

DECISION AND ORDER

Decision Issue Date Wednesday, August 7, 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): Songwen Mo

Applicant: Manoush Hakimi

Property Address/Description: 89 Pleasant View Dr

Committee of Adjustment Case File: 18 239131 NNY 17 MV (A0704/18NY)

TLAB Case File Number: 18 264564 S45 17 TLAB

Hearing date: Thursday, June 13, 2019

DECISION DELIVERED BY D. Lombardi

REGISTERED PARTIES AND PARTICIPANTS

Appellant	Songwen Mo
Appellant's Legal Rep	Haomei Liu
Applicant	Manoush Hakimi
Party	Christina Kontos
Party	Nikolaos Kontos
Party's Legal Rep.	Cesare Pittelli
Expert Witness	Randal Dickie

INTRODUCTION

This is an appeal from a decision of the North York Panel of the City of Toronto (City) Committee of Adjustment (COA) approving variances to permit the construction of

a one storey addition to the rear of the dwelling at 89 Pleasant View Drive (subject property).

The subject property is located at 89 Pleasant View Drive, in a residential neighbourhood north of Highway 401, between Sheppard Avenue East and Finch Avenue. It is currently improved with a modest one storey single-detached raised bungalow of original construction with a 15.4 m frontage on the south side of Pleasant View Drive.

Mr. Cesare Pittelli appeared on behalf of and with his clients, Christina Kontos and Nikolaos Kontos. The Appellants, Songwen Mo and Haomei Liu, the owners of 91 Pleasant View Drive, the abutting property to the east, appeared in opposition to the application.

BACKGROUND

On November 22, 2018, the COA approved the application for two variances for the subject property.

1. Chapter 900 Exception (5), By-law No. 569-2013

The minimum side yard setback is 1.8m.

The proposed east side yard setback is 1.252m.

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

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

The proposed lot coverage is 32.4% of the lot area.

On December 5, 2018, the Appellants appealed the COA decision to the Toronto Local Appeal Body (TLAB) by filing a Notice of Appeal (Form 1) providing the following reasons and grounds:

“1. Variance is against bylaw 569-2013, chapter 900.3.10 (5) (A), which defined side yard setback as 1.8m. Their request to reduce it to 1.254m is a nice-to-have variance, but not mandatory to their living space, or proper development. It is also not desirable to neighbour privacy and enjoyment. It should be granted if there is no objection from the directly affected neighbours.

2. No public notice sign was posted on their property 10 days before the hearing. I came to know this is a requirement, after reading "Review Procedure for Minor Variance" on the city website "Committee of Adjustment FAQ".

3. It will reduce the sunlight into my main floor and basement bedrooms, since it is the only direction of sunlight source. Also, the view from these bedrooms will be partially blocked, affecting my enjoyment of my property.

4. It will affect the privacy of these bedrooms. Since set back is reduced, I will be more inclined to draw the curtain most of the time, which results in even less natural light into my house.

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5. It will reduce the privacy and enjoyment of my side yard and backyard, since it is up against the new wall addition, with a reduced setback. With the neighbour's wall moving 0.5m closer towards me, I will feel claustrophobic and confined to a smaller space.

6. It will raise fire hazard issue for them, as the exit path between their house and the fence will be narrowed to 1.2m, with existing exhaust pipes and shrubs blocking most of the way.

7. This old neighbourhood is known for ample space between houses. A reduction of over 0.5m setback will not generate much room for a household, but will affect the look and style of the entire neighbourhood.”

The TLAB issued a Notice of Hearing (Form 2) on January 16, 2019 and set a Hearing date of June 13, 2019 with the following submission dates:

- Applicant Disclosure – Due no later than **January 31, 2019**;
- Notice of Intention to be a Party or Participant – Due no later than **February 5, 2019**;
- Document Disclosure – Due no later than **February 15, 2019**;
- Witness, Expert Witness and Participant Statements – Due no later than **March 4, 2019**; and
- Notice of Motion – Due no later than **April 29, 2019**.

Following the issuance of this Notice of Hearing, and after the deadline for the disclosure of documents of February 15, 2019 had lapsed, neither Party filed any materials until mid-April. On April 29, 2019, the Appellants filed with the TLAB a Notice of Motion (Form 7) and corresponding Affidavit (Form 10) requesting that they be allowed to submit documents after the February 15th deadline related to the appeal.

The Applicants also filed a Notice of Motion (Form 7) and an Affidavit on May 10, 2019, requesting the same leniency in allowing disclosure documents related to the matter.

Pursuant to TLAB's Practice Direction No. 2, the Motions were conducted as a written Motion and a Notice of Electronic (Teleconference) Hearing was set for May 15, 2019. At that Hearing, presided by Member Yao, the Appellants advised the Member that they became owners of 91 Pleasant View Drive on September 28, 2018, six days after the COA rendered a decision regarding the subject property.

