

# DECISION AND ORDER

Decision Issue Date            Thursday, June 03, 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): XUE FANG WANG

Applicant(s): LIN LAN

Property Address/Description: 217 RHODES AVE

Committee of Adjustment File

Number(s): 19 213572 STE 14 MV

**TLAB Case File Number(s): 20 188016 S45 14 TLAB**

**Hearing date: May 18, 2021**

**DECISION DELIVERED BY STANLEY MAKUCH**

## APPEARANCES

Name	Role	Representative
Lin Lan	Applicant	
Xue Fang Wang	Owner/Appellant	Jonathan Benczkowski
Nicole Plooard	Participant	
Kevin Gilmour	Participant	
Katie Gilmour	Participant	
Sophie Nunnelley	Participant	
Deborah Brown	Participant	

## **INTRODUCTION**

This is an appeal from a decision of the Committee of Adjustment refusing variances to permit the construction of a new three-storey detached dwelling with an integral garage, rear ground floor deck, and front and rear third storey terraces. A minor amendment was made to the application in that the number of variances requested have been reduced by two as a variance respecting front yard open space and a variance respecting height were removed from the application. The revised list of variances now sought is set out in Appendix 1.

## **BACKGROUND**

Although there were a number of persons who requested participant status at the hearing, the only party appearing was the applicant and their representatives. There was, therefore, no opposition at the hearing. Moreover, a City Planning Report before the Committee of Adjustment expressed no opposition to the application.

## **MATTERS IN ISSUE**

In the absence of any opposition at the TLAB hearing there were no issues raised at the hearing. On an appeal, however, an applicant must demonstrate that the variances meet provincial requirements and the four tests of the Planning Act; all set out below under jurisdiction.

## **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 that of Mr. J. Benczkowski, a qualified land use planner who has given opinion evidence before TLAB on numerous occasions. He gave oral evidence to confirm his written witness statement filed February 5, 2021 which gave detailed evidence that the reduced list of variances cumulatively and individually met the four tests of the Planning Act and the PPS and the Growth Plan. He also gave evidence that the condition requested by Urban Forestry in its report to the Committee of Adjustment and the condition recommended by City Planning to the Committee should also be imposed. These two reports are also in the TLAB file.

## ANALYSIS, FINDINGS, REASONS

I find the written, uncontradicted evidence of Mr. Benczkowski sufficient and detailed enough to allow the appeal and to grant the variances ultimately requested and stated in his filed witness statement and found in Appendix 1. The following minor changes were made to the proposal following the Committee of Adjustment Refusal of the application:

The height of the proposed dwelling be reduced by .2m.

As a result of the lowering of the top of the roof, the main wall height was reduced by .05m.

The variance for front yard soft landscaping is removed.

No notice is required of them.

## DECISION AND ORDER

The appeal is allowed, in part, and the variances in Appendix 1 are approved subject to the conditions in Appendix 2.

X 

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S. Makuch

Panel Chair, Toronto Local Appeal

## APPENDIX 1

1. Chapter 10.10.40.10.(1)(A) By-law 569-2013

The maximum permitted height of a detached dwelling is 10 m.

The new three-storey detached dwelling will be 10.05 m in height.

2. Chapter 10.10.40.10.(2)(A)(i)&(ii) By-law 569-2013

The maximum permitted height of all front and rear exterior main walls is 7.5 m.

The new three-storey detached dwelling will have front and rear exterior main wall heights of 8.95 m.

3. Chapter 10.10.40.40.(1)(A) By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (153.6 m<sup>2</sup>).

The new three-storey detached dwelling will have a floor space index of 0.99 times the area of the lot (253 m<sup>2</sup>).

4. Chapter 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. In this case, the roof eaves will be located 0.15 m from the south side lot line.

1. Section 4(2) By-law 438-86

The maximum permitted height of a detached dwelling is 10 m.

The new three-storey detached dwelling will be 10.05 m in height.

