

DECISION AND ORDER

Decision Issue Date Friday, October 08, 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): STEPHAN SMITH

Applicant(s): DREW LASZLO ARCHITECT INC

Property Address/Description: 87 GLENFOREST RD

Committee of Adjustment File

Number(s): 21 128843 NNY 15 MV

TLAB Case File Number(s): 21 163803 S45 15 TLAB

Hearing date: Wednesday, September 22, 2021

Deadline Date for Closing Submissions/Undertakings: N/A

DECISION DELIVERED BY S. TALUKDER

REGISTERED PARTIES AND PARTICIPANTS

Applicant	DREW LASZLO ARCHITECT INC.
Owner	ELAINE YONG
Appellant	STEPHAN SMITH
Appellant's Legal Rep.	CHRISTINA KAPELOS
Party	TERRENCE CHU
Party's Legal Rep.	MARTIN MAZIERSKI
Expert Witness	TAE RYUCK

INTRODUCTION

1. The Applicant owners, Elaine Yong and Terrence Chu, applied to the Committee of Adjustment (CoA) for approval of variances to construct a new house with an integral garage on their property at 87 Glenforest Road (Subject Property). The Subject Property is located west of Mount Pleasant Road and north of Bowood Avenue in the Yonge and Lawrence neighbourhood area.
2. The CoA approved the owners' application. The neighbour, Stephan Smith (Appellant), who lives at 91 Glenforest Road, appealed the CoA's decision. The matter is now before the TLAB.
3. The owners and the Appellant entered into a settlement. The Appellant submitted a revised proposal with revised variances and plans pursuant to this settlement.
4. The matter proceeded as an expedited Settlement Hearing on September 22, 2021.

MATTERS IN ISSUE

5. The Applicant requests the approval of the variances listed in Schedule A of this Decision. A review of this list shows that there are two additional variances (Variance #5 and 6) for reductions in front yard setback and front yard landscaping which were not before the Committee of Adjustments.
6. The TLAB strongly encourages the settlement of outstanding matters in dispute pursuant to Rule 19 of the TLAB's Rules of Practice and Procedure. Nevertheless, the approval of the variances and any conditions arising out of a settlement must still satisfy the statutory tests for variances in s. 45(1) of the *Planning Act (Act)*. Therefore, at issue is whether these variances should be approved subject to the standard condition set out in Schedule B. The revised Site Plans and Elevations are attached to this decision as Schedule C.

JURISDICTION

Provincial Policy – S. 3

7. A decision of the 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)

8. 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 individually and cumulatively:

- 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, ANALYSIS, FINDINGS, AND REASONS

9. Mr. Tae K. Ryuck, a registered Professional Planner, was the sole witness in the settlement hearing. He was qualified to provide expert opinion evidence in the area of land use planning.
10. Section 45(18.1.1) of the Act allows me to find that no notice is required when a change in plans is submitted to TLAB provided I find that the change is a minor one. While there are two additional variances, as discussed later in the decision, I find the modifications in this case to be minor and thus no notice is required.
11. Mr. Ryuck stated that the amendments to the plan resulting from the settlement discussion are as follows:
 - “1. The entire house is to be moved forward by 2’5”, so that the rear main wall on both storeys is 13” shallower than the rear wall of 85 Glenforest;
 2. The rear bay window is reduced in length from 2’5” to 2’ (which results in it projecting 11” past the rear wall of 85 Glenforest);
 3. The rear bay window is to be flipped so that it ends up positioned closer to the west side;
 4. The canopy over the back porch is to be reduced in half from 8’ to 4’;
 5. There are to be no windows on the east sides of the front bay window [not inconsistent with the C/A plans]; and
 6. There will be no windows along the east elevation [not inconsistent with the C/A plans]”.¹
12. The building was moved forward so that the rear wall of the proposed building is aligned closer to the rear wall of the building on the neighbouring 85 Glenforest Road. Further, the building will extend less in the rear yard as it is moved forward. This change was made to alleviate the Appellant’s privacy concerns resulting from overlook from the rear deck, along with the side wall windows of the proposed building. However, this repositioning of the building has resulted in two variances relating to the front yard setback and front yard landscaping.

¹ Mr. Ryuck’s Expert Witness Statement (Exhibit 2) at p. 14

13. Mr. Ryuck testified that the Neighbourhood Study Area is bounded by Snowdon Avenue to the north, Mt. Pleasant Road to the east, Ranleigh Avenue to the south, and Yonge Street to the west. This area has experienced new construction and re-investment through renovations, additions, or entirely new builds. For the purpose of analyzing the OP policy 4.1.5, this neighbourhood had the following characteristics:

- a. The houses have reduced front yard landscaping, some as a result of narrow lots;
- b. Most of the lots have narrow side yard conditions, as is typical of older Toronto neighbourhoods, with the roof eaves of neighbouring houses in close proximity with one another;
- c. The neighbourhood consists of single-detached, semi-detached and walk-up apartment dwellings of 1 to 3 storeys;
- d. Both the immediate context and the broader neighbourhood have examples of buildings with FSI above or equal to 0.76; and
- e. The siting of the front of the houses on their lots is not always aligned with the neighbouring houses to form a uniform façade facing the street.

14. Mr. Ryuck's evidence was uncontradicted and I accepted his evidence on all relevant matters. I am satisfied that based on his evidence and his Expert Witness Statement, the variances should be approved subject to the proposed conditions. Specifically, I note and agree with the following observations made by Mr. Ryuck, which satisfy the four statutory tests:

- a. The height of exterior main side walls and building height: The proposed exterior side wall height of 8.37m is due to the second storey window on the west sidewall. This window represents a small proportion of the wall. Excluding this window, the height of the remaining side wall from grade to the eaves is 7.74m, which exceeds the by-law standard by approximately 0.24 m. This attributable increase in massing will not be discernable from the street. Further, the building height variance of 10.04 m height (variance # 7) reflects an increase of 0.04 m, whereas the by-law requirement is 10 m. This increase in height along with the increase in height of the side wall, will not be discernable from the street.
- b. FSI: The FSI of 0.76 times the lot area is not an anomaly in the immediate and broader neighbourhood, as there are examples of houses with an FSI equal to or greater than 0.76 times the lot area in this neighbourhood. I note that there are 10 such examples of FSIs in the immediate neighbourhood.² The proposed building is similar in size to other houses in the neighbourhood and when viewed from the street, it sufficiently integrates within the existing physical context of the neighbourhood.

