

DECISION AND ORDER

Decision Issue Date Tuesday, November 09, 2021

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

Appellant(s): SMRITEE NEHRU

Applicant(s): ROCKIM DESIGN INC

Property Address/Description: 435 MEADOWVALE RD

Committee of Adjustment File

Number(s): 20 134443 ESC 25 MV (A0092/20SC)

TLAB Case File Number(s): 20 205955 S45 25 TLAB

Hearing date: May 3, 2021

June 28, 2021

October 7 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY S. GOPIKRISHNA

REGISTERED PARTIES AND PARTICIPANTS

Applicant	ROCKIM DESIGN INC
Appellant	SMRITEE NEHRU
Expert Witness	AIMEE POWELL
Witness	J. JOHNSTON
Participant	NORMA ANNE BROWN
Participant	MOHAMMED CHOWDHURY

Participant

MINORA COUTINHO

INTRODUCTION AND BACKGROUND

Ms. Smritee Nehru is the owner of 435 Morningside, a townhouse located in Ward 25-Scarborough-Rouge Park. Ms. Nehru applied to the Committee of Adjustment (COA) for the approval of various variances which would enable her to build an extension to her existing townhouse. The Committee of Adjustment (COA) heard the Application on September 23, 2020 and refused the Application in its entirety.

This decision was appealed to the Toronto Local Appeal Body (TLAB), following a modification to the original application to exclude variances from the Zoning By-Law for FSI (Floor Square Index), side yard setbacks and driveway width. The TLAB scheduled an Electronic Hearing to hear the Appeal on May 3, 2021.

A number of neighbours , all of whom were in opposition to the proposal, elected for Participant status. At the Hearings held to obtain evidence regarding this Appeal, the opposition was represented by Ms. Norma Anne Brown, Ms. Minora Coutinho, and, Mr. Mohammed Chowdhury, all of whom reside in the vicinity of the Subject Property.

MATTERS IN ISSUE

The variances for which relief is requested from the By-Laws are listed below. I note that the language and the numbering reflects the Appellants' submission to the TLAB.

1. ((352) Exception RT 352(A)(i)), By-Law No. 569-2013

The maximum floor index area is allowed 60% (198.23 square metres) of lot area (315 square metres.) The proposed is at 77.9 % (245.48 square metres) the lot area.

2. (10.60.40.70 Setbacks), By-Law No. 569-2013.

The north side yard setback is required 0.9 m The proposed north side yard setback is at 0 m.

5. (10.5.100 Access to Lot10.5.100.1 General), By-Law No. 569-2013

The driveway exceeds the maximum width of 5.13 m. The proposed driveway width is at 5.47 m.

JURISDICTION

Provincial Policy – S. 3

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

Variance – S. 45(1)

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

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

EVIDENCE

At the Hearing held on May 3, 2021, the Appellant was represented by Ms. Aimee Powell, a planner, while the Opposition was represented by Ms. Anne Brown, Mr. Mohammed Chowdhury's son, and Ms. Minora Coutinho, all of whom live in the vicinity of the Subject Property. The addresses are not mentioned in the interests of privacy.

After reviewing the submissions and statements submitted by the Party and Participants, I found that both sides had omitted to submit important documents, without which it would have been difficult to proceed to a Hearing- as an example, Ms. Powell, the land use planner retained by the Appellant, had registered as a Party, as opposed to an Expert Witness. I was deeply concerned by the submissions made to the TLAB, by the Appellant, as well as the Participants, because both sides focused on their mutual differences of opinion, which are not germane to the planning matters before the TLAB. Lastly, the Plans and Elevations submitted by the Appellant had not been updated to reflect the updated list of variances before the TLAB, because they seemed identical to the Plans and Elevations submitted to the COA.

I explained my concerns to Appellant, and the Opposition, and advised them that I would adjourn the Hearing in order to enable both sides to submit appropriate documentation, focusing on the planning issues before the TLAB, including updated Plans and Elevations, and Witness Statements, which focused on planning matters, and excluded references to their differences.

Based on the availability of the Appellant and the Opposition members, the TLAB rescheduled the Hearing to June 28, 2021. The Appellant and the Opposition submitted updated documentation, as directed, before the Hearing.

I note that on the Hearing held on June 28, 2021, the Appellant was again represented by Ms. Aimee Powell, a registered planner while the opposition was represented by Ms.

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Anne Brown, Mr. Mohammed Chowdhury, and Ms. Minora Coutinho. Ms. Powell was affirmed, and recognized as an Expert Witness in the area of land use planning. The highlights of her evidence are presented below:

The Subject Site currently has a three-bedroom, two storey “end-unit” townhouse with approximately 8 m frontage (26 ft.) onto Meadowvale Road, and a lot depth of approximately 48 m (157 ft). The Site is bound to the north by a shared access laneway, with a side yard setback of 1.42 m for a portion of the laneway. The Subject Site is located in a residential neighbourhood just south of Highway 401, near the intersection of Kingston Road and Meadowvale Road. Ms. Powell described the neighbourhood as “mature, characterized by low to medium density housing where redevelopment of older housing” has occurred, though the redevelopment was not “predominant” in the community.

The Appellant proposes to :

- convert the existing garage into additional living space,
- create a new garage measuring 7.26 m by 5.47 m,
- build a new, partially covered, outdoor private amenity space on top of the proposed garage with privacy fencing,
- create a new driveway measuring 6.15 m by 5.47 m in the rear yard.

After reciting the variances (as recited in the “Matters in Issue” Section), Ms. Powell discussed how she reviewed the City Transportation and City Planning Reports, and advised her client to “scope” down the list of variances to what was before the TLAB. Ms. Powell asserted that the proposal conforms to the Provincial Policy Statement, (2020), because it provides “for a range of housing options by diversifying the housing built from, while respecting the character of the neighbourhood”. The development also “optimizes the use of the land by building within the desired building footprint of the lot, while better utilizing available land for living space, in accordance with the direction of the Province”. This proposal also conforms to the Province’s Growth Plan i.e. ‘A Place to Grow’(2020), because “it provides for the optimization of available land for efficient development while achieving uniformity with neighbourhood character and housing form”.

Speaking to the test of minor, Ms. Powell said that the proposal respects the existing lot coverage standard of 40%, and “does not negatively impact the overall layout, functionality, views from the street, permitted uses or offend City Standards”. Speaking to the variances themselves, Ms. Powell said that the requested 17.9% increase in FSI does not impact lot coverage, nor maximum building height. The north yard setback would be decreased by 0.9 m for only 4 metres of a 7.26 metre long wall, and the requested driveway width would increase from 5.13 m to 5.47 m. She emphasized that the City of Toronto’s transportation department “supported” the widening of the driveway, as could be seen in their amended comments, dated September 22, 2020. On the basis of this evidence, Ms. Powell concluded that the requested variances satisfied the test of minor.

