

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

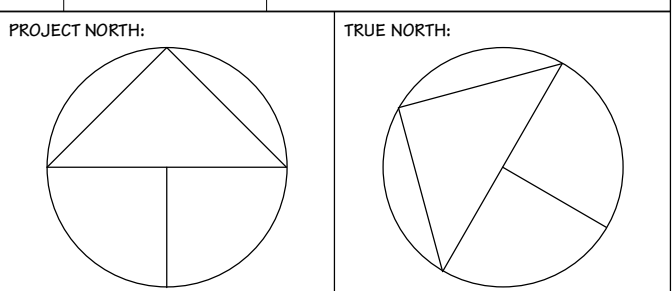
QUALIFICATION INFORMATION  
Required unless design is exempt under Division C, Subsection 3.2.5 of the building code.

Antonio Giovinazzo 108305  
NAME SIGNATURE BCIN

REGISTRATION INFORMATION  
Required unless design is exempt under Division C, Subsection 3.2.4 of the building code.

Limberlost Building Design Inc. 128352  
FIRM NAME BCIN

NO.	DATE	REVISION
0	12/20/2023	ISSUED FOR COA



PROJECT:  
**1329 THORNHILL DRIVE  
OAKVILLE, ON L6L 2L3**

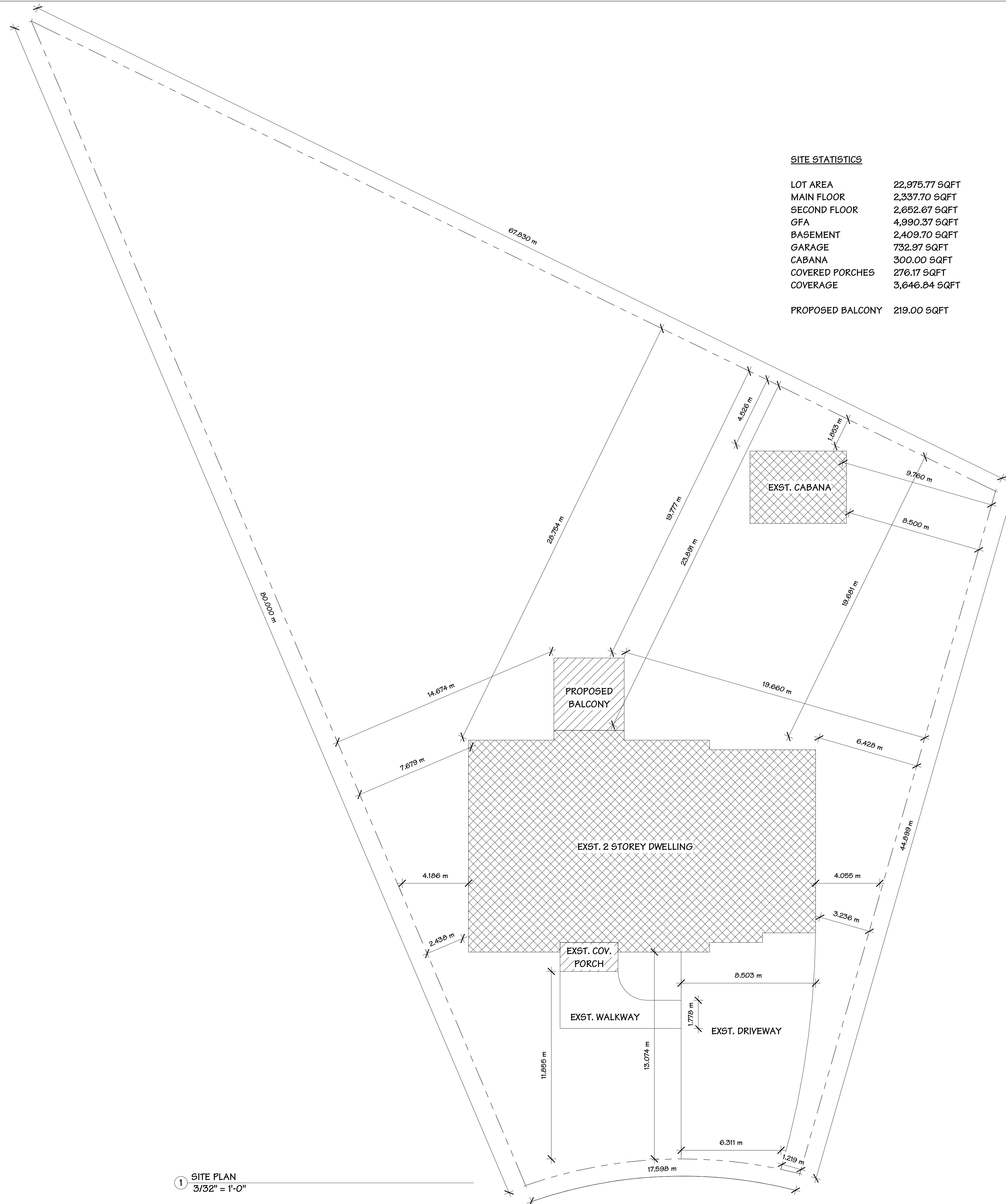
DRAWING TITLE:  
**SITE PLAN**

DATE: 12/20/2023	DRAWING NO.:
SCALE: 3/32" = 1'-0"	A2
DRAWN BY: AG	
PROJECT NO.:	2365

**SITE STATISTICS**

LOT AREA	22,975.77 SQFT
MAIN FLOOR	2,337.70 SQFT
SECOND FLOOR	2,652.67 SQFT
GFA	4,990.37 SQFT
BASEMENT	2,409.70 SQFT
GARAGE	732.97 SQFT
CABANA	300.00 SQFT
COVERED PORCHES	276.17 SQFT
COVERAGE	3,646.84 SQFT

