

DECISION AND ORDER

Decision Issue Date Wednesday, April 15, 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): SORIN SELAGEA-POPOV

Applicant: JORDAN ALLISON

Property Address/Description: 237 SEATON ST

Committee of Adjustment Case File: 19 134871 STE 13 MV (A0340/19TEY)

TLAB Case File Number: 19 208865 S45 13 TLAB

Hearing date: Monday, December 16, 2019

DECISION DELIVERED BY S. KARMALI

APPEARANCES

NAME	ROLE	REPRESENTATIVE
SORIN SELAGEA-POPOV	APPELLANT	
JORDAN ALLISON	APPLICANT/OWNER/PARTY	

INTRODUCTION

[1] The purpose of the Application is to alter the existing 2½-storey townhouse by constructing a rear two-storey addition, a one-storey south side addition, and a rear third storey addition with a deck. The variances sought after are listed in the Background section below. The Applicant has provided the TLAB with a set of amended plans.

[2] The Parties are self-represented. Mr. Allison is an architect. Mr. Selagea-Popov is an engineer. Although Mr. Selagea-Popov brought the Appeal, it is Mr. Allison, the Applicant, who has the burden to prove his case necessary given Section 3(5) and Section 45(1) of *Planning Act*.

[3] Mr. Selagea-Popov and Mr. Allison had engaged in neighbourly discussions about the proposal until there was an apparent "communication breakdown." I took an approach in this proceeding of asking questions throughout to achieve a good understanding of the proposing and opposing perspectives. I note that there were some minor technical issues in respect of accessing documents using technology. The issues were resolved with the assistance and cooperation of the Parties.

[4] I informed those in attendance at the hearing, which included Mr. Selagea-Popov's spouse and Mr. Allison's spouse, that I visited the site of the subject property, and walked around the area to familiarize myself with the neighbourhood.

[5] Furthermore, while the TLAB process is a *de novo* appeal procedure, the *Planning Act* requires me to consider, among other things, the decision on initial consideration. Committee of Adjustment (COA) filings are, therefore, not to be disregarded. To that end, I reviewed these online filings carefully. The oral testimonies and marked exhibits form the basis of the evidence in my determination of the matter.¹

[6] Moving forward, the subject property is located at a point bounded by the arterial roads of Gerrard Street East to the north, Parliament Street to the east, Dundas Street East to the south, and Sherbourne Street to the west.

[7] The subject property is zoned Residential under Zoning By-law 569-2013 with a zoning label of d(1.0)(x72).² There are no variances required under the former Zoning By-law 438-86 for me to consider. Mixed-use areas of commercial residential front most of the perimeter-forming streets.

[8] I have reproduced a map³ below (Figure 1), which offers an understanding of the lot shape and size of the subject property relative to the lot shapes and sizes of some of the properties on the east side of Seaton Street, and some of the properties on the west side of Ontario Street. Hagan Lane is the laneway that generally runs north and south between Seaton Street and Ontario Street on the subject block.

¹ While the Appellant has provided grounds for his appeal in his Notice of Appeal, he neither filed nor served a witness statement and document disclosure. The question is one of formality not of sufficiency in this case. In other words, I do not find these acts of non-compliance to be fatal to the Appellant's claim. Moreover, in the Applicant's witness statement document exchange, there was more than one late response filing that the Appellant had submitted. I acknowledge there could have been very good reasons to need to have filed late. The Applicant, then, necessarily had to file his reply late. The issue of potential prejudice from pre-hearing late filings is significantly mitigated by the amount of available time from the last filed pre-hearing document to the date of hearing of December 13, 2019. Furthermore, visuals in the form of pictures were provided and alluded to at the hearing by both the Applicant and Appellant. There were no disagreements about this very late disclosure. I found the visuals generally helpful within the context.

² There does not appear to be a lack of compliance with the site-specific provisions of Exception R72 on the face of the Application.

³ This is available on the City of Toronto's Interactive Map:
http://map.toronto.ca/maps/map.jsp?app=TorontoMaps_v2

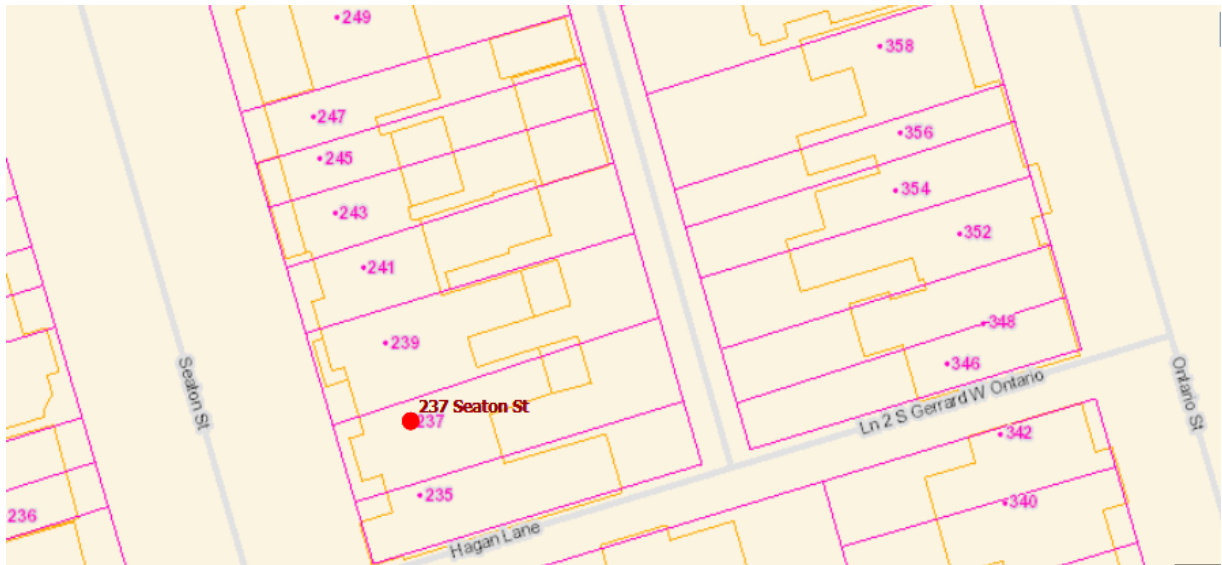


FIGURE 1

BACKGROUND

[9] The subject property is situated in the Cabbagetown South community. This community is within the Downtown East area of Toronto, adjacent to the Garden District, Moss Park, Regent Park and the broader Cabbagetown neighbourhoods.

[10] Uniform streetscapes, historical architecture, and the predominant bay-and-gable typology inform the sense of place of this well-established neighbourhood.

[11] The estimated date of original construction of the subject property is 1872, which is in tandem with the original construction of 235 Seaton Street, 239 Seaton Street, and 241 Seaton Street. Together with the subject property, the homes can be classified as row houses or abutting homes in which there is a shared party wall. These types of dwellings, with a generally Victorian/Revival architectural character, make up a majority of residential properties along Seaton Street and Ontario Street.

[12] A few individual residential properties have already been designated as having cultural heritage value or interest under Part IV of the *Ontario Heritage Act* (OHA). In 2018, City Planning initiated the Cabbagetown Southwest Heritage Conservation District Study. This study was undertaken to determine whether a heritage conservation district (hcd) designation under Part V of the OHA would be an appropriate tool for City Planning to guide future change in the area. The subject property was included in the study, and also subject to the oversight of the City's Heritage Protection Services (HPS).

[13] The Applicant acquired the subject property on December 10, 2015. After he submitted a 2019 Committee of Adjustment (COA) Application, a zoning notice was issued by a zoning examiner on April 5, 2019. As a result of Mr. Selagea-Popov's diligence, the zoning examiner had to correct the language of a proposed variance request indicated in that notice. On July 10, 2019, an amended Zoning Notice was issued.

[14] On July 11, 2019, HPS reviewed the plans and drawings dated April 1, 2019, and produced an informational Staff Report. HPS concluded that as the proposed additions and deck would occur at the rear of the home, the proposal retains the potential heritage value of the property. Accordingly, no recommendation for conditions was made.

[15] There was a combination of letters of support and letters of opposition before the Committee. A neighbourhood area petition, initiated by Mr. Selagea-Popov, was also before the Committee. The petition revealed dissent concerning the proposal's potential effect on privacy and scale.

[16] On July 31, 2019, the Application was approved by the Toronto and East York COA Panel subject to conditions contained in the Report from Urban Forestry (**Attachment A**), and subject to conditions contained in the Report from Community Planning (**Attachment B**).

[17] The performance standards and proposed variance requests are indicated below. At the hearing, the Applicant identified that Variance 2 (Building Depth) and Variance 5 (Side Yard Setbacks) are existing conditions. There are no other variance requests before me to consider.

1. EXTERIOR MAIN WALL HEIGHT | Chapter 10.10.40.10.(2)(B), By-law 569-2013

Performance standard: The maximum permitted height of all side exterior main walls facing a side lot line 9.5 m.

Proposed variance: The altered townhouse will have an exterior main wall height of 10.09 m facing both north and south side lot lines.

2. BUILDING DEPTH | Chapter 10.10.40.30.(1)(B), By-law 569-2013

Performance standard: The maximum permitted building depth for a townhouse is 14.0 m.

Proposed variance: The altered townhouse will have a building depth of 19.64 m.

3. FLOOR SPACE INDEX (FSI) | Chapter 10.10.40.40.(1)(A), By-law 569-2013

Performance standard: The maximum permitted floor space index is 1.0 times the area of the lot (197.69 m²).

Proposed variance: The altered townhouse will have a floor space index of 1.51 times the area of the lot (299.08 m²).

4. REAR YARD SETBACK | Chapter 10.10.40.70.(2), By-law 569-2013

Performance standard: The minimum required rear yard setback is 7.5 m.

Proposed variance: The altered townhouse will be located 7.21 m from the rear lot line.

5. SIDE YARD SETBACK | Chapter 10.10.40.70.(4)(C), By-law 569-2013

Performance standard: The minimum required side yard setback for a townhouse is 0.45 m.

Proposed variance: The altered townhouse will be located 0.0 m from both the north and south side lot lines.

MATTERS IN ISSUE

[18] Mr. Selagea-Popov brought the Appeal for a number of reasons. He is concerned about the proposed construction, the variance requests for floor space index (fsi) and side yard setbacks, the position of the proposed third-storey deck and, among other things, the tree root system. He would like the Applicant to scale down the proposal to the "prevailing scale and footprint" of the neighbourhood.

[19] Mr. Selagea-Popov felt the procedure at the COA public hearing did not afford him an opportunity to answer the reply of Mr. Allison. I alerted Mr. Selagea-Popov that in terms of providing evidence, the TLAB will follow a similar procedural sequence. That is, Mr. Allison, as the proponent/applicant, would provide evidence first. Mr. Selagea-Popov, as the opponent/appellant, would provide evidence second. Mr. Allison will then provide reply evidence, which is a right afforded to him by the rules of evidence. Mr. Selagea-Popov understood this sequence.

[20] The TLAB must assess the materials and submissions, as presented, to determine whether the proposal meets the prescribed criteria contained in the *Planning Act*. The defence of legal non-conforming use was raised in the Application to explain non-compliance with the building depth and side yard setbacks. However, the Appeal arrives at the TLAB for fresh reconsideration under Section 45(1). Therefore, I do not consider legal non-conforming use matters under Section 45(2).

JURISDICTION

[21] 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').

[22] 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

[23] The following were tendered and accepted as exhibits at the proceeding:

Exhibit List			
1	Planning Diagrams (Mr. Allison)	7	Sightlines Letter and Perspective (Mr. Allison)
2	Front Elevation Sightlines (Mr. Allison)	8	Notice of Appeal (Mr. Selagea-Popov)
3	City of Toronto Staff Report (Mr. Allison)	9A	Sightlines Perspective (Mr. Selagea-Popov)
4	TLAB Drawings (Mr. Allison)	9B	Photograph: Two Cars in Rear-Yard (Mr. Selagea-Popov)
5	Combined Party Witness Statement [Mr. Allison, Mr. Selagea-Popov (response), and Mr. Allison (reply)]	10A	Tree Assessment (Mr. Selagea-Popov)
6A	Photographs: Immediate Context (Mr. Allison)	10B	Tree Location (Mr. Selagea-Popov)
6B	Photographs: Broader Context (Mr. Allison)	11	Building Extent – P235 (Mr. Allison)

1. Mr. Allison, the Applicant

[24] Mr. Allison was affirmed. As a non-expert party witness, he testified he is a board member of the Cabbagetown South Residents' Association and a board member of the Cabbagetown Heritage Conservation District Advisory Committee.

[25] Relying on Exhibit 1, Mr. Allison displayed a map that depicted the subject property within the broader Cabbagetown community. He described Cabbagetown being west of the Don Valley, going all the way up to Rosedale ravine lands, moving north toward Bloor Street, and coming down to Parliament Street. He stated that on the west side of Parliament Street, there is Winchester Park area, and south of Carlton Street is an area referred to as the Cabbagetown South community or the Cabbagetown Southwest Conservation Area, in heritage preservation terms.

[26] Mr. Allison testified that the study area is part of the broader Cabbagetown community. He said that community boundaries have evolved and generally refer to residential neighbourhoods east of Sherbourne Street to the Don River and south of Wellesley Street East to Shuter Street, excluding Regent Park.

[27] He characterized the community as consisting of rows of Victorian and bay-and-gable homes that date to the late mid-nineteenth century. He further described the area as having evolved into a middle-class neighbourhood. He stated that because of industrial development, which originated from the St. Lawrence neighbourhood, there are some smaller industrial buildings on Seaton Street, many of which have been converted into residential or institutional uses.

[28] Mr. Allison described the neighbourhood as between Parliament Street, Sherbourne Street, Carlton Street, and Shuter Street. He testified that the subject property should be assessed on the immediate and broader community area, not just the immediate area. He stated that the immediate area is bounded by Gerrard Street East to the north and Dundas Street East to the south, and includes the homes on the east and west sides of Seaton Street as well as the homes on the west side of Ontario Street, including laneways e.g. Oskenonton Lane and Hagan Lane.

[29] Still relying on Exhibit 1, Mr. Allison displayed a map of Old Toronto to explain the planning patterns within the neighbourhood. He stated that the historic character and sense of place of the broader and immediate areas have uniform streetscapes that reflect the late nineteenth-century development as a suburb of a growing city. He stated that he is a five-year resident at the subject property, which is under active study but not yet designated as a Heritage Conservation District (hcd).

[30] Mr. Allison stated that the Application requests five variances under the current municipal Zoning By-law. He further stated that such variance requests are common and that there is "an exorbitant amount of precedent" to support the long-standing legal-non conforming status these homes are afforded. The neighbourhood, he said, was constructed more than a century ago, and Cabbagetown, in particular, has a robust set of planning principles, criteria and precedent that is rooted in its historically figured ground

lot plan. He testified that HPS also recognizes this. He further testified that HPS is an added layer of oversight within the City planning process, and could be argued, once implemented, as more restrictive of building standards in relation to the By-Law. He stated that HPS does a good job keeping like variances, such as requests for increases in exterior main wall height, in check.

[31] Concerning the first variance, Mr. Allison stated that the permitted height of the main exterior walls is required for drainage. He testified that the performance standard is 9.5 metres, whereas the existing condition is 9.87 metres, which represents a breach of the as-of-right permission. The proposed variance requested is for 10.09 metres. Mr. Allison stated that the side main wall height on variance requests defers to issues of heritage preservation – to ensure homes share consistent roof ridges, for example.

[32] Concerning the second variance of building depth, Mr. Allison stated that the permitted depth is 14.0 metres. In contrast, the existing condition and requested variance is for 19.64 metres, which also represents a breach of the as-of-right permission. He stated that the properties of and between 235 Seaton Avenue and 241 Seaton Avenue show similarities in building depth, length, lot size, sidewall height, and similar ridgelines.

[33] Concerning the fourth variance, the maximum permitted rear yard setback requirement is 7.5 metres. Both the existing condition and requested variance is for 7.21 metres. He remarked that the by-law standard is close to being met.

[34] Concerning the fifth variance, Mr. Allison stated he seeks a side yard setback variance of 0.0 metres to the north and south lot line, whereas the performance standard for a townhouse is 0.45 metres. Mr. Allison stated that the other homes in the row - 235 Seaton Street, 239 Seaton Street, and 241 Seaton Street – seem to have existing sideyards of 0.0 metres.

