

DECISION AND ORDER

Decision Issue Date Thursday, October 07, 2021

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

Appellant(s): DYLAN GERARD

Applicant(s): CRAIG RACE ARCHITECTURE INC

Property Address/Description: 17 BOOTHROYD AVE

Committee of Adjustment File

Number(s): 20 212449 STE 14 MV

TLAB Case File Number(s): 21 142874 S45 14 TLAB

Hearing date: August 5, 2021

Deadline Date for Closing Submissions/Undertakings: N/A

DECISION DELIVERED BY ANA BASSIOS

REGISTERED PARTIES AND PARTICIPANTS

Name	Role	Representative
Craig Race Architecture Inc.	Applicant	
Alexander Robert Sharpe	Owner/Party	Meaghan McDermid
Dylan Gerard	Appellant	
Tim Chapman	Participant	
Gabrielle Johnson	Participant	
Sarah Slean	Participant	
David Perl	Participant	
Jessica Downey	Participant	

Name	Role	Representative
Evan Morrison	Participant	
Nadine Nesling	Participant	
Linda McKie	Participant	

INTRODUCTION

This is an Appeal of the Toronto and East York panel of the City of Toronto (City) Committee of Adjustment's (COA) approval of an application for variances at 17 Boothroyd Ave (subject property). The purpose of the application is to convert the existing two-storey detached triplex into a six-unit apartment building by constructing a three-storey rear addition, a third storey addition and a rear basement walkout. The subject property is located in the Blake-Jones neighbourhood, also known as "the Pocket" in the former City of Toronto. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned R (d0.6) (x736) under Zoning By-law 569-2013 (By-law).

In attendance at the Hearing were:

- Meghan McDermid, legal counsel for the Applicant, and Expert Witnesses Sean Galbraith (Land Use Planning) and Craig Race (Architect);
- Dylan Gerard, the Appellant;
- Participants Gabrielle Johnson, Tim Chapman, Linda McKie, and Sarah Slean

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 in preparation of the hearing of their evidence.

BACKGROUND

The Applicant proposes to renovate the existing triplex to construct a third storey rear addition, add a third storey addition above the existing two-storey triplex and make interior alterations to convert the existing triplex to a low-rise 6-unit apartment building.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 200.5.10.1.(1)

A minimum of six parking spaces is required to be provided for residents and a minimum of one parking space is required to be provided for visitors.

In this case, five parking spaces will be provided for residents and zero parking spaces will be provided for visitors.

2. Chapter 10.10.40.30.(1)(B)

The maximum permitted depth of an apartment building is 14.0 m.

The apartment building will have a depth of 21.1 m.

3. Chapter 10.10.40.40.(1)(A)

The maximum permitted floor space index of an apartment building is 0.6 times the area of the lot (480.72 m²).

The apartment building will have a floor space index equal to 0.69 times the area of the lot (552.3 m²).

4. Chapter 10.5.50.10.(4)(A)

A minimum of 50% (400.6 m²) of the lot area must be maintained as landscaping.

In this case, 44% (349.2 m²) of the lot area will be maintained as landscaping.

5. Chapter 10.5.80.10.(2)

A minimum of 50% (3 parking spaces) of the required parking spaces, other than required visitor parking spaces, must be located in a building or in an underground parking structure.

In this case, 33% (two parking spaces) of the required parking spaces will be provided in a building or underground parking structure.

6. Chapter 10.5.80.30(1)

A surface parking space must be a minimum of 3.0 m from all main walls of an apartment building.

The proposed surface parking space will be 1.9 m from a main wall of an apartment building.

MATTERS IN ISSUE

The objectors contend that the building itself is out of character with the area and that the additions will only add to the perceived difference of the structure on the subject property in comparison to the surrounding houses. For the objectors who reside on Hunter St, the primary matter at issue was the building length and depth, combined with the configuration of the lot which has the side yard of the subject property abut their rear yards. The primary matter at issue for the objectors located on Boothroyd Ave, was the deficiency in parking.

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

APPLICANT

Ms. McDermid, Legal counsel for the Applicant, described the subject property as a unique lot at the end of a dead end street. She advised that an apartment is permitted under the zoning and there is no variance required for the height of the proposed building.

The TLAB was requested to approve a revision to Variance No. 2 without requiring further notice. The revision is required to record the corrected building depth, which is 21.1m. Ms. McDermid advised that the adjustment is required due to a technical error in the way in which the building depth was calculated but that the proposal as drawn and described remains the unaltered.

SUN SHADOW STUDY

Mr. Race was qualified to give expert evidence on Architecture, particularly with respect to Sun Shadow Studies (shadow studies). The purpose of his evidence was to respond to the Appellant's concerns regarding the shadow study that was filed with the COA, and to respond to the shadow study attached to Mr. Gerard's Witness Statement.

The updated shadow study prepared by Mr. Race can be found at Tab 9 of Exhibit 3. Mr. Race noted that the site slopes up towards the north and that the elevation increases towards Hunter Street. He advised that this means that the length of the shadows towards the north are reduced (in comparison to a flat site). The established grade, for Zoning By-law purposes, is also different than the finished grade, which he advised also lessens the length of the shadow compared to what might have been presumed. Mr. Race advised that the Shadow study submitted by Mr. Gerard had used a flat two-dimensional plane and an elevation of 10m, when the height of the elevation is 9.7m. Mr. Race submitted that these factors caused the shadows in Mr. Gerard's study to be overstated. Mr. Gerard acknowledged the corrections and accuracy of Mr. Race's technical knowledge regarding the shadow studies.

Mr. Race noted that a Shadow study is not required for proposals under six storeys, but the study had been prepared in order to show the "virtues of the design". He advised that he had used the City of Toronto Terms of Reference for Shadow Studies to prepare his evidence. The study compared shadow from the existing structure with that which would be cast by the proposed building. He advised that in his opinion the shadow the

proposed building would cast is minimal and in line with what should be expected in an urban setting. He noted also that the shadow would be less than that of a building built as-of-right under the By-law, in part because the north side yard setback is substantially greater than what is required by the By-law, setting the building further from the rear yards of the properties on Hunter St.