Speaking to the test of appropriate development, Ms. Powell said that the application meets the test because it does not offend views from the street, and will be built within

the requirements of the Ontario Building Code and any applicable City standards. Ms. Powell opined that the addition of living space and interior parking is “highly desirable” for the Subject Site.

Ms. Powell then spoke to the test of upholding the intent and purpose of the Zoning By-Law. She emphasized that the proposal would result in a bigger townhouse, which confirmed to the Zoning applicable to this neighbourhood. She said that the application meets the test by virtue of respecting the use of building type, lot area, lot-frontage, lot coverage and height, and does not result in an over-development of the Site. She reiterated Reiterating that the City of Toronto’s Transportation Department had not objected to the widening of the driveway.

Based on this evidence, Ms. Powell concluded that the proposal satisfied the test of maintaining the intent and purpose of the Zoning By-laws.

Lastly, Ms. Powell spoke to the test of upholding the intent and purpose of the Official Plan (OP).

She pointed out that the subject lands are designated as ‘Neighbourhoods’ in the City of Toronto’s Official Plan (OP)- she highlighted that proposals don’t have to replicate what already exists, but should instead respect what exists in the community. She emphasized that from this perspective, the rear addition and the new garage respect what exists in the community, even if there exist no other exemplars of such additions in the community.

Ms. Powell then discussed how the proposal met the “Built Form Policies” in Policy 3.1.2 of the OP, by reiterating the lack of negative impact on the neighbouring properties. She then discussed the interaction of the proposal with Policy 4.1.5 of the OP, with specific reference to the request for the rear yard setback, because it situates development away from the main thoroughfare (i.e. Meadowvale Ave), and consequently does not impact on the traffic on the main road, as well as the lane at the back of the house. Lastly, she said that the proposal “ensured that minimum standards for landscaped areas are being maintained in accordance with Policy 4.1.8”.

Ms. Powell discussed how the proposal encouraged broader choices for housing while respecting the character of the neighbourhood, before stating that the proposal maintained the intent and purpose of the Official Plan. She summarized the discussion regarding the four tests, and concluded that the proposal satisfied the four tests under Section 45.1 of the Planning Act. She recommended that if approved, the TLAB could impose a standard condition that the proposal be constructed in substantial accordance with the submitted Plans and Elevations.

Ms. Anne Brown spoke in opposition to the proposal. She pointed out that the maximum floor index permitted is 60% of the lot area, and that increasing this to 77.9% of the lot area, “contradicted the set building regulations”. She claimed that this development would “greatly impact” her enjoyment of her property, “as well as drastically impact the greenspace”.

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Speaking to the variance respecting the reduction of the north yard setback to 0.0 m, Ms. Brown pointed out that the “laneway is narrow enough in good weather, much less having to deal with snow and its accumulation”. She opined that this reduction would constitute “more than a minor variance to the other residents along the Kingston Road portion of the lane and our usage of the lane.” Ms. Brown objected to the driveway width, and pointed out that the “shared portion of the lane” is 4.04m or 13.25 ft. She stated that the combined width of her own car and the side mirrors, taken together, would be approximately 8.25 ft, on the basis of which, she concluded that there wouldn’t be enough space for two cars to pass each other, “let alone having to deal with construction vehicles”.

Ms. Brown also complained about how the erection of a “9’11” structure plus a 6’ privacy fence atop that” would result in a wall “16 feet high”. She added that this proposal would have a very significant impact on the environmental footprint, and that this did not take into account “the inconvenience caused to the other eight families using this access lane to our homes and garages.” Ms. Brown concluded by stating that “the removal of her parking variances in this appeal are negligible in relation to this new/revamped build and appeal, and were all struck down in her original application anyway”

The next speaker to speak was Ms Minora Coutinho. After being sworn in, she objected to the “inconsistency with the setback”, and said that “having no setback goes against the City’s Bylaws”, resulting in the Appellant’s parking vehicles on “my driveway, property and the mutual shared laneway”- this was interpreted by Ms. Coutinho as being “infringement” on her property . Ms. Coutinho added that having “no setback will cause conflict”, and take “away from her privacy, and sunlight needed at the rear end of her house”.

Ms. Coutinho alleged that Ms. Nehru rented out her whole house, and that she was aware of situation where as many as 5 cars had been parked on the shared laneway, including some parked which were parked” illegally”

Ms. Coutinho added that the allowing the proposed variances would allow the Appellant to transform “her entire zoned backyard into a parking lot which will unfairly infringe the private driveway of the townhomes of Kingston Road”. Asserting that the addition of a “rear addition and garage would create further conflict with the rest of the owners”, Ms. Coutinho opined that “the potential rear addition and garage does not fit, nor would it work with how this complex was built” . She wondered how the fire-trucks would access the houses on Kingston road in the event of a fire, if this proposal were allowed to go ahead.

The last Witness to speak was Mr. Chowdhury. By way of an editorial note, Mr. Chowdhury did not serve the Appellant with many of the documents, and submitted documents to the TLAB, after the last date for submission. When asked the reason for his excluding the Appellant, Mr. Chowdhury expressed concerns, and apprehension about “retaliation” from the Appellant. I ruled that evidentiary purposes, Mr. Chowdhury could not rely on any document that he had not served on the Appellant.

Mr. Chowdhury alleged that “if the new proposal were approved, then “the extension” would deprive him of the ability to enjoy his deck and ground floor patio”. He complained at length about how there would be a significant decrease in his sense of privacy, and the loss of sunlight on his property as a result of the proposed extension. He asked if the Appellant were allowed to extend her house, “where will I go if I want to build an extension”. Mr. Chowdhury declared that said approving this proposal “ would violate both the tests respecting the Zoning By-Law, and Official Plan” . He expressed grave concerns about the reduction of green space, and how that would result in drainage issues, water logging and consequent flooding on to neighboring properties.

Mr. Chowdhury opined that the “proposed in-fill addition will be massive in consideration in terms of mass, density, height of already developed lot (backyard landscaping) configuration”. He said that utilization of the existing backyard with no setback, will result in “ major zoning violation which will adversely affect the built form and overall character of the complex neighborhood”. He reiterated that an absence of landscaping rain and storm water management will result in a “huge civic issue”.

Ms. Powell disagreed with the Opposition, and said that the space which her client had allegedly “encroached”, was a common laneway to the rear of the Subject Site, which could be accessed by all landowners with properties adjoining the common laneway. In response to Mr. Chowdhury’s concern about extra shadows being cast on his property, Ms. Powell stated that if approved, a condition requiring the Appellant to submit a sun and shadow study to demonstrate that there would be no impact on his property could be added- this would help ensure that there was no unusual impact before the Building Permit was issued.

As stated in my interim decision dated July 30, 2021, there is no guarantee that any Sun and Shadow studies will be looked at during the Permit Issue process, unless the building to be constructed is six floors, or higher. Given the significant concern I had about the impact of the proposal on Mr. Chowdhury’s house, on the basis of his evidence, I asked the Appellants to have a Sun and Shadow study prepared, as well as submit a neighbourhood study to the TLAB. In my Interim Decision dated July 30, 2021, I also emphasized that Ms. Brown and Ms. Coutinho could speak to the neighbourhood study, while Mr. Chowdhury could speak to the Sun and Shadow study. The TLAB set a Hearing date for October 7, 2021.

