

# DECISION AND ORDER

**Decision Issue Date** Wednesday, May 27, 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): PERRY LIBFELD

Applicant: PERRY LIBFELD

Property Address/Description: 94 ST GERMAIN AVE

Committee of Adjustment Case File: 19 121883 NNY 08 CO, 19 121888 NNY 08 MV, 19 121889 NNY 08 MV

**TLAB Case File Number: 19 201083 S45 08 TLAB, 19 201087 S45 08 TLAB**

**Hearing date:** Wednesday, December 04, 2019

**DECISION DELIVERED BY SHAHEYNOOR TALUKDER**

## APPEARANCES

Name	Role	Representative
Perry Libfeld	Applicant/Appellant	John Alati
Natasha Saunders	Party	
Julius De Ruyter	Expert Witness	

## INTRODUCTION

1. The Applicant, Perry Libfeld, appeals the Committee of Adjustment's (CoA's) decision with respect to the request for minor variances for the property located at 94 St. Germain Avenue (Subject Property). The Applicant is the owner of the Subject Property.
2. The Applicant filed applications for consent to sever the Subject Property and build two new houses on the severed lots. The CoA approved the consent application allowing the severance of the Subject Property into two identical lots, each with a lot

frontage of 7.62 m, lot depth of 45.76 m and lot area of 348.69 m<sup>2</sup>. The CoA refused the applications for variances with respect to the proposed buildings on these two lots.

3. For the hearing before the Toronto Local Appeal Body (TLAB), the Applicant filed revised plans for the two buildings. The revised plans amended the variances for approval by the TLAB. The proposal is to build two-storey dwellings each with an integral garage, rear deck, and with gross floor area of 232.25 m<sup>2</sup> and with a floor space index (FSI) of 0.6627.
4. The only other party to the proceeding is Dr. Natasha Saunders who is a neighbour and owner of the property located at 90 St Germain Avenue, which abuts the Subject Property.

## **MATTERS IN ISSUE**

5. At issue is whether the variances requested for the construction of the two new dwellings should be approved by the TLAB.
6. The variances requested for each lot (east and west) are listed in Attachment 1 and relates to building depth, building height, height of exterior side main wall and roof eaves. Variance #6 for the west lot was not identified during the zoning view; however, the Applicant requested the addition of this variance given that this variance is also required for the east lot. These variances are based on the revised site plans and elevations submitted by the Applicant, which is prepared by Hunt Design Associates Inc., revised August 28, 2019 and attached to this Decision as Attachment 2.

## **JURISDICTION**

### **Provincial Policy – S. 3**

7. A decision of the 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.

### **Minor Variance – S. 45(1)**

8. In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet 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**

9. The Applicant called Julius De Ruyter, who was qualified at the hearing to provide expert opinion evidence in land use planning.
10. Both Mr. De Ruyter and Dr. Saunders filed witness statements and responses/replies to the other parties' statements. Some of the topics discussed in these documents are not relevant and as such, I have not summarized these topics in this section. However, I have provided a summary of my analysis in the "Analysis, Findings, Reasons" section below. One of these issues relates to Dr. Saunders' submission that Mr. De Ruyter failed to uphold the duties required of an expert witness, which I have found to be without any merit.
11. Mr. De Ruyter stated that each proposed dwelling will have four bedrooms with one-car integral garage with a width of 3.2 m that would be accessed via a driveway at the front. The houses are built with a front yard setback and the distance between the two buildings is 1 m. The architecture of the buildings is modern, with flat roof with dormers, which is a common design in Toronto that results in a shallow slope and a flat look from the street. Each building will have a rear deck with 2.5 m depth. As a result of change in elevation in the rear, the deck on the ground floor is elevated and has steps leading down to the backyard.
12. Mr. De Ruyter testified that the plans for the proposal are amended to address the concerns of the neighbours. The side exterior wall height was reduced from 8.99 m to 8.93 m for the west lot and from 9.21 m to 8.98 m for the east lot. The overall height of the house on the east lot was changed to 10.13 m. The rear deck will be inset 0.635 m from the corner of the house (away from Dr. Saunders' property) with a privacy screen fence of 1.83 m along the east end of the deck. The ground floor of the building on the east lot will have frosted glass.
13. The west side of the west lot faces the back of a number of abutting properties on Jedburgh Road including the garages at the rear.
14. Mr. De Ruyter stated that the Subject Property is designated Neighbourhoods under the OP and residential under the applicable by-laws - R under Zoning By-law 569-2013 and R2 under former City Zoning By-law 438-86.
15. Mr. De Ruyter testified that his study area is bounded by Old Orchard Grove in the north, Brookdale Avenue in the south, Greer Road in the west, and Yonge Street in the east. This study area, consisting of about 700 properties, represents a 5-minute walking distance radius from the Subject Property, an area what the residents may experience as their neighbourhood in their day to day life.
16. He noted that the neighbourhood of the Subject Property is a stable neighbourhood with tight lots between 6 m to 9 m length. The north side of the Subject Property has lot depths similar to the Subject Property, while the west side has shallower lots. The

houses are single detached or semi-detached with a variety of architectural designs, including dwellings built over a century ago and new replacement dwellings. The houses are generally two or three storeys tall. The buildings have varied building heights, elevations and use, as some have secondary suites. Some properties have integral garages. There has been reinvestment in the neighbourhood by way of replacement, additions, and renovations, as evidenced by the number of variance applications approved by the CoA in the last 10 years. These renovations usually resulted in larger homes that resulted in the buildings being longer and taller and covering more of the lot.

17. Mr. De Guyter referred to the dwelling on 81 St. Germain Street which has an FSI of 0.67 and side wall height of 9.16 m. He noted that across the Subject Property, there are three other dwellings with modern designs similar to the one in the proposal that had approvals for either or both building depth and building height (91, 95 and 97 St. Germain Avenue). He noted that in an inner city neighbourhood, it is very common for houses to have high FSI of around 0.9 because of the compact conditions of the lots.
18. Mr. De Ruyter reviewed the CoA decisions in the study area in the last ten years. He noted that there were 91 properties with minor variance approvals from the CoA in these last ten years. He provided the following numerical analysis of the variances requested:
  - a. 81 of these properties were approved for FSI variance, ranging from 0.62 and 1.18. 62 of these properties were approved for FSI larger than the requested variance of 0.6627. 10 out of 52 properties on St. Germain Street, between Yonge Street and Jedburgh Street, obtained variances. 7 of these properties obtained variances with respect to FSI.
  - b. 19 properties obtained building height variance ranging between 10.17 m to 10.95 m. Within the immediate block of St. Germain Avenue, 4 properties obtained variances for height ranging from 10.17 m to 10.69 m.
  - c. 42 properties obtained variances for building depth between 17.04 m and 21.78 m. On the St. Germain Avenue block, there has been 10 approved minor variance applications with building depth ranging between 17.04 m and 21.78 m.
  - d. 42 properties obtained variances with side exterior main wall height ranging between 7.7 m and 10.95 m. On St Germain Avenue, six properties obtained variances for side wall height ranging from 8.0 to 9.26 m.
  - e. 14 properties obtained variances for roof eaves setbacks from side lot line ranging between 0 m to 0.26 m. There were no properties on St. Germain Avenue that included any requests for roof eaves setback.
19. Mr. De Guyter noted that in the case of the proposed dwelling on the east lot, this building will extend approximately 2.36 m beyond the rear main wall of the building

on 90 St. Germain Avenue. He reviewed the aerial view of the properties on St. Germain Street surrounding the Subject Property and noted that while the main front wall of the houses usually closely align with each other, the location of the rear main walls of these houses do not align. The increase in depth of the proposed building will not create any unique change in the rear condition of the properties in the neighbourhood, as the rear of the buildings do not align. The west wall of the building on the west lot will abut the garage for the property at 277 Jedburgh Road and the rear yard of 277, 281, 283, 287 and 291 Jedburgh Road. The houses on these properties are located at a minimum of 50 m from the shared property line of the Subject Property. As such, Mr. De Guyter opined that there will be no privacy or overlook issues from the rear of the proposed dwellings with respect to these properties.

