

DECISION AND ORDER

Decision Issue Date: Wednesday, March 24, 2021

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): MAJID OGHABI

Applicant(s): MAJID OGHABI

Property Address/Description 79 NORTHCOTE AVE

Committee of Adjustment File Number(s): 19 257412 STE 09 MV

TLAB Case File Number(s): 20 173212 S45 09 TLAB

Hearing date: Thursday, March 11, 2021

DECISION DELIVERED BY S. Makuch

APPEARANCES

NAME	ROLE	REPRESENTATIVE
MAJID OGHABI	APPELLANT/APPLICANT	RUSSELL CHEESEMAN
SEAN GALBRAITH	EXPERT WITNESS	

INTRODUCTION

This is an appeal from a decision of the Committee of Adjustment, refusing six variances which would permit the expansion and renovation of the second and third floors of an existing two-story semi-detached dwelling, the conversion of the basement to permit a secondary suite, and the conversion of an existing garage to a two story laneway suite.

BACKGROUND

While six variances are sought, much of the construction is within the confines of the footprint and/or envelope of the existing dwelling and the existing garage. Variance 1, respecting the front yard setback, is within the footprint of the existing dwelling, as it is to permit the extension of the second and third floors over the first floor porch at the front of the existing dwelling and the enclosure of the front porch. Variance 2 is with respect to a 1m² deficiency in rear yard soft landscaping. Variance 3 is the result of a required 1.5 m set back in order to place a door in the existing north wall of the existing garage rather than its east wall. The fourth variance is to permit an FSI of 1.26 whereas 1.0 is permitted. It results in a dwelling 28.76 m² greater than permitted. The fifth variance which results from the extension of the second and third floors is to permit main wall heights of 9.8 m for approximately 30% of their length, while 7.5 m is the permitted height. Finally, the sixth variance is technical in nature to permit a modification to the front wall of the house with a secondary suite. The variances are set out in Appendix 1.

MATTERS IN ISSUE

There are no matters in issue as no one appeared in opposition to the appeal. Nevertheless, since the variances are under appeal, the appellant still has to demonstrate that TLAB has jurisdiction to approve the variances.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 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:

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

EVIDENCE

The entire unchallenged evidence was provided by Mr. Sean Gailbraith, a land use planner, who has been qualified numerous times to give evidence before the OMB and TLAB. His evidence was clear and concise. Individually and cumulatively, the variances meet the requirements of the PPS and the Growth Plan as they provide for the more efficient use of land by increasing the area of the existing dwelling and by providing for the conversion of the garage to a dwelling. His evidence was also that cumulatively and individually the variances met the four tests of the *Planning Act*. The changes meet the general intent of the Official Plan as they would result in a dwelling which respected and reinforced the physical character of the neighbourhood as other dwellings had similar front additions. Moreover, a family dwelling would be improved with additional floor space, and a new dwelling constructed from the garage. Both of these changes would not be noticeable from the street.

No one appeared in opposition to the appeal. The neighbour to the north had opposed the application at the Committee of Adjustment and had a concern of a canyon effect resulting from the alterations to the house; but Mr. Gailbraith gave evidence as to how that was not a concern and that the proposal was appropriate and minor.

ANALYSIS, FINDINGS, REASONS

Given the evidence of Mr. Galbraith outlined above and in his witness statement and given the lack of any evidence in response, it is clear that the variances, cumulatively and individually meet the requirements of the Growth Plan and the PPS, as well as the four tests of the Planning Act.

DECISION AND ORDER

The appeal is allowed and the variances set out in Appendix 1 are approved, subject to the condition that construction shall substantially in accordance with the plans in Appendix 2.

X 

S. Makuch

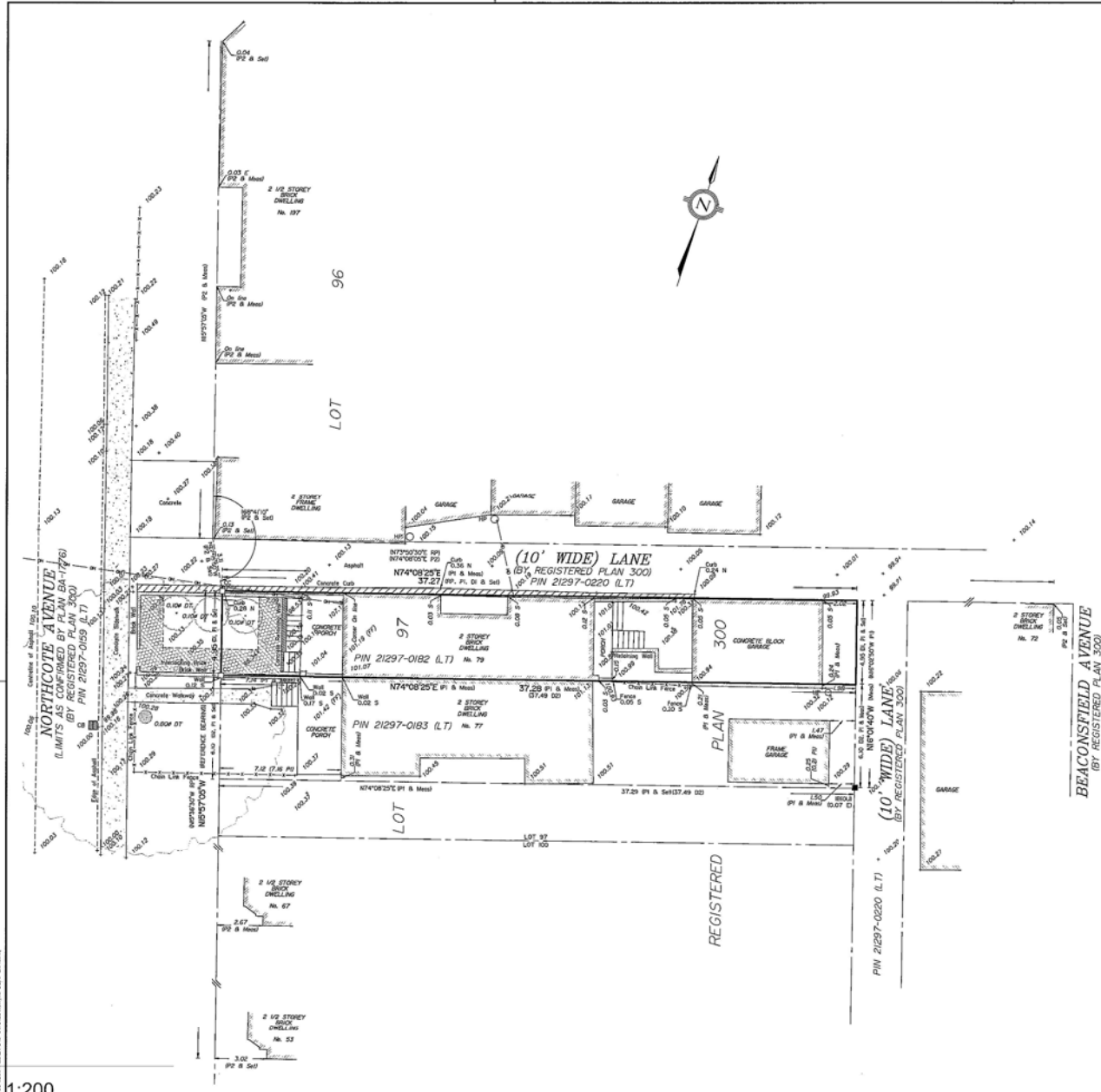
Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Chapter 10.5.40.70.(1)(A), By-law 569-2013. The minimum required front yard setback is 7.12 m. The altered detached dwelling will be located 4.83 m from the west front lot line.
2. Chapter 150.8.50.10.(1)(A), By-law 569-2013. A minimum of 60% (17.0 m²) of the area between the rear main wall of the residential building and the front main wall of the ancillary building containing a laneway suite must be for soft landscaping. In this case, 56% (16.0 m²) of the area between the rear main wall of the residential building and the front main wall of the ancillary building containing a laneway suite will be soft landscaping.
3. Chapter 150.8.60.20 By-law 569-2013. The minimum required side yard setback for an ancillary building containing a laneway suite is 1.5 m. The altered ancillary building containing a laneway suite will be 0.0 m from the north side lot line.
4. Chapter 10.10.40.40.(1)(A), By-law 569-2013. The maximum permitted floor space index of a semi-detached dwelling is 1.0 times the area of the lot (184.54 m²). The altered semi-detached dwelling will have a floor space index equal to 1.16 times the area of the lot (213.3 m²).
5. Chapter 10.10.40.10.(2)(A), By-law 569-2013. The maximum permitted height of all front and rear exterior main walls is 7.5 m. The height of the front and rear exterior main walls will be 9.8 m.
6. Chapter 150.10.40.1.(3)(A), By-law 569-2013. A secondary suite is a permitted use provided that an exterior alteration to a building to accommodate a secondary suite does not alter a main wall or roof that faces a street. The addition to the semi-detached dwelling will alter a main wall and roof that faces the street.

APPENDIX 2

CA Plans Filed with TLAB January 20, 2020, 79 Northcote Ave.



TOPOGRAPHIC PLAN OF
PART OF LOT 97
REGISTERED PLAN 300
IN THE
CITY OF TORONTO
SCALE & NOTES
Scale 1:150
10 METRES
BARICH GRENKIE SURVEYING LTD.
A DIVISION OF GEOMAPLE
© COPYRIGHT 2019

METRIC
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED
TO FEET BY DIVIDING BY 0.3048

ELEVATION NOTE
ELEVATIONS ARE ASSUMED AND RELATED TO THE TOP OF A CATCHBASIN
FRONTING THE SUBJECT PROPERTY HAVING AN ELEVATION OF 100.00 m.

BEARING NOTE
BEARINGS ARE ASTROMOMIC AND ARE REFERRED TO THE NORTHERLY LIMIT
OF CHESTER ROAD AS SHOWN ON PLAN BA-1776 HAVING A BEARING OF
N15°57'03"W

- LEGEND
- DENOTES SURVEY MONUMENT FOUND
 - DENOTES SURVEY MONUMENT PLANTED
 - IB DENOTES IRON BAR
 - SIB DENOTES STANDARD IRON BAR
 - PK DENOTES SURVEYORS NAIL SET IN WASHER
 - OU DENOTES ORIGIN UNKNOWN
 - RP DENOTES REGISTERED PLAN 300
 - P1 DENOTES BUILDING LOCATION SURVEY BY S. MARTIN SURVEYING LTD. O.L.S. DATED JULY 13, 1988
 - P2 DENOTES PLAN BA-1776
 - D1 DENOTES INSTRUMENT No. W8209078
 - D2 DENOTES INSTRUMENT No. CT966103
 - MH DENOTES MANHOLE
 - CB DENOTES CATCHBASIN
 - OH DENOTES OVERHEAD UTILITY CABLES
 - DT DENOTES DECIDUOUS TREE
 - CT DENOTES CONIFEROUS TREE
 - LS DENOTES LIGHT STANDARD
 - FF DENOTES FRESHED FLOOR ELEVATION
 - GF DENOTES GARAGE FLOOR ELEVATION
 - INV DENOTES INVERT ELEVATION
 - HYD DENOTES FIRE HYDRANT
 - Ø DENOTES DIAMETER

SURVEYOR'S CERTIFICATE
I CERTIFY THAT
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS
ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON JULY 27, 2019.

AUGUST 8, 2019

Matthew Di Cosmo
MATTHEW DI COSMO
ONTARIO LAND SURVEYOR

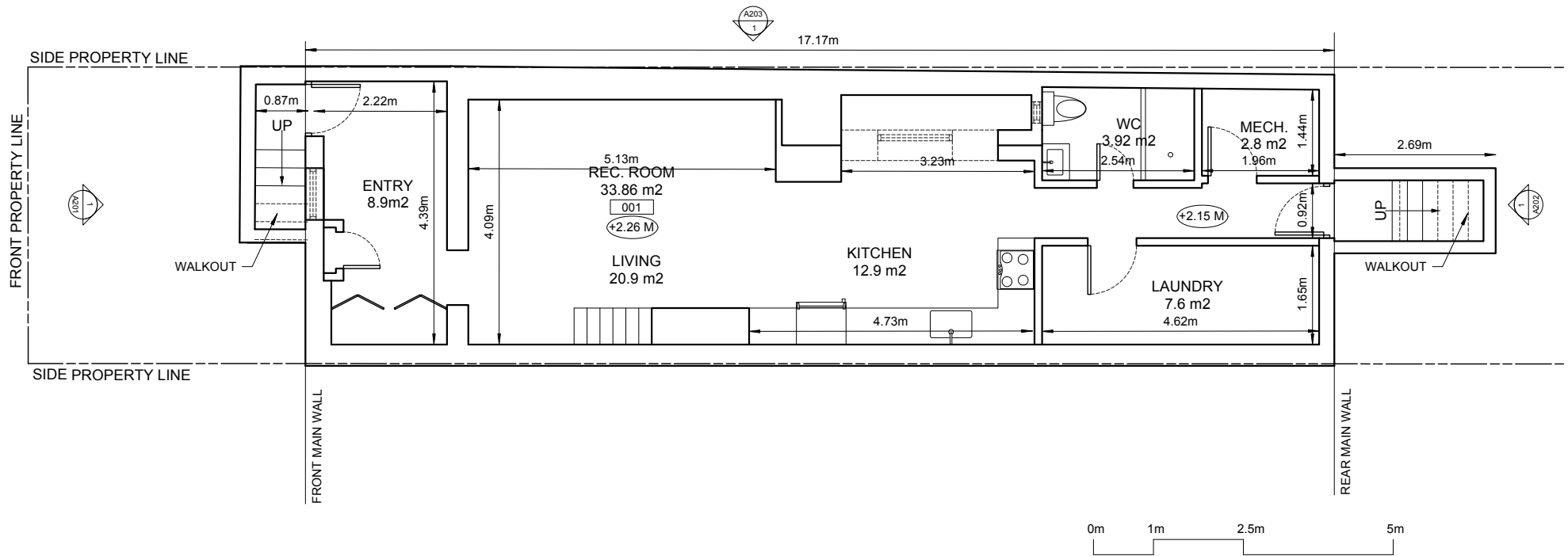
Barich Grenkie
Surveying Ltd.
237 HWY No. 8 (Unit 101) - STONEY CREEK, ON
(905) 482-4757

A DIVISION OF GEOMAPLE

DWN BY: AWS
CHK BY: MD
JOB No. 19-6300

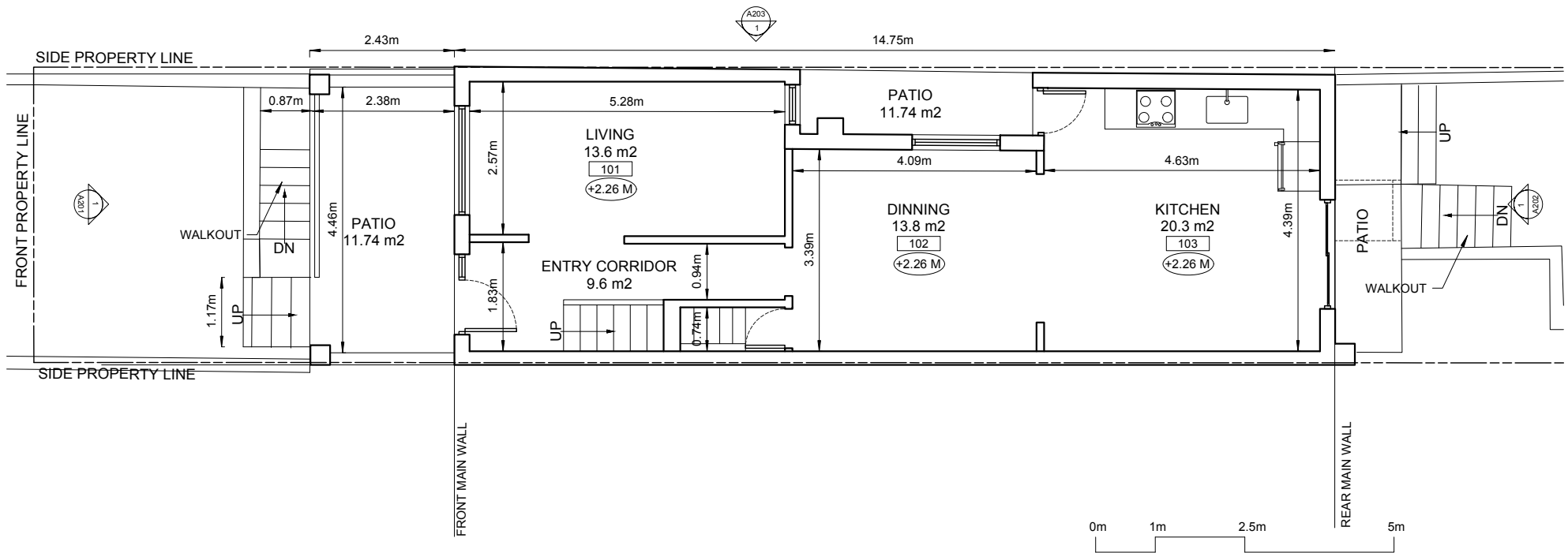
1 SURVEY
V001 SCALE: 1:200

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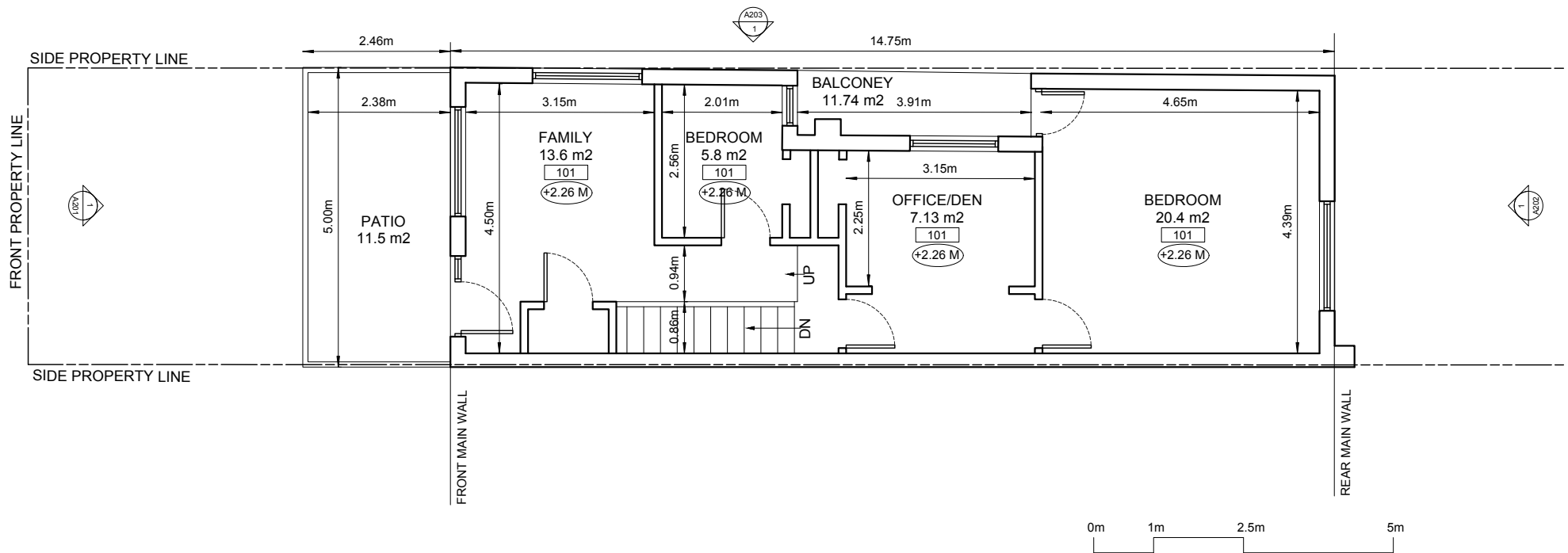
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A101	SCALE: 1:100

NOTES	LEGEND 	REVISIONS			<p>Ja Architecture Studio 98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301</p>	PROJECT 79 Northcote Ave.	SHEET TITLE Existing: Basement Plan
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							DATE 10.2019
							SHEET No. A101



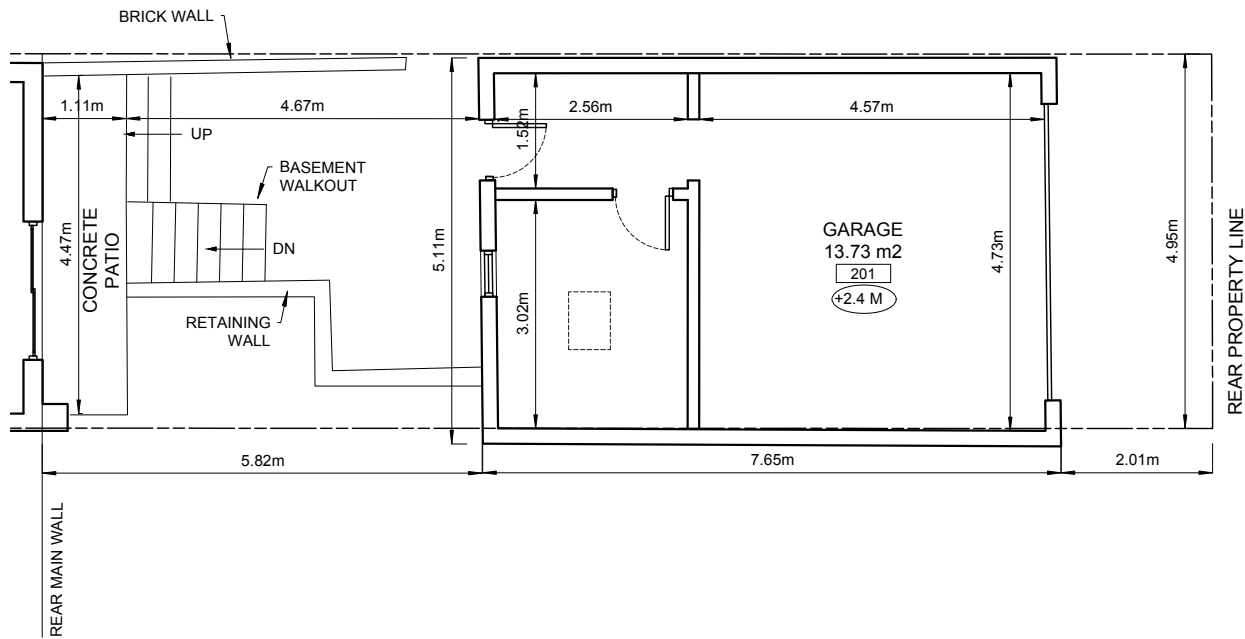
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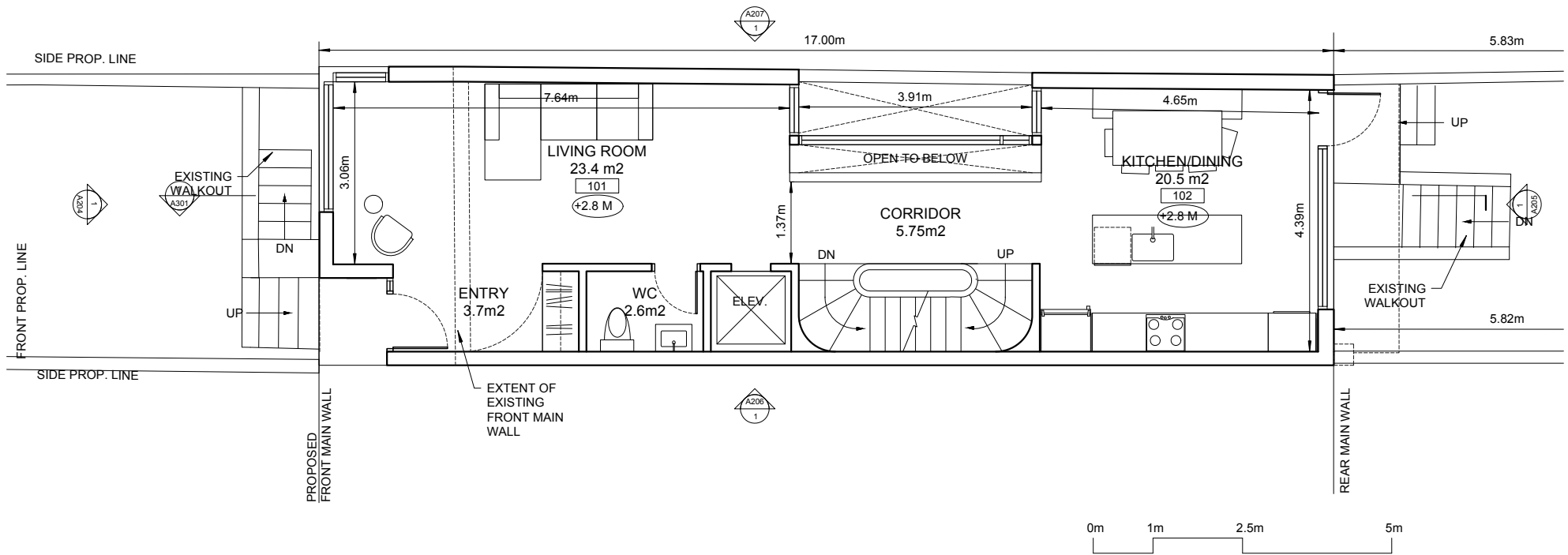
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A103	SCALE: 1:100

NOTES	LEGEND 	REVISIONS			<p>Ja Architecture Studio</p> <p>98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301</p>	PROJECT 79 Northcote Ave.	SHEET TITLE Existing: Second Floor Plan
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							DATE 10.2019
							SHEET No. A103



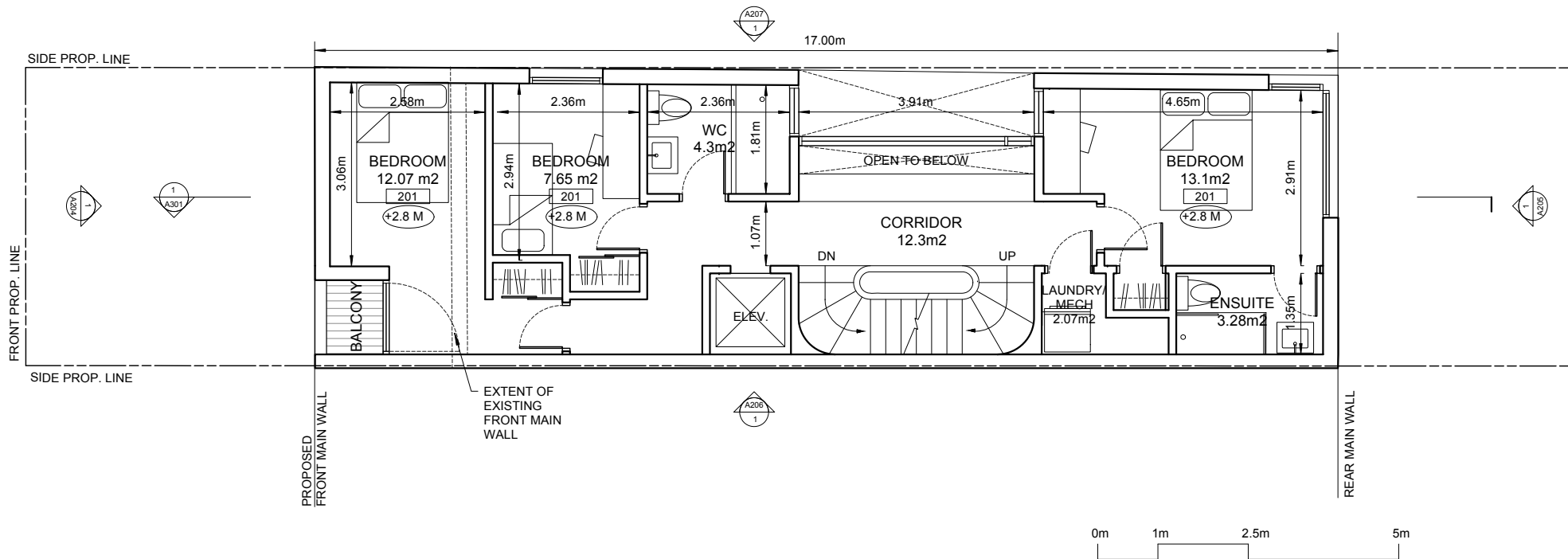
1	EXISTING GARAGE PLAN
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NOTES	LEGEND 	REVISIONS				PROJECT 79 Northcote Ave.	SHEET TITLE	Existing: Garage Plan
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							SHEET No.	A104



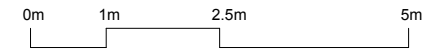
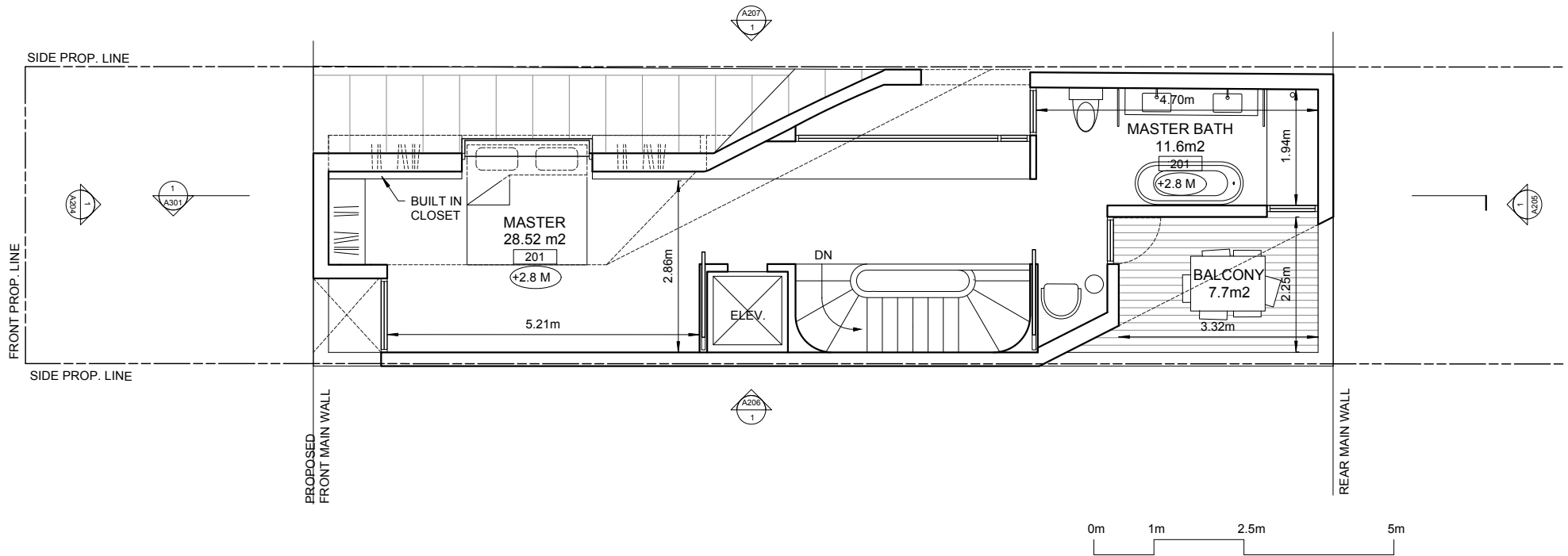
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NOTES	LEGEND 	REVISIONS			<p>Ja Architecture Studio</p> <p>98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301</p>	PROJECT 79 Northcote Ave.	SHEET TITLE	Proposed: First Floor Plan
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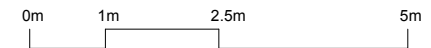
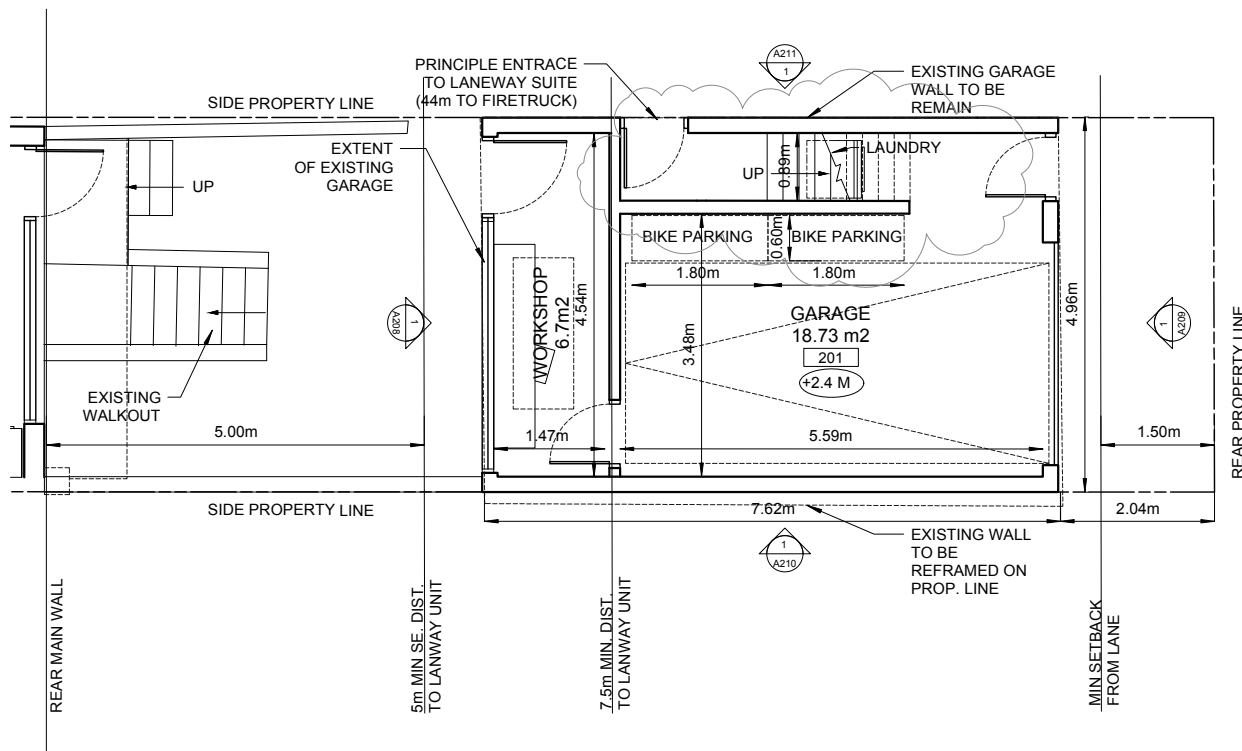
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							DATE	10.2019
							SHEET No.	A107



1	PROPOSED THIRD FLOOR PLAN
A108	SCALE: 1:100

NOTES	LEGEND 	REVISIONS				PROJECT 79 Northcote Ave.	SHEET TITLE Proposed: Third Floor Plan	
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							SHEET No.	A108



1 PROPOSED LANEWAY FIRST FLOOR PLAN

A109 SCALE: 1:100

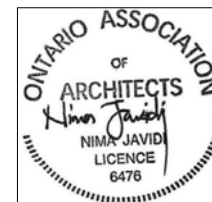
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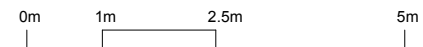
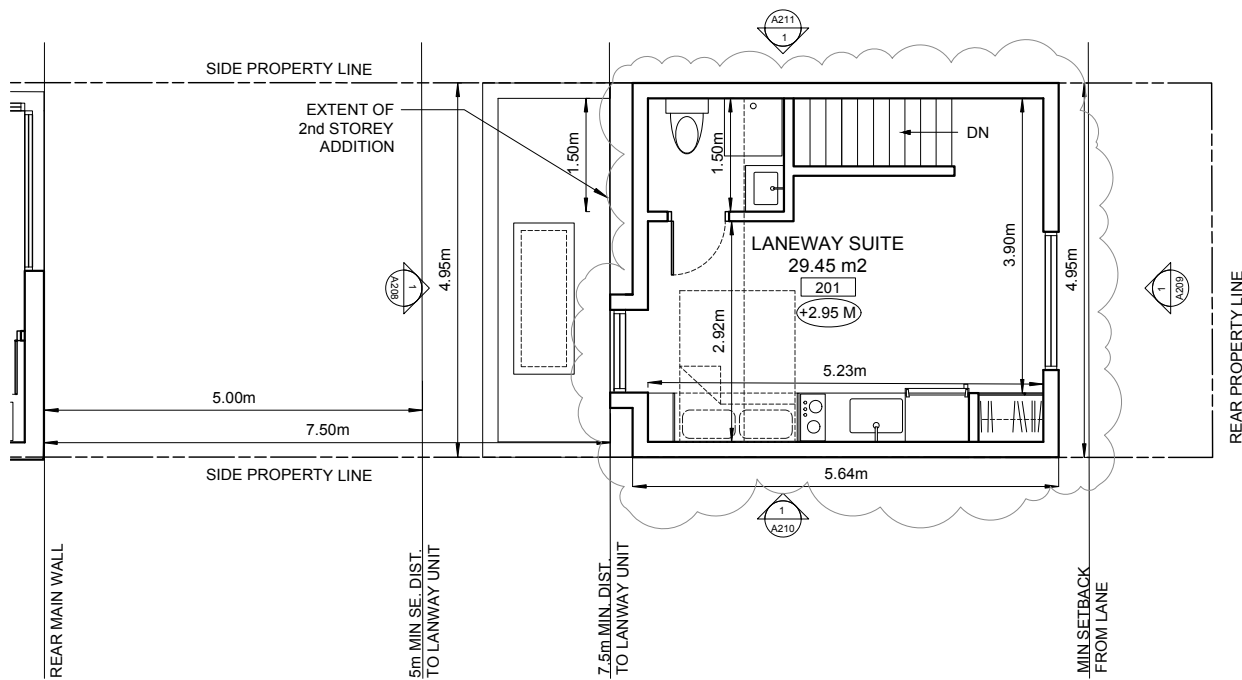
79 Northcote Ave.

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Laneway First Floor Plan

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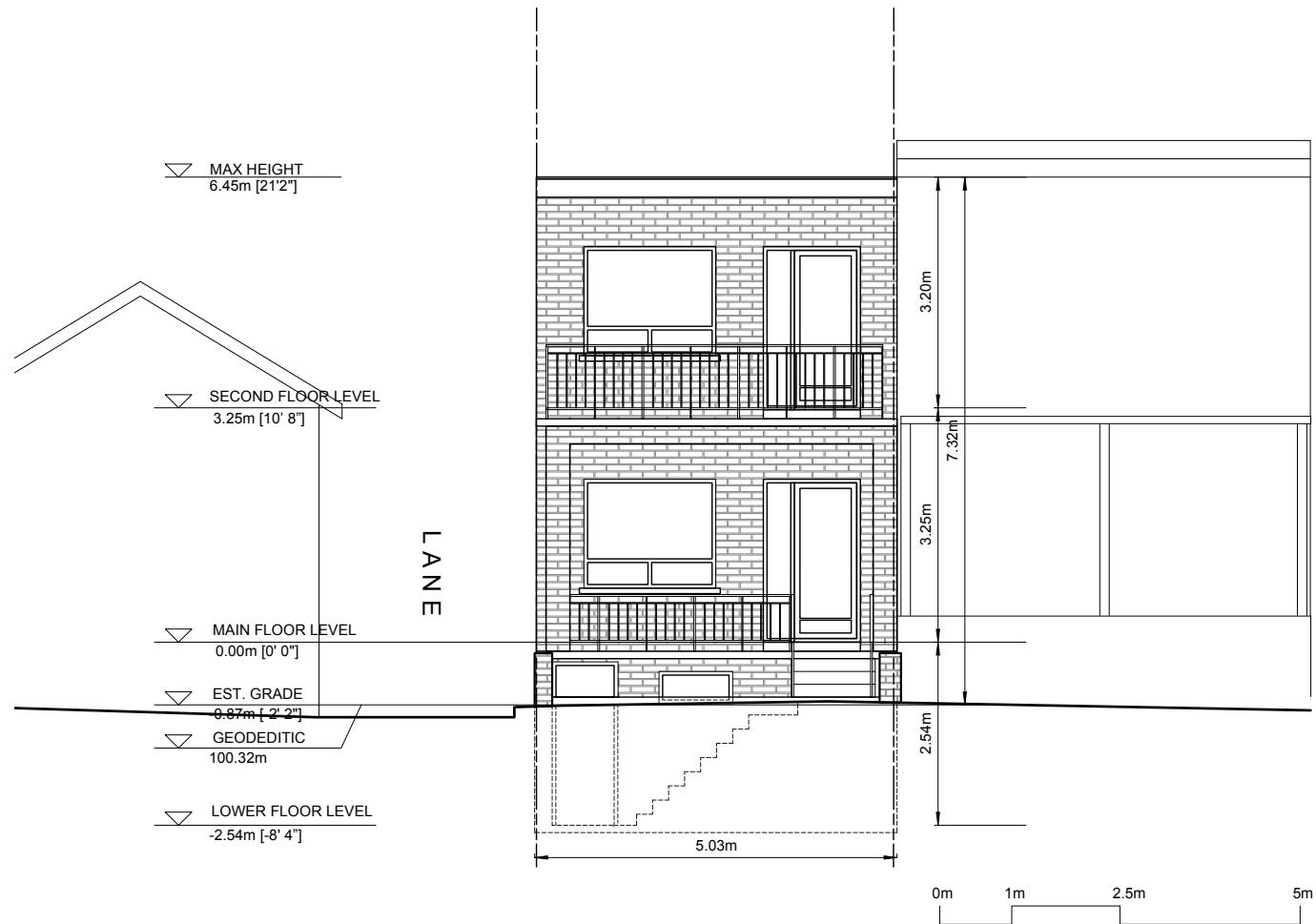
DATE **10.2019**

SHEET No. **A109**





1	PROPOSED LANEWAY SECOND FLOOR PLAN
A110	SCALE: 1:100

NOTES	LEGEND 	REVISIONS			<p>Ja Architecture Studio</p> <p>98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301</p>	PROJECT 79 Northcote Ave.	SHEET TITLE Proposed: Laneway Second Floor Plan	
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							DATE	10.2019
							SHEET No.	A110



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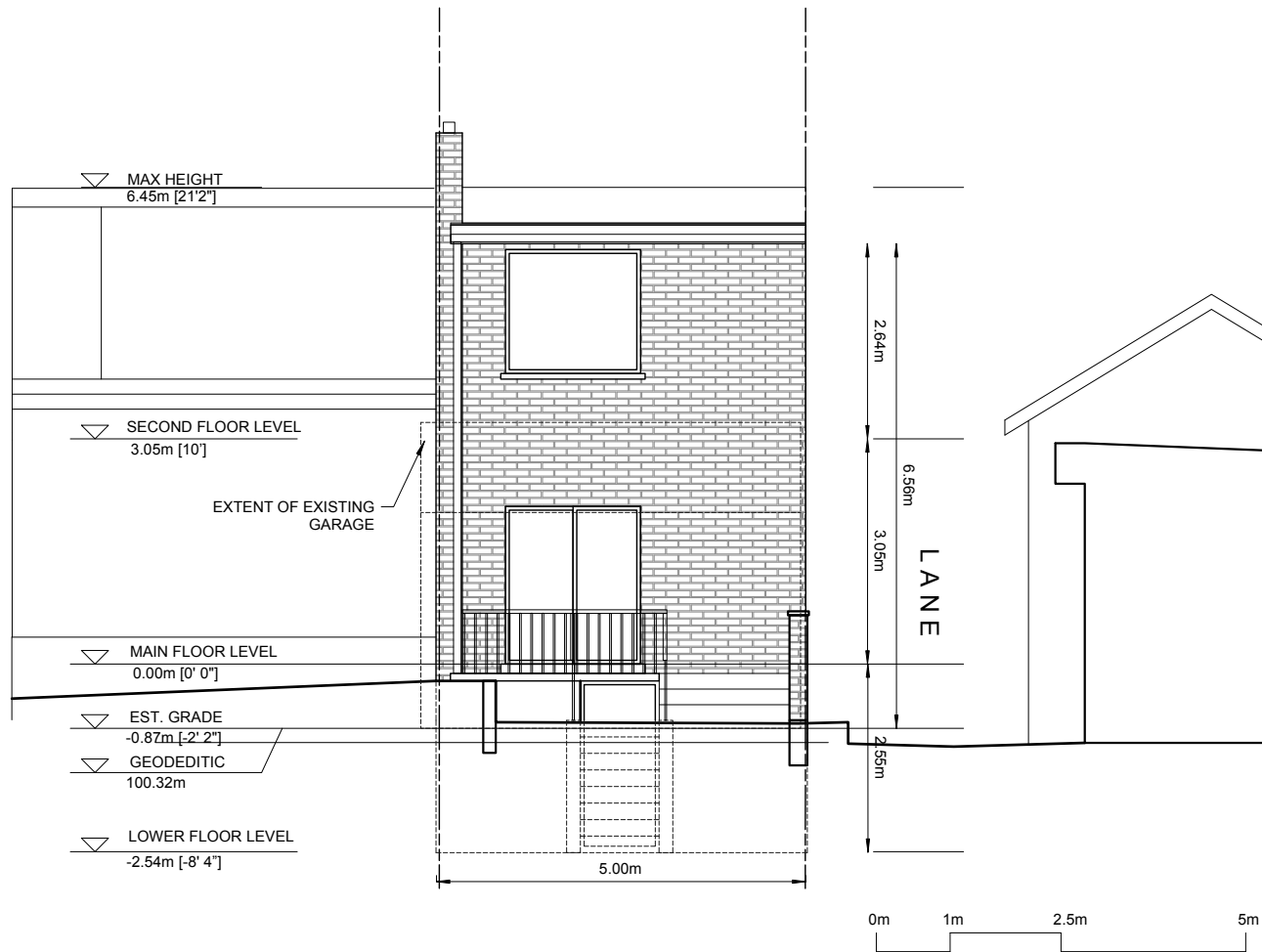
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								SCALE	1:100
								DATE	10.2019
								SHEET No.	A201

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79 Northcote Ave.



1

EXISTING EAST ELEVATION

A202

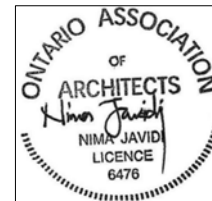
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LEGEND

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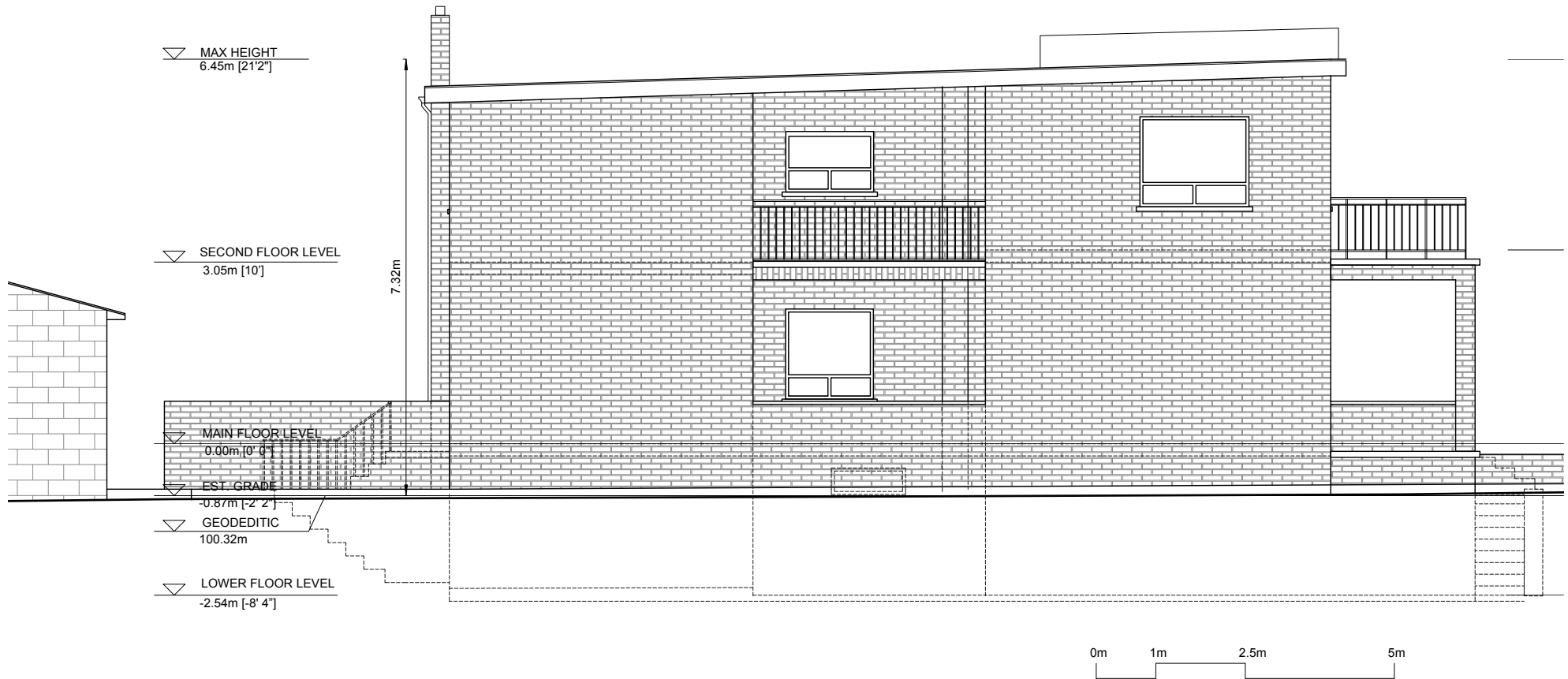
79 Northcote Ave.

SHEET TITLE **Existing:
East Elevation**

SCALE **1:100**

DATE **10.2019**

SHEET No. **A202**



1

EXISTING NORTH ELEVATION

A203

SCALE: 1:100

NOTES

LEGEND

REVISIONS

No.	DATE	DESCRIPTION


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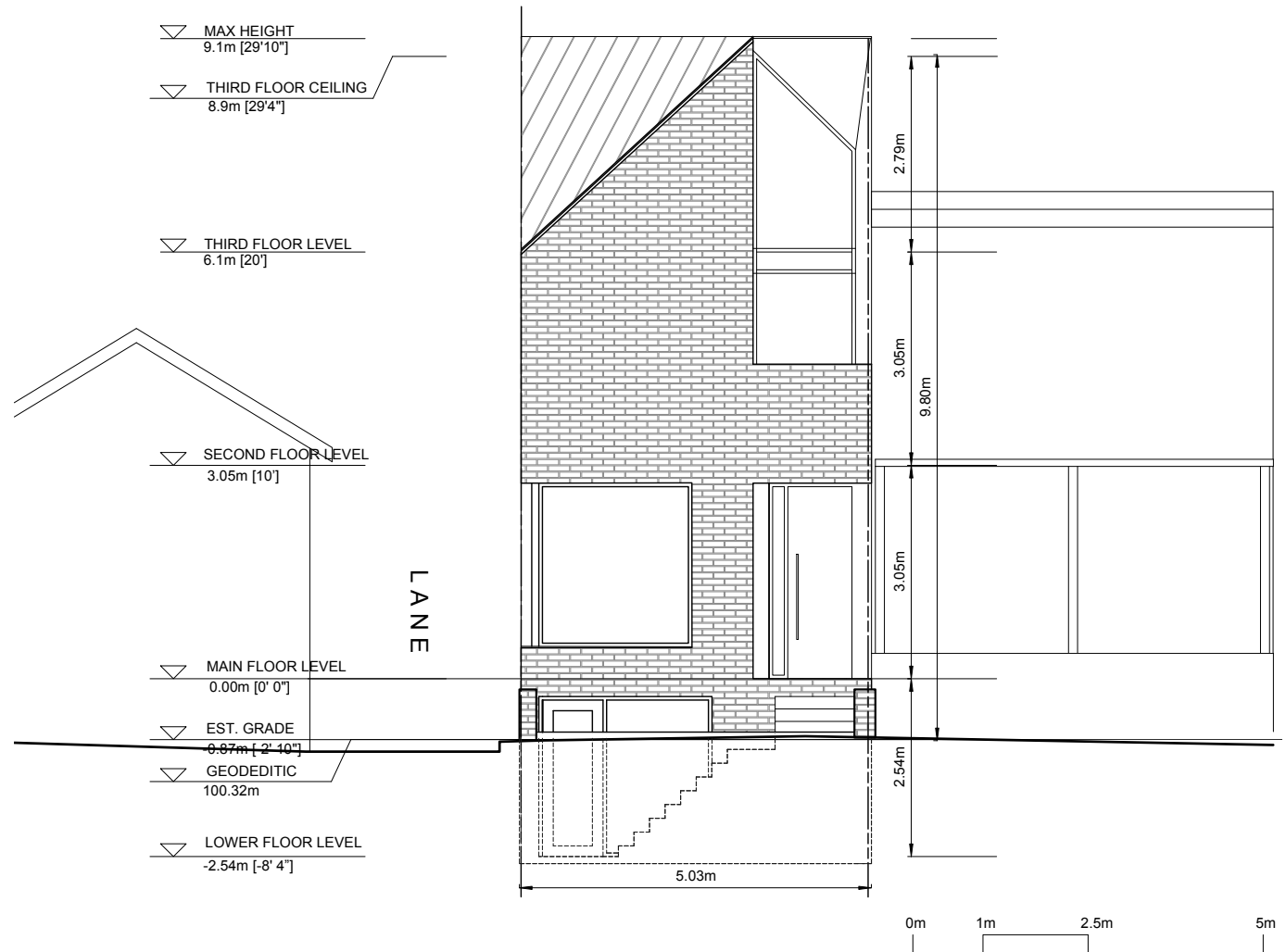
79 Northcote Ave.

SHEET TITLE **Existing:**
North Elevation

SCALE **1:100**

DATE **10.2019**

SHEET No. **A203**



1

PROPOSED WEST ELEVATION

A204

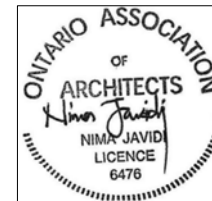
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NOTES

LEGEND

REVISIONS

No.	DATE	DESCRIPTION



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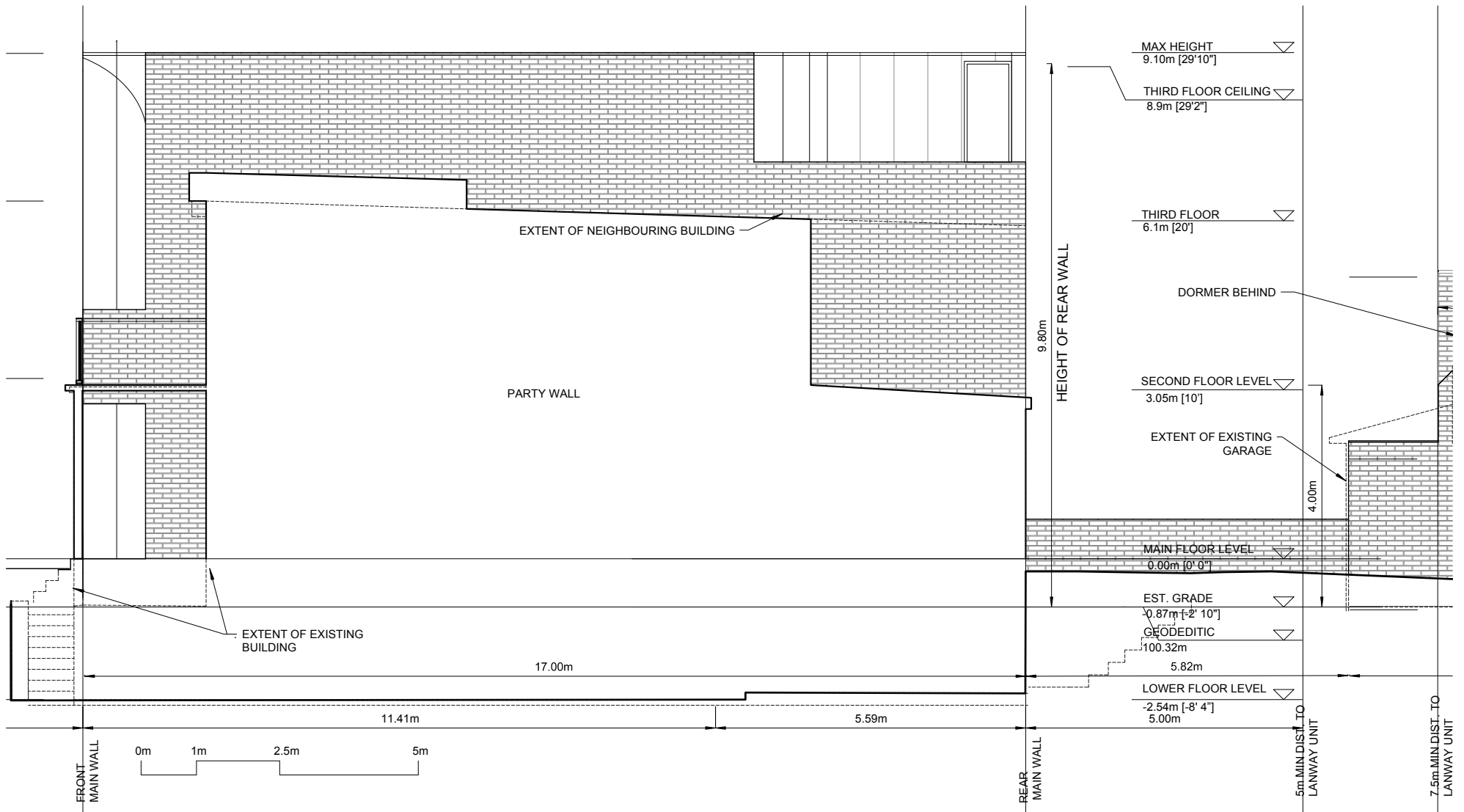
79 Northcote Ave.

SHEET TITLE **Proposed:
West Elevation**

SCALE **1:100**

DATE **10.2019**

SHEET No. **A204**



1 PROPOSED SOUTH ELEVATION

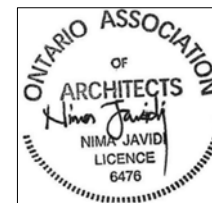
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LEGEND

REVISIONS

No.	DATE	DESCRIPTION



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PROJECT

79 Northcote Ave.

SHEET TITLE **Proposed:
South Elevation**

SCALE 1:100

DATE 10.2019

SHEET No. A206



1 PROPOSED NORTH ELEVATION

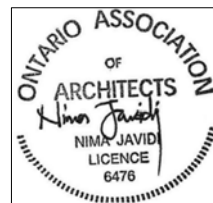
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NOTES

LEGEND

REVISIONS

No.	DATE	DESCRIPTION



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PROJECT

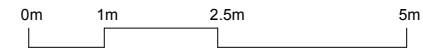
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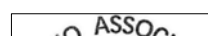

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North Elevation

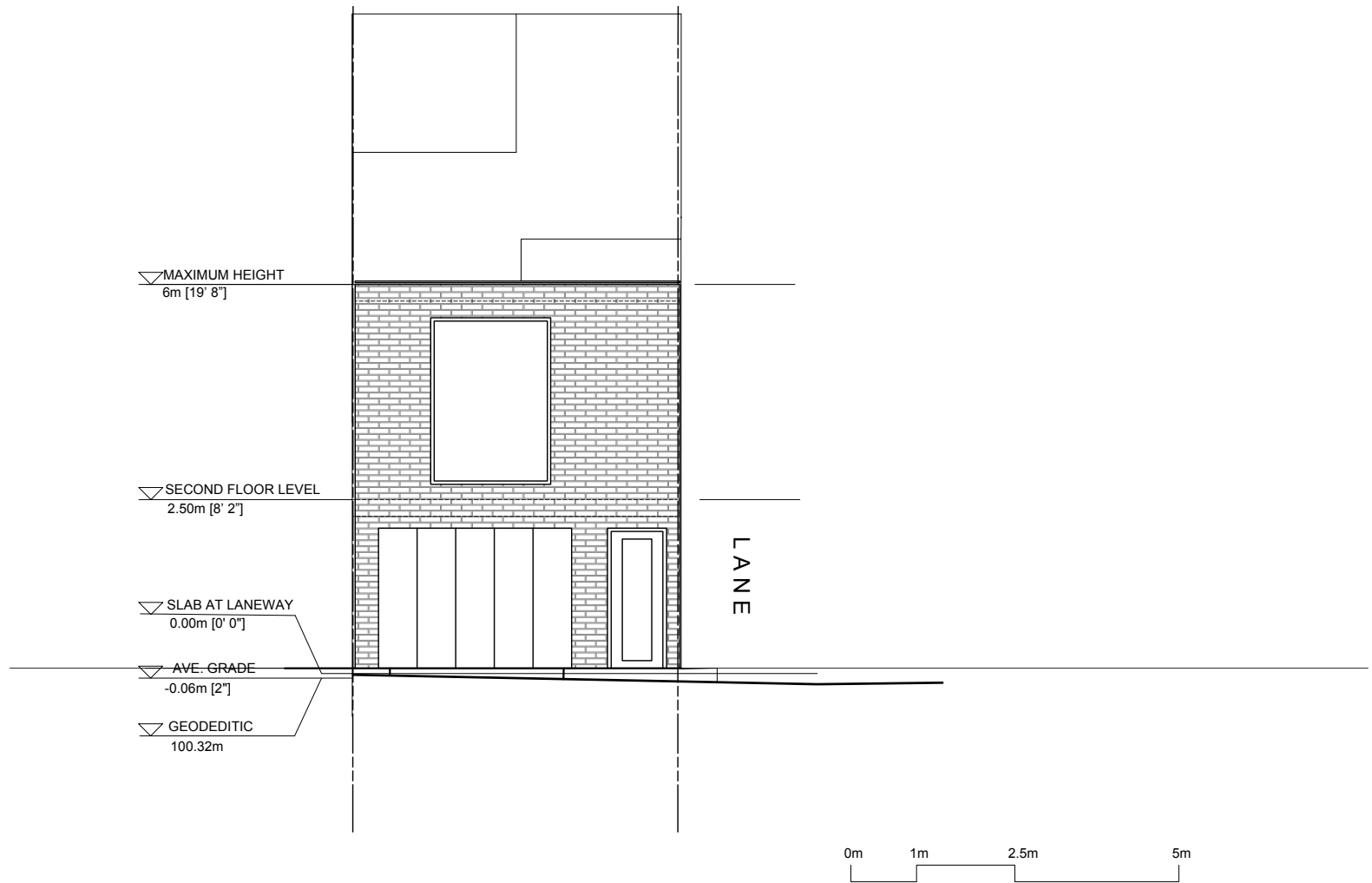
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DATE 10.2019



SHEET No. A207

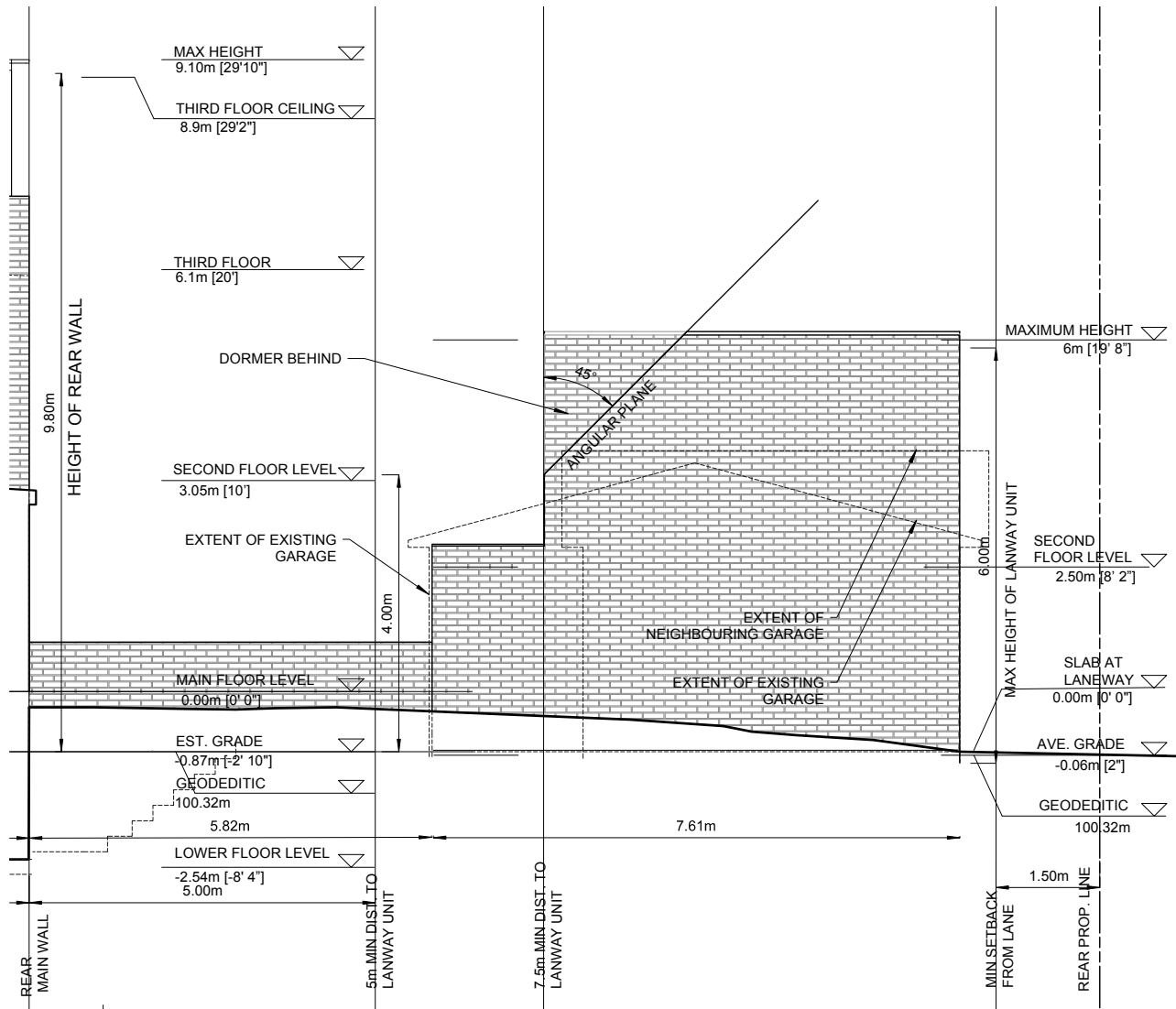


NOTES	LEGEND	REVISIONS				 Ja Architecture Studio 98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301	PROJECT	Proposed: Laneway West Elevation	
		No.	DATE	DESCRIPTION			SCALE	1:100	
							DATE	10.2019	
							SHEET No.	A208	



1	PROPOSED East ELEVATION (LANEWAY SUITE)
A209	SCALE: 1:100

NOTES	LEGEND	REVISIONS			 Ja Architecture Studio 98 Beaconsfield Ave Unit 104, Toronto, ON Canada, M6J 3J2 T: 416 594 2300 F: 416 594 2301	PROJECT 79 Northcote Ave.	SHEET TITLE Proposed: Laneway East Elevation
		No.	DATE				SCALE 1:100
							DATE 10.2019
							SHEET No. A209



1 PROPOSED SOUTH ELEVATIONS

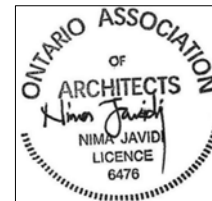
A210 SCALE: 1:100

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LEGEND

REVISIONS

No.	DATE	DESCRIPTION



Ja Architecture Studio
 98 Beaconsfield Ave
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PROJECT

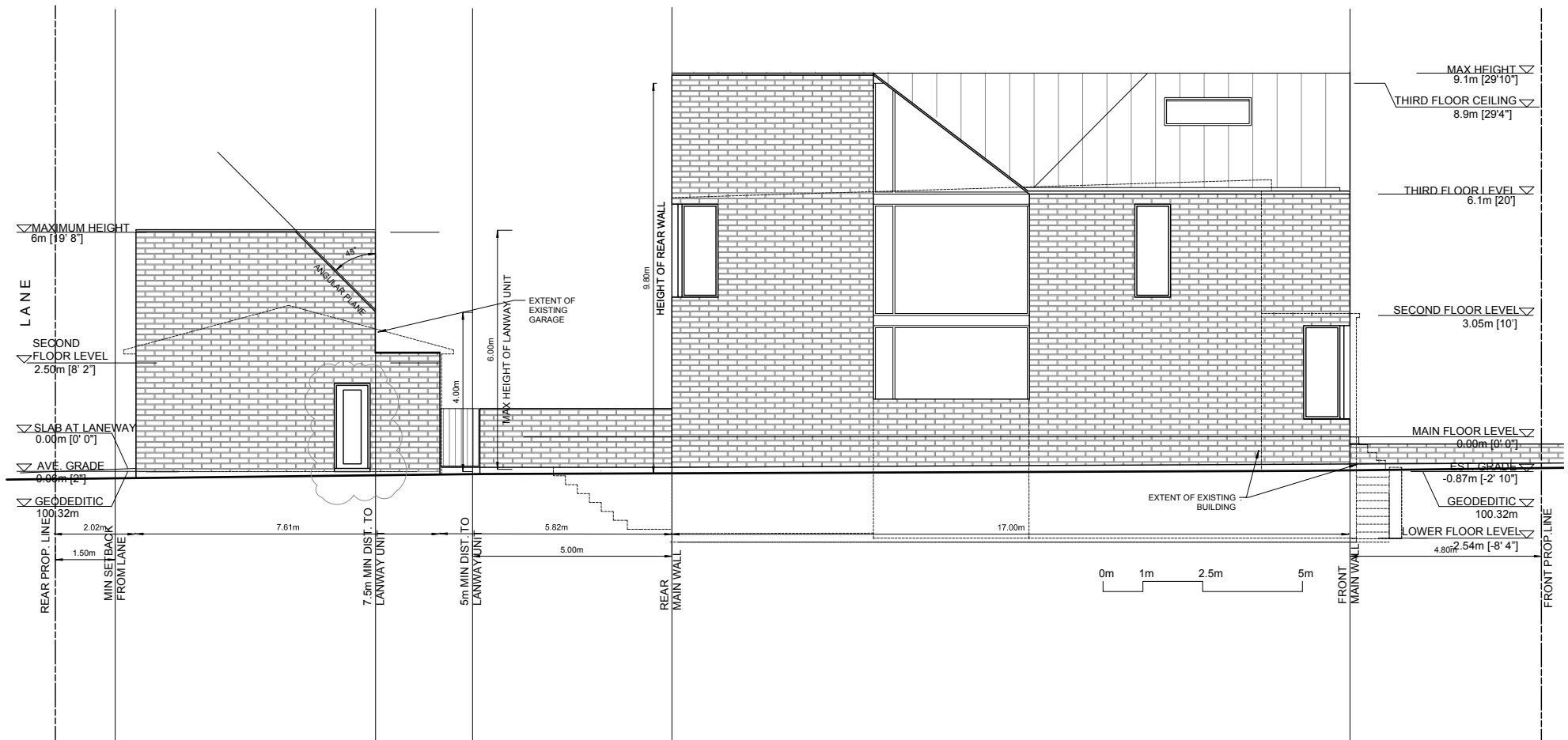
79 Northcote Ave.

SHEET TITLE **Proposed:**
South Elevations

SCALE 1:100

DATE 10.2019

SHEET No. A210



1

PROPOSED NORTH SITE ELEVATION

A211

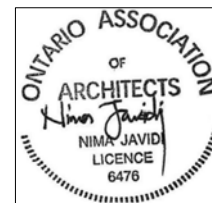
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NOTES

LEGEND

REVISIONS

No.	DATE	DESCRIPTION



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PROJECT

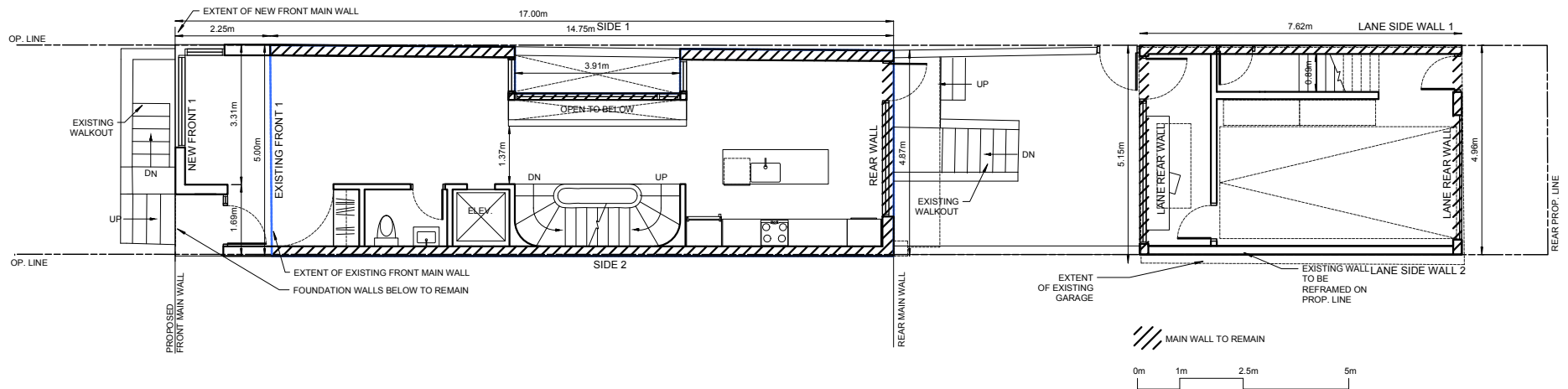
79 Northcote Ave.

SHEET TITLE **Proposed:**
North Site Elevation

SCALE **1:100**

DATE **10.2019**

SHEET No. **A211**



1

PROPOSED MAIN WALL RENOVATION DIAGRAM

A601

SCALE: 1:150

Extent of Renovation	Existing Walls	Walls to be Shored / to Remain	New Walls
Front Main Wall	5m	---	5m
Side Main Wall 1	14.75m	14.75m	2.25m
Side Main Wall 2	14.75m	14.75m	2.25m
Rear Main Wall	4.87m	4.87m	---
Laneway Front	5.15m	4.95m	---
Laneway Side 1	7.62m	7.62m	---
Laneway Side 2	7.62m	---	7.62m
Laneway Rear	5.15m	4.95m	---
Total	64.91m	51.89m (79%)	17.12m
Note: Calculations taken at ground level, All foundation walls below grade to remain			

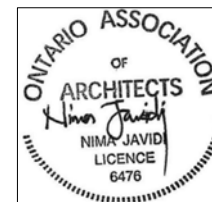
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PROJECT

79 Northcote Ave.

SHEET **Proposed Main
Wall Reno**

SCALE **1:150**

DATE **10.2019**

SHEET No. **A601**