

DECISION AND ORDER

Decision Issue Date Monday, August 12, 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): Ying Yi Li

Dong Ying Zeng

Applicant: Ying Yi Li

Property Address/Description: 525 Ossington Ave

Committee of Adjustment Case File: 18 242972 STE 19 MV (A0976/18TEY)

TLAB Case File Number: 19 132631 S45 11 TLAB

Hearing date: Tuesday, August 06, 2019

DECISION DELIVERED BY G. Burton

REGISTERED PARTIES AND PARTICIPANTS

Appellant Ying Yi Li

Party Dong Ying Zeng

INTRODUCTION AND BACKGROUND

At its hearing of March 20, 2019, the Committee of Adjustment (COA) refused variances sought by the two appellants, as is usual without expansive reasons. The purpose of their application as owners of 525 Ossington Ave., was stated by the COA to be “to convert the existing two-storey semi-detached dwelling to three dwelling units, and construct a front second storey addition, a rear parking pad and rear stairs with a second storey platform.”

The owners have appealed to the Toronto Local Appeal Body (TLAB) for the required variance approvals. The property is zoned (R d0.6 H10.0m x735) under City-wide

Zoning By-law No. 569-2013, as amended, and R2 Z0.6 H10.0m under Zoning By-law No. 438-86, as amended.

MATTERS IN ISSUE

With no alteration to the structure proper (but for a rear escape stair), no opposition expressed, and many similar variances granted nearby, can the requested variances meet the necessary tests in the Act?

JURISDICTION

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 COA 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) 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. Li provided the history of the application, and highlighted the letter of approval from the nearest neighbour at 523 Ossington. There were no other comments of any kind, public or private. He also deleted variances under both by-laws for a reduced front yard setback that were cited by the Zoning Examiner in his Notice of September 18, 2018. There would in fact be no addition at the front second storey, and thus no need for these variances. There would be no change to the exterior of the existing structure, just the addition of the fire stairs.

The variances sought at the COA and refused by it were:

1. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (123.0 m²).
The altered semi-detached dwelling will have a floor space index equal to 0.79 times the area of the lot (162.7 m²).

2. Chapter 10.10.40.30.(1)(A), By-law 569-2013

The maximum permitted depth is 17.0 m.
The altered semi-detached dwelling will have a depth of 19.48 m.

3. Chapter 10.5.40.71.(3), By-law 569-2013

The minimum required building set setback for any addition or extension above a lawfully existing building or structure is the minimum building setback from the respective lot line, 3.32 m.
The front second storey addition will be located 1.61 m from the front lot line.

4. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of two parking spaces are required to be provided.
In this case, one parking space will be provided.

1. Section 6(3) Part I 1, By-law 438-86

The maximum permitted gross floor area is 0.6 times the area of the lot (123.0 m²).
The altered semi-detached dwelling will have a gross floor area equal to 1.17 times the area of the lot (240.2 m²).

2. Section 6(3) Part II 5(I), By-law 438-86

The maximum permitted depth is 14.0 m.
The altered semi-detached dwelling will have a depth of 26.66 m, measured to the structures attached to the rear wall of the building.

3. Section 6(3) Part II 2(I), By-law 438-86

Additions to the front are required to be set back the same distance as the existing building, 3.32 m.
The front second storey addition will be located 1.61 m from the front lot line.

4. Section 4(5)(b), By-law 438-86

A minimum of two parking spaces are required to be provided.
In this case, one parking space will be provided.

Thus, Variances Number 3 under both By-laws are not necessary.

Depth: Mr. Li testified that the COA made some mention of the size of the proposed stair in the rear, intended to provide an escape in the case of fire. He stressed that it would be only 3 ft. 3 inches wide, and only 3.92 m longer than the existing building. An earlier approval was given for 1103 Dufferin Street for a depth of 24.92 m (over the

required 14 m.) Here the increase would be only 1.26 m. over the required (under the 2013 By-law).

Similar stairs were approved at 481 and 548 Ossington (COA A1115-84), 546 Euclid Ave., 276 Harbord St., 456 Markham Ave. and 433, 455 and 457 Palmerston Blvd. Photos and, where available, decisions for these properties were supplied.

