

DECISION AND ORDER

Decision Issue Date **Friday, November 29, 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): FARZAD SALEHI

Applicant: SAHAND HOMES INC

Property Address/Description: 88 Florence Ave.

Committee of Adjustment Case File: 18 241253 NNY 23 MV (A0709/18NY), 18 241249 NNY 23 MV (A0708/18NY), 18 241234 NNY 23 CO (B0048/18NY)

TLAB Case File Number: 19 120029 S53 18 TLAB - 19 120030 S53 18 TLAB - 19 120031 S53 18 TLAB

Hearing date: August 9, 2019

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

NAME	ROLE	REPRESENTATIVE
FARZAD SALEHI	APPELLANT	AMBER STEWART
SAHAND HOMES INC	APPLICANT	
ELENA ADDANTE	OWNER	
CITY OF TORONTO	PARTY (TLAB)	JASON DAVIDSON
FRANCO ROMANO	EXPERT WITNESS	

INTRODUCTION

This is an appeal from the refusal by the Committee of Adjustment of a consent to create two residential lots and the refusal of variances to construct a detached dwelling on each of those lots. Minor changes were made to the variances under appeal, including: the addition of a variance for wall heights (with a corresponding change to the front elevation), and minor revisions to certain variances which required no change to the plans or elevations. New notice was provided for the changes to the main wall height variances and the change in plans. There was no response to the new notice. New notice was not necessary for the other revisions which were minor. The draft R Plan of the two lots is attached as Appendix 1; the site plan and elevations as revised are attached as Appendix 2 and the variances as originally proposed and altered are attached as Appendix 3. The only party in opposition was the City and there were no participants in the Hearing.

BACKGROUND

88 Florence Ave. (the property) is in the West Lansing area of North York, that is south of Sheppard Ave. and west of Yonge St. It is an area which has undergone significant redevelopment in the portion closest to Yonge St. It can be described as a low rise detached residential area in which there are lots of various frontages and sizes. There are a number of zones in the area as a result of there being a variety of lot sizes and the zoning Bylaw 569-2013 legalized all of the then existing lots.

MATTERS IN ISSUE

There were only two matters in issue at the Hearing: 1) lot coverage; and 2) lot frontage and lot area.

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').

With respect to the consent 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,

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(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;

(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;

(l) 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).

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 which focused on the two matters in issue, was provided by two qualified planners, Mr. Romano on behalf of the applicant, and Ms. Kahn on behalf of the City. They both have experience in the area. They basically agreed on the area to be studied and both submitted detailed witness statements, which are on file with TLAB, to support their opinions.

Ms. Kahn was opposed to any lot coverage over 32%. The proposed coverage was 32.24%. She found that 32% was emerging as the standard for the area and that there could be a cumulative impact over time if the lot coverage variance was permitted. Mr. Romano on the other hand emphasized that there were coverages greater than 32% and that the increase resulting from the requested variance for lot coverage was not discernable.

With respect to lot frontage and lot area Ms. Kahn's evidence was that the proposed lot frontage of 7.62 m did not represent the prevailing character of the area or the block, and similarly found that the proposed lot area of 301.89 m² was not a prevailing size. In her view these variances did not conform to the official plan or meet its general intent. There were only two lots on the block with such a frontage and only 10.5% of the lots in the area were of that size.

I visited the neighbourhood, the boundaries of which the planners generally agreed upon, and found it to be an area consisting of a mix of detached dwellings on lots of various frontages. There is a decreasing mixture of lot frontages and lot areas moving west from Yonge St.

ANALYSIS, FINDINGS, REASONS

This is clearly an area that has undergone redevelopment over time. The rezoning of an eastern portion to permit smaller lot frontages is indicative of that occurrence. It is an area of low rise detached dwellings on lots of mixed sizes and frontages, and the residential zoning provisions of By-law 569-2013 which legalizes existing lots reflect that. I find, as a result of visiting the area, that the prevailing character is one of detached residential buildings on a mix of lot sizes and frontages and this character reflects the zoning provisions.

While I appreciate Ms. Kahn's concern that the lot coverage is .24 over what is permitted, I do not find such an increase to be discernable. Even if it will ultimately set a new standard over time, it is not clear that such an increase on these two lots is out of

keeping with the prevailing character of the block or area since I find it will not be discernible.

