

DECISION AND ORDER

Decision Issue Date Monday, June 28, 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): MEHDI KHORASANI-GERDEHKOUHI

Applicant(s): ARKLAB INC

Property Address/Description: 123 FLORENCE AVE

Committee of Adjustment File

Number(s): 20 136272 NNY 18 CO (B0011/20NY) , 20 136276 NNY 18 MV (A0200/20NY), 20 136277 NNY 18 MV (A0199/20NY)

TLAB Case File Number(s): 20 214691 S53 18 TLAB, 20 214695 S45 18 TLAB, 20 214696 S45 18 TLAB

Hearing date: May 27, 2021

Deadline Date for Closing Submissions/Undertakings: June 14, 2021

DECISION DELIVERED BY S. GOPIKRISHNA

REGISTERED PARTIES AND PARTICIPANTS

Applicant	ARKLAB INC
Appellant	MEHDI KHORASANI-GERDEHKOUHI
Appellant's Legal Rep.	AMBER STEWART
Expert Witness	FRANCO ROMANO

INTRODUCTION AND BACKGROUND

Mehdi Khorasani- Gerdehkoudi is the owner of 123 Florence Ave., located in Ward 18 (Willowdale) of the City of Toronto., he applied to the Committee of Adjustment to sever the property, and build a detached dwelling on each of the severed

lots. The COA heard the application on October 22, 2020, and refused the proposal in its entirety.

On November 3, 2020, the Applicant appealed the COA decision to the Toronto Local Appeal Body (TLAB). The TLAB scheduled a virtual Hearing on May 27, 2021 to hear the Appeal.

MATTERS IN ISSUE

The details of the Consent to Sever the lot, as well as the requested variances to building a dwelling on each of the two lots, are recited in Attachment A, which is appended to this Decision.

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

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

At the Hearing held on May 27, 2021, the Appellant was represented by Ms. Amber Stewart, a lawyer, and Mr. Franco Romano, a planner. It is important to note that there were no other Parties, nor Participants in opposition to, or support of the Appeal.

Mr. Romano was sworn in, and recognized as an Expert Witness in the area of Land Use Planning. The highlights of his evidence are as follows:

The Subject Site, No. 123 Florence Avenue, is located within the former municipality of North York, adjacent to the North York Centre, which is classified as an urban growth area, and an intensification corridor (i.e. Sheppard Avenue) by the Official Plan. Both Yonge Street and Sheppard Avenue have surface and subway transit. The Subject Site is located less than 500m from the subway entrance at Yonge and Sheppard. Florence Avenue is a local road with an east-west orientation. The Subject Site is located on the south side of Florence Avenue, within the second block west from Yonge Street. The Official Plan designation for the Subject Site is “Neighbourhoods” and the zoning is designated RD pursuant to Toronto zoning by-law 569-2013, and R6 pursuant to former North York zoning by-law 7625. The Zoning By-Law in this instance permits a lot frontage of 12m and lot area of 370 sq.m. Adjacent areas within the immediate and Neighbourhood contexts permit lot frontages of 7.5m, 9.0m and 15.0m. On May 24, 2018, the City enacted zoning by-law 644-2018 resulting from the City-initiated West Lansing Zoning Study to permit as-of-right lots of 7.5m lot frontage and a 300 sq.m. lot area, with other amended performance standards such as side yard setbacks of 0.9m on one side and 1.2m on the other side. Since the by-law was enacted, severances and variances have been approved for smaller lots, such as 7.11m lot frontage, and smaller side yard setbacks such as 0.61m.

According to Mr. Romano, the area is experiencing a considerable amount of regeneration. This includes new residential buildings upon existing and new lots. The regeneration is varied in nature, resulting in residential buildings that reflect the era of construction, differ from the preceding development, and more importantly, occupy more space than the development that is being replaced or improved upon. The Geographic Neighbourhood chosen for the Study is delineated by the interior of Sheppard Avenue to the north, Franklin Avenue to the south, Yonge Street to the east and Easton Road/Gwendolen Crescent to the west. The lands within this portion of the neighbourhood can be considered to be contextually proximate to the Subject Site containing low scale, low rise residential building types and zoning, modest lot size and generally rectangular lot configuration, grid-like local road street pattern, pedestrian connectivity and within reasonable dividing features.

The proposal is consistent with the Settlement Area-related policies of the 2020 Provincial Policy Statement particularly as it relates to achieving an appropriate mix and range of housing options (a newly defined term that includes single-detached housing), optimizing the use of land and making better, more efficient use of existing infrastructure. Mr. Romano referenced policies 1.1.1, 1.1.2, 1.1.3, 1.1.3.1, 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.4.1, 1.4.3, 1.6, 1.8 and 4.0 in the PPS 2020, and the applicable definitions. The proposal conforms to, and does not conflict with, the Settlement Area, Delineated Built Up Area policies of the Growth Plan, 2020 consolidation. The proposal appropriately implements intensification policies that achieve the objective of complete communities that optimize land use and infrastructure, as well as the Transit related policies.

Mr. Romano then discussed the compatibility between this proposal and the Official Plan. He said that the neighbourhoods policies do not require replication of existing physical character, but instead provide that new development should fit the general physical patterns found within the neighbourhood- he emphasizes that “Fit” does not mean the “same as” The Official Plan recognizes that ‘existing’ is not a singular point in time. These policies recognize that different patterns can be found within and contribute to the character of a given community, the proposal exhibits physical characteristics, including lot size, lot configuration, site design and built form features which manifest themselves in a manner that respects and reinforces the physical patterns within these areas. Further, the proposal will result in a development, that will fit in well with the existing, and/or planned context of this neighbourhood’s geographic and immediate contexts.

The proposal conforms to the built form policies of Section 3.1.2 which refer to how the building is sited on the land, servicing and design matters to ensure that development is compatible with the neighbourhood, and minimizes impacts. The housing policies found in Section 3.2.1 which refer to residential supply, mix, maintenance, replenishment, infill and intensification; the natural environment policies in Section 3.4 refer to the integration and regulation of natural features which are appropriately considered and addressed in this instance (noting that the lands are not within a natural heritage system and are not TRCA-regulated); and, the Neighbourhoods land use designation and development criteria found in Sections, 4.1.5 and 4.1.8 which refer to physical features and permissions.

With respect to housing, this proposal manifests the fact that the City’s ability to accommodate new single family detached dwellings as part of an overall approach to maintain and achieve a housing mix, plan for growth and complete communities can be assisted by the approval of gentle intensification proposals such as that which is proposed by this project. The opportunity for this type of gentle intensification proposal primarily exists within the City’s Neighbourhoods, and it is supported and/or permitted under policies 3.2.1.1, 3.2.1.2 and 4.1.5(b) of the OP.

Mr. Romano then discussed how the proposal is consistent with Section 4.1.5 of the OP. Policies 4.1.5 (a), (d), (e) (f) (h) and (g) are not relevant to the discussion, because they are not being impacted by the proposal. He discussed the relationship between the proposal and 4.1.5 (b)- ***Shapes and Sizes of the Lots*** by stating that the prevailing lot size is modest-sized ranging from 7.62 to less than 15m (69% of lots within geographic neighbourhood ,and 51% within the immediate block context and over 65% along Florence Avenue from the Subject Site to Yonge Street, representing two blocks west from Yonge Street). He then spoke to the compatibility between the proposal and 4.1.5(c)- ***prevailing heights, massing, scale, density and dwelling type of nearby residential properties;***, by stating that eights of residential buildings are low rise in 1 to 3 storey formats, including split levels and in uniform or articulated shapes. Within the immediate context, 83% of dwellings are at least 2 storeys in height. The proposed building height of two storeys conforms and meets the general intent and purpose. Mr. Romano asserted that the proposed dwelling, with an integrated garage is well represented within the Subject Site’s physical contexts.