PROPOSED BALCONY 219.00 SQFT



① SITE PLAN  
3/32" = 1'-0"



EMAIL: office@limberlostdesign.com

TORONTO OFFICE: (647) 607-9693
887 DUNDAS STREET WEST
TORONTO, ON M6J 1V9

MUSKOKA OFFICE: (705) 704-9615
1038 FIELDALE ROAD
HUNTSVILLE, ON P1H 2J6

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FIRM NAME BCIN

THORNHILL RESIDENCE

1329 THORNHILL DRIVE, OAKVILLE, ON L6L 2L3

VICINITY MAP



PROJECT TEAM

OWNER: SID JAISHANKAR, 1329 THORNHILL DRIVE, OAKVILLE, ON L6L 2L3
ARCHITECTURAL: LIMBERLOST BUILDING DESIGN INC., 887 DUNDAS STREET WEST, TORONTO, ON M6J 1V9, (647) 607-9693

PROJECT DATA

PROJECT DESCRIPTION: CONSTRUCTION OF A NEW 2ND STOREY BALCONY ON AN EXISTING FLAT ROOF.

PROJECT ADDRESS: 1329 THORNHILL DRIVE, OAKVILLE, ON L6L 2L3

LEGAL DESCRIPTION: LT 42, PL 641, OAKVILLE

JURISDICTIONAL INFORMATION: TOWN OF OAKVILLE

REFERENCE CODES: 2012 ONTARIO BUILDING CODE, TOWN OF OAKVILLE ZONING BY-LAW 2014-014

ZONING CLASSIFICATION: RL2-0 - RESIDENTIAL LOW

USE/BUILDING TYPE: DETACHED SINGLE FAMILY DWELLING

GROSS SITE AREA: 22,975.77 SQFT

ABBREVIATIONS

Table of abbreviations including AC, ADJ, AFF, ALT, ALUM, ARCH, BD, BLDG, BLK, BM, B/O, BOT, BSM, CAB, CD, CER, CF, CLG, CLO, CMU, CO, COL, CONC, CONT, CPT, DIA, DIM, DL, DN, DR, DS, DW, DWG, DWR, EBF, EJ, ELEC, EL, ELEV, EQ, ESMT, EXH, EXST, EXT, FA, FFE, FIN, FIXT, FLR, FOC, FOF, FOM, FOS, FREZ, FURR, GA, GALV, GC, GFI, GK, GL, GYP, HB, HC, HORZ, HSS, HT, HTG, HVAC, INSUL, LAM, LAV, LF, LH, LL, MANUF, MAX, MC, MECH, MIN, MTD, MTL, MW, NTS, OC, OC EW, OHE, PLAS, PL, PLUMB, PROP, PWDER, REF, REFG, REINF, REQ, RH, RM, RO, ROD/SHELF, R/S, SCHED, SD, SF, SH, SHLV'S, SHTG, SIM, SL, SLNT, SPR, SS, STD, STL, STOR, STRUCT, SUSP, TC, TEMP, T&G, THK, T/O, T/R, TV, TYP, UC, UM, UNO, UTIL, VEST, VERT, VIF, W, WC, W/D, WD, WH, WIN, W/O, WRM, @, \*, Ø, #.

SHEET INDEX

Table with columns for sheet type (ARCHITECTURAL & STRUCT.), sheet number (A1-A4), and submission status (COA SUBMISSION, PERMIT SUBMISSION).

GENERAL NOTES

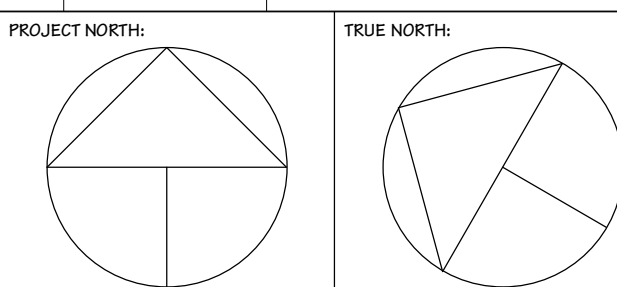
ALL CONSTRUCTION TO ADHERE TO THESE PLANS AND SPECS AND TO CONFORM TO THE ONTARIO BUILDING CODE AND ALL OTHER APPLICABLE CODES AND AUTHORITIES HAVING JURISDICTION. THESE REQUIREMENTS ARE TO BE TAKEN AS MINIMUM SPECIFICATIONS. (ONT. REG. 350/06)

