

DECISION AND ORDER

Decision Issue Date Wednesday, March 25, 2020

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): GEOFFREY RAYNER

Applicant: BOXWOOD ARCHITECTS

Property Address/Description: 6 GLEN OAK DR

Committee of Adjustment Case File: 19 191091 STE 19 MV (A0775/19TEY)

TLAB Case File Number: 19 246681 S45 19 TLAB

Hearing date: Thursday, February 27, 2020

DECISION DELIVERED BY D. LOMBARDI

APPEARANCES

NAME	ROLE	REPRESENTATIVE
BOXWOOD ARCHITECTS	APPLICANT	
AMY SCOTT	PARTICIPANT	
COLIN SCOTT	PARTICIPANT	
GEOFFREY RAYNER	APPELLANT/OWNER	EILEEN COSTELLO
JILL RAYNER	APPELLANT/OWNER	
DANIEL KARPINSKI	PARTY (TLAB)	
CRAIG ZAVITZ	PARTY (TLAB)	
KATHERINE ZAVITZ	PARTY (TLAB)	
ANNE-MARIE FLEMING	PROJECT ARCHITECT	
TARAH COUTTS	LAND USE PLANNER (AIRD&BERLIS)	

INTRODUCTION

This is an appeal from a decision of the Toronto and East York Panel of the City of Toronto (City) Committee of Adjustment (COA) refusing variances to permit the alteration of the existing two-storey detached dwelling at 6 Glen Oak Drive (subject property) by constructing a rear two-storey addition, front second storey dormer additions, and a rear ground floor deck.

Improvements proposed would also permit the partial demolition of the existing rear detached garage and the construction of a rear addition to that structure (the total garage area would remain unchanged) and require no variances.

The subject property is located one block south of Gerrard Street East and approximately midway between Woodbine Avenue and Main Street in what is generally referred to as the 'Upper Beaches'.

More specifically, the property is located on the north side of Glen Oak Drive at the west end of the street where it terminates as a dead end; it backs onto Norwood Park to the north. It is currently improved with a modest two-storey home of original construction and a detached rear garage.

The subject property is designated *Neighbourhoods* in the City Official Plan (OP) and zoned RD (f6.0) (d0.35) (x961) Residential Detached Zone in the new harmonized City-wide Zoning By-law #569-2013 (new By-law), which permits a two-storey detached dwelling and a maximum gross floor area of 0.35 times the area of the lot.

The Owners/Appellants, Geoffrey and Jill Rayner, appeared at the Hearing along with their counsel, Eileen Costello (Aird & Berlis LLP), and Martin Rendl, their expert planning witness. Also in attendance in support were Anne-Marie Fleming, the project architect, and Tarah Coutts, a planner from Ms. Costello's firm.

A number of residents appeared in opposition to the Application. These included Katherine and Craig Zavitz (163 Glenmount Pk. Rd.) and Daniel Karpinski (167 Glenmount Pk. Rd.), who elected Party status, and Amy and Colin Scott (159 Glenmount Pk. Rd.), who elected Participant status.

BACKGROUND

Ms. Costello took the opportunity to provide opening remarks that proved helpful in identifying the issues and the position of the Owners.

She described the Application as a request for four variances with respect to first floor height, floor space index, front yard setback, and roof eaves projections to enable the investment in and the expansion and modernization of the existing dwelling on the subject property to better accommodate the Owners' family.

The variances, for which confirmation of approval was requested, are set out in **Attachment A** (Application) to this Decision.

She asserted that the Application was the subject of a thorough review by City staff, which she noted is typically the review process for COA applications. The only comments received by the COA came from Community Planning, dated October 17, 2019, which recommended that should the COA approve the application and grant the variances requested, the following condition be imposed:

- A. *Variance #3 to Zoning By-law 569-2013, related to front yard setback, be limited to the two proposed second-storey projections (box windows), provided that the projections be constructed substantially in accordance with the dimensions shown in Drawings A1.00 (Site Plan), A2.03 (Plans_roof), A3.00 (Elevations_south [front]), A3-01 (Elevations_west [side]), and A3.03 (Elevations_east [side]) in the plans received by the Committee on July 23, 2019 (the "Plans").*

The requested variances were refused by the COA, at its meeting on October 23, 2019, as usual without extensive reasons, and the Applicant/Owners subsequently appealed the decision to the Toronto Local Appeal Body (TLAB).

The TLAB set a Hearing date of February 27, 2020, to hear the matter.

MATTERS IN ISSUE

The major issue on the appeal was whether the four variances sought, individually and collectively met the policy considerations and four statutory tests below recited.

Although the proposed renovations to the existing dwelling, including the rear two-storey addition and front second-storey projections, were described by the Applicants as straightforward and modest, it was the position of those opposed that the project was inconsistent in built form to the neighbourhood, that its massing was not appropriate for the site, and that the proposal was a destabilizing influence that was not minor and would be the cause of adverse impact.

As such, all four tests of the variance power were put in issue by those opposed.

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').

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.

Under s. 2.1 (1) of the Act, the TLAB is also to have regard for the earlier Committee decision and the materials that were before that body.

EVIDENCE

Ms. Costello tendered Martin Rendl, a Registered Professional Planner, to speak to the variances. Mr. Rendl had prepared an exceedingly detailed and informative Document Book and Expert Witness Statement (EWS) with appendices, entered as Exhibits 1 A (Volume 1) & B (Volume 2), and Exhibit 3, respectively.

He is a seasoned and extremely experienced planner who has appeared before both the Ontario Municipal Board, now the Local Planning Appeal Tribunal, and the

TLAB. I qualified him to give expert opinion evidence in the discipline of land use planning. He also provided an extensive Visual Photo Book, entered as Exhibit 4.

I advised that I had visited the site, walked the immediate area (neighbourhood) and generally read the materials filed by all Parties and Participants but that it is the evidence to be heard at the Hearing that is of importance.

Mr. Rendl stated that he had been retained in November 2019 and had not participated in the COA deliberations. He noted that those deliberations involved the project architect, Ms. Fleming, who was present at the Hearing to answer questions.

Mr. Rendl provided all the evidence at the Hearing on behalf of the Applicant. I found his evidence, conduct and competence to be thorough, well-researched, cogent and detailed. He proved to be fully alert to the issues, the neighbourhood, the assessment criteria, and the requisite research. His EWS and Photo Book demonstrated comprehensive and balanced research.

Noting the '*Neighbourhoods*' designation and policy framework in the OP, he demonstrated neighbourhood familiarity and nuanced aspects of the considerations of the variance types sought. He, then, related these all in respect of a similar lot context in a larger Neighbourhood Study Area (NSA) and a more proximate immediate area, the latter primarily consisting of those properties on Glen Oak Drive.

These were defined based on the design criteria parameters set out in Policy 4.1.5 of the OP (as amended by OPA 320), for defining immediate and broader contexts considered 'compatibility' measures when considering the existing physical character in established *Neighbourhoods*.

