

DECISION AND ORDER

Decision Issue Date Monday, July 08, 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): CITY OF TORONTO

Applicant: SOL-ARCH

Property Address/Description: 197 ELMWOOD AVE

Committee of Adjustment Case File: 19 107807 NNY 18 MV

TLAB Case File Number: 19 137720 S45 18 TLAB

Teleconference date: Friday, June 21, 2019

DECISION DELIVERED BY J. TASSIOPOULOS

APPEARANCES

NAME	ROLE	REPRESENTATIVE
HENRY LEE	OWNER	
SOL-ARCH	APPLICANT	
CITY OF TORONTO	APPELLANT (CITY)	MICHAEL MAHONEY

INTRODUCTION AND BACKGROUND

This was a Settlement Hearing before the Toronto Local Appeal Body (TLAB), held by teleconference call, with respect to the City's appeal of minor variances approved by the Committee of Adjustment (Committee). The teleconference settlement hearing was requested on the consent of the City, the Appellant, and Mr. Henry Lee, the Owner of 197 Elmwood Avenue.

It was disclosed by the TLAB Panel Member that he had visited the site prior to and in preparation of the hearing.

On March 21, 2019, the Committee approved variances to permit a second storey addition to the existing dwelling and a two-storey rear addition at 197 Elmwood Avenue. Among the variances approved by the Committee was an increase to the permitted lot coverage from the zoning by-law required 30% to 39.1% lot coverage. Following the Committee's approval of the variances, the decision was appealed to the TLAB by the City on April 9, 2019.

Subsequently, both the Applicant and the Appellant engaged in settlement discussions and reached an agreement in December 2018 on the revised plans dated November 29, 2018 (Exhibit 2a). Subsequently, the City and the Owner engaged in settlement discussions which resulted in the Owner submitting revised plans dated May 21, 2019 (Attachment 1). The revised plans provided for a reduction in the requested variance for lot coverage to 35% from 39.1%.

These revised plans were submitted to the City for a Zoning Certificate Review to confirm the revised variance. This was indicated in the Zoning Notice that was a Notice issued by the zoning examiner on June 3, 2019 and identifies the variances required to develop the property according to the revised plans and confirms that they reflect the terms on which the settlement was reached.

The TLAB Panel Member requested that the Parties submit the settlement terms that were agreed to for consideration in this decision. The revised variances, requested for approval by both Parties in Attachment 1, reflect the revised plans dated May 21, 2019 included as Attachment 2, hereto.

MATTERS IN ISSUE

The Parties entered into Settlement discussions which resulted in changes to the plans and a revised set of variances. Of particular interest to the City, the Appellant, was the reduction of lot coverage from 39.1% to 35%. The matter at issue is whether the proposed revised variances, resulting from the June 3, 2019 zoning notice, meet the applicable tests of Section 45(1) of the Planning Act.

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 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

Mr. Mahoney and Mr. Lee both confirmed that the matter had been settled and that terms of settlement had been agreed to. Given that the matter had been settled, that both Parties agreed to the revised variances, and that the variance concerning lot coverage had been addressed, no other evidence was provided in this matter.

ANALYSIS, FINDINGS, REASONS

As per my request, following the teleconference hearing, Mr. Mahoney submitted the terms of settlement by email to the TLAB and copied Mr. Lee in the afternoon of June 21, 2019. TLAB staff reported to the Panel Member, via e-mail, that they had confirmed with Mr. Lee that he was in agreement with the terms as well.

While there was no professional evidence provided to the TLAB, I am satisfied upon review of the file that there are no outstanding issues of a planning nature that have not been addressed. The TLAB is satisfied that the revised variances meet the applicable provincial policy and tests, the latter set out in Section 45(1) of the Planning Act, and above. I accept that the revised variances are minor from the Application that was before and approved by the Committee. No further notice or consideration is required under s. 45 (18 1.1) of the Planning Act of the revised application.

