

BY: VIEWPOINT & HAND DELIVERY

February 26, 2024

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Kerrin J. Parker, Trustee of the Kerrin J. Parker
Revocable Trust of 2012
86 Haven Road, Tax Map 206, Lot 27**

Dear Stefanie,

Please find a copy of the following revised submission materials relative to the above referenced variance application for property located at 86 Haven Road, Portsmouth:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Existing and Proposed Conditions Site Plan;
- 4) Architectural Plans;
- 5) Photographs of Property.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,



Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Kerrin J. Parker, Trustee of the Kerrin J. Parker Revocable Trust, record owner of the property located at 86 Haven Road, Tax Map 206, Lot 27, Portsmouth, NH (the “Property”), hereby authorizes **Durbin Law Offices, PLLC** to file any zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

Kerrin J. Parker Revocable Trust

A handwritten signature in black ink, appearing to read 'K. Parker', written over a horizontal line.

January 10, 2024

Kerrin J. Parker, Trustee

CITY OF PORTSMOUTH
NARRATIVE
TO VARIANCE APPLICATION

Kerrin J. Parker Revocable Trust of 2012
Kerrin J. Parker, Trustee
("Applicant")

86 Haven Road
Tax Map 206, Lot 27

Introduction

Existing Conditions

The Property is a 7,841 square foot improved parcel of land situated at the very end of Haven Road owned by Kerrin J. Parker, as Trustee of the Kerrin J. Parker Revocable Trust of 2012 (the "Property"). The Property contains a relatively small single-family residence here she resides with her two children. It is zoned Single-Family Residence B. The Property is abutted by single-family homes to the north and east. To the south and west, it is abutted by Little Harbor School and open green space owned by the City.

The single-family home on the Property was originally built in 1941. There is also a very small shed and detached garage to the north of the home. The existing home was originally one-story in height and consisted of only the front of the house facing Haven Road. In 1983, the Zoning Board of Adjustment ("Board") granted the variance relief necessary to construct a small two-story addition to the rear. The resulting addition that was constructed is actually only 1 $\frac{3}{4}$ stories in height. The front of the home remains one-story in height and then transitions to 1 $\frac{3}{4}$ stories in the rear. In 2005, relief was granted to allow another small, one-story addition to the rear of the two-story addition.

Proposed Conditions

Second Floor Expansion

The Applicant would like to remove the existing roof and reframe the addition in the rear to allow for a full second floor on the home to accommodate an additional bedroom and bathroom. Presently, the Applicant shares a bathroom with her two daughters on the second floor of the home. The expansion of the second floor will allow for an additional bathroom and bedroom to accommodate a family of three (3).

Porch Addition

In addition to creating a full second floor over the existing footprint of the home, the Applicant desires to add a 316.5 square foot farmers porch onto the front of the home to improve its architectural appeal and functionality. The new porch would connect the existing front entryway to the south (right) to the existing side deck and entryway to the north (left).

Existing Non-Conformities

The Property is already lawfully non-conforming in the following respects:

Lot Area – 7,241 square feet

Lot Area per Dwelling Unit – 7,241 square feet

Continuous Street Frontage – 86’

Building Coverage – 24.13%

Front Yard Setback – 12’*

Rear Yard Setback – 20’

Right Yard Setback – 1’

*See footnote 1 below. Those items highlighted in Red are the existing non-conformities that are being expanded upon as set forth in the Zoning Relief Summary below.

Zoning Relief Summary

The Applicant seeks the following variances from the Board:

Article 10.521

- a) Building Coverage – to allow 28.17% (+/-) building coverage where 24.13% (+/-) exists and 20% is allowed;
- b) Front Yard Setback – allow for a 9’ front yard setback where 12’ exists and 30’ is required.¹

Section 10.321: To allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

¹ Based on the average alignment of primary structures within 200’ on the same side of Haven Drive, the required front yard setback is approximately 10’ pursuant to Section 10.516.10 of the Ordinance. However, out of an abundance of caution, the Applicant has requested relief from the 30’ setback requirement since the average alignment calculation is based on GIS data rather than actual field data. See **Exhibit A**.

