

DECISION AND ORDER

Decision Issue Date Tuesday, February 08, 2022

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): THOMAS BAUER

Applicant(s): SPRAGGE AND COMPANY ARCHITECTS

Property Address/Description: 25 HUDSON DR

Committee of Adjustment File

Number(s): 20 232741 STE 11 MV

TLAB Case File Number(s): 21 156236 S45 11 TLAB

Hearing date: August 30, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY J. TASSIOPOULOS

REGISTERED PARTIES AND PARTICIPANTS

Name	Role	Representative
Spragge and Company Architects	Applicant	
Laura Kaye	Owner	
Michael Kaye	Primary Owner/Party	Ryann Atkins
Thomas Bauer	Appellant	

INTRODUCTION & BACKGROUND

On April 28, 2021, the City of Toronto (City) Committee of Adjustment (COA) approved the variances requested for the COA file number A1210/20TEY for the property located at 25 Hudson Avenue to construct a two storey addition and a rear covered porch to an existing three storey detached dwelling. The COA's approval of the variances, was appealed to the TLAB by their neighbour, Thomas Bauer. On May 27, 2021, a Notice of Hearing for a TLAB Hearing on August 30, 2021, was issued. Subsequently, both the Applicant and the Appellant engaged in settlement discussions and reached an agreement that was submitted to the TLAB on July 23, 2021.

Given this agreement, the Hearing date was converted to an expedited Settlement Hearing on August 30, 2021, in the matter of an appeal of the COA approval, as amended, by the Owners Michael Kaye and Laura Kaye, and the Appellant Thomas Bauer.

At the commencement of the Hearing, I advised that, as per Council direction, I had visited the site prior and surrounding neighbourhood and reviewed the pre-filed materials in preparation of the Hearing but it is the evidence to be heard that is of importance.

MATTERS IN ISSUE

The Parties entered into Settlement discussions which resulted in changes to the plans and a revised set of variances and conditions. The matter at issue is whether the proposed revised variances meet the applicable tests of Section 45(1) of the *Planning Act*.

Whether the revised variance in the reduction in FSI requires further notice or consideration under s. 45 (18 1.1) of the *Planning Act*.

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

Ms. Ryann Atkins, counsel for the Owners, confirmed that the matter had been settled between the Owners and the Appellant and that the agreement was outlined in the Minutes of Settlement. Ms. Atkins proceeded to provide background with respect to the process leading up to the Minutes of Settlement and indicated that the discussions with the Appellant led to some reduction and scaling back of the proposal leading to a further reduction of the requested floor space index (FSI) variance from 0.74 times to 0.725 times the area of the lot, whereas 0.69 times is permitted. She further indicated that the second variance, for a parking space to be located in the front yard, remained unchanged as part of the application.

Mr. Bauer, the Appellant, provided a brief background with respect to his concerns with respect to the impact of the proposed rear addition and covered porch, on his property and that his appeal was to protect his interest regarding this concern.

The changes regarding the application included the reduction of the covered rear porch depth and its roof style changed to a flat roof and the reduction of the depth of the second storey with a sloped roof over the ground storey at the rear of the dwelling. The revised plans illustrating these changes were submitted to TLAB with the Minutes of Settlement and have been included as **Attachment 2** to this Decision.

The presiding TLAB Member indicated that typically only the building elevations along with a site plan would be included in an approval, however, due to the plan changes that focused on the rear of the dwelling and the cover porch roof style, floor plans would also be included. It was suggested that should floor plans need to be screened, the Owners could submit revised drawings. These drawings were received by the TLAB on September 14, 2021.

ANALYSIS, FINDINGS, REASONS

Having heard from both the Owners counsel and the Appellant, the presiding TLAB Member is satisfied that the revised variances, together with the proposed

conditions of the Minutes of Settlement, meet the applicable provincial policies and the “four tests” as set out in Section 45(1) of the Planning Act.

With respect to the variance for FSI, I find that the reduction in the variance arrived at in the course of settlement discussions to be minor and, therefore, no further notice is required under s. 45 (18 1.1) of the *Planning Act* it is an improvement to the variance previously approved. The second variance sought to permit a parking space in the front yard is an existing condition that I noticed during my site visit and noted that this was a common condition for similar properties found along Hudson Drive.

