

DECISION AND ORDER

Decision Issue Date **Monday, December 2, 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): ZHENYU WANG

Applicant: RICHARD WENGLE ARCHITECT INC

Property Address/Description: 3 OLD YONGE ST

Committee of Adjustment Case File: 18 253660 NNY 25 MV

TLAB Case File Number: 19 193813 S45 15 TLAB

Hearing date: Monday, November 18, 2019

DECISION DELIVERED BY STANLEY MAKUCH

APPEARANCES

Name	Role	Representative
Richard Wengle Architect Inc.	Applicant	
Trueman Zha	Owner	
Qin Zhang	Primary Owner/Party	David Bronskill
Zhenyu Wang	Appellant	Robert Brown
Louis Tinker	Expert Witness	
Daniel Mida	Participant	

INTRODUCTION

This is an appeal of variances to permit the construction of a new dwelling on land at 3 Old Yonge Street (subject property) at the top of bank of a ravine in the Hoggs Hollow area of North York. Many of the variance result from the changes in grade on the

subject property. The variances are set in Appendix 1 and the plans and elevations in Appendix 2.

BACKGROUND

The only appellant was a neighbour who resides below the subject property. However, neither the appellant nor his witness appeared at the Hearing. The only person who appear in opposition was Mr. Mida, a Participant, who owns the dwelling at 5 Brookfield Rd. His dwelling is across a road at the bottom of the ravine and his home faces the subject property. City staff reported that had no objections and that the variances were largely technical because of the topography of the site.

MATTERS IN ISSUE

The only matter in issue was the “scope and scale” of the dwelling as it appeared the rear from the bottom of the ravine: the variances relate to the following:

- Increase in the height of a main pedestrian entrance above grade,
- Increase in the building height and depth of a detached dwelling
- Increase in the permitted number of storeys
- Reduction in the required rear yard setback
- Reduction in the percentage of soft landscaping
- Increase in the width of the driveway
- To permit a portion of a dwelling or structure beyond the stable top of bank

JURISDICTION

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’).

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

Evidence was given by Mr. Tinker, a qualified land use planner, on behalf of the applicant both orally and in writing, in a witness statement filed with TLAB. His evidence was that the variances met the requirements of the PPS and Growth Plan and the four tests of the Planning Act. The detailed reasoning is set out in his Witness Statement and I find no need to repeat it here. He also noted how the variances were largely technical in nature. As Planning Staff reported to the Committee of Adjustment, the variances resulted from the topography of the property which was part of a larger ravine system. He pointed out that neither City staff nor the Toronto Region Conservation Authority objected to the proposal.

Mr. Mida spoke on his own behalf as he did not have any authorization to speak on behalf of any other party. His very legitimate concern was that the dwelling to be constructed would be out of keeping in “scope and scale” as it would stand at the top of the ravine. It would appear as a three storey building, be very wide and tall and have five balconies. He estimated the width and height of the building by measuring the plans to be approved. He did not, however, take any photos of the ravine from his home to demonstrate how it would affect his property, nor did he have any evidence that was reliable as to how the proposed building would actually appear from the ravine. He also felt the proposed building would be one of the largest in the area.

I understood Mr. Mida’s concerns and took it carefully into account when visiting the site and the surrounding area on the afternoon of the Hearing.

ANALYSIS, FINDINGS, REASONS

I appreciate Mr. Mida’s concern that the proposed dwelling may stand out “in scope and scale”, however, I find the variances acceptable for the following reasons. Firstly, Mr. Mida presented no supporting evidence. The appellant did not appear in opposition, and nor did anyone else from the neighbourhood. Mr. Mida did not take his own photos to attempt to demonstrate his concerns nor was he able to demonstrate his measurements of height and width clearly. Secondly, the evidence of Mr. Tinker was unchallenged and was clear. He explained why the variances were technical and the City staff report supported that evidence. For example, the height variances were the result of a change in grade from the street and the five balconies as a result of the basement being visible rear yard grade change. Moreover, he noted that there were no variances respecting the size of the building or the depth of the rear yard and that Toronto and Region Conservation Authority had no objections to the proposal. His evidence was that the dwelling would respect and reinforce the physical character of the neighbourhood and that the variances cumulatively and individually met the four tests of the Planning Act.

Thirdly, my own visit to the site demonstrated to me that there are numerous large dwellings in this neighbourhood and that a building of this size would not be unusual. It would indeed respect and reinforce the character of large homes on wooded lots of varying topography and fit within the prevailing physical character of the neighbourhood as required by s. 4.1.5 of the Official Plan

As I a result I find the appeal should be denied and the variances approved.

