

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: Stephanie J. Johnson, Esquire
R. Timothy Phoenix, Esquire
DATE: November 17, 2025
Re: Laura Stewart & Evan Baker
20 Coffins Court
Tax Map 135/Lot 53
General Residence C (“GRC”)

Dear Chair Eldridge and Zoning Board Members:

On behalf of the Applicant, Laura Stewart and Evan Baker (“Stewart & Baker”), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief from the Portsmouth Zoning Ordinance (“PZO”) to allow installation of dormers to increase living space on the third floor and installation of a spiral staircase in the rear of the home to allow outdoor access between the second and third floors (the “Project”). Although the Project is largely confined to the home’s existing footprint, relief is necessary because the existing home encroaches on side, front, and rear setbacks. The Project as proposed reduces open space by 0.7%, requiring additional relief.

I. EXHIBITS

- A. Site Plan Set – Ross Engineering, LLC.
 - Existing Conditions Plan
 - Site Plan
 - Elevations
- B. Architectural Plan Set – Mangel DeStefano Architects.
 - First Floor Plan
 - Second Floor Plan
 - Third Floor Plan
 - Lower Level Floor Plan
 - Elevations – South and West
 - Elevations – North and East
 - Sections & Perspectives
- C. Site Photos.
- D. Tax Map 135.

II. PROPERTY/PROJECT

20 Coffins Court is an undersized 2,036-s.f. lot containing a five-bedroom, two-bathroom single family home with 1,559-s.f. of living area (“the Property”). Due to the size constraints of

the existing lot, Stewart & Baker propose to expand the third floor of their home by adding dormers to increase available living space without expanding their home's footprint. The Project complies with height restrictions. However, because the existing home encroaches on side, front, and rear setbacks, relief is required for expansion via the dormers even though they are within the existing home's perimeter. In addition to the third-floor expansion, Stewart & Baker propose to install a spiral staircase at the rear of the property to allow for outdoor ingress and egress between the existing second and third floor decks, marginally increasing building coverage from 49.6% to 50.3% and decreasing open space on the lot from 5.3% to 4.5%, requiring relief. Although relief is required to proceed with the Project, the increase in indoor living space and improved functionality of the outdoor space blends in with the neighborhood while increasing the Property's value.

III. RELIEF REQUIRED

1. PZO §10.321 – Expansion of nonconforming structure – To permit a construction of a dormer 4.1 feet from the right-side lot line where 4.1 feet exists and 10 feet is required.
2. PZO §10.321 – Expansion of nonconforming structure – To permit construction of an exterior spiral staircase 5.8 feet from the left-side lot line where 1.5 feet exists and 10 feet is required.
3. PZO §10.521 – Table of Dimensional Standards – To permit construction of a dormer 4.1 feet from the right-side lot line where 4.1 feet exists and 10 feet is required.
4. PZO §1.521 – Table of Dimensional Standards – To permit construction of third-floor dormers and an exterior spiral staircase in the rear of the home, increasing building coverage to 50.3% where 49.6% building coverage exists and 35% is permitted.
5. PZO §1.521 – Table of Dimensional Standards – To permit construction of third-floor dormers and an exterior spiral staircase, decreasing open space to 4.5% where 5.3% exists and 20% 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 are not contrary to the public interest and are 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 the variances “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.

Portsmouth Zoning Ordinance (“PZO”) Section 10.121 identifies the general purposes and intent of the ordinance “to promote the health, safety and general welfare of Portsmouth...in accordance with the...Master Plan.” These purposes are accomplished by regulating:

- The use of land, buildings and structures for business, industrial, residential and other purposes – The Property will continue to support a residential use in a residential zone.
- The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The Project is largely contained within the existing home’s footprint, maximizing living space while unnoticeably increasing building area and imperceptibly reducing open space on the lot.
- The design of facilities for vehicular access, circulation, parking and loading – No change.
- The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – The Project does not increase the impact of the existing home on outdoor lighting, noise, vibration, stormwater runoff or flooding as it makes use of the home’s existing footprint. The Project improves the aesthetics and livability of the home.
- The preservation and enhancement of the visual environment – The Project increases available living space while maintaining the character of the existing single-family home, rather than tearing it down and replacing it with a modern structure out of character with the surrounding neighborhood.
- The preservation of historic districts and building and structures of historic architectural interest – As previously noted, the Project preserves the existing home, noted in tax records to have been built in 1880, rather than replacing it with a modern structure that would clash with the existing neighborhood’s aesthetic.
- The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The existing driveway and lower-level patio are made from permeable pavers, ensuring infiltration of stormwater runoff, offsetting the Project’s negligible decrease in open space and scant increase in lot coverage.

The intent of the GRC 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. The Project meets the intent of the GRC Zone. It permits the improvement of an existing single-family home consistent with the surrounding area by expanding living space at a code compliant height without further encroachment into setbacks

than the existing structure. The proposed spiral staircase provides additional usability and safety via outdoor ingress and egress between the existing second and third floor decks at the rear of the property. 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)

Coffins Court is a very narrow lane connecting Union Street and Cabot Street. See Exhibit D. Stewart & Baker’s home encroaches on existing setbacks. Exhibits A, D. Four of the nine lots with frontage on Coffins Court are undersized: 37 Coffins Court (single-family home, 2,178-s.f.); 45 Coffins Court (two-family home, 1,306-s.f.), 179 Union Street (three-family home, 2,613-s.f.), and 74 Cabot Street (single-family home, 3,485-s.f.). *Id.* This proposal simply adds third floor dormers within the existing footprint and a spiral staircase at the rear of the structure, is in keeping with the surrounding area. The proposed design is tasteful and maintains the existing neighborhood aesthetic. Granting the variances reasonably permits a height-compliant expansion of living area and a means of outdoor ingress and egress between the existing second and third floor decks. Clearly, the variances neither alter the essential character of the locality nor threaten the public health, safety, or welfare. Accordingly, granting the variances is not contrary to the public interest and observes the spirit of ordinance.

3. Substantial justice will be done by granting the variances.

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, LLC, 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.

Stewart & Baker are constitutionally entitled to the reasonable use of their land. For all of the reasons previously stated, it is entirely reasonable to expand available living space and install a staircase to provide a means of access between existing outdoor decks without

disturbing the Property's original footprint. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

The variances allow a tasteful third floor expansion of existing living space without increasing the footprint of the existing home. The Project is visually consistent with the existing neighborhood's character and appearance. Stewart & Baker have lived in the home for over twenty years. As long-time Portsmouth residents, rather than proposing a replacement home that would stand out, the Project continues to fit the character of the existing neighborhood, honoring their home's original design and aesthetics while providing additional living space and improving functionality of their outdoor space. The addition of a spiral staircase at the rear of the property results in an imperceptible increase in building coverage (0.7%) and decrease in open space (0.8%). Thus, there is no gain to the public from denial of the variances. Conversely, Stewart & Baker will be greatly harmed by denial of any of the variances because they will be unable to reasonably expand their living space supported by the use and safety provided by the exterior staircase connecting their existing decks. Accordingly, substantial justice will be done by granting the variances, while a substantial injustice will be imposed upon Stewart & Baker if denied.

