

DECISION AND ORDER

Decision Issue Date Wednesday, September 14, 2022

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

Appellant(s): LAUREN MARIE BOUTETTE

Applicant(s): GLEN SCHNARR & ASSOCIATES INC

Property Address/Description: 269 EUCLID AVE

Committee of Adjustment File

Number(s): 21 188797 STE 11 MV, 22 119656 STE 11 MV

TLAB Case File Number(s): 21 250646 S45 11 TLAB, 22 168683 S45 11 TLAB

Hearing date: Monday, July 11, 2022 & July 29, 2022.

DECISION DELIVERED BY TLAB Panel Member A. Bassios

REGISTERED PARTIES AND PARTICIPANTS

Applicant	GLEN SCHNARR & ASSOCIATES INC
Appellant/Owner	LAUREN MARIE BOUTETTE
Appellant's Legal Rep.	IAN FLETT
Participant	HERMINIO VASA
Participant	ZOE LU
Participant	BINGLE LIN
Participant	JACKIE SU
Participant's Rep.	NANDO VASA
Participant's Rep.	SHAOLIANG HUANG
Expert Witness	PAUL JOHNSTON

INTRODUCTION

This is an Appeal of the Toronto and East York panel of the City of Toronto (City) Committee of Adjustment's (COA) refusal of an application for variances for the property known as 269 Euclid Ave (subject property). The subject property is located in the Trinity-Bellwoods neighbourhood of the former City of Toronto. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned R (d0.6) under Zoning By-law 569-2013.

In the week prior to the first scheduled Hearing day for this matter, the TLAB received a second Appeal, resulting from a second, subsequent, application for the subject property which was approved by the COA on June 8, 2022, and Appealed by Mr. Nando Vasa (file number *TLAB File 22 168683 S45 11 TLAB*).

Legal counsel for the Applicant, Mr. Flett, confirmed that in order to avoid the delay of consolidating both appeals, his client would relinquish the approvals that were granted by the COA on June 8, 2022, and pursue **only** the application that is currently before the TLAB (*file number 21 250646 S45 11 TLAB*). A revised set of variances were submitted to the TLAB for consideration.

Mr. Vasa, who represented his father, the Appellant in the second Appeal, understood and acknowledged that the second application would be set aside and that this Decision would determine whether the requested variances for the subject property would be approved. On the basis of this understanding, both appeals for 269 Euclid Avenue will be disposed of in this Decision.

In attendance at the Hearings were:

- Ian Flett, legal counsel for the Owner, and Expert Witness Paul Johnson (Land Use Planning);
- Participant Herminio Vasa, represented by Nando Vasa;
- Participant Zoe Lu, represented by Jack Su, who was also registered as a Participant;
- Participant Bingle Lin, represented by Shaoliang Huang

BACKGROUND

The Applicant proposes to alter the existing two-storey detached dwelling by extending the south side and rear areas of the ground floor and second level and to construct a complete third storey addition above. Also, to construct a front covered porch, a front basement walkout for a secondary suite within the basement, and a rear one-storey ancillary building (detached garage) abutting the lane.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAWS:

1. 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 (111.354 m²).
The altered dwelling will have a floor space index equal to 1.21 times the area of the lot (224.29 m²).

2. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% (9.5 m²) of the front yard must be maintained as soft landscaping.
In this case, 25% (3.16 m²) of the front yard will be maintained as soft landscaping.

3. Chapter 10.10.40.70.(3)(A), By-law 569-2013

The minimum required side yard setback is 0.9 m.
The altered dwelling will be located 0 m from the side (south) lot line.

4. Chapter 10.10.40.70.(4)(A), By-law 569-2013

The minimum required side yard setback where there are no windows or doors is 0.45 m.
The altered dwelling will be located 0 m from the side (north) lot line.

5. Chapter 10.5.40.50.(2), By-law 569-2013

A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.3 m).
The third storey front balcony will be located 0.2 m from the side (north and south) lot line.

6. Chapter 10.5.40.50.(2), By-law 569-2013

A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.3 m).
The third storey rear balcony will be located 0.2 m from the side (north and south) lot line.

7. Chapter 10.10.40.10., By-law 569-2013

The maximum permitted building height is 10 m.
The altered dwelling will have a height of 10.25 m.

8. Chapter 10.10.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7.5 m.
The height of the front exterior main walls will be 10.25 m.

9. Chapter 10.10.40.10.(2)(A)(ii), By-law 569-2013

The maximum permitted height of all rear exterior main walls is 7.5 m.
The height of the rear exterior main walls will be 10.25 m.

10. Chapter 10.5.40.60.(3)(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 m.

The front porch stairs will be located 0 m from the side (north) lot line.
The basement walkout stairs will be located 0.254 m from the side (south) lot line.

11. Chapter 10.5.40.60.(1)(A)(i), By-law 569-2013

A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required front yard setback 1.46 m if it is no closer to a side lot line than the required side yard setback.

The front porch will encroach 1.46 m into the required front yard setback and will be located 0.45 m closer to the side (north and south) lot lines than the required setback.

12. Chapter 150.10.40.40.(1)(B), By-law 569-2013

A pedestrian entrance leading exclusively to a secondary suite is not permitted in a front main wall of a detached dwelling.

The front basement walkout will lead exclusively to the secondary suite within the basement.

13. Chapter 150.10.40.1.(3)(A), By-law 569-2013

A secondary suite is a permitted use provided that an exterior alteration to a building to accommodate a secondary suite does not alter a main wall or roof that faces a street.

The addition to the building to accommodate a secondary suite will alter a main wall that faces the street.

14. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of 2 parking spaces (1 parking space for each dwelling unit) are required to be provided on-site.

In this case, 1 parking space will be provided on-site.

15. Chapter 10.5.60.70.(1), By-law 569-2013

The total area of the lot covered by all ancillary buildings and structures may not exceed 10% of the lot area (18.56 m²).

The ancillary building (one-storey detached garage) will have a lot coverage of 15.04% (27.93 m²).

16. Chapter 10.5.60.20.(3)(C)(iii), By-law 569-2013

The minimum required side yard setback for an ancillary building or structure is 0.3 m.

The ancillary building (detached garage) will be located 0.142 m from the side (north) lot line and 0 m from the side (south) line.

17. Section 4(2), By-law 438-86

The maximum permitted building height is 10 m.

The altered dwelling will have a height of 10.25 m.

MATTERS IN ISSUE

The neighbours to the north, who are Participants in this matter, opposed the size, scale and massing of the proposal which they say will have impacts on their enjoyment of their own properties, including loss of sunlight.

The existing building on the subject property encroaches onto Mr. Vasa's property and Mr. Vasa will not allow any further encroachment, whether from new construction or from the use of different, wider, cladding materials on the existing structure. In addition, Mr. Vasa objected to the window that is proposed on the east wall of the structure which faces his parents' property.

The application for variances was refused by the COA and the duty of the TLAB remains to be satisfied that the variances meet all four tests of s.45(1) for the proposal to be approved.

JURISDICTION

Provincial Policy – S. 3

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

Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

A summary of evidence is presented here for the purpose of providing some context for the following sections of this Decision. All of the evidence and testimony in this matter has been carefully reviewed and the omission of any point of evidence in this summary should not be interpreted to mean that it was not fully considered, but rather that the recitation of it is not material to the threads of reasoning that will be outlined in the *Analysis, Findings, Reasons* section below.

Paul Johnson – Land Use Planning Expert

Mr. Johnson identified the immediate context and the broader context in accordance with the direction of OP Policy 4.1.5. He described the neighbourhood as follows:

- Lots have narrow frontages between 4 and 8m.
- Lot depths are in the 40m range.
- The street pattern is a grid with long north south blocks.
- Lots are serviced by rear laneways.
- The neighbourhood is characterized by two and three-storey detached houses and townhouse dwellings.

Mr. Johnson described the intent of the proposal as follows:

- To alter the existing detached dwelling by constructing a third storey addition, a new basement secondary suite and a front walkout basement.
- Construction of a new rear yard private garage which would take access from the rear lane.
- The width and depth of the new building would be generally the same as the existing footprint.

Mr. Vasa for Participant Vasa

Mr. Vasa's family owns the property immediately south of the subject property and he was acting as their representative.

Mr. Vasa's concerns related primarily to potential for any further encroachment onto his parents' property, beyond that which already exists. He acknowledged the changes that have been made to the proposal to avoid any further encroachment, but remained concerned that the use of new materials and a new window on the existing walls would project further into his father's property.

Mr. Vasa addressed particular elements of the building, including fire and safety concerns regarding the relocated window space which would be opened onto the south wall. He sought conditions that there would be no architectural, mechanical or any other protuberances into the area between the two houses.

Mr. Vasa acknowledged that building code issues are not the subject of this hearing.

Mr. Su for Participant Zoe Lu

Mr. Su represented his family, who are the owners of the property immediately north of the subject property.

Mr. Su noted that most of the nearby buildings are at the same depth. He objected to the proposal on the basis that if the third storey is approved, their sunlight would be affected.

