

# DECISION AND ORDER

**Decision Issue Date** Friday, November 29, 2019

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

Appellant(s): CARLA HANNEMANN-STIRRAT

Applicant: IN ROADS CONSULTANTS

Property Address/Description: 62 CAVELL AVE

Committee of Adjustment Case File: 18 188813 WET 06 CO, 18 188822 WET 06 MV, 18 188832 WET 06 MV

**TLAB Case File Number: 19 141720 S53 03 TLAB, 19 141723 S45 03 TLAB, 19 141724 S45 03 TLAB**

**Hearing date:** Thursday, September 26, 2019

**DECISION DELIVERED BY S. GOPIKRISHNA**

## APPEARANCES

Name	Role	Representative
In Roads Consultants	Applicant	
Carla Hannemann-Stirrat	Appellant/Owner	Amber Stewart
Neil Stirrat	Party	
Franco Romano	Expert Witness	

## INTRODUCTION AND BACKGROUND

The background of this case is recited in my Interim Decision, dated October 31, 2019. That Decision stated that in principle, the Appeal had been granted in part, and that the variances, discussed at the Hearing held on September 26, 2019 were approved in principle. I also stated that a final Decision would be issued after submissions were made reflecting the updated variances, and suggested conditions to

be imposed, were made available to the TLAB. I had also expressed confusion about the elevation and plan drawings that were submitted to the TLAB on the day of the Hearing, and that they be resubmitted.

The variances, suggested conditions and the Plan and Elevation drawings were submitted on November 6, 2019, allowing me to issue this Decision.

## **MATTERS IN ISSUE**

The applicant proposes to sever the subject property, which has a frontage of 15.24 metres, into two undersized residential lots, referred to as Parts 1 and 2 respectively. The proposed lots would each have frontages of 7.62 metres, with a lot area will be 290.1 m<sup>2</sup>. The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an integral garage, requiring variances to the Zoning By-law

**The following variances are requested for Parts 1 and 2**

### **62 Cavell Avenue – List of Revised Variances Part 1 (West Lot)**

**1. Section 900.6.10.(22)(B), By-law 569-2013**

The minimum required lot frontage is 10.5 m.

The new lot will have a lot frontage of 7.62 m.

**2. Section 900.6.10.(22)(A), By-law 569-2013**

The minimum required lot area is 325 m<sup>2</sup>.

The new lot will have a lot area of 289.7 m<sup>2</sup>.

**3. Section 10.80.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index is 0.6 times the area of the lot (173.82 m<sup>2</sup>).

The new dwelling will have a floor space index of 0.72 times the area of the lot (208.98 m<sup>2</sup>).

**4. Section 900.6.10.(22)(D), By-law 569-2013**

The minimum required side yard setback is 0.9 m.

The new dwelling will be located 0.45 m from the east side lot line.

**5. Section 10.80.40.10.(2)(A)(i), By-law 569-2013**

The maximum permitted height of all exterior main walls is 7 m.

The new dwelling will have an exterior main wall height of 8.32m.

**6. Section 320-42.1.(2)**

The maximum permitted height of a flat roof dwelling or the soffit of the eaves overhang for peaked roofed dwellings shall not exceed 6.5 m.

The new dwelling will have a height of 8.32m.

**7. Section 10.80.40.50.(1)(B), By-law 569-2013**

The maximum permitted area of each platform at or above the second storey is 4 m<sup>2</sup>.

The proposed second storey balcony will have an area of 7.64 m<sup>2</sup>.

**8. Section 10.5.40.50.(4)(C), By-law 569-2013**

The level of the floor of a platform may project 2.5m from the rear main wall if it is no higher than the level of the floor from which it gains access.

The proposed rear deck projects 2.52m from the rear main wall and is 2.1m above the ground.

**9. Section 10.5.40.60.(7)(B), By-law 569-2013**

The eaves of a roof may encroach into a required minimum building setback a maximum

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of 0.9 m, if they are no closer to a lot line than 0.3 m.

The eaves will be located 0.15 m from the west side lot line.

**62 Cavell Avenue – List of Revised Variances**  
**Part 2 (East Lot)**

**1. Section 900.6.10.(22)(B), By-law 569-2013**

The minimum required lot frontage is 10.5 m.

The new lot will have a lot frontage of 7.62 m.

**2. Section 900.6.10.(22)(A), By-law 569-2013**

The minimum required lot area is 325 m<sup>2</sup>.

The new lot will have a lot area of 290.1 m<sup>2</sup>.

**3. Section 10.80.40.40.(1)(A), By-law 569-2013**

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The eaves will be located 0.15 m from the west side lot line.

**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,

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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;
  - (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).

**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**

The relevant evidence, as presented at the Hearing, is discussed in my Interim Decision dated October 30, 2019, and does not have to be repeated here consequently. The only submission in between is the recitation of the variances, along with suggested conditions to be imposed on the approval, accompanied by Plan, and Elevation drawings.

## **ANALYSIS, FINDINGS, REASONS**

As stated in the interim Decision, the Appeal is allowed. I note that the submission from the Appellants suggest that the following Condition, which appears in the corpus of standard conditions to be approved, be removed.

*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.*

However, I have decided to impose the condition with an abundance of caution, as per Direction 1 of the TLAB. I also note that some of the suggested conditions, accompanying the variances, as suggested by the Appellants, repeat a condition stated in the Consent to Sever Section. An example is provided below

*Where there are no existing street trees, the owner shall provide payment in lieu of planting one street tree on the City allowance abutting each of the sites involved in the application.*

I have decided to reproduce all the conditions requested in the Appellants' submissions, again, with an abundance of caution. The TLAB may be spoken to should the repetition of conditions cause any concerns.