He said that the “massing” of residential buildings, are within and beyond zoning regulations, oriented towards the front and central portion of the lot, and that similar or very different massing relationships co-exist in the community. Mr. Romano asserted that the massing of the residences to be built is modest, with or without articulated formats with sloped to flat roofs in shallow to steep formats. The proposed massing conforms and is within the parameters established by the applicable planning instruments, including the zoning by-laws for massing.

He pointed out that the scale of residential buildings in this neighbourhood is “low-rise”. The proposed low-rise scale conforms and is within the parameters established by the applicable planning instruments, including zoning by-laws, for scale. The density of residential buildings is low, containing one or two dwelling units per building and one building per lot. The proposed density and dwelling unit size will contribute appropriately to the prevailing character.

The dwelling unit type is classified as RD(detached residential), which is what this area is zoned for. The proposed detached residential dwellings conform to the Official Plan, and the proposed height, massing, scale, density and dwelling type respect and reinforce the Subject Site’s physical character, including the prevailing physical character. While certain features may not be considered by some persons to be the same as the prevailing, or most frequently occurring, qualitatively and/or quantitatively, the proposal certainly satisfies the materially consistent physical character component of the Official Plan development criteria. The prevailing patterns of side yard setbacks are illustrated by the immediate context, which shows that they are “tight to modest-sized” , with at least 71% being smaller than 1.0m, 85% being smaller than 1.8m and ranging from 0m to over 3.5m (typically for side driveways). The immediate context illustrates the diverse variety of side yard setbacks, found in the neighbourhood. The proposal has side yard setbacks of 1.2 m, and 0.61 m, which are Zoning By-law compliant, which fit in well, and are well represented in the neighbourhood and immediate context. The prevailing patterns of landscape open space is such that it is found within the rear yard, and within front yard areas. Approximately 86% of properties have more than 50% front yard landscaping. The proposal incorporates more than 50% front yard landscaping and 100% of the rear yard as landscaped amenity space. Altogether, the proposed landscape open space conforms and meets the general intent and purpose of the OP.

On the basis of the above evidence, Mr. Romano concluded that the proposal satisfied the intent and purpose of the Official Plan. The compatibility of the proposal with the Zoning By-Laws was discussed next.

The Subject Site has a detached residential zoning – RD pursuant to the Toronto harmonized zoning by-law 569-2013, and R6 pursuant to the former North York zoning by-law. Mr. Romano said that the overall general intent and purpose of the Zoning By-Laws is to achieve an orderly, compatible form of low rise residential. The proposal exhibits a conventional physical form of low-scale residential in a manner that is appropriately sited, designed and sized to respect, reinforce and be compatible with the Subject Site’s physical contexts. Mr. Romano then spoke to how each of the requested

variances satisfied the requisite performance standard, beginning with the Lot Frontage/Lot Area. He said that the proposal achieves a modest sized lot size that will fit in well with the intermingling of lot sizes, including lots that are smaller than the general zoning requirement. These lots are well represented within the Subject Site's physical contexts, and consequently maintain the intent of the Zoning By-Laws. He then discussed the lot coverage where 31.97% was being requested, as compared to the allowable 30%, and said that the proposed lot coverage provides for ample open space on the lot ensuring that the proposal is not an overdevelopment.

The proposal meets the general intent and purpose to provide for adequate space to facilitate spatial separation, access, maintenance and servicing because there is appropriate and adequate space on both sides of the dwelling. Mr. Romano noted that the neighbourhood includes commonly found side yard setbacks that are smaller than the zoning requirement with no numeric uniformity, consistency or pattern. The platform-related side yard setback variance also meets the intent of the Zoning By-Law in this regard, while ensuring that the platform maintains an accessory, subordinate attachment to the dwelling.

Mr. Romano then spoke to the variance respecting the Front Yard Setback, and pointed out that the proposed front yard setback is larger than the existing front yard setback of 3.98m. The proposed front wall aligns well with the existing front yard setbacks along Florence Avenue, which maintains the general intent and purpose of the zoning by-law to maintain an appropriate front wall alignment along the street.

Mr. Romano next spoke to the variance respecting the building height, which was emphasized, as being required only under the North York Zoning By-Law. He said that the proposal maintains a hybrid style roof which is sloped beyond the front façade, portion and sloped away from all side walls, and asserted that the proposed height variance meets the general intent and purpose to achieve a low profile, low-rise residential building. Mr. Romano next spoke to the wall height provision, and said that the requested side wall heights of 9.03 m (east lot) and 9.16 m (west wall), versus the permissible height of 7.5 m, satisfies the Zoning Standard of limiting the height of main walls, thereby achieving a context suitable low-rise residential building. The proposed heights also minimize the extent to which walls may rise to create inappropriate upper levels. Lastly, he noted that "the wall height provision is still under review and not in force."

Mr. Romano next spoke to the variance respecting the first floor height, where a height 1.3 m is requested for the east lot ,under Zoning By-Law 569-2013 (versus a permitted 1.2 m), and is 1.81 m for the west lot (versus 1.5 m). Mr. Romano said that the variances maintain the intent, and the purpose of the Zoning By-Law by "ensuring that the entrance component of the dwelling has a close relationship to the grade, which is measured from the crown of the road"

On the basis of this evidence, Mr. Romano concluded that the variances satisfied the test of maintaining the intent and purpose of the Zoning By-Laws.

He next spoke to how the variances satisfied the test of minor. He said that the proposal did not create an unacceptable adverse impact, and stated that the proposed siting of the building, and the built form condition are reasonable, and to be anticipated in the redevelopment of this Subject Site, particularly within this geographic neighbourhood, and localized physical contexts. Addressing the issue of whether this proposal created “precedent” for other lots in the area to be severed, Mr. Romano acknowledged there are other lots of a similar, or larger size that may be capable of achieving a similar development scenario. Even in the unlikely prospect of all of the eligible lots applying for variances, “they would not necessarily result in a physical character that is not permitted by the applicable planning instruments”. Based on this reasoning, Mr. Romano concluded that the proposal satisfied the test of minor.

Speaking lastly to the test of appropriate development of land, Mr. Romano said that the proposal introduces a compatible lot size, site design and built form features, which are “within the planning and public interest”, and are consequently desirable for the appropriate use and development of the land. He said that the proposal will contribute to the mix of housing choices in a manner, that reflects and reinforces the Subject Site’s physical character. Based on this evidence Mr. Romano concluded that the proposal satisfied the test of appropriate development.

Based on the evidence provided, Mr. Romano concluded that the proposal satisfied the four tests under Section 45 (1) of the Planning Act.

In terms of proposed conditions, Mr. Romano suggested that:

1. The dwellings shall be constructed in substantial conformity with the “following plans”, and elevations, prepared by Arklab:
 - a. Part 1 (Lot B): Site Plan A001 dated June 9, 2021, Front Elevation A200 dated June 2, 2020, Rear Elevation A201 dated June 2, 2020, West Elevation A202 dated June 2, 2020, East Elevation A203 dated June 2, 2020;
 - b. Part 2 (Lot A): Site Plan A001 dated January 13, 2021, Front Elevation A200 dated June 2, 2020, Rear Elevation A201 dated June 2, 2020, East Elevation A203 dated June 2, 2020; West Elevation A202 dated June 2, 2020.
2. The owner shall submit an application to injure or remove City-owned and Privately-owned trees, pursuant to Chapter 813 of the Municipal Code, Article II (City-owned trees) and Article III (Privately-owned trees).