DECISION AND ORDER

The TLAB allows the appeal in part. The following variances indicated as 'proposed' in Attachment 1 are approved, and the proposed dwelling is to be constructed substantially in accordance with the revised plans dated May 21, 2019 provided in Attachment 2. Any variances not identified in this decision that are required and as may appear on the plans referenced are expressly not authorized.

X

John Tassiopoulos
Panel Chair, Toronto Local Appeal Body



ATTACHMENT 1

1. **Chapter 10.20.30.40.(1), By-law No. 569-2013**
The permitted maximum lot coverage is 30 percent of the lot area: 91.67 square metres.
The proposed lot coverage is 35 percent of the lot area: 106.89 square metres.
2. **Chapter 10.5.40.60.(1), By-law No. 569-2013**
A platform without main walls, attached to or less than 0.3 metres from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required front yard setback 2.5 metres if it is no closer to a side lot line than the required side yard setback. The proposed platform encroaches 0.31 metres into the required front yard setback and is 0.76 metres from the West side lot line.
3. **Chapter 10.5.40.60.(2), By-law No. 569-2013**
A roof, canopy, awning or similar structure above a platform meeting the requirements of regulation 10.5.40.60(1) may encroach into a required minimum building setback to the same extent as the platform it is covering. The proposed platform does not meet regulation 10.5.40.60(1).
4. **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 metres.
The proposed height of the side exterior main walls facing a side lot line is 7.89 metres.
5. **Chapter 10.20.40.10.(3), By-law No. 569-2013**
The permitted maximum number of storeys is 2.
The proposed number of storeys is 3.
6. **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.
The proposed eaves project 0.41 metres and are 0.03 metres from the East lot line.
7. **Chapter 10.5.50.10.(1), By-law No. 569-2013**
On a lot with a detached house, semi-detached house, duplex, triplex, fourplex or townhouse, with a lot frontage of 6.0 metres to less than 15.0 metres, or a townhouse dwelling unit at least 6.0 metres wide, a minimum of 50 percent of the front yard must be landscaping: 26.4 square metres.
The proposed front yard landscaping area is 48.89 percent: 25.81 square metres.

