remaining variance requests, such as relating to building height, have resulted in a proposal which is more in keeping with the overall development pattern which is occurring in this Cricket Club neighbourhood. Mr. Anderson, who as the immediate neighbour and would be most impacted by such a development, was receptive to the revised proposal as presented by the applicant.

While the applicant states that they had discussed their revised proposal with residents who had previously submitted letters of concern to COA, the TLAB does not have before it revised comments from these residents and would have to take applicant's comments pertaining to this discussion at face value.

The applicant's planning consultant provided a comprehensive overview of in-fill development which has occurred in this neighbourhood. This review showed a varied housing stock which is emerging in this area and which have either been through the minor variance processes or done in accordance with Zoning By-law requirements. For this analysis, it has shown that the roof style is also diverse as well.

In terms of previously approved variances for other properties, the research that had been compiled by the consultant illustrates a consistent pattern in variances which have been granted by the COA over the last 10 years. While this information is before the TLAB, I note that each variance proposal is reviewed individually to the specific property and its context. Previously approved variances do not necessarily provide precedence for future variance requests in the surrounding area. The information does provide an overall reference for the redevelopment that has occurred over the past 10 years in this area.

The applicant's legal counsel also provided two case precedents for consideration by the TLAB. The first was an Ontario Municipal Board (OMB) decision relating to 157 Ridley Boulevard (Case No. PL160480) issued on April 5, 2017 (prior to the formation of the TLAB). This appeal involved a request for a series of 14 minor variances to permit construction of a two storey detached dwelling. Some of these variances relate to building height, building length, lot area and side yard setback requirements. This case presented with similar evidence as that of the current TLAB appeal in outlining similar designed and constructed homes in the area. Here, the OMB found that this proposal would result in a house which would be compatible with the housing stock of the neighbourhood and was consistent with the redevelopment pattern which was occurring in this area. As such, the OMB approved these variances subject to conditions. As this property is directly adjacent to the subject property under review (159 Ridley Boulevard), this decision can be accepted as a precedent for relevant consideration which TLAB can use to assess the appeal at hand. Furthermore, while the OMB appeal was assessing 14 variance requests, the one before the TLAB is considering 5 variance requests which can be of a potentially less impactful development proposal for the area.

The second case law brought before the TLAB was a previous decision by the TLAB for 62 Chester Hill Road (Case File No. 18 150991 S45 29 TLAB). This case was relating to the construction of a third storey addition and the squaring off a front bay window. These variances were refused by the COA and then appealed to the TLAB. The TLAB did allow these variances subject to conditions. The applicant's lawyer, Ms. Stewart, does highlight a portion of this TLAB decision where the respective TLAB member argues that if site plan control were employed to regulate or control in-fill development this would result in a uniform design pattern for a neighbourhood which would not be beneficial for the redevelopment of local areas. While this panel takes into consideration this previous TLAB appeal, it would be a broad statement that site plan control, as outlined in the *Planning Act*, the intention was to create uniform development pattern within municipalities. Moreover, the TLAB will note that this case law would be engaging in a broader discussion regarding possible control and regulation of in-fill development which is external to the appeal being considered here.

With respect to comments made by Mr. Anderson, the TLAB takes into consideration changes to the proposal by the applicant to create a more acceptable design in relation to the neighbourhood context. While Mr. Anderson continues to have concerns relating to the proposed building height, I find that the building height variance is only slightly over the Zoning By-law requirement. This would not result in an overbearing structure

and should not adversely intrude on sunlight being shown on neighbouring properties. As well, I accept that Ms. Dunlop of SAHRA's comments provides further clarity on the resident association position and perspective on the overall redevelopment which is occurring in the area. SAHRA contends that this proposal is similar to other infill houses that were previously built in the neighbourhood and is not a substantial departure from which is occurring in this area. In taking all statements that have been made to the TLAB, I find that this proposed development would meet the four tests as outlined in the *Planning Act*. As noted above, the applicant had submitted a Revised List of Variances and Conditions for the TLAB's consideration. The TLAB admitted the revised list of variances and I find that it is within the purview of TLAB to accept a revised proposal without public re-notification so long as no new variances or significant increases in the current variance requests are requested. However, with the conditions as submitted, the TLAB, in this instance, will make some changes to the wording to these conditions to ensure City staff are able to clear such conditions. However, the overall intent of these conditions is preserved.

With the submissions that have been presented, I have chosen to accept the evidence of the applicant's legal counsel and their expert witness in arguing for the approval of this minor variance. Their submissions are rationale and compelling and abrogate for the concerns as raised by the resident of 161 Ridley Boulevard.

DECISION AND ORDER

All requested variances identified in the Revised List of Variances and Conditions dated May 14, 2019 (Exhibit 1) and attached to this decision as Attachment 1 are approved subject to the following conditions:

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan (Sheet NO. A0.01 revision dated January 18, 2019) and Elevations (Sheet Nos. A2.01, A2.02, A2.03 and A2.04 revision dated April 17, 2019), prepared by OE Design Ltd., provided for greater certainty, that:
 - a. The driveway shall be positioned towards the east side of the lot, as shown on the Site Plan.
 - b. There shall be no access from the second floor to the roof of the rear one-storey extension, except for maintenance purposes
 - c. The Front Elevation shall include a cornice at the top of the main front wall and above the garage, a covered front porch, and reveals in the stone façade at the first-floor level, as shown on the Elevation plans.

