

DECISION AND ORDER

Decision Issue Date **Wednesday, April 28, 2021**

PROCEEDINGS COMMENCED UNDER section 45(12), subsection 45(1) of the
Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s): FREDERIC TASSINARI

Applicant(s): TOM GARZELLI

Property Address/Description: 215 SOUTH KINGSWAY

Committee of Adjustment File

Number(s): 20 115080 STE 04 MV

TLAB Case File Number(s): 20 188182 S45 04 TLAB

Hearing date: Thursday April 22nd, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY S. Makuch

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Tom Garzelli
Appellant	Frederic Tassinari
Party	Tom Garzelli
Party	Jorge Hurtado
Party	Lucia Tassinari

INTRODUCTION

This is an appeal by the owners of 215 South Kingsway, from the Committee of Adjustment decision, refusing variances which would allow alterations to their existing two-storey detached dwelling by constructing an attached single car garage along the rear east portion of the south side wall. The variances are to permit a garage which would have: a smaller footprint than permitted under the bylaw; which would be closer to the south lot line than permitted; and, since the garage was attached to the house, which results in an FSI greater than permitted. The variances are set out in Appendix 1.

BACKGROUND

The proposed garage is to replace a larger garage which was in the back yard and was demolished to provide space for a swimming pool. The immediate neighbours to the south objected to the variances at the Committee of Adjustment because the garage would result in the south cement block wall of the garage being placed adjacent to their outdoor eating area. However, they did not appear at the TLAB hearing in opposition, apparently because they wanted to maintain good relations with their neighbours.

MATTERS IN ISSUE

The only issue before TLAB was whether the proposed garage would adversely affect the neighbours to the south. The appellants stated that they did not want the garage wall to negatively impact on the neighbours to the south. Otherwise, the variances have to meet the requirements of Provincial enactments set out below as well as the four tests for variances set out in the Planning Act also set out below.

JURISDICTION

Provincial Policy – S. 3

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

Variance – S. 45(1)

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

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

EVIDENCE

The only evidence presented at the hearing was by Mr. and Mrs. Tassinari, owners of the property. Those objecting to the variances, did not appear at the hearing and sent a note to the owners stating they were not objecting at the hearing in order to maintain good relations.

The oral evidence presented indicated that the main reason for the objection to the variances was the height of the wall of the garage. While additional concerns were included in written statements filed with TLAB, no one spoke about those concerns. They included snow falling from the roof of the garage into the backyard of the property to the south, and access to a gas line.

ANALYSIS, FINDINGS, REASONS

Based on a site visit and a review of plans for the garage I find that the four tests of the Planning Act are met and in particular that the garage will respect and reinforce the character of the neighbourhood. In the absence of any oral evidence in opposition, I also find the concerns respecting the snow and gas line to be unsubstantiated. Furthermore, written concerns about the four tests were not persuasive. I do find, however, based on the evidence of the owners that the height of the wall to be a legitimate concern and thus find the south wall of the garage should be no higher than

the existing fence between 215 and 213 South Kingsway. In addition, the garage should be constructed in accordance with the plans filed with the Committee of Adjustment.

DECISION AND ORDER

The appeal is allowed and the variances set out in Appendix 1 are approved subject to the following conditions: (1) the south wall of the garage will be no higher than the existing fence on the south property line of 215 South Kingsway; (2) construction shall be substantially in accordance with the plans in Appendix 2.

X 

S. Makuch

Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Chapter 10.20.40.40.(1)(A) By-law 569-2013 The maximum permitted floor space index is 0.6 times the area of the lot (207.67 m²). The altered detached dwelling will have a floor space index of 0.64 times the area of the lot (221.43 m²).
2. Chapter 10.20.40.70.(3)(B) By-law 569-2013 The minimum required side yard setback is 0.9 m. The altered detached dwelling will be located 0.27 m from the south side lot line.
3. Chapter 10.5.40.60.(7)(B) By-law 569-2013 Roof eaves may encroach a maximum of 0.9 m into the required setback provided that they are no closer than 0.3 m to a lot line. In this case, the eaves will encroach 0.88 m and will be located 0.02 m from the south side lot line.
4. Chapter 200.5.1.10.(2)(A)(IV) By-law 569-2013 The required parking space in a garage must be a minimum of 3.2 m in width. In this case, the required space will have a width of 2.24 m.
5. Chapter 200.5.1.10.(2)(A)(i) By-law 569-2013 The required parking space in a garage must be a minimum of 5.6 m in length. In this case, the required space will have a length of 5.23 m.