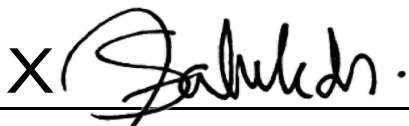
² Mr Ryuck's Witness Statement (Exhibit 2), Area Context Map at Appendix D.

- c. The rear deck: houses with integral garages in the neighbourhood have elevated first floors, which result in the rear first floor decks of these houses being elevated above grade. This proposed deck is elevated for the same reason and is similar in size to those existing rear decks within the neighbourhood.
- d. Roof eaves: the proposed roof eaves are an improvement of the current setback associated with the existing building. This is because the proposed building will be slightly narrower than the current building on the Subject Property. The setback for the roof eaves is not an anomaly in the neighbourhood where it is typical for the eaves to be in close proximity to the neighbouring houses.
- e. Front yard setback and front yard landscaping: these two variances are a result of the building being repositioned forward closer to the front lot line. The front yard setback is similar to the setback of 91 Glenforest and maintains the overall setback pattern in the street block where the houses do not have uniform setback from the front lot lines of the properties. The landscaping as well fits in with the neighbourhood where it is common for the front yards of houses to have reduced soft yard landscaping.

15. Therefore, given the assessment above, I find that the statutory tests are met for all of the variances, both individually and cumulatively. I wish to thank the Parties for settling this matter.

DECISION AND ORDER

16. The variances listed in Schedule A are approved and are subject to the conditions set out in Schedule B.



Shaheynoor Talukder

Panel Chair, Toronto Local Appeal Body

Schedule A
Requested Variances

1. Chapter 10.10.40.10.(2), By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m.

The proposed height of the side exterior main walls facing a side lot line is 8.37 m.

2. Chapter 10.10.40.40.(1), By-law No. 569-2013

The permitted maximum floor space index is 0.60 times the area of the lot.

The proposed floor space index is 0.76 times the area of the lot.

3. Chapter 10.5.40.50.(4), By-law No. 569-2013

The level of the floor of a platform, such as a deck or balcony, located at or below the first storey of a residential building other than an apartment building, may be no higher than 1.2 m above the ground at any point below the platform, except where the platform is attached to or within 0.3 m of a rear main wall, any part of the platform floor located 2.5 m or less from the rear main wall may be no higher than the level of the floor from which it gains access.

The proposed rear platform projects 3.05 m from the rear main wall and is 1.88 m above the ground below the platform.

4. Chapter 10.5.40.60.(7), By-law 569-2013

Roof eaves may project a maximum of 0.9 m provided that they are no closer than 0.30 m to a lot line.

The proposed roof eaves are 0.03m from the east side lot line.

5. Chapter 10.5.40.70.(1), By-law 569-2013

The minimum required front yard setback is 5.78m.

The proposed front yard setback is 5.07m.

6. Chapter 10.5.50.10.(1), By-law 569-2013

On a lot with a detached house, a minimum of 75% of the required front yard landscaping must be soft landscaping.

The proposed front yard soft landscaping is 71.80% of the required landscaping.

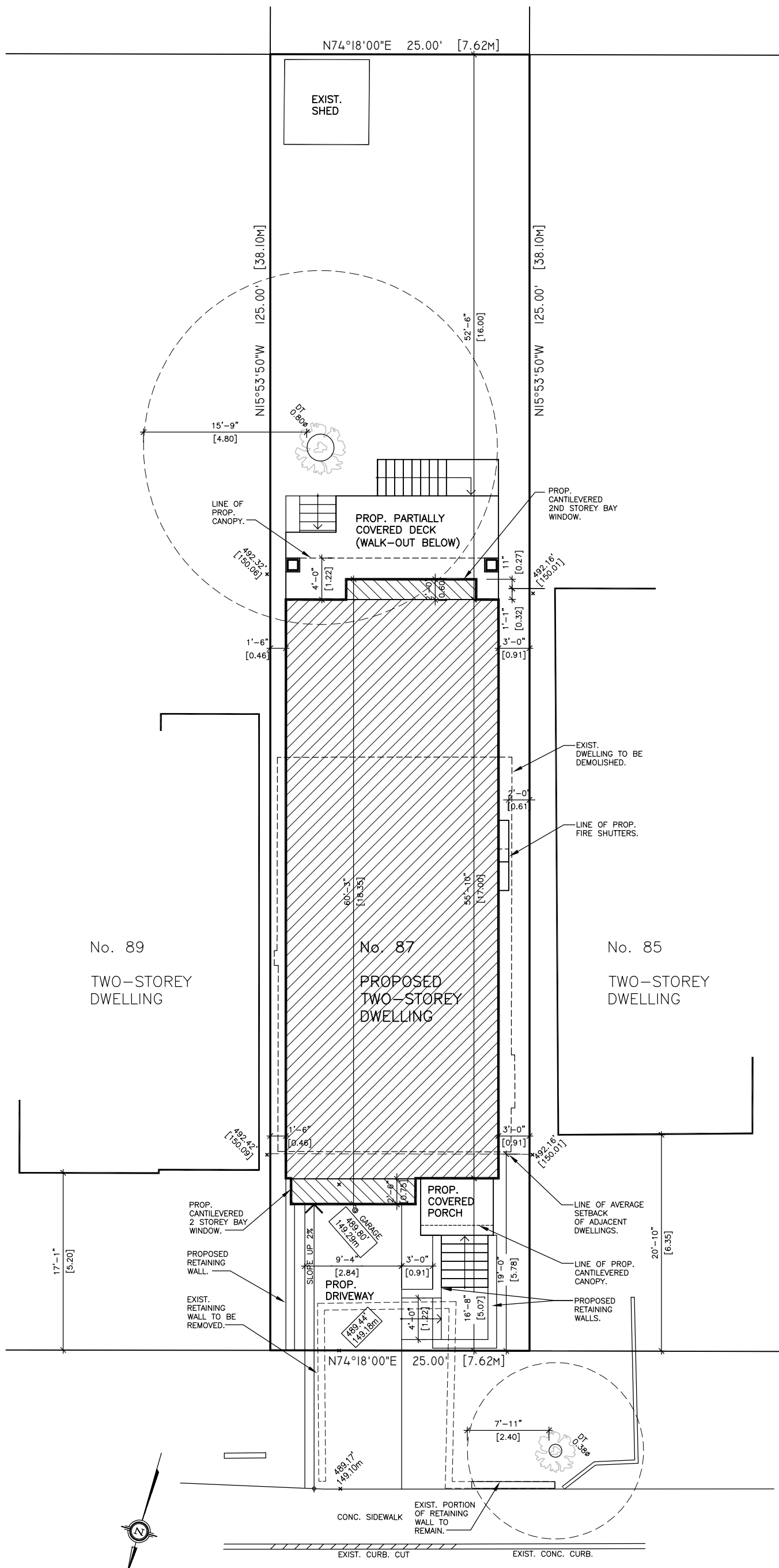
7. Section 4(2), By-law 438-86.

