

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

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April 28, 2021

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Troy & Colleen Blanchard, Owner/Applicant
205 Broad Street
Tax Map 130/Lot 16
GRA Zone

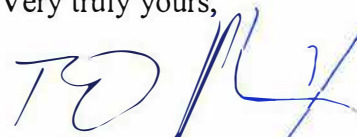
Dear Mr. Stith & Zoning Board Members:

On behalf of Troy & Colleen Blanchard, enclosed please find the following in support of a request for zoning relief:

- See Viewpoint Land Use Application uploaded today.
- Owner Authorization.
- 4/26/2021 – Memorandum and exhibits in support of Zoning Relief (original and 11 copies).

We look forward to presenting this application to the Planning Board at its May 18, 2021 meeting.

Very truly yours,



R. Timothy Phoenix
Monica F. Kieser

Encl.

cc: Troy & Colleen Blanchard
Somma Studios
Ambit Engineering

DANIEL C. HOEFLE	R. PETER TAYLOR	GREGORY D. ROBBINS	DUNCAN A. EDGAR
R. TIMOTHY PHOENIX	JOHN AHLGREN	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	SAMUEL HARKINSON	SAMUEL R. REID
STEPHEN H. ROBERTS	KEVIN M. BAUM	JACOB J.B. MARVELLEY	

AUTHORIZATION

The undersigned, Troy and Colleen Blanchard owners of the property located at 205 Broad Street, Portsmouth, New Hampshire and further identified as Portsmouth Tax Map 130, Lot 16 (the "Property"), hereby authorize Hoefle, Phoenix, Gormley and Roberts, PLLC, to file documents and appear before the Portsmouth Planning Board and/or Zoning Board of Adjustment on their behalf in all matters relating to municipal land use approvals for the Property.

Dated:

4/20/21


Troy Blanchard

Dated:

4/20/21


Colleen Blanchard

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: April 28, 2021
RE: Troy & Colleen Blanchard, Owners/Applicants
205 Broad Street
Tax Map 130/Lot 16
Zoning District General Residence A (“GRA”)

Dear Chairman Rheume and Zoning Board Members:

On behalf of the Owners/Applicants, Troy & Colleen Blanchard (“Blanchard”), we are pleased to submit this Memorandum and the attached exhibits in support of Zoning Relief to be considered by the ZBA at its May 18, 2021 meeting.

I. EXHIBITS

- A. Existing Conditions Plan – issued by Ambit Engineering Existing Conditions.
- B. Plan Set – issued by Somma Studios.
- C. Site Photographs.
 - Satellite view.
 - Street views.
- D. Tax Map 133.

II. PROPERTY/PROJECT

205 Broad Street is a 3,025 s.f. lot at the corner of Broad and Spring Streets improved with a single-family home located on the Spring Street and Broad Street lot lines (the “Property”). (**Exhibit A**). Blanchard is undertaking a renovation of the existing home to create more functional space and intends to “fill-in” the existing Broad Street porch, converting it into a mudroom and adding a dormer to the attic to create more living space within the existing building perimeter. No expansion of the footprint is proposed, but because the existing home is on the Broad and Spring Street lot lines, relief is required.

III. RELIEF REQUIRED

After conferring with the City Planning Department staff, it has been determined that the following is required:

1. Portsmouth Zoning Ordinance §10.321 – Expansion of a Nonconforming Structure to permit expansion of elements within the building perimeter and front yard setbacks.

2. Portsmouth Zoning Ordinance §10.521 – Table of Dimensional Standards – to permit a front setback of 0 ft. (Spring St.) and 5.1 ft. (Broad St.) for enclosed porch and 0.1 ft. (Spring Street) and 6.6 ft. (Broad Street) for third floor dormer where 0 ft. exists and 15 ft. is required.

IV. Variance Requirements

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The first step in the ZBA’s analysis is to determine whether granting the variances is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” Id. “Mere conflict with the zoning ordinance is not enough.” Id.

The intent of the GRA Zone is to “provide areas for single-family, two family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acre), together with appropriate accessory uses and limited services.” PZO §10.410 (emphasis added). The proposal meets the intent of the GRA Zone. It permits the improvement of an existing single-family residence with a density consistent with that of the surrounding area. The Property, like many in the neighborhood, is nonconforming with respect to the front yard setbacks. No expansion of the footprint toward either front lot line is proposed.¹ Given these factors, granting the requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives,” Malachy Glen, *supra*, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

There will be no threat to the public health, safety or welfare by granting the requested variances, which will merely permit additional livable space within an existing home. The

¹ Owners are contemplating additional expansion in the area of the rear deck, but have not yet finalized these plans.

requested dimensional relief is limited, enhances an existing building without any increase in footprint and maintains density and setbacks consistent with the surrounding area. Clearly, the requested variances neither alter the essential character of the locality nor threaten the public health safety or welfare. Accordingly, none of the requested variances are contrary to the public interest and all observe the spirit of the ordinance.

3. Granting the variance will not diminish surrounding property values.

The proposal will renovate the nonconforming home within its existing footprint by repurposing an existing side porch and expanding living space on the third floor with the addition of dormers. The result will be an improved home increasing the value Blanchard's home and those around it. The limited scope of the requested relief maintains consistency with the surrounding neighborhood. Accordingly, granting the variances will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

The Property is small, at 3,025 s.f., and subject to two front yard setbacks. The existing home is on both front lot lines. The resulting square-shaped building envelope primarily covers the existing side yard and the southeast corner of the existing home, permitting no volumetric expansion of most of the home. These circumstances combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The requested relief relates to the Broad and Spring Street front yard setbacks. The purpose of setback is to prevent overcrowding, improve sightlines for pedestrians and motorists, provide sufficient space for stormwater treatment and ensure adequate light and air circulation. None of these purposes are impaired by granting the requested variances. The building exists and is presently non-conforming with both front yard setbacks because it sits on each respective lot line. No expansion in footprint is proposed so stormwater will not increase, and there is sufficient area between the home and the traveled portion of Broad and Spring Streets to preserve existing sightlines. Accordingly, there is no fair and substantial relationship between the purposes of the ordinance and its application in this instance.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted in the GRA Zone. Blanchard proposes simply to "fill-in" an

underutilized side porch and dormer the third floor to increase living space. The neighborhood overall is similarly densely developed with multiple nearby parcels non-conforming for setbacks. Accordingly, the proposed use is reasonable and denial of the variances will result in an unnecessary hardship.