GFA/FSI: Respecting the requested GFA/FSI variances, Mr. Li supplied a 2017 decision for 327 Concord Avenue, where a GFA of 2.64 was granted (0.6 is allowed.) The requested 1.17 times does not seem large to him by comparison.

Parking: Respecting the variance to only one parking space, pictures were provided of 397 Harbord St., where bus service is available, as it is in front of the subject property. The subway is a 7-minute walk. A 1995 decision for 660 Ossington permitted only once parking space (A-661-95), as did a decision in July 2016 for 710 Ossington.

ANALYSIS, FINDINGS, REASONS

I have carefully considered the proposed changes to the subject property, and have concluded that the variances requested meet all of the requisite tests. With elimination of the (inaccurately imposed) variance for a front yard setback under both By-laws, there are really only three variances needed: FSI/GFA, building depth and reduction to one parking space. The application is only for the purpose of increasing the interior living space, and will not alter the exterior except for the fire stair.

The appellants have supplied many examples of similar structures and parking deficiencies within the same neighbourhood. The GFA variances relate only to interior, existing spaces, to be utilized to provide additional residential space. The depth variance is caused only by the exterior stair, common in the area as a safety device in case of fire. These variances will have no adverse effect on the street or the neighbourhood, as the Official Plan and Zoning By-laws require. The application would comply with applicable provincial plans, and with section 2 of the Act.

DECISION AND ORDER

The appeal is allowed, and the variances as set out in Attachment 1 are approved, subject to the following condition:

1. the construction will be substantially in accordance with the Site Plan and Elevations as attached as Attachment 2, Plans. These are Drawings A0, A4, A5 and A6 by Tran Dieu and Associates, undated, filed at Committee of Adjustment November 6, 2018. Any other variances that may appear on these plans that are not listed in this decision are not authorized.

ATTACHMENT 1 – VARIANCES

1. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (123.0 m²).
The altered semi-detached dwelling will have a floor space index equal to 0.79 times the area of the lot (162.7 m²).

2. Chapter 10.10.40.30.(1)(A), By-law 569-2013

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3. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of two parking spaces are required to be provided.
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4. Section 6(3) Part I 1, By-law 438-86

The maximum permitted gross floor area is 0.6 times the area of the lot (123.0 m²).
The altered semi-detached dwelling will have a gross floor area equal to 1.17 times the area of the lot (240.2 m²).

5. Section 6(3) Part II 5(I), By-law 438-86

The maximum permitted depth is 14.0 m.
The altered semi-detached dwelling will have a depth of 26.66 m, measured to the structures attached to the rear wall of the building.

6. Section 4(5)(b), By-law 438-86

A minimum of two parking spaces are required to be provided.
In this case, one parking space will be provided.