20. With respect to eaves between the two dwellings, Mr. De Guyter stated this condition is between the two proposed houses and will not impact the neighbouring property.
21. Mr. De Guyter stated that the OP policies seek to ensure that new development respect and reinforce the existing physical character of the neighbourhood. New development must be compatible to what is currently existing in the neighbourhood. With respect to OP 4.1.5, he considered his study area to be the geographic area as per this policy and the immediate area to be the properties that face both sides of St. Germain Avenue. He noted that there is a lot of variation in the neighbourhood in terms of built form, design, building heights, etc., because of which there can be no definite prevailing character of the neighbourhood. In the circumstances of a heterogenous neighbourhood, the OP requires that the physical character of the proposal be materially consistent with the physical character of the geographic neighbourhood. Policy 4.1.5 deals with the height, massing, and the scale of the building in the context of the near-by properties. The variances requested are small increases which are already present in the nearby properties. Mr. De Guyter noted variances requested are also not inconsistent with the physical characteristics of the neighbourhood, as they fall within the range of variances already approved by the CoA for this area.
22. Mr. De Guyter opined that the general intent and purpose of the Zoning By-Laws is to maintain a compatible building relationship with the neighbourhood with respect to parameters such as height, massing, building configuration and building setbacks. Mr. De Guyter opined that the variances for FSI, overall height and eaves setback are numerically small as compared to the zoning by-law limit and all the variances requested are within the range of what has been approved at the CoA. From the street, the increase in building height, the FSI and building depth will not be perceptible. The difference of the permitted height of 10 m and the requested height of 10.2 (or 10.13 m) will not be easily seen from the ground in the neighbourhood where tall houses are common. These buildings are modest in size, with similar builtform as found in the neighbourhood. Therefore, Mr. Guyter found that the proposal is an appropriate development of the land.

23. Mr. De Guyter opined that the variances are minor in nature. He noted that Dr. Saunders had concerns about privacy and shadowing. He noted that for neighbourhood with a tight lot fabric, it is common for properties to have overlook into neighbouring properties from windows and decks. To address Dr. Saunders' concern, the Applicant made amendments to the plans that include inseting of the deck for the building on the east lot, privacy screen and frosted first windows for the first floor. During cross-examination, Mr. De Guyter emphasized that a person on the deck will need to bring their head around the privacy screen to look into the neighbour's bedroom.
24. The Applicant retained R. Bouwmeester & Associates to prepare a shadow study to compare the potential for shadowing from two different building scenarios: a building built as-of-right with a building height of 10.0 m and building depth of 17.0 m as compared to the proposed dwellings on the two new lots. The shadow study noted increase in shadow throughout the day at specific time points and throughout the year by considering specific days as recommended by the City for larger order developments. Mr. De Guyter adopted the shadow study and noted that there will be additional incremental shadowing during the day due to the building height and length as compared to the as-of-right building. He opined that the resulting incremental increase is minimal and would not result in an adverse impact. He noted that the study could not take into consideration all the existing natural vegetation in the rear which would have contributed to the shadowing.
25. Mr. De Guyter also noted that Dr. Saunders had concerns about the drainage and ponding in the Subject Area. The Applicant retained the engineering company Masongsong Associates Engineering Limited to review the grading plan prepared by the Applicant's architect and confirmed that the plan generally conforms to the City's guideline which must be satisfied when obtaining a building permit.
26. With respect to trees on the property and city owned trees, specifically the Norway Maple tree, Mr. De Guyter stated that the Applicant engaged an arborist for recommendations to preserve the tree during construction. There will be minor injury (about 3%) to this tree because of the construction of the driveway for which a permit to injure will be required from Urban Forestry. The CoA approved the consent application and included a standard condition regarding the requirement to obtain a permit to injure the tree, and therefore, it is not necessary to include such a condition again. The trees in the lots will have tree protection zones to ensure their protection.
27. Dr. Saunders testified that she objected to the applications for variances for the two properties for concerns mainly related to privacy, shadowing and drainage and ponding issues. She noted that the location of the Subject Property is important because it abuts multiple lots in the rear and side (west lot) and therefore the construction on these properties will have a cumulative effect on these properties. These abutting properties are much smaller detached homes. She stated that the proposal does not fit with the prevailing buildings, which are smaller two storey red brick homes. If the variance for the building depth is granted, these houses will be the longest in the St. Germain Avenue block.

28. Dr. Saunders considers her neighbourhood in the Lawrence Park North area to be smaller than Mr. De Ruyter's study area. Her neighbourhood includes the north and south side of St. Germain Avenue bounded by Jedburgh Road at the west and Melrose Avenue to the north. This neighbourhood is a low scale residential neighbourhood with detached and semi-detached dwellings built typically in the 1920s with 8 ft ceilings and 6-7 ft basements. These houses have true basements, which is that they are mostly below grade and function as storage or electrical and mechanical room. The houses usually have small 2 or 3 bedrooms and 2 or 3 washrooms. These features, common to in the neighbourhood, are not the features shared by the proposed buildings. Dr. Saunders noted that there are three new developments across the Subject Property.
29. Dr. Saunders testified that her family spends a significant time in the backyard. Her children enjoy outdoor activities in the backyard in the afternoon after school. She disagreed with Mr. De Guyter's opinion that the shadow impact is minimal. The incremental shadow impacts fall on the amenity space and the patio of her rear yard. She is most concerned about the shadow impact on the patio, but also noted that her whole backyard will be affected by the proposed building on the east lot. If the building was built as of right, the building will block sunlight from the side windows, while the proposed building on the east lot will block sunlight that would have fallen on the rear windows as well. She stated that the shadow study should have taken into account shadow study guidelines of other cities such as those of Mississauga, Ottawa, etc. The Mississauga guideline refers to a 7.5 m line of impact assessment which should be an important consideration as the area within this line encompasses the amenity space.
30. Dr. Saunders is also concerned about the privacy and outlook resulting from the deck. This deck will be raised and will tower over her backyard. Though the deck will be built as-of-right, it will extend further into the lot's rear yard because of the length of the building, for which a variance is sought. She appreciated the addition of frosted windows for the ground floor and the privacy screen but noted that the elevated deck with the high privacy screen will result in bulking and massing of the building. The deck on the west lot will also be about 20 m from the abutting properties on Jedburgh Road, which will result in privacy issues.
31. Dr. Saunders submitted that the TLAB panel should consider that the Planning Staff of the City conducted a site-specific study of the Davisville Village. The study resulted in zoning amendments for Davisville Village that instituted restrictions on rear decks and integral garages. Dr. Saunders proposed that since Davisville Village is a neighbourhood similar to her neighbourhood, the restrictions imposed by the zoning by-laws amendments for Davisville Village should be considered for the Subject Property as well.
32. Dr. Saunders was also concerned about the drainage for the Subject Property. She noted that there are existing issues of ponding in the rear of the properties in the area. The proposal, which would add two new houses in the area, will not be desirable for the appropriate use development of the land as it will lead to further drainage issues by decreasing the amount of permeable ground.