[35] The performance standard indicated for the third variance of floor space index is 1.0 times the lot area (197.69 m²), whereas the proposed fsi value is 1.51 times the lot area (299.08 m²). The existing fsi of the subject property is 199.62 m², which is non-conforming with the current Zoning By-law. Mr. Allison pointed out that this, like the request for the existing building depth, could be characterized as a legal non-conforming/lawfully existing use.

[36] Mr. Allison stated the fsi value increase is triggered, among other things, by the plan to convert the existing attic space, which includes crawl space and the area near the dormer. He stated that he believes the Appellant's attic space was converted into habitable space as with other homes in the broader area.

[37] Referring to Exhibit 5, Mr. Allison stated that 241 Seaton Street, for example, has taken everything on the east side of the roof ridge and developed liveable space by creating a flat roof on the rear of the dwelling. He further stated that this addition extends from one side of the property line to the other. The fsi value for that property he said was 1.27 times the lot area. He acknowledged that all of the properties exhibit astounding similarities such as building depth, length, lot size, sidewall height, and similar ridgelines.

[38] Mr. Allison indicated that 235 Seaton Street, the Appellant's home, which is just south of the subject property, has an fsi value of 1.51 times the lot area. He stated that this value is based on the interpretation from a zoning examiner who said that once attic space becomes a habitable space, it is included in the gross floor area calculation of a home.

[39] Mr. Allison talked about the PPS. He stated that the PPS encourages a range and mix of housing types. He provided that the triplexes and duplexes in the area have added to the rental housing market. He again expressed that he is part of his neighbourhood residents' association and hcd advisory committee.

[40] He stated that the Official Plan (OP) specifically calls for a diversity of housing with weight put on the development of secondary suites. Furthermore, he stated that the OP speaks to the protection of existing and contributing heritage features.

[41] He testified that while the policies of the OP make clear the importance of reinforcing streetscapes, open spaces, patterns in the neighbourhood, he believes the effects which would flow from the proposed development would be mitigated by a series of sloped roofs and building heights. He referred to the HPS Staff Report in this respect.

[42] He testified that the rhythm and pattern of development in the rear yards of homes on Seaton Street, on his block, should consider the rear yards of the homes on Ontario Street. He further testified that his proposal preserves the historical elements of the home from an urban design standpoint.

Questioning of Mr. Allison by Mr. Selagea-Popov

[43] Mr. Selagea-Popov asked Mr. Allison about drawing P400, which is a picture of the rear additions of some of the homes on Seaton Street. Referring to this, he asked how the proposed third-storey deck is consistent with the other homes. Mr. Allison answered that according to Google Earth, 235 Seaton Street had a third-storey deck at one point, which was later removed. He further answered that the proposed terrace has a width which is not dissimilar in the approach taken of the deck at 241 Seaton Street.

[44] Mr. Selagea-Popov asked why the deck is at the very rear of the home, overlooking the active area of the rear yard of the neighbours. Mr. Allison pointed to 354 Ontario Street, and stated that this home has a rear deck that was built into its third-storey. He said there is a dormer which extends into this rear space, and the deck goes up to the main rear wall of the home. He, then, referred to 243 Seaton Street, which shows a deck extending beyond the dormer. Next, Mr. Allison referred to 348 Ontario Street, which has a deck situated on each of its second and third storeys. He testified that the rear wall had been raised, in this case, to create a flat roof. He admitted that the second storey deck is situated at the rear of the property.

[45] Mr. Selagea-Popov asked whether Mr. Allison agrees that 348 Ontario Street has privacy screens for both decks on the north and south sides. Mr. Allison agreed but said that neighbourhood character must be looked at in context. He pointed to 346 Ontario Street, which he said has no privacy screens. However, Mr. Selagea-Popov challenged this assertion by Mr. Allison by suggesting there is a fully enclosed deck on the third-storey made out of strips of cedar. Mr. Allison disagreed that the deck is fully enclosed. He stated that most of the rear-yard decks on this block of Ontario Street show semi-private decks, not fully enclosed ones. However, both Mr. Selagea-Popov and Mr. Allison agreed that some of the third-storey decks on the west side of Ontario Street are very rarely used.

[46] Mr. Selagea-Popov asked Mr. Allison whether an adjacent neighbour's privacy can be infringed when someone stands up and looks out from the edge of a third storey deck. Mr. Allison did not disagree. He stated that the position of someone sitting down versus the position of someone standing up would produce different effects on the perspective of neighbourhood privacy. He further stated that every single balcony has the ability for someone to stand up, walk up to the edge, look over, and see beyond it. He confirmed that he has no intention to walk up to the edge and peer into Mr. Selagea-Popov's property. He also stated that he would use railings and potted plants to create a privacy screen. He remarked that privacy is of mutual benefit – "if I can see you, you can see me, and at the same time, we do not want to wall ourselves in" because the adverse effect is diminished light if a screen of 7 feet or above, around the terrace, is considered. He testified that he had not proposed a solid wall all across because it would create shadows.

[47] Before continuing to question Mr. Allison, Mr. Selagea-Popov indicated that he plans to build a deck right off of the third-storey dormer, which he pointed out is not the same as a deck situated at the very rear of the yard. He said his deck, which has not yet been designed, will be in keeping with the pattern of other decks in the neighbourhood. He stated this proposed deck would overlook the 'utility area' – where there are air conditioning units, vents from the furnaces and laundry. He stated that the single-storey addition in this utility area would impact the look and feel. He testified that the single-storey would create a tunnel feeling between the homes and the amount of light into the dining room window, and a basement window would be reduced.

[48] Mr. Selagea-Popov asked Mr. Allison whether the increase in fsi is the result of the conversion of attic space into liveable space, the proposed larger bedroom addition on the third storey, and the side addition on the ground level. Mr. Allison confirmed this and noted that the conversion of attic space is a significant part of the fsi request.

[49] Mr. Selagea-Popov asked Mr. Allison whether he agrees that the third-storey bedroom addition will look like something new than what exists in the row house block. Mr. Allison confirmed that the third-storey bedroom addition would be different relative to the row house block. Mr. Allison reiterated that the immediate context and broader context should be considered.

[50] Mr. Selagea-Popov asked Mr. Allison to confirm that if the proposal were to be approved, it would result in a single-family residential home with five bathrooms, two laundries, and five bedrooms. Mr. Allison confirmed this. Mr. Selagea-Popov asked Mr. Allison how many family members live at his home. I found this to be inappropriate in the circumstances and intervened to redirect the questioning.

[51] The Appellant raised concerns about alleged direct sightlines into his skylights, which would be created from the proposed east-facing window at the third-storey of the master washroom and the proposed two south-facing windows at the third-storey of the master bedroom. Mr. Selagea-Popov relied on Exhibit 7, sightlines and perspective photographs to show sightlines into his master bathroom. He added that he has a raised floor in his bathroom, which includes a tub. He further added that there is a real possibility someone could see inside this bathroom. He suggested that appropriate window treatment be used to mitigate any possibility for the invasion of privacy in this respect.

[52] Before Mr. Selagea-Popov asked Mr. Allison another question, he stated that he wanted to make clear that he is not suggesting that the Applicant not be able to build the proposal. He testified that he would like to be accommodating as both he and Mr. Allison have had a fairly good relationship in the past. He further testified that he had built a privacy screen with a good design and excellent materials on his property. He mentioned he would like Mr. Allison to show concern about the issue of privacy.

[53] I asked Mr. Allison at this point, what types of privacy screens exist in the broader neighbourhood. He stated that wood screen horizontal slats is an example of a type. He alluded to 346 Ontario Street.

[54] Mr. Selagea-Popov asked Mr. Allison whether "we" want to encourage more of the same unsightly rear-yard additions. Mr. Allison replied that it is hard to know. Mr. Allison indicated that the impact of massing for the proposal is mitigated by sloped roofs, whereas in some cases, there is more of a flat roof condition on the back of homes in the area.

[55] Mr. Selagea-Popov asked Mr. Allison how the sloped roofs would create a mitigating effect. Mr. Allison stated that the third-storey addition would not appear to have an overwhelming massing effect. He stated that while the attic will have a flat roof style, the master bedroom addition will not have a flat roof style. Mr. Allison admitted that this is an unusual pattern being deployed in this immediate area.

[56] He stated that both the immediate and broader context should be taken into consideration, however. He said the OP speaks to this point. He further stated where one is in south district or Cabbagetown Don Vale, the residential properties are all "very similar." He indicated that he could not pick out a striking difference. He referred to some of the homes on Metcalfe Street to make this claim. He also referred to previous COA decisions between 2006 and 2016, as well as one Ontario Municipal Board (OMB) decision of 2017 for 381 Ontario Street, which allowed an fsi of 1.32 times the area of the lot, or 369.35 m².

[57] He noted that City Planning did not indicate an out-right refusal. Rather, it provided a recommendation for the proposal. Mr. Allison pointed out that City Planning noted that the Official Plan Amendment 320 (OPA 320) would suggest that the proposal fits the existing physical character of the neighbourhood. Since the issuance of that report, Mr. Allison indicated that while the site plan has not changed, minor changes were made to the plans to provide for a better building in the end. He said the changes factored in privacy and separation for the terrace as well as a modified height of the floor in the kitchen.

[58] After the plans were amended, Mr. Allison stated that he received a registered letter from the Mr. Selagea-Popov and his spouse. The letter, included in Exhibit 5, seemed to be an olive branch opportunity but with conditions that Mr. Allison and his spouse were not comfortable agreeing to. After declining a letter of indemnity, the Appellant listed conditions of importance to him, which included providing a home insurance policy and a course of construction endorsement, a certified copy of the contractor's insurance, an opportunity to speak with the contractor. Mr. Allison stated that these issues do not have to do with planning matters.

2. Mr. Sorin Selagea-Popov, the Appellant

[59] Mr. Selagea-Popov was affirmed. He stated that some of the issues he had already discussed and received answers in the cross-examination from Mr. Allison.

[60] He referred to Exhibit 8, his Notice of Appeal. He stated that a soft landscaping variance is triggered because the Applicant, in at least one instance, used the yard designated for soft landscaping as a parking space. Mr. Selagea-Popov further stated that the plans that were before the COA are different than the plans before the TLAB. Specifically, the site plan before the TLAB illustrates the parking of one vehicle in the rear yard next to an area designated for soft landscaping. He provided a picture, Exhibit 9B, to show that there have, in fact, been two cars parked in the rear yard, one of which encroaches the soft landscaping area.

[61] Mr. Selagea-Popov stated that he continues to have privacy concerns. He acknowledged that Mr. Allison had made some attempts at mitigation. Mr. Selagea-Popov stated he would prefer some window treatment on the proposed east-facing window and south-facing windows. He suggested frosted glass to ensure direct sightlines into the private area of his home – the master washroom - are genuinely mitigated.

[62] With respect to privacy concerns about the deck, he indicated he would like to see a full deck enclosure of sidewalls using a method involving suitable privacy screening such as frosted glass.

[63] Mr. Selagea-Popov further indicated he would like the sideyard single-storey addition to match the development patterns in the neighbourhood and to minimize the impacts on his property in respect of light and view reduction from the perspective of his dining room and basement apartment.

[64] Mr. Selagea-Popov explained that he has concerns about the potential impacts of the existing American Elm Tree at the rear of his property with the proposed renovation and expansion of the subject property. He stated that he retained an Arborist who made a few recommendations, as indicated in Exhibit 10A.

[65] Mr. Selagea-Popov agreed that if the Application is approved, he would like to see a condition that the Applicant be required to submit a complete application for permit to injure or remove a tree as indicated by Urban Forestry, Tree Protection and Plan Review prior to the issuance of a building permit.

[66] I reminded both Parties about the importance of working together cooperatively as they are neighbours.

Questioning of Mr. Selagea-Popov by Mr. Allison

[67] Referring to Exhibit 10, Mr. Allison asked Mr. Selagea-Popov, how the Arborist concluded that the construction of the proposal would encroach on the tree protection zone (tpz). Mr. Allison, then, rephrased the question: if the engaged construction process does not encroach the tpz, would you be agreeable with this? Mr. Selagea-Popov said a permit to injure the tree should be required. He indicated that tree branches would need to be trimmed. He expressed concern, however, that there could be damage to the tree root system if traditional methods of removal are used but recognized that Mr. Allison has opted for a less-invasive alternative approach. Mr. Selagea-Popov stated he would also like to see a tree protection plan.

[68] Mr. Allison provided some comments on this point. He stated that he had put a tree protection plan together in consultation with the City's Urban Forestry department. He further stated that part of that plan included a barrier that protects a 6-metre radius from the trunk of the tree. He noted that there would not be any excavation within that zone. He remarked that the tree in question affords the benefits of light and privacy for almost a dozen neighbours.

[69] Mr. Allison continued to ask questions. He asked the Appellant whether he has conducted a study of light into his windows and skylights. Mr. Selagea-Popov said he had not engaged a light study. He indicated he has walked in the neighbourhood and looked at other properties. Building the side addition with a setback of less than half a metre, he said, would create a different view from that window and impact the amount of light received in the dining room and back.

[70] Mr. Allison asked whether the Appellant believes that the narrow space for that window creates a new precedent. Mr. Selagea-Popov indicated that he could not say because he has not looked at that many houses to form a definitive opinion. He also indicated that the distance between the houses is 2 metres on his side and 3 metres on Mr. Allison's side, but that with the single addition, this distance would be reduced from 3 metres to 1.5 metres.

[71] Mr. Allison provided Mr. Selagea-Popov with a hypothetical: If the single-storey addition was eliminated from the proposal, and the rest of the home was widened to 4.66 metres to match the Appellant's, a mirror of the two homes, how would that play out in terms of privacy and light. Mr. Selagea-Popov stated that he did not think it would create a worse situation in terms of privacy because his north wall does not have any windows. He admitted that bringing the windows of the south side of the third-storey master bedroom addition would bring it closer to his skylights, and create some privacy issues, possibly sightline issues.

[72] I paused Mr. Allison's questioning. I asked him how he could plan to mitigate any unforeseen sightlines as a result of the construction. Mr. Allison stated that Exhibit 7 was created to show the extreme possibility of sightlines. He said he would have to be in the master washroom on a stool perched up and then arch his head out for a direct sightline to exist possibly. Mr. Allison did indicate that the windows will have some form of treatment. He testified that if an error was made and direct sightlines have surfaced, he would make good on the error by using stained glass in the quadrants of the windows that enable the direct sightlines into the Appellant's skylight. Mr. Allison confirmed that he is "pretty accurate" concerning these matters and ensuring he did not make an error.

[73] Mr. Allison proceeded to ask questions to Mr. Selagea-Popov about the proposed third-storey deck. He asked whether there are homes on Seaton Street which exhibit more similar characteristics to what is being proposed. Mr. Selagea-Popov stated that if we refer to 241 Seaton Street, the deck is not at the very rear of the home; there exists a pitched roof that obstructs the view of the upper deck and, hence, more privacy is realized. He acknowledged that the proposed deck would not go beyond the rear side of his home although he indicated that there would be a view into his rear yard.

ANALYSIS, FINDINGS, REASONS

[74] I found the Appellant, Mr. Selagea-Popov, and the Applicant, Mr. Allison, both knowledgeable about development in their immediate neighbourhood. They both displayed a technical understanding of the proposal's issues in respect of planning and construction.

[75] The Appellant's primary concerns include tree protection, privacy impact and mitigation, the fsi-contributing single-storey addition and its impact on views. There was much less concern expressed about the requested variances for building depth and side-yard setbacks. The Appellant also expressed some comfort about the potential offer from the Applicant to install stained-glass on the upper pane of those windows that produce direct sightlines into his skylights.

[76] While this was not a mediation hearing, I would like to point out that both parties agreed that they would try to cooperate. I was pleased to hear this effort.

[77] However, I must decide on the matter. For reasons outlined below, the Appeal is allowed in part: the Committee of Adjustment decision is maintained subject to the conditions I have identified in my Decision and Order.

[78] I accept the study area provided by Mr. Allison for this Application (Figure 2). The Appellant did not raise any objections in this respect, and there was no other proffered study area.

FIGURE 2



[79] The Provincial Policy Statements (PPS) and Greater Golden Horseshoe Plan (GGH) are high level and broad policies dealing with development in established, built-up areas and for the better use of developed land. Based on Mr. Allison's evidence, I find the proposal is *consistent with* the PPS and *conforms to* the GGH.