ATTACHMENT 2 - PLANS

X 

G. Burton

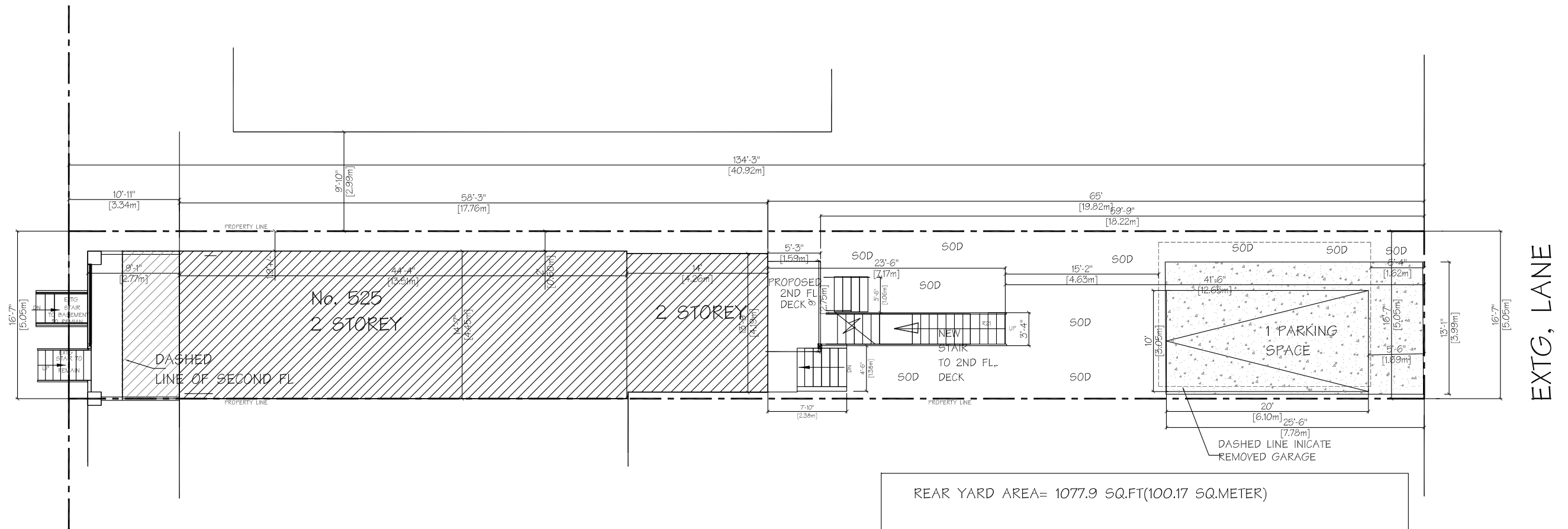
Panel Chair, Toronto Local Appeal Body

RECEIVED

By Committee of Adjustment at 12:12 pm, Nov 06, 2018

GENERAL CONDITION:
GENERAL CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITION ON SITE AND REPORT IMMEDIATELY ANY DISCREPANCIES TO TRAN DIEU & ASSOCIATES INC BEFORE PROCEEDING WITH THE WORK.
ALL DRAWINGS AND RELATED DOCUMENTS ARE THE PROPERTY OF TRAN DIEU & ASSOCIATES INC. AND MUST BE RETURNED ON REQUEST. REPRODUCTION OF DRAWINGS AND RELATED DOCUMENTS IN PART OR WHOLE IS FORBIDDEN WITHOUT WRITTEN PERMISSION FROM TRAN DIEU & ASSOCIATES INC.
ALL WORK SHALL BE PERFORMED IN ACCORDANCE TO O.B.C. AND THE PERMIT DRAWINGS.
VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION
DO NOT SCALE DRAWINGS

OSSINGTON AVE.