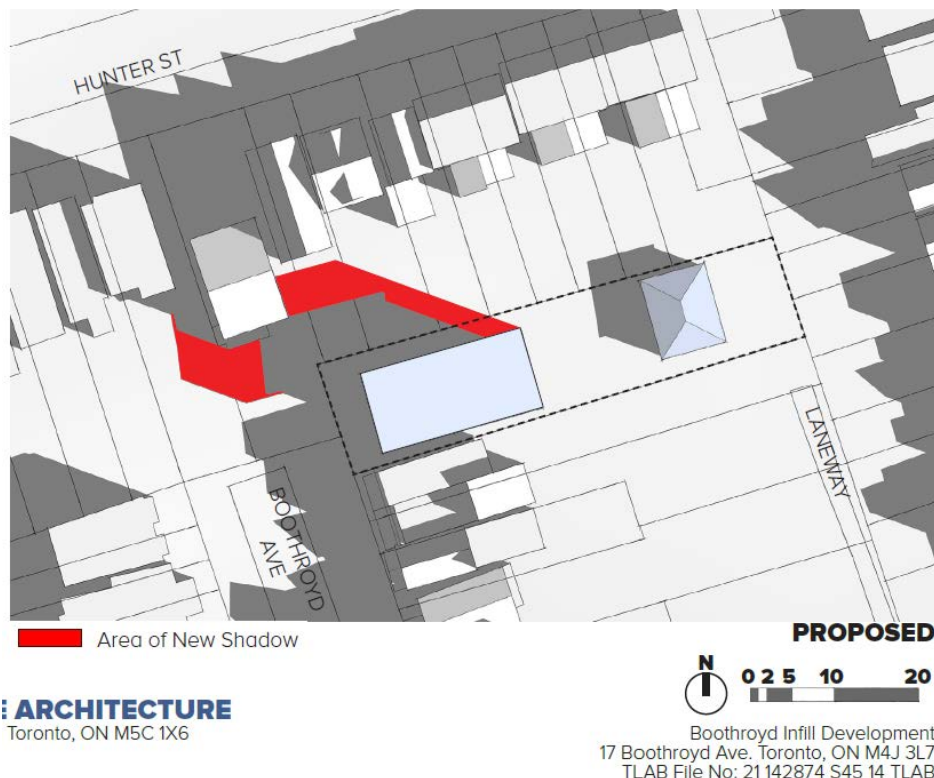


Figure 1: Shadow as at Equinox 9:18 a.m. EX 3 Tab 9

LAND USE PLANNING EVIDENCE

Mr. Galbraith was qualified to provide evidence on Land Use Planning.

Mr. Galbraith noted that the subject property is a very large property, which is an anomaly for the neighbourhood. He described the characteristics of the property as follows: It is unusually located, with roughly 25% of the lot fronting on to Boothroyd Ave. The remaining property width (10.69m) not fronting on to Boothroyd Ave abuts the side lot line of 39 Hunter St, (marked in red on Figure 2). A private lane runs along the rear of the lots on the east side of Boothroyd Ave, but terminates before the subject property. The property is accessed via a mutual driveway between the subject property and that at 15 Boothroyd Ave.

CONTEXT



Figure 2: Proximate Context Map, EX 3, Tab 2A

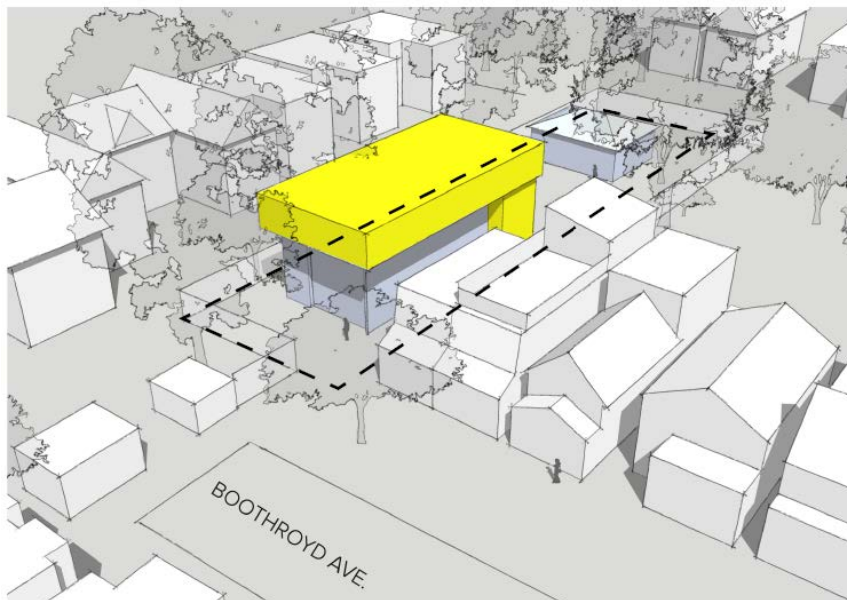
Mr. Galbraith defined a Geographic Neighbourhood and Immediate Context, as directed by OP Policy 4.1.5, and described the neighbourhood as consisting of single detached and semi-detached dwellings. He provided photographic evidence of the surrounding neighbourhood and noted that the subject property is the only location of a triplex in the immediate context, and the Geographic Neighbourhood contains few dwellings that show obvious signs of containing three or more units.

PROPOSAL

It was Mr. Galbraith's evidence that the existing structure lends itself to a renovation in an environmentally sustainable way. He described the alterations to the existing condition as follows:

- The existing three rental units will be maintained and the additions will add 169.6m², of gross floor area, an increase of 0.09 FSI above what the Zoning By-law permits. (FSI is a ratio calculated by dividing the floor area of a building by the area of the lot).
- The length of the existing structure will be extended by 4.31m and will maintain the existing north side setback.
- The south side of the rear addition will cantilever past the existing building footprint by 0.54m and will provide a 1.2m setback in compliance with the By-law requirement and the mutual driveway easement.

- The rear addition will accommodate a new 3 bedroom “townhouse” type unit, containing basement through to third floor within the unit
- The third storey addition above the existing structure will contain two two-bedroom units.
- The third storey addition will extend to the west by 1.95m, resulting in a front yard setback of 4.34m, which generally aligns with the adjacent house on Boothroyd Ave (no. 15).
- All six units will be rental units.