For the reasons above recited, I find that the general intent and purpose of both the Official Plan and the Zoning By-law are maintained, that the proposed variances associated with the building addition are appropriate for the development of the land, and that variances sought are minor in nature both individually and cumulatively.

DECISION AND ORDER

The TLAB allows the appeal in part. The variances and the conditions set out in **Attachment 1** to this decision, are approved.

The proposed development shall be constructed substantially in accordance with the site plan, plans, and building elevations, dated July 22, 2021, and found in **Attachment 2** to this Decision. Any variance(s) that may appear on these plans but are not listed in the written decision are NOT authorized.

X



John Tassiopoulos
Panel Chair, Toronto Local Appeal Body

25 Hudson Drive, City of Toronto

REVISED VARIANCE LIST

1. **Chapter 900.3.10. Exception (1430)(B), By-law 569-2013**

The maximum permitted floor space index of a detached dwelling is 0.69 times the area of the lot (343.5 m²).

The proposed floor space index is **0.725** times the area of the lot (**359.4 m²**).

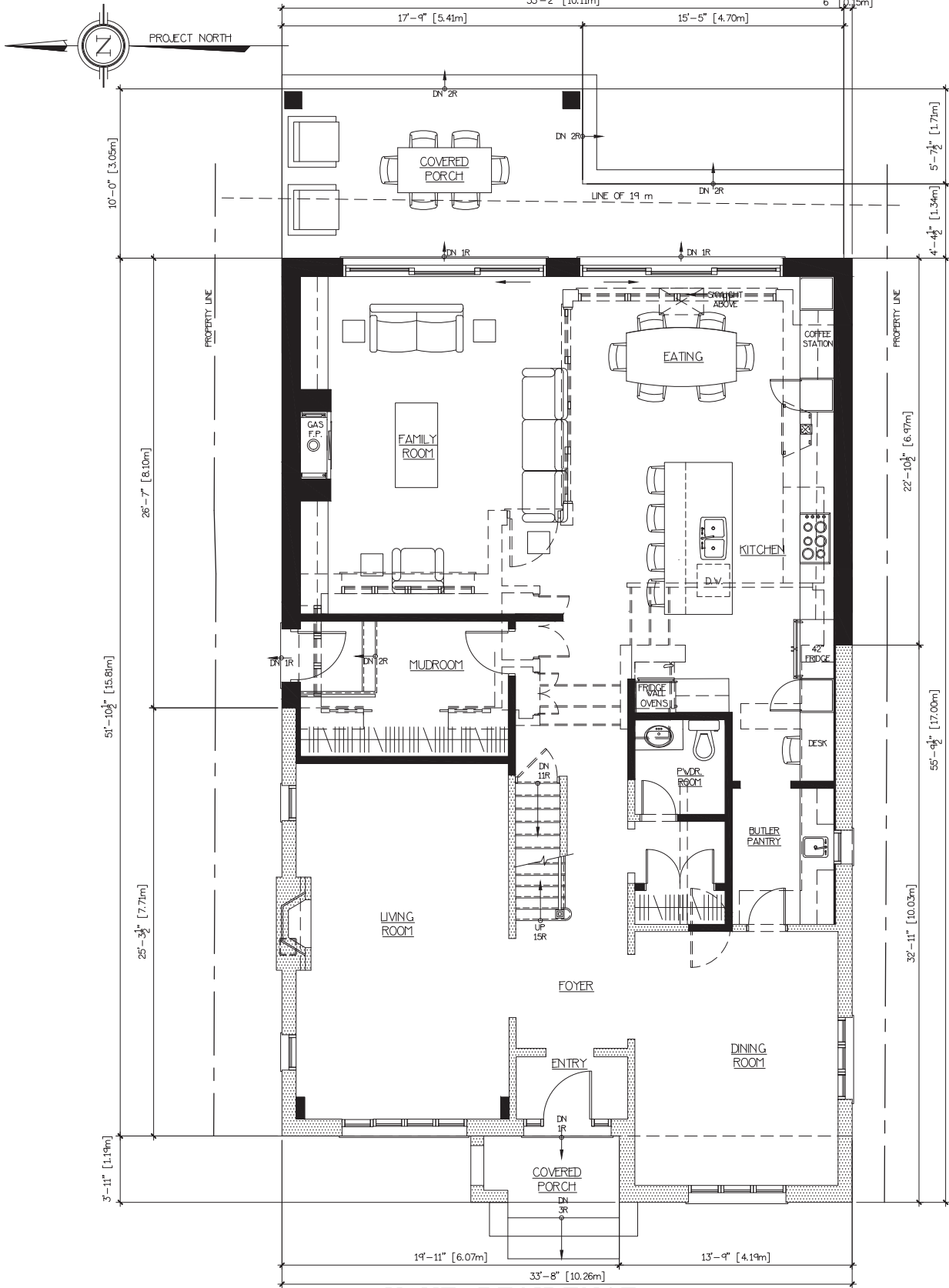
2. **Chapter 10.5.80.10.(3), By-law 569-2013**

