

DECISION AND ORDER

Decision Issue Date Tuesday, March 23, 2021

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

Appellant(s): 22 JELlicOE AVENUE LTD

Applicant(s): PLANNING AND PERMIT SERVICES INC

Property Address/Description: 22 JELlicOE AVE

Committee of Adjustment File

Number(s): 19 255482 WET 03 CO, 19 255492 WET 03 MV, 19 255493 WET 03 MV

TLAB Case File Number(s): 20 194423 S53 03 TLAB, 20 194424 S45 03 TLAB, 20 194425 S45 03 TLAB

Hearing date: **March 8, 2021**

DECISION DELIVERED BY DINO LOMBARDI

APPEARANCES

Name	Role	Representative
Planning and Permit Services Inc	Applicant	
22 Jellicoe Avenue Ltd.	Owner/Appellant	Amber Stewart
Franco Romano	Expert Witness	

INTRODUCTION

This is an appeal by 22 Jellicoe Avenue Ltd (Appellant/Owner) of the Etobicoke York Panel of the City of Toronto (City) Committee of Adjustment (COA) refusal of Applications for a Consent to server the property at 22 Jellicoe Avenue (subject property), and associated variances to permit the construction of a new detached residential dwelling with an attached garage on each of the resultant lots.

The Decisions of the COA were appealed to the Toronto Local Appeal Body (TLAB) by the Appellant and a Hearing was scheduled for February 23, 2021.

The subject property is located within the former municipality of Etobicoke, west of Brown's Line and north of Lake Shore Boulevard West, on the north side of Jellicoe Avenue, within the first block west of Brown's Line. It is designated '*Neighbourhoods*' in the City Official Plan (OP) and zoned RM (Detached Residential) under the new harmonized Zoning By-law 569-2013 (new By-law) and R3 pursuant to the former Etobicoke Zoning By-law 1979-67 (former By-law).

The Applicant was represented by counsel, Ms. Amber Stewart, and a Registered Professional Planner, Mr. Franco Romano, whom I qualified to give expert opinion evidence and who appeared as the sole witness in the matter. Also in attendance was Mr. Adam Prochilo, the Appellant and the Owner of the subject property.

The City did not appear or take any position on the appeals, and no other persons attended the virtual Hearing.

At the outset, I indicated that I had visited the site and had review the pre-filed materials, but it is the evidence to be heard that is of importance.

BACKGROUND

This is a matter that was scheduled for a 'virtual' Hearing in respect of 22 Jellicoe Avenue (subject property). On the return date for the Hearing, February 23, 2021, the Member scheduled to take the matter was late due to a misunderstanding with respect to the assignment of this file. As a result, the presiding Member was unprepared and unable to proceed to hear the appeal on that date.

When the Member was finally able to attend the sitting, virtually, by way of the WEBEX platform at 9:50 am, it became apparent that a rescheduling of the matter would be necessary.

A discussion ensued with those in attendance, including Ms. Amber Stewart, legal representative for the Owner of the subject property, Adam Porchillo, and Mr. Franco Romano, the Owner's expert land use planner, regarding possible dates options for rescheduling.

After briefly consulting with the Appellant/Owner, counsel expressed her client's wish to proceed with a virtual hearing of the appeal and as a courtesy agreed that in the circumstances it would be appropriate to stand the matter of the Hearing down and explore revised dates for the Hearing, within the next two weeks if possible.

Given the situation, the tacit approval of the Appellant and counsel and my own limited knowledge of the file, an adjournment was agreed to, and possible Hearing dates were canvassed.

The Appellant, his counsel and the expert witness were provided with a roster of suggested dates for a rescheduled Hearing. Ms. Stewart urged that the matter be dealt with as expeditiously as possible. The TLAB provided three Hearing dates in March 2021 and Counsel was very diligent in consulting their expert witness and their own calendar.

After confirmation with TLAB staff, it was agreed that the Hearing would be rescheduled to March 8, 2021, as a virtual hearing event, and staff were directed to issue a new Hearing Notice with the rescheduled Hearing date. This was memorialized in an Interim Decision and Order dated February 25, 2021.

The Processing of the Applications

The Applicant initially filed Applications to the COA on November 29, 2019. Those Applications proposed severing the existing property, which has a frontage of 15.24 m, into two undersized residential lots - Part 1 (to be conveyed) and Part 2 (to be retained), each with a proposed lot frontage of 7.62 m and an area of 278.7 m². The existing one-storey home is to be demolished and each lot will be developed with a new, two-storey detached dwelling with a Gross Floor Area (GFA) of 196.81 m², with an integral garage.

The lot division and subsequent intended construction of two 'mirror image' single detached dwellings would require variances from the performance standards of both the new and former Zoning By-laws, all in respect of the following variances:

1. Section 900.6.10.(18)(B)(i), By-law 569-2013

The minimum required lot frontage is 12 m. The new lot frontage will be 7.62 m.

2. Section 900.6.10.(18)(A)(i), By-law 569-2013

The minimum required lot area is 465 m². The new lot area will be 278.7 m².

3. Section 900.6.10.(18)(C)(i), By-law 569-2013

The maximum permitted lot coverage is 33% of the lot area (91.97 m²). The new dwelling will cover 38% of the lot area (106.41 m²).

4. Section 1.(a), By-law 1979-67 & 1981-272

The maximum permitted gross floor area is 0.4 times the area of the lot (111.48 m²). The new dwelling will have a gross floor area of 0.77 times the area of the lot (213.61 m²).

5. Section 10.80.40.70.(3)(A), By-law 569-2013

The minimum required side yard setback is 1.2 m. The new dwelling will be located 0.9 m from the west side lot line and 0.44 m from the east side lot line.

6. Section 10.80.40.20.(1), By-law 569-2013

The maximum permitted building length is 17 m. The new dwelling will have a length of 17.59 m.

7. Section 3, By-law 1979-67

The maximum permitted height is 7.5 m, measured to the mid-point of the roof. The new dwelling will have a height of 8.86 m, measured to the mid-point of the roof.

8. Section 10.80.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7 m. The new dwelling will have a front exterior main wall height of 8.22 m.

9. Section 320-42.1.B.(2)

The maximum permitted soffit height is 6.5 m. The new dwelling will have a soffit height of 8.22 m.

10. Section 10.5.40.60.(7), By-law 569-2013

Roof eaves may project a maximum of 0.9 m provided that they are no closer than 0.3 m to a lot line. The proposed roof eaves will be located 0 m from the east lot line.

11. Section 10.80.40.50.(1)(B), By-law 569-2013

The maximum permitted area of a platform at or above the second storey is 4 m². The proposed second storey platform will have an area of 7.65 m².

Since the initial proposal was filed with COA, above cited, the Applicant has undertaken revisions to the plans for the proposed dwellings resulting in several modifications in both the number and magnitude of the variances requested. The severance proposal, however, has not been changed.

The resulting revisions were precipitated by comments received by the COA upon circulation of the subject Applications for comments and contained in two Planning Staff Reports dated December 12, 2019 and May 29, 2020, respectively.

In the December 12th Report, Planning Staff noted that the Applications had initially been circulated for comments on December 3, 2019. Following an analysis of the proposal, Staff determined that the appropriate dwelling type for the two proposed lots was semi-detached dwellings premised on the prevailing dwelling type on similarly

sized lots in the neighbourhood. On this basis, they concluded that the proposed severance of the subject property thereby creating two lots with a frontage of 7.62 m and area of 287.7 m², and the construction of two detached dwellings, failed to meet the general intent and purpose of the OP or the Zoning By-laws.

Furthermore, they raised concerns with the requested variances for lot coverage, main wall height, side yard setbacks and the setback of eaves, Floor Space Index (FSI), and dwelling and soffit height.

Staff ultimately concluded in their Report that the proposed Applications represented 'overdevelopment' of the lot and that the Applicant revise the proposed dwelling type and variances. Additionally, they recommended that the scheduling of a hearing of the consent and variance applications before the COA be deferred so as to provide the Applicant an opportunity to modify the proposed variances to be more in keeping with the OP, Zoning By-laws and fit the existing character of the neighbourhood

On the resubmission by the Applicant of a revised proposal for approval, date stamped February 20, 2020, Planning Staff, in a subsequent Report to the COA provided amended comments regarding the altered plans. Those revised plans included modest modifications from the initial variance applications with respect to the FSI for both of the proposed lots to be created, decreasing the lot coverage for the dwellings from 47% of the lot area (130.63m²) to 38% of the lot area (106.41 m²).

The other proposed variances remained unchanged.

In that Report, Planning Staff expressed the following on-going concerns with the proposal noting in paragraph one on page 6, that *"the minor improvements to the Minor Variance applications, does not address the concerns relating to the proposed variances for floor space index, side yard setback, setback of the eaves, soffit height, wall height, and dwelling height, which are not in keeping with the prevailing character of the neighbourhood."*

Furthermore, Staff concluded that the proposed lots were better suited to a semi-detached dwelling and that *"the proposal for single detached dwellings on the lots with frontages of 7.62 metres is not in keeping with the prevailing character of the area."* They recommended that the applications be refused.