5. Substantial justice will be done by granting the variance.

If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, *supra* at 109. The requested variances allow for a more livable residence. Thus, Blanchard will be greatly harmed by denial of any of the variances while there will be no gain to the general public by denial. Without question, substantial justice will be done by granting each variance while a substantial injustice will be done by denying any of them.

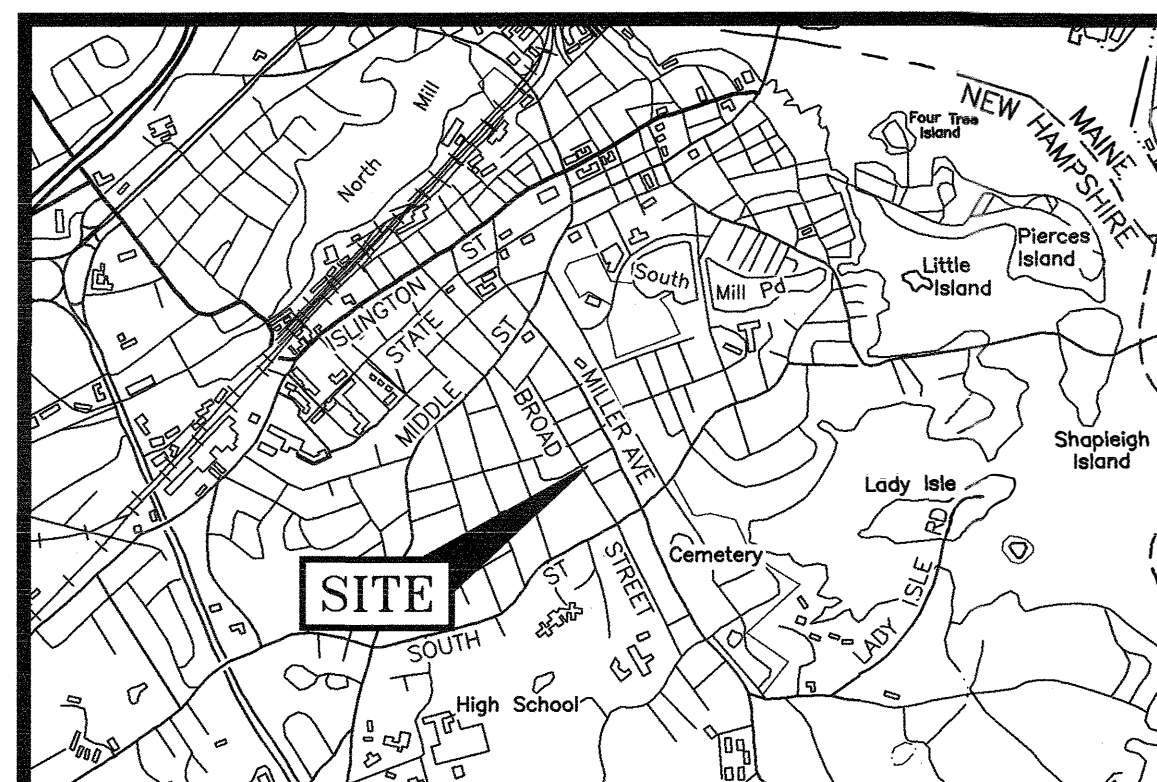
VI. CONCLUSION

For all of the reasons stated, Blanchard respectfully requests that the Portsmouth Zoning Board of Adjustment grant the requested variances.

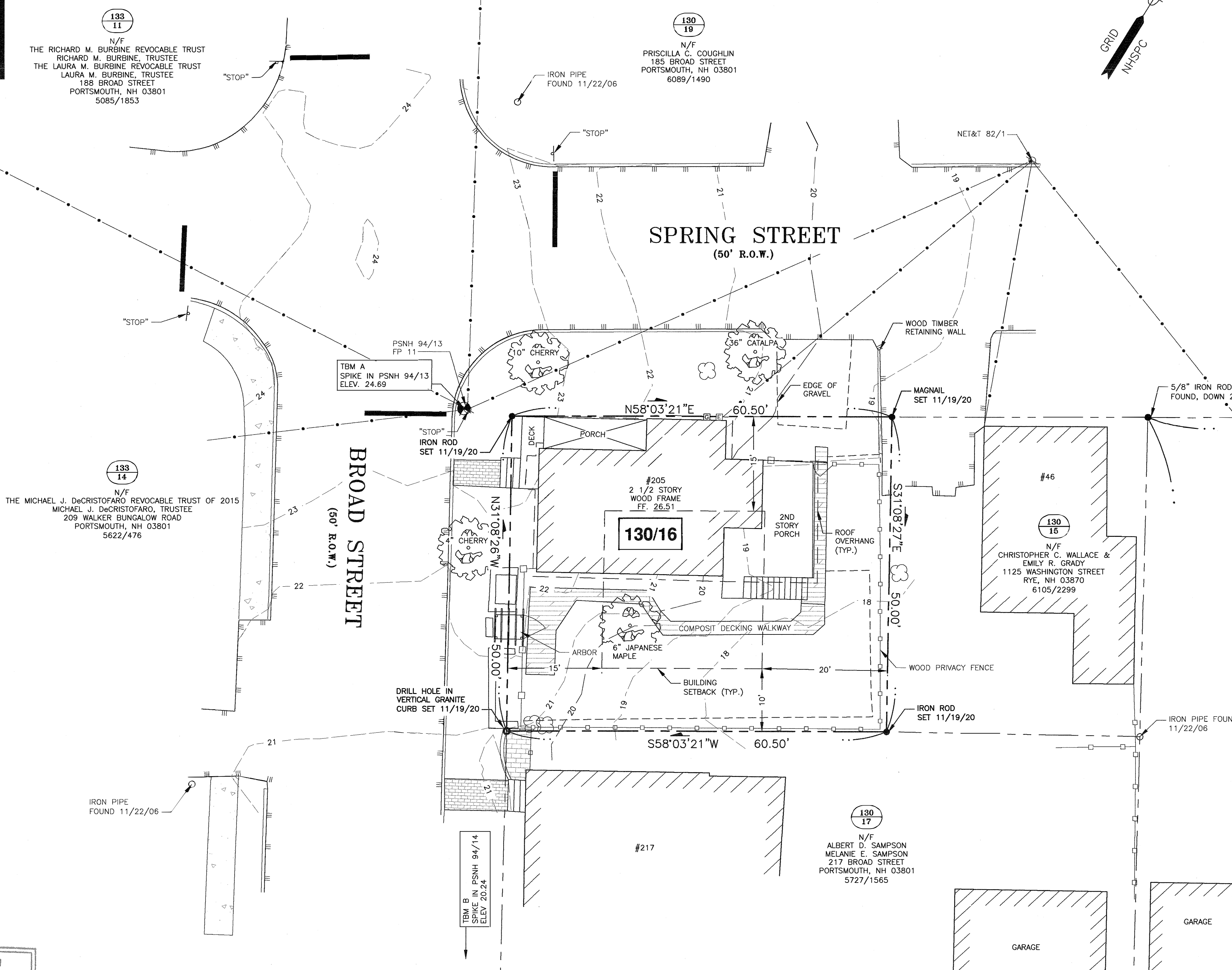
Respectfully submitted,
Troy and Colleen Blanchard