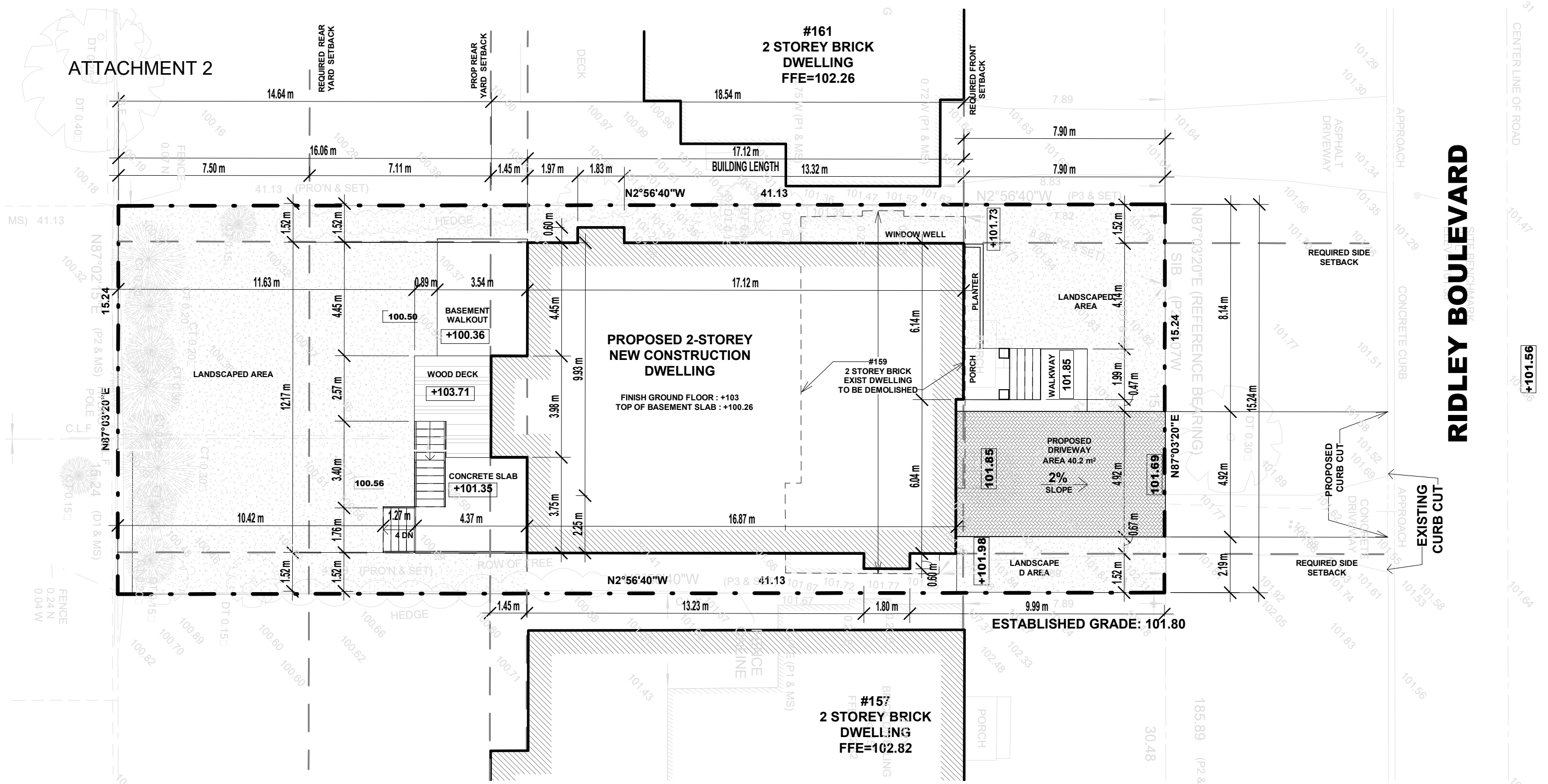
Decision of Toronto Local Appeal Body Panel Member: J. LEUNG
TLAB Case File Number: 18 250148 S45 16 TLAB

- d. The overall dwelling height measured under By-law 569-2013 shall be a maximum of 9.6 m, as shown on the Front Elevation.
2. The Applicant shall satisfy all matters related to City and Privately-owned trees pursuant to Chapter 813 of the Municipal Code, Articles II and III.

