

## DECISION AND ORDER

**Decision Issue Date** Tuesday, July 09, 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): MARIA-ANTONIA GROSSI

Applicant: ANTHONY ABATE

Property Address/Description: 24 Carousel Crt.

Committee of Adjustment Case File Number: 18 263209 NNY 15 MV (A0822/18NY)

TLAB Case File Number: 19 120034 S45 08 TLAB

**DECISION DELIVERED BY G. Burton**

### REGISTERED PARTIES AND PARTICIPANTS

NAME	ROLE	REPRESENTATIVE
ANTHONY ABATE	APPLICANT	
GINO GROSSI	PRIMARY OWNER	
MARIA-ANTONIA GROSSI	APPELLANT	AMBER STEWART
MICHAEL GOLDBERG	EXPERT WITNESS	

### INTRODUCTION

This is a Decision following a Hearing in Written form. This hearing method was approved in a Decision following a Motion brought in this appeal, dated June 18, 2019.

The subject property is zoned RD (f15.0; a550) (x5) (site specific exception RD (x5), under City Wide Zoning By-law No. 569-2013, and (R7), located in the Neighbourhood (BEECHMOUNT) (Schedule Q) in District No. (9) (Schedule A), in former North York Zoning By-law No. 7625. It is designated *Neighbourhoods* in the City of Toronto Official Plan (OP).

## **BACKGROUND**

The Committee of Adjustment (COA) hearing for this application was held on February 7, 2019. The purpose of the application as expressed by COA staff was “To construct an addition over the existing dwelling.” This required 9 variances at that time. These were refused by the COA, as usual without extensive reasons. The applicant/owner then appealed the decision to the Toronto Local Appeal Body (TLAB). Notice was issued for an oral Hearing set for July 17, 2019. Ms. Stewart, counsel to the owner, then filed a Notice of Motion seeking a written Hearing, for the reasons stated therein. She emphasized particularly that there had been changes to the application since the COA hearing, resulting mainly in reductions to the variances requested. This Motion was supported by an affidavit from Mr. Michael Goldberg, land use planner for the owner.

The TLAB’s Notice of Hearing had been sent to seven interested persons as shown in COA files. None of these appeared to have been present at the COA hearing, although two neighbours had written prior letters of objection to the COA. However, no person indicated any interest in the TLAB Hearing. Ms. Stewart had filed the Applicant’s documentary disclosure on April 12, 2019, and the Expert Witness Statement of Mr. Goldberg on April 29, 2019. Even after this, no other person sought to participate in the appeal.

## **MATTERS IN ISSUE**

The application must be judged on the usual tests for a minor variance in subsection 45(1) of the Act, as determined from the expert evidence in written form.

## **JURISDICTION**

### **Written Hearings:**

Rule 24.1 states (subject to the general rule in 24.2, which favours oral hearings):

24.1 The TLAB may hold an Oral Hearing, Electronic Hearing or Written Hearing.

There is a further procedural possibility where only an **existing Party** can object to a written hearing:

Objection to a Written Hearing

24.5 A Party who objects to a Written Hearing shall bring a Motion within 5 Days of Service of the notice of Written Hearing.

### **Respecting jurisdiction on minor variances:**

For variance appeals, the TLAB must ensure that each of the variances sought meets the tests in subsection 45(1) of the Act. This involves a reconsideration of the variances

considered by the Committee in the physical and planning context. The subsection requires a conclusion that each of the variances, individually and cumulatively:

- maintains the general intent and purpose of the official plan;
- maintains the general intent and purpose of the zoning by-law;
- is desirable for the appropriate development or use of the land, building or structure; and
- is minor.

These are usually expressed as the “four tests”, and all must be satisfied for each variance.

In addition, TLAB must have regard to matters of provincial interest as set out in section 2 of the Act, and the variances must be consistent with provincial policy statements and conform with provincial plans (s. 3 of the Act). A decision of the TLAB must therefore be consistent with the 2014 Provincial Policy Statement (PPS) and conform to (or not conflict with) any provincial plan such as the Growth Plan for the Greater Golden Horseshoe (Growth Plan or GP) for the subject area.

Under s. 2.1(1) of the Act, TLAB is also to have regard for the earlier Committee decision and the materials that were before that body.

## **EVIDENCE**

Mr. Goldberg, the expert witness for the owner, provided an Expert Witness Statement (EWS) in preparation for the Hearing. I qualify him to provide professional planning evidence, as I have done many times in the past. He has had much experience with COA applications in the Yorkdale-Glen Park neighbourhood.

His EWS was filed on April 29 in compliance with the date provided in the Notice of Hearing. Ms. Stewart had argued that this Report constitutes sufficient documentary evidence to support the application. Specifically, that his EWS and additional documents and evidence on the file demonstrate that the proposed minor variances are appropriate, and meet all of the tests under s. 45 of the Act.

The proposed reconstruction would add to the existing dwelling a 1-storey addition to both the east side (for a total of 2-storeys) and the west side (for a total of 3-storeys, including the garage level). The proposal includes installing a new elevator for access from the basement to each storey, to accommodate a family member. The addition would be in line with the existing main building walls on all levels below. There would be a new master bedroom suite on the third storey. The proposed design is similar to other architectural designs present in the broader Study Area.

The length and depth of the dwelling will remain the same, even with the addition. The existing dwelling has a length of 12.51m, significantly less than the maximum permission under both By-laws. All of the existing front, side and rear yard setbacks will remain physically the same: the variances would merely legitimize the existing conditions. The addition will result in a three-storey flat roof design, which presents as a

2-storey dwelling (based on Planning Staff's interpretation – see below). The building will have a total height of 9.64m to the top of the roof under By-law 7625, and 8.665m to the top of the roof under By-law 569-2013 (measured differently). The lot coverage will not change from the existing condition, since the proposed 1-storey addition is located entirely above and within the existing main building walls. The present front yard landscaping will remain.

