

## DECISION AND ORDER

**Decision Issue Date** Thursday, February 11, 2021

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): GHOLAMREZA GHANIZADEH TABRIZI

Applicant: ARCICA INC

Property Address/Description: 318 HOUNSLOW AVE

Committee of Adjustment Case File: 19 196078 NNY 18 CO

**TLAB Case File Number:** 19 262986 S53 18 TLAB, 19 262988 S45 18 TLAB,  
19 262987 S45 18 TLAB

**Hearing date:** Thursday, January 07, 2021

**DECISION DELIVERED BY D. Lombardi**

### APPEARANCES

NAME	ROLE	REPRESENTATIVE
GHOLAMREZA GHANIZADEH TABR	APPELLANT/OWNER	AMBER STEWART LAW
ARCICA INC	APPLICANT	
CITY OF TORONTO	PARTY	BENJAMIN BAENA
MICHELE KUNDE	PARTICIPANT	
ANGELA CHARLESWORTH	PARTICIPANT	
DORIS MORENO	PARTICIPANT	
ANTHONY MATTEO DE CHELLIS JR	PARTICIPANT	
DANIELA DE CHELLIS	PARTICIPANT	
MICHAEL ROMERO	EXPERT WITNESS	
FRANCO ROMANO	EXPERT WITNESS	

## INTRODUCTION

This is a matter on appeal from the North York Panel of the City of Toronto's (City) Committee of Adjustment (COA) decision to dismiss applications for the severance of 318 Hounslow Avenue (subject property) and associated variances.

The owner, Gholamreza Ghanizadeh Tabrizi, proposes to sever the subject property into two undersized residential lots and to construct a new two-storey residential dwelling with an integral garage on each of the newly created lots.

The subject property is located on the north side of Hounslow Avenue, mid-block, west of the intersection of Senlac Road and Hounslow Avenue and south of Finch Avenue West, in the Willowdale West neighbourhood. It is currently occupied by a two-storey, single detached residential dwelling with a driveway with vehicular access from Hounslow Avenue.

The property is designated *Neighbourhoods* pursuant to the City's Official Plan (OP). Neighbourhoods are considered stable areas where new development will respect and reinforce the existing physical character. It is zoned Residential Zone (RD) (f15.0; a550)(x5) under the City's new, harmonized Zoning by-law No. 569-2013. The applicable performance standards in the RD zone require a minimum lot frontage of 15.0 m and a minimum lot area of 550 m<sup>2</sup>.

Exception Number 5 to the RD zone requires a minimum side yard setback of 1.8 m despite regulation 10.20.40.70(3); clause 10.5.30.21 of By-law 569-2013 states that *"in the Residential Zone category, if the lawful existing lot frontage of a lawfully existing lot is less than the minimum lot frontage required by this By-law, that lawful lot frontage is the minimum lot frontage for that lawfully existing lot."*

## BACKGROUND

The property has been the subject of three previous applications to the COA for consent to sever the subject lot and associated variances to permit the construction of a new detached residential on each of the severed lots. The first having been submitted in 2017 (Application No. 1) and the second in 2018 (Application No. 2).

### *Applications No. 1*

The first application was heard by the COA on April 19, 2017. The Applicant requested consent to sever (File # B0039/16NY) the subject property to create two lots, each having a lot frontage of 10.11 m and lot area of 403.69 m<sup>2</sup>, and approval for a total of 28 variances under both the new Zoning By-law and the former City of North York Zoning By-law 7625 (File # A0531/16NY & A0532/16NY). The Committee refused the applications for consent to sever and related variances and the applicant did not appeal those decisions.

### *Applications No. 2*

A second application was heard on November 22, 2018. Those applications requested approvals for a consent to sever the lot into two new lots with a lot frontage of 10.11 m and lot areas of 404.42m<sup>2</sup> and 404.38m<sup>2</sup> (File No. B0038/18NY) and a total of four associated variances (File #s A0566/18NY & A0538/NY18) were refused. Those applications also were not appealed by the applicant, Mr. Tabrizi.

*Applications No. 3 (Current Applications)*

Applications (Current Applications) for consent to sever the subject property and associated variances was heard by the COA for a third time on December 5, 2019. Those Applications requested approval of the following:

- Consent to sever the subject lot into two new lots, Part 1 being the conveyed lot having a lot frontage of 10.11 m and a lot area of 404.42 m<sup>2</sup>, and Part 2, the retained lot, having a lot frontage of 10.11 m and a lot area of 404.38 m<sup>2</sup>.
- Variances to Zoning By-law 569-2013, as amended, for each of the newly created lots (Part 1 & Part 2) in order to construct a new detached dwelling on each. Each lot requires the approval of the following five (5) variances:

**1. Chapter 10.20.30.20, By-law No. 569-2013**

The minimum required lot frontage is 15m. The proposed lot frontage is 10.11m

**2. Chapter 10.20.30.10, By-law No. 569-2013**

The minimum required lot area is 550m<sup>2</sup>. The proposed lot area is 404.42m<sup>2</sup>.

**3. Chapter 10.20.40.70 & Exception RD5, By-law No. 569-2013**

The minimum required east side yard setback is 1.8m. The Proposed east side yard setback is 1.45m.

**4. Chapter 10.20.40.70 & Exception RD5, By-law No. 569-2013**

The minimum required west side yard setback is 1.8m. The proposed west side yard setback is 1.45m.

**5. Chapter 10.5.40.60 (1), By-law No. 569-2013**

The minimum required front porch setback from the side lot line for this zone is 1.8m. The proposed front porch is 1.45m from the side lot line.

The COA received comments from City Planning, Development Engineering (Transportation & Construction Services Divisions), and Urban Forestry staff related to the consent and variances applications.

City Planning staff, in their report dated December 5, 2019, highlighted that there had been two previous Planning staff reports addressing the previous applications for consent and variances submitted with respect to this property. Michael Romero, the author of the December 5, 2019 Staff Report (Report), and the expert witness appearing before the TLAB on behalf of the City in this regard, provided a brief overview of the previous staff reports.

He summarized that in the initial Planning staff report prepared by Pegah Tootoonchian, dated April 11, 2017, staff identified the boundaries of the lots that were assessed and analyzed the lot study findings. Staff found that the lot frontages proposed by the Applicant, at 10.11 m, constituted less than 1% of the lots found in the study area highlighted by the Applicant and concluded that the *“proposed lot frontages are considerably undersized in comparison both to the zoning by-law requirements and the average lot frontages found in the study area.”* (Exhibit 2). R4 and R6 is the predominant zoning in that study area with a required minimum lot frontage of 15.0m and 12.0m, respectively; staff recommended refusal of those applications.

In the second Planning staff report, prepared by Giulio Cescato, Manager, Community Planning, North York District and addressing the 2<sup>nd</sup> set of Applications (Applications No. 2), the author opined that the proposed lot frontages, at 10.11 m, did not respect and reinforce the existing physical character of the neighbourhood within which the subject property is located, and recommended that the applications be refused.

Mr. Romero referenced these previous staff reports and reviewed the subject Applications against land use planning legislation, applicable OP policies and zoning by-laws in arriving at his recommendation as outlined in his December 5, 2019 Report. He noted in the Comments section in that Report that OPA 320 amended the *Neighbourhoods* policies in the OP to *“protect and enhance existing neighbourhoods,”* he concluded that Planning staff’s position remains that *“the proposed severance does not respect and reinforce the prevailing physical character of the neighbourhood as it relates to lot size and has the potential to be duplicated and ultimately destabilize the existing physical character of the neighbourhood.”* (Staff Report, p. 3)

He recommended that the application for consent be refused for failing to satisfy the consent criteria listed in Section 51(24) of the *Planning Act (Act)* and that the applications for variances also be refused as they failed to satisfy the statutory tests in s. 45(1) of the *Act*.

With respect to the Memorandum from the Manager, Development Engineering, North York District, dated August 28, 2019, Engineering staff noted no objection with the Applications and listed recommendations of approval relating to grades at the property lines, the restoration of redundant portions of the driveway and standard damage permits to be obtained from the City’s right-of-way management sections. The Memorandum also contained advisory comments related to matters of site servicing, grading, hydro, and municipal numbering, all typically secured through standard consent conditions.

Finally, the Committee received staff comments from Urban Forestry, dated November 26, 2019, which identified no concerns regarding the Applications but recommending a standard condition of approval to secure street tree planting.

I highlight these comments from various City staff as they are relevant to the City’s planning rationale in opposition to the Applications before the Toronto Local Appeal Body (TLAB) and are addressed in testimony given by Mr. Romero in this matter and which are expanded upon later in this decision.

On December 5, 2019, the COA refused the consent and variance applications (Exhibit 2, pages 70-85), and the owner subsequently appealed the Committee's decisions to the TLAB which set two consecutive 'in-person' Hearing dates for April 29, and April 30, 2020.

However, in the ensuing period prior to these return dates, the world encountered a global pandemic in the form of COVID-19. This pandemic affected the City and the TLAB and, as a result, effective as of March 16, 2020, the Tribunal ordered a cessation of all Hearing events and the suspension of filing timelines, pursuant to Ontario Regulation 73/20.

This interval, in effect a 'Suspension period', reflected the widespread concern for the COVID-19 virus. Consequently, on April 3, 2020, the TLAB postponed indefinitely the hearing of this appeal and all Parties were notified of such.

The Suspension Period was ultimately lifted on August 14, 2020; in the interim a number of postponed sittings had resulted in a backlog of Hearings the TLAB attempted to reschedule as expeditiously as possible. As part of this exercise, the Tribunal began reviewing applications that could be heard as 'virtual or remote' Hearing events; at the direction of the presiding Member and with the consent of the Parties, TLAB staff undertook to canvas potential Hearing dates going forward. The subject Applications were identified as falling within this category and after consultation with the Parties, the TLAB issued a Notice of Electronic Hearing setting 'virtual' Hearings dates for October 29 and November 10, 2020.

The hearing of this matter engaged three Hearing days. A third Hearing Day became necessary to accommodate the testimony and cross-examination of witnesses engaged in this appeal and was scheduled for January 7, 2021. Preceding these sittings, extensive evidentiary filings were filed ranging from individual studies, photograph records, architectural drawings, and technical submissions, including expert statements, City staff reports and the requisite attestations as per the TLAB's Rules of Practice and Procedure (Rules).

Those filings and submissions were entered into evidence and identified as the following Exhibits:

- Exhibit 1 – Mr. Romano's Expert Witness Statement.
- Exhibit 2 – Applicant's Document Book (March 9, 2020).
- Exhibit 3 – Geographic Neighbourhood Lot Statistical Map.
- Exhibit 4 – COA decision Chart.
- Exhibit 5 – Immediate Neighbourhood Lot Statistical Map.
- Exhibit 6 – The City's Document Book (March 2020).
- Exhibit 7 – Mr. Romero's Expert Witness Statement.
- Exhibit 8 – 2020 PPS Blackline Version.
- Exhibit 9 – Ms. Charlesworth's Participant Statement
- Exhibit 10 – Ms. Moreno's Participant Statement
- Exhibit 11 – Ms. Kunde's Participant Statement
- Exhibit 12 – Mr. De Chellis' Participant statement

Ultimately, before the TLAB, six persons gave direct testimony. The Applicant/Owner called professional land use planning evidence from Franco Romano; similarly, the City called land use planning evidence from Michael Romero. Both Messrs. Romano and Romero were qualified and provided expert testimony in respect of their witness statements.

I also heard lay citizen Participant evidence from Angela Charlesworth, Anthony De Chellis, Michele Kunde, and Doris Moreno.

At the outset of Hearing Day 1, advised that I had visited the site, walked the immediate neighbourhood and read the pre-filed materials thoroughly but that it is the evidence to be heard that is of importance.

On a matter of procedure, the City solicitor raised the issue of the late filing with the TLAB of witness statements by Participants' Moreno, Charlesworth, De Chellis and Kunde three days prior to Hearing Day 1. He questioned whether these submissions should be allowed given they were filed so close to the scheduled Hearing and substantially past the filing due date of March 9, 2020 noted in the initial January 8, 2020 Notice of Hearing.

I advised Mr. Baena that I was aware of the tardiness of the submissions and I was somewhat concerned initially with the filing timeframes. However, I acknowledged that these are unprecedented times due to COVID-19 and that the matter had been postponed and then rescheduled in the ensuing 6 months. I noted that in reviewing the Participants' Statements, each expressed the same concerns, almost verbatim, to the letters of objection they submitted to the COA. Consequently, I found that no new issues or concerns beyond those already raised were being highlighted, issues and concerns of which the Parties would have been aware prior to this Hearing.

In questioning the Appellant's position on the matter of these late submissions, Ms. Stewart advised that the Appellant had no objections to allowing the late filings to be accepted by the Member.

As a result, I ruled that the Participants' Statements, above cited, would be allowed since they raised no new issues or concerns regarding the Applications, but I advised that the Participants' evidence would be limited principally to that underscored in their Statements.

## **MATTERS IN ISSUE**

The Applications and appeal before the TLAB were neither unprecedented nor complex. In my view, at issue was whether the Appellant's proposed severance of the subject property for the purpose of introducing infill housing as a form of 'modest intensification' in this Willowdale neighbourhood, was appropriate and fit the existing physical character of the area.

Resulting from the severance application was the need to address zoning relief in the form of variances to permit construction on the undersized lots of the specific dwellings proposed.

From a planning perspective, a number of questions arise as a result of the proposed severance and requisite variances; the key one being whether both of the lots to be created by the

severance are considered substandard in size. More specifically, do the proposed lot frontages and sizes respect and reinforce the established dimensions and configuration of the existing lots in the immediate neighbourhood?

In opening remarks, the contrasting positions of the Parties were succinctly asserted by opposing counsels. Namely, new lots optimizing in a modest way the efficient use of land through what counsel termed 'modest intensification'; versus, it is not good planning to permit undersized lots that do not fit the neighbourhood and which, if approved, would destabilize the existing physical character of the street.

From the perspective of the neighbours, the question is will the resulting development change the existing character and set a precedent on Hounslow Avenue and in the broader geographic neighbourhood? Additionally, will the visceral look and feel of the established neighbourhood as expressed by the City, that is, larger lots and homes asserted as the norm on Hounslow Avenue, be altered by allowing smaller lots and narrower homes?