Variance Criteria

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

Second Floor Expansion

The vertical expansion of the second floor of the home will be located outside of the applicable building setbacks and contained entirely over the footprint of the existing home. The area of the existing home above which the expansion is proposed by itself does not violate the building coverage limitation in the Ordinance as the footprint is 1,044 square feet. The second-floor expansion has been included in the request for variance relief under Section 10.321 out of an abundance of caution due to the Property itself being non-conforming with respect to building coverage; however, this limitation does have a direct correlation to the proposed second-floor expansion and should not apply under the circumstances.

The public interest is observed by allowing for a code-compliant, aesthetically appealing expansion of the second floor of the home. It is also consistent with the spirit of the Ordinance, which in this case relates to total building coverage and is to protect against the overcrowding of land. Aside from the new farmer's porch, which is discussed below, there will be no expansion to the footprint of any existing structures on the Property.

Farmer's Porch

The proposed farmer's porch does constitute an expansion to the existing footprint of the building, thus increasing the building coverage by just over 4%, and would be located 1' further into the front yard setback than the existing front entryway. However, the appearance of the home will be improved aesthetically with the modifications made to the roofline and façade the home. Having a wrap-around farmers-style porch that connects the entryway to the south with the entryway to the north will also improve the functionality of the home and allow for more social interaction with the neighborhood while not altering the essential character of the neighborhood or having any negative impact upon the public interest. The proposed building coverage will be consistent with about half of the other properties along Haven Road.

The average alignment of primary structures within 200' of the Property on the same side of the street is approximately 10'. A 9' front yard setback will be consistent with the setback of other principal structures in this area of Haven Road. The primary purpose of minimum setback standards is to ensure that there is adequate light, air and space between abutting properties and the structures thereon. The spirit of the Ordinance will be observed, as the proposed farmer's porch will not have any impact upon the light, air and space of any abutting property.

Substantial Justice will be done in granting the variances.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The “only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); [*Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102 \(2007\)](#).

There is no conceivable gain to the public by denying the variance relief as it relates to the expansion of the second floor or the proposed farmer’s porch. It would constitute a loss to the Applicant to deny the request for the expansion of the second floor, as it will allow for a second bathroom and sufficient bedroom space for the Applicant and her two daughters. The farm’s porch is arguably unnecessary to make beneficial use of the home but adds aesthetic and functional value without negatively impacting any abutting properties. For the foregoing reasons, it would constitute an injustice to deny the application in whole or in part.

Surrounding property values will not be diminished by granting the variance.

It would be illogical to conclude that surrounding property values would be negatively affected in any sense by the proposed improvements to the Property. The proposed improvements will be in keeping with the character of the neighborhood and improve the Property aesthetically. The second-floor expansion and proposed farmer’s porch will only add value to the Property and hence, surrounding properties.

Literal enforcement of the provisions of the Ordinance would result in an any unnecessary hardship.

The Property has special conditions that distinguish it from surrounding properties. It is uniquely situated at the end of Haven Road, which is abutted by City land that consists of open green space (field(s)) to the south and west. The Property has 52% of the lot area required under SRB Zoning. Based on the area of the lot (7,841 sf.) and the 20% building coverage limitation, only 1,568 sf. of the Property can be occupied by structure. In addition, the Property is irregularly shaped. It has a panhandle or “logger’s boot” shape. It is 86’ in width in the front and narrows to 10’ in width at the rear lot line. Once the applicable building setbacks (10’/30’) are applied to the Property, there is very little area available for development. The original home on the Property was constructed in 1941, prior to current zoning, and did not account for the needs of a family in the 21st century.