33. Dr. Saunders also submitted that considering only the CoA approvals in the neighbourhood would be an error because these approved applications do not provide a complete picture of the development in the neighbourhood. The City's data on open building permits, of which there were 773, should also be considered. This building permit data shows that not all development in the area require CoA approvals, and therefore, the neighbourhood has many developments which do not require CoA approvals.

## **ANALYSIS, FINDINGS, REASONS**

34. I am satisfied that the application and particularly the amendments resulting from the revised Site Plan and the revised variances, meet the requirements of s. 45(18.1.1) of the Act and that no further notice is required.
35. In reviewing the application for the variances, I have not considered some issues brought forward or discussed by the parties, as I have not found these issues to be relevant in determining this matter. These issues are summarized below:
- a. Trees in the property (or city trees) removed by the Applicant prior to the hearing, which do not form part of the application for minor variances. It is to be hoped that the City has appropriately dealt with any alleged non-compliance with the Applicant directly.
  - b. Calculation of "massification" by considering the side wall surface area (depth x side wall height) as submitted by Dr. Saunders – the side wall surface area is not a parameter that is considered in an analysis of variances from zoning parameters.
  - c. Dr. Saunders submitted that Mr. De Ruyter failed in his duties as an expert witness, primarily because he has financial gain as a result of being retained by the Applicant. This submission is without any merit. As a professional, Mr. De Ruyter has an expectation to be paid by a party, and having signed the acknowledgement of expert's duty, is expected to assist, without any bias, the TLAB panel in their determination of the matter before the panel. The acceptance of retainer by itself is not an indication of bias. I have no concerns with respect to bias or otherwise with Mr. De Ruyter's participation in the hearing. Dr. Saunders provided detailed submissions on how the TLAB (and the CoA) has a history of bias in favour of developers. My mandate, as the presiding panel member of this matter, is to analyze the application before me independently and on its merits based on the statutory requirements set out in the Act, and not based on who the parties are or who they represent.
36. I found both Dr. Saunders and Mr. De Ruyter to be reliable witnesses. I do not agree with the Applicant's written closing submissions stating that the testimony or the opinion of Dr. Saunders should not be afforded the same weight as that of independent experts because Dr. Saunders is a lay witness. A TLAB panel can form



its own opinion based on the testimonies of the witnesses and the weight to be given to any testimony, irrespective of whether the evidence is from a lay person or expert.

37. Mr. De Guyter's study area is an appropriate study area that encompasses a sufficient geographic area typical of a residential neighbourhood. The prevailing characteristic of this neighbourhood is single two or three storey houses. This neighbourhood is subject to redevelopment, where new buildings with modern designs are juxtaposed between older designed houses. The Subject Property is in close proximity of such dwellings as described by Mr. De Guyter. In addition, there are also houses near the Subject Property with different heights. As can be seen from the backyard of the Subject Property, the building on 283 Jedburgh Road itself establishes itself as a tall building with an FSI of 0.69 with terraces in the rear.
38. The prevailing physical character of the neighbourhood is not determined by solely looking at the CoA approval of variances but looking at the whole neighbourhood. Dr. Saunders indicated that the open building permits show that the 91 CoA decisions discussed by Mr. De Guyter forms only a small portion of the development in the area. The open building permits can range from internal changes to a building to substantive changes, such as development of a new building or permits facilitated through minor variance applications. Internal changes in the house are not visual physical characteristics of a neighbourhood. The building permit data provided by Dr. Saunders did not sparse out the permits that point to the physical characters of the neighbourhood. Therefore, considering all the open building permits as examples of development to be considered for the 4 tests is an error.
39. Evaluation of the four tests requires both a quantitative and qualitative analysis of the physical character of the neighbourhood. It is not a matter of calculating the percentage increase between what is permitted in by-laws and what is proposed. The CoA decisions by themselves do not indicate that the proposal for the two dwellings should be automatically approved because similar developments have been approved in the neighbourhood. The numerous CoA decisions, collectively, indicate that the study area is an area of significant redevelopment. Such redevelopment may be similar to what the Davisville Village had faced. However, it is up to the City to determine whether the neighbourhood which the study area encompasses should undergo a planning review. It will be an error in law to import the by-law amendments of another neighbourhood into the study area just because of similarity. The assessment of the four tests for variance approval is based on the physical characteristics of the neighbourhood and the zoning by-laws currently applicable to that neighbourhood.
40. The request for variances for building height, depth and main side wall height are in keeping with what is found in the neighbourhood. Specially, within the immediate neighbourhood and also across the Subject Property, there are several buildings that are similar in massing and size to the proposed buildings (for example, 91, 95 and 97 St. Germain Avenue). With respect to the setback of the eaves, the variance is required for the lot line between the two proposed houses and a condition internal to these new houses, which does not affect the neighbouring properties. I am

satisfied that the variances meet the general purpose and intent of the OP and the zoning by-law.

41. A significant concern of Dr. Saunders is the issue of drainage. The Subject Property and the surrounding land have existing drainage issues, such as ponding in the rear. The construction of two buildings will result in loss of permeable land; however, the Applicant is permitted to construct two buildings on the land, as the application for consent to sever is already approved and not before the TLAB. The issue is whether these two buildings, with the proposed configuration, will result in further drainage issues, such as flooding in the neighbour's basement or further ponding in the neighbouring area.
42. I note that the buildings do not require any variances for soft landscaping. The revised site plans show that the proposal for both lots exceeds the front yard soft landscaping and the rear yard is 22.34 m whereas the zoning by-law limit is 7.5 m. Absent any specific evidence that the two buildings as proposed will aggravate drainage issues in the area, I do not see how construction of two buildings by themselves should be disallowed given the consent to sever has been already approved. Further, a building permit from the City will be required that will include permission for proper drainage. As Dr. Saunders herself stated in her witness statement, page 2 of the staff report of the City's Engineering and Construction Services states that "In conjunction with a building permit application, to ensure that the development of the subject land does not create a drainage problem to this or abutting lands, the applicant must submit a lot grading plan to the Buildings Division in accordance with the Building Division's Policy on Building and Drainage for Infill Housing." As such, the Applicant will be required to provide plans for proper grading to satisfy the City's requirements for drainage.
43. I now turn to the issue of whether the proposal is minor in nature, which considers the impact of the proposal on the neighbours and the public. This is not solely a numerical assessment. The issues addressed are the issues of privacy, overlook, shadowing and drainage.
44. The issue of privacy and overlook arises from the fact that the elevated deck of each building will extend further into the property because of longer building depth. This condition can create overlook into the neighbouring properties' backyards. Dr. Saunders is concerned that the deck will impinge on her family's privacy, as her family spends a significant time in the backyard. The Applicant had revised the plans to address Dr. Saunders' concern. While this attempt at accommodation is appreciated, the matter at issue is whether the proposal (whether revised or otherwise), results in any impacts that are adverse. I agree with Dr. Saunders that the extension of the building depth will result in the deck being further in the backyard and thereby having more visual access into the backyard of the Dr. Saunders' property. I also agree that the inset of the balcony and the privacy screen appropriately address the issue of overlook such that the overlook and privacy impacts are limited. With respect to the building on the west lot that abuts multiple properties on Jedburgh Road and two properties on Melrose Road, the issue of privacy and overlook is minimal given the rear of these properties abut the west lot.

