

Toronto Local Appeal Body

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DECISION AND ORDER

Decision Issue Date Thursday, May 28, 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): GIULIA AHMADI

Applicant: MARK HALL

Property Address/Description: 514 JARVIS ST

Committee of Adjustment Case File: 18 272250 STE 13 MV (A1225/18TEY)

TLAB Case File Number: 19 157134 S45 13 TLAB

Hearing date: Wednesday, October 16, 2019

DECISION DELIVERED BY Ian James Lord

REGISTERED PARTIES AND PARTICIPANTS

Applicant Mark Hall

Appellant Giulia Ahmadi

Appellant's Legal Rep. Robert Wood

Party Emily Patricia Mathew

Party's Legal Rep. Amber Stewart

Expert Witness David McKay

INTRODUCTION

This matter involves proposed improvements to the subject property at 514 Jarvis Street on appeal to the Toronto Local Appeal Body (TLAB) by the owner of adjacent property, Ms. Ahmadi.

The TLAB issued an Interim Order and Decision on the appeal on October 22, 2019. That disposition contemplated conditions of approval which, if not advanced within a six (6) month period could result in a loss of the approvals provided.

The Applicant owner, by correspondence through counsel, Ms. Stewart, addressed the outstanding conditions in correspondence, with attachments, dated March 17, 2020. She requested issuance of a final order of the TLAB.

The response fell within the six (6) month period allotted; it also fell within the suspension period ordered by the Province of Ontario, City of Toronto and the TLAB respecting the cessation of Hearings and filings due to the COVID-19 crisis.

That suspension period has subsequently been extended to July 3, 2020, subject to a limited set of exceptions primarily engaging settlement, consent, written and limited 'virtual' Hearings.

This is the requested final disposition accepted as a written request.

BACKGROUND

The Interim Decision and Order granted the requested variances (**Attachment 1**) subject to Conditions involving amendments, revisions and additions to plans and elevations (which were not approved, **Attachment 2**).

The Conditions were set out in **Attachment 3**.

MATTERS IN ISSUE

Whether the Conditions as set out in **Attachment 3** to the Interim Decision and Order have been satisfactorily addressed.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Variance - S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

Certain of the Conditions specified in **Attachment 3** of the Interim Decision and Order were requested to be addressed by the Owner/Applicant. These stemmed, in large part, from the evidence particularly as articulated by the adjacent owner, Ms. Ahmadi.

Of particular note are the following; I address in **bold italics** the nature of the response:

"Attachment 3.

This decision is subject to the following condition(s):

- 1. The Site Plan and elevations in Attachment 2 shall be revised in a manner to accommodate the following terms and in all other respects shall remain unchanged:
 - a. The addition of a replacement south wall elevation plan, drawing A3.1 to affect the following:
 - i) The provision from existing grade of a floor to ceiling height of the addition between the main rear wall of the existing residence to be retained and the east wall of the carriage house to be retained, such height not to exceed 2.75m (nine (9) feet);
 - ii) The retention of permanent planter boxes and associated evergreen vegetation particulars on the garage roof and set back a distance of not less than 1.5 m (five (5) feet) from the south wall limit between the main rear wall of the existing residence to be retained and the east wall of the carriage house to be retained (all as also depicted on a revised Drawing A2.2).

- iii) Depicting for the retention or deletion of existing fencing (as may be agreed with the owner of 512 Jarvis Street) together with differentiation in brick coursing or other materials treatment below the roof deck or patio surface on the south wall, all as agreed to be compatible with the preservation of heritage attributes in discussion with HPS staff.
- iv) Depicting, above the roof terrace deck or patio surface on the south wall, a retaining wall or parapet not to exceed 1.2 m (four (4) feet) in height intermittently broken with openings for the passage of light and air along its length between the main rear wall of the existing residence to be retained and the east wall of the carriage house to be retained.
- b. The addition of a replacement north wall elevation plan, drawing A3.0, to affect the following:
- i) The provision from existing grade of a floor to ceiling height of the addition between the main rear wall of the existing residence to be retained and the east wall of the carriage house to be retained, such height not to exceed 2.75 m (nine (9) feet);
- ii) Depicting, above the roof deck or patio surface on the north wall, a retaining wall or parapet not to exceed 1.2 m in height intermittently broken with openings for the passage of light and air along its length between the main rear wall of the existing residence to be retained and the east wall of the carriage house to be retained.
- iii) Depicting differentiation in brick coursing or other materials treatment on the north wall, all as agreed to be compatible with the preservation of heritage attributes in discussion with HPS staff.
- c. The total height from grade to top of parapet of the garage and rooftop patio is not to exceed 4.25 m (fourteen (14) feet).
- d. The existing gate location on the right-of-way access to 512 Jarvis Street shall remain unchanged,

A Complete set of revised Plans were submitted with the March 17, 2020 correspondence addressing the above matters (Revised Plans). The Revised Plans are dated 2019/11/12 and while those supplied constitute a complete replacement set for those not approved and attached as 'Attachment 2' to the Interim Decision and Order, particular note is made of the revisions reflected in the Revised Plans: A1.0 (site Plan with

site statistics); A2.2 (Second Floor Plan); A3.0 (North Elevation); A3.1 (South Elevation and A3.2 (East and West Elevation), addressing the requested revisions, above.

2. Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details consistent herewith shall be submitted to the satisfaction of the Senior Manager of Heritage Preservation Services and a heritage permit shall be obtained under the provision of Section 33 of the Ontario Heritage Act....