For the aforementioned reasons, the Property is uniquely situated and burdened in comparison with surrounding properties, such that there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property. As argued above, it is undersigned counsel’s opinion that the expansion of the second floor should be exempt from needing variance relief under Section 10.321 and 10.521 of the Ordinance since it only involves a vertical expansion that does not further extend any existing non-conformities of the Property.

The proposed use is reasonable. The existing single-family use of the Property will continue and is encouraged and permitted by right in the SRB zoning district. The modifications to the Property will allow for a more modern, comfortable living environment that complies with the current building code and allows for safer ceiling height and better headroom on the second floor of the home.

Conclusion

The Applicant has demonstrated that her application meets the five (5) criteria for granting each of the variances requested. She thanks the Board for its time and consideration of her application and respectfully requests your approval.

Respectfully Submitted

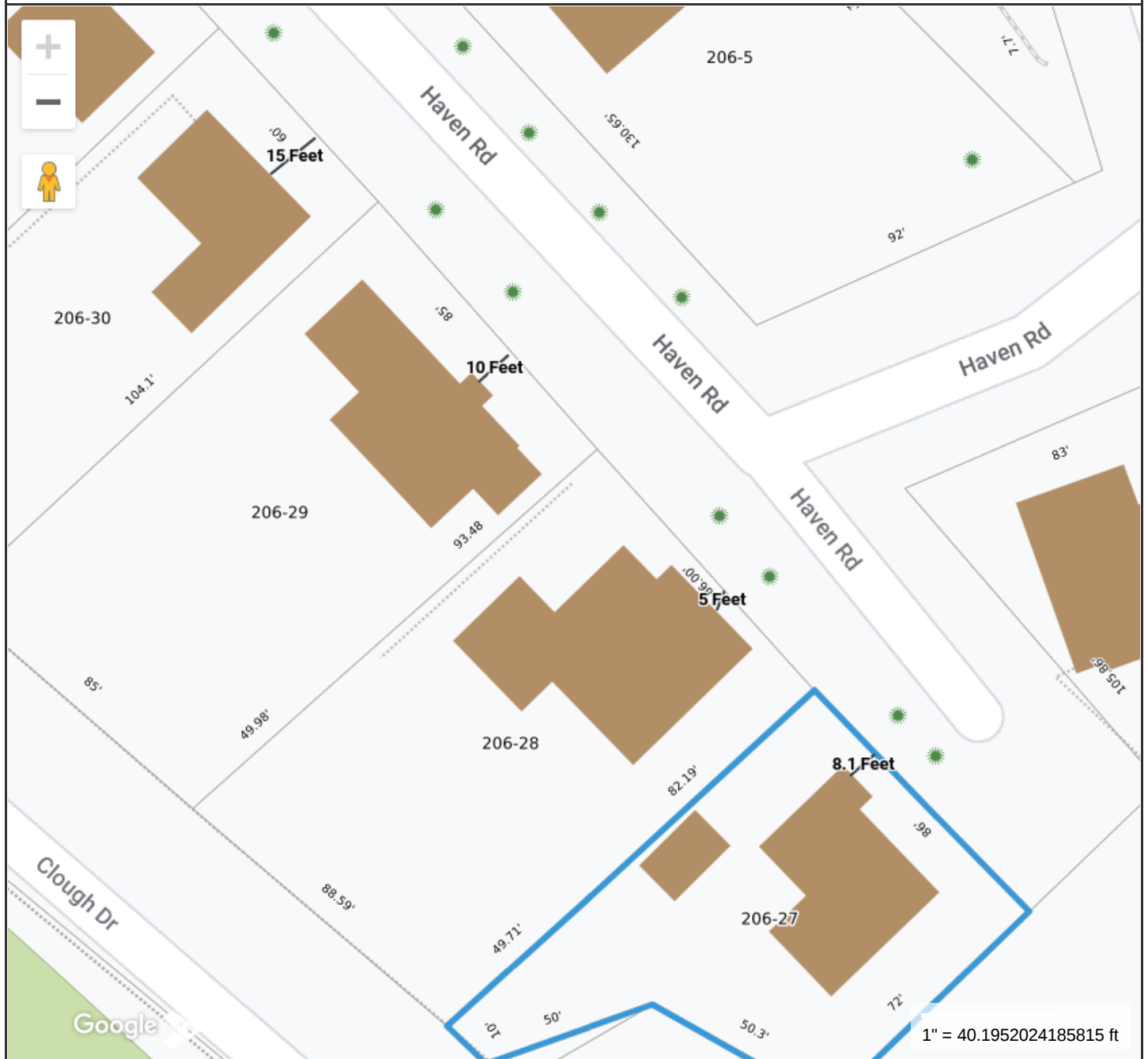
February 26, 2024

Kerrin J. Parker, Trustee of the Kerrin J.
Parker Revocable Trust of 2012



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EXHIBIT A



Property Information

Property ID 0206-0027-0000
Location 86 HAVEN RD
Owner PARKER KERRIN J REVO TRUST OF 2012



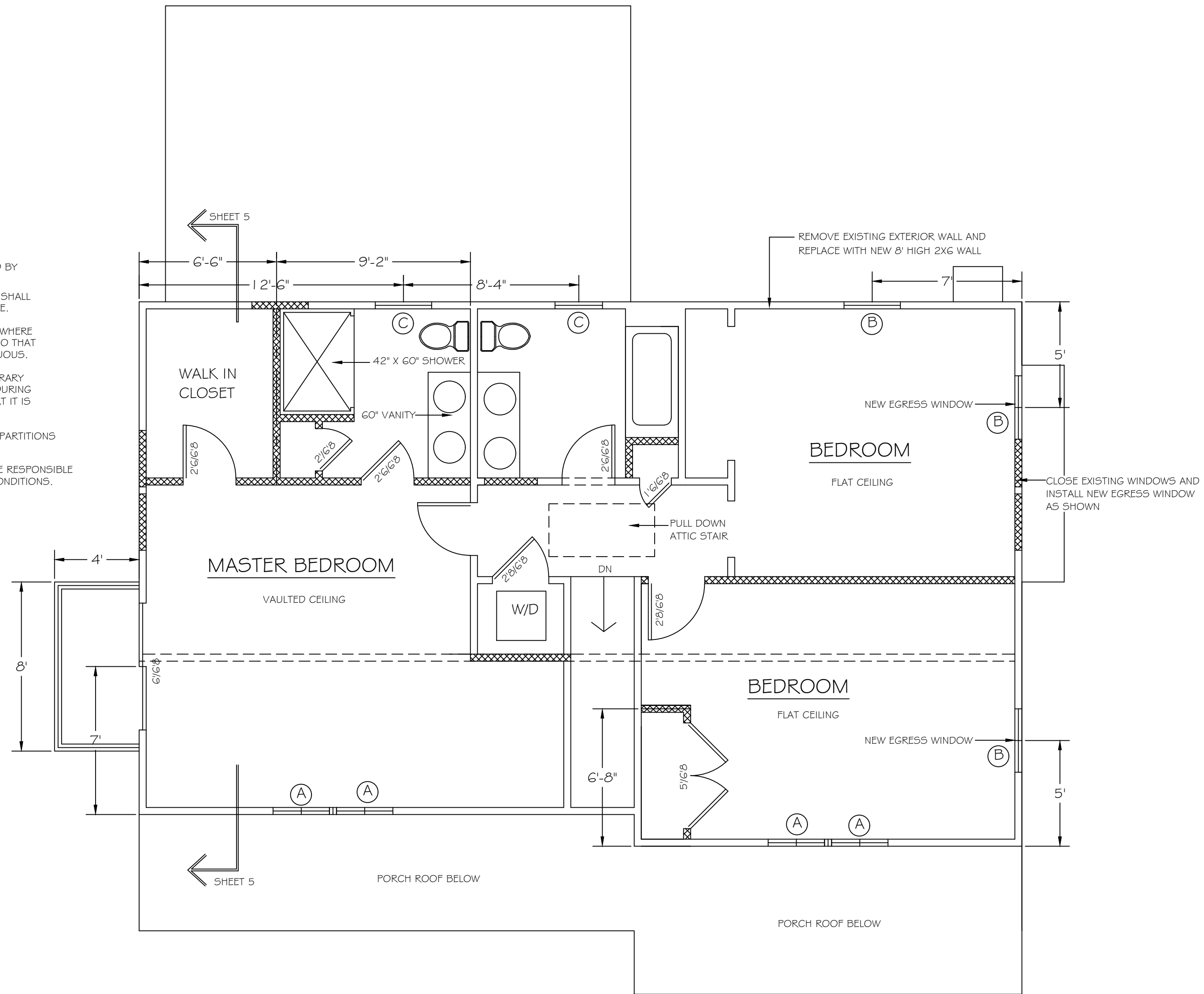
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 08/24/2023
Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