- 1. ALL DRAWINGS AND SPECIFICATIONS ARE INSTRUMENTS OF SERVICE AND ARE THE PROPERTY OF THE CONSULTANT.
2. DO NOTE SCALE DRAWINGS.
3. CONTRACTOR MUST VERIFY ALL DIMENSIONS ON THE JOB. ALL DIMENSIONS MUST BE CHECKED AGAINST THE ARCHITECTURAL DRAWINGS AND THE FIELD CONDITIONS BEFORE COMMENCING FABRICATION. ANY INCONSISTENCIES ARE TO BE REPORTED TO THE CONSULTANT BEFORE PROCEEDING WITH THE WORK.
4. ARCHITECTURAL DRAWINGS ARE TO BE READ IN CONJUNCTION WITH THE CIVIL, LANDSCAPE, STRUCTURAL, MECHANICAL, AND ELECTRICAL DRAWINGS, AND ANY OTHER REPORTS.
5. CONTRACTOR IS TO PROVIDE AND PAY FOR ALL PERMITS, LABOUR, CONSTRUCTION EQUIPMENT AND MACHINERY, TOOLS, TRANSPORTATION AND OTHER FACILITIES AND SERVICES NECESSARY FOR THE PROPER EXECUTION AND COMPLETION OF THE WORK.
6. ALL CONSTRUCTION MUST COMPLY TO THE LATEST EDITIONS OF THE NATIONAL AND ONTARIO BUILDING CODES AND LOCAL BYLAWS IN EXISTENCE AT THE TIME OF CONSTRUCTION AND SHALL BE GOVERNED BY LOCAL AUTHORITIES HAVING JURISDICTION. MANUFACTURED ITEMS, MATERIALS AND CONSTRUCTION MUST COMPLY WITH ALL REQUIREMENTS OF CANADA MORTGAGE AND HOUSING CORPORATION (C.M.H.C.).
7. CONTRACTOR TO BE RESPONSIBLE FOR VERIFYING THE LOCATIONS OF ALL EXISTING UNDERGROUND AND ABOVE UTILITIES AND SERVICES. VARIOUS UTILITIES CONCERNED TO BE GIVEN REQUIRED NOTICE PRIOR TO ANY DIGGING, FOR STAKE OUT.
8. CONTRACTOR SHALL PROPERLY SUPERVISE THE WORK AND ENSURE THAT THE WORK IS INSTALLED TO CORRECT LINES AND LEVELS; THAT THE CONNECTIONS AND DETAILS CONFORM TO THE DRAWING DETAILS AND SHALL CO-ORDINATE THE INTERFACING OF ALL WORK WITH SUB-TRADES.
9. WORK SHALL BE PERFORMED IN A MANNER THAT WILL MINIMIZE THE INTERRUPTION OF ACCESS IN ALL AREAS AFFECTED BY CONSTRUCTION. EMERGENCY EXITING SHALL BE MAINTAINED AT ALL TIMES.
10. ALL CUTTING AND PATCHING OF EXISTING FINISHES WILL BE DONE TO THE HIGHEST STANDARD. COORDINATE THIS WORK WITH THE REQUIREMENTS OF DIVISION 1, 15, & 16 OF THE SPECIFICATIONS.
11. ALL MATERIAL USED FOR NEW CONSTRUCTION SHALL BE NEW AND FREE OF DEFECTS. CONTRACTOR WILL BE RESPONSIBLE TO PATCH, REPAIR AND MAKE GOOD ALL AREAS AFFECTED BY THE WORK INCLUDING MECHANICAL AND ELECTRICAL PATCH AND REPAIRS.
12. SUPPLY AND MAINTAIN ON A DAILY BASIS ALL INTERIOR AND EXTERIOR TEMPORARY COVERINGS, FENCING, TARPING, HOARDING, FLOOR PLATES, SIGNAGE AND OTHER SEPARATIONS REQUIRED TO MAINTAIN THE SAFETY OF THE PUBLIC AND PROVIDE ACCESS TO STORES AND SHOPS DURING WORK OF THIS CONTRACT. COORDINATE THESE PROTECTIVE MEASURES WITH OWNER AND INDIVIDUAL STORE AND SHOP OWNERS. REMOVE AND/OR DISPOSE OF ALL FROM SITE AFTER COMPLETION OF WORK OF THIS CONTRACT.
13. MAINTAIN A CLEAN AND ORDERLY SITE AT ALL TIMES.
14. COORDINATE WITH OWNER STAGING AREAS FOR SITE TRAILER AND MATERIALS STORAGE.
15. COORDINATE WITH OWNER AREA(S) FOR GARBAGE BIN LOCATION. SUPPLY AND INSTALL PROTECTIVE MEASURES TO ENSURE THE GENERAL PUBLICS SAFETY.
16. COORDINATE WITH OWNER ANY STAGING OF WORK AND/OR THE DISRUPTION OF PARKING AND TRAFFIC FLOW.
17. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR AND HIS SUBCONTRACTORS TO VISIT THIS SITE AND FAMILIARIZE THEMSELVES WITH ALL ASPECTS OF THIS PROJECT.
18. ALL NEW SIGNAGE TO BE COORDINATED WITH OWNER'S REQUIREMENTS. ALL PERMITS AND DRAWINGS BY OTHERS.
19. GENERAL CONTRACTOR TO ENSURE ALL FLOOR AREAS ARE FREE OF HAZARDS AFTER DEMOLITION AND DURING CONSTRUCTION.
20. GENERAL CONTRACTOR TO PROVIDE AND MAINTAIN ALL SHORING THAT IS REQUIRED FOR TEMPORARY SUPPORTS.
21. GENERAL CONTRACTOR IS RESPONSIBLE TO ENSURE THAT ALL CONSTRUCTION CONFORMS TO THE REQUIREMENTS OF THE CURRENT APPLICABLE BUILDING CODE AND GOVERNING REGULATIONS.
22. SITE VERIFY ALL DIMENSIONS PRIOR TO FABRICATION OF DOORS, WINDOWS AND MILLWORK. CONTRACTOR TO VERIFY WINDOW OPENINGS WITH WINDOW MANUFACTURER PRIOR TO COMMENCING WORK.
23. THE DRAWINGS INDICATE THE PHYSICAL DIMENSIONS, EXISTING LEVELS AND SIMILAR ITEMS BEING INDICATED WHERE KNOWN. ALL INFORMATION RELATIVE TO EXISTING CONDITIONS IS OFFERED TO ASSIST THE CONTRACTOR IN EVALUATION OF THE WORK, BUT WITH NO SPECIFIC REPRESENTATION EITHER EXPRESSED OR IMPLIED, AS TO COMPLETENESS OR ACCURACY. BE RESPONSIBLE FOR ANY DEDUCTIONS OR CONCLUSIONS MADE ON THE BASIS OF THIS INFORMATION AND THAT OF ANY ADDITIONAL SITE INSPECTIONS IF MADE.

