

DECISION AND ORDER

Decision Issue Date Friday, July 29, 2022

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

Appellant(s): BABAK IZADI

Applicant(s): C2C DESIGN BUILD LTD.

Property Address/Description: 28 WILBERTON ROAD

Committee of Adjustment File

Number(s): 20 227815 STE 12 CO; 20 227819 STE 12 MV; 20 227820 STE 12 MV

(B0092/20TEY, A1149/20TEY, A1148/20TEY)

**TLAB Case File Number(s): 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB**

Hearing date: Tuesday, May 17, 2022

DECISION DELIVERED BY TLAB Panel Member S. Gopikrishna

REGISTERED PARTIES AND PARTICIPANTS

Appellant	Babak Izadi
Appellant's Legal Rep.	Amber Stewart
Applicant	C2C Design Build LTD.
Party (TLAB)	Peter Clark
Party's Legal Rep.	Mandy Ng
Participant	Jeff Gralek
Participant	Sheyda Assefi
Participant	Christopher Dunn
Expert Witness	Michael Wolosinecky

Expert Witness

Allan Ramsay

INTRODUCTION AND BACKGROUND

Babak Izadi is the owner of 28 Wilberton Ave., located in Ward 12 (Toronto- St. Paul) of the City of Toronto. To sever the existing property into 2 parts, and build a semi-detached buildings, with three storeys each, on each of the emergent lots, he applied to the Committee of Adjustment (COA), which heard the application on November 3, 2021, and refused the application in its entirety.

He appealed the COA's decision to the Toronto Local Appeal Body (TLAB) on November 12, 2021. Mr. Peter Clark, one of the neighbours living in the vicinity of the Site, elected for Party Status in opposition to the Appeal. A number of neighbours who live in the vicinity of the Site, elected for Participant status.

On May 16, the day before the Hearing was to be held, I was informed that the Parties had arrived at a Settlement, as a result of which the representatives of Party Clark would not be in attendance at the Hearing held on May 17, 2022.

MATTERS IN ISSUE

The details of the Consent to Sever the Lot, and the related variances for the houses to be built on each of the resulting lots are recited in the "Order and Decision" Section of this Decision.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

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

At the Hearing held on May 17, 2022, the Appellant was represented by Amber Stewart, a lawyer, Mr. Franco Romano, a land use planner, Mr. Peter Wynnyczuk, a specialist in urban forestry. As stated earlier, Party Clark did not participate in the Hearing because they have reached the Settlement. Of the Participants, only Mr. Gralek proceeded to give evidence.

The highlights of Mr. Romano's evidence are as follows:

Wilberton Road, is located within the Yonge- St. Clair neighbourhood of the former municipality of Toronto. The Subject Site is located east of Oriole Parkway, west of Yonge Street, and north of St. Clair Avenue. The Official Plan designation for the Subject Site is *Neighbourhoods* and the zoning is R (Residential Zone) pursuant to the Toronto Zoning By-law 569-2013 and R2 Z0.6 (Residential Zone) pursuant to the former Toronto Zoning By-law 438-86.

The Broader Context consists of 636 properties within the interior of the limits bounded by Yonge Street to the east, St. Clair Avenue West to the south, Oriole Parkway and Avenue Road to the west and the Kay Gardner Beltline Trail to the north. The Broader Context contains lands with the same Official Plan Neighbourhood designation and zoned for residential. This provides an appropriate area that is representative of the geographic neighbourhood and its delineation considerations as described by the Toronto Official Plan while avoiding skewing associated with different land use designations and lot fabric.

The immediate context consists of 30 properties. Abutting the immediate context to the east are several four storey townhouses and several high-rise apartment buildings. Abutting the immediate context to the west, is Upper Canada College. Accordingly, the immediately adjacent block context within the same Neighbourhood land use designation consists of properties to the south and north of Wilberton Road. Throughout the geographic neighbourhood (Broader Context) study area, all properties are designated Neighbourhoods pursuant to the Toronto Official Plan. The Zoning By-law permits a mixture of residential building types including detached, semi-detached, townhouse, apartment building, duplex and triplex buildings up to a building height of 11.0m, with no limits on the number of storeys.

The Subject Site is occupied by a three storey detached dwelling, and one storey detached garage. On this lot, the dwelling is oriented towards the front of the property, and the topography is generally level, with one City tree and two private trees. The City tree has been marked by the City for removal for reasons unrelated to the proposal. The two private trees located next to the garage on the Subject Site are to be removed, being located within the influence of the as-of-right construction area. Two regulated private trees along and beside the west property line are to be protected.

The statistics of the Subject Site are as follows: Lot Frontage of 12.48 m, Lot depth of 41.17 m, and Lot Area of 526.66 sq.m. The Front Yard ranges in width from 0.52 m to 1.58 m, east yard ranges from 2.53 to 2.88 metre, while the rear yard is 19.8 metre.

a. Severance to create two lots with the following measurements.

	Zoning Law	(West lot)	(East lot)
Lot Frontage	9.0m	6.24m	6.24m
Lot Depth	Not regulated	41.17 metres	41.17 metres
Lot Area	2700m ²	263.26m ²	263.26m ²

The Applicant plans to construct a three storey semi-detached residential building, such that the single building will contain two semi-detached dwelling units. The proposal accommodates a building footprint and built form that accommodates two levels of living in a “conventional format”, plus a partial third floor built into the roof. The partial third floor is setback from the front and rear and incorporates a sloped roof

Mr. Romano stated that the proposed building has been sculpted to utilize part of the existing foundation area, while protecting mature abutting trees. The parking solution builds upon the existing character where visible and discreet parking solutions exist. While both driveways lead to a parking space behind the main front wall of the dwelling, only one parking space leads to a visible garage, while the other leads to a garage with a mechanical door, whose outside is designed to look like landscaping, when it is closed.



FIGURE 1- SKETCH OF THE THE SEMI-DETACHED HOUSES TO BE CONSTRUCTED AT THE SITE

According to Mr. Romano, the existing lot fabric, road network and residential building inventory, together with the applicable land use planning framework, illustrate the ability of this area to accommodate, and embrace compatible differences, as fundamental building blocks to the overall physical character. The surrounding area contains a mixture of physical characteristics upon a lot fabric that consists of compact and modest sized lots. The planning instruments permit this mixture as part of the existing and planned context.

Mr. Romano asserted that the prevailing lot sizes are smaller than the base zoning standard for each building type. Prevailing lot sizes are compact and modest sized, represented by a mixture of numeric measurements. Buildings which contain a single, duplex or triplex residential land use have the same base zoning minimum lot frontage and lot area standard of 13.5m lot frontage and 405 sq.m. lot area. Of these properties, 83.7% have a lot frontage and 60.5% have a lot area smaller than the base zoning by-law requirements. The range is 4.80m to 33.50m lot frontage and 84.sq.m. to 956.87 sq.m. lot area. Buildings which contain a semi-detached residential land use have a base zoning minimum lot frontage and lot area standard of 9m lot frontage and 270m² lot area. For these properties, 94.2% have a lot frontage and 35.7% have a lot area smaller than the base zoning by-law requirements. The range is 4.27 m to 12.10 metre lot frontage, and 131.10 sq.m. to 604. Sq.m. lot area. Buildings which contain a townhouse residential land use have a base zoning minimum lot frontage standard of 27m,

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

of which 100% have a lot frontage smaller than the base zoning by-law requirement. Buildings which contain an apartment building residential land use have a base zoning minimum lot frontage standard of 30 m, of which 78.6% have a lot frontage smaller than the base zoning by-law standard.

With respect to how development is located and organized to fit within the aforementioned lot fabric of intermingling prevailing lot sizes, residential buildings are located towards the front to central portions of lots. Buildings provide a small to moderate, gently modulating front wall alignment where, numerically, the building setback to the street measurements differs from property to property and on an individual property, such that side yard setbacks are tight to modest. Building heights are low rise and low scale, consisting of two to three storeys within uniform and split level formats. Wall heights rise to eaves as well as to the overall roof line in uniform or punctuated styles. , while driveways and garages are largely at and above grade.

Parking is on private property. Integral garages on lots smaller than 7.6m lot frontage are commonplace and interspersed within the area. Landscaping and open space is found within front and rear yards..

Mr. Romano asserted that the area is experiencing new development, such that the development maintains the overall physical form, while also being different from the preceding development, because it tends to occupy more space than the development that is being replaced or improved upon.

Dwellings with integral garage or parking which occupies generous amounts of front yards and dwellings are a frequently occurring physical form of development.

The relationship between the proposal, and the Official Policy (OP) was discussed.

According to Mr. Romano, the proposal conforms to Policy 2.3.1.1 because it maintains the existing built form and streetscape, such that open space continues to be found around the perimeter of the Subject Site, with generous rear and front yards, as well as within appropriately sized side yards. The proposal satisfies Policy 3.1.2 because it maintains an existing front yard setback, front door buildings which are directly accessible, and visible from the street, preserves the trees on the property, while limiting their impact to as-of-right development related construction areas. In addition, the parking situation, which consists of two integral garages, such that one is clearly visible from the street, while the other is camouflaged from the street, "fits in well with the surrounding context where a mixture of open surface, enclosed, front yard, side yard and rear yard parking is found". The proposal satisfies Policy 3.1.2, because it does not create any negative impact on the neighbouring properties, while embodying a gentle form of intensification, as well as maintaining residential housing stock.

Mr. Romano asserted that the proposal satisfies Policy 3.4 because it preserves the existing trees appropriately, and the front and rear yard continue to satisfy the landscaping and setback provisions of the Zoning By-law. Each lot provides for the suitable growing environment for trees on private and public land.

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

Discussing the relationship between the proposal, and Policy 4.1.5 of the OP, Mr. Romano pointed out that there are no variances for lot size, and lot area, and that what is proposed at the Site respect the prevailing size, because the prevailing size of lots is smaller than what is prescribed by the Zoning By-law- Mr. Romano described the lot sizes as “compact to modest sized, smaller than the base Zoning By-Law standard.