4. Granting the variances will not diminish surrounding property values.

The Project provides a small increase in volume within the existing home's perimeter in a thickly settled neighborhood with multiple nonconforming structures. The right side dormer is no closer to the side lot line than the existing home, and the proposed staircase encroaches less than the existing deck on the left side of the lot. Given the limited scope of the request and its imperceptible effect on building coverage and open space, it is clear that granting the variances will not diminish surrounding property values.

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

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

The Property, at .05 acres, is a very small lot situated in a high-density residential neighborhood. The Property is developed with a 145-year-old, nonconforming structure within the front, side, and rear setbacks. The existing deck and stairs leading to the lower-level patio are entirely within the left side setback. Any change to the Property would require similar relief. Additionally, the Property is located in a densely developed area with many other homes that do not comply with front, side, or rear yard requirements. 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 purpose of setbacks is to prevent overcrowding and overburdening of land, provide sightlines for pedestrians and motorists, ensure adequate light and air circulation, and provide sufficient area for stormwater treatment. None of these purposes are impaired by granting the requested variances. The nonconforming home already exists in the front, side, and rear yard setbacks and the volume related to the dormers is minimal. No relief is required for the left side dormer as the home's left side does not encroach on the setback. The dormers do not expand beyond the existing home's footprint and are compliant with height limitations. Similarly, the spiral staircase, although located within the left side setback, is more conforming than the existing deck and stairs leading to the lower patio. No expansion is proposed beyond the existing footprint is proposed here.

Moreover, the overall neighborhood is similarly densely developed with multiple nearby nonconforming lots and structures. See Walker v. City of Manchester, 107 N.H. 382, 386 (1966) (Hardship may be found where similar nonconforming uses exist within the neighborhood and

the proposed use will have no adverse effect on the neighborhood). See also Belanger v. City of Nashua, 121 N.H. 389 (1981) (Variance proper where ordinance no longer reflects the current character of neighborhood). Balancing the clearly minimal effect upon neighbors against the reasonable request to expand living space while maintaining the existing home's footprint and add an outdoor staircase to connect the existing second and third floor decks at the rear of the Property, there is no fair and substantial relationship between the purposes of the setback, lot coverage, and open space requirements and their application in this instance.

c. The proposed use is reasonable.

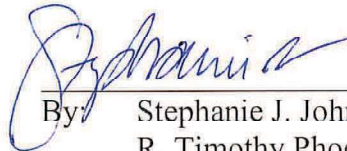
If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted in the GRC Zone. The Project expands third-floor living space while maintaining the existing footprint of the home, and adds an outdoor staircase for ease of outdoor ingress and egress. The resulting decrease in open space and increase in lot coverage is so miniscule as to be unnoticeable.

V. CONCLUSION

For all of the reasons stated, Stewart & Baker respectfully request that the Portsmouth Zoning Board of Adjustment grant the requested variances.

