

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, September 17, 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): Nadya Burton

Applicant: Tomasz Goral

Property Address/Description: 72 Coolmine Rd

Committee of Adjustment Case File Number: 18 254060 STE 18 MV (A1046/18TEY)

TLAB Case File Number: 19 113447 S45 09 TLAB

**Hearing Date:**      Wednesday, June 26, 2019

**DECISION DELIVERED BY J. Tassiopoulos**

## APPEARANCES

NAME	ROLE	REPRESENTATIVE
NADYA BURTON	OWNER/APPELLANT	TOMASZ GORAL

## INTRODUCTION & BACKGROUND

This is an appeal to the Toronto Local Appeal Body (TLAB) from a decision of the Committee of Adjustment (COA) for 72 Coolmine Road, dated January 23, 2019. The COA refused the variances requested for the construction of a rear detached garage on the property. Tomasz Goral, the representative for the Appellant, Nadya Burton, attended the hearing on the Appellant's behalf. Mr. Goral explained that there was a miscommunication between himself and the Appellant with respect to attending the COA hearing on January 23, 2019 and neither attended. In their absence the COA considered the application and refused the minor variances. Mr. Goral explained that the two options provided to them by COA staff was to either appeal the decision to TLAB or to submit a new COA application. The Appellant chose to file an appeal of the decision to the TLAB in order to have a chance to explain the variances requested.

The site is located on the southwest corner of Coolmine Road and St. Annes Road. The minor variance application to the COA requested a total of 3 variances to By-law 569-2013, to permit the construction of a detached garage.

The Appellant's representative, Mr. Goral, was the only registered Party at the TLAB hearing and was there to provide a description of the proposed garage and the reason for the variances.

I disclosed to Mr. Goral that I had visited the site prior to and in preparation of the hearing at the beginning of the hearing.

## **MATTERS IN ISSUE**

I must be satisfied that the three variances sought, to construct the rear detached garage at 72 Coolmine Road, meet the four tests under s. 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 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. Goral, being the only Party present at the Hearing, presented on behalf of the Appellant, the background with respect to the variances being sought for the construction of the proposed rear detached garage.

Mr. Goral explained that currently there is a shed in the location of the proposed garage that has been used for storage. He explained that Ms. Burton, the Appellant, had been parking her automobile in front of the shed but that City staff had indicated to her that she could not park in the location because it was within the public boulevard. City staff indicated that Ms. Burton could not park in the location even if she was trying to pay for a permit and suggested to her that she either apply for street permit parking or that she may want to consider replacing the existing shed with a detached garage that could accommodate the parking of her vehicle.

Mr. Goral mentioned that Ms. Burton did not want to rely on street parking because it was difficult to find street parking in her neighbourhood and that she wanted to build a garage instead. He went on to indicate on the site plan, submitted to COA and attached as Attachment 2, the location of where Ms. Burton had been parking which was in the boulevard between the north property line of 72 Coolmine Road and the street sidewalk.

Mr. Goral went on to explain variances 1 and 3 which sought a north side yard setback of 0.15m whereas 1.0m is required, and for a reduced parking space size of 2.72m in width and 4.83m in length whereas the required minimum parking space must have a width of 3.2m and length of 5.6m. He explained that Ms. Burton has a small car and that they had measured the car and that it would fit proposed garage.

He also mentioned that the second variance was to permit an existing condition of a hardscaped patio at the rear between the house's rear wall and the proposed detached garage. He directed me to the 5 pictures that were submitted into the Hearing file, for reference of the existing condition of the rear yard and that they would like to retain the patio as it was a space used by Ms. Burton's mother. He explained that this has been an existing condition for over 10 years.

During Mr. Goral's presentation, I pointed out to him that the drawings appeared to show the incorrect directions on the elevations (e.g. north elevation was indicated as south). In reviewing the drawings at the Hearing, Mr. Goral concurred that it was an oversight on his part. I indicated that should the appeal be allowed he would need to provide updated drawings indicating the correct elevation directions.

## **ANALYSIS, FINDINGS, REASONS**

Given that there were no other Parties present at the hearing and that the only evidence to rely upon was Mr. Goral's presentation, I must also rely on the files and documentation within the Hearing file in order to determine whether the proposed variances for a detached garage meet the four tests under s. 45(1) of the *Planning Act*.

Furthermore, during the Hearing, I indicated to Mr. Goral that both Transportation Services and Urban Forestry had provided conditions that would need to be included should the variances be approved. He advised that both conditions were satisfactory to

the Applicant. In particular, Transportation Services requires the Appellant to restore the City boulevard area adjacent to the proposed garage *"to soft landscaping and, and the curb cut restored to the width of the proposed garage."* (January 17, 2019, Transportation Services Staff Report). This condition must be met, if the appeal is to be allowed because it is essential to meeting the test of whether the proposed garage is desirable for the appropriate development or use of the land.