The application before the TLAB has evolved since the COA decision. In his EWS Mr. Goldberg pointed to the relative lack of response from persons potentially interested in the appeal, both public and private. Community Planning had provided a report to the COA dated January 29, 2019 which recommended refusal of the requested height variances for a flat roof. They had indicated no concern with a variance for a third storey since, in the circumstances, it remains a 2-storey dwelling in appearance. The applicant complied with the suggestion to reduce the roof height at the COA, also agreeing to the condition that the proposed be constructed in accordance with the elevations submitted.

This was the extent of Planning's comments prior to the COA hearing. No other comments were received from other City departments, then or since. Mr. Goldberg affirmed that City protocol is that City staff do not comment on a COA application unless they have concerns or objections to the application. There are none here.

As mentioned in the Decision on the Motion, two letters of concern were received by the COA from area residents. One was the owner of 26 Carousel Court (immediately to the east of the subject site) and 10 Carousel Court (particularly a front yard setback). Ms. Volpentesta at 26 Carousel objected to the scale of the proposed dwelling, its height, the number of stories, the rear platform and the proposed construction materials. Philip and Adriana Grella at Number 10 mentioned these factors and added a concern about the "extremely aggressive" front yard setback requested. The latter is located six lots southwest of the subject site. No formal comments were received from the local councillor or any of the other neighbours.

As Mr. Goldberg put it, the application is to permit the construction of a 1-storey addition to the existing 2-storey split level single detached dwelling. At the COA, the variances sought were for building height (for a flat roof, under By-law 569-2013), front yard setback, rear yard setback, east side yard setback, number of storeys, size of a second storey balcony, and balcony canopy encroachment. Following comments from City Planning, some revisions were made. These constituted reductions (reduced height of flat roof, removal of rear balcony, thus eliminating two variances), as well as the addition of variances.

These additional variances are necessary because of the fact that some variances were not identified by the Zoning Examiner prior to the COA hearing. A new Zoning Notice of April 25, 2019 added variances for lot coverage (an existing shed) and for a front porch canopy. Both are present conditions, and the requested variances would merely

legitimize them. However, there is another variance requested before TLAB, for an eaves projection for the one-storey addition.

The revisions include the following:

- Reducing the total building height from 10.4m to 10.1m under By-law 7625; and from 9.425m to 9.1m under Bylaw 569-2013;
- Removing the second storey rear balcony, and thus two variances under By-law 569-2013 for the second storey rear balcony and canopy projection.

As a result, a new revised Zoning Notice was obtained. This included the three new variances: lot coverage, canopy projection for the front yard porch, and roof eaves projections for the 1-storey addition. As mentioned, the variances for lot coverage and the porch encroachment relate to the existing condition.

Other variances requested address the front yard, rear yard and east side yard setbacks. **All of these reflect the existing position of the dwelling.** Given that the proposal is for a 1-storey addition on top of the existing building, these variances are only technically required to facilitate this.

The COA refused the minor variance application, including the modified variances. The application currently before TLAB has been amended from what the COA had refused. As mentioned, the proposed total building height would be reduced by 0.435 m under By-law 569-2013 and by 0.46 m under By-law 7625. In Mr. Goldberg's opinion, this constitutes a reduced application. Together with the eliminated variances, the amended application is in his opinion minor pursuant to subsection 45(18.1) of the Act. Thus there is no further notice required under subsection 45(18.1.1.)

The present application is for eight (8) minor variances from By-law 569-2013, and two (2) variances from By-law 7625. Mr. Goldberg pointed out, again, that 5 of the variances to By-law 569-2013 are for existing conditions. These are the variances requested:

By-law 569-2013:

1. Chapter 10.20.40.10.(4), By-law No. 569-2013

The maximum permitted building height is 7.2m.

WHEREAS the proposed building height is 8.665m.

2. Chapter 10.20.40.70.(1), By-law No. 569-2013

The minimum required front yard setback is 10.11m.

WHEREAS the proposed front yard setback is 7.73m.

3. Chapter 10.20.40.70.(2), By-law No. 569-2013

The minimum required rear yard setback is 7.50m.

WHEREAS the proposed rear yard setback is 6.97m.

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

The minimum required side yard setback is 1.80m.  
WHEREAS the proposed east side yard setback is 1.16m.

5. Chapter 10.20.40.10.(3), By-law No. 569-2013  
The maximum number of storeys permitted is two (2).  
WHEREAS the proposed number of storeys is three (3).

6. Chapter 10.20.30.40.(1)(A), By-law No. 569-2013  
The permitted maximum lot coverage is 35 percent of the lot area:  
172.165 square metres.  
WHEREAS the proposed lot coverage is 35.5 percent of the lot  
area: 174.394 square metres.

7. Chapter 10.5.40.60.(2)(A)(i), By-law No. 569-2013  
A canopy above a platform (front porch) may encroach same as a  
platform which is 2.5 metres in the front yard setback and no closer  
to a side lot line than the required side yard setback of 1.8 m.  
WHEREAS the proposed canopy beyond the front porch by 0.3  
metres encroaches 3.28 metres into the required front yard setback  
and is 0.27 metres closer to the side lot line than the required  
setback.

8. Chapter 10.5.40.60.(7), By-law No. 569-2013  
Roof eaves may project a maximum of 0.9 metres provided that  
they are no closer than 0.30 metres to a lot line.  
WHEREAS the proposed eaves project 0.94 metres and are 0.27  
metres from the east side lot line.  
By-law 7625

9. Section 14.2.6, By-law No. 7625  
The maximum permitted building height is 8.80m.  
WHEREAS the proposed building height is 9.64m.

10. Section 14.2.6, By-law No. 7625  
The maximum number of storeys permitted is two (2).  
WHEREAS the proposed number of storeys is three (3).

Mr. Goldberg chose his Study Area as the Yorkdale-Glen Park Neighbourhood,  
generally south of Lawrence Avenue West and west of Marlee Avenue. The subject site  
is located south of Lawrence, about 350m east of Dufferin Street and 350m west of  
Marlee Avenue. Carousel Court is a curving cul-de-sac (north then east), and the  
subject site is located on the northern portion, approximately one house west of where  
the cul-de-sac bulb begins. Carousel Court is accessed from Wenderly Drive, which  
runs in an east/west direction between Dufferin Street and Marlee Avenue.