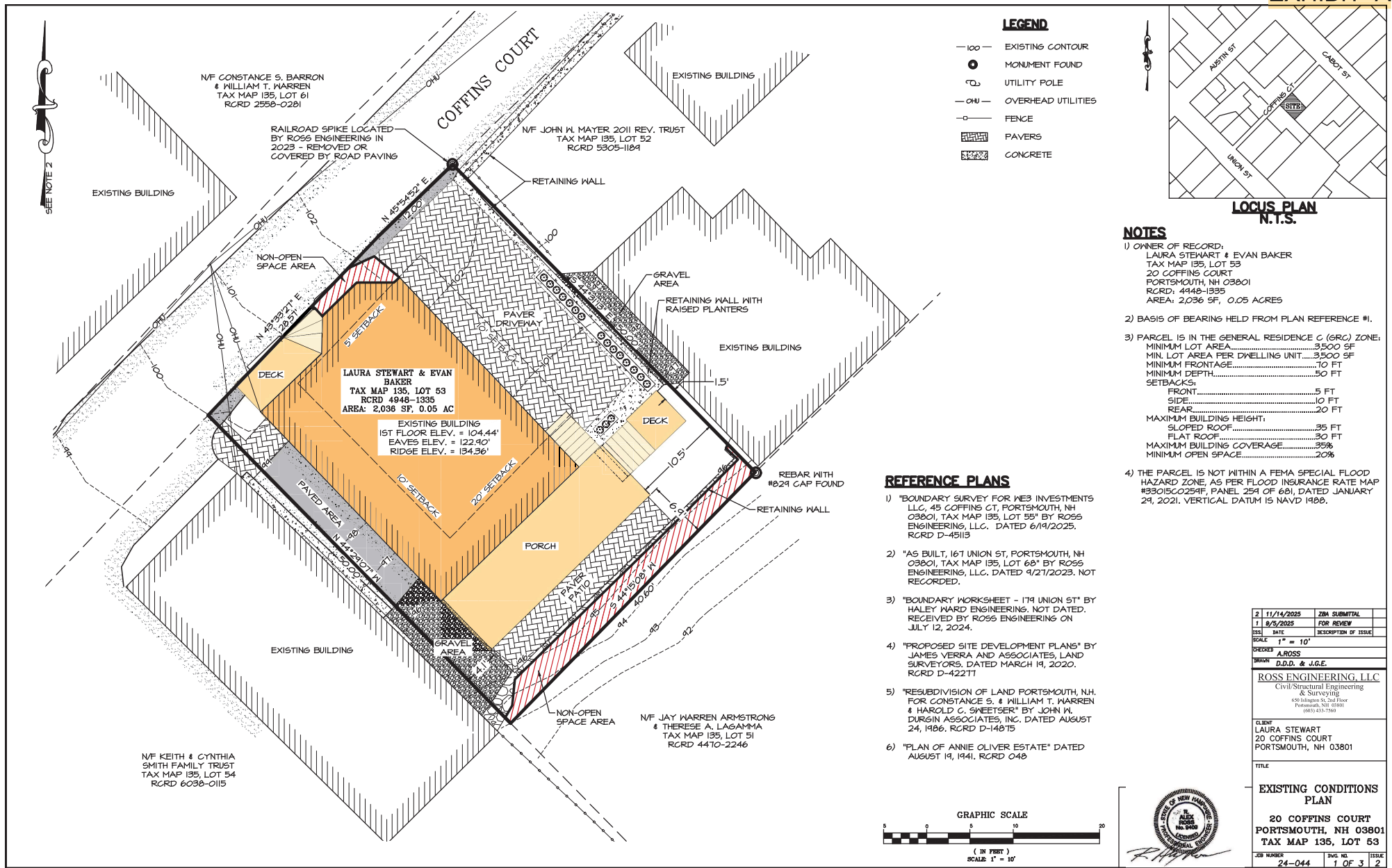
Respectfully submitted,

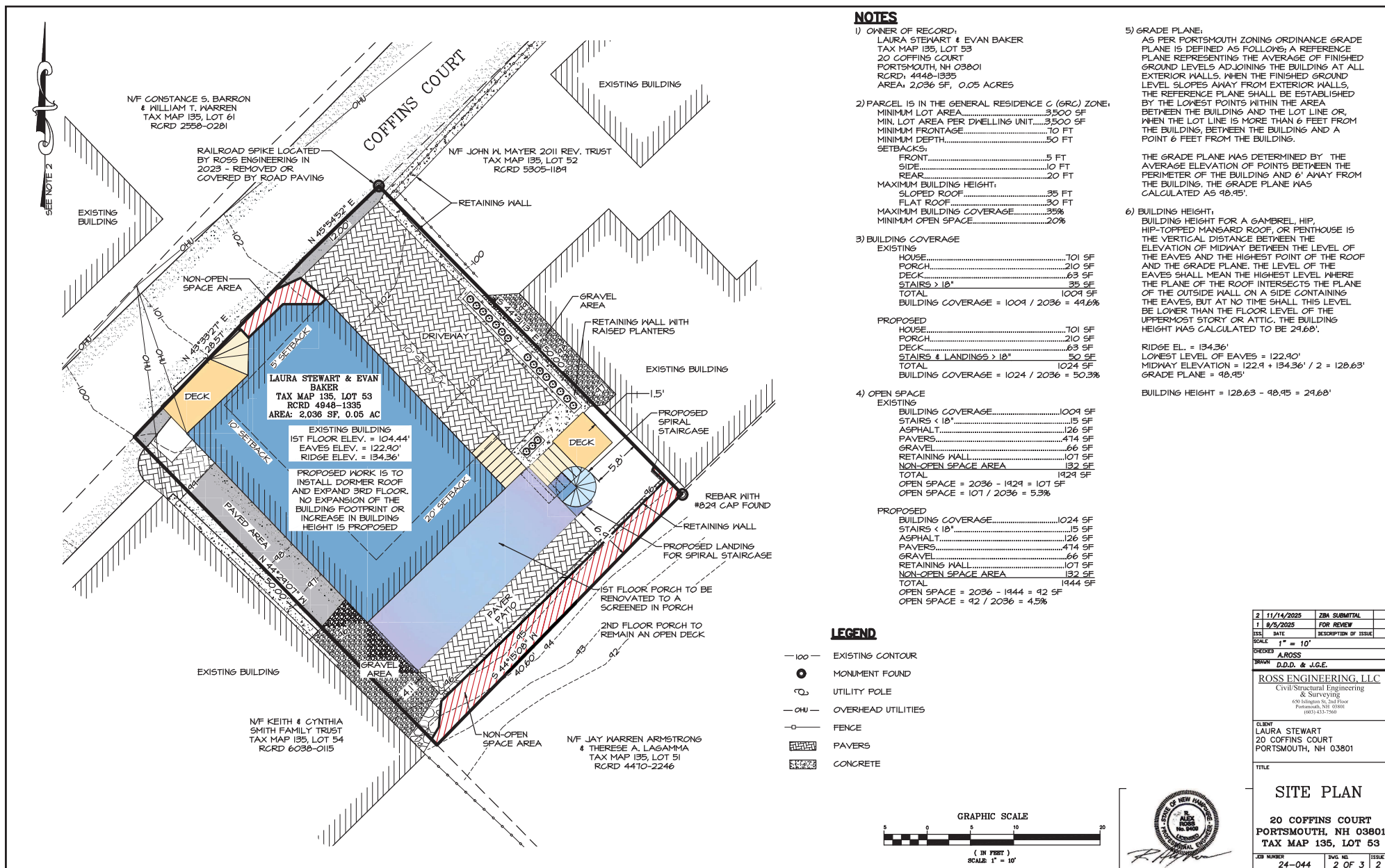
Laura Stewart & Evan Baker

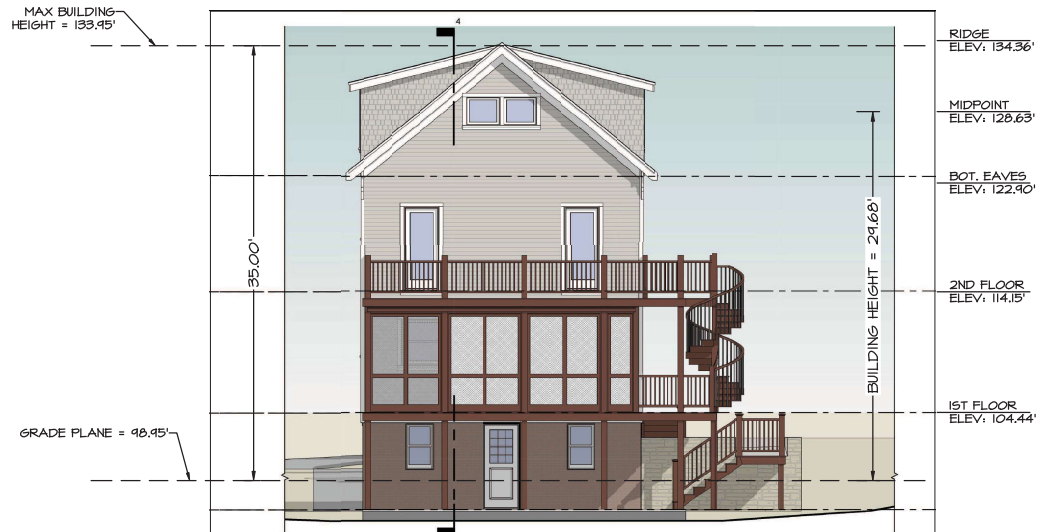
A handwritten signature in blue ink, appearing to read "Stephanie J. Johnson", is written over a horizontal line.

By: Stephanie J. Johnson
R. Timothy Phoenix

EXHIBIT A







PROPOSED NORTH ELEVATION

Scale: 1"=3'

NOTES

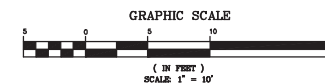
1) GRADE PLANE:
AS PER PORTSMOUTH ZONING ORDINANCE GRADE PLANE IS DEFINED AS FOLLOWS: A REFERENCE PLANE REPRESENTING THE AVERAGE OF FINISHED GROUND LEVELS ADJOINING THE BUILDING AT ALL EXTERIOR WALLS. WHEN THE FINISHED GROUND LEVEL SLOPES AWAY FROM EXTERIOR WALLS, THE REFERENCE PLANE SHALL BE ESTABLISHED BY THE LOWEST POINTS WITHIN THE AREA BETWEEN THE BUILDING AND THE LOT LINE OR, WHEN THE LOT LINE IS MORE THAN 6 FEET FROM THE BUILDING, BETWEEN THE BUILDING AND A POINT 6 FEET FROM THE BUILDING.