With respect to the lot frontage and area variances, I find they are not out of keeping with the prevailing character legalized by the zoning bylaw, i.e., a mix of existing lot frontages and sizes. In addition, just to the east of the property the bylaw was amended to permit lot frontages of 7.5 m without an official plan amendment. It is clear, therefore, that such a lot frontage is in keeping with the Official Plan and the prevailing character of the area.

I find that the variances in dispute should be approved as they meet the four test of the *Planning Act* in that they: 1) conform to the Official Plan in respecting and reinforcing the physical character of the neighbourhood and its prevailing character which is one of detached dwellings on a mix of lot frontages and sizes; 2) meet the general intent of the zoning bylaw which is to recognize and permit a mix of lot sizes and frontages; 3) are appropriate for the development and use of the property as the use is one of a low density residential detached dwelling; and 4) will have no negative impact on neighbouring properties. In short it will not stand out but rather fit harmoniously into this neighbourhood and street.

I also find there is no need for a plan of subdivision as this was not argued and it is clear from the location that a plan of subdivision is not required. I find, similarly, that the provisions of s. 53 are met based on the evidence referred to above and the evidence set out in the witness statement of Mr. Romano. The proposal is consistent with the PPS and conforms to the Growth Plan which are implemented through the City's Official Plan.

The approve should be subject to the standard consent and variance conditions and a condition regarding trees.

DECISION AND ORDER

The consent as shown in Appendix 1 is granted subject to the following 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) Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.

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- (4) 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.
- (5) 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.
- (6) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (7) 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.

The variances set out in Appendix 3 under the heading PROPOSED TLAB are approved subject to the following conditions:

- 1) That construction is substantially in accordance with the elevations and plans in Appendix 2, and
- 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.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