## **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').

### **Consent – S. 53**

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;

- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

### **Minor 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. Stewart, the Appellant's counsel, called Franco Romano to provide expert land use planning evidence in support of the consent and variances being requested by the Applicant.



As nuance to Mr. Romano's testimony, she highlighted his Expert Witness Statement and Curriculum Vitae (Exhibit 1, p. 91) noting two facts she suggested were germane to the matter under consideration.

First, she highlighted that Mr. Romano had been employed as a Senior Planner in Community Planning for the former North York Planning District between the years 1991 and 1998. During that time, Mr. Romano's responsibilities included the drafting and formulation of planning policies for the former City of North York, in addition to applying those same policies through the review and processing of development applications.

Second, she confirmed that following his employment with North York in 1998, Mr. Romano transitioned into private consulting practice, establishing his own land use planning consultancy. As the principal in this firm, Action Planning Consultants, he has provided professional planning advice on behalf of clients both in the private and public sectors, including the City of Toronto.

I believe this information was raised by Ms. Stewart to illustrate Mr. Romano's extensive background in, and experience with interpreting and applying planning policies in the former City of North York. She asserted that this makes Mr. Romano extremely familiar with the planning context in the area in which the subject property is located and with the contextual evolution of this neighbourhood.

#### *Mr. Romano's Expert Witness Testimony*

Mr. Romano was qualified as capable of giving expert opinion testimony in the area of land use planning. He confirmed that he was retained by the Owner in January 2020, following the refusal of the Applications before the COA, to provide planning support for the proposed development and the Applications at the TLAB.

In his Expert Witness Statement (Exhibit 1) and evidence (Exhibit 2, Document Disclosure Book), he provided a brief description of the proposal, outlining the context of the subject property as well as summarizing the dimensions of the two lots to be created through consent.

In providing an overview of the subject site and neighbourhood context, Mr. Romano referenced the former City of North York Zoning Map and Geographic Neighbourhood Context Map (Exhibit 1, pages 26 & 27). Summarizing his understanding of the site context and the proposed redevelopment of the subject property, Mr. Romano submitted the following:

- The physical form of development on Hounslow Avenue is of modest and large sized lots consisting primarily of complementary and compatible low rise detached residential characteristics.
- Although the development patterns on some streets within in the neighbourhood illustrate a large measure of similarity in physical characteristics, this is not the case on Hounslow Avenue.
- Within the geographic and immediate physical context of the subject property, there exist properties with similar or different physical characteristics abutting, adjacent or distant from one another.

- The neighbourhood has been experiencing regeneration that has been both gradual and varied in nature; regeneration housing stock typically reflects residential buildings that occupy more space than that it is replacing or improving upon.
- Regeneration in the neighbourhood includes lot creation by way of land severance, with some streets experiencing different development activity than previously present on that street.
- Although individual street character is not uniform and continues to evolve, the neighbourhood's residential amenity and stability is being maintained.

He supported these assertions through a thorough review of the lot size context of both the immediate context, Hounslow Avenue, and the broader geographic neighbourhood, on streets such as Horsham Avenue, Ellerslie Avenue, Yorkview Drive, Betty Ann Drive, Bevdale Road, Churchill Avenue, and Park Home Avenue.

Mr. Romano then proceeded to summarize the details of the proposal which are described more particularly in his Witness Statement (Exhibit 1, p. 4):

- Severance of the subject property into two lots with a frontage of 10.11 m and a lot area of 404.42m<sup>2</sup> and 404.38m<sup>2</sup> for part 1 and Part 2, respectively. Variances are required to the applicable minimum 15 m lot frontage and 550m<sup>2</sup> lot area zoning standards.
- Construction of a new, two-storey detached residential dwelling with an integral garage and driveway on each of the new lots. Variances are proposed for a reduction in east and west side yard setbacks (1.45 m instead of the minimum 1.8 m, although the actual proposed setback on the drawings is 1.47 m), as well as the side lot line setback for the proposed front porch (1.45 m instead of the minimum required 1.8 m).

In describing the physical characteristics of the proposed development, he referred to the Site Plan (Exhibit 2, p. 5) and elevation drawings (Exhibit 2. P. 10) noting that the front yard setback for each new dwelling would be staggered, aligning with neighbouring front yards resulting in an "appropriate street framing condition." (Exhibit 1, para.3.2)

He confirmed that no variances are required for rear yard setbacks, building length and depth, building height, and lot coverage (29%). The proposed built form is two-storeys with a building height of 9.37 m (maximum permitted is 10 m), a building length of 16.38 m – 16.99 m (permitted is 17.0 m), main wall heights of 6.98 m (7.5 m permitted), and first floor heights of 1.5 m which meets the by-law permissions.

In Mr. Romano's opinion, this creates a reasonable site design and one that is anticipated in this context.

He then addressed City staff comments received by the COA related to the proposed development. With respect to Planning staff's November 27, 2019 report, he noted that staff maintained the same assessments of previous severance application for the subject property and their Reports concluded that the *"proposed lot frontages are considerably undersized in comparison to both the zoning by-law requirements and the average lot frontage found within the study area."* (Exhibit 1, para. 3.4)

He asserted that Planning staff's comments represent in his words *"a superficial and perfunctory-related conclusion which does not accurately reflect the lot size character, nor the planning assessment performed, as I have undertaken in this instance."* (Exhibit 1, p. 4)

With respect to Engineering staff's August 28, 2019 memorandum to the Committee, he noted no concerns and that staff had proposed recommendations for approval that he suggested could be secured through conditions of approval. Urban Forestry staff, in their November 26, 2019 memorandum, also identified no concerns with the Applications, requiring a standard condition related to securing payment for the planting of a street tree.

Mr. Romano then addressed the subject property and the neighbourhood, first describing the immediate context proximate to the subject property, and then how the broad geographic neighbourhood exhibits its physical characteristics. In doing so, he employed a 'generous' (my term) Study Area which he further delineated as consisting of a geographic neighbourhood (Exhibit 3) bounded by Hounslow Avenue to the north, Ellerslie Avenue to the south, Wynn Road to the west and Senlac Road to the east with some 359 lots. He also identified an immediate neighbourhood context (Exhibit 5) along both sides of Hounslow Avenue, between Senlac and Wynn Roads.

His analysis included attendant coloured mapping and corresponding Lot Frontage and Lot Study Analyses.

He explained that the purpose of establishing a geographic neighbourhood is to assist in reviewing the character attributes of the neighbourhood in a manageable, illustrative manner, as envisioned by the OP. With respect to the localized or immediate context review, Mr. Romano asserted that this is to ensure that a development also supports a site's surroundings rather than being supportive only of the physical character which exists in a more distant location within the neighbourhood.

In describing the neighbourhood, he referenced his Neighbourhood Lot Statistics Map in Exhibit 3 as well, as the Immediate Neighbourhood Lot Statistics Map in Exhibit 5. Additionally, he reviewed his photographic evidence (Exhibit 1, p. 28 – 58), consisting of some 31 photos, illustrative of housing typology extensively visible not only on Hounslow Avenue, but also on Yorkview Drive and Horsham Avenue.

Mr. Romano opined that the proposal illustrates a generous diversity of detached dwelling character attributes reflecting the neighbourhood's prevailing physical character of modest-sized rectangular lots occupied by low rise detached dwellings which occupy the front portion of each lot while maintaining modest front yards and ample rear yard landscaping. He asserted that his graphic and visual evidence illustrate that the physical form of development in the neighbourhood reflects an intermingling of lot sizes and low density detached built form with site and dwelling design reflecting the era of construction.

However, he asserted that the neighbourhood has also been experiencing reinvestment and regeneration in the form of new, two-storey dwellings which have resulted in dwellings that are larger – in footprint, mass and/or scale - occupying greater space on a lot and generally built to be situated in the front, central portion of the lot with tight to modest side yard setbacks.

He opined that the subject property's physical context maintains a heterogeneous intermingling of physical characteristics at both the broad and immediate contexts where lots of different, similar or the same size co-exist and intermix to create a stable neighbourhood. In his opinion, the physical character continues to evolve, with new lots being created and residential buildings being altered and/or constructed over time and gradually in appropriate locations such as the subject property.

He further highlighted his photographic evidence (Exhibit 1) containing multiple images of homes proximate to the subject site which illustrated a variety and diversity of built form throughout his study area. In referencing these photos, Mr. Romano opined that the variance relief being sought and the proposed redevelopment, is in keeping with what is found in the area in terms of the order of magnitude.

He addressed correspondence on file in opposition to the proposed redevelopment of the site and spoke specifically to statements submitted by the Participants. He suggested that those statements raised neighbour concerns related to the fit within the neighbourhood, overdevelopment of the site, neighbourhood integrity, privacy/overlook and setbacks, and tree removal.

He asserted that what the evidence shows is that the proposal fits with lot sizes of a similar kind, which are well represented within the neighbourhood, and that no lot coverage variance is required. With respect to concerns regarding privacy, overlook and setback relationships, he opined that these issues must be balanced with the fact that similar conditions can occur as-of-right. Further, he asserted that *"the difference between the proposal, existing conditions and the planned context will generate similar privacy, overlook, setback and the like relationships which do not amount to significant adverse impacts."* (Exhibit 1, p. 7)

He specifically noted that the Applicant proposes no bedroom windows within the east and west elevations of the proposed dwellings which minimizes overlook and privacy and that fenestration within these elevations is for internal illumination exclusively to the main stairway.

Addressing the proposed rear deck on each dwelling, he noted that each deck allows access from grade through eight steps and egress/ingress to a family room at the ground floor of the proposed home and that no variances are required as-of-right. He asserted the decks are not large in size and that setbacks for the deck were purposely reduced to minimize concerns for overlook but, nevertheless, acknowledged that the Applicant was prepared to accept a condition on approval that would incorporate opaque, privacy fencing along the east and west perimeter of the deck at a minimum height of 1.5m to mitigate neighbours' concerns.

### *The Statutory Tests*

In Mr. Romano's opinion, the proposal properly implements the policy thrust and direction provided for in provincial policy through the 2014 Provincial Policy Statement (PPS) and the 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan). The proposal supports optimization and intensification of the use of land through achieving an appropriate mix and range of housing and compact urban form.

He also found applicable policy direction in the City Official Plan (OP), especially applicable to the 'Neighbourhoods' designation, and opined that these policies provide for a development criteria-

based proposal assessment and recognition that change within neighbourhoods will occur over time. He further opined that such change should respect and reinforce the physical character of the neighbourhood and that those policies do not require replication of any or all prevailing physical character.

He highlighted Section 4.1.5 of the OP, which contains policy language that recognizes that, qualitatively and quantitatively, a mix of characters can exist and that differences are recognized as being capable of contributing appropriately to the prevailing character. Accordingly, new development can have different physical characteristics and still be found to respect and reinforce the overall character of physical contexts in proximity to the subject property.

In addressing this policy, Mr. Romano submitted that the proposed lot frontage, building depth and lot size fit well with those found in the neighbourhood and that the proposed building siting, size, height, scale, and massing are appropriately proportioned to each proposed lot and compatible with the area.

As to the development criteria found in 4.1.5, he provided his interpretation of the term 'prevailing' utilized in this section, as introduced by Official Plan Amendment 320. He submitted that a key objective of the OP is to ensure that new development respects and reinforces the general physical neighbourhood character and opined that the OP recognizes that neighbourhoods can have more than one prevailing physical character.

Mr. Romano asserted that the proposal represents a site development that is materially consistent with the geographic neighbourhood and immediate physical contexts.

He, then, spoke specifically to only the criteria in 4.1.5 pertinent to the proposed development, b), c), and g), and summarizing each as follows:

*4.1.5 b) – prevailing size and configuration of lots*

The most frequently occurring lot size is a modest sized lot which are not uniformly any single size as illustrated in his chart on page 14 of Exhibit 1. Of the 359 lots included in his Geographic Neighbourhood Context Map, there are 86 different lot frontage and 200 different lot area measurements (36 lots have no data).

The immediate context proximate to the subject property includes 51 lots. Of those, there are 20 different lot frontage and 23 different lot area numeric measurements (3 lots with no data). The subject property is the only one that has a lot frontage of 20.2 m and a lot area of 808.8 m<sup>2</sup>.

He opined that within the immediate context demarcated by the block within which the subject property is located and the block opposite, the lot size patterns illustrate an intermingling of modest and large lots, each of which contribute to the physical form of lot size character.

*4.1.5 c) – prevailing heights, massing, scale, density and dwelling type*

The proposed building height of two-storey of living above an integral garage, the massing of the buildings oriented towards the front and/or central portion of the lot, and scale will contribute appropriately to the prevailing neighbourhood character.

*4.1.5 g) – prevailing patterns of rear and side yard setbacks and landscaped open space*

The proposal maintains modest sized side yards which is in keeping with the lot fabric of tight to modest side yard setbacks. The proposal also maintains the prevailing patterns of landscaped open space in the rear yard and front yard areas.

Mr. Romano opined that the requested variances also meet the general intent and purpose of the zoning by-law, as it will facilitate a dwelling that is compatible with the built form of the surrounding area.

He asserted that the proposal represents an appropriate, reasonable, and compatible development for this neighbourhood, and submitted that the variances will facilitate, for each new lot, reasonably sized dwellings with appropriate standards, interface and a functional design is desirable and consistent with recent development trends.

Addressing the last statutory test, whether the variances are minor, he opined that the proposal creates no unacceptable adverse impacts such as shadowing, privacy or overlook or any related to site development features. Although he submitted the proposal will result in a site redevelopment that occupies more space on the lot, he argued the building siting and built form conditions are reasonable and to be anticipated in this context.

He submitted that the Variance Decision Chart summary sampling table highlighted in Exhibit 4 of his evidentiary materials illustrates that the proposed variances are in keeping with the numeric range of approvals within the area.

Mr. Romano continued his testimony by addressing Part 1, Section 2, and the consent criteria of Section 51(24) of the *Planning Act*. He opined that there were no substantive implications on matters identified in numerous subsections of Section 2., while subsections 2a), e), f), h) and h.1), j), n) p), q) and r) are appropriately addressed and the proposal satisfies each. With respect to subsection 2 j) specifically, he asserted that the addition of two detached residential dwellings will assist in the provision of detached housing where it is directed and anticipated by the City's urban structure.