DECISION AND ORDER

The appeal is denied and the variances as set out in Appendix 1 are approved subject to the following conditions.

1. The requirements of the Parks and Recreation, Urban Forestry Division;
i) Submission of a complete application for a permit to injure or destroy a City-owned tree(s). A Contractor's Agreement to Perform Work on City owned Trees will be required prior to the removal/injure of the subject tree(s). Form located at

www.toronto.ca/trees/pdfs/contractor_services_agreement_information.pdf.
Submission of a tree protection guarantee security deposit to guarantee the protection of City-owned trees according to the Tree Protection Policy and Specifications for Construction Near Trees or as otherwise approved by Urban Forestry. Accepted methods of payment include debit or card, certified cheque or money order payable to the Treasurer of the City of Toronto, or Letter of Credit.

2. The property being developed substantially in accordance with the site plan, and elevations attached as Appendix 2.

Any other variance(s) that may appear on these plans but are not listed in the written decision are NOT authorized.

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Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Authority: O.B.C. Div. A - 1.4.1.3 (1)(c) under Reg 332/12 and 350/06 (as applicable): regulations made by a conservation authority under Clause 28 (1) (c) of the Conservation Authorities Act with respect to permission of the authority for the construction of a building or structure if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development. Form of Approval: Permit issued by issued on behalf of the Authority by the secretary-treasurer of the Authority or another person appointed by the executive committee of the Authority

Conservation Authorities Act Ravine By-Law

City-wide Zoning By-law No. 569-2013, as amended. Based on By-law No. 569-2013, the property is zoned RD(f18;a690).

City-wide Zoning By-law

2. for a detached house, the elevation of the lowest point of a main pedestrian entrance through the front main wall or a side main wall may be no higher than 1.2 metres above established grade. The proposed main pedestrian entrance is 2.55 metres above established grade. [10.20.40.10(6) Height of First Floor Above Established Grade] Note: the heights measured from the elevation plans, and height of porch is determined to be 140.72

3. A) The permitted maximum height is 7.2 metres. The proposed height is 12.48metres.

C) The permitted maximum number of storeys is 2 (two). The proposed number of storeys is 3.

[10.20.40.10.(4) Restrictions for a Detached House with a Flat or Shallow Roof]

4. The permitted maximum building depth for a detached house is 19.0 metres. The proposed building depth is 23.98 metres.

[10.20.40.30.(1) Maximum Building Depth if Required Lot Frontage is in Specified Range]

5. A) The permitted maximum number of platforms at or above the second storey of a detached house is 4, and there may be no more than 1 on each of the front, rear and side of the detached house. The proposed number of platforms at or above the second storey is 5, and 3 of these are in the rear.

B) The permitted maximum area of each platform at or above the second storey of a detached house is 4.0 square metres. The proposed areas of the 3rd storey rear East platform (from the family room) is 12.31 square metres. The proposed area of the 3 storey centre rear platform (from the master bedroom) is 4.74square metres.

[10.20.40.50.(1) Platforms at or Above the Second Storey of a Detached House]

6. (B) Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street. The proposed vehicle access to a parking space is from the front. [10.5.80.40.(3) Parking Space Access on a Corner Lot]

7. For a lot with a detached house or a semi-detached house and a minimum required lot frontage is less than 24.0 metres, the maximum combined width of all vehicle entrances through the front main wall of the residential building is 6.0 metres. The proposed combined width of all vehicle entrances through the front main wall is 8.13 metres.

[10.5.80.40.(1) Maximum Width of Garage Entrance in Front Wall on Certain Lots]

8. On lands under the jurisdiction of the Toronto and Region Conservation Authority, a building or structure on a lot must be no closer than 10 metres from a shoreline hazard limit or a stable top-of-bank not on that lot. The proposed building or

structure is 1.94 metres from a shoreline hazard limit or a stable top-of-bank not on that lot.

[5.10.40.80.(1) Separation Distance from the Shoreline Hazard Limit or Stable Top-of-Bank]

9. If the Toronto and Region Conservation Authority determines that a shoreline hazard limit or a stable top-of-bank crosses a lot, a building or structure on that lot must be set back a minimum of 10 metres from that shoreline hazard limit or stable top-of-bank. The proposed building crosses over the setback for that shoreline hazard limit or stable top-of-bank, by 0.75m.