- NOTES:
1. REMOVE ALL PARTITIONS INDICATED BY DOTTED LINE.
 2. ALL NEW WORK ABUTTING EXISTING SHALL MATCH IN TEXTURE AND APPEARANCE.
 3. PATCH FLOORS, WALLS & CEILINGS WHERE PARTITIONS HAVE BEEN REMOVED SO THAT SURFACES ARE FLUSH AND CONTINUOUS.
 4. PROVIDE ALL SHORING AND TEMPORARY BRACING TO EXISTING STRUCTURE DURING DEMO OPERATIONS TO ASSURE THAT IT IS SUBSTANTIALLY SUPPORTED.
 5. PROVIDE TEMPORARY DUSTPROOF PARTITIONS IN AREAS OF WORK.
 6. CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND FIELD CONDITIONS.



NOTE:
MODEL NUMBERS SHOWN FOR WINDOWS
ARE FOR THOSE AS MANUFACTURED BY
ANDERSEN

SECOND FLOOR PLAN
1/4" = 1'-0

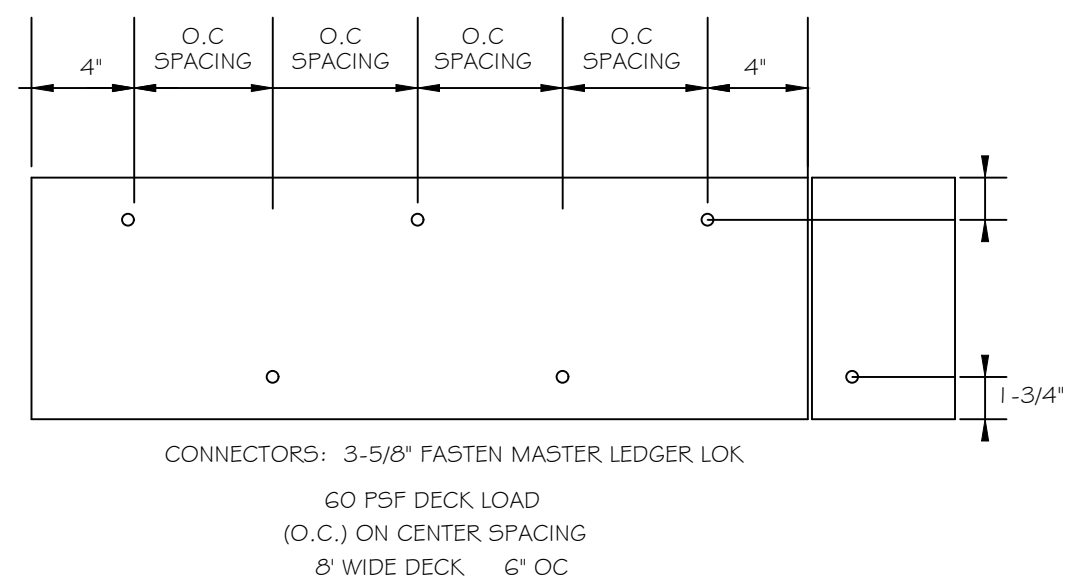
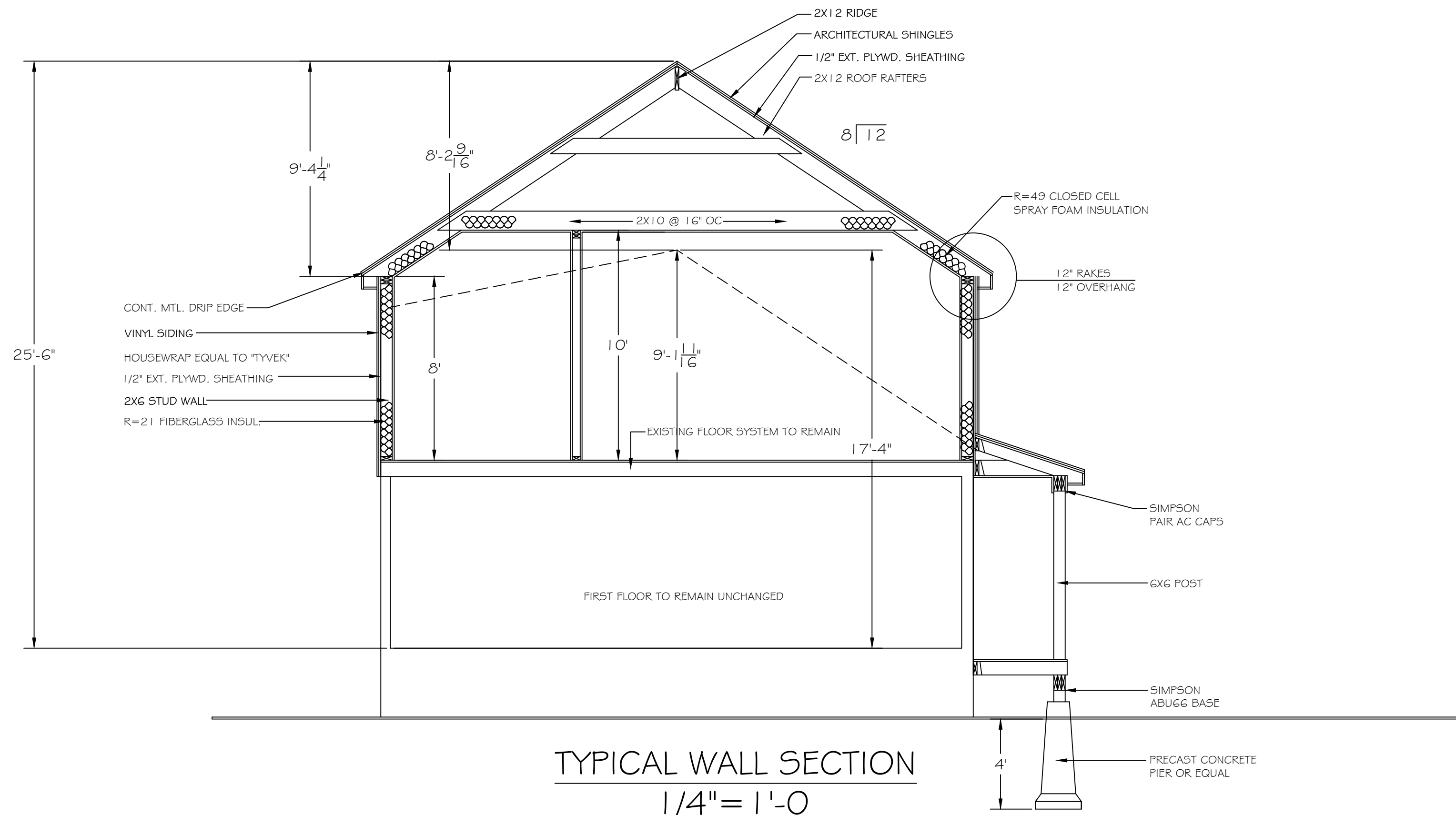
WINDOW SCHEDULE			
No	Model	TYPE	RO
A	2842	DH	2'-10 1/8" x 4'-4 7/8"
B	30410	DH	3'-2 1/8" x 5'-0 7/8"
C	2832	DH	2'-10 1/8" x 3'-4 7/8"

