

DECISION AND ORDER

Decision Issue Date Tuesday, September 27, 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): LHW ENGINEERING LTD

Applicant(s): LHW ENGINEERING LTD

Property Address/Description: 12 CASIMIR ST

Committee of Adjustment File

Number(s): 21 142615 STE 11 MV

TLAB Case File Number(s): 22 124789 S45 11 TLAB

Hearing date: August 08, 2022

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY TLAB Panel Member C. Wong

REGISTERED PARTIES AND PARTICIPANTS

Applicant/Appellant	LHW ENGINEERING LTD
Appellant's Legal Rep.	LIHANG WANG
Owner/Party	DUN HUI ZHANG
Party's Legal Rep	JOHN NUNZIATA
Expert Witness	JOSHUA CHITIZ

INTRODUCTION

The Applicant proposed to alter the existing two-storey, detached dwelling at 12 Casimir Street by constructing a second-storey front addition and to convert the basement into a secondary suite.

This property is designated as *Neighbourhood* in the Official Plan, subject to the City-wide Zoning By-law No. 569-2013, as amended. It is zoned R (f4.5; d1.0) (x847) as a Single Family Residential (S) Dwelling Unit, in a Permitted Residential Building Type, according to Clause 10.10.20.40.

At the Committee of Adjustment ("COA"), the Applicants requested five Zoning By-law variances, which were refused.

The Applicants appealed to the Toronto Local Appeal Body (TLAB) requesting the same variances.

BACKGROUND

At the TLAB, the Applicants requested the following numbered Variances:

1. Chapter 10.10.40.40.(1)(A), By-law 569-2013. The maximum permitted Floor Space Index is 1 times the area of the lot (155.52 m²). The proposed altered dwelling would have a Floor Space Index equal to 1.53 times the area of the lot (238.06 m²).
2. Chapter 10.10.40.70.(1), By-law 10.10.40.70.(1), By-law 569-2013. The minimum required front yard setback is 2.98 m. The proposed altered dwelling would be located 0 m from the front (east) lot line.
3. Chapter 10.10.40.70.(2), By-law 569-2013. The minimum required rear yard setback is 7.5 m. The altered dwelling will be located 0 m from the rear (west) lot line.
4. Chapter 10.5.50.10.(3)(A), By-law 569-2013. A minimum of 50% (4.06 m²) of the rear yard must be maintained as soft landscaping. In this case, 0% (0 m²) of the rear yard will be maintained as soft landscaping.
5. Chapter 150.10.40.1.(1), By-law 569-2013. A pedestrian entrance leading exclusively to a secondary suite is not permitted in a front wall of a detached house or semi-detached house. In this case, a pedestrian entrance will lead exclusively to a secondary suite in the front wall of a detached house.

At the TLAB Hearing, the Applicant, their Legal Representative, and their Planning Expert were the only people in attendance to present their case. No other Parties or Participants registered or attended the Hearing in opposition or out of interest.

LEGISLATIVE AND POLICY FRAMEWORK

I. Provincial Policy Statement and Growth Plan – *Planning Act*, 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').

II. Variance – Planning Act, 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 City of Toronto Official Plan;
- maintain the general intent and purpose of the City of Toronto Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

ANALYSIS, FINDINGS, REASONING

Do the Requested Variances meet the Planning Act requirements?

I. Provincial Policy Statement and Growth Plan

Although minor variance applications are matters of municipal jurisdiction and not at a scale that would fall within the parameters of the Provincial Policy Statement and The Growth Plan for the Greater Golden Horseshoe, the general direction of the higher-level Provincial policies is to encourage intensification at appropriate locations that can take advantage of existing services and infrastructure.

By creating a basement suite rental unit, the Applicant's proposal would increase the supply of housing stock in the downtown core, close to public transit, schools, shops, restaurants, and other amenities. This is consistent with the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe's policies to encourage intensification at locations close to existing services and infrastructure.

II. Variance – Planning Act, S. 45(1)

Test 1 – Maintain the General Intent and Purpose of the City of Toronto Official Plan

The Official Plan contains the following policy on healthy neighborhoods and development:

A. "Policy - 2.3.1 Healthy Neighbourhoods

"... [N]eighbourhoods will not stay frozen in time. The Neighbourhoods where we grew up and now raise our children help shape the adults and society we become. Some physical change will occur over time as enhancements, additions and infill housing occurs on individual sites. A cornerstone policy is to ensure that

new physical development in our neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood.” (Page 2-27)

1. Neighbourhoods and Apartment Neighbourhoods “are considered to be physically stable areas”. Development within Neighbourhoods and Apartment Neighbourhoods will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas. (Page 2-29)

B. “Policy - 4.1.5 Development Criteria in Neighbourhoods

“5. Development in established Neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:

- a) patterns of streets, blocks and lanes, parks, and public building sites;
 - b) prevailing size and configuration of lots;
 - c) prevailing heights, massing, scale, density, and dwelling type of nearby residential properties;
 - d) prevailing building type(s);
 - e) prevailing location, design, and elevations relative to the grade of driveways and garages;
 - f) prevailing setbacks of buildings from the street or streets;
 - g) prevailing patterns of rear and side yard setbacks and landscaped open space;
 - h) continuation of special landscape or built-form features that contribute to the unique physical character of the geographic neighbourhood; and
 - i) conservation of heritage buildings, structures, and landscapes.
- (Page 4-4)

“The physical character of the geographic neighbourhood includes both the physical characteristics of the entire geographic area in proximity to the proposed development (the broader context) and the physical characteristics of the properties that face the same street as the proposed development in the same block and the block opposite the proposed development (the immediate context). (Page 4-4).

“Proposed development within a Neighbourhood will be materially consistent with the prevailing physical character of properties in both the broader and immediate contexts. In instances of significant difference between these two contexts, the immediate context will be considered to be of greater relevance. The determination of material consistency for the purposes of this policy will be limited to consideration of the physical characteristics listed in this policy.” (Pages 4-4 to 4-5).

The criteria in Official Plan Policy 4.1.5 relevant to this matter are (c), (d), (f) and (g).

c) prevailing heights, massing, scale, density, and dwelling type of nearby residential properties

Due to the small size of Casimir Street and its orientation within a broader, mixed-used neighbourhood, including an automotive repair, commercial use, a townhouse complex, and low-rise detached dwellings in close proximity, the neighbourhood analysis was limited to homes on Casimir Street as a neighbourhood unto itself. Within this neighbourhood, there are a range of densities. In assessing what is prevailing in the neighbourhood, the low-rise detached dwellings, and townhouses, which are similar to the subject property, receive the greatest weight.