The maximum permitted building height is 10.0m.

The proposed building height is 10.04m, measured to the highest point of the building.

**Schedule B
Conditions**

The applicant shall construct the proposed dwelling substantially in accordance with the Site Plan and Elevations prepared by DREW LASZLO ARCHITECT INC. and dated August 24, 2021 (the "Revised Plans", Schedule C of the Decision). Any other variances that may appear on these plans that are not listed in this decision are **NOT** authorized.



GLENFOREST ROAD

SURVEY INFORMATION PROVIDED BY:
 A. AZIZ SURVEYORS INC.
 ONTARIO LAND SURVEYORS
 OCTOBER 2020.

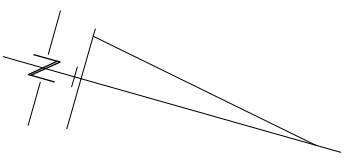
SITE PLAN
 3/32"=1'-0"
 87 GLENFOREST RD.
 AUGUST 24, 2021

DREW LASZLO ARCHITECT
 416 781 5800

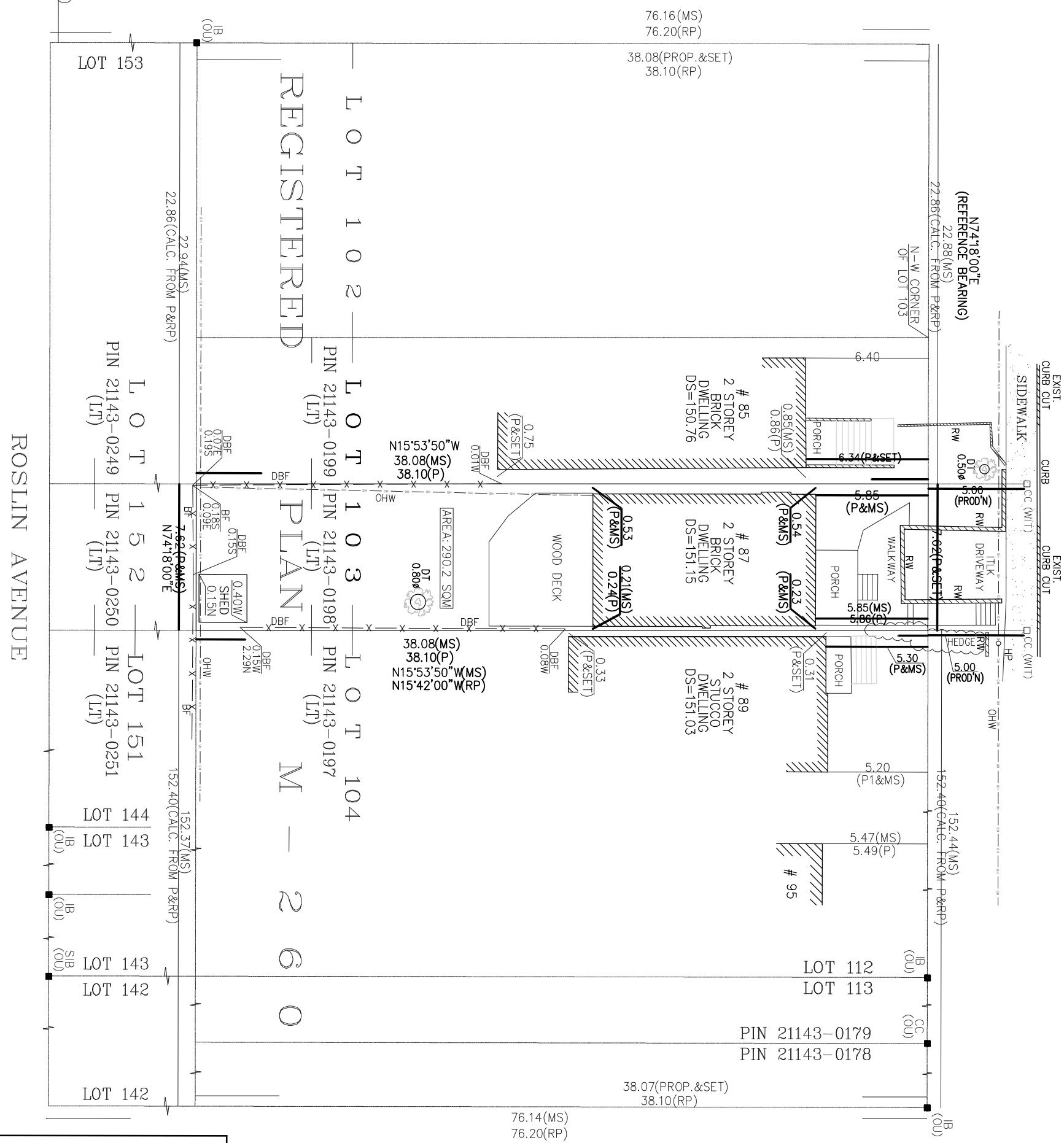
GLENFOREST ROAD
 (FORMERLY BRECHIN AVENUE BY REGISTERED PLAN M-260)
 PIN 21143-0414 (LT)

CENTER LINE OF PAVEMENT

PIN 21143-0198 (LT)



BOCASTLE AVENUE



MOUNT PLEASANT ROAD

SURVEYOR'S REAL PROPERTY REPORT OF PART 1: PLAN OF PART OF LOT 103 REGISTERED PLAN M-260 CITY OF TORONTO

SCALE = 1 : 250
 10metres

A. AZIZ SURVEYORS INC., O.L.S.

METRIC: DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

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PART 2 :