Mr. Su relied on a letter of objection that he had filed with the COA (marked late as it was submitted June 8, 2022). Although not an expert, Mr. Su presented a thorough analysis of the existing neighbourhood and the shadow impacts that the proposal would have on multiple neighbours. He noted that the redevelopment at 274 Euclid Ave stepped back the floors at the rear, thereby reducing the impact to neighbouring backyards. In his opinion, a design on the subject property which stepped back at the rear would reduce the significant impact of massing and shadowing on the neighbouring properties.

Mr. Su noted that the applicant did not prepare a shadow study. By his analysis, his family's property would get zero sun in the winter.

Mr. Huang for Participant Bingle Lin

Mr. Huang represented his family who are the owners of the property to the north of Mr. Su, two properties from the subject property.

Mr. Huang expressed concerns similar to Mr. Su's. He commented that most of the properties in the vicinity are the full permitted length only at the first floor and that, in the rear of the properties, the floors above are generally shorter than the ground floor.

He advised that their house is shorter than the houses near them and the houses are so close together that he could not imagine how much the three storey "tremendous wall" would affect their back yard, which they love. He expressed the wish that "things work out for everybody" through a reduction of the depth of the second and third storey to be respectful to the neighbours.

ANALYSIS, FINDINGS, REASONS

I accept Mr. Johnson's evidence that the proposal is consistent with the 2020 Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe for the subject area.

This neighbourhood is a historic part of Toronto that is characterized by narrow houses, a tight urban fabric and reliance on rear laneways for service. I accept Mr. Johnson's characterization that the neighbourhood is undergoing rejuvenation and reconstruction and exhibits a mix of architectural styles.

The first test: Official Plan

The preamble to OP Policy 4.1.5 sets the objective for development in *Neighbourhoods*, requiring that development must be sensitive, gradual, and "fit" the existing physical character. The policy requires that development in established neighbourhoods respect and reinforce the existing physical character and identifies particular criteria for consideration. Mr. Johnson has highlighted criteria 4.1.5 c), f), and g) as relevant criteria, and I agree.

- OP Policy 4.1.5 c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties.

The policy establishes that "prevailing" means most frequently occurring. Mr. Johnson provided a table and map of properties in the neighbourhood where variances similar to those being proposed have been granted by the COA as the basis for his evidence that the proposal respects and reinforces the character of the neighbourhood.

Height

Mr. Johnson identified a number of height variances granted in the broader neighbourhood as well as two on Euclid Ave in proximity to the subject property. All the height variances noted are larger than the requested variance in this case.

Massing

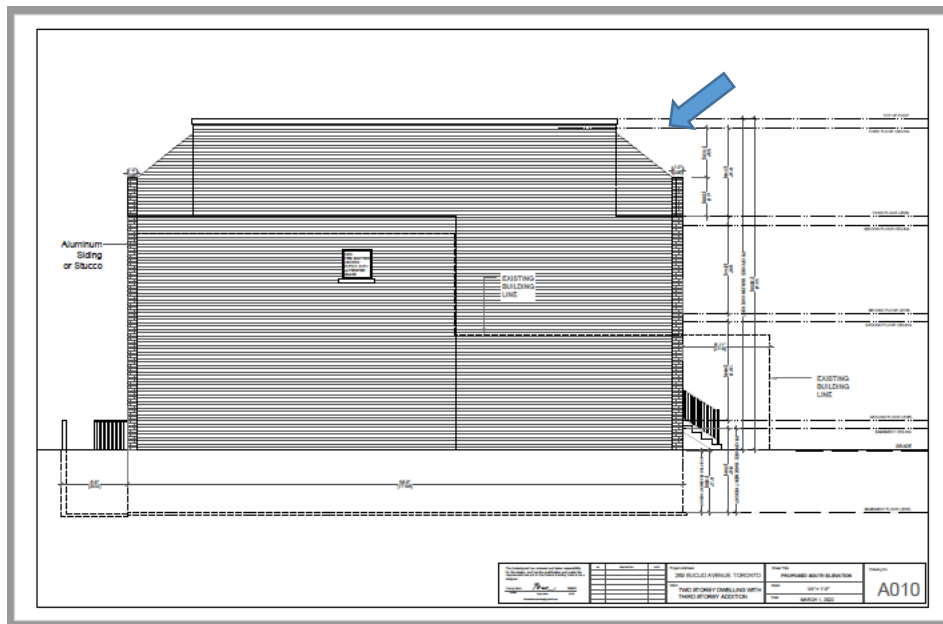
Mr. Johnson relied on the photographs in Exhibit 2 to discuss the massing of buildings in the neighbourhood. He noted that the proposal has similar features, such as a front porch and stairs, as the two neighbouring houses. The signal difference in his opinion would be the pitched roof of the neighbouring houses, whereas the existing house on the subject property, and the proposal for the new house are flat roofed.

Mr. Johnson highlighted examples in his photographs of other houses with a similar massing as the proposal, including the houses at 306 and 274 Euclid Ave, which are not far from the subject property. He also noted examples of a more traditional style, with the third storey contained within a steep gable roofline.

The concern of the neighbours to the north has been the massing at the rear of the property, not particularly the presentation to the street. Mr. Su noted that the example of 274 Euclid, which Mr. Johnson cited as a comparable example to the proposal, has a stepped-back rear which reduces the massing in the rear significantly.

Mr. Johnson's evidence was that there is a relatively consistent rear wall condition. I agree with his description and note that since the request to vary the maximum depth permitted for the property has been deleted from the application, the depth of the rear wall is not at issue. In the context of OP Policy 4.1.5 c), the question is whether the massing at the proposed depth is a condition which prevails in the neighbourhood.

The proposal is within the maximum depth permitted. The number of storeys is not regulated in the "R" zone and thus three storeys are permitted within the constraints of the maximum height provision. In context of the height, I do not find that the proposed variance at 25cm has a perceptible impact on the massing of the proposal. I also note that the elevations show that the rear wall steps back from the maximum depth to create the recessed balcony on the third floor, which assists in mitigating massing.



When the proposition that the proposal is close to "as of right" (barring the small height variance) was put to Mr. Su under cross examination, he astutely applied the purpose of the floor space index maximum in conjunction with the massing at the rear of the property.¹ In other words, Mr. Su connected the over-riding limitation on floor space which is the purpose of the FSI maximum, to the overall massing of the proposal as a whole².

¹ Mr. Su under cross examination: "Yes, you can build all the way up. Yes. But the limitation on FSI means that you can't build that"

² Mr. Su under cross examination: "Under certain circumstances maybe (maximum depth) for the first floor, but if you want the second floor as well, you will require an FSI variance".

Density/ Floor Space Index (FSI)

The measure that is used to represent density in the Zoning By-law is the floor space index (FSI). FSI is the ratio of the gross floor area in relation to the area of the lot.

It is understandable that the public generally focuses on the maximum FSI provision in the Zoning By-law. The test set by OP Policy 4.1.5, however, is not the FSI maximum number set in the By-law, but the prevailing density in the broader and immediate neighbourhood as described in OP Policy 4.1.5. The maximum FSI number in the Zoning By-law serves as the threshold beyond which the requirement for a variance is triggered.

Mr. Johnson provided a table of FSI variance decisions in Tab 13 of Exhibit 2. This table had been prepared to reflect the previous variance request of 1.43 FSI. At my request, Mr. Johnson provided an updated table of variance decisions after the Hearing reflecting variance decisions as well as calculations from City property data for addresses with FSI's greater than 1.2. I have greater confidence in the accuracy of the information derived from a record of variance decisions than the general property data, but in this neighbourhood, given the historic nature and the era of original construction, I find the property data provided to be acceptable and relevant.

There are sufficient examples in the evidence of Mr. Johnson for me to be satisfied that properties with an FSI/density greater than the proposal exist in substantial numbers within the geographic neighbourhood and there is already a significant presence of such properties in the immediate context and the adjacent blocks.

For these reasons, I find that the height, massing, scale, density and dwelling type of the proposal respect and reinforce the physical character of the neighbourhood.

- OP Policy 4.1.5 f) prevailing setbacks of buildings from the street or streets.

No variance is required for the front wall of the house, it is aligned generally with the front walls of the adjacent properties. A variance is required for a porch to encroach into the front yard but the variance is triggered because of the incursion of the porch into the side yard setbacks rather than the front yard setback.

I accept Mr. Johnson's evidence that front porches located within the prescribed side yard setbacks are a condition that exists throughout the neighbourhood.

I find that the proposal respects the prevailing setbacks from the street.

- OP Policy 4.1.5 g) prevailing patterns of rear and side yard setbacks and landscaped open space.

This is a historic neighbourhood with very tight fabric that is characterized by minimal separation between the homes and served by laneways in the rear. The form is not unlike a row of townhouses. The side yard setbacks described in the variances reflect

the existing side yard setbacks on the property. I find that the proposed setbacks are consistent with the existing pattern in the neighbourhood.

I find that the proposal, as revised, maintains the general intent and purpose of the Official Plan.

The second test: Zoning By-law

There are seventeen variances requested. Some of the variances are required to recognize the existing condition on site.