On October 7, 2021, Ms. Powell spoke to the neighbourhood study she prepared as a result of my Interim Order. The highlights of her Neighbourhood Study are presented below:

The site (435 Meadowvale Road) is located at the intersection of Meadowvale Road and Kingston Road in the Highland Creek Geographic Neighbourhood of Scarborough, Toronto.

She clarified that the proposed built form does not exist in the neighbourhood, and that “no other claim has been made to the contrary”. She said that the Geographical Neighbourhood that she chose was a circle with a 500 m radius, centred on the Subject Site. The reason for choosing this specific Neighbourhood was it illustrated the diversity

of housing typical of this part of Scarborough, ranging from detached houses to townhouses, and apartment complexes. A photo-tour was provided to illustrate how different kinds of housing co-existed on the same street, and contributed to the eclectic character of the community. The block of townhouses, which includes the Subject Site, was chosen to be the Immediate Context, and Ms. Powell explained how townhouses are the prevailing type on this block. The immediate neighbourhood is designated 'Neighbourhood' in the City of Toronto's Official Plan and is zoned 'Residential Townhouse (RT x180)' whereas special exceptions have been provided. As part of the phototour, Ms. Powell spoke to examples where rear extensions were contemplated, such as 91 Watson Street, 69 Lawson Street and 45 White Avenue, and how they did not alter the streetscape because they could not be seen from the street. She emphasized that the proposal looked to enlarge the townhouse, but did not intend to change the prevailing type. Ms. Powell also discussed how the proposal "presents no offence to neighbourhood stabilization, streetscape or neighbourhood character".

Ms. Powell then introduced Mr. J. Johnston, a specialist in the preparation of sun and shadow studies. Since no CV or Acknowledgement of Expert's Duty had been submitted by Mr. Johnston, I explained that I could not recognize Mr. Johnston as an Expert Witness. Mr. Johnston was affirmed, before he presented the results of his sun and shadow study. He explained how his shadow study used software to generate the shadows cast by the building, including the proposed extension at 18 minutes past the hour, beginning at 8:18 AM and ending at 5:18 PM on the 21st of March and the 21st of September of a given year, as recommended in the City of Toronto's guidelines for Shadow Studies. It demonstrated that "the proposed rear garage addition, and rooftop outdoor amenity space will not negatively impact or cast shadows of an equal to, or greater consequence than the shadows that are already experienced within the subject property limits, nor to the detriment of any of the surrounding property limits".

I informed the Opposition that I had reviewed their Statements, and ruled that I would allow either Ms. Brown or Ms. Coutinho to speak in opposition to the Neighbourhood Study presented by the Appellant, because their Statements were identical. Ms. Brown said that she didn't think that "this was fair", but I reiterated my ruling. I added that Witnesses should not be under the impression that extra weight would be accorded to evidence that had been repeated numerous times.

Ms. Brown spoke in opposition to the Neighbourhood Study, and said that the pictures clearly showed a row of townhomes, facing the same direction which demonstrated that all the townhomes had the same streetscape. Unlike the townhomes, the pictures did not show any residences with shared laneways. She added that all the properties shown here were, horizontal to 435 Meadowvale Rd. According to Ms. Brown, "using that as a streetscape does not make sense". She said that that any additions made to the rear end of 435 Meadowvale Rd, would become "our new view". She reiterated earlier complaints about the Appellant's alleged abuse of the shared laneway, "without paying property taxes".

Referring to the detached homes discussed by Ms. Powell in her Neighbourhood Study, Ms. Brown said these examples were not helpful, because "they are large lots with space to build that would not infringe on other properties or obstruct them"

Mr. Chowdhury spoke last. He said that the “shadow to be caused is not the most important issue” – I understand that the “shadow” he was referring to already existed and that any increase in the shadow was incremental. He asked repeatedly about how he could expand his house, if this proposal were approved, and the extension completed as per the Appellant’s plans.

In Reply, Ms. Powell pointed out that Mr. Chowdhury had submitted documents after the due date for submissions, and asked that they be not given any weight. Mr. Chowdhury explained that he couldn’t meet the deadlines for submissions because of being ill with COVID, as a result of which he couldn’t attend the first Hearing on May 3, 2021. Ms. Powell rebutted this argument by pointing out that Mr. Chowdhury had missed submission deadlines listed in my Interim Decision for the Hearing scheduled on October 7, 2021. She also pointed out that no policies had been presented by the opposing parties to specifically prevent additions to semi-detached or townhouses.

ANALYSIS, FINDINGS, REASONS

The elephant in the room, with reference to this Hearing, is the internecine conflict between the Appellant, and the Opposition. Notwithstanding my efforts to get everybody to concentrate on the planning merits of the Application, the conflict between the Appellant, and the Opposition, reared its head very often, and continuously cast a shadow on the quality of the Proceeding- the planning issues of interest to the TLAB lay hidden beneath layers of conflict, which had to be peeled to even glimpse the core planning issue. There were numerous references to the rights of tax-payers, encroachment, “illegally” renting the house and parking 5 vehicles on properties belonging to others.

The proposal looks to convert the existing garage into additional living space, and build a new garage at the back of the existing townhouse. A new driveway will be created in the rear yard, while a new, partially covered, outdoor private amenity space is proposed to be built on the top of the new garage- the Appellant proposes to install a privacy screen on top of this amenity space.

Before analyzing how this proposal aligns with the four tests under Section 45.1 of the Planning Act, it may be helpful to examine the objections of the Opposition. The neighbours attribute a number of negative consequences to the proposal, if approved- these objections include:

- The proposal will facilitate the Appellant’s alleged propensity to park on the common laneway and others’ properties. The requested 0 m setback, exacerbates the existing parking situation, and facilitate further “encroachments” of parking spaces by the Appellant. Besides the sheer inconvenience caused to the neighbours, the Applicant’s approach towards does not respect the rights of the neighbours as tax payers.
- The neighbours cannot make sense of the neighbourhood study presented by the Appellant because it provides a “pedestrian” view i.e.

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the study examined how existing houses look when seen from the streets, whereas what the neighbours have is a “perpendicular” view, because of how they are situated with respect to the house- in other words, the study did not capture their perspective.

- At least one of the community members present said that she would be “staring” at a wall; the presence of a privacy screen at the top of the wall would only make things worse.
- The existing building already casts a long shadow on the townhouse next door, which will worsen should the proposal be approved- however, the Sun and Shadow study presented by the Appellant was not challenged. The Participant in question also added that “shadows” created by the proposal were “not the main concern”. Further, this proposal will make it very difficult for the neighbour to extend their house.
- The loss of green space, as a result of the construction of the new garage, will result in the creation of drainage and waterlogging issues.