The proposal conforms to and meets the general intent and purpose of this Official Plan policy development criterion. The proposal respects and reinforces the prevailing size and configuration of lots.

Mr. Romano pointed out that the prevailing building height is two to three storeys. The dwellings are represented by level and split level floors with roof styles which are prominent, shallow to flat and also may be punctuated by dormers and other notable architectural features. More recent construction is larger than first generation dwellings with each of these continuing the underlying prevailing characteristics. Regardless of the era of construction, enclosed garages contribute to the prevailing character. These characteristics are also present on other residential properties within the neighbourhood. Mr. Romano discussed the issues presented by the information made available by the City of Toronto, for the determination of the FSI, before pointing out that 72% of the COA decisions include an FSI variance, of which 72% range from 0.63 to 1.32, with 38.5% having an approved FSI of 0.9, or bigger. Within the Immediate Context, : 9.7% exceed 0.85, 35.5% exceed 0.6 (3.2% are 0.9 or larger, 25.8% are 0.61 to 0.85, 48.4% are 0.35 to 0.6 and 16.1% are less than 0.35).

The prevailing patterns of rear yard setbacks are modestly large and large. There is more than one prevailing rear yard setback pattern. They contain amenity and accessory features/structures which are modest or substantial. The prevailing patterns also illustrate mature vegetation. The proposal provides for large, open rear yard with mature vegetation and amenity at and above grade.

Mr. Romano added that Policy 4.1.8 of the Official Plan provides a direct link to the zoning by-law standards for purposes of evaluating compatibility. In this regard, the Official Plan adopts the Ontario land use planning principle that the zoning by-law provides an objective benchmark to evaluate what is capable of co-existing in harmony with one another without undue adverse impact. Accordingly, how the Zoning By-law is being complied with and implemented (in either lawful conforming or lawful non-conforming or via authorized variance, also recognized as lawful) informs what is considered to be development compatibility. The attached neighbourhood, picture and decision table bookmarks help to inform and illustrate this land use planning principle. Within this established neighbourhood, development exists, and continues to occur, in a manner that is at variance with base zoning by-law performance standards. This is a prevailing physical character.

On the basis of this evidence, Mr. Romano concluded that the proposal satisfies the intent, and purpose of the Official Plan.

Mr. Romano discussed the proposal, and how it satisfies the intent and purpose of the Zoning By-law.

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

He said that the proposed lot frontage and lot area meet the general intent and purpose of the Zoning By-law to achieve an appropriately sized lot within the Subject Site's physical context. The proposal achieves a compact to modest lot size that will fit in well with those that are permitted and exist. This includes a substantial representation and prevailing character of lots with varying sizes of comparable condition smaller than the base zoning by-law requirement.

The proposed FSI (0.92 x Lot Size vs. 0.6 X Lot Area, which is allowed) meets the general intent and purpose to ensure that the proposed floor area is appropriate for the lot, resulting in a low profile, three storey semi-detached building. Mr. Romano added that the organization and layout of the FSI is articulated, low rise and low scale in such a manner as to de-emphasize the height, mass and scale. The proposed FSI and deployment of FSI and floor area is compatible with the way in which these aspects are deployed and represented within the Subject Site's physical context. The general intent and purpose of this provision is to ensure that context suitable parking is provided which integrates appropriately with the streetscape.

Discussing the parking solution, where there are two integral garages, Mr. Romano said that the proposal accommodates parking on private property, while maintaining ample, zoning by-law compliant landscaping in the front yard.

Based on this evidence, Mr. Romano concluded that the proposal satisfied the test of maintaining the intent, and purpose of the Zoning By-Law.

Turning next to the test of minor, Mr. Romano emphasized that there was no adverse impact arising from the proposed building on its neighbours by way of shadow, or privacy, and consequently satisfied the test of minor. On the basis of this evidence, Mr. Romano concluded that the proposal satisfied the test of minor.

Lastly, discussing the test of appropriate development, Mr. Romano said that the proposal represents an appropriate, sensitive form of gentle development which minimizes impacts on the property and surroundings. It maintains and improves the existing housing stock, and results in a compatible, appropriate three storey semi-detached dwelling site design and built form, and consequently satisfies the test of appropriate development.

Based on this evidence, Mr. Romano concluded that the proposal satisfies the four tests under Section 45.1 of the OP.

Mr. Romano then discussed how the proposal satisfied the Consent to Sever, which is addressed in Section 51(24) of the Planning Act

He explained how the proposal satisfied matters of Provincial Interest, because it satisfied the PPS, and the Growth Plan. He explained how the proposal was not premature because public services are readily available in the area. He also discussed how the proposal satisfied (d) because the lands are physically suitable for the proposed residential development, because they already house residences. Mr. Romano then discussed how the proposal satisfied Policy (g) because there are no restrictions or impediments to development, including easements, rights of way etc.

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

Mr. Peter Wynnyczuk was recognized as an Expert in the area of Forestry and Tree Preservation, and provided the following evidence, based on the Arborist and Tree Preservation plan, dated April 12, 2022, prepared by C2C Design Build, which illustrate the demolition of the existing detached dwelling and garage on the site, and the development of two semi-detached dwellings with two driveways leading to integral garages. By way of an editorial comment, the descriptions provided below may be better understood, through a reference to the Arborist's Plan, which are attached to this Decision.

Tree A is a 67 cm Norway Maple, which a City-owned tree located in the front yard of the site, which has been as being in poor condition, with deadwood present, leader decay, and trunk seams.

Tree B is a 40 cm Colorado Blue Spruce that is located in the rear yard, 1m west of the existing garage, identified as being in dying condition, with low branches, deadwood, and wood attached to the trunk.

Tree C is a multi-stemmed White Cedar, 23, 25, and 24 cm, located in the rear yard, 0.2 m west of the existing garage, which is in fair condition, with a lean to the north and low branches. It is adjacent to the garage foundation wall.

Tree D is an approximately 100 cm Norway Maple, located in the rear yard of #71 Oriole Parkway, opposite to the northwest corner of the existing house and adjacent to the fence, which is in fair condition, normal for its age, with communication wires past the canopy.

Tree E is an approximately 34 cm Austrian Pine, located in the rear yard of #71 Oriole Parkway, 3 m west of the fence, which is in fair condition, normal for its age, with deadwood.

Three trees are proposed for removal, but none is a direct consequence of the proposed redevelopment

Tree A: The Owner advised Mr. Wynnyczuk that efforts were made to align o the driveway, in consultation with City Planning in an effort to retain this tree. However, subsequent to the Committee hearing, the City has identified this tree as being scheduled for removal.

Trees B and C: The owner proposes to remove Trees B and C given their location in the middle of the rear yard and adjacent to the garage, and given their condition. As noted, Tree B is dying, and Tree C exhibits a significant lean to the north. It is possible that some roots may be located underneath the floor of the garage, and the garage demolition and floor removal. may destabilize the tree roots. A permit is required for the proposed tree removals.. However, in the event that a permit is not issued by Urban Forestry, it is confirmed that the excavation and construction works associated with the new semi-detached dwellings is located outside of the minimum tree protection zones for these trees. If Urban Forestry requires the preservation of these trees, additional recommendations can be made to mitigate the impact of demolition of the existing garage, including hand excavation and anchoring to ensure the structural stability of the trees.

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

Tree E: Tree E has a 2.4 m TPZ. Construction of the proposed dwelling is located outside of the TPZ, including any foundation overdig (which cannot encroach over the property line). Vertical tree protection is recommended to be installed at the property line. A permit to injure this tree is not required.

Tree D: Tree D has a 6.0 m TPZ. The plans have been revised to minimize any new excavation into the TPZ of Tree D. Specifically, the basement plan has been reduced in size to maintain the existing foundation wall at the rear and west sides of the dwelling. The upper floors are proposed to be cantilevered over the existing foundation wall, for the rear 2.02 m and the westerly 0.762 m. No new excavation works will occur beyond the existing basement within the TPZ of Tree D. All new excavation, foundation and waterproofing works will be located inside of (to the south and east of) the existing foundation wall.

Mr. Wynnychuk said that he had also considered the requirement for tree canopy pruning based on visual observation from the ground, and concluded that the canopy of Tree D is high and concentrated to the north and west of the trunk, due to maintenance pruning over time. In his estimation, minimal to no pruning of the canopy will be required to accommodate the dwelling. If pruning is required, it will be in the order of 5% or less of the total canopy.

Mr. Wynnychuk stated that the revisions to the proposed plans are appropriate and adequate to ensure that negligible injury, if any, will occur to Tree D. Tree roots are generally located within the top 1.0 m of soil, and do not grow beyond foundation walls. He opined that the minimal proposed new excavation inside of the existing foundation wall will cause no injury to the existing tree roots, and that any canopy pruning that is required will be minimal. He concluded by saying that the measures recommended will facilitate the protection of Tree D.

Mr. Jeff Gralek, spoke in opposition to the proposal to sever the land at the Site, and build two semi-detached homes. His evidence is not recited in detail because in addition to being very brief, his opposition centred on why the Appellant was not willing to consider an alternate design.

I thanked the Parties and Participants for their participation in the Hearing, and asked the Appellants to submit a list of variances, and recommended conditions in a Word Document, followed by the Drawings of the dwellings to be built in the form of a PDF document.

ANALYSIS, FINDINGS, REASONS

The proposal before the TLAB is the result of a Settlement reached by the Appellants, and the only Party in opposition to the original Appeal. The only Participant in opposition to the Appeal to give evidence focused on an alternative to the Proposal presented by the Applicants- the TLAB is mandated to either approve, approve in part, or refuse the Proposal put forward by the Applicants. The TLAB does not have the mandate to

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

examine if there are alternatives to the design put forward by the Applicants, and make decisions on those alternatives- consequently, this evidence is not given any weight in the analysis of the proposal.