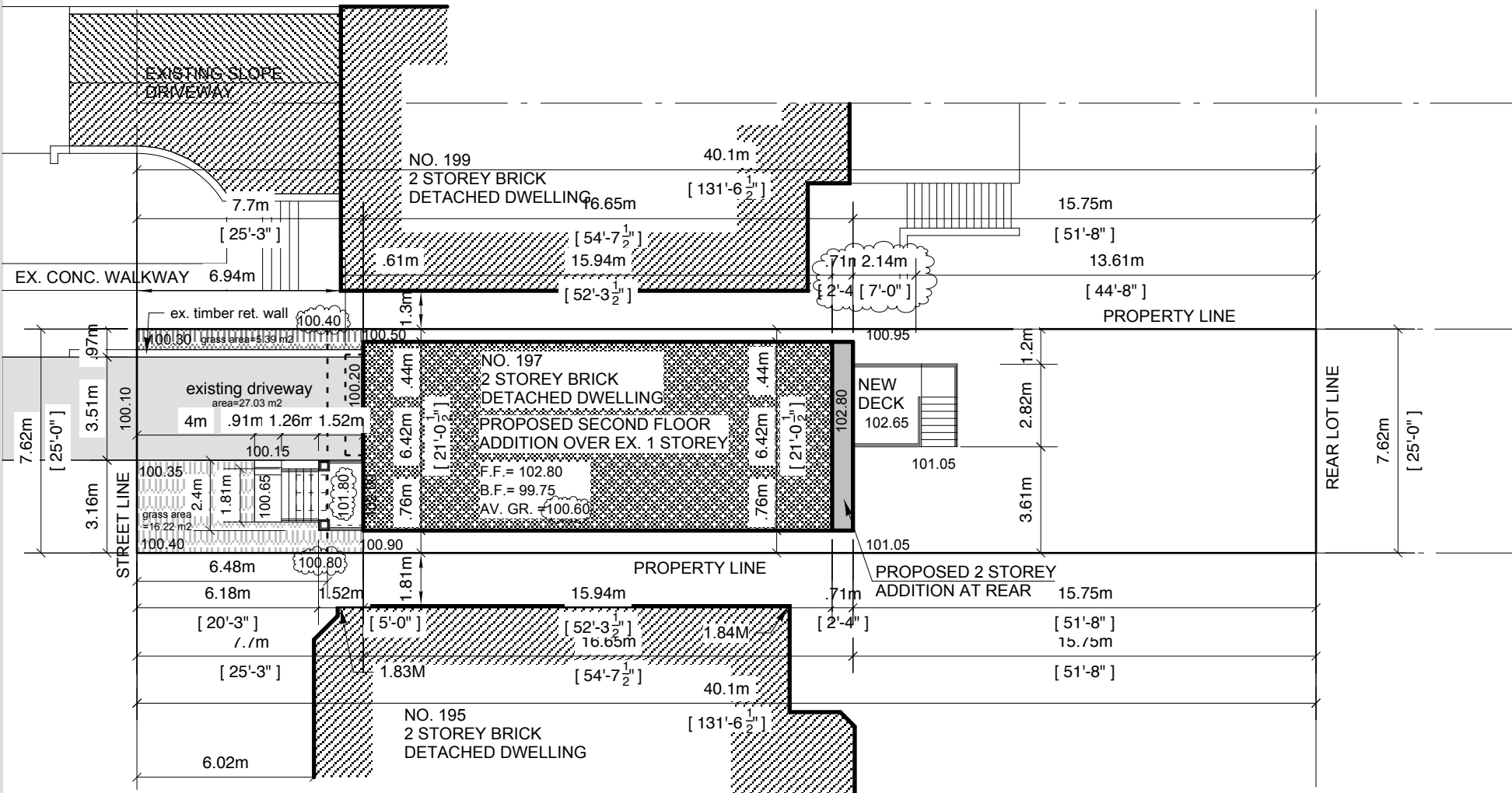
8. **Chapter 10.20.40.50.(1), By-law No. 569-2013**
The permitted maximum area of each platform at or above the second storey of a detached house is 4.0 square metres.
The proposed area of the rear platform at or above the second storey is 6 square metres. (Note: the rear deck is coming from the 2nd storey.)

9. **Section 14-A(8), North York Zoning By-law No. 7625**
The maximum permitted building height is 8.8 m.
The proposed building height is 9.57 m.

ATTACHMENT 2

LONGMORE STREET

ELMWOOD AVENUE



1 SITE PLAN
A1 SCALE: 1:200

ZONING	RD / R6	LOT FRONTAGE 25.00'	LOT DEPTH 131.54'	LOT AREA 3289.15 sf
LOT AREA		305.56 m2 [3289.15 sq ft]		
		EXISTING	ADDITION	TOTAL FLOOR AREA
GARAGE AREA		17.92 m2 [192.90 sq ft]	9.02 m2 [97.10 sq ft]	9.02 m2 [97.10 sq ft]
FIRST FLOOR		102.30 m2 [1101.23 sq ft]	4.57 m2 [49.20 sq ft]	106.87 m2 [1150.38 sq ft]
SECOND FLOOR			111.07 m2 [1195.58 sq ft]	111.07 m2 [1195.58 sq ft]
TOTAL FLOOR AREA		102.30 m2 [1101.23 sq ft]	147.67 m2 [1589.54 sq ft]	226.96 m2 [2443.06 sq ft]

zoning	RD	
lot area	305.56 m2	3289.15 SF
permitted g.f.a. 60%	183.34 m2	1973.48 SF
permitted coverage 30%	91.66 m2	986.74 SF
actual coverage 35%	106.95 m2	1151.19 SF
existing front yard	ex. 7.70 m	ex. 25.26'
required side yard setback		
proposed side yard		
east side	ex. 0.44 m new 0.44 m	ex. 1.44' new 1.44'
west side	ex. 0.76 m new 0.76 m	ex. 2.49' new 2.49'
required rear yard setback		
provided rear yard	15.75 m	51.67'
permitted height	10.00 m	32.81'
proposed height	9.74 m	31.96'