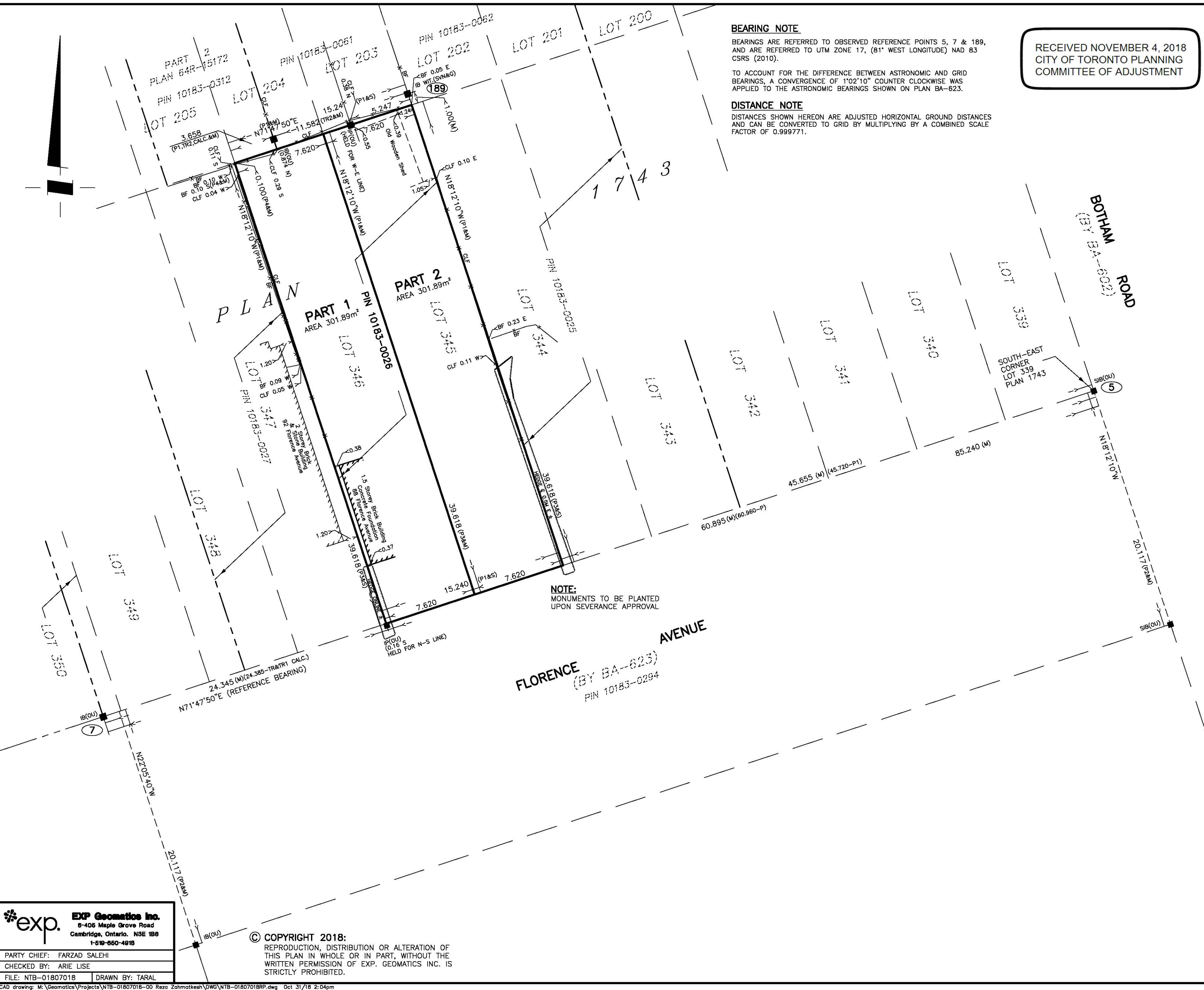
ADD DRAFT R PLAN FILED NOVEMBER 8, 2018

APPENDIX 2

**ADD THE SITE PLAN AND ELEVATIONS PART A AUGUST 2019
FILED BY A. STEWART ON AUGUST 9 2019**

APPENDIX 3

**ADD TABLE OF MINOR VARIANCES FILED BY A. STEWART,
AUGUST 9, 2019**



BEARING NOTE

BEARINGS ARE REFERRED TO OBSERVED REFERENCE POINTS 5, 7 & 189, AND ARE REFERRED TO UTM ZONE 17, (81° WEST LONGITUDE) NAD 83 CSRS (2010).

TO ACCOUNT FOR THE DIFFERENCE BETWEEN ASTRONOMIC AND GRID BEARINGS, A CONVERGENCE OF 1°02'10" COUNTER CLOCKWISE WAS APPLIED TO THE ASTRONOMIC BEARINGS SHOWN ON PLAN BA-623.

DISTANCE NOTE

DISTANCES SHOWN HEREON ARE ADJUSTED HORIZONTAL GROUND DISTANCES AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999771.

RECEIVED NOVEMBER 4, 2018
CITY OF TORONTO PLANNING
COMMITTEE OF ADJUSTMENT

I REQUIRE THIS PLAN TO BE
DEPOSITED UNDER THE LAND
TITLES ACT.

DATE

ARIE LISE
ONTARIO LAND SURVEYOR

PLAN 64R-15172

RECEIVED AND DEPOSITED

DATE

REPRESENTATIVE FOR LAND REGISTRAR
FOR THE LAND TITLES DIVISION OF
TORONTO (64)

SCHEDULE

PART	LOT	PLAN	PIN	AREA (Ha.)
1	346	PLAN 1743	PIN 10183-0026	0.0302
2	345			0.0302

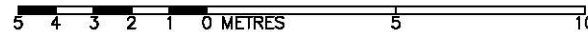
PARTS 1 & 2 COMPRISE ALL OF PIN 10183-0026

PLAN OF SURVEY OF

LOTS 345 & 346, PLAN 1743
(GEOGRAPHIC TOWNSHIP OF YORK)
TORONTO (NORTH YORK)
CITY OF TORONTO

EXP GEOMATICS INC.

SCALE 1:200



METRIC NOTE

DISTANCES AND COORDINATES SHOWN ON THIS PLAN
ARE IN METRES AND CAN BE CONVERTED TO FEET
BY DIVIDING BY 0.3048.

AREAS SHOWN ON THIS PLAN ARE IN HECTARES AND CAN
BE CONVERTED TO ACRES BY MULTIPLYING BY 2.471.

LEGEND

■	DENOTES - SURVEY MONUMENT FOUND
□	DENOTES - SURVEY MONUMENT PLANTED
M	DENOTES - MEASURED
S	DENOTES - SET
PIN	DENOTES - PROPERTY IDENTIFICATION NUMBER
P1	DENOTES - PLAN 1743
P2	DENOTES - PLAN BA623
P3	DENOTES - PLAN BA602
P4	DENOTES - PLAN 64R-15172
TR	DENOTES - TRANSFER TB228792 ATTACHED TO PIN 10183-0026
TR1	DENOTES - TRANSFER T0548789 ATTACHED TO PIN 10183-0027
TR2	DENOTES - TRANSFER NY764998 ATTACHED TO PIN 10183-0061
OU	DENOTES - ORIGIN UNKNOWN
SVN&G	DENOTES - SPEIGHT, VAN NOSTRAND & GIBSON LTD.
BF	DENOTES - BOARD FENCE
CLF	DENOTES - CHAIN LINK FENCE
---	DENOTES - LOT LINE FABRIC
- - -	DENOTES - PIN LIMIT

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE _____ DAY OF _____, 2018.