45. With respect to shadow studies, the City does not require any shadows studies for low scale residential properties. Dr. Saunders submitted that shadow study guidelines of other cities should be considered to objectively determine the impact of shadows. I do not agree with this submission. Toronto is a very different city than other cities in Ontario. It comprises different types of neighbourhoods, including areas with very small and narrow lots. Importing shadow study guidelines from a different city for a Toronto neighbourhood is not helpful given that the neighbourhoods can be different. It is up to the City to determine what suitable parameters are required for conducting shadow studies for low scale residential properties.
46. The shadow study provided by the Applicant considers possible shadows created on March 21<sup>st</sup>, June 21<sup>st</sup> and September 21<sup>st</sup>, at one-hour intervals between 9:18 a.m. and 6:18 p.m. The study shows the shadows for both the proposed buildings and the as-of-right building with 10 m height and 17 m length. For March 21<sup>st</sup>, the shadows from the proposed buildings start falling onto Dr. Saunders' property at around 1:18 p.m. The shadows fall onto Dr. Saunders' backyard patio. The difference between the proposed and the as-of-right building throughout these time points increases during the course of the afternoon, such that by 6:18 p.m., the incremental increase covers a significant portion of the patio, but not the whole rear yard. For June 21<sup>st</sup>, the shadows start falling onto Dr. Saunders' property by approximately 2:18 p.m. and has minimal incremental impact. For September 21<sup>st</sup>, the shadows start falling on Ms. Saunders' property from around 1:18 p.m. The shadow from the as-of-right building fully covers Ms. Saunders' backyard with the incremental shadow extending further into the rear yard. By 5:18 p.m., the shadow on the patio is mostly created by the incremental shadow. In an urban context, some level of shadowing is expected from houses built in close proximity. The shadow study shows that the increase in shadowing is not large, is for a short period of time each day and most of the rear yard is not affected by the increased shadowing. I am satisfied that Dr. Saunders' concern regarding adverse effects arising out of shadowing is appropriately addressed by the shadow study. The increase in shadowing that can be attributed to the larger house, resulting from the requested variance for height and depth, does not result in an adverse impact.
47. As a result of the foregoing, I conclude that the variances individually and cumulatively satisfy the four tests, provided that the conditions regarding inseting of the deck and the privacy screen are part of the approval for the variances.

## **DECISION AND ORDER**

48. The appeal is allowed and the variances requested for both east and west lots of the Subject Property are approved and are subject to the following condition:

The Applicant shall build substantially in accordance with the site plans and elevation drawings prepared by Hunt Design Associated Inc. for 94 St. Germain Avenue, as shown in Attachment 2.

X 

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Shaheynoor Talukder  
Panel Chair, Toronto Local Appeal Body  
Signed by: Shaheynoor Talukder

## Figure 9: Revised List of Variances

### West Lot (Part 1) A0183/19NY

1. **Chapter 10.10.40.30.(1), By-law No. 569-2013**  
The maximum permitted building depth is 17.0m. The proposed building depth is 18.69m.
2. **Chapter 10.10.40.40.(1), By-law No. 569-2013**  
The maximum permitted floor space index is 0.6 times the area of the lot: 209.21m<sup>2</sup>.  
The proposed floor space index is 0.6627 times the area of the lot 232.25m<sup>2</sup>.
3. **Chapter 10.10.40.10.(1), By-law No. 569-2013**  
The maximum permitted height of a building or structure is 10.0m. The proposed height of the building is 10.2m.
4. **Chapter 10.10.40.10.(2), By-law No. 569-2013**  
The maximum permitted height of all side exterior main walls facing a side lot line is 7.5m.  
The proposed height of the side exterior main walls facing a side lot line is 8.83m.
5. **Chapter 10.5.40.60.(7), By-law No. 569-2013**  
Roof eaves may project a maximum of 0.90m provided that they are no closer than 0.30m to a lot line.  
The proposed eaves project 0.25m and are 0.25m from the east lot line.
6. **Section 4(2), By-law No. 438-86**  
The maximum permitted building height is 10.0 m. The proposed building height is 10.2m.

### East Lot (Part 2) A0184/19NY

1. **Chapter 10.10.40.30.(1), By-law No. 569-2013**  
The maximum permitted building depth is 17.0m. The proposed building depth is 18.71m.

2. **Chapter 10.10.40.10.(1), By-law No. 569-2013**  
The maximum permitted height of a building or structure is 10.0m. The proposed height of the (building is 10.13m.
3. **Chapter 10.10.40.10.(2), By-law No. 569-2013**  
The maximum permitted height of all side exterior main walls facing a side lot line is 7.5m.  
The proposed height of the side exterior main walls facing a side lot line is 8.98m.
4. **Chapter 10.10.40.40.(1), By-law No. 569-2013**  
The maximum permitted floor space index is 0.6 times the area of the lot: 209.22 m<sup>2</sup>.  
The proposed floor space index is 0.6627 times the area of the lot: 231.1m<sup>2</sup>.
5. **Chapter 10.5.40.60.(7), By-law No. 569-2013**  
Roof eaves may project a maximum of 0.90m provided that they are no closer than 0.30m to a lot line.  
The proposed eaves project 0.25m and are 0.25m from the west lot line.
6. **Section 4(2), By-law No. 438-86**  
The maximum permitted building height is 10.0 m. The proposed building height is 10.13m.

SITE STATISTICS:

ZONING ZONED - R(7.5; d0.6) (x604) CITY OF TORONTO BY-LAW 569-2013

AVERAGE GRADE CALCULATED FROM AVG. GRADE OF EAST AND WEST PROPERTY LINE ON THE LOT = 274L = 171.73 274R = 171.51

BUILDING HEIGHT PERMITTED = 10.0m TO HIGHEST POINT PROPOSED = 274L = 10.20m FROM AVERAGE GRADE 274R = 10.13m FROM AVERAGE GRADE VARIANCE REQ'D

LOT FRONTAGE PERMITTED = 7.5m PROPOSED = 7.62m

LOT AREA PERMITTED = LOT FRONTAGE X 30 = 228.6 sq.m. PROPOSED = 274L = 348.68 sm 274R = 348.68 sm

FLOOR SPACE INDEX PERMITTED = 0.6 OF LOT AREA = 274L = 348.68 sm x 0.6m = 209.20 sq. m. 274R = 348.68 sm x 0.6m = 209.20 sq. m. PROPOSED = 274L = 232.25 sq.m. 274R = 231.10 sq.m. } VARIANCE REQ'D

MINIMUM YARDS

FRONT YARD 4.67m MINIMUM (adjacent lot) PROPOSED = 4.72m

INTERIOR SIDE YARD PERMITTED = PER SIDE : 0.90m & 0.45m PROPOSED = ONE SIDE: 0.50m WITH NO WINDOWS/DOOR = OTHER SIDE : 0.95m

