

DECISION AND ORDER

Decision Issue Date Monday, June 17, 2019

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): LI YILIN, CITY OF TORONTO

Applicant: LI YILIN

Property Address/Description: 280 HILLCREST AVE

Committee of Adjustment Case File: 18 202536 NNY 23 MV

TLAB Case File Number: 18 240948 S45 23 TLAB

Hearing date: Tuesday, April 02, 2019

DECISION DELIVERED BY S. TALUKDER

APPEARANCES

NAME	ROLE	REPRESENTATIVE
LI YILIN	APPELLANT/OWNER	PETER HIGGINS ARCHITECT INC
JIA YUAN	ALTERNATE OWNER	
CITY OF TORONTO	APPELLANT	JASON DAVIDSON CIGDEM ILTAN

INTRODUCTION

1. This is an appeal by Li Yilin, the owner of the property located at 280 Hillcrest Avenue (subject property). Ms. Yilin appeals the decision of the Committee of Adjustment (COA), which partially approved and partially refused requests for minor variances to construct a new house on the subject property.

2. The only other party in this matter, the City of Toronto (City), also filed an appeal to the Toronto Local Appeal Body (TLAB).
3. The subject property is located in a residential neighbourhood known as the Yonge-Sheppard Area. It is west of Bayview Avenue, east of Willowdale Avenue and north of Sheppard Avenue East.
4. I visited the site of the subject property and walked around the neighbourhood to familiarize myself with the neighbourhood prior to the hearing.
5. The parties entered into a settlement and filed Minutes of Settlement before the hearing. The hearing proceeded as a settlement hearing to determine whether the terms of settlement satisfied the statutory criteria for variance applications.

MATTERS IN ISSUE

6. The parties filed Minutes of Settlement (Exhibit 3), which included the following:
 - a. Decision of the COA dated September 26, 2018.
 - b. Requested variances for approval by the TLAB, attached to this decision as Attachment 1.
 - c. Revised Site Plans dated December 6, 2018, attached to this decision as Attachment 2.
7. The parties agreed upon the following condition attached to an approval of the settlement proposal:

The Applicant shall build substantially in accordance with the plans and elevation drawings prepared by Peter Higgins Architect Inc. for 280 Hillcrest Avenue and dated December 6, 2018 (Attachment 2)

8. The COA approved all of the variances except for variance 1 and approved a modified variance 9.
9. In comparing the requested variances at the COA and the requested variances in the Minutes of Settlement, I noted the following differences:

Variance at COA

Variance 1:

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

The permitted maximum height of a building is 10.0 m.

The proposed building height is 10.64 m.

Variance 4:

Chapter 10.20.30.40.(1), By-law No. 569-2013

The permitted maximum lot coverage is 30% of the lot area.

The proposed lot coverage is **32.5%** of the lot area.

Variance 8:

Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed east side yard setback is 1.21 m.

Variance 9:

Requested

Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed west side yard setback is 1.21 m.

Approved

Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m. The proposed west side yard setback is **1.5 m for the first 7.96 m and the remainder setback at 1.8 m.**

Requested Variances in the Minutes of Settlement

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

The permitted maximum height of a building is 10.0 m.

The proposed building height is 10.0 m, except 10.30 m *for the front part of the roof only.*

4. Chapter 10.20.30.40.(1), By-law No. 569-2013

The permitted maximum lot coverage is 30% of the lot area.

The proposed lot coverage is 32.07% of the lot area.

8. Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed east side yard setback is 1.2m for the front 6.5m length increasing to 1.5m for the remainder of the building length.

9. Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed west side yard setback is 1.5 m.

10. The settlement of matters between parties is encouraged. However, despite the presence of a settlement proposal, which should be given great weight, the TLAB must still be satisfied that the considerations raised by provincial policy, and subsection 45(1) of the *Planning Act* (as set out below), are satisfactorily met by the settlement proposal and that the public interest is served by any settlement.

