

**NARRATIVE  
VARIANCE APPLICATION**

**44 Rogers Street  
Tax Map 116, Lot 45**

**Flybird LLC, Applicant**

**INTRODUCTION**

Flybird LLC (the “Applicant”) is seeking to remodel the property located at 44 Rogers Street, identified as Portsmouth Tax Map 116, Lot 45 (the “Property”). The Property is located within the Mixed Residential Office (“MRO”) Zoning District.

The Property is a 3,485 square foot lot containing a three-story single-family home with a detached garage, constructed in 1864 according to Portsmouth assessing records. The dwelling on the Property contains approximately 2,260 square feet of living area with a footprint of 1,321 square feet. The Property is presently nonconforming in most respects, so any proposed expansion on the Property will require variances from provisions of the City of Portsmouth Zoning Ordinance (the “Ordinance”). The Property is non-conforming to the MRO Zoning District requirements in the following respects:

<b>Provision</b>	<b>Requirement</b>	<b>Existing Condition</b>	<b>Non-Conforming Feature</b>
Lot Area / Lot Area per Dwelling Unit	7,500 sq. ft.	3,485 sq. ft.	Lot
Continuous Frontage	100’	45’ 7”	Lot
Depth	80’	74’	Lot
Front Yard Setback	5’	0’ 11”	House
Left Yard Setback	10’	3’	House
Right Yard Setback	10’	0’	Garage
Rear Setback	15’	3’ 2”	Garage

**Proposed Conditions**

The Applicant seeks to demolish the existing two-story “ell” addition at the rear of the property and replace it in the same location with a three-story addition entirely within the existing footprint. The proposed vertical expansion will ‘in-fill’ the third story and remove the rear exterior staircase and access that presently exists. There will be no exterior third story access, but an existing first floor rear entry way will remain on the west face of the building. The third floor addition will be used as an additional bedroom and bathroom. Because the addition will be located entirely within the existing footprint, the addition will not result in any greater nonconformity with the terms of the Ordinance. There will be no increase to any setback encroachment, and no increase to the Property’s building coverage.

## ZONING RELIEF SUMMARY

The Applicant seeks the following variance approvals from the Board:

### **Section 10.321**

To allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance (vertical expansion).

### **Section 10.521**

To allow a 3' left side yard setback where 10' is required and 3' exists.

## 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.

In this instance because there is no expansion of the building's footprint nor any increase to any existing encroachment, there is no argument that granting the variance would be contrary to the spirit and intent of the Ordinance or the public interest. The lot is undersized and the existing structures sit almost directly on the boundary lines on four sides. These nonconformities are not atypical of this neighborhood, where many of the historic buildings and homes likely predate the Ordinance by one hundred years or more. There is no proposed expansion of any of these nonconformities but simply a vertical expansion of the existing nonconforming structure. This modest expansion will have little to no impact on the air, light and space of any abutter in this densely settled area. The expansion and accompanying renovation of the Property will be in keeping with the existing aesthetic of the home and the larger neighborhood. Accordingly, there will be no change to the character of the neighborhood and no threat to the public health, safety or welfare.

**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 \(2007\)](#).

It would represent a significant loss to the Applicant for the Board to deny the variances necessary to modestly expand the existing home to create a small amount of additional living space. There is no proposed increase to building coverage or encroachment into the setbacks than what presently exists, and accordingly the proposal will not alter the character of the neighborhood. The street is characterized by historic buildings and homes where many lots are undersized and have encroaching structures. The expansion and renovation will result in a structure that has a cohesive exterior and streamlined roof compared to what exists presently. Accordingly, there would be no gain to the public by denying the variances. In balancing the equities, it would constitute an injustice to deny the variances. It would deprive the Applicant of the ability to reasonably expand upon the Property to add living space

**Surrounding property values will not be diminished by granting the variances.**

The neighborhood is characterized by undersized lots with many structures sitting directly on or close to boundary lines. The vertical addition is tastefully designed and will be in keeping with the character of homes and structures on surrounding properties. The renovation will add a small amount of living space and also update the exterior with a fresh and attractive appearance. Therefore, the proposed improvements should only help to preserve or enhance surrounding property values.

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

There is little to no relation to the setback or lot area requirements set forth in the Ordinance and their application to this Property. The City tax maps appear to indicate that most homes or structures sit directly upon one or more property lines. [Exhibit A](#). The Property has special conditions that distinguish it from surrounding properties such that it is unreasonably burdened if the MRO Zoning standards are strictly applied to it.

The most prominent special conditions of the Property are its size and the fact that both structures, which predate the Ordinance, are located substantially within the setbacks. The provisions of the Ordinance cannot be literally enforced with respect to this Property or almost any surrounding properties because nearly all are nonconforming with respect to lot area and setbacks. The Applicant seeks to add living space by expanding within the existing footprint so as to not increase any nonconformity. Additionally, the home on abutting property at 36 Rogers Street extends right up to both the side and rear property lines. If the Applicant wanted to expand the footprint of the building at all, they would likely be unable to because there would be no room to leave a buffer between the homes. The proposed vertical expansion will allow the Applicant to gain a small amount of living space while having the least amount of impact possible on surrounding properties compared to any footprint expansion. The inapplicability of the MRO provisions to the Property, and the location of the existing structures upon the Property constitute

special conditions such that there is no fair and substantial relationship between the general purposes of the lot area and setback restrictions and their application to the Property. The Property could not be used in strict conformance with the Ordinance without a complete demolition and relocation of the home, which would make little sense.

The proposed use of the Property is also reasonable. The Property will continue to be used for single-family residential purposes and the detached structure will be used as a garage, uses which are all permitted within the MRO Zoning District.

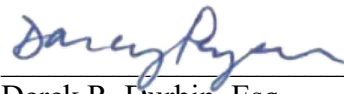
### CONCLUSION

The Applicant, Flybird LLC, thanks you for your time and consideration of the application and respectfully requests your approval of the variances being requested.

Respectfully Submitted,  
Flybird LLC

May 6, 2026

By:



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# EXHIBIT A



**Property Information**

**Property ID** 0116-0045-0000  
**Location** 44 ROGERS ST  
**Owner** HOCHSCHWENDER MAXIMILIAN KOLBE



**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 03/06/2026

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

# 44 ROGERS STREET RENOVATION

HISTORIC DISTRICT PUBLIC HEARING - MAY 2026

**BUILDING HISTORY:**

- CONSTRUCTED IN 1864, 44 ROGERS STREET IS A THREE-STORY SECOND EMPIRE-STYLE RESIDENCE CHARACTERIZED BY A MANSARD ROOF WITH DORMERS AND A TWO-STORY REAR ELL.
- THE REAR ELL REFLECTS TWO PERIODS OF EXPANSION: AN ADDITION CONSTRUCTED IN THE 1890S AND A SUBSEQUENT ADDITION COMPLETED AFTER 1949.