The permitted maximum Floor Space Index (FSI) under the relevant Zoning By-laws is 1 times the lot area (or 155.52 m²). However, four of the ten homes in the defined neighbourhood have a Floor Space Index (FSI) greater than 1.0. The abutting property to the south, 11 Casimir Street, has the greatest FSI of the surrounding neighborhood, at 1.43.¹

The proposed increase in density is compatible with the immediate and surrounding neighborhood's prevailing density. Although the proposed dwelling would have the largest FSI in the neighbourhood, it would be very similar to the FSI of the abutting property to the south. It would also be compatible with the range of densities found in the area.

In addition, the height of proposed altered dwelling would not have any adverse impacts on the abutting property to the south, which would be taller than the proposed altered dwelling.

Thus, the proposed height, massing, density, and scale of the proposed developments would respect and reinforce the prevailing physical character of the neighbourhood.

d) prevailing building type

The building type of the proposed altered dwelling is not changing and will continue to be a single detached dwelling, but with an additional secondary suite. A secondary suite is commonly found within the neighbourhood and on the same block.

f) prevailing setbacks of buildings from the street or streets

The subject property's ground floor level is in current non-compliance with front and rear-yard setback and soft-landscaping by-laws, similar to other properties on the street. In the neighbourhood, the majority of homes have little to no

¹ There may be discrepancies within the City's Property Data as it is not updated regularly.

setback from the street or adjacent properties. The detached dwellings and townhouses on the street were originally built in the late 1800's with renovations and upgrades to the housing stock over time. The proposed altered dwelling would maintain the existing front and rear-yard setbacks from the street.

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

The proposed altered dwelling would maintain the existing rear-yard soft-landscaping, consistent with other properties on the street. In addition, Applicant proposes to add planters in front of the building to modestly improve stormwater retention and aesthetics.

Thus, applying Official Plan Policies 2.3.1 and 4.1.5, I find that the proposed altered dwelling provides new development and reinvestment in the neighbourhood that respects and reinforces the existing physical character of the area. This reinforces the stability of the neighbourhood. I conclude that the requested variances maintain the general intent and purpose of the Official Plan.

Test 2 – Maintain the General Intent and Purpose of the Zoning By-laws

Variance 1 - Floor Space Index

The permitted maximum Floor Space Index (FSI) under the relevant Zoning By-laws is 1 times the lot area (or 155.52 m²). The first variance would allow for an addition to the existing second storey, creating usable space above an existing flat roof. The internal floor area of the main floor and basement would remain unchanged. The proposed altered dwelling would have a Gross Floor Area (GFA) 238.06 m², but only 12.26 m² of this area would be added by the addition to the second storey.

The existing building on the subject property already has an FSI of 1.46 (with a Gross Floor Area of 225.8 m²), the largest in the neighbourhood by a difference in FSI of 0.3. The proposed altered development would increase the subject property's FSI by 0.07 to 1.53 times the area of the lot. The difference between the FSI of the subject property and that of the abutting neighbour at 11 Casimir Street would be 0.1. There is no evidence of any adverse impacts to the direct neighbour from this slight increase in density.

In the context of the surrounding buildings and especially the one next door, the proposed FSI does not constitute overdevelopment of the site.

Variances 2 and 3 - Front and Rear Yard Setbacks

The subject property has an existing 0 m yard setback on the east (front) and west (rear) lot lines. The proposed altered dwelling would not change the existing building's footprint. These requested variances would maintain the existing character of the subject property.

Further, by filling in the space above the ground floor to create usable space, the proposed altered dwelling's front wall would be in line with the abutting property to the south. This would create a uniform frontage for the subject property and its direct abutting neighbor. In addition, the properties even further south on Casimir Street have a similar setback to the subject property. The requested setback variances would maintain the existing character of the neighborhood.

Variance 4 - Soft-landscaping

The subject property has no existing rear-yard (east lot) soft-landscaping. The proposed altered dwelling would maintain no rear-yard soft-landscaping. From the photos provided, the neighbourhood has densely constructed buildings with limited rear-yard soft-landscaping. This variance would maintain the character of the neighborhood, and thus the general intent and purpose of the By-laws.

Variance 5 - Exterior Stairs

In the proposed altered dwelling, a pedestrian entrance would lead exclusively to a secondary suite in the front wall of a detached house. Due to the existing 0 m setbacks on the rear and both sides of the dwelling, this entrance location is required to accommodate the proposed secondary suite, an alteration which is encouraged by the City's Official Plan. In the neighbourhood, another example of this type of secondary entrance exists. On a balance of probabilities, this requested variance would not significantly disrupt the rhythm of the streetscape and would maintain the character of the neighborhood.

Thus, the five requested variances (i.e., increase in the FSI, front and rear setbacks from the street, the rear-yard soft-landscaping, as well as a front building entrance for a secondary unit) are compatible with the prevailing density of buildings in the neighbourhood and maintain the general intent and purpose of the Zoning By-laws.

Test 3 – Desirable for the Appropriate Development or Use of the Land

The Applicant's proposed dwelling would have a size and massing that are compatible with nearby properties and the neighbourhood's overall character. There is no evidence that the proposed addition to the existing second storey will have adverse impacts on the abutting neighbour or the broader neighbourhood.