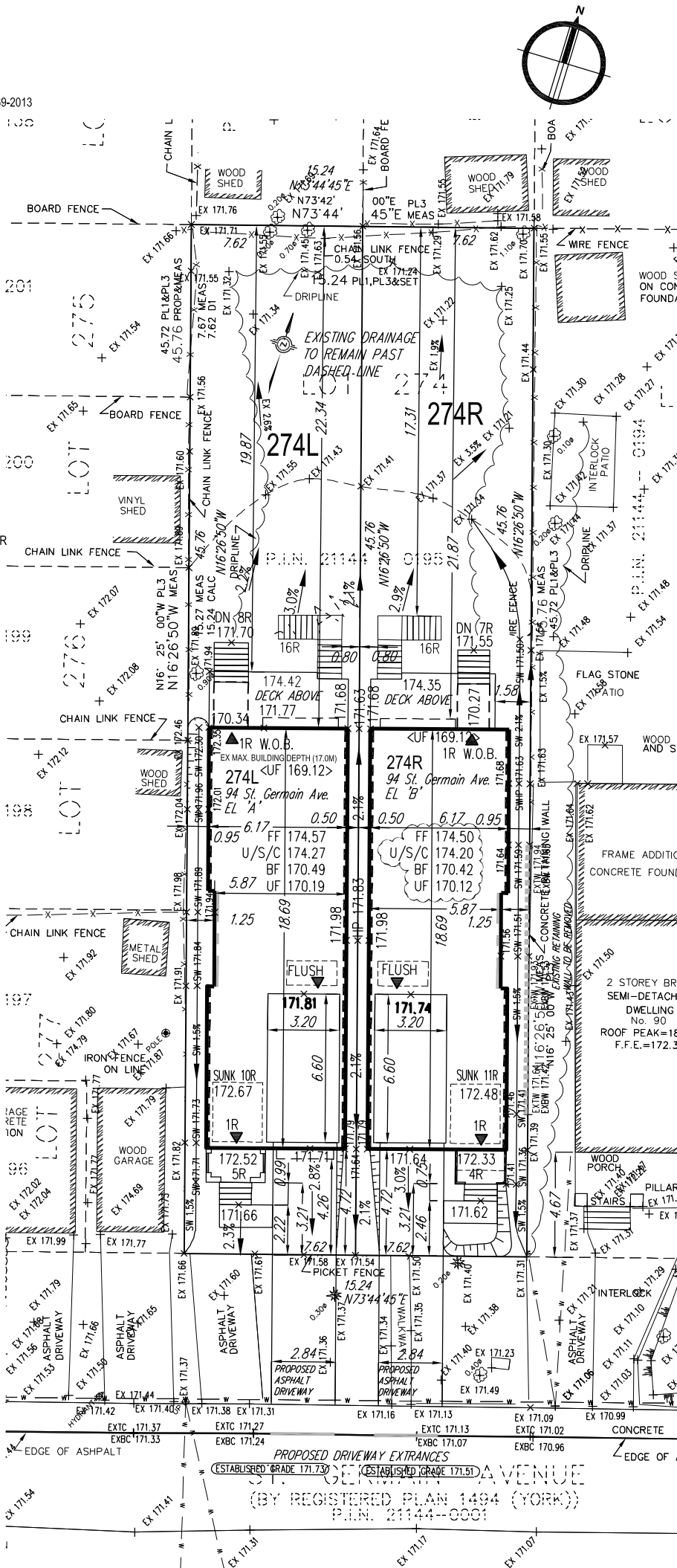
REAR YARD PERMITTED = 7.5m PROPOSED = 22.34m

DWELLING DEPTH PERMITTED = 17.0m (from the front yard setback) PROPOSED = 18.75m VARIANCE REQ'D

LANDSCAPING

FRONT YARD PERMITTED = 50% PROPOSED: 274L - FRONT YARD = 35.88 sq.m (386.22 sq.ft.) - LANDSCAPE = 22.48 sq.m (241.97 sq.ft.) = 62% PROPOSED: 274R - FRONT YARD = 35.08 sq.m (388.38 sq.ft.) - LANDSCAPE = 22.61 sq.m (243.37 sq.ft.) = 62.6%

SOFT LANDSCAPING PERMITTED = 75% OF FRONT YARD LANDSCAPING PROPOSED: 274L F.Y. LANDSCAPING = 22.48 sq.m (241.97 sq.ft.) - SOFT LANDSCAPING = 18.64 sq.m (200.64 sq.ft.) = 82.9% PROPOSED: 274R F.Y. LANDSCAPING = 22.61 sq.m (243.37 sq.ft.) - SOFT LANDSCAPING = 18.96 sq.m (204.08 sq.ft.) = 83.9%



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REVISED FOR TLAB	BRI	2019.08.28
REVISED PER ZONING CERTIFICATE	BRI	2019.01.30
REVISED AS PER ZONING CERTIFICATE	BRI	2018.12.17
REVISED AS PER ZONING CERTIFICATE	BRI	2018.12.11
ISSUED FOR ZONING REVIEW	BRI	2018.11.22

SITING AND GRADING PLAN

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION

BRIAN SHERRER 22454

NAME SIGNATURE BOIN

REGISTRATION INFORMATION

HUNT DESIGN ASSOCIATES INC. 19695

HUNT DESIGN ASSOCIATES INC.