DRAWN BY:
MARTHA MACINNIS
58 REGENT AVE.
BRADFORD, MA. 01835
(978)374-8719

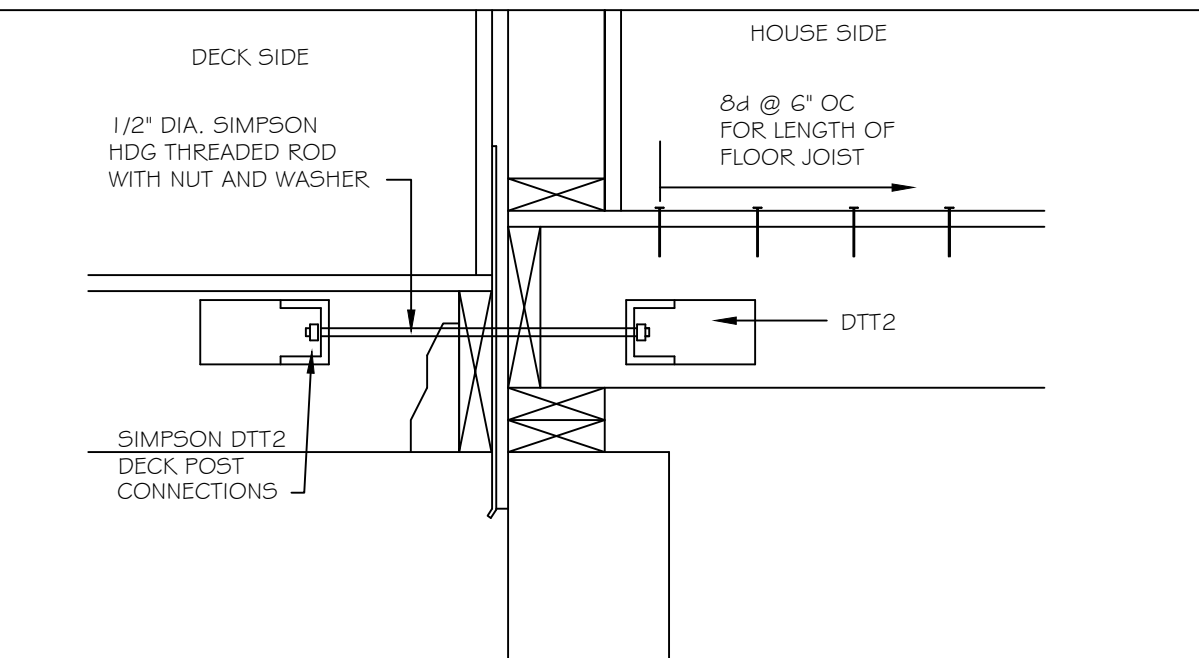
PROPOSED ADDITIONS & RENOVATIONS
86 HAVEN ROAD
PORTSMOUTH, NH

OCTOBER 6, 2023

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DECK LEDGER CONNECTION



DECK LATERAL LOAD CONNECTION

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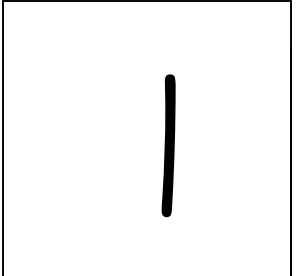


FRONT ELEVATION
 1/4" = 1'-0"