THE GRADE PLANE WAS DETERMINED BY THE AVERAGE ELEVATION OF POINTS BETWEEN THE PERIMETER OF THE BUILDING AND 6' AWAY FROM THE BUILDING. THE GRADE PLANE WAS CALCULATED AS 98.95'.

2) BUILDING HEIGHT:
BUILDING HEIGHT FOR A GAMBREL, HIP, HIP-TOPPED MANSARD ROOF, OR PENTHOUSE IS THE VERTICAL DISTANCE BETWEEN THE ELEVATION OF MIDWAY BETWEEN THE LEVEL OF THE EAVES AND THE HIGHEST POINT OF THE ROOF AND THE GRADE PLANE. THE LEVEL OF THE EAVES SHALL MEAN THE HIGHEST LEVEL WHERE THE PLANE OF THE ROOF INTERSECTS THE PLANE OF THE OUTSIDE WALL ON A SIDE CONTAINING THE EAVES, BUT AT NO TIME SHALL THIS LEVEL BE LOWER THAN THE FLOOR LEVEL OF THE UPPERMOST STORY OR ATTIC. THE BUILDING HEIGHT WAS CALCULATED TO BE 29.68'.

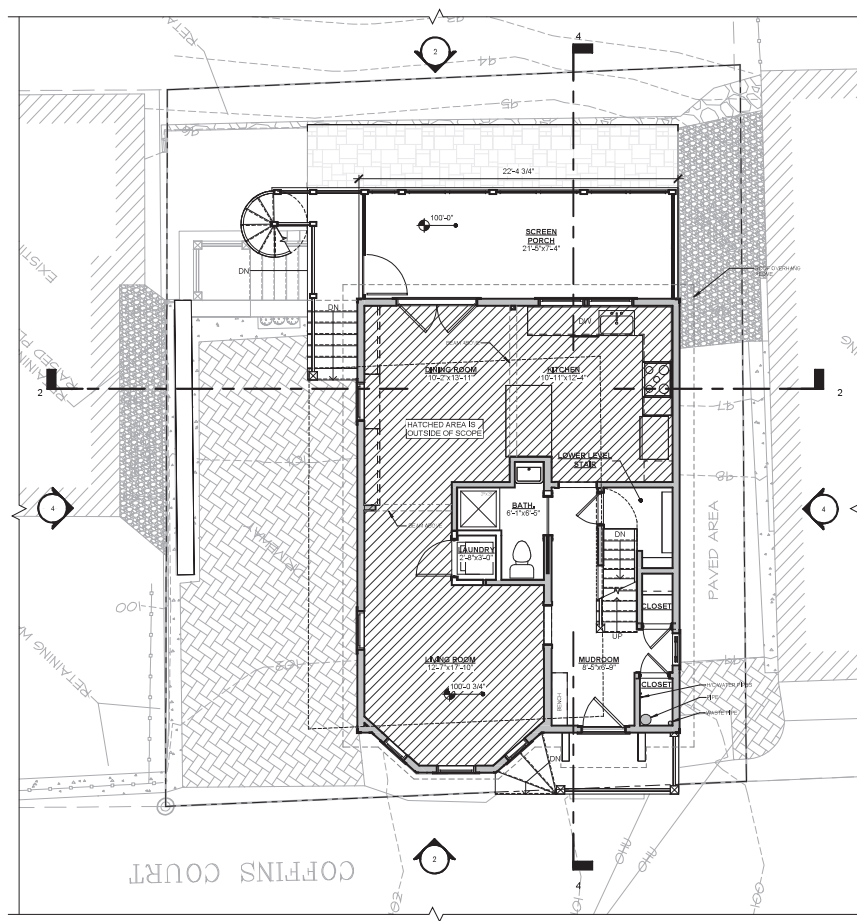
RIDGE EL. = 134.36'
LOWEST LEVEL OF EAVES = 122.90'
MIDWAY ELEVATION = $122.9 + 134.36' / 2 = 128.63'$
GRADE PLANE = 98.95'

BUILDING HEIGHT = $128.63 - 98.95 = 29.68'$

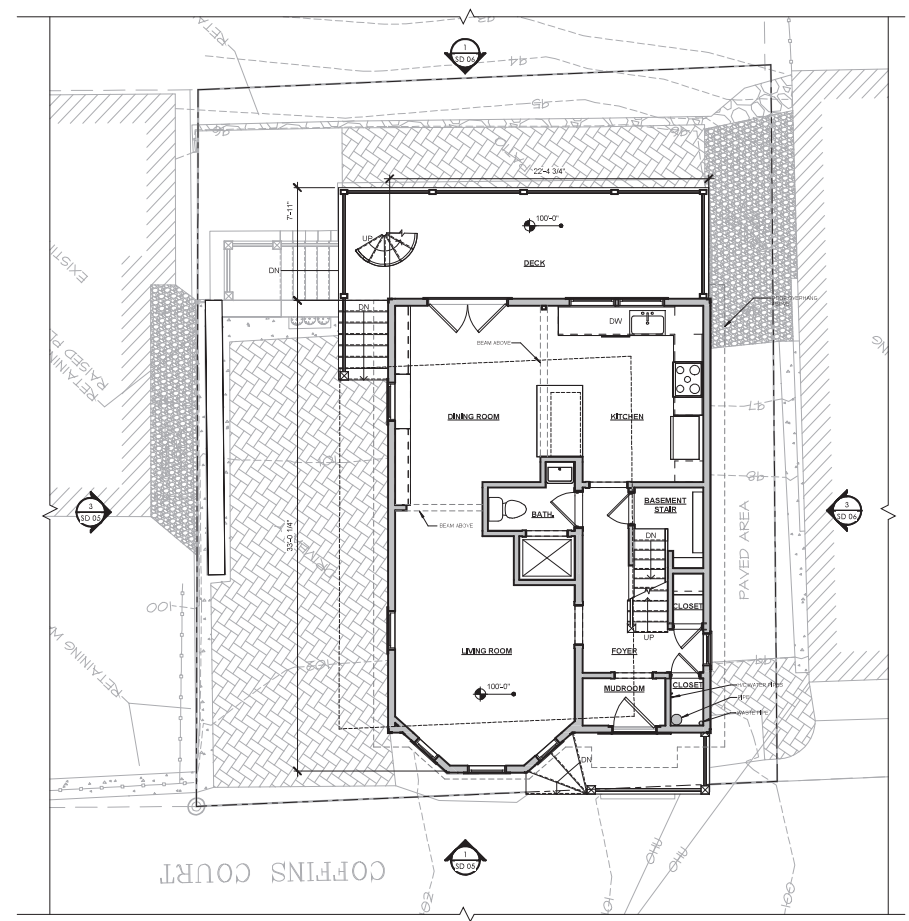


2	11/14/2025	ZBA SUBMITTAL	
1	8/5/2025	FOR REVIEW	
ISS.	DATE	DESCRIPTION OF ISSUE	
SCALE: 1" = 10'			
CHECKED: A.ROSS			
DRAWN: D.D.D. & J.G.E.			
ROSS ENGINEERING, LLC Civil/Structural Engineering & Surveying 650 Silsbee St., 2nd Floor Portsmouth, NH 03801 (603) 433-7500			
CLIENT: LAURA STEWART 20 COFFINS COURT PORTSMOUTH, NH 03801			
TITLE: <h2>ELEVATIONS</h2> 20 COFFINS COURT PORTSMOUTH, NH 03801 TAX MAP 135, LOT 53			
JOB NUMBER	24-044	DWG. NO.	3 OF 3
ISSUE			2

EXHIBIT B



PROPOSED FIRST FLOOR PLAN 2
1/4" = 1'-0"



EXISTING FIRST FLOOR PLAN 1
1/4" = 1'-0"

SCHEMATIC DESIGN
BAKER RESIDENCE

20 COFFINS COURT, PORTSMOUTH NH

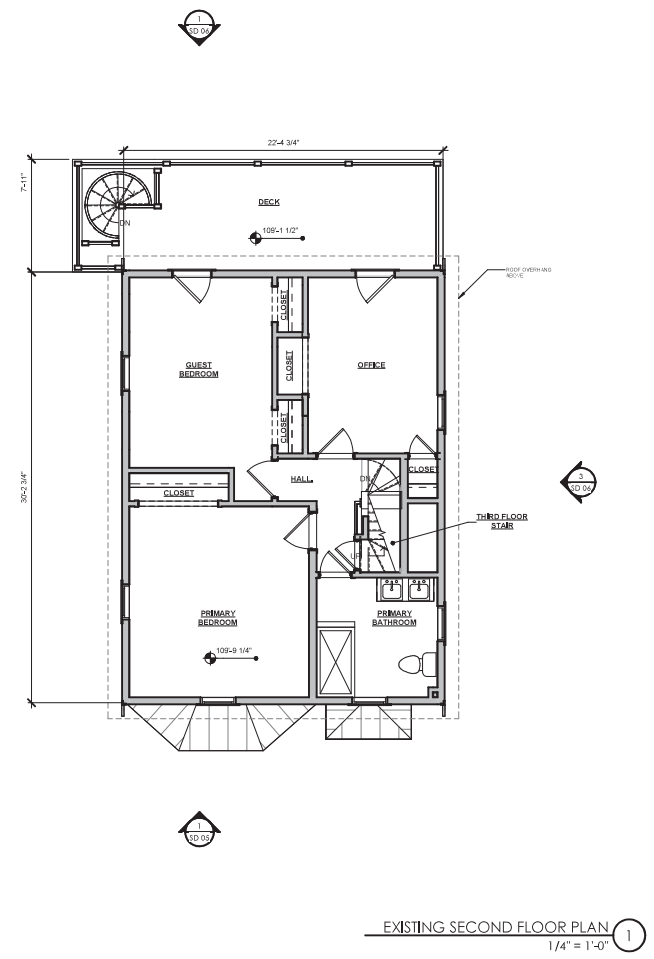
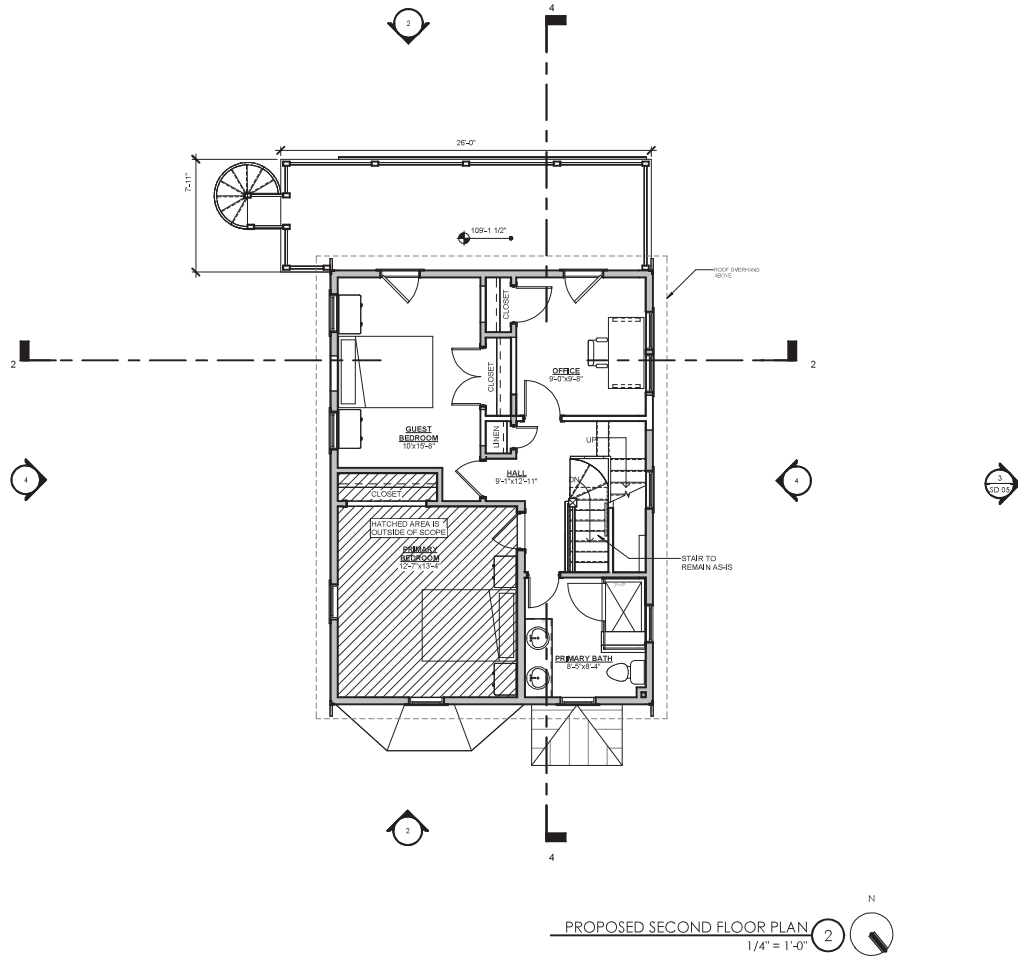
FIRST FLOOR PLAN

