

Toronto Local Appeal Body

40 Orchard View Blvd, Suite 253 Toronto, Ontario M4R 1B9

Telephone: 416-392-4697
Fax: 416-696-4307
Email: tlab@toronto.ca
Website: www.toronto.ca/tlab

DECISION AND ORDER

Decision Issue Date Monday, November 25, 2019

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): AMIR CHARMCHI

Applicant: EZED ARCHITECTS

Property Address/Description: 32 FLORENCE AVE

Committee of Adjustment Case File: 19 101566 NNY 18 CO (B0002/19NY)

TLAB Case File Number: 19 177151 S53 18 TLAB

Hearing date: November 6, 2019 and November 7, 2019

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

NAME ROLE REPRESENTATIVE

UNO LEONARD ABE Owner

EZED ARCHITECTS Applicant

AMIR CHARMCHI Appellant AMBER STEWART

INTRODUCTION

This is an appeal from a refusal by the Committee of Adjustment to approve an application for consent to create three lots and an application for associated variances to construct a detached dwelling on each of those lots. There were revisions to the variances as a result of removing a canopy, a change in the method of determining the front yard setback for the eastern lot, and as a result of the original notice being based on a unamended bylaw. No new notice is required pursuant to s. 45(18.1.1) of the Planning Act as a result of the changes in the variances because the revisions to the

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variances were technical, reductions, or eliminated, and the plans did not change except for the elimination of a canopy. The revised variances, and the plans and elevations are attached as Appendix 1.

BACKGROUND

The property is located in the West Lansing Zoning Area of the former municipality of North York for which the bylaw was amended to reduce frontage, area and setback requirements as a result of recent development in that area. There were no parties or participants in opposition who filed with TLAB; however, two persons who were residents in the area did appear and were allowed to participate in the Hearing:Mr. Jean in opposition to the appeal; and Ms. Elahi who appeared to be in support. Evidence in favour of the appeal was given by Mr. Romano, a qualified land use planner.

MATTERS IN ISSUE

There were no clear matters in issue; however, the basic concern appeared to be that the lot frontage was too narrow.

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').

Consent - S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;

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- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (I) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

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.

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EVIDENCE

Mr. Jean pointed out that the West Lansing Home Owners Association had taken no formal position respecting this appeal and that he was appearing only on his own behalf. In his view the frontage variance was inappropriate as the West Lansing Zoning Bylaw allowed a minimum frontage of 7.5 m and the proposed frontage was 7.11m. In his opinion only two lots should be approved. The variances he agreed were only 44cm less than permitted. He also raised a concern about a City tree which appeared to have been removed legally. Ms. Elahi, the real estate agent, who sold the property, was not opposed to the consent as she thought it would bring families to the area.

Mr. Romano's evidence was a summary of his Expert Witness Statement and it was clear from it, that, in his view, the consent should be granted, as a plan of subdivision is not necessary, and the consent complies with section 53 of the Planning Act. In addition, his evidence was that the variances meet the four tests of the Planning Act in that the lot and detached dwellings respect and reinforce the physical character of the neighbourhood. On my visit to the area I reached the same conclusion. I note that Mr. Romano also recommended a number of standard conditions which should be applied to any approval.

ANALYSIS, FINDINGS, REASONS

I find that a lot frontage deficiency will not be discernable and that the evidence given by Mr. Romano on the basis of his Witness Statement is convincing and uncontradicted). As a result, the consent should be granted, and the variances approved.

DECISION AND ORDER

The appeal is allowed and the consent and variances as set out in Appendix I below are approved subject to the following conditions:

Consent Conditions

- (1) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
- (2) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
- (3) Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of the General Manager, Parks, Forestry and Recreation.

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- (4) Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
- (5) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (6) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

Variance conditions

The variances are approved subject to the following:

- 1) Construction must be substantially in accordance with the plans and elevations included in Appendix 1
- 2), Prior to this order coming into effect the applicant shall satisfy all requirements concerning trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.

S. Makuch

Panel Chair, Toronto Local Appeal

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Appendix 1

32A Florence Avenue – Revised List of Variances (Part 1 – West Lot)

Chapter 900.3.10(559) Exceptions for RD Zone, Exception RD559, Zoning By-law No. 569-2013
 The minimum required side yard setback is 0.9 m.
 The proposed east side yard setback is 0.61 m.

2. Chapter 10.5.40.60(1), Zoning By-law No. 569-2013

In the Residential Zone category, a platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.9 m).

The proposed platform setback is 0.61m from the east side lot line.

3. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013 B)(i)
The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m.
The proposed height of the side exterior main walls facing a side lot line is 9.3 m.

4. Chapter 10.20.30.10.(1), Zoning By-law No. 569-2013 A)

The required minimum lot area is 300 m².

The proposed lot area is 282.13 m².

Chapter 10.20.30.20.(1), Zoning By-law No. 569-2013 A)
 The required minimum lot frontage is 7.5 m.
 The proposed lot frontage is 7.11 m.

6. Chapter 10.20.30.40.(1), Zoning By-law No. 569-2013 A)
The permitted maximum lot coverage is 30 % of the lot area.
The proposed lot coverage is 32 % of the lot area.

7. Section 13.2.6, By-law No. 7625
The maximum permitted building height is 8.8 m.

The proposed building height is 9.82 m.

8. Section 6(30)a, By-law No. 7625
The maximum finished first floor height is 1.5 m.
The proposed finished first floor height is 1.71 m

32B Florence Avenue – Revised List of Variances (Part 2 – Middle Lot)

Chapter 900.3.10(559) Exceptions to RD Zone, Exception RD5, By-law No. 5692013
 The minimum required side yard setback is 1.2 m.
 The proposed east side yard setback is 0.61 m.

2. Chapter 10.5.40.50(2), By-law No. 569-2013

In the Residential Zone category, a platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (1.8 m).

The proposed rear deck is setback 0.61 m from the east side lot line.

3. Chapter 10.20.40.10.(2), By-law No. 569-2013 B)(i)

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m. The proposed height of the side exterior main walls facing a side lot line is 9.29 m.

4. Chapter 10.20.30.10.(1), By-law No. 569-2013 A)

The required minimum lot area is 550 m².

The proposed lot area is 282.13 m².

5. Chapter 10.20.30.20.(1), By-law No. 569-2013 A)

The required minimum lot frontage is 15 m.

The proposed lot frontage is 7.11 m.

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

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

The proposed lot coverage is 32 % of the lot area.

7. Chapter 10.5.40.60.(1), By-law No. 569-2013

A platform without main walls, attached to or less than 0.3 m 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 if it is no closer to a side lot line than the required side yard setback, 1.2 m (east side).

The proposed platform is 0.61 m from the east side lot line.

8. Section 13.2.6, By-law No. 7625

The maximum permitted building height is 8.8 m.

The proposed building height is 9.68 m.

9. Section 6(30)a, By-law No. 7625

The maximum finished first floor height is 1.5 m.

The proposed finished first floor height is 1.58 m.

32C Florence Avenue – Revised List of Variances (Part 3 – East Lot)

Chapter 900.3.10(559) Exceptions to RD Zone, Exception RD5, By-law No. 569-2013
 The minimum required side yard setback is 0.9 m.
 The proposed west side yard setback is 0.61 m.

2. Chapter 10.20.40.70.(1), By-law No. 569-2013
The required minimum front yard setback is 7.12 m.
The proposed front yard setback is 6.47 m.

3. Chapter 10.5.40.50(2), By-law No. 569-2013

In the Residential Zone category, a platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.9 m).

The proposed platform is setback 0.61 m from the west side lot line.

4. Chapter 10.20.40.10.(2), By-law No. 569-2013 B)(i)

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m. The proposed height of the side exterior main walls facing a side lot line is 9.3 m.

Chapter 10.20.30.10.(1), By-law No. 569-2013 A)
 The required minimum lot area is 300 m².
 The proposed lot area is 282.13 m².

