

# DECISION AND ORDER

**Decision Issue Date**      Thursday, June 18, 2020

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

Appellant(s): Antonietta Lanni

Applicant: Alex Boros

Property Address/Description: 29 Elford Blvd

Committee of Adjustment Case File: 19 162664 WET 03 CO (B0031/19EYK), 19 162679 WET 03 MV (A0308/19EYK), 19 162680 WET 03 MV (A0309/19EYK)

**TLAB Case File Number: 19 225521 S53 03 TLAB, 19 223410 S45 03 TLAB, 19 223413 S45 03 TLAB**

**Hearing date:**      Tuesday, January 28, 2020

**DECISION DELIVERED BY S. Talukder**

## REGISTERED PARTIES AND PARTICIPANTS

Applicant	Alex Boros
Owner	Gabriela Ponziani
Primary Owner	Christopher Ponziani
Appellant	Antonietta Lanni
Appellant's Legal Rep.	Simon Van Duffelen
Expert Witness	Franco Romano

## **INTRODUCTION**

1. The Applicant appeals the decision of the Committee of Adjustment (CoA) with respect to the property located at 29 Elford Boulevard (Subject Property). The Applicant applied for a consent to sever the Subject Property into two residential lots and for approval of variances for a detached dwelling on each of the severed lots. The CoA refused these applications.
2. There are no other parties to this appeal.

## **MATTERS IN ISSUE**

3. For the hearing before the Toronto Local Appeal Body (TLAB), the Applicant filed amended plans and a list of variances. The list of variances for the two lots (Part 1 and 2) are included in this decision as Attachment 1. The variances are similar for both dwellings and are with respect to lot frontage, lot area, floor space index (FSI), side yard setback between the two new dwellings, side exterior main wall height and soffit height.
4. The Applicant's revised plans are included in this decision as Attachment 2.
5. The Applicant also filed a list of conditions for approval for the consent and variance applications (Attachment 2). The list of standard consent conditions is included in this list.
6. At issue is whether the consent to sever should be approved along with the approval of the requested variances.

## **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.

### **Consent – S. 53**

8. TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

**Minor Variance – S. 45(1)**

9. 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**

10. The Applicant called Mr. Franco Romano, a professional land use planner as their witness. Mr. Romano was qualified to provide expert opinion evidence in land use planning. He was the only witness at the hearing.
11. Mr. Romano explained that upon review of the plans that were before the CoA, he noted some issues and undertook to perfect the plans. As a result, new zoning notices were issued by the City and the amended variances now before the TLAB are based on these notices. Based on his review of the proposal, he opined that the proposal satisfies the four tests for variance and the criteria for consent.
12. Mr. Romano explained that the proposal for the Subject Property will divide the property into two lots, each with lot frontage of 8.44 m, lot depth of 45.09 m and lot areas of 380.7m<sup>2</sup> and 380.81m<sup>2</sup>. The proposed buildings on these two severed lots required the same variances except with respect to the variance for lot area.
13. Mr. Romano testified that the Subject Property is located immediately east of Islington Avenue and north of the Queensway. He considered the geographic area as contemplated by the OP to be bounded by Islington Avenue in the west, Norseman Street in the north, Chartwell Road to the east and the utility corridor in the south. Elford Boulevard itself terminates into Chartwell Road. This geographic area has residential and community center and school uses. Mr. Romano noted that both Norseman Street and Chartwell Road function as collector streets and beyond these streets, the neighbourhood has different lotting pattern and less connectivity with Elford Blvd. This study area does not include the properties on Islington Avenue itself.
14. Mr. Romano noted that the neighbourhood as defined above has different lot sizes and configurations. For example, Velma Drive has properties with wide shallow lots with wide buildings that are not deep. As a result of the variations in the lots, the buildings have a variety of built form and architectural styles. Common features include driveways leading to parking and attached or integral garages with one or two garages in width. Buildings have pitched, sloped or flat roofs or combination of these features. Some houses also have dormers. The scale and density of the neighbourhood is low, where bungalows have lower FSI and two storey buildings have higher FSI. This neighbourhood has been undergoing regeneration that has resulted in larger houses with higher FSI.
15. Mr. Romano noted that this neighbourhood is not homogeneous with no prevailing lot size. The lot size dictates the width of the building. With respect to OP 4.1.5, he

noted that lot frontage ranges from 8.28 m to 22.61 m with no single lot size can be considered as prevailing. The proposed lot size of 8.44 m falls within the range of lots and will respect and reinforce the neighbourhood's physical character. The proposed lots are rectangular and therefore conforms with the lot shape in the neighbourhood.