- Maximum Height – Variances 7 and 17.

As the maximum height provisions of the most recent By-law (569-2013) remain under appeal, a duplicate variance for maximum height is also required to the former By-law (former Toronto 438-86).

In the section above regarding prevailing height, I found on the basis of the table of decisions and property data provided, that there are other comparable, or greater, heights in the neighbourhood.

Similarly, I find that the proposed height variance is minor in the surrounding context and maintains the general intent and purpose of the Zoning By-law.

- Maximum Height Exterior Side Walls, Front and Rear – Variances 8 and 9.

The variances for the exterior side walls, front and rear, were not initially requested and have been included in the request before the TLAB as a result of a Zoning Notice which was obtained by the Applicant following reduction of the proposal. All versions of the plans have shown a wall height in excess of the By-law maximum. Mr. Johnson's Expert Witness Statement which was prepared on the basis of the original application did not therefore contain evidence regarding this variance. He provided oral evidence at the Hearing to address these exterior wall height variances.

I note that in an R Zone, the By-law does not require a lower maximum height for a flat roof. I asked during the Hearing how many of the addresses with height variances had flat roofs and was advised that 306, Euclid Ave, 274 Euclid Ave and 321 Manning Ave all have flat roofs.

Mr. Johnson noted that most of the houses in the neighbourhood were constructed and altered well before the introduction of the side wall height regulation in Zoning By-law 569-2013. Therefore, while taller side walls exist throughout the neighbourhood, Mr. Johnson only identified side wall height variance decisions for 306 and 274 Euclid and 321 Manning – the other previously mentioned more recent constructions with flat roofs.

I understand that the intent of the exterior front and rear wall height provisions in the By-law, in conjunction with the maximum height provision, is to restrict the shape of a potential third floor so that sloped roofs are precipitated, instead of a front wall that occupies the full width and height of the proposed structure.

Although the variances request a wall height of 10.25m, which is the full height proposed for the structure, the third floor balconies at the front and the rear of the house mean that the uppermost part of the exterior walls are recessed 1.8m behind the lower floors' exterior walls.

I accept Mr. Johnson's oral advice that there are multiple examples in the broader neighbourhood of flat roofed structures and side walls taller than the By-law maximum.

In light of Mr. Johnson's evidence, I find that the proposed front and rear exterior main wall heights, as depicted in the revised drawings, maintain the general intent and purpose of the By-law.

- Floor Space Index – Variance 1

For the reasons contained in the section addressing Density/FSI above, I also find that the general intent and purpose of the Zoning By-law is maintained with respect to FSI. I find that the proposed floor space index does not constitute overdevelopment of the lot, given the existing neighbourhood context of relatively modest sized homes situated on narrow and constrained historic lots.

- Landscaping – Variance 2

The proposal does not meet the minimum front yard soft landscaping requirement. I accept Mr. Johnson's evidence that the opportunity for front yard landscaping is constrained and that the front yard soft landscaping variance reflects a condition that exists "up and down the street".

- Side Yard Setbacks, north and south – Variances 3 and 4

The side proposed side yard setbacks reflect the existing side yard setbacks on the property. The third floor addition is proposed to replicate the setbacks of the existing second floor for the most part, but on the south side will be inset from the property line for the (approximately) rear half of the side wall.

I accept Mr. Johnson's evidence that the side yard setbacks are consistent with the existing condition and consistent with the pattern of the neighbourhood. I find no benefit to the imposition of a stricter setback on the proposed additions and alterations to the building that are proposed in this application.

- Balconies, front porch and exterior stairs within required side yard setbacks – Variances 5, 6, 10 and 11

Variances 5 and 6 are required for the proposed balconies on the front and rear of the third floor addition as they extend into the required side yard setbacks. I find that the purpose of the provision, to maintain separation between abutting structures, has been superseded by the existing side yard setbacks and the side yard setback variances. I accept Mr. Johnson's evidence that balconies within the setback required by the Zoning By-law reflects a condition that exists throughout the neighbourhood.

Variance 11 is required for the front porch which extends the width of the front wall and therefore into the side yard setbacks. In light of the limited width of the lot and the established pattern of front porches and limited side yards in the neighbourhood, I find the extension of the front porch into the side yard setbacks to be appropriate.

Similarly, variance 12 is required for the front stairs to extend into the required side yard setbacks. For the same reasons as above, I consider the variance to allow the stairs to intrude into the setback required by the By-law to be appropriate.

- Ancillary building (garage) – Variances 15 and 16

Variance 15 is required as the By-law limits the size of an accessory building to 10% of the lot coverage. The proposed garage which takes access from the rear laneway is typical of the size and location of all other garages accessing the laneway and is appropriate in the circumstances.

In context of the narrow lots, the garages located on the rear laneway mostly extend from side lot line to side lot line as is proposed for the subject property.

- Secondary Suite – Variances 12, 13 and 14

Variance 12 is required because a pedestrian entrance leading exclusively to a secondary suite is not permitted in a front main wall of a detached dwelling and variance 13 is required to permit the associated alteration to a main wall that faces a street. The proposal has the entrance to the secondary suite located below the sightline from the street, at the basement level. The door will not be visible to passersby and does not affect the streetscape.

An additional parking space is required as a result of the creation of a second suite. I am satisfied that the high level of transit service and the well-served downtown location are sufficient to allow the variance.

The third test: Minor.

The test for “minor” focuses on the scale and nature of perceived impacts caused by the variances. The courts have established that the test is not that there be no impact, but that the imputed impact rises to the level of being an undue adverse impact of a planning nature.

Mr. Su devoted significant time and research to describe the shadow impact that the proposal would have on his family’s home and rear yard. The shadow study that Mr. Su conducted was impressive, given the tools that were available to him. However, the limitations of such an analysis in application to the proposal should be noted.

Firstly, it is necessary to recognize the shadowing cast by existing buildings, trees, topography and landscaping to understand the incremental impact of a structure. Some of the shadow modelled from the proposal is already present as a result of the existing building on the subject property as well as other adjacent structures and landscaping.

Secondly, a maximum height is permitted as of right by the Zoning By-law. Mr. Su argued that only with a variance for FSI could the maximum height be achieved across the full third floor of the proposal. In that, he is correct, but having found that the FSI proposed is acceptable within the neighbourhood context, the maximum height at the rear of the property is 10m as of right (no matter where, or if, any additional floor space is permitted elsewhere on the property). Therefore, the impact that is ascribed to the height variance is the incremental shadow which may be caused beyond the height that is otherwise permitted, which in this case is 25cm

Shadow studies are generally not required in Toronto for residential buildings under six storeys. In a changing urban context, shadowing from redevelopment of existing houses is to be expected and I find that the shadow from the proposal will not constitute an undue adverse impact.

The fourth test: Desirable for the Development of the Land.

For the reasons outlined in this decision above, I find also that the proposal is desirable for the development of the land.

Additional Comments.

- Building Conditions

This Victorian era neighbourhood predates the imposition of Zoning By-laws and modern building practices. With respect to the subject property and the properties on either side, some construction does not coincide with the legal lot boundaries, resulting in an encroachment of the house on the subject property onto Mr. Vasa's property and an encroachment of the Su's garage onto the subject property.

Mr. Vasa acknowledged that the issue of the existing encroachment would not be addressed by the TLAB, but objected to any new construction within the area of encroachment. There were also concerns expressed by all of the participants regarding exhaust and equipment (such as air conditioners) being installed on the north or south side walls.

The Applicant has proposed two conditions to address the concerns of the neighbours; to give reassurance that no vents, exhausts or equipment will be installed on the north or south side walls and that construction will be undertaken in accordance with the plans (dated March 1, 2022), which contain revisions to remove any new encroachment onto Mr. Vasa's property. I find the proposed conditions to be appropriate and helpful in providing assurances to the neighbours that the commitments of the Applicant will be implemented.

- Building Code

Given the closeness of the houses, Mr. Vasa expressed his concerns regarding fire and safety associated with the new window that is proposed to be located on the side wall.

Mr. Vasa acknowledged that the TLAB is not empowered, nor does it have the expertise, to adjudicate Building Code matters.

It is common for the TLAB to impose a condition on approval of variances which stipulates that construction must be substantially in accordance with the drawings that have been justified through the course of the proceedings. The premise being that following the variance approvals, construction would proceed through the building permit process and that all requirements of the Building Code will be certified through that process.

I acknowledge Mr. Vasa's concern, and I shall impose the TLAB's condition of approval that the construction be in accordance with the plans. I do this with the explicit understanding that the plans must still comply with all Building Code requirements, which are independently reviewed prior to building permit issuance.

- Withdrawal of second application

On the basis of the Applicant's commitment to relinquish the approvals granted by the COA on June 8, 2022 and to forgo pursuit of any other contemporaneous variance applications or appeals, the June 8, 2022 decision of the COA will be set aside.

- Further Notice

The request for variances has been revised since the variances were refused by the COA.

I find that the revisions that have been made to the application that was previously considered by the COA to be beneficial. Previously requested variances for front yard setback and building depth have been eliminated, and variances for FSI and maximum height have been reduced. The variance for soft landscaping differs by less than one square metre, which I consider to be a minor change for which notice can be waived. The variances for front and rear exterior walls were omitted from the request before the COA but are consistent with the plans and drawings that were circulated.

I therefore find that no further notice is required in accordance with s.45(18.1.10 of the *Planning Act*.

DECISION AND ORDER

1. The decision of the COA for file number 22 119656 STE 11 MV, dated June 8, 2022, is set aside. The associated TLAB file 22 168683 S45 11 TLAB is closed. No further hearings or submissions are required.
2. TLAB Appeal (**21 250646 S45 11 TLAB**) is allowed, in part. The variances listed in Appendix A are authorized, subject to the conditions contained therein.

X 

Ana Bassios

Panel Chair, Toronto Local Appeal Body

APPENDIX A

APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:

VARIANCES:

1. 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 (111.354 m²).
The altered dwelling will have a floor space index equal to 1.21 times the area of the lot (224.29 m²).

2. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% (9.5 m²) of the front yard must be maintained as soft landscaping.
In this case, 25% (3.16 m²) of the front yard will be maintained as soft landscaping.

3. Chapter 10.10.40.70.(3)(A), By-law 569-2013

The minimum required side yard setback is 0.9 m.
The altered dwelling will be located 0 m from the side (south) lot line.

4. Chapter 10.10.40.70.(4)(A), By-law 569-2013

The minimum required side yard setback where there are no windows or doors is 0.45 m.
The altered dwelling will be located 0 m from the side (north) lot line.

5. Chapter 10.5.40.50.(2), By-law 569-2013

A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.3 m).
The third storey front balcony will be located 0.2 m from the side (north and south) lot line.

6. Chapter 10.5.40.50.(2), By-law 569-2013

A platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the required minimum building setbacks for the zone (0.3 m).
The third storey rear balcony will be located 0.2 m from the side (north and south) lot line.

7. Chapter 10.10.40.10., By-law 569-2013

The maximum permitted building height is 10 m.
The altered dwelling will have a height of 10.25 m.

8. Chapter 10.10.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7.5 m.
The height of the front exterior main walls will be 10.25 m.

9. Chapter 10.10.40.10.(2)(A)(ii), By-law 569-2013

The maximum permitted height of all rear exterior main walls is 7.5 m.
The height of the rear exterior main walls will be 10.25 m.

10. Chapter 10.5.40.60.(3)(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 m.

The front porch stairs will be located 0 m from the side (north) lot line.

The basement walkout stairs will be located 0.254 m from the side (south) lot line.

11. Chapter 10.5.40.60.(1)(A)(i), By-law 569-2013

A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required front yard setback 1.46 m if it is no closer to a side lot line than the required side yard setback.

The front porch will encroach 1.46 m into the required front yard setback and will be located 0.45 m closer to the side (north and south) lot lines than the required setback.

12. Chapter 150.10.40.40.(1)(B), By-law 569-2013

A pedestrian entrance leading exclusively to a secondary suite is not permitted in a front main wall of a detached dwelling.

The front basement walkout will lead exclusively to the secondary suite within the basement.

13. Chapter 150.10.40.1.(3)(A), By-law 569-2013

A secondary suite is a permitted use provided that an exterior alteration to a building to accommodate a secondary suite does not alter a main wall or roof that faces a street.

The addition to the building to accommodate a secondary suite will alter a main wall that faces the street.

14. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of 2 parking spaces (1 parking space for each dwelling unit) are required to be provided on-site.

In this case, 1 parking space will be provided on-site.

15. Chapter 10.5.60.70.(1), By-law 569-2013

The total area of the lot covered by all ancillary buildings and structures may not exceed 10% of the lot area (18.56 m²).

The ancillary building (one-storey detached garage) will have a lot coverage of 15.04% (27.93 m²).

16. Chapter 10.5.60.20.(3)(C)(iii), By-law 569-2013

The minimum required side yard setback for an ancillary building or structure is 0.3 m.

The ancillary building (detached garage) will be located 0.142 m from the side (north) lot line and 0 m from the side (south) line.

17. Section 4(2), By-law 438-86

The maximum permitted building height is 10 m.

The altered dwelling will have a height of 10.25 m.

CONDITIONS:

1. Except for such minor adjustments as may be necessary to avoid further encroachments to neighbouring properties, the proposed dwelling shall be constructed substantially in accordance with the following drawings prepared by Young Jeon and dated March 1, 2022, attached hereto:

- Site Plan (drawing A001),
- Proposed Basement Floor Plan (A002),
- Proposed Third Floor Plan (A005),
- Proposed West (Front) Elevation (A007),
- Proposed East (Rear) Elevation (A009),
- Proposed South Elevation (A010),
- Proposed North Elevation (A011),
- Proposed Roof Plan (A012),
- New Detached Garage Plan (A017),
- New Detached Garage East Elevation (A019),
- New Detached Garage West Elevation (A020),
- New Detached Garage North Elevation (A021),
- New Detached Garage South Elevation (A022).

Any other variances that may appear on these plans that are not listed in this decision are NOT authorized

2. No vents, exhausts, or equipment such as, but not limited to, air conditioners, shall be installed on the north or south elevations (side walls) of the subject property.
3. 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 the subject property. The current cash-in-lieu payment is \$583/tree.

Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

Property Information

Property Type Residential

Property Code & Description 332-Duplex

Assessment Roll Legal Description
 PLAN 314 PT LOT 103

Legal Description
 PT LT 103 PL 314 TORONTO AS IN
 WB177582; CITY OF TORONTO

Number of Full Storeys 2
Number of Partial Storeys No part storey
Frontage (ft) 15.50
Depth (ft) 129.00
Site Area 1999.50 Sq.Feet
Variance Regular
Year Built 1870

Property Line

PROJECT:
 NEW ADDITION TO 269 Euclid Ave.
 Toronto, Ontario

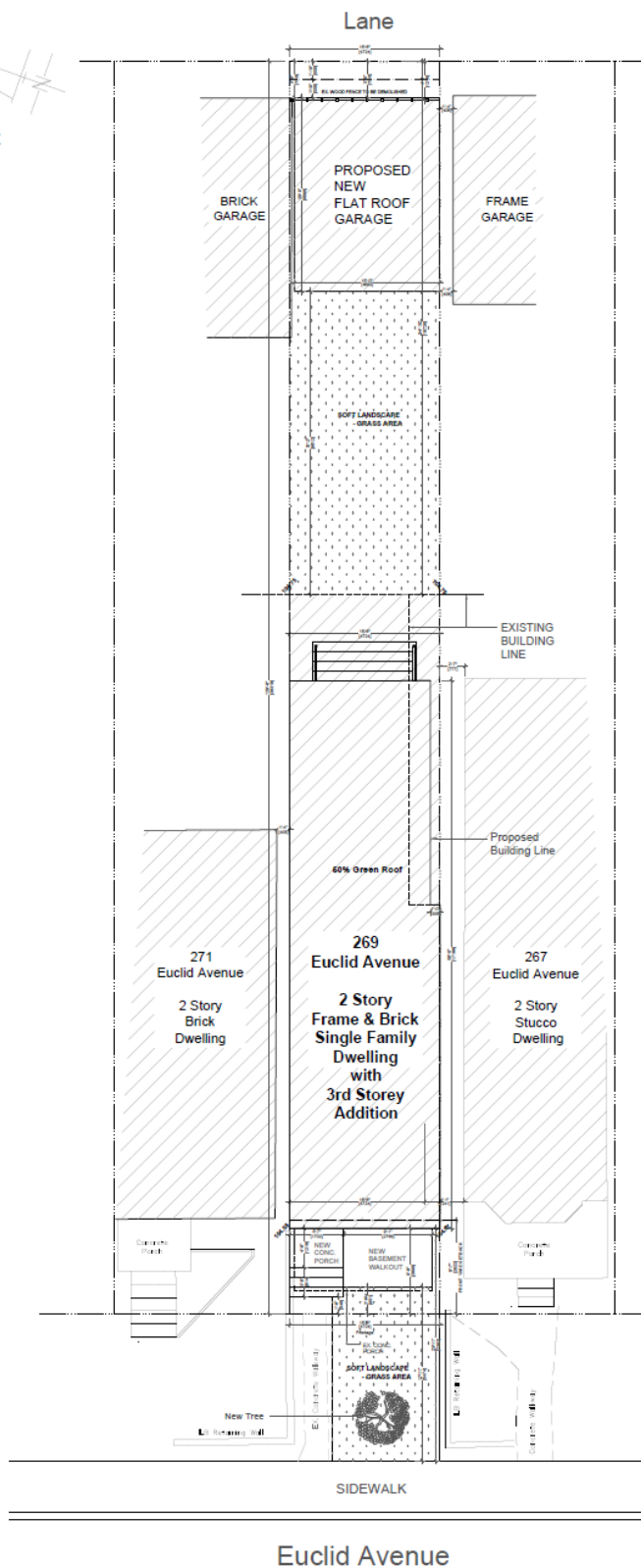
ISSUED APRIL 08, 2021.