Proposed Apartment Building Addition and Rear Detached Garage
Figure 3: EX 3 Tab 7 Galbraith

DEPTH MEASUREMENT ERROR

Mr. Galbraith advised that he had determined that there had been an error in the calculation of the proposed building depth variance as identified in the previous Zoning Examiner's Notice (February 19, 2021). The Zoning By-law, under provision 10.5.40.70(1), sets the front yard setback for the subject property in line with the setback of the neighbouring property at 15 Boothroyd Ave. He advised that the front yard setback had been incorrectly determined in the Zoning Notice. The building depth measurement is taken from the front yard setback line and therefore Mr. Galbraith's advice was that the amount of the variance will need to be corrected to account for this mistake, although the proposal has not been changed from the original proposal approved by the COA. He advised that the corrected variance request for building depth is 21.1m.

TEST 1: GENERAL INTENT AND PURPOSE OF THE OP

Mr. Galbraith's evidence was that the proposed renovation to the existing building contemplates a three-storey apartment building in an area which permits apartment buildings up to four storeys in height. He described the proposed third storey cantilevered addition to be generally aligned with the front yard setback of adjacent 15 Boothroyd Ave. He advised that the existing detached rear garage is to be maintained and that the substantial soft landscaped area, including trees, will be retained. He noted that the proposal maintains the existing condition of the side yard setback to the north, (3.23m) which is more than double the required side yard setback of 1.2m.

Referring to Tab 7 in Exhibit 2, Mr. Galbraith described the location of the proposed new windows in each part of the proposal - above the existing building, on the rear addition and on the cantilevered addition adjacent to 15 Boothroyd Ave. It was Mr. Galbraith's opinion that the proposed development protects the privacy of adjacent surrounding buildings according to the requirements of the OP.

It was Mr. Galbraith's opinion evidence that the proposal respects the Built Form policies of chapter 3 of the OP.

With respect to the character of the neighbourhood, it was Mr. Galbraith's opinion that OP Policy 4.1.9 is the appropriate policy under which to review the proposal. He nonetheless also reviewed the proposal with regard to OP Policy 4.1.5, identifying criteria c) and g) as those that were relevant to this matter (my highlights below).

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.*

OP Policy 4.1.5 c)

Mr. Galbraith noted that the proposal does not require height, rear yard or side yard variances, signifying, in his opinion, that the building has been designed within the building envelope and therefore respects the prevailing massing, scale and density of nearby residential properties.

With regard to density, Mr. Galbraith asserted that the above grade density of the proposal is only 0.01 FSI above the permitted FSI. He advised that the By-law includes the FSI in the basement of apartments, as in this case, although the basement floor space would not be included in the FSI if it were a fourplex. He noted that of the 66 properties in his study area where variances were approved, 77% of them had FSI's greater than 0.6 approved. He advised that the requested FSI is within the bottom end of the range of approved FSI variances.

As to the variance required for building depth, it was Mr. Galbraith's opinion evidence that building depth is not visible or discernable to a passerby on the street. What is relevant, in his opinion, is the setback from the street.

OP Policy 4.1.5 g)

It was Mr. Galbraith's evidence that the proposal meets or exceeds the By-law requirements for front, rear and side yard setbacks.

With respect to landscaping, Mr. Galbraith advised that a reduction of 6% is requested, largely due to the requirement to accommodate two additional surface parking spaces between the proposed apartment building and the existing garage.

It was Mr. Galbraith's opinion that the proposal maintains the general intent and purpose of Section 4.1 of the OP. Further, it was his evidence that the proposal represents a form of intensification that enhances and does not destabilize the neighbourhood, and which is appropriate and desirable for the City, the neighbourhood and the subject side.

It was Mr. Galbraith's opinion evidence that the requested variances, individually and collectively, meet the general intent and purpose of the OP.

TEST 2: GENERAL INTENT AND PURPOSE OF THE ZONING BY-LAW

Mr. Galbraith advised that the purpose and intent of the Zoning By-law is best described by the words of OP Policy 4.1.8, that numerical site standards and other performance standards are "...to ensure new development will be **compatible** with the physical character of established residential *Neighbourhoods*." In Mr. Galbraith's opinion, "compatible" does not mean the same as, but means that the development must be able to co-exist in harmony with neighbouring dwellings.

Variance 1: Parking

The By-law requires a minimum of six parking spaces for residents, and one for visitors. Five parking spaces will be provided for residents and none for visitor parking. Through discussion with City Planning staff, Mr. Galbraith advised that a balance was struck between providing adequate parking and maximizing the amount of soft landscaping. This approach, Mr. Galbraith advised, allowed the existing garage to be retained.

In Mr. Galbraith's opinion, the site is well serviced by transit. He advised that the TTC bus route along Jones Avenue runs 24 hours a day and the Subject Site is

approximately a 15 minute walk to the Line 2 (Bloor-Danforth) Donlands subway station. He noted that the Danforth Avenue shops are also only a 15 minute walk away.

It was Mr. Galbraith's opinion that the proposed parking spaces provide an adequate amount of parking to meet the needs of the residents given the location of the subject site and will maintain the general intent and purpose of the By-law.

Variance 2: Building Depth

It was Mr. Galbraith's evidence that the Building Depth regulation in the By-law regulates the location of dwellings on a lot relative to adjacent dwellings and is defined in relation to the established front yard setback.

He noted that the building depth is not impacted by the added third storey; it is the rear addition that increases the depth of the building by 4.31m, to provide for a "townhouse" style unit at the rear of the building. He advised that the total length of the building is proposed to be 19.83m.

Mr. Galbraith advised that the existing triplex building on the subject property already abuts the rear yards of 43 and 45 Hunter St and that the extended depth would also abut the rear yard of 47 Hunter St. He noted that it is the rear yards of the Hunter St properties that abut the side yard of the subject property and in this condition, the impacts of any massing are lessened on the dwellings facing Hunter St. In addition, he noted that the proposal has been set back from the side lot line significantly in excess of the side yard setback required in the By-law.

