

DECISION AND ORDER

Decision Issue Date Friday, September 03, 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): BASIRAT MEHRABAN

Applicant(s): PMP DESIGN GROUP

Property Address/Description: 18 STANDISH AVE

Committee of Adjustment File

Number(s): 20 108231 STE 11 MV

TLAB Case File Number(s): 20 203408 S45 11 TLAB

Hearing date: March 31, 2021

DECISION DELIVERED BY SHAHEYNOOR TALUKDER

APPEARANCES

Name	Role	Representative
PMP Design Group	Applicant	
Basirat Mehraban	Owner/Appellant	Christina Kapelos
Hossein Ansari Shourijah	Primary Owner	
City of Toronto	Party	Adrienne deBacker
David Reed	Party	
Fern Rubinstein	Party	
Jane Shapiro	Party	
Simon Lockie	Participant	
David Pitfield	Participant	

Decision of Toronto Local Appeal Body Panel Member: S. TALUKDER
TLAB Case File Number: 20 203408 S45 11 TLAB

Name	Role	Representative
Catherine Bongard	Participant	

INTRODUCTION

1. This is an appeal by the Owners, Basirat Mehraban (Appellant) and Hossein Ansari Shourijah. They appealed the decision of the Committee of Adjustment denying the approval of variances to construct a new two-storey detached house with an integral garage, a rear basement walkout and a rear ground floor deck on 18 Standish Avenue (Subject Property). The matter is now before the TLAB.
2. The Appellant and the City of Toronto entered into a settlement, the terms of which were approved by the other parties. The Appellant submitted a revised proposal with revised variances and plans pursuant to the settlement with the City.
3. The matter proceeded as a Settlement Hearing on March 31, 2021.

MATTERS IN ISSUE

4. The Appellant requests the approval of amended variances as per the settlement with the City. These variances are the following (reproduced in Schedule A):
 - a. 10.5.40.60.(5)(B)(ii) - A chimney breast, on a building, may encroach into a required building setback a maximum of 0.6 metres, if it is no closer to a lot line than 0.3 metres. The proposed chimney breast is 0.05m from the north side lot line.
 - b. 10.5.40.60.(7) - Roof eaves may project a maximum of 0.9 metres provided that they are no closer than 0.30 metres to a lot line. The proposed north side eaves are 0.15 metres from the north side lot line.
 - c. 10.10.40.10.(2)(A)(i)(ii) - The permitted maximum height of all front and rear exterior main walls is 7.5 metres. The proposed height of the front and rear exterior main walls is 8.87 metres
 - d. 10.10.40.30.(1)(A) - The permitted maximum building depth for a detached house is 17.0 metres. The proposed building depth of the first storey is 18 metres. The second storey is 17.0m.
 - e. 10.10.40.40.(1)(A) - The permitted maximum floor space index is 0.6 times the area of the lot: 227.42 square metres. The proposed floor space index is 0.69 times the area of the lot (259.27 sq.m.).
5. The proposed conditions associated with the approval of these variances are the following (reproduced in Schedule B):

Decision of Toronto Local Appeal Body Panel Member: S. TALUKDER
TLAB Case File Number: 20 203408 S45 11 TLAB

1. The applicant shall construct the proposed dwelling substantially in accordance with the Site Plan and Elevations prepared by PMP Design Group and dated March 31, 2021 (the "Revised Plans", Schedule C of the Decision) but that any variances or relief that may appear on these plans but are not listed in the updated variances, as presented to TLAB, shall not be authorized.
2. There shall be no above grade or second storey platforms, sun decks, porches, deck, or balconies and the platform areas and exterior stairs thereon other than the deck at grade in the rear yard shown on the Revised Plans. Solid opaque privacy screening shall be constructed and maintained with opaque privacy screens of at least 1.5m in height on the south and north elevations of the rear deck at the level of the finished first floor;
3. Any air conditioner/HVAC unit to be installed will be located on the roof or in the south side yard of the proposed dwelling between the rear and front walls.
4. Prior to the issuance of a building permit, submission of a complete application for a permit to injure or remove City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees, Article II Trees on City Streets.
5. Prior to the issuance of a building permit, submission of a complete application for a permit to injure or remove privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees, Article III, Private Tree Protection.
6. Following completion of construction, the Applicant agrees to replace the two existing unregulated trees situated in the front yard of the property with trees of a similar size, species and variety, provided that the replanting of the subject two trees can be accommodated on site, and in consultation with Urban Forestry, if required.
7. The driveway shall be constructed with permeable pavers.
6. The Owners had agreed to the addition of Conditions # 6 and #7 at my request at the Hearing.
7. The site plans and elevations for this revised proposal were submitted earlier but required inclusion of additional notations. The modified version, with the additional notations, was submitted by the Applicant's counsel on the day of the hearing and is reproduced as Schedule C in this decision.
8. At issue is whether the TLAB should approve the variances and associated conditions. While the TLAB strongly encourages settlement hearings, the approval of the variances and any conditions arising out of a settlement must still satisfy the statutory tests for variances.