By: R. Timothy Phoenix
Monica F. Kieser



PLAN REFERENCES:



NOTES:

BLANCHARD
RESIDENCE
205 BROAD STREET
PORTSMOUTH, N.H.

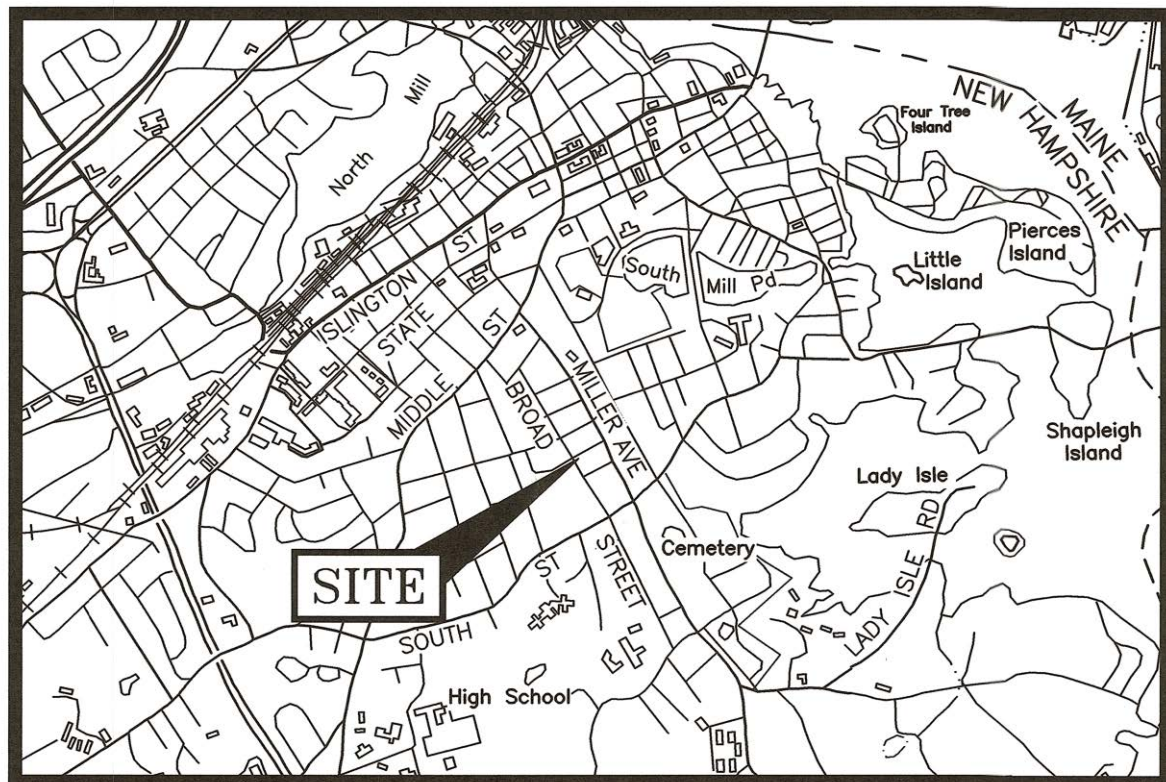
0	ISSUED FOR COMMENT	11/30/20
NO.	DESCRIPTION	DATE
REVISIONS		

EXHIBIT A

SCALE: 1" = 10' NOVEMBER 2020

EXISTING CONDITIONS PLAN

C1



LOCATION MAP

SCALE: 1" = 2000'

LEGEND:

EXISTING	
N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY
	REGISTRY OF DEEDS
11/21	MAP 11/LOT 21
RR SPK FND	RAILROAD SPIKE FOUND
IR FND	IRON ROD FOUND
IP FND	IRON PIPE FOUND
DH FND	DRILL HOLE FOUND
S	SEWER LINE
D	STORM DRAIN
RD	ROOF DRAIN (GUTTER)
W	WATER LINE
100	OVERHEAD ELECTRIC WIRES
97x3	CONTOUR
	SPOT ELEVATION
	EDGE OF PAVEMENT (EP)
	WOODS / TREE LINE
	UTILITY POLE
	WATER SHUT OFF/CURB STOP
GV	GATE VALVE
HYD	HYDRANT
FF	FINISHED FLOOR
TBM	TEMPORARY BENCH MARK
TYP	TYPICAL
C	CENTERLINE
	BRICK / STONE WALKWAY

PLAN REFERENCES:

- 1) PROPERTY SURVEY, PORTSMOUTH, N.H., FOR BENJAMIN & ESTHER YOFFE, SCALE: 1" = 10' PREPARED BY KIMBALL CHASE COMPANY, INC. DATED 10/3/83, RCRD D-12014.
- 2) BROADMOOR CONDOMINIUMS PORTSMOUTH, N.H. SITE PLAN, SCALE 1" = 10' PREPARED BY KIMBALL CHASE COMPANY, INC. DATED 7/18/84, RCRD D-13647
- 3) LOT LINE ADJUSTMENT FOR BETH GRIFFIN TAX MAP 131, LOT 15 PORTSMOUTH, NH, SCALE 1" = 20', PREPARED BY ALEX ROSS CIVIL ENGINEER AND SURVEYOR, DATED 7/28/05, RCRD D-33057
- 4) PROPERTY STAKEOUT SKETCH, OWNER JENNIFER JANAK & JASON LANSBERRY, 36 SPRING STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 20', PREPARED BY AMBIT ENGINEERING, INC., DATED NOVEMBER 29, 2006, NOT RECORDED

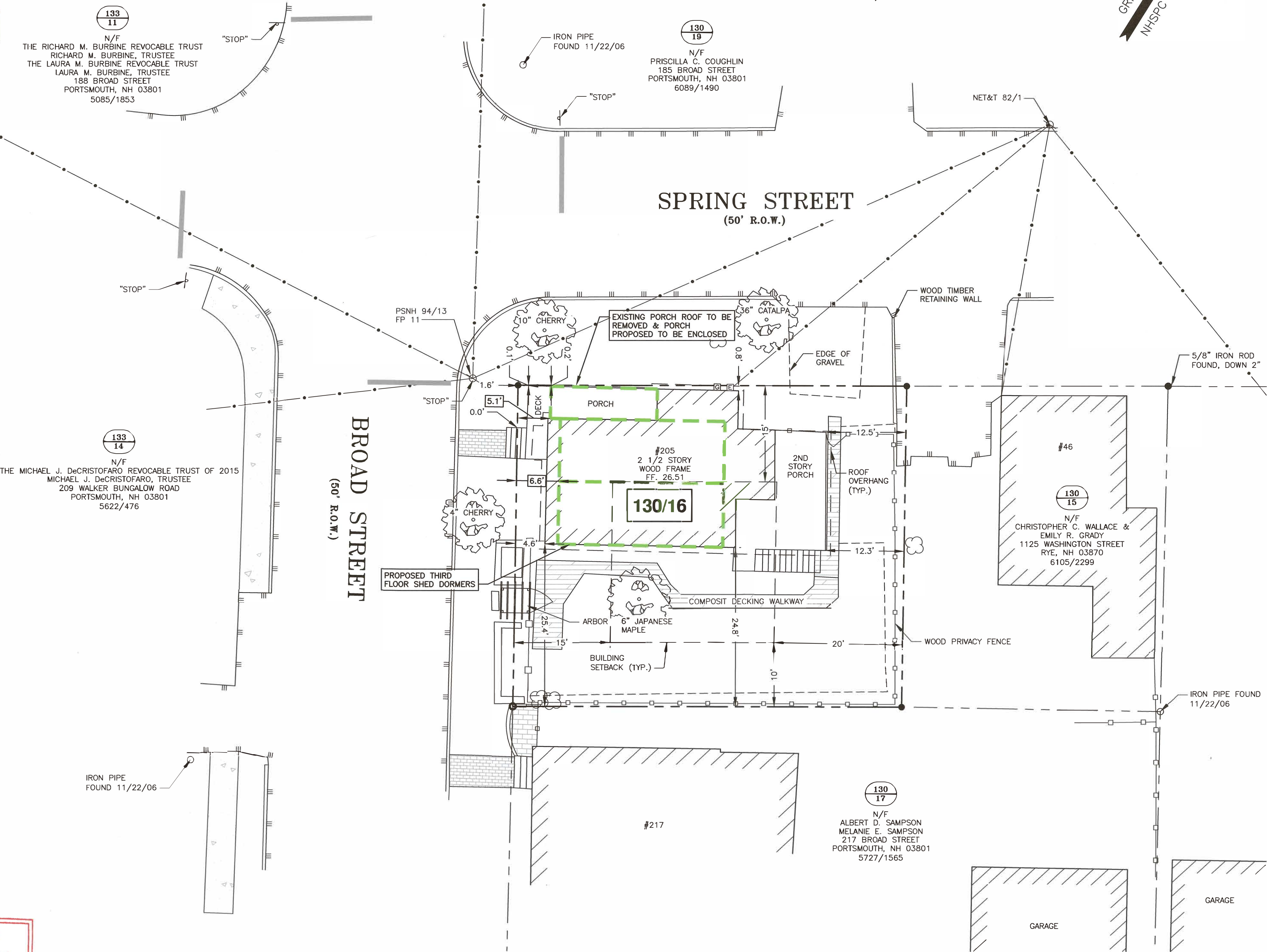
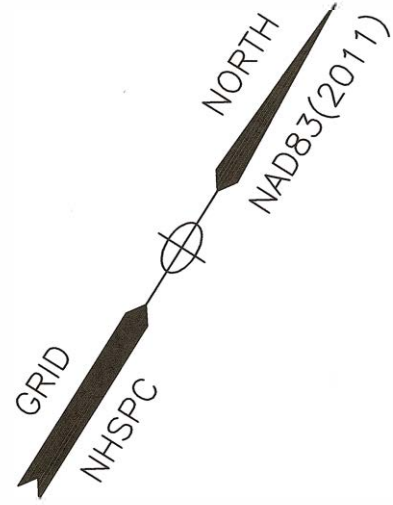
BUILDING COVERAGE AREA		
	EXISTING	PROPOSED
RESIDENCE	711	792
PORCH	288	207
DECK	37	37
STAIRS	36	36
TOTAL (S.F.)	1,072	1,072
LOT AREA (S.F.)	3,025	3,025
BUILDING COVERAGE (%)	35.4%	35.4%

CITY OF PORTSMOUTH REQUIREMENTS:

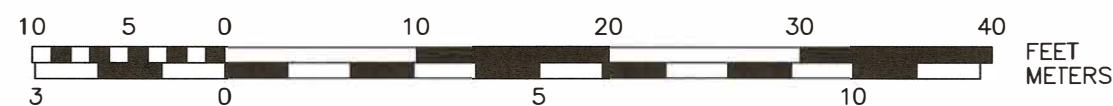
SETBACKS:

EXISTING FRONT (BROAD STREET): 0.0'
PROPOSED FRONT (BROAD STREET): 0.0'
EXISTING FRONT (SPRING STREET): 0.1'
PROPOSED FRONT (SPRING STREET): 0.1'
EXISTING SIDE (SOUTHEAST): 24.8'
PROPOSED SIDE (SOUTHEAST): 24.8'
EXISTING REAR (NORTHEAST): 12.3'
PROPOSED REAR (NORTHEAST): 12.3'

BUILDING COVERAGE: LOT AREA: 3,025 S.F.
EXISTING: 1,072 S.F./3,025 S.F. = 35.4%
PROPOSED: 1,072 S.F./3,025 S.F. = 35.4%

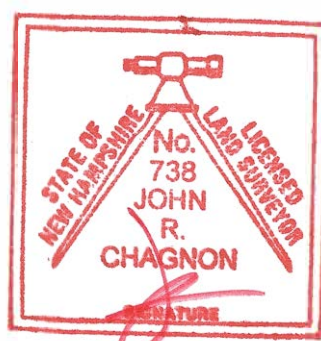


GRAPHIC SCALE



"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS DATE



AMBIT ENGINEERING, INC.

Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 130 AS LOT 16.
- 2) OWNERS OF RECORD:
TROY ALLAN BLANCHARD
COLLEEN ELIZABETH BLANCHARD
205 BROAD STREET
PORTSMOUTH, N.H. 03801
6026/2578
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:
3,025 S.F.
0.0694 ACRES
- 5) PARCEL IS LOCATED IN GENERAL RESIDENCE A (GRA) ZONE.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,500 S.F.
FRONTAGE: 100 FEET
SETBACKS: FRONT 15 FEET
SIDE 10 FEET
REAR 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 25%
MINIMUM OPEN SPACE: 30%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED BUILDING ADDITIONS ON TAX MAP 130 LOT 16 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS MEAN SEA LEVEL NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

BLANCHARD RESIDENCE
205 BROAD STREET
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	REVISE PER COMMENTS	4/28/21
0	ISSUED FOR COMMENT	4/26/21

REVISIONS	

SCALE: 1" = 10' APRIL 2021

VARIANCE APPLICATION PLAN

C2

REVISIONS:

DEGCOBUILD.COM



ADDITIONS AND RENOVATIONS

TITLE:

SCALE: AS NOTED

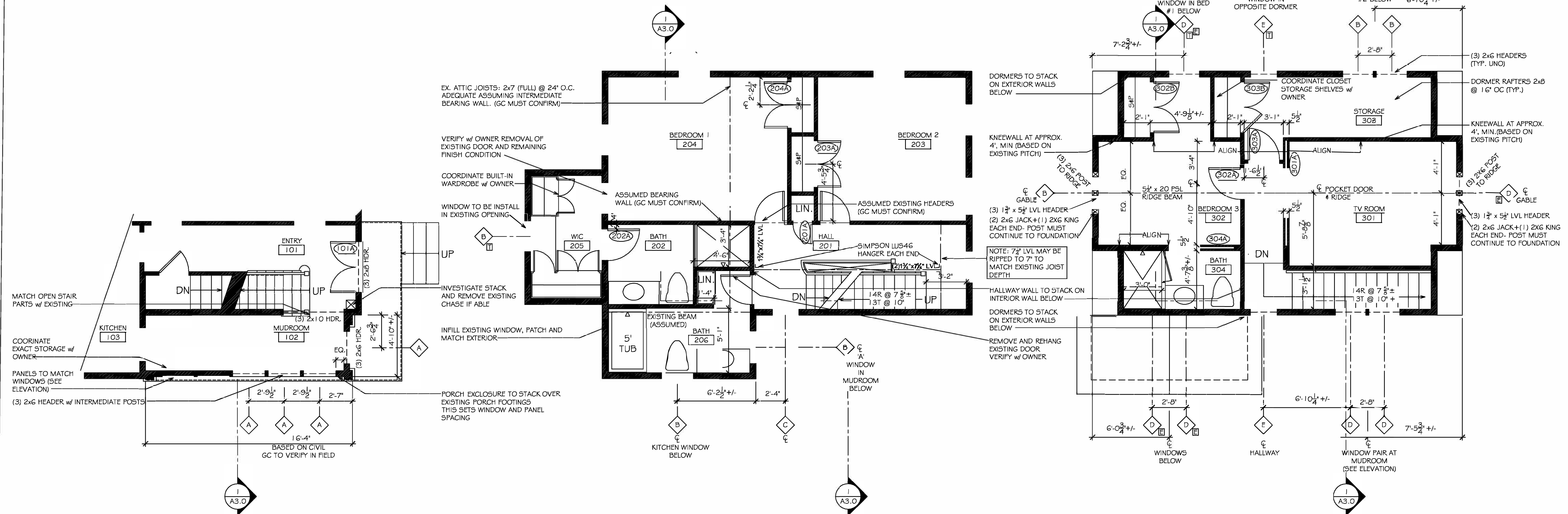
DRAWN BY: JR

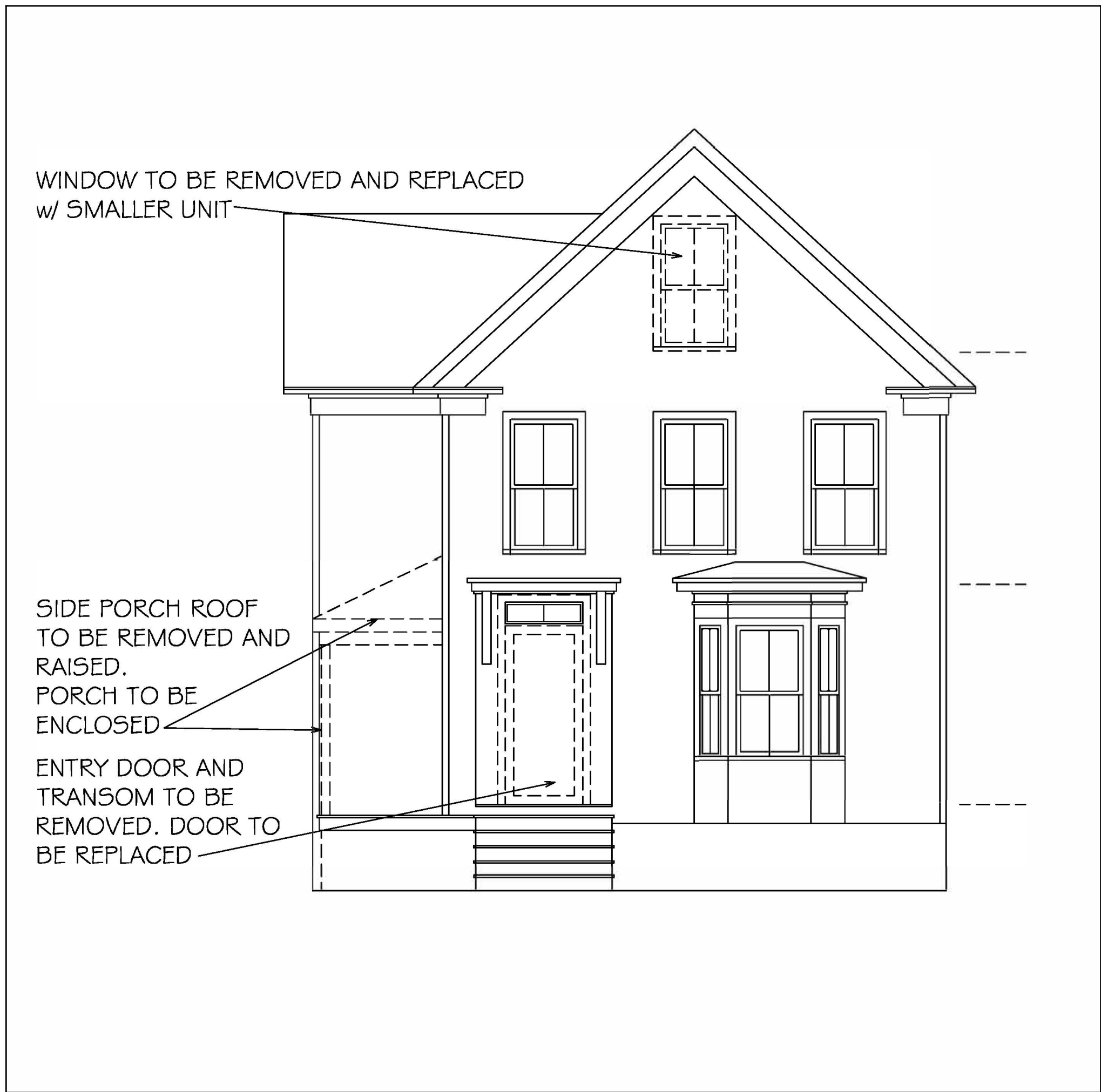
CHECKED BY:

PROJECT NO.: -

DATE: APRIL 7, 2021

© 2021 SOMMA

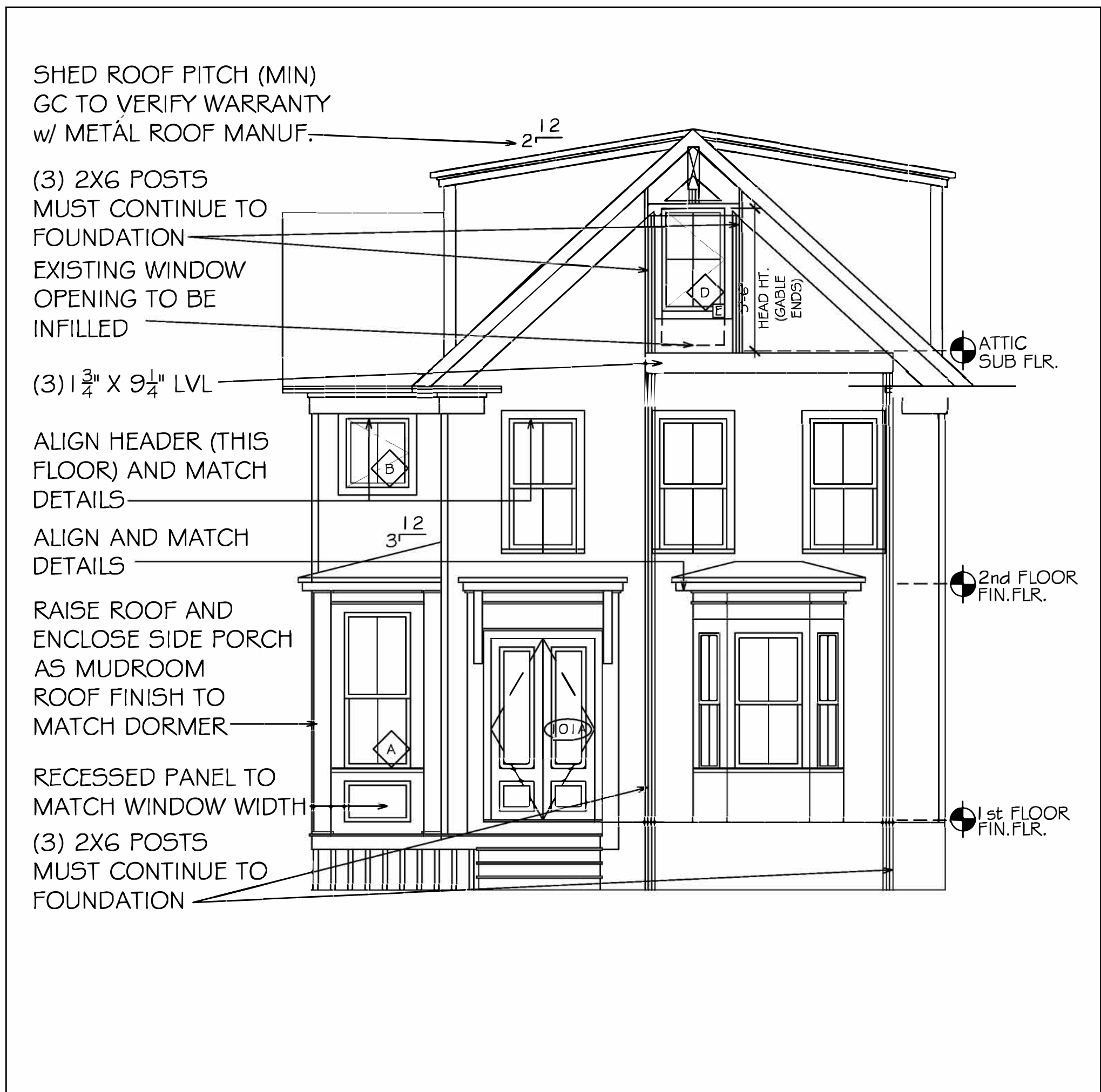




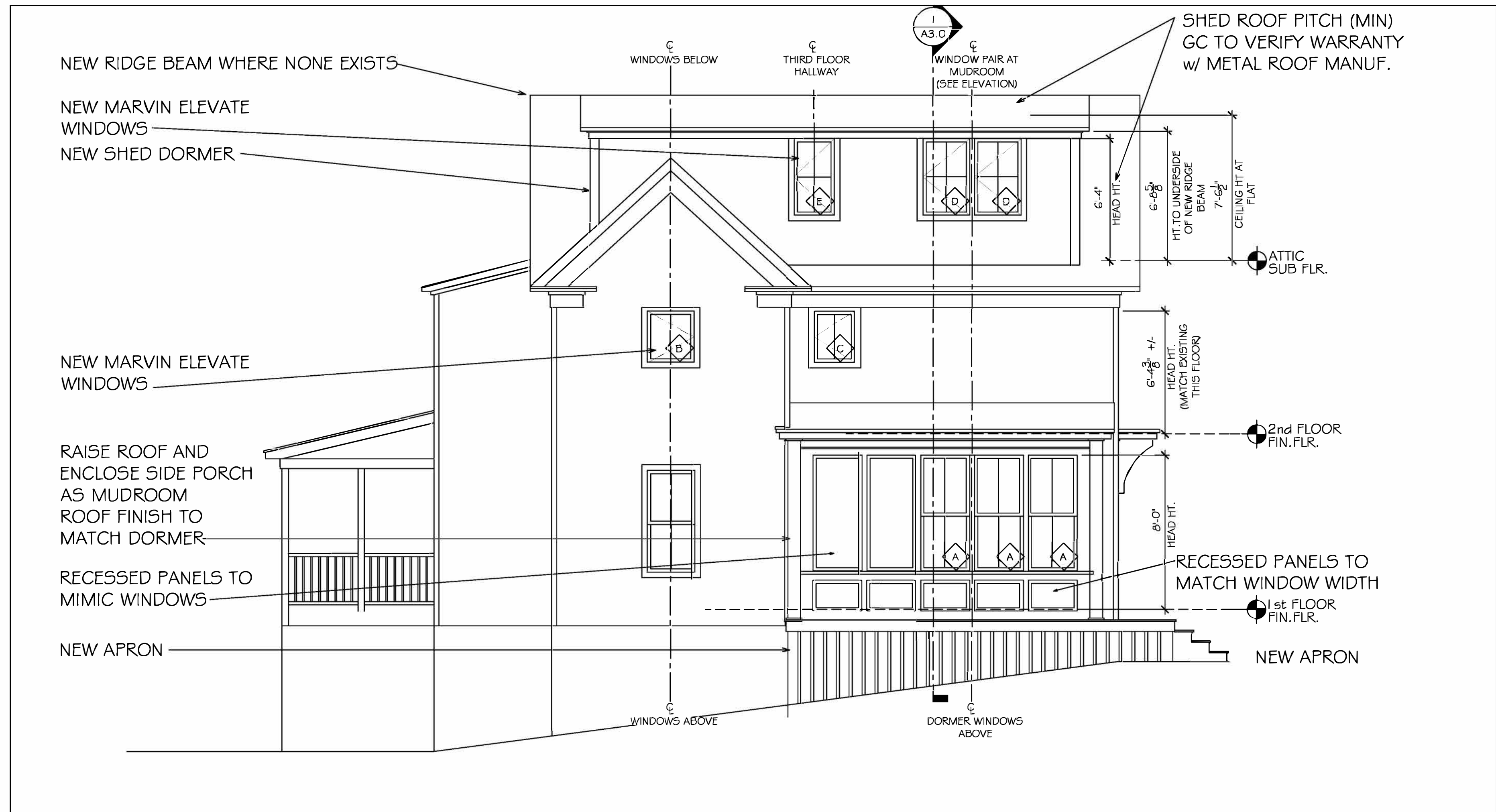
1. EXISTING BROAD STREET ELEVATION
1/4" = 1'-0"



2. EXISTING SPRING STREET ELEVATION
1/4" = 1'-0"



3. PROPOSED BROAD STREET ELEVATION
1/4" = 1'-0"



4. PROPOSED SPRING STREET ELEVATION
1/4" = 1'-0"

REVISIONS:

DEGCO BUILDERS
1300 OCEAN BLVD.
RYE, NH
603-433-2192
DEGCOBUILD.COM



SOMMA
36 Maplewood Avenue
Portsmouth, NH 03801
PH: 603.766.3760

ADDITIONS AND RENOVATIONS

BLANCHARD RESI.
205 BROAD STREET
PORTSMOUTH, NH

TITLE:

EXISTING AND
PROPOSED
ELEVATIONS

SCALE: AS NOTED

DRAWN BY: JR

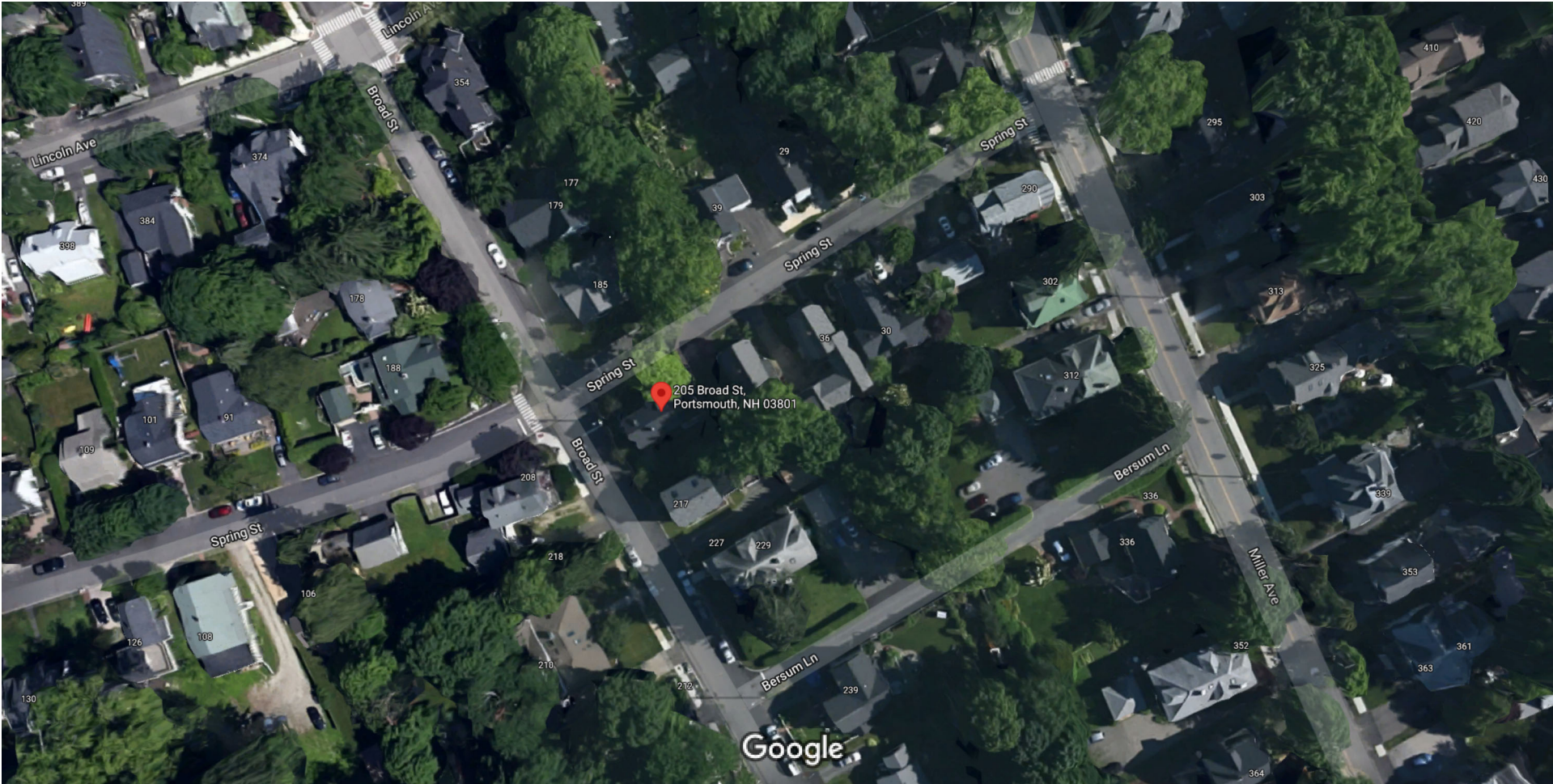
CHECKED BY:

PROJECT NO.: -

DATE: APRIL 7, 2021

A2.0

Google Maps 205 Broad St



Imagery ©2021 Google, Imagery ©2021 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, Map data ©2021 50 ft



Image capture: Sep 2011 © 2021 Google

Portsmouth, New Hampshire



Street View





Rear view from Spring Street



Side view from Spring Street

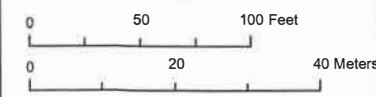


Side view from Spring Street

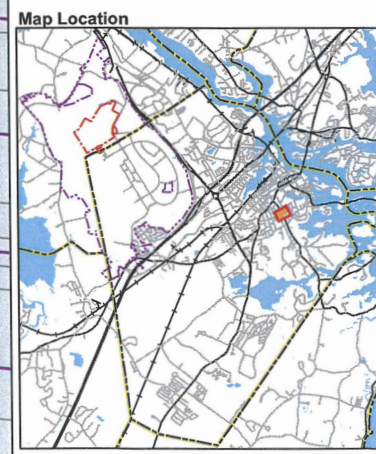
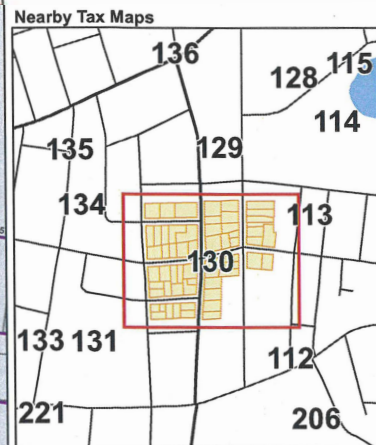


- Partial Legend**
See the cover sheet for the complete legend.
- 7-5A** Lot or lot-unit number
2.56 ac Parcel area in acres (ac) or square feet (sf)
25 Address number
233-137 Parcel number from a neighboring map
68' Parcel line dimension
- SIMS AVE** Street name
- Parcel/Parcel boundary
Parcel/ROW boundary
Water boundary
Structure (1994 data)
- Parcel covered by this map
Parcel from a neighboring map (see other map for current status)

EXHIBIT D



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.



Portsmouth, New Hampshire
2020
Tax Map 130