In Mr. Galbraith's opinion, the additional setback, plus the existing fence, topographic changes and mature trees along the northern property line sufficiently addresses any potential impacts of the proposed additional building depth.

Mr. Galbraith noted that on the south side of the subject property, the existing building already extends beyond the length of the existing house on 15 Boothroyd Ave.

Variance 3: FSI

Mr. Galbraith advised that the By-law permits an FSI of 0.6 and the proposal has a total of 0.69 FSI, reflecting an increase of only 71.58m². He advised that the proposed FSI variance is well below the FSI variances granted for other applications within the neighbourhood.

In Mr. Galbraith's opinion, the proposed FSI does not represent an overbuilding of the subject property and the proposed massing fits within the context of the area.

Variance 4: Landscaping Requirements

Mr. Galbraith advised that the landscaping on the subject property was maximized as much as possible by reducing the driveway width and reducing the number of parking spaces. In his opinion, the large size of the lot provides a significant amount of landscaping to address any potential issues related to drainage and runoff from the additional paved areas.

Variance 5 and 6: Parking Space Locations

Mr. Galbraith advised that variance 5 relates to the By-law requirement that 50% (3, in this case) of the parking spaces must be located in a building or underground parking structure. He advised that the existing garage has three bays, two of which are occupied by vehicle parking. Instead of utilizing the third bay for a vehicle to park, Mr. Galbraith advised that the proposal is to utilize the third bay for five long-term bicycle parking spaces and to shelter waste bins and recyclable materials storage.

Variance 6 relates to the requirement of the By-law that a surface parking space must be a minimum of 3m from all main walls of an apartment building. Mr. Galbraith advised that in order to provide for an appropriately sized accessible parking space and allow for adequate space for maneuverability for the vehicles parking in the garage, the parking spaces between the building and the garage are proposed to be located 1.9m from the main wall instead of the required 3m.

In Mr. Galbraith's opinion, the proposed variances, individually and cumulatively, maintain the general intent and purpose of the Zoning By-law.

TEST 3: DESIREABLE FOR THE DEVELOPMENT OF THE PROPERTY

Mr. Galbraith's evidence was that the proposed low-rise apartment building provides additional, desirable, grade related rental housing to an existing triplex building. This, in his opinion, adds to the mix of housing options in the neighbourhood by maintaining the existing and providing new family sized rental units, while being compatible with the existing adjacent lower scale dwellings.

It was Mr. Galbraith's opinion that the variances, individually and collectively, are appropriate and desirable for the subject property.

TEST 4: MINOR

In Mr. Galbraith's opinion, the variances are minor on both a quantitative and qualitative basis and that there will be no unacceptable adverse impacts on the streetscape, neighbourhood, or adjacent neighbouring properties.

THE FOUR TESTS

It was Mr. Galbraith's expert opinion that the variances represent good planning, have regard for matters of provincial interest, are consistent with the PPS and conform to the Growth Plan, do not create any undue impacts and are sensitive and fit the existing physical character of the neighbourhood. In his opinion, the requested variances fulfil the four tests set out in s. 45(1) of the *Planning Act*.

APPELLANT

Mr. Gerard's evidence was based upon his Witness Statement, which was entered as Exhibit 5. He asked to be assured that the petition submitted was included as part of

the record of this Appeal. The petition can be found on the TLAB website as part of the case file for this matter.

In Mr. Gerard's opinion, the proposal is not desirable, nor appropriate for the use of the land. He asserted that the proposed development is not compatible with the existing character of the neighbourhood. In particular, he asserted that the variances related to building depth and FSI would have a direct and negative impact on the rear yards of properties fronting onto Hunter St. In Mr. Gerard's opinion, the existing building is already too large (in comparison to the surrounding houses) and it should not be allowed to become bigger. In his opinion, a more than 50% increase is not minor. He noted that no other buildings in the neighbourhood, residential or otherwise, have a building depth as long as 21.1m. He asserted therefore that the proposal does not reinforce the physical character of the neighbourhood.

In Mr. Gerard's opinion, because the subject site has a side yard to rear yard relationship to the houses on Hunter St, rear yard setback conditions, requiring a 7.5m setback should be considered. The required side yard setback is 1.2m.

Mr. Gerard stated that he supported the inclusion of more people in the neighbourhood, but that he was not in favour of a "giant wall" along the rear lot lines of the properties on Hunter St.

Mr. Gerard asserted that the proposed FSI is not representative of modest intensification of the lot. He commented that the length of the lot meant that a large number of properties back on to it. He asserted that the proposed building length, side yard and rear yard setbacks and the requested FSI would result in undue and adverse impacts onto the adjacent properties to the north, because of shadow and privacy concerns.

With respect to the impacts on Boothroyd Ave, Mr. Gerard asserted that the proposal does not provide an adequate transition in built form, massing and density to the lower density single detached and semi-detached homes immediately north of the subject property.

With respect to the parking variance, Mr. Gerard asserted that decreasing the number of parking spaces required in an area not well served by public transit, at the end of a dead end street will have negative impacts on local transportation and he therefore thought that meant that the proposal does not meet the intent of the By-law.

Under cross examination, Mr. Gerard was asked to acknowledge that his concerns were more related to the shadow impact than to the overlook of windows on the proposed structure and potential impact on privacy. He responded that both issues were of concern.

PARTICIPANT CHAPMAN

Mr. Chapman asserted that the community has already been dealing with a building "not in character with the neighbourhood". He commented that lots on Hunter St already

had to accommodate the building that was already there and that the building does impact the houses that surround it.

Mr. Chapman asserted that the proposal would have an overhanging effect on his house. (Mr. Chapman's house is located immediately south and adjacent to the subject property and the proposal features a cantilevered third floor component on the south side).

Mr. Chapman identified a traffic problem on the street, which he said would be exacerbated by the proposed increased density on this dead end street.

PARTICIPANT MCKIE

Ms. McKie's Witness Statement was marked as Exhibit 7 and contains two photographs.