With respect to Variance 1, a north side yard setback for 0.15m whereas 1.0m is required, I referred to the survey within the hearing file and my documentation of the site visit. The survey indicates that a garage was previously located on the property with a north side yard setback of 9 ½ inch (0.24m): however, the proposed new garage has a south side yard setback of 1'-0" (0.3m) while the survey indicates 6 inches (0.15m). In addition, during my site visit I identified that the abutting neighbour to the west had a modest garage similar to the garage proposed and in a similar location. Given that the proposed garage is modest in nature and that the setbacks are in keeping with those on the adjacent property and that the boulevard adjacent to the north property line is generous, the reduced setback will appear imperceptible and will not have a qualitative impact on the boulevard relationship.

With respect to Variance 2, the existing condition of a hardscaped rear yard that, from the photos presented at the Hearing, has been in the same state for a number of years and does not appear recent. To induce hardship to the Appellant to restore the rear yard at this point appears to me to be unreasonable especially since this would not have been a variance required if the Appellant were not trying to remedy the issue of an unauthorized parking pad. Looking at the proposed variances cumulatively, this variance in this particular instance and context appears to be negligible.

Variance 3 which seeks a reduced parking space size of 2.72m in width and 4.83m in length, whereas the required minimum parking space must have a width of 3.2m and length of 5.6m, is indeed minor. Given that the survey for the property indicates a previous garage exterior length of 18'-0" (5.49m), the existing property width would never have been able to meet the current zoning requirement for length either. It simply does not appear to be possible, even when modest setbacks are applied to this particular property and its context.

The proposal to construct the proposed detached garage resulting in the removal of the present paved parking pad and restoring the boulevard to soft landscaping would be appropriate and more desirable for the use of the property.

For these reasons, I believe that the appeal should be allowed and that the variances sought be approved with the conditions set out by both Transportation Services and Urban Forestry. The removal of the parking pad and restoration of the City boulevard with soft landscaping along with the construction of the modest detached garage and the minor variances sought cumulatively, and in combination, meet all four tests under s. 45(1) of the *Planning Act*.

## DECISION AND ORDER

The TLAB allows the appeal of the COA decision. The following variances and conditions in Attachment 1 are allowed, and the proposed dwelling is to be constructed substantially in accordance with the plans dated September 2018 and provided in Attachment 2 (Sheets A-1.1, A-2.1, A-2.2, and A-3.1 to 3.4, inclusive). Any additional variances not identified in this decision that are required and as may appear on the plans referenced, are expressly not authorized.

X

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John Tassiopoulos  
Panel Chair, Toronto Local Appeal Body

## **ATTACHMENT 1 – Approved Variances & Conditions for 72 Coolmine Road**

### **Variances to the Zoning By-law**

#### **1. Chapter 10.10.60.20.(1)(A), By-law 569-2013**

The minimum required north side yard setback for an ancillary building or structure is 1.0 m.

The rear detached garage will be located 0.15 m from the north side lot line.

#### **2. Chapter 10.5.50.10.(3)(B), By-law 569-2013**

A minimum of 25% (12.22 m<sup>2</sup>) of the rear yard must be maintained as soft landscaping.

In this case, 0.0% (0.0 m<sup>2</sup>) of the rear yard will be maintained as soft landscaping.

#### **3. Chapter 200.5.1.10.(2)(A)(i) & (ii), By-law 569-2013**

The required parking space must have a minimum width of 3.2m and length of 5.6m.

The parking space will measure 2.72 m in width and 4.83 m in length.