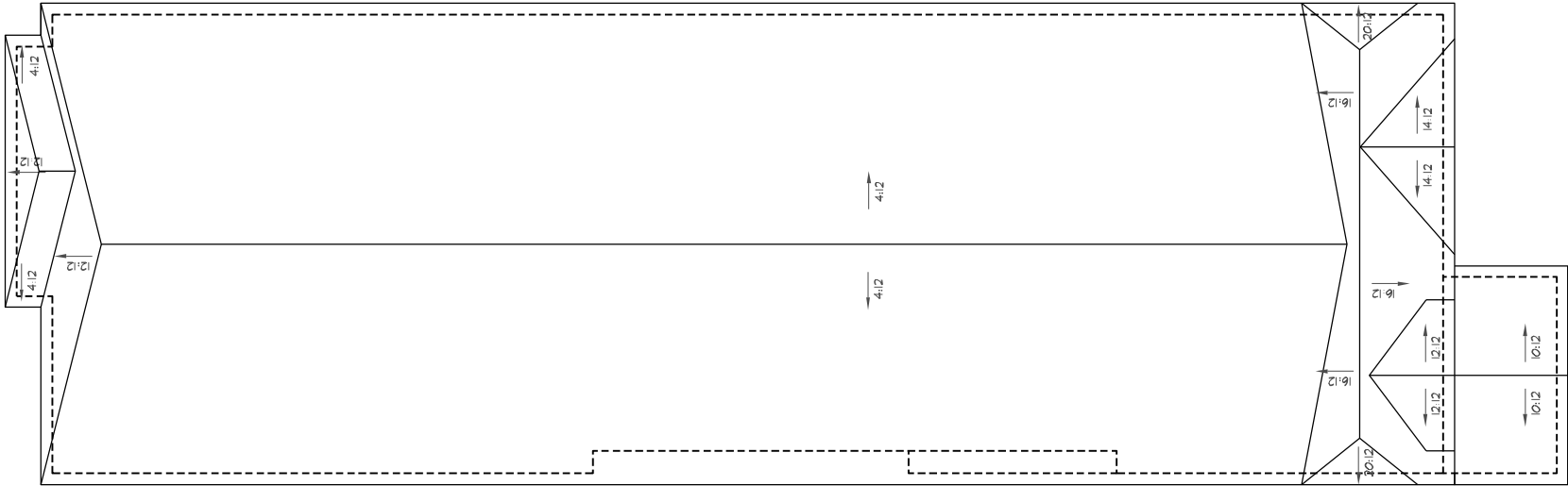
www.huntdesign.ca

ST. GERMAIN AVENUE

PRIVATE RESIDENCE  
94 ST. GERMAIN AVENUE - 218085

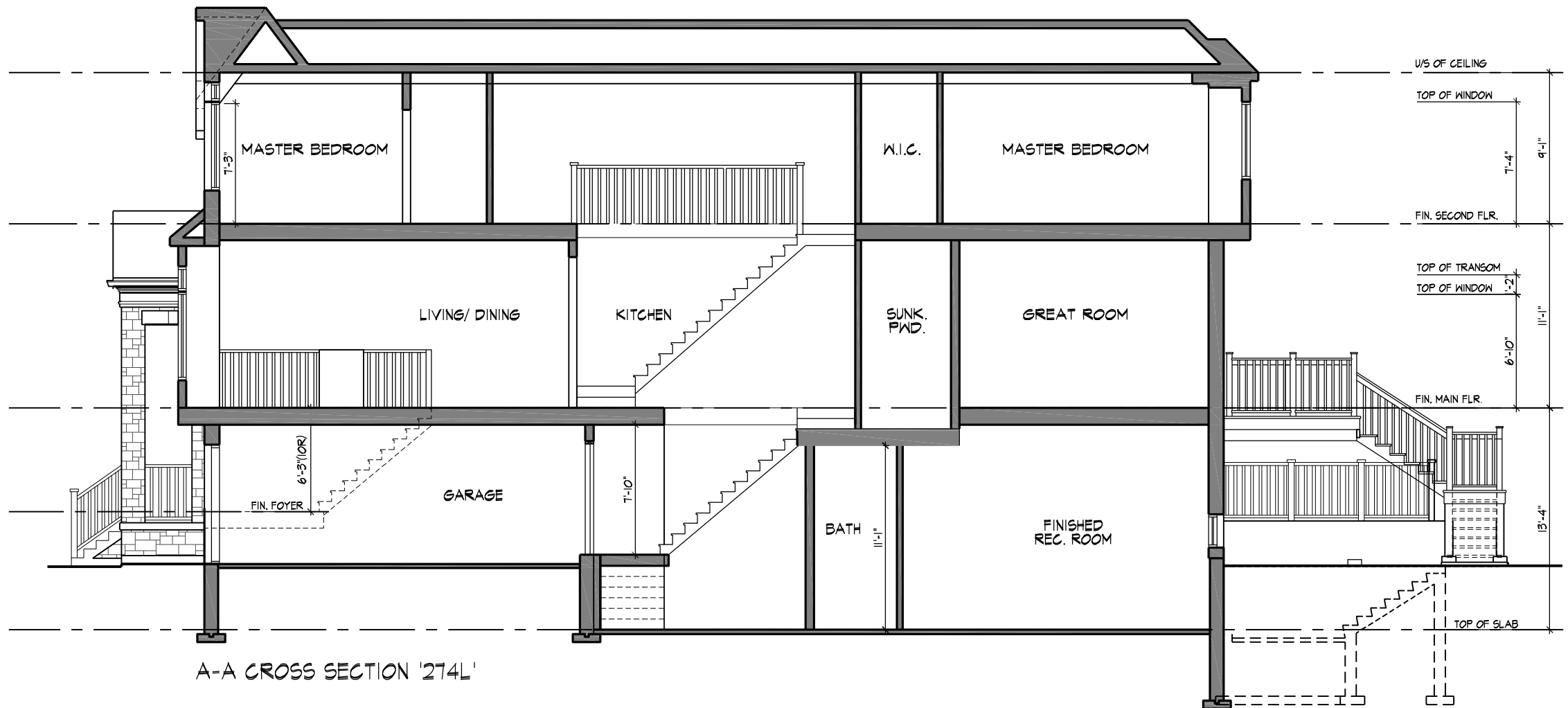
Drawn By Checked By Scale File Number Lot / Page Number  
BRI BRI 1:250 - 274L/R