DATE

ARIE LISE
ONTARIO LAND SURVEYOR

exp. EXP Geomatics Inc.
6-405 Maple Grove Road
Cambridge, Ontario, N3E 1B8
1-877-860-4818

PARTY CHIEF: FARZAD SALEHI
CHECKED BY: ARIE LISE
FILE: NTB-01807018 DRAWN BY: TARAL

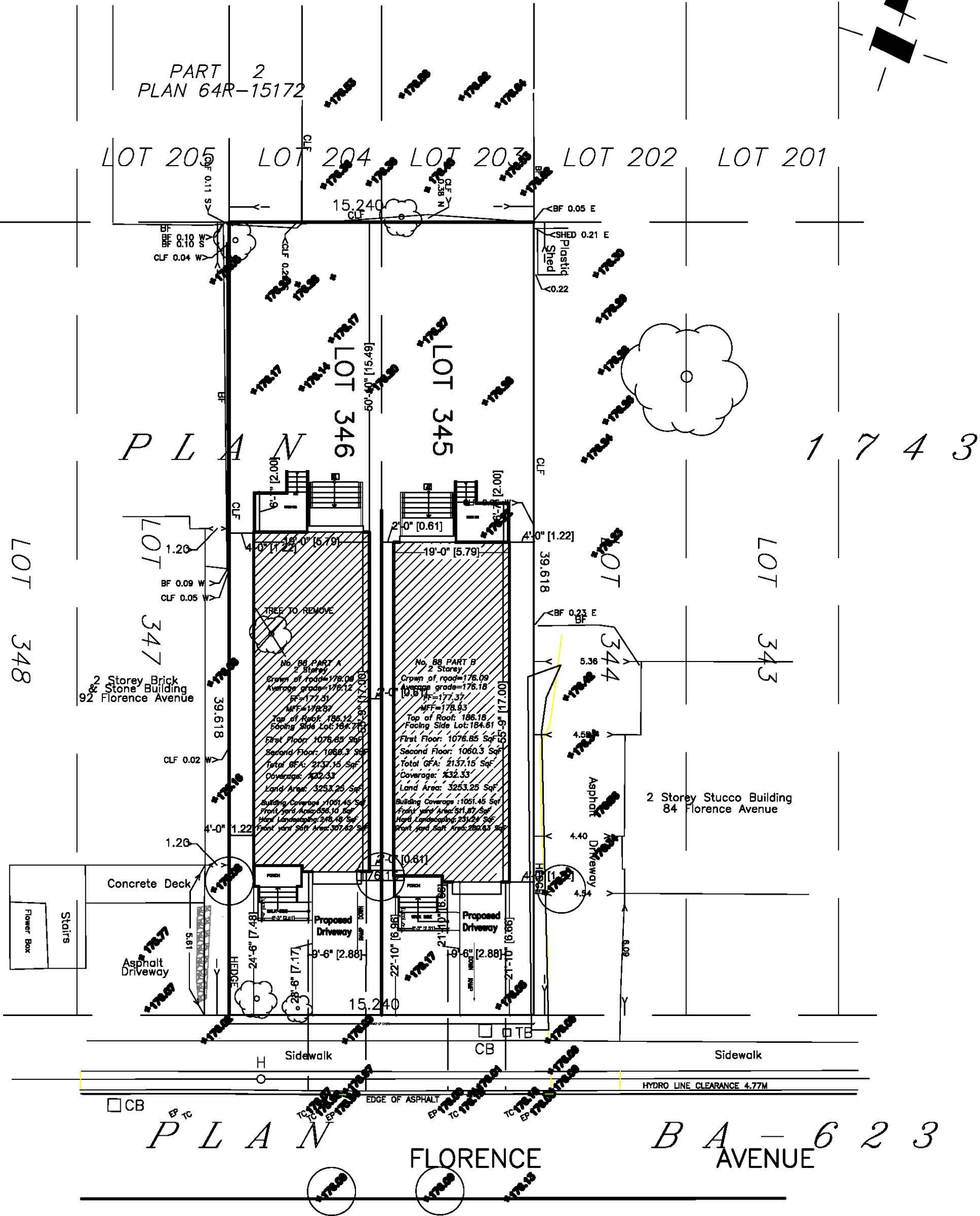
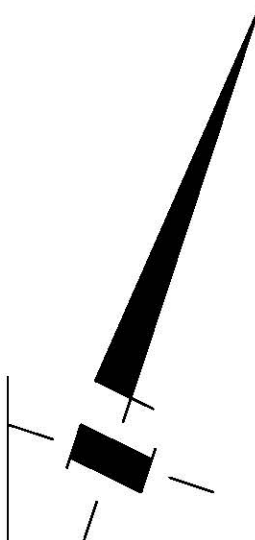
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SKETCH FOR THE PURPOSE OF A
TOPOGRAPHICAL SITE PLAN OF