This area of the former City of North York was originally established in the late 1940s and 1950s, with a second wave in the 1960s and 1970s. There is now a mix of bungalows and two storey detached dwellings on relatively large lots. More recent reinvestment has been in the form of additions and replacement dwellings. These usually have different built forms: larger, higher, and longer than older dwellings. Most have front facing, integral 1- and 2-car garages.

Mr. Goldberg prepared an Area Context Plan and a Photo exhibit (EWS, Attachments 2 and 3) to explain the immediate and broader area Study Area. Surrounding the site is a mix of single detached dwellings of 1960s and 1970s vintage. Properties are well maintained and landscaped. By comparison with the other dwellings in the immediate and broader Study Area, as seen in the photos, the height, massing and vernacular of the proposed dwelling are very similar to, and in keeping with, other existing and replacement dwellings in the Study Area.

The subject property has a frontage of approximately 15.2m, is between 32.88m and 26.51m in depth, with an area of approximately 490 sq. m, in a slight pie-shape. It has a curved front lot line (due to proximity to the cul-de-sac bulb to the east). It is improved with an existing 2-storey side split, with the west side being 2 storeys with 1 storey of living space above. Planning staff have interpreted this to mean that the existing dwelling is only a 2-storey dwelling. Its height is 6.62m, less than the maximum permitted height of 8.8 m under the North York Zoning Bylaw 7625, which would have been in force at the time of construction. By-law 7625 measures height from the centre line of the road to the mid-point of the roof, while By-law 569-2013 measures it from established grade to the top of the roof. In addition, By-law 569-2013 restricts the maximum permitted height of a flat roof to 7.2 m, although this provision of the By-law has been sent back to City staff for further review.

In Mr. Goldberg's opinion, the scale of existing replacement dwellings in the neighbourhood reflects that this large residential lot is under-utilized at present. There are no physical constraints on the redevelopment of the site for its intended purpose.

### **Provincial Policies**

In Mr. Goldberg's opinion, this application is a local planning matter which does not have Provincial policy implications. The proposal will permit modest intensification within the built-up area, and will provide for more efficient and compact use of an existing site and infrastructure, which are provincial objectives. The subject property is more optimally developed as proposed. To the extent applicable here, the proposal is consistent with the PPS 2014 and conforms with the Growth Plan 2017.

### **Official Plan**

This application predated the approval of OPA 320 to the OP, so Mr. Goldberg considered it based on the prior OP policies, although he took into account the intent of the OPA in evaluating the proposal.

His entire Study Area here is designated *Neighbourhoods*. By Policy 2.3.1, Stable But Not Static, Enhancing Our Neighbourhoods and Green Spaces, Healthy Neighbourhoods: included here are a number of planning principles and OP objectives, including: • "...preserving the shape and feel of our neighbourhoods." This application "plugs into" a dynamic of change in this neighbourhood. The proposal is of similar character and scale as many other replacement dwellings and additions here. • "...these neighbourhoods will not stay frozen in time." This clearly implies that change is contemplated and that the appearance of the neighbourhood will change, without reflecting the same character that currently exists. This is in fact occurring in the Study Area with the redevelopment of other large 2-storey dwellings as replacement dwellings here. "Some physical change will occur over time as enhancements, additions and infill housing occurs on individual sites." That is what is proposed on the subject site.

"A cornerstone policy is to ensure that new development in our neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood." To respect does not require sameness, he stated, but requires respect for the existing **physical character** of the area. The proposal will be an addition to the existing dwelling that will fit compatibly with the mix of architectural styles, roof lines, integral garages, parking solutions, landscaped areas and standards utilized by many existing original and replacement dwellings here.

Respecting Policy 3.1.2.1 (a – d), Built Form – "New development will be located and organized to fit with its existing and/or planned context. It will frame and support adjacent streets, parks and open spaces to improve the safety, pedestrian interest and casual views to these spaces from development by: ..." His evidence was that the proposal is a good fit with both its existing and planned context, being a 1-storey addition to a single detached dwelling where that is a permitted use in the OP and zoning, and commonly exists in the Study Area. It is employing standards which are common to this neighbourhood. While the proposal is seeking variances related to front, rear, and east side yard setbacks, these variances reflect the existing built form condition and are as such, merely technical. The proposal is also not seeking any minor variances for front yard soft landscaping, or building length and depth. As such, the character of this proposal as seen from the street is in keeping with and a good fit within this overall neighbourhood.

(In a Sidebar): Exterior Design – Character Scale and Appearance - "The façade is the exterior parts of a building visible to the public, and its exterior design contributes to a more beautiful and engaging Toronto. The exterior design of a façade is the form, scale, proportion, pattern and materials of building elements nearby. The harmonious relationship to a new façade to its context can be achieved with contemporary expression provided that the existing context, proportions, forms, sizes and scale are fully respected and appropriate materials are used. *A new façade need not be a simple replication of adjacent building facades.*" (emphasis added). This passage from the OP supports the notion that contemporary design can be designed to fit in, as is evidenced by the existing contemporary dwellings and approvals in the Study Area. The OP



does not control architectural style, and this sidebar is evidence in part of this. Difference in building style and standards can exist without offending the concept of “respecting” the existing context, proportions, forms, sizes and scale. While the proposed addition to the dwelling is of a very similar architectural expression to what already exists in the Study Area today, there are also many differences there. This is evidenced by the existing and the planned context (i.e. what is planned for this neighbourhood) through the OP and zoning.

Respecting Policy 4.1, Development Criteria in Neighbourhoods: “While communities experience constant social and demographic change, the general physical character of Toronto’s residential Neighbourhoods endures. Physical changes to our established Neighbourhoods must be sensitive, gradual and generally “fit” the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a Neighbourhood.”

As Mr. Goldberg explained, relating to the area context, the proposal fits well with the general physical character of the Neighbourhood/Study Area. While there are differences that exist, the proposed addition is similar to other contemporary dwellings nearby, and generally fits the existing physical character of the neighbourhood.