In this case, the proposal put forward by the Applicants consists of a consent to sever the Lot, followed by the construction of a semi-detached, three floored, semi-detached dwelling, with an integral garage on each of the resulting lots. An interesting feature of this design is that while the entrance to one of the integral garages is visible from the street, the other integral garage consists of a *trompe- d'oeil*, such that it is covered by foliage, unless the mechanical entrance to the garage is opened for vehicles to enter, or leave the garage.

The evidence provided by the Applicants demonstrates that the proposal satisfies the higher level Provincial Policies, by virtue of a more efficient utilization of the existing land.

In terms of the consent to sever, the important sub-sections to be examined are Sub-Sections (c) and (f), which address the Official Plan, and the lot configuration, and lot sizes respectively.

The evidence demonstrated that the consent to sever would result in lots, that reinforce and respect the existing lot pattern, which consists largely of rectangular lots- the size of the resulting lots is not an issue to be considered because the length, breadth, or area of the lots don't require variances, and are sub-standard like the vast majority of the lots in this neighbourhood. As a result, I find that the proposal satisfies 51.24 (f).

The evidence also demonstrated how the formation of lots satisfies Policies 2.1.3, 3.1.2 3.4 and 4.1.5 of the OP, on the basis of which I find that the proposal satisfies 51.24(c), as well as the test respecting the OP under Section 45.1, where the variances need to demonstrate that they maintain the general intent, and purpose of the Official Plan- the test under Section 51(24) respecting the OP requires a higher threshold, compared to the threshold under Section 45.1, which means that if an application satisfy Section 51(24)(c), it automatically satisfies the test respecting Section 45.1.

The other subsections under Section 51(24) don't result in any important questions being raised regarding the proposal.

As a result I find that the Application to Sever the lot should be approved.

In terms of analysis regarding the relationship between the proposal and the tests under Section 45.1 of the Planning Act, it would be necessary to only examine the tests respecting the Zoning By-law, minor, and appropriate development, because of the reasoning stated above with respect to the tests respecting the OP.

The evidence put forward by the Applicants demonstrated that the requested variances satisfy the requisite performance standards- as examples, the FSI variance results in a

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

modest sized dwelling being constructed on the Site, such that there are no negative impacts on the neighbours. The parking solution allows for on-site parking solution, while maintaining adequate space in the zoning by-law compliant landscaping in the front yard.

On the basis of this evidence, I find that the proposal satisfies the intent, and purpose of the Zoning By-law.

The evidence demonstrated that there is no unacceptable adverse impact resulting from the proposal, which results in a finding that the proposal satisfies the test of minor.

The evidence also demonstrates that the proposal results in the creation of two detached dwellings, a residential type that is already found in the community, while maintaining, and improving the existing housing stock. On the basis of this evidence, I find that the proposal satisfies the test of appropriate development.

As a result of the above analysis, I find that the Appeal may be admitted in part, and that all the requested variances can be approved.

In terms of the conditions to be imposed, I find that the Standard Consent conditions, as stated in Practice Direction A issued by the TLAB, can be imposed on the Consent to Sever the lot. The Applicants recommend that the variances be subject to conditions that require them to build in substantial accordance with the submitted drawings, a condition respecting the mechanical door opening onto the garage, with evergreen plantings on the outside, and two conditions referencing the replacement of existing trees.

All the conditions requested by the Applicants are standard, non-controversial conditions, and may be imposed on the approval of the variances.

The requisite drawings, as well as the Arborist's Plans are attached to this Decision.

DECISION AND ORDER

1. The Appeal respecting 28 Wilberton Ave. is allowed in part, and the decision of the Committee of Adjustment respecting this property is set aside.
2. The Consent to Sever the lot at 28 Wilberton is approved, as follows:

THE CONSENT REQUESTED:

This application is for consent to sever the land into two lots, as shown on the draft Reference Plan prepared by Barich Grenkie Surveying Ltd. dated April 26, 2021. The lots to be created as Part 1 and Part 2 would each have a frontage of 6.24 metres and a lot area of 263.26 square metres. In order to facilitate the

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

proposed development, relief from the provision of the Zoning By-law was requested, as outlined in A1149/20TEY and A1148/20TEY.

	Part #	Lot Frontage	Lot Area
Retained Lot	Part 1	6.24 m	263.26 m ²
Conveyed Lot	Part 2	6.24 m	263.26 m ²

3. The following variances are approved:

Part 1 (East Lot)

- Chapter 900.2.10.(905)(B)(ii) By-law 569-2013**
The minimum required lot frontage for a lot with a semi-detached dwelling is 9 m. In this case, the lot frontage will be 6.24 m.
- Chapter 10.10.30.10.(1) By-law 569-2013**
The minimum required lot area is 270 m². In this case, the lot area will be 263.26 m².
- Chapter 10.10.40.40.(1) By-law 569-2013**
The maximum permitted floor space index is 0.6 times the area of the lot (158.28 m²). In this case, the floor space index will be equal to 0.92 times the area of the lot.
- Chapter 10.10.80.40.(1) By-law 569-2013**
Vehicle entrances through the front main wall of the building are permitted provided the lot has a minimum frontage of 7.6 m. In this case, the lot frontage will be 6.24 m.

Part 2 (West Lot)

- Chapter 900.2.10.(905)(B)(ii) By-law 569-2013**
The minimum required lot frontage for a lot with a semi-detached dwelling is

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

9 m. In this case, the lot frontage will be 6.24 m.

2. Chapter 10.10.30.10.(1) By-law 569-2013

The minimum required lot area is 270 m². In this case, the lot area will be 263.26 m².

3. Chapter 10.10.40.40.(1) By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (158.28 m²). In this case, the floor space index will be equal to 0.92 times the area of the lot.

4. Chapter 10.10.80.40.(1) By-law 569-2013

Vehicle entrances through the front main wall of the building are permitted provided the lot has a minimum frontage of 7.6 m. In this case, the lot frontage will be 6.24 m.

4. No other variances are approved for the dwellings to be constructed on Parts 1 and 2.

5. The following conditions are imposed on the approval of the Consent to Sever the Property.

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.

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

(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 TWO YEARS of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions.

6. The following conditions are imposed on the approval of the variances for Lots 1 and 2:

Conditions of Minor Variance Approval

1. The proposed dwellings shall be constructed substantially in accordance with the plans prepared by C2C Design Build and dated April 12, 2022:
 - a. Site Plan
 - b. Statistics
 - c. Basement
 - d. Main
 - e. Second
 - f. Third
 - g. Roofing Plan
 - h. Front Elevation
 - i. Back Elevation
 - j. East Elevation
 - k. West Elevation
2. The garage door for Part 2 (west lot) shall be a hydraulic outward-swinging door with evergreen plantings installed to the height of the garage door, as shown on the approved Front Elevation.
3. The owner shall submit an application for a permit to injure or remove privately owned trees pursuant to Chapter 813 of the Municipal Code, Article III, which shall include the measures set out in the Arborist Report and Tree Protection Plan prepared by P&A Urban Forestry Consulting Ltd.,

Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 237062 S53 12 TLAB; 21 237063 S45 12 TLAB;
21 237064 S45 12 TLAB

dated April 12, 2022.

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.

So orders the Toronto Local Appeal Body (TLAB)

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body

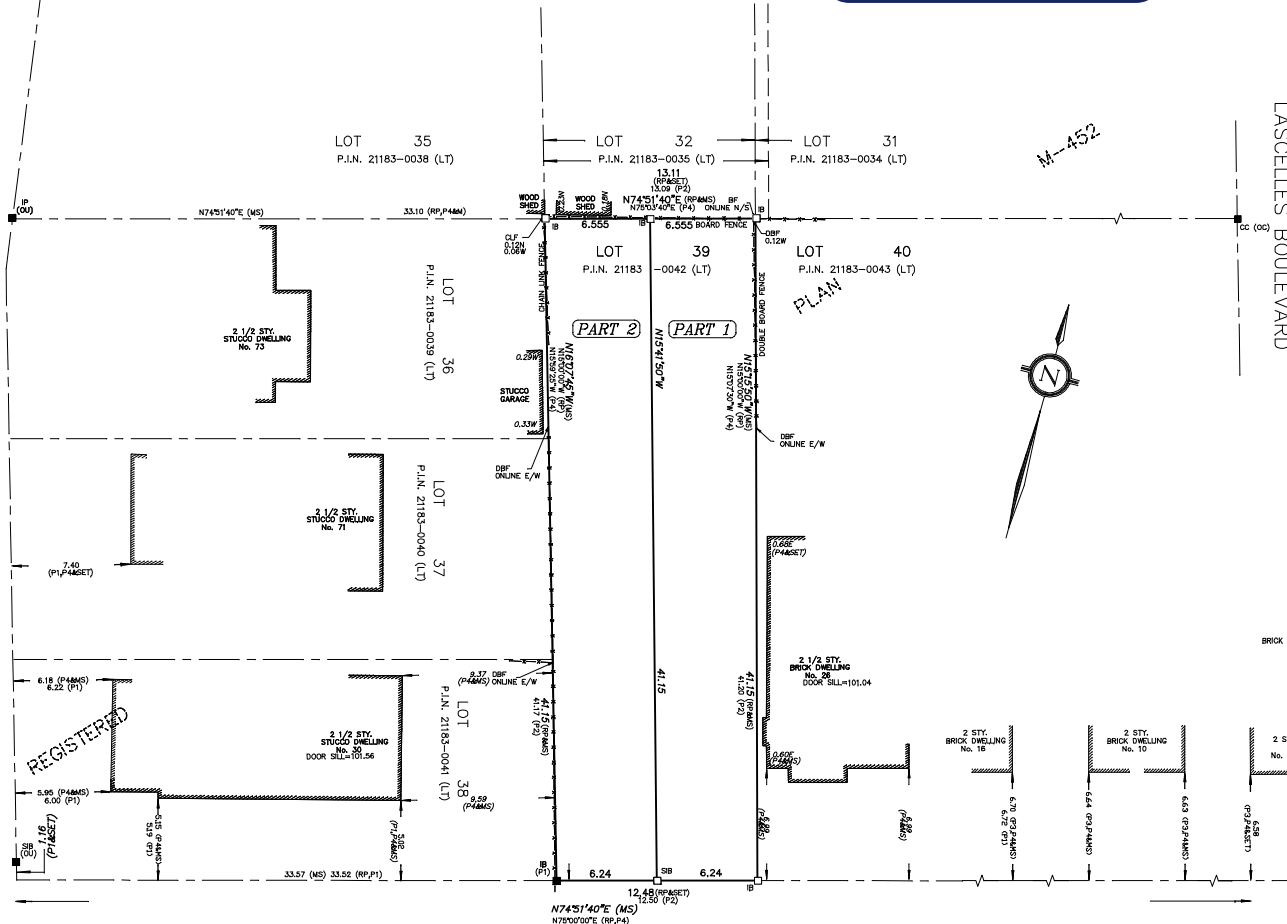
RECEIVED

8:01 AM, Apr 27, 2021

ORIOLE PARKWAY

LASCELLES BOULEVARD

M-452



WILBERTON ROAD
(DEDICATED BY REGISTERED PLAN M-452)
P.I.N. 21183-0042 (LT)

I REQUIRE THIS PLAN TO BE DEPOSITED
UNDER THE LAND TILES ACT.

DATE: _____

MAJID FATHI
ONTARIO LAND SURVEYOR

PLAN 66R-
RECEIVED AND DEPOSITED

DATE: _____

REPRESENTATIVE FOR THE LAND
REGISTRAR FOR THE LAND TILES DIVISION
OF TORONTO (66).

SCHEDULE

PART	LOT	PLAN	PIN No.	AREA
1	PART OF 39	REG'D PLAN M-452	ALL OF PIN 21080-0214 (LT)	263.33m ²
2				263.334m ²

PARTS 1 AND 2 COMPRISE ALL OF PIN 21183-0042 (LT)

PLAN OF SURVEY OF
LOT 39
REGISTERED PLAN M-452
CITY OF TORONTO

SCALE & NOTES

Scale 1:200

BARICH GRENKIE SURVEYING LTD.
A DIVISION OF GEOMAPLE

METRIC
DISTANCES AND CO-ORDINATES SHOWN ON THIS PLAN ARE IN METRES AND
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

BEARING NOTE

BEARINGS ARE MTM GRID, REFERRED TO THE CENTRAL MERIDIAN OF MTM
ZONE 10 (79°30' WEST LONGITUDE) NAD83 (CSRS) (2010.0).

HORIZONTAL DATUM NOTE

PROJECTION: UNIVERSAL TRANSVERSE MERCATOR
(MTM, ZONE 10, CM 79°30'W)

DATUM: NAD83 (CSRS)(2010.0)

GRID SCALE CONVERSION

DISTANCES ON THIS PLAN MAY BE CONVERTED TO GRID DISTANCES BY
MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.999881886

NOTE

BEARING COMPARISONS SHOWN ARE WITH ASTRONOMIC BEARINGS ON
UNDERLYING PLANS.

LEGEND

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT PLANTED
IB	DENOTES	IRON BAR
CC	DENOTES	CUT CROSS
OU	DENOTES	ORIGIN UNKNOWN
RP	DENOTES	REGISTERED PLAN M-452
P1	DENOTES	SRPR BY HOLDING & JONES LIMITED, O.L.S., DATED MAY 08, 1996
P2	DENOTES	SKETCH BY JOHN T. RANSOM, O.L.S., DATED JULY 14, 1928
P3	DENOTES	BUILDING LOCATION BY W. S. GIBSON AND SONS LIMITED, O.L.S., DATED APRIL 15, 1983
P4	DENOTES	SRPR BY BARICH GRENKIE SURVEYING LTD., O.L.S., DATED APRIL 21, 2021

OBSERVED REFERENCE POINTS DERIVED FROM GPS USING REAL TIME
NETWORK (RTN) OBSERVATIONS MTM ZONE 10, NAD83 (CSRS)(2010.0).
COORDINATES TO URBAN ACCURACY PER SEC 14(2) OF O.REG. 216/10

POINT ID	NORTHING	EASTING
④	XXXXXXXXXX	XXXXXXXXXX
⑤	XXXXXXXXXX	XXXXXXXXXX

COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS
OR BOUNDARIES SHOWN ON THIS PLAN.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS
ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON XXXX XX, 2018.

APRIL 26, 2021

DRAFT

MAJID FATHI
MSc, O.L.S., O.L.P.

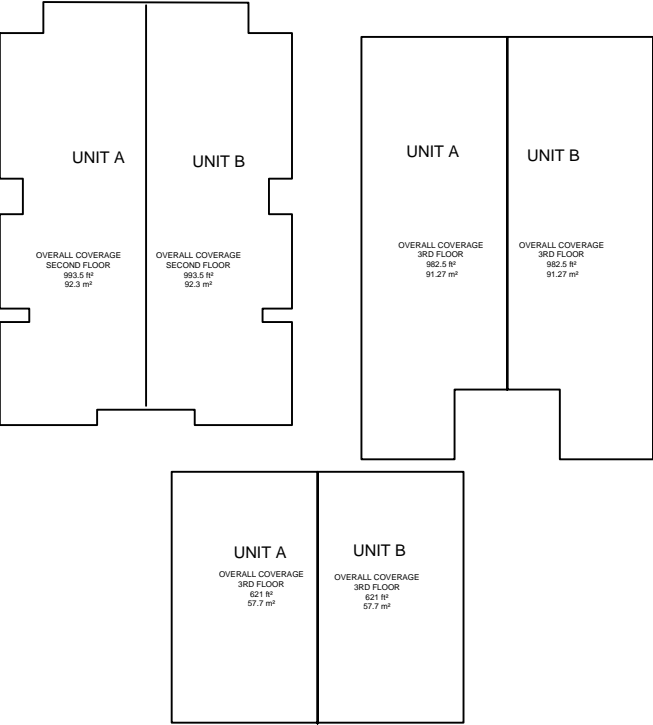
Barich Grenkie
Surveying Ltd.
23 BROADVIEW AVE., TORONTO, ONT. M7T 3Y7
TEL. 416-464-1700 FAX 416-464-1588
www.bgsurveying.com

DWN BY: FP

CHK BY: MF

JOB No. : 20-6876

A DIVISION OF GEOMAPLE

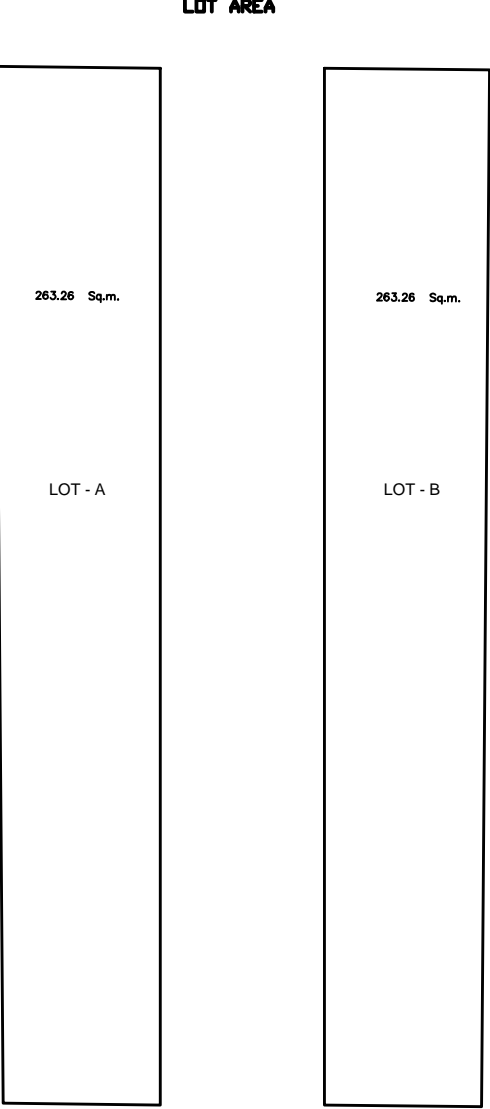
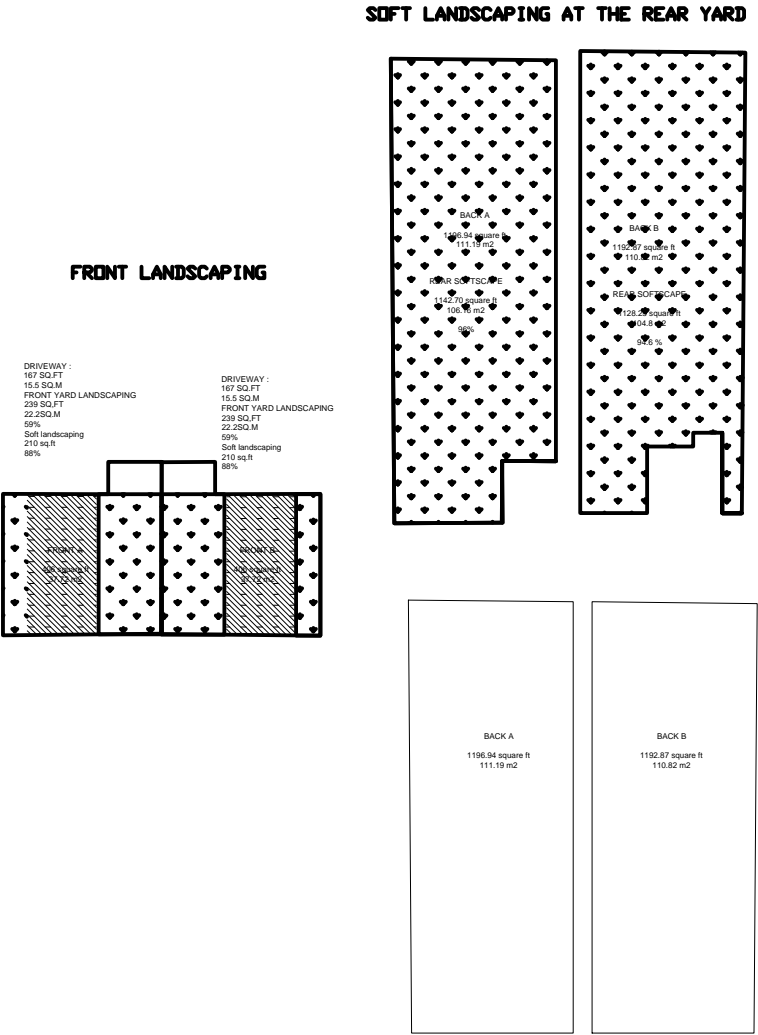