- PROVIDE 3RD FLOOR TO AN
 EXISTING 2-STORY DETACHED
 SINGLE FAMILY DWELLING

-ISSUE FOR BUILDING PERMIT.

SITE STATISTICS

	Existing	Proposed
Zoning By-law 188	Former Zoning By-law does not apply	Residential
Use	Single Family Dwelling	Single Family Dwelling
Building Height	8.70 m	10.25 m
Total Site Area	185.76 m ²	185.76 m ²
Total Building Area	84.54 m ²	94.07 m ²
% Lot Coverage	45.51%	65.67% 50.64% - House 15.03% - Garage
% Lot Coverage of Garage	N/A	15.04%
Lot Frontage	4.72 m	4.72 m
Lot Depth	39.32 m	39.32 m
Total Building Depth	19.07 m	16.97 m
Total Building Width	4.72 m	4.72 m
G.F.A.	132.53 m ²	219.63 m ²
FSI	0.71	1.21
Front Yard Soft Landscaping	4.20 m ² (33.2%)	3.16 m ² (25%)
Rear Yard Soft Landscaping	79.01 m ² (42.53%)	57.78 m ² (31.10%)
Parking	0	1



The undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer.

Young Jeon
 Name
 Signature
 29632
 BCIN
 dmanintoronto@gmail.com

NO.	DESCRIPTION	DATE

Project Address:
 269 EUCLID AVENUE, TORONTO

Work:
 TWO STOREY DWELLING WITH
 THIRD STOREY ADDITION

Sheet Title:
 SITE PLAN

Scale:
 3/32" = 1'-0"

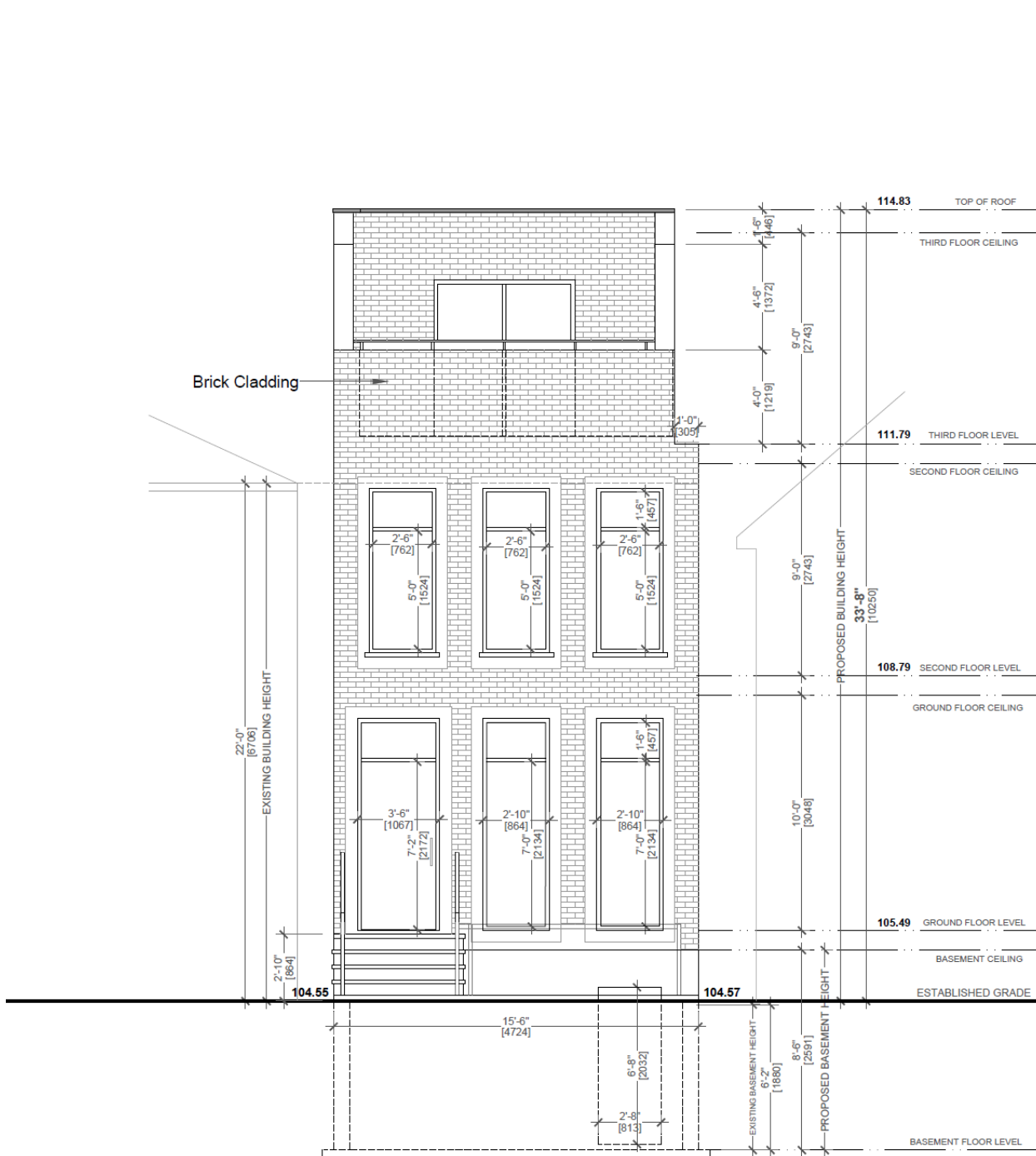
Date:
 MARCH 1, 2022

Drawing No.
 A001

of 32

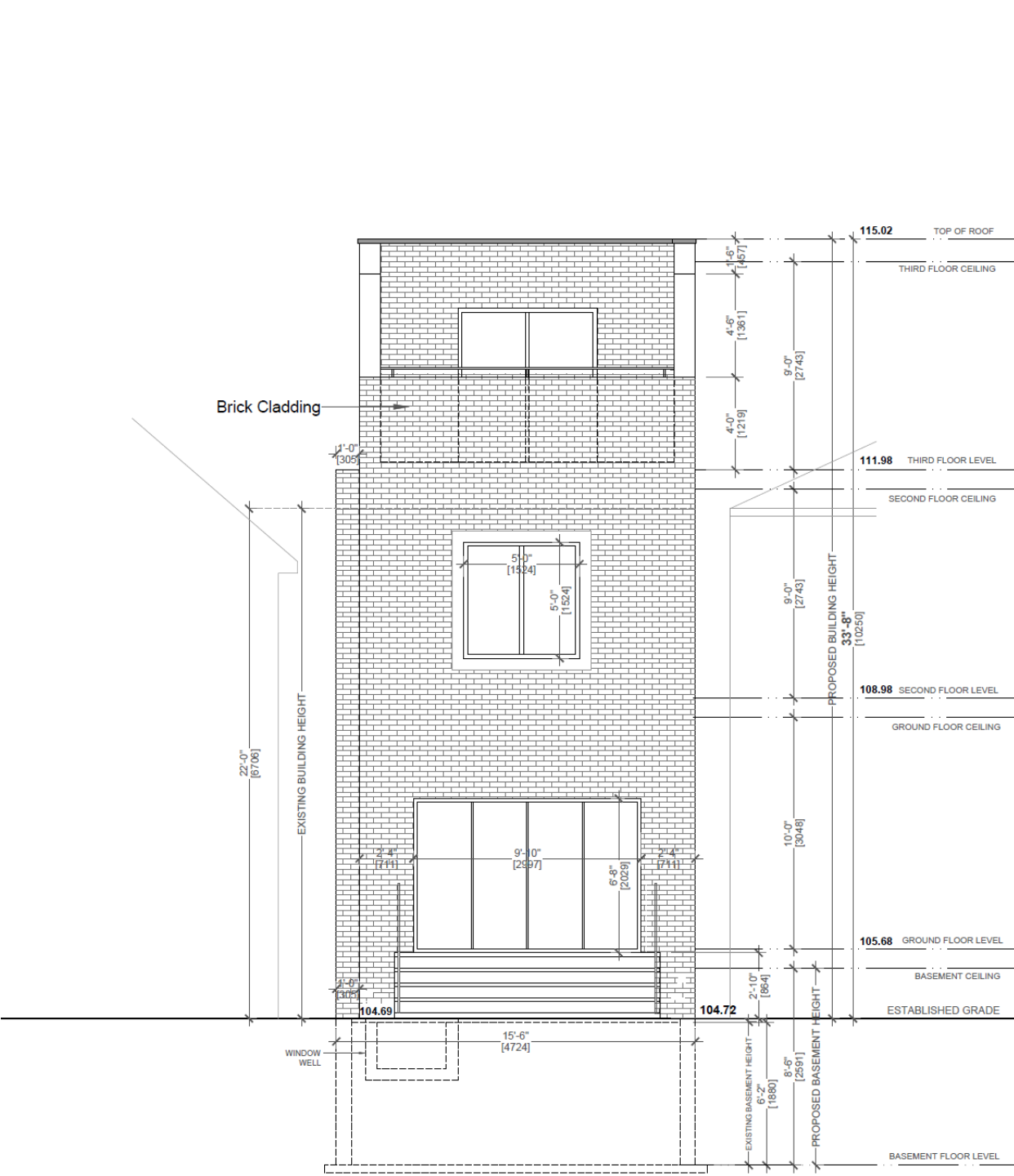
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Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