JURISDICTION

Provincial Policy – S. 3

9. 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)

10. 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


11. Mr. TJ Cieciora, 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. The other parties had the opportunity to speak at the hearing but none testified at the settlement hearing.
12. Section 45(18.1.1) of the *Planning Act* allows me to find that no notice is required when a change in plans is submitted to TLAB if I find that the change is a minor one. I find that the modification in this case is minor, as the change has resulted in the elimination of four variances decreasing the number of variances requested from nine to five. These five variances are also revised downwards than those previously before the COA.
13. Mr. Cieciora's evidence was detailed. The Subject Property is located south of Moore Avenue and west of Bayview Avenue. His evidence was not contradicted by any parties. I accept his evidence on all relevant matters. I am satisfied that based on his evidence and his witness statement, the variances should be approved subject to the proposed conditions.
14. The Applicant has made suitable changes to the proposed building. The second floor at the rear of the building has been stepped back such that the proposed depth of 18m relates only to the first floor and the second floor is by-law compliant. Mr. Cieciora noted that the roof eaves on the north side requires a variance. However, the roof eaves will not overlap with the neighbour's roof eaves and there is sufficient space between the two buildings as there is a right of way providing an additional 0.61m of separation and access for the owners of 18 Standish Avenue over the property at 22 Standish Avenue. With respect to the FSI variance, the FSI relates to an area of 31 m² larger than what is permitted by the zoning by-law. There are examples of houses with similar FSI in the neighbourhood. In addition, no protected trees will be removed and the Appellant has agreed to plant more trees if permissible (see condition #6).

Decision of Toronto Local Appeal Body Panel Member: S. TALUKDER
TLAB Case File Number: 20 203408 S45 11 TLAB

15. I conclude 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.

X 

Shaheynoor Talukder
Panel Chair, Toronto Local Appeal Body

Schedule A

Revised Variances

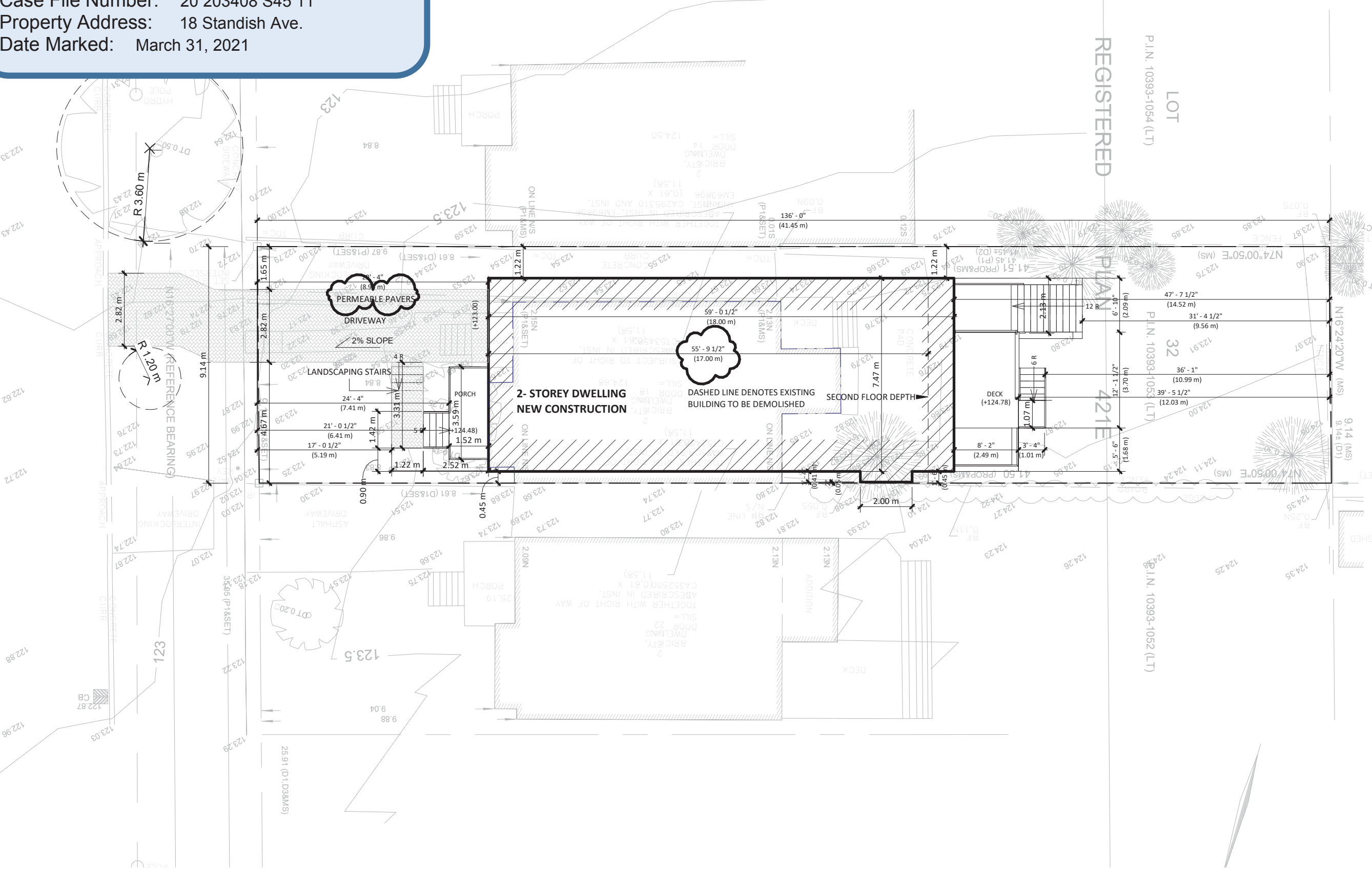
1. 10.5.40.60.(5)(B)(ii) - A chimney breast, on a building, may encroach into a required building setback a maximum of 0.6 metres, if it is no closer to a lot line than 0.3 metres. The proposed chimney breast is 0.05m from the north side lot line.
2. 10.5.40.60.(7) - Roof eaves may project a maximum of 0.9 metres provided that they are no closer than 0.30 metres to a lot line. The proposed north side eaves are 0.15 metres from the north side lot line.
3. 10.10.40.10.(2)(A)(i)(ii) - The permitted maximum height of all front and rear exterior main walls is 7.5 metres. The proposed height of the front and rear exterior main walls is 8.87 metres
4. 10.10.40.30.(1)(A) - The permitted maximum building depth for a detached house is 17.0 metres. The proposed building depth of the first storey is 18 metres. The second storey is 17.0m.
5. 10.10.40.40.(1)(A) - The permitted maximum floor space index is 0.6 times the area of the lot: 227.42 square metres. The proposed floor space index is 0.69 times the area of the lot (259.27 sq.m.).

Schedule B
Conditions

1. The applicant shall construct the proposed dwelling substantially in accordance with the Site Plan and Elevations prepared by PMP Design Group and dated March 31, 2021 (the "Revised Plans", Schedule C of the Decision) but that any variances or relief that may appear on these plans but are not listed in the updated variances, as presented to TLAB, shall not be authorized.
2. There shall be no above grade or second storey platforms, sun decks, porches, deck, or balconies and the platform areas and exterior stairs thereon other than the deck at grade in the rear yard shown on the Revised Plans. Solid opaque privacy screening shall be constructed and maintained with opaque privacy screens of at least 1.5m in height on the south and north elevations of the rear deck at the level of the finished first floor;
3. Any air conditioner/HVAC unit to be installed will be located on the roof or in the south side yard of the proposed dwelling between the rear and front walls.
4. Prior to the issuance of a building permit, submission of a complete application for a permit to injure or remove City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees, Article II Trees on City Streets.
5. Prior to the issuance of a building permit, submission of a complete application for a permit to injure or remove privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees, Article III, Private Tree Protection.
6. Following completion of construction, the Applicant agrees to replace the two existing unregulated trees situated in the front yard of the property with trees of a similar size, species and variety, provided that the replanting of the subject two trees can be accommodated on site, and in consultation with Urban Forestry, if required.
7. The driveway shall be constructed with permeable pavers.

EXHIBIT

Case File Number: 20 203408 S45 11
Property Address: 18 Standish Ave.
Date Marked: March 31, 2021



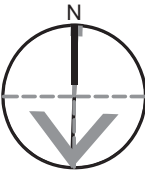
5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

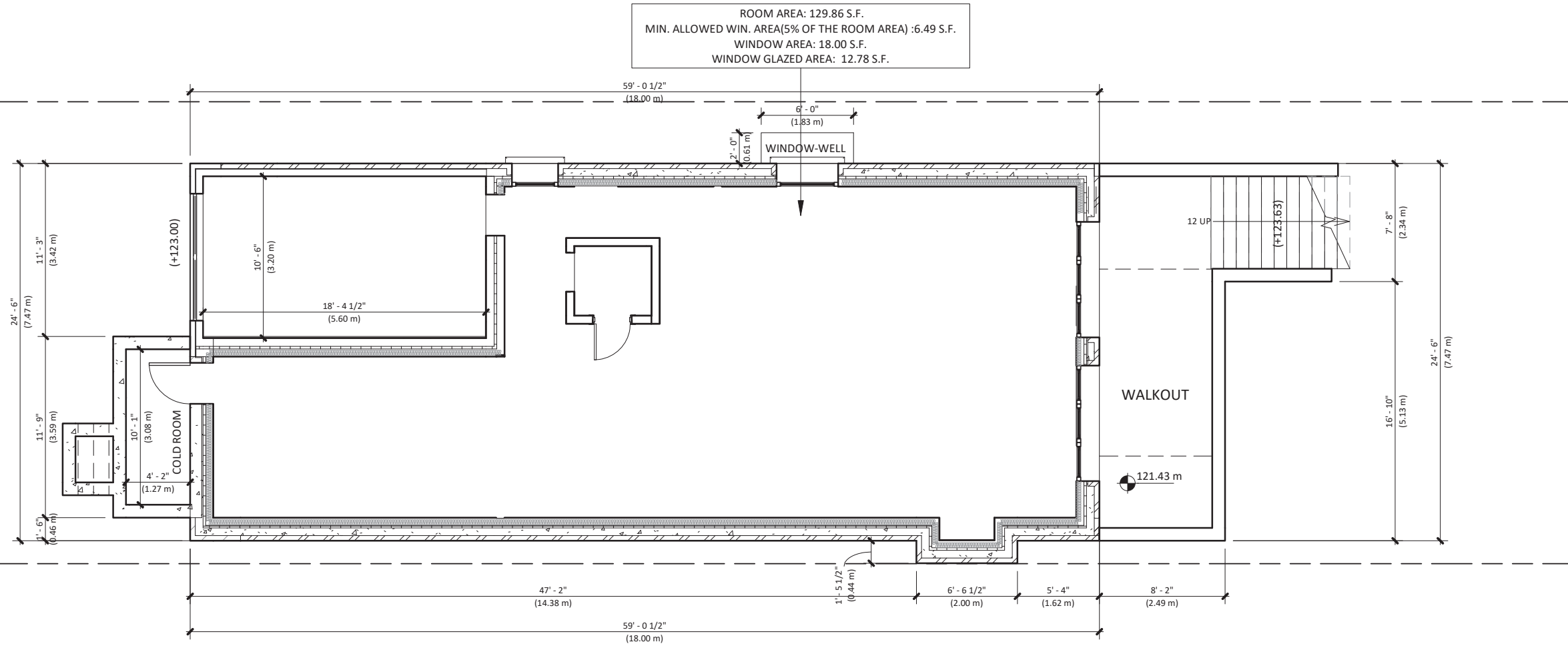
TORONTO, ONTARIO



DRAWING

SITE PLAN

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
DRAWN BY YZ	
CHECKED BY MH	
SCALE 1: 150	
DRAWING NO. A-1	REV. 5



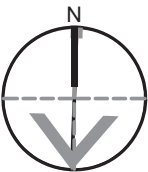
5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