DISCUSSION OF THE SEVERANCE

With respect to the consent criteria of Section 51(24), Mr. Romano said that the proposal satisfies each criterion individually and cumulatively. The highlights of his evidence with respect to the various components of Section 51(24) are presented on the next page:

- There are no substantive implications on matters identified in Subsections 51 d.1, j, k and m of the *Planning Act*. These are “appropriately addressed and satisfied, to the extent applicable”.
- a – The proposal properly implements matters of provincial interest including Section 2 of the *Planning Act*, the Provincial Policy Statement and Growth Plan
- b – The proposal is not premature. Services are readily available to accommodate the residential development, and there is no outstanding planning instrument or physical characteristic, or other attribute which would render the consent premature. The proposal is within the public interest, because it accommodates a gentle intensification, that is reflective of and represented elsewhere within the Subject Site’s physical contexts.
- c – The proposal conforms to the Official Plan, and is reflective of what is represented elsewhere in adjacent plans of subdivision.
- d – The lands are physically suitable for the proposed residential development as they have been used for same. Further, the proposed site design reflects a context-appropriate and sensitive development, that is also complementary and compatible with the Subject Site’s surroundings. There is nothing being proposed that is new or unsuitable within the Subject Site’s physical contexts.
- e – The local road network is available and adequate to service the proposed residential development.
- f – the dimensions of the proposed lots are compatible and similar with the dimensions of other lots in adjacent plans of subdivision. The rectangular shape of the proposed lots is also consistent with the rectangular lot shapes of other lots in adjacent plans of subdivision.
- g – there are no restrictions or impediments to development including no easements, rights of way etc. To the extent that the zoning is imported in this criterion, the applicable zoning has been implemented in a manner where some regulations are compliant and others are not compliant – which is a condition that is reflective of the Subject Site’s physical contexts where other lots have the same complying/non-complying conditional though perhaps differently constituted, regardless of Zoning requirements.
- h – To the extent the natural features apply, the proposal minimizes impacts by integrating the dwellings in areas reasonably anticipated to have buildings and thereby appropriately mitigating impacts.
- i – Services are available and adequate, including schools.
- j – The proposed development will utilize modern materials that will optimize the land

usage and energy etc. efficiencies.

Based on this evidence, Mr. Romano concluded that the proposed severance satisfied the tests under Section 51(24) of the Planning Act, and recommended that the severance be allowed. He also suggested that the following conditions be imposed on the approval of the severance:

1. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
2. Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
3. Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
4. Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
5. 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.

In Oral Argument, Ms. Stewart cited a number of cases from the immediate context, and the geographic neighbourhood, where severances had been approved- these included 116 Bogert Avenue, 90 and 92 Johnstone Avenue, 106 Poytz Avenue, 32 Florence Avenue, 88 Florence Avenue, 71 Poyntz Avenue, and 84 Florence Avenue. I asked that an updated list of suggested conditions be submitted, where the recital of the Conditions respecting the severances detailed the specific dates on which each of the relevant the Plans and Elevations, had been submitted, as well as that a recital of the details of the requested severance, as well as the variances for the two lots, be submitted in a Word Format. I thanked Ms. Stewart, and Mr. Romano for the discussion, and reserved my Decision.

These requested documents were made available to me on June 14, 2021.

ANALYSIS, FINDINGS, REASONS

As noted earlier, there were no Witnesses other than Mr. Romano, who was qualified as an Expert Witness in the area of land use planning. Mr. Romano's evidence

focused on how the requested variances meet the four tests under Section 45.1 of the Planning Act, followed by a discussion of how the requested severances met the tests under Section 51.24 of the Planning Act.

I agree with Mr. Romano that the dwellings proposed to be built on the severed lots satisfy the higher level Provincial Policies by focusing on the intensification aspect, and find that the proposal satisfies the higher level Provincial Policies.

Mr. Romano discussed how the proposal satisfied the 4 tests under Section 45.1 of the Planning Act. I agree with his assessment that the proposal does not have to be the same as or have all (my emphasis) of the prevailing physical characteristics, as per OPA 320. Indeed, the Official Plan recognizes that, qualitatively and quantitatively, a mix of characteristics can exist and that differences are recognized as being capable of contributing appropriately to the overall prevailing character.

Mr. Romano demonstrated how the proposal to sever existing lots, and build a residence on each lot, is part of an evolving growth pattern, such that it respects the eclectic nature of what already existed in the community. He then discussed how the requested variances for the proposed buildings were consistent with the prevailing height, dwelling type, side-yard setbacks that existed in the community.

On the basis of his discussion regarding Policies 2.3.1, 3.1.2, and 4.1.5, I find that the proposal satisfies the test of maintaining the intent and purpose of the Official Plan.

The discussion regarding the test respecting the By-Laws followed a pattern where the specific performance standards corresponding to each variance requested were identified, and were discussed in detail to establish that the requested variances maintained the intent and purpose of the By-Law. The evidence helped explain the siting of the houses, and how they would not change the streetscape, nor cause any negative impacts on the privacy of the neighbours, while satisfying the requisite performance standards. On the basis of this evidence, I find that the proposal meets the test of maintaining the intent and purpose of the Zoning By-Laws.

The evidence provided by Mr. Romano demonstrated that the houses to be constructed will not result in any adverse impact on its neighbouring houses, or the community. On the basis of this evidence, I find that the proposal meets the test of minor.

There is no new built form being introduced in the community as a result of these dwellings, as a result of which I find that the proposal satisfies the test of appropriate development.

As a result, I find that the requested variances satisfy the 4 tests under Section 45.1 individually and collectively

The evidence also demonstrated that the proposal would result in the creation of rectangular lots, as is common in this community. The size and shape of the proposed, are consistent with what exists in the community today, which means that Component (f) of Section 51.24 of the Official Plan is fulfilled. The earlier discussion recited in the Evidence Section demonstrates how the proposal satisfies the OP, which means that Section 51(24)(c) has been satisfied. The severance request does not conflict significantly with any of the other components of Section 51(24)..

On the basis of the above evidence, I find that the severance satisfies Section 51 (24), and may therefore be approved.

I am in agreement with the proposed conditions pertaining to the severance, as well as the variances for the two lots. However, my preferred presentation of the conditions to be imposed on the severance, is to recite them as written in Practice Direction 1 of the TLAB, rather than the language proposed by the Appellants. The details of the requested severance (as approved), the variances (as approved), and the conditions that are imposed on both variances and the severance, may be found in Attachment A, which is appended to this Decision.

DECISION AND ORDER

1. The Appeal is allowed, and the decision of the Committee of Adjustment , dated October 22, 2020, is set aside.
2. The details of the requested severances , and the variances that have been approved, are recited in the Attachment A attached to this Decision.
3. No other variances are approved.
4. The list of conditions to be imposed on the severance, as well as the conditions improved on the approval of the variances, are recited in Attachment A, attached to this Decision.

So orders the Toronto Local Appeal Body

X 

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body

ATTACHMENT A

DESCRIPTION OF THE CONSENT TO SEVER THE PROPERTY, APPROVED VARIANCES FOR LOTS A AND B, AND CONDITIONS IMPOSED ON THE APPROVAL OF THE CONSENT TO SEVER AND THE APPROVED VARIANCES

Description of Consent Application – 123 Florence Avenue

THE CONSENT REQUESTED:

To obtain consent to sever the property into two residential lots to construct two new residential dwellings. The parts described below are as set out in the Draft Reference Plan prepared by Altimap Land Surveyors Inc. dated December 24, 2019.

Lot	Part No.	Frontage	Total Area
A (Retained)	Part 2	7.62 m	299.12 m ²
B (Conveyed)	Part 1	7.62 m	299.12 m ²

Conveyed Part B

Address to be assigned

Part B has a lot area of 299.12 m² and a lot frontage of 7.62m.