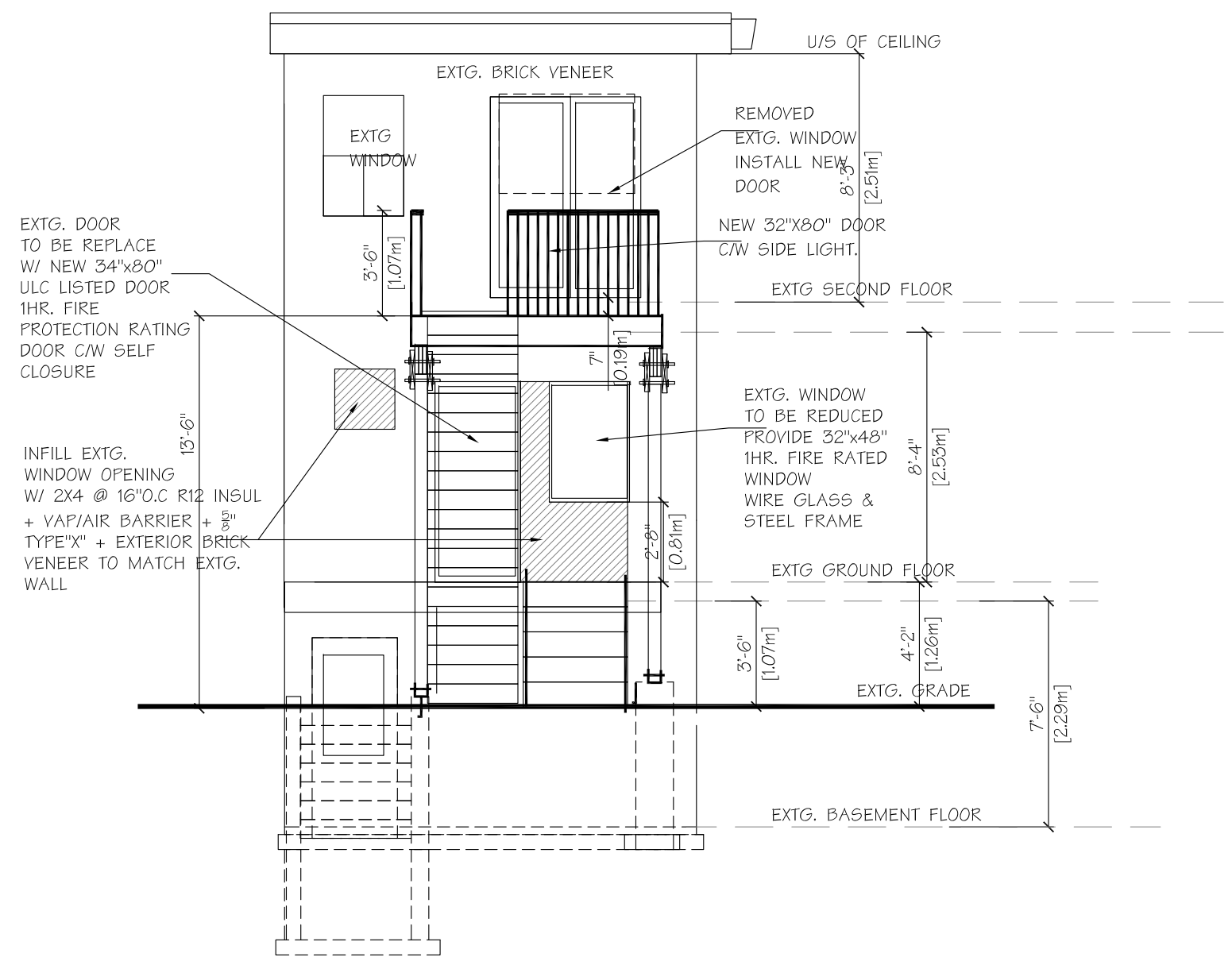


SITE PLAN


REAR YARD AREA= 1077.9 SQ.FT(100.17 SQ.METER)
DECKS AND STAIRS AREA=163 SQ.FT (49.7 SQ.METER)
PARKING CONCRETE PAD SPACE=331.5 SQ.FT (30.8 SQ.METER)
LANDSCAPE= 1077.9-163-331.5=583.4 SQ.FT (54.21 SQ.METER)
54.21/100.17x100%= 54% LANDSCAPE.

STATUS: FOR PERMIT APPLICATION	ISSUED:
PROJECT: 525 OSSINGTON AVE. CONVERT TO 3 DWELLING UNITS INTERIOR RENOVATION.	
DRAWN BY:	
CHECKED BY: Q.T.	
SCALE: 3/16" = 1'-0" DATE:	
PROJECT:	TITLE: AO

