

## DECISION AND ORDER

**Decision Issue Date**      Monday, June 21, 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):                      SAMUEL EARL ANSLEM

Applicant(s):                      FRANCO ROMANO

Property Address/Description: 18 HERNE HILL

Committee of Adjustment File

Number(s):                      20 129173 WET 02 MV  
                                         (A0132/20EYK)

**TLAB Case File Number(s): 20 193816 S45 02 TLAB**

**Hearing date: Thursday May 6<sup>th</sup>, 2021**

**Deadline Date for Closing Submissions/Undertakings:**

**DECISION DELIVERED BY A. Bassios**

## **REGISTERED PARTIES AND PARTICIPANTS**

Applicant	FRANCO ROMANO
Owner	LIZ YUE CHENG
Appellant	SAMUEL EARL ANSLEM
Party's Legal Rep.	MARC HARDIEJOWSKI
Party	CITY OF TORONTO
Party	ELIZABETH CHENG
Participant	JANNA ADAIR
Participant	CATHERINE WILKES
Participant	SUSAN WISNICKI
Participant	STEVE VELLA
Expert Witness	FRANCO ROMANO

## **INTRODUCTION**

This matter arises by way of an appeal from the Etobicoke York panel of the Committee of Adjustment (COA) decision and approval, with conditions, of variances to construct a new dwelling with attached garage at 18 Herne Hill, the subject property. The matter was appealed to the Toronto Local Appeal Body (TLAB) on September 15, 2020.

The subject property is located east of Islington Ave and north of Dundas St W in the former City of Etobicoke. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned RD (f13.5; a510; d0.45) (x28).

In attendance at the outset of the Hearing were:

- Christina Kapelos, legal counsel for the Applicant and Franco Romano, the Appellant's expert witness;
- Samuel Anselm, the Appellant;
- Mark Hadiejowski, counsel for the City of Toronto (City) and;
- Steve Vella, and Jenna Adair, Participants.

Mr. Hardiejowski advised that having received the Applicant's arborists report, the City's concerns had been satisfied. He asked that the City's recommended Conditions of Approval be received by the TLAB and that he be excused from the proceedings. Mr. Hardiejowski was excused.

Mr. Anslem advised that Participants Catherine Wilkes and Susan Wisnicki were not in attendance, but they had informed him that they intended to attend the Hearing later in the day. Ms. Wilkes later attended and made a statement to the TLAB.

I advised those present at the Hearing that I had attended at the site and the surrounding area and had reviewed the pre-filed materials but that it is the evidence to be heard and referenced that is of importance.

## **BACKGROUND**

The Applicant proposes to demolish the existing two storey dwelling, attached garage and shed on the subject property and construct a new two storey dwelling with integral garage. The Application that was heard before the COA, and approved with conditions, requested five variances. The Applicant has revised the Application now before the TLAB, eliminating the variances requested for gross floor area (GFA) and for the front yard setback from the front lot line. Additionally, the variance for the aggregate side yard setback has been decreased from 2.12m to 2.17m and the variance for the proposed stairs in the front yard has been reduced from 3.54m wide to 3.52m wide.

The requested variances before the TLAB are as follows:

### **1. Section 900.3.10.(28)(D), By-law 569-2013**

The minimum required side yard setback is 1.2 m and the minimum required aggregate width of the side yards is 20% of the lot frontage (3.3 m). The new dwelling will be located 0.91 m from the south side lot line and will have a total aggregate side yard width of 2.17 m.

### **2. Section 900.3.10.(28)(A), By-law 569-2013**

The maximum permitted height for a flat roof dwelling is 6.5 m. The new dwelling will have a flat roof height of 9.18 m.

### **3. Section 10.5.40.60.(3)(A)(ii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no wider than 2 m. The proposed front yard stairs will be 3.53 m wide.

## **MATTERS IN ISSUE**

A recognized heritage tree, a white oak, is located in the rear yard of the subject property and protection of this tree was a significant concern for residents. In addition to the preservation of the heritage tree, the height, scale, massing and design/form of the proposed dwelling were of concern to the Appellant.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Variance – S. 45(1)**

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

- 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**

### ***EXPERT WITNESS***

Mr. Franco Romano was qualified as an Expert Witness in land use planning and his Expert Witness Statement, including the Applicant's Disclosure, was marked as Exhibit 1.

Mr. Romano described the varied front yard setbacks along Herne Hill. He noted that the setbacks are not uniformly consistent and that the street "exhibits setbacks in a manner that flows with the mixed grid and curved road allowance". He advised that the road allowance at the subject property location has a curved character and that as the road allowance bends, properties "radiate and dwellings may have parallel or angled wall relationships to property lot lines". On the site plan (page 44 Exhibit 1), Mr. Romano noted the curvature of the front lot line and the angled front setback line which reflects it. The By-law requires that the minimum front yard setback is the average of the front yard setbacks of those buildings on the abutting lots. Mr. Romano advised that the revised submission before the TLAB has been reviewed by the Zoning Examiner and a variance for a front yard setback is not required to facilitate the proposal.

Under cross examination, Mr. Romano was asked about the front yard setback and Mr. Anslem questioned him as to what front yard setback is prevailing on the street. Mr. Romano responded that the Zoning By-law is very specific as to where the front yard setback is on any property. He asserted that the setback on the subject property is not going to be the same as another, and that is why there is no "prevailing" setback. He advised that in this situation of a curving street, the front yard setback is calculated in relation to the two immediate neighbours and from a planning perspective that creates the appropriate front wall alignment. He asserted that because Herne Hill is not a

straight street, different front wall alignments can be anticipated and the proposal respects and reinforces that. Mr. Romano emphasised that there is no variance required for the front yard setback.

For the subject property, the By-law requires a minimum side yard of 1.2m and that the minimum aggregate side yard setbacks of both side yards be 20% of the lot frontage, which is 3.3m. Mr. Romano advised that on the north side, the side yard exceeds the 1.2m that is required by the By-law and that on the south side, the integral garage on the south side bumps out and this is what causes the variance. He advised that the garage is one storey only and that behind the garage, as well as above the garage, the setback is larger than the 1.2m that is required by the By-law. The aggregate of the two side yards is 2.17, whereas 3.3m is required. Mr. Romano noted that the aggregate of the side yard setbacks is wider behind and above the integral garage.