Part B will be redeveloped with a new detached dwelling requiring variances to the applicable Zoning By-law(s) as outlined in file A0199/20NY.

Retained Part A

Address to be assigned

Part A has a lot area of 299.12m² and a lot frontage of 7.62m.

Part A will be redeveloped with a new detached dwelling requiring variances to the applicable Zoning By-law(s) as outlined in file A0200/20NY.

**List of Variances and Conditions
123 Florence Avenue**

Part 2 (Lot A – East Lot)

1. **Chapter 10.20.40.70.(3)(B), By-law 569-2013**
The minimum required side yard setback is 1.2m. The proposed west side yard setback is 0.61m.
2. **Chapter 10.20.30.10.(1)(A), By-law 569-2013**
The minimum required lot area is 370m². The proposed lot area is 299.12m².
3. **Chapter 10.20.30.20.(1)(A), By-law 569-2013**
The minimum required lot frontage is 12.0m. The proposed lot frontage is 7.62m.
4. **Chapter 10.20.30.40.(1)(A), By-law 569-2013**
The maximum permitted lot coverage is 30% of the lot area. The proposed lot coverage is 31.97% of the lot area.
5. **Chapter 10.5.40.50. (2), By-law 569-2013**
A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3m of a building, must comply with the required minimum building setback of 1.20m. The proposed west side yard setback is 0.61m.
6. **Chapter 10.5.40.70. (1), By-law 569-2013**
The minimum required front yard setback is 4.91m. The proposed front yard setback is 4.70m.
7. **Chapter 10.20.40.10.(2) (B)(ii), By-law 569-2013**
The maximum permitted height of all side exterior main walls facing a side lot line is 7.50m.
The proposed height of the side exterior main walls facing a side lot line is 9.03m.
8. **Chapter 10.20.40.10.(6), By-law 569-2013**
The elevation of the lowest point of a main pedestrian entrance through the front wall or a side main wall may be no higher than 1.2m above established grade.
The proposed height of the main pedestrian entrance is 1.30m above established grade.
9. **Chapter 10.5.40.50.(4), By-law 569-2013**
The level of the floor of a platform, such as a deck or balcony located at or below the first storey of a residential building other than an apartment building, may be no higher than 1.2m above the ground at any point below the platform, except where the platform is attached to or within 0.3m of a front wall, the floor of the platform may be no higher than 1.2m above established grade. The proposed front porch is 1.30m above established grade.

10. **Section 14-A(8), By-law 7625**

The maximum permitted building height is 8.80m. The proposed building height is 9.46m.

11. **Section 6(30)a, By-law 7625**

The maximum finished first floor height is 1.50m. The proposed finished first floor height is 1.73m.

Part 1 (Lot B – West Lot)

1. **Chapter 10.20.30.10.(1) (A), By-law 569-2013**

The minimum required lot area is 370.00m². The proposed lot area is 299.12m².

2. **Chapter 10.20.30.20.(1)(A), By-law 569-2013**

The minimum required lot frontage is 12.0m. The proposed lot frontage is 7.62m.

3. **Chapter 10.20.40.70.(3)(C), By-law 569-2013**

The minimum required side yard setback is 1.2m. The proposed east side yard setback is 0.61m.

4. **Chapter 10.20.30.40.(1)(A), By-law 569-2013**

The maximum permitted lot coverage is 30% of the lot area. The proposed lot coverage is 31.97% of the lot area.

5. **Chapter 10.5.40.50.(2), By-law 569-2013**

A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3m of a building, must comply with the required minimum building setback of 1.20m.

The proposed porch east side yard setback is 0.61m.

6. **Chapter 10.20.40.10.(2)(B)(ii), By-law 569-2013**

The maximum permitted height of all side exterior main walls facing a side lot line is 7.50m.

The proposed height of the side exterior main walls facing a side lot line is 9.16m.

7. **Chapter 10.20.40.10.(6), By-law 569-2013**

The maximum permitted height of the first floor above established grade is 1.2m.

The proposed height of the first floor above established grade is 1.30m.

8. **Chapter 10.5.40.50.(4), By-law 569-2013**

The level of the floor of a platform, such as a deck or balcony located at or below the first storey of a residential building other than an apartment building, may be no higher than 1.2m above the ground at any point below the platform, except where the platform is attached to or within 0.3m of a front wall, the floor of the platform may be no higher than 1.2m above established grade.

The proposed front porch is 1.30m above established grade.

9. **Section 14-A(8), By-law 7625**

The maximum permitted building height is 8.80m.

The proposed building height is 9.67m.

Please note this has been taken to the flat roof as it exceeds the midpoint of roof.

10. **Section 6(30)a, By-law 7625**

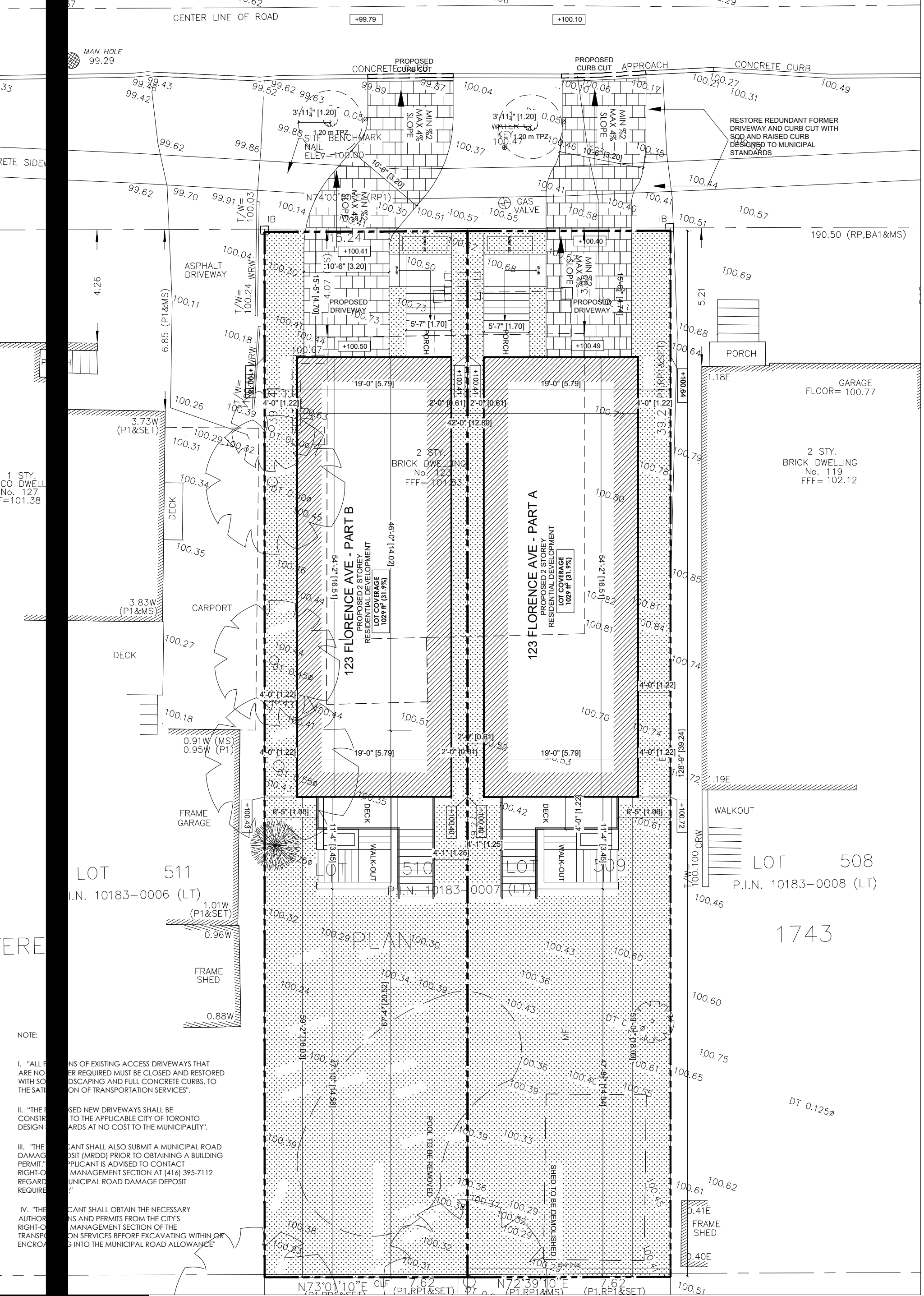
The maximum finished first floor height is 1.50m. The proposed finished first floor height is 1.81m.