Proposed Lot A:

Lot Area: Proposed 263.80 m²
Lot Frontage: Proposed 6.24m
Front Yard: Proposed 5.51m ((4.95+6.072)/2)
Front Yard Required: 5.51 M
Rear Yard: Proposed 17.11m
Rear Yard Required : 7.5M
Side Yard (East): Proposed 0.47m
Side Yard Required: .45M
Side Yard (West): Proposed N/A
Lot Coverage: Proposed 91.5% (100.95 m²)
Building Height: Proposed 11 m
Pair of front and back wall: 8.49 m
Building Length: Proposed 16.77m

Proposed Lot B:

Lot Area: Proposed 263.80 m²
Lot Frontage: Proposed 6.24m
Front Yard: Proposed 5.51m ((4.95+6.072)/2)
Front Yard Required: 5.51 M
Rear Yard: Proposed 17.11m
Rear Yard Required : 7.5M
Side Yard (East): Proposed 0.47m
Side Yard Required: .45M
Side Yard (West): Proposed N/A
Lot Coverage: Proposed 91.5% (100.95 m²)
Building Height: Proposed 11 m
Pair of front and back wall: 8.49 m
Building Length: Proposed 16.77m



28 Wilberton Rd -PART B

Plan Date: April 12, 2022



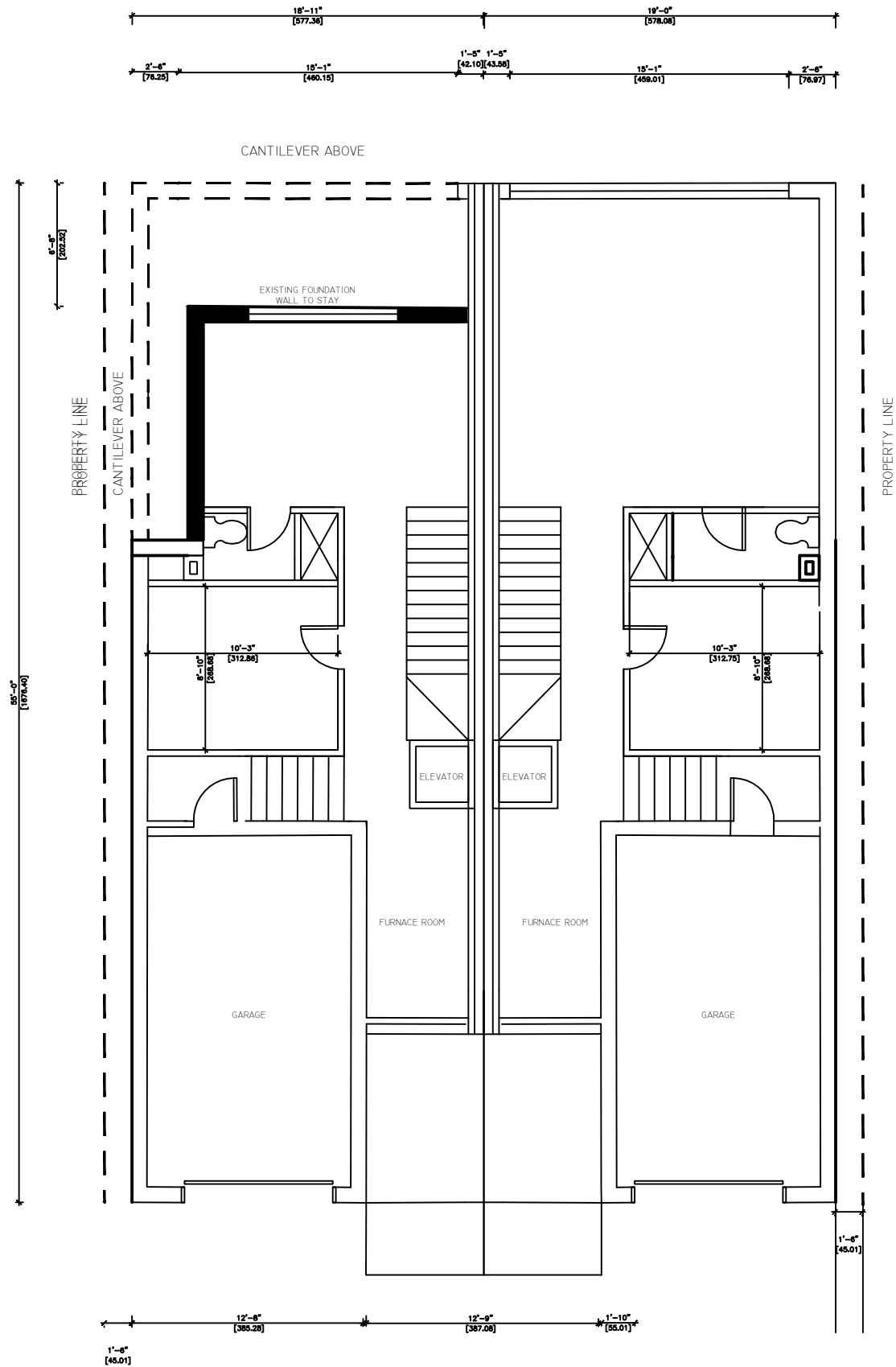
address: 28 Wilberton

drawn by: MY

reviewed by: BI

scale: 1: 300
title page :

STAT



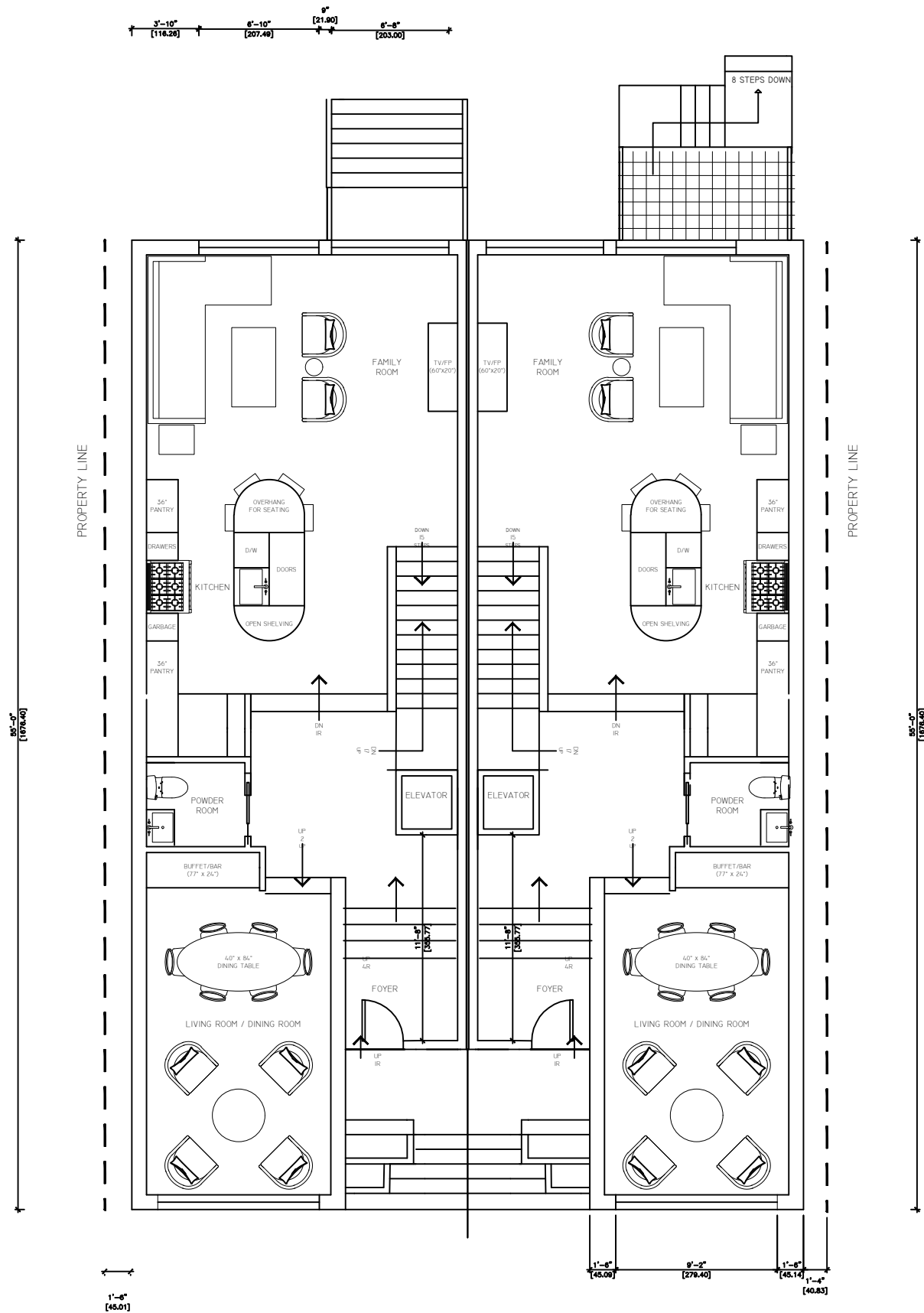
ADDRESS: 28 WILBERTON

DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100
TITLE PAGE :
BASEMENT

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

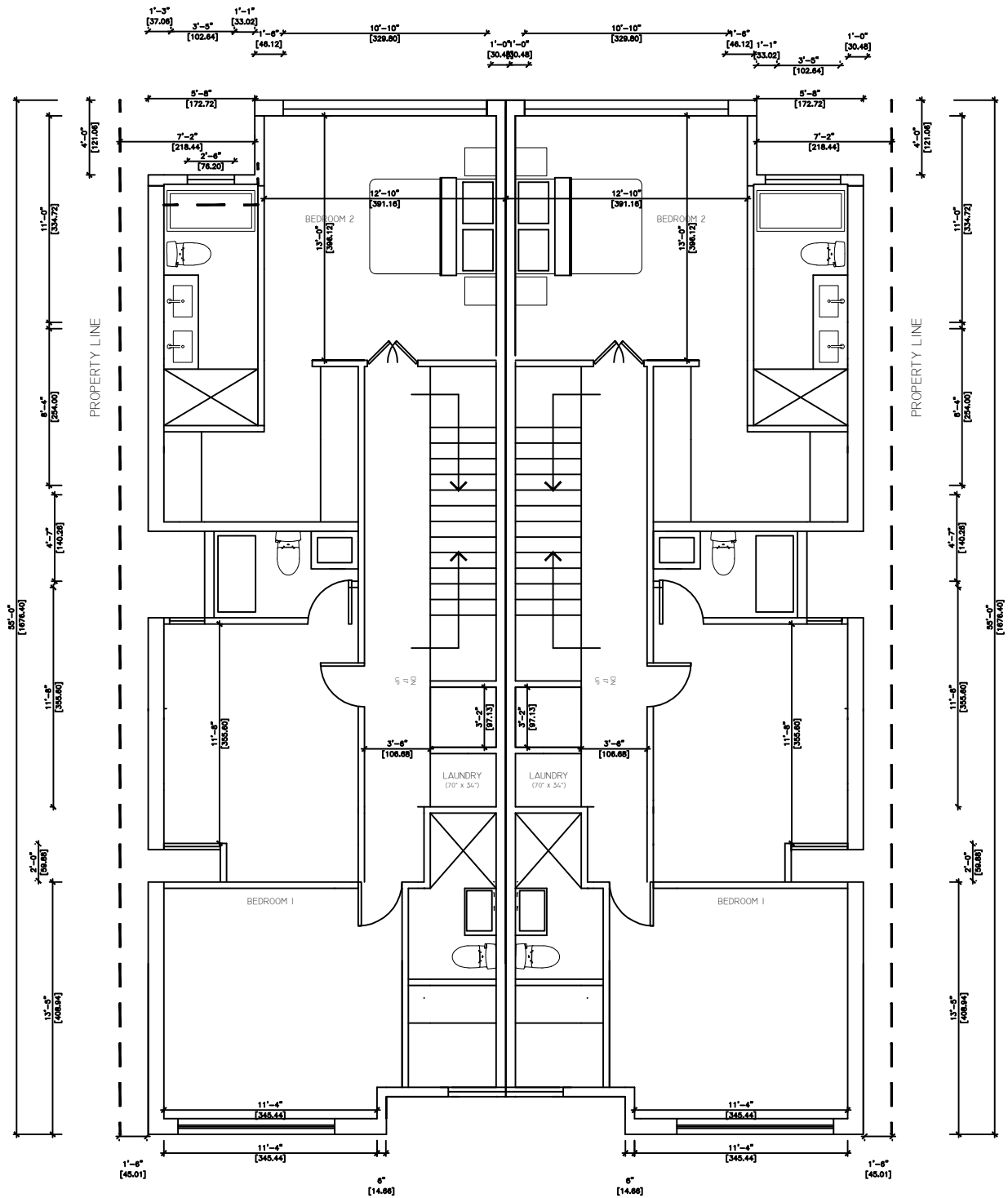
DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
MAIN

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

DRAWN BY: MY

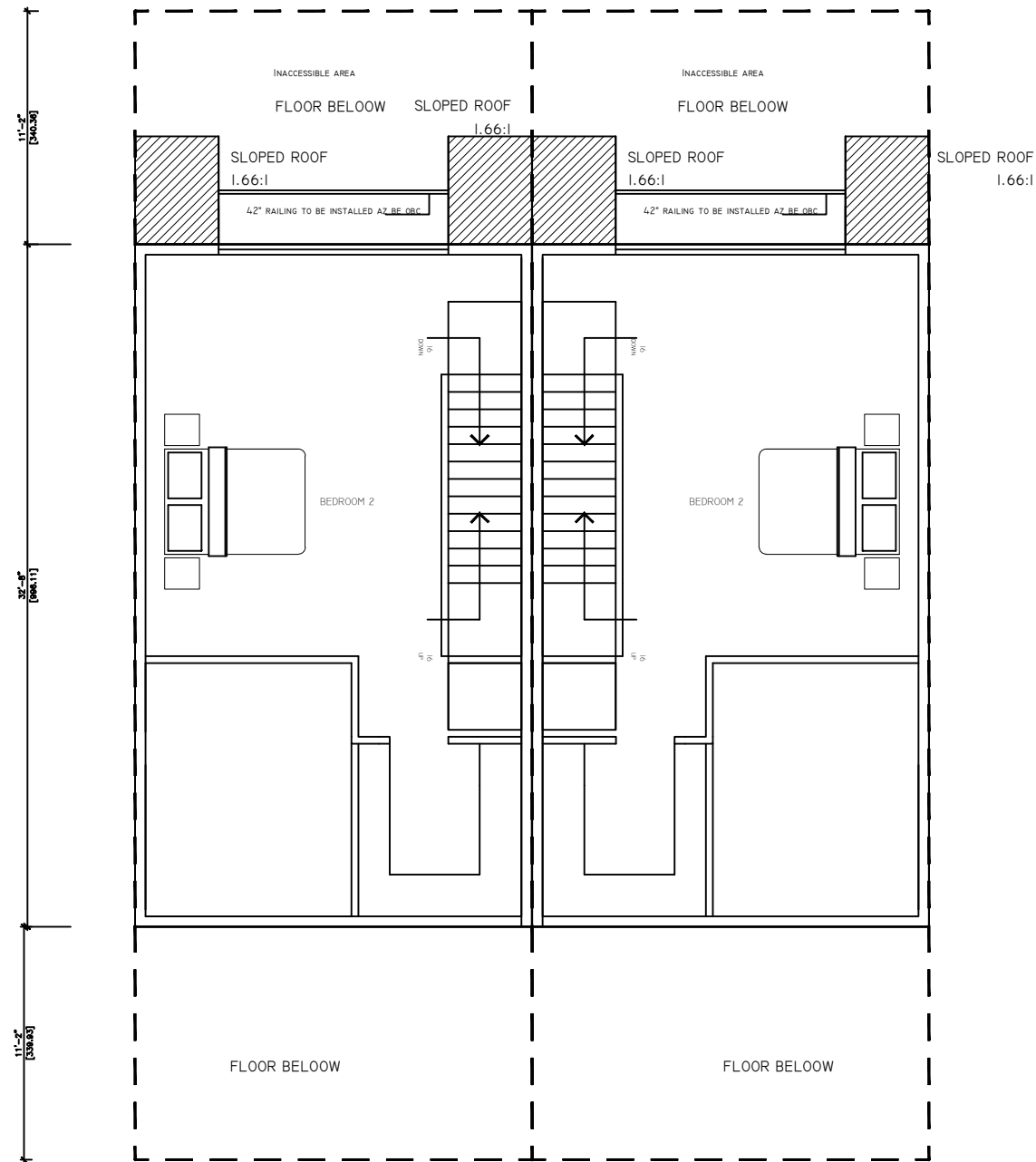
REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :

SECOND

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

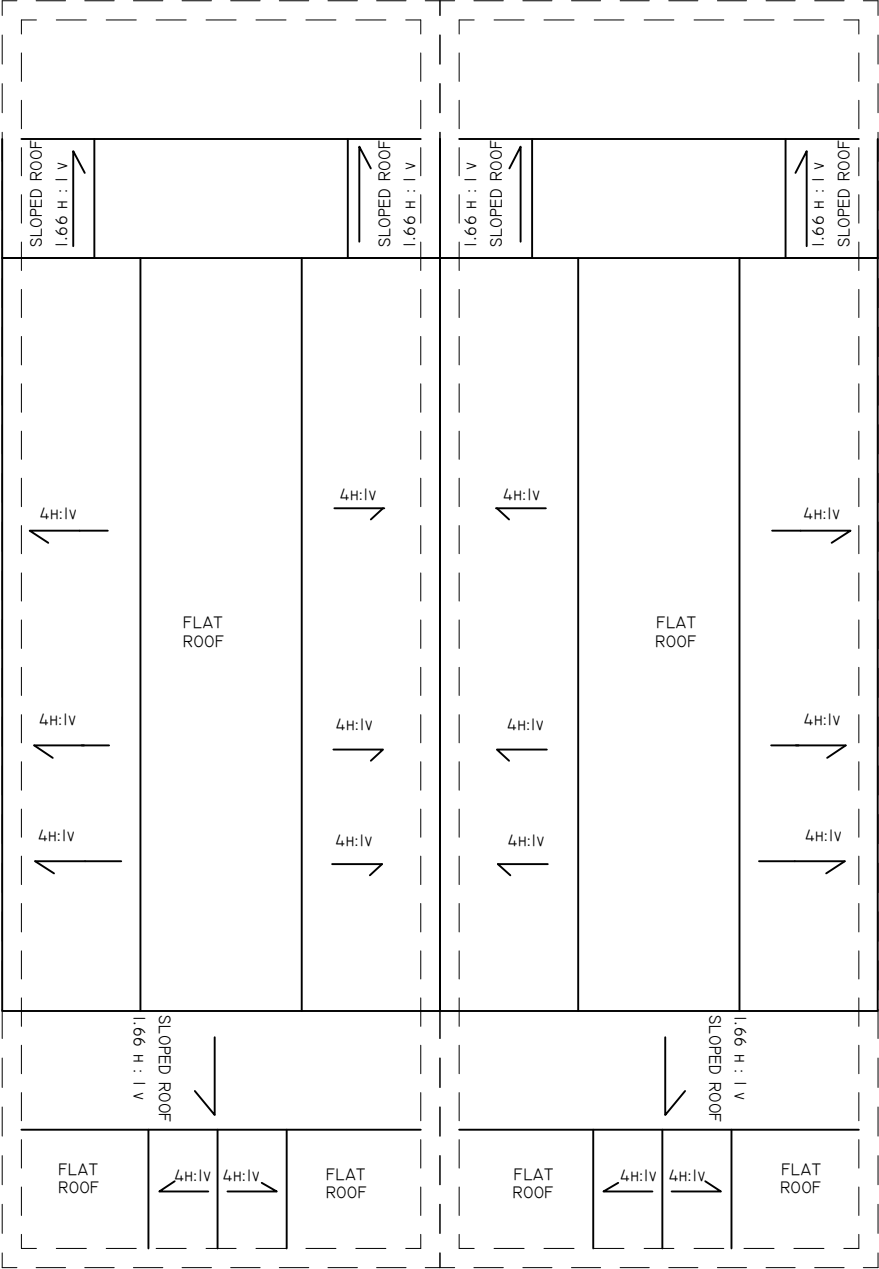
DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
THIRD

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

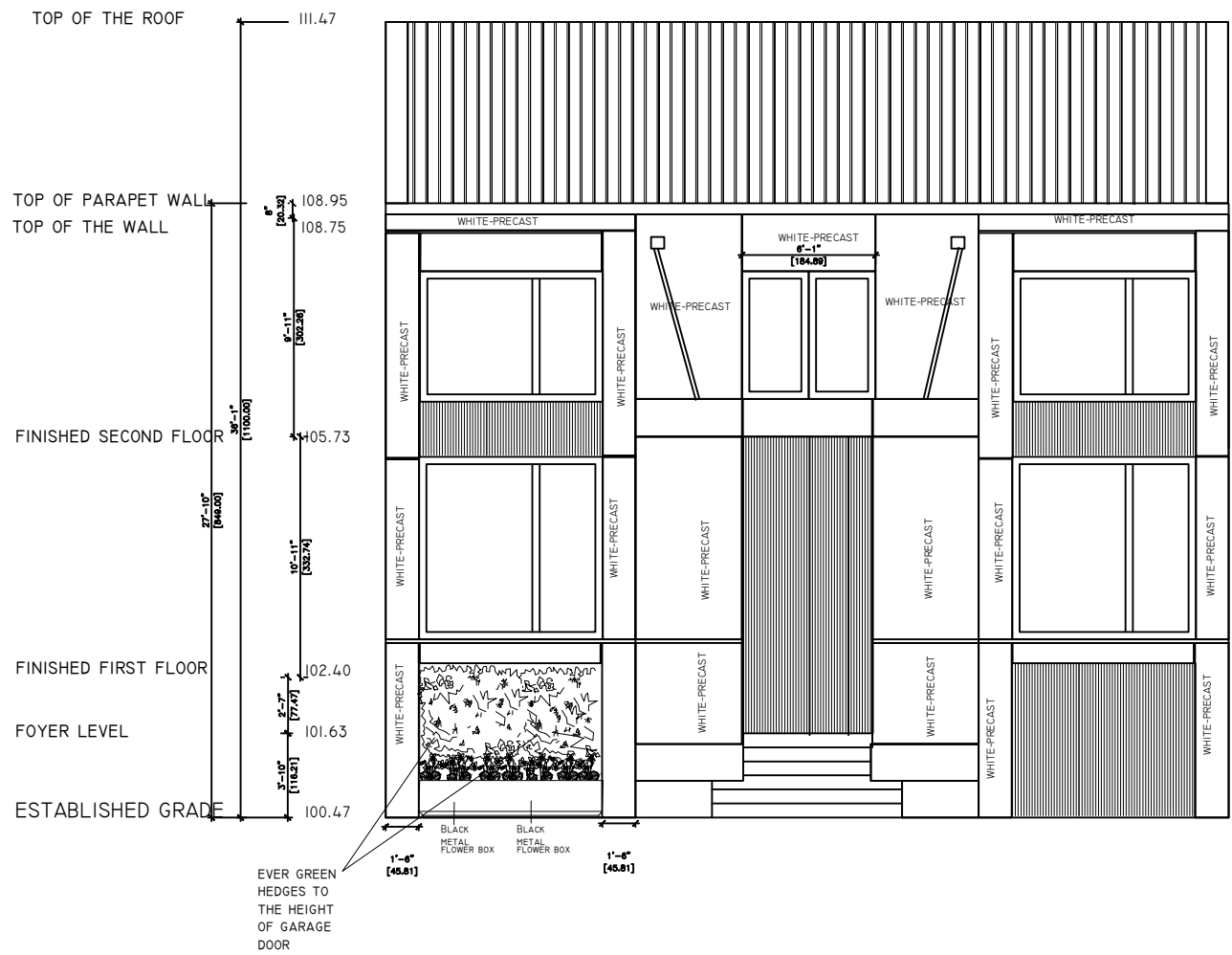
DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
ROOFING PLAN

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

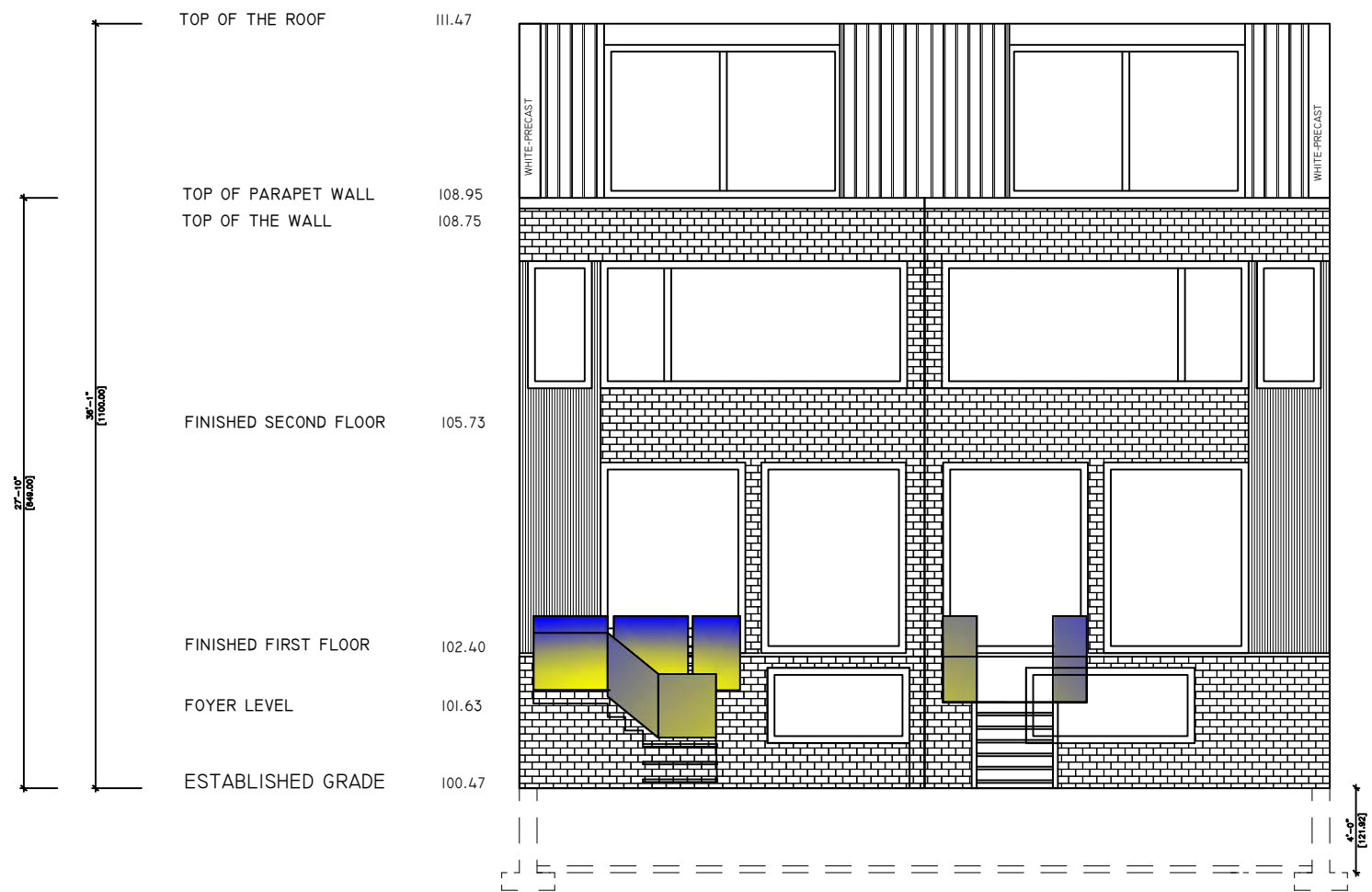
DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
FRONT ELEVATION