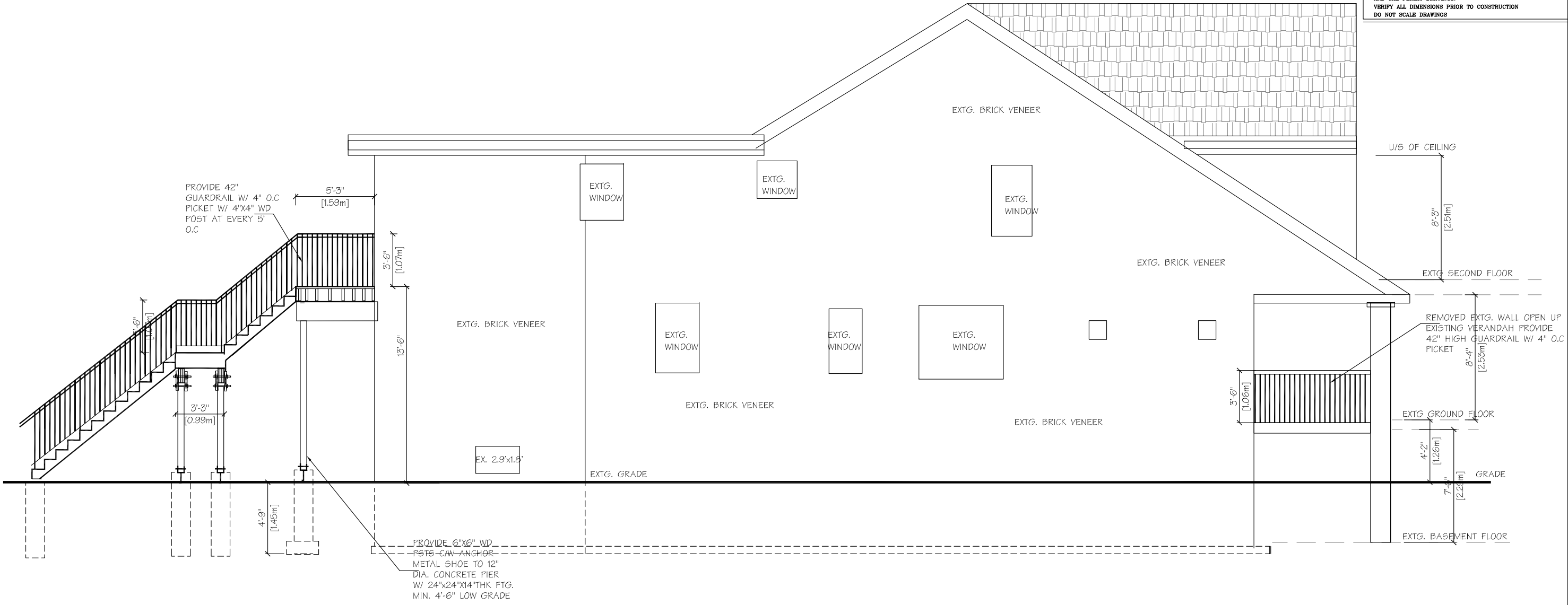
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REAR ELEVATION
 (EAST ELEVATION)

STATUS: FOR PERMIT APPLICATION		ISSUED:	
 TRAN DIEU & ASSOCIATES INC. <small>50 WEYBRIGHT CRT. UNIT 4, SCARBOROUGH, ONTARIO M1S 5A8, TEL. (416) 298-6370 FAX: (416) 298-6963</small>			
PROJECT: 525 OSSINGTON AVE. CONVERT TO 3 DWELLING UNITS INTERIOR RENOVATION.			
DRAWN BY:			
CHECKED BY: Q.T.			
SCALE: 3/16" = 1'-0"		DATE:	
PROJECT:	TITLE:		A4

GENERAL CONDITION:
 GENERAL CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITION ON SITE AND REPORT IMMEDIATELY ANY DISCREPANCIES TO TRAN DIEU & ASSOCIATES INC BEFORE PROCEEDING WITH THE WORK.
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 VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION
 DO NOT SCALE DRAWINGS

