

DECISION AND ORDER

Decision Issue Date: Thursday, May 5, 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): PAUL FAYKISS

Applicant(s): JOHN BOONE ARCHITECT

Property Address/Description: 16 FERNDAL AVE

Committee of Adjustment File

Number(s): 21 152144 STE 12 MV (A0609/21TEY)

TLAB Case File Number(s): 21 240266 S45 12 TLAB

Hearing date: April 11, 2022

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY TLAB Panel Member S. Makuch

REGISTERED PARTIES AND PARTICIPANT

Appellant	PAUL FAYKISS
Applicant	JOHN BOONE ARCHITECT
Party (TLAB)	CITY OF TORONTO
Party (TLAB)	JOHN LEGGE
Party's Legal Rep.	LAURA BISSET
Party's Legal Rep.	JESSICA JAKUBOWSKI
Expert Witness	ADRIAN LITAVSKI

INTRODUCTION

This is an appeal, by the applicant, of variances to permit the construction of a two-story ancillary building for use as a residential laneway suite in the rear yard of property abutting a lane. Six variances were refused by the Committee of Adjustment; on this appeal one variance was eliminated and another slightly altered. The variances now being sought before TLAB are listed in Appendix 1 to this decision, and the relevant plans are attached in Appendix 2.

BACKGROUND

The City appeared at the hearing of the appeal and stated that a settlement had been reached with the applicant/appellant and agreed no new notice was required of the hearing as the amendments to the variances were minor. A representative of FONTRA (Federation of North Toronto Residents Association) attended as an observer. The applicant/appellant was represented by an architect and a planner.

MATTERS IN ISSUE

There were no matters in issue at the hearing.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 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

The evidence in favour of the appeal was provided by John Boone, architect, and Adrian Litavski, planner. It was clear on that evidence and the witness statement of Mr. Litavski that the variances as modified met the four tests of the Planning Act and conformed with the relevant provincial policies. A two story laneway building used as a secondary residential suite respected and reinforced the character of the neighbourhood as required by the Official Plan and conformed with the requirements of the Yonge St. Clair Secondary Plan. It would create: no adverse impact; no privacy issues; and would have adequate amenity space in the rear yard. The proposed juliet balcony would face the lane and there are to be no windows on the sides adjacent to neighbouring properties to the north and south. As such they meet the four tests of the Planning Act and thus implemented provincial policy.

The elimination of one variance and the minor technical change to another of the distance between the ancillary building and the existing house from 6.63m to 6.91m do not require new notice as they are minor changes which have no discernable adverse impact.

ANALYSIS, FINDINGS, REASONS

I find that both Mr. Boone and Mr. Litavski are qualified to give opinion evidence in their respective fields and that their evidence is compelling. Therefore, I find the variances as amended do meet the four tests of the Planning Act and conform with the Growth Plan and the Provincial Policy Statement as the Official Plan implements those documents.

DECISION AND ORDER

The appeal is allowed and the variances set out in Appendix 1 are approved subject to the condition that construction will be in accordance with the plans set out in Appendix 2.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Chapter 150.8.50.10.(1)(B), By-law 569-2013

A minimum of 85% (52.35 m²) of the area between the rear main wall of the residential building and the front main wall of the ancillary building containing a laneway suite must be maintained as soft landscaping.

In this case, 52% will be maintained as soft landscaping.

2. Chapter 150.8.60.20.(2)(B), By-law 569-2013

The minimum required rear yard setback for a building containing a laneway suite is 1.5 m.

In this case, the cantilevered second floor of the ancillary building will be located 0.15 m from the rear (west) lot line and the juliet balcony will be located 0.03 m from the rear (west) lot line.

3. Chapter 150.8.60.30.(1)(B), By-law 569-2013

An ancillary building containing a laneway suite must be no less than 7.5 m from a residential building on the same lot if the height of the ancillary building is greater than 4 m.

In this case, the ancillary building containing a laneway suite will have a height of 6 m and will be located 6.91 m from the residential building on the lot.