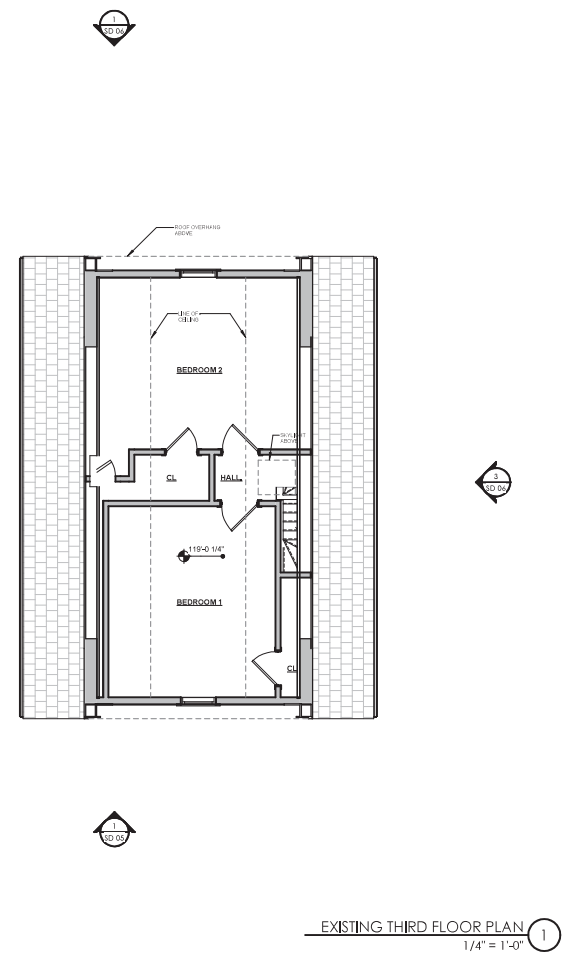
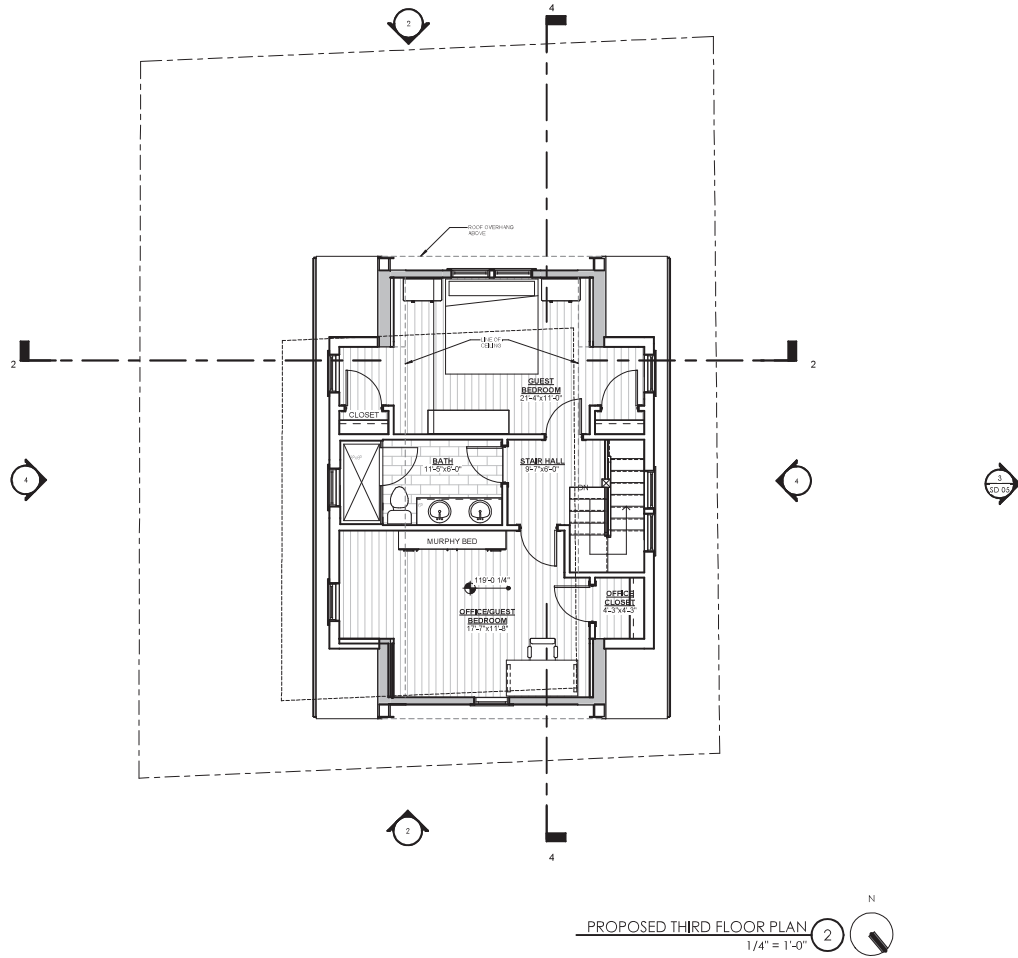
SEPTEMBER 23, 2025

Shaping the Exceptional / 22 Ladd Street Portsmouth, NH 03801 / 603.431.8701

Project #25039

MAUGEL
DESTEFANO
ARCHITECTS





SCHEMATIC DESIGN
BAKER RESIDENCE

20 COFFINS COURT, PORTSMOUTH NH

THIRD FLOOR PLAN

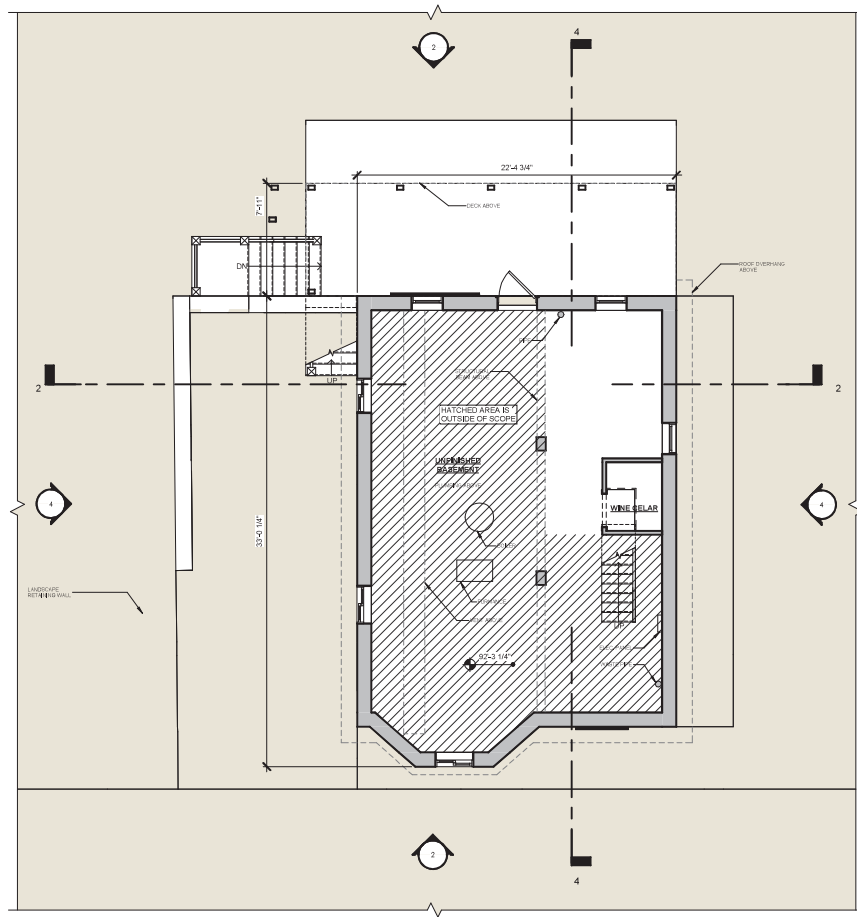
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Project #25039