The March 17, 2020 correspondence contains, as well, an e-mail exchange between representatives of the Owner/Applicant and the Staff of the City's Heritage Protection Services (HPS) Branch. By e-mail dated February 11, 2020, Staff of HPS indicated satisfaction ('no concerns') with those elements of the Revised Plans with possible heritage preservation implications. There is no discussion of the intention, necessity or status of an application for or an approval required for a heritage permit.

7. The improvements permitted by the Final Order and Decision issued herein shall be constructed substantially in accordance with the Revised Plans supplied and accepted by the TLAB under Condition 1 and shall be attached thereto. These plans shall form part of the Final Order and Decision. Any other variances that may appear as required on these plans and that are not listed in this decision are not authorized."

This and other Conditions of a final approval remain to be considered and are not addressed in any of the filings.

The correspondence from counsel dated March 17, 2020 also contains an e-mail exchange addressing an existing fence between the subject property and that of Ms. Ahmadi, to the south. Ms. Ahmadi, by response e-mail dated January 27, 2020, expressed the desire that her fence 'remain during construction', on the subject property.

Earlier, Ms. Stewart had asked whether it might be removed and provided an undertaking to replace the fence portion affected by construction, failing a response (January 20, 2020 e-mail). This exchange remains incomplete; however, the TLAB assumes that the fence will remain and in the event of injury or removals, the Applicant /Owner will replace and make right such injury or replacement, subject to access consent by Ms. Ahmadi or her representatives.

The correspondence of Ms. Stewart dated March 17, 2020 and all attachments are marked as Exhibit 1A to this matter.

ANALYSIS, FINDINGS, REASONS

I have examined the Revised Plans and find them to be responsive to the issues raised by the evidence and requested to be addressed.

The Revised Plans reflect height specifications for the garage and patio deck structure and planting setbacks, light, air and circulation objectives, colour and materials differentiation and efforts at design definition, albeit stucco and not brick as well as the consideration by HPS.

The existing gate location is to be maintained.

It is appropriate that the Interim Decision be affirmed with the necessary changes to recognize acceptance of the revisions.

DECISION AND ORDER

The Interim Decision and Order is confirmed and the approval of variances in **Attachment 1** thereto (*APPENDIX A* hereto) is final, subject to the following:

- The Plans in Attachment 2 to the Interim Decision and Order are replaced by the Revised Plans (APPENDIX B hereto). The Revised Plans are approved. All improvements to the subject property shall be constructed substantially in accordance with the Revised Plans.
- 2. Any other variances that may appear as required on the **Revised Plans** and that are not listed in this decision are not authorized; similarly, any notations on the plans purporting to show property boundary or ownership interest rights are not addressed by this final decision and order.
- 3. Prior to the issuance of a building permit, building permit drawings, including plans, elevations and details consistent with the **Revised Plans** shall be submitted to the satisfaction of the Senior Manager of Heritage Preservation Services and a heritage permit shall be obtained under the provision of Section 33 of the *Ontario Heritage Act*, if required.
- 4. Prior to the issuance of a building permit, the Applicant/Owner shall submit a complete application for permit to injure or remove any private or City owned tree(s) under Municipal Code Chapter 813, Trees Article II, Trees on City Streets, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.
- 5. The roof terrace, deck or patio above the garage SHOWN IN THE **Revised Plans** shall be constructed and maintained with landscaping features (i.e. planters and conifer plantings) that are effective at retaining storm water and improve infiltration, to the satisfaction of the Director, Community Planning, Toronto and East York District.
- 6. The Owner shall submit a driveway surfacing plan of permeable pavers including works necessary to access the public thoroughfare on Gloucester Street for review and acceptance satisfactory to the Director or designate, Traffic Division.

7. Prior to the issuance of a building permit, the Owner shall submit a site servicing plan for review and acceptance to the Chief Engineer and Executive Director, Engineering & Construction Services, to show the existing and planned water, storm and sanitary services (all of which must be clearly labelled).