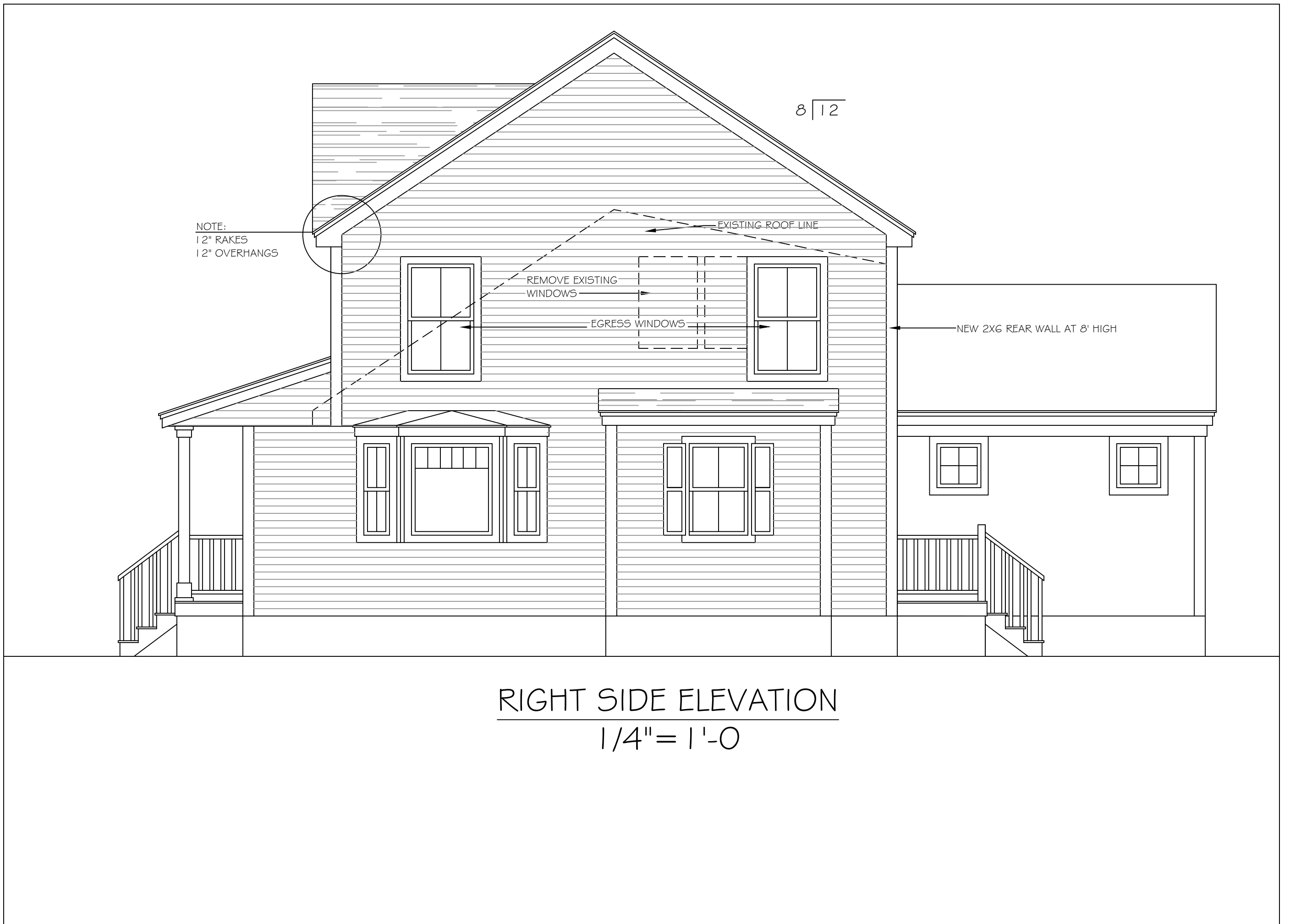
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