They further advised that they were not aware of the COA Hearing since the letter of Notice was addressed to the former owner who never forwarded that notification to them. They also submitted that they did not see the requisite COA Notice signage notifying the public of the application and the Hearing date and suggested that the Applicant had not posted it in a prominent location at the subject property visible from the sidewalk. As a result, they did not attend the Hearing and only became aware of the COA decision through another source on December 1st. They subsequently filed a Notice of Appeal with the TLAB on December 4, 2018.

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Due to this situation, and the fact that they were unfamiliar with the TLAB process, they failed to file the appropriate documents with the TLAB by the obligatory due date.

On the other hand, the Kontos' advised the Member that they had assumed that since they had received a favourable decision at the COA, the burden was with the Appellants to lead the evidence.

Member Yao issued a written Motion Decision on June 3, 2019. In that Decision, he noted that the Kontos' assumptions as to what was required from them were incorrect and that they now realize that they must prove all the tests under the *Planning Act*. He confirmed that the Kontos' expert planning witness, Randall Dickie, had already filed an Expert Witness Statement (EWS) as part of the Applicant's Document Disclosure Book (Exhibit 1) on April 10, 2019. Document Disclosure was due by February 15th and the EWS by March 4th.

He also noted in the Decision that the Appellant, Mr. Mo, advised that he could file all of the documents he requires in an extremely expeditious manner. Member Yao's decision allowed the Appellant this latitude. I note that Mr. Mo filed a number of documents with the TLAB with May 24, 2019 date stamps.

MATTERS IN ISSUE

The major issue on the appeal was whether the two variances sought, individually and collectively, met the policy considerations and the four tests below recited. In addition, the Appellants are concerned that the proposed one storey addition at the rear of the dwelling will result in unacceptable adverse impacts such as loss of sunlight, privacy and overlook and drainage issues on their property. A minor issue was the Appellant's concern that the proposed reduction of the Applicant's west side yard would impact access for maintenance on his property resulting in a possible fire hazard.

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 for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Minor Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;

- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

Mr. Randall Dickie was the only expert witness called. I qualified Mr. Dickie as a professional land use planner capable of giving expert opinion evidence on land use planning matters. Mr. Dickie was initially retained by the owners in the fall of 2018 to provide land use planning support for the proposed development including providing fair, objective and non-partisan opinion evidence in support of the appeal before the TLAB.

I found his evidence, demeanor and competence to be detailed, thorough, well researched, and appropriate. He proved to be fully alert to the issues, the neighbourhood, the assessment criteria and the requisite research. His Witness Statement (Exhibit 1) and his Visual Document Book (Exhibit 2) exemplified detailed and balanced research.

Noting the '*Neighbourhoods*' designation and policy framework, he demonstrated neighbourhood familiarity and nuanced details of the considerations of the variance types sought. He described the neighbourhood as a mature, low density residential enclave characterized by large lots, mature trees and vegetation. In assessing the neighbourhood he noted a variety in built forms, dwelling types and architectural styles comprised primarily of raised bungalows and back-splits as well as many examples of newer two storey dwelling in proximity to the subject property.

Mr. Dickie highlighted a Google Earth aerial photo showing the subject property and the dwellings immediately east and west of the property on Pleasant View Drive to illustrate that the dwelling at 87 Pleasant View also appears to have incorporated an addition similar in size and positioning as that being proposed by the Applicant. He also noted that the Appellants had recently constructed a sunroom addition adjacent to their east property line at 91 Pleasant View.

He provided an overview of the proposed addition (Exhibit 3 – Site Plan and Elevations) noting that the proposal is to construct a one-storey addition within what he termed the 'notch' of the dwelling footprint at the south-east corner of the house. He described the addition as incorporating a new, larger galley style and expanded kitchen area. The addition is approximately 3.23 m wide by 7.47m long, adding approximately 24.1m² (260 sq.ft.) of one storey livable area.

Respecting applicable provincial policy, Mr. Dickie opined that this application is a local planning matter which does not have Provincial policy implications. Nevertheless, he opined that 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. To the extent possible here, he found consistency with the applicable policies in the 2014 Provincial policy Statement (PPS) and the 2017 Growth Plan for the Greater Golden Horseshoe (Growth Plan). He opined

that the proposal is consistent with the PPS, has regard for Section 2 of the Planning Act, and conforms to the Growth Plan.

He then reviewed the proposal and the requested variances with regard to the four tests in subsection 45(1) of the Act. With respect to the Official Plan (Exhibit 5), he opined that the granting of the requested variances would maintain the general intent and purpose of the Official Plan. In the Housing Policies, there is a general recognition that change will occur over time, and that some physical change will occur as enhancements, additions and infill housing occurs on individual sites.