Development Criteria, Policy 4.1.5 : “Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- c) heights, massing, scale and dwelling type of nearby residential properties;...
- e) setbacks of buildings from the street or streets;...
- f) prevailing patterns of rear and side yard setbacks and landscaped open space;...

No change will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood.”

The planning concept of “respect and reinforce” does not imply sameness, but speaks to a recognition of the general character elements and scale, as set out in Policy 4.1.5:

- c) Height, Massing and Scale - The variances to overall height here are moderate and similar to other replacement dwellings in the Study Area. To the extent that height contributes to the massing and scale of the dwelling, the difference is in keeping with the heights found in other replacement dwellings nearby.

The building height standard of By-law 569-2013 for flats roofs remains under study by City staff, and is therefore subject to potential change. By-law 7625 permits a maximum building height of 8.0m for a flat roof, and a reduction of 0.8m from the mid-point of a roof for a peaked roof. By-law 569-2013 reduced the maximum permitted height from 10m to the peak, to 7.2m to the top of a flat roof. This represents a reduction of 2.8m, which is significantly greater than 0.8m under By-law 7625. Upon appeal, By-law 569-2013 was found to have been overly restrictive here for the flat roof height requirement, and this provision was sent back to the City for further review.

Thus By-law 7625 provides for greater height variations between buildings due to the mid-point calculation, which varies based on different roof types. As shown on the COA Decision Analysis, there have been variances granted for maximum permitted height under By-law 7625. Planning Staff noted in their original comments to the COA (January 29, 2018) that they did not support the originally requested overall building height variances at 9.245m under By-law 569-2013, and 10.4m under By-law 4625. They recommended refusal of these heights unless reduced. However, they appear to support the amended proposed overall building heights of 8.665m and 9.64m. Staff expressed no objections to the remaining variances requested.

Both zoning By-laws restrict the number of storeys here to two. The existing dwelling is a split level, which results in the garage level being counted as a storey. However, as noted in the staff comments, while the proposed addition will result in two levels of living space above the garage, it will continue to present as a two storey dwelling on the streetscape. In addition, the present height of the first floor will be maintained.

(Policy 4.1.5 continued...)

e) setbacks: Other built form elements which assist in defining the character of the neighbourhood, such as setbacks, will remain the same. Therefore a key element of the neighbourhood will be maintained. As mentioned, the proposed front yard setback reflects the existing built form. There is no variance for front yard soft landscape open space. As noted in Mr. Goldberg's COA Decision Analysis, side yard setback variances are common here. The rear yard setback is 6.97m for the eastern-most portion of the lot, and represents the existing condition. The east side yard setback of 1.16m is also an existing condition, and results from the lot's pie shape.

The required minor variance for the roof eaves projection on the east side is a result of the existing east side yard setback being deficient. This is also technical in nature, as it relates to an existing condition. In addition, the roof eaves project only 4cm more than the maximum, and encroach only an additional 3cm into the side yard setback. These encroachments are minor in nature.

Other Projections and Encroachments: The required variance for a canopy encroachment at the front porch is an existing condition. No change is being proposed to either the porch or the canopy. A new flat canopy is proposed over the porch due to the demolition of the existing roof over the porch, to facilitate the 1-storey addition above. No variance is required for it.

Lot Coverage: The maximum permitted lot coverage in By-law 7625 is 35%. The proposed addition does not add additional coverage. The required variance for a lot coverage of 35.5% is a minor increase over the maximum permitted. It also reflects the existing condition (a shed adds coverage), and is therefore a technical in nature.

In Mr. Goldberg's opinion, the subject proposal conforms with the provisions of Policy 4.1.5 of the OP.

Policy 4.1.8 – “Zoning by-laws will contain numeric site standards, for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building setbacks from lot lines, landscaped open space and other performance standards to ensure that new development will be compatible with the physical character of established residential Neighbourhoods.”

The planning concept of “compatible” has been expressed for decades by planners, the OMB/LPAT and the TLAB as creating a building project that is not necessarily the same as, or not necessarily even similar to, yet is capable of co-existing in harmony with its immediate and broader environment. Mr. Goldberg testified via his EWS that he agrees with this planning notion of compatible. Expressed differently, in a highly urban environment, compatibility does not demand sameness, and differences do not create incompatibility. The subject Study Area is a good example of this, where differences co-exist in harmony throughout without creating adverse planning impacts or incompatibilities. The same applies to the subject application. The variances as proposed will result in a compatible building project in this context.

In his opinion, having reviewed the plans before the TLAB and the variances, both individually and cumulatively, he is satisfied that the general intent and purpose of the OP is maintained.

Respecting OPA 320, it amended various sections of the OP, including some narrative paragraphs and policies of the Neighbourhoods section. This application preceded its approval, but since OPA 320 is now in force and effect, it is his opinion that he should have regard for it. This is despite the “Clergy principle” that determined that only the policies in effect as of the date of the application apply to it.

Even considering OPA 320’s new concept of “Geographic Neighbourhood,” the Study Area within which a minor variance application is intended to be evaluated, he concluded that the remainder of his analysis as set out in his EWS remains unaltered.

### **General Intent and Purpose of the Zoning By-law**

Mr. Goldberg’s opinion is that the general intent and purpose of a zoning By-law is to identify permitted uses, together with performance standards which, once applied to a building or property, will result in a development which:

- implements the Official Plan;
- will not give rise to adverse planning impacts on the immediate or broader neighbourhood; and
- results in a building compatible with the subject land and neighbouring developments.

In his opinion and for the many reasons given, he is satisfied that the general intent and purpose of the zoning By-laws here has been satisfied. Both individually and cumulatively, the variances maintain the general intent and purpose of the zoning By-laws.

They are also minor, the third test. The order of magnitude is numerically minor. Nor do they give rise to adverse planning impacts, another factor in the assessment. Therefore he is satisfied that this application should be considered minor.