The conversion of the basement into a legal secondary suite is appropriate for the property given its location in the city near public transit routes and an abundance of existing services and infrastructure. These variances would allow

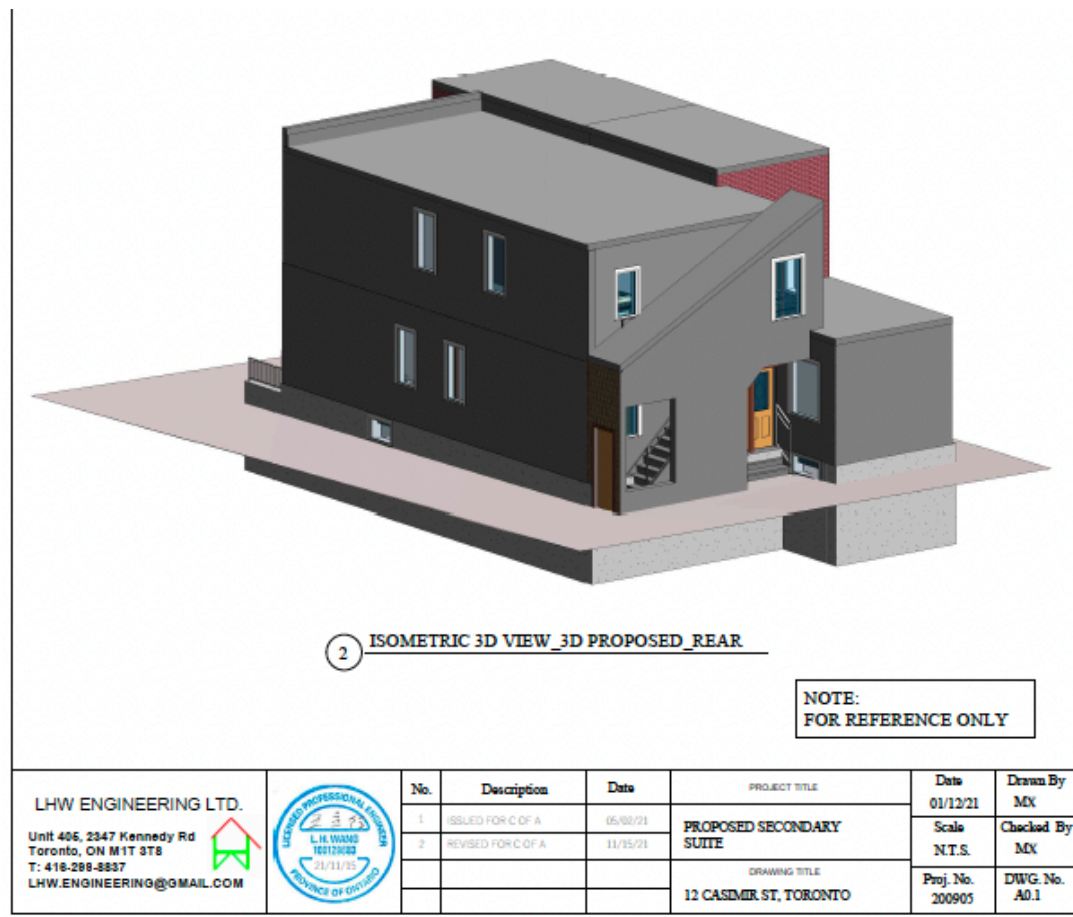
for a development that is desirable for the appropriate use of this property, which fits well into the neighbourhood.

Test 4 – Minor

There would be no undue adverse impacts of a planning nature caused to the neighbourhood from these variances. For the reasons set out above, I find the application for variances to be minor.


CONCLUSION

The Applicant's variance requests have satisfied the *Planning Act* requirements. I note the Applicant's suggestion at the Hearing to create a rooftop garden greenspace on the flat rear roof of the proposed altered dwelling, which would be accessible from the building's interior (detailed directly below). I take the Applicant at their word to incorporate this into their plans, but this is not a condition of the variance authorizations.



DECISION AND ORDER

The Appeal of the decision of the Committee of Adjustment is allowed, and the variances set out in Appendix A are authorized subject to the conditions contained therein, and only in full accordance with the attached site plan with elevations, as submitted to the COA, along with the additions to the site plans as submitted to the TLAB.


X

Carissa Wong
Panel Chair, Toronto Local Appeal Body

Appendix A

APPROVED VARIANCES

1. Chapter 10.10.40.40.(1)(A), By-law 569-2013. The maximum permitted Floor Space Index is 1 times the area of the lot (155.52 m²). The proposed altered dwelling would have a Floor Space Index equal to 1.53 times the area of the lot (238.06 m²).
2. Chapter 10.10.40.70.(1), By-law 10.10.40.70.(1), By-law 569-2013. The minimum required front yard setback is 2.98 m. The proposed altered dwelling would be located 0 m from the front (east) lot line.
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4. Chapter 10.5.50.10.(3)(A), By-law 569-2013. A minimum of 50% (4.06 m²) of the rear yard must be maintained as soft landscaping. In this case, 0% (0 m²) of the rear yard will be maintained as soft landscaping.
5. Chapter 150.10.40.1.(1), By-law 569-2013. A pedestrian entrance leading exclusively to a secondary suite is not permitted in a front wall of a detached house or semi-detached house. In this case, a pedestrian entrance will lead exclusively to a secondary suite in the front wall of a detached house.

The proposed dwelling shall be constructed substantially in accordance with:

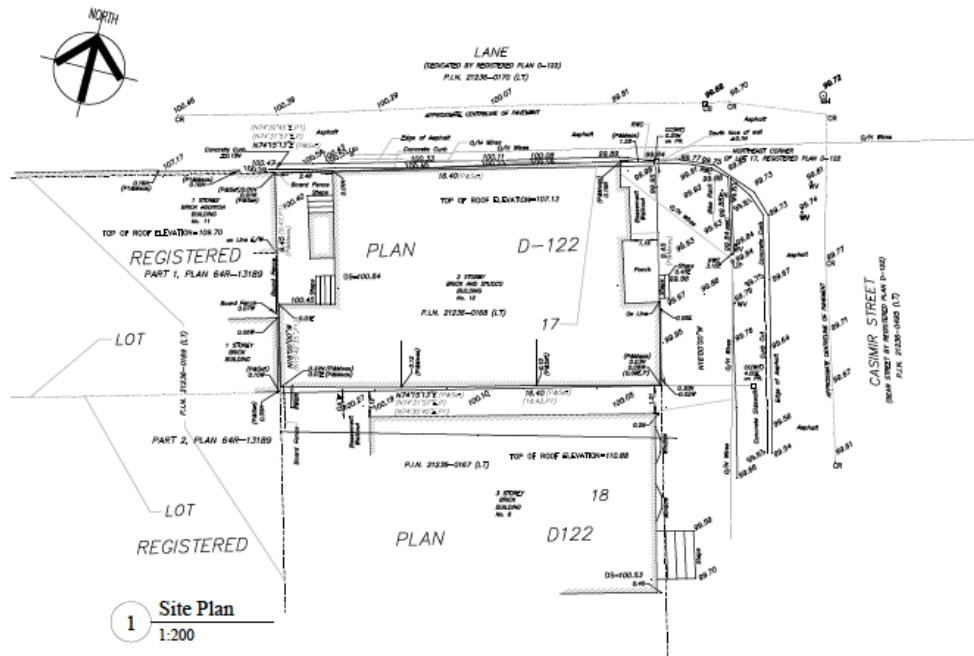
1. The following plans and drawings, including the materials noted, as prepared by LHW Engineering Ltd., dated November 15, 2021, and attached hereto.
 - Site Plan (A0.2) (Dated Nov 9, 2020)
 - Basement Floor Proposed (A1.4) (Dated 10/12/20)
 - Main Floor Proposed (A1.5) (Dated 10/12/20)
 - Second Floor Proposed (A1.6) (Dated 10/12/20)
 - Proposed Roof Plan (A1.7) (Dated 05/02/21)
 - Front Elevation Proposed (A2.5) (Dated 01/12/21)
 - Rear Elevation Proposed (A2.6) (Dated 01/12/21)
 - North Elevation Proposed (A2.7) (Dated 01/12/21)
 - South Elevation Proposed (A2.8) (Dated 01/12/21)