TORONTO, ONTARIO



DRAWING

BASEMENT PLAN

SHEET ISSUE DATE 22/10/19	PROJECT # 19102218
------------------------------	-----------------------

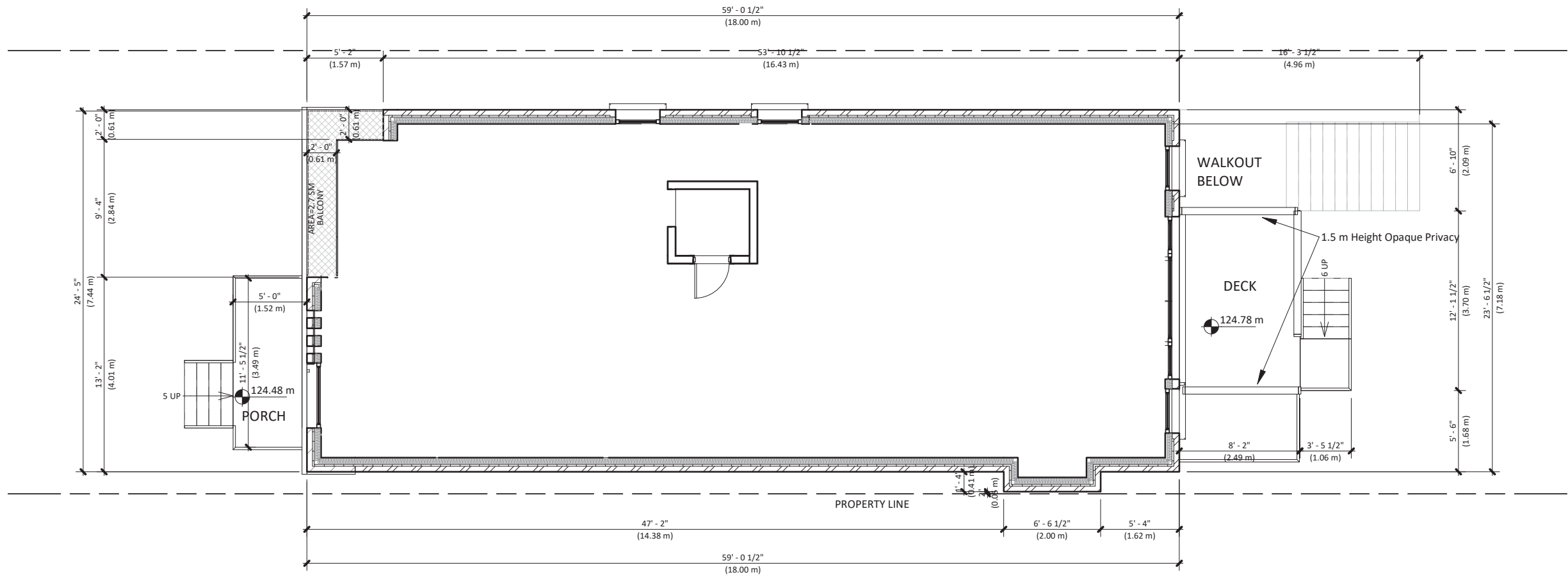
DRAWN BY
NM

CHECKED BY
MH

SCALE
1:100

DRAWING NO.
A-2

REV.
5



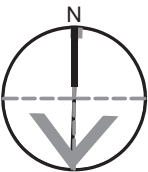
5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