A cornerstone policy is to ensure that new development in neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood. Policy 2.3.1.1 states that “Neighbourhoods...are considered to be physically stable areas. Development within Neighbourhoods...will be consistent with this objective and *will respect and reinforce the existing physical character of buildings, streetscapes, and open space patterns in these areas.*” (emphasis added)

This is reflected in the Neighbourhoods policies in Policy 4 of the OP. Policy 4.1 states that Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses. Policy 4.1.5 is the key test, envisaging development criteria in Zoning By-laws as the control mechanism:

“5. Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular: a) patterns of streets, blocks and lanes, parks and public building sites; b) size and configuration of lots; c) heights, massing, scale and dwelling type of nearby residential properties; d) prevailing building type(s); e) setbacks of buildings from the street or streets; f) prevailing patterns of rear and side yard setbacks and landscaped open space;.... No changes 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 prevailing building type will be the predominant form of development in the neighbourhood. Some Neighbourhoods will have more than one prevailing building type. In such cases, a prevailing building type in one neighbourhood will not be considered when determining the prevailing building type in another neighbourhood.”

Mr. Dickie testified that clauses c) and f) were the principle relevant provisions here. With respect to ‘c) Heights, Massing, Scale and dwelling type of nearby residential properties’, he submitted that the proposal maintains a single detached dwelling type, there is no change in the building height since the proposal is for a one-storey addition, and the addition is small in scale and located at the rear of the dwellings and therefore not visible from the street. The proposal also does not result in any reduction in the rear yard amenity area.

With respect to ‘f) Prevailing patterns of rear and side yard setbacks and landscaped open spaces’, he submitted that there is no variance required for rear yard setback, the addition is in line with the front of the existing dwelling so there is no overall reduction in the existing side yard setback, and ample landscaped open spaces is maintained.

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Therefore, he opined that the requested variances will maintain the stability of the neighbourhood and reinforce the existing physical character, are in keeping with that existing physical character, and that the proposal is modest and measured.

With respect to the second test, whether the requested variances maintain the general intent and purpose of Zoning By-law No. 569-2013, Mr. Dickie noted that the variances represent a proposed east side yard setback of 1.252m whereas the minimum required side yard setback is 1.8m, and proposed lot coverage of 32.4% of the lot area as opposed to the maximum permitted lot coverage of 30%.

He noted that the existing dwelling has a side yard setback of 1.2m at the front of the property and that the proposal would result in a one-storey addition that would fill in the 'notch' (Exhibit 3) or void within the rear east portion of the existing house. The proposed addition would simply maintain the existing 1.2m side yard setback along the length of the east side of the dwelling and, therefore, not encroach into the current side yard setback. He submitted that the proposed setback will still provide sufficient separation to allow for light, air, circulation and access for maintenance. Additionally, he asserted that the proposal can comply with all other City requirements including the Ontario Building Code, the Fire Code, and lot grading and drainage conditions.

Mr. Dickie submitted that the small increase in lot coverage of 2.4% will have no adverse impact on the property or the abutting properties, specifically the Appellant's property at 91 Pleasant View Drive, and there would be no visual change to the appearance of the dwelling from the street resulting in no impact on the street character of the neighbourhood.

You dealt with the last two tests, minor and appropriate, together, noting that the proposal will provide the owners of the subject property with a newer, more appropriately sized kitchen and living area more consistent with the current home owner's family's needs. He opined that the variance for lot coverage represents an increase of less than 2.5% which he submitted is minor. He opined that the proposal will have no impact on the street character, there will be no loss of rear yard amenity space and addition will not alter the existing land use or the established character of the surrounding neighbourhood. Finally, he noted that there were no issues raised by any City Departments to the COA and no area residents attended the Committee in opposition nor were there any written submissions made.

He concluded that the variances are minor and therefore desirable and appropriate for the development of the lands. He opined that the requested variances meet the four tests prescribed by Section 45 of the Planning Act and therefore should be approved.

On cross-examination, Mr. Mo's main concern was whether the variances could be characterized as minor in nature. He also questioned the witness' opinion evidence that there would be no impact on his property resulting from the proposed addition. Mr. Dickie reiterated that as a planner he considers the issue of 'minor' within the context of the statutory tests as well as any adverse impacts on abutting properties. With respect to both the variance for the east side yard setback and the increase in overall lot

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coverage, he repeated his opinion that he considers the variances to be minor and that they will not adversely impact Mr. Mo's enjoyment of his property.

Mr. Mo then was sworn and provided evidence in opposition to the requested variances. As the owner of 91 Pleasant View Drive, the abutting property immediately to the east of the subject property, he noted that he and Ms. Liu became the owners of 91 Pleasant View in the fall of 2018 and were unaware of the COA application until December of 2018. He asserted that he is directly affected by the proposed addition.