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- Proposed Secondary Suite (A3.1) (Dated 01/12/21)
 - Proposed Secondary Suite (A3.2) (Dated 01/12/21)
2. Committee of Adjustment Supporting Material for Minor Variance Application (File Number: A0586/21TEY), as prepared by LHW Engineering Ltd., dated February 22, 2022, and attached hereto.
- Proposed 3D View, Page 3 – Planter
 - Proposed Front Elevation, Page 6 - Planter
3. TLAB Appellant Disclosure – July 4, 2022
- 3D View, Page 19 - Planter

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

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LOT DATA:

LOT AREA: 155.0 SQ.M	BUILDING DEPTH: 16.3 M
LOT FRONTAGE: 9.45 M	EX. FRONT PORCH AREA: 3.39 SQ.M
BUILDING HEIGHT: 7.3 M	EX. BUILDING AREA: 3.39 SQ.M

FLOOR AREA:

	EXISTING	PROPOSED
BASEMENT FLOOR	134.5 SQ.M	NO CHANGE
MAIN FLOOR	131.7 SQ.M	NO CHANGE
SECOND FLOOR	94.1 SQ.M	114.4 SQ.M

TOTAL FLOOR AREA (EXCLUDING BASEMENT FLOOR)	225.8 SQ.M	246.1 SQ.M
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FSI	1.46	1.59
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SETBACK:

FRONT	0 M	NO CHANGE
REAR	0 M	NO CHANGE
NORTH	0 M	NO CHANGE
SOUTH	0 M	NO CHANGE

SCOPE OF WORK:

1. PROPOSED 2 UNIT
 - UNIT 1: BASEMENT FLOOR
 - UNIT 2: MAIN FLOOR
 - UNIT 2: SECOND FLOOR
2. INTERIOR ALTERATION AND RENOVATION
3. PROPOSED ADDITION ON SECOND FLOOR

LHW ENGINEERING LTD.

Unit 405, 2347 Kennedy Rd
TORONTO, ON M1T 3T8
T: 416-299-8837
LHW.ENGINEERING@GMAIL.COM



No.	Revision / Issue	Date
1	Issued for BP Application	11/09/2020
2	Revised for BP Application	11/20/2020
3	Revised for C of A	07/15/2021
4	Revised for C of A	11/15/2021