88 FLORENCE AVENUE

EXP GEOMATICS INC.
SCALE 1:200



SAHAND HOMES
Engineering Firm
9275 Bayview Ave.
PO Box 31334 Bayview 16th AVE PO
RICHMOND HILL, ONTARIO, L4C 0V7
TEL. (647) 701-0721
FAX. (289) 597-3648

Project Title **88 FLORENCE AVE**
TORONTO, ONTARIO

Drawing Title **SITE PLAN**

Drawn by **SHERIDAN JARZAN**

Scale

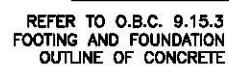
Date
AUGUST 2019

Dwg No.

A-1



SCALE 3/16" = 1'-0"

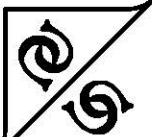


SAHAND HOMES
Engineering Firm

9275 Bayview Ave.
PO Box 31334 Bayview 16th AVE PO
RICHMOND HILL, ONTARIO, L4C 0V7
TEL. (647) 701-0721
FAX. (289) 597-3648

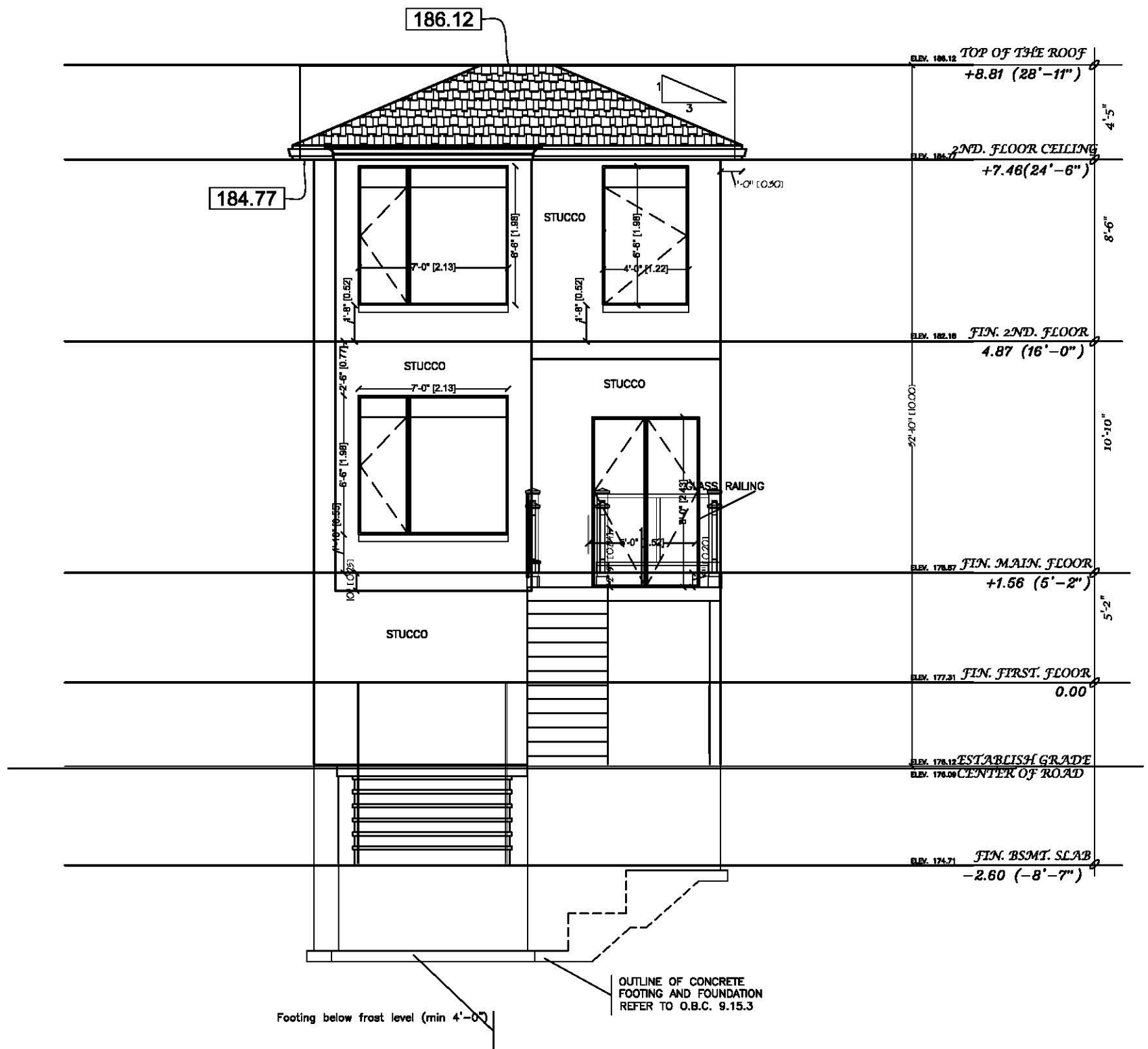
Date
AUGUST 2019

A-6



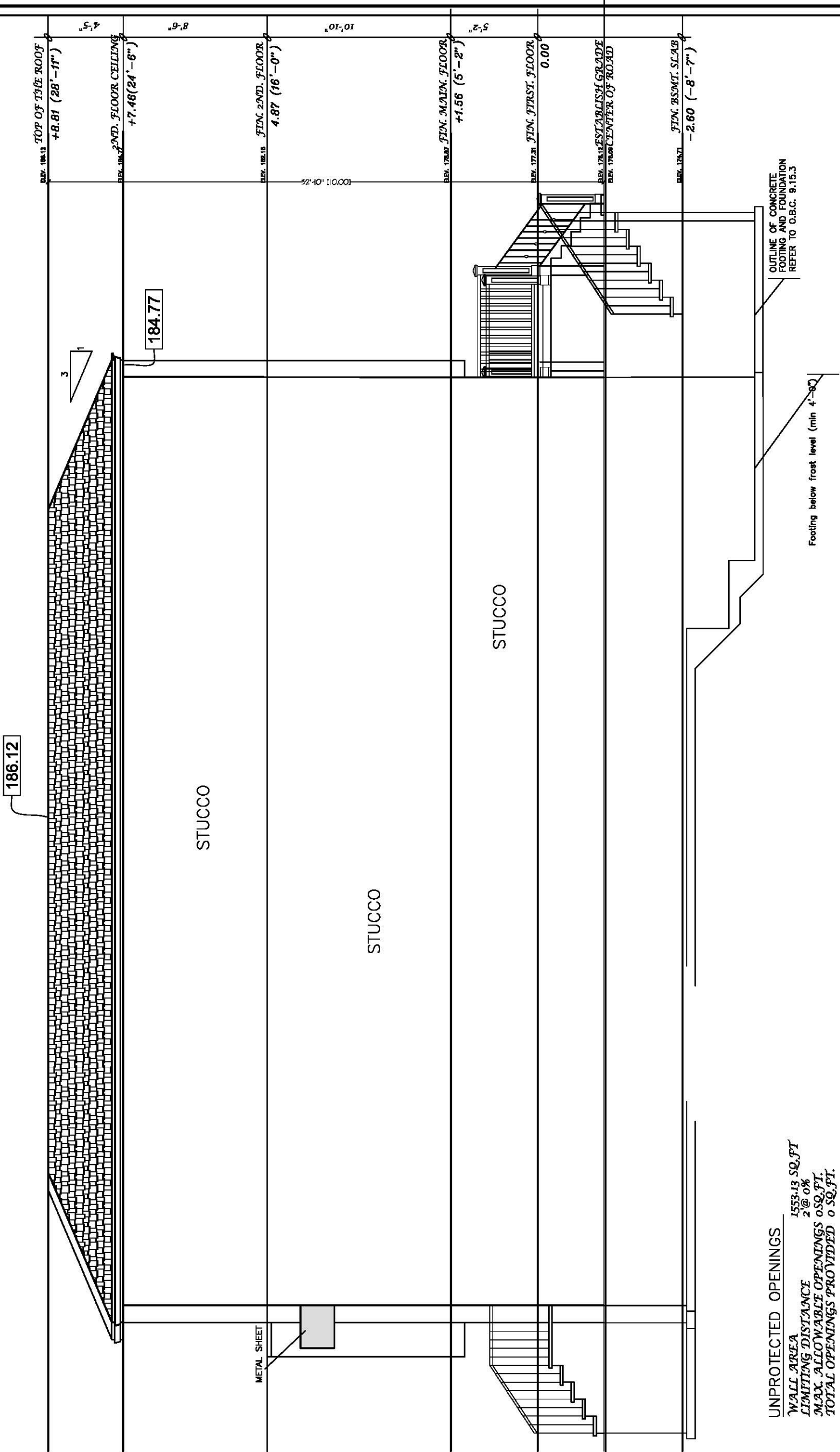
NORTH ELEVATION

SCALE 3/16" = 1'-0"



EAST ELEVATION

SCALE 3/16" = 1'-0"



UNPROTECTED OPENINGS
WALL AREA 1553.13 SQ.FT
LIMITING DISTANCE 2' @ 0%