Referring to his supporting documentation (Exhibit 4) and six photographs (Exhibit 6), he shared his reasoning for opposing the two variances being requested and the proposal in general. He submitted that the Official Plan directs that any new development should prioritize being sensitive to the existing neighbourhood and to abutting neighbours over accommodating what people want, referring to the owners' desire to create a larger kitchen and living space. Highlighting Policy 4.1.5, he asserted that residents choose to settle in neighbourhoods for the existing physical character and that residents should be protected from negative impacts resulting from a reduction in zoning standards. (Exhibit 4, p. 2)

He argued that if the performance standards in the Zoning By-law were enforced, the size of the proposed kitchen space would be reduced to only 20.03m² (p. 2, Exhibit 4 Chart), which he suggested would be a more "appropriate and reasonable size" (his words). He asserted that this reduction would also result in decreasing the overall massing and scale of the addition. He argued (at para. 51 in Exhibit 4) that the size of the kitchen being proposed is too large and that "a 20.03m² kitchen (if the by-law is followed) is a luxury by any means."

Conversely, he submitted that the proposal would result in an addition of approximately 24.13m² in size (his calculation – the Applicant's calculation is 24.1m²), 16.8% larger than would be allowed by the Zoning By-law (his calculations at para. 20, Exhibit 4) with a total exterior building height of 4.75m above grade, a flat roof component and a window on the east side wall facing his property.

With respect to the roof of the proposed addition, Mr. Mo referenced OP Policy 4.1.5 c) specifically, and the Google Maps aerial photo in Exhibit 6, to suggest that the predominant roof type in the neighbourhood is a pitched or sloped roof style. He argued that the flat roof being proposed, coupled with the 4.47m length of the proposed east side wall which he suggested extended half the length of the existing dwelling, and the reduction in the east side yard setback, would all contribute to a building mass in close proximity to his lot line that would sharply reduce sunlight to his side yard as well as to his upper west bedroom and to the bedroom in his basement.

He referenced his visual evidence (Exhibit 6) showing photos of the east side yard between the two properties to support his assertion with respect to the decrease in sunlight if the addition and the variances are approved.

Additionally, he submitted that the new kitchen window shown on the east elevation created an overlook condition to his bedrooms and the rear yard that reduced privacy and the overall enjoyment of his property. He concluded that the one-storey

addition, being tall and long and closer to his lot line, would “cause a claustrophobic feeling...our side yard will not be a comfortable place to enjoy.” (his words)

He then raised the issue of neighbourhood flooding and concerns respecting drainage, especially for properties west of Brian Street, including those on Pleasant View Drive. He suggested that many houses, including his, have sump pumps installed to deal with overflow issues and, in this regard, at paragraphs 47, 54-56, and 74 of Exhibit 4, he submitted that the proposed addition, and the combined variances for lot coverage and side yard setback being requested, “would increase the risk of flooding...the by-laws in place exist to protect all homeowners from these risks and should be respected.”

He cited the following policies in Part V of the PPS (p. 5, Exhibit 4) that relate, he submitted, directly to this issue:

- Policy 1.1.1 – Healthy, livable and safe communities are sustained by:
 - c) – avoiding development and land use patterns which may cause environmental or public health and safety concerns;
- Policy 3.0 – Protecting public health and safety by:
 - Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravated existing hazards.

He explained that with respect to his property, flooding, drainage and soil issues are a real concern. The subject property is higher in grade than the Appellants (Exhibit 6, Fig. 4) and he submitted that this condition “easily makes the drainage and flooding issue more prominent.” To support this assertion, he referred to a home inspection report (Exhibit 7) completed for his property, dated July 3, 2018, that indicated that his garage floor is “sinking” and that water damage has impacted the foundation. He submitted that the “reduction in the side yard setback of the whole house (89 Pleasant View) will worsen this problem, and will affect other parts of my property.”

Finally, Mr. Mo raised the issue of the proposed rear deck at the rear of the one-storey addition. He noted that the deck is proposed a 1.24m above grade and is parallel to his rear yard which he submitted would contribute to overlook and privacy issues on his property.

In summation, he submitted that the variances for a reduced side yard setback and increased lot coverage are not desirable for, and compatible with the neighbourhood and will result in “major” (his word) adverse impacts on the enjoyment of his property. The two variances combined will, in his opinion, increase the risk of further flooding onto his property and will continue to contribute to the sinking of his garage foundation and side yard.

He submitted that granting a side yard setback of 1.252m would set a precedent for the neighbourhood and would encourage other property owners in the area to apply for similar or slightly less setback standards. He reiterated his sentiments previously expressed in his Notice of Appeal grounds that while he understands the occasional need for variances to be approved, “I believe the request was approved, assuming there

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was no neighbour objection” and that “the directly affected neighbour’s right (his) should be respected.”

On cross-examination by Mr. Pittelli, Mr. Mo acknowledged that the home inspection Report filed as Exhibit 7 was an excerpt from the full report and that he had not filed a copy of that complete document with the TLAB nor did he provide the full report to the Applicant. Mr. Pittelli also noted that the Appellant had not tendered the author of that Report as an expert witness nor was the author in attendance at the Hearing for cross-examination.