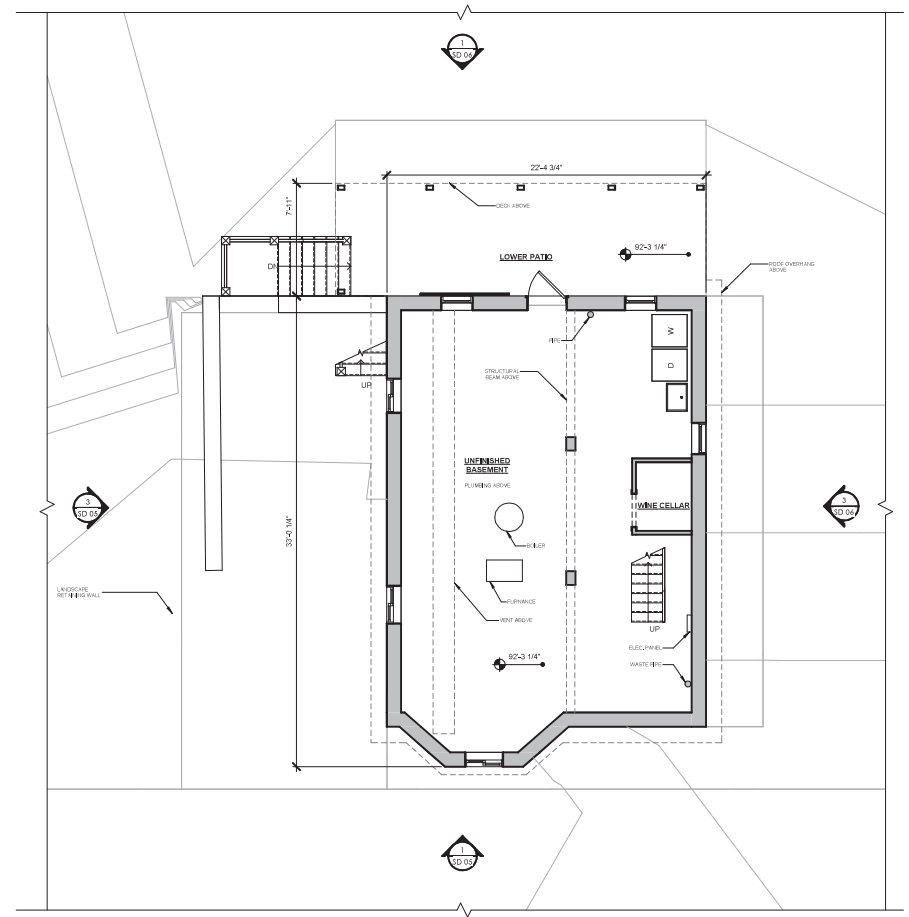
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ARCHITECTS

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PROPOSED LOWER LEVEL FLOOR PLAN 2

1/4" = 1'-0"



EXISTING LOWER LEVEL FLOOR PLAN 1

1/4" = 1'-0"