X Cancomes Land

I. Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord

APPENDIX A

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

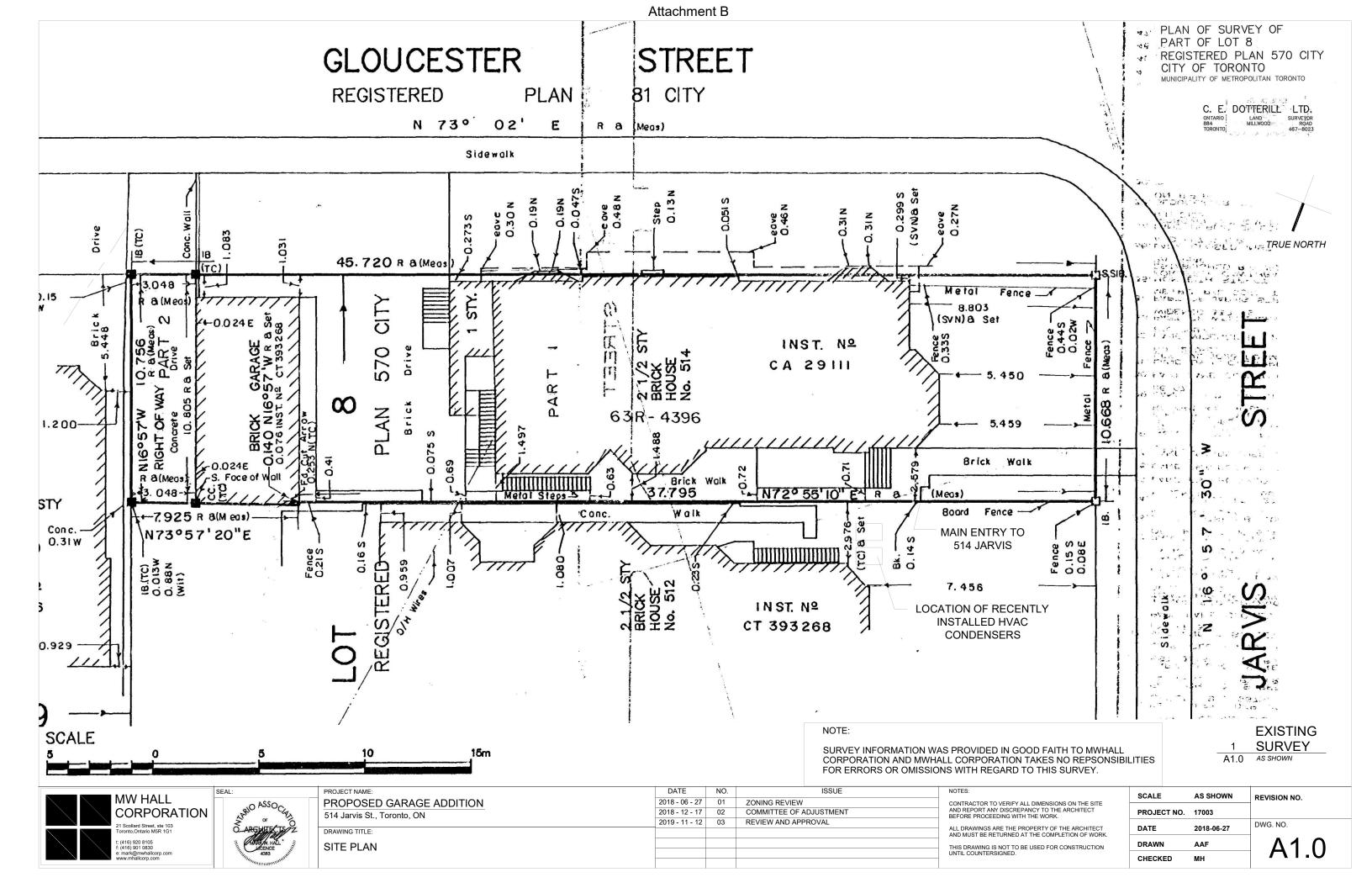
1. Chapter 10.10.40.30.(1)(A), By-law 569-2013

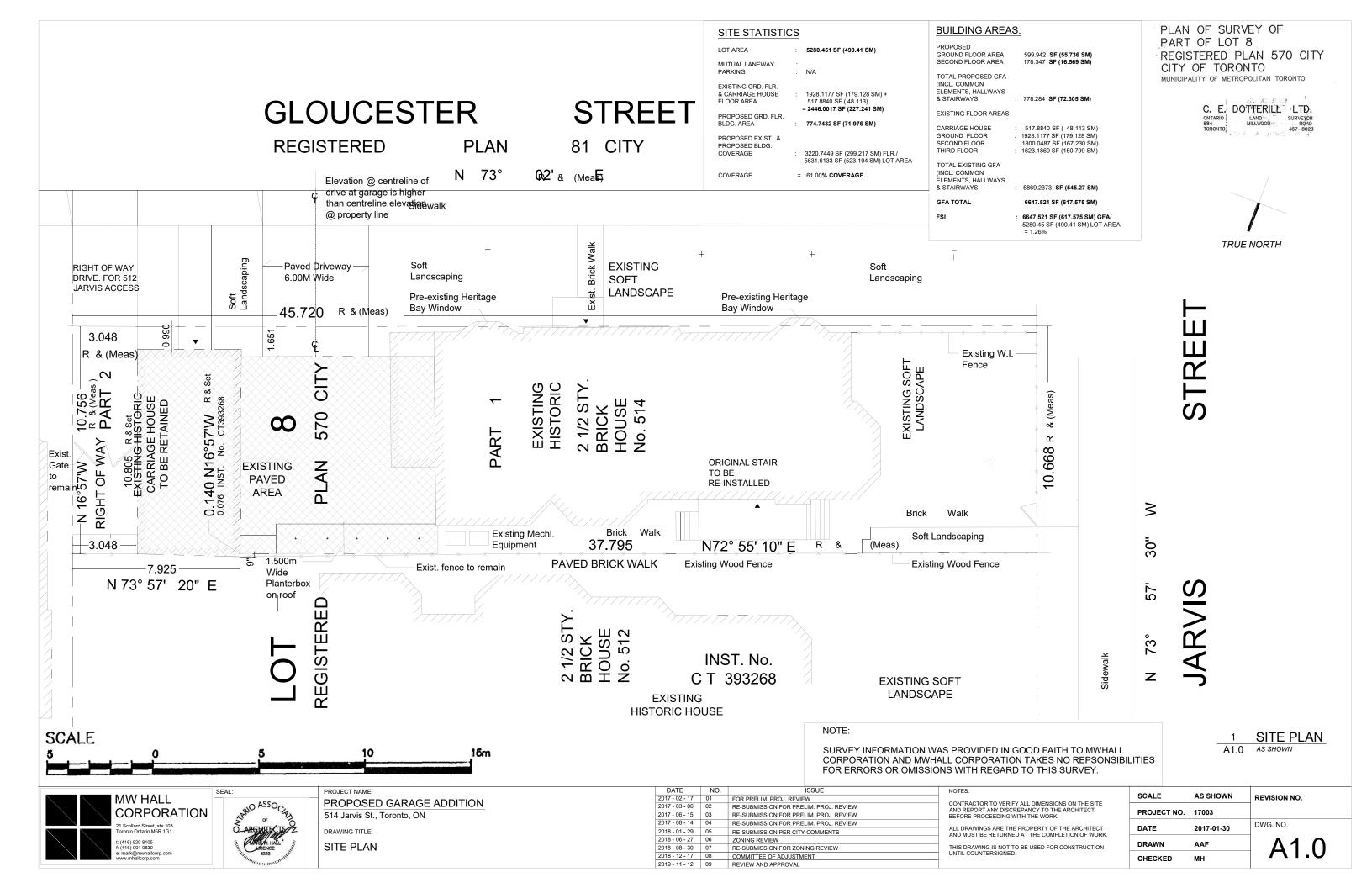
The maximum permitted building depth for a detached house is 17.0 m. The altered 2½-storey detached dwelling will have a building depth of 34.8 m, measured from the front bay window of the dwelling to the west side wall of the historic carriage house.