X 

Justin Leung
Panel Chair, Toronto Local Appeal Body

ATTACHMENT 2



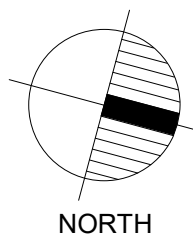
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SITE PLAN

A0.01

SCALE: 1 : 150

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No.	Date:	Issued For:	By:
1	10/08/2018	For Zoning Review	PN
2	18/01/2019	Revision	

Project:
SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet
Title:
SITE PLAN

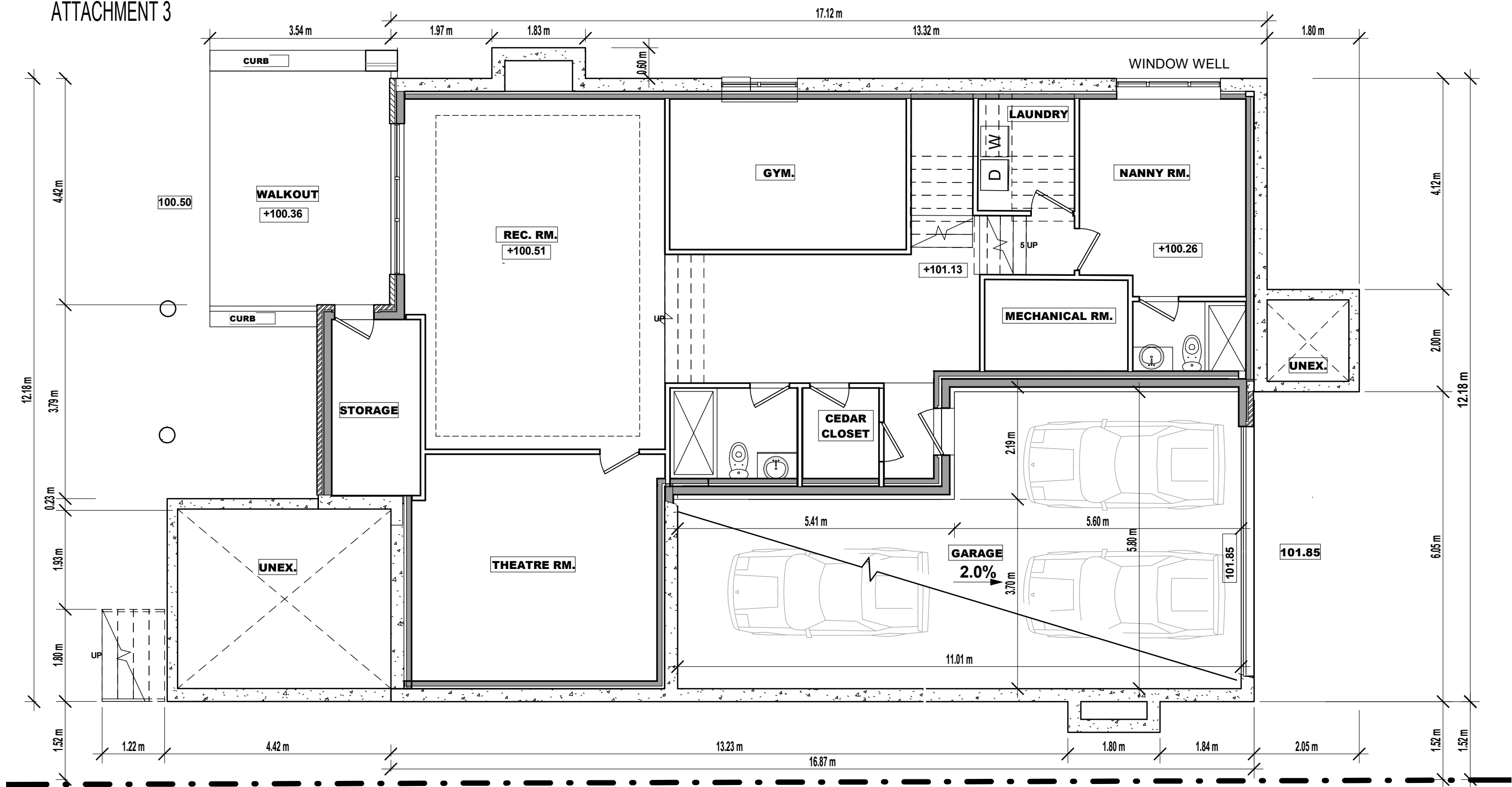
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Project No: 105-18
Date: August 2018
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A0.01

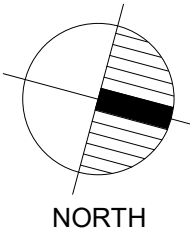


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Toronto, M2N 3A4 Fax: 647-343.6275

ATTACHMENT 3



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1	10/08/2018	For Zoning Review	PN
2	18/01/2019	Revision	

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NORTH YORK, TORONTO
Sheet Title: BASEMENT PLAN