Furthermore, Mr. Mo acknowledged that the water damage to his property/dwelling was in fact a pre-existing condition when he purchased the property and prior to the Kontos’ application to the COA for the proposed addition. Mr. Pittelli cited page 2 of the Report (Exhibit 7) where Mr. Mo was advised in the home inspection Report to “regrade to slope away from the structure (91 Pleasant View) to reduce the risk of basement flooding.”

Mr. Pittelli then reviewed the following items in Exhibit 4 (Mr. Mo’s Supporting Document) that were referred to and expanded upon by Mr. Mo in his evidence (the numbers below match the corresponding paragraph numbers in Exhibit 4):

Item 4 – Mr. Pittelli referenced a photo illustrating that the COA Notice was posted in the front door of 89 Pleasant View Driven as required by the Committee.

Item 12 – Mr. Pittelli confirmed that the Applicant was maintaining the 1.252m east side setback with the proposed addition.

Item 22-25 – Mr. Pittelli submitted that there were no variances required for building height, length, number of storeys, roof type or windows.

Item 33 – Mr. Pittelli submitted that Mr. Dickie was the only qualified expert witness to provide land use planning opinion and he opined that the proposed addition is not out of character with the neighbourhood and generally fits and is compatible with the new builds on Pleasant View Drive in close proximity to the subject property.

Items 50-51 – Mr. Pittelli took umbrage with the Appellant’s assertion that the size of the kitchen contemplated by the owners is a ‘luxury’. He submitted that the Appellant is attempting to dictate how much living space the owners of 89 Pleasant View require or should be allowed.

Items 54-56 – Mr. Mo acknowledged that he had not provided a flood plain study or drainage and grading plans to support his supposition that the proposed addition would contribute to water damage on his property.

Item 61 – Mr. Mo acknowledged that he did not undertake a shadow study to determine the impact of the proposed addition on sunlight to his property nor did his evidence (photographs) illustrate shadows at different times of the year. The photos that Mr. Mo provided were taken sometime in early March in the afternoon and Mr. Pittelli noted that the angle of the sun is different depending on the season.

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Finally, with respect to the proposed rear deck, Mr. Pittelli noted that no variances are required for the size or height of the deck and, more importantly, that the deck would ameliorate privacy concerns by removing the existing, small outdoor amenity area which is currently closer to Mr. Mo's east side yard.

Mr. Mo agreed that neighbourhoods should be stable but not static and that he is not opposed to redevelopment in the area. He acknowledged that change would occur on the street as evidenced by the larger newly built homes, one 85 Pleasant View and the other at 93 Pleasant View, immediately adjacent to his property. He admitted that his opposition to the proposal and variances is really premised on simply trying to secure his right to build an addition to his dwelling in the future to match that being proposed by the Applicant. He believes that, if granted, the requested variances will impact his ability to accommodate this possibility.

At this juncture in the Hearing, I queried Mr. Mo as to whether revisions to the proposed addition such as opaque/frosted glass on the window on the east elevation of the addition and screening on the rear deck would assist in addressing his concerns regarding privacy and overlook. I also suggested that the Applicant might consider providing 'faux' planting and/or a wooden screen/lattice to the east facing section of the rear deck to screen views into Mr. Mo's property.

Mr. Pittelli acknowledged that his clients would be agreeable to such improvements and the Kontos' also agreed to eliminate the flat roof design of the proposed addition and to incorporate a slightly lower pitched/sloped roof to mitigate the overall height and scale of the addition in order to address Mr. Mo's concern with the massing of the addition. To the extent that height contributes to the massing and scale of the dwelling, Mr. Mo was appreciative of this gesture and to the other improvements suggested by the Panel Member and agreed to by the owners.

Updated plans showing the improvements discussed above have been filed and are attached as **Attachment 1** to this Decision.

ANALYSIS, FINDINGS, REASONS

I accept that the revisions to the elevation drawings agreed to by the owners and acknowledged by the Appellant are indeed minor changes and also improvements to the proposal, so that no further notice is required as provided in subsection 45(18.1.1) of the *Planning Act*.

I agree with Mr. Pittelli that the proposal and minor variances before this Body are neither unprecedented nor complex: two variances, one for a slight reduction in the side yard setback and the other a small increase to the overall lot coverage to permit construction of a one-storey addition to accommodate a new, larger galley style kitchen area.

I agree with Mr. Pittelli that Mr. Dickie was the only qualified expert witness and that his evidence was uncontroverted by the Appellant. In this case, there are only two

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variances being requested; there are no variances for building height, exterior main wall height, building length or depth, number of storeys or for the proposed rear deck.

I agree with Mr. Dickie assessment that “land use planning is an art and not a science” (his words) and that the variances are not simply mathematical or numerical calculations. Planners must also assess variances by measuring any unacceptable adverse impacts on abutting properties and the neighbourhood as a whole.