DRAWING SYMBOLS

Table of drawing symbols including Room Name & Number, Assembly Number, Window Number, Revision Number, Keynote Number, Elevation Mark, Detail Number Sheet Number, Section Number Sheet Number, and Interior Elevation Number & Sheet Number.

Table with columns: NO., DATE, REVISION. Row 0: 12/20/2023, ISSUED FOR COA.



PROJECT: 1329 THORNHILL DRIVE, OAKVILLE, ON L6L 2L3

DRAWING TITLE: INDEX SHEET

DATE: 12/20/2023
SCALE: 1" = 1'-0"
DRAWN BY: AG
PROJECT NO: 2305
DRAWING NO: A1

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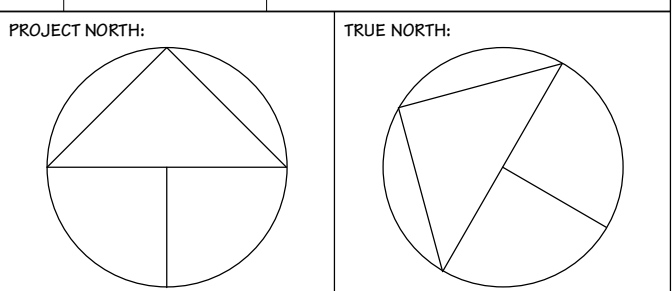
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Limberlost Building Design Inc. 128352  
FIRM NAME BCIN