16. Mr. Romano noted that the side yard setback variances are with respect to the new proposed lot line. The proposal maintained a modest side yard setback, provided adequate separation and is consistent with what is seen in the neighbourhood. With respect to the main wall height, Mr. Romano noted that building has a lower height at the front, side and the back at the soffit that resulted in lower massing and maintained a low-rise structure of 7.57 m. He noted that much of the roof beyond the front is sloped with the top of the roof at a height of 9.3 m.
17. With respect to FSI, he noted that each proposed building is compliant with the width and length requirements and has a modest sized floor area. He noted that there is a difference in FSI between adjacent properties in the neighborhood with over 11% of the houses in the neighbourhood having an FSI greater than 0.45. Each dwelling will still maintain a compatible low-rise dwelling with the requested FSI. These variances will not result in any unacceptable impact and these changes are reflective of the physical context of the Subject Property. The variances sought are similar to the ones already seen in the neighbourhood.
18. Mr. Romano testified that the Applicant retained Al Miley & Associates for an arborist report. As per this report, the proposal requires the removal of four privately owned trees out of eight trees. The linden tree, which is a publicly owned tree at the front of the house, will be protected during the construction. Mr. Romano noted that the four trees to be removed are in the building envelope of a building that can be built as-of-right on the unsevered lot. The remaining trees in the property are not affected by the proposal. As such, Mr. Romano opined that the OP 3.1.2.1 (d) policy with respect to preserving mature trees is satisfied.
19. Mr. Romano testified that in his opinion, the proposal satisfied the consent criteria set out in the Act. He noted that the proposal is not premature as there are already services available in the neighbourhood, the proposal satisfies the provincial interests and the OP and the Subject Property is suitable for the proposed development as the development is for residential properties.

## **ANALYSIS, FINDINGS, REASONS**

20. I have reviewed the revisions to the site plans and the variances. I am satisfied that such amendments are minor in nature and do not require further notice, as per s. 45(18.1.1) of the Act.
21. After reviewing Mr. Romano's witness statement and hearing his evidence, I am satisfied that the proposal for consent to sever and build two dwellings satisfy the

consent criteria and the four tests for variance approval. The proposal envisions two modestly sized dwellings that will be compatible and fit within the neighbourhood.

22. This approval relies on the arborist report that states that the publicly owned tree at the front of the property will only require a permit to injure and not require any permits for removal. The Urban Forestry has authority to deny an application for removal of this tree or any privately owned tree, notwithstanding TLAB's approval, if Urban Forestry's requirements are not met.

23. I am not convinced of Mr. Romano's opinion that the as-of-right building envelope of a building that can be built on the unsevered Subject Property is relevant as to what trees can be removed from severed lots. This is because the proposal requires a severance, and as such, the building envelope of an as-of-right building on an unsevered lot cannot be automatically transported into the severed lots to justify the removal of trees. However, I am satisfied that the proposal mitigates the impact of tree removal and ensures that the dwellings on the severed lots have a modest footprint and that other trees on the property are preserved.

## **DECISION AND ORDER**

24. The appeal is granted. The applications for consent to sever and the variances listed in Attachment 1 are approved, subject to the conditions in Attachment 2.