While I empathize with the neighbours and respect the concerns of the neighbours, I find that some of their concerns lie outside the jurisdiction of the TLAB:

- The allegations about the Appellant’s allegedly parking in an indiscriminate fashion, including “encroachment” on others’ properties, do not constitute a planning issue, and cannot be therefore ruled on by the TLAB, which is a planning tribunal. The question of taxpayers’ rights is not pertinent to this discussion, because the Planning Act makes no reference to such rights.
- The alleged loss of sunlight and shadowing as a result of the proposed construction, on the neighbouring property are not serious concerns, because the Shadow Study demonstrated that the impact of incremental increase in shadowing on the Witness’ property as a result of the proposal is minimal. This was confirmed by the Witness in question, who during the course of giving evidence on the last day of the Proceeding said that “shadowing is not the main issue”, which contradicted what was said on the second day of the Hearing, where serious concerns were expressed about the impact of the shadows.

In other cases, I find no merit to the concerns, as listed below:

- The issue of “staring at a 16 feet wall” brought forward by one of the Witnesses does not make logical sense, because the alleged height includes the height of the privacy screen- the latter cannot be included while calculating the height of the wall in question. From a planning perspective, the existing view is being replaced by the view of an amenity space at the second floor level, enclosed by a privacy screen, atop another enclosed space at the first floor level. What emerges out of this discussion is a difference without a distinction between the scenarios- there is no absolute right to a view in the Province of Ontario.

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There are no privacy issues arising because the amenity space on the Appellant's second floor will be enclosed with a privacy screen.

- With respect to the Neighbourhood Study put forward by the Appellant, the objection put forward by the Opposition that the study does not discuss the "perpendicular" view of the Subject Site, as experienced by the neighbours(because of where their houses are located with respect to the Subject Site) has no merit. Neighbourhood studies, including photo tours of the community, always examine the fit of the proposal, with the existing buildings in the community, from a pedestrian perspective, as opposed to the perpendicular view.
- Various members talked about the loss of vegetation and how that would impact drainage- I understand this to be an inference drawn from the loss of green space in order to construct the garage. I find that this concern is not significant, given that there is no requested variance that *directly* speaks to the loss of greenery, which means that the Subject Site still meets the City's requirements in terms of soft landscaping. This perspective is also supported by the lack of a report from the City of Toronto expressing concerns about the purported loss of greenery.

I reiterate that the repetition of the same evidence by multiple witnesses does not add any weight to the impact of that particular element of evidence.

Given the reasoning above, I find that no significant weight need be given to the evidence of the Opposition. Their concerns largely focus on the alleged behaviour of the Appellant, as opposed to the proposal itself- the Appellant's alleged behaviour is not a planning issue, and cannot be used for decision making purposes. However, my appreciation of their concerns has resulted in other recommendations that are listed at the end of this Section.

The Appellant's evidence is adequate to meet the four tests under Section 45.1 of the Planning Act . Their Neighbourhood Study demonstrated that their neighbourhood of choice has undergone significant change in the recent past, is eclectic, and respectful of the significant diversity within the community – the Appellant is explicitly clear that there is no townhouse in the neighbourhood, which has requested for variances to extend the living space, and a garage. However, I am satisfied with the evidence presented, and how the proposal fit Policies 3.1.2 and 4.1.5 of the OP. I was however, not convinced by the Appellant's use of detached houses as examples (e.g. 69 Lawson and 91 Watson) to demonstrate the impact of rear extensions on houses in the neighbourhood because what is before the TLAB is a townhouse, and not detached residences. Secondly, I understand that the examples put forward by the Appellant are applications currently before the COA, as opposed to applications that have actually been approved by the COA. It would be reasonable to expect that Witnesses know, and appreciate the difference between applications that have not been heard by the COA, versus application that have approved by the COA- it is only the latter constitute exemplars of possible interest to the TLAB.

Notwithstanding my discounting the examples put forward by the Appellant, I find that their evidence still satisfies the test respecting the OP

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I find that the proposal satisfies the test of meeting the intent and purpose of the By-Law, because it does not result in overdevelopment, and meets requisite performance standards. The requested increase in FSI results in 47.25 sq.m. of residential space spread over two floors, through conversion of the existing garage into residential space- there is no discernable impact in terms of overall building height, or the impact on the neighbouring properties. The widening of the driveway is minimal, and is supported by the Transportation Report prepared by the City of Toronto.

I find that the test of minor is satisfied because of the lack of significant impact on its neighbours- the proposal does not result in any unacceptable adverse impacts, as demonstrated by the Sun and Shadow study. The only concern expressed about the widening of the driveway is that two cars coming in opposite directions would not be able to simultaneously pass each other- I was not presented with any evidence that the Zoning asks that a lane be wide enough for two cars to simultaneously pass each other.

I find that the proposal satisfies the test of appropriate development, because it does not destabilize the neighbourhood, notwithstanding its being the first development of its kind in the neighbourhood. It is important to emphasize that notwithstanding the atypical arrangement for creating extra residential space, the proposal is consistent with the existing Zoning for the neighbourhood. .

Given that the proposal satisfies all the four tests under Section 45.1 of the Planning Act, I find that the Appeal should be allowed, and herewith approve the three variances requested by the Applicant- these variances are recited in the "Matters in Issue" and "Decision and Order" Section . The following conditions to be imposed on the approval are:

1) The extension should be built in substantial compliance with the submitted Plans, and Elevations submitted to the TLAB under File 20 205955 S45 25 TLAB, 435 MEADOWVALE RD, dated May 3,2021 as prepared by Rockim Design.

2) A fully opaque privacy fencing 1.8 m high be installed on the proposed roof top amenity space

Lastly, I note that the Appellant is agreeable to the following conditions, which should allay the concerns of the neighbours:

3) The subject landowner provides a written acknowledgement that states that they will remain compliant with all applicable City By-laws and Standards from the date of this decision to when this approval time period lapses.

4) The subject landowner provides a signed Declaration of Compliance to ensure that all applicable City By-laws and Standards are adhered to during the construction period and following thereafter

While Conditions (3) and (4) above, pertaining to all City by-Laws(my emphasis) cannot be imposed by the TLAB given its jurisdiction, I would like to encourage the Appellant to reach out to the members of the Opposition, and allay their concerns,

through drawing up an appropriate and enforceable document reflecting the conditions as stated above.

DECISION AND ORDER

1. The Appeal respecting 435 Meadowvale Ave., is allowed, and the decision of the Committee of Adjustment for the same property, dated September 23, 2020, is set aside.

2. The following variances are approved:

1. ((352) Exception RT 352(A)(i)), By-Law No. 569-2013

The maximum floor index area is allowed 60% (198.23 square metres) of lot area (315 square metres.) The proposed is at 77.9 % (245.48 square metres) the lot area.

2. (10.60.40.70 Setbacks), By-Law No. 569-2013.

The north side yard setback is required 0.9 m The proposed north side yard setback is at 0 m.