The last test is desirability for the appropriate development of the land. This is clearly met here. The subject proposal is reinvestment on this property, with a 1-storey addition to the existing detached dwelling. It more fully utilizes the zoning permissions and the capability of the site here. The size, scale and standards applied to this proposal are appropriate. Such reinvestment is compatible with the neighbourhood and adjacent properties. It will contribute to the ongoing stability of this neighbourhood for grade related, low rise dwellings. There is no adverse impact arising from the approval.

From his COA Decision Analysis Mr. Goldberg concluded that numerically, the subject proposal and minor variances are within the range of other approvals within the Study Area. There have been approvals for heights that exceed the maximum permission under By-law 7625, and reductions in the minimum required side yard setbacks. While the quantitative information of the COA decisions is helpful for his planning analysis here, the more important and reliable analysis is in his view the qualitative analysis. In other words, the setbacks, and how the dwelling presently sits on the lot, are of greater importance to determine its fit within the overall character of the neighbourhood.

His conclusion is that the type, style, scale of the proposed addition and number of storeys are in keeping with the character of the neighbourhood.

## **ANALYSIS, FINDINGS, REASONS**

As mentioned in the Decision on the Motion, it is not a given that interested persons will request formal participation in TLAB appeals. Here, however, both persons who objected to the proposal before the COA received notice of their right to participate, and neither did. Because it is my view that the changes requested to the application are indeed minor, no further notice is required. This is especially so where no other person sought either Party of Participant status in this appeal. The TLAB has the power to accept alterations to an application, if the changes are minor [subsection 45(18.1.1) of the Act.

I am satisfied that the addition of variances to legitimize existing features of the dwelling is indeed a minor change to the application so that no further notice is required, as provided in subsection 45(18.1.1). The reductions actually favour the views of the neighbours. No one will have been misled or further prejudiced.

Updated variances and proposed plans have been filed.

I note that the neighbours' letters to the COA before its hearing were remarkably similar in content. Even the type appears identical. While this is not objectionable per se, it is also not adding a great deal of weight to the evidence before the TLAB. I consider that the majority of the neighbours' issues have now been resolved by the alterations: height

reduced, balconies deleted, appearance as only a 2-storey structure, etc. As Mr. Goldberg testified, the variances requested for the front yard, rear yard and east side yard setbacks all merely legitimize the position of the existing dwelling. Its present location and setbacks would not change. Given that the proposal is for a 1-storey addition on top of the existing building, these minor variances are only technically required to facilitate the proposed addition. This is the answer to the neighbours' concerns. No extensions from the existing structure are proposed.

As mentioned, Planning staff do not object to the proposal, as it produces only a technical 3-storey dwelling. Here, the garage level is interpreted to be a storey, and the addition will result in two levels of living space above the existing garage. This is only a technical matter, in how the front elevation of the existing building will present to the streetscape with the new 1-storey addition. The building will indeed be categorized as a 3-storey dwelling, but will maintain the aesthetic of only a 2-storey dwelling, as Planning staff noted. This does not create undesirable precedent as the neighbours feared. It merely creates a factor which needs to be considered for each application, since each must be reviewed on its own merits. I agree with Mr. Goldberg's opinion that planning emphasis should be placed on a qualitative review of the individual circumstances, with less weight on how the numbers of storeys are classified/counted for a dwelling. The City also expressed no interest in this appeal.

Given that the application has been further improved since it was before the Committee, and based on the foregoing, I am satisfied that the residents' concerns that were submitted to the Committee have been appropriately addressed. I studied the street carefully in doing a site inspection. I cannot agree with the neighbours at No.10 that the front yard setback is too great. There is no uniform line of setbacks because of the curvature in the street. In any event it will not change.

## **DECISION AND ORDER**

The Appeal is granted, and the variances in Attachment 1 are approved, subject to the following condition:

1. The proposed dwelling shall be constructed with the Site Plan dated April 24, 2019, and the Elevations dated March 26, 2019 prepared by Westworks Design and Project Management Inc.

## **ATTACHMENT 1**

1. Chapter 10.20.40.10.(4)

The proposed building height is 8.665m, WHEREAS the maximum permitted building height is 7.2m.

2. Chapter 10.20.40.70.(1)

The proposed front yard setback is 7.73m, WHEREAS the minimum required front yard setback is 10.70m.

3. Chapter 10.20.40.70.(2)

The proposed rear yard setback is 6.97m, WHEREAS the minimum required rear yard setback is 7.50m.

4. Chapter 900.3.10.(5)

The proposed east side yard setback is 1.16m, WHEREAS the minimum required side yard setback is 1.80m.

5. Chapter 10.20.40.10.(3)

The proposed number of storeys is 3, WHEREAS the maximum permitted number of storeys is 2.

6. Chapter 10.5.40.60.(2)

The proposed canopy is beyond the front porch by 0.3m, encroaches 3.28m into the required front yard setback and is 0.27m closer to the side lot line than the required setback, WHEREAS a canopy above platform (front porch) may encroach same as a platform which is 2.5m in the front yard setback and no closer to a side lot line than the required side yard setback (1.8m).

7. Chapter 10.5.40.60.(7)

The proposed eaves project 0.94m and are 0.27m from the east side lot line, WHEREAS roof eaves may project a maximum of 0.9m provided that they are not closer than 0.3m to a lot line.

8. Chapter 10.20.30.40.(1)

The proposed lot coverage is 35.5% of the lot area (174.394m<sup>2</sup>), WHEREAS the permitted maximum lot coverage is 35% of the lot area (172.165m<sup>2</sup>).

9. Section 14.2.6

The proposed building height is 9.64m, WHEREAS the maximum permitted building height is 8.0m.

10. Chapter 14.2.6

The proposed number of storeys is 3, WHEREAS the maximum permitted number of storeys is 2.