MAX. ALLOWABLE OPENINGS 0 SQ.FT.
TOTAL OPENINGS PROVIDED 0 SQ.FT.



SAHAND HOMES
Engineering Firm
9275 Bayview Ave.
PO Box 31334 Bayview 16th AVE PO
RICHMOND HILL, ONTARIO, L4C 0V7
TEL. (647) 701-0721
FAX. (289) 597-3648

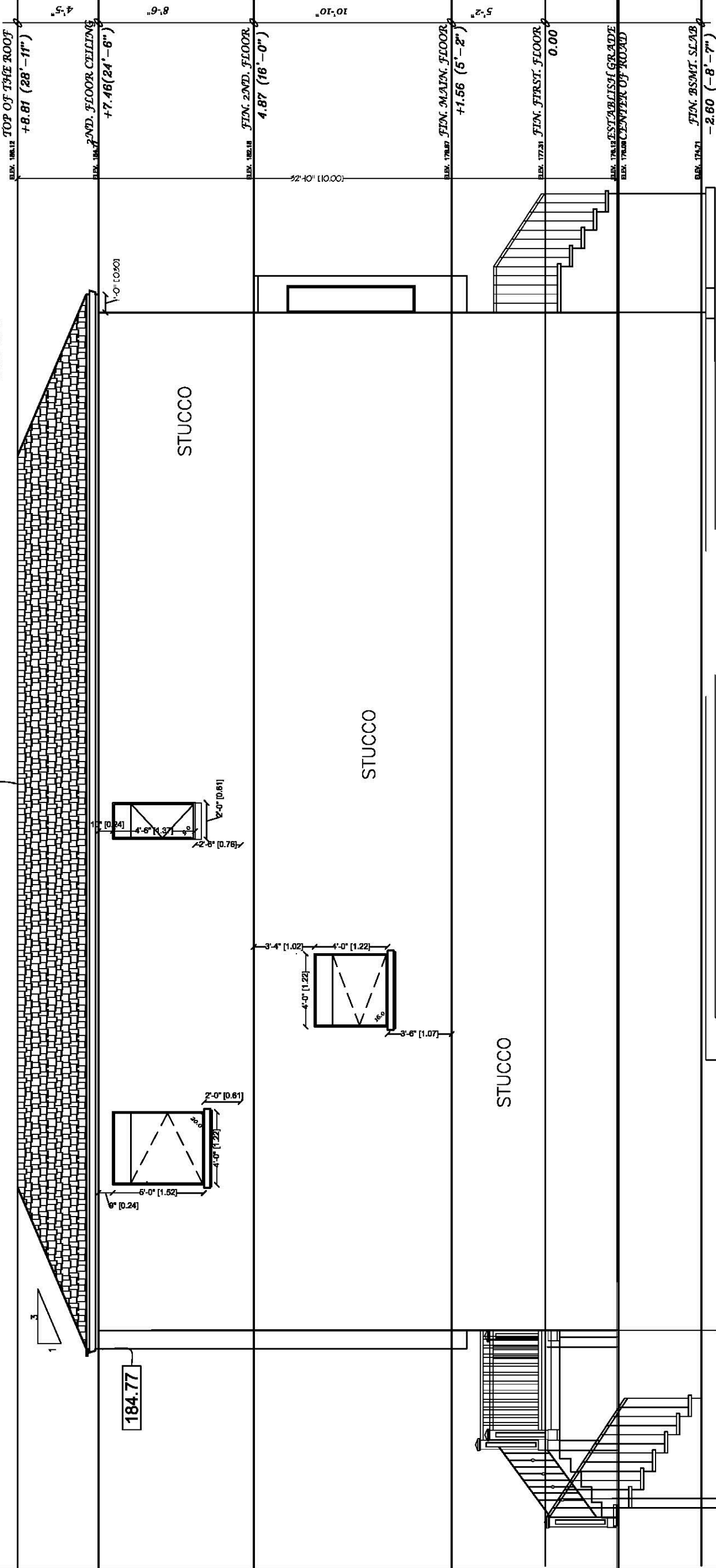
Project Title			88 FLORENCE AVE—PART A	
			NORTH YORK, ONTARIO	
Drawing Title		EAST ELEVATION		Dwg No.
Drawn by		Scale	Date	A-8
SHERIDAN MARZANI		1'-0" = 3/16"	AUGUST 2019	