Mr. Romano advised that the proposal is for a modern style dwelling with a flat roof and that the building is designed to have a composition of elements (projections and setbacks). He informed the TLAB that the tallest part of the proposal (9.18m) is an atrium above the staircase which allows for light to enter the central part of the house. He advised that the atrium occupies 12% of the footprint of the building and that it is not a space where a person could stand and look out. Mr. Romano described the varied heights of the proposed building; 7.5m to 7.8m to the top of the second floor roof, 8.1m to the top of the roof parapet, and 9.18m to the top of the atrium. The permitted height for a flat roof is 6.5m and for a shallow roof, 7.2m.

Mr. Romano described the front yard stairs as designed to be centrally located in front of the front porch. The proposed stairs are 3.54m wide whereas the By-law permits a maximum of 2.0m. The stairs do not necessitate a front yard landscaping variance.

Mr. Romano advised that the proposed dwelling has been designed to ensure that the building is situated away from the mature trees in the rear yard, especially from the mature heritage white oak that has been of concern to the public. He advised that Urban Forestry staff have confirmed that they are satisfied with the tree protection plan submitted by the Applicant, as confirmed at the outset of the Hearing by counsel for the City. Mr. Romano advised that the dwelling is proposed to be located more than 2m beyond the tree protection zone required by City Urban Forestry staff for the heritage tree. He noted that the rear yard setback required by the By-law is significantly exceeded by the proposal. He advised that the resulting proposed gross floor area (GFA) and lot coverage, floor space index (FSI), building length and building depth are also all less than the permitted maximums in the By-law.

### **General Intent and Purpose of the Official Plan**

Mr. Romano identified the geographic study area he used for the purposes of his analysis (Figure 1 below), which contains 403 properties. The immediate context area he defined are the 51 properties on Herne Hill between the two intersections of Chestnut Hills Parkway, which I have outlined in blue on the figure below.



Figure 1. Source: Exhibit 1 Tab G

Mr. Romano characterized the neighbourhood as experiencing regeneration which includes new residential buildings with “varied architectural expressions which are sculpted into the topography”. He reviewed for the TLAB a series of photographs illustrating the varied roof designs in the neighbourhood which are a mix of prominent, shallow and flat, sometimes in combination on a single structure.



9. 29 Herne Hill



1. 44 Herne Hill



19. 9 Chestnut Hills Cres.

Mr. Romano asserted that the intention of the Official Plan is to ensure that the proposal contains substantively complementary, compatible, and harmonious character attributes. In his opinion, new development can have different physical characteristics and still be found to respect and reinforce the overall character of the physical contexts. He reviewed the criteria listed in OP Policy 4.1.5.

*4.1.5 Development in established Neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:*

- a) patterns of streets, blocks and lanes, parks and public building sites;*
- b) prevailing size and configuration of lots;*



- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties;*
- d) prevailing building type(s);*
- e) prevailing location, design and elevations relative to the grade of driveways and garages;*
- f) prevailing setbacks of buildings from the street or streets;*
- g) prevailing patterns of rear and side yard setbacks and landscaped open space;*
- h) continuation of special landscape or built-form features that contribute to the unique physical character of the geographic neighbourhood; and*
- i) conservation of heritage buildings, structures and landscapes.*

In relation to OP Policy 4.1.5 c), Mr. Romano noted that in the neighbourhood there are residential buildings up to three storeys and that the buildings exhibit low profile, prominent and substantial roof designs which also have flat or shallow features. In his opinion, the proposal would fit in well with the building heights that are represented within the subject property's physical contexts.

Mr. Romano asserted that the massing of residential buildings in the neighbourhood is within and beyond zoning regulations and that similar or different massing manifestations co-exist. In his opinion, the massing and scale of the proposal conforms to the criteria established by the OP. In this regard, he noted that the scale and density of the proposal (lot coverage and GFA) are compliant with the Zoning By-law and respect and reinforce the physical character of the neighbourhood.

In Mr. Romano's opinion, the attributes of the proposed dwelling would respect and reinforce the physical character of the neighbourhood, both the geographic neighbourhood and the immediate physical context. In his opinion, the proposal conforms to, and maintains the general intent and purpose of the Toronto Official Plan.

### **General Intent and Purpose of the Zoning By-law**

Mr. Romano asserted that the overall general intent and purpose of the By-law is to achieve an orderly, compatible form of low rise residential which is context suitable. In his opinion, the proposal achieves this intent.

#### *Building Height*

Mr. Romano advised that the proposed dwelling has a height of 7.5m to 7.8m to the top of the second floor roof with a parapet above reaching 8.1m. In the centre part of the roof there is an atrium over the staircase area that projects above the roof to 9.18m. Mr. Romano described the proposal as a low profile two storey design with one level of living area above the integral garage. He asserted that this proposal achieves an overall low rise profile that is comparable to what could be occupied when compared to a sloped roof building. To illustrate the comparison to a sloped roof building, he referenced the rendering showing the proposal with annotations of the By-law as-of-right maximums.





Figure 2. Source: Exhibit 1 page 54

In Mr. Romano's opinion, the proposed building height meets the intent of the Zoning By-law provisions.

### *Side Yard Setbacks*

Mr. Romano asserted that the neighbourhood includes commonly found side yard setbacks that are comparable and also smaller than the zoning requirement with no uniformity, consistency, or pattern. He contended that there is appropriate and adequate space on both sides of the dwelling that provides for special separation, access, maintenance, and servicing.

### *Exterior Stairs*

Mr. Romano asserted that the intent of the stair width performance standard in the By-law is to ensure that the stairs maintain a subordinate, accessory nature and that they do not dominate the front yard. In his opinion, the general intent and purpose of the By-law is maintained in this proposal.