### **Conditions**

#### Transportation Services

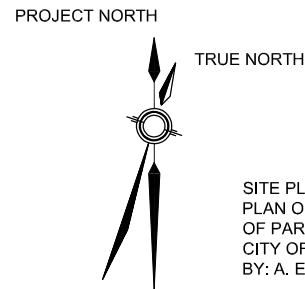
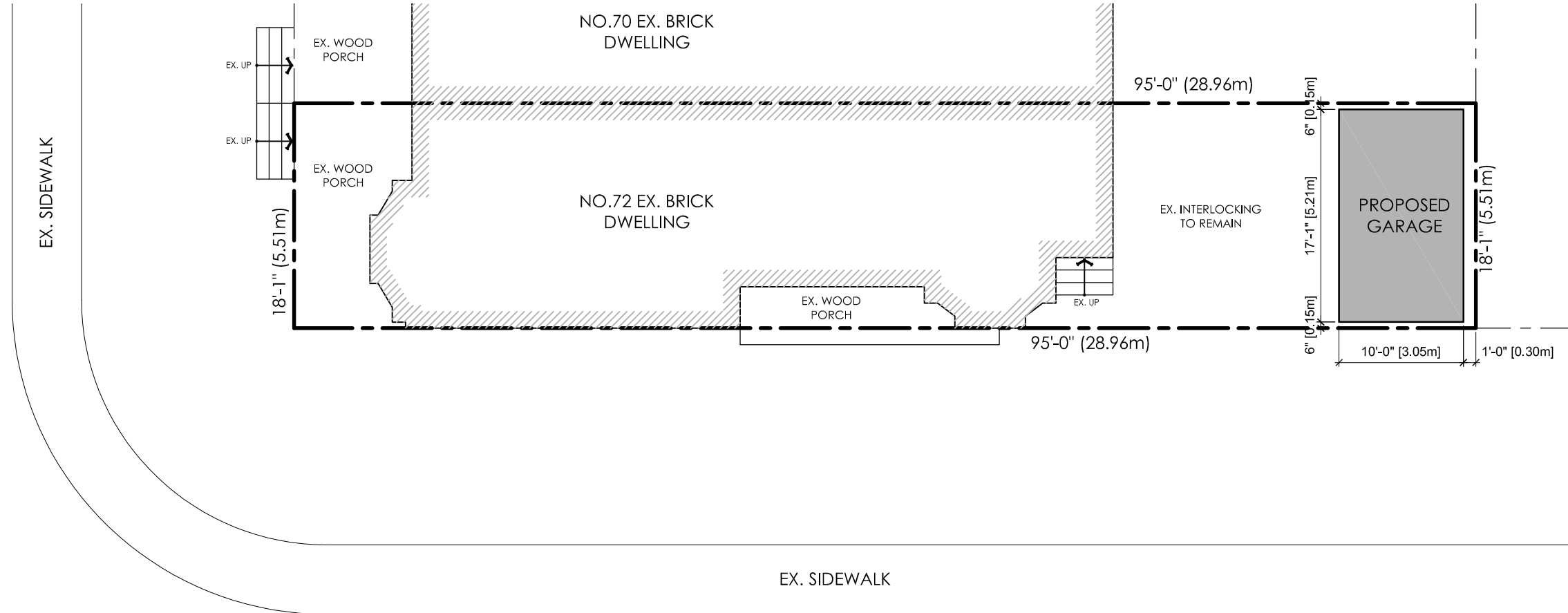
1. The current paved boulevard of the unauthorized parking pad is to be restored to soft landscaping and the curb cut restored to the width of the proposed garage.
2. The Owner/Appellant contact Right of Way Management, Construction Activities at 416-392-7877, located at 55 John Street (Metro Hall), 17<sup>th</sup> Floor to obtain a permit for any landscaping and/or paving within the City boulevard and to arrange for curb cut and soft landscaping of the boulevard at no cost to the City.

#### Urban Forestry

3. Submission of a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection.
4. Applicants must provide Urban Forestry with a copy of the TLAB decision. A clearance letter will be issued once the required conditions are fulfilled.

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COOLMINE ROAD



SITE PLAN INFORMATION TAKEN FROM:  
 PLAN OF SURVEY  
 OF PART LOT 18 REG-ED PLAN D 158  
 CITY OF TORONTO  
 BY: A. E. REUBEN - 19 JUNE 1966

ST ANNES ROAD

AREA:	
LOT AREA:	1,717.92 ft <sup>2</sup> (159.60 m <sup>2</sup> )
HOUSE AREA:	1,416.54 ft <sup>2</sup> (131.60 m <sup>2</sup> )
PROPOSED GARAGE:	170.83 ft <sup>2</sup> (15.87 m <sup>2</sup> )