Ms. McKie's first photograph showed parked cars on her neighbour, Mr. Chapman's, property. She told the TLAB that Mr. Chapman rents parking "spots" on his property to residents to relieve the parking stress on the street. She told the TLAB that her entrance is often blocked by parked vehicles. She thought that given how steep Boothroyd Ave is, managing a street like that without a car would be "impossible". Her opinion, as a resident, was that parking spaces should not be cut back, but increased.

Ms. McKie's second photograph showed the view from her office window. She told the TLAB: "by the time they get the third storey on, I am not going to see sky and trees but a giant wall. There will be windows that look into my office".

Under cross examination Ms. McKie was asked to acknowledge that the proposed building would intrude only in some part on the view she had shown in her photograph. She acknowledged that in an urban area, a person could not expect that they would not see other buildings. She was asked to acknowledge that her house created a similar condition for Mr. Chapman as the proposed building would, her house being a longer and taller structure than his. Ms. Chapman did not consider her house as having the same effect as the proposal would.



Looking SW at 15, 13 & 9 Boothroyd Ave from surface parking area

Figure 4: View from rear yard of subject property. EX 3 Tab 8 Galbraith

PARTICIPANT SLEAN

Ms. Slean did not file a Participant statement but was heard nonetheless. She echoed the concern of her neighbours. Her primary concern was that the occupants of the apartment would be able to see into her windows. She described the privacy screens the neighbours on Hunter St. have put up to screen their back yards from each other and said that there was no way to screen themselves from a much taller building which would have, in her opinion, unobstructed views into their back yards.

ANALYSIS, FINDINGS, REASONS

First, a brief discussion regarding the purpose of a Zoning By-law, which is to serve as an articulation of community standards within the policy context provided by the OP. Compliance with the standards set out in the By-law allows a person to apply for a building permit without any further planning process or requirement for public process (as of right). Development in the City of Toronto which proposes to go beyond the By-law maximums and minimums is generally required to obtain authorization for variances from the COA or, on appeal, from the TLAB.

Mr. Galbraith is to be commended for his patient, thorough and expert explanations of land use planning legislation, policy and regulations to the TLAB and to the Appellant

and Participants. His explanation of the regulatory context was helpful for those in attendance to clarify the basic framework within which variances are to be adjudicated.

The Appellant, and some Participants addressed the windows that would face on to their backyards and raised the concerns of overlook and privacy. Mr. Galbraith explained that this is an unavoidable condition in an urban setting and observed that most rear yards in the City experience some degree of overlook into their yards from neighbours. He explained that the Zoning By-law regulations for height and setbacks are part of the way in which standards are set to manage these concerns. In the matter before the TLAB, there are no variances requested for setbacks nor height. I find that the degree of overlook which would result from the proposed development is to be expected in the context of the neighbourhood and that the proposal in this respect maintains the intent and purpose of the OP and of the Zoning By-law.

The Appellant expressed an expectation that the proposal should be set back from the rear lot lines of the properties on Hunter St according to the requirements for rear yard setbacks instead of at the side yard requirements. Mr. Galbraith explained that the side to rear yard condition is not unusual and is one that occurs throughout the City. I note, in reference to my first paragraph in this section, that there are no setback variances required for the location of the proposed development on the lot, and that the Applicant has not exercised the full as-of-right heights or side yard setback minimums that would be allowed under the By-law. I find that the proposed development in respect of setbacks maintains the intent and purpose of the OP and Zoning By-law.

The Appellant questioned how the proposal could be in character with the neighbourhood when it is already unusual in the neighbourhood. Mr. Galbraith was helpful in explaining the concept of “character” as defined in the OP. Mr. Galbraith explained that the use, that of an apartment building, is permitted as-of-right under the By-law and that what is at issue in relation to the building is the size and the parking variances. The matter of whether an apartment building fits with the existing neighbourhood is not in question as a multiunit structure already exists on the subject property and the use is explicitly permitted under the By-law. An apartment use is therefore, by definition, within the intent of the Zoning By-law.

I discerned from the Appellant and the Participants that there is a general feeling that the triplex was an existing anomaly in their otherwise single and semi-detached dwelling neighbourhood and that this proposed expansion on the subject property would exacerbate that difference. This frame of reference is understandable since there are parts of the City with an RD zoning, for example, where apartments are not permitted by the Zoning By-law. However, this area is subject to an R zoning which permits a wider range of dwelling types, including detached, semi's, townhouses, duplexes and apartment buildings. I find that the defined character of the neighbourhood includes apartments and that the proposed use maintains the intent and purpose of the OP and the Zoning By-law.

In essence, the primary concern of the Appellant was that the proposal is too large and would overshadow the surrounding homes. The Appellant referred to the “canyon” effect that he expected he would experience if the proposal proceeds. Through discussion, it was understood that Mr. Gerard was referring to what he perceived to be

the high side wall of the proposal on the north side, not a two-sided containment. Understanding that the By-law permits a four storey apartment building as-of-right and that the setbacks that have been proposed on the north side are more generous than required by the Zoning By-law, the issue which was crystalized for the Appellant was the extension of the building further into the lot than is permitted by the By-law (the building depth variance) and the effect that would have on the backyard of an additional Hunter St property.

The shadow study prepared by Mr. Race illustrates the additional shadow that would be cast onto the abutting properties from the redevelopment of the existing structure on the subject property. The variances requested do not include a variance for height and the proposal does not utilize the full as-of-right allowances for height permitted by the By-law. A taller proposal would have had a greater shadow impact than what is proposed. The additional building length which is requested means that the shadowing area is extended to some degree, but it too is limited at three storeys and I find that such shadowing should not be unexpected in an urban context, especially in recognition that the rear part of the deep and wide lot does not contain structures of any height that would have shadowing effects.

The Appellant's opinion was that the size of the proposal was undesirable and that therefore the variance for FSI should not be approved. Even though a variance is required for both FSI and for building depth, the measure of the appropriateness of the variances is that they maintain the general *intent* and *purpose* of the By-law. In other words, if the specific conditions of the subject property, for example a generous lot size, can accommodate the increase in these two parameters without undue adverse impacts and consistent with the OP and Zoning By-law, the variances should be approved. I find that the specific site conditions as described by the Applicant can accommodate the requested variances without undue adverse impacts.