front yard area = 58.67 m2 [631.58 SF]
less ex.driveway = 27.03 m2 [290.93 SF]

total front lot landscape area = 31.64 m2 [340.58 SF]

less verandah beyond front wall, stairs = 5.93 m2 [63.83 SF]

by-law requires 33% of front yard for landscaping 58.67 x 33% = 19.36 m2 [208.41 s/f]

provided landscaped = 25.71 m2 [276.75 SF]

by-law requires 74% for soft front yard landscaping 31.64/2 = 15.82 x 75% = 11.87 m2 [127.72 SF]

provided soft landscaped = 21.61 m2 [232.62 SF]

REAR YARD CALCULATIONS
REAR YARD AREA = 120.02 M2 [1291.87 SF]
DECK ,STAIRS COVERAGE = 9.42 [101.38 SF]
PROVIDED SOFT LANDSCAPING = 110.60 M2 [92.15%]

Received by the City of Toronto
From Applicant: Henry Lee
May 21, 2019

LANE



The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 2.17.5.1 of the building code
TONY VALENTIN 20917
Name BCIN
Signature Date 12 11 18

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.4.1 of the building code
TONY VALENTIN DESIGN 28858
Firm Name BCIN

PROJECT TITLE:
ADDITIONS & ALTERATIONS TO EXISTING DWELLING

DRAWING TITLE:
SITE PLAN & STATISTICS

ADDRESS:
HENRY LEE & SUN HYUN KIM RESIDENCE

197 ELMWOOD AVENUE
CITY OF TORONTO

NO.	DATE	REVISION	BY
3	12 2018	revised as clouded	AD
2	11 2018	issued for zoning review	AD
1	10 2018	issued for client review	AD

DRAWN BY: AD

DESIGNED BY:

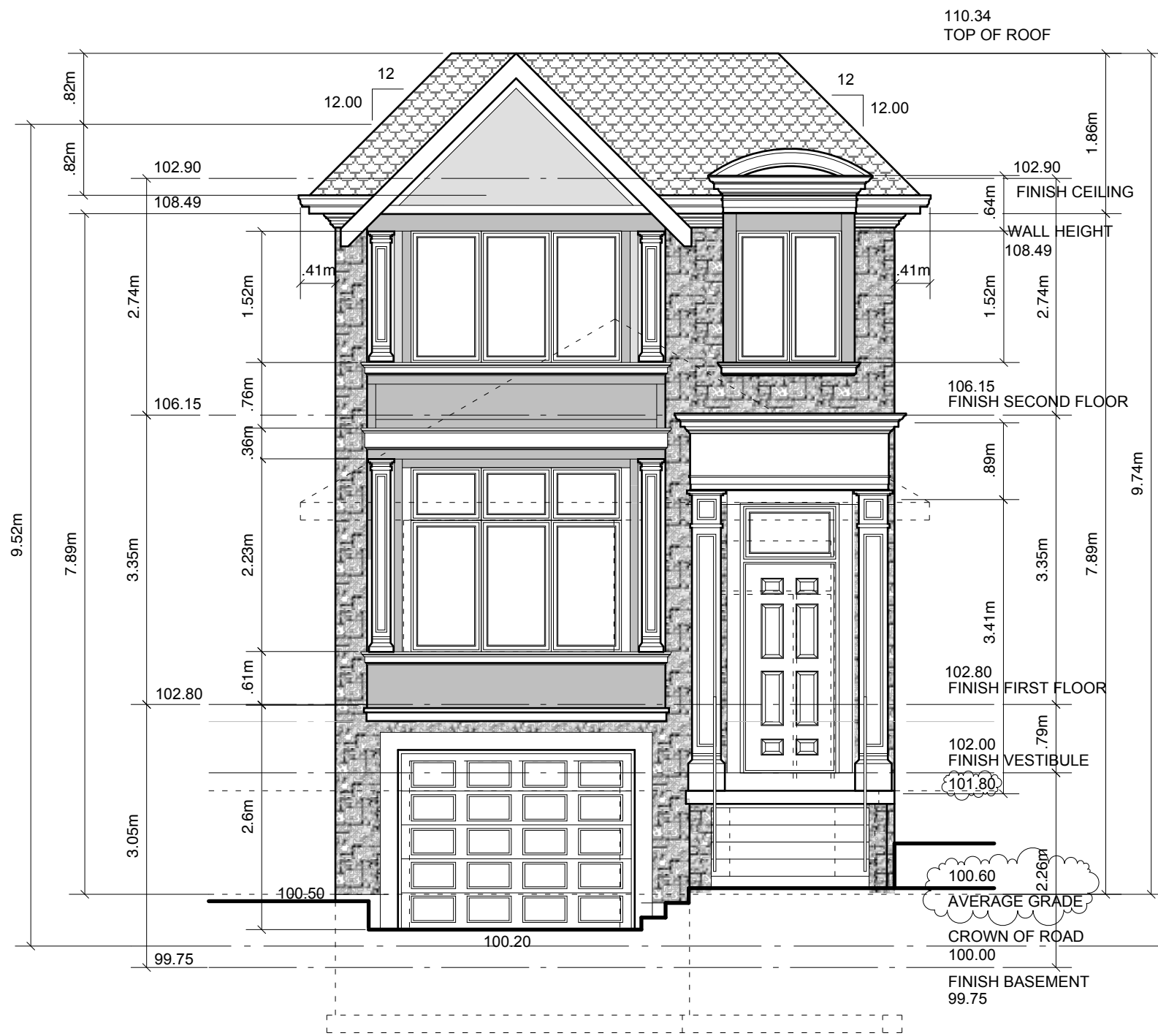
DATE: OCT 2018