[80] The proposal represents renovation and development by additions in the rear, side, and roof of the subject property. This property is within an upscale neighbourhood that is already experiencing an increase in the number of development applications for rear-yard additions. The proposal has the potential size to accommodate an appropriate range and mix of residential uses, including second units, to meet long-term needs. The PPS also encourages a range of housing options, short-term and long-term, to respond to current and future needs. On this point, the proposal, as noted by the Appellant, will include five bedrooms and five washrooms. The proposed development represents the provision of a housing option.

[81] The GGH, on the other hand, provides additional and more specific land use planning policies than the PPS to address issues facing particular geographic areas of the province. The GGH is based on accommodating forecasted growth in complete communities, which are communities that support a range and mix of housing options and affordable housing, to serve all sizes, incomes, and ages of households. At the same time, complete communities are designed to support healthy and active living and meet people's needs for daily living throughout their entire lifetime.

Official Plan

[82] I find that the requested variances for the proposed development both individually and cumulatively maintain the general intent and purpose of the City's Official Plan, as amended by OPA 320.

[83] The Seaton Street streetscape would be unaffected by the proposed development. The built-form in the area is predominantly two to three storeys in height. Most of the homes also retain their finely crafted brick home style.

[84] The rear additions of the homes along Seaton Street and Ontario Street vary in size and style. Figure 3 depicts the aerial view from these streets with Hagan Lane in the centre. More clearly, Figure 4 and Figure 5 illustrate the different sizes and different styles on Ontario Street and Seaton Street. Size and style can and do inform the physical character of development at the rear of homes. Figure 6 is a photograph provided by Mr. Allison, which shows a few rear yards on Metcalfe Street, which is east of Parliament Street and north of Carlton Street. I find that Metcalfe Street forms part of the broader community, not necessarily the broader neighbourhood.

FIGURE 3: Google Aerial View – Part of Subject Block and Part Block on Ontario Street



FIGURE 4: Ontario Street – Rear Yard Additions



FIGURE 5: Seaton Street - Rear Yard Additions



FIGURE 6: Metcalfe Street – Rear Yard Additions (32, 30, 28, 26, 24)



[85] The subject property has a land use designation of *Neighbourhoods*. Development criteria for *Neighbourhoods* is indicated in Policy 4.1.5. The relevant criteria as it relates to the proposal include:

- (b) prevailing size
- (c) prevailing massing, scale of nearby residential properties
- (g) prevailing patterns of rear and side yard setbacks
- (i) as conservation of heritage buildings, structures and landscapes

[86] Mr. Selagea-Popov invoked the following paragraph to defend against the location of the proposed third-storey deck: “No changes will be made through rezoning, minor variance, consent or other public action that are out of keeping with **the overall physical character** of the **entire Neighbourhood**” (my emphasis). His concern is that there is no deck at the very rear of a home on the same block.

[87] I agree with Mr. Selagea-Popov that there does not appear to be a third-storey deck located at the very rear of a home on the same block, i.e., between Hagan Lane N to Hagan Lane S on Seaton Street. However, the physical character of a proposed development must also be materially consistent with the broader context. While I recognize a difference between the broader and immediate neighbourhood contexts here, I do not find these contexts to be of significant difference. In fact, the position and location of rear yard third-storey decks in the geographic neighbourhood are mixed. I find the requested variances for the proposed development are materially consistent with nearby properties. The properties at 348 and 346 Ontario Street (Figure 7) illustrate a third-storey deck located at the rear of each home.

FIGURE 7



[88] The neighbourhood comprises of low-rise buildings and is of medium density. The neighbourhood appears physically stable. The Official Plan prefers that neighbourhoods be physically stable but not static. Physical changes in established Neighbourhoods must be sensitive, gradual and “fit” the existing physical character. I find the proposed development is in keeping with the prevailing pattern of the rear and side yard setbacks, the prevailing size, the prevailing massing and the prevailing scale.

[89] The homes in the immediate context share the same or similar non-conforming rear and/or side yard setback conditions. Mr. Allison confirmed this in his testimony. The size of the homes in the immediate context and those on the immediate block of Ontario Street do not reveal an actual prevailing size in my view. In other words, there is a limited range of sizes. There are some homes which appear to be smaller, and other homes which appear to be larger. Respectfully, I cannot see how the proposed development falls outside of this range. Prevailing size illuminates issues of massing and scale, which become essential for analysis. I agree that the proposed additions will generate massing and scale impacts, such as overlook and privacy. However, the proposed development does respect and reinforce the existing physical character of massing and scale in the neighbourhood.

[90] It is worth noting that City Planning did not indicate that the subject property fails to meet the ‘respect and reinforce’ test under the Official Plan. There was no recommendation by City Planning to refuse the Application (Exhibit 3). There was also no recommendation to refuse the Application by Heritage Protection Services, though I recognize that the area is still a proposed hcd.

[91] The prevailing pattern of landscaped open space was raised by Mr. Selagea-Popov. His concern about the potential loss of soft landscaping in the rear yard is not an insignificant one. He has shown me that two cars have been parked in the rear yard of the subject property when the permission provides for the use of only one parking space.

Mr. Allison admitted two vehicles had been parked there on occasion. He stated that he owns one vehicle and confirmed there is no intention to request an additional parking space at this time.

Zoning By-Law

[92] I find the requested variances both individually and cumulatively maintain the general intent and purpose of the City's Zoning By-Law 569-2013.

[93] With respect to the fsi variance request, both Mr. Allison and Mr. Selagea-Popov have each received two different interpretations from the same zoning examiner about how to interpret By-law 10.5.40.40(1). On the one hand, Mr. Allison received the following interpretation in September 2019: "I discussed with my manager and once the attic area is habitable space, we have to include it in the GFA calculation for the house." On the other hand, Mr. Selagea-Popov received the following interpretation from the same examiner in November 2019: "[s]ince the attic area has less than 80% with a height over 2.0m, it should not be included in the GFA of the building." Differing interpretations of a provision in the Zoning By-law on very similar questions of fact does more harm than good. The Application, nevertheless, still seeks a fsi value of 1.51 times the lot area or 299.08 square metres compared with the existing 1.0 times the lot area or 197.69 square metres.

[94] There are many properties on the subject block and the block behind, on Ontario Street, which have fsi values of more than 1.0 times the area of the lot. According to Mr. Selagea-Popov, his property has a fsi value of approximately 1.2 times the lot area. Elsewhere, in Committee filings, he writes his current fsi value is 1.4x. He also indicated, at the hearing, he is less concerned with the Applicant's proposed fsi value, and more concerned with the view he would have if the first storey addition is built.

[95] I give some weight to the OMB decision regarding 381 Ontario Street issued by L.M. Bruce in 2018. This property is located on the east side of Ontario Street and has a relatively deeper lot. It is zoned R d(1.0)(x72), the same as the subject property. The OMB decision states that out of 203 properties located on Berkeley Street, Ontario Street, and Seaton Street, 88 had a gfa/fsi greater than 1.0x and 33 properties had a gfa/fsi of 1.32x or greater. A fsi of 1.32 times the lot area or 369.35 square metres was approved. While the proposed fsi value appears to be higher than other homes in the area, I find it meets the general intent and purpose of the Zoning By-law.

[96] I agree with Mr. Selagea-Popov that the single-storey addition comprises a significant portion of the requested fsi variance. I also agree that the proposed addition would alter the view he and his spouse currently enjoy. However, there are examples of properties on Metcalfe Street, and along other neighbouring streets, with single-storey additions and bump-outs in the rear yard in which hitherto existing views were altered.

[97] Toward that end, existing views cannot be guaranteed. The impact on existing views must be considered carefully when, among other things, there are severe massing and scale issues. I do not find this proposal to have severe massing and scale issues. Furthermore, appropriate development in the Downtown will almost always attract changes to views and privacy.

Desirable and Minor

[98] I find the requested variances are both individually and cumulatively desirable for the appropriate development and/or use of the land and are minor in nature.

[99] Will the proposed development facilitated by the variance be compatible in relation to its surroundings? Mr. Allison explained that similar variances in the neighbourhood had been requested for duplexes and triplexes around the subject property. He did not go so far as to say that the area is experiencing a physical character transition. I find that he has made conscientious urban design decisions that seem to have mitigated the impact of massing and scaling of this development proposal.

[100] For example, the exterior main wall height variance relates to the proposed third-floor addition. City Planning reported that this addition incorporates multiple rooflines, step backs from the rear wall and other architectural features that mitigate the impact of the requested main wall height. Overall, City Planner Mr. Matthew Zentner provided a favourable informational report for the Application.

[101] Mr. Selagea-Popov and Mr. Allison share a mutual concern about the majestic American Elm tree at the rear of Mr. Selagea-Popov's property. The branches of this tree extend onto the subject property's rear yard. Mr. Allison has denied that the construction of the proposed development would materially interfere with the tree and its root system. I leave Mr. Allison to decide on whether he should provide a tree protection plan to the Appellant.

[102] Based on the evidence heard, I find that the proposal will fit well within the neighbourhood and will not change or destabilize it. Renovations and proposed additions are forms of development that seem to exist throughout the neighbourhood.

[103] Will there be any unacceptable adverse impacts from the proposed variances? According to Mr. Allison, the Appellant will experience some changes to view at the ground-level. Other impacts include privacy from the third-storey windows and the deck. These impacts, however, do not rise to the level of unacceptable impacts. Shadowing may occur on the south side as a result of the development. But in a dense, urban environment, such impacts should be expected.

[104] However, I have reservations about the possible direct sightlines into Mr. Selagea-Popov's private room skylights. Some cooperation will be required to determine whether direct sightlines exist and, if they exist, the extent of those sightlines.

[105] I also find, if required, that the plans before the COA are not substantially different from the amended plans that were before me. The changes to the original plans are constitutive of a minor change to what informs the Application.

DECISION AND ORDER

1. The Appeal is allowed in part to accommodate new Conditions.
2. I find the variances approved at the Committee of Adjustment, as part of the Application and identified in **Attachment C**, are appropriate and are approved. No other variances are authorized.
3. The variances, as approved, shall be subject to the following Conditions:
 - (A) Prior to the issuance of a building permit, the applicant/owner shall submit a complete application for a permit to injure or remove privately owned tree(s) under Municipal Code Chapter 813, Trees Article III, Private Tree Protection, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.
 - (B) The alterations to the dwelling shall be constructed substantially in accordance with the dimensions shown in Site Plan A101 and Elevations A601, A602 and A603 received by the Toronto Local Appeal Body on September 16, 2019. The Site Plan and Elevations are contained in **Attachment D**.
 - (C) To protect against discoverable direct sightlines into skylights of the property at 235 Seaton Street post-construction, the property owner at 237 Seaton Street shall use stained glass, or a similar technique, in the partial treatment of the following windows:
 - (i) the east-facing third-floor master washroom window; and,
 - (ii) the two south-facing third-floor master bedroom windows.
 - (D) To protect the privacy of the owner at 235 Seaton Street, the owner at 237 Seaton Street shall construct a high privacy wall or high privacy screen on the south side of the proposed third-storey rear deck. The height of the privacy wall or privacy screen shall be between 1.98 metres and 2.14 metres high. The owner at 237 Seaton Street is at liberty to design this wall or screen as he chooses with a view to the privacy concerns and considerations of the owner at 235 Seaton Street.
4. Should difficulties arise in the implementation of this decision, the TLAB may be spoken to.

X



Sean Karmali
Panel Chair, Toronto Local Appeal Body
Signed by: Sean Karmali

ATTACHMENT A: URBAN FORESTRY STAFF REPORT

RECEIVED

By Committee of Adjustment at 3:25 pm, Jul 25, 2019

DATE: July 25th, 2019

TO: Anita MacLeod, Manager & Deputy Secretary - Treasurer City Planning, Community Planning –Toronto- East York District

FROM: Nicholas Trevisan, Acting Supervisor - Tree Protection and Plan Review, Urban Forestry - Toronto-East York District

RE: **Conditions of Urban Forestry – Committee of Adjustment Hearing July 31, 2019 (Panel B)**

This will acknowledge the “Public Hearing Notice” regarding an application for approval of the Committee of Adjustment for requested variance(s) and/or consent.

Urban Forestry advises that the following addresses may require one or all of the following requirements as outlined in column V under "Condition of Urban Forestry":

1. Submission of a complete application for a permit to injure or remove a City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article II Trees on City Streets.
2. Submission of a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection.
3. Where there is no existing street tree, the owner shall provide payment in lieu of planting of one street tree on the City road allowance abutting each of the sites involved in the application. The current cash-in-lieu payment is \$583/tree.
4. Urban Forestry requests deferral of the Committee of Adjustment application to fully address the impacts to a bylaw protected tree(s). Additional information is provided through the attached memorandum.
5. Urban Forestry requests denial of the Committee of Adjustment application due to the impacts to a bylaw protected tree(s). Additional information is provided through the attached memorandum.

Advisory Comments

1. Any application to injure and/or remove a City owned tree may be denied by Urban Forestry regardless of Committee of Adjustment approval. Should the applicant wish to appeal a denial by Urban Forestry, the matter may be referred to City Council through Community Council for consideration.

2. Approval of the consent/minor variances listed in the subject Committee of Adjustment application does not preclude the applicant from obtaining the necessary tree removal/injury permits from Urban Forestry.
3. All bylaw protected trees located on site and within 6 m of the site (12 m within the ravine protected area) must be protected in accordance with the City's *Tree Protection Policy and Specifications for Construction near Trees*. No excavation, grade changes, cutting of tree roots, extensive pruning to the tree's canopy or movement or storage of equipment/construction material/excavated soil is permitted within the minimum tree protection zones of trees unless prior authorization has been obtained from Urban Forestry.

Applicants must provide Urban Forestry with a copy of the Committee of Adjustment Final & Binding letter or the TLAB decision. A clearance letter will be issued once the required conditions are fulfilled. For additional information please forward inquiries to tpprsouth@toronto.ca or call 416-392-7391.



Nicholas Trevisan
Acting Supervisor, Tree Protection and Plan Review, Urban Forestry –Toronto-East York District

cc: Forestry File
Committee of Adjustment

ITEM	FILE #	ADDRESS	WARD #	CONDITION OF URBAN FORESTRY				
				1	2	3	4	5
A1	A0340/19TEY	237 SEATON ST	Toronto Centre (13)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	A1128/18TEY	486 ROXTON RD	University-Rosedale (11)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	A1129/18TEY	484 ROXTON RD	University-Rosedale (11)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	A1228/18TEY	310 ROBERT ST	University-Rosedale (11)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	A0107/19TEY	697 RICHMOND ST W	Spadina-Fort York (10)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	A0205/19TEY	99 MORSE ST	Toronto-Danforth (14)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	A0310/19TEY	298 BERESFORD AVE	Parkdale-High Park (04)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

22	A0327/19TEY	8 SPRINGHURST AVE	Parkdale-High Park (04)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
23	A0331/19TEY	25 BELMONT ST	University-Rosedale (11)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	A0378/19TEY	22 BROWNING AVE	Toronto-Danforth (14)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27	A0381/19TEY	481 RUSSELL HILL RD	Toronto-St. Paul's (12)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	A0417/19TEY	37 HATHERLEY RD	Davenport (09)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	A0486/19TEY	34 WHITE PINE AVE	Beaches-East York (19)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	A0487/19TEY	166 HEWARD AVE	Toronto-Danforth (14)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	A0496/19TEY	437 RUSSELL HILL RD	Toronto-St. Paul's (12)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	A0501/19TEY	203 HOLBORNE AVE	Beaches-East York (19)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42A	B0032/19TEY	71 LEE AVENUE	Beaches-East York (19)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	B0054/19TEY	7 YONGE ST	Spadina-Fort York (10)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DELEGATED AGENDA

2	B0055/19TEY	796, 798, 800 & 804 KINGSTON RD	Beaches-East York (19)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	-------------	---------------------------------	------------------------	--------------------------	--------------------------	-------------------------------------	--------------------------	--------------------------

ATTACHMENT B: COMMUNITY PLANNING STAFF REPORT

237 Seaton Street Committee of Adjustment Application

Date: July 11, 2019

To: Chair and Committee Members of the Committee of Adjustment, Toronto and East York District

From: Director, Community Planning, Toronto and East York District

Ward: 13, Toronto-Centre

File No: A0340/19TEY

Application to be heard: July 31, 2019

RECOMMENDATIONS

Planning staff recommend that should the Committee of Adjustment approve Application Number A0340/19TEY, the following condition be imposed:

1. That the proposed additions be constructed substantially in accordance with the dimensions shown in Drawings A101 (site plan), A601 (proposed rear (east) elevation), A602 (proposed side (north) elevation), and A603 (proposed side (south) elevation) in the plans received by the Committee on April 5, 2019.