### **Minor**

It is Mr. Romano's opinion that the proposal creates no unacceptable adverse impact. He asserted that the proposed dwelling has been sited to ensure protection of the heritage tree in the rear yard. He referred to the Tree Preservation Plan and Arborist Report (Exhibit 2) for the measures that will be taken to protect trees on the property, including the specific measures which will be taken to protect the heritage tree.

Mr. Romano contended that the balance of the overall building height generally occupies space that is expected for a dwelling and provides for suitable perimeter open space, including setbacks.

Mr. Romano asserted that the proposal will not cause any unacceptable adverse impacts such as shadowing, privacy or overlook or any related to site development

features. In his opinion, the as-of-right development permission associated with the subject property could generate similar and more impacts than what is proposed.

### **Desirable for the Appropriate Development of the Land, Building or Structure**

It is Mr. Romano's opinion that the proposed regeneration constitutes a sensitive two storey detached dwelling site design and built form which is within the planning and public interest and is desirable for the appropriate use and development of the land. He asserted that the proposal would contribute to the mix of housing choices in a manner that reflects and reinforces the physical character of the neighbourhood. In his opinion, the proposal satisfies this minor variance test.

### **Four Tests**

It is Mr. Romano's opinion that the proposal satisfies all four tests for a variance, and that it represents good planning. He recommended that the proposal be approved subject to the conditions submitted by the City and subject to construction occurring substantially in accordance with the site plan and building elevations provided to the TLAB.

### ***PARTY: MR. ANSLEM***

Mr. Anslem, the Appellant, gave evidence and relied on his Witness Statement which was marked as Exhibit 3.

Mr. Anslem contended that the OP uses the word "prevailing", which means the predominant form, in his opinion this does not mean "one-offs, or two-offs".

In reference to the height of roofs, Mr. Anslem discounted Mr. Romano's testimony regarding shallow and other roof profiles and in his opinion, only flat roofs should be considered as comparators. He contested the rendering that is contained in Mr. Romano's Expert Witness Statement and referred to the diagram in his Witness statement for what he contended shows the actual height.



Figure 3. Source: Exhibit 3, page 3

Referring to the above diagram, Mr. Anslem commented as follows: that the front wall is higher than the peaks of the existing two houses on either side; that the atrium would be seen from the street and that the house would be imposing and cast a significant shadow on the two houses adjacent.

Mr. Anslem contended that every existing house on Herne Hill has some part of the roof that is pitched. He asserted that there are no completely flat roofs on the street which he contends are out of keeping with the style and character of Herne Hill.

Mr. Anslem asserted that the proposal is not in keeping with the character of the other houses on Herne Hill and that the design is not representative of what exists on the street and in the neighbourhood. He referred to photographs in his Witness Statement which show what Mr. Anslem referred to as the neighbourhood's "traditional aesthetics and character". (I have included two examples below).



Mr. Anslem wished to enter evidence regarding the front yard setback. After an objection from counsel for the Applicant, on the basis that no variance is required for front yard setback and that this matter is not at issue in the Hearing, I ruled that Mr. Anslem could speak on the matter of how the positioning of the façade has an influence on massing and perspective, but that the matter of the location of the front yard setback is not subject to a decision by the TLAB. Mr. Anslem reviewed a number of photographs contained in his Witness Statement to show that the positioning of the proposal is more imposing to the street than other examples where the houses have been set back further on the lot.

Mr. Anslem stated that his two primary concerns are the height and size of the main wall and its positioning; he indicated that he was not going to address the side yard variance or the variance for the front steps. He also stated that he had confirmed the size of the lot with the City and that he had no objections to the floor space index.

In reference to the mature trees in the rear yard, Mr. Anslem stated that he was very happy that an arborist report (Exhibit 2) has been submitted and that the Owner is prepared to conform to the recommendations, especially in regard to the commitment to hand excavation. He had remaining concerns regarding soil conditions but acknowledged that the arborists report that had been submitted to the City was a significant improvement and contains recommendations to specifically mitigate against injury to the heritage tree.

Under cross examination, Mr. Anslem acknowledged that it is fair to say that the houses on Herne Hill and in the neighbourhood have different styles and aesthetics with respect to built form. Mr. Anslem was asked if he took issue with the numerical value of the height variance requested, or the style of the proposal. He responded that his concern was the height of the proposal, and the numerical value. In his closing statement, he summarized his concern that the proposal will be imposing with a substantial front wall and cited the atrium height as a factor that is unique in the immediate context and the surrounding area.

#### *PARTICIPANTS*

Ms. Wilkes

I heard from Ms. Wilkes, who lives at a property backing on to the subject property and also owns the property adjacent to the subject property at 20 Herne Hill.

Ms. Wilkes stated her concern that the height and the size of the proposed house puts the heritage tree in jeopardy. She spoke about the importance of the heritage tree which she stated was over 300 years old. Under cross examination, Ms. Wilkes confirmed that her only concern is the protection of the trees, especially the heritage tree. Ms. Wilkes acknowledged she was not aware that the application had been revised since the COA hearing and had also not had an opportunity to review the

arborists report that had been submitted (Exhibit 2). Ms. Wilkes asserted that she had ongoing concerns for the welfare of the heritage tree.

Mr. Vella

I heard from Mr. Vella, who read from his Witness Statement and referenced a newspaper article about the heritage tree. Mr. Vella stated that he was happy that an arborist had “finally been hired” and that he was happy hoarding will be put up. He emphasized the importance of the tree protection zone. Mr. Vella acknowledged that he had reviewed the latest arborists report and confirmed that his concerns regarding the tree had been satisfied.

## **ANALYSIS, FINDINGS, REASONS**

The travelled portion of Herne Hill is not always centred in the road allowance, and the street itself has straight and curved parts. This configuration results in differentiation in lot sizes and shapes and also buildings of different sizes, designs and positioning in relation to the street. The physical character of the street and the neighbourhood is varied with respect to lots and structures, but there is harmony in the overall character of the neighbourhood as a mature suburb with generous treed lots and larger homes than are found in many parts of Toronto.