NO.	DATE	REVISION
0	12/20/2023	ISSUED FOR COA



PROJECT:  
**1329 THORNHILL DRIVE  
OAVKVILLE, ON L6L 2L3**

DRAWING TITLE:  
**ELEVATIONS**

DATE: 12/20/2023  
SCALE: 1/4" = 1'-0"  
DRAWN BY: AG PROJECT NO: 2305  
DRAWING NO: **A5**



1 FRONT  
1/4" = 1'-0"



2 REAR  
1/4" = 1'-0"

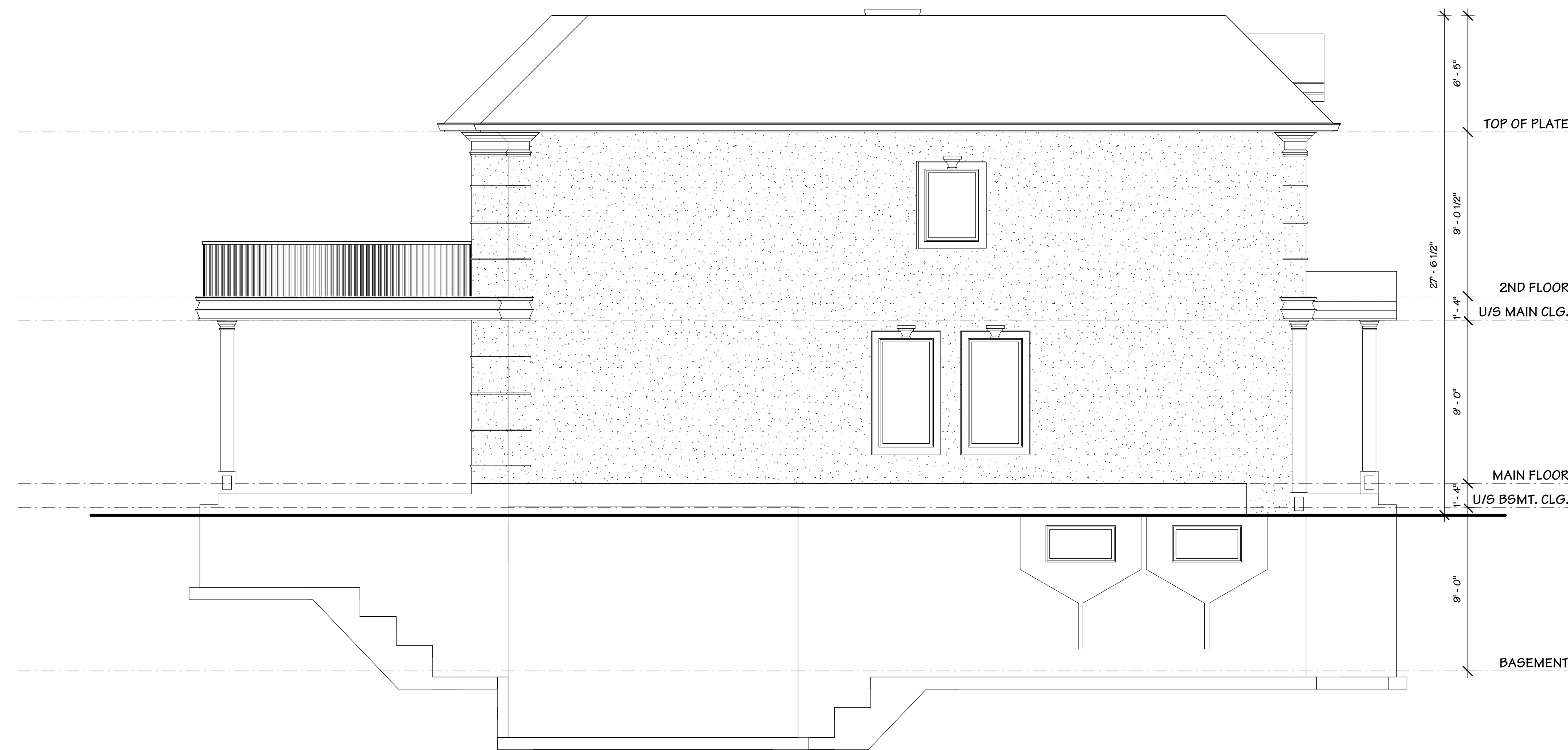
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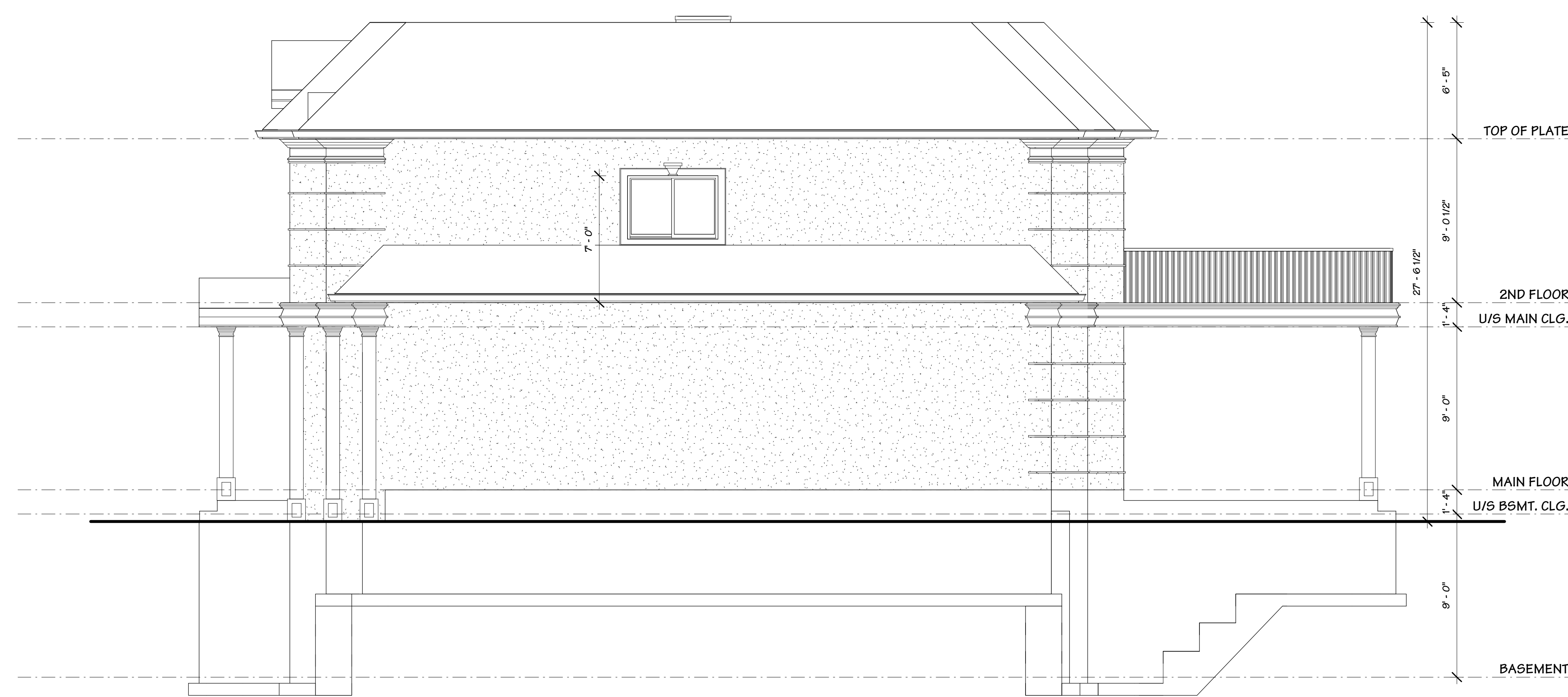
Antonio Giovinazzo 108305  
NAME SIGNATURE BCIN

REGISTRATION INFORMATION  
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FIRM NAME BCIN

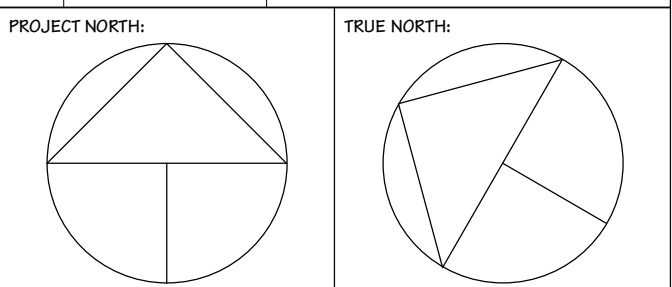


① LEFT  
1/4" = 1'-0"



② RIGHT  
1/4" = 1'-0"

NO.	DATE	REVISION
0	12/20/2023	ISSUED FOR COA



PROJECT:  
**1329 THORNHILL DRIVE  
OAKVILLE, ON L6L 2L3**

DRAWING TITLE:  
**ELEVATIONS**

DATE: 12/20/2023	DRAWING NO.:
SCALE: 1/4" = 1'-0"	<b>A6</b>
DRAWN BY: AG	
PROJECT NO.:	2305



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# Planning Justification Report

1329 Thornhill Drive, Oakville, ON L6L 2L3

Sid Jaishankar

Minor Variance Application

## **1.0 Introduction**

Limberlost Building Design has been retained by Sid Jaishankar with respect to draft a proposal to build a new 2<sup>nd</sup> storey balcony. The subject land is located at 1329 Thornhill Drive. Full architectural drawings, a site plan, a survey, and all required forms were submitted. The purpose of this report is to accompany the minor variance application, for Council approval.

## **2.0 Site Context**

The subject land is located at 1329 Thornhill Drive. The legal description of the land is LT 42, PL 641 ; OAKVILLE. The property is approximately 2,134.52 square meters, with 18 meters of road frontage. Most of the land parcel has been cleared of trees. Some large trees are present on the lot, mostly in the rear yard.

Presently there is a two-storey dwelling and detached single-story cabana on the subject land. These structures were built in 2022.

Surrounding the lot are other residential use parcels. The road providing access to the subject property, Thornhill Drive, is a municipal road that is maintained year-round. There are no existing constraints, such as hazard lands or access restrictions, affecting the site. Within 100m of the subject land, there are no areas deemed as an environmentally protected. There are no creeks or environmental concerns on the property. The site is not regulated by a Conservation Authority.

As per the Township's planning notices, there are currently no other development proposals affecting surrounding land uses.

## **3.0 Proposed Development**

The owner is proposing to construct a second-storey balcony off the master bedroom in the rear. This balcony will be constructed overtop an existing flat roof that is currently overtop the rear covered porch. The footprint of the flat roof or the house will not have to be altered, thus the coverage, setbacks, and GFA will remain the same. No structural work will be required as there is presently an opening on the second floor that will facilitate entrance to the balcony.

As per the submitted drawings, the balcony is proposed to be 14'-7" wide by 15'-0" long totalling 218.75 square feet. No previous applications have been made for something of this nature on the subject land.

Due to the balcony being on the second storey, this construction does not conform with the in-place zoning by-laws. Thus, minor variance approval is needed to obtain a building permit. A detailed analysis of this matter is in section 4.0.

#### **4.0 Zoning By-Law**

The property is zoned in the Town of Oakville “Zoning By-Law 2014-014” as RL2-0. A detailed analysis of the relevant zoning by-laws is listed below.

*Table 4.3, Maximum total balcony projection beyond the main wall = 1.5 meters*

The proposed balcony projection is 4.58 meters. Relief from this zoning by-law is required.

*Table 6.3.1, Minimum lot area = 836.0 square meters*

The property on which the balcony is being proposed is 2,134.52 square meters.

*Table 6.3.1, Minimum interior side yard = 1.2 meters*

The proposed construction does not change the interior side yard setback.

*Table 6.3.1, Minimum rear yard = 7.5 meters*

The proposed construction does not change the rear yard setback. Thus, the setback remains at 19.68 meters.

*Table 6.3.1, Minimum rear yard = 7.5 meters*

The proposed construction does not change the rear yard setback. Thus, the setback remains at 19.68 meters.

*Table 6.4.1, Maximum Residential Floor Area Ratio in the -0 Suffix Zones = 29%*

The proposed construction does not change the floor area ratio as no floor area will be added.

*Table 6.4.2, Maximum Lot Coverage = 25%*

The proposed construction does not change the footprint of the existing dwelling or its covered areas. Thus, the lot coverage remains as existing.

*6.4.5, Balcony and Deck Prohibition, “Balconies and uncovered platforms are prohibited above the floor level of the first storey on any lot in the -0 Suffix Zone.”*

The proposed construction creates a balcony off the second floor. Relief from this zoning by-law is required.

*6.4.6.a, Maximum Storeys = 2*

The proposed construction does not add storeys to the existing 2-storey dwelling.

*6.4.6.c, Maximum Height = 9.0 meters*

The proposed construction does not add any height to the existing 2-storey dwelling.

## 5.0 Official Plan

The subject lands are designated Low Density Residential in the Official Plan.

*11.1.9, "Development within all stable residential communities shall be evaluated using the following criteria to maintain and protect the existing neighbourhood character:*

*h) Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, and microclimatic conditions such as shadowing."*

Section 11.1.9 indicates that development which occurs in stable residential neighborhoods shall be evaluated using criteria that is intended to maintain and protect the existing character.

The proposal was evaluated against this criteria and designed in a way that will minimize impacts on adjacent properties.

## 6.0 External References

Research into similar requests and applications from the area provided the following references:

*OMB Case PL141045 - 9 Lambert Common, Oakville, ON L6K 2P1.* The final case decision has been attached (Reference A).

The OMB passed a decision to allow a balcony off the second floor. Of interest to this minor variance application are paragraphs 15-17.

*Minor Variance Application: CAV A/079/2023 - 15 Birkbank Drive, Oakville, ON L6J 4Z1*

Council passed a decision to allow a balcony off the second floor with a large balcony projection of 5.50m.

## 7.0 Conclusion

As the Town of Oakville continues to grow and develop, the property owner and I recognize it is necessary that the growth abides by the Town of Oakville's Official Plan to preserve its beauty.

Section 11.1.9 of the Official Pan indicates that development which occurs in stable residential neighborhoods shall be evaluated using criteria that is intended to maintain and protect the existing character. The proposed construction was evaluated against these criteria and designed in a way that will minimize impacts on the adjacent properties. The balcony will be constructed in an area that does not hinder privacy of the adjacent properties. As per the site plan, the proposed balcony is approximately 15 meters away from the left property line and 20m away from the rear and right property line. The existing tree cover and cabana located in the rear yard provide additional measures of privacy for both the adjacent property and the owner while using the balcony.

Upon a detailed zoning analysis, the proposal does not meet the zoning requirements that prohibit a second storey balcony. The intent of regulating second storey balconies is to prevent potential overlook and privacy impacts. As noted in section 4.0, the lot in question is 255% larger than what is required for a lot in the RL2-0 zoning designation. Due to the large size of the lot, the balcony does not create potential privacy and overlook issues on adjacent properties. As mentioned in the previous paragraph,





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the balcony is at a minimum 15 meters away from the closest side yard line. This distance is more than some frontages on Thornhill Drive. As the balcony maintains privacy for both the subject and adjacent properties, the request for relief maintains the intent of the zoning by-law.