I find in this matter that the policy context supporting intensification, the provision of a mix of housing options and the efficient use of existing infrastructure is particularly relevant. The proposal would provide rental housing in an affordable form. The design of the proposal has integrated the existing structure in an environmentally sensitive and sustainable approach. The subject property is located so as to have excellent access to transit. The design has been sensitively undertaken and has not maximized the height or setback allowances, and as a result it is less impactful to the surrounding properties than would otherwise have been the case. I note that the subject property is an exceptionally large lot in the neighbourhood context and is unusually wide and deep. I find that the requested variances to be minor in consideration of the lot size and surrounding context of the neighbourhood.

Mr. Galbraith provided extensive and thorough evidence regarding the appropriateness of the proposal and the justification for support of the requested variances in relation to the four tests of s. 45(1) of the *Planning Act*. I accept the opinion evidence of Mr. Galbraith and I find that the proposed development maintains the general intent and purpose of the OP, maintains the general intent and purpose of the Zoning By-law, is appropriate and desirable for the development of the land and is minor.

Decision of Toronto Local Appeal Body Panel Member: A. BASSIOS
TLAB Case File Number: 21 142874 S45 14 TLAB

I find that the revised variance to Chapter 10.10.40.30.(1)(B) of By-law 569-2013 regarding the permitted depth of an apartment building to be minor and that it does not require further notice as might otherwise be relevant under s. 45(18.1.1.) of the *Planning Act*.

DECISION AND ORDER

As there is a revision to be made to the requested variances to correct the building depth variance, the Appeal is allowed in part and the variances listed in Appendix A are authorized, subject to the conditions contained therein.


X

Ana Bassios
Panel Chair, Toronto Local Appeal Body

APPENDIX A

APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:

VARIANCES:

1. Chapter 200.5.10.1.(1)

A minimum of six parking spaces is required to be provided for residents and a minimum of one parking space is required to be provided for visitors.
Five parking spaces will be provided for residents and zero parking spaces will be provided for visitors.

2. Chapter 10.10.40.30.(1)(B)

The maximum permitted depth of an apartment building is 14.0 m.
The apartment building will have a depth of 21.1 m.

3. Chapter 10.10.40.40.(1)(A)

The maximum permitted floor space index of an apartment building is 0.6 times the area of the lot (480.72 m²).
The apartment building will have a floor space index equal to 0.69 times the area of the lot (552.3 m²).

4. Chapter 10.5.50.10.(4)(A)

A minimum of 50% (400.6 m²) of the lot area must be maintained as landscaping.
In this case, 44% (349.2 m²) of the lot area will be maintained as landscaping.

5. Chapter 10.5.80.10.(2)

A minimum of 50% (3 parking spaces) of the required parking spaces, other than required visitor parking spaces, must be located in a building or in an underground parking structure.
In this case, 33% (two parking spaces) of the required parking spaces will be provided in a building or underground parking structure.

6. Chapter 10.5.80.30(1)

A surface parking space must be a minimum of 3.0 m from all main walls of an apartment building.
The proposed surface parking space will be 1.9 m from a main wall of an apartment building.

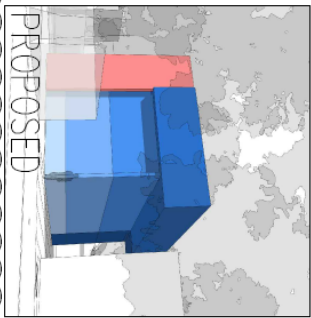
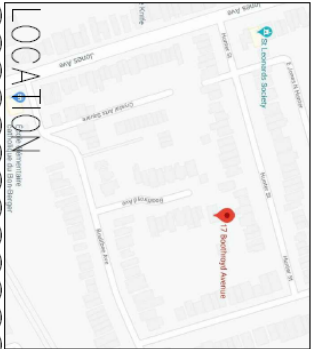
CONDITION:

The proposed dwelling shall be constructed substantially in accordance with Site Plan (drawing A03), prepared by Craig Race Architecture Inc. and dated 28 June 2021, the

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Project Description (A0.0), West Elevation (A2.1), East Elevation (A2.3), North Elevation (A2.5) and South Section (A2.7) prepared by Craig Race Architecture Inc. and dated October 26, 2020, attached hereto. Any other variances that may appear on these plans that are not listed in this decision are NOT authorized.

RECEIVED
By Committee of Adjustment at 11:09 am, Dec 14, 2020



UNIT AREAS					
FLOOR	UNIT A	UNIT B	UNIT C	UNIT D	UNIT E
THRD	-	-	-	79.1 m ² [802 ft ²]	56.5 m ² [608 ft ²]
SCND	-	-	88.9 m ² [956 ft ²]	-	-
GRND	-	88.9 m ² [956 ft ²]	-	-	-
BSMT	70.4 m ² [758 ft ²]	-	-	-	-
TOTAL	70.4 m ² [758 ft ²]	88.9 m ² [956 ft ²]	88.9 m ² [956 ft ²]	79.1 m ² [802 ft ²]	56.5 m ² [608 ft ²]
				42.9 m ² [462 ft ²]	COMMON
				43.5 m ² [468 ft ²]	194.9 m ² [2098 ft ²]
				40.9 m ² [441 ft ²]	146.9 m ² [1581 ft ²]
				40.9 m ² [441 ft ²]	146.9 m ² [1581 ft ²]
				35.5 m ² [382 ft ²]	146.9 m ² [1581 ft ²]
				168.3 m ² [1811 ft ²]	638.1 m ² [6889 ft ²]
				168.3 m ² [1811 ft ²]	552.1 m ² [5946 ft ²]
				168.3 m ² [1811 ft ²]	801.2 m ² [8635 ft ²]
				FSI	0.69

TABLE OF CONTENTS	
40-40.3	COVER PAGE, SITE, STAIR, STREETS, EXISTING AND PROPOSED, SITE PLANS
41-41.0	EXISTING AND PROPOSED FLOOR PLANS
42-42.11	EXISTING AND PROPOSED ELEVATIONS & SECTIONS