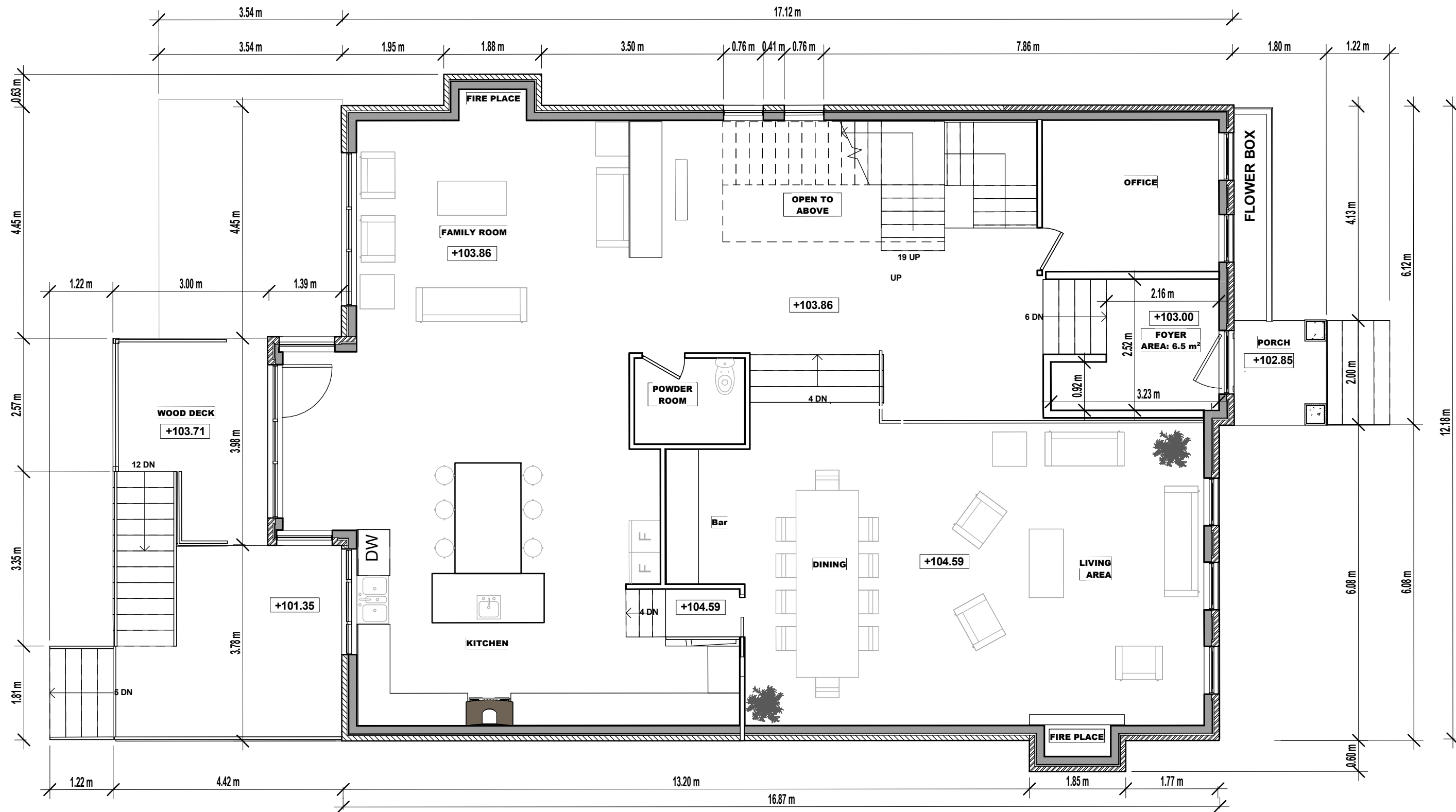
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Project No: 105-18
Date: August 2018
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A1.01

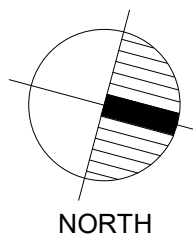


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PLOT DATE: 2019-04-18 10:53:17 AM



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1	10/08/2018	For Zoning Review	PN
2	18/01/2019	Revision	