## **DECISION AND ORDER**

1. The Appeal is allowed, and the decision of the COA dated April 17, 2019, is set aside.
2. The consent to sever the property into two undersized residential lots, as described below, is approved:

**Retained - Part 2**  
**Address to be assigned**

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The lot frontage will be 7.62 m and the lot area will be 290.1 m<sup>2</sup>. The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an integral garage, requiring variances to the Zoning By-law, as listed in Paragraph 3 below.

**Conveyed - Part 1**  
**Address to be assigned**

The lot frontage will be 7.62 m and the lot area will be 289.7 m<sup>2</sup>. The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an integral garage, requiring variances to the Zoning By-law, as listed in Paragraph 3 below.

3. The following variances are approved:

**62 Cavell Avenue – List of Revised Variances- Part 1 (West Lot)**

**1. Section 900.6.10.(22)(B), By-law 569-2013**

The minimum required lot frontage is 10.5 m.

The new lot will have a lot frontage of 7.62 m.

**2. Section 900.6.10.(22)(A), By-law 569-2013**

The minimum required lot area is 325 m<sup>2</sup>.

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**3. Section 10.80.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index is 0.6 times the area of the lot (173.82 m<sup>2</sup>).

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**4. Section 900.6.10.(22)(D), By-law 569-2013**

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The new dwelling will be located 0.45 m from the east side lot line.

**5. Section 10.80.40.10.(2)(A)(i), By-law 569-2013**

The maximum permitted height of all exterior main walls is 7 m.

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for peaked roofed dwellings shall not exceed 6.5 m.

The new dwelling will have a height of 8.32m.

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The maximum permitted area of each platform at or above the second storey is 4 m<sup>2</sup>.

The proposed second storey balcony will have an area of 7.64 m<sup>2</sup>.

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The eaves of a roof may encroach into a required minimum building setback a maximum

of 0.9 m, if they are no closer to a lot line than 0.3 m.

The eaves will be located 0.15 m from the west side lot line.

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The eaves will be located 0.15 m from the west side lot line

4. No other variances are approved.

5. The following conditions which are imposed on the proposal. They include:

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**S45 03 TLAB**

**Schedule A: Standard 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) 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.
- (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.

**6. The following conditions are imposed on the minor variance approval:**

1. Where there are no existing street trees, the owner shall provide payment in lieu of planting one street tree on the City allowance abutting each of the sites involved in the application.
2. Where there are no existing street trees, the owner shall provide payment in lieu of planting one street tree on the City owned tree(s) and/or privately owned trees to Urban Forestry, as per City of Toronto Municipal Code.
3. The applicant shall submit one revised site plan (scale of 1:200 or 1:250) illustrating the requirements specified in the following points to the satisfaction of Development Engineering Services and Transportation Services, at no cost to the City:
  - a) The applicant shall illustrate on the revised site plan details of all street elements within the Cavell Avenue municipal boulevard space and identify on the plans any proposed removal of objects, such as trees and traffic sign pole;
  - b) The site plan must be revised to clearly indicate the restoration of the redundant portion of curb cuts for the former driveway with sod, and new curb cuts for the



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proposed dwellings, all of which shall be designed to applicable City of Toronto Design Standards;

- c) Insert a note on the site plan stating that "The status of the existing tree within the proposed driveway shall be in accordance with Tree Preservation Report and Plan approved by Toronto Urban Forestry."
- d) Illustrate the proposed driveways are designed with a positive slope from the roadway to the garage;
- e) Provide a note on the drawing with respect to the status of the board fence covering driveway on Lot 1 and more than half of driveway on Lot 2;
- f) Extend the site plan to the roadway and show City sidewalk, curb and any proposed curb cutting and work within City's boulevard;
- g) Insert a note on the site plan stating that: "All existing redundant curb cuts that are no longer required will be restored to the satisfaction of the City of Toronto at no cost to the municipality";
- h) Insert a note on the site plan stating that "All proposed new curb cuts shall comply with all applicable City of Toronto Design Standards";
- i) Insert a note on the site plan stating that, "The applicant shall obtain the necessary authorizations and permits from the City's Right-of-Way Management Unit before excavating within or encroaching into the municipal road allowance. The applicant shall also submit a Municipal Road Damage Deposit prior to obtaining a Building Permit." The applicant is advised to contact Ms. Joanne Vecchiarelli of our Right-of-Way Management Section at 416-338-1045 regarding municipal road damage deposit requirements.

7. The property shall be developed substantially in accordance with the following plans prepared by Giancarlo Garofalo Architects, dated February 2018 revision, dated as noted:

Proposed Site Plan A1b (July 12, 2019), Front Elevation A7(July 12, 2019) Proposed Rear Elevation A8 (July 12, 2019), Left Side Elevation A9 (July 12, 2019), Right Side Elevation A10 (July 12, 2019), Front Elevation A17 (July 12, 2019), Proposed Rear Elevation A18 (July 12, 2019), Left Side Elevation A19 (July 12, 2019), Right Side Elevation A20 (July 12, 2019)"