### *Variances for Side Yard Setbacks and Stairs*

No evidence was lead in opposition to the variances for the side yard setbacks and for the wider stairs at the front of the proposal. I find Mr. Romano’s evidence with regard to these two requested variances persuasive and I am satisfied that these variances meet the four tests mandated under s. 45(1) of the *Planning Act*.

### *Variance for Height*

Mr. Anselm’s opinion and evidence was that the proposal does not fit the character of the neighbourhood and the street (the immediate context). In his opinion, the height of the proposal, combined with the flat roof design, creates a solid front wall of greater extent than a traditional design would present to the street resulting in an imposing presentation to the street that is not in keeping with the character of the neighbourhood.

Mr. Romano’s opinion and evidence was that a development does not need to be the same as what exists, qualitatively or quantitatively, in order for the development to satisfy the *Neighbourhoods* physical character criteria (OP Policy 4.5.1). I accept and acknowledge his evidence that the OP recognizes that neighbourhoods will change and evolve and directs that this change should happen in a way that respects and reinforces the neighbourhood character.

In addition to the specific criteria that have been excerpted above, OP Policy 4.1.5 also directs how the criteria are to be applied, including that “*The determination of material consistency for the purposes of this policy will be limited to consideration of the physical*

*characteristics listed in this policy.*” (I note that the OP text included by Mr. Romano in his Expert Witness Statement is a previous version of the OP that does not include this language, but it is the current version of the OP which applies to this application).

Of the nine criteria included in OP Policy 4.1.5, Mr. Anslem’s concerns relate to criteria c) and f):

- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties;*
- f) prevailing setbacks of buildings from the street or streets;*

Mr. Anslem’s opinion is that the proposal should be set further back on the property than its current location. This is not a matter for the TLAB to adjudicate as no variance for the front yard setback has been required for this proposal, nor requested. I note that the proposal has been placed as far forward on the lot as possible without triggering a front yard variance, and in this way, greater clearance has been achieved between the rear wall of the proposed structure and the heritage tree in the rear yard. (No GFA, FSI or coverage variances are required for the proposal; its size and density are approved as-of-right).

I understand Mr. Anslem’s concern to be that the positioning of the proposed structure forward on the lot contributes to what he characterizes as the imposing nature of the proposal. In this perspective, it is the prevailing massing, scale and height criteria of OP Policy 4.1.5 c) that are the focus of deliberation – does the proposal respect and reinforce the existing physical character of the geographic neighbourhood in terms of prevailing heights, scale and massing?

First, a note on style/design. The matter of style is not one which is subject to assessment or adjudication. The expression of a design preference is not regulated by policy or by By-law. In Mr. Anslem’s view, the modern, flat roofed design of the proposal in combination with the height variance exacerbates the undesirable massing of the proposal.

I have been provided two renderings of the proposal in context of the two adjacent houses. Both show the height of the proposal on the subject property in relation to the two adjacent homes. The rendering in Mr. Romano’s Expert Witness Statement attempts to illustrate that the massing and height of the proposal is similar, and potentially less imposing, than a pitched roof structure that could be built as of right. Mr. Anslem contends that the scale of the proposal is not appropriate and asserts that the proposal would “dwarf” the neighbouring properties and would change the “feel of the neighbourhood”.

While I appreciate Mr. Anslem’s point of view and acknowledge that the adjacent neighbouring properties are more directly affected by change on the subject property, the context for adjudicating “fit” is broader than just the two adjacent properties and includes the planned context, and the immediate context, as well as the broader neighbourhood. According to Mr. Anslem and shown in his rendering, the top of the proposal’s atrium (9.18m) is shown to be taller than the peak of his own house. I note,

however, that a height of 9.5m is permitted as-of-right for a peaked roof. Looking to the photographs that have been submitted by Mr. Romano and Mr. Anslem, it can be seen that there are numerous examples in the neighbourhood of houses with larger structures and greater height than that of the proposal, and of the two adjacent neighbouring houses. I reference the photograph of 29 Herne Hill (above) as one example and note its relationship in scale to the two adjacent houses.

Because of the differing perspective from which the photographs have been taken, conclusions cannot immediately be drawn regarding absolute height, but the inclusion of cars in many of Mr. Anslem's photographs gives a sense of scale of many of the houses he has used as reference in his Witness Statement. Many of these examples are large and grand houses and, juxtaposed with the existing houses at 16 and 20 Herne Hill, would also represent significantly different scale and massing. Set beside the photographs of other houses in the neighbourhood and on Herne Hill (the immediate context) provided in both Mr. Anslem's and Mr. Romano's Witness Statements, I find that the height, scale and massing of the proposal is not out of keeping with the prevailing height, scale, and massing in the immediate context nor in the neighbourhood. I therefore prefer the evidence of Mr. Romano that similar or different massing manifestations co-exist in the neighbourhood and that the proposal would fit in with the building heights that are represented in the geographic neighbourhood and immediate context.

I therefore find that the proposal maintains the general intent and purpose of the OP.

The proposal requests a height variance of 9.18m and I have been advised it is tiered in a way that the area of the roof that is at this height is 12% of the roof area, which I find is not greatly different in profile than that of a traditional peaked roof which reaches to its maximum height in only a limited section of the profile. The highest portion of the second floor roof is proposed at 7.8m, while the maximum permitted height for a flat roof is 6.5m. I note that the By-law permits main walls of a peaked roof building to a maximum height of 7m and a roof height of 9.5m. These parameters provide a comparative reference point for the proposal which proposes, comparatively, "wall heights" at 7.8m (excluding the parapet) with no roof above and instead a comparatively small atrium extending above. In this context, and in reference to the reasons cited above, I find that the proposal maintains the general intent and purpose of the Zoning By-law.

For the reasons cited above, I find that the proposal is minor and that it is desirable for the appropriate development of the land. I find that the elimination of the variances approved by the COA for Gross Floor Area and Front Yard Setback to be minor and not require further notice as might otherwise be relevant under s. 45(18.1.1.) of the Planning Act.

I find that the proposal and the requested variances, subject to conditions, meet the four tests of s. 45(1) of the Planning Act and I therefore authorize the requested variances.