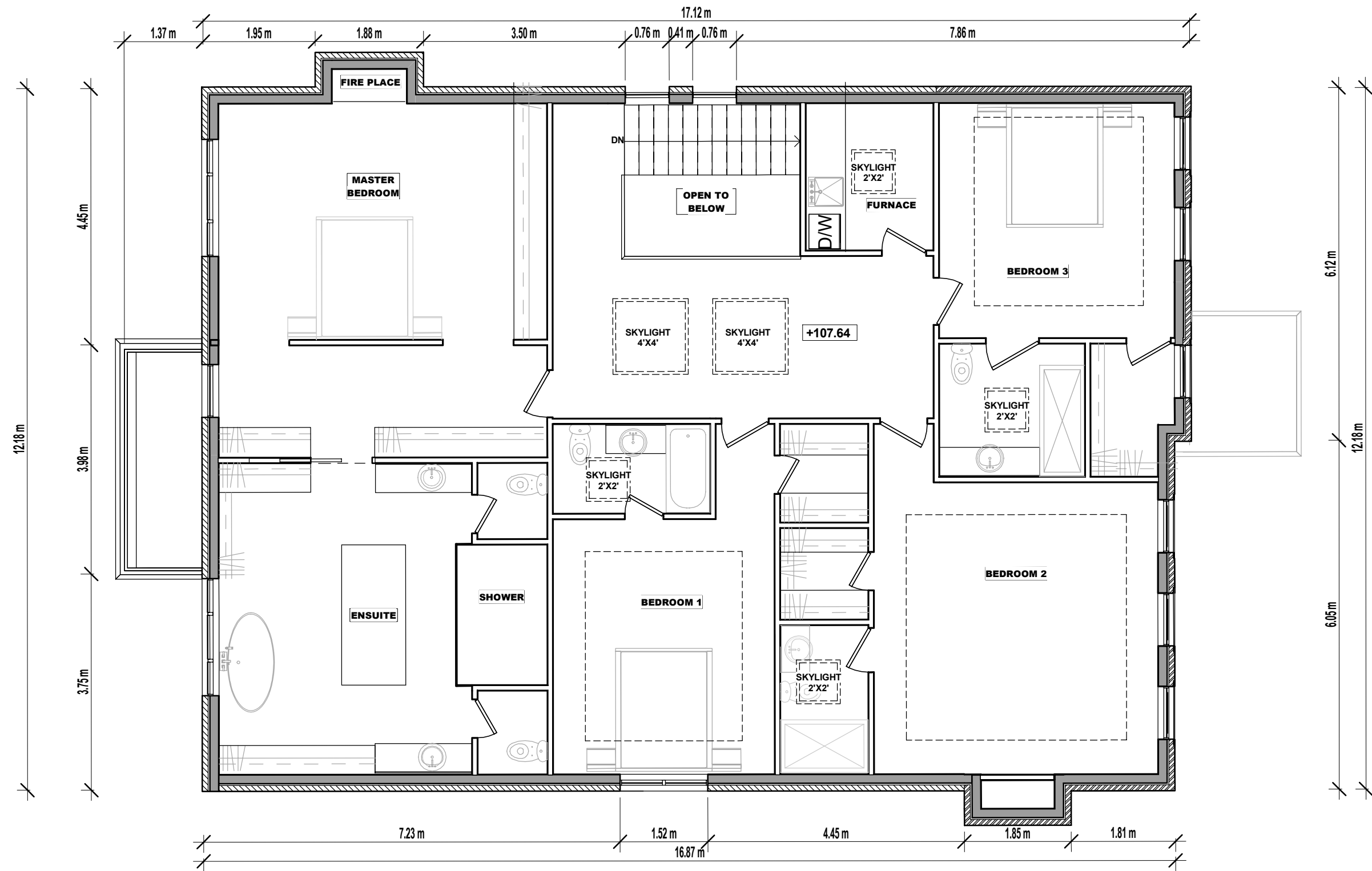
Project:
SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
 Sheet
 Title: **1st FLOOR PLAN**

Client:
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 Drawn: RM Sheet No:
 Checked: PN
 Project No: 105-18
 Date: August 2018
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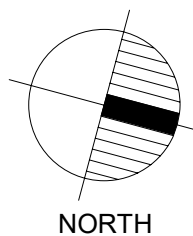
A1.02



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1	10/08/2018	For Zoning Review	PN
2	18/01/2019	Revision	

Project: SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet Title: 2nd FLOOR PLAN