SCALE : AS SHOWN

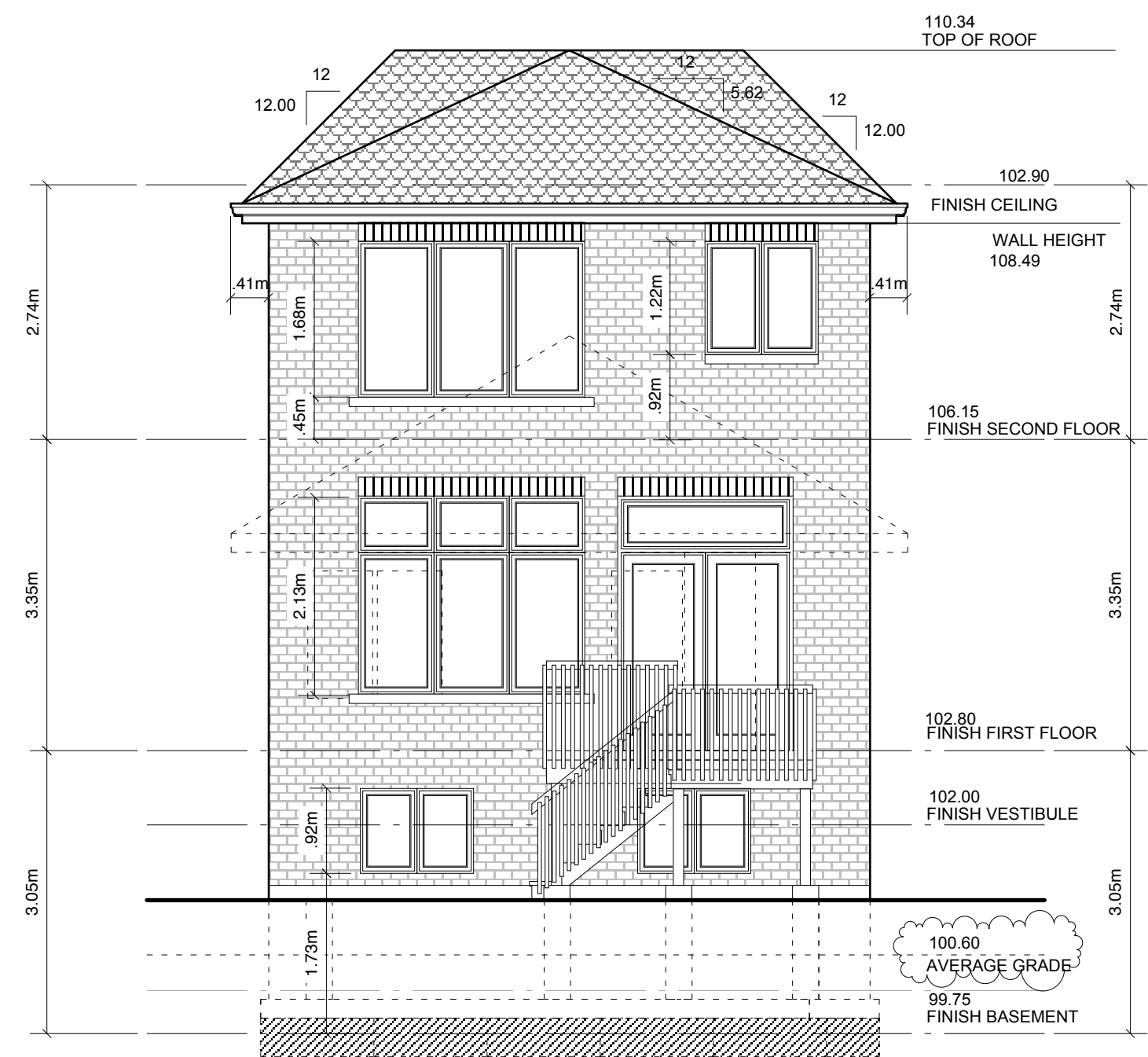
SHEET NO.