So orders the Toronto Local Appeal Body

X



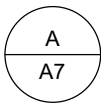
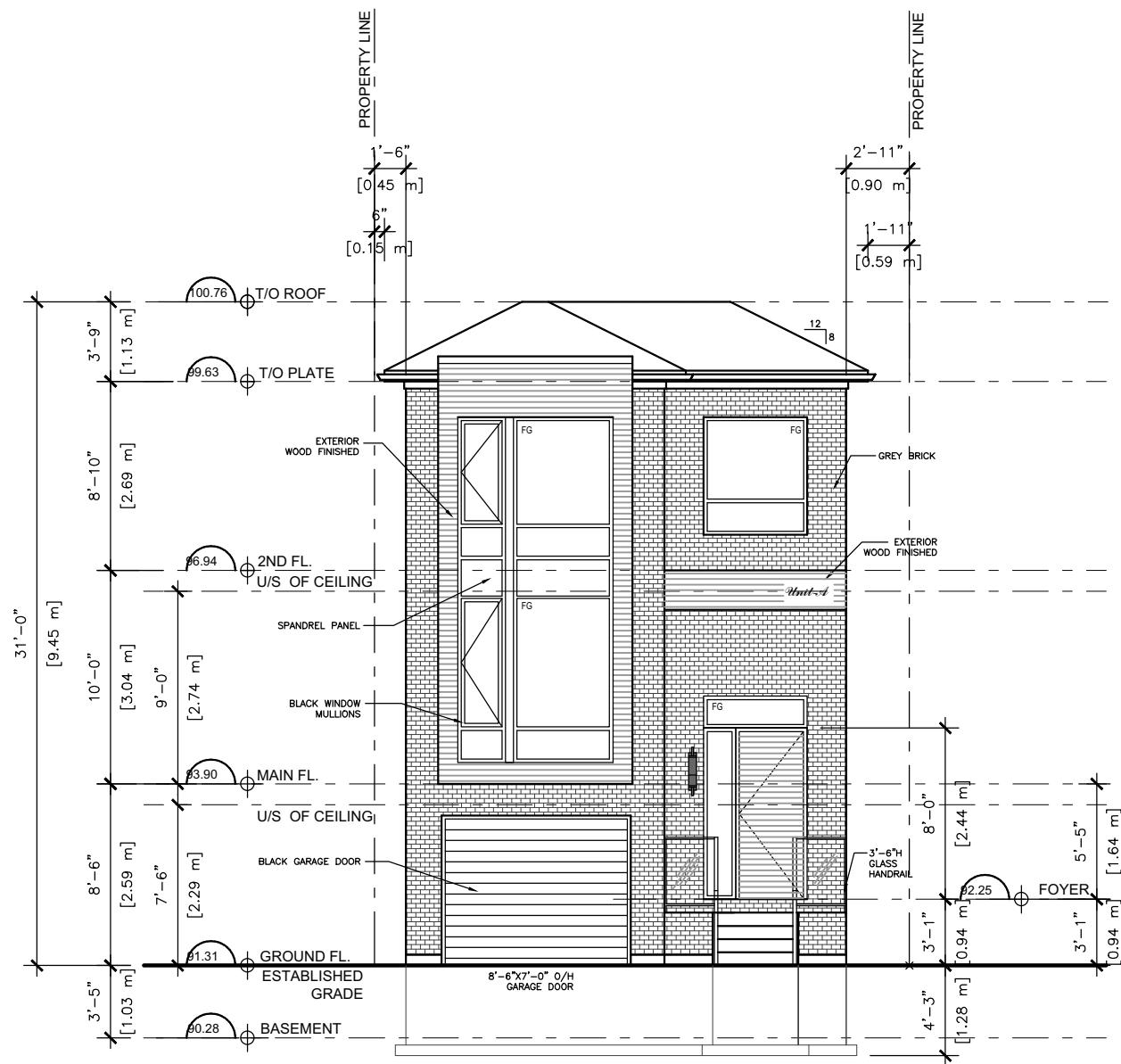
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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body

A1b



LOT-1



FRONT ELEVATION

SCALE : 1/8" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



GIANCARLO GAROFALO ARCHITECT  
943 ST. CLAIR AVE. WEST  
TORONTO, ON. M6C 1C7  
Tel: 416 531-1265 Fax: 416 531-4733  
Email: info@ggarchitect.ca

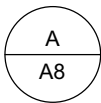
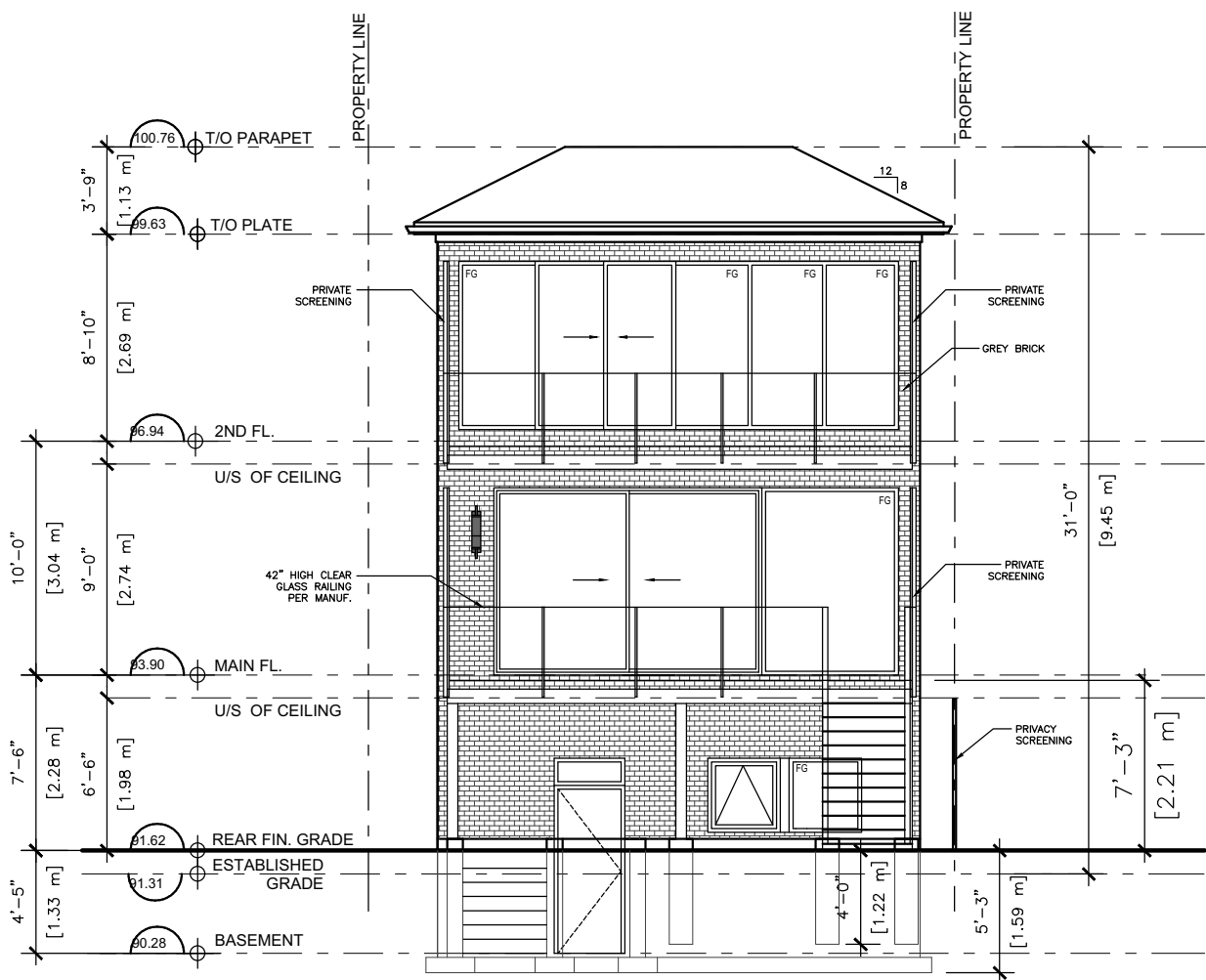
Title:  
**62 CAVELL AVENUE  
ETOBICOKE, ON**