## DECISION AND ORDER

In their disclosure, the applicant eliminated two variances that the COA had approved. Therefore, the appeal is allowed in part, and only the variances listed in Appendix A are authorized, subject to the conditions contained therein.

If difficulties arise regarding this Decision and Order, the TLAB may be spoken to.

X 

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Ana Bassios  
Panel Chair, Toronto Local Appeal Body

## **APPENDIX A**

### **APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:**

#### **VARIANCES:**

##### **1. Section 900.3.10.(28)(D), By-law 569-2013**

The minimum required side yard setback is 1.2 m and the minimum required aggregate width of the side yards is 20% of the lot frontage (3.3 m).  
The new dwelling will be located 0.91 m from the south side lot line and will have a total aggregate side yard width of 2.17 m.


##### **2. Section 900.3.10.(28)(A), By-law 569-2013**

The maximum permitted height for a flat roof dwelling is 6.5 m.  
The new dwelling will have a flat roof height of 9.18 m.

##### **3. Section 10.5.40.60.(3)(A)(ii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no wider than 2 m.  
The proposed front yard stairs will be 3.53 m wide.

#### **CONDITIONS:**

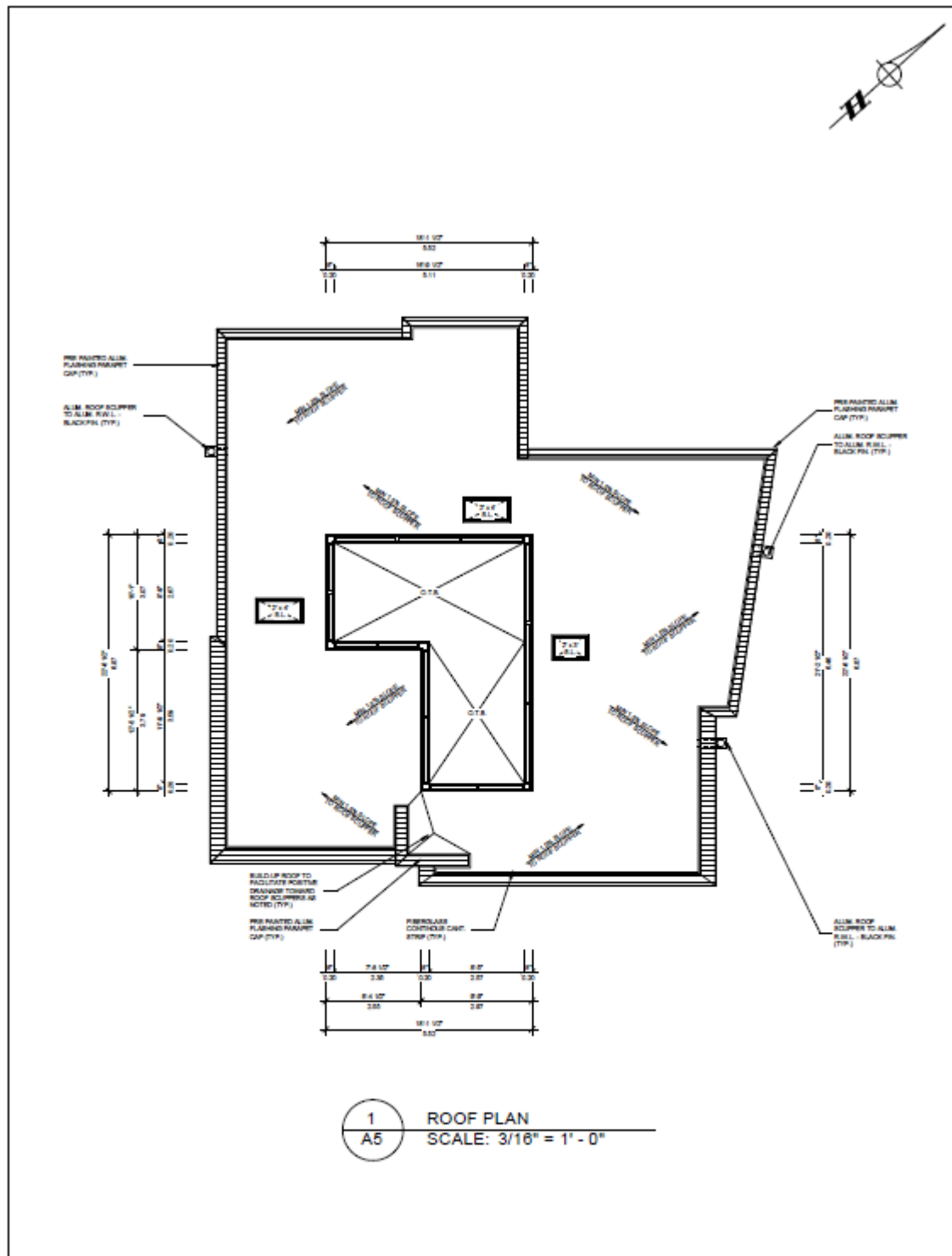
1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan (drawing A1), Roof Plan (A5), Front Elevation (A6), Rear Elevation (A7), Left (South) Elevation (A8), and Right (North) Elevation (A9) prepared by epic designs  dated February 2021, attached hereto.
2. The owner shall be required to submit complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection [i.e., 30cm Colorado Blue Spruce]; and
3. 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.