3. 10.5.100 Access to Lot10.5.100.1 General), By-Law No. 569-2013

The driveway exceeds the maximum width of 5.13 m. The proposed driveway width is at 5.47 m.

3. No other variances are approved.

4. The following condition is imposed on the approval:

1) The extension should be built in substantial compliance with the submitted Plans, and Elevations submitted to the TLAB under File 20 205955 S45 25 TLAB, 435 MEADOWVALE RD, dated May 3,2021 as prepared by Rockim Design.

2) A fully opaque privacy fencing 1.8 m high be installed on the proposed roof top amenity space

So orders the Toronto Local Appeal Body

X



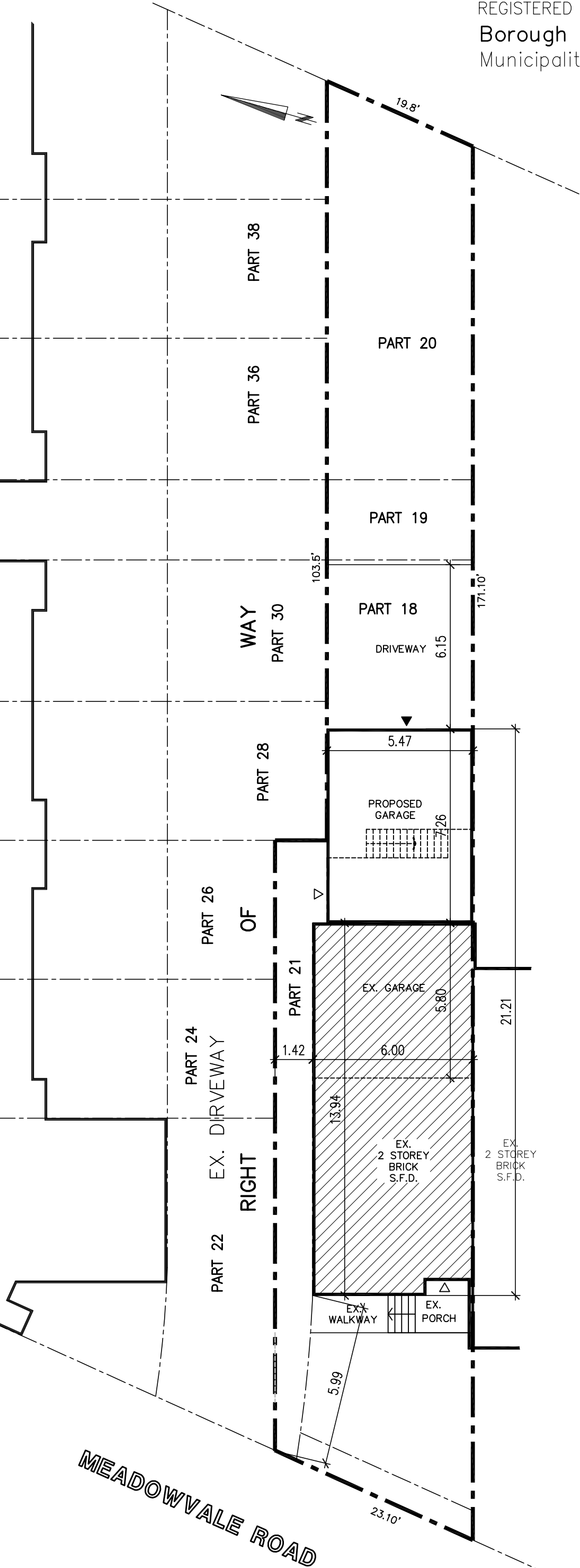
SKETCH SHOWING
LOT 4
REGISTERED PLAN 66R-19626
Borough of Scarborough
Municipality of Metropolitan Toronto

DRAWING NUMBER
A-1

DRAWN BY	CHECKED BY	SCALE	DATE	PROJECT NUMBER
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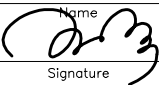
PROJECT PROPOSED GARAGE ADDITION FOR S.F.D. 435 MEADOWVALE ROAD TORONTO, ON	DRAWING TITLE SITE PLAN
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GENERAL NOTES: This drawing, as an instrument of service, is provided by and is the property of the DESIGNER. The contractor must verify and accept the accuracy of the information shown on this drawing. The contractor shall notify the DESIGNER of any variations from the supplied information. The Designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., engineering information shown on this drawing. The contractor shall verify the accuracy of the information preceding with the work. Construction must conform to all applicable codes and requirement of authorities having jurisdiction. This drawing is not to be scaled.			
REVISIONS			
No.	DESCRIPTION	DATE	BY
1	As per comment	03/05/21R.K.	
2			
3			
4			



The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

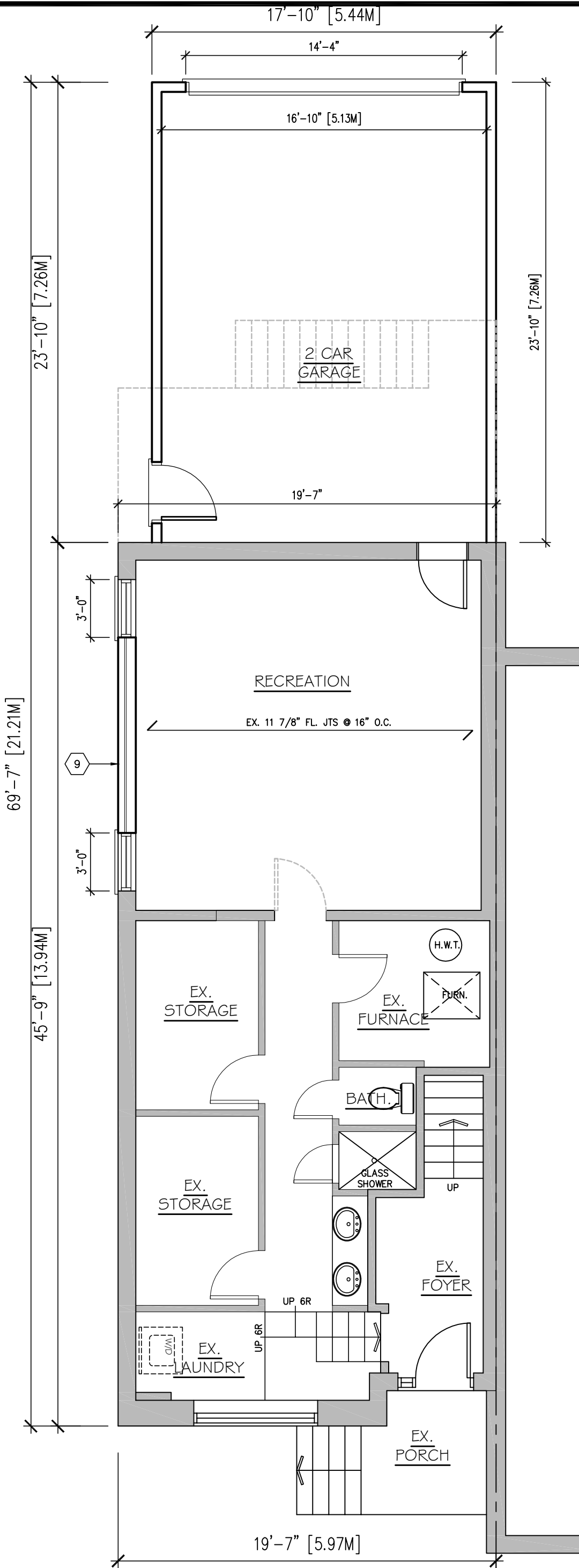
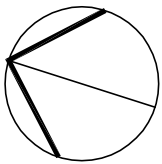
ROCK KIM	36340
Name	BCIN#
	MAY 3, 2021
Signature	Date