The following minor changes were made to the proposal following the Committee of Adjustment Refusal of the application:

I. The height of the proposed dwelling be reduced by .2m.

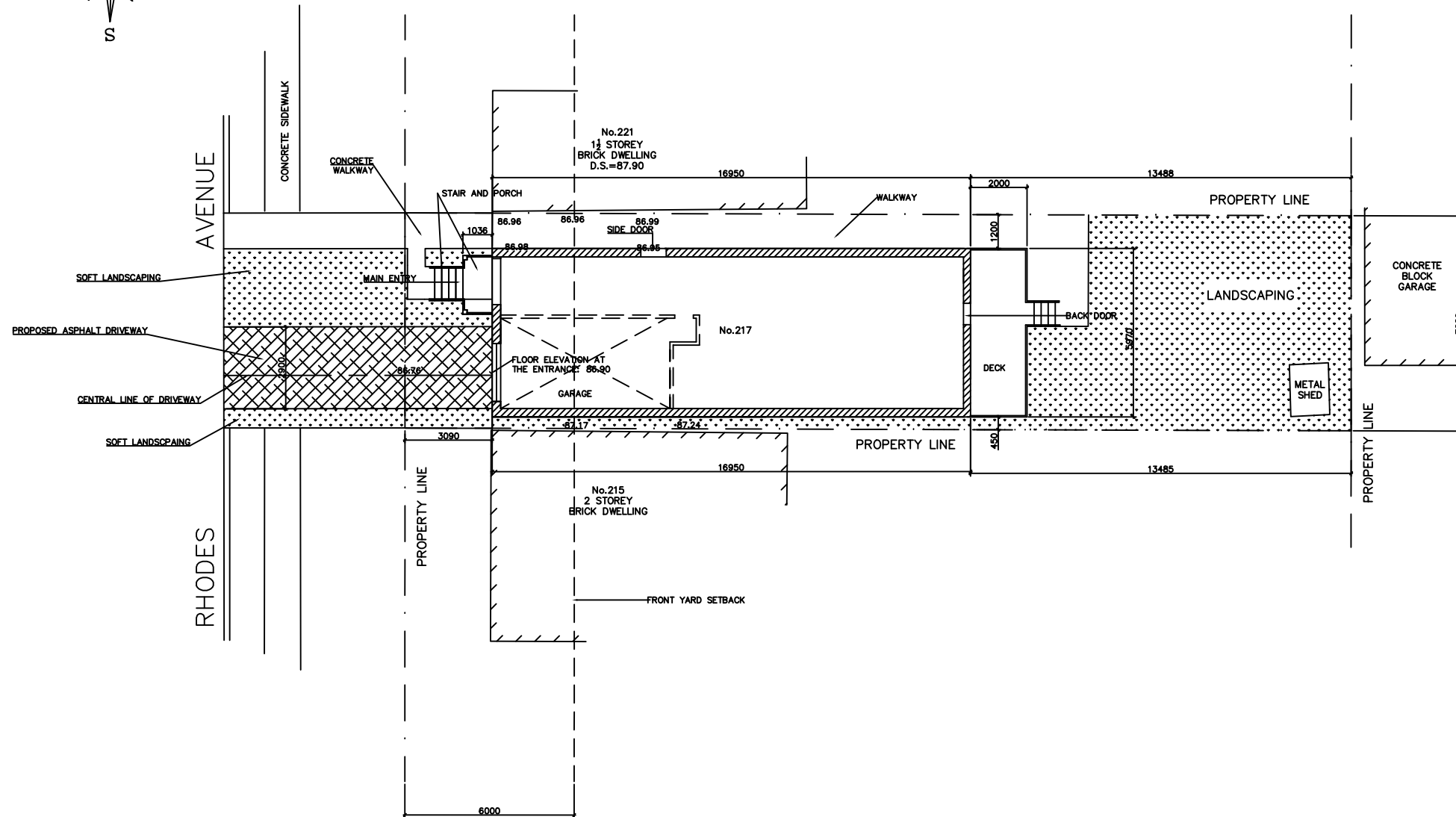
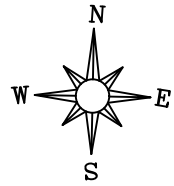
II. As a result of the lowering of the top of the roof, the main wall height was reduced by .05m.