Mr. Rendl noted that the NSA consists principally of the properties on Glen Oak Drive (Exhibit 4, Photo 1 – Aerial Map) which in terms of zoning, street patterns, lot sizes, and dwelling types is in the nature of a precinct within its surroundings and the immediate context. He clarified this to mean properties that face the same street as the proposed development in the same block and the block opposite the proposed development.

Notwithstanding this clarification, he also included in his NSA the properties on the east side of Glenmount Park Road (Glenmount), from No.'s 109 to 191 because the Glen Oak Drive precinct abuts the rear lot lines of the Glenmount properties. He opined that these form part of the broader 'geographic area' context as they are in proximity to the proposed development.

He submitted that the overall neighbourhood is experiencing reinvestment in the form of the construction of additions to existing dwellings as well as new dwelling examples of which he referenced in his Photo Book (Exhibit 4).

He described the area as a stable but not static, mature neighbourhood consisting primarily of two-storey detached dwellings reflecting the RD zoning which permits only detached dwellings built during the 1940's and 50's. The houses have a distinct variety in built form, scale, and style.

Referring to Glenmount, immediately to the west of the subject property, he opined that that street has a distinctly different physical character containing a mix of detached and semi-detached residential dwellings on narrower lots.

Mr. Rendl reviewed the subject property through the visual exhibits he prepared, including photos of 6 Glen Oak Drive (Exhibit 4, photos 1&2) and visual evidence illustrating the immediate and broader neighbourhood, including properties on the east side of Glenmount (Exhibit 4, photos 3-24).

In describing the characteristics of the lot, he noted that the subject property has a width of 12.07 m, a depth of 33.53 m, and lot area of 404.7 m². It is oriented perpendicular to the abutting properties to the west on Glenmount, with the side lot line corresponding with the rear lot lines of No.'s 159-167 Glenmount. This rear yard orientation and context is reflected in Photos 24-29 in his Photo Book (Exhibit 4).

For purposes of his analysis and evidence, he grouped the four requested variances into two categories: built form (Variances 1 & 2) and setbacks from lot lines (Variances 3 & 4). He confirmed that the Floor Space Index (FSI) of the existing house is 0.268 times the area of the lot and that the front yard setback is 4.56 m.

In addressing the policy framework and planning analysis, he asserted consistency with the PPS opining that the proposed development represents modest intensification that is consistent with PPS policies that promote efficient land use patterns and the efficient use of existing infrastructure (Policies 1.1.1(a),(e), 1.1.3.2 (a)1 & 2)).

He also asserted conformity to the Growth Plan, highlighting Policies 2.2.23, (c) and (f), opining that the additions to the existing dwelling represent modest intensification in a delineated built-up area.

Addressing the four statutory tests of the *Act*, he assessed each individually. With respect to maintaining the general intent and purpose of the OP, he referenced Policy 4.1.5 which requires that development in established Neighbourhoods "respect and reinforce the existing physical character" and that it be materially consistent with the prevailing physical character of properties in both the broader and immediate context.

In considering the relevant criteria established in Policy 4.1.5, specifically (c), (d) and (g), he opined that the height, massing, scale, and density of the proposed additions to the two-storey dwelling are consistent with that of the other two-storey dwellings on Glen Oak Drive and elsewhere in the neighbourhood.

Furthermore, he opined that the altered dwelling fits the existing physical context with respect to built form and setbacks from lot lines and the variances do not constitute a change that threatens the stability of the neighbourhood. He asserted that the proposed FSI of 0.54 times the area of the lot is similar to the 0.55x FSI approved for 9 Glen Oak Drive, immediately across the street from the subject property. It is also less than the as-of-right 0.60 FSI permitted on the adjacent Glenmount properties, where the R Zone permits a rear addition to an existing dwelling to a maximum 0.69x FSI.

With respect to whether the variances maintain the general intent and purpose of the applicable zoning by-laws, Mr. Rendl first addressed the built form variances, FSI, and height of the first floor. He posited that the general intent of regulating built form is to avoid a house that is out of scale with the lot which would result in an overdevelopment of the property.

In this regard, he opined that the requested FSI of 0.54 times the lot area is generally within the two-storey envelope prescribed by the Zoning By-law's regulations for height, building length, and setbacks from lot lines. He highlighted a chart of COA decisions, introduced as Exhibit 6, to support his assertion that the requested FSI relief sought by the Applicant is within the range of approvals granted for other dwellings on Glen Oak Drive as well as in the broader context of the NSA. Those approvals range from 0.39 times the area of the lot to an FSI high of 0.74x (152 Glenmount).

He asserted that Variance #1, for ground floor height, is technical rather than substantive in nature given that the additional height is internal to the structure and has no external impact on the built form.

With respect to the variances for setbacks from the lot lines, Mr. Rendl clarified that Variance No. 3 related to the front yard setback of 4.5 m which he confirmed will remain unchanged for the first floor. He noted that the relief being sought, a 3.66 m front yard setback, applies only to the new 2nd- floor dormer windows which project approximately 0.84 m beyond the 1st - floor front wall. He submitted that these dormers apply only to 43% of the width of the second-floor front elevation and maintain an appropriate setback from the front lot line consistent with the existing street wall situation created by other homes along Glen Oak Drive.

With respect to Variance No. 4, he asserted that the proposed setback variance for the eaves of 0.25 m, whereas the maximum permitted by the By-law is 0.9 m, will not impact the adjacent lots or homes immediately to the west on Glenmount thereby maintaining the general intent and purpose of the By-law.

As to the tests of desirable and minor, he opined that the proposed alterations to the existing dwelling are appropriate and consistent with the evolving character of the neighbourhood and will not represent an overdevelopment of the subject property. He asserted that the COA was in receipt of eight letters of support for the proposal including residents in immediate proximity to the subject property, at No.'s 5, 7, 8, 9 and 10 Glen Oak Drive. These properties he asserted were most comparable in terms of built form and character.

In addressing the extent of any adverse impacts on adjacent properties, he opined none would be created. He introduced a Shadow Impact Analysis (Analysis), entered as Exhibit 5, prepared for the proposed development to address concerns raised by the neighbours on Glenmount. That Analysis modelled shadow impacts for the summer and winter solstices (June 21st & December 21st, respectively) as well as the vernal and autumnal equinoxes (March 21st & September 21st, respectively)

He highlighted the results of the modelling analysis for each of the seasons, above noted, individually, and asserted that the conclusions from the shadow analysis confirm that the shadows cast on the rear yards of nearby four Glenmount properties would be less than those cast by an 'as-of-right' dwelling with a permitted building length of 17 m.

No building length variance is sought for the proposed dwelling and he noted that the altered dwelling will, in fact, have a length under 14 m.

He submitted that both for the proposed dwelling and the as-of-right building envelope, incremental shadows will be cast in the morning in March and September onto some of the rear yards of the four Glenmount properties but will be gone by 12 noon. More importantly, he asserted that the modelling indicated that those same rear yards are impacted by shadows from each other's homes well into the afternoon casting full shade after 3:18 pm.

The Analysis also suggested similar shadows but to a lesser degree in June. Mr. Rendl opined that overall, the shadowing expected to be created by the proposal would have minimal impact and be within the range of tolerance expected in a built-up, inner-city context.