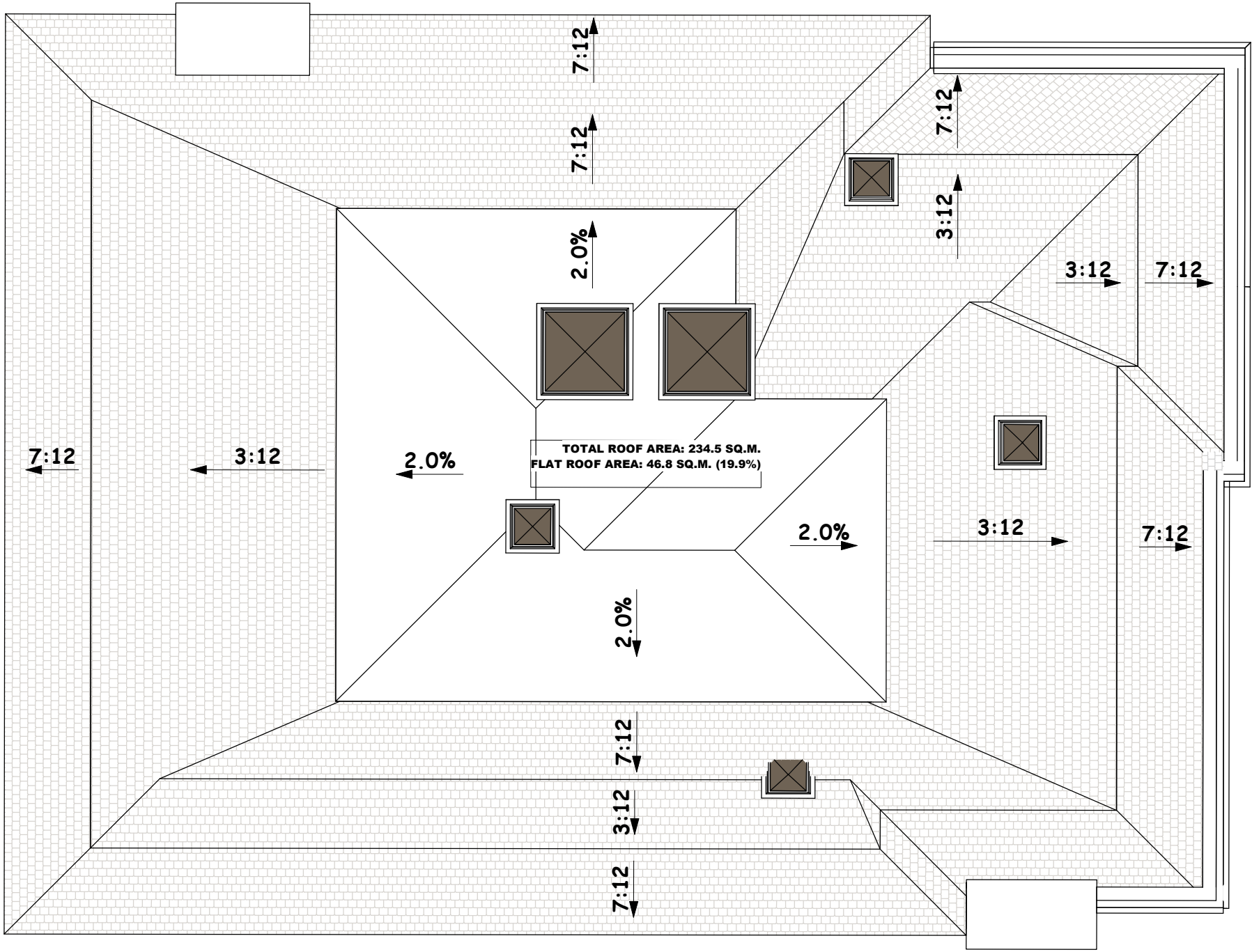
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Date: August 2018
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A1.03



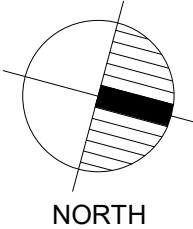
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PLOT DATE: 2019-04-18 10:53:19 AM



1 ROOF PLAN
A1.04 SCALE: 1 : 75

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No.	Date:	Issued For:	By:
1	10/08/2018	For Zoning Review	PN
2	18/01/2019	Revision	

Project:
SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet
Title:
ROOF PLAN

Client:
159 Ridley Blvd.
Drawn: RM Sheet No:
Checked: PN
Project No: 105-18
Date: August 2018
Scale: 1 : 75

A1.04



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PROPERTY
LINE

1.52 m

1.52 m

PROPERTY
LINE

0.14 m

12

12

5

3

PEAK OF THE ROOF +111.32

MID OF THE ROOF +110.54

2nd FLOOR CEILING +110.39

UNDERSIDE OF EAVES +109.6

FIN. 2nd FLOOR +107.64

FIN. DINING FLOOR +104.59

FAMILY ROOM +103.86

FOYER +103

GARAGE +101.85

ESTABLISHED GRADE +101.8

CENTER OF THE ROAD +101.56

T/ BASEMENT SLAB +100.51

T/NANNY ROOM SLAB +100.26

1

MAIN ELEVATION

A2.01

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

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No.	Date:	Issued for:	By:
1	2014-07-18	Issued for Zoning Certificate P.N.	
1	2019-04-17	Issued for LPAT P.N.	

Project:
SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet
Title:
MAIN ELEVATION

Client:
159 Ridley Blvd.
Drawn: RM Sheet No:
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Project No: 105-18
Date: August 2018
Scale:
3/16" = 1'-0"