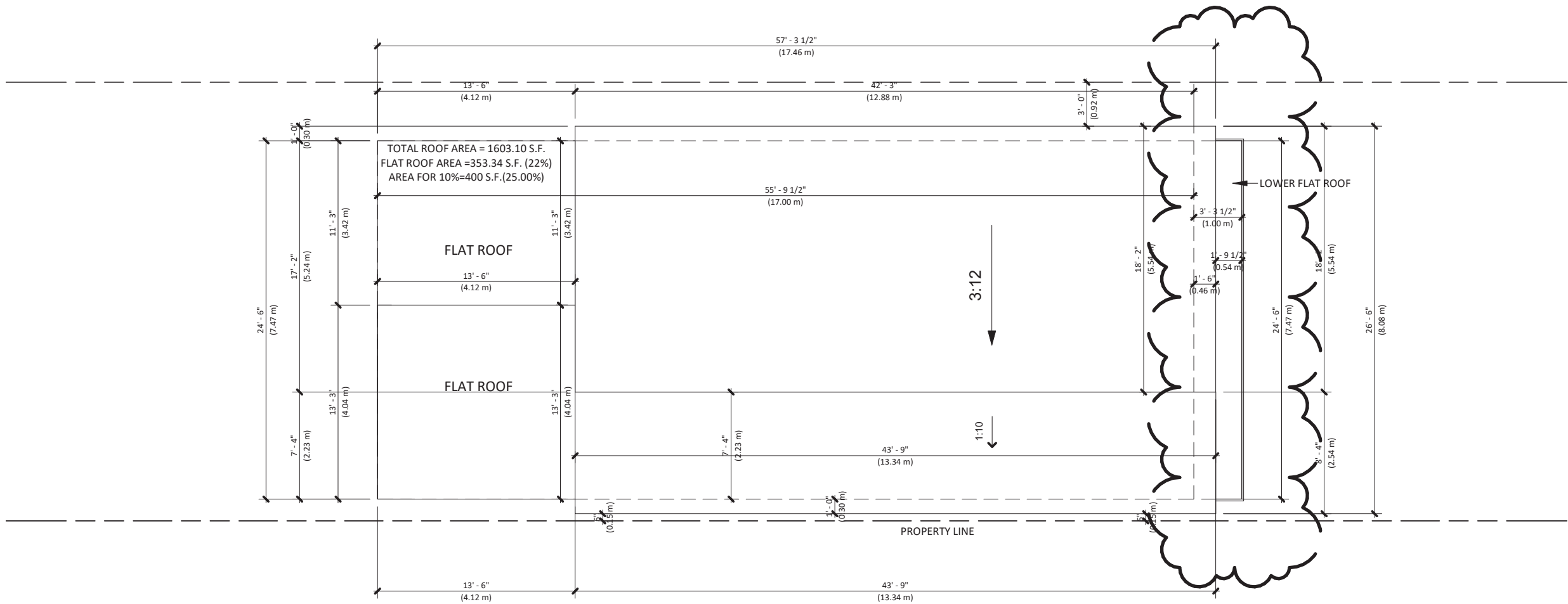
TORONTO, ONTARIO



DRAWING

FIRST FLOOR PLAN

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
DRAWN BY YZ	
CHECKED BY MH	
SCALE 1:100	
DRAWING NO. A-3	REV. 5



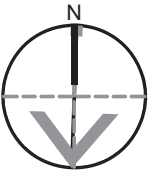
5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