REPORT
 * THIS REPORT WAS PREPARED FOR T.C.H.U. AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.
BOUNDARIES
 * PART OF LOT 103, REGISTERED PLAN M-260
TITLE SEARCH INDICATES
 * NO EASEMENTS OR RIGHT OF WAYS REGISTERED ON TITLE.
ZONING
 * NO INVESTIGATION WITH RESPECT TO MUNICIPAL ZONING BY LAW HAS BEEN MADE FOR THE SUBJECT PROPERTY (PROPERTIES).
FENCES
 * PLEASE NOTE THE POSITION OF THE FENCES IN RELATION TO THE SOUTHERLY, EASTERLY & WESTERLY BOUNDARIES; THEY ARE LOCATED OVER THE SUBJECT BOUNDARIES TO THE EXTENT SHOWN ON THE PLAN.
BEARING NOTE
 * BEARING ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF GLENFOREST ROAD HAVING A BEARING OF N74°18'00"E AS SHOWN ON REGISTERED PLAN M-260
GEODETIC:
 * ELEVATIONS SHOWN GEODETIC DRIVEN FROM CITY OF TORONTO BENCH MARK # 12219741326, ELEVATION 166.102 m

LEGEND:

■	DENOTES SURVEY MONUMENT FOUND	IB	DENOTES IRON BAR
□	SURVEY MONUMENT SET	OHW	OVERHEAD WIRE
SIB	STANDARD IRON BAR	HP	HYDRO POLE
N.E.S.W	NORTH, EAST, SOUTH, WEST	OU	ORIGIN UNKNOWN
DBF	DOUBLE BOARD FENCE	MS	MEASURED
CLF	CHAIN LINK FENCE	DT	DECIDUOUS TREE
RP	REGISTERED PLAN M-260	DS	DOOR SILL
P	SURVEY BY YOUNG & YOUNG SURVEYING.	RW	RETAINING WALL
P1	O.L.S. DATED JUNE 25, 1999	CC	CUT GROSS
PI	SURVEY BY UNWIN WURPHY & ESTEN LTD.	WIT	WITNESS
CALC.	O.L.S. DATED OCTOBER 02, 1998	PROD'N	PRODUCTION
NTS	CALCULATION		
	NOT TO SCALE		

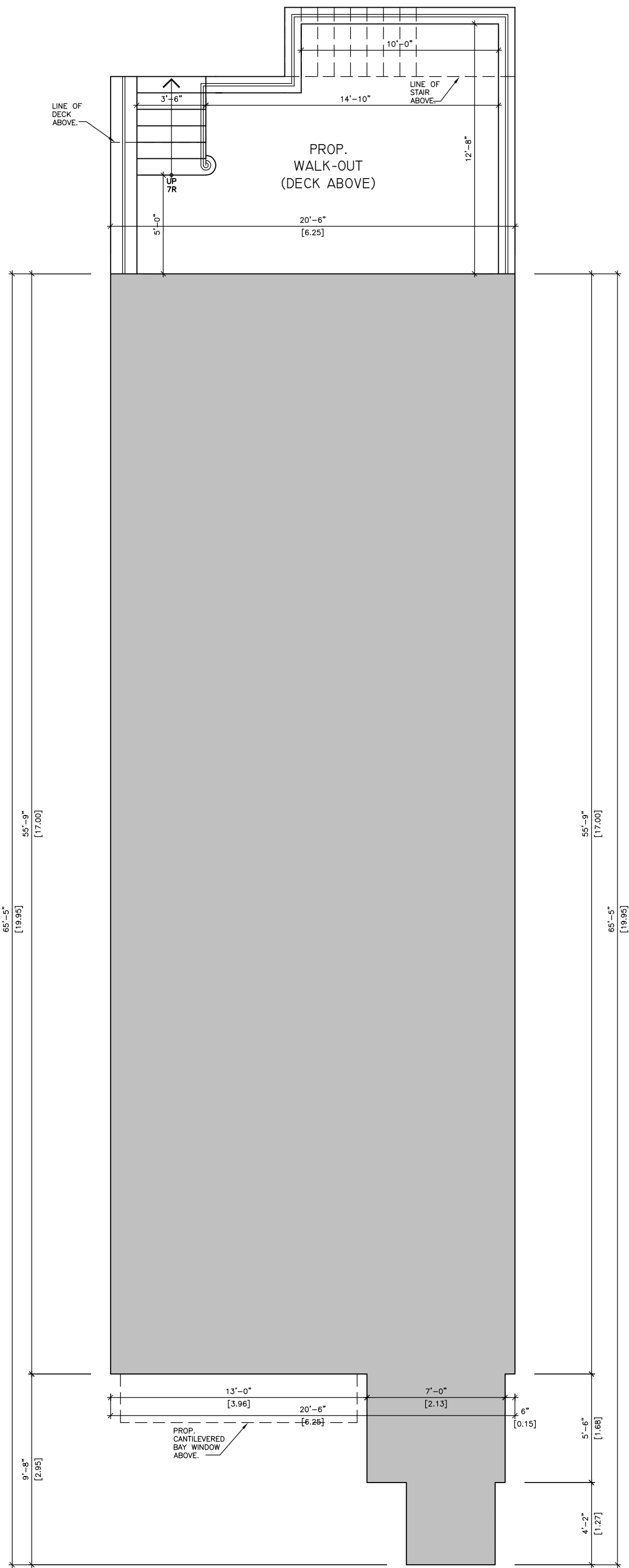
SURVEYOR'S CERTIFICATE
 I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY'S ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 24th DAY OF SEPTEMBER, 2020

DATE: OCTOBER 01, 2020
 A. ABDEL SHAHID
 ONTARIO LAND SURVEYOR

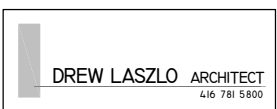
ASSOCIATION OF ONTARIO LAND SURVEYORS
 PLAN SUBMISSION FORM
 2136166

THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR. In accordance with Regulation 1026, Section 29(3).