Sheet Title:  
**FRONT ELEVATION**

No.	Revision	Date
6	Re-Issued per Zoning Comment	SEPT. 20,2018
7	Re-Issued per Zoning Comment	NOV. 08,2018
8	Re-Issued per C of A	MAR. 15,2019
9	Re-Issued per C of A	MAR. 25,2019
10	Re-Issued for TLAB	JULY 12,2019

Drawn:  
J.C.  
Checked:  
G.G.  
Date:  
FEB 2018

Scale:  
  
Dwg. No.  
**A7**



REAR ELEVATION

SCALE : 1/8" = 1'-0"

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Tel: 416 531-1265 Fax: 416 531-4733  
Email: info@ggarchitect.ca

Title:  
**62 CAVELL AVENUE  
ETOBICOKE, ON**

Sheet Title:  
**PROPOSED  
REAR ELEVATION**

No.	Revision	Date
6	Re-Issued per Zoning Comment	SEPT. 20,2018
7	Re-Issued per Zoning Comment	NOV. 08,2018
8	Re-Issued per C of A	MAR. 15,2019
9	Re-Issued per C of A	MAR. 25,2019
10	Re-Issued for TLAB	JULY 12,2019

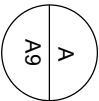
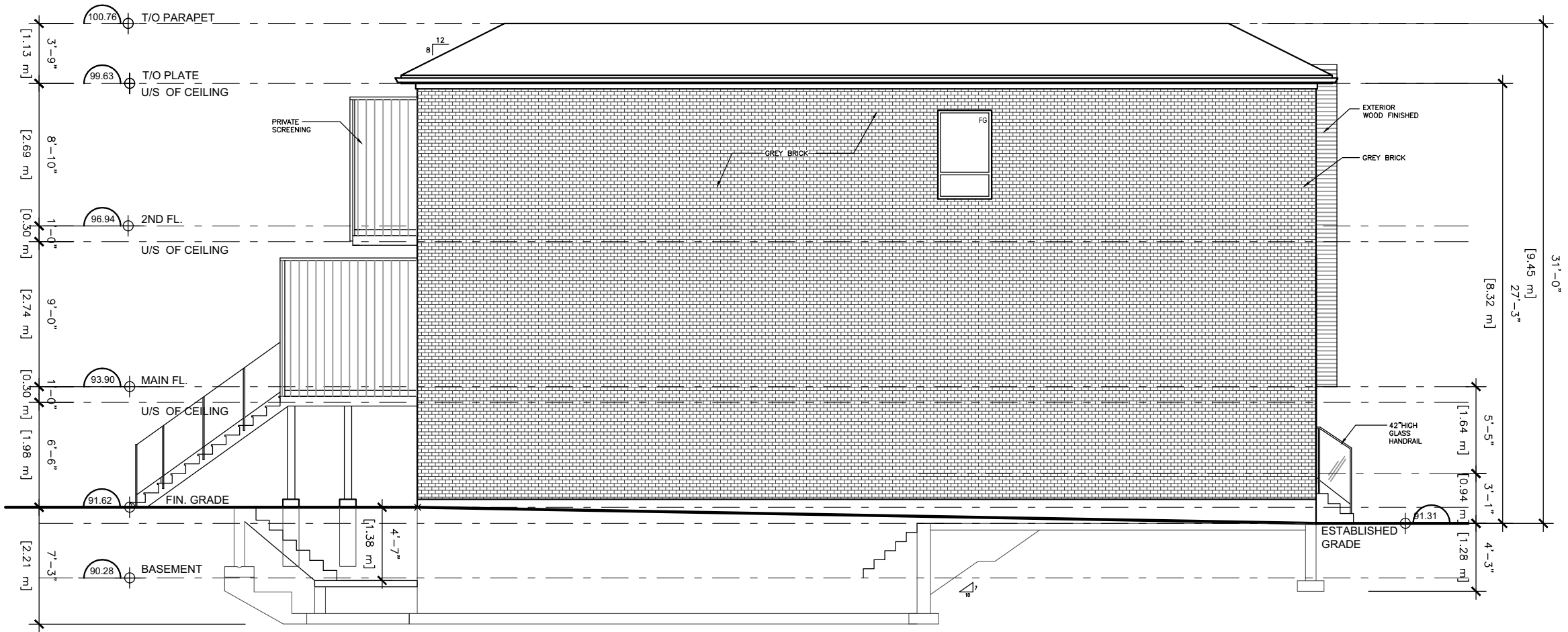
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J.C.  
Checked:  
G.G.  
Date:  
FEB 2018

Scale:

Dwg. No.