PROJ. TITLE
SECONDARY SUITE- 12 CASIMIR
ST, TORONTO, ON

DWG. TITLE
SITE PLAN

DATE
NOV. 3, 2020

SCALE
AS SHOWN

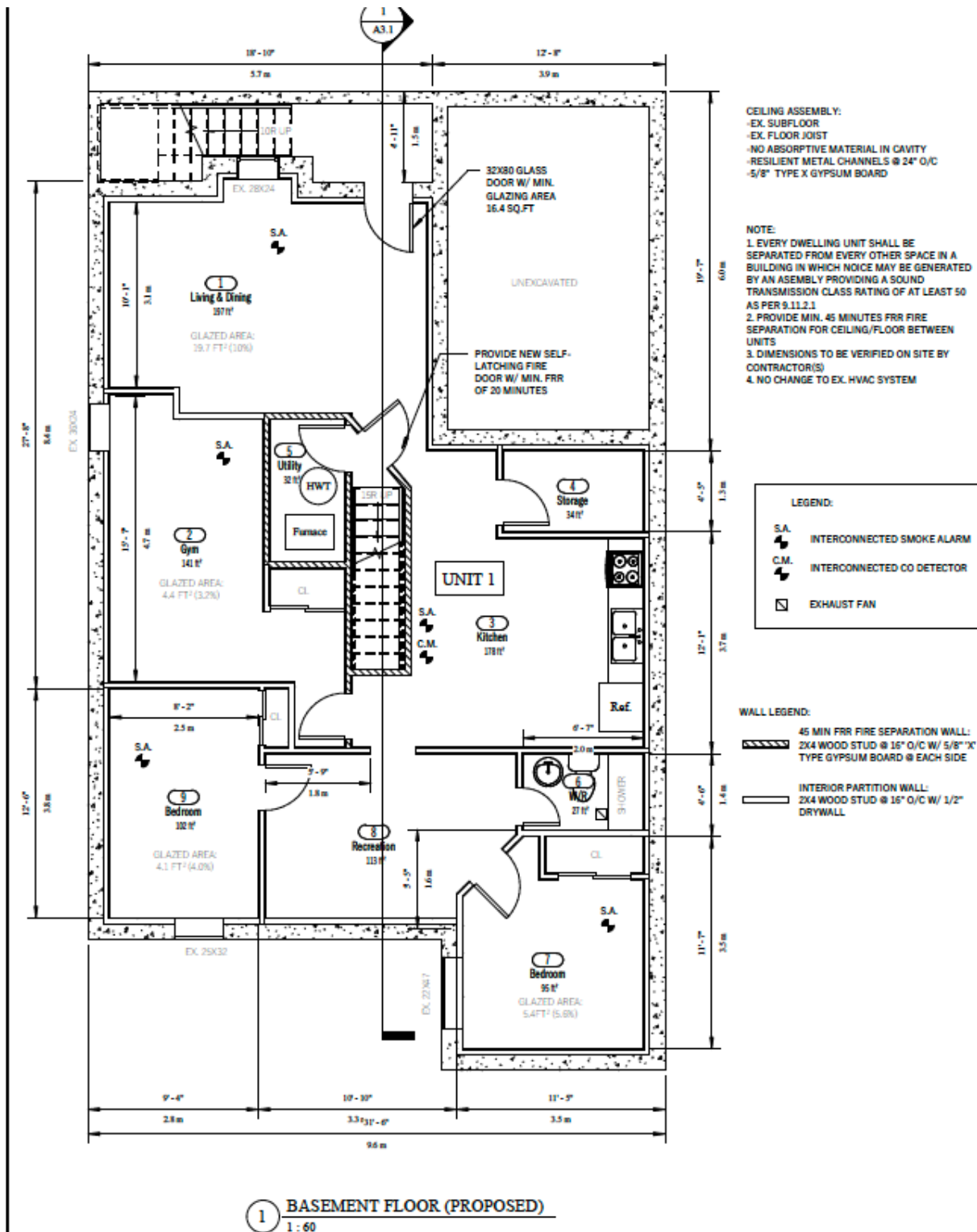
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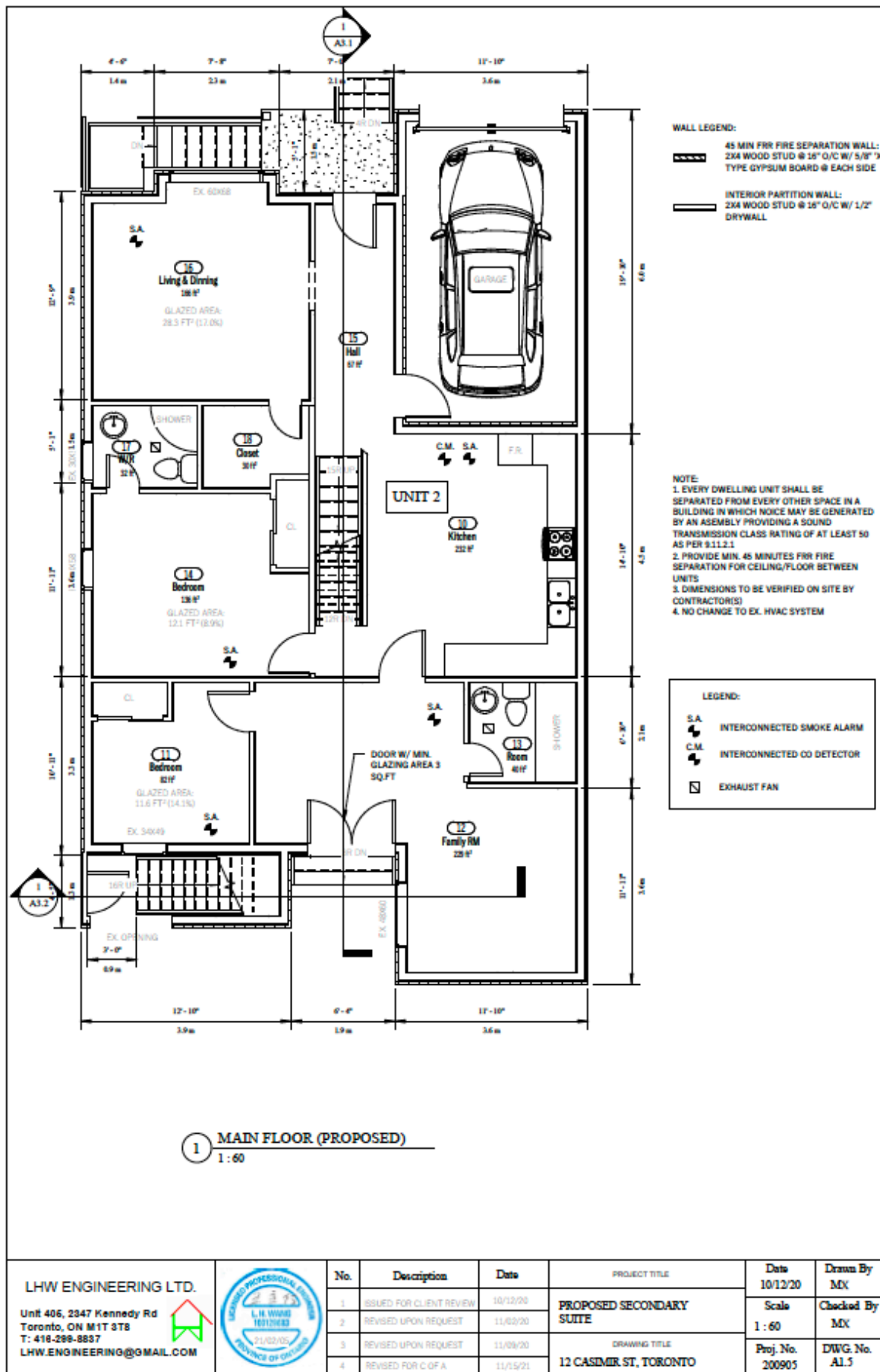
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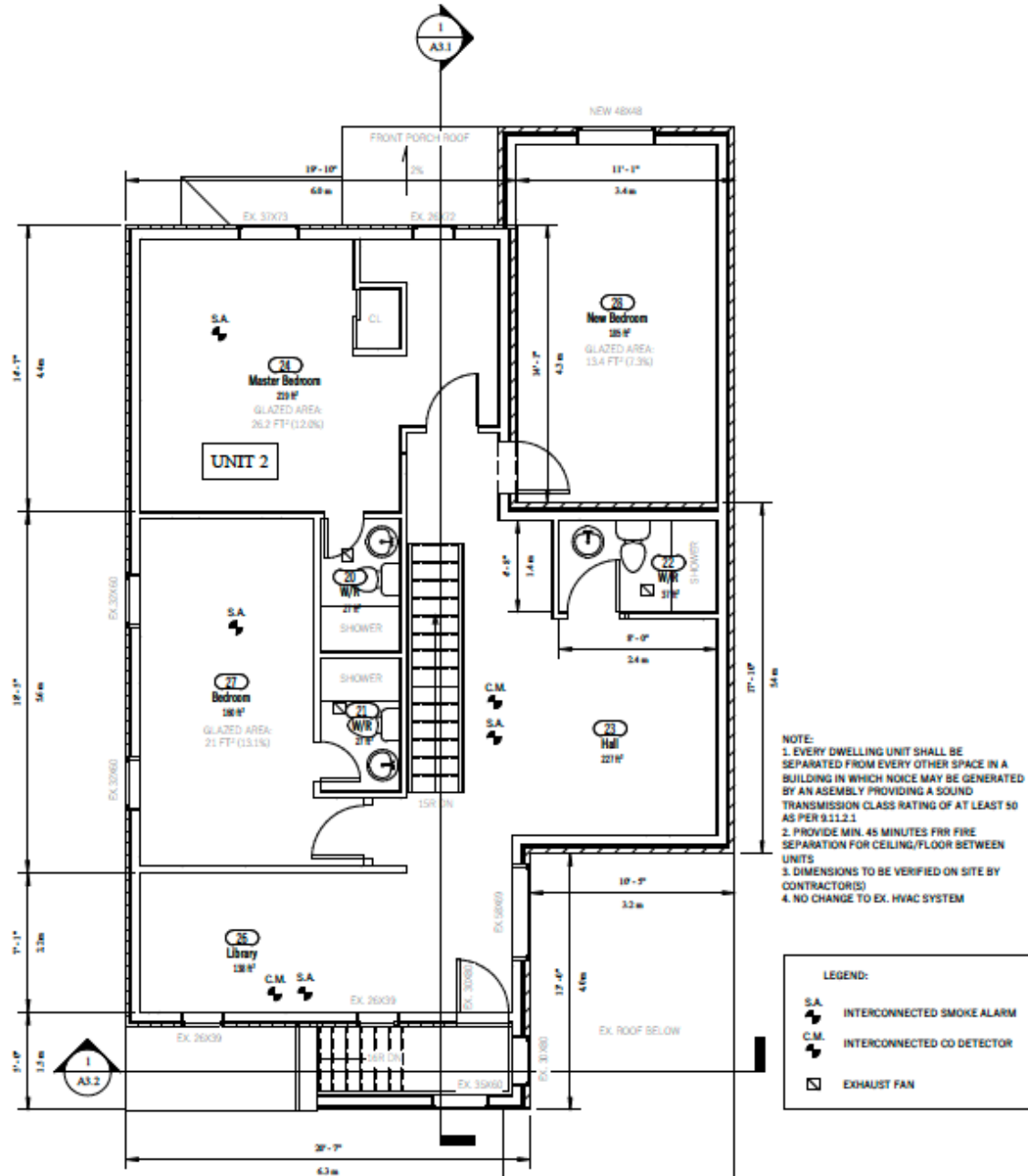
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TLAB Case File Number: 22 124789 S45 11 TLAB