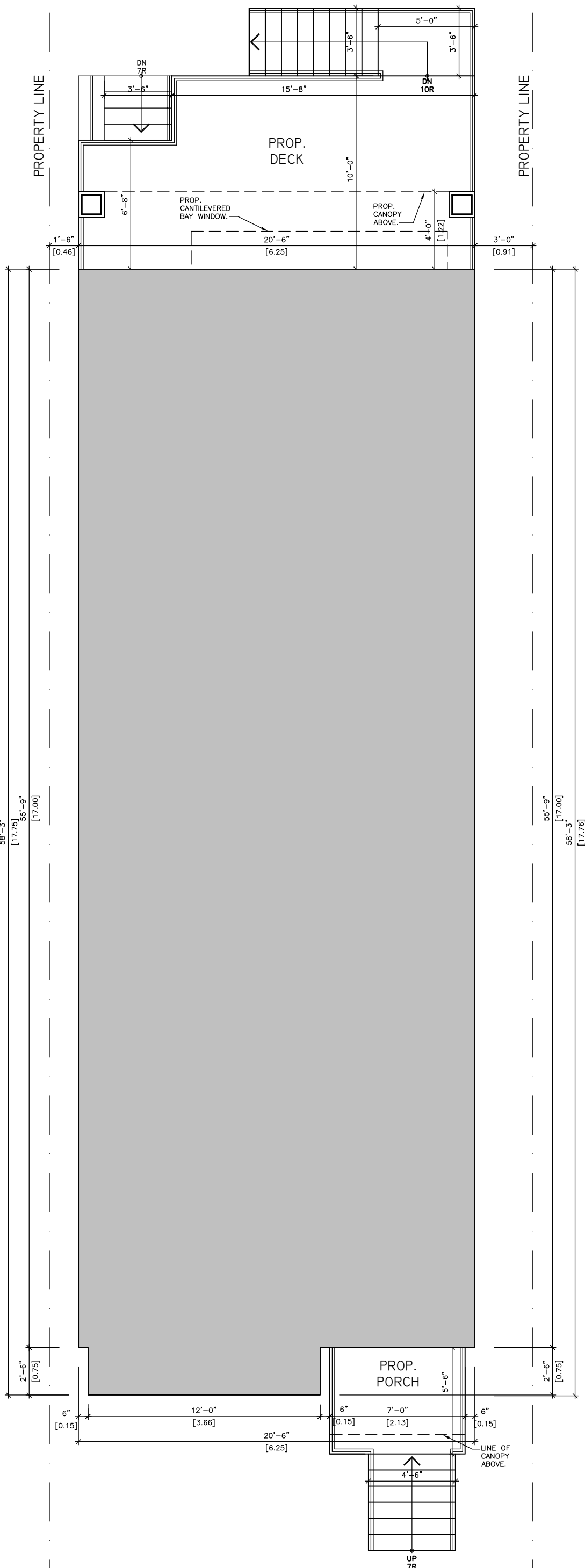
A. AZIZ SURVEYORS INC.	
ONTARIO LAND SURVEYORS	
120 NEWKIRK ROAD - #31, RICHMOND HILL, ONT. L4B 1A4	
Tel. (905) 237-8224 Fax: (416) 477-5465	
Website : M-Azizsurveyors.ca	
E-Mail : aziz@m-azizsurveyors.ca	
PROJECT NUMBER	PROJECT
20-236	87 GLENFOREST AVENUE (SR-PR)
DRAWN BY	CHECKED BY
C.H	A.A



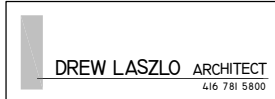
BASEMENT FLOOR PLAN
 3/16"=1'-0"
 87 GLENFOREST RD.



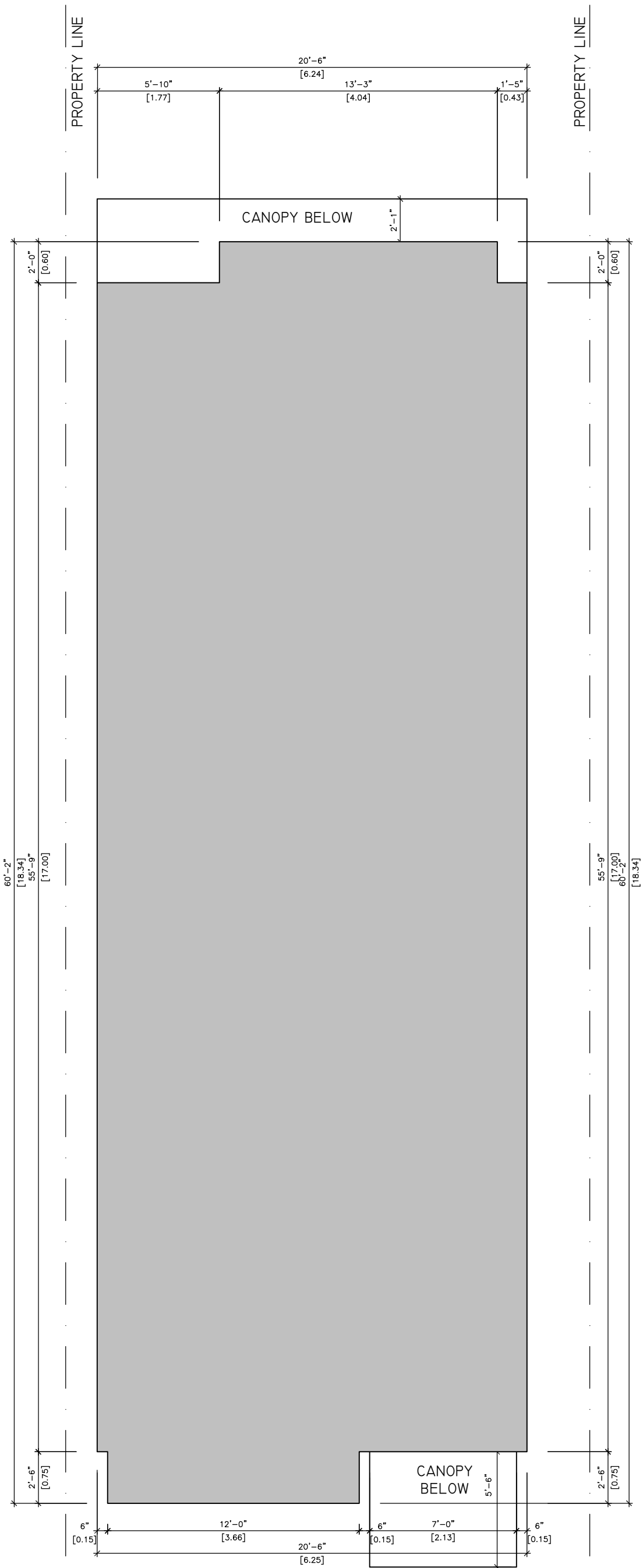
AUGUST 24, 2021



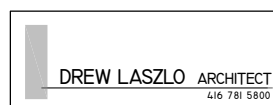
GROUND FLOOR PLAN
 3/16"=1'-0"
 87 GLENFOREST RD.