No.	DATE	REVISION/SUBMISSION	ISSUED BY
2.	02.NOV.2018	ISSUED FOR CoA	TG
1.	10.SEPT.2018	ISSUED FOR PERMIT	TG

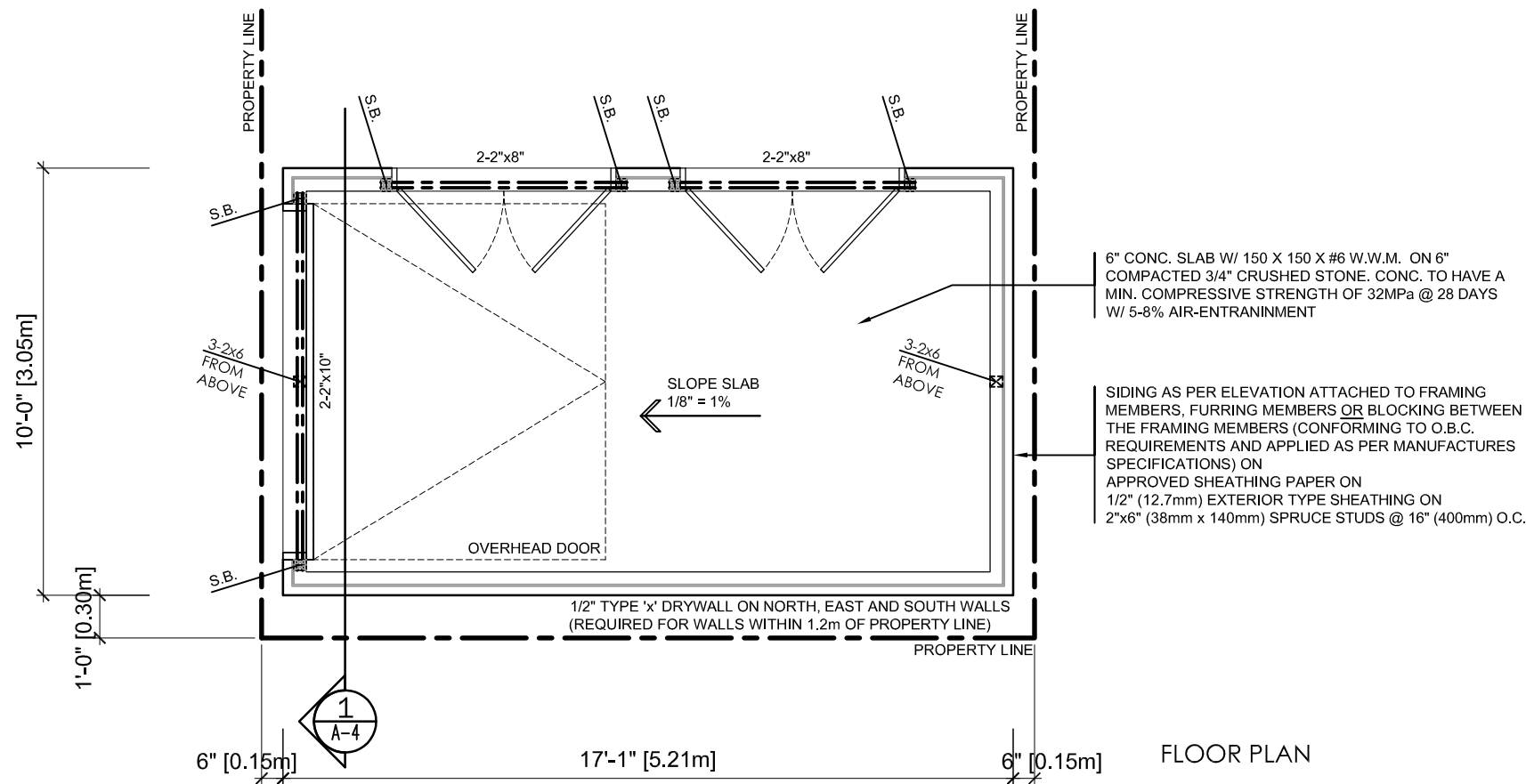
**COOLMINE RESIDENCE**

72 COOLMINE ROAD, TORONTO, ON, M6J 3E9

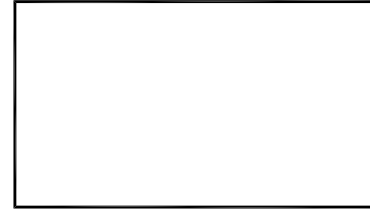