I accept his proposition that there are limited expectations of privacy and overlook in urban settings such as that found on Pleasant View Drive and I also agree that the proposed addition will in fact improve existing conditions and result in more privacy and reduce overlook to the Appellant’s property. The current location of rear ground level patio/amenity area in the ‘notch’ or void area between the two properties, as evidenced in Photos 5 and 6 in Exhibit 2, is more fully exposed and closer to Mr. Mo’s side yard lot line. The proposed addition will relocate the outdoor rear amenity area to the proposed deck at the rear of the dwelling, south of the rear main wall, farther away from Mr. Mo’s dwelling.

I agree that the addition and the resulting increase in livable kitchen area for the Kontos’ will actually create more privacy between the two properties and improve the existing conditions between the two property owners.

With respect to the issue of flooding and grading, I do not accept the Appellant’s argument that the proposed addition will exacerbate existing flooding issues on his property. Mr. Mo provided no evidence to support this contention and I find the Appellant failed to satisfactorily demonstrate how the addition would further contribute to this issue.

I find that the proposed improvements to the proposal agreed to by the owners at the Hearing will improve the development and address many of the concerns expressed by Mr. Mo. Adding frosted/opaque glass to the window on the east elevation of the proposed addition, integrating a sloped roof which correspondingly lowers the parapet and the height of the main walls of the addition, and incorporating a 1.52m high permanent wood screening along the east elevation of the proposed rear deck to increase privacy and address overlook are all measures that significantly improve the proposal. In view of these enhancements, I am satisfied that Mr. Mo’s concerns are appropriately addressed.

Given that the application has been further improved since it was before the Committee and based on the foregoing, I am satisfied that the Appellant’s concerns that were raised before this Body have been appropriately addressed. I find the proposal to be desirable and to support reinvestment in the neighbourhood, as proposed by the Applicant. Consequently, I am content that all relevant land use planning considerations have been canvassed and met by the Applicant and the variances sought.

I understand Mr. Mo’s position that he was not heard at the COA and his assumption that the application was approved because there was, in his opinion, no neighbourhood objection. Mr. Mo wanted an opportunity to be heard and I believe he has had that opportunity before this Body.

DECISION AND ORDER

The appeal is dismissed; the decision of the Committee of Adjustment is confirmed, subject to the following condition:

CONDITIONS OF VARIANCE APPROVAL

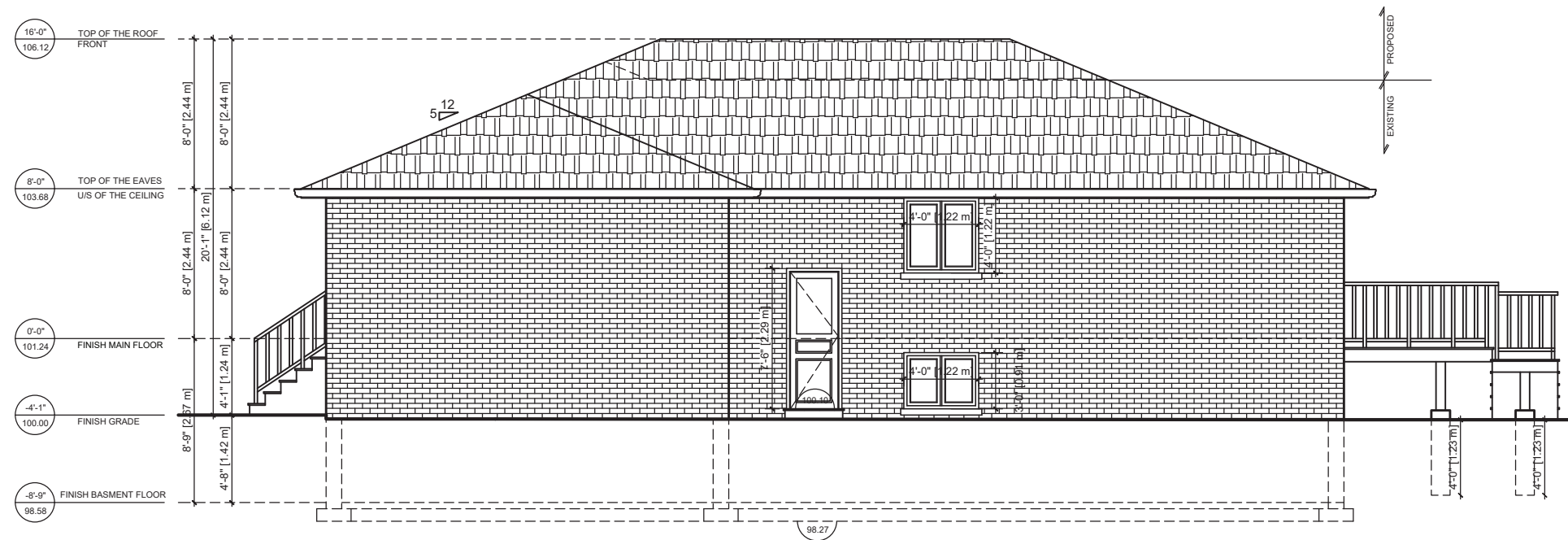
1. The one-storey addition will be constructed substantially in accordance with the Revised Site Plan and Elevations prepared by Mina Design Group Inc., dated June 13, 2019, Drawings # A1, A9, A10, A11, and A12, attached as **Attachment 1** to this Decision. These revised drawings incorporate the opaque window, sloped roof and rear deck barrier as part of the proposed addition, as agreed to by the owners. Any variance(s) that may appear on these plans but are not listed in the written decision are **NOT** authorized.