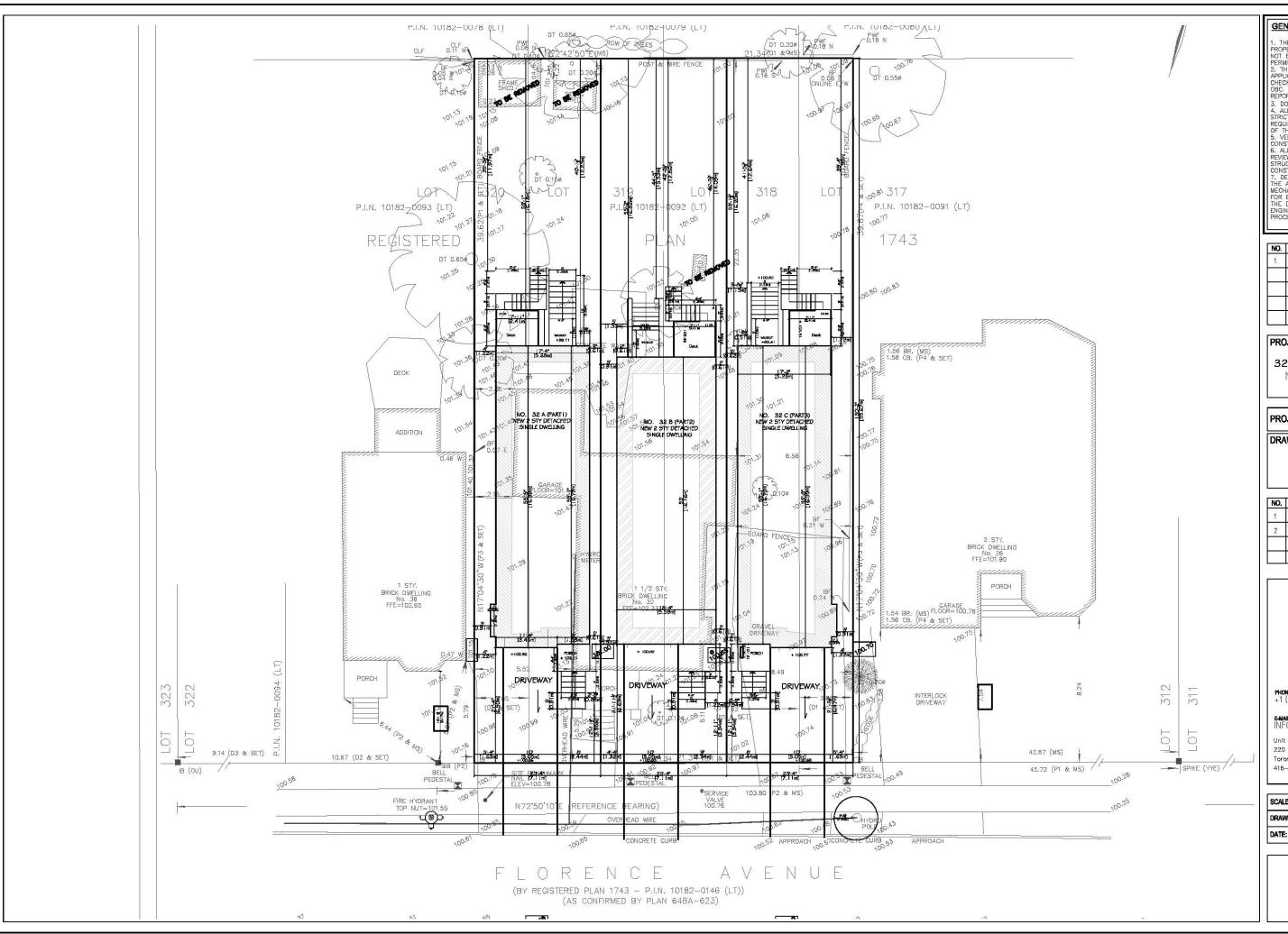
Chapter 10.20.30.20.(1), By-law No. 569-2013 A)
 The required minimum lot frontage is 7.5 m.
 The proposed lot frontage is 7.11 m.

7. Chapter 10.20.30.40.(1), By-law No. 569-2013 A)
The permitted maximum lot coverage is 30 % of the lot area.

The proposed lot coverage is 32 % of the lot area.

8. Section 13.2.6, Zoning By-law No. 7625
The maximum permitted building height is 8.8 m.

The proposed building height is 9.57 m.



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32A FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

SITE PLAN

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EZed Architects

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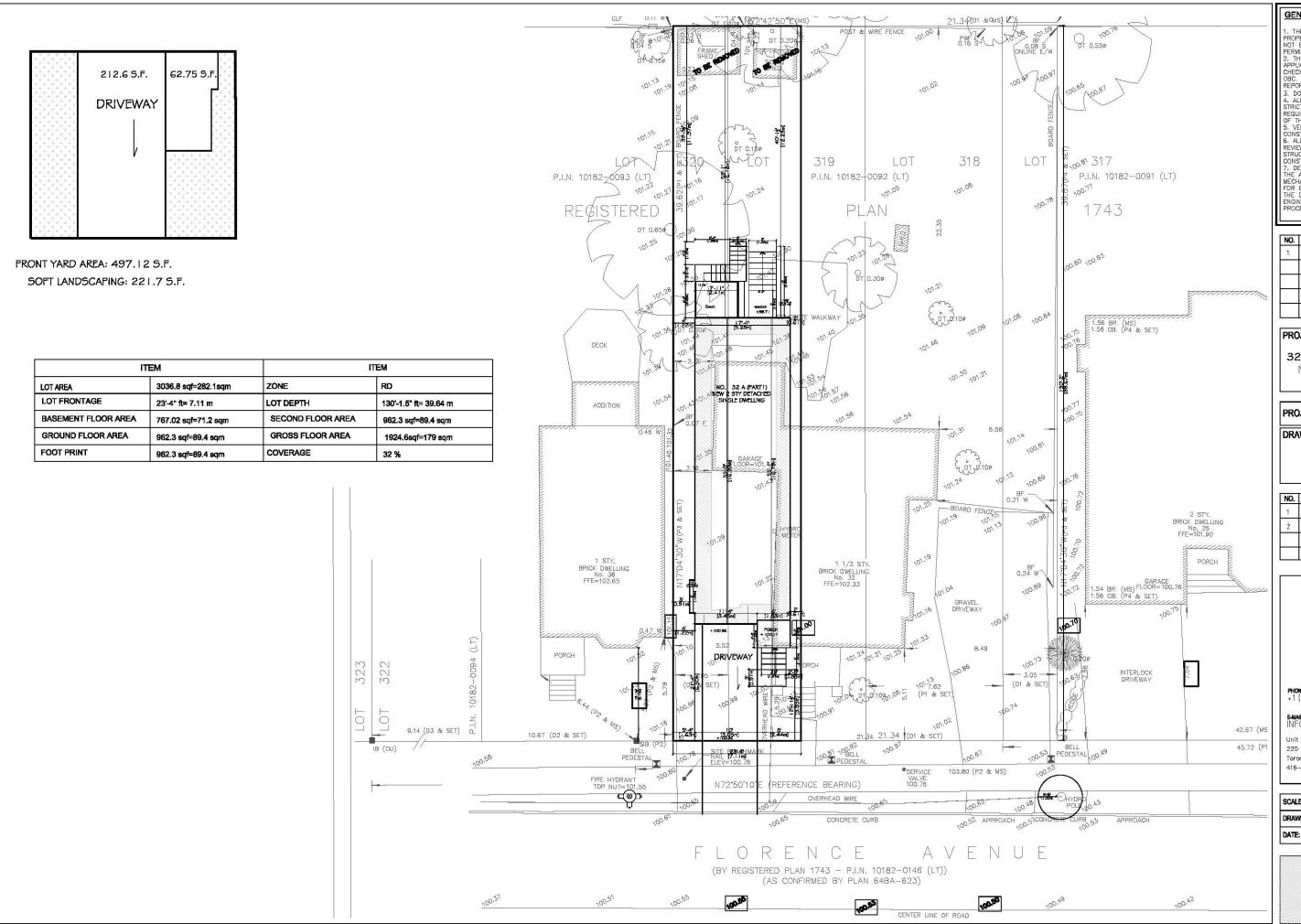
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Unit 406, 220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