In terms of privacy and views, Mr. Rendl opined that the proposed rear addition will not adversely impact the privacy or views of the Glenmount properties to any

significant degree because there is no fenestration along the 1st floor west elevation and the proposed 2nd - floor dormer windows are relatively small in size.

He also opined that the proposed altered dwelling will not reduce the skyview of the abutting Glenmount properties and will not affect amenity spaces to any significant degree.

He concluded his evidence by opining that the requested variances met the four tests of s. 45(1) of the *Planning Act*, are appropriate for the development of the subject property, maintain the general intent and purpose of the OP and by-law, create no undue adverse consequences as to streetscape, light, privacy and views and the proposed development represents 'good planning'.

He had no objection to accede to the staff condition, above cited and found in Attachment B of this Decision, with respect to the two proposed projections (dormer windows), noting that the Owners were in agreement.

On cross-examination by Mr. Zavitz, the witness was questioned as to whether he actually walked the rear yards of the four properties on Glenmount that would be immediately impacted by the proposal and whether he had noted that grade change between those properties and the subject site. Mr. Rendl clarified that accessing private property was not a common practice (his words) for planners when undertaking reconnaissance but confirmed that he had indeed satisfied himself in scaling the topography.

When questioned as to why the Owners had not sought input from those neighbours in opposition to the proposed development prior to finalizing the site plan drawings, Mr. Rendl confirmed that the Applicant, through Ms. Fleming, had indeed contacted the neighbours for input prior to the COA meeting. Ms. Fleming referenced a letter sent to residents on September 23, 2019, on behalf of the Rayners inviting neighbours to an open house on October 1, 2019, to review plans for the proposal which Ms. Costello submitted to the Tribunal.

Ms. Costello confirmed that several of the neighbours attended including Ms. Eva Karpinski but that Mr. Karpinski was absent. She then highlighted correspondence (emails) forwarded to Mr. Karpinski following the open house, on October 2 and October 11, 2019, with the attached plans and the shadow impact analysis for his review and comments, if any.

On the question of why more density is being sought by the Owners, Mr. Rendl asserted that the proposal represents a renovation of the existing structure representative of the Owners' desire for additional and updated interior space for their family.

Mr. Rendl was then briefly cross-examined by Mr. Karpinsky who wanted assurances that the proposed additions to the existing dwelling would reflect a cohesive design. Mr. Rendl referenced the Site Plan drawings (exhibit 2) and confirmed that the proposed building and the architectural expression would result in a seamless exterior design of the additions.

Ms. Zavitz was the next witness. She advised that she would be presenting a coordinated presentation co-written with her husband and representing the concerns of her family and that of the Scotts, Amy and Colin, residents at 159 Glenmount Park Road. I thanked her for doing so and acknowledged the residents' cooperation in harmonizing their evidence in an attempt to optimize testimony by reducing the

duplication of evidence given the number of residents who had elected Party and Participant status and who were in attendance at the Hearing.

Ms. Zavitz indicated that she was 'representing the community' in coming before the Tribunal to oppose the proposed Application. Her 'PowerPoint' presentation was entered as Exhibit 7.

The presentation addressed Mr. Rendl's EWS and evidence by addressing the following five headings: orientation, proximity and zoning; misleading FSI claims; the Official Plan and PPS; 3 adverse impacts; and the question of whether the variances are minor. I summarize her evidence below:

- A. **Orientation** – She referenced Photo 1 in Exhibit 7 which illustrates a view of the 'unique' (her word) '*perpendicular orientation*' of the four properties on Glenmount (No.'s 159-167) relative to the subject property. She asserted that this distinctiveness is not adequately addressed by Mr. Rendl in his EWS as a significant factor in the creation of adverse effects on the neighbours.
- Proximity* – Referencing Photos 2 and 3 in Exhibit 7, she noted that the existing dwelling on the subject property is "inches away from the homes at 159 and 163 Glenmount Pk. Rd." (Exhibit 7, p. 3) and that additional massing would only exacerbate the feeling of encroachment onto abutting properties.
- Zoning* – Ms. Zavitz posited that the subject property is zoned RD which permits a maximum gross floor area of 0.35 times the area of the lot and, therefore, "*the homes on Glenmount Pk. Rd. are not comparable to their immediate neighbours to the east on Glen Oak Drive because the Zones are different.*" (Exhibit 7, p. 4) She asserted that Mr. Rendl agrees when he states on Page 4 of his EWS that "*The R Zone permits a broader range of building types [...] This results in a physical character that is distinct and different (her emphasis) from the properties on Glen Oak Drive in the RD Zone.*"
- Therefore, she asserted that Mr. Rendl's assertion that the Application should be approved because it 'fits' the physical character of the neighbourhood is incorrect and that his emphasis on the general physical character of the wider area (i.e., the neighbourhood) "*deliberately diverts attention away from the homes most impacted by the proposed changes.*"
- B. **Misleading FSI** – She submitted that Mr. Rendl's comparison of the proposed FSI with that of the recently approved FSI for 9 Glen Oak Drive is misleading and statement that the allowable maximum 0.69 FSI on the adjacent properties on Glenmount Pk. Rd. is "*almost double the maximum permitted on Glen Oak Drive (Exhibit 3, para. 70)*" is deceptive given that the zoning is different and the lots on Glenmount are markedly smaller in size.
- C. **OP and PPS** – She argued that Mr. Rendl's use of the term 'intensification' does not align with that outlined in the PPS and that coupled with the fact that the proposed renovation of the subject property will accommodate only one family unit, the proposal will not benefit the community as a whole.

She also challenged Mr. Rendl's statement that the proposal will not "*constitute a change that threatens the stability of the neighbourhood,*" as misleading and submitted that the neighbours are of the opinion that the proposal will be a destabilizing force.

- D. **Adverse Impacts** - Ms. Zavitz addressed this residents' issue from three perspectives – privacy, sky views, and shadows. She highlighted Site Plan drawing A3.01 (West Elevation), and specifically the 2nd - storey dormer windows proposed at the front of the dwelling, noting that the proposed dormer window at the southwest corner of the home will allow views to 159 Glenmount Pk. Rd.

She also challenged Mr. Rendl's assertion, found at paragraph 103 of his EWS (Exhibit 3), that the proposed altered dwelling will not reduce the skyview for properties on Glenmount suggesting on the contrary that the neighbours living at 159-167 Glenmount would, indeed, lose significant skyview. She referred to Photos 5 and 6 and the west elevation drawing contained in Exhibit 7 and stated that the proposed dwelling represents an increase in built form that *"will dramatically affect the neighbours' skyviews."*

On the issue of shadow impact, Ms. Zavitz asserted that the neighbours took issue with Mr. Rendl's opinion that *"the shadows from the altered dwelling are acceptable and consistent with shadowing expected in an urban context."* (Exhibit 3, para. 101)

She asserted that Mr. Rendl's EWS makes no clear statement as to how much more shade will be cast on the affected properties to the west. Given that the affected homes on Glenmount are semi-detached dwellings and their properties rely greatly on available sunlight for rear yard amenity spaces, she submitted that any increase in shadow will compromise their quality of life.