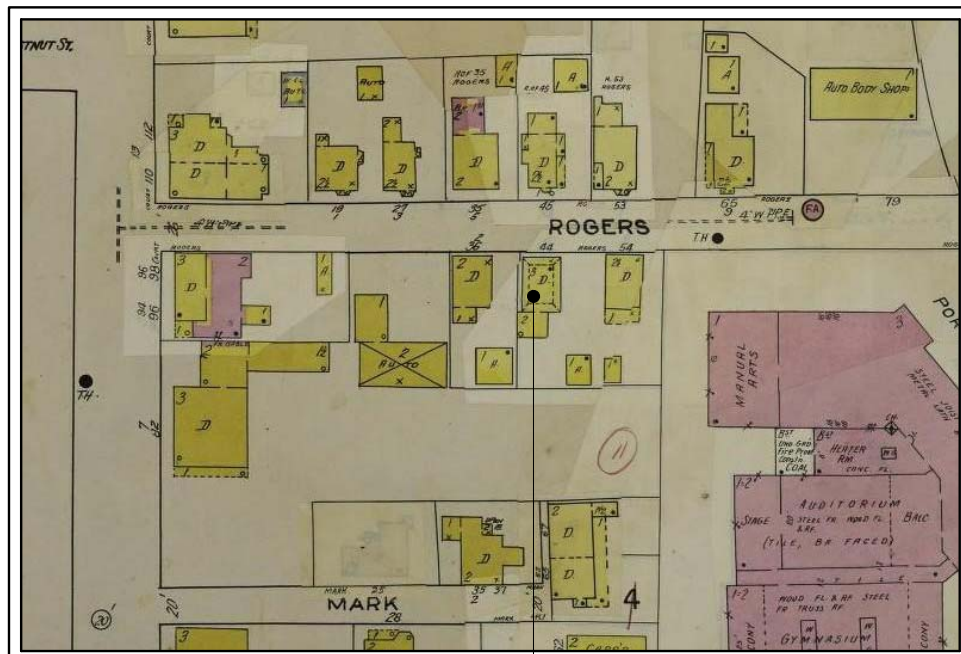
**GENERAL PROJECT DESCRIPTION:**

- PRESERVE, RESTORE, AND SENSITIVELY UPDATE THE EXISTING SINGLE-FAMILY RESIDENCE WHILE MAINTAINING ITS HISTORIC CHARACTER.
- RECONSTRUCT REAR ELL AND EXPAND TO A FULL 3-STORIES WITHIN THE EXISTING FOOTPRINT. THREE MASSING OPTIONS PROVIDED FOR REVIEW.
- REMOVE EXISTING VINYL SIDING AND TRIM; REPLACE WITH WOOD CLAPBOARD SIDING, AND COMPOSITE TRIM WITH PROFILES MATCHING THE ORIGINAL HISTORIC DETAILING.
- REMOVE EXISTING VINYL SHUTTERS; REPLACE WITH WOOD SHUTTERS AND HISTORICALLY APPROPRIATE METAL HARDWARE
- REPAIR AND REPLACE EXISTING EXTERIOR WOOD TRIM AND MOLDING IN KIND, MATCHING ORIGINAL PROFILES AND DETAILS.
- RECONSTRUCT DORMERS TO INCLUDE HISTORICALLY APPROPRIATE EAVE TRIM CONSISTENT WITH THE ORIGINAL DESIGN.
- REPLACE VINYL WINDOWS WITH CLAD WOOD WINDOWS, MACHINING EXISTING SIZES AND TRIM DETAILS.
- REPLACE THE EXISTING CHIMNEY WITH A NON-FUNCTIONAL (FAUX) CHIMNEY ABOVE THE ROOFLINE, MATCHING THE EXISTING DESIGN AND PROFILE.
- RECONSTRUCT THE EXISTING MANSARD ROOF IN KIND, MAINTAINING ORIGINAL FORM, SLOPE, AND DETAILING CONSISTENT WITH THE BUILDING'S HISTORIC CHARACTER.

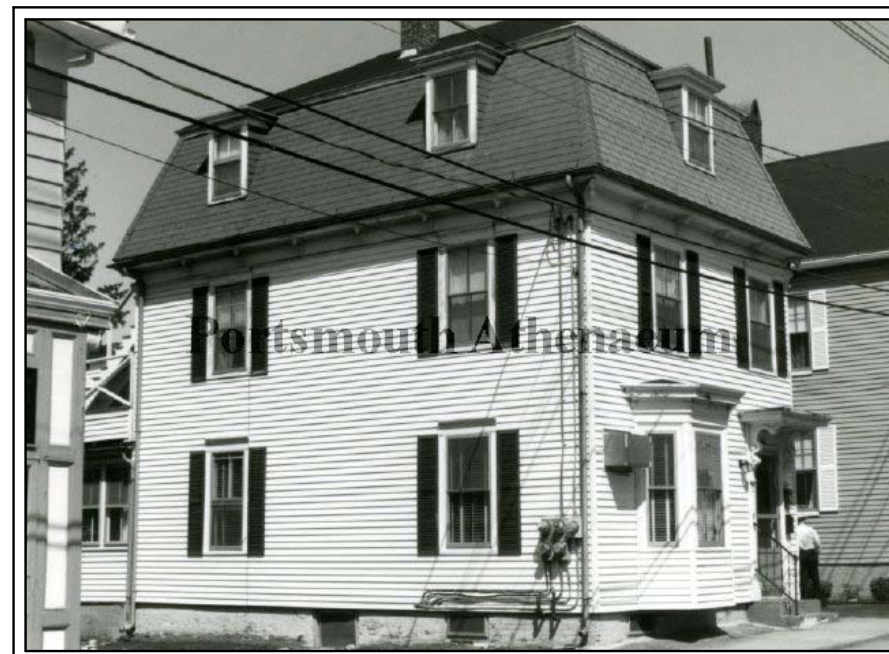
SHEET LIST	
Sheet Number	Sheet Name
A0	COVER
A1	EXISTING PHOTOGRAPHS
A2	ARCHITECTURAL SITE PLAN
A3	EXISTING ELEVATIONS
A4	MASSING
A5	ELEVATIONS
A6	FLOOR PLANS
A7	MATERIALS
A8	TRIM PROFILES



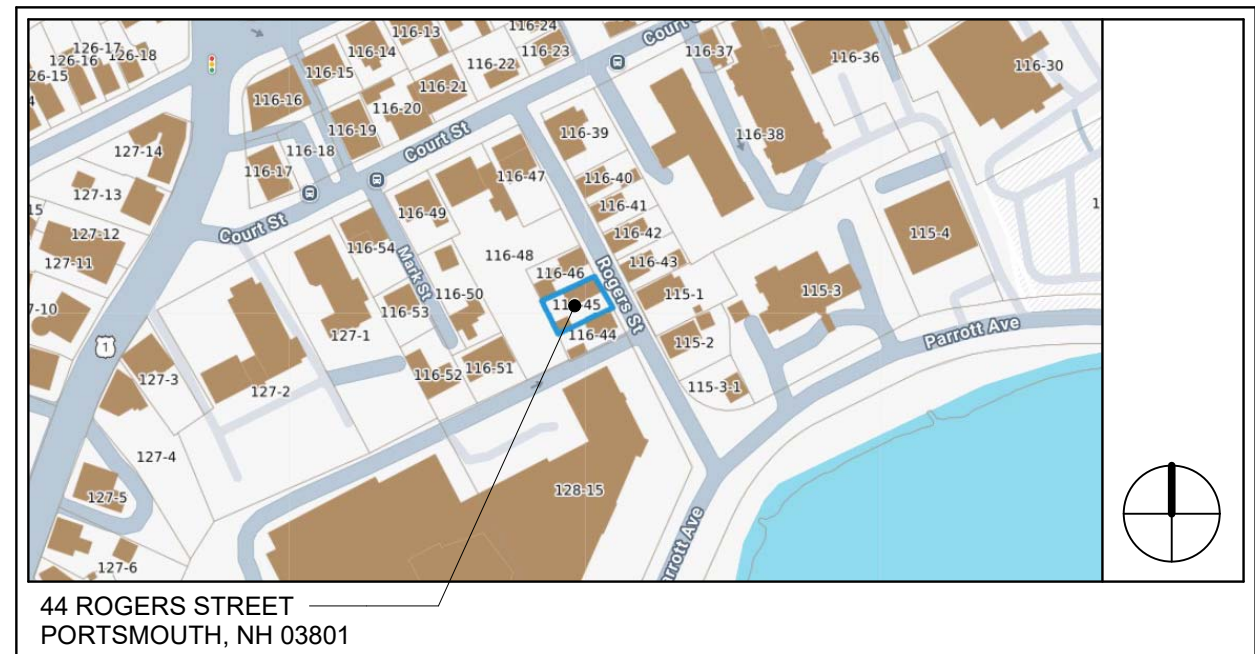
EXISTING PERSPECTIVE FROM ROGERS STREET LOOKING AT 44 ROGERS STREET



SANBORN INSURANCE MAP 1949  
44 ROGERS STREET



44 ROGERS STREET FROM THE HISTORIC DISTRICT SURVEY, BY THE PORTSMOUTH ADVOCATES INC. IMAGE DATE: 1982. COURTESY OF PORTSMOUTH ATHENAEUM.



44 ROGERS STREET  
PORTSMOUTH, NH 03801

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**SINGLE FAMILY RENOVATION**

44 ROGERS STREET  
PORTSMOUTH, NH 03801

**COVER**

HISTORIC DISTRICT COMMISSION - PUBLIC HEARING,  
MAY 2026

4 Market Street  
Portsmouth, New Hampshire  
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**A0**

04/17/2026  
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Project Number: 26031  
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PERSPECTIVE OF BACK DECK



PERSPECTIVE OF SUN ROOM FROM DRIVEWAY



PERSPECTIVE OF ENTRANCE FROM ROGERS ST



PERSPECTIVE FROM ROGERS STREET LOOKING NORTH WEST



PERSPECTIVE FROM ROGERS STREET LOOKING SOUTH WEST



PERSPECTIVE OF GARAGE

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# SINGLE FAMILY RENOVATION

44 ROGERS STREET  
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# EXISTING PHOTOGRAPHS

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A1

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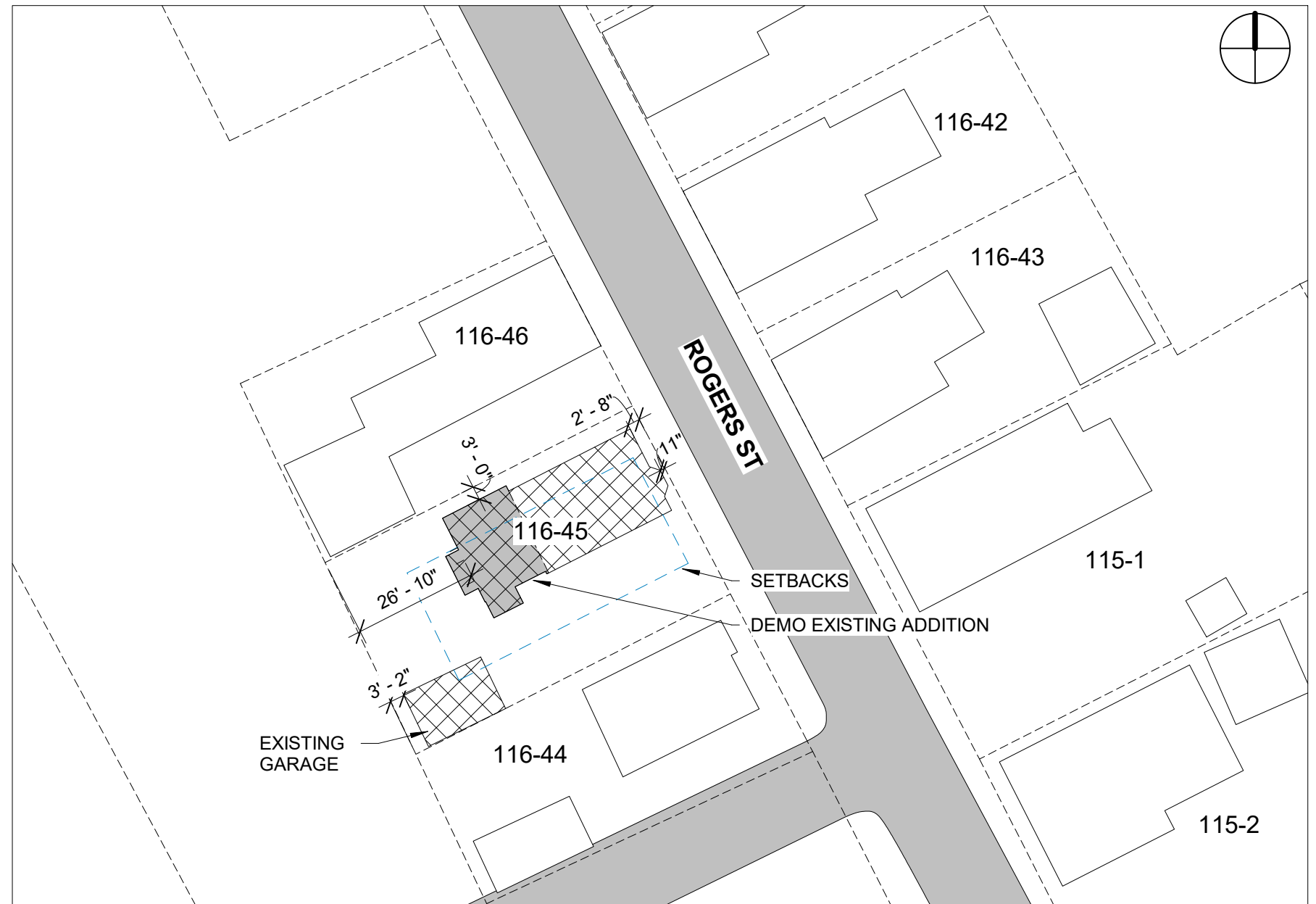
Project Number: 26031

NOT TO SCALE

DIMENSIONAL CRITERIA (10.521, ARTICLE 5) MIXED RESIDENTIAL OFFICE (MRO), HISTORIC DISTRICT (HDC)			
ALLOWED USE - SINGLE FAMILY	REQUIRED	EXISTING	PROPOSED
BUILDING FOOTPRINT	-	1,321 SF	1,321 SF
LOT AREA	7,500 SF	3,485 SF	3,485 SF
CONTINUOUS STREET FRONTAGE	100'	45'-7" FT	45'-7" FT
DEPTH	80'	74'-0" FT	74'-0" FT
MINIMUM YARD DIMENSIONS			
FRONT YARD (MAX PRIMARY)	5'-0"	0'-11"+/- 1	0'-11"+/- 1
SIDE YARD SETBACK (NORTH)	10'-0"	3'-0"+/- 1	3'-0"+/- 1
SIDE YARD SETBACK (SOUTH)	10'-0"	0'-0"+/- 1	0'-0"+/- 1
REAR YARD SETBACK	15'-0"	3'-2"+/- 1	3'-2"+/- 1
MAXIMUM STRUCTURE DIMENSIONS			
BUILDING HEIGHT	40' SLOPED	28'-10" SLOPED	28'-10" SLOPED
PARKING	1 SPOT	3 SPOTS	3 SPOTS
BUILDING COVERAGE	40% MAX	32% +/-	32% +/-
OPEN SPACE	25% MIN	25% +/-	25% +/-

1. EXISTING NON-CONFORMING

ZONING TABLE



EXISTING ARCHITECTURAL SITE PLAN

1" = 30'-0"

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ARCHITECTURAL SITE PLAN

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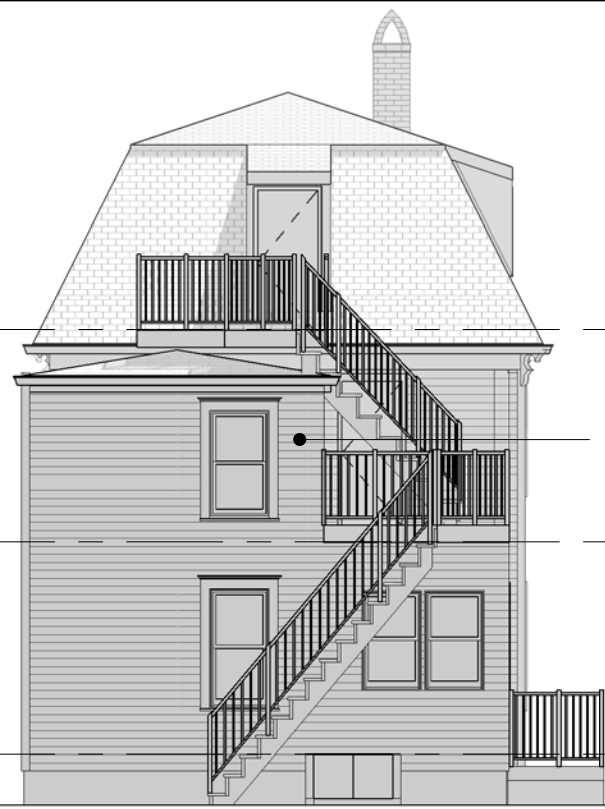
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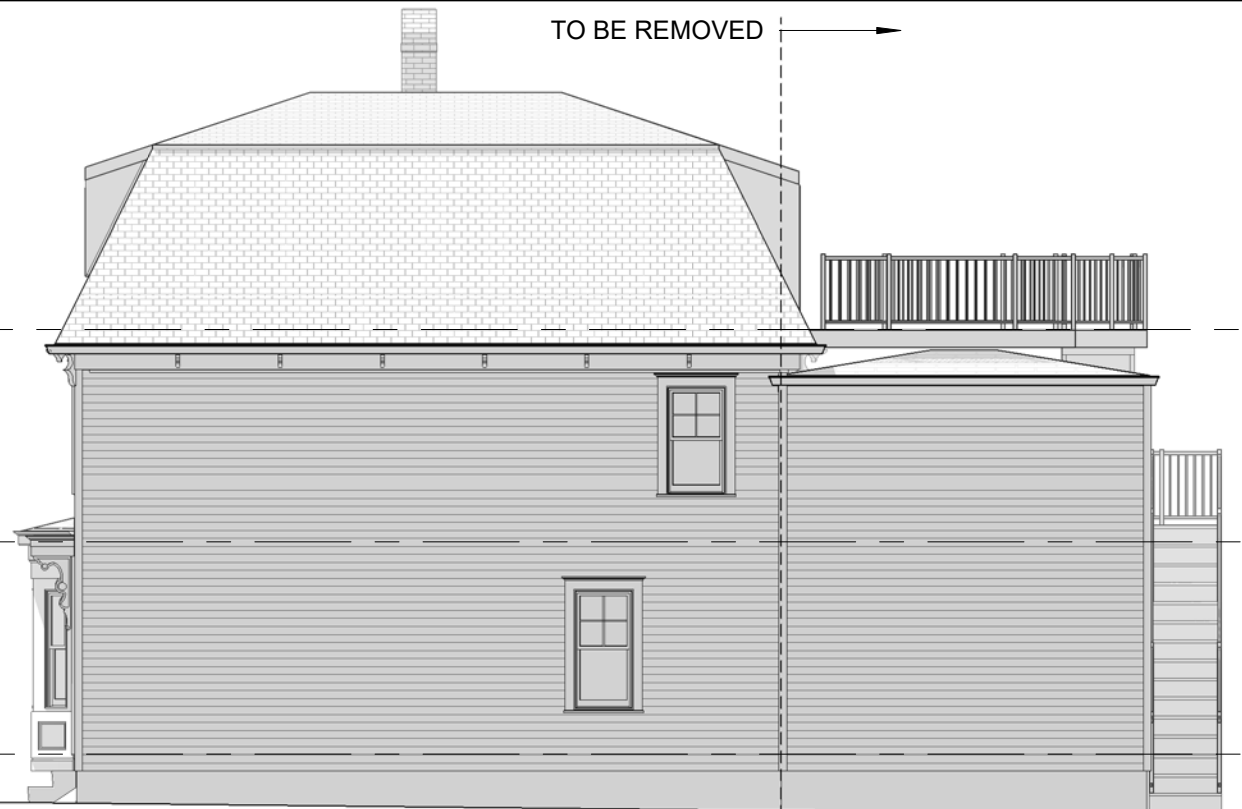
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Project Number: 26031

AS INDICATED



2 EXISTING WEST ELEVATION  
1/8" = 1'-0"



1 EXISTING NORTH ELEVATION  
1/8" = 1'-0"

THIRD FLOOR  
117' - 8"

SECOND FLOOR  
108' - 10"

FIRST FLOOR  
100' - 0"



3 EXISTING EAST ELEVATION  
1/8" = 1'-0"



4 EXISTING SOUTH ELEVATION  
1/8" = 1'-0"

THIRD FLOOR  
117' - 8"

SECOND FLOOR  
108' - 10"

FIRST FLOOR  
100' - 0"

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# SINGLE FAMILY RENOVATION

44 ROGERS STREET  
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# EXISTING ELEVATIONS

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A3

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Scale: 1/8" = 1'-0"

EXTERIOR MODIFICATIONS

- EXTEND THE MANSARD ROOF FORM OVER THE RECONSTRUCTED REAR ADDITION TO CREATE A COHESIVE, UNIFIED MASSING.
- INTRODUCE LARGER DORMERS WITH PAIRED WINDOWS AT THE ADDITION, CONSISTENT IN PROPORTION AND DETAILING WITH THE PRIMARY STRUCTURE.
- RESTORE AND REPLICATE HISTORIC TRIM, MOLDING PROFILES, AND BRACKETS TO MATCH ORIGINAL DETAILING.
- REINFORCES THE HISTORIC ARCHITECTURAL CHARACTER THROUGH A CONSISTENT ROOF FORM AND DETAILING, RESULTING IN A UNIFIED COMPOSITION THAT IS HIGHLY COMPATIBLE WITH THE ORIGINAL STRUCTURE.



PERSPECTIVE FROM REAR YARD LOOKING EAST



PERSPECTIVE FROM ROGERS STREET LOOKING WEST

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**SINGLE FAMILY RENOVATION**

44 ROGERS STREET  
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**MASSING**

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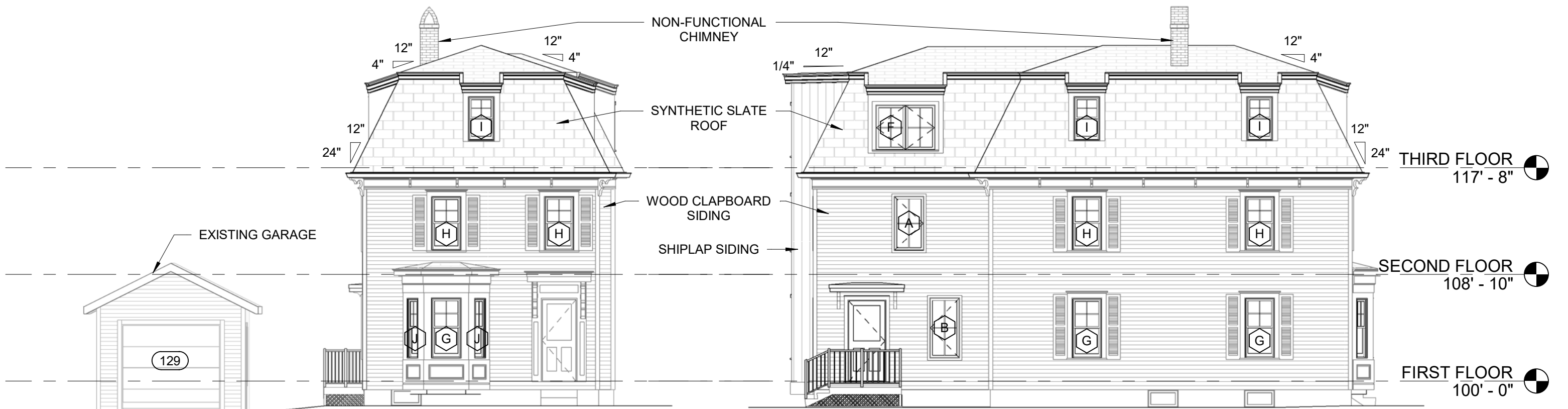
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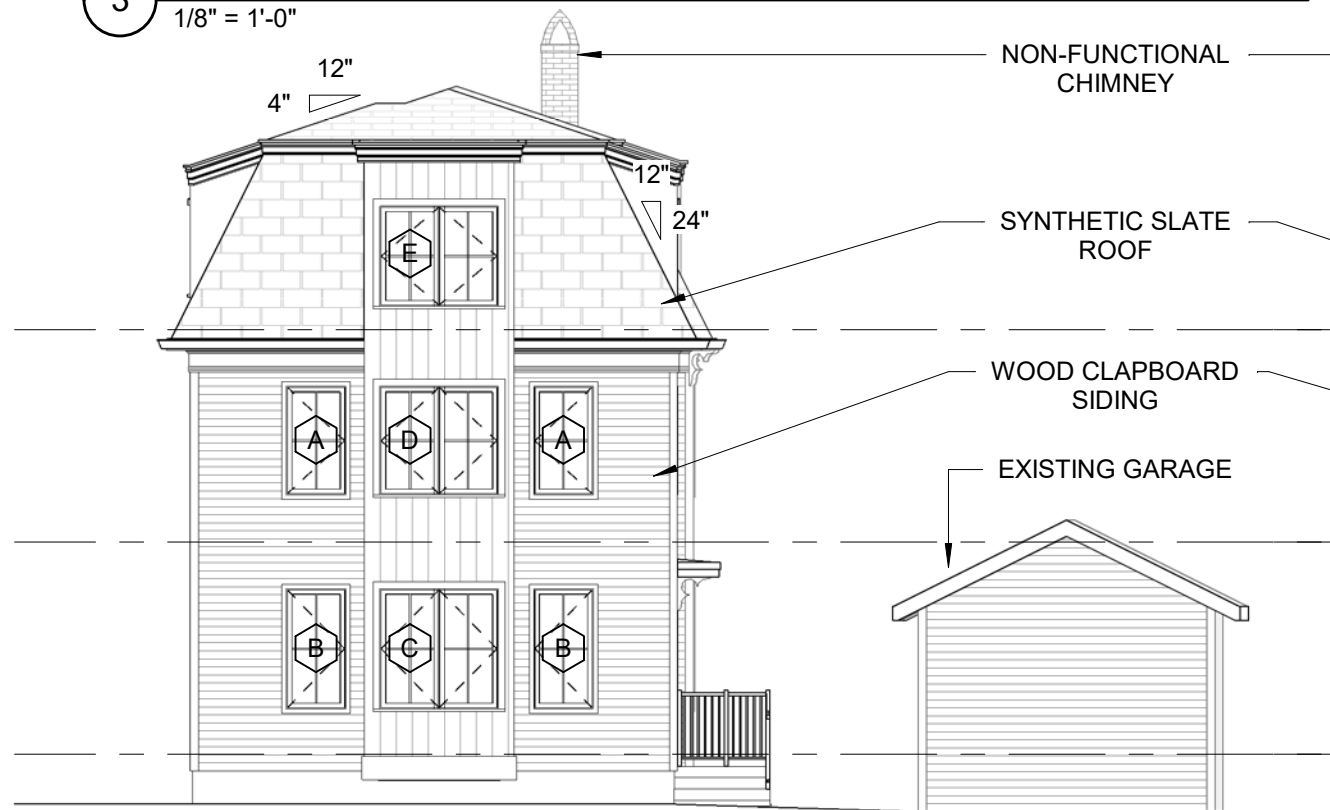
Project Number: 26031

**NOT TO SCALE**

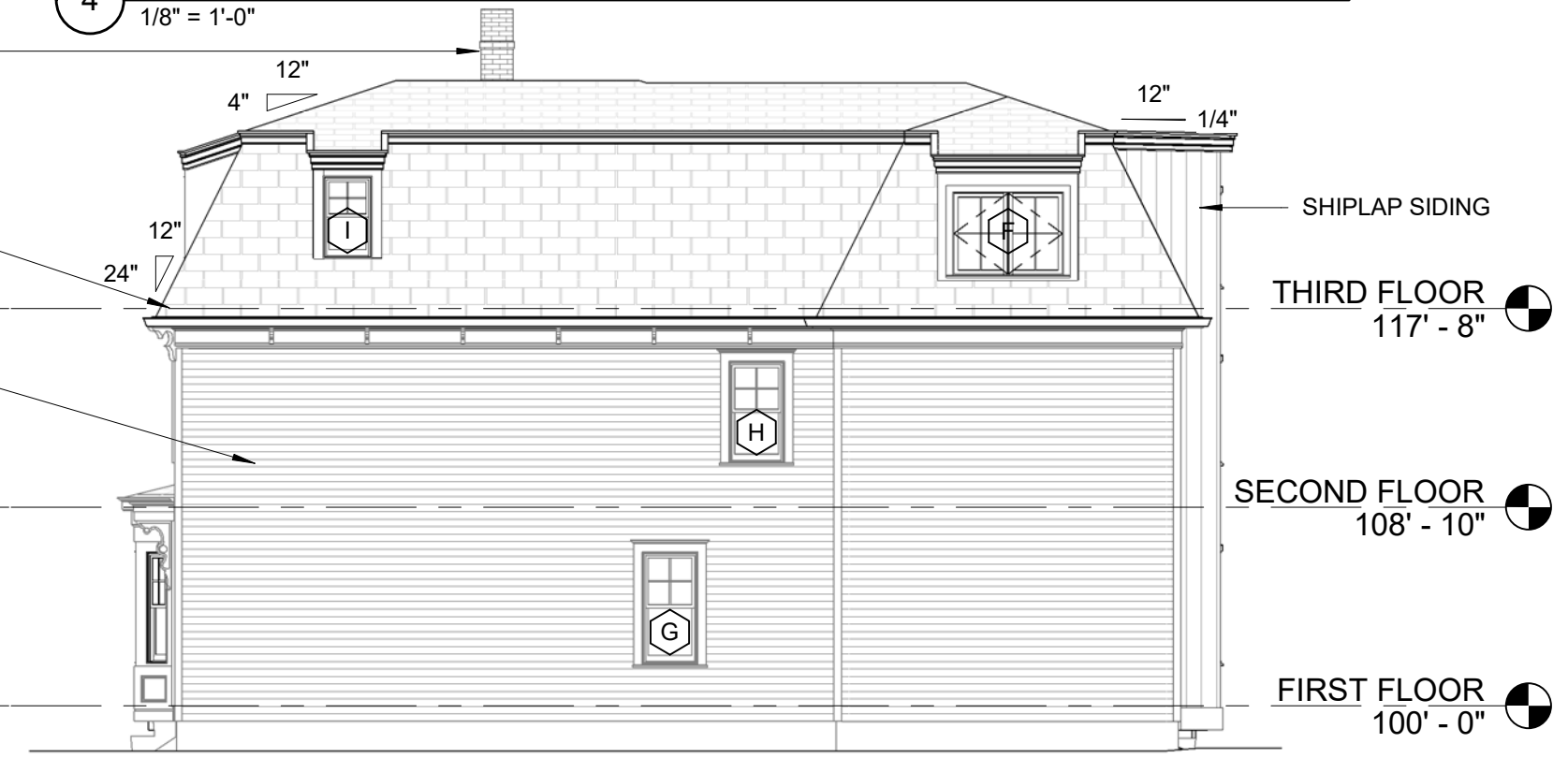


3 SOUTH ELEVATION  
1/8" = 1'-0"

4 WEST ELEVATION  
1/8" = 1'-0"



2 NORTH ELEVATION  
1/8" = 1'-0"



1 EAST ELEVATION  
1/8" = 1'-0"

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# SINGLE FAMILY RENOVATION

44 ROGERS STREET  
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# ELEVATIONS

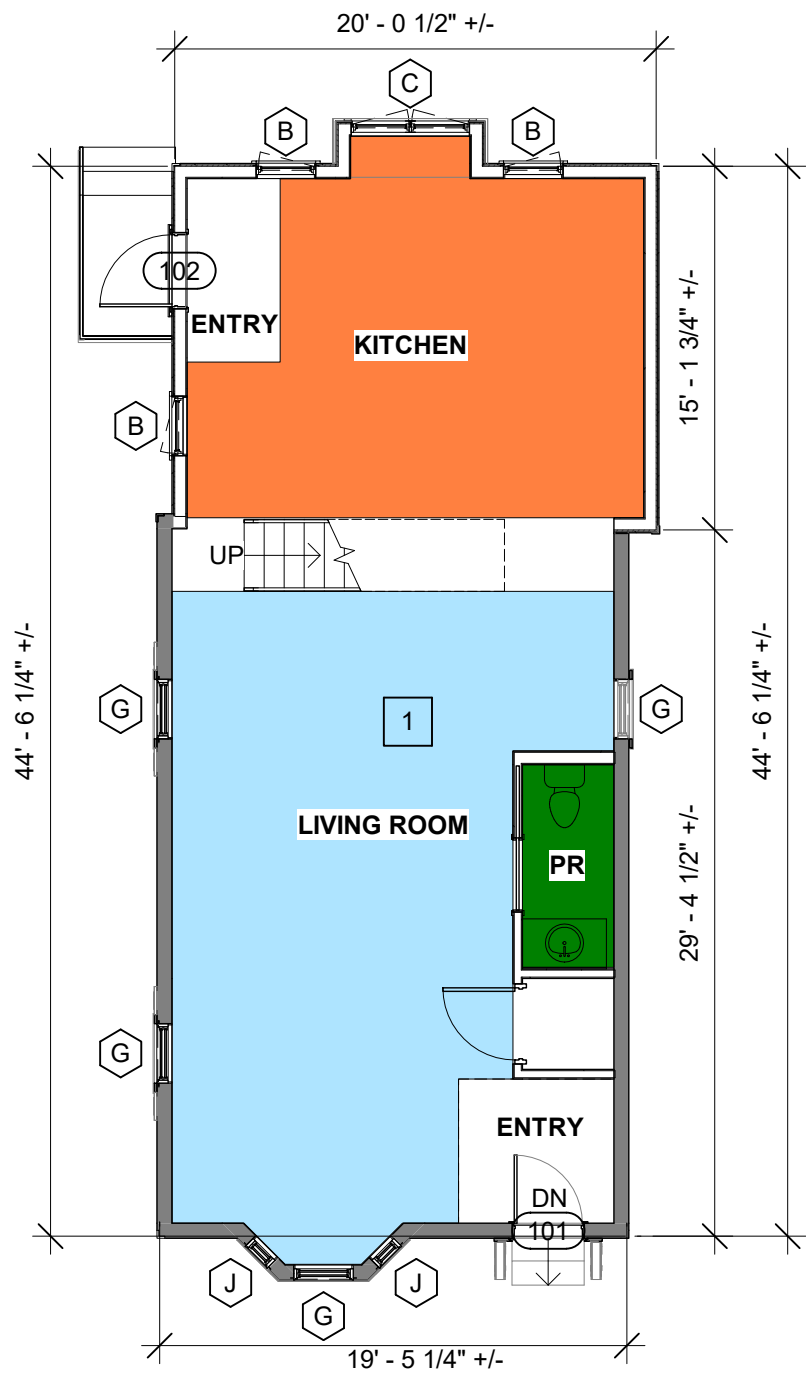
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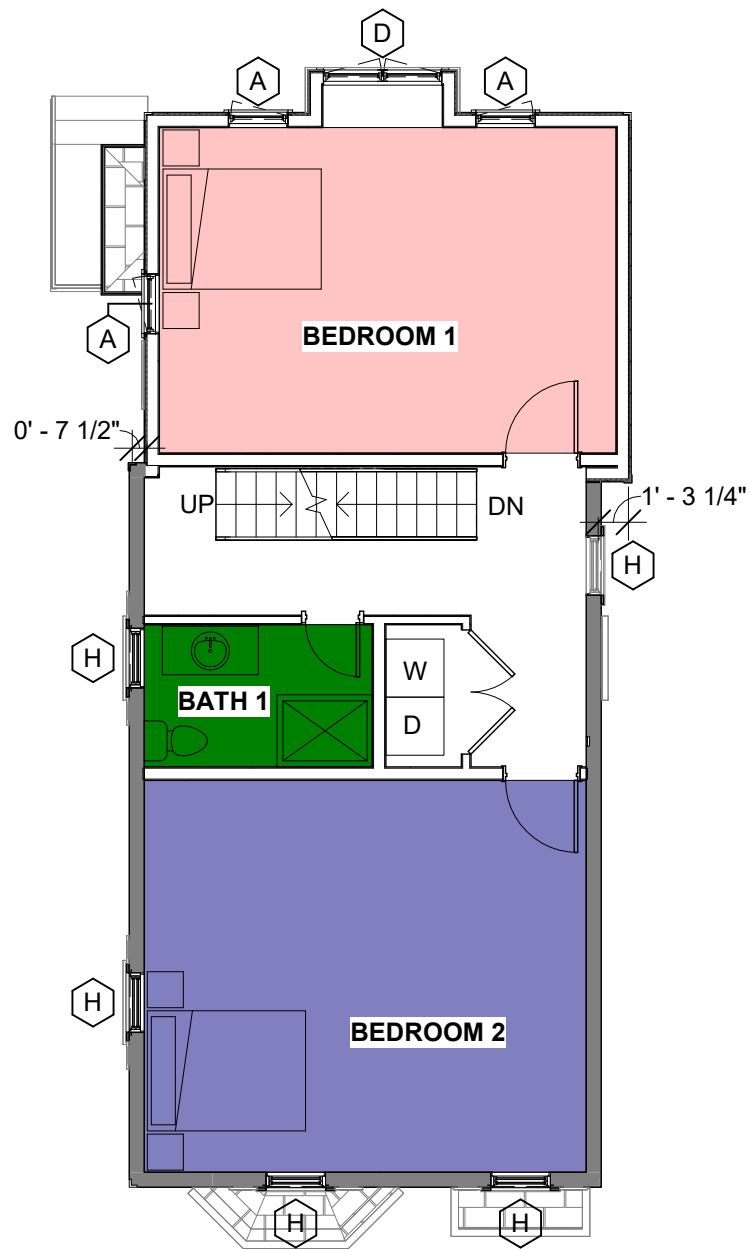