**SITE PLAN**

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PROJECT NUMBER		
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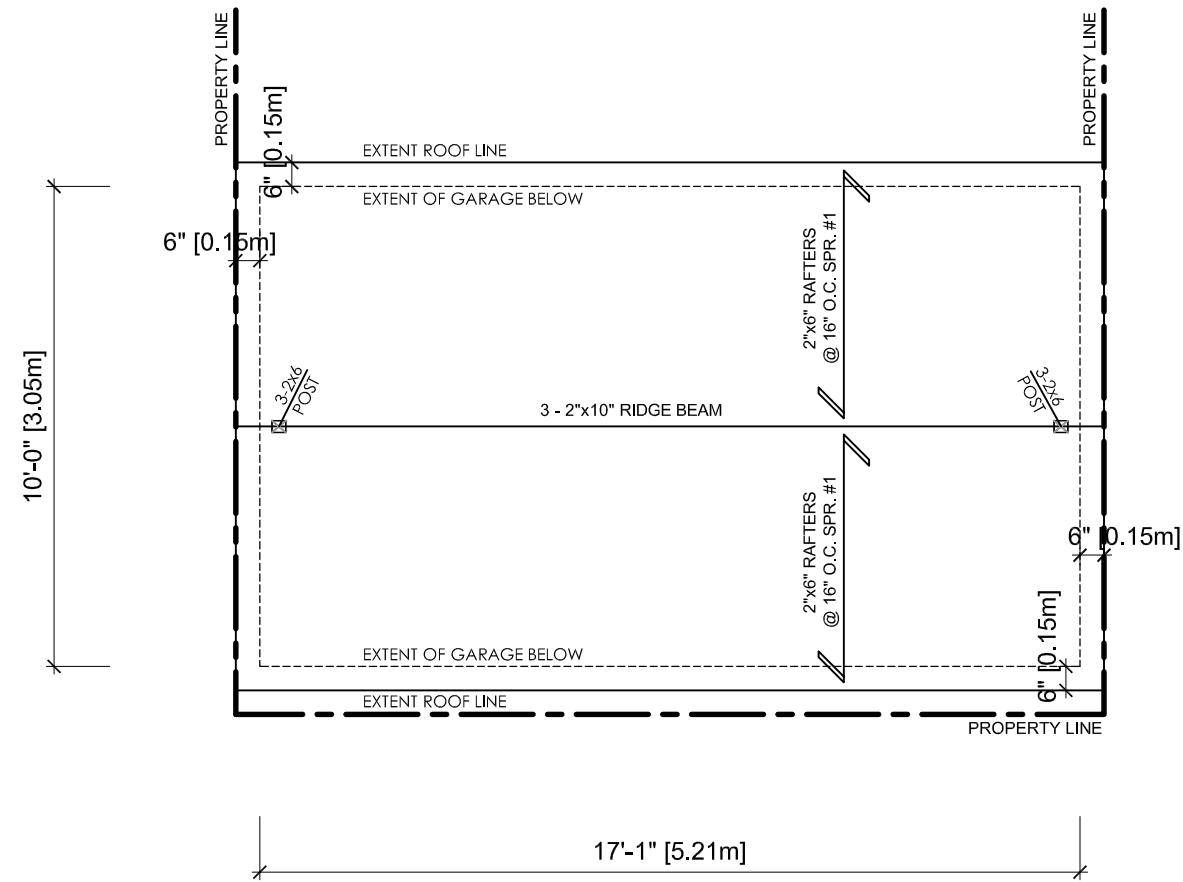
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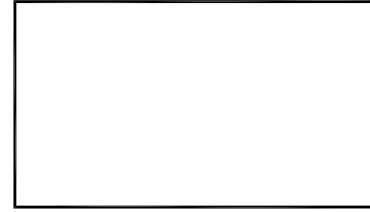