APPENDIX 2

LEGAL DESCRIPTION

PLAN SHOWING:
BUILDING LOCATION SURVEY OF
PART LOT 63 REGD' PLAN No.
M-522 CITY OF TORONTO
PREPARED BY:
HENRY J GERRITS SURVEY LTD O.L.S
DATED: SEPTEMBER 30, 1985

GENERAL NOTES:

1. GRADES ARE TO REMAIN UNCHANGED
2. EXCESS FILL MATERIAL TO BE REMOVED FROM PROPERTY

LANDSCAPE AREA:

REAR YARD:
TOTAL REAR AREA = 1,499 SF (139 m²)
GARAGE PROJECTION = 59 SF (5.49 m²) 4%
LANDSCAPE = 1,440 SF (134m²) 96%

ZONING DESIGNATION

DETACHED SINGLE FAMILY DWELLING (R)

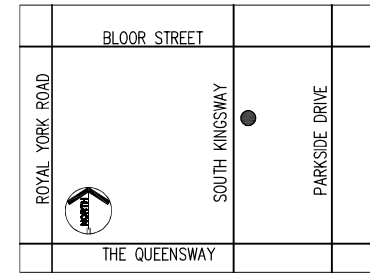
PPR APPLICATION No:

19-255109-ZPR-00-ZR

SITE DATA:

LOT AREA	3,725.5 SF (346m ²)	EXISTING
FOOTPRINT	EXTG. 1,139 SF (106m ²)	INCL. EXTG. DWELLING AND NEW GARAGE
	NEW 175 SF (16m ²)	
LOT COVERAGE =	3,725.5 / 1,314 (35%)	
GARAGE HEIGHT		
MID POINT TO PEAK	10'-3" (3.1m)	NEW
	11'-7" (3.5m)	NEW
DWELLING DEPTH =	42'-7 1/4" (12.98m)	EXISTING
GARAGE AREA=	175 SF (16m ²)	NEW

THE MAX. PERMITTED FLOOR SPACE INDEX IS 0.6 TIMES THE AREA OF THE LOT (207.67 m²)
THE ALTERED DETACHED DWELLING WILL HAVE A FLOOR SPACE INDEX OF 0.64 TIMES THE AREA OF THE LOT (221.43 m²)