X 

---

S. Talukder

Panel Chair, Toronto Local Appeal Body

Signed by: Shaheynoor Talukder

**29 Elford Blvd. – Part 1 (East Lot)**

1. Section 10.20.30.20.(1)(A), By-law 569-2013  
The minimum required lot frontage is 13.5 m.  
The lot frontage will be 8.44 m.
2. Section 10.20.30.10.(1)(A), By-law 569-2013  
The minimum required lot area is 510 m<sup>2</sup>.  
The lot area will be 380.76m<sup>2</sup>.
3. Section 10.20.40.40.(1)(A), By-law 569-2013  
The maximum permitted floor space index is 0.45 times the lot area (170 m<sup>2</sup>).  
The proposed dwelling will have a floor space index of 0.57 times the lot area (217m<sup>2</sup>).
4. Section 10.20.40.70.(3)(C), By-law 569-2013  
The minimum required side yard setback is 1.2 m.  
The proposed dwelling will be located 0.9 m from the west side lot line.
5. Section 10.20.40.10.(2)(A)(i), By-law 569-2013  
The maximum permitted height of all side exterior main walls is 7 m.  
The proposed dwelling will have side exterior main wall heights of 7.57m.
6. Section 320-42.1(B)(2)  
The maximum permitted soffit height is 6.5 m.  
The proposed dwelling will have a soffit height of 7.57m.

**29 Elford Blvd. – Part 2 (West Lot)**

1. Section 10.20.30.20.(1)(A), By-law 569-2013  
The minimum required lot frontage is 13.5 m.  
The lot frontage will be 8.44 m.
2. Section 10.20.30.10.(1)(A), By-law 569-2013  
The minimum required lot area is 510 m<sup>2</sup>.  
The lot area will be 380.81m<sup>2</sup>.
3. Section 10.20.40.40.(1)(A), By-law 569-2013  
The maximum permitted floor space index is 0.45 times the lot area (171.36m<sup>2</sup>).  
The proposed dwelling will have a floor space index of 0.57 times the lot area (217m<sup>2</sup>).
4. Section 10.20.40.70.(3)(C), By-law 569-2013  
The minimum required side yard setback is 1.2 m.  
The proposed dwelling will be located 0.9 m from the east side lot line.
5. Section 10.20.40.20.(2)(A)(i), By-law 569-2013  
The maximum permitted height of all side exterior main walls is 7 m.  
The proposed dwelling will have side exterior main wall heights of 7.57m.
6. Section 320-42.1(B)(2)  
The maximum permitted soffit height is 6.5 m.  
The proposed dwelling will have a soffit height of 7.57m.



**EXHIBIT #**

Case File Number: 19 225521 S53 03 TLAB  
Property Address: 29 Elford Blvd  
Date Marked: January 28, 2020

**29 ELFORD BOULEVARD – 19 225521 S53 03 TLAB  
CONDITIONS****Conditions of Consent Approval**

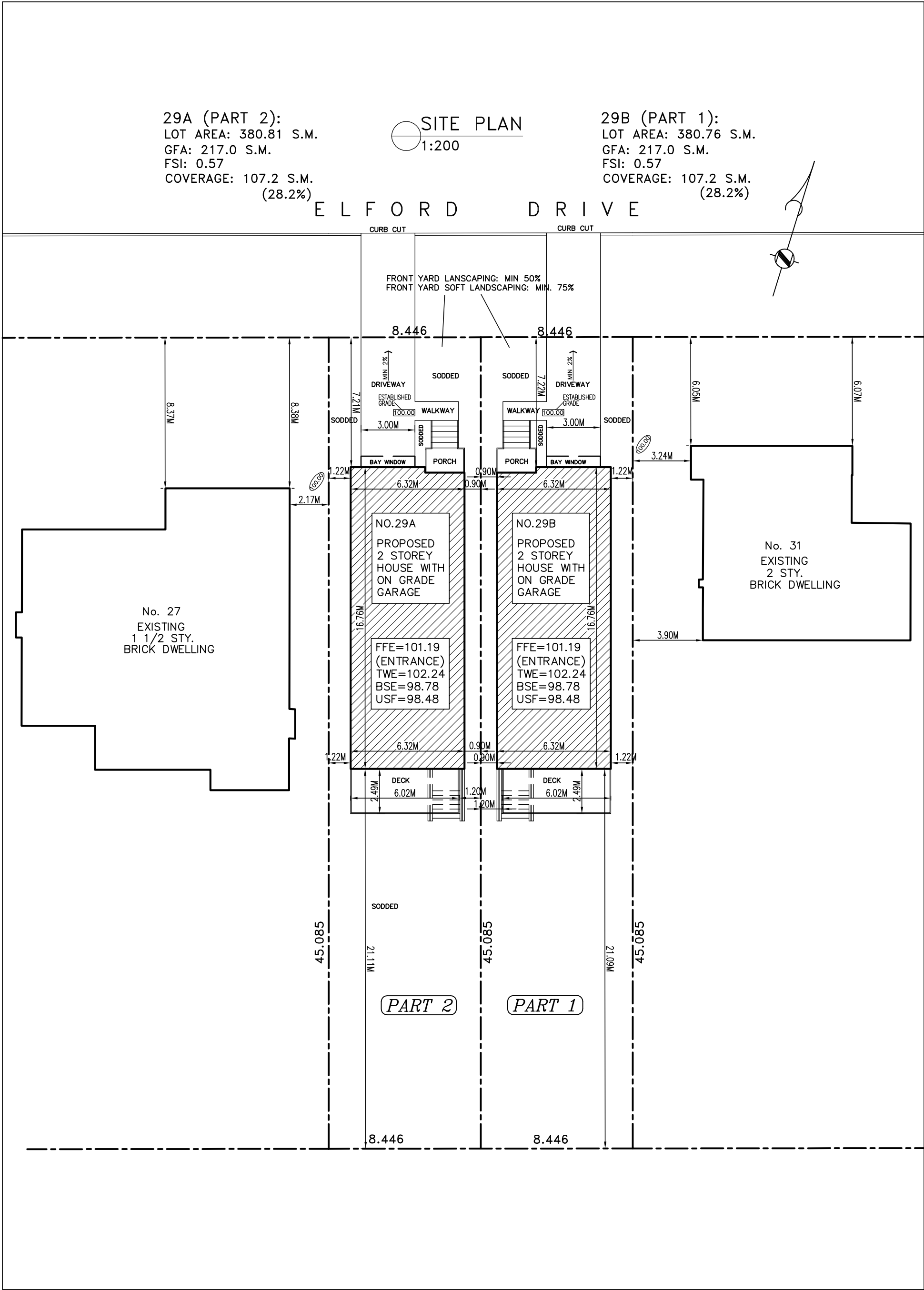
1. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
2. Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
3. Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.
4. Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
5. Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
6. Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
7. Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

**Conditions of Minor Variance Approval**

1. The proposed dwellings shall be constructed substantially in accordance with the Site Plan (drawing no. A1), Front Elevation (drawing no. A6) Rear Elevation (drawing A7), Side Elevations (drawings A8 and A9), prepared by Alex Boros Planning and Design Associated dated December 3, 2019 attached hereto.
2. The owner shall be required to submit 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.
3. The owner shall be required to submit a complete application for a permit to injure or remove a privately owned tree, as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection
4. The owner shall address the following requirements to the satisfaction of the Engineering and Construction Services Department:

**29 ELFORD BOULEVARD – 19 225521 S53 03 TLAB  
CONDITIONS**

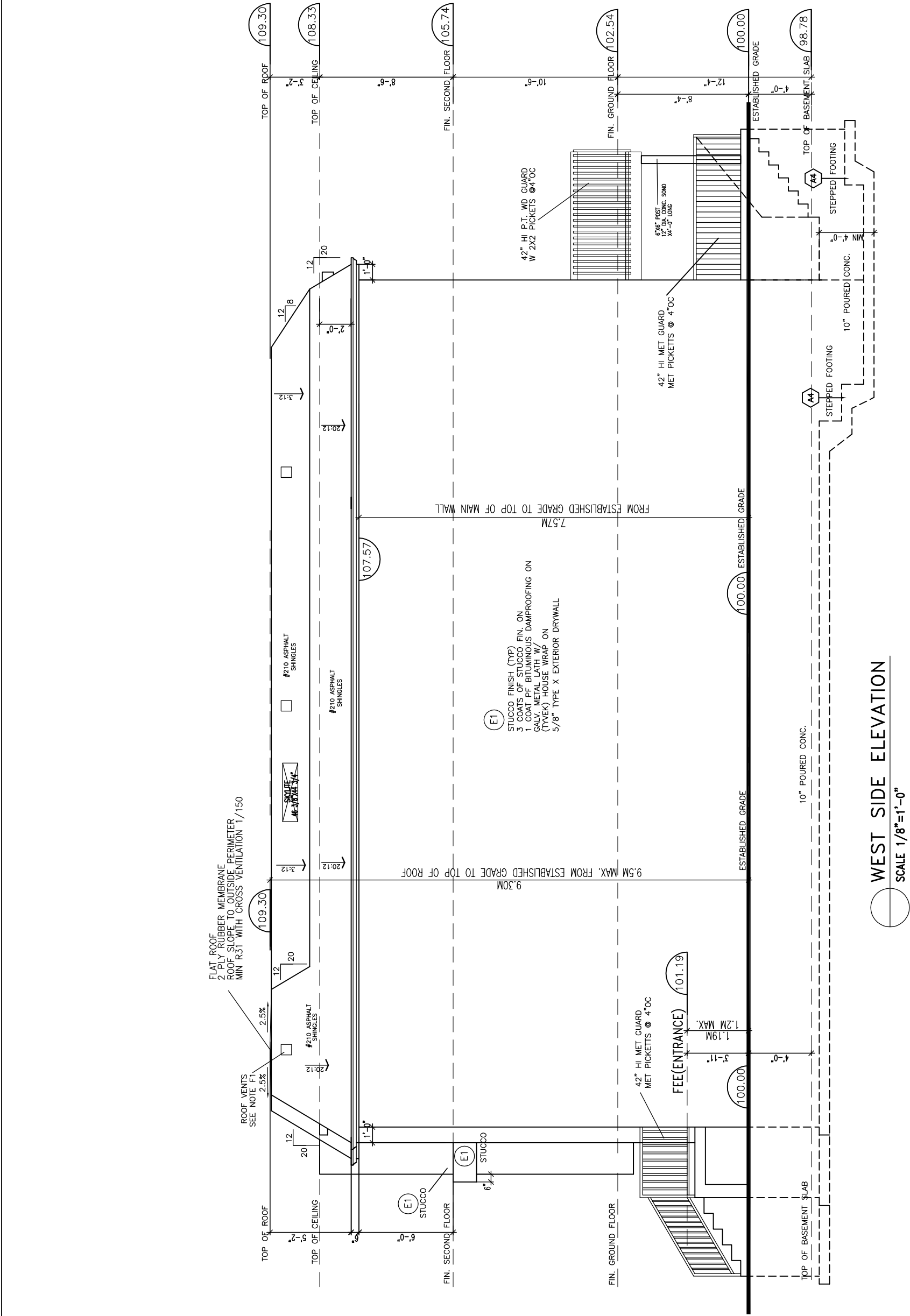
- a. The applicant shall submit revised site plan with the following revisions and notations to the satisfaction of the Engineering and Construction Services and Transportation Services, at no cost to the City;
  - i. Illustrate the existing and proposed grades along the boundary limit and within the proposed site;
  - ii. Revise site plan to illustrate a positive slope of minimum 2% to 4% that will be maintained on each of the proposed driveways, as measured between the proposed garage door entrance to the curb line of Elford Boulevard;
  - iii. Show the footprint of the existing house and driveway. Label any portion of driveway to be removed within the right-of-way as to be restored with sod;
  - iv. Add the following notations to the Site Plan:
    1. All portions of the existing residential driveway within the Elford Boulevard municipal boulevard shall be removed and restored with sod to the satisfaction of Transportation Services at no cost to the municipality;
    2. All proposed driveways shall comply with all applicable City of Toronto Design Standards and requirements and must be constructed at no cost to the municipality;
    3. The applicant shall also submit a Municipal Road Damage Deposit (MRDD) prior to obtaining a Building Permit. The applicant is advised to contact Ms. Joanne Vecchiarelli of our Right-of-Way Management Section at 416-338-1045 regarding municipal road damage deposit requirements; and
    4. The applicant shall obtain the necessary authorizations and permits from the City's Right-of-Way Management Section of the Transportation Services before excavating within or encroaching into the municipal road allowance.











WEST SIDE ELEVATION

SCALE 1/8"=1'-0"

ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH ALL BY-LAWS AND CODES HAVING JURISDICTION OVER THIS SITE LOCATION. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO THE DESIGNER BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK. THIS DRAWINGS MUST NOT BE SCALED. THE DESIGN AND CONTRACT DOCUMENTS ARE THE COPYRIGHT PROPERTY OF THE DESIGNER AND MAY NOT BE REPRODUCED, ALTERED, OR REUSED WITHOUT THE DESIGNER'S WRITTEN AUTHORITY.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

NO.	REVISIONS	DATE

DRAWING STATUS	
STATUS APPROVAL	DATE

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

Required unless design is exempt under 2.17.5.1. of the building code

<b>Alex Boros</b>	<i>A. Boros</i>	<b>24385</b>
NAME	SIGNATURE	BCIN/DCCN

REGISTRATION INFORMATION

Required unless design is exempt under 2.17.4.1. of the building code

<b>Alexander Boros Planning and Design Associates</b>	<b>32413</b>
FIRM NAME	BCIN/DCCN

ALEXANDER BOROS  
PLANNING AND DESIGN  
ASSOCIATES  
BCIN: 24385

71 Howden Road  
Toronto, Ontario, M1R 3C7  
ph. (416)440-0505  
Fax: (888)789-0963  
email: alexboros@rogers.com

DRAWING TITLE:  
*PROPOSED HOUSE AT  
29B ELFORD BLVD (PART 1)  
TORONTO, ONTARIO*

SCALE: N.T.S

DRAWN: <b>J.A.</b>	DRAWING NO
CHECKED: <b>A.B.</b>	<i>A9</i>
DATE: <b>DEC 03/2019</b>	OF

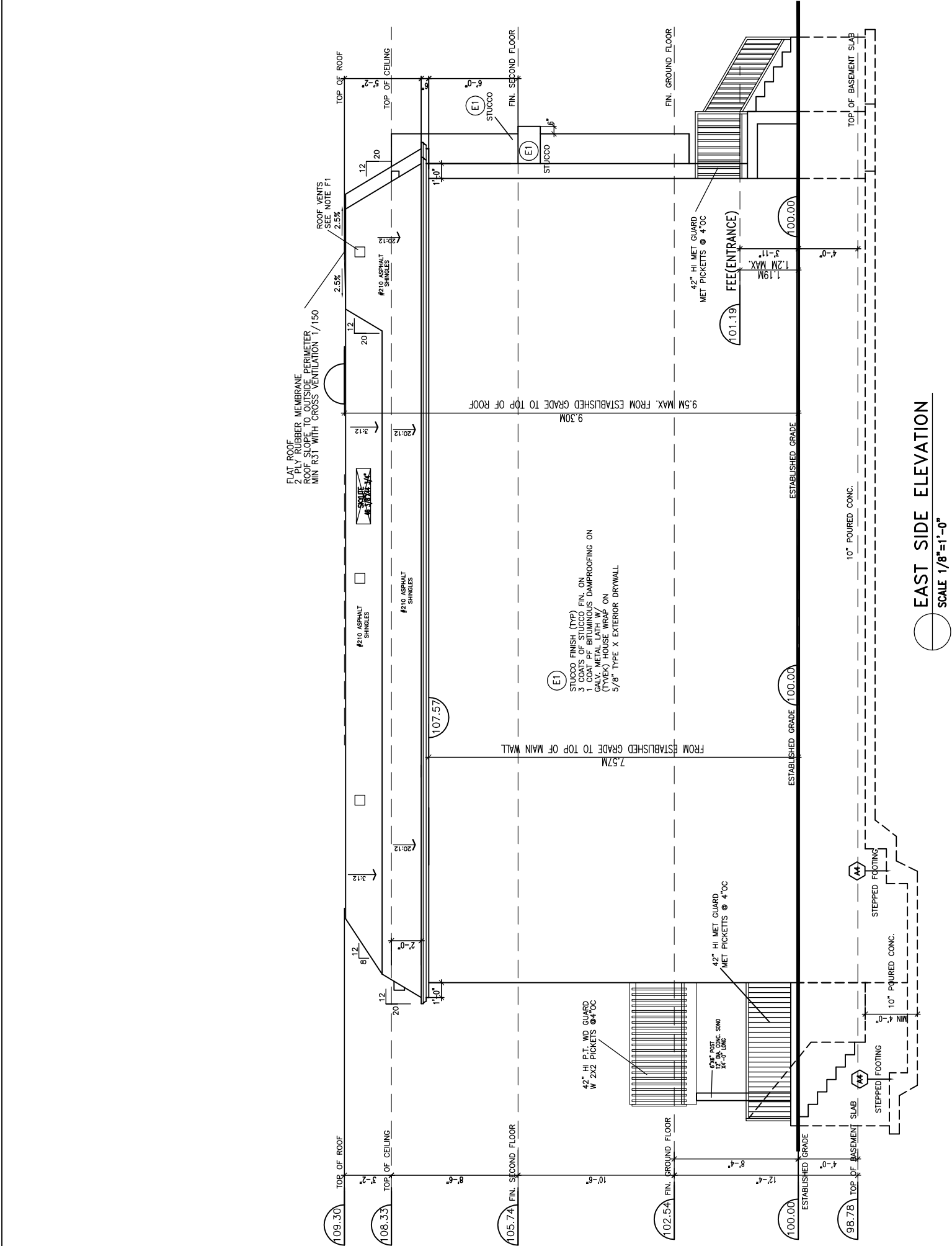












EAST SIDE ELEVATION  
SCALE 1/8"=1'-0"

ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH ALL BY-LAWS AND CODES HAVING JURISDICTION OVER THIS SITE LOCATION. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO THE DESIGNER BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK. THIS DRAWINGS MUST NOT BE SCALED. THE DESIGN AND CONTRACT DOCUMENTS ARE THE COPYRIGHT PROPERTY OF THE DESIGNER AND MAY NOT BE REPRODUCED, ALTERED, OR REUSED WITHOUT THE DESIGNER'S WRITTEN AUTHORITY.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

NO.	REVISIONS	DATE

DRAWING STATUS	
STATUS APPROVAL	DATE

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

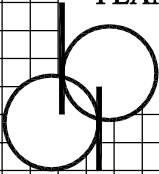
Required unless design is exempt under 2.17.5.1. of the building code

**Alex Boros** 24385  
NAME SIGNATURE BCIN/DCCN

REGISTRATION INFORMATION

Required unless design is exempt under 2.17.4.1. of the building code

**Alexander Boros Planning and Design Associates** 32413  
FIRM NAME BCIN/DCCN



**ALEXANDER BOROS**  
**PLANNING AND DESIGN**  
**ASSOCIATES**  
**BCIN: 24385**

71 Howden Road  
Toronto, Ontario, M1R 3C7  
ph. (416)440-0505  
Fax: (888)789-0963  
email: alexboros@rogers.com

DRAWING TITLE:  
*PROPOSED HOUSE AT  
29A ELFORD BLVD (PART 2)  
TORONTO, ONTARIO*

SCALE: N.T.S

DRAWN: <b>J.A.</b>	DRAWING NO  <b>A9</b>  OF
CHECKED: <b>A.B.</b>	
DATE: <b>DEC 03/2019</b>	