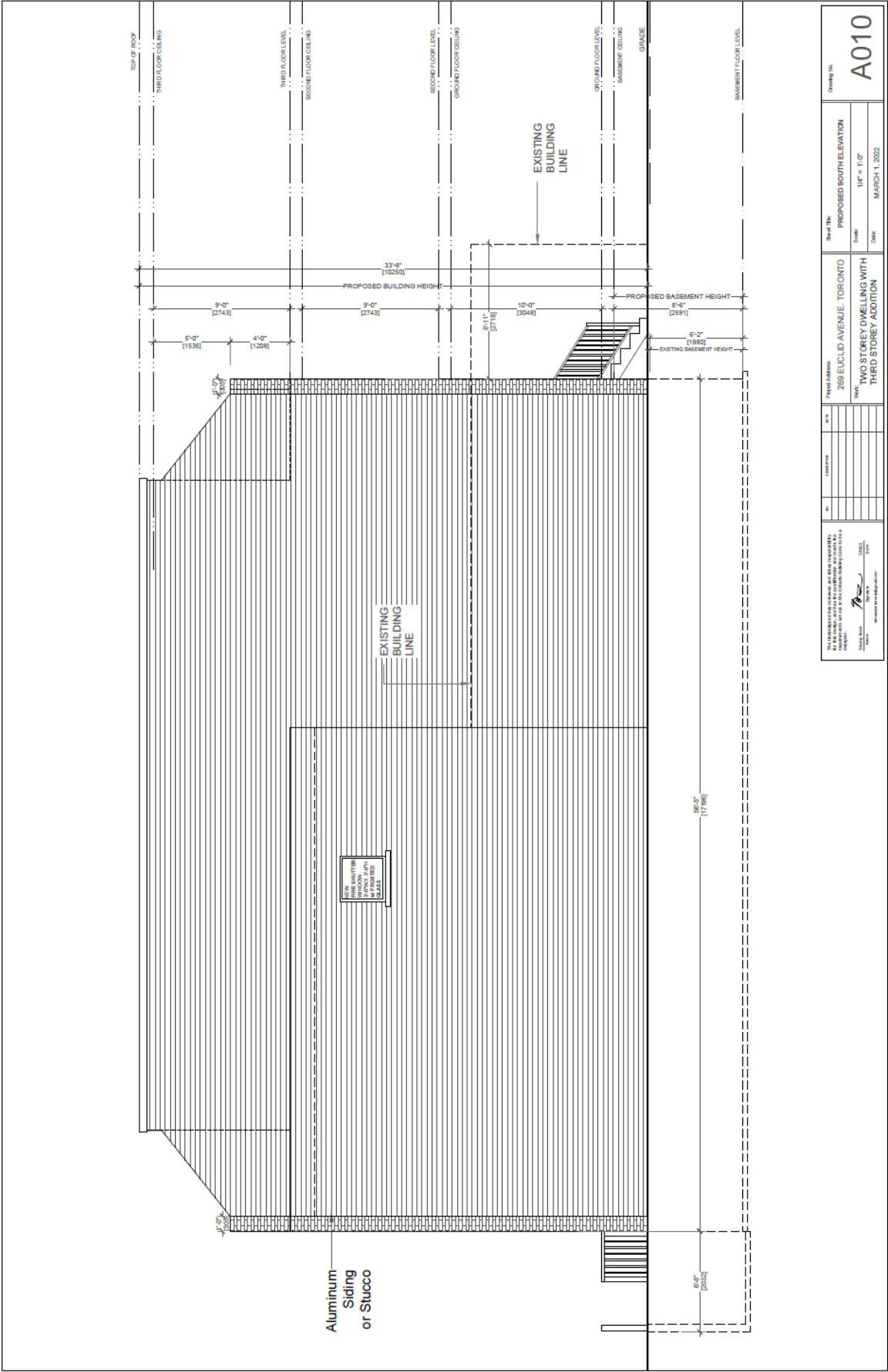


The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer. Young Jeon Name Signature 28622 BCN dimesontoronto@gmail.com		NO. DESCRIPTION DATE Project Address: 269 EUCLID AVENUE, TORONTO Work: TWO STOREY DWELLING WITH THIRD STOREY ADDITION	Sheet Title: PROPOSED WEST (FRONT) ELEVATION Scale: 1/4" = 1'-0" Date: MARCH 1, 2022	Drawing No. A007
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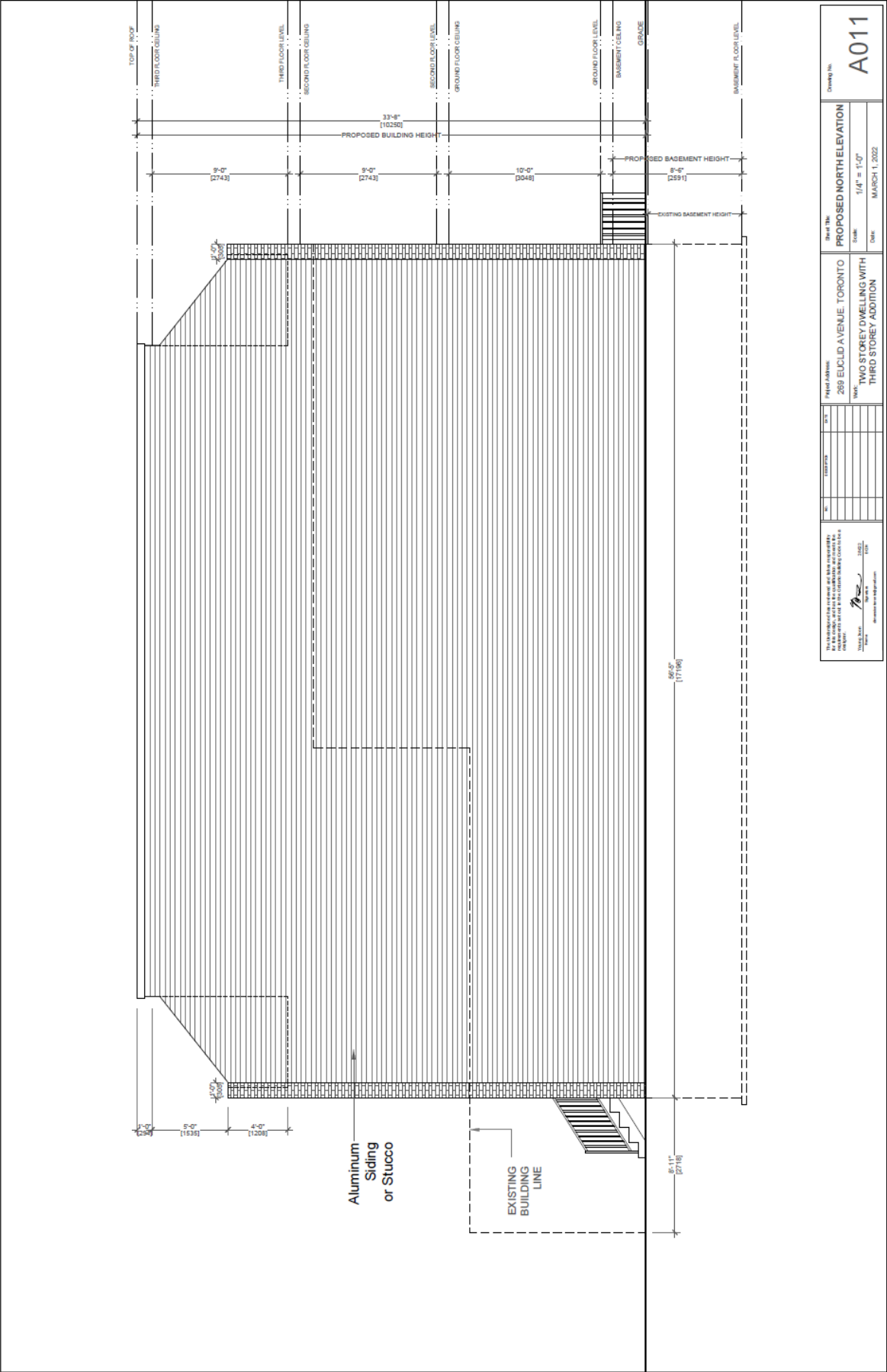
Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB



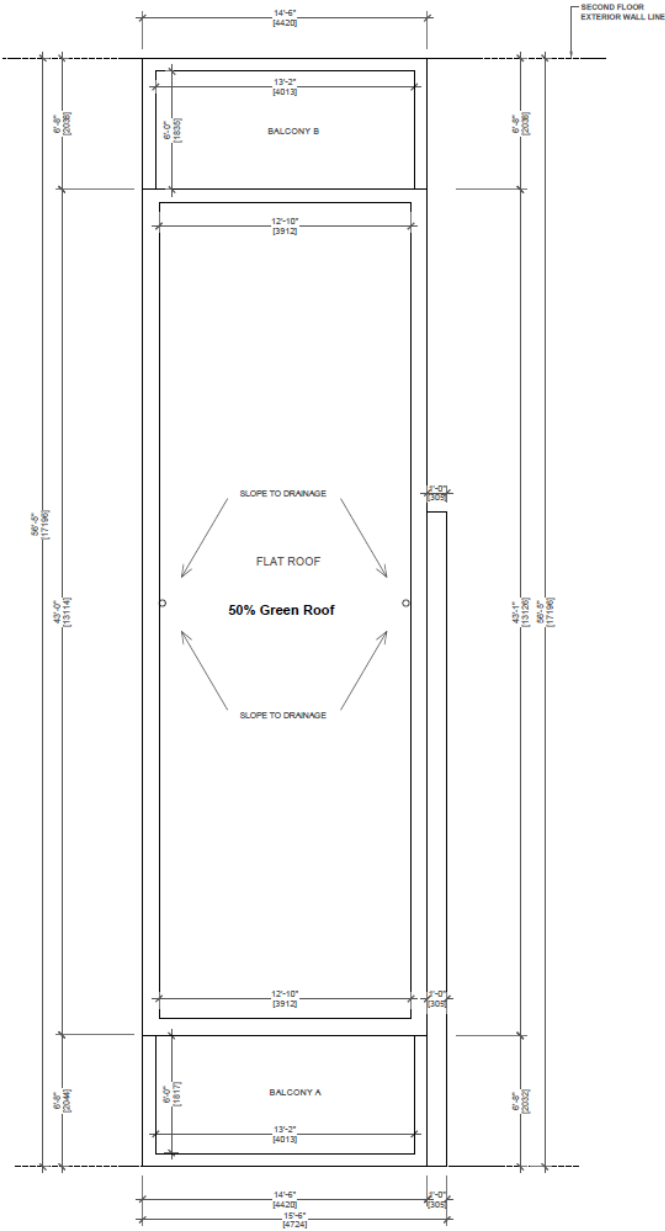
The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer.		NO.		DESCRIPTION	DATE	Project Address:		Sheet Title:		Drawing No.
						269 EUCLID AVENUE, TORONTO		PROPOSED EAST (REAR) ELEVATION		
						Work:		Scale:		
Young Jeon		Signature		28622		TWO STOREY DWELLING WITH THIRD STOREY ADDITION		1/4" = 1'-0"		A009
Name		Signature		BCN				Date:		
dimensiontoronto@gmail.com								MARCH 1, 2022		



Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

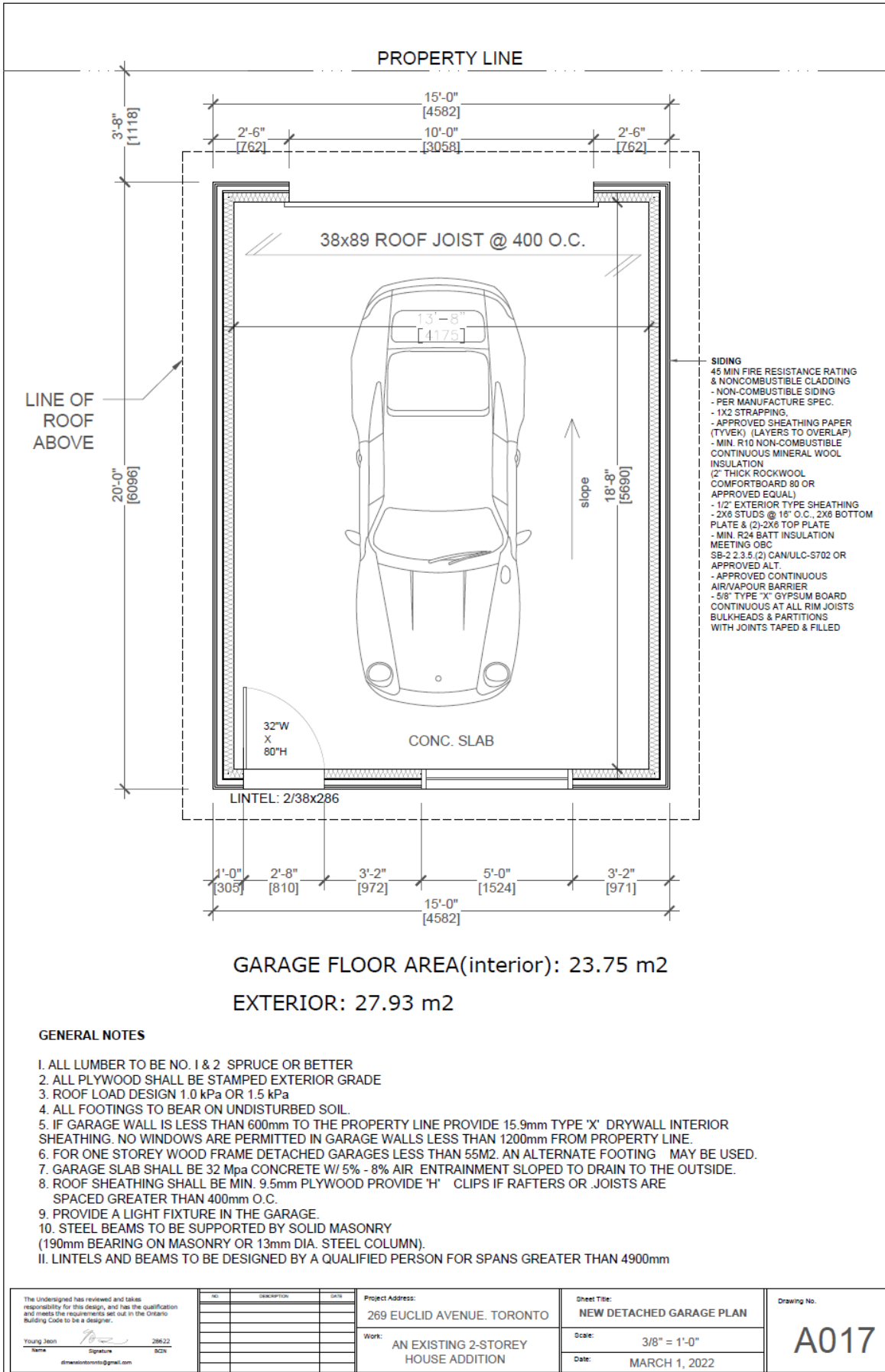


Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB



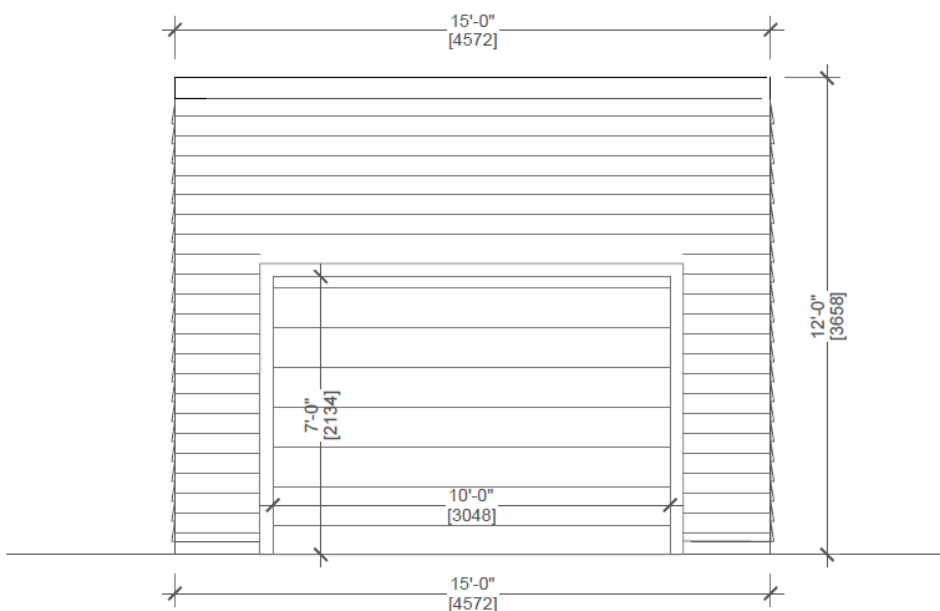
<p>The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer.</p> <p>Young Jeon Name Signature 28622 BCIN dms@torontomts@gmail.com</p>	NO	DESCRIPTION	DATE	Project Address: 269 EUCLID AVENUE, TORONTO	Sheet Title: PROPOSED ROOF PLAN	Drawing No. A012
				Work: TWO STOREY DWELLING WITH THIRD STOREY ADDITION	Scale: 3/16" = 1'-0"	
					Date: MARCH 1, 2022	

Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB



Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

- THE CONTRACTOR IS RESPONSIBLE FOR SOIL / GEOTECHNICAL CONFIRMATION
- VERIFY/REINFORCE EXISTING SUPPORT SYSTEM, INCLUDING FOUNDATIONS, FOR LOADS IMPOSED BY THE PROPOSED CONSTRUCTION.
- WINDOW SIZES SHOWN ARE NOMINAL.
WINDOW MANUFACTURER TO VERIFY ALL SIZES ON SITE BEFORE MANUFACTURING NEW WINDOWS.
- DOOR SIZES SHOWN ARE NOMINAL.
DOOR MANUFACTURER TO VERIFY ALL SIZES ON SITE BEFORE MANUFACTURING NEW DOORS.