[5.10.40.70.(6) Setback from the Shoreline Hazard Limit or Stable Top-of-Bank]

10. On lands under the jurisdiction of the Toronto and Region Conservation Authority, if a shoreline hazard limit or a stable top-of-bank crosses a lot, no building or structure may be located on the portion of the lot below that shoreline hazard limit or stable top-of-bank. The proposed building or structure is located on the portion of the lot below the shoreline hazard or stable top of bank.

[5.10.40.1.(3) Location Restriction Below a Shoreline Hazard Limit or Stable Top-of-Bank]

York Zoning by-law

The property is located in the former municipality of North York and is subject to Zoning By-law No. 7625, as amended.

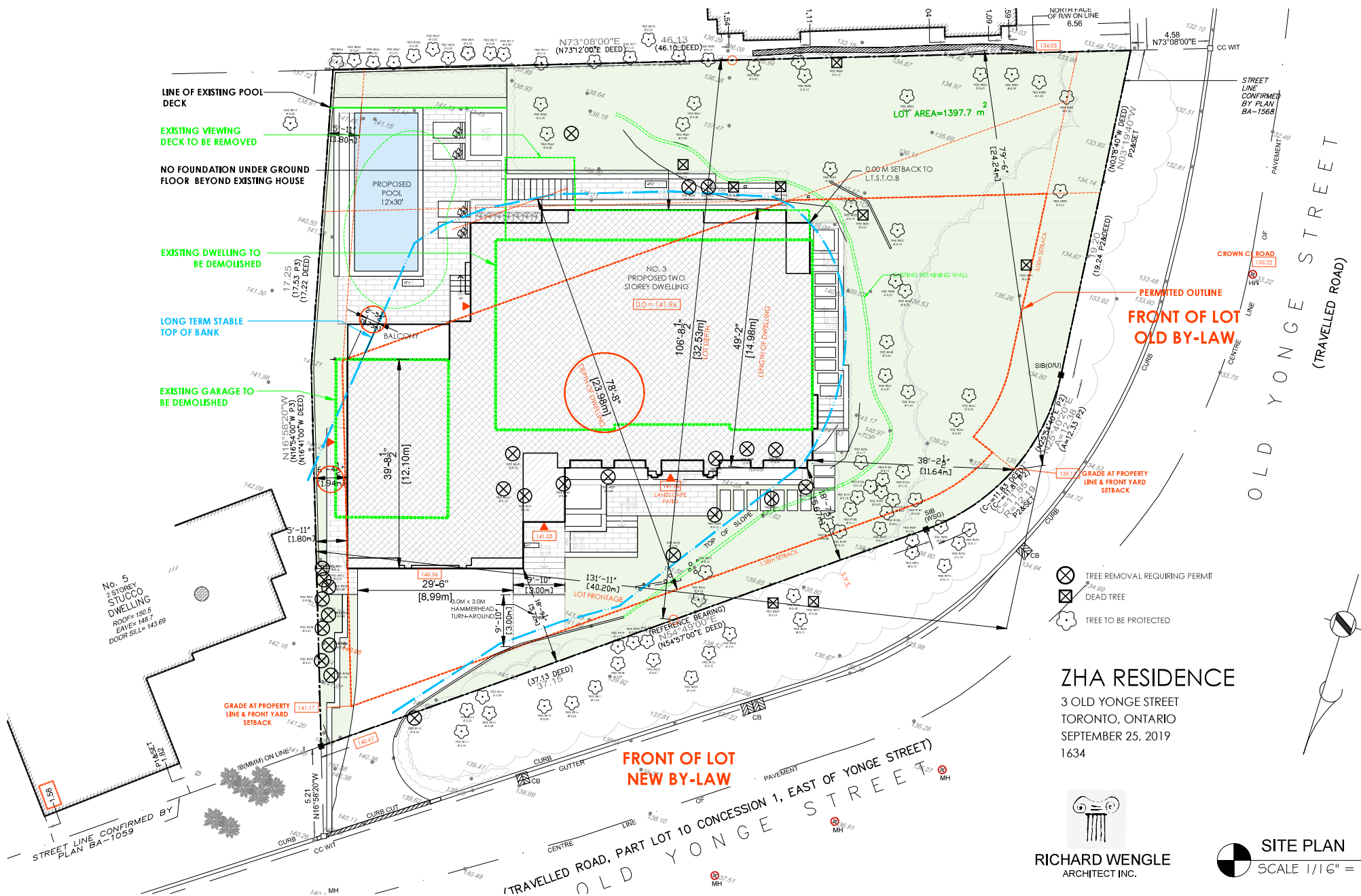
Based on Zoning By-law No. 7625, the property is zoned R3, and is located in the York Valley Neighbourhood (Schedule Q) in District No. 9 (Schedule A).