**Decision of Toronto Local Appeal Body Panel Member: A. Bassios**  
**TLAB Case File Number: 20 193816 S45 02 TLAB**



<b><u>SITE STATISTICS:</u></b>		
ZONED AS: RD (f13.5; a510; d0.45) (x28)		
LOT AREA=	<b>m2</b>	<b>(SQ. FT.)</b>
	969.53	10,435.92
EXIST. LOT FRONTAGE @ STREET LINE=	<b>m</b>	
	15.24 m	50.0 ft.
MIN. FRONT YARD SETBACK=	7.02 m	
MIN. REAR YARD SETBACK=	N/A m	
MIN. SIDEYARD SETBACK=	1.20 m	
<b><u>PROPOSED G.F.A.:</u></b>		
PROP. FIRST FLOOR AREA =	<b>m2</b>	<b>(SQ. FT.)</b>
	176.29	1,897.57
PROP. SECCND FLOOR AREA =	186.20	2,004.24
ATTACHED GARAGE AREA=	44.07	474.37
TOTAL PROP. G.F.A.=	<b>406.56</b>	<b>4,376.17</b>
		<b>41.93%</b>
<b><u>PROPOSED LOT COVERAGE:</u></b>		
ATTACHED GARAGE AREA=	44.07	474.37
PROP. FIRST FLOOR AREA =	176.29	1,897.57
PROP. COVERED CONC. STOOP =	4.62	49.74
TOTAL PROPOSED COVERAGE =	<b>224.98</b>	<b>2,421.67</b>
TOTAL PROPOSED COVERAGE AS PERCENTAGE =		<b>23.21%</b>
MAX. ALLOWED LOT COVERAGE=		33.00%
<b><u>PROPOSED FRONT YARD SOFT LANDSCAPING:</u></b>		
FRONT YARD AREA =	120.31	1,294.95
PROP. ASPH-ALT DRIVEWAY =	32.90	354.16
<b>FRONT YARD AREA - DRIVEWAY =</b>	<b>87.40</b>	<b>940.79</b>
PROP. COVERED CONC. STOOP & STAIRS =	7.31	73.69
PROP. PERMEABLE PAVER WALKWAY =	14.43	155.32
PROPOSED FRONT YARD SOFT LANDSCAPED AREA =	<b>65.66</b>	<b>706.77</b>
PROPOSED SOFT LANDSCAPE AREA AS A PERCENTAGE =		<b>75.13%</b>
<b><u>PROPOSED REAR YARD SOFT LANDSCAPING:</u></b>		
REAR YARD AREA =	587.03	6,318.76
PROPOSED REAR YARD SOFT LANDSCAPED AREA =	<b>587.03</b>	<b>6,318.76</b>
PROPOSED SOFT LANDSCAPE AREA AS A PERCENTAGE =		<b>100.00%</b>

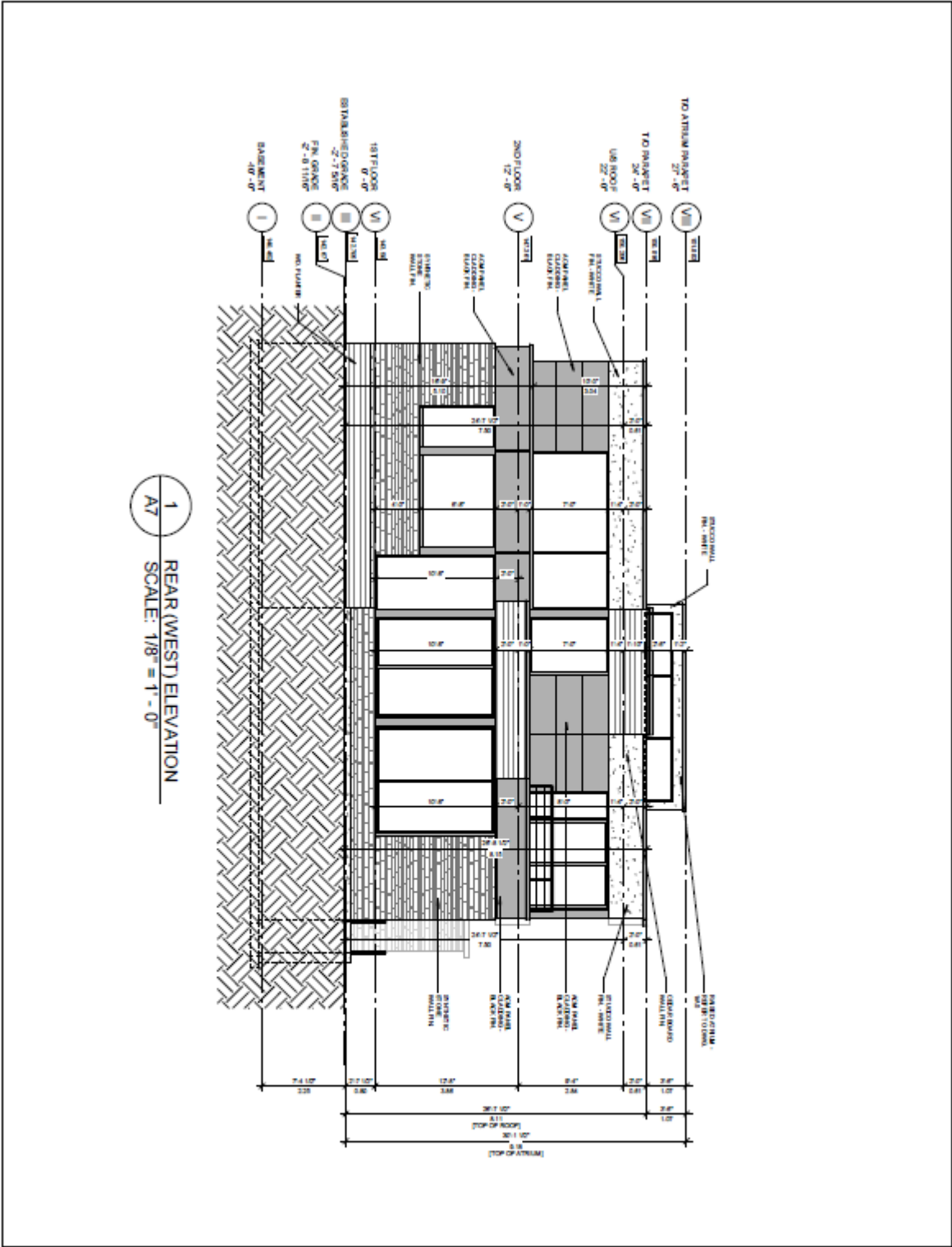
 <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA</p>	<p>The undersigned has reviewed and took responsibility for this design, and has the qualifications and meets the requirements set out in the above to Quality Code (as design is the basis for construction)</p> <p>QUALIFICATION INFORMATION: Registered under design is exempt under S24.1(1) Division G. @ the Workplace</p> <p>NAME: <i>[Signature]</i> DESIGNER</p> <p>REGISTRATION INFORMATION: Registered under design is exempt under S24.1(1) Division G. of the Building Code</p> <p>EPIC DESIGN INC. FIRK NAME: [Blank]</p>	<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE PRIOR WRITTEN PERMISSION</p> <p>PROJECT: EX. S.F.D. TO BE REMOVED. PROP. 2 STOREY S.F.D. C/W ATTACHED GARAGE TO BE CONSTRUCTED @ NO. 18 HERNE HILL TORONTO, ONTARIO</p>	<p>DRAWING SITE STATE</p> <p>SCALE: [Blank]</p> <p>DATE: FEB / 2021</p> <p>PROJECT No. 2019 - 35</p>	<p>DRAWN BY: PEDRO TORRES</p> <p>APPROVED BY: M.V.</p> <p>DRAWING No. A1 A</p>