- E. **Are the Variances Minor** – Ms. Zavitz argued that the residents disagree with Mr. Rendl's assessment of the test of minor as outlined in his EWS and subsequently outlined in his *viva voce* testimony. She asserted that the proposed variances are not, in her opinion, 'minor' in the sense that the altered dwelling on the subject property *"will not be a minor change to the lives of the neighbours who are here before you today; it will transform all four of our backyards and interior experiences forever."*

On cross-examination, Ms. Costello challenged Ms. Zavitz's assertion that she "represents the community." In doing so, Ms. Costello, first, clarified that the owners of 165 Glenmount Park Road had not filed an objection to the Application and were not before the TLAB in the subject proceeding.

She then noted that five families attended in support of the subject proposal which she stated is a matter of record and that, in reality, Ms. Zavitz was before the Tribunal representing only a 'specific interest group' who live on the east side of Glenmount.

Ms. Zavitz disagreed with this proposition suggesting that she represents the community or neighbourhood because those residents most impacted by the proposal were included in Mr. Rendl's Neighbourhood Study Area. Therefore, they are representative of the neighbourhood collective.

With respect to the issue of the uniqueness of the perpendicular lotting orientation, Ms. Costello asserted that the existing condition was very common in the area. In this regard, she introduced Exhibit 8, a map illustrating examples of similar perpendicular lotting instances similar where side yards abut rear lot lines to that of the existing condition.

She highlighted eight examples in the neighbourhood, primarily north of Gerrard Street East, on Beachview Crescent, Kildonan Road, Brookside Drive as well as on Norwood Road and Glen Oak Drive, more proximate to the subject property.

Although Ms. Zavitz was rather reticent to agree that their existence, she did, reluctantly, but argued that they were not all comparatively similar since some of the examples included properties with rear laneway circumstances.

As to the remaining points, Ms. Costello addressed each individually and made the following assertions: the four properties on Glenmount Pk. Rd. highlighted by Ms. Zavitz have rear 2nd - storey windows that provide direct views into the subject property; the proposed dormer windows are relatively small and focused to the front of the proposed dwelling; 'skyviews' will not be impacted by the proposed additions; and the shadow impact analysis undertaken for this Application illustrates that constructing an 'as-of-right' dwelling actually results in an increase in shadows to the rear yards of those properties on Glenmount.

In response, Ms. Zavitz submitted that the shadow modelling was somewhat suspect and misleading given that it was unclear whether the modelling had taken into account the grade differential between the subject property and the rear yards to the west and, therefore, whether the anticipated degree of shadow impact was accurate.

Daniel Karpinski, who elected Party status, followed Ms. Zavitz and provided testimony in opposition to the proposal. He has an ownership interest in the house at 167 Glenmount Park Road and expressed concern that the proposal does not 'fit' and that the neighbourhood's physical character will be changed if the requested variances are approved.

He agreed with Ms. Zavitz that the FSI comparisons between the homes on Glen Oak Drive and Glenmount Pk. Rd. offered by Mr. Rendl are misleading since they address properties situated in different zoning categories. The zones permit vastly different FSI standards because, in his opinion, the properties on Glenmount are smaller in size.

With respect to the issue of intensification, he asserted that the proposal is not representative of 'modest intensification' as suggested by Mr. Rendl because the Rayners are proposing to construct a 'massively' (his word) larger home in order to accommodate only one family. This, he submitted, is adding density for density sake that will destabilize the neighbourhood.

Addressing the Shadow Impact Analysis specifically, Mr. Karpinski asserted that the model is flawed because it was prepared without considering the 1.2 m grade differential between the subject property and the rear yards of those properties on Glenmount.

He opined that if this elevation discrepancy had been factored into the model, the results would have illustrated that the proposed development would cast shadows onto the rear yards of the Glenmount properties for much of the day during the winter months. This, he asserted, would contradict the findings of the Analysis and the conclusions submitted by Mr. Rendl in his testimony.

Testimony concluded with Amy Scott, who requested an indulgence to permit her to make a brief statement aside from the presentation made by Ms. Zavitz on her behalf. I allowed this request on consent.

Her statement dealt primarily with the perceived impacts on her property from the proposed development. She noted that her home, a semi-detached structure built in 1912, has a small rear yard amenity space that creates a buffer between properties and which her family uses year-round.

The rear yard of her property sits perpendicular to 6 Glen Oak Drive and is, in her opinion, the dwelling most impacted of the four properties on Glenmount if the proposal is approved. She suggested that incorporating the proposed 2nd - storey dormer windows into the dwelling, on the west elevation, will *“impact the amount of light and sky in our backyard and the back of our house.”*

She agreed with Ms. Zavitz and Mr. Karpinski that the shadow impact analysis has not considered the grade change between properties. She asserted that this inconsistency, coupled with the larger dwelling being proposed on the subject property, will result in longer shadows in her rear yard for longer periods of time.

She suggested that the question of ‘adverse impacts’ is contextual and more significant to those residents like her who will be directly affected by the proposal.

ANALYSIS, FINDINGS, REASONS

I take this opportunity to thank the residents who attend the Hearing for their dedicated and enthusiastic participation in the matter at hand and in providing what I characterize as thorough, passionate and credible presentations. I found the residents who appeared, both Parties and Participants, to be well informed, eloquent and cogent in discussing the neighbourhood, its evolution and character, and their concerns.

It is important to note that the TLAB is a relatively new body with rules and procedures committed to an approach that does not act as a deterrent to persons participating in the hearing process. The TLAB acknowledges that residents are ‘laypersons’ who are likely participating in a TLAB hearing for the first time and who may be somewhat uncomfortable voicing their opinions to the Tribunal.

Participants before the TLAB need to feel comfortable in voicing their concerns without the heavy threat of costs or overly onerous or arduous obligations. Providing a forum in which to express these concerns must be a guiding principle for the Tribunal in undertaking every hearing.

I have made the effort to deal with the evidence presented by all Parties in some detail because of the angst this application has generated between neighbours. As above noted, each has been articulate and diligent in the filing and preparation of materials, attendance and in their candid expression of matters of concern.

Although impressionistic and genuinely perceived, I nevertheless found the evidence provided by Ms. Zavitz on behalf of some of the other Parties in opposition, as well as that of Mr. Zavitz, somewhat lacking in demonstrated research on impact assessment and objective methodology research. I have no doubt that the proposed additions to the subject property’s built form will create an impact on the abutting Glenmount properties but I require more to that assessment than the mere impression to raise that impact to what would be considered rising to a standard of undue adverse impact.

That said, I must agree with Ms. Costello, however, that the evidence of Mr. Rendl, both qualitatively and quantitatively, was persuasive and generally unchallenged.

I find it was based on an adequate information base compiled for the study area, personal area exposure and practitioner experience.

I also note that Mr. Rendl was the only professional expert witness although I reiterate that I was impressed with the testimony provided by the residents in opposition.

He provided a thorough approach to analyzing the subject property and neighbourhood from a variety of perspectives, measures, assessments, and policy direction, and I cannot find that either his methodology or credibility was undermined on cross-examination by the Parties.