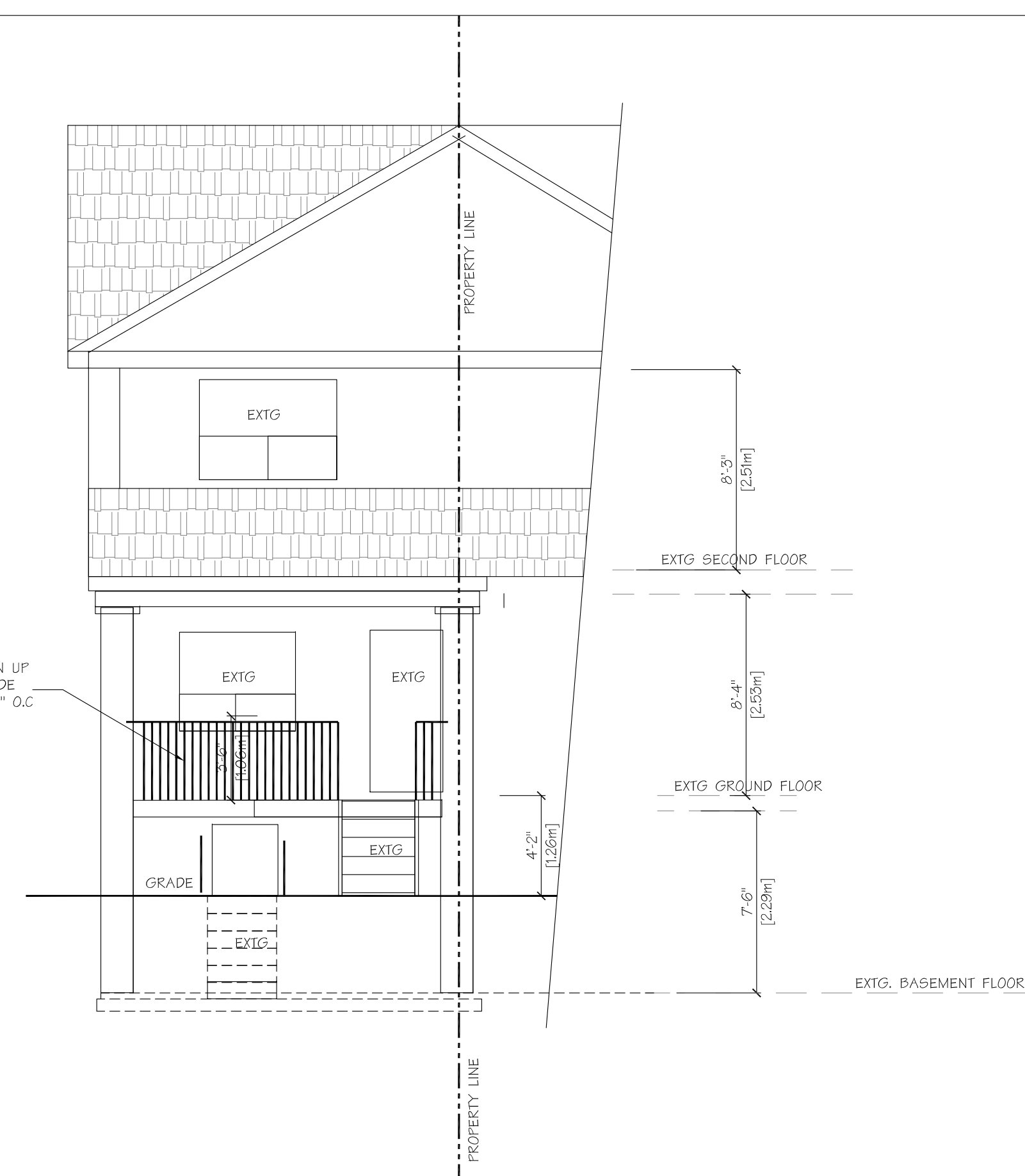


SIDE ELEVATION (NORTH ELEVATION)


STATUS: FOR PERMIT APPLICATION		ISSUED:	
 TRAN DIEU & ASSOCIATES INC. <small>50 WEYBRIGHT CRT. UNIT 4, SCARBOROUGH, ONTARIO M1S 5A8, TEL. (416) 298-6370 FAX: (416) 298-6902</small>			
PROJECT: 525 OSSINGTON AVE. CONVERT TO 3 DWELLING UNITS INTERIOR RENOVATION.			
DRAWN BY:			
CHECKED BY: Q.T.			
SCALE: 3/16" = 1'-0"		DATE:	
PROJECT:	TITLE:		A5

GENERAL CONDITION:
 GENERAL CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITION ON SITE AND REPORT IMMEDIATELY ANY DISCREPANCIES TO TRAN DIEU & ASSOCIATES INC BEFORE PROCEEDING WITH THE WORK.
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 DO NOT SCALE DRAWINGS

REMOVED EXTG. WALL OPEN UP EXISTING VERANDAH PROVIDE 42" HIGH GUARDRAIL W/ 4" O.C PICKET



FRONT ELEVATION (WEST ELEVATION)

STATUS: FOR PERMIT APPLICATION		ISSUED:
 TRAN DIEU & ASSOCIATES INC. <small>50 WEYBRIGHT CRT. UNIT 4, SCARBOROUGH, ONTARIO M1S 5A8, TEL. (416) 298-6370 FAX: (416) 298-6903</small>		
PROJECT: 525 OSSINGTON AVE. CONVERT TO 3 DWELLING UNITS INTERIOR RENOVATION.		
DRAWN BY:		
CHECKED BY: Q.T.		
SCALE: 3/16" = 1'-0"		DATE:
PROJECT:	TITLE:	
	A6	