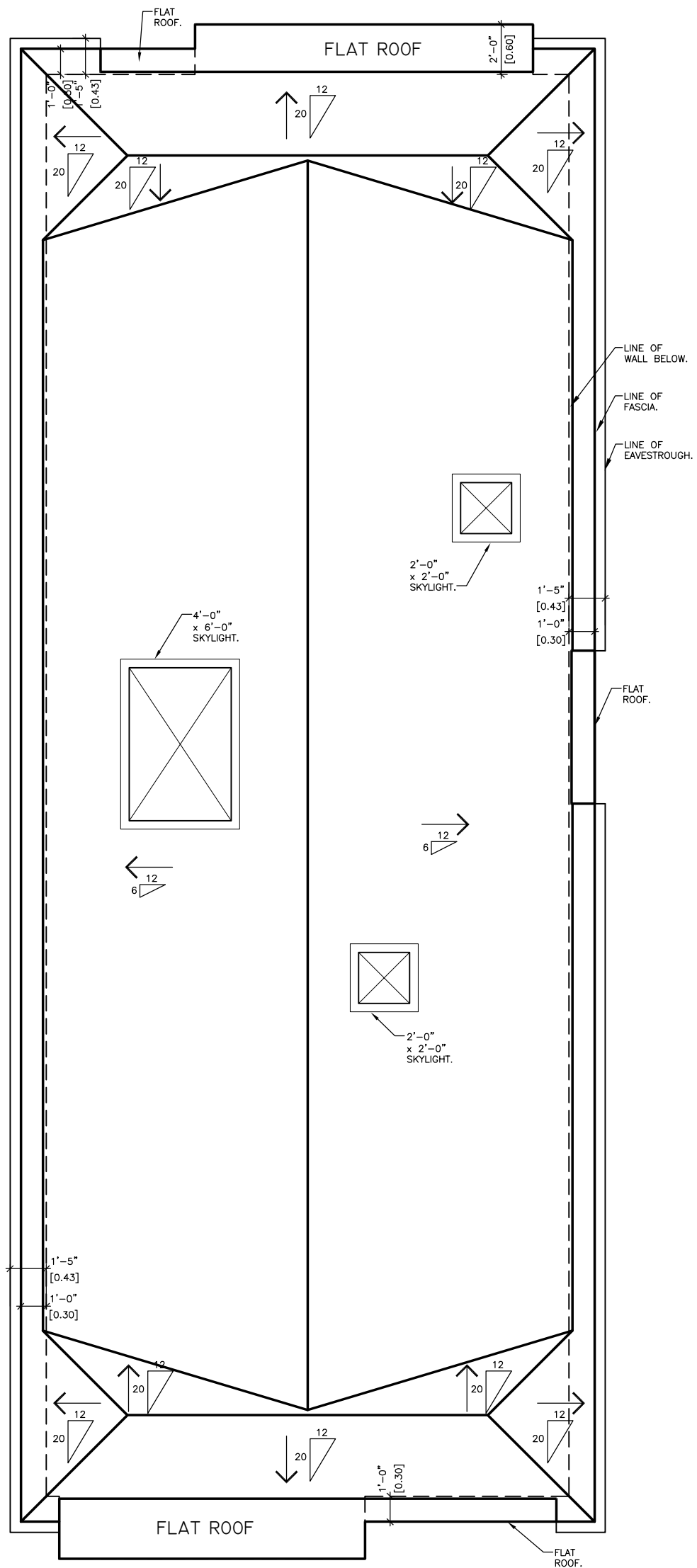
AUGUST 24, 2021



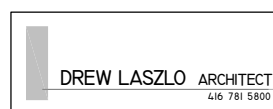
SECOND FLOOR PLAN
 3/16"=1'-0"
 87 GLENFOREST RD.