A8

LOT-1

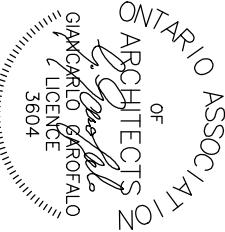


LEFT-SIDE ELEVATION

SCALE : 1/8" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



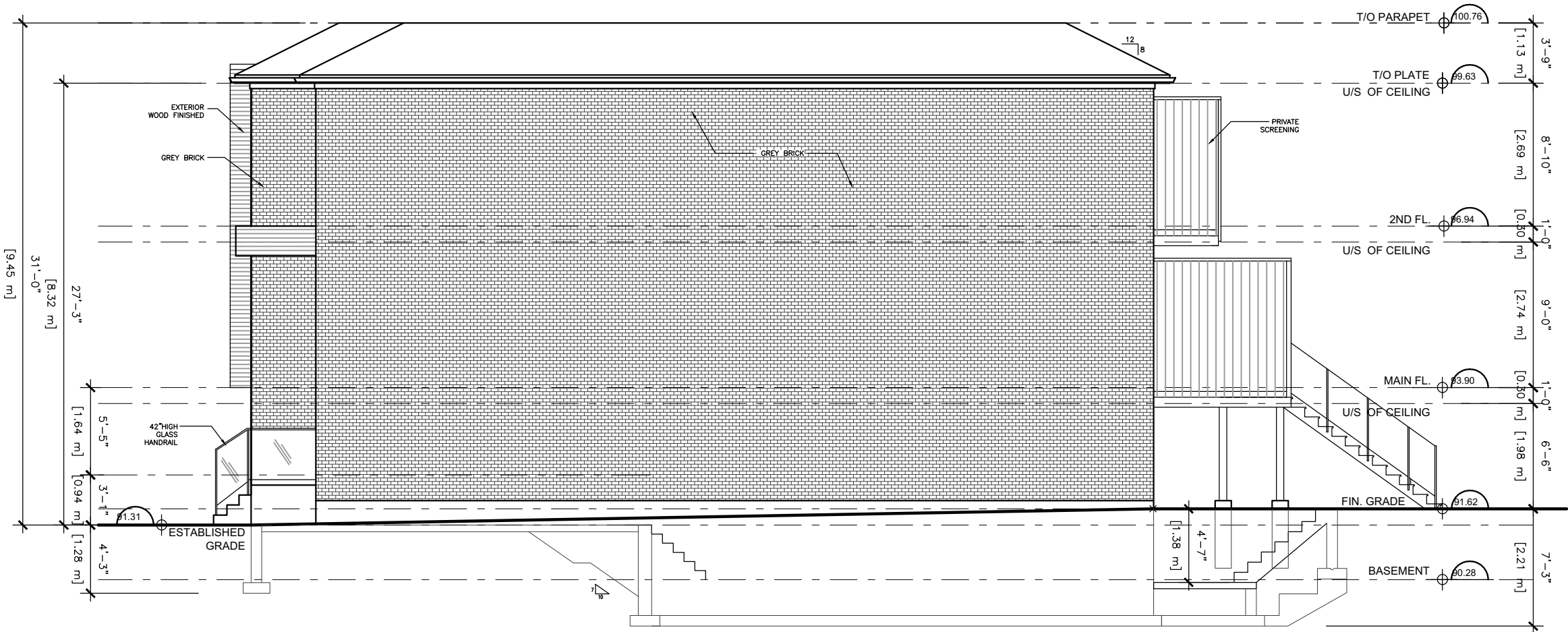
GIANCARLO GAROFALO ARCHITECT  
943 ST. CLAIR AVE. WEST  
TORONTO, ON, M6C 1C7  
Tel: 416 531-1265 Fax: 416 531-4733  
Email: info@garchitect.ca

Title:  
**62 CAVELL AVENUE  
ETOBICOKE, ON**

Sheet Title:  
**LEFT SIDE  
ELEVATION**

No.	Revision	Date	Drawn:
6	Re-issued per Zoning Comment	SEPT. 20, 2018	J.C.
7	Re-issued per Zoning Comment	NOV. 08, 2018	Checked:
8	Re-issued per C of A	MAR. 15, 2019	G.G.
9	Re-issued per C of A	MAR. 25, 2019	Date:
10	Re-issued for TLAB	JULY 12, 2019	FEB 2018

Scale:  
**A9**



RIGHT-SIDE ELEVATION

A  
A10

SCALE : 1/8" = 1'-0"