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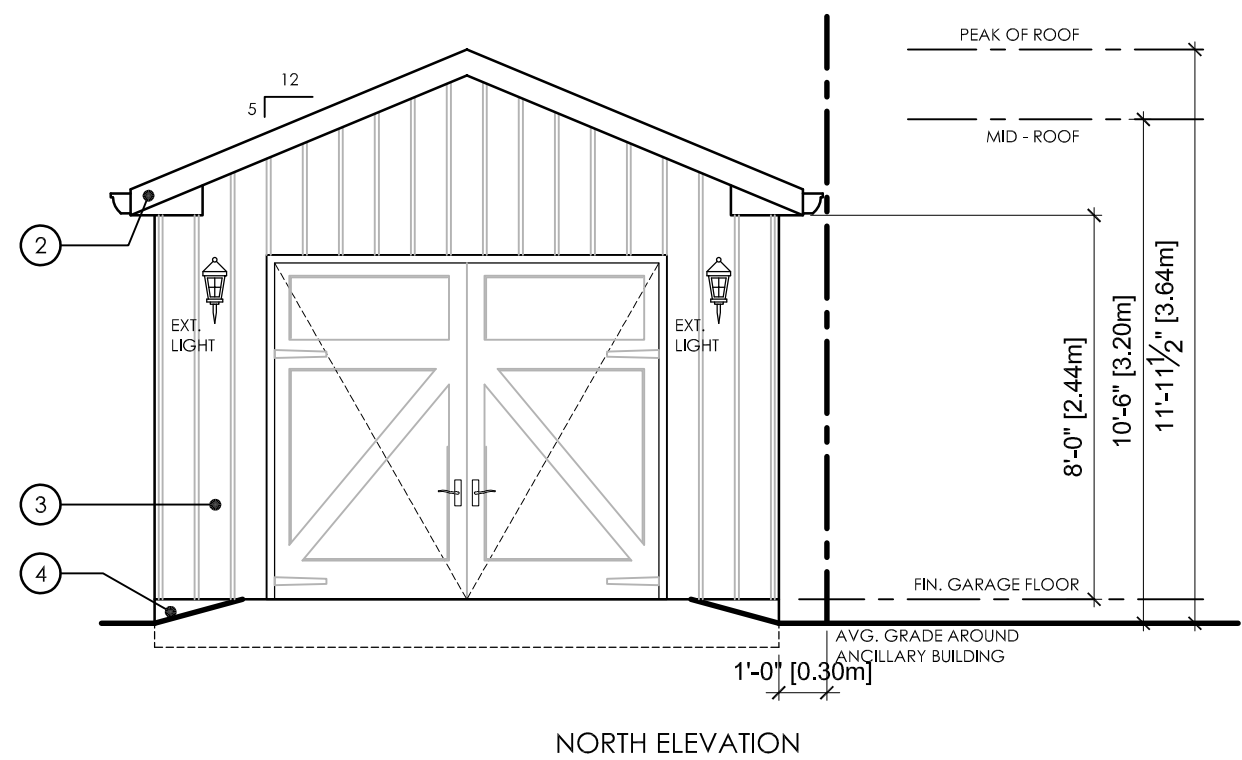
72 COOLMINE ROAD, TORONTO, ON, M6J 3E9

## PLAN

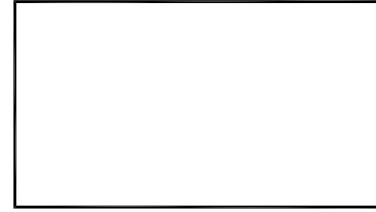
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| ② PREFINISHED ALUM. GUTTER, R.W.L., FASCIA BOARD & VENTED SOFFIT (TYPICAL) | ④ CEMENT RENDERING BOARD |