As noted in section 6.0, both referenced applications approved a second storey balcony. The application at 9 Lambert Common provided crucial information that applies to the subject property. Paragraphs 15-17 of the decision bring up the key concern of preserving the privacy at neighbouring properties. As is the case with the minor variance application at 1329 Thornhill Drive, the balcony would have low usage as it is attached to a private bedroom space and not heavily used for entertaining purposes. Additionally, given the size of the backyard and the distance of the balcony from the property lines, it allows for further privacy for the neighbouring properties.

The property owner and I look forward to working with the Town to come to the most justifiable conclusion.

Should you require any further information please do not hesitate to contact me at 705-919-1771 or by email at [antonio@limberlostdesign.com](mailto:antonio@limberlostdesign.com).

Kind Regards,

Antonio Giovinazzo, Principal  
Limberlost Building Design Inc.

A handwritten signature in black ink, appearing to read "Antonio Giovinazzo", with a stylized flourish at the end.



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## Reference A

OMB Case PL141045 - 9 Lambert Common, Oakville, ON

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** February 3, 2015

**CASE NO(S):** PL141045

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

Applicant and Appellant:	394 Lakeshore Oakville Holdings Inc.
Subject:	Minor Variance
Variance from By-law No.:	1984-63
Property Address/Description:	9 Lambert Common
Municipality:	Town of Oakville
Municipal File No.:	CAV A/151/2014
OMB Case No.:	PL141045
OMB File No.:	PL141045

Heard: January 13, 2015 in Oakville, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

394 Lakeshore Oakville Holdings Inc. S. Zakem

Town of Oakville J. Wice

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. DUNCAN AND J. V. ZUIDEMA ON JANUARY 13, 2014 AND ORDER OF THE BOARD**

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[1] This was a hearing in the matter of an appeal by 394 Lakeshore Oakville Holdings Inc. (the "Appellant") from a decision of the Town of Oakville ("Town") Committee of Adjustments ("Committee") (File CAV No. A/151/20104), that refused to authorize variances requested for a property known municipally as 9 Lambert Common ("subject property").

[2] The Town is currently transitioning to Zoning By-law No. 2014-014 from existing Zoning By-law No. 1984-63. As a result, the variances sought are from By-law Nos. 1984-63 and 2014-014. The variances are required to allow the construction of a second floor

balcony, a four-car garage with floor area of 91 square metres (“sq m”) with doors 11 metres (“m”) in total width, and a floor plan area for a residence constituting 26.82 per cent (“%”) of the subject property area. The specific variances requested for the subject property are as follows:

1. To permit a maximum floor area/lot area ratio of 26.82% whereas Part II, section 40(3)(b) of By-law No. 1984-63 permits a maximum floor area of 26%;
2. To permit a maximum garage floor area of 91 sq m whereas Part II, s. 40(1)(e)(iv) of By-law No. 1984-63 and s. 5.8.6(c) of By-law No. 2014-014 permit a maximum garage floor area of 56 sq m;
3. To permit a maximum entrance width to a private garage of 11 m whereas Part II, s. 40(1)(e)(iv) of By-law No. 1984-63 and s. 5.8.6(c) of By-law No. 2014-014 permit a maximum entrance width to a private garage of 9 m; and
4. To permit a second floor balcony whereas section 6.4.5 of By-law No. 2014-014 states that balconies and uncovered platforms are prohibited above the floor level of the first storey.

## **BACKGROUND**

[3] At the commencement of the hearing of this appeal, the Board was advised by the parties that they had reached a settlement for all outstanding issues.

[4] As part of the settlement, the parties agreed that the variances ought to be allowed, subject to a condition that the residential dwelling be constructed generally in accordance with a drawing that is attached as Attachment 1 to this memorandum and order of the Board.

## PLANNING EVIDENCE

[5] The subject property is lot 12 of 16 lots contained in a plan of subdivision (vacant land condominium) which was the subject of a previous appeal decided by the Board.

[6] The Board heard uncontradicted planning opinion evidence from duly qualified planner David Capper, in relation to the variances and the associated settlement between the parties.

[7] Mr. Capper testified that the property is designated as a low density residential/stable residential area of the Town, thereby allowing for residential development proposals such as the one currently before the Board.

[8] Mr. Capper testified that the variances raised no conformity issues with any provincial policies. In particular, Mr. Capper provided the opinion that there were no consistency or conformity issues with respect to the 2014 Provincial Policy Statement or with the Provincial Growth Plan for the Greater Golden Horseshoe Area. Further, Mr. Capper provided the opinion that there were no conformity issues with the Region of Halton's Official Plan.

[9] The Board therefore considered the appeal within the context of the Town's Official Plan, the zoning currently in place for the area, and the criteria set out in s. 45(1) of the *Planning Act* (the "Act").

### *Variance to Increase Floor Area*

[10] In relation to the variance from the maximum floor plan area of 26% under By-law No. 1984-63 to allow for a floor plan area of 26.82%, Mr. Capper testified that the actual floor area at issue is 13.6 sq m or 146 square feet ("sq. ft.") of floor space. Mr. Capper also testified that the intent of the 26% limit in By-law No. 1984-63 is to regulate the scale and massing of buildings on lots. It was Mr. Capper's opinion that an increase in 0.82% or 13.6 sq m was not a major increase in scale or massing and therefore generally met the intent of By-law No. 1984-63.

*Variances for Garage Floor Area and Entrance Width*

[11] In relation to the variances from By-laws No. 1984-63 and 2014-014 to allow for a floor plan area of 91 sq m from the maximum of 56 sq m for the garage and to allow for a garage entrance width of 11 m from the maximum of 9 m, it was Mr. Capper's evidence that the limitation on floor plan area and entrance width under the By-laws are intended to work in tandem; the intention being to regulate the visual appearance of residences so they are not dominated visually by garage space from the street.