 <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA</p>	<p>The undersigned has reviewed and holds responsibility for this design and has the qualifications and meets the requirements set out in the above to satisfy these requirements for each item on this</p> <p>QUALIFICATION INFORMATION Required unless design is exempt under 33-1.1 or Division 5 of the Building Code</p> <p>NAME: <u>Pedro Torres</u> SIGNATURE: <u>[Signature]</u> REGISTRATION NUMBER: <u>32862</u> BCN</p> <p>REGISTRATION INFORMATION Registered under design is exempt under 33-1.1, Division 5 of the Building Code</p> <p>EPIC DESIGN INC. REG. NAME: <u>32862</u> BCN</p>	<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, WITHOUT WRITTEN PERMISSION.</p> <p>PROJECT: EX. S.F.D. TO BE REMOVED, PROP. 2 STOREY S.F.D. C/W ATTACHED GARAGE TO BE CONSTRUCTED @ No. 18 HERNE HILL TORONTO, ONTARIO</p>	<p>DRAWING ROOF PLAN</p> <p>SCALE: 1/8" = 1'-0"</p> <p>DATE: FEB / 2021</p> <p>PROJECT No. 2019 - 25</p>	<p>DRAWN BY: PEDRO TORRES</p> <p>APPROVED BY: M.V.</p> <p>DRAWING No. A5</p>
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[illegible]

 <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA</p>	<p>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 this drawing.</p> <p>QUALIFICATION INFORMATION Registered into design is exempt under S.2.4.1, Division C of the building code</p> <p>DESIGNER'S SIGNATURE:  DATE: 05/24/2019</p> <p>REGISTERED PROFESSIONAL INFORMATION Registered into design is exempt under S.2.4.1, Division C of the building code</p> <p>EPIC DESIGNS INC. FIRM NAME: 2018 D.C.N.</p>		<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, PRIOR WRITTEN PERMISSION</p> <p>PROJECT: EX. S.F.D. TO BE REMOVED; PROP. 2 STOREY S.F.D. C/W ATTACHED GARAGE TO BE CONSTRUCTED @ No. 18 HERVE HILL TORONTO, ONTARIO</p>	<p>DRAWING FRONT (EAST) ELEVATION</p> <p>SCALE: 1/8" = 1'-0"</p> <p>DATE: FEB / 2020</p> <p>PROJECT NO: 2019 - 35</p>	<p>DRAWN BY: PEDRO TORRES</p> <p>APPROVED BY: M.V.</p> <p>DRAWING NO: A3</p>
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  257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA	The undersigned has reviewed and taken responsibility for this design and has the qualifications and holds the requirements set out in the Ontario Building Code to design the work shown on this drawing.		DRAWING REAR (WEST) ELEVATION		
	QUALIFICATION INFORMATION Registered into design is exempt under S.2.4.3.3, Division C of the Building Code.		SCALE: 1/8" = 1'-0"		
	REGISTERED INFORMATION Required unless design is exempt under S.2.4.3.3, Division C of the Building Code.		DRAWN BY: PEDRO TORRES		
	EPIC DESIGNS INC. FIRM NAME		DATE: FEB / 2021		
DO NOT SCALE DRAWINGS. CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.		ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, PRIOR WRITTEN PERMISSION.		APPROVED BY: M.V.	
PROJECT: EX. S.F.D. TO BE REMOVED. PROP. 3 STOREY S.F.D. C.W. ATTACHED GARAGE TO BE CONSTRUCTED @ No. 18 HERNE HILL TORONTO, ONTARIO		PROJECT No: 2019 - 35		DRAWING No: A7	



257 DUNRAVEN DRIVE  
TORONTO, ONTARIO. M6M - 1H8  
TEL: (416) 564 - 2435  
WWW.EPICDESIGNSINC.CA

The undersigned has reviewed and takes responsibility for this design and has the qualifications and/or holds the requirements set out in the Ontario Building Code to design the work shown on the drawing.

QUALIFICATION INFORMATION

Requires unless design is exempt under S.24.1.3, Division 5 of the Building Code

DATE: 2019-02-20 BY: [Signature]

REGISTERED PROFESSIONAL ENGINEER

Requires unless design is exempt under S.24.1.3, Division 5 of the Building Code

DATE: 2019-02-20 BY: [Signature]

DO NOT SCALE DRAWINGS  
CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.

ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE PRIOR WRITTEN PERMISSION

PROJECT:

EX. S.F.D. TO BE REMOVED, PROP. 3 STOREY S.F.D. C/W ATTACHED GARAGE TO BE CONSTRUCTED @ No. 15 HERNE HILL TORONTO, ONTARIO

DRAWING

LEFT (SOUTH) ELEVATION

SCALE:

1/8" = 1'-0"

DRAWN BY:

PEDRO TORRES

DATE:

FEB / 2021

APPROVED BY

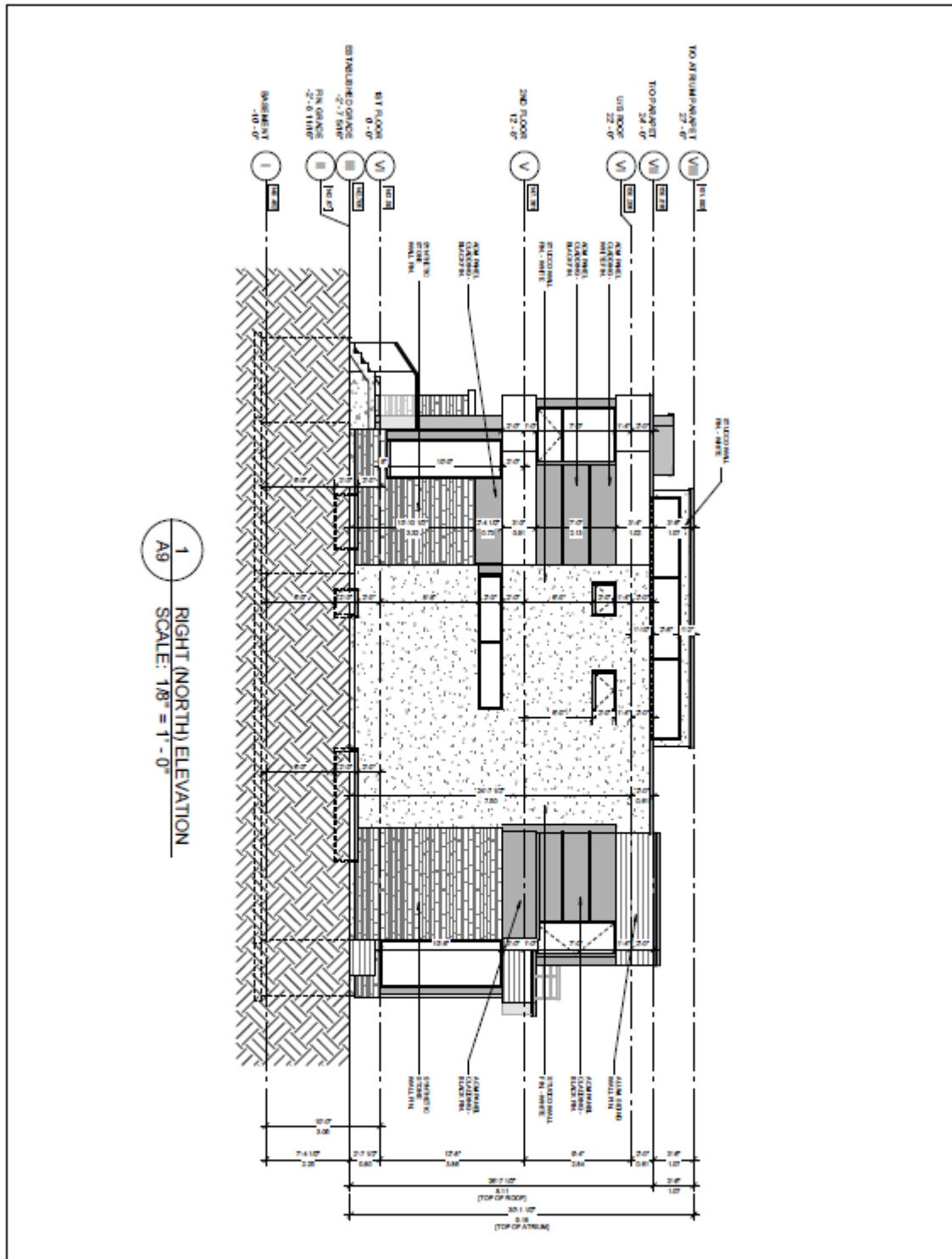
M.V.

PROJECT No.

2019 - 35

DRAWING No.

A3



 <p>257 DUNRAVEN DRIVE TORONTO, ONTARIO, M6M - 1H8 TEL: (416) 564 - 2435 WWW.EPICDESIGNSINC.CA</p>	<p>The undersigned has reviewed and takes responsibility for the design and for the application and works for the project and will act in the best interests of the client and the public.</p> <p>QUALIFICATION INFORMATION Requires unless design is exempt under S.O. 19/03, Division 2, of the Act.</p> <p>MADE/VERA/NAME <i>[Signature]</i> 2582 SCN</p> <p>REGISTRATION INFORMATION Registered under design is exempt under S.O. 19/03, Division 2, of the Act.</p> <p>EPIC DESIGN INC. 5016 FIRM NAME SCN</p>		<p>DO NOT SCALE DRAWINGS CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT OMISSIONS OR DISCREPANCIES TO EPIC DESIGNS INC. BEFORE PROCEEDING WITH WORK.</p> <p>ALL PRINTS SPECIFICATIONS ARE THE PROPERTY OF EPIC INC. AND SHALL NOT BE COPIED, IN PART OR WHOLE, PRIOR WRITTEN PERMISSION.</p> <p>PROJECT: EX. S.F.D. TO BE REMOVED. PROP. 2 STOREY S.F.D. CW ATTACHED GARAGE TO BE CONSTRUCTED @ N. 18 HERNE HILL TORONTO, ONTARIO</p>		<p>DRAWING RIGHT (NORTH) ELEVATION</p> <table border="1"> <tr> <td>SCALE: 1/8" = 1'-0"</td> <td>DRAWN BY: PEDRO TORRES</td> </tr> <tr> <td>DATE: FEB / 2021</td> <td>APPROVED BY: M.V.</td> </tr> <tr> <td>PROJECT No. 2019 - 35</td> <td>DRAWING No. A9</td> </tr> </table>		SCALE: 1/8" = 1'-0"	DRAWN BY: PEDRO TORRES	DATE: FEB / 2021	APPROVED BY: M.V.	PROJECT No. 2019 - 35	DRAWING No. A9
	SCALE: 1/8" = 1'-0"	DRAWN BY: PEDRO TORRES										
	DATE: FEB / 2021	APPROVED BY: M.V.										
	PROJECT No. 2019 - 35	DRAWING No. A9										