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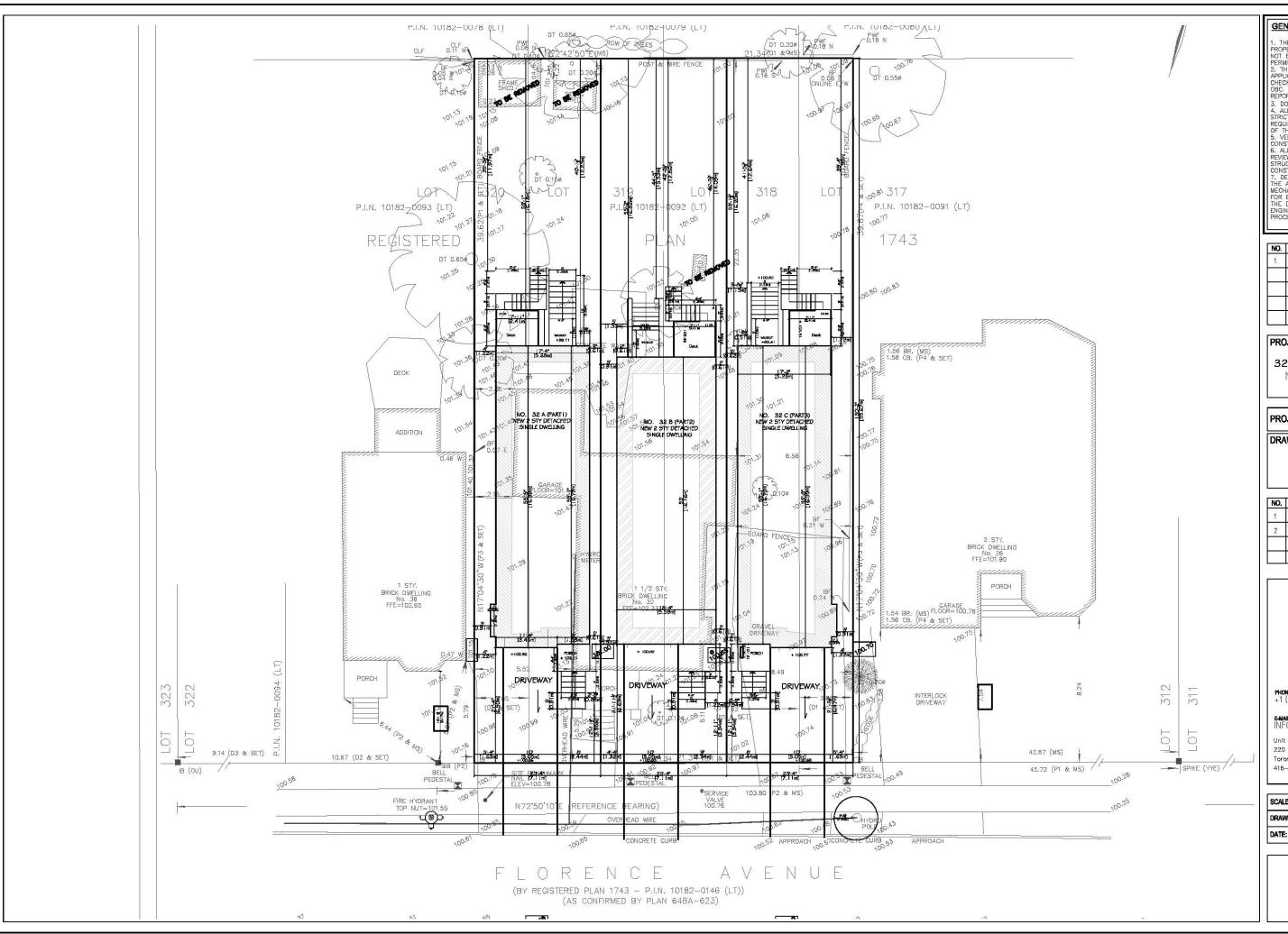
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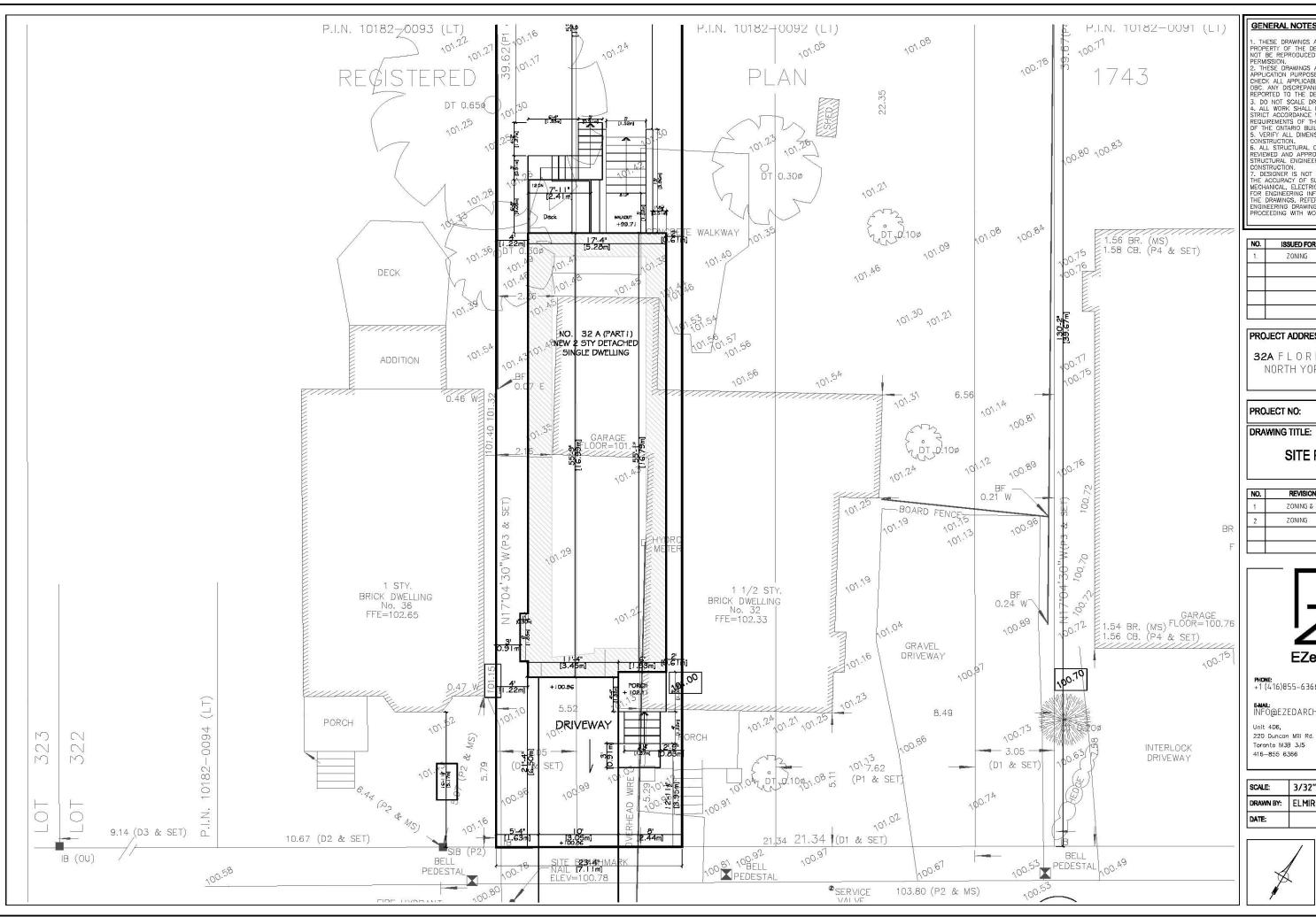
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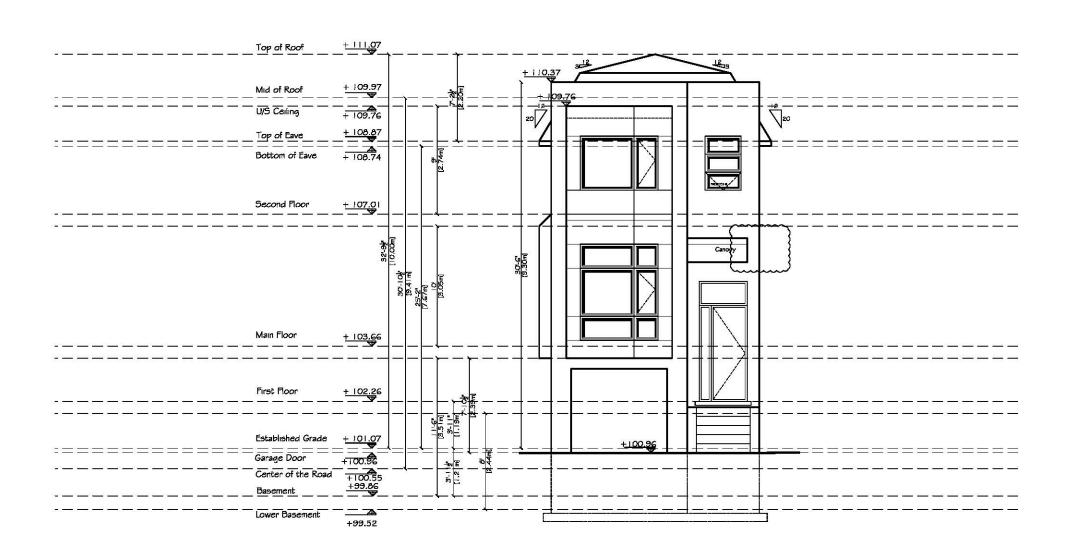
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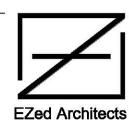
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MAIN(South) ELEVATION

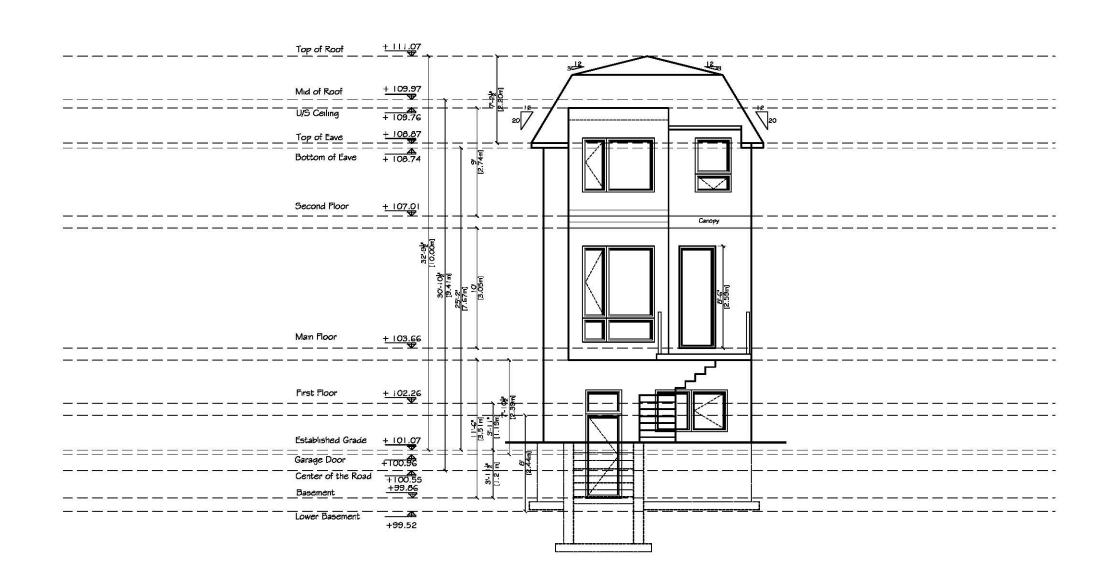
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REAR (North) ELEVATION