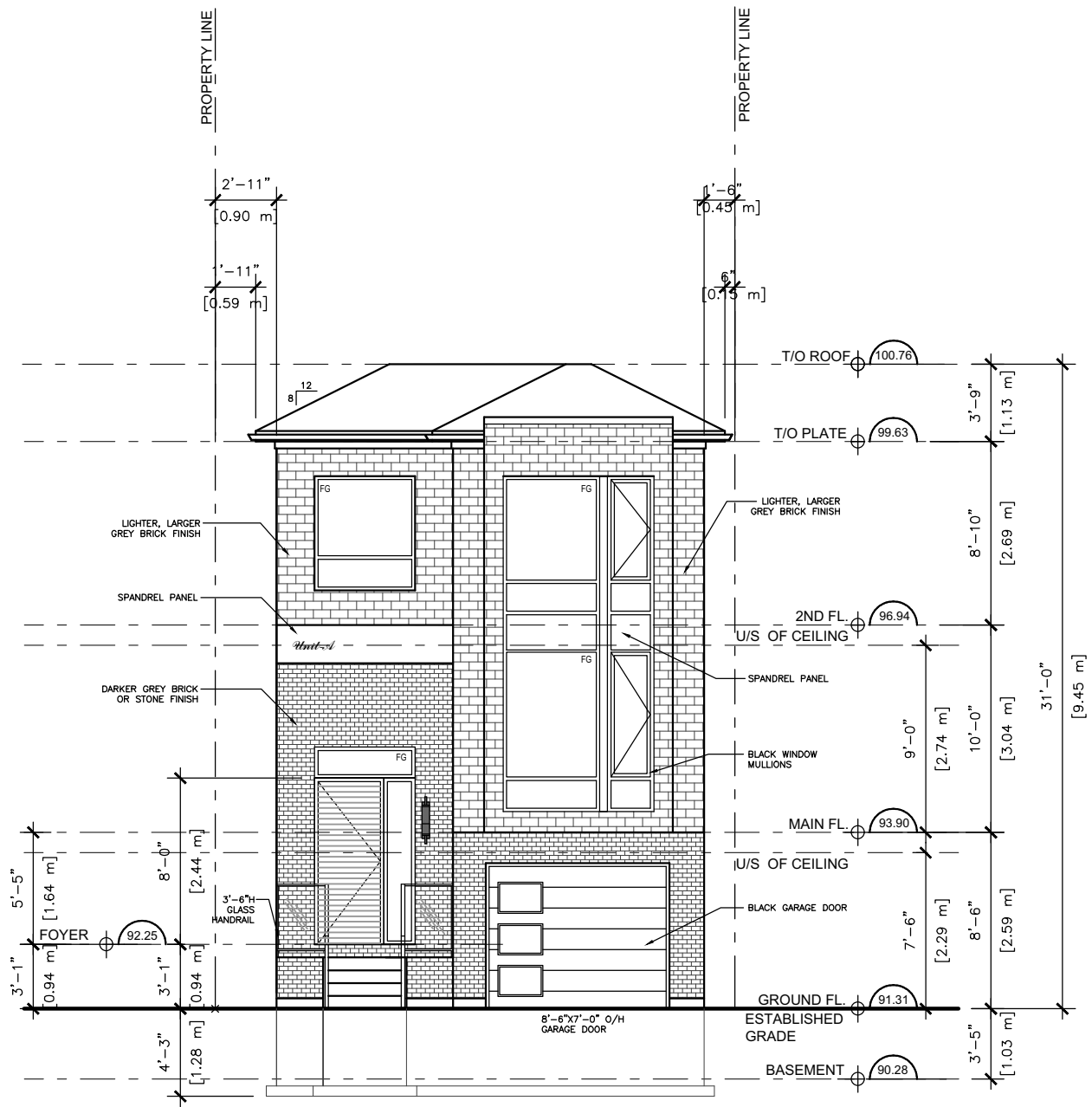
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<div><div></div><div></div><div></div></div> <div><div>GIANCARLO GAROFALO ARCHITECT</div><div>943 ST. CLAIR AVE. WEST</div><div>TORONTO, ON, M6C 1C7</div><div>Tel: 416 531-1265 Fax: 416 531-4733</div><div>Email: info@garchitect.ca</div></div>			Title:  62 CAVELL AVENUE ETOBICOKE, ON		Sheet Title:  RIGHT SIDE ELEVATION		No.		Revision		Date		Drawn: J.C.		Checked: G.G.		Date: FEB 2018		Dwg. No.  A10	
							6		Re-issued per Zoning Comment		SEPT. 20, 2018									
							7		Re-issued per Zoning Comment		NOV. 08, 2018									
							8		Re-issued per C of A		MAR. 15, 2019									
							9		Re-issued per C of A		MAR. 25, 2019									
							10		Re-issued for TLAB		JULY 12, 2019									

## LOT-2



A17

# FRONT ELEVATION

SCALE : 1/8" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR  
CONSTRUCTION PURPOSES UNLESS  
COUNTERSIGNED BY:



GIANCARLO GAROFALO ARCHITECT  
943 ST. CLAIR AVE. WEST  
TORONTO, ON. M6C 1C7  
Tel: 416 531-1265 Fax: 416 531-4733  
Email: info@ggarchitect.ca

Title:

62 CAVELL AVENUE  
ETOBICOKE, ON

Sheet Title:

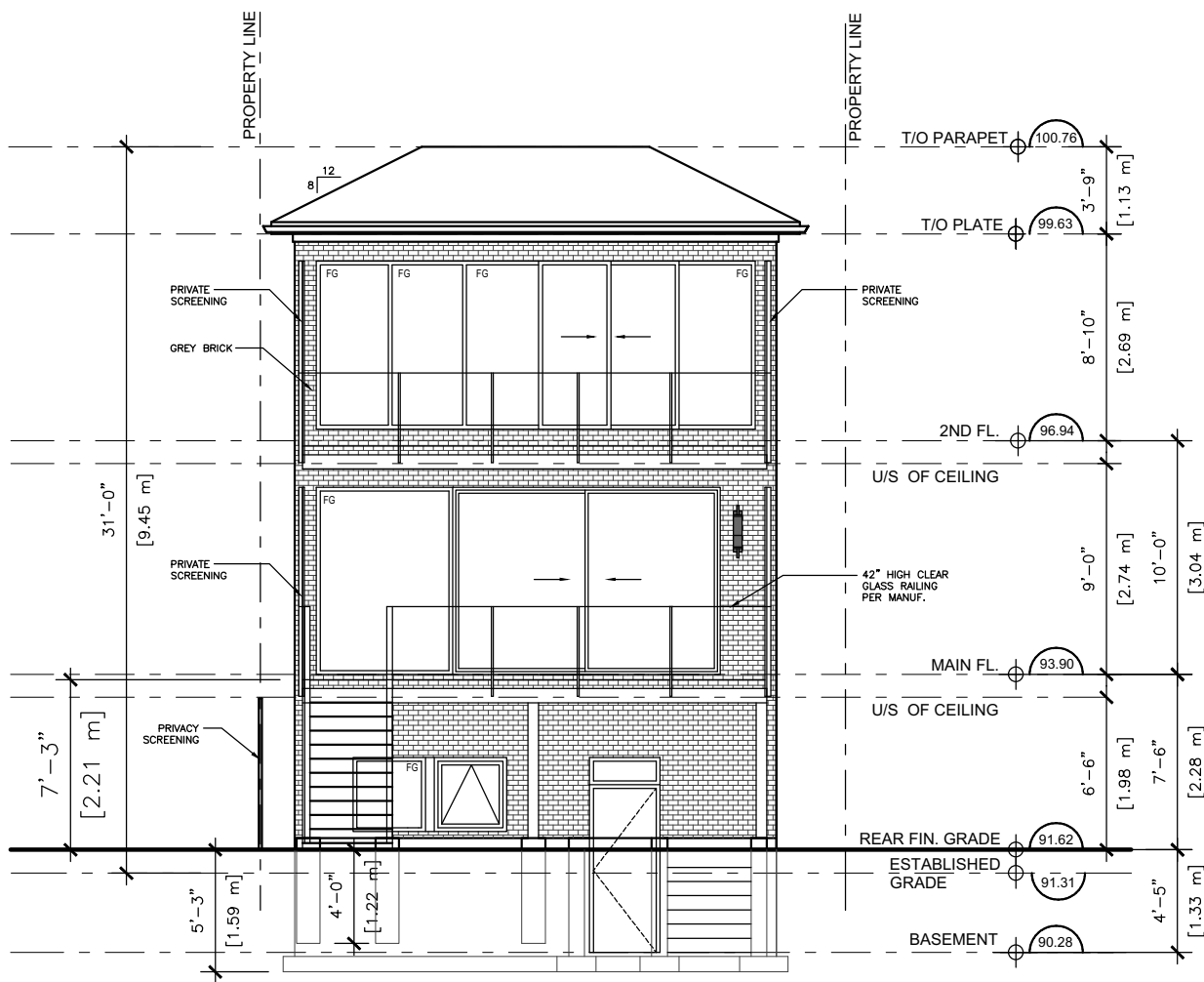
FRONT ELEVATION

No.	Revision	Date	Drawn:
6	Re-Issued per Zoning Comment	SEPT. 20,2018	J.C.
7	Re-Issued per Zoning Comment	NOV. 08,2018	Checked:
8	Re-Issued per C of A	MAR. 15,2019	G.G.
9	Re-Issued per C of A	MAR. 25,2019	Date:
10	Re-Issued for TLAB	JULY 12,2019	FEB 2018

Scale:

Dwg. No.

A17



A

A18

REAR ELEVATION

SCALE : 1/8" = 1'-0"

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943 ST. CLAIR AVE. WEST

TORONTO, ON. M6C 1C7

Tel: 416 531-1265 Fax: 416 531-4733

Email: info@ggarchitect.ca

Title:

62 CAVELL AVENUE

ETOBICOKE, ON

Sheet Title:

PROPOSED

REAR ELEVATION

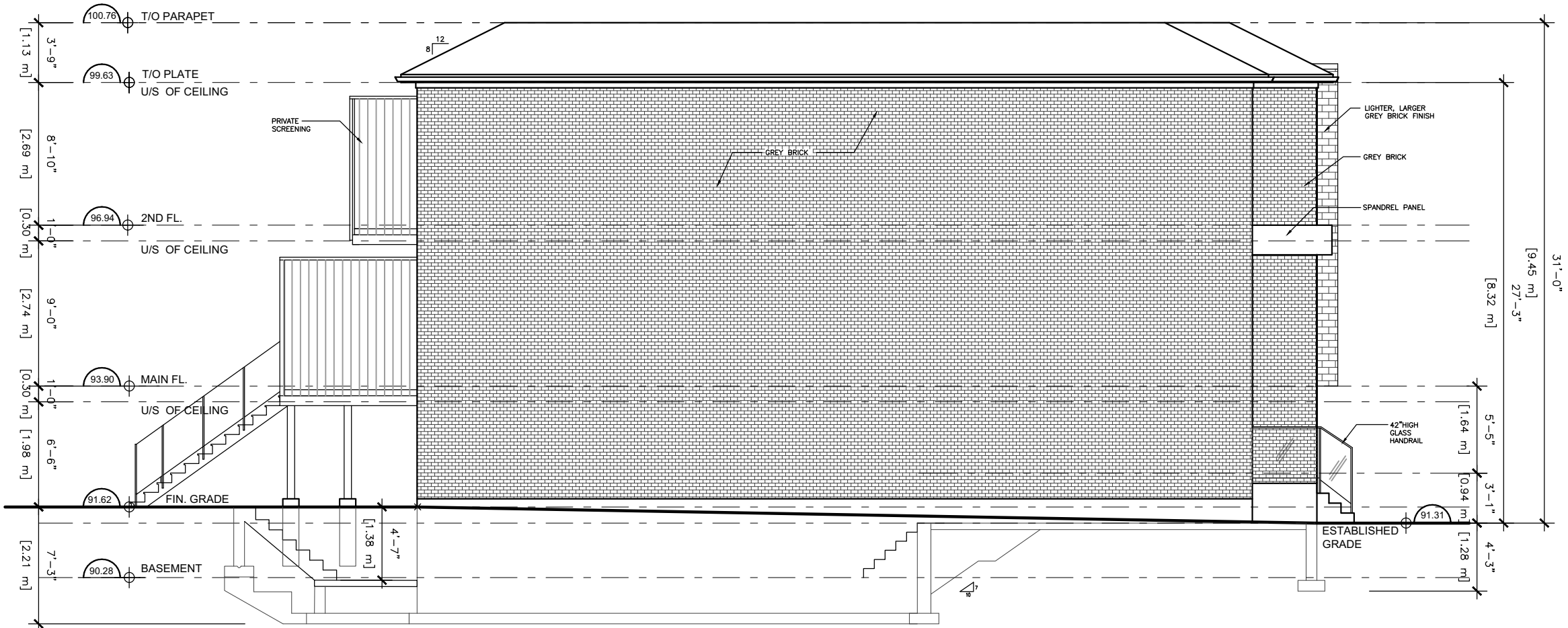
No.	Revision	Date	Drawn:	Scale:
6	Re-Issued per Zoning Comment	SEPT. 20,2018	J.C.	
7	Re-Issued per Zoning Comment	NOV. 08,2018	Checked:	
8	Re-Issued per C of A	MAR. 15,2019	G.G.	
9	Re-Issued per C of A	MAR. 25,2019	Date:	
10	Re-Issued for TLAB	JULY 12,2019	FEB 2018	