Conditions imposed on the Approval of the Consent to Sever the Property

- (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.

Conditions imposed on the Approval of the Variances approved for the Severed Lots

1. The proposed dwellings shall be constructed substantially in accordance with the following plans, prepared by arklab:
 - a. Part 1 (Lot B): Site Plan A001 dated June 9, 2021, Front Elevation A200 dated June 2, 2020, Rear Elevation A201 dated June 2, 2020, West Elevation A202 dated June 2, 2020, East Elevation A203 dated June 2, 2020;
 - b. Part 2 (Lot A): Site Plan A001 dated January 13, 2021, Front Elevation A200 dated June 2, 2020, Rear Elevation A201 dated June 2, 2020, East Elevation A203 dated June 2, 2020; West Elevation A202 dated June 2, 2020.
2. The owner shall submit an application to injure or remove City-owned and Privately-owned trees, pursuant to Chapter 813 of the Municipal Code, Article II (City-owned trees) and Article III (Privately-owned trees).



NOTE:

I. "ALL EXISTING DRIVEWAYS THAT ARE NOT REQUIRED MUST BE CLOSED AND RESTORED TO THE ORIGINAL CONDITION OF TRANSPORTATION SERVICES".

II. "THE PROPOSED NEW DRIVEWAYS SHALL BE CONSTRUCTED TO THE APPLICABLE CITY OF TORONTO STANDARDS AT NO COST TO THE MUNICIPALITY".

III. "THE APPLICANT SHALL ALSO SUBMIT A MUNICIPAL ROAD DAMAGE DEPOSIT (MRDD) PRIOR TO OBTAINING A BUILDING PERMIT. THE APPLICANT IS ADVISED TO CONTACT THE MUNICIPAL ROAD DAMAGE DEPOSIT MANAGEMENT SECTION AT (416) 395-7112 FOR MORE INFORMATION".

IV. "THE APPLICANT SHALL OBTAIN THE NECESSARY PERMITS AND PERMITS FROM THE CITY'S MUNICIPAL ROAD DAMAGE DEPOSIT MANAGEMENT SECTION OF THE CITY OF TORONTO BEFORE EXCAVATING WITHIN OR ENCROACHING INTO THE MUNICIPAL ROAD ALLOWANCE"

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

PROJECT NORTH

REVISIONS / ISSUE DATES		
NO.	DATE	DESCRIPTION
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW
5	JAN.13.21	ISSUED FOR ZONING REVIEW
6	JUN.9.21	ISSUED FOR TLAB

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THESE ARCHITECTURAL DRAWINGS ARE THE PROPERTY OF ARLAB. IN CONSIDERATION FOR FULL PAYMENT OF THE ARCHITECTURAL SERVICES RENDERED, THE USE OF THESE DRAWINGS AND ANY SUPPORTING ATTACHMENTS IS GRANTED TO THE CLIENT/AGENCY RESPONSIBLE FOR THE CONSTRUCTION OF THE AFOREMENTIONED TITLED PROJECT, AS DESIGNED, DEPICTED AND DETAILED ON THESE DRAWINGS.

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*FOR ACCURATE ROOF PLANS, ELEVATIONS AND DETAILS PLEASE REFER TO THE TRUSS COMPANY DRAWINGS

ARASH FARNIA

NAME

100763

BCIN

Registration Information

Required unless design is exempt under Div. C - 3.2.4.1. of the building code

ARLAB

FIRM NAME

102724

BCIN

PROPOSED DEVELOPMENT AT:

123 FLORENCE AVE - PART B

B.G.

CHECKED BY:

B.G.

DATE:

17 JAN 2021

PROJECT NO:

3023

arclab

(647) 290 - 9695

info@arclab.ca

DRAWING TITLE

SITE PLAN

DRAWING #

A001

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART A
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

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KEY PLAN

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Qualification Information

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ARASH FARNIA 100763
NAME SIGNATURE BCIN

Registration Information

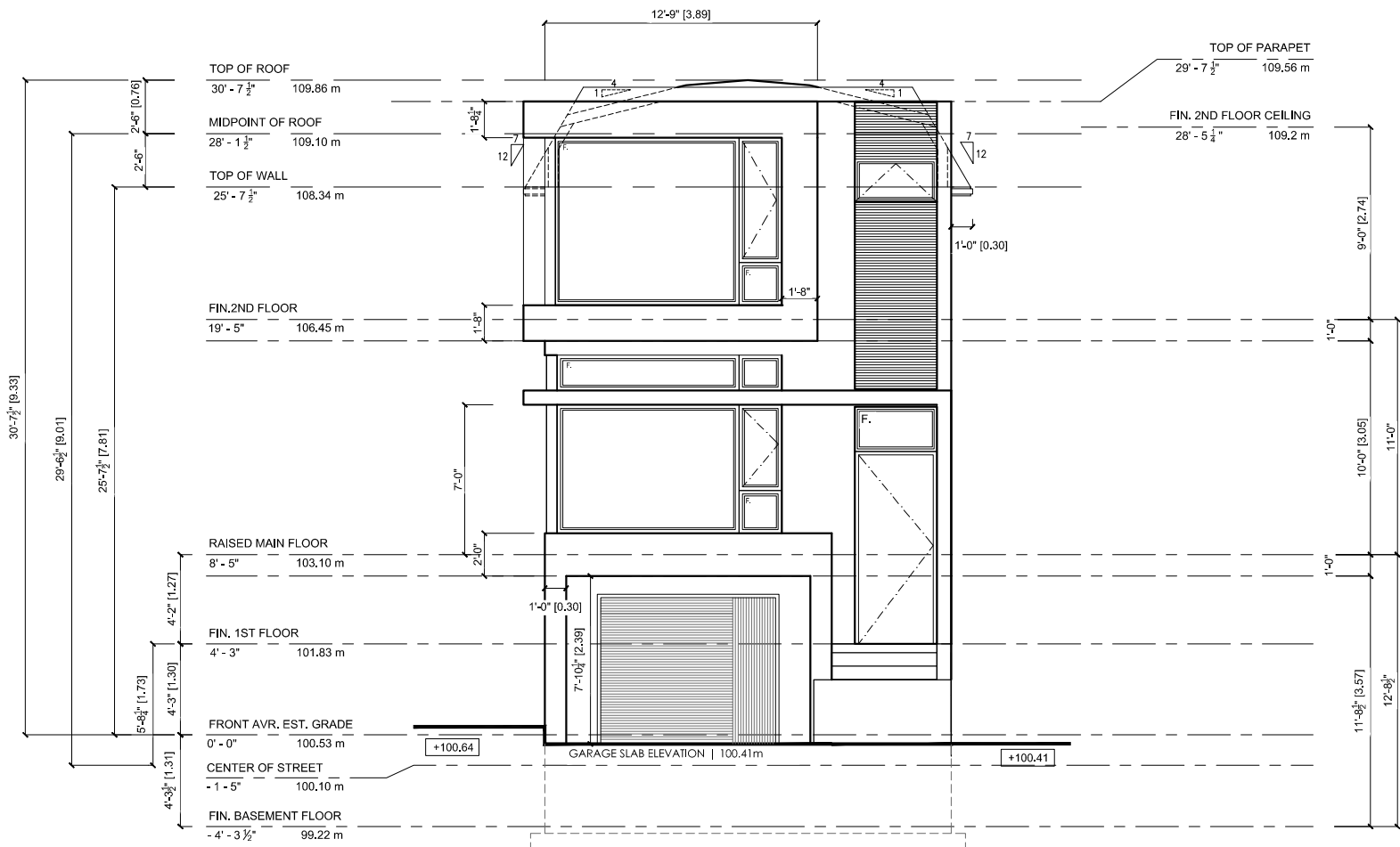
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ARKLAB 102724
FIRM NAME BCIN