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A1

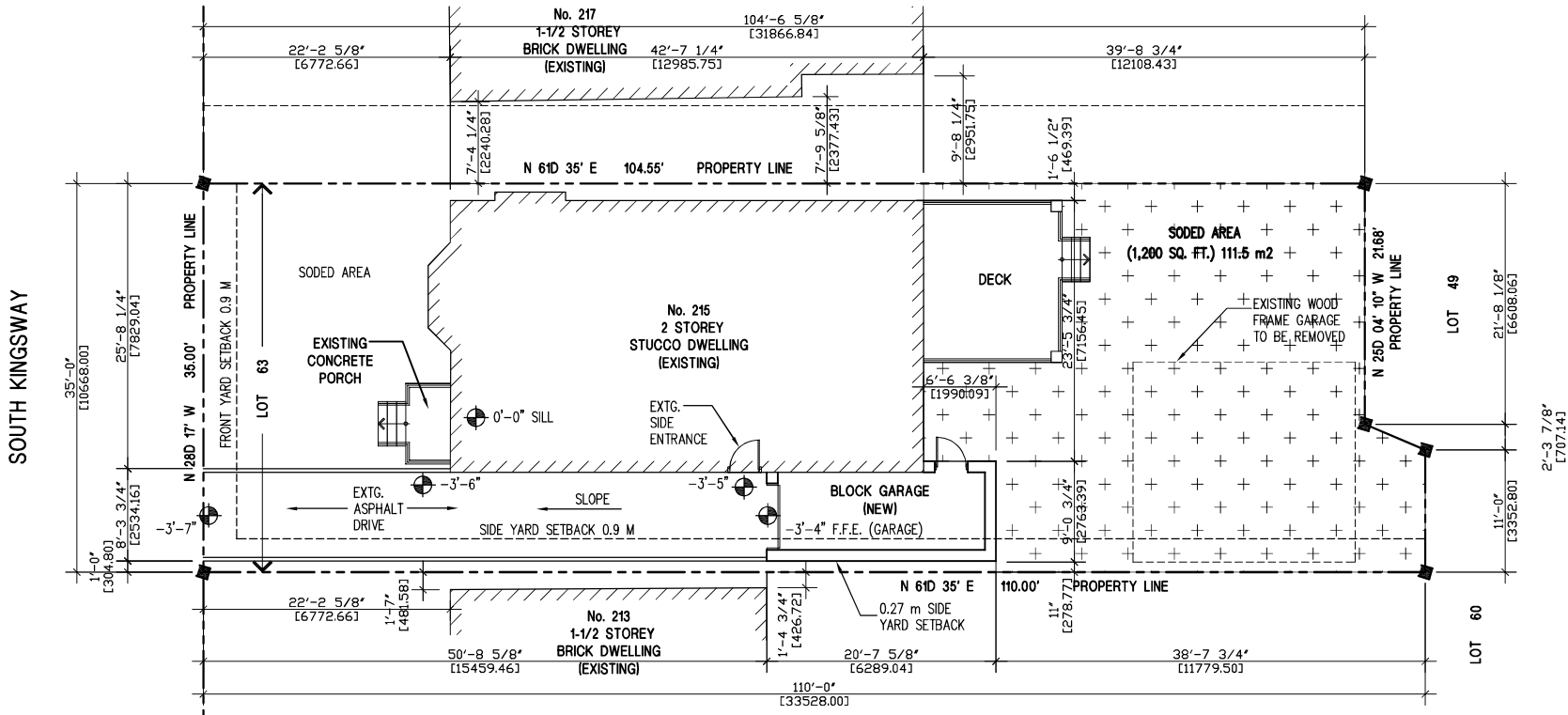
PROJECT KEY PLAN

LEGEND

- PROPERTY LINE
- EXISTING DWELLING
- NEW ADDITION
- TO BE REMOVED
- ZONING SETBACKS

RECEIVED

By Committee of Adjustment at 12:52 pm, Feb 24, 2020



1
A1

SITE PLAN

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

ALL DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF TOMMASO GARZELLI AND MAY NOT BE REPRODUCED WITHOUT WRITTEN CONSENT.
CONTRACTOR WILL CHECK AND VERIFY ALL DIMENSIONS AND CHECK ALL CONDITIONS ON THE JOB BEFORE PROCEEDING WITH WORK.
LATEST APPROVED DRAWINGS ONLY TO BE USED FOR CONSTRUCTION.
DRAWINGS NOT TO BE SCALED.

REVISIONS & ISSUES

REISSUED FOR COA	FEB 24/20	4
REISSUED FOR PPR	JUN 13/20	2
ISSUED FOR PPR	NOV 25/19	1

Description Date No.
THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE O.B.C TO BE A DESIGNER

QUALIFICATION INFORMATION:
TOMMASO GARZELLI (B.C.L.N) 24731

REGISTRATION INFORMATION:
ARCHITECTURAL DESIGN BY TOMMASO (B.C.L.N) 31485



ARCHITECTURAL DESIGN BY
TOMMASO

TASSINARI RESIDENCE
215 SOUTH KINGSWAY
TORONTO, ONTARIO








DRAWING TITLE:

SITE PLAN

PROJECT NO. 1910	DATE: NOVEMBER 2019
DRAWN BY: TO	SCALE: AS NOTED
CHECKED BY: TO	
DRAWING NO.	

A1

LEGEND

-  NEW CONSTRUCTION
-  EXISTING WALL
-  EXISTING TO BE REMOVED
-  PROPERTY LINE
-  SMOKE ALARM
-  C.O DETECTOR
-  POINT LOAD BELOW