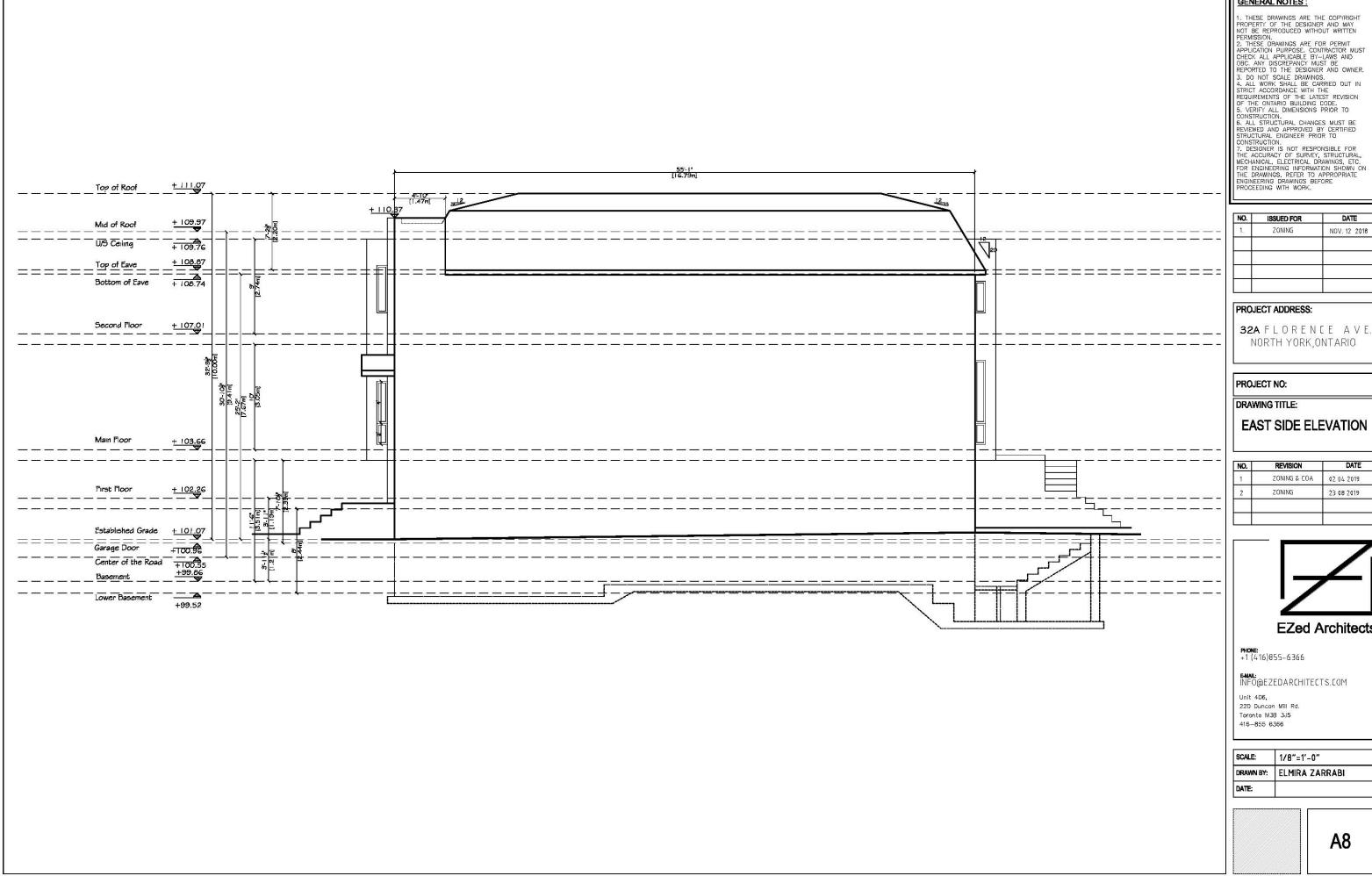
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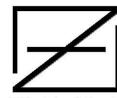


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32A FLORENCE AVE NORTH YORK, ONTARIO

EAST SIDE ELEVATION

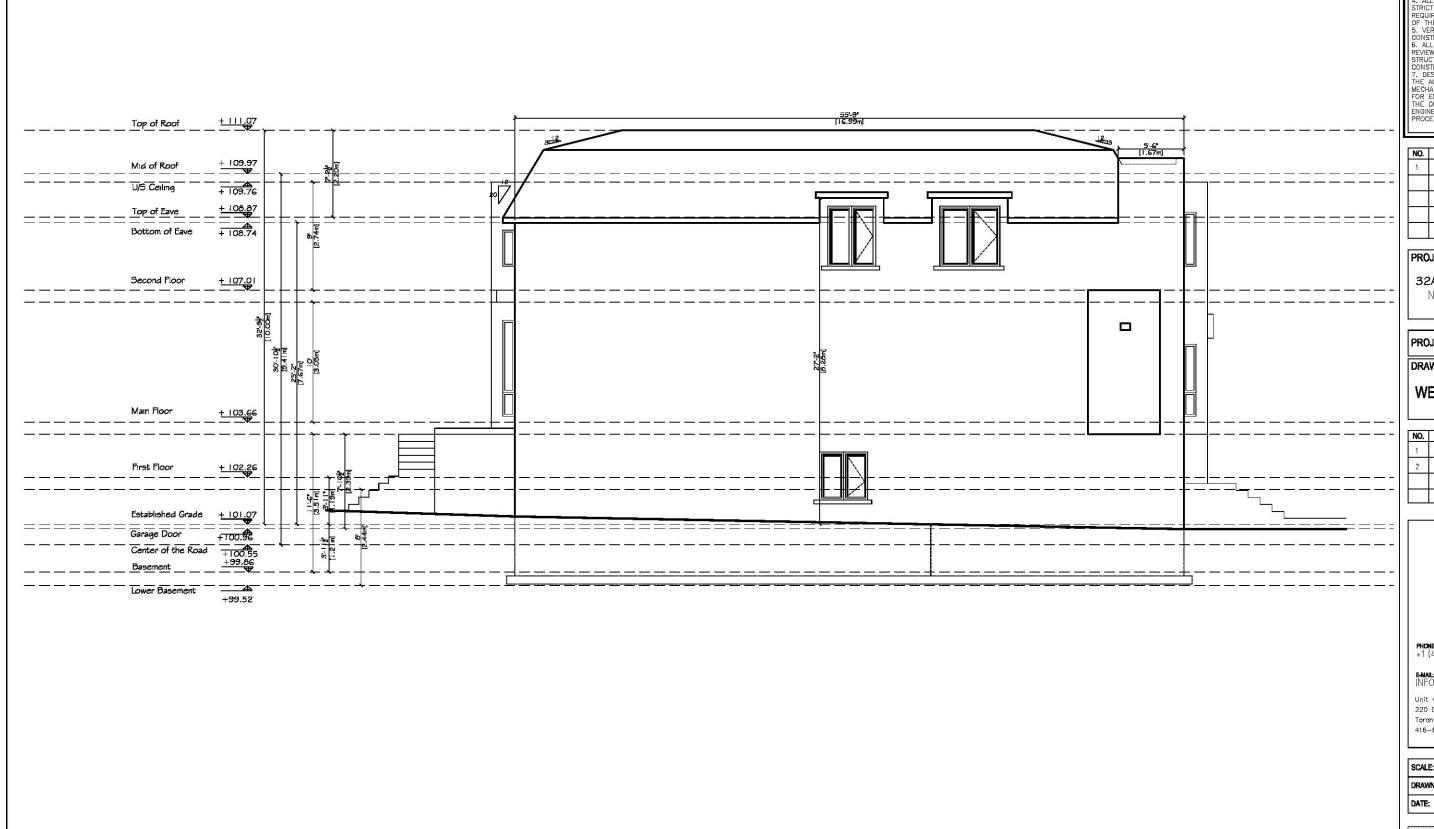
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| NO. | ISSUED FOR | DATE |
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| 1. | ZONING | NOV. 12 2018 |
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PROJECT ADDRESS:

32A FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

WEST SIDE ELEVATION

| NO. | REVISION | DATE |
|-----|--------------|------------|
| 1 | ZONING & COA | 02 04 2019 |
| 2 | ZÓNING | 23 08 2019 |
| | | |
| - | | |



PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

Unit 406, 220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

| SCALE: | 1/8"=1'-0" |
|-----------|----------------|
| DRAWN BY: | ELMIRA ZARRABI |
| DATE: | |

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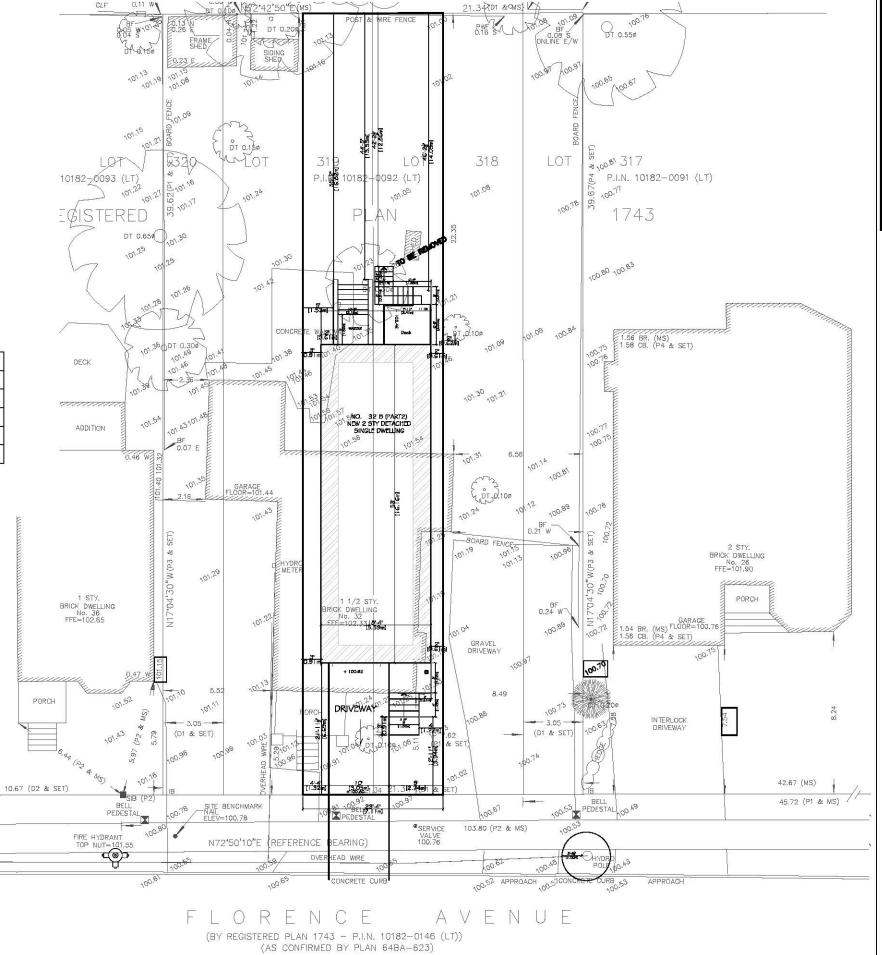


FRONT YARD AREA: 511.3 S.F. SOFT LANDSCAPING: 222.1 S.F.