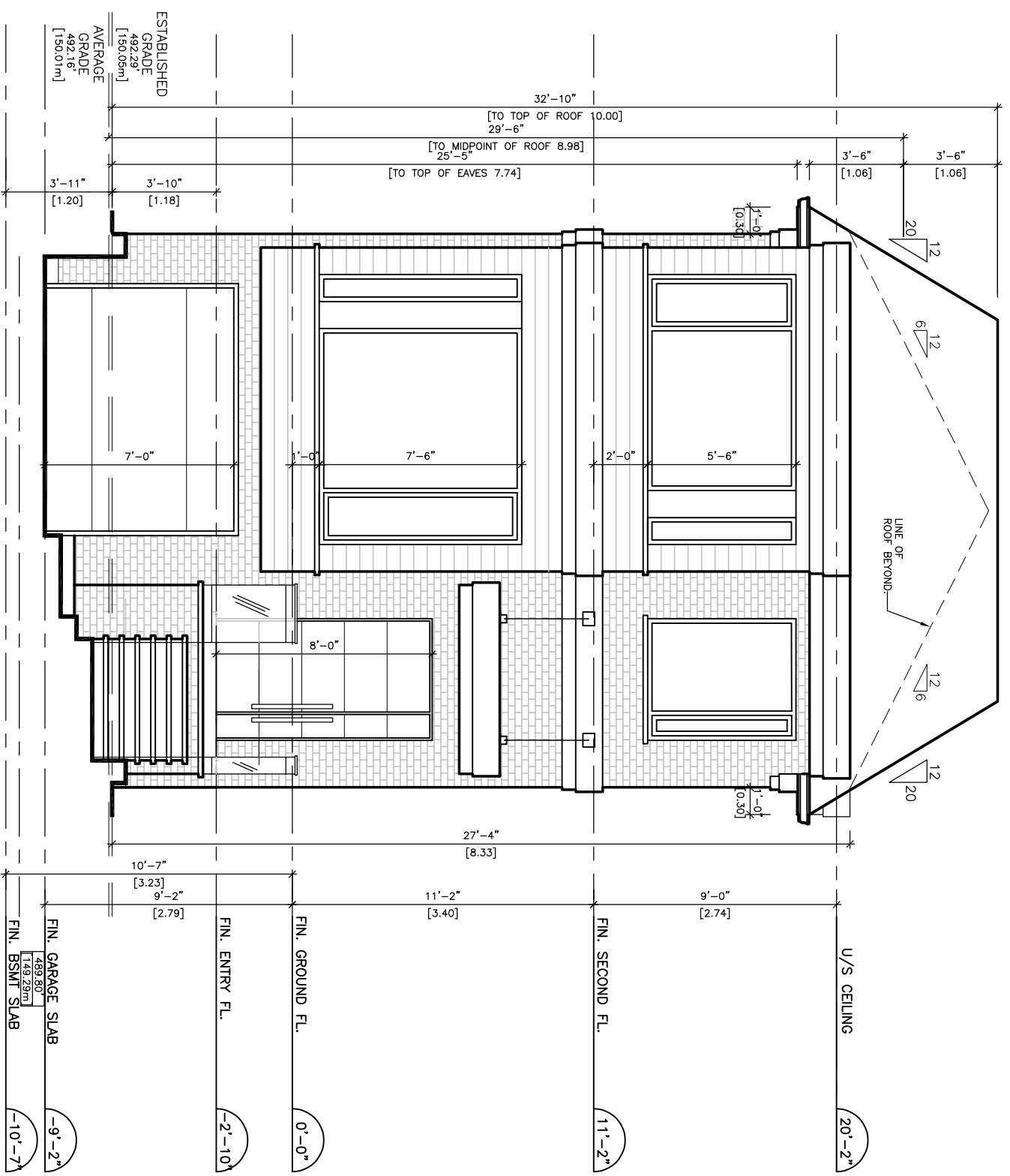
AUGUST 24, 2021



ROOF PLAN
 3/16"=1'-0"
 87 GLENFOREST RD.



AUGUST 24, 2021

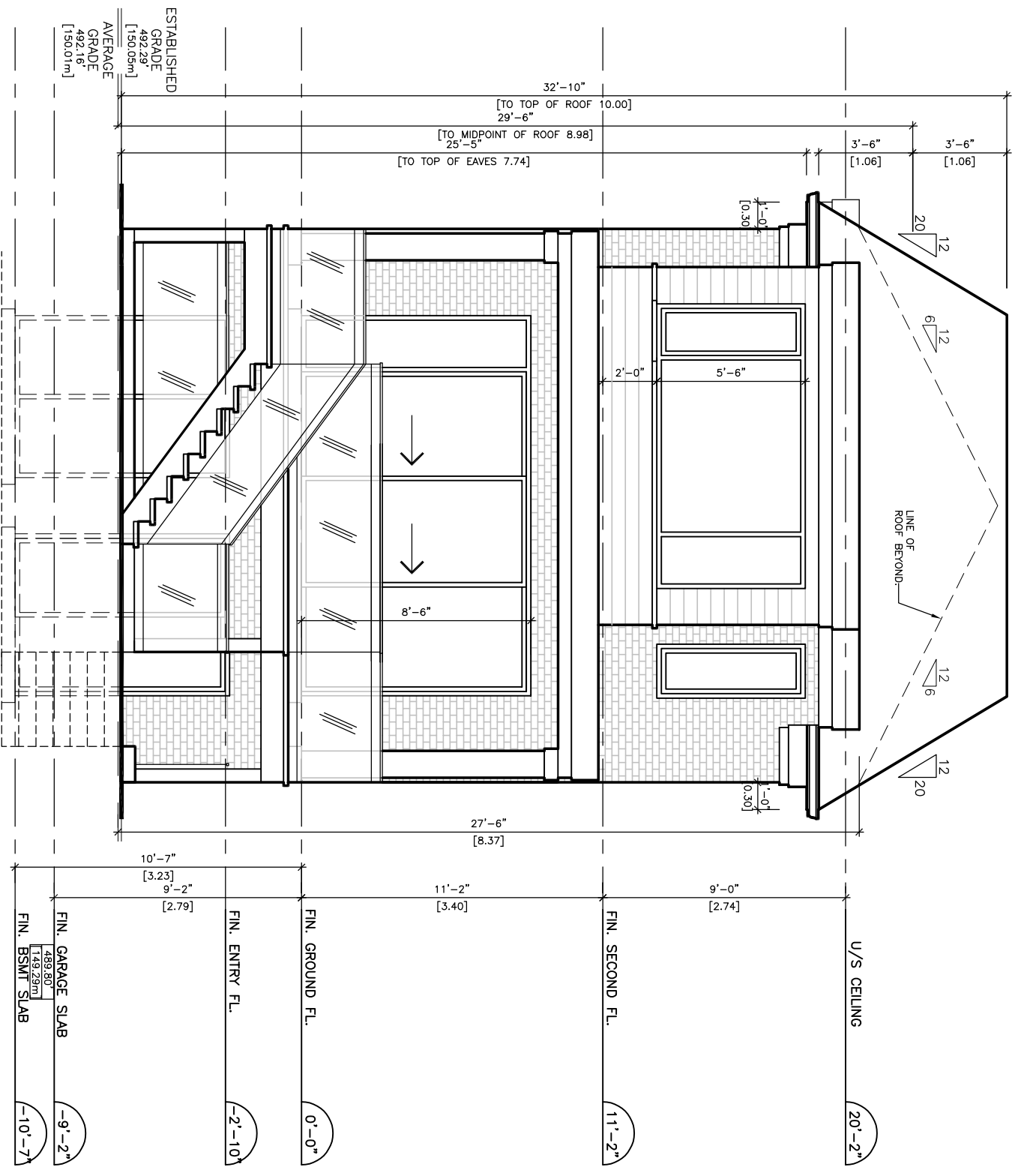


FRONT ELEVATION

3/16"=1'-0"
 87 GLENFOREST RD.

