

**APPLICATION OF PATRICK and WENDY QUINN**  
**124 Melbourne Street**  
**Map 233, Lot 55**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicants, Patrick and Wendy Quinn, are the owners of the single-family dwelling located at 124 Melbourne Street. According to city tax records, the dwelling dates to 1890 and is substandard by modern standards. It has only a modest 928 square feet of living space on the first floor, with an unfinished attic. It has two bedrooms and one bathroom. The home is in need of significant upgrades to its kitchen, bathroom and mechanical systems. Nevertheless, the applicants believe the existing bungalow-style home is architecturally appealing and they endeavor to preserve it. In order to do so and make the dwelling more habitable for a modern family, they propose dormer additions to the existing dwelling within the existing footprint on the eastern and western sides of the home. This will create a full second floor of living space.

The property is in the SRB zoning district and the existing dwelling's footprint is non-conforming as to primary front yard setback, secondary front yard setback and left side yard setback.<sup>1</sup> Accordingly, in order to proceed with the proposed dormers, the applicant is requesting relief from Section 10.521 as follows:

Front yard setback of 15 feet where thirty is required;  
Secondary front yard setback of 20 feet where thirty is required; and  
Left side yard set back of 7 feet where ten feet is required.

The relief requested is based on the existing encroachments into the setbacks, no increase in those encroachments is proposed. It should be noted that, although the existing footprint encroaches into the front yard setbacks based on the property's boundaries, the paved right of way on Melbourne Street and Essex Avenue stops short of those boundaries, so in practical terms, the effective front yards measured from the building to the pavement would be much closer to compliance.

**II. CRITERIA:**

The applicants believe the within Application meets the criteria necessary for the Board to grant the requested variances.

**A. 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

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<sup>1</sup> Under current zoning, this lot is also deficient as to frontage, building coverage, minimum lot size, and lot area per dwelling.

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.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would the public health, safety or welfare be threatened. The proposal is an expansion of the existing single-family dwelling on this property and is entirely appropriate and consistent with the existing residential neighborhood in which it sits. The existing building footprint already encroaches into the setbacks and the proposal will not increase the encroachment, just add height and volume to it. Thus, the essentially residential character of the neighborhood will not be altered. A larger, more livable single-family dwelling, which will feature modern, code-compliant construction, will not threaten the health, safety and welfare of the public in any manner.

**B. 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. A vertical expansion of an existing, non-conforming dwelling, especially a dwelling as small as this one, without increasing the setback encroachments, is entirely reasonable in the context of a significant renovation project.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

**C. The values of surrounding properties will not be diminished by granting the variance.** A newly constructed, fully code-compliant addition to the existing home will significantly increase its value, as well as property values in the neighborhood. The values of the surrounding properties will not be negatively affected in any way by the relief requested. To the contrary, values would be enhanced if this project were to be approved.

**D. 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 a corner lot which is required to maintain thirty foot front yard setbacks on both the Melbourne Street and Essex Avenue elevations, which squeezes its building envelope. It has less than the currently required lot area and frontage, and already encroaches into the setbacks for which relief is here requested. These are special conditions that distinguish the property from others in the area.

**The use is a reasonable use.** The proposed dormers are an expansion of the existing residential use which is permitted in this zone and is identical in character and

consistent with the existing use of the adjacent and abutting properties. If the use is permitted, it is deemed reasonable (Vigeant v. Hudson, 151 NH 747 (2005)).

**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 assure that there is adequate light, air, and access to properties and to prevent unhealthy overcrowding. None of those purposes are frustrated with this proposal. The proposed dormers will comply with the height requirement and will not encroach into the setbacks any more than the existing home does.

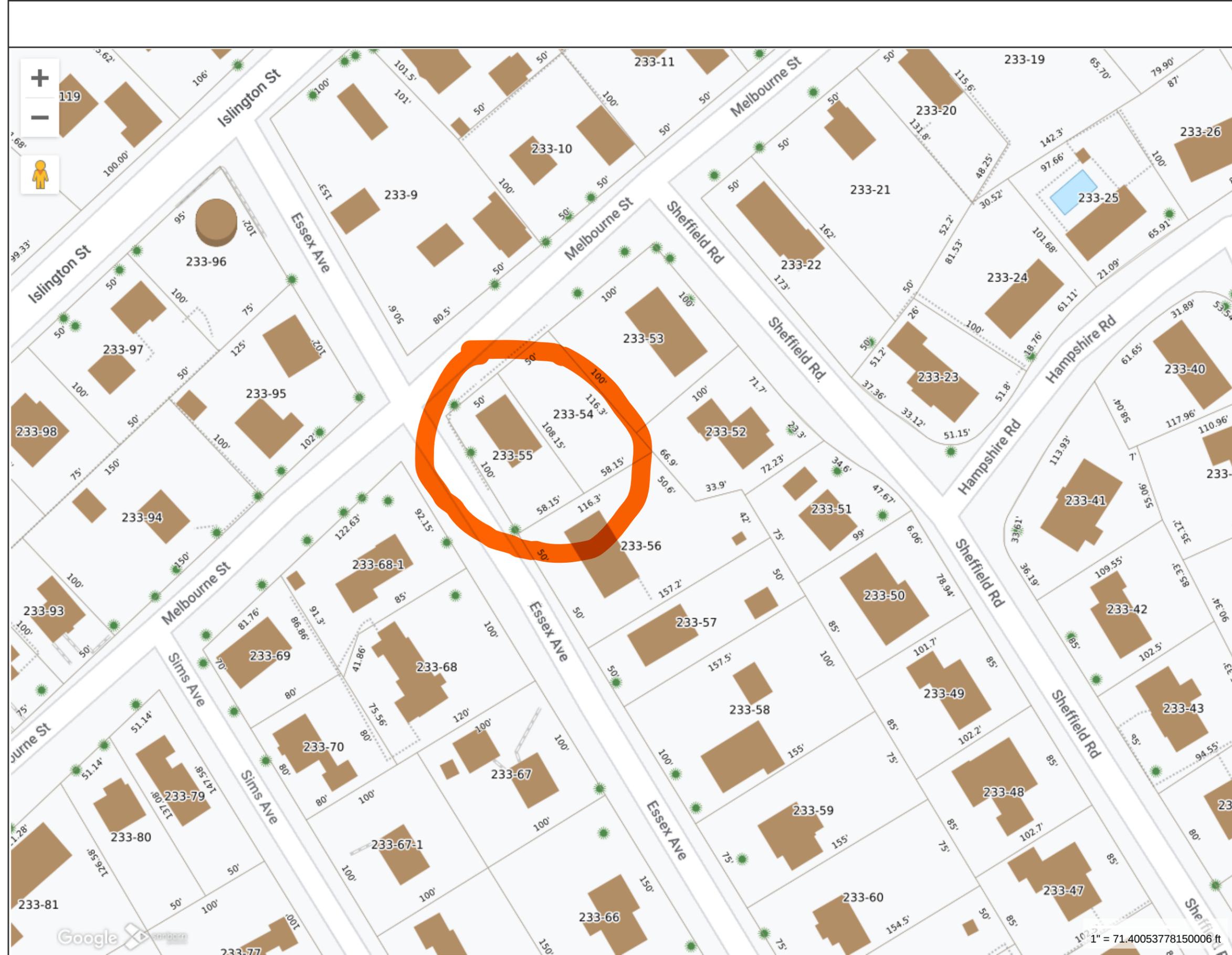
### **III. Conclusion.**

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

Respectfully submitted,

Dated: 11-14-2024

By: *Christopher P. Mulligan*  
Christopher P. Mulligan, Esquire



**Property Information**  
**Property ID** 0126-0018-0000  
**Location** 481 STATE ST  
**Owner** NELSON ROBERT B



**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 09/26/2024

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

Rear



Essex Street

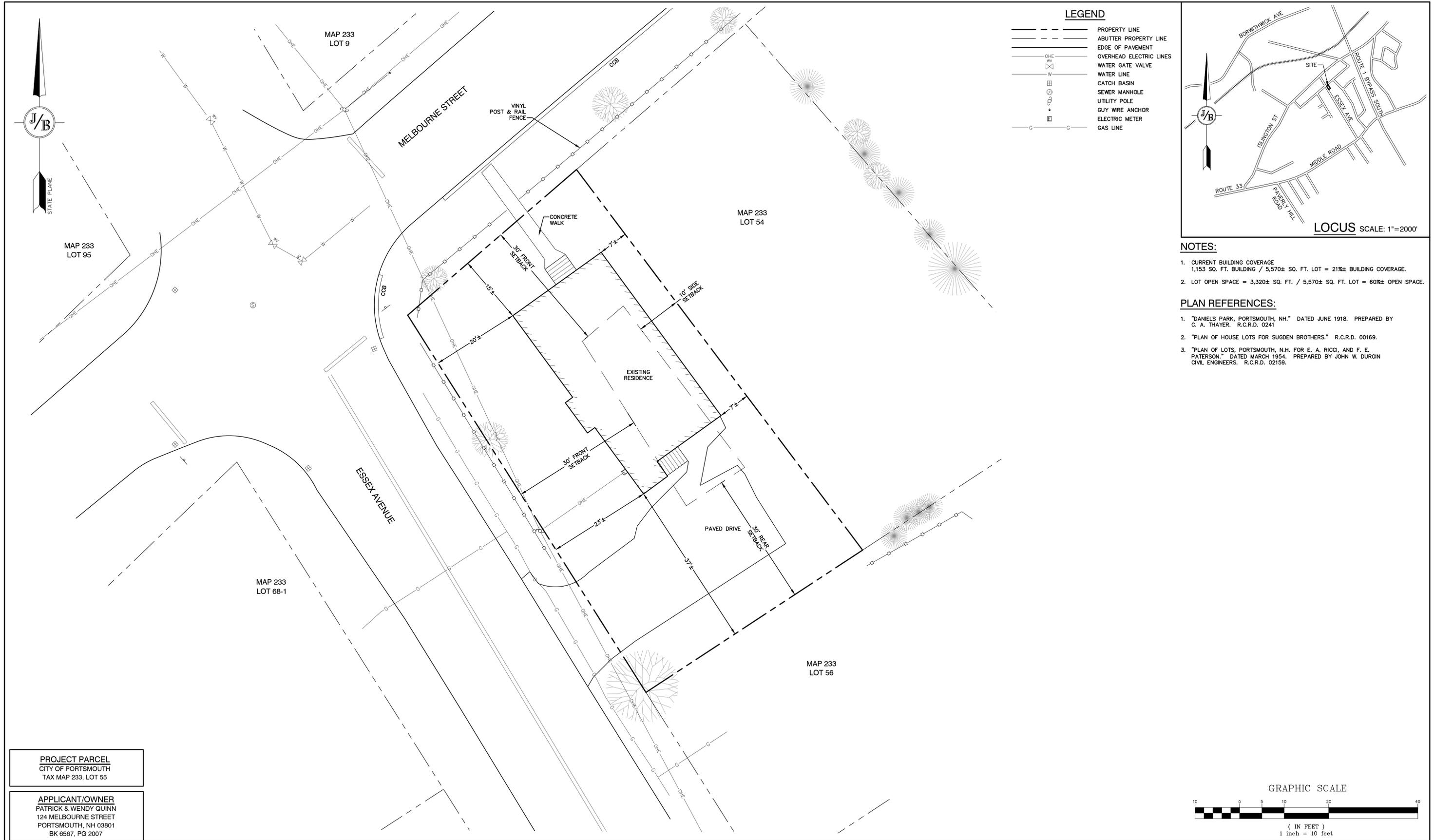


left side yard



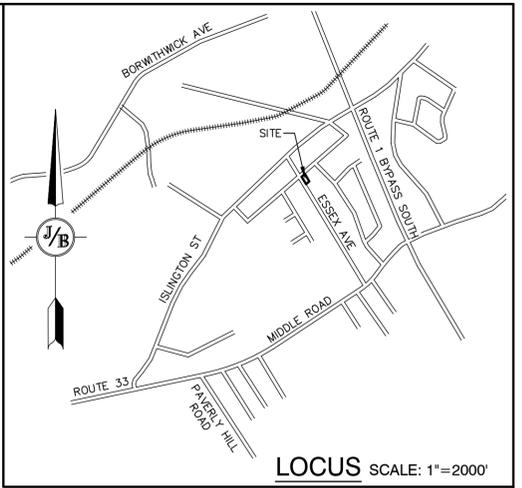
Melbourne Street





**LEGEND**

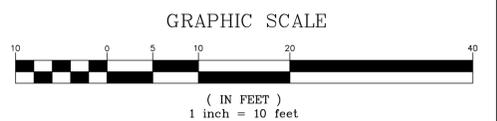
---	PROPERTY LINE
- - -	ABUTTER PROPERTY LINE
---	EDGE OF PAVEMENT
---	OVERHEAD ELECTRIC LINES
---	WATER GATE VALVE
---	WATER LINE
---	CATCH BASIN
---	SEWER MANHOLE
---	UTILITY POLE
---	GUY WIRE ANCHOR
---	ELECTRIC METER
---	GAS LINE



- NOTES:**
- CURRENT BUILDING COVERAGE  
1,153 SQ. FT. BUILDING / 5,570± SQ. FT. LOT = 21%± BUILDING COVERAGE.
  - LOT OPEN SPACE = 3,320± SQ. FT. / 5,570± SQ. FT. LOT = 60%± OPEN SPACE.
- PLAN REFERENCES:**
- "DANIELS PARK, PORTSMOUTH, NH." DATED JUNE 1918. PREPARED BY C. A. THAYER. R.C.R.D. 0241
  - "PLAN OF HOUSE LOTS FOR SUGDEN BROTHERS." R.C.R.D. 00169.
  - "PLAN OF LOTS, PORTSMOUTH, N.H. FOR E. A. RICCI, AND F. E. PATERSON." DATED MARCH 1954. PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. R.C.R.D. 02159.

**PROJECT PARCEL**  
CITY OF PORTSMOUTH  
TAX MAP 233, LOT 55

**APPLICANT/OWNER**  
PATRICK & WENDY QUINN  
124 MELBOURNE STREET  
PORTSMOUTH, NH 03801  
BK 6567, PG 2007



Design: WGM	Draft: MJS	Date: 10/15/24
Checked: WGM	Scale: 1" = 10'	Project No.: 24107
Drawing Name: 21047-PLAN.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		

REV.	DATE	REVISION	BY
1	11/14/24	ADDED BUILDING SETBACK LINES	MJS
0	10/15/24	ISSUED FOR REVIEW	MJS

Designed and Produced in NH

**J/B Jones & Beach Engineers, Inc.**

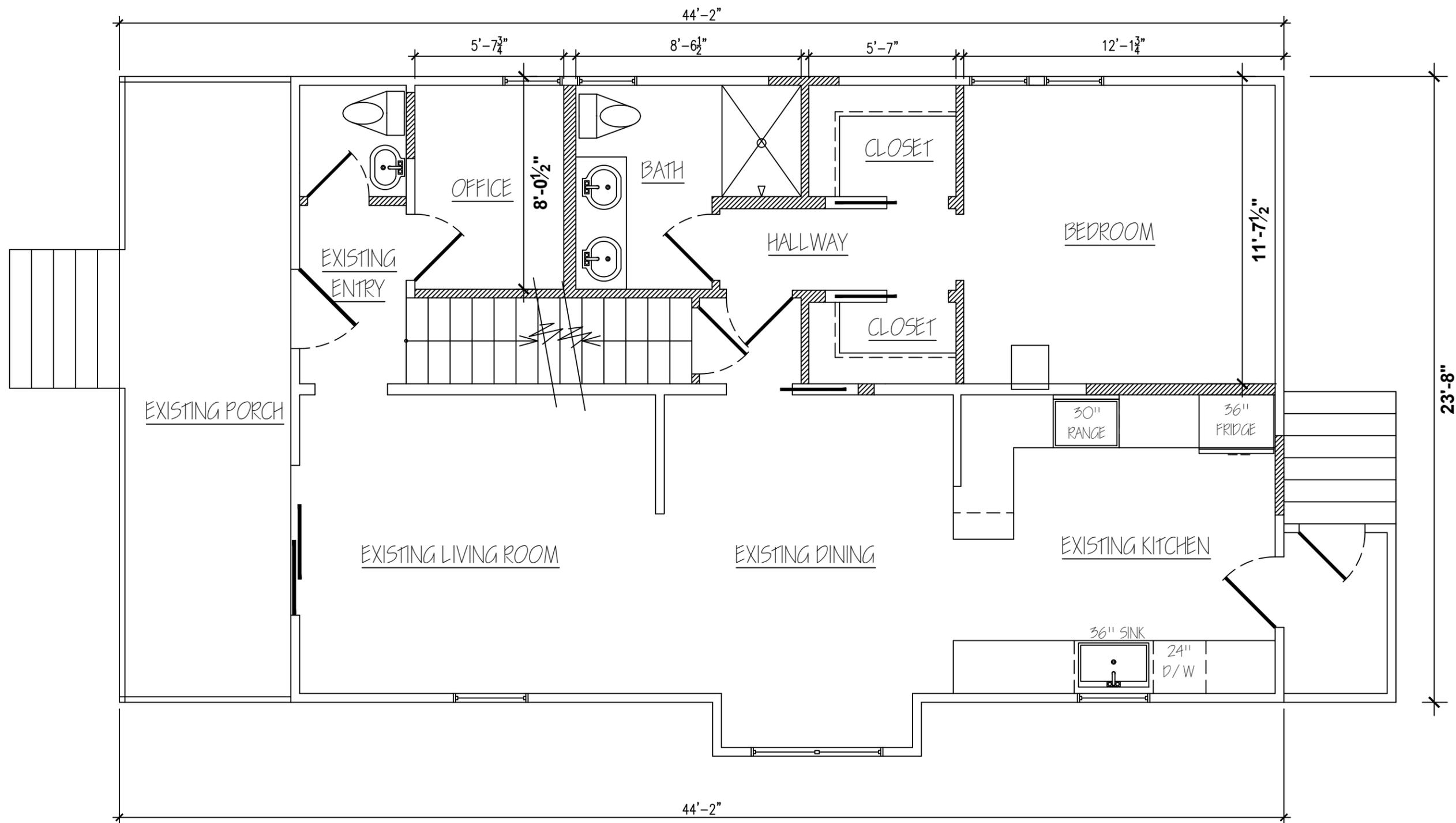
85 Portsmouth Ave. *Civil Engineering Services* 603-772-4746  
PO Box 219  
Stratham, NH 03885 E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	<b>EXISTING CONDITIONS PLAN</b>
Project:	<b>TAX MAP 233 LOT 55 124 MELBOURNE STREET</b>
Owner of Record:	<b>PATRICK &amp; WENDY QUINN 124 MELBOURNE STREET, PORTSMOUTH, NH 03801</b>

DRAWING No.

**C1**

SHEET X OF X  
JBE PROJECT NO. 24107



PROPOSED 1ST FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

LEGEND  
 [Hatched Box] NEW CONSTRUCTION  
 [Solid Box] EXISTING TO REMAIN

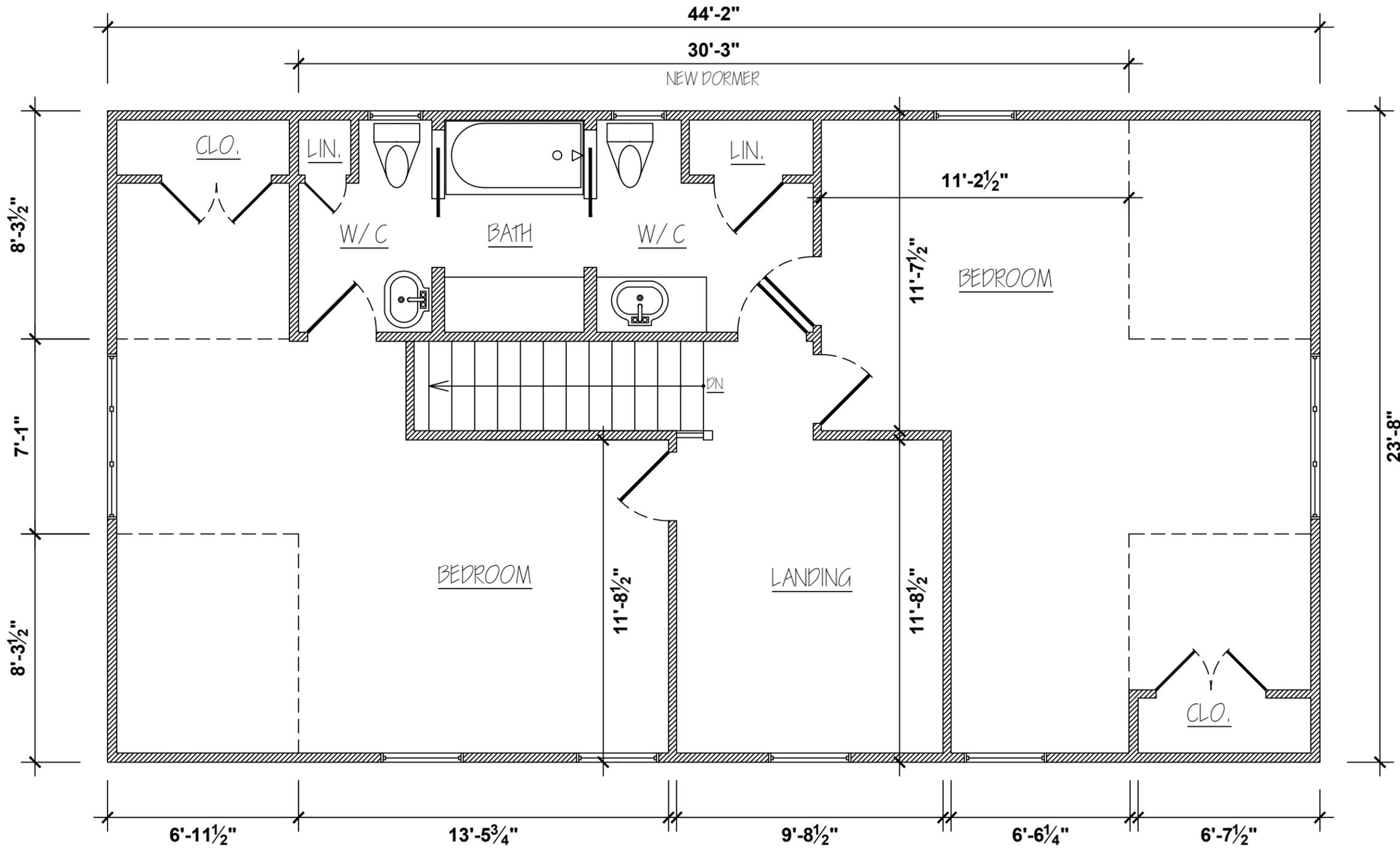
RANDALL DESIGN  
 architectural drafting & design  
 150 morrells mill rd. \* n. berwick, me. 03906  
 207-651-6844 drandall@randalldesignme.com

124 MELBURN STREET  
 PORTSMOUTH, NH

NOV 12, 2024

1ST FLOOR PLAN

A1



PROPOSED 2ND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

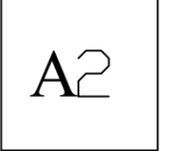
LEGEND  
 [Hatched Box] NEW CONSTRUCTION  
 [Solid Box] EXISTING TO REMAIN

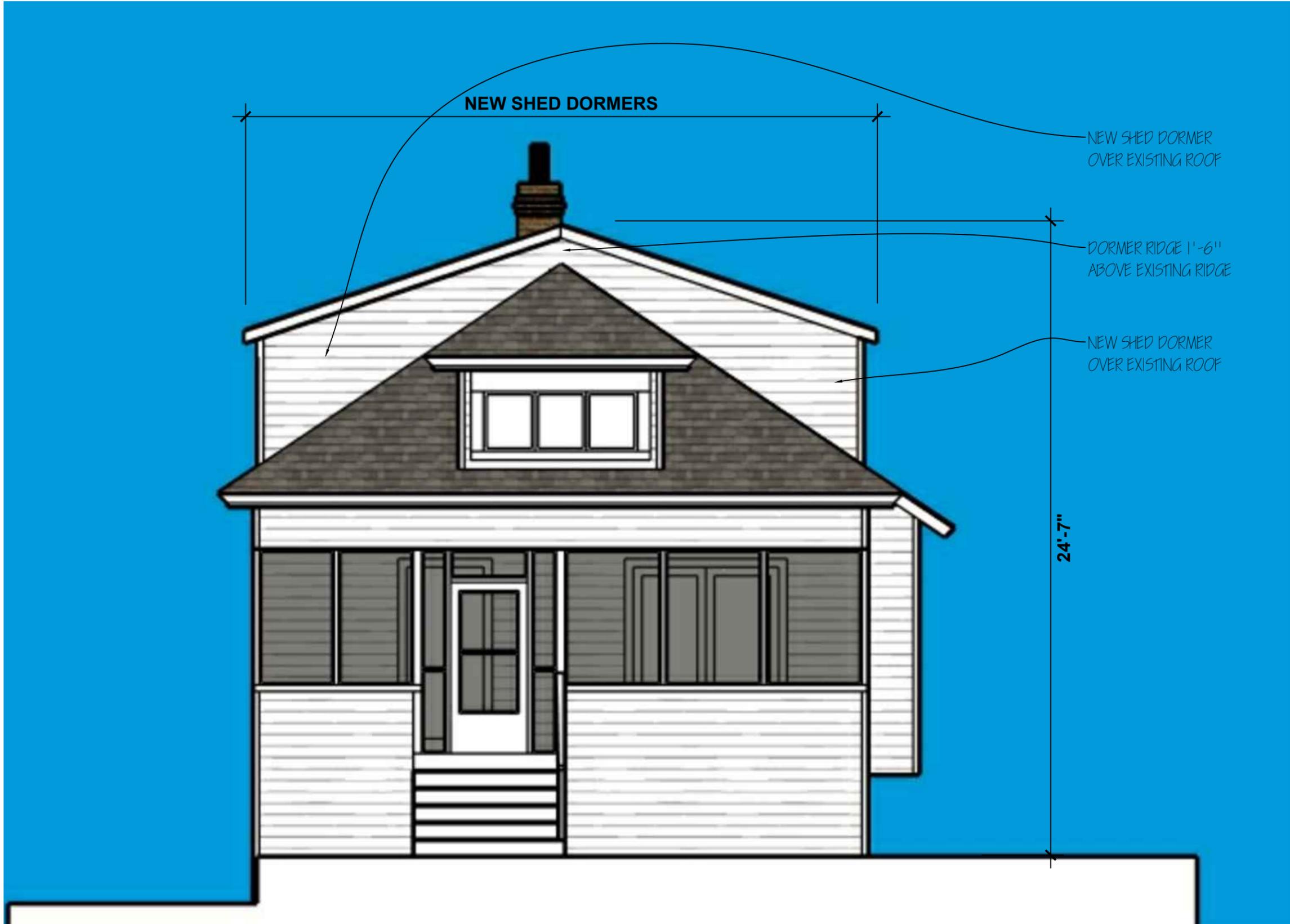
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124 MELBURN STREET  
 PORTSMOUTH, NH

NOV 12, 2024

2ND FLOOR PLAN





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**124 MELBURN STREET**  
PORTSMOUTH, NH

NOV 12, 2024

FRONT  
ELEVATION

**A3**



NEW SHED DORMER

24'-7"

RANDALL DESIGN  
architectural drafting & design  
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207-651-6844 drandall@randalldesignme.com

124 MELBURN STREET  
PORTSMOUTH, NH

NOV 12, 2024

RIGHT  
ELEVATION

A4



NEW SHED DORMER

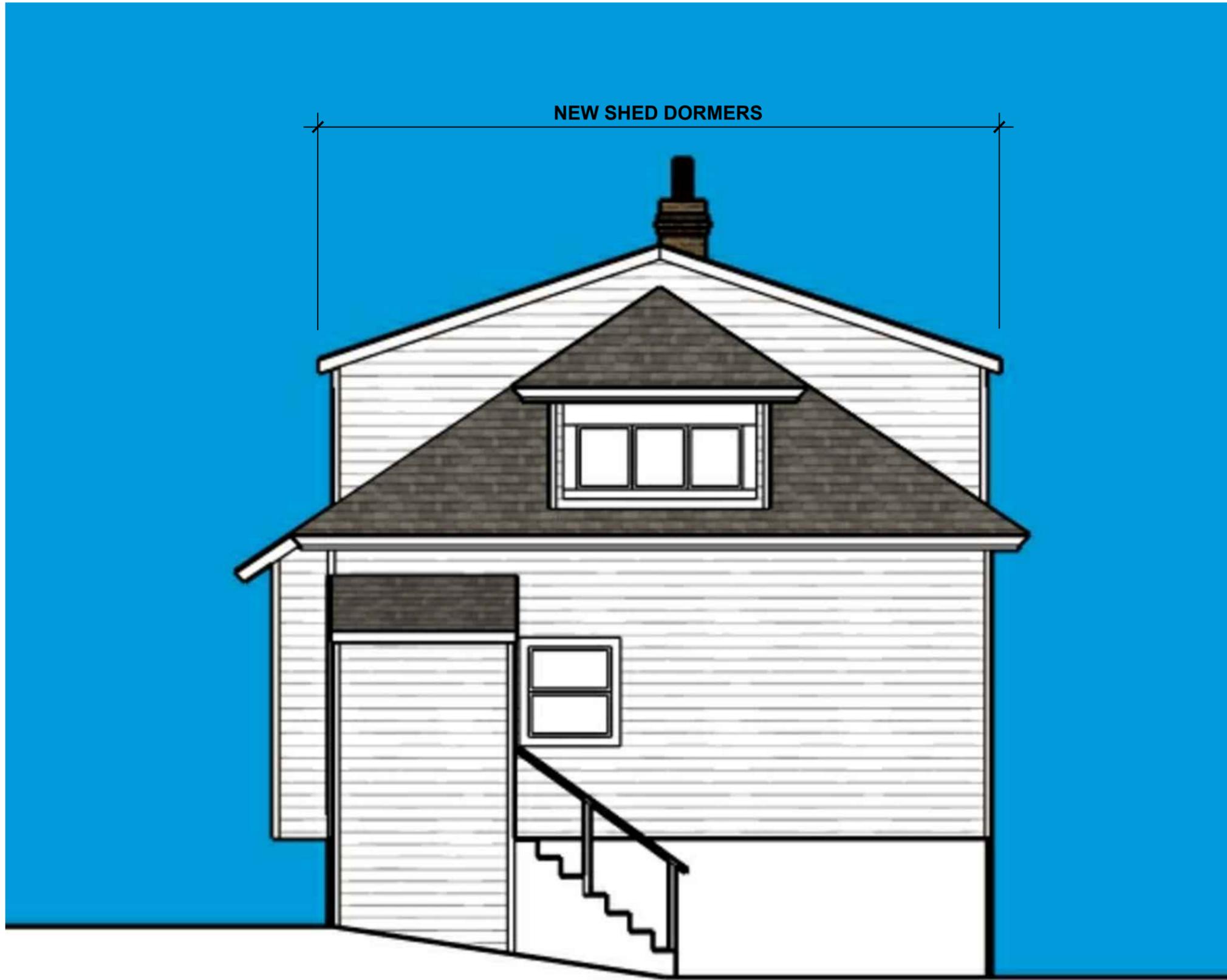
**RANDALL DESIGN**  
architectural drafting & design  
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**124 MELBURN STREET**  
PORTSMOUTH, NH

NOV 12, 2024

LEFT SIDE  
ELEVATION

**A6**



**RANDALL DESIGN**  
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**124 MELBURN STREET**  
PORTSMOUTH, NH

NOV 12, 2024

REAR  
ELEVATION

**A5**