A parking space may not be located in a front yard or a side yard abutting a street.

The parking space will be located in the front yard.

CONDITIONS:

3. The Applicants and the Neighbour will jointly request that the TLAB impose, pursuant to s. 45(9) of the *Planning Act*, the following conditions of approval:
 - a) The approved floor space index variance is conditional upon the property being developed in accordance with the revised plans in **Attachment 2** of this Decision.
 - b) Subject to minor departures that do not impact on (i.e. increase) the scope of the project, the addition will be in accordance with the following:
 - i) the east exterior wall of the second floor addition shall be set back not less than 1.525 metres (5 feet) from the east exterior wall of the first floor addition;
 - ii) the floor space of the rear covered porch shall not exceed 16.5 square metres (177.50 square feet); and
 - iii) the height of the roof over the covered porch shall not exceed 3.2 metres (10.5 feet above grade).
 - c) The Owners agree that when they or their agent make an application for a building permit relating to the Proposed Addition, it will be in accordance with the plans in **Attachment 2**.



PROPOSED GROUND FLOOR PLAN

OCTOBER 29, 2019
 NOVEMBER 18, 2019
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE

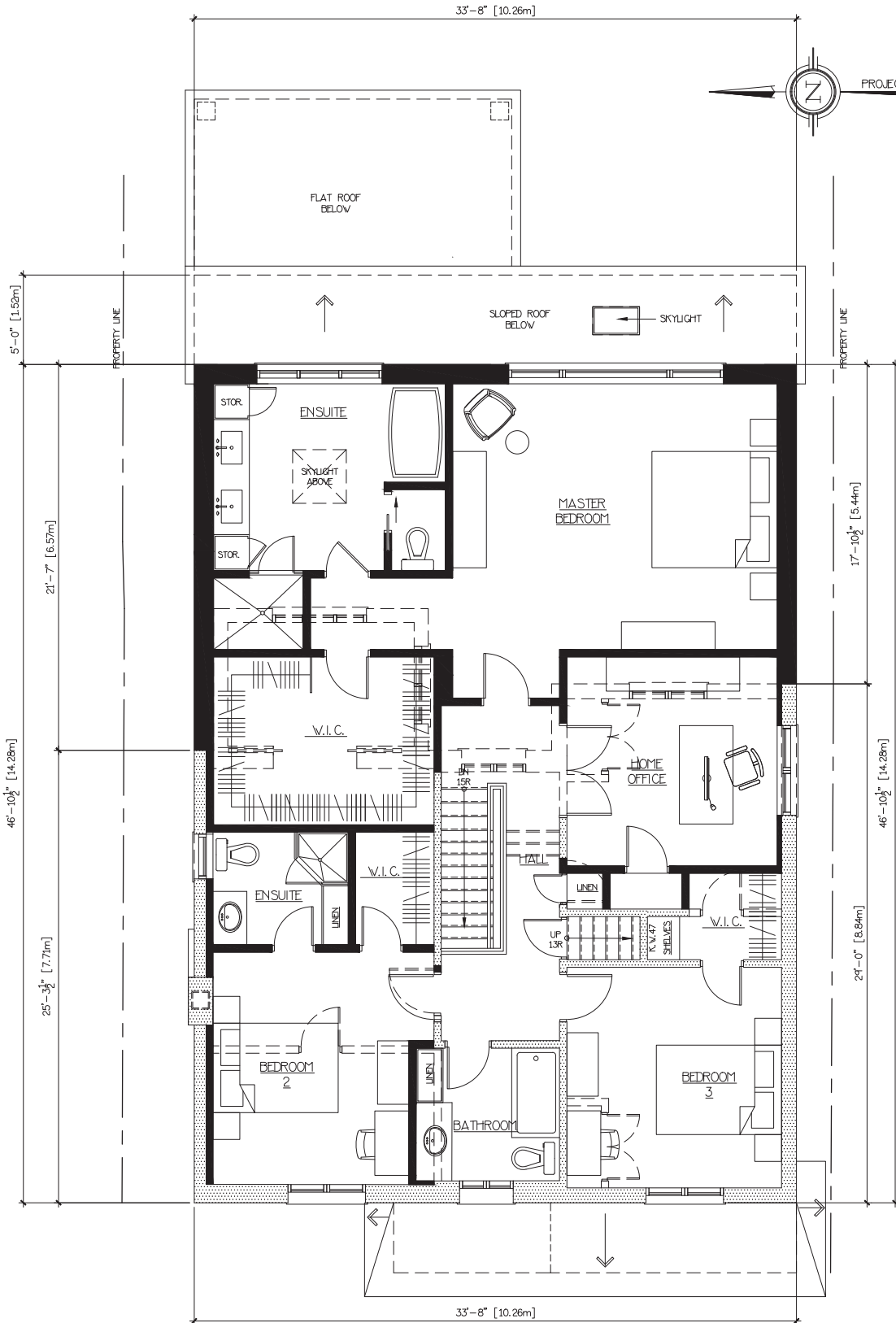
TORONTO ONTARIO

SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

1/4"=1'-0"



PROPOSED SECOND FLOOR PLAN

OCTOBER 29, 2019
 NOVEMBER 18, 2019
 APRIL 10, 2020
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE

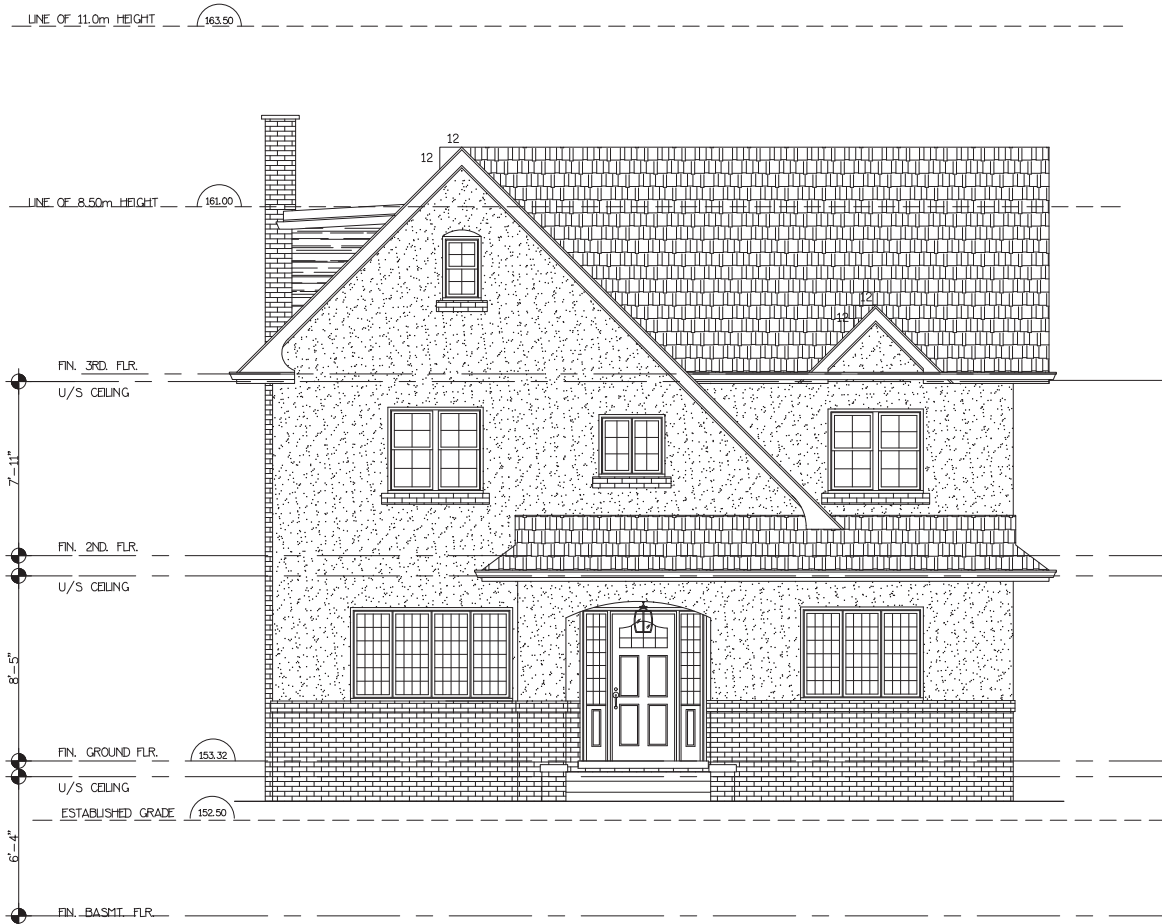
TORONTO ONTARIO

SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

1/4"=1'-0"



EXISTING WEST ELEVATION

AUGUST 28, 2019
 NOVEMBER 18, 2019
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE

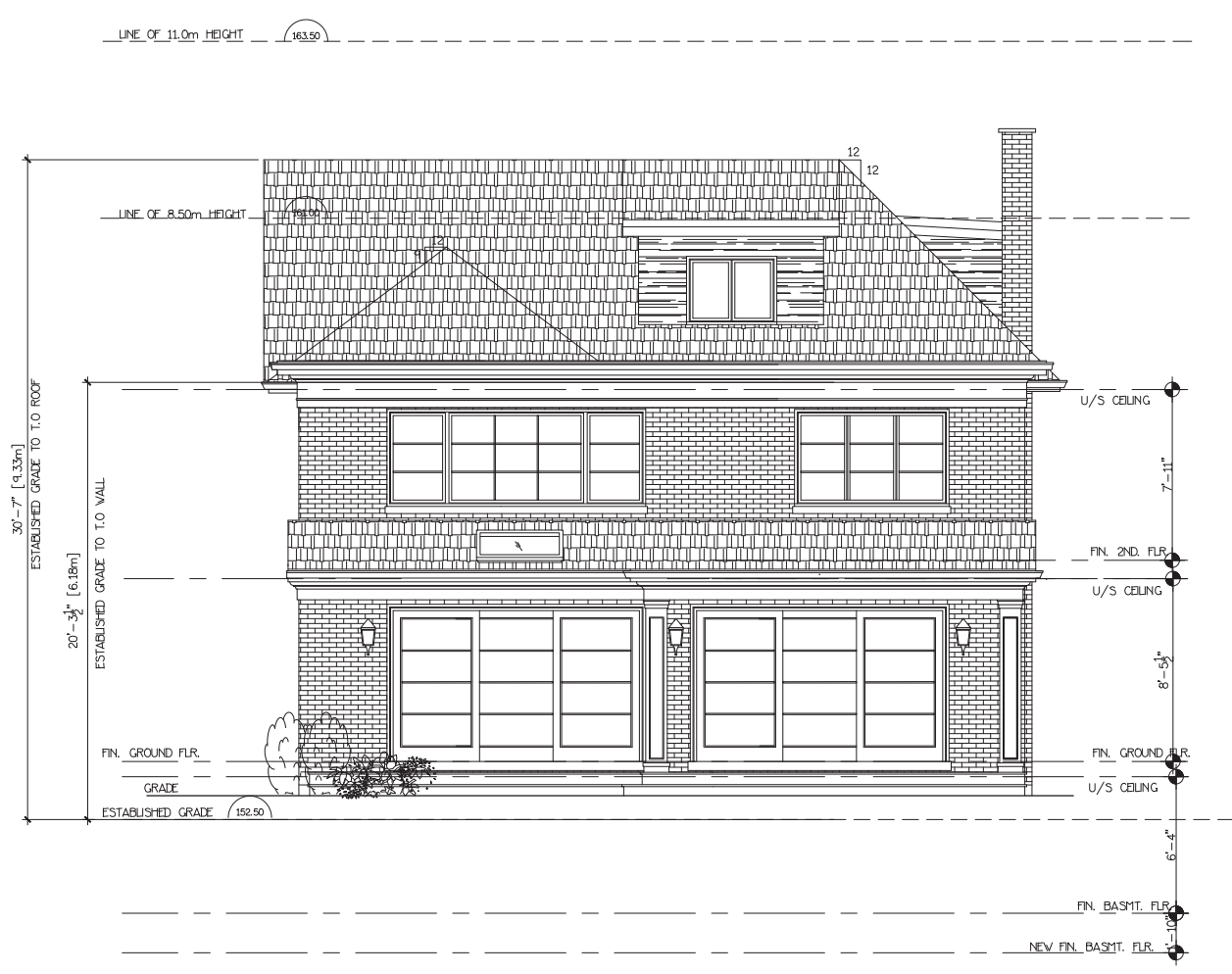
TORONTO ONTARIO

SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

1/4"=1'-0"



PROPOSED EAST ELEVATION

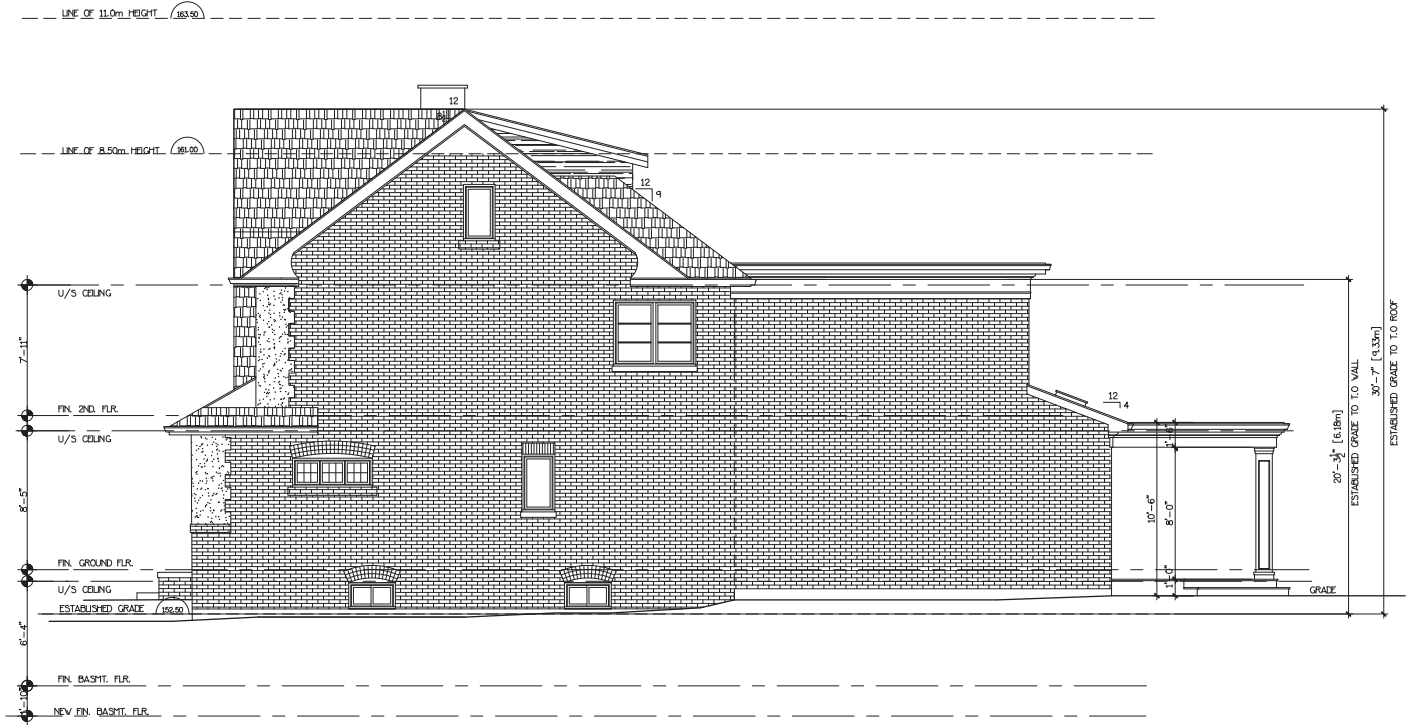
OCTOBER 29, 2019
 NOVEMBER 18, 2019
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE
 TORONTO ONTARIO
 SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