On August 27, 2020, the COA had before it the revised applications, above recited, and refused the consent application as well as the applications for the associated variances to permit the construction of the proposed new dwellings. On September 16, 2020, the Applicant appealed the COA decisions to the TLAB.

In the interim, the Applicant further revised the proposal, which resulted in the removal of two variances (Variances 6 and 10) and the reduction in the magnitude of four of the previously requested variances (Variances 3, 4, 5, and 11) found in the Revised List of Variances in **Attachment 1** at the end of this Decision.

The following is a brief summary of the modified or deleted variances being requested:

- a) The new dwelling both on the proposed west lot (Part 1) and the east lot (Part 2) will have setbacks of 0.9 m and **0.62 m** whereas a minimum of 1.2 m is required.

This is an increase from the 0.44 m interior setbacks proposed.

- b) The building length of both proposed new dwellings has been reduced from 17.59 m to 16.99 which is By-law compliant.

Therefore, Variance 6 in both Applications is no longer required.

- c) The proposed lot coverage for both proposed new dwellings is **36%** whereas a maximum lot coverage of 33% is permitted.

This represents a reduction from the 38% coverage previously sought and refused.

- d) Gross floor area for both proposed new dwellings of 196.81 m² representing a Floor Space Index of 0.71 times the area of the lot whereas the maximum permitted is 0.4 times the area of the lot.

This represents a reduction from the FSI of 0.77 x previously sought.

- e) Roof eaves projection of 0.3 m, with side yard setbacks of 0.6 m and 0.32 m whereas the new Zoning By-law allows roof eaves projection of 0.9 m and side yard setbacks of 0.3 m.

Therefore, Variance 10 in both Applications is no longer required.

- f) The area of the proposed rear, 2nd storey platform for both new dwellings will be **4.5 m²** whereas a maximum area of a platform at or above the second storey is 4 m².

This represents a reduction from the 7.65 m² platform area previously sought and refused.

As a result of these modifications, a total of nine (18) variances are now being requested by the Applicant. The Consent Application has not changed.

MATTERS IN ISSUE

The Applications, to consider the consent to sever the subject property into two undersized residential lots with associated variances identified in **Attachment 1**, were the subject matter under appeal.

Although this is an uncontested Hearing, and the evidence uncontroverted, the issue was whether the consent to sever and the eighteen (18) associated variances sought, individually and collectively, met the policy considerations and the four statutory tests below recited.

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').

Consent – S. 53

The 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).

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

The Applicant called Franco Romano, without challenge, to provide professional land use planning expert opinion evidence in support of the Applications. Mr. Romano is a Registered Professional Planner with extensive experience in public and private sector service, including in the former City of Etobicoke. He has appeared and been qualified on many occasions before Ontario tribunals, including the TLAB. I qualified him to provide expert opinion evidence on land use planning matters.

He filed a Revised List of Variances, Revised set of Site Plan and Elevation Drawings (dated December 10, 2020), his Expert Witness Statement, and Visual Photobook, which were admitted as **Exhibits 1, 2, 3 and 4**, respectively.

Mr. Romano accepted his retainer on October 23, 2020. He did not participate in the COA decisions on the Applications.

OFFICIAL PLAN

Mr. Romano provided photographic and statistical evidence to support his definition of the broader neighbourhood as being one of a mixture of physical characters and exhibiting a variety of building types. He noted that the area has a 'Multiple Residential' and 'R3' Zoning pursuant to the new and former Zoning By-laws both of which permit semi-detached, single detached, and multiple unit building types.

He suggested that there has been a considerable amount of regeneration in the neighbourhood for the most part consisting of replacement dwellings which has tended to maintain the neighbourhood's residential amenity and stability. Lots in the geographic neighbourhood have a prevailing modest-sized character with diverse lot sizes and frontages that range from 7.62 m to less than 12 m, representing 61.6% of the total lots.

Lot areas range from 225.32 m² to 781.08 m² which represent 69% of the total lots within this area.

In the immediate context, he submitted that lot frontages range from 7.62 m to 16.76 m with twelve (12) different lot frontage measurements. As well, lot areas range in size from 278.13 m² to 611.74 m² with approximately twenty-two (22) different lot area numeric measurements. He opined that each of these numeric measurements respect and reinforce the prevailing lot size and rectangular configuration character of the neighbourhood.

Mr. Romano referenced photographs of dwellings of each type on Jellicoe Avenue and adjacent streets. Typically, the prevailing building type within this neighbourhood includes detached, semi-detached and multiple unit buildings. Driveways and garages are at and above grade, located from the street onto private property with 100% of lots within the immediate context having an at grade design. More recently constructed dwellings generally occupy more of the width of the lots on which they are located, and integrated garages are more common. He asserted that dwellings along Jellicoe Avenue exhibit a mildly undulating front wall alignment, numerically creating a strong front wall alignment along the street which the proposed dwellings will continue.

He suggested that there exist a diverse variety of side yard setbacks in the immediate area as well as in the broader neighbourhood contexts; within the immediate context, the side yard setback is less than 1.0 m for 75% of properties. He asserted that the proposed side yard setbacks of 0.6 m and 0.9 m are well represented and 'fit' within the neighbourhood context.

With respect to landscaped open space, Mr. Roman noted that 16% of properties within the immediate area have less than 50% of the front yard landscaped while 84% have more than 50% and that each of these characteristics are represented in substantial numbers in the neighbourhood. He submitted that the proposed front and rear yard landscaped areas reflect this character.

Mr. Romano, then, briefly addressed the City Staff Reports/Memoranda received by the COA following circulation of the initial applications, including those from City Planning, Engineering and Urban Forestry.

He first reviewed the two Planning Staff Reports highlighted earlier in this Decision, commencing with the December 12th, 2019 Report wherein Staff recommended that the Applications not be scheduled in order to provide an opportunity for revisions to be undertaken. He noted that the Applicant considered Staff's comments and revised the proposal accordingly.

As to the May 29, 2020 Report, he noted that Staff recommended refusal of the Applications due to concerns with building type, FSI, side yard setback, and wall and dwelling height. In Staff's opinion the proposed lots were better suited to a semi-detached dwelling.

In response, Mr. Romano opined that in their comments Planning Staff did recognize that the proposed lot sizes are reflected in the neighbourhood but were of the opinion that a semi-detached building typology was preferred on the proposed lots.

He asserted that contrary to Planning Staff's position, detached dwellings exist on a variety of lot sizes, including the proposed lot sizes, in the neighbourhood and that the proposal is in keeping with the prevailing building type and area character. He also asserted that the proposal has been revised to reduce many of the concerns noted by Staff regarding the variances requested. He suggested, of even greater significance, was that Staff in their Report did not raise any concern with the proposed lot frontage or lot area, qualitatively or quantitatively.

Mr. Romano noted that Engineering and Construction Services Staff, in their December 24, 2019 memorandum, advised of no objections to the applications, subject to standard conditions of approval.

With respect to Urban Forestry comments, in their memorandum dated August 18, 2020, Staff also had no objections, recommending only standard conditions if the applications were approved related specifically to permitting requirements for private trees as well as payment for tree planting within the City-owned boulevard.

Therefore, in Mr. Romano's opinion, the proposal represents development that will respect and reinforce the Subject Property's neighbourhood physical contexts and is materially consistent with the geographic neighbourhood and immediate physical contexts. Further, in his opinion, the proposal conforms to the Official Plan and meets the general intent and purpose of the Official Plan.

After review of pertinent policies, he is also of the opinion that the proposal is consistent with the PPS and the Growth Plan and that it implements the applicable sections of the *Planning Act*.

ZONING

The requested variances to the Zoning By-law, in Mr. Romano's opinion, maintain the general intent and purpose of the Zoning By-laws.

With respect to the individual performance standards applicable to the site development he opined that the proposed lot area and lot frontage will, in his opinion, fit in well with the intermingling of lot sizes that exist in the neighbourhood. He asserts that lots smaller than the general zoning requirement are well represented in the subject property's physical contexts.

Mr. Romano opined that the proposed lot coverage provides ample space for amenity and servicing. He asserts that the proposed Gross Floor Area (GFA) and FSI are compatible with those represented elsewhere in the neighbourhood and immediate context. As well, the proposed lot coverage will accommodate amenity, servicing and setback components.

He asserted that the side yard setback Variance requested for both of the proposed dwellings provides for adequate space for spatial separation and that the east side of the lot, (between the proposed two new dwellings) in Mr. Romano's opinion provides adequate space to facilitate access, maintenance and servicing. He notes that the neighbourhood includes commonly found side yard setbacks that are smaller than the zoning requirement with no numeric uniformity, consistency, or pattern.

In reviewing the proposed plans, he submitted that the building length of each dwelling is articulated, measuring 18.4 m for the first floor which includes an integrated garage. The second floor is recessed and is 15.7 m in length. In Mr. Romano's opinion, the length maintains ample rear yard space. He also notes that the dwellings on either side of the subject property have similar building lengths to what is proposed.