APPLICATION

The applicant is seeking relief from the provisions of Zoning By-law 569-2013 to alter the existing two-storey townhouse dwelling by constructing a rear two-storey addition, a one-storey south side addition, and a rear three-storey addition with a deck.

The following variances to the provisions of Zoning By-law 569-2013 have been requested as part of Application Number A0340/19TEY:

1. Chapter 10.10.40.10(2)(8), By-law 569-2013
The maximum permitted height of all side exterior main walls facing a side lot line is 9.5m.
The altered townhouse will have an exterior main wall height of 10.09m facing both north and south side lot lines.
2. Chapter 10.10.40.30(1)(8), By-law 569-2013
The maximum permitted building depth for a townhouse is 14.0m.
The altered townhouse will have a building depth of 19.64m.

3. Chapter 10.10.40.40(1)(A), By-law 569-2013

The maximum permitted floor space index is 1.0 times the area of the lot (197.69 m²).

The altered townhouse will have a floor space index of 1.51 times the area of the lot (299.08 m²).

4. Chapter 10.10.40.70(2), By-law 569-2013

The minimum required rear yard setback is 7.5m.

The altered townhouse will be located 7.21m from the rear lot line.

5. Chapter 10.10.40.70(4)(C), By-law 569-2013

The minimum required side yard setback for a townhouse is 0.45m.

The altered townhouse will be located 0.0m from the north and south side lot lines.

No variances are required to the provisions of Zoning By-law 438-86.

CONTEXT

The subject property is located south of Gerrard Street East and east of Sherbourne Street. The property is designated *Neighbourhoods* in the Official Plan, as recently amended by Official Plan Amendment 320 ("OPA 320"). OPA 320 was adopted as part of the Official Plan Five-Year Review and contains new and revised policies on Healthy Neighbourhoods, *Neighbourhoods* and *Apartment Neighbourhoods*. OPA 320 policies are in force for all lands in the City of Toronto, except for certain properties that remain subject to site-specific appeals to OPA 320 (which do not include the subject property).

The Official Plan, as amended by OPA 320, requires physical changes to established *Neighbourhoods* to be sensitive, gradual and "fit" the existing physical character. Specifically, new development in established *Neighbourhoods* will respect and reinforce the existing physical character of each geographic neighbourhood, with reference to characteristics including prevailing heights, massing, scale, densities and dwelling types of nearby residential properties.

The property is zoned R (d1.0) (x72) in Zoning By-law 569-2013 of the City of Toronto and R3 Z1.0 in Zoning By-law 438-86 of the Former City of Toronto. The purpose of the respective zoning by-laws is to respect and reinforce a stable built form and to limit the impact of new development on adjacent properties.

COMMENTS

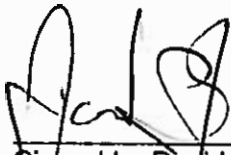
Planning staff note that the side exterior main wall height variance relates to the proposed third floor addition, which incorporates multiple roof lines, step backs from the rear wall, and other architectural features that mitigate the impact of the requested main wall height. In addition, the proposed building depth variance is limited to a 2-storey portion of the addition and is also mitigated through the above-noted design features.

Staff recommend that the Committee impose a condition to link the requested variances to the submitted elevations and site plan to ensure that the proposed addition is constructed substantially in accordance with these plans.

CONTACT

Matthew Zentner, Planner
Community Planning, Toronto and East York District
416-397-4648
matthew.zentner@toronto.ca

SIGNATURE



Signed by David Sit, Manager, Community Planning on behalf of
Lynda H. Macdonald, MCIP, RPP, OALA, FCCLA
Director, Community Planning
Toronto and East York District

copy: Councillor Kristyn Wong-Tam, Ward 13
Jordan Allison, Applicant

ATTACHMENT C: VARIANCES

PURPOSE OF THE APPLICATION:

To alter the existing 2½-storey townhouse by constructing a rear two-storey addition, a one-storey south side addition, and a rear third storey addition with a deck.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 10.10.40.10.(2)(B), By-law 569-2013

The maximum permitted height of all side exterior main walls facing a side lot line 9.5 m.
The altered townhouse will have an exterior main wall height of 10.09 m facing both north and south side lot lines.

2. Chapter 10.10.40.30.(1)(B), By-law 569-2013

The maximum permitted building depth for a townhouse is 14.0 m.
The altered townhouse will have a building depth of 19.64 m.

3. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 1.0 times the area of the lot (197.69 m²).
The altered townhouse will have a floor space index of 1.51 times the area of the lot (299.08 m²).

4. Chapter 10.10.40.70.(2), By-law 569-2013

The minimum required rear yard setback is 7.5 m.
The altered townhouse will be located 7.21 m from the rear lot line.

5. Chapter 10.10.40.70.(4)(C), By-law 569-2013

The minimum required side yard setback for a townhouse is 0.45 m.
The altered townhouse will be located 0.0 m from both the north and south side lot lines.

ATTACHMENT D: PLANS

237 SEATON STREET

APPLICATION FOR TORONTO LOCAL APPEAL BODY

Toronto Local Appeal Body

EXHIBIT # 4

Case File Number: 19 208865 S45 13 TLAB
Property Address: 237 Seaton St.
Date Marked: December 18, 2019

RECEIVED September 16, 2019

by Toronto Local Appeal Body

DRAWING LIST	
A000 COVER SHEET	A500 PROPOSED BASEMENT PLAN
A100 SURVEY	A501 PROPOSED GROUND FLOOR PLAN
A101 SITE PLAN	A502 PROPOSED SECOND FLOOR PLAN
A200 EXISTING BASEMENT PLAN	A503 PROPOSED THIRD FLOOR PLAN
A201 EXISTING GROUND FLOOR PLAN	A504 PROPOSED ROOF PLAN
A202 EXISTING SECOND FLOOR PLAN	A600 PROPOSED FRONT (WEST) ELEVATION
A203 EXISTING THIRD FLOOR PLAN	A601 PROPOSED REAR (EAST) ELEVATION
A204 EXISTING ROOF PLAN	A602 PROPOSED SIDE (NORTH) ELEVATION
A300 EXISTING FRONT (WEST) ELEVATION	A603 PROPOSED SIDE (SOUTH) ELEVATION
A301 EXISTING REAR (EAST) ELEVATION	A700 PROPOSED LONG SECTION (SOUTH SIDE)
A302 EXISTING SIDE (NORTH) ELEVATION	A701 PROPOSED LONG SECTION (NORTH SIDE)
A400 EXISTING LONG SECTION	A702 PROPOSED LATERAL SECTION

ZONING

ZONING (569-2013): R (d1.0) (x72)
RESIGNATION LOT NO: A
PROPERTY IDENTIFIER NO: 21089-0096

LOT AREA: 197.69m²
LOT FRONTAGE: 6.71m
LOT DEPTH: 28.99m

	EXISTING	PROPOSED	REQUIRED MIN./MAX
FRONT YARD SETBACK:	1.68m	1.68m	2.14m
NORTH SIDE YARD SETBACK (REAR):	0m	0m	0.45m
SOUTH SIDE YARD SETBACK (REAR DORMER):	0m	0m	0.45m
SOUTH SIDE YARD SETBACK (GROUND LEVEL):	3.09m	0.61m	0.45m
REAR YARD SETBACK:	7.21m	7.21m	7.5m
BUILDING HEIGHT:	9.87m	10.14m	12m
BUILDING HEIGHT (SIDE EXT. MAIN WALLS):	9.87m	10.09m	9.5m
BUILDING DEPTH:	19.64m	19.64m	14m
GROSS FLOOR AREA (GFA):	199.62m²	299.08m²	197.69m²
FLOOR SPACE INDEX (FSI):	1.01x	1.51x	1.0x

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA, M5A 2T5

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

N/A

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Drawing Title:

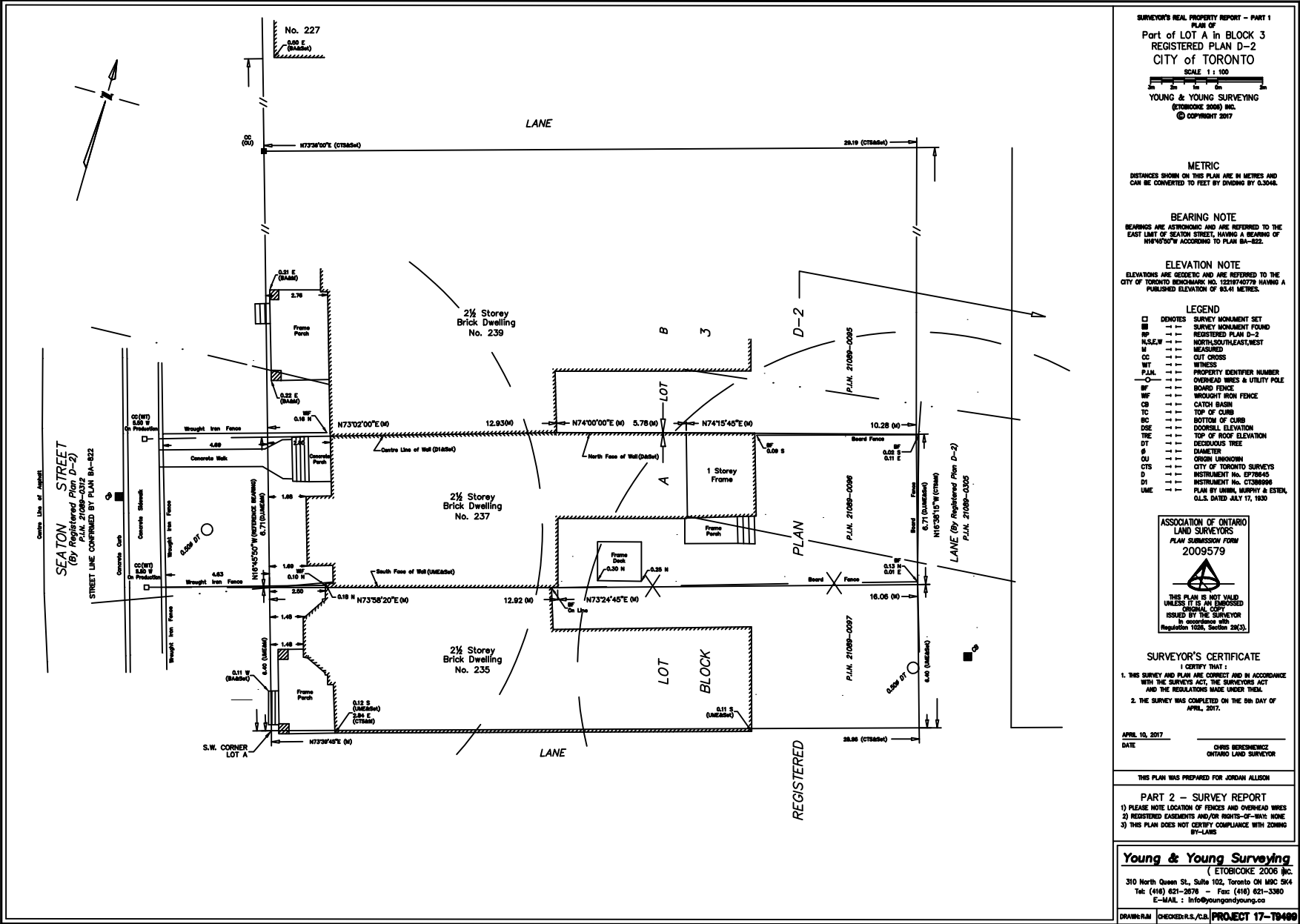
COVER SHEET

PROJECT DESCRIPTION

The scope of work includes a 2-storey rear addition, single-storey side addition, half-storey roof addition, and interior alteration. The property falls within the Cabbagetown Southwest Heritage Conservation District (HCD) Study Area.

Drawing No:

A000



Drawing Title:

SURVEY

Drawing No:

A100

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Notes:
Original portable document format survey file provided with application
in original Arch C (610mmx457mm) paper size.

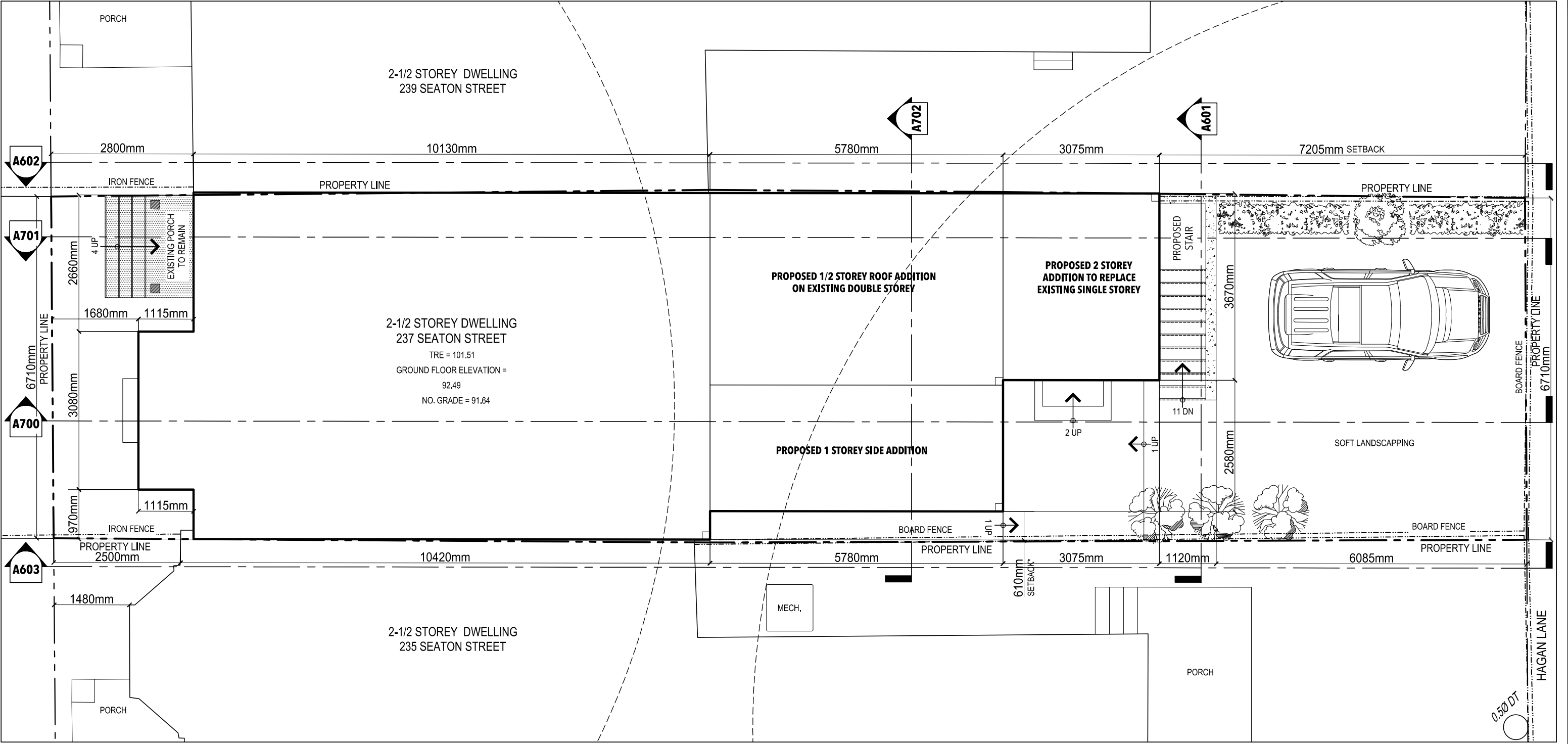
PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:250





Drawing Title:

SITE PLAN

Drawing No:

A101

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Notes:
Existing and proposed eaves and soffits not noted on Site Plan.
Proposed rear stair and retaining wall treated at hard landscaping.
Footings and insulating foam against concrete foundation not included in building extents. *Lot is not perfectly square as per survey.