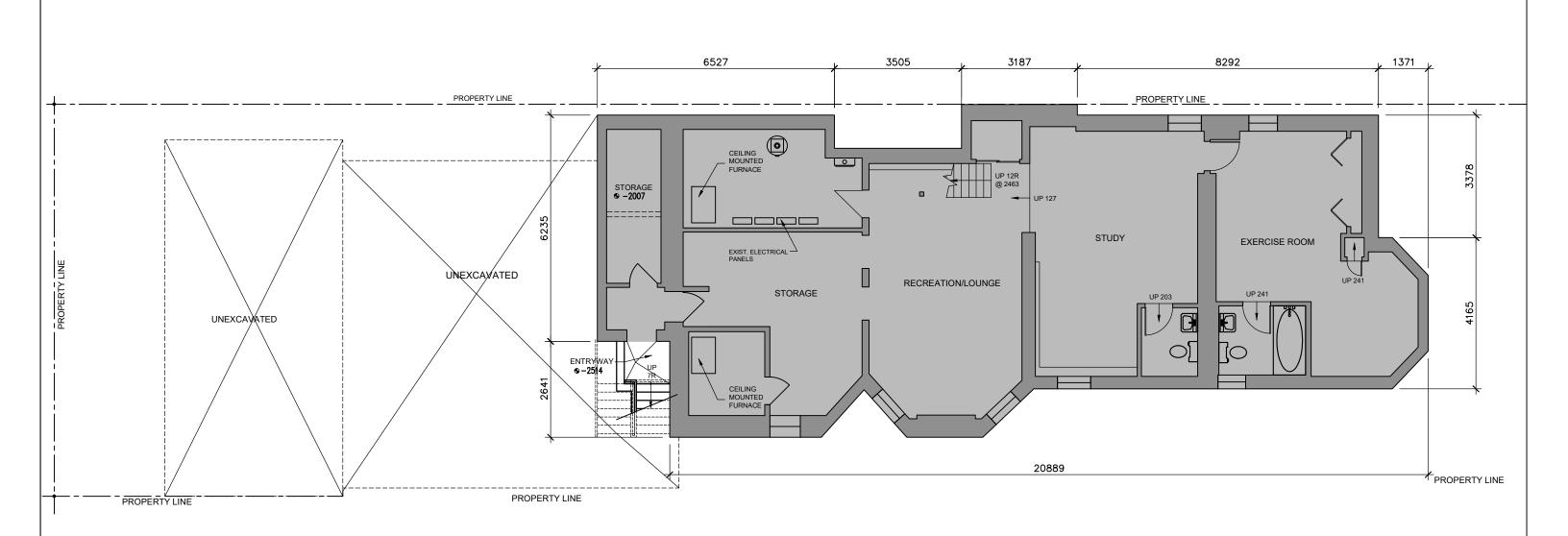
- 2. Chapter 10.10.40.70.(1), By-law 569-2013 The maximum permitted front yard setback is 7.46 m. The altered 2½-storey detached dwelling will be located 5.45 m from the front lot line.
- 3. Chapter 10.10.40.70.(2), By-law 569-2013 The minimum required rear yard setback is 7.5 m. The altered one-storey carriage house will be located 3.05 m from the rear lot line.
- 4. Chapter 10.10.40.70.(3)(A)(i), By-law 569-2013 The minimum required side yard setback for a detached house is 0.9 m. The new rear one-storey garage and altered one-storey carriage house will be located 0.0 m from the south side lot line.
- 5. Chapter 10.5.40.60.(3)(A)(i), By-law 569-2013 Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no longer than 1.5

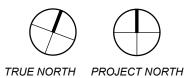
horizontal units for each 1.0 m vertical units above grade at the point where the stairs meet the building or structure. The stairs on the south side of the dwelling will be 1.6 horizontal units for each 1.0 vertical unit above grade at the point where the stairs meet the building.

- 6. Chapter 10.5.50.10.(3)(A), By-law 569-2013 A minimum of 50% of the rear yard must be maintained as soft landscaping (16.56 m2). In this case, 0% (0.0 m2) of the rear yard will be maintained as soft landscaping.
- 7. Chapter 10.5.40.50.(3), By-law 569-2013 The level of the floor of a platform, such as a deck or balcony, located at or above the second storey of a residential building other than an apartment building, may be no higher than 0.2 m above the level of the floor of the storey which it gains access. The altered 2½-storey detached dwelling will have a patio space on the roof of the new one-storey garage that will be 0.38 m higher than the level of the floor of the storey from which it gains access.
- 8. 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 (490.41 m2). The altered 2½-storey detached dwelling will have a floor space index of 1.254 times the area of the lot (611.57 m2). (NOTE: altered by Interim Decision and Order, paragraph 1)















PROJECT NAME:

PROPOSED GARAGE ADDITION

514 Jarvis St., Toronto, ON

DRAWING TITLE:

PROPOSED & EXISITNG BASEMENT FLOOR PLAN

2017 - 02 - 17	01	FOR PRELIM. PROJ. REVIEW
2017 - 03 - 06	02	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW
2017 - 06 - 15	03	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW
2017 - 08 - 14	04	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW
2017 - 08 - 28	05	RE-SUBMISSION PER CITY COMMENTS
2018 - 01 - 29	06	RE-SUBMISSION PER CITY COMMENTS
2018 - 06 - 27	07	ZONING REVIEW
2018 - 08 - 30	08	RE-SUBMISSION FOR ZONING REVIEW
2018 - 11 - 06	09	RE-SUBMISSION FOR ZONING REVIEW
2018 - 12 - 17	10	COMMITTEE OF ADJUSTMENT
2010 - 11 - 12	11	REVIEW AND COMMENT

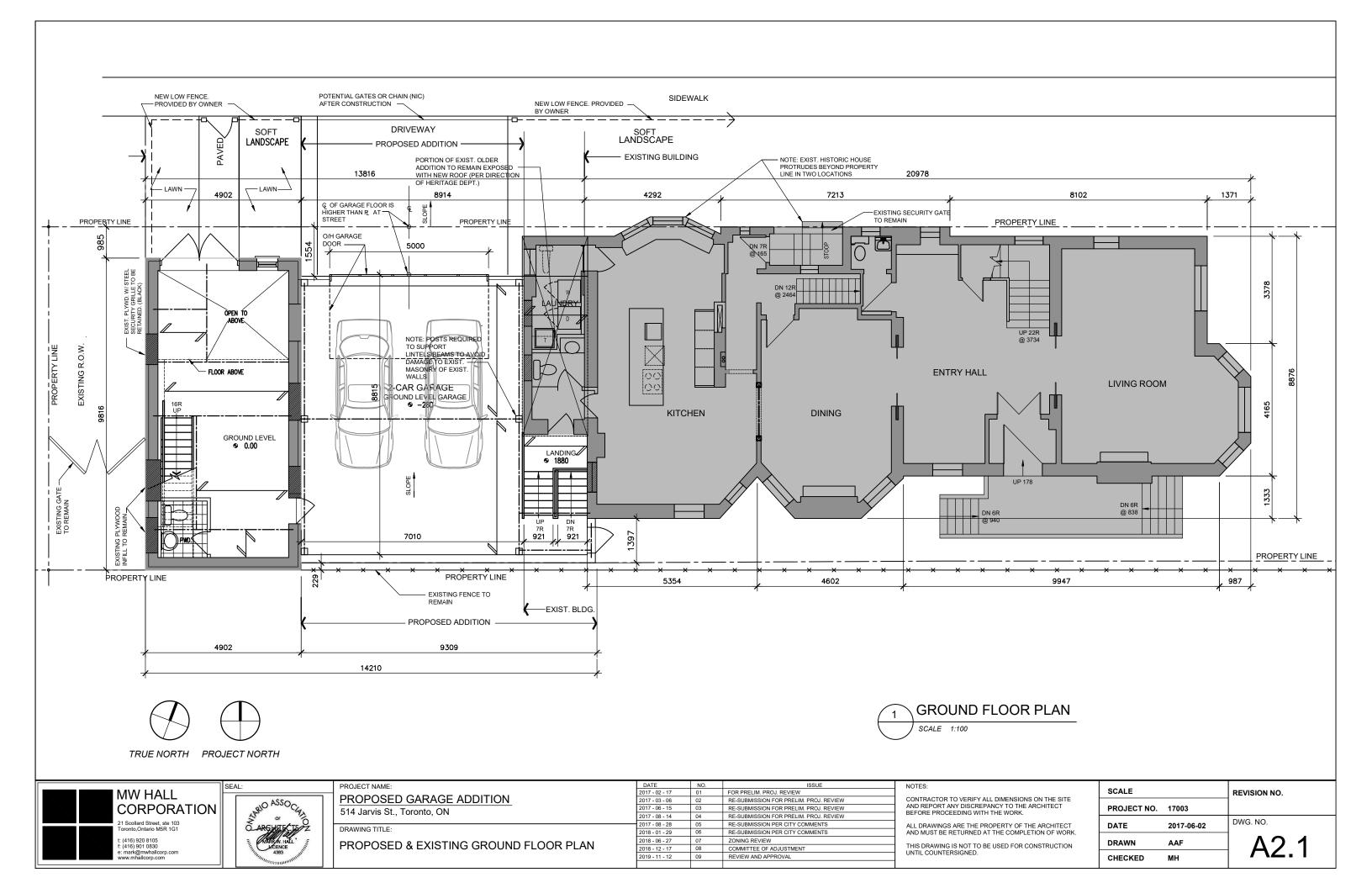
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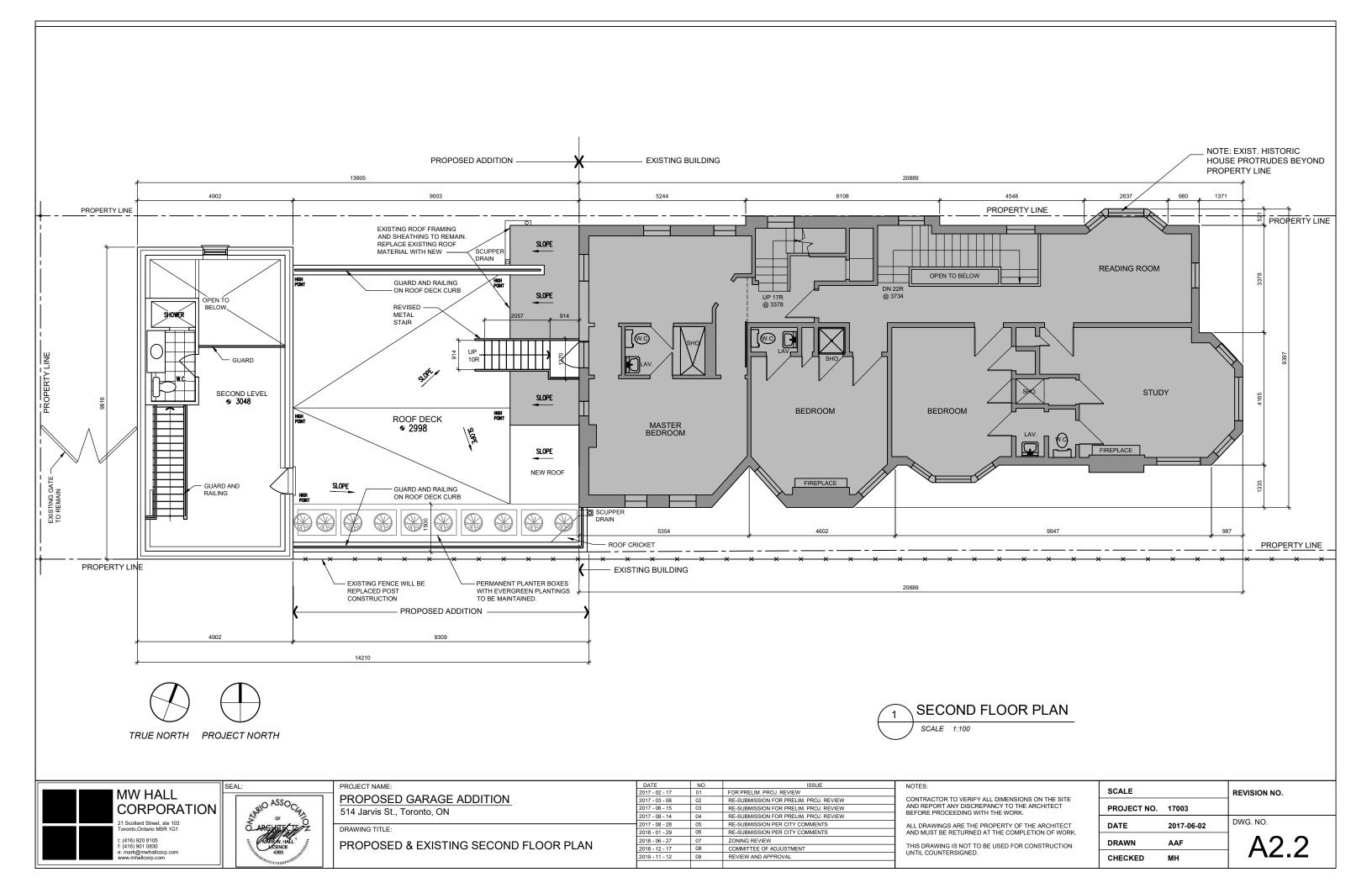
CONTRACTOR TO VERIFY ALL DIMENSIONS ON THE SITE AND REPORT ANY DISCREPANCY TO THE ARCHITECT BEFORE PROCEEDING WITH THE WORK.