X 

D. Lombardi
Panel Chair, Toronto Local Appeal Body

MINA DESIGN GROUP INC.

8901 WOODBINE AVENUE,
SUITE #222, MARKHAM, ONTARIO,
L3R 5G1
TEL.: (416)-882-4188
FAX: (905)-604-8762



WEST ELEVATION
SCALE: 1:100

DATE	NO.	DESCRIPTION	BY
JUN13,19	1	SLOPED ROOF	H-I

THESE DRAWINGS ARE THE COPY RIGHT PROPERTY OF THE ENGINEER AND MUST BE RETURNED AT COMPLETION OF WORK OR UPON REQUEST.

ADDRESS:
89 PLEASANT VIEW DRIVE,
TORONTO, ONTARIO.

DRAWING TITLE:
ELEVATION

SCALE: AS NOTED DRAWN:

DESIGN: CHECKED:

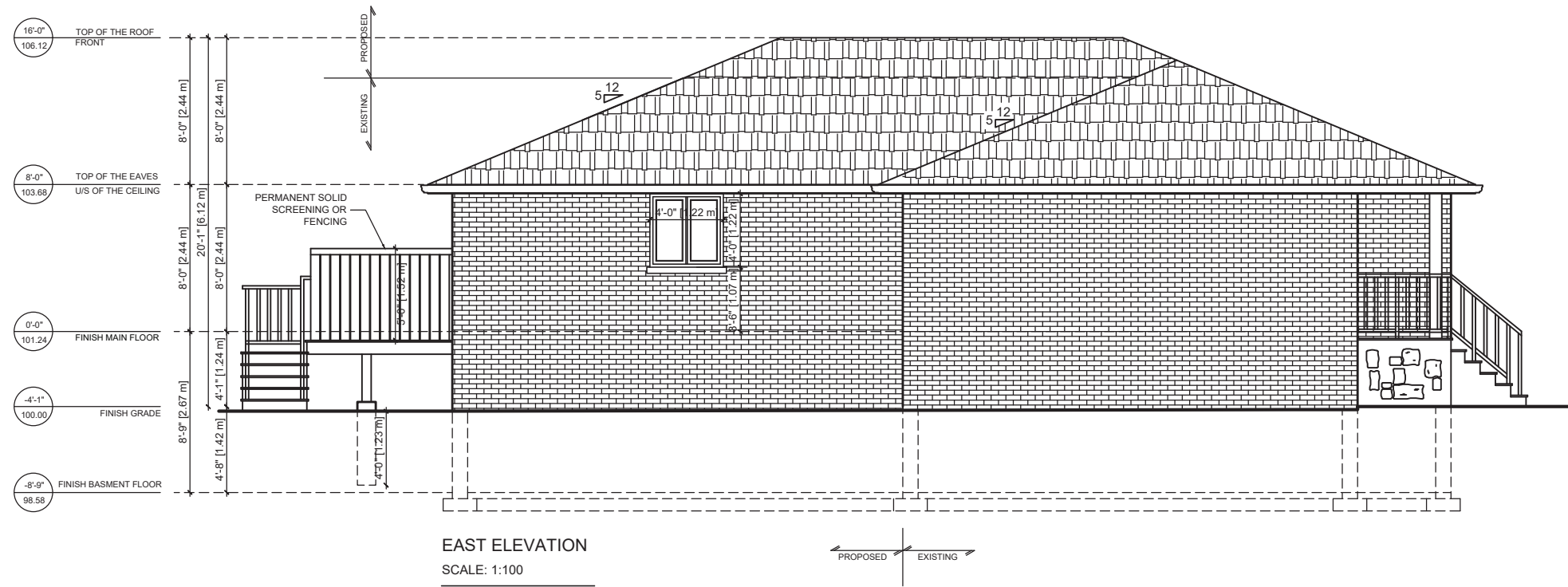
DATE: OCT. 04, 2018 DRAWING NO:

PROJECT NO: **A10**

FILE NO:

MINA DESIGN GROUP INC.