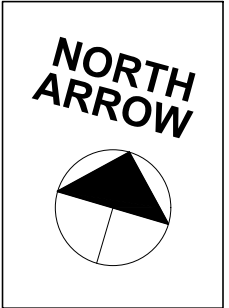
Abbreviations:
Mech. Mechanical Equipment
UP Riser(s) Up
DN Riser(s) Down

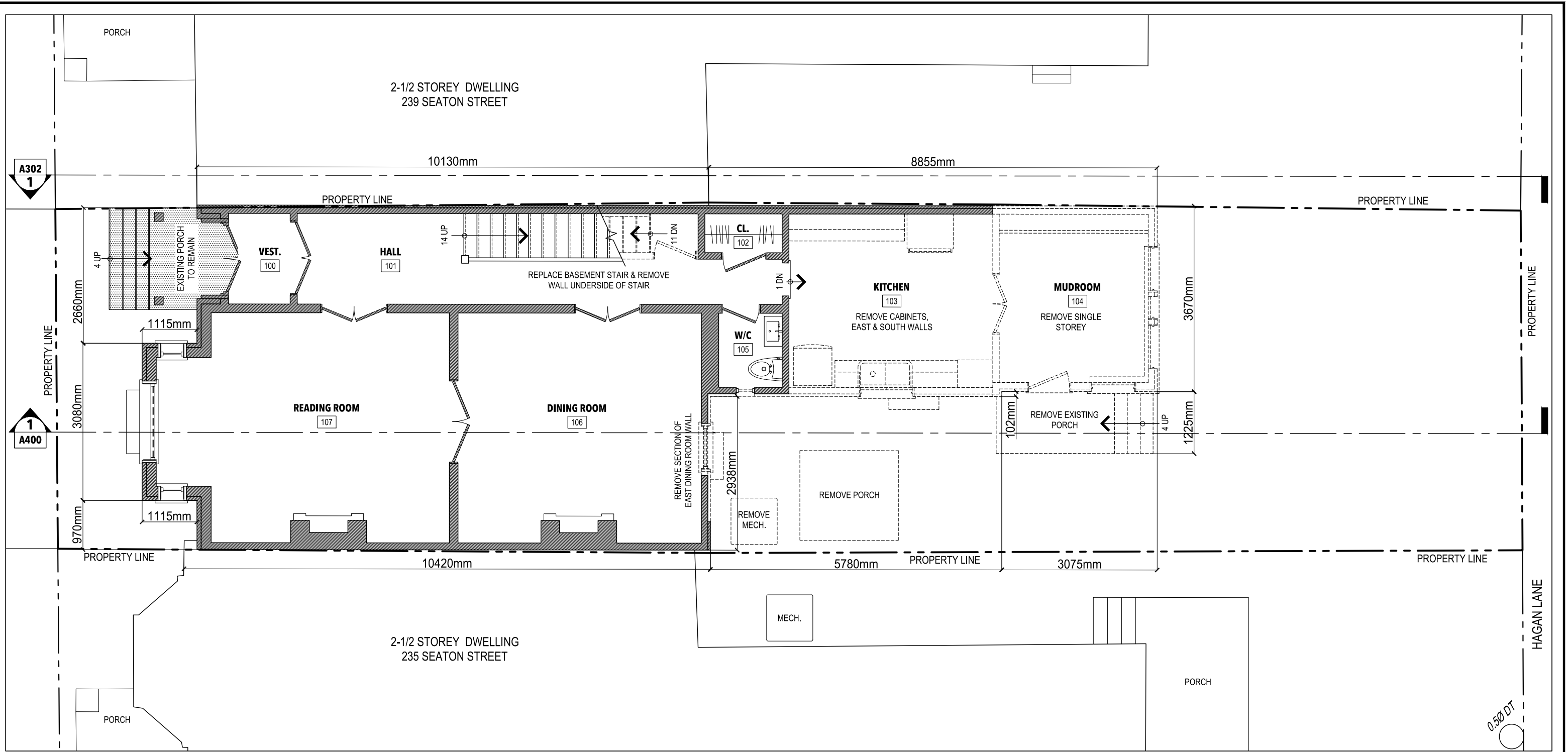
PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:75





Drawing Title:
EXISTING GROUND FLOOR PLAN

Drawing No:
A201

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Remove
 Section Cut

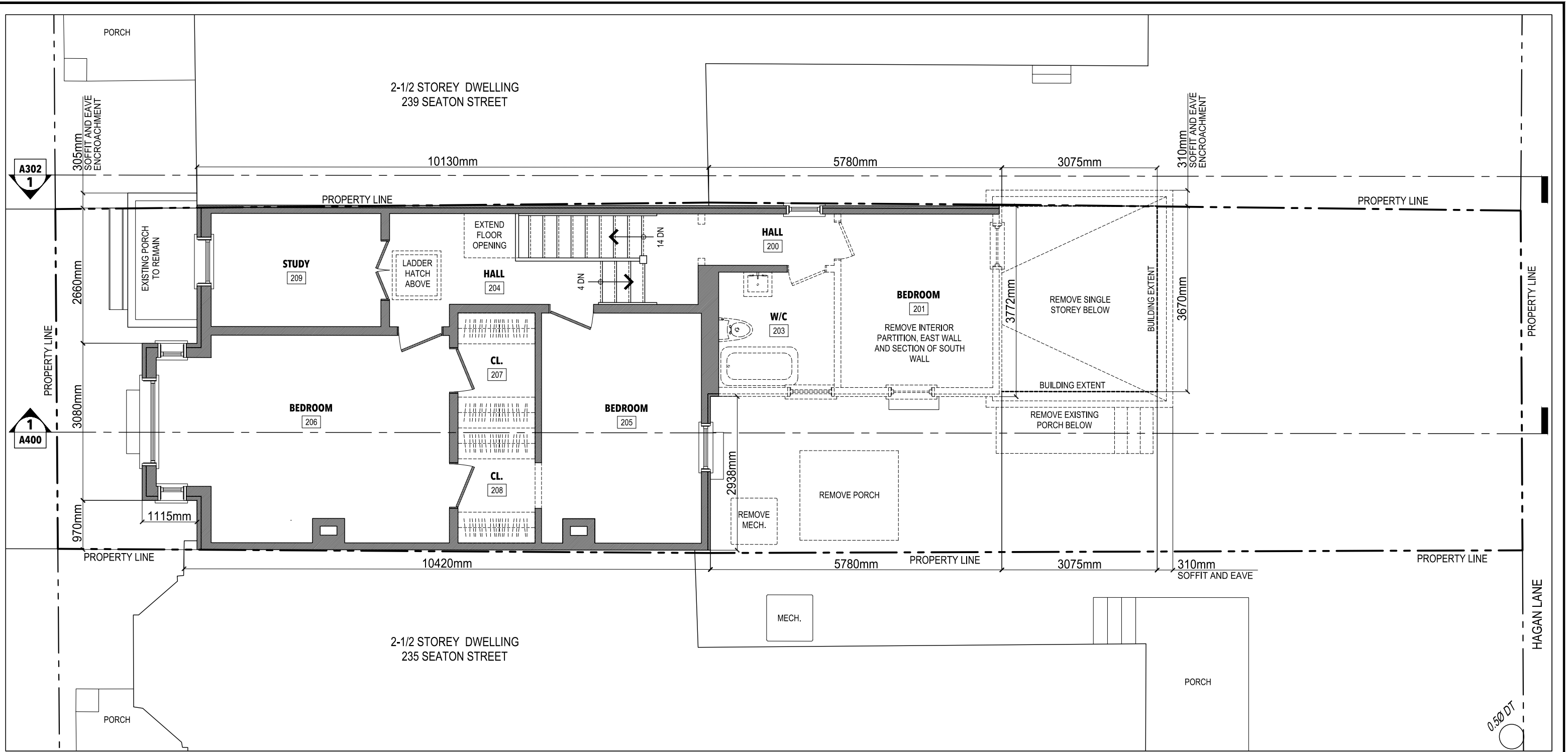
Notes:
Deconstruction Drawing.

Abbreviations:
VEST. Vestibule
W/C Water Closet
CL. Closet
Mech. Mechanical Equipment
UP Riser(s) Up
DN Riser(s) Down

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75







Drawing Title:
EXISTING SECOND FLOOR PLAN

Drawing No:
A202

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Remove
 Section Cut

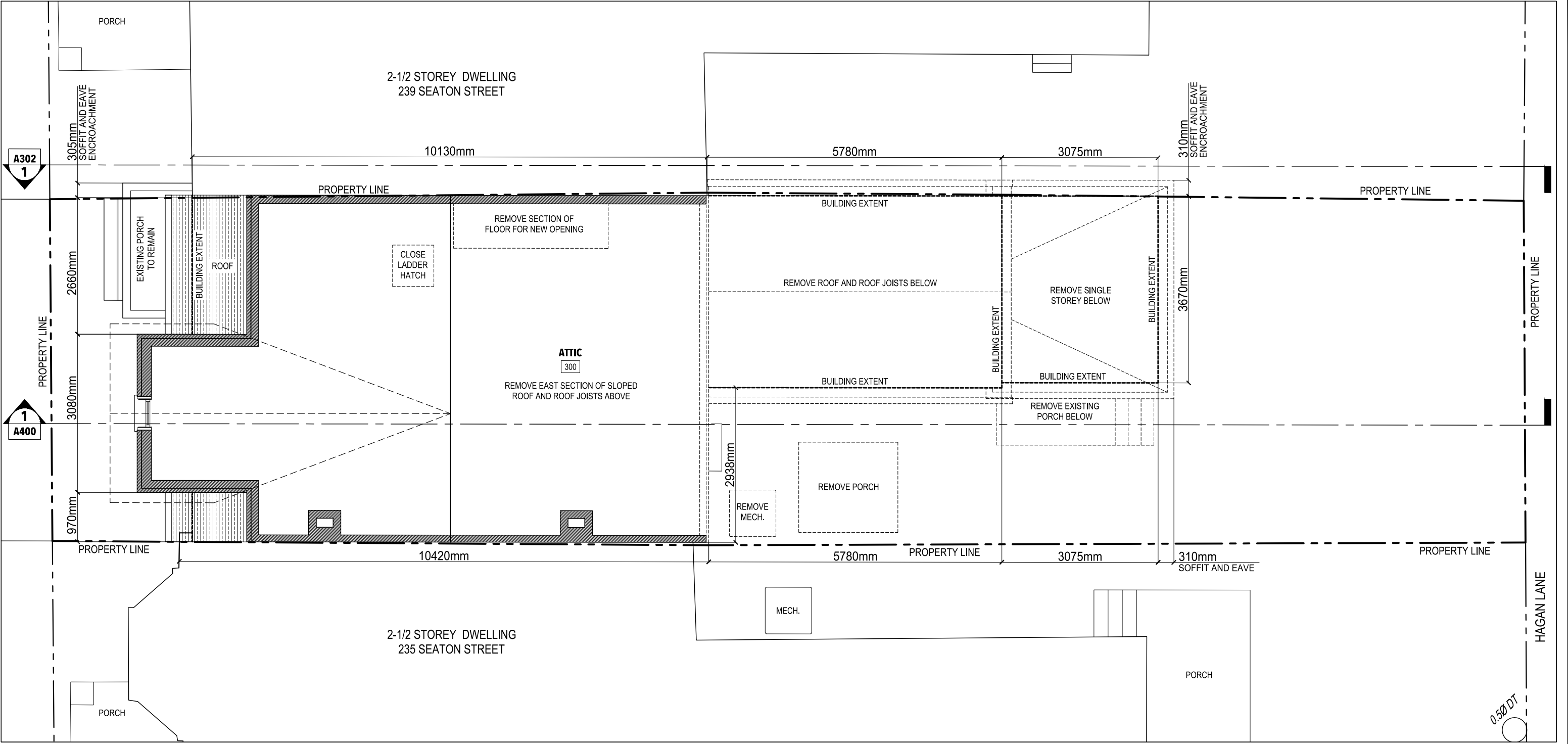
Notes:
Deconstruction Drawing.

Abbreviations:
Mech. Mechanical
DN Riser(s) Down
CL. Closet
W/C Water Closet

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75





Drawing Title:
EXISTING THIRD FLOOR PLAN

Drawing No:
A203

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Remove
 Section Cut

Notes:
Deconstruction Drawing.
Existing attic space is not included in Gross Floor Area (GFA) as per bylaw 569-2013 (10.5.40.40).

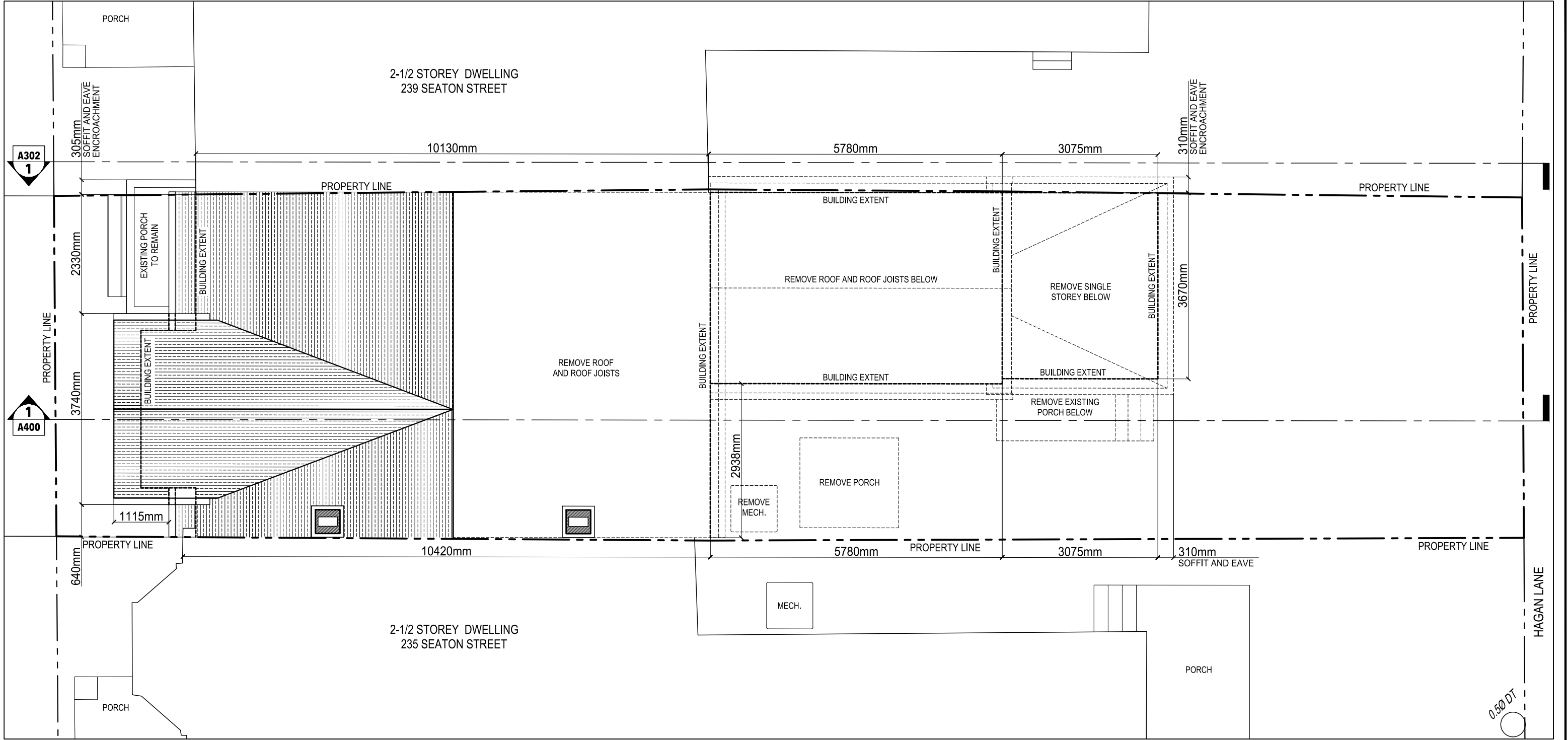
Abbreviations:
Mech. Mechanical

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75

**NORTH
ARROW**





Drawing Title:
EXISTING ROOF PLAN

Drawing No:
A204

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Remove
 Section Cut

Notes:
Deconstruction Drawing.