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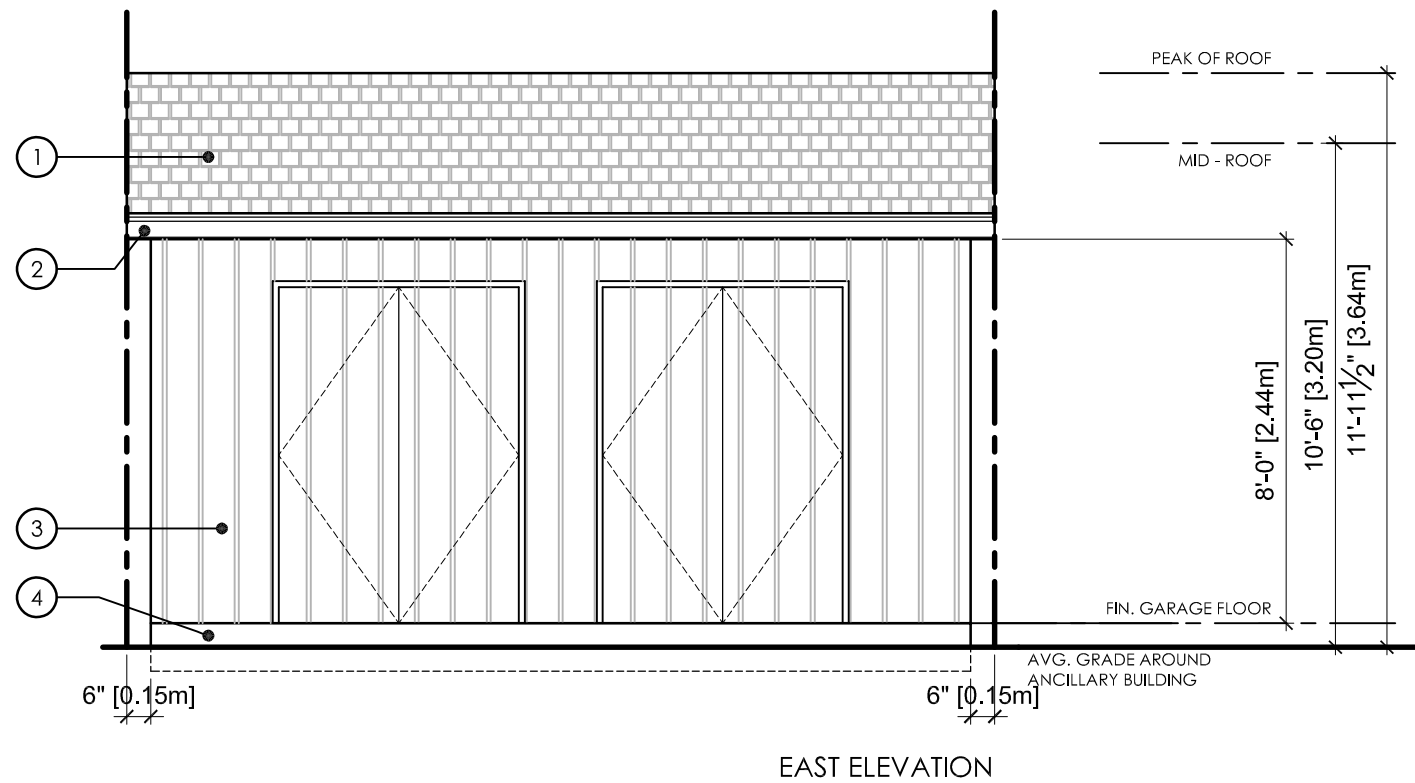
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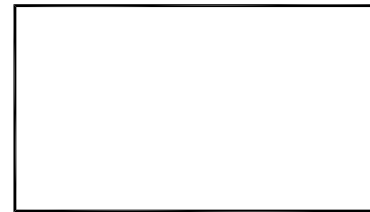
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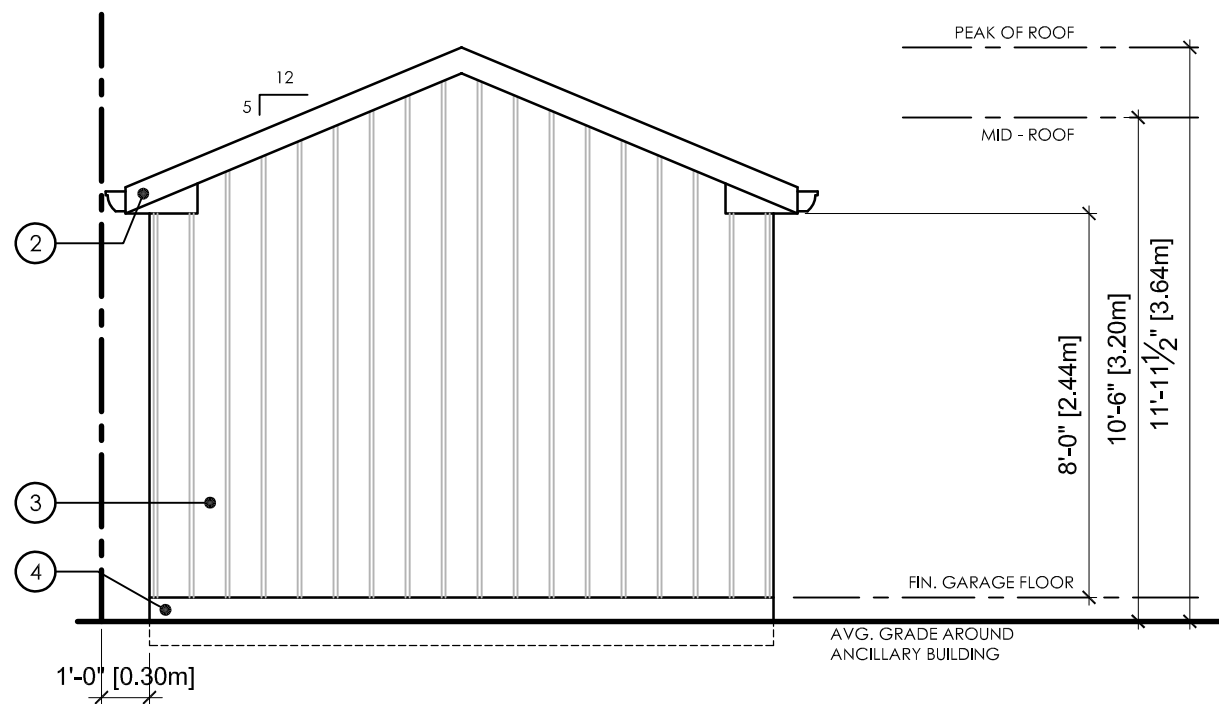
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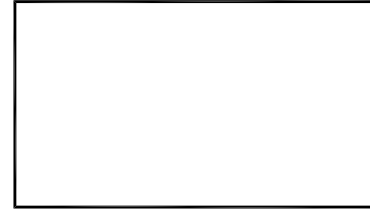
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SOUTH ELEVATION