AUGUST 24, 2021





ESTABLISHED
GRADE
492.29'
[150.05m]

AVERAGE
GRADE
492.16'
[150.01m]

FIN. GARAGE SLAB
489.80'
[149.29m]

FIN. BSMT SLAB
-10'-7"

10'-7"
[3.23]

9'-2"
[2.79]

FIN. ENTRY FL.
-2'-10"

FIN. GROUND FL.
0'-0"

11'-2"
[3.40]

FIN. SECOND FL.
11'-2"

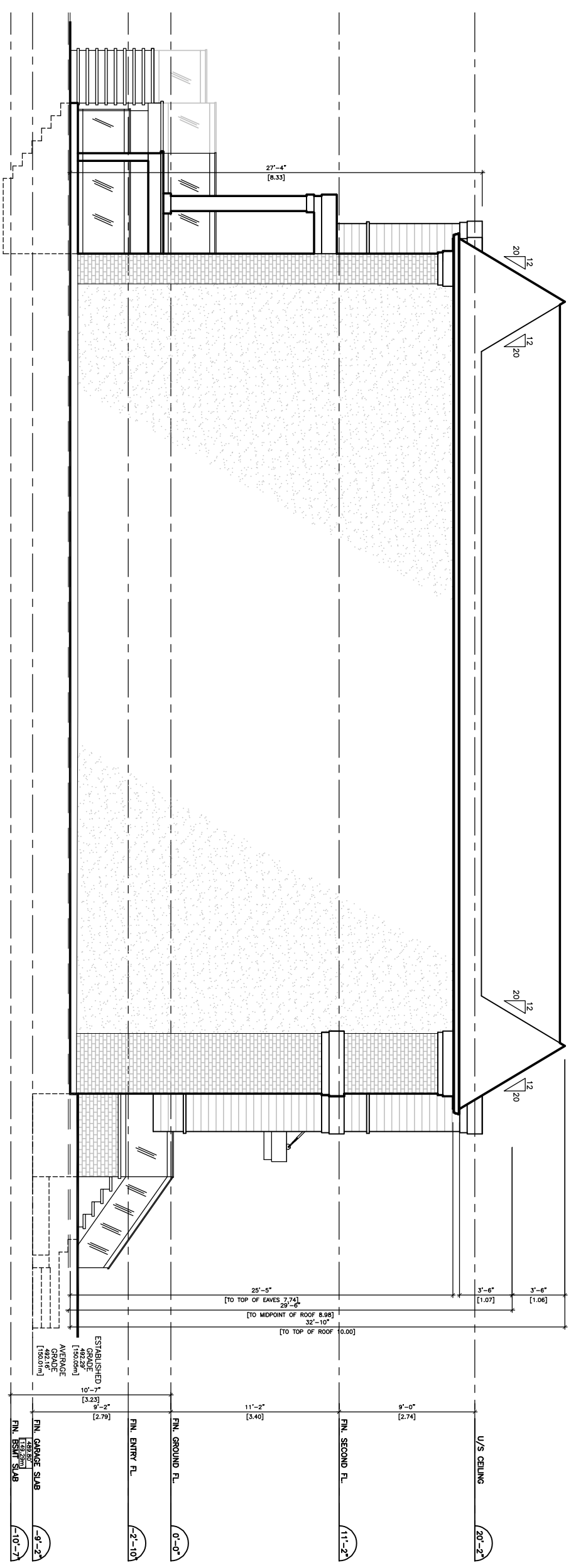
9'-0"
[2.74]

U/S CEILING
20'-2"

REAR ELEVATION
3/16" = 1'-0"
87 GLENFOREST RD.

DREW LASZLO ARCHITECT
416.781.5800

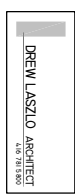
AUGUST 24, 2021



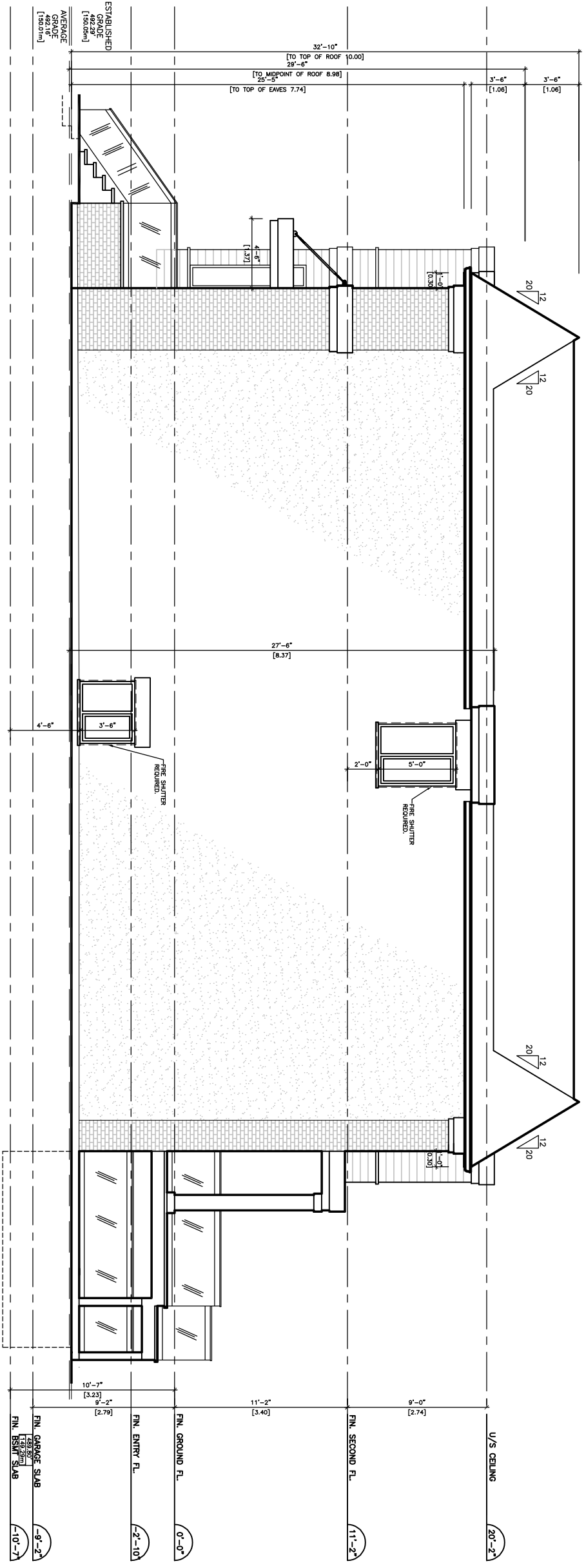
SIDE (EAST) ELEVATION

1/8"=1'-0"
87 GLENFOREST RD.

AUGUST 24, 2021



DREW LASZLO ARCHITECT
317.333.3333



SIDE (WEST) ELEVATION
 1/8"=1'-0"
 87 GLENFOREST RD.
 AUGUST 24, 2021