I find it persuasive that:

- a. The height, massing, scale, and density of the altered two-storey dwelling will be consistent with that of the other two-storey dwellings on Glen Oak Drive and elsewhere in the neighbourhood.
- b. The variance for a 0.54x FSI is similar to the 0.55 FSI approved for Glen Oak Drive, immediately across the street from the subject property, and that FSI variances in the range proposed by the Applicant have been granted for properties on Glen Oak Drive.
- c. The proposed FSI is less than the as-of-right 0.60x FSI permitted on the abutting Glenmount properties.
- d. The variance for first-floor height is more technical than substantive in nature and has no external impact on the proposed built form.
- e. Although an increase in the permitted FSI is requested, this has not resulted in any additional variances for side yard setbacks, main wall, and overall building heights, and building length and depth exceedances.
- f. The shadow impact analysis suggests that shadows created from the altered dwelling will result in an approximately 45-minute incremental increase in shadow on part of the rear yards of the four Glenmount properties for a short period of the day.
- g. Notwithstanding that the Shadow Impact Analysis is a model and therefore a simulation of shadow impact, the conclusions resulting from that Analysis suggest that shadowing cast on the abutting properties is representative of conditions that anticipate the grading differential of 1.2 m (3 ft.) between those properties.

I agree with Mr. Rendl that the variances are consistent with the PPS and conform to the Growth Plan and that the additions to the existing house represent modest intensification.

Based on his *viva voce* testimony and evidence, I must agree with Mr. Rendl's application and assessment of the tests relevant to the variances, collectively and individually. I find as Mr. Rendl asserted in his uncontroverted and credible evidence, that the variances pass the mandatory policy and statutory tests above enumerated, for the reasons expressed by the Appellant, both in oral evidence and his associated supporting documentation.

In this circumstance, I am content on the evidence that the applicable tests have been addressed on each variance requested and satisfactorily met. I agree in this instance that the increase in FSI is not coupled with any other variances affecting built form, dwelling length and depth, or height, and will maintain and reinforce the physical character of the street.

I agree that the built form of the altered dwelling and the development standards applied to the proposed additions are appropriate and consistent with the evolving character of the neighbourhood.

I am also confident that the lot can accommodate the additional space and that its incorporation as part of the existing dwelling will result in modest intensification of the subject property in a manner consistent with provincial and local support.

I find that the location is appropriate for the size of the dwelling contemplated and that the variances requested are modest, reasonable, minor and desirable. I agree that the FSI increase was modest in keeping with the regenerated built form now almost entirely characteristic within the neighbourhood. I accept his opinion that the proposal is not overdevelopment of the property and that the permission presents a building elevation and site plan that respects and reinforces existing built form.

I agree that the variances for the proposed additions to the existing two-storey dwelling do not constitute a change that threatens the stability of the neighbourhood, a key focus of the OP's policies for *Neighbourhoods*.

The general intent and purpose of regulating built form are to avoid a house that is out of scale with its surroundings or an overdevelopment of the lot. I agree with Mr. Rendl that the proposed altered dwelling will result in a two-storey that is appropriate in building height, building length and setbacks and an FSI that is within the range of approvals for other two-storey dwellings on Glen Oak and in the broader context of the NSA.

With respect to the issue of adverse impacts, I must concur with Mr. Rendl that the shadow impact modelling, not required for variances but nevertheless undertaken by the Applicant, suggests that any shadow incursions in the rear yards of the abutting Glenmount properties created by the altered dwelling are acceptable and consistent with shadowing expected in an urban context.

The shadow analysis depicts that those encroachments already exist in part, and in the planner's opinion will be relatively minor and of a short duration.

With respect to privacy and views, I accept that the proposed additions, in general, and the rear two-storey addition, in particular, will not adversely impact the privacy or views either in respect of any properties on Glenmount or the neighbourhood as a whole. Notwithstanding that the absolute FSI proposed is an increase, I agree that it is appropriately distributed throughout the altered dwelling and presents no policy, zoning or impact incidence inconsistent with the principles of 'good planning'.

On this basis, I accept that the variances, individually and cumulatively, meet the four tests of s. 45(1) of the Act, maintain the general intent and purpose of the OP and Zoning By-law, and are appropriate and minor for the development of 6 Glen Oak Drive.

Moreover, I believe the variances will result in a home that fits in with the existing character of the neighbourhood and is of a purposeful design that is consistent with the existing character of the area.

DECISION AND ORDER

The appeal from the decision of the Committee of Adjustment is allowed; the following variances as set out in **Attachment A**, below, are approved subject to the condition(s) set out in **Attachment B** and the Site Plan drawings set out in **Attachment C**.

ATTACHMENT A – Requested Variances to the Zoning By-law

1. Chapter 10.20.40.10.(6), By-law 569-2013

The maximum permitted height of the first floor above established grade is 1.2 m. The altered dwelling will have a first floor height above established grade of 1.22 m.

2. Chapter 10.20.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.35 times the area of the lot (142.32 m²). The altered dwelling will have a floor space index of 0.54 times the area of the lot (218.0 m²).

3. Chapter 10.20.40.70.(1), By-law 569-2013

The minimum required front yard setback is 4.5 m. The altered dwelling will be located 3.66 m from the front lot line, as measured from the second storey projection (box windows).

4. Chapter 10.5.40.60.(7), By-law 569-2013

Roof eaves may project a maximum of 0.9 m provided they are no closer than 0.3 m to a lot line. The altered dwelling will have eaves located 0.25 m from the west side lot line.

ATTACHMENT B – Required Condition(s)