III. The variance for front yard soft landscaping be removed.

## **APPENDIX 2**

1. Where there is no existing street tree, the owner shall provide payment in lieu of planting of 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.

2. The dwelling shall be constructed substantially in accordance with the plans attached below: Add plans found in Benczkowsk's witness statement filed Feb 5 2021 with TLAB. - Proposed: site plan A002, West elevation A304, East elevation A303, North elevation 302, South Elevation 301



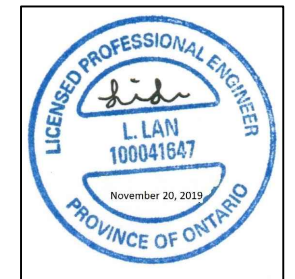
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PROPOSED SITE PLAN

General Notes

FILE NO.

SEAL

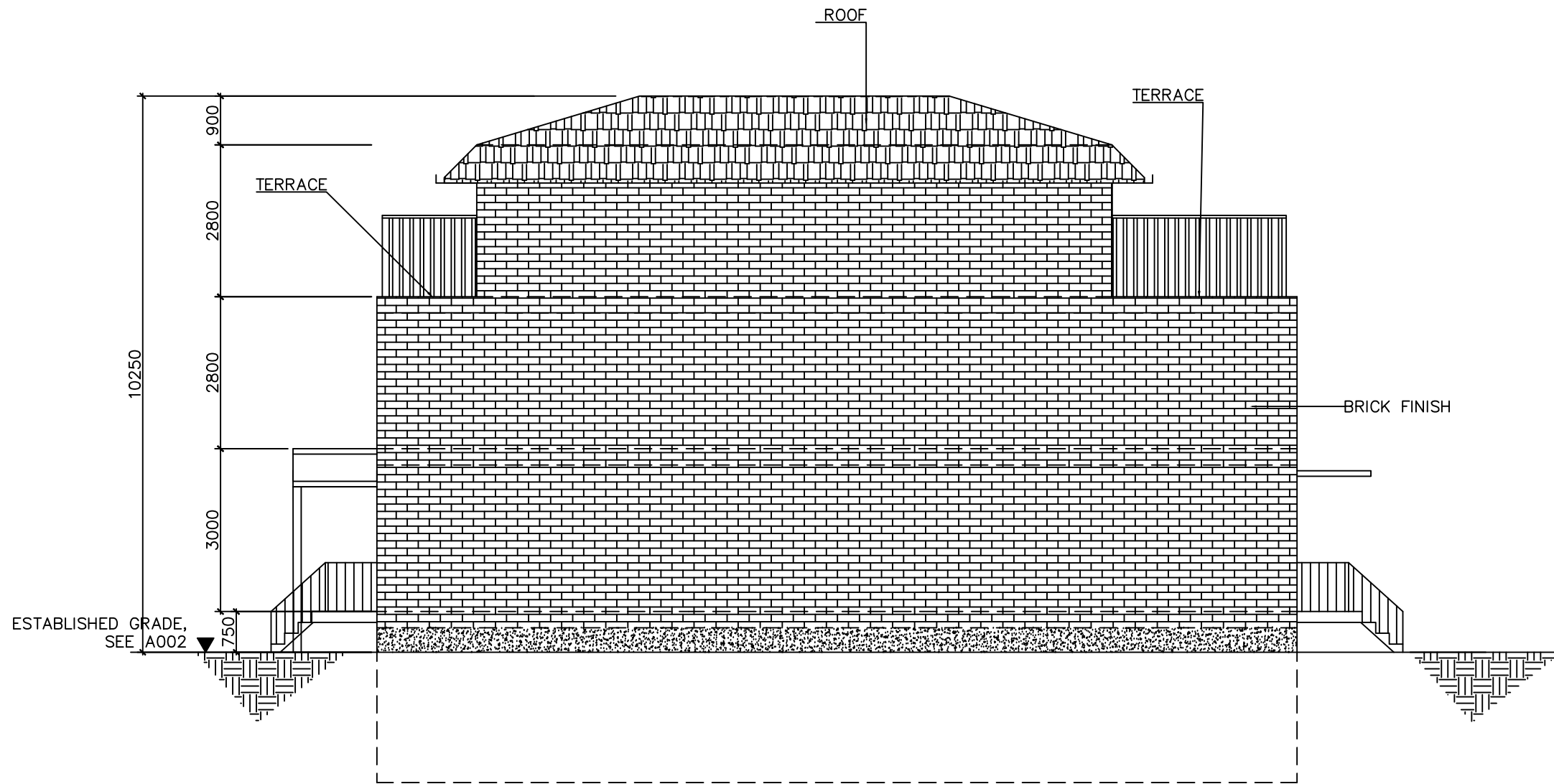


No.	Revision/Issue	Date
1	ISSUED FOR ZONING CERTIFICATE	1/11/20

Firm Name and Address  
**FDL**  
 DESIGN & CONSTRUCTION  
**HIKUA Inc.**  
 o/a FDL Design & Construction  
 100 Consilium Place, Suite 200  
 Toronto, ON M1H 3E3

Project Name and Address  
 NEW HOUSE  
 217 Rhodes Avenue  
 Toronto  
 Ontario

Drawing Title	
Proposed Site Plan	
Scale	Date
1:200	11.01.2020
Drawing Number	
A002	

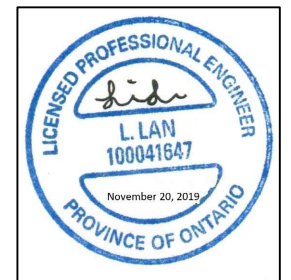


PROPOSED SOUTH ELEVATION

General Notes

FILE NO.