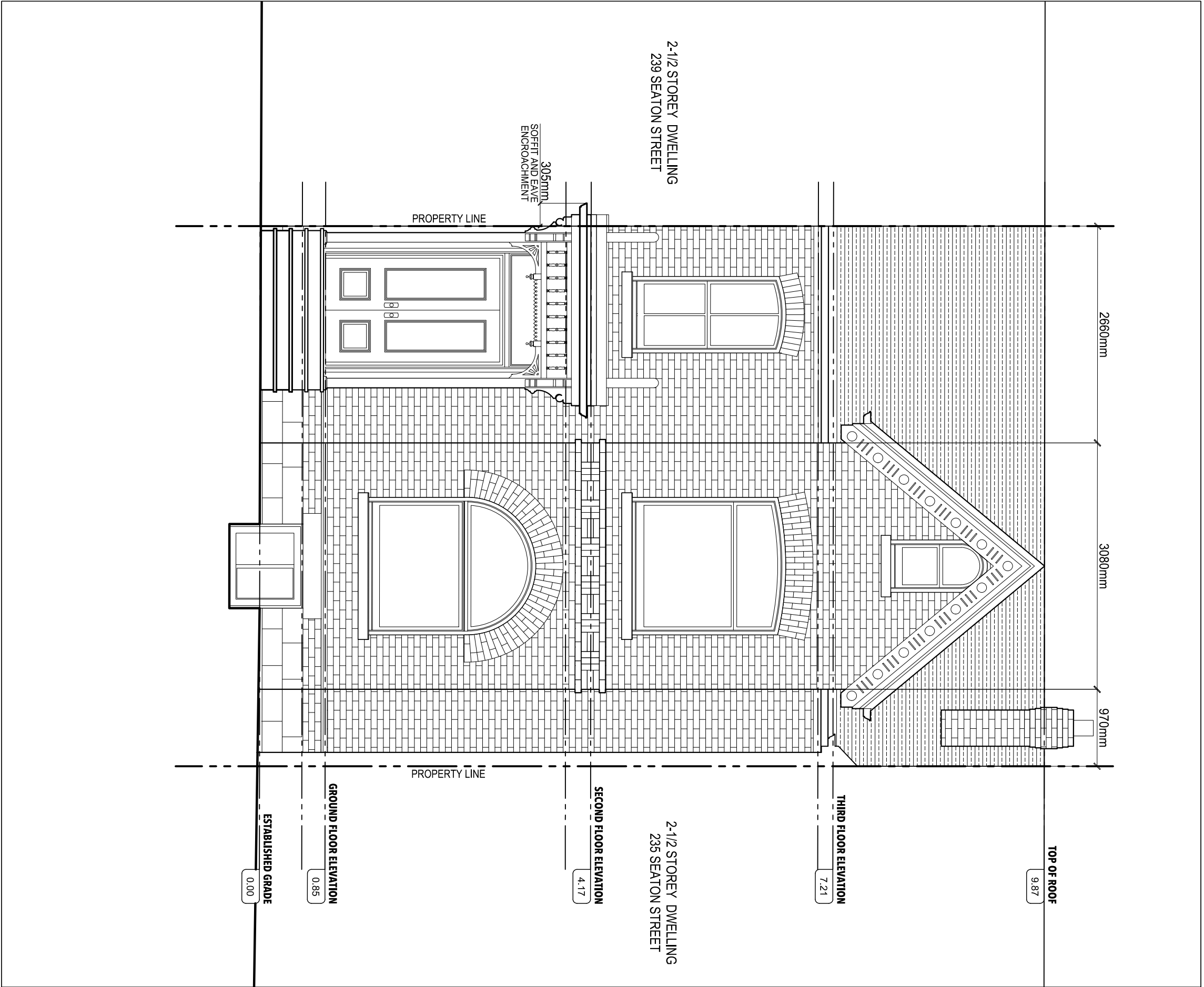
Abbreviations:
Mech. Mechanical

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75

**NORTH
ARROW**





PROPERTY ADDRESS: 237 SEATON STREET, TORONTO,

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:50

Notes:

Deconstruction Drawing: No deconstruction on front (east) elevation.

Drawing Title:

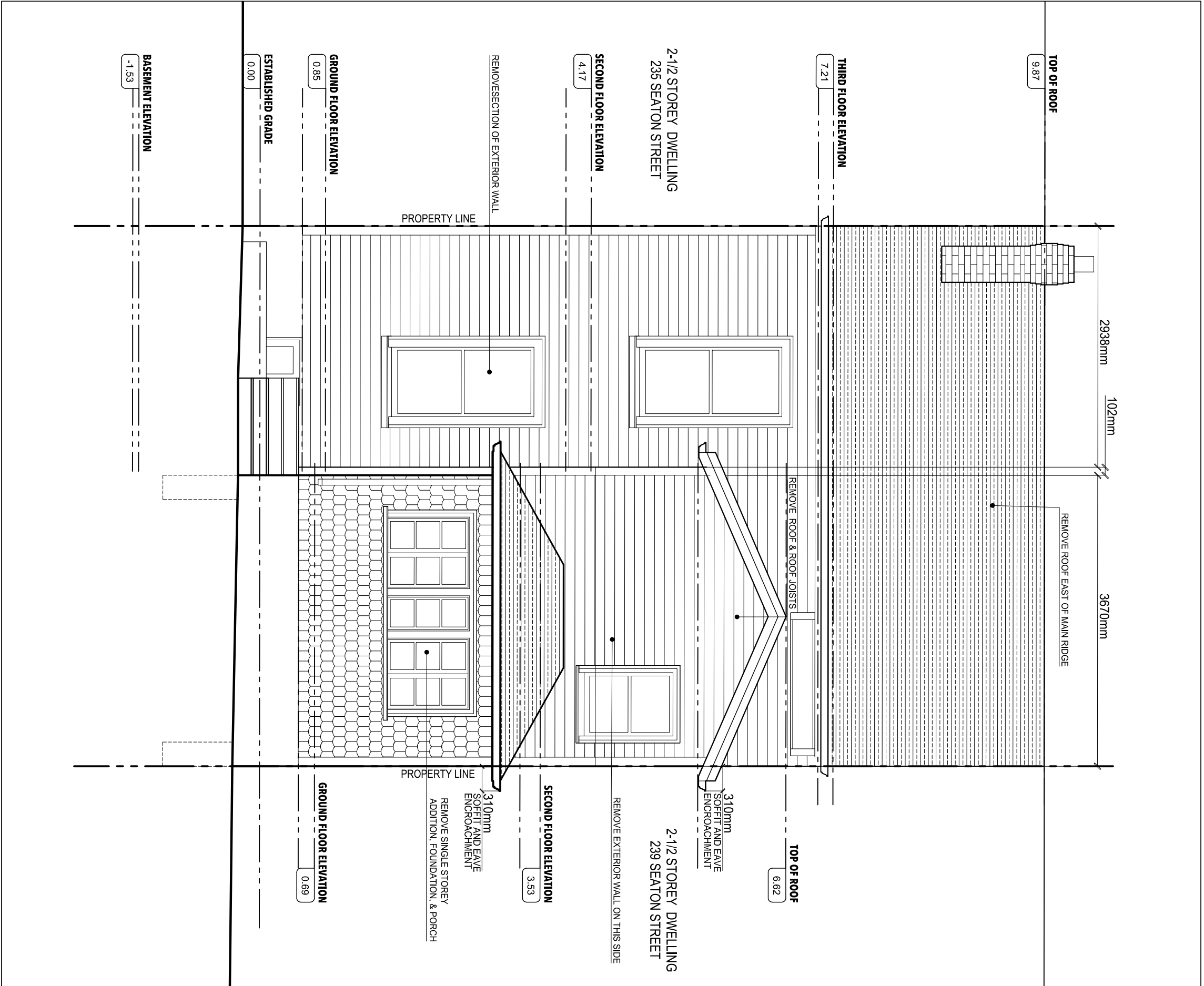
EXISTING FRONT (WEST) ELEVATION

Submission:

Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Drawing No:

A300



PROPERTY ADDRESS: 237 SEATON STREET, TORONTO,

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:50

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

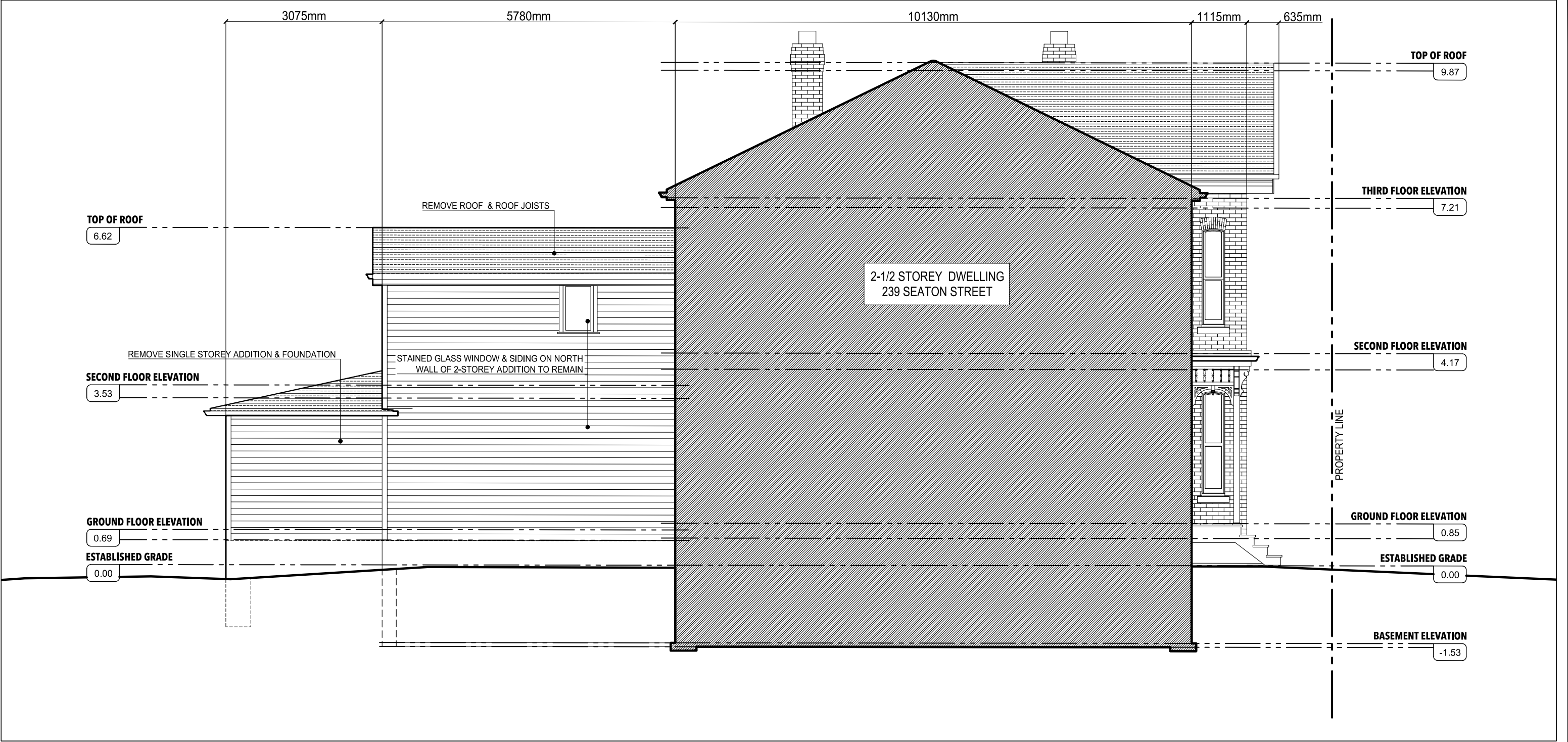
Drawing Title:

EXISTING REAR (EAST) ELEVATION

Notes:
Deconstruction Drawing.

Drawing No:



A301



Drawing Title:
EXISTING SIDE (NORTH) ELEVATION

Drawing No:
A302

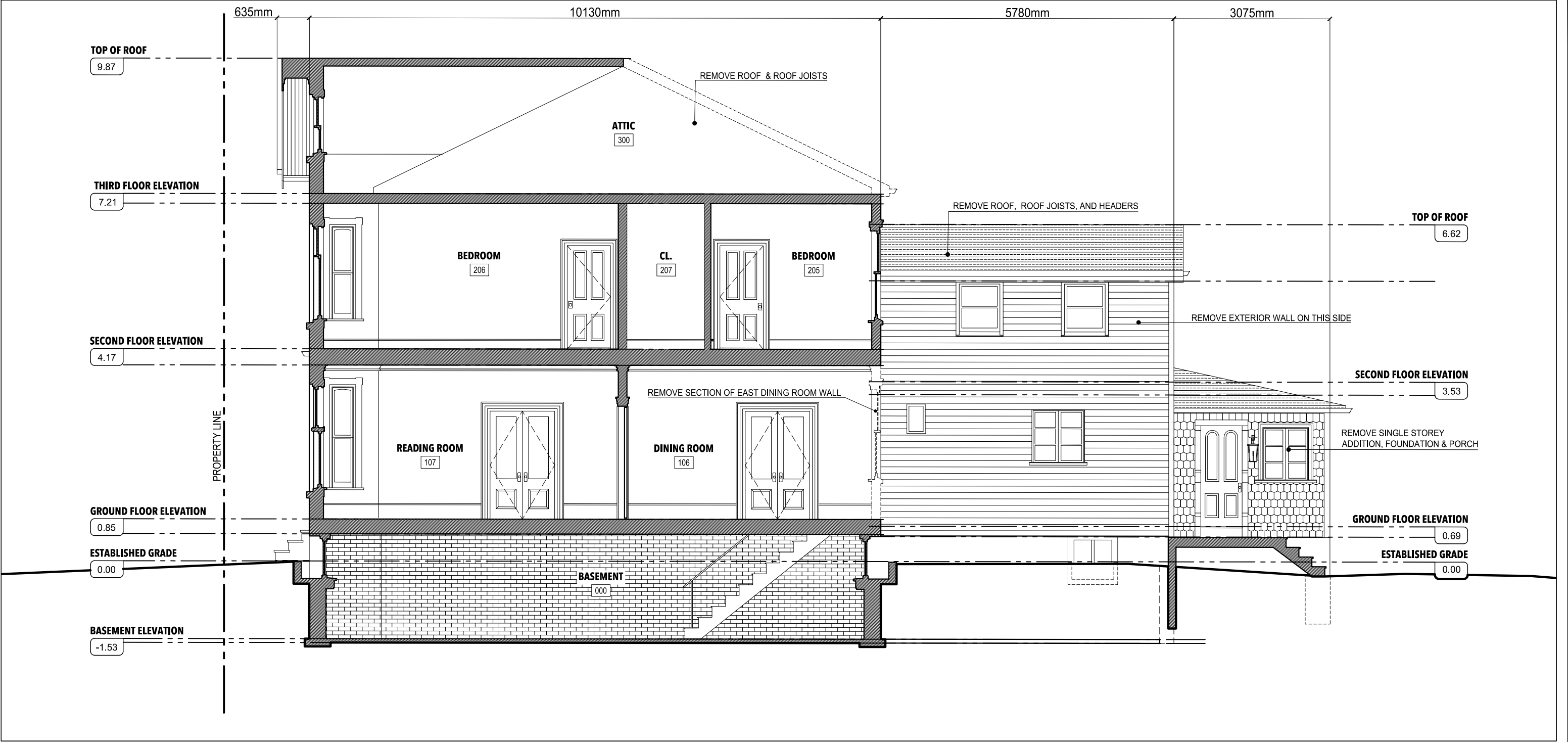
Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Remove
 Section Cut

Notes:
Deconstruction Drawing.