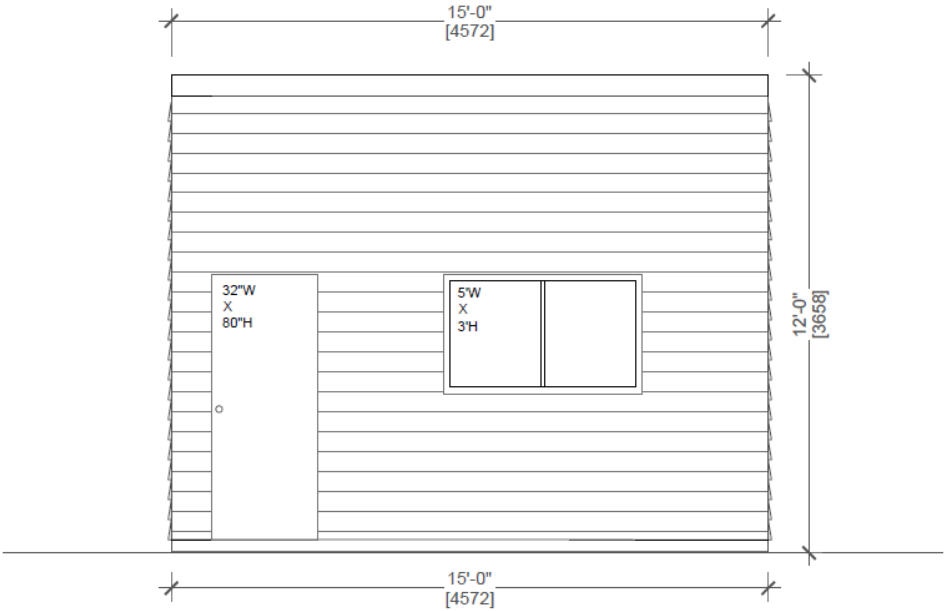


EAST ELEVATION


The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer. Young Item: Name: 29622 Signature: BCN dimer@toronto@gmail.com	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">NO.</th> <th style="width: 60%;">DESCRIPTION</th> <th style="width: 30%;">DATE</th> </tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>	NO.	DESCRIPTION	DATE																Project Address: 269 EUCLID AVENUE, TORONTO Work: TWO STOREY DWELLING WITH THIRD STOREY ADDITION	Sheet Title: NEW DETACHED GARAGE EAST ELEVATION Scale: 3/8" = 1'-0" Date: MARCH 1, 2022	Drawing No. <div style="font-size: 1.5em; font-weight: bold; text-align: center;">A019</div>
NO.	DESCRIPTION	DATE																				

Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

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- DOOR SIZES SHOWN ARE NOMINAL. DOOR MANUFACTURER TO VERIFY ALL SIZES ON SITE BEFORE MANUFACTURING NEW DOORS.

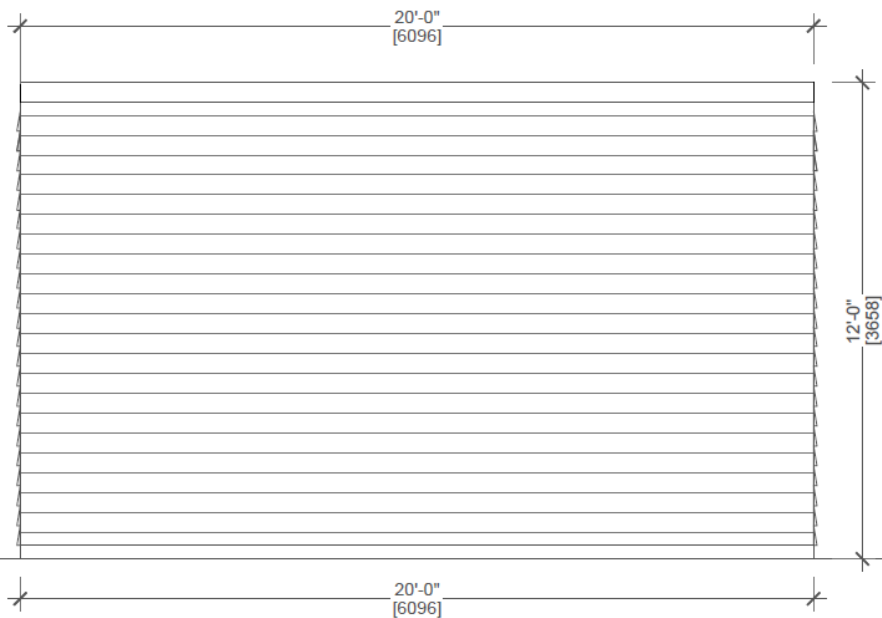


WEST ELEVATION

The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer. Young Team Name:  Signature 28622 BCIN dimensionstomorrow@gmail.com	<table><tr><th>NO.</th><th>DESCRIPTION</th><th>DATE</th></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table>	NO.	DESCRIPTION	DATE																						Project Address: 269 EUCLID AVENUE, TORONTO Work: TWO STOREY DWELLING WITH THIRD STOREY ADDITION	Sheet Title: NEW DETACHED GARAGE WEST ELEVATION Scale: 3/8" = 1'-0" Date: MARCH 1, 2022	Drawing No. A020
		NO.	DESCRIPTION	DATE																								

Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 250646 S45 11 TLAB

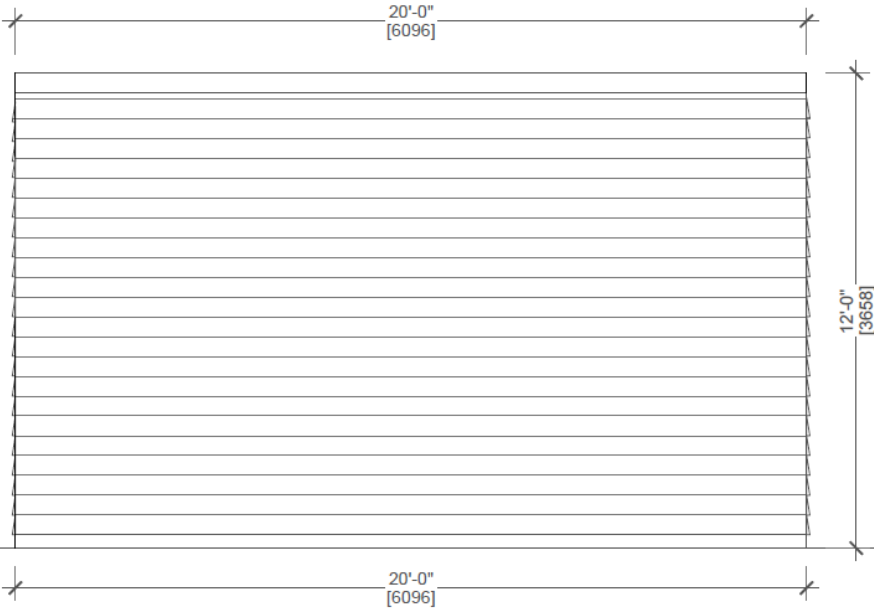
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NORTH ELEVATION

The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer. Young Jeon Name Signature 28622 BCN dimen@toronto@gmail.com	<table><tr><th>NO.</th><th>DESCRIPTION</th><th>DATE</th></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table>	NO.	DESCRIPTION	DATE																						Project Address: 269 EUCLID AVENUE, TORONTO Work: TWO STOREY DWELLING WITH THIRD STOREY ADDITION	Sheet Title: NEW DETACHED GARAGE NORTH ELEVATION Scale: 3/8" = 1'-0" Date: MARCH 1, 2022	Drawing No. A021
		NO.	DESCRIPTION	DATE																								

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DOOR MANUFACTURER TO VERIFY ALL SIZES ON SITE BEFORE MANUFACTURING NEW DOORS.



SOUTH ELEVATION

The Undersigned has reviewed and takes responsibility for this design, and has the qualification and meets the requirements set out in the Ontario Building Code to be a designer. Young Jeon Name Signature dmsvntoronto@gmail.com	<table><tr><th>NO.</th><th>DESCRIPTION</th><th>DATE</th></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td></tr></table>	NO.	DESCRIPTION	DATE																			Project Address: 269 EUCLID AVENUE, TORONTO	Sheet Title: NEW DETACHED GARAGE SOUTH ELEVATION	Drawing No.
		NO.	DESCRIPTION	DATE																					
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			Date: MARCH 1, 2022																						