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.4.1 of the building code

ROCKIM DESIGN	45379
Firm Name	BCIN#
rockkim22@gmail.com	647 466 2767

SITE DATA

LOT Area	315 Sq.m
Existing building area	
Basement floor area	47.62 Sq.m
Ground floor area	82.26 Sq.m
Porch area	3.70 Sq.m
Second floor area	80.96 Sq.m
Proposed building area	
Basement area	34.64 Sq.m
Garage area	40.00 Sq.m
Total coverage area	
Total floor index area	122.26 Sq.m
	245.48 Sq.m
	(77.93 %)



1
A1

BASEMENT FLOOR PLAN

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

DRAWING NUMBER
A-2

DRAWN BY	CHECKED BY	SCALE	AS NOTED	DATE	PROJECT NUMBER
				JULY, 2018	

PROJECT	DRAWING TITLE
PROPOSED GARAGE ADDITION FOR S.F.D. 435 MEADOWVALE ROAD TORONTO, ON	FLOOR PLAN

GENERAL NOTES: This drawing, as an instrument of service, is provided by and is the property of the DESIGNER. The contractor must verify and accept the accuracy of the information shown on this drawing. The contractor must notify the DESIGNER of any variations from the supplied information. The designer is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., engineering information shown on this drawing. The contractor must verify the accuracy of the information shown on this drawing. The contractor must verify the accuracy of the information shown on this drawing. This drawing is not to be scaled.		REVISIONS	
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1	As per comment	03/05/21R.K.	
2			
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PARTITION LEGEND

	DENOTES PARTITION OR WALL TO BE REMOVED
	DENOTES EXISTING PARTITION OR WALL TO REMAIN
	DENOTES PROPOSED INTERIOR PARTITION

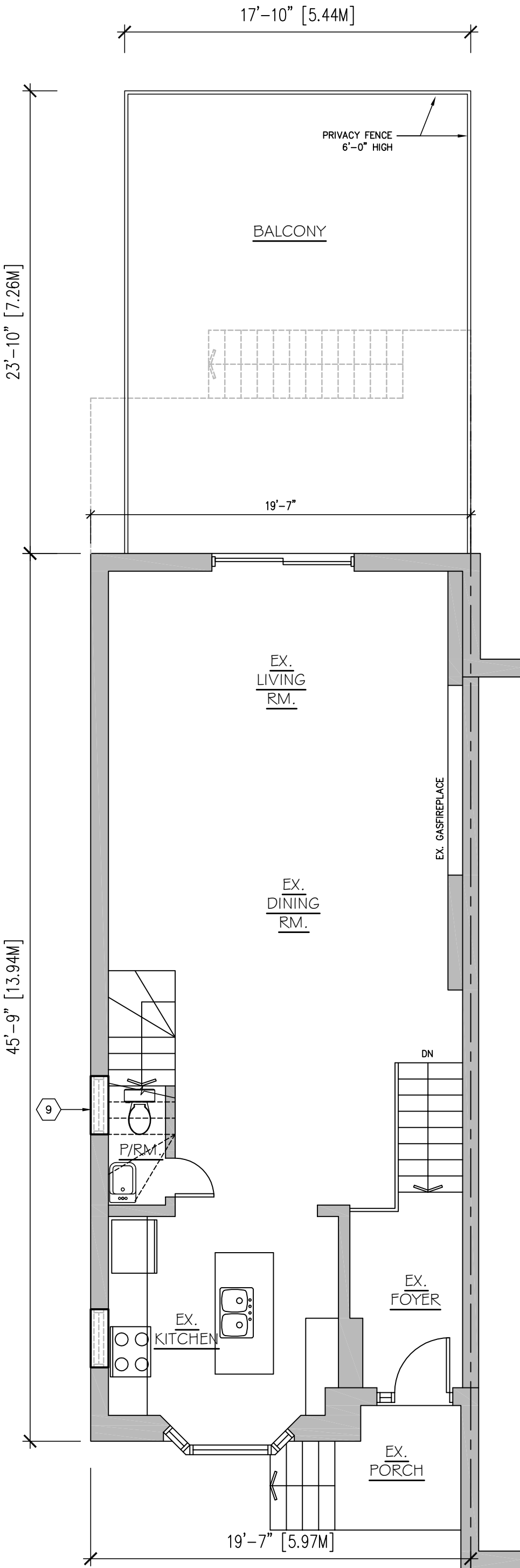
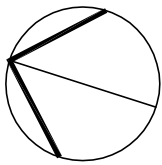
The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

ROCK KIM	36340
Name	BCIN#
	MAY 3, 2021
Signature	Date

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.4.1 of the building code

ROCKIM DESIGN	45379
Firm Name	BCIN#
rockkim22@gmail.com	647 466 2767



1
A3

GROUND FLOOR PLAN

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

DRAWING NUMBER
A-3

DRAWN BY	CHECKED BY	SCALE	AS NOTED	DATE	JULY, 2018
					PROJECT NUMBER

PROJECT	PROPOSED GARAGE ADDITION FOR S.F.D. 435 MEADOWVALE ROAD TORONTO, ON	DRAWING TITLE	FLOOR PLAN
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No.	DESCRIPTION	DATE	BY
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2			
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PARTITION LEGEND

- DENOTES PARTITION OR WALL TO BE REMOVED
- DENOTES EXISTING PARTITION OR WALL TO REMAIN
- DENOTES PROPOSED INTERIOR PARTITION