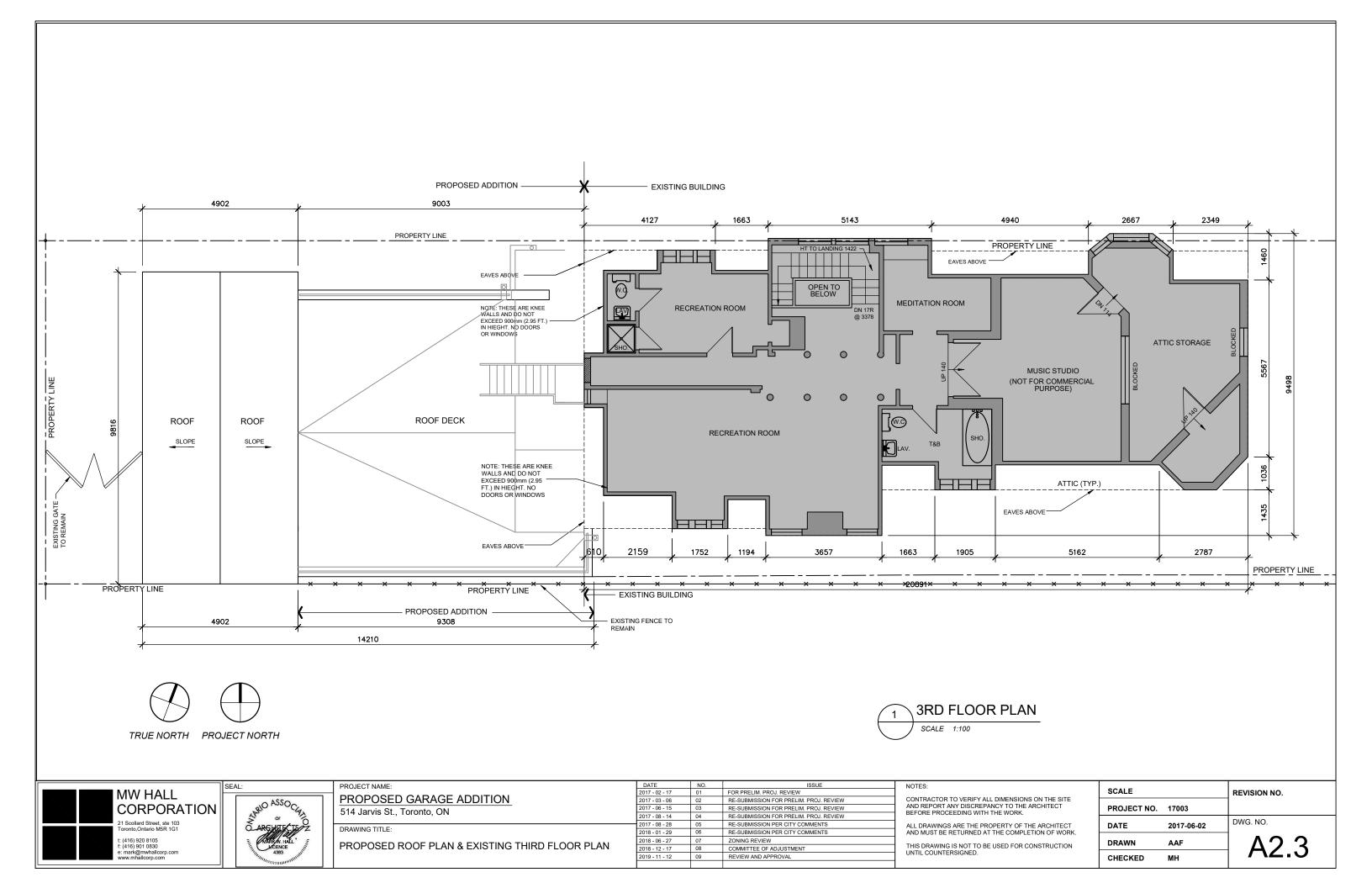
ALL DRAWINGS ARE THE PROPERTY OF THE ARCHITECT AND MUST BE RETURNED AT THE COMPLETION OF WORK.

THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION UNTIL COUNTERSIGNED.

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DATE	2017-06-02	DWG. NO.
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PROJECT NAME:

PROPOSED GARAGE ADDITION 514 Jarvis St., Toronto, ON

DRAWING TITLE:

PROPOSED NORTH ELEVATION

DATE	NO.	ISSUE	
2017 - 02 - 17	01	FOR PRELIM. PROJ. REVIEW	
2017 - 03 - 06	02	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW	
2017 - 06 - 15	03	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW	
2017 - 08 - 14	04	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW	
2017 - 08 - 28	05	RE-SUBMISSION PER CITY COMMENTS	
2018 - 01 - 29	06	RE-SUBMISSION PER CITY COMMENTS	
2018 - 06 - 27	07	ZONING REVIEW	
2018 - 12 - 17	08	COMMITTEE OF ADJUSTMENT	
2019 - 11 - 12	09	REVIEW AND APPROVAL	

NOTES:

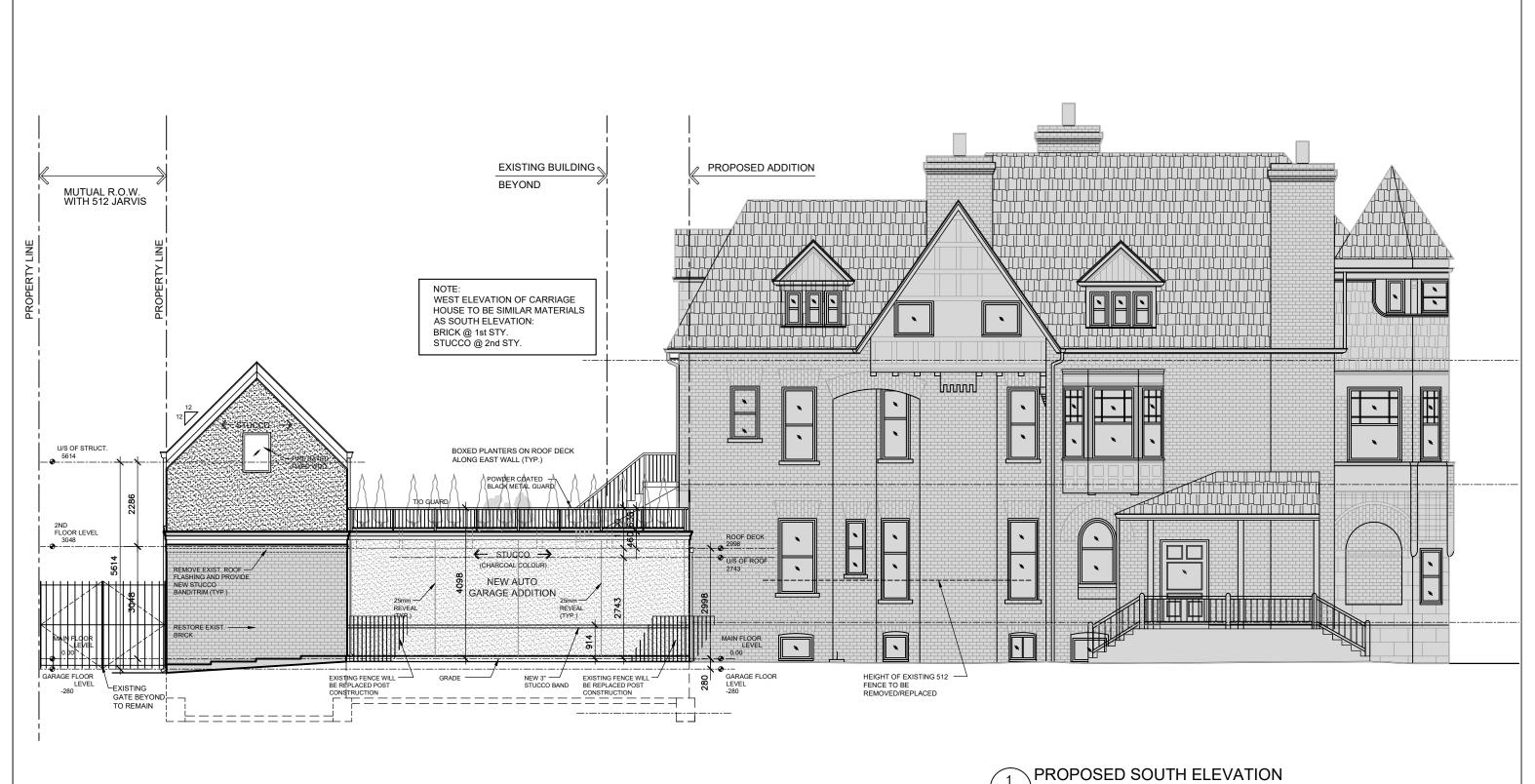
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PROPOSED GARAGE ADDITION