1/4"=1'-0"



PROPOSED SOUTH ELEVATION

AUGUST 28, 2019
 NOVEMBER 18, 2019
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE

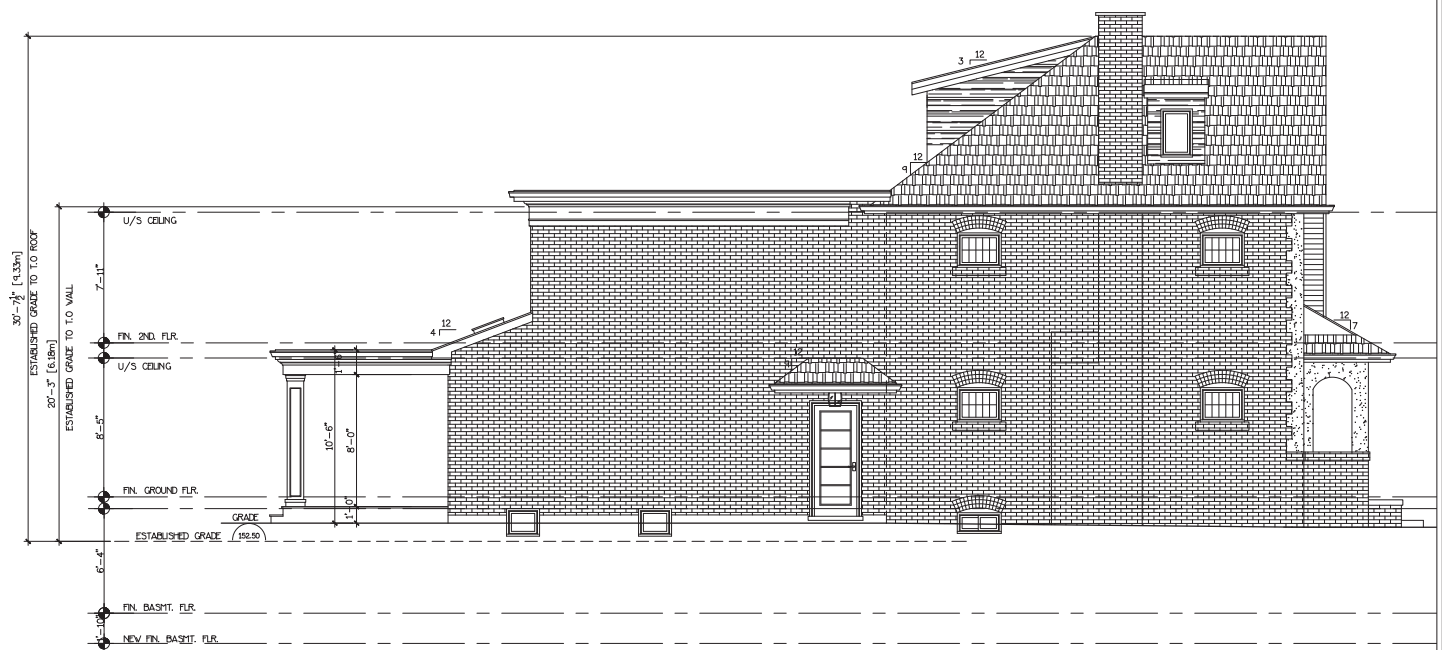
TORONTO ONTARIO

SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

3/16"=1'-0"



PROPOSED NORTH ELEVATION

AUGUST 28, 2019
 NOVEMBER 18, 2019
 JUNE 3, 2020
 JULY 7, 2020
 JULY 22, 2021

KAYE RESIDENCE
 25 HUDSON DRIVE

TORONTO ONTARIO

SPRAGGE + COMPANY
 ARCHITECTS LTD.

156 DUNCAN MILL ROAD
 TORONTO, ONTARIO

19-2125

3/16"=1'-0"