A-1

OF SHEETS



1 NORTH ELEVATION
A6 SCALE: 3/16" = 1'-0"



2 SOUTH ELEVATION
A6 SCALE: 3/16" = 1'-0"

Received by the City of Toronto
From Applicant: Henry Lee
May 21, 2019



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TONY VALENTIN	20917
Name	BCIN
Signature	Date
	12 11 18
REGISTRATION INFORMATION	
Required unless design is exempt under 2.17.4.1 of the building code	
TONY VALENTIN DESIGN	28858
Firm Name	BCIN

PROJECT TITLE:
ADDITIONS & ALTERATIONS
TO EXISTING DWELLING

DRAWING TITLE:
NORTH & SOUTH ELEVATION

ADDRESS:
HENRY LEE & SUN HYUN KIM
RESIDENCE

197 ELMWOOD AVENUE
CITY OF TORONTO

NO.	DATE	REVISION	BY
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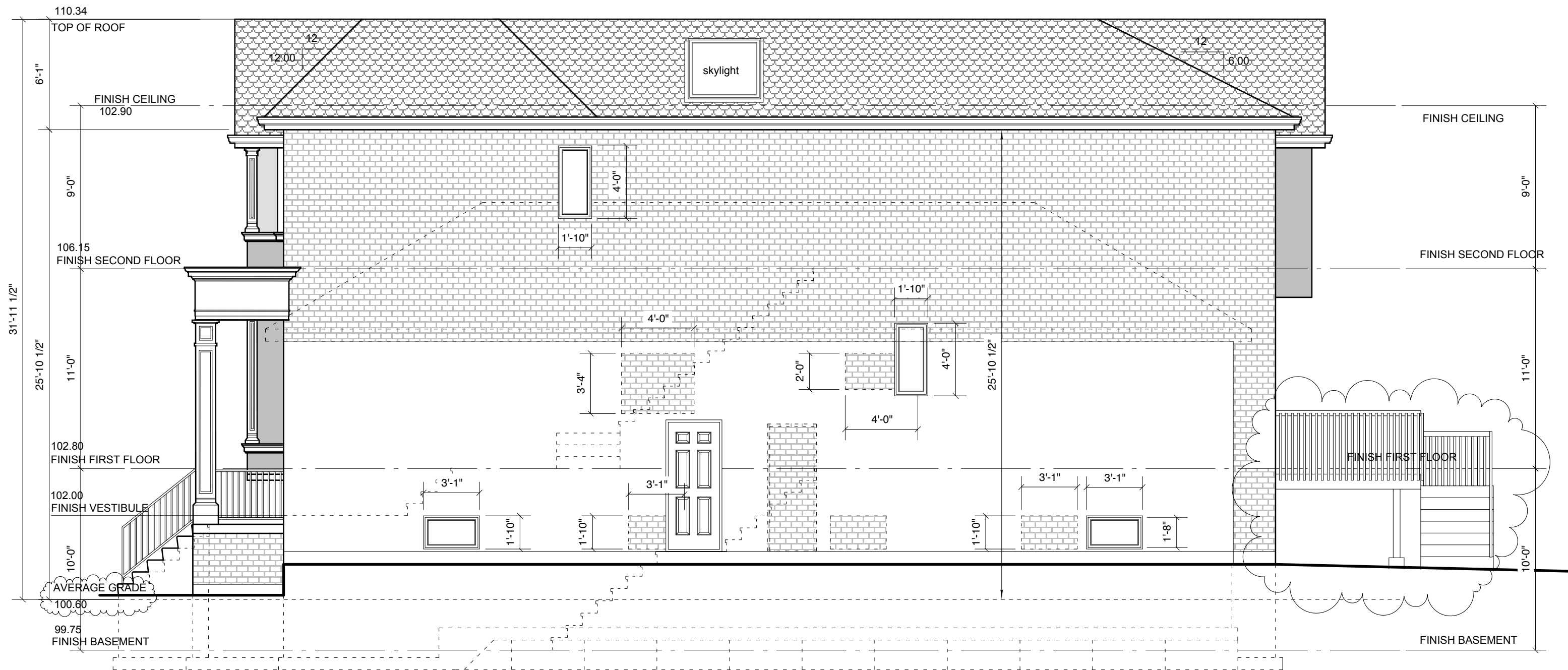
DATE: OCT 2018

SCALE : AS SHOWN

SHEET NO.

A-6

6 OF SHEETS



1 WEST ELEVATION
A7 SCALE: 3/16" = 1'-0"

Received by the City of Toronto
From Applicant: Henry Lee
May 21, 2019



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TONY VALENTIN 20917
Name BCIN
Signature Date 12 11 18
REGISTRATION INFORMATION
Required unless design is exempt under 2.17.4.1 of the building code
TONY VALENTIN DESIGN 28858
Firm Name BCIN