North York Zoning by-law

11. The maximum permitted building height is 8 metres. The proposed building height is 17.43metres. [12.7 - Maximum Building Height]

APPENDIX 2

APPENDIX 2



ZHA RESIDENCE

3 OLD YONGE STREET
TORONTO, ONTARIO
SEPTEMBER 25, 2019
1634



RICHARD WENGLE
ARCHITECT INC.



SITE PLAN

SCALE 1/16" = 1'-0"

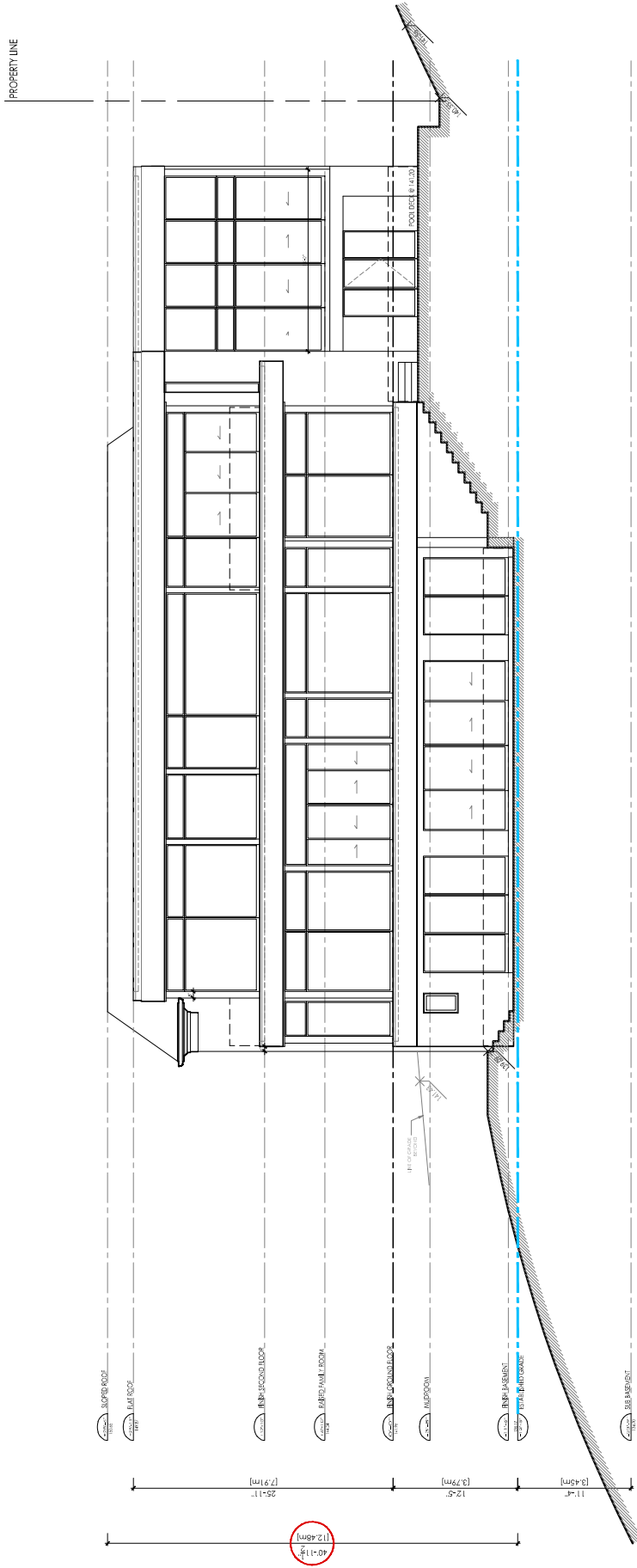


3 OLD YONGE STREET
TORONTO, ONTARIO
SEPTEMBER 20, 2019
1634

FRONT ELEVATION
SCALE: 3/32" = 1'-0"

FRONT ELEVATION

SCALE: 3/32" = 1'-0"



RICHARD WENGLE
ARCHITECT INC.

ZHA RESIDENCE

3 OLD YONGE STREET
TORONTO, ONTARIO
SEPTEMBER 20, 2019
1634

REAR ELEVATION
SCALE: 3/32" = 1'-0"



WEST ELEVATION
SCALE: 3/32" = 1'-0"



ZHA RESIDENCE

3 OLD YONGE STREET
TORONTO, ONTARIO
SEPTEMBER 20, 2019

1634

EAST ELEVATION
SCALE: 3/32" = 1'-0"