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## COOLMINE RESIDENCE

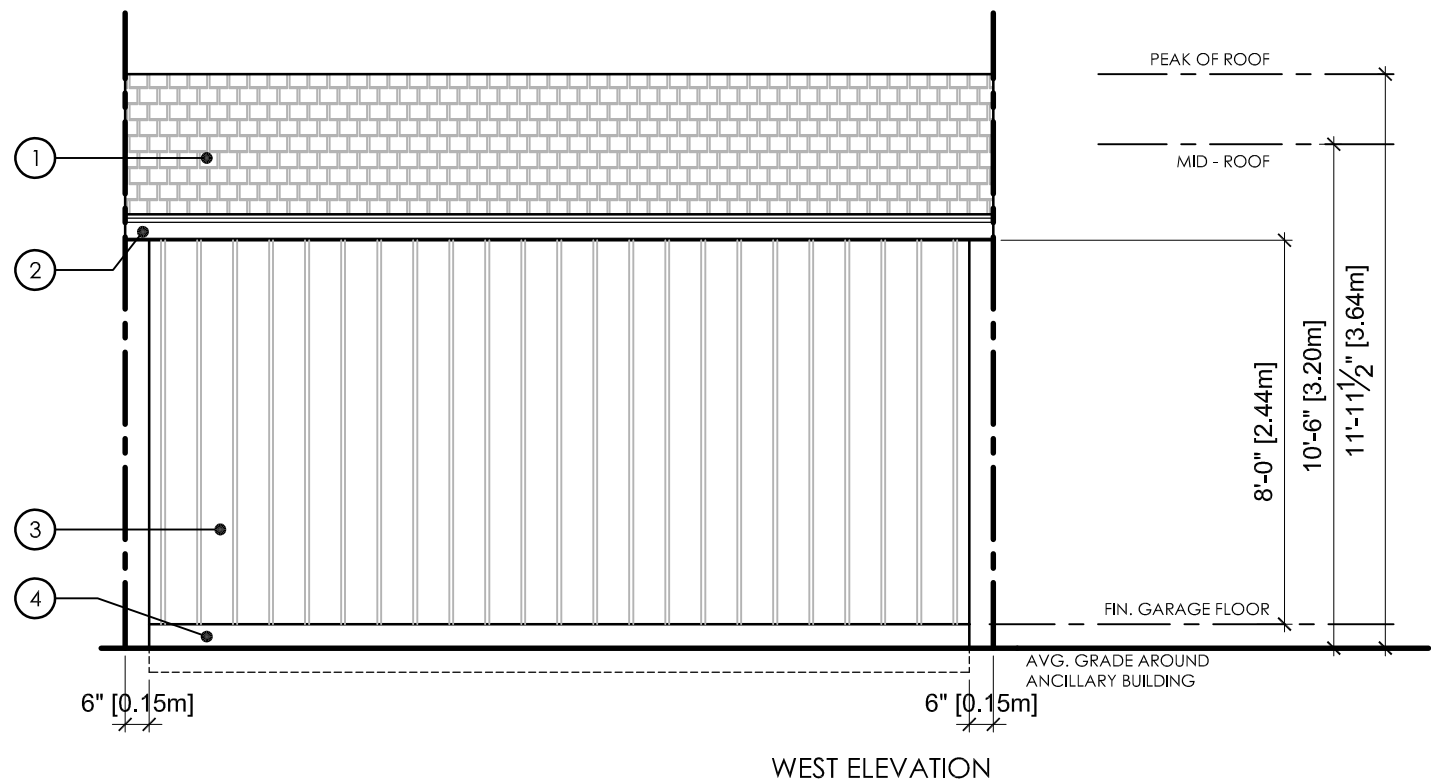
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### ELEVATION

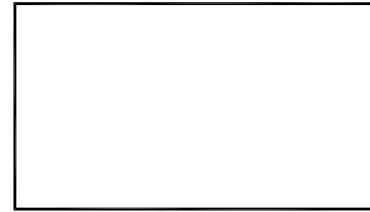
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| ② PREFINISHED ALUM. GUTTER, R.W.L., FASCIA BOARD & VENTED SOFFIT (TYPICAL) | ④ CEMENT RENDERING BOARD & VENTED SOFFIT (TYPICAL) |



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# COOLMINE RESIDENCE

72 COOLMINE ROAD, TORONTO, ON, M6J 3E9

## ELEVATION

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1/4" = 1'-0"	TG	FS
DATE	DRAWING NUMBER	
SEPT 2018	A-3.4	
PROJECT NUMBER	1847	