WEST ELEVATION

SCALE 3/16" = 1'-0"

PARAPET BOX
METAL SHEET

186.12



UNPROTECTED OPENINGS
WALL AREA 1582.56 SQ. FT.
LIMITING DISTANCE 4' @ 7%
MAX. ALLOWABLE OPENINGS 110.78 SQ. FT.
TOTAL OPENINGS PROVIDED 45 SQ. FT.

OUTLINE OF CONCRETE
FOOTING AND FOUNDATION
REFER TO O.B.C. 9.15.3

SAHAND HOMES
Engineering Firm
9275 Bayview Ave.
PO Box 31334 Bayview 16th AVE PO
RICHMOND HILL, ONTARIO, L4C 0V7
TEL. (647) 701-0721
FAX. (289) 597-3648

Project Title **88 FLORENCE AVE-PART A**
NORTH YORK, ONTARIO

Drawing Title **WEST ELEVATION**

Drawn by **SAHAND HOMES**

Scale
1'-0" = 3/16"

Date
AUGUST 2019

Dwg No.
A-9



MINOR VARIANCES PROPOSED

ROW	REGULATION	REQUIRED	PROPOSED COMMITTEE OF ADJUSTMENT		PROPOSED TLAB	
FROM ZONING BY-LAW 569-2013						
			Part 1 – West Lot, A	Part 2 – East Lot, B	Part 1 – West Lot, A	Part 2 – East Lot, B
1	Lot Frontage	15m minimum	7.62 m	7.62 m	7.62m	7.62m
2	Lot Area	550m ² minimum	301.89sm	301.89sm	301.89sm	301.89m
3	Lot Coverage	30% maximum	32.24%	32.24%	32.24%	32.24%
4	Main walls	7.5m maximum	N/A (but plans showed 10.0 m)	10m side main wall	8.65 m front, rear, side main walls	8.5m front, side, rear main walls
5	Side Yard Setback	1.8m minimum	East 0.61 m, West 1.22m	West 0.61m, East 1.22m	East 0.61m, West 1.22m	West 0.61m, East 1.22m
6	Deck side yard setback	1.8m minimum	West 1.22 m	East 1.22m	West 1.22m	East 1.22m
7	Platform	May encroach 2.5m into front yard if it is no closer to the side lot line than the required side yard setback	0.61m east side yard setback	0.61 m west side yard setback	1.22m west side yard setback	0.61m west side yard setback
8	Canopy	May encroach 2.5m into front yard if it is no closer to the side lot line than the required side yard setback	4 m east side yard etback	4.0 m west side yard setback (NB this is a typo)	1.0m west side yard setback	0.4m west side yard setback
9	Eaves	Maximum Projection 0.9m Minimum Side Yard Setback 0.3m	ast eaves project 1.56m and are 0.24 m from the east lot line; and, west eaves project 0.85 m and are 0.95 m from the west lot line	West eaves project 1.56 m and are 0.24 m from the west lot line; and, east eaves project 0.95 m and are 0.85 m from the east lot line	East eaves project 1.56m and are 0.24m from the east lot line; and, west eaves project 0.85m and are 0.95m from the west lot line	West eaves project 1.56m and are 0.24m from the west lot line; and, east eaves project 0.95m and are 0.85m from the east lot line.

10	Parking Space	Minimum Width 3.2m	N/A	3.1 m	N/A	3.1m
			FROM NORTH YORK ZONING BY-LAW 7625			
11	Building height	8.8m maximum from crown of road to roof midpoint	10.03 m	10.09 m	9.5m	9.5m