| ITEM | | ITEM | |
|---------------------|---------------------|-------------------|-----------------------|
| LOT AREA | 3036.8 sqf=282.1sqm | ZONE | RD |
| LOT FRONTAGE | 23'-4" ft= 7.11 m | LOT DEPTH | 130'-1.5" ft= 39.64 m |
| BASEMENT FLOOR AREA | 767.02 sqf=71.2 sqm | SECOND FLOOR AREA | 971.7 sqf=90.27 sqm |
| GROUND FLOOR AREA | 971.7 sqf=90.27 sqm | GROSS FLOOR AREA | 1943.3sqf=180.5 sqm |
| FOOT PRINT | 971.7 sqf=90.27 sqm | COVERAGE | 32 % |

9.14 (D3 & SET) D

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CENTER LINE OF ROAD

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PROJECT ADDRESS:

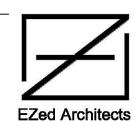
32B FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

COVER

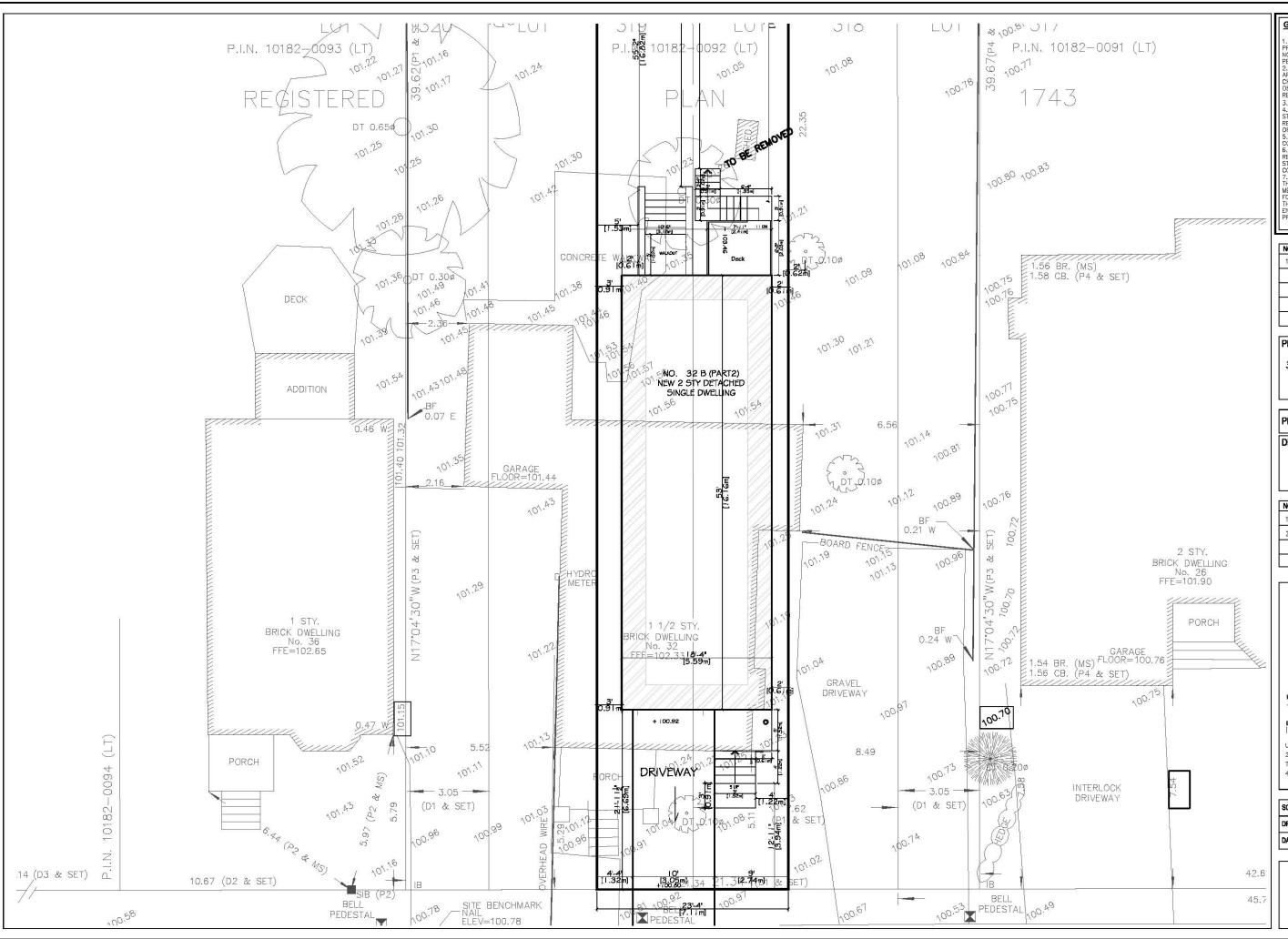
| REVISION | DATE |
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| ZONING & COA | 02 04 2019 |
| ZONING | 23 08 2019 |
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| | ZONING & COA |



PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

| SCALE: | 1/16"=1'-0" |
|-----------|----------------|
| DRAWN BY: | ELMIRA ZARRABI |
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PROJECT ADDRESS:

32B FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

SITE PLAN

| NO. | REVISION | DATE |
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| 1 | ZONING & COA | 02 04 2019 |
| 2 | ZONING | 23 08 2019 |
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PHONE: +1 (416)855-6366

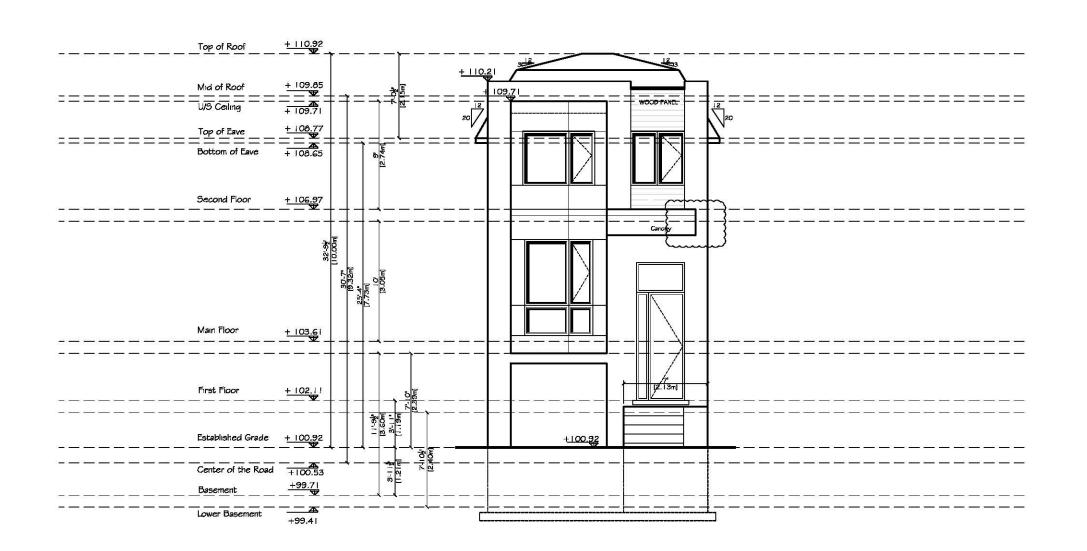
EMAIL: INFO@EZEDARCHITECTS.COM

Unit 406, 220 Duncan Mill Rd. Toronta M3B 3J5 416-855 6366

| SCALE: | 3/32"=1'-0" |
|-----------|----------------|
| DRAWN BY: | ELMIRA ZARRABI |
| DATE: | |



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PROJECT ADDRESS:

32B FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

MAIN(South) ELEVATION

| REVISION | DATE |
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| ZONING & COA | 02 04 2019 |
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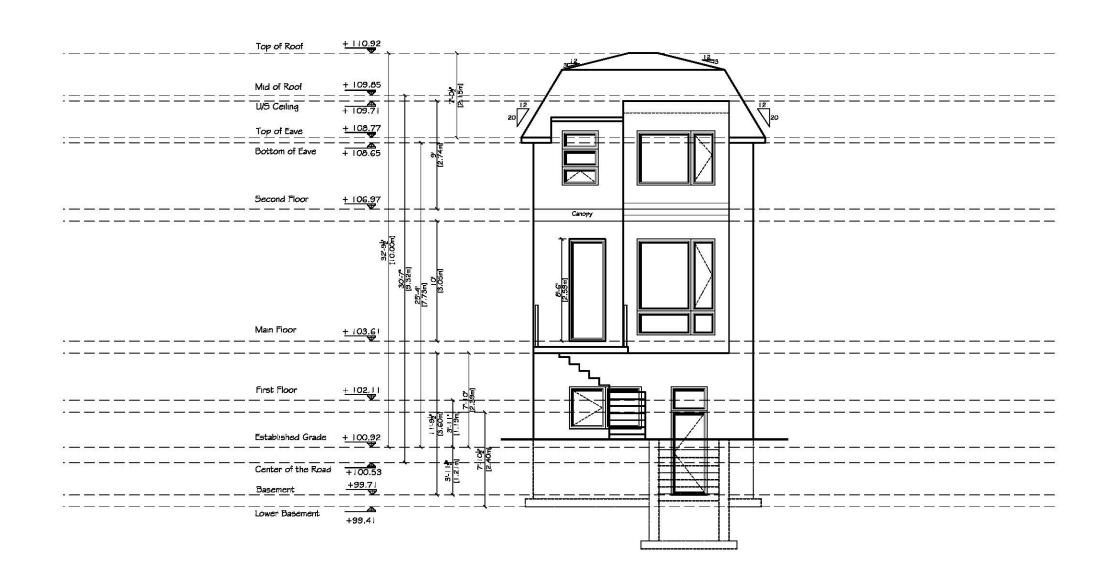
PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