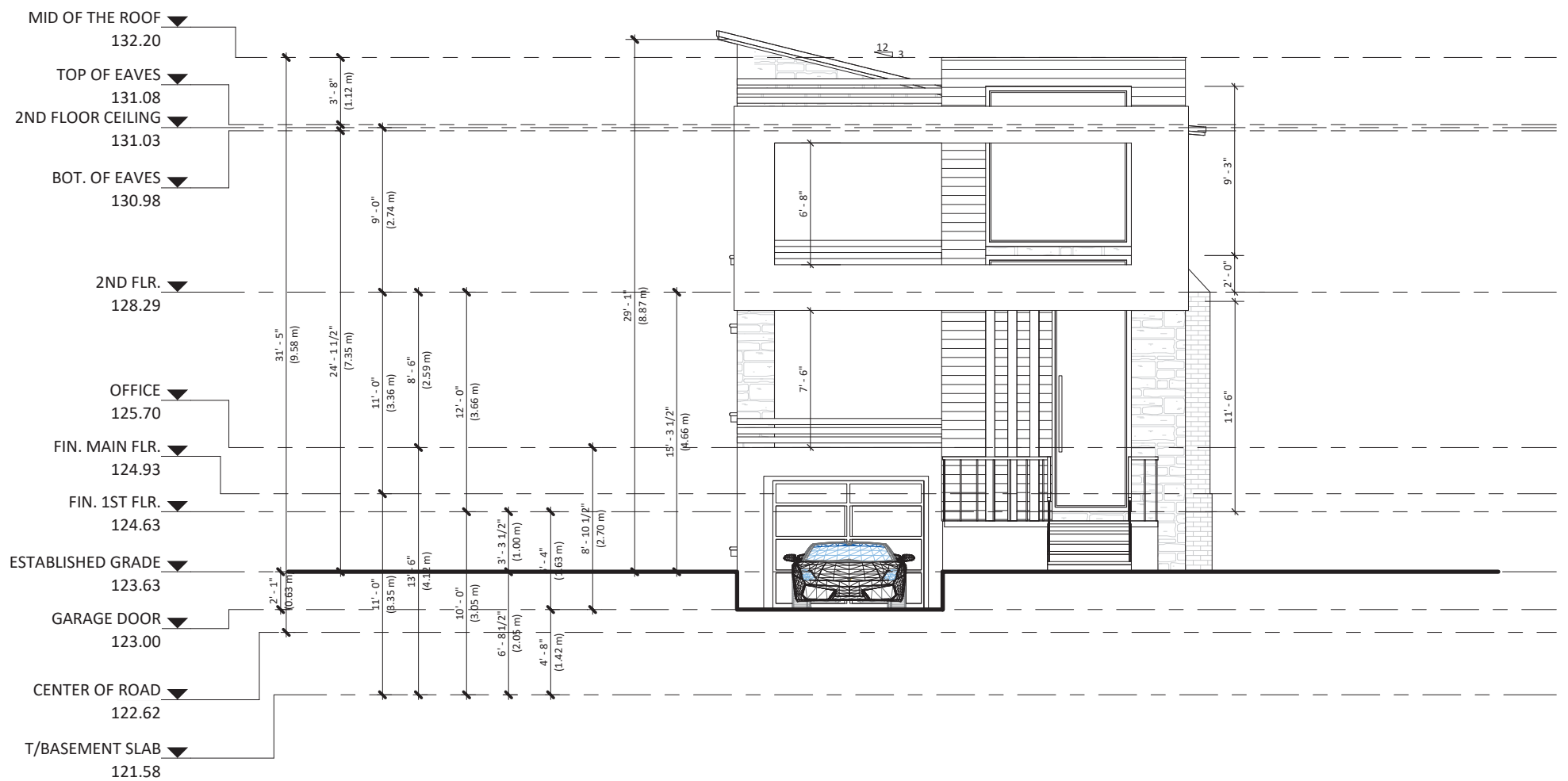
TORONTO, ONTARIO



DRAWING

ROOF PLAN

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
DRAWN BY NM	
CHECKED BY MH	
SCALE 1:100	
DRAWING NO. A-5	REV. 5



5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

TORONTO, ONTARIO

DRAWING

FRONT (EAST) ELEVATION

SHEET ISSUE DATE 11/05/19	PROJECT # 19102218
------------------------------	-----------------------

DRAWN BY
YZ

CHECKED BY
MH

SCALE
1:100

DRAWING NO.
A-6

REV.
5



5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

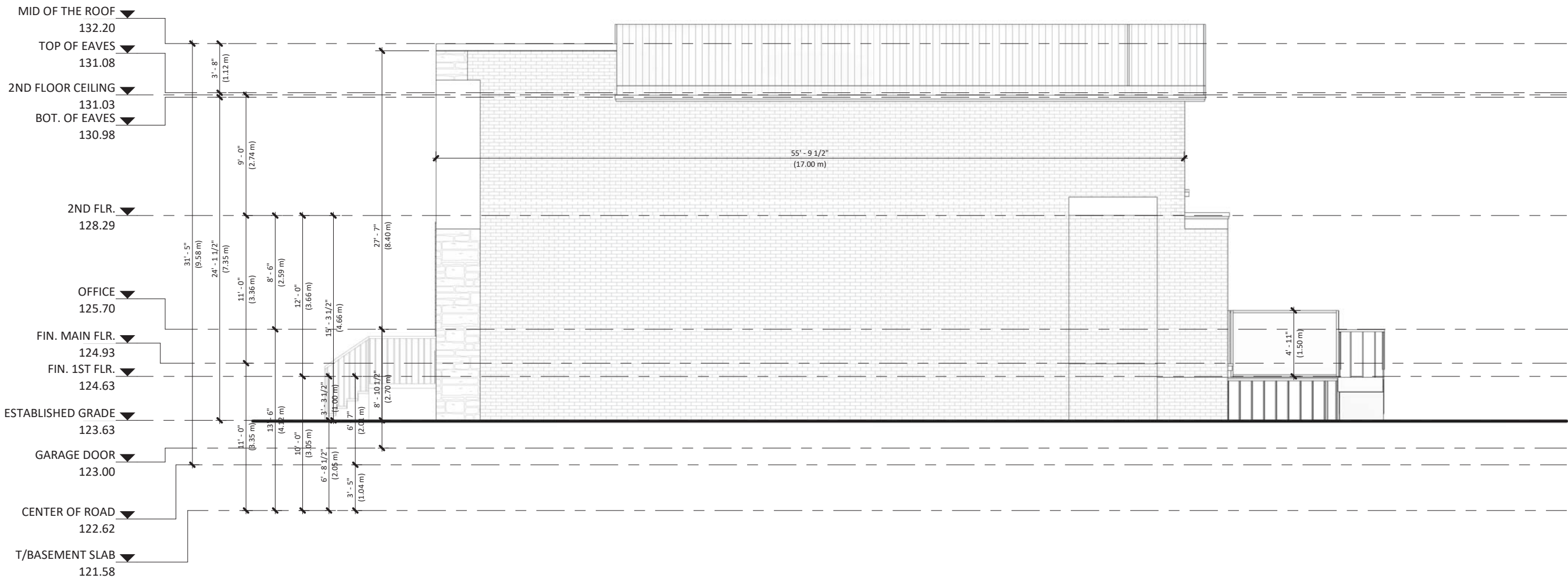
18 STANDISH AVE.