PROJECT DESCRIPTION
EXISTING: 2+1/2 STOREY DETACHED UNIT
PROPOSED: 2+1/2 STOREY DETACHED 6-UNIT APARTMENT MINOR ALTERATIONS TO EXISTING AND NEW REAR AND 3RD STREET ADJUTIN

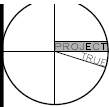
ZONING STATISTICS			
MUNICIPAL ADDRESS	17 BOOTHROYD AVE TORONTO ONTARIO M4J 3L7		
LEGAL DESCRIPTION	PART OF LOT 1 (RECORDED) PLAN 414E CITY OF TORONTO		
ZONING DESIGNATION - CITY-WIDE	R-1 (RES. LOW-DEN.)		
TYPE OF BUILDING	APARTMENT (6 UNITS)		
RECORDED	EXISTING	PROPOSED	
LOT AREA	180.0 m ²	801.2 m ²	NO CHANGE
FRONTAGE	6.0 m	3.58 m	NO CHANGE
UNITS	N/A	3	6
FLOOR SPACE INDEX	0.6	0.4 (321.6 m ²)	0.61 (491.2 m ²)
SETBACK - FRONT	6.0 m	6.29 m	4.34 m
SETBACK - NORTH	1.2 m	3.23 m	NO CHANGE
SETBACK - SOUTH	1.2 m	3.09 m	1.2 m
SETBACK - REAR	7.5 m	35.59 m	31.36 m
BUILDING DEPTH	14.0 m	14.11 m	19.80 m
HEIGHT	10.0 m	7.18 m	10 m
PARKING	7 SPACES	3 SPACES	5 SPACES
LANDSCAPING	50% OF LOT AREA	73.7%	41.2%
SOFT LANDSCAPING	50% OF LANDSCAPING	62.9%	62.4%

CRAIG RACE ARCHITECTURE INC.
140 YONGE ST SUITE 200
TORONTO, ON M5S 1A6
416-963-9333
info@craigrace.com

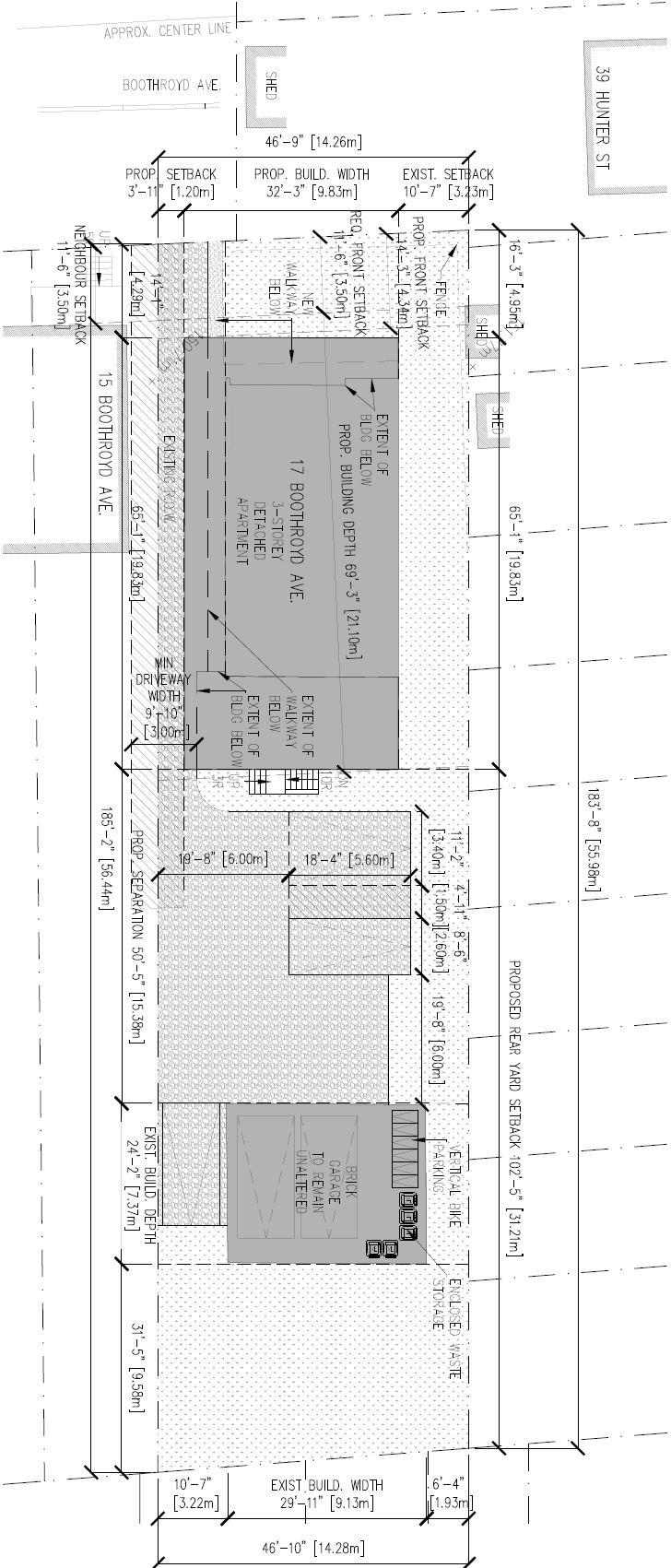
POCKET INFILL
17 BOOTHROYD AVE
TORONTO, ON
M4J 3L7

COVER PAGE AND
SITE STATISTICS
PROJ. E.T. 2020.1
SCALE: AS SHOWN
DATE: 2020.10.26

A0.0



LANDSCAPING AREAS	
PLANTING TYPE	PROPOSED
TOTAL LOT AREA	802.0 m ²
LANDSCAPING	549.2 m ² (68% OF LOT)
SOFT LANDSCAPING	337.3 m ² (84% OF LANDSCAPING)