Addressing the coloured rendering in his Expert Witness Statement (Exhibit 3, p. 78), he noted that the front elevations of both proposed dwellings have been revised to differentiate the two through the use of different façade building materials, the introduction of an articulated canopy over the garage (dwelling on the east lot), and redesigned fenestration.

Additionally, in Mr. Romano's opinion, the roof height variance meets the general intent and purpose of the By-law to achieve a low profile, low-rise residential building. He states that the proposal maintains a sloped roof design that is sloped away from all walls. The proposed building height meets the requirements of the City's harmonized Zoning By-law (By-law 569-2013), but as these provisions of the By-law remain under appeal, the lesser height allowance of the former City of Etobicoke Zoning By-law (By-law 1979-67) remains in force.

He attests that the Variances for main wall and soffit height will achieve a low-rise wall height that is varied in height with the associated eaves reference point of measurement maintaining a two-storey height level as found in this area. He noted that the wall height provision is still under review and not in force, but that wall heights that are not regulated can be as tall as the By-law allows for building height, namely 9.5 m to the top of the roof in this instance.

With respect to the Variance for the area of a second-floor platform, he opined that the area of the proposed rear platform had been reduced in size and will be appropriately screened at the sides with 1.5 m high privacy screening, thereby minimizing impacts associated with such elevated platforms.

MINOR AND DESIRABLE

In Mr. Romano's opinion, the proposal creates no unacceptable adverse impacts and is therefore minor in nature. It is his opinion that the proposal will introduce compatible lot size, site design and built form features with are within the planning and public interest. He therefore concludes that they are desirable for the appropriate use and development of the land.

He requested that the TLAB allow the appeals and approve the Applicants subject to the conditions as proposed (found in Attachment 2 herein), as the proposal satisfies all consent criteria, the four tests, and represents good land use planning.

ANALYSIS, FINDINGS, REASONS

The subject appeals challenge the COA's refusal to grant consent to sever the property and build two detached dwellings with attributes of built form acknowledged as existing in redevelopments of neighbourhood properties.

Clearly the zoning standards of 12 m frontage and 465 m² of lot area are offended by the Applications at 7.62 m and approximately 278.7 m², respectively.

At issue is whether these distinctions, in conjunction with the associated 18 variances attendant each lot now before the TLAB constitute good community planning resulting from the application and direction of the relevant statutory considerations listed above.

In support of the Applications, I note that Mr. Romano provided uncontested evidence to support his opinion that the proposal represents a desirable reuse of the lands and an appropriate form of redevelopment, and that the requested variances will allow for a development which is both desirable and appropriate for the area.

I accept the rather fundamental proposition of Mr. Romano that a plan of subdivision is not required and that, if allowed, two dwelling units of modest scale could be built on the severed parcels.

The task of the TLAB is not one of a test of feasibility. Rather, it is the application of policy direction and evidence to the attributes of the site and its surroundings, variously defined.

I accept his opinion that the Applications are consistent with and conform to provincial policy objectives, expressed as applicable generally across the province. I also agree that the City OP is the relevant guide for detailed evaluation of the criteria

and tests raised in section 51(24) and 45(1) of the *Planning Act* and that OP directs a more refined approach in assessing and describing area character attributes is required.

I am also content that the planning advice received confirmed that it is the obligation of the TLAB to consider the subject property Applications on their own merit, with due regard to all relevant considerations including the 'larger considerations of administrative policy'. This consideration means that the subject property be considered in its context, that all relevant factors of similarity and differences in neighbourhood definition be considered and a decision made that best tracks the policy objectives in place and applicable to the '*Neighbourhoods*' designation, as prescribed and intended by the City OP.

At the core, the Appeals invite an assessment of whether the Applications are appropriate on all relevant considerations.

In my view, that '*Neighbourhoods*' designation has at its centre the intention to recognize stability and the desirability of the preservation and enhancement of City neighbourhoods. The OP presents criteria, notably in section 4.1.5, for development in neighbourhoods and requires that zoning standards set numerical standards to ensure physical compatibility with the established physical character. It is in this way that the OP seeks to encourage that the stability of the City '*Neighbourhoods*' can be preserved.

There can be little doubt that the policy language referenced by Mr. Romano in Chapters 2, 3 and 4 of the OP have as their goal the protection of the general physical character of these neighbourhoods, the encouragement of stability, and the evaluation and direction of change by a host of planning permissions that is to be 'sensitive', 'gradual' and guided by perceptions of the appropriateness of 'fit'. No changes are to be allowed to the contrary.

I accept that the delineation of evaluation criteria in Official Plan policy section 4.1.5, preceded by the word "including", are indicia of the broad scope of relevant considerations in forming the assessment of compatibility, not being essential sameness and neither having prescience over another.

I agree with Mr. Romano that the prevailing lot size in this neighbourhood is modest in size ranging from 7.62 m to less than 12 m. I find his assessment that lots compatible and complementary to the proposal are well represented and occur in substantial numbers within the geographic neighbourhood as well as the immediate and adjacent context compelling and uncontroverted. I agree that they are nearby and in close proximity to the subject property.

I accept his evidence that the proposed lot size and configuration respects and reinforces the subject property's physical context in terms of lot size and configuration physical character.

I accept and find the proposed dwellings with integral garages as well represented within the area context and that the massing, scale, and density of the

dwellings conform to and are within the parameters established by the applicable planning instruments, including the Zoning By-laws for massing.

With respect to the GFA/lot area contribution of the proposed dwellings to the density consideration, I agree with Mr. Romano that dwellings in this neighbourhood exceeding the maximum permitted FSI standard of 0.40 x the area of the lot is a predominant characteristic within the immediate context (72%) and that the proposed height, massing, scale, density and dwelling type will respect and reinforce the surrounding and prevailing physical character.

I concur with his assessment that within the geographic neighbourhood there is a varied built-form typology; newer dwellings are intermixed and coexist with older homes; additionally; semi-detached dwellings are located beside detached dwellings; and one and a half storey dwellings are located beside 2 and some 3 storey dwellings. I agree that the introduction of two new detached dwellings on lots having frontages which are consistent with the existing lot pattern and dwelling type fits the existing neighbourhood character.

With respect to building typology and lot frontage, Mr. Romano's photo and statistical evidence was compelling in highlighting that 36% of the lots within the neighbourhood with a frontage of 7.62 m contain detached dwelling types. I concur that the proposal exhibits a conventional physical form of low-scale residential development in a manner that is appropriately sited and designed. It will respect and reinforce the neighbourhood physical contexts and is materially consistent with the geographic neighbourhood and immediate physical context.

The question of whether the requested variances are minor in nature and appropriate is important to this matter, as the degree of relief sought is of significance. Counsel provided case law in the form of two TLAB decisions, **78 Foch Avenue** and **158 Alderbrae Avenue**.

In 78 Foch Avenue, a decision issued January 9, 2019, which involved appeals of a COA decision refusing to grant a consent to sever and associated variances to construct a semi-detached dwelling on lots with a frontage of 6.75 m and lot area of 257.4 m². In that matter, Member Makuch allowed the severance and granted the variances for lot coverage, FSI, side yard setback 0.92 m for north side), and exterior main wall and building height noting that the requested variances "*were similar to those in the neighbourhood.*" (p. 3, Decision)

Ms. Stewart submitted that the subject proposal is very similar to the above applications.

In 158 Alderbrae Avenue, a decision issued by Member Burton in March 2019, the City appealed the COA's approval of a consent and variance applications to create two lots with a frontage of 7.62 m and area of 278.7 m² and a two-storey detached dwellings on each. Member Burton granted the applications finding that there are in "*compliance with the OP Neighbourhood policies for these detached dwellings, as*

replacements and additions in these few blocks surrounding the subject site.” (p. 19, Decision)

In light of the foregoing, having considered the decision of the COA, the applicable statutory tests and evidence, and the lack of substantive planning concerns from the City which provided no further comments on the revised proposal and did not participate in the Hearing, I find that the consent and associated variances, as listed below, together with the conditions proposed, meet the criteria set out in Section 45(1) of the *Planning Act*.

The Applications are appropriate and desirable for the appropriate use and development of the lands, minor in nature and in keeping with the general intent and purpose of the City Official Plan and Zoning By-laws. The requested variances will introduce compatible lot size, site design and built form features which are within the planning and public interest.

I am also satisfied that the Applications are supportive of and consistent with the Provincial Policy Statement and the Growth Plan and represent good land use planning, for the reasons reviewed.

In his opening description, the Applicant requested reduced variances for lot coverage, GFA, side yard setback, and the area of the proposed 2nd storey platform, and eliminated variances for building length and roof eaves projections, from that originally proposed. Having examined these, I conclude they were indeed reductions, arrived at in the course of the processing of the Applications. As such, I find them to be minor and they do not warrant further notice pursuant to s. 45(18.1.1) of the *Planning Act*.

I conclude that the Appeal can be allowed, and I authorize the consent and approve all the variances requested.

DECISION AND ORDER

The appeal is allowed; the following variances are authorized, and the consent requested is approved. The earlier decision of the Committee of Adjustment dated August 27, 2020 is set aside.

ATTACHMENT 1

Approved Variances and Conditions of Variance Approval

22 Jellicoe Avenue (Part 1 – West Lot)

To construct a new detached dwelling with an attached garage.

1. Section 900.6.10.(18)(B)(i), By-law 569-2013

The minimum required lot frontage is 12 m. The new lot frontage will be 7.62 m.

2. Section 900.6.10.(18)(A)(i), By-law 569-2013

The minimum required lot area is 465 m². The new lot area will be 278.7 m².

3. Section 900.6.10.(18)(C)(i), By-law 569-2013

The maximum permitted lot coverage is 33% of the lot area (91.97 m²). The new dwelling will cover 36% of the lot area (100.11 m²).

4. Section 1.(a), By-law 1979-67 & 1981-272

The maximum permitted gross floor area is 0.4 times the area of the lot (111.48 m²). The new dwelling will have a gross floor area of 0.71 times the area of the lot (196.81 m²).

5. Section 10.80.40.70.(3)(A), By-law 569-2013

The minimum required side yard setback is 1.2 m. The new dwelling will be located 0.9 m from the west side lot line and 0.62 m from the east side lot line.

6. Section 3, By-law 1979-67

The maximum permitted height is 7.5 m, measured to the mid-point of the roof. The new dwelling will have a height of 8.86 m, measured to the mid-point of the roof.

7. Section 10.80.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7 m. The new dwelling will have a front exterior main wall height of 8.22 m.

8. Section 320-42.1.B.(2)

The maximum permitted soffit height is 6.5 m. The new dwelling will have a soffit height of 8.22 m.

9. Section 10.80.40.50.(1)(B), By-law 569-2013

The maximum permitted area of a platform at or above the second storey is 4 m². The proposed second storey platform will have an area of 4.5 m².

22 Jellicoe Avenue (Part 2 – East Lot)

To construct a new detached dwelling with an attached garage

1. Section 900.6.10.(18)(B)(i), By-law 569-2013

The minimum required lot frontage is 12 m. The new lot frontage will be 7.62 m.

2. Section 900.6.10.(18)(A)(i), By-law 569-2013

The minimum required lot area is 465 m². The new lot area will be 278.7 m².

3. Section 900.6.10.(18)(C)(i), By-law 569-2013

The maximum permitted lot coverage is 33% of the lot area (91.97 m²). The new dwelling will cover 36% of the lot area (100.11 m²).

4. Section 1.(a), By-law 1979-67 & 1981-272

The maximum permitted gross floor area is 0.4 times the area of the lot (111.48 m²). The new dwelling will have a gross floor area of 0.71 times the area of the lot (196.81 m²).

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The maximum permitted height is 7.5 m, measured to the mid-point of the roof. The new dwelling will have a height of 8.86 m, measured to the mid-point of the roof.

7. Section 10.80.40.10.(2)(A)(i), By-law 569-2013

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The maximum permitted soffit height is 6.5 m. The new dwelling will have a soffit height of 8.22 m.

9. Section 10.80.40.50.(1)(B), By-law 569-2013

The maximum permitted area of a platform at or above the second storey is 4 m². The proposed second storey platform will have an area of 4.5 m².

Conditions of Variance Approval

1. The proposed dwellings shall be constructed substantially in accordance with the following plans, all dated December 10, 2020 and prepared by Giancarlo Garofalo Architect:

a. Part 1: Site Plan (A1), Front Elevation (A7), Rear Elevation (A8), Left-Side Elevation (A9), and Right-Side Elevation (A10);

b. Part 2: Site Plan (A2), Front Elevation (A16), Rear Elevation (A17), Left-Side Elevation (A18), and Right-Side Elevation (A19).

2. The owner shall submit a complete application to injure or remove Privately-owned and City-owned trees, pursuant to Chapter 813 of the Municipal Code, Articles II and III.
3. Where there is no existing street tree, the owner shall provide payment in lieu of planting one street tree on the City road allowance abutting each of the sites involved in the application. The current cash-in-lieu payment is \$583/tree.
4. The applicant shall submit revised site plan with the following revisions and notations to the satisfaction of the Engineering Submit a revised site plan with the following revisions at no cost to the City;
 - a. Revise the site plan to show the exact location of the existing hydrant within the Jellicoe Avenue boulevard. The applicant must provide dimensions which demonstrate a minimum clearance of 1.2m in radius from the hydrant to the asphalt edge of each driveway.
 - b. Illustrate the existing and proposed grades along the boundary limit and within the proposed site;
 - c. 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 Jellicoe Avenue;
 - d. Show the footprint of the existing house and driveway. Label any redundant portion of the existing driveway and associated curb cut to be removed within the right-of-way as to be restored with sod and raised concrete curb.
 - e. Add the following notes to the Site Plan:
 - i. "The owner shall remove any redundant portion of the existing driveway and associated curb cut within the municipal right-of-way; and the disturbed area shall be restored with sod and raised concrete curb according to City of Toronto Design Standards."
 - ii. "The proposed new driveways shall be constructed to the applicable City of Toronto Design Standards at no cost to the municipality."
 - iii. "The owner shall submit a Municipal Road Damage Deposit (MRDD) prior to obtaining a Building Permit."
 - iv. "The owner 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 onto the municipal road allowance."

ATTACHMENT 2: Standard Consent Conditions

The Consent Application is approved on Condition

The TLAB has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The TLAB therefore consents to the transaction as shown on the plan filed with the TLAB or as otherwise specified by this Decision and Order, on the condition that before a Certificate of Official is issued, as required by Section 53(42) of the Planning Act, the applicant is to fulfill the following conditions to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment:

(1) Confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, in the form of a statement of tax account current to within 30 days of an applicant's request to the Deputy Secretary-Treasurer of the Committee of Adjustment to issue the Certificate of Official as outlined in Condition 6.

(2) Municipal numbers for the subject lots, blocks, parts, or otherwise indicated on the applicable registered reference plan of survey shall be assigned to the satisfaction of the Supervisor, Surveys, Engineering Support Services, Engineering and Construction Services.

(3) One electronic copy of the registered reference plan of survey integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with, and to the satisfaction of, the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services.

(4) One electronic copy of the registered reference plan of survey satisfying the requirements of the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services shall be filed with the Deputy Secretary-Treasurer of the Committee of Adjustment.

(5) Prepare and submit a digital draft of the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) of the Planning Act if applicable as it pertains to the conveyed land and/or consent transaction to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment.

(6) Once all of the other conditions have been satisfied, the applicant shall request, in writing, that the Deputy Secretary-Treasurer of the Committee of Adjustment issue the Certificate of Official.

(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

ATTACHMENT 3

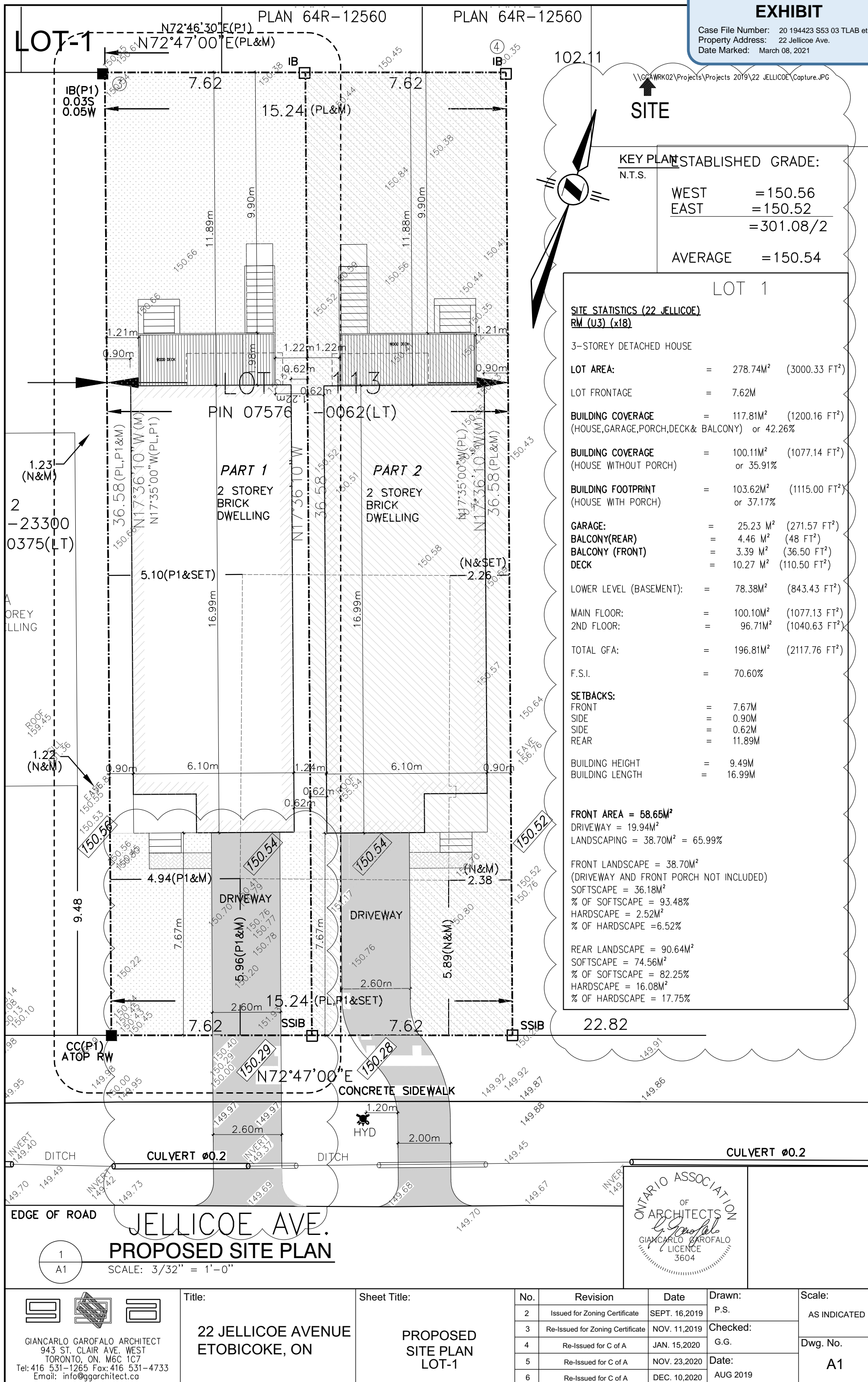
Site Plan Drawings

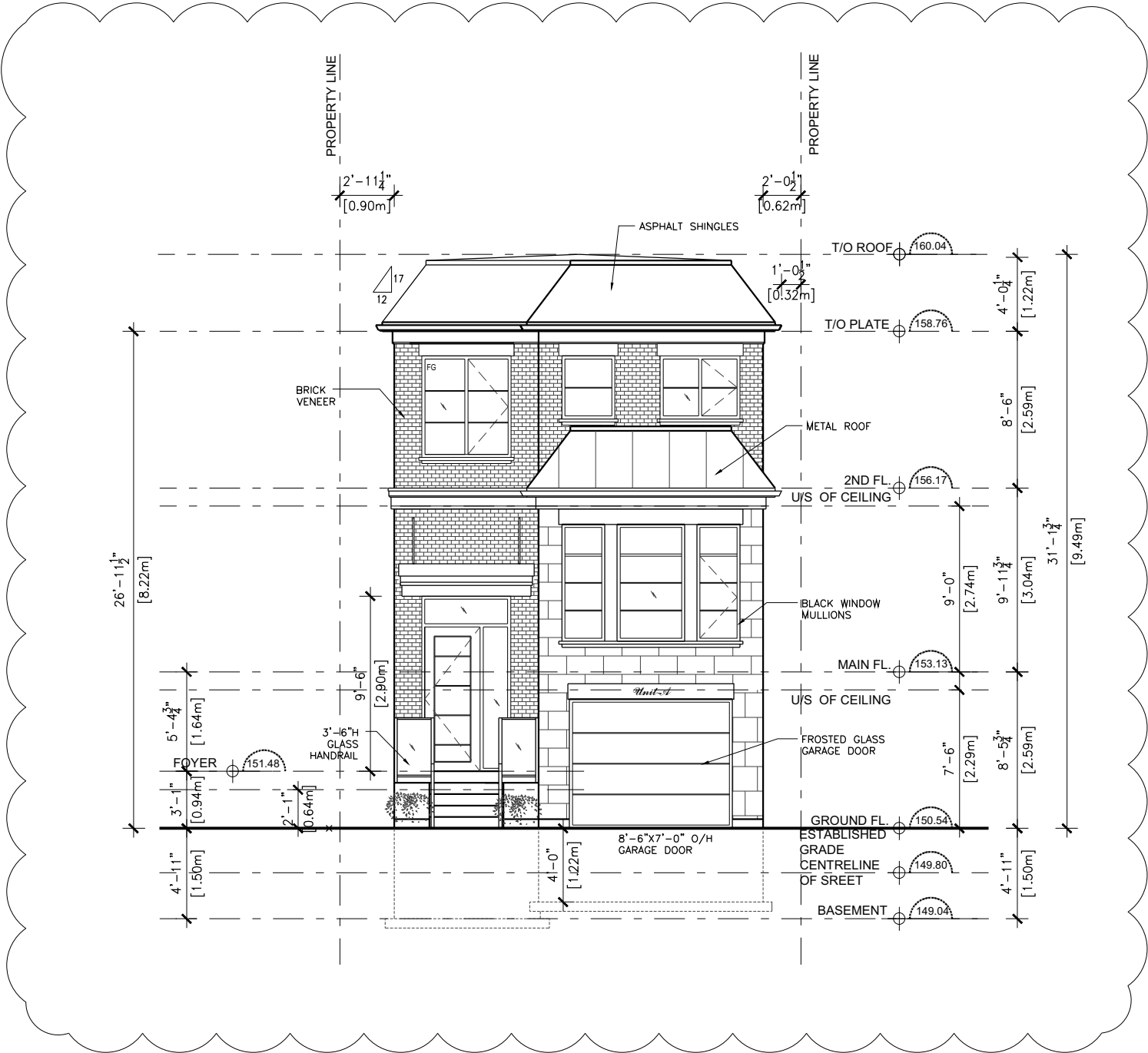
2021-03-23

X 

Signed by: dlombar

Case File Number: 20 194423 S53 03 TLAB et al
Property Address: 22 Jellicoe Ave.
Date Marked: March 08, 2021





A
A7

FRONT ELEVATION

SCALE : 1/8" = 1'-0"

THE GENERAL CONTRACTOR SHALL REPORT AND VERIFY ALL DIMENSIONS AND REPORT ERRORS AND OMISSIONS TO THE ARCHITECT. DRAWINGS MUST NOT BE SCALED.

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY:



GIANCARLO GAROFALO ARCHITECT
943 ST. CLAIR AVE. WEST
TORONTO, ON. M6C 1C7
Tel: 416 531-1265 Fax: 416 531-4733
Email: info@ggarchitect.ca

Title:
**22 JELlicOE AVE.
ETOBICOKE, ON**

Sheet Title:
FRONT ELEVATION

No.	Revision	Date
2	Issued for Zoning Certificate	SEPT. 16,2019
3	Re-Issued for Zoning Certificate	NOV. 11,2019
4	Re-Issued for C of A	JAN. 15,2020
5	Re-Issued for C of A	NOV. 23,2020
6	Re-Issued for C of A	DEC. 10,2020

Drawn:
P.S.
Checked:
G.G.
Date:
AUG 2019

Scale:

Dwg. No.
A7



A
A8

REAR ELEVATION

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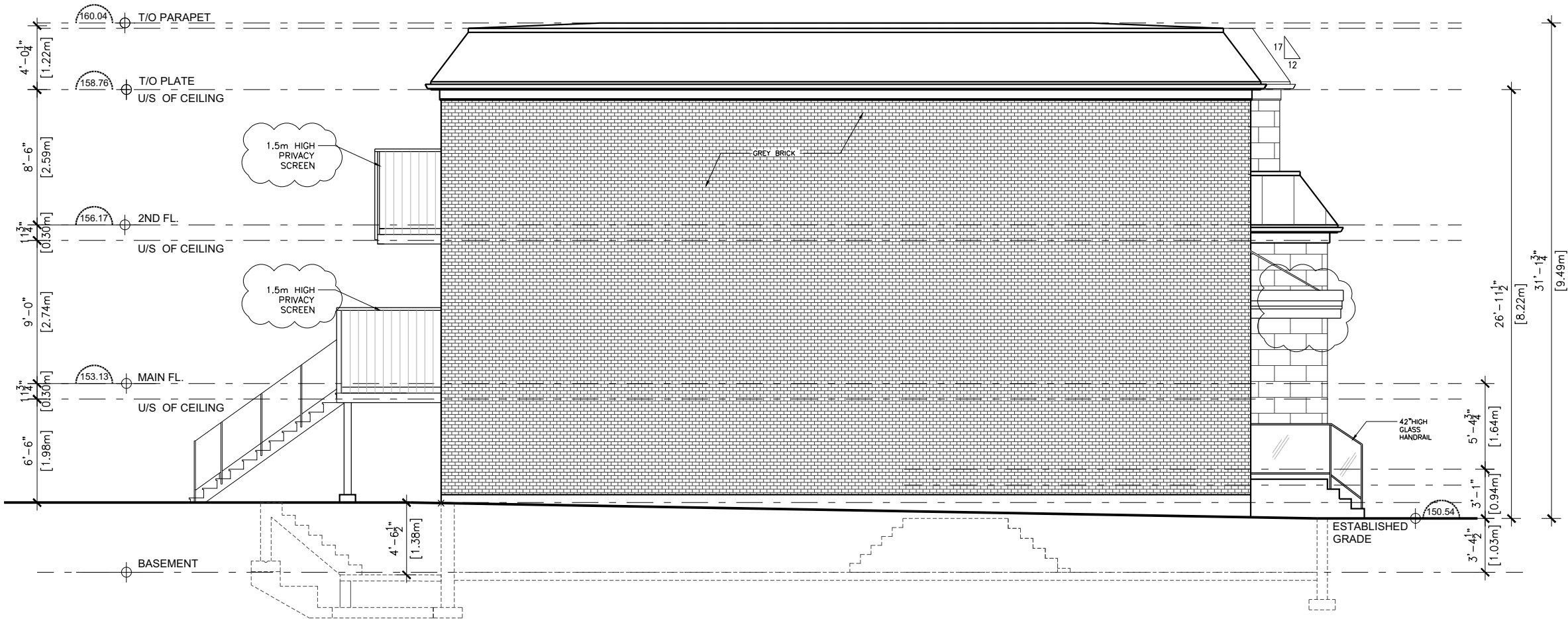
PROPOSED
REAR ELEVATION

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Scale:

Dwg. No.

A8



A
A9

LEFT-SIDE ELEVATION

SCALE : 1/8" = 1'-0"

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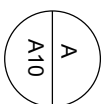
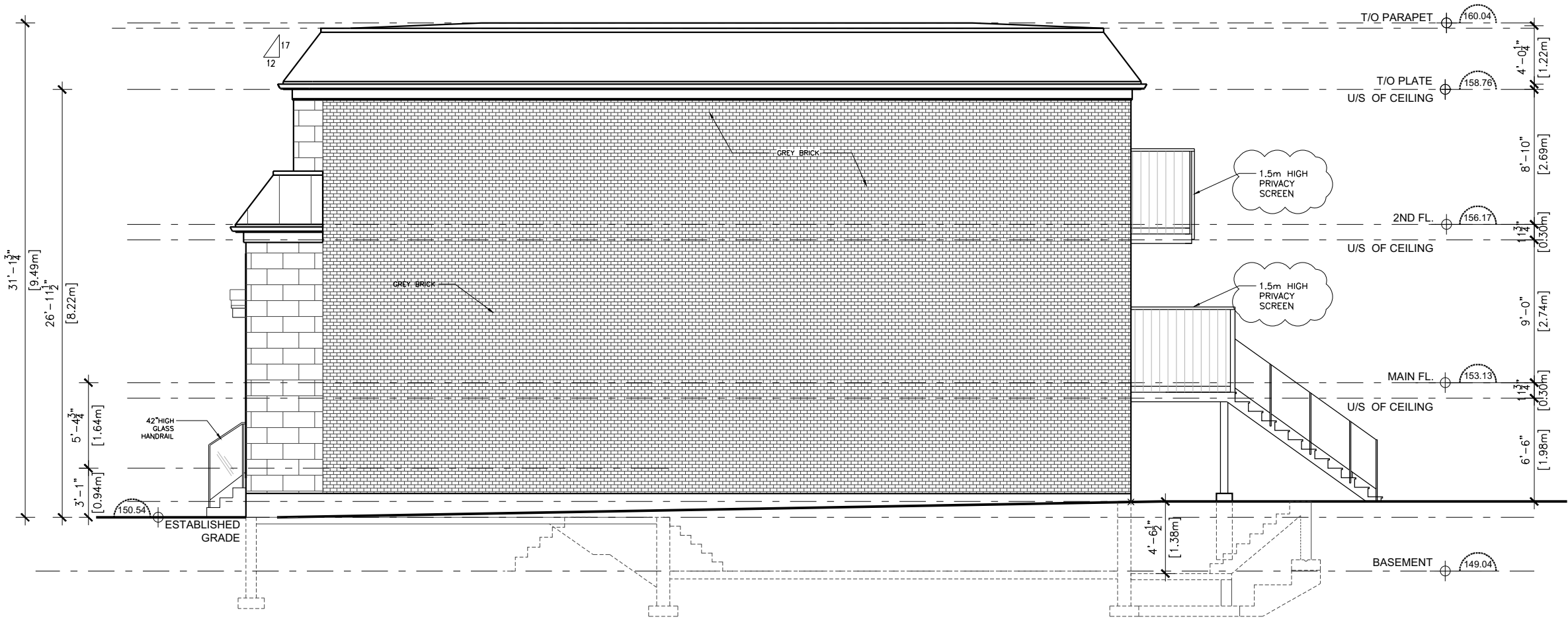


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Title:
22 JELICOE AVE.
ETOBICOKE, ON

Sheet Title:
LEFT-SIDE
ELEVATION

No.	Revision	Date	Drawn:	Scale:
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5	Re-issued for C of A	NOV. '23, 2020	Date:	
6	Re-issued for C of A	DEC. '10, 2020	AUG 2019	A9



RIGHT-SIDE ELEVATION

SCALE : 1/8" = 1'-0"

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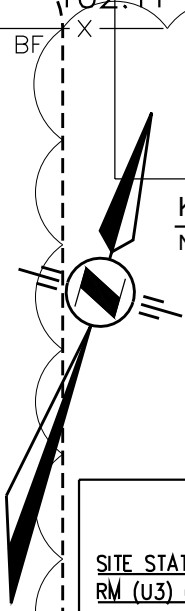
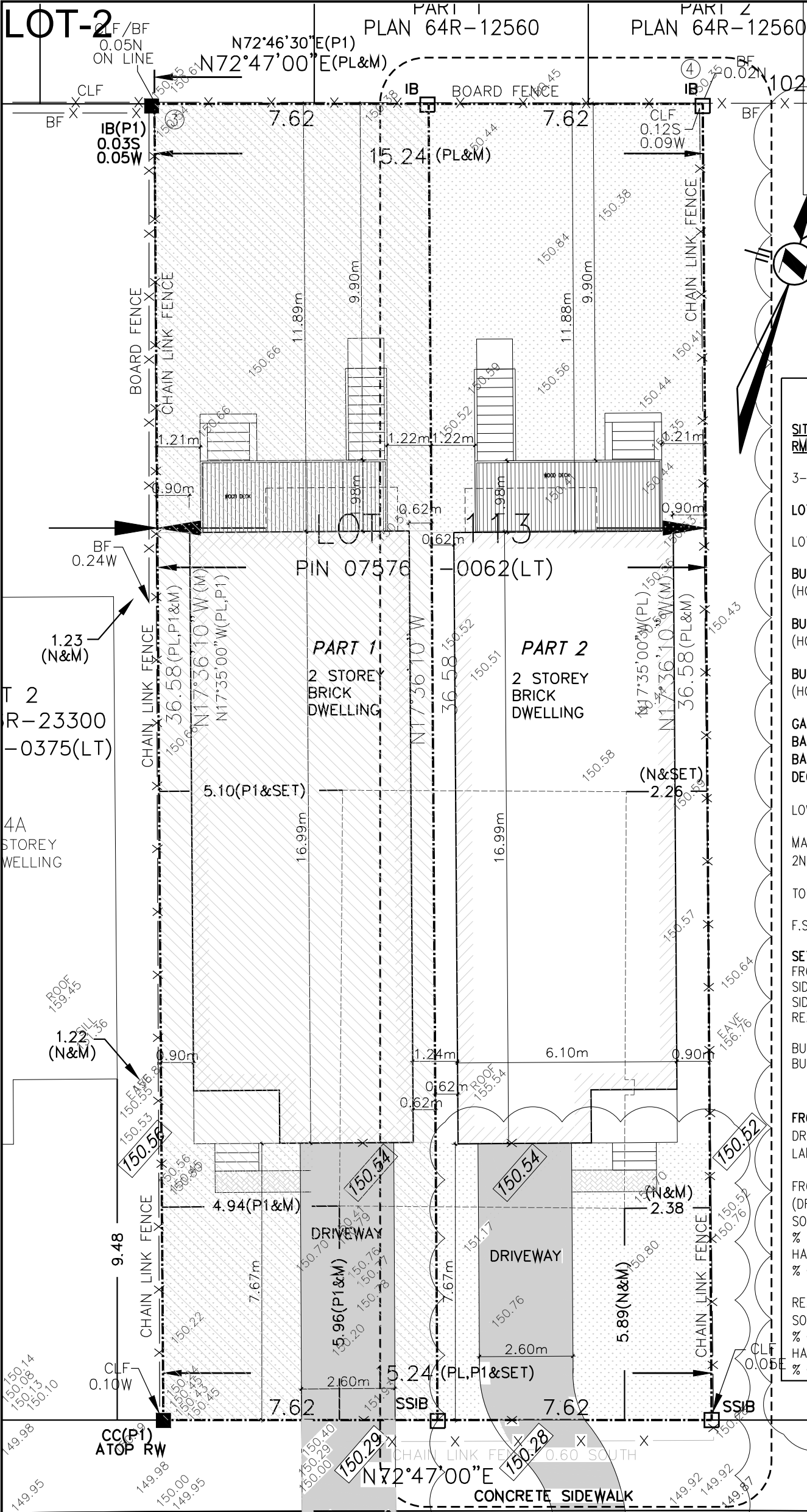
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Title:		22 JELLOCOE AVE. ETOBICOKE, ON	
Sheet Title:		RIGHT-SIDE ELEVATION	
No.	Revision	Date	Drawn:
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6	Re-issued for C of A	DEC. 10, 2020	AUG 2019
Scale:			Dwg. No. A10

LOT-2



SITE

KEY PLAN
N.T.S.

ESTABLISHED GRADE:

WEST = 150.56
EAST = 150.52
= 301.08/2
AVERAGE = 150.54

LOT 2

SITE STATISTICS (22 JELICOE)
RM (U3) (x18)

3-STOREY DETACHED HOUSE

LOT AREA: = 278.74M² (3000.33 FT²)

LOT FRONTAGE = 7.62M

BUILDING COVERAGE = 117.81M² (1200.16 FT²)
(HOUSE, GARAGE, PORCH, DECK & BALCONY) or 42.26%

BUILDING COVERAGE = 100.11M² (1077.14 FT²)
(HOUSE WITHOUT PORCH) or 35.91%

BUILDING FOOTPRINT = 103.62M² (1115.00 FT²)
(HOUSE WITH PORCH) or 37.17%

GARAGE: = 25.23 M² (271.57 FT²)
BALCONY (REAR) = 4.46 M² (48 FT²)
BALCONY (FRONT) = 3.39 M² (36.50 FT²)
DECK = 10.27 M² (110.50 FT²)

LOWER LEVEL (BASEMENT): = 78.38M² (843.43 FT²)

MAIN FLOOR: = 100.10M² (1077.13 FT²)

2ND FLOOR: = 96.71M² (1040.63 FT²)

TOTAL GFA: = 196.81M² (2117.76 FT²)

F.S.I. = 70.60%

SETBACKS:
FRONT = 7.67M
SIDE = 0.90M
SIDE = 0.62M
REAR = 11.89M

BUILDING HEIGHT = 9.49M
BUILDING LENGTH = 16.99M

FRONT AREA = 58.65M²
DRIVEWAY = 19.94M²
LANDSCAPING = 38.70M² = 65.99%

FRONT LANDSCAPE = 38.70M²
(DRIVEWAY AND FRONT PORCH NOT INCLUDED)
SOFTSCAPE = 36.18M²
% OF SOFTSCAPE = 93.48%
HARDSCAPE = 2.52M²
% OF HARDSCAPE = 6.52%

REAR LANDSCAPE = 90.64M²
SOFTSCAPE = 74.56M²
% OF SOFTSCAPE = 82.25%
HARDSCAPE = 16.08M²
% OF HARDSCAPE = 17.75%

22.82

JELICOE AVE.
PROPOSED SITE PLAN

SCALE: 3/32" = 1'-0"



CULVERT Ø0.2

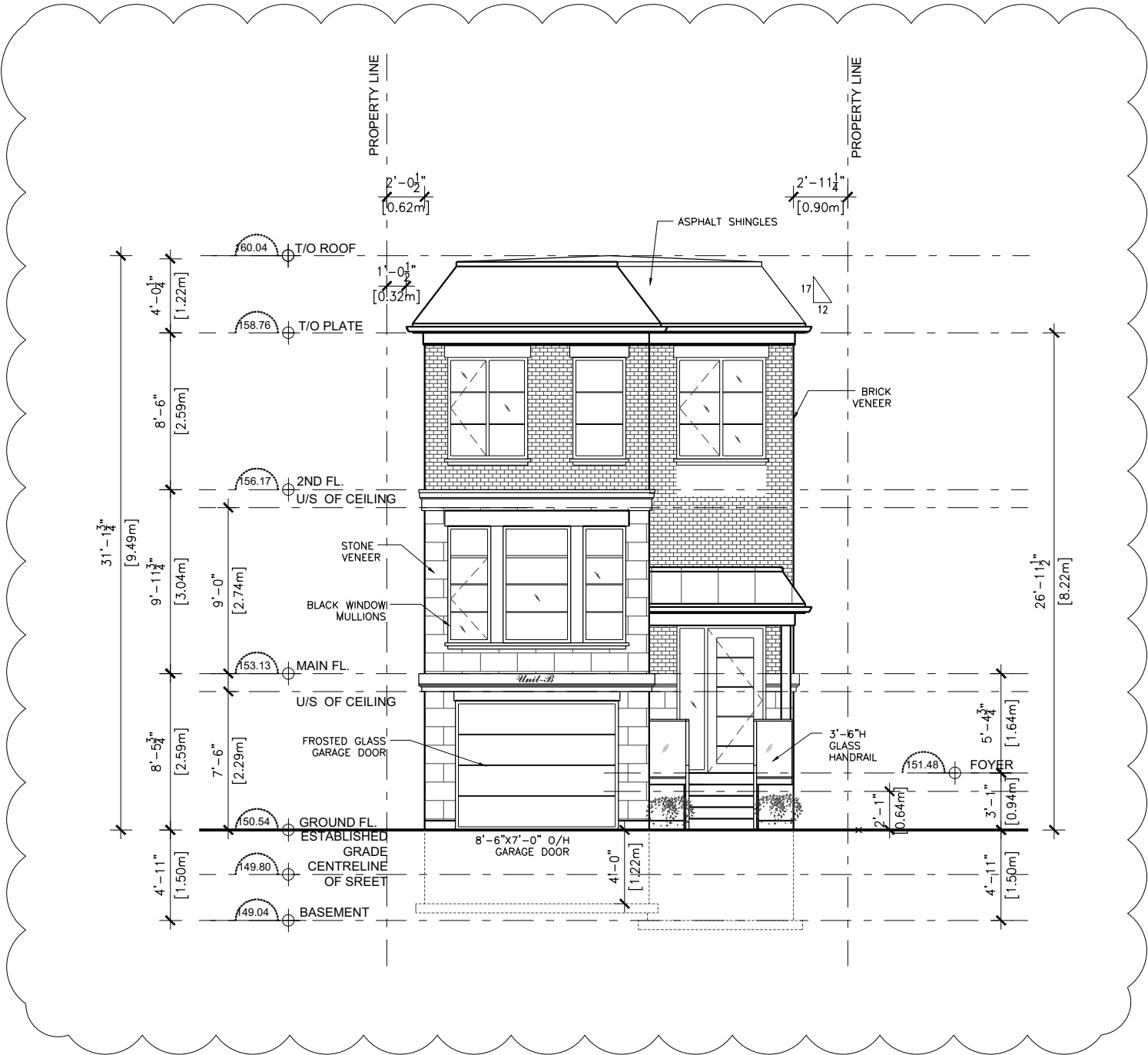


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Title:
22 JELICOE AVENUE
ETOBICOKE, ON

Sheet Title:
PROPOSED
SITE PLAN
LOT-2

No.	Revision	Date	Drawn: P.S.	Scale: AS INDICATED
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3	Re-Issued for Zoning Certificate	NOV. 11, 2019		
4	Re-Issued for C of A	JAN. 15, 2020	Date: AUG 2019	
5	Re-Issued for C of A	NOV. 23, 2020		
6	Re-Issued for C of A	DEC. 10, 2020		



A
A16
FRONT ELEVATION
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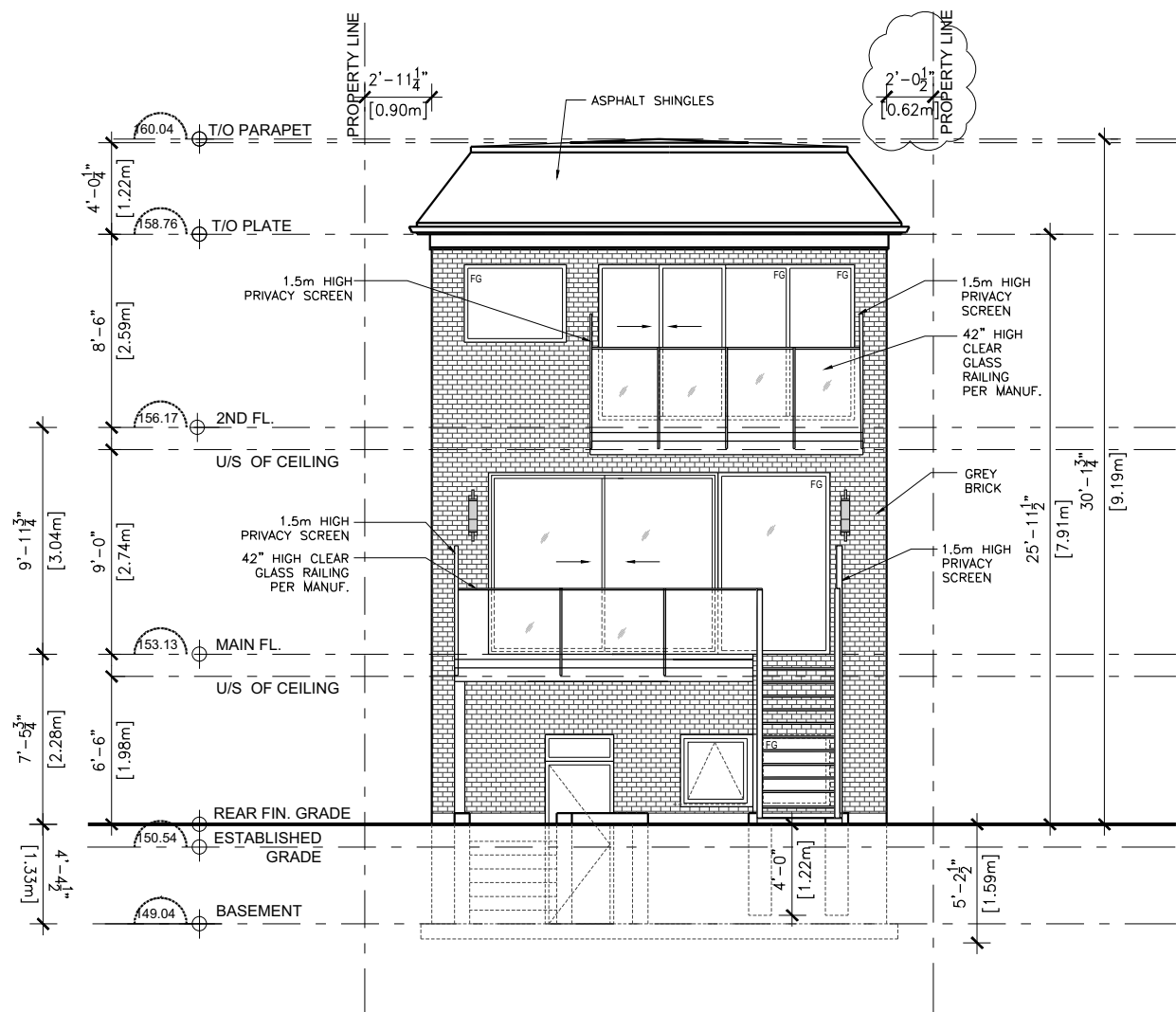
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ETOBICOKE, ON**

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A16



A
A17

REAR ELEVATION

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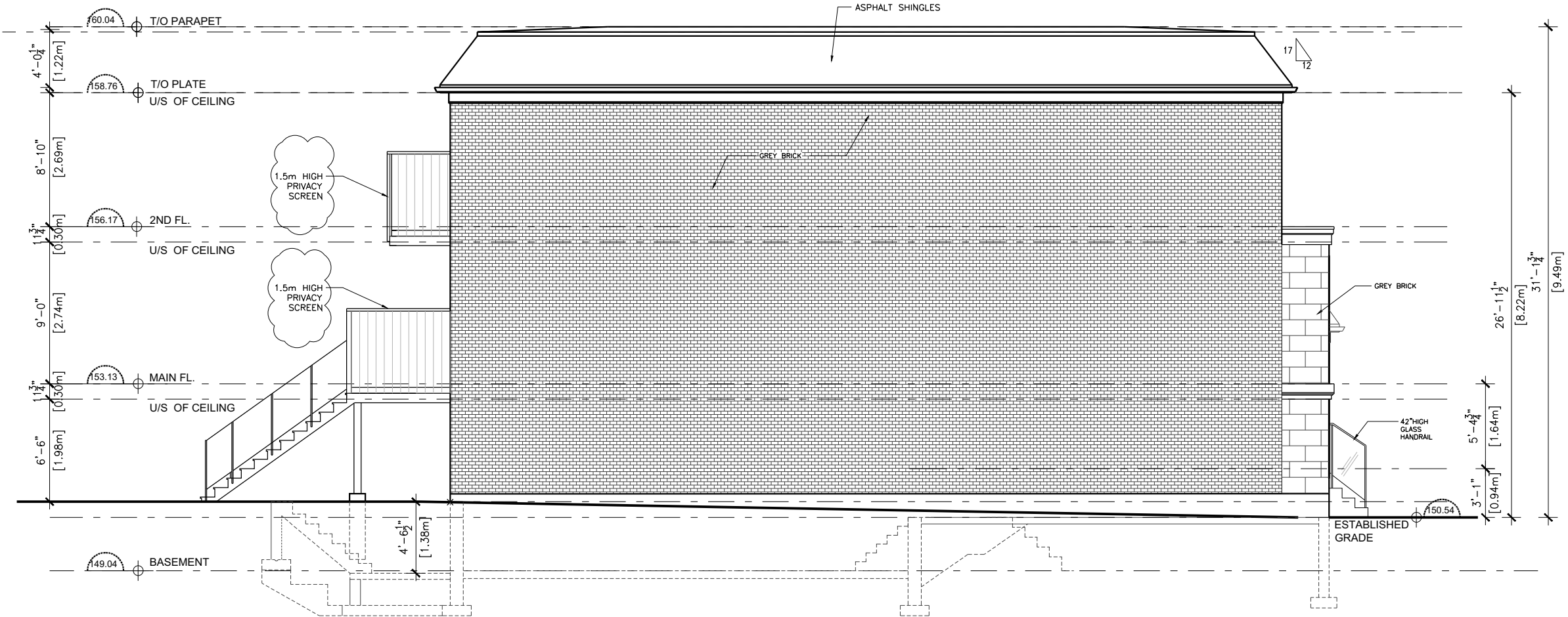
Checked:
G.G.

Date:
AUG 2019

Scale:

Dwg. No.

A17



A
A18

LEFT-SIDE ELEVATION

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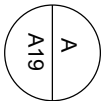
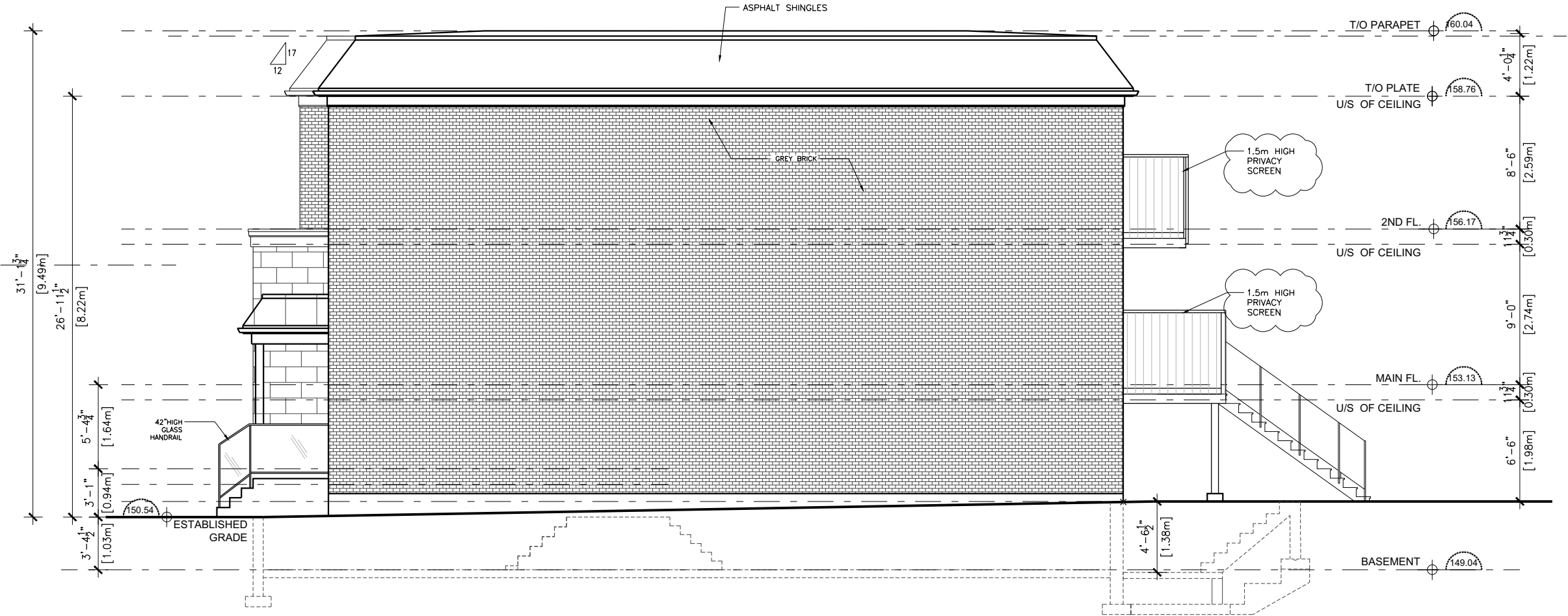
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ELEVATION

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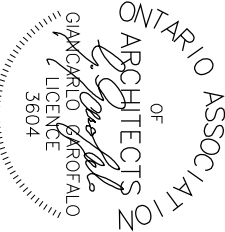
A18



RIGHT-SIDE ELEVATION

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ETOBICOKE, ON

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RIGHT-SIDE
ELEVATION

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Dwg. No.

A19