8966 Woodbine Ave, Markham, ON L3R 0J7 T 905.737.5133 F 905.737.7326

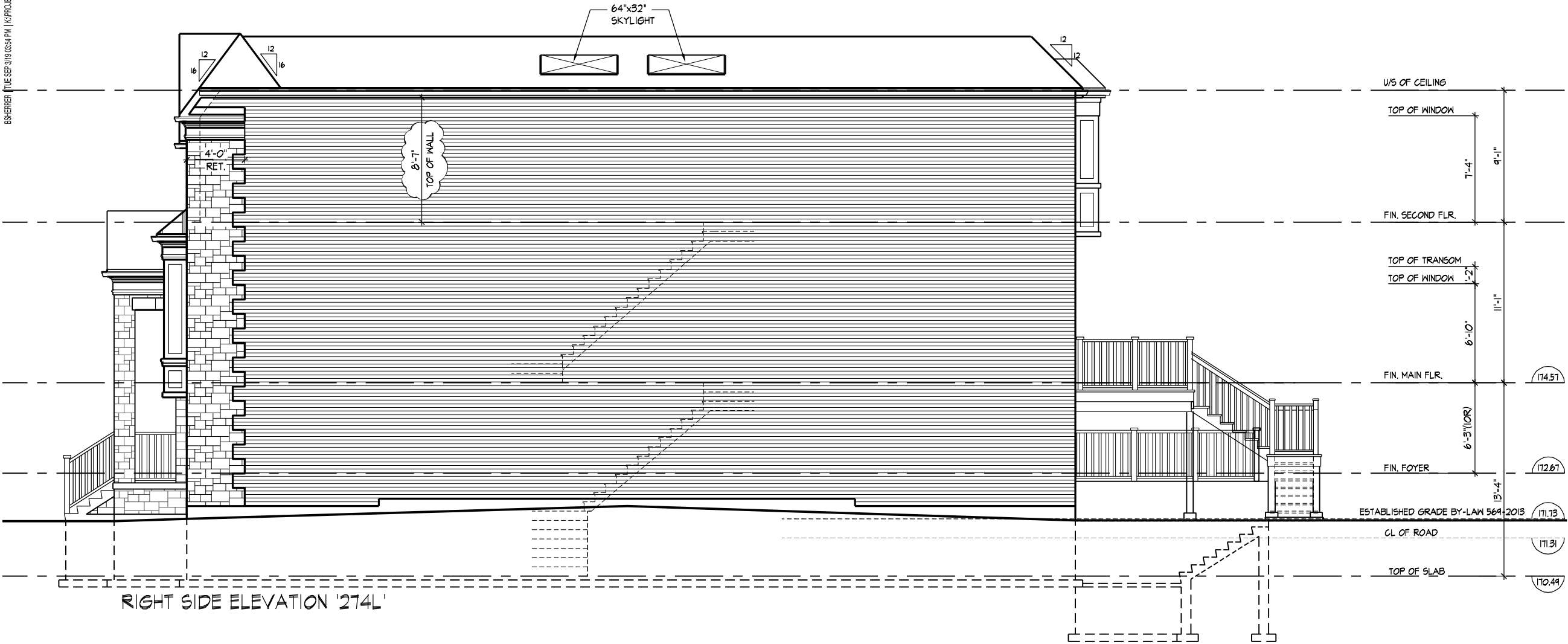


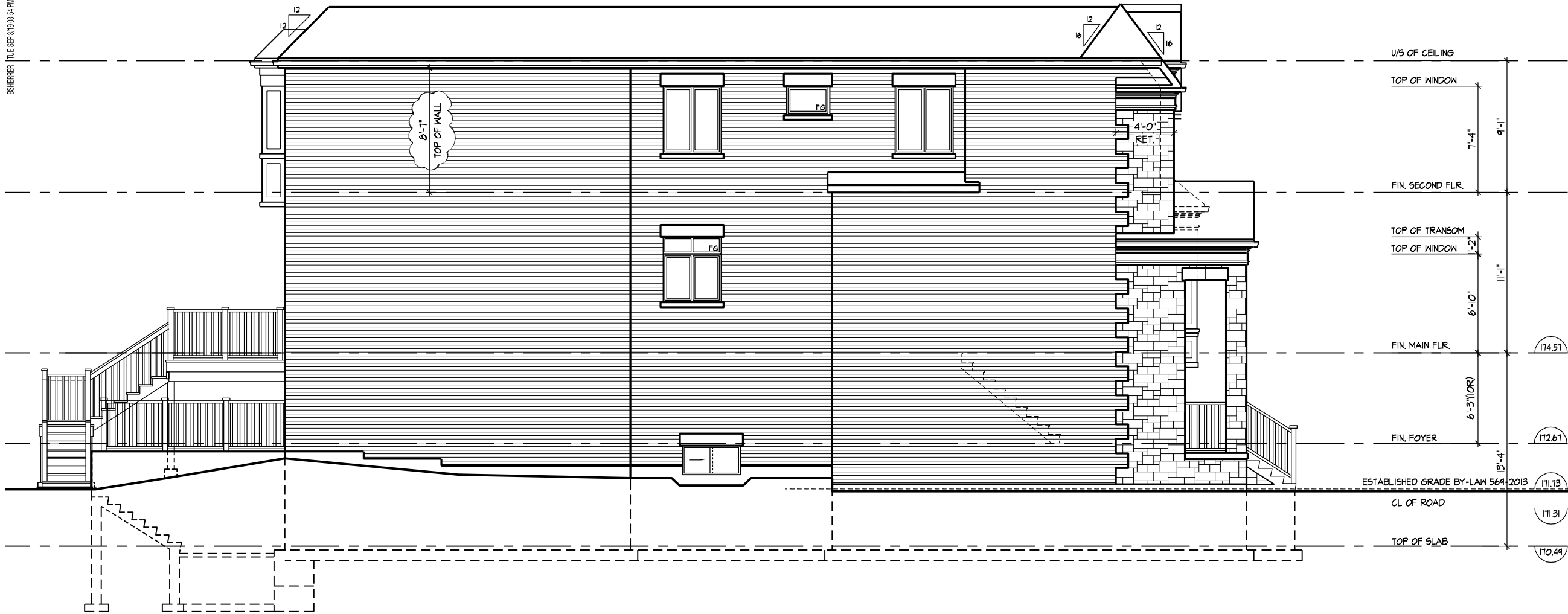
ROOF PLAN EL. '274L'





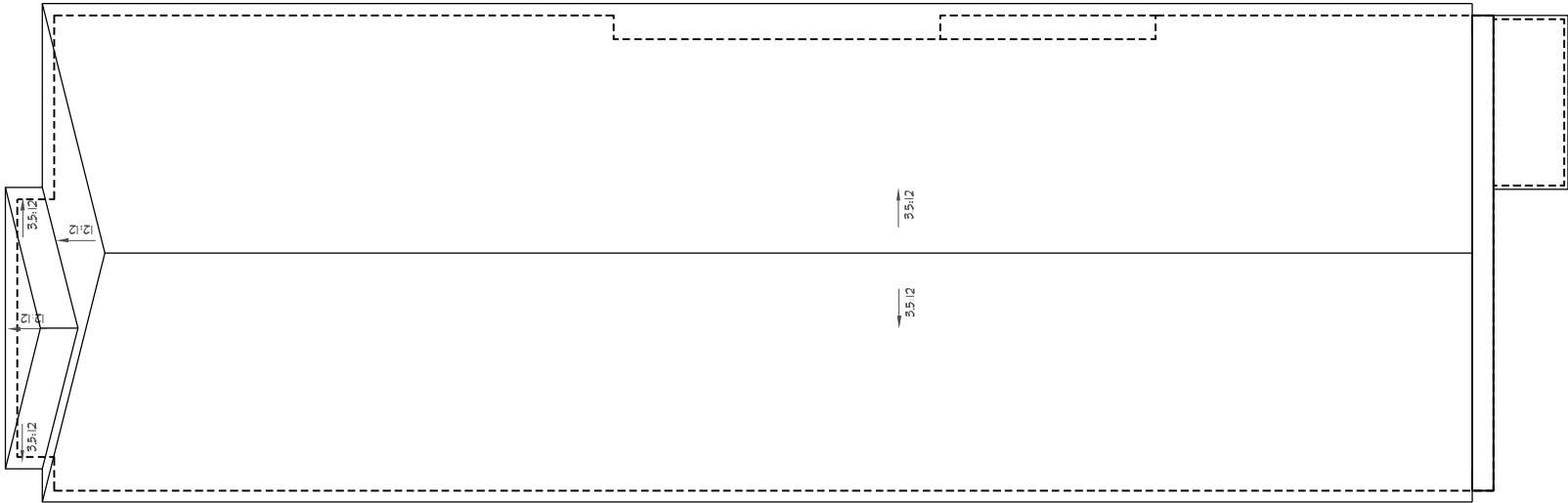






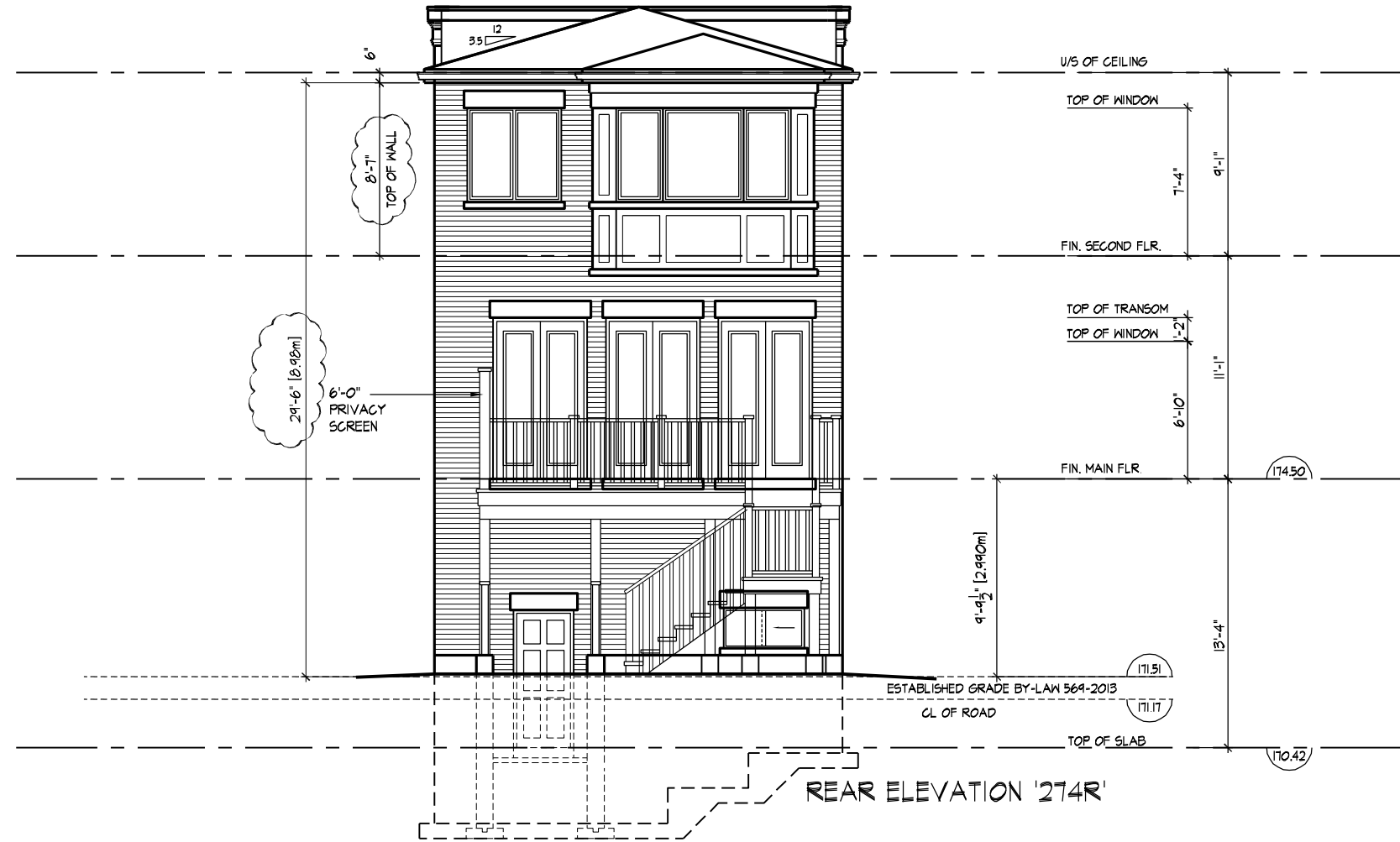
LEFT SIDE ELEVATION '274L'