SCHEMATIC DESIGN
BAKER RESIDENCE

20 COFFINS COURT, PORTSMOUTH NH

LOWER LEVEL FLOOR PLAN

SEPTEMBER 23, 2025

Shaping the Exceptional / 22 Ladd Street Portsmouth, NH 03081 / 603.431.8701

Project #25039



PROPOSED WEST ELEVATION
1/4" = 1'-0" 4



PROPOSED SOUTH ELEVATION
1/4" = 1'-0" 2



EXISTING WEST ELEVATION
1/4" = 1'-0" 3



EXISTING SOUTH ELEVATION
1/4" = 1'-0" 1

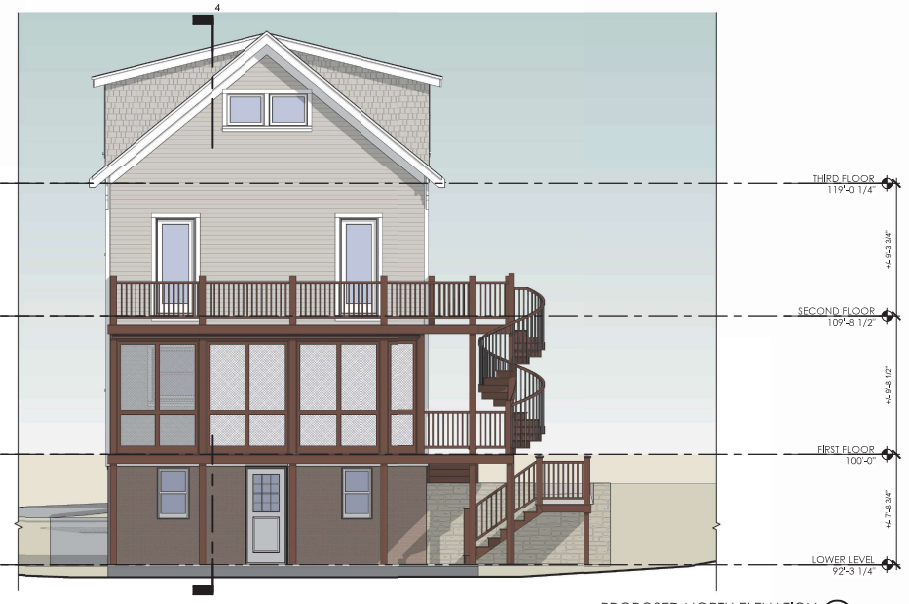
SCHEMATIC DESIGN
BAKER RESIDENCE
20 COFFINS COURT, PORTSMOUTH NH

ELEVATIONS

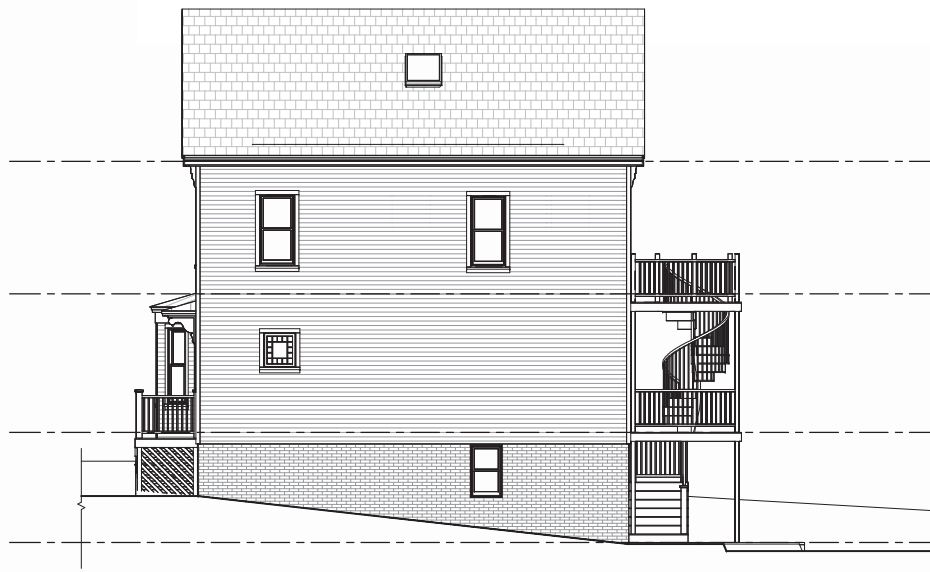
SEPTEMBER 23, 2025



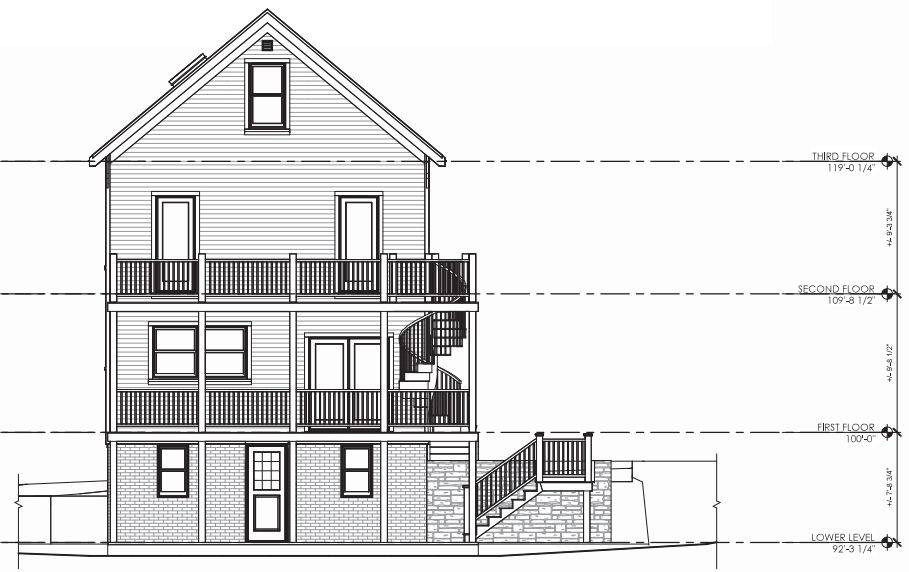
PROPOSED EAST ELEVATION
1/4" = 1'-0" 4



PROPOSED NORTH ELEVATION
1/4" = 1'-0" 2



EXISTING EAST ELEVATION
1/4" = 1'-0" 3



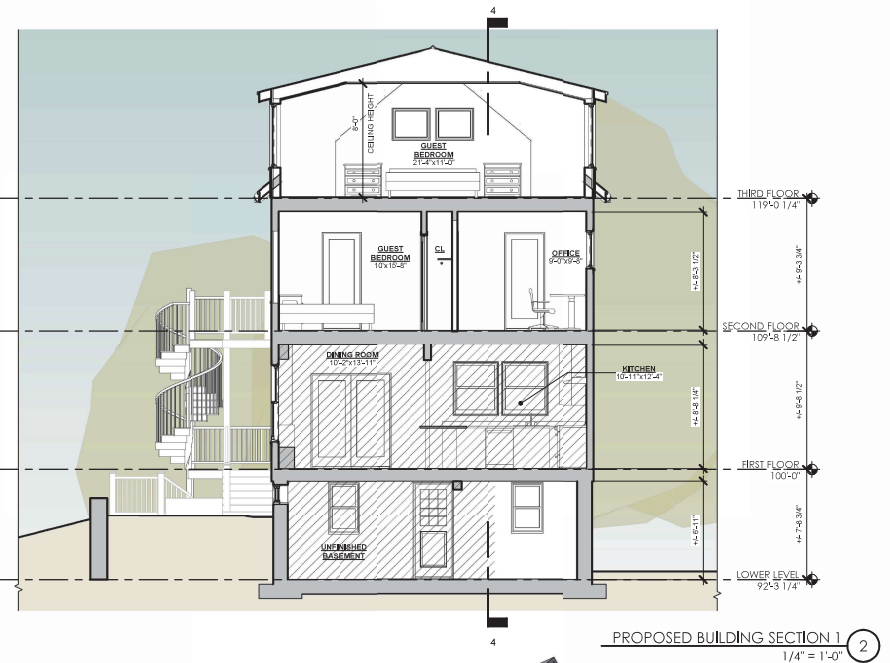
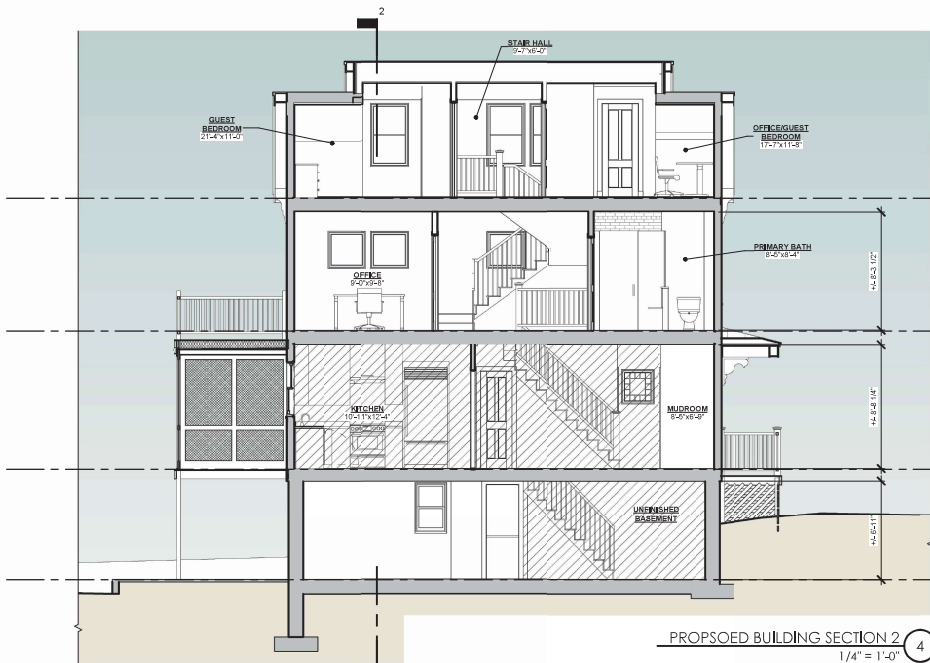
EXISTING NORTH ELEVATION
1/4" = 1'-0" 1

SCHEMATIC DESIGN
BAKER RESIDENCE

20 COFFINS COURT, PORTSMOUTH NH

ELEVATIONS

SEPTEMBER 23, 2025



SCHEMATIC DESIGN
BAKER RESIDENCE

20 COFFINS COURT, PORTSMOUTH NH

SECTIONS & PERSPECTIVES

SEPTEMBER 23, 2025

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Project #25039

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