A5

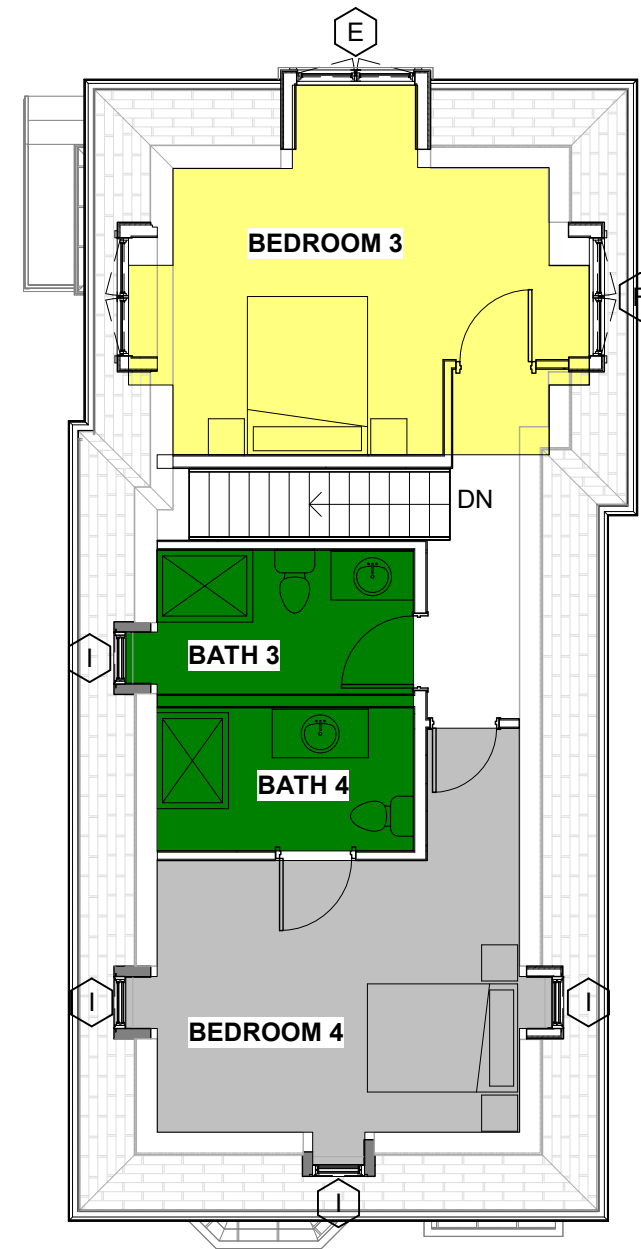
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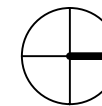
1 FIRST FLOOR PLAN  
1/8" = 1'-0"



2 SECOND FLOOR PLAN  
1/8" = 1'-0"



3 THIRD FLOOR hdc  
1/8" = 1'-0"



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# FLOOR PLANS

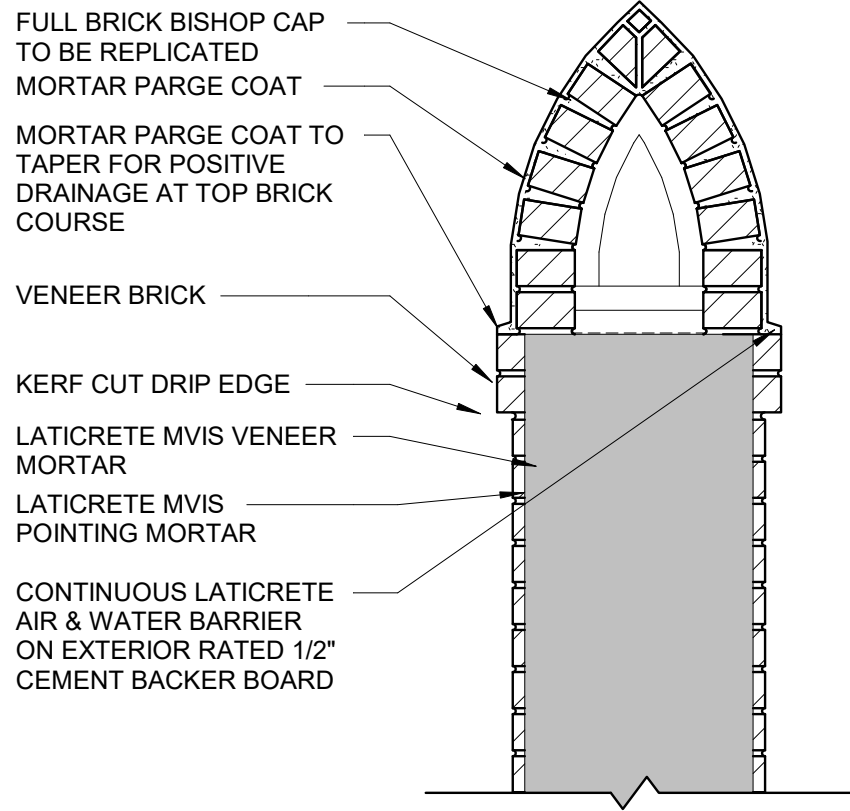
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Scale: 1/8" = 1'-0"



FULL BRICK BISHOP CAP TO BE REPLICATED  
 MORTAR PARGE COAT  
 MORTAR PARGE COAT TO TAPER FOR POSITIVE DRAINAGE AT TOP BRICK COURSE  
 VENEER BRICK  
 KERF CUT DRIP EDGE  
 LATICRETE MVIS VENEER MORTAR  
 LATICRETE MVIS POINTING MORTAR  
 CONTINUOUS LATICRETE AIR & WATER BARRIER ON EXTERIOR RATED 1/2" CEMENT BACKER BOARD

NOTES:  
 1. GC TO FOLLOW MANUFACTURERS STEPS TO PROVIDE 25 YEAR LATICRETE MVIS WARRANTY  
 2. METAL STEP FLASHING WITH COUNTER FLASHING AT BASE

FAUX CHIMNEY SECTION DETAIL



VERTICAL SHIPLAP SIDING



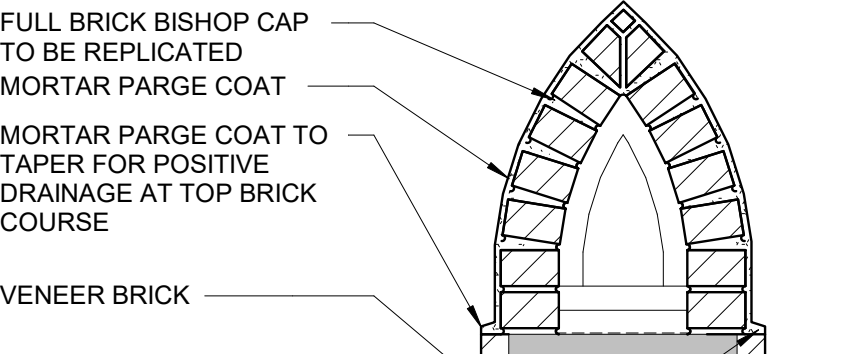
DECKING MATERIAL  
 TIMBERTECH AZEK



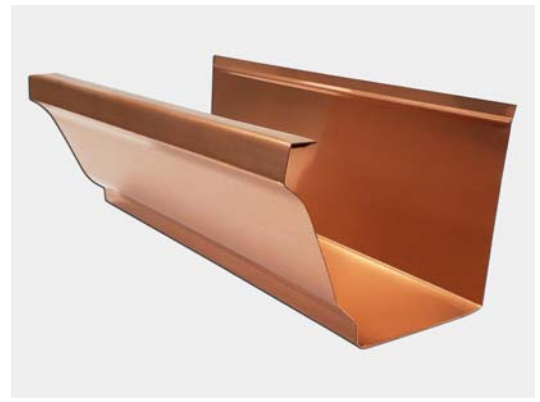
SYNTHETIC SLATE ROOFING



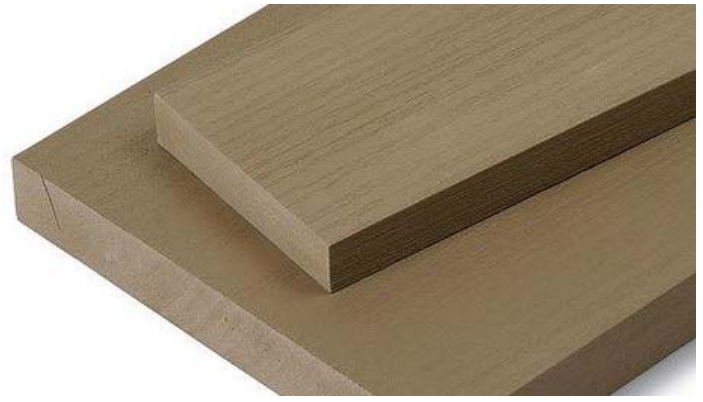
WOOD CLAPBOARD SIDING



SHUTTER HARDWARE



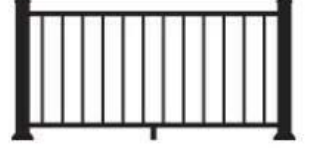
K STYLE COPPER GUTTER AND DOWNSPOUT



COMPOSITE TRIM BOARD AT ENTRY STAIR  
 BORAL TRUEX EXTERIOR COMPOSITE TRIM



Classic



Aluminum Balusters  
 Rectangular Only

RAILING AT SIDE ENTRANCE  
 TIMBERTECH IMPRESSIONS RAIL EXPRESS, MODERN TOP RAIL, ALUMINUM BALUSTERS WITH OPEN MID RAIL, 3"x3" POSTS WITH CAP AND SKIRT, BLACK



SHUTTERS  
 COMPOSITE FIXED LOUVER SHUTTERS

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**SINGLE FAMILY RENOVATION**  
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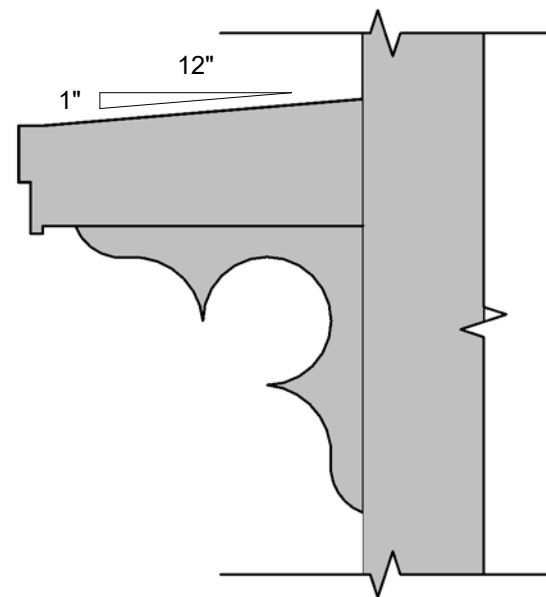
**MATERIALS**  
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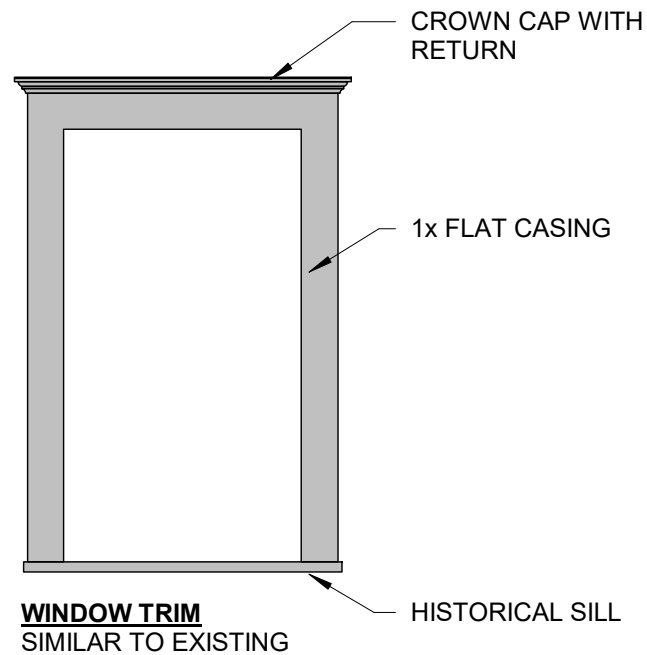
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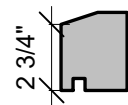


**CANOPY BRACKET PROFILE**

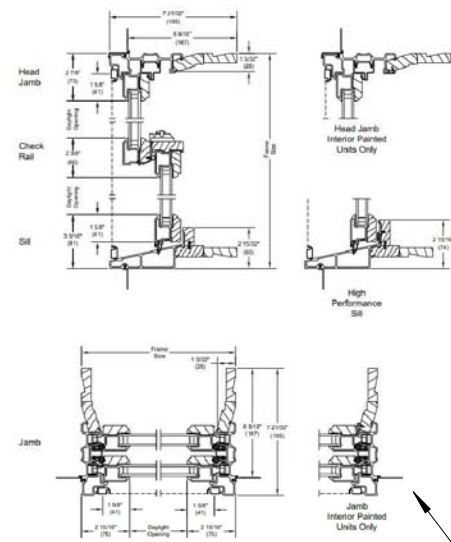
**ROOF BRACKET PROFILE  
MATCH EXISTING**



**WINDOW TRIM  
SIMILAR TO EXISTING**



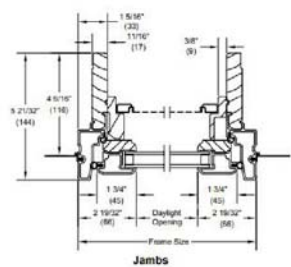
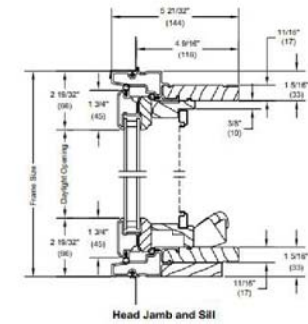
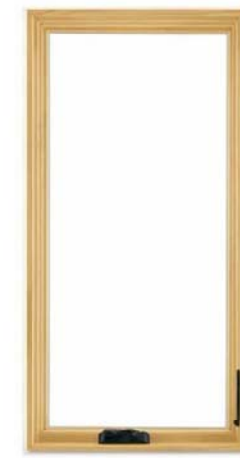
**HISTORICAL SILL PROFILE**



**WINDOWS  
MARVIN ELEVATE DOUBLE HUNG**



**WINDOWS  
MARVIN ELEVATE CASEMENT**



**WINDOW TYPES**

<b>TYPE A:</b> 2 OVER 2 ALUMINUM CLAD WOOD CASEMENT WINDOW	<b>TYPE B:</b> 2 OVER 2 ALUMINUM CLAD WOOD CASEMENT WINDOW	<b>TYPE C:</b> 2 OVER 2 ALUMINUM CLAD WOOD DOUBLE CASEMENT WINDOW	<b>TYPE D:</b> 2 OVER 2 ALUMINUM CLAD WOOD DOUBLE CASEMENT WINDOW	<b>TYPE E:</b> 2 OVER 2 ALUMINUM CLAD WOOD DOUBLE CASEMENT WINDOW	<b>TYPE F:</b> 2 OVER 2 ALUMINUM CLAD WOOD DOUBLE CASEMENT WINDOW	<b>TYPE G:</b> 4 OVER 1 ALUMINUM CLAD WOOD DOUBLE HUNG WINDOW	<b>TYPE H:</b> 4 OVER 1 ALUMINUM CLAD WOOD DOUBLE HUNG WINDOW	<b>TYPE I:</b> 4 OVER 1 ALUMINUM CLAD WOOD DOUBLE HUNG WINDOW	<b>TYPE J:</b> 4 OVER 1 ALUMINUM CLAD WOOD DOUBLE HUNG WINDOW

WINDOW NOTES:  
1. HALF-SCREENS ON ALL DOUBLE HUNG-UNITS.  
2. BASIS OF DESIGN: MARVIN ELEVATE WINDOWS.

**DOOR TYPES**

<b>TYPE A:</b> ENTRY WOOD DOOR HALF GLASS

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**SINGLE FAMILY RENOVATION**  
44 ROGERS STREET  
PORTSMOUTH, NH 03801

**TRIM PROFILES**  
HISTORIC DISTRICT COMMISSION - PUBLIC HEARING,  
MAY 2026

4 Market Street  
Portsmouth, New Hampshire  
603.430.0274  
brought to you by  
**McHENRY ARCHITECTURE**



**A8**  
04/17/2026  
PA: MM / MG  
Project Number: 26031  
**NOT TO SCALE**