Dwg. No.

A18



LOT-2



LEFT-SIDE ELEVATION


A  
A19

SCALE : 1/8" = 1'-0"

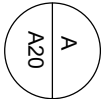
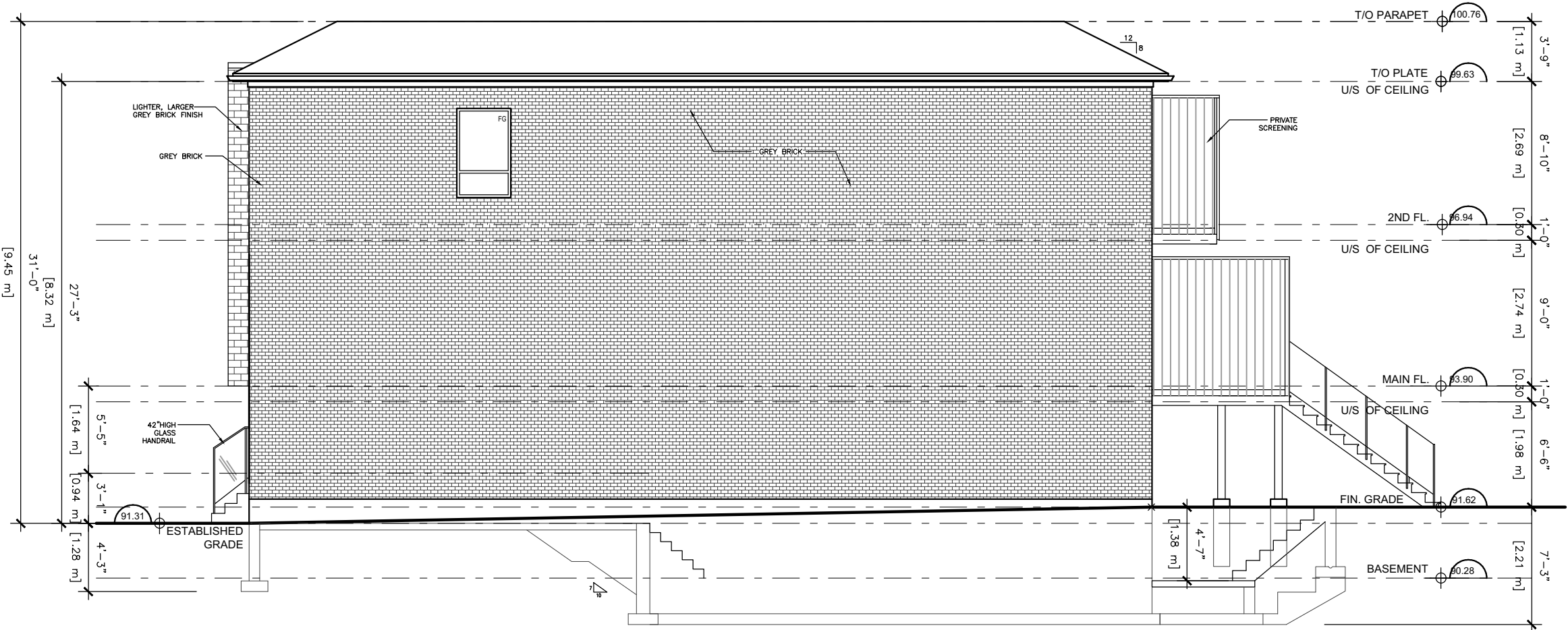
THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



  
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Title:		Sheet Title:		Scale:				
62 CAVELL AVENUE ETOBICOKE, ON		LEFT SIDE ELEVATION		No.	Revision	Date	Drawn:	Dwg. No.  A19
				6	Re-issued per Zoning Comment	SEPT. 20, 2018	J.C.	
				7	Re-issued per Zoning Comment	NOV. 08, 2018	Checked:	
				8	Re-issued per C of A	MAR. 15, 2019	G.G.	
				9	Re-issued per C of A	MAR. 25, 2019	Date:	
				10	Re-issued for TLAB	JULY 12, 2019	FEB 2018	



RIGHT-SIDE ELEVATION

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



GIANCARLO GAROFALO ARCHITECT  
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TORONTO, ON, M6C 1C7  
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Email: info@garchitect.ca

Title:

62 CAVELL AVENUE  
ETOBICOKE, ON

Sheet Title:

RIGHT SIDE  
ELEVATION

No.	Revision	Date	Drawn:	Scale:
6	Re-issued per Zoning Comment	SEPT. 20, 2018	J.C.	
7	Re-issued per Zoning Comment	NOV. 08, 2018	Checked:	
8	Re-issued per C of A	MAR. 15, 2019	G.G.	
9	Re-issued per C of A	MAR. 25, 2019	Date:	
10	Re-issued for TLAB	JULY 12, 2019	FEB 2018	

Dwg. No.  
A20