Unit 406, 220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

| SCALE: | 1/8"=1'-0" |
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PROJECT ADDRESS:

32B FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

REAR (North) ELEVATION

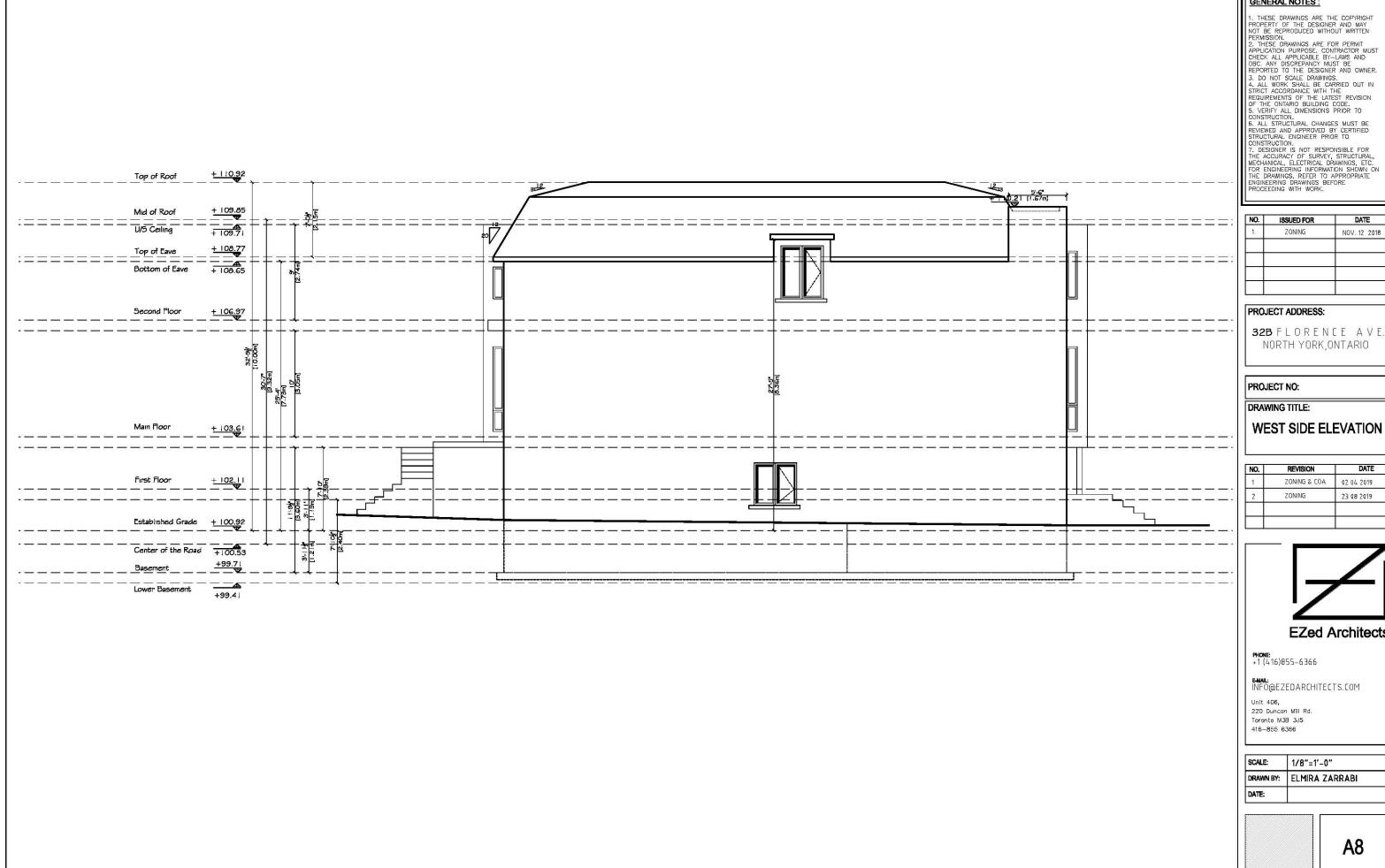
| 1 | ZÓNING & COA | 02 04 2019 |
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| 2 | ZONING | 23 08 2019 |
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PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

| SCALE: | 1/8"=1'-0" |
|-----------|----------------|
| DRAWN BY: | ELMIRA ZARRABI |
| DATE: | |



| NO. | ISSUED FOR | DATE |
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PROJECT ADDRESS:

32B FLORENCE AVE NORTH YORK, ONTARIO

DRAWING TITLE:

WEST SIDE ELEVATION

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| 1 | ZÓNING & COA | 02 04 2019 |
| 2 | ZONING | 23 08 2019 |

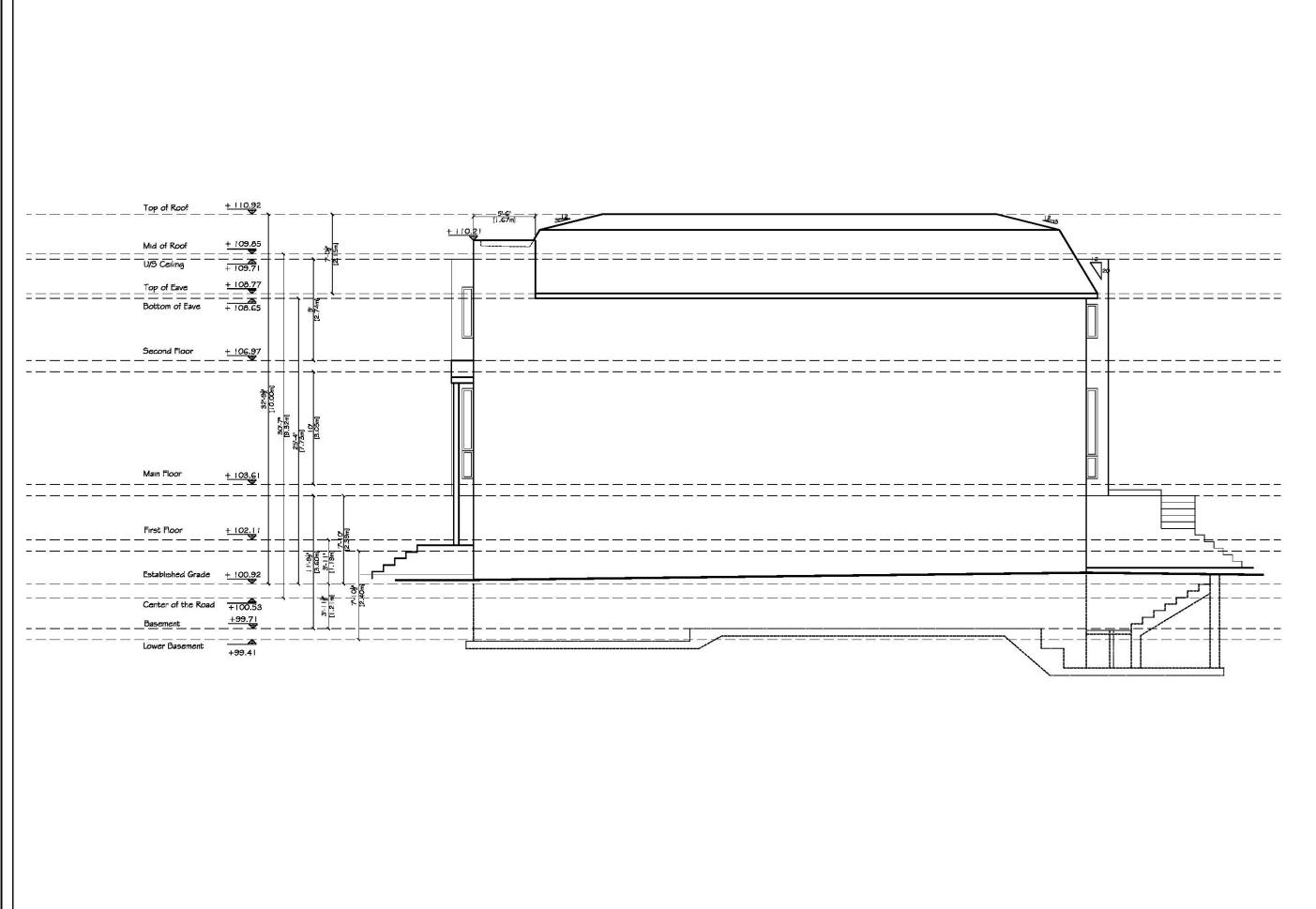


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PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

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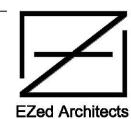
32B FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