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

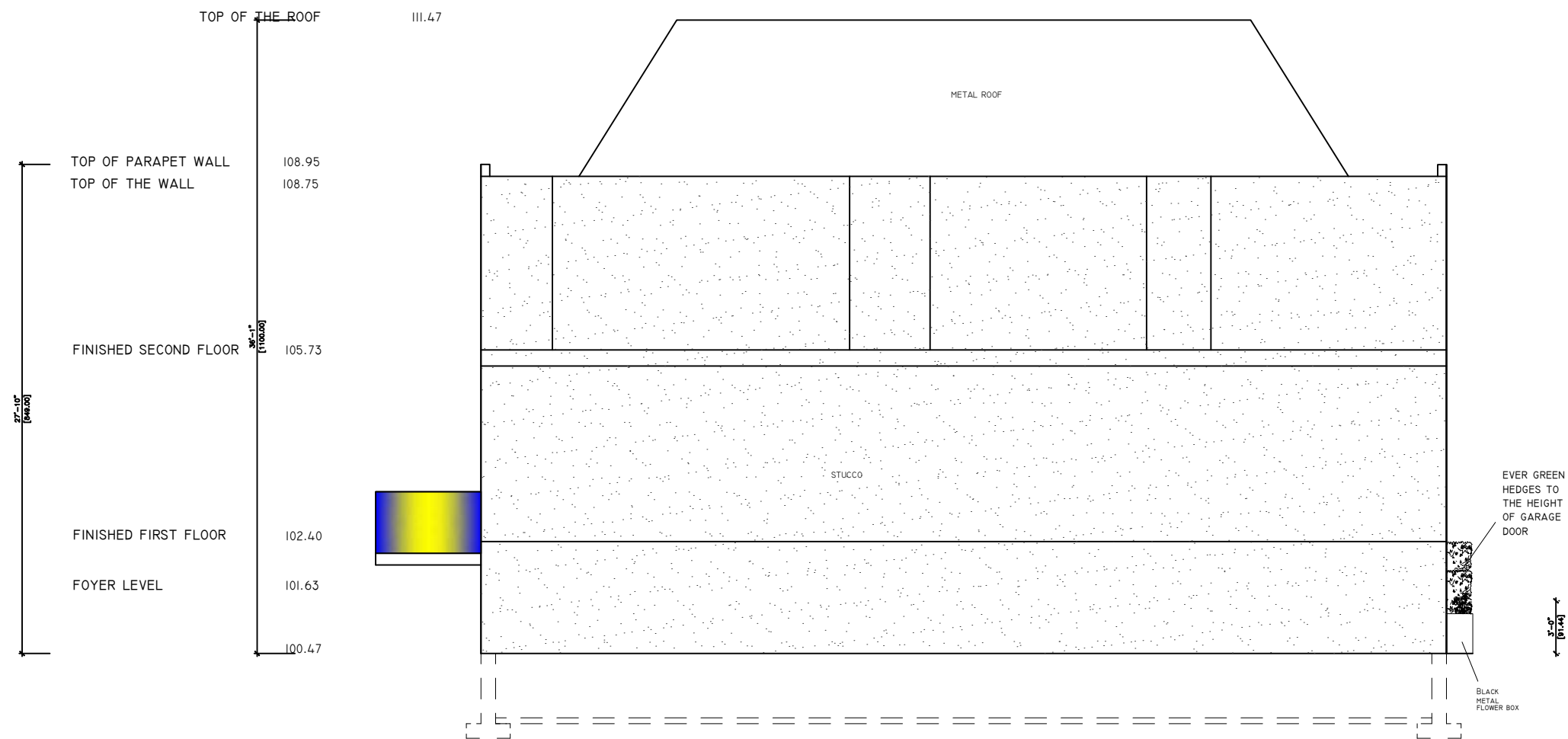
DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
BACK ELEVATION

Plan Date: April 12, 2022



ADDRESS: 28 WILBERTON

DRAWN BY: MY

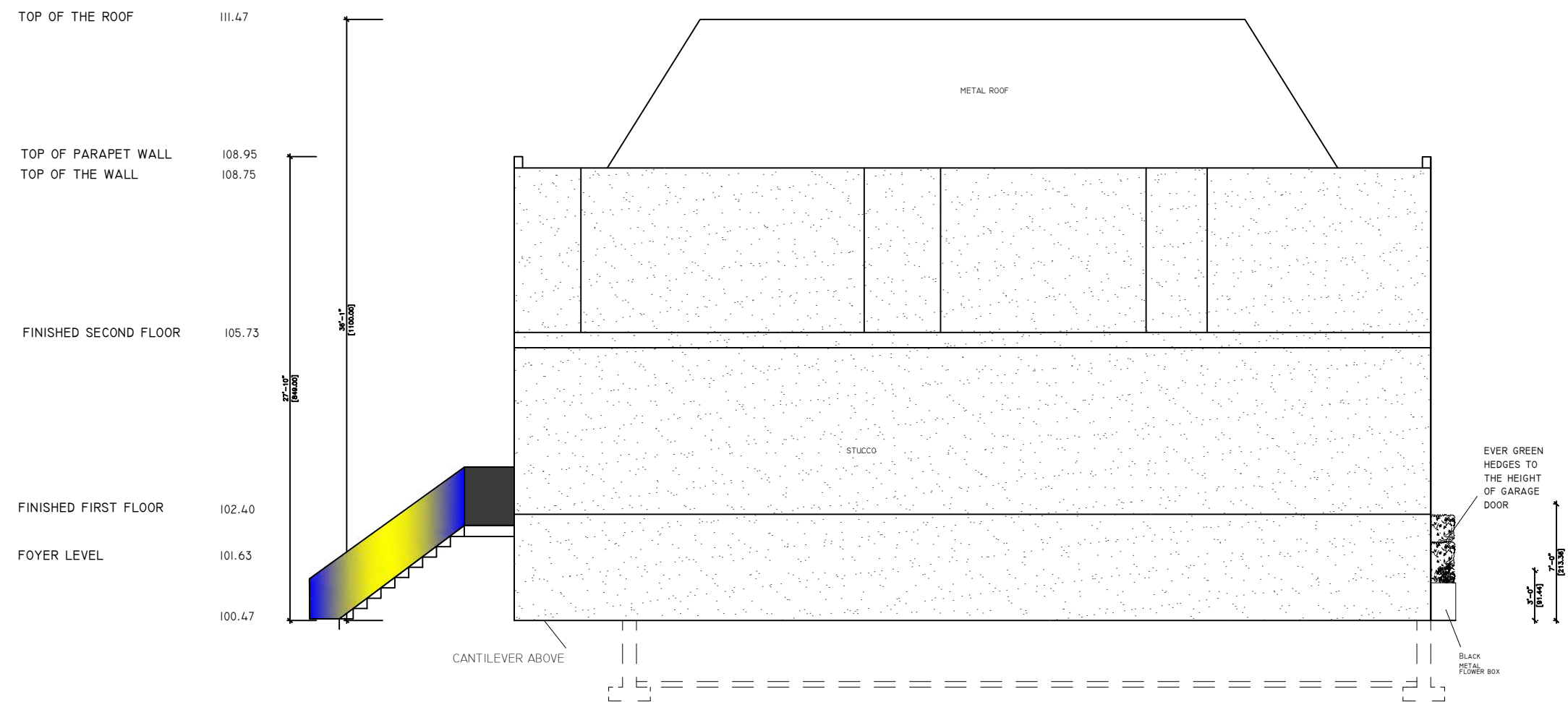
REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
EAST ELEVATION

PART B

Plan Date: April 12, 2022



PART A

Plan Date: April 12, 2022

ADDRESS: 28 WILBERTON

DRAWN BY: MY

REVIEWED BY: BI

SCALE: 1:100

TITLE PAGE :
WEST ELEVATION

P & A Urban Forestry Consulting Ltd.
Specializing in Tree Assessment

Cell 416 399-4490

Email: peter@paurbanforestryconsulting.com Web: paurbanforestryconsulting.com

Report #1409b

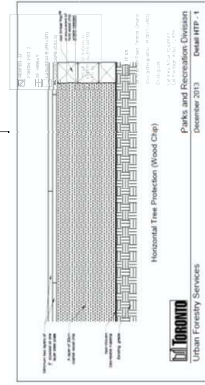


Picture 3. A. From West showing tree #3 in proximity to the garage. B. From South showing trunk in proximity to the garage wall/floor. Proposed for removal due to garage demolition and floor removal may destabilize the roots.

Page 21. 28B Wilberton Road East Side Tree Protection, Removal and Planting Plan Appendix "B" April 12, 2022. (Plan), separate PDF.

This Plan to be posted
or available on site for
reference throughout
construction

Page 20 of 21
April 12, 2022



C2C Design
Build

Legend
Vertical Tree Protection Barrier Location
Horizontal Tree Protection
Tree Protection Zone

Tree B 2.4m TPZ

Tree C 2.4m TPZ

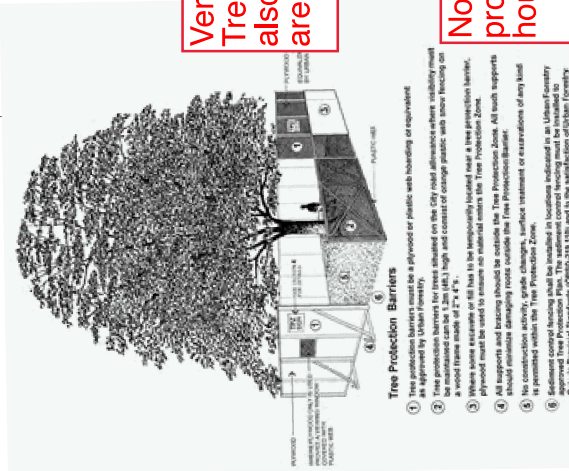
Tree D 6m TPZ

Tree E 2.4m TPZ

Tree A 4.2m TPZ

Vertical and Horizontal
Tree Protection, portion
also under overhang
area

No exterior excavation
proposed in NWC of
house



28A Tree Protection Plan Appendix "A" West Side by
P & A Urban Forestry Consulting Ltd. to be read in
conjunction with Arborist Report April 20, 2022.

info@paurbanforestryconsulting.com

SITE PLAN

28 Wilberton Rd -PART B

SCALE 1:200

SITE PLAN