Finally, with respect to the consent request, Mr. Romano opined that neither a plan of subdivision nor a road or road widening are necessary to facilitate the severance proposal. He submitted that the neighbourhood contains other lots of similar size and opined that the subject proposal satisfies, individually and cumulatively, each criterion.

In summary, Mr. Romano submitted that the subject property's physical and planning instruments context support the proposal. Further, he stated that the proposed consent and variances will result in a lot size site development that is reflective of the neighbourhood's physical context in a manner that respects and reinforces that context with no unacceptable adverse impacts. In his professional opinion, the proposal represents good planning and should be approved subject to standard conditions.

Mr. Romano was cross-examined by Mr. Baena, the City's solicitor. Mr. Baena questioned Mr. Romano regarding the hierarchy of planning instruments in the Province and his understanding of

policy direction and language in the PPS and the Growth regarding intensification. Mr. Romano concurred that the OP is the most important planning 'vehicle' (his word) to implement provincial planning policies. Mr. Baena established, and the witness agreed, that the higher order documents contain both 'mandatory' (i.e., shall) and 'discretionary or permissive' (i.e., may) language and that the mandatory directive language directs that municipalities will find appropriate locations for intensification and redevelopment.

Mr. Baena asserted, and Mr. Romano concurred, that the OP, and specifically Policy 2.3, describes *Neighbourhoods* as "physically stable areas" and contains policies that development respect and reinforce the existing physical character which achieves physical stability of neighbourhoods.

There was, however, disagreement regarding the existence of language within the OP that specifically speaks to achieving intensification in neighbourhoods through severances and that "ties a land severance as an appropriate tool to achieve intensification in neighbourhoods" (Mr. Baena's question). Mr. Romano was challenged to highlight such language direction.

In response, Mr. Romano referred to the last sentence in OP Policy 3.2.1.2 which states that "...*New housing supply will be encouraged through intensification and infill that is consistent with this Plan.*" He asserted that a consent contributes to intensification. He also highlighted language in Section 5.1 which includes variances and consents as planning tools to achieve OP objectives.

On the challenge to highlight language in the OP that directs severances to be utilized to achieve intensification in "stable residential neighbourhoods" (Mr. Baena's term), Mr. Romano could not, but he submitted that consent and variances are part of the planning 'toolbox' anticipated by the OP and zoning by-law in the ambit to development and redevelopment. Mr. Baena disagreed with this assessment.

Furthermore, Mr. Romano asserted that the OP directs that housing stock be maintained, improved and replaced and that the proposal achieves this objective by proposing a form of 'infill' housing and redevelopment that the OP envisions.

Hearing Day 1 ended with Mr. Romano still in cross-examination.

## **Hearing Day 2**

At the outset, Ms. Stewart advised that she had recently determined that she was double-booked in the afternoon and was scheduled to participate in a brief Preconference meeting on another TLAB matter at 2:00 pm. She confirmed having discussed with situation with Mr. Baena, who had no objection to allowing Ms. Stewart this indulgence. With the consent of the other Parties, I agreed to recess the afternoon session for 30 minutes to allow Ms. Stewart to return to the Hearing at 2:30 pm.

Mr. Romano's cross-examination continued.

With respect to Sections 4.1.5, and 4.1.8 which specifically addresses the issue of numerical site and performance standards in zoning by-laws that deal with matters including lot sizes and lot

frontages, Mr. Baena and the witness disagreed as to what would be considered comparative and compatible. Although Mr. Baena asserted that by-laws consider the planned and existing neighbourhood context, Mr. Romano argued that the By-law in this circumstance, 569-2013, recognizes legal, non-conforming lot sizes and frontages that exist as also forming part of the neighbourhood.

Mr. Romano asserted that smaller lots do exist on Hounslow in proximity to the subject property although he acknowledged that in both the immediate and broader neighbourhood context only 13 (3.6%) of the lots have frontages less than that proposed while only 10 lots have a lot area equal to or less than that being proposed. He agreed with Mr. Baena that this metric is not representative of the majority of lots in the study area.

In addressing the language in OPA 320 that requires that development be consistent with the prevailing physical character, Mr. Romano argued that the form of development is not exclusively a numeric exercise and that there is no “consistent uniform character” on Hounslow. In response to Mr. Baena, he asserted that lots that are numerically similar to the standards being proposed clearly exist in proximity to the subject property and are “strikingly complementary” (his words) and represent good planning.

Mr. Romano agreed with Mr. Baena’s assertion that the Applicant has been before the COA on previous occasions, that the Committee has refused those similar applications, and that the Owner has had in Mr. Baena’s opinion, “three kicks at the can.” Mr. Romano also agreed with Mr. Baena assertion that staff comments and planning assessments have remained consistent with respect these applications.

However, Mr. Romano disagreed with those Planning staff’s assessments, suggesting that staff was too narrow in their analysis and utilized “too simplistic and confined indicators” (his term) to arrive at their conclusions.

Mr. Baena then addressed the property at 312 Hounslow, immediately to the east, highlighting photo #5 in Exhibit 1 (p. 32), and issues of potential adverse impact resulting from the proposed development. In response, Mr. Romano acknowledged there would be impacts of shadow and overlook but he would not characterize them as being ‘adverse’. Furthermore, he asserted any impacts created would be equally the same or less significant than an ‘as-of-right’ built form.

On re-examination, Ms. Stewart focused on clarifying three areas of discussion in cross-examination. With respect to zoning by-laws establishing minimum performance standards, Mr. Romano submitted that lots that do not meet those standards are considered legally existing lots. In By-law 569-2013, he suggested that existing lots with smaller frontages and lot areas than the numerical standards in that zoning category are considered ‘compliant’ and permitted.

He clarified that the former North York Zoning By-law 7625, adopted in 1952, recognized existing lots with area or frontages less requirements than the minimum standard as being legal, non-conforming. Legalizing these lots was expected to occur through Committee of Adjustment applications; however, he suggested that the new By-law considers these smaller types of lots to be ‘legal’.



With respect to the comments in the various Planning staff reports to the COA, Mr. Romano asserted that staff applied substantially the same planning analysis even though the OP policies examined in the 2017 and 2018 reports pre-dated the amendments introduced through OPA 320 which was approved by the OMB on December 7, 2018.

Finally, with respect the issue of shadow impacts on the existing property at 312 Hounslow, Mr. Romano agreed with Ms. Stewart's assessment that shadows are a common occurrence in urban settings especially through regeneration and redevelopment with homes of 2-storeys in height. He highlighted Photo #5 to illustrate this very point noting that the home to the east of 312 Hounslow was redeveloped with a larger dwelling than what previously existed creating additional shadowing onto abutting properties.

#### *Testimony of Michael Romero*

The City called Michael Romero to provide expert opinion evidence in opposition to the subject applications. Mr. Romero is currently an Assistant Planner with the City Planning Division, North York District, a Candidate Member of the Ontario Professional Planners Institute, and the Canadian Institute of Planners, and authored the November 27, 2019 Planning Staff Report to the COA.

Although not a Registered Professional Planner, following a review of Mr. Romero's Curriculum Vitae (Exhibit 7), I qualified the witness to provide opinion evidence and advice in land use planning. The TLAB can recognize professional planning qualifications apart from the foregoing membership; however, membership affords the public and the Tribunal a consistent standard of continuing education, professional peer recognition, and public and private disciplinary accountability that cannot otherwise be easily, independently, and objectively accessed.

Given that Mr. Romero is currently pursuing registration, I was quite comfortable permitting qualification.

I recite here some of those areas of evidentiary departure from Mr. Romano that Mr. Romero called to the TLAB's attention.

He briefly reviewed the two previous Planning Staff reports to the COA, dated April 11, 2017 and November 13, 2018, respectively (Exhibit 6, pp. 127-132). He opined that he agrees with the analysis provided by Planning staff in those reports that the proposed lot frontages and area are undersized within the study area and do not respect and reinforce the existing physical character of the neighbourhood.

Mr. Romero examined the planning hierarchy of policy documents applicable to the subject property starting with the higher order provincial policies of the PPS and the Growth Plan. He stated that although the Applications are consistent and do not conflict with the policies in the document, he highlighted Policy 4.7 in the PPS and Policy 5.2.5.8 in the Growth Plan which he asserted emphasize the importance of the official plan as a vehicle to ensure long-term planning is comprehensive and integrated.

He noted that one of the goals of these provincial policies is to promote intensification, and for municipalities to plan for intensification, but that these policies also provide municipalities with the flexibility to determine where intensification should occur, and to what degree on individual sites.

In addressing the local planning instruments, he noted that the subject property is designated as *Neighbourhoods* in the OP and suggested that the building typology of the neighborhood is single detached dwellings. The property is also zoned R4 in the former North York By-law 7625 and RD (f15.0; a550)(x5)) pursuant to Zoning By-law 569-2013, which requires a minimum lot frontage of 15.0 metres and a minimum lot area of 550 m<sup>2</sup>. Exception #5 requires a minimum side yard setback of 1.8 m, despite regulation 10.20.40.70(3) under 569-2013.

Additionally, Clause 10.5.30.21 under the new By-law states the following:

*“...in the Residential Zone category, if the lawful existing lot frontage of a lawfully existing lot is less than the minimum lot frontage required by this By-law, that lawful lot frontage is the minimum lot frontage for that lawfully existing lot.”*

As to the severance, Mr. Romero extracted from s. 51(24), below, criteria in subsections (c) and (f) for his opinion of non-compliance, in addition to non-conformity aspects of the Official Plan expanded upon in his variance considerations.

Employing a more generous Study Area than that identified by Mr. Romano, he offered a larger and what he termed, a more appropriate neighbourhood study area bounded by Stafford Park to the west, Yorkview Drive to the north, Senlac Road to the east, and Ellerslie Avenue to the south as defining the geographic neighbourhood. He acknowledged that this study area of some 566 lots is larger than the study area identified by the author of the April 11, 2017 Planning staff report, but asserted that it was chosen, among other reasons, to reflect the same, or similar zoning, lot size and configuration, and street patterns.

Utilizing attendant colour maps and charts illustrating Lot Frontage Analysis (Exhibit 7, p.38) and Neighbourhood Lot Characteristics and Overview (Exhibit 7, Tab 7), showing the distribution of lot sizes and year of creation, he formulated several observations (evidence and Witness Statement paragraphs 65-71, and attachments, maps, and a series of 35 photos):

- a) The study area has a particular lotting character, with the majority of lots having frontages that either meet or exceed the zoning by-law requirements.
- b) The physical character of the neighbourhood includes, among other characteristics described in OP Policy 4.1.5, prevailing building types and lotting patterns.
- c) The prevailing building type is single detached dwellings characterized by generous front yard soft landscaping with mature trees or vegetation.
- d) The study area has 487 lots zoned RD and of those, 358 lots (or 63%) meet or exceed the minimum lot frontage requirement of 15 m. Only 19 lots (or 3%) have lot frontages that are equal to, or less than the 10.11 m proposed by the Applicant.
- e) There are two other zone categories in the study area – RD(12.0; a370) and RD(9.0; a275) - with lot frontage requirements of 12 m and 9 m; these are found predominantly on Yorkview Drive, Cobden Street, and the south side of Horsham Avenue. Of the 61 lots requiring a minimum frontage of 12 m, 60 comply.

- f) The RD(9.0; a275) zone on Horsham, which requires a minimum lot frontage of 9.0 metres, includes 16 lots with the average frontage being 12.5 m. Only one lot has a frontage of less than 10 m, with that lot being a lot of record.

While acknowledging some redevelopment potential on the subject property, Mr. Romero opined that the two proposed dwellings represent an increase in density, massing, and scale not suitable to area character. He said that although physical change can occur with additions under existing zoning, the cornerstone of the Official Plan policy (section 3.1.1) is 'stability' to the character of buildings and streetscape and asserted that the findings in his lot study further reinforce the distinct character of the neighbourhood where the majority of the lots have frontages that meet or exceed the zoning by-law requirements.

In his view, the proposal offended these goals and that the change represented by the applications was neither 'sensitive', nor respectful of the criteria for consideration in Policy 4.1.5, sections b) and f).

He opined that the applications:

- i. Presented narrow comparative frontages and lot areas with reduced landscaping opportunities; and
- ii. Compromised open space, separation distances, comparative lot sizes, and reduced side yard setbacks.

Mr. Romero concluded that Official Plan conformity was not met due to substandard lot frontages, lot areas, and distribution and, as such, the applications on the subject property fail to respect and reinforce the existing physical character of the area. Furthermore, he opined that the variances failed the OP criteria cited, countered the area specific character standards in zoning where 96% of the lots within the study area have frontages that exceed the proposed frontages, and were not minor, or desirable.

His evidence on meeting the statutory tests of a minor variance application in the *Planning Act* addressed many of the same areas, emphasizing elements of contrast between the applications as he viewed them and the existing physical character and whether stability is reinforced.

He suggested the proposed narrow and undersized lots would upset the street rhythm and represent a visual impact in the form of reduced soft landscaping, increased curb cuts and driveways that would impact the pedestrian experience on Hounslow Avenue. He opined that the appeal of the COA decision be refused and the Applications be dismissed.

Ms. Stewart commenced her cross-examination by establishing with the witness the planning instrument hierarchy in the Province with the PPS and Growth Plan as high-level provincial policy documents which are implemented through policies in municipalities' official plans. Mr. Romero concurred that policy documents are less prescriptive and more flexible allowing interpretation to allow balancing of policies to achieve good planning outcomes.

Ms. Stewart highlighted Section 2.1 of the Growth Plan dealing with Complete Communities and Compact Built Form and specifically the direction of growth to *settlement areas* and the

prioritization of *intensification* which requires “...a range and mix of housing options, including second units and affordable housing and, in particular, higher density housing options that can accommodate a range of household sizes in locations that can provide access to transit and other amenities.” (Exhibit 2, pp. 227-228)

In response to a question from Ms. Stewart severing the subject property to create two smaller lots is a better use of the land and a form of intensification, Mr. Romero acknowledged this is envisaged by provincial planning policies but noted that these policies should not eclipse local planning policies.

Mr. Romero acknowledged that Policies 2.2.2 and 2.2.6 in the Growth Plan direct that intensification should generally be achieved and ‘encouraged’ (Ms. Stewart’s term) in *delineated built up areas* and that within these areas there should be a range of housing densities and options as stated in Policy 2.2.6.1 a). He also concurred with Ms. Stewart’s assertion that a severance is a recognized planning tool to support the implementation of this policy.

### **Hearing Day 3**

Hearing Day 3 commenced on January 7, 2021 with the continuing cross-examination of the City’s expert planning witness, Mr. Romero, by Ms. Stewart.

She resumed her questioning of the witness in respect of provincial policy related to residential ‘intensification’ and the encouragement of ‘market-based’ housing options. Mr. Romero agreed that policy directs that municipalities provide a full range and supply of housing options, including market-based and did not disagree that the PPS, both as it read when the applications were heard at the COA and at present, supports intensification generally.

However, he also noted that the PPS is applied across a larger geographic scale than the OP, and if one were to simply accept the intensification requirements in the PPS, it would obviate the careful planning process that municipalities undergo in their OPs. He also agreed with Ms. Stewart that the City’s OP has not been updated to confirm with the 2020 PPS or the 2020 Growth Plan although that exercise is currently on-going.

On a question regarding OP policies promoting intensification, generally, and policies that mention land severance as a land use planning tool available to municipalities, specifically, Mr. Romero agreed that there is no policy in the OP that prohibits severances and concurred that Chapter 4 policies speak directly to variances and severance. However, he noted that development must be in keeping with the existing neighbourhood context.

He agreed with Ms. Stewart that OP is not structured to ‘prohibit’ new development but rather its policies for evaluating and assessing development applications. On the issue of the neighbourhood stability, Mr. Romero agreed that stable does not mean static and that he considered the subject neighbourhood stable overall even though it has experienced redevelopment. He also agreed new development is not necessarily considered destabilizing for an area if it can satisfy the statutory planning tests in the *Act*.

Mr. Romero was questioned with respect to his understanding and use of the language related to the term 'prevailing' in respect of the OP. He concurred that OPA 320 modified the language in the assessment criteria found in Policy 4.1.5 but maintained that prevailing means 'majority'. He did, however, find it difficult after being questioned by Ms. Stewart to apply what he agreed was his somewhat numerical approach to quantify how many lots within the subject neighbourhood would qualify as a substantial number. As to a question from Ms. Stewart regarding 'geographic proximity', Mr. Romero agreed that there was "little" difference between his NSA and that of Mr. Romano, and the immediate neighbourhood context is of greater relevance than the broader context because it is most proximate in assessing new development.

Ms. Stewart asked Mr. Romero to agree that numerical statistical analysis is helpful when determining the existing physical character of a neighbourhood, which he did; however, he disagreed with Ms. Stewart in that a qualitative analysis is just as important in assessing whether the proposal's lot frontages 'respect and reinforce' that existing character – what one experiences as one walks the block. On a follow-up question regarding the existence of severed lots with the same or similar lot frontages to those proposed in proximity to the subject property along Hounslow Avenue, east of the site, Mr. Romero acknowledged they exist but not in any significant numbers and not in the broader neighbourhood.

He did, however, acknowledge on cross-examination that severances have not been precluded in this neighbourhood although he suggested that they may be more appropriate on a street such as Ellerslie Avenue where similar lot characteristics are evident.

Ms. Stewart submitted that visual perception of lots with comparable frontages, 10 m, to those with slightly wider frontages, 12 m, is not that different and that it is the built form that impacts how one perceives lot size and frontage. Mr. Romero disagreed, opining that the lot frontages at 304, 306, 308 and 310 Hounslow "*look different*" than the subject property. Ms. Stewart noted that the proposed frontages are not reflective of the narrower lots highlighted by Mr. Romero and no variances for a reduction in front yard soft landscaping have been requested.

#### *Participant Charlesworth's Statement*

Ms. Charlesworth is a long-time resident of the area having resided in the home abutting the subject property immediately to the west. She read from her Participant Statement filed with the TLAB and entered as Exhibit 9 and expressed concerns with the subject proposal related primarily to impacts of overlook, privacy, and shadow and with the 'fit' of the smaller lots within the neighbourhood's existing physical context.

She asserted that the proposed severance and associated variances will facilitate the construction of dwellings that are, in her opinion, "too narrow, too deep, and will be built 'too close' to her home" resulting impacts of overlook onto her property and her family's loss of privacy. She noted that she has an outdoor, solar heated swimming pool in her rear yard and the proposed new dwelling abutting her property will allow views into her rear yard as well as casting a shadow over the pool. This, she argues, will rendered her pool "useless." (her word)

On a question from Mr. Baena, Ms. Charlesworth noted that she moved to the subject neighbourhood because of its character including single detached houses, good public transit, and mature trees.

In cross-examination by Ms. Stewart, Ms. Charlesworth acknowledged that over the period during which she has lived on Hounslow Avenue, the neighbourhood has changed and evolved through redevelopment and the regeneration.

Addressing the issue of privacy and overlook, Ms. Stewart highlighted a photograph in Exhibit 1 (at p. 59) showing a panoramic view of the rear yards facing west, including that of Ms. Charlesworth's rear yard. Although the witness acknowledged that there is no existing privacy fencing along the rear line abutting the subject property, she also noted that some vegetation, including trees, had recently been removed by the owner of 318 Hounslow exacerbating issues of privacy and overlook.

On a question as to what would help improve the current situation, Ms. Charlesworth suggested that a wood privacy fence and additional trees/hedges along the rear lot line between the two rear yards would create a better condition.

With respect to the issue of privacy and overlook, Ms. Stewart highlighted the proposed site plan and elevation drawings in Exhibit 3 to suggest that the 1.45 m side yard setbacks proposed by the Applicant are similar to the 1.4 m side yard setbacks of the east side yard of 340 Hounslow. Ms. Charlesworth argued that the existing west side yard setback for the subject property, abutting her east lot line, is currently 8.07 m and that reducing that setback as proposed will result in loss of privacy, vegetation, and open space.

Ms. Charlesworth also acknowledged that although she was concerned about the amount of fenestration along the west elevation of the proposed dwelling abutting her property there were no windows proposed within that elevation towards the rear. She also agreed that windows were common elements in any urban setting such as on Hounslow.

#### *Participant Moreno's Statement*

Reading from her Participant's Statement, entered as Exhibit 10, Ms. Moreno explained that she is a long-time resident of this neighbourhood, is opposed to these Applications, and has opposed other similar applications in the area. She asserted that the proposed new homes will "dramatically" change the character of the neighbourhood through development that diminishes green space and the removal of mature trees.

She noted that the neighbourhood is one that includes homes with a distinct character and style with larger front yard 'gardens and greenery' but that the subject Applications will create two smaller lots and if approved, permit the construction of two "*tall and almost identical looking homes that do not fit the overall character of Willowdale.*" She asked that the TLAB acknowledge her opposition to the applications and refuse the consent and associated variances.

On cross-examined by Mr. Baena, she confirmed that her rear yard abuts the rear yard of the subject property and that there is a grade difference between the two properties with her property

being slightly lower in elevation. As a result, she anticipates impacts of privacy, overlook and shadow due to the construction of “two tall and large homes.”

On a question as to the current view from her rear yard, she noted that the Owner of the subject property recently removed two trees previously situated in the rear yard and that she can now see even more of that property.

On cross-examination, Ms. Stewart introduced a Google map aerial view of the block of Hounslow proximate to the subject property highlighting Ms. Moreno’s home, her street, Yorkview Drive, and the more recently constructed houses to the west of her property. Although Ms. Moreno acknowledged that her main concern with the proposal relates to the severance and the two “*too long and too deep*” houses to be constructed, she also conceded that there are no variances requested or required for building length or depth. With respect to the removal of rear yard trees by the Owner, Ms. Stewart confirmed for Ms. Moreno that permits were obtained for their removal and that the remaining trees will be maintained.

#### *Participant Kunde’s Statement*

Ms. Kunde lives on Yorkview Drive and her rear yard immediately abuts the rear yard of the subject property. She is another long-time resident and reiterated her opposition to the Applications noting that this is a “fourth attempt” to obtain approval to sever the property.

She stated that the properties along Hounslow in proximity to the subject site, and the properties to the north, are in her opinion “normal sized lots” for the neighbourhood and that the proposal will create two “*undersized properties...diminishing the continuity and character of the neighbourhood...increasing the density...and significantly diminishing the enjoyment the surrounding neighbours would have of our properties.*” (Exhibit 11)

While she stated that the overall neighbourhood does support increased density along the Finch Avenue corridor, noting the proposed development at the southwest corner of Finch Avenue and Bathurst Street, she stressed that the subject property is “*in the middle of a residential community where over 90% of the houses are on the original lot sizes with no sightline to split lots.*” She concluded her statement by asking that the Applications be refused so that the “*neighbourhood’s character and charm*” could be preserved.

She was briefly cross-examined, first by Mr. Baena followed by Ms. Stewart. On a question from Mr. Baena as to her view from her rear yard over the past 5-10 years, she suggested that more trees were evident but now her view is of the roofline of the existing home on the subject property. She repeated the point made by Ms. Moreno that the grade of 318 Hounslow is higher than her property by 1 m and that the proposed new homes will “*look down*” onto her property.

Ms. Stewart asked if she would prefer a wooden fence be erected along the rear lot line to mitigate privacy and overlook; Ms. Kunde noted that there currently is a 1.8 m high fence but that that has not prevented overlook.

As to the houses on Yorkview Drive that Ms. Kunde referenced, Ms. Stewart noted that even though many lots are zoning compliant, property owners have sought and received variances for both

side yard setback, (211 Yorkview Dr.) and building length on lots that are even larger in size than the severed lots being proposed. Ms. Kunde did not agree.

*Participant De Chellis' Witness Statement*

Mr. De Chellis' home abuts the subject property immediately to the east. He and his wife grew up in the neighbourhood and their home has been in his family since the early 1980's. He characterized the defining character of the neighbourhood as *"reasonably sized homes on nicely sized, spacious lots"* and asserted that the proposal will "jeopardize" these defining characteristics.

He suggested that his main concern with the proposal, as it relates to his home, is the height and depth of the proposed homes and *"squeezing these homes onto the lots."* He asserted this will result in adverse privacy, overlook, and shadow impacts on his rear yard. He highlighted a second impacted related concern with the height and location of the proposed rear decks of the homes to be constructed which Mr. De Chellis asserts will affect the privacy of his rear amenity area.

Finally, he raised a concern with the location of the proposed driveway as it relates to his front door although he acknowledged that no variance is required. He asked if the two proposed homes could be 'mirror images' of each other so that the driveway on the lot to be retained (Part 2) could be moved farther away from his property line.

He concluded by stating although he is not against development in the area, he would prefer that the subject property be developed to reflect the modestly sized homes on spacious lots in the area that respect and reinforce the neighbourhood character.

Mr. De Chellis was only cross-examined by Ms. Stewart. He reaffirmed that the increased density proposed for the subject property was unacceptable, but he also was acknowledged that his home is currently longer than the existing house on 318 Hounslow. He agreed that this was the existing condition; however, he opined that based on the Site Plan drawings the proposed homes will be longer in length compared with his home because the severance will create two undersized lots on which long and narrow dwellings will sit.

Ms. Stewart disagreed with his characterization that the proposed houses were being 'crammed' (her word) onto the lots and highlighted examples of recent building length variance decisions on Yorkview Dr. where approvals resulted in building lengths ranging from 19 m to 22.4 m. In response, Mr. De Chellis reasserted his position that two lots with a frontage of 10.11 m will not 'fit' the existing, physical character of the neighbourhood.

With respect to impacts of privacy and overlook, Ms. Stewart referenced the east elevation of the proposed home abutting his property along with photos of the existing context (Exhibit 1). She noted that fenestration is limited on the upper floor of the east side wall elevation thereby reducing any overlook into his home. Mr. De Chellis disagreed and suggested that the windows proposed in the elevation facing his property and the rear deck will overlook his home and impact on the privacy he currently enjoys.

In response, Ms. Stewart reiterated that the number of windows along the east elevation have been located so as to minimize overlook will be situated and that with respect to the rear deck that the



Owner of the subject property was prepared to include privacy screening along the edges of the decks to mitigate those impacts as a condition of variance approval.

Due to time constraints resulting from the length of testimony and cross-examinations on Hearing Day 3, there was no additional time to provide the Parties with an opportunity for oral closing arguments. Given that I was not prepared to canvas the Parties for any further Hearing days for this purpose, I directed that closing arguments would be accommodated in written form to be filed with the Tribunal within seven (7) calendar days and with a written Reply to follow within 5 days.

### ***Closing Arguments***

#### ***Ms. Stewart***

In her written closing arguments, Ms. Stewart asserted that the lot areas created through severance are generous and maintain the intent of the zoning by-law and can appropriately accommodate the contemporary dwellings and building standards with relatively few built form variances. She submitted that the issues raised by the neighbours were typical of most severance hearings, there is nothing unusual or extraordinary about the proposal, and that the principal issue in dispute with the City related to the proposed lot sizes whereas the Participants' concerns related generally to issues of privacy and overlook, and the removal of trees.

She respectfully submitted that Mr. Romano's evidence demonstrates that the proposed lots conform to and maintain the general intent and purpose of the OP and Zoning By-law, that the proposal (including all built form elements) is "*materially consistent*" with the prevailing physical character of the neighbourhood, and that resulting development will provide intensification in a contextually appropriate manner. She also asserted that the City and Participants did not raise any evidence of adverse impact of a planning nature, and that suitable conditions have been proposed that address concerns highlighted by the residents.

Ms. Stewart highlighted case law in the form of two 2018 TLAB decisions: 319 and 210 Horsham Avenue and addressed each briefly in her submission. For context, she noted that 319 Horsham is located within the study area highlighted by both planning experts for purpose of assessment whereas the latter property is situated just outside of the study areas. She asserted, however, that in both decisions the presiding Panel Members recognized the character assessment importance of 'fit' within the specific context of the site within a neighbourhood but that the physical character within a single neighbourhood is not always the same.

She respectfully submitted that the TLAB prefer Mr. Romano's evidence, that the evidenced called at the Hearing demonstrated that the proposal should be approved and asked that the consent be granted, the associated variances be approved, subject to recommended conditions of approval.

#### ***Mr. Baena***

In his closing argument, Mr. Baena submitted that the appeal should be dismissed as the proposed lot frontages fail to meet the statutory *Planning Act* tests for consent and variance applications. He asserted that the burden is on the Applicant to prove that the applications meet the

statutory requirements, and that since the Applications are intertwined if the consent application fails there is no need to consider the variance applications since the lots will not be created.

He submitted that the City's expert planning evidence supports the position that the proposed lot frontages and areas could not be considered a prevailing character of the neighbourhood since the resulting frontages do not respect and reinforce this character. He also asserted that the Applicant's expert witness was unable to highlight specific policies in the OP that explicitly encourage utilizing severances as an intensification tool to accommodate the creation of one new fully detached dwelling in stable neighbourhoods. Finally, he argued that there was no evidence of supporting policies that supports seeking similar lot dimensions or other characteristics to nearby properties by "*moving closer to their attributes*" as a rationale for lot severances.

Mr. Baena also highlighted a TLAB decision issued by Chair Lord for 37 Stafford Road as being relevant in the matter at hand. He identified the property in that matter as being approximately 1 km southwest of the subject property, north of Ellerslie and south of Churchill

In that decision, Chair Lord, in assessing the practicality of quantitative analysis in supporting land division, wrote:

*"...However, there is no policy support to which I was directed that creates or states a principle that land division can be encouraged for the purpose of moving established lot fabric closer to that of its neighbours, let alone some of them...In my view, only an expressed policy addressing this consideration could overcome the existing policy of respecting and reinforcing existing conditions. I do not accept this consideration as a planning principle of relevance in this circumstance."* (Decision, Pg. 16, para. 6)

Mr. Baena highlighted the above passage to support his assertion that the proposition put forward by the Applicant's witness that seeking similar lot frontage in proximity to the subject site as a rationale for change by way of lot division is contrary to the concept of 'gradual' and 'sensitive' neighbourhood evolution.

He reiterated that the subject property and the accompanying Applications have been refused by the COA on three separate occasions. Consequently, he asked that the TLAB agree with the opinion of the City's expert witness, supported by and consistent with the previous findings of the Committee, and dismiss the appeal for failing to demonstrate that the Applications meet the prescribed statutory tests.

In her written Reply, Ms. Stewart restated Mr. Romano's testimony that the existing character experienced "on the ground" is the relevant consideration for evaluating the Applications, and that the OP already allows for lot creation where it can be found to it is in keeping with and respects and reinforces the character of the neighbourhood. In referencing the TLAB decision for 37 Stafford highlighted by the City, she noted that Mr. Romano did not testify that a lot 'moving closer' to the attributes of nearby properties is a rationale for a severance but rather he relied upon the mixed character assessment of the neighbourhood opining that the proposal is an appropriate form of development "at that location."

Finally, with respect to the COA's refusal of previous applications for the subject property, she asserted that those involved different proposals with different built form and variances. Further, she asserted that the City's expert planning witness' analytical assessment approach to the subject Applications was no different than that offered in the findings of Planning staff with respect to the previous COA proposals even though the subject Applications are not similar.

## **ANALYSIS, FINDINGS, REASONS**

As stated under 'Matters in Issue', the Applications and appeal before this Body are, in my opinion, neither unprecedented nor complex: a severance approval with associated variances to permit the construction of two single detached dwellings.

Counsel provided case law for guidance of which I am appreciative of the assistance. However, ultimately the determination of the appeal must bear strong bonds to the evidence heard. I deal with the summary ratios of the referenced cases, taken as provided in the written closing arguments, and refer to them by their popular name.

The cases cited involve appeals on applications for consent and variances with two new lots sought to be created. All are either within or proximate to the study areas selected by the expert planning witnesses in this matter, and all are contested cases.

Ms. Stewart highlighted two TLAB decisions. In the decision for 319 Horsham Avenue (re Davood Morad), the appellant is proposing lot frontages and areas with similar numeric considerations to the proposed although slightly smaller in magnitude. In that decision, Chair Burton found that wider lots coexisting with smaller lots are characteristic of this neighbourhood, and that the lot sizes (9.75 m) proposed in that matter would respect and reinforce the character of the neighbourhood.

The decision for 210 Horsham (re Javad Shirvani-Ghomi) involves a property that is located one block south and two blocks east of the subject property and outside of the highlighted study areas in the subject appeal. In that appeal, the appellant also proposed a severance to reduce lot frontages and areas that are similar but, again, slightly smaller (9.14 m & 367 m<sup>2</sup>) to what is being proposed in the matter before the TLAB. In that decision, Panel Member McPherson, in allowing the severance and authorizing the associated variance, made similar analogous findings with respect to the OP policies (pre-OPA 320). In summary, her decision recognizes the importance of the 'fit' of a development within the specific context of the site and that physical character within a 'single' neighbourhood is not always the same.

In Ms. Stewart's opinion, both decisions recognize that no neighbourhood is frozen in time and support the position that while new development must fit harmoniously within the general physical area pattern it does not need to be identical. What is determinative is that the neighbourhood is evolving in a gradual, stable and appropriate manner which is a desirable pattern that the Official Plan encourages, and she submits that the proposed lots and built form are not unique or atypical for the neighbourhood.

She posits that the Tribunal Members in those decisions found that an interpretation of the OP policies must be undertaken with the understanding that rigid neighbourhood replication of any single feature is not what is required by the OP, so long as what is being proposed generally fits what is already found in the neighbourhood. Furthermore, in considering what is relevant in characterizing a neighbourhood and in assessing the 'fit' of the proposal with the area lot fabric, she asserts that what the decisions maintain is that 'one street does not a neighbourhood make.'

With respect to the TLAB decision relied on by Mr. Baena, I note that 37 Stafford is situated outside of the study area of both expert planners. However, to the extent that the principles expressed in that decision are relevant to the Applications before this Member, I concur with Ms. Stewart's assessment regarding that decision. She submitted that although quantitative analysis is helpful as part of the planning evaluation as a convention of practice, it is clear from Chair Lord's decision that a qualitative assessment must also be completed.

I concur with Chair Lord who wrote that 'character' *"is a basket of many elements which cannot be segmented into individual categories (i.e., height, lot size, setbacks, etc.)"* This is also expressed at paragraph 3 on Page 3 in that decision where the Chair also wrote *"that no single measure is determinative of all the relevant considerations needed to evaluate the Applications, including their similarities and differences, the resulting built form and the policy direction 'to respect and reinforce the existing physical character of the neighbourhood'."*

I concur with Mr. Romano that if a severance is allowed, two contemporary dwellings as proposed could be constructed on the resultant lots, which could function independently, and which are reflected throughout many neighbourhoods in the City. The capability to erect the dwellings on the proposed lots and their ability to accommodate the dwellings was not put in issue, rather, the challenge to the Applications from the abutting neighbours and the City focused on lot frontage, assessment criteria, impacts of overlook, privacy and shadow, and precedent. It is these issues that need to be resolved within the ambit of the statutory considerations and the evidence.

The review and analysis of the evidence is based on whether it is appropriate to create two smaller lots from the one and, if so, whether the requested variances meet all the four tests under s. 45(1) of the *Act* and relevant provincial policy. I accept the testimony of Mr. Romano that there is no issue with the application of the PPS and the Growth Plan. The approval of the proposed consent and variances would permit redevelopment of the subject property, optimizing the use of the land for more efficient use of existing infrastructure, and will result in modest intensification within a built-up area that is compatible with adjacent uses and which would utilize existing infrastructure.

I find that the proposed consent meets the statutory requirements for consents under Section 51(24) of the *Act* and that the proposal supports the policy direction therein. There is no contest that the subject property is designated '*Neighbourhoods*' and that the proposed development complies with the use provisions of that designation.

In reviewing the policies and the evidence, I agree that the OP is the appropriate policy framework to evaluate the Applications and that Section 2.3.1 (preamble) is of relevance in this matter in the issue of what describes a 'physically stable area.' The application and relevance must be addressed, as regard must be had to whether the proposed development conforms to the OP

pursuant to Section 51(24) (c), and for the variances, in testing of each element in maintaining the general intent and purpose of the OP.

Clearly, the Official Plan holds out special attention to be paid to its '*Neighbourhoods*' as they are not targeted for robust waves of intensification. Change is to be sensitive and gradual, just as these neighbourhoods have been developed and built up in the past. The general intent and purpose of this designation is to create and define stable residential areas within the City to ensure compatibility of land uses and built form.

Mr. Romano submitted that the *Neighbourhoods* designation is not to be frozen in time or to be held 'static'. It is essential as with any organism that revitalization and regeneration take place. As well, the delicate balance to which attention is called in this appeal is in the manner and means by which that change occurs.

Both expert planning witnesses identified a Study Area by which they sought to assess a norm or descriptor of the character of the neighbourhood, reflective of the proposal. The OP encourages this effort through emphasis that the policy obligation of planning decisions is to 'respect and reinforce the existing physical character of buildings, streetscapes and open space patterns' and hones it by intended reference to attributes, measures and features that are describable and replicable.

I find that the delineation of a study area to be a necessary first step by planning practitioners towards encapsulating measures that replicate the existing physical character of a neighbourhood. In the matter at hand, I find that there are no '*significant*' discrepancies between the two planners' NSAs although the Mr. Romero's boundaries were slightly different as he included a portion of Yorkview Drive to the north and a block further to the west. While I agree that for the most part the two NSAs were sufficiently broad and the scale satisfactory to take 'the pulse' of the area's physical character, and each provided both a broader geographic neighbourhood and an immediate context, I prefer that of Mr. Romano's which was more focused and less nuanced.

I agree with Mr. Romano that the neighbourhood, both immediate and broader, is not uniform. A variety of lot sizes and configurations exist in the area, both through original lot registration/development, and through historical and more recent land division applications. His detailed CAO Decision Summary Table illustrated a number of approvals for lot frontages in the area many ranging between 9.75 m to 12.7 m on Hounslow and Horsham over the past 10 years, an analysis not specifically detailed by Mr. Romero. I concur with Mr. Romano's assessment that the regeneration and redevelopment activity occurring has not resulted in the destabilization of the neighbourhood.

On the contrary, I agree with Mr. Romano that this has resulted in a diverse mix of lot frontages and sizes and that the proposed consent will respect and reinforce the general lot patterns. I agree that one criterion for establishing neighbourhood character is the size and configuration of lots, and that the proposed lot dimensions will be compatible with the existing physical character, not represent anything anomalous, and fit the surrounding area fabric.

The direction in the OP to 'respect and reinforce' is not a requirement to replicate any single component of area character and I agree that physical characteristics that are not the most frequently occurring are not necessarily precluded. I concur with Mr. Romano that there is a wide range of lot

sizes on Hounslow in the immediate context, evidenced by his analysis that there are 20 different lot frontages and 23 different lot area numeric measurements among 51 lots in the immediate context. I agree that the proposal will be 'materially' consistent with the prevailing physical character.

I accept that the proposed built form of the detached dwellings is appropriate in scale to the immediate context and that dwelling heights, massing, and scale are similar to and compatible with replacement and original dwellings in the neighbourhood. I also agree that that built form will conform to the compatibility criteria pursuant to the policies in s. 3.1.2 of the OP. The lack of requested variances for building height, FSI, and building length supports this assessment.

The remaining issues relate to whether the proposed variances satisfy the four tests under s. 45(1) of the *Act*.

With respect to the Official Plan, I agree that the evidence demonstrates that the proposal exhibits physical characteristics, including lot size, lot configuration, site design and built form features which manifest themselves in a manner that will fit well with the existing and/or planned context of this neighbourhood's geographic and immediate contexts. The photo evidence confirms that within the subject block, a variety of conditions exist including, lot frontage and lot area, side yard setbacks, and front porch setbacks, and that the proposal is in keeping with this character. I agree that the proposed variances meet the general intent and purpose of the OP.

In terms of the Zoning By-law, I agree with Mr. Romano that the variances maintain the general intent and purpose of the By-law. The proposal achieves a permitted detached residential building type in a manner that is appropriately sited, designed and sized to respect, reinforce and be compatible with the subject property's physical contexts. I find that the two lots to be created achieve a lot size that fits within the intermingling of lot sizes including lots that are smaller than the general zoning requirement, and that the side yards are adequate to permit access for maintenance and servicing and provide appropriate spacial relationships with the abutting properties. I find the same for the proposed front porch which will maintain a subordinate relationship to the dwelling.

The consent and variance applications maintain the general physical character of the area and are desirable for the appropriate development of the lands, and the building siting and built form condition is one that is reasonable and to be anticipated in the redevelopment of the subject property.

Further, the TLAB is satisfied that the variances are minor, both in quantitative and qualitative terms, create no undue adverse planning impacts based on the proposed plans and the recommended conditions of approval. Although the Participants raised concerns about privacy and overlook, I do not accept that they rise to a threshold of 'adverse' impacts and I find that the conditions of approval proposed by the Applicant will address these concerns.

Considering the foregoing, having considered the decision of the COA, the applicable statutory tests and evidence, and the lack of substantive adverse impacts of a planning nature from the Participants and residents, I find that the consent and the associated variances, as listed below, together with the conditions of approval, meet the criteria set out in Section 45(1) of the *Planning Act*. They are appropriate and desirable, minor in nature and in keeping with the intent and purpose of the City Official Plan and Zoning By-law.

Additionally, I am satisfied that the Applications are supportive of and consistent with provincial policies and represent good land use planning, for the reasons reviewed.

Therefore, I conclude that the Appeal can be allowed in its entirety and I authorize all of the variances and approve the consent requested.

## **DECISION AND ORDER**

The appeal with regard to the application for consent is allowed, subject to the conditions set out in **ATTACHMENT 3**. The following variances to the Zoning By-law set out in **ATTACHMENT 1** are authorized, subject the conditions set out in **ATTACHMENT 2**.

The earlier decision of the COA can be set aside.

### **ATTACHMENT 1**

#### **CONVEYED - PART 1**

The lot frontage is 10.11m and the lot area is 404.42m<sup>2</sup>. The property will be redeveloped as the site of a new detached dwelling.

#### **LIST OF VARIANCES – 320 Hounslow Avenue**

##### **PART 1**

##### **1. Chapter 10.20.30.20, By-Law No. 569-2013**

The minimum required lot frontage is 15m.  
Existing lot frontage is 10.11m.

##### **2. Chapter 10.20.30.10, By-Law No. 569-2013**

The minimum required lot area is 550m<sup>2</sup>.  
Existing lot area is 404.42m<sup>2</sup>.

##### **3. Chapter 10.20.40.70 & Exception RD5, By-Law No. 569-2013**

The minimum required east side yard setback is 1.8m  
Proposed east side yard setback is 1.45m.

##### **4. Chapter 10.20.40.70 & Exception RD5, By-Law No. 569-2013**

The minimum required west side yard setback is 1.8m  
Proposed west side yard setback is 1.45m.

##### **5. Chapter 10.5.40.60 (1), By-Law No. 569-2013**

The minimum required front porch setback from the side lot line for this zone is 1.8m.  
Proposed front porch is 1.45m from the side lot line.

## RETAINED - PART 2

The lot frontage is 10.11m and the lot area is 404.38m<sup>2</sup>. The property will be redeveloped as the site of a new detached dwelling.

### LIST OF VARIANCES – 318 Hounslow Avenue

#### PART 2

**1. Chapter 10.20.30.20, By-Law No. 569-2013**

The minimum required lot frontage is 15m.  
Existing lot frontage is 10.11m.

**2. Chapter 10.20.30.10, By-Law No. 569-2013**

The minimum required lot area is 550m<sup>2</sup>.  
Existing lot area is 404.38m<sup>2</sup>.

**3. Chapter 10.20.40.70 & Exception RD5, By-Law No. 569-2013**

The minimum required east side yard setback is 1.8m  
Proposed east side yard setback is 1.45m.

**4. Chapter 10.20.40.70 & Exception RD5, By-Law No. 569-2013**

The minimum required west side yard setback is 1.8m  
Proposed west side yard setback is 1.45m.

**5. Chapter 10.5.40.60 (1), By-Law No. 569-2013**

The minimum required front porch setback from the side lot line for this zone is 1.8m.  
Proposed front porch is 1.45m from the side lot line.

## ATTACHMENT 2

### CONDITIONS OF VARIANCE APPROVAL

- 1) The new detached dwellings to be constructed substantially in accordance with the Site Plans and Elevations prepared by Arcica Inc., including A1 Site Plan dated March 4, 2020, and A06 Rear Elevation (South), A07 Rear Elevation (North), A08 Side Elevation (East), and A09 Side Elevation (West) dated July 12, 2019, attached as **ATTACHMENT 4** to this decision. **Any other variances that may appear on these plans that are not listed in this decision are NOT authorized.**
- 2) The Owner is to provide permanent opaque privacy screening along the east and west sides of the proposed rear deck with a minimum height of 1.5 m from the deck floor.



- 3) The east and west side yard setbacks on the Site Plans to be corrected from the 1.47 m setback shown to reflect the approved 1.45 m setback.
- 4) Where there is no existing street tree, the owner shall provide payment in lieu of planting of one street tree on the City road allowance abutting each of the sites involved in the application. The current cash in-lieu payment is \$583/tree.

Additionally, the Applicant is subject to the following conditions:

- 5) The applicant shall submit revised site plan(s) with the following revisions and notation to the satisfaction of the Engineering and Construction Services and Transportation Services, at no cost to the City:
  - a. The site plan must be revised to clearly indicate the restoration of all the redundant portion of the former driveway and curb cuts with sod and raised concrete curb, all of which shall be designed to municipal standards.
  - b. Illustrate the proposed grades at all corners along the property boundary.
  - c. For the existing driveway, label any portion of driveway to be removed within the right-of-way as to be restored with sod.
- 6) Add the following notations to the Site Plan
  - a. *"All portions of existing access driveways that are no longer required must be closed and restored with soft landscaping and full concrete curbs, to the satisfaction of Transportation Services."*
  - b. *"The proposed new driveways shall be constructed to the applicable City of Toronto Design Standards at no cost to the municipality."*
  - c. *"The applicant shall also submit a Municipal Road Damage Deposit (MRDD) prior to obtaining a Building permit." The applicant is advised to contact Right-of-Way Management Section at (416) 395-7112 regarding municipal road damage deposit requirements."*
  - d. *The applicant shall obtain the necessary authorization and permits from the City's Right-of-Way Management Section of the Transportation Services before excavating within or encroaching into the municipal road allowance."*

## **ATTACHMENT 3**

### **CONDITIONS OF CONSENT APPROVAL**

The TLAB has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The TLAB therefore consents to the transaction as shown on the plan filed with the TLAB or as otherwise specified by this Decision and Order, on the condition that before a Certificate of Official is issued, as required by Section 53(42) of the Planning Act, the applicant is to fulfill the following conditions to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment:

- (1) Confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, in the form of a statement of tax account current to within 30 days of an applicant's request to the Deputy Secretary-Treasurer of the Committee of Adjustment to issue the Certificate of Official as outlined in Condition 6.

(2) Municipal numbers for the subject lots, blocks, parts, or otherwise indicated on the applicable registered reference plan of survey shall be assigned to the satisfaction of the Supervisor, Surveys, Engineering Support Services, Engineering and Construction Services.

(3) One electronic copy of the registered reference plan of survey integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with, and to the satisfaction of, the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services.

(4) One electronic copy of the registered reference plan of survey satisfying the requirements of the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services shall be filed with the Deputy Secretary-Treasurer of the Committee of Adjustment.

(5) Prepare and submit a digital draft of the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) of the Planning Act if applicable as it pertains to the conveyed land and/or consent transaction to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment.

(6) Once all of the other conditions have been satisfied, the applicant shall request, in writing, that the Deputy Secretary-Treasurer of the Committee of Adjustment issue the Certificate of Official.

(7) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions.

#### **ATTACHMENT 4**

##### **Site Plans**

#### **Appendix 1 – Advisory of Other City Approvals & Requirements**

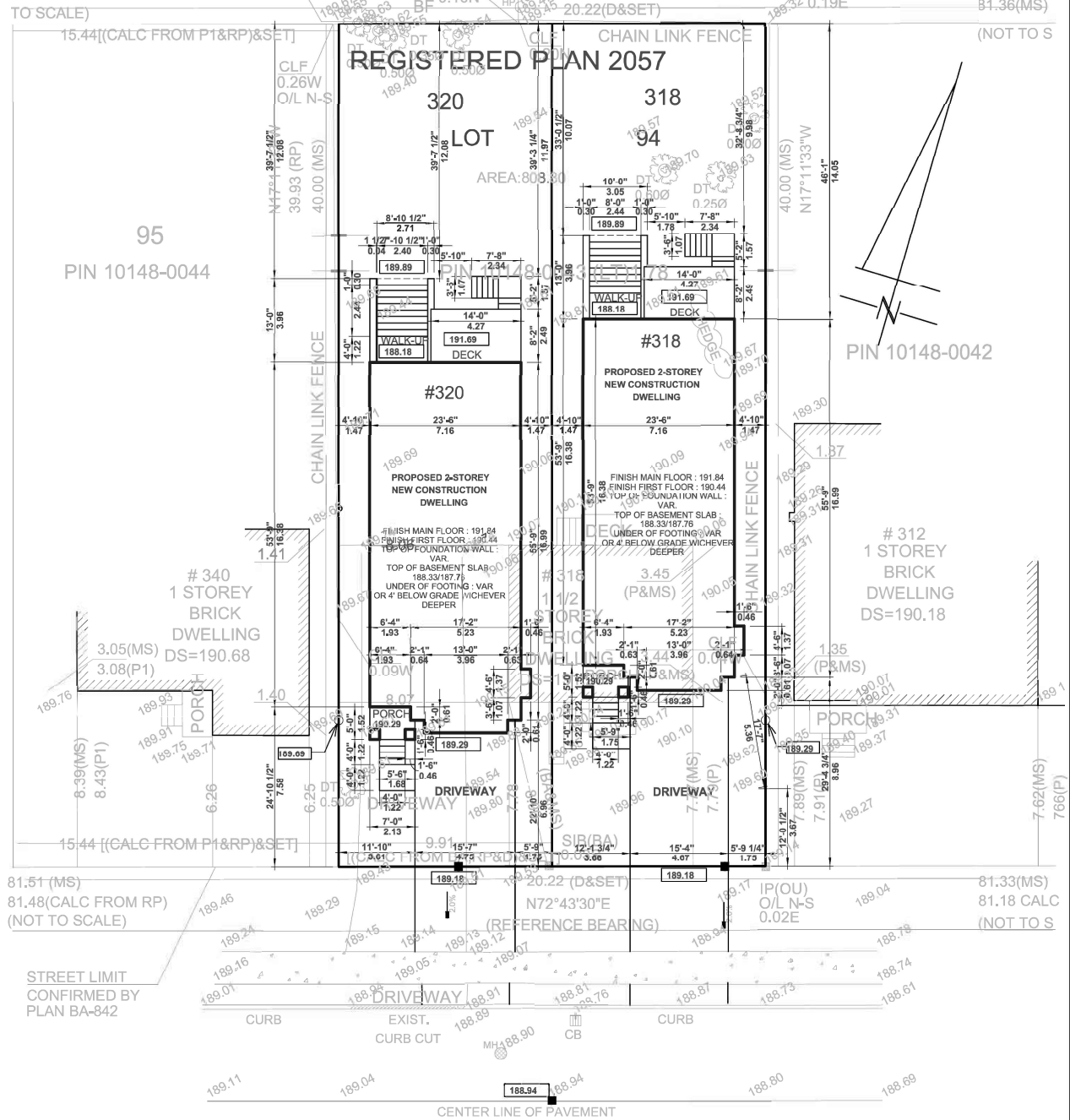
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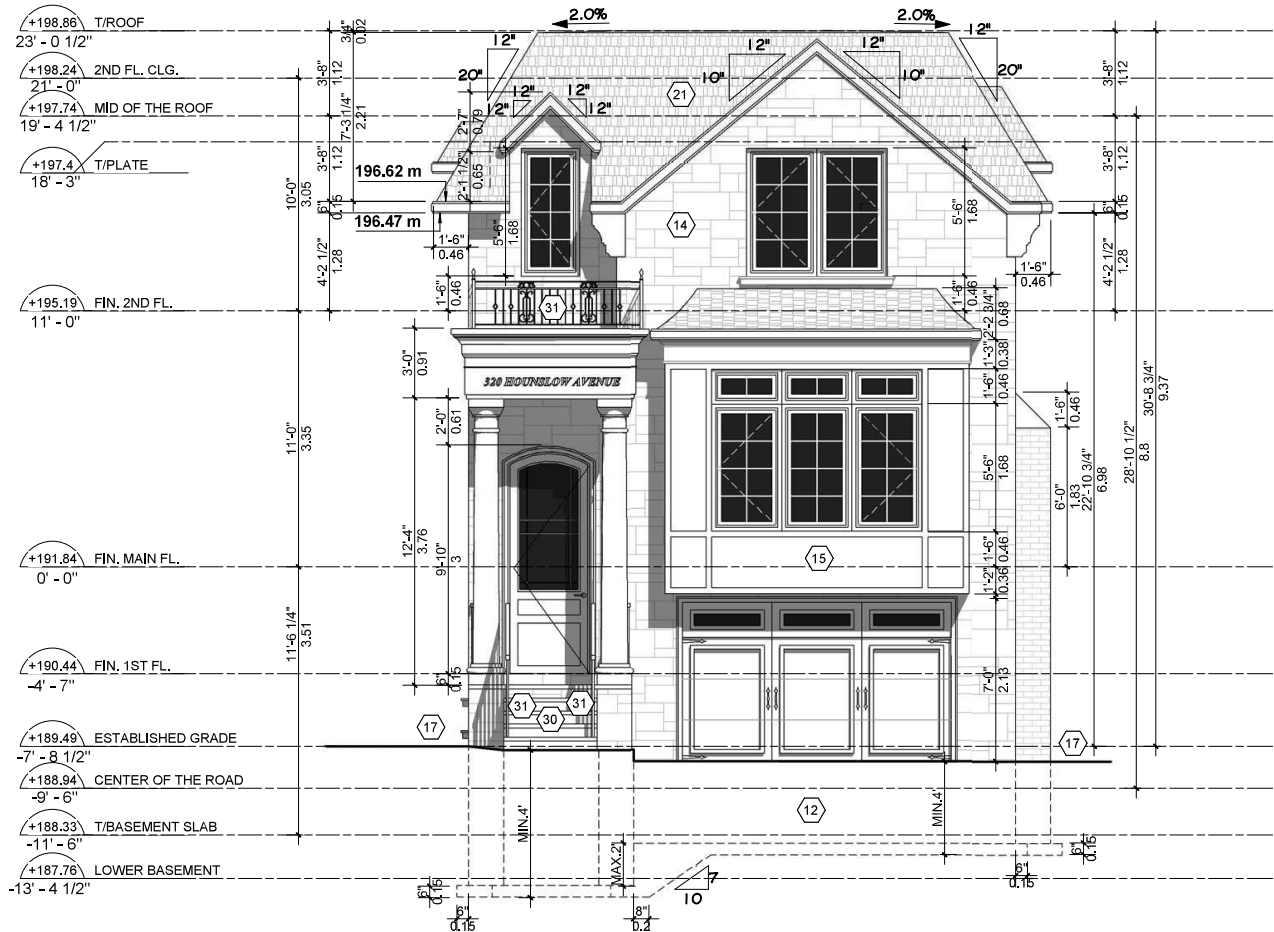
Dino Lombardi  
Panel Chair, Toronto Local Appeal Body

Zoning Data Matrix	320 HOUNSLOW AVENUE
R4 & RD (F15, a550)(X5)	Proposed
Lot #	PART OF LOT 94
Plan #	2057
Lot Area	4353.14 s.f. - 404.42 m <sup>2</sup>
Front Yard Area	780.49 s.f. - 72.51 m <sup>2</sup>
Driveway Area	356.17 s.f. - 33.09 m <sup>2</sup>
Porch and Walkway Area	71.68 s.f. - 6.66 m <sup>2</sup>
Landscape Open Space Area	424.31 s.f. - 39.42 m <sup>2</sup> (54.36%)
Soft Landscaping Area	352.62 s.f. - 32.76 m <sup>2</sup> (83.10%)
Building Area(Coverage)	1297.37 s.f. - 120.53 m <sup>2</sup> (29.80%)
Main Floor Area	1323.42 s.f. - 122.95 m <sup>2</sup>
Second Floor Area	1311.69 s.f. - 121.86 m <sup>2</sup>
Gross Floor Area	2635.11 s.f. - 244.81 m <sup>2</sup> (60.53%)

Zoning Data Matrix	318 HOUNSLOW AVENUE
R4 & RD (F15, a550)(X5)	Proposed
Lot #	PART OF LOT 94
Plan #	2057
Lot Area	4352.71 s.f. - 404.38 m <sup>2</sup>
Front Yard Area	1051.74 s.f. - 92.71 m <sup>2</sup>
Driveway Area	320.01 s.f. - 29.73 m <sup>2</sup>
Porch and Walkway Area	52.6 s.f. - 4.89 m <sup>2</sup>
Landscape Open Space Area	677.91 s.f. - 62.98 m <sup>2</sup> (67.93%)
Soft Landscaping Area	625.27 s.f. - 58.09 m <sup>2</sup> (92.23%)
Building Area(Coverage)	1297.37 s.f. - 120.53 m <sup>2</sup> (29.80%)
Main Floor Area	1323.42 s.f. - 122.95 m <sup>2</sup>
Second Floor Area	1311.69 s.f. - 121.86 m <sup>2</sup>
Gross Floor Area	2635.11 s.f. - 244.81 m <sup>2</sup> (60.53%)



<p>designed by:</p> <p><b>ALI SHAKERI</b></p> <p>T.416 8213960</p> <p><b>ARCICA INC.</b></p> <p>328 SHEPPARD AVENUE EAST, M2N 3B4 TORONTO, ONTARIO, CANADA</p>	<p>project:</p> <p><b>318 &amp; 320 HOUNSLOW AVENUE</b></p> <p>drawing:</p> <p><b>SITE PLAN</b></p> <p>scale:</p> <p><b>1/16"=1'</b></p>	<p>revisions:</p> <p>JUNE 22, 2018 - issued for COA</p> <p>SEP 05, 2018 - DRIVEWAY REVISION</p> <p>NOV 20, 2018 - REVISION</p> <p>JUL 12, 2019 - issued for COA2</p> <p>MAR 04, 2020 - issued for TLAB</p> <p>THIS UNDERSIGNED HAS REVIEWED &amp; TAKES RESPONSIBILITY FOR THIS DESIGN, &amp; HAS THE QUALIFICATIONS &amp; MEETS THE REQUIREMENTS SET OUT IN THE O.B.C. TO BE A DESIGNER</p> <p>Ali Shakeri</p> <p>BCIN#24574</p> <p>F&amp;A Associates Ltd.</p> <p>BCIN#30998</p>	<p>1. ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.</p> <p>2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.</p> <p>3. DO NOT SCALE DRAWINGS.</p> <p>4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&amp;A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.</p> <p>5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED "ISSUED FOR CONSTRUCTION".</p> <p>6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION</p>
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designed by:

**ALI SHAKERI**  
T.416 8213960

**ARCICA INC.**

326 SHEPPARD AVENUE EAST,  
M2N 3B4 TORONTO, ONTARIO

project:

320 HOUNSLOW AVENUE

drawing:

MAIN  
ELEVATION(SOUTH)

scale:

3/16" = 1'-0"

page:

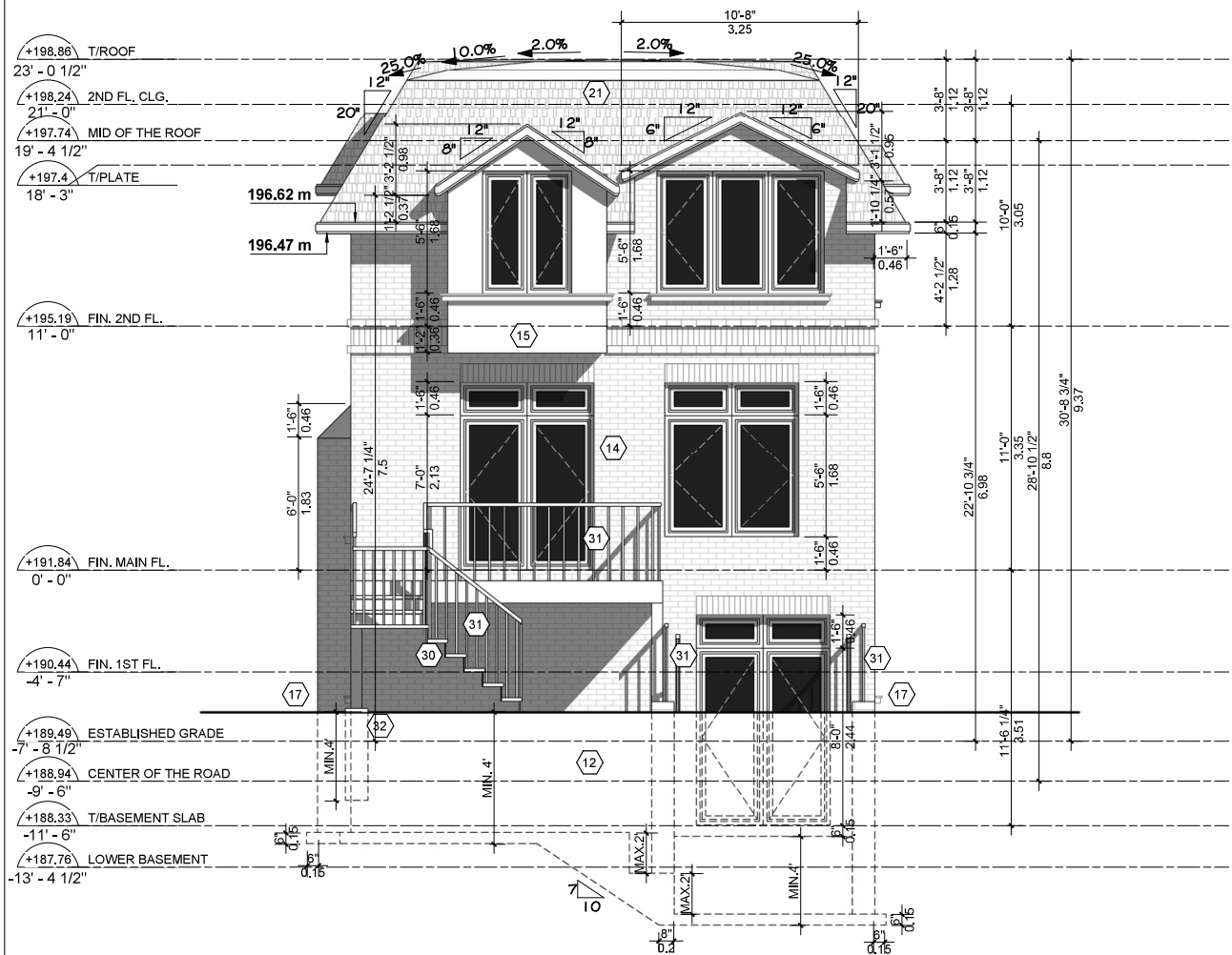
A 06

revisions:

JUNE. 22.2018- ISSUED FOR COA  
SEP 05.2018- driveway revision  
JUL 12.2019-issued for COA2

THIS UNDERSIGNED HAS REVIEWED & TAKES  
RESPONSIBILITY FOR THE DESIGN, & HAS  
THE QUALIFICATIONS & MEETS THE  
REQUIREMENTS SET OUT IN THE O.B.C. TO  
BE A DESIGNER  
**Ali Shakeri**  
BCIN#24574  
F&A Associates Ltd.  
BCIN#30998

1 ALL WORK SHALL BE CARRIED OUT IN  
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REQUIREMENTS OF THE LATEST REVISION OF THE  
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designed by:

**ALI SHAKERI**  
T.416 8213960

**ARCICA INC.**

326 SHEPPARD AVENUE EAST,  
M2N 3B4 TORONTO, ONTARIO

project:

320 HOUNSLOW AVENUE

drawing:

REAR  
ELEVATION(NORTH)

scale:

3/16" = 1'-0"

page:

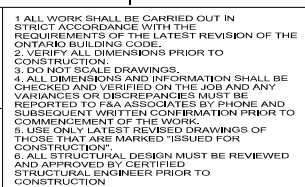
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revisions:

JUNE, 22, 2018- ISSUED FOR COA  
JUL 12, 2019-issued for COA2

THIS UNDERSIGNED HAS REVIEWED & TAKES  
RESPONSIBILITY FOR THIS DESIGN, & HAS  
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REQUIREMENTS SET OUT IN THE O.B.C. TO  
BE A DESIGNER  
**Ali Shakeri**  
BCIN#24574  
F&A Associates Ltd.  
BCIN#30998

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6. ALL STRUCTURAL DESIGN MUST BE REVIEWED  
AND APPROVED BY CERTIFIED  
STRUCTURAL ENGINEER PRIOR TO  
CONSTRUCTION.



GLAZED AREAS:

1. AREA OF EXPOSED BUILDING FACE: 1229.23 SQ.FT.
2. PROPOSED GLAZED AREA: 60.70 SQ.FT. (4.93%)

designed by:

**ALI SHAKERI**  
T.416 8213960

**ARCICA INC.**  
326 SHEPPARD AVENUE EAST,  
M2N 3B4 TORONTO, ONTARIO

project:

320 HOUNSLOW AVENUE

drawing:

SIDE  
ELEVATION(WEST)

scale:

3/16" = 1'-0"

page:

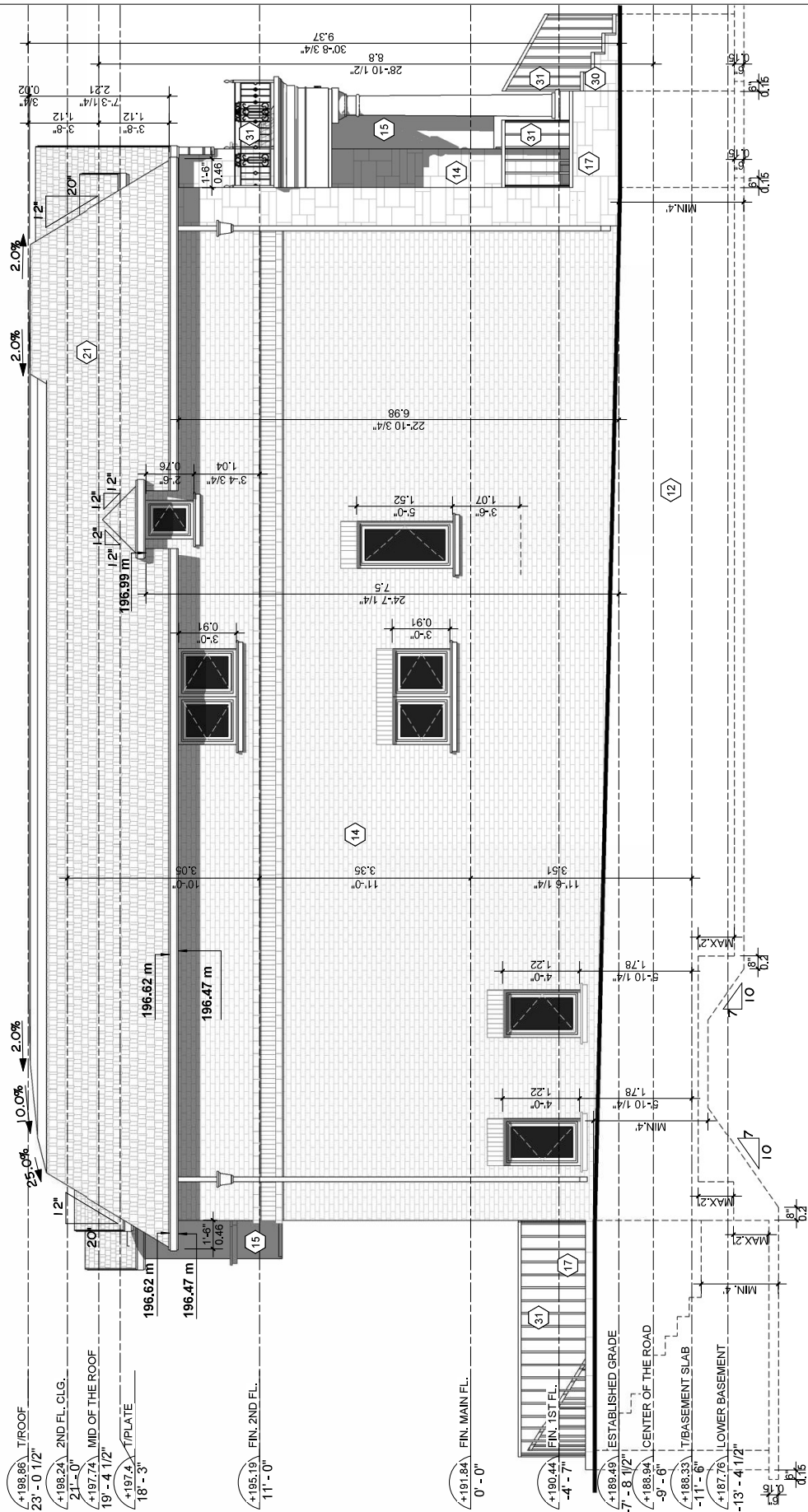
A 09

revisions:

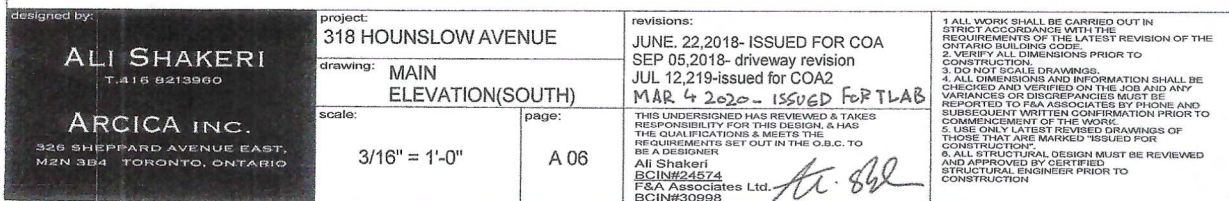
JUNE. 22,2018- ISSUED FOR COA  
JUL 12,219-issued for COA2

THIS UNDERSIGNED HAS REVIEWED & TAKES  
RESPONSIBILITY FOR THIS DESIGN, & HAS  
THE QUALIFICATION & MEETS THE  
REQUIREMENTS SET OUT IN THE O.B.C. TO  
BE A DESIGNER  
Ali Shakeri  
BCIN#24574  
F&A Associates Ltd.  
BCIN#30998

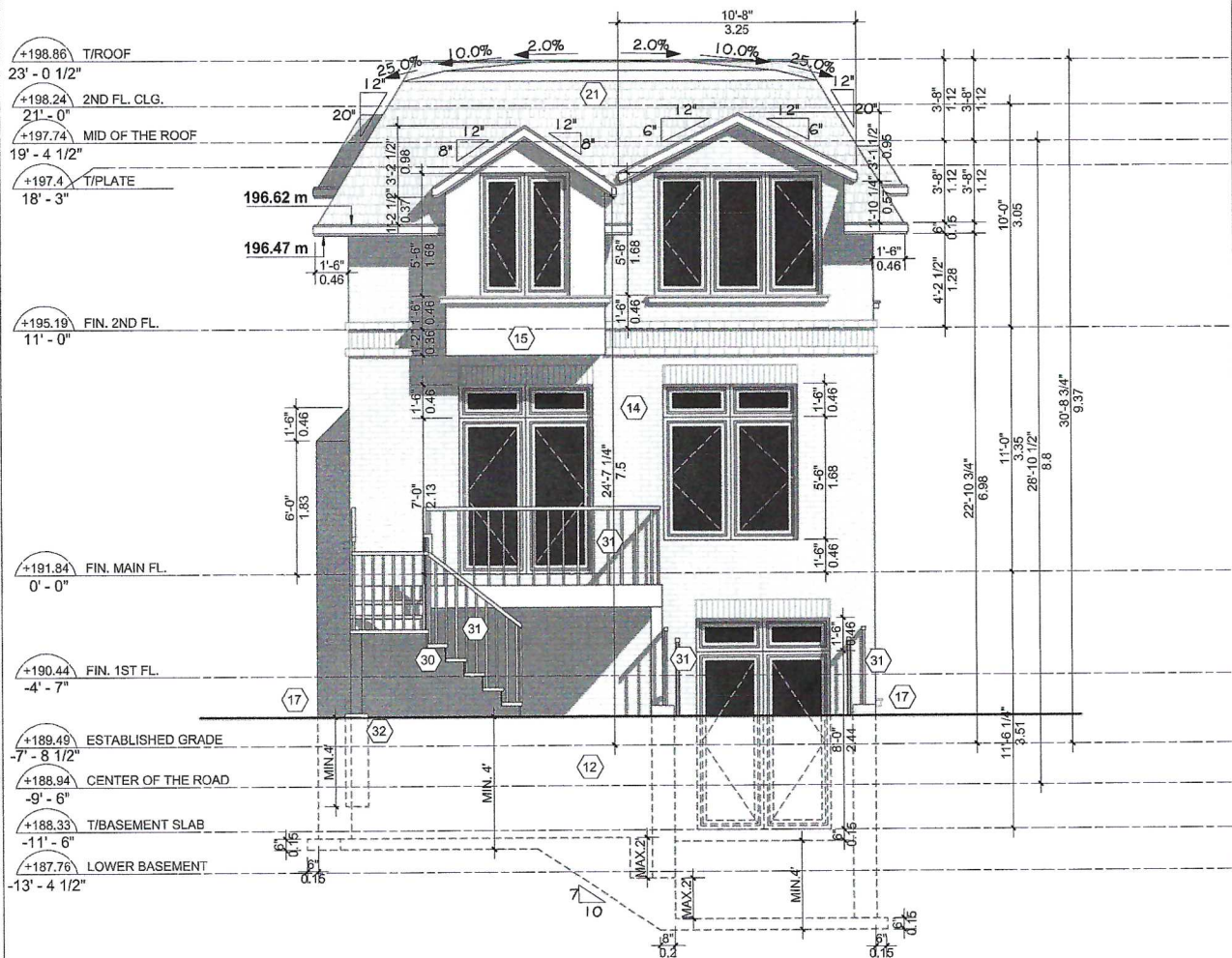
1. ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.
2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
3. DO NOT SCALE DRAWINGS.
4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED "ISSUED FOR CONSTRUCTION".
6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION.











designed by: <b>ALI SHAKERI</b> T. 416 6213960 <b>ARCICA INC.</b> 326 SHEPPARD AVENUE EAST, M2N 3B4 TORONTO, ONTARIO	project: <b>318 HOUNSLOW AVENUE</b> drawing: <b>REAR ELEVATION(NORTH)</b> scale: <b>3/16" = 1'-0"</b> page: <b>A 07</b>	revisions: <b>JUNE, 22,2018- ISSUED FOR COA</b> <b>JUL 12,2019-issued for COA2</b> THIS UNDERSIGNED HAS REVIEWED & TAKES RESPONSIBILITY FOR THIS DESIGN, & HAS THE QUALIFICATIONS & MEETS THE REQUIREMENTS SET OUT IN THE O.B.C. TO BE A DESIGNER Ali Shakeri BCIN#24574 F&A Associates Ltd. BCIN#30998	1 ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISIONS OF THE ONTARIO BUILDING CODE. 2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION. 3. DO NOT SCALE DRAWINGS. 4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK. 5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED ISSUED FOR CONSTRUCTION. 6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION
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GLAZED AREAS:

1. AREA OF EXPOSED BUILDING FACE: 1282.84 SQ.FT.
2. PROPOSED GLAZED AREA: 85.46 SQ.FT. (6.66%)

designed by:

**ALI SHAKERI**

T.416 8213960

**ARCICA INC.**

326 SHEPPARD AVENUE EAST,  
M2N 3B4 TORONTO, ONTARIO

project:

318 HOUNSLOW AVENUE

drawing:

SIDE  
ELEVATION(EAST)

scale:

3/16" = 1'-0"

page:

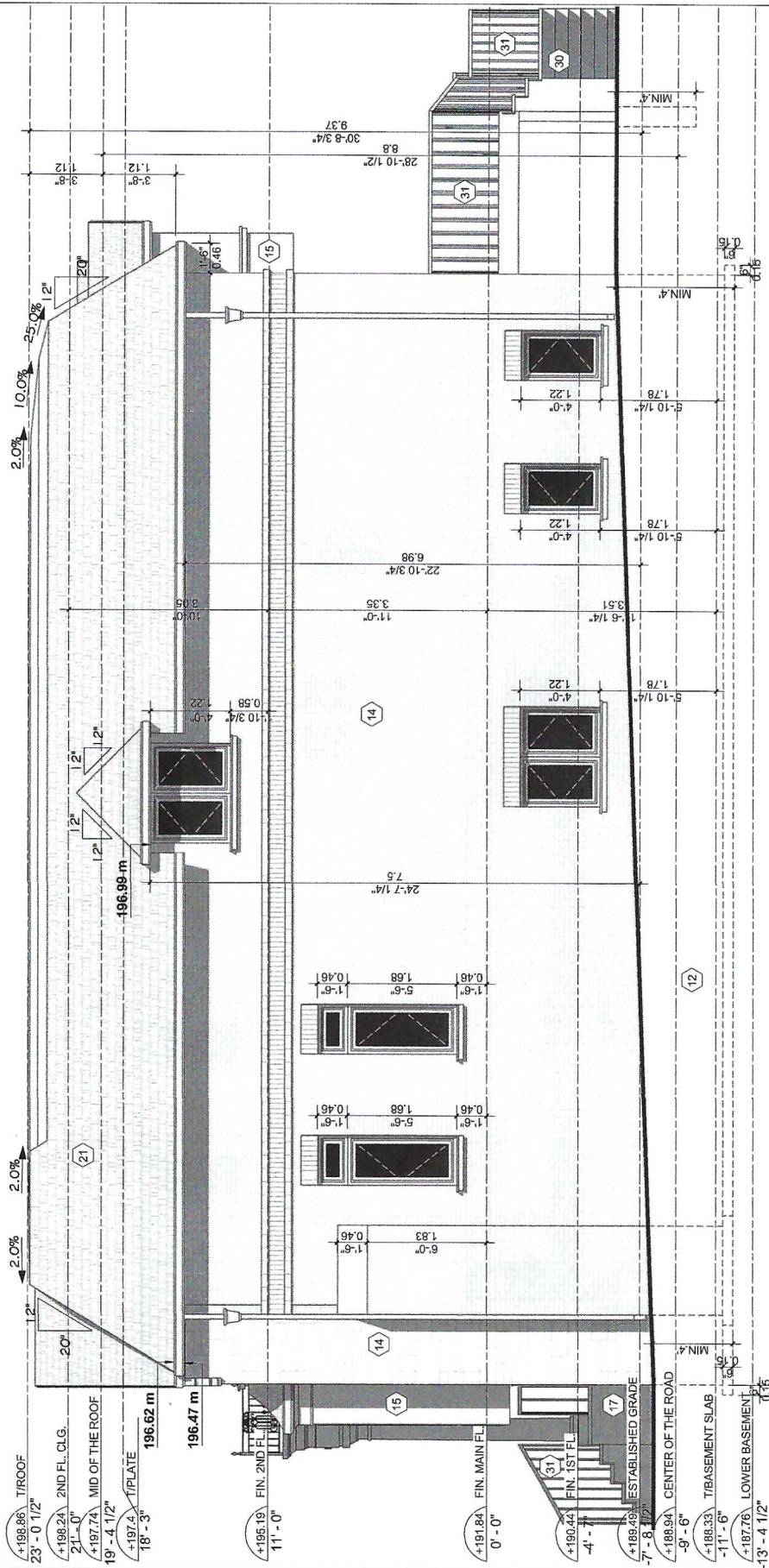
A 08

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JUNE. 22, 2018- ISSUED FOR COA  
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THE QUALIFICATIONS & MEETS THE  
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Ali Shakeri  
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## **ADVISORY OF OTHER CITY APPROVALS & REQUIREMENTS**

Should this application be approved the applicant is to be advised of the following requirements in writing:

### **1.0 Site Servicing Connections**

A 150mmØ municipal watermain and 250mmØ municipal sanitary sewer are available on Hounslow Avenue to serve the subject lands.

It is the responsibility of the applicant to ensure that the elevations of the sewers are compatible with the intended use of the property. Separate water and sanitary sewer connections will be required for each dwelling or parcel of land.

The owner will be required to make an application to the Toronto Water Division, North York Civic Centre, 5100 Yonge St., 2<sup>nd</sup> Floor, for the installation of any proposed services within the City's Right-of-Way. For further information, please contact Toronto Water at 416-395-6082.

### **2.0 Road Allowance Permits**

The applicant must obtain the necessary authorizations and permits from the City's Right-of-Way Management Unit before excavating within or encroaching into the municipal road allowance. Chapter 743-4 of the Toronto Municipal Code requires that any person who requests a building permit, (except FASTTRACK applications) pay a Municipal Road Damage Deposit. The applicant is advised to contact Naim Sultan at 416-395-1030 of our Right-of-Way Management Unit regarding site-specific permit requirements.

### **3.0 Storm Sewer Connection**

The City Sewer Use By-Law prohibits connections to a storm sewer from single-family residential dwellings. Although there is a storm sewer available on Hounslow Avenue, a connection to the storm sewer will not be permitted for the proposed lots. Foundation drains for the new dwellings are to be pumped to grade and roof drains are to discharge onto a landscaped area.

### **4.0 Basement Flooding**

This property is located in Basement Flooding Environmental Assessment Study Area (Study Area #26). As a precaution, we advise the owner to consider the installation of back flow preventers.

### **5.0 Site Grading**

In conjunction with a building permit application, to ensure that the development of the subject land does not create a drainage problem to this or abutting lands, the applicant must submit a Lot Grading Plan to the Buildings Division in accordance with the Building Division's Policy on Building and Drainage for Infill Housing.

The Owner in redevelopment of this property shall ensure that existing overland drainage patterns on adjacent properties shall not be altered and stormwater runoff from the subject development shall not be directed to drain onto adjacent properties.



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## **6.0 Driveways**

Toronto Water and Engineering and Construction Services oppose reverse slope driveways. The proposed driveways should be designed and constructed with a positive slope from the roadway to the garage and the portion of the driveway within the public road allowance must maintain a minimum 2% slope.

## **7.0 Restoration**

Any damage to the existing municipal right-of-way due to the construction of this development will require the owner to restore the right-of-way along the frontage of the property per City of Toronto standards to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services.

## **8.0 Toronto Hydro Approval**

The owner shall obtain approval from Toronto Hydro Street Lighting Incorporated, THSLI, for removing and/or relocating any utility with attached municipal street lighting and for any upgrades. The owner is advised to contact THSLI (416-542-3195) or at the Toronto Hydro web site: [www.torontohydro.com/streetlighting](http://www.torontohydro.com/streetlighting) for comment and cost estimates for required fieldwork.

## **9.0 Utilities**

The applicant will be financially responsible for all work proposed within the road allowance including any costs arising from the relocation or removal of existing services and utilities which may become necessary through the development or use of this land. If required, the relocation of any public utilities would be at the cost of the developer and shall be subject to the approval of the applicable governing agencies.

## **10.0 Municipal Numbering**

The applicant is advised to contact Mr. John House, Property Records Supervisor, at 416-392-8338 to obtain or verify new municipal addresses prior to submitting a building permit application. It should be noted that all addressed parcels and structures must have correct municipal addresses posted. For details please see: <https://www.toronto.ca/city-government/planning-development/municipal-numbering-of-a-property/>