JURISDICTION

Provincial Policy – S. 3

11. A decision of the 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)

12. 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

13. The Applicant called Mr. Martin Rendl, a Registered Professional Planner, who I accepted as qualified to give professional land use planning opinion evidence. Mr. Rendl provided the sole source of viva voce evidence, without questions or clarification from the City. There was no contrary evidence presented.
14. Mr. Rendl defined his neighbourhood study area as bounded by Kenneth Avenue on the west, Empress Avenue on the north, Highgate Avenue on the east and Elmwood Avenue on the south. He stated that the properties in this study are zoned “RD – Residential Detached” and are within reasonable walking distance from the subject property.
15. Mr. Rendl testified that the neighbourhood primarily has detached two-storey houses. He noted that a great deal of investment has been occurring in the neighbourhood where the older houses are being demolished to build larger houses, which are typically two-storeyed with integral garages.

16. The current house on the subject property is a single storey building with a double garage. The proposed development is for a two-storey house with an integral garage.
17. Mr. Rendl stated that both the PPS and the Growth Plan are high level policy documents that encourage intensification. He noted that the proposed development on the subject property is consistent with both PPS and Growth Plan, as it promotes compact urban form and reinvestment in the neighbourhood.
18. Mr. Rendl opined that the requested variances individually and cumulatively comply with the four tests. He stated the following in coming to this opinion:
 - a. For variance 1 (related to the maximum permitted height), only the front portion of the proposed building will be at 10.3m height, while the remaining building will comply with the zoning by-law requirement. The increased height at the front is for aesthetic reasons and to provide visual interest at the front of the building.
 - b. For variance 4, the proposed lot coverage of 32.07% of the lot area is an improvement from the lot coverage of 32.5% of the lot area, which was approved by the COA. The Applicant attempted to accommodate the revision suggested by the City's Planning Staff in their Community Planning Report (Exhibit 1, Tab 12).
 - c. For variance 8, the COA approved a variance of an east side yard setback of 1.21m. The requested variance is an improvement where the east side yard setback for 6.5 m along the front is 1.2m and will increase to 1.5m for the remainder of the building length.
 - d. For variance 9, the requested variance for the west side yard setback of 1.5m is an improvement from the setback of 1.21m, which was before the COA, and the COA approved an amended version.
 - e. The requested variances are for a single detached two-storey dwelling which is the predominant building type in the neighbourhood. The proposed dwelling does not threaten the stability of the neighbourhood and does not set any precedent to undermine the Official Plan.
 - f. The variances are minor adjustments to the zoning by-law requirements and that produce a new house of a scale, height and character consistent with other houses in the neighbourhood and therefore fits in the neighbourhood. The new house is an appropriate form of development for the neighbourhood.
 - g. The requested variances are minor as they do not generate any adverse impact on adjacent properties. The variances do not affect the overlook granted by the windows and by the outdoor area, and therefore, there is no adverse privacy or overlook issues.

ANALYSIS, FINDINGS, REASONS

19. I have accepted Mr. Rendl's testimony in its entirety.
20. The four amended variances (1, 4, 8 and 9) are improvements from the variances before the COA. These variances are minor adjustments to the zoning by-law requirements and are for a two-storey dwelling that is compatible with the dwellings in the neighbourhood.
21. Mr. Rendl discussed the other remaining variances which were approved by the COA. I have not referred to them in detail in the "Evidence" section as they are not in contention and I was satisfied at the hearing that these variances, already approved by the COA, satisfy the four tests.
22. Based on the evidence before me and based on the submissions of the Applicant's counsel, I am satisfied that the statutory criteria including the four tests for minor variance for the requested variances are met.

DECISION AND ORDER

23. The Minutes of Settlement is approved.
24. The applications for variances as listed in Attachment 1 are approved and are subject to the following condition:

The Applicant shall build substantially in accordance with the plans and elevation drawings prepared by Peter Higgins Architect Inc. for 280 Hillcrest Avenue and dated December 6, 2018, as shown in Attachment 2.

X 

Shaheynoor Talukder
Panel Chair, Toronto Local Appeal Body
Signed by: Shaheynoor Talukder

SCHEDULE "B" – REQUESTED VARIANCES

Pursuant to the Minutes of Settlement, the parties shall jointly request that the Board approve the following variances:

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

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

The permitted maximum height of a building is 10.0 m.

The proposed building height is 10.0 m, except 10.30 m for the front part of the roof only.

2. Chapter 10.20.40.10.(2), By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m.

The proposed height of the side exterior main walls facing a side lot line is 7.95 m.

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

The permitted maximum building length is 17.0 m.

The proposed building length is 17.06 m.

4. Chapter 10.20.30.40.(1), By-law No. 569-2013

The permitted maximum lot coverage is 30% of the lot area.

The proposed lot coverage is 32.07% of the lot area.

5. Chapter 10.5.40.60.(2), By-law No. 569-2013

A canopy, awning or similar structure above a platform may encroach into a required building setback to the same extent as the platform it is covering.

The proposed front canopy encroaches beyond the platform it is covering.

6. Chapter 10.5.40.60.(7), By-law No. 569-2013

Roof eaves may encroach into a required minimum building setback a maximum of 0.9 m.

The proposed eaves encroach 1.05 m into the required minimum building east setback.

7. Chapter 10.5.40.60.(7), By-law No. 569-2013

Roof eaves may encroach into a required minimum building setback a maximum of 0.9 m.

The proposed eaves encroach 1.05 m into the required minimum building west setback.

8. Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed east side yard setback is 1.2m for the front 6.5m length increasing to 1.5m for the remainder of the building length.

9. Chapter 900.3.10.(5), By-law No. 569-2013

Despite regulation 10.20.40.70.(3), the minimum side yard setback is 1.8 m.

The proposed west side yard setback is 1.5 m.

10. Section 13.2.6, By-law No. 7625

The maximum permitted building height is 8.8 m.

The proposed building height is 8.94 m.



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
4.	JULY 23 18	ISSUED FOR COA
5.	SEPT 7 18	NEIGHBOURS PACKAGE
6.	SEPT 18 18	REVISED FOR COA
7.	SEPT 26 18	REVISED FOR COA
8.	OCT 7 18	ISSUED FOR TLAB
9.	DEC 6 18	REVISED FOR PLANNING

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.

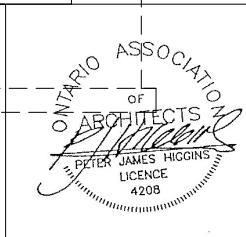
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PROJECT: PROPOSED RESIDENCE
280 HILLCREST AVE
TORONTO, ONTARIO

DRAWN BY: CS
CHECKED BY: P.J.H.
SCALE: 3/16" = 1'-0"
PROJECT NO: 18-009

DATE: APR 2018
BCIN 4208 3486
DRAWING TITLE: NORTH ELEVATION

DRAWING NO: A-7



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
4.	JULY 23 18	ISSUED FOR COA
5.	SEPT 7 18	NEIGHBOURS PACKAGE
6.	SEPT 18 18	REVISED FOR COA
7.	SEPT 26 18	REVISED FOR COA
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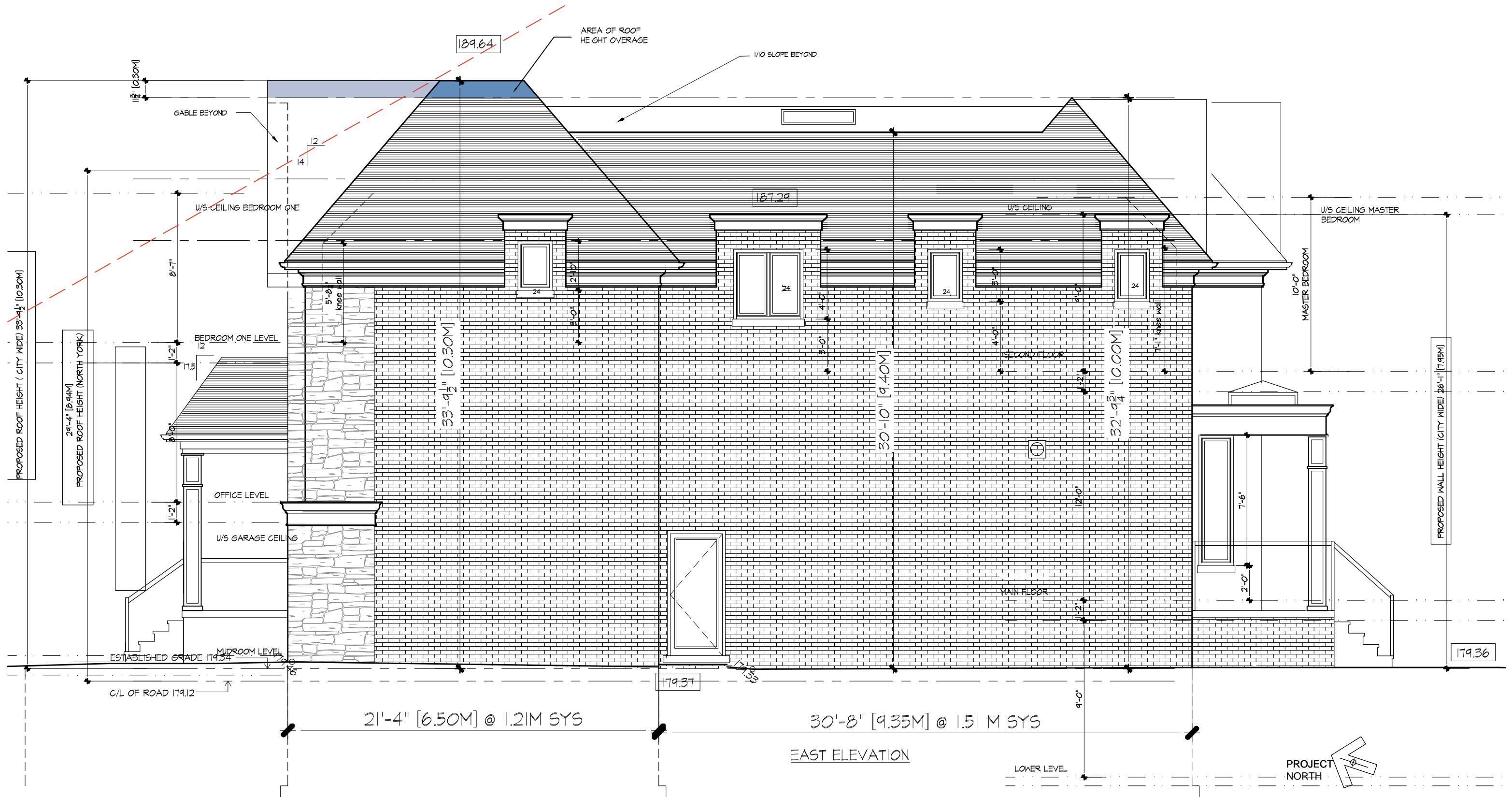
ONTARIO ASSOCIATION
OF
ARCHITECTS
PETER JAMES HIGGINS
LICENCE
4208

PROJECT: PROPOSED RESIDENCE
280 HILLCREST AVE
TORONTO, ONTARIO

APRIL 2018

DRAWN BY CS	DATE: APR 2018
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 3/16"= 1'-0"	DRAWING TITLE: WEST ELEVATION
PROJECT NO: 18-009	

DRAWING NO:
A- 8



REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
4.	JULY 23 18	ISSUED FOR COA
5.	SEPT 7 18	NEIGHBOURS PACKAGE
6.	SEPT 18 18	REVISED FOR COA
7.	SEPT 26 18	REVISED FOR COA
8.	OCT 7 18	ISSUED FOR TLAB
9.	DEC 6 18	REVISED FOR PLANNING

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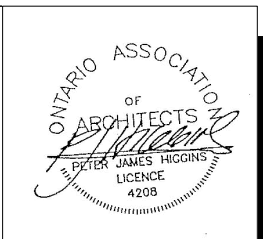
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280 HILLCREST AVE
TORONTO, ONTARIO

APRIL 2018

DRAWN BY CS	DATE: APR 2018
CHECKED BY: P.J.H.	BCIN 4208 3486
SCALE: 3/16" = 1'-0"	DRAWING TITLE: EAST ELEVATION
PROJECT NO: 18-009	

DRAWING NO:
A-9