[12] Mr. Capper's evidence was that the architect who designed the floor plan of the residence proposed on the subject property sought to address the intent of the By-laws by having only two of four garage doors visible from the street with the other two being accessible, and thereby only visible, from the side of the residence.

[13] The Board was provided with the plan that is Attachment 1 to this memorandum and order of the Board. The plan contained on Attachment 1 shows that turf stone or other similar material must be used for the construction of that portion of the driveway leading to the second set of garage doors at the side of the residence, indicating that this portion of the driveway and garage will be used less than those accessible at the front of the home. Additionally, Attachment 1 shows the screen of vegetation that will be required between the garage doors at the side of the residence and the adjacent residence located on lot 13, thereby reducing the visibility of that portion of the garage further.

[14] Mr. Capper's evidence was that one would rarely be able to see all four garage doors from any vantage point. It was Mr. Capper's opinion therefore, that the variances sought in relation to the garage meet the intent of the By-laws.

*Variance for Second Floor Balconies*

[15] Mr. Capper provided opinion evidence that the intent of By-law No. 2014-014 in prohibiting balconies above the floor level was to preserve the privacy at neighbouring properties. Mr. Capper testified that By-law No. 1984-63 did not previously prohibit second

floor balconies.

[16] It was Mr. Capper's opinion, based on the design of the residence that would result in low usage of the balcony spaces and also on the character of other homes in the neighbourhood that allowing a variance from the prohibition on second floor balconies met the intent of the By-law.

[17] In relation to the design of the instant residence, Mr. Capper testified that the two balconies would not be used heavily or for entertaining purposes as they were attached to private bedroom spaces in the home, rather than entertaining areas.

[18] In relation to other properties, Mr. Capper testified that due to sloping, many properties in the neighbourhood had basement walk-outs and balconies from the first floor that functioned as second floor balconies. His opinion was that the second floor balconies that the Appellant sought here were similar in nature.

[19] Additionally, at the conclusion of Mr. Capper's testimony and during submissions of counsel, Ms. Wice for the Town advised the Board that the Town was intent on amending By-law No. 2014-014 to remove the prohibition on second floor balconies generally. In future therefore, second floor balconies will be permitted as of right.

#### *Conformity with Oakville Official Plan*

[20] Mr. Capper provided opinion evidence that the variances sought met the intent of the applicable provisions of the Town's Official Plan, *Liveable Oakville*. In particular, Mr. Capper opined that the application met the applicable subsections of s. 11.1.9 of the Official Plan that governs development within all stable residential communities in order to maintain and protect existing neighbourhood character.

[21] In summary, Mr. Capper provided the opinion that the variances sought met the general intent of the applicable official plans, that the application met the general intent of the zoning by-laws, and that the variances are minor in nature, resulting in a development

that was appropriate for the area in question. Finally, Mr. Capper opined that the variances constitute good planning overall. It was Mr. Capper's opinion that the application satisfies the four tests established by s. 45(1) of the Act.

## **FINDINGS AND DISPOSITION**

[22] The Board, after considering the evidence and the submissions made at the hearing, can find nothing in the materials filed that would alter the opinions provided by Mr. Capper and the Board accepts his expert planning evidence.

[23] The Board finds that the matters before the Board are local in nature and do not affect any provincial interest and should be considered within the context of the Region of Halton's Official Plan and the Town's Official Plan, the zoning currently in place for the area, and the criteria set out in s. 45(1) of the Act.

[24] Further, the Board finds that the variances meet the general intent of the applicable official plans, that the variances meet the general intent of the Zoning By-laws, that the variances are minor in nature, resulting in a development that is appropriate for the area in question and finally, that the variances constitute good planning overall.

[25] The Board finds that the variances should be authorized, and further that the appeal by the Appellant for a property known municipally as 9 Lambert Common be allowed and that the variances, as set out in this decision be authorized, subject to the condition agreed to by the parties that the residential dwelling shall be constructed generally in accordance with a drawing that is attached as Attachment 1 to this memorandum and Order of the Board.

## **ORDER**

[26] Subject to the condition that the residential dwelling shall be constructed generally in accordance with a drawing that is attached as Attachment 1 to this memorandum and order, the Board orders that the appeal by 394 Lakeshore Oakville Holdings Inc. from the decision



of the Town of Oakville's Committee of Adjustment, being File CAV No. A/151/2014, for a property known municipally as 9 Lambert Common is allowed and the following variances are authorized:

1. To permit a maximum floor area/lot area ratio of 26.82% whereas Part II, section 40(3)(b) of By-law No. 1984-63 permits a maximum floor area of 26%;
2. To permit a maximum garage floor area of 91 sq m whereas Part II, s. 40(1)(e)(iv) of By-law No. 1984-63 and s. 5.8.6(c) of By-law No. 2014-014 permit a maximum garage floor area of 56 sq m; and
3. To permit a maximum entrance width to a private garage of 11 m whereas Part II, s. 40(1)(e)(iv) of By-law No. 1984-63 and s. 5.8.6(c) of By-law No. 2014-014 permit a maximum entrance width to a private garage of 9 m; and
4. To permit a second floor balcony whereas section 6.4.5 of By-law No. 2014-014 states that balconies and uncovered platforms are prohibited above the floor level of the first storey.

*"J. Duncan"*

J. DUNCAN  
MEMBER

*"J.V. Zuidema"*

J. V. ZUIDEMA  
VICE CHAIR

**Ontario Municipal Board**

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