EAST SIDE ELEVATION

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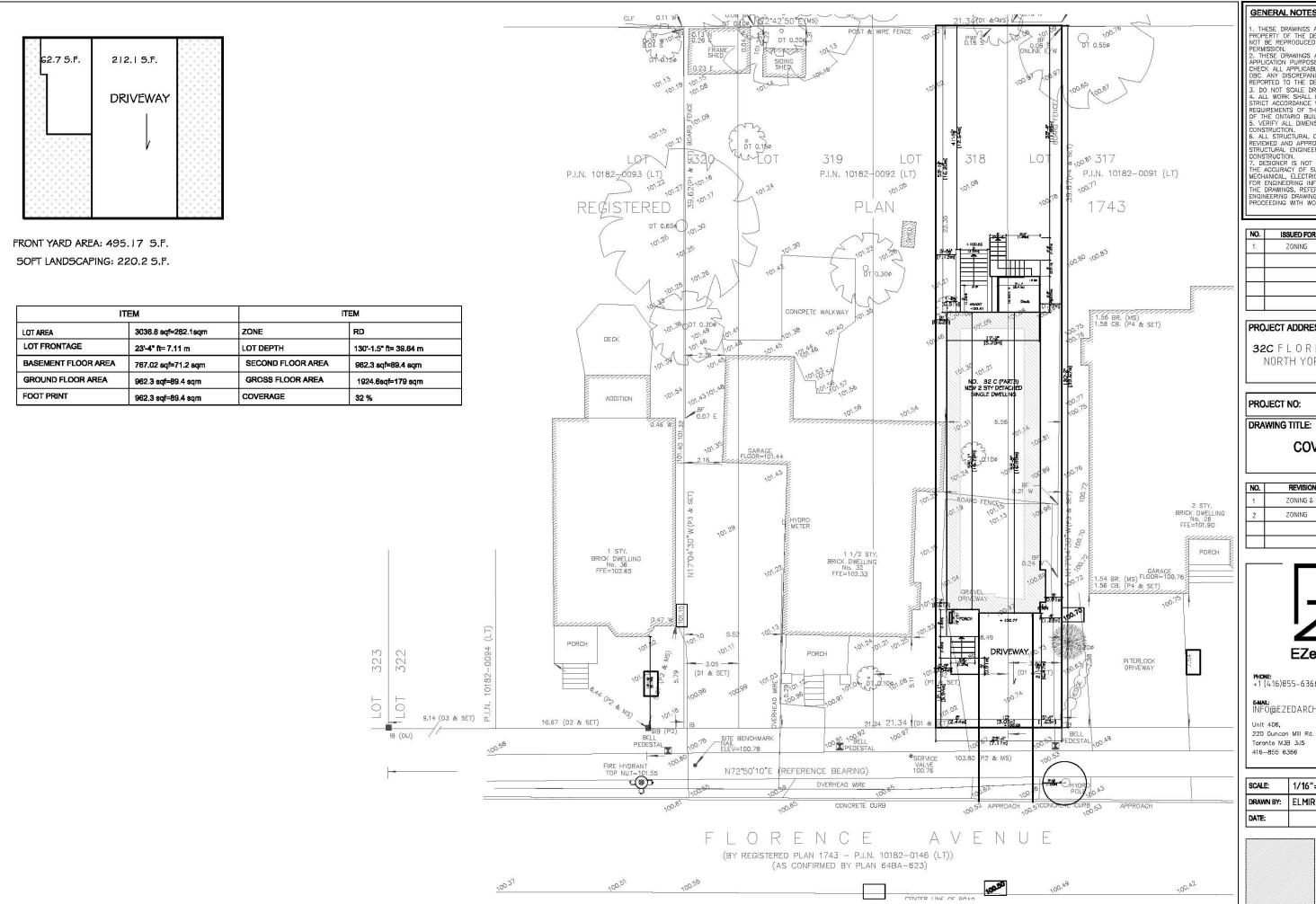
PHONE: +1 (416)855-6366

EMAIL: INFO@EZEDARCHITECTS.COM

Unit 406, 220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

| 1/8"=1'-0" |
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| ELMIRA ZARRABI |
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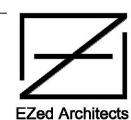
PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

COVER

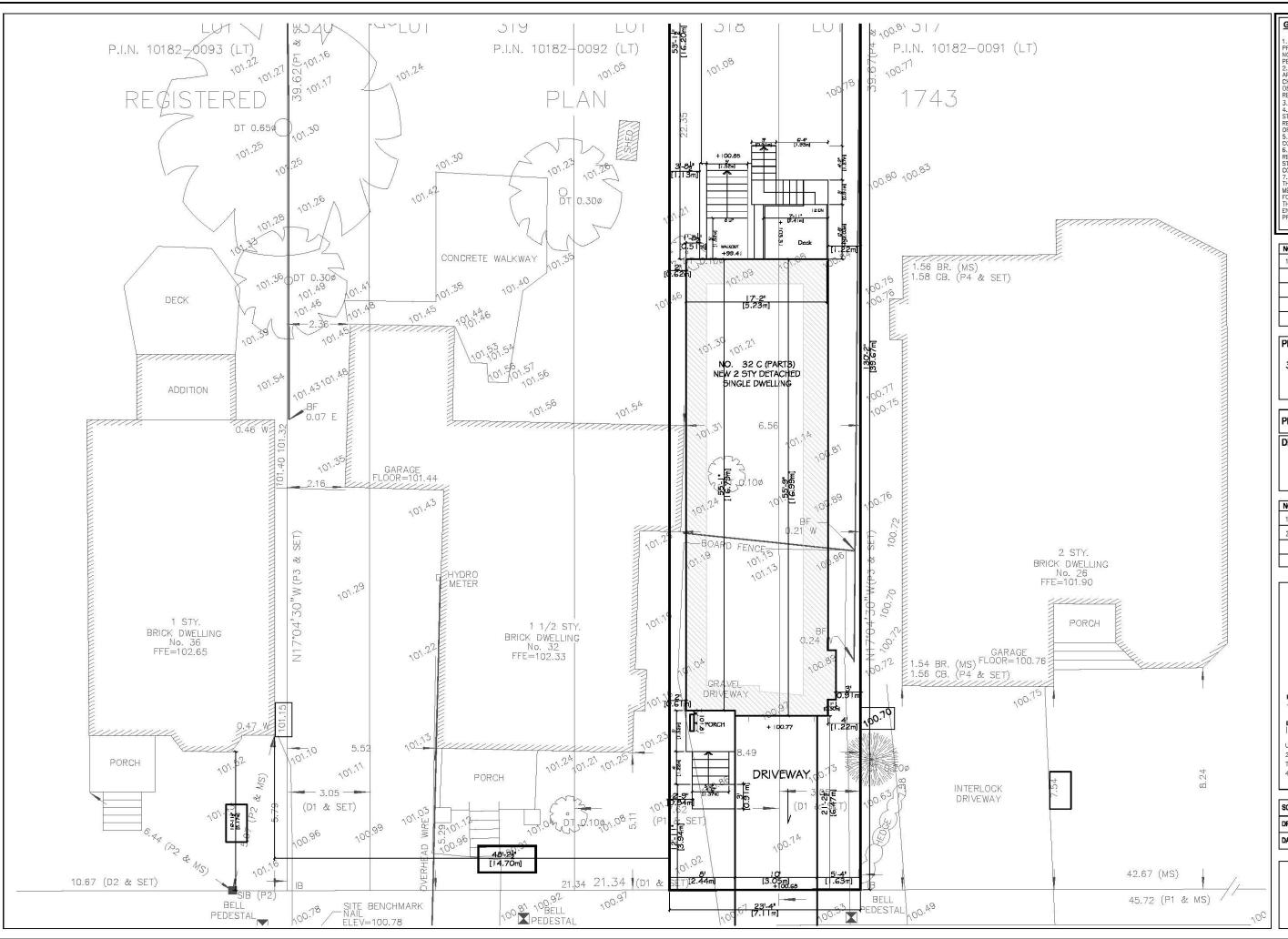
| REVISION | DATE |
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| ZONING & COA | 02 04 2019 |
| ZONING | 23 08 2019 |
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PHONE: +1 (416)855-6366

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PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

SITE PLAN

| NO. | REVISION | DATE |
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| 1 | ZONING & COA | 02 04 2019 |
| 2 | ZONING | 23 08 2019 |
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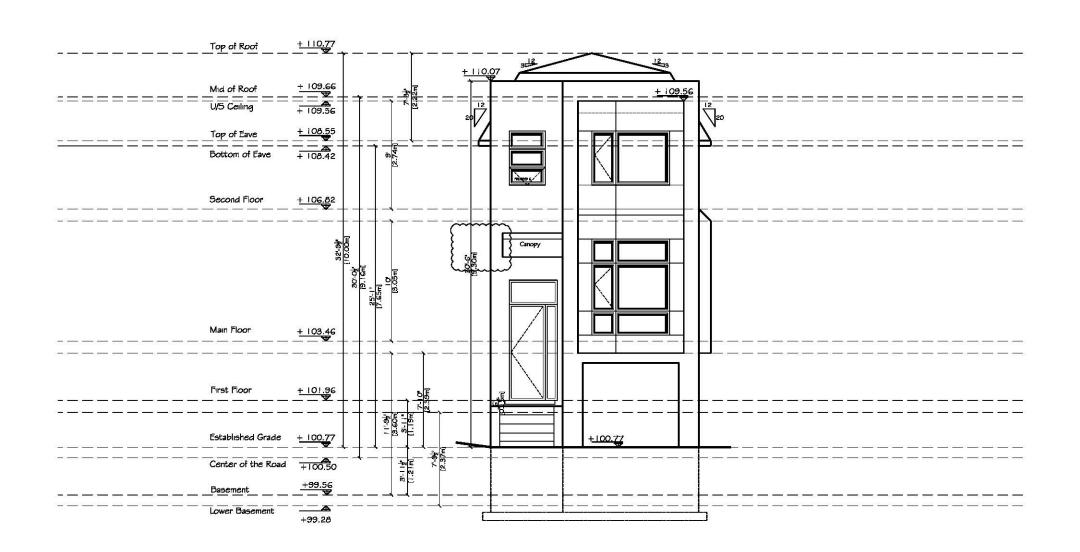
EMAIL: INFO@EZEDARCHITECTS.COM

Unit 406, 220 Duncan Mill Rd. Toronta M3B 3J5 416-855 6366

| SCALE: | 3/32"=1'-0" |
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PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