PROJECT TITLE:
**ADDITIONS & ALTERATIONS
TO EXISTING DWELLING**

DRAWING TITLE:
WEST ELEVATION

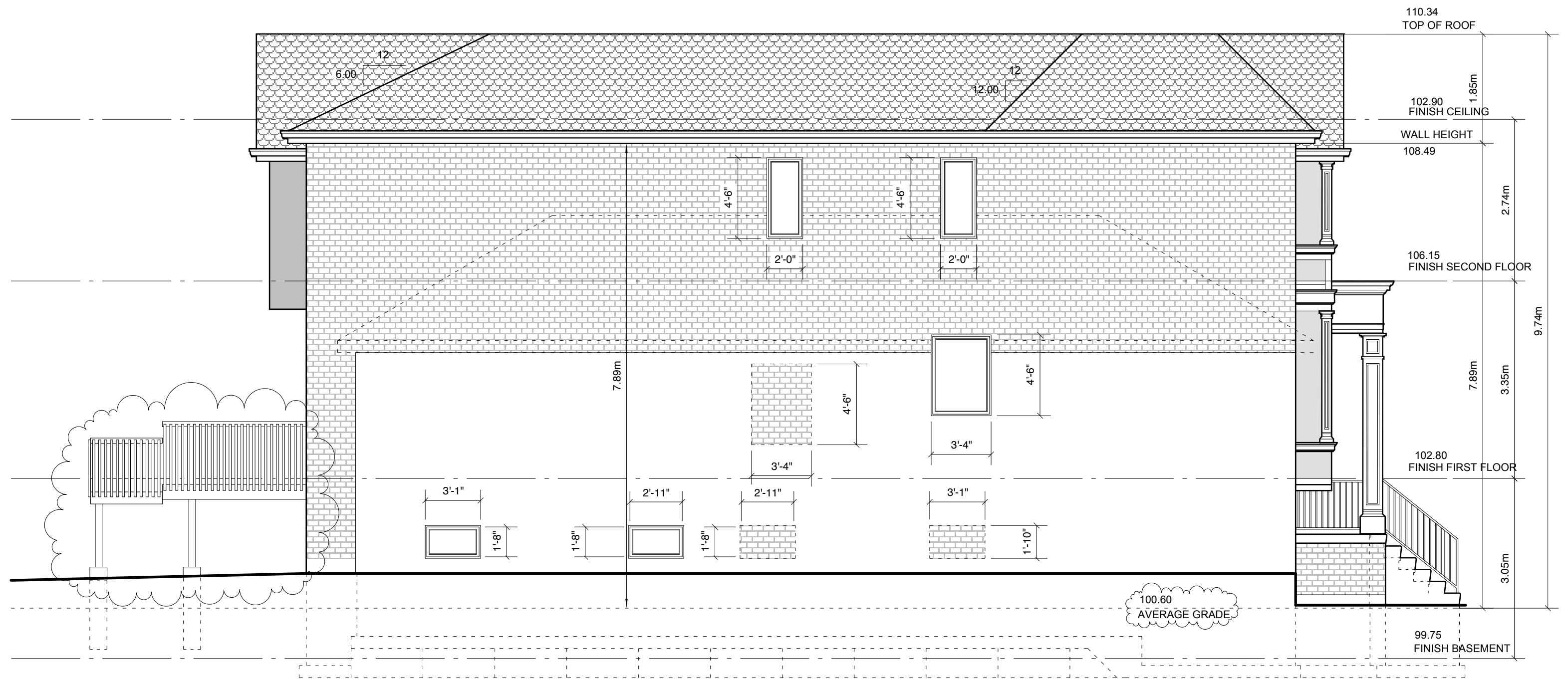
ADDRESS:
**HENRY LEE & SUN HYUN KIM
RESIDENCE**

**197 ELMWOOD AVENUE
CITY OF TORONTO**

NO.	DATE	REVISION	BY
2	11 2018	issued for zoning review	AD
1	10 2018	issued for client review	AD

DRAWN BY: AD
DESIGNED BY:
DATE: OCT 2018
SCALE : AS SHOWN

SHEET NO.
A-7
7 OF SHEETS



1 EAST ELEVATION
A8 SCALE: 3/16" = 1'-0"

Received by the City of Toronto
From Applicant: Henry Lee
May 21, 2019



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QUALIFICATION INFORMATION
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TONY VALENTIN 20917
Name BCIN
Signature Date
12 11 18

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.4.1 of the building code
TONY VALENTIN DESIGN 28858
Firm Name BCIN

PROJECT TITLE:
**ADDITIONS & ALTERATIONS
TO EXISTING DWELLING**

DRAWING TITLE:
EAST ELEVATION

ADDRESS:
**HENRY LEE & SUN HYUN KIM
RESIDENCE**

**197 ELMWOOD AVENUE
CITY OF TORONTO**

NO.	DATE	REVISION	BY
2	11 2018	issued for zoning review	AD
1	10 2018	issued for client review	AD

DRAWN BY: AD
DESIGNED BY:
DATE: OCT 2018
SCALE : AS SHOWN

SHEET NO.
A-8
8 OF SHEETS