A2.01



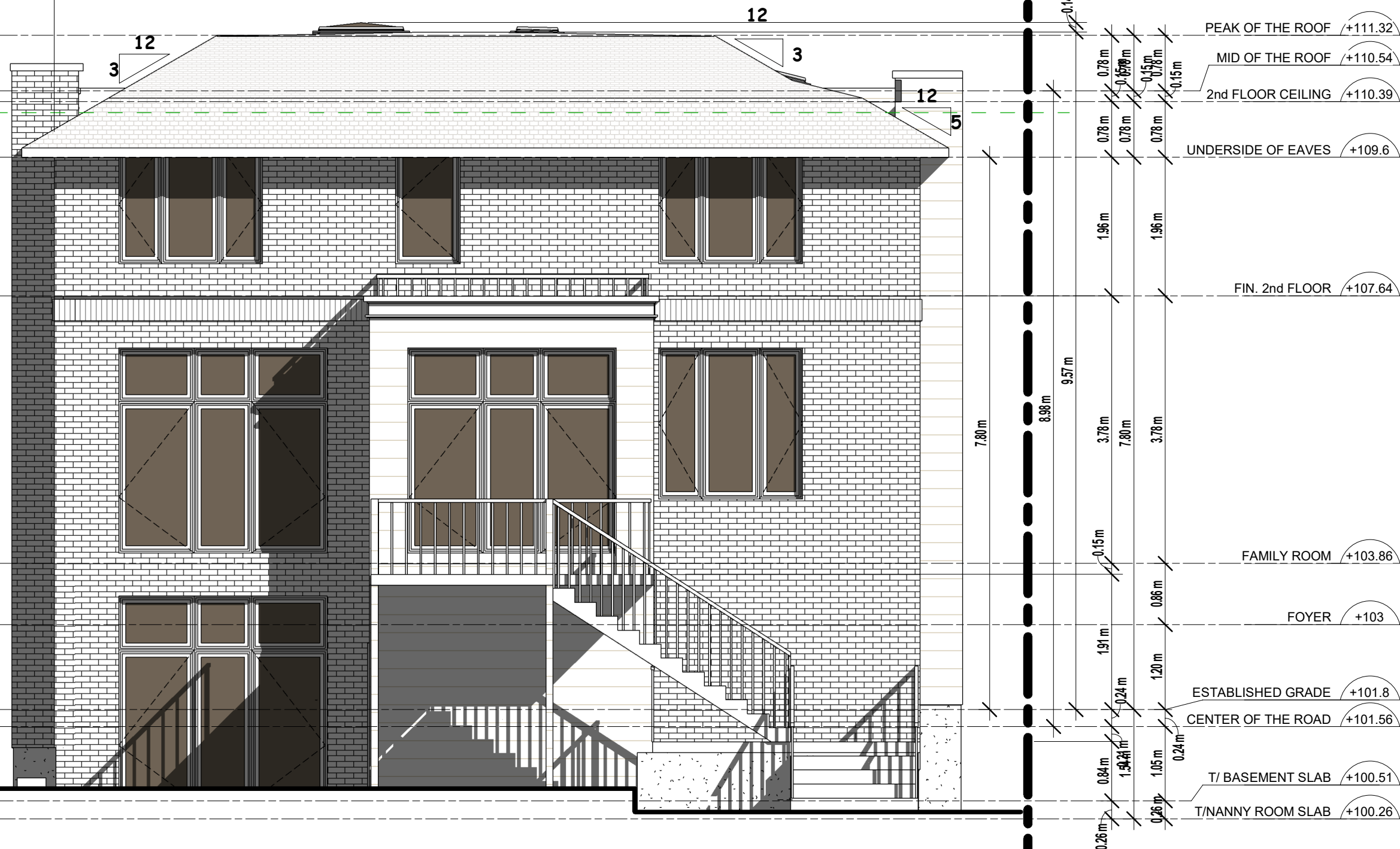
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PROPERTY
LINE

1.52 m

1.52 m

PROPERTY
LINE



1

South-rear

A2.02

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

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No.	Date:	Issued for:	By:
1	2014-07-18	Issued for Zoning Certificate P.N.	
1	2019-04-17	Issued for LPAT	P.N.

Project:
SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet
Title: REAR ELEVATION

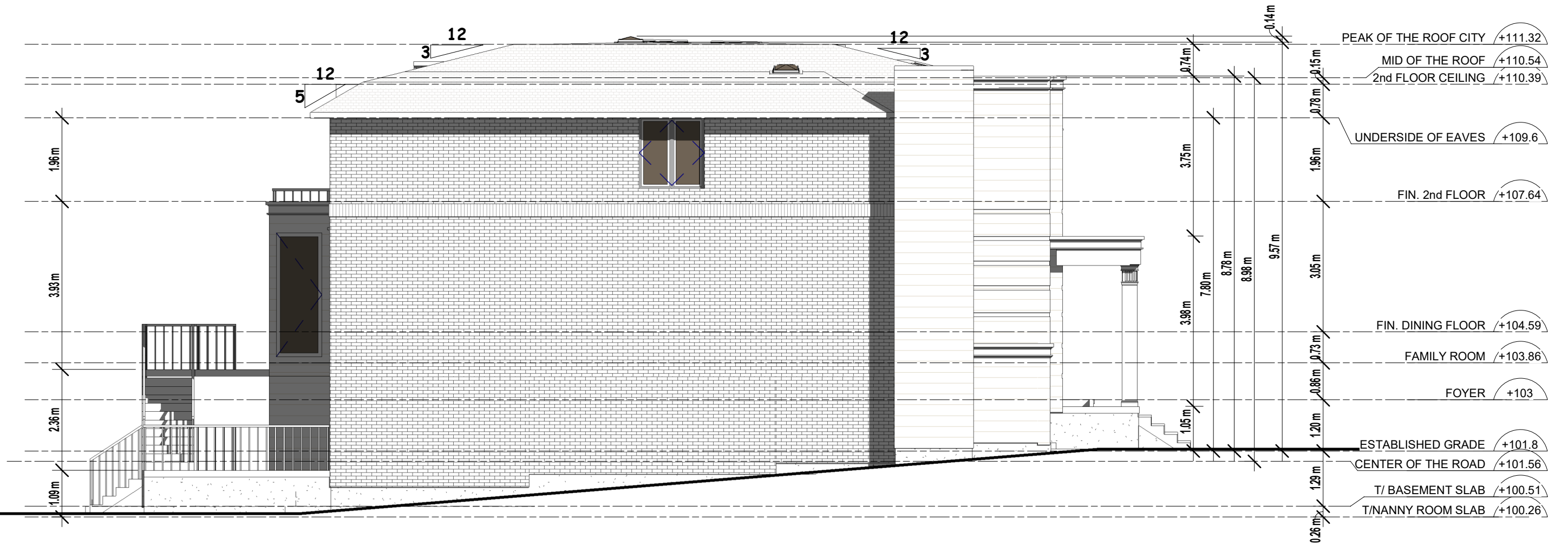
Client:
159 Ridley Blvd.
Drawn: RM
Checked: PN
Project No: 105-18
Date: August 2018
Scale: 3/16" = 1'-0"