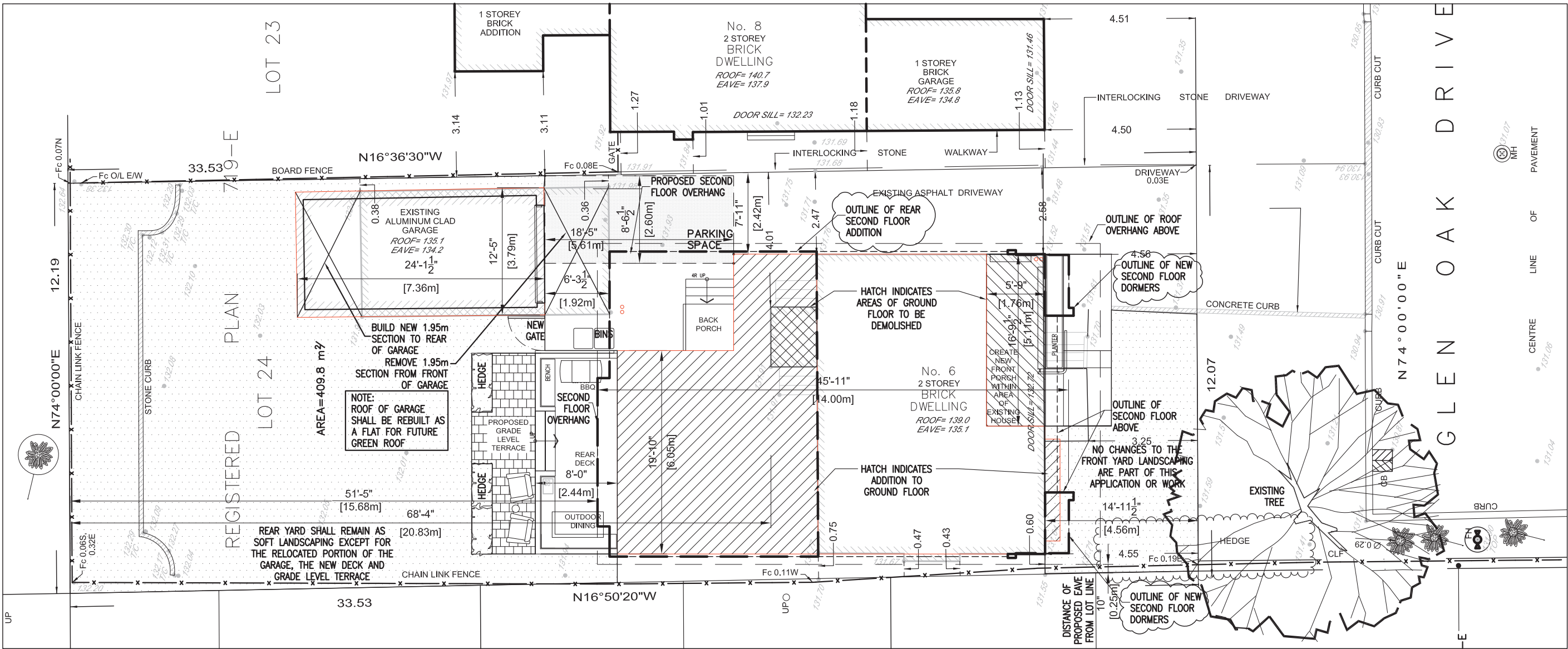
- a) The proposed development shall be constructed substantially in accordance with the Site Plan drawings, prepared by Boxwood Architects, and attached as **Attachment 3** to this Decision, including drawings A1.00 (Site Plan) dated July 23, 2019, A2.03 (Plans – Roof) dated May 15, 2019, A2.01g (Garage Plans) dated July 11, 2019, A3.00 (Elevations – South [front]) dated July 12, 2019, A3.01 (Elevations – West [side]) dated July 12, 2019, A3.02 (Elevations- North [rear]) dated July 12, 2019, and A3.03 (Elevations – East [side]) dated July 12, 2019.
- b) Variance No. 3, above, related to front yard setback, be limited to the two proposed second-storey projections (box windows), provided that the projections be constructed substantially in accordance with the dimensions shown in the Drawings A1.00 (SITE PLAN), A2.03 (PLANS_roof), A3.00 (ELEVATIONS_south [front]), A3.01 (ELEVATIONS_west [side]), and A3.03 (ELEVATIONS_east [side]) in the plans received by the Committee on July 23, 2019 (the “Plans”) and attached as **Attachment 3** to this Decision.

ATTACHMENT C – Drawings

(Plans – Exhibit 1B – Applicant’s Document Book (Volume 2), Tab 16, pages 53, 57, 61-65)

X 

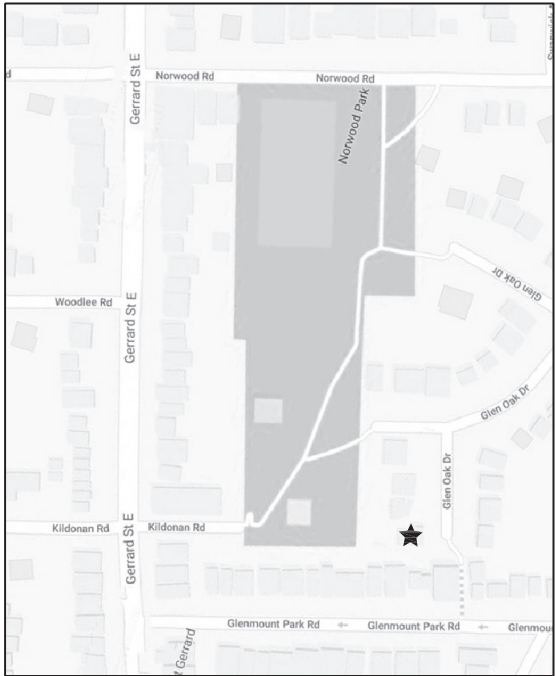
Dino Lombardi
Panel Chair, Toronto Local Appeal Body



1 SITE PLAN
1:125

	Existing	Proposed	
Lot Area	406.64	no change	m2
GFA			
Ground Floor	62.69	96.0	m2
Second Floor	46.18	122.0	m2
Total GFA	108.87	218	m2
Density	26.8%	54%	
Height	7.5	10.0	m
Parking	1	no change	
Depth			m
Setbacks min			
Front yard	4.56	4.56	m
Side yard [E]	2.47	2.47	m
Side yard [W]	0.6	0.6	m
Rear yard	20.83	16.26	m
Rear Yard Landscaping	88%	73%	
Front Yard Landscaping	50%	no change	

2 SITE STATISTICS
NTS



3 KEY PLAN
NTS

ARCHITECTURAL DRAWINGS

- A1.00 PROPOSED SITE_plan + key plan + drawing list
- X2.00 EXISTING/DEMO PLANS_basement+ground+second+roof
- X3.00 EXISTING ELEVATIONS_front+side+rear+side
- X1.01 EXISTING ELEVATIONS_percentage of exterior wall calculations to show retained
- A2.01g PLANS_garage plan + elevations
- A2.00 PLANS_basement level
- A2.01 PLANS_ground floor
- A2.02 PLANS_second floor
- A2.03 PLANS_roof
- A3.00 ELEVATIONS_front [south]
- A3.01 ELEVATIONS_west [side]
- A3.02 ELEVATIONS_rear [north]
- A3.03 ELEVATIONS_east [side]
- A4.00 SECTIONS_longitudinal [looking west]
- A4.01 SECTIONS_longitudinal [looking east]
- A4.02 SECTIONS_longitudinal [looking east]

RECEIVED

By Committee of Adjustment at 3:28 pm, Jul 23, 2019

4 DRAWING LIST



PROJECT NO:

1901



DWG. NO:

A1.00

DRAWN BY:

SCALE: AS NOTED

CHECKED BY:

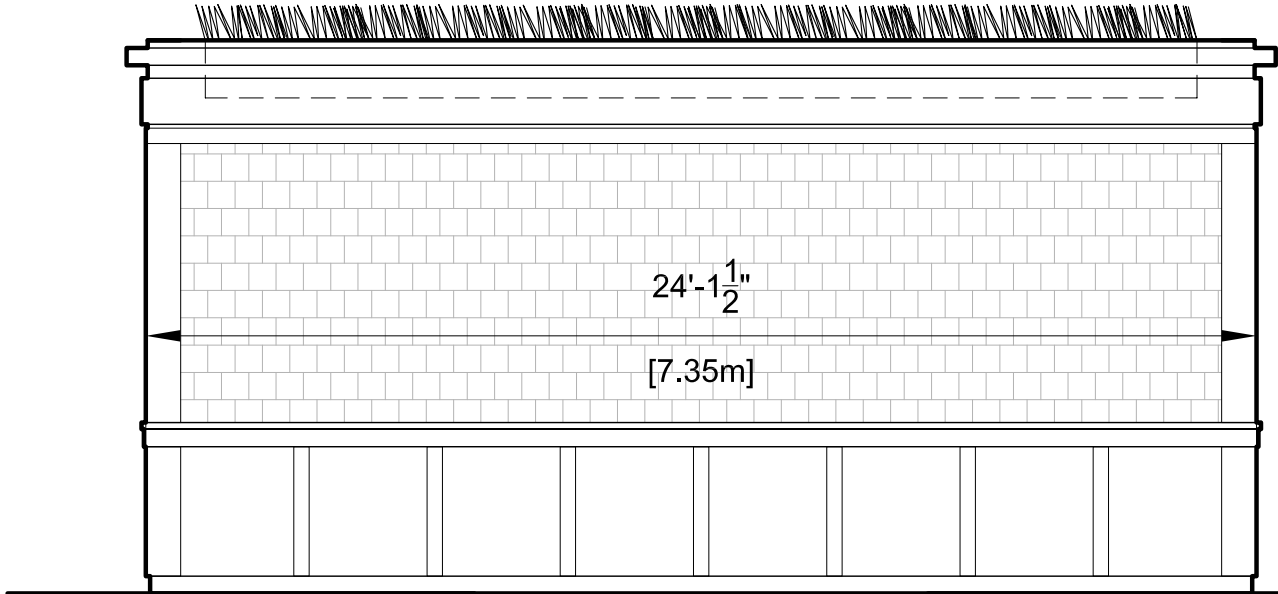
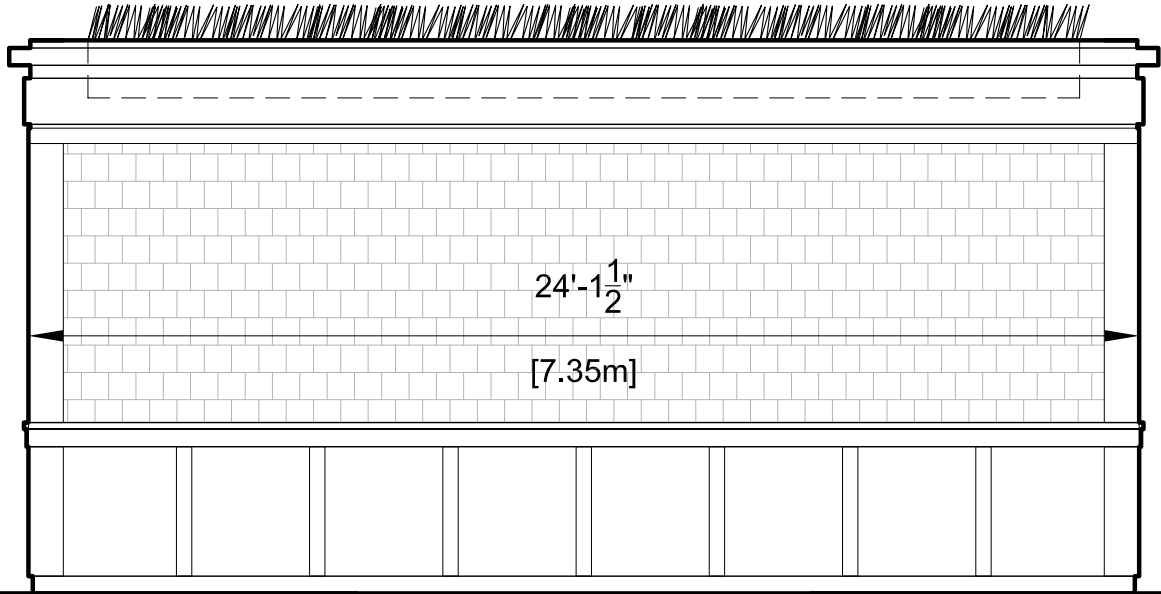
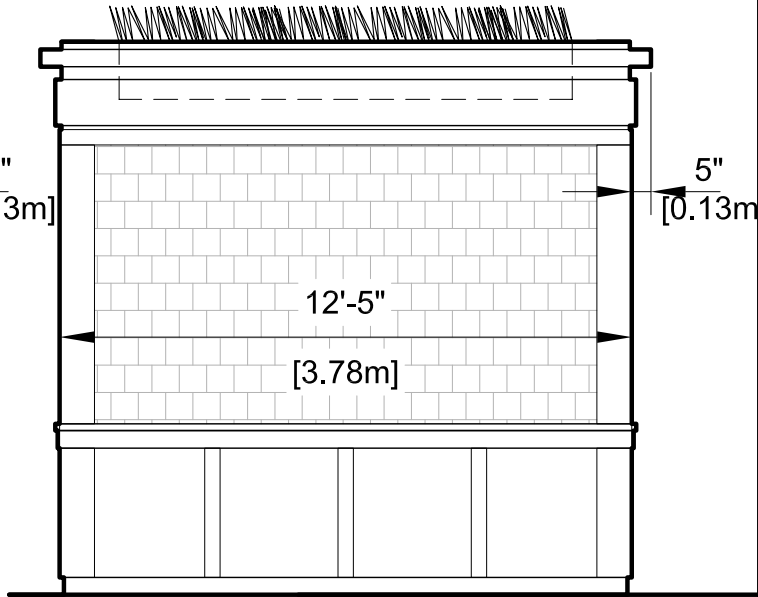
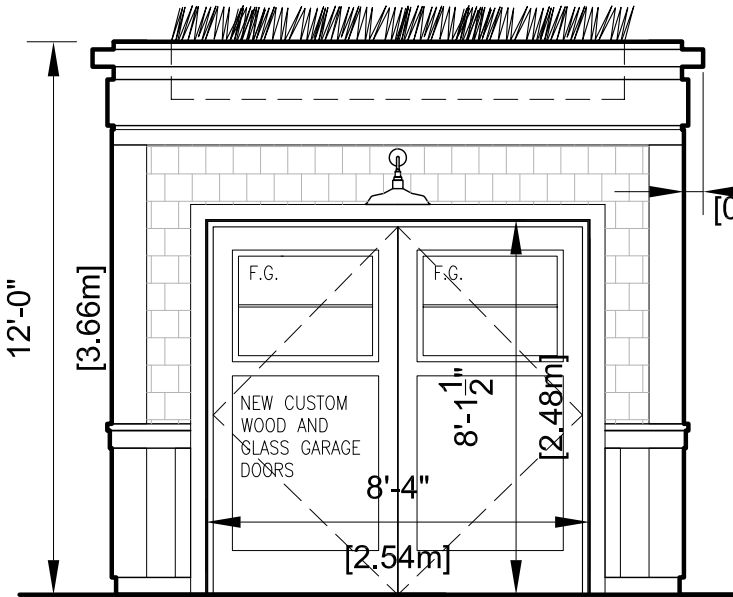
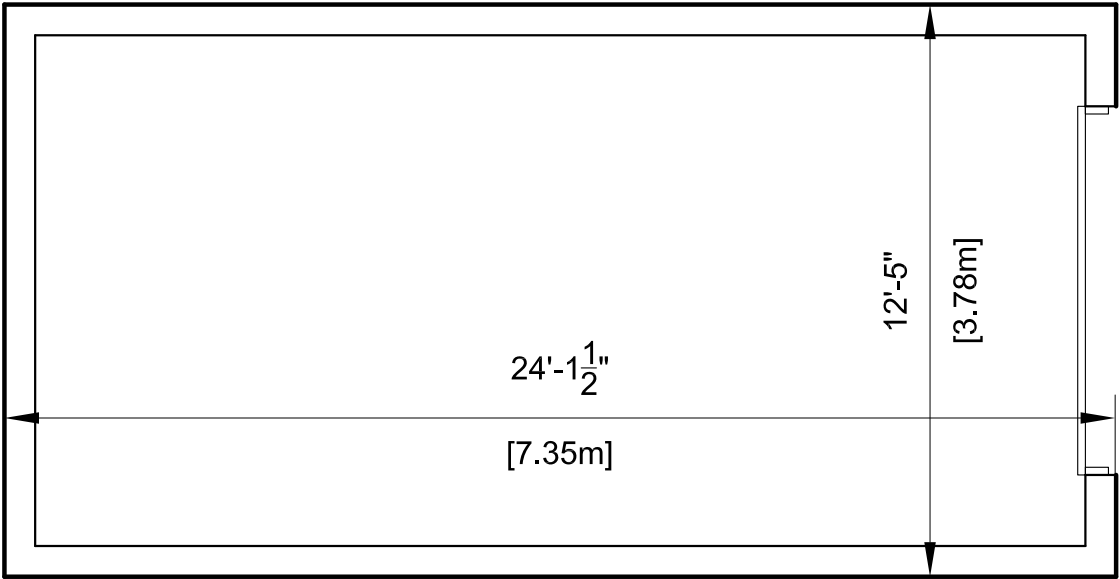
DATE: 23 July 2019