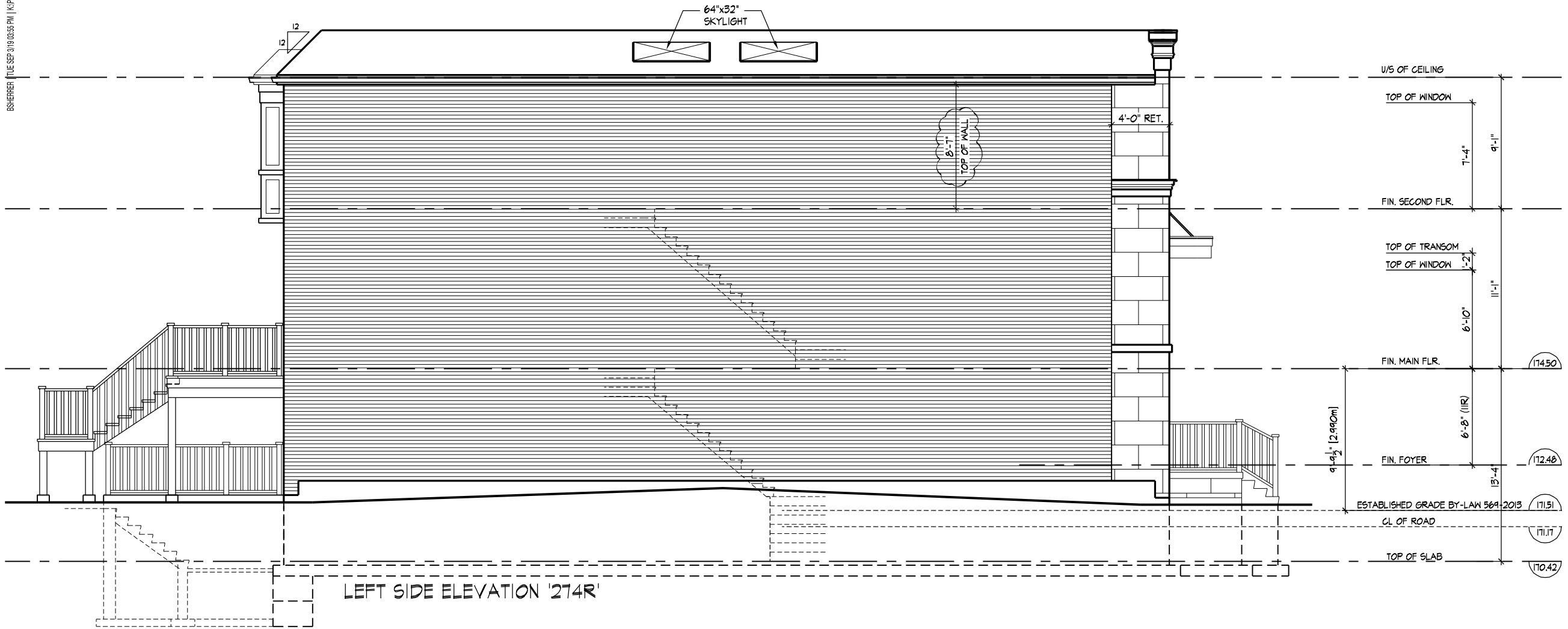
ROOF PLAN EL. '274R'

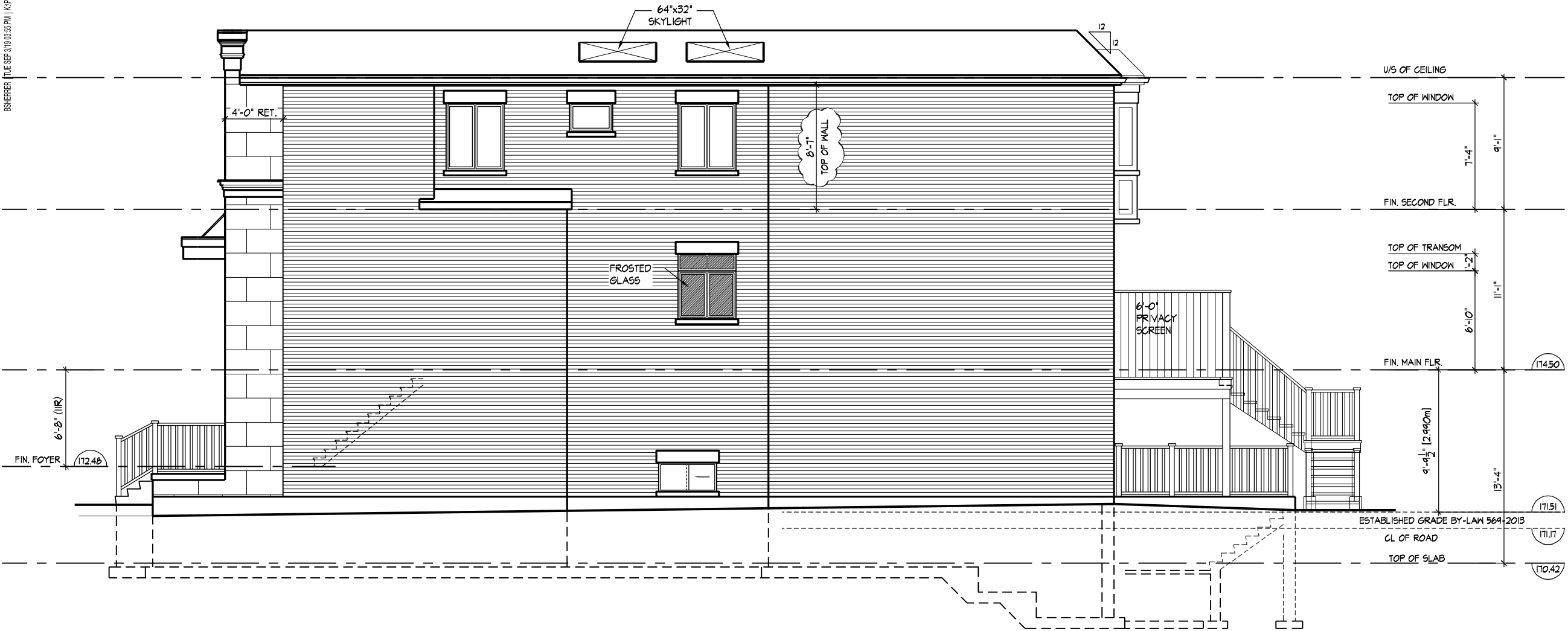






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AUG 31/17 - NK  
OCT 18/18 - PD  
REV. NOV. 22, 2018 MA





RIGHT SIDE ELEVATION '214R'