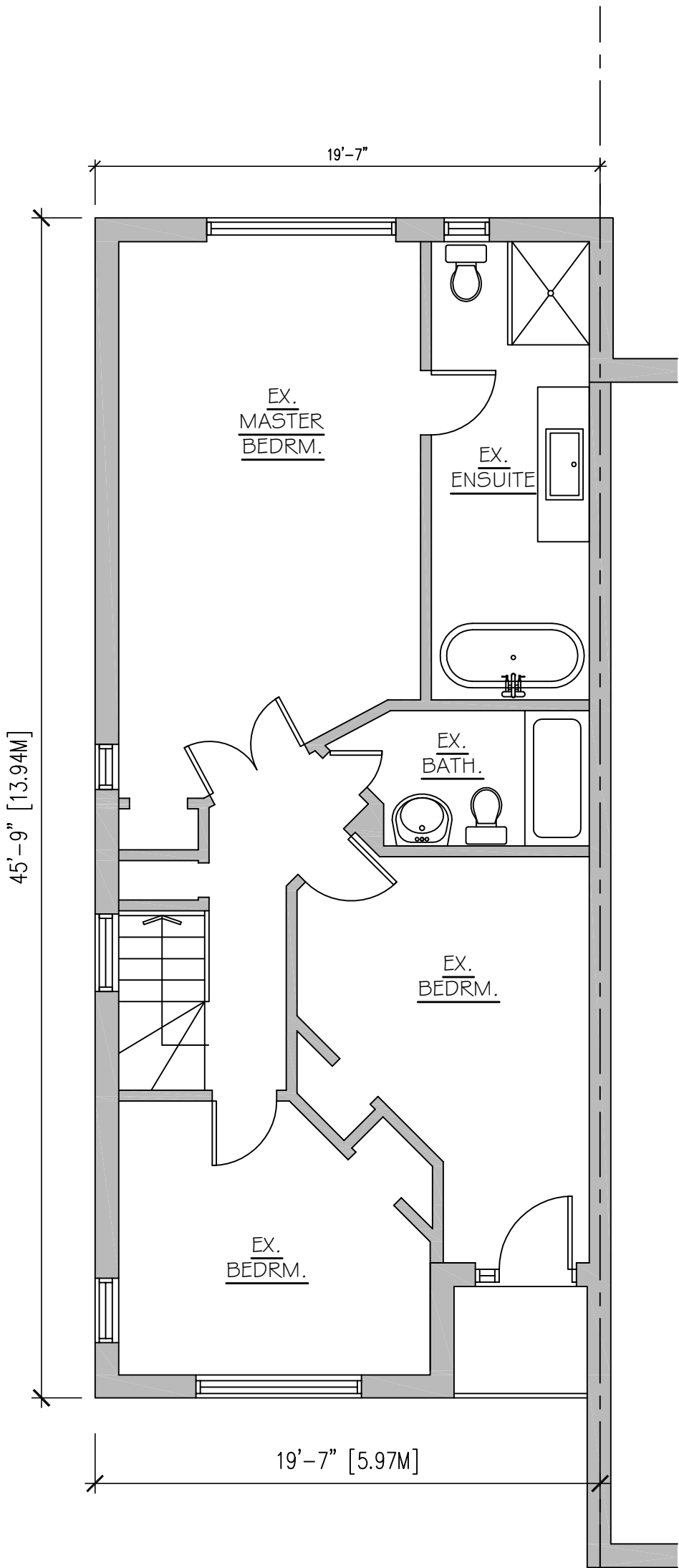
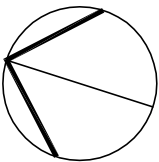
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QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

ROCK KIM	36340
Name	BCIN#
	MAY 3, 2021
Signature	Date

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.4.1 of the building code

ROCKIM DESIGN	45379
Firm Name	BCIN#
rockkim22@gmail.com	647 466 2767



1
A4

EXISTING
SECOND FLOOR PLAN

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

PARTITION LEGEND

DENOTES PARTITION OR WALL TO BE REMOVED

DENOTES EXISTING PARTITION OR WALL TO REMAIN

DENOTES PROPOSED INTERIOR PARTITION

The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

ROCK KIM 36340
Name BCIN#
 MAY 3, 2021
Signature Date

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.4.1 of the building code

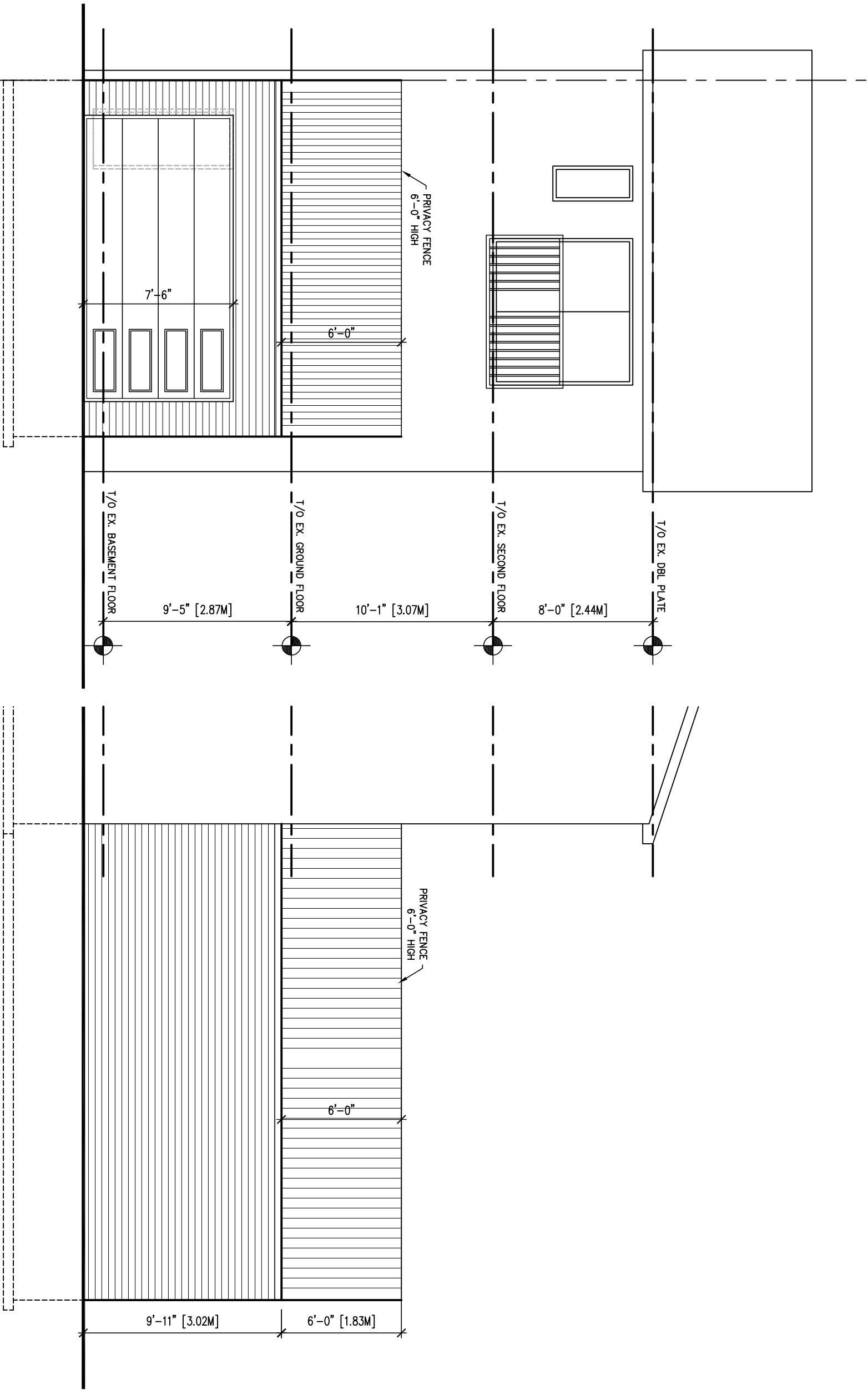
ROCKIM DESIGN 45379
Firm Name BCIN#
rockkim22@gmail.com 647 466 2767