SHEET TITLE:
SITE PLAN + key + drawing list

PROJECT TITLE:
ADDITION/RENOVATION
6 GLEN OAK DRIVE, ONTARIO CANADA M4E 1Y5

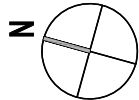
BOXWOOD
ARCHITECTS

627 LONSDALE ROAD, TORONTO, ONTARIO M5P 1R8
T: 416.656.3335 F: 416.656.3337 architects@boxwood.ca



PROJECT NO:

1901



DWG. NO:

A2.01g

DRAWN BY:

CHECKED BY:

AMF

SCALE:

1:50

DATE:

11 July 2019

PROJECT TITLE:

ADDITION/RENOVATION

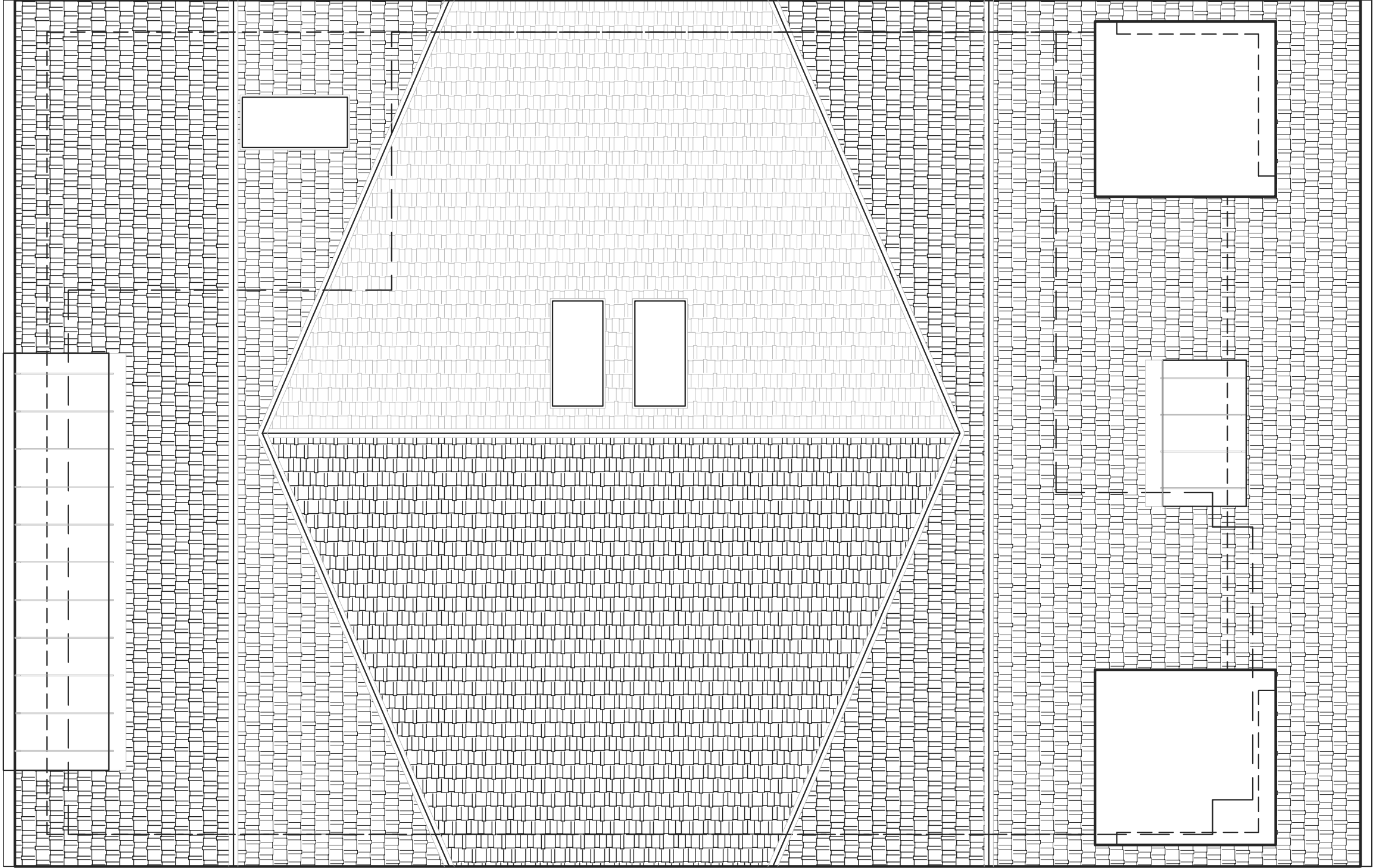
6 GLEN OAK DRIVE, ONTARIO CANADA M4E 1Y5

SHEET TITLE:

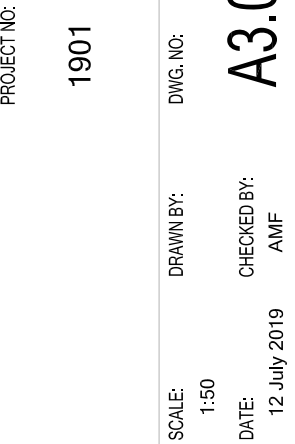
PLANS_garage plan + elevations

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