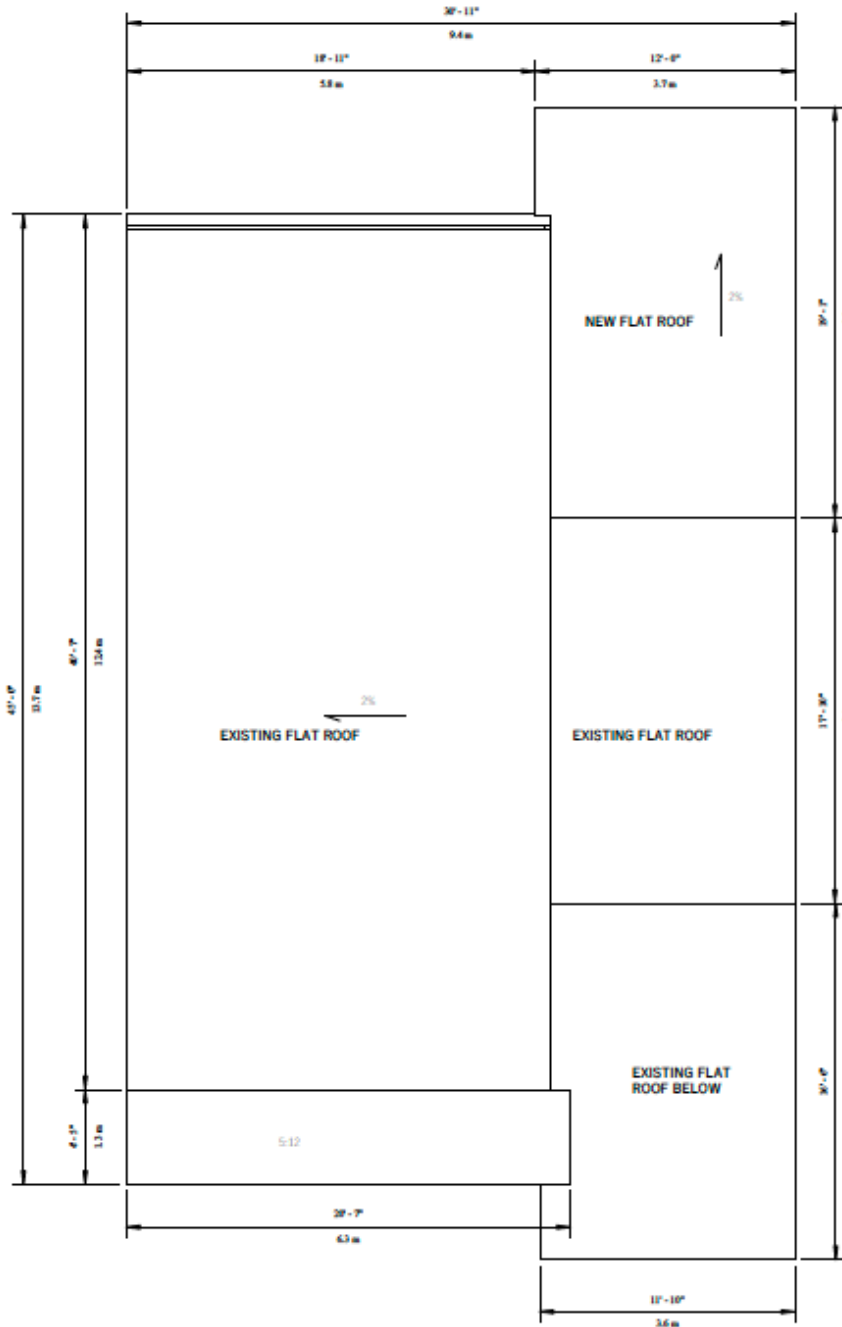
LHW ENGINEERING LTD. Unit 405, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-299-8837 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date	Drawn By
		1	ISSUED FOR CLIENT REVIEW	10/12/20	PROPOSED SECONDARY SUITE	10/12/20	MX
		2	REVISED UPON REQUEST	11/02/20		Scale	Checked By
		3	REVISED UPON REQUEST	11/09/20	DRAWING TITLE	1 : 60	MX
		4	REVISED FOR C.O.P.A	11/15/21	12 CASIMIR ST, TORONTO	Proj. No. 200903	DWG. No. A1.4