DRAWING NUMBER
A-4

DRAWN BY	CHECKED BY	SCALE	AS NOTED	DATE	JULY, 2018	PROJECT NUMBER
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PROJECT	PROPOSED GARAGE ADDITION FOR S.F.D. 435 MEADOWVALE ROAD TORONTO, ON	DRAWING TITLE	FLOOR PLAN
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No.	DESCRIPTION	DATE	BY
1	As per comment	03/05/21R.K.	
2			
3			
4			



1
A5

EAST SIDE ELEVATION
SCALE: 3/16"=1'-0"

2
A5

SOUTH SIDE ELEVATION
SCALE: 3/16"=1'-0"

The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

ROCK KIM 36340
Name BCIN#
Signature AUG. 26, 2017
Date

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.4.1 of the building code

ROCKIM DESIGN 45379
Firm Name rockkim22@gmail.com 647 466 2767

GENERAL NOTES:

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REVISIONS			
No:	DESCRIPTION	DATE	BY
1	As per comment	03/05/21R.K.	
2			
3			
4			

PROJECT

PROPOSED INTERIOR
ALTERATION FOR S.F.D.

435 MEADOWVALE ROAD
TORONTO, ON

DRAWING TITLE

ELEVATION

DRAWN BY

CHECKED BY

SCALE

AS NOTED

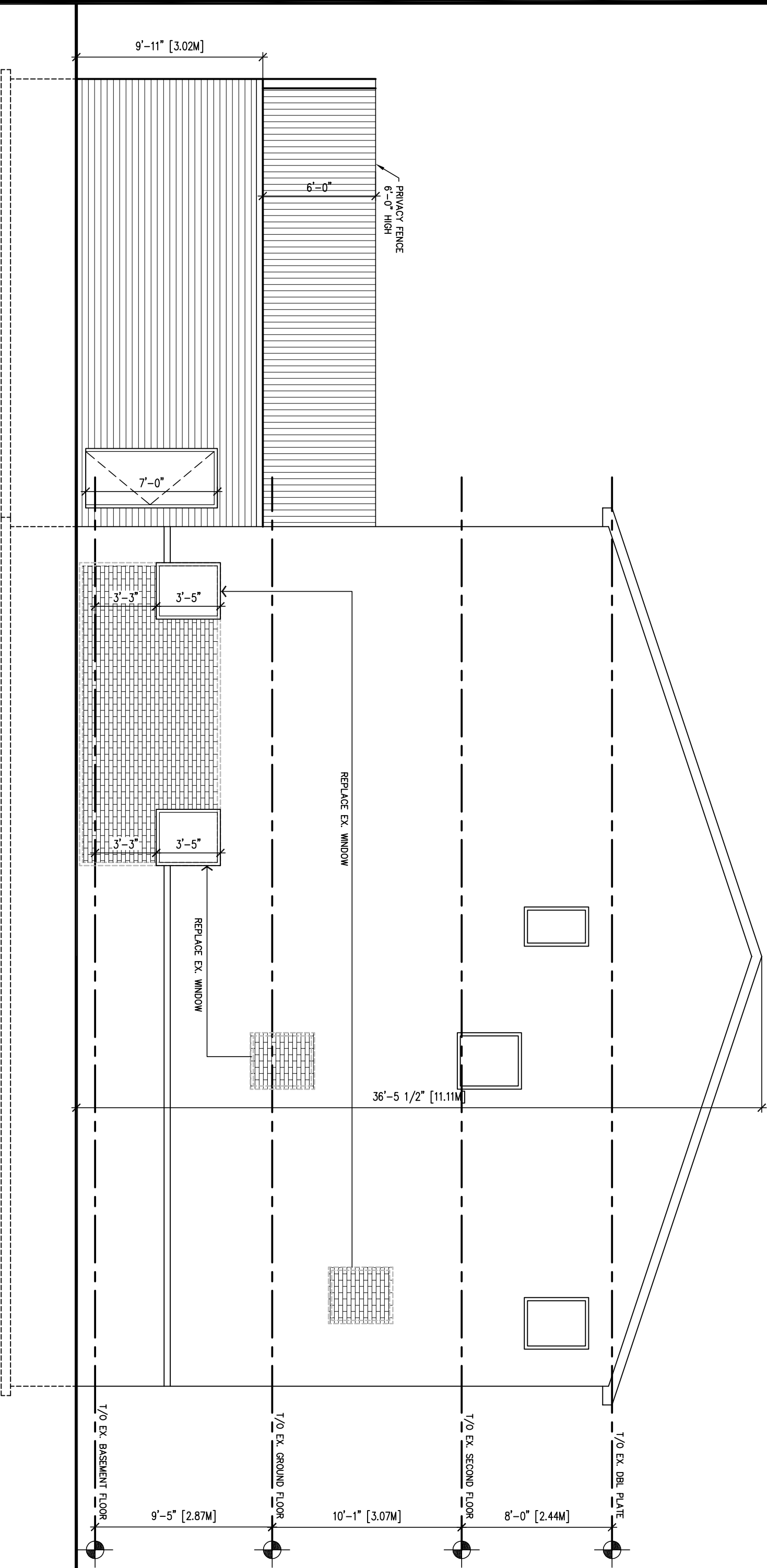
DATE

AUG, 2017

PROJECT NUMBER

A-5

DRAWING NUMBER



1 NORTH SIDE ELEVATION
A6 SCALE: 3/16"=1'-0"

The undersigned has reviewed & taken responsibility for this design, and has the Qualifications and meets the requirements set out in the Ontario Building Code to be a designer.

QUALIFICATION INFORMATION

Required unless design is exempt under 3.2.3.1 of the building code

ROCK KIM

36340

Name

BCIN#

Signature

MAY 3, 2021

Date

REGISTRATION INFORMATION

Required unless design is exempt under 3.2.4.1 of the building code

ROCKIM DESIGN

45379

Firm Name

BCIN#

rockim2@gmail.com

647 466 2767

GENERAL NOTES:

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REVISIONS

No.	DESCRIPTION	DATE	BY
1	As per comment	03/05/21R.K.	
2			
3			
4			

PROJECT

PROPOSED
GARAGE ADDITION
FOR S.F.D.
435 MEADOWVALE ROAD
TORONTO, ON

DRAWING TITLE

FLOOR PLAN

DRAWN BY

CHECKED BY

AS NOTED

SCALE

DATE

JULY, 2018

PROJECT NUMBER

DRAWING NUMBER

A-6