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5



Scale:
1:75



Drawing Title:
EXISTING LONG SECTION

Drawing No:
A400

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

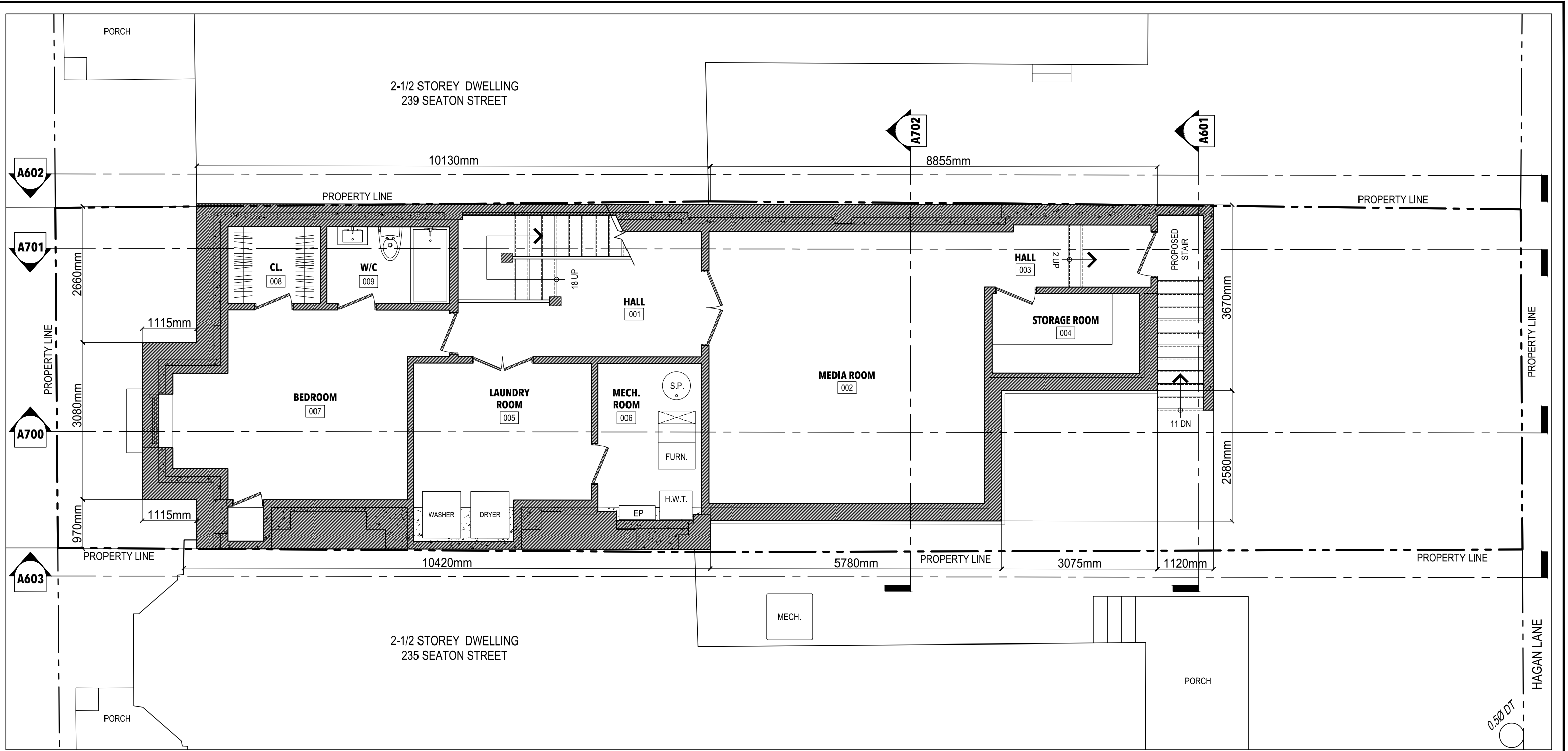
 Remove
 Section Cut

Notes:
Deconstruction Drawing.

Abbreviations:
CL. Closet

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5


Scale:
1:75



Drawing Title:
PROPOSED BASEMENT PLAN

Drawing No:
A500

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Section Cut

Notes:
Footings and insulating foam against concrete foundation not included in building extents

Abbreviations:

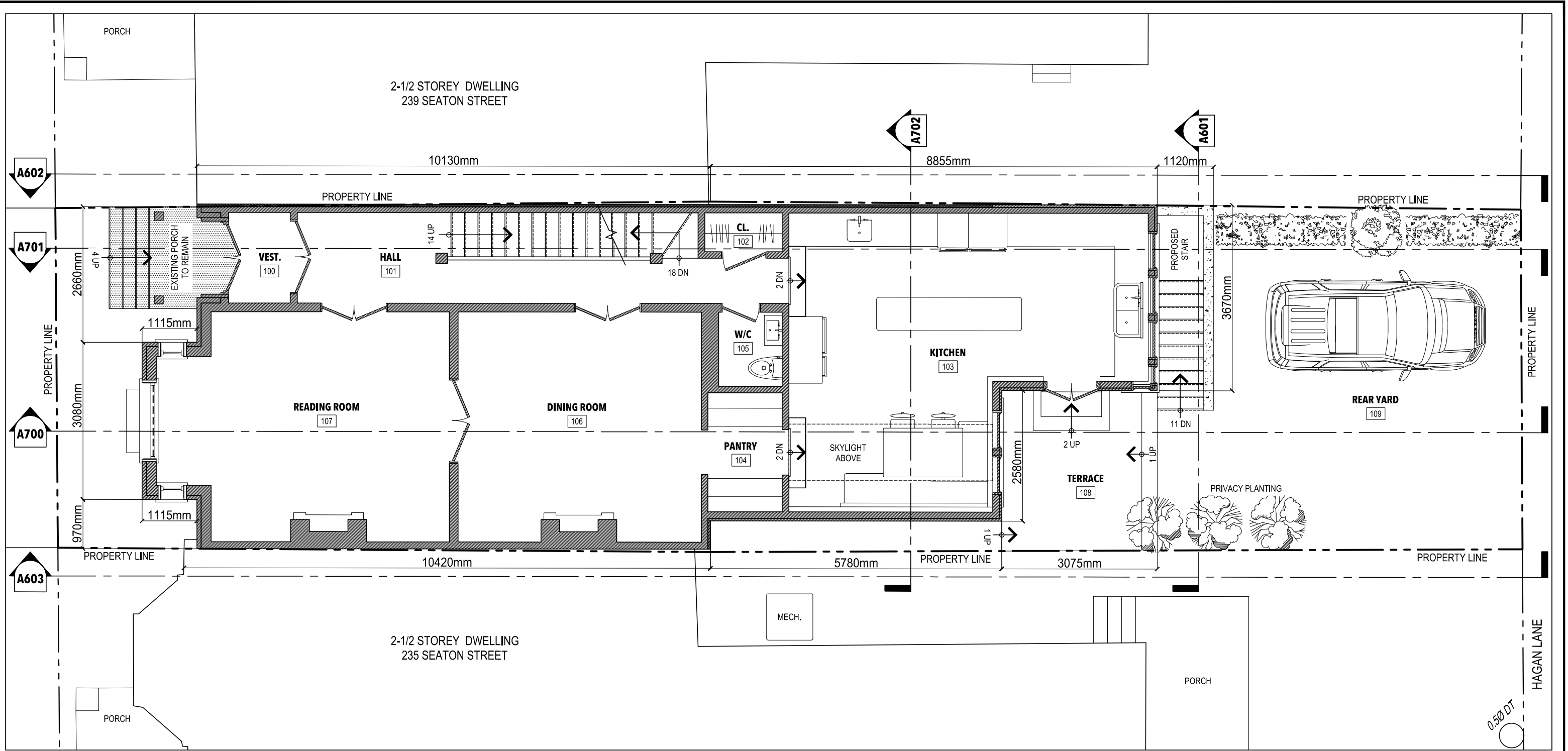
H.W.T.	Hot Water Tank	CL.	Closet
FURN.	Furnace	W/C	Water Closet
E.P.	Electrical Panel	S.P.	Ground Water Sump Pit
MECH.	Mechanical Equipment	UP	Riser(s) Up
		DN	Riser(s) Down

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75

**NORTH
ARROW**





Drawing Title:
PROPOSED GROUND FLOOR PLAN

Drawing No:
A501

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Section Cut

Notes:

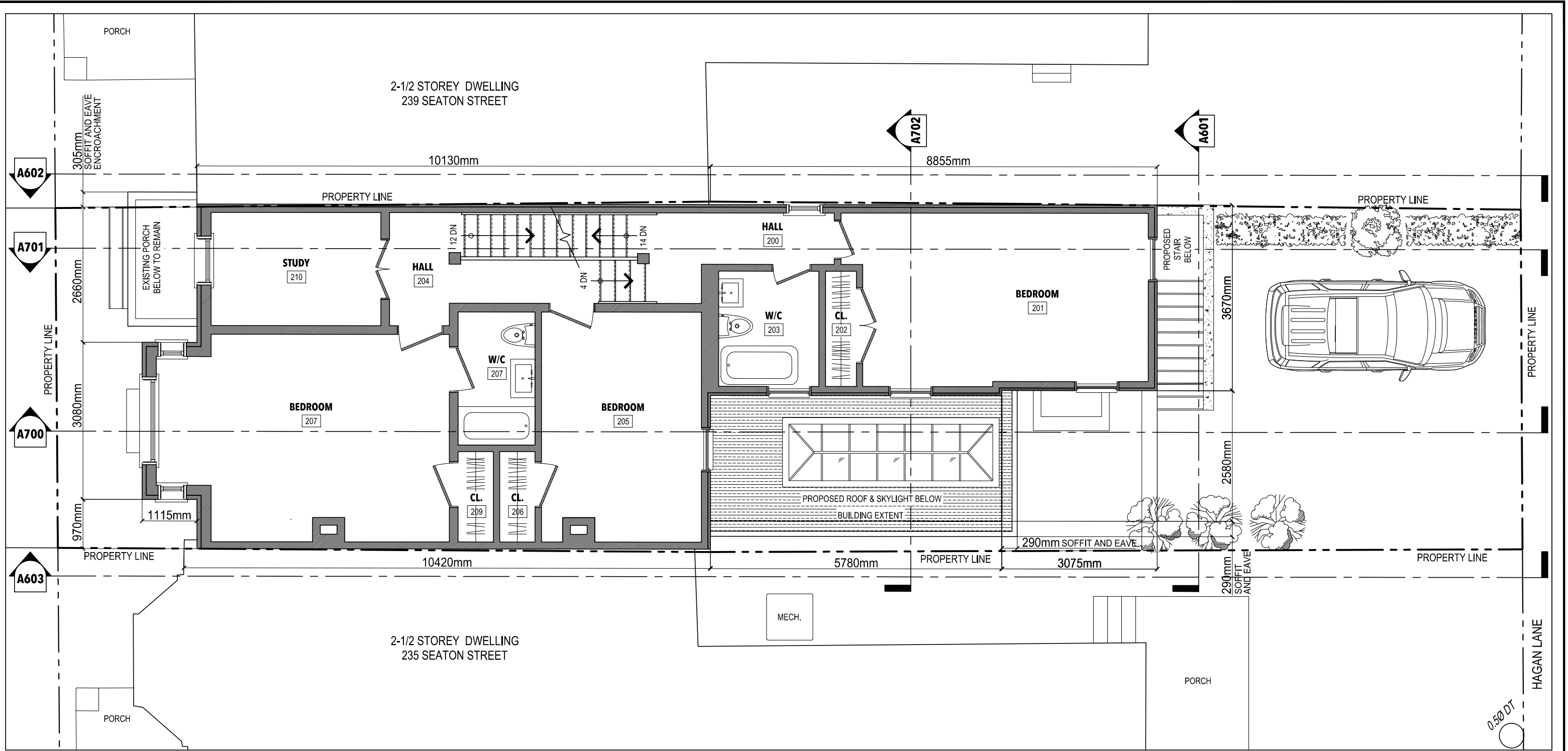
Abbreviations:
VEST. Vestibule
W/C Water Closet
CL. Closet
Mech. Mechanical Equipment
UP Riser(s) Up
DN Riser(s) Down

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75

**NORTH
ARROW**



Drawing Title:
PROPOSED SECOND FLOOR PLAN

Drawing No:
A502

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Section Cut

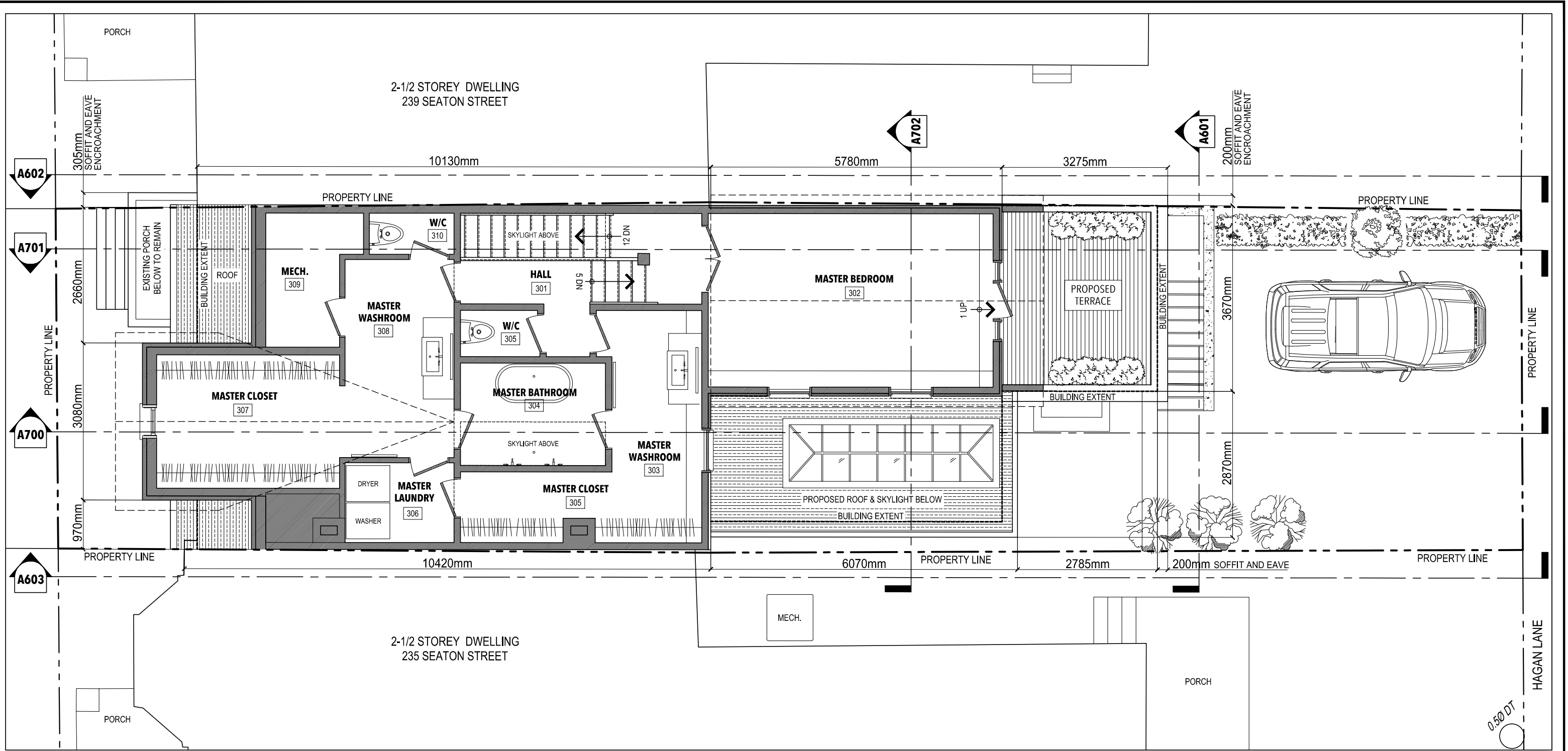
Notes:

Abbreviations:
Mech. Mechanical
UP Riser(s) Up
DN Riser(s) Down

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75





Drawing Title:
PROPOSED THIRD FLOOR PLAN

Drawing No:
A503

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Section Cut

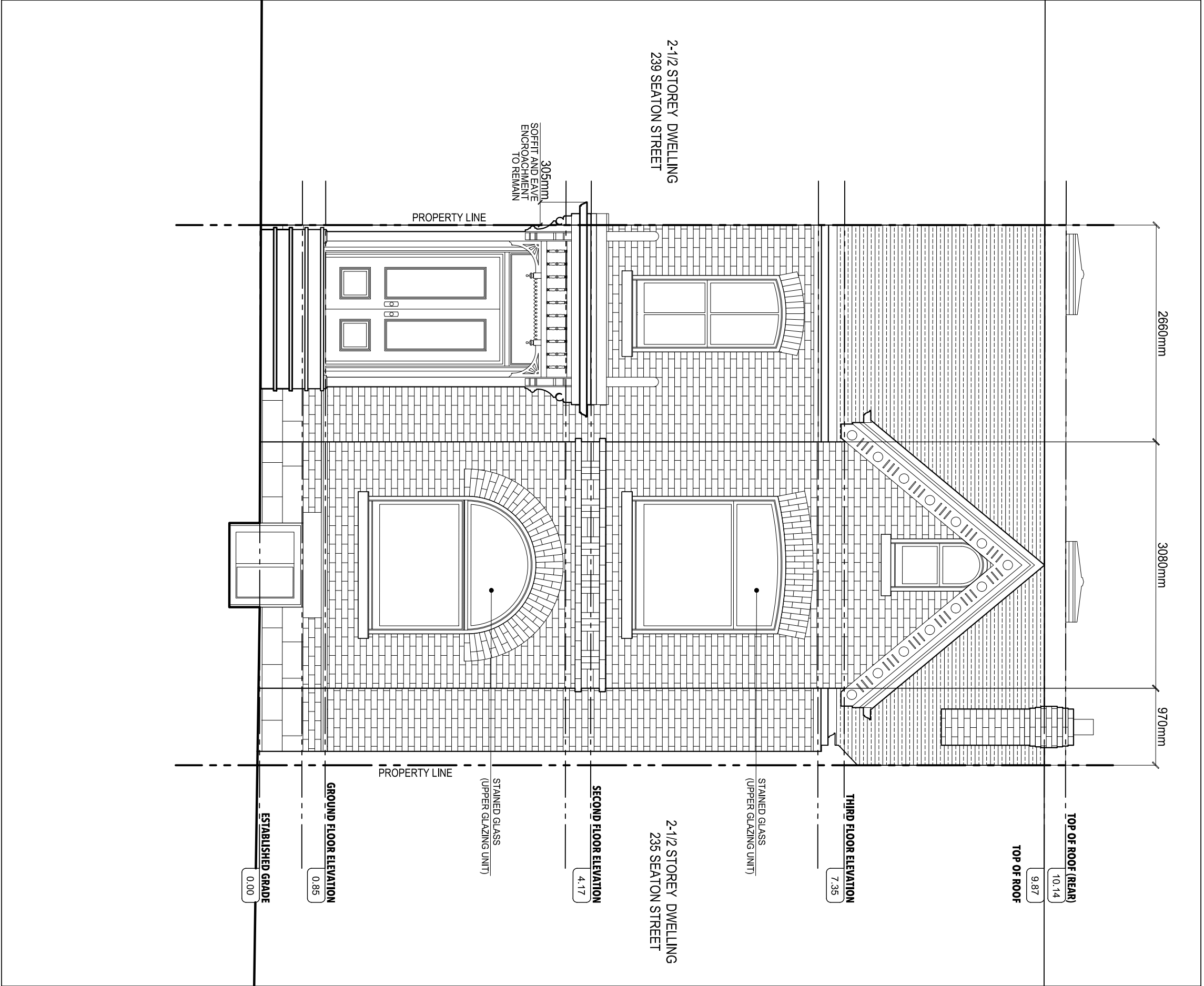
Notes:
Proposed 200mm soffit and eave encroachment onto 239 Seaton Street shall be excluded without permission to substitute existing encroachment.

Abbreviations:
Mech. Mechanical
DN Riser(s) Down
W/D Washer and Dryer

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75





PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:50

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Drawing Title:

PROPOSED FRONT (WEST) ELEVATION

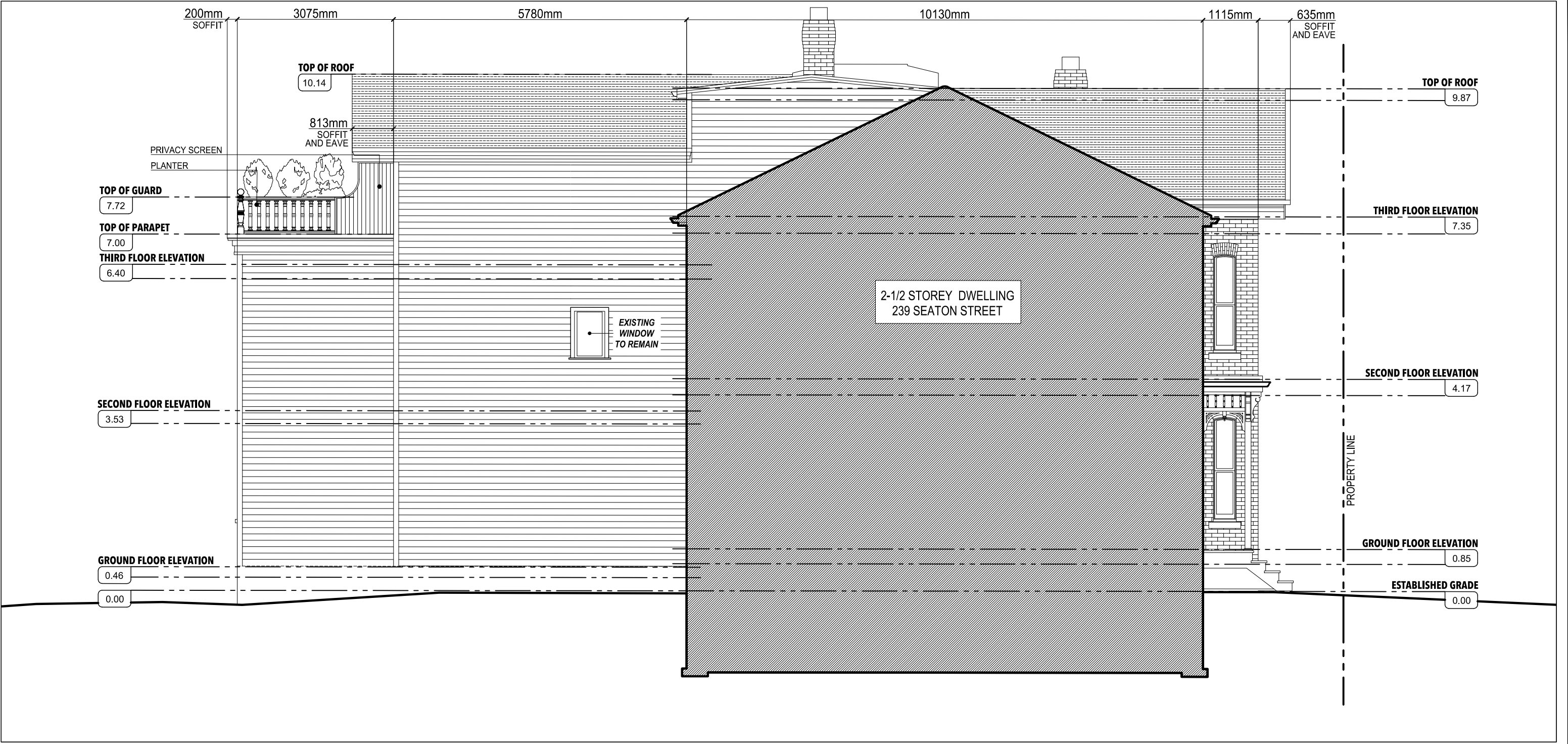
Notes:

No demolition on front (east) elevation.

Skylights shall not exceed the permitted maximum height by more than 1000mm as per 569-2013, 10.5.40.10 (3)(A). Chimneys shall not exceed the permitted maximum height by more than 5000mm as per 569-2013, 10.5.40.10 (3)(B).

Drawing No:


A600



Drawing Title:
PROPOSED SIDE (NORTH) ELEVATION

Drawing No:
A602

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Section Cut

Notes:

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75



Drawing Title:
PROPOSED SIDE (SOUTH) ELEVATION

Drawing No:
A603

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Section Cut

Notes:

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75



Drawing Title:
PROPOSED LONG SECTION (SOUTH SIDE)

Drawing No:
A700

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

 Section Cut

Notes:

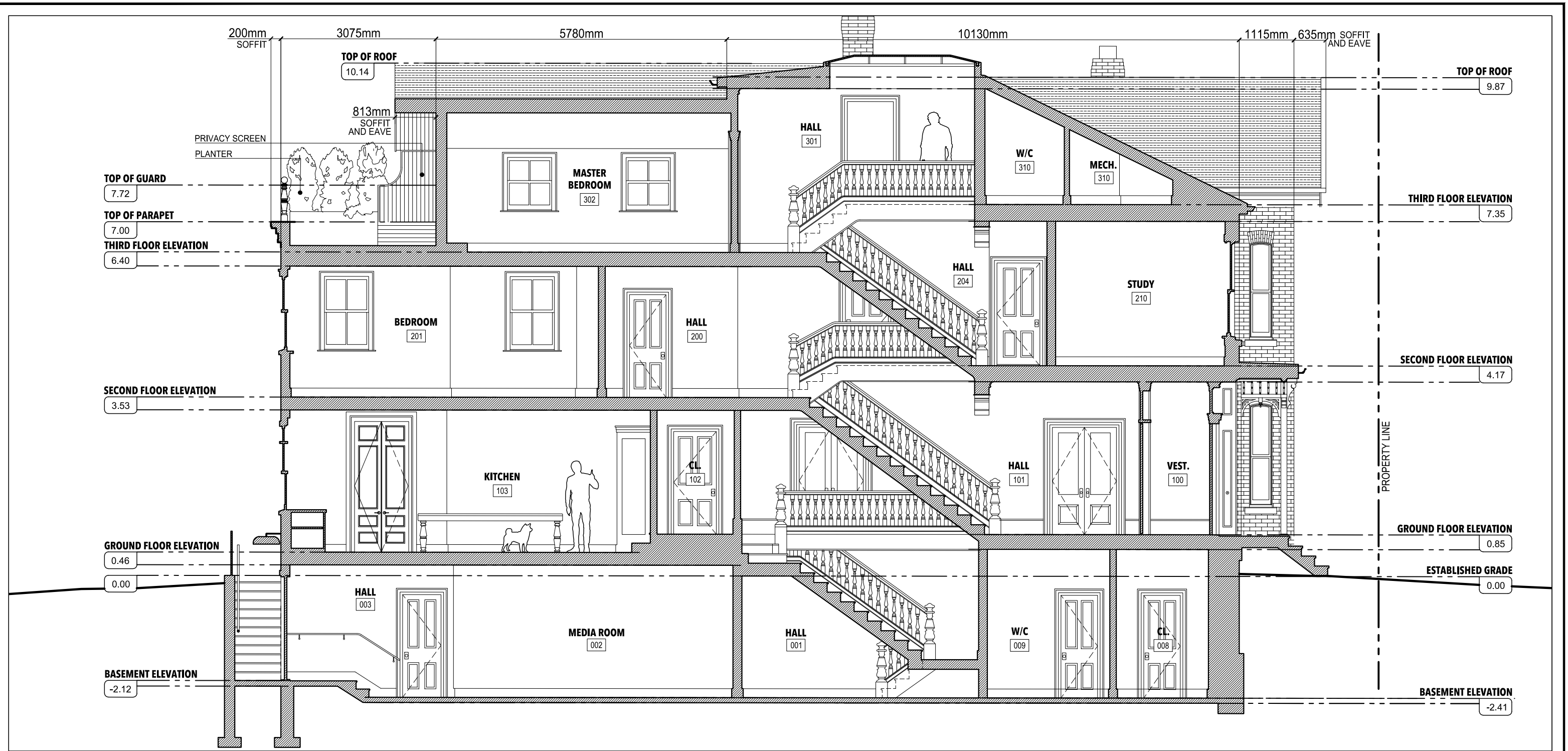
Abbreviations:
Mech. Mechanical Equipment

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:75



Drawing Title:
PROPOSED LONG SECTION (NORTH SIDE)

Drawing No:
A701

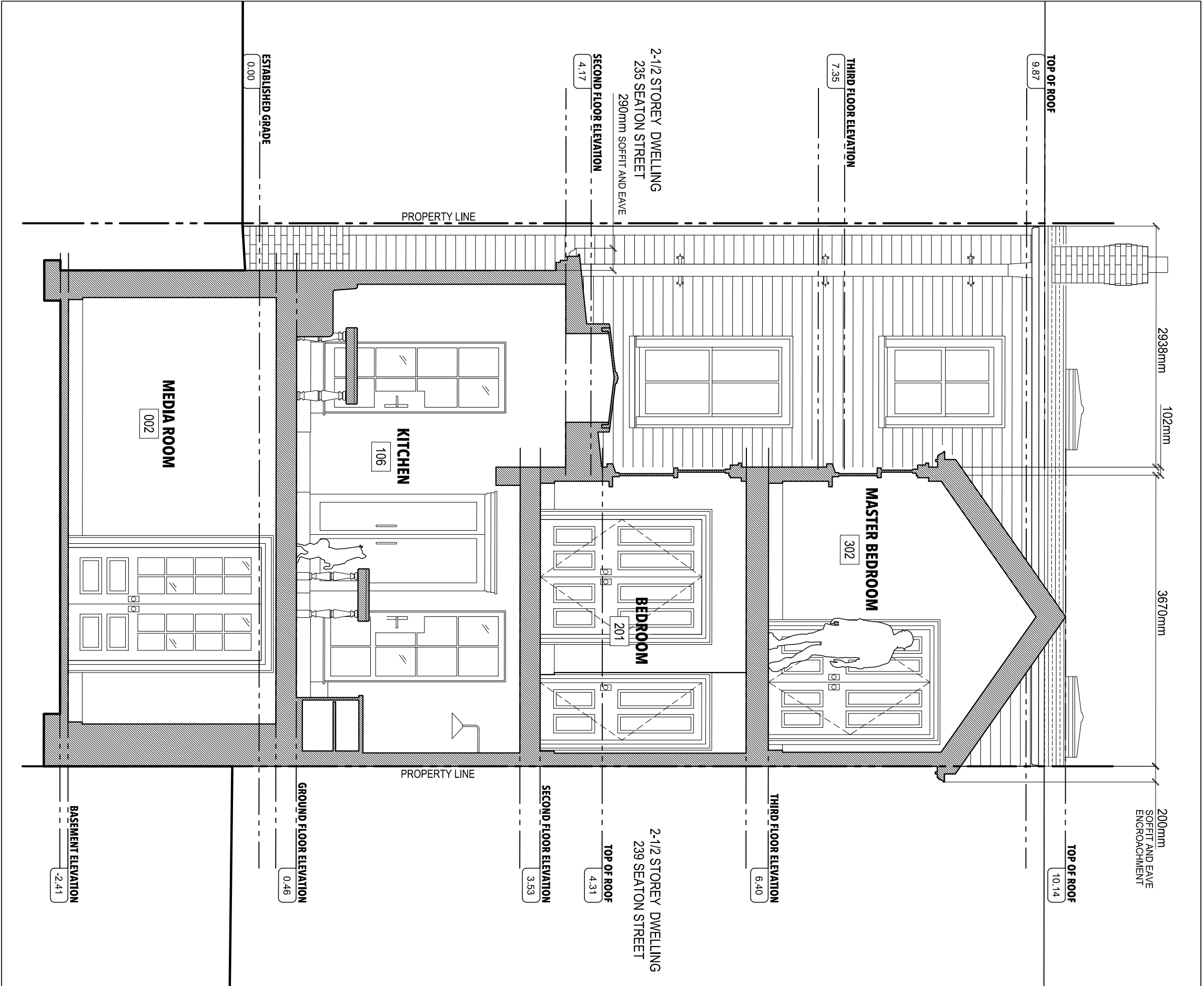
Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Section Cut

Notes:

PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA
Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:
1:75



PROPERTY ADDRESS: 237 SEATON STREET, TORONTO, CANADA

Applicants:
JORDAN ALLISON & JUSTIN SMITH
237 SEATON STREET, TORONTO
ONTARIO, CANADA, M5A 2T5

Scale:

1:50

Submission:
Plan Review: February 22, 2019
Committee of Adjustment: April 1, 2019
Toronto Local Appeal Body: September 16, 2019

Drawing Title:

PROPOSED LATERAL SECTION

Notes:
Skylights shall not exceed the permitted maximum height by more than 1000mm as per 569-2013, 10.5.40.10 (3)(A). Chimneys shall not exceed the permitted maximum height by more than 5000mm as per 569-2013, 10.5.40.10 (3)(B).

Drawing No:

A702