SEAL

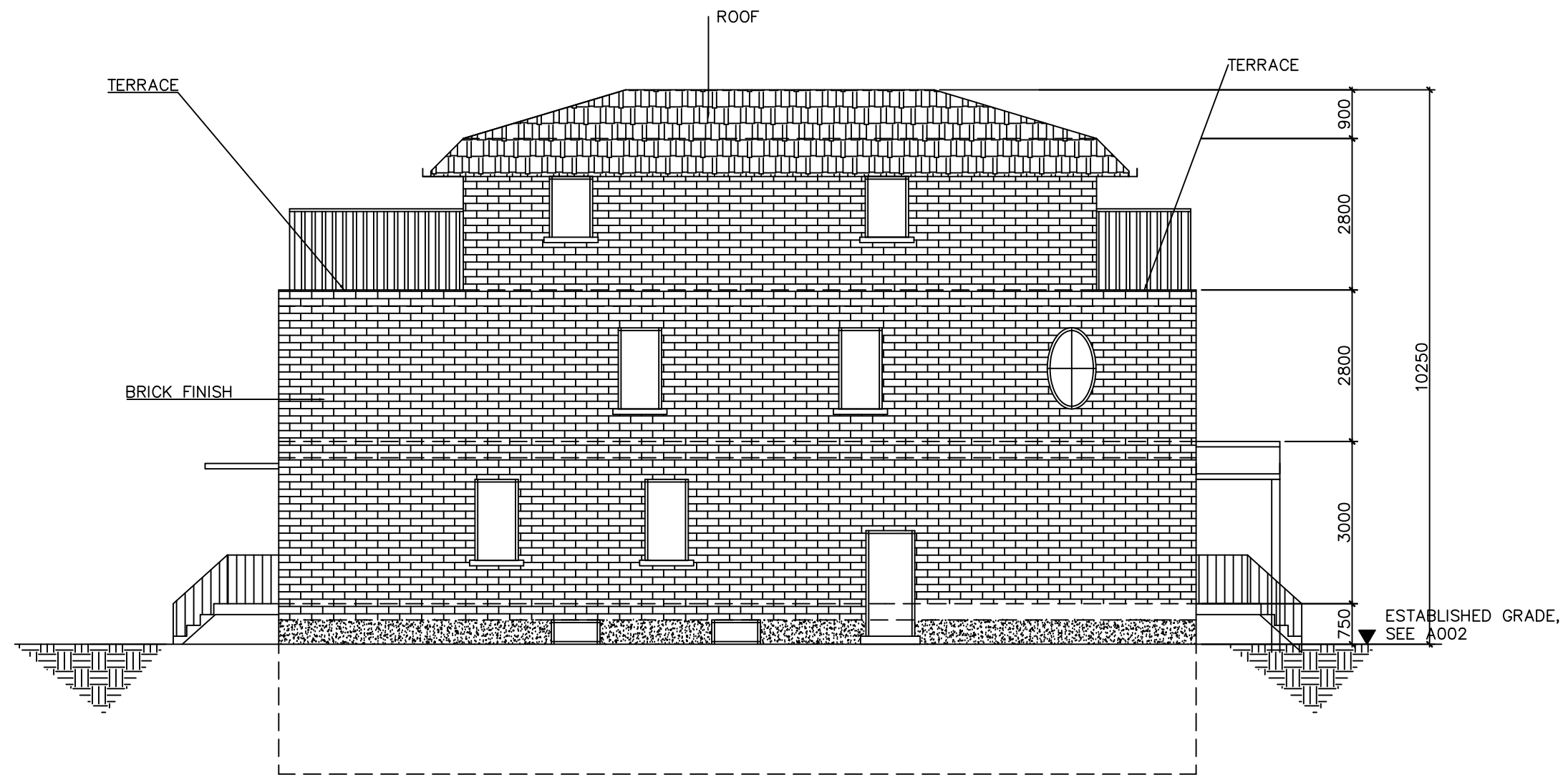


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Firm Name and Address  
**FDL**  
 DESIGN & CONSTRUCTION  
**HIKUA Inc.**  
 o/a FDL Design & Construction  
 100 Consilium Place, Suit 200  
 Toronto, ON M1H 3E3

Project Name and Address  
 New House  
 217 Rhodes Avenue  
 Toronto  
 Ontario

Drawing Title	
Proposed South Elevation	
Scale	Date
1:100	11.01.2020
Drawing Number	
A301	

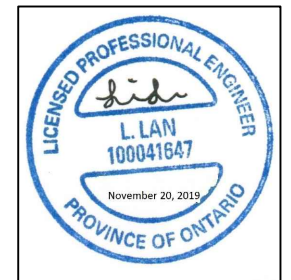


PROPOSED NORTH ELEVATION

General Notes

FILE NO.