STRUCTURAL REVIEW BY

BUILDING HEIGHT (NEW BY-LAW) | 8.90m [29'-2 1/4"]
BUILDING HEIGHT (OLD BY-LAW) | 9.29m [30'-5 3/4"]
SIDE WALL HEIGHT | 8.37m [27'-5 1/2"]

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



PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART A
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

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ARASH FARNIA 100763
NAME SIGNATURE BCIN

Registration Information

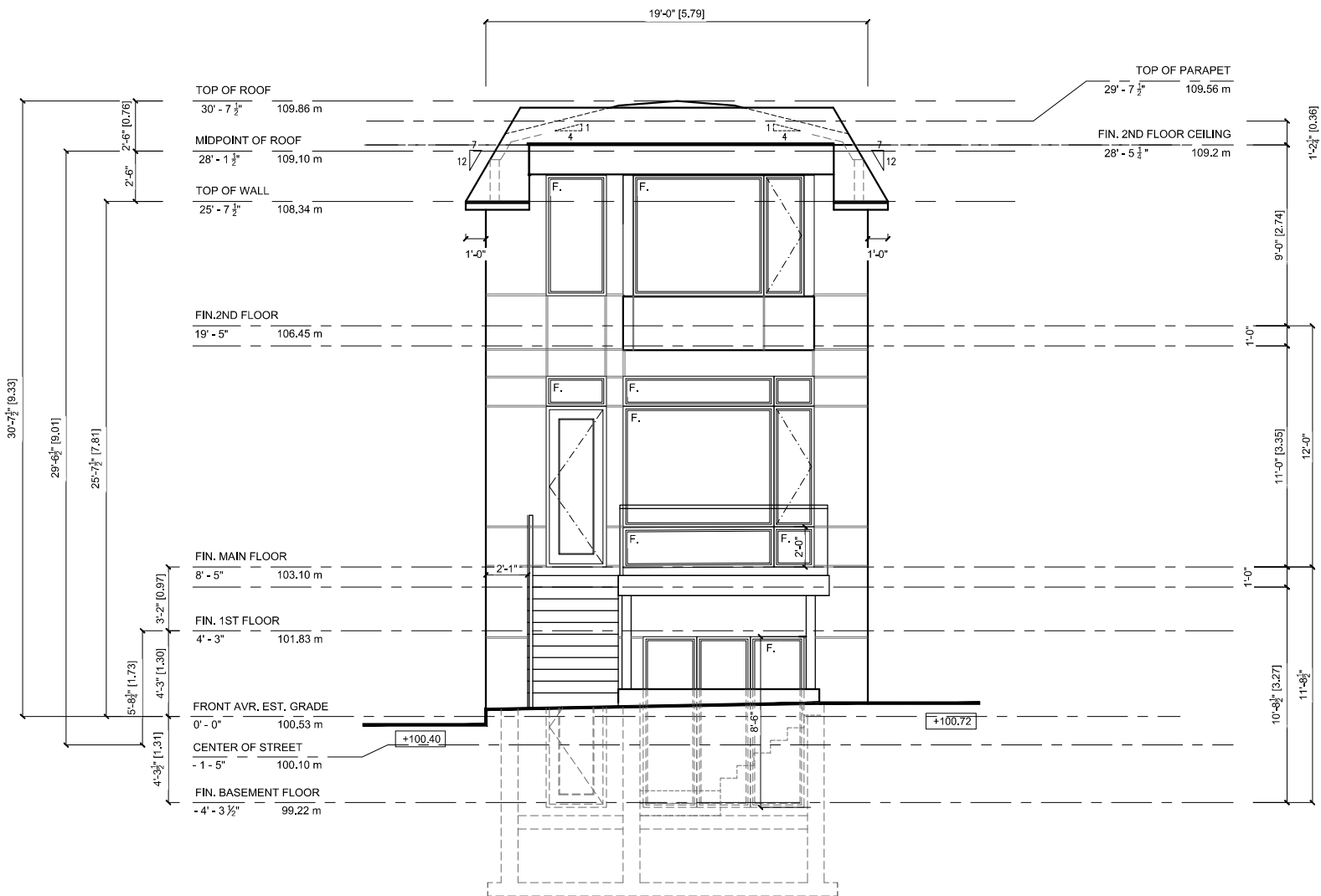
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ARKLAB 102724
FIRM NAME BCIN

STRUCTURAL REVIEW BY

BUILDING HEIGHT (NEW BY-LAW) | 8.90m [29'-2 1/4"]
BUILDING HEIGHT (OLD BY-LAW) | 9.29m [30'-5 3/4"]
SIDE WALL HEIGHT | 8.37m [27'-5 1/2"]

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



PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART A
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

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ARASH FARNIA 100763
NAME SIGNATURE BCIN

Registration Information

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ARKLAB 102724
FIRM NAME BCIN

STRUCTURAL REVIEW BY

BUILDING HEIGHT (NEW BY-LAW) | 8.90m [29'-2 1/4"]
BUILDING HEIGHT (OLD BY-LAW) | 9.29m [30'-5 3/4"]
SIDE WALL HEIGHT | 8.37m [27'-5 1/2"]

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

DRAWING TITLE

EAST ELEVATION

DRAWING #

A203

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART A
M2N 1G2 - TORONTO, ON

DRAWN BY	
B.G.	
CHECKED BY:	
B.G.	
DATE:	02 JUNE 2020
PROJECT NO:	
3023	

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

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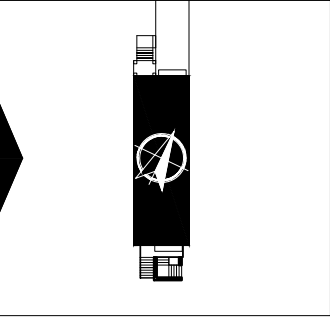
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KEY PLAN

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Qualification Information

Required unless design is exempt under Div. C - 3.2.5.1. of the building code

ARASH FARNIA	100763
NAME	SIGNATURE BCIN
Registration Information	
Required unless design is exempt under Div. C - 3.2.4.1. of the building code	
ARKLAB	102724
FIRM NAME	BCIN