MAIN(South) ELEVATION

| ZONING & COA | 02 04 2019 |
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| ZONING | 23 08 2019 |
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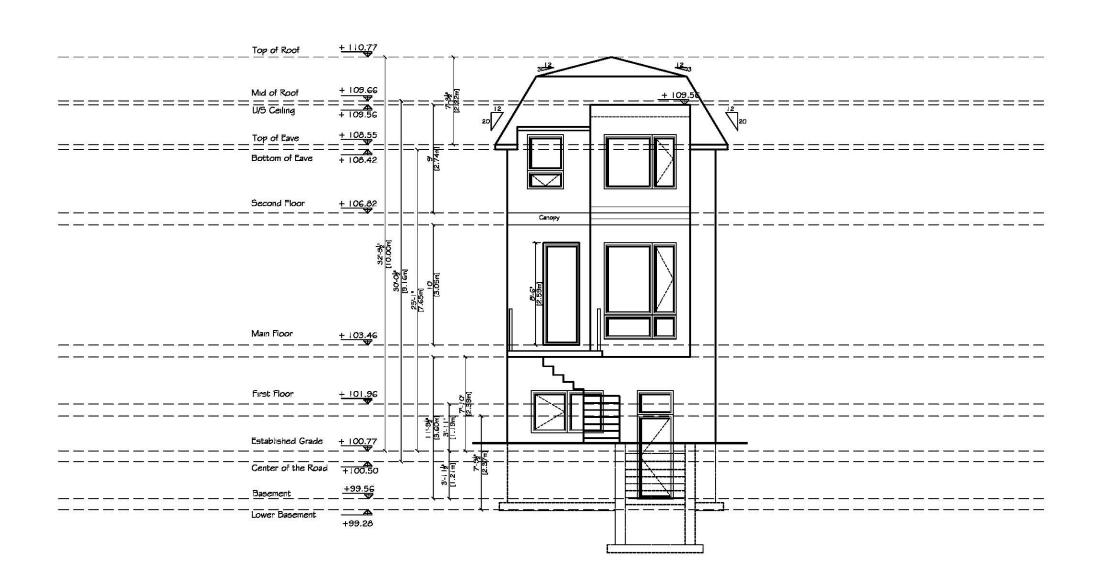
PHONE: +1 (416)855-6366

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Unit 406, 220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

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PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

REAR (North) ELEVATION

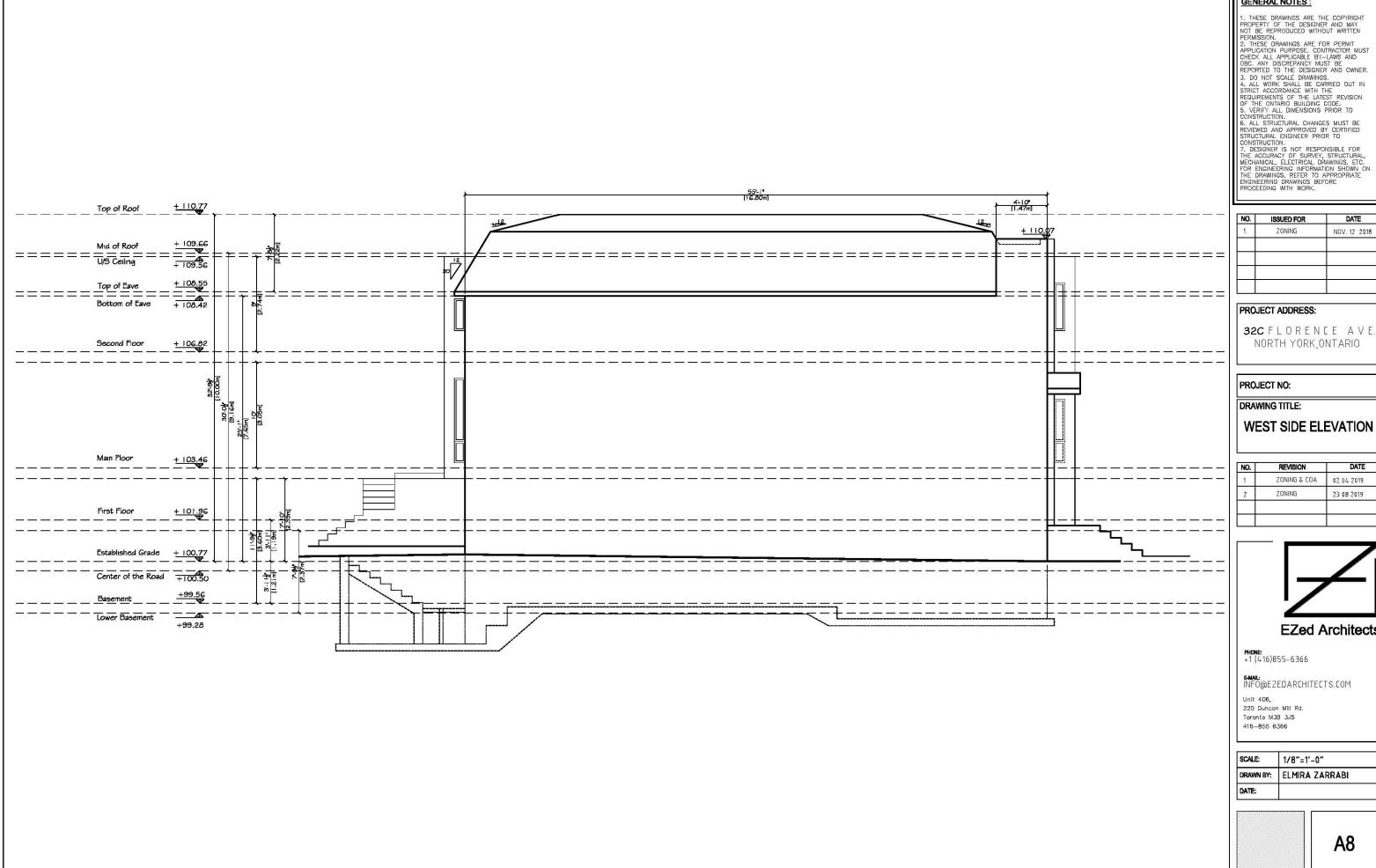
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PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

PROJECT NO:

DRAWING TITLE:

WEST SIDE ELEVATION

| NO. | REVISION | DATE |
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| 1 | ZONING & COA | 02 04 2019 |
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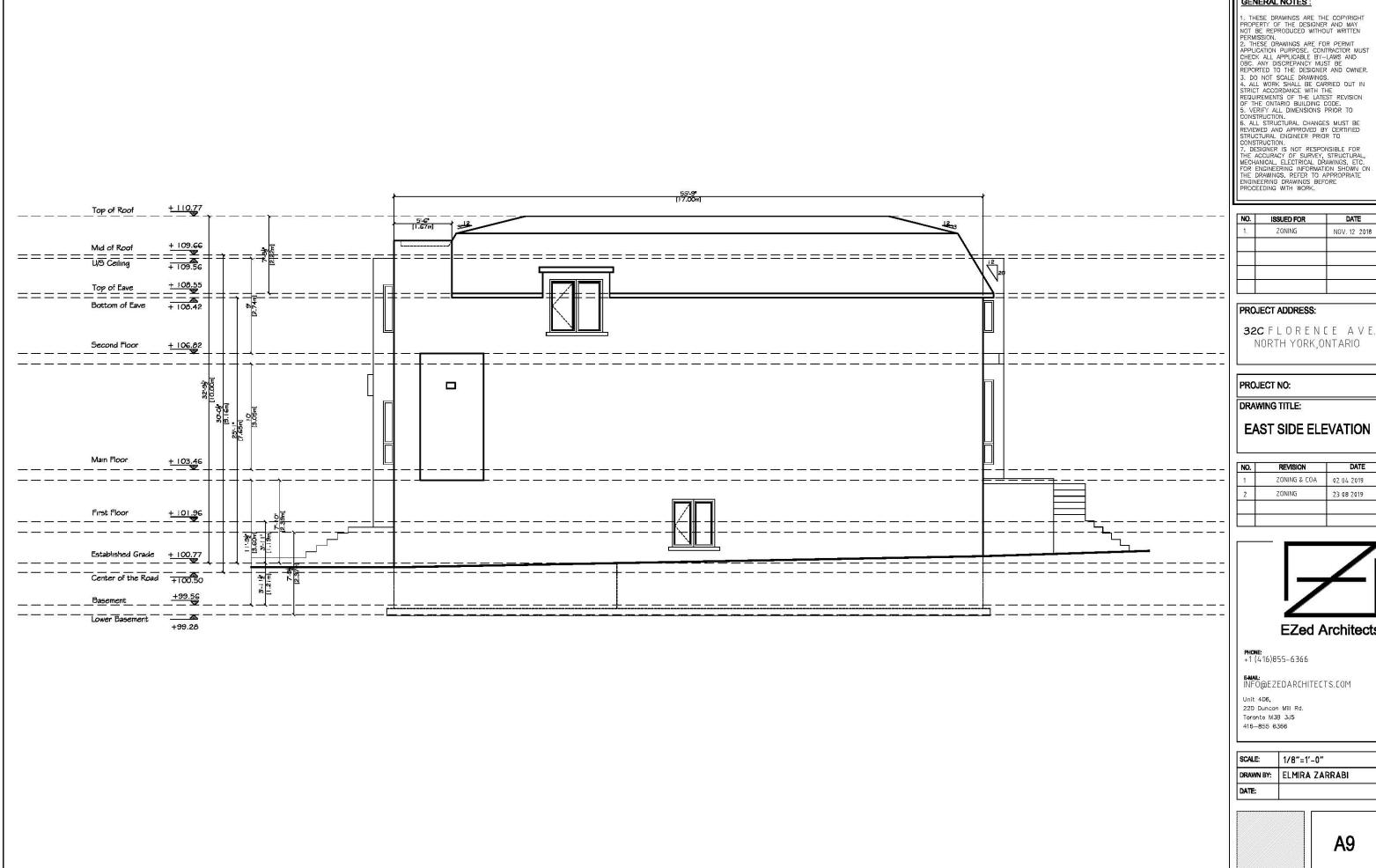


PHONE: +1 (416)855-6366

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220 Duncan Mill Rd. Toronto M3B 3J5 416-855 6366

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PROJECT ADDRESS:

32C FLORENCE AVE NORTH YORK, ONTARIO

EAST SIDE ELEVATION

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| 1 | ZÓNING & CÓA | 02 04 2019 |
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