8901 WOODBINE AVENUE,
SUITE #222, MARKHAM, ONTARIO,
L3R 5G1
TEL.: (416)-882-4188
FAX: (905)-604-8762



DATE	NO.	DESCRIPTION	BY
JUN13,19	1	SLOPED ROOF	H-I

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ADDRESS:
89 PLEASANT VIEW DRIVE,
TORONTO, ONTARIO.

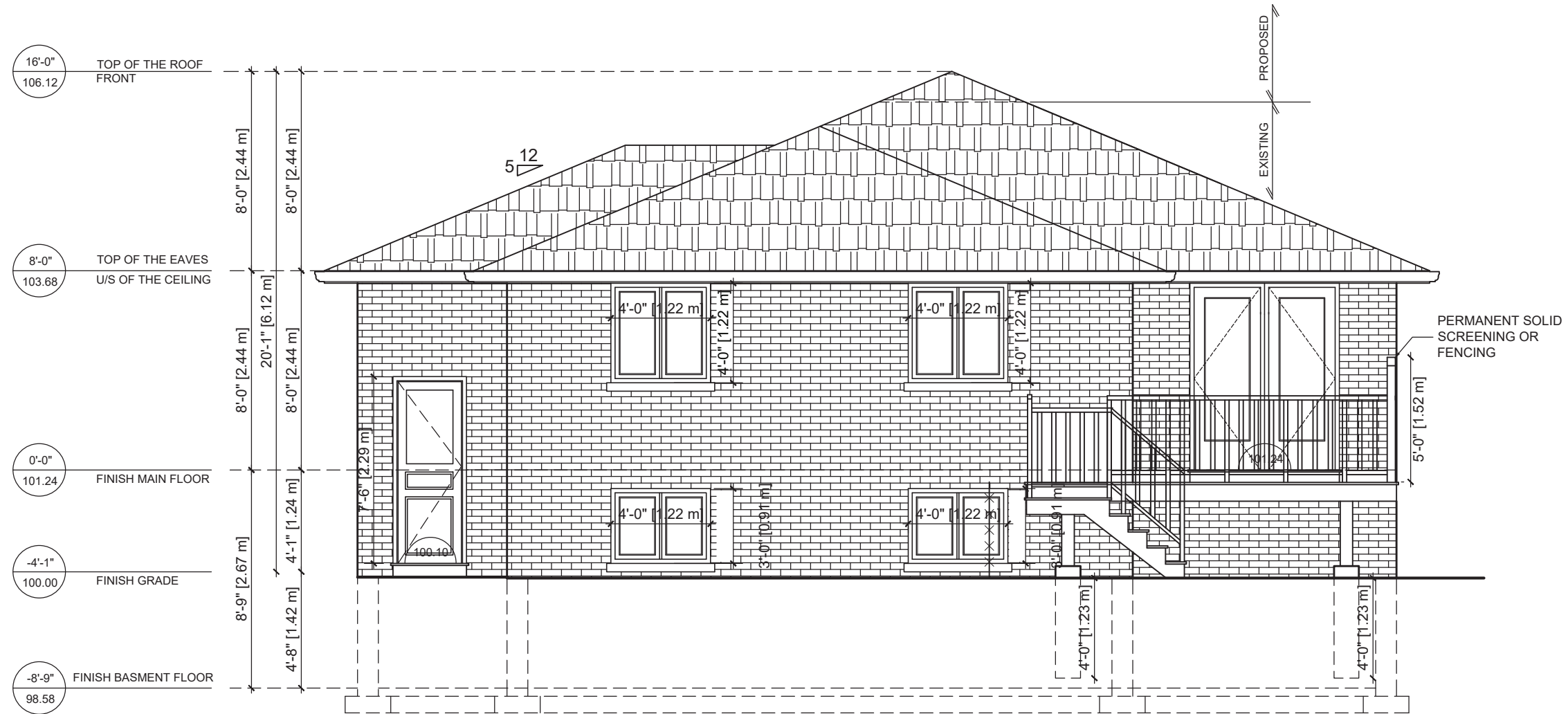
DRAWING TITLE:
ELEVATION

SCALE: AS NOTED	DRAWN:
DESIGN:	CHECKED:

DATE: OCT. 04, 2018	DRAWING NO: A11
PROJECT NO:	
FILE NO:	

MINA DESIGN GROUP INC.

8901 WOODBINE AVENUE,
 SUITE #222, MARKHAM, ONTARIO,
 L3R 5G1
 TEL.: (416)-882-4188
 FAX: (905)-604-8762



SOUTH ELEVATION (REAR)

SCALE: 1:75

DATE	NO.	DESCRIPTION	BY
JUN13,19	1	SLOPED ROOF	H-I

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ADDRESS:
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DRAWING TITLE:
 ELEVATION

SCALE: AS NOTED
 DESIGN: DRAWN:
 CHECKED:

DATE: OCT. 04, 2018
 PROJECT NO:

DRAWING NO:

A12

FILE NO: