

**APPLICATION OF LISA L. SHAWNEY, TRUSTEE of the EARLEEN M.
FERNALD REVOCABLE TRUST
901 MAPLEWOOD AVENUE, PORTSMOUTH
Map 219, Lot 58**

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicant, Lisa L. Shawney, Trustee, owns the single family residence located at 901 Maplewood Avenue. The land on which it sits has been in her family since for over 100 years. Ms. Shawney grew up in the home with her parents, and now desires to move her own family into the home, however, significant upgrades will be required to accommodate a modern family.

According to City tax records, the existing single family dwelling was built by the applicant's grandparents in 1930. The property is in the Single Residence B zone and is non-compliant with current dimensional standards for lot area, lot area per dwelling, building coverage, street frontage and front, rear and side yard setbacks.

The applicant proposes to add on to the existing modestly-sized dwelling in order to make certain necessary modifications and upgrades consistent with a modern residence. The proposal is to expand vertically within the existing footprint. An existing first story addition in the rear of the dwelling will be expanded to include a second story and existing dormers will be extended to the rear. Accordingly, the existing non-conformities will not be increased or exacerbated by the proposal. The total amount of living area to be added is just under 530 sq. feet.

The dwelling's existing right side yard setback at its closest point is 6 feet. The front yard setback is 26.5 feet; however, this dimension is not affected by this proposal. The rear yard setback at its closest point is 27.3 feet. The proposed addition will maintain these dimensions.

The existing lot area is just shy of 5,000 sq. feet and the building coverage is 23.4%. Frontage is 50 feet. While these dimensions are all non-compliant with the current ordinance, they are not impacted by this proposal.

The applicant therefore needs relief from Section 10.521 to permit a right side yard setback of 6 where 10 feet is required and a rear yard setback of 27.6 feet where 30 feet is required.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essentially residential characteristics of the neighborhood will not be altered by this project. The existing structure and lot are already non-compliant with rear and side yard setbacks, as are many of the properties in this neighborhood.

The use of the property as a single family residence will not change. Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened.

Substantial justice would be done by granting the variance. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner. The proposed addition and improvements are entirely within the existing non-conforming footprint and do not increase the non-conforming setbacks at all. The home immediately adjacent to the right side dormer has few windows facing it, and will not suffer the loss of any privacy, light, air or access as a result.

The property to the rear is a large office condominium development with a substantial amount of undeveloped open space abutting the rear of the applicant’s property. The very minor additional volume added to the existing encroachment will not affect that property at all.

Accordingly, the loss to the applicant clearly outweighs any gain to the public if the applicant were required to conform to the ordinance.

The values of surrounding properties will not be diminished by granting the variance. The proposal will modernize and update a very modest existing dwelling and will increase the value of the applicants' property. The values of surrounding properties will not be negatively affected in any way.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property is non-conforming as to frontage, lot area, lot area per dwelling, building coverage and setbacks. The existing dwelling was constructed long before zoning requirements were imposed. The dwelling is oriented well to the east or right side of the property and is a relatively small structure on a small lot. A vertical expansion is the only possible addition to this structure that would not result in significantly increased non-conformities.

The use is a reasonable use. The proposal is a residential use in a residential zone.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the setback requirements is to provide sufficient access, light, air and privacy, and physical separation between properties. None of these purposes are frustrated by this proposal. The proposed addition will be entirely within the existing footprint and will not negatively affect the neighboring properties on the right side or rear of the lot. The amount of additional square footage of living area here proposed is very modest and is not out of character for this neighborhood.

Accordingly, the relief requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the setback requirements and their application to this property.

III. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: 4/13/2021

By: *John K. Bosen*

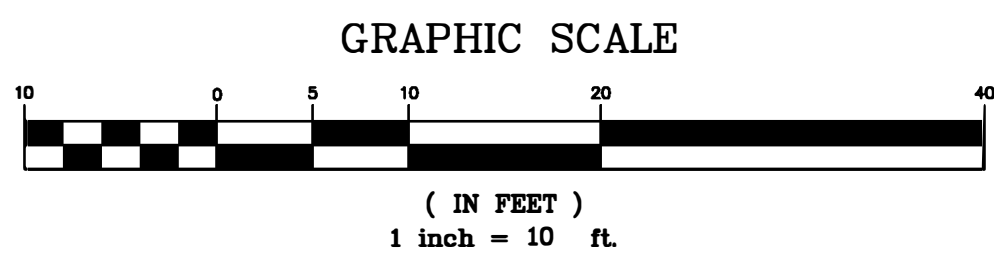
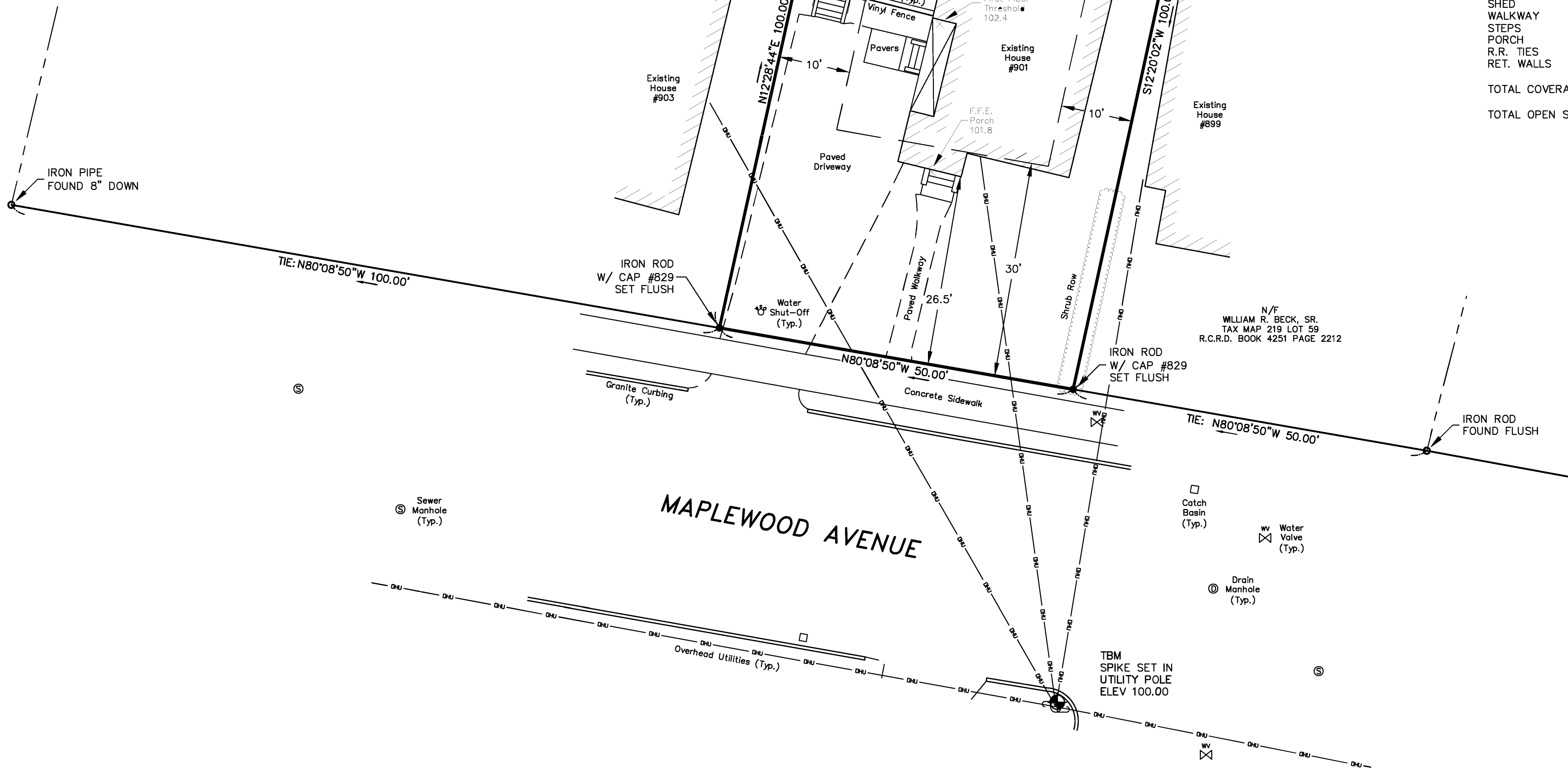
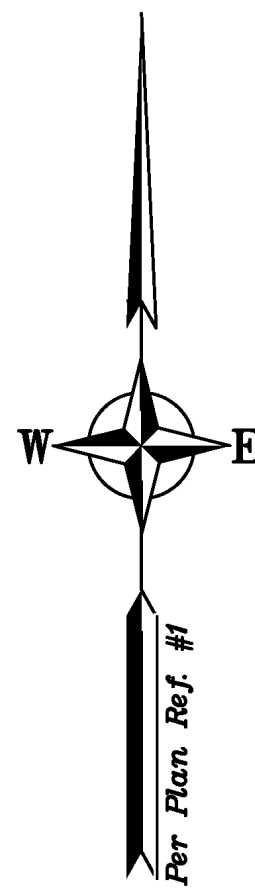
John K. Bosen, Esquire

AUTHORIZATION
901 MAPLEWOOD AVENUE, PORTSMOUTH
Map 219, Lot 58

I, Lisa L. Shawney, Trustee of the Earleen M. Fernald Revocable Trust, owner of the above-referenced property in Portsmouth, New Hampshire, hereby authorize representatives of Bosen & Associates, PLLC and Market Square Architects to represent my interests before the Portsmouth land use boards and to submit any and all applications and materials related thereto on our behalf.

Date:


Lisa L. Shawnee, Trustee



ZONING DATA PER CITY OF PORTSMOUTH ZONING ORDINANCE
(LAST AMENDED JANUARY 11, 2021):

ZONE: Single Residence B (SRB)

REQUIREMENTS:

| | |
|---------------------------------------|----------------|
| MINIMUM LOT AREA: | 15,000 SQ. FT. |
| MINIMUM LOT AREA PER DWELLING UNIT: | 15,000 SQ. FT. |
| MINIMUM CONTINUOUS STREET FRONTAGE: | 100 FT. |
| MINIMUM LOT DEPTH: | 100 FT. |
| MINIMUM FRONT SETBACK: | 30 FT. |
| MINIMUM SIDE SETBACK: | 10 FT. |
| MINIMUM REAR SETBACK: | 30 FT. |
| MAXIMUM STRUCTURE HEIGHT SLOPED ROOF: | 35 FT. |
| MAXIMUM BUILDING COVERAGE: | 20% |
| MINIMUM OPEN SPACE: | 40% |

BUILDING COVERAGE CALCULATION:

| | |
|----------|------------------------|
| LOT AREA | 4,984 SQ. FT. |
| HOUSE | 1,010± SQ. FT. |
| SHED | 158± SQ. FT. |
| TOTAL | 1,168± SQ. FT. (23.4%) |

OPEN SPACE CALCULATION:

| | |
|------------------|------------------------|
| LOT AREA | 4,984 SQ. FT. |
| HOUSE | 1,010± SQ. FT. |
| PAVEMENT | 709± SQ. FT. |
| PAVERS | 253± SQ. FT. |
| SHED | 158± SQ. FT. |
| WALKWAY | 75± SQ. FT. |
| STEPS | 50± SQ. FT. |
| PORCH | 45± SQ. FT. |
| R.R. TIES | 29± SQ. FT. |
| RET. WALLS | 15± SQ. FT. |
| TOTAL COVERAGE | 2,329± SQ. FT. (46.7%) |
| TOTAL OPEN SPACE | 2,655± SQ. FT. (53.3%) |

PLAN REFERENCES:

- "CONDOMINIUM SITE PLAN FOR NINE SEVENTY SIX REALTY TRUST 1000 MARKET STREET COUNTY OF ROCKINGHAM PORTSMOUTH, NEW HAMPSHIRE" PREPARED BY RICHARD P. MILLETTE AND SOOCIATES, LAST DATED JULY 30, 1996, AND RECORDED AT THE R.C.R.D. AS PLAN No. D-24811.
- "SKETCH PLAN OF 897 MAPLEWOOD AVENUE, PORTSMOUTH, NH FOR CHARLES A. HACKETT", PREPARED BY JAMES VERA ASSOCIATES, INC., DATED NOVEMBER 13, 1998, NOT RECORDED.

NOTES:

- OWNERS OF RECORD:
TAX MAP 219 LOT 58
EARLEEN M. FERNALD REVOCABLE TRUST
EARLEEN M. FERNALD, TRUSTEE
LISA L. SHAWNEY, TRUSTEE
R.C.R.D. BOOK 5923 PAGE 1542
DATED MAY 24, 2018
- TOTAL EXISTING PARCEL AREA:
TAX MAP 219 LOT 58
0.11 Acres
- BASIS OF BEARING IS PER PLAN REFERENCE #1.
- APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE CITY OF PORTSMOUTH PRIOR TO DESIGN OR CONSTRUCTION.
- THE BOUNDARY SHOWN HEREON IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PAROL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.

PURPOSE OF PLAN:

THE PURPOSE OF THIS PLAN IS TO SHOW EXISTING CONDITIONS FOR DESIGN PURPOSES. THIS PLAN IS NOT A STANDARD BOUNDARY SURVEY AND IS NOT INTENDED TO BE RECORDED, USED FOR CONVEYANCE, OR ANY OTHER TITLE PURPOSE.

EXISTING CONDITIONS PLAN

FOR PROPERTY AT

901 Maplewood Avenue

Portsmouth, Rockingham County, New Hampshire

OWNED BY

Earleen M. Fernald Revocable Trust

Earleen M. Fernald, Trustee

Lisa L. Shawney, Trustee

901 Maplewood Avenue, Portsmouth, NH 03901

North



EASTERLY

SURVEYING, Inc.

SURVEYORS IN N.H. & MAINE
(207) 439-6333

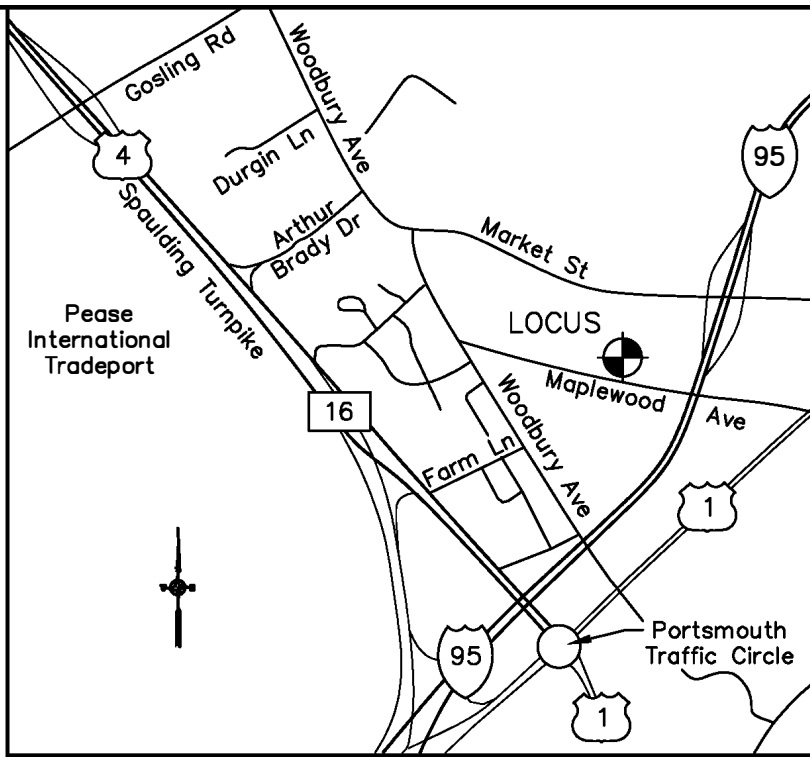
191 STATE ROAD, SUITE #1
KITTERY, MAINE 03904

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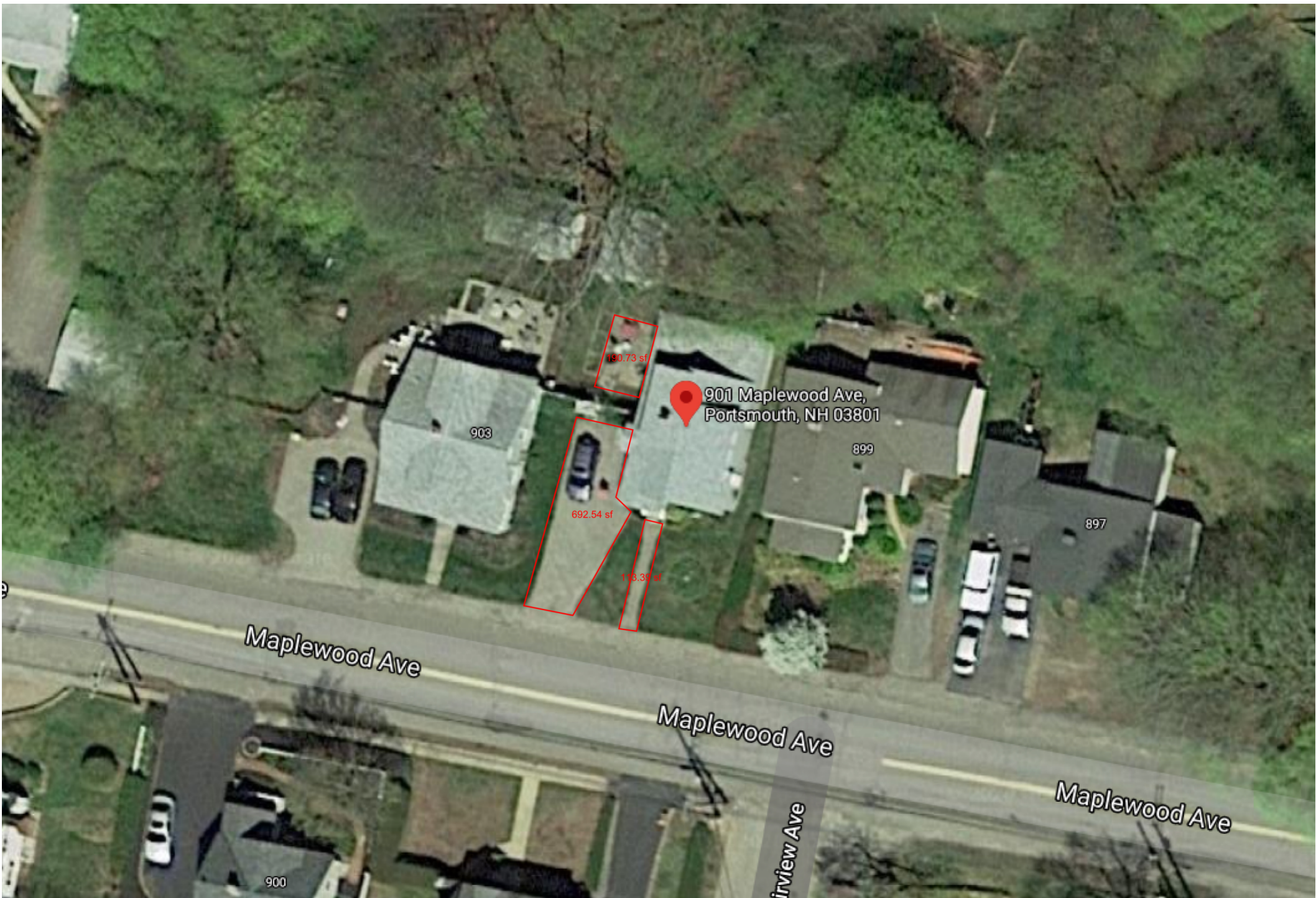
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FIELD BOOK No: "Portsmouth #18"

Tax Map 219 Lot 58

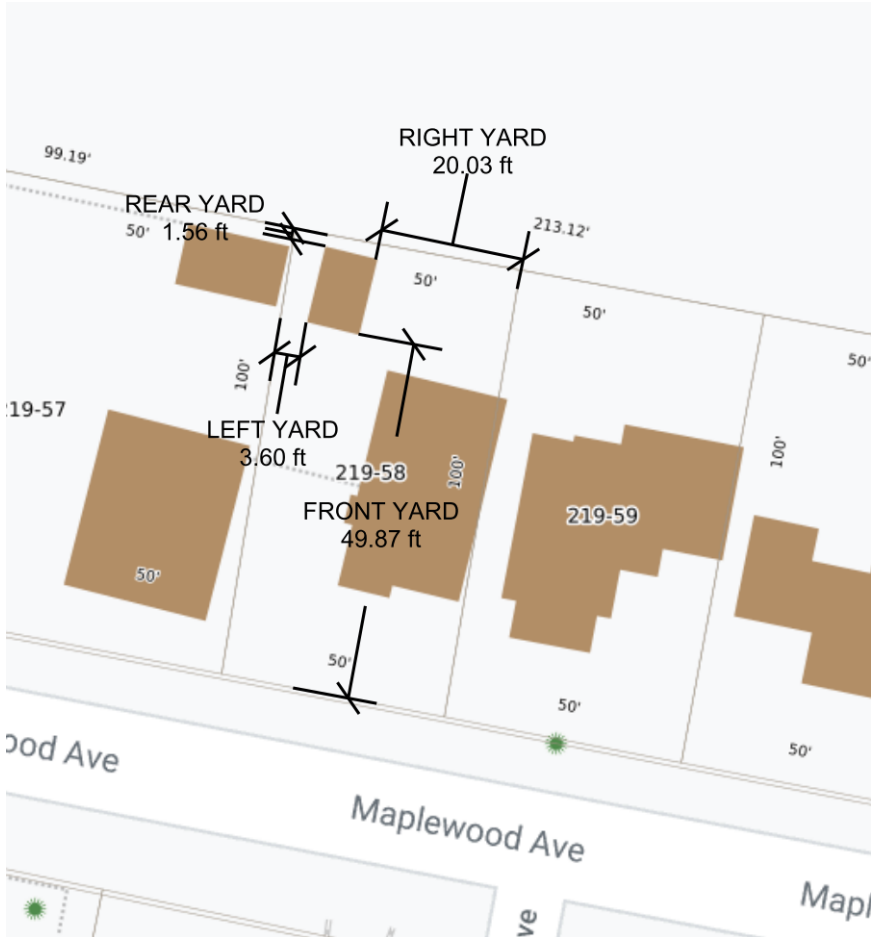
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LOCATION MAP
(not to scale)



PAVING AREAS: DRIVEWAY, WALKWAY, PATIO



SHED DIMENSIONS TO LOT LINES

City of Portsmouth, NH

December 16, 2020



HOUSE DIMENSIONS TO LOT LINES

NOTE: ALL DIMENSIONS ARE APPROXIMATE AND BASED ON AVAILABLE CITY GIS DATA

MAX. BUILDING HEIGHT: 35'-0"

MIN. SETBACKS:

FRONT: 30'-0"

SIDE: 10'-0"

REAR: 30'-0"



NOT FOR CONSTRUCTION

SHAWNEY RESIDENCE

901 MAPLEWOOD AVE.
PORTSMOUTH, NH 03801



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 4/1/2019
Data updated 7/17/2019

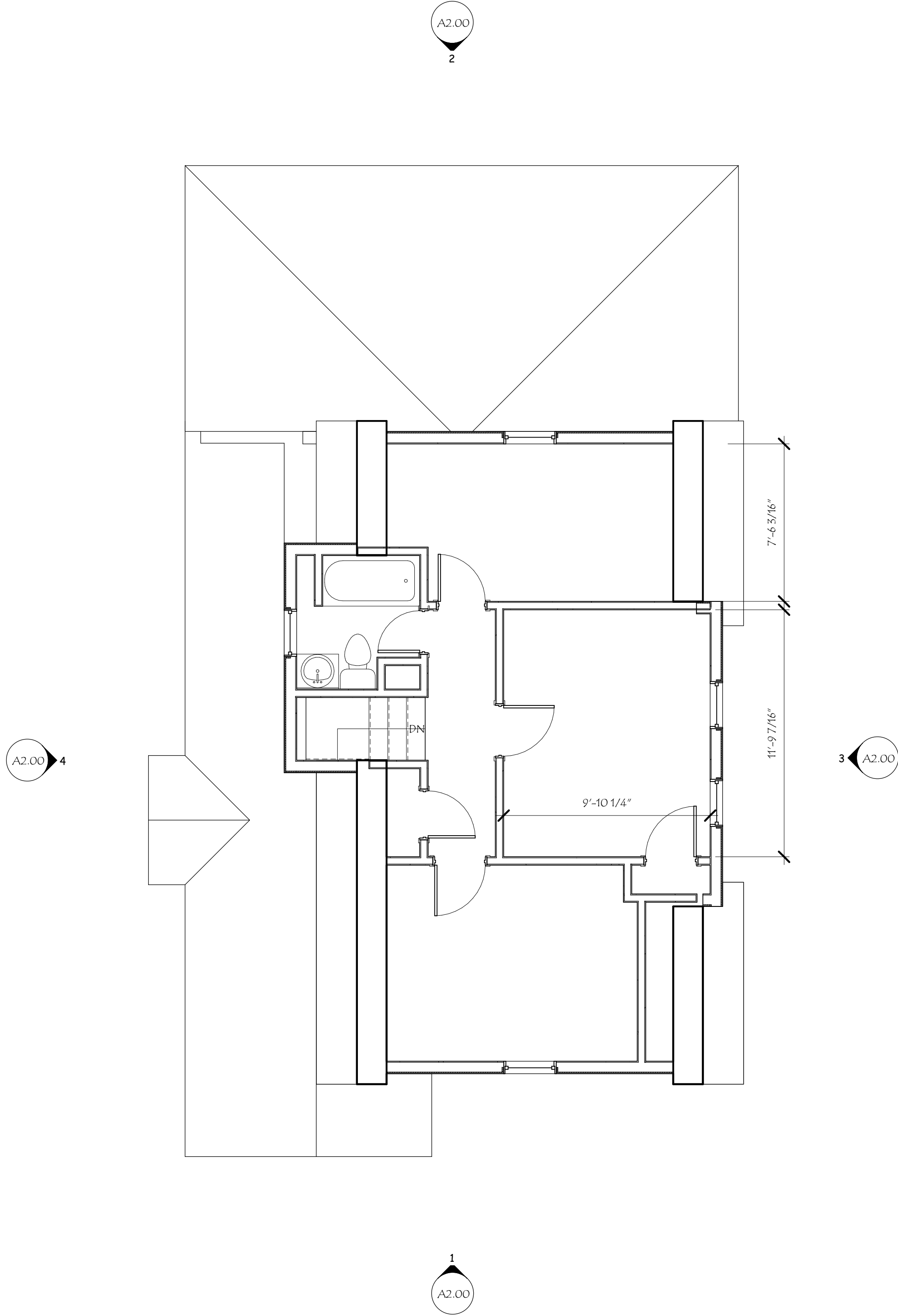
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| Checked By: | | |
| Project No.: | 2020061 | 10/08/20 |
| Date: | | |

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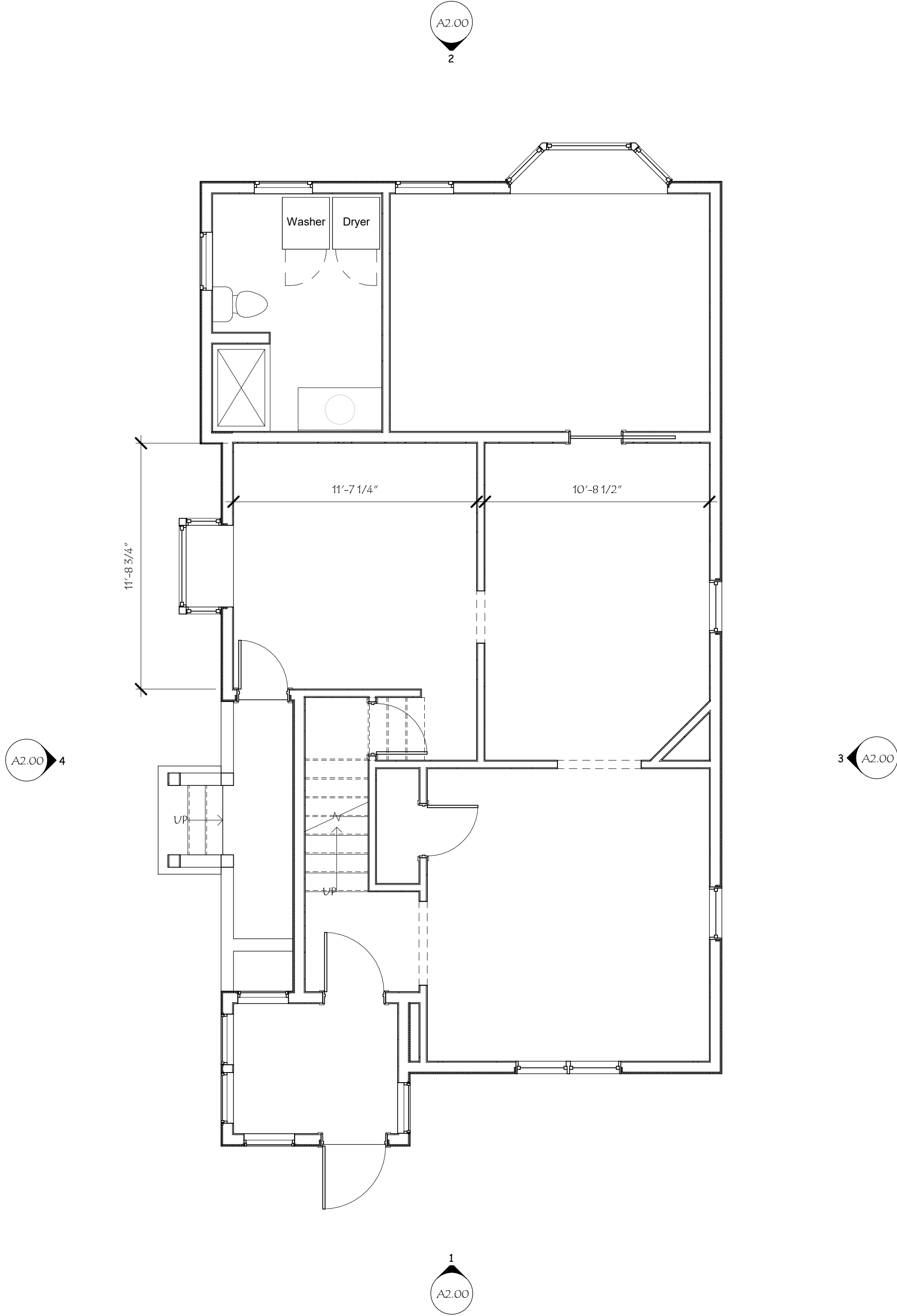
2 Existing - 2nd Floor

SCALE: 1/4" = 1'-0"



1 Existing - 1st Floor

SCALE: 1/4" = 1'-0"



Title:
EXISTING FLOOR
PLANS

A1.01

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Drawn By:
Checked By:
Project No.:
Date:

Revisions:
Description Date

SHAWNEY RESIDENCE

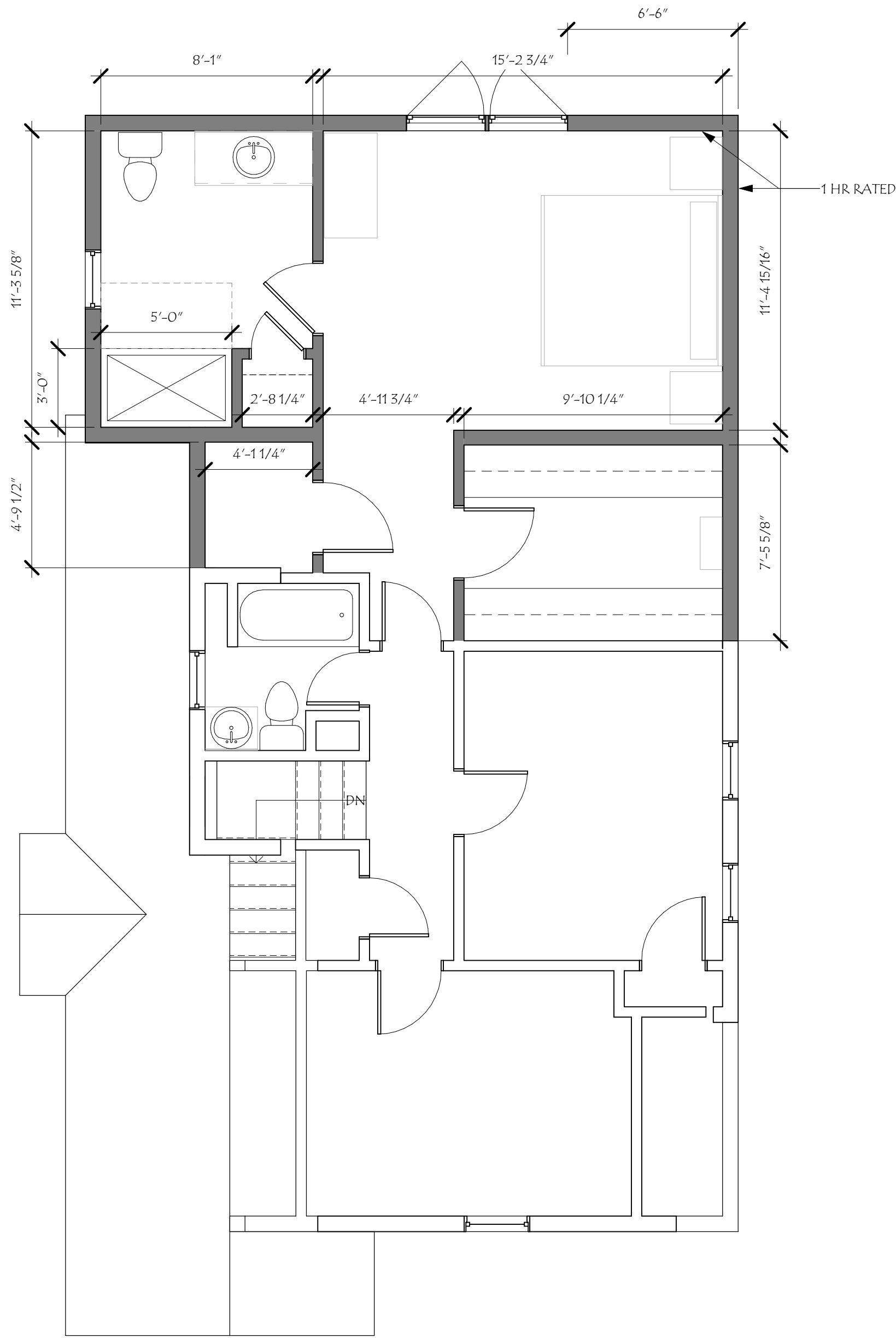
901 MAPLEWOOD AVE.
PORTSMOUTH, NH 03801

NOT FOR
CONSTRUCTION

2

PROPOSED - 2nd Floor

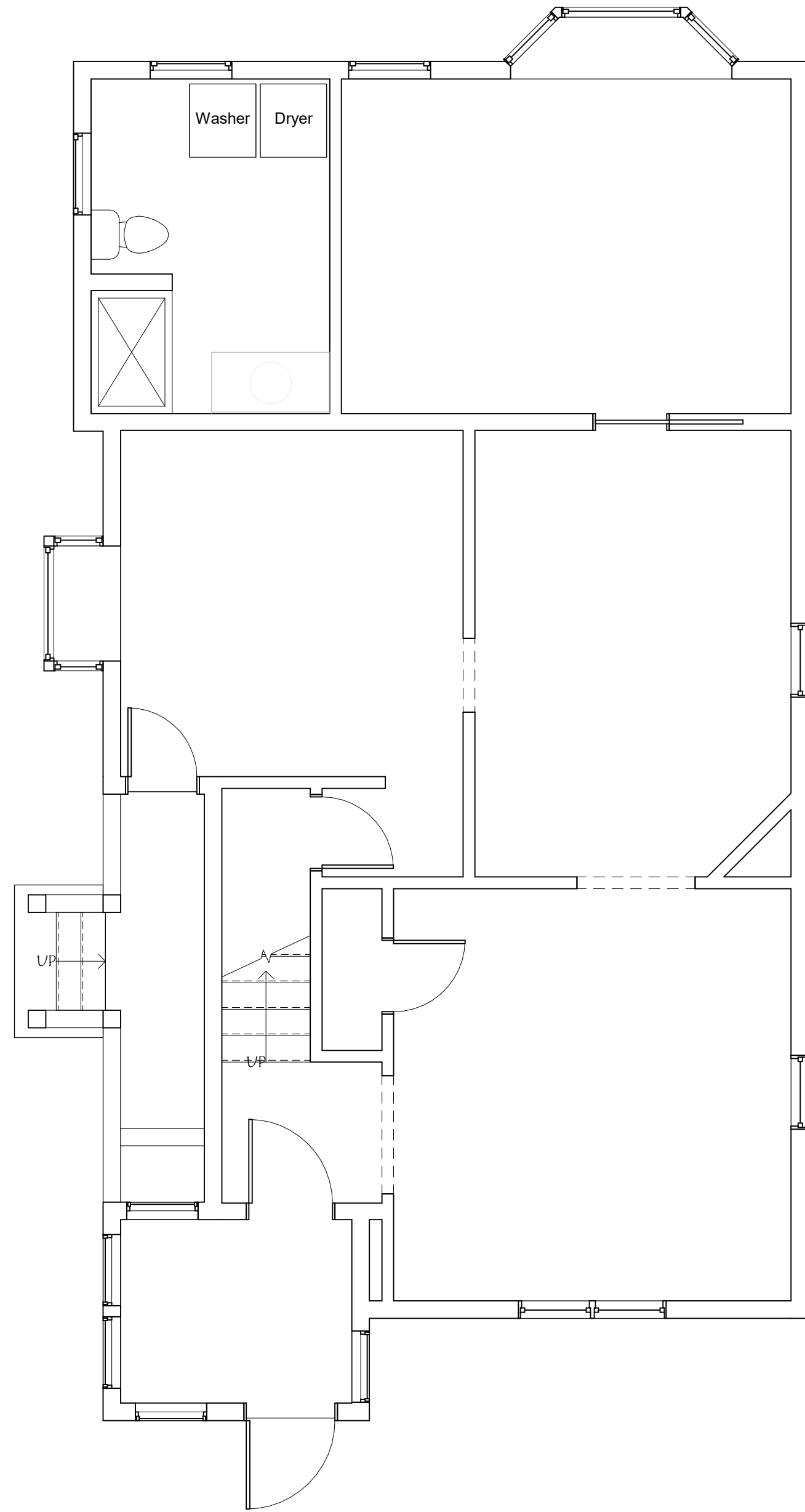
SCALE: 1/4" = 1'-0"



1

1st Floor

SCALE: 1/4" = 1'-0"



GROSS FLOOR AREA
EXISTING 1st FLOOR: 1001.12 SF
EXISTING 2nd FLOOR: 528.98 SF
PROPOSED ADDITION @ 2nd FLOOR ONLY: 307.57 SF

TOTAL SF: 1837.67 SF

NOTE: PROPOSED ADDITION DOES NOT INCREASE
EXISTING FOOTPRINT, ONLY VERTICAL VOLUME



NOT FOR
CONSTRUCTION

SHAWNEY RESIDENCE

901 MAPLEWOOD AVE.
PORTSMOUTH, NH 03801

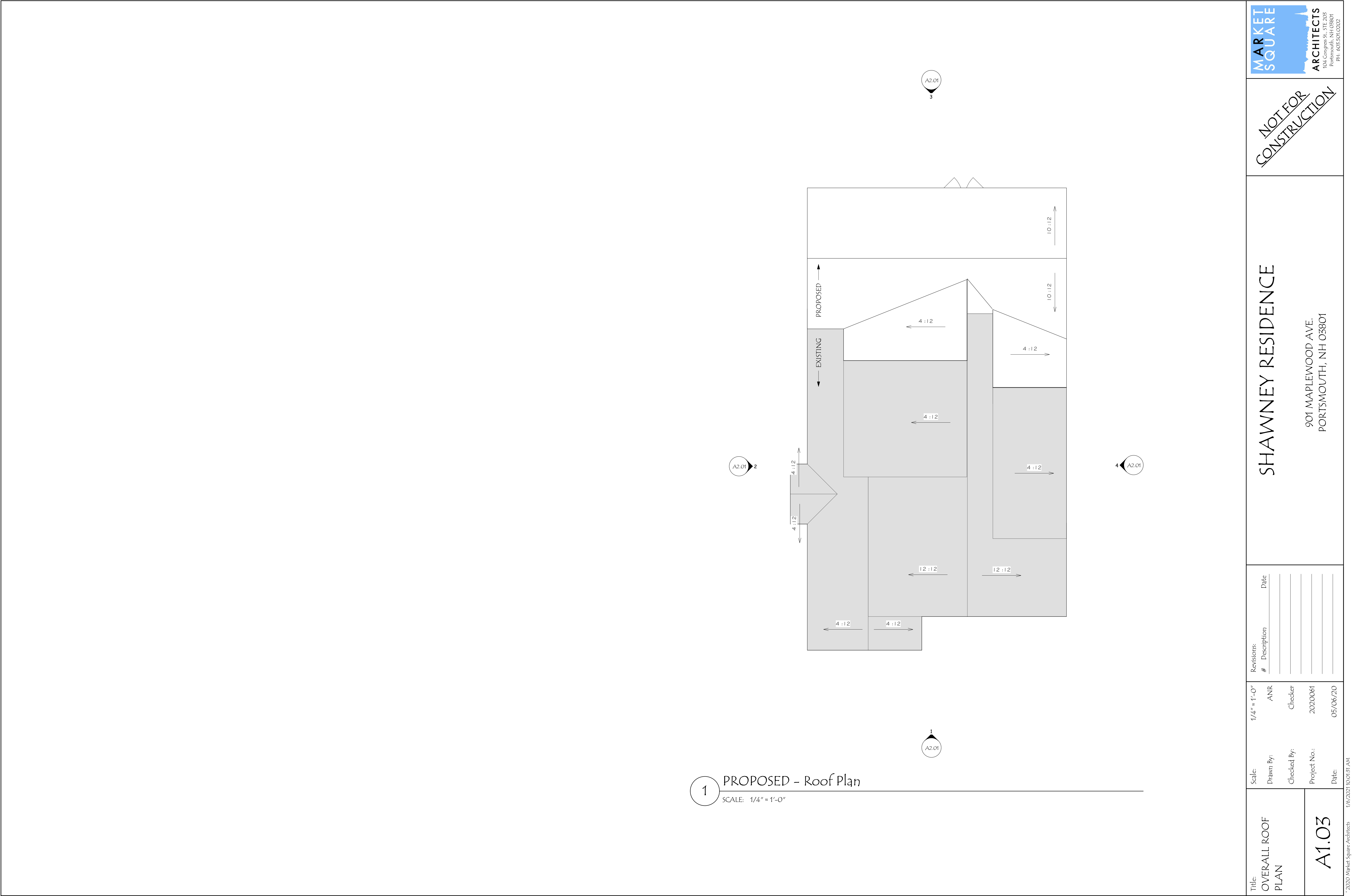
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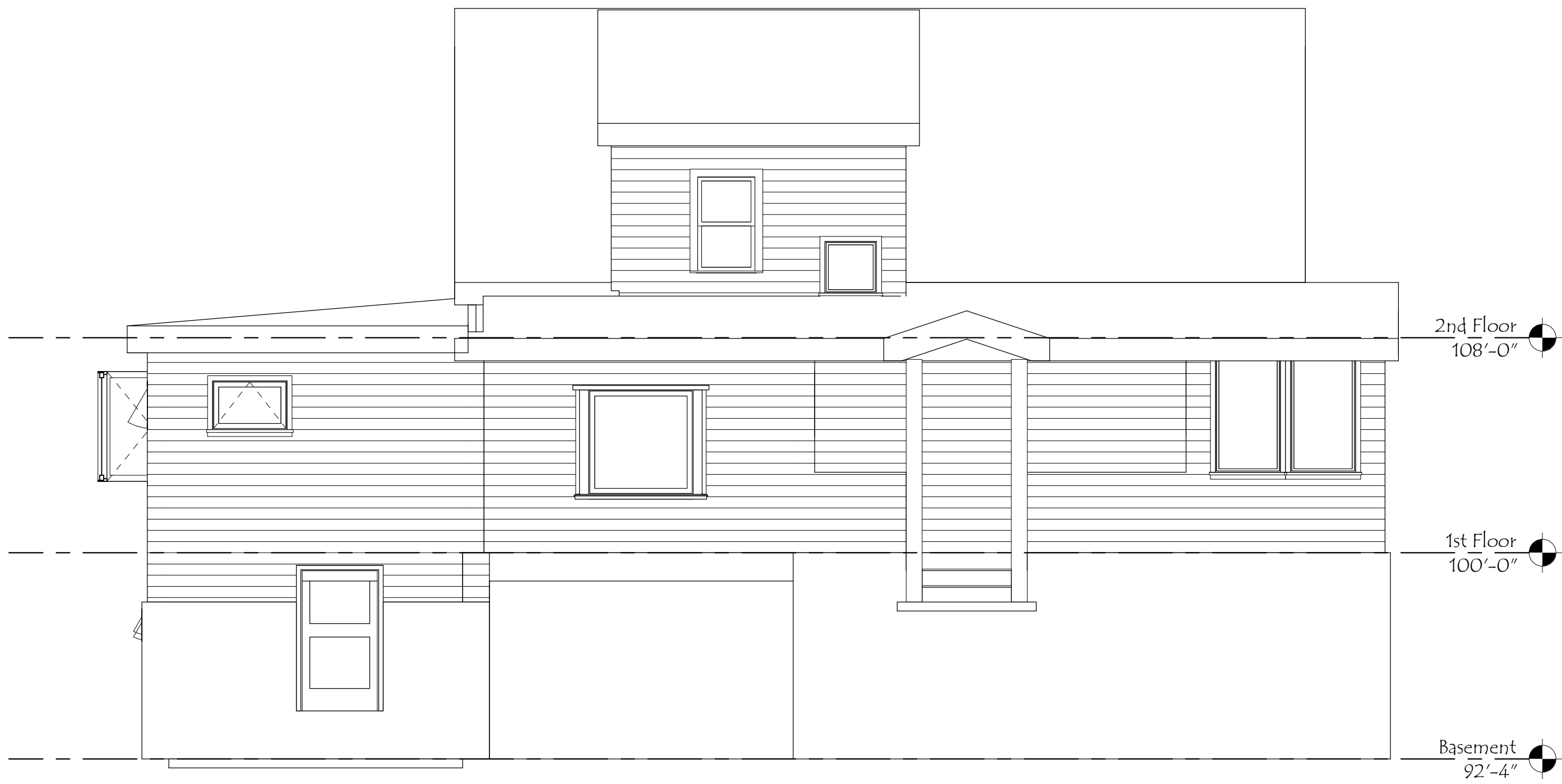
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Title:
PROPOSED FLOOR
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A1.02





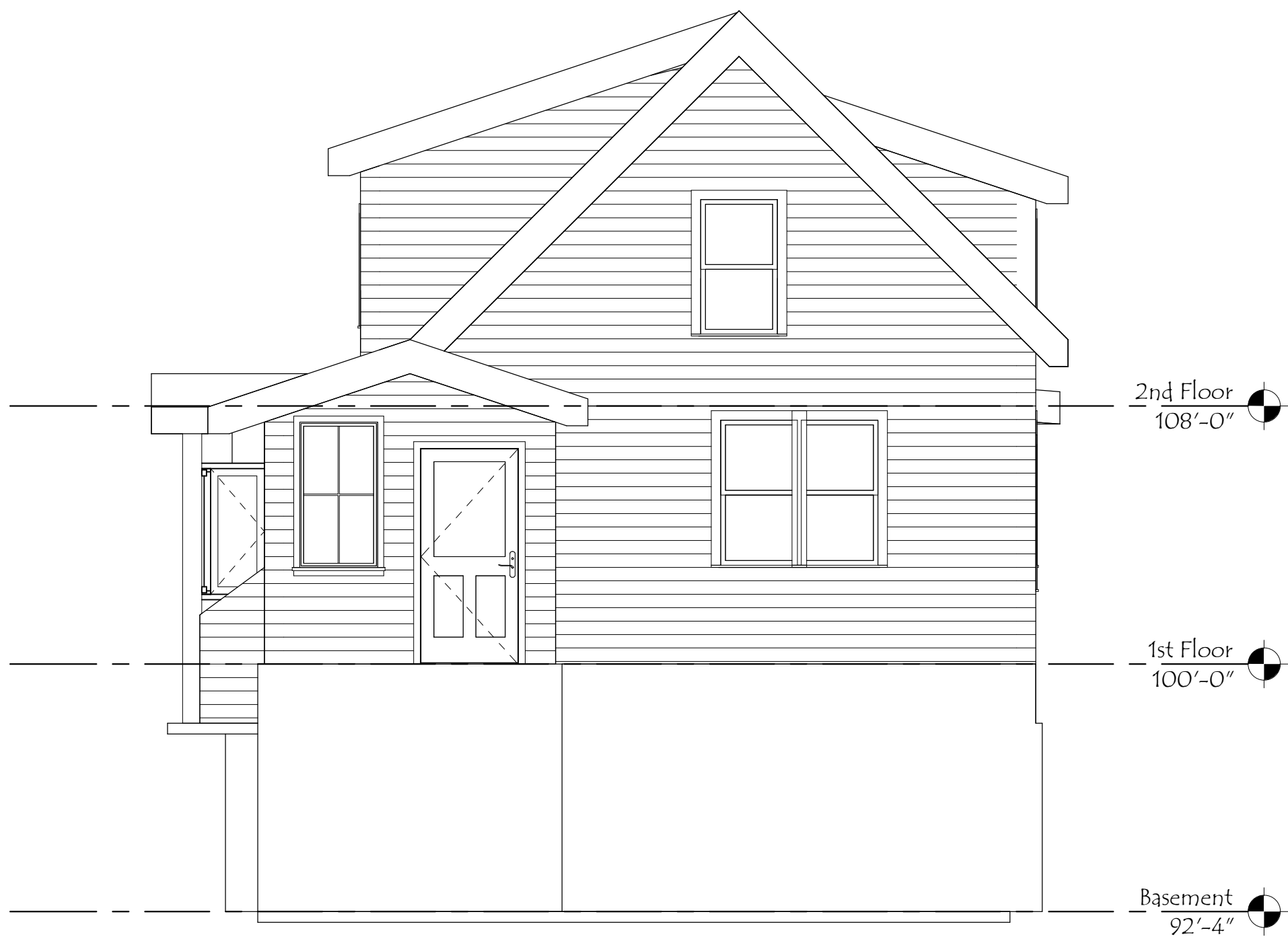
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SCALE: 1/4" = 1'-0"



2 Existing - North
SCALE: 1/4" = 1'-0"



3 Existing - East
SCALE: 1/4" = 1'-0"



1 Existing - South
SCALE: 1/4" = 1'-0"

NOT FOR
CONSTRUCTION

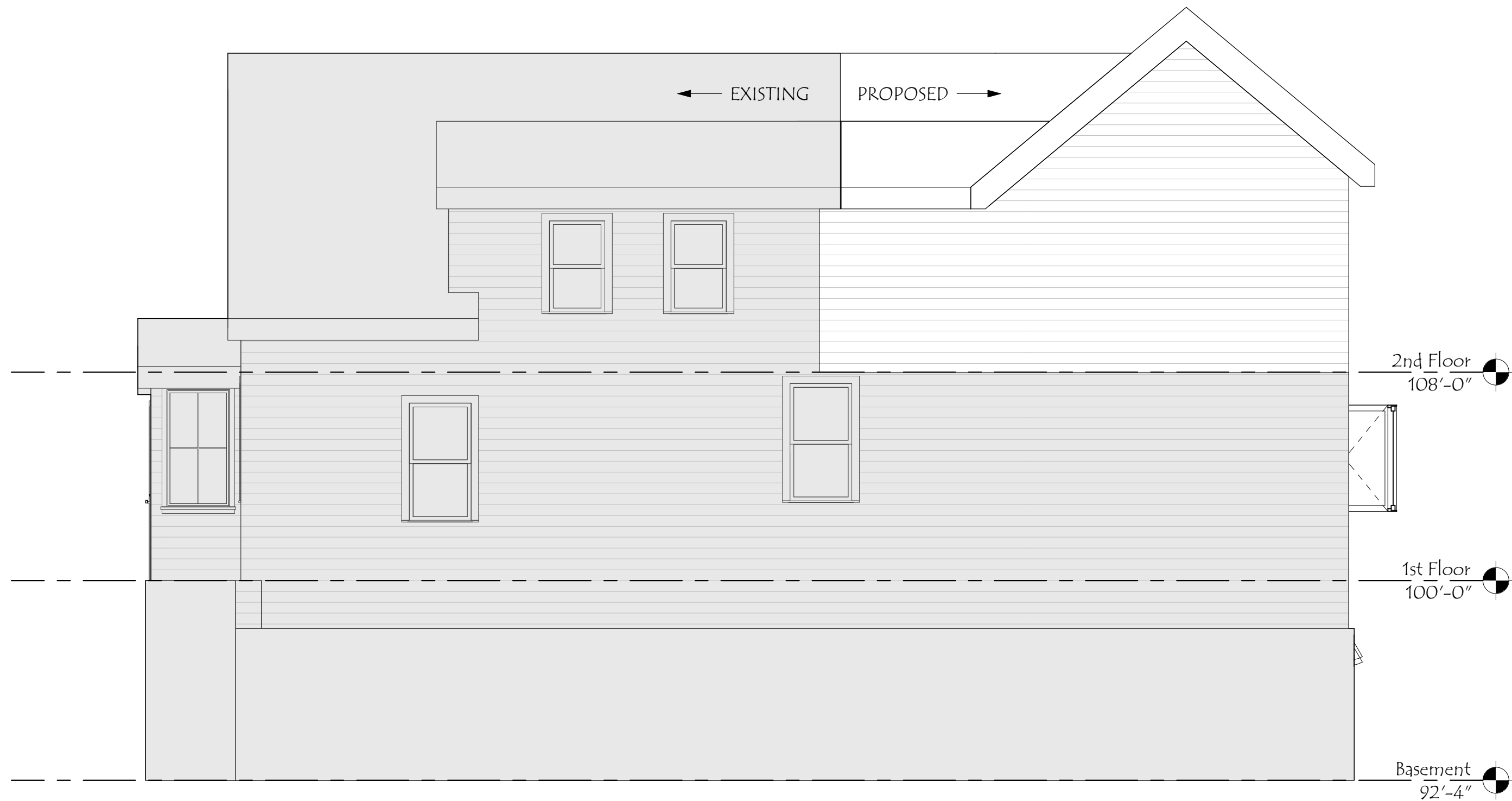
SHAWNEY RESIDENCE

901 MAPLEWOOD AVE.
PORTSMOUTH, NH 03801

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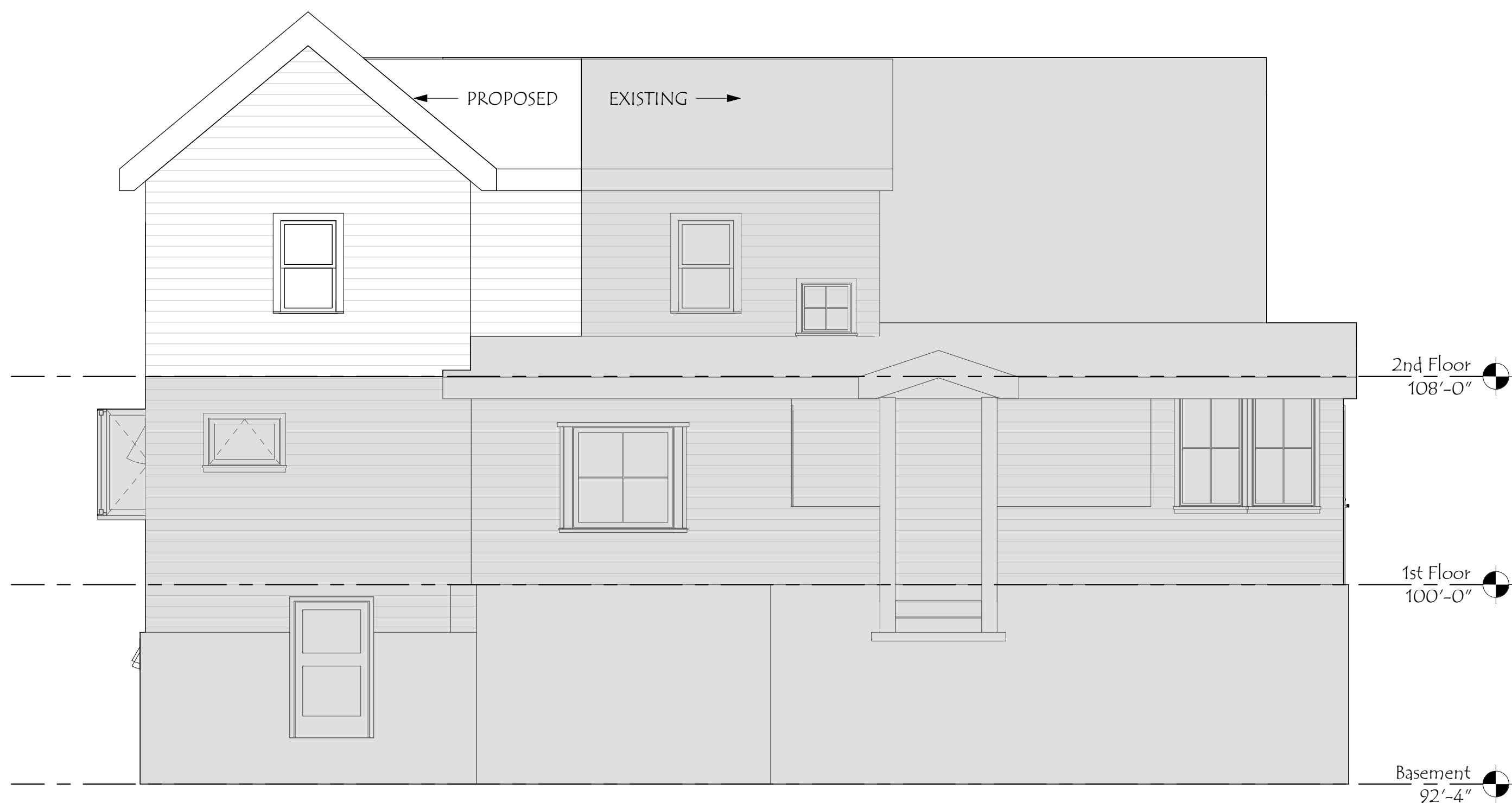
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|---|-------|



4 East
SCALE: 1/4" = 1'-0"



3 North
SCALE: 1/4" = 1'-0"



2 West
SCALE: 1/4" = 1'-0"



1 South
SCALE: 1/4" = 1'-0"

NOT FOR
CONSTRUCTION

SHAWNEY RESIDENCE

901 MAPLEWOOD AVE.
PORTSMOUTH, NH 03801

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| Title: PROPOSED EXTERIOR ELEVATIONS | A2.01 |
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Front/side South/west



East side



Back of house - north facing

Back of house - north facing



West side