1 SECOND FLOOR (PROPOSED)
1:60

LHW ENGINEERING LTD. Unit 406, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-289-8837 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date 10/12/20	Drawn By MX
		1	ISSUED FOR CLIENT REVIEW	10/12/20	PROPOSED SECONDARY SUITE	Scale 1:60	Checked By MX
		2	REVISED UPON REQUEST	11/02/20			
		3	REVISED UPON REQUEST	11/09/20	DRAWING TITLE 12 CASIMIR ST, TORONTO	Proj. No. 200905	DWG. No. A1.6
		4	REVISED FOR C.O.P.A.	11/02/21			




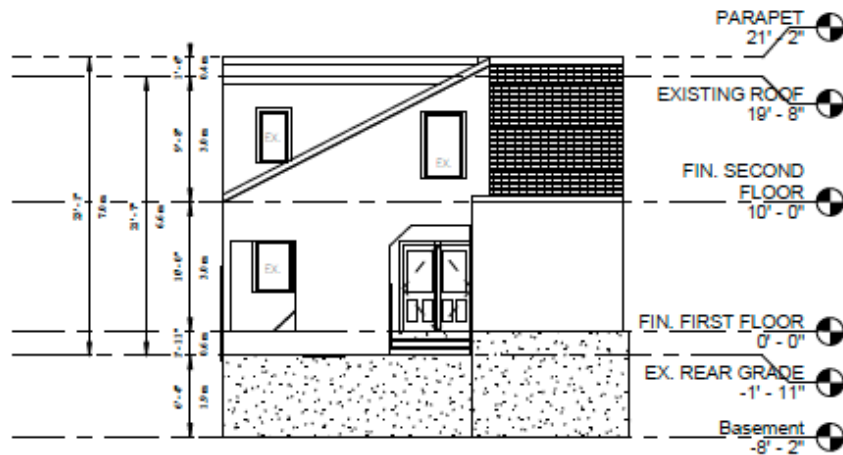
1 PROPOSED ROOF PLAN
1:60

LHW ENGINEERING LTD. Unit 406, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-289-8837 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date 05/02/21	Drawn By MX
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		2	REVISED FOR C.O.F.A	11/15/21			
					DRAWING TITLE 12 CASIMIR ST, TORONTO	Proj. No. 200905	DWG. No. A1.7

Architectural drawing of the front elevation of a proposed building. The drawing shows a two-story structure with a basement. The left side features a brick wall with a "NEW WINDOW" and a grid of small windows. The right side has a flat roof with two windows, a small porch with a door, and a larger window. Dimensions are provided for various heights and widths. Key levels are marked: PARAPET (21' - 2"), EXISTING ROOF (19' - 8"), FIN. SECOND FLOOR (10' - 0"), FIN. FIRST FLOOR (0' - 0"), EX. FRONT GRADE (-2' - 10"), and Basement (-8' - 2"). A circular callout "1" is at the bottom left.

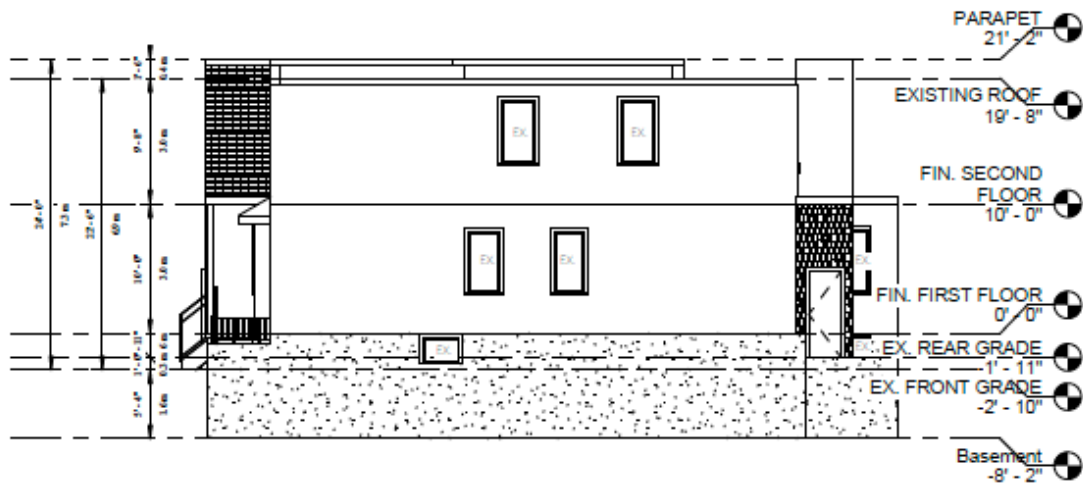
1 FRONT ELEVATION (PROPOSED)
1:100

LHW ENGINEERING LTD. Unit 405, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-298-8837 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date 01/12/21	Drawn By MX
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		2	REVISED FOR C OF A	11/15/21			
					DRAWING TITLE 12 CASIMIR ST, TORONTO	Proj. No. 200905	DWG. No. A2.5