A2.02



OE DESIGN LTD.

170 Sheppard Ave E. Tel: 647-344-1177
Toronto, M2N 3A4 Fax: 647-343-6275



1 WEST ELEVATION
A2.03 SCALE: 1/8" = 1'-0"

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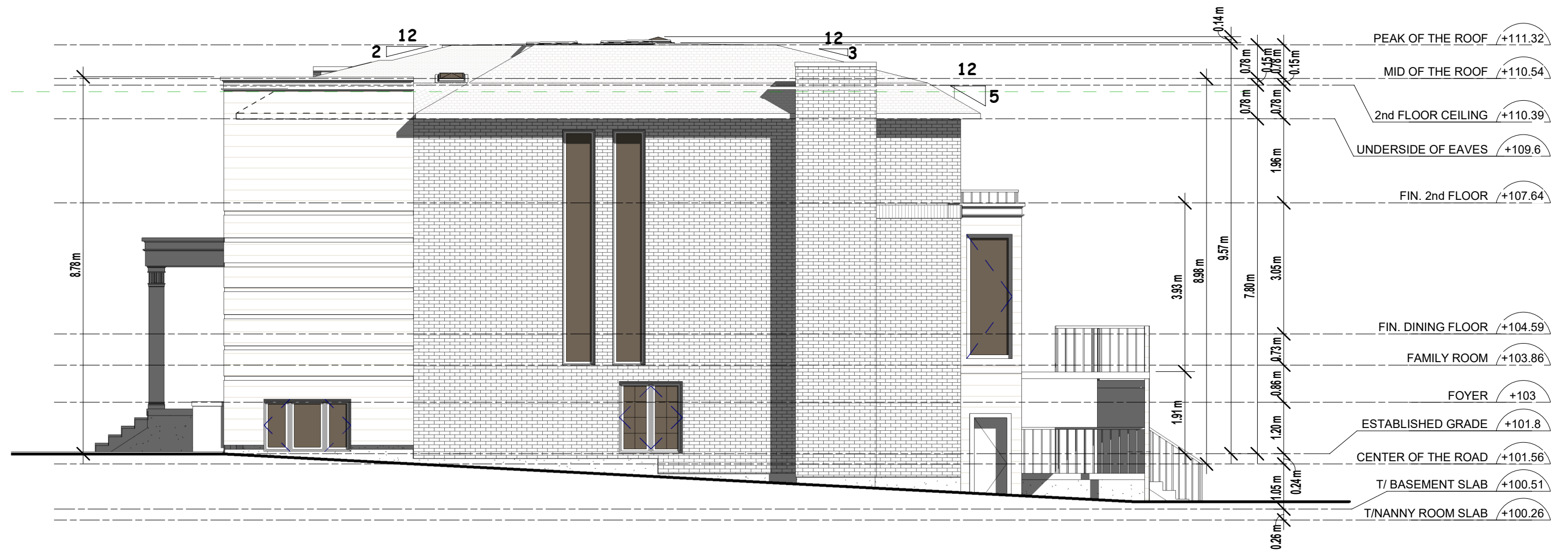
No.	Date:	Issued for:	By:
1	2014-07-18	Issued for Zoning Certificate	P.N.
1	2019-04-17	Issued for LPAT	P.N.

Project: SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet Title: SIDE ELEVATION (WEST)

Client: 159 Ridley Blvd.
Drawn: Author
Checked: PN
Project No: 105-18
Date: August 2018
Scale: 1/8" = 1'-0"
Sheet No: A2.03



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1 EAST ELEVATION
A2.04 SCALE: 1/8" = 1'-0"

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No.	Date:	Issued for:	By:
1	2014-07-18	Issued for Zoning Certificate P.N.	
1	2019-04-17	Issued for LPAT P.N.	

Project: SINGLE FAMILY DWELLING
NORTH YORK, TORONTO
Sheet Title: SIDE ELEVATION (EAST)

Client: 159 Ridley Blvd.
Drawn: Author
Checked: Checker
Project No: 105-18
Date: August 2018
Scale: 1/8" = 1'-0"
Sheet No: A2.04



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