SEAL



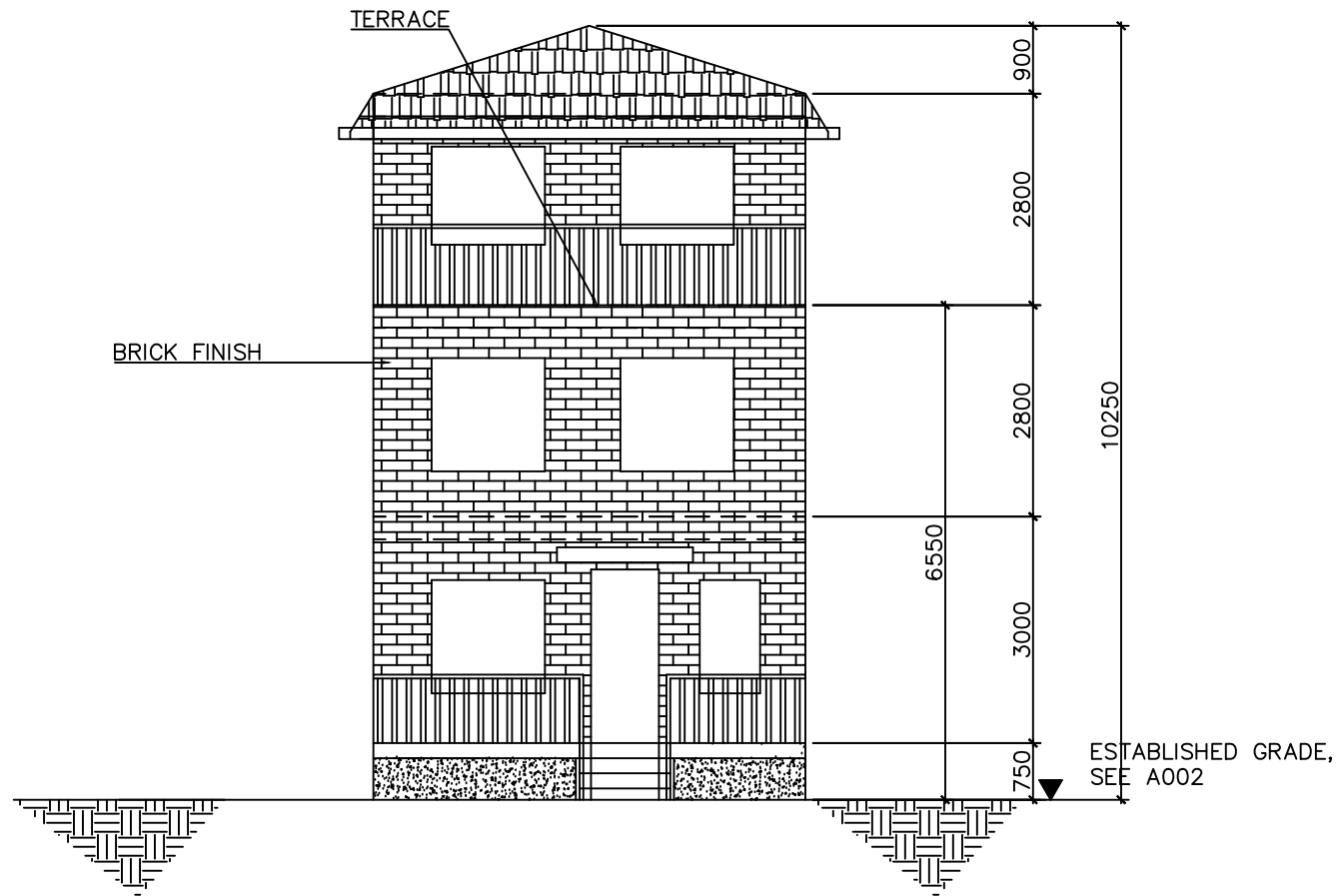
No.	Revision/Issue	Date
1	ISSUED FOR ZONING CERTIFICATE	1/11/20

Firm Name and Address  
**FDL**  
 DESIGN & CONSTRUCTION  
**HIKUA Inc.**  
 o/a FDL Design & Construction  
 100 Consilium Place, Suit 200  
 Toronto, ON M1H 3E3

Project Name and Address  
 New House  
 217 Rhodes Avenue  
 Toronto  
 Ontario

Drawing Title	
Proposed North Elevation	
Scale	Date
1:100	11.01.2020
Drawing Number	
A302	





PROPOSED EAST ELEVATION

General Notes

FILE NO.