TORONTO, ONTARIO

DRAWING

REAR (WEST) ELEVATION

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
DRAWN BY YZ	
CHECKED BY MH	
SCALE 1:100	
DRAWING NO. A-7	REV. 5



5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

TORONTO, ONTARIO

DRAWING

NORTH SIDE ELEVATION

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
------------------------------	-----------------------

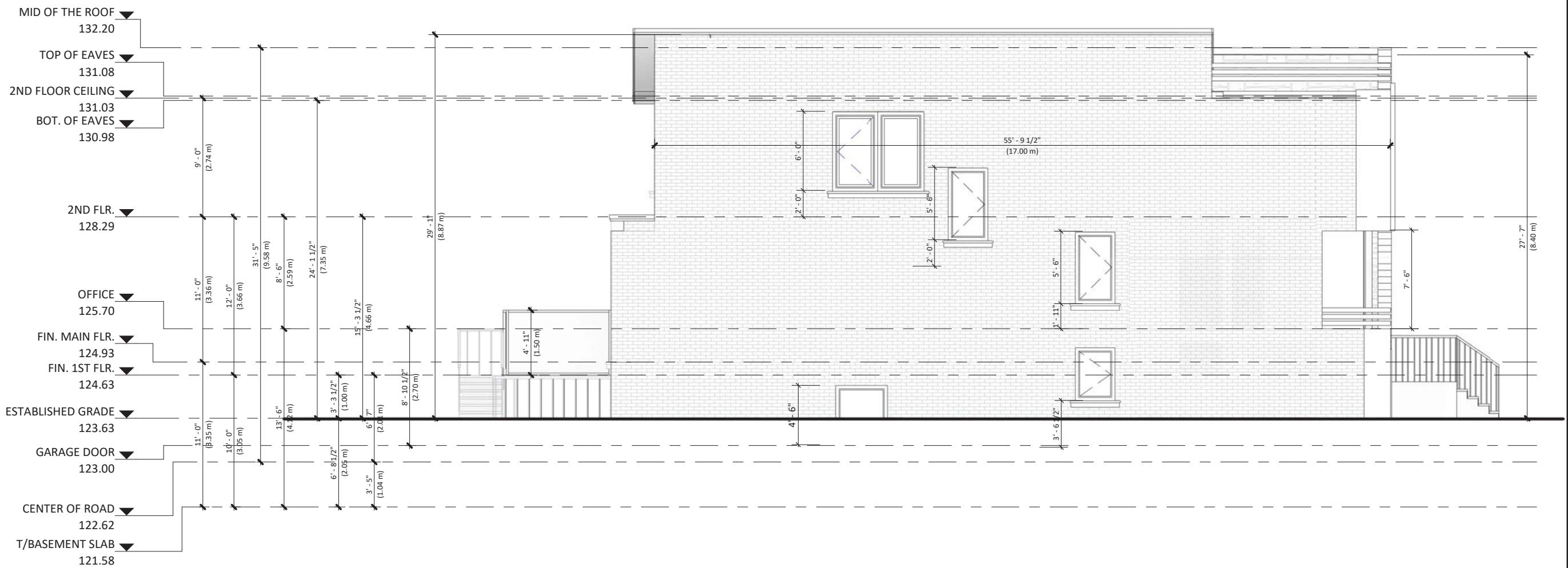
DRAWN BY
YZ

CHECKED BY
MH

SCALE
1:100

DRAWING NO.
A-8

REV.
5



5	2021-03-31	ISSUED FOR ZONING	NM
4	2021-03-30	ISSUED FOR ZONING	NM
1	2020-03-16	ISSUED FOR ZONING CERTIFICATE	NM
#	DATE	DESCRIPTION	BY



PROJECT

18 STANDISH AVE.

TORONTO, ONTARIO

DRAWING

SOUTH SIDE ELEVATION

SHEET ISSUE DATE 11/05/18	PROJECT # 19102218
DRAWN BY YZ	
CHECKED BY MH	
SCALE 1:100	
DRAWING NO. A-9	REV. 5