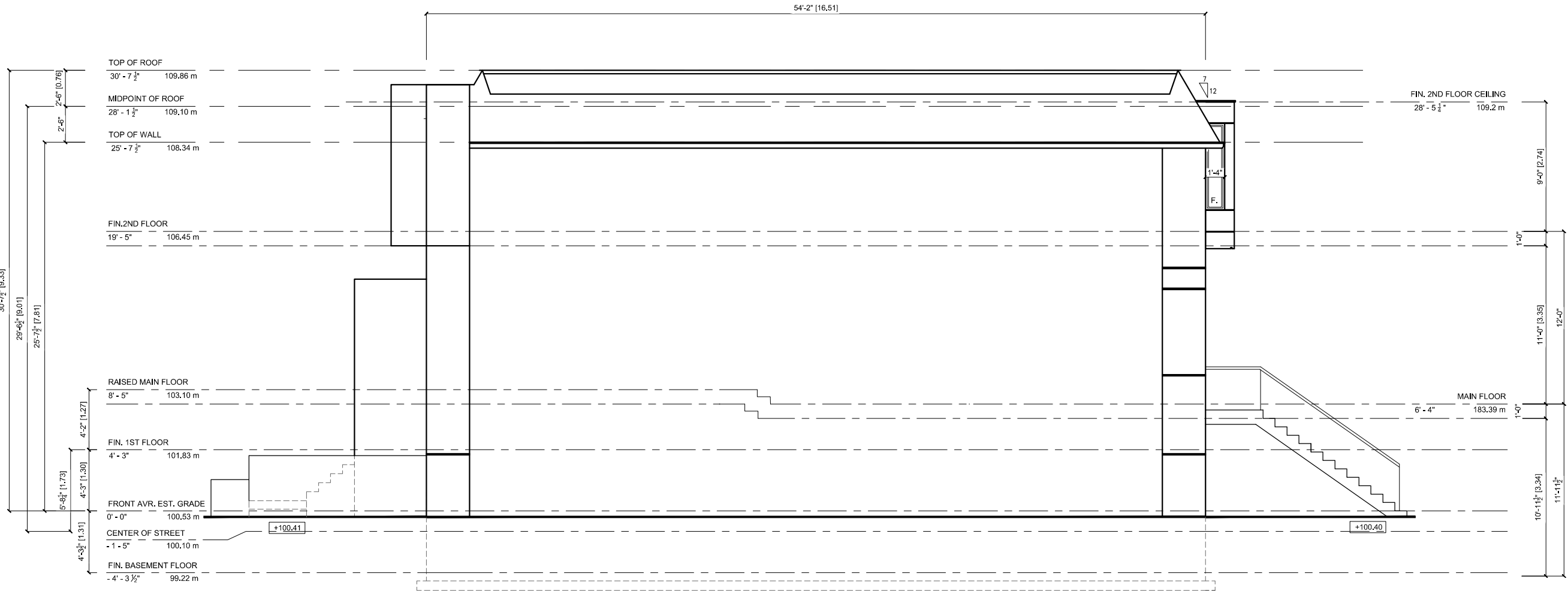
STRUCTURAL REVIEW BY

DRAWING TITLE

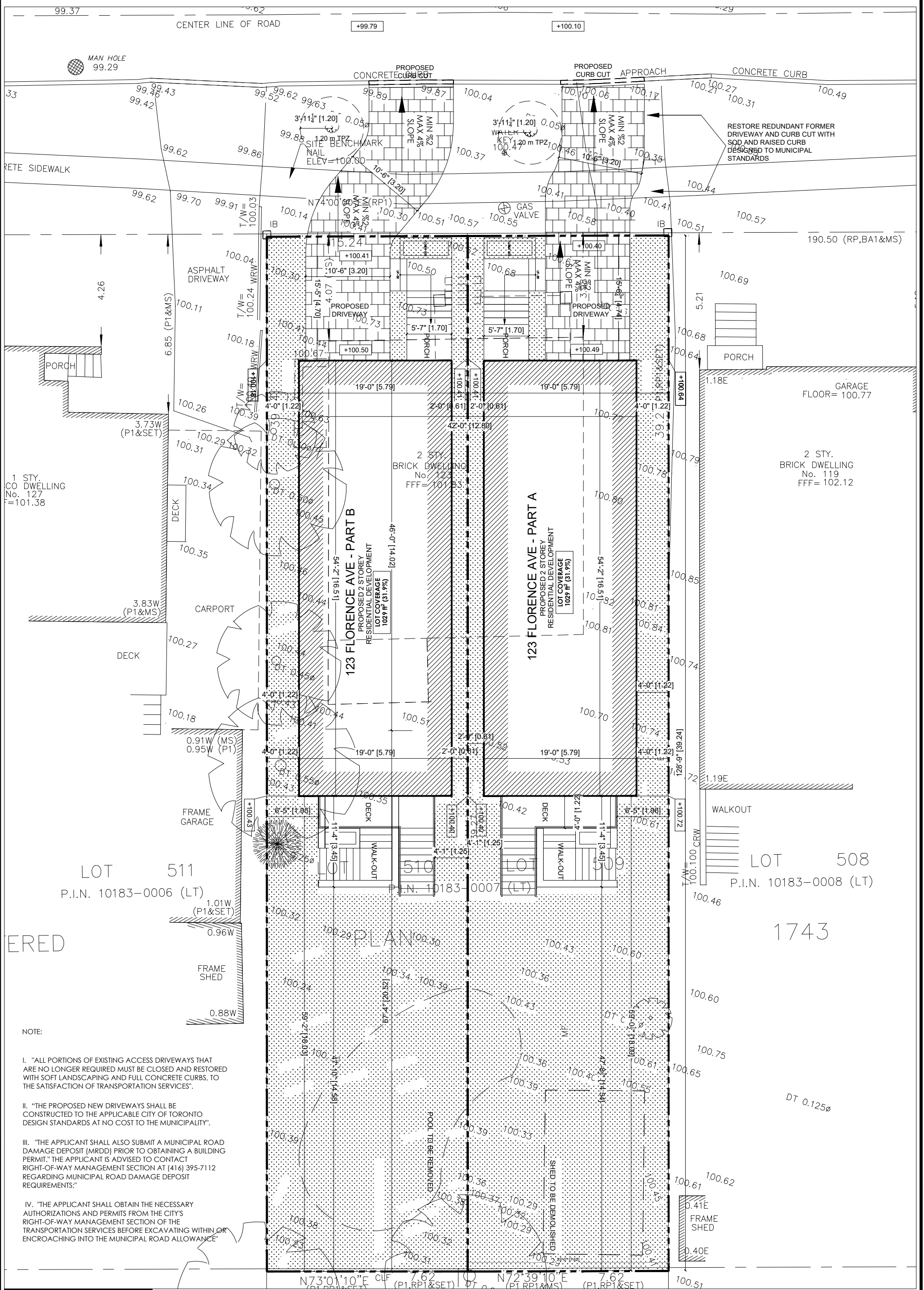
WEST ELEVATION

DRAWING #

A202



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



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

PROJECT NORTH

REVISIONS / ISSUE DATES		
#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW
5	JAN.13.21	ISSUED FOR ZONING REVIEW
6	JUN.9.21	ISSUED FOR TLAB

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Qualification Information

Required unless design is exempt under Div. C - 3.2.3.1. of the building code

ARASH FARNIA	100763
NAME	BCIN
SIGNATURE	

Registration Information

Required unless design is exempt under Div. C - 3.2.4.1. of the building code

ARKLAB	102724
FIRM NAME	BCIN

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART B
M2N 1G2 - TORONTO, ON

DRAWN BY: B.G.	STRUCTURAL REVIEW BY:
CHECKED BY: B.G.	
DATE: 17 JAN 2021	
PROJECT NO: 3023	

(647) 290 - 9695
info@arklab.ca

DRAWING TITLE	DRAWING #
SITE PLAN	A001

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART B
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

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KEY PLAN

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Qualification Information

Required unless design is exempt under Div. C - 3.2.5.1. of the building code

ARASH FARNIA 100763
NAME SIGNATURE BCIN

Registration Information

Required unless design is exempt under Div. C - 3.2.4.1. of the building code

ARKLAB 102724
FIRM NAME BCIN

STRUCTURAL REVIEW BY

BUILDING HEIGHT (NEW BY-LAW) | 9.46m [31'-0 1/2"]
BUILDING HEIGHT (OLD BY-LAW) | 9.21m [30'-7"]
SIDE WALL HEIGHT | 8.50m [27'-10 1/2"]