4. Chapter 150.8.60.30.(2), By-law 569-2013

No part of an ancillary building containing a laneway suite may penetrate a 45 degree angular plane projected towards the rear lot line beginning from a height of 4 m at a distance of 7.5 m from rear main wall of the residential building.

In this case, the ancillary building containing a laneway suite will penetrate the 45 degree angular plane.

5. Chapter 150.8.60.40.(1)(A), By-law 569-2013

The maximum permitted maximum height of the laneway suite is 4 m if the ancillary building containing a laneway suite is located a minimum of 5 m to less than 7.5 m from the residential building on the lot.

In this case, the ancillary building containing a laneway suite will have a height of 6 m.

APPENDIX 2



VIEW 1 - EXISTING VIEW FROM LANE



VIEW 1 - PROPOSED LANEWAY SUITE

16 Ferndale Avenue

Laneway Suite
Zoning - R (d0.6)(x922)
Legal Description - Part of Lot 22, Plan 1422
Ward - Toronto-St. Paul's (12)

Lot Area - 3125 sf (952.50 sm)

First floor 532 sf (49.42 sm)
Second Floor 635 sf (58.99 sm)
Total Area (GFA) 1167 sf (108.41 sm)

Landscape Calculation for Rear Yard
Rear Yard Area 592.00 sf (55.00 sm)
Brick Paving 150.00 sf (13.94 sm)
Concrete Paving 28.00 sf (2.60 sm)
Deck 65.00 sf (6.04 sm)
Shed 23.00 sf (2.14 sm)
Soft Landscape 346.00 sf (30.29 sm)
Soft Landscape = 52 % of rear yard area

sf = square feet
sm = square metres

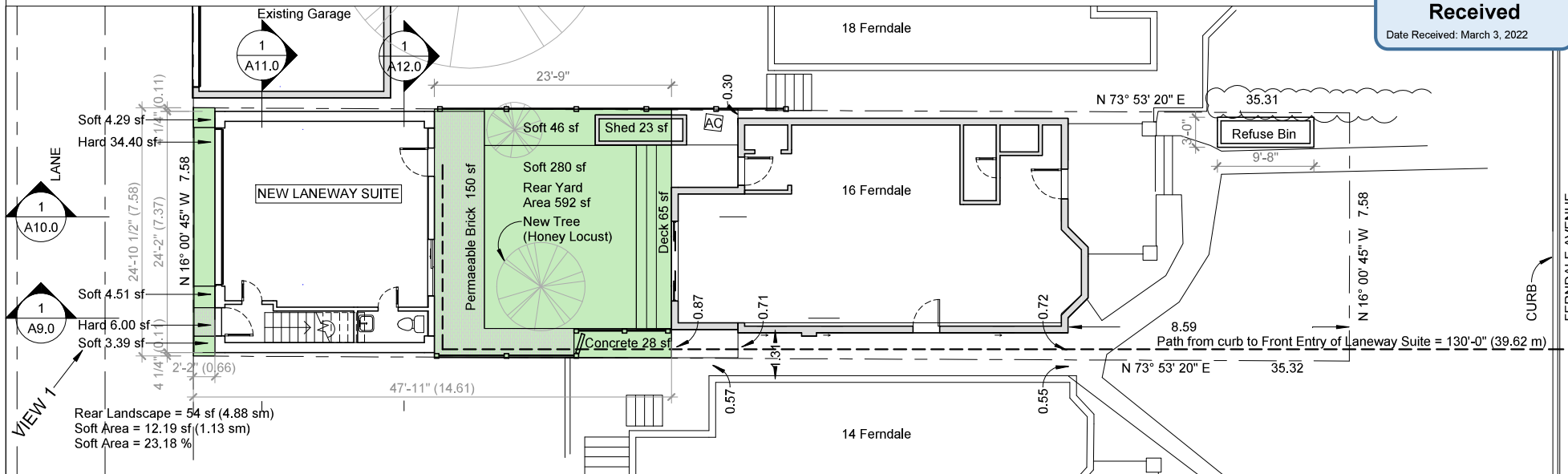
Drawing List

A1.0	Site Plan
A1.1	Site Survey
A1.2	Fire Routes
A2.0	Footings
A3.0	First Floor
A4.0	Second Floor
A5.0	West Elevation (Lane)
A6.0	East Elevation (Yard)
A7.0	North Elevation
A8.0	South Elevation
A9.0	Section A
A10.0	Section B
A11.0	Section C
A12.0	Section D
A13.0	First Floor Aerial View
A14.0	Second Floor Aerial View
A15.0	Site Aerial View
A16.0	Section Aerial View
A17.0	Section Aerial View

Toronto Local Appeal Body

Received

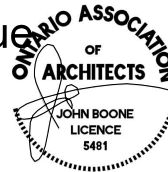
Date Received: March 3, 2022



No.	Description	Date
1	Project Start	Jan 15, 2021
2	Submitted for Zoning Review	Mar 31, 2021
3	Submitted to Committee of Adjustment	May 4, 2021
4	Submitted for Zoning Review	Mar 3, 2022

16 Ferndale Avenue

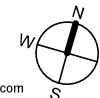
Toronto, Ontario



jba John Boone
ARCHITECT

51 Arundel Avenue, Toronto, Ontario, M4K 3A3
Tel: 416 469 3264 Email: johnboonearchitect@icloud.com

This drawing is the Property of John Boone Architect and may be used for this project only. Scale from drawings for reference only. Dimensions to be checked and verified by the contractor on site.

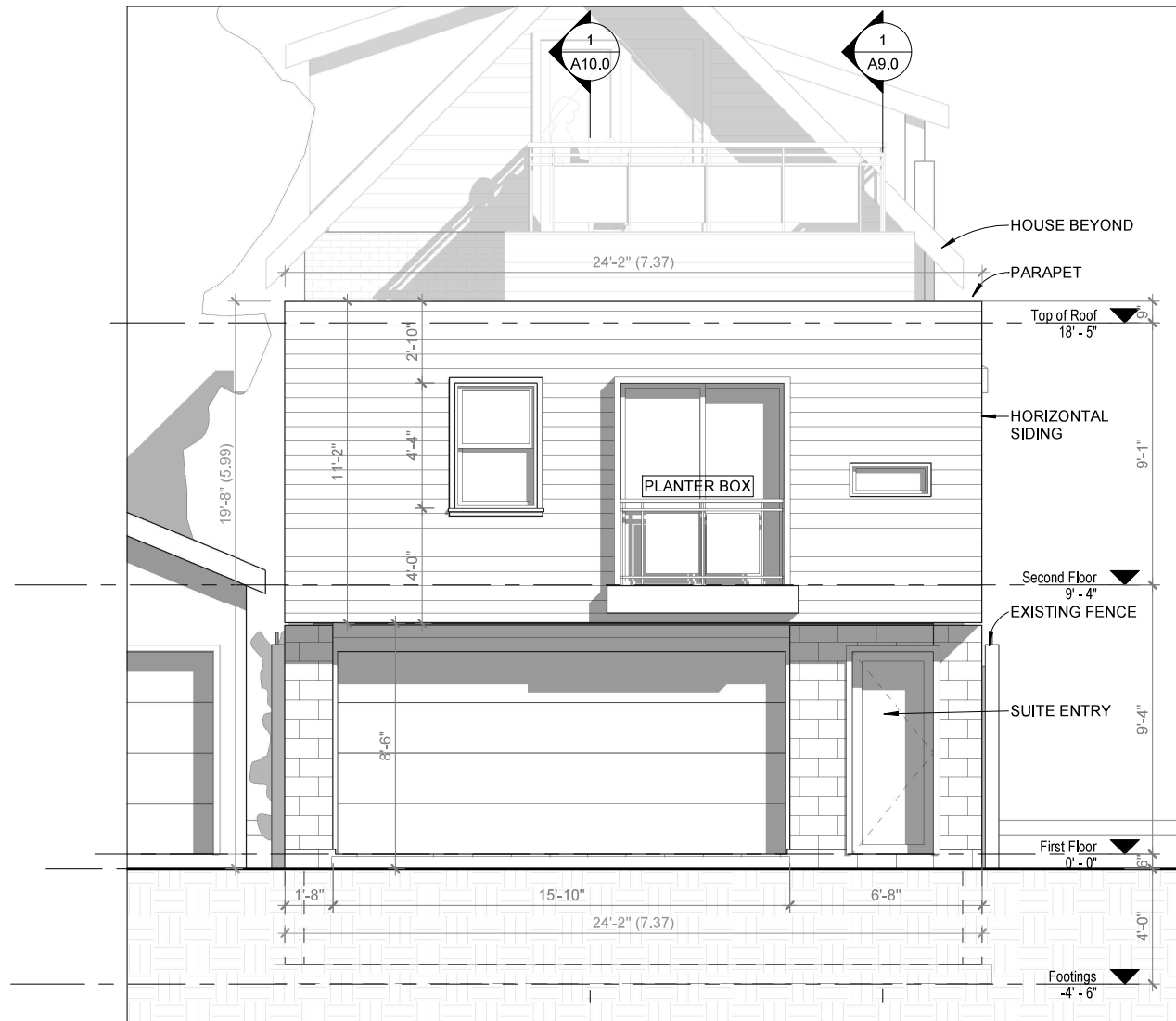


Site Plan

Project number	21A01
Date	March 25, 2022
Drawn by	JB
Checked by	JB

A1.0

Scale 1" = 10'-0"



No.	Description	Date
1	Project Start	Jan 15, 2021
2	Submitted for Zoning Review	Mar 31, 2021
3	Submitted to Committee of Adjustment	May 4, 2021
4	Submitted for Zoning Review	Mar 3, 2022

16 Ferndale Avenue

Toronto, Ontario



John Boone
ARCHITECT

51 Arundel Avenue, Toronto, Ontario, M4K 3A3
Tel: 416 469 3264 Email: johnboonearchitect@icloud.com

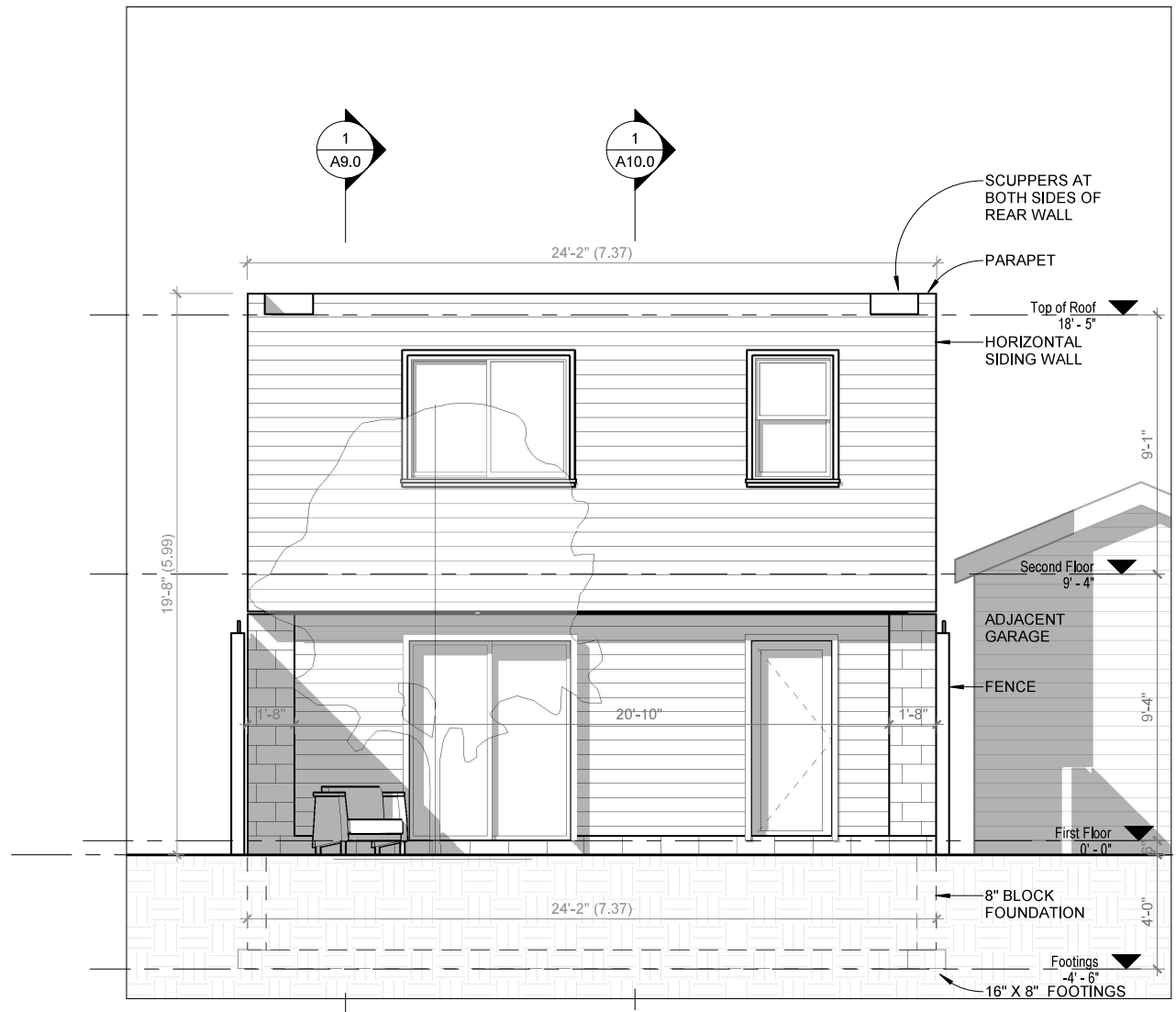
This drawing is the Property of John Boone Architect and may be used for this project only. Scale from drawings for reference only. Dimensions to be checked and verified by the contractor on site.

West Elevation (Lane)

Project number	21A01
Date	March 25, 2022
Drawn by	JB
Checked by	JB

A5.0

Scale 1/4" = 1'-0"



No.	Description	Date
1	Project Start	Jan 15, 2021
2	Submitted for Zoning Review	Mar 31, 2021
3	Submitted to Committee of Adjustment	May 4, 2021
4	Submitted for Zoning Review	Mar 3, 2022

16 Ferndale Avenue

Toronto, Ontario



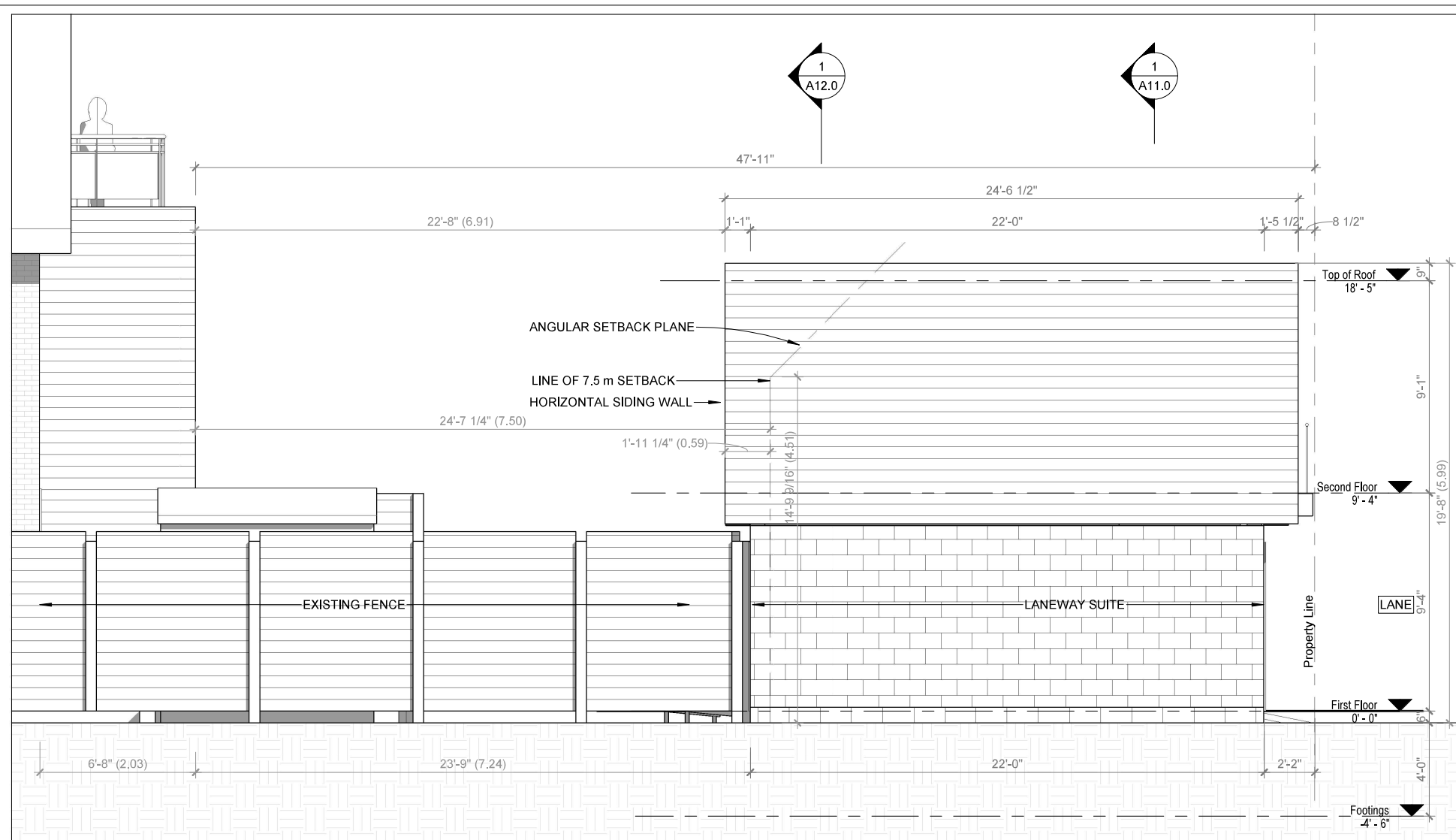
John Boone ARCHITECT

51 Arundel Avenue, Toronto, Ontario, M4K 3A3
Tel: 416 469 3264 Email: johnboonearchitect@icloud.com

This drawing is the Property of John Boone Architect and may be used for this project only. Scale from drawings for reference only. Dimensions to be checked and verified by the contractor on site.

East Elevation (Yard)

Project number	21A01	A6.0
Date	March 25, 2022	
Drawn by	JB	
Checked by	JB	
		Scale 1/4" = 1'-0"



No.	Description	Date
1	Project Start	Jan 15, 2021
2	Submitted for Zoning Review	Mar 31, 2021
3	Submitted to Committee of Adjustment	May 4, 2021
4	Submitted for Zoning Review	Mar 3, 2022

16 Ferndale Avenue

Toronto, Ontario



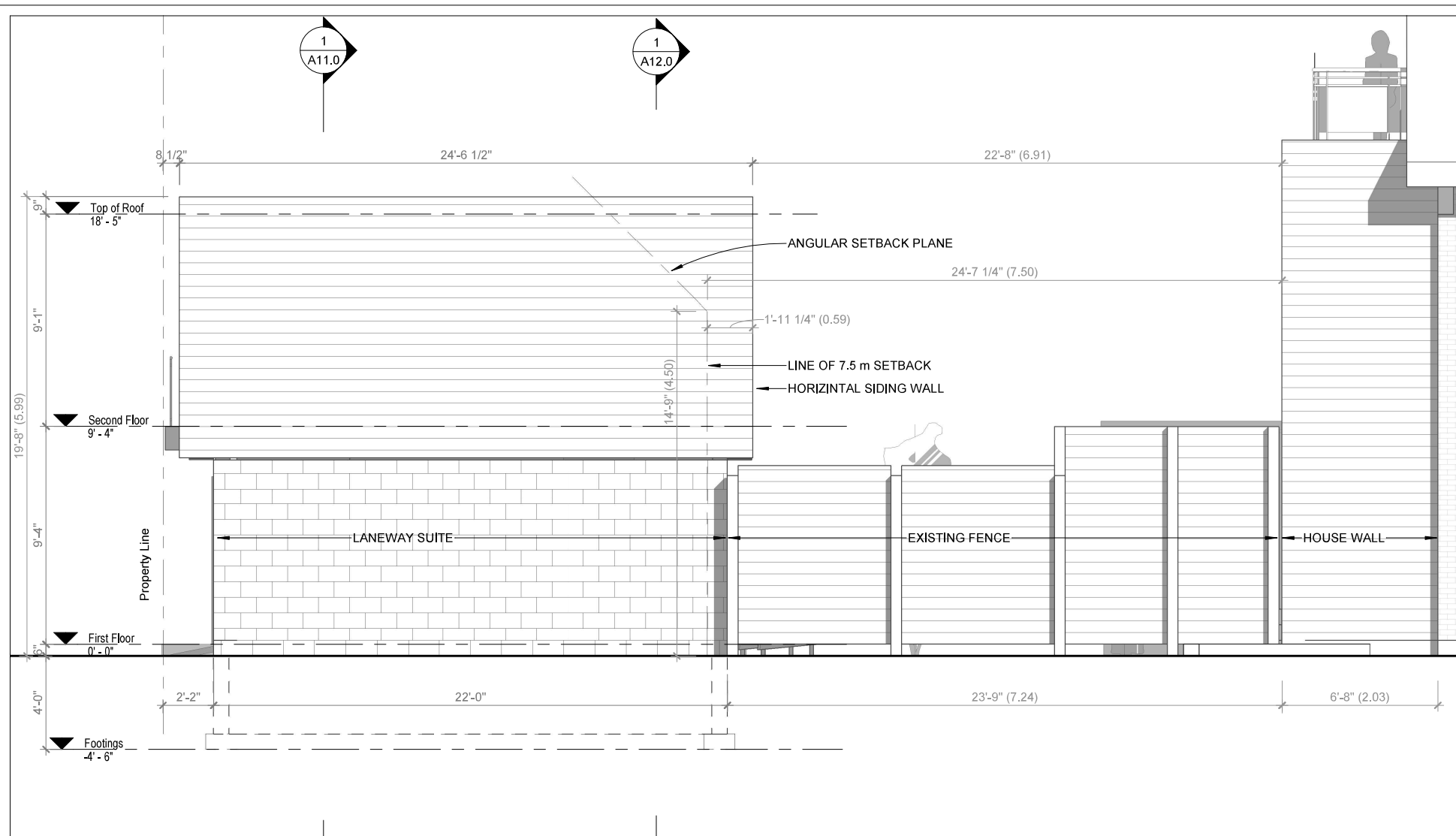
John Boone
ARCHITECT

51 Arundel Avenue, Toronto, Ontario, M4K 3A3
Tel: 416 469 3264 Email: johnboonearchitect@icloud.com

This drawing is the Property of John Boone Architect and may be used for this project only. Scale from drawings for reference only. Dimensions to be checked and verified by the contractor on site.

North Elevation

Project number	21A01	A7.0
Date	March 25, 2022	
Drawn by	JB	
Checked by	JB	
		Scale 1/4" = 1'-0"



No.	Description	Date
1	Project Start	Jan 15, 2021
2	Submitted for Zoning Review	Mar 31, 2021
3	Submitted to Committee of Adjustment	May 4, 2021
4	Submitted for Zoning Review	Mar 3, 2022

16 Ferndale Avenue
Toronto, Ontario



jba John Boone
ARCHITECT
51 Arundel Avenue, Toronto, Ontario, M4K 3A3
Tel: 416 469 3264 Email: johnboonearchitect@icloud.com

This drawing is the Property of John Boone Architect and may be used for this project only. Scale from drawings for reference only. Dimensions to be checked and verified by the contractor on site.

South Elevation

Project number	21A01	A8.0
Date	March 25, 2022	
Drawn by	JB	
Checked by	JB	
		Scale 1/4" = 1'-0"