1 REAR ELEVATION (PROPOSED)
1:100

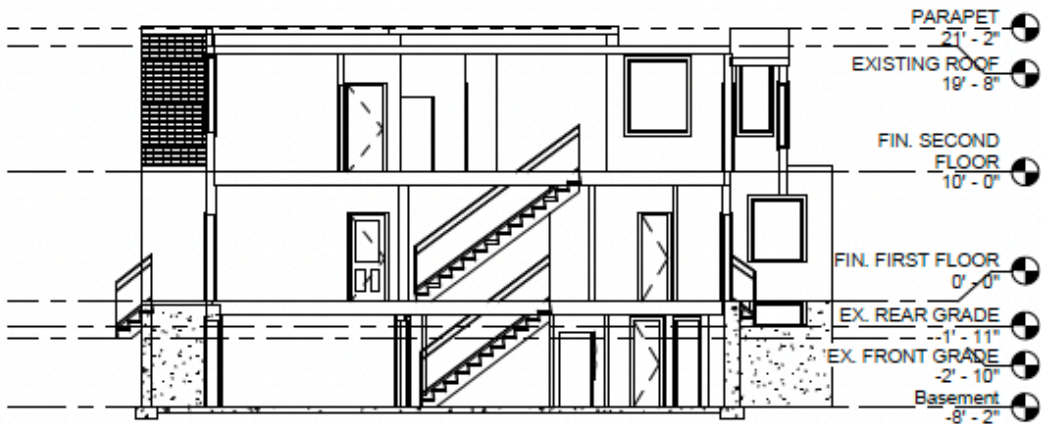
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					12 CASIMIR ST, TORONTO	Proj. No. 200905	DWG. No. A2.6





1 NORTH ELEVATION (PROPOSED)
1:100

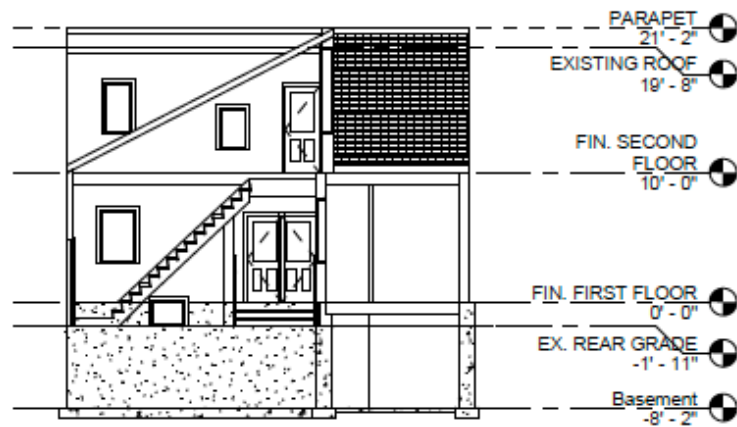
LHW ENGINEERING LTD. Unit 406, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-289-8837 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date	Drawn By
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LHW ENGINEERING LTD. Unit 406, 2547 Kennedy Rd Toronto, ON M1T 3T8 T: 416-588-5857 LHW.ENGINEERING@GMAIL.COM		No.	Description	Date	PROJECT TITLE	Date 01/12/21	Drawn By MX
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1 Section A
1:100

<div>LHW ENGINEERING LTD.</div> <div>Unit 405, 2347 Kennedy Rd Toronto, ON M1T 3T8 T: 416-288-8837 LHW.ENGINEERING@GMAIL.COM</div> <div></div>	<div></div>	No.	Description	Date	PROJECT TITLE	Date	Drawn By
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		2	REVISED FOR C.O.F.A.	11/15/21		Scale	Checked By
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1 Section B
1:100

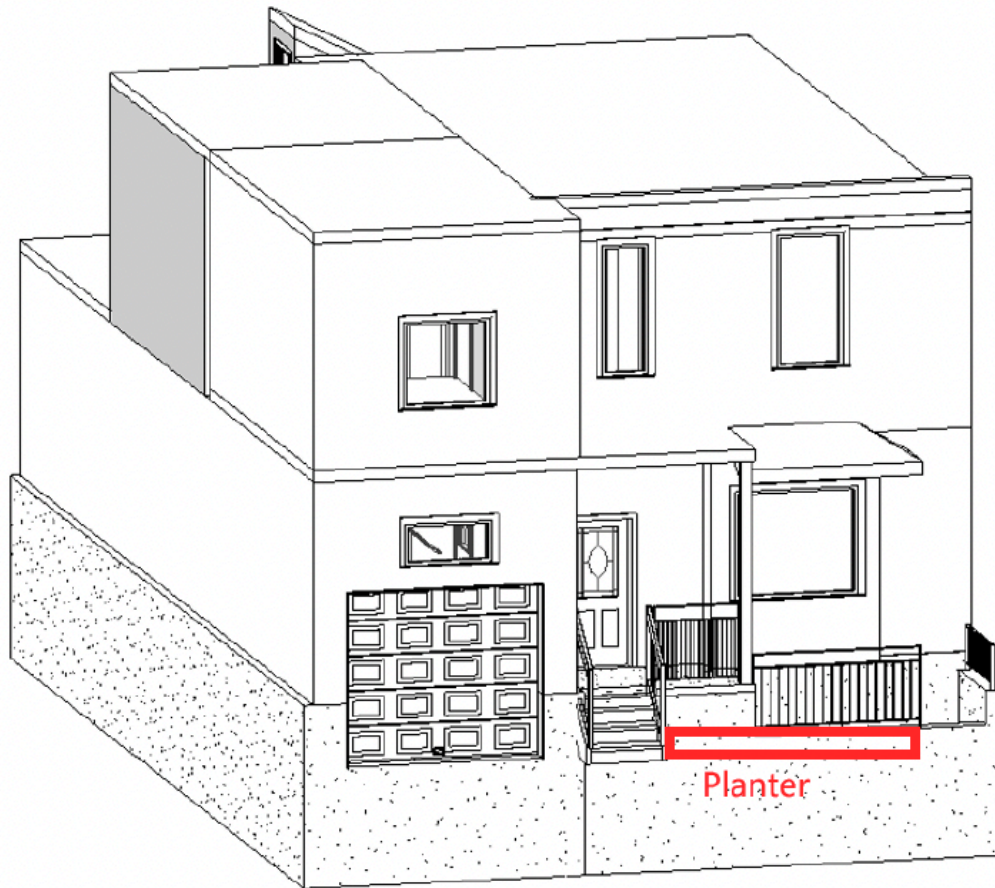
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2	REVISED FOR C.O.F.A.	11/15/21		Scale	Checked By
			DRAWING TITLE	1:100	MX
			12 CASIMIR ST, TORONTO	Proj. No.	DWG. No.
				200905	A3.2

Proposed 3D View



Proposed Front Elevation