514 Jarvis St., Toronto, ON

DRAWING TITLE:

PROPOSED NORTH ELEVATION

DATE	NO.	ISSUE	
2017 - 02 - 17	01	FOR PRELIM. PROJ. REVIEW	
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2017 - 06 - 15	03	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW	
2017 - 08 - 14	04	RE-SUBMISSION FOR PRELIM. PROJ. REVIEW	
2017 - 08 - 28	05	RE-SUBMISSION PER CITY COMMENTS	
2018 - 01 - 29	06	RE-SUBMISSION PER CITY COMMENTS	
2018 - 06 - 27	07	ZONING REVIEW	
2018 - 12 - 17	08	COMMITTEE OF ADJUSTMENT	
2019 - 11 - 12	09	REVIEW AND APPROVAL	

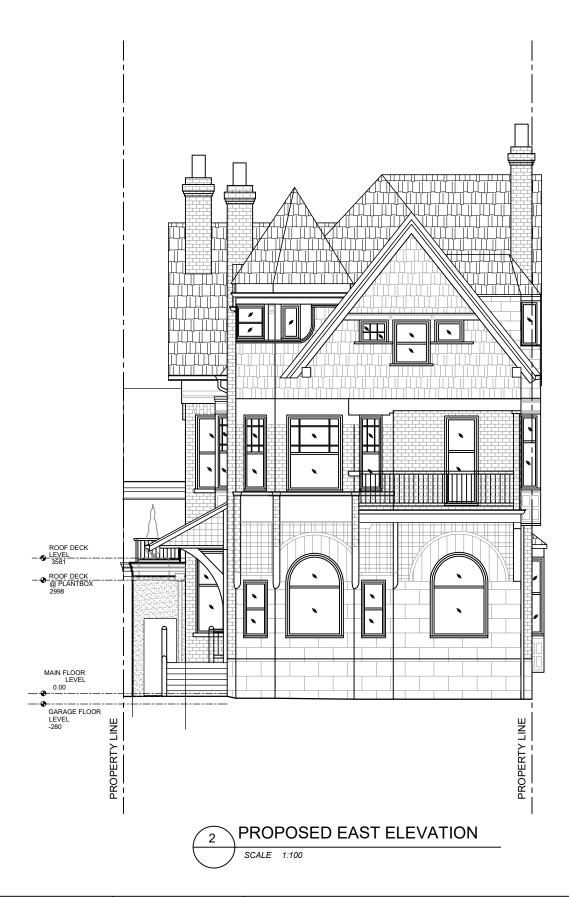
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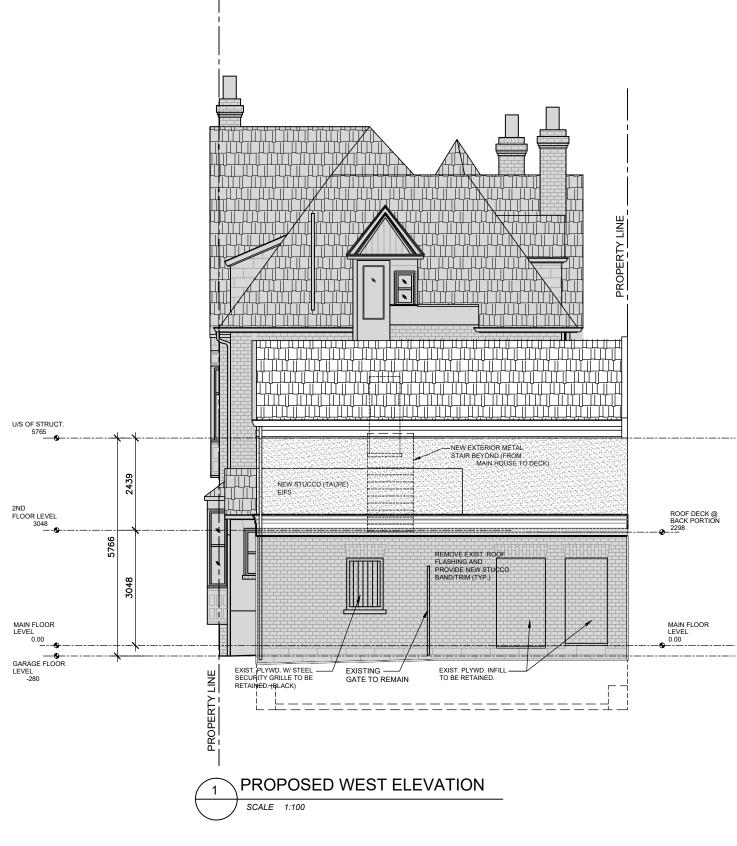
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PROJECT NAME:

PROPOSED GARAGE ADDITION

DRAWING TITLE:

PROPOSED NORTH ELEVATION

514 Jarvis St., Toronto, ON

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2019 - 11 - 12	04	REVIEW AND APPROVAL	
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