**ATTACHMENT 2 - PLANS**

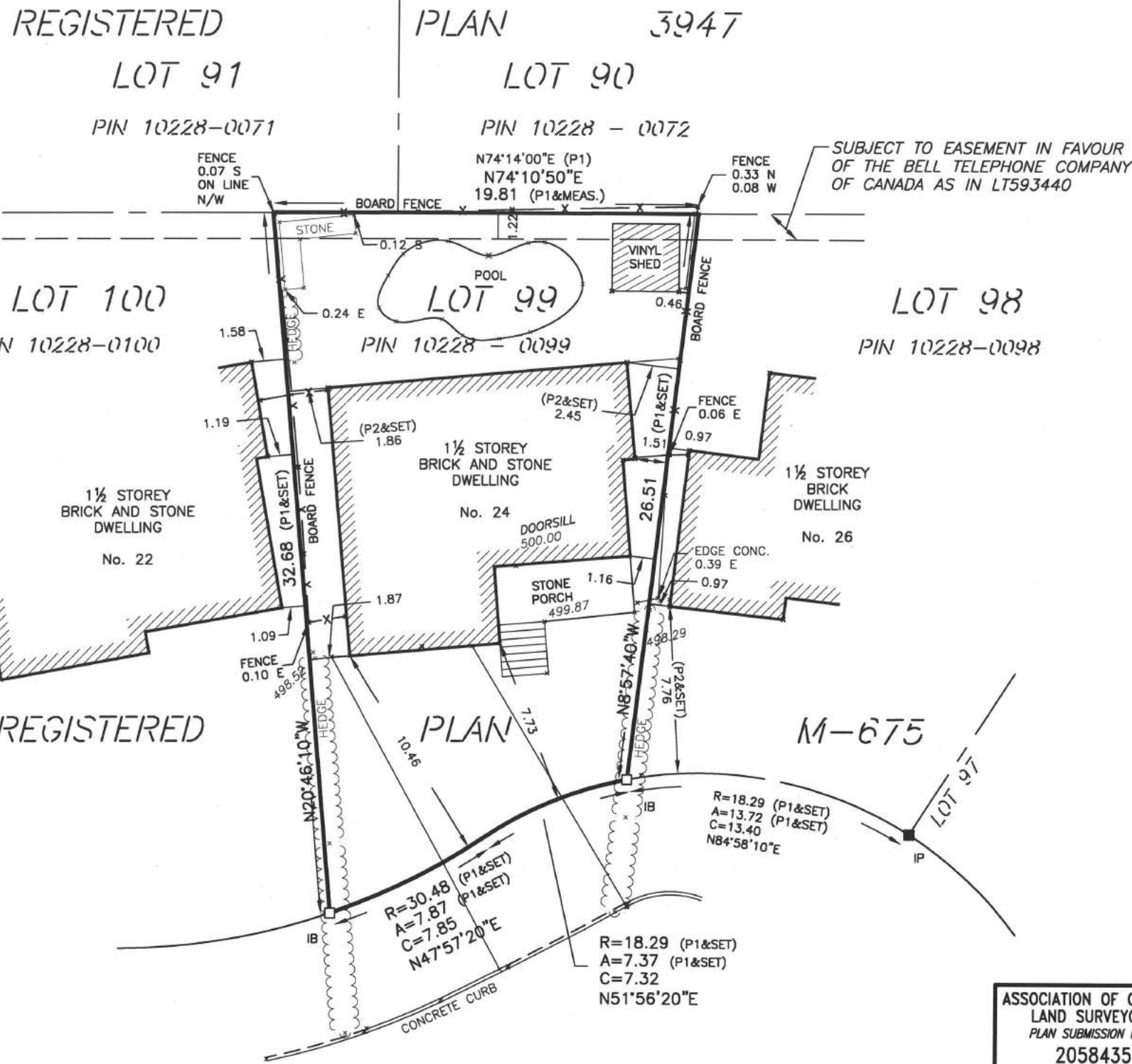
X 

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G. Burton

Panel Chair, Toronto Local Appeal Body

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



**SURVEYOR'S REAL PROPERTY REPORT**  
**PLAN OF SURVEY OF**  
**LOT 99**  
**REGISTERED PLAN M-675**  
**CITY OF TORONTO**

SCALE 1 : 250

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**REPORT SUMMARY**  
**PROPERTY DESCRIPTION:** 24 CAROUSEL COURT, BEING LOT 99, REGISTERED PLAN M-675, CITY OF TORONTO, PIN 10228-0099.  
**SUBJECT TO EASEMENT IN FAVOUR OF THE BELL TELEPHONE COMPANY OF CANADA AS IN LT593440.**  
**COMMENTS:** NOTE LOCATION OF FENCES.

**NOTES**  
 BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE WESTERLY LIMIT OF LOT 99 AS SHOWN ON PLAN M-675, HAVING A BEARING OF N20°46'10\"/>

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT PLANTED
- IB DENOTES IRON BAR
- IP DENOTES IRON PIPE
- P1 DENOTES REGISTERED PLAN M-675
- P2 DENOTES F.SCHAEFFER & ASSOCIATES O.L.S., MAY 23, 1959.

**PREPARED FOR:**  
 THIS REPORT WAS PREPARED FOR MARIA GROSSI AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES.

**SURVEYOR'S CERTIFICATE**  
 I CERTIFY THAT :  
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.  
 2. THE SURVEY WAS COMPLETED ON JULY 23, 2018.

AUGUST 24, 2018  
 DATE \_\_\_\_\_  
 BORYS KUBICKI  
 ONTARIO LAND SURVEYOR

**CAROUSEL COURT**  
 (BY REGISTERED PLAN M-675)  
 PIN 10228 - 0141

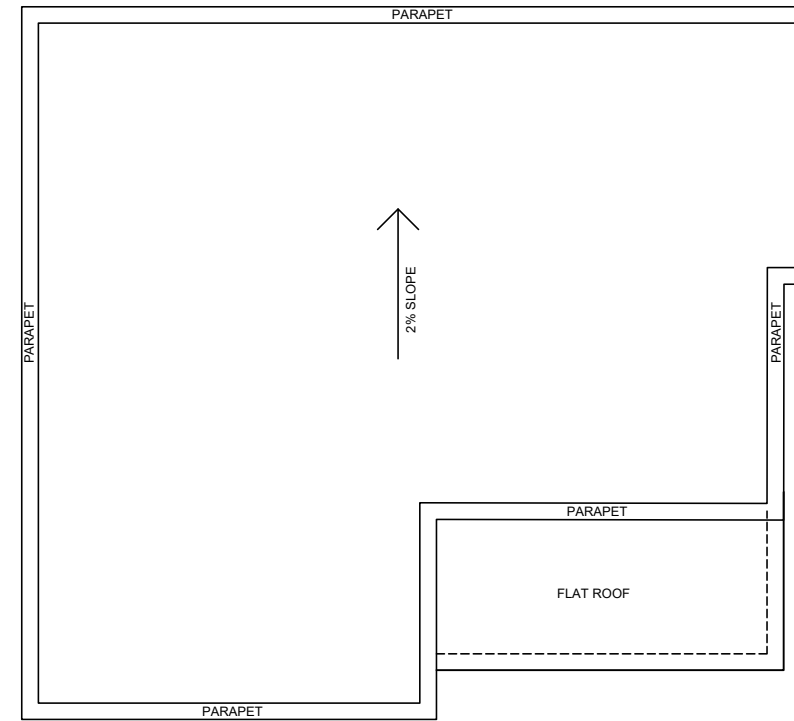
ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2058435  
  
 THIS PLAN IS NOT VALID  
 UNLESS IT IS AN EMBOSSED  
 ORIGINAL COPY  
 ISSUED BY THE SURVEYOR  
 In accordance with  
 Regulation 1026, Section 29(3)

**TARASICK McMILLAN KUBICKI LIMITED**  
 ONTARIO LAND SURVEYORS  
 4181 SLADEVIEW CRESCENT, UNIT 42, MISSISSAUGA, ONTARIO L5L 5R2  
 TEL: (905) 569-8849 FAX: (905) 569-3160  
 E-MAIL: office@tmksurveyors.com  
 DRAWN BY: M.D. FILE No. 7929-SRPR






**EXISTING  
FRONT ELEVATION  
N.T.S.**



**ROOF PLAN  
N.T.S.**



APPLICANT'S INFORMATION



**WESTWORKS**  
Design and Project Management Inc.

Anthony Abate  
111 Regina Road, Unit 10  
Woodbridge, Ontario. L4L 8N5  
(416) 564-6382  
www.westworksdesign.ca

CONTRACTOR SHALL CHECK ALL DIMENSIONS AND ELEVATIONS BEFORE COMMENCING WITH WORK AND REPORT ANY DISCREPANCIES TO THE DESIGNER. PRINTS ARE NOT TO BE SCALED.

**REVISIONS**

1.	Revised for TLAB submission	03/26/19
2.		
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OWNER'S INFORMATION

**MARIA GROSSI**  
24 CAROUSEL COURT  
TORONTO, ONTARIO

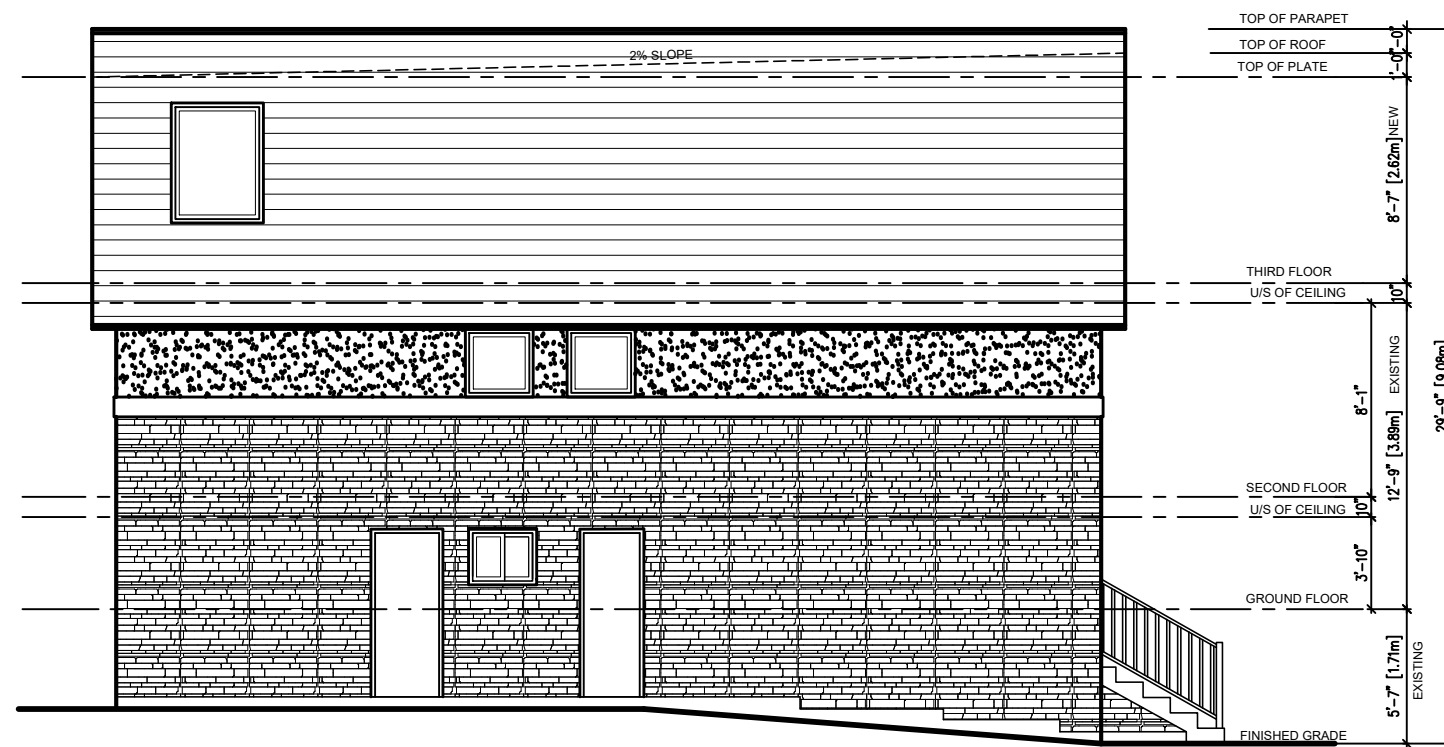
PROJECT NAME

**PROPOSED RENOVATION  
24 CAROUSEL COURT  
TORONTO, ONTARIO**

SHEET TITLE

**FRONT ELEVATION**

SCALE	BY	AREA	PAGE No.
1/8"=1'-0"	AA		5
DATE	TYPE	PROJECT	
OCT 2018	S.F.D	03-07-10	



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OWNER'S INFORMATION

MARIA GROSSI  
24 CAROUSEL COURT  
TORONTO, ONTARIO

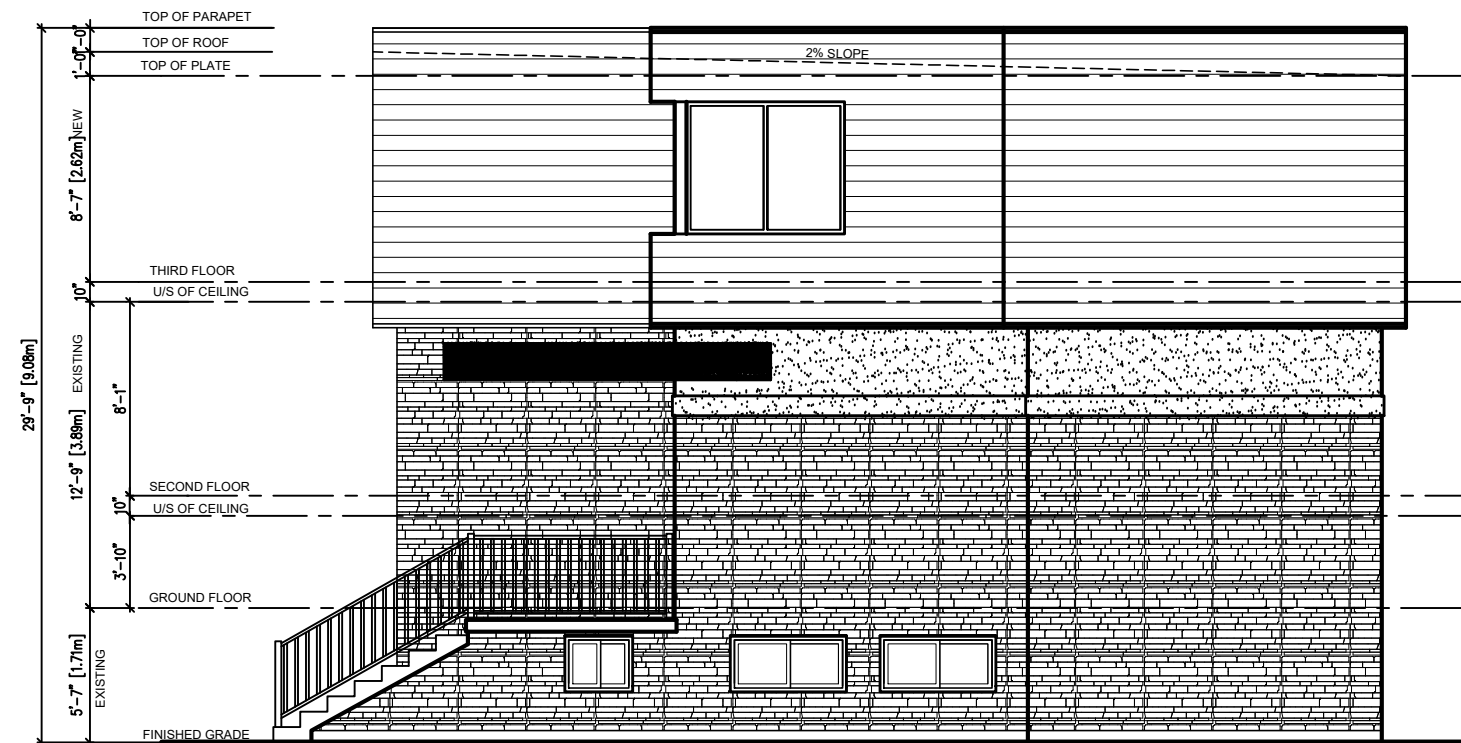
PROJECT NAME

PROPOSED RENOVATION  
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TORONTO, ONTARIO

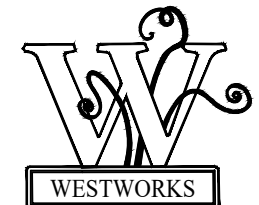
SHEET TITLE

LEFT SIDE ELEVATION

SCALE	BY	AREA	PAGE No.
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DATE	TYPE	PROJECT	
OCT 2018	S.F.D	03-07-10	



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OWNER'S INFORMATION

MARIA GROSSI  
 24 CAROUSEL COURT  
 TORONTO, ONTARIO

PROJECT NAME

PROPOSED RENOVATION  
 24 CAROUSEL COURT  
 TORONTO, ONTARIO

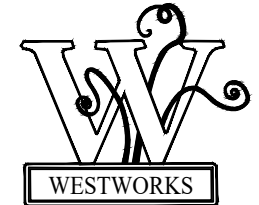
SHEET TITLE

RIGHT SIDE ELEVATION

SCALE	BY	AREA	PAGE No.
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DATE	TYPE	PROJECT	
OCT 2018	S.F.D	03-07-10	



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OWNER'S INFORMATION

MARIA GROSSI  
24 CAROUSEL COURT  
TORONTO, ONTARIO

PROJECT NAME

PROPOSED RENOVATION  
24 CAROUSEL COURT  
TORONTO, ONTARIO

SHEET TITLE

REAR ELEVATION

SCALE	BY	AREA	PAGE No.
1/8"=1'-0"	AA		8
DATE	TYPE	PROJECT	
OCT 2018	S.F.D	03-07-10	