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

DRAWING TITLE

FRONT ELEVATION

DRAWING #

A200

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART B
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
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ARASH FARNIA 100763
NAME SIGNATURE BCIN

Registration Information

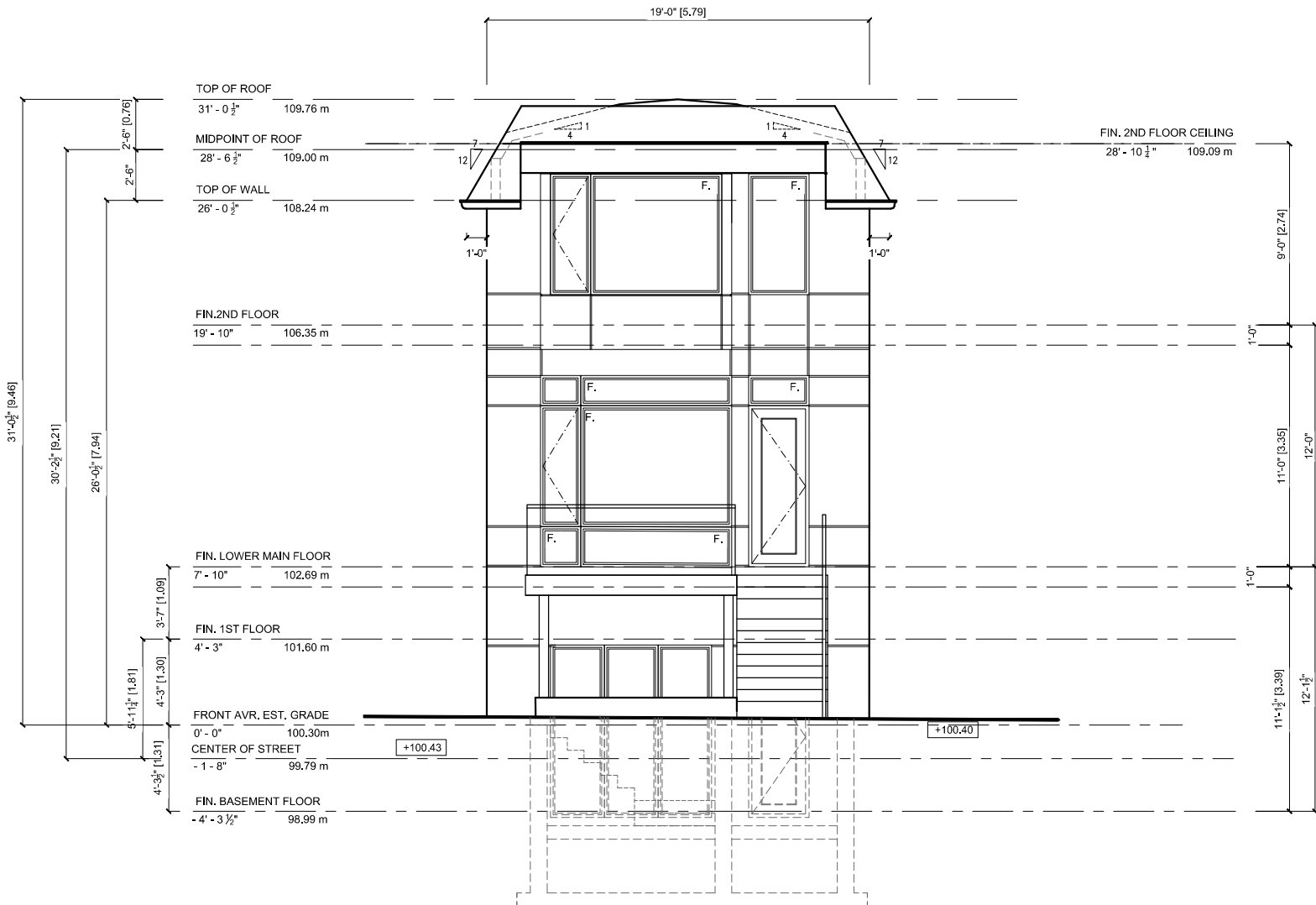
Required unless design is exempt under Div. C - 3.2.4.1. of the building code

ARKLAB 102724
FIRM NAME BCIN

STRUCTURAL REVIEW BY

BUILDING HEIGHT (NEW BY-LAW) | 9.46m [31'-0 1/2"]
BUILDING HEIGHT (OLD BY-LAW) | 9.32m [30'-7"]
SIDE WALL HEIGHT | 8.50m [27'-10 1/2"]

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



PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART B
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

3023

REVISIONS / ISSUE DATES

#	DATE	DESCRIPTION
1	DEC.23.19	ISSUED FOR CLIENT REVIEW
2	JAN.17.20	ISSUED FOR ZONING REVIEW
3	MAR.30.20	ISSUED FOR ZONING REVIEW
4	JUN.02.20	ISSUED FOR ZONING REVIEW

THE BUILDER SHALL VERIFY ALL DIMENSIONS AND ALL JOB SITE CONDITIONS PRIOR TO PROCEEDING WITH CONSTRUCTION AND REPORT ANY DISCREPANCIES IMMEDIATELY TO ARKLAB.

DRAWINGS ARE NOT TO BE SCALED.
ONLY THE LATEST APPROVED DRAWINGS ARE TO BE USED FOR CONSTRUCTION.
IT IS THE BUILDER'S DUTY TO ENSURE THAT THEY HAVE THE LATEST APPROVED DRAWINGS IN HAND.

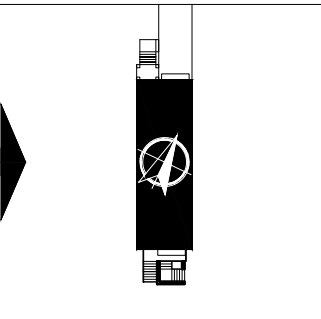
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* FOR ACCURATE ROOF PLANS, ELEVATIONS AND DETAILS PLEASE REFER TO THE TRUSS COMPANY DRAWINGS



KEY PLAN

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to design the work shown on the attached documents.

Qualification Information

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

DRAWING TITLE

WEST ELEVATION

DRAWING #

A202

PROPOSED DEVELOPMENT AT:
123 FLORENCE AVE - PART B
M2N 1G2 - TORONTO, ON

DRAWN BY

B.G.

CHECKED BY:

B.G.

DATE:

02 JUNE 2020

PROJECT NO:

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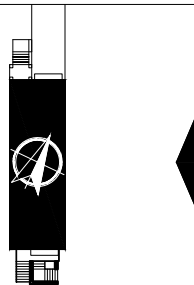
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SCALE | 1/8" = 1' - 0"

54'-2" [16.51]

TOP OF ROOF

31' - 0 1/2" 109.76 m

MIDPOINT OF ROOF

28' - 6 1/2" 109.00 m

TOP OF WALL

26' - 0 3/8" 108.24 m

FIN.2ND FLOOR

19' - 10" 106.35 m

RAISED MAIN FLOOR

8' - 10" 103.00 m

FIN. 1ST FLOOR

4' - 3" 101.60 m

FRONT AVR. EST. GRADE

0' - 0" 100.30m

CENTER OF STREET

- 1' - 8" 99.79 m

FIN. BASEMENT FLOOR

- 4' - 3 1/2" 98.99 m

FIN. 2ND FLOOR CEILING

28' - 10 1/4" 109.09 m

MAIN FLOOR

7' - 10" 102.69 m

+100.41

+100.40