4

TLAB

2021 JUN 28

3

100% PRR Q2 DRAWINGS

2020 OCT 26

2

100% PRR Q1 DRAWINGS

2020 JUL 24

1

100% EXISTING BUILDING DRAWINGS

2020 JUN 24

NO. REVISION

DATE

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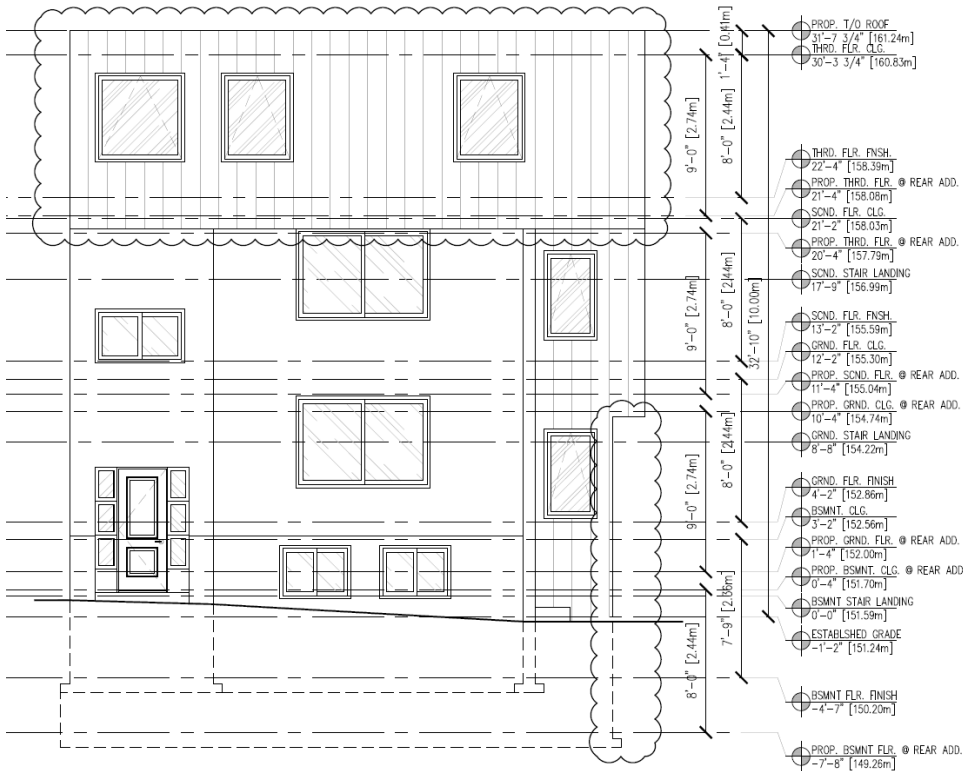
PROJ. SITE PLAN

PROJ. 20081
SCALE 1/8" = 1'-0"
DATE: 2021.06.28

A0.3

21 of 25

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TLAB Case File Number: 21 142874 S45 14 TLAB



3 100% PPR 02 DRAWINGS
2 100% PPR 01 DRAWINGS
1 100% EXISTING BUILDING DRAWINGS
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2020 OCT 26
2020 JUL 24
2020 JUN 24
DATE

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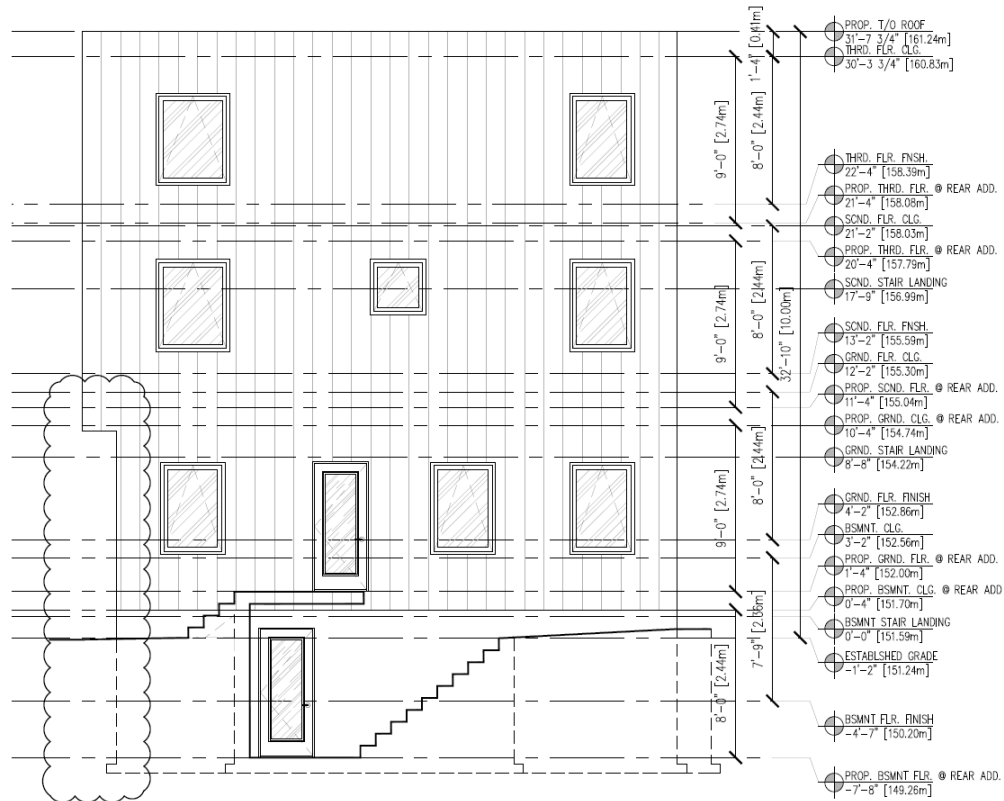
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TORONTO, ON
M4J 3L7

PROP WEST
ELEVATION
PROJECT: 20081
SCALE: 3/8" = 1'-0"
DATE: 2020.10.26

A2.1

Decision of Toronto Local Appeal Body Panel Member: A. BASSIOS
TLAB Case File Number: 21 142874 S45 14 TLAB



3 100% PPR 02 DRAWINGS
2 100% PPR 01 DRAWINGS
1 100% EXISTING BUILDING DRAWINGS
NO. REVISION

2020 OCT 26
2020 JUL 24
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M4J 3L7

PROP EAST
ELEVATION
PROJECT: 20081
SCALE: 3/8" = 1'-0"
DATE: 2020.10.26

A2.3