SEAL

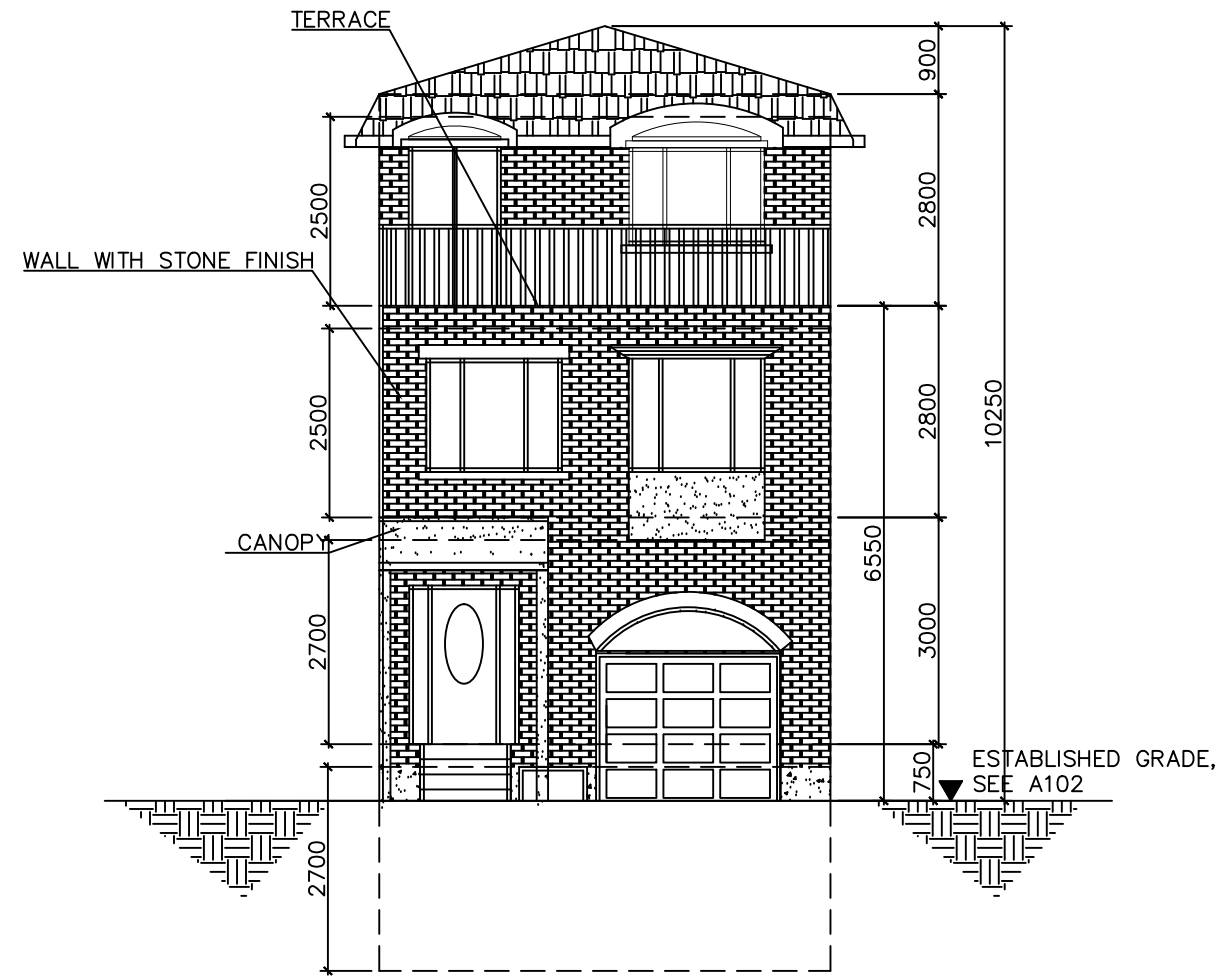


No.	Revision/Issue	Date
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Firm Name and Address  
**FDL**  
 DESIGN & CONSTRUCTION  
**HIKUA Inc.**  
 o/a FDL Design & Construction  
 100 Consilium Place, Suit 200  
 Toronto, ON M1H 3E3

Project Name and Address  
 New House  
 217 Rhodes Avenue  
 Toronto  
 Ontario

Drawing Title  
 Proposed East Elevation  
 Scale: 1:100 Date: 11.01.2020  
 Drawing Number  
 A303



PROPOSED WEST ELEVATION

General Notes

FILE NO.

SEAL



No.	Revision/Issue	Date
1	ISSUED FOR ZONING CERTIFICATE	1/11/20

Firm Name and Address  
**FDL**  
 DESIGN & CONSTRUCTION  
**HIKUA Inc.**  
 o/a FDL Design & Construction  
 100 Consilium Place, Suit 200  
 Toronto, ON M1H 3E3

Project Name and Address  
 New House  
 217 Rhodes Avenue  
 Toronto  
 Ontario

Drawing Title  
 Proposed West Elevation  
 Scale: 1:100  
 Date: 11.01.2020  
 Drawing Number  
 A304