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REVISIONS & ISSUES

ISSUED FOR COA	FEB 03/20	4
REISSUED FOR PPR	JAN 13/20	3
ISSUED FOR PPR	NOV 25/19	2

Description	Date	No.
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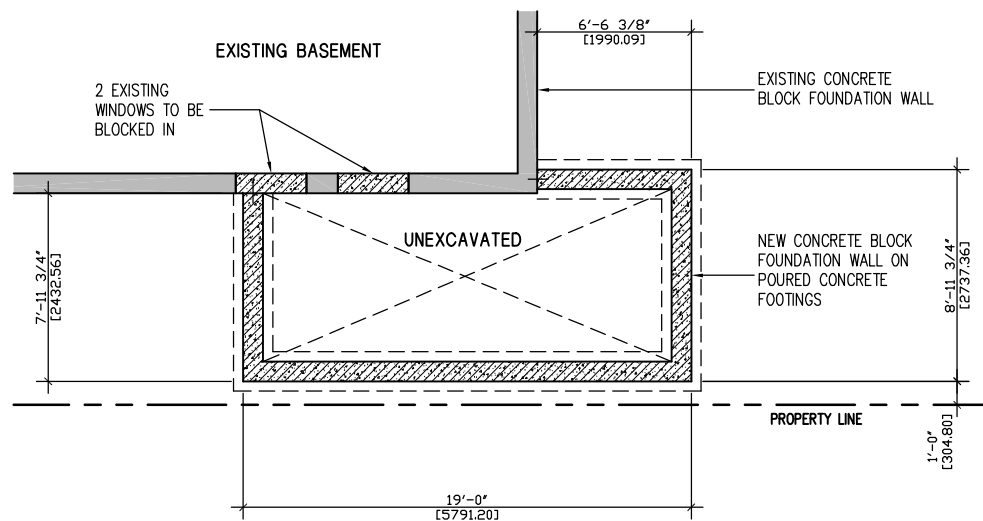
ARCHITECTURAL DESIGN BY
TOMMASO

**TASSINARI
RESIDENCE**
215 SOUTH KINGSWAY
TORONTO, ONTARIO

DRAWING TITLE:
**NEW
GARAGE PLAN**

PROJECT NO.	DATE:
1910	NOVEMBER 2019
DRAWN BY:	SCALE:
TO	AS NOTED
CHECKED BY:	
TO	
DRAWING NO.	

A2










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A2**

GARAGE FOUNDATION PLAN

SCALE: 3/16" = 1'-0"

LEGEND

-  NEW CONSTRUCTION
-  EXISTING WALL
-  EXISTING TO BE REMOVED
-  PROPERTY LINE
-  SMOKE ALARM
-  C.O DETECTOR
-  POINT LOAD BELOW



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REVISIONS & ISSUES

ISSUED FOR COA	FEB 03/20	4
REISSUED FOR PPR	JAN 13/20	3
ISSUED FOR PPR	NOV 25/19	2
Description	Date	No.

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ARCHITECTURAL DESIGN BY
TOMMASO

TASSINARI RESIDENCE

215 SOUTH KINGSWAY
TORONTO, ONTARIO

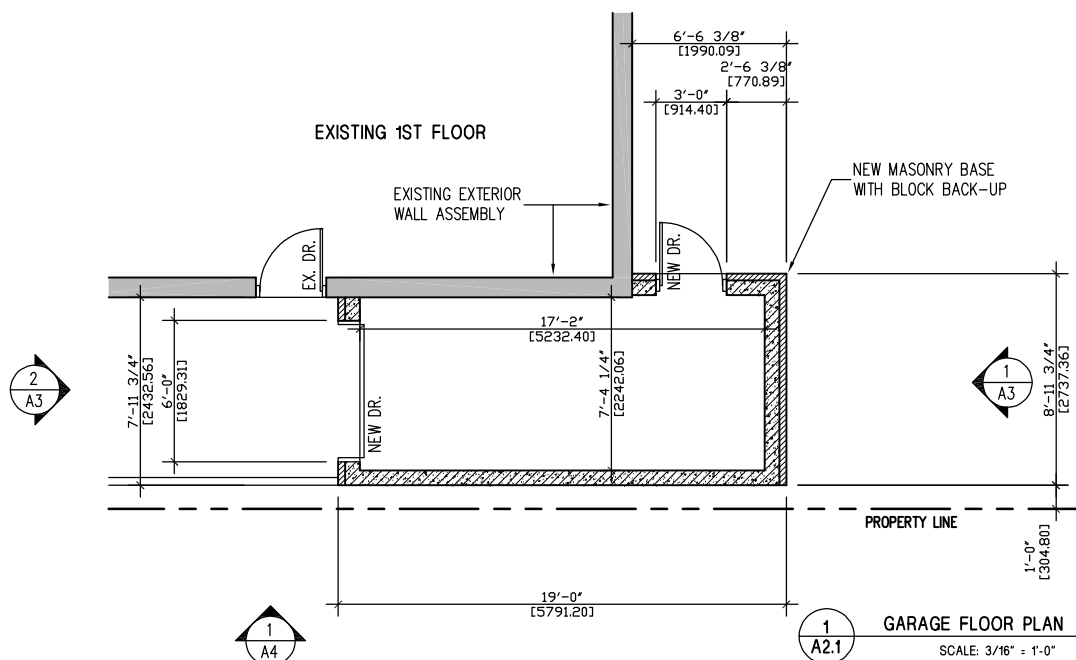
DRAWING TITLE:

NEW GARAGE PLAN

PROJECT NO.	DATE:
1910	NOVEMBER 2019
DRAWN BY:	SCALE:
TO	AS NOTED
CHECKED BY:	
TO	

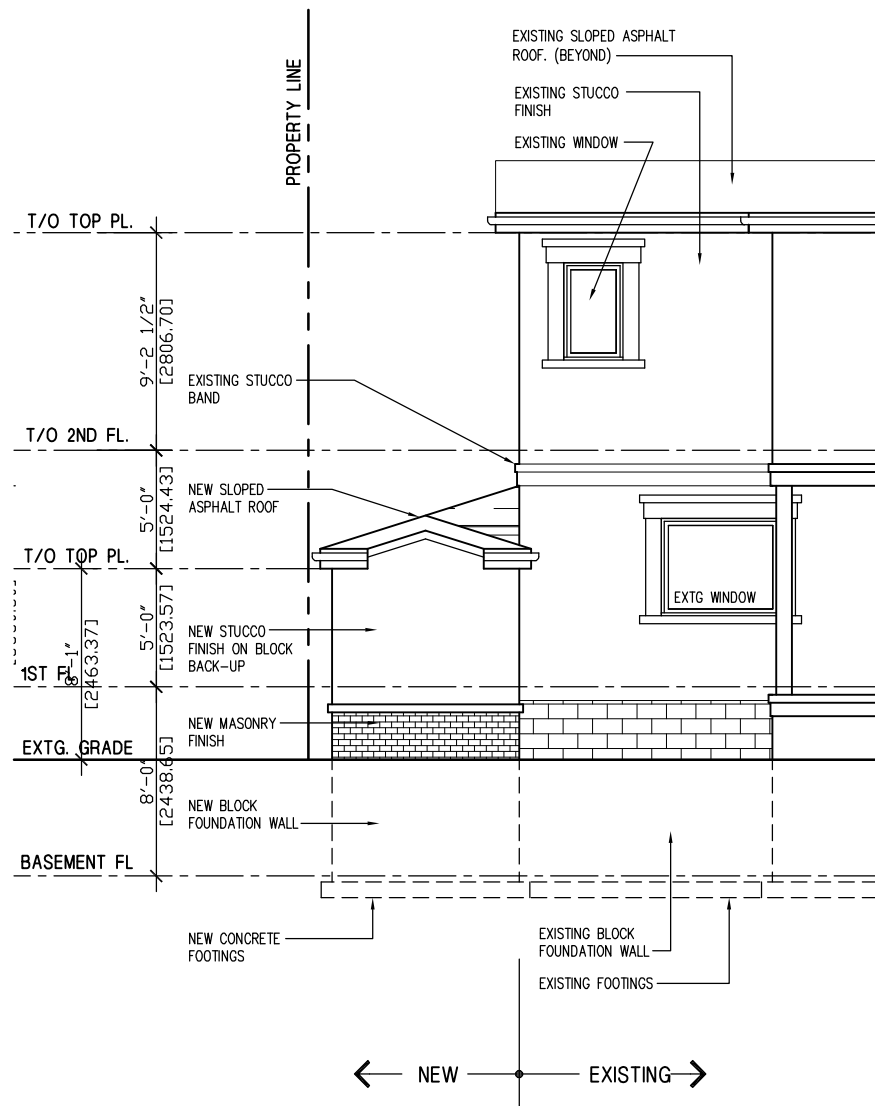
DRAWING NO.

A2.1



GARAGE FLOOR PLAN

SCALE: 3/16" = 1'-0"



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A3.1

REAR ELEVATION (EAST)

SCALE: 3/16" = 1'-0"

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REVISIONS & ISSUES

ISSUED FOR COA	FEB 03/20	3
ISSUED FOR PPR	NOV 25/19	2
ISSUED TO CLIENTS	NOV 12/19	1

Description	Date	No.
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TOMMASO

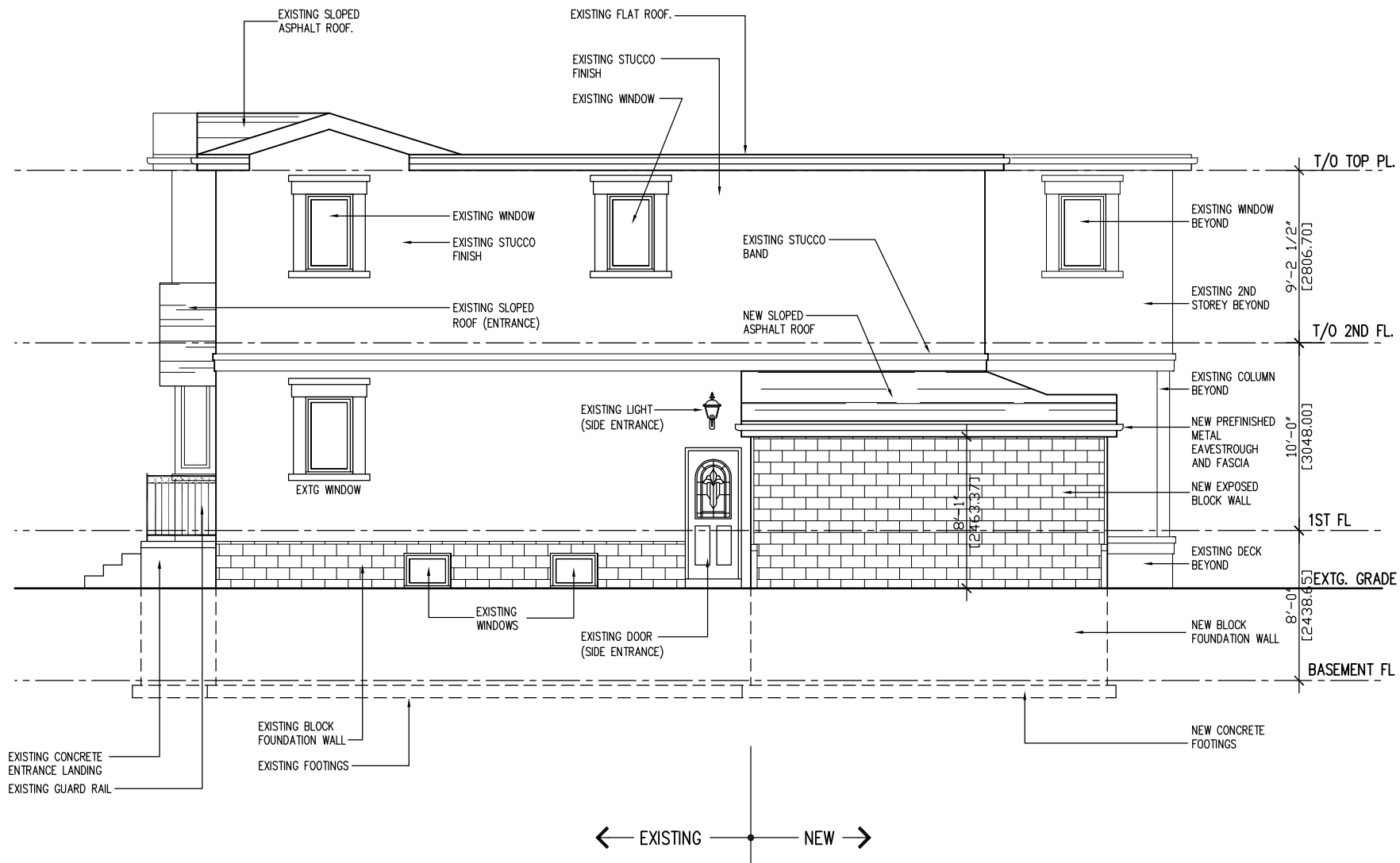
**TASSINARI
RESIDENCE**
215 SOUTH KINGSWAY
TORONTO, ONTARIO

DRAWING TITLE:
PROPOSED GARAGE
ELEVATIONS

PROJECT NO. 1910	DATE: NOVEMBER 2019
DRAWN BY: TO	SCALE: AS NOTED
CHECKED BY: TO	

DRAWING NO.

A3.1



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A4

SIDE ELEVATION (SOUTH)

SCALE: 3/16" = 1'-0"

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REVISIONS & ISSUES

ISSUED FOR COA	FEB 03/20	3
ISSUED FOR PPR	NOV 25/19	2
ISSUED TO CLIENTS	NOV 12/19	1
Description	Date	No.

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TOMMASO

TASSINARI
RESIDENCE
215 SOUTH KINGSWAY
TORONTO, ONTARIO

DRAWING TITLE:
PROPOSED GARAGE
ELEVATIONS

PROJECT NO. 1910	DATE: NOVEMBER 2019
DRAWN BY: TG	SCALE